

PUBLIC HEARING

WHITES POINT QUARRY AND MARINE TERMINAL PROJECT

JOINT REVIEW PANEL

V O L U M E 3

HELD BEFORE: Dr. Robert Fournier (Chair)
Dr. Jill Grant (Member)
Dr. Gunter Muecke (Member)

PLACE HEARD: Digby, Nova Scotia

DATE HEARD: Tuesday, June 19, 2007

PRESENTERS: -Foreign Affairs and International Trade Cda
Mr. Gilles Gauthier
-Nova Scotia Transportation and Public Works
Mr. Paul Stone
-Department of National Resources
Mr. Mike McDonald/ Mr. Hugh Gillis/
Mr. Mark Elderkin/ Mr. Peter Neily/
Mr. Don Jones
-Health Canada
Ms. Sharon Chard
-Dianne Thériault
-Climate Action Now
Ms. Anna Maria Galante
-Sister Barbara
-Sister Bonnie

-Chamber of Mineral Resources of Nova Scotia
Mr. Gordon Dickie

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Per: H el ene Boudreau-Laforge, CCR

1 --- Upon resuming on Tuesday, June 19, 2007, at 9:00 a.m.

2 **OPENING REMARKS - Mr. ROBERT FOURNIER**

3 THE CHAIRPERSON: This morning, I'm going
4 to forego the introductions. I think that everybody is
5 aware of everyone else, so we will just get into the
6 process.

7 Just a comment with regard to the
8 sequence of events. As you are all aware, we have a series
9 of presentations scheduled for this morning and this
10 afternoon as well.

11 The presentations will be made, and then
12 subsequent to the presentation, there will be questions.
13 The question sequence as I mentioned on Saturday will be the
14 Panel will go first, followed by the Proponent, after that
15 any Government individuals, Federal or Provincial, and then
16 registered participants and then the general public. So
17 there will be a sequence of questioning.

18 Before we launch into that, we have a
19 couple of follow-up questions, questions that have arisen
20 following the presentation from yesterday, and Dr. Muecke is
21 going to embark on that.

22 As soon as those follow-up questions
23 have been dealt with, we will then move on.

24 Now there is one additional thing I
25 should bring to your attention, it is that yesterday was an

1 extremely productive day with regard to undertakings.

2 We now are up to the number 18. I think
3 I may read these just for the sake of information.

4 Yesterday, I identified six
5 undertakings, and beginning with number seven, which was the
6 first one from yesterday, it is due on the 25th of June, and
7 it is to provide a measure of precision of the
8 concentrations of copper occurring in the basalt found on
9 the quarry site.

10 Number eight, also due on the 25th...
11 And these are all directed at Bilcon of course. So also
12 expected on the 25th, to provide estimates of the volumes of
13 fines to be generated and to be used as part of the
14 reclamation process.

15 Number nine, due on the 25th, to provide
16 references for the 3 to 4 percent figure for production of
17 fines during quarry.

18 Number 10, due on the 25th, accounting
19 of greenhouse gas emissions (GHG) for marine transportation
20 over the life of the Project.

21 Number 11, due on the 21st, to provide
22 references for the levels of residual ammonia resulting from
23 modern blasting techniques.

24 Number 12, due on the 22nd, to provide
25 2007 production costs for aggregate in new Jersey.

1 Number 13, due on the 22nd, statement of
2 how the facility would be removed at the end of the day.
3 Facility, I presume that means...

4 Ms. JILL GRANT: Marine terminal.

5 THE CHAIRPERSON: That is the marine
6 terminal, so a correction.

7 Number 14, due on the 26th, to respond
8 to the request of the Sierra Club of Canada, Atlantic
9 Chapter: In EIS, vol. 3, section 9.1, climate, page 7,
10 Bilcon states that its GHG emissions of 82,000 tonnes of
11 carbon dioxide equivalence place Bilcon below the Federal
12 Government's "large emitter" category. Natural Resources
13 Canada uses annual average emissions of 8 kilotons per annum
14 or more as the definition of "large emitter". Please
15 undertake to explain this discrepancy. And that is due on
16 the 26th of June.

17 Number 15, due on the 29th of June, to
18 provide an estimate of the percentage of the number of job
19 seekers who reside on Digby Neck and the Islands.

20 Number 16, there's no due date here
21 unfortunately, but it is to provide the 2006 Butterfly
22 Survey Report.

23 Number 17, due on the 29th of June, to
24 provide additional information on the list of 45 to 50
25 quarries in Nova Scotia that are greater than four hectares

QUESTIONS BY THE PANEL
(ENVIRONMENTAL ASSESSMENT PRESENTATION)

1 and if any are greater than 150 hectares in area.

2 Number 18, the final one, due on the
3 29th, is will the Proponent quantify electrical power
4 requirements for the Project.

5 Okay? So that is the total list of
6 undertakings, now at 18.

7 Okay. Now we will proceed with the
8 follow-up questions, and immediately following the follow-up
9 questions, we will move into the presentation.

10 **FOLLOW-UP QUESTIONS BY THE PANEL - Mr. GUNTER MUECKE**

11 Mr. GUNTER MUECKE: Mr. Buxton, in
12 response to one of my questions yesterday about fines that
13 will be generated, I was told that the crushed material down
14 to a size of 140 mesh would actually be stockpiled.

15 Am I correct in saying that 140 mesh
16 corresponds to a [inaudible] of a tenth of a millimetre?

17 Mr. PAUL BUXTON: I'm going to pass that
18 question to Mr. Wall.

19 Mr. JOHN WALL: Yeah. The designation
20 140 mesh means there's 140 openings in a square inch.

21 Mr. GUNTER MUECKE: Right.

22 Mr. JOHN WALL: I'm not sure of the
23 conversion.

24 Mr. GUNTER MUECKE: You're not sure of
25 the conversion? Could you make sure of that, that I'm

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1 right, that it's 0.1 millimetre? Because all my concerns
2 arise from that size.

3 Mr. JOHN WALL: So the question is is 140
4 mesh equal to 0.1 millimetres?

5 Mr. GUNTER MUECKE: Right, that's my
6 initial question, okay?

7 Mr. JOHN WALL: Okay.

8 Mr. GUNTER MUECKE: Because everything
9 else follows from that, and I want to be sure that we are on
10 the right track here, that we are not talking different
11 things.

12 Mr. JOHN WALL: All right.

13 THE CHAIRPERSON: Can we consider that as
14 an undertaking?

15 Mr. PAUL BUXTON: Yes, we will undertake
16 to provide that.

17 THE CHAIRPERSON: When would we have that
18 by?

19 Mr. PAUL BUXTON: Tomorrow.

20 Mr. GUNTER MUECKE: Tomorrow? Okay. My
21 second concern arises from Mr. Stanton's observations
22 yesterday regarding the coastal environmental protection
23 zone of 30 metres.

24 As Mr. Stanton observed, a lot of that
25 zone is actually barren, and so for the Panel, would it be

1 possible to produce a map of the coastal protection zone,
2 since it's more than 30 metres in places, that shows the
3 relative amounts of barren versus forested?

4 Using air photography and GIS, this
5 should be a fairly easy exercise, and if that is done then
6 the proportion of barren versus forest could also be
7 calculated very easily. Would this be possible?

8 Mr. PAUL BUXTON: We can have that for
9 you at the end of next week Mr. Chair.

10 THE CHAIRPERSON: Thank you. The 29th
11 then?

12 Mr. PAUL BUXTON: Yes.

13 Mr. GUNTER MUECKE: Okay.

14 THE CHAIRPERSON: That's it? Okay. Now
15 we'll turn our attention to the first presentation, which
16 will be given by... I'm sorry gentlemen, I don't have your
17 names, but it will be presented by Foreign Affairs and
18 International Trade, DFAIT.

19 Sorry, maybe you could introduce
20 yourself clearly and if your name is the slightest bit
21 complicated, would you spell it out so that our transcripts
22 are accurate? Thank you.

23 Mr. GILLES GAUTHIER: Thank you Mr.
24 Chairman. My name is Gilles Gauthier, I'm the Director of
25 the Investment Trade Policy Division at the Department of

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(Mr. GILLES GAUTHIER)

1 Foreign Affairs and International Trade, and to my right is
2 my colleague, Éric Leroux, who is Senior Counsel in our
3 Trade Law Bureau.

4 THE CHAIRPERSON: Please proceed.

5 **PRESENTATION BY THE DEPARTMENT OF FOREIGN AFFAIRS AND**
6 **INTERNATIONAL TRADE - Mr. GILLES GAUTHIER**

7 Mr. GILLES GAUTHIER: Thank you Mr.
8 Chairman, and thank you for inviting our Department to
9 appear before the Panel.

10 We understand that the issue of
11 compliance with NAFTA obligations has been raised in the
12 context of your work, therefore our purpose this morning is
13 to provide you with further information on the content of
14 Chapter 11 of the NAFTA, and to explain to you how and to
15 what extent it may be relevant to your proceedings.

16 Of course, we will be happy to answer
17 any questions that you may have. I hope we'll get this
18 working. Okay.

19 Let me start by just outlining some
20 general goals of NAFTA Chapter 11.

21 It is a comprehensive trade agreement,
22 and in any trade agreement now, it is recognized that
23 investment is the other side of the coin for trade, so you
24 need to compliment trade obligations with investment
25 obligations if you want to foster liberalization.

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1 The objective, the central objective of
2 Chapter 11 is to provide predictability and stability to all
3 investors in North America and ensure that there is also an
4 enforcement mechanism through a binding dispute solving
5 mechanism.

6 The interpretation of the NAFTA Chapter
7 11 has to be taken in its whole context of the NAFTA, and
8 you have in the NAFTA preamble some reference to of course
9 fostering economic growth and fostering trade, but you also
10 have reference to general objectives of governments to
11 promote sustainable development and to act in manners
12 consistent with environmental protection and conservation.

13 So these general objectives are cast in
14 the overarching structure of the NAFTA.

15 So in terms of the specifics of Chapter
16 11, what does it apply to? It applies to any government
17 measures, by all levels of government, and we intend by
18 "measures" being any laws, regulation, procedure,
19 requirement, practices, policies of government.

20 It applies to measures that affect
21 investors and their investment, and investors is defined as
22 any enterprise that is seeking or has made an investment in
23 the other country.

24 So I understand in this particular
25 instance, you have an investor from the United States

DEPT. OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE
(Mr. GILLES GAUTHIER)

1 wishing to make an investment in Canada, therefore it
2 definitely is a covered investment.

3 An investment can be the establishment
4 of a production facility in Canada or any other type of
5 property rights that the investor would acquire in the
6 country.

7 Here is a run down of the main
8 obligations contained in Chapter 11 of the NAFTA. Those
9 that are in bold here, I'll get to it in a bit more detail.

10 I'm happy to answer questions on the
11 others, but my sense is that these would probably be more
12 relevant to your examination.

13 So let's begin with the National
14 Treatment obligation. This is a standard obligation that we
15 find in just about every trade and investment agreement.

16 The object and purpose is to deal with
17 discrimination on the basis of nationality of the
18 enterprise. So that's what we want to avoid by this
19 obligation, it is pure discrimination simply on the fact
20 that the enterprise is owned by an investor of the other
21 country.

22 It prohibits both de facto or de jure
23 discrimination. By that, we mean that for instance in
24 Canada, we have the Investment Canada Act that screens large
25 foreign take-overs, so obviously this is a de jure

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1 discrimination, it is a specific law applying only to
2 foreign investors.

3 So that's an example of de jure
4 discrimination.

5 A test of National Treatment is a
6 relative standard, so you compare a foreign investor to a
7 domestic investor.

8 For that comparison to be relevant, it
9 ought to be made in like circumstances, i.e. you have to
10 compare apples with apples and you need to look at the facts
11 of the case to determine whether the two investors are
12 really comparable.

13 Are they in the same business sector?
14 Are they in competition? Are they in the same business
15 line?

16 Or even, there may also be legitimate
17 public policy rationales for justifying differential
18 treatment, for instance in a recent case involving Canada
19 Post and UPS (United Postal Services), the Tribunal ruled
20 that the two (2) were not in like circumstances because
21 Canada Post had to comply with international postal
22 commitments.

23 It had to provide services across the
24 country to all citizens, which was not the purpose of UPS,
25 and therefore the Tribunal ruled that they were not in like

1 circumstances.

2 So there is... Again, I reemphasize
3 that the facts are very important here to a determination of
4 like circumstance.

5 Then you have to apply that comparison
6 within the proper jurisdiction. In Canada, if the measure
7 is at the national level, well then presumably the
8 comparison is across Canada, but if the authority granting
9 the measure is at the sub-national entity, well then the
10 comparison ought to be made within the jurisdiction of that
11 authority deciding on the measure.

12 So for a sub-national or a provincial
13 measure, you have to look at within the Province to make the
14 comparison.

15 And it applies of course to all phases
16 of the investment, from the authorization to the lifespan of
17 the investment, including to its liquidation.

18 A second important obligation of Chapter
19 11 is that you need to accord treatment in accordance with
20 international law, including fair and equitable treatment
21 and full protection and security.

22 These are broad terms designed to
23 provide a minimum standard of treatment, so it is an
24 absolute standard.

25 It's not a relative standard like the

1 national treatment, but it is an absolute standard.

2 It's not about a contract dispute of
3 commercial nature. It has got to be anchored into
4 international law, and even more specifically in terms of
5 customary international law.

6 What the jurisprudence says and how this
7 particular test has evolved, it essentially tried to deal
8 with instances where there is a lack of due process, there
9 is a denial of justice, and for instance limitation on the
10 ability of the investor to have recourse to domestic courts
11 in case of a problem.

12 It aims at things that are grossly
13 unfair, you know, capricious, very arbitrary in the
14 decisions of governments.

15 So it is an obligation that is
16 essentially directed at dealing with instances of very weak
17 governance regime. That's the basic thrust of that
18 obligation.

19 Here's some recent cases involving NAFTA
20 investors and how the tribunals have applied the test of
21 minimum standard of treatment.

22 Again, you know, the first one, in terms
23 of a shock or surprise of the measures implemented by the
24 Government; manifest injustices, and then the last one;
25 which is probably the most full elaboration of the concept

1 of minimum standard of treatment, something that is
2 completely arbitrary, unjust and discriminatory.

3 So that's the gist of the minimum
4 standards of treatment.

5 It is a very difficult standard for an
6 investor to prove. It must come forward with substantial
7 evidence that the authority implementing the measure has
8 behaved in such a way to deprive the investor of its basic
9 rights. That's basically what it aims to deal with.

10 Then there is an obligation pertaining
11 to performance requirements.

12 These are things that as a condition of
13 operating the investment, the authority imposed some
14 behavioural commitment on the investor.

15 The aim here is to prohibit measures
16 that would create trade distortions, for instance imposing a
17 requirement to export the production, a requirement to
18 purchase all your inputs locally with no regard to the
19 economics of the business, requirement to transfer
20 technology to unrelated parties so that the Government in
21 fact stimulates competition from a local enterprise.

22 So these are the types of measures that
23 are deemed to be trade distorting, and therefore should be
24 prohibited.

25 But of course, when governments either

DEPT. OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE
(Mr. GILLES GAUTHIER)

1 provide a grant or an authority for a project in particular,
2 they can impose some requirements on the fulfilment of the
3 project, including a requirement in terms of employment,
4 requirements in terms of the location of the production, and
5 there are other examples, for instance, the requirement in
6 terms of research and development activities. Requirement
7 to have services to the communities, et cetera.

8 These are things that are perfectly
9 legitimate in the context of the NAFTA.

10 In fact, this article is very clear that
11 there are only five or six that are prohibited, and the rest
12 is expressly authorized.

13 Then there is the concept of
14 expropriation and compensation.

15 Again here, the purpose of the article
16 is to recognize the right of governments to expropriate when
17 there is a public purpose for that expropriation, and when
18 it is done in accordance with the law.

19 But of course, an investor which sees
20 its investment expropriated is entitled to compensation
21 equivalent to fair market value.

22 There are two types of expropriation.
23 One is a direct expropriation; that's a pretty
24 straightforward one. If the Government seizes over the
25 title of the property, that there is a transfer of the title

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1 of the property, well then it is a direct expropriation, and
2 of course the investor is entitled to compensation in that
3 case.

4 And then the second one is a little bit
5 broader, it talks about indirect expropriation.

6 That deals with instances where there is
7 not expressly a transfer of the legal title of the property,
8 of the ownership of the property.

9 So there is either a series of measures
10 that result in an expropriation or de facto measures that
11 without affecting the legal title of the property still
12 nullify the benefits for the investor of the enjoyment of
13 its property.

14 I have here some considerations that are
15 relevant in deciding whether or not there is an indirect
16 expropriation.

17 So the measure in question must result
18 in a substantial deprivation of the ownership rights. So
19 it's not regulatory measures that simply interfere with the
20 investment, but it ought to substantially deprive its rights
21 to continue its business.

22 There is a concept of reasonable
23 expectation of the investor.

24 This is aimed at dealing with situations
25 where there is arbitrariness being invoked, and where the

1 investor was led to believe that if they were continuing to
2 operate under a series of conditions, they would be able to
3 continue their investment, but suddenly there is a change in
4 the measure and therefore that leads to depriving the
5 investor of its rights.

6 And then you have to look at the overall
7 context and purpose of the Government taking action.

8 But I think what is key here, and we
9 have in the NAFTA experience that clearly confirms that, is
10 that in general, non-discriminatory measures designed to
11 apply and that apply to protect legitimate public welfare
12 objectives such as public safety, health and the environment
13 do not constitute indirect expropriation.

14 That is very clear in the jurisprudence,
15 and I have on the next slide a quote from probably one of
16 the most relevant cases of the NAFTA involving a Canadian
17 company, Methanex, against the United States, regarding an
18 environmental measure that the State of California wanted to
19 apply.

20 Methanex challenged the U.S. or the
21 State of California, but the Tribunal ruled that it was
22 perfectly legitimate for the Government to introduce that
23 measure, that ban on the particular product, because there
24 was compelling evidence that this measure was necessary to
25 safeguard a public welfare objective of protecting the

1 environment.

2 So the Tribunal ruled that in that
3 particular instance, there was no indirect expropriation and
4 the investor, despite the fact the measure was effectively
5 banning their product in the territory, was not entitled to
6 compensation.

7 The NAFTA also provides for a series of
8 exceptions and reservations. I don't think in that
9 particular instance here these are relevant to your purpose,
10 but I think it's important to know that there are many
11 exclusions and exceptions to the obligations.

12 Then the NAFTA Chapter 11 also contains
13 one article dealing with environmental measure.

14 It has two specific provisions, one is
15 to recognize that it is improper for a government to compete
16 to attract investment by lowering your environmental or
17 health and safety standards.

18 So that would be deemed as unfair
19 competition, simply to lower your environmental standard to
20 attract investment.

21 Then, there is a recognition also that
22 each country can take measures in its territory to deal with
23 matters sensitive to environmental concern.

24 I think here the important point is that
25 in putting that language into the NAFTA, governments wanted

1 to make a clear indication that there can be no conflict
2 between environment and investment obligation, that it is up
3 to each party of the NAFTA to decide what they need to do to
4 achieve their environmental objectives, that there is no
5 threat constraints put on setting your environmental
6 standards, that this is a sovereign decision of each party
7 to decide what it is that they want to achieve in their
8 territory for public policy reason, including for the
9 environment.

10 What it says though is that once a
11 government decides to act in a matter sensitive to
12 environmental concerns, they have to do it in compliance
13 with the basic obligation, those that I have mentioned
14 earlier in terms of ensuring that there is no discrimination
15 on the basis of ownership, that these measures have been
16 implemented with due process of law, with thorough
17 justification, and they're not designed to essentially
18 implement disguised restrictions or being completely
19 arbitrary.

20 Then, the NAFTA Chapter 11 includes a
21 dispute-settlement mechanism where the investor that feels
22 that one of the governments has not lived up to its NAFTA
23 obligations can seek redress through international arbitral
24 procedures.

25 So an investor has the right to launch a

1 case directly. You don't need the consent of the
2 Government.

3 The process is then taken up in
4 International Tribunal under either the general U.N.
5 Commercial Arbitration Rules, or under the Centre for
6 Settlement of Investment Dispute.

7 And once the matter is filed by an
8 investor, the Government of Canada is the responding party
9 and will defend the case.

10 The procedures that are before an
11 arbitral panel or arbitral procedures would have to conduct
12 its hearing in the public domain.

13 The NAFTA parties have issued clear
14 statements in that regard a few years ago, so now tribunals
15 essentially are aware that they will have to have open
16 hearings of their case and that anybody that has a specific
17 interest and can demonstrate so before the Tribunal can
18 apply to participate in the hearings and submit briefs, and
19 we have witnessed that in many instances of the NAFTA
20 Tribunals.

21 A NAFTA Tribunal can only award monetary
22 damages. A Tribunal cannot force a change of policies,
23 cannot force the Government to do new legislation or et
24 cetera.

25 The only authority of the Tribunal is to

1 award monetary damages to the investor, and such awards are
2 final and binding on the parties.

3 Our experience suggests that it takes at
4 least two to three years, if not more, to get through a
5 process of dispute settlement under Chapter 11. The recent
6 UPS case was even longer. It took seven years to wrap
7 itself up.

8 So that's basically an overview, fairly
9 succinctly I must admit, of the NAFTA Chapter 11 and how it
10 may relevant to you.

11 I could point out that the Government
12 issued about a year ago a little practical guide for
13 Canadian municipalities that have some concern about their
14 own regulatory activities, their own approval process and
15 how this may raise some concerns on Chapter 11.

16 That guide is available on this Website,
17 and I would be happy to provide the Panel with copies of
18 that if warranted, but it is sort of a layman explanation of
19 the NAFTA Chapter 11, and other obligations as a matter of
20 fact, and how it could interfere with regulatory action
21 taken at the city level.

22 I would be happy to answer any questions
23 you may have, thank you.

24 THE CHAIRPERSON: Thank you Mr. Gauthier,
25 that was very concise, very clear. I do have some

1 questions.

2 **QUESTIONS BY THE PANEL ON Mr. GAUTHIER'S PRESENTATION**

3 THE CHAIRPERSON: My first question would
4 be... Some of these may be repetitious, but these were
5 assembled prior to your presentation and so I'll run
6 through them and if they are repetitious, then we'll just
7 move on.

8 I would like to touch on all of them. I
9 have six questions here which I think probably summarize the
10 concerns that we have.

11 The first is do provisions under NAFTA
12 in any way suggest that government approval of a project
13 such as this one, such as the Whites Point Quarry and Marine
14 Terminal Project, would oblige Government to permit further
15 coastal quarries?

16 So approving this one, allowing it to go
17 forward, is there implicit in that decision to allow it to
18 go forward... Does it automatically facilitate the
19 development of further coastal quarries?

20 Mr. GILLES GAUTHIER: Well, it's always
21 difficult to answer questions of a hypothetical perspective,
22 but the NAFTA obligations apply across the board to each
23 individual government measure and regulation.

24 The fact that you apply it to your
25 particular project may or may not be relevant. It depends

1 on the circumstances of the other project.

2 The framework exists for all government
3 measures, so each case will have to be taken one by one on
4 its face.

5 There is no precedent value in one
6 particular instance versus the other. You need to apply the
7 same framework in each and every instance, that is you have
8 to respect the non-discriminatory obligation, you need to
9 respect the minimum standard of treatment, you need to
10 respect the test of expropriation in every instance.

11 It's not because you have done it once
12 that necessarily it will be relevant to the other.

13 THE CHAIRPERSON: The second question
14 that I have for you is that coastal quarries, which are
15 owned by U.S.-based companies and which ship most of their
16 product to the United States already exist in Nova Scotia
17 and other parts of Canada.

18 Do the past or ongoing environmental
19 assessments and environmental approvals of these operations
20 influence or limit conditions of approval that may be
21 imposed by the Whites Point Quarry assessment?

22 Mr. GILLES GAUTHIER: I'm afraid I will
23 probably repeat myself here. It is essentially the same
24 answer here.

25 The obligations of the NAFTA apply to

1 existing projects as well as to future projects. Can you
2 draw inference from the past to decide what to do now?
3 You'll have to assess whether the circumstances are
4 comparable, whether you have gone through the same set of
5 process and whether at the end of the day, you feel
6 confident that in your assessment of that particular
7 project, that the requirements of the framework of the NAFTA
8 have been respected.

9 THE CHAIRPERSON: Yes. I'm beginning
10 to get a sense of that. So there's an encompassing umbrella
11 of rules, but one project doesn't guarantee or facilitate or
12 encourage another project simply because the first has been
13 approved.

14 In this question we just asked you about
15 environmental regulations, the environmental regulations are
16 offered on individual projects, but there has to be a kind
17 of overall uniformity of sorts in their application.

18 Mr. GILLES GAUTHIER: And the same goes
19 for the NAFTA. It is a framework that is applicable to all
20 the projects individually.

21 THE CHAIRPERSON: I told you there might
22 be some repetition here. Would NAFTA provisions... And
23 this is number three.

24 Would NAFTA provisions support the
25 Proponent in challenging conditions of approval involving

1 environmental components if such conditions are not already
2 imposed on similar coastal quarries? Is that more of the
3 same?

4 Mr. GILLES GAUTHIER: Again, each project
5 has to be examined on its own merit, and again the
6 compliance will be with respect to that particular
7 project.

8 Mr. GUNTER MUECKE: Perhaps just to
9 clarify in my own mind. From your presentation, I gather
10 that when it comes to environmental considerations or
11 environmental constraints imposed on a project, that that is
12 excluded, that each jurisdiction can impose its own
13 environmental standards and those can change with time so
14 that environmental restrictions...so that if there were no
15 environmental restrictions placed on a past quarry, it
16 doesn't mean they can't be imposed in the present situation,
17 is that a correct reading?

18 Mr. GILLES GAUTHIER: The NAFTA Chapter
19 11 does not have specific rules on what an environmental
20 standard ought to be for each country. It's up to each
21 country to decide what it is.

22 If you have in the same region two
23 products that are identical in all respects, you'll have to
24 able to demonstrate that in one particular project, the
25 conditions attached to it were justified on reasonable

1 grounds and that you have done a process of examination that
2 was thorough and complete to get to your final conclusion.
3 I think that's the process here that is key.

4 It's very difficult to draw linkages
5 from one project to another because I'm sure environmental
6 experts as you are, you know that it is very difficult to
7 have exactly two identical situations that you're dealing
8 with.

9 So I think here the importance is to
10 ensure that the framework itself, which is applicable to
11 each project, is respected.

12 And it may be respected through
13 different ways, different mechanisms, but the framework is
14 the same for everyone.

15 Mr. GUNTER MUECKE: Thank you.

16 THE CHAIRPERSON: Thank you, I will
17 continue.

18 The fourth question is would approval of
19 the quarry under current provincial regulations,
20 specifically regulations that apply to royalties and
21 aggregate tax, would that in any way limit the Province from
22 applying royalties or fees for aggregate extraction in the
23 future?

24 --- Pause

25 At the present time, aggregates are in a

1 separate category, they're not classified as minerals and
2 there are no royalties paid on them and there's no such
3 thing as an aggregate tax, and that applies uniformly across
4 the Province at the present time.

5 But if the Province decided a decade
6 from now to change that ruling, would that be a threat in
7 some way under the NAFTA?

8 Mr. GILLES GAUTHIER: This one is a bit
9 more difficult to answer because it very much depends on
10 what is the nature of the royalty here.

11 Of course, governments under NAFTA have
12 complete discretion with respect to tax matters in general,
13 income tax in particular, but again it's a question of
14 whether there will be some discriminatory intent behind a
15 government measure of that nature.

16 Is it targeting a particular firm in a
17 particular region? Is there a justification for such
18 targeting?

19 So then, you know, you're... It would
20 be important to examine the issue thoroughly at that point
21 there.

22 THE CHAIRPERSON: What if you have 50
23 aggregate producers and some of them are internationally
24 owned and some of them are provincially owned, some of them
25 are Canadian but not provincial, so you have three levels,

1 the rule is applied...

2 Or the legislation changes, the rule is
3 applied and it's across the board, so it in no way
4 discriminates against the organization which is American say
5 relative to the other two...

6 Mr. GILLES GAUTHIER: As a rule of thumb,
7 measures that are non-discriminatory are very difficult to
8 challenge under the NAFTA.

9 THE CHAIRPERSON: Yeah, okay. Good.

10 Mr. GUNTER MUECKE: What could be
11 challenged under NAFTA is if let's say the tax was aimed at
12 exports only?

13 Mr. GILLES GAUTHIER: Well, you have to
14 be careful here exactly about how the taxation issues are
15 dealt with, because you have many different aspects of the
16 NAFTA that deal with tax matters.

17 There is for instance a prohibition on
18 export tax under the NAFTA, but not under Chapter 11. It's
19 Chapter 3, on trading goods.

20 It's simply because, you know, you want
21 to have a free trade area, you don't want to have countries
22 imposing tax on the exports or imports.

23 In general, income tax are not covered
24 by the NAFTA. Other taxes can be covered, and are covered
25 essentially for the obligation of non-discrimination, so I

1 think if the tax is non-discriminatory, it will be an uphill
2 difficulty for the investor to challenge that this was
3 contrary to the obligations.

4 THE CHAIRPERSON: The fifth question, and
5 I think I know the answer to this one, but we'll ask it
6 anyway, and that is would provisions in a Whites Point
7 Quarry approval compromise the Government's ability to
8 manage environmental effects of any future coastal
9 quarries?

10 We've already touched on that, yes?

11 Mr. GILLES GAUTHIER: Yes.

12 THE CHAIRPERSON: Okay. And then the
13 final question is could project-specific mitigation measures
14 involving shipping such as ballast water management or whale
15 avoidance specified shipping lanes be challenged under NAFTA
16 provisions if they have not been applied to existing similar
17 operations?

18 Mr. GILLES GAUTHIER: Well as I mentioned
19 earlier, in terms of the imposition of performance
20 requirements, there are only very few that are prohibited
21 under Chapter 11, and they deal with trade distorting
22 practices.

23 Other requirements that the Government
24 feels are necessary for the viability of the project, if
25 they're reasonable, if they're based on the record...

