PUBLIC HEARING

SYDNEY TAR PONDS AND COKE OVENS SITES

REMEDIATION PROJECT

JOINT REVIEW PANEL

V O L U M E 17

HELD BEFORE: Ms. Lesley Griffiths, MCIP (Chair)
Mr. William H.R. Charles, QC (Member)
Dr. Louis LaPierre, Ph.D (Member)

PLACE HEARD: Sydney, Nova Scotia

DATE HEARD: Wednesday, May 17, 2006

APPEARANCES: Environment Canada:
Ms. Anne Marie Drake
Mr. Bill Ernst
Mr. Greg Bickerton
Ms. Cheryl Konoff

PRESENTERS: Cape Breton Regional Municipality:
Mr. Vince Hall
Mayor John Morgan
Mr. Doug Foster
Mr. Malcolm Gillis
Mr. Jerry Ryan
Mr. John Whalley

Bennett Environmental Inc.:
Mr. Michael McSweeney

New Waterford and Area Fish & Game Association:
Mr. Chuck Musial

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I N D E X O F P R O C E E D I N G S

QUESTIONING

I N D E X O F P R O C E E D I N G S

I N D E X O F U N D E R T A K I N G S

L I S T O F U N D E R T A K I N G S

--- Upon commencing at 11:03 A.M.

THE CHAIRPERSON: Good morning, ladies and gentlemen. I'd like to get the -- this session of the hearings under way.

As you know, this is an additional session, an additional hour that we've added, and it's specifically for the purpose of allowing the Panel to ask questions of Environment Canada.

We really appreciate the fact that you have come back at our request so that we can explore some issues a little bit further.

So, we -- this session will be going until 12:00, and then we will take a break then, and then we will resume with our schedule.

And our first presentation at 1:00 is from CBRM.

I'm just -- oh, before we get on to asking our questions, I do, of course, have some housekeeping issues which I was just on the verge of forgetting there, but -- three things that I have, before I ask if there are any additional undertakings.

The first thing is that we received a question from Sierra Club regarding -- about whether an undertaking on delineation of PCB hot spots in the Tar Ponds had been delivered.

Subsequently, the Secretariat reviewed the transcripts, and in fact, there is no record of any such undertaking being made in the transcripts. And furthermore, the Panel is satisfied with the information on this issue that was provided by the Tar Ponds Agency in their response to information request No. 12.

The second item that I have is that the Panel does want to request some additional information from the Tar Ponds Agency, and we would like to request that you provide us with the site assessment reports for the VJ and Phalen sites. These were referenced by CBDC when they were here.

MR. POTTER: Certainly, Madam Chair.

Just -- could we back up for one second? Just so we're getting the record straight, on the undertaking No. 12, I believe you referenced, would it not be 22? No. 12 was a liability issue. 22 ---

THE CHAIRPERSON: No, it would be IR 12.

MR. POTTER: Oh, IR 12? I'm sorry. I'm sorry. I'm in the undertakings. Sorry about that.

THE CHAIRPERSON: Okay. All right, so that was the VJ and Phalen site reports.

The third thing, I already mentioned this, but I just want to remind participants that although the last day of -- in this hall for hearings will be

tomorrow, in fact, we will be receiving written submissions up until midnight of Friday, May the 19th.

I just want to stress that that is not for new material. That is solely for the purpose of people who have undertakings that they have not submitted, they may submit those up until midnight on Friday, May the 19th.

Now, do we -- I'll ask first the Agency -- Tar Ponds Agency, do you have any additional undertakings to submit this morning?

MR. POTTER: Not this morning. We'll have some this afternoon.

THE CHAIRPERSON: Thank you. Anybody else in the room?

So, now we will turn to Environment Canada. Again, thank you very much.

And I see familiar faces. I'll let you introduce yourselves, your team, that's here.

And again, we appreciate you returning.

I just want to clarify that the Panel is interested in the -- what you can provide to this process, and not simply in terms of your mandate and your regulatory responsibility, but we recognize the fact that you have expertise that we think is highly pertinent to the matters under consideration.

And the -- we also understand that you have agreed that if we -- if there are questions the Panel poses to you that you don't immediately have the answers for, that you have undertaken that you will provide written responses, and again, you have until the end of the day on Friday -- midnight on Friday to provide those.

So perhaps before I start the questions, perhaps you would like to introduce the ---

MS. DRAKE: I'm Anne Marie Drake, and I'm the Acting Manager of our Sydney Tar Ponds Group in our Dartmouth office.

And I have with me Bill Ernst. Bill's been commenting on the EIS from an ecological risk perspective, and he's here to provide comments in that area. He also works in our office.

And Greg Bickerton from our Environment Canada facility in Burlington, Ontario, and he's a hydrogeologist.

I also have Cheryl Konoff. She works with me in the Sydney Tar Ponds Group, and she'll be providing comments on the solidification review that we've done on that, and possibly some air issues.

ENVIRONMENT CANADA

--- QUESTIONED BY THE JOINT REVIEW PANEL:

THE CHAIRPERSON: Thank you.

I would like to begin with just -- with two questions relating to the fact that we have now -- we heard yesterday from the Proponent that the Proponent now believes that containment of all the Tar Ponds sediments is technically and economically feasible, so that now they have put on the table as an alternative means of carrying out the project, a project that does not include selective removal and destruction of high concentration PCB sediments in a hazardous base incinerator.

So, I -- and obviously this has happened since you were last here.

So I'd just like to ask you a couple of questions about this.

The first thing is, could you comment on such a proposal, in terms of its compliance with the Stockholm Convention and with Canada's Toxic Substances Management Policy.

This would be a proposal that does not remove the PCB -- the areas of PCB sediments that are over 50 parts per million from the Tar Ponds -- remove and destroy.

MS. DRAKE: I think we spoke to this the first time we came here a bit, but both the Stockholm Convention and the Toxic Substances Management Policy are

accepting of risk management of PCBs in the case of a contaminated site.

And I -- Bill, did you have anything to add to that?

MR. ERNST: Well, I'll just add that the Toxic Substances Management Policy doesn't mean that even a track one substance, which PCBs certainly are, have to be destroyed.

It is a risk management approach where the risk has to be reduced, and therefore, it doesn't dictate that those kinds of materials would have to come out of the ground in this instance.

THE CHAIRPERSON: So, in other words, you're saying no change in your position with respect to this alternative means of carrying out the project?

MS. DRAKE: That's correct.

MR. CHARLES: Can I just ask a question?

It was mentioned at the earlier round of questioning that there was some new national policy that was supposed to come out on May the 6th.

That has come out now, has it? And does it affect anything? Does it change anything?

MS. DRAKE: That would be something that we would have to take as an undertaking.

I haven't heard what the results of the

convention were that was held earlier this month, but we could follow up on that for you.

MR. CHARLES: But it is in the public domain, is it?

MS. DRAKE: I'm not sure.

MR. CHARLES: Could you do that? I'd like to have a look at that national policy. [u]

MS. DRAKE: Yes.

THE CHAIRPERSON: So, you've indicated that with respect to the total encapsulation alternative, there's no concern with respect to policy or international agreements.

Now, do you -- would Environment Canada have any concern about the potential for leaching of PCBs if these areas with higher concentrations, if these are to be contained, solidified and stabilized?

MS. DRAKE: I can comment a bit on that one.

In terms of the alternative means, as with the project itself, I believe that we went back in our response and we asked the Proponent to provide some more detail in certain areas, and the same would be true for the alternative means as well.

In our opinion, solidification stabilization is a proven technology, it's been used at

other sites.

So, we would go back to our recommendations from our submission to the Panel and that additional information that we had asked for, we'd be looking for that again, from the alternative means, with the exception of the incinerator.

THE CHAIRPERSON: Now, I'm sure you've been probably following, I know you've been here, Ms. Drake, and others, from time to time, but -- and you've been reading the transcripts.

And there's been a fair amount of discussion and debate and people put forward -- forwarding questions about other stabilize -- solidification and stabilization sites, and exactly what went on at those sites. So, I suspect you followed that.

Has anything that you've heard lead you to question your confidence that, in fact, this is a proven technology for the types of sediments that it would be used on here, in terms of being high organics and the kinds of contaminants, and the fact the location of the remediation, the fact that it's taking place in what was -- is now an estuarine environment?

I should add, I think it would really help the Panel to get some feedback from you on this respect, because, you know, we've been sitting here and there have

been sort of competing claims about other projects and what the other projects prove, and whether there's been long term results obtained from those projects. So, I think it would really help us if we could get some advice, opinion from yours.

MS. DRAKE: Okay, actually, I wasn't here for all of those presentations, and I haven't reviewed all the transcripts, but I have heard about some of them.

There's nothing that we've heard to date -- like I said, we haven't reviewed it in detail -- that would cause us to change the position that I mentioned just earlier.

The specialist that we've been consulting on stabilization and solidification did indicate to us that it's technically feasible in terms of using it on highly organic material, and that was why we asked for further testing in terms of bench scale and pilot scale testing on the material to ensure that's it's technically feasible.

In terms of the -- or, maybe marine environment, I'll look to one of the gentlemen to my left and they would speak to that.

Madam Chair, would you just repeat the question in terms of the monolith and the marine environment, what the question was?

THE CHAIRPERSON: Well, my question is, in light of the information that's been brought forward during the hearings and -- information and assertions, and the written material that's been filed with the Panel -- and I understand you haven't seen all of the transcripts on these issues, you haven't seen the written material, so this is where a written response may be necessary.

But in the light of that, is there anything that would cause you to revise your opinion that this -- for use in this location, on these sediments, that this is a proven technology?

MS. DRAKE: I think I'll just go back to my other answer. There's nothing that's additional.

And as I said, the fact that -- maybe I didn't say this before, but the fact that it's not only going to be stabilized and solidified, but there's also going to be a cap. There's another added level of protection.

The fact that the PCBs would still be in there, there's nothing in that, that would change our position.

THE CHAIRPERSON: But before I let go of this one, I just -- so your assessment of this as a proven technology, however, do you have any information

that the Panel does not have in terms of long term evaluation of this technology in comparable situations?

Because this has been an issue that's been going back and forth.

MS. DRAKE: We don't have, in our own possession, anything on the long term evaluation.

Just -- we've had the EIS documents peer reviewed by specialists in the area, and that's what we've used in our response to you. So there's really nothing additional to that.

THE CHAIRPERSON: Okay. Thank you.

DR. LAPIERRE: Good morning. I have a few questions relating to groundwater.

The first question -- and I'll try to paraphrase how I see it happening. And if I'm not correct, I'm sure the Tar Ponds Agency will correct me. The -- I'll start with the Coke Oven site. So you're going to deviate groundwater. You're still going to have some -- you've got some pollution to bedrock on the site. You're going to deviate bedrock. You're still going -- deviate groundwater, deflect with the brook taking off the surface water, you're going to deviate some of the groundwater table but you still have water getting into the polluted area, either through the cap because the cap is permeable.

It has some, you know, ten to the minus six so we were told this week by an expert in the permeability that could allow up to a 1,000 gallons of water per surface to penetrate. That water is going to float through the polluted area, eventually it'll make its way to the fractured bedrock and the Tar Pond Agengy have assured us that it's going to drain in under the monolith.

Now, if you look at the monolith and you look at the structure that's put in place at the same time under the monolith if I understand correctly you'll have an intrusion of salt water which is coming in either from the slag segment or from underneath the coffer dam, it's still going to leak in because that's not going to be the coffer dam or whatever that barrier is going to be.

So the question now is that you've got this water. You may also have water that permeates through the monolith and my understanding is that you're going to have a drainage system through the monolith, more than likely a hydraulic head underneath the monolith which will push that water through. It'll be going through a system of surface drainage and be collected and brought to the canal that's -- or the drainage canal that's going to be built on the side.

Our understanding from the Sydney Tar Ponds is the end of these pipes will all be capped so that you don't get direct flowage into the canal and they'll be tested. They'll be on a inclaned pline [sic] -- and inclane and so you would have a water buildup, depending on how much head you have underneath and how much close -- and up to now they couldn't tell us how much water's going to go through. It has -- the final design or how many ditches you will have.

Now, my question is, when you have this in place, this supposedly, to me it's a very important system because through that system you're going to collect the leachate, you're going to collect the drainage from the Coke Oven site and that would go to a water treatment system where you would treat the water before it's discharged to the -- wherever it will be discharged to eventually maybe to the harbour. Now, my question is, do you have confidence in this system that it will be effective in containing the leachate?

And also do you have any concerns that some of this leachate if it did happen or could eventually could find itself into the harbour through the exchange of salt water under the monolith and with the harbour. The other question I have also relates to, we were told that the present Tar Ponds delineation is not

the entire polluted area. That on the SYSCO's land where you have the -- you do have some oily substance, maybe similar to what you have in the Tar Ponds. Now my concern is when you're going to put the monolith in place you're going to sever these walls. I mean, if this is a continuous polluted area at the present time which is contained, you're going to sever these walls.

Now do you have any concerns that you could have re-emission of the -- you could have pollution entering under the monolith from the contaminated lands outside and that this could find its way to the harbour through the exchange of salt water. It could also find its way through the treatment system. Now my question -- my two questions are, do you have any concerns with the exchange of pollutant under the monolith either from leachate or either from re-infiltration, moving out to the harbour and what confidence do you have that this water can be collected through the monolith going through the drainage system and finally end up in to the water treatment system.

MR. BICKERTON: I guess -- that's a fairly long question so I mean, I'm going to try to see if I can get the essence of what you're ---

DR. LAPIERRE: I understand.

MR. BICKERTON: Is your primary concern,

will the proposed leachate collection system be adequate to capture the water and redirect it so it can be treated, is that ---

DR. LAPIERRE: Well, yes, because my concern is I don't want the leachate to end up in the harbour.

MR. BICKERTON: Fair enough. And then you got another portion that was dealing with the Coke Oven site and the fractured -- there's quite a few issues that came up there so I guess which order would you like me to address them in?

DR. LAPIERRE: Well, the leachate site, the fractured bedrock, I'm sure all the fractures don't lead to the Tar Pond. Some of them might lead sideways and it could go to the ocean. We didn't get exact detail on the nature of the fractured bedrock. But we know its fractured. We know its polluted.

MR. BICKERTON: Okay, so would you like me to address the fractured component first.

DR. LAPIERRE: Sure.

MR. BICKERTON: The issues of the fractured bedrock is something that we have -- kind of have raised in our submission. With regard to that, whether the fractures go sideways or not there is a hydraulic driving force that will tend to make it go

towards the Tar Ponds.

DR. LAPIERRE: Yes.

MR. BICKERTON: But that's fine. The other, I guess, aspect of the fractured bedrock is that the contaminants are at lower levels in those areas so in terms of relative risk, I guess the way that I've envisioned this project is that it's a mitigation exercise mostly and addressing the highest level risks first. When you're talking about the fractured bedrock there are -- there's the shallow fractured bedrock and then there's some deeper systems so I think there should be some distinction made between those.

The shallow system is a highly fractured system and it's probably most likely in contact and will be captured, down gradient with the collection system that they are proposing. That being said, one of our positions and our opinions is that that does have to be carefully monitored to ensure that what is expected to happen is, in fact, occurring. So we will definitely reinforce that position. Does that kind of address the fractured aspect ---

DR. LAPIERRE: You have no concerns that the -- some of the pollutant might find its way through the deeper fractured into deeper underground aquifers.

MR. BICKERTON: If that's occurring, it's

occurring now. To what degree that occurs, that's an area that's not very well documented so our understanding of that is quite limited. I think it's fair to say that there'd probably be at some point, there'll be some disconnection -- I don't know -- disconnect between the shallow system and the deeper systems. Not to say that that extends over the whole site. I don't know. There's not enough information on that. But again, that is something that can be kind of built into a monitoring program. So at least you can get some knowledge on that and if there is concerns, it could be addressed at that point. So as long as that element is somehow incorporated into a monitoring plan then I think that still can be addressed.

DR. LAPIERRE: Okay, yes.

MR. ERNST: And I think you expressed some concerns for the potential for leaching to the harbour through this kind of a groundwater entry mechanism. I guess it's -- and Greg mentioned it a bit tangentially there that it's our opinion that this is possible. But it's a relatively small contaminant loading source overall to the harbour compared with other routes, i.e., currently Muggah Creek right now. Potentially even during remediation and after remediation it would still be in our opinion a relatively smaller source than some

of those others. Does that help?

DR. LAPIERRE: Okay, so if I understand correctly, you think that that will be a relatively minor source of leachate going into the harbour through the lower groundwater. Your contention is that the hydraulic head would move the system, move the water underneath the monolith through the draining channel and then the collection system.

MR. BICKERTON: The -- currently the Tar Ponds are the discharge points. The hydraulic -- that driving force will still be there after its emplacement so yes, we think that those will -- the deeper systems are a relatively minor component to it.

DR. LAPIERRE: Okay. The next question I have relates to the barrier, what do you call it, a -- you know, it started off being a coffer dam but I guess the Battery Point barrier. That's the barrier at the edge of the estuary at the present time. You're going to have the drainage ditch that's going to be constructed and it's going to be 50 foot wide. How important is that Battery Point barrier for you? At the present time, I think that that's the -- possibly the major exchange with the harbour because if you get -- if you have leachate at the end of the contaminants they would move into the harbour.

Now if that barrier is erected and I guess what I'd like to know is how important is that barrier for containing the integrity of the contaminants because as I -- if we're looking at full containment and from the last visit you were here, I ---

MR. ERNST: It's our understanding that this barrier has been put in place primarily as an energy barrier and the fact that it's permeable is not of great concern and it's not a leaching preventing kind of barrier. It is, in fact, an energy barrier that prevents the re-suspension of materials during high energy events. So -- does that answer ---

DR. LAPIERRE: Yeah, it does. I -- you see it more as a barrier for breaking the waves and stopping the erosion factor. So I guess what I want to also confirm is that you are confident that the contaminants including the PCBs that are now in the Tar Ponds are fairly stable in the matrix and that there will be limited or little movement from the Tar Ponds to the harbour from the presently -- from the present suspension. I mean, sure there's going to be stabilization which is -- should enhance that but you're confident that what's left below the stabilization isn't going to move and isn't going to be a leachate problem.

MS. DRAKE: I'd like to answer that

question in a way that what we asked for was further studies and further information on the stabilization so I think that's a question we could better answer once we see the results of those studies but as I mentioned earlier what we've been -- what -- I mean I'm not a stabilization expert but what I've been told is that it's technically feasible and we'd like -- we're asking for more testing so that that can be demonstrated.

DR. LAPIERRE: The other question I have relates to the -- we've heard to the leachate test that you -- to apply. We've heard a good deal of discussion of the U.S. leachate tests. Their applicability to remediation projects. Are there Canadian equivalents to the U.S. tests? And can you describe the application of -- their application to this project both in terms of waste classification and in terms of assessing significant potential environmental effects.

MS. DRAKE: I want to start answering that question anyway. Environment Canada, in our CEFA regulations for hazardous waste we do use the USEPA TCLP test and I consulted with people in my Ottawa office that are with our hazardous waste regulatory group prior to coming here today and there's no plans to move away from its use. In fact, the provinces of Ontario, Quebec and Alberta also reference the same method in their

legislation and other provinces are indicating that they plan to adopt the method. As I mentioned I asked a chemist that works with our hazardous waste regulations in our Ottawa office that's responsible for these regulations.

And I can read part of an e-mail that he sent to me:

> "There are no plans on the part of Environment Canada to move away from the USEPA's, TCLP test method, 1311."

As I mentioned the provinces of Ontario, Alberta already reference this method in their legislation:

> "The CCME hazardous waste task group requested that the Deputy Minister level that the PCLP be adopted by Transport Canada in the transportation of dangerous goods regulations in the fall of '97. Transport Canada complied with the introduction of TCLP in the clear language regulations which came into effect in August, 2002. Since that time Environment Canada and the provinces/territories have been

moving forward to include the TCLP as the referenced legal test method replacing the former CGSB, Canadian General Standards Board, Leachate Extraction Procedure which had been in force since 1989."

He goes on to say:

"The TCLP has been proven to work in characterizing the hazardous waste as part of a risk assessment based on a certain scenario model. Industry and governments agree that the test is a good predictor and field work in the U.S. has confirmed the validity of the model and the test."

In terms of waste classification -- I can't remember all of your question now but Environment Canada uses it more as a tool to determine whether something is a hazardous waste.

So, if it fails the leachate test, then it's a regulated hazardous waste under our Export and Import of Hazardous Waste Regulations and our Interprovincial Shipment of Hazardous Waste Regulations.

And you'll have to go over what the rest of your question is, because I don't remember.

DR. LAPIERRE: Well, I guess, I wanted for you to give me an assurance that the TCLP test is an effective test to assess leachate in this condition.

MS. DRAKE: Well, in addition to what, I guess, I read from our departmental position on it from our expert in Ottawa -- and I think the Proponent mentioned this yesterday -- it's actually a very conservative test, you know, even more conservative than some of the other tests.

I mean, I'm not a leachate test expert and if I were to get into more detail on it I'd have to consult with someone else, but our understanding is that it's actually even more conservative than some of the other leachate tests, so ---

DR. LAPIERRE: Okay. So, the end result is you're satisfied with the TCLP?

MS. DRAKE: That's correct.

DR. LAPIERRE: The other question I have relates to the compressive strength of the monolith, and I guess from the comments that I've just heard it's that the monolith plays an important part but still a minor part in the process.

You have no concerns with the compressive strength of the monolith as they now relate as far as either that it may break down over time or that you might

have ingress from salt water or chlorides, the compressive strength being something like, I think, 14 to 19?

MS. KONOFF: Hi. We actually had asked the Proponent for engineering and scientific criteria for that specific question regarding compressive strength. We have heard from them and we also heard some of the information from the cement industry this week, and without doing a thorough investigation ourselves I don't think we can comment on that.

I don't think -- we had suggested that probably the 50 psi that was used be the criteria, but we've had other information presented this week, and without doing a thorough investigation I don't think we can comment on that at this time.

They do have engineering criteria set up and they will be looking at that.

DR. LAPIERRE: So, you can't comment on that at the present time. Now, the question is -- our time is running out.

MS. KONOFF: Yes.

DR. LAPIERRE: You know, 12 o'clock Friday night is -- either we get the information or we forget it, that we even know it exists.

MS. KONOFF: Yes.

DR. LAPIERRE: Now, can you or will you be able to provide some advice by Friday night 12 o'clock on the compressive strength?

MS. KONOFF: We'll do our best. [u]

MS. DRAKE: Some of our -- the people we've been working with on this are actually out of the country right now and they've actually been answering some of our e-mails, but it's been a little bit tough trying to get a hold of them. So, we will do our very best.

I wanted to add one more just point on that in terms of the monolith breaking down, and I don't know if this question will come or not but I'll just mention some positions, I guess, that the department has in terms of long-term monitoring.

I'm going to reference the Canadian Council of Ministers of the Environment's 1997 Guidance Document on the Management of Contaminated Sites in Canada. The document states that:

> "Long-term monitoring is always required for activities using containment, isolation and in-situ stabilization techniques."

And it's Environment Canada's position that this statement applies to the current project and as

a result a monitoring program must be in place to ensure the long-term integrity of the structure.

So, in terms of whether it breaks down or not, I guess that would be something that would have to be followed up on with the monitoring plan.

DR. LAPIERRE: Well, that's a question I had. I did ask the Sydney Tar Ponds Agency at the onset of the hearings, and the answer I got -- it was very difficult, they would look into it but it would be difficult to monitor the -- you know, the actual either breakdown of the monolith -- I mean, it's going to be under a cover and it's going to be ---

MS. DRAKE: I guess monitoring would also relate to what's getting into the environment and what's being discharged from the site.

DR. LAPIERRE: I agree. I guess my other question was, do you have any concern even if it does break down? If there was some crumbling of the monolith, do you have any concern?

MS. DRAKE: I guess our concerns are more what's going to get into the environment, so the actual breakdown, you know, of the monolith is more of a site use issue. If it's still containing the contaminants and preventing them from entering the environment, that would be where our concern is.

I think of that issue, I guess, as more of a site use and that sort of thing.

DR. LAPIERRE: So, if it crumbled and broke down and stayed underneath and leaked chemicals wherein it stayed within the crumbles, you would have no concern?

MS. DRAKE: That's right, as long as the chemicals and contaminants are still being prevented from entering the environment.

DR. LAPIERRE: Do you believe that an effective monitoring program can be developed to assess the performance of the SS contained sediments? And, if so, what role will you play in developing that monitoring program?

MS. DRAKE: I guess what we've asked the Proponent is that a monitoring program be developed with other stakeholders such as ourselves and the provincial Department of Environment.

In terms of actual detail in monitoring the monolith itself, I guess, I can't comment on that. That would be something we would have to review as we worked with them in developing monitoring plans.

But in terms of monitoring what's coming from the monolith, that would be, you know, something we would look at in terms of what's getting into the harbour

and that sort of thing.

DR. LAPIERRE: So, what authority do you have in ensuring that the monitoring program is in place?

I mean, if you're not the RA but you -- what authority or how do you fit into assessing or getting input into the monitoring? I guess, do you have any authority to oversee it?

MS. DRAKE: Okay. I have a couple of points to make with regard to that question. I guess this relates to what our continuing role in the project would be after the incinerator site is transferred. I think that's what you're getting at.

A couple of things. We would still administer Section 36.3 of the Fisheries Act.

DR. LAPIERRE: The Fisheries Act.

MS. DRAKE: We would still expect that where the Tar Ponds itself is going -- part of it's going to remain federal property until the remediation is complete -- that's my understanding at this point -- the Department of Environment Act and Treasury Board policies for contaminated sites state that Environment Canada has the jurisdiction for federal contaminated sites.

Now, do we have any regulations other than the Fisheries Act? No. It would be providing guidance on policies and guidelines to, you know, the owner of the

site or, I guess in this case, the Proponent.

Thirdly, we've been involved with Public Works and STPA on a technical committee that meets several times a year and we have input through that as well. So, from a regulatory standpoint it's the Fisheries Act but there's some other mechanisms there, too.

DR. LAPIERRE: Okay. So, under Section 36.

You now own part of that Tar Ponds, as you've indicated. If the Tar Ponds were transferred to either the Province or to the Municipality, what responsibility do you hold for the contaminants that are on that land, and what are your liabilities?

MS. DRAKE: I don't think I can answer that question. That might be better put towards my colleagues at Public Works or the Department of Justice. You're talking about federal liability for the site?

DR. LAPIERRE: Well, you own the land now.

MS. DRAKE: Yes, the Federal Government does.

DR. LAPIERRE: If it was transferred, do you transfer your liabilities or do you keep your liabilities?

MS. DRAKE: As I said, that's not a

question that I personally have the expertise to answer but, you know, it could be put to one of the lawyers maybe as an undertaking.

DR. LAPIERRE: So, that would be legal within Environment or legal within another branch of Government?

MS. DRAKE: My understanding is Public Works Canada has been looking after that aspect in terms of transfer of the land.

THE CHAIRPERSON: If I can step in here, I think -- are you -- would you take an undertaking to put that question forward to the appropriate federal department as an undertaking?

MS. DRAKE: Are you talking about liability in terms of contaminants leaving the site and who's responsible for them or are you talking more about jurisdiction in terms of Fisheries Act?

DR. LAPIERRE: Well, in fact, I was talking about both of those, because under the Fisheries Act I'm sure you're going to keep that liability and you would have that responsibility if it moves out and the -- but if you were to transfer the land to the Province, which we've heard was a possibility, the question that I have is -- it's contaminated lands now, the contaminants are not going to go away, that it's going to be contained

-- can you transfer your liability along with the land?

MS. DRAKE: I think that's, as I said earlier, a question that's better answered by Public Works because they've been dealing with that in terms of land ownership.

In terms of Fisheries Act responsibilities it doesn't matter who owns it, they can be charged or whatever.

DR. LAPIERRE: I agree with that. I agree.

THE CHAIRPERSON: So, my question, for the record, is would you be willing to take that as an undertaking to direct that question to the appropriate federal department?

MS. DRAKE: We can direct it to Public Works.

THE CHAIRPERSON: That's your decision ---

MS. DRAKE: Okay.

THE CHAIRPERSON: --- as to what you deem -- consider where the appropriate department is that that should go, but would you take that as your undertaking ---

MS. DRAKE: Yes.

THE CHAIRPERSON: --- to forward that question and obtain from them some kind of an answer and

get it into the ---

MS. DRAKE: I will ask them, but anyway ---

THE CHAIRPERSON: Well, I appreciate that, that they have to do it, but -- so on the record, that is an undertaking by Environment Canada to forward that question to the appropriate federal authority. [u]

DR. LAPIERRE: I have just one last question. It relates to one -- I'm not sure if it was answered correctly or if I didn't understand the answer or didn't hear it.

The question relates to the comment that I made that you now have a contaminated area of which the Tar Ponds is a section of it. This week we heard through presentations that if you had not covered over some of it the Tar Ponds would be bigger.

Now, one of those areas is the SYSCO property which we were told does contain contaminants. Do you have any concern that that which is a higher concentration once you solidify and clean up -- or solidify the materials within the Tar Ponds, that you might have some re-leaching into the Tar Ponds that may cause some problems?

And if -- you know, maybe it'll all go in the groundwater and it'll be something that the Sydney

Tar Ponds Agency will just have to pump and treat to a higher quality.

MR. BICKERTON: With regard to the particulars about what's coming off the SYSCO site, I mean, that's information I'm not familiar with because it fell outside the scope of this.

But with regard to the system, if things did come off that site it is likely that they would be intercepted with the current system that they are proposing, and maybe, in fact, yes, they might be pumping and treating that.

Does that answer your ---

DR. LAPIERRE: Well, I guess it does. That's what I ---

MR. BICKERTON: Yeah, I don't know the particulars of the ---

DR. LAPIERRE: That's what I ---

MR. BICKERTON: I don't know the particulars of the SYSCO property, that's outside this, but ---

DR. LAPIERRE: That's fine.

MS. DRAKE: I think that's something we might be able to evaluate more once we have more information on the design.

DR. LAPIERRE: Okay. Well, that's it,

Madam Chair.

THE CHAIRPERSON: I just -- before I hand it over to Mr. Charles, I do want to go back to the TCLP test and your response with respect to that, and I just want to get a couple of things clear in my head.

Where this comes from is that we've had some presentations which have questioned the adequacy of this test as a predictive tool for the long-term behaviour of the solidified sediments -- with respect to leaching with the solidified sediments, and that's the issue, is the predictive nature of the tool.

I'll just quote here from a presentation that:

> "The long-term performance of treated waste is not clearly understood, and no definitive test procedures exist to measure or assess this properly."

Or "this property", I don't know which it was meant to be:

> "The TCLP is not an adequate measure of long-term leaching."

