

# PUBLIC HEARING

## WHITES POINT QUARRY AND MARINE TERMINAL PROJECT

### JOINT REVIEW PANEL

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#### V O L U M E 5

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

PLACE HEARD: Digby, Nova Scotia

DATE HEARD: Thursday, June 21, 2007

PRESENTERS: -Environment Canada  
Allan Hanson/Maria Dober/Gary Lines  
-Nova Scotia Environment and Labour  
Kim MacNeil/Bob Petrie/Bruce Arthur/John  
Drage/Andrew Murphy/Barb Ryden/Darlene Fenton  
Scott Lister/Darrell Taylor  
-Natural Resources of Canada  
Mr. Andrew McAllister  
-Partnership of the Sustainable Development of  
Digby Neck and Islands Society  
Mr. Kemp Stanton/Ms. Lisa Mitchell

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

1 Digby, Nova Scotia

2 --- Upon resuming on Thursday, June 21, 2007, at 9:00 a.m.

3 THE CHAIRPERSON: Ladies and gentlemen,  
4 we would like to bring the meeting to order please.

5 For those of you who are new to this  
6 session, I would like to introduce the Panel. On my left is  
7 Jill Grant, who is a professional planner. On my right is  
8 Gunter Muecke, who is an earth scientist. And I am Robert  
9 Fournier, the Chairman, and I'm an oceanographer by  
10 training.

11 A couple of comments for people who are  
12 new to this session is that we have been identifying the  
13 fact that headsets are available for those individuals who  
14 find the acoustics less than desirable.

15 The headsets are there of course in case  
16 we have French or English presentations, and so there is  
17 simultaneous translation. The headsets sometimes help a  
18 great deal simply hearing.

19 Also, I need to bring to your attention  
20 the fact that the schedule is being revised every day, and  
21 if you wish a revised schedule, the Secretariat can in fact  
22 provide it to you.

23 Before we turn to our presenters this  
24 morning, I need to make a comment about the undertakings.

25 There are no undertakings that are due

1 today. There is one outstanding undertaking that was  
2 requested for yesterday, but we have agreed to a later date.  
3 And yesterday we had several additional undertakings, which  
4 I will briefly go through.

5                   The first was an undertaking to Bilcon  
6 of Nova Scotia to provide a drawing illustrating the  
7 location of blasts at the extremities of the property  
8 illustrating the 500-metre and 2,500-metre safety zones, and  
9 the 500-metre observation zone centred on the loading arm of  
10 the marine terminal. That was number 26.

11                   Number 27 was directed to Transport  
12 Canada, to clarify the regulatory requirements for the  
13 release of bilge water from a bulk carrier while on port and  
14 engaged in the loading of material.

15                   Number 28, Transport Canada again, to  
16 clarify if ballast water exchange required by regulation  
17 results in 100 percent exchange.

18                   Number 29, Fisheries and Oceans Canada,  
19 to provide, following collaboration with Environment Canada,  
20 an assessment of the ecological risks associated with the  
21 ammonia residuals resulting from blasting and episodic and  
22 control releases from the Project's settling ponds.

23                   Number 30, also to Fisheries and Oceans  
24 Canada, to provide the value of the lobster fishery in the  
25 Project area relative to other areas in the Province.

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1                   Number 31, also to Fisheries and Oceans  
2 Canada, to provide a listing of the SARA protected species,  
3 the potential effects on each, whether or not effects are  
4 likely, adverse, mitigable and whether or not a SARA permit  
5 will be required.

6                   All of these are requested for the 29<sup>th</sup>  
7 of June.

8                   One other item of business, and that is  
9 Mr. Buxton, in reference to something that occurred  
10 yesterday, your blaster identified the number of... Well he  
11 said one pound, or 0.4 kilograms per tonne of explosive was  
12 required in the blasting process, and that we are  
13 anticipating 80,000 tonnes required each biweekly period.

14                   According to our calculations, that  
15 works out to 32 tonnes of explosives. So 32 tonnes of  
16 explosives required biweekly in order to generate 80,000  
17 tonnes of rock.

18                   According to the CLC records, Bilcon is  
19 on record as saying that the amount of explosives required  
20 would be 7.5 tonnes, so we have a disparity between 32  
21 tonnes and 7.5 tonnes.

22                   We have an undertaking for you, and that  
23 is would you clarify the amount of explosive that is  
24 required per blast? Would you clarify the amount required  
25 per tonne, that is the total per blast, meaning the biweekly

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1 amount? Would you clarify the amount required to produce a  
2 tonne of rock? Can you confirm that you will be blasting  
3 once every two-week period? And could you identify the  
4 total amount of explosives that will be required in that  
5 two-week period?

6 So the amount required per blast, the  
7 amount required per tonne, the total amount of explosives  
8 required and you to confirm that you will be blasting only  
9 once every two weeks.

10 Can you tell me when that undertaking  
11 would be available?

12 Mr. PAUL BUXTON: We will have that  
13 undertaking completed by Tuesday.

14 THE CHAIRPERSON: Tuesday? And one other  
15 thing, we want the undertaking done in metric, all metric.  
16 No English units.

17 Dr. GUNTER MUECKE: Mr. Buxton, perhaps I  
18 could add to that. The figure... The only figure we have  
19 at the moment regarding the charge per hole is the one that  
20 has been mentioned in the initial blast, and that is 45  
21 kilograms per hole.

22 If we take the 32 tonnes that we are  
23 looking at here, the number of shot holes that would have to  
24 be used would be in the order of 600, 700, so perhaps in the  
25 same undertaking, could we get an idea as to whether these

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1 figures are what you have in mind or how they differ from  
2 what I just mentioned, that is to say the charge per hole  
3 and the number of holes required per blast?

4 Mr. PAUL BUXTON: Thank you. I will add  
5 that to the list, thank you.

6 THE CHAIRPERSON: Thank you. Now we will  
7 move forward into our agenda for this morning. We have with  
8 us Environment Canada, four individuals.

9 Could I get you all to identify  
10 yourselves, your name and your affiliation within  
11 Environment Canada, if possible.

12 If you have a name which is difficult to  
13 spell or unusual in any way, would you please spell it out?  
14 It's for the benefit of the transcription process.

15 Mr. ALLAN HANSON: Allan Hanson, a  
16 Wildlife Biologist, Canadian Wildlife Service, Environment  
17 Canada.

18 Ms. MARIA DOBER: Maria Dober, and that's  
19 DEPARTMENT-o-b-e-r; I'm a Regional Director for  
20 Environmental Protection Operations, Environment Canada, in  
21 Halifax.

22 Mr. GARY LINES: Gary Lines, and that's  
23 L-i-n-e-s. I am a Climate Change Meteorologist with the  
24 Meteorological Survey of Canada Branch, Environment Canada.

25 Mr. BARRY JEFFREY: Barry Jeffrey, I'm

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1 with the Environmental Assessment Program for Environment  
2 Canada for the Atlantic region.

3 THE CHAIRPERSON: I believe you have a  
4 presentation for us?

5 Ms. MARIA DOBLER: Yes, we do.

6 THE CHAIRPERSON: Thank you.

7 **PRESENTATION BY ENVIRONMENT CANADA - VARIOUS INDIVIDUALS**

8 Ms. MARIA DOBLER: First of all, I would  
9 like to thank the Panel for the opportunity to participate  
10 in these public hearings with respect to this Whites Point  
11 Quarry and Marine Terminal.

12 You've met the representatives that we  
13 have here today. I would like you to be aware that there  
14 are a number of other people within Environment Canada who  
15 have participated in the review of this Environmental Impact  
16 Statement.

17 While they are not here today, we will  
18 try and answer any questions related to their specific areas  
19 of expertise.

20 If that is not possible, we do commit to  
21 bringing back to you information related to specific  
22 questions prior to the close of the hearings.

23 I'd like to start this morning by  
24 describing our role in the Panel Review for this Project.

25 For this proposed quarry project,



1 Environment Canada is participating as an expert federal  
2 authority under the Canadian Environmental Assessment Act.

3           As an expert federal authority,  
4 Environment Canada does not have a specific environmental  
5 assessment decision in relation to this Project, nor does  
6 this Project require any permits or authorizations that  
7 would be issued by Environment Canada.

8           However, as an expert federal authority,  
9 Environment Canada is in possession of knowledge and  
10 information in a number of areas that are pertinent to this  
11 Project.

12           Our knowledge and information is based  
13 on the Department's authorities under federal legislations.  
14   Some examples that are directly relevant to this review  
15 include the **Department of Environment Act**, the **Migratory**  
16 **Birds Convention Act** and the **Fisheries Act**.

17           The **Department of Environment Act** gives  
18 Environment Canada the responsibility to gather and  
19 interpret climatological and environmental quality data.

20           The **Migratory Birds Convention Act** gives  
21 us the authority to enforce general prohibitions against  
22 taking, disturbing, destroying or otherwise harming birds,  
23 their nests and their eggs.

24           Certain sections of the **Fisheries Act**  
25 give Environment Canada authority to enforce general

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1 prohibitions against the deposit of deleterious substances  
2 into waters frequented by fish.

3                   The overall governance of environmental  
4 issues is generally shared with several other federal and  
5 provincial departments.

6                   Some examples of this are highlighted:  
7 The protection of birds is shared between Environment Canada  
8 and the provinces.

9                   Environment Canada, Fisheries and Oceans  
10 Canada and Parks Canada share a responsibility for the  
11 protection and recovery of species listed under the **Species**  
12 **at Risk Act**.

13                   The Federal Government also cooperates  
14 with provinces under the Accord for the Protection of  
15 Species at Risk.

16                   Responsibilities for protection of water  
17 and air quality are generally shared with the provinces.

18                   As an expert federal authority,  
19 Environment Canada has reviewed the Environmental Impact  
20 Statement and the responses to information requests which  
21 has been prepared by the Proponent.

22                   As a federal authority, our role in this  
23 process is to identify issues, ask questions and make  
24 recommendations for the consideration of the Panel.

25                   Based on the invitation from the Panel

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1 to participate in these hearings and report on our findings,  
2 Environment Canada prepared a written submission focussed on  
3 specific climate, wildlife and environmental quality issues  
4 where we believe that further clarification should be  
5 provided.

6 For each of these issues,  
7 recommendations have been provided for consideration by the  
8 Panel where additional analysis or actions could be taken to  
9 further reduce the uncertainty and potential adverse  
10 environmental effects.

11 The Department has filed its written  
12 submission with the Panel Secretariat, and I now believe  
13 that it is posted on the Panel Review Website.

14 Our presentation here today is based on  
15 that submission.

16 Through the course of this presentation,  
17 I will focus on each of the three key issues that we have  
18 identified, and I will highlight the recommendations that we  
19 have made on these issues.

20 The first of the three issues that I  
21 will be speaking to relates to how effects of the  
22 environment on the Project have been considered by the  
23 Proponent.

24 As stated, Environment Canada has  
25 relevant expertise on climatological conditions.

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1                   In a coastal marine environment,  
2 important factors to be considered in assessing effects of  
3 the environment on a project include winds, precipitation,  
4 fog, wave action and storm surge.

5                   The extremes and variability of these  
6 factors and the influence of climate change merit particular  
7 attention in minimizing the risks of accidents and  
8 malfunctions which can have consequences for valued  
9 ecosystem components such as wildlife and environmental  
10 quality.

11                   While the specifics of future climate  
12 variability are uncertain, climate scientists do know, as a  
13 result of running a series of global climate models and  
14 analysing the results, that climate variability will  
15 increase.

16                   This means that relying solely on the  
17 change and the mean value of any climate variable will not  
18 provide a complete picture unless you also consider the  
19 change in future frequency and intensity of extremes.

20                   Environment Canada can provide limited  
21 data sets specific to the Annapolis Valley. The specific  
22 site is in Greenwood, Nova Scotia.

23                   On projected temperature change, in  
24 degree Celsius, and precipitation change in percent,  
25 monthly, annually and seasonally, for the three tri-decades

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1 leading through the next 100 years.

2 Environment Canada can also provide  
3 limited information on extreme climate events such as  
4 extreme rainfall by duration, 24-hour, 3-day, 5-day, and its  
5 projected change of frequency into the future.

6 We are also able to provide assistance  
7 in interpreting values projected by global climate models as  
8 they relate to the specifics of this Project.

9 In the review of this particular  
10 Project, Environment Canada has described how climate  
11 conditions could affect blasting activities, the sediment  
12 retention ponds and the marine terminal.

13 The Proponent has indicated that: "No  
14 blasting will be permitted if there is a thermal atmospheric  
15 inversion or a low cloud cover or fog conditions".

16 Environment Canada has conducted an  
17 analysis of the likely frequency and duration of periods  
18 when blasting would not be possible based on the Proponent's  
19 criteria and using available climate data.

20 Based on our analysis, Environment  
21 Canada believes the Proponent may be underestimating the  
22 number of days when weather conditions would not allow  
23 blasting.

24 While we have not offered a specific  
25 recommendation in this matter, it would be prudent for the

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1 Proponent to reconsider the available climatological data  
2 and recalculate the likely number of days that blasting  
3 could not take place.

4                   In the design of sediment retention  
5 ponds, Environment Canada encourages the use of the daily  
6 rainfall data set available for the years 1870 to 2006 in  
7 the calculation of the 24-hour 100-year return period  
8 rainfall event.

9                   Environment Canada calculations using  
10 this long-term data set yield a predicted rainfall amount of  
11 about 150 millimetres, compared to the amount of  
12 approximately 125 millimetres calculated by the Proponent  
13 using the 1971 to 1996 data set.

14                   When applying meteorological information  
15 to the design of infrastructure such as the retention ponds,  
16 the Proponent should not rely solely on historical  
17 information.

18                   Recent research by Environment Canada as  
19 reported in "Water Sector Vulnerability and Adaptation to  
20 Climate Change", prepared by JSCI and MSC (2000), has  
21 indicated that:

22                                   "...when accounting for the effects of  
23 climate change on extreme events such as  
24 particularly heavy precipitation, the  
25 return period for these events could

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1                   reduce by at least a factor of two."

2                   This would result, by the end of the  
3 century, in 100-year event amounts becoming 50-year event  
4 amounts.

5                   Also with regard to rainfall, the  
6 Proponent indicated in its documentation that sediment  
7 retention ponds would be designed and constructed to  
8 accommodate probable maximum precipitation or PMP events.

9                   However, we were unable to find a PMP  
10 analysis in the submitted E.A. documentation.

11                   It would be helpful if the extreme  
12 rainfall threshold to which the ponds are to be designed  
13 could be confirmed.

14                   The Proponent has indicated that draw  
15 down of sediment retention pond water would begin at least  
16 72 hours prior to a forecasted major storm.

17                   However, it's important to note that  
18 Environment Canada does not provide a 72-hour warning  
19 window.

20                   Severe weather warnings are issued 12 to  
21 24 hours in advance of a predicted event and a worded  
22 forecast for rainfall amounts is issued no more than 48  
23 hours in advance.

24                   With respect to potential effects of the  
25 environment on the project, Environment Canada encourages

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1 the Proponent to consider appropriate climatological factors  
2 and best available data in finalizing sediment retention  
3 pond design and to take steps that would help ensure built  
4 structures remain effective, during and even after storm  
5 events.

6 In this regard, the Proponent is further  
7 encouraged to ensure that the inspection plan for sediment  
8 retention ponds take storm events into consideration.

9 Sea-Level Rise is also an important  
10 consideration in project planning and design.

11 The recently released Inter-governmental  
12 Panel on climate change (working group 1) full report  
13 includes an update of the global range for Sea-Level Rise by  
14 2100.

15 These updated predictions reflect  
16 current scientific knowledge and in understanding that  
17 thermal expansion and land ice melt are likely the dominant  
18 factors leading to Sea-Level Rise.

19 Based on this most recent information,  
20 Environment Canada has updated the Sea-Level Rise factor  
21 that it encourages proponents to incorporate into the  
22 planning and design of Atlantic Canada developments.

23 Based on average projections for Sea-  
24 Level Rise, combined with subsidence of the land mass, an  
25 average relative Seal-Level Rise of approximately 30

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1 centimetres by the year 2050 is estimated for Atlantic  
2 Canada.

3                   Therefore, we would encourage the  
4 Proponent to incorporate a total relative Sea-Level Rise of  
5 approximately 30 centimetres into project planning and  
6 design.

7                   The marine environment within the  
8 project area is highly dynamic.

9                   In the E.A. documentation, Environment  
10 Canada looked for characterization of environmental  
11 conditions that would influence the integrity and operation  
12 of the marine terminal.

13                   The Proponent has described a reasonable  
14 procedure for developing a detailed analysis of the marine  
15 environment.

16                   Overall however, the Proponent appears  
17 to suggest that oceanographic conditions at the project site  
18 do not pose any particular engineering challenges for the  
19 design and operation of the proposed marine terminal.

20                   Information available to Environment  
21 Canada suggests that these conditions could pose  
22 considerable difficulty.

23                   The Department has conducted a  
24 preliminary analysis of the frequency distribution of wave  
25 heights in the Bay of Fundy and wind speeds at coastal

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1 stations which may be helpful to a fuller understanding of  
2 this issue.

3 I'll summarize those results now, but  
4 they are described in more detail in the Department's  
5 written submission.

6 Environment Canada understands that  
7 typical operating limits for ships berthing and loading at  
8 the marine terminal may be around a significant wave height  
9 of 1.5 metres.

10 Available wave data shows that  
11 significant wave heights in the area reach and exceed two  
12 metres, approximately 17 percent of the time on an annual  
13 basis.

14 Looking more closely at December,  
15 January and February, months where wind and waves are  
16 generally higher, we found that significant wave height over  
17 1.5 metres occurred more than half of the time. The peak  
18 significant wave height was 9.6 metres.

19 In addition, during those same winter  
20 months, waves frequently had longer wave periods, that is  
21 the time between waves tended to be longer.

22 The longer wave periods have the  
23 potential to amplify the wave-response movement of the  
24 Panamax-size ships that are proposed for use in this  
25 Project.

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1                   The Proponent has also indicated that  
2 the wind and wave data comes from a grid point in the middle  
3 of the Bay of Fundy and does not necessarily represent  
4 conditions specifically at Whites Point.

5                   However, the water between the grid  
6 point and the proposed locations of the mooring dolphins  
7 remain quite deep, so waves could retain much of their  
8 original energy.

9                   Wind data from Brier Island during  
10 winter months showed winds frequently exceeding 20 knots,  
11 and sometimes exceeding 35 knots.

12                   It also showed that winds during the  
13 winter are predominantly from the west, northwest and the  
14 north. As a result, there would be no sheltering from the  
15 land at the marine terminal.

16                   This preliminary analysis of winds and  
17 waves alone suggests that additional investigation of site  
18 conditions is warranted during the project-planning stage.

19                   Further analysis of available  
20 information would reveal the potential frequency at which  
21 operating thresholds could be exceeded at the Project  
22 location.

23                   The analysis would also highlight  
24 implications for Project design and operation, as well as  
25 highlight steps needed to reduce the risks of environmental

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1 emergencies.

2 Environment Canada identifies in its  
3 written submission some specific considerations and data  
4 sources that can be accessed by the Proponent in conducting  
5 these analysis.

6 Environment Canada encourages the  
7 Proponent to conduct this further analysis of environmental  
8 conditions expected at the Project site, including a  
9 consideration of appropriate climatological factors and best  
10 available data, and to identify any important implications  
11 for design and operation of coastal infrastructure.

12 The second of the three key issues I am  
13 highlighting today relates to wildlife, and in particular  
14 migratory birds.

15 Environment Canada is responsible for  
16 delivering on Canada's obligations for the conservation of  
17 migratory birds through administration of the **Migratory**  
18 **Birds Convention Act** and its associated regulations.

19 The **Migratory Birds Convention Act**  
20 applies directly to the protection of migratory birds,  
21 including their nests and eggs, while habitats are generally  
22 managed under the authority of provincial or territorial  
23 governments.

24 The proposed Project has the potential  
25 to affect migratory birds. It is incumbent upon the

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1 Proponent to identify the best approach to complying with  
2 the **Migratory Birds Convention Act** based on the specifics of  
3 this Project.

4 In support of the Panel Review,  
5 Environment Canada has provided information and identified  
6 some management considerations related to potential  
7 interactions of migratory birds with blasting activities,  
8 project lighting, accidents and spills and clearing of  
9 vegetation.

10 Many birds use the northern coastal  
11 waters of Digby Neck, and this is reflected in the results  
12 of a Winter Fieldwork conducted by the Proponent.

13 In the absence of guidelines for  
14 blasting activities on-land and protection of waterbirds,  
15 the Proponent proposes the use of a guideline that is used  
16 to protect pinnipeds, such as seals.

17 Based on this approach, if waterbirds  
18 are sighted within 170 metres of the blast site, the blast  
19 coordinator would be notified and detonation would not take  
20 place until birds had moved out of that 170-metre radius.

21 To minimize potential adverse effects on  
22 migratory birds as a result of blasting operations, we  
23 recommend that the Proponent implement a series of measures  
24 as follows.

25 The Proponent should implement an

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1 appropriate blasting guideline on a year-round basis for the  
2 protection of all groups of migratory birds using the coast,  
3 including waterbirds, waterfowls and shorebirds.

4 Furthermore, the Proponent should, in  
5 consultation with Environment Canada, design a monitoring  
6 program that allows for detection of potential adverse  
7 effects and implementation of timely adaptive management  
8 actions.

9 Should the project should proceed, EC  
10 would expect that the Proponent would take the necessary  
11 action if its monitoring program detected adverse effects on  
12 migratory birds.

13 Such actions could include revisions to  
14 those blasting guidelines.

15 Bird collisions at lit and floodlit  
16 structures have been a growing concern which has been  
17 documented for a range of projects. In Atlantic Canada,  
18 nocturnal migrants and night-flying sea birds are the birds  
19 most at risk of attraction to light.

20 Attraction to light may result in  
21 collision with the lit structures or their support  
22 structures, or with other birds.

23 Environment Canada agrees with the  
24 Proponent's proposal to use sensor-activated lighting for  
25 security purposes. However, it is recognized that for most

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1 of the year night lighting would be required for early  
2 morning hours and in the evening during the operation of the  
3 facility.

4 In its submission, the Department has  
5 identified a number of best management practices and  
6 additional information sources related to this issue.

7 The Proponent has indicated that it  
8 intends to test the effectiveness of mitigation measures for  
9 lighting by conducting monthly monitoring for a period of  
10 one year in the vicinity of project structures during bird  
11 migration periods and quarry operations.

12 While Environment Canada agrees that a  
13 follow-up program is important to managing this issue, the  
14 monthly monitoring as proposed is likely to be of limited  
15 value, as many bird carcasses would be scavenged before they  
16 are detected.

17 Therefore, we are suggesting that the  
18 Proponent should prepare a detailed plan for minimizing  
19 potential adverse interactions between birds and lighting  
20 that includes a detailed avian collision monitoring program  
21 designed in consultation with Environment Canada.

22 The monitoring program should  
23 concentrate survey efforts on peak spring and fall migration  
24 periods, as well as mornings following inclement weather, so  
25 as to facilitate the timely detection of adverse effects and

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1 implementation of appropriate mitigation actions.

2                   The Department should be provided with  
3 monitoring results in a timely manner, but should be  
4 immediately advised, and that would be within 24 hours, of  
5 any collisions involving a single species at risk or large  
6 numbers of birds, and we would consider that to be anything  
7 greater than 10 birds.

8                   In our written submission, we have  
9 referred to a guidance document that may be helpful in the  
10 preparation of a detailed monitoring plan to address this  
11 issue.

12                   The risk and significance of  
13 uncontrolled releases of hazardous materials interacting  
14 with waters and areas frequented by migratory birds has not  
15 been fully considered in the information provided by the  
16 Proponent. In the case of hydrocarbons, even a small spill  
17 could be significant if it reaches avian species at risk,  
18 sensitive habitats or large numbers of birds.

19                   The Proponent should develop a spill  
20 response plan that addresses spills that may result in  
21 oiling of birds and/or sensitive habitats. The plan should  
22 include specific measures for keeping birds away from a  
23 spill, for dealing with accidents where birds are oiled  
24 and/or sensitive habitats are contaminated, and for handling  
25 oiled birds.

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1                   Another key element of a mitigation plan  
2 for the protection of birds is avoidance of certain project  
3 activities during the breeding season for migratory birds.  
4 One of these project activities is clearing of vegetation.  
5 Environment Canada has provided information on best  
6 practices related to clearing activities in its written  
7 submission.

8                   The Environmental Impact Statement  
9 documentation indicates that the Proponent has conducted  
10 biophysical surveys. Environment Canada would request that  
11 a copy of the 2006 biophysical survey reports be provided.

12                   We would also ask that the Proponent  
13 commit to providing the Department with any additional  
14 reports regarding the pre or post-construction survey and  
15 monitoring work that is conducted for birds, wetlands and  
16 terrestrial species.

17                   Should the project proceed, this  
18 information will allow the Department to confirm legislative  
19 requirements and to provide assistance as appropriate to  
20 Federal responsible authorities as well as Provincial  
21 agencies in meeting obligations resulting from this  
22 environmental assessment process.

23                   The third issue raised by Environment  
24 Canada relates to the consideration of potential impacts on  
25 environmental quality. As previously indicated, Environment

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1 Canada has expertise related to air quality and water  
2 quality that is relevant to this environmental assessment  
3 process.

4                   With respect to water quality,  
5 Environment Canada administers legislation that would apply  
6 to the project if it should proceed.

7                   The Proponent has described several  
8 activities that could result in the release of contaminants  
9 to water. It is the responsibility of the Proponent to  
10 ensure that these activities are managed so as to prevent  
11 the release of substances deleterious to fish or harmful to  
12 migratory birds.

13                   Environment Canada had requested  
14 information regarding the potential for residues of blasting  
15 activities to enter water sources and adversely affect water  
16 quality. As of yet, this information has not been provided.

17                   We would recommend that the Proponent  
18 submit the requested information as well as proposed  
19 management measures, as appropriate, so that potential  
20 adverse effects can be better understood and appropriate  
21 mitigation and follow-up monitoring measures identified.

22                   Should the project proceed, it will be  
23 important to develop and implement a water quality  
24 monitoring program that would allow verification of  
25 compliance with legislative requirements as well as timely

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1 information on changes to water quality within the project  
2 area.

3                   Should monitoring identify environmental  
4 impacts or demonstrate non-compliance with regulatory  
5 requirements, mitigation measures should be implemented as  
6 necessary.

7                   Therefore, we recommend that the  
8 Proponent develop and implement this water quality  
9 monitoring program to confirm the regulatory compliance and  
10 facilitate the development and implementation of appropriate  
11 adaptive management actions.

12                   The Proponent has also described several  
13 activities that would result in releases of contaminants to  
14 air. At this time, Environment Canada does not regulate air  
15 emissions related to this project.

16                   However, through the Canadian Council of  
17 Ministers of the Environment, the Department does cooperate  
18 with its provincial and territorial counterparts in  
19 investigating applicable best management practices and in  
20 setting national standards for certain substances.

21                   For example, the Continuous-Improvement  
22 in Keeping-Clean-Areas-Clean principles of the CCME "Canada-  
23 Wide Standards for Particulate Matter and Ozone" are  
24 pertinent to this proposed project, which is located in an  
25 area that is relatively pristine in terms of air quality

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1 conditions.

2                   The Proponent has satisfactorily  
3 addressed many of the Environment Canada Information  
4 Requests related to the assessment of potential effects on  
5 air quality.

6                   However, estimates of contaminate  
7 emissions from certain project sources such as heavy  
8 equipment and bulk carriers has not yet been provided.

9                   Based on the project description, it is  
10 not expected that engine emissions related to the project  
11 would contribute significantly to air quality issues.

12                   However, both Environment Canada and the  
13 international community recognize that the marine sector is  
14 an increasing contributor to air emissions.

15                   The provisions for engine emission  
16 estimates for these sources is important to a full  
17 accounting of potential adverse effects and is consistent  
18 with investigations of the contribution of marine emissions  
19 elsewhere in Atlantic Canada and North America as a whole.

20                   In satisfying the EIS guidelines on the  
21 assessment of effects on air quality, the Proponent is  
22 encouraged to provide engine emission estimates for all  
23 project sources influencing air quality.

24                   In this presentation, we have identified  
25 issues related to the Departmental mandate and offered

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1 recommendations that we believe merit further attention in  
2 the planning and management of the project.

3 We have also made several references to  
4 the need for additional information analysis and follow-up  
5 monitoring. In addressing this need, uncertainties can be  
6 reduced, impact predictions can be verified and the  
7 effectiveness of mitigation measures can be determined.

8 The information gained can and should be  
9 used for the management of unacceptable or unexpected  
10 effects of the project.

11 Environment Canada is of the opinion  
12 that, should the project proceed, the Proponent should be in  
13 a position to address our recommendations. The Proponent is  
14 advised, however, that it is ultimately responsible for  
15 compliance with the legislation that Environment Canada  
16 administers.

17 Once again, I would like to thank the  
18 Panel for your attention and we would be happy to try and  
19 answer any questions that you may have.