1 I suppose the investor is perfectly
2 aware of these requirements at the time that the approval is
3 made.

4 It's hard to see how this could be
5 interpreted as either raising problems in terms of
6 discriminatory treatment or even minimum standard of
7 treatment.

8 If they were imposed with a due process
9 of law and are perfectly legitimate and not arbitrary...
10 Again, you need to get into the specifics of the case, but
11 I'm just outlining for you the general consideration here,
12 okay?

13 So if these general considerations have
14 been thoroughly examined at the time that you impose such
15 requirements, I think the burden of proof of showing that
16 these were grossly unfair, unjustifiable, depriving the
17 investor of its substantial right will be on the shoulders
18 of the investor, to make that claim.

19 And judging from our experience in the
20 NAFTA, these are not things that are easy to demonstrate.
21 You need to have compelling evidence that these have
22 occurred in order to substantiate a claim and require
23 compensation.

24 Ms. JILL GRANT: Can I just get some
25 clarification about... You mentioned something about the

1 concept of reasonable expectation of investors.

2 I wonder if you could clarify for us
3 what that means and the conditions under which an investor
4 might have a reasonable expectation that a project would go
5 ahead?

6 Mr. GILLES GAUTHIER: Again, you need to
7 look at it in the context of a particular set of
8 circumstance.

9 The jurisprudence in the NAFTA suggests
10 that if the Government duly authorizes a project and leads
11 the investor to believe that as long as the investor will
12 comply with all these requirements, there is no issue, and
13 so the investor was led to believe that he could go ahead
14 according to the set of circumstance, and for a reason that
15 is nebulous, arbitrary, the Government decides to change the
16 measure in question and roll back the commitments that were
17 made to the investor, maybe the investor in that instance
18 would have some grounds to challenge the Government on the
19 basis that this was not justified and is depriving its
20 ability to carry on the investment.

21 I would add that this concept of
22 legitimate expectation is only one of the factors also that
23 you have to look at in determining an indirect
24 expropriation.

25 An investor that operates in a heavily

1 regulated industry knows as a starting point for the conduct
2 of his business that the regulations are bound to change
3 from time to time.

4 He doesn't have I guess a legitimate
5 expectation at that point that the regulatory regime of
6 today will necessary be the same 5, 10, 15, 20 years down
7 the road.

8 You're operating in a heavily regulated
9 environment and in a regulated context, and regulations do
10 change over time and you know...

11 Over the past 15 years of the NAFTA, of
12 course many regulations were changed to fulfil different
13 policy objectives. You have to look at what were the
14 specific conditions that were made or what were the specific
15 circumstances that led to the change in the regulatory
16 measure and if it is an arbitrary act, capricious, grossly
17 unfair, well then maybe you may have a problem.

18 But if it is perfectly legitimate, to
19 fulfil a public policy objective, why would that be a
20 problem?

21 THE CHAIRPERSON: Thank you Mr. Gauthier.

22 Mr. GILLES GAUTHIER: Okay.

23 THE CHAIRPERSON: Now what we're going
24 to do is sequence the questions. We're going to ask the
25 Proponent whether the Proponent has anything to ask,

1 followed by others.

2 **QUESTIONS BY THE PROPONENT**

3 Mr. PAUL BUXTON: I don't think we have
4 anything new or specific Mr. Chair, but I would like to
5 return to your last question and ask for perhaps a little
6 bit more definition from the speaker.

7 THE CHAIRPERSON: Would you like me to
8 repeat that last question?

9 Mr. PAUL BUXTON: If you would please Mr.
10 Chair.

11 THE CHAIRPERSON: Yes, certainly. Could
12 project-specific mitigation measures involving shipping,
13 such as ballast water management and whale avoidance
14 specified shipping lanes, be challenged under NAFTA
15 provisions if they have not been applied to existing similar
16 operations?

17 Mr. PAUL BUXTON: Perhaps I could be a
18 little bit more specific. Let us suppose that there are 800
19 rule vessels and about 2,500 non-rule vessels using the
20 international shipping lanes in the Bay of Fundy, and
21 typical speeds range from who knows, 10 knots for a slow
22 boat to 28 knots, all within the standards of Fundy traffic
23 control.

24 Would it then be seen to be a reasonable
25 condition under NAFTA if one Proponent's ship was told that

1 they could only use the shipping lanes at four knots? Mr.
2 GILLES GAUTHIER: As you may appreciate Mr. Chairman, it's
3 difficult for us to give you a yes or no answer to these
4 types of questions.

5 We're unfortunately no experts in the
6 detail of this particular project. Again, I would refer
7 back to the standards that are included in the obligations
8 of the NAFTA, and these standards ought to be: "Is this
9 measure discriminatory?" Including the concept of: "Is
10 there a legitimate public policy rationale for imposing a
11 discriminatory measure?" "Are the measure imposed here
12 justified from a reasonable standpoint?"

13 These are general concepts of
14 governance. I think that's...

15 Mr. PAUL BUXTON: No. Mr. Chairman,
16 that's not really the question that I asked at all, and I
17 think... I realize that we can't get into specifics here,
18 but I think that the principle that the Chair was getting
19 at, certainly I didn't get a clear answer to it so I doubt
20 that the Panel did, but what we're talking about here is
21 whether or not on a project such as this that conditions
22 could be imposed which are unique, which do not follow the
23 standard practices currently going, whether you're talking
24 ballast water management or any other sort of regulation, it
25 would be rather like sort of saying: "The speed limit on

1 Nova Scotia roads is 100 kilometres an hour, but this
2 company can only drive its trucks at 40 kilometres an hour",
3 are you getting my point here?

4 Mr. GILLES GAUTHIER: Very much so, but
5 let me repeat that we cannot give you a yes or no answer on
6 a specific set of circumstances. This is not within the
7 purview of our responsibility.

8 We can explain to you what the framework
9 is, and then if you think that a particular measure is being
10 contemplated in the context of your specific project that
11 does not fit that framework, it will be up to the investor
12 to seek appropriate legal advice, and at that point also to
13 take the reasonable measures that they see necessary.

14 We cannot upfront, in a hypothetical
15 scenario, give you a yes or no answer to these kinds of
16 question.

17 Mr. PAUL BUXTON: I wonder whether you
18 would then mind repeating your answer to the Chair's
19 specific question.

20 THE CHAIRPERSON: Frankly, I don't know
21 if it's necessary. It's in the transcript. I mean, we have
22 the original in the transcript, and I don't know what would
23 be served by saying it again verbally, unless there is
24 something I have missed.

25 Mr. PAUL BUXTON: Well, I certainly

1 didn't understand it Mr. Chair so...

2 THE CHAIRPERSON: Let me paraphrase what
3 I heard, which is that I sympathize with DFAIT in their
4 inability to give us a yes or no answer, because they're not
5 the Tribunal and they certainly don't have all the
6 information available, but they do have general rules.

7 So what they're suggesting to us is that
8 under most circumstances, that there's a uniformity of rules
9 that are applied, but that doesn't account for the fact that
10 individual projects, individual entities, individual
11 companies, or whatever, can have something unique or
12 specific which might change the application of these.

13 So I think what I'm hearing is that in
14 general, it would not apply... The 40 miles an hour would
15 not apply, except of course if there were extenuating
16 circumstances that allowed it to apply. That's how I
17 understand it. I don't know if my colleagues understood it
18 that way, but...

19 It sees to me the uniformity principle
20 is... The way I interpreted it is that uniformity is a two-
21 way thing, but in this particular case I don't think that
22 Bilcon would be biased against, unless there was some reason
23 to bias against it, and only then could it be challenged
24 because... I'm way in over my head here. But that's how I
25 understand it.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA
(QUESTIONS FROM THE PUBLIC)

1 Mr. PAUL BUXTON: Thank you Mr. Chair.
2 We're satisfied.

3 THE CHAIRPERSON: Okay. And was that
4 acceptable, what I said? I mean, was it okay?

5 Mr. GILLES GAUTHIER: Yes, Mr. Chairman.

6 THE CHAIRPERSON: Okay. That's my
7 understanding of it, all right?

8 Mr. GILLES GAUTHIER: It's a question of
9 case by case, depending on the particular circumstances.

10 THE CHAIRPERSON: Yes.

11 Mr. GILLES GAUTHIER: You have to look at
12 the particular circumstances and compare it to the
13 framework, and then you're able to make your assessment.

14 THE CHAIRPERSON: My reading of your
15 presentation was that this is a uniform process, except when
16 it isn't. And when it isn't, that's when it become
17 challengeable, right? All right. Is that... I'm afraid I
18 muddied the water. Okay.

19 Now, we will entertain any questions
20 from Government sources, if they happen to be in the
21 audience. Is there anybody representing Provincial or
22 Federal Government that would like to... There's a hand
23 back there?

24 UNIDENTIFIED SPEAKER: [Inaudible - no
25 microphone]

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FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA
(QUESTIONS FROM THE PUBLIC)

1 THE CHAIRPERSON: Is there anyone else,
2 registered presenters, that would like to come to the
3 microphone and ask a question? You're a registered
4 presenter are you?

5 Come to the microphone and identify
6 yourself, please.

7 Mr. ANDY MOIR: My name is Andy Moir. I
8 live in Freeport, Nova Scotia.

9 I'd just like a clarification on the
10 various levels of government and what they can do under
11 NAFTA. We have got Federal Government, we have the
12 Provincial Government, and then we have here a Municipal
13 Government.

14 I would like to know, just as an
15 example, for instance, if the Municipal Government of the
16 County of Digby, or Digby County, said: "Okay, we're going
17 to bring in zoning by-laws that say we're not going to allow
18 quarries anymore", and let's assume that this one is
19 approved.

20 Could they still bring in a by-law that
21 says there won't be any other quarries or coastal quarries,
22 or could the Province, which right now doesn't have a
23 coastal planning, any coastal planning provisions, could
24 they...

25 Even if this one is approved, could they

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1 at some future point come in say: "Okay, we're going to
2 develop a coastal plan that says there will be no coastal
3 quarries"?

4 Thank you.

5 Mr. GILLES GAUTHIER: The NAFTA
6 obligations, as I mentioned on one of the slide, applies to
7 all levels of Government, including at the local levels.

8 On questions of change of zoning and all
9 of that, again, you know, you have to look at the specifics
10 of the case.

11 Again, if a project is duly authorized
12 and then there is a change of zoning which, de facto, annuls
13 all the previous approval, does that amount to an indirect
14 expropriation? Well, you'll have to look at the specifics
15 of the case and on the basis of the standards that I just
16 outlined.

17 Of course governments are free to
18 introduce new policies that apply across their jurisdiction,
19 there is nothing in the NAFTA that, you know, freezes the
20 Government from acting in the pursuit of their public policy
21 objective. They only have to do so in a manner that is
22 consistent with the basic standards that the NAFTA provides
23 for.

24 You know, governments have introduced
25 many laws, regulation, policies, at all levels of

1 governments, over the past 15 years.

2 THE CHAIRPERSON: Thank you. Additional
3 questions? Please? Please identify yourself.

4 Mr. JEREMY ACKERMAN: Yes, I'm Dr. Jeremy
5 Ackerman, A-c-k-e-r-m-a-n. I'm a financial analyst and
6 professor and farmer and a few other things.

7 But today my question is about NAFTA and
8 about the rulings of the Tribunal to date, and I want to
9 know how many of those respected the environmental concerns
10 that were put forth in those cases.

11 Mr. GILLES GAUTHIER: Well, in the
12 Canadian context, there were maybe a couple of instances
13 where environmental issues were raised. There was one case
14 called **S.D. Myers** and it dealt with a prohibition on the
15 export of PCBs to a location south of the border.

16 The Tribunal in that particular instance
17 did not focus on the question of environment, but the ruling
18 against the Government of Canada was essentially based on a
19 compelling evidence brought before the Tribunal that this
20 particular measure was for a protectionist purpose and not
21 to deal with an environmental concern.

22 The landmark decision involving an
23 environmental issue is the **Methanex** case, involving the
24 Canadian investor challenging a measure of the State of
25 California, and the Canadian investor did not succeed in

1 that particular instance. The ban imposed by the State of
2 California for environmental reason was upheld by the
3 Tribunal.

4 THE CHAIRPERSON: No follow-ups, I'm
5 sorry. In order to keep on schedule, we will have to break
6 the questioning at quarter after ten, because have another
7 presentation coming at 10:30. So we have room for one or
8 two more questions, maybe three if they're relatively
9 quick.

10 So Mr. Stanton, come forward, and then I
11 saw some other hands, so I'll try and fit you in. Okay.
12 Yes?

13 Mr. KEMP STANTON: If there's a challenge
14 to the NAFTA agreement, like if this Panel imposed
15 conditions and it was challenged, would the conditions
16 imposed by the Panel be... They have to be in effect until
17 the challenge is dealt with, or is it seven years that the
18 company can just do whatever they want, without the
19 conditions?

20 Mr. GILLES GAUTHIER: The Panel, as I
21 said, is only empowered to provide monetary compensation to
22 the investor. The Panel is not obligated, not empowered, to
23 impose behavioural measures on the part of the investor.

24 THE CHAIRPERSON: So Mr. Stanton, I think
25 the answer was that you need not be concerned.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE CANADA
(QUESTIONS FROM THE PUBLIC)

1 Mr. Mullin?

2 Mr. DON MULLIN: Just a quick question.
3 There's a variation, but it may get at something slightly
4 more insightful.

5 If the Province wanted to stop the
6 quarrying and/or the shipment of aggregate due to
7 unexpected, adverse environmental effects that are project
8 specific, would the Proponent be able to challenge that
9 ruling under NAFTA?

10 Mr. GILLES GAUTHIER: Again, it will
11 depend very much on the facts of the case. If the measure
12 is reasonable, justified, imposes due process of law, the
13 investor will have a tough case to make.

14 THE CHAIRPERSON: Okay. Time for one
15 more question, I believe.

16 Please come forward, Madam?

17 Ms. MARILYN STANTON: My name is Marilyn
18 Stanton. I'm a resident of Sandy Cove.

19 I'd just like some clarification. I
20 find myself a bit confused in where it differentiates
21 between NAFTA and the Provincial regulations, and you say
22 that NAFTA is a heavily regulated environment. We all know
23 our Province is not heavily regulated.

24 Should this change over the 50-year
25 period, could the quarry operation expect or demand

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1 grandfathering in the area of our guidelines, our
2 regulations, or laws, and who would enforce that? Would it
3 be NAFTA? Is it all separate? I find all the lines
4 blurred.

5 Thank you.

6 Mr. GILLES GAUTHIER: The NAFTA does not
7 deal with the regulatory-making process of individual
8 provinces or governments. In particular example you
9 outlined, if the Government in the future decide to
10 introduce a new regulatory measure, there will be compliance
11 with the general laws of Nova Scotia in terms of how the
12 regulatory measure ought to be implemented.

13 The NAFTA is something separate here
14 that provides a framework in terms of the compliance with
15 the international obligation, but it does not directly
16 interfere in the normal regulatory process of the
17 governments.

18 THE CHAIRPERSON: Mr. Gauthier, I think
19 we're going to finish off, but I have one question that I
20 would ask you myself, which is that if the Tribunal makes a
21 judgement and awards a financial return, or let's say
22 against Canada in an international situation, and it doesn't
23 directly change the regulations within that country, doesn't
24 it indirectly force a change in regulations?

25 "Indirectly" in the sense that if you

1 continue to do what you've always done, you're going to go
2 to the Tribunal again, and you'll be arguing... So in
3 effect, you're indirectly forcing a change, without being
4 specific as to what that change ought to be?

5 Mr. GILLES GAUTHIER: Again, it will very
6 much depend on the type of circumstance. We have never
7 experienced that in any of the rulings so far, neither in
8 Canada or U.S. or Mexico.

9 THE CHAIRPERSON: Well, the day is young
10 yet.

11 Mr. GILLES GAUTHIER: Yes [laughs].

12 THE CHAIRPERSON: Ladies and gentlemen,
13 we're going to take a 15-minute break. We'll resume at
14 10:30. Mr. Gauthier, gentlemen, thank you very much. It
15 was very useful.

16 --- Recess at 10:13 a.m.

17 --- Upon resuming at 10:36 a.m.

18 THE CHAIRPERSON: Minus the slide, we'll
19 turn this over to Mr. Stone.

20 Mr. PAUL STONE: Thank you very much.

21 Transportation and Public Works have a
22 mandate to look after the safe transportation of goods and
23 services and public on their maintained roads. In the
24 province, there's approximately 2,300 kilometres of roads,
25 and I'm responsible for about 1,650.

1 We also have what we call un-maintained
2 roads which is... The Whites Cove Road is one of those
3 particular roads.

4 We were asked in 2002 I believe it was
5 to check the safe stop and sight distance for the entrance
6 to the Whites Cove Road, and it met the commercial
7 requirements of the Department of Transportation at that
8 time.

9 Now we were also asked at that time by
10 one of the adjacent...one of the property owners along the
11 Whites Cove Road to give up title to the... I guess it was
12 the Linburg property in where the quarry is located.

13 And at that time, the decision from head
14 office was that it was not going to relinquish title to our
15 right-of-way.

16 The land owner did a legal survey of
17 that property, and the legal survey determined that it was
18 possible that the right-of-way, instead of being the normal
19 20.1158 metres in width, or 66 feet, is only 33 feet, or
20 10.058 metres in width.

21 Other than that, the Cave Road, which is
22 what the Whites Cove Road is, it's an un-maintained public
23 highway, and it would go from Route 217 to the Bay of Fundy,
24 which is a distance of about 1.93 kilometres.

25 If anybody required or requested to

1 bring the road up to a maintainable standard, they would
2 have to meet not only our regulations, but DEL and DFO would
3 also be requested to have their input as well for any
4 upgrade on that road.

5 Other than that, to work within a
6 highway right-of-way, whether you're installing a culvert,
7 whether you're cutting bushes or whether you're upgrading
8 the road, you would have to have what we call a breaking
9 soil permit, which is just one of our normal permits. And
10 then, if the conditions are met and the Department approves,
11 then it would be permitted to do.

12 If anybody has any questions I'll be...
13 I'll try to answer them.

14 Mr. GUNTER MUECKE: Mr. Stone, I have a
15 series of questions regarding road access to the property.

16 Could you tell us as to why the request
17 for change in ownership of the Whites Cove Road was turned
18 down?

19 Mr. PAUL STONE: That was turned down by
20 the Executive Director of Highway Operations at the time,
21 who has since retired. Martin Delaney was the Executive.
22 Why it was turned down, I have no idea. That would be his
23 decision.

24 It was put up as surplus property from
25 the district that we had no plans to upgrade the road to

1 maintainable standards to allow houses or anything like
2 that, so why he turned it down, I have no idea.

3 Mr. GUNTER MUECKE: Okay. To follow up
4 from that, could you indicate whether this decision to not
5 change, to deny ownership, could that be revoked, and under
6 what circumstances?

7 Mr. PAUL STONE: Yes, I would suspect
8 that it could be revoked if the Proponents put forward good
9 enough reasons for why it should be reconsidered. It could
10 be reconsidered by the new Executive Director or the Chief
11 Engineer or the Minister, whoever.

12 Mr. GUNTER MUECKE: Have you had a
13 similar situation, and what would be the change in
14 circumstances that would allow reversal of the previous
15 decision?

16 Mr. PAUL STONE: I haven't seen any where
17 they have been reversed, but of course we only get involved
18 into very few of them, so this was the first one that I've
19 ever seen that was turned down, but for what reason, I can't
20 answer that.

21 Mr. GUNTER MUECKE: Now assuming the
22 ownership stays with the Department of Transport, during the
23 lifetime of the quarry, the operator would have roads which
24 cross that right-of-way, which would involve transporting of
25 materials in heavy trucks, which would be private roads of

1 course. It would involve having slurry lines go across the
2 road somehow. It would involve drainage channels going
3 across the road.

4 What would be the Department's response
5 to such requests do you think?

6 Mr. PAUL STONE: The Proponent,
7 through... Or the quarry people would have to submit for
8 each one of their crossings a breaking soil permit, and the
9 breaking soil permit would have conditions on it, basically
10 that we would want the road back in the same condition when
11 they were finished putting their lines underneath it.

12 Mr. GUNTER MUECKE: Okay. At least once
13 every two weeks, and more frequently during the construction
14 phase, the road would have to be closed during blasting, and
15 cleared of vehicles and people. Will Bilcon have the
16 authority to do this on a public highway?

17 Mr. PAUL STONE: I'm sure that a permit
18 could be issued for the blasting on the Whites Cove Road
19 inside the quarry, but on 217 itself they would have to have
20 proper traffic control and "blasting ahead", and they would
21 have to stop all the traffic.

22 But I have seen that done on the 100-
23 series, so...

24 Mr. GUNTER MUECKE: In the case of the
25 Whites Cove Road, would they have to apply for authority to

1 close the road on every instance, or could they get a
2 blanket authority?

3 Mr. PAUL STONE: I would think that what
4 they would probably do is under the one breaking soil
5 permit, they would list what they wanted to do within our
6 road allowance and then they would...

7 Part of the conditions would be that we
8 would have to be notified prior to them setting off a charge
9 or something like that.

10 But it is an abandoned road, and people
11 shouldn't be... Their vehicles are not or should not be
12 going in there because of the condition of the roadway, so I
13 can't see where people would be going in there with RVs and
14 cars and what have you because it's really not built for
15 that standard.

16 Mr. GUNTER MUECKE: But with four-wheel
17 drive and so on, it's not possible to get in there now?

18 Mr. PAUL STONE: I believe you could
19 possibly get a four-wheel drive in there, but I don't
20 believe a normal car could get in there. I haven't been in
21 there myself for... The last time I did, I walked in, which
22 would have been in the springtime.

23 Mr. GUNTER MUECKE: Now in terms of the
24 Department, how would you view the prospect of having this
25 road sitting on a pedestal?

1 And before you get into that, I'm not
2 quite clear how wide the right-of-way actually is, in your
3 view.

4 Mr. PAUL STONE: Under the **Public Highway**
5 **Act**, the road is deemed to be 66 feet in width, or 20.1158
6 metres in width. However, the legal surveyor, his opinion
7 was that the road was only 10.11... Eh, 10.058 metres in
8 width.

9 Mr. GUNTER MUECKE: So this is in
10 dispute?

11 Mr. PAUL STONE: Yes, but normally if the
12 legal surveyor has documentation or historical information
13 that he's willing to share with the Department, more than
14 likely we will take his documentation as evidence that the
15 road is only 10.058 metres in width.

16 Mr. GUNTER MUECKE: Thank you. So we
17 will assume it's a 33-foot road.

18 Mr. PAUL STONE: Right.

19 Mr. GUNTER MUECKE: Or a bit over 10
20 metres.

21 Mr. PAUL STONE: And as far as the
22 perching of the road, if the quarry people were working on
23 both sides of the old abandoned road and wanted to lower the
24 road at the same time, as long as the old road boundaries
25 were re-established and the road itself was brought back to

1 as good a condition or better than what was there prior to
2 it, then the Department more than likely would probably
3 approve them working on there.

4 Mr. GUNTER MUECKE: Okay. So I
5 understand that the Proponent is going to have a 30-metre
6 buffer on each side. You probably picked that up. And
7 working on both sides of the road, producing a pedestal,
8 basically. However, you would look... You're saying you
9 would look favourably, instead of having this big pedestal
10 standing there, if the company decided to level that to a
11 more reasonable configuration, that you would probably
12 approve that, is that right?

13 Mr. PAUL STONE: Well, it wouldn't make
14 sense to have a road up in the middle of the air, which
15 would probably be unsafe for anybody that was going to be
16 using it, so it would make better sense to lower the road
17 down to the level that they were going to be levelling the
18 whole terrain down to, and then re-establishing the road
19 within its boundaries in as good or better condition than
20 what was there prior.

21 Mr. GUNTER MUECKE: Thank you.

22 In order to do any such changes on the
23 road, I read it from your submission that Procedure PR5035 I
24 think it's called, allowing upgrading by private parties,
25 has to be invoked.

1 And I guess this may be partly
2 repetitive of what I asked before, under what circumstances
3 are such upgrades permitted, and from what you just told me,
4 it seems that whenever the Department considers such
5 upgrades reasonable, there is a reasonable expectation that
6 the Department will approve it. Is that correct?

7 Mr. PAUL STONE: Normally, if somebody is
8 proposing to upgrade a road to a maintainable standard, then
9 the Department... At their expense, not the Department's
10 expense, then the public is coming ahead I guess, as far as
11 the Department is concerned, and therefore it would be
12 looked at under those circumstances.

13 Upgrading of roads at a number of
14 locations throughout the Province are done in order to gain
15 access for new subdivisions and that sort of thing, and
16 these old abandoned roads are upgraded and then it gives
17 them access to the subdivision.

18 Ms. JILL GRANT: Mr. Stone, have you seen
19 the finished grade projections of the site?

20 Mr. PAUL STONE: No, I haven't. All I
21 have seen is the one survey plot plan of the site.

22 Ms. JILL GRANT: Given the nature of the
23 quarrying activity, there's going to be quite a major drop
24 in grade, and the current road that's there already has
25 quite a steep incline, so if all of that material is

1 removed, how viable will it be to keep a road in that
2 position?

3 Mr. PAUL STONE: As I said, if they were
4 going to be lower on both sides of the road, they would
5 probably want to lower the road at the same time, and then
6 everything would be at the same grade.

7 Ms. JILL GRANT: It's just that you could
8 end up with a cliff at some point that you've got to go down
9 to keep going on the grade, so you're going to keep going on
10 the road.

11 Mr. PAUL STONE: What I was envisioning
12 was that the whole hill would be going down at the same
13 time.

14 THE CHAIRPERSON: I think what she's
15 saying is that at some point the property line runs at the
16 top of the North Mountain, and when you come over the top of
17 the mountain, then the road would precipitously drop 90
18 metres.

19 So the pedestal is going to sit up very
20 high, or if you bring it down to the normal level, then it
21 will precipitously drop from the top of North Mountain down,
22 and so you'll have a grade that will be unrealistic.

23 So both situations are fraught with
24 difficulty, I think.

25 Mr. PAUL STONE: With the old road, and I

1 believe the property being owned right out through to 217...

2 Well, according to the property on-line map, the quarry
3 would be out onto property of Linburger, but Bilcon also own
4 right out to the 217, beyond Linburger's property.

5 I would suspect they would want to
6 either shape it down so that it would be less steep to get
7 into their property, but that's only my supposition.

8 Mr. GUNTER MUECKE: Can I ask a couple of
9 questions about Highway 217, which is a B-grade road? Is
10 that right?

11 Mr. PAUL STONE: Yes. Highway 217.
12 There are a number of different roads. For example, Highway
13 101 is a Schedule C, which is it can haul the maximum
14 weights available.

15 B-train simply means that tractor-
16 trailers can operate on that road, but it is not Schedule C.
17 It is not open all year round for hauling heavy loads.

18 Mr. GUNTER MUECKE: Now as a result of
19 the quarry, there will be heavy truck traffic, particularly
20 during the construction phase. Could you comment to us
21 about the state of the road service of 217 at the present
22 time and how that would be or could be affected by this
23 additional traffic?

24 Mr. PAUL STONE: Well, 217 right now is
25 the main route out through to Freeport and Long Island, and

1 there's a fish plant out at the far end and a number of
2 other plants along the route coming back.

3 As long as they were hauling legal loads
4 for that particular road, there should be no adverse effect
5 other than the normal wear and tear on a road from heavy
6 trucks.

7 Mr. GUNTER MUECKE: I guess what I'm
8 asking is, does the Department rate the state of a road or
9 the condition of a road periodically? And in that case,
10 what is the present state of 217?

11 Mr. PAUL STONE: 217 is probably... It
12 is, as all roads in the Province are, in need of repairs.
13 It needs to be resurfaced. There are wheel ruts on it, but
14 that is probably not the worst road in this area, and it's
15 probably not the best. I don't know if that helps.

16 Mr. GUNTER MUECKE: Well, this is just
17 ignorance on my part, but don't you have a grading system so
18 that when it comes to maintenance you have priorities and et
19 cetera?

20 And I guess my question is, you know,
21 where along that grading system does 217 fall at the present
22 time?

23 Mr. PAUL STONE: Right now, for the next
24 three years, 217 is not on the repavement project list. Our
25 Department has told the Government that we have a 4.5

1 billion dollar deficit for roads in this Province, and to
2 bring them up to a maintainable standard in 10 years, we
3 would need 450 million dollars per year.

4 That being said, last year we got a
5 substantial increase, and we got 200 million, so we're going
6 backwards.

7 Mr. GUNTER MUECKE: Okay. One last
8 question about 217. We've talked about the state of the
9 road, the road surface, and what about safety? How would
10 you grade 217 in terms of safety on comparable B-class
11 roads?

12 Mr. PAUL STONE: 217, I don't have the
13 accident statistics with me, but I don't believe there's
14 been... I'm just trying off my memory. I believe that
15 there have been two, maybe three "fatals" on the road in the
16 nine years that I've been there.

17 And I don't think it's unsafe, I guess,
18 in my professional opinion.

19 Mr. GUNTER MUECKE: So it's average
20 safety that you would expect from a B-class road.

21 You've been very helpful. Thank you.

22 Ms. JILL GRANT: Mr. Stone, are there any
23 kinds of regulations around the transportation of explosive
24 materials on roads like 217?

25 Mr. PAUL STONE: Transportation of

1 dangerous goods would be involved, which is for hauling
2 explosives they would have to follow the regulations under
3 that. But as far as our Department is concerned, I don't
4 believe there's anything that would stop it.

5 THE CHAIRPERSON: Okay. So the Panel's
6 questioning has finished. Mr. Buxton, are there any
7 questions you would like to ask?

8 Mr. PAUL BUXTON: Thank you, Mr. Chair.
9 Bilcon has no questions, thank you.

10 THE CHAIRPERSON: We now turn to
11 registered presenters. Oh, sorry, other government
12 organizations, if there is anybody from the Federal or
13 Provincial Government. If not...