And they go on to say there needs to be monitoring, which you've said, we all understand that, but I'm sure you understand that, as a panel, we're particularly interested in the predictive -- the adequacy

of predictions that are made in terms of determining significance.

Let me just ask my clarification question. If, say, the Tar Ponds sediments were removed from the Tar Ponds, and they were treated, they received S/S treatment, say ex situ, so you then just have this material that was sitting out of the Tar Ponds, and it's federal -- it's still federal material, it's from -- so in -- would that be a federal regulation of its disposal in terms of hazardous waste?

It would go through a TCLP test, it would pass -- let's say it passes, so then what would that mean in terms of disposal, as far as Environment Canada is concerned? It could then go anywhere, is that right?

MS. DRAKE: You're saying that it would pass the TCLP test? And I think the proponents mentioned a few times that the material passes the test now, so, you know, one would expect after stabilization it would continue to. But yes, that's correct, it ---

THE CHAIRPERSON: Well, sorry to interrupt you, but is that a fair assumption. If you do ---

MS. DRAKE: Maybe I'm ---

THE CHAIRPERSON: --- change it, de-water it, you add materials, it's no longer sitting under water in that compacted way, is it fair to say if it passes it

before, it's going to pass it after that treatment?

MS. DRAKE: Probably not, maybe I mis-spoke there, but anyway, that's correct, there would be -- it would not be considered a hazardous waste, and the proposed plan to contain it is acceptable.

THE CHAIRPERSON: So, in other words, you could take it -- if they would receive it, you could take it to a municipal landfill, for example.

It's all right, I'm not designing an alternate project, that's not my purpose. I'm just trying to get it clear in my head what it means if something passes that test. It means it doesn't have to be treated as hazardous waste and, as far as you're concerned, it could be left on the land.

MS. DRAKE: Theoretically that is correct. In reality, I don't expect that any municipal landfill would be happy to get it, but theoretically that's correct.

THE CHAIRPERSON: No, I'm not proposing that as an alternative, I assure you.

THE CHAIRPERSON: But what's been suggested to us that in terms of predicting the long-term behaviour of that material as it sits in the Tar Ponds, in its containment structures, that that test was not designed for that purpose, it was designed for other

purposes, for the classification of hazardous waste.

So is Environment Canada -- you say it's a conservative test, and that's all good, and your experts are still confident that that's a good test to use as a predictor of the long-term behaviour of that material, even though it was not really designed for that purpose.

And there was a suggestion -- although no details were provided, there was a suggestion that a different and alternate suite of tests could be designed that would be more predictive, and I just wonder if you have any, or your experts would have any, thought on that, whether there could be an added level of comfort derived from an alternative suite of tests, if they have any information about that.

MS. DRAKE: That would be something I would have to consult with our chemists on.

THE CHAIRPERSON: All right. Can I take that as an official undertaking, then, that you will ask that question and perhaps come back with any information about the potential for other tests to provide greater accuracy in terms of predictions of long-term behaviour?[u]

MS. DRAKE: Yes.

THE CHAIRPERSON: Thank you very much.

MR. CHARLES: My question has to do with

concerns that were raised here in some of the presentations about the durability of synthetic liners that are used in the capping and in the attempt to contain the materials in the Tar Ponds within their isolated spaces.

We're told that these synthetic liners sometimes fail after 2 and 3 years, although that's admittedly kind of an exceptional kind of situation, while others are -- you know, may have warranties for 30 years or more, but experience has shown that they often fail, or sometimes fail, I'm not sure which it is.

But I guess my question to you is, do you, or your experts, have any kind of observations, experience or opinions about the durability of these synthetic liners? Is it a problem from your point of view that needs to be addressed, or are you happy with what you know about them?

MS. DRAKE: I think I mentioned earlier that, you know, we recognize that capping is a proven method for managing contaminated sites, and that we would recommend long-term monitoring.

And just going back to one of our recommendations, that the monitoring follow-up programme will ensure that the physical integrity of the cap at both sites can be effectively managed.

So that, again, would be something that, as a stakeholder, we would be happy to work with the proponent and other environment departments in terms of, you know, reaching that goal.

But in terms of the capping material itself, I'm not an expert on that, and I don't have that level of expertise with me right now.

MR. CHARLES: And I guess it's a question of having the appropriate kind of monitoring equipment that could determine when a liner is failing and when it isn't.

I know you can tell sometimes by the run-off whether the leachate is gaining in concentration or not, but there may be other times when you can't tell that the liner has actually failed until some time afterwards.

Do you have any information on the adequacy or the difficulty of monitoring for this synthetic liner failure?

MR. BICKERTON: I can probably provide a little bit of comment. I'm certainly not a geotechnical engineer, but I am aware that there is a fair amount of documentation that things typically do degrade over time. To what extent that would be a problem here, I'm not certain.

With regard to monitoring, if the liner in the Tar Ponds was to degrade over time, I think perhaps where you'd see that reflected is perhaps in the collection system, where you may see higher flows.

Now, that would have to be monitored over time before you can probably attribute that solely to the influx through the liner, but, in that case again, my understanding is, that liner is there kind of as an extra feature, and that there is a collection system below. So presumably, if that was breached, the infiltration would again fall into the collection system that's immediately below it.

And again I'll say that I'm not a geotechnical engineer, so I can't comment too much on it outside of that.

MR. CHARLES: So your position would be because you have back-up systems, like the collection system, even if it did fail, there's some way you could prevent it getting out into the environment.

MR. BICKERTON: I guess in my view I see that collection system as the primary protective measure in that system.

The proponents may want -- if that's incorrect, perhaps they could comment on that, but as far as monitoring its breach, that would be one possible way

that you could check that.

MR. CHARLES: Thank you. And my next question is a more general one.

As a panel member sitting here trying to figure out Environment Canada's position with regard to the proposed project, and particularly the stabilization and solidification component, or if it becomes the same project, I guess what I take from what you have said that you recognize it as a proven technology, but that you have some concerns about certain aspects of it.

I guess my question would be, if you were a permitting agency, would you withhold the permit, at this point, or would you require further and better information before you issued it?

In other words, are your concerns serious, moderately serious, or sort of less than moderately serious? Can you sort of give me a sense of how concerned you are?

MS. DRAKE: I don't think I want to rate them in terms of how serious, but I think I'll go back to the statement we made when we were here a couple of weeks ago, that the issues that we've identified in our review, that we feel confident that they can be addressed as the design process unfolds, providing that the proponent is willing to work with us in terms of some of the

recommendations we've provided in our submission.

So it's something that we feel can be done during the more detailed design. So I hope that maybe answers your question.

MR. CHARLES: In a way it does, but, I mean, you'll have to join a long line of people who are waiting for the long final design to appear before we'll know what's going to happen.

THE CHAIRPERSON: Now, we're almost at 12 o'clock. I actually have a question for the Tar Ponds Agency related to this, and it's about costs of water treatments.

SYDNEY TAR PONDS AGENCY

--- QUESTIONED BY THE JOINT REVIEW PANEL:

THE CHAIRPERSON: If you are able to provide us with any indication of the possible range of costs for the operation of a water treatment plant, and -- the annual operation costs of a water treatment plant that would continue to treat water collected on the Coke Ovens Site and the collection system of the Tar Ponds Site.

And this is, I think, of interest in terms of long-term costs as to whether -- I presume that you have -- within the $400 million you've indicated, you know, the amount set aside for maintenance, monitoring

and operation of the water treatment cost. I don't think we have a breakdown yet, but is this a significant liability or cost consideration, if, as seems entirely possible, water treatment has to continue beyond the life of the MOA funding?

MR. POTTER: I guess I'll answer in a general sense, first. It wouldn't be a significant portion of the overall costs, it would be relatively small.

I will pass over to Mr. Shosky. I think he needs to have a bit of a clarification on what exactly you'd like to see in that breakdown costs.

THE CHAIRPERSON: I'm really only interested in the operating costs that might be incurred onwards past the ending of the -- after all of the MOA funding is spent. And it's not the capital cost particularly, it's the operating cost to continue treating water from these two sites. Is that a large amount, a small amount?

MR. SHOSKY: It's a relatively small amount, and the way we undertook the estimating of those water treatment costs over 25 years, we basically assumed that each one of the plants would be replaced at least once when we did our calculations, by the time you went through and replaced pieces and parts of it, from that

perspective. And if that's what you're looking for, it's kind of like an annual operating cost beyond 25 years, we can give you a number which would include, then, also the replacement of pieces and parts.

THE CHAIRPERSON: Yes, that would be helpful. I'll take that as an undertaking. Thank you.[u]

DR. LAPIERRE: I wonder if I may ask an additional question, Mr. Potter, to your last answer.

MR. POTTER: Sure.

DR. LAPIERRE: I guess if, in treating the water over time, you have -- and the question was answered yesterday by Mr. Shosky, but I want to make sure I understood correctly, is that if, in the process of treatment, in testing your water, you do come up against chemicals, nasties that you didn't anticipate, my answer I got yesterday that there would be a series of filters and membranes that you could put into the system to ensure that that water could be treated, and those elements could be removed.

Now, those do add costs to a treatment system, membrane treatment's not cheap. I guess that's the type of cost, if these need to be extended over time, once the agency is gone somebody's going to have to pick up that cost.

MR. POTTER: We have factored into the overall project what we refer to as contingency funds. We know there will be all kinds of unexpected events that routinely come up in any kind of a project like this.

So we always have a bit of, you know, excess funds available for the unexpected. There is a bit of that built in for the overall project and, you know, if something like that does happen, I don't think -- the funding is not going to be a problem, I don't think, on the longer term maintenance and operation of the treatment plant.

If we do discover that something is showing up, our first response is going to be to deal with it, treat it, resolve that discharge problem. We may have naturally tried to determine what would be causing that problem. We may have to investigate is it something on our site, or could it potentially be something coming onto our site from some other source. Again, that would be something we would follow up on. But, you know, the operating costs, I think we're pretty confident that, you know, the money allotted will not be a problem.

DR. LAPIERRE: But couldn't those costs be increased, depending on the regulatory discharge that's imposed upon you? You're going to discharge, and you're

going to meet some regulations. Those regulations may change with time, and depending on the regulatory discharge rates that you get imposed on you, through permitting, the costs could be reflected in those rates, couldn't they?

MR. POTTER: Yes. Again, that's a factor built into the MOA. If, you know, during the process of regulatory requirements there's something that significantly alters the cost of the project, we are able to go back. If there was the need, if we thought "Okay, this is going to push us beyond $400 million", the MOA does allow us to go back, if you wish, and get extra money. The two partners would have to resolve who pays what portion, but, you know, if there was any kind of a regulatory requirement that pushes us above the expected level that we're anticipating to spend on, say, water treatment, we could go back and seek additional funding.

So that has been, I guess, built in. We're certainly not going to treat the water because we can't afford it, that's not going to happen.

DR. LAPIERRE: Okay. Thank you.

THE CHAIRPERSON: Well, I think that does bring us to the end of our questions.

So again, thank you very much, Ms. Drake, and your colleagues, for returning. Thank you for

taking, I believe it's, two undertakings to get back to us with more information.

And we are now going to break. We will be returning at 1:00 p.m. with a presentation by CBRM. Thank you.

--- Upon recessing at 12:07 p.m.

--- Upon resuming at 1:03 p.m.

THE CHAIRPERSON: Good afternoon, ladies and gentlemen. I would like to begin this afternoon's session. This afternoon, we have one presenter, the Cape Breton Regional Municipality. We will then take a break and resume again this evening at 5:45, when we have two presenters.

So I would like to welcome our presenters, if they have themselves organized. We're very pleased to have you here with us this afternoon and look forward to hearing your presentation. I will -- obviously you will be introducing your full team here when you begin.

As you know, you have 40 minutes for the presentation. I will give you -- indicate when you are five minutes away from the end of the 40 minutes, and then we will have a chance for questions from the Panel and from other participants. So we welcome you here and are looking forward to hearing from you.

--- PRESENTATION BY CAPE BRETON REGIONAL MUNICIPALITY

(MR. VINCE HALL)

MR. HALL: Thank you, Madame Chair and Panelists. My name is Vince Hall, and I welcome the opportunity to be here today on behalf of the Cape Breton Regional Municipality. I am joined today by our Mayor, John Morgan, farthest to my right. Next to me, our Director of Planning, Doug Foster. Next to Doug is Malcolm Gillis, our Senior Planner. And to Malcolm's right is our CAO, Mr. Jerry Ryan. And then on his right, if I'm right, is our Economic Development Manager, John Whalley.

After my statements, Mr. Gillis will be providing a Power Point presentation on our behalf, and we'll all be available to the Panel for any further clarification or explanations based on the statements that we're about to make.

In my capacity -- oh, we're also joined today too by a number of members of the Cape Breton Council. I've noted that Councillors Leahey and Councillor Richard Fogerty are here. Both of those Councillors have been actively involved with this file. Councillor Charlie Long intends to be here. I don't know if he made it here yet. He was running a little late. As well as Councillor Jim MacLeod. Both Councillors Long and Jim MacLeod are "City-based," quote, unquote,

Councillors here with the Municipality.

And I've received calls, notable calls, from Deputy Mayor, Claire Dethridge, that wanted to express her support for what we're trying to achieve here today, as well as Councillor Darren Bruckschwaiger, who is in the sister riding of myself. And you'll see the relevance of that in a little bit.

So in my capacity -- in my capacity -- is there a mike issue here, or is it me?

THE CHAIRPERSON: I can certainly hear you, Councillor.

MR. HALL: Okay. Thank you. In my capacity as a member of the Tar Ponds Community Liaison Committee, I recently had the opportunity to accompany fellow committee members, cleanup officials and regulators on tours of some major environmental cleanup sites in New Brunswick and certain cities in the United States. Seattle, Washington, Tacoma, Washington, Fox River in Wisconsin, and finally New Bedford in Massachusetts were some of the notable places that we visited.

With respect to the U.S. cities toured, the key element municipal leaders were able to contribute, to encourage the community to focus not on endless discussion of the problem but on the potential

for redevelopment and future site use. We learned that municipal leaders inspired residents of those communities with a vision of what their community could be, not endless recriminations about what had gone wrong in the past.

From this very valuable tour, I came away with a strong impression that the Sydney Tar Ponds has been misrepresented as an unusual horrible cleanup problem. We have a large cleanup site, no doubt about it, but much larger, much more severely contaminated sites have and continue to be successfully cleaned up.

Moreover, in communities where cleanup projects generated fear and conflict, municipal leadership played a key role in moving the project forward, particularly municipal leadership aimed at visionary ideas about future site use planning.

CBRM is well positioned to take up this challenge. In my own participation on this file and all municipal representation on this issue, we have a solid record of pushing the other levels of government to move this process along and get the cleanup under way in a manner consistent with the first objective identified in the Environmental Impact Statement.

An economic analysis of the Environmental Impact Statement prepared by CBRM's Economic Development

Manager, John Whalley, found that there are deficiencies in terms of the current cleanup proposal meeting the second objective, which is to enhance the development potential and investment climate in CBRM and to provide social benefits for CBRM as a whole.

As is explained in the presentation to be made by Mr. Gillis, the CBRM believes that future land use for the contaminated sites is of fundamental importance to the future sustainability of this region. This is why we have supported the concept of a, quote, "port-to-port study."

The corridor that would connect the principal port assets in Sydney Harbour with the Sydney Airport is of great importance because it represents the intersection of all four modes of transportation within CBRM.

Moreover, the development of such a corridor offers tremendous opportunity to enhance the transportation linkages between some of CBRM's largest community, notably Glace Bay, Sydney and all the surrounding communities around that.

My role as Councillor's Representative throughout the cleanup planning process has been to encourage the other levels of government to move the cleanup forward in a safe, effective and timely manner.

I don't need to tell you that time lines has been a challenge, and in fact, time lines have been suggested for the work of this Panel.

There always seems to be those who find more value in complaining about a cleanup that doesn't happen than those who find -- than in forging practical solutions to make it happen. That has not been my approach. I've worked collaboratively with the other two levels of government with the single-minded goal of getting on with the job.

You may therefore find some irony in the fact that the chosen solution of the two other levels of government involves the installation and operation of a hazardous waste incinerator in my riding. Naturally some of my constituents are less than pleased with this proposal. In fact, there's no constituent acceptability.

And you've all been introduced to two members of a citizens' committee from the local Grand Lake Road community, which is chaired by Mr. Ron Marman, and he is being co-chaired, if you will, by a Mr. Henry Lelandais, and I understand they've made a representation to you. And Mr. Marman is here today, and I understand that Henry Lelandais is to follow.

In terms of my perspective, the easy thing for me to have done and do would be to condemn the

proposal of the other two levels of government. However, having followed and indeed participated in the search for a cleanup solution for nine years, I have some appreciation for how the other two levels of government had arrived at the solution they proposed.

Most residents who have participated in the JAG consultations favoured solutions that involved digging up and destroying the materials over solutions that involved treating and containing the materials in place.

Technical evaluations made it clear that of the available destruction technologies, only incineration or a co-burning, which is essentially another form of incineration, are practical on the scale required for more than a million tonnes of the material.

However, the experience with the Domtar tank has shown unequivocally that no other community will accept material from Sydney. Governments, the media and environmental groups have done an effective job of misrepresenting Sydney as having environmental problems of unprecedented scale and severity. Removal and destruction initially favoured by Cape Breton Region residents turns to meaning burning the material in or near Sydney.

The residents have had two years to ponder

that solution, and the clear evidence is that no amount of technical and scientific reassurance will make them comfortable with incineration of the Tar Ponds waste in this community.

The current plan to dig up and destroy the PCB materials, a total of about 125,000 tonnes, and stabilize and solidify the rest. The alternative sections of the EIS asks the question, "What if, instead of excavating and incinerating, we use stabilization and solidification on the entire Tar Ponds?"

I respectfully suggest the answer to that is it would be technically and economically effective as well as politically and socially acceptable.

In other words, we can keep the cleanup plan, but drop the incineration component.

Two years ago, the public might not have accepted a solution that treated the material in place, but after two years of contemplating a hazardous waste incinerator in our midst, I believe most residents of CBRM, and certainly the residents I represent, would greatly prefer the alternative of treating and containing all Tar Ponds materials in place.

CBRM Council, on January 24th, 2006, held extensive discussion of both the project proposal and the Environmental Impact Statement that has been prepared by

the Sydney Tar Ponds Agency. We passed a motion in that meeting that reads as follows:

> "CBRM go on record as being opposed to the incineration of materials containing polychlorinated byphenyls (PCBs) within the Municipality. CBRM respond in writing to the Panel advising them that we are opposed to incineration as a component of this remediation project and that CBRM seek the assurance that alternative option, stabilization/solidification of all contaminated materials, is a technically effective and safe method to remediate both sites. Furthermore, the Panel redirect the funding presently earmarked for the incinerator component of this project to a future site use plan consistent with CBRM's regional strategy for port lands of which both the Tar Pond and Coke Oven sites are components."

That's the end of that motion. Therefore, it is CBRM Council's position that the money saved by removing incineration from the final cleanup solution be

redirected by this Panel to a future site use plan consistent with our regional strategy for port lands.

I learned of this reallocation of funds model from cleanup experts in the United States. In the City of Tacoma, monies saved during the remediation process were redirected from the U.S. Superfunds towards the implementation of the long-term economic development initiatives.

The Tacoma model inspired me because it provided a tremendous example of all levels of government and community partners working together, not only to safely and effectively remediate contaminated properties, but to do so in a manner that created a real showcase site that has become a great and lasting legacy for that community.

So if I can ask Malcolm to bring up a couple of slides there that shows the Thea Foss Waterway in the United States. This is in Tacoma, Washington, and myself and Councillor Charlie Long from CBRM, we were afforded the opportunity of visiting this firsthand.

And this area, Panel and Chair, this was a rundown area, contaminated site in this city. It was a complete disaster zone based on the photos that we've seen, and what happened was all players got together and they decided, "Look, we have a problem here. Let's solve

the problem, let's clean up the site, and let's have a long-lasting economic/social benefit for this city.

The end product is this, as well as the next slide. As you see, you know, there's brand new development all along this waterfront. It was completely done over. There's a glass museum there to your left. That's residential condo development farther down. And it goes down farther and farther and farther.

And this is something of interest to CBRM of late. This project also was able to protect the view plains of the harbour, and they've come up with some pretty interesting and proactive ways of doing that.

So I have another slide here where I did a matrix. And this is just my own -- my own little thought on what I see we have before us. In this matrix, I've shown you the current plan with incineration. We know the costs are high. We know it's technically feasible. We know it's environmentally sound. We know, perhaps most of all, that public acceptability is low, if not close to nil.

Then what we're suggesting is if you look at the alternative plan, minus incineration, we recognize that the cost of that would be medium, it's technically feasible, it's environmentally sound, and public acceptability of that at this point is medium and growing

at a daily rate.

So in conclusion, CBRM's perspective is that, first and foremost, the Sydney Tar Ponds and Coke Oven site need to be safely and effectively remediated. If, however, we are to learn from the successful model used in Tacoma in our quest to achieve a great and lasting legacy for our region, we believe the Panel must place considerable emphasis in its recommendations on future site use that it is consistent with a vibrant and progressive sustainable community.

And I thank you for the opportunity to present my part, and now I'll turn it over to Mr. Gillis, who is our Senior Planner, and he'll do his component. Thank you.

MR. GILLIS: Thank you, Councillor Hall. I'll just dive right into the fray of the presentation. It's a rather lengthy Power Point presentation, and I appreciate that our time is limited.

The focus of the presentation is what we're going to do with the sites once the rehabilitation is cleaned up. This is less about how to clean it up and more about what happens after it is cleaned up, but also, very importantly, recognizing that the chosen objective for future use really is the prime influence on how the level of cleanup should take place.

We just want to point out as an introductory statement that the CBRM is not just another onlooker here. If and when the site is cleaned up, the Municipality is the primary authority with regards to regulating land use, and that's an authority that's given to us by the Province through the enabling legislation, the Municipal Government Act.

And the most important document that a Municipality could adopt to carry out that legislative authority is the Municipal Planning Strategy, and the Municipality has a Municipal Planning Strategy. It's not something -- it's not a document that's collecting dust in the clerk's office that's antiquated and several years old. It's a very recent document, and we've just recently gone through a winter review even though it was only adopted by Council less than two years ago.

And it's, in effect, throughout the entire geography of the CBRM. But although we have a vast geography and one Planning Strategy, in effect, we do have a section of a part, Part 3, that's devoted exclusively to this corridor, the corridor from the SYSCO and Emera piers, through the former SYSCO site, including the Coke Ovens, the landfill, and basically following the route of the SPAR, the Sydney Port Access Road, to Highway 125.

Exclusive plan policies, you have copies of the Planning Strategy that have been submitted by the CBRM. They'll be easy to find.

Why did we draft the Planning Strategy? Well, obviously we're a regional municipality, and that's a luxury -- that's one luxury this relatively poor municipality has is that we have entire jurisdiction over our geography as opposed to the former eight municipalities, but we didn't begin the -- once the Municipality came into being, back approximately 11 years ago.

It wasn't until about a half a dozen years into the inception of the planning of the CBRM that we got involved in this.

And really, it came as the realization that we were at a pivotal period in our economic history.

The economic base of the region for so long was stoked by two primary industries, the steel plant and, of course, the supporting coal mining industry.

Both finally ended -- their demise occurred within actually, practically, about a year from each other, and that also culminated in what we believe to be the worst period of demographic decline in the CBRM -- in CBRM's history.

And when we talk about demographic decline in the CBRM, we know what we're talking about, because it's been occurring for the last two generations.

The chart that's here before you now shows going back to before the steel plant was originally constructed two -- back in the 1890s.

If the number -- if the population statistics are in black, it means it was an increase from the previous census. When they're in red, it means suddenly it's a decrease.

The clear trend that the colour code of the number system here shows, that somewhere in the '60s, the population here started to decline, and it continued to decline consistently throughout the CBRM.

The column on the far right is the total population throughout the CBRM through the last century, and now it represents approximately a 17 percent decline from its peak back 40 years ago.

But what's really scary for us is that although since the population peaked in 1961, and it's been declining at a rate of 0.5 percent every year, during the last intercensal period, that's '96 to 2001 -- Census Day was yesterday, so we're looking forward to those statistics. But the last period we have, 1996 to 2001, the decline per year has been over three times the

average of the last 40 years.

So we're not looking at this in a complacent way and saying, "Gee, well, after 40 years of decline, you know, things have to -- I guess they're going to start bottoming out eventually."

All the indicators, the current, the contemporary indicators, are saying, "No, things are speeding up. This decline is occurring at a more rapid pace than it has."

It's the largest drop in absolute numbers in the Province of Nova Scotia, and the Province of Nova Scotia in total's population declined, yet Halifax Regional Municipality increased significantly.

So we're talking about the largest absolute number in decline in a province where, throughout most of the geography of the province, there was a decline.

Again, to put it in perspective of a population decline throughout the whole country, there may be other communities where there has been a greater rate of decline, but no community with anywhere near as large a population as the CBRM experienced this rate of decline.

No. 2 is Timmins. It's -- it lost less than half the people that we did in the last five years.

So, we're really talking about -- what's No. 2, is a distant second.

So this is not only a provincial issue, it's also in comparison across the country. It's a scary issue.

We hired a professional in demographics, and they prepared a report for us.

This next line, I'm going to ask Doug Foster to just explain just what the demographic forecaster had told the CBRM.

--- PRESENTATION BY CAPE BRETON REGIONAL MUNICIPALITY

(MR. DOUG FOSTER)

MR. FOSTER: Thank you.

I thought I'd just mention that the population forecast was prepared by Terrain Group at our request, John Heseltine, who was with them at that time.

And it's a forecast that we needed, of course, to -- we -- to base our regional plan on.

And I think it explains a lot of the context of why our policies in the plan are framed as they are.

First of all, I think the -- this is just an excerpt. We've left a copy of the entire report in digital form with your technical person here, so -- this is one slide from it, but I think it points out the major

conclusion, and that is, of these three age cohorts, the youngest being at the bottom, the forecast out to 2021 is for the most significant declines in that youngest age group.

The next greatest decline is in that working age group, the second yellowish coloured layer, again, declining, while at the top of the graph, you see the white area, and that's the only cohort of our population that's forecast to increase significantly.

Net, the forecast indicates further decline.

It is based on an assumption, of course, and that is that within any given age cohort, that the rate of net migration will continue at the rate that it was between '96 and 2001.

And, of course, we'll get some indication of that when we get the results of yesterday's census.

I would make one comment. Although forecasts are just that, it may be high or low by some amount. There's no indication that this forecast is fundamentally off.

Some of the factors influencing it are quite compelling, and we don't think it's going to be dramatically -- it's certainly not -- this population decline is certainly not turned around, in any case.

And with that, I'll turn it back to Malcolm.

--- PRESENTATION BY CAPE BRETON REGIONAL MUNICIPALITY (MR. MALCOLM GILLIS)

MR. GILLIS: Thanks, Doug.

Considering it's such a small percentage of the geography, why did the Municipality focus on this corridor? I mean, you know, it's a century of industrial -- the drive is to clean up, and it's often described, as Councillor Hall complained, as one of Canada's worst contaminated sites.

So, with the myriad issues that we have throughout the CBRM, why did we focus on this particular corridor?

Well, we believe a cleanup of this magnitude is not just about rehabilitating the environment.

It's also -- the best successful brownfield cleanup sites really have developed a vibrant new land use at the rehabilitative site, just as the Councillor had pointed out.

And we've also got a situation here where the government owns the site. Government was the regulator. Government is responsible for the cleanup.

And because of this national spotlight, we

at the CBRM believe -- we hope that it can become a showcase redevelopment.

When we looked at it, we didn't just state, "Well, we have some ideas what we wanted to do." It was really a process of elimination.

We looked at -- this is -- the planning strategy is essentially a land use plan.

We focused on the variety of land uses that could be contemplated for the use of this corridor, and we basically went through a process of elimination.

We first looked at, "Well, could it be residential?"

The potential of the Coke Ovens site and the Tar Ponds for residential development is minimal, because we pretty much have a stagnant housing market. We have less than one third capacity of peak years throughout the CBRM.

What that means is that the number of building permits we're issuing for new residential development is approximately one-third of what it was in the late '80s.

Most municipalities would look and say, "Gee, if it's dropped by 10 or 15 percent, that's something. That's reason for alarm."

We're talking about the floor caving in

here. It's gone from -- for every 100 permits we issued a generation ago, we're only issuing approximately 30 to 35.

Sydney -- and of that diminished percentage, Sydney is only generating about 5 percent of the new residential housing construction.

But, we want to point out that it's not because there's a lack of available serviced land.

This is just a chart that illustrates what I've been telling you.

As you can see, the peak years of -- 448 was the highest year, 1989 for new single detached dwelling permits issued down to -- we bottomed out the year the steel plant closed to 123.

We've gone up a little bit, but we're still way below those peak years.

But the point that we'd want to make, and with the limited amount of time -- maybe later on when there's a question and answer period, I could use our GIS to show the -- that there is land available in the greater Sydney area, and it's land that's serviced land.

There literally is hundreds of building lots that are serviced, sewer and water, all urban service, in the surrounding neighbourhoods, and even I can show where, in our more exclusive neighbourhoods,

development is rather sluggish at best -- new residential development.

So, why develop -- why design or plan an approximately 880 acre corridor for residential development? That's more land than we'll need for hundreds of years, at the rate we're going.

Is it agricultural? CBRM has an abundance of under-utilized lands suitable for agriculture, and there is no discernable pressure from suburban sprawl into these favourable agricultural lands.

Well, obviously, if development is down to one-third, there's not a lot happening out in suburbia.

And this map illustrates the Canada Land inventory Class 2 and 3 soils that are suitable for agricultural development.

Of the seven soil classifications, there is no Class 1 soils anywhere in the Province of Nova Scotia. So, even in the best agricultural lands, we don't have them.

The best we have in Nova Scotia are Class 2. The Class 2 soils are highlighted in yellow on this map.

The next are Class 3. They're highlighted in green.

What it shows us is that, surprisingly,

about a quarter of our landscape is either Class 2 or Class 3 soils. And also, as well, there's a significant concentration of those Class 2 and 3 soils in the greater Sydney area.

So, there's really -- there's not a logic to suggest that a brownfield -- former brownfield site be converted for agricultural uses, especially within an urban area.

Is it recreational? CBRM's recreational objectives have changed because of these change in demographics. As Doug has pointed out, there's less of us, and we're older.

A paucity of funds to dedicate towards maintenance of recreational facilities.