20 THE CHAIRPERSON: Thank you, Ms. Dober.  
21 That was very clear.

22 Jill Grant will begin some questioning.

23 **PRESENTATION BY ENVIRONMENT CANADA - QUESTIONS BY THE PANEL**

24 Dr. JILL GRANT: Thank you very much for  
25 that very informative presentation.

1                   We noticed in the earlier material from  
2 Environment Canada that one of the other areas that was  
3 commented on that you didn't mention today was the need to  
4 address principles of sustainable development through the  
5 assessment.

6                   I wonder if you might comment on that  
7 issue; whether the approaches taken are sufficiently  
8 addressing concerns about sustainable development.

9                   Ms. MARIA DOBER: I'll try and answer it  
10 briefly, and then I would ask Barry if he had any follow-up.

11                   In terms of the initial information  
12 provided by the Proponent, we offered some information  
13 sources that the Proponent could access to get some  
14 perspectives on issues like sustainable development.

15                   With respect to our Department, we  
16 obviously have a leadership role to play in terms of the  
17 environmental pillar associated with sustainability, and I  
18 think that the submission that we've provided and the  
19 information that we've shared here today indicate how we  
20 would do that with respect to looking at environmental  
21 predictions with respect to environmental protection and  
22 with respect to ecosystem sustainability.

23                   So from those aspects, that is where our  
24 Department sees sustainable development issues coming with  
25 respect to this project in specific.

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1 Do you have anything further?

2 Mr. BARRY JEFFREY: Yeah. I guess that  
3 pretty much captures it.

4 We certainly offered some materials that  
5 we thought could be helpful to the Proponent in addressing  
6 some of the broader principles that have been put down by  
7 the Panel as it related to precaution and ecosystem  
8 approach. some of these were third-party materials, but  
9 nevertheless could be instructive.

10 And as Maria pointed out, as well, as a  
11 team, as a Department, we certainly had those principles in  
12 mind as we approached the various issues such as migratory  
13 birds and the precautionary approach that could be taken in  
14 protecting that species.

15 So that would be perhaps the way we  
16 focussed our efforts when it came to the sustainability  
17 principles that were identified.

18 Dr. JILL GRANT: And how would you  
19 characterize the assessment provided in terms of whether it  
20 addresses those principles, sustainable development  
21 precautionary principles?

22 The Environment Impact Statement  
23 provided, does it do that?

24 Mr. BARRY JEFFREY: Well, in terms of our  
25 specific mandate of responsibilities, I've focussed again, I

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1 guess, on those very specific things where we think the  
2 environmental management effort could be enhanced to better  
3 address ideas of precaution and sustainability.

4                   And perhaps maybe we could talk some  
5 specific examples on migratory birds or climate.

6                   Mr. ALLAN HANSON: From a wildlife  
7 perspective, one of the approaches we take to sustainable  
8 development is a mitigation sequence of avoidance of  
9 impacts, minimization of impacts, and compensation for any  
10 residual impacts.

11                   And to a large extent, that's what the  
12 plan for monitoring is trying to accomplish with regard to  
13 coastal birds.

14                   Dr. JILL GRANT: Thank you. Just to find  
15 my next question here.

16                   You made some comments in your  
17 presentation about the scientific information that was  
18 provided in the assessment not being adequate to determine  
19 some of the effects, and we're wondering whether you see it  
20 as adequate for effective adaptive management.

21                   Is the baseline information that's  
22 provided adequate for effective adaptive management?

23                   Ms. MARIA DOBER: We have indicated that  
24 we think that there is additional information that the  
25 Proponent can provide an additional analysis that should be

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1 conducted.

2 We believe that, with what has already  
3 been provided, this should help in identifying or reducing  
4 some of the uncertainties, verifying some of the predictions  
5 and then allowing the Proponent to manage the project in a  
6 way that can respond to issues that arise throughout the  
7 life of the project.

8 Mr. ALLAN HANSON: From a migratory bird  
9 perspective, we feel that the information provided by the  
10 Proponent is adequate to allow us to establish the baseline  
11 conditions on site, but we have proposed additional  
12 monitoring to be carried out in the future to allow us to  
13 understand the impacts of land-based blasting on coastal  
14 birds.

15 And from an adaptive management  
16 approach, we would take that new information and revise the  
17 guidelines for blasting.

18 The reason why we do not know the  
19 effects of blasting on those coastal birds is that  
20 information is not contained in the literature. We have  
21 different species at different distances from the shore. We  
22 have them on top of the water; we have them under the water.

23 We have questions with regard to the  
24 intensity of the blast and how much of that sound would be  
25 removed by the buffer and how much attenuation there would

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1 be over distance.

2 So from an adaptive management approach,  
3 we take a precautionary approach. We make our decisions  
4 based on the best available information, and we constantly  
5 strive to have new information to revise our guidelines.

6 Dr. JILL GRANT: While we're on the topic  
7 of migratory birds, can you give us an idea of how important  
8 this area is as a fly-away for migratory birds?

9 Mr. ALLAN HANSON: The peninsula Digby  
10 Neck in total is a natural migration corridor for birds  
11 travelling north and south. The specific 120-hectare site,  
12 in and of itself, is not overly important, but it is part of  
13 that connectivity.

14 And with regard to the importance of a  
15 specific site, Brier Island, for example, would be more  
16 important because it's the land terminus or the first point  
17 of land, so birds will congregate there versus the rest of  
18 Digby Neck, where they're just moving through during  
19 migration.

20 Dr. JILL GRANT: And are you able to give  
21 us an idea of when birds are migrating through? Are they  
22 migrating over land, over water, how close to the shore?

23 Is there any kind of generalizations  
24 that we should understand about that?

25 Mr. ALLAN HANSON: With regard to bird

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1 migration, it's very specific to the individual species and,  
2 to some degree, weather conditions, so there's no general  
3 answer to that question.

4 Dr. JILL GRANT: In your presentation,  
5 you talked quite a bit about coastal conditions and the  
6 concerns about whether there's adequate information  
7 provided.

8 Can you give us an idea of the  
9 conditions in the summer?

10 You talked quite a bit about winter  
11 conditions, and the project proposes that there won't be  
12 ships coming in during the worst of those conditions, but  
13 when you give the averages, we're wondering what the  
14 implications are for the times when the ship is likely to be  
15 coming in, which is during the fall, summer, spring period.

16 So what are the extremes there that  
17 would be, of issue?

18 Mr. GARY LINES: In connection with the  
19 spring and summer months, certainly we're looking at less  
20 values than we focussed on in the submission. We did focus  
21 on the winter months. If the Proponent wants even more  
22 detail on that, we can provide it. I don't have it at my  
23 fingertips this morning.

24 The conditions, however, tend to be less  
25 as far as wave height, on average, and typically wind speed,

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1 as well, so we can certainly provide that. We've noted in  
2 the submission data sets that they can be used to actually  
3 get all of those conditions for those.

4 The main reason we focussed on the  
5 winter months was to try to build a sense of what the total  
6 condition is like across that area and to not discount  
7 severe conditions simply because it happens to fall in the  
8 months that they may not be operating, so we just wanted to  
9 make sure that that was covered in the submission.

10 Dr. JILL GRANT: Thank you.

11 You spoke about the sediment ponds and  
12 concern about the capacity for which they would be designed  
13 and, in discussions the other day, it was quite clear that  
14 the ponds would be kept at the level necessary to meet the  
15 requirements for operating during a drought year, so they  
16 would be kept at the kind of maximal level required for  
17 operational purposes, which could mean that in an extreme  
18 storm event they will have to flash over.

19 So I wonder what concerns you might have  
20 about the mobilization of fine particles in the ponds in  
21 those extreme conditions, and you mentioned also about the  
22 residuals potential from blasting.

23 Does your analysis give us any  
24 indication of what the potential concerns would be there?

25 Ms. MARIA DOBER: At this point, we've

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1 asked the Proponent to provide additional information with  
2 respect to the blasting residues that might be expected to  
3 be retained within the sedimentation ponds, and we don't  
4 have that information at our fingertips.

5                   However, should there be an overflow of  
6 the sedimentation ponds, yes, it is entirely possible that  
7 both particulate matter as well as some of the contaminants  
8 in terms of nitrites and potentially ammonia would also be  
9 captured within that.

10                   So that is one of the reasons why we've  
11 asked for this additional information, so that we can get a  
12 better sense of the potential for that to happen and the  
13 potential impacts associated with that so that monitoring  
14 and mitigation measures can be developed specifically to  
15 deal with those issues.

16                   Dr. JILL GRANT: Thank you.

17                   I noticed in your earlier submissions,  
18 or perhaps it's in the recent one as well, concerns about  
19 decommissioning; whether sufficient information is provided  
20 about the decommissioning of the facilities to give  
21 sufficient information to determine the effects on a long-  
22 term basis.

23                   What's your view on that?

24                   Ms. MARIA DOBER: I think the submission  
25 talks about some potential options that are available in

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1 terms of decommissioning and reclaiming the land. We  
2 provided that information again as examples of what things  
3 might be considered.

4                   It's not an area that Environment Canada  
5 would be directly involved in at that stage of the project,  
6 but we would be certainly willing to provide any assistance  
7 to those agencies that would be involved in that instance.

8                   Dr. JILL GRANT: Thank you.

9                   And I noticed in the earlier submissions  
10 from Environment Canada that there were some questions  
11 raised about the suitability of this site given the  
12 proximity of SARA-listed species and of rare and endangered  
13 species on the site. I believe the earlier submission asked  
14 why the site be chosen, given the presence of those species  
15 in the vicinity.

16                   I wonder if you have any further comment  
17 on that.

18                   Mr. ALLAN HANSON: With regard to species  
19 listed under SARA that Environment Canada has the mandate  
20 for managing, that is restricted to the Harlequin duck,  
21 which, during the winter of 2006, two individual birds were  
22 seen 200 metres west of the western boundary.

23                   So from an Environment Canada  
24 perspective, there is limited impact on species at risk.

25                   The two individuals were seen there, and

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1 there's no indication from our survey data that this is a  
2 traditional wintering site.

3                   There are other areas along Digby Neck  
4 where you'll have 60 to 80 birds wintering year after year.

5    As well, I would also mention that in Nova Scotia the  
6 number of wintering Harlequin ducks ranges from between  
7 three to five hundred birds, so the sighting of two  
8 individual ducks does not create great cause for concern.

9                   And with regard to provincially-listed  
10 species, Environment Canada has supported the recommendation  
11 of the Nova Scotia Department of Natural Resources to set  
12 aside a conservation buffer area or exclusion zone that  
13 would protect those provincial species at risk, the plants.

14                   Dr. JILL GRANT: In the earlier  
15 submission, there were some comments as well about concerns  
16 about fragmentation of forest habitat.

17                   Do you have any further comment on that?

18                   Mr. ALLAN HANSON: In general,  
19 Environment Canada has concerns with regard to the  
20 fragmentation of mature forests because there are certain  
21 bird species that require large blocks of habitat.

22                   And in discussion with the Proponent and  
23 with regard to the information that they provided on the  
24 birds that are using the site plus the type of habitats,  
25 it's Environment Canada's opinion that there are not... The

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1 classic definition of interior mature forest does not exist  
2 on the site.

3                   The stand age is a mean age of 49 years  
4 and the species structure is also not there, so we're not  
5 concerned about the loss of this forest habitat affecting  
6 migratory birds.

7                   Dr. JILL GRANT: Thanks.

8                   And if I might just follow up on the  
9 concerns about emissions, air emissions.

10                   Obviously some particular things trigger  
11 the response to suggest that we need further information on  
12 that, so could you give us an idea of the kinds of concerns  
13 that would lead to the advice that we need much more  
14 information about the emissions from the heavy equipment and  
15 the ship loading?

16                   Ms. MARIA DOBER: I think our submission  
17 has indicated that we don't necessarily see a large issue  
18 with respect to air quality. What we have recommended, that  
19 in order to get a full accounting of the emissions from the  
20 project that we would recommend that the emissions from  
21 engine sources be analysed and considered.

22                   Part of what Environment Canada is doing  
23 within Atlantic Canada is participating in an inventory of  
24 emission sources from marine vessels. And certainly, in  
25 projects like this, if that full accounting is done, then we

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1 have a much better understanding of what the overall  
2 implications may be from vessel traffic in general.

3 Dr. JILL GRANT: Thank you. Is it okay  
4 for me to ask a question of Bilcon?

5 Mr. Buxton, is the information on the  
6 emissions from heavy equipment and this ship as it's idling,  
7 as it's loading and unloading, can... Or, sorry, just  
8 loading, can you provide that information?

9 Mr. PAUL BUXTON: Yes. I was just making  
10 that note, that we'd be pleased to provide that information.

11 Dr. JILL GRANT: Can we have a date by  
12 when you will be able to give us that information?

13 Mr. PAUL BUXTON: It would have to be the  
14 29th or 30th. Thank you.

15 Dr. JILL GRANT: Thank you.

16 Dr. GUNTER MUECKE: Could I just ask for  
17 some clarification of terms, just so that I'm absolutely  
18 sure what they mean?

19 You mentioned peak significant wave  
20 height 9.6 metres. What, exactly, is "peak significant wave  
21 height"?

22 Mr. GARY LINES: I might go back to the  
23 definition of "significant wave height", which is defined as  
24 an average of the highest two-thirds of waves over a period  
25 in a particular scenario.

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1                   And why that's chosen that way is that's  
2 typically the sort of wave and wave energy that marine  
3 vessels are in when on the ocean, would experience more.

4                   There's quite a bit of wave action, a  
5 lot of mixing of trains of waves, and in our definition we  
6 can relate that significant wave height to wind much more  
7 easily than trying to account for every single wave value  
8 that's out there.

9                   Peak significant wave height is simply  
10 the highest value of that group rather than taking an  
11 average.

12                  Dr. GUNTER MUECKE: Just to make sure I  
13 understand, peak significant wave height means it is  
14 possible at that location, at some stage, for a wave to  
15 reach that height?

16                  Mr. GARY LINES: That's correct. I might  
17 also add that it's not the highest possible wave.

18                  Dr. GUNTER MUECKE: It isn't.

19                  Mr. GARY LINES: Yeah, it's not the  
20 maximum wave possible. It's the highest of the one that's  
21 most likely to be experienced at that location.

22                  Dr. GUNTER MUECKE: And when you generate  
23 that, can you also generate the maximum?

24                  Mr. GARY LINES: There could be a maximum  
25 available, yes, although the occurrence of that is a very

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1 small percentage, usually much less than 10 percent of the  
2 time that it'd even occur that you'd get the maximum.  
3 That's why we tend to stay with the significant wave  
4 heights. They're much more frequent.

5 Dr. GUNTER MUECKE: Yes, okay. I  
6 understand that now.

7 The other, in terms of definition of  
8 meteorological terminology, is in terms of forecasts, you  
9 say warnings and worded forecasts, versus forecasts. Just  
10 for me to be clear, when you refer to the... Maybe I'll  
11 tell you what I understand.

12 Mr. GARY LINES: Yes.

13 Dr. GUNTER MUECKE: And then you correct  
14 me. Is that the 48-hour forecast basically says there's a  
15 storm coming, there's going to be a lot of rain, unusual  
16 amount of rain. It's a general forecast. Is that correct?

17 Mr. GARY LINES: That's correct.

18 Dr. GUNTER MUECKE: And 12 to 24 hours  
19 before the event, you will actually predict millimetres of  
20 precipitation?

21 Mr. GARY LINES: Yes. When we refer to a  
22 warning, it's if we believe the amounts are going to hit a  
23 particular value over a period of time, we'll issue a  
24 warning saying this amount over this particular period of  
25 time.

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1                   We may, through the 48 hours, actually  
2 put some amounts on precipitation, and they may not hit the  
3 warning level. So we may still put in, to give you a solid  
4 example, we've got rain the next two days. We're looking at  
5 five to ten millimetres of rain overall. It doesn't hit the  
6 warning level, but it enters as an amount. When we hit a  
7 certain warning level, that's when we put out those amounts  
8 at the warning level.

9                   Dr. GUNTER MUECKE: Thank you. That  
10 clarifies it.

11                   You have provided us with wave height,  
12 and their probability, particularly for the wintertime  
13 period. I assume that this is for current conditions. Is  
14 it possible to project these for future conditions? I  
15 assume that in climate change that these values will change.

16                   Mr. GARY LINES: Yes. Some research has  
17 been done within Environment Canada to look at wave heights  
18 over the North Atlantic Basin, and has noted that there is  
19 an increase in wave height generally, with climate change.

20                   The value is not significantly high.  
21 We're talking, in terms of significant waves, on average  
22 possibly half a metre, over the span of the next hundred  
23 years or so. So it's not a huge change expected there, over  
24 that broad basin.

25                   I'm not aware of any work specific to

1 the Bay of Fundy relating to that, so if someone was to ask  
2 me, "What do you expect with these wave heights over the  
3 next while?", I would have to refer back simply to the work  
4 in the broader North Atlantic Basin, and would caution  
5 people that it may or may not apply directly.

6 That's the current sort of state of the  
7 affairs with understanding where wave heights are going.

8 Dr. GUNTER MUECKE: So, but just in a  
9 generalized sense, at the moment you're saying that at the  
10 current time wave height of one and a half metres can be  
11 expected 55 percent of the time. With climate change, what  
12 you would see is an increase from 55 percent to some other  
13 value which is difficult to...

14 Mr. GARY LINES: More likely, in a  
15 general sense, that the 1.5 on average would increase, but I  
16 wouldn't see larger than half a metre, based on the research  
17 in the North Atlantic Basin.

18 Dr. GUNTER MUECKE: But that would mean,  
19 sorry to belabour the point, but wouldn't that mean that for  
20 the 1.5 metre wave the frequency would increase?

21 Mr. GARY LINES: We...

22 Dr. GUNTER MUECKE: I mean, the  
23 probability of 55 percent.

24 Mr. GARY LINES: Possibly, but I can't  
25 conclusively say that. I'll have to go back and look.

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1                   Dr. GUNTER MUECKE: On a different topic,  
2 in your submission you indicate that what is variably called  
3 the buffer zone or the environmental protection zone of 30  
4 metres proposed by Bilcon may not be sufficient.

5                   Could you give us an indication of the  
6 width of the buffer zone that you would like to see?

7                   Mr. ALLAN HANSON: First, let me preface  
8 my remarks by saying that the 30-metre buffer zone that  
9 oftentimes is applied to water courses and water bodies has  
10 been developed specifically in relation to surface run-off,  
11 removal of nutrients and sediments, and we don't believe  
12 that it's appropriate in all cases for protection of  
13 wildlife habitat, so those creatures that require an  
14 riparian zone, nor is it appropriate in terms of protecting  
15 habitat that's beyond that buffer.

16                   A 30-metre buffer zone is relatively  
17 narrow when it comes to protecting this coastal bog, because  
18 within 30 metres we have a lot of blow-down.

19                   As well, we are not only dealing with  
20 nutrient transport, but we're trying to protect and buffer  
21 the conservation area from mobile organisms, et cetera.

22                   So we, Environment Canada, supports Nova  
23 Scotia DNR's recommendation that the buffer zone be 100  
24 metres and definitely not 30.

25                   Dr. GUNTER MUECKE: Thank you.

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1 I'm coming back to atmospheric  
2 conditions, but sorry about switching back and forth. In  
3 your submission you indicate that fog conditions exist over  
4 substantial period, particularly in the summer months.

5 We are still trying to determine, and we  
6 haven't received an answer from Bilcon yet, as to what  
7 constitutes fog conditions in terms of blasting. So just so  
8 I have the information, once we get a Bilcon response, what  
9 does, in the context of the percentages that you have given,  
10 what would you consider fog conditions, in terms of  
11 visibility, obviously, right?

12 Mr. GARY LINES: Right. In the  
13 submission, we provided information as specific to Yarmouth,  
14 and we provided percentages based on what we call IFR  
15 conditions. That refers to instrument flight rule  
16 conditions. It goes back to aviation terminology to  
17 determine various ceiling and visibility restrictions for  
18 aircraft.

19 In the case of the percentages, what we  
20 typically look at is that for IFR conditions it means cloud  
21 ceiling less than 1,000 feet above ground, and a visibility  
22 of less than three miles.

23 Dr. GUNTER MUECKE: Sorry, I missed that.  
24 Three miles?

25 Mr. GARY LINES: Three miles. And the

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1 percentages we provided, just to refer to it, that there  
2 were upwards of, in through that summer period, upwards of  
3 157 hours where that condition existed at Yarmouth.

4 Our concern had to do with the fact  
5 that, again going back to what we hear from the Proponent on  
6 what conditions are limited that way, it is fairly clear  
7 that there are quite a few hour where those conditions  
8 exist, and that was the definition that we were using in the  
9 submission.

10 Currently, I think the other related  
11 item to do with thermal inversion, or the thing to point out  
12 there, is that you've got quite a bit of variability  
13 possible. You could have a thermal inversion, yet no fog  
14 present, and you could have the other, some of the other  
15 conditions happening, as well.

16 So there's some variability around that,  
17 but just to give you an idea of, give the Proponent and the  
18 Panel and idea of time, that's how we use the definition.

19 Dr. JILL GRANT: Just one question to  
20 follow up. Does Environment Canada release information on  
21 thermal inversions on a daily basis? Could the Proponent  
22 somehow find out that information, that a thermal inversion  
23 exists that day?

24 Mr. GARY LINES: There are several  
25 possibilities. One is that we do launch radiosonde balloons

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1 and measure the atmosphere twice a day at various locations  
2 in Atlantic Canada.

3 My caution there would be that because  
4 the balloon launch is not at Digby Neck and the marine  
5 condition that exists along the coastline, you could have  
6 quite a bit of a different thermal inversion scenario there  
7 than you would have at the actual balloon site that we do  
8 regularly.

9 To actually confirm thermal inversion,  
10 there's several ways to do it. Actually, the cheapest way  
11 to do it is actually just to launch a radiosonde measure.  
12 And that's one possibility for monitoring the situation  
13 there.

14 There are other technological approaches  
15 you can use, but that's certainly, from our perspective, the  
16 least expensive, if you want to look at it that way.

17 Dr. GUNTER MUECKE: Coming back to fog  
18 conditions.

19 Mr. GARY LINES: Yes.

20 Dr. GUNTER MUECKE: Do you have any  
21 indications from your data, you're using Yarmouth as your  
22 base station?

23 Mr. GARY LINES: Yes.

24 Dr. GUNTER MUECKE: In a relative and  
25 general sense, is this portion of Digby Neck equivalent to

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1 fog conditions likely to be more severe, less severe, or  
2 more frequent or less frequent? Any ideas on that?

3 Mr. GARY LINES: Typically, the fog  
4 conditions are related, especially in the summertime, to  
5 ocean temperatures, and consistently, I think the  
6 temperature regime is relatively close, but you will have  
7 situations where the water can be warmer in the Digby Neck  
8 area than in around Yarmouth. It really is quite reliant on  
9 sea surface temperature.

10 To that extent, there could be some  
11 variability there, but I think in the long term, not a  
12 significant amount. So I do think that Yarmouth is  
13 relatively representative of what you can see there.

14 Dr. GUNTER MUECKE: Thank you very much.

15 Could I just change over to looking at  
16 blasting residues, which you have identified as a concern,  
17 which should be addressed?

18 The Panel has voiced the same concerns,  
19 and it's not a question but more of a request that I have  
20 here, and that is does Environment Canada have expertise in  
21 this field which could assist, in terms of blasting  
22 residues, that could assist us in defining what the problem  
23 is and how severe the problem could be?

24 Ms. MARIA DOBER: From an environmental  
25 quality perspective, yes, we have expertise that would look

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1 at the toxicity of the contaminants that we would expect to  
2 see from blasting residues, so the nitrites and the ammonia,  
3 and my understanding is that yesterday, when DFO took an  
4 undertaking to come back with information related to the  
5 blasting residues, that they had actually indicated that  
6 they would work with us to do that.

7 So we are more than happy to do that.

8 Dr. GUNTER MUECKE: Thank you.

9 Dr. JILL GRANT: Just a couple of other  
10 questions about the climate change question.

11 Can you give us an idea of what we would  
12 expect in the way of changes to wind speed as a result of  
13 climate change, or if we would expect any increase or  
14 decrease in fog frequency as a result of climate change?

15 Mr. GARY LINES: Both those aspects, we  
16 haven't engaged recently in research to get specific  
17 numbers, either for wind or fog; however, I'll make some  
18 general comments around conditions expected with climate  
19 change.

20 And I think this applies generally - in  
21 other words, more globally - although it does have a local  
22 impact. We are seeing, from the global climate models, the  
23 tendency towards a shift in storm tracks, and the  
24 terminology is poleward. In relation to us, it would be  
25 tracking more to the west of Atlantic Canada.

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1                   What that implies is storm tracks and  
2 wind systems that indeed could end up funnelling through a  
3 basin like Bay of Fundy more dramatically than they have in  
4 the past, although that is a bit of speculation on our point  
5 at this point. We haven't actually studied that.

6                   But we are looking at some studies that  
7 are indicating more frequent storms, and that will have an  
8 impact on occurrence of wind, and more intense storms. And  
9 in fact, the studies are really pointing to the fact that if  
10 there are, indeed, increased storms, that it will actually  
11 be the more intense ones that are increasing.

12                   That implies stronger winds. However,  
13 as I say, we haven't gone after specific winds and studied  
14 that specifically.

15                   In the case of fog, as I say, referring  
16 back to a comment I made earlier about the predominant  
17 production of fog in the summertime being related to sea  
18 surface temperatures, there's still a bit of a question in  
19 the scientific community on which way that will go with fog.

20                   Generally, oceans are warming. This his  
21 has a general impact on sea surface temperature, but a  
22 regional one is still difficult to nail down. In other  
23 words, are the temperatures going to raise in the Bay of  
24 Fundy? We're not sure.

25                   If they do raise, that could cut down on

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1 the frequency of sea fog, advected sea fog, but again, we  
2 have not gone down that road to see specifically how that  
3 will impact on fog in the future. But there could indeed be  
4 changes, but they could shift either way, on fog.

5 Dr. JILL GRANT: Thanks. And one last  
6 question about the sea birds and the 170-metre exclusion  
7 zone.

8 There's nothing in the Proponent's  
9 proposal about what might be done if rafts of sea birds stay  
10 in the area for a long time, as they can sometimes, feeding  
11 in a particular area. What's your view about scare tactics  
12 or other things that might be used to get those birds to  
13 move?

14 Mr. ALLAN HANSON: Under the **Migratory**  
15 **Bird Convention Act**, it's illegal to harass or disturb  
16 migratory birds, so they would need to have a permit to  
17 purposely scare those birds out of the area.

18 Dr. GUNTER MUECKE: Coming back to the  
19 permit, is that for one time, or is it blanket?

20 Mr. ALLAN HANSON: The nature of those  
21 permits can vary among proponents. For example, we will  
22 give scare permits to blueberry growers which would cover an  
23 entire season. However, I would liken this scenario to  
24 aquiculture, where we have some aquiculture operations that  
25 have gone into known areas where sea ducks and coastal birds

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1 have traditionally used, and we've not given scare permits  
2 there because the birds were there first.

3 Dr. GUNTER MUECKE: Which brings me to  
4 loons. Could you just outline how important this particular  
5 coastal area is in terms of the loon population wintering,  
6 and coming back to scare tactics, loons are special, as far  
7 as you're concerned. So what is the likelihood of getting  
8 permits for that?

9 Mr. ALLAN HANSON: With regard to birds  
10 using the off-shore areas during the, well, actually during  
11 the entire year, we have different species at different  
12 times of the year, and they're using different parts of that  
13 habitat.

14 So we would want to have minimal impact  
15 on those birds. In the submission, they talked about  
16 physiological damage, but we would also be concerned about  
17 impacting their behaviour, and that's why the monitoring  
18 program would be established; to determine what impacts  
19 blasting has on those birds, not only inside a 170-metre  
20 buffer, but outside of that buffer.

21 If the noise is not abrupt, the birds  
22 may not even react behaviourally to that noise, and in that  
23 case, it's not an issue. But we would take the issuance of  
24 a permit to scare birds away very seriously. If those birds  
25 were using those areas specifically for feeding, then any

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1 time you scare birds away from their favourite feeding areas  
2 you're having an impact on the birds.

3                   So we do not issue scare permits very  
4 lightly. We have to have a full understanding of the  
5 request, the alternatives to that request, and the impacts  
6 on the birds.

7                   Dr. GUNTER MUECKE: Thank you. That  
8 clarifies it very nicely.

9                   Coming back to the first part of my  
10 question, how important is this area in terms of loons  
11 wintering?

12                   Mr. ALLAN HANSON: I think the specific  
13 location of the quarry is not of critical importance to  
14 loons, but the entire shoreline is.

15                   The birds are going to be using the  
16 entire coastline, so that's the nature of our concern, would  
17 be just birds moving in and out of the area, and that's why  
18 we have suggested that additional monitoring take place in  
19 the future, to understand the impacts of the activities on  
20 the birds.

21                   THE CHAIRPERSON: I just have one  
22 question for you. Yesterday, we had a presentation by two  
23 women who live close by, and they were referring to their  
24 experiences with some geological commercial enterprises  
25 close to them.

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1                   And I don't think it's overstating it  
2 too much to say that there was a sense of despair, or they  
3 were distraught. And because the event that had taken place  
4 close to their homes was such that it was not behaving the  
5 way it was expected to behave.

