PUBLIC HEARING

SYDNEY TAR PONDS AND COKE OVENS SITES

REMEDIATION PROJECT

JOINT REVIEW PANEL

V O L U M E 7

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:	Saturday, May 6, 2006
PRESENTERS:	Mr. Donald DeLeskie
	Cape Breton Save Our Health Care Committee Dr. James Argo Ms. Mary-Ruth MacLellan
	Cape Breton District Health Authority Mr. John Malcolm Dr. Andrew Lynk

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I N D E X O F P R O C E E D 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 9:00 a.m.

THE CHAIRPERSON: Well, good morning ladies and gentlemen. I would like to get this sessions started if you'd like to take your seats.

I'd like to welcome you all to the Saturday session of the Public Hearings. In a moment we'll be turning to our first presenter, who is Mr. Donald DeLeskie. But I do have a few things to say before that.

Mr. Potter we're going to, I think, put off asking you for any undertakings till after lunch.

MR. POTTER: That's correct, yes, ma'am.

THE CHAIRPERSON: I would like to -- I think perhaps I should just reintroduce ourselves because I do see one or two new faces, and I'm sure there may be some others coming in today.

May name is Lesley Griffiths. To my right is Bill Charles. To my left is Louis LaPierre. And the three of us make up the Federal/Provincial Environmental Assessment Review Panel for the Sydney Tar Ponds Project.

The procedures that we are following, if you need to get a copy, you can obtain them from Ms. Debbie Hendrickson. And I'll just very quickly outline what we're going to do today.

We have four presenters scheduled for

today. Everybody who presents, there's a time limit of 40 minutes. And I'm awfully sorry, but giving you due warning, I'll have to be strict about that.

So what I'll do is about five minutes before the 40 minutes is over, I'll just interrupt and tell you that -- how you're coming along so that if you wish you can just sort of sum up, make your final remarks.

So that's a 40 minute limit. Then after that, we're going to have a period of time for questions and the Panel usually leads off with those questions to the presenter. These are just meant to be questions for -- of clarification and questions to draw out perhaps some additional information.

After the Panel has asked its questions then I provide opportunities for other participants, starting with people who have registered first. And -- but I would ask you, this is -- these are intended to be questions and so those of you who've been here on previous days know that I do keep reminding you and encouraging you not to come to the mike to make statements.

So that is essentially what's happening. The second presentation that we have this morning is -- at least part of it is going to be in French, therefore,

we have headsets at the back, near the entrance where you came in. And I would suggest that either now, or there will be a break before the second presentation, but if you wish to take advantage of the translation that you go and get yourself a headset.

I think that that is probably all that I need to say by way of introduction.

Mr. DeLeskie, we're very glad to have you here with us this morning and very interested, glad that you're making a presentation to us so if you'd like to begin and I'll let you know as you're getting close to your 40 minutes.

--- PRESENTATION BY MR. DONALD DELESKIE

MR. DELESKIE: Madam Chairperson, to both the honourable gentlemen sitting with you, I'd like to thank you for giving me this opportunity to speak about the Tar Ponds and the cleanup, and what's going on here today.

So if I could start, I guess I'll start from the beginning. You know, a lot of people don't realize it but Muggah Creek actually -- the cleanup of Muggah Creek actually started in 1970. It started in 1970 -- well, anyway it started in 1970. I don't have the paper here but I can bring it, anyways, like to someone here.

The cleanup started in 1970. The Honourable Roger Bacon came down in 1970 to start the cleanup of Muggah Creek.

So we started off with Bacon and we ended up with Hamm. That's just an old joke. 1970 -- you want to bring that over to her ---

THE CHAIRPERSON: Anything that you want to provide to the Panel you can give to the Secretariat but you can do it all at the end. That will be just fine. We don't need to see it now, we're interested in hearing whatever you can tell us. That would be great.

MR. DELESKIE: Okay, we go back to 1959 now. 1959. The write up in the Cape Breton Post says:

> "No immediate solution to the dust problem. A dust nuisance that paints rainbows on Whitney Pier windows demolishes clothes and takes -- skins the paint off of houses may be curtailed with the installation of a six million dollar cinder plant at the steel plant."

That's 1959. Here we have the Mullins Coal plant, Vulcan Avenue, that's all coal. It's the same as strip mining right in the middle of a city. That's right in Ashby, right off Vulcan Avenue.

And it went right down into the Coke Ovens. And then from Frederick Street on the other side, we had another bank. So you wonder why we can't breathe today and why we're all dying in this here community. We'll get to that but this is a part of it.

This is a letter, the Premier, Halifax, Nova Scotia. I'm just going to read one line:

> "A new beginning that will enable us to collectively redress Canada's worse environmental and community health problem."

So when people deny that there's a health problem it totally sickens me, especially when I'm breathing from an oxygen tank. Health and Welfare Canada, the Hickman Report, I guess you've all heard of Mr. Hickman and the Hickman Reports.

Well, he said the people would come down with Cancer and the people did come down with Cancer. But the readings were taken in residential areas, and that is why the men, the women and the children are dying and we need someone to speak for them. There's been a few of us as individuals, some people will call us radicals. Others will call us activists. I like to say we're concerned citizens.

We care about our community. It's too

late for our generation. You are looking at a dead man right now. I am dying. I just lost my twin brother.

He fought for almost 20 years to get this here place cleaned up and all we got from the government was stories and excuses. When you take a look at the water down at the Tar Ponds, look at it as the tears that was shed in this community. The tears of grief. And we really never had a chance to grieve.

I lost my mother at the age of 36. Her body was racked with Cancer. And when she died she was laying on the bed and she said to my dear dad that died, "Will you please keep the kids -- the children together." The oldest was seven, the youngest was three. There was six of us. My father kept his promise. He was an honourable man. Try to get a person today to keep six children together.

Simon Fraser University. You've all heard of Simon Fraser University. "A crime against the environment, the employees and humanity, the SYSCO case."

The people in Cape Breton never smoked any more than the people on the mainland so I wish that you would have the decency -- and it's the only way I can put it -- if I sound -- I'm not mad at youse people, don't get me -- I'm angry at the government. I wish you would put it to the government, please don't start using --

blaming the victim all the time. We are victims. I am talking to you today as a victim.

Knocked on 3,500 doors. Went door to door, my twin brother and I, right out to Membertou, all around Whitney Pier down the north-end here, Ashby, and the people said, "Move those that are living close to the Tar Ponds and the Coke Ovens and get on with the cleanup."

Let them go in with their Tonka Toys. How can you turn around -- now it's a proven fact -- if you have a sickness, if you have a lung problem, if you have asthma, if you have a heart condition, if you have Cancer, the Tar Ponds and the Coke Ovens just more susceptible to you.

You'll get sicker and eventually you're going to die. That's not right. Someone has the power to say where's the human element. Where's the human element. Who speak for the kids. Who speaks for the kids.

The Coke Ovens. In tar factory seven times the risk of kidney Cancer. The coal loading wharf, high risk of digestive Cancer. Byproducts area, high risk of digestive Cancer. Benchside work, two times the risk of lung Cancer. The screenage station, two and a half times the risk of lung Cancer. The Coal wharf, two

and a half times the risk of lung Cancer. And yet there was no emission control on these factories. And this is the pollution I was talking about that was taken in residential areas.

Here we have one case in point. We have a lady she lives on Dorchester Street. Her name's Neila MacQueen and I asked her for permission to mention her name. She has lead reading of 972. Arsenic, 121 and there's a half a dozen more chemicals.

She's living on a cesspool and everybody says, "Well, that's all right." That woman never smoked a day in her life and she has lung Cancer. But then once again it's our lifestyle.

This is what the Provincial Environmental Department quoted in the Cape Breton Post. And I'll just give you a small line:

> "The Provincial Environmental Department has issued another warning for people to stay out of the Tar Ponds. Department spokesman, Doug Fraser says the tarry -- in which all bottles and other artifacts have been buried contain Cancer causing material."

I never wrote this article. I never spoke

these words. That was from Environment Canada. This was back when they said they were going to clean it up. But then when they couldn't clean it up everything was all right.

A vital link. I'm sure you've all heard of a vital link. Health and the environment in Canada.

In assessing the risks, Health and Welfare Canada took into consideration the emissions from the Coke Ovens increase the risk of Cancer for workers.

The PAHs in Sydney prior to the shut down were about double those in Hamilton, Ontario where coking operations are also carried out.

Now, it is important to note that there are only two Coke Oven batteries at SYSCO compared with 47 batteries in Hamilton. Yet we had double the pollution. These are some comments from some people that work at the Coke Ovens and other places but I will not give their names because I didn't ask permission. But I'm sure that Frank Potter or someone will be able to find a copy of this for you if you need. And if they can't, you can get ahold of Debbie and I most certainly will get a copy to you.

... utilized PCB laden transformers and motor starter found in the factory basement two to three hundred gallon capacity required for starting motors.

Kept oil to prevent sparks that could ignite gas in the area. When the oil was changed, the used transformer oil was dumped into the brook or dumped into the blast furnace to dry the bricks or empty barrels of PCBs onto the high dump.

One tank breaks in 1980. It contains over two hundred thousand gallons of Benzene. Now we all know about Benzene. We know that the incubation period for children and leukemia, four years. Here's what the Environment Protection Agency in the United States says about dioxins. And we all know how deadly dioxins and furans are. We know what it does to us. We know what it does to the people. How much dioxin is safe? EPA's answer:

> "For Cancer hazards three hundred to six hundred times less than we all now take in every day. For non-Cancer hazards ten to one hundred times less than we take in all day."

In other words, not acceptable. Yeah, Sydney Tar Ponds put this out. There was a factory -- 1989 and it was published by the authority of The Federal Minister of Environment, it talks about the effects of PAHs on human health and he states:

> "They are not restricted to Cancer

alone. Recent studies have linked some types of PAHs to bronchitis, emphysema, a variety of skin conditions, allergies in addition to different kinds of lung Cancers. In Sydney the death rate for various Cancers is the highest in Atlantic Canada."

Now if I exchange the article I would say probably all of Canada if not North America. The cooling pond. City of Sydney, 1908. 1908, the population of Sydney in 1908 was 13,000 -- roughly 13,500. The number of people that died from Cancer at that time was six in one year. My point being we have just double the population and we have that many at least a week going from Cancer. We have an epidemic of Cancer and other illnesses here.

Nobody talks about the animals. You often saw that movie you know from -- Mr. Harrison or something you know, the animals. Well, when you see animals -- I've got a little cat. And I love that little cat. And if that little cat took sick and died from Cancer that would kill me.

That would break my heart because it's our responsibility to look after animals. But it's also our

responsibility to look after children.

Who looks after them? I remember when my mom died, I remember when her casket was carried out the door, I lay on the step, a concrete step and I saw them carrying her out and I stayed there each day for six months until my little mind could comprehend she wasn't coming back.

Ask yourself what it felt like and I don't know, you might have been in my same position. We used to play baseball. When my dad used to call us home -- it would be my father that was calling us home but it would be mothers that would be calling the other kids home. How do you think we felt? There was no mother to tuck us in. No one talks about these social impacts.

We got a street down in the Pier there, just one street, it's known as Widow's Lane. Well, you can take a pick on any street here in Sydney.

Why are they not addressing it, the Cancer. Doctors come out and say, "Lifestyle." There was no fast food chains when we were growing up. The most I weighed all my life before I took sick was 130 pounds. We had corn beef and cabbage when I was a child.

We didn't have no McDonalds or Hervey Dervey's or whatever. There's no fast foods. So this lifestyle, the only difference in my style was what was

coming out of the stacks up there at the Coke Ovens.

Now, in the restricted reports, and you can read them, it stated that if they had have put emission controls on the factories it would have reduced the pollution levels by 90 percent. So if it had reduced the pollution levels by 90 percent imagine how many more people we'd have today.

Now we're talking about an incinerator. I'm not in favour of an incinerator. I have confidential documents from Environment Canada that state quite clearly to SYSCO, "You send us up the reports, we'll scramble the numbers..." -- regarding the factories -- "...we'll scramble the numbers. And no one will ever need to know."

But I got that report. This is one more -- now you can ask me any question you want. This is down in the north-end. Tell me everybody all the north-end is so safe. I always say to people when they visit Sydney, "Welcome to the City of Death and if you want to live blow out, don't breathe in."

This is what they found. Copper, 3,107. All right, it should have been 100. Lead, for residential parkland it should have been 140. It was over 2,000. Zinc, it should have been, you know, for residential parklands, 200. It was 7,255. But they say,

"It's okay you can live there. Don't worry about it."

No, we're not going to worry because we're going to be dead. Don't you think the onuses is on the government to tell the people the truth.

Now we'll get to the incinerator. I don't want no incinerator. I don't care where they put it. And the reason I don't want the incinerator, I know what the coal company's done to us. One mistake, one mistake, and what happens. Is there going to be another Donnie DeLeskie talking to three members of a Panel 30/40 years down the road. We got the water out there. Someone might be farming -- what about the fish? What about the people? We have to realize, when they said they were going to cleanup the Tar Ponds, when they first said it, they were going to do it, it should have been cleaned up and done with by 1999. That was supposed to be the closing day.

Fine, they run into problems. Okay. They ran into problems. Okay. I'll give them that. But why turn around and say, "Now we came up with another scheme, what are we going to do?"

Madam Chair, I'd like for you to ask Frank Potter, a few years ago a Minister came down. I don't know if it was the Minister of Health or the Minister of Environment came down and he said, "Well, we're going to

cover over the Tar Ponds. It's only going to cost twenty million."

Well all of a sudden -- and we are the ones right here. You're looking at the ones that put the pressure on the government for the money. It wasn't these so-called politicians that you hear on the radio every now and then looking for a vote.

We spent one -- I spent one-third of my life, my twin spent one-third of his life, Bruno Marcocchio spent one-third of his life and a few others. And a few others.

But why all of a sudden is it $400 million dollars when they were going to do it for 20 million. And by the way I don't believe -- I believe in a cleanup. I don't believe in a coverup. Could you ask Mr. Potter that one, Madam Chair?

Do you want me to keep going with the rest of my question? I don't know how you want me to do this.

THE CHAIRPERSON: Mr. DeLeskie, that's -- whatever you would like to do. You've got probably -- if you wanted to go on you could speak for another ten minutes. If you'd like to take a little rest, that's fine. I'm sure we've got some -- a few questions for you. What would you prefer to do?

MR. DELESKIE: I'd prefer to go on, dear

because when I quit you know, I could say, "Gee I walked away without cursing," and I say, "Thank God," because I -- you know, sometimes it slips and you don't mean to curse and then everybody says "Oh, wasn't he awful?"

I like to say that I think Frank Potter is a decent gentleman. He's a good man. He has a wife and he has two children. Grown up and finished. The one thing about Frank Potter, I can approach Frank Potter any day and ask him a question and he'll answer it. But if I got a difference with Frank Potter, I can go and say to Frank, "This is my difference," and he'll explain his point and I explain my point.

There was some people that had the power that Frank has that thought they were better than the ordinary citizen, I'll put it that way. Okay? They thought they were better, "Like go away, don't bother me, you know, you shouldn't be asking me silly questions," you know.

Why -- I'd like to know why are they denying a lady that has lung Cancer, never smoked a day in her life, she's living -- I gave you the proof -- she's living in a cesspool, and they won't move her. They won't even go down and remediate her property.

They should at least -- we should have people like me and when I'm dead, they should have people

like Mary-Ruth MacLellan and others that sit on a Panel, along with Frank Potter and them, so when individuals come from the community they know they're going to get a fair shake. And I can say Frank always gave us a fair shake. Always gave me a fair shake. I'm speaking for myself. But -- and I have to thank Debbie Hendrickson. She's -- she was -- look, if I called her and I asked her a question, if she didn't have the answer there, she said, "Wait five minutes and I'll work on it and I'll see what I can do for you." And she always got me what I wanted, what I needed. If I needed a document she got it. She's a very, very good person.

And there was Cheryl and another girl from Environment Canada. Her name was Dawn. She worked in the library. All nice people.

And I'd just like to say, there is some good people that work for the government. But the government has to have people maybe like you -- you know, we have to get rid of the little tin men. You know, the Wizard of Oz. We got to find people like you that have a heart that'll say, "Look, I do care. I will do something for you. I will at least talk to that lady."

I'm asking Frank Potter to please set up a meeting with that lady and see what he can do. And I believe that we have a right.

I had it in writing from Don Ferguson -- when I was going to go back into the Tar Ponds, the Prime Minister was coming down. That was Mr. Straight-from-the-heart Chretien. Yeah. He was coming down, he didn't want to be embarrassed so he said -- he got someone to call me and he said, "Please ask him to stay out of the Tar Ponds and I'll get him a meeting with Don Ferguson."

He was the head of the regional health up in Halifax. And we hammered out a deal with Don Ferguson. And that deal was that when people were going to do work, they were going to put an ad in the paper to let the residents know when the work was going to take place. I called up one time. I called up one time people that were working in the Coke Ovens because I lived right next -- you know, about five streets from the Coke Ovens -- I called up and I said, "Listen if I can taste this stuff and it's affecting my breathing, would you please tell them to quit digging."

Well, the answer was, "We're not concerned about the health of the residents outside of the fence." Now this came from the contractor. This had nothing to do with the Tar Ponds Agency. This came from an outside contractor. "We are only concerned about the people that are working." Now the ones that are going to be working on the Tar Ponds, they're going to be get inoculated for

Hepatitis, polio and etc. But nobody mentions this to the people that live around there and say, "Well, maybe you could get that inoculation." And the first thing they're going to tell you is, "Well the reason we're doing it is because it's a sewage." I remember when the first time I went in -- and then I'll stop -- the first time I went in ---

THE CHAIRPERSON: It does this sometimes. Mr. DeLeskie, you've got about three minutes if you'd like to -- and then we'll have some questions.

MR. DELESKIE: I'd just like to say just thank you very much for giving me the opportunity to express my concerns and probably my anger and grief to you.

And I ask when you go to bed tonight will you remember the little angels that are out there that are eating that dirt today with a little spoon. And everybody is telling them it's safe. And it's not. Please speak for them, do something for them.

And I'd just like to say to Frank Potter, you're a good man Frank, and I hope that what I said you'll take to heart today and with that I'll stop. Thank you very much to the three of you, very much.

MR. DONALD DELESKIE

--- QUESTIONED BY THE JOINT REVIEW PANEL

THE CHAIRPERSON: Mr. DeLeskie thank you very much for your presentation.

We're well aware that you've been a long time concerned citizen, that you've been very active. Debbie has told us that you have an incredible archive and library of material that you have been collecting, that you've been studying it and you've shared some of that with us today.

We really appreciate you coming here and making this presentation. I'd just like to say a word -- I assume -- it's Mrs. DeLeskie beside you, is it? And obviously I understand she is your partner in this work that you have been doing. And so we appreciate that too and you've obviously been an assistant in this presentation with all these materials that you've had to keep straight for presenting to us.

So really the Panel very much appreciates everything that you've done and sharing that information.

I've just got -- I've got a couple of questions for you. First one, I was going to ask but you almost answered all of it at the last minute, but where did you grow up in relationship to the site and where do you live now?

MR. DELESKIE: I grew up in Whitney Pier. I live probably two blocks from where I grew up.

THE CHAIRPERSON: And now you live about five blocks away from the edge of the site, is that what you said?

MR. DELESKIE: Yeah, from the Coke Ovens.

THE CHAIRPERSON: From the Coke Ovens.

MR. DELESKIE: Yeah.

THE CHAIRPERSON: I wonder if I could ask you to tell us a little bit about -- I don't need to ask if you've read the summary or even the whole of the EIS. I'm sure you have it and you've been looking at it but I wonder if you could, sir, tell me a bit more about your opinions of the proposed cleanup plan.

Now you've stated you don't want the incinerator. You know what's been proposed for the actual Tar Ponds themselves, that the Proponent is planning to remove some of the sediments that have the high concentrations of PCBs, take them to the incinerator. The rest of the Tar Ponds is going to be solidified and capped. I wonder if you've got some comments about that.

MR. DELESKIE: I'd like to say first of all, if they're going to pour cement down there -- after they fill it in to go to pour cement, then they better start talking about the fly ash from the cement. And tell me they don't know about fly ash.

But what about the people that live around there, what about their homes, what about their property? Would you buy a house that's cemented over a toxic waste site? I know I wouldn't. You know a person would have to be crazy unless they're getting it for nothing. Maybe tear it down and use it for a parking lot, for cleaning up the place.

It's not going to work and you're going to see the water rise. You know that song. "Mama how high is the water rising? Three feet high and rising." Well, that's what's going to happen.

The water's going to rise. But they'll tell you it's not. I'm telling you it will. I asked them about the fault lines that run under and they'll probably tell you there's not. I'm telling you there is. There's two fault lines running under the Coke Ovens and there's one running under the Tar Ponds. So they can say no and I'll say yes.

I don't believe they should be filling it in. And when it comes to the golf course, this great golf course, I think it's disgusting for anybody to even mention a golf course when people die.

How can anybody go down there and laugh and have fun and sit down and drink a cold one when men gave their life and women gave their live. I had two

aunts that worked at the Coke Ovens during the war. They died of Cancer. Now, one of their daughters is dying of Cancer. One son died of a heart -- 49. And another boy is dying of brain Cancer.

But nobody talks about the women that worked there. I remember one woman when the CBC flew in from Montreal and interviewed us many, many years ago, and this was before JAG came on the scene or anyone. And the lady said what was the difference. She said, "Gee she said I'm up here at the Coke Ovens. Nobody told me how bad it was. And nobody told the soldiers how bad it was." And that was her comment.

THE CHAIRPERSON: What would you prefer to see happen? I know you wanted the site cleaned up. You've made that very clear. What do you -- would you like to see happen?

MR. DELESKIE: I would like to see the government, Frank Potter, since I know him and a group of citizens to sit down at a round table and to hammer out what they're going to do.

As far as I'm concerned the only way that you're ever going to be able to clean that place up is to move the people and then I really don't care. I don't care. Move the people out of there.

THE CHAIRPERSON: So do you mean move the

people while the cleanup is taking place?

MR. DELESKIE: No, no. Move them out and compensate them and ---

THE CHAIRPERSON: Move them permanently.

MR. DELESKIE: --- they can cover it over. Nobody will live by there. That'll be it. It'll be a dead-end zone.

Look, we had a lot of promises thrown at us. People paying taxes to live next door to a toxic waste site. Yet, these people when they were running for mayor promised us but when the one that got in -- I never got a tax break. And I don't know of anybody else that got a tax break. But they said they would. They said they would declare a buffer zone. In other words move the people. They didn't. They would declare it a national health hazard. We're all here and we're all dying.

Who is going -- oh, I'm sorry -- who is going to speak for the children? That is so important. Who is going to speak for the children? Who was going to speak for Neila MacQueen when she was up in the hospital with lung Cancer?

As I told you I knocked on 3,500 doors. And I tell you that on my mom's grave. I don't lie, 3,500 doors. And the people that were sick it was

disgusting. There was women around the 58/60 age that lost their husbands. No pension, no compensation so they would have to go to one of these stores that would pay the five dollars ($5) an hour.

And they had to do that until they got to be 61 or 62 where they get an income supplement. Nobody cares about the people. There was children that wanted to go to college. Why didn't the government set up a trust fund.

The government turned around and -- you got me going again -- the government turned around, $550 million dollars for cultural events. Can you imagine? $500 million dollars for a cultural event while people down here are dying.

Well we wave the Canadian flag. Our ancestors built this country and we have a right, the same as everybody in this country, to be treated the same. And we're not.

THE CHAIRPERSON: Mr. DeLeskie, I'm just going to see if either of my colleagues on the Panel have any questions. Then I'm going to give a chance to see if there's anybody else who has a question for you.

MR. CHARLES: Mr. DeLeskie, I had some questions but The Chair has asked most of them. Which she has a habit of doing but that's all right with my

colleague and myself because they're good questions.

I just want to clarify one thing, though, when she asked you the question about what you would do about the Tar Ponds and the problem there, did you say to her that -- really that there's nothing that can be done, that you would just leave it but move the people away?

MR. DELESKIE: No. I am not an engineer. I don't claim to be an engineer. It would be wrong of me to say to you how to do it. You go ahead and do it.

MR. CHARLES: No, but you still want it cleaned up, I gather.

MR. DELESKIE: I fought for 20 years to get it cleaned up and I never charged anybody a penny. I never got a paycheque. I had meeting after meeting with every government official that you could think of. And when people said to -- I was threatened -- I was threatened. And I mean threatened by the Federal government that they would come down right on my head if I kept talking about the Tar Ponds because I embarrassed them so much.

MR. CHARLES: Mr. DeLeskie, I don't want to upset you and -- you know, because it's not good for you. And I appreciate the amount of time that you spent on this project. But I was merely trying to get clear what you wanted done.

MR. DELESKIE: I want a cleanup. I want a cleanup. There should -- I said years ago we want a cleanup, a cleanup, a cleanup. It's no good to cover it over. What's going to happen 20 or 30 years down the road when this concrete -- if it starts to crack ---

MR. CHARLES: No.

MR. DELESKIE: --- and then someone's going around with a little hand monitor and we got somebody on a radio station stating -- saying, "Oh, the readings are fine." But somebody else is going up to the hospital visiting somebody else that's dying because of the Tar Ponds. I want to see it cleaned up.

MR. CHARLES: Thank you.

MR. DELESKIE: That's why I said Mr. Potter and them should sit down with the citizens.

MR. CHARLES: No, that's ---

MR. DELESKIE: No one's talking to the citizens.

MR. CHARLES: That's fine and you've now clarified for me what your position is and I appreciate that. Thank you very much.

MR. DELESKIE: And I'm not mad at youse. I'm mad at the government. I'm really mad at them for what I saw. For what I saw. And for what I had to sleep with every night in my mind.

At times I thought I was going to go crazy. Do you know what it's like for people to come up and tell you they got stomach Cancer. Another man he's signing the petition, he's crawling off the bed on a Friday. His name is in the obituaries on a Monday. That was his Last Will and Testimony, when we were going around with the petitions.