14 Yes? Mr. Morsches?

15 Mr. BOB MORSCHEs: Yes. Just for the
16 edification of the presenter, I was down the road with my
17 automobile this spring, and it took me about 45 minutes to
18 go the 1.6 kilometres. If you're careful, you can get down
19 there. You have to avoid the rocks and boulders, and you
20 might have to move some.

21 The question is when you go down 217
22 with a truck, a big truck, a tractor-trailer, something
23 larger than a street truck I think, you have to make a turn
24 that's approximately 35 degrees to the right.

25 I have talked to Mr. Silver at the Digby

1 Transportation, and he said that that turn is not... The
2 way the road is situated, it is not adequate for a tractor-
3 trailer or any other kind of truck of that size, which would
4 be around 48 to 53 feet.

5 The question is would the Proponent have
6 to get an easement change in order to widen that curve so
7 they wouldn't have to make a 35, but make it more of a 90-
8 degree turn?

9 Mr. PAUL STONE: The intersection that we
10 checked for safe stop and sight distances met the commercial
11 values, which would allow cars and half-ton truck type
12 thing.

13 However, if the Proponent wanted to work
14 within the highway right-of-way to improve that
15 intersection, he could do it under a breaking soil permit in
16 order to design it for trucks, heavier trucks.

17 Mr. BOB MORSCHEs: Thank you.

18 THE CHAIRPERSON: Thank you. Okay. Any
19 others?

20 Mr. ANDY MOIR: Andy Moir once again from
21 Freeport. Just a clarification.

22 I heard that if the Department of
23 Transportation wants to get rid of or is willing to get rid
24 of a road such as the one that goes out to Whites Cove, that
25 the first option has to go to the Municipality first to take

1 over that road before it would be given to, or before the
2 option will be given to anybody else. Is that in fact true,
3 or is that just rumour that we hear?

4 Mr. PAUL STONE: No, prior to the
5 Department giving up ownership of un-maintained road or
6 right-of-way, we send it through our acquisitions and
7 disposal people who notify all other Government Departments,
8 and they have, I believe, 30 days to respond, and if for
9 example the Department of Natural Resources wanted the
10 particular old road or the extra right-of-way, the surplus
11 right-of-way, then they would notify and we would change
12 over the title to them.

13 Once it goes through there... The only
14 time I have seen these come up is when the adjacent property
15 owner wishes to buy, and we allow the adjacent property
16 owner, but it does go to the Municipal Units as well, after
17 going through all the Provincial Government.

18 THE CHAIRPERSON: So there's a sequence
19 of steps.

20 Mr. PAUL STONE: Yes.

21 THE CHAIRPERSON: Mr. Mullin?

22 Mr. DON MULLIN: It's Don Mullin. I have
23 a question. The maps that I have seen don't show the un-
24 maintained road extending to the shoreline. It stops
25 somewhat short of that on the maps that I've seen. But you

1 say that it did go from 217 to the shore?

2 So would you be able to provide more
3 detail in terms of the location and where it terminates,
4 particularly as it relates to a 50 by 50 foot piece of
5 privately-owned property near the quarry site?

6 Mr. PAUL STONE: As far as I know, the
7 road does not go to the 50 by 50 foot private piece of
8 property in there. It stops short of that. And our road
9 listing could have been done back in the '40s or even
10 earlier, and it just said from the 217 to the shore of the
11 Bay of Fundy.

12 Now, where it hit the Bay of Fundy, I
13 have no idea, other than what the surveyor showed.

14 THE CHAIRPERSON: Ms. Peach?

15 Ms. JUDITH PEACH: Judith Peach. I would
16 sort of have a follow-up to that question. How does the
17 Department determine the location and extent of the road,
18 because if that right-of-way has to be preserved for the
19 public and the Proponent needs to reserve it from their
20 operations, there would need to be a definitive location for
21 the right-of-way, and width as well.

22 I mean, are you just depending on Mr.
23 Hall's survey? And Mr. Hall was working for the Proponent
24 when he did that survey.

25 Mr. PAUL STONE: No. There are... In

1 head office, we have a number of aerial photographs taken
2 from the early '40s, all the way through, when the road was
3 probably in a lot better shape than it is now, and those
4 aerial photographs would be also used to establish where
5 the old right-of-way was.

6 THE CHAIRPERSON: Mr. Stanton.

7 Mr. KEMP STANTON: I don't know whether
8 it's relevant or not, but I was... At one time, there was a
9 haul-up at Whites Cove. It was for the purpose of hauling
10 the fishermen's boats out of the water. I participated in
11 hauling the last boat out of the water that was landed
12 there, and we drove our vehicles right up to the side of the
13 truck (sic).

14 This would be in the... Right up to the
15 side of the boat I mean, to repair it, in the '50s. And
16 there was no... The road at that time just extended to the
17 engine house. That's how we got the engine started, and
18 that's how we hauled the boat up.

19 In the documents I've seen, the reason I
20 mention it, is there is a fishermen's privilege to that area
21 that was to make it so that the fishermen could use that
22 haul-up facility.

23 At the time, the Government even owned
24 the 50 by 50 plot, and they put a haul-up force on it. So
25 we, as fishermen, always thought that the right-of-way went

1 right to our haul-up and our slipway.

2 Thank you.

3 Ms. JILL GRANT: Just a follow-up on that
4 question to Mr. Stone. If you have air photographs from the
5 1940s, they'd probably show where the road goes to the
6 shore, is that correct?

7 Mr. PAUL STONE: I would think that the
8 old aerial photographs would show that, yes. And as far as
9 the 50 by 50 foot piece of property, it used to be owned by
10 the Federal Government, not the Provincial.

11 THE CHAIRPERSON: Okay. Any other
12 questions? If not, Mr. Buxton, I have a question for you.
13 Given the problems that are around that road and all of the
14 conditions we've just been listening to, has any thought
15 been given by Bilcon to bringing a road through the adjacent
16 property which you own?

17 I know you've talked of it as a buffer
18 and so forth, but it does abut on 217, and it would provide
19 you direct access right into your property. Has that been
20 considered?

21 Mr. PAUL BUXTON: Yes, it has, Mr. Chair.

22 THE CHAIRPERSON: And no action has been
23 taken; it's just...

24 Mr. PAUL BUXTON: We are keeping it in
25 reserve, if you like, as an option. We do have that land,

1 and we have a preliminary drawings to demonstrate that we
2 can, in fact, use an alternate, and in that case, we would
3 have to go back to the Department of Transportation again
4 for stop and sight distance calculations and that sort of
5 thing.

6 But yes, we do have another option.

7 THE CHAIRPERSON: Good to hear.

8 Mr. GUNTER MUECKE: Mr. Stone, you
9 mentioned that DFO and the Department of Environment, under
10 some circumstances, will come into the decision-making
11 process.

12 Could you just amplify as to what their
13 role would be?

14 Mr. PAUL STONE: Well, we would be after
15 whoever was going to be working within our right-of-way. We
16 would want them to take measures to control any silt run-off
17 or whatever within the Bay of Fundy.

18 So if there was... Whether they needed
19 sediment traps or ponds or whatever, to ensure that the
20 sediment wouldn't get out into the Bay of Fundy.

21 THE CHAIRPERSON: Mr. Stone, is it
22 possible to get a copy of the air photos from 1940? Would
23 that be possible?

24 Mr. PAUL STONE: I can't answer. I'd
25 have to ask whether or not I can get them from head office.

1 But I can do that.

2 THE CHAIRPERSON: Can I make a formal
3 request to receive a copy of the 1940 air photo showing this
4 road?

5 Mr. PAUL STONE: I don't know whether it
6 is 1940, but I would...

7 THE CHAIRPERSON: Well, the...

8 Mr. PAUL STONE: The latest ones I can...

9 THE CHAIRPERSON: Yes, that would be
10 helpful. Thank you. And you can let the Secretariat know
11 whether, in fact, it is possible or not. Thank you.

12 Now, if there are no further questions,
13 then we will terminate this particular presentation. Thank
14 you, Mr. Stone. That was very, very useful, and very
15 helpful.

16 According to the schedule that was put
17 forward today, we were going to... This presentation was
18 expected to go to 11:30 and then we were going to break.
19 But what we would like to do is bring forward the next
20 presentation from Health Canada.

21 I believe the representative from Health
22 Canada has already been spoken to and has agreed to do this,
23 so... And that, I believe, is Sharon Chard.

24 Would she please come forward? It looks
25 like there are several of you. Okay, good, thank you.

1 Thank you Mr. Stone.

2 **PRESENTATION BY HEALTH CANADA - SHARON CHARD**

3 Ms. SHARON CHARD: Mr. Chairman, I have
4 slides, if we can get set up. If you can give me five
5 minutes or so to get set up?

6 THE CHAIRPERSON: Absolutely, please.
7 We'll give it a try.

8 --- Pause

9 THE CHAIRPERSON: Could you both
10 identify yourselves, for our transcript record?

11 Ms. SHARON CHARD: Sure. Thank you Mr.
12 Chairman. My name is Sharon Chard, and I'm the Regional
13 Director for the Healthy Environments and Consumer Safety
14 Branch of Health Canada, the Atlantic Region.

15 Ms. DEBORAH CLEMENTS: Deborah Clements,
16 the Regional Environmental Assessment Coordinator for Health
17 Canada.

18 THE CHAIRPERSON: Thank you. Please go
19 forward Ms. Chard.

20 Ms. SHARON CHARD: Thank you Mr. Chair.

21 It is my pleasure to have the
22 opportunity to provide Members of the Panel and other
23 stakeholders in the room with a general overview of Health
24 Canada's role and mandate, our areas of expertise as they
25 relate to the Environmental Impact Statement, and a summary

1 of our comments on the Environmental Impact Statement. We
2 did provide a written summary of the presentation to the
3 Panel earlier.

4 I just want to make one comment, that
5 there's no scientific experts that offered opinions on the
6 Environmental Impact Statement with me today, but should the
7 Panel or a member of the public have any questions beyond my
8 scope, the questions will be sent in writing to the
9 appropriate scientific expert for a response.

10 So if you do have some very, very
11 technical or scientific questions, please let me know, and
12 we'll send them forward.

13 Health Canada is the Federal Department
14 responsible for helping Canadians maintain and improve their
15 health, while respecting individual choices and
16 circumstances.

17 Health Canada subscribes to the belief
18 that human health is influenced by the health of the
19 environment.

20 As such, in reviewing the Environmental
21 Impact Statement, we closely examined key components of the
22 physical environment and their relationship to health.

23 I think it is also very important to
24 talk for a moment about the limitations of our role as a
25 Federal Health Department.

1 As the second bullet on my slide
2 indicates, the Provinces and Territories have the
3 jurisdictional authority over the provision of health care
4 services. In addition, Provinces and Territories have the
5 Constitutional right to make laws regarding health care
6 programs and services within their own region.

7 Therefore, Provinces and Territories
8 have the responsibility for public health, hospitals, and
9 the medical system in general.

10 Under the **Canadian Environmental**
11 **Assessment Act**, Health Canada's legislated role is typically
12 as a Federal authority to provide expert information and
13 knowledge on health issues when requested by other Federal
14 Departments carrying out environmental assessments.

15 As an expert Federal authority, Health
16 Canada considered the potential environmental effects on
17 human health of the proposed project activities. For the
18 purposes of the Environmental Impact Statement review,
19 Health Canada utilized technical expertise, advice, from
20 within the Department.

21 The review was based on project
22 information provided by the Proponent. Health Canada
23 commented on air quality, noise, drinking water, light,
24 country foods, and socio-economic impacts in its letter
25 dated August 4th, 2006, which was posted on the CEAA

1 website.

2 As part of Health Canada's Consumer and
3 Clinical Radiation Protection Bureau, our noise experts in
4 the acoustics division evaluate the potential health effects
5 of noise, including hearing loss, high annoyance, sleep
6 disturbance, and speech interference.

7 Experts considered noise sources from
8 all types of machinery, equipment, and related processes.
9 As well, the experts looked at types of noise, such as
10 impulsive - for example, blasting - and tonal - for example,
11 back-up alarms on trucks.

12 For reference material, we used the
13 Canadian Standards Association, entitled: "Acoustics,
14 description, measurement, and assessment of environmental
15 noise - Part I: Basic quantities and assessment
16 procedures".

17 We used other guideline reference
18 material, including the March 1974 U.S. Environmental
19 Protection Agency publication entitled: "Information on
20 levels of environmental noise requisite to protect public
21 health and welfare with an adequate margin of safety".

22 Also, the 2006 United States Federal
23 Transit Administration Guidance Manual related to: "Transit
24 Noise and Vibration Impact Assessment", and the June 1998
25 National Institute of Occupational Safety and Health

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1 publication for: "Criteria for a Recommended Standard:
2 Occupational Noise Exposure".

3 Outstanding issues related to noise were
4 forwarded to the Proponent through the Panel Manager in a
5 letter dated May 15th, 2007. The issues in the letter
6 related to clarification of the tonal and impulsive
7 qualities of noise at the receptors during operation;
8 classification, for example quiet rural area, of the
9 baseline monitoring locations; sound level monitoring
10 during blasting recommended for specific sound exposure
11 levels.

12 Health Canada outstanding issues were
13 resolved by the Proponent in a June 1st, 2007 letter.

14 Based on the information provided by the
15 Proponent, Health Canada finds that the noise component, as
16 described in the Environmental Impact Statement, is
17 protective of human health, provided all applicable
18 mitigative measures as presented in the Environmental Impact
19 Statement and subsequent Proponent responses, are
20 undertaken.

21 As part of Health Canada's Water, Air
22 and Climate Change Bureau, experts in the Air Health
23 Division evaluated predicted pollutant concentrations for
24 various human exposure scenarios.

25 As part of the air quality evaluations,

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1 experts considered short and long-term human exposure
2 effects; adverse health effects, such as respiratory
3 irritation, reduced lung function, cardio-respiratory
4 hospitalization, mortality; conventional air pollutants,
5 such as carbon monoxide, sulfur dioxide, nitrogen dioxide,
6 ozone, PM 10 and PM 2.5; and the non-conventional air
7 pollutants, such as polycyclic aromatic hydrocarbon,
8 formaldehyde.

9 To assess for potential air quality
10 impacts to human health, air quality experts refer to
11 international tools such as those used by the World Health
12 Organization and the United States Environmental Protection
13 Agency, as well as National and Provincial health-based
14 evaluation tools.

15 Under air issues, we do recommend that
16 there be clarification of emission estimates, as for example
17 diesel fuel oil and particulate matter from equipment, and
18 operational activities, in order to better assess the
19 potential for air quality impacts.

20 Under drinking water, as part of the
21 Health Canada's Water, Air and Climate Change Bureau,
22 experts in the Water Quality Science Division reviewed
23 Environmental Assessment information for all sources of
24 drinking water in the surrounding areas influenced by the
25 proposed project, which include water sources that are

1 consumed directly, such as wells, or from source water
2 intakes for drinking water treatment facilities.

3 Health Canada can also provide expertise
4 on projects with regard to treatment requirements and
5 availability of treatment technologies for contaminants and
6 sources of drinking water. To evaluate drinking water
7 quality for a project, experts reference the guidelines for
8 Canadian Drinking Water Quality, as well as the Provincial
9 standard applicable to the project, to assess for potential
10 adverse human health effects.

11 Experts also provided expertise on human
12 health-risk assessment for chemical and micro-biological
13 contaminants that may be present in drinking and
14 recreational water.

15 Based on the information provided by the
16 Proponent, Health Canada finds that the water quality
17 component, as described in the Environmental Impact
18 Statement, is protective of human health, provided all
19 applicable mitigative measures as presented in the
20 Environmental Impact Statement and subsequent Proponent
21 responses are undertaken.

22 The country foods advice considers foods
23 harvested by hunting, trapping, fishing, or small-scale
24 farming, and produce grown in vegetable gardens and orchards
25 or collected from naturally-occurring sources; for example,

1 wild berries. Country foods do not include any foods that
2 are sold commercially.

3 The advice provided was based on
4 information about harvesting of country foods in the project
5 areas.

6 For this project, Health Canada provided
7 advice relating to the frequency of sampling raspberries and
8 periwinkles. We recommended that the monitoring of
9 raspberries and periwinkles for metals should initially take
10 place during the first year of operation and every
11 subsequent five years thereafter, should the Project
12 proceed.

13 The Proponent has committed to
14 monitoring these to facilitate detection of any potential
15 contamination.

16 Health Canada recognizes that socio-
17 economic factors do contribute to the health and well being
18 of Canadians, and has limited expertise in this area due to
19 the broad nature and shared jurisdictions associated with
20 socio-economics.

21 In conclusion, based on the information
22 provided by the Proponent, Health Canada finds that the
23 project as described in the Environmental Impact Statement
24 is protective of human health, provided all applicable
25 mitigative measures, as presented in the Environmental

1 Impact Statement and subsequent Proponent responses, are
2 undertaken.

3 Health Canada looks forward to the final
4 recommendations of the Panel, and we are prepared to answer
5 any questions Mr. Chair.

6 THE CHAIRPERSON: Thank you Ms. Chard.

7 Ms. JILL GRANT: Thank you. I am
8 wondering whether, in providing your advice, did Health
9 Canada look at the other submissions from other intervenors
10 in the EIS?

11 Ms. SHARON CHARD: The role of Health
12 Canada and mandate is to actually do the evaluation on the
13 Environmental Impact Statement. I think we also did take a
14 look, but it actually didn't influence our advice or our
15 recommendations.

16 Ms. JILL GRANT: Thank you. I'm
17 wondering whether we might talk first about the noise.

18 In some of the submissions from Health
19 Canada there is a discussion around the definition of
20 "night"; that normally the definition of "night" for
21 purposes of determining noise would include the hour from
22 6:00 a.m. to 7:00 a.m., when the Proponent proposes to be
23 operating the quarry.

24 It's not entirely clear to me from the
25 final advice whether you're suggesting that the hours of

1 operation need to be adjusted to begin at 7:00 a.m. to meet
2 those guidelines.

3 Ms. SHARON CHARD: What we were looking
4 at, and I think it's traditional within our scientific
5 advice, is that 6:00 a.m. to 7:00 a.m. is still considered
6 night.

7 So when you're doing the evaluation of
8 what the impact of noise is on the community and on the
9 surrounding area, you needed to include that. That type
10 of... In the night... Nighttime levels are lower than
11 during the daytime.

12 So again, it's looking at... We needed
13 more information, and I'm not sure, I don't... And I would
14 ask the Proponent... We asked for that information, and
15 whether or not we got that in the letter, I'm not totally
16 sure.

17 Ms. JILL GRANT: And in looking at the
18 material, I presume that you understand that shipping may
19 quite often occur at night because of the schedule when the
20 ship may come in. So are you suggesting that the noise
21 guidelines for the shipping will meet the decibel levels
22 required for nighttime as well?

23 Ms. SHARON CHARD: I'm not sure that we
24 actually evaluated that on the shipping side. We did more
25 on the blasting and operation of equipment. But I can look

1 at that and see if our experts have an opinion on that or
2 not.

3 Ms. JILL GRANT: Thank you. With the air
4 quality, you've indicated that there's a number of gaps in
5 the data provided about additional information on quantity
6 of emissions, current air quality, sensitive populations,
7 potential risk.

8 However, your final conclusion suggested
9 that the project meets the requirements for protecting
10 health.

11 So I'm wondering whether you're
12 suggesting that we need to have this information as part of
13 the assessment now, or what exactly is the nature of your
14 advice on that?

15 Ms. SHARON CHARD: I think, as part of
16 the assessment, we would have liked, and I think all
17 scientific people like further information to make their
18 decisions on, but I think the recommendation was that it
19 was, as the project goes forward, we needed that to maybe do
20 a further evaluation and provide advice to the government
21 parties on that. But we didn't see it as an immediate show-
22 stopper.

23 Ms. JILL GRANT: Thank you. The proposal
24 is that the work week will be 48 hours. So employees will
25 be working six days a week for 48 weeks or so, as the

1 project is opened. I'm wondering whether you have any
2 concerns of the effects of a long work week on an ongoing
3 basis on worker health and safety.

4 Ms. SHARON CHARD: Unfortunately, we
5 didn't do any kind of scientific advice on that, because
6 that is basically within the Provincial domain for the
7 Workmen's Compensation, Workmen Labour Code, unless they are
8 Federal workers, and my understanding is that they aren't
9 federally or federal-employed workers.

10 Ms. JILL GRANT: Thank you. This area is
11 defined under your guidance as a quiet rural area, or... I
12 wasn't entirely sure whether you're using the definition of
13 quiet rural area or suburban rural, can you clarify that for
14 us, please?

15 Ms. SHARON CHARD: I think we asked the
16 Proponent to clarify what they were identifying it as, and I
17 think it came out as quiet rural area, and that's what we
18 based our assessment on.

19 Ms. JILL GRANT: Thank you. About the
20 monitoring of country foods, if monitoring identifies a
21 problem with country foods, what is the advice that should
22 apply then? What action should be taken?

23 Ms. SHARON CHARD: One of the roles that
24 Health Canada has is to provide advice to our Provincial
25 colleagues on contaminants in food supplies or in the

1 environment, but the people that take action are probably
2 your Nova Scotia Department of Agriculture and Fish,
3 Provincial Health, or if it's a commercial product it would
4 be the Canadian Food Inspection Agency.

5 So if there are contaminants identified,
6 they would need to be consulted, and we would provide advice
7 as to the health risk of those contaminants.

8 Ms. JILL GRANT: Thank you. And on the
9 socio-economic, you went over quite quickly the socio-
10 economic, but I'm wondering whether as an agency you track
11 the effects of these kinds of projects on communities, on
12 community health, sense of well being and so on; whether
13 there's anything that you can offer us there in terms of the
14 potential effects.

15 Ms. SHARON CHARD: I'm not aware that
16 Health Canada, in and of themselves, track the socio-
17 economic well being of communities.

18 But I do recognize that it's a very
19 broad impact, and that it is multi-jurisdictional.

20 We do get information coming into Health
21 Canada about various health impacts of activities as part of
22 the health surveillance system that is in place.

23 THE CHAIRPERSON: Thank you. Mr. Buxton?

24 Mr. PAUL BUXTON: I have no questions,
25 Mr. Chair, but just a comment that Health Canada provided I

1 think a very rigorous and searching investigation of our
2 EIS, and asked for significant further information.

3 But I would like to say that we provided
4 answers. They asked for further information, which we have
5 provided, and they worked with us right through to the last
6 day, and we're very grateful for that.

7 I think we've received a lot of very
8 good advice and helpful advice, and they continued to work
9 with us right through until this process. I'd just like to
10 say that. Thank you.

11 THE CHAIRPERSON: Thank you. Any
12 Government interventions? No? How about from the audience,
13 from our registered presenters? Anybody wish to raise
14 anything? Mr. Mullins?

15 Mr. DON MULLINS: I was concerned in
16 reading the report about the health area that was used to
17 determine sort of baseline physical health, and I thought it
18 was a really large area, so I wondered why you weren't
19 looking at things like respiratory illnesses in the area
20 closer to the proposed project, and you were taking the data
21 that was on a very large geographical area, and supposing
22 that it would be the baseline for the Whites Point area, in
23 terms of respiratory diseases.

24 Ms. SHARON CHARD: I think what we have
25 commented on was basically what was in the Proponent's

1 Environmental Impact Statement. We didn't narrow down the
2 health area, because was a baseline that was given to us as
3 part of the Project.

4 THE CHAIRPERSON: Anyone else? It would
5 appear not. Thank you, Ms. Chard, ladies.

6 Ms. SHARON CHARD: Thank you.

7 THE CHAIRPERSON: I think what we will do
8 now is proceed onward, if there's no objection. Our next
9 presentation was to be by Nova Scotia Department of Natural
10 Resources, and I think that perhaps we can get that
11 underway.

12 So could I ask the individuals from
13 Natural Resources to come forward.

14 Ms. DEBRA MYLES: They're not here yet.

15 THE CHAIRPERSON: They're not here yet?

16 Oh, okay, so what do we... They're scheduled to go at
17 2:00.

18 Ms. JILL GRANT: Want to take a break
19 now?

20 THE CHAIRPERSON: We have half an hour
21 before we're going to take a break. Are there any
22 additional questions that registered presenters might wish
23 to ask of the Proponent? There's a couple, three. Okay.
24 Mr. Stanton, and then...

25 Ms. JILL GRANT: Andy Moir.

1 THE CHAIRPERSON: Andy Moir, and...

2 Okay.

3 Mr. KEMP STANTON: I don't know whether
4 this would be the appropriate time to ask this, but I was
5 asked by the nearest homeowner to put a question to Mr.
6 Buxton about the property lines. Is this acceptable now?

7 THE CHAIRPERSON: Yes, I think it's...
8 This is in keeping with the session we had last evening in
9 which we ran out of time, so what we're doing is just
10 filling in so that the residents and others can ask
11 questions which are on their minds.

12 So we didn't check this out with the
13 Proponent, but I think this is a reasonable usage of our
14 time, so sure, go ahead.

15 Mr. KEMP STANTON: Mr. Freddie Trask (ph)
16 last night asked me to ask Mr. Buxton. He went down to
17 Weymouth and had the Weymouth Registry check out his
18 property.

19 They say from the corner of his house to
20 the Bay, to the high water mark at Bay of Fundy is 1,100
21 metres.

22 If you take into account the 800 metres
23 setback from a property, that would give the Proponent 300
24 metres to quarry in. He just asked me how you could quarry
25 in an area without impinging on his, on the 800-metre

1 separation from his house.

2 Mr. PAUL BUXTON: Mr. Chair, we did
3 undertake to bring back the new map to you with the arcs on
4 it, and I would point out that it is an arc from the house.

5 It is not a horizontal line drawn 800 metres away. It is
6 an arc, and perhaps we could wait until that... We have
7 undertaken to bring that drawing to you, that updated map.

8 THE CHAIRPERSON: Mr. Stanton, previously
9 we asked the Proponent to come forward with a map that would
10 take into consideration some revisions.

11 The map will show the arc that results
12 from the nearness of the houses. That's forthcoming, so if
13 you can just hold that question in abeyance until that map
14 surfaces, then we can deal with it at that time. Would that
15 be all right with you?

16 Mr. KEMP STANTON: (Nods)

17 THE CHAIRPERSON: Okay. Mr. Moir?

18 Mr. ANDY MOIR: Thank you. Thank you.
19 It's Andy Moir again. It's a question of just sort of
20 clarification I guess I would like to get, which might help
21 me in making my presentation later.

22 First of all, I just want to get an
23 understanding of the Proponent's understanding of their
24 responsibilities in terms of greenhouse gases.

25 Am I right in understanding that, in a

1 situation like this, there are no obligations under
2 greenhouse gases? Is that your understanding?

3 Mr. PAUL BUXTON: At the present time, we
4 are not aware of any legislation, however we are aware that
5 discussions are underway at Federal Government levels
6 involving industry, heavy emitters and rather levels of
7 emitters, and when they will report, and when the Government
8 will make rules, regulations or guidelines I can't predict,
9 but certainly when they do, we will be fully compliant with
10 them.

11 Mr. ANDY MOIR: Thank you Mr. Buxton.
12 Just one related follow-up question. In your EIS, you say
13 that... Talking about the 375 acres of... I guess it would
14 be combined buffer zone, plus the managed forest areas,
15 this is a direct quote. You say:

16 "This method of land management will
17 greatly mitigate the production of GHGs
18 from the quarry operation".

19 And I'm just wondering how you
20 figured...what set of figures you used to establish that
21 this will "greatly mitigate" the amount of greenhouse gasses
22 produced?

23 Mr. PAUL BUXTON: I'm not aware of any
24 figures that were calculated, Mr. Chair. It's rather like
25 using procedures and statements that we've made such as that

1 we will not burn brush.

2 We don't know how much that will save,
3 but we think that it is the right thing to do and hence
4 that's a procedure that we're undertaking.

5 The same thing with the buffer areas
6 that we've acquired. We think if we put them into good
7 forest management, there will be a significant beneficial
8 effect.

9 We have not quantified it, and I'm not
10 sure it is possible quantify it, at this stage, without a
11 great deal of work, but we certainly intend to do that sort
12 of thing throughout the Project.

13 THE CHAIRPERSON: Mr. Dittrick, I think
14 Mr. Sharp had his hand up ahead of you.

15 Mr. ANDY SHARP: Yes. I've been
16 reflecting on the comments made by Mr. Buxton yesterday that
17 the Proponent plans to keep a boat tied to the dolphins at
18 the marine terminal to aid in the docking of the aggregate
19 carrier.

20 I find this interesting to note, all
21 along the Bay of Fundy, one rarely, if ever, sees fishing
22 boats moored at open wharves. It seems fishermen tend to
23 keep their boats between, behind snug breakwaters, or drawn
24 up on the shore.

25 To me, this would appear to indicate

1 local ecological knowledge of the sea conditions.

2 I'd therefore like to ask Mr. Buxton if
3 he still thinks it's practical and feasible to keep a boat
4 tied at the marine terminal to receive the full force of the
5 Bay's wind and tides.

6 Mr. PAUL BUXTON: I'm unaware, Mr. Chair,
7 that we've made the statement that a boat would be there 365
8 days a year.

9 We would certainly have competent
10 qualified local people operating that boat, and we would be
11 very cognizant of local weather conditions. And if it's
12 inappropriate to keep it in that exposed area, it will be
13 taken to a safe harbour, and then brought back again.

14 I would remind you that we only intend
15 to bring in one boat a week. We expect to moor it quickly,
16 load it in 12 hours, and get it out. The work boat may have
17 other tasks to do, perhaps checking the mooring buoys, and
18 then it could either tie up, if conditions are safe, or go
19 on to a safe harbourage.

20 Mr. ANDY SHARP: Forgive me, but if the
21 boat is not going to be kept at the marine terminal, if it's
22 going to be kept elsewhere, wouldn't that expand the
23 physical scope of this Project?

24 There's also the question of if there is
25 going to be a boat kept at the marine terminal, I'm assuming

1 that it would need to be maintained and fuelled somewhere,
2 be it at the marine terminal, be it somewhere else, and
3 wouldn't that be part of the Project description?