6                   Now, you've made a very thorough and  
7 informative analysis, and presuming from that you make  
8 recommendations which we pass on, and this project is  
9 approved, then there is the presumption that everything that  
10 is agreed to will come about.

11                   I'm coming to the subject of enforcement  
12 of regulation.

13                   How do you respond to people, like the  
14 two women yesterday? In other words, we do the best we can  
15 to evaluate it at the front end, we put in all sorts of  
16 recommendations for monitoring and regulation and so forth,  
17 and then approval comes forward.

18                   And then there is the expectation that  
19 all those rules will be followed, everything will happen the  
20 way we expect it to, and according to them, I have no  
21 knowledge of whether they're exaggerating or not, and they  
22 really weren't criticizing this project directly, it was  
23 really an experiential thing.

24                   But what kind of advice do you give to  
25 those people? Because there were people sitting in the

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1 audience here who were looking at this project who are  
2 against it, and might be willing to agree to it if it was  
3 clear that all of this mitigation and so forth was to come  
4 about. So some of that responsibility falls on you, your  
5 Department that is, and Provincial Departments and so forth.

6 What kind of advice do you give them,  
7 under these circumstances?

8 Ms. MARIA DOBER: From Environment  
9 Canada's perspective, the mitigation measures that are  
10 accepted and endorsed throughout this Environmental  
11 Assessment process, we would take them very seriously, and  
12 those that are related to our mandated areas, we would  
13 follow up on a regular basis to ensure that those issues  
14 that we had asked to be done, or that monitoring that we had  
15 asked to be done, was in fact done.

16 In terms of actual enforcement, we do  
17 have some specific legislative requirements that if the  
18 project was to proceed the Proponent would have to comply  
19 with those, and there is an Enforcement and Compliance  
20 Policy specifically with respect to the **Fisheries Act** - I'm  
21 sure there's one with respect to migratory birds, as well -  
22 that our enforcement officers use in terms of assigning  
23 priorities for their activities in any given year.

24 And this project, should it proceed,  
25 would be, again, added to the list of projects that they

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1 would go and do inspections of on a regular basis, and  
2 ensure that the Proponent was complying with our  
3 legislation.

4 So from that perspective, we do take our  
5 follow-up very seriously.

6 THE CHAIRPERSON: What sort of recourse  
7 does a citizen have? And assuming that you go and find out  
8 that the process is not being conducted in the way that it  
9 was anticipated or agreed to, are there penalties, and what  
10 are those penalties?

11 Ms. MARIA DOBER: I'll speak to the  
12 enforcement side, and maybe Barry can talk to the EA process  
13 side.

14 Certainly under the legislation citizens  
15 have a right to contact our Department in terms of any  
16 issues that they believe are in violation of those  
17 regulations, and those complaints are taken very seriously,  
18 and they're investigated by our enforcement personnel.

19 With respect to those issues that  
20 Governments have agreed to do but are not necessarily  
21 enshrined in legislation, I'll ask Barry to speak to that.

22 Mr. BARRY JEFFREY: Yes, I guess inasmuch  
23 as the Government as a whole, Provincial and Federal, will  
24 be in the position of responding to the Panel's report and  
25 recommendations, certainly, yes, the Government takes it

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1 very seriously and looks at the implementation instruments  
2 it has at its disposal to actually ensure that the  
3 mitigative measures or monitoring measures that were  
4 identified are, in fact, put in place.

5                   There are some instruments, such as the  
6 ones that have triggered this Federal assessment in the  
7 first place. Fisheries and Oceans and their habitat  
8 authorizations, Transport Canada and their navigable waters  
9 authorizations, those are two examples of Federal tools and  
10 instruments that can be used to help ensure the  
11 recommendations that have been put forward and are accepted  
12 are also, in fact, implemented.

13                   So conditions could be place on those  
14 kinds of permits, as an example.

15                   However, there's other things for which  
16 perhaps there is no instrument in legislation that can be  
17 readily used to implement the outcome of the Environmental  
18 Assessment, and in those cases we've seen examples of where  
19 performance agreements, perhaps, were negotiated with a  
20 Proponent, or perhaps bonds were put in place to ensure  
21 certain matters were handled appropriately, or some other  
22 kind of agreement that was negotiated on almost a  
23 contractual basis.

24                   I've seen those kinds of scenarios, as  
25 well, in other Environmental Assessments where they were

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1 looking to ensure that the measures identified and accepted  
2 were implemented, and implemented effectively, with  
3 recourses offered if things did not unfold as had been  
4 anticipated, based on effects-monitoring results.

5 THE CHAIRPERSON: Would your Department  
6 consider penalties as severe as shutting an operation down  
7 until there is conformity? And if you do consider that,  
8 does that happen very often?

9 Ms. MARIA DOBER: Our Department, the  
10 regulations that our Department would apply to this project  
11 don't require permits. There are prohibitions. I'm not  
12 sure that gives us the ability to actually shut a facility  
13 down.

14 There are certain aspects of the  
15 facility, for example if there are emissions or effluents  
16 from the sediment retention ponds, that it takes some period  
17 of time to resolve, then that particular aspect of the  
18 project we can have some influence on, and that may, in  
19 turn, influence the entire project.

20 But in terms of actually shutting a  
21 project down, that is not within the bounds of our  
22 legislation for this project.

23 THE CHAIRPERSON: Thank you.

24 Mr. Buxton, over to you.

25 Mr. PAUL BUXTON: Thank you, Mr. Chair.

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1 **PRESENTATION BY ENVIRONMENT CANADA - QUESTIONS BY THE**  
2 **PROPONENT**

3                   Just first of all, perhaps a little  
4 clarification. You noted in your presentation that we had  
5 said somewhere in our document that we would not clear  
6 vegetation between May 1<sup>st</sup> and August the 31<sup>st</sup>. I think that  
7 is correct; in one instance we did.

8                   In all other instances, we said we would  
9 not clear in any nesting season, and I want to make it clear  
10 that we do not intend to clear in any nesting season. That  
11 date got in there inadvertently, in one of our tables, but  
12 that the intent is very clear; that we will find out  
13 specifically what the entire nesting season is for the area,  
14 and we will not clear in that time.

15                   Also, a point of clarification with  
16 respect to environmental preservation zones. In our  
17 discussions yesterday with NSDNR, we were specifically  
18 talking about hundred-metre zones in the coastal zone area.  
19 Is that what you were referring to today?

20                   Mr. ALLAN HANSON: Yes, it was.

21                   Mr. PAUL BUXTON: Thank you. With  
22 respect to blasting residues, the Panel has asked us for an  
23 undertaking, and we have something, I believe, put together  
24 on that, which is due in fairly shortly.

25                   And just one last comment with respect

1 to... You had some observations with respect to the  
2 environmental design and operational considerations for  
3 sediment retention ponds. I just sort of wanted to make the  
4 point here that I think that at the beginning of our process  
5 we were concerned and had as a priority the storage of water  
6 for our wash process, and our concern, in fact, was much  
7 more geared to the retention of water and providing  
8 sufficient surface water and being able to store it in order  
9 to carry out our wash process.

10 We did go on from there and look at the  
11 possibilities of various significant storms of 100-year  
12 return and what that would do, would it over to, et cetera.

13 But I would like to make the point, and  
14 there will be a further undertaking, there is one under way  
15 at the moment that the Panel has asked for, and that  
16 contains a little bit more information, and perhaps I could  
17 ask you to have a look at that as well when it comes in.

18 But the catchment area is 143 hectares  
19 that involves the sort of retention ponds. 64 hectares of  
20 that is actually above the quarry. It is fresh water, it's  
21 clean water.

22 That flows down through the site, as it  
23 always has, and that has been part of our calculations with  
24 respect to retention for our operation but, in fact, if we  
25 got into or a severe storm were predicted, it has always

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1 been our intention to bypass the water, that clean water  
2 from outside the quarry, straight into the Bay. It would  
3 not go into any part of the operation.

4 So I think that when our undertaking  
5 comes in to the Panel that may shed a little bit different  
6 light on the capacity of the sediment retention ponds to  
7 retain the water.

8 --- Pause

9 Mr. PAUL BUXTON: That's fine. Thank you  
10 very much, Mr. Chair.

11 THE CHAIRPERSON: Thank you, Mr. Buxton.

12 Now we'll turn to the audience, but  
13 first, are there any Government interventions, Federal or  
14 Provincial, that would bring a question forward? If not,  
15 are there any individuals?

16 Mr. Morsches and Mr. Marcocchio. Ms.  
17 Peach, did I see your hand go up.

18 **PRESENTATION BY ENVIRONMENT CANADA - QUESTIONS BY THE PUBLIC**

19 Ms. JUDY PEACH: Yes, Mr. Chair.

20 Mr. BOB MORSCHEs: Doctor, concerning the  
21 weather, which the Environment Canada mentioned today, about  
22 three times a day I get the weather, about the only weather  
23 you can get in this area along Digby Neck down to Brier  
24 Island is from Digby and then one from Brier Island.

25 However, let's say they predict a partly

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1 cloudy day and winds are rather calm.

2 Well, what happens about two hours  
3 later, along the coast, let's say, from Sandy Cove to Whale  
4 Cove, which is past Whites Cove, going all the way down to  
5 Brier Island, you end up with fog. Then you have heavy  
6 winds and very heavy rain.

7 That's two hours after you get a  
8 prediction for the day.

9 I have information that along the Digby  
10 Neck down along Long Island and Brier Island is very  
11 susceptible to immediate climate change, and you never know  
12 about it because you got the...

13 THE CHAIRPERSON: Mr. Morsches, this is  
14 heading towards a question, is it?

15 Mr. BOB MORSCHEs: I'm sorry?

16 THE CHAIRPERSON: This is going towards a  
17 question?

18 Mr. BOB MORSCHEs: Yes, it is.

19 THE CHAIRPERSON: Okay.

20 Mr. BOB MORSCHEs: It's a point that I  
21 would let you know that there's going to be a discussion by  
22 Mr. John Scott, who takes the weather daily at Sandy Cove,  
23 and he will be presenting on Saturday at 1300 a little bit  
24 about this dramatic weather change along Digby Neck.

25 THE CHAIRPERSON: So there was no

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1 question.

2 Mr. BOB MORSCHEs: Pardon, sir?

3 THE CHAIRPERSON: I was looking for a  
4 question, but one never surfaced.

5 Mr. BOB MORSCHEs: No, I just wanted to  
6 inform the Chair.

7 THE CHAIRPERSON: Okay. Thank you very  
8 much.

9 Mr. Marcocchio.

10 Mr. BRUNO MARCOCCHIO: Thank you, Mr.  
11 Chair. Bruno Marcocchio of the Sierra Club of Canada.

12 Just to clarify a question that the  
13 Panel put to Environment Canada about the capacity for  
14 enforcement and the concern that residents had, I wonder if  
15 Environment Canada would both discuss with us here and  
16 undertake to provide to the Panel a record of the  
17 prosecutions and convictions for **Fisheries Act** violations  
18 over, let's say, the last 10 or 15 year period.

19 Ms. MARIA DOBER: We don't have that  
20 information with us today, but I'm sure that that's  
21 something that we can provide to the Panel.

22 Mr. BRUNO MARCOCCHIO: Thank you very  
23 much.

24 THE CHAIRPERSON: Ms. Peach. Ms. Dober,  
25 how long do you think that would be?

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1 Ms. MARIA DOBER: We'll get it to the  
2 Panel before the close of the hearings.

3 THE CHAIRPERSON: So the 29th, perhaps?

4 Ms. MARIA DOBER: Sure.

5 THE CHAIRPERSON: 29th is going to be a  
6 busy, busy day.

7 So could you restate that, Mr.  
8 Marcocchio, so I get it right? The number of...?

9 Mr. BRUNO MARCOCCHIO: Prosecutions and  
10 convictions for violations of the **Fisheries Act** which  
11 Environment Canada is charged to enforce.

12 I wonder, while we're here, if  
13 Environment Canada might talk about their enforcement  
14 capacity and the number of people they have doing  
15 enforcement in the region.

16 Ms. MARIA DOBER: If I could just clarify  
17 first what time period you're looking for these records for.

18 Mr. BRUNO MARCOCCHIO: I'm sorry. Let's  
19 say the last 15 years.

20 Ms. MARIA DOBER: 15 years? Okay.

21 In terms of our capacity with respect to  
22 enforcement, enforcement is one of the priorities of this  
23 Government and, in fact, the Department is increasing its  
24 capacity, both on the environmental quality side as well as  
25 on the wildlife enforcement side.

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1 I don't have the exact numbers with me,  
2 but we can certainly provide those as well.

3 THE CHAIRPERSON: Thank you, Mr.  
4 Marcocchio. Ms. Peach, then Mr. Mullin.

5 Ms. JUDY PEACH: I understand that  
6 Environment Canada's boss and one of the people that the  
7 Panel would be making recommendations to would be the  
8 Environment Minister of Canada.

9 If you were asked to make  
10 recommendations to your ultimate boss, the Environment  
11 Minister of Canada, on this project, sort of if you were  
12 doing the Panel's job just within the areas of expertise,  
13 you know, your own areas of expertise, do you feel confident  
14 in the amount of information provided by the Proponent in  
15 the EIS and their responses as well as the level of  
16 understanding you think the Proponent has of the site, the  
17 climactic conditions of the site, the sensitivity of the  
18 site?

19 Would you feel confident that you could  
20 make a recommendation to approve the project with conditions  
21 that you felt could be enforced?

22 Would you feel confident in an approval  
23 recommendation?

24 Ms. MARIA DOBER: I think it's important  
25 to understand that our role here within this particular

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1 process, we don't have a decision-making role with respect  
2 to this particular project.

3 I think that in our submission it's  
4 clear that, should the Proponent provide the additional  
5 analysis and information that we have asked for and commit  
6 to a monitoring, mitigation and follow-up program, that the  
7 position of the Department would be that any environmental  
8 impacts could be mitigated with that additional information  
9 and that monitoring program.

10 Ms. JUDY PEACH: Can I ask a follow-up?

11 So do you feel that within the Panel's  
12 time constraints, which I believe is 90 days after the end  
13 of this hearing, do you feel they are in a position to  
14 make... I'm just wondering if there should be more time  
15 allotted in some way because there seems to be a lot of  
16 information missing.

17 So are you pretty confident that the  
18 Panel can make an accurate decision or recommendation in  
19 that time period?

20 Ms. MARIA DOBER: That's something that  
21 the Panel will have to decide. I mean, I can't speak for  
22 their ability to do that in that time period.

23 THE CHAIRPERSON: Thank you. Mr. Mullin,  
24 and then I think I saw Sister Barbara's hand go up.

25 Mr. DON MULLIN: My question was

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1 sufficiently covered by Mr. Marcocchio.

2 THE CHAIRPERSON: Okay. Is Sister  
3 Barbara here? Okay. There she is.

4 SISTER BARBARA: Good morning, and thank  
5 you very much for your presentation. I found it most  
6 informative.

7 I just wondered if Environment Canada is  
8 aware that Bilcon of Nova Scotia is a US-based company.

9 Ms. MARIA DOBER: Yes, we are. That  
10 information was in the documentation.

11 SISTER BARBARA: And do your rules apply  
12 to outside companies, as well?

13 Ms. MARIA DOBER: Our regulations would  
14 apply to the activities that are taking place within  
15 Canadian jurisdiction.

16 SISTER BARBARA: Great. I just wanted to  
17 further say that about 30 years ago we had a very bad storm  
18 in Nova Scotia. Perhaps some of you know about it, the  
19 Groundhog Day storm.

20 And I, at the time, worked for the  
21 Federal Public Works, and we had a lot of damage done in  
22 Digby Neck and Islands. We have a lot of wharves and  
23 breakwaters that were washed away, and also a boat that was  
24 moored in St. Mary's Bay ended up on the other side of Digby  
25 Neck Highway 217 in a marsh and stayed there for quite a

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1 time.

2 And that was not a very severe storm,  
3 but there was still a lot of damage.

4 And given that the storms are getting  
5 more severe and the hurricanes are intensifying and we have  
6 storms on Digby Neck year round, winter storms go from  
7 December to May.

8 We've had storms in May, and now we're  
9 on hurricane season from June 'til November.

10 Given the fact that the ice is melting  
11 and the waters are warming, I wonder if someone could  
12 provide an educated guess as to what damage a Category 5  
13 hurricane similar to the one that struck New Orleans a few  
14 years ago would have on the residents of Digby Neck should  
15 it suffer a direct hit, as Digby Neck is only two miles  
16 wide.

17 Does anyone hazard a guess what damage  
18 it would do in 2007?

19 Mr. GARY LINES: Maybe I can speak to  
20 that with a little bit of detail, recognizing the fact that  
21 Nova Scotia certainly has experienced land-falling  
22 hurricanes before, most recently with Hurricane Juan through  
23 the Halifax area.

24 We have some sense of the amount of  
25 damage that certainly that category of hurricane would do

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1 across the province, and particularly as it relates to the  
2 marine climate storm surge.

3 Just to refer back to the Groundhog Day  
4 storm briefly, looking at a scenario there where the storm  
5 tracked to the west of the Bay of Fundy, and just to make  
6 the quick comment that that's not an uncommon occurrence.

7 The uncommonness of the Groundhog Day  
8 storm had to do with the strength of it and the fact that  
9 the intensity of it really did create a storm surge  
10 situation, which I think was what the main damage was from.

11 The amount of storm surge in that case  
12 was about 1.5 metres above the tidal level, and I would  
13 guess at this point, although there's been documentation to  
14 support this, that that was the main driver for damaging a  
15 lot of the wharves and moving boats and so on.

16 With the case of a storm similar to  
17 Hurricane Juan, that was a Category 3 once it hit the  
18 coastline. We did look at storm surges in that scenario in  
19 about the same range, so it is not unreasonable to assume  
20 that that kind of a storm surge event could happen again.

21 As well, the fact that, yes, with  
22 climate change we're looking at potentially having tropical  
23 features be more intense, meaning generally that the peak  
24 wind value would be higher, which also implies potentially a  
25 higher storm surge scenario.

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1                   Certainly the kind of damage that we  
2 could see out of that type of a feature through that area  
3 would certainly be at the same level that we've experienced  
4 before with the Groundhog Day storm and may even be more  
5 intense.

6                   THE CHAIRPERSON: Thank you.

7                   SISTER BARBARA: Just another question.

8                   THE CHAIRPERSON: Is this a follow-up,  
9 Sister Barbara?

10                  SISTER BARBARA: Mmm-hmm.

11                  What would be the impact on the  
12 residents of Digby Neck and Islands if it were hit by the  
13 Category 5 hurricane in 2058, the life expectancy of the  
14 proposed White Point Rock Quarry and Marine Terminal when  
15 the land mass is now exposed to the elements as basalt rock  
16 has been shipped to the US?

17                  Could you comment on that?

18                  Mr. GARY LINES: It would be a little  
19 difficult to comment on it because, again, I'd have to  
20 speculate on what the actual land mass would actually look  
21 like as to the scenario coming from the marine environment.

22                  Just to suffice to say that with those  
23 factors, with climate change, more intense features,  
24 potentially higher storm surge scenarios that any kind of  
25 coastal infrastructure would obviously be at risk and the

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1 extent of that, however, would be based on what kind of  
2 coastal infrastructure and how the land was actually  
3 oriented at that time.

4 SISTER BARBARA: Thank you very much.

5 THE CHAIRPERSON: Thank you. Any other  
6 questions from registered participants?

7 Mr. Stanton.

8 Mr. KEMP STANTON: Yes. Just a quick  
9 question.

10 You mentioned that sea level may rise 30  
11 centimetres. How would this impact the width of the  
12 preservation zone at the site?

13 Mr. GARY LINES: I, at this point, would  
14 suggest that representatives from Natural Resources Canada  
15 might be able to answer that a little more correctly because  
16 it refers to topographical information that I don't have at  
17 hand.

18 However, I think in applying that, if we  
19 look at the 30 centimetres, I would add the comment that  
20 we're talking about permanent sea level rise and that, on  
21 top of that, if we look at sort of weather and storm  
22 information, you would then have to sort of add more intense  
23 storms and then wave action and so on so, again, deferring  
24 back to the fact that you'd actually have to look at the  
25 topographic situation to apply it correctly.

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1 THE CHAIRPERSON: Thank you. Ms.

2 Mitchell, did I see your hand go up?

3 Ms. LISA MITCHELL: Hi. My question is  
4 regarding the information on...

5 THE CHAIRPERSON: You are Lisa Mitchell?

6 Ms. LISA MITCHELL: Yes, I am. Sorry.  
7 Lisa Mitchell.

8 THE CHAIRPERSON: Yeah, just for the  
9 transcript.

10 Ms. LISA MITCHELL: Sure. With the  
11 Partnership.

12 My question is on the information on the  
13 impacts of blasting on coastal seabirds. I believe that it  
14 was... That you talked about the fact that there isn't a  
15 whole lot of information, scientific information, on that  
16 and that, through this project, there could be some  
17 monitoring that might then lead through, I presume, an  
18 adaptive management program that could see changes or  
19 enhancements to blasting guidelines that could be used for  
20 this project and perhaps for others.

21 I was wondering if you could a little  
22 bit more or perhaps an example of what some of those changes  
23 might be.

24 I'm just trying to understand a little  
25 better what it might mean to the Proponent if it was

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1 determined that there were significant impacts of blasting  
2 on coastal birds.

3 Mr. ALLAN HANSON: There's a couple of  
4 issues here with regard to blasting, one being the time of  
5 the year.

6 And in their submission, the Proponent  
7 has indicated that they won't be blasting during, quote  
8 unquote, the winter months. And if we knew better what  
9 period of time that is, then we would know which birds would  
10 be in the area related to when a blast may occur.

11 With regard to guidelines, what we would  
12 envisage is that if birds are being disturbed during a blast  
13 outside of the 170-metre buffer zone, then that buffer zone  
14 could be expanded so they couldn't blast when birds were in  
15 that area.

16 And under that scenario, we would give a  
17 permit for them to gently move the birds out of the area.  
18 Oftentimes what we'll do is use a boat to gently herd birds  
19 out of an area.

20 And in that case, we would look at the  
21 impacts of the birds being exposed to the blast versus being  
22 mildly disturbed and pushed out of the area. But that's the  
23 sort of activity that we would envisage.

24 The other thing that is unclear to us is  
25 the actual noise amounts. Perhaps they could increase the

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1 amount of blasting mats.

2 The other thing that a question arises  
3 to us with regard to the impacts of blasting noise is  
4 whether or not there would be background noise.

5 If there's a moderate amount of  
6 background noise, then the impact of the blast noise would  
7 be less to those birds, so those are the sorts of things  
8 that we would want to work with the Proponent in terms of  
9 our monitoring program so we could have an adaptive  
10 management approach.

11 Ms. LISA MITCHELL: Okay. Just a quick  
12 follow-up, or just a clarification.

13 So if I understand correctly, one of the  
14 key means, perhaps, of addressing the impacts on the birds  
15 would be to try and remove the birds. Is that correct?

16 Mr. ALLAN HANSON: It wouldn't be to  
17 remove the birds. It would be to make sure that the birds  
18 are at a distance from the blast site so that they would not  
19 be disturbed by the noise.

20 Ms. LISA MITCHELL: Okay. So creating  
21 their buffer zone. Okay. Thank you.

22 THE CHAIRPERSON: Thank you, Ms.  
23 Mitchell.

24 I think we have time maybe for one or  
25 two more questions. Mr. Moir, I think, first, and then that

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1 gentleman right there.

2                   Sorry. Just a moment. The lady with  
3 the green sweater, perhaps. And if we have... We'll see.

4                   Mr. ANDY MOIR: Andy Moir. Just a very  
5 quick follow-up to that last answer.

6                   Who is actually going to be there from  
7 Environment Canada while we're waiting for this blast to  
8 happen to determine if the birds are being gently nudged  
9 along, or who is actually... Or is it going to be the  
10 company that's going to be in charge of gently nudging the  
11 birds along?

12                   Mr. ALLAN HANSON: The actual individuals  
13 from Environment Canada would have to be determined, but  
14 with regard to monitoring activities, Environment Canada  
15 wants to develop these monitoring programs in consultation  
16 with the Proponent so that we have a good understanding of  
17 what monitoring activities are actually being done, both in  
18 theory and in practice.

19                   THE CHAIRPERSON: Okay. We have two more  
20 questions. The woman right behind Andy Moir.

21                   Please identify yourself.

22                   Ms. CAROL LITTLETON: My name is Carol  
23 Littleton, and I am a registered participant.

24                   THE CHAIRPERSON: I'm sorry. Thank you.

25                   Ms. CAROL LITTLETON: Like the two women

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1 yesterday, I am quite sceptical and worried about  
2 enforcement activities.

3 As a taxpayer, I'm also worried about  
4 the extra costs to the taxpayers if all this examination of  
5 the mitigation required and the monitoring is carried out.  
6 It seems to me that it's going to be quite a costly thing.

7 And my question is, is it ever possible  
8 to pass on some of those extra costs to the company?

9 Mr. ALLAN HANSON: With regard to the  
10 monitoring for coastal birds and land birds on site, that  
11 monitoring will be done by the Proponent or their  
12 designates, and Environment Canada will be providing  
13 expertise in working in consultation with them.

14 So we, within Environment Canada, will  
15 not be doing that monitoring per se, but we will be  
16 reviewing the monitoring program and that way, when we get  
17 the results back, we will have full faith in those results.

18 With regard to enforcement, I would just  
19 like to add that the enforcement of the **Migratory Bird**  
20 **Convention Act** and the **Species at Risk Act** is ongoing, and  
21 it's the Proponent's responsibility to adhere to those  
22 Regulations.

23 And with regard to reporting perceived  
24 violations, we encourage members of the general public to  
25 call the 1-800 Environmental Emergencies Reporting Line if

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1 they ever see activities that they believe to be in  
2 violation of those Acts.

3 Ms. CAROL LITTLETON: Thank you.

4 The second question is, is Environment  
5 Canada the body that sets up and maintains weather stations  
6 in Nova Scotia?

7 Mr. GARY LINES: Yes, that's correct.

8 Ms. CAROL LITTLETON: Can you explain to  
9 me why so many weather stations were closed down in the last  
10 few years so that there are now very large intervals between  
11 the stations?

12 I recently set up a weather station of  
13 my own in Annapolis Royal because the weather forecasts that  
14 we get in the area come from Greenwood, which has an  
15 entirely different situation, and so far monitoring of  
16 temperatures, wind speeds, just about everything about the  
17 forecasts is completely useless and does not correspond.

18 My station was set up by a  
19 meteorologist, so I do have confidence that my data is quite  
20 good, and it is on the internet and available for anybody.

21 Mr. GARY LINES: In reference to the  
22 monitoring network, yes, over the past period, I'd say the  
23 past 10 or 15 years, there have certainly been changes to  
24 the monitoring network, both the number and the type of  
25 monitoring that we do.

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1                   It is basically driven by two items.  
2 One is how much we actually can afford to run in this  
3 country as far as monitoring, and that's across the entire  
4 country, not just in one province or one region, as well as  
5 our confidence in being able to accurately monitor the  
6 atmosphere to support the programs that we run at  
7 Environment Canada, predominantly our weather forecasting  
8 service.

9                   It has been determined that if you  
10 couple those two together, we have the monitoring network we  
11 have now.

12                   Would we all like to see more monitoring  
13 sites in Canada? I'm sure.

14                   What it ultimately comes down to is can  
15 we continue to support the weather service that we have with  
16 the monitoring that we have and, actually, at this point we  
17 can.

18                   But like yourself, I'm also a taxpayer  
19 and, yes, I would love to see more monitoring done in this  
20 country, but it does come down to balancing the two things  
21 of how much service we can provide and how much money we can  
22 afford for the networks.

23                   Ms. CAROL LITTLETON: Thank you very  
24 much.

25                   THE CHAIRPERSON: Thank you, Ms.



1 Littleton. And the final question.

2 Are you a registered participant?

3 Mr. WILLIAM LANG: Yes, I am, sir.

4 THE CHAIRPERSON: Good.

5 Mr. WILLIAM LANG: William Lang, Green

6 Party of Nova Scotia, L-a-n-g.

7 My question follows along with the  
8 enforcement and penalties. I heard Environment Canada refer  
9 to themselves as Federal authority on enforcement,  
10 regulations and mitigation measures, and I heard them refer  
11 that they wouldn't have the authority to shut the plant  
12 down, but I was just confused.

13 I actually didn't hear any references to  
14 penalties, and if you could just describe penalties for  
15 failure to meet regulations.

16 Ms. MARIA DOBER: There are a variety of  
17 penalties that are available to the Department under our  
18 various pieces of legislation, and I don't have those pieces  
19 of legislation here with me today, but we can certainly  
20 provide that information if the Panel would like to have it.

21 THE CHAIRPERSON: Sure.

22 Mr. ALLAN HANSON: And as a point of  
23 clarification, in a general sense under the **Migratory Bird**  
24 **Convention Act** and the **Species at Risk Act** Environment  
25 Canada enforcement officers do have the ability to shut down

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1 an operation that's resulting in a violation of those Acts.

2 Mr. WILLIAM LANG: Thank you very much.

3 THE CHAIRPERSON: Mr. Lang, you're asking  
4 for legislation. Be more specific for me so that I can get  
5 it down on paper.