MR. CHARLES: Thanks, Mr. DeLeskie. My friend over here, Mr. LaPierre may have questions for you.

DR. LAPIERRE: I don't have any questions but I'd like to say thank you for your enlightening and passionate presentation.

The people of Sydney and I think the area, can only be thankful that they have someone like you who spends a great part of their time to try to make the world and their home a better place for future generations.

And I do hope that the project will get cleaned up and I'm sure they will thank you for it.

MR. DELESKIE: And I thank -- once again, I thank the three of you and if I hollered I apologize. I did not mean to holler at either of -- any of you or anybody here. It's the government I'm really mad with.

THE CHAIRPERSON: No problem, Mr.

DeLeskie. No offense was taken and we could hear you just great.

Some of the presenters we couldn't hear them all that well, so no problem. I'm just going to see if there is -- first of all, I'll just ask the Sydney Tar Ponds Agency if they have any question that they would like to ask you. I know you talk to them a lot so they probably don't have much they want to ask you, but they might.

--- QUESTIONED BY THE SYDNEY TAR PONDS AGENCY (FRANK POTTER)

MR. POTTER: Madam Chair, I guess I have to start with a thank you for Mr. DeLeskie's kind words.

I do talk to Donnie an awful lot and I do like your cat as well, Donnie. And I hope that cat has a long and healthy life. Donnie, I know you and your brother, Ronnie have fought a long time, 20 years, for this cleanup.

I don't think anybody in Sydney has fought as long as you and your late brother have and as the comments were just made, I hope some day when this cleanup is complete and finished that people look back to you and say, "Mr. DeLeskie made this happen." Because you have been a strong voice in this community to make this happen. And that's what it takes sometimes for

government to step up to the plate and put the money forward to carry out these projects and I think at the end of the day, Donnie, I think you'll be able to get some of that credit when we complete this project.

We are going to do it. We're going to do it as safely and as carefully as we can. We're going to try to make sure that this site is a safe site for the kids that -- in the future that are growing up so that when they do, you know, rise from being, you know, that little three or four year old that they have a place to stay.

You know, that's one of the sad things about kids rising -- living in Sydney. I have two young daughters and, you know, I hope some day they stay around here.

And you know this cleanup has a lot of benefits and one of those benefits is keeping people here, keeping them safe and making a better place and that's certainly what we're trying to do.

We have a lot of good people working on this project. I'm not the only person in the Tar Ponds Agency. We have a lot of good staff. You know most of them. You've been over the office many, many times and I can assure you that we do care about the people in Sydney and we will do this safely. Thank you.

THE CHAIRPERSON: Can I just ask -- I see Ms. Ouellete. Is there anybody else who -- of the registered participants -- let me make my list.

Ms. MacLellan, Mr. Ignasiak. Okay, I think that's it and I'll ask you maybe to come and ask a question and we'll keep it probably fairly brief, if you don't mind. I imagine Mr. DeLeskie, probably deserves a cup of tea now or something.

--- QUESTIONED BY MS. DEBBIE OUELLETTE

MS. OUELLETTE: I just wanted to say, Donnie you brought us to tears today. I know how you feel because I was a victim.

But my question to you is, there were contractors on the Coke Oven site, besides the transformers, are there PCBs on the Coke Oven site because they keep telling us there's not. Can you identify the areas?

MR. DELESKIE: I know there was -- they had transformers stored with PCBs in the byproducts building. That's a fact. And they found trace amounts of PCBs in the Domtar tank that they took down. You can ask Mr. Potter that one.

MS. OUELLETTE: And I forget -- I think he forgot to mention that -- how long did you work on the Coke Oven site? How long did you work on the Coke Oven

site?

MR. DELESKIE: Long enough to know I couldn't be there and I got out.

MS. OUELLETTE: And when you were on top of the batteries for 15 minutes at a time, was that like smoking 35 packs of cigarettes a day?

MR. DELESKIE: If a person worked on top of the batteries in an eight hour shift, okay, an eight hour shift, it was the equivalent of smoking 35 packs of cigarettes a day. And that was the point that we were getting to.

But the reading was taken out in the public, you know, in residential areas. The readings were taken. The Province broke the Federal Clean Air Act by not putting emission controls on the factories and that is why so many people have the same sickness today as the ones -- there's not too many left that worked on the Coke Ovens. Not too many left.

But you didn't have to work on the Coke Ovens, you know, to come down with the same diseases or the same sicknesses for the simple reason you were breathing it -- seven twenty-four is it -- you know, you were breathing it all day long. But the government knew it, didn't tell us. They knew back in 1955 how bad it was. Did they care? No. Anybody that cares about a

human being -- if I seen a human being laying there, I most certainly would walk over and pick them up.

THE CHAIRPERSON: Thank you, Ms. Ouellette for your questions. Ms. MacLellan.

--- QUESTIONED BY CAPE BRETON SAVE OUR HEALTH CARE (MARY-RUTH MACLELLAN)

MS. MACLELLAN: Thank you Panel. Thank you, Donnie for coming here this morning.

I'm going to ask you probably a couple of questions, then I'm going to let you tell your story and I'll go sit down and listen.

You mentioned that you went through some hard times and were threatened and everything else. I can appreciate that because I've been in that place, too. But I want you to talk a little bit about your brother, Ron, and the financial amounts of money that he spent on this out of his own pocket.

And I want you to mention Donnie MacPherson and the trouble -- and the risks he took to dig out those documents in the SYSCO office and bring them to the public.

But before you do that, I want you to tell them about your walkabouts that we had in the last number of years on the Coke Oven Site and I want you to tell them about the barrels of Benzene that may possibly be

buried there. And the tunnels with rooms as big as kitchens underground and I want you to tell them about the War Measures efforts and the possibility of dynamite being buried there.

MR. DELESKIE: Okay.

THE CHAIRPERSON: That was a long list of questions. So I think ---

MR. DELESKIE: Give the first one. What's the first question.

THE CHAIRPERSON: I'll remind you if you forget. I think we've got the list. So do you want to start with the walkabouts?

MR. DELESKIE: The walkabout, I don't know about any walkabout. All I know -- oh, now I know Mary-Ruth, yes.

MS. MACLELLAN: The walkabouts. Remember the day you fell in the Leachate Brook?

MR. DELESKIE: Yes. Yes. Fell right in -- thank you Mary-Ruth. Look, I have so much on my mind, you know. And I mean, hey, what's on my mind is about the people. That's all I do. This is my life. The Tar Ponds has been my life, my whole life. You know, it totally -- it was like a monster. It totally got ahold of me. But I'll tell her about the walkabout.

We actually had to -- first of all, we

actually had to tie ribbons on trees or get sticks and bang them in the ground and then we had to call the head of SYSCO so he could go up and he actually put a fence there. That's how the first fence got there because we didn't want kids disappearing.

Now the walkabout, I fell into a place that was leaking from the dump. The skin was peeling off my hands. Who cared? Nobody cared.

Oh, yeah, what about Larry Nixon, God bless his soul. He's with my dear brother now, in Heaven. He was with me. He had plastic gloves, you know, the kind you get in the hospital like, you know, just -- you see through them like that. He put his hands in the water. Burned them right off of him. And then we had -- the nerve of some people to say, "Don't worry."

My dear, Donnie MacPherson was the one that shined the light on the injustice of what the government did to the people here.

He worked at the steel plant and he was an electrician at the Coke Ovens. And that's -- they had documents buried there and he got ahold of the documents and that's how a lot of documents came to light, or they never would have came to light. We wouldn't probably be sitting here.

My brother, Ronnie, when he died, it was

like you reaching into my chest and taking my heart and twisting it. I was calm, sitting down -- what was it four months later something like that -- four months later, I felt great, you know. When I say great, I mean at least I could breathe you know, good. I could walk. And I went out like that. I woke up in the hospital. They told me I had a massive heart attack. I didn't even know they took me out of the house. They took me out of the house, took me over the overpass and took me up to the Regional Hospital. I woke up there and they told me I had a massive heart attack. And then they gave me the news, there's nothing they can do for me. The damage is too bad.

Ronnie, now, he spent thousands of dollars out of his own pocket, thousands. Oh, yeah, we were called everything. We were called insane, crazy, years ago when we talked about the Tar Ponds, how bad it was. But when we proved the case, it was a different thing. People then said, "You were right." Well, naturally I knew we were right. We weren't triple-dipping like the government. They write for Ripley's Believe It or Not. They'll tell you anything.

THE CHAIRPERSON: There were two other things I think that I wrote down that Ms. MacLellan mentioned. One was something that was to talk about the

underground infrastructure. And the second one was -- I heard the word dynamite, did I?

MR. DELESKIE: I was never in the tunnels. I was asked that question before. I was never in the tunnels. I wasn't interested in the tunnels. But -- what was the other question? Dynamite, yes. Oh, the steel plant over there make dynamite. All kinds of it. They make dynamite up there at the Coke Ovens. They made it for the war effort. Is there any buried? That I don't know. Could be. I don't know.

THE CHAIRPERSON: Okay, thank you Ms. MacLellan for your questions, prompt, reminding Mr. DeLeskie of some things that you wanted him to bring up.

Mr. Ignasiak you have a question.

--- QUESTIONED BY MR. LES IGNASIAK

MR. IGNASIAK: Madam Chair, members of the Panel, I think it is becoming increasingly more evident that what really the community wants is a cleanup, not a coverup.

My question is, was Mr. DeLeskie or in fact, any other member of the Cape Breton Community in the audience, was the community informed in September of 2003 when a group of companies informed the Proponent that they have a cleanup option, not coverup option at the same cost as the cover up option? Was the community

informed about that so the community could discuss this option?

THE CHAIRPERSON: Mr. DeLeskie did you understand the question?

MRS. DELESKIE: Tell him it again, he can't hear that well.

THE CHAIRPERSON: Well, the question was that, were you as a representative member of the community or anyone else in the community, were they -- did you know in December, 2003 -- December, 2003 that there were ---

MR. IGNASIAK: I'm sorry, September, 2003.

THE CHAIRPERSON: A correction from Mr. Ignasiak that it was September, 2003, he is referring to a -- some information that was put in by a company to the Tar Ponds Agency or I don't know where it went with respect to another technology that would -- that's -- indicated that it could actually remove sediments and treat all of them.

MR. DELESKIE: Did I ever speak to any company?

THE CHAIRPERSON: Do you know what ---

MR. DELESKIE: Was I aware of it. I wasn't aware of it. I never spoke to any company per se as a company. No one.

THE CHAIRPERSON: Thank you very much.

Well, I think that that is -- there's one more question from Mr. Marcocchio and then I think we will take a break.

--- QUESTIONED BY SIERRA CLUB OF CANADA (MR. BRUNO MARCOCCHIO)

MR. MARCOCCHIO: Good morning, Donnie and Elsie.

MR. DELESKIE: Hi Bruno.

MR. MARCOCCHIO: One question. As you know, we don't have any of the details because in their wisdom they've decided that we should trust them. We should trust them that they will build an incinerator that works but we can't see what kind of an incinerator.

Trust them that they will build a proper monitoring system. But we can't -- they won't tell us what that monitoring system is. Trust them that they will inform the community if there are any problems but we can't see what that plan is. We're asked to trust them that the cleanup will work but they won't give us any of the details.

My question is a simple one, do you think that we, as a community considering that they continue to meet behind closed doors, very much like they did going back to 1990 in the first failed attempt, do you think

that we should trust them when they're not willing to let us into the room, when they're not willing to let the media hear their deliberations. When the government is not willing to tell us how and what they will monitor, do you think we would be wise to trust them?

MR. DELESKIE: Well, I'll tell you, Bruno, to put it plainly the only one that I would trust regarding an incinerator would be the Lord, himself. And that's -- but that's the only one. I wouldn't even trust myself.

I'm dead set against incinerators. That's it. Does that answer your question?

MR. MARCOCCHIO: It does, thank you very much.

THE CHAIRPERSON: Thank you, Mr. Marcocchio. I'm going to take two more questions then I am going to take a break. So Mr. Brophy was first and then Ms. MacQueen.

--- QUESTIONED BY MR. ERIC BROPHY

MR. BROPHY: I apologize for being late, Madam Chair. I did want to be here for all of Don's presentation. And I apologize to Don for not being here in time to support him.

I really don't have a question. My intent is to thank Don from the bottom of my heart on behalf of

all of this community for the tremendous work he's put into this file over the years.

He lost a brother who was deeply involved in this project. I'm sure he mentioned that. A sister, Sheila, who also has been involved over the years. The DeLeskie family are owed a deep, deep sense of gratitude and thanks and I hope I'm expressing that in some little way. Don, we love you. Thanks very much.

MR. DELESKIE: I'd just like to say to Eric, thank you very much but when I lost my twin it breaks my heart and I apologize for not mentioning Eric. Eric works so hard on behalf of this community.

He lost his wife and now his wife that he -- his second wife -- I was going to say his wife that he's married to -- well, that would make it his wife -- but his wife, she lost so many to Cancer.

My God, the Cancer -- you know, they say, "Well, let's have a cure for Cancer." We are giving you a part of a cure. Clean the Tar Ponds up, clean the Coke Ovens up. There's over three hundred thousand, maybe four hundred thousand tonnes of toxic soil just in the Coke Ovens. But they won't come out and tell you that one.

THE CHAIRPERSON: Mr. Brophy, thank you very much. I know you spoke for many people. Ms.

MacQueen you have a question and then we're taking a break.

--- QUESTIONED BY MS. NEILA MACQUEEN

MS. MACQUEEN: Good morning, Madam Chair, and Panel and ladies and gentlemen. Donnie, it has been a pleasure knowing you, working with you and being a friend.

I would like to ask you one question. I have to put my glasses on, Donnie. Slag mixed with sludge, incinerated, returned to the Tar Ponds and buried, leaving the site 30 percent content of arsenic, returning to the Tar Ponds with 82 percent arsenic, do you approve of this? And I know you do know a lot about slag. Thank you.

MR. DELESKIE: What was the question?

THE CHAIRPERSON: Ms. MacQueen is referring to the bottom ash, is that correct? The -- this is the bottom ash that will come from the incinerator after the sediments have gone into the incinerator the metals that were in those sediments will be more concentrated.

I think that is what you're referring to and she's asking what's your opinion of that.

MR. DELESKIE: First of all, I would say if there's no incinerator there'll be no ash. But if

there is ash, I will say if they really take a look, they'll be honest with you and tell you, there was some chemicals that they found that exceeded the CCME guidelines. If they want to lie, they can lie. I don't believe in incineration so how can I believe in burying that. I don't.

I believe in moving the people. After that, let them go in there with their Tonka Toys and have fun.

THE CHAIRPERSON: Thank you, Ms. MacQueen for that question. Mr. DeLeskie, Mrs. DeLeskie, once again, thank you very much for your presentation.

The Panel really appreciates you coming and taking the time to share your knowledge with us. We'll certainly consider it very carefully. So thank you very much.

MR. DELESKIE: Could I ask you one question so you could ask Frank it? Please.

THE CHAIRPERSON: Go ahead, I'll see what I can do.

MR. DELESKIE: I want to know if Frank would be willing to meet with Neila MacQueen and talk about her soil and her property.

THE CHAIRPERSON: Mr. Potter, would you like to respond to that?

MR. POTTER: Certainly, thank you, Madam Chair.

I'd be happy to sit with Neila and if you want to participate, Donnie, or maybe if Neila just wants to do that personally, I'd certainly be willing to do that. Thank you.

THE CHAIRPERSON: Thank you, Mr. Potter.

Well, I think that's been a great start to the day. So we will now take a 20 minute break.

Can I remind you that if you need headphones for the next presentation which will be partly given in French, that you can get those by the door.

Thank you very much. It is now -- we will start again at about quarter to eleven.

--- RECESS AT 10:28 A.M.

--- RESUME AT 2:02 P.M.

THE CHAIRPERSON: Our next presenters are from Cape Breton Save Our Health Care Committee. So, you have 40 minutes, and I'll give you the nod at five minutes before the end. Thank you.

MS. MACLELLAN: Thank you, Madam Chair. Before we start, I would first like to thank the Panel for their indulgence and their patience. I think over the past few days you've shown an extraordinary amount of patience.

And I would also like to thank your secretariat too, because I can see that they're working very hard and they're very diligent and very accommodating.

Having said that, my name is Mary-Ruth MacLellan, I'm chair of the Cape Breton Save Our Health Care Committee. I've already provided you with a brief history of our committee and I won't go into that, except to the fact that we advocate on behalf of the people.

My part of the presentation will come last. We have commissioned Dr. Argo to do the health side of it since I'm not a scientist or don't have a PhD after my name. I feel that we need somebody that -- they have a history of saying that we don't know what we're talking about, so I feel that we need somebody to show some credibility to what we're saying.

Dr. Argo will have 20 minutes and I will have 20 minutes, so I ask you to monitor the time accordingly, if that's okay.

THE CHAIRPERSON: You mean you want me to indicate the 20 minutes?

MS. MACLELLAN: Yes, please.

DR. ARGO: Give me a whistle at 18 minutes.

THE CHAIRPERSON: Pardon?

DR. ARGO: Give me -- shout or something like about 18 minutes, okay, and then ---

THE CHAIRPERSON: I will do that.

DR. ARGO: Madam Chair, when I handed in my documents I included some slides that I would be putting forth. With your permission, I would like to present -- I would like to give you just the text today.

We have an opportunity -- the committee has an opportunity to show a video on Tuesday and in order to save time today, I'd like to possibly -- I'll show you those slides, if you want, on Tuesday. Would that be acceptable?

THE CHAIRPERSON: Well, I think you'd better discuss that with the secretariat, if you don't mind, but we can ---

DR. ARGO: I have.

THE CHAIRPERSON: You have? Well, I ---

DR. ARGO: We're waiting for you.

THE CHAIRPERSON: I think I'll have to consult with the secretariat before I can speak to that matter.

DR. ARGO: Okay.

THE CHAIRPERSON: I'll just do that right now. Hang on a minute, please. Dr. Argo, that's fine, I am informed. Carry on, please.

DR. ARGO: Thank you very much. I'm trying to do that just to save a bit of time.

--- PRESENTATION BY CAPE BRETON SAVE OUR HEALTH CARE COMMITTEE (DR. JAMES ARGO)

DR. ARGO: Madam Chair, distinguished Members of the Panel, thank you for the opportunity to appear before you. My name is James Argo, I have a small consulting company in Wolf Island in the St. Lawrence River just opposite Kingston.

The cleanup of the contaminated lands and waters of the former Sydney Steel Plant and the Coke Ovens is a fundamental necessity for good health to return to this area of Nova Scotia. As a medical geographer studying chronic lifetime exposure to industrial emissions and its effect on a person's health today, I am fundamentally opposed to any process that will increase emissions.

From a human health perspective the choice of incineration to remediate the contaminated soil is the worst possible decision that could have been made.

The decision to remediate the Tar Ponds with incineration solely because it was a proven technology automatically imposes on the residents a requirement to endure further years of potential chemical exposure, albeit at a much lower level to what I will

show has already made them ill.

This seems profoundly undemocratic and a violation of Charter and our human rights issues. I'm not a lawyer, so -- but that certainly has that sense.

The use of standards that are not risk-based, for instance the CCME, Canada-Wide Standards for releases to air, I oppose generally. These are not standards in the usual sense of the word but an agreement to limit releases of highly toxic chemicals.

They are emphatically not risk-based and unacceptable, therefore, as a basis for release of chemicals so powerful they affect all human and animal life in the Sydney biosphere at the most fundamental level, the cell.

The people of Cape Breton County stoically endure an embarrassment of excesses; excesses of cancer, excesses of diabetes, excesses of heart disease, excesses of kidney disease. These are all directly associated with lifetime chronic exposure to chemicals associated with the Coke Ovens and the Steel Plant.

The key to understanding the patterns of morbidity observed is exposure to dioxins. In addition to dioxins, a wide range of VOCs, PAHs, metals, SOX, NOX, CO, et cetera, were simultaneously formed and released during the coking process.

In 1972, 120,000 tonnes of volatile organic chemicals were released from the Coke Ovens with no emission controls to make 300,000 tonnes of coke for use in the steel mill. The conditions to form dioxins are fully satisfied by the Coke Ovens operating with the bituminous coal containing sodium chloride. We analyzed the coal from this area and we found various amounts of chloride. That's one of the slides.

An ambient dioxin concentration, that is the background concentration, is capable of inducing biochemical changes and adverse effects. These include: altered glucose tolerance and decreased insulin levels leading to altered pancreas/endocrine function and ultimately diabetes; altered fat metabolism leading to elevated lipids, cholesterol and ultimately increased risk of heart disease; altered porphyrin metabolism leading to porphyria cutanea tarda and ultimately kidney disease.

Chloracne is a persistent skin condition generated only by heavy exposure to chlorinated aromatics including dioxins, furans, PCBs, hexachlorobenzene, collectively called chloracnigens. It is present in Sydney today in a much smaller amount than previously. The half-life of elimination is about eight to 10 years.

I'll just draw your attention to the front

cover of the report we've presented, which shows one person here in Sydney with some vestiges of chloracne on his skin. On the inside of the cover is a closeup picture of the same chloracne that appears on the person's ear. I've experienced some of this and it is incredibly itchy, very, very uncomfortable.

From a toxicological perspective, the lowest possible no-effect level, or NOEL, has not been identified yet, though we may be close with current estimates of from one to three picograms per kilogram per day. A picogram is -- let's see, what's that -- a millionth of a microgram, so one/tenth of a twelfth of a gram.

Dioxins, because of their affinity for receptors that affect the endocrine system are called endocrine disruptors. They can be both anti-oestrogenic, affecting females, and anti-androgenic, affecting males.

Their anti-oestrogenic properties appear to include promotion of breast cancers, hormonal changes, adverse pregnancy outcomes, endometriosis.

Their anti-androgenic properties appear to affect the motility of sperm, that is the movement of sperm, abnormal and reduced testicular morphology and alteration in male hormone levels.

They are capable of inducing some cancer

sites alone and promoting all other cancer sites. For instance, there's an elevated probability that minimal exposure to dioxins will lead to an elevated risk of connective tissue, lung, liver and stomach cancers and non-Hodgkin lymphomas, all common. Oftentimes the exposure necessary is minimal, that is just absolutely minimal, just being present, even a small amount.

Dioxins affect all animal life in the biosphere by affecting the ability of a species to reproduce. As an example, the area around the Great Lakes where I live has seen the bizarre sexual dimorphisms generated by this curse of dioxin exposure.

The extirpation and extinction of federally[?] threatened species of fish on the eastern slopes of the Rockies now appear to be associated with dioxins generated by sour gas flaring. Dioxins affect the sex ratio. I must ask if you do encounter the typo "sex ration," please, it's a typo.

The sex ratio is the ratio of males to males plus females, and it is usually .51, or at least that's the theoretical limit. When the number of males is less than half the ratio is describes as inverted.

Data from the 1991 Census shows that the sex ratio in Sydney was .468 and .4844 in Cape Breton County, significantly down, a clear indication of long-

term human exposure to dioxins in Sydney, in the County. In another study that I have been doing about heavy industrial across Canada in 90 communities, I have not found one that did not have an inverted sex ratio.

The detailed description of the nasal epithelia in my report describes the manner in which the fight or flight response mechanism is activated under the stimulus of a chemical trigger. The chemical can be in extremely low concentrations, as low as picograms per cubic metre.

They are described as neurotoxins. Examples are ethanol, benzene, toluene and carbon disulphide. These are all chemicals which are capable of affecting the operation of the brain.

The human nose can detect, for example, hydrogen sulphide at a concentration of 0.007 micrograms per cubic metre. An EPA risk assessment document for hydrogen sulphide includes that a safe concentration -- a safe lifetime exposure of .0015 micrograms per cubic metre is safe.

At the same time, it has been shown that exposure of a woman in their first trimester to an annual average concentration of .004 micrograms per cubic metre is associated with spontaneous abortion, that is that the toxic effect of hydrogen sulphide is at a concentration

below that which is detected by the nose. I've put this in because there was some question about that actually being possible.

This phenomenon is extremely common. When coupled with the variability of wind, it provides an etiology for the medically common condition called chemical sensitivity, first observed by Pavlov who called it a conditioned reflex.

An individual will respond to a stimulant carried by air at an initial concentration. A susceptible individual will respond to a slightly lower concentration in a re-exposure after several cycles from different directions with no stimulants. Repeated over some years, the susceptible individual will begin to respond at concentrations typically 100 to 1,000 times less than the average of the population. There does not seem to be any possible reversal of the effect in the most severely affected individuals I know of.

I hypothesize that the incidents of chemical sensitivity in Cape Breton County, and Sydney particularly, is very high following a lifetime exposure to the VOCs from the Coke Ovens. And I have deposited with the public record a reference to corresponding information for about 450 chemicals that has been supplied to the Panel.

I studied the development of 18 cancers in Cape Breton County in persons who were exposed by living within 25 kilometres of the Coke Ovens for no more than one year from 1970 to '72 when they were then less than 30 years of age. This design was selected to test a hypothesis by a Professor Tilly of MIT that early exposure leads to early cancers, later exposure leads to later cancers, and no exposure, of course, leads to no cancers.

Now, the period that I'm looking at corresponds to the years that were shown on the slide by Dr. Yeats from DFO during this last week when extensive deposition of the contaminated sediment in the harbour was beginning, and beginning an ascent from the plateau of the war years and earlier there was a period where it was beginning to increase.

Now, I have corrected for smoking using the statistics from Health Canada, but I was reminded by Mr. DeLeskie that breathing here in Sydney the partial combustion products from the plant was tantamount to breathing second-hand smoke anyway. I've made the correction but he's telling me I don't need to.

To be concise, the risk of breast cancer in women exposed before age 30 is about twice the risk for women who are exposed at a later age. The risk of

all the cancers, the other cancers we studied in women, except breast cancer, was about the same early or late exposed.