4 Mr. PAUL BUXTON: I would have thought
5 that a small work boat, Mr. Chair, would hardly qualify for
6 a major investigation. There are hundreds and hundreds and
7 perhaps thousands of boats of this size in the Bay of Fundy.
8 I just quite... I can't quite see any real significance in
9 that.

10 THE CHAIRPERSON: Thank you, Mr. Sharp.

11 Ms. JILL GRANT: Just a couple of follow
12 ups from Mr. Sharp's question. It does imply that if
13 there's a boat, it has to be fueled, so there is a question
14 about whether it's happening on the site or not, so that
15 would help to have that clarified.

16 The other related question is whether
17 this is the same work boat that you're proposing to do the
18 observations for marine mammals?

19 Mr. PAUL BUXTON: There will be no
20 fueling on site either with a work boat or for the carrier.

21 And, yes, at this moment we would use
22 the same boat for observations as for assistance with tie
23 up.

24 THE CHAIRPERSON: Mr. Buxton, you're not
25 intending to create another pier or jetty or anything that

1 the boat would be affixed to, or you are?

2 Mr. PAUL BUXTON: No, not at this time.

3 I did say in discussions yesterday that there has been some
4 discussion by other parties to see whether there may be
5 something mutually beneficial to the community that could go
6 on there, and discussions on that subject will take place in
7 early July.

8 THE CHAIRPERSON: Thank you. Okay, Mr.
9 Dittrick?

10 Mr. MARK DITTRICK: Yeah. I'd like to
11 ask another question regarding greenhouse gases. The
12 guidelines clearly state that any assertions by the
13 Proponent should be verifiable, and we made a comment
14 originally that there wasn't enough detail in the Project
15 description to do that, but there's a little more detail in
16 the new Project description.

17 But still, we haven't seen anything in
18 the way of calculations, number crunching, any math. We
19 still would find it very, very difficult to verify whether
20 or not the Project will produce 80,000 tonnes of CO₂, or
21 some other number.

22 So what we would like to see would be
23 something that's a little more detailed in how they arrived
24 at the figure of 80,000 tonnes, or thereabouts.

25 Mr. PAUL BUXTON: If the Panel would like

1 to see that, I think that we could provide that by the end
2 of next week, Mr. Chair.

3 THE CHAIRPERSON: Could you re-state that
4 for me?

5 Mr. MARK DITTRICK: Well, I guess we
6 would like to see enough calculation with regard to the CO2
7 emissions, or greenhouse gas emissions so that we might be
8 able to verify if the number 80,000 tonnes is accurate,
9 or...

10 And we also... I'm going to mention
11 that, and this is not for your question, but we have John
12 Bennett from or formerly the Chair of Climate Action Network
13 Canada, and now with Climate Action. I forget what the name
14 of this, of his group is right now.

15 But he'll be here and it would be nice
16 if we have this information at the time that he's
17 presenting, and he'll be presenting on the 29th. So if we
18 had that any time like 24 hours before available to him,
19 that would be useful for us in our presentation.

20 THE CHAIRPERSON: Is the 28th a reasonable
21 number for you, Mr. Buxton?

22 Mr. PAUL BUXTON: I think we could
23 provide that by the 28th, Mr. Chair.

24 THE CHAIRPERSON: Thank you. Thank you,
25 Mr. Dittrick.

1 Mr. MARK DITTRICK: Thank you very much.

2 THE CHAIRPERSON: Okay. We have about...
3 Just a few more minutes before we break for lunch. Ms.
4 Peach?

5 Ms. JUDITH PEACH: Another...

6 THE CHAIRPERSON: Okay.

7 Ms. JUDITH PEACH: Another question on
8 the greenhouse gas. I did see your little table in the
9 section on I think climate change, and you list the various
10 machinery which I guess would be electrical use, and you
11 list three heavy equipment...pieces of heavy equipment that
12 would be running on diesel, I guess.

13 It doesn't appear that you're including
14 greenhouse gas emissions from explosives, and I understand
15 that the fuel oil in the explosives pretty much burns, and
16 would also have to be accounted for in greenhouse gas
17 emissions?

18 And another thing was those skid steers
19 that you showed on the presentation on Saturday. I don't
20 believe those are included on that Jacques Whitford table,
21 so maybe that would just be sort of part of what Mr.
22 Dittrick was asking for?

23 Mr. PAUL BUXTON: We'll provide that
24 information, along with the other Mr. Chair.

25 THE CHAIRPERSON: Are there others in...

1 Please come. Ms. Stanton. Yes.

2 Ms. MARILYN STANTON: Yes, it's Marilyn
3 Stanton from Sandy Cove. I just have a quick question about
4 purchase of properties.

5 Mr. Buxton outlined several days ago or
6 the first day that Bilcon was purchasing properties with a
7 view to providing a buffer zone, but they were not planning
8 to purchase any properties further up the North Mountain.

9 Many community members are questioning
10 whether there is any representative of Bilcon, or Clayton
11 Concrete who has already purchased, or has an option to
12 purchase in future the store in Centreville called "Wilson's
13 on the Neck", because that would indicate to those community
14 people that there is a plan, or something to move further up
15 the Neck. Thank you.

16 THE CHAIRPERSON: Thank you.

17 Mr. PAUL BUXTON: There is no truth
18 whatsoever in those rumours Mr. Chair.

19 THE CHAIRPERSON: Thank you. Anyone
20 else? It appears not. Oh, sorry. No? Yes? No?

21 Mr. GUNTER MUECKE: There's two more.

22 THE CHAIRPERSON: Okay. Please come
23 forward.

24 SISTER BARBARA: Good morning. I just
25 have a quick question about...

1 THE CHAIRPERSON: Could you identify
2 yourself?

3 SISTER BARBARA: Oh, sorry. I'm Sister
4 Barbara, for those who don't know.

5 THE CHAIRPERSON: Yeah.

6 SISTER BARBARA: And I have a quick
7 question. I just wondered if there's going to be security
8 around the quarry, 24/7 security?

9 Mr. PAUL BUXTON: Security will be in
10 place 24/7, Mr. Chair.

11 THE CHAIRPERSON: Yes. Okay.

12 SISTER BARBARA: Great, and also will
13 there be lights on the terminal 24/7, lights around the
14 terminal and quarry?

15 Mr. PAUL BUXTON: There will be minimal
16 security lighting. We have been asked, and have agreed to
17 comply with the minimum lighting standards at night to
18 protect migrating birds, and we will work with the
19 appropriate people to keep sufficient security lighting
20 while maintaining minimum lighting which may be or could be
21 harmful.

22 SISTER BARBARA: I'm not concerned so
23 much with the birds as the stars would... People come down
24 to Digby Neck to stargaze. I'm just wondering if we'll
25 still be able to do that. Thank you.

1 THE CHAIRPERSON: Someone else? Mr.
2 Ackerman?

3 Mr. GERRY ACKERMAN: This is Gerry
4 Ackerman, and in a way, it's as a follow up and commentary
5 on the question already asked to the NAFTA people about the
6 environmental considerations and the Tribunal decisions to
7 date.

8 And there are... I find that, after
9 talking with the NAFTA man, I have to define what I mean by
10 environmental. I mean it at a personal level. The air I
11 breathe and the water I drink. This man defines it in terms
12 of this jurisdiction versus that jurisdiction, and it
13 doesn't cut it with me.

14 The three examples that I would offer
15 that have already been decided by the Tribunals would be the
16 Ethel Corporation (ph) one; the MTBE, which provides cancer.
17 I think that's environmentally important. And the decision
18 was to sue the Dominion of Canada, and get a substantial
19 settlement in cash, and then remove the ban on that element
20 in our gasoline.

21 The second one was the **Methanex** in
22 California. That wasn't exactly an environmental issue.

23 And the third one was Metalclad (ph) in
24 Mexico, where the drinking water was contaminated.

25 These are...

1 THE CHAIRPERSON: Mr. Ackerman, are you
2 going to direct a question to the Proponent?

3 Mr. JERRY ACKERMAN: Well, what I'm
4 really saying to the Panel, I guess, is don't...

5 THE CHAIRPERSON: H'm.

6 Mr. JERRY ACKERMAN: And all I'm saying
7 it to whoever is concerned with this Proponent's idea.
8 Don't depend on the NAFTA Tribunals to look after our
9 environment.

10 THE CHAIRPERSON: Okay. Thank you.
11 Anyone else? Okay. It appears not. If there are no
12 further questions, then we will be breaking now until 2:00.
13 At 2:00, we'll have a presentation by Natural Resources,
14 the Department...

15 UNIDENTIFIED MALE: Yes.

16 THE CHAIRPERSON: Yeah. From U.S...
17 From the Nova Scotia Department of Natural Resources, and
18 then there are a series of other presentations following
19 that, so we'll see you at 2:00.

20 --- Recess at 11:53 a.m.

21 --- Upon resuming at 2:00 a.m.

22 THE CHAIRPERSON: Ladies and gentlemen,
23 we will begin this afternoon session.

24 This afternoon, there will be several
25 presentations.

1 There will be a presentation of the Nova
2 Scotia Department of National Resources beginning at 2:00,
3 and at 3:00 we will then go into several presentations by
4 Dianne Thériault, Climate Action Now, Sister Barbara and
5 Sister Bonnie, and the Chamber of Mineral Resources of Nova
6 Scotia.

7 It's my understanding from my notes here
8 that the Nova Scotia Department of Natural Resources said
9 there were five of you? Mark Elderkin, Peter Neily, Mike
10 MacDonald, Don Jones, and Hugh Gillis, and that Hugh Gillis
11 will start off, is that correct?

12 Maybe you can identify yourselves for us
13 please.

14 Mr. HUGH GILLIS: I'm Hugh Gillis.

15 THE CHAIRPERSON: Well if you're going to
16 start off, where are you... Where are we going to put you?
17 Maybe we could just pull up a chair alongside or something?
18 Okay.

19 It doesn't seem fair to leave you over
20 there. Okay. So you are Hugh Gillis, and...

21 Mr. DON JONES: Don Jones.

22 THE CHAIRPERSON: Don Jones.

23 Mr. MIKE MacDONALD: Mike MacDonald.

24 THE CHAIRPERSON: Mike MacDonald.

25 Mr. MARK ELDERKIN: Mark Elderkin.

1 THE CHAIRPERSON: Thank you very much.
2 Okay. So please, begin. By the way, in case... This is Dr.
3 Muecke who is an earth scientist, and this is Jill Grant,
4 she is a planner, and I am Robert Fournier, and I am an
5 oceanographer by training.

6 And the Proponent is over here, and
7 that's Mr. Buxton on the far right.

8 **PRESENTATION BY THE NOVA SCOTIA DEPARTMENT OF NATURAL**
9 **RESOURCES - Mr. HUGH GILLIS**

10 Mr. HUGH GILLIS: I'm only doing the two,
11 three first slides to set the context for the Department's
12 presentation today.

13 DNR has broad responsibilities relating
14 to the management of forest, mineral, parkland, wildlife
15 resources and the administration of the Province's Crown
16 land, and in the management...

17 Our definition of management includes
18 resource conservation, protection and development.

19 One of our presenters today is Mark
20 Elderkin, which you have already met, and he's a Species-at-
21 Risk Biologist, and he will be speaking on environmental
22 effects on rare and potentially at-risk terrestrial species
23 known to exist to the proposed quarry site.

24 Peter Neily, our Senior Forester with
25 the Department, ecosystem management, speaking to forest,

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1 forest ecology and buffer zones.

2 Mike MacDonald is the Director of
3 geological services for the Department, speaking on
4 alternative quarry sites on North Mountain, potential
5 alternate quarry sites along the Nova Scotia coastline.

6 And Don Jones, Director of Mineral
7 Development and Management for the Department, and he will
8 be speaking on resource royalties fees and reclamations.

9 And each of these subjects the speakers
10 are presenting are issues, are areas that we have been asked
11 to present by the Panel. So now I'll turn over to Mark
12 Elderkin.

13 THE CHAIRPERSON: Gentlemen, with five of
14 you or at least with four presenters, we're going to try
15 really hard to keep this to about 30 minutes, are we?
16 Because we would want to ask questions, so...

17 Mr. HUGH GILLIS: Sure. Mark?

18 **PRESENTATION BY THE NOVA SCOTIA DEPARTMENT OF NATURAL**
19 **RESOURCES - Mr. MARK ELDERKIN**

20 Mr. MARK ELDERKIN: Good afternoon. The
21 Nova Scotia Department of Natural Resources strives to meet
22 our commitments to the National Accord for the Protection of
23 Species at Risk that was put forward by the Ministers in
24 1996.

25 The National Accord makes very clear

1 explicitly that:

2 "...the lack of full scientific
3 certainty must not be used as a reason
4 to delay measures to avoid or minimize
5 threats to species at risk."

6 And the language of the Accord is echoed
7 in both the **Federal Species at Risk Act** and the **Nova Scotia**
8 **Endangered Species Act**.

9 And I'm not moving here gentlemen.
10 Okay. Manually maybe.

11 In the absence of listings under laws,
12 the status of species are assessed in Nova Scotia using the
13 Nova Scotia General Status of Wild Species, which is an
14 expert based system assessment process.

15 There are about 200 some species known
16 to be at risk that are flagged as red (known or believed to
17 be at risk), and other status categories of the system
18 include yellow (systems that are sensitive to human
19 activities or natural events), green species (known to be
20 secure) and extirpated species (no longer known to exist in
21 Nova Scotia).

22 The species listed under laws and those
23 identified under the Nova Scotia General Status of Wild
24 Species are regularly part of the pre-screening process in
25 environmental assessment review.

1 Next slide please.

2 Hundreds of species were considered in
3 the Whites Point screening and their potential occurrence
4 investigated on site through field inventories.

5 Despite one of the most exhaustive
6 taxonomic screenings we have yet seen in an environmental
7 assessment in Nova Scotia, no species listed under the
8 **Federal Species at Risk Act** or **Nova Scotia Endangered**
9 **Species Act** were found inextricably associated with
10 terrestrial habitats on the proposed development site.

11 I say that, but with qualification.
12 Adult Monarch Butterflies were found, but we know from last
13 year that it was an exceptional year for these butterflies
14 and that they were actually very, very widespread, and their
15 presence really is not inextricably related probably to any
16 feature, singular feature of habitat here.

17 Next slide please.

18 Three species that were identified under
19 the General Status Assessment Process were Glaucous
20 Rattlesnake Root. This is known actually from two historic
21 occurrences in the Province, both known from about 50 or
22 more years ago and never re-found.

23 So as such, the site on the Whites Point
24 Quarry is the only known extent site at this time.

25 Mountain Sandwort, which is a sensitive

1 plant to human activities, natural events. This plant,
2 although it is more widespread in Canada, it is actually
3 known from a hand full of sites in the Province, about 10 in
4 total number, and it is one of the plants actually featured
5 in the Limestone [inaudible] of Newfoundland, an endangered
6 habitat in that province.

7 Hemlock Parsley is actually... In light
8 of new information that we have, it's far more common than
9 we had originally thought when the status was put forward,
10 and so as such we have not carried this forward into our
11 recommendations to the Panel.

12 Next slide please.

13 So the recommendations as originally
14 proposed was that the Proponent provide a 100-metre buffer
15 to protect the coastal zone where rare Rattlesnake Root and
16 Mountain Sandwort were known to occur.

17 Our earlier recommendations to the Panel
18 suggested that the buffer could be lessened based on some
19 results of monitoring put in place, but since that time, on
20 consideration of the site, we would suggest that the 100-
21 metre buffer should be maintained to maintain the sensitive
22 coastal barrence and the integrity of the habitat necessary
23 to the persistence of these plants.

24 We also recommend that monitoring be
25 undertaking at three-year intervals to ascertain what if any

1 impacts the development may pose to rare plants, and what
2 further mitigation may be required.

3 Thank you.

4 **NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES - Mr. PETER**
5 **NEILY**

6 Mr. PETER NEILY: At Whites Cove, the
7 harsh environment is reflected in the forest communities
8 dominated by White Spruce, Balsam Fir, White Birch and
9 Mountain Ash.

10 There's also a diverse understory of
11 woody shrubs, herbs and mosses.

12 Both species diversity and growth are
13 limited primarily by the climatic influences coming from the
14 Bay of Fundy.

15 This cool moist climate is not conducive
16 to tree species, usually associated with the Acadian forest
17 such as Red Spruce, Hemlock, White Pine, Sugar Maple, Yellow
18 Birch and Beech.

19 On much of the Project site, forest
20 communities reflect past settlement and landings for use
21 such as pasture.

22 When abandoned, these fields tend to
23 reforest to White Spruce and Balsam Fir.

24 The soils of Whites Cove and for most of
25 Digby Neck are influenced by the underlying basalt. They

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1 are inherently nutrient rich and have a high pH value
2 compared to most forest soils in the Province.

3 In a less harsh environment, they would
4 be very productive and support above-average tree growth.

5 The soils are quite variable in depth
6 throughout the Project site, ranging from a few centimetres
7 to over a metre.

8 Many areas are also bare of soil with
9 nothing covering the bedrock but lichens and low woody
10 shrubs. These soils are organically rich and therefore have
11 significant carbon reserves.

12 The reclamation of the project site will
13 have a better chance of success if existing forest and plant
14 communities are reestablished.

15 The choices of which community to
16 reestablish will be dependent on soil depth and drainage,
17 compaction of the returning soil and stoniness.

18 Native species, and in particular
19 species adapted to the severity of the local climate, are
20 preferred.

21 Some off-site species of ground coverage
22 may be effective in the short term for soil stabilization,
23 but these will eventually be replaced by native grasses and
24 sedges.

25 It is possible that on some sites,

1 native grasses, herbs and shrubs will be quite aggressive in
2 their re-colonization of the site to the detriment of other
3 native species of herbs and shrubs.

4 Red Spruce, White Ash and other tree
5 species such as Beech and Yellow Birch, will have difficulty
6 establishing on this site, and are not suggested for re-
7 forestation.

8 Seed trees left on the Project site will
9 most likely blow down. If sufficient numbers of seed trees
10 such as White Spruce and White Birch are at an adjacent
11 stance to the quarry, these will be a good seed source.

12 White Spruce may need to be planted on
13 some parts of the Project site due to large distances from
14 seed source.

15 The reclamation of forest soils now.
16 Nutrient additions and liming will provide little benefit
17 for tree establishment and growth.

18 As I said, these soils are really quite
19 rich, and it's the environment that is really the limiting
20 factor to plant and tree growth.

21 Fertilization may provide some short-
22 term benefit when re-seeding to grasses and forage sedges to
23 help with soil stabilization.

24 Soil depths greater than one metre are
25 seldom utilized by trees or plants and on this site, the

1 active rooting depth seldom exceeds 50 centimetres. White
2 Spruce and Balsam Fir are shallow-rooted species on the best
3 of sites.

4 Proper handling of the topsoil would be
5 critical in maintaining soil carbon and nutrient levels.

6 The Province has no regulations
7 regarding buffer strip widths between properties. At Whites
8 Cove, buffer stability will be a function of soil depth and
9 moisture, trees species and exposure.

10 For most of the Project site, 50 metres
11 should be satisfactory to maintain buffer integrity. Where
12 hazards are extensive, a wider zone could be considered.

13 Blow down on exposed sites, on exposed
14 edges, should still be expected.

15 **PRESENTATION BY THE NOVA SCOTIA DEPARTMENT OF NATURAL**
16 **RESOURCES - Mr. MIKE MacDONALD**

17 Mr. MIKE MacDONALD: I will be talking
18 about potential alternate sites for setting a basalt quarry
19 on the North Mountain.

20 The North Mountain extends from Cape
21 Split to Brier Island, a distance of approximately 200
22 kilometres.

23 And it's this highland area shown here
24 which forms the north side of the Annapolis Valley.

25 Do I just click here Don?

1 Mr. DON JONES: Yeah.

2 Mr. MIKE MacDONALD: There was a recent
3 geological mapping project that was undertaken as part of
4 the geo-science programs with the Geological Services
5 Division of the Natural Resources for the last number of
6 years.

7 It was conducted by a former colleague,
8 Dr. Dan Kontak, and it revealed that there is a series of
9 Units within the North Mountain, what Dan referred to as the
10 Upper, Middle and Lower flow Units, and he recognized on the
11 basis of his extensive fieldwork that both the upper Flow
12 Unit and the Lower flow Unit consist of massive basalt
13 flows, which at first glance appear to be suitable for use
14 as aggregate.

15 However, I caution that the only way to
16 establish that unequivocally would be to sample extensively
17 and submit those to a rigorous series of standardized
18 tests.

19 The Middle Flow Unit is generally not
20 suitable as an aggregate source.

21 Oops! How do I go back? Okay. All
22 right. Here we go.

23 Here are field shots of typical
24 exposures of the Upper Flow Unit, on the left showing the
25 massive nature of the basalt. You'll notice the cracks.

1 This is looking down vertically on an outcrop.

2 These are shrinkage cracks that form
3 during the cooling of the basalt, and those form columnar
4 joints.

5 The unit in the middle, it's a bit hard
6 to see in this photo but there are a number of zeolites,
7 which are secondary minerals that fill in gas bubbles within
8 the flows in the Middle Flow Unit.

9 The Middle Flow Unit consists of a
10 number of individual flows ranging in thickness from
11 approximately a couple of metres to greater than 10 metres
12 in thickness. There would be the top of one flow there and
13 the next flow above.

14 These rocks as well show evidence that
15 they have been exposed to hydrothermal or hot water after
16 their cooling, and in general these Middle Flow Units tend
17 to be quite fractured and not suitable for use as a crush
18 stone aggregate source.

19 The photo on the lower right is the
20 Lower Flow Unit, and it once again shows that it is a fairly
21 massive basalt flow with extensive development of columnar
22 joints.

23 This is a digital elevation model or
24 essentially a digital topographic map if you will of the
25 area.

1 Just to the west, there's the town of
2 Digby that we've got here. It's showing a detailed portion
3 of the North Mountain.

4 The point to be made here is that the
5 break between the Upper Flow/Middle Flow and the
6 Middle/Lower Flow is generally marked by breaks in
7 topography, so it's possible to map out the extent of these
8 individual basalt flows by combining fieldwork, where you go
9 and check the individual outcrops, and also combining that
10 with the use of these digital elevation models.

11 The other point to be made from this
12 slide is that all these three basalt flows, the Upper,
13 Middle and Lower, tend to dip out underneath the Bay of
14 Fundy at a fairly shallow dip of about three to five
15 degrees.

16 It's a bit hard to see, but I hope you
17 guys can follow this.

18 This is a series of geological maps
19 starting with Brier Island, up to Digby, then starting from
20 Digby up to just about beyond Middleton, and then once again
21 beyond Middleton up to Cape Split.

22 These maps show the distribution of the
23 Upper Flow, Middle Flow and Lower Flow Units in those
24 various regions of the North Mountain.

25 One point to be made here is that

1 starting at about Port George, just to the west of
2 Middleton, from there down with a few exceptions where you
3 don't have Upper Flow Units, you generally have all three,
4 Upper, Middle and Lower Flow Units extending all the way
5 from Brier Island up to Port George.

6 The Upper Flow and the Middle Flow...
7 Sorry, the Upper and the Lower Flow Units, which I said
8 before were massive, are approximately similar in width and
9 the Middle Flow Unit is quite narrow throughout there.

10 That changes at about Port George and
11 extending off to the east and up to Cape Split, where the
12 Middle Flow Unit becomes much wider.

13 Now as you'll recall, this is the Unit
14 that is not suitable in general as a source rock for
15 aggregate.

16 So in general, the rocks to the west of
17 Port George near the deep water tend to have suitable
18 composition.

19 The approximate location of the Whites
20 Point Quarry is shown on the red star.

21 So in terms of evaluating alternate
22 sites along the North Mountain, firstly you would have to
23 look at the suitable basalt types, and obviously from what
24 we've seen just briefly here, Upper and Lower Flow are the
25 good candidate units.

1 Clearly, you want sufficient elevation
2 topography so that it can reduce the size of the footprint
3 of your operation, and also sufficient water depth.

4 And it appears from the charts that
5 there is sufficient water depth generally from the area of
6 Port George down and around and into Saint Mary's Bay.

7 So if you combine all of those pieces of
8 information, I would submit that there are potential sites
9 in the red arrows here, but I would caution again that in
10 order to establish whether or not those areas are suitable
11 for sighting an alternate quarry, you would have to do
12 extensive work to evaluate the quality of the rock and
13 submit those to standardized tests.

14 The second question that was posed was
15 are there alternate aggregate sites along the Nova Scotia
16 coast line?

17 This is a generalized geological map of
18 Nova Scotia. Each of these colours represents either a
19 specific rock type (for example pink would be granite), or a
20 series of rock of similar age (for example here we have the
21 basalt of the North Mountain and the adjoining sedimentary
22 rocks of the Annapolis Valley).

23 So one of the points is that there is a
24 very diverse geology in Nova Scotia as you can see from the
25 variation or the variety of colours, each of those

1 reflecting slightly different types of rocks.

2 Now in terms of evaluating whether there
3 were alternate aggregate sites along the coast of Nova
4 Scotia, I think it's germane to say what the potential
5 markets for the aggregate might be.

6 I went to a recent U.S. Geological
7 Survey publication to look at the type of aggregate that is
8 currently consumed or was consumed this past year and this
9 year in the States, and the vast majority is limestone and
10 dolomite, shown here in green, for about 70 percent; granite
11 is about 16 percent; traprock, which is essentially basalt,
12 a little more than 7 percent; and then others, all other
13 rocks including marble, slate, some types of volcanic rocks,
14 quartzite and other mixed rocks, constitutes about 7
15 percent.

16 So in looking at the geology of Nova
17 Scotia, the first rock, if you look at limestone and
18 dolomite sources, the only major or large deposits of those
19 types of rocks we have in Nova Scotia are in Cape Breton,
20 and generally they are landlocked and quite far away from
21 tidal water.

22 It would be required to truck those to
23 deep water ports, so the economics, at least at the moment,
24 I submit would not support development of those as potential
25 sites.

1 These red bars are suitable granite
2 deposits that could be used as possible sources. The areas
3 in southern Nova Scotia, Wedgeport, Barrington, Shelbourne,
4 et cetera. Although the water depths in this area are quite
5 shallow and also there is limited relief, the majority of
6 the rocks shown in this large granite body here are quite
7 coarse grained and appear to be unsuitable, based on the
8 testing that our Department has done, for aggregate.

9 Although there is a small body here
10 along the coast of Saint Margarets Bay, but that area is
11 heavily developed.

12 There are suitable looking rocks in the
13 area Canso, and also there is sheltered harbourage here.

14 There are suitable-looking granites both
15 near the Forchu area, and up along the northern tip of Cape
16 Breton, but those are quite exposed coastlines, so they
17 would be subject to storms.

18 There's the rocks at Kelly's Mountain,
19 and there's a former rock quarry at Georgeville, near
20 Antigonish.

21 We have seen or we have looked at the
22 North Mountain. There are other traprock or basalt sources
23 in Cape d'Or and Five Islands, but those are heavily
24 developed as tourist destinations, and I think any
25 development there would be problematic.

1 And finally, in the Halifax area, where
2 approximately 300 tonnes of aggregate is consumed yearly,
3 the source rock for those...

4 There are a series of quarries that are
5 sighted in this light yellow rock unit, which are
6 metamorphose quartzites or metamorphose sandstones
7 basically.

8 There are similar exposures of those
9 rocks along the coast. Once again, shallow water down in
10 the southwest part of the Province, and along the eastern
11 shore. Those might pose some potential sites as well.

12 Along the exposed coast, you would have
13 to find safe harbourage and also, the topography is quite
14 low.

15 **PRESENTATION BY THE NOVA SCOTIA Department OF NATURAL**
16 **RESOURCES - Mr. DON JONES**

17 Mr. DON JONES: I'd like to spend some
18 time talking about reclamation plans not specific to this
19 quarry proposal, however I submit to the Panel what is
20 coming to be leading practices in mine closure and
21 completion on an international basis.

22 Sustainable reclamation initiatives have
23 become quite a significant issue dating back into the '80s
24 and early '90s, and in 1998, nine of the largest mining
25 corporations internationally formed what became known as the

1 Global Mining Initiative.

2 That Global Mining Initiative worked for
3 a period of three years and put out a final document which
4 was called: "Breaking new ground".

5 What they had said at the start of their
6 deliberations was that they recognized that a substantial
7 cultural shift was needed if mining and metals industry was
8 to prosper into the future.

9 From the Initiative evolved the
10 International Council of Mining and Metals developing a
11 series of sustainable development framework as well as ten
12 sustainable development principles.

13 The Mining Association of Canada has in
14 essence adopted those principles, and in 2005, they
15 developed what they refer to as: "Towards a sustainable
16 mining initiative".

17 This includes not just reclamation, this
18 is a general initiative to encourage future development of
19 mines that will address socio-economic environmental
20 reclamation as a part of the environmental ongoing issues
21 that face the industry worldwide.

22 The initiative of the Mining Association
23 of Canada really is focussing on tailings management, energy
24 issues and the External Outreach Initiative as well as
25 crisis management.

1 The Minerals Council of Australia in
2 2003 made a formal adoption of the SDP out of the
3 International Council of Mining and Metals, and in 2004
4 published a substantive document which they refer to as:
5 "The Enduring Value - The Australian Minerals Industry
6 Framework for Sustainable Development".

7 A byproduct of that was the production
8 of: "Leading practises", and they published 14 handbooks on
9 that.

10 One of these handbooks I submit to the
11 Panel is an exceptional document that is called: "Mine
12 closure and completion", and it's going to be the essence of
13 my presentation. I would like to go through it.

14 The Mining Council of Australia Mine
15 Closure and Completion document made two fairly interesting
16 statements upfront, which were:

17 "The future of the mining industry is
18 dependent on the legacy it leaves."

19 And secondly:

20 "To gain access to future resources, it
21 needs to demonstrate that it can
22 effectively close mines with the support
23 of the communities where it operates."

24 It identifies a series of objectives,
25 strategies and activities, which I'd like to quickly

1 summarize.