As a comparison, if you take our municipal budget divided by our population, get a per capita amount of money we have to spend, compare it to our sister regional municipality, Halifax, and we're basically, in comparison, for every dollar that Halifax has to spend providing the same services, we've got less than sixty cents ($0.60).

So, we -- and recreation is obviously going to suffer if we have to -- if we only have sixty cent ($0.60) dollars to spend on the other hard services that we are legally obliged to provide to our

constituents.

Consequently, the CBRM must be very focused in its recreational land use objectives, that does not include vast tracks of urban recreational space that's expensive to maintain.

You know, we'd need an endowment for generations if we were to -- if this was to be handed over in a pristine recreational parkland setting.

And it's really -- what we've looked at are the key elements for Sydney, which one of the key elements for all four urban concentrations, and that's the harbour, that's the brooks flowing to the harbour, and its surrounding hinterland.

We looked at the idea of active recreational facilities.

There are essentially the same, many, active recreational facilities in Sydney as there were a generation ago. And since that 20 year period, the population of the greater Sydney area has declined by almost 20 percent.

And the other point that I want to make is just that this decline hasn't happened, as Doug has pointed out, evenly throughout the demographic segments.

The group that's most likely to use active recreational facilities is the one that's declining the

most rapidly. It's -- at a 34.5 percent.

And the other thing, it's not a bullet here, but I think it's important to mention, that that age group now has a much more diverse range of recreational interests than previous generations.

And so, the idea of the arena and the cost of the maintenance of it and the ball fields, we find it difficult to fill the ones that are there now.

So, we're really not looking for an endowment of additional active recreational facilities.

A large urban recreational space. CBRM doesn't have the resources, again, to adequately maintain a large scale urban recreational park.

Rotary Park. I ask you to have a look at that sometime in your stay here in Cape Breton, and you'll get a sense of the lack of funds we have already available.

But I think it's also important to make out is that, you know, Cape Breton Island's landscape.

We're in the top ten of so many international publications that deal with tourism and recreation.

What's important for us is that we get our constituents out in what's already a beautiful landscape. And we believe that it's a poor investment of public

money for recreational purpose is to turn an urban brownfield site into a recreational area.

The government should be -- if it's going to invest in recreation in the CBRM, complement our world class recreational and tourism facilities that you'll find throughout the Island.

Our land use plan for Sydney is one that provides accessibility and interconnectivity to our harbour.

Sydney is a port town. It's important that people get to the downtown, and get to its boardwalk.

I walked out of the office a couple of nights ago, the first really warm evening. The boardwalk was teaming with people.

It's important that the community has the link with its waterfront, and what we're advocating is, is that a plan that links the harbour with the residential neighbourhoods and with a trail system through those residential neighbourhoods that will get them out into the hinterland of Sydney, which is the real Cape Breton that people should go out to enjoy.

So, how can a remediated steel plant site facilitate this objective, our objective? That's by providing a pedestrian and bicycle corridor linking the

neighbourhood Whitney Pier with downtown. The neighbourhood of Whitney Pier, which for a century, has been isolated from the rest of the community that it's been in because of the industrial complex.

What we're looking for is a link -- a pedestrian, bicycle link with Whitney Pier, with the rest of Sydney, with the downtown and with the waterfront, it provides a focused goal with a minimum amount of maintenance and a small percentage of the remediated lands. And just to -- there is one thing I'd like to show, just on our GIS. And again, if you see on this map, this is of the greater Sydney area. It's an orthophoto image. The lines in red, it's not a case of the cartographer having a case of Parkinson's Disease.

This is following the meandering of the brooks through the residential neighbourhood that clearly lead to right here, which is the Tar Ponds which is really the mouth of Muggah Creek and this peninsula area here is downtown Sydney and this is all part of a greater plan for, not only the Sydney area, a recreational plan but also the other four urban concentrations have the -- it's of a plan throughout the regional municipality and the idea is to link the harbour with the neighbourhoods with the surrounding hinterland.

Is it commercial? CBRM doesn't need

another commercial area to compete with the existing business district. We've got a declining population, meagre per capita spending power in comparison to other more vibrant economic regions and increased mobility within the region has resulted in shrinking central business districts. We believe the redevelopment of the former steel plant site should complement efforts to revitalize downtown Sydney.

This map takes all of land use information, divides it, colour codes it, what is residential is yellow, what is commercial sales and service is red. And what this map clearly shows is that there is a pattern of red which is downtown Sydney stretching along the main corridor of Prince. Well -- leading out to here which is the Mayflower Mall and the latest new developments in the vicinity of the Mayflower Mall. It'll just take a second here to bring that up.

The three box stores that are -- that basically happened as a result of the Sydney Port Access Road bringing accessibility to lands that have previously had been landlocked yet very close to a very prominent -- not very prominent -- the most significant intersection in our regional transportation system and that's Highway 125 and the Sydney Glace Bay Highway. So do we need a former brownfield site for commercial purposes? Our

argument is that no, we don't.

We looked at the idea of industrial and transportation issues. And we've considered that the attributes that make a site favoured for a business industrial park in a region include access to a navigable and sheltered harbour. This has got it in spades. The industrialists from Britain and the United States that choose to build a steel plant here 110 years ago appreciated that and that simply hasn't changed. And we have -- now what we have is wharf and docking and pier facilities with a capacity to accommodate significant industrial activity.

Really it's the best infrastructure in the region is at the former SYSCO site. Expansive laydown area as I've stated earlier, we've got nearly 900 acres of land from the pier facilities up to our capped landfill site. And the change in elevation is no more than a few metres so we're basically talking about a flat homogeneous plane with very little development on it because what used to be there has been dismantled. We have rail access again, the largest concentration of shunting yards are both at the SYSCO site and in proximity of the site anywhere on Cape Breton Island.

So we have rail access and access to the province's controlled access highway system, that was

initially an achilles heel until the Sydney Port access road was constructed. That was something that this proposed business industrial park lacked. That piece of the puzzle has been solved. We have a beautiful highway that links us to Highway 125. Highway 125 is the spine of our regional transportation network and it's our link with the Trans-Canada Highway that takes you to the rest of the world. And so now you have practically no stop from the harbourside business park to the Trans-Canada Highway.

THE CHAIRPERSON: Mr. Gillis, sorry to interrupt you, five more minutes.

MR. GILLIS: Oh, wow. Okay. I'll just quickly go through the other slides. Well, what we -- we're concerned about is just that this planning strategy is a working document. We have -- we're already taking next steps. The neighbourhood plan for Sydney's northend. Last night Mayor Morgan and council adopted a secondary planning strategy for the -- one of the three neighbourhoods adjacent this site.

And the reason we did that is that not only is there a great concentration of historical buildings but not only is it a downtown residential neighbourhood with very low volumes of traffic but not only is it adjacent to the recreational waterfront, but

most importantly the community and the neighbourhood believes in its future because of the Federal/Provincial Government's commitment to clean up the former steel plant site which it hugged up against for a whole century.

Another objective of the plan that we're looking into is the idea as Councillor Hall pointed out, the seaport to airport corridor concept that link of the four modes of transportation and essential regional assets and a commuter link that links the two largest urban communities on Cape Breton Island. A map illustrating the corridor here showing the pier facilities and the airport, rail facilities, our controlled access highways and our future plan map illustrating our plans for that, it's -- what we're trying to say here is just that a planning strategy is not just a document that leads to maps that go on the wall in our development officers office.

It's much more than that. As far as that corridor is concerned, we've now developed the terms of reference that we're working with, a committee and -- that is comprised of all levels of government, our Chamber of Commerce, the College -- Cape Breton University. But what we strongly believe is that strategic government incentives are needed to for

successful brownfield redevelopment. It's not enough to draw lines on a map and have council adopt the plan.

What we need is a commitment from the other levels of government to reach the kind of objectives that the regional municipality which is the one level of government that provides the most local and direct service to this region and the region that the -- that it's in context with and I thank you very much.

MR. HALL: Madam Chair, you'll recall at the outset I mentioned Councillors Long and MacLeod were running late. They're now here as well as Councillor Marshall, so we have Long, MacLeod, Lahey, Fogerty and Marshall that are here. And with your indulgence Mayor Morgan would like to make some comments, too. Thank you.

THE CHAIRPERSON: You basically have -- well, two minutes. Is that all right, Mayor Morgan.

MAYOR MORGAN: Thank you, Madam Chair. I had actually prepared some -- is it possible for me to sign up to make another presentation at a later time so that I don't interrupt the flow of proceedings. Is that something that's possible?

THE CHAIRPERSON: How much time do you require now?

MAYOR MORGAN: Pardon me?

THE CHAIRPERSON: How much time would you

require now?

MAYOR MORGAN: Approximately five minutes. That would be it.

THE CHAIRPERSON: I think the most efficient thing -- I -- let me give you five minutes, maximum please.

--- PRESENTATION BY CAPE BRETON REGIONAL MUNICIPALITY (MAYOR JOHN MORGAN):

MAYOR MORGAN: Thank you. That's fine, thank you. Oh, first of all, my name is -- as I've been introduced, Mayor John Morgan and I'm not going to get into a lot of the technicalities of the cleanup. I've read some of the transcripts of the Panel and some of the other presenters and I know you've got a lot of technical information before you that I certainly couldn't effectively analyze. But I do want to say I agree with the comments with respect to future site use and I think that reflects the view of the council as well.

One thing that I guess I wanted to emphasize to the Panel is that what is being presented to the community by the Province and Federal Government in the funding sense is really a take it or leave it proposition and that's significant in the sense that there -- I think there's been evidence that there may be other more effective ways to clean up the site and that's

something I'll comment in a few moments as well.

But really the Province has made it clear and the Federal Government has made it clear that it is take it or leave it that if we exceed the four hundred million dollar ($400,000,000) envelope that, in fact, they may not clean up the site even if there is a more effective or safer mechanism of cleaning up the site and even if there's another mechanism preferred by the community so the relevant question before us is not whether or not -- I'd suggest the relevant question is not whether or not this is the best mechanism.

Really the relevant question is is this better than nothing at all because that is what the proposal -- what the alternative is being put to the community. If some other alternative is selected that goes beyond the four hundred million dollar ($400,000,000) envelope we may, in fact, get nothing at all.

So the question that I -- I think that we do have to pose is is the proposal of the Province or the alternative proposal with respect to encapsulation, is it better than nothing. It's not a question of is it better than some other model. And I would suggest that the answer to that question of is it better than nothing at all is yes, if incineration option is abandoned because

at least with the encapsulation model the stabilization solidification model that you have a temporarial -- you have a process that temporarily at least stabilizes the materials or most of the materials until future generations can develop the political will to in fact, correct the damage that has been done to the site.

If incineration is part of the cleanup my answer to the question is that it is not better than nothing because of the risk associated with incineration and most of my comments I want to focus on the issue of risk. As I said, I don't think I can match the Panel in terms of expertise but I reviewed some of the transcripts and technical information regarding the risk itself. And I would suggest that the Panel analyze the risk of incineration really in a three -- there's really three levels of analysis.

The one is the level of risk itself. And you may look at the measures adopted by Sydney Tar Ponds Agency and their proposal and conclude that the preventative measures are effective in minimizing the risks and there may be low risk of catastrophic failure of the incinerator and/or a low risk of a catastrophic failure in the extraction and transportation of the mechanisms to the incineration facility. But I suggest that even if you do conclude that there's a low risk

there has to be another element of the analysis and that is what are the consequences, what are the gravity of the consequences of an unlikely event occurring.

And what I would suggest is that even if the event -- and I'm talking about a catastrophic failure such as bypassing -- an event, bypassing safety mechanisms, an explosion we might think of, even if you decided that that risk is unlikely it may be decided not to take that course of action because the consequences of the admittedly unlikely event would be very serious or catastrophic.

My view is that the example in Swan Hills, Alberta demonstrates this issue. In Swan Hills, Alberta restrictions exist in a 30 kilometre radius of the facility, preventing hunting and fishing in area which has in that area few people living there. To the experts which thought that -- who analyzed that facility, the likelihood of a catastrophic event was indeed very low. The benefit in that facility was, it was a very low populated area. If the same thing happens in CBRM more than 80 percent of the populated area of this region will be impacted at their current residence, where they live currently in CBRM.

If you had the same radial exclusion area for hunting and fishing as a result of a catastrophic

event. The consequences of the failure would devastate the community for an indefinite period of time. We would be devastated economically from a tourist perspective. We would trigger an even faster out migration from the region and realistically we could never repair the environmental damage that would have occurred. And I would suggest as well, there's a third part of the analysis that you have to go through as well and that is that if other -- there may be other circumstances that might cause you to incur that risk of that unlikely catastrophic event.

But what I would say in this case is even if the incinerator is indeed fired up, we know there will remain significant quantities of PCBs and PAHs and other materials at the site. We will have an encapsulated site in the same way as if the community had never exposed itself to the risk of incineration in the first place. There will still be the same PCBs and PAHs there and on adjacent sites controlled by the Provincial Government.

I want to just finally in closing comment on the sort of the larger question, the Province and Federal Government represented to our community throughout six years of the JAG process that the communities will -- would be respected. They circulated mail and brochures and posters and I even have a drinking

mug in my office with the slogan "Our future, your choice." They didn't say it was going to be John Hamm's choice or Parker Donham or Frank Potter's choice. They said it was going to be our choice.

At the conclusion of the JAG process the community chose options that look nothing like what is before you. They ask that all the toxins on the site be cleaned up. And that the most modern methods be used to eliminate the most dangerous of the materials. The Province and the Federal Government have chosen to ignore those requests of the community. The pointless consultation over years which were ultimately ignored are the reason the community says just get on with it.

It's not because the community doesn't care but because they've been disempowered by endless consultation where officials had no intention of implementing the results of a consultation. Sadly the Province now comes before this body to ask you to honour the consequences of their own malfeasance. They say the people don't care how it's cleaned up. Well, maybe not any more after the Province mislead the community into thinking it cared what they thought.

Nevertheless, the -- before -- give us -- sorry, nevertheless, they give us a take it or leave it situation, notwithstanding all of my previous comments.

If there are, in fact, any modifications which cause the project to go over four hundred million dollars ($400,000) they may, in fact, not proceed. It is, as I say a take it or leave it in which the Province has selected the cheapest possible solution. With those constraints in mind I would say the proposal to encapsulate although defective in the long term I would suggest, at least avoids further damage to the community that may result from incineration and in the short and medium term it will give -- it will stabilize some of the materials and give future generations an opportunity to properly remediate the site. Those are my comments. Thank you, Madam Chair.

THE CHAIRPERSON: Thank you very much, Mr. Morgan, Councillor Hall, Mr. Foster, Mr. Gillis, for your presentation, and we -- certainly the Panel acknowledges the presence of other elected representatives here this afternoon. We're very pleased you came. You've addressed issues that we have been talking about here and answered some questions for me certainly.

As you -- you've addressed a broad range of issues and you've made a number of -- stated a number of positions, and I'm sure you understand that some of the things you were talking about really lie well outside the mandate of the Panel, but anyway -- so we'll be

focusing our questions on issues that are within our mandate.

--- QUESTIONED BY THE JOINT REVIEW PANEL

THE CHAIRPERSON: We had a fair bit of discussion right at the beginning with the Tar Ponds Agency with respect to the accomplishment of the second objective stated in the Environmental Impact Statement, it's the objective that you indicated at the beginning, that you felt that the EIS -- or with the whole remediation plan, that there were some deficiencies, you weren't totally comfortable that that second objective was going to be met.

We've been -- where shall I start? I guess, let me ask one question straight away. Do you anticipate at any point -- do you look forward even -- possibly CBRM becoming the owner of any of these remediated lands? And, if that is the case, under what terms would you accept ownership of the lands?

MR. HALL: We are actively in some discussions around that very notion, but I'll defer perhaps to our CAO to respond on behalf of the CBRM on that question.

MR. RYAN: Yes. We have not discussed at Council the ownership of those lands. Our concern is more the use of the land. We don't see the necessity for

CBRM to own the land in the corridor, it's to encourage the type of development that was presented here today.

So, for us, ownership -- I really don't see why we would be interested in the ownership, quite honestly.

MR. MORGAN: If I could add to that, this issue came up in Council as well when we received the correspondence from the Panel and the reaction -- Councillor Hall wasn't present during -- at that time, and I'm not sure if the CAO was, but the reaction was quite negative, I think, from the Council in terms of CBRM taking ownership of the property.

It was noted that there would be at least some materials -- I think the Panel actually has noted there were some materials that would be very difficult to access in terms of remediation, and so I think there was a tremendous reluctance, I think, of the Council to embrace that course.

MR. HALL: Yes. And what I envision our role to be in this is certainly -- you've just heard that while we may not have an interest in taking over ownership, we do still have an interest in the uses of that property, and in terms of any discussions around exchanging that, then we would want to be part of that facilitation.

THE CHAIRPERSON: If the land -- the plan is that any federally-owned lands are to be taken over by the Province at the conclusion of the construction phase of the remediation, as we understand it, so this would be provincially-owned property.

Just clarify for me in terms of your Municipal Planning Strategy, is the Provincial Government bound to follow your -- are they bound by your Municipal Planning Strategy or is that a -- or how does that work?

MR. FOSTER: My understanding -- not strictly, no, I don't think the Province is bound by the Municipality's Planning Strategy, although this version of our Municipal Government Act does contain policies that says the Province shall have due regard.

It doesn't mean that they'll absolutely follow the direction of the plan, but it does seem to obligate the Province to have regard to the policies that we've developed in the plan, and there are, I think, five provincial policy statements on various aspects of land use planning and we've developed the plan with those policies in mind.

So, the Municipality has, in fact, developed its policies within the context of provincially stated policies, so I think we would argue that there's some moral obligation to follow the direction set out in

the regional plan. I don't think there's an absolute legal obligation to do so, though.

MR. RYAN: I should add, Madam Chair, that there is agreement -- or you have a draft terms of reference for a corridor study which we submitted today as part of our presentation. In that terms of reference the issue of governance of lands within the corridor, including these two pieces of land, is addressed.

We're hopeful that the study will suggest who should form ownership, whether it be public ownership -- DEVCO is divesting themselves of a large track of land in this area. We own quite a bit of land as well. The Port Authority has land. The industrial park owned by SYSCO is there, again probably to be divested by Government at some point.

So, that issue is in that study and hopefully will give us a better vision of who the appropriate -- but clearly when you look at the development, for example, on the intersection of the Spar Road, for us it's an interest in having the type of development -- for example, the box store coming in and buying the property, not necessarily for us to own it. You know, it's making it available for the type -- in this particular case, the type of industrial use that we would be encouraging there.

So, the issue of governance is one that will be addressed in a study that all three levels of government will be funding, so it's part of a ---

THE CHAIRPERSON: I was interested in your -- the information you provided on your analysis of potential for future use, because the Panel has been asking questions around the possibility of residential, and you've presented a pretty strong argument about that and so on through the other land uses and you've ended up with industrial, which is consistent with what the Proponent has been telling us. Generally they say recreational, commercial or light industrial.

I don't know how to ask this question. But, I mean, in realistic terms do you think that the potential for these properties -- for this to come about within the time frame required is pretty good?

Are you pretty optimistic that there indeed will be the demand for this, for industrial uses on these lands? Or is it dependent upon -- is it going to be dependent upon a further investment of public funds in the area?

MR. HALL: Mr. Whalley, are you prepared to respond to that?

MR. WHALLEY: Yes, thank you. A lot of people don't believe this, but we do actually believe

this. The Port of Sydney is in the middle of two of the busiest ports in Eastern Canada, Montreal -- the Port at Montreal and the Port at Halifax.

These two ports between them move on the order of 35 million tonnes of cargo annually. Direct port employment in the two ports is in excess of 25,000 people.

The Port of Sydney currently moves -- with the exception of Marine Atlantic's passenger and general cargo traffic to Newfoundland and Labrador, moves really only bulk commodities, coal, dry bulk and liquid bulk.

We believe the Port of Sydney -- and we've believed this for many years -- has a lot more potential than it's currently realizing. We believe these port lands are extremely valuable.

The problem in Sydney Harbour -- and it's existed for many years and we visited this several years ago -- is a function of ownership. The principal port properties were under the ownership of crown corporations that were single-use -- they were single-use facilities, and so even though the facilities were not being utilized they weren't available to a variety of businesses to use.

In the 1999/2000 period there were five different divestitures in Sydney Harbour of principal assets by five different agencies of the Federal and

Provincial Governments, all under different mandates, all under different responsibilities, and without exception every one of those agencies said they had no economic development mandate in the region with the exception of Enterprise Cape Breton Corporation which transferred the Sydport Property to a private corporation.

The results of that series of divestitures which -- was done without any planning, and during the period we had advocated for the need for a port plan and were rejected by both the Provincial and Federal Governments clearly.

We had advocated the need for a port authority, some body to have overall management and planning responsibility for the port assets. This was denied.

And to some extent I can see this again creeping through in this project where the Sydney Tar Ponds Agency is suggesting that they don't have an economic development mandate or responsibility, and yet I think they're inextricably intertwined, the environmental responsibility and the economic responsibility, both because of the size of the project and because of the community in which it's occurring and because of the lands that are involved, and these are port lands in our view.

But clearly if -- and this is one of the reasons we're doing this corridor study, we're essentially trying to take another run-through at the port issues that were examined several years ago and trying to say that in our view Sydney Harbour, particularly in the area of general cargo, has a lot more potential than it's fulfilling, and if it can find a way to make its facilities amenable to doing that business, we think we can create a lot of employment and a lot of activity through Sydney Harbour and the adjacent lands.

But to your question, does this need -- does this require public investment, I think the simple answer is probably yes. We don't know the order of magnitude until -- and this is one of the areas that will be reviewed hopefully in the corridor study -- we won't know the magnitude of the required investment.

But it's not simply investment, it is -- as Jerry referred, the lands -- the governance and management of these properties is very important and there are literally -- there's, I think, in excess of 4,000 acres of public land that are -- lands that are owned either by the Federal, Provincial or Municipal Governments.

And the lands in behind the port facilities, the principal port facilities, have been

inaccessible either because they've been contaminated or because there's no transportation infrastructure, they're land-locked.

Now, one of the things that we learned during the past couple of years is that when the Province was initially -- took over subsequent to the closure of Sydney Steel, there were discussions between Emera and the Province with respect to a more direct route for the coal trucks from the International Pier facility.

The Province initially was proposing that the coal trucks come through the existing streets in Sydney. That was rejected by our Council, and it was rejected because at that time we had the port plan that was done by Dan O'Halloran of O'Halloran Campbell and one of the recommendations in that study was that you can develop a port access road which would link the port to the main highway system, which is the 125 highway system.

So, the Council made that -- made strong representations to the Province that that was really the appropriate thing to do, to build this port access road.

The port access road was constructed, and not only did it facilitate a much more efficient movement of coal from the International Pier to the coal-fired generating stations, it also has resulted in substantial retail development which Malcolm showed in one of his

charts.

Over a two-year period there's been the development of three very large box stores. Commercial revenue to this region has increased by some million-plus dollars per annum, which is in excess of one percent of our operating budget.

So, yes, infrastructure and opening up land makes a difference. The key asset in Sydney is its harbour. If this harbour can't be made to work and can't become the engine of the region, I think quite honestly we don't see an ability or a mechanism to stop, to slow or to reverse the population decline that's occurring in the region.

THE CHAIRPERSON: Well, thank you. Getting right back to the sites themselves, the Tar Ponds and the Coke Ovens Sites, I mean, we've been trying to explore in our discussions in the hearing with the Agency and with others the capacity of those sites to support development, and I don't know whether you've been following some of that discussion.

Both of these are going to be in the end capped site, both the Tar Ponds Site -- it will be solidified and stabilized, but then it has a cap on top, and the Coke Ovens Site, although the plan is to do some land farming in some areas, essentially a significant

portion of the Coke Ovens Site will be a capped site and the cap will -- the integrity of both those caps will need to be maintained, and there's been discussion around just what might the Tar Ponds Site itself support in the way of development.

And I -- do you -- have you been following that, and do you have any concerns and any comments about the capacity of those two sites to support the industrial uses that you're talking about?

And, sorry, if I can attach to that a question about the cost of development, because if you're going to -- we've been told that if you're going to develop on capped sites there are going to be a number of significant restrictions and changes in construction, because you simply can't go around digging up a capped site without caution.

So, have you any comments about either of those aspects?

MR. HALL: Madam Chair, what I'm going to do here is ask that our CAO field the questions from the panel, and then, from there, he can determine what staff are most deemed fit to respond to some of these specific questions.

So Jerry, I think what's we should do here in order to keep our responses focused on CBRM's

position.

THE CHAIRPERSON: You may answer the questions any way you wish.

MAYOR MORGAN: I read the transcripts. I don't know if Councillor Hall read the transcripts. He can go ahead.

MR. HALL: And what I'd like to do is turn the floor over to the CAO and ask him to respond, or have supportive staff to do that.

MR. WHALLEY: I think the brief answer is yes. I think we have some very serious concerns about how these sites are going to be remediated and what's going to be done, and what's -- and the possibility of future use.

We don't think -- I don't think, and this -- I don't necessarily think the remediation is currently designed -- was designed with a view to facilitating industrial development, clearly. I think the view was more towards the recreational side.

Particularly important beyond this point is also the concern that some of the earlier iterations were suggesting a golf course in this corridor, an amusement park, or various uses that would effectively block the corridor, and this is one our most significant concerns is that the port assets -- there is this unique

corridor runs from the port assets to the airport, and that corridor, if you do the wrong thing, in a sense would cut it off at the base, that that would really completely land-lock those public lands in perpetuity, make it very difficult and make them -- make, I guess, future activity, that we sort of envisioned, virtually impossible.

So yes, we have a lot of concerns, I do, in terms of how -- of the design, and how these -- what these sites will be able to do in the future. Absolutely.

MR. GILLIS: Thank you. Last night at Council, with our little plan for the north end neighbourhood, it clearly came to Council's understanding that even with a small plan like that there can be a lot of misunderstanding, and it's not necessarily saying anything bad about the public participation process, it's just often the complexity of the issues.

When we talk about capping the so-called hotspots, we -- the CBRM understands, and the information we've gotten from the province is that there's nearly 800 acres from the pier facilities to our own capped landfill, and if capping is an alternative, it's our understanding that it's a very insignificant percentage of the total acreage of this corridor.

So, when we talk about development being sterilized possibly within the areas that are to be capped, it gives one the impression that we're talking about the whole former SYSCO site when so much of it, it's our understanding, will be available for developments, even if the capped sites are sterilized, and we haven't been given that type of suggestion from the province that that, in fact, is the case even for the capped sites.

MAYOR MORGAN: Just if I could add to that, from what I understand there are limitations on precisely what can be constructed on the cap, and certainly, if there are particular plans, it has to be tightly integrated in terms of the design of the cap.

One of the challenges I think we face right now is that we -- although we have a plan with respect to the corridor, it does require significant funding in order to facilitate the development, and the funding is not committed to the project right now, from the proposal that's before you.

So the Tar Ponds Agency, I think, supports, in terms of -- in some way supports the CBRM and says CBRM ought to be involved with the development of the site, and the planning for the site, but, in the plan that's, in fact, before you, there is no commitment

to that funding, and that planning process, and the design of the caps and the design of the site in such a way that accommodates the future use.

What I would suggest is important in the recommendations, if the Board is so inclined, is that if there are, in fact, reductions in costs associated with the change -- with a change of design from using an incinerator to the full encapsulation, solidification and stabilization model, if there are reductions in the cost associated with that, that those costs be applied to carrying out this future use of the property that CBRM envisions for the site.

THE CHAIRPERSON: Right now, I'd like to ask one more question. My colleagues -- now, when I get on this subject, I tend to hog the question time, but I'll ask one more question and then I will give them an opportunity, I'm sure they have questions for you, as well, and then I may have to come back, I'm afraid.

One of the things that we explored with the agency early on, with respect to future use and maintaining the integrity of these caps, is how important it will be that, at the end of the construction period, that there be a future use, a viable future use ready to be implemented almost immediately, and how important it was that there be managed use on the caps, particularly

on the capped areas of the two sites, in order to preserve the integrity of the caps, because if they finished and have an area with a cap, and there was -- you've stated that CBRM is not -- does not have the funds to take over, you know, recreational uses, and residential, if not -- it doesn't sound like it's very likely that it would happen, so if you were left with capped sites and no uses, would you have to -- would they have to leave a fence up, essentially, because if you have unmanaged use, will that be -- I think I heard them say that there would be some concerns in that area, and they would definitely need to manage public access.

So I just wondered what your views of that are, and if that's something you're concerned -- you've considered, is the ability to deliver, you know, a viable future land use, you know, with timing so that you don't have a hiatus of two or three years.

MR. FOSTER: If I may, I think it's CBRM's position that certainly the uses would have to be managed on the cap, and we'd certainly defer to other expertise as to exactly what precautions are required, and how those caps are constructed, but in terms of an after-use it's not acceptable to CBRM to see these entire -- this entire site, that is within your mandate, fenced. That certainly isn't part of our vision.

We clearly would like to see a mix of some recreational trail uses and industrial uses primarily. That's what we would envision.

Certainly if there are some hotspots that -- where, in effect, it's necessary to basically sterilize or fence the site, I think we can understand that, but, from CBRM's understanding of this, we -- and from our understanding of looking at other sites, we think it's possible to have, for example, industrial after-use of some of these sites that are capped, and that is what we'd like to see, so that it's got -- it complements the port usage.

To sterilize all this land, I think is not what CBRM would like to see at all.

DR. LAPIERRE: Good afternoon, thank you for your presentation. I found it very interesting.

I have two questions, and I guess one of them relates to, you are putting forward your plan from the ocean to the airport. How far ahead is it? Is it still a conception, or do you have a fairly definite idea of what you'd like to see?

And the reason I'm asking this, I think in the -- if you were to work closely with the Sydney Tar Pond Agency as they go about rehabilitating the land, there might be possibilities of integrating, because some

of that land is going to be -- is going to have very limited use because of the -- take the Tar Ponds, with the extensive drainage system, and the secret of keeping the site ongoing is to ensure that you have a good drainage system and water management on the Tar Ponds. So it's going to preclude -- it's going to preclude a lot of use on that land.

I guess the other land, the Coke Ovens Site is a bit different, I think. So my question is do you foresee that you could integrate your planning process with the Sydney Tar Pond as they go ahead and develop their plans to cap a significant amount, because, you know, what we're hearing is 60 percent of the land will be capped. So you may have a section that's left, but properly planning from the beginning for infrastructure such as, you know, a road base or artery, it's much more -- it's easier to do it prior to putting a cap than after a cap is there.

MAYOR MORGAN: Absolutely, and that was my point earlier. It is that -- I see from some of the comments from the Board that there are significant questions about how you engineer a site so that it can have future use. That, in turn, is dependent upon significant resource issues, technical analysis as well, and technical ability that really, with their current

funding level, CBRM itself doesn't have to be able to assist with the engineering of the site so that we can maintain the cap, the integrity of the cap.