The risk of all the cancers studied, except prostate in men exposed at less than age 30, is about twice the risk for later exposure. So, it's just an inversion. These effects stem directly from the alteration of the sex ratio by dioxin. You could say this is an example of where the boys aren't.

Quite recent research in TCDD, that is one of the dioxins, exposed -- the rats were exposed to TCDD and it has shown that low doses of this compound can rapidly induce significant alterations in the pancreatic/endocrine function of the rat. I have attached an abstract of that.

The pancreatic/endocrine function referred to is the synthesis and release of insulin. Now, Dr. Magee commented Thursday that if he observes an effect in an animal study that he assumes the same effect may be seen in a human exposure. Therefore, following his guidance and drawing on his expertise, I suggest that this work infers low level dioxin exposure is directly associated with the very high incidence of diabetes in Cape Breton County.

The statistics provided me by the Health

Authority include the rates of coronary vascular disease, acute myocardial infarction, ischemic heart disease, stroke, hypertension, heart failure and nephropathy, which is kidney disease, both with and without diabetes present.

I have analyzed these rates, comparing Cape Breton County with the rest of the province, under the assumption that dioxins have been present longer and to a greater degree here than in the rest of the province. I find dioxin -- in the analysis that dioxin is a factor in the incidence of cardiovascular disease, ischemic heart disease, stroke, possibly heart failure and nephropathy. I find that dioxin is not a factor in acute myocardial infarction or hypertension.

Now, we've had a little bit of conversation today about children and Mr. DeLeskie briefly referred to children playing in the dirt. The practice is called pica and it's highly prevalent in up to about age six when children go to school. Children love pica.

A child exposed to 240 picograms of dioxin per square metre, which is the kind of concentration that would occur if you had a child occupying the first three metres of the area, a square metre that is three feet -- or three metres high, when the concentration was coming

out at the same rate as is allowed in the Canada-Wide Standard.

So, he or she would ingest -- sorry, a child exposed to 240 picograms of dioxin per square metre in soil that he or she ingests will retain most of that in their tissue, eliminating the grains of soil in the faeces. After a year the body burden of the child is potentially 365 times larger.

Remember that I said that the rate -- the half-life for elimination of dioxins from the body is eight to 10 years, and a young child is not expected to be releasing very much at that time. Instead of what seems a small amount of 240 picograms, the child may actually have ingested, well simplistically, 87,600 times the amount and they would potentially retain 87.6 nanograms of dioxin if they're going out every day and they're playing in the soil and ingesting the same amount.

In each year the child will potentially ingest the same amount on top of what it ingested last year. That is bioaccumulation. If a child continues to practise pica until grade primary, they will have perhaps five years of opportunity and about 438,000 picograms of dioxin, 438 nanograms of dioxin.

THE CHAIRPERSON: Dr. Argo, this is purely

for information purposes because you asked me, but you're about one minute away from 20 minutes.

DR. ARGO: Got it.

THE CHAIRPERSON: Okay.

DR. ARGO: The Canada-Wide Standard. Please allow me to return to the issue of the Canada-Wide Standard, in particular the Canada-Wide Standard for dioxins and furans.

Now, the Proponent is allowed by the CWS to release 80 picograms per cubic metre of dioxins into the atmosphere of the incinerator. This is a concentration, not a rate. As I said yesterday, dioxins have been described by IARC as carcinogens, and the carcinogens have no toxicological lower limit and, therefore, are regulated by a certain acceptable risk.

Since the Canada-Wide Standard is not risk-based and neither Environment Canada nor Health Canada have been able to respond to the direct questions I asked yesterday, I will do it here.

I estimate -- and I'm going to skip a couple of paragraphs here -- that -- doing a simple dose-response model, I estimate that the daily dose represented by a Canada-Wide Standard is approximately 26.3 picograms per kilogram per day above the reference dose or the safe limit, the no-effect accumulate over a

period of time a person will be accumulating more than they are starting to eliminate.

Now, in summary, the risks -- I think that the risk assessment of the EIS fails because, and in my professional opinion must be rejected because, fundamentally, it does not consider prior lifetime exposure of the population to hydrocarbons, PAHs, dioxins and metals before assessing how they will respond to the additional burden.

As far as I can understand -- I read it through and through, and as far as I can understand, they only start with the -- what they start to give them, as the incinerator opens.

I do not have the expertise to offer alternatives to the proposed remediation technology, and I have no doubt, personal or professional, that from a human health perspective the choice of incineration is the worst possible one that could have been made.

Thank you.

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

MS. MACLELLAN: Thank you, Dr. Argo. Thank you, Madam Chair.

Let me first acknowledge that we are here today because we are concerned with the cumulative health

impacts that the proposed cleanup will have on our health.

We, the people of Cape Breton County, already carry a heavy body burden because of past exposure. To re-expose us to more dioxins and toxins will have a catastrophic effect on our health, especially the children.

To allow this to happen will not only violate our constitutional rights, it will be in contravention with the precautionary principle.

Let us look at what the precautionary principle is. A 1998 census statement characterized the precautionary principle this way:

> "When activity raises threats of harm to human health or the environment, precautionary measures should be taken, even if some cause and effect relationships are not fully established scientifically."

The statement went on to list four central components of the principle, taking preventative action in the face of uncertainty, shifting the burden of proof to the components of the activity, exploring a wide range of alternatives to possibly harmful actions, and increasing public participation in decision making.

The precautionary principle encourages policies that protect human health and the environment in the face of uncertain risk.

In a broad sense, it is not a new concept, and some may object to giving it a new name when similar ideas go by different names in other disciplines. For example, Public Health practitioners use the term "primary prevention" to mean much the same thing, the physician's obligation to "First do no harm" is a precautionary approach to treating the sick.

The precautionary principle is an emerging principle of international law but has only been proposed in North America as a new basis for environmental policy.

On the surface, it is a simple, common-sense proposition. In the face of possible harm, exercise caution -- precaution, sorry. But, the enthusiasm the principle has stirred among public advocates suggest it has a deeper appeal. It is, in fact, based on values related to caring for life and the natural world.

The principle cannot effectively be invoked without stating these values up front. The principle makes it clear that decisions and development in science and technology are based first of all on values, and secondly on science and technological fact

and process.

Moreover, a precautionary approach is best carried out in the context of the goals that embody the values of the community in society.

Hugo Elro and Eric Christenson in press described the need of scientists to recognize the value system within which they work, and to observe and describe it as objectively as alongside the research itself.

An overall distinction between the system and its environmental needs -- and environment, needs to be made. The system has to be identified as an objective of observation.

This first movement also involves the determination or, at least, presumption of certain goals and values upon which the choices and eliminations that need to be made in planning and initiating research can be made. The ensuing observations are thus based on these value-laden choices.

The precautionary principle has many practical uses and applications, but both its instinctive appeal, and the sharp criticism, it invokes has less to do with practicalities and more to do with the fact that it brings values to the forefront of the discussion.

Invoking the precautionary principle is an

acknowledgement that policy choices are value laden, and it is an explicit endorsement of certain values. The precautionary principle embodies certain values, it exposes the contradictory values that currently govern decision making processes. It can be effective only if certain values are allowed to enter into the decision-making process.

Moreover, the principle may be most effective if specific values, in the form of goals, are allowed to guide the entire process from the beginning to end.

Precautionary action is a normal human response. Commercial and industrial interests have been increasingly able to insist that harm must be proved scientifically in the form of a quantitative risk assessment demonstrating harm in excess of acceptable limits before action is taken to stop a process or product. These exercises have often been linked with cost-effective benefits which give much weight to immediate monetary losses from regulations, and little, if any, weight to cost to the environment or future generations.

The Blue Mountain Lake statement of essential values become actions. Too many of our actions are killing our planet, our communities and our spirit.

Our actions are killing our loved ones. We are diminishing the future for everyone and everything.

Particular values form bases for our survival. When practised, they help us live in reciprocity with nature and with each other. We are the relationships we share. We are permeable, physically, emotionally and spiritually to our surroundings.

Therefore, we hold these values as essential: Gratitude because our lives depend on air, water, soil, plants, humans and other animals; empathy because we are connected with all creations; sympathy both necessarily in the course of life and unnecessarily when these values are not practised; compassion because it moves us to attend to the suffering and injustices; and humility because we cannot know all the consequences of our actions.

We belong to the community of the earth. It is the source of our own life and our own actions affect its wellbeing. Before we practise -- therefore we practise respect because it is fundamental to good relationships, restraint because the earth is infinite, and we must honour its limits, simplicity because we are only one species sharing the earth with many others, humour because life is good and humour disrobes tyranny and obscurity, human beings need sustaining social and

natural environments.

No one, by law or habit, is entitled to rob others or future generations of a diverse world vibrant with hope and possibilities. We have an obligation to restore social and ecological fabric that has been torn by violence or exploitation.

We affirm that all being is sacred and has intrinsic value that is not monetary. People who hold these values outnumber those who do not. We draw our strength from each other.

As we abandon harmful activities, we take nature as our guide. We explicitly consider the effects of actions on individuals, families, communities, species, landscapes, regions and future generations.

It is through love for the particular -- a child, a neighbourhood, a family of otters, a meandering river, that we find our way to a sustaining relationship with the earth and our communities.

If one cannot be sure, for example, that this proposed incinerator will work at 100 percent efficiency, 100 percent of the time, if one cannot be sure that no dioxins will come out of it, then there is no alternative but to apply the precautionary principle.

We are human beings, we are not statistics. Our children and our grandchildren need for

us, for once in our lives, to stand up and let all know that our health and wellbeing is -- will be the first priority in this cleanup. We will no longer be pawns in someone else's schemes.

We are here not to ask you to consider the precautionary principle. We are here to tell you that it is mandatory. If it is not applied, then perhaps you are triggering international law, and subsequently perhaps it's time to contact either Amnesty International or the World Health Organization or the United Nations or all of them.

We are fed up with no one putting our health and wellbeing first.

We are also fed up with the blatant waste of taxpayer dollars. Some see this project as a new economic boom. We are -- they are much like a school of sharks. They see dollar signs and all else is trivial.

Do you have any idea what it is like as a young woman to wonder, on a daily basis, if she will live to see her babies grow up, and what will happen to them if she does not.

Do you have any idea what it is like to listen to a 4-year-old child screaming out in pain as she clings to life, while knowing there is no medication that will calm the pain as an adult form of leukaemia races

through her young body. Just how does one comfort the parents.

Do you have any idea what it is like to watch a child struggle with speech impediments and co-ordination difficulties, and constantly worry what lies ahead for this child whose young body was positive for high toxin levels.

As outlined before in my reflections on illnesses, the illnesses are astounding. The death and dying is demoralizing, so much so that even our friend, a preacher who was born and raised in Sydney, left here because he felt that as a young preacher, who was averaging three funerals a week, there ought to be more to do in his calling than dealing with death and dying. He needed to serve others who were well and struggling in other ways.

Sad but true, it has become our way of life. Perhaps we can change this for our grandchildren.

I believe it is your duty on this panel to see that the precautionary principle is applied.

I am not quite sure where the precautionary principle has its origins. However it is important to note that it is becoming international law. The principle means to do no harm. If there is the slightest doubt, then you must err on the side of

caution.

The problem of uncertainty has plagued environmental regulation from the beginning. The common practice in the US is to ignore or deny the existence of uncertainty, or to apply arbitrary numerical fudge factors, then to proceed as if everything were known with a high degree of certainty.

For example, a deadly amount of a chemical applied to a mouse number may be determined for a mouse, then a fudge factor of 100 or 1,000 may be applied to the mouse number to reach a standard called safe for humans.

Science cannot determine safe levels of toxic chemicals, so government agencies, environmental lobbyists and the polluters all respond identically, pretending that safe levels of toxins have been determined and that only good science has been employed in the process.

As a result of such widespread abuse of the scientific method, many Americans have begun to lose confidence in science as a way of knowing about the world.

In recent years, two principles have developed for dealing with true uncertainty, the precautionary principle and the principle that the polluter should pay.

THE CHAIRPERSON: Can I just tell you it's five minutes now.

MS. MACLELLAN: As stated -- I'm just about finished -- as stated in principle 15 of 1992 Rio Declaration of Environment and Development, the precautionary principle says that:

> "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason of postponing cost-effective measures to prevent environmental degradation."

Some people consider that the principle of reverse onus is inherent in the precautionary principle. The principle of reverse onus says that the burden of proof for safety belongs in the proponent of the technology and chemical, not on the public.

In other words, new chemicals and technologies should be considered dangerous until otherwise proven.

It is important to clearly distinguish between the development of scientific information about an issue in the setting of policy but, in practice, there is not only an ambiguous demarkation, policy makers set agendas that determine the questions asked of scientists.

Scientists formulate hypotheses in ways limited by their tools, and their imaginations. Thus the information they provide to the policy maker is limited, and, to a degree, socially determined.

There is a complex feedback relationship between the discoveries of science and the setting of policy, while maintaining their objectivity and focus, and understanding their work, and of their social responsibilities to science that protects human health and the environment.

The precautionary principle highlights this tight problematic linkage between health and policy which can be summarized in the following seven points. Scientific studies can tell us something about the cost risks and benefits of a proposed action, but there will always be value judgments that require political decisions. The scientific data used for making policy will nearly always be limited by uncertainty. Even the best theory in data will leave much that is not known about the estimates of risk benefits and cost.

In conducting their research, scientists must make assumptions, choices and inferences based on professional judgment and standard practices that is not known by the public, or policy makers may make scientific results appear to be more certain and less value-laden

than is warranted.

Although there are some situations in which risks clearly exceed benefits, no matter whose values are being considered, there is usually a large grey area in which scientists alone cannot, and should not, be used to decide policy.

In these grey areas status quo activities that potentially threaten human and environmental health are often allowed to continue because the norms of traditional science demand high confidence in order to reject dull hypotheses, and so detect harmful effects.

This scientific conservation is often interpreted as favouring the promoters of a potentially harmful technology or activity when the science does not produce overwhelming evidence of harm.

The precautionary principle, then, is meant to ensure that the public good is represented in all decisions made under scientific uncertainty. Where there is a substantial scientific uncertainty about risks and benefits of a proposed activity, policy makers should be -- policy decisions should be made in a way that errs on the side of caution with respect to the environment and health of the public.

There is not an incinerator anywhere in this world that works at 100 percent efficiency. Why,

even third world countries like Pakistan have banned incinerators.

One failure could have a catastrophic effect or drastic effect on a population who already carry a heavy body burden of dioxins. Therefore the precautionary principle must prevail and the idea of incineration must be scrapped.

We represent the people in our communities. On more than one occasion our committee was validated by more than 8,000 people. We do not want incineration. We have suffered long enough. We want our children and grandchildren protected. An ounce of prevention is worth a pound of cure. Justice delayed is justice denied.

Thank you, Madam Chair.

THE CHAIRPERSON: Thank you very much, Ms. MacLellan, thank you, Dr. Argo, for your presentations.

--- QUESTIONED BY THE JOINT REVIEW PANEL:

MR. CHARLES: Dr. Argo, I wasn't quite sure I caught the statistics that you quoted, but it relates to the young child who is eating dirt. How much dirt, on the basis of your calculations or the reports that you're citing, how much dirt does a child have to eat daily in order to suffer some kind of -- some level of harmful effect?

DR. ARGO: I guess, the answer would be twofold. It would have to depend on the amount of contamination and then, of course, how much they eat and partly how old they are. They are typically eating on the order of a couple of grams.

MR. CHARLES: A couple of grams. And the age of the child, are we talking about, you know, two-year-olds, three-year-olds?

DR. ARGO: They tend to be -- well, I'm sure it's a common experience that a child who's playing outside, who sees a bright pebble will be attracted to the pebble and then while their attention is then distracted to something else they'll stick the pebble in their mouth. And who knows what's on the pebble? And then they'll go to something -- and I've seen children with a couple of stones in their mouth.

The grains, the small grains that can be swallowed, will be swallowed. Pica is a very -- it's a medical condition, it's worldwide, it's very common. Well, common to the medical field. They tend to be generally on the order of a couple of grams. We're not talking of handfuls.

MR. CHARLES: No. And would it make any difference what the body weight of the child is?

DR. ARGO: Yes, it would. Yes, it would.

As the child gets older they can accommodate more. The young children have more -- have a higher proportion of adipose tissue, fat, and they tend to -- a lot of these chemicals, especially things like dioxins, would tend to be absorbed in the fat and remain there. That's part of the problem.

MR. CHARLES: And any difference between male and female children in terms of their uptake?

DR. ARGO: I'm not aware of that, though in a sociological sense male children tend to be playing in sand pits more often than girls, though my daughters used to play in the sand pits and make -- have tea parties.

So, I really can't -- I'm not aware of that at the moment and I haven't done any research. I could, but I haven't done any research on that.

MR. CHARLES: All right. Thank you very much.

THE CHAIRPERSON: I also had a question for Dr. Argo with respect to dioxin and furans emissions. I'm wondering if in your work you could tell me anything about the contribution from non-point sources compared to industrial point sources of dioxins and furans.

DR. ARGO: Are you thinking in terms of traffic?

THE CHAIRPERSON: Wherever it comes from. I presume there are a number of disperse sources, and I'm wondering in an urban area, you know, generally speaking, what is the kind of contribution from those kind of emitters compared to the industrial sources such as dioxins and so on.

DR. ARGO: My understanding is from talking -- or conversations with people, contacts in Environment Canada who are concerned with air emissions, is that the air-borne emissions that come from things like traffic, in a general sense they provide a very definite background. There will be other point sources which will provide an addition on top of the background.

If you have -- some vehicles like cars have a level of emissions that will be typical of that vehicle, a heavy truck will have a different set of emissions. Heavy trucks, for example, one of -- they are an extreme source of PAHs, and one of the things that happens is that PAHs are absorbed on the grains of the diesel fuel and oftentimes they will also contain dioxins and furans.

It's a very hazardous profession, to be a diesel mechanic.

THE CHAIRPERSON: Thank you.

DR. LAPIERRE: Thank you for the

presentations. They were most interesting. I'd like to ask a question of Mary on the precautionary principle. I appreciated your presentation and I would like to ask a question.

How would you see the -- would you have a process of how you could implement the precautionary principle as you go about developing a plan to clean up the Sydney Tar Ponds?

MS. MACLELLAN: I'd perceive the precautionary principle to apply first that you err on the side of humanity and the world, that if there is any possibility whatsoever that it will do harm to human beings, especially the children, then the precautionary principle prevents the proposed process -- or should prevent the proposed process from happening.

And it should figure it -- I'm not sure if I'm answering your question -- but when -- for example, the proposal they have today, okay, before they even came up with that proposal they should have looked at the fact that 10 years ago the community turned that -- I was on the committee that was part of the community that turned that proposal down. So, why are we here 10 years later? And we turned it down for the same reasons, we figured it was going to hurt our health.

I can tell you from a children's -- I can

see this from a children's point of view, and if you wish, I'll tell you what the child said to me.

I've had a lot of involvement with youth groups in the past and I was driving a bunch of Boy Scouts home from a weekend camp one day and one little boy was being unusually quiet and I said to him, "What's wrong today?," I said, "You're so quiet. What's going on in that little head of yours?" His reply to me was, "Well, miss, my head is not so small," and he said, "I'm worried." I said, "What are you worried about today?" I'll just say "Johnny" for now, that wasn't his name, but anyway. He said, "I'm worried about our lives," he said, "you're handing us an awful scary world."

This little boy was 13 years old. He said, "It's your generation who has messed up. When you grew up," he said, "there was no problem finding a job but," he said, "you guys messed up." He said, "Youse polluted, youse corrupted, but it's not too late to fix it up."

So, if you perceive -- like the health effects already are known. What's going to happen here if they go ahead with the incineration, but to encapsulate something, how can you go back then and tell that child 50 years or maybe even less than that down the road that they have to do something with that

encapsulation because it's not going to hold?

DR. LAPIERRE: Okay. Thank you. Dr. Argo, if I follow up on the principle -- precautionary principle -- and it relates back to your comments on dioxins and furans on which there are no set safe levels, there are, I guess -- and I think you would agree that not all levels of dioxins and furans can trigger disease in everybody.

DR. ARGO: No, that's quite correct. Some people will be more susceptible than others.

DR. LAPIERRE: Okay. So, if you apply the precautionary principle, would that mean that no level of dioxins and furans are permitted?

DR. ARGO: That would be ideal. That's what I would like.

DR. LAPIERRE: That would be ideal. But we don't live in an ideal world.

DR. ARGO: Quite so. Dr. LaPierre, what I did was that brief assessment of what does the Canada-Wide Standard mean. I did that slight calculation because I wanted to find out does -- is there risk attached with that. The value that comes out is about 26 picograms per kilogram per day, 26 times.

The literature that I have reviewed since I started writing the report -- and I've reviewed quite a

lot of it associated with dioxins -- indicates that even ambient levels are capable of generating biochemical effects.

Some of those biochemical effects, we don't know whether they will go on to become something more serious, but there's every indication with some of them that yes, they will go on, they will affect the operation -- the function of the liver, they'll affect the function of the pancreas, and we know that they -- even at biochemical -- at levels that are corresponding to ambient, as close as possible to one to three picograms per kilogram per day, they're very close to that and they're still causing a biochemical effect.

Higher levels tends to cause adverse effects. Endometriosis is one of them, breast cancer would be higher levels still, but there's a continuum.

I have -- there's a recent paper which has indicated that the -- what they call the reference dose or the no lifetime risk dose is about one to three picograms, but I'm not convinced -- simply because ambient concentration are still capable of exposing -- causing biochemical effects, I'm not convinced that we're there.

I don't think we have -- I think it'll be a bit lower. I don't think it'll be much lower, but I

think it will be a bit lower.

So, when -- since they are a carcinogen we can say comfortably that there is no lower limit, and my reading of the precautionary principle would be to say that in order for the precautionary principle -- the logical outcome of applying the precautionary principle to dioxins is that we have to get lower in terms of the concentrations of dioxins which are released. If we have to release them they have to be lower, and that means they have to be less than the Canada-Wide Standard.

THE CHAIRPERSON: I'd now like to move on to questions from other people. I will first ask the Sydney Tar Ponds Agency, do you have any questions for Ms. MacLellan or for Dr. Argo, please?

MR. KAISER: Yes. Thank you, Madam Chair. We do, in fact, have questions. I will ask Mr. Stephen McGrath to take the lead on this.

--- QUESTIONED BY SYDNEY TAR PONDS AGENCY (MR. STEPHEN MCGRATH)

MR. MCGRATH: Thank you, Madam Chair. I'm Steve McGrath, I'm counsel for the Sydney Tar Ponds Agency. Just a query about time. At the moment, four questions?

THE CHAIRPERSON: I think I'm going to use my -- the same one I did for the previous presenter. So,

I'm going to say a five-minute round for everybody, please.

MR. MCGRATH: Good afternoon, Ms. MacLellan, Dr. Argo. I just have questions for Dr. Argo. Doctor, your PhD is in chemistry?

DR. ARGO: That's correct.

MR. MCGRATH: In this proceeding you filed a copy, as part of the record, of a letter to the Auditor General of Canada, and I just have a question relating to that. Do you have that handy?

DR. ARGO: No, I don't. What date was it?

MR. MCGRATH: It's March 22nd, 2006, a letter to Sheila Fraser.

THE CHAIRPERSON: I'm sorry, could you clarify for the Panel. Just what is the document that you're talking about?

MR. MCGRATH: The document is on the record in this proceeding as STP-0130. It is actually two letters attached in that record. One is a letter to yourself, Madam Chair, a cover letter, and then the attachment is a letter to the Auditor General of Canada, and I'm looking at the letter from the Auditor General of Canada.

THE CHAIRPERSON: Are you planning to continue to ask your question or -- I don't have this in

front of me. Do you have another question that you want -- why don't you place your question and then we'll decide whether we need to give Dr. Argo time to come back with an answer when he has it in front of him.

MR. MCGRATH: Sure. I'm looking at the paragraph in your letter where you indicate:

> "We feel that the use of a reasonable value of a UF (uncertainty factor) is not justified under exposure conditions such as the Sydney scenario. If the reasonable UF of 10 is acceptable for an unexposed person, how can it be acceptable for persons who have been chronically exposed over many years in the Sydney scenario? The pre-existing body burden requires a conservative UF, for example, 50 to 100."

Do you recall that comment?

THE CHAIRPERSON: Well, I'm sorry, I think we're going to have to bring this one -- I don't have it in front of me. I'm not sure that I can follow the questioning and the answer, but just a minute. I'm going to take a two-minute break on this one, please.

MS. MACLELLAN: Madam Chair, if we're --

since we're coming back on Tuesday, I'd be happy to bring those documents in on Monday and then maybe that questioning could be asked again on Tuesday.

THE CHAIRPERSON: Okay. I think that we might want to defer the question to then. You don't need to bring the documents, we have the documents, but I just don't have them in front of me right now but ---

MS. MACLELLAN: But in the interest of the Panel, I have two petitions to the Auditor -- the Commissioner of Sustainable Development and Environment as well on the record, and right now one is still outstanding. The ministers have 90 days from the date that the Auditor General advises them to answer.

THE CHAIRPERSON: Um-hmm.

MS. MACLELLAN: And that's the last -- it's part of the first petition. What they did establish is that our first petition was 140, this one is 140B.

THE CHAIRPERSON: Okay. Thank you. Mr. McGrath, do you have another -- just a moment, please. I'm going to take a couple of minutes here.

I think maybe as the day wears on the brains of the Panel are not quite as sharp as they were at the beginning of the day, and they may not have been that sharp then.

So, I'm sorry, collectively we're in a

little bit of a fog. So, we would prefer that this be -- this question come back when the presenters are making their second appearance, if that's acceptable, or at least that's what I'm asking.

Do you have another question that you could proceed with, Mr. McGrath, that perhaps we can follow?

MR. MCGRATH: Thank you, Madam Chair. I actually have a few relating to the documents that have been filed by the Save Our Health Care Committee in this proceeding, so it may be useful if Dr. Argo, when he reappears, can bring with him the documents that they have already filed as part of this proceeding.