2 One of the first statements about the
3 closure and completion plan of any mine is that the initial
4 reclamation plan, which is a part of the submission in the
5 environmental assessment document, is really conceptual at
6 this stage of the Project.

7 "The plan requires continuous collection
8 of data and information. It is
9 considered to be a living document to be
10 continuously reviewed and revised with a
11 formalized updating process.

12 The responsibility for the plan must be
13 assigned to a closure committee, which
14 comprises regulators, the company and
15 community representatives, and that
16 needs to be active throughout the life
17 of the mine."

18 The objectives of the mine closure and
19 completion initiative should be first of all:

20 "...to ensure stakeholders' interests
21 are considered in the development of the
22 closure and completion plan. The
23 closure must be done in an orderly,
24 cost-effective and timely manner.
25 Closure costs must be disclosed in

1 company accounts."

2 That's a very interesting initiative,
3 that the liability of reclamation is updated on an annual
4 basis and is disclosed as a liability in... Especially for
5 publically trade companies, it's a very important one.

6 I would submit to the Panel, and I've
7 tried to put this forward to the Mines Ministers in Canada,
8 but I would love to see project by project and line by line
9 accounting the liabilities for reclamation in annual
10 reports.

11 Then:

12 "The company establishes accountability
13 and financial resources for closure and
14 completion."

15 So if they have the liability, they
16 should need to identify how they're going to address that
17 liability in their annual reporting.

18 And:

19 "A fundamental principle is that
20 liability cannot default to the
21 community or the government for this
22 mine development enclosure initiative."

23 A very important aspect of the closure
24 objectives would be that you need to establish clear
25 criteria for satisfactory closure and completion.

1 There needs to be a clear vision of how
2 the closure of this mine is going to be completed.

3 And the strategies for arriving to
4 these, first of all:

5 "The company should formalize a policy
6 on mine closures that's adopted by its
7 Board of Directors and is the
8 responsibility of the Board of
9 Directors."

10 That policy, according to the Minerals
11 Council of Australia:

12 "...should incorporate a stakeholder
13 engagement, environmental minimization
14 of risk as a part of that strategy and
15 policy, meeting regulatory requirements,
16 social and community aspirations in the
17 closure of the site, and continuous
18 improvement to the plan set up through
19 a closure team; company-specific
20 framework for closure that provides
21 standards, and principles, and
22 objectives, and criteria, so there's no
23 misgiving about what the final site is
24 going to be."

25 And another strategy is that:

1 "The company must continually collect
2 data and information, and conduct
3 analysis for the closure improvements
4 that are updated on a regular basis.
5 The activities incorporated into a
6 closure and completion plan should
7 incorporate, through the life of the
8 mine, progressive reclamation.
9 Secondly, removal of structures, unless
10 there's a future use for that structure
11 (post-mining), they should reshape post-
12 closure mining land forms to represent
13 the final land forms in the closure
14 plan.
15 The completion of rehabilitation should
16 be to regenerate suitable vegetation and
17 land use features for the future use.
18 Monitoring and measurement to agreed
19 standards must be incorporated post-
20 reclamation for a sustainable length of
21 time to demonstrate that what has been
22 created from that closure is
23 sustainable.
24 There should be consulting and reporting
25 to stakeholders, and there should be

1 progressive Government and community
2 sign off as the closure initiatives are
3 completed."

4 The second aspect of the request from
5 the Panel was to discuss royalties and fees. I wanted to
6 give a quick background of the current situation on
7 aggregates in Nova Scotia, alternatives for production of
8 production-based royalties, and a quick overview of other
9 jurisdictions.

10 Aggregates are... Let's start off with
11 minerals. Minerals are vested in the Crown, and they are
12 administered under the **Mineral Resources Act**. Through the
13 **Mineral Resources Act**, we collect annual fees for exploring
14 of these mineral, an annual rental, if we lease the minerals
15 for production, and subsequently royalty on the production
16 of minerals that is, that are vested in the Crown. Those
17 are often referred to as mining taxes.

18 The aggregate or basalt, as the subject
19 of this proposal, is not a mineral. It is owned by the
20 landowner. DNR, as the Administrator of Crown land, does
21 charge a production royalty for aggregate produced on Crown
22 lands.

23 Newfoundland has a piece of legislation
24 that is referred to as the **Quarry Materials Act**. Now a
25 substantial portion of the lands in Newfoundland and

1 Labrador are owned by the Crown, so therefore it does take
2 control over a substantial portion of the land mass of the
3 Province of Newfoundland and Labrador.

4 They issue quarry permits and leases of
5 quarry on Crown land. There's a royalty payment of Crown
6 aggregates, as in Nova Scotia, and there's a series of
7 inspectors, and they must submit reclamation plans to
8 accompany these permits.

9 In Ontario, there's an **Aggregate**
10 **Resources Act**. Now in Ontario, there is an aggregate
11 resources trust set up under this **Resources Act**. The
12 initiative there is to reclaim a large number of older
13 quarries that sit around, especially southern Ontario, from
14 the use of these aggregate pits in the past.

15 And these operators will pay, whether
16 it's on Crown or private lands, an annual aggregate license
17 fee.

18 In addition that, on Crown land
19 aggregate resources, they also pay a dollar, so many... An
20 amount per ton for the use of Crown aggregates. And again,
21 that is a Crown aggregate royalty as Newfoundland charges;
22 as Nova Scotia charges on Crown lands.

23 Similarly, there are inspectors and
24 reclamation plans associated with those pieces of
25 legislation.

1 Alternatives to tax the aggregate
2 production in Nova Scotia, we could implement an aggregate
3 tax legislation.

4 We currently have one specific piece of
5 legislation to impose a tax on gypsum. Gypsum is not a
6 mineral as defined under the Mineral Resources Act.

7 In consultation with the producers, a
8 Gypsum Tax Act was imposed, and from that we collect a
9 revenue to the Province from gypsum, even though it is not a
10 mineral.

11 A limited domestic consumption of gypsum
12 is another factor to consider here. If for instance we did
13 impose a tax on aggregates, it would not only affect the
14 cost of aggregates going offshore and generate some revenue
15 through export, but we would also be increasing the cost of
16 aggregate within Nova Scotia, the cost of construction, the
17 cost of road building, everything would go up by the amount
18 of that royalty.

19 An alternative would be to maintain the
20 status quo. I just thought we'd summarize quickly here to
21 show that the industry is a major contributor to the economy
22 of the Province through taxation and fees.

23 Federal income tax, approximately 20
24 percent, and the income tax from the Province, these are
25 levied on the profits of the company. Not the revenues, but

1 the profits.

2 For aggregates, certainly there we will
3 not be... Under the current regime, there is no royalty
4 unless it's on Crown land. There's a Municipal property tax
5 imposed, sales tax of 14 percent, a capital tax in the
6 Province, which I haven't put an amount on because it
7 depends on the Project, but it's a real tax and two
8 substantial taxes that are put on fuels.

9 Fuels is a major energy source for the
10 industry through its use of heavy equipment. Right now,
11 every tractor that never touches the highway, every piece of
12 off-highway haulage equipment is paying 15.4 cents per litre
13 as a contribution to the Nova Scotia road tax. It is also
14 paying a Federal excise tax for motive equipment, or motive
15 vehicles that are presumably using highways.

16 Consequently, it is a major contributor
17 from that perspective. One operator in the Province I'm
18 aware of spends in excess of three and a half million
19 dollars a year on fuel, and that contributes to the economy
20 through its road tax.

21 Fees, and I haven't put numbers, but
22 there's the Environmental Assessment fees, Worker
23 Compensation fees, and a multitude of other fees, so I
24 submit that the industry does make a significant economic
25 benefit to the Province. Thank you.

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)1 NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES - QUESTIONS BY
2 THE PANEL

3 Mr. GUNTER MUECKE: Thank you. I think
4 we would like to start our questions, starting and basically
5 working through the sequence that you have just presented.

6 And so first of all, my questions are
7 addressed to Mark Elderkin regarding the species under
8 consideration, the listed species.

9 Now, in your presentation, you indicated
10 that the Department feels that a 100-metre buffer zone to
11 protect these species is desirable, so I have a couple of
12 questions about that.

13 One of them, the three listed species of
14 vascular plants on the property that we are considering
15 here, all of these occur within the coastal strip and occur
16 exclusively in the coastal strip?

17 Mr. MARK ELDERKIN: Two of them do, yes.
18 The third one is actually, I believe, just up off the
19 coastal strip, but it's certainly considered part of the
20 sensitive habitat, yes. Yeah.

21 Mr. GUNTER MUECKE: And that third one
22 you're talking about, would it be in the---

23 Mr. MARK ELDERKIN: Has to...

24 Mr. GUNTER MUECKE: ---100-metre strip or
25 the 30-metre strip?

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 Mr. MARK ELDERKIN: I think the third one
2 is captured in the 30-metre strip. The Hemlock Parsley is
3 really to be verified.

4 That's the third species that I really
5 didn't talk about at length. It's really not as high a
6 conservation concern as when it was initially assessed by
7 the General Status Review Committee, and hence why I did not
8 refer to it within the context of the development zone.

9 Mr. GUNTER MUECKE: Thank you. And so
10 how far from the shoreline do these plants actually occur?
11 And my question...

12 The reasoning behind my question is in
13 terms of actual protection, what we're looking at is the
14 occurrence of the plant from the shoreline, and then it is
15 the---

16 Mr. MARK ELDERKIN: Yes.

17 Mr. GUNTER MUECKE: ---additional portion
18 of the buffer, okay, that---

19 Mr. MARK ELDERKIN: Yes.

20 Mr. GUNTER MUECKE: ---would be
21 effectively protecting it, right?

22 Mr. MARK ELDERKIN: Yes.

23 Mr. GUNTER MUECKE: So could you give me
24 some idea?

25 Mr. MARK ELDERKIN: Yes. Well, first of

1 all what I'd say to you is as is true, many of the rare
2 plants that we have here in Nova Scotia, many of them are
3 just junk. They're basically elements of flora from
4 elsewhere, you know, to our south, to the west or north, and
5 as such, most of them live in fringe habitats where
6 basically they're very, very poor competitors with other
7 species.

8 The actual slide that I showed with...
9 One of the slides shows the Mountain Sandwort growing along
10 the upper margin of the basalt, and quite interestingly,
11 right where the mineral soil sort of starts to come down to
12 meet that basalt, the Sandwort is strung out in a very, very
13 narrow band along the edge of that, and it's basically again
14 because it's sensitive to competition from other plants, so
15 it manages to persist sort of on the edge, if I can say it
16 that way.

17 And that's true, actually, of the
18 Rattlesnake plantain, too. Very poor competitor, so any
19 invasive species, any disturbance to the soils, anything
20 that would alter the hydrological regime on there probably
21 would have some negative consequence to their long-term
22 persistence.

23 Mr. GUNTER MUECKE: Thanks. Which
24 actually sort of is a lead into my next question I had,
25 which was that in terms of protecting these plants over the

1 their survival would be problematic?

2 Mr. MARK ELDERKIN: It could be.

3 Basically, what.. We're suggesting that the 100-metre
4 buffer would start at the highwater mark, the normal
5 highwater mark, and then towards the inland, but the... You
6 know, the absolutism, I'll call it, of numbers on buffer
7 widths is quite a quasi-science really.

8 But this represents basically the
9 consensus from most botanists that I've talked to about this
10 plant, and other plants that we have. It's felt that, you
11 know, it's... Really, it's just to err on the side of
12 caution.

13 Mr. GUNTER MUECKE: Okay. And just so
14 I'm absolutely clear on this, the 100-metre buffer zone that
15 you would like to see is extends along the whole coastline,
16 and not just around the areas where the plants have actually
17 been---

18 Mr. MARK ELDERKIN: That's...

19 Mr. GUNTER MUECKE: ---established?

20 Yeah.

21 Mr. MARK ELDERKIN: That's correct, and
22 the thought is there, again, is that the absence of plants
23 does not necessarily exclude their long-term persistence or
24 their ability to pioneer into those new suitable habitats
25 that clearly are visibly apparent. You know, they look the

1 same.

2 But you'll notice actually with the
3 slide again that I showed on that buffer, there actually is
4 a gap, and it interestingly corresponds quite well with
5 where, I believe, the terminal pathway is there, that you
6 know, would gain access to the shore.

7 So the important thing would be that on
8 both sides of where that access to a terminal would be, is
9 that foot access, any kind of access, ATVs, all of that, is
10 controlled on some strict level.

11 Mr. GUNTER MUECKE: Thank you. Going on
12 to something slightly different, you have seen Bilcon's
13 final surveys, and they were limited to four days in June
14 2002, and then a revisit of the area in June 2004 to look at
15 nesting birds.

16 In the context of an ecosystem approach,
17 which is what the Guidelines was asking for, how would you
18 evaluate that effort? Is that sufficient to implement an
19 ecosystem approach to management of the fauna and of the
20 flora?

21 Mr. MARK ELDERKIN: Well, what I would
22 say is back to the original process that was applied by
23 Bilcon and all EA Proponents in the Province, we asked them
24 to do what I call a desktop pre-screening for species.

25 And so basically what that means is they

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 go through all the databases that we have available through
2 our Department, and other sources as well outside. And they
3 search in that search thousands of species.

4 After they get through that first cut
5 we'll call it, they come out with a list of perhaps 300 or
6 400 potential species that might be within say a
7 100-kilometre buffered area around the proposed site.

8 And then from there, they look at the
9 actual physical types of the habitat that occur within the
10 area of proposed for development, and then based on the
11 competence and expertise of those individuals who would do
12 the surveys, prioritize those within the appropriate
13 phenological lines or timelines of when these plants and
14 animals are most readily detected and availed.

15 So from what I have seen, to be fair and
16 totally impartial, I was very impressed with the level of
17 rigour for all the taxonomic groups of organisms considered
18 in this EA, and to be frank, it's one of the best that I've
19 seen thus far, and birds included.

20 I'm sure Environment Canada will have
21 some comments to make on that, but certainly as to the other
22 array of organisms considered, you know, they had very, very
23 high calibre expertise, and great attention to that
24 phenological consideration and timing of the inventories as
25 well.

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 So I don't know if that helps your
2 question, but...

3 Mr. GUNTER MUECKE: Yeah. I guess so.
4 An ecosystem has a temporal dimension, right?

5 Mr. MARK ELDERKIN: Yes.

6 Mr. GUNTER MUECKE: And where my
7 difficulty comes in is if you're talking, in both cases,
8 June, you're talking basically one... And in terms of 50
9 years, you're looking at one point in time.

10 Mr. MARK ELDERKIN: Yes.

11 Mr. GUNTER MUECKE: And how that one
12 point in time can capture the temporal dimensions,---

13 Mr. MARK ELDERKIN: Yes.

14 Mr. GUNTER MUECKE: ---that's the part
15 I'm having problems with.

16 Mr. MARK ELDERKIN: Just specifically
17 though, so I'm clear, just for birds? Is that really what
18 you're...

19 Mr. GUNTER MUECKE: No, that includes
20 birds, and mammals, amphibians, et cetera.

21 Mr. MARK ELDERKIN: Yeah.

22 Mr. GUNTER MUECKE: Yeah.

23 Mr. MARK ELDERKIN: There's no question
24 that there's some variability in terms of the numbers of
25 these organisms, and plants in particular. Another EA that

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1 we've been or that I've been involved with actually found a
2 very rare orchid in it, and when it was found, the numbers
3 of that plant were very, very low.

4 Well, over five years or three years
5 now, I guess, of monitoring, it's become clear that the
6 plant is even more abundant. It fluctuates annually
7 basically, over time.

8 But I guess what I would say to you is
9 that notwithstanding that degree of fluctuation, most of the
10 organisms that are considered within these EAs, I can't
11 imagine that given the level of expertise that was brought
12 to this one, and many of the other ones that I regularly
13 review, that it would be a rare thing that those would...
14 that the real rare elements would be missed with that level
15 of rigour in terms of the inventory. Does that help you
16 any?

17 Mr. GUNTER MUECKE: Thank you. And since
18 we're on this line of questioning, I would ask my colleagues
19 whether they have questions.

20 Ms. JILL GRANT: Yes, I have a couple
21 questions on this. Mr. Elderkin, can you comment on the
22 ecological significance of these plants that are available
23 on the site?

24 Mr. MARK ELDERKIN: Yes. The... One of
25 the most interesting things about two plants, these two

1 plants, Prenanthes or a Rattlesnake, Glaucous Rattlesnake
2 Root, is that it's...

3 Typically, where it's found in Canada
4 and in North America, it's a prairie plant, and it's a
5 tall-growing prairie plant, and here it's a very short
6 plant. It has a totally different growth form than it does
7 elsewhere in the normal core part of its range.

8 One of the things that we're learning as
9 we go through, you know, the experience of conservation and
10 science brought to bear with that is that it's those fringe
11 elements of populations that sometimes are the most
12 important. It's not necessarily the core in the event of a
13 disaster, or whatever.

14 It's those irregular survivors that
15 persist on the fringes that basically have that genetic
16 diversity and predisposition to sometimes move through very
17 stressful environmental sets of circumstances.

18 So that's what I would say is true of
19 both of Mountain Sandwort and this plant, and the
20 Rattlesnake Root is that that's what they're are.

21 They're fringe dwellers in terms of
22 their distribution here, and they are common elsewhere in
23 certain parts of their range.

24 Ms. JILL GRANT: Thank you. And if you
25 were a betting man, would you bet that they would still be

1 able to survive all right through to decommissioning with a
2 100-metre buffer in place?

3 Mr. MARK ELDERKIN: I will qualify that
4 with saying that I assess risk for species in terms of all
5 kinds of components, but I would suggest that they probably
6 would, notwithstanding that there are always intervening
7 variables, and those intervening variables in this case are
8 always human byproducts of the development proper, and those
9 could be ATVs, just people walking off the sides of the
10 loading area to have a pee, or something like that, and
11 many...

12 There are all kinds of certain scenarios
13 is what I'm saying that cumulatively add up to some negative
14 effect. So I would say yes, with qualification, that as
15 long as the human access to those areas can be rigorously
16 controlled, yes would be the answer.

17 Ms. JILL GRANT: And there is the Project
18 Proposal a proposal to have a trail along the coast. Does
19 that add to the risk for these plants?

20 Mr. MARK ELDERKIN: It could. I'm not
21 aware of that Proposal in this context, but you know, as I
22 say, it could be. That would be just one or more of those
23 types of intervening variables that could be compounding in
24 terms of risk. Yeah. Okay.

25 Mr. GUNTER MUECKE: Okay. Mr. Neily,

1 could I perhaps address some forestry concerns?

2 In your presentation, you're talking
3 about a 50-metre buffer in terms of forest cover, so it's
4 getting a bit complex here. We're talking 30, 50 and 100,
5 so I'll try to keep it straight in my questions.

6 Let's stick, at the moment, to this
7 Bilcon's Proposal of a 30-metre coastal environmental
8 protection, and so on, to give it the right terminology that
9 has been used.

10 A portion of that is barren, and leaving
11 then a strip of variable width which is actually forested,
12 and my question is in a coastal environment, in this
13 particular coastal environment, or the Bay of Fundy, in
14 terms of blow down, what sort of width of forest would be
15 required?

16 In other words, if I have five metres of
17 trees, the likelihood of them being blown down by one of the
18 major storms is very high.

19 Have you got any idea as to how wide a
20 strip would have to be to survive major storms along the
21 coast?

22 Mr. PETER NEILY: Not particularly how
23 wide. There's a lot of variables in play. The shallowness
24 of the soil for the rooting is one; the moisture content of
25 the soil is another; and then the tree species is the other,

1 and all of them could be a limiting factor to stability.

2 It appears that the minimum in a
3 non-coastal environment is usually the height of the mature
4 trees, you know? So if they're 20 metres, then 20 metres
5 is usually adequate enough to provide stability to the
6 buffer strip.

7 And we have found that most of our blow
8 down does occur within the first five metres of a normal
9 buffer strip along, say, clear cuts for example, and that it
10 decreases as you move further in, so that by the time you're
11 20 metres in, it's practically non-existent.

12 But that's a different environment than
13 this coastal one, and I believe that... I might have to
14 apologize here about the 50 metres. I thought it was a
15 50-metre that was proposed around the site.

16 Mr. GUNTER MUECKE: So what you're
17 telling me is that in terms of the coastal environment, you
18 don't... Say any... There's no experience, or enough
19 experience to be able to predict?

20 I was aware of the inland regulations,
21 and... But there are no regulations in place which are
22 specific to the coast, are there?

23 Mr. PETER NEILY: I'm not aware of any
24 regulations specific to the coastline.

25 Mr. GUNTER MUECKE: Would it be possible

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 to find out from other jurisdictions? Newfoundland, New
2 Brunswick and so on, that have similar coastlines, as to
3 whether there are any guidelines with respect to coastal
4 buffers?

5 Mr. PETER NEILY: Yes, I guess that could
6 be done. I would venture... I could do that search for
7 you, and...

8 Mr. GUNTER MUECKE: I think this would be
9 very useful for the Panel.

10 Now in your presentation, you talked
11 about reclamation soils, and if I understood you rightly,
12 you were saying that the soils, as they are, are rich,
13 productive and don't have to be...nothing has to be added in
14 order to sustain growth of indigenous species, right?

15 Now Bilcon's reclamation plan does
16 not... The way I understand it, it does not propose to
17 simply use existing soils which are put back in place, but
18 they involve a mixing process in which the existing soils
19 which have been stripped are diluted by the washing wastes,
20 the fines from the processing, which is basically finely
21 ground basalt.

22 How does that affect the suitability of
23 the material and the production... You know, the
24 reclamation?

25 Mr. PETER NEILY: The addition of fines

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 to that material is going to impact not only soil chemical
2 properties such as nutrient availability, but it may impact
3 soil physical properties such as compaction, and drainage,
4 and I would believe that...

5 I'm not saying it would be a totally bad
6 thing to do, but it would definitely have to be monitored
7 very closely as to what would be the breaking point of the
8 soil by adding those type of materials.

9 Those would be the two major hazards I
10 could see happening to making additions to the soil, at this
11 time.

12 Mr. GUNTER MUECKE: So what you are
13 suggesting is that this will require some careful
14 experimentation, let's say having sample plots to observe
15 how the proposed cover reacts to that mix?

16 Mr. PETER NEILY: I believe that there
17 could be some changes in what plants would now grow on that
18 material. There will still probably be some native plants,
19 but it may be a different abundance. That may change over
20 time now, if that type of activity happens, yes.

21 Mr. GUNTER MUECKE: That's very
22 informative. Thank you. Now... Sorry.

23 Ms. JILL GRANT: Just one other question
24 about soil. In your report, you mentioned that being
25 stored, a lot of the organic material in the soil may be

1 threatened, so are there strategies for protecting that
2 organic material during storage, or is it impossible to
3 avoid?

4 Mr. PETER NEILY: The storage of soils,
5 one of the major factors that would have to be considered
6 there would be the erosional loss of soil material, and if
7 that occurred, then there could be losses in both soil
8 structure as well as some of the chemical nutrient
9 properties of the soil.

10 Other things such as microbial activity
11 could be affected by overheating at depths that are unusual
12 for the soil microbes, and there could be other properties
13 to certain soil constituents that could be affected by a
14 increased depth of storage that is not natural, so...

15 And length of storage could be a factor,
16 as well.

17 Ms. JILL GRANT: So are there mitigation
18 strategies for that?

19 Mr. PETER NEILY: The erosional would be,
20 you know, the slope and location of the soils for storage.
21 The length of time could be a mitigation factor; a shortened
22 time in any type of massive storage.

23 Other than that, I'd have to do a little
24 more work looking into what could be possible.

25 Mr. GUNTER MUECKE: Just one last item

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 here. For aesthetic purposes, Bilcon has proposed that they
2 will be... That is, for view shed considerations from the
3 ocean, Bilcon has proposed planting trees on top of the
4 berms which surround the sediment ponds.

5 These berms are elevated and have... I
6 assume the tops are not more than a few metres.

7 And for the view shed analysis, they
8 propose that trees on these berms grow to 15 metres plus
9 over this narrow strip.

10 How would you rate the survival of these
11 trees, and is it at all possible to grow them to that height
12 under these conditions?

13 Mr. PETER NEILY: The coast is very
14 severe there in terms of height growth, and that is the
15 major limiting factor, and I would suggest that 15 metres
16 would be maximum height that could be expected.

17 The stability of the trees on the berms,
18 I'm not sure of the material that would be used, but it may
19 be that appropriate configuration to the offshore wind...
20 On shore winds... It doesn't matter. It might help
21 mitigate blow down, but that's pretty severe along there and
22 there's a lot of natural blow down that occurs on trees that
23 have been there naturally. Yeah.

24 So 15 metres would be the top limit for
25 tree height down there. I would maybe suggest that shrubs

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 might be better.

2 Mr. GUNTER MUECKE: How long would it
3 take to grow a tree 15 metres under those conditions?

4 Mr. PETER NEILY: Yes. They start off
5 well, but they slow down fast. I believe the height there,
6 you would probably be looking at 40, 50 years to get 15
7 metres, if that.

8 Mr. GUNTER MUECKE: Thank you.

9 Moving on to the geological part of your
10 presentation Mr. MacDonald. In terms of availability of
11 other alternate sites in Nova Scotia, first of all, let me
12 refer to the graph, the pie graph you showed us about
13 aggregate usage in the United States showing that 70 percent
14 is limestone and dolomite and then you go down the scale to
15 granite and others.

16 How much of that is determined by
17 availability rather than desirability? Do you understand
18 what I'm trying to get at?

19 Mr. MIKE MACDONALD: My understanding,
20 and it is... I must admit, it's a bit limited in terms of
21 the aggregate industry, but I think the availability of rock
22 in the various States throughout the United States probably
23 dictates a large part of that.

24 I mentioned just briefly, or maybe I
25 didn't, the metamorphic sandstone that we use in the Halifax

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1 area is prone to a thing called alkali reactivity, whereas
2 if you use that in a concrete, it tends to react with the
3 calcareous matrix and it forms as byproducts that makes the
4 concrete problematic.

5 It can be dealt with by putting
6 additives in, but certain rocks are more suitable.
7 Obviously if you use a calcium carbonate or a magnesium
8 calcium carbonate, limestone and dolomite to make concrete,
9 there's going to be no reaction, so it's...

10 So limestone and dolomite, in my
11 understanding, would be that it's a very... If it's hard,
12 it would be a preferred source.

13 I think in some of the smaller states,
14 maybe with restrictive geology, they may have to rely on
15 what they can source.

16 There are similar rocks to the basalts,
17 and they are the same age, and they were formed around the
18 same time down through the New England states and through
19 the Appalachian Mountains, so there are other, I'm
20 thinking... I believe they're called the Palisades in
21 northeast New England.

22 And so in those areas, those specific
23 states would be quite used to using that as a source rock,
24 so I think... Does that answer your question?

25 I think that the amount of rock used is

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 certainly partially controlled by source, but also
2 composition. Certain rocks are harder and preferable to be
3 used. So I think it's a balance.

4 Mr. GUNTER MUECKE: Yes. I think I get
5 the gist of that, and I think you answered my question about
6 the metaquartzite or whatever is over Golden [inaudible],
7 which are very abundant as to their suitability.

8 And just for my own information, you
9 also excluded coarse grain granites, and I guess I was
10 slightly puzzled as to why grain size plays a...

11 When you crush the stuff up, okay, how
12 does grain size come into it?

13 Mr. MIKE MACDONALD: We have done
14 fairly...

15 THE CHAIRPERSON: Could I intervene for a
16 minute? That little bell you heard is an indication that
17 we've gone over time, so what we're trying to do... Is that
18 correct? No? She's been ringing the bell, so...

19 UNIDENTIFIED FEMALE VOICE: [Inaudible]

20 THE CHAIRPERSON: Sorry, sorry. We had
21 discussed the possibility of kind of getting out of temporal
22 sequence. Nevertheless, continue.

23 Mr. MIKE MACDONALD: We have, as part of
24 our geo-science projects in our group, we do have an
25 aggregate project where we do extensive testing and we

1 subject various rock types to standardized tests.

2 And it's been our experience that the
3 coarse grain granites throughout Nova Scotia do not perform
4 very well at all, and it's... We think it may be due to
5 micro-fractures within the larger crystals, so the large...

6 A lot of those coarse grain rocks tend to have micro-
7 fractures and the large ones [inaudible].

8 Mr. GUNTER MUECKE: If you have gone
9 through the documents, you may have noticed that there's a
10 lot of concern about the contact between the Upper Flow unit
11 and the Middle Flow unit in terms of the proposed quarry
12 operations because the top of the Middle Flow unit is, at
13 lest in part, the main aquifer under the property.

14 So have you been at the site?

15 Mr. MIKE MACDONALD: I haven't been to
16 the exact site, no.

17 Mr. GUNTER MUECKE: But you're familiar
18 with other sites of the North Mountain basalt?

19 Mr. MIKE MACDONALD: Yes.

20 Mr. GUNTER MUECKE: Okay. If I sent you
21 out to determine where the contact between these two lies,
22 to put your pencil on it, what do you think your success
23 rate would be?

24 Mr. MIKE MACDONALD: Pretty good. I've
25 seen it exposed just to the west of Margaretsville, and it

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 is a very sharp contact between...

2 Mr. GUNTER MUECKE: Yeah, it's a sharp
3 contact, but did you see it in one of the cross-cutting
4 valleys, or...?

5 Mr. MIKE MACDONALD: I saw it in a couple
6 places along the coast. There was some abatement. It
7 wasn't a cross-cutting cross-section.

8 Mr. GUNTER MUECKE: H'm. I guess what
9 I'm getting at is, is that contact visible in most places,
10 or... The Upper Flow unit is a cliff former, right?

11 Mr. MIKE MACDONALD: They all form...

12 Mr. GUNTER MUECKE: Yeah.

13 Mr. MIKE MACDONALD: From what I've seen,
14 yeah.

15 Mr. GUNTER MUECKE: The Middle Unit is a
16 cliff former too?

17 Mr. MIKE MACDONALD: Can be, yes.

18 Mr. GUNTER MUECKE: The top of it?

19 Mr. MIKE MACDONALD: Yeah.

20 Mr. GUNTER MUECKE: But you...

21 Mr. MIKE MACDONALD: It's a little
22 rubbly. It doesn't form as sharp up the coast, but there
23 are fairly steep banks. And once again, I have limited
24 experience looking regionally at this, but where I've seen
25 it, it does form cliffs along the coast.