And I know there's been reference to late changes in terms of the structure of the site and the engineering on the site. We don't -- unfortunately, we don't have that technical analysis to be able to plan the construction of the site, and we don't have funding available, committed funding for the future uses, so that we can, for example, engineer the site so that it can facilitate the road network in the future. Everything is contingent upon these future site uses, that we have no funding right now allocated to ensure the site is engineered to facilitate.

So it's a very difficult situation because I think there are discussions going on between the province and the Federal Government about potential future site uses, but they, in fact, may never occur unless that site is engineered in such a way that, from the outset, we know where we're going, we know where the roads are to be constructed, we know the approximate weight, and perhaps height, and footprint of buildings that may or may not be constructed on the site.

We need a detailed concept plan for the site at the outset, and that's why I come back to the

point of if there is funding that is freed up, as a result of the transfer, from the $400 million plan, which presumably includes the incinerator, to another option, that has to be applied toward these future uses and the costs associated with what is going to be a complex engineering process.

DR. LAPIERRE: I guess the question I would ask, the last one on that, is if your planning team would be willing to work with the Sydney Tar Pond Agency to ensure that that gets up front at any ---

MR. HALL: Thank you, Mr. LaPierre. We welcome the questioning around this, and we're actually pleased to hear that questioning.

I'm happy to report that the Sydney Tar Ponds Agency has already extended themselves to us on this topic, and it was briefly referenced earlier by our CAO, I believe, that all three levels of government are getting prepared to actually engage a consultant in a corridor study.

The Sydney Tar Ponds Agency have made it clear to us that they recognize the importance that this cleanup has to be part of an overall footprint, if you will, and that came in writing by the former CEO of the Sydney Tar Ponds Agency, Mr. David Darrow, who is now the Deputy Minister of Transportation and Public Works.

From some of the discussions around that, our CAO, from an administrative capacity, has done more work, and he referenced that earlier. So maybe, if I can, I'll yield to the CAO to repeat some of what he said earlier, and maybe expand upon it, just for the panel's edification. Thank you.

DR. LAPIERRE: You have to understand, though, that in the documentation that we received, in looking at the EIS, it's not all that evident that what you're just saying would be incorporated, because you're looking at a cap, and there's no detail as to how -- the other issues. And I guess what we're looking at is the interest that you would have to ensure that, because I think, and I believe, that it's much easier to engineer and plan these up front, but I think there needs to be a process to ensure that you're going to be involved in doing so.

MR. RYAN: We believe the proposal is very short on future use, and very short on the second component of their goal, which is economic development activity.

With that, we've had discussions with Sydney Tar Ponds and, indeed, the Federal and Provincial Governments, and the Sydney Tar Ponds is a member of the Steering Committee on this Port-to-Port study, we call

it, and have agreed to fund approximately 50 percent of the study. So they are a significant player.

It would be our hope, however, that that study be recognized in this process, because it wasn't part of the EIS, I agree, and the finding should not be simply -- you know, hopefully the study gets done in a timely manner, and hopefully it can become a component of whatever recommendations are forthcoming from your panel, and that's why we would like to introduce it.

Certainly, there's co-operation now, but I would suggest that what you have before you is more focused on remediation than it is on future use, and, indeed, the economic components. We believe that to be weak in this project. However, we are hopeful that this new initiative will bring about those issues, and hopefully some resolve on other levels of government to utilize some of the funding that may be available for those purposes.

MAYOR MORGAN: If I could add to that, the one concern that I would express is that it's important that that future site use be incorporated, and the engineering and the funding be incorporated, in your plans, because otherwise it is simply a drawing -- it is simply a study or a drawing on a piece of paper.

If it's not incorporated into your

recommendations, it is simply a plan that is floating, but, right now, the plan before you doesn't, in fact, facilitate any of that. It provides assurances that that may happen, that there may be development in the future, but, at the same time, there may not be, as well, unless it's incorporated into your recommendations.

DR. LAPIERRE: Thank you. I have a very small question. The other question relates to development that you're going to -- you're looking to industrial development with light industry.

I guess the question I have is, most of that land is still going to be contaminated, and it's going to be covered, but, you know, you're going to manage the contamination.

I guess the question relates to getting private enterprise to invest monies into areas where lands are contaminated, and I guess, you know, if you look at the financial institutions, they're somewhat leery in investing, or have been, in the past, in investing. Do you see that that could be a problem to attract investors to the land site?

I'm sure they could be compensated if you decided to build a building to take on the liability and lease it out to them, but listening to your presentation your funds are limited to do that, unless you get some

pretty lucrative, I guess, long-term leasing contract.

MR. HALL: First, I want to say with respect to the previous question, I've noted in the transcripts both Sydney Tar Ponds Agency and Public Works and Government Services Canada reference that they are, in fact, working in collaboration with CBRM on the discussion around the future site use.

And I know I urge maybe Mr. LaPierre and the panel to maybe hear a little further from Mr. Potter on that particular question, because I know he was very much part of the -- an instrumental part of our tour to the United States, and I'm confident that he and his agency are still mindful of the importance of the cleanup being done within a greater context. So I'd like to put the pitch out there that we hear from him on that.

With respect to your last question, that was something that we learned about in the United States, too, and there's a lot of technicalities around it, but cities in the United States were successful in getting private enterprise to invest in the community, and there was a number of different ways that they achieved that, that is outside of my scope to respond to.

But, I guess, in short, if governments are working in collaboration, and the private parties are interested in moving a community forward, everybody --

and the way to make that happen -- and I think we have the potential to do that here in CBRM if we just get beyond some of these significant hurdles that are in front of us, the first one being getting through this review process.

MR. WHALLEY: I'd also add very briefly -- to give you some order of magnitude, the Port of Montreal has four container terminals. Together those four terminals require less than 200 acres of land. We have a land bank in this region that's basically 4,000 plus acres.

So the private enterprise doesn't have to be on either the Coke Ovens or the Tar Ponds. We're trying to ensure that those sites are as safe as possible, but the vision that we have is basically a phased industrial and business park and technology park. And the businesses wouldn't necessarily be on those sites, but we don't want the sites -- anything done to the sites that would -- that would essentially, to the extent possible, limit opportunity. That's really the perspective, I guess, that we have.

MR. HALL: And what we learned in this stage too is that -- and I'm glad Mr. Whalley brought that up -- is that nobody's expecting a high rise commercial development right in the middle of where the

Tar Ponds used to be, but there is visions that allow for a pleasant buffer, if you will, that ties you in with commercial development on sites, after remediated, are actually able to support that from a technical perspective.

MAYOR MORGAN: One further thing I'd like to add is just that -- I know there's been some comment about the contention of some of the senior levels of government to provide a walk-away solution as in they may be able to not be involved in this at the end of the 25-year period.

I would say in response to your question, one of the things that will be significant is for the federal and provincial government to perhaps consider not fully walking away at the end of that 25-year period.

The technology that's being put forward, I know that best efforts are being made to analyze the engineering of it, but the fact is there isn't a lot of examples in an estuary environment in which this sort of technology has been applied. So it is very difficult to predict what the circumstances will be 25 years from now.

So it is going to be necessary, I'd suggest, for them to recognize that even with the proposed future site use, they are going to have to remain involved certainly in the maintenance perhaps of

the site and the caps, but also in terms of development, there may be some indemnification that they may have to provide to encourage future site uses, and there may be some legislative provisions that may be necessary as well to allow and encourage and facilitate development on the sites.

But that having been said, there has been, I think, very positive results across -- throughout North America and Europe of industrial sites that have been effectively rehabilitated to a state at which private enterprise is -- enthusiastically invests in those sites. But it is in this case also going to be necessary for the federal and provincial government to remain involved because of the liability issues that will be present on the site.

MR. HALL: I should note too -- I thought of it while Mayor Morgan was responding there. Councillor Brian Leahey and I had an opportunity too to visit a site in Moncton, New Brunswick, that I'm sure the Panel is familiar with, the former Moncton shops. And at the end of the day, as you know, there's a lot of private development there. There's mixed recreational, residential, commercial, and a brand new YMCA enterprise there.

So the models are there. The puzzle is

already there for us to put together if we can keep moving forward.

DR. LAPIERRE: I know the Moncton site quite well. I chaired the project. But the initial cleanup was a bit different in that the land was divided up into property development unit, and they were cleaned to specific uses prior to.

It's a bit different here where you're going to have one cleanup that's going to be right across and you're going to cap the system. So, you know, it was a bit easier for Moncton to get involved in development at the beginning because you went through a longer process of developing -- and maybe more costly developing when you're taking each unit and breaking it down to what you want to do down the road.

MR. CHARLES: After this lively and lengthy discussion, I'm almost hesitant to ask any questions, but I'm going to ask at least one.

First of all, I'd like to thank you for the explanation of your land use strategy. I found it very useful, your rationale for determining what ultimate use of the land you wanted to see and made use of.

The one slide that you showed, the Thea Foss area, what kind of a remediation project was that? Was it stabilization and solidification or some other

type? Do you know?

MR. HALL: There was a number of different components to this project that required the dredging of the harbour. The harbour was contaminated, so there was -- I certainly would defer to Sydney Tar Ponds Agency representatives to respond to the specifics around that, but it was a dredging of the harbour, and there was some -- I believe some reclamation of the lands around it, including the wharf area and some redirecting -- some redirecting of a waterway. And I'm not so sure how -- to what scope that was, but there was some reclamation of the lands around it, including some technical things that had to be done around the wharf and the construction area around that.

MR. CHARLES: Thank you. And just a last note, just a final observation. I noticed you made reference in your presentation to the fact that if incineration got taken off the table and you saved all that money, that some of it should be ploughed back to help in the planning process.

And I don't know whether you realize, but I think the proponents have suggested that the latest costing estimate indicates that solidification and stabilization will take all of the remaining three hundred and twenty-seven million dollars ($327,000,000).

Now, they have a contingency fund, and I don't know what they plan to use that for, but maybe they could dip into that for you.

MR. HALL: Well, some of that -- I don't know -- I mean, that's not my understanding. My understanding is -- and I'll defer to the Sydney Tar Ponds Agency on this, but my understanding is that if we do this plan without the incineration component, a significant savings will be realized.

And then if you look at the models that were used in the United States, I think it's fair and reasonable for this community to suggest that any savings -- through a collaborative effort, any savings be reallocated into a development scheme.

But I'd really like to hear the answer to your question from the proponents of the project.

MR. CHARLES: Well I may be mistaken, but I think that's what we were told.

THE CHAIRPERSON: Mr. Potter, if you wish, a point of clarification here?

MR. POTTER: Yes, just on the cost, we handed in that undertaking the other day. We indicated the cost of the project with the incineration removed would come in at around three hundred and twenty-seven point five million ($327,500,000). That would be the

total cost including all of the administrative overhead costs. So there would be, as Councillor Hall indicated, a little over a seventy million dollar ($70,000,000) cost reduction by having the incineration component removed.

The confusing part was that the number just happened to work out to the same number as we had for the previous costs, plus the administrative preventative work. So it's understandable.

MR. CHARLES: I guess that's what threw me because you had the four hundred million less a certain amount, and the figure we had before was three hundred and twenty-seven million, and then this new calculation came out to exactly three hundred and twenty-seven million. It's wonderful accounting, as far as I can see it.

MR. POTTER: It's all Mr. Shosky's fault.

MR. HALL: And Madame Chair, on that, in response to that, too, it's important for me to note that I've been told -- when I first got excited about that notion and started to say it to our government partners, I was told at the beginning that it's the usual practice of the federal government that where they save money on projects such as this, that the money -- the savings are reverted back to the Treasury Board.

And that's why it's so important that the

Panel hopefully consider what we're saying here today and hopefully conclude that it's a reasonable request, given what this community has suffered for the past number of decades, and now we're at the eve of a cleanup, it's important to us that if you accept that argument and that you think it's reasonable, then that you take that position and you make that known to the government partners, particularly the federal government.

THE CHAIRPERSON: Well, thank you, Councillor Hall, for that suggestion, and we'll certainly take it into consideration. We'll obviously have to review whether such a recommendation falls within the Panel mandate.

I'm sorry, I said I'd have a few more questions. I do. I'll make them short. Perhaps if you could also help us out -- because I know there'll be a few questions from other people -- if you could make your answers short as well, then we can -- we can move on.

The first question is, when the Sobeys development took place, and I believe a bus terminal took place sort of adjacent or fairly close to the Tar Ponds -- and I understand that these were built on ground or on sediments that were -- had some measure of contamination -- what was your experience when that happened? Did there have to be special foundations? Was there added

costs? Were there added complications? If you could just tell me a little bit about that.

MR. FOSTER: Basically, from the Municipality's point of view, the building on the contaminated site for Sobeys, for example, was handled with Environment, and really the Municipality's role in it was minimal in terms of the building construction. It was Provincial Environment that handled that with the private developer.

MAYOR MORGAN: If I could just comment on that as well, Madame Chair, I think that example illustrates almost a jurisdictional hot potato that perhaps has gone on with respect to past developments in and around the site, and illustrates the point with respect to proposed future use, as well the suggestion that this can simply be handed off to the municipal government.

We simply don't have the technical ability to do that in terms of managing future site use on our own with our current capacity.

THE CHAIRPERSON: Okay. Thank you. My second question is -- I don't know whether you saw this, but the Panel put in an information request before the hearing. It was Information Request 47, and we were asking for more information about future use and about --

because it had been indicated by the proponent that it would be important, in order to maintain the integrity of the cap and to protect various other features of the remediation system, that there would need to be various institutional controls applied, and so they provided us, when we asked more questions, with a nice table, which ---

I mean, I don't want to get into this in detail, but I don't know, did you see that information. There's a table -- we asked, "Could you tell us what would be the likely restrictions that would be placed on a development in different parts of the two sites as to whether it had a cap or it didn't have a cap and so on?"

And so they came back with information with respect to potential deed restrictions, and then potential municipal planning restrictions, land use strategy and zoning bylaw.

Now, I presume if land always stays in the ownership of the Province, you don't have a role really. The Province would manage all of this themselves. Is that correct? That's going to be my first question. It would only -- you would only be required to develop appropriate planning land use bylaw restrictions, and also, I suppose, for most of these deed restrictions, you would have to monitor, you'd have to log them in. I

don't really know how deed restrictions work, but that would only -- that would only come into effect if some of that land went into private ownership. Is that right?

Maybe we're talking about something that isn't going to happen. I don't know.

MR. HALL: I'd like to repeat again that the Province made it clear to CBRM through the Sydney Tar Ponds Agency, and specifically Mr. David Darrow, that they will respect the Municipality's jurisdiction around land use, and in fact that they're committed that the cleanup will be in concert with our Regional Planning Strategy and our Land Use Strategy around the port.

I mean, now, we have Mr. Potter here today, and let's make sure that we're keeping the line going here, but -- and then I'll go to ---

THE CHAIRPERSON: No. No, sorry, I just want to ask that point. I don't think we need to go to Mr. Potter. My question is not about -- my point is that if it stays in provincial ownership in terms of them making sure that certain things don't happen, that you know, basements aren't dug and so on, they can look after all that. They would have the power. It would be their land. That was my point. You wouldn't need to be involved.

So perhaps this -- if the land is going to

stay in the ownership of the Province, then it becomes their responsibility to manage all of this. But if it did -- if any of that land when over into private ownership, then -- the proponents have said that it wants the Municipality -- you'd play a role in developing some appropriate planning bylaws.

MAYOR MORGAN: Yes. Madame Chair, if I ---

THE CHAIRPERSON: So is this something that you've -- have you seen this particular information I'm talking about?

MAYOR MORGAN: I have seen the discussion of it, Madame Chair, and I guess the comment -- the concern I would have is if it is in fact transferred to private hands, there's an enforcement issue and an ability to enforce if -- for example, if there's capped lands, obviously the integrity of the cap would have to be maintained, and indeed, the complex underground structures as well.

And I don't know that you could easily transfer some of those properties to private land owners. The risk that would result from a violation of any restrictions that were put in deeds would be perhaps a failure of the entire cap for the whole area.

So I'm not sure that model of transferring

with deed restrictions would necessarily maintain the security of the cap that would be necessary.

THE CHAIRPERSON: Well, okay, thank you. If you do have any additional concerns -- I don't know if you -- it is the response to IR-47, if you haven't -- it sounds like you've seen it, but if you haven't seen -- if you have any additional concerns when you have a look at it, by all means, you know, if you can get something in in writing in the next day or so.

And I've got one last question. Believe it or not, I will stop. And it's -- my question is about the neighbouring communities, because we had -- I think it was last Friday. No, I'm losing track of the days.

But we had -- a number of business organizations came forward and told us about their interest in the port-to-port idea and told us about the stakeholder group that was in place to pursue that.

And my comment and question at that time was, "That sounds -- you know, that sounds great. That's very interesting." But it doesn't sound like the neighbouring residential communities on either side of these sites -- they're only representative -- only represented on that group through CBRM representatives.

And you know, those residential communities have borne the brunt of living in -- right

next to this -- to the steel mills and the Coke Ovens over the years, and now the site as it is -- and they'll be living next to the site as it undergoes active remediation.

How can I ask the question simply? What's in it for them? That might be my way of putting it because this sounds like the idea is that there's going to be an industrial swath instituted through there.

Is there something -- are you taking into consideration the needs of those residential communities and of those residents and neighbourhoods? Do you see doing something with these sites that would be of a real benefit to them?

MR. FOSTER: Yes, we do. And I think Council's adoption of the north end plan last night is indicative of the kind of vision that we'd see for the neighbouring areas.

One of them, to just focus on that for a minute, in the north end, we have some industrial development. We've got an oil refinery. Or sorry, an oil tank farm at the end of the peninsula.

The issue of Tar Pond cleanup was certainly one of the central issues in the north end plan, and what's come out of that, in a nutshell, is a vision to accept some of the existing industrial

development that's there, but generally for the future, we'd see that area in the north end moving to residential use towards the Tar Ponds, in that direction, and perhaps some commercial as well.

So the vision that is anticipated in this is that there would be a return of the rejuvenation of the whole north end, that the Tar Pond cleanup would be good news to the north end. And that's certainly what's anticipated is residential development in the direction of the Tar Pond.

There is quite a bit of rail yard right now, but I don't believe that it's all required, and there's no -- nothing on the horizon that would indicate we'd need that much rail yard either. But it's primarily residential expansion.

MAYOR MORGAN: Madam Chair, if I could add to that, the -- just in terms of the general benefit to the broader community is one important element, in that, to the extent the stigma of the unremediated sites impacts CBRM at all, it certainly impacts on the surrounding communities more so than even the broader community.

But in terms of specifics, some of the community groups in the area have proposed a trail system.

There's been a lot of talk within our community of an active transportation network as a mechanism for getting to the downtown, but also for recreational purposes as well.

One, in particular, linking the Whitney Pier community through the SYSCO lands and past the sites that are in question.

And one thing, in terms of future uses that I know the groups hope for, is that the process of remediating the Tar Ponds and Coke Ovens site will allow the development of that trail and active transportation network as well.

There's perhaps a broader question, as well, in terms of the potential impact on those adjacent communities while the work is going on.

And one of the, perhaps, unknowns that I think that you face is what will happen with the process of disturbing the site as the remediation actions are under way.

And one thing, I guess, I would ask you to draw your attention to it or comment on, is whether or not there will be fumes or dust or debris that may be put into the air that may impact adjacent communities.

And if, in fact, you conclude that that is a significant possibility, that there be some provision

to deal with that, in the event that occurs as the cleanup is under way.

THE CHAIRPERSON: Okay, thank you very much.

MR. GILLIS: I would just like to add two more points, too, as well.

The CBRM's planning strategy does advocate that a landscaped buffer separate the industrial corridor from the piers, through the Coke Ovens site, to our capped land fill from the three adjoining neighbourhoods: the north end neighbourhood of Sydney, Whitney Pier, and the neighbourhood of Ashby as well.

Again, because of the large geography of the sites, you know, we can drive the roads in the province of Nova Scotia and look to the left and the right of us as we're driving, and we envision this illusion that it's all forest. It's -- from -- throughout the entire province.

When you actually get up in the air, you realize how much of our forest has been cut.

But my point in stating that is that a buffer and a screen -- a landscape buffer and a screen certainly can hide an awful lot.

And I'm also not saying -- suggesting that a steel plant complex is envisioned for the CBRM at the

former steel plant site.

It's -- what industrial and business activity would be occurring here would be a much lighter nature, certainly.

So, it certainly wouldn't have the same adverse effect or anywhere near the same adverse effect as the former industrial complex.

And one final point, when I talk about the nearly 900 acres from the pier to the Coke Ovens site, I'm not really calculating the Tar Ponds site within that.

We -- the Municipality doesn't look at the Tar Ponds as acreage to be -- that is being taken away from potential use for industrial purposes.

Right now it is -- however contaminated, it's a body of water. There is no development on it.

And the Tar Ponds could be a part of that landscaped buffer, that screen, that separates the north end neighbourhood from the industrial business park that we have as our land use objective for this corridor.

THE CHAIRPERSON: Okay. Thank you. I'm glad you added that.

But the landscaped buffer would be a managed landscape buffer? Somebody would have to have some budget? Or do you -- are you anticipating some kind

of a naturalized landscape that would have very low maintenance requirements?

MR. GILLIS: It's more of a naturalized landscape. Because the purpose is not -- its primary purpose isn't to attract people there. Its primary purpose is to separate what we'd consider to be normally incompatible land use.

THE CHAIRPERSON: And in the material that you've given us, is there anything with a rough kind of map that indicates where you think this would go?

MR. GILLIS: We could be specific in our presentation to you.

The planning strategy includes all of the zoning maps, and there is actually a book of maps that are related to the various policy directives in the planning strategy.

And there should be a specific reference to a map that would highlight the landscape buffer separating this business industrial corridor from the three surrounding neighbourhoods.

THE CHAIRPERSON: Well, maybe afterwards, just to save us the -- all the going through the paper, if you can give the specific reference to the Secretariat, that would be very helpful.

All right. Thank you very much.

MR. HALL: It's ---

THE CHAIRPERSON: I really ---

MR. HALL: If I can -- if I could just add -- I hate to be an annoyance here, but your question speaks the importance that the Panel remain mindful of the importance of a long term vision here.

And while people right now may have a view of the Tar Ponds and the Coke Ovens site, if we -- and I use we loosely to include the Panel -- if we are successful, and we achieve what I believe can be achieved, then at the end of the day, these people are going to have far more than a view of the Tar Ponds and the Coke Ovens site as we know it.

The reason it's important for me to make that point is that one of the things I learned at visiting successful communities is that I asked the question of community groups, you know, "How are people responding to the barges and the dredging that's going on 24 hours a day with lights five days a week, the trucking coming in and out and what have you?"

And the overwhelming response at every site was that those communities welcomed the cleanups. They worked with the governments. They worked with the stakeholders to get the cleanup achieved.

We haven't enjoyed that luxury here at the

same level that other communities have.

So, it -- to me, the Panel needs to remain mindful of the greater vision here, and not get -- if I can respectfully suggest, not get bogged down into some micro level arguments that have been brought forward.

The Municipality, in terms of our planning strategy, and the government's commitments to honour that strategy, I think will get us there if we keep things on track and keep moving forward.

THE CHAIRPERSON: Thank you very much, Councillor Hall.

I am now -- we are -- because of the volume of questions from the Panel, we are running, obviously, over schedule, and I don't want to go a whole lot later this afternoon.

I am sorry about that, but we did have a lot of questions we needed to ask the presenters.

So, I am going to provide a brief opportunity for questions from other participants.

I will turn first to the Agency. Given that you do speak to CBRM quite a bit, I understand, if you are able to restrict your questions as much as possible, I would really appreciate that.

Do you have a couple of questions, Mr. Potter?

MR. POTTER: Yes. I'll try to keep it brief.

And I guess Councillor Hall asked me to speak a bit in -- very briefly to the U.S. visits and some of the experiences we learned from those sites.

As we've stated before in the transcripts, you know, the Agency is very committed to the importance of, you know, future site use as we develop the cleanup plan, and that's why we are contributing funding to this port to port study.

Because we need to know what the community would like to have here at the end of the day.

We are allowed, within the MOA, to facilitate that, to a certain extent, in terms of providing funding for future -- landscaping compatible future site use.

Just to, I guess, respond to Councillor Hall's question.

What we did take away from the U.S. visit was that they -- in both Tacoma and New Bedford, Massachusetts, both those sites had a very dominant interest in future site use and how to incorporate the design of the cleanup into the long term plan for that community, not just the cleanup plan.

So, we're certainly going to take a look

at doing that.

The other question that came up that Councillor Hall, I think Mr. Charles did -- was asking was the Thea Foss Waterway.

The waterway there, they actually removed the sediment from the waterway and took it to another waterway next door, capped it and contained it, much the same way we're doing here.

So, I think that's the main points that were raised.

I -- mainly clarifications, not questions. Very brief. Thank you.

THE CHAIRPERSON: Thank you very much, Mr. Potter.

I am now going to provide opportunities for other participants.

I am going to basically ask for one question at this time.

Could I -- from the people who are registered participants, because I give priority to those, can I just get a show of hands as to who has a question?

So I see Ms. MacLellan, Dr. Ignasiak, Ms. May, Ms. Ouellette, Mr. McMullin.

Well, I think I'd better -- yeah. Mr.

McMullin, Mr. Marman. Have I got everybody?

Gee, when everybody's name begins with M, you can't do the alphabetical route, can you? Anyway -- Mr. Marman.

--- QUESTIONED BY GRAND LAKE ROAD RESIDENTS (MR. RON MARMAN)

MR. MARMAN: Thank you, Madam Chair. Gee, after two and a half weeks, I'm finally first.

Anyway, I was really happy to hear our Mayor and Council and staff from the CBRM come out in such strong opposition to the incinerator. And I think they speak on behalf of the majority of the citizens in the CBRM.

I was equally happy yesterday when Sydney Tar Ponds put on the table a proposal that the site could be cleaned without incineration.

So, I guess the only people now we have to convince are the three people at the head table, and we're all set, but anyway.

Just as a comment, when Mayor Morgan was talking about the encapsulation and solidification, I got the feeling that he thought maybe this was just a method of holding things as they are, until perhaps down the road a better method could be found, because we don't have the money right now to do any more with it.

And perhaps the Tar Ponds might clarify if this is a permanent or temporary solution?

THE CHAIRPERSON: But you don't have a question for the presenter, Mr. Marman?

MR. MARMAN: Well, more or less, just -- well, maybe if Mr. Mayor might add to ---

THE CHAIRPERSON: I'm going to ask you to put the -- place the question to the presenters, please.

MR. MARMAN: Okay. Do you feel that this is just a temporary solution, or ---

MAYOR MORGAN: I think it's the best solution that's available, given the constraints.

I think the community wanted the site cleaned up in the sense of having the materials destroyed using -- the contaminants destroyed using modern technologies to destroy the materials.

But that's not going to be available.

We may not agree with the position being taken by the Province and Federal Government, but nevertheless, it's a reality.

And so, I think this is the best mechanism available.

If you ask me am I confident that 25 or 50 years subsequent to the -- this so-called remediation, can we walk away from it, or can the Federal Provincial

Government walk away from it, my view is no, it can't.

I don't think we have the knowledge or information that this is a permanent solution.

But I think it has some marginal benefits, in that it does stabilize much of the material, and it's certainly preferable to firing up an incinerator in the middle of the city.

MR. MARMAN: Thank you.

THE CHAIRPERSON: Thank you, Mr. Marman. Ms. MacLellan?

--- QUESTIONED BY CAPE BRETON SAVE OUR HEALTH COMMITTEE (MS. MARY-RUTH MACLELLAN)

MS. MACLELLAN: Thank you, Madam Chair. I thank you for your patience, as well.

I actually have one question and one comment, both directed to our Mayor, through you. And I wish for our Mayor only to respond, if that's permissible.

THE CHAIRPERSON: Well, I -- please place your question, and I don't know that we can specify. They will have to decide who responds.

But, please ask your question.

MS. MACLELLAN: Oh. Mayor Morgan, given that you have 82 percent of the vote in the last election speaks a lot to the trust that the people put in you.

Having said that, what will you do for the people that live around the sites that at present have contamination in their basements, are fearful of what will happen when this remediation takes place?

Will you ensure them that there will be some help available for them, and that the precautionary principle will be applied?

MAYOR MORGAN: The choice about how this process ultimately proceeds is not ultimately with myself.

In terms of impact on the adjacent communities, I think it makes sense to ask Sydney Tar Ponds Agency and the Federal Government to recognize that there is some risk that, as the cleanup unfolds, that there is going to be impacts on the adjacent community, and provide for the community as the cleanup unfolds.

One of the challenges, I think, that we deal with, with all this, is that we're dealing with a lot of unknowns.

There is -- there are risks with respect to virtually everything that is done, and there has to be some analysis of the risks, and where there are risks, there has to be analysis of who is likely to be impacted.

And one of the communities, I'd say, that I agree is at risk is the adjacent community as this

cleanup, no matter what form, happens.

As it unfolds, I think there's uncertainty as to whether fumes are going to impact some of the adjacent properties, and I think the plan ought to provide some mechanism to protect the adjacent communities.

MS. MACLELLAN: Will you stand with -- will you meet with the people and stand on their side to see that the precautionary principle is applied and that there is a proper buffer zone put in place?

MAYOR MORGAN: Well, yes, certainly. I've advocated that for a long period of time so from my perspective, yes but I'm not sure -- in terms of the Panel, it's something that the Panel, I think, has to analyze.

THE CHAIRPERSON: Ms. MacLellan, I think ---

MS. MACLELLAN: Just one comment.

THE CHAIRPERSON: --- you've had two questions -- well, very briefly.

MS. MACLELLAN: You've said it's a take it or leave it proposition. May I remind you that the rest of Canada's watching this and a take it or leave it proposition with their money is not acceptable. Thank you.

THE CHAIRPERSON: Thank you, Ms. MacLellan.

MAYOR MORGAN: And if I can respond to that, in terms of the take it or leave it, it's -- my comment was that that is what is being put forth by the Province and Federal Government. I don't agree that that should have happened. I think what should happen is the Province and Federal Government ought to have honoured the request of the community to properly remediate the site. They've chosen not to and the practical choices before the community are the proposal of Sydney Tar Ponds Agency or a fully encapsulated site without incineration. I wish that wasn't the request or the demand that's put forward by the Federal and Provincial Government. It is and it's necessary for us to respond to what is unfortunately a take it or leave it proposition.

THE CHAIRPERSON: Ms. May.