Dr. Argo, you heard Dr. Magee indicate that he followed standard and very conservative guidance from regulators to prepare his human health risk assessment and then he made several further conservative assumptions and overestimated exposures by a considerable degree.

Do you feel that he's underestimated the risk in this case by doing that?

DR. ARGO: Yes.

MR. MCGRATH: By how much?

DR. ARGO: And I'll tell you why. The Cumulative Health Assessment that was prepared and

presented as part of the EIS does not take any consideration whatsoever of the previous exposure of the people that surround the site.

Since this proceeding has begun sometime last year, I have made a total pain of myself complaining to anyone and everyone, including Mr. Chapman at the CEA, Mr. Bedrossian and a number of others, complaining quite simply that they're very protective -- it's wonderful to do -- to protect the workers, but if you stick a shovel in the trench and you get some gas out and you've got a worker who's working that shovel, yes, you've got him all nicely protected with his personal protective gear.

But what about the person on the other side of the fence? The person on the other side of the fence -- and my specific inclusion in this presentation today about chemical sensitivity was solely to make you folks aware that this is real.

You have given me the conclusion, you have repeatedly said to me -- or said to other people here, that chemical sensitivity is a myth. It isn't. It's real. It's in this room here today.

And my concern about Dr. Magee's work is solely because he has made no consideration whatsoever for the people who are already here and have spent a lifetime of exposure. As long as he doesn't include

them, he is underestimating.

MR. MCGRATH: By what additional uncertainty factor would you suggest Dr. Magee adjust his risk assessment figures for to accommodate for the issues you've just raised?

DR. ARGO: I would suggest that Dr. Magee use a statistical procedure called a stochastic analysis which does not rely on an artificial quantity called uncertainty factor, because an uncertainty factor depends upon the expertise of the person who is using it, somebody who -- maybe Dr. Magee has certain experience, somebody else with the same -- confronting it with the same experience may come up with a different one.

Dr. Magee, I am quite certain, has spent a lot of hours arguing about an appropriate uncertainty factor, and I can't quite understand why a lawyer is talking to me about an uncertainty factor.

MR. MCGRATH: I appreciate you are suggesting a more analytical approach, but are you at all able to give me an order of magnitude for certainty ---

DR. ARGO: I gave up looking at uncertainty factors when I discovered that they were so false. I don't even look at them, and usually I don't even read a report, because the uncertainty factor that is used to make the risk assessment is a guess. It's a

guess. It's like my description of the Canada-Wide Standards.

The uncertainty factor and the Canada-Wide Standard -- the Canada-Wide Standard are an agreement on something. They have no idea whether they're risk-based or not. They have no idea. The Canada-Wide Standards -- it's an agreement between politicians to say, "We will release this amount and to hell with the people." Excuse my French.

THE CHAIRPERSON: That does finish the five minutes, Mr. McGrath, even adding some -- I started that after our discussion about the first question. We may be able to pursue some of these matters in other rounds of questions or when we are -- when the Agency comes back for additional presentation and for questions from us.

I am keeping my eye on the clock. We are going to have our next presenter at 3:30. I do need to -- I think we need a 10-minute break before then, so at 3:20 I'm going to cut off questioning this round.

Can I have an indication from the registered presenters how many people have questions for our presenters.

Mr. Ignasiak.

MR. IGNASIAK: One minute.

THE CHAIRPERSON: Please come ahead. One minute -- I'll give you five if you want, but I'll take -- one would be great.

--- QUESTIONED BY MR. LES IGNASIAK:

MR. IGNASIAK: It is my understanding that right at the beginning of his presentation, Dr. Argo said that the choice of technologists for the Sydney Tar Ponds and Coke Ovens Site treatment is possibly the worst choice that could have been made. Did I get it straight?

DR. ARGO: You certainly did.

MR. IGNASIAK: Thank you very much.

THE CHAIRPERSON: And because we have time, I am going to permit another round, so I am going to go back to the Tar Pond Agency and give you another five minutes.

Is there somebody else from the audience? Yes, so I've got one there and Mr. Ells, so two, two hands went up. Okay, we'll do that first, and then I will return to the agency.

Yes, please. Five minutes, please.

--- QUESTIONED BY MS. ADA HEARNE:

MS. HEARNE: I shouldn't take that long, or I hope not. I'm Ada Hearne. Hi, Mr. Argo -- Dr. Argo, right?

You mentioned about the children eating

the dirt, putting some kind of -- I was one of those children and I ate a lot of dirt, and it wasn't so much just putting pebbles in your mouth, it was the fact that you had dirty hands.

You know, we would go to the candy store and buy our food, we'd never go home and wash our hands, you know, it wasn't a thing you had to do. My mother didn't know.

But also picnicking down at the Coke Oven Site where we played, you know, we played in the Tar Ponds, in the field, and we'd eat our lunch, sit the sandwich on the ground, you know, there was a lot of -- I'd like to be part of that research with my family of eight who played in the Coke Ovens, inside the fence, not outside. It would be pretty interesting.

You mentioned about the chloracne. My brother has chloracne, and he has been diagnosed with lupus. However, every angle we pick to get information, he had none of the symptoms of lupus. And I found, also, that a few other friends have the same condition on their skin was told they had lupus, or some other form of disease that they felt they didn't have, as well.

And I was just wondering why -- you know, myself now learning more about chloracne, as other members of my family, you know, why the doctors always

come up with -- and maybe you can't answer that, of course -- why they always come up with something that's easier to deal with than the actual problem because of the fact that chloracne is caused from the chemicals, right?

DR. ARGO: A wonderful question, thank you very much, Dr. Ada. I've often asked that same question. There's two parts -- I hate to say it, but there's two parts to the question.

The first is that often times in some communities, and I've unfortunately been told Sydney is one of them, they don't have or didn't have a full-time dermatologist at the hospital for -- and I don't think they still have one.

I was told that the previous dermatologist was originally, I think, in paediatrics, and is now in something to do with the coroner's office, which means that dermatology does not have a very high role in this community, among the medical profession, they don't seem to be very concerned about it.

I think that's probably the fundamental reason why the misdiagnosis has taken place.

On another level, I have combed the medical textbooks on dermatology, and I found -- and the photograph on the front page comes from that book, sorry,

the photograph on the second page comes from that book.

Lupus has no relationship whatsoever in morphology and colour and appearance to chloracne. There are some -- and I was going to show this in the slides, and I will, if you ask me to show them -- there are some comparisons between rosacea and -- different types of rosacea, and the skin coloration that comes along with chloracne. In fact, a person could have both at the same time.

Is that an adequate answer?

MS. HEARNE: Well yes, exactly. I've never heard the rosacea, it's always been lupus or something else, and nothing -- you'd think they'd come up with something a little closer to the actual problem, you know, then it's more believable. But I do have ---

DR. ARGO: They'd put me out of work!

THE CHAIRPERSON: Just a quick question.

MS. HEARNE: Okay. I was concerned, now that I'm learning so much more about -- being, you know, part of this group, about chemicals causing other diseases and such, and in my community approximately two blocks -- we don't have big blocks in Whitney Pier, they're not city blocks like in Toronto -- within two blocks there's close to 30 mentally or physically challenged births. And I'm looking back and thinking

"Well, this is in two blocks." I never really looked at it like that before that. There's a lot of handicapped people here.

But, you know, I'm starting to open my eyes to those things now, and it just seems a little strange to have so many handicapped people in such a small radius, and I'm concerned that with the chemicals, and me teaching myself and learning more about them, that maybe there's a factor involved there, as well.

I know my sister was handicapped, we were never told why she was, and I'm a little concerned that maybe it is chemically related.

DR. ARGO: May I give an answer?

THE CHAIRPERSON: Very briefly, if you don't mind.

DR. ARGO: Yes. A couple of blocks is a great -- that sounds like a great number of people in a short distance, but if you take into consideration that the short distance is also a short distance from the Coke Ovens, and the Coke Ovens have a huge variety of VOCs that are coming out, most of which have neurotoxic properties.

Some of those disabilities are probably associated with some of those chemicals, but not all of them, not all of the disabilities and not all of the

chemicals.

THE CHAIRPERSON: Thank you very much.

Thank you very much, Ms. Hearne.

Mr. Ells. So five minutes, and then we'll see where we are with the clock.

--- QUESTIONED BY MR. CAMERON ELLS:

MR. ELLS: Thank you, Madam Chair.

In the presentation that was made to the panel, there was some comments tied to the phrase "where the boys are", that there was not as many males in the population, and, if I understood the presentation correctly, it sounded like that was being attributed to the presence of toxins in the area.

My question, curiosity, was that in the information that was given to the panel, to what extent were other factors taken into account that could influence the number of males in this particular area? And, in particular, I was wondering about economic influences such as people going to find work in Halifax or Fort McMurray or Toronto, or something like that, if that was included in the number crunching.

THE CHAIRPERSON: I presume you were talking of birth, were you not, rather ---

DR. ARGO: That's correct, I was talking about the sex ratio.

THE CHAIRPERSON: The sex ratio at birth rather than what happens in the general population later.

MR. ELLS: Oh, I see.

THE CHAIRPERSON: I shouldn't be answering the question but there we are.

Do you have a quick follow-up question?

MR. ELLS: I have a second question on a different topic, and that was just with respect to the discussion a moment ago on uncertainty factors, and my understanding from the document, the EIS document that was put forward, that it included uncertainty factors that are consistent with what happens in procedures of the American EPA.

And so I was curious if the criticism of using uncertainty factors was suggesting a procedure or a methodology that was at odds with what is often a routinely done, EPA risk assessment.

DR. ARGO: Right on both counts.

MR. ELLS: Thank you.

DR. ARGO: May I just answer his first question, and that was that the data that I used came from the census. It had no -- I was just counting up the number of males in the Sydney area and the number of females, and that's recorded in the census.

In terms of my argument about the

uncertainty factor, it all comes down to the uncertainty factor being a fudge factor, and the analysis, the procedure that is used is called a deterministic solution.

If you have -- if you go through a procedure and you get a number and then you compare it to a standard, if it's above or below that's all that you want to know, if it's above or below.

The statistical procedure that I was talking about, stochastic analysis, gives you a range, a distribution of values, distribution of range, and that is much more informative because you then can use a statistical -- the 95th percentile of value.

When you are doing this using the 95th percentile value for a chemical concentration, you have much more accurate estimates of risk.

THE CHAIRPERSON: Thank you very much.

I think, because of the way the time is going, that we are somewhat later, and because the presenters are going to be coming back, rather than rush you through and give you a few minutes of time now, I will ask you to hold your questions, if you don't mind, and we'll make sure that you have a reasonable block of time to ask them. I think that will be better, then the panel will be sharper, will have the appropriate

documents in front of them. So if that's agreeable, we will do that.

Thank you very much for your presentation, thank you very much for answering questions, both of you.

We will resume with our final presentation of the day at 3:30, so it's just a 12-minute break.

MS. MACLELLAN: Thank you very much, Madam Chair.

DR. ARGO: Yes, I agree.

--- RECESS AT 3:20 P.M.

--- RESUME AT 3:34 P.M.

THE CHAIRPERSON: We will resume the session again.

We have our final presenter of the day, and so we're very pleased to have the Cape Breton District Health Authority here. You have -- as I'm sure you know by now, you have 40 minutes, and I give you some indication when you're 5 minutes before the end, and then we'll have some questions.

--- PRESENTATION BY THE CAPE BRETON DISTRICT HEALTH AUTHORITY (MR. JOHN MALCOLM)

MR. MALCOLM: Thank you for the opportunity to present. My name is John Malcolm. Up to a couple of weeks ago I was the CEO for the Cape Breton District Health Authority. I'm on secondment to the

Capital Health District for six months, but I'll be back in October.

To my right is Dr. Andrew Lynk. Dr. Lynk is a paediatrician in this community, a former President of the Medical Staff for the District, and a member of our Health Environment Advisory Committee.

Before I make our presentation, I will just want to correct a statement that was made by the last presenter.

We have been fortunate in Cape Breton to have a dermatologist. In fact, we had the only dermatologist outside of Halifax for in excess of 20 years -- I'm loathe to go further for people might figure out her age. And about 5 years ago we recruited a second dermatologist. So the community does have dermatologists at present.

The District Health Authority was formed in 2001. It was one of nine District Health Authorities in the province.

In addition to being responsible for the delivery of acute care services, public health services, addiction services, mental health services, we are also a major provider of continuing care with over 200 residents in nursing homes in our facilities. We serve about 130,000 people in the district for those services that

I've mentioned.

In addition to the direct delivery of service, the districts were also tasked with the responsibility to promote population health and improve the health of the population that we serve.

We were the first district in Nova Scotia, in fact, we were one of the first in Canada, to produce a comprehensive report on the health status of district residents called "Our Health" that was produced in 2001, and we've provided annual updates on that report every year since. Because we do depend upon census data, we'll do an update, a major update again as soon as the 2006 data is out.

Without going into the details of that, as you're no doubt aware, Cape Bretoners face many challenges when it comes to health. Our life expectancy is lower than the average Nova Scotian, and the average resident of the district, who live many more years with disability due to the various determinatives of health that affect the population in our community, including some of the environmental health issues.

The District Health Authority Board has only four advisory committees to it. In addition to the traditional ones, like the Medical Advisory Committee, the Board has an advisory committee comprised of First

Nations representatives, because we have the largest First Nations community in the Maritimes within the district in population size with the four Reserves. We also have and decided -- a Mental Health Advisory Committee, and the Board decided to establish a Health and Environment Advisory Committee.

The presentation that you have received was developed by that committee and endorsed by our Board, and the committee will continue to meet and monitor some of the information that may be presented to you during the course of your hearings, as well as the work that will follow this, as the cleanup is addressed.

Obviously this is not the only environmental issues that affects health in the district but it is a major one.

As a district, we do take pride, and I would give Dr. Lynk much of the credit because he was President of the Medical Staff at the time, in that Cape Breton Island is a smoke-free zone. You cannot smoke in any public place in the Island, with some minor exceptions in First Nations communities, but all of the municipalities over two-and-a-half years ago moved to ban indoor smoking due to the harmful affects associated with secondhand smoke.

I would like to briefly talk about some of

the recommendations that we have provided, and this is a first-time experience for us, so I'm not sure if we presented the material in the way you had hoped, but -- hopefully this doesn't come around again, but if it ever does we'll at least have some experience.

The first recommendation I'd like to mention was the view of the committee, as well, as I said, endorsed by the Board, that there needs to be a legislative framework put in place to ensure that the community is informed, and that the appropriate responsibility for the work that's undertaken during the cleanup is monitored and reported to the community, as well as the ongoing monitoring that will be required.

This community has been through a lot, and it deserves an assurance that once this project is complete no change will occur that might eliminate the monitoring that is planned during the life following this project.

One of the questions that we were not completely understanding of was the decision to limit the monitoring for only 25 years and, as you know, in our recommendations we extended a longer period, but again that was -- there's no science behind our number, we don't understand, quite frankly, what should be the appropriate length of monitoring following the

completion.

We also identified a number of questions where, in the event of a concern over workplace safety for the workers on the site, or, unfortunately, in the event -- hopefully nothing like this would ever happen, but in the event there was a disaster, that the District would be informed as to what was going on on the site, what the potential risks were, so that we would be in a better position to respond if a health emergency occurred.

I must say we are satisfied with the responses we've received from the agency to that effect, most importantly the commitment to share all this information with the District as we would do our normal preparation when any major activity occurs in any community in response to an emergency.

I would now ask Dr. Lynk to comment on the recommendations that deal with the actual cleanup methodology.

--- PRESENTATION BY THE CAPE BRETON DISTRICT HEALTH AUTHORITY (DR. ANDREW LYNK):

DR. LYNK: Thank you, John, and thank you for providing this opportunity for us to appear today. I'm sure your brains are getting a little fuzzy as the day goes on, so I'll try to keep it brief.

I am a paediatrician. I've lived here and worked here for the last 16 years. I'm a father of 2 young children, and, as part of the committee with the Cape Breton District Health Authority, we care very deeply about the health of this community and also the future wellbeing of our community, and that's why we're here today.

I treat children with cancer and asthma, birth defects, learning and behaviourial problems every day, so I certainly have a very personal understanding and knowledge of the pain and suffering that families undergo.

I was involved a few years ago when children around the Coke Oven Site were tested for arsenic and lead, and also have looked after several infants whose mothers were exposed to environmental arsenic. So I have a little background in this issue.

My colleague, Dr. Ron MacCormick, who also sits on our committee and who you'll be hearing from next week -- he's in BC on sabbatical right now, but he's our Medical Oncologist. We spent together about the past two or three years interviewing people from JAG, from the Sierra Club. We even hired a summer student last year, who's a pre-med student who has a degree in chemistry, to review some of the Tar Pond issues for us. So we've been

watching and monitoring this for a couple of years.

I think our focus as a committee, physician and non-physician, has been on the safe remediation that will emphasize healthy outcomes for the community, and also, keeping in mind that we want to keep risk in perspective and a duty to future generations.

And I think what I've recognized, and Mr. Malcolm and others on the committee, that there probably is no perfect solution to this problem. Everything is going to have an impact, everything that we've heard or seen will have some risk. The question is, we do believe there are alternatives and solutions here that will have a minimal of risk, especially when you realize that by driving our cars or eating burnt steak or burning wood in the fireplace will produce some of the chemicals that we're trying to cleanup today. So, keeping that in mind.

So, again the focus, we try to put our focus on health outcomes, not necessarily the destruction or elimination of the PCBs and PAHs. We look at the pathway process where you have the poison, the pathway and the people, which you've heard of and I know all three of you are well familiarized with on previous panels.

We're not convinced that incineration is necessary to achieve healthy outcomes, and I also -- we

also feel, I think, that it can be potentially very divisive and anxiety provoking for the community.

I do believe that the incineration programme that's been proposed probably, if it's carried out the way it's been proposed, and I do have a lot of respect for the integrity of the engineers involved, would have a minimal impact on the physical health of the community. Not to say that there couldn't be problems, but, on the basis of probability the physical health probably would not be adversely affected, but that could change, obviously.

However, when I was very kindly invited by the Tar Ponds Agency to go down to Massachusetts in the fall, where we visited different sites, and one of them was in New Bedford just south of Boston, and they have, I think, about 1,000,000 tonnes of PCBs in their harbour, and it was very interesting when the mayor's -- the lawyer for the Council came in, and other citizens and the engineer in the room describing this process for us, that people had initially agreed to do local incineration, but when it really came down to brass tacks and they were going to go ahead with it, the whole community was in an uproar, and there was a lot of very negative, nasty things happening, and it created a lot of divisions, a lot of anxiety, and I was very profoundly

moved by that whole experience, and hope that we wouldn't have to repeat that here.

There's been studies done in adolescents who live around the Coke Oven Sites and their stress levels living close to areas that have toxins.

We also have concerns we're having a demographic implosion in Cape Breton, and that's affecting the wellbeing and economy of this Island.

We worry a little bit about what incineration will do, even if it's for 4 to 5 to 7 or 8 years in terms of recruitment of professionals, families, businesses, because we've already had instances where physicians who'd want to come here said, in the final analysis, no, because their spouses had heard about the Tar Ponds. And even though that's a short-term impact, the health impact of poverty, which I also see every day in families who can't afford medications, can't often make appointments, can't afford to have children participate in sports teams, that also has to be factored into the equation.

I think our committee, and I know all of the things Dr. MacCormick and I have seen so far would probably think that a Cadillac cap, with the solidification and stabilization, would satisfy long-term healthy outcomes in a minimal physical, emotional and

economic impact on the communities. It also satisfies blocking the pathway, not perfectly, but probably to a point where there'll be acceptable risk.

I'm a little in a quandary and unclear of what we would do with the 25,000 tonnes of material in the Coke Oven Site, which I understand can't be capped from what the engineers have told me, and I'm not sure what the best thing is to do with that. Frankly, that's -- I don't know what to do with that.

I think what I would emphasize is whatever the future site looks like, that it would emphasize and promote healthy outdoor active living for families, in people of all ages, with grassy spaces and recreational areas.

We have an obesity problem on the Island which is going to cause a tidal wave of diabetes and heart disease, and children are too focused on indoor activities which are passive, such as TV, internet, video games, and to have a wonderful facility like this in the long term is very important.

And I would just emphasise what Mr. Malcolm has said, if the site is capped, and under the plan it will be, no matter what else happens, that there be long-term legislative and fiscal measures that would ensure that if there was a problem in 50, 100, 200 years,

that the municipality isn't left holding the bag for something it may not be able to afford to redress or repair.

And that's the end of my remarks, and thank you for listening to us.

MR. MALCOLM: And just to finalize, I just want to reinforce the importance of -- we recognize the importance of moving forward with this project.

The impact of this on our community, the impact on our economy, the impact on poverty, the impact on employment, that income is the most determinative of health, and no one can measure what this has done to the economy of this community over the many years.

So the importance of putting this behind us is crucial to the success of a healthy Cape Breton.

The second point that I would make, though, as well, is that we believe there needs to be discussion, and there needs -- and I appreciate it might not be the role of this panel, but there needs to be a clear commitment to the people of Cape Breton as to the future use, and we would encourage whomever to look at the possibility of turning a negative into a positive.

As Dr. Lynk has mentioned, we have major challenges, we have low rates of physical activity, we have high rates of obesity. Is there an opportunity to

turn this into an asset, is this an opportunity to turn this into a community asset that would promote a more healthy physical activity for the members of the immediate area.

DR. LYNK: Madam Chair, if I can add just one other thing that came to mind is that -- and I think Mr. Malcolm has already mentioned this in his introductory remarks, but certainly as a committee we don't pretend to have all wisdom and all knowledge as to what other evidence may come up in the next week or two, or what your findings may be, but we certainly will monitor this closely, and if new things come to challenge some of the assertions or assumptions that we've made, we will certainly look at the evidence carefully and deliberate appropriately.

Thank you.

--- QUESTIONED BY THE JOINT REVIEW PANEL:

THE CHAIRPERSON: Mr. Malcolm and Dr. Lynk, thank you very much for your presentation, we appreciate that.

Could you just tell me a little bit more about your Health and Environment Advisory Committee, who sits on that.

MR. MALCOLM: It's a combined committee established by the Board, so we have Board Members who

sit on the District Health Authority, we have administrative staff from the District Health Authority, we have medical staff nominated by the District Health Authority, Dr. Lynk being one of them, Dr. MacCormick being another. We have, as well, representatives from the community, including people with a detailed knowledge of environmental issues who work in the university, for example. So we've reached out to the university to get expertise that wouldn't normally be found within a District Health Authority.

THE CHAIRPERSON: Well, it sounds like an excellent initiative, and I commend you for that. I also commend you for having a smoke-free Island, I think that's terrific, too.

You refer in your recommendations -- and by the way, you alluded to being novices at Environmental Assessment Panel presentations. I want to assure you that this is just great, just what we need, very helpful.

You make a recommendation around -- and now I'm looking at your paper, but the District believes that a legislative structure for the monitoring of this specific project is essential. Now, the words "legislative structure", could you elaborate on that?

MR. MALCOLM: Quite frankly, our sense is that there should be an act of a legislature that

confirms the mandate of the monitoring during the course of construction, as well as past the construction date.

This community has seen a number of false starts, has seen a number of promises that evaporate over time, and while even legislation can be overturned, the fact that there would be a legislative commitment to the monitoring of this project, with an ability for people in the community to go to an independent source, almost like an ombudsman, if I could use that term, if they had concerns, I think is important for the success of this initiative, but also important to re-establish a level of trust that needs to be in this community.

Cape Bretoners respect frankness. They're practical people. They're good people, I can tell you from my own personal experience, but they also appreciate the fact that there's someone there who will answer questions when questions are asked, and also, if something is overturned, such as an act of legislature, would make sure that their displeasure was well established and well known.

THE CHAIRPERSON: And also, looking at the whole question of the length of monitoring, now, two aspects.

You were questioning the use of 25 years as a boundary for monitoring or possibly a boundary for

monitoring, and also the question about the funds being in place for future monitoring that might be required.

Now, what -- and I can see this could be bound up with your act obviously, but would you want to see some kind of sort of performance measures whereby the monitoring would continue until certain results were achieved in terms of attenuation or whatever?

MR. MALCOLM: Yes. And hopefully your wisdom will assist in helping define those indicators, because that's -- you know, my hope is that with your past experience and your independence you might have some solid suggestions as to what is, and would be, appropriate in that area.

DR. LYNK: I guess our concern, too, is that with PCBs and the heavy metals, they hang around for a very, very, very long time, probably hundreds, maybe thousands, of years, we're not sure.

What will happen in 200 years if there's a tidal wave comes through Sydney Harbour and destroys the cap, who's on the hook for repairing it and fixing it and monitoring it. Or if it breaks down through some other natural measure that the engineers haven't devised looking at 100, 200 years in the future.

I think that's sort of the things that we really want to block that pathway as best we can. It's

important not just to do it now, but to make sure future generations have that guarantee. This could be still a very poor community in 50 or 100 years, we hope not but it might be, and may not be able to afford to remediate it if there's problems.

THE CHAIRPERSON: Just one more question then I'll allow my colleagues to get a look in.

You've made some observations with respect to community, the potential divisiveness within the community associated with a hazardous waste incinerator, you know, based on presumably what you've already observed and what you've learnt about other locations.

I just wonder if you have any reflections with respect to the possible contribution to community anxieties, individual anxieties that might be connected with solidification and stabilization with -- which, essentially, you know, is a containment, encapsulation approach to contaminants. Contaminants would still be there, but any thoughts about that?

MR. MALCOLM: Well, the recommendation with respect to monitoring is definitely tied into that.

Our sense, as a committee, was that the lower risk for the success of this project, and the -- we were unable to find any evidence of a better health outcome by going through incineration, and potentially,

if there was failure, it was our view that incineration represented a bigger risk.

The other side of that is that if you do stabilize this and solidify it, there needs to be an assurance that the monitoring will go on for future generations, because obviously you do not do what some people have said they want to see, they want to see it gone. They would like to see it disappear.