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 Mr. GUNTER MUECKE: Okay. The next
2 question I have could be addressed to any of you, but I
3 think it has a geo context.

4 Would it be fair to say that Department
5 of Natural Resources sees itself in part in its mandate...
6 As part of its mandate, it sees itself in the promotion of
7 aggregate export and exploitation?

8 Mr. DON JONES: Yes. Part of our mandate
9 is to provide the geoscience background for the knowledge of
10 geology of the province. It is also a mandate to see the
11 responsible development of our natural resources, minerals
12 and aggregates included.

13 Mr. GUNTER MUECKE: And the promotion of
14 the aggregate in terms of exporting?

15 Mr. DON JONES: I would say, yes, we take
16 on a promotional initiative in our duties.

17 Mr. GUNTER MUECKE: Okay. And so do you
18 and your colleagues see it as part of your job to assist and
19 facilitate the interests of the aggregate and mining
20 industry?

21 Mr. DON JONES: Assist, facilitate and
22 regulate.

23 Mr. GUNTER MUECKE: And regulate. I
24 shouldn't have left that out. Okay.

25 So one last question along those lines.

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 So aggregate producers, mining companies regulate, consult
2 with you in terms of possible future projects. Have there
3 been advances from aggregate producers other than Bilcon in
4 recent years who would like to start coastal quarry
5 operations?

6 Mr. DON JONES: I'll refer that to Mike.

7 Mr. MIKE MACDONALD: Yes, there have been
8 several companies that have expressed interest, not specific
9 locations necessarily, but looking at opportunities.

10 Mr. GUNTER MUECKE: By several, could you
11 just quantify that a little bit?

12 Mr. MIKE MACDONALD: A number, an
13 approximate number?

14 Mr. GUNTER MUECKE: Approximately the
15 number.

16 Mr. MIKE MACDONALD: Perhaps a half a
17 dozen.

18 Mr. GUNTER MUECKE: Thank you.

19 Mr. DON JONES: But I think that refers
20 to over the land mass of the province, so it's not
21 specifically down in this region.

22 Mr. GUNTER MUECKE: Yes, I understand
23 that.

24 Ms. JILL GRANT: Just a couple of follow-
25 up questions on that.

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 Can you explain the Department's
2 position on how this kind of activity contributes to
3 sustainable development?

4 Mr. DON JONES: We see the activity of
5 mineral resource extracting aggregate as a significant
6 component and part of the economic and social well-being of
7 the Province.

8 We all probably drove here today on
9 roads that are built with aggregate in the form of concrete
10 or asphalt, and also the sub-base of that.

11 We all live in homes where we use
12 aggregate resources to provide ourselves accommodations.

13 We also used cars to come here which are
14 substantially a production of the minerals industry and
15 petroleum industry and fuelled by fuels produced by the
16 petroleum industry.

17 We are a significant component of the
18 economic well-being of the Province. In taking, in respect
19 of that the activities we conduct, sometimes in the past we
20 have left legacies.

21 We are making substantial strides to
22 improve our performance into the future.

23 These initiatives are certainly
24 represented by a strong initiative through that Global
25 Mining Initiative, the ICMM, the Mining Association of

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 Canada and the MCAA initiatives to drive these industry and
2 regulator and community-driven initiatives to make us do
3 better in the future.

4 So from that perspective, I think we
5 have a balance. It is forever a moving target, and it is
6 the initiative of the industry to continue to provide into
7 the economy as well as to do so in an environmentally
8 sustainable manner.

9 Ms. JILL GRANT: Thanks. And could you
10 give us an idea of what the value of aggregate is in the
11 Province right now, approximate value per tonne?

12 Mr. DON JONES: Yes. We produce about 10
13 million tonnes of aggregate, 3 million in the form of sand
14 and gravel, 7 million in the form of aggregate.

15 I guess you can use a factor. I think
16 it's a federally identified number of about 6.5 to 7 dollars
17 per tonne of production, so we can say in that order of
18 magnitude.

19 Ms. JILL GRANT: And am I right in
20 understanding that the major revenues coming from this would
21 be in the form of income taxes for the employees and fuel
22 taxes? Those are the two elements that...

23 Mr. DON JONES: The revenues coming from
24 this certainly are through employment, purchase of goods and
25 services, and the revenues to the government would be in the

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 form of taxation.

2 Ms. JILL GRANT: Income taxes or fuel
3 taxes? Those would be the two taxes?

4 Mr. DON JONES: Well, the income tax and
5 the fuel tax, yes, plus other fees of that nature.

6 But also, as you look down the road, the
7 value to the economy of a mining operation, there's various
8 figures out there on multiples of...

9 The mining operation will usually
10 generate in the economy two to three times what it actually
11 produces itself, so there's a multiple effect into the
12 economy from these operations.

13 Mr. GUNTER MUECKE: Could I just move on
14 to the last item, which is the reclamation you talked about
15 and the best practices as outlined by the booklets from
16 Australia, which I'm familiar with.

17 You have reviewed what Bilcon has
18 submitted in terms of reclamation. Does it, in your view,
19 meet the standards that you set out in your presentation?

20 Mr. DON JONES: I made an effort to try
21 and package the proposals by Bilcon to the framework that
22 was set out in the Australian handbook, and I personally
23 believe that they substantially do.

24 You have to repackage it to address the
25 actual format of their initiative. I think it can be made

1 to fit generally within the guidelines that are produced
2 here.

3 If you look through it, there are
4 certain things, like the company adopting a formal policy on
5 reclamation and closure of a mine, that I don't know if
6 that's the case.

7 But the elements are there through
8 stakeholder engagement, a commitment to that, through
9 minimization of environmental risks.

10 So if you go through those criteria and
11 you ask the company to implement a policy at a corporate
12 level on this, I'm sure it could be done, although I don't
13 think they speak to that specifically in their document.

14 If you look through the other components
15 of the Australian proposal, they have addressed things such
16 as progressive reclamation. They have addressed things as
17 removal of structures in that area.

18 I think the fact that the initial plan
19 is a conceptual plan, I think it is very strongly
20 recommended to achieve engagement by community to assist in
21 the determination of the final use.

22 I will comment, and this is my personal
23 opinion, sometimes at the initiation of a project such as
24 this, it is somewhat difficult with the company to engage a
25 meaningful input through community because of the various

1 concerns expressed.

2 Ofttimes when a project is initiated,
3 engagement is secured and very successful results can be
4 resulting from the collaboration between the company, the
5 regulators and the community.

6 There is substantial gains, both
7 economically, but there does not have to be a fait accompli
8 no use of land. There's often a very substantial value in
9 the post-mining land forms and features that can be
10 incorporated into the reclamation plan through community
11 engagement.

12 So, in essence, I think, basically, you
13 can take the framework put out by the Australian group and
14 you can take the proposal of Bilcon and substantially say
15 that there is substantial adaptation of that in their
16 proposal.

17 Can you make it fit exactly? I'm not
18 sure. That's kind of the company's initiative, if they were
19 to adopt it as a process. Yeah.

20 Mr. GUNTER MUECKE: Thank you.

21 Ms. JILL GRANT: Given the maps that Mr.
22 MacDonald showed us of all the areas around the coast that
23 are suitable, especially along the North Mountain, how do
24 you respond to the concerns of some of the opponents of the
25 Project that what we are likely to see here is a quarry

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 creep, that if this project goes ahead the entire North
2 Mountain may be seen as suitable for this kind of future
3 project?

4 Mr. MIKE MACDONALD: I guess that would
5 be something that would be up to the... I mean, you look at
6 these, you know, one case at a time.

7 The rock might be suitable, but is there
8 support for that? I don't know. And I mean, I'm not
9 speaking... It's not my level of expertise in terms of
10 overall direction for development in rural Nova Scotia in
11 terms of how many of these you could end up with.

12 And I think you would have to look at
13 these individually.

14 I guess I restrict my comments to the
15 availability of suitable rock, and there is, as I have
16 pointed out, a number of areas that could provide suitable
17 rock.

18 THE CHAIRPERSON: Mr. MacDonald, you
19 presented some slides earlier that were... We have copies
20 of that presentation. It's black and white.

21 Could you undertake for us to get us
22 colour images of the slides?

23 Mr. MIKE MACDONALD: Yes, I will.

24 THE CHAIRPERSON: Particularly the maps.
25 The maps are what we're interested in.

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PANEL)

1 Mr. MIKE MACDONALD: Yes.

2 THE CHAIRPERSON: And, Mr. Neily, we
3 asked you... Dr. Muecke asked you to provide him with a
4 search for blow down in coastal areas and how wide the
5 buffer zone should be.

6 We're considering that to be an
7 undertaking within the context of this, but I need a date
8 from you of when you can deliver that to us.

9 Mr. PETER NEILY: This Friday maybe?

10 THE CHAIRPERSON: This Friday. Okay.
11 All right. Thank you.

12 We are substantially over time now.
13 Normally we would go through the process of asking for
14 questions, but let me just consult with my colleagues for a
15 moment.

16 --- Pause

17 THE CHAIRPERSON: Okay. What we're going
18 to do is we have to tighten this up, otherwise it could
19 extend dramatically.

20 What we're going to do is allow Bilcon
21 to ask some questions and then we're going to open up for a
22 few questions from the audience, but it won't be an
23 extensive... It won't be a complete cycle. Okay?

24 Mr. PAUL BUXTON: Thank you, Mr. Chair.

25 **QUESTIONS BY THE PROPONENT**

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PROPONENT)

1 I have, first of all, a couple of
2 clarifications which I'd like to put on the record.

3 One is that we are not proposing a trail
4 along the coast. In fact, the environmental preservation
5 zone is specifically to remove ATVs and other uses from that
6 preservation zone.

7 Certainly we cannot prevent people
8 walking along the beach. It's public and government
9 property, but certainly the environmental preservation zone
10 will not be open to anyone, in fact, except our own people
11 to make sure that the preservation is kept in place.

12 Secondly, I would like to observe, and
13 this is certainly not a criticism of process, but there is
14 some advantage, perhaps, when an environmental assessment
15 is triggered in that rare plants, in fact, can be
16 identified.

17 I would just like to say that if it were
18 a project on that site which did not require an
19 environmental assessment, one could go in with bulldozers
20 and excavators and simply tear it up.

21 And I would invite, perhaps, anybody
22 interested to look at areas on the same coastline in the
23 area of Coloden (ph), where that entire zone where these
24 rare plants exist has, in fact, been removed. It's been
25 torn right back to the cottage so that there's bare rock

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PROPONENT)

1 right up to the cottage footings.

2 So that's just simply an observation.

3 The other observation, and I do have a
4 question at the end of it Mr. Chair, is that while we are
5 certainly not in disagreement with a 100-metre setback for
6 these rare plants, it would seem to be somewhat arbitrary.
7 And what we would suggest corporately, and I think we have
8 had some preliminary discussions on this, is that two things
9 perhaps happen.

10 One is that we should examine whether,
11 in fact, these plants are confined specifically to the
12 Whites Cove area or whether, in fact, since they haven't
13 been looked for... It's rather like the Glaucous
14 Rattlesnake Root. They haven't been looked for along that
15 coast for probably 50 years.

16 A very quick observation on our site
17 found 200 plants, and this is a plant that was deemed to be
18 extirpated. It could very well be that there are major
19 colonies on either side of the project.

20 We would certainly fund a little
21 research project to determine, in fact, the extent of
22 Mountain Sandwort and the Glaucous Rattlesnake Root.

23 And I think my main point is that what
24 we would prefer to do is to sponsor a research project with
25 the Nova Scotia Department of Natural Resources to determine

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PROPONENT)

1 the best way to foster and maintain these communities.

2 It seems to me that simply by saying:
3 "Stay away for 100 metres" is going to do the job, perhaps
4 that's... And that's presumably a straight line. There may
5 be other aspects of the site that affect the plant.

6 What we would suggest and propose is
7 that we develop a research project with the Department, Mr.
8 Elderkin, to, in fact, research this plant, research what it
9 requires, what its habitat requires at this time, and to see
10 how that can be maintained.

11 And I would like to ask Mr. Elderkin if
12 he and his Department, in consultation with experts in
13 botany, would be prepared to look at a research project
14 sponsored by Bilcon to determine how best plants such as
15 these can be maintained. Thank you.

16 Mr. MARK ELDERKIN: Yes. Thanks. Thank
17 you very much. Those were very good points you raised.

18 And what I would say is, in my
19 experience working with developers across the province, in
20 the interests of conservation, it's always been very
21 positive, both to the learning benefit that we've had for
22 many vascular plants, as you've aptly pointed out, in terms
23 of understanding new points of distribution for plants, but
24 also having the opportunity to work with developers to
25 broaden the breadth of our knowledge so that in future

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PROPONENT)

1 development scenarios or with directed conservation effort
2 that we have the best understanding about the state of the
3 biology as it pertains to these species.

4 So what I would say to your general
5 broad question is we would welcome that opportunity to work
6 with you, but notwithstanding that in the short term what I
7 would suggest to you is that the 100 metres would be the
8 preferred, you know, short-term option in the absence of
9 better knowledge.

10 So absolutely, we would certainly
11 welcome the opportunity to discuss an array of options with
12 you.

13 THE CHAIRPERSON: Mr. Buxton, any
14 additional questions?

15 Mr. PAUL BUXTON: No, I don't have any
16 further questions or comments. Thank you.

17 THE CHAIRPERSON: Thank you. Yes.

18 Ms. JILL GRANT: Can I just make sure I'm
19 clear about the nature of access to the coastal area because
20 I'm... I understand that the winklers, the people who
21 collect periwinkles, will have access to the coastline and
22 that the environmental assessment suggested that there was a
23 possibility of discussing with groups public access, a trail
24 along the waterfront?

25 Is that... Have I misunderstood what's

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PROPONENT)

1 in the environmental assessment?

2 And the follow-up to that is, are you
3 intending to fence the environmental preservation zone or
4 not?

5 Mr. PAUL BUXTON: Thank you. A lot of
6 questions. I may not pick them all up first time.

7 First of all, the access to the beach
8 presently, as was described this morning, is by the Whites
9 Cove Road. It's public property. People can walk down
10 Whites Cove Road and onto the beach.

11 What we were referring to was the lack
12 of or our intent not to create a lateral trail all the way
13 along what would, in fact, be part of the environmental
14 preservation zone.

15 I believe perhaps what you're referring
16 to is that if, in the future, the Department of
17 Transportation would or should deed the road to us, that we
18 would create a trail to the beach and provide specific
19 access, walking access, to the beach. But that was not a
20 lateral trail along the environmental preservation zone.

21 Did I get all your questions?

22 Ms. JILL GRANT: Yes. Do you intend to
23 fence the environmental preservation zone?

24 Mr. PAUL BUXTON: I don't think we'd
25 intend to fence it. I think that that would perhaps not be

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 the best solution.

2 Certainly our own people will be under
3 instruction not go into the environmental preservation zone,
4 and you know, the quarry property itself will be mend and it
5 will have security.

6 And we would certainly hope that other
7 people would not be going down there, in fact, not to damage
8 the environmental preservation zone. I hope it would not
9 come to that.

10 THE CHAIRPERSON: Okay. Any questions
11 from any government organizations?

12 And we're going to open up for just a
13 few questions from the audience.

14 **NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES - QUESTIONS BY**
15 **THE PUBLIC**

16 THE CHAIRPERSON: Mr. Morcocchio has got
17 you beat to the microphone, so I guess you'll have to wait
18 in line.

19 So the first question is to Mr.
20 Morcocchio, who is from the Sierra Club.

21 Mr. MORCOCCHIO: Thank you, Mr. Chairman.

22 The question to DNR is, as you know, the
23 Government of Nova Scotia has recently passed a **Sustainable**
24 **Prosperity Act** that commits the Province of Nova Scotia to a
25 number of sweeping changes about the long-term

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 sustainability and specific commitments both with respect to
2 completing 12 percent of the Province's protected areas and
3 commitments to greenhouse gases.

4 This leads me to two interrelated
5 questions, one a general one and one specific to this
6 project.

7 Has the government's passage of that
8 Bill resulted in a reorganization and a move away from the
9 promotion and economic development perspective of your
10 Department that you've outlined here in your presentation
11 and towards one directed by stewardship and a commitment to
12 sustainable development?

13 And the specific question about this
14 project is, in light of the passage of that Bill and the
15 commitment by 20/20 of cutting greenhouse gases by 20
16 percent in the Province, how does your Department fit a
17 project like this into that framework given the new
18 legislative mandate, considering that this project will more
19 than double the CO₂ emissions for the entire mining sector
20 in the Province of Nova Scotia if the facts provided by the
21 Proponent are correct?

22 THE CHAIRPERSON: Is one of you going to
23 volunteer to answer that, or those?

24 Mr. DON JONES: The last fact I'm not
25 even aware of, the CO₂ doubling. I don't think that's a...

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1 Anyway, I won't go into that because it's incorrect.

2 Secondly, sustainable development is a
3 mandate of the Province, and it is my submission that this
4 project can be done within a sustainable, economically
5 sustainable and environmentally sustainable manner, so I
6 don't see where there's any conflict with the new
7 legislation.

8 THE CHAIRPERSON: Mr. Morcocchio, you're
9 permitted a follow-up.

10 Mr. MORCOCCHIO: I just wanted to point
11 out that the Proponent, I think, outlined 3.1 kilotonnes was
12 the total emissions from the mining sector in Nova Scotia,
13 and I think 8.2 kilotonnes are the projected emissions from
14 this plant.

15 They've undertaken to outline that so
16 that we can see if that includes all of the CO₂ emissions
17 from the proposal.

18 But for the sake of the discussion,
19 let's accept for a moment those facts, and I will provide
20 them to you.

21 Could you answer the question about
22 fitting a proposal that will more than double the CO₂
23 emissions over the next 10 years and the government's
24 commitment to a 20 percent reduction?

25 Mr. DON JONES: Without knowing the

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 information you're speaking to, I can't even imagine this
2 would double the emissions, so I can't respond to that
3 question, and I don't think that there's any factual basis
4 to it.

5 THE CHAIRPERSON: Mr. Morcocchio, you may
6 not be happy with it, but that's your response, so we have
7 to go to the next questioner.

8 Mr. MORCOCCHIO: Well, I didn't hear a
9 clear response to my...to whether the Department is
10 reorienting the orientation from economic development to
11 sustainability.

12 Mr. DON JONES: I said in my response
13 that I believe we have aligned... We do address the
14 economic and environmental sustainability as a part of
15 project development.

16 THE CHAIRPERSON: Okay. Mr. Moir?

17 Mr. ANDY MOIR: My name is Andy Moir, and
18 I'm going to address this question... I'm sorry. I didn't
19 catch the name of the gentleman who was showing us the maps
20 with the various places where...

21 THE CHAIRPERSON: Mr. MacDonald.

22 Mr. ANDY MOIR: Mr. MacDonald. One of
23 the maps that you showed that they had the two heavy lines
24 going up and down either side of Digby Neck and then a bit
25 up towards Middleton in red, then you were saying, I

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 believe, that there were other areas in the Province where
2 there were perhaps good areas for aggregate, but coastal
3 conditions were such that they didn't... I think your words
4 were they were exposed coast and that finding safe
5 harbourage would be problematic.

6 And I'm just wondering what the
7 difference is between, say, some of the coastline along Cape
8 Breton, which I believe you were pointing to, and the
9 coastline of Digby Neck where there is no, that I know of,
10 safe harbourage there in terms of development?

11 Mr. MIKE MACDONALD: I was specifically
12 referring to exposure of a coastline to large storms, so I
13 think the fact that... And I'm not an oceanographer, and my
14 knowledge of this is somewhat limited.

15 But I was making the point that certain
16 parts of the coastline in Cape Breton, I referred to the
17 area leading to Cape North, is quite exposed to the open
18 Atlantic Ocean, whereas in the Digby Neck area, it doesn't
19 have that same exposure.

20 Mr. ANDY MOIR: Just a quick follow-up
21 because one of the other gentlemen here referred to what a
22 pretty severe place it is there along the coastline.

23 And I would certainly like to give you
24 the opportunity to see what that coastline looked like after
25 the Groundhog Day storm in 1976, invite you to talk to any

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 of the fishermen who fish out there and know what that
2 coastline can be like on almost daily basis in the winter.

3 THE CHAIRPERSON: Okay. Maybe a couple
4 more. Yes, ma'am, please.

5 Please identify yourself.

6 Ms. MARY MCCARTHY: My name is Mary
7 McCarthy. I'm a local resident.

8 And my question is directed to the
9 profits accruing to the...on the chart that was shown on the
10 board just now.

11 From what I know, that Bilcon of Nova
12 Scotia is an unlimited company registered with Joint Stock.
13 Now, unlimited companies have a special status, I
14 understand.

15 Nova Scotia is one of the few provinces
16 in Canada that has this facility of registering unlimited
17 companies and recognizing them, so I was wondering if...
18 Now there is a special formula for taxing such companies
19 which have their office in another jurisdiction out of
20 Canada.

21 And I'm wondering if this calculation
22 has been factored into the profits as accruing to the
23 Province as listed by the gentleman just now on the board.
24 Thank you.

25 Mr. DON JONES: Yeah. No, I did not make

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 that application for any specific tax consideration for
2 unlimited companies. That was a general tax model for our
3 operators in the Province.

4 Ms. MARY MCCARTHY: Just to add, there is
5 a great benefit to a company that is registered as an
6 unlimited company in the tax organization, so I haven't got
7 my papers with me. I didn't expect this to come up. Thank
8 you.

9 THE CHAIRPERSON: Thank you. Perhaps one
10 final question before we move on. Yes, please.

11 Ms. WANDA VANTASSEL: I guess I'd like to
12 ask you guys a question. When they...

13 THE CHAIRPERSON: Ma'am, could you
14 identify yourself?

15 Ms. WANDA VANTASSEL: Oh, sorry. I'm
16 Wanda Vantassel.

17 THE CHAIRPERSON: Could you spell the
18 last name?

19 Ms. WANDA VANTASSEL: Vantassel, V-a-n-t-
20 a-s-s-el.

21 THE CHAIRPERSON: Yeah. That's for the
22 record.

23 Ms. WANDA VANTASSEL: I heard you guys
24 asking these guys about opening up for other quarries to
25 common areas, and you had said that there was six different

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NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES
(QUESTIONS BY THE PUBLIC)

1 ones. It doesn't mean that it's in this area, but around
2 here.

3 One of my questions, have you guys heard
4 anything about a quarry, another quarry in Gulliver's Cove
5 opening up, which would be 1,150 acres?

6 Mr. MIKE MACDONALD: No, I'm not aware of
7 any proposal.

8 Ms. WANDA VANTASSEL: So you haven't...
9 Because when you said six, I thought maybe that was one of
10 the ones that you had heard of.

11 And I had heard that rumour, but I don't
12 know... But I did hear that.

13 Mr. MIKE MACDONALD: When I took an
14 estimate of six, that was... I'm working from my somewhat
15 aging memory here, but there was a number of companies over
16 the last number of years that have not come specifically
17 looking at individual sites, but they were looking at
18 business opportunities.

19 And six is an approximation. It may
20 have been four and it may have been six or seven.

21 But no, I was not dealing specifically
22 with any proposals or any projects that I'm aware of that
23 have been proposed. That was simply companies that have
24 expressed some interest in business development within the
25 Province.

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1 Ms. WANDA VANTASSEL: Okay. Thank you.

2 THE CHAIRPERSON: Okay. I think we will
3 terminate this portion of the afternoon, and we'll move into
4 the next segment, so perhaps it'll take us two or three
5 minutes for the gentlemen to collect their things, and then
6 we'll begin the next segment.

7 Thank you, gentlemen.

8 --- Recess at 3:43 p.m.

9 --- Upon resuming at 3:49 p.m.

10 THE CHAIRPERSON: We have on our schedule
11 four presentations between now and the end of this session.

12 The first is to be made by Dianne Theriault.

13 Proceed.

14 **PRESENTATION BY MS. DIANNE THÉRIAULT**

15 Ms. DIANNE THERIAULT: Good afternoon. I
16 want to thank the Panel for giving me the opportunity to
17 speak today, not an easy task, but a necessary one.

18 My name is Dianne Theriault, and I've
19 lived on Digby Neck for 35 years. I've owned and operated
20 Petit Passage Whale Watch for the last 15 years.

21 And I've been involved in community
22 development for the past 15 years through the Digby Neck
23 Development Association, the Digby Area Learning
24 Association, Digby Neck and Islands Ecotourism Committee,
25 which is now Digby Neck Long and Brier Island Tourism
26 Association, and the Digby Area Tourism Association.

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1 In the past, my husband has been
2 involved in the lobster fishery, and I have now three sons
3 that are directly involved in lobstering. They all have
4 expensive licenses that they have to pay for, and they all
5 have young families to take care of.

6 I am here today to ask the same
7 questions that have been asked over and over since this
8 process has begun, what if.

9 What if the silt created by the proposed
10 quarry contaminates the sea beds so as to no longer sustain
11 the lobster and the scallop fishery in this area?

12 Most families along Digby Neck are
13 connected to these fisheries in some aspects, either on land
14 or on the boats.

15 What if ship strikes kill whales? Now
16 that the shipping lane has been moved closer to Nova Scotia,
17 there's a greater risk to whales. Whales frequent the Bay
18 of Fundy shore from Brier Island to the Digby Gut, following
19 the herring that come into the Bay.

20 Large ocean-going vessels have little
21 chance to stop if they come upon a pod of whales feeding.
22 Humpback whales frequently bubble feed along in groups of
23 eight to 10 along the shore of Digby Neck.

24 What if blasting causes whales and birds
25 to move elsewhere? Tourism has become a vital economic
26 bridge for many people involved in the local seasonal

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1 fishery.

2 The local economy cannot withstand the
3 displacements of any jobs. Jobs promised by the proposed
4 quarry are few in comparison to those that will be affected
5 in tourism and the fishery.

6 What if the water table in the
7 surrounding area is diverted because of blasting at Whites
8 Cove? My eldest son told me that his greatest fear is that
9 of ballast water.

10 Destructive organisms could be brought
11 here. Then what happens to the ecosystems in the local
12 waters and beyond?

13 These questions, along with many others,
14 should absolutely trigger the precautionary principle part
15 of the **Oceans Act** and law of this land.

16 More questions. How does the principle
17 fit into this process? When will it fit in, if it does?
18 And these are questions that the community needs answers
19 to.

20 Tourism, as with any industry, is
21 cyclical. Our numbers have dropped in the years following
22 911. We have, in the past, depended on markets from the
23 eastern United States, and these markets have diminished,
24 but others in Europe and western Canada loom large.

25 The nature of the business and the drop
26 in numbers, along with the lure of jobs in Alberta have led

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1 some to believe that tourism is in a state of decline along
2 Digby Neck and the Islands.

3 Well, just go ask Ruggles Guest Cottage
4 on Long Island, who just opened another cottage this year.
5 They've been in business for the past 10 years, and they
6 have expanded.

7 Perhaps one should speak to the owners
8 of the new establishments on Brier Island, the Lighthouse
9 Cafe and Hooking By the Sea retreats to ask where they feel
10 tourism is headed.

11 On Digby Neck, visit Autoview Camping
12 Cabins in Little River and Gullivers Cove Oceanview
13 Cottages, all new businesses this year.

14 Tourism in this area is relatively new
15 and somewhat fragile. The impact of a mega-quarry would be
16 devastating.

17 Along with the economics for this area,
18 the Panel should consider the social impact of the proposed
19 quarry. There are little yardsticks to measure the changes
20 that have been imposed on our community.

21 This issue of the proposed quarry has
22 put family against family, neighbour against neighbour, and
23 imported an air of confrontation among community members.

24 The uncertainties of the issues
25 surrounding the proposed quarry have already caused wedges
26 to be embedded in our community's social structure. The

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1 Proponent's signs claim a step forward. For whom?

2 The signs are placed at driveways that
3 lead nowhere, and on lawns with houses where no one has
4 lived for ever since I've been on the Neck, and these are
5 laughable to the locals.

6 I would like to relate a story about a
7 young man that lives on Digby Neck and runs a small business
8 with his family. I do business with him through my whale
9 watch, and for the longest time he had a "Stop the Quarry"
10 sign on his lawn.

11 It has come to light recently that he
12 has sold his home to Bilcon and now is building a new,
13 larger home called a mansion by one with the bills being
14 paid by Bilcon, the Proponents.

15 For the longest while, I was in a
16 dilemma, trying to decide whether I should continue doing
17 business with him. By stopping, I would show my discontent.
18 I was in a real quandary, but after some thought, I came to
19 the conclusion that one cannot blame anyone for trying to do
20 better for their family.

21 He's young. He's trying to get ahead.
22 He has a young family he's trying to take care of.

23 The proposed quarry company has watched
24 for this opportunity. They have come in and made offers too
25 good to turn down, knowing some will grab on, the young
26 ones, the vulnerable ones.

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1 This young man is already labelled as
2 one who has been bought off by the quarry. This is
3 something that will stay with him a long, long time in this
4 small community.

5 Ask the local gas station owners about
6 the reaction by the community because they have placed a
7 "Support the Quarry" sign on their property. It seems
8 whether the quarry goes or not, their legacy is already
9 established.

10 Some in this community will win, and
11 some will lose. The wedge is deep.

12 Is it right that a foreign company can
13 come here, take away our land, leave us with nothing but a
14 sense of frustration and uncertainty on both sides of this
15 issue?

16 When I look back at the past five years
17 and see the energy and the resources spent on the fight
18 against the proposed quarry, I think all that could have
19 been done with the money and the community planning. I feel
20 that we have already been stripped of our resources.

21 If I may, I would like to ask a
22 question.

23 Why is Bilcon trying to buy so much
24 property in Little River? They already control the property
25 where the quarry is located. Why is it necessary to buy

1 more?