6 Mr. WILLIAM LANG: For the actual  
7 penalties that will be incurred by the Proponent if they  
8 fail to meet regulations.

9 THE CHAIRPERSON: Thank you.

10 Ms. MARIA DOBER: I would like to point  
11 out that the penalties are ultimately decided by the Courts,  
12 but there is a range that they are able to enforce.

13 Mr. WILLIAM LANG: So we're talking about  
14 fines and...

15 Ms. MARIA DOBER: Yes.

16 Mr. WILLIAM LANG: Okay. Thank you.

17 THE CHAIRPERSON: Okay. I think Dr.  
18 Muecke has one more question.

19 Dr. GUNTER MUECKE: Actually, two.

20 You referred the Proponent to an  
21 enlarged database in terms of rainfall statistics and you  
22 mentioned the 1870 to 2006 database, which is more  
23 comprehensive and results in different predictions in terms  
24 of 100-year storms.

25 Of importance also in terms of storage

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1 in the sediment ponds is the rainfall during drought years,  
2 and so my question is, is it possible or is the information  
3 available in the database as to the worst 100-year drought?

4 Mr. GARY LINES: I would actually have to  
5 look for that 'cause I actually, honestly, have not been  
6 asked that question before.

7 However, I would strongly suspect it is  
8 there 'cause basically the database handles annual  
9 precipitation and it would indicate the dry years as well as  
10 the wet ones.

11 Dr. GUNTER MUECKE: Could I ask you for  
12 that information?

13 Mr. GARY LINES: As an undertaking?

14 Dr. GUNTER MUECKE: Yes, lease.

15 Mr. GARY LINES: Yeah, we can do that.  
16 Yes.

17 Dr. GUNTER MUECKE: Another concern of  
18 ours is, obviously, the release of pollutants, particularly  
19 hydrocarbons.

20 And in your submission, you indicated  
21 that even lower amounts of release can have considerable  
22 impact on migratory birds, seabirds, et cetera.

23 Now, when it comes to mitigating spills  
24 along the coastline, one of the important things is the  
25 characteristic of the coastline itself, obviously, in terms

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1 of clean-up; how efficiently and quickly one can clean up  
2 these spills. And that requires information on the physical  
3 characteristics, the biological characteristics, of the  
4 shoreline; not only at the site but obviously because of the  
5 spreading of the pollutant in the adjacent areas.

6 Does Environment Canada feel comfortable  
7 with the level of information that has been provided in the  
8 EIS regarding these shoreline characteristics, and do you  
9 feel that it is at a level which would allow efficient and  
10 quick remediation if a spill should occur?

11 Ms. MARIA DOBER: There were no issues  
12 raised by our emergency specialists who reviewed the  
13 documentation.

14 What I would like to indicate to the  
15 Panel is that our Department does follow a process called  
16 Shoreline Characterization Assessment Techniques whenever  
17 there is a spill, and they actually go out and do look at  
18 the area and determine the likelihood of where a spill will  
19 end up, and what the shoreline characteristics are, so that  
20 that will facilitate the types of cleanup that they can do.

21 And that's done in conjunction with a  
22 whole variety of different agencies involved in emergency  
23 response.

24 THE CHAIRPERSON: Okay, then. Mr.  
25 Buxton, I'm asking if you have any additional questions

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1 because of Dr. Muecke's additional questions. You're okay?

2 Mr. PAUL BUXTON: No, thank you, Mr.

3 Chair.

4 THE CHAIRPERSON: Okay. We will  
5 terminate this session now and we'll take a 15-minute break,  
6 but I'd like to thank Environment Canada for a very, very  
7 useful presentation. Thank you all.

8 --- Recess at 11:02 a.m.

9 --- Upon resuming at 11:20 a.m.

10 THE CHAIRPERSON: Ladies and gentlemen,  
11 could I ask you all to identify yourself with your name,  
12 your affiliation and to spell your name if it's the least  
13 bit problematic for the transcriber to get it?

14 Mr. KIM MacNEIL: Kim MacNeil, Director  
15 of Environmental and Natural Areas, Management and  
16 Protection Division, Department of Environment and Labour.

17 Mr. BOB PETRIE: My name is Bob Petrie.  
18 I'm the Regional Manager of the Environmental Monitoring and  
19 Compliance Division for the western region, and it's P-e-t-  
20 r-i-e.

21 Mr. BRUCE ARTHUR: I'm Bruce Arthur,  
22 District Manager for the Yarmouth office of Environmental  
23 Monitoring and Compliance Division.

24 Mr. ANDREW MURPHY: I am Andrew Murphy,  
25 I'm Manager of the Air Quality Branch for the Department of

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1 Environment and Labour, the ENAM Division

2 Ms. BARB RYDEN: Barb Ryden, Supervisor  
3 of Air Monitoring and Reporting, Air Quality Branch.

4 Ms. DARLENE FENTON: Darlene Fenton, I'm  
5 the Regional Manager for the Central region of ENC.

6 Mr. SCOTT LISTER: Scott Lister, L-i-s-t-  
7 e-r, Regional Hydrogeologist, Kentville office.

8 Mr. DARRELL TAYLOR: Darrell Taylor,  
9 Environmental Analyst, Water and Wastewater Branch, ENAM  
10 Division, Halifax.

11 Mr. JOHN DRAGE: John Drage, and the last  
12 name is spelled D-r-a-g-e. I'm a hydrogeologist with Nova  
13 Scotia Environment and Labour, in the Halifax office.

14 THE CHAIRPERSON: Okay. Thank you all,  
15 now I believe you have a presentation for us?

16 **PRESENTATION BY THE NOVA SCOTIA DEPARTMENT OF ENVIRONMENT**  
17 **AND LABOUR - VARIOUS PRESENTERS**

18 Mr. KIM MacNEIL: I'd like to begin the  
19 presentation by thanking the Panel for the opportunity to  
20 present today and to begin, I would like to discuss briefly  
21 the mission of the Department of Environment and Labour.

22 The mission is to protect and promote  
23 the health and safety and people, and the protection of  
24 property.

25 It's done through the Public Safety and

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1 the Occupational Health and Safety divisions to protect and  
2 promote healthy environment, employment rights and consumer  
3 interests and public confidence in pension services and in  
4 the alcohol and game sectors.

5 Part of the Department's mandate is that  
6 we are the lead provincial department for environmental  
7 protection and management.

8 We develop regulations, policies  
9 guidelines and programs. We oversee environmental  
10 monitoring networks, manage databases and information, as  
11 well as providing professional advice to the public and  
12 government, as well as monitoring for compliance.

13 The Department is also the lead agency  
14 for Occupational Health and Safety, as well as Public  
15 Safety.

16 However, today's presentation will deal  
17 exclusively with the environment side of the Department.

18 Within the Department, there are two  
19 environmental divisions, one is the Environmental of Natural  
20 Areas Management Division, and the other is the  
21 Environmental Monitoring and Compliance Division.

22 Myself and Mr. Petrie today are going to  
23 briefly review some functions of these two divisions within  
24 the Department of Environment, before we get into the formal  
25 presentation.

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1                   The Environmental and Natural Areas  
2 Management Division or ENAM as it's known, consists of six  
3 branches, which are: Environmental Assessment; Protected  
4 Areas Branch...

5                   We have 33 wilderness areas and 15  
6 nature reserves, as well as other protected areas across the  
7 Province.

8                   There's also Air Quality, which is a  
9 very active and growing branch. Then there's a Waste-  
10 Resource Management Branch, which deals mostly with solid  
11 waste.

12                   We have a pollution prevention branch,  
13 which deals with hazardous substances, and we have a Water  
14 Resource Management Branch, that deals with surface water,  
15 groundwater, drinking water as well as wastewater.

16                   Mr. BOB PETRIE: The Environmental  
17 Monitoring and Compliance Division are responsible for the  
18 majority of field operations relating to environmental  
19 protection for the Department.

20                   We do this through a network of local  
21 offices in the regions. In the western region, we have  
22 three district offices, the closest one for this Project  
23 being based in Yarmouth. We also have offices in  
24 Bridgewater and Kentville, who look after their assigned  
25 areas.

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1                   Our primary activities in the Monitoring  
2 and Compliance Division consists of firstly evaluating  
3 applications for approval of proposed projects under the  
4 Part V approval process in the **Environment Act**.

5                   We also conduct the inspection and  
6 monitoring of those approvals, when they become operational  
7 of course.

8                   We conduct enforcement activities and  
9 also respond to public issues, complaints and inquiries, and  
10 basically serve as a local service point for the  
11 Department's programs and services.

12                   Mr. KIM MacNEIL: Next, I would like to  
13 discuss the steps and review process for our own Department.  
14 To begin with, we review the Environmental Impact Statement  
15 and provide comments to the Panel, which has already been  
16 done.

17                   I guess I would like to note that this  
18 presentation is a brief review of the work that we have done  
19 thus far on the application that's before the Panel, and  
20 full written comments that detail specific issues have  
21 already been provided.

22                   After the comments are provided to the  
23 Panel, the Panel would make their decision to reject or  
24 approve with conditions.

25                   The Minister responds to that Panel

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1 report, and if the E.A. is approved, the terms and  
2 conditions of the release are prepared.

3           The next step, again if the E.A. is  
4 approved, there would be a second detailed review of the  
5 proposal under the Part V of the **Environment Act**, and this  
6 is commonly known as the Industrial Approval.

7           So it's a secondary approval process,  
8 and should the E.A. be approved following that Industrial  
9 Approval, should the Industrial Approval make its way  
10 through, there is a compliance monitoring with inspections  
11 that would take place and be the responsibility of the  
12 Department.

13           Now I'd like to review the comments  
14 provided by three of the branches within the Environmental  
15 and Natural Areas Management Division, the first report  
16 being from the Water and Wastewater Branch.

17           As previously stated, they are  
18 responsible for groundwater, surface water, drinking water  
19 and wastewater.

20           The main potential impacts on drinking  
21 water and groundwater include reduced groundwater levels  
22 that can potentially affect nearby wells, and blasting that  
23 can cause changes in the amount of water the well produces  
24 and can result in temporary siltation of nearby wells.

25           These effects can be managed through

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1 groundwater and water well monitoring plans, as well as  
2 contingency plans to address impact to any water well.

3                   The main potential impacts on surface  
4 water include siltation of watercourses and marine waters,  
5 and reduced flows in watercourses that could impact any  
6 aquatic life.

7                   These potential impacts could be managed  
8 through mitigation measures such as sedimentation ponds, and  
9 following guidance on the erosion and sedimentation control  
10 and on Pit and Quarry Development Guidelines that the  
11 Department has.

12                   Surface water monitoring plans for the  
13 quality and quantity would be also developed. Also,  
14 contingency plans for spills and upset conditions would be  
15 required.

16                   And I believe that the Department will  
17 provide additional detailed comments on this topic tomorrow,  
18 we are scheduled.

19                   The next comments are from the Air  
20 Quality Branch.

21                   They are responsible for the management  
22 and protection of outdoor air quality. They look after the  
23 air quality regulations and the pollutants regulated under  
24 those regulations.

25                   They also operate a provincial air

1 monitoring network and in a lot of air issues, they provide  
2 engineering expertise for any industrial approvals from the  
3 Environmental Monitoring and Compliance Division.

4                   The Proponent, from an air quality  
5 perspective, would be required to summarize predicted air  
6 emissions, as well as noise level and predict the impact of  
7 these emissions.

8                   The Proponent would also be required to  
9 submit a monitoring plan, and then develop a management plan  
10 based on predicted impacts and monitoring.

11                   Now, some of this work would be done at  
12 the environmental assessment stage, but other aspects are  
13 done during the industrial approval stage, should we get to  
14 that point.

15                   The third and final branch to comment on  
16 the Environmental Impact Statement is the Pollution-  
17 Prevention Branch.

18                   They're responsible for pollution-  
19 prevention initiatives, as well as well as green  
20 procurement.

21                   They look after reduction of toxic  
22 substances as well as the management of contaminated sites,  
23 dangerous goods, hazardous wastes, pesticides and pests, and  
24 industrial emergency response planning.

25                   Their comments have been that the

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1 storage of fuels and other petroleum products must meet the  
2 petroleum management regulations, that the storage and  
3 handling of dangerous goods and waste dangerous goods must  
4 meet the dangerous goods management regulations, and that  
5 the facility must have an emergency response plan to deal  
6 with releases of these substances.

7 Thank you. I'm going to... Bob is  
8 going to continue with the rest of the presentation.

9 Mr. BOB PETRIE: I will give a brief  
10 overview again of our division and how it operates in a bit  
11 more detail on the monitoring and compliance side.

12 The monitoring and compliance division  
13 is organized in a network of 12 district offices, which I  
14 mentioned three are located in this area.

15 Across the province, we have  
16 approximately 80 inspectors and conduct anywhere from 10,000  
17 to 12,000 inspections annually on facilities that we  
18 regulate.

19 A number of core programs occupy the  
20 bulk of our time and effort in this division.

21 Our core programs include drinking water  
22 management; drinking water safety; as well as wastewater  
23 management, both from on-site sewage as well as municipal  
24 wastewater.

25 Solid waste as well as contaminated site

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1 management are other core programs we administer.

2 We also have a very large role in public  
3 health management and mental health, again going back on our  
4 mandate and drinking water and sewage management.

5 Most applicable to this situation is  
6 that we are the monitor and the regulator for industrial  
7 activities in this area, which can range to anything from  
8 the aggregates industry to more industrial-manufacturing  
9 type of industries.

10 We mentioned earlier that following an  
11 environmental assessment process, should a Proponent  
12 successfully complete that, they go on to what we call the  
13 Part V approval or the industrial approval, which is  
14 evaluated in our division using local engineering staff as  
15 well as local hydrogeologists and technical staff.

16 This approval process is a very  
17 technical review looking at the core environmental issues of  
18 the facility.

19 Our application... In our application  
20 process, we would require typically detail that may not have  
21 been needed in the environmental assessment process, right  
22 down to the specific design specifications, for example if  
23 something were I guess described conceptually in the E.A.  
24 process, we would look at that and at the level of design  
25 engineering in the industrial approval process.

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1                   Typically, the information we require  
2 during this evaluation includes process description and  
3 engineering plans; as well as project-specific environmental  
4 management plans; descriptions of all wastes, emissions and  
5 potential adverse effects; monitoring and mitigation plans;  
6 exceedance response protocols and contingency plans; as well  
7 as rehabilitation plans.

8                   This application process can also, as  
9 needed, involve consultation with other federal and  
10 provincial agencies on specific items where we may require  
11 input or expertise.

12                   Historically, this division has had some  
13 historical involvement in this project, which I'll give a  
14 brief overview of.

15                   Initially, we became involved in this  
16 project back in 2002, when the Proponent came forward first  
17 with an application for an industrial approval for a 3.9-  
18 hectare quarry, beneath the threshold for an environmental  
19 assessment.

20                   At that time, that proposal did meet the  
21 requirements of our Pit and Quarry Guidelines and the  
22 approval process, and an approval was issued.

23                   As part of that approval, we did require  
24 the Proponent to form a Community Liaison Committee and  
25 conduct public information efforts during the initial phase

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1 of that, the objective being mainly to require a mechanism  
2 for information exchanged and dissemination, both between  
3 the public and the Proponent on this issue.

4 Other significant facets of our  
5 historical involvement have included the investigation of  
6 siltation reports from the site, which did not result in any  
7 further action.

8 The review of a specific blasting plan  
9 for this site in consultation with Fisheries and Oceans  
10 Canada...

11 That issue being mainly centred around  
12 the potential impacts of blast repercussions on marine  
13 mammals, Fisheries and Oceans Canada was the primary  
14 reviewer of that.

15 Towards 2003, 2004, we did receive  
16 notification that there was an ownership change, and the  
17 original approval was issued to a company called Nova Stone,  
18 however the rights to the property were transferred to  
19 Bilcon, and there was no transfer the approval to Bilcon at  
20 that time, no need for that.

21 In October 2004, the Part V approval for  
22 the site was cancelled because the entity, the company that  
23 it was originally issued to, no longer had authorization to  
24 the property.

25 The issues that the EMC division



1 highlighted reflect also the issues identified by the ENM  
2 division.

3                   In summary, these would be effects of  
4 the site or of the operation on groundwater; local drinking  
5 water wells and wastewater from the site, both in terms of  
6 discharges from the sedimentation ponds; as well as any on-  
7 site sanitary wastewater that might require management from  
8 the facility buildings; erosion and sedimentation issues;  
9 air quality and blasting issues requiring management.

10                   These issues are typically addressed in  
11 conditions of approval that we would issue consistent with  
12 our Pit and Quarry Guidelines.

13                   There are other... In addition to the  
14 Part V industrial approval, there are other potential  
15 approvals that the Proponent may need to obtain from our  
16 division.

17                   As I mentioned, the issue of how the on-  
18 site sanitary wastewater will be treated, whether that is in  
19 a small plant or through an on-site sewage disposal system,  
20 would require a review and approval from our division.

21                   Also, the ultimate decommissioning of  
22 the Project infrastructure and long-term site monitoring and  
23 maintenance activities would have to meet with our approval  
24 as well.

25                   Depending on the nature of water use at

1 the site, an approval for water storage or withdrawal may  
2 also be required.

3 In addition to that and as part of the  
4 Part V approval process, our Pit and Quarry guidelines and  
5 conditions of approval require that if blasting is to be  
6 conducted within 800 metres of residences off site, then  
7 permission is required from those residence owners in order  
8 to do this, and the 800-metre clearance is a standard  
9 requirement for quarries in Nova Scotia.

10 In addition, the division would also be  
11 seeking more information on existing drinking water quality  
12 in the area from domestic wells in support of obtaining  
13 good baselines on the quality of drinking water in those  
14 wells before activity is commenced.

15 That summarizes the issues identified by  
16 the EMC division and the ENM division, and thank you for  
17 this take. I will take questions.

18 **PRESENTATION BY NOVA SCOTIA ENVIRONMENT AND LABOUR -**  
19 **QUESTIONS BY THE PANEL**

20 THE CHAIRPERSON: Thank you very much.  
21 We do have a few questions here, and I have a feeling that  
22 questions are going to run through lunch.

23 So I'd like to take you back with an  
24 historical question for the moment which is could you tell  
25 us in more details about the complaints that were related to

1 the siltation of the 4-hectare quarry, and how Environment  
2 and Labour dealt with it?

3 Mr. BOB PETRIE: I can tell you what I  
4 recall from that time. The complaints I believe originated  
5 during periods of heavy precipitation, heavy rainfall.

6 THE CHAIRPERSON: I'll get you to pull  
7 that closer to you.

8 Mr. BOB PETRIE: Certainly. How is that?  
9 Okay.

10 They occurred during heavy precipitation  
11 runoff periods. We investigated jointly with Fisheries and  
12 Oceans Canada. Our staff is based in Yarmouth, and  
13 Fisheries and Oceans does have a local office so whenever it  
14 makes sense, we can get assistance from that on issues that  
15 we have in common.

16 At those times, our inspectors, our  
17 federal inspectors were unable to verify any exceedance of  
18 suspended solids concentrations.

19 It was acknowledged that there was a  
20 high volume of run off during those periods, but no  
21 incidences of release of substances causing an adverse  
22 effect was confirmed.

23 THE CHAIRPERSON: Simply siltation?

24 Mr. BOB PETRIE: Well, siltation would be  
25 a substance potentially causing an adverse effect, however

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1 we didn't... We weren't able to verify or obtain any  
2 evidence that indicated siltation in excess of the levels we  
3 would want to see.

4 Dr. GUNTER MUECKE: And what time period  
5 was involved between your inspection and the supposed  
6 incident?

7 Mr. BOB PETRIE: I don't have this  
8 information with me at this time.

9 THE CHAIRPERSON: Were there any other  
10 complaints or indications of non-compliance from that  
11 particular operation?

12 Mr. BOB PETRIE: Generally speaking, we  
13 would often receive concerns expressed from the public in  
14 this area about the operation.

15 As I recall at this moment, these were  
16 the only incidences where there was alleged non-compliance  
17 so...

18 Dr. GUNTER MUECKE: Thank you.

19 THE CHAIRPERSON: You're involved...  
20 Your Department was involved in the creation of the CLC in  
21 association with this Project.

22 What exactly was your involvement over  
23 and above of dictating that it should in fact be formed?  
24 Did you oversee it in any way? Did you participate in it  
25 or...?

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(QUESTIONS BY THE PANEL)

1                   Mr. BOB PETRIE: No. Our main objective  
2 in requiring the CLC was to ensure that there was a vehicle  
3 for information exchange and the communication of questions  
4 and answers about the project in both directions, for the  
5 community and the Proponent.

6                   While we attended some CLC meetings, we  
7 did not serve as the Chair or as the manager of that  
8 committee.

9                   THE CHAIRPERSON: Do you in general or  
10 would you have done specifically any sort of monitoring of  
11 the quality or functionality of the CLC?

12                   Is it doing what you hoped that it would  
13 do, that sort of thing?

14                   Mr. BOB PETRIE: Well...

15                   THE CHAIRPERSON: Or once it's created,  
16 to you simply back off and let it run?

17                   Mr. BOB PETRIE: Well, we... No, I  
18 wouldn't characterize it that way. We do... We would  
19 get...

20                   For the meetings that we did not attend,  
21 we would get regular copies of the minutes of those  
22 meetings, and we would stay in communication with the Chair  
23 of that Committee from time to time.

24                   I think in any CLC, and we do have CLCs  
25 on other projects, but we wanted to serve the function for

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1 which it was designed.

2 Whether or not it's actually achieving  
3 what we want it to is sometimes a subjective question and  
4 difficult to measure.

5 Dr. GUNTER MUECKE: The CLC is supposed  
6 to involve all stakeholders. Does the Department see itself  
7 as a stakeholder?

8 Mr. BOB PETRIE: Certainly. Well as a  
9 regulator I guess would be our role. Yes.

10 Dr. GUNTER MUECKE: Then can you explain  
11 why... I mean you previously said that departmental  
12 representatives were present at times, but were not part of  
13 the CLC. Could you explain?

14 Mr. BOB PETRIE: Well sometimes, as I  
15 recall, the CLC would meet on very specific issues, which  
16 may or may not involve the mandate of the EMC division.

17 Again, while we stayed in touch with  
18 what was happening at the CLC, it wasn't always necessary  
19 for us to be present.

20 Again, we wanted to make sure that  
21 information was flowing from the company to the public, and  
22 vice-versa, and that was our primary objective.

23 Dr. JILL GRANT: Do you see the CLC as a  
24 representative body for the community and what mechanisms  
25 are there for those who sit on the CLC to get information

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NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PANEL)

1 beyond themselves, to some wider public?

2 Mr. BOB PETRIE: Pardon me? How would  
3 the CLC communicate---

4 Dr. JILL GRANT: Yes.

5 Mr. BOB PETRIE: ---to the broader  
6 public?

7 Dr. JILL GRANT: Yes.

8 Mr. BOB PETRIE: Okay.

9 Dr. JILL GRANT: How does that happen?  
10 What's the mechanism?

11 Mr. BOB PETRIE: Generally how a CLC  
12 functions is actually determined by the committee itself,  
13 and any methods that they would use to communicate or give  
14 information to the broader public would be agreed to by the  
15 Committee.

16 Dr. JILL GRANT: So it varies then from  
17 CLC to CLC in terms of...

18 Mr. BOB PETRIE: I would say that's the  
19 methods used.

20 Dr. JILL GRANT: Yeah.

21 Mr. BOB PETRIE: That would be a fair  
22 statement.

23 Dr. JILL GRANT: How would you  
24 characterize the effectiveness of the CLC that was in place  
25 on the 4-hectare quarry in this case?

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1003  
NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PANEL)

1                   Mr. BOB PETRIE: Given that the Project  
2 was in a phase where it was not in an environmental  
3 assessment process and not in a formal public consultation  
4 process, you know, I believe that information about the  
5 Project was exchanged.

6                   I guess that's a difficult question to  
7 answer, how effective it was, and that may be better left to  
8 the company and the community to judge.

9                   THE CHAIRPERSON: If you were overseeing  
10 a number of projects and they all had their equivalent of  
11 CLCs, would your Department be able to qualify them? Would  
12 you have information that would tell you whether a CLC was  
13 functional or dysfunctional or marginally useful or socially  
14 impacted in the sense that it was unable to carry out its  
15 activities?

16                   Would you know that? Would that kind of  
17 information become available to you?

18                   Mr. BOB PETRIE: I guess that type of  
19 information wouldn't be gathered or collated on a provincial  
20 basis if I could put it that way.

21                   As an example, I might be familiar with  
22 any CLCs that are operating within my area and through  
23 general communication with my colleagues in other areas, I  
24 might get an impression, but the information I think that  
25 would answer the question that you asked isn't collected or

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1 collated in that way.

2 THE CHAIRPERSON: In other words, if you  
3 sat in on the meetings, you would make observations and  
4 carry them back to your Department, but other than that  
5 there would be no process?

6 Mr. BOB PETRIE: H'm.

7 THE CHAIRPERSON: That's correct, yeah.  
8 Change of topics slightly. One of the things that concerns  
9 the community here is what has been referred to as quarry  
10 drift, which is that Bilcon owns a certain property which is  
11 now under review for the development of a marine quarry, but  
12 it also has additional property or properties, and one...  
13 For example, one large piece of land adjacent to the present  
14 quarry.

15 It's been suggested, there are rumours  
16 suggesting that eventually Bilcon will expand into this  
17 other property.

18 Now the question is what would prevent  
19 that from happening, if anything?

20 If the environmental review process...  
21 This Panel makes a recommendation, the Project goes forward  
22 and at some point, it decides it wants to expand its quarry,  
23 what would it prevent it from doing that?

24 Is there anything to prevent it from  
25 doing that? Is there a process involved?

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NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PANEL)

1                   Mr. BOB PETRIE: I'll just make an  
2 initial comment that any expansion of an approved  
3 undertaking beyond that which was contemplated in the  
4 environmental assessment for the approval would require  
5 subsequent approval.

6                   THE CHAIRPERSON: Would that approval be  
7 ministerial approval, would it be in-house approval, would  
8 it be a full scale public transparent regulatory process?  
9 At what level would that occur?

10                  Mr. BOB PETRIE: The Minister of  
11 Environment would make a decision on the size or the change  
12 of the operation, and based on that, we would make a  
13 decision to the extent of the consultation.

14                  But, if it was decided that the  
15 operation was a significant expansion, then the Minister has  
16 the right to require a full environmental assessment.

17                  THE CHAIRPERSON: So let me give you a  
18 hypothetical.

19                  Mr. BOB PETRIE: Yes.

20                  THE CHAIRPERSON: The quarry is 150  
21 hectares, and there's a piece of property of 30 hectares  
22 adjacent to it, the request to be made, the approval could  
23 be done by the Minister with advice from his staff, and then  
24 three or four years later, another 20 or 30 hectares could  
25 go through the same process?

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1                   In the sense that it could simply  
2 increase in size because the size is small but cumulatively,  
3 it could be a large size over 25 years or 30 years.

4                   Is that a reasonable or is that a  
5 farfetched scenario?

6                   Mr. BOB PETRIE: Well, under the  
7 environmental assessment regulations, one of the factors  
8 that the Minister of Environment and Labour considers in the  
9 environmental assessment decisions is the planned and  
10 existing land use in the area of the undertaking, which is  
11 essentially cumulative effects development.

12                   Well I think in this case, the Panel  
13 could make recommendations to the Minister with respect to  
14 the cumulative effects element of this particular project,  
15 and the Minister takes that into consideration in his  
16 decision about any project.

17                   THE CHAIRPERSON: If the Panel had simply  
18 dissolved at the end of its advice to the Minister and five  
19 years later, individuals might not be there or in other  
20 words...

21                   And also, the information would be five  
22 years out of date and environmental assessment and  
23 regulations would have moved on, so that asking the Panel  
24 for advice at that point might not be a useful exercise.

25                   Essentially the process you're

1 describing is the Minister would be faced with a request, he  
2 would on the basis of factors decide whether in fact he  
3 could decide by himself, with advice from his staff, whether  
4 it would go out to some kind of review, and the degree of  
5 review could vary in a number of ways.

6 But presumably, it wouldn't be a joint  
7 review, it would be an internal Nova Scotia review?

8 Mr. BOB PETRIE: Not necessarily. That  
9 would be the Minister's decision. I can give you an example  
10 of a facility just recently in metro area that changed  
11 slightly the chemicals that it was dealing with.

12 In the original environmental  
13 assessment, they were given a particular approval to do a  
14 particular type of work.

15 That work changed, and if the work  
16 changes significantly or the type of chemicals that they're  
17 dealing with changes, then a new environmental assessment is  
18 required.

19 THE CHAIRPERSON: For a quarry, which  
20 has a given product and doesn't change what it does but  
21 simply changes its size, that's much more predictable and  
22 much less problematic I would guess, thereby reducing the  
23 need for the complicated assessment, would you think?

24 Mr. BOB PETRIE: Well, I guess it would  
25 be a judgement of the significance of that expansion.

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NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PANEL)

1 THE CHAIRPERSON: H'm. Gunter?

2 Dr. GUNTER MUECKE: I have experience  
3 with quarry expansions, and my understanding is it's not  
4 exactly rare that once a quarry has been established, that  
5 it asks for expansion and how they have been dealt with  
6 and...