Well, I'd like to see it disappear, but it's when you get into the discussion, well how do you make it disappear, that the option of incineration, we believe, would be more divisive and would not -- the health outcomes would not be better because of incineration and solidification with appropriate monitoring.

DR. LAPIERRE: I guess I would like to go back to the comment you made on monitoring.

Would you have more faith if a monitoring system was conducted by an independent agency than if it was tied up to the proponent? Do you think society would have, like, a greater respect, I guess, for information that came from such a group?

MR. MALCOLM: I believe that the community would have greater faith with that.

I think there is a high degree of

suspicion because of the failure -- not because of the people involved at the present time, but rather because of some of the failures that have happened in the past in this community, and certainly in our community. In our discussion of this topic, you know, we almost called it the Auditor General of the Environmental World for this situation.

So I think if you can do things that respond to the community's concerns, such as having an independent vehicle by which it's monitored, such as having an act that shows is going to be monitored post construction, I think that goes a long way to addressing the concerns that Dr. Lynk's already mentioned, that this is a -- without question, this has added to the stress that exists in this community, and anything that diminishes that stress will be a positive health outcome.

DR. LAPIERRE: Thank you.

MR. CHARLES: I have two questions, one relates to what may have been an ad lib on the part of Dr. Lynk because I didn't see it in his report, and I just want to be sure that I've got this clear.

Did you say that you had talked to engineers who said that the Coke Oven Sites cannot be capped?

DR. LYNK: Yes. That's my understanding.

Not the whole site, but the 25,000 tonnes that are in the tar cell, I think. That part you can't just cap it like you could the tar ponds. That's what I understood. That actually has to be excavated out because there's no way to really contain it.

MR. CHARLES: Oh okay, so you're just talking about the tar cell itself.

DR. LYNK: Yes, that's correct, because that's the only part from the Coke Oven Site I understand was going to be incinerated.

MR. CHARLES: You had me worried there for a minute.

DR. LYNK: Yeah, okay.

MR. CHARLES: The second question relates to some discussions that we heard earlier about the health risk assessment that had been done by the proponents in relation to health risk generally from the project, and particularly with relation to the incinerator. And our earlier speakers were critical of that approach because the contention was it didn't adequately address people with environmental sensitivities or body burdens.

I guess my question to you is are you satisfied with the health risk assessment that has been done by the proponents?

MR. MALCOLM: Let me start off by saying that we -- the panel, our committee, received a full presentation on the health risk assessment process, and ---

MR. CHARLES: Sorry, you have or you haven't?

MR. MALCOLM: We had. No, we had, in addition to -- I should also mention we had presentations by the Sierra Club. We sought out a variety of sources of information before finalizing our position.

The consensus was that it seemed to be thorough, but I would have to tell you that it's not the everyday type of thing that we deal with in health care, and some of the calculations and equations and approaches, while we did our best to try to understand them, I would have to say that we also had to take, at face value, the outcomes that they were presenting.

Now, as I mentioned, we did bring in people with expertise from the university to sit on our committee, and, again, there was a general sense of comfort with it.

And so, as you will note in our presentation, we do acknowledge that a properly operating incinerator is an acceptable form of destruction for PCBs and would have low risk because, if it's properly

operating, the emissions should be minimal to the physical health of the community.

As you'll also note, we're talking about the emotional health, the stress that would be caused on this community with incineration, and I do not recall any component of the model that dealt with that, and I'm not sure how you assess that.

Dr. Cavell at the university has already documented through her research that adolescents living around the Whitney Pier area experience higher levels of stress because of the fact that they believe there is a significant risk associated with the proximity to the Tar Ponds.

I would be the first one to acknowledge that it's a different world than the day-to-day world that we deal with in the delivery of health care or in the general population health.

MR. MALCOLM: I would just add that I think the assumptions that were made in the health risk studies were probably fairly valid in that they took the -- as I understand it, the lowest risks that could cause some problems, and then tried to find levels that were 100 times less than that to vulnerable people.

But, as John said, it's pretty heavy going and I'm sure you've seen the binders yourself, lots of

mathematical equations.

But I felt comfortable knowing the engineers who were involved and their expertise, and having great faith in their integrity as I look after some of their children, and I would hope they would have faith in me, too, trying to do my best as a professional, that what they presented to us was as accurate as these models can be, and that the risks relative to other things, like walking down our main street at rush hour traffic, or being in a neighbourhood where people are burning wood in their stoves, probably was fairly sound as we can be.

There is no perfection in this world, and there's no models that are perfection. There's assumptions that are made that can be challenged, but I think it's probably as good a scientific prediction as we can get, and I felt comfortable with what was presented.

MR. CHARLES: I thank you both for your comments. I realize I put you on the spot, and I appreciate your responding to the question.

THE CHAIRPERSON: Okay. I'd now like to ask for questions for our presenters.

I will go to the Tar Ponds Agency first, let's say five minutes and we'll do a round. It is getting late, I think we're all getting tired, but we'll

see where we are.

Do you have questions for the Cape Breton District Health Authority?

--- QUESTIONED BY SYDNEY TAR PONDS AGENCY:

MR. KAISER: Thank you, Madam Chair.

I actually have a comment and I'd like Don Shosky to speak to a clarification, if that would be acceptable, as opposed to an actual question.

THE CHAIRPERSON: Points of clarification, brief points of clarification are fine, yes, sure.

MR. KAISER: Thank you. Go ahead, Don.

MR. SHOSKY: Thanks, Mr. Kaiser.

One point I'd like to make is that I agree fully with you on the health impact on poverty, and the fact of the matter is, for two years running I had a remediation project down in Port Hawkesbury where we put 45 Cape Bretoners, who otherwise wouldn't have had jobs, to work for two years, and the attitude of those people changed dramatically in the two years they had regular, steady work, and it has a huge impact on people's health.

On clarification, I just want to let you know that we have been looking diligently at the tar cell area for various capping options, and our thought process has progressed probably beyond the last time you had spoken with any of the engineers, and there are --

technically it's possible to safely cap those areas, as well.

THE CHAIRPERSON: Is this some information that the panel has, this -- this is an alternative you're talking about, an alternative to removal and destruction that's the approved ---

MR. SHOSKY: No, it's not a formal submission that we have at this point as an alternative. It's just something that we've been thinking about, as in thinking about the project in general, and different means and methods of executing work.

THE CHAIRPERSON: But it's not something you said you anticipate using under the current project that you've put forward.

MR. SHOSKY: No, ma'am.

THE CHAIRPERSON: Okay. thank you.

I was just going to -- just remembered, the research study that you referenced around stress amongst adolescents living around the site, that's a published work?

MR. MALCOLM: I'm not sure where it's published, but it's by Dr. Cavell from the Cape Breton University. If it is published, but we can certainly find a copy and get it to you.

THE CHAIRPERSON: Can I put that on the

record as an undertaking?[u]

MR. MALCOLM: Yeah.

THE CHAIRPERSON: I'm sorry, what's the name of the author, Dr. ---

MR. MALCOLM: Dr. Edith Cavell, who is with the Cape Breton University.

THE CHAIRPERSON: Okay. Thank you very much.

Could I just ask, with a show of hands, how many people have a question for our presenters? Keep your hands up for a second, it will help me.

Mr. Ells, Mr. Ignasiak, Dr. Argo, Mr. Marcocchio, Ms. Kane and Ms. Ouellette. Did I miss anybody at the back? All right.

Five minutes apiece, and then I think we'll call it a day. That was everybody, wasn't it, there wasn't anybody who was holding back because they weren't a registered presenter? No. Good.

I'm going to go left to right, so Mr. Ells.

--- QUESTIONED BY MR. CAMERON ELLS:

MR. ELLS: Thank you, Madam Chair.

Two questions. In the presentation and the comments that were being made to the panel, there was a suggestion that the long-term monitoring could be

something that was separate from the proponent, that was independent and perhaps even mandated by legislature, or something like that.

I was curious if the presenters -- what the presenters might think of this as an effective equivalent which has been done in other places in Nova Scotia, and that is to have the proponent do the monitoring but that, at each point in that, have them also be available and include an independent third party auditor, on occasion being with them when the samples are being taken, reviewing the data, writing cover letters to the regulator involved.

In doing so, when this has been applied elsewhere in Nova Scotia, it provided a level of comfort to multiple parties involved while still keeping, for lack of a better phrase, the financial burden and other resources with the proponent itself. And I was curious if that was considered potentially an equivalent.

MR. MALCOLM: Actually, that's sort of where we started, so that certainly would be seen as positive. That was the idea of this ombudsman or the Auditor General, but we were unaware that had happened elsewhere.

MR. ELLS: Okay. The second, I guess, question, arises out of the comment presented to the

panel by the presenters that there was uncertainty in terms of how one might identify a monitoring time involved, or the frequency that it might be involved with.

And again, I'm thinking of other projects in Nova Scotia where the monitoring frequency and duration was influenced not so much arbitrarily by a funding arrangement of "X" number of years, or whatever, but by how long it was perceived that the compound of concern, of the contaminant, might go from its source area, be it solidified, capped, or whatever, through to where a receptor might be, be it the harbour, or something like that.

And if that was considered a short time, then that influence of the frequency, if it was considered a long time, and in the case of in Cape Breton where, in places, the clay is very thick, and the movement of water is very, very slow, there wasn't so much intensive monitoring at the beginning as periods in between to catch it as it goes its full anticipated distance from source area to thing.

And what's been done in some other areas is influencing the monitoring programme based on how long it takes, and then, from that, demonstrating the trend, and then, at that point, in site specific or in stable

conditions use that as a way of generating time. And I was just curious if that was understood, if that made sense to the ---

MR. MALCOLM: I think it's important to distinguish the two components there, frequency and duration, and we didn't comment on frequency. One would expect that the frequency would be developed based upon the outcomes that you're monitoring, and based upon the experience that you have on site.

And certainly the duration piece I would be -- if someone had presented a formula that was based upon some sort of experience like you're describing, that, I think, would have been more welcome by our Advisory Committee than just a straight 25 years because that's what the money buys.

So that option, I think, would be preferable to just a number that seemed to -- we weren't certain where it came from.

MR. ELLS: I'll just make one last comment of clarification, and that's in my experience on the management and cleanup of contaminated sites, often that level of detail in the management plans come farther in the project than at this, what appears to be, an earlier conceptual stage, from my perspective looking at the EIS document.

THE CHAIRPERSON: Thank you, Mr. Ells.

Mr. Ignasiak.

MR. LES IGNASIAK: Madam Chair, members of the panel, I had a few questions about a few seconds ago, but after listening to what was being asked and what would -- the responses were, I think I will have only one question.

Has the proponent informed the Cape Breton District Health Authority that there are alternative technologies that would provide for a walk-away solution, and make the monitoring a very minor component of the whole remediation process?

MR. MALCOLM: We were -- certainly I think it's important to back up and say that we participated in the JAG process prior to this process. So our knowledge within the district starts then, because the district came into existence in 2001.

No alternative proposals were presented by the Tar Ponds Agency other than the ones that they presented to you. So the answer to your question would be no, there was no other alternative proposal presented to us by the Tar Ponds Agency.

MR. LES IGNASIAK: Well, I was ready to follow-up with a question, but in view of the answer I don't think there is a need.

THE CHAIRPERSON: Thank you.

Dr. Argo.

--- QUESTIONED BY CAPE BRETON SAVE OUR HEALTH CARE COMMITTEE

DR. ARGO: Thank you, Madam Chair.

I would like -- in regard to the first comment that Mr. Malcolm had given us about the fact that -- my reference to dermatologists in the County, he had mentioned that to me at the break and I quite happily accept his correction. I'll make sure that my notes reflect that.

Second question or, that was, I guess you can call it what you want, I have a question, and that is simply that if -- this is to Mr. Malcolm and Dr. Lynk and the committee.

If the -- I'm not sure if they are aware that the proponent will be allowed to release dioxins at the incinerator at a rate -- so that there's a concentration of 80 picograms per cubic meter, that's the Canada-wide standard for this set by the CCME.

I'm wondering if they would change their perception or change their view of the adequacy of the exposure assessment if they knew that that particular standard is not protective of health.

DR. LYNK: I'm not sure entirely how to

respond to that, other than that, for all sorts of reasons, I don't think we're supporting incineration, but what I would do is that if we have that information to bring it back to our committee, we would be happy to review that and comment on that, and I think that's what we've endeavoured to do if new things arise that you want our comment on, we'll look at that.

DR. ARGO: Madam Chair, I think my mind is probably going as foggy as everybody else's here, but I thought I had heard them say they were kind of approving, and if Dr. Lynk would give me his card I'll be delighted to send it back -- to work up something and send it back to him.

THE CHAIRPERSON: Okay. Thank you, Dr. Argo.

Ms. MacLellan, did you have your hand up for a question? Oh, you didn't. Well, don't -- I wrote something that began with "M" and I didn't finish it, so I do have Ms. Kane and Ms. Ouellette, is there somebody else?

Oh, I'm sorry, that's right, Mr. Marcocchio. You're next, I'm sorry about that.

--- QUESTIONED BY SIERRA CLUB OF CANADA (MR. BRUNO MARCOCCHIO):

MR. MARCOCCHIO: Thank you, Madam Chair.

Mr. Malcolm has made a very interesting and important point that we need, I think you said, legislatively to implement an independent monitor.

We welcome that opportunity and we feel that the relationship as polluter remediator regulator is a hopelessly conflicted one that demands independent monitoring, and I look forward to doing whatever we can to arrange that legislative framework.

My question is, do you also think we need -- I would like your views on community involvement because, as you may or may not know, as things now stand the only stakeholder communication is with a proponent-selected group of people that meet behind closed doors, exclusive of both the media and the general public.

Would you agree with us that that is woefully inadequate in terms of community involvement and that might be best also strengthened through legislative means?

MR. MALCOLM: I think anything that improves community involvement is a plus, so I would agree with you on that.

In fairness to the agency, while I appreciate that you're referring to the Steering Committee, if that's the proper term ---

MR. MARCOCCHIO: CLC.

MR. MALCOLM: --- yes, I think it's important to recognize that there's been a variety of other attempts made by the agency to engage the community on this issue. I've attended some issues.

I think we all know there's a weariness in this community on this topic. I recall one session that was towards the end of a day over in Whitney Pier and, you know, there weren't many people before me who had signed in.

So I guess the point I'm trying to make is that I think we have to look at all opportunities to engage the community recognizing the weariness on this topic that exists in the community.

So traditional -- in addition to traditional approaches, I think any innovative ideas should be welcomed because of the length of time that we've been discussing this issue.

MR. MARCOCCHIO: Absolutely I agree with you.

I have a couple of quick questions for Dr. Lynk about the incineration type, the monitoring around it, the pollution control equipment.

I wonder how you can have professional confidence in a risk assessment that, if I heard the Proponent correctly said, was modelled without

consideration of pollution control equipment and yet they claimed that the incinerator would, by several orders of magnitude, pose no risk and threat to human health and safety.

As a medical professional, does that not on its face, without getting yourself tied up in the minutiae of endless formulas, indicate to you that there may be something fundamentally wrong with a risk assessment that concludes with no pollution controls, a machine capable of spewing persistent organic pollutants that are teratogenic, carcinogenic, pose no threat to our health and safety?

DR. LYNK: I actually agree with all of the things that you've said, Bruno, in that at the point of development and stage that incineration was presented to us we thought that there were quite a few safeguards being taken by the engineers.

However, without an incinerator type being chosen and knowing with the Swan Hill experience that there are some escaped dioxins and furans maybe about once a month, it's very operator-dependent, it takes a while to get to learn how to use these things properly, all of that, without going into detail, I guess, steered us away from even thinking that that was a good solution for the community.

So, I'm not a proponent of incineration, I've said that personally and I don't think our committee is either. The health risk assessment that was presented to us I thought was fairly sound, and again it's very complex and I don't pretend to understand all the mathematical equations, but I think people did do their best on the other side of the table to use the best available evidence and methodology to present something that probably is very low risk if conducted with all the safe measures they've claimed.

However, there still are uncertainties that I've just talked about that just steered us away from that early on, from incineration. So, maybe we're not agreeing completely but I think fundamentally we're agreeing that without maybe further evidence and further knowledge and detail of the type of incineration that it would be harder to comment on the exact safety as best as can be predicted. But we've steered away from that option, so it may be moot to even talk about it.

MR. MARCOCCHIO: Well, thank you. I'm glad to hear -- because I thought I heard you say that the perception of risk was more dangerous than dioxins and furans to this community, so I'm glad that you've clarified that.

One last question ---

MR. MALCOLM: Can I just clarify that. We have clear evidence as to the stress, right? So, you know, I think there's a big -- not to be argumentative, but there's a difference between a perception and evidence, and there's evidence in this community of the stress that exists, and I certainly believe it would be easy enough to collect evidence that would support that that stress will be increased through incineration.

THE CHAIRPERSON: If you have a follow-up question ---

MR. MARCOCCHIO: Yes, one ---

THE CHAIRPERSON: --- could I ask it to be very, very quick.

MR. MARCOCCHIO: I will. I wonder if, Dr. Lynk, you realize that the proposed cap is a bottomless box, it will have no mechanism for controlling ground water infiltration from down below, controlling ground water migration in from the sides and that it will be constructed with methods that will inevitably leak, that is they will -- they might at best slow down the migration, the pathways into the community and into the community and into the marine environment, but they will fail. Some of us feel they will fail before the project is completed.

Don't you think that the walk-away

solutions are worth investigating that have been investigated by us as a community? We have reasonable assurance that those pathways can be controlled during remediation that will leave the Muggah Creek Estuary an estuary at the end of the day, remediated, clean, with human health protected, all things done in closed [?] systems in controlled environments.

THE CHAIRPERSON: I have -- I think I have to intervene for the ---

MR. MARCOCCHIO: Well, that was the end of my question.

THE CHAIRPERSON: I take that really as more of a comment. If you would like to make something in reply, and then I am going to go to the next questioner. That was a long and complicated question.

DR. LYNK: Just very briefly. I'm not an expert on capping or solidification and stabilization, but from what -- the evidence that we've heard as professionals, as citizens, as parents, it seems to me it's not perfect to prevent the pathway issue but knowing that PCBs are soil-loving chemicals and don't move very much and PAHs also have a strong soil affinity and with the S&S and the capping, I thought that the risk, while not zero, would be probably fairly minimal based on the things that have been presented.

The other alternative technologies, Bruno, I would just say that to the best of my knowledge and having read your work and the engineering work -- and I look forward to your presentations next week -- so far from what I understand is that in terms of remediating the site, such a large site hasn't been necessarily proven, although I know that there's the potential promise, and we look forward to hearing what you say again next week in the Sierra Club.

But for now, from all we've heard in the last two years, I think that's probably still -- the capping is the best way to go based on what we've heard.

THE CHAIRPERSON: Thank you very much for your question. Ms. Kane?

--- QUESTIONED BY MS. MARLENE KANE

MS. KANE: It's actually just -- hi, sorry. It's actually just a bit of a follow-up to what Mr. Marcocchio was just talking about when you were talking about the stress on the community.

And I'm wondering how you feel the stress which will be experienced by the community, especially those living adjacent to the site, will affect their health during the remediation process given that all of the materials in the Tar Ponds that is to be excavated as well as the pre-mixing of sediments for the SS process as

well all the land farming on the Coke Ovens Site, all of that will be done in the open air, it will not be done under cover as was done with -- performed with the Domtar tank.

How do you feel the stress of that will affect the health of the residents?

DR. LYNK: I think, negatively. I think it will be stressful living right next to all of that work and I think the community and the governments have to look at a way to address that in a reasonable fashion for people who feel they are going to be quite stressed with it, and it's -- I mean, we've -- this has been talked about before in the community, about what the safe level and distance is, and hopefully there'll be air quality monitoring in place and there'll be all sorts of things to make sure there's minimal impact off-site.

But yes, it's going to be stressful. If I lived next to it I would probably feel quite stressed, too, and ---

MR. MALCOLM: Sure, it needs to be followed by -- it needs to be monitored. And while the committee hasn't met since these proceedings have started, I would draw to your attention that the recommendation from Health Canada on real-time monitoring will be something that we will be taking back for

consideration as well.

Because clearly I think the point -- one of the things that is -- there's stress in life everywhere we are but we know some of the factors that reduce stress include communication, information, the independence of the monitoring is another area, trust that you can -- you have a reliable source, and clearly the recommendation from Health Canada for real-time monitoring, to my way of thinking, is an important component that would have to be part of any monitoring process.

MS. KANE: Well, I'm concerned about our reliance on air monitoring because we have seen problems in the past which I will be presenting next week, I guess.

So, we have asked why the Proponent is not considering covering the material that they're going to excavate. We'd like to see covers over top of them and within those enclosure negative pressure and filtration. That is not being considered, from what I understand, on the excavation of the Tar Ponds material, nor for the extensive mixing that's going to occur with the rest of the remaining sediments within the Tar Ponds. As I think the Proponent has described it, it will be like mixing a cake. So, as well as the land farming concerns -- sorry,

the land farming project on the Coke Ovens Site.

We've suggested that all of those activities be done under cover with negative pressure and we certainly hope that your committee will also press for that.

Can I just make one other point? Do I have time?

THE CHAIRPERSON: You have time, a quick point.

MS. KANE: Okay.

THE CHAIRPERSON: You don't have a question? We should really be on questions but ---

MS. KANE: Okay. Mr. Malcolm, you said that it's important for this community to put this behind us, but clearly just burying 700,000 tonnes of toxic sludge is not putting this behind us because it will still be there, it will still be in the middle of our community.

You also said you were -- you said you'd like to see the Tar Ponds disappear but then you seemed to suggest incineration was the only method for its destruction.

I was going to ask if you believe that there -- if there was not another method of remediating the Tar Ponds.

MR. MALCOLM: The only -- let me back up a little bit -- and I apologize for this -- but it struck me that the preferred option identified by JAG -- and I'm going to use a sports analogy -- you had a quarterback who was throwing a ball but there was no receiver at the other end to take it, so that was, in hindsight, doomed for failure.

MS. KANE: I don't understand your analogy, I'm sorry.

MR. MALCOLM: Well, the idea that you would take it from the site and take it to a kiln or to some other location to have it destroyed, you know, made -- it was, I think, appealing to the community, but if you -- as I said, it's like -- and I've used a sports analogy because I can't think of a better analogy. If you're going to pass something, you should have somebody at the other end who is willing to receive it.

MS. KANE: Um-hmm.

MR. MALCOLM: So that we have, unfortunately, created a profile around what exists in our midst but no one else would want it. And that's been, I think, the -- I think there's evidence to support that. So, that's a failure, right? I don't think -- we have to find a solution within our own boundary that will resolve this.

So, then you have to look at what some of the other alternatives are.

MS. KANE: Right.

MR. MALCOLM: I would tell you that we haven't exhaustively explored the alternatives, but one of the things that you'd want to do would be to look at the risks associated with alternatives.

MS. KANE: Um-hmm.

MR. MALCOLM: And some of the other alternatives that have been talked about in the broadest sense have other types of risks that may, in fact, be from the health perspective because of a potential emergency event greater than even incineration.

MS. KANE: Um-hmm.

MR. MALCOLM: So, what -- if there was an alternative that was being presented, we would want to measure that alternative against the risk of incineration.

MS. KANE: Okay.

MR. MALCOLM: So, if there is such an alternative and it was presented, that's the way that I think we would assess it as a committee, was what's the risk of this alternative versus incineration.

Now, having said that, our conclusion to date has been that we don't want incineration and

solidification and stabilization does provide -- and it doesn't make it disappear, I understand that, but there are other communities that have accepted that this area is controlled.

I am satisfied now that if no one goes into the Tar Ponds because of the water that covers it, there's little health risk immediately present of a physical nature in the Tar Ponds now with the fence to protect people from intruding on it.

MS. KANE: But you are saying that while STPA did not present you with an alternative that you don't rule out the idea that there are other options for destroying the Tar Ponds sediment?

MR. MALCOLM: If there was an alternative that was presented, then I think what you'd want to do it look at it against -- the S&S and incineration against that alternative, and we certainly -- I know I can speak for the committee that they'd be willing to assess the health impact of any alternative.

MS. KANE: Okay. Thank you very much. Thank you.

THE CHAIRPERSON: I know that Mr. Ignasiak was waving his hand because I know that he would like to add more information, but he is going to be making -- I'm afraid I'm not acknowledging you this evening.

You are going to be making a presentation and you will be bringing more information to us, and perhaps our current presenters may wish to take note of that and follow what is happening in the rest of the proceedings.

Ms. Ouellette, you have the honour of finishing up the session with your questions. So, five minutes, please.

--- QUESTIONED BY MS. DEBBIE OUELLETTE

MS. OUELLETTE: All right. I just wanted to know, John -- I know there was a study done by Dr. Muggah about the pregnant women who live closest to the sites. I did ask for that report. It seemed like it went to Halifax, but I didn't get any information on it.

Do you know the results of that study?

MR. MALCOLM: My recollection was that they were unable to complete their level of intake to have a final satisfactory conclusion. Now, if that's not correct -- I'll have a -- I'll go back and check.

MS. OUELLETTE: You're correct.

MR. MALCOLM: Okay.

MS. OUELLETTE: I asked and I didn't get the report, but what I'm getting at -- I know there was a couple of pregnant women that were living next to the site and because of the -- like they wanted to see how

many pregnant women that would -- could do the study, but because of where they lived, they went by their postal code, and they weren't included in the study. I think that's why the study wasn't finished. That's what I told by two women that were pregnant near the site.

MR. MALCOLM: And I think you're making an excellent point, and I'm glad you made this, because this community has been tarnished by researchers who failed to correct for postal code.

There are major studies produced and published that imply the cancer rate in Cape Breton, which is higher than the national average, higher than the provincial average, and is unfortunately what it is, is, in fact -- those studies suggest it's three times greater because they failed to correct for postal codes.