2 And if the Panel has no more questions
3 for me, I would conclude my presentation with just a note
4 that there has been a coastal linear trail talked about in
5 years gone by by our local Tourism Associations and our
6 Development Associations, and we even submitted a plan to
7 the Department of Tourism at one time, but the cost of it
8 was prohibitive and they turned us down.

9 But there is talk. There has been talk
10 about that for some years.

11 So if you have any questions...

12 THE CHAIRPERSON: Thank you, Ms.
13 Thériault.

14 **PRESENTATION BY Ms. DIANNE THÉRIAULT - QUESTIONS BY THE**
15 **PANEL**

16 Ms. JILL GRANT: Just one question, Ms.
17 Theriault.

18 Do you think there are any ways in which
19 regulators can address some of the concerns that you've
20 raised here today in terms of, you know, mitigation for this
21 project or any of the effects that you're talking about,
22 ones that could be addressed through mitigations?

23 Ms. DIANNE THERIAULT: I think that the
24 issue of the quarry has split the community so widely that,
25 for mitigation to occur, to try and to fix it, it would

1 almost seem that it would be weighted on one side or the
2 other, and I don't see...

3 I would be at a loss to try and tell you
4 what that means of mitigation might be.

5 Mr. GUNTER MUECKE: Yes. You asked a
6 question about the buying out properties, and I would like
7 Bilcon to respond to that.

8 Mr. PAUL BUXTON: I can respond to the
9 specific reference if you would like me to, or be more
10 general.

11 Mr. GUNTER MUECKE: Maybe both.

12 Mr. PAUL BUXTON: If we talk properties
13 with buildings on them, I can say that the property then
14 belonging to Rex Trask was acquired by Bilcon as a result of
15 Mr. Trask coming into our office and indicating that he and
16 his wife wished to move to Truro and would we have any
17 interest in purchasing his property.

18 In fact, it's probably a little outside
19 of our proposed perhaps effects, if you like, but we said:
20 "Yes, we would like to talk about it." We suggested that he
21 get an appraisal of his property, and come in with the
22 appraisal.

23 And we negotiated. He got a very fair
24 price, was very satisfied. He's living in the house now for
25 as long as he basically wants to live in it. He has not

1 been displaced.

2 He's paying, I think, \$150 a month rent,
3 and they're able to move to Truro when certain events happen
4 in the family.

5 The next-door neighbour, I would
6 suppose, heard of this and again, suggested that we might
7 buy his property because he wanted to build a new house on a
8 parcel of land that he had further up Digby Neck.

9 And again, we went through the process
10 of asking him to get an appraisal and we agreed on a price.
11 And we bought the property immediately.

12 He will live in the property rent free
13 until his new house is complete.

14 The property to the north of Whites Cove
15 Road came on the market. We made an offer of the full
16 market value for the property. We then got a request from
17 the seller that we close within 15 days because there was a
18 very significant demand for money for health purposes, and
19 we paid for the building, for the property within 15 days.

20 Land has been offered to us, and we...
21 If it provides buffer, we have picked up all the parcels of
22 land adjacent to the quarry that have been offered to us.
23 But we have not gone on a door-to-door campaign to buy
24 property.

25 We have negotiated with another couple

1 of property owners in the area, and have so far failed to
2 come to an agreement with them.

3 Is that of sufficient explanation for
4 you?

5 THE CHAIRPERSON: Yes, thank you.

6 Mr. Buxton, do you have any questions
7 for Ms. Thériault?

8 **PRESENTATION BY Ms. DIANNE THÉRIAULT: QUESTIONS BY THE**
9 **PROPONENT**

10 Mr. PAUL BUXTON: One in general, and
11 that is if Mrs. Theriault felt so strongly about this
12 project, why she didn't come to meetings and express her
13 views to us? Obviously they're very strong views.

14 But we have had many, many opportunities
15 to get comments from the public. We had a public meeting on
16 May the 3rd, not very long ago. 100 people attended.

17 And people have raised concerns to us,
18 specific concerns, noise and air and so on, water quality
19 and quantity, and we have made every attempt to deal with
20 these.

21 And I'm a little puzzled to understand
22 why somebody has all these objections and commentary and did
23 not make their views known to the company.

24 THE CHAIRPERSON: Thank you. Is there a
25 question from the audience?

1 Did you want to answer, Ms. Theriault?

2 Ms. DIANNE THERIAULT: I certainly will.

3 I feel that, number one, probably 90 percent of the people
4 know in this room that my husband is the MLA, and for those
5 that don't, they do now.

6 And there is a sense in our household
7 that we stay clear of... Or that I'm to stay clear of
8 issues that are so strongly put forward in the community,
9 and that's why, to show that we don't have... That we are
10 not on one side or the other.

11 I do have a "Stop the Quarry" sign on my
12 lawn, and... But that's the main reason why I haven't been
13 to any of the public meetings.

14 I don't feel that meetings that were put
15 on by Bilcon is the place that I want to be seen. It says
16 that... It has the connotation that you are in support of
17 the quarry, and that's the reason why I didn't attend your
18 meetings.

19 THE CHAIRPERSON: Thank you, Ms.
20 Theriault. We're going to move on to the next presenter
21 now.

22 That would be Climate Action Now, Anna-
23 Maria Galante.

24 **PRESENTATION BY CLIMATE ACTION NOW - Ms. ANNA-MARIA GALANTE:**

25 Ms. ANNA-MARIA GALANTE: Thank you very

1 much for allowing me the opportunity to come and speak to
2 you. My name is Anna-Maria Galante, and I am the
3 facilitator of a grassroots citizens group that has been
4 involved in activities to raise awareness about climate
5 change.

6 And I'd like to say right off the bat
7 that the GHG emissions that we're dealing with here aren't
8 so terribly, awfully bad, at least not compared to some
9 terribly awfully bad things that we already have going on in
10 our Province. But I think because the reality that now
11 involves a whole lot more public awareness has changed, I
12 think we need to bring a fairly critical eye to any
13 proposals for business in our Province, and we need to bring
14 this aspect to bear in the EISs that are done, to a greater
15 degree.

16 So I'd like to jump in right away and
17 address the issue of the mining sector's GHG emissions,
18 because one of the first things I did was to go to
19 Environment Canada's National Inventory that it keeps on
20 greenhouse gasses, and it's broken down by Province, and
21 Nova Scotia's mining sector, the data goes back to 1990, and
22 it has grown quite steadily.

23 The most recent figure in the chart that
24 I have here is for 53,000 tonnes of carbon emission that
25 year.

1 Now, the years following are X'ed out
2 because after 2000 the mining sector was reduced to one
3 mine, and so they can no longer include that data because it
4 would violate the privacy privileges of that company. So if
5 anything, the mining sector's emissions have been reduced
6 somewhat since 2000.

7 But that is the most recent figure. And
8 the Proponent's stated emissions of 81,766 tonnes of carbon
9 dioxide are clearly very much larger than that figure.

10 Now, this is an interesting figure that
11 we're dealing with because from what I can tell, what I was
12 able to read of the EIS, these look like direct emissions
13 from machinery on site only, and I do not see, and I
14 apologize very much if I've missed them, but I don't see any
15 mention of fugitive emissions from land use changes, or from
16 the combustion involved in the hydrocarbon explosives that
17 would be used.

18 And of course, shipping is not
19 mentioned, and I... It was explained to me by an employee,
20 a staff person of Environment Canada, that this is because
21 at this time international shipping is not included in GHG
22 Inventories, it is such a gnarly problem.

23 However, I did do a little math on that
24 account and I understand that there may be other questions
25 asked in the Department of shipping emissions, but I did do

1 a little math to come up with a ballpark figure because our
2 Nova Scotia Governments and the Federal Government have been
3 stating their intentions to work very hard to reduce
4 emissions.

5 And a very recent... There was an
6 announcement in May of some major funding. Let's see.
7 \$42,000,000, I believe. Yes. \$42 and a half million
8 dollars. To reduce greenhouse gasses emissions immediately
9 by over 20,000 tonnes of carbon dioxide a year, and 400
10 tonnes of sulfur dioxide a year. That particular, that
11 ladder would help to reduce acid rain.

12 And there's a number of ways in which
13 this is going to be accomplished, and I see there's a number
14 of research initiatives mentioned here. But one of the
15 hands-on ways that they hope to accomplish this is by
16 converting the heating plants of Halifax Regional
17 Municipality over to natural gas from coal, and I believe
18 they've committed to the parties that are involved, which is
19 Capital Health and the Universities, and there's five or six
20 people here, Dalhousie, St. Mary's, they've committed to
21 \$75,000 to do that.

22 And here we are, and it looks like we'd
23 be dealing with perhaps even four times that number with
24 this proposed quarry and marine terminal.

25 So I just wanted to mention the shipping

1 emissions from that perspective.

2 From what I was able to tell now, and I
3 think I'll have some questions for you around this, because
4 I just did some very basic calculations, and I spoke to
5 marine engineer at one of the U.S. naval schools just to get
6 my figures in the right ballpark, but from what I
7 understand, we're dealing with a vessel that would take a
8 40,000-tonne load of aggregate weekly, and we're dealing
9 with about a 70,000 dead weight tonne, is that right? Can
10 somebody confirm that for me, maybe?

11 THE CHAIRPERSON: (Nods)

12 Ms. ANNA-MARIA GALANTE: Okay. All
13 right. And we'd be looking at a voyage of about 420
14 nautical miles from Whites Point to New Jersey, and I was
15 advised that that class of vessel, a bulk dry carrier, also
16 known as a bulker, would travel at about 12 knots. Does
17 that sound about right?

18 THE CHAIRPERSON: (Nods)

19 Ms. ANNA-MARIA GALANTE: Okay. And
20 working at that speed, it would accomplish the voyage in
21 about 35 hours, and it would be burning residual oil to
22 accomplish this, heavy HFO, heavy fuel oil, and probably 40
23 tonnes of it per day, according to the marine engineer,
24 which looks like about 60 tonnes.

25 And I understand that the conversion

1 factor to calculate emissions from that tonnage is 3.179
2 tonnes of carbon dioxide per tonne of fuel burned, and that
3 figure comes from...

4 Let's see if I brought it. Right. It
5 comes from a European Union Report on Emissions. They have
6 an Emissions Inventory. And so they have classed bulk dry
7 vessels, self-discharging bulk dry, other bulk dry, general
8 cargo, they all fall into the same category of about 3.179
9 tonnes of CO2 per tonne of fuel burned. Okay. So in case
10 you were wondering, that's where that came from.

11 So we'd be looking about 185 tonnes of
12 CO2 per trip on the one way. Now, for the vessel to return,
13 it would have a slight... Well, it would have 40,000 tonnes
14 less of stuff to carry back, so it'd be a little bit
15 lighter, maybe we'd be looking in around 111 tonnes on the
16 return trip.

17 So I guessed about 296 tonnes per round
18 trip, times 44 trips, that's about 13,000 tonnes of CO2 per
19 year. So that was my ball park for at sea.

20 But then we have a whole question of
21 idling, and idling is one of our concerns that we've been
22 working on with Climate Action Now, and actually we've been
23 trying to distribute these little green ribbons to get
24 people aware of idling practices with their own vehicles,
25 and so of course for a ship it's going to be a fairly large

1 consideration, because with a regular bulk carrier, which I
2 understand takes about 10 hours to load and 20 hours to
3 unload, we'd be looking at about 10 tonnes of fuel burned at
4 dockside. That would be about working at 20 percent of its
5 consumption, I guess the auxiliary engines would burn a
6 little less.

7 So we'd be looking at about, let's see.

8 Well, just over a tonne of fuel per year to add on to
9 the... No, wait a sec, now. A thousand tonnes to add on to
10 the 13,000 that I already mentioned. So our grand total
11 here, well...

12 Yeah, we'd be looking between, well,
13 easily between 10,000 and 16,000 tonnes per year, and with
14 the average in the middle there being about, well, a little
15 shy of 14,000 tonnes a year.

16 So when you take that figure and add it
17 on to the figure that we've been given of 81 here, almost
18 82, okay, that's going to be about 95... We're getting kind
19 of close to 100,000 tonnes of CO2 a year.

20 And that's getting kind of close to five
21 times the amount that this Government initiative is hoping
22 to save us this year, in a very soon coming year. So I did
23 want to put it in that context at least.

24 Now, the other thing that could be
25 factored in here, and please correct me if I'm wrong about

1 this, is fugitive emissions resulting from land use change
2 and the use of a hydrocarbon... We're looking at ammonium
3 nitrate and fuel oil.

4 So there's bound to be some sort of
5 emissions from that. And while it's not a lot, it's going
6 to be keyed into the frequency, the use of these things.

7 What I came across was 45 kilograms...
8 Oh, now you've got a 45 kilogram initial charge. I don't
9 know what, how many other charges you are using at the same
10 time, but I see in your EIS you get 56 initial charges.
11 Okay.

12 So that's about two and a half tonnes of
13 explosive once a week during the start-up phase. I'm not
14 sure how long, forgive me, I don't recall the length of what
15 you're constituting as your start-up phase, but then
16 following that you've got twice a week. Or no, once every
17 two weeks. Am I correct? Once every two weeks you'd be
18 using those detonations?

19 THE CHAIRPERSON: (Nods)

20 Ms. ANNA-MARIA GALANTE: Okay. So, all
21 right. Yeah, I guess we'd be looking at two and a half
22 tonnes every two weeks. Okay. So we're maybe looking at,
23 gosh, well, a couple tonnes a year, here. Now, that's not a
24 big deal at all.

25 However, I just, I want to suggest this,

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1 as well, which is... It's sort of easy to say, oh, Nova
2 Scotia, well, we don't have very many people so we don't
3 have very many emissions. Our mining sector, well, gosh,
4 that's nothing to worry about, is it?

5 But I came across some interesting
6 numbers from Larry Hughes Energy Research Group of the
7 Electrical and Computer Engineering Faculty at Dal. And he
8 has some nice graphs here, and I'm sorry that I don't have a
9 slicker presentation that I could show everybody up on the
10 big screen, but this graph here shows Nova Scotia intensity-
11 wise being above the national average, a little ways behind
12 New Brunswick. Quite a ways behind Saskatchewan and
13 Alberta.

14 But it's the fourth province in Canada,
15 it's here, it's here [holding up paper]. So that means we
16 have some work to do, and there's some suggested reductions
17 to meet the national average here of 24 tonnes a person.
18 Yeah.

19 So you know, to overlook things like
20 explosives, I mean it sounds... It seems petty, but really
21 they ought to be included in the GHG Inventory, the use of
22 that kind of combustion.

23 And probably, you know, the land use
24 changes, that's probably not a big number, either, but it
25 would be nice to see it, you know, in your numbers

1 somewhere. And I'm very sorry if I've missed it.

2 And again, the shipping emissions, I
3 know it's something that there's a fair bit of controversy
4 over, but there's something I'd like to share with you about
5 that because...

6 I have a couple of articles, here. Yes,
7 okay. Thank you very much. I'm almost done.

8 Right. Let's see, article from "The
9 Guardian".

10 "CO2 from shipping is twice as much as
11 airlines..."

12 Now, that's shipping in general. Let's
13 see now, here. Okay. Now, this is from the International
14 Council on Clean Transportation, March of this year.

15 "Mode switching to ship transport is
16 often proposed as an option to reduce
17 CO2 emissions from cargo transportation.

18 However, to fully understand the impact
19 of shipping on greenhouse gas emissions,
20 it is important to consider, in addition
21 to CO2, the different types of emissions
22 that affect the earth's climate,
23 including the nitrogen oxide, sulfur
24 dioxide, methane aerosols, chlorinated
25 hydrocarbons. While the impacts of

1 these emissions, in terms of their
2 radiative forcing potential are
3 relatively well understood, only a few
4 studies have looked specifically at the
5 ship contribution to global climate
6 change risk. Now, taken together, the
7 CO2 emissions from international
8 shipping exceed total greenhouse gas
9 emissions for most nations listed in the
10 Kyoto Protocol."

11 Of particular concern here, they have
12 listed here:

13 "Black carbon emissions are anticipated
14 to have a warming impact. Black carbon
15 from all sources may be responsible for
16 as much as 25 percent of observed global
17 warming, and may have a climate-forcing
18 efficacy twice that of CO2."

19 So these are more issues with ship fuel
20 than with truck fuel. Now obviously you guys have been very
21 wise to think about shipping over trucking, because that
22 would be phenomenally nasty.

23 However, I've got a few numbers here.
24 Right. The class of vehicle we're looking at... So maybe
25 someone could answer the question, or just confirm, about

1 the class of the ship. Would it, in fact, be considered a
2 bulk dry carrier or a self-discharging bulk dry? Does
3 somebody know that? Because the S02, actually the S02 and
4 the nitrogen...

5 THE CHAIRPERSON: Ms. Galante, you asked
6 a question. He was about to answer it. Maybe we can answer
7 it.

8 Ms. ANNA-MARIA GALANTE: Yeah. Okay,
9 sorry.

10 Mr. PAUL BUXTON: It would be a self-
11 discharging vessel.

12 Ms. ANNA-MARIA GALANTE: Okay, then.
13 Okay, than.

14 THE CHAIRPERSON: Ms. Galante, you're
15 pulling this to close right?

16 Ms. ANNA-MARIA GALANTE: Yeah, I
17 absolutely am. Yeah. I'll just give you the number here,
18 yeah. It's 54 kilograms, no. Hold on. 53 for the self-
19 discharging. 53 kilograms per tonne of fuel burned of
20 sulfur dioxide, and 71 of nitrogen oxides, kilograms per
21 tonne of fuel burned. So, I mean, obviously this is a
22 consideration that has to be made, and yeah.

23 Well, thank you very much for listening,
24 and I'll try the best I can to answer whatever questions
25 remain.

1 THE CHAIRPERSON: Questions Mr. Buxton?

2 Mr. PAUL BUXTON: No, thank you Mr.
3 Chair.

4 THE CHAIRPERSON: A question or two from
5 the audience? No? I think they're overwhelmed.

6 Ms. ANNA-MARIA GALANTE: Thank you.

7 THE CHAIRPERSON: Thank you.

8 The next presentation is Sister Barbara,
9 then Sister... Sister Barbara and Sister Bonnie. But
10 Sister Barbara is first.

11 **PRESENTATION BY SISTER BARBARA**

12 SISTER BARBARA: Thank you for allowing
13 me to speak to you today regarding the proposed rock quarry
14 and marine terminal development at Whites Point.

15 Let me begin by saying I'm not a tree
16 hugger, a member of Greenpeace, nor Friends of the Earth. I
17 have lived in Rossway, Digby Neck, for 25 years. I do not
18 profess to be a scientist, but in my estimation it does not
19 take a rocket scientist to see that constructing a rock
20 quarry at Whites Point would be an environmental disaster of
21 monumental proportion.

22 I normally prefer to stay neutral on
23 contentious issues such as this one. However, I feel
24 compelled to express my deep concern regarding the proposed
25 Whites Point Quarry and Marine Terminal Project.

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1 My dear grandmother, God rest her soul,
2 used to say: "You must stand for something or you will fall
3 for anything."

4 My grandmother was a very wise woman and
5 taught me a great deal about life, to be sure. I am of the
6 belief that we are in a fight to preserve our way of life on
7 Digby Neck. My stance is against this rock quarry, and I am
8 not falling or the current believe that a rock quarry would
9 be the silver bullet to help the economy by providing jobs
10 in Digby County, where there is high unemployment.

11 This was this very same argument used
12 years ago when another company wanted to build a rock
13 quarry on the other side of Digby Neck. Before this rock
14 quarry was stopped, is caused dissension. People took
15 sides, and it caused bad feelings on both sides of the
16 issue. Family member against family member, neighbour
17 against neighbour, co-worker against co-worker, friend
18 against friend.

19 And the same thing is happening today
20 concerning the proposed rock quarry at Whites Point. Case
21 in point, my "Stop the Quarry" sign was removed from my lawn
22 by someone in favour of the quarry. The sign was found,
23 along with numerous other "Stop the Quarry" signs, thrown in
24 a driveway in Brighton.

25 Why would anyone do this, unless the

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1 individual thought public opinion for the quarry was waning?
2 When this incident happened I thought to myself that maybe,
3 just maybe, there was hope the quarry wasn't a hundred
4 percent sure thing after all.

5 We are not in a win or lose situation
6 here. Whatever the outcome, no one will be declared
7 "winner". If the quarry doesn't go ahead, the people who
8 are in favour of it will not be happy. If the quarry does
9 go ahead, those who are against it will not be happy.

10 Until recently, I was convinced that
11 this quarry was a done deal, and it really didn't matter
12 what I believed. However, a couple of months ago I was
13 given another glimmer of hope that this particular rock
14 quarry in Whites Point may not come to pass.

15 While I was volunteering at our local
16 community outreach centre in Digby, I was visited by John
17 Wall of Bilcon, and he asked me if we had been coerced into
18 placing a "Stop the Quarry" sign on our lawn or did we do it
19 of our own free will.

20 I informed Mr. Wall that we were not
21 forced to place a sign on our lawn.

22 Following this, he said that I should
23 know how important jobs are in this area. I then informed
24 Mr. Wall that the quarry had nothing to do with jobs and
25 everything to do with saving the environment for future

1 generations. I also told him we are instructed by God and
2 the Bible to preserve the earth and be good stewards, not to
3 blow up Digby Neck for the basalt rock and ship it to New
4 Jersey to make roads.

5 After my comments to Mr. Wall, he left
6 the premises.

7 I, for one, am not against creating
8 jobs, especially in this area of the Province. However, at
9 what cost would these jobs be created? I firmly believe
10 that the construction of a mega-rock quarry and marine
11 terminal at Whites Point would cost hundreds of local jobs.

12 This rock quarry would take away jobs in the tourism
13 industry, the fishing industry, as well as from small
14 business in and around the Digby area.

15 How do I come to this conclusion, you
16 might ask? I have been informed that when rock quarries
17 commence blasting, the sound can be heard 30 kilometres
18 away. What tourist would want to visit Digby Neck and hear
19 explosions taking place?

20 I, for one, would not want to return to
21 such a place, and I would advise my friends not to travel
22 there, either.

23 Supertankers docking at the mega-quarry
24 at Whites Point Rock Quarry would create all sorts of
25 problems for whales travelling through the Bay of Fundy.

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1 Whale watching creates numerous jobs in this area. We can
2 only guess as to what effect a mega-terminal and rock quarry
3 would have on this very important tourist attraction.

4 It has yet to be determined how a quarry
5 would affect the fishing of scallops and lobsters in the Bay
6 of Fundy.

7 Both the Federal and Provincial
8 Governments say they are in favour of working towards a
9 cleaner environment in order to prevent climate change.

10 Climate change is nothing new. It has
11 been happening for years now. Scientists have already
12 voiced their concern over the melting Arctic ice causing sea
13 levels to rise.

14 On a map, one can see the Digby Neck
15 Peninsula is not a very large area of land, and when the sea
16 levels rise on the Bay of Fundy side, where will this water
17 go if there's no rock to hold it back when the rock has been
18 shipped to New Jersey?

19 It can only go over Highway 217 and end
20 up flowing into Saint Mary's Bay, which would cause major
21 flooding. Those who live below Whites Point would have to
22 vacate, as they would be cut off from the rest of Digby
23 Neck. Supplies could not be taken to them, as the road
24 would be under water.

25 Would Digby Neck residents be the first

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1 ones to be refugees due to global warming, I wonder?

2 We would have three islands on Digby
3 Neck instead of two. Maybe we should borrow the Boy Scouts
4 motto, "Be Prepared", and we should also remember, it wasn't
5 raining when Noah built the arc.

6 Future catastrophes of this magnitude
7 must be taken into consideration before they happen. I know
8 this is all speculation on my part, but this issue must be
9 faced now as according to the North American Free Trade
10 Agreement should our Governments decide in future that this
11 mega-rock quarry was a bad idea, the Canadian Government
12 would be sued by the company in New Jersey, which would have
13 every right to do so under this agreement.

14 I know many studies have been done by
15 professionals to ascertain what, if any, damage would be
16 done to the environment should this mega-quarry and terminal
17 be given the green light.

18 This, however, doesn't reassure me, due
19 to the fact that we all know professionals built the
20 Titanic, and a mere amateur built the arc.

21 Before any decision is made by the
22 Governments, either pro or con, I for one would like to see
23 a plebiscite held to determine the feelings of those who
24 will be most affected by this mega-quarry. Once the votes
25 are tallied, the Government would then know the will of the

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1 people in this matter.

2 If the majority say yes, then I for one
3 would accept the will of the people and consider the matter
4 closed. If however the majority of people say no to a rock
5 quarry, then the Government should take steps to put laws
6 into effect to protect this part of the Province from future
7 applications for the construction of rock quarries or any
8 other venture that is not environmentally friendly.

9 As I stated in my opening remarks, I am
10 no scientist, but I like to think I have common sense, and
11 my common sense tells me a mega-quarry and marine terminal
12 at Whites Point makes no sense at all.

13 Surely a more environmentally friendly
14 solution could be found for a more appropriate development
15 for the area, and I pray this will happen soon, before it is
16 too late.

17 And I'm open to any questions you may
18 have.

19 THE CHAIRPERSON: Thank you.

20 **PRESENTATION BY SISTER BARBARA - QUESTIONS BY THE PANEL**

21 Ms. JILL GRANT: Just a little bit more
22 elaboration on your idea for a plebiscite. All right.e you
23 suggesting that Government should have a plebiscite on any
24 kind of development in this area, or are you just... Just
25 this project you're suggesting?

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1 SISTER BARBARA: Just this project. And
2 then the air would be clear, whether they want it or don't
3 want it.

4 THE CHAIRPERSON: Mr. Buxton, any
5 questions?

6 Mr. PAUL BUXTON: I have no questions,
7 thank you Mr. Chair.

8 THE CHAIRPERSON: Any questions from the
9 audience? No, it would appear not.
10 Sister Bonnie, now.

11 **PRESENTATION BY SISTER BONNIE**

12 SISTER BONNIE: Good afternoon.

13 THE CHAIRPERSON: Good afternoon.

14 SISTER BONNIE: These are just personal
15 observations, I hope you will bear with me.

16 Most of my life, I've been closely
17 connected to music. Either as a music educator...

18 THE CHAIRPERSON: Excuse me for a minute.
19 Could you pull that microphone just a bit closer to you?
20 Thank you.

21 SISTER BONNIE: Okay.

22 Most of my life, I have been closely
23 connected to music, either as a music educator or as a music
24 therapist, so I suppose I shouldn't be too surprised that
25 much of the time there are melodies and lyrics swimming

1 around in my thoughts.

2 When I began to seriously reflect on
3 what I wanted to say today at this Inquiry, the old
4 children's hymn called "All Things Bright and Beautiful"
5 kept running through my head and I couldn't get rid of it.

6 So I decided to stay with it, and
7 perhaps use it as a springboard to express my concerns
8 regarding the proposed Whites Point Quarry and Marine
9 Terminal project.

10 The lyrics of the chorus to this little
11 song are:

12 "All things bright and beautiful, all
13 creatures great and small, all things
14 wise and wonderful, the Lord God made
15 them all."

16 And then it goes in on the verses to
17 speak of the flowers, the birds, the mountains, the rivers,
18 the sunsets and sunrises, and the fruits of the gardens, and
19 how we have been given eyes to that we can behold all this
20 beauty and nature, and lips that we can speak of this beauty
21 to others.

22 You might ask what all this has to do
23 with the proposed quarry project for Little River.

24 When I arrived here on Digby Neck in
25 1979, I had just left southwestern Ontario, having spent

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1 almost 15 years there.

2 Much of the area was highly
3 industrialized. When I drove into Hamilton, Ontario, I used
4 to have to close my car windows to keep the smell of the
5 emissions from the steel plants from making me nauseated.

6 As one drew nearer to Toronto, one could
7 see the orange/yellow haze that hung over the city and area
8 due to air pollution. The quality of air left much to be
9 desired.

10 After I moved here I appreciated the
11 fact that I could stand outside and freely take a deep
12 breath of fresh, odourless air, until one morning when I
13 stepped outside and the terrible, sickening smell of sulphur
14 filled my nostrils, and I retreated inside the house
15 quickly.

16 I had had my first encounter with the
17 pollution in the air from Irving's oil refinery in Saint
18 John, New Brunswick.

19 Now Saint John is not just next door to
20 Digby Neck, it's about 40 miles, so I've been told, across
21 the water of the Bay of Fundy, and yet their air pollution
22 affects us over here in Nova Scotia and probably even
23 farther afield.

24 If we have a quarry in Whites Point, you
25 can be assured that this will adversely affect our air

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1 quality. We may not smell anything, but you can be sure
2 there will be contaminants in the air from this project
3 which will not only affect us locally but will also have an
4 impact on others miles away from Digby Neck.

5 There will also be noise pollution, not
6 only to the local residents but to the marine life in the
7 Bay of Fundy. I'm not an expert on marine life, but from
8 what I have read and have been told by those who are, the
9 blasting from this proposed quarry will have a detrimental
10 effect on the whales and other sea mammals, as well as the
11 fish that inhabit our local area.

12 Our area of the Bay of Fundy hosts many
13 species of whales during the summer months as they come to
14 our waters to feed and breed before going to warmer waters
15 to calve. One of my fears is that the water runoff from
16 this quarry will pollute our sea waters and make it
17 unsustainable for the marine life in the area of the
18 proposed site.

19 As well as runoff pollution, there is
20 the high risk of oil spills from the ships that will be
21 using this new marine terminal, as well as the increased
22 incidence of collisions with the whales in the Bay of
23 Fundy.

24 The Right Whale, for one, is on the
25 endangered species list, as it is. Will we hasten its

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1 extinction by this Whites Point project going forward? I
2 suggest we might.

3 Apart from the whales, there are the
4 seabirds to be considered. They too will be endangered by
5 the pollution of the natural habitat.

6 Our fisheries will suffer a decline. It
7 is bad enough that our fish have high levels of mercury in
8 them already due to our human carelessness. There will be
9 other contaminants, as well, from the quarry. We won't know
10 what we are ingesting when we eat our local fish. Our own
11 health will be in jeopardy, as it already is in other forms
12 of food that we now eat.