--- QUESTIONED BY THE SIERRA CLUB OF CANADA (MS. ELIZABETH MAY)

MS. MAY: Thank you, Madam Chair. Reducing five questions to one, I'd like to direct the question to Your Worship, Mayor Morgan. Also prefacing this with a thank you to all presenters on behalf of CBRM for their strong position against incineration. Recognizing that the Tacoma site and the Bedford Harbour

sites were dredged and material removed, it wasn't in situ so it doesn't give a really good example. And given your sense that this is temporary, maybe 25, 50 years down the road stabilization and solidification are not a final solution.

I'm wondering if you have a view -- and I don't know if you do -- on the alternative within RAER 3, the soil washing, if that were of a comparable cost and available to the community, would you find that an acceptable option?

MR. HALL: I think, you know, let's get right down to it here, I'm not going to rehash council debates here. But the municipal council has gone on record as supporting the JAG process. JAG did their thing, we've had these debates at JAG. This being one. Government partners come up with a plan that they've now put on the table. It's not the position of this council that it was a take it or leave it approach. Mayor Morgan has offered those comments on his behalf. But what council did was responded to what was put on the table, what we believe was in the best interests of the community and the most contentious part of it was the incineration component.

Council, none of us are experts in the field of engineering but council, I can say with

confidence, overwhelmingly support stabilization and solidification and encapsulation. That is resounding around our council table and we don't know if that's going to last 100 years or 50 years but we're certainly confident in that proposal as it is on the table that it'll certainly have everlasting positive effects on the community.

MS. MAY: Madam Chair, I didn't mean to provoke a debate between councillors but I would like an answer to my question. And my question was not whether you like solidification and stabilization. My question was whether or not if it was an available alternative council would like the option that the community chose through the JAG process which you mentioned you supported.

MR. HALL: We are not interested ---

MAYOR MORGAN: The question was clear and I think ---

MR. HALL: --- we're -- this council ---

THE CHAIRPERSON: Excuse me. I -- could we -- I'm finding this very confusing. I really don't think that two people at the presenters table should be talking at once. I wonder if you could sort out amongst yourselves who's going to answer that question on behalf of the -- CBRM.

MR. HALL: Well, Madam ---

MAYOR MORGAN: The question was posed to myself ---

THE CHAIRPERSON: And could we have a brief response please.

MAYOR MORGAN: The question was posed to myself Madam Chair. So if I could respond, clearly the community went through a six year process to determine what mechanism of cleanup was preferred by the community and the selection was clear and I think soil washing was the mechanism chosen by the community. And the request from the community was, in fact, that the site be completely remediated. The challenge that I think we were presented with is the concept that the total cost may be more than four hundred million dollars ($400,000,000). And that's why I say it's a take it or leave it. But I think your point is well taken, if it could be facilitated within the financial window I think that is clearly what the community has chosen.

MS. MAY: Thank you very much.

THE CHAIRPERSON: Thank you, Ms. May.

MR. HALL: And Madam Chair, important for the record that I state, don't want to get into debates here but the council did commission us to come here and me to make presentation on behalf of council. The

council is not interested in going back, looking in our rearview mirror in debates that took place three years ago about the remedial action evaluation report. We want to move forward.

MS. MAY: I'm sorry -- Mr. -- Councillor Hall, the terms of reference of this Panel includes alternatives. I was merely trying to solicit councillors views on alternatives which is part of this mandate.

THE CHAIRPERSON: Excuse me, for all parties I would now like to close the discussion on that particular question and I would now like to move to our next questioner, Dr. Ignasiak. Just one question please.

--- QUESTIONED BY DR. LES IGNASIAK

DR. IGNASIAK: Well, in order to make it quick and fast I just wanted to make an assumption. Let's say that the Tar Ponds are located in the United States, not in Sydney. I just wonder whether the presenters are aware that if the Tar Ponds were to be stabilized in the United States this simply would not go through.

THE CHAIRPERSON: Well, that was raised as a question so if somebody would like to ---

DR. IGNASIAK: I asked if whether they are aware of that.

THE CHAIRPERSON: Well, I didn't hear

that. That wasn't on the record. Do you wish to make a comment.

MR. HALL: I don't have any knowledge about what the American regulatory environment contains.

THE CHAIRPERSON: All right. Thank you. Ms. Ouellette. And then after that it'll be Mr. MacMullin and then I will open questions to any other participants.

--- QUESTIONED BY MS. DEBBIE OUELLETTE

MS. OUELLETE: I just have one question for Vince. Vince did you have any help with this presentation by the Provincial officials?

MR. HALL: I'd hate to dignify that with a response but the answer is absolutely no.

MS. OUELLETTE: Thank you.

THE CHAIRPERSON: Thank you, Ms. Ouellette. Mr. MacMullin.

--- QUESTIONED BY MR. DAN MCMULLIN

MR. MCMULLIN: Good afternoon. Question for Mr. Hall. Mr. Hall, during the presentation this afternoon, I'm given the impression that the American tour and the Canadian tour met with a great deal of pleasure on the part of the people on the tour. I'm wondering whether you met with any environmental groups that posed opposition to any of the remediation. I'm

given the impression that things were rosy in these communities and that indeed we should look forward to an expeditious cleanup here if we follow some of these examples.

MR. HALL: Through you, Madam Chair, the answer to that is yes, we've met with groups in the States and I alluded to it earlier that some of these groups took a somewhat different approach than what some of our parties in Sydney have chosen but the answer is yes, met with them, heard their views and how they approached the challenges that were presented to their communities.

MR. MCMULLIN: As an example, on the day, I believe a Wednesday, I called through to a group in Wisconsin, Fox River Watch by name, asked whether they were familiar with the visit from people from our area. I was told no. When I checked their site, I find indeed there's been 30 years of progress made here with a great deal of conflict in these areas. I also want to point out that the folks in Belledune, New Brunswick, had they known that representatives from Cape Breton Tar Ponds were going to visit on the day they did visit, that indeed, there would have been many, many people out to protest the potential for Tar Ponds sludge moving to Belledune, New Brunswick. So ---

THE CHAIRPERSON: Thank you, Mr. McMullin. I think -- thank you for your question and your subsequent comment.

MR. MCMULLIN: Thank you.

MR. HALL: And Madam Chair, I took it upon myself to actually go out of my way to speak to residents in the Fox River area because I was intrigued by the activity that was going on so close to residential homes. People were part of the cleanup whether they lived within 500 metres of it or 5000 metres of it. I talked to numerous politicians from every level of government at different sites including the reference with respect to Belledune.

I had a meeting specifically myself and Councillor Long with a municipal representative from that specific area and we felt pretty good about that meeting and that that person represented the interests of his community.

THE CHAIRPERSON: Thank you, Councillor Hall. I would just ask are there any other people in the room who are not registered participants who have a question for the presenter? Yes, I see Mr. Ells but Mr. Abbass, is it, if you'd like to -- if you have a question for CBRM.

--- QUESTIONED BY MR. JOHN ABBASS

MR. ABBASS: The name is John Abbass. I have a question to you for Mr. Hall. The site that he visited and he showed on the screen there, who cleaned up that site?

MR. HALL: I understand from my recollection that it was a venture that included all levels of government which ironically is something that I think CBRM should remain mindful. That was a cleanup that had monies from Federal, Provincial and Municipal parties and then a future development involved all three including private sector.

MR. ABBASS: No, I want the name of a corporation or -- that cleaned up the site. Like ---

MR. HALL: I wouldn't know that offhand but we did have the opportunity to meet with the actual construction firms and the environmental firms that were around every site that we went to so off the top of my head I -- I mean, I'd be guessing if I started throwing names out right now on that one Mr. Abbass.

MR. ABBASS: Can you remember any names?

THE CHAIRPERSON: Excuse me, Mr. Abbass, could you just keep our tone down here please for the question. There's no need to shout.

MR. HALL: I know Mr. Abbass quite well but I mean firms like Earth Tec, CH2M Hill, AMEC and a

number of subsidiary firms affiliated with those companies far reaching.

MR. ABBASS: Okay. Can I ask him how much it cost to clean up that site?

MR. HALL: My recollection around the Thea foss waterway, there's like five or six or seven channels. I'm sure Sydney Tar Ponds Agency may have something on record there but some of those were like seventy million, eighty million, ninety million, in those ranges there. So they were comparable in terms of the challenges that they presented.

MR. ABBASS: Well, I would like to have a total figure for the cleanup of that site.

MR. HALL: Yeah, well I'd have that in my little file home and I'd be happy to make sure that I share with Mr. Abbass what I'd have on file. No problem at all.

MR. ABBASS: No, I ---

THE CHAIRPERSON: Thank you for you question, Mr. Abbass.

MR. ABBASS: Please, can I just ask another question.

THE CHAIRPERSON: Well, yes please ask it but we do need to move on. Can you tell me the relevance to the Panel of your line of questioning?

MR. ABBASS: The figure for cleaning up that site must have been an astronomical figure. So if he can't remember that figure, it's a mystery to me. Thank you very much.

THE CHAIRPERSON: Well, thank you Mr. Abbass. Mr. Ells, you have a question. I think this is the last question.

--- QUESTIONED BY MR. CAMERON ELLS

MR. ELLS: Thank you, Madam Chair. My background is civil engineering and regularly in projects performance goals dictate how a project works out. In this case, for CBRM if the performance goal for the Tar Ponds cleanup was that the land could be used -- there was a healthy mixture of land uses as either a buffer, pedestrian walkway, bike paths or the capacity to put a single storey building on, irregardless of what it's used for, would that provide enough flexibility for their future land use preferences? And the relevance of that is if the projects are working with the idea of a single storey building that provides a bearing capacity goal on the engineering side which influences strength and other things.

MR. FOSTER: I think the answer to that would be yes that would provide -- some types of industry might involve a need for greater bearing capacity than

others, would be the only ---

THE CHAIRPERSON: Okay, thank you very much Mr. Ells. So that brings us to the end of -- Ms. Kane. Well, all right. One question and then absolutely that's it. We are breaking.

--- QUESTIONED BY MS. MARLENE KANE

MS. KANE: Thank you very much but I was at work again. That's always my excuse. Earlier on in the presentation, the first part that I was here for, I heard it said that solidifying and stabilizing all of the Tar Ponds including the PCBs were technically feasible. You said yes on your chart. Environmentally sound, yes on your chart. Publicly acceptable, you said medium and growing. I'd like to know how you arrived at those conclusions, please.

MR. HALL: Well, thank you, Marlene through the Chair. I did qualify that this was my own little study that I did myself based on my eight or nine years on this file and all those meetings you and I sat together at the Joint Action Group but I mean I'm a politician. I'm one that has the fine challenge of part of the proposal of incineration being in my constituency. So I can assure you and as you know from mine and your conversations I'm hearing from people right across the municipality giving their opinion and certainly the

opinions of my municipal colleagues, all municipal colleagues that have an opinion on this matter and Mayor Morgan as well. And that's my own summation and in fact, you know, that was done a few months ago so I'd even update my public acceptability to a lot higher than medium and growing.

MS. KANE: Is that for taking incineration out of the picture though or for solidifying and stabilizing all of the ponds including the PCBs?

MR. HALL: Yeah, when I go by my conversation with the person on the street and in the coffee shop, and the overwhelming opinions of our municipal council, it's yes this community wants to move forward. They don't want to run the risk of another 20 years of endless debate. They want to stabilize, solidify, encapsulate and let's move forward and start growing this economy.

MS. KANE: So Madam Chair, I mean that was the answer to the third question but as far as technically feasible and environmentally sound, I'd like to know how you came to that conclusion. Like as far as the EIS, did you review all the EIS and ---

MR. HALL: Well, I'm a social worker by profession. I'm not an engineer but I'm confident in relying upon the expert opinions that have been brought

forward by our government partners and I'm confident with CBRM's working relationship with our government partners. I've been involved for a number of years and I have no problems in accepting what they bring forward on behalf of this community.

MS. KANE: But did you and council members before voting on this ---

MR. HALL: Yes.

MS. KANE: --- did you review the EIS?

MR. HALL: Yes, the council was briefed and are aware and within the parameters of our expertise that's what you're getting in terms of response.

MS. KANE: Thank you.

THE CHAIRPERSON: Thank you, Ms. Kane. That does end this afternoon's session. I would like to thank all the presenters from CBRM for coming and making a presentation and for answering our questions and questions from other participants. Thank you very much indeed. We will be resuming at 5:45 this evening and we have two presentations. Thank you.

--- RECESS: 3:25 P.M.

--- RESUME: 5:47 P.M.

THE CHAIRPERSON: Good evening, ladies and gentlemen. I would like to get this evening's session

underway. In a moment we will move directly to our first presenter, Bennett Environmental Inc.

I have a couple of things that I need to address. We are going to ask the Tar Ponds Agency -- they have some undertakings to deliver, they will require the use of a screen and the equipment, and since that is now all set up for Bennett's use, we will wait until Bennett have completed their presentation and we've completed the questioning and then we will do that before we take our break.

Our second presentation this evening will be New Waterford & Area Fish and Game Association. So, before we begin with our first presentation of the evening, two things.

One is that tomorrow, the final day of these public hearings, is devoted to closing remarks, as you know. We are going to start the day at 8:30 a.m. rather than 9:00 a.m. I will mention this a little later in the evening when we have more people here, but please make a note of that.

Closing remarks are limited to those who have already previously presented, so registered presenters only can make closing remarks. If you are a registered presenter and you wish to be registered to make closing remarks, please contact Ms. Hendrickson to

register.

Just a couple of points about the closing remarks. It's a 15-minute time limit. We only want the spoken word, please, no use of AV equipment, and there will be no questioning, not even questioning by the Panel, believe it or not. We will sit and listen quietly.

My second item that I need to put on the record, Mr. Potter, the Sydney Tar Ponds Agency recently submitted the response to Undertakings U-23A and B. In reviewing these responses, the Panel notes that the costs associated with the preventative works projects were factored into the total cost for the on-site incineration of all contaminated sediments in the Tar Cell and for the full encapsulation of all contaminants.

Could you please provide the Panel with revised cost estimates without the preventative works costs?

MR. POTTER: Yes, we can do that. I think Undertaking No. 9, I think, was also the same table, if I have that -- it is, No. 9 is the same table. We'll pull out the preventative works from that one as well.

THE CHAIRPERSON: Thank you very much. So, now we will move to our first presentation. So, I'd like to welcome Bennett Environmental Inc. to the

hearings. As you know, you have a 40-minute time limit for your presentation and I will be indicating when you're five minutes before the end.

So, we look forward to hearing your presentation.

--- PRESENTATION BY BENNETT ENVIRONMENTAL INC.

(MR. MICHAEL MCSWEENEY)

MR. MCSWEENEY: Thank you, Panel Members, good evening. My name is Mike McSweeney, I'm vice-president environmental affairs with Bennett Environmental. I have with me, on my right, Tom Wesolowski, our VP engineering and technology, Steve Flannery, our manager of engineering, and behind me Flavio Campagnaro, our senior process engineer.

I'm here tonight for a couple of purposes. The first is to express our strong support for the Sydney Tar Ponds Agency and the proposal to use a temporarily-located incinerator to destroy most of the hazardous contaminants of the PCBs and PAHs from the Tar Ponds and Coke Ovens Sites.

It's as Frank Potter said, "a home-grown solution whose time has come," and we praise the Agency in its commitment to find a safe and effective solution to this long-standing problem.

We also praise the work and the passion of

so many others who spoke before us, like Donnie DeLeskie, members of the Save Our Healthcare Committee, the Sierra Club representatives and the countless other representatives and residents of Sydney.

While we may not always agree on the solutions put forward, we respect their opinions and their right to voice it. After all, this is what democracy is all about.

The other reason I'm here tonight is to share with the Panel the decade of experience that Bennett Environmental has in the high-temperature thermal oxidation arena and how our experience might assist Panel Members to better understand the need for developing very tight specifications and very tight regulations for the safe use of such a proposed technology in Sydney.

High-temperature thermal oxidation, now I know most people don't like that term but that's exactly what we do. We use heat to remove contaminants from the material we treat, then we destroy those contaminants in a subsequent thermal reaction.

The term "incineration" conjures up images of fire and brimstone, but I'm sure we've all seen forest fires in person or on TV and we all know in a forest fire all that burns is the structures on the ground, trees and grasses. Soil and sediments do not burn.

So, when we treat soil we don't incinerate it, we heat the soil to very high temperatures to break down and oxidize contaminants. Make no mistake, we don't burn soil.

Bennett Environmental is a publicly-traded company on the TSX and the AMEX and has expertise in dealing safely with the remediation of hazardous soil and debris, and it's because of this experience that we can unequivocally say that the Tar Ponds Agency was absolutely right to choose this technology in treating PCB-contaminated soils.

Our technology has been described by the EPA as the best available demonstrated technology in use today for safely dealing with hazardous material such as PCBs, dioxins and furans.

We're darn proud of our accomplishments and the small role we play in the life cycle of remediating hazardous soils and rendering them safe again for reuse in residential or commercial applications or for disposal in an engineered or secured landfill.

Bennett Environmental can treat some of the most dangerous substances known and render them almost harmless or prepare them for safe disposal in secure landfills.

We believe the Agency's proposal presently

provides a workable solution to the unfair stigma that Sydney has been labelled with, and as the Agency mentioned in its presentation earlier in April, incineration is a tried and true technology that works, and our experience shows that it does so with very little impact on the environment.

I can assure Panel Members that the provincial and federal regulations that have been imposed upon us by regulators are very strict and that firms like ours must abide by those regulations, and we continually strive to improve them.

We know this, as I've mentioned before, because we have a decade of experience in safely removing and remediating contaminants from soil. During this time we have successfully processed hundreds of thousands of tonnes of contaminated soil and restored acres and acres of land back to public use throughout North America.

In fact, we have North America's largest capacity in accepting and treating soils contaminated with dioxins, furans, PCBs and PAHs. We have a well-seasoned board of directors that represents where our plants are currently located and where we hope to do business, and which has experience -- broad experience in corporate governance, environment and finance.

Our management team has the breadth and

depth of knowledge that should give comfort to communities in which we do business. We work tirelessly to ensure that Bennett is a leader in the environmental solutions business -- the environmental solutions business -- and we see ourselves as active environmentalists.

We operate two plants dedicated to cleaning up contaminated soil, debris, construction materials and metals, and very soon we hope to increase that to three with the opening of our plant in Belledune, New Brunswick.

Our Cornwall plant which we've owned and operated since 2002 focuses on remediating and recycling PCB-contaminated metals and construction material. The Cornwall plant employs 20 people and also uses high-temperature thermal incineration.

It has achieved a destruction removal efficiency of 99.9999 percent, known in the industry as "six nines," which is a standard that many strive for when it comes to destruction and removal of contaminants.

Our Quebec plant, Recupere Sol, is our primary soil remediation facility and we've been accredited to ISO 14000 and are very proud of that accreditation.

RSI currently holds about 15 Certificates

of Authorization issued by the Quebec Ministry of Sustainable Development, Environment and Parks. Prior to issuing a Certificate of Authorization to treat specific contaminants, the Ministry will require that the company pass rigorous compliance tests.

Our Certificates of Authorization allow RSI to remediate and clean soil that contains a wide variety of contaminants. The remediation of these contaminants is done through the use of very expensive and sophisticated equipment and is based on our decade of experience using science and technology. And I say "science and technology" and I don't use that term lightly, because it is at the root of all of our facilities.

And before I get any further into our remarks, I'd like to share a glimpse of that science and technology with you so that you can better understand the process of high-temperature incineration. Our experience shows that building a successful environmental solutions company rests on four key areas; operator training, emergency procedures, monitoring, and annual compliance testing. I'd like to take a moment to address each area.

Our employees are thoroughly trained in the latest technology, processes and safety guidelines involving high-temperature incineration. Health and

safety is fundamental to our company. We take it seriously. After all, all our employees live and work in the community where we locate our facilities.

To ensure our employees' health is not jeopardized by treating PCB-contaminated soil, we require mandatory annual blood testing, even though regulators only require it every two years. Our results have demonstrated no concern.

Our safety systems are among the most stringent in the world when it comes to high-temperature incineration. For example, our facilities in Cornwall and Belledune use a thermal relief vent which is designed to protect the surrounding community in the event of a failure such as a power outage.

At Bennett Environmental all our plants are equipped with an uninterruptible power supply and backup generator so that in the event of a power outage the system can be easily shut down without adversely impacting the environment.

Our safety systems minimize the release of particulates, any dust, and ensure that organic contaminants are destroyed or captured.

RSI in Belledune conducts several comprehensive monitoring programs. At RSI, for example, our soil monitoring program has set a precedent in Quebec

and has been cited by the Minister of Environment as a leading standard across the Province.

We monitor the soil at 12 stations located within three kilometres of the plant. Further, we monitor the soil at two other locations within 10 to 15 kilometres of the plant. We also conduct ongoing ambient air monitoring at three stations around the plant and in the town of St. Ambroise located two and a half kilometres away.

Finally, we monitor five wells around the plant to ensure we are not polluting the water table. These monitoring programs provide us and, more importantly, provide the citizens of the community and the regulators with the information they need to ensure that we operate well below the requirements set by Government and that RSI, for example, poses no increased health risk within the community.

Our Certificates of Authorization require that RSI undergo annual Government compliance tests under the watchful eyes of ministry officials. As you can see from the attached slide, we consistently met or fell well below the various regulatory standards.

For example, when it comes to dioxins and furans -- the emissions of most concern to everyone -- we fall well below the permissible regulatory limits by as

much as eight times better than the Canada-Wide Standard of 80 picograms per reference cubic metre.

This slide also illustrates where RSI stands in relation to the ambient air quality objectives of the Federal Government and the Governments of Ontario and Nova Scotia. As you can see, when you have further time to read especially, the Bennett technology deployed at RSI does demonstrably better than the regulations currently in place in any of those provinces.

To the untrained eye these standards can seem very cryptic, so let me reduce it to something we can easily understand. If the dioxin and furan emissions were compared to a grain of salt, the Canada-Wide Standard would permit stack emissions of dioxins and furans of less than six grains of salt per week, or 280 grains of salt a year.

So, if the proposed incinerator were to do its work over the course of three years, that would be 820 grains of salt. Panel Members, that's the amount of salt in this salt shaker, barely visible to the naked eye.

But the Bennett technology does much, much better than that. Our emissions for dioxins and furans over the same three-year period would be less than one grain of salt per week, in total less than 100 grains of

salt over the course of the three-year period.

So, when you look closely -- and it's very hard to see these grains of salt but that's our point -- despite what you may hear and read from those who desperately oppose the use of incineration, the reality is that if the technology is deployed and regulated, the dioxin and furan stack emissions are negligible. In fact, they are non-detect.

As researchers noted in a presentation last week from Cape Breton University, they said that a well-designed, well-built, well-operated and well-maintained rotary kiln incinerator should be able -- or capable of operating within all of the applicable federal and provincial codes and guidelines.

That, Panel Members, is why we continually receive our Certificates of Authorization from Quebec's Ministry of the Environment.

And I might add, recently the Quebec Government has imposed upon Bennett Environmental and RSI the most stringent emission standards for dioxins and furans in North America, and we were delighted to have that imposed upon us because we can consistently meet them time and time again.

At Bennett we do not fear Government regulation. I would encourage the Panel, when examining

the standards and regulations that should be applied to the temporarily-located incinerator, to really push for stringent emission regulations.

You need to allow for the treatment of hazardous contaminated soils, but at the same time you need to protect the health and safety of the community. The technology is sound, it works, and there is no need for fear.

Some presenters have said that property values decline in areas where high-temperature incinerators are located. I would encourage everyone to visit the community of St. Ambroise. The findings show exactly the opposite. Property values are increasing and the demand for single-family homes in that town, some two and a half kilometres away, is increasing.

We understand, though, the emotion involved here and how controversial the thought of having an incinerator located in one's community can be, and that's why we work very, very hard with the communities where our plants are located to work with the communities. We want to be part of the fabric of the community and to help the neighbours understand the science and technology.

At RSI, for example, we undertake regular public opinion surveys to gauge the community's opinion

on how we measure up as corporate citizens. At all our facilities we work hard to build transparent, positive and strong relationships with the provincial and federal regulators.

We have great relationships in Quebec, contrary to what you've heard in the past. For example, when there was a misunderstanding about elevated levels of dioxins and furans in St. Ambroise, we were able to work very closely with the Ministry of Environment in Quebec to demonstrate that RSI was not responsible for those elevated levels.

The Ministry then decided to take no further action on the pre-order that it had given notice to issue, and, in fact, in January of this year it gave RSI an additional permit to process dioxin and furan contaminated soil primarily from the United States. We are the only company in Canada and the United States that can process dioxin and furan contaminated soil.

RSI is not our only asset when it comes to remediation. We have finished construction on a $32 million dollar plant in Belledune, New Brunswick. Of that $32 million dollars, over $12 million dollars was spent on emission control and monitoring systems.

This plant builds upon our expertise developed over the last 10 years and it has recently

undergone compliance testing and we expect an operating permit to be issued later this year.

Let me show you the extensive use of technology so that you can better understand the need for very tight specifications and regulations when designing a high-temperature incinerator. We'll be competing, Madam Chair, at next year's Oscars.

So I think this video clearly demonstrates that the high temperature incineration proposed is a viable solution and has truly become part of the tool kit in cleaning up manmade environmental problems.

What this video can't show, however, is how Bennett stands apart from its competitors. I hope the video will provide you with insight into the high temperature incineration industry, and the levels of service and safeguards that are achievable in the marketplace today.

We believe we're the only company in North America that actually provides clients with a Certificate of Destruction confirming the contaminated soil, that they've sent to us for remediation, has actually been treated, and the contaminants have been destroyed. The last thing any community wants is to go through a controversial process, such as this, where there is no guarantee that the problem, once treated, is safe for

reuse.

Incineration companies need to stand behind their technology and provide assurances to the communities where they operate that they can do what they say. We are one of those companies.

As you saw from the video, we don't use small mobile incinerators, we don't plan on coal-burning soil in a cement plant, we don't convert asphalt plants in an attempt to destroy high level PCBs contaminated with high BTU levels.

The industry has changed. The public demands much more, and we would ask you, the panel, to ensure that the specs for such an incinerator in Sydney are the tightest specs of this new century. This is the legacy that you can leave Sydney, and help take the negative stigma that Sydney has and turn the Tar Ponds into a shining example of today's science and technology.

We would implore the panel to ensure that any incinerator that is located in Sydney will operate under the strictest oversight by provincial and federal regulators.

Take our company, for example, our potential annual revenues for one operating plant exceed 50 million. We have no long-term debt. We can bond any project of any size. We have expertise in transporting

and treating contaminated materials. We have business partnerships with leading Canadian and US environmental contractors. We've designed and built two plants ourselves, so we understand the process thoroughly. We can meet stringent North American and European standards, and we've undergone environmental audits by Canadian and US Federal, Provincial and State organizations.

Simply put, we set the standard when it comes to high temperature incineration in Canada and across North America.

We've worked on big projects and small ones. Let me show you some of the projects we've worked on, to give you a better sense of why high temperature incineration technology is being used throughout North America.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

The video shows only a few of the projects we've worked on, but I really think demonstrates the extent of our abilities. Many projects across the country are using incineration and using Bennett to safely treat everything from creosote, PCBs, PAHs and other chlorinated hydrocarbons.

The agency's plan, panel members, is well founded and well researched. It clearly advocates the home-grown solution to cleaning up one of Canada's most

beautiful and picturesque communities.

If I can "toot my own horn" for a moment, we believe we are the best at what we do, but, more importantly, we care about the people in the community where we work.

We believe in hiring locally and participating in the community where our plants are located.

In Saglek, for example, we hired and trained local Inuit to operate the necessary equipment we needed to remediate a former military site left abandoned years ago.

We have the demonstrated experience to work on such jobs, expertise as using ocean-going ships, barges, rail and trucks to move material from one site to another, ensuring that we only use Federal Government regulated transportation vessels and equipment for the movement of the hazardous materials, and the ability to design, contract and build an incinerator in about 12 months.

Using incineration for this project can be successful and make Sydney the envy of the world once the Tar Ponds have been cleaned up, but panel members must ensure that when incineration is considered, the companies bidding on that project will do more than just

follow regulations.

Companies like ours must seek to do better than the regulations. They must want to work with the local community to do what it takes to get the job done, and get it done safely.

As I understand, your mandate is to review the Environmental Impact Statement. I hope that we have helped you better understand why we support the Sydney Tar Ponds Agency and its recommendation.

I hope I've been able to demystify the art of high temperature incineration for you, and have clearly demonstrated why it is a viable and safe method for dealing with PCB contaminated soils.

Thank you, again, for this opportunity, and for the attention, and we are now ready to answer any questions you may have.

--- QUESTIONED BY THE JOINT REVIEW PANEL:

THE CHAIRPERSON: Mr. McSweeney, thank you very much for your presentation, and for those videos. The panel have a few questions, I think.

You mentioned in your presentation, you make reference to a Thermal Relief Vent. However, you don't say any more about that. Could you explain:

> "For example, at our facilities in Cornwall and Belledune, our Thermal

Relief Vent is a safety system designed to protect the surrounding community in the event of a failure, such as a power outage."

Could you please describe what your Thermal Relief Vent does, and how it protects communities?

MR. MCSWEENEY: Absolutely. Flavio, would you handle that question, please?

MR. CAMPAGNARO: Sure. The Thermal Relief Vent, the way the system is designed, we put in -- the secondary combustion chamber is a vertical chamber. What that allows is it takes advantage of natural draft. Hot air rises, so we can safely -- if the power goes out and we can't operate some of the equipment normally until the emergency generator can restore power, what happens is, because the chamber is vertical, the gases will vent safely vertically while still going through the entire length of the chamber. And by this means -- we have a UPS on the burner in that chamber so the temperature is maintained, and therefore we destroy the contaminants even in the event of an electrical failure during this time.

MR. MCSWEENEY: Madam Chair, the UPS is the Uninterruptible Power Supply. So what happens is the

contaminants will come up the secondary combustion chamber and be destroyed, because it is still operating.

What may come through the Thermal Relief Vent is some dust and particulate, but no contaminants. Because the secondary combustion chamber is still operating at 1000 degrees Celsius, it is destroying the harmful contaminants.

THE CHAIRPERSON: Is there any monitoring if there are releases through the Thermal Relief Vent?

MR. MCSWEENEY: Flavio.

MR. CAMPAGNARO: In Belledune, we have an oxygen monitor and a total organic carbon monitor at the top of the SCC. We're operating at 1000 degrees so there's not a lot of monitors that can operate in that condition, but if we're watching the oxygen level and the total carbon level, we'll know whether we're doing proper destruction or not.