7 I think that I am aware, but not  
8 details, of some of these expansions in Nova Scotia.

9 Dr. JILL GRANT: I have a question.

10 Dr. GUNTER MUECKE: Sorry, I mean that as  
11 a question. How have you dealt with them in the past I  
12 mean?

13 Mr. BOB PETRIE: Again, when faced with  
14 an expansion, and I guess it depends on where you're  
15 starting from because if there was a smaller quarry beneath  
16 the E.A. threshold, we would be looking at whether that  
17 expansion from beneath the thresholds would put it above the  
18 threshold and trigger an E.A.

19 If it was a project that had previously  
20 gone through an E.A., again we would go back and look at the  
21 assumptions that were in place and the nature and scope of  
22 the project as it was proposed during the initial E.A., and  
23 if it was judged to be a significant deviation or expansion  
24 or change from what was originally contemplated, then we  
25 would proceed through an E.A. process.

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1009  
NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PANEL)

1 Dr. GUNTER MUECKE: Okay. I want to go  
2 from the hypothetical to the real, okay? Has a quarry,  
3 which has gone through the environmental assessment process,  
4 provincial... I'm not aware of any federal.

5 But has any quarry like that been  
6 granted an extension and how was it handled in that specific  
7 case, as opposed to the hypothetical?

8 Mr. BOB PETRIE: To answer that to any  
9 degree of certainty, I would have to go back and check  
10 records on this.

11 I can only speak anecdotally for the  
12 projects I know of in my region, and we would be willing to  
13 take that on as an undertaking, to provide that.

14 Dr. GUNTER MUECKE: Thanks. So let me be  
15 specific as to what I'm looking for. So I'm looking for any  
16 quarries, okay, in Nova Scotia, that have undergone an  
17 environmental assessment on a provincial scale, I realize,  
18 and that have asked for an expansion after the approval, and  
19 I would like to know how that approval was obtained.

20 Dr. JILL GRANT: Thank you. I have a  
21 couple of questions. The first one is around inspections.  
22 You mentioned that you have 80 inspectors doing about 12,000  
23 inspections a year, so you're quite very busy obviously with  
24 a lot of inspections.

25 I wonder if you could give us an idea of

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1010  
NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PANEL)

1 how often major industrial enterprises like this would be  
2 inspected and whether it would be...whether the inspection  
3 would be announced in advance, or is it just a surprise  
4 visit or what exactly happens?

5 Mr. BOB PETRIE: Most of our inspections  
6 are scheduled internally, but not announced to the site  
7 operator in advance, unless there is some need to do so in  
8 order to make arrangements for site access or safety  
9 requirements.

10 So if it was deemed that in order to do  
11 the inspection, we needed to gain access to a secure area or  
12 make certain specific safety arrangements, it might be  
13 necessary to announce ourselves ahead of time, but it is our  
14 practice to not announce ourselves or...

15 You know, to try and obtain basically  
16 representative conditions when we do our inspection, given  
17 the restrictions that we're under.

18 The frequency of the inspections, when  
19 the project is approved, it would basically be placed on an  
20 inspection schedule that frequency could vary.

21 You know, for a very low risk  
22 conventional project, it might only be once a year or so.  
23 For a project which is in its initial phases of construction  
24 and start up and before it has gone into a routine  
25 operational phase, we would want to conduct frequent

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1 inspections.

2 That would be I guess based on what is  
3 happening at the site at the time.

4 It would be our practice once an  
5 approval is issued shortly thereafter to meet with the  
6 Proponent, go through all the terms and conditions to make  
7 sure that they understand them and know how to implement  
8 them, and then basically conduct a compliance inspection,  
9 probably within the first month after startup.

10 Again, that inspection frequency can  
11 change.

12 If there are I guess emerging issues at  
13 the site that need inspection or if there were complaints  
14 and concerns phoned in from the public, then we would  
15 respond with an inspection in an "adoc" fashion.

16 Dr. JILL GRANT: Thanks. I have a couple  
17 of questions around the bog, the coastal bog here.

18 Mr. BOB PETRIE: H'm.

19 Dr. JILL GRANT: The Project proposes to  
20 change the nature of the drainage into the coastal bog.  
21 It's described in the assessment as an "unconfined  
22 distributed flow" coming into the bog at this point in time,  
23 and the Project proposes to change it to a confined pipe  
24 that would be feeding the bog.

25 I'm interested in your thoughts about



1 the effects of that change in the drainage to the bog and  
2 what effects it may have.

3 Mr. DARRELL TAYLOR: Perhaps I could  
4 speak to that to some degree.

5 The coastal bog as proposed would be  
6 modified to some extent from current wetlands on the site  
7 and flows that have been gathered from the site would be  
8 directed to that bog.

9 Mitigation measures would be expected in  
10 terms of sedimentation ponds prior to releases to that bog,  
11 and therefore expectations of removal of erodable materials,  
12 settling of those materials and potentially, if needed,  
13 treatment in that sedimentation pond to mitigate impacts to  
14 the coastal bog.

15 Is that addressing your question?

16 Dr. JILL GRANT: Actually, I think you're  
17 looking at an earlier description of the project proposal.  
18 Recent changes to the project description no longer have the  
19 flow going through the bog as its final element, and now the  
20 watershed above the road is being directed into the bog  
21 through a pipe underneath the sediment pond.

22 So it's quite a change in the flow that  
23 is currently going there on the site. Perhaps you haven't  
24 seen the revisions to the project description?

25 Mr. DARRELL TAYLOR: I believe I did see

1 those proposed changes in the document. To be quite frank,  
2 I'm not sure that I fully comprehended what was being  
3 proposed.

4                   There appeared to be flows going in two  
5 directions, and there was some management through some  
6 control structures.

7                   I sat in on conversations during this  
8 hearing and I still have somewhat an unclear understanding  
9 of what is being proposed in that respect.

10                   Dr. JILL GRANT: I can understand that.  
11 We're having some difficulties with this too.

12                   Would it be your understanding that if  
13 drainage to a bog changes in this way from an unconfined  
14 flow of cross-land from a large area to a point source  
15 coming in from a pipe, that there would be an effect on the  
16 bog?

17                   Mr. DARRELL TAYLOR: Hypothetically  
18 saying, I would say there could be. It would depend on the  
19 amount of land which was being drained higher in the  
20 watershed and what the velocity of those flows would be  
21 also.

22                   Mr. BOB PETRIE: I might just add to that  
23 that our Department does have a policy on wetland  
24 alterations, which if an alteration is proposed, it would  
25 need to be evaluated I guess for the level of impacts to

1 that wetland.

2                   There is a provision in this policy to  
3 allow for either mitigation or compensation of the loss of  
4 wetland function that can't be mitigated, and that would be  
5 an option potentially available to us.

6                   Dr. JILL GRANT: I want to ask you also  
7 about the constructed wetland that is proposed as part of  
8 the project.

9                   The flows coming out of the sediment  
10 ponds are going through 500 metres or linear area, and I'm  
11 wondering about your thoughts about the effectiveness of  
12 that kind of a feature to treat the water coming out of the  
13 sediment ponds, whether you have had a chance to evaluate  
14 the potential effectiveness of that given the high  
15 variability and the water flow?

16                   There are periods of time where there's  
17 going to be no flow because water is being stored, and other  
18 periods where they may be high flow because of storms.

19                   I'd like your comments on the  
20 effectiveness of that feature.

21                   Mr. BOB PETRIE: Likely the effectiveness  
22 and the detailed design of wastewater treatment features is  
23 something that we would need to conduct a detailed  
24 evaluation of in the Part V approval process, and they would  
25 need to demonstrate to us quantitatively and through design

1 that the wastewater treatment system on site can meet the  
2 objectives of the approval in suspended solids  
3 concentrations.

4 Dr. GUNTER MUECKE: Could I come briefly  
5 back to inspections? But before I do that, I've been told I  
6 should obtain a date from you regarding the undertaking we  
7 have?

8 Obviously, we would like to have this  
9 before the Panel...

10 Mr. BOB PETRIE: We can certainly have it  
11 before the Panel closes.

12 Dr. GUNTER MUECKE: Okay. So that's a...  
13 The 28<sup>th</sup>?

14 THE CHAIRPERSON: The Panel will close on  
15 Saturday the 30<sup>th</sup> of June.

16 Mr. BOB PETRIE: Okay.

17 THE CHAIRPERSON: The 29<sup>th</sup> is a  
18 possibility. Sooner would be better, but if that's all you  
19 can manage... The 29<sup>th</sup>?

20 Mr. BOB PETRIE: We can do the 29<sup>th</sup>, yes.  
21 Okay.

22 Dr. GUNTER MUECKE: And just so we finish  
23 off on inspections at least for the time being, you said  
24 your inspectors don't announce themselves.

25 Mr. BOB PETRIE: H'm.

1 Dr. GUNTER MUECKE: Generally speaking...  
2 Now you inspect many things, but when it comes to quarries,  
3 quarry operations involve blasting and so isn't it almost a  
4 taking that for quarry inspections, you have to announce  
5 yourself beforehand?

6 Because you might show up and they're in  
7 the blasting mode?

8 Mr. BOB PETRIE: For safety reasons, I  
9 wouldn't want our inspectors showing up unannounced in the  
10 middle of a blast obviously.

11 While I'm not an authority on blasting  
12 safety per se, I would presume that if we happened to show  
13 up unannounced and a blast was proposed or eminent, that the  
14 company would have appropriate notifications and safety  
15 measures and prohibitions against unauthorized entry in  
16 place at that time, so that persons couldn't just happen  
17 upon the site and be heard.

18 But you know, I guess I would say that  
19 depending on the type of blasting schedule that they have  
20 and how much certainty there is to that, we may or may not  
21 need to announce ourselves on a given occasion, you are  
22 right.

23 Dr. GUNTER MUECKE: To continue with  
24 inspections, and I'm talking not about labour and safety,  
25 okay, because as you said that is a different division

1 altogether.

2                   You do have a large coastal quarry in  
3 your jurisdiction, okay, the Canso quarry. Can you provide  
4 us the inspection record that you have for that quarry,  
5 let's say over the last five years?

6                   Mr. BOB PETRIE: That isn't information  
7 that I have with me. That is something that we would have  
8 to take on as an undertaking.

9                   Dr. GUNTER MUECKE: Could you please  
10 provide us with a date again?

11                   Mr. BOB PETRIE: Okay. The 29<sup>th</sup>?

12                   Dr. GUNTER MUECKE: Yes.

13                   THE CHAIRPERSON: I think we're at  
14 lunchtime right now, and what I would like to do is I would  
15 like to break until 1:10.

16                   We will continue questioning at that  
17 time, and that we will be followed by Natural Resources  
18 Canada, plus a couple of others.

19                   So unfortunately, we have fallen behind  
20 once again, but... Okay. So we'll see you back here at  
21 1:10.

22 --- Recess at 12:11 p.m.

23 --- Upon resuming at 1:12 p.m.

24                   THE CHAIRPERSON: Ladies and gentlemen,  
25 we'd like to resume now.

1 PRESENTATION OF DEPARTMENT OF ENVIRONMENT AND LABOUR -  
2 QUESTIONS BY THE PANEL

3                   Gentlemen, I wonder if we could start  
4 the afternoon session by asking you to explain, in a bit  
5 more detail, the Part V approval process?

6                   Mr. KIM MacNEIL: Before we go there, I'm  
7 just wondering if I could clarify a point that I---

8                   THE CHAIRPERSON: Yes, certainly.

9                   Mr. KIM MacNEIL: ---probably didn't make  
10 effectively this morning. I didn't mean to suggest... It  
11 was regarding the expansion of the quarry. I didn't mean to  
12 suggest that we would contact the Panel in 15 years to see  
13 if the expansion was appropriate.

14                   What I guess was respectfully suggesting  
15 to the Panel is that they can make that recommendation to  
16 the Minister that the footprint that is outlined in the  
17 Environment Impact Statement is the footprint of the  
18 operation, and any expansion beyond that point could require  
19 a full Joint Panel Environmental Assessment.

20                   THE CHAIRPERSON: Thank you for that  
21 clarification. That makes a lot more sense, yes.

22                   Part V approval process?

23                   Mr. BOB PETRIE: The Part V approval  
24 process, when we enter into that, and if it is in a post-  
25 ENVIRONMENTAL ASSESSMENT context, generally our belief going

1 into that is that if it's successfully concluded in  
2 ENVIRONMENTAL ASSESSMENT that conceptually, you know, the  
3 Project is capable of meeting the standards that we wanted  
4 to, subject to detailed design and compliance with  
5 conditions.

6                   Administratively, it consists of an  
7 application that needs to be filed with us, as well as the  
8 submission of detailed engineering drawings of key features  
9 of the site; for example, the sedimentation ponds, as well  
10 as blasting procedures, confirmation of the consent of  
11 dwellings within 80 metres, as well as any, you know,  
12 monitoring, and mitigation or contingency plans.

13                   The Part V approval itself, and this is  
14 done at a local level, primarily using the resources of our  
15 local engineers, as well as our local hydro-geologists on  
16 any ground or surface water issues.

17                   The approval itself, once issued, will  
18 consist of a number of terms and conditions which will  
19 address all of the, I guess, key environmental effect  
20 components, whether it's surface water discharge, airborne  
21 particulate, blasts, vibration and air concussion, as well  
22 as the requirement to submit a rehabilitation plan to us  
23 within a certain period of time. The Part V approval is  
24 also where the requirement for the rehabilitation bond is  
25 typically enforced.



1                   The terms and conditions of these  
2   approvals are enforceable, and by that, I mean in the  
3   Environment Act, it states that a breach of a term and  
4   condition of an approval is an offence under the Act, so  
5   even if it were a requirement that wasn't in regulation, but  
6   it was in the approval, if a company, you know, fails to  
7   satisfy that, then it is an enforceable provision that we  
8   can act on.

9                   Following the issuance of, you know, of  
10  the Part V approval, as I mentioned earlier, facility is  
11  placed on an inspection schedule and we discussed that.  
12  I'll just see if there's any other details about the  
13  approval process that I might have overlooked.

14  --- Pause

15                   And just a couple other observations.  
16  There is an administrative fee that goes with the approval  
17  process, but another key feature is that Part V approvals  
18  are valid for a maximum of ten years, after which they need  
19  to be renewed.

20                   THE CHAIRPERSON: I'm sure you heard the  
21  exchange this morning between us and Environment Canada when  
22  we asked about follow-up monitoring, and enforcement, and so  
23  forth, and I use as an example the two ladies who were here  
24  yesterday afternoon.

25                   I'll ask you the same question. What

1 can you tell the assembled group with regard to a project  
2 such as this; a project which has been... We recommend  
3 approval, it goes through your Part V process, it gets  
4 underway. There are a whole series, a big long list of  
5 constraints, and mitigations, and so forth, and down the  
6 road, they're violated, and subtly perhaps or some maybe  
7 flagrantly, it's hard to say.

8 But what encouragement or what support  
9 can the assembled individuals get from this and the  
10 realization that they, let's say for the worst case  
11 scenario, they've got a project they don't want, but they  
12 grudgingly accept it on the belief that the Province will  
13 look after them; will look after the process for them.

14 How often would it be monitored, if it  
15 is monitored and it's found to be wanting? If it is  
16 wanting, is there a penalty? Can that penalty shut the  
17 project down? Does it enforce a fine? What's involved in  
18 this?

19 Mr. BOB PETRIE: In the enforcement of an  
20 approval, and again, you know, the inspection frequency  
21 would probably be set once the approval is issued.

22 Early on in the lifespan of the Project,  
23 I think during construction and startup, we would want to  
24 pay more attention to it than a facility, for instance, that  
25 had been operating for a long period of time, and had

1 established a predictable track record. We might not audit  
2 a facility like that as often as a newer facility without a  
3 track record.

4                   We have a compliance and enforcement  
5 framework that we follow when we come across violations. On  
6 the staffing side of it, our staff are appointed as Special  
7 Constables, and are able to initiate Summary Offence  
8 Tickets, or long-form prosecutions.

9                   In addition to that, we also have  
10 assigned to the region what we call a Compliance and  
11 Inspection Co-ordinator who is an enforcement specialist who  
12 acts in support of the inspectors on legal and investigative  
13 matters.

14                   When it comes to how we would handle  
15 violations, when we become aware of a violation either  
16 through our own auditing, or by a report from the public,  
17 the first step that we would take is to undertake an  
18 investigation, and basically look for basically evidence to  
19 support that or not.

20                   If a violation is confirmed, we have a  
21 number of options to address that, and those range, at the  
22 simplest end of the scale, from a warning ticket to a  
23 Summary Offence Ticket to what we call long-form  
24 prosecutions. We also have available Ministerial Orders.  
25 If specific remedial work needs to be compelled of a person,

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1 that's where a Ministerial Order would be used.

2                   The approval may also be suspended  
3 temporarily, or revoked permanently for non-compliance  
4 depending on the circumstances. The factors that go into  
5 that decision making range...

6                   I'll back up a little bit.

7                   You know, these recourses are subject to  
8 the due diligence provisions of the **Environment Act**, so if a  
9 person demonstrates that they took all reasonable measures  
10 to prevent an offence from occurring, then that defence is  
11 available to them.

12                   When we are weighing what type of  
13 response to use, we would look at the track record of the  
14 company; whether this was a first violation or a repeat  
15 violation; whether it was something that they did knowingly  
16 or unknowingly; whether or not damage occurred as a result  
17 of the violation; or it could be a violation of what I'll  
18 call an administrative portion of the approval; for  
19 instance, failing to submit a report or a plan on time. And  
20 those types of factors would get weighed into what type of a  
21 response we would use, whether it was a warning or a full-on  
22 prosecution.

23                   THE CHAIRPERSON: How often do you revoke  
24 a Part V approval? How often has it happened? Can you  
25 identify? Once in the last five years, or ten times in the

1 last five years, or...?

2 Mr. BOB PETRIE: I can only speak  
3 anecdotally to situations that I'm personally familiar with,  
4 without going back and doing a more comprehensive survey.

5 I do know that we have suspended a Part  
6 V approval for non-compliance and, as well, there has been a  
7 revocation of such an approval within the past five years.

8 THE CHAIRPERSON: So if we had to  
9 categorize it qualitatively, we would say it's a rare  
10 occurrence but it does happen?

11 Mr. BOB PETRIE: Well, yeah, and I guess  
12 the response that is selected I guess would depend on what  
13 you're trying to achieve with the response. You know, if  
14 that is deterrence or if a proponent has demonstrated a  
15 repeated inability or unwillingness to comply, that may be  
16 an appropriate circumstance for revocation or suspension.

17 More commonly, you know, we've laid a  
18 number of prosecutions and charges every year. Some of them  
19 are related to approvals and some are not, and I don't have  
20 the breakdown to differentiate right now.

21 THE CHAIRPERSON: I'd like to move to  
22 another topic.

23 Bilcon has said that they would meet the  
24 standards in the Pit and Quarry Guidelines. Could you  
25 inform us what those Guidelines are, and how they rate to

1 the approvals? Could stricter parameters be required than  
2 the Pit and Quarry Guidelines? Do you think they're  
3 sufficient, and is there a possibility that you're going to  
4 be improving these?

5 Mr. BOB PETRIE: I'll address the first  
6 portion of that question. Then I might refer the second  
7 portion on the future of the Guidelines to my colleague, Ms.  
8 Fenton.

9 The Pit and Quarry Guidelines are  
10 basically the technical standards that we apply to Part V  
11 approvals, and I guess it is, you know, the benchmark by  
12 which we judge whether a facility should be approved or not.  
13 If it's obvious that they can't meet these Guidelines, it  
14 wouldn't be approved.

15 The Guidelines detail or discuss issues  
16 ranging from clearance distances to different features,  
17 whether it be a home, or a water course, or something of  
18 that nature. They also detail liquid effluent as well as  
19 airborne particulate discharge requirements, sound and  
20 blasting, ground vibration limits, and also discuss security  
21 and rehabilitation requirements.

22 Those Guidelines are used as the basis  
23 for drafting the terms and conditions of the approval. I  
24 believe the legislation allows us to, if circumstances  
25 warrant, if an area was deemed more sensitive to impact, we

1 have the authority to require measures stricter than a given  
2 set of Guidelines. We would need a reason to do so; a  
3 reason that differentiates this situation from another  
4 situation.

5                                   And I'll just consult on the future of  
6 the Guidelines, as you asked.

7                                   Ms. DARLENE FENTON: The Pit and Quarry  
8 Guidelines, we're currently going through a consultation  
9 period related solely to the pit side of the Guideline. We  
10 had a pit discussion paper that went out for consultation in  
11 October of '05 that took place until February of '06.

12                                   We've now taken that information, and  
13 are preparing a position paper from the Department side of,  
14 point of view from what we heard from the consultation.

15                                   We had the consultations from the  
16 industry as well as from the public. What we're, what will  
17 happen out of that, we will split the Guideline, and we will  
18 develop a standard, or a guideline, or a best management  
19 practice, or a regulation related to pits, and that after  
20 that we will look at the quarry side of things.

21                                   We will, in all likelihood, separate the  
22 two, and have a separate document for quarries and a  
23 separate document for pits.

24                                   THE CHAIRPERSON: So for the foreseeable  
25 future, the quarry side of the Pit and Quarry Guidelines

1 will remain in effect? So for the next few years,  
2 presumably?

3 Ms. DARLENE FENTON: That's correct.

4 THE CHAIRPERSON: Thank you.

5 Dr. GUNTER MUECKE: Yes, while we're on  
6 the Pit and Quarry Guidelines, in the current Guidelines,  
7 are there any provisions, or special provisions which apply  
8 to coastal quarries?

9 Mr. BOB PETRIE: No, there's nothing to  
10 distinguish coastal quarries in these Guidelines.

11 Dr. GUNTER MUECKE: In the future  
12 Guidelines, is there any consideration at the present time  
13 regarding coastal quarries?

14 Ms. DARLENE FENTON: I think what we'll  
15 do... The recommendation from staff to senior management  
16 will be the same process that we use for the pit discussion  
17 side of the Pit and Quarry Guidelines. We will do the same  
18 for the quarry piece.

19 So after we finish with the pit side of  
20 these Guidelines, we'll go for public consultation on the  
21 quarry side, as well. That will be the recommendation. So,  
22 you know, that may be a possibility in the future. I'm not  
23 sure.

24 Dr. GUNTER MUECKE: If I understand you  
25 right, you're saying at the present time in the future



1 Guidelines, there are no special considerations for coastal  
2 quarries, but they may appear if, during that process, they  
3 are identified? Is that correct?

4 Mr. BOB PETRIE: Yes, I think that issues  
5 that are addressed in future versions of the Quarry  
6 Guidelines would be raised during the consultative process.

7 That may include coastal issues. We  
8 don't know yet.

9 Dr. JILL GRANT: Could I just ask you for  
10 clarification?

11 You indicated that, as part of the  
12 approvals permit, you would be requesting written permission  
13 or indication of written consent from property owners within  
14 800 metres.

15 Is that 800 metres from the property  
16 boundary, or 800 metres from which of the blast sites  
17 because there would be blast sites through the course of the  
18 project? And just for clarification, can you tell us what  
19 that means?

20 Mr. BOB PETRIE: That is 800 metres  
21 measured from the foundation or the base of a structure to  
22 the working face of the quarry.

23 Dr. JILL GRANT: At which point in time  
24 'cause the working face is going to be moving? So you're  
25 just going to require it for the first working face at the

1 first portion? Is that correct?

2 Mr. BOB PETRIE: We would look at that  
3 from the final working face.

4 Dr. JILL GRANT: From the final working  
5 face.

6 Mr. BOB PETRIE: Yes.

7 Dr. JILL GRANT: Thank you.

8 THE CHAIRPERSON: Does the Department  
9 require all residences within 800 metres to provide a  
10 waiver?

11 Mr. BOB PETRIE: Not if they are owned by  
12 the Proponent.

13 THE CHAIRPERSON: Other than that, all  
14 individual domestic houses would require a waiver.

15 Mr. BOB PETRIE: Dwellings, yes.

16 THE CHAIRPERSON: Yes. Does Environment  
17 and Labour work with DFO regarding blasting requirements in  
18 the marine environment?

19 Mr. BOB PETRIE: Typically, our  
20 management of blasting activities in most quarry approvals  
21 is, you know, limited to our own involvement.

22 I think early on in the lifespan of the  
23 original approval here a particular unknown or concern was  
24 expressed in relation, you know, to blasting and the  
25 jurisdiction of DFO, so in the issuance of that approval it,

1 you know, reflected their concerns.

2 But in most quarry approvals, I guess  
3 what I would say is when we issue an approval, you know, we  
4 are open to consultation with other agencies, and if a  
5 particular concern is expressed that intersects between the  
6 mandates of the two agencies, we will, I guess, try and work  
7 together on that.

8 But that would be looked at on a case-  
9 by-case basis.

10 THE CHAIRPERSON: In general, it's a  
11 decision made independently with advice and a rare occasion  
12 when actually it's a collaborative decision.

13 Would that be fair?

14 Mr. BOB PETRIE: The concept of working  
15 collaboratively with these other agencies is not a rare  
16 occasion.

17 THE CHAIRPERSON: I meant collaborative  
18 decision making. In other words, the two of you would get  
19 together and decide on something, and it would become policy  
20 or become adopted by both organizations simultaneously.

21 It's a higher degree of collaboration  
22 than simply consultation.

23 Mr. BOB PETRIE: You know, again, where  
24 possible, we would collaborate.

25 However, you know, if a decision needed

1 to be made and, for example, a proposal met all of the  
2 requirements of Provincial or Environment and Labour's  
3 legislation but there were still outstanding issues in  
4 another agency's mandate, we might still issue that  
5 approval.

6 Our approvals don't override, you know,  
7 the mandate of another agency.

8 During the process, you know, we often  
9 try to provide an opportunity to collaborate. That doesn't  
10 necessarily mean that our approval would be projected solely  
11 on the basis of issues that were in another agency's  
12 mandate.

13 THE CHAIRPERSON: Could we turn to  
14 surface water for a moment?

15 Your presentation identified two  
16 potential impacts to surface water. Could you elaborate on  
17 these?

18 And are the proposed mitigation measures  
19 suggested by the Proponent adequate?

20 Mr. BOB PETRIE: The primary issues of  
21 concern relating to surface water are erosion and  
22 sedimentation.

23 The final determination as to whether  
24 they could satisfactorily meet those objectives, we wouldn't  
25 make a final determination on that until after we'd seen the

1 detailed design in the Part 5 approval process.

2 THE CHAIRPERSON: I see. So the  
3 mitigation would wait until then. Your decision vis a vis  
4 mitigation would wait until Part 5.

5 Your decision with regard to the  
6 adequacy of mitigation would wait until Part 5. Is that  
7 correct?

8 Mr. BOB PETRIE: Yeah. The adequacy of  
9 the specific measures, yes.

10 Dr. GUNTER MUECKE: In terms of surface  
11 water, one of the concerns that has been raised is with  
12 respect to explosive residues. And I was wondering whether  
13 that was a concern to your Department.

14 Mr. BOB PETRIE: And just before I ask  
15 Mr. Arthur to answer that, just a follow-up to the previous  
16 question, that in the Part 5 approval there would be  
17 specified discharge limits for suspended solids as well.

18 Mr. BRUCE ARTHUR: In terms of blasting  
19 residue, it hasn't been an issue that we've dealt with to  
20 any great extent.

21 You know, I understand the concern about  
22 ammonia levels and what not, and we would have terms and  
23 conditions within the Part 5 approval that would address  
24 that if that was identified as an issue through this  
25 ENVIRONMENTAL ASSESSMENT process.

1 Dr. GUNTER MUECKE: Well, going back  
2 again to monitoring that you have proposed in other  
3 quarries, is the monitoring of nitrogen compounds a  
4 requirement at any of the existing Nova Scotia quarries?

5 Mr. BOB PETRIE: No. Monitoring of those  
6 compounds is not a typical requirement.

7 Dr. GUNTER MUECKE: So you really have no  
8 idea whether it's an issue or not.

9 Mr. BOB PETRIE: I guess whether it's an  
10 issue would be based on a, you know, literature review or  
11 some research. It wouldn't be based on experience one way  
12 or the other in Nova Scotia.

13 And to my knowledge, we haven't come  
14 across any incidents in an ad hoc fashion where it was an  
15 issue.

16 THE CHAIRPERSON: It hasn't been raised  
17 in Porcupine Mountain, which is the other marine quarry?

18 I mean, they're doing blasting. They're  
19 adjacent to the ocean. I don't know, but I presume they're  
20 using the same explosives, so they're producing large  
21 quantities of residue.

22 Mr. BOB PETRIE: I honestly don't know  
23 whether it's been an issue in Porcupine Mountain. That's  
24 something we could undertake to follow up on for you.

25 THE CHAIRPERSON: Okay. Yes.

1                   In reviewing the EIS, does the  
2 Department consider that the information provided is  
3 sufficient, that you have enough information to determine  
4 the water supply and demand?

5                   There will be an ongoing commercial need  
6 for water, and is the supply adequate and do you have enough  
7 information to make that judgment?