So, if you look at the study there seems to be an inordinately low rate of cancer in the County and an inordinately high rate of cancer in Sydney, and it's because people from the County picked up their mail in Sydney but the denominator was the Sydney denominator yet the numerator included people from the County.

So, I think you're pointing -- I'm glad to say this, because certainly there are some rather significant -- if you want to look, I think the Band Study is a good example of a study that corrected in

cancer for postal code problems that other researchers failed to realize when they published their results and made claims that cancer rates in Cape Breton were 70 percent -- rather in Sydney, were 70 percent higher than the national average.

MS. OUELLETTE: So, I don't know -- could -- I don't know how you would do this, John. But is there a way that they could provide a study if they took out the postal code that could be done on pregnant women in the future so that we could see if these emissions were affecting their babies? Is there any other way we could do it that would help? I'm just asking. I don't know.

MR. MALCOLM: There was a study done by the epidemiologist associated with the Reproductive Care Program, Dr. Dodds, and I'm trying to remember -- it wasn't specific -- when you're doing studies obviously in a small area like the north of the Coke Ovens Site, it gets more problematic. I think those were Municipality-based. Andrew, do you recall?

DR. LYNK: And can I just add -- because in terms of the anxiety, Madam Chair, that some of the studies have been done by people from away, and this is the birth defects study in this area, it showed that our levels of birth defects were 50 percent higher than

elsewhere on the mainland in Nova Scotia. That's the relative risk.

But the birth defects both around here and on the mainland are quite low to begin with. So, 50 percent sounds terrible, but when you actually look at it, it means we had one extra unanticipated child a year who had a major birth defect which happened to be the type of neural tube defect, the ones where you have spina bifida, that can be related to all sorts of things, Irish population, not eating enough salad, maybe the environment, too. Who knows? But how do you attribute risk to that?

But that never got broken down. It's just that we have a 50 percent higher birth defect rate here and that got published and it's really scared the heck out of a lot of people.

And so sometimes the studies have to be viewed with a lot of care and caution and not sensationalized, because it makes finding our way forward through this difficult process harder because we all have the bejesus scared out of us.

MS. KANE: Okay. And I just have one more question. I'm a former Frederick Street resident, and I know John knows this, that we did get tested for arsenic and lead, and 28 of us were tested from a little girl

that moved on the street for six months to a man that worked on the Coke Ovens for 40 years. We all had the same numbers. I just don't know how it could be.

But my question would be -- let me see if I can find it here because I've got so many notes -- was there a -- is there a way -- like a -- wait now, I'm sorry. Was there a lower lab detection limit? Can we -- is there such a thing? Like can we get a lower -- no?

So, if I wanted to get my blood tested for, say, arsenic or lead or other chemicals, is there a way we can do this?

MR. MALCOLM: The reality is that there's very few labs in Canada that are accredited to do metals.

MS. OUELLETTE: Okay.

MR. MALCOLM: So, we can't do that in Cape Breton and give you the assurance that you're getting the right results, because we don't do enough of it. And so you have to go -- there are a few labs. We've used London -- the one out of London, Ontario, when we had some difficulties in one of our hospitals that we wanted to follow up with.

MS. OUELLETTE: Yeah, because my concern was here we have 28 people that lived on Frederick Street, they only tested us for arsenic and lead, and from a baby from six months that lived there to a guy

that worked there for 40 years we all had the same levels, and I just kind of found that hard to believe, that -- I mean, that was through Dr. Jeff Scott -- why that would be.

So, that's just why I'm putting it to you, John. I don't know if you know the answer but ---

MR. MALCOLM: Well -- and, again, the good news on that -- and I know that you might want to debate me on this, but the good news on that was that the levels of lead from that study found -- were consistent with what you'd expect to find in the general population.

So, the reality is that there's always going to be a small percentage of people who will test above a threshold because of whatever, where they've been, what they've done, so -- and, again, that's -- and I know all of the studies -- if I can back up.

Having been in this community for nine and a half years, I think it's important that we not overlook what we know. We know that 50 percent of the particulate that came out of the Coke Ovens was fine particulate. There's clear evidence that fine particulate leads to lung cancer and leads to heart disease.

So, there's absolutely no question that when those ---

MS. OUELLETTE: Cancer?

MR. MALCOLM: Yes, sorry, cancer and heart disease. There's absolutely no question in my mind that when those Coke Ovens were blowing out that yellow soot which was 50 percent fine particulate there are people today in our community who have developed heart disease and lung cancer because of that.

But also from the Band Study we know that the rate of cancer, while higher in industrial Cape Breton, is not dissimilar between the communities. That's why as an organization we've focused on some of the lifestyle choices where there's overwhelming evidence that they affect cancer.

What's also not reported -- and I've never understood this, but what stands out from the Band Study clearly is the pulmonary disease in the communities where miners were present, and no one seemed to care that there's overwhelming evidence of the impact of that industry on that population.

So, I'm not trying to be argumentative here, but if you look at where we are today, I don't believe that the -- aside from the stress and the unintended consequences of scaring away industry and scaring away jobs and continuing the cycle of poverty, that there's an immediate threat associated with the Coke Ovens and the Tar Ponds Site.

Now, there is a long-term threat because of the stress and because of the impact on the economy and the fact that that has on determinants of health.

MS. OUELLETTE: But, John, you have to remember that not everybody is going to get a job working on these sites. Take that into consideration.

MR. MALCOLM: Right.

MS. OUELLETTE: And, number two, you can't put work in front of health because, believe you me, every day when I pick up the Cape Breton Post -- and I did a survey last year, I took three months of the Cape Breton Post, just of my own -- so I could see what people were dying from.

Cancer and heart were the number two items that I picked out of that paper for three months. After three months I was so upset I had to take my survey and put it aside. So, when you say work is more prevalent than health, I just don't agree. Thank you very much.

THE CHAIRPERSON: Thank you very much, Ms. Ouellette.

MR. BROPHY: Could I ask one more ---

THE CHAIRPERSON: One question, Mr. Marmon [sic], and then I really am going to close the proceedings because it's been a long day and ---

--- QUESTIONED BY MR. ERIC BROPHY

MR. BROPHY: Thank you very much, Madam Chair. I didn't intend to ask but seeing that Dr. Lynk is present, I do have a question.

In the last few years we have heard very much about genetic mutation. That concerns me greatly, and I would ask, Dr. Lynk, is it possible that chemicals that spewed from the steel plant and especially from the Coke Ovens may have mutated our genetic material to make us more prone to certain disease? And, if so, is it also possible that that would be handed down, that mutation, through generations?

DR. LYNK: Madam Chair, I would -- it's possible, I think, but I would have to go back and look at what was coming out of the smoke stacks and do a literature search and find out what the actual risk of mutations are.

It certainly seems plausible and I'd be concerned about it if I had a -- if my wife were pregnant during that time when everything was coming out, but I'd have to look at the evidence a bit more clearly to give a full opinion on that.

MR. BROPHY: And I just might add, I was told years ago by a toxicologist that's very certain in her opinion.

And, Mr. Malcolm, the Nova Scotia Cancer

Registry's incident study was also corrected for postal code. And I thank both of you very much for appearing here today, and I thank you, Madam Chair.

THE CHAIRPERSON: Thank you very much. I called you "Mr. Marmon," didn't I? I'm sorry, that just shows you -- Mr. Brophy. I do know. I'll work it out eventually. Sorry about that.

Thank you very much to our presenters for your -- the information you brought to us and for answering all the questions. I am going to close the proceedings this afternoon. I want to thank all of you who have participated this week. It's been a very long week. I commend you for the long hours that you have put in. Many of you have been sitting here for all the hours that the sessions have been open, others of you have come immediately after work, we know that, and we really value your participation and your patience. I know that many of you are passionately committed to this issue and to participating in this process.

Thank you for being very cooperative, and we look forward to starting again on Monday. The session will start at 6 o'clock on Monday evening. So, thank you very much. Enjoy your day off.

(ADJOURNED TO MONDAY, MAY 8, 2006 AT 6:00 P.M.)

CERTIFICATE OF COURT REPORTERS

We, Philomena Drake, Ruth Bigio, Sandy Adam 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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Philomena Drake, CCR

Sandy Adam, CCR

Ruth Bigio, CCR

Gwen Smith-Dockrill,CCR

Saturday, May 6, 2006 at Halifax, Nova Scotia

PUBLIC HEARING

SYDNEY TAR PONDS AND COKE OVENS SITES

REMEDIATION PROJECT

JOINT REVIEW PANEL

V O L U M E 8

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: Saturday, May 6, 2006

PRESENTER: Florian Levesque

Recorded by:
Drake Recording Services Limited
1592 Oxford Street
Halifax, NS B3H 3Z4
Per: Patricia Cantle, CCR

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

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

PAGE NO.

--- Upon resuming at 10:53 a.m.

THE CHAIRPERSON: Our next presentation is from Coalition Retour à l'expéditeur, Return to Sender Coalition. Pleased to have them with us, and you have 40 minutes for your presentation, followed by questions. I will let you know when you reach five minutes before the end of the time.

So thank you very much.

MR. LEVESQUE: Merci beaucoup, madame la présidente, Monsieur Charles, Monsieur LaPierre.

I'm going to be making most of my presentation in English, but there's going to be some segments in French once in a while.

Je veux d'abord me présenter. Je m'appelle Florian Levesque. Je suis originaire de Balmoral dans le nord du Nouveau-Brunswick. Je demeure à peu près à une quarantaine de kilomètres de Belle Dune au Nouveau-Brunswick.

Aujourd'hui, je suis ici au nom de la Coalition Retour à l'Expéditeur, Coalition Return to sender. We are a loose group of organizations and people who are united in fighting an incinerator project in the Belle Dune area.

Je veux vous remercier de me donner la chance de présenter notre point de vue because there's

one thing that has been difficult in our fight against -- with Bennett Environmental and the Incinerator Project and, as a matter of fact, our Government of New Brunswick, it's the fact that we can have open, frank and discussions -- and open discussions about what is going to have an impact on our life.

So I will make my presentation. The title is "From one Sacrifice Zone to Another: Say No to Incineration".

The communities of Sydney, Nova Scotia and Belle Dune, New Brunswick share many things in common. Both communities have been sites for heavy industry that have polluted the local environment. The residents in both communities have been identified as being at risk for developing certain health problems because of their exposure to pollutants in their environment. And the previous person that I listened to this morning certainly made a point about that, and I must say that with a lot of humility and being very humble, because when you realize the hardship that the people are going through, it makes you realize that there is a lot of things happening on this planet, and I think it makes me probably a little bit more humble today by presenting myself in front of you.

Both communities have been identified as sites for future hazardous waste incineration. In Sydney, a mobile incinerator is being proposed to clean a portion of the accumulated local pollution. In Belle Dune, a company called Bennett Environmental Incorporated wants to import hazardous waste for incineration.

We asked to participate in this CEAA-Sponsored Review Panel to demonstrate the links that exist between Sydney, Belle Dune and St. Ambroise, Quebec and to make the case that the proposal to incinerate hazardous waste in Sydney is not just a matter for the residents of Sydney. It is a trans-boundary issue that has the potential to affect communities well beyond Sydney.

In this presentation we will demonstrate how hazardous waste incinerators labeled as being the best available technology and meeting maximum achievable control standards have not lived up to their claims.

Instead, they have created a new source of pollution that releases the most toxic contaminant known to humans, dioxins.

In Canada, the BOVAR incinerator in Alberta and the Bennett incinerator in St. Ambroise all have or are experiencing problems that should make any

communities worried about the hazardous waste incinerator in their neighbourhood.

We believe hazardous waste needs to be neutralized using closed systems, non-thermal destruction methods. And I do understand that the citizens here probably have a proposal in that regard.

We are also concerned that the Bennett incinerators in Belle Dune or St. Ambroise might eventually be used to burn waste from the Tar Ponds clean-up. The participation of Bennett Environmental Incorporated at these hearings on May 17th confirms our concerns.

We do not believe that provincial or federal governments should allow hazardous waste to be shipped to other communities, provinces or nations or that these wastes should be burned anywhere in the world.

The facts we bring to this public hearing raise one simple question. If incineration is as safe as some government and industry representatives suggest, why is it that in many locations in Canada where hazardous waste incinerators operate are levels of highly toxic dioxins increasing?

The Swan Hills incinerator in Alberta, in October 1996, the hazardous waste incinerator in Swan Hills had a major accidental release of PCBs, dioxin, and

furans. The incinerator had been in operation for several years before it expanded its operation to burn PCBs in 1993. The year after the accidental release, university researches Gilles Blais et al -- and I have the sample copy of that study -- sampled spruce needles, snow pack and lake sediments in the surrounding area. They found PCBs, dioxins and furans in the spruce needles and the snow pack. This finding was not that surprising. After all, there had been an accidental release.

However, when they took sediment cores from the nearby lake one kilometer downwind from the incinerator, they found that PCB concentration had been gradually increasing in the sediments and their increase coincided with the expansion of the facility in 1993.

The deposition rates of PCB were low: 2 micrograms per square metre per year prior to the startup of the incinerator. Then the rate increased by six times to 12 micrograms per square metre per year after the facility began to burn PCBs and then rose to 40 times the pre-operational rate, 80 micrograms per square metre per year at the time of the accident. Their findings were published in the journal Environmental Toxicology and Chemistry, Volume 22nd, No. 1 in 2003.

When it started operating, the Swan Hills incinerator was viewed as a state-of-the-art technology for PCB destruction.

Today, proponents of incineration will no doubt say that the technology has improved since then. How so? Let's look at the St. Ambroise incinerator in Quebec, a case study. Just a year after the Swan Hills accident, another PCB incinerator began operating in St. Ambroise in Saguenay-Lac-St-Jean region of Quebec.

Récupère Sol Inc., owned by Bennett Environmental, was also billed as being state of the art, using the best available technology to control release of hazardous emissions.

On January 20, 2000, a Quebec Ministry of the Environmental official with the Saguenay Lac St. Jean regional office sent a letter to a local resident confirming the absence of PCBs, dioxins and furans in the vicinity of the incinerator prior to its start in 1997, and I'm going to read the quote from that letter:

> "Comme vous serez à même de le constater à la lecture du document, ce rapport atteint le principal objectif visé, soit d'établir l'absence de BPC et de dioxine et de furanes dans les sols autours de

l’usine au moment des prélèvements des échantillons en novembre 1997…”

So absence of PCBs, dioxins and furans prior to the startup of the operation in 1997.

“…c’est-à-dire avant le démarrage des opérations de Récupersol pour faire le traitement thermique des sols contaminés par des BPC et autres contaminants organo-chlorin.”

Four years later, in January 2004, the Régie régionale de la santé et des services sociaux du Saguenay Lac St Jean released a study that found dioxins and furan in the soil around the vicinity of the St. Ambroise incinerator. The report indicated that there were no risks to human health in the local population. That’s what we call the spin in language of communication.

On March 5th, 2004, representatives of groups from around the Bay of Chaleurs met with the Quebec Ministry of Environment, monsieur Thomas Mulcair and his officials -- that’s our group. The purpose of the meeting was to discuss their concern about the environmental health of the Bay of Chaleurs and the potential human and environmental health implications of

trans-boundary pollution from the Bennett Environmental facility proposed for Belle Dune, Nouveau-Brunswick.

As part of the meeting, the Group Science advised or made a presentation to the Minister on the finding of his own government's report on the results of soil sampling done in the vicinity of the Récupère Sol facility. The original data from the report was re-plotted and a trend analysis that showed dioxin levels were increasing annually and dioxin and furan levels were now exceeding soil quality guidelines established by the Canadian Council of Ministers of the Environment.

The facility in St. Ambroise has been operating for just over six years, and not always at capacity. In this short period of time, soil sampling results have already indicated that soil levels of dioxin, furans in the vicinity of the facility have been elevated and, in some cases, twice the CCME guidelines of 4 picograms TEQ per gram.

The Group Science advisor recommended a course of action for the Minister that included a human health risk assessment for the area, detailed monitoring of locally grown agricultural products, wild berries, mushrooms, local dairy products, meat and wild game, and a trend analysis that would project the levels of

dioxins, furans in the soil over the next 10-20 years based on current emission levels from the facility.

If the analysis revealed that dioxins, furans levels in the soil would continue to rise over time, the Department would need to take immediate and appropriate regulatory action.

With these recommendations in hand, Minister Mulcair ordered his Department to do a further analysis of the data collected by his Department. Five months later he issued a Preliminary Notice of Ordinance on September 16, 2004 to Récupère Sol Inc. The Preliminary Notice made the following statements -- and I've got this notice if you're interested in having it:

> "Entendu que des concentrations anormalement élevées de dioxines et de furanes ont été constatées dans ce périmètre à la fois par Récupère Sol et par la Ministère de l'environnement…"

So we have found abnormally elevated levels of dioxins and furans in the perimeters and Récupère Sol and the Ministry of Environment have found them.

> "Entendu que l'avis professionnel préparé par Alexandre Dumas daté du 9 septembre 2004 conclut que le

> responsable du rejet de dioxines et de furanes dans ce secteur est l'usine de Récupère Sol."

Knowing, according to the professional advice by Alexandre Dumas dated September 9 that concludes that the responsible of the emissions of dioxins and furans in this sector is Récupère Sol. So that's the Minister who is saying that. It's not me. It's not anybody else. It's the Minister, in a Preliminary Ordinance.

> "Entendu que la situation présente un risque de dommages sérieux pour la faune et l'être humain."

It's causing -- it's cause for a risk of damage -- serious damage to the fauna, like the animals, and human beings.

> "Entendu le principe de précaution…"

The principle of precaution.

> "Entendu qu'il est nécessaire de prendre des mesures immédiates de prévention…"

It's important to take immediate measures of prevention. Those are an excerpt.

According to the above, the Quebec government was holding Bennett responsible for the contamination and ordered the company to develop an

environmental monitoring program and to reduce their emissions.

On October 15, 2005, Jean-François Landry, manager of the Récupère Sol Inc. incinerator presented his proposal to the Quebec Ministry of Sustainable Development, Environmental and Parks. The environmental monitoring program would monitor air quality, biological indicators, moss, coniferous needles, pine needles, soil, snow and small mammals.

How could this have happened when Bennett had been required to conduct test burn at the St. Ambroise facility in order to demonstrate the effectiveness of their technology? The answer could be that the test burn had used soil doped or spiked with PCBs where the results showed that the facility could achieve the gold standard for destruction, 99.999 per cent destruction efficiency. And you’re going to hear that a lot. Get ready.

On January 1997, in response to citizens’ concern about the Bennett facility in St. Ambroise, the Minister convened a commission headed by Claude Munger -- and we’re going back in time -- we’re going back in January 1997 because it’s very important to understand how the test burns were carried out in Quebec in order reach that 99.999 per cent. So we’re in January 1997 and

we’re exploring -- what they’re exploring, the government is exploring the facility, how it’s going to work. So there’s this Commission headed by Claude Munger.

The Commission’s report was then presented to the Minister. According to experts who testified at the Munger Commission, doped or spiked soil does not respond to treatment in the same way as contaminated soil for a long period of time. Therefore, the emissions level under these conditions do not reflect emission levels under normal operating conditions. According to the report -- and it’s our translation -- the use of doped soils is raising many uncertainties in regards to the validity of the simulation. It is recognized that soils having gone through the process of weathering for a long time have a tendency to absorb the contaminants more strongly than soil freshly contaminated. The absorption links are more closely linked between the contaminants and the receptors of the soil particles. Out of these links result some changes in the soil desorption kinetics. We therefore must expect that freshly contaminated soil will be more easily desorbed than the soil contaminated in real situations.

The Commission further recommended a moratorium on the incinerator while allowing more public discussion about the project. I will save you the French

quote in there. This recommendation was ignored. Now the St. Ambroise community is facing dioxin and furan contamination problems. The dioxin contamination caused by Bennett in the St. Ambroise area will not go away for decades, and this could have been prevented with a proper public debate of the original incineration proposal made by the company and it is important to note that such a debate has never happened in Belle Dune.

And may I make a recommendation to the Sydney Tar Ponds Agency? Open the book for the citizen to see what's at stake with their incinerator so we can know what the whole discussion is all about, because if we don't know what we're talking about, how are we to criticize. And I'm going to come to our case in Belle Dune, Northern New Brunswick.

I'll calm down, because as you can see, I'm a little bit like Mr. Deleskie. I get very emotional because these issues -- because like the people in Sydney, it's our health that is at stake, and I'm not necessarily as much concerned for my health, but I'm certainly concerned for my 10-year old son, which I want him to have a good future.

THE CHAIRPERSON: Thank you. Thank you.

MR. LEVESQUE: So this being said ---

THE CHAIRPERSON: Thank you, Mr. Levesque. That would be good. And I think you could probably slow down just a tad in your delivery, if you don't mind. We have a copy of your presentation.

MR. LEVESQUE: I'm not finished.

THE CHAIRPERSON: Other people in the hall do not. So it might be easier for them to follow what you're saying. Just slightly slower.

MR. LEVESQUE: Okay. I have how much time left for me?

THE CHAIRPERSON: You have about 20 minutes.

MR. LEVESQUE: Okay. Good. I can slow down.

In early 2002, Bennett and the New Brunswick government began discussing the possible construction of incinerators in the community of Belle Dune, Northern New Brunswick. Belle Dune was already the site of a led smelter, acid plant, coal-fired power plant and, until 1997, a fertilizer plant.

Having experienced setbacks in Taylor, B.C. and also in Kirkland Lake, Ontario, the anticipated collaboration with the New Brunswick government was their next best hope for building another incinerator. The company submitted their proposal in August 2002.

Initially, the plan was to treat 200,000 tonnes of hazardous waste annually, which would have made it one of the largest such incinerators in North America. I hope the people at the Sydney Tar Ponds are not salivating too much about this prospect.

The proposed facility will -- and that's an excerpt from Bennett -- the proposed facility will treat soils, sediments, dredging, de-watered sludge, aggregates, concrete, brick, tiles, asphalt, wood, packaging materials, granular material, spent activated carbon and other similar solid materials contaminated with chlorinated and non-chlorinated organic compounds. These organic compounds will include wood preservatives, pesticides, herbicides, fungicides, coal tars, creosode, hydrocarbons, solvents, PCE, PAH, PCB, PCP, PCBD and PCDF, I think, which are the dioxins and furans and other organic compounds amenable to thermal destruction.

The proposal was analyzed by a provincial technical review committee. On November 20th, 2002, a letter with a list of 89 detailed questions was sent to Bennett for answers. At that point, officials from Business New Brunswick and Bennett realized that their proposal was in jeopardy.

A meeting was organized on November 26th, 2002 between John Bennett, Chairman of Bennett

Environmental Incorporated, Norm Betts, then Minister of Business New Brunswick and Kim Jardine, then Minister of the Environmental and Local Government.

On December 9, 2002, Bennett amended their proposal. The facility would treat only 100,000 tonnes of soil only per year and it would not treat contaminated -- soil contaminated with PCBs or chlorinated hydrocarbons. With these changes, the project was exempted from the province EIA process, Environmental Impact Assessment. So no public discussion about incineration and we cannot open the books on what it really means, the whole scenario.

On September 2003, Brenda Fowley, then Minister of the Environment of Local Government gave Bennett the green light to construct their incinerator.

When the construction phase of the incinerator was completed, Bennett started looking for soil with the appropriate level and type of contaminants for a test burn. The company had to demonstrate their facility could meet the emissions standard set out in their draft approval to operate before they could get an actual permit to operate.

And just to note in here, the draft permit to operate do now indeed permit Bennett to bring chlorinated hydrocarbons, PCBs and dioxins and furans up

to a certain percentage, varying depending on each level. So from no treatment, we are now facing that reality.

Bennett was unsuccessful in finding soil contaminated with the right mix of hydrocarbons and creosode for the test burn. The province allowed the company to dope or spike the soil, as was done in St. Ambroise. Just recently, the test burns were completed, or so says the company.

Based on experience, the result with no doubt give the incinerator a perfect score and give the Government of New Brunswick the justification it needs to issue Bennett a permit to operate. And it's important to note that some of the soil to do the test burn was provided by the Government of New Brunswick, Supply and Services, for a supposedly contaminated site in Petit Rocher, New Brunswick. So the citizens of New Brunswick are actually paying for the test burn by $25 a tonne for this test burn, the soil coming from the Province of New Brunswick.

A request by various groups, individuals, for a copy of the test burn protocols has been denied by the company and provincial officials. I have made a request to information and I'm still waiting for that, but the Conservation Council of New Brunswick has made an official request on October 20th, 2005 and they're still

waiting for a response, or they got a response, but not the requested information.

In the meantime, a group of Belle Dune citizens launched an appeal before the province's Assessment and Planning Appeal Board challenging the decision made by the Belle Dune Planning Commission to issue a building permit for the Bennett facility. Their appeal was made on the grounds that the Commission had not taken in consideration the impact of the Bennett facility on property value.

If the Belle Dune Citizen Committee are successful with their appeal, the construction permit would be declared illegal, leaving the facility without a legal right to operate. Their appeal has yet to be heard after several "administrative errors", and you can put that in brackets because we're not sure if they were really "errors" on the part of the Province and also legal actions by Bennett.

Before these setbacks, however, some expert testimony was heard before the hearing process was shut down. Dr. David Pengalli, who holds a PhD in human physiology and who specializes in the effects of airborne contaminants on humans had reviewed the air dispersion and deposition models prepared for the Bennett Belle Dune incinerator and their accompanying human health risk

assessment. He found that the human health risk study had in fact predicted that emissions from the facility, particularly dioxins, furans, arsenic and benzopyrene would increase resident risk of cancer and non-cancer disease above acceptable provincial health standards. The consultant who prepared the health risk assessment dismissed these results as being an artifact of the overly conservative health risk model they were using for their assessment.

But for most local residents, they had a different interpretation of the results. They saw their area becoming a sacrifice zone. And in Belle Dune, as is the case in Sydney, there was a recent study demonstrating and documenting the fact that there are some diseases that are found in a higher level in this area than in the rest of the province. And I don't think in Sydney that's going to be a surprise, because from what I get, I think the people around here are familiar with that type of situation also.