MR. MCSWEENEY: Those are very good indicators. I might add, Madam Chair, for example, that our facility in Saint Ambroise, Quebec, RSI, in 2005 there were zero incidents, zero incidents where the Thermal Relief Vent was open. In 2004, there were four incidents with a total of 39 minutes. In 2003, there were eight incidents, and of those eight incidents the Ministry of the Environment asked us to open the Thermal

Relief Vent on three occasions, so that they could voluntarily have us measure the level of contaminants that were coming out of the stack. And in 2002, there were seven incidents of 58 minutes.

So, contrary to what you've heard in the past, it's not a monthly occurrence, it's not a daily occurrence, it's not a weekly occurrence. In fact, at RSI, it was zero in 2005 and four in 2004.

THE CHAIRPERSON: Just a follow up to that. Were you, in fact, contacted by the Sydney Tar Ponds Agency to provide information on upset conditions? They've indicated to us that they did speak with operators of incinerators when they were developing their -- what they used in their modelling. Were you one of those ---

MR. MCSWEENEY: I don't think I was asked, but I've read most of the transcripts as they were coming out, so that's why I had this information available today.

THE CHAIRPERSON: Okay. Thank you.

MR. CHARLES: What about your Cornwall plant, have you got any information about incidents where you had to use the relief valve in the Cornwall plant?

MR. MCSWEENEY: Mr. Flannery is the -- in addition to being our manager of engineers, he manages

that facility, as well. Steve, could you talk about that?

MR. FLANNERY: Yes. The Cornwall facility is equipped with a similar system. It is a Thermal Relief Vent that will -- that is backed up on a back-up generator, to ensure that the secondary combustion chamber is maintained at 1000 degrees, in fact, at its operating temperature, and we have had incidences in the past where this vent has been released. I haven't brought that particular detail, but we can certainly undertake to do so.

Again, the frequency is in the same order of magnitude that Michael's explained about the other facilities that we have, and it isn't a -- it has not proved to be a problematic situation for us.

MR. CHARLES: Could we have that information, just so that we have a complete pictures?[u]

MR. FLANNERY: Yeah, we'll get that to you by tomorrow.

THE CHAIRPERSON: I'm just going to say that for the record that that is a formal undertaking. Thank you.

MR. CHARLES: My second question goes to the emission standards that are imposed in Quebec.

You note that the Canada-wide standard is

80 picograms per reference cubic meter, and you say that Quebec's emission standards are more stringent. How much more stringent?

MR. MCSWEENEY: Flavio.

MR. CAMPAGNARO: I can speak to that one. The Quebec emission standard for dioxins follows the Canada-wide standard.

What Michael was referring to and the most stringent in Canada is we also have an ambient air quality standard that we're required to meet that's at ground level, and they imposed, I believe it's, a 500 centigram per cubic meter limit on the facility, and I'll have to correct that number, I'm pulling from my memory, but I believe it's 10 times lower than the Canadian ambient air standard at present.

MR. CHARLES: Okay. I misunderstood your presentation. I thought you were talking about dioxins and furans, but you're following the Canada-wide standard for those.

MR. MCSWEENEY: We're eight times below the Canada-wide standard.

MR. CHARLES: You're eight times below that.

MR. MCSWEENEY: And they have put the most stringent, I guess, on the ambient air monitoring.

MR. CAMPAGNARO: Okay. I'll just clarify one issue there. The Canada-wide standard applies to the emissions in the stack, whereas the ambient air quality criteria apply at ground level, so we have to meet both standards. And, in both cases, our standard in the stack is Canada-wide standard, and at ground level we have to meet the new basically one tenth of the Canada ambient air quality standard.

And I will follow up with the exact numbers, because I'm pulling them from memory on the ambient air number.

MR. CHARLES: All right. My third question really relates to the pollution control equipment, and I'm not sure whether I recall this, but I think for your Belledune operation, you quote something like 32 million as the cost of the facility. But what I'm interested in is the pollution equipment, which you say cost 12 million, and my main question is, in any incinerator what sort of pollution equipment do you think is essential?

You've mentioned the baghouse, and you've mentioned some wet scrubbers, and so on.

You know, if we're going to impose the most stringent conditions on any incinerator that may or may not get approved here, or recommended, what kind of

pollution control would you think ought to be imposed to meet stringent requirements?

MR. MCSWEENEY: Flavio will answer that, but I would say, at the outset, every -- what we have in Belledune is truly the -- I hate to use, you know, the old state-of-the art. I mean, I can't think of something off the top of my head, but, I mean, we have really gone overboard and put the gold standard in for emission controls.

But Flavio, what would you say are the things that the panel might consider recommending?

MR. CAMPAGNARO: Okay. I would hesitate to be prescriptive in what technologies are applied because there's very frequently new technologies, or new options.

So I would recommend to the panel that if they go that route, they impose the numerical standards on total emissions from the facility as a whole, taking the whole envelope of the facility, including all the fugitive emissions, and any emissions from material handling, and not just focus on, say, the stack.

But to answer directly your question, state-of-the-art and particulate control would be a fabric filter. Electrostatic precipitators may work, but we find that fabric filters work quite well. For acid

gases, wet scrubbers. There's a few alternate technologies that have comparable performance, and activated carbon scrubbing for capturing trace metals and mercury.

MR. CHARLES: There are basically three levels of pollution control equipment that we would want to see put in place in any incinerator.

MR. CAMPAGNARO: Yeah. And then the fourth would be a rapid quench following the secondary combustion chamber to prevent dioxin formation.

MR. CHARLES: Okay. I guess my final question is, how do you inform the local community about the results of any monitoring programme that you're carrying out, or emission control monitoring?

MR. MCSWEENEY: In Cornwall, for example, we have quarterly meetings of the Citizens Liaison Committee or the Public Liaison Committee. We have a Citizens Liaison Committee, also, in Saint Ambroise, Quebec, and in Belledune, even though it's not operating, the Citizens Liaison Committee has been working with us all along.

So we primarily do it through these quarterly meetings, or as required -- on an as-required basis.

MR. CHARLES: There's generally some lag

time, isn't there, between the time you take the readings and the time that they're sort of made public and publicized?

Do you do any real-time reading publication?

MR. FLANNERY: I wanted to add, in addition to what Michael was saying with respect to our Cornwall facility, we were -- as part of our C of A we were required to do a 5-year technical review of the facility that was part of the -- and it was conditional that the condition or the RFP for that 5-year review was agreed to by the Public Liaison Committee.

So it was -- over the course of about 6 or 7 months we formalized a formal RFP that was sent out for bid, and we then brought in a consulting engineering firm that happened to be -- the choice in this instance was Conestoga Rovers, and they completed a complete technical review on the facility that was presented to the Public Liaison Committee just recently last October.

So that's one thing I wanted to add to our continuing efforts in Cornwall.

But, in terms of the timing of data, in our C of A there's certain very specific timelines that we have to adhere to. By memory I can't recall them, but they occur to me to be a 30-day time interval or a 60-day

time interval.

Once the tests are done, we have to have the report available to both the Ministry and our Public Liaison Committee. So they're not -- the delay factor here is regulated in practical terms, what we can get tests completed in, and part of our C of A.

If you require exact detail, we can ---

MR. MCSWEENEY: Well, also we have continuous emission monitoring, so we have that information available for many of the emissions, you know, on a daily basis.

So if there was -- you know, we try and be an open and transparent company. If anybody came and asked us, we would give them the information. The Ministry in Ontario and in Quebec, I mean, it's almost an open invitation. They can drop by, and have been dropping by, you know, at their leisure. You know, sometimes they call ahead, sometimes they just drop by, but we try and operate in a very open and transparent fashion.

MR. CHARLES: Thank you very much.

DR. LAPIERRE: I have two questions. The first one relates to the salt shaker and the drop of the salt. Number one is, is that an 8-hour operation, 24 hours, 365 days a year? How much operation to get that

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MR. MCSWEENEY: Yes, it is. I think the 1819 grains of salt, which is the Canada-wide standard, would be based on 6,000 hours, which is 3 years of round-the-clock 52 weeks a year.

DR. LAPIERRE: Okay. So it's 365 ---

MR. MCSWEENEY: Yeah, we just took, say -- the plan is to have the temporarily located incinerator operate for a 3-year period. So we just based it on a 3-year period.

DR. LAPIERRE: Okay. My second question relates to -- I'm sure you're aware, dioxins and furans are chemicals that most people don't like, and if you release these to the atmosphere, they can -- they don't disappear, they can bio-accumulate.

And I guess my question is, prior to your permits being -- you being permitted to operate, are you required to produce a risk assessment modelling for the operational time of your -- I'm sure your plants must be built for 25 years or so.

MR. MCSWEENEY: The short answer is yes, we do have to provide a risk assessment, and then we undergo compliance testing or, you know, we do test burns, and we start out with clean soil, and then we start introducing the contaminated soil, and all of that

is -- at RSI and Belledune actually it's done before the permit is even issued.

So when we -- we have a niche market for treating dioxin and furan contaminated soil. Nobody else in North America can treat dioxin and furan contaminated soil.

Before the Ministry of the Environment in Quebec would give us a permit to treat that, we had to run compliance tests using that actual material, and that was monitored by ourselves through an independent environmental consulting engineer, and then the Ministry also took samples, so that we had two samples going out for analysis so they could be cross-verified.

DR. LAPIERRE: Were those spike samples?

MR. MCSWEENEY: No, they -- those were -- no, they were not spike samples. Those were actual soil from -- in the case in RSI, it was soil from a project in Alabama. Track 15?

DR. LAPIERRE: So in Quebec, if I understand correctly, and in Belledune, you have produced or developed a risk assessment model of the furans and dioxins that will be produced from the -- from the operations.

Now that you've been -- I know in Belledune, you're not operational yet, but in Quebec, you

are.

Now could you provide us with the data that you modelled and the data that you collected from your ground monitoring, as you've indicated that you have ground monitoring?

MR. MCSWEENEY: I could certainly -- I certainly could look into that.

DR. LAPIERRE: Okay. [u] And could you provide us the -- what I'd like to see is what your model projected and what is the actual data that you collected on the ground, because you indicated that you have a series of monitors. And that plant has been operating for two years?

MR. MCSWEENEY: Which plant?

DR. LAPIERRE: St. Ambroise.

MR. MCSWEENEY: No, it's been operating for ten.

DR. LAPIERRE: Oh, ten. All the better.

MR. MCSWEENEY: Yeah. Yeah, I think to our new -- to the newest standards, we've been doing it at least now for 10 months, Flavio?

MR. CAMPAGNARO: Something like that.

MR. MCSWEENEY: Something like that. So is the deadline Friday for this information?

DR. LAPIERRE: The deadline is Friday

night at 12:00.

MR. MCSWEENEY: Okay. We'll do our best to get it to you.

DR. LAPIERRE: Okay.

THE CHAIRPERSON: Okay. We'll enter that as a second formal undertaking.

DR. LAPIERRE: The next question I have relates to public acceptability of siting incinerators. We've heard a lot of information here over the last three weeks on the public acceptability. We've had medical people come before us and indicate their views on it. We've had local citizens -- some for, some against.

Now, in siting your incinerators in Quebec and Belledune, what was the public acceptability that you've experienced? Did people readily accept them?

MR. MCSWEENEY: I can't speak for St. Ambroise, Quebec, because none of us were here when that plant was sited. Or Flavio, were you there?

MR. CAMPAGNARO: Yeah.

MR. MCSWEENEY: And do you recall what it was -- what it was like when that was ---

MR. CAMPAGNARO: Okay. On St. Ambroise, I came into the process as they were sort of finishing construction of the facility. So the initial siting, I wasn't there, but it was very similar to this. A lot of

fear initially. People thought birds were going to drop from the sky, etc.

But as time went on and -- St. Ambroise is a small community. Most of our employees live in the community. And within a year or two, as we operated, beyond a few people that were adamantly opposed, the majority of the population saw the facility, saw how much time and effort we put into making sure that it was a state of the art and good facility and that the people operating the facility lived in the community and grew up in the community. The majority opinion sort of shifted to neutral, to accepting.

It's never going to be 100 percent accepted technology, but acceptance in the community has grown dramatically.

MR. MCSWEENEY: I think as time goes by and as you work in the community and as you become part of the fabric of the community -- for example, in the last two years, we've given the community over five hundred thousand dollars ($500,000) for hockey teams, baseball teams, singing festivals, winter carnivals, all sorts of sponsorships, so they really see us as working -- we have a very transparent and open -- you know, we process -- they know the rigour that the provincial government in Quebec has imposed upon us.

And it's not just the Ministry of Environment Sustainability and Parks in Quebec. It's also the Ministry of Agriculture, it's the Ministry of Health. We are under very very tight scrutiny there, and we welcome that, and the population knows that, the Mayor of St. Ambroise knows that. And so it's -- you know, it's a good place to do business.

You know, up in the Saguenay, you know, Alcan operates a huge melting operation up there. They have a lot of forest products industry up there, so they're used to that kind of environment.

In Belledune, I think that there is a small group of people that are still not happy that the plant has been built. As Flavio said, I think that's to be accepted. And I believe that everybody has the right to their opinion. We welcome their comments and criticisms. It forces us to do better.

We had a letter from the five Mayors of the Chaleur Region sent to the Premier of New Brunswick just this past March, saying "Get on with it. Get this plant up and running. This is an area that really needs employment." And the five Mayors unanimously passed a resolution or signed a letter imploring the Premier to get on with this.

When we had our compliance test there the

first week of April, there were, you know, more than a dozen people, you know, coming by and applying for jobs. In fact, some of the relatives of one of the protestors had been in to apply for a job, you know, just ahead of the protestors.

So, you know, these are things that happen. We welcome them. We're not afraid of them. We want to work with the community. At the end of the day, though, it's the results that count, and it's the results of showing that we are eight times better than the Canada-wide standard for emissions of dioxins and furans.

So it is our operating results and our experience at the end of the day that I think really paves the way for community acceptance.

DR. LAPIERRE: I'd just like to have a follow-up question. In St. Ambroise, you've been operating for eight years. And normally have you conducted public poles as a baseline data, to collect -- like, it'd be nice to know what people think before you start, so you can get poling. Have you poled before, during and after an operational phase?

MR. MCSWEENEY: Yes.

DR. LAPIERRE: And would that data be available?

MR. MCSWEENEY: Yes, Mr. LaPierre. It's

not eight years. It's 10 years.

DR. LAPIERRE: Ten, ten, ten.

MR. MCSWEENEY: And I'd be happy to take that as the third undertaking. The results are -- the pole was undertaking, of course, in French ---

DR. LAPIERRE: That's fine.

MR. MCSWEENEY: --- and it is only available in French, but we will -- [u] if the Chair would like, we'll make that our third undertaking and provide you with the last two surveys. And if I have the last three, I'll get you those too. I'll get you whatever we have.

DR. LAPIERRE: That's fine. Do you have any in Belledune?

MR. MCSWEENEY: No we haven't done any public surveying there as yet.

DR. LAPIERRE: Okay. Thank you, Madame Chair.

THE CHAIRPERSON: I just have one last question, which is how do you monitor fugitive emissions.

MR. MCSWEENEY: Flavio?

MR. CAMPAGNARO: I believe, Mike, if you can go back a few slides, we have ambient air monitoring stations all around the plant -- all around the facility at various distances from the facility.

We're sampling for PCBs, dioxins, particulate, acid gasses, etc., in a defined pattern. So that's pretty well how we monitor.

At Belledune, we've enclosed the entire facility inside a building to basically eliminate fugitive emissions. And most of RSI is enclosed in the same manner.

THE CHAIRPERSON: So are there still fugitive emissions within the building but they're -- they're ---

MR. CAMPAGNARO: Yeah, they're captured by the ---

THE CHAIRPERSON: --- are they directed in some ---

MR. CAMPAGNARO: Yeah, they're captured by the ventilation system, and then there's a fabric filter and activated carbon system to scrub those gasses or the air so that contaminants aren't released.

THE CHAIRPERSON: Thank you. I'd now like to provide an opportunity for other people to ask questions. I'm going to take questions until about 7:30, where we'll then move to housekeeping items before we take our break. So depending on how many people want to ask questions, that will depend how much time you get.

But first of all, I am going to go to the

Tar Ponds Agency. Mr. Potter, do you have questions for the presenter?

--- QUESTIONED BY SYDNEY TAR PONDS AGENCY (MR. FRANK POTTER)

MR. POTTER: Yes, thank you, Madame Chair. I have two questions. Did the regulators have input on the design of the facility?

MR. MCSWEENEY: Flavio, do you know, and Steve, do you know? Flavio for Quebec, and Steve for Belledune?

MR. CAMPAGNARO: I don't know in Quebec. The design was done just before I began at Bennett. And I'll defer to Steve on Belledune.

MR. FLANNERY: Belledune, they certainly had direct influence with respect to the emissions that we were supposed to meet. These were defined at the very early stage before equipment was specified and selected. But even as we proceeded, there were a number of meetings to review the design and assess the technical or the theoretical capability of what we were producing or what we were planning to construct against what they were initially expecting us to meet.

We had an interface influence in this discussion. Jacques Whitford was involved in this back-and-forth communication. And for example, evaluating the

complete integrity of the enclosure of the Belledune facility was a very key focus of the Ministry in New Brunswick.

So they did have involvement in it from the standards and emissions that we were supposed to meet, but as well with the methodology that we were going to meet it with.

MR. POTTER: Thank you. You talked about dioxins and furans. Have you looked at continuous emission monitoring for that?

MR. CAMPAGNARO: Continuous emissions monitoring isn't possible on dioxin at this time, just due to the minute quantities that are there are very difficult to detect.

The closest system is there's a couple new systems in Europe that are just beginning to be used where they will take a sample from the stack for a period of roughly two weeks. And then you would send that sample to the lab, and two weeks later you would have your result. So there isn't a continuous monitor at this time.

MR. POTTER: Thank you. And I'll just add that we did contact Bennett when we were looking at incinerators around the country and the U.S.

Thank you, Madame Chair. That's all.

THE CHAIRPERSON: Thank you, Mr. Potter. Can I see how many of the registered presenters first have questions. Mr. Lelandais, Ms. MacLellan, Ms. Kane. And Ms. May, yes, I see you.

Well, I'm going to take you in the order that I said there, so five minutes maximum, please. Mr. Lelandais.

--- QUESTIONED BY MR. HENRY LELANDAIS

MR. LELANDAIS: Thank you, Madame Chair. I was hoping for 20 minutes, but I guess I'll have to ---

THE CHAIRPERSON: You can hope.

MR. LELANDAIS: I can scrap half of my papers. Mr. McSweeney, is it? My first question is to you. Before I -- no, I only have five minutes.

Are you familiar with the benzene rings?

MR. MCSWEENEY: What kind of rings?

MR. LELANDAIS: Benzene rings, so called, that show the carbon and the chlorine replacement of the carbons at the points.

MR. MCSWEENEY: I'm going to have you address Mr. Campagnaro, who is our chemical engineer.

MR. LELANDAIS: Okay. Any of you gentlemen on the panel, are you familiar with the formation of dioxin and PCBs from the precursors that contain the chlorine where the chlorine replaces the

carbon at different positions on this hexagon here?

MR. CAMPAGNARO: Yes, of course I am.

MR. LELANDAIS: You're familiar with that. Okay. Now, my question would be are your emission controls with regard to dioxins, particularly dioxins that would form in the latter stages, for instance, by the dunoval (sp) process where you're forming dioxins on the particulate matters from precursors in that temperature window, particularly the 500/600 degree area, and where the dioxins form in different degrees of toxicity depending on where the chlorine replaced the carbon at these six points around the hexagon.

Would your monitor -- your control equipment then be able to destroy or prevent the formation of the dioxins of the three major toxicities, the pyras (sp), the tetras (sp), depending on where these are formed -- because each one is a bit more toxic than the others.

Are they all covered, all the degrees of toxicity of dioxin, by your emission controls?

MR. WESOLOWSKI: If I may answer the question. In order to have dioxins in a chemical reaction, you need time and temperature and precursors.

MR. LELANDAIS: Yes.

MR. WESOLOWSKI: What we do we avoid the

temperature zone that dioxins could be formed by quenching very fast very hot gas, so the chances of dioxin being formed are very small.

But first of all, we bring the contaminants to the temperature which will break all the bonds. So we don't have them at the beginning. Then we quench it very fast in a very short period of time. So the time requirements and temperature requirements for formation of dioxins are denied, so they have no chance to be formed.

And as additional precautions, we inject activated carbon into the system, which would capture any residue of dioxins that may happen to be there. So we do have controls. It's a quick quench. It's a well-known and well-proven dioxin control technology plus activated carbon capture.

MR. LELANDAIS: Thank you, sir. It doesn't completely remove all the dioxins in that respect. However, you're using activated carbon as a removal for any dioxins that might form, and the activated carbon is not known to completely remove all dioxins that might form. Now, my second -- pardon me?

MR. WESOLOWSKI: If I may answer this question -- this statement. You're absolutely right, but if you look at our results, it shows that we are removing

majority of the dioxins. We are getting to seven-ninths of destruction efficiency or even better.

So we have the best technology that you can have. And if you ask me whether we remove every single molecule, the answer is absolutely not. But do we remove every dioxin molecule that could be removed? Yes.

MR. LELANDAIS: Okay. Thank you. My other question is how do you explain the fact that in the Recupere Sol in Quebec, you were shut down for quite a few months in 2004, part of 2005, which would explain why you had no Rolla valves for that period probably.

But your emissions climbed considerably during that 2003 and 2004 to the point where there was a reprimand from the Department of Environment of Quebec, and more stringent monitoring controls were put on. You ignored some of the orders from the Department of the Enviro. The order was issued as a result of the observation of abnormally elevated concentrations of dioxins and furans in the surrounding area.

That was reported by RSI and also by the Ministry of the Environment of Quebec in 2003 and 2004. Yet you claim that your state of the art is the best in the world, and this kind of contradicts that.

MR. MCSWEENEY: Thank you for that question. As I mentioned earlier, I think in a response

to Mr. LaPierre, St. Ambroise in the Saguenay is home to Alcan and many forest industries, in addition to Recupere Sol.

In September of '04, the Ministry gave notice that they -- in a pre-order that we needed to do "A", "B" and "C". Over the course of 10 or 12 months, we demonstrated to the Ministry of the Environment in Quebec that they were wrong and that Recupere Sol was not responsible for the elevated levels of dioxin and furans in St. Ambroise. In fact, the levels of dioxin and furans in the Village of St. Ambroise were higher than they were at Recupere Sol.

So the Ministry was wrong, the Minister was wrong, and after 10 months of discussions, we worked with the Ministry to develop more stringent regulations and monitoring, and we were happy to do so. And the pre-order was withdrawn in, I believe, December of 2005.

Usually when a Minister gives notice of a pre-order, an order is imminent. The order was taken off the table after the discussions and the evidence that we were not responsible for the elevated levels of dioxins and furans.

And then in January of 2006, following our compliance tests with the dioxin and furan contaminated soils in April, the compliance tests in April of 2005, we

were given an additional certificate of authorization to treat the contaminated soils with dioxins and furans.

So some of the facts -- or some of the allegations that the gentleman makes are correct, in the brief reading, but unless you're thoroughly cognizant of the file, then you -- you know, he -- where he was going is not correct.

THE CHAIRPERSON: I'm sorry, Mr. Lelandais, that uses up the five minutes. If there's an opportunity -- if we don't -- I will come back and you can maybe have an additional question if time allows.

MR. LELANDAIS: I hope so. Thank you.

THE CHAIRPERSON: Can I just ask who was responsible for the elevated levels? Or was it non-point sources, or did you ever determine that?

MR. MCSWEENEY: There's -- there are very many other sources in the Saguenay, and it would be unfair for me to comment on that.

THE CHAIRPERSON: Okay, thank you.

Ms. MacLellan?

--- QUESTIONED BY CAPE BRETON SAVE OUR HEALTH COMMITTEE (MS. MARY-RUTH MACLELLAN)

MS. MACLELLAN: Thank you, Madam Chair. I'll try not to be too long, and perhaps Mr. Lelandais can take up the rest of my minutes, if I'm quick.

My question is regarding the residents and workers around your incinerators.

Is ten years the longest that you have operated incinerators, or do you have areas that you have operated them longer?

MR. MCSWEENEY: I would say ten years at Recupere Sol.

MS. MACLELLAN: You said that you do ongoing monitoring, in that you do blood sampling.

Who is that blood testing done on? Is it on the residents or the workers, or both?

MR. MCSWEENEY: It's done on the workers in the plants.

MS. MACLELLAN: So there is none for the residents?

MR. MCSWEENEY: I can't speak for the residents, I can only speak for the employees.

MS. MACLELLAN: Has there ever been any health studies to monitor the health of the residents with -- from the effects of the incinerator?

MR. MCSWEENEY: Steve, what -- we did a human health assessment for Belledune?

MS. MACLELLAN: I'm not talking about a risk assessment, I'm talking about a health study.

MR. FLANNERY: I'll speak to that.

The -- and it's been a subject of discussion here in reading the transcripts, the distinction between the risk assessment and the health study, and the value of one versus the other.

And I understand the issue, and I can say that we haven't done a health study at either location.

I understand a health study has been done in Northern New Brunswick by the Ministry, but it was not done by Bennett.

What we have done is health risk assessments.

MS. MACLELLAN: How close in proximity to people are your incinerators?

MR. MCSWEENEY: In St. Ambroise, if you have a look at the map that's on the screen, it's about 2-1/2 kilometres to the centre of the town where the monitoring station is. And you can see certain houses along the highway, starting just up a little bit.

This is a -- there it is.

Okay, this is the plant here. This is a motel restaurant complex, and then the houses start here and here, and then this is the town here.

MS. MACLELLAN: So, is there residential areas within 1,500 meters?

MR. MCSWEENEY: I wouldn't know the exact,

but I would say that these probably would be within 1,500 meters. I can't say for certain, though, because I haven't clocked the kilometres.

MS. MACLELLAN: You said you haven't seen birds fall from the sky or anything like that happen, that people thought about that, but I would like to remind you that I -- where I lived as a child, I have, indeed, saw birds fall from the sky and deers fall over when the polluter in the area at the time released high concentrations of hydrogen sulphide.

However, having said that, I just have one more thing to tell you.

And this comes from not me, but from a phone call I had very recently from a young health care worker who just moved back to this area less than a month ago, who resides on the north side, yet works at the Regional Hospital.

She wants me to tell you that she does not want incineration, and she wants anybody that wants incineration to go away, because she doesn't -- she has -- all her life, albeit that she lived on the north side, smoked the stacks from the steel plant and the Coke Ovens.

Thank you, Madam Chair.

THE CHAIRPERSON: Thank you, Ms.

MacLellan.

Ms. Kane?

--- QUESTIONED BY MS. MARLENE KANE

MS. KANE: Good afternoon. Good afternoon. I'm Marlene Kane.

I'm wondering what parameters that you would continuously monitor for at the stack when burning PCBs greater than 50 parts per million.

MR. CAMPAGNARO: Presently, we're monitoring in the stack H2O; HCL, hydrochloric acid; SO2, sulphur dioxide; NO2, and it also has NOX, nitrogen oxides; carbon monoxide, CO; and total hydrocarbons, THC. And I don't remember if I mentioned SO2, sulphur dioxide.

MS. KANE: And particulate? Would that be your ---

MR. CAMPAGNARO: We have a -- there's no good technology to 100 percent monitor particulate, but we have a particulate counter, which counts the particles going by.

But it's based on the charge of the particle, so depending on what the particle is made of, we can't convert it to a mass emission, but we can count the particles going by, yes, we do.

MS. KANE: Okay. You didn't mention oxygen. Do you monitor oxygen?

MR. CAMPAGNARO: Yes, we do.

MS. KANE: And temperature?

MR. CAMPAGNARO: Temperature as well, and flow.

MS. KANE: Okay. The other question I would ask, what parameters would you continuously monitor for the thermal relief vent, which is also known as the dump stack?

MR. CAMPAGNARO: We don't refer to it as that, but we monitor ---

MS. KANE: Have you ---

MR. CAMPAGNARO: We monitor total hydrocarbons and oxygen.

MS. KANE: So there's no way, in the event of an upset, that you would know dioxin, if there are any emissions, or heavy metals, or PCBs, any of those contaminants?

MR. CAMPAGNARO: Not directly.

MS. KANE: You mentioned that there were four dump stack incidents at a particular facility, which I can't remember. And the length of time totalled 39 minutes, which averages about 10 minutes per release, according to those.

How long would you anticipate that the dump stack could remain open while contaminated material

in the primary chamber continues to burn?

MR. MCSWEENEY: Well, in 2005, there were zero incidents, and in 2004, this is at Recupere Sol, there were four incidents for 39 minutes.

Flavio, would you know off the top of your head how long each one -- each -- how many minutes the thermal relief vent was open?

MR. CAMPAGNARO: Oh, it will vary, depending on the cause and how quickly they could respond to that. Probably it was one long release and one -- and three or four very short ones.

The point to make on this is, this isn't like a municipal waste incinerator where we're burning a high calorific fuel that will keep burning for a long period of time.

At any given moment in the kiln, there's only a very small amount of PCB.

Because as you feed the kiln, the initial PCB will come off, and in the event of an opening, you stop feeding more.

So at any given moment in the system, there's very little PCB, and that will quick -- and what is in there during a TRV event will quickly decline.

So the first few moments, you'll have a bit of relief, however, we're keeping the temperature up

there, so we're still destroying that. And then the amount that's going into the secondary chamber will rapidly decline.

MR. MCSWEENEY: Because we have the uninterruptable power supply, we keep the temperature in the secondary combustion chamber at 1,000 degrees Celsius.

So the contaminants that -- as soon as there's an event, the kiln is stopped, the feeding of the soil is stopped, so any of the gases that are in the kiln are then taken into the secondary combustion chamber and destroyed before going to the thermal relief vent.

So as I said, there would be some particulate matter that comes out, but the organic compounds should all be destroyed.

MS. KANE: But didn't you say earlier that the changeover when you -- when there's a total loss of power, that the changeover time sometimes is not immediate, it takes awhile for the generators to kick in? Is that what you said?

MR. CAMPAGNARO: Okay, I was speaking too quickly there.

What happens is the burner system is on uninterruptable power supply. If the electrical power supply to the facility fails, the UPS kicks in

immediately. In fact, it's always on.

The emergency generator takes about a minute to start and become online with the system.

So, during that minute, the UPS is powering the burner.

Once the emergency generator is online, then the emergency generator takes over from the UPS, which is run off of batteries.

MS. KANE: Okay. Would you consider the Tar Ponds sediment a high caloric fuel?

MR. CAMPAGNARO: I would -- the small amount of data I've seen, I would say it is, yes.