8 --- Pause

9                   THE CHAIRPERSON: While they're engaging  
10 in discussion, this is a formal undertaking we're asking you  
11 for now vis à vis the residue.

12 --- Pause

13                   Mr. BOB PETRIE: The adequacy of the  
14 water... And you were referring to surface water  
15 withdrawal?

16                   THE CHAIRPERSON: Yes.

17                   Mr. BOB PETRIE: Yes. That is something  
18 that we would do further evaluation of during the Part 5  
19 approval process to ensure that the proposed water budget  
20 was sustainable.

21                   THE CHAIRPERSON: Where exactly does your  
22 Department's responsibility lie with regard to discharge  
23 into the marine environment?

24                   Accepting the fact that there are other  
25 institutions, organizations, jurisdictions, at what point do

1 you kind of draw the line? Up until what point are you  
2 responsible?

3 Mr. BOB PETRIE: I would say our  
4 responsibility is at the compliance point of the approval in  
5 meeting the discharge limits.

6 And by that, I mean any adverse effects  
7 that result from a discharge into marine waters from an on-  
8 land facility, we would probably not be able to pursue from  
9 an adverse effect point of view. However, it would be a  
10 violation of the discharge requirements of the approval.

11 THE CHAIRPERSON: So determination would  
12 be made by DFO and then you would come into it in terms of  
13 enforcement?

14 Mr. BOB PETRIE: Normally when these  
15 incidents occur, it's not uncommon for DFO and ourselves to  
16 undertake a joint investigation. That happens quite  
17 commonly.

18 Then, once the investigation's complete,  
19 you know, we'll usually make a determination on which agency  
20 should go forward, and how.

21 And again, the situation you described,  
22 if there was an exceedance(sic) of the discharge limits...  
23 Well, to use an example, if there was an exceedance(sic) of  
24 the discharge limits but no adverse effect in the marine  
25 environment, it could still be viewed as an offense under



1 our legislation and under the approval, but something that  
2 DFO may not be able to act upon.

3                   However, if there were adverse effects  
4 in the marine environment, that isn't something that we  
5 would be able to address.

6                   Dr. JILL GRANT: Could I just ask a  
7 follow-up about the previous question?

8                   You were asked whether there's enough  
9 information to determine the water budget on the site, and  
10 my recollection of reading the staff report from the  
11 Department indicated there were concerns about the  
12 information available on the water budget.

13                   Obviously, for us charged to determine  
14 what the effects of this project are, whether the effects  
15 are adverse or not, we need to have a certain amount of  
16 information. And you're telling me, well, it'll be decided  
17 after we make our decision you'll regulate that.

18                   So I'm just a little concerned to know  
19 the answer to the question that Dr. Fournier answered(sic)  
20 about is there enough information here about the water  
21 budget, about the water effects, to say what those effects  
22 are and what your advice to us on that is.

23                   Mr. BOB PETRIE: Just referring to the  
24 comments from the Department, and I understand we have  
25 further questions about ground water issues and, you know,

1 those will be discussed in more detail during tomorrow's  
2 session, so I believe that's where most of the questions lie  
3 is surrounding ground water.

4 THE CHAIRPERSON: Perhaps, rather than  
5 continuing on in this line, what I'll do is I've got some  
6 additional questions with regard to water, but perhaps I'll  
7 save those until tomorrow.

8 How does the Department handle public  
9 complaints with regard to dust and noise, which I presume  
10 are among the most common complaints from citizens?

11 What action do you take?

12 Mr. BOB PETRIE: Generally speaking, we  
13 would look to ascertain whether any violation of the  
14 approval had occurred.

15 In the situation surrounding a dust  
16 complaint, there are provisions... In a typical quarry  
17 approval, there are provisions to require the Proponent to  
18 monitor for noise and for dust, and there are limits  
19 established in the approval for those parameters.

20 We would compare and look at any  
21 complaints against the information that was coming in from  
22 any monitoring that was going on.

23 If monitoring had not yet been invoked,  
24 but we received complaints of, I guess, a sufficient  
25 frequency and veracity that indicated that monitoring was

1 needed, then we would typically activate those conditions  
2 and require the Proponent to monitor for noise and dust.

3 And I'll quality that distinguishing on  
4 the noise issue because there's the ongoing operational  
5 noise as well as noise from air concussion during blasting,  
6 and that air concussion would be monitored on a routine  
7 basis.

8 THE CHAIRPERSON: So you would receive a  
9 complaint and then you would immediately have someone  
10 investigate and then, depending on the information returned  
11 in the investigation, then you would follow a series of  
12 protocols.

13 Mr. BOB PETRIE: Yeah. For instance, you  
14 know, if we received a complaint from a neighbour or a  
15 series of neighbours, we would go out. We would interview  
16 them, talk to them, find out, you know, the details, how bad  
17 is it, how frequent.

18 We would typically look for, you know,  
19 observations that, I guess, support the complaints, and if  
20 we saw that this was warranted, then we would invoke the  
21 Suspended Particulate Monitoring provisions of an approval  
22 if they were not already activated to require ongoing  
23 monitoring.

24 And at that point, we could apply the  
25 compliance limits.

1 Dr. JILL GRANT: Just a follow-up on the  
2 question of noise.

3 The proposal indicates that, at times, a  
4 ship may have to come in at night, and I presume at times it  
5 might have to come in on a Sunday.

6 Are there any kinds of provisions that  
7 would cause you concern about the variability there, that  
8 these kinds of things could extend into any time in the week  
9 in terms of noise, I'm thinking?

10 Mr. BOB PETRIE: I guess the issue  
11 relating to noise from ships that may be docking at the  
12 facility, we would only be looking at noise from sources  
13 within the active area of the quarry, and we wouldn't be  
14 regulating noise sources from offshore.

15 Does that answer your question?

16 Dr. JILL GRANT: Can you tell me who  
17 would be regulating the noise from the offshore?

18 Mr. BOB PETRIE: I don't have that  
19 information.

20 THE CHAIRPERSON: Could we move to the  
21 CLC?

22 I think it's common knowledge that there  
23 were some difficulties with regard to the CLC as it existed  
24 here, and by that I mean, without taking sides, that there  
25 are two opinions as to how it worked.

1                   There are opinions of some people within  
2 it and there are people of the Proponent, and we're not  
3 making any judgment as to whether one was correct or not.  
4 But there was clearly a polarization.

5                   Now, if you were to produce a CLC on  
6 the... This project was approved and you were to create a  
7 new one or have a role in creating a new one, how should it  
8 be organized and run for the greatest effectiveness?

9                   How do you overcome the difficulties  
10 that apparently existed before? What are we trying to  
11 achieve with the CLC?

12 --- Pause

13                   Mr. BOB PETRIE: The issue of the CLC is  
14 a tricky one.

15                   I guess I'll preface this by saying that  
16 we want the CLC to be, as much as possible, a self-driven  
17 process and not a top down, you know, Government-managed  
18 process. This has have buy-in both from the Proponent and  
19 the community and the stakeholders to be functional.

20                   That being said, you know, we're  
21 learning about the functioning of these things as we go  
22 along, and if it was necessary, I don't think we'd rule out  
23 the option of, you know, considering the assistance of  
24 professional facilitators or people with expertise in that  
25 area to assist in the functioning of a CLC.

1 THE CHAIRPERSON: Should it be driven by  
2 the Proponent? Should it be driven by the community?  
3 Should it be cooperatively driven?

4 Who should choose the members, things  
5 like that, are all critical towards eventual utilization.

6 Mr. BOB PETRIE: I think in the past, the  
7 approach that's been taken that this should be a  
8 collaborative process, and most CLCs would set their own  
9 terms of reference, we have not, you know, dictated the  
10 membership, only to say that it needs to be representative  
11 of the stakeholders involved.

12 Pardon me for one second.

13 --- Pause

14 Mr. BOB PETRIE: One thing that I could  
15 undertake, which is fairly simple to do, is to provide the  
16 Panel with a copy of the guidelines we use for the formation  
17 of a CLC.

18 I don't have them with me today, but  
19 that would be a...

20 THE CHAIRPERSON: We have them. They  
21 were provided to us in the responses.

22 But if I'm not mistaken, in that process  
23 we were given it was suggested that the Proponent would be  
24 the organizer, the creator of the CLC.

25 And I'm suggesting to you that one side

1 or the other having a controlling influence is probably  
2 debilitating to the process itself. Would you not agree?

3 Mr. BOB PETRIE: I think the process  
4 needs to be reflective of both sides, you know, of the  
5 issue. I do agree with that.

6 Dr. GUNTER MUECKE: You said that, if I  
7 understand you right, that you... In terms of influencing  
8 the composition of the CLC you expressed interest that all  
9 stakeholders be represented, and if you're presented with a  
10 CLC that... And there are community concerns about its  
11 composition, how would you react to that?

12 Mr. BOB PETRIE: I think we would need  
13 to, you know, take those concerns seriously and assess them.  
14 I guess it would depend on the situation as to what level  
15 of intervention we might consider.

16 Again, you know, we want the CLC to be a  
17 vehicle for communication and information exchange between  
18 the parties, and I think it's... You know, if we see that  
19 that's not effectively occurring, then we'd have to consider  
20 our options.

21 But we're dealing with, obviously, many  
22 different individuals on a CLC with many different points of  
23 view, and it can often be very difficult to successfully  
24 balance all of those in a way that's satisfactory to  
25 everybody.

1 Dr. GUNTER MUECKE: Thank you. Just one  
2 small follow-up.

3 Have you run across instances where you  
4 have had to intervene?

5 --- Pause

6 Mr. BOB PETRIE: Yeah. I don't have any  
7 specific examples to provide you with, and I guess it  
8 depends on, you know, what we mean by intervention, but I  
9 think it's something that, if we were presented with a  
10 problem, we would look at that.

11 I guess the other thing I'd point out  
12 is, you know, when we've required these in the past, and  
13 they are reflected as a condition of approval, however, I'll  
14 be honest and say compliance is more difficult to ascertain  
15 when you're trying to evaluate the functioning of a CLC  
16 versus whether or not a company is meeting a discharge  
17 requirement.

18 And to assess whether due diligence has  
19 been exercised in meeting that requirement is a difficult  
20 task.

21 And I guess, you know, that is another  
22 perspective, too, is that you referenced the Proponent  
23 having a quasi-leading role in the committee and whether  
24 that's appropriate. And I understand the question.

25 I think that may be an artifact of the



1 way that it's written in the approval in that we have  
2 required the Proponent to form this or set this up, and that  
3 may be misconstrued as the Proponent trying to drive the  
4 agenda, which is not what it's for.

5 THE CHAIRPERSON: So despite the wording,  
6 philosophically, you don't... What you're saying is,  
7 philosophically, it's got to be a shared relationship in  
8 which both parties are getting something out of this  
9 relationship as opposed to being driven by the interests of  
10 one party.

11 Mr. BOB PETRIE: Yes. You don't want a  
12 situation where it's simply, you know, one side calling the  
13 meetings, setting the agenda and conveying the information  
14 in a one-way fashion. That's not what we want to achieve.

15 THE CHAIRPERSON: Okay. We're being  
16 driven by time, unfortunately, and we're going to have to  
17 terminate the Panel's questions at this point.

18 So I think what we're going to do is  
19 turn to Mr. Buxton and find out whether he has any questions  
20 for you.

21 **PRESENTATION BY THE NOVA SCOTIA DEPARTMENT OF ENVIRONMENT**  
22 **AND LABOUR - QUESTIONS BY THE PROPONENT**

23 Mr. PAUL BUXTON: I wonder if you'd mind,  
24 Mr. Chair, if I made a few clarifications as well as  
25 questions. I'll try to be very brief.

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NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS BY THE PROPONENT)

1                   With respect to the Community Liaison  
2 Committee, as you know, and you have the protocol, as it  
3 were, from Nova Scotia Department of Environment and Labour,  
4 the Proponent is, in fact, required on request by the  
5 Department to set up a Liaison Committee.

6                   Certainly we had a difficult time to do  
7 that, but nonetheless, one was set up.

8                   Our responsibilities after that are to  
9 provide services to the Committee at the request of the  
10 Chair. We're required, for example, to provide someone to  
11 type their minutes for them.

12                   We're required, if the Chair asks, to  
13 provide additional copies of the minutes. The Chair could  
14 ask us to put minutes up on a web site, for example.

15                   The Chair could also make a request for  
16 the Proponent to bring its consultants forward to the  
17 Committee so that the Committee and anybody in attendance  
18 could ask questions, and that was done on several occasions.

19                   I don't think, certainly in our case,  
20 that the Proponent attempts to drive the process. The Chair  
21 calls the meetings, they tell us who they want there, and  
22 where to provide a function, or to provide them a meeting  
23 room and to provide them with the facility.

24                   So I think the setting up is really  
25 where the problem is, because some Committee members felt

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1 that if they sat on the Committee then they were immediately  
2 tainted with being in support of the project, whereas if  
3 they refused then they were on the other side.

4                   And it was a very difficult process to  
5 try to get people who were neutral, and to try to impress on  
6 them that their job was simply to act as a conduit for  
7 information, to bring concerns to the Proponent, and to get  
8 answers back out to the public again. It was a difficult  
9 process.

10                   On another point of clarification, with  
11 respect to... And unfortunately, we've gone through this a  
12 couple of times, but I'd like to make the point again with  
13 respect to the constructed wetland and the bog. There never  
14 has been a connection between those two in any of our,  
15 either in the Environmental Impact Statement or in the  
16 revised.

17                   The supply of water to the bog has never  
18 been provided via the sediment ponds, and secondly, that the  
19 supply of water to the bog in the future, to ensure its good  
20 health, basically is in the same small ravine which  
21 currently supplies the bog.

22                   So essentially, what we're trying to do  
23 is to reproduce the exact conditions that are there.

24                   I would also ask a question now, if I  
25 could, of the Department; if they could explain the

1 difference between guidelines and regulations. There is an  
2 act, the **Pits and Quarries Act**, and it does not have  
3 regulations, but it has guidelines, and I think it might be  
4 useful for us to understand what happens when there are  
5 guidelines but not regulations attached to an act.

6 Mr. BOB PETRIE: Thank you. I guess,  
7 simply put, the difference between guidelines and  
8 regulations, in one sense, regulations are immediately  
9 binding and enforceable, in and of themselves.

10 Guidelines are generally used in  
11 creating specifications of a more technical nature, which  
12 don't become enforceable, in and of themselves, unless they  
13 become referenced in the body of an approval.

14 The reason that guidelines are used in  
15 many cases, instead of regulations, is that guidelines can  
16 be updated more easily when new public policy comes around,  
17 or new scientific information becomes available. The  
18 process of revising and updating a guideline is much simpler  
19 than that of a regulation, which is why they are used in a  
20 variety of technical situations.

21 Mr. PAUL BUXTON: Thank you. That's very  
22 clear.

23 The Panel asked whether, in fact, on  
24 projects, it was either possible or even perhaps standard  
25 practice to impose conditions which may be more stringent

1 than as set out in the guidelines, and I would like to ask  
2 you whether there is a practice or there are cases of, in  
3 fact, less stringent conditions allowed in the operation of  
4 a quarry than are in the guidelines.

5                   Mr. BOB PETRIE: Off the top of my head,  
6 I won't be able to reference any specific situations.  
7 Generally speaking, if one were to use a less stringent  
8 specification than what's set in the guideline it would need  
9 to be demonstrated that either that section of the guideline  
10 didn't apply to the current situation, or that there was  
11 some other valid, I guess, scientifically-supported reason  
12 that a lesser specification could be used.

13                   However, generally speaking, our  
14 guidelines are the baseline, and they're set at certain  
15 levels, in many situations, to provide for environmental  
16 protection, but also to provide a margin of safety when  
17 dealing with an issue.

18                   Mr. PAUL BUXTON: Thank you. I think  
19 that that's really what I was getting at; that the  
20 guidelines are presumably set there because experience has  
21 shown that in the majority of circumstances, by adhering to  
22 those guidelines, the particular section that it addresses  
23 to addresses the effects of that particular stipulation or  
24 guideline.

25                   And I'm just wondering, if I could just

1 pursue that a little bit further, that if one could  
2 demonstrate that, in fact, the conditions or end result or  
3 effect met the guidelines, whether the guidelines could then  
4 be diminished or indeed increased to take into account that  
5 fact.

6                   Mr. BOB PETRIE: I guess that's something  
7 we'd have to look at on a case-by-case basis.

8                   Mr. PAUL BUXTON: Thank you very much.  
9 And I just would like to make a comment here, if I could,  
10 that the Industry Mineral Association of Nova Scotia  
11 certainly has been very vocal in its promotion of the  
12 adoption of regulations rather than guidelines, which sounds  
13 a little odd, but the Industry, in fact, welcomes very  
14 specific regulation rather than guidelines, and there have  
15 been approaches to the Government through the Department and  
16 through approaches to the Government itself, to try to bring  
17 in regulations which are very specific, and which in fact  
18 apply to all people in the industry.

19                   Guidelines tend to introduce this  
20 element of doubt as to whether it applies in this case or  
21 this case, and this person has a little bit of better deal  
22 than I do.

23                   I just have one more quick one, if I  
24 may, Mr. Chair, with respect to the water budget and water  
25 supply demand.

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NOVA SCOTIA ENVIRONMENT AND LABOUR  
(QUESTIONS FROM THE PUBLIC)

1 I had rather thought that we had  
2 satisfied all the questions on that. Certainly more  
3 information was requested following our submission of the  
4 EIS, and those were addressed in length in our responses,  
5 and they specifically dealt with various drought periods and  
6 so on.

7 With the exception of the issue that was  
8 raised by Environment Canada this morning with respect to  
9 the level of precipitation in extreme periods, which sort of  
10 deals perhaps sort of more or less with water supply than  
11 perhaps capacity of our system to hold it, and I would just  
12 like to perhaps say that if there are issues outstanding  
13 with respect to water budget, we are not aware of them, and  
14 if they are then we would certainly like to address them  
15 immediately.

16 Thank you.

17 THE CHAIRPERSON: Thank you, Mr. Buxton.

18 Now we'll turn to questions from, just a  
19 moment, questions from Government, if there are any. If  
20 not, then we'll turn to questions from the registered  
21 participants.

22 PRESENTATION BY THE NOVA SCOTIA DEPARTMENT OF ENVIRONMENT  
23 AND LABOUR - QUESTIONS FROM THE PUBLIC

24 What I would suggest, maybe in the  
25 process of expediting this, maybe I could ask you to line up

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(QUESTIONS FROM THE PUBLIC)

1 behind the microphone. In other words, that would  
2 immediately give us a sense of how many there were, and I  
3 think it would make it a bit easier and speed things up a  
4 bit.

5 Now, I have to offer a kind of a... Oh,  
6 my goodness. Oh, my, my. Well, okay.

7 We're very much behind. We will be  
8 about an hour and a half behind. Now, that's not a bad  
9 thing, but remember, the principal purpose for this process  
10 is to inform the Panel. So if the Panel goes on at some  
11 length, it's informing itself, and the amount of time being  
12 spent on this means that a lot of information is  
13 transferring hands.

14 So I don't want any of you to think that  
15 in any way you're being diminished, but it's just part and  
16 parcel of the process, okay?

17 So Mr. Muir. Moir, I'm sorry, I'll get  
18 it right. Please.

19 Mr. ANDY MOIR: I just don't want to be  
20 confused with Jamie.

21 --- Laughter

22 THE CHAIRPERSON: Go ahead.

23 Mr. ANDY MOIR: Not that he's a bad  
24 person. I just want a point of clarification on, I think  
25 I've got this right, this Part Five approval. That is not a

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(QUESTIONS FROM THE PUBLIC)

1 public process. That's basically between the Department and  
2 the Proponent. Is that correct?

3 Mr. BOB PETRIE: In many cases it is, but  
4 we have the option to make it a public process if the  
5 circumstances necessitate it.

6 Mr. ANDY MOIR: Could I do a quick  
7 follow-up on that? I guess the concern that many of us have  
8 is that there seems to be so much information that would  
9 come out in the Part Five process of the approval that we  
10 believe to be critical to actually determining whether the  
11 project should go ahead at all, and I wonder what triggers  
12 and how one triggers making sure that the Part Five approval  
13 has some sort of public scrutiny as opposed to being an in-  
14 house operation.

15 Mr. BOB PETRIE: Actually, in the case of  
16 quarries, some time ago we made the decision that we would  
17 open up Part Five approvals for quarries to a public  
18 information period.

19 So I wouldn't see any reason that this  
20 would be different.

21 Mr. ANDY MOIR: Thank you very much.

22 THE CHAIRPERSON: Thank you. Mr. Mullin?

23 Mr. DON MULLIN: Don Mullin. I'll try to  
24 make my question short. There was a discussion this  
25 morning, I believe it was between Dr. Muecke and Mr. Petrie,

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(QUESTIONS FROM THE PUBLIC)

1 and it had to do with the sedimentation complaint of several  
2 years ago, and I believe Dr. Muecke asked the question, or  
3 perhaps it was Dr. Fournier, in terms of the delay or how  
4 long was it before that was investigated.

5 And I believe the answer was given that  
6 we weren't sure. Well, I was involved with that, and I do  
7 have the answer, but it's not up to me to give it to the  
8 Panel. I wish, I wonder if Mr. Petrie would be prepared to  
9 give the Panel some information about that delay.

10 Mr. BOB PETRIE: If the Panel wishes, I  
11 can undertake to find that out and get that information  
12 back.

13 THE CHAIRPERSON: That would be very  
14 good, thank you.

15 Mr. DITTRICK: Yes. This has to do with  
16 the CLC, to some degree, and outreach.

17 How would you characterize the content  
18 of the various mailings, such as newsletters from the  
19 Proponent to the community? Would they best be  
20 characterized as educational outreach or promotion of the  
21 project and its acceptance? Did NSDEL in any way monitor  
22 the outreach efforts beyond the CLC, and does Department of  
23 Environment and Labour have expertise to make such an  
24 assessment?

25 And if this is not the sort of thing

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1 that falls within the jurisdiction of the Environment and  
2 Labour, where does it fall?

3 And I'd also like to make a... Actually  
4 ask either the Secretary or the Panel if these mailings are  
5 actually, at this point, part of the Panel record, and if  
6 they've been submitted by the Proponent to the Panel.

7 THE CHAIRPERSON: I'm not sure of the  
8 answer. Do you know? Perhaps you could ask that question  
9 of us later, and we could see if we could get it for you.  
10 Alright?

11 Mr. MARK DITTRICK: But I would also like  
12 a response from---

13 THE CHAIRPERSON: Oh, alright.

14 Mr. MARK DITTRICK: --- Environment and  
15 Labour to my questions about if they have, indeed, seen  
16 these materials, and if they have assessed them in any way,  
17 how would you characterize them, and does this fit within  
18 the framework of what you expect the outreach from the  
19 Proponent to be?

20 Mr. BOB PETRIE: I guess we, I'll say we  
21 probably did see much of the, many of the materials that  
22 were circulated during the CLC process. I believe we were  
23 copied. You know, I can't sit here and say it was a hundred  
24 percent. I don't know what we didn't receive.

25 We did not, I guess, monitor the, or

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(QUESTIONS FROM THE PUBLIC)

1 treat that in an editorial capacity or anything of that  
2 nature to monitor the publications or the materials in that  
3 sense.

4 Mr. MARK DITTRICK: Is there a  
5 requirement of any sort of veracity from the Department with  
6 respect to any of these materials and the content?

7 Mr. BOB PETRIE: It is, I guess, for the  
8 veracity of the materials, anything that is submitted in  
9 fulfilment of our requirements, there is a requirement under  
10 the Act not to provide false or misleading information.

11 The materials in this case, during the  
12 CLC process, were not scrutinized, you know, in detail in  
13 that fashion. We monitored the process to make sure the  
14 process was occurring.

15 Mr. MARK DITTRICK: So even though that  
16 was a requirement...

17 THE CHAIRPERSON: Mr. Dittrick, you've  
18 had your question and follow-up.

19 Mr. MARK DITTRICK: Okay. Okay.

20 THE CHAIRPERSON: Mr. Mahtab?

21 Mr. ASHRAF MAHTAB: Thank you, Mr. Chair.

22 I have a question for the Department.  
23 It's about the rehabilitation of the quarry site for the 3.9  
24 hectare permit which was granted in April 2002, and the  
25 permit I think was annulled in September 2004.

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1                   And I also believe that the Department  
2 received a reclamation bond which is four times \$6,250, for  
3 the four-hectare quarry.

4                   And my question is, did the Department  
5 inspect the site to determine or estimate the cost of the  
6 rehabilitation, and then has, or when did the Department  
7 rehabilitate the site.

8 --- Pause

9                   Mr. BOB PETRIE: In this case of the 3.9-  
10 hectare site I don't recall if the rehabilitation bond was  
11 costed out or simply based on the flat rate that was  
12 discussed in the guidelines.

13                   As far as rehabilitation of the actual  
14 site, when the approval I guess became null and void and  
15 revoked because of the change in status of the company, we  
16 looked at that, and we looked at the conditions of the  
17 approval and the guidelines, and at that point, on the site,  
18 the grubbing had occurred, construction of the sedimentation  
19 and drainage structures had occurred.

20                   Quarrying had not commenced, and the  
21 rehabilitation provisions of an approval do not activate  
22 until quarrying commences, and therefore rehabilitation was  
23 not required.

24                   Our position in that case was that they  
25 are still not permitted to cause adverse effects, and could

1 be held accountable in that event.

2 THE CHAIRPERSON: You have a follow-up,  
3 Mr. Mahtab?

4 Mr. ASHRAF MAHTAB: My understanding is  
5 that all the disturbance of the site was in preparation for  
6 blasting, as soon as the blasting permit had been received.  
7 There was no other motivation for removing the grub and  
8 making the siltation ponds, et cetera, except for preparing  
9 to start the quarrying operation.

10 The other evidence that I have is the  
11 correspondence between DEL and the Proponent about the  
12 submission of the amount for the rehabilitation bond.

13 THE CHAIRPERSON: That's a statement.

14 Mr. ASHRAF MAHTAB: That's a statement.

15 THE CHAIRPERSON: Okay. Thank you, Mr.  
16 Mahtab.

17 Ms. Mitchell, are you next?

18 Mr. PAUL BUXTON: Mr. Chair, could I just  
19 add some clarification, here, if I may?

20 The original bond was, in fact, as  
21 required. It was in the amount of \$25,000. The Proponent  
22 is further required, upon the issuance of the permit, to in  
23 fact do calculations and determine how much the cost of  
24 rehabilitation would be, and Bilcon did in fact do that  
25 calculation, and submitted further funds to the Department

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1 of Environment and Labour, and they still have those funds  
2 in their entirety.

3 THE CHAIRPERSON: Thank you. Next? I'm  
4 sorry, I don't remember your name.

5 Ms. NORA PEACH: My name is Nora Peach.  
6 I am a registered participant. Nora, N-Okay.-r-a; P-e-a-c-  
7 h.

8 THE CHAIRPERSON: Thank you.

9 Ms. NORA PEACH: I remember a public  
10 meeting in Sandy Cove in early spring 2002, soon after the  
11 community heard about the mega-project, including a marine  
12 terminal at White Cove.

13 The meeting was held, I think, soon  
14 after the 3.9-hectare permit was issued by DEL. Mr. Petrie  
15 was invited to the public meeting to explain to the public  
16 about the quarry. I believe also there was Thomas Wheaton,  
17 I think someone from DFO, at that meeting, to give that  
18 background.

19 At this meeting, Mr. Petrie had to ask  
20 Mr. Buxton, who was in the audience, to come forward to  
21 explain the details of the project. Mr. Petrie, I believe,  
22 started to explain, and then he called upon Mr. Buxton to  
23 come forward.

24 How could DEL have issued the permit  
25 with so little apparent understanding of the project?

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1                   Mr. BOB PETRIE: I don't think we issued  
2 the approval with an insufficient understanding of the  
3 project, and if Mr. Buxton was called upon in that meeting  
4 to provide additional, you know, detail, that's I guess what  
5 was deemed appropriate at the time.

6                   But when we issued the approval, the  
7 approval package and submission are reviewed by our staff  
8 and our engineering staff to ensure that the requirements,  
9 the submission requirements of that approval process are  
10 met. I don't recall the information item that was, of the  
11 subject at the time, but generally speaking, that is how we  
12 would do that.

13                   Ms. NORA PEACH: Thank you.

14                   THE CHAIRPERSON: You're welcome. Next,  
15 Ms. Peach.

16                   Mr. PAUL BUXTON: Perhaps, Mr. Chairman,  
17 if I may, I think we should have a clear understanding here  
18 of who the Proponents were at the time.

19                   The four-hectare permit was applied for,  
20 and the permit was granted, to Nova Stone Exporters Inc. of  
21 Nova Scotia.

22                   THE CHAIRPERSON: Maybe this is a good  
23 time to clear up something for me, which is, what is the  
24 relationship between Nova Stone Exporters and Bilcon?

25                   Mr. PAUL BUXTON: At this point in time,



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1 there is none.

2 THE CHAIRPERSON: Are the principals the  
3 same? For example, were you involved with that?

4 Mr. PAUL BUXTON: The principals of Nova  
5 Stone are in no way associated with Bilcon of Nova Scotia  
6 and never have been, although there was a partnership  
7 entered into between Nova Stone and Bilcon of Nova Scotia.  
8 That partnership was dissolved, and Bilcon has been the sole  
9 Proponent since.