Bennett's interest in Sydney PCBs. Bennett Environmental wants to treat the hazardous material from Sydney. They will say they have the technology to do so. The following facts and events demonstrate that Bennett wants to have a share of the Sydney clean-up pie.

In 2005, Bennett organized a tour of its Belle Dune operation for the representatives of the Sydney Public Committee on the Tar Ponds. The Sydney Tar Ponds Agency's website featured that event prominently on their website. I don't know if it's still the case, but it was for a while.

In 2005, Bennett tried to import hazardous material from the Sydney Domtar tanks for use in their test burn even though the material was not allowed, according to the terms of their draft permit to operate.

As a result of the action of responsible citizens, the New Brunswick provincial government was forced to rescind Bennett's permit to import and use the waste from Sydney.

So we have to ask ourselves; are they willing to enter in the spectrum of illegality to do like some of their operation? Because Bennett was the one informing the Government of New Brunswick and the Government of New Brunswick is the one that took the decision to give them permission. So it raises very important and fundamental questions, and also the fact that how much control does the Government of New Brunswick have over these types of operations? And then people are saying why are we suspicious of government and all of that as citizens?

In their 2004 Annual Report, Bennett named Stewart McInnes of Nova Scotia to their Board of Directors. This is how his nomination was described in Bennett's Annual Report:

> "Your Board has also recognized the importance of enhancing representation from Atlantic Canada in light of the anticipated startup of our state-of-the-art Belle Dune plant together with treatment of the hazardous waste from Sydney, Nova Scotia Tar Ponds. We are pleased to be bringing forward the nomination of Stewart McInnes, a prominent Halifax-based lawyer and former federal Cabinet Minister to the Annual General Meeting. It is important to the success of our company to have representation on the Board from the areas where we operate and from where our business is secured."

How can they say that? We're in the process of studying this whole thing. Are they just bragging or is this true? Those are important questions for people to ask.

In a news release dated May 2nd, 2006, Bennett announced that Bernd Christmas, Chief Executive Officer of the Membertou First Nation and the Membertou Corporate Division had been named to Bennett's Board of Directors. It sent a signal to many observers that Sydney has a lot of political and business importance for Bennett. The fact that Mr. Christmas has negotiated contracts and agreements with Jacques Whitford Engineering, from the press release, is certainly making him a welcome member of the firm since Jacques Whitford Environment Limited is playing a major consultant role with Bennett. I don't know if the two, Jacques Whitford Environment and Engineering are related, but I might suspect that they are.

Finally, Bennett is going to make a formal presentation on May 17th during the last day of these hearings. Maybe I'll come.

So Belle Dune or St. Ambroise, through Bennett, could be linked to Sydney in the future, a scenario we are working to prevent.

On May 17th, Bennett will likely come here to tell you how the situation in St. Ambroise has improved and how they are working to correct the situation so that they can meet provincially-imposed conditions. This is cold comfort for the people of St.

Ambroise who were told by the company in 2003 how well the technology was performing, when in reality it was contaminating St. Ambroise with dioxins and furans.

There's a quote that I have in a document here that raises some suspicion about the role that the Government of Quebec played over there.

Anyway, I'll conclude. Belle Dune and Sydney share a common legacy of pollution, contamination and illness leading to human hardship and pain. And I think we heard about that this morning, and probably some more when we're going to proceed.

Just because these two communities are already contaminated doesn't justify that they should be burdened with more pollution. Changing the nature of the pollution burden as in the case in Sydney or adding to the pollution burden, as is the case in Belle Dune, are causing contamination as in the case in St. Ambroise are not solutions to contamination problems for either community.

Provincial and federal governments, as well as the Sydney Tar Ponds Agency and Bennett are likely to say that incineration is a solution to contamination. It is not.

By pretending to solve one problem, they are creating new problems. Taking toxic substances from

the soil and sending it into the air is not solving a problem. It is distributing the problem to a larger segment of the population. By sending the pollution in the air, the so-called best available technologies are merely changing soil pollution to air pollution. Inevitably, what is spit into the air will fall back to the ground. In the case of incineration, what falls back to the ground is sometimes more toxic than what was burnt in the first place.

We want the people of Sydney to see an end to their toxic nightmare. We want them to be free of their chemical burden, but their burden must not become a burden for another community, province or nation.

We respectfully ask the panel to reject incineration as a clean-up option and to ensure that no other community, including Sydney, Cape Breton, Nova Scotia, Planet Earth becomes collateral damage in the effort to clean up the Tar Ponds.

And I will conclude, because it’s very interesting to travel and to come in some areas, because you feel the spirit of the place. And I have just arrived here last night, and this morning I was at a -- there was a little memorial in the city honouring all the workers that died around here, and I just heard the testimony this morning of Mr. -- I cannot pronounce his

name properly -- and I heard the testimony, and it reminded me that I had this newspaper, like this magazine article, and they're talking about Sydney in there, and one of the things that they say in there is like it's right in our face, looking at us and telling us this story, and one of the excerpts of this in bold, and it's indicated in this magazine article, "In the end" -- and they're referring to the Sydney incineration because reading this, there was another attempt to establish an incinerator here a few years ago:

> "In the end, the incineration system was a disaster."

And you know what -- and I will conclude on that because I think -- you know, I look at these stories about pollution and all of that, and I do hope that you're going to take the right decision for the benefit of the people, not the people who are investing money, the citizens who have gone through this. And I do hope that you're going to take that decision, because my prediction is if you don't take the decision for the benefit of the citizens, the ordinary people who have been living the reality of pollution and contamination for I don't know how many years, well, I'm telling you that in five years or 10 years from now we're going to be sitting probably in the same room here and we're going to

go through like a Gomery-style investigation that has happened in Ottawa just recently. And I do hope that my words are not going to become a reality and the right decision is going to be made.

So I'm open to questions and I do hope that I'm going to be questioned. Thanks a lot and I really appreciate the fact that you gave our citizens -- and I'm sure the people in our area are going to be very grateful that our message, or at least part of our message is starting to expand in the circle of truth.

Thank you very much. Merci beaucoup.

(APPLAUSE)

THE CHAIRPERSON: Monsieur Levesque, thank you very much for your presentation. You did cite some documents, additional documents. If you haven't already filed them or tabled them, I would ask you to provide them to the Secretariat.

Ladies and gentlemen, I just want to make a little note. I would prefer not to hear applause from now on. I realize that it happened for Mr. Deleskie. I think Mr. Deleskie's case was a very special one. I recognize that you wished to pay tribute to him and some of you did that very eloquently, so I didn't object to his standing ovation. But this is a public hearing. It's not a public meeting. So I'm going to ask you, from

now on, after presentations, however much you appreciated them, please hold your applause.

Monsieur Levesque, we will have questions for you and there will be questions from other people in the room, I'm sure, but immediately, the panel is just going to take a brief 10-minute break. So if you'll come back in 10 minutes and we'll resume. Thank you.

(RECESS)

THE CHAIRPERSON: Thank you for your patience. The panel has conferred and we've also spoken with presenters who are coming later in the afternoon, and we are going to make a change in the schedule.

Now, we -- Mr. Levesque's paper we only just received it -- it was here on the table when we sat down. It obviously has a considerable amount of detail in it. So nobody else has seen it before.

I do reiterate I do encourage you, if you are making a presentation, particularly if you have matters of a technical nature in it, it really helps the panel tremendously to have that before us so that we can read it and we can prepare.

And for that reason, because we would like a little bit more time in order to look at it and to know what it is that we want to pursue with Mr. Levesque, and there may be other people too, we are going to change our

schedule and we are going to take an hour's break from 11:40 to 12:40. The Cape Breton Save our Healthcare Committee has very kindly agreed to move their presentation -- I never know whether it's forward or backward -- later by 30 minutes to accommodate this.

So we're now going to break. Mr. Levesque, if you would come back at 11:40, we will proceed with some questions. So thank you -- 12:40, sorry.

MR. LEVESQUE: Just before we recede, I've got like one extra copy and I would like to put on the record that I'm giving it to you, and this copy, I would like the panel to give it to some citizens of Sydney so that they have officially a copy of our report, but I want this to go through the process officially.

So I don't know if somebody from the community wants to come get it, but ---

THE CHAIRPERSON: Please file that with the Secretariat. That's their business.

Thank you very much. We will resume at 12:40.

(RECESS)

THE CHAIRPERSON: Ladies and gentlemen, we will resume. Thank you for your flexibility in accommodating our schedule tweak.

I just want to -- before we begin the questioning, I would like to ask the Sydney Tar Ponds Agency if you have any undertakings to hand in?

MR. POTTER: Yes. I guess in the interest of keeping the schedule moving along today, and we're a little bit behind, I'll simply indicate that we have -- I'll make sure I've got the right ones here -- your reference number, Undertaking 11. We'll present that. It's the examples of mobile incinerators; Undertaking 15, list regarding monitoring with caps, and there's actually two -- we don't have numbers for those, but it's the undertaking regarding confirming benzene and benzopyrene leachate tests. It's combined with an undertaking from Ms. Cain regarding a compressive strength question. So I think we've combined those two into one. We'll submit those today to the Secretariat.

THE CHAIRPERSON: Thank you, Mr. Potter.

So thank you very much, Mr. Levesque, for coming back for the questioning. Now you have a full stomach, I hope.

I would just like to begin -- it's not a question, but it's a clarification with respect to your presentation. Thank you very much for it. You presented a number of items for our consideration as a panel, and I just want to make it very clear so that everyone can keep

their questions and we can keep the discussion focused on things that lie within the mandate of the panel, because if we're not doing that, frankly, the panel is sitting here spinning our wheels because we cannot comment or address things in our report that don't fall within our mandate.

So to be very clear, my interpretation of that with respect to your presentation, you provided here some information regarding the operation of other hazardous wastes incinerators in Canada, clearly pertinent to what we're doing. You provided also some information with respect to test burn protocol and the use of sediments. That's within our mandate. You've also presented a number of arguments or concerns that you had with respect to the possibility that material from the Sydney Tar Ponds and Coke Oven Sites might end up going to he incinerator in Belle Dune, and that's where I have to draw a line because we are only addressing -- our mandate is to address the project description that's been presented to us and any alternative means that have been found to be economically and tentatively feasible and, in fact, we don't have any alternative there that says that material is going to go to Belle Dune. So that does not fall within our mandate.

So I would really like to keep our discussions and questions focused on the items that are. Thank you.

MR. MARCOCCHIO: Madam Chair, if I may add just one ---

THE CHAIRPERSON: No, I'm sorry, Mr. Marcocchio, that's not where we are in the process, but when you come to ask questions, you may mention it.

MR. MARCOCCHIO: But it's relevant to the question. In fact, with the incinerator proposal not being defined, either the method or the location, it certainly does fall within the mandate of the panel to consider ---

THE CHAIRPERSON: I'm sorry, Mr. Marcocchio, there are two sides that are being put forward, the VJ site and the Fallon site as an alternative. Belle Dune has not been named.

We will begin with questions from the panel.

DR. LAPIERRE: I will ask my questions in French, so I would ask that you put on your electronic ears, those who need them. People in the back are getting electronic ears?

(PAUSE)

DR. LAPIERRE: Ça va? Vous m'entendez? Oui? Je vais attendre une minute en attendant que les autres se procurent leur équipement pour que tout le monde puisse entendre. Le temps que ça prend pour ça, on va vous accumuler le temps.

(PAUSE)

THE CHAIRPERSON: Excuse me, Dr. LaPierre, I'm sorry; we need to just take a five-minute break, if we could and then we will resume with the questioning. I'm so sorry. You've been patient with our changes here.

(RECESS)

THE CHAIRPERSON: Ladies and gentlemen, thank you very much for your patience and thank you for your patience, Mr. Levesque. We've kind of made a couple of changes here, but we had to have the break. Mr. Potter had a personal matter that he needed to attend to and the Sydney Tar Ponds Agency is, in fact, ready to proceed with a discussion.

So back we go. Dr. LaPierre was about to ask you a question. Please proceed.

--- QUESTIONED BY DR. LAPIERRE:

DR. LAPIERRE: Bonjour et merci, Monsieur Levesque, pour votre présentation.

J'aurais quelques questions. La première c'est au sujet -- se situe à la page 5. C'est au sujet

de l’avant-dernier paragraphe où vous avez situé que le nettoyage puisse se faire au niveau de 5/9. Je veux bien vérifier que c’est 5/9 et non 6/9? Vous avez indiqué que 5/9, mais je veux vérifier que c’est bien 5 et non pas 6/9 que vous vouliez dire.

MR. LEVESQUE: Vous parlez de quelle page?

DR. LAPIERRE: Page 5, avant-dernier paragraphe.

MR. LEVESQUE: Un, deux, trois, quatre, cinq.

DR. LAPIERRE: Vous avez bien dit 5?

MR. LEVESQUE: Oui.

DR. LAPIERRE: C’est bien 5; c’est pas 6?

MR. LEVESQUE: Bien, en tout cas, moi j’ai écrit ici, c’est 5/9.

DR. LAPIERRE: Alors, je voulais juste vérifier que votre présentation indique 5/9. Merci.

Sur la page 4, le dernier paragraphe ---

MR. LEVESQUE: Oui.

DR. LAPIERRE: --- deux questions. La première question indique que -- vous avez indiqué dans le paragraphe que les montants étaient double, que les données ont démontré que c’était deux fois le taux permis par le Conseil des ministres en environnement.

Est-ce que ce taux-là c'est un taux qui fait abstraction de données -- c'est-à-dire des données qui pouvaient être là avant? Est-ce que c'est le double -- les chiffres que vous indiquez là sont des chiffres qui indiquent un doublement depuis le début de l'incinération et ça indique qu'il y avait aucune place avant le début?

MR. LEVESQUE: Je vais vous répéter qu'est-ce que j'ai dit dans ma présentation, puis j'ai le document ici, la lettre ici, parce que la lettre datée du 20 janvier 2000, ce que ça dit très précisément dans cette lettre-là, comme vous serez à même de le constater à la lecture du document, ce rapport a atteint le principal objectif visé, soit d'établir l'absence de BPC et de dioxines et furanes dans les sols autour de l'usine au moment du prélèvement des échantillons en novembre 1997; c'est-à-dire avant le démarrage des opérations de Récupère Sol pour faire le traitement thermique de sols contaminés par des BPC et autres contaminants organo-chloriques.

Donc, je pense que qu'est-ce que cette lettre-là indique c'est qu'il y avait une absence de BPC, de dioxines et de furanes dans l'environnement au moment des prélèvements en 1997.

DR. LAPIERRE: Alors, ça ---

MR. LEVESQUE: Et ce qui arrive après et l'analyse qui a été faite, c'est comme on le mentionne dans le document, c'est qu'après ça, ils constatent des présences de dioxines, de furanes dans l'environnement et le document -- l'avis préalable d'ordonnance du Ministère de la santé -- du Ministre de l'environnement du Québec met la responsabilité de cette contamination-là à l'usine de Récupère Sol Inc., qui est propriété de Bennett Environmental.

DR. LAPIERRE: D'accord. Je voulais simplement vérifier les données de base avant le début de fonctionnement de l'usine.

MR. LEVESQUE: C'est ça.

DR. LAPIERRE: L'autre point, vous avez indiqué que le Gouvernement du Québec avait demandé qu'une étude d'impact sur la santé soit débutée.

Êtes-vous au courant si cette étude a été faite et si elle est maintenant disponible?

MR. LEVESQUE: Je pense que je n'ai pas dit ça. Il n'y a pas eu d'impact sur la santé du projet de Bennett Environmental.

Je peux même, si vous voulez, à ce niveau-là, vous décrire qu'est-ce que Bennett dit à propos de ça. Il y a eu une étude qui a été faite après ça par la Direction de la santé qui a sortit un rapport et puis ce

qu’on dit dans notre document c’est qu’on fait référence à ce rapport-là que la Direction régionale de la santé, que eux autres ont fait une étude pour voir c’était quoi les impacts, s’il y avait de la pollution, puis je pense si cette pollution-là avait des impacts sur la population.

Donc, il n’y a pas eu d’étude d’impact environnemental à ma connaissance, et si vous voulez, je peux vous lire un document de Bennett, qu’est-ce qu’il dit, le comportement du Gouvernement du Québec à propos de ça. Si vous voulez, je peux vous le lire.

DR. LAPIERRE: Ce n’est pas au sujet de l’étude d’impact environnemental, parce que je crois que je suis au courant qu’il n’y en a pas eu. C’était plutôt sur l’étude que vous avez indiquée -- vous avez indiqué que le ministre, une action -- le comité avait avisé le ministre d’entreprendre plusieurs activités, dont une était une étude sur l’état de santé, les impacts qui pourraient être occasionnés sur la santé des gens suite au résultats qui avaient été indiqués.

MR. LEVESQUE: Là, j’essaie de vous trouver le document qui fait référence à cette étude sur la santé pour clarifier votre question.

Si vous voulez, éventuellement, j’ai les documents -- le document ici, l’analyse réalisée par

notre conseilleur scientifique concernant l'étude de la santé qui donne justement toutes les augmentations au niveau des années. J'ai le tableau ici. J'ai ce document-là. Je l'ai vu tout à l'heure.

Mais pour préciser ce que vous avez mentionné, l'étude qui est mentionnée là-dedans c'est une étude qui a été faite par la Direction régionale de la santé du Saguenay Lac St Jean qui n'était pas une étude d'impact environnemental à proprement dit comme il se fait habituellement sur ces projets-là. C'est une étude pour mesure un peu, je pense, qu'est-ce qui s'était passé après pour voir c'était quoi l'impact de cette contamination-là, qui a résulté en un rapport de la Direction régionale.

À partir de là, nous autres on a informé le ministère, parce qu'à ce moment-là il y a des reportages dans les journaux qui disaient -- bien, ça disait que c'était pas dangereux pour la santé. Ça fait que nous autres on a eu une rencontre avec le Ministre Mulcair -- je pense que c'était par conférence téléphonique -- et puis une autre interprétation a été donnée de cette étude-là qui a fait en sorte que le ministre, après, a pris les actions à la suite des informations que nous autres, les citoyens, on a amené au Ministre Mulcair.

DR. LAPIERRE: Alors, c'est bien les citoyens qui ont occasionné cette étude et par la suite vous avez présenté des documents -- les données au ministre?

MR. LEVESQUE: Quand on parle des citoyens, je peux pas parler de qu'est-ce qui s'est passé exactement à St. Ambroise, comment est-ce que le processus de décision a été fait pour faire cette étude-là, mais j'imagine que la population de St. Ambroise avait des préoccupations, donc, qu'ils ont avisé le ministre ou qu'ils ont eu des interventions politiques à ce sujet-là au public qui a fait en sorte qu'ils ont fait cette étude-là, mais ce sont les gens de St. Ambroise qui ont d'abord été les premiers à déclencher ça.

Ensuite, quand les résultats de cette étude-là ont été rendus publiques, nous autres, comme tout le monde, on en a pris conscience et puis on a analysé les résultats et puis lors de la rencontre avec le ministre, c'est à ce moment-là que nous autres, on a donné une interprétation de cette étude-là pour dire qu'il y avait des dangers parce qu'il y avait des accumulations qui dépassaient les normes du Conseil canadien des ministres de l'environnement, ce qui fait en sorte que lorsque le ministre a été informé de façon appropriée de ça, ensuite, il a fait faire d'autres

analyses, j'imagine, d'où son avis préalable d'ordonnance à l'égard de la compagnie.

DR. LAPIERRE: Alors, quand vous dites "the Group Science advisor", c'était qui cette personne-là?

MR. LEVESQUE: C'est Inka Milewski du Conseil de conservation du Nouveau-Brunswick qui est notre conseillère technique dans le dossier. L'étude, je l'ai juste ici. L'évaluation du risque à la santé, d'après la qualité des sols de la zone d'influence de l'usine de Récupère Sol à St. Ambroise, 14 janvier -- je pense que c'est celle-là -- 2004.

DR. LAPIERRE: Est-ce qu'il serait possible de nous laisser une copie de cette étude?

MR. LEVESQUE: Oui. Je vais garder cette copie-là, mais je pourrai vous en procurer une copie.

DR. LAPIERRE: Merci.

THE CHAIRPERSON: Excuse me, can I enter that into the record as an undertaking that Monsieur Levesque will provide that study to the panel?

** UNDERTAKING **

--- QUESTIONED BY MR. CHARLES:

MR. CHARLES: Mr. Levesque, on page 5, second paragraph from the bottom of the page where you're talking about a test using soil that's doped or spiked, I

understand from what you said here -- you asked the question “How could this have happened” and so on. The possibility of the test burns using soil that was doped or spiked is just one possibility, I take it, not the only one to explain why there were differences?

MR. LEVESQUE: What do you need?

MR. CHARLES: And is this doping and spiking procedure still an accepted procedure for testing incinerators in Canada generally?

MR. LEVESQUE: First of all, for me to give you an opinion on that, I’m certainly not an expert. So, you know, to ask me if it’s acceptable or not acceptable, you know, I don’t think I can give you any advice on that.

MR. CHARLES: No, I mean, is it used, generally speaking?

MR. LEVESQUE: Well, they’re doing it in Belle Dune right now and, of course, as citizens we’re protesting against that because we’ve got documented evidence from the Commission technique et de concertation which has a recommendation that it’s a process that is not representative of actual operation.

So therefore, what they’re testing right now is going to be different from when they’re going to

be operating the facility with the material that has been contaminated for many years.

So our argument on that is the fact that if they're doing test burns using soil that is freshly contaminated, it's not going to be representative of what is going to happen during the daily normal operation of that and we're using the example of St. Ambroise because that process has been done in St. Ambroise the same way it's being done in Belle Dune and, therefore, if in St. Ambroise they went through this whole process and it was supposed to be like, as they say, the best available technology and we are meeting the standard, well, how can they explain that a few years after that, having gone through a test burn that was supposedly safe, we're ending up in St. Ambroise with the result that there is dioxin and furan contamination around the incinerator?

So that's where we're saying ---

MR. CHARLES: No, I understand the argument you're making.

MR. LEVESQUE: So with these in line, with these facts in line, I will return the question to the community and the panel; is it acceptable that they're doing that type of scientific testing while they know that in St. Ambroise they're ending up with having problems over there?

So we're saying that we're probably going to see the same situation like in Belle Dune. Of course they're probably going to tell you, "Oh well, the situation in Belle Dune is different. We're not going to treat PCBs. We're not going to treat chlorinated hydrocarbons and we're not going to treat dioxins and furans." That's what they say in their December 9th addendum, that they're not going to do that, but then the Government of New Brunswick turns around after Bennett making that promise and the draft permit to operate is permitting PCBs. It's permitting chlorinated hydrocarbons and it's permitting the dioxins and furans up to a certain concentration. So you can see that they might be saying, "Oh, don't worry; we are not allowed to do that," but already we can see that they're just upping the ---

MR. CHARLES: Mr. Levesque, I understand your argument. I'm just looking for a little factual information here about the spiking process itself.

Is it your understanding that when they use this doping or spiking test before the incinerator really gets going, that they use a concentration of PCBs that's going to be the same as would be used in the general feedstock or can they use any concentration?

MR. LEVESQUE: I cannot tell you that because my government and Bennett have refused to give us the protocol for test burns.

MR. CHARLES: Okay. Do you know then what the procedure is once the testing is done and they've done their tests, however they do it, when the incinerator really starts to operate and they have the general feedstock going in, the stack emissions are tested, are they not?

MR. LEVESQUE: They're tested for certain contaminants, but not necessarily dioxins and furans.

MR. CHARLES: So ---

MR. LEVESQUE: In New Brunswick -- and that's the next reading I have to do, but I read it briefly and quickly -- but the government set some limits for the Belle Dune incinerator in terms for some of the contaminants, but the one that we're really concerned about, and that's a document I have to read, but you can ask, when Bennett representatives come here, if they're going to have real -- like if they're going to take some samples of the material that is going to get out of the stacks. They're going to take some samples, but what are they sampling? Are they sampling dioxins and furans? Are they sampling PCBs? Are they sampling all these things? That's a question you could put to Bennett.

I have the document, like the Air Ambient Monitoring Program that they have, but I have not read it completely, but from what I can remember, I don't think that the key contaminants are necessarily going to be measured.

MR. CHARLES: The dioxins and furans that you're worried about?

MR. LEVESQUE: But please confirm the information with Bennett when they come here.

MR. CHARLES: Okay. Thank you.

MR. LEVESQUE: But I can send you -- like the air monitoring plan, I can certainly send that to you also, if you want.

MR. CHARLES: Thank you, Mr. Levesque.

--- QUESTIONED BY THE CHAIRPERSON:

THE CHAIRPERSON: Mr. Levesque, I'm still getting a little confused sometimes when you're telling us things, whether you're telling us things about Belle Dune, your concern and your project in Belle Dune, or whether you're making references to what is proposed to happen here.

Just for some clarity on that, have you in fact been able to read the EIS for this project, or at least the relevant sections?

MR. LEVESQUE: To -- I'll be honest with you; I haven't had the opportunity to read the Sydney material, and the reason why I'm here, and I'm going to make that clear again -- the case that we have in our area, I think, is enlightenment for what might be happening here in Sydney.

THE CHAIRPERSON: No, that's clear. I understand why you're here.

MR. LEVESQUE: And might. I'm not saying it's going to happen; might.

THE CHAIRPERSON: But we need to -- as you can understand, as a panel, we need to be correct.

MR. LEVESQUE: Yes.

THE CHAIRPERSON: So I will -- actually, I'm going to do it right now, because let's get a little clarification rather than going on. I just want to ask the Tar Ponds Agency, the test burn protocol that would be used, would you be using spiked sediments for the test burn or would you be using actual sediments from Tar Ponds, or would you be using both before getting approvals to proceed with operating the incinerator?

MR. KAISER: Thank you, Madam Chair.

I will ask John Walker to address that question.

DR. WALKER: Thanks, Mr. Kaiser.