MS. KANE: So, it would probably continue burning when ---

MR. CAMPAGNARO: But the amount that's in the system at any given time is very small.

MS. KANE: How much is it in the system in the primary chamber? When you say the amount is very small, how much would be in there?

MR. CAMPAGNARO: Off the top of my head, I would -- I -- we haven't designed the system for this particular system, so I couldn't say what ---

MS. KANE: Typically, maybe.

MR. MCSWEENEY: But at RSI, Flavio, could you give an amount, just how many tonnes would be in

there at a time?

MR. WESOLOWSKI: It would be approximately 150 kilos.

MS. KANE: Okay, one more question, please.

You said early on in your presentation that you don't use mobile incinerators. Is that true?

MR. MCSWEENEY: That is correct.

I mean, I think that's why we tried to demonstrate in our video that that is not a mobile incinerator.

What I think is on the table here for discussion is a temporarily located incinerator.

MS. KANE: And the difference would be?

MR. MCSWEENEY: I don't think you would see what we have on the back of a truck that would be -- come in and put on a site and then operated.

I mean, what you -- what we would be trying to do is what you saw here.

MS. KANE: Well, the Agency has referred to it as a mobile incinerator. That's why I was wondering.

Thank you. Thank you.

THE CHAIRPERSON: Thank you, Ms. Kane. Ms. May?

--- QUESTIONED BY THE SIERRA CLUB OF CANADA (MS. ELIZABETH MAY)

MS. MAY: Thank you, Madam Chair. Hello. Welcome to Sydney. Don't come back. Just kidding.

I just wanted to ask you a few quick questions to clarify your relationship with the Sydney Tar Ponds Agency.

You obviously have an interest in this project.

Have you, in fact, entered into any, through the Chair, any discussions with the Tar Ponds Agency to either build an incinerator here or to transport materials to one of your other facilities, and if so, which one?

MR. MCSWEENEY: I've come to Sydney once during the open houses last year and had some discussions with various Agency members. I've met with the executive director of the Tar Ponds Agency, all just in an attempt to have a better understanding of the project.

Should there be a tender opportunity, we would be interested in bidding on it.

MS. MAY: And that would be for this building and incinerator here, just clarifying?

MR. MCSWEENEY: That's correct.

MS. MAY: Right. Okay. Thank you.

I just want to pursue a little bit the issue of Quebec Ambient Air Standards for dioxins and furan.

MR. MCSWEENEY: Sorry, Madam Chair.

I mean, I would like to say that it would be our preference to ship the material away from Sydney, to either Belledune or St. Ambroise.

That would be our first choice, because we do -- like, as a business, that would be our first choice.

But, you know, we -- you know, I'm not sure that that's within the mandate of the Panel.

THE CHAIRPERSON: You're quite right that is not within the mandate of the Panel.

MR. MCSWEENEY: And, you know ---

THE CHAIRPERSON: That is not an alternative, that's -- that we're considering.

MR. MCSWEENEY: But I didn't want to mislead Ms. May.

THE CHAIRPERSON: Yes. Thank you.

MS. MAY: Thank you. Thank you for that.

Turning to the issue of the Quebec Ambient Air Standards, just to make sure I have them right, I believe the answer to the question posed by Mr. LaPierre was that the standard is tougher in Quebec, and is 500

femtograms per cubic meter? Was that ---

MR. MCSWEENEY: We've given an undertaking to the Panel to provide that, and I would be happy to provide it to you at the same time.

MS. MAY: Oh. Okay. All right. So we -- because I think that that's actually -- that the 500 is the average -- is what should be achieved.

The 60 femtograms per cubic meter is over any ---

MR. MCSWEENEY: There is a total, you're ---

MS. MAY: --- average annual.

MR. MCSWEENEY: There is a total, and there is an average. I just don't know off the top of my head, and I'm remiss in not bringing that information.

MS. MAY: Well ---

MR. MCSWEENEY: But we'd be delighted to provide it for you.

MS. MAY: Well, I have it, actually.

I just wanted to clarify that it's 60 femtograms per cubic meter for an annual average concentration in ambient air for dioxins and furans, and a maximum allowable concentration in a 24 hour period, not to exceed the 500.

I've just -- I think that's correct, I'm

just ---

MR. CAMPAGNARO: I believe that's correct, but we'll confirm, as well.

MS. MAY: Okay. And in June and July of 2004, can you confirm that the ambient air concentrations for dioxins and furans from your plant in St. Ambroise were approximately 1,677 femtograms per cubic meters?

MR. MCSWEENEY: I don't have that information with me.

MS. MAY: I got that from a press release and preliminary notice of order from the Minister of the Environment for the Province of Quebec, Thomas Mulcair.

MR. MCSWEENEY: Well then if you have it, why are you asking the question?

MS. MAY: Well, I just would -- I was interested because you've -- previous information from the Quebec Environment Ministry ---

MR. MCSWEENEY: Asked and answered.

MS. MAY: You've suggested that the previous information that we had from the Quebec Environment Ministry as to soil contamination with dioxins and furans from your plant was a misunderstanding, so I wondered if you wanted to shed any light on the ambient air standard exceedances.

MR. MCSWEENEY: I think I answered the

question.

MS. MAY: I think you've expressed the desire not to answer the question, so I'll move along.

You've expressed it here in your presentation that you have an open and transparent company.

I just wonder if that is consistent with bringing a lawsuit against the Conservation Council of New Brunswick and two directors personally, David Coon and Inka Milewski, for their efforts to do exactly what we're doing here, explore the risks of incineration.

MR. MCSWEENEY: That was under former management, and, as I've explained to Ms. May before, that is not the current management's philosophy.

But when somebody, in writing and verbally, maligns you, I think you have a right to defend yourself.

But that is certainly not our current policy, and we have been trying to negotiate with the Conservation Council of New Brunswick for some time, and they don't really show a lot of interest in negotiating.

MS. MAY: So ---

THE CHAIRPERSON: Ms. May, do you have one more question? That is about 5 minutes.

MS. MAY: Yes, I would like to ask one

more question, if I may.

In terms of understanding the acceptability of your technology, and just correct me if I'm wrong, that you're -- you were not allowed to have a permit in Sumas First Nation, British Columbia, Taylor, British Columbia, nor Kirkland Lake, Ontario.

And the two instances of which I am aware in Canada where you did get permits for incinerators, in both cases, the governments in question exempted the incinerator from environmental impact assessment.

Would that be a fair statement?

MR. MCSWEENEY: I can only comment on New Brunswick, because that's the time that I came on board.

I understand that they didn't do a full environmental assessment there.

MS. MAY: Okay. Thank you very much.

We actually saw each other socially recently, which is why we're having a little repartee.

I apologize for that. Thank you.

THE CHAIRPERSON: Yes, thank you.

I may be a little stricter on having questions asked through the Chair, please -- asked and answered through the Chair.

Are there people in the hall who are not registered participants who have a question for the

presenter?

We've got about 12 minutes on my time limit, so I'm willing to take another brief round of -- from registered participants, if anybody has questions.

I know Mr. Lelandais has 15 minutes worth, but I could give you -- okay, so I'm going to go through the same list again.

Mr. Lelandais, would you like to take about three minutes?

--- QUESTIONED BY MR. HENRY LELANDAIS

MR. LELANDAIS: Thank you very much, Madam Chair.

Gentlemen, you mentioned that the accusation, if I will use that word, that you have exceeded limits and so on in the Quebec area of St. Ambroise was not your fault, and apparently, you say they apologized and countermanded their order.

It's pretty well standard practice for most incinerator operators in various remediation projects that are contrary to public opinion to blame somebody else once they're accused, so that doesn't hold a heck of a lot.

However, on the original monitoring, how do you explain, then, that before the RISI plant was in operation there, the levels of dioxins and furans

measured in the soil in the surrounding area was 0.5 parts per trillion.

The CCME guidelines set a level not to exceed in the soil of 4 parts per trillion.

So, that was well below.

But after the operations, they went as high as 3.5 parts per million in 2002 to 29 parts per million 2004 to 35 parts per million later in 2004 and 2005.

It seems to me that was after the plant was built, from 0.5 to 35 parts per million is one heck of an increase that can't be blamed on forest fires and other things like that, other similar operations. It turns out that that's from the operation of the RSI plant.

MR. MCSWEENEY: Thank you, Madam Chairman, I just wanted to clarify I don't think I said that the Government of Quebec apologized.

What I said was the Government of Quebec decided not to pursue the preorder that it had issued. I wouldn't ever want to comment on the Government apologizing or not. I believe the gentleman is making the same allegations that Mr. Levesque made from return to sender coalition. And I, rather than get into a heated argument and an adversarial position, we've send

the Panel a letter addressing the allegations of return to sender and what this gentleman is making too, so they'll be -- you should have those in your e-mail today.

MR. LELANDAIS: Thank you. One question in regard to your, I'll call it a blow-off stack. It's between -- your dumpstack is between your secondary combustion chamber and the other pollution controls, emission controls. Your dump stack is situated between ---

MR. MCSWEENEY: The thermal relief bench is that what you're talking about?

MR. LELANDAIS: Call it what you will, yes.

MR. MCSWEENEY: You want to know where it's located?

MR. LELANDAIS: I assume it's located, from listening to you before between your secondary combustion chamber and the balance of your emission control system.

MR. CAMPAGNARO: That's correct.

MR. LELANDAIS: Okay, there is no dump stack or thermal control stack between the primary combustion chamber and the secondary combustion chamber, then.

MR. CAMPAGNARO: No, there's not.

MR. LELANDAIS: Okay, thank you very much. So if -- the emission controls, are they connected to the operating system so that if a malfunction occurred, say in your scrubber or your precipitator -- do you have electronic precipitator. If that is the case and a malfunction occurred there would that automatically trip your feed mechanism so that you -- it would control your feed? For instance if it was unknown to you and a malfunction occurred would the feed be cut off automatically before someone visually notices a malfunction?

MR. CAMPAGNARO: Yes, there's something called an automatic waste feed cutoff system and it's measuring a large number of parameters in the system and if we fall -- there's a safe operating window and then within that window we add margin to safety on either end and if we fall outside that inner safe operating window, then you will trigger an automatic waste feed cutoff. That's controlled by the computer.

MR. LELANDAIS: Okay. And there are several monitoring points of this system, then?

MR. CAMPAGNARO: Dozens.

MR. LELANDAIS: Very good. And each one would control that? Thank you very much, then. I think I've used up my time, haven't I. Thank you Madam Chair.

Thank you gentlemen.

THE CHAIRPERSON: Thank you very much.

MR. MCSWEENEY: Madam Chairman, I would like to thank the gentlemen for the questions and these are the types of questions and discussions that we routinely have with our community liaison or public liaison committees on -- you know, on developing better emission control systems. And you know, should this plan ever be approved for Sydney these are the types of people that we would like, you know, to have on the committee, you know, who come and bring a very broad knowledge and understanding of the issues.

MR. CAMPAGNARO: I would like to make one more point related to the dump stack quote. At RSI we've recently introduced a new system where we have added a second ID fan on UPS power and this system was added last year and this is one of the reasons last year we had zero openings of that emission system and so any new plant we design we will be looking at including this as well.

THE CHAIRPERSON: Thank you. Mr. Lelandais, you have one quick follow-up question then I must move on to someone else.

MR. LELANDAIS: Thank you immensely. Gentlemen, I heard you mention that there was no such thing as a continuous monitor for dioxins. Contrary to

that I have read about two such instruments that are on the market, based on the graph -- metagraph system and they continuously monitor dioxin and feuron emissions. I think I submitted them to the Panel and the gentleman on my left here, the company that puts it out. If you're interested, I imagine it will be made available to you.

MR. MCSWEENEY: Absolutely Madam Chair. Anything to improve the system and protect the citizens.

THE CHAIRPERSON: Ms. MacLellan do you have a couple of questions?

--- QUESTIONED BY CAPE BRETON SAVE OUR HEALTH COMMITTEE (MS. MARY-RUTH MACLELLAN)

MS. MACLELLAN: Just a couple of quick questions, Madam Chair. I'd like some clarification please on the issue of the ownership of the land once the incinerator is placed there, if it is placed there.

THE CHAIRPERSON: I'm sorry, I don't understand the question. The ownership of what land?

MS. MACLELLAN: Of the land where they propose to put the incinerator. Is there any intention of this company to purchase that land?

THE CHAIRPERSON: I think it's very clear that the proposal that is before the panel is that the land is currently -- at the VJ site is currently Federally owned and would then be transferred to the

Province.

MS. MACLELLAN: But after it's transferred to the Province, do they have any interest in acquiring it. I'm a little bit sceptical about a temporary incinerator that takes two years to build. What's to say it's not going to stay here forever?

THE CHAIRPERSON: I don't believe that Bennett is currently a vendor in this project. I'm just going to ask Mr. Potter again to clarify the -- what is the intention with respect to the land at the VJ site should there be an incinerator located on it.

MR. POTTER: The intention would be we would negotiate with DEVCO to acquire the land. It would be land held and owned by the Province as indicated in the MOU. We are restricted to this facility, this incineration facility being a single use dedicated facility. At the end of it it would have to be removed.

THE CHAIRPERSON: Thank you, Mr. Potter. Ms. MacLellan do you have another question?

MS. MACLELLAN: Yes. The other one is through you, Madam Chair. I wonder if Bennett Company applies the precautionary principle that has now become international law.

MR. CAMPAGNARO: I'm aware of the precautionary principle. What I can to say that is we

strive to continuously improve our process, train our operators and have our increasing ways and continuously improve the process and monitor the land, the water, the air all around our facility to ensure that we operate safely.

MS. MACLELLAN: Well, thank you. That doesn't answer the question but thank you.

THE CHAIRPERSON: Thank you, Ms. MacLellan. Ms. Kane, do you have -- do you wish to ask an additional question? Ms. May, you wish to ask ---

--- QUESTIONED BY SIERRA CLUB OF CANADA (MS. ELIZABETH MAY)

MS. MAY: Thank you, Madam Chair for another opportunity. I -- just to draw your attention back to this issue of continuous monitoring. Are you aware and I think you may have suggested you're not, so I'm just wanting to clarify that the European certifications of dioxin stack continuous monitoring such as one produced by something called West Tech Instruments has been used in Europe since 1993. Are you -- are they, Madam Chair unaware of the existence of such a monitoring device?

MR. CAMPAGNARO: That's not actually a dioxin monitoring. That's a pre-cursor monitoring device. They're monitoring the chlorobenzene I believe.

MS. MAY: Is -- would you agree, then, that it is conventionally referred to as dioxin stack continuous monitoring because it measures pre-cursors to dioxin formation and therefore is useful in the same purpose?

MR. CAMPAGNARO: It's not necessary because based on our results we find that monitoring the oxygen temperature and carbon monoxide and total hydrocarbons is sufficient for that purpose. But if the Panel were to require that we could use that instrument should this project ever proceed.

MS. MAY: So the earlier answer, I gather, was based on a misunderstanding of what was meant by the question of continuous monitoring?

MR. CAMPAGNARO: I'm aware of two vendors that submit continuous measuring where they sample the stack continuously through a cartridge and then that cartridge is sent every two weeks or a month to a lab and then that's analyzed but that's not real time data as you're probably referring to.

MS. MAY: And do you, in fact, employ those monitoring techniques?

MR. CAMPAGNARO: Not at this time because they're not yet approved in North America but we are looking at it, yes.

MS. MAY: Do you have in place any blood monitoring protocols for incinerator operators to measure blood dioxin levels?

MR. FLANNERY: Yes, we -- the current regulation in Canada is every two years. We monitor it every year.

MS. MAY: Thank you. Moving on to some historical issues -- and I would appreciate a clarification about this -- but my understanding is there was a fine for burning PCB contaminated cement blocks in Ste. Ambroise. Were you, in fact, fined and what was the incident in that event?

MR. MCSWEENEY: I can't comment on that. All I can say is that RSI is permitted for the treatment of soil only. And anything that comes to the plant has to be over 51 percent soil so -- if it was before my time I can't comment on it.

MS. MAY: Does anyone on the Panel know about the incident in which you were fined?

MR. CAMPAGNARO: I wasn't involved really. I had just begun at Bennett. In some -- there was some misunderstanding between Bennett and the Ministry in regards to what material could be accepted and we -- for a test burn. And some concrete material showed up and in the written specification from the Ministry there was a

size limitation on what size that concrete could be. And I don't recall the exact amount. And some of the pieces that showed up were bigger than that -- the size that was specified because when they demolished the contaminated site, they didn't break up the material to less than whatever size that was. It was an administrative technicality. I don't know what resulted because I wasn't involved in that situation at all.

MR. MCSWEENEY: All I can say, Madam Chair, is we have over 15 Certificates of Authorization and we're very heavily monitored and regulated and we undergo compliance tests on an annual basis. If there was any cause for concern I'm sure the Ministry would take immediate action.

THE CHAIRPERSON: Ms. May, one more question please.

MS. MAY: Thank you. Have your company, in any of its facilities ever burned PCB liquids or PCB contaminated sediments and if so, can you indicate what volume of PCBs have been treated in your incinerators?

MR. MCSWEENEY: No.

MS. MAY: Thank you. I assume it was no to both. Thank you very much.

THE CHAIRPERSON: Thank you, Ms. May. That concludes the questioning to the presenter. I would

like to thank Bennett Environmental for your presentation, for answering our questions and answering other participants questions. You have, I think, three undertakings. Someone's kept track of them if I haven't. So -- and I know you know the deadline for getting those in. Thank you very much. We appreciate your appearance at the hearings. I'm now going to turn to the Agency. We delayed the housekeeping, the undertaking items till now. I guess there needs to be some re-wiring is that right? And so that you can ---

MR. POTTER: Would it make more sense -- are we taking a break shortly. If we took the break and we did the wiring, we'd be ready to go as soon as the break was over, if that's ---

THE CHAIRPERSON: All right. We'll take a twenty minute break. It is -- so that we'll come back at ten to eight. Thank you.

--- RECESS: 7:35 P.M.

--- RESUME: 7:54 P.M.

THE CHAIRPERSON: Ladies and gentlemen, I would like to resume the session. If you'd like to take your seats.

Before we move to our final presenter this evening, there are a couple of things. Before I turn

again to the Tar Ponds Agency because they have undertakings to present, Mayor John Morgan, who was part of the presentation from CBRM this afternoon, has requested a very short time at the mike, as he wishes to make a point of clarification.

So, Mr. Morgan?

MR. MORGAN: Thank you, Madam Chair. I wanted to clarify a point that I meant to bring up earlier today and it was -- I don't know if you'd describe it as a question or a concern that I wanted the Panel to consider, and I understand it may have come up at least in passing earlier in the Panel deliberations.

It's the issue of a sea level rise in the next -- in the long-term period. And the question that I wanted to put to the Tar Ponds Agency is, what are the engineering -- what sea level rise is the project engineered for? So, could I put that question to the Panel?

THE CHAIRPERSON: Mr. Potter, can you briefly respond to Mr. Morgan?

MR. POTTER: We're actually going to be speaking to that with the barrier, the follow-up clarification, because that was part of the questions that have come up in discussion. So, perhaps that's the best point to do that.

THE CHAIRPERSON: All right. Thank you very much.

MR. MORGAN: It is something that you're going to address, is it?

THE CHAIRPERSON: Well, just right now in the undertakings.

MR. MORGAN: Oh? Okay. And so if I could bring the point that I wanted, the question was -- there are estimates that the sea level between now and the turn of the century may rise between two feet and 20 feet as a result of global warming.

And the question is, is the -- are the barriers to the cap protective in the worst-case scenario in terms of sea level rise in the long term? Will the cap be under water, and, if so, how will it function once under water? Thank you.

THE CHAIRPERSON: Thank you very much. Mr. Potter?

MR. POTTER: Thank you, Madam Chair. We have just some follow-ups on some undertakings. I'll just sort of quickly go through what they're going to be.

There's a very quick clarification on the question regarding PCBs in the area of the Tar Ponds in the slag material. We're going to talk about the Tar Cell and the Battery Point Barrier. Mr. Shosky is going

to quickly run through some drawings here just to clarify some questions that had come up before.

Mr. Shosky is also going to address the undertaking we had earlier on the operating costs for the waste water treatment plant. We've got those costs now. And we have corrected and changed Undertakings No. 9 and 23, and I will just pass those in.

Thank you. Mr. -- I think Mr. Kaiser is going to go first.

MR. KAISER: Thank you. One thing that we want to clarify, there's been much discussion of the infilling of Muggah Creek with slag over time and the possible existence of PCBs and other materials under the slag.

We did speak with SYSCO. They are currently undertaking some of their site assessment work. To date they have found very minimal amounts of PCB material in any of the test pits or boreholes that they are conducting in this area. They have found no detectible PCB levels in groundwater from tests in those areas.

As well, the work that we undertook ourselves through our Phase 2/Phase 3 site assessment work, we conducted testing on the eastern shoreline area, which is this area. Out of 13 boreholes and test pits

that we have undertaken, we had not found any exceedances to criteria of PCB.

We did find two samples that came back with detectible levels of PCB material but they weren't at all high, they were basically just detectible. So, we wanted to raise that from the point of view that there seems to be a misunderstanding that there's a significant amount of PCB under the slag in this area, and certainly the testing to date does not seem to indicate that whatsoever.

The next thing that I would like to speak to is the Battery Point Barrier. There also seems to be some confusion there. The barrier in cross-section is now shown on the screen. We have had a fair bit of discussion on this. It seems like the impression is being left that this structure is very porous, and we want to point out that that's not the case.

This is the core of the barrier here. The core would be placed on top of a rock mattress. This is the rock mattress. These are actually the sediments from the Tar Ponds here. So, you can see that the rock mattress itself will come above the sediments as they exist currently.

The sediments then, of course, are going to be stabilized and solidified in this area. The cap

would be installed over top of the sediments and then, of course, the topsoil and grass up here.

What's important is that this core, while not being impermeable, will have relatively low permeability, so that there will not be a significant movement of water through this barrier.

As well, the core will be protected by a geo-textile layer and then some filter stone here. On top of that there will be armour stone on the face towards the harbour. Here you can see the levels. This is the low-water level and this is the high-water level here, also below the level of the cap materials.

The modelling was done to size this armour stone, that was based on one in 50-year storm events, and the point just raised by the previous speaker in terms of storm surge and water level rise or whatnot, that's been modelled on one in 100-year modelling to give us a design height of this structure that we feel will give us adequate protection for a long time into the future.

And I hope that that clarified some of the points made.

DR. LAPIERRE: Thanks a lot for the information, some of it I wanted. The permeability is -- low permeability, what is it, 10 to the minus what?

MR. KAISER: The permeability we expect is

probably in the range of 10 to the minus 4, 10 to the minus 5. It will be somewhat lower than the slag that surrounds it, which is also relatively low, but it's not -- again, it's not going to be impermeable.

Mr. Shosky also wants to add to that.

MR. SHOSKY: As a point of clarification, Dr. LaPierre, the impermeableness is related to primarily that geo fabric, geo-textile fabric that is around the core material. That's got the lowest permeability. And then the smaller size rock that's inside the core also attributes to that, but I'm estimating right now someplace around 10 to the minus 4, 10 to the minus 5.

DR. LAPIERRE: And the base will sit right on the bottom, there's no piling that's going down, no sheet piling below it?

MR. KAISER: That's correct. This rock mattress will be installed first and it'll be installed into the existing sediments that are there. No pilings will be installed.

MR. CHARLES: How high above the high-water mark will this barrier protrude?

MR. SHOSKY: Maybe the easiest way to look at it is this point right here, if you were standing at that point, between this point and this point is about two, two and a half metres.

MR. CHARLES: Two and a half metres. So, for those of us still in the olden times, that's 10 feet?

MR. SHOSKY: Yes, sir.

MR. CHARLES: So, a 20-foot rise has been predicted ---

MR. SHOSKY: I'm sorry, it's not -- it's eight feet. Sorry.

MR. CHARLES: Eight feet. I'm just trying to put it in the context of people who have heard something to the effect that, you know, in the next while, next century, the sea levels might rise considerably, and there's different estimates about how high that would be.

If this is eight feet above high-tide mark at the moment, you know, will it take care of any sea rise level -- rise in sea level due to global warming or anything else?

MR. SHOSKY: Right now, I guess, our current estimate is that it rises -- that we expect that the sea water will rise by 70 centimetres by 2100 or -- yes.

MR. CHARLES: And converting that for me?

MR. SHOSKY: Two and a half feet.

MR. CHARLES: Two and a half feet. Not 20?

MR. SHOSKY: That's correct.

MR. CHARLES: Thank you.

MR. SHOSKY: But I think there's another aspect to this that's probably important and worth talking about. At the point that we get ready to conduct the additional stabilization of the tar sludges we will be adding a heavier amount of cement down in this area.

Now, the farther upstream you go, the thicker the sediments are. So, you can see when we get down to the mouth near the harbour the sediment level is very small. If we go closer to the headwaters of the area that would be stabilized, we would have a thicker layer of sediment in those areas.

So, once we start getting towards the mouth we're getting more down onto that natural till layer. From the geotechnical investigations that were done from the barrier wall, that's the information that we have. And we included, actually, the entire design of this last -- yesterday as one of the undertakings.

So, this particular section we generated for another purpose and thought it would be good for tonight, but the whole design package was placed on the record yesterday.

MR. POTTER: Just on the sea level rise, there is some references in the EIS. If you wanted to

take a very brief minute, we could just quote those. And I know we're using a bit of time here, but if there was interest we could just make the direct reference to the EIS report.

MR. CHARLES: You don't have to do it for me.

DR. LAPIERRE: Just one quick question. I didn't get the high -- is it mean high or high high?

MR. SHOSKY: High high.

DR. LAPIERRE: High high. Thank you.

MR. SHOSKY: The next topic we were going to discuss was the Tar Cell stabilization and how we would -- how our design would change should we go in and perform the Tar Cell stabilization activities.

And just so everybody can get this in reference point, the Tar Cell itself is here, the Coke Ovens, of course, is this area here. Through previous discussions we -- I believe everyone's acknowledged that there's a hydraulic connection eventually between this point and the Tar Ponds, because the deepest part of the contamination on the Coke Ovens is also in this Tar Cell area.

So, what I'd like to do is go to the next slide that we have which shows the capping as we've currently thought about it without -- with a lot of the

other features stripped out. The Tar Cell area is this area here.

Last summer we did an investigation of that area to determine how much tar there was in that area and we had discussed that in a bit of detail earlier in the hearings.

When we did our investigation out there, we found out that there were pockets of tar and quite a bit of debris in that area, 25 -- estimates were from -- anywhere from 25 to 50 percent debris in any type of test pit that we did.

So, what we're looking at here, once the recipe has been established, would be as we propose to do the excavation for incineration we would do all this work under a temporary structure with carbon filtration of the air prior to discharge into the atmosphere based on a health analysis that was done by Dr. Magee, and so all that work would be done under cover.

But jumping ahead to how the design would change, what we have here -- because we would be removing some material, cleaning it up, the debris would be cleaned and placed in the non-hazardous cell that we talked about earlier.

What we would be looking at in this particular area is excavating down to bedrock, which is

approximately 4 metres, or 12 feet, and actually probably installing a stone layer down here that would act as an infiltration gallery. On top of that we would put an HDPE liner with our stabilized tar material here.

This distance here is going to depend on the amount of debris we find, how much of it comes out and gets cleaned, but the idea would be to place the stabilized tar material a little bit lower in the cell and then on top of that common fill until we got to a grade that would be equivalent to the total grade for the site where we would end up putting on a half a metre of clay and a half a metre of topsoil.

Now, these wells that are here serve a couple of different purposes. One of the issues that comes up is this long-term monitoring and maintenance of groundwater issue, and we know that in the Tar Cell area it's one of the areas where there is contamination down to 80 feet with DNAPL.

So, our intention would be -- as part of this cover design, would be to do part of the groundwater treatment at this location. Now remembering that we have a series of shallow collection systems around the Coke Ovens Site now, this particular shallower set of points would actually be used to fill the infiltration gallery with oxidizing liquids like potassium permanganate or

something of that nature that is known to react with PAH compounds in order to break them down and neutralize them.

And then in addition to that, we would be looking at, for the deeper materials, a similar sort of delivery system for the lot deeper materials. We think that by implementing this groundwater treatment at this location along with the ones that we currently have on plan, we were hoping to be able to cut back on the amount of time that groundwater would need to be treated through the whole system.

The calculations that I did to respond to the groundwater treatment question, after 25 years the annual cost after -- no, sorry, 33 years, the cost in 2039 dollars is two hundred and fifty thousand dollars ($250,000) a year. I didn't think it was appropriate that we do it in 2004 or 2006 dollars.

If we did convert it back to that, it would be something like seventy-five or eighty thousand dollars ($75,000 or $80,000), but because of the cost of money with the escalation rates and things like that 33 years from now when it would be -- when the Memorandum of Agreement would be done, we're anticipating that that might be what the annual cost would be to run that water treatment system.

MR. POTTER: That's it.

THE CHAIRPERSON: Thank you, Mr. Potter. I think we'll take just a very brief, five-minute break while our next presenter, the New Waterford and Area Fish & Game Association, comes forward.

We'll begin in just five minutes.

--- RECESS: 8:14 P.M.

--- RESUME: 8:17 P.M.

THE CHAIRPERSON: Ladies and gentlemen, I'd like to get started. Our final presenters are the New Waterford and Area Fish & Game Association. I would like to welcome our presenters. Are you now ready to present?

Perhaps, while the very last-minute arrangements are being made, I just want to remind everybody while you're still here that tomorrow is our closing remarks session and we will be beginning at 8:30 in the morning, not 9 o'clock, and we should be able to send you home round about noon, we hope.

So, once again, I welcome the New Waterford and Area Fish & Game Association. We're very pleased to have you here. You're making the final presentation.

As you know, you have 40 minutes for your presentation and I will let you know five minutes before

you reach the end of the 40 minutes.

--- PRESENTATION BY NEW WATERFORD AND AREA FISH & GAME ASSOCIATION (MR. CHUCK MUSIAL)

MR. MUSIAL: Thank you very much for having us. Firstly, I want to tell you that I've been involved with the Bridgeport Basin watershed where the VJ Plant is to be -- where it is right at the present time, for the last -- well, since 1965.

I was secretary of the Fish & Game for 16 years and I was the president for 14 more after that, and I think I know what I'm talking about, and I hope that you will be able to have an open mind as we go along here today, because I have many things to show you.

Have you got one of these, each of you? You have them? Thank you. That's about five percent of the material that I have relative to the topic at hand.

So, without further ado, I would like to tell you that when the Fish & Game -- when the VJ Plant first was established out there, we protested against it because we knew that it was going to be a very highly polluting operation and we told them so.