10 So I think the four-hectare quarry issue  
11 is an issue of Nova Stone Exporters Inc. When Bilcon took  
12 over the project from Global Quarry Products, it in fact  
13 advised the Department of Environment and Labour that it was  
14 not assuming the permit and was making no application to  
15 assume the permit for the four-hectare quarry, and in fact  
16 advised the Department that it was abandoning that permit,  
17 and confirmation of that was received from the Department.

18 THE CHAIRPERSON: Thank you. Ms. Peach?

19 Ms. JUDITH PEACH: I might also just add  
20 that Mr. Buxton is well known in the community for quarry  
21 projects dating back even further, and that might give you  
22 some clues as to why there's been, why this whole project  
23 has been contentious.

24 There was another project that I  
25 understand he was involved with on the other side of the

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1 Neck, but that wasn't my question.

2 THE CHAIRPERSON: No. Please, your  
3 question.

4 Ms. JUDITH PEACH: Okay.

5 Mr. PAUL BUXTON: I think, Mr. Chairman,  
6 I have to interrupt here, please.

7 Let me be quite clear about this. It's  
8 been said many times before, and I've let it pass, but this  
9 is absolutely untrue and I wish to lay it to rest.

10 At the time that this young lady is  
11 referring to, I was acting, on a consulting basis, as  
12 Executive Director of the Town of Digby and Municipality  
13 Industrial Commission, and in that capacity, I served one or  
14 two days a week, depending upon the demands of the job at  
15 the time.

16 I had a request from a group, and that  
17 request was to the Industrial Commission, and their proposal  
18 was to look at opening a quarry on Eastern Head, which is in  
19 the same general area as this, and I reviewed it with the  
20 Industrial Commission and suggested that the principals,  
21 first of all, make a presentation to the Municipal Council,  
22 to see what level of support there may be, and secondly, I  
23 suggested to them that it might be very useful to put their  
24 proposals to the public.

25 And if you check the records very

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1 carefully, you will find that that public meeting that was  
2 set up that everybody refers to was set up by the Industrial  
3 Commission, so that the Silvas, who were the Proponents,  
4 could in fact make their views known to the community.

5                   Following that meeting, and I think  
6 there were probably well over 200 people there, very clear  
7 that this was a very unpopular proposal at the time, it was  
8 on Eastern Head, on St. Mary's Bay. And I advised the  
9 Silvas that in fact, you know, there would be significant  
10 difficulty and public opposition to the project, and I so  
11 reported to the Industrial Commission and to the Municipal  
12 Councils.

13                   That is the end of that story. That is  
14 on record in the Minutes of the Industrial Commission and  
15 the Municipal Council, and I wish to have it absolutely put  
16 to bed that I personally was not involved in any other  
17 quarry project on Digby Neck, other than in an official  
18 capacity as Executive Director of an Industrial Commission.

19                   THE CHAIRPERSON: I don't know if it's  
20 been put to bed, Mr. Buxton, but it's on the record, and so  
21 I think that...

22                   I mean, I'm not trying to...

23                   Mr. PAUL BUXTON: Mr. Chair, if it hasn't  
24 been put to bed, I think it needs to be put to bed.

25                   THE CHAIRPERSON: Perhaps.

1                   Mr. PAUL BUXTON: These records are  
2 public records, and the Minutes of the Industrial Commission  
3 are there, the Chair of the Commission at the time is still  
4 available, and I think that this sort of statement should  
5 not go unchallenged.

6                   THE CHAIRPERSON: I understand, and I  
7 wasn't trying to be facetious, Mr. Buxton. I was just  
8 simply saying, I mean, you've done as much as you can at the  
9 moment, and both sides have been heard.

10                   Now, please, question.

11                   Ms. JUDITH PEACH: It seems like some  
12 members of the public knew that this project, this mega-  
13 quarry project, was going to... Or was in the works back in  
14 2002, when it was really just a four-hectare project.  
15 Partly because there was a fax from Patterson Exploration of  
16 North Carolina that people had access to. So they were  
17 aware of a really vague description of a mega-quarry back in  
18 the time of the four-hectare quarry.

19                   Given that some people believe part of  
20 the purpose of the four-hectare quarry was to obliterate  
21 historical and archeological evidence at the site, I'm just  
22 wondering when DEL was aware of this larger quarry, the plan  
23 for the larger quarry? Any idea of the time frame?

24                   Mr. BOB PETRIE: It's tough to pin down  
25 when exactly we became aware of the long-term plans. I

1 think even with that in mind, under the framework that we  
2 have, it was still within, you know, within our framework to  
3 permit a 3.9-hectare quarry. Even if there as a possibility  
4 that that might, at some point in the future, request an  
5 expansion, it met our requirements at the time.

6                   And again, it might've been early on  
7 when we realized the Proponent's long-term goals; however,  
8 the project that they presented us with at the time was a  
9 small-scale project which in no way assumed approval for any  
10 subsequent expansions.

11                   THE CHAIRPERSON: Mr. Lang?

12                   Mr. WILLIAM LANG: Mr. Lang, Nova Scotia  
13 Green Party. I would like to begin by requesting that the  
14 Department of Environment and Labour provide to the Panel  
15 the decision-making processes of past quarry creeps in the  
16 Province; who made the decision, was it public, was it in-  
17 house, or was it Ministerial only.

18                   And a second question would be going  
19 back to blast residue. Could anyone from the Department of  
20 Environment and Labour comment on the amount of ammonia that  
21 it would cause to instigate the development of an algae  
22 bloom; that being the by-product of the ammonium nitrate  
23 fuel oil explosions.

24                   Mr. BOB PETRIE: I'll just comment on  
25 that... If I heard your question correctly, you were

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1 looking for the decision-making process relating to  
2 incidents of quarry creep in the past. We can undertake to  
3 look into that.

4 I'm not sure how that information would  
5 be able to be retrieved from the current record system,  
6 whether it would be tracked as such. It might be difficult  
7 to provide it in the way that it's been requested.

8 THE CHAIRPERSON: Restate that please.

9 Mr. WILLIAM LANG: When the conversation  
10 was referring to increases in quarry size, there was  
11 discussion on how those decisions were made, whether they  
12 were made by the Minister of Environment, whether they were  
13 made by the Minister with dialogue with his staff, or  
14 whether they were public.

15 Was there a public form? Was the public  
16 involved in those decisions, to increase the size of already  
17 established quarries in the province?

18 Dr. GUNTER MUECKE: I believe I put in an  
19 information request to the Department about that earlier  
20 this morning.

21 THE CHAIRPERSON: And you asked a second  
22 question, but you're only allowed a follow-up. Are they  
23 checking on this now?

24 Mr. BOB PETRIE: The amount of ammonia  
25 that it would take to cause an algae bloom, and I'll ask our

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1 analyst, Mr. Taylor, to offer some comments there.

2 Mr. DARRELL TAYLOR: With regards to the  
3 amount of ammonia causing an algae bloom, it's my  
4 understanding that ammonia would basically be an issue in  
5 marine waters primarily, whereas phosphorus is limiting  
6 nutrient in fresh waters.

7 My expertise does not extend to the  
8 marine environment, but I could hazard something of a  
9 qualifier in terms of... It would be very difficult to say  
10 and it would be based on the specifics of a given site.

11 If one water body was more sensitive  
12 than an other, much less ammonia would be required to show  
13 an algae bloom.

14 Beyond that, I'm getting out of my realm  
15 of expertise and would have to differ to probably DFO or  
16 Environment Canada.

17 Mr. WILLIAM LANG: Thank you.

18 Mr. BOB PETRIE: Just as a follow up,  
19 I'm sure that would depend on a number of factors such as  
20 Ph, and flows and what other nutrients were in the system at  
21 the time, so there's a number of factors involved.

22 THE CHAIRPERSON: Sister Barbara?

23 SISTER BARBARA: Yes. My name is Sister  
24 Barbara, and I'm a resident of Digby Neck, in Rossway. My  
25 question as well is on ammonia nitrate.

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1 I just wondered, is that considered a  
2 hazardous waste?

3 Should an accident happen, say a truck  
4 overturns and loses all its cargo, would it be a health risk  
5 to humans? Because these trucks will go right by my  
6 driveway.

7 Mr. BOB PETRIE: I guess if you're  
8 talking about raw ammonium nitrate kind of in bulk form, it  
9 would be considered a dangerous good, as it is an explosive.  
10 Yes.

11 SISTER BARBARA: I guess that answers my  
12 question. It is a hazardous waste?

13 Mr. BOB PETRIE: Well at that point, it's  
14 not... If it's... At that point, it's not a waste, it's  
15 a...

16 SISTER BARBARA: No, it's raw.

17 Mr. BOB PETRIE: It's a product, it's a  
18 material.

19 SISTER BARBARA: Yes.

20 Mr. BOB PETRIE: And it would be  
21 categorized as an explosive, however, as with many  
22 materials, if a spill happens or it's upset in the wrong  
23 place in the wrong environment, you can have adverse  
24 environmental consequences as well.

25 THE CHAIRPERSON: Sister Barbara,

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1 ammonium nitrate is fertilizer.

2                   SISTER BARBARA: Oh, is that all it is?  
3 Fertilizer?

4                   THE CHAIRPERSON: Well I mean, it's  
5 commonly used as fertilizer.

6                   SISTER BARBARA: I see.

7                   THE CHAIRPERSON: And it's a mixture of  
8 fertilizer and fuel oil that gives it its explosive  
9 capacity.

10                  SISTER BARBARA: I see, okay.

11                  THE CHAIRPERSON: So when it gets  
12 shipped... We were discussing this the other day, and  
13 correct me if I'm wrong, but I believe that if they are  
14 shipped in components, that is that they don't put them  
15 together.

16                  SISTER BARBARA: Okay.

17                  THE CHAIRPERSON: So it would be as if a  
18 truckload of fertilizer overturned.

19                  SISTER BARBARA: That's it?

20                  THE CHAIRPERSON: Dangerous perhaps,  
21 because it can be toxic, but nevertheless, it's still a  
22 relatively common good.

23                  SISTER BARBARA: Thank you Doctor.

24                  THE CHAIRPERSON: Okay. Ms. Mitchell?

25                  I think I'm going to terminate questions

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1 after Ms. Mitchell. We've only had one cycle, and I know,  
2 but we're two and a half hours behind, so I have to make  
3 this judgement.

4 Ms. Mitchell?

5 Ms. LISA MITCHELL: Thank you. Lisa  
6 Mitchell, for the Partnership.

7 From what I heard, I think I'm clear  
8 that the Pitt and Quarry Guidelines are probably still going  
9 to be undergoing some reevaluation and perhaps changes if in  
10 fact this Project goes forward and receives an industrial  
11 approval.

12 Could you comment on how the Proponent's  
13 industrial approval, if they receive one ultimately, would  
14 reflect changes to the Pitt and Quarry Guidelines, if they  
15 came in after the approval was received?

16 Mr. BOB PETRIE: Generally speaking, the  
17 **Environment Act**... Once an approval is issued, the  
18 **Environment Act** allows an approval to be amended under  
19 certain circumstances.

20 The question I guess of whether or not  
21 it would be amended to stay totally up to date with new and  
22 existing guidelines, I think at the time we would have to  
23 look at what the nature of those changes were, and whether  
24 there was a reason to amend this approval and/or are there  
25 process improvements that could be put in place over a

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1 period of time.

2                   While we have the authority to amend  
3 approvals when there's a reason, we're not able to do that  
4 arbitrarily, you know? We have to have a valid reason for  
5 doing so.

6                   Ms. LISA MITCHELL: And not a follow up,  
7 but just a quick clarification, I think Mr. Petrie what you  
8 are saying is that amendments to the Pitt and Quarry  
9 Guidelines might not necessarily be a reason for a change,  
10 it's not an automatic reason for a change?

11                   Mr. BOB PETRIE: It wouldn't necessarily  
12 be an automatic update of the approval, no.

13                   Ms. LISA MITCHELL: Thank you.

14                   THE CHAIRPERSON: Okay. This draws to a  
15 close the participation of the Nova Scotia Department of  
16 Environment and Labour.

17                   I would like to thank you all ladies and  
18 gentlemen for participating. It's been extremely  
19 informative to us.

20                   We will now adjourn for 15 minutes, and  
21 we will resume with NRCan, Natural Resources Canada.

22 --- Recess at 2:37 p.m.

23 --- Upon resuming at 2:53 p.m.

24                   THE CHAIRPERSON: Ladies and gentlemen,  
25 we will resume now.

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1                   We will begin with a presentation by  
2 Andrew McAllister from Natural Resources Canada, NRCan.  
3 Okay.

4                   Mr. ANDREW McALLISTER: Thank you Mr.  
5 Chair. Please prepare to be blinded.

6 **PRESENTATION BY NATURAL RESOURCES CANADA - Mr. ANDREW**  
7 **McALLISTER**

8                   Mr. ANDREW McALLISTER: Mr. Chair, Panel  
9 members, ladies and gentlemen, first of all I would like to  
10 thank you for the opportunity to present at these public  
11 hearings.

12                   My name is Andrew McAllister, I am a  
13 Senior Environmental Assessment Officer with Natural  
14 Resources Canada, or NRCan for short, based out of Ottawa.

15                   I'm responsible for coordinating the  
16 NRCan review of the Environmental Impact Statement and  
17 supporting documentation, as well as NRCan's participation  
18 in this Joint Review process.

19                   My presentation will introduce NRCan to  
20 the Panel and is to provide a summary of our involvement in  
21 this environmental review and of our comments provided to  
22 the Panel.

23                   What I am presenting is based on NRCan's  
24 written submission of June 12, 2007 and is currently on the  
25 registry.

1 Briefly, our mandate and role first.  
2 NRCan is an economic science-based federal department with a  
3 mandate to promote sustainable development and responsible  
4 use of Canada's mineral, energy and forestry resources and  
5 to develop an understanding of Canada's land mass.

6 The Department also conducts research  
7 and technical surveys to assess Canada's resources. More  
8 specifically relevant to this review, NRCan also conducts  
9 environmental geo-science research and terrestrial in  
10 marine settings.

11 NRCan's role in relation to this Project  
12 is relatively limited. NRCan has no regulatory or decision-  
13 making responsibilities for this Project.

14 As such, NRCan's involvement in the  
15 Joint Environmental Review process stems from its  
16 obligations under the **Canadian Environmental Assessment Act**  
17 through which NRCan has determined that it was a federal  
18 authority in possession of specialist's information or  
19 knowledge relevant to the Project.

20 Therefore, in the context of this  
21 Review, NRCan's role is to provide technical and scientific  
22 expertise within the limits of its mandate.

23 The two experts of NRCan that have  
24 participated in this Review include the CANMET Mining and  
25 Mineral Sciences Laboratories and the Geological Survey of

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1 Canada.

2 The CANMET Group was engaged as a result  
3 of the request made by the Joint Review Panel to NRCan for  
4 expertise on the aqueous geochemistry of waste rocks.

5 This request was made shortly after the  
6 notice for these public hearings was announced.

7 The Geological Survey of Canada was  
8 engaged much earlier in the process and have reviewed the  
9 Environmental Impact Statement or EIS for short.

10 These experts provided comments on three  
11 general topic areas; Marine environments and processes,  
12 hydrogeology and seismicity.

13 We filed our comments with the Panel on  
14 August 3<sup>rd</sup>, 2006 and the Proponent provided a response to  
15 our comments in February of 2007.

16 Upon review of these responses, the  
17 experts have indicated that most of our responses or sorry,  
18 most of the responses provided by the Proponent were  
19 satisfactory.

20 However, our experts identified two  
21 topic areas where there remained some issues where more  
22 clarification was needed.

23 They are, as mentioned, the Marine  
24 environment and processes, which will be the focus of this  
25 presentation, with respect to specific issues and

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1 recommendations, and hydrogeology.

2 NRCan will be presenting in tomorrow's  
3 thematic session, at the request of the Panel, on this  
4 topic, and I will be accompanied by Dr. Miroslav Nastev from  
5 the Geological Survey of Canada, who conducted this review  
6 on behalf of NRCan.

7 Lastly, with respect to that last bullet  
8 on that slide, seismicity, NRCan's expert was satisfied with  
9 the seismic hazard information that was provided in the EIS,  
10 and no further information was required.

11 With regards to the aqueous  
12 geochemistry, information requests were made by the Joint  
13 Review Panel to the Proponent on the aqueous geochemistry of  
14 copper in the basalt due to concerns of leaching into  
15 overlying waters which could then migrate to groundwater or  
16 intertidal zones.

17 Specifically, further information was  
18 sought on the leaching and chemistry of copper and on copper  
19 impacts on marine life.

20 Dr. John Kwong, a senior environmental  
21 scientist from NRCan's CANMET Mining and Mineral Sciences  
22 Laboratory reviewed the EIS and supporting documentation at  
23 the request of the Joint Review Panel in this area.

24 Although the amount of geochemical data  
25 presented in the EIS is sparse, it is doubtful if more data

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1 would be necessary to determine if copper leaching from the  
2 waste rock is a potential concern.

3                   In the first place, a high copper  
4 concentration of basalt does not necessarily correlate with  
5 its leachability.

6                   Generally speaking, the form (such as  
7 sparingly soluble sulfides or readily soluble weathering  
8 products) in which copper occurs in the basalt has more  
9 influence on its leachability than its concentration.

10                   This is clearly demonstrated by the  
11 results of the four samples subjected to the leach test that  
12 the Proponent provided in response to the information  
13 request from the Panel on leaching.

14                   NRCAN would tend to agree with the  
15 Proponent that their proposed monthly monitoring of basalt  
16 copper in the water of the sediment ponds would be  
17 sufficient to detect the mobilization of contained copper in  
18 the basalt, should it occur.

19                   With respect to the impacts on marine  
20 life, it is important to note that NRCAN's expertise is  
21 related to the process by which copper in the basalt is  
22 mobilized and becomes bioavailable.

23                   NRCAN does not have expertise in the  
24 uptake of metals and marine life.

25                   On this matter, local environmental

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1 conditions such as the availability of complexing agents and  
2 water hardness can greatly affect the ecotoxicity of copper.

3           Previous work that Dr. Kwong was  
4 involved with investigated mine tailings enriched in copper  
5 (up to an order of magnitude greater than that in the basalt  
6 at Digby Neck) that ended up in the marine environment.  
7 Minimum impact on the local biota was observed.

8           Given the relatively low copper  
9 concentration in the crushed basalt, the low copper  
10 leachability in seawater, the small volume of material that  
11 may end up in the marine environment and the relatively high  
12 energy setting of the marine terminal site, serious  
13 ecological impact from the copper is not expected to result  
14 from accidental discharges of processed basalt near the  
15 project site.

16           Further, the proposed mitigation  
17 measures that the Proponent has identified in its response  
18 to the Panel on the potential effects of copper on marine  
19 life dealing with the leachability are satisfactory, should  
20 mobilization be identified.

21           NRCan also recommends, should the  
22 situation arise, that a more thorough characterization be  
23 undertaken of the basalt to be quarried and additional  
24 management measures be developed, such as the copper rich  
25 portion being separated for proper disposal.

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1                   The experts in the Geological Survey of  
2 Canada who were involved in our review on this particular  
3 topic, marine environments and processes, were Dr. Bob  
4 Taylor, Michael Li, Brian Todd and John Shaw.

5                   With our remaining issues being the  
6 impacts of the terminal on the shoreline and backshore,  
7 extreme wave run-up and sea level rise.

8                   The remainder of this presentation will  
9 examine these in a bit more detail.

10                  As the first statement says, there's  
11 minimal effect of the terminal structures on the shoreline  
12 that are anticipated as most of those structures are located  
13 on bedrock and the responses by the Proponent on the marine  
14 issues of scaring and sedimentation on the structures that  
15 NRCan raised were satisfactory to our Department.

16                  Little sediment is available to  
17 accumulate and tidal currents would be sufficiently strong  
18 to mobilize any sediment but insufficient to scar around the  
19 pilings.

20                  The one gap that we want to highlight  
21 and one that we have captured in this second point, there  
22 was new evidence presented on the impacts of these proposed  
23 structures on wave dynamics on the shores of Whites Cove and  
24 its immediate backshore.

25                  Actually, the cover of the EIS certainly

1 illustrates Whites Cove quite well. It is one of the only  
2 non-bedrock areas and it appears to be a coarse sediment  
3 beach.

4                   Now it's important to note that the  
5 Whites Cove Beach is aligned with waves out of the west.  
6 The proposed terminal structures are to the east, which will  
7 only impact waves from the north and east.

8                   But no information is presented on  
9 whether this proposed structure would impact wave patterns  
10 on the White Coves Beach, and potentially focus waves on a  
11 new part of the shore.

12                   As such, a recommendation to the Joint  
13 Review Panel in this matter is that any further information  
14 derived from modelling these inshore wave propagation and  
15 impacts on the shoreline stability during the terminal  
16 design stage should be factored into environmental  
17 protection as appropriate against any increased wave run-up  
18 and shoreline changes.

19                   Wave modelling would certainly allow  
20 that alteration of wave pattern to be more fully examined  
21 and could provide locations of any anticipated wave energy  
22 and impacts on the shore resulting from wave run-up.

23                   Keeping on the wave run-up theme, our  
24 initial concern in this matter was the landward limit of the  
25 extreme wave run-up during storms and their impact on

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1 planned infrastructure.

2                   Again, I should have scanned a copy of  
3 the EIS, because a picture is a 1,000 words.

4                   The covers clearly shows, for part of  
5 the area at least, the tree line, which certainly  
6 illustrates wave run-up locations.

7                   It's certainly not clear however in the  
8 Whites Cove area.

9                   However, the Proponent has stated that  
10 land based components of the quarry infrastructure will be  
11 located above the 10-metre contour elevation and above the  
12 coastal flood plain.

13                   However, the flood plain has not been  
14 defined and furthermore, a couple of natural sediment ponds  
15 exist at and just below the 10-metre contour as demonstrated  
16 in the figure in their EIS.

17                   It is unknown if they are subject to  
18 present-day flooding or run-up.

19                   Our recommendation on this matter is  
20 that the definition of the coastal flood plain should be  
21 clarified, and we recommend that it should include the  
22 present limit of extreme wave run-up, which is one or two  
23 metres, and these are extreme values for the area of the Bay  
24 of Fundy.

25                   On a topic that was discussed earlier

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1 today by Environment Canada, and one in which we support  
2 their observations and conclusions, sea level rise, the  
3 issue around this particular matter is there was a report  
4 put out by the Intergovernmental Panel Committee on climate  
5 change that the Proponent has cited, and we just want to put  
6 a cautionary approach to this.

7                   The estimation used has not considered  
8 several important factors, primarily the local shoreline  
9 subsidence in Nova Scotia.

10                   As well, there is certainly uncertainty  
11 around the concept of global ice sheet dynamics.

12                   As well, observed global sea level  
13 changes being greater than past predicted in model changes.

14                   Broadly speaking, there is insufficient  
15 information at present to predict precisely a 50-year  
16 projected sea level in general.

17                   As a result, sea level rise could be  
18 much higher than what the Proponent has estimated.

19                   Our recommendation to the Panel is in  
20 line with that of Environment Canada, to incorporate  
21 uncertainties, the Proponent should use in their design  
22 plans a sea level rise of at least 30 centimetres in 50  
23 years.

24                   As new information becomes available, as  
25 the science evolves and is refined, design plans could be

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1 better constrained regarding sea level rise.

2                   And we raise this again. We are  
3 advocating a precautionary approach to this matter, given  
4 the uncertainties associated with these estimates.

5                   In summary, NRCan believes that the  
6 issues we have presented to the Panel can largely be  
7 addressed through appropriate measures during the design  
8 stage of the Project, should it proceed.

9                   I would be please to respond to any  
10 questions, however I am not the subject-matter expert on  
11 what has been presented.

12                   I will attempt to answer them to the  
13 best of my abilities. Should that not be possible, NRCan,  
14 at the Panel's direction, will do undertakings and provide  
15 those responses back to the Panel prior to the close of the  
16 hearings.

17                   Thank you.

18                   THE CHAIRPERSON: Thank you Mr.  
19 McAllister. Gunter, you're going to start up?

20 **PRESENTATION BY NATURAL RESOURCES CANADA - QUESTIONS BY THE**  
21 **PANEL**

22                   Dr. GUNTER MUECKE: Thank you for your  
23 very clear exposition. I have a couple of questions, and we  
24 may as well start with the copper content of the basalts  
25 now.

1 Mr. ANDREW McALLISTER: Okay.

2 Dr. GUNTER MUECKE: The report that you  
3 have submitted to us only partly addresses our concerns and  
4 perhaps we didn't express our concerns adequately for a  
5 complete response.

6 The information that has been provided  
7 covers the exposure of the basalts and the fines in the  
8 settling ponds, and in terms of the marine environment, I  
9 was quite aware that of course marine tailings disposal has  
10 taken place.

11 Perhaps our bigger concern, and perhaps  
12 we could ask whether this has been addressed yet, is that  
13 the basalt fines from the processing will be used in part  
14 for soil conditioning, soils which will be used as a cover  
15 during the remediation process.

16 I put it to you that copper mobilization  
17 under those conditions, different pHs, different or high  
18 organic content if organics are mixed in, is quite different  
19 from the marine environment or the environment that exists  
20 in the settling ponds.

21 Could you respond to that?

22 Mr. ANDREW McALLISTER: That would be a  
23 matter that I, myself, wouldn't be able to address to the  
24 Panel. I don't have the technical expertise, however as I  
25 mentioned earlier, I can take this question back to the

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1 expert and get you a response prior to the closure of the  
2 hearings, if the Panel so chooses.

3 Dr. GUNTER MUECKE: I think that would be  
4 very helpful, to have an undertaking to that effect, and so  
5 I better phrase it so you can put it to them.

6 Okay. So it is how will copper mobility  
7 from the basalt, fines, be affected if the material is used  
8 in soil production involving organics?

9 What is the copper mobility under those  
10 pH conditions, and is it of concern?

11 Mr. ANDREW McALLISTER: Okay.

12 Dr. GUNTER MUECKE: One of the things  
13 that would come into play at that stage is how much of  
14 basalt fines will be incorporated obviously into the soils,  
15 and maybe I will ask...

16 That's a question I haven't asked of  
17 Bilcon yet, so maybe Mr. Buxton can clarify that.

18 Mr. PAUL BUXTON: I'm sorry, I missed the  
19 first part of your question Dr. Muecke.

20 Dr. GUNTER MUECKE: In the production of  
21 the reclamation soils, which involves using basalt fines,  
22 right?

23 Mr. PAUL BUXTON: Yes.

24 Dr. GUNTER MUECKE: How much of the soil  
25 that will be used consists, approximately, of basalt fines

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1 as opposed to other materials that you may mix in, any  
2 ideas?

3 Mr. PAUL BUXTON: I don't believe that we  
4 have specifically looked at that, but I think that what we  
5 would want to do is an agricultural expert look at that and  
6 advise us as to what an appropriate mix would be in order to  
7 achieve the growth of the specific plants that we intend to  
8 put in various areas of the site.

9 And it may be different in different  
10 areas of the site, depending what it is we're trying to  
11 create there.

12 Dr. GUNTER MUECKE: Okay. So in terms of  
13 the question I put to you, I have to leave it in very  
14 general terms because we do not know the mixing ratio at  
15 this stage.

16 THE CHAIRPERSON: Mr. McAllister, at what  
17 date do you think you could deliver this to us? I need to  
18 put a date down here.

19 Mr. ANDREW McALLISTER: The June 29<sup>th</sup>  
20 date or earlier is feasible from NRCan's perspective.

21 Dr. GUNTER MUECKE: Another question I  
22 really have is in its first response to the EIS, NRCan  
23 raised a number of questions which involved the extreme  
24 conditions that may occur at this coast in terms of wave  
25 height, et cetera.

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1 Mr. ANDREW McALLISTER: H'm.

2 Dr. GUNTER MUECKE: And I was somewhat  
3 puzzled because in its latest submission, NRCan indicated  
4 that these concerns have been met by Bilcon in their  
5 response, and when I look at the response, there is actually  
6 no concrete data there.

7 So this is more a comment than a  
8 request. How do you respond... How does the response by  
9 Bilcon to those concerns... How is that response by Bilcon  
10 meeting the previous concerns that NRCan has expressed in  
11 that area?

12 Mr. ANDREW McALLISTER: I would... I  
13 guess I'll attempt to answer that in generalities.

14 With respect to the comments by the GC  
15 Atlantic experts, there were satisfactory responses on a  
16 number of the original issues that we had raised.

17 I mentioned the sedimentation, I  
18 mentioned the scouring, and there were some other minor  
19 things that we had raised.

20 What we have brought forth to the Panel  
21 are those, I think, more closely related to some of those  
22 things that you have just brought up on, the extreme weather  
23 conditions and...

24 This is largely what this presentation  
25 over the remaining issues that we have are built around,

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1 namely the landward limit of extreme wave run-up, sea level  
2 rise, wave propagation, those sorts of things.

3                   So I think as I mentioned, responses  
4 have been given that are satisfactory, and NRCan has these  
5 remaining issues I think that still fall within those  
6 weather and extreme weather event parameters that you are  
7 looking for.