Yes, I would like to offer some clarification here. There is a test burn protocol that was advanced by the U.S. EPA for the purposes of establishing the efficiency of new equipment. The reason you use a surrogate compound, a doping compound, a spiking compound, is under EPA direction, you would use a compound that's safe, that doesn't have any health consequences. You would measure the effectiveness of destruction of that compound, measuring the DRE. So you put in a compound which could be chlorobenzene or something like that that burns like PCBs burn but are not PCBs, and you measure, coming out of the stack, how much of that compound there is and then you evaluate from that what the destruction removal efficiency is of your system.

Then when you establish that that system is operating as well as it needs to be to protect public health, you then put the real material into the system. You put in the material with a measurable degree of contamination and you do compliance testing. Generally, that's within six months of operation, and that test, you would measure the amount of the PCBs going in. You would measure the amount of PCBs coming out of the stack and you would measure the dioxins and furans, and you would

establish the 6/9 sum of PCBs. And that's exactly the plan proposed here.

THE CHAIRPERSON: Thank you. Thank you, Dr. Walker.

MR. LEVESQUE: Can I ask you a question?

THE CHAIRPERSON: Yes.

MR. KAISER: Excuse me, Madam Chair, sorry; I would like to have Don Shosky also make a comment, if that would be appropriate?

THE CHAIRPERSON: Still on this issue of the test burn?

MR. KAISER: Yes.

MR. SHOSKY: Yes. On the issue of the test burn, prior to even putting in soils that are spiked or doped with the chemicals that Dr. Walker talked about, a very thorough shakedown of the equipment using clean soil, verified clean soil, would run through it to make sure that all of the equipment is working properly before any type of artificially impacted soil were to be installed. So a very thorough shakedown of all the mechanical parts would be undertaken prior to actually putting in even the doped soils.

THE CHAIRPERSON: Monsieur Levesque, if you have a question or clarification relating just

shortly to this whole test burn issue, by all means, place it.

MR. LEVESQUE: Can they explain to the people in St. Ambroise why it didn't work over there?

THE CHAIRPERSON: I don't think that that's a question that the Agency should be asked or have to answer ---

MR. LEVESQUE: Thank you.

THE CHAIRPERSON: --- since they were not responsible for anything that happened there.

MR. LEVESQUE: Thank you very much.

THE CHAIRPERSON: I have one question. Really it's a question asking what sort of advice you might want to give to the panel. I know -- I have an idea of the advice you're going to give to the community, but to the panel.

These two examples that you brought forward to us in Swan Hills and in Quebec, now, I'm not -- I shouldn't perhaps say this about Swan Hill; I'm not certain, but in Quebec, part of the issue that you raised was that there was no environmental assessments carried out. Is that correct? Am I correct in that assertion?

MR. LEVESQUE: From what I understand of the situation ---

THE CHAIRPERSON: From what you understand. Okay.

MR. LEVESQUE: --- there was no environmental impact assessment done over there.

THE CHAIRPERSON: All right.

And Belle Dune, it's similarly ---

MR. LEVESQUE: Yes.

THE CHAIRPERSON: And you do know that one for sure, obviously.

MR. LEVESQUE: Very.

THE CHAIRPERSON: Swan Hills, neither of us know at this point, but that doesn't matter. That's kind of immaterial.

MR. LEVESQUE: In Belle Dune there is no environmental impact assessment.

THE CHAIRPERSON: Yes. All right.

Well, here we are. We're in an environmental impact assessment. So at least that's, I'm sure you would agree, at least a plus in this circumstance. We're here in an open public inquiry. I'm not making a -- I'm not arguing with you. And we have an environmental impact statement for the panel to review, which is what our job is to do.

So I guess from your experience there is an open public review process going on here. Now, I did

ask you and you said you haven't really been able to look at sections of the IS, so I won't ask you really to comment on them, but I mean, do you have any -- what do you think the environmental impact assessment needs to accomplish in this particular instance, relating to the assessment of hazardous waste incineration technology?

MR. LEVESQUE: But first of all, I don't know if I understood correctly, but you kind of said that there was an environmental impact assessment going on with the work of the panel here. I don't know if that's what you said, but ---

THE CHAIRPERSON: Oh, that's what I said.

MR. LEVESQUE: Pardon me?

THE CHAIRPERSON: That's what I said. That's why we're all here today.

MR. LEVESQUE: Well, I don't ---

THE CHAIRPERSON: We're all participating in that.

MR. LEVESQUE: Anyway, from how I understand the system, I don't think this is like an environmental impact assessment of the whole project because the incinerator -- I heard some people saying, you know, they don't know like what is going to be the proposal, the technicality of it, and now I hear that they're responding to the fact that they're going to use

a doped soil to do their test burn, which is probably something that is interesting in terms of information.

So I think if we are going to be talking about like a full environmental impact assessment, we certainly have to know the technicality of what it is proposed so that when we know what is proposed and on the table, we can discuss the facts and all of that.

Now, saying this, I don’t want to say that this review panel is not doing this job for whatever their mandate is, but I do think the mandate should probably be wider than what it is.

Now, this being said, in terms -- if you’re asking me what I think and some of the advice, first of all, I think the people who are the most concerned about an issue are probably the ones who know a lot about the issue. And I think -- and like I’ve only been here a little bit of time, but from the discussions I had with some people, it makes me realize that -- I forgot my line of thought right here -- but what I want to say is that the people -- and I think there are some proposals that have been made to the Sydney Tar Ponds Agency that are looking at other options than incineration and, from what I understand, putting cement to supposedly solidify and stabilize the Tar Ponds itself and this scenario.

And I think, from what I understand, I think we're seeing it in here; we're proposing like a non-thermal solution in a closed loop. I think, from -- and of course, I'm not an expert and I don't want to pretend, but from what I hear in the community, there is already a proposal to the Sydney Tar Ponds about that. The cost of it would probably be better than the one that is on the table right now, and the other aspect that I hear, but I cannot confirm that, but it's also economically viable.

So I think if we're really to look at all the aspects, you know, let's put everything on the table and discuss about everything on the table and look at all the options, and I think one of the options -- and it's the community that has to be part of the solution. We're living it in Belle Dune. The Government of New Brunswick, Bennett, they don't want us to be part of the decision making process because we know -- as citizens, we know our area. We know what's good for us. We know what's not good for us, and if they're saying it's economic development, we know -- and we also know the risks, as citizens, the risks we want to take for our health in order to have jobs.

THE CHAIRPERSON: Okay.

MR. LEVESQUE: So my advice, talk to the people and the Sydney Tar Ponds Agency should sit with the people and have an honest and frank discussion the same way the politicians should.

And I know I'm not on your mandate. It's out of your mandate, but I certainly believe and as a citizen, I strongly believe in that. You know what this is called? It's called democracy.

THE CHAIRPERSON: Thank you very much, Monsieur Levesque.

All right. I'm now going to ask for questions. I'm going to provide people with five minutes for their questions and I'm going to start with the Proponent.

MR. KAISER: Thank you, Madam Chair.

We appreciate the concerns that the speaker has raised.

First, I would like to clarify a statement made earlier in regard to a disaster with the previous incinerator. As we heard yesterday, the incinerator itself successfully met emissions requirements on commissioning. There were certainly problems with materials handling, but I think it was incorrectly referred to today.

We understand that the incinerator must be designed and operated very carefully and we are committed to do just that.

We haven’t selected a final incinerator design because we want to incorporate any requirements that arise out of this hearing into any final design decisions that are made as we move forward.

Also, when we tender the project, we will be looking carefully at the technology that is proposed, and you can be assured that we will be searching and researching the contractor’s performance history.

We are committed to a process of openness with the community and we will continue to do that as we move forward with the design decisions.

We will also, as we have said previously, be working very closely with the regulators as we move forward through the process.

As we make decisions and move into the tendering and contracting process, we will require that our contractors meet emissions requirements that we have done much of the environmental assessment work on and certainly use any of the risk-based numbers derived through our human, health and ecological risk assessments, and that’s to ensure that the incinerator will be operated safely and efficiently.

Thank you.

THE CHAIRPERSON: Do you have questions at all, Mr. Kaiser?

MR. KAISER: I guess our question at this time is perhaps not so much a question as an assumption that we would assume that all the documents and reports referred to in the presentation will be made available to us for review?

THE CHAIRPERSON: We certainly asked for one -- an undertaking for one specific report, which I don’t think you had referenced at the back of the report. So that is an undertaking.

The documents that are referenced in your report, I assume they are obtainable. I don’t think we expect people to supply all the references that they make.

But were there any other documents that you heard about that were not referenced at the back of this presentation?

MR. KAISER: One moment, please.

THE CHAIRPERSON: Perhaps the most efficient way to do this is that if when you have a look at the transcript and if there’s something that you see, perhaps we could submit a written request to you, and

then if you are able to provide that, we could see if you would be able to do that. Is that right?

MR. LEVESQUE: Yes. And immediately what I'm going to file is the Preliminary Ordinance from the Government of Quebec. I'm going -- also from this study, I'm going to provide you with the diagram of all the samples that were taken, and they're coming from the study, and if somebody from your staff wants to go and photocopy that, that's the "étude" coming from St. Ambroise which these numbers are derived from.

THE CHAIRPERSON: M'hm.

MR. LEVESQUE: And those are made by our scientific advisor. I'm going to provide all those numbers so that it's on reference and it's officially with the panel.

THE CHAIRPERSON: Very good. Thank you.

MR. KAISER: Thank you.

THE CHAIRPERSON: If I can remind people, because maybe there's new people, the process we use, I ask for -- and usually I don't do it by people coming up to the microphone. If you would like to take a seat there, I ask for questions and I take questions from people who are registered participants first and then questions from other people.

And perhaps -- of the people who are registered participants who have registered to make a presentation, could I just see your hands to see how many are there? So let me make a note so I don't lose them.

(PAUSE)

THE CHAIRPERSON: So Sierra Club, Mr. Ignasiak, Dr. Argo, Ms. MacLellan, Mr. Marmon and -- I'm sorry, I don't know your name.

MR. MacMULLIN: Dan MacMullin.

THE CHAIRPERSON: And you're registered to present?

MR. MacMULLIN: Yes.

THE CHAIRPERSON: So we have two from Sierra Club and two from Save our Health. So I may separate those out. All right.

Well, I will start with Mr. MacMullin, though normally I don't go with the person who comes to the front, just for future, but five minutes please. And these are questions to the presenter.

--- QUESTIONED BY MR. MacMULLIN:

MR. MacMULLIN: My apologies, it's my first day back after three weeks on the road. I would like to thank Mr. Levesque for bringing a message from another community.

I tried two years ago to have this community be compared to other communities that have suffered similar environmental ills over the years and, therefore, I really appreciate his visit today.

My question is one of clarification or information for Mr. Levesque. It's important when we look at companies that may come to our community to provide services that we assess the credibility of said companies, and we all have to do that individually. The fear that goes with incineration is well known in this community. We have had an incinerator that has now been decommissioned.

Therefore, when I read while on the road that Bennett Environmental might be coming to this community to present, I did have some reservations and some concerns.

So my point of clarification, if you would, Mr. Levesque, while on the road I did hear that there had been a settlement of a lawsuit towards Bennett Environmental, and this addresses the credibility that companies that may come here. Can you clarify for me whether, in fact, the -- I believe it was a lawsuit brought by the shareholders towards Bennett Environmental. I did not see the media article, but I

assume that you probably did. Could you clarify for the panel and those here what may have passed there?

MR. LEVESQUE: I won't go in all the details of this thing, but there was allegation by the shareholders and some of the allegations were -- I've got the document here -- like a New York lawyers' cabinet that started litigation or wanted to start litigation against Bennett for some of the disclosure that they had made, and they were saying that it was not right and there was some allegations of fraud which were never brought into court and were never judged per se.

But there was a settlement out of court that was over $9 million U.S. and it was settled out of court just in 2004, I think.

So there was these kinds of actions that were going, and to give you an idea of how the market has -- and I think just looking at the share value, how it goes gives an indication of the credibility that the company might have, because at one point they reached a level of close to $26 a share, and I think they went even higher than that, and the last time I looked on the Toronto Stock Exchange this week, they were trading at around $3.50 a share. So we're talking about like a $20 hit of the shares of the company, and I think just looking at the money numbers, it gives you an idea how

the investors trust this company in terms of how they're managing the company.

There's also an Ontario Securities Commission ruling right now which is forbidding the managers and many people around the Board of Directors to share their own stock until they meet certain criteria of the Ontario Securities Commission.

So those are the things that are ongoing right now that might give you like an idea that everything is not really -- you know, like everything -- in the boardroom, there's some issues to be settled.

THE CHAIRPERSON: Thank you.

Ms. MacLellan. And I would, again, sort of encourage you to keep your questions and the discussions focused on the project that is before us. We don't have -- we are not assessing possible companies that might possibly get involved. So it's the technology and the information we have in front of us in the IS, please.

--- QUESTIONED BY MS. MacLELLAN:

MS. MacLELLAN: I just have a two-minute question, Madam Chair, and then I'll turn it over to Dr. Argo if he wishes. I don't like to tie up all the time.

I have a question. As I understand it, Belle Dune is in Northern New Brunswick?

MR. LEVESQUE: Yes, Belle Dune is in Northern New Brunswick.

MS. MacLELLAN: And St. Ambroise is ---

MR. LEVESQUE: Is in the Saguenay-Lac-St-Jean in Quebec.

MS. MacLELLAN: I'm just wondering what the socioeconomic conditions of the people are there, because I believe if they tried to do what they're trying to do here in an area that was more effluent, it wouldn't happen.

MR. LEVESQUE: I think you're right because the Belle Dune area, we have some high unemployment rates in our area. The mine in Bathurst is about to close down. The wood industry right now, there's a mill that closed down in Bathurst. There's a lot of questioning going around, like all the economy in the area, and one of the arguments that has been pitched, and Business New Brunswick is involved in that, is the fact that this incinerator is going to create economic opportunities for the people.

So basically, you know, I think from what I'm seeing here, it's like the same thing, high unemployment rate in our area, and I think Cape Breton is also a place where there's high unemployment. So I think the companies and the government are making profiles of

communities where they can go and I think it's -- we call them like sacrifice zones. So I think that's the bottom line to me anyway.

THE CHAIRPERSON: Yes, Dr. Argo.

--- QUESTIONED BY DR. ARGO:

DR. ARGO: Madam Chair, a very quick question.

I'm going to make a request of the presenter today for that information that he is going to submit to you about the St. Ambroise -- and I'm going to ask him if he would please send it to me as well because I can use it in my health studies. Thank you.

MR. LEVESQUE: No problem with that.

** UNDERTAKING **

THE CHAIRPERSON: Thank you.

Mr. Ignasiak.

--- QUESTIONED BY MR. IGNASIAK:

MR. IGNASIAK: I just have one quick question and perhaps a follow-up question. The first quick question is did I understand correctly that in your area, the incineration of the spiked material was subsidized by the residents to the tune of $25 per tonne? Is that ---

MR. LEVESQUE: Supply and Services New Brunswick had 5,668 tonnes of supposedly contaminated

soil that was provided to Bennett and Bennett spike treated these soils and they treated these soils at $25 a tonne.

MR. IGNASIAK: I have now some sort of an explanation. I believe that the panel asked on a few occasions what is the cost of incineration. I would like to make clear to everybody in the audience that this is not the cost of incineration.

I have in front of me on-site incineration costs based on a US EPA 542R98010. The cost for sediment and sludge per short ton goes from the lowest number of $957 U.S. per short ton to $3,300, again U.S. dollars per ton, with exceptional cases going as high as $16,445 per ton.

Now, here, 5,000 tonnes were incinerated. I don’t know whether the public knows about that, that the cost of this incineration of sediment here amounted to $11,000 Canadian per long tonne.

THE CHAIRPERSON: Thank you, Mr. Ignasiak. I take that as a point of clarification. We take that, and I imagine you’ll be pursuing that information.

Again, the information you’re citing, do we already have this, as my usual refrain?

Mr. Marcocchio, you have a question and then I'll see if there's anyone who is not a registered presenter who has a question.

Oh, Mr. Marmon, I'm sorry. I won't forget you.

--- QUESTIONED BY MR. MARCOCCHIO:

MR. MARCOCCHIO: Thank you, Madam Chair.

Thank you, Mr. Levesque, for your presentation.

Two questions. One is just a point of clarification on a point that the Tar Ponds Agency raised. I would like some clarification on a quote that you referred to and that the Tar Ponds Agency mentioned.

Was it your quote or was it extracted from some document, and can you explain to the audience ---

MR. LEVESQUE: Which ---

MR. MARCOCCHIO: The quote that said "In the end, the incinerator was a disaster" that you referenced in your brief.

MR. LEVESQUE: Like the disaster quote?

MR. MARCOCCHIO: Yes.

MR. LEVESQUE: That was a quote that I took from that article that I provided to the panel. So it's not a quote that is coming from me, but like it was in the magazine article there in big excerpt. That's

what the article says. You can refer to it, “In the end, it was like a disaster.”

MR. MARCOCCHIO: If I’m not mistaken, it was from an industry trade magazine called “Hazardous Waste Management” and, in fact, was it not the cover story on that magazine, an extensive story about the Tar Ponds and the final paragraph read, “In the end, the incinerator was a disaster”?

MR. LEVESQUE: Yes, because the cover page of the magazine is included in the photocopied version that I have of that article.

MR. MARCOCCHIO: That is now in the public record?

MR. LEVESQUE: It is. It is because I gave them to the panel.

MR. MARCOCCHIO: Thank you. I wanted to make that clear both to Sydney Tar Ponds Agency and to other people that may have been confused about the record.

MR. LEVESQUE: And thank you for the clarification because it’s not one of my statements, but I was just quoting an article. Thank you very much.

MR. MARCOCCHIO: Thank you very much.

The question that I have for you is do you have any advice for the First Nations? As you know,

Bernd Christmas, the CEO of Membertou, was appointed to the Board of Bennett Environmental and I understand that in your struggles with the community in Belle Dune, you have had an active involvement with the First Nations.

Do you have any advice either to Mr. Christmas or some comment to us as a community about the nature of the relationship that you've had working with the various groups, particularly the First Nations involved?

THE CHAIRPERSON: However, this is a panel hearing and we're dealing with the project in hand. I'm not sure how ---

MR. LEVESQUE: I'll be very brief.

THE CHAIRPERSON: Well, I'm sorry, but I'm not quite sure that a request for advice to the First Nations in this ---

MR. LEVESQUE: I'm not going to ---

THE CHAIRPERSON: By all means, do this in the hall afterwards.

MR. LEVESQUE: I'm not going to give the advice to First Nations either. That's not my job.

THE CHAIRPERSON: Well, any comments, I think, need to be -- I'm getting to be a broken record -- but on the project that we have to assess and really need

to be addressed to the panel rather than advice to the community and advice to the First Nations.

Sorry to be so picky.

MR. LEVESQUE: So you're saying to me that I'm not allowed to answer his question?

THE CHAIRPERSON: I'm trying to get these questions focused on what we're dealing with.

MR. LEVESQUE: Let's ---

THE CHAIRPERSON: You keep ---

MR. LEVESQUE: I'm asking; you're not allowing me to answer the citizen's question, and I think I want it on the record. Is that -- am I interpreting it correctly?

THE CHAIRPERSON: I am saying to Marcocchio that I don't see that that question is relevant to our mandate.

Thank you.

Mr. Marmon.

MR. KAISER: Excuse me, Madam Chair, I'd like to make a clarification point, if that's possible?

THE CHAIRPERSON: Can I ask what it pertains to? I should really -- rather than you using your button, I can come back to you. Can I ask what it refers to?

MR. KAISER: It refers to the first point raised by Mr. Marcocchio when he came to the microphone in regard to the quote.

THE CHAIRPERSON: Is this -- go ahead.

MR. KAISER: Thank you.

I think the point that I was making earlier was that the quote being referred to is that, “In the end, the incineration was a disaster” and as I had said, the incinerator itself did work fine. The piping system or transfer system was a problem.

THE CHAIRPERSON: Yes, that’s fine. I think we ---

MR. MARCOCCHIO: Excuse me, but we have no evidence to that effect.

THE CHAIRPERSON: I’m sorry, I am not going to allow argument at this point. We have a point of clarification, which is actually the same point that was made earlier. I think that the panel is clear where the quotation came from. We’ve had something back from the Agency. I don’t think we need more on that. Thank you very much.

Mr. Marmon.

--- QUESTIONED BY MR. MARMON:

MR. MARMON: Thank you, Madam Chair.

To Mr. Levesque, I would like to ask a couple of questions about the operations that he's familiar with just to give the residents around Grand Lake an idea of what they might expect.

THE CHAIRPERSON: Yes, I think dealing with other case studies and other examples is entirely pertinent. Yes, please.

MR. MARMON: Mr. Levesque, when you talk about the residences, people living around the incinerator that you're familiar with, were they advised by the operator that if something drastic happens at this incinerator site, here's the procedure to follow and here is what we will give you as a warning that this procedure is to take effect?

MR. LEVESQUE: I'll just give you an example of a recent thing that happened in Belle Dune. During the test burn there was a fire at the incinerator and there was no, to our knowledge, official statement made by the company saying that something had happened to their incinerator. We learned it through word of mouth in the community and it came to us, and we issued like a press release about that, and then there was a newspaper article about the fire that had happened and supposedly it's not a big fire and not a big event.

So that's what has happened in our area, and without people talking about it, because it's like a small community, well, you know, I didn't see any press release from the company about that, but it's a confirmed fact from a newspaper article from Michael MacSweeney, the Vice-President of Communications for the company to a reporter in our area.

So I will not answer necessarily directly, but I think this example gives you an idea of the type of communication going on.

MR. MARMON: Okay.

MR. LEVESQUE: But they might argue there's an Environmental Liaison Committee that is working and there's like a liaison between the people and all of that.

MR. MARMON: Okay. You talk about communities where these incinerators are situated. Would you feel that -- is there any community that you have even heard of that people are happy to have such an operation in their community and they sort of work hand in hand and there's no problems?

MR. LEVESQUE: Well, you know, I think I would refer you to the Stockholm Convention that says incinerators as a source of persistent organic pollutants. Of course, some people will argue in the

Stockholm Convention they're not talking about toxic waste incinerators; they're talking about sludge incinerators, I think, and all of that.

First -- for me, the first time that I started to read about that and the one example that probably got me working on this was the case in Albertville in France. I was looking on the Internet, and what has happened over there -- and of course at the beginning I was putting all the incinerators together, and then during the process of the research and all that I've done, is in Albertville, France there was an incinerator and it was a domestic incinerator over there, meaning that they're taking the garbage, but in there there's some plastic and in some plastic there is chlorine, and chlorine is the key thing that when you put it into an incinerator there's a potential of having dioxins and furan-like products that are going to get out of the stack of the incinerator.

So in Albertville there was a contamination, and the animals around the incinerator ate the grass. In France, they're eating a lot of cheese, and therefore they had to take out of the shelves the cheese and all of that because it was contaminated with dioxins and furans. That was the first occurrence for me, reading about that, and I continued to read, and then

there is St. Ambroise. There's Swan Hills and there's all those controversies around incinerators. And I think the Stockholm Convention is there to talk about the problems that they're bringing. It's the persistent organic pollutants which are dioxins, furans and these bad chemicals that we have. So that was the starting point for me and everything that I'm reading on these things, you know, is certainly not very positive.

Mind you, maybe I'm biased. I'm picking my type of information, but I'm providing that information to the citizens, and I'm not saying, "Believe me for what I'm saying. Go get the documentation. Read it and discuss with the people, the Sydney Tar Ponds, discuss with Bennett Environmental. Go get the facts and when you have all the facts, then you're going to be able to make your own decision about if it's good for Sydney."

In my case, I've decided that in our area it's not good because it's polluting, and dioxins and furans -- and I'm just going to finish with this -- when it enters in the body, it gets out of the body of a man, but in a woman, it gets out of the body of a woman. Dioxins and furans get out of the body when she's breast feeding and when she's getting pregnant because it goes through the placenta. And I'm not talking out the top of

head. I've got the documents from the Government of New Brunswick right in here.

THE CHAIRPERSON: Mr. Marmon, did you get your answer?

MR. MARMON: Yes, I did. Can I have just one more?

THE CHAIRPERSON: A quick question, and could I ask for a quick answer this time, please, Mr. Levesque.

MR. MARMON: In the communities where these incinerators are situated, do you feel that because they were situated in these communities, that other businesses decided that they weren't going to come into the area or it stopped people from moving to that area to live?

MR. LEVESQUE: One of the Kennedy men who is working with the -- I've got the name in French -- the Sentinel River Keepers, he came in Moncton to make a statement and talk about pollution, because I think what they're trying to do, the River Keepers, is to clean up some of the rivers. And he said, "If you start putting companies that are adding or creating pollution, in the long term, it's going to deteriorate the quality of life and the quality of the environment, and who will want to come and establish themselves and to create a thriving

community?" And I think it's important to clean up because we all need -- and the name of our group is Environnement Vie because I became aware that without a good and healthy environment -- and that's something that the First Nations have tried to teach us but we have never listened to them -- so what I'm saying is when we have like a proper environment, we're going to have a good quality of life. And I think it's something that has to be -- you know, like consult with the people about that.

So that's my answer.

THE CHAIRPERSON: Okay. Thank you.

MR. LEVESQUE: Sorry I'm too long.

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

MR. MARMON: Thank you, Madam Chair.

THE CHAIRPERSON: I am going to now thank you very much, Mr. Levesque, for your presentation and your answering the questions.

Our next presenter is going to be the Cape Breton Save our Health Committee. I'm going to say that we will take a 10-minute break to give you a chance to get yourself organized. People can stretch their legs. So we will come back and that presentation will start at two o'clock.

Thank you very much.

--- Upon recessing at 1:52 p.m.

C E R T I F I C A T E O F C O U R T R E P O R T E R

I, Nadia Rainville, Court Reporter, hereby certify that I 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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Nadia Rainville, CCR

Saturday, May 6, 2006 at Halifax, Nova Scotia