We said, "Are you sure you're not going to contaminate our brooks and streams with that thing?", but they gave this two-hour talk with consultants and everything else and then when they were all done they

said, "Now, what have you got to say about this?"

So, I made our presentation there and we told them in no uncertain terms that they should not make that plant there, but they went ahead and did it anyway, and the original plans, which I'm sorry we didn't bring in tonight because they're about 5 feet square on a paper and we couldn't reprint them so I didn't bring them in, but around that plant was supposed to be an impermeable barrier where nothing was going to get into the outside atmosphere or outside environment.

So, that was the beginning of our problems with the VJ Plant. So, we have some film to show you and some material here in our -- that you have, and presumably as we go along you'll get the picture of what we're trying to convey to you.

So, without any further ado, if you could start that film, please.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

Track 18 MR. MURIAL: We'll resume this a little later on.

As I said in the beginning there, we knew there was going to be a pollutant factor, but they had consultants on top of consultants tell us that this was not going to happen, they had monitoring wells all around this place, and there was going to be no way that the

material was going to hurt the outside environment.

And that's the way it was for many years until we finally got somebody -- and if you turn to your page here in your book there, that we gave you, I underlined a bit of it on page 2 -- let's see now.

That's the Bradshaw Report anyway, and you'll have a chance to read this when you're by yourselves, but there's a couple of bits I've underlined. And since we haven't got much time, I'll read what's underlined, and you'll find it there.

And she says in this report that:

> "Although your September 18th letter to Charles [--] stated that small amounts of volume of drainage leaking through the dyke that Sue Day talked about, was in the order of a gallon a minute. There are several others who noted that, at different times, the flows through the dyke had been much higher."

And so it goes on. You can read that, ma'am, and you'll read on the next page, you can read that when you have more time. Mr. Gordon McDougall, he was with the Department of Environment for Nova Scotia at the time:

"He stated at our meeting with myself the next day that Mr. Layton and the CBC had discussions about correcting the operating problems with the treatment plant before Mr. Musial's complaints start coming in. Assuming that these are, indeed, the facts, I was assured by Sue Day, in discussing Mr. Musial's concerns with her in early August 1984, that his complaints about poisoning the river must have referred to the known chronic leaks, which were soon to be corrected, and the cause of his concerns was really a non-problem."

To use her expression:

"I feel that if it were not for Mr. Musial's continuing agitation, the extent of the problems at the VJ plant would have not been brought to the attention of this department, nor would we be aware of the loss of approximately a 5-km stretch of salmon habitat."

So I offer that to you so that when you

have more time you will pursue the whole report, I hope. I hope you will.

Anyway, it was being quoted to high heaven. They told us they were going to have these monitoring wells there, and they were going to be able to handle this sort of thing.

And I think in our next film, we can show you some of the problems that we were faced with. This may be a little bit more of an amateur-type film, but I can't help that. We're not all professionals.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

MR. MUSIAL: That should be pretty good. Given our time restrictions that we have, we'd better not carry that on too much further.

As I said, we were told many times, confused by whenever we come to a place -- the portfolio that I showed you there will explain all of this to you, panel, and you'll get a better grasp of it as you go through it, but I'll thumb through a bit of it now, see if I can't come up with something that may -- I sent a letter to George Mooney, he was the Minister of Environment, and you'll find that, I don't know, it's -- I can't identify these as well as I should like to be able to. It's just before you get to Tab No. 3 on your -- it would be Tab 2.

I'm only pointing that out to show you that this is one of many, many, many letters that I sent regarding this problem.

Tab 3, the letter goes:

> "Madam Sue Blaise Ranier, Minister of Environment for Canada: Enclosed are copies of the correspondence and report from Valerie Bradshaw, Department of Fisheries and Oceans, concerning our pollution problem."

And we got the runaround for all this -- you see, what's happening here, panel, is this. They have a bunch of bureaucrats, it seems to me, anyway, and they have no end of consultants that they can refer to, and they can confuse and obfuscate the Holy Ghost if they wanted to, with all kinds of material such as the 30 lbs of material that we have presented to you on this particular problem here today.

And it's terrible, it's an awful thing. I can't help but -- I can't -- if there's rancour in my voice, it's not against this panel, believe me it's not against the panel. It's just because the thoughts of what I had gone through in years gone by. I have nothing -- I can't say any it any other way. I find it hard to talk, sometimes.

So you have these letters here to help you make up your mind on what you're going to do with this thing, as far as the VJ plant is concerned, and on Tab No. 4 there's another letter to John A. Fraser, MP, Vancouver South. He was the Minister of Fisheries and Oceans at that time also.

So you'll see that there's a lot of effort made here to try and bring this to the attention of the proper authorities, and the only ones that was any help to us at all was Valerie Bradshaw, and her report is there.

The rest of them were all -- every one of them, and God bless her, I made a report to the Fish & Game a few months ago that if she was in the hall I'd kiss her hand for what she did, because I had Fisheries and Oceans people wading in their knees, and all they could tell me was "Well, we have the last word to say about water." "Well, why don't you say something about this?" "Well, there's a co-ordinating unit in the Department of Environment in Ottawa, and we -- our report goes there." So I fouled up again.

Yes, that's another point. Where's our next tape.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

MR. MUSIAL: Now, they said they would

have monitoring wells. We told them "You're going to contaminate the Kilkenny Lake if you put that thing there", because we know from coal mining experience that the rock strata pitches to the north. We know that the Kilkenny Lake was spring fed. We know that if there's any fissure in the rock at all, that material in the lake and in that pond was going to get into the Kilkenny Lake.

But no, no, they had these consultants come in, you see, and "We're going to have monitoring wells." "Well, what are you going to do if it gets through monitoring." "Well, it's possible that we can anchor the area, force concrete down into the wells, plug the fissures up. We'll protect the lake."

And that retaining(?) pond, the only reason why they put that retaining(?) pond there is on account again of the Valerie Bradshaw report, because when -- the thing in the VJ plant proper was that damn bad that they had to move somewhere. They just couldn't help it.

Now, the VJ plant, they had the monitoring wells around that, also, and the monitoring wells were maybe 150 feet around the outside of the impermeable barrier.

The problems showed up about 2000 feet beyond that, down grade. Now, these consultants don't

know the first damn thing about the moving of water. They'll tell you they do, but they don't. I'm sure they don't.

Now, this is -- there's more film. I don't know how much -- how much time have I got left, ma'am?

THE CHAIRPERSON: You're going to make me do some mental arithmetic here, aren't you, Mr. Musial? You have about 16/17 minutes.

MR. MUSIAL: 16 or 17 minutes.

THE CHAIRPERSON: 16/17, yeah.

MR. MUSIAL: Can we show any more film? If that doesn't come out right, we'll cancel it and start away with the other one.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

MR. MUSIAL: Okay, while we're doing all this sort of thing, if you can turn in your booklet there to 8, Tab 8, you'll see here a press report "Northwest Brook is not an S." According to Mooney, he was the Minister of Environment for Nova Scotia. Have you got it, Tab 8?

THE CHAIRPERSON: I think it's Tab 7 in our book, anyway.

MR. MUSIAL: Well, all right, Tab 7 then. Maybe -- yeah, Tab 8 is on the other side of it, that's

right. Okay. I'm sorry. Tab 7. You see it.

And you see down below there, my report was -- I rebutted that, definitely, with everything I had.

And I'll ask you to move over again into the next one. You'll see the Premier of the province, and George Mooney giving the environmental technician, at the time, an award for the good job that they were doing at the VJ plant. My, my, my, my, anybody that could see what -- how the saying goes, `what a tangled web we weave when first we practise to deceive.' The whole bureaucratic system was all set up that way, and the only one that bucked it or did anything about it was Valerie Bradshaw.

Now, we still have some more film to show you. I should say both of these, the award that was given for the good environmental work done was in 1984 in the fall, and, of course, the Bradshaw Report was just around the same time. So okay.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

MR. MUSIAL: They're still pumping that water, they're still treating that water at the VJ plant at the present time, and they're in the process of capping it there. The place is entirely contaminated with that material, and, in my closing remarks, I'll

simply be remarking on that again. Go ahead.

(VIDEO PRESENTATION - NOT TRANSCRIBED)

THE CHAIRPERSON: You have about 4 minutes left, if you'd like to ---

MR. MUSIAL: Four minutes, well I'll wind it up then. I'm sure you must have got something to think about.

Everything we said is true. We had many and many a meeting. I had meetings with the -- well, there's a gentleman in the audience here, a Bill Bailey there, he knows about our meetings, and there's discrepancies in the reports that the panel -- not the panel but the proponents of this project has shown there.

I've got a bunch of them here that I could talk about, and I'd need another half hour or more to do it. I could refer to that, there are discrepancies there.

There's one particularly that bothered me. They said that -- the proponent said that they contacted the stakeholders in the business of putting in a treatment -- putting in the incinerator at the VJ plant. The stakeholders, they didn't contact any stakeholders. The stakeholders are the people that live along that bay for the last 200 years or more, and their families. I know many of them, I lived there all my life. They

didn't contact any of them. They picked a few of the people that they knew would be agreeable, and they just said that they were the stakeholders. That's one of my beefs. There's a few other ones, too.

They said -- another thing they said in their report there, that Lingan Bay was on an average of 10 meters deep. 10 meters is about 33 feet, and I have people here right in this hall here tonight that will tell you that they'd have a hard damn job to find 10 feet of water anywhere in that bay. We know it. We were there. We know that bay, we know the brooks, we know the streams, we lived there all our lives, so we know what's going on. But they won't listen to this, see. They're educated. They're educated. They've got everything but common sense.

Please, I ask you, you folks -- my counsel here told me at the very beginning you folks were very well educated, very well qualified for what you're doing. I hope that didn't take away your common sense, too. I don't know if there's any more I can say.

--- QUESTIONED BY THE JOINT REVIEW PANEL:

THE CHAIRPERSON: Mr. Musial, thank you very much for your presentation. Thank you for bringing in the videos, and thank you for putting together this package of information for us, and we'll certainly be

looking at it carefully afterwards.

Can I ask you -- I'd like to ask you a couple of questions. Track 20 The most obvious question -- I think I know what your answer may be, but you didn't really directly address it -- I'd like to know what you think about the proposal to locate an incinerator at the VJ site.

I mean, you've told us a lot about what has happened at that site and the past problems that your association has been working on for many many years, but what do you think of the proponent's proposal?

MR. MUSIAL: I think this, ma'am. I think that -- there was a person or a couple of people -- Bob MacDonald, the one I know I read in the press anyway -- or he was here last week. He told you that the area there is contaminated, that they're cleaning it up.

And before they have it cleaned up, they want to try to put something else out there that would further contaminate it. I certainly don't believe you should do that. The fact is I'm very much against any incinerator or anything else going out there.

The place is being remediated. We had a gentleman's agreement with DEVCO for years, and we stomached it as long as we could. But we would keep quiet. We wouldn't say anything unless we had to -- or

about anything. So this is why we kept as quiet as we could, as I say, down through the years. But there's no agreement with them any more.

Now, Bob MacDonald told you that place was contaminated, and it is contaminated, and it's in the business of being remediated.

There's no place there for an incinerator, and you know yourself, and common sense will tell you this, that if the incinerator can be built and made to operate correctly, they don't have to move the sludge one inch. They can do it right in your back yard here. They could burn it there. They don't have to move it out to the -- that's one thing.

If they move anything out there of any kind, the place is contaminated already, and you know what'll happen. If we try to complain about it, they will say, "Oh, it was a pre-existing condition. We're not -- had nothing to do with it. It's somebody else's fault. It's not our fault." And they'll have us going around in circles and circles, again and again, and I'll be damned if I'll be able to find another Valerie Bradshaw. I don't think I will. I don't think I will.

So ma'am, no. I wouldn't trust the consultants to build a damn around a frog pond. That's a fact.

THE CHAIRPERSON: Well, thank you, Mr. Musial. What is your opinion about the current status of the remediation at the VJ sites?

MR. MUSIAL: Well, it's going to take another 15 or 20 years before we can be able to really say whether they did it or not.

They're capping the material there. We're talking about a cap of -- as far as I understand for the project here in the Tar Ponds. I don't know anything about these caps. I don't see how they can stand up to -- over a period of time to -- I just don't see that. But that's not my department.

But I do know that they're doing it over there. I don't know what the hell they're going to use that place for, the VJ plant, unless it's a ski slope or something like that. They're not going to plant any trees on it. They're not going to do anything like that with it. I'm damn sure they're not going to have a golf course there. I don't know what they're going to do with it.

But I know one thing. We can't have any more contamination go out there in any form, of any kind. Not just an incinerator alone, but anything, because if they do, they'll claim, if there's anything goes wrong, it was a pre-existing condition that was already done by

DEVCO. That's what'll happen. That's the way consultants operate.

THE CHAIRPERSON: And is there -- with the current remediation, is there ongoing monitoring taking place to see what improvements, if any, is being observed as yet in the streams and ---

MR. MUSIAL: Well, yeah. There's -- yes, yes. I think there has been some improvement. Or there should be. They were piping from wells. They had a well there. They were syphoning the water and getting -- from the base of the pile, or they were a year or so ago. They're still doing it, I understand, even though it's 95 percent capped already. And they're treating that water, as you saw in the film there.

But how am I -- I can't answer that, ma'am. I gotta wait for 15 years to see what's going to happen there.

THE CHAIRPERSON: Okay. Thank you. I'll ask my colleagues if they have questions for you. Dr. LaPierre.

DR. LAPIERRE: Is Kilkenney Lake still polluted now, or did it become polluted? I didn't quite understand from your presentation whether it eventually became a polluted lake.

MR. MUSIAL: Pollution started to show up,

you see, and they stopped before it got beyond the drinking water standards. If they had've kept on going, they -- that cleaning(?) basin that they put out there was supposed to go for 15 years at least. It only went for a year and a half or so and they had to stop because the evidence was showing that it was getting into Kilkenney Lake.

And you'll find in this, reference is made to some of that in our -- what you call this ---

DR. LAPIERRE: And since that time, the lake has -- once they stopped ---

MR. MUSIAL: Well they're still -- they're still using the water.

DR. LAPIERRE: Okay.

MR. MUSIAL: That's all I can tell you. But they -- I remember one time we -- the person from the Health Department take water out of there. We followed him all the way to the post office where he put it in the post office and sent it off to Halifax to the -- to be analyzed in the VJ -- or not the VJ but the laboratories in the hospital in Halifax. We followed him there.

He quit in disgust after that. His name was Sandy Morrison. Bill Bailey, he probably knows about him.

DR. LAPIERRE: Okay. Well, thank you.

That's my questions.

MR. MUSIAL: But I again repeat, don't send any more stuff out to the VJ plant. We can't take it.

MR. CHARLES: Mr. Musial, what's the condition of Northwest Brook these days?

MR. MUSIAL: It has been improved, but the Fish & Game did that. But it's not what it should be, because, you see, we gotta get the VJ plant -- the pollution stopped altogether, and then the Fish & Game can go in there and maybe -- well, DEVCO should be doing it. They should dredge that brook for about a mile and a half because it's full of muck, you know, through the swamp area there.

We had -- that was terrible. Our first Councillor when the VJ plant was first -- supposedly they offered the place -- the Councillor was there. He said, "I don't see," he says, "how anything could hurt that God forsaken land." Well he's dead now, but I hope to heavens he can see what happened to that God forsaken land, because they made an awful mess.

MR. CHARLES: Are there fish in the brook at the moment?

MR. MUSIAL: Pardon me?

MR. CHARLES: Are there fish in the brook

at the moment, Northwest Brook?

MR. MUSIAL: Oh yeah, there are fish going up, but there's no areas for them to spawn in in the brook. You know, the brook -- the bottom of the brook has gotta be in a certain condition for fish to spawn. There's gotta be a certain amount of gravel in there, and it's all mud and muck and everything.

If you wanted to go through that area before you go back to your place, wherever it may be, I'll take you. I'll take the three of you. I'll go if I have to go in a wheelchair. And I'll show you all of these things. I'll show you them all. I'm telling you the truth.

MR. CHARLES: Thank you for the offer, Mr. Musial.

MR. MUSIAL: Yeah.

THE CHAIRPERSON: I'm now going to provide an opportunity for other participants to -- if they have any questions for our presenters. So it is getting late. We're a little bit past our usual ending time, so I'll encourage people to be brief. Mr. Potter, do you have any questions for the presenter?

--- QUESTIONED BY SYDNEY TAR PONDS AGENCY (MR. FRANK POTTER)

MR. POTTER: Yes, thank you, Madame Chair.

Just one quick question.

You mentioned your concern about the ground water in the area of the VJ site, and you mentioned -- I think you said that DEVCO put some monitoring wells in to understand what the ground water flow was doing. Do you know how many wells went in at that point in time?

MR. MUSIAL: I'm as deaf as a herring. I -- DEVCO -- how many? There was anywheres from eight/nine wells around that place. Oh, yeah. Oh, yeah. Yeah.

MR. POTTER: Okay. The reason I ask, we share your concern about the environment, and in the work we're doing on the Coke Oven site, for example, and the Tar Ponds, we've put in over 300 wells in the ground to determine what the ground water flow is and where it moves. So we do understand exactly what is happening.

I can't speak to the situation that occurred at the time, but if you put enough effort into the -- you know, in the investigation and looking into it, I think there is a level of comfort.

I understand you don't have -- you didn't have that level of comfort with the VJ situation, but you know, we have gone to great lengths to try to understand our site.

With the VJ site with the proposed incinerator, there wouldn't be much in the way of water or handling needs where there'd be a run-off situation, which was the situation when DEVCO was operating there. So I just wanted to reassure you that all the de-watering activities would happen at our site where we do understand the ground water flow. We wouldn't be taking wet sludgy material such as you saw or we saw on the video there. So ---

MR. MUSIAL: Well, ma'am, or sir, whatever I saw from the ground water flow is that no matter what they said they were going to do to handle it, it never worked. It never worked. And you may have five wells, you may have 25, you may have a 125. If there's a place there for the water to get around those wells, they're gonna go around them. Believe me, they'll go around it.

MR. POTTER: Thank you, Madame Chair.

THE CHAIRPERSON: Thank you, Mr. Potter. Can I just see by a show of hands how many people in the hall have a question for -- just a moment, please. I'll take that down. Ms. May, Ms. MacLellan, Mr. Lelandais, Mr. Morgan. I've got everybody who put their hand up? I'll take questions in that order. So Ms. May, please.

MR. BRODERICK: Madame Chairman, I wonder -- Mr. Musial just mentioned something to me, and there

was a little bit of difficulty in hearing.

I think the VJ plant presentation, as well as what has been said this evening, was not so much to show that somebody did something wrong in 1984 or 1980. I think it was to show that at that time, the people who did the work did what they thought was the best to do at that time. I don't think anybody walked into the VJ plant and said, "Let's mess these guys up and hurt the environment."

In those days, those experts did what they thought in their knowledge was the best way to contain a difficult problem. It did not work. Today we have experts who are suggesting in their knowledge the best way to contain a difficult problem.

We're saying that experts can be wrong. We're saying that experts can only deal with the knowledge that they have now. This is a unique situation. And what Mr. Musial was stating is that, judging by what happened to the experts, who were award-winning experts at that time, what percentage of mistake is acceptable when you compare the problem that can be created by that mistake.

So we look at the VJ plant, we look at what was done in light of all the precautions, and it is really a terrifying situation, because we're dealing with

five years back then. I heard this evening 100 years. And I don't know anybody that that's -- that is that perfect.

So the concern is tremendous, especially in light of what the experts did earlier. I think that was what Mr. Musial just suggested that we inform the Panel.

THE CHAIRPERSON: Well thank you very much for that clarification. Ms. May, two questions? One question.

MS. MAY: One.

THE CHAIRPERSON: Great.

--- QUESTIONED BY THE SIERRA CLUB OF CANADA (MS. ELIZABETH MAY)

MS. MAY: I've had the great honour, Madame Chair, of working with Charlie Musial for the last 30 years. I worked with him in 1976 on the issue of bud worm spraying, and he's one of the -- as you can tell, one of the most knowledgeable and dedicated environmentalists and conservationists on Cape Breton Island. And I just have one question for Mr. Musial through the Chair.

I have at home a snapshot of the signing of the 1986 Federal/Provincial Agreement for cleanup of the Sydney Tar Ponds, and in that picture, if I recall it

correctly, Charlie Musial is seated between another dear friend, who is now departed, Theresa Boyd, and another friend, who's departed, Bruno Marcocchio's wife, Roberta Bruce.

I just wonder, Charlie, having seen Tar Ponds cleanups promised and not take place, have you got a sense of what you'd like to see done? I know how you feel about Bridgeport Basin and the mess they made at the VJ site. Do you have a view you want to share on the Tar Ponds and Coke Ovens cleanup?

MR. MUSIAL: The only thing I can suggest -- and it is a suggestion -- if the proponents hadn't put their nose into the VJ plant, I probably wouldn't be here tonight.

But I would suggest if there's any way of remediating this stuff, running it behind or whatever -- I understand that there's processes that can be done to do that -- I think that's what you should do. I don't think that there's any way that you can contain this material and know it's going to be contained by using hard set concrete or something of that nature.

I was awful proud of my young fellow -- if you don't mind me making this -- you know, we're not all stupid, eh? I think he thinks I am.

But he graduated out of Saint F.X. College

with an Honours Degree in Science. He was with Fisheries and Oceans when they condemned the lobsters in Sydney Harbour for being contaminated. He also found problems with mothers' human milk throughout Nova Scotia. He worked with Fisheries and Oceans for a while. He's in the U.S. now.

I was proud of him. I don't think he's too proud of me. I think he thinks I'm kind of stupid. Maybe he's right, but I don't think so. But anyway, I just offer that.

There's no way I can see them doing anything properly with the Tar Ponds situation here. If there's a way of rendering it benign, render it benign. If not, then God bless ya. It's on your shoulders.

THE CHAIRPERSON: Thank you. Thank you, Ms. May. Ms. MacLellan.

--- QUESTIONED BY CAPE BRETON SAVE OUR HEALTH COMMITTEE (MS. MARY-RUTH MACLELLAN)

MS. MACLELLAN: Through the Chair to Mr. Musial, thank you very much, Mr. Musial, for your presentation. I don't think you're stupid. I think you're a walking history book, and I hope you live to be 300 or more.

I have to say first that I'm glad that you did your presentation the way you did. It backs up a lot

of the things I told the Panel prior to your presentation here.

I had a call one day from a Grand Lake resident a number of years ago who was concerned about them taking that water in the trucks that you talked about, and he wanted to know if I would follow the truck, so I did, and I did watch them dump that in the abandoned mine site, so you've just confirmed that that did happen. Thank you.

And I have residents from New Waterford that are on our committee that are really concerned about their drinking water, and they follow Kilkenney Lake and Waterford Lake on an ongoing basis, and one of the things -- actually, one of them did arrive at my door about four years ago, maybe a little bit longer, with dead frogs. Do you remember that incident? It was around the time that DEVCO was remediating and flattening a road that was old stone?

MR. MUSIAL: Ma'am, there's so many incidents happen, I don't know if I can remember that one or not, but I'll take your word for it. If that happened, I'd say it did. I can believe it.

MS. MACLELLAN: Yeah. Thank you. Knowing that you're with the Fish & Game, could you tell me about the wetlands, since all that area is considered wetlands

-- what the laws are for putting incinerators -- you know, that wetlands are supposed to be kept wetlands and not for industrial use?

MR. MUSIAL: With wetlands, the powers that be have no respect for wetlands, and I'm afraid they have no respect for environment. And no matter what I can tell you about them -- we had a case here a few years back, and I think my Councillor here knows about it because he gave me some advice at the time.

Somebody wanted to build -- get permission to build a trailer and -- live-in trailers, you know -- by a wetland adjacent to the brook that runs out of Kehoe's Lake. And of course, we bucked that. And I made my first presentation to the Mayor at the time -- Mayor Musial, it was -- and I wasn't allowed to make a second one, and I didn't make a very good job of the first one because you know, I'm not a college man. But I did the best I could.

But when I wanted to go there again a second time, I wasn't permitted to make a second -- I had one chance and that was it. But my Councillor here gave me good advice. He told me what I got to do is "Make up parcels of your material and pass it out to each Councillor. They're going to have to vote on this thing. They can't stop you from doing that."

So I made up 19 of those things following the gentleman's advice, passed them off to the Councillors, and the Councillors voted in our favour, and our wetland on that particular occasion was protected. But they wouldn't protect it for all time, you know. They'd only protect it as long as they were in power. And they said that if the Minister of Environment changes -- wants to change it, then it will be changed.

Another case too. You know, that County Council has a lot of power if they want to use it. It really has.

Years ago, before the amalgamation of the towns around here, there was a -- I had a call from the wildlife organization over in North Sydney. They were going to build -- Irving Oil wanted to fill in three acres of the Bras d'Or Lake in order to put a service station on it, and the Minister in charge in Halifax gave them the okay to do it, and the Wildlife Organization over in North -- in Bras d'Or, it was -- asked for my help, would I get at it and help get after the Mayor.

It was a warden at that time, Warden Kyte. And I did and they stopped it, eh, despite the fact that Halifax tried to make it work. The mayor or the warden at that time stopped that.

But do you think I could get Mr. Burgess

in Halifax at that time to rescind that whole thing. He would not do it so as far as the Nova Scotia Department of Environment is concerned, Irving can still fill in three acres of the lake.

So I don't know about your wetlands, Ma'am. I just know whenever there's a threat on then, if there's not somebody there to try and stop it, then they're going to -- as far as the government and as far as the authorities are concerned, it doesn't make a tinkers damn. They don't care.

MS. MACLELLAN: Thank you, Madam Chair. I'd just like to ask you to consider what Mr. Musial has said. He may not have a degree, a university degree but he does, indeed have a degree in the university of life. Thank you.

THE CHAIRPERSON: Thank you very much, Ms. MacLellan. Mr. Lelandais.

--- QUESTIONED BY MR. HENRY LELANDAIS

MR. LELANDAIS: Thank you, Madam Chair. It's partly a question but mostly I just want to say thank you Charlie. I haven't seen you for a few years since we worked on the strip mine thing together. We won that one. We didn't get the strip mine yet. Hopefully we'll do the same again. The other part that is a question, Charlie, in our own submission to the Panel a

few days ago we cited the fact that the Bridgeport Basin contained numerous wetlands and was part of the watershed for the water supply, Kilkenny Lake and so on and New Waterford Basin.

And the answer we received, I think, from the Proponents there was that it was not a protected water supply. The Basin was not a protected watershed, therefore it didn't come under the CCME regulations. Our contention was that it did come under regulations and that the VJ site should not have been chosen for that very reason, that it was a watershed. My question is do you agree with our own proposal that it definitely is a watershed listed under the Nova Scotia listings of watersheds. It has a number and should be protected in that category?

MR. MUSIAL: All watersheds should be protected. All watersheds should be protected. Anybody living outside of a watershed no matter what qualifications he may have or what corporations he may belong to he does not have the ethical, moral or conventional right to enter in an -- people's watershed -- residence watershed where they depend on it. It doesn't matter who they are. It simply doesn't matter.

It's the same with the, as I said before, the Proponents of this said that they went to the

stakeholders. They didn't go to any stakeholders in the Bridgeport Basin there. They went to everybody else but the stakeholders. The stakeholders are the people that live in that area. The people that live there that said before 200 years and that. It's the same with any watershed area. They -- I'm telling you ladies and gentlemen, there's no respect for the environment. There really is not. And there's no respect for the life of the land. There's no respect for the people that's living in the land. And that's it.

MR. LELANDAIS: Thank you, Charlie. It's a pleasure to see you again. Thank you Madam Chair.

THE CHAIRPERSON: Thank you very much, Mr. Lelandais. Mayor Morgan, you have the final question of the evening.

MAYOR MORGAN: Thank you, Madam Chair. Charlie, again, thank you for your presentation and I just want to note that the CBRM gave an award for volunteer organization of the year to New Waterford Fish & Game Association some time ago in recognition of your service. One point that you made with respect to the lakes, Waterford Lake and Kilkenny Lake. And I just wanted to clarify because the question came up about those lakes and their current status.

Waterford Lake is the principal water

supply for the town of New Waterford. Kilkenny Lake is the backup water supply and it's used frequently when the water level gets low in Waterford Lake. So it's a significant waterway and I think the point's been very well put forward that it's very close to the site of the proposed incinerator and I thank Mr. Musial and the group for pointing out the issue to the Panel. Thank you.

MR. MUSIAL: Thank you, Mr. Morgan.

THE CHAIRPERSON: Thank you very much.

MR. BRODERICK: Perhaps -- and again I just spoke to Mr. Musial for a moment, but it's ironic that some time ago the Town of New Waterford expropriated a great deal of property from a landowner around Kilkenny Lake because it was a watershed. And they've stopped all building. There were communities out there that have been shut down and completely moved at that particular time.

And I don't have a good feeling, as Mr. Musial and I had discussed this awhile back that how can it be a watershed for a convenience to move people and keep people away but yet be dismissed as a watershed when it meets the needs of people who are trying to put something there and if in fact, games like that are being played now then that casts some serious doubt on accredibility, I would suggest of the people making those

decisions. That's right isn't it Charlie.

MR. MUSIAL: Yeah, thank you.

THE CHAIRPERSON: Thank you very much. That does bring us to the end of this evening's session. So again, I'd like to thank you, Mr. Musial, very much for your presentation, for answering our questions and the questions of other participants and thank you, too, to your associates who came with you this evening. And for their participation. We really appreciate you being involved. So we've now ended this evening's session.

We have one more day as you know, and then you can all resume your other lives. So tomorrow morning can I remind you that we start at 8:30 not at 9:00 which is our usual starting time. We will have closing remarks. Closing remarks will be 15 minutes allotted to each registered person who is registered to make closing remarks. We will not be having questioning. Anyway we look forward to seeing you tomorrow for the final day of the hearings. Thank you very much. Good night.

(ADJOURNED TO THURSDAY, MAY 18, 2006 AT 8:30 P.M.)

CERTIFICATE OF COURT REPORTERS

We, Lorrie Boylen, Ruth Bigio, Sandy Adam, Janine Seymour and Gwen Smith-Dockrill, Court Reporters, hereby certify that we have transcribed the foregoing and that it is a true and accurate transcript of the evidence given in this Public Hearing, SYDNEY TAR PONDS AND COKE OVENS SITES REMEDIATION PROJECT, taken by way of digital recording pursuant to Section 15 of the Court Reporters Act.

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Lorrie Boylen, CCR

Sandy Adam, CCR

Ruth Bigio, CCR

Gwen Smith-Dockrill, CCR

Janine Seymour, CCR

Thursday, May 18, 2006 at Halifax, Nova Scotia