13 We will lose habitat for local fauna if
14 we allow the clearing of such a large parcel of land to
15 proceed. I understand some of the plant life is quite
16 unique to our area.

17 As well, space will be diminished for
18 birds to nest, feed, and to raise their young, not to
19 mention the life of reptiles and insects found in the area,
20 and it just goes on and on.

21 If this Whites Point Quarry and Marine
22 Terminal Proposal is passed our Governmental Departments, it
23 seems to me to be a very destructive decision; one that is
24 only looking at the short term of things.

25 Why can't the mega-companies put their

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1 money and energies into constructive projects? It seems
2 that they are only interested in their own pursuits to make
3 money as fast as they can, irregardless of the cost to
4 others.

5 It isn't that they care about job
6 creation, they care about making big money for themselves.
7 There are many other constructive projects that the various
8 levels of our Governments could implement. We could invest
9 money and effort to make this entire Digby Neck and Islands
10 a wonderful nature adventure by putting in place walking
11 trails and picnic areas, bird watching sites, and so on.

12 We could make Digby Neck and Islands a
13 National Marine Conservation area. We could consider
14 building a senior's village somewhere on the Digby Neck. It
15 is going to be needed. We could consider, as has been done
16 in other places, leasing our land to companies that would
17 place wind turbines on the land to be used as a cleaner
18 source of energy.

19 All of these initiatives would create
20 long-term sustainable jobs. We need to use our imaginations
21 and come up with alternatives to such projects as the
22 quarry.

23 Once this quarry is given the green
24 light to go ahead with their plans, we will be opening the
25 door for more and more of these huge mega-companies to come

1 to our area and take our natural resources. There are plans
2 already afoot to have a water bottling project in Gulliver's
3 Cove to ship water to the United States. Why should our
4 natural resources go to other countries?

5 Our Municipal and Provincial Governments
6 need to put in place bylaws to protect our land and
7 resources from such developers. Other places have done it,
8 and it is high time that we follow suit.

9 I understand that there is legislation
10 in place along the American/Atlantic seacoast so that
11 companies like Bilcon cannot build quarries and destroy
12 their American shoreline, and that is one of the reasons
13 that Bilcon has come to exploit our shoreline.

14 And let us not forget the NAFTA
15 Agreement between Canada and the United States and Mexico.
16 Once Bilcon has taken one load of basalt rock from the
17 Whites Point Quarry, then no one can put a stop to the
18 process. If our Government should decide that after that
19 first load of rock has been removed that they would like to
20 reverse their decision and stop the project, they cannot do
21 so.

22 In turn, Bilcon or any other large
23 company that you should let rape our land and natural
24 resources can then sue our Canadian Government billions of
25 dollars, nor can our Government stop the process. All

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1 thanks to the NAFTA Agreement.

2 So if this plan for Whites Point Quarry
3 and Marine Terminal gets the go-ahead, there is nothing that
4 can be done to turn the tide. Absolutely nothing.

5 Therefore we, as citizens of Digby Neck
6 and Islands, need to really think long and hard about the
7 future of our community. Do we really want to breath-in
8 polluted air? Air that might carry carcinogenic agents that
9 will destroy our lungs and internal organs? Do we really
10 want to possibly be a part of the problem that sees the
11 extinction of our right whales or the demise of the Harlekin
12 duck population.

13 Do we really want to eat contaminated
14 fish and crustaceans, thus contaminating ourselves as well?
15 Do we honestly want to watch hazy sunsets and sunrises
16 caused by smog? Or do we want to listen for the call of
17 certain birds or amphibians, such as the frogs chirping in
18 the spring, only to be disappointed by the silence that will
19 fall upon our ears?

20 This quarry is not about creating
21 employment, as the advocates of this project would have you
22 believe. No. It's about the big business of making money,
23 lots of money for the company without regard as to what they
24 are doing in and to the local community.

25 People are made up of body, mind, and

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1 spirit. I am sure you have heard this said many times
2 before. We have resources enough to feed the body and the
3 mind, and so far the spirit. The spirit is fed by beauty.
4 Beauty and nature, particularly. If we let this beauty be
5 taken from us, part of our spirit will die.

6 Is that what we want for ourselves and
7 for future generations? I for one don't think so. We need
8 to put our heads together and come up with alternative
9 projects that will create local jobs to keep our communities
10 together and preserve the lifestyle that has sustained
11 people here for generations, without impacting negatively on
12 our natural resources and environment.

13 Why do people from away like to come to
14 our area? Because of the natural beauty that surrounds them
15 when they arrive, and for the clean, odourless air that they
16 can breathe in, for the pleasure of gazing up in the sky at
17 night and seeing the beautiful display of stars in the sky,
18 all of which they cannot experience from the smog-filled
19 cities that they live in.

20 This is why people come and stay.

21 There is a house not far from our home
22 that stood the ravages of storms for over 150 years. A
23 small quarry began operation very near this house a few
24 years ago and today the walls of this house are cracked,
25 showing the stress that the blasting from the quarry has

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1 caused.

2 If the walls are cracking, one can only
3 speculate what is happening to the foundation of the house
4 too.

5 Let's pray that our elected officials in
6 all levels of Government will hear our pleas and so no to
7 the Whites Point Quarry and Marine Terminal Project.

8 Incidentally, Sister Barbara noted in
9 her presentation that she had received a visit from Mr. Wall
10 of Bilcon asking if we had ben coerced into placing a "Stop
11 the Quarry" sign on our lawn.

12 I want to say emphatically and
13 categorically that nobody coerced or even asked us to put a
14 sign on our lawn. When the first signs came out, we
15 inquired as to where we could obtain one, and when we found
16 out we went to the source and acquired one and proudly put
17 it on our property.

18 Later, we obtained two more and placed
19 them on our property, as well. Nobody has ever approached
20 about getting signs in any way, and I just wanted to make
21 this perfectly clear.

22 I would like to thank those who have
23 dedicated so much of their time and energy into keeping the
24 public aware of the developments of this Whites Point
25 Project. Without their efforts and persistence, we would

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1 not be here today presenting our side of the issue. I would
2 also like to thank the Panel for this opportunity to voice
3 my opinions and concerns.

4 Thank you very much.

5 Mr. GUNTER MUECKE: Sister Bonnie, you
6 have expressed many concerns about the quarry, and I'd just
7 like to take one arbitrary concern and ask you a question
8 about it.

9 And you have indicated that you're very
10 concerned about human healths being impacted by the quarry
11 development.

12 I believe earlier today you were here
13 and you heard representatives of Health Canada address that
14 issue. Does it or does it not provide you some assurance
15 that your interests are being looked after?

16 SISTER BONNIE: I wasn't here this
17 morning, and I didn't hear the presentation, sorry. That
18 was Sister Barbara. But I'll get a report, I'm sure.

19 THE CHAIRPERSON: Mr. Buxton?

20 Mr. PAUL BUXTON: I have no questions.

21 THE CHAIRPERSON: Anyone from the floor?

22 No? Thank you, Sister Bonnie.

23 That brings us to the final presentation
24 for the day, the Chamber of Mineral Resources of Nova
25 Scotia. I gather that will be Gordon Dickie.

617
CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(Mr. GORDON DICKIE)

1 --- Pause

2 **PRESENTATION BY THE CHAMBER OF MINERAL RESOURCES OF NOVA**
3 **SCOTIA - GORDON DICKIE**

4 Mr. GORDON DICKIE: My name is Gordon
5 Dickie. I'm here to represent the... In fact, the Mining
6 Association of Nova Scotia, which was formerly called the
7 Chamber of Mineral Resources. So if I slip back into one or
8 the other of the names, you'll know.

9 I'm a resident of Nova Scotia. I went
10 to Dalhousie University. I spent 32 years in the mining
11 business, and I'm a geologist by training.

12 --- Pause

13 And you'll be pleased to know that I
14 have only 12 slides. If it works.

15 --- Pause

16 What I wanted to say just briefly, as
17 opening remarks, the Mining Association of Nova Scotia, I'm
18 the President, it's a volunteer position. Our membership is
19 mineral producers, aggregate, gypsum, coal and salt. We
20 also have other members that belong to this organization,
21 and they're listed here.

22 We clearly are an advocate for the
23 mineral industry in the Province, and we promote positive
24 public awareness, which is the main reason why I'm here
25 today.

1 I wanted to talk today and address the
2 Panel to give you a bit of information in terms of the
3 mining industry in Nova Scotia.

4 Some comments have been made that it
5 perhaps is an insignificant industry, and what I'd like to
6 do is provide some information in terms of the size of the
7 industry, the numbers of people that are employed, both
8 primary and secondary processing, to try and put the
9 industry in perspective versus what is being proposed here
10 today.

11 The mining industry in Nova Scotia
12 employs 5,260 people, so we're a far cry from one mine. The
13 total value of the goods that we produce is \$400 million a
14 year.

15 The mining activity is comprised of two
16 elements. We have direct mining activities, that would be
17 things like quarrying, things like aggregate and gypsum. In
18 that business, we employ 2,800 people, and put out \$221
19 million worth of product.

20 On the processing side, it might
21 interest some here in the audience to know that in fact we
22 do do secondary processing of our natural resources in this
23 Province. In fact, the number of people employed surpasses
24 that of those directly involved in mining, and the value
25 that's added is a further \$179 million.

1 How do we stack up to other primary
2 industries in this Province? You might find this an
3 interesting graph. The mining industry in Nova Scotia is
4 second only to fishing in terms of its contribution to the
5 gross domestic product. It is ahead of both agriculture and
6 forestry.

7 We talk about the socio-economic value
8 of this industry; are the jobs that are present in the
9 mining industry good-paying jobs, are they poor-paying jobs?
10 In fact, this graph shows that mining in this Province is
11 substantially higher in terms of a weekly wage than any
12 other primary industry in this Province by a very wide
13 margin.

14 So this graph attempts to indicate what
15 the history of mining extraction has been in this Province
16 in the past, and attempts to project what it will be into
17 the future.

18 In 2007, you can see roughly the numbers
19 that I'm talking about are increased somewhat from primary
20 extraction from the earlier graph. This information, by the
21 way, was taken from a Gardner Pinfold study that was done
22 two years ago specifically to evaluate the impact of mining
23 in Nova Scotia, and to acquire some recent data.

24 All of this information is available,
25 actually, on the Department of Natural Resources website,

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1 and there's significantly more information on that website
2 than what I'm presenting here in terms of detail.

3 We would expect the mining industry of
4 this Province to increase in terms of its value over the
5 next five years. Some of the contributors to that will be
6 the Donkin Coal Project which may or may not take place in
7 Cape Breton, there is two gold projects that look like they
8 will come into fruition, and within the last two months
9 there's a zinc project in Gays River that is up and running
10 and will contribute, that operation alone, \$50 million to
11 the local economy, and hire approximately 40 people.

12 Some of the things that we produce, we
13 use all of these products. You can go down through the
14 list. If you look around this building, you will see some
15 or a lot of these commodities were used in the construction
16 of this building.

17 The commodities that the Nova Scotia
18 mining industry produces are absolutely essential for the
19 maintenance of infrastructure for the building of our houses
20 and for the continuation of our social fabric, as it exists
21 today.

22 So my focus for today, I wanted to leave
23 the Panel with four thoughts.

24 First of all, the mining industry in
25 this Province is a very important wealth generator that in

1 terms of the \$400-odd million dollars that it contributes to
2 the GDP, approximately 85 percent of that ends up in the
3 pockets of Nova Scotians, in terms of labour, in terms of
4 wages, in terms of goods and services bought.

5 Mining provides an important economic
6 and social benefit to rural Nova Scotia, although
7 interestingly enough approximately five million tonnes of
8 the seven million tonnes of aggregate mined in this Province
9 are done so in the HRM.

10 In fact, we have three quarries in HRM
11 that are equal to or larger in size than the proposed Whites
12 Point Quarry. I happen to live within two kilometres of one
13 of them. By choice. It's a good place to live.

14 Regulatory environment ensures that the
15 mining industry is safe, sustainable, and environmentally
16 responsible. The process that is occurring here in this
17 forum is one of the ways that these things are achieved.

18 We talk about reclamation, we talk about
19 our industry being responsible for the reclamation of land
20 when we're done mining as a transient and a temporary land
21 use.

22 I'm sure there are many examples that
23 most here can think of where mining has not produced a piece
24 of land that's more valuable than it was to begin with.

25 However, I can think of one example that

1 you might consider that is the other way. I'm thinking, for
2 those of you from the Halifax Region, the Dartmouth Crossing
3 Project. That's a substantial complex of retail
4 development, and it happens to be on a property that...
5 There were two quarries and one asphalt plant that have
6 produced there for 50 years.

7 So there's an example of what can be
8 done with quarry properties, once quarrying is done. And I
9 believe, from what I've seen of the Whites Point Project, it
10 has been presented in what the reclamation plan looks like.

11 I'm not going to comment on it one way or the other.

12 The point being though, that at the
13 start of these projects now, reclamation plans are approved
14 whereas perhaps 30 years ago, oftentimes that was done at
15 the end of a project which clearly was not appropriate and
16 not something that the Mining Association supports.

17 Finally, the Whites Point Project will
18 provide an economic and social boost to Digby County and
19 beyond.

20 Of course, it's up to the community and
21 this Panel to decide whether in fact it's an acceptable land
22 use.

23 I thank you very much. I thank the
24 Panel for the time that was allotted to me. If there are
25 questions, I would be pleased to take them.

CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS BY THE PANEL)

1 THE CHAIRPERSON: Mr. Dickie, thank you
2 for your comments. You're certainly a very able
3 spokesperson for the industry.

4 **CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA - QUESTIONS BY**
5 **THE PANEL**

6 THE CHAIRPERSON: I wasn't aware of all
7 the statistics, but one statistic that did take me by
8 surprise was the differential between salaries.

9 What accounts for that differential?

10 Mr. GORDON DICKIE: I can probably best
11 address that from my own experience in the business that I
12 run.

13 The folks... And we're in the mining
14 business along with other things, with my other hat on, so I
15 do have some direct experience.

16 The people that we hire to work in our
17 operations, they... We provide them with extensive training
18 and the ability to learn new skills. Our industry is
19 becoming more automated all the time.

20 We require folks with computer skills.
21 The days of operating an aggregate quarry with pics and
22 shovels are long gone, so in order to attract those sorts of
23 people, you know, we would in fact need to pay significant
24 wages to do that.

25 THE CHAIRPERSON: It's a competitive

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS BY THE PANEL)

1 market. You're seeking people who are also being sought in
2 other places.

3 Mr. GORDON DICKIE: That's correct.

4 Mr. GUNTER MUECKE: Taking that another
5 step further, what you're saying it requires a fairly
6 highly-skilled workforce now, and if this operation was to
7 proceed, it would take from an already small pool, so are we
8 not just talking about reshuffling things rather than
9 improving the labour market?

10 Mr. GORDON DICKIE: Dr. Muecke, that
11 wouldn't be our experience in this industry. We have found
12 that people coming out of the fishery industry, out of the
13 forestry industry, folks that are used to running machinery
14 are very easily trained and adaptable to working in our
15 industry, so we found that we virtually universally hire
16 local people. That has been our experience.

17 Mr. GUNTER MUECKE: Thank you.

18 Ms. JILL GRANT: You mentioned in your
19 presentation that there's a lot of processing that goes on
20 here in Nova Scotia.

21 I wonder if you could give us some
22 indications of the kind of processing that goes on in the
23 mining industry here?

24 Mr. GORDON DICKIE: Perhaps I could talk
25 specifically about the aggregate industry, since that's one

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(QUESTIONS BY THE PANEL)

1 of the areas that I worked in for a number of years and
2 might be most relevant.

3 I'm certainly not speaking for Bilcon,
4 because I haven't studied the details of what they're
5 planning to do in terms of secondary processing, but if I
6 look at the industry, the aggregate industry, and in
7 particular the quarry industry in general, and I would take
8 let's say a couple of quarries in metro, their secondary
9 processing would involve chiefly crushing, screening,
10 washing and sizing different aggregates for specific
11 purposes.

12 In the case of aggregate quarries these
13 days, there might be 20 or 25 different product skews that
14 they may produce for a wide variety of markets.

15 THE CHAIRPERSON: Mr. Buxton?

16 Mr. PAUL BUXTON: I have no questions,
17 thank you Mr. Chair.

18 THE CHAIRPERSON: Any questions from the
19 floor?

20 **CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA- QUESTIONS FROM**
21 **THE PUBLIC**

22 THE CHAIRPERSON: Please, Mr. Morsches.

23 Mr. BOB MORSCHEs: Sir, you indicated in
24 one of your slides that from 2007 to 2013 projections, that
25 there would probably be a good 100 percent increase in the

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 amount of money gained from mining or aggregate.

2 When you said that... And the previous
3 graph you showed said mining was second to the fishing
4 industry.

5 In that, if that is true, with the
6 increase in mining or quarrying of aggregate, on Digby Neck
7 the biggest industries currently are fishing and tourism.
8 Actually, it is approximately 80 percent of the money that
9 is made on Digby Neck and the Islands.

10 So if you take the quarries and you
11 start putting them together, the fishing and tourism is
12 going down on Digby Neck, and what you're doing is taking
13 the heritage of fishing and tourism for which Digby Neck is
14 known for, and has been for many, many years, and decreasing
15 that.

16 Did you consider that at all in your
17 address?

18 Mr. GORDON DICKIE: My address certainly
19 isn't intended to imply anything about the fishing industry
20 on Digby Neck.

21 I should clarify that one of the main
22 reasons for the projected increase in the value of mining on
23 those slides, the value of the proposed coal project in Cape
24 Breton accounts for approximately \$350 to \$400 million of
25 that increase. The rest of it is estimates for two gold

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 mines and one base metal mine.

2 In terms of the dollar value that Bilcon
3 or any other quarry would generate is in their information,
4 but it's not of the same order of magnitude of these other
5 things that are on the horizon.

6 Mr. BOB MORSCHEs: And the second part of
7 that question Mr. Chairman, you indicated also there would
8 be a boost in the economy and a social boost also.

9 I'm wondering what kind of a social
10 boost putting quarries along Digby Neck would have, because
11 approximately 50 percent of us on Digby Neck are retired
12 people.

13 Most of us come as summer people, and I
14 do not see anything social about a quarry being in our
15 area.

16 Mr. GORDON DICKIE: That was a comment,
17 but from my point of view, that's what this process is
18 about. In part, it's to determine whether the community as
19 a whole wishes to have this kind of mining activity on Digby
20 Neck.

21 I'm not here to suggest to you or
22 anybody else what your community desires might be, I'm here
23 to try to indicate the value of mining in this Province, and
24 that perhaps not always...

25 Mines are not always where you

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 necessarily want them to be, they are where the particular
2 geology works. But at the end of the day, clearly, at least
3 from my point of view, what I was implying with the social
4 aspects is that the mining industry for me, I'm a fifth
5 generation Nova Scotian, I can raise my family here and I've
6 been able to work in the industry, so I don't consider that
7 necessarily insignificant.

8 I understand exactly what you're saying
9 is the same thing, so it's up to the community and this
10 Panel to decide whether this particular Project will go
11 ahead.

12 Mr. BOB MORSCHEs: Thank you Sir.

13 THE CHAIRPERSON: Thank you Mr. Morsches.
14 Any other questions?

15 Ms. CAROL LITTLETON: My name is Carol
16 Littleton. Thank you very much for such an informative
17 presentation about the mining industry.

18 I'm a little confused though. One of
19 the speakers mentioned that there is only one mine in Nova
20 Scotia, and therefore figures if I understood correctly for
21 the CO2 emissions have not been kept since before 2000.

22 You've indicated that there's lots of
23 mining going on, and I would ask you if you have any kind of
24 a figure for the total number per year of CO2 emissions for
25 all mining activity?

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 Mr. GORDON DICKIE: I don't have that
2 figure because I'm in the mining industry, the figures that
3 I provide through a process called NPRI, that's what we
4 report to the Federal Government.

5 I'm not aware that the mining industry
6 up until now has recorded specifically on CO2 emissions, so
7 that would be my understanding.

8 I'm thinking that the data is not
9 available because at least from my industry perspective, we
10 haven't been asked to report it.

11 Ms. CAROL LITTLETON: I would gather with
12 the new regulation, that that might be something you will be
13 asked to provide.

14 I have a related question, and I'll
15 hurry because I know the time is late.

16 You gave figures about the economic
17 benefit of mining and of the Whites Point Quarry being very
18 beneficial economically.

19 I understand that royalties have not
20 been collected on basalt for a certain... I don't know when
21 they stopped being collected, but at some period they did. I
22 don't understand why, but...

23 The figures you gave for the economic
24 benefit of all the other mining activity, did that include
25 royalties and would it therefore be kind of an unfair

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 comparison?

2 Mr. GORDON DICKIE: One of the speakers
3 earlier this afternoon for the Department of National
4 Resources attempted to clarify what particular commodity
5 attracted a royalty and what didn't, and clearly in terms of
6 mining in Nova Scotia, some commodities attract a royalty,
7 some don't.

8 You are correct that things like rock
9 for aggregate, sand and gravel, they do not attract a
10 royalty.

11 Things like gypsum is subject to a tax,
12 which is effectively a royalty. Other mining such as coal
13 mining, base metal, gold mining, they all attract a royalty,
14 so in terms of my figures, they were representative of what
15 the total economic value of the activity is, which would
16 include taxes, would include royalties if they're payable or
17 not.

18 So it wasn't the intent to try to
19 differentiate between what attracted royalty and what
20 didn't.

21 Ms. CAROL LITTLETON: Okay.

22 Mr. GORDON DICKIE: It was simply to talk
23 about the total economic value of the industry.

24 Ms. CAROL LITTLETON: But you would agree
25 that without the royalties, it would be... The economic

CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 benefit of the Whites Cove Quarry would be on a different
2 level?

3 Mr. GORDON DICKIE: I think my answer to
4 that would be I don't know what that would have on the
5 economic value of the Whites Point Quarry except that
6 royalties in general, where they do apply, are not a large
7 portion of costs of operation.

8 Ms. CAROL LITTLETON: Thank you very
9 much.

10 THE CHAIRPERSON: Madam, could you
11 identify yourself by name?

12 Ms. CAROL LITTLETON: Carol Littleton.

13 THE CHAIRPERSON: Oh, sorry. Okay.
14 Thank you. Anyone else? Mr. Mullin, Mr. Ackerman, Mr.
15 Morcocchio.

16 Mr. DON MULLIN: Mine is a quick
17 question. I don't have my calculator with me today, but you
18 said that the average weekly salary of mine workers was
19 \$1,000, am I correct?

20 Mr. GORDON DICKIE: Yes.

21 Mr. DON MULLIN: And that's based on 37.5
22 or 40 hour a week or what length of work week?

23 Mr. GORDON DICKIE: That would vary
24 depending on the operation. It could be I suppose anywhere
25 from 35 to 60.

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 Mr. DON MULLIN: But if you have an
2 average for a work week, you must have an average for this
3 too?

4 Mr. GORDON DICKIE: I think they used 40
5 or 42 hours.

6 Mr. DON MULLIN: Okay. I have looked at
7 Bilcon's wage rates that are posted, and I know you can't
8 average averages, but I have to do that roughly because I
9 don't have my calculator, but going from an average wage
10 rate of \$16.25 an hour, Bilcon's workers would have to work
11 62.5 hours a week for that. Would that be normal for a
12 quarry?

13 Mr. GORDON DICKIE: That could be normal
14 for a quarry, it could be abnormal for a quarry. Some
15 operations may work 60 hours a week, some may work 40. I
16 don't know what Bilcon has as a program, what they play to
17 do, but what I've reported is the average for mining in Nova
18 Scotia.

19 THE CHAIRPERSON: Mr. Ackerman?

20 Mr. GERRY ACKERMAN: Yes. I'm Gerry
21 Ackerman. Good to meet you Gordon.

22 Mr. GORDON DICKIE: Likewise.

23 Mr. GERRY ACKERMAN: I've got a little
24 preamble to the question, but I do have a question that I
25 want to focus on.

CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 The preamble goes like this. You've
2 been here quite a while in Nova Scotia and so have I, and
3 you were here when the Nova Scotia Power company was
4 privatized, and we hoped then, as Nova Scotians, that they
5 would do the right thing, and we found they didn't do the
6 right thing.

7 They didn't pay their taxes, their
8 property taxes, they didn't pay their income taxes, the case
9 went to the Supreme Court.

10 When they owned 60 million cubic feet of
11 natural gas, they didn't use it, they sold it. They sold it
12 to Maine and Massachusetts, and they used the money to buy
13 coal from Columbia and Venezuela because Nova Scotia
14 wasn't...

15 THE CHAIRPERSON: Sir, is this going to a
16 question?

17 Mr. GERRY ACKERMAN: So my question to
18 you is what makes you think that this institution, that is
19 providing us with electricity, is going to do anything other
20 than burn coal and continue polluting our air?

21 Mr. GORDON DICKIE: The only thing that
22 would make me think that I guess is the same as what you
23 have heard in the media, that Nova Scotia Power has a plan
24 to continue to burn coal, add scrubbers to try and assist
25 their pollution difficulties.

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 I'm certainly not prepared to defend
2 Nova Scotia Power. I pay my power bills the same as anybody
3 else and complain that they're too high.

4 THE CHAIRPERSON: Okay. Mr. Morcocchio?

5 Mr. BRUNO MORCOCCHIO: Thank you Mr.
6 Chair. We've heard some conflicting testimony today about
7 the overall picture of the mining industry and your
8 presentation seems to have further confused the issue.

9 Generally we heard that for the purposes
10 of paying royalties, aggregate is not considered a mineral
11 therefore it pays no royalties.

12 Yet, it's clear that in your
13 presentation you include all of the economic benefit from
14 aggregate as part of the figures for mining, yet you don't
15 feel compelled to divulge or to include your carbon
16 emissions as part of the mining emissions for the Province.

17 It's a slate of hand upon which an
18 industry that generally produces very little value added to
19 a community takes advantage of a regulatory and semantic
20 loophole.

21 Similarly, calling gravel a value added
22 product, I think any common sense analysis would tell you
23 it's wrong and just untrue.

24 Gravel and sand that is not screened has
25 no value. To be able to market gravel and sand to the

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 consumer, one needs to present it in a marketable form.
2 Calling it value added really misses the point. There is no
3 value added, no increase.

4 What would give us a better indication
5 seemed to be missing from your presentation, and I wonder if
6 you might be able to provide to us the measure of job
7 intensity per unit of GDP produced by the mining sector
8 relative to those other sectors, particularly forestry,
9 fishing and tourism, which make the bulk of the wealth
10 generated in this community?

11 To have a true measure of a value to a
12 community, you need to be able to compare how much job
13 intensity will accrue to the wealth of the community so that
14 a community can make an enlightened decision about a
15 project.

16 Can you give us some idea of how many
17 jobs versus those other industries mining produces?

18 Mr. GORDON DICKIE: I've given you the
19 information that mining has over 5,000 direct and indirect
20 jobs in this Province.

21 In terms of the numbers employed in the
22 other sectors, I'm not... I don't have that information
23 with me today. I'm sure it's fairly easily acquired. I
24 guess whether it's relevant or not, I'm not certain.

25 Certainly, if the Panel wants that

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1 information, we could dig it out.

2 Incidentally, I've been involved in the
3 aggregate business myself, from the sand and gravel
4 business, for 20 years, and the value that we add to those
5 products is significant, and believe me if it wasn't
6 necessary for the use, we certainly wouldn't do it.

7 So we could argue probably semantics on
8 value added as much as you like, but the bottom line is that
9 these products are used, are required by our society and so
10 they are produced.

11 Mr. BRUNO MORCOCCHIO: I wonder if the
12 Panel might endeavour to have an undertaking to see if you
13 can find those numbers on the relative job intensities by
14 sector?

15 It might be helpful, if the Panel thinks
16 that would be useful.

17 THE CHAIRPERSON: Okay. Could you be
18 more explicit?

19 Mr. BRUNO MORCOCCHIO: I would like to
20 see a comparison of job intensity by sector, mining,
21 forestry, fishing, tourism in the province of Nova Scotia.

22 How many jobs per unit of GDP production
23 do each of those industries generate?

24 THE CHAIRPERSON: Mining, fishing...

25 Mr. BRUNO MORCOCCHIO: Forestry and

CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 tourism. Those were the categories that were in the graphs
2 that were displayed in the presentation.

3 THE CHAIRPERSON: Okay. Are you able to
4 do that for us Mr. Dickie?

5 Mr. GORDON DICKIE: I'll do what I can.

6 THE CHAIRPERSON: Can you endeavour to do
7 that before the Panel breaks up, which would be the 30th of
8 June, and could you give me a date when we might expect to
9 receive that?

10 Mr. GORDON DICKIE: Eh...

11 THE CHAIRPERSON: The 29th of June would
12 be fine.

13 Mr. GORDON DICKIE: Okay. Let's pick
14 that date.

15 THE CHAIRPERSON: Okay. Okay, thank you.
16 It's getting late, and we're all getting tired except for
17 my colleague here.

18 Ms. JILL GRANT: One last question Mr.
19 Dickie. Can you tell us what the effect of the growing
20 strength of the Canadian dollar has on exports in the mining
21 sector, and especially if you can say about the aggregate
22 sector?

23 Mr. GORDON DICKIE: I could speculate
24 because I know what effect it has on my business. We don't
25 export aggregate, but we export other things, and yes,

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CHAMBER OF MINERAL RESOURCES OF NOVA SCOTIA
(QUESTIONS FROM THE PUBLIC)

1 absolutely, it's...

2 The difference in exchange rate between
3 what it was a year ago and what it is today comes right off
4 your bottom line if you don't have an opportunity to raise
5 prices, so depending on what sector you're in, sometimes you
6 can, sometimes you can't.

7 It has a negative effect on exporters to
8 the U.S. for sure.

9 THE CHAIRPERSON: Okay. I would like to
10 bring this session to a close. We'll meet tomorrow morning
11 at 9:00. Thank you all.

12 --- Whereupon the matter concluded at 5:40 p.m. to resume on
13 Wednesday, June 19, at 9:00 a.m.