8                   Dr. GUNTER MUECKE: Okay. So maybe it  
9 was just unfortunate wording in the response, is that what  
10 you are saying?

11                   Mr. ANDREW McALLISTER: Well, I would say  
12 that I think our concluding remarks... As we said, a lot of  
13 things were satisfactory, and we believe that the remaining  
14 issues that we have can be addressed through measures  
15 through the design phase.

16                   Dr. GUNTER MUECKE: What role does NRCan  
17 play in terms of emergency planning and response, and what I  
18 have in mind here is...

19                   And I have asked this previously of  
20 Environment Canada, but in order to be responsive to  
21 possible accidents and spills, it is necessary to have a  
22 good grasp of the nature of the coastline, the nature of the  
23 sediments, and not only at the site itself but in the  
24 immediate vicinity.

25                   So my question is, is NRCan satisfied

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1 that the Proponent has provided enough information on that  
2 for quick and efficient responses to any oil spills, et  
3 cetera?

4 Mr. ANDREW McALLISTER: I thank you for  
5 that question. First off, I would preface it by saying  
6 NRCan doesn't have any decision-making role in emergency  
7 planning and response.

8 That topic in itself, we briefly touched  
9 upon it in an earlier submission. I'm just putting it out  
10 that it is... The coastline was such that certainly  
11 emergency response planning was an important consideration.

12 Typically what we can do in these sorts  
13 of things as emergency planning response unfolds, NRCan is  
14 certainly available to provide its expertise on these  
15 manners as these measures evolve.

16 With respect to what we're here for, the  
17 level of information that was in the EIS, I don't think  
18 NRCan in its submission was looking or within its mandate  
19 providing comments on whether it was sufficient for  
20 emergency planning or not.

21 It was largely focussing-in on the  
22 marine processes and environment.

23 Dr. GUNTER MUECKE: So you're saying we  
24 cannot look to NRCan for answers to that?

25 Mr. ANDREW McALLISTER: For emergency

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1 planning and response, I think that we could look to  
2 NRCan... You mentioned about building baseline information  
3 and those sorts of things.

4 Dr. GUNTER MUECKE: Yes.

5 Mr. ANDREW McALLISTER: And NRCan does  
6 have information and research and science that if requested,  
7 they would certainly be able to provide that to such an  
8 endeavour.

9 Dr. GUNTER MUECKE: Okay. Thank you.

10 Dr. JILL GRANT: I'd like to follow up on  
11 the question of emergency response because in the earlier  
12 submission from NRCan, the issue of the potential for  
13 aggregate spills in the water, either from some problem with  
14 the conveyor or problems with loading, was raised, and I  
15 don't know that there was any comment in it in the  
16 submissions.

17 I'm just wondering whether you could  
18 give us an idea of the effects of potential spills in the  
19 receiving waters and in the near-shore environment and what  
20 effects there would be of trying to remove those spills,  
21 should one occur as an accident during the Project?

22 Mr. ANDREW McALLISTER: I guess first  
23 off, the question if I understand correct is seeking our  
24 views on what would occur in the event of a malfunction and  
25 accident in which there was basalts that entered into the

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1 marine environment.

2                   Given the scope of our review, I  
3 don't... I keep looking through our earlier comments as to  
4 exactly where that was derived from, but at least initially,  
5 I don't think that we would be in a position, or at least  
6 myself, to be able to indicate what those effects would be,  
7 and I wonder if...

8                   Certainly some of those effects may be  
9 in areas that are outside of NRCan's mandate, for example  
10 effects on fish habitat, or effects such as things viewed as  
11 deleterious substances under the **Fisheries Act**, which could  
12 be under Environment Canada's purvey.

13                   So that is how I guess I would qualify  
14 that, and I guess if you would want further information in  
15 that regard, I can go back to our commentary and provide you  
16 with further information with respect to what they were  
17 getting at, that expert.

18                   Dr. JILL GRANT: That may be enough  
19 already, thank you.

20                   Mr. ANDREW McALLISTER: Okay.

21                   Dr. JILL GRANT: The other question I  
22 have is a bit more general, and that is what NRCan's  
23 position would be on the role of non-renewable resources in  
24 a sustainable development approach?

25                   Mr. ANDREW McALLISTER: Well first of

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1 all, I realize it's a general question and I may be giving  
2 you a project-specific answer, but NRCan, its role in this  
3 Project, as we stated we have no regulatory or decision-  
4 making role.

5                   We are contributing expertise to the  
6 environmental assessment process, and the environmental  
7 assessment is a means of integrating environmental factors  
8 into planning and decision-making processes in a manner that  
9 promotes sustainable development, and that's what we view as  
10 our linkage or our contribution as far as stable development  
11 perspective.

12                   Broadly speaking, the... I don't myself  
13 have any departmental position on that matter, and I don't  
14 know if we have one.

15                   We certainly are participating in this  
16 process as an expert authority, in a process that we feel  
17 has an objective of sustainable development.

18                   THE CHAIRPERSON: Okay. I think that's  
19 the end of the questions for now. We also realize that we  
20 will have another opportunity tomorrow during the  
21 hydrogeology section, so we now turn to Mr. Buxton.

22 **PRESENTATION BY ENVIRONMENT CANADA - COMMENTS BY THE**  
23 **PROponent**

24                   Mr. PAUL BUXTON: I have no questions Mr.  
25 Chairman, but perhaps two comments if I may.

1                   Dr. Grant asked about aggregate spills,  
2 and I think we did make an attempt to cover that in the EIS  
3 as much as...

4                   First of all, I think we noted that all  
5 parts of this operation are computer controlled and can be  
6 shutdown instantly, so if something goes wrong with the  
7 operation, a button is pushed and the conveyor stops.

8                   Typically on conveyor systems, there is  
9 a minor amount of spillage. This facility will have  
10 spillage trays along the entire ship loader so that if there  
11 is anything that inadvertently spills off the conveyor, it  
12 will not get into the marine waters.

13                   Secondly, if I could just make a comment  
14 on the emergency response plan, the intent really of an  
15 environmental assessment is to establish whether or not an  
16 emergency response plan is required, and I think that we  
17 have made it very clear in the EIS that we believe one is  
18 required, and all the details of such a plan will be  
19 provided at a later date.

20                   So I think we've already established the  
21 need for a plan, and we have stated that clearly, and we  
22 will be required to produce an emergency-response plan.

23                   But I have no questions, thank you very  
24 much Mr. Chair.

25                   THE CHAIRPERSON: Thank you Mr. Buxton.



1                   Now we turn to the audience. Are there  
2 any questions arising from the audience? Mr. Stanton. If  
3 there are others planning, would you please line up like  
4 before, as before?

5 **PRESENTATION BY NATURAL RESOURCES CANADA - QUESTIONS BY THE**  
6 **PUBLIC**

7                   Mr. KEMP STANTON: You determined the  
8 likely pH levels of the water. In piles of stored rock,  
9 they are bound to have some blasting residue in them after  
10 they have been crushed, and if there's nitrogen there, it  
11 may make nitro gas, and after weeks of storage, how would  
12 you determine the pH balance, in order to determine how much  
13 copper would be leached out?

14                  Mr. ANDREW McALLISTER: I myself wouldn't  
15 be able to answer that question. I'm not a geo-chemist.  
16 We can certainly take that question at the Panel's direction  
17 and get an answer if required.

18                  Dr. GUNTER MUECKE: I think you... And  
19 it's not my place perhaps to do this, but it has been  
20 indicated that the aggregate will be washed, and that should  
21 be kept in mind when asking this question, and Mr. Stanton,  
22 if I can slightly reformulate that question, it would be:  
23 "Would you anticipate pH changes in the washed aggregate and  
24 how would that affect the copper leaching?"

25                  Is that a fair reformulation Mr.

1 Stanton?

2 Mr. KEMP STANTON: Also, I was thinking  
3 that they are going to be reusing a lot of this water, so  
4 after they wash the rock with it once and suspend the  
5 nitrogen in it, then they'll wash the rock with it again,  
6 and again.

7 Dr. GUNTER MUECKE: That's a very good  
8 point Mr. Stanton. Yeah, so we would like to have some  
9 clarification on that.

10 THE CHAIRPERSON: You formulate an  
11 undertaking then.

12 Dr. GUNTER MUECKE: So the undertaking  
13 would be, as Mr. Stanton mentioned, what will be the role of  
14 explosive residues in the pile in terms of the changing the  
15 Ph, and I would add Eh environment, and how would that  
16 affect copper leaching.

17 THE CHAIRPERSON: Mr. McAllister, we'll  
18 put the same date down, the 29<sup>th</sup>. Sooner is better, but no  
19 later than, okay?

20 Mr. ANDREW McALLISTER: Okay. I just  
21 want... I don't want to speak for the expert, but the first  
22 part of that question dealt with explosive residues, so  
23 we'll have to...

24 If he does not necessarily that  
25 expertise on that side, we may need to collaborate with

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1 another department that does have that.

2 Dr. GUNTER MUECKE: H'm.

3 THE CHAIRPERSON: Sister Barbara?

4 SISTER BARBARA: I'm Sister Barbara and  
5 I'm in Digby Neck, at Rossway.

6 Given the current size of the proposed  
7 mega-quarry, in your expert opinion, do you think there's  
8 enough basalt rock to keep the Whites Point Rock Quarry and  
9 Marine Terminal operating until the year 2057, or would a  
10 larger quarry be required during the 50-life expectancy of  
11 the Project? Would you be able to comment on that?

12 Mr. ANDREW McALLISTER: No, I wouldn't.  
13 In NRCan's review of this Project, we were an expert Federal  
14 Department and we looked in the areas of hydrogeology,  
15 marine environments and processes, seismicity and the  
16 aqueous geochemistry of waste rock. We did not look into  
17 the area that you have posed your question on.

18 SISTER BARBARA: Mm-hm. So you have no  
19 idea how much rock will be going from that site?

20 Mr. ANDREW McALLISTER: In the context of  
21 your question, no, I don't.

22 SISTER BARBARA: No. Thank you.

23 THE CHAIRPERSON: Okay. If there are no  
24 further questions, we'll ask Mr. McAllister to step down,  
25 with thanks.

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PARTN. FOR THE SUSTAINABLE DVLP. OF DIGBY NECK AND ISLANDS  
(Ms. LISA MITCHELL)

1                   And we'll move to the next presentation  
2 which is Lisa Mitchell from the Partnership.

3                   Thank you, Mr. McAllister.

4   **PRESENTATION BY THE PARTNERSHIP FOR THE SUSTAINABLE**  
5   **DEVELOPMENT OF DIGBY NECK AND ISLANDS SOCIETY - Ms. LISA**  
6   **MITCHELL:**

7                   Ms. LISA MITCHELL: I just caught a  
8 glimpse of Mr. McAllister's two-day old baby that he left  
9 behind in Ottawa to come here, so... It was on his computer  
10 screen.

11                   THE CHAIRPERSON: That's known as  
12 commitment.

13                   Ms. LISA MITCHELL: (Laughing) It sure  
14 is.

15                   Thank you very much, Mr. Chair and Panel  
16 Members. My name is Lisa Mitchell, and I am with the  
17 Partnership for the Sustainable Development of Digby Neck  
18 and Islands Society. Can I sit further?

19                   Almost five years ago, I was contacted  
20 by a woman from Sandy Cove who expressed concern about a  
21 mega-quarry that was proposed for a coastal area near her  
22 home. She said there was to be some type of Environmental  
23 Assessment, and she and her neighbours were confused, and  
24 they were very concerned. They needed help, and they  
25 wondered if I could assist.

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1 I hesitated. As an environmental  
2 lawyer, my forte was writing legislation and working with  
3 farmers in the Annapolis Valley on environmental management  
4 plans. It was not about assessing the impacts of quarries.

5 I did agree to assist the community  
6 group that became known as the Partnership, or the Society,  
7 and I've come to know a group of people who are intelligent  
8 and compassionate citizens committed to the long-term  
9 sustainability of this region. Their commitment goes far  
10 beyond what one reporter described as an NIMBY, or "Not in  
11 my Backyard" issue. Their backyard is the Bay of Fundy, and  
12 their commitment is to the broad community of species, both  
13 human and non-human, that make up and is supported by the  
14 Bay of Fundy ecosystem.

15 All of these people are more than  
16 capable of sharing their knowledge of this area, and the  
17 impacts that may result from the proposed Project. I'm not  
18 before you to speak on their behalf.

19 My role over the past four years has  
20 been as a facilitator. I've tried to connect the community  
21 members to other organizations, such as the Sierra Club, the  
22 Clean Annapolis River Project, the Canadian Parks and  
23 Wilderness Society, the Ecology Action Centre and the  
24 Council of Canadians. All of these groups are represented  
25 at these hearings.

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1 I've also worked to link the community  
2 to experts who can provide support and substance to their  
3 concerns.

4 My presentation this afternoon is  
5 intended to serve as an outline. It is to provide you with  
6 a framework of some of the key areas that our experts,  
7 whether their knowledge is derived from academic study or  
8 traditional experience, will bring forward over the next  
9 seven days.

10 The Proponent says that communities on  
11 Digby Neck are dying. Our presenters will show that Digby  
12 Neck is not a series of communities at the brink of death  
13 that can only be saved by a quarry. There are many strong,  
14 small-scale economies and resource-based industries that  
15 have and can continue to provide term sustainability for  
16 this region.

17 Many of the community members, including  
18 Marilyn Stanton and Danny Mills, will speak to this, as well  
19 as experts, including Dr. Michael Corbett, Janet Larkman,  
20 the former Executive Director of the Western Valley  
21 Development Authority, Miss Linda Pannozzo from Genuine  
22 Progress Index will also come to address some of these  
23 issues in the context of the full-cost accounting method  
24 that their organization uses.

25 The Proponent says that the impacts on

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1 tourism will not be significant, because primarily the  
2 quarry cannot be seen from the highway. Tourism in this  
3 area is not entirely centred on Highway 217. It depends  
4 very much on the pristine nature of the local environment,  
5 and the view from the water.

6 Judith Cabrita, the former Executive  
7 Director of the Tourism Industry of Nova Scotia, and Ann  
8 Goddard, who has been co-owner of the Mountain Gap Inn in  
9 Smith's Cove for over 30 years, will speak to this concern.

10 It is the Proponent's position that the  
11 long-term impacts on lobster, the fishery and the local  
12 ecology will be insignificant. Mr. Kemp Stanton, you all  
13 know, will speak from generations of experience working on  
14 and near the Bay of Fundy, and he will articulate the  
15 uncertainty that exists around the negative impacts on the  
16 species that support both his livelihood, and the diversity  
17 of the Bay.

18 Andy Sharpe, from the Clean Annapolis  
19 River Project, will provide a detailed analysis of a number  
20 of potential impacts from this Project, including visual  
21 impacts, impacts on tourism, terrestrial plant species at  
22 risk, and others that the Proponent has said will be  
23 insignificant. Andy's presentation will challenge the  
24 Proponent's studies, and counter their arguments,  
25 demonstrating that there are many significant adverse

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1 affects from this Project that will not be mitigated.

2                   The Proponent has applied adaptive  
3 management as their primary response to any uncertainty in  
4 the Project impacts, including ones that may result in  
5 irreversible damage. Put simply, they will monitor and they  
6 will adapt. In the 140 references to this theory, they give  
7 very little substance to support the effectiveness of their  
8 approach.

9                   Dr. Peter Dunker (ph) will be presenting  
10 to the Panel on adaptive management with an analysis of the  
11 validity of the Proponent's approach.

12                   In a similar way, the Proponent has  
13 cited the precautionary principle, whenever they invoke any  
14 measure that goes beyond regulatory requirements. We've  
15 asked Dr. David VanderZwaag to speak to the role of the  
16 precautionary principle, particularly in the context of  
17 endangered species.

18                   We've also asked Dr. Mike Stokesbury to  
19 provide input on the critical state of the inner Bay of  
20 Fundy Atlantic salmon, and it's habitat to demonstrate the  
21 significant risk that exists where there is any human  
22 influence near waters used by that species.

23                   The Review Panel has indicated that it  
24 will consider whether the Project will make a positive,  
25 overall contribution to sustainability. Dr. Robert Gibson

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1 and Dr. Meinhard Doelle will speak to the role of  
2 sustainability appraisal in the context of Environmental  
3 Impact Assessment.

4                   Their presentations will demonstrate  
5 that the Proponent's Proposal does not contribute positively  
6 to the long-term sustainability of this region.

7                   The onus to provide evidence that proves  
8 that this Project will not cause significant adverse effects  
9 to the environment and will contribute in a positive way to  
10 the sustainability of this region is on the Proponent.

11                   The Environmental Impact Statement says  
12 that there will be no significant adverse effects. It is  
13 our position that the Proponent has not brought forward the  
14 verifiable evidence necessary to support that conclusion.  
15 We trust that our experts will be able to speak to this  
16 effectively.

17                   The pervasive theme for our presenters  
18 over the next seven days is that of uncertainty. There is  
19 uncertainty around many of the potential impacts of this  
20 Proposal. Will blasting near the coast cause marine mammals  
21 to leave the area? Will an already stressed lobster fishery  
22 reach a tipping point if there is a polluting event from the  
23 site?

24                   How will the terrestrial species on the  
25 site respond to the changes in their environment? Will one

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1 of the vessels strike a whale?

2                   In some instances such as the subtle  
3 impacts of blasting on marine mammals and invertebrates, the  
4 science itself appears to be uncertain. In other instances,  
5 such as the impacts on species like the Harlequin duck, the  
6 uncertainty stems from the lack of scientific rigour in the  
7 Proponent's own studies.

8                   In yet other circumstances such as the  
9 potential for ship strikes with whales, the Proponent's  
10 Plans for mitigation create uncertainty. Looking across the  
11 surface of the ocean with binoculars to determine if there  
12 are any whales present reminds me of a quote from the late  
13 Dr. Carl Sagan:

14                                 "Absence of evidence is not evidence of  
15                                 absence".

16                   Is it the uncertainty, particularly when  
17 the uncertainty is coupled with the risk of irreversible  
18 damage, that makes this Project unacceptable at this time,  
19 in this location, and with this Proponent. In fact, I would  
20 argue that the risk for adverse environmental effects from  
21 this Project may be magnified, because the Proponent has  
22 already demonstrated that they are unable or unwilling to  
23 meet minimum requirements as in the EIS Guidelines.

24                                 This does not bode well for the  
25 environment, when the Proponent is operating in a Province

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1 that uses self-regulation as its primary means of compliance  
2 with environmental laws. Mitigation is not effective if it  
3 is not in effect.

4                   The many community members and other  
5 concerned citizens in Nova Scotia who have committed their  
6 time, their energy and their own money to participate in  
7 this process over the past four years are concerned that  
8 Review Panels do not reject projects, but only try to  
9 minimize the impacts of those projects.

10                   Yet in the face of that cynicism, they  
11 have wholeheartedly jumped into this long, gruelling,  
12 complex process. They have asked, and I have told them that  
13 there is no law that prevents a Review Panel from  
14 recommending rejection of a project.

15                   I expect that none of us who sit in  
16 these seats envy the task ahead of you as a Review Panel. I  
17 hope that the efforts we have taken to bring forward experts  
18 from both the academic and traditional arenas will at least  
19 assist you in your evaluation of the Proposal.

20                   It seems that it is human nature to  
21 underestimate our negative impact on the world we inhabit.  
22 We have dammed our rivers, cutting off migration routes for  
23 fish; we've filled our harbours with sewage; we've cleared  
24 out forests, eliminating entire ecosystems in one pass;  
25 we've sprayed toxic substances into our air, contributing to

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(QUESTIONS BY THE PANEL)

1 the destruction of species and causing negative impacts on  
2 our own health; we over-use, we over-consume, and we  
3 generally overestimate our ability to control, manage and  
4 repair the environment.

5                   As a society, we no longer have the  
6 privilege of consuming our natural resources in a way that  
7 completely disrespects their inherent value and our debt to  
8 future generations. As Carl Safener reminds us in his book,  
9 "Song for a Blue Ocean", the economy is a wholly-owned  
10 subsidiary of the environment. Thank you.

11                   THE CHAIRPERSON: Thank you, Ms.  
12 Mitchell.

13 --- Pause - Applause

14 **PARTNERSHIP FOR THE SUSTAINABLE DEVELOPMENT OF DIGBY NECK**  
15 **AND ISLANDS SOCIETY - Ms. LISA MITCHELL - QUESTIONS BY THE**  
16 **PANEL:**

17                   Dr. JILL GRANT: Ms. Mitchell, how would  
18 you define what it takes to take an ecosystem approach in a  
19 project like this, and can you give us your ideas of what  
20 would have been required to, to take that kind of an  
21 approach?

22                   Ms. LISA MITCHELL: I think that  
23 primarily it means that the Proponent had to recognize from  
24 the onset of the Project that there is an interconnectedness  
25 between all aspects of the Project and the ecosystem that

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1 it's impacting, and I couldn't explain to you specifically  
2 how you would carry this out, but the need to ensure that  
3 whenever one is assessing the impacts, or the potential  
4 impacts on the Project, that they're not, that you're not  
5 separating the various components from the ecosystem.

6 But yet, as I think was raised the other  
7 day, the concept of recognizing that there are direct  
8 impacts and there are indirect impacts, and those indirect  
9 impacts generally result from impacts on other aspects of  
10 the supporting ecosystem for each valued environmental  
11 component.

12 Dr. JILL GRANT: Thank you. And my other  
13 question is around the CLC. I wonder if the Partnership has  
14 been involved at all in the process of participation through  
15 this. Were any of the Partnership members involved in the  
16 CLC, and whether there is any comment on that?

17 Ms. LISA MITCHELL: Unfortunately, Dr.  
18 Grant, I'm not the person to answer that because my  
19 involvement with the Partnership has not involved, in any  
20 way, a connection to the CLC, given that I'm not a community  
21 member. I live in Grand Pre.

22 THE CHAIRPERSON: Ms. Mitchell, I'd be  
23 interested to know a little bit more about the Partnership.  
24 When was it formed?

25 Ms. LISA MITCHELL: The Partnership came

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(QUESTIONS BY THE PANEL)

1 together, I believe it was in 2002, shortly after they  
2 became aware, or shortly after the community became aware  
3 that there was a proposal for a 3.9-hectare quarry.

4 THE CHAIRPERSON: Is it fair to  
5 characterize it as a response to the quarry? It's a  
6 organization with a mission, more or less. Am I  
7 over-characterizing it?

8 Ms. LISA MITCHELL: I think it's very  
9 fair to say that the Partnership developed as a response to  
10 the quarry proposal. I think that they have tried to expand  
11 their focus to include broader considerations, but that is  
12 their primary concern.

13 THE CHAIRPERSON: How many members are  
14 there in the Partnership? How do you establish membership?

15 Ms. LISA MITCHELL: Again, I'm not  
16 necessarily sure I'm the right person to answer that  
17 question, given that I'm a consultant to the Partnership,  
18 but I believe, at last calculation, that there were  
19 somewhere in the order of 3- to 400 members, and those  
20 people become members simply by purchasing a membership,  
21 recognizing that they support the goals of the Partnership.

22 Other people who are very active in the  
23 Partnership are a smaller group of perhaps maybe 30 to 40  
24 people.

25 THE CHAIRPERSON: Where would the

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1 membership come from? What are the origins of the people?  
2 Are we talking about only from the Neck and Islands? Are we  
3 talking about Americans who vacation here? What is the  
4 cross-section of the membership?

5 Ms. LISA MITCHELL: I believe that the  
6 membership is very broad. It would include a lot of people.  
7 Probably the bulk of the membership is based in the region,  
8 in this particular, but certainly there are members across  
9 Nova Scotia, and there would be some members from the United  
10 States, as well, particularly those that are seasonal  
11 residents here, but may reside part of the time in the U.S.,  
12 and there may be a few others, as well, but I'm not sure of  
13 the details on that.

14 THE CHAIRPERSON: Do you have any idea  
15 how many adults there are in Digby Neck and the Islands, and  
16 what percentage of that, of your membership that represents?

17 Ms. LISA MITCHELL: Did you ask how many  
18 adults there are?

19 THE CHAIRPERSON: Well, I mean, I'm  
20 trying to get some sense of how broadly embracive this is.  
21 Is this a small splinter group? Is this a major group? I  
22 have no sense of that.

23 Ms. LISA MITCHELL: Would you allow me to  
24 call on one of the community members that is more directly  
25 involved with the membership, rather than myself as a

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1 consultant, to provide you with that information, because I  
2 certainly think we could provide you with lots of detailed  
3 information on the actual makeup of the Partnership, who is  
4 involved, how many, where they come from.

5 THE CHAIRPERSON: Maybe we could just  
6 take that as an undertaking, where---

7 Ms. LISA MITCHELL: Certainly.

8 THE CHAIRPERSON: ---you and your  
9 colleagues could put this information down for our benefit.  
10 I'd be interested to know, do you hold regular meetings,  
11 and if you do, what the attendance at those meetings is.  
12 How would you...

13 Well, I've already asked you how you'd  
14 characterize your organization, so it's a goal-specific  
15 organization which is really directed at...

16 Well, is it fair to say it's directed at  
17 combatting this quarry, or maintaining a way of life? I  
18 mean, how would you... I don't want to put words in your  
19 mouth. I'd prefer you to do that. And how is it funded?

20 Ms. LISA MITCHELL: Primarily it is  
21 funded out of fund raisers by the individuals, so they do,  
22 you know, an annual lobster dinner whereby local fishermen  
23 provide lobster for free. They do auctions and so forth at  
24 those dinners to raise money.

25 THE CHAIRPERSON: Okay. Could I ask you



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(Mr. KEMP STANTON)

1 to take an undertaking, return that information to us?

2 You've got a sense of the questions I'm interested in.

3 I'm trying to get an understanding of  
4 the Partnership. It obviously plays a prominent role in  
5 these activities, and so I'm from Halifax, and it's just a  
6 name to me at the moment, okay?

7 Ms. LISA MITCHELL: Absolutely.

8 THE CHAIRPERSON: Okay. Do I have any  
9 questions? No? Okay. Mr. Buxton?

10 Mr. PAUL BUXTON: I have no questions,  
11 thank you, Mr. Chair.

12 THE CHAIRPERSON: I'm going to ask the  
13 audience, but judging by the applause, everybody there is  
14 familiar with it, so are there any questions? No, I'd be  
15 surprised if there were. Correct? Okay. Thank you, Ms.  
16 Mitchell.

17 Ms. LISA MITCHELL: Thank you.

18 THE CHAIRPERSON: The next person is Kemp  
19 Stanton, please.

20 --- Long pause

21 **PRESENTATION BY THE PARTNERSHIP FOR THE SUSTAINABLE**  
22 **DEVELOPMENT OF DIGBY NECK AND ISLANDS SOCIETY - Mr. KEMP**  
23 **STANTON:**

24 THE CHAIRPERSON: Mr. Stanton, any time  
25 you're ready.

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(Mr. KEMP STANTON)

1                   Mr. KEMP STANTON: Sorry about this. We  
2 only really need one graphic.

3                   I'm supposed to be presenting on  
4 traditional knowledge, and I'll try to do my best.

5                   THE CHAIRPERSON: Can I get you to pull  
6 your mike in?

7                   Mr. KEMP STANTON: The fisheries in the  
8 area influenced and most affected by the quarry would  
9 basically be lobstering, herring seining, herring wares, set  
10 nets for herring, hand-lining, long-lining, cod nets,  
11 draggers, scallop and fish, urchin divers and draggers,  
12 beach harvesters, dulse, rockweed, periwinkles, the like.  
13 Possibly more in the future. We may have welts, snails,  
14 razor clam markets. We don't know what we might be after  
15 within 50 years.

16                   I should mention that some of these  
17 vessels are mobile; some while they're fishing; some are  
18 fixed; and others are a combination of both. So we have a  
19 wide variety of boats and manoeuverability issues with them.

20                   Tides, winds and currents, often they  
21 greatly influence their maneuverability, and the exactness  
22 with which they control the positioning of the boat, or  
23 their gear. In other words, they can't always put their  
24 gear or their boat exactly where they want, when they're  
25 fishing.

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1110  
PARTN. FOR THE SUSTAINABLE DVLP. OF DIGBY NECK AND ISLANDS  
(Mr. KEMP STANTON)

1                   There seems to be little certainty as to  
2 the uses the Terminal may be put to, besides loading basalt.  
3     The lease, I believe, allows for the import or export  
4 movement of other goods on and off the site. I, however,  
5 will limit my comments mostly to the Marine Terminal and the  
6 movement of aggregates.

7                   Even with present ship sizes the way  
8 they are at the Terminal, loaded, and at low water, there's  
9 very little clearance between the bottom of the ship and its  
10 sides, and the rocky bottom of the ocean at that Terminal,  
11 when they're laying there. And that's an uneven bottom, and  
12 from my experience of fishing there over 40 years, I think  
13 there are boulders in that area.

14                   I can't get my graphics yet, but there  
15 are to be moorings for the ships. They'll have buoys,  
16 chains and ropes. This doesn't seem to be recognized by the  
17 DFO as using up space on the bottom of the ocean. They only  
18 considered the Terminal, itself; not the 60 to 80-tonne  
19 blocks that may be required to hold the ships there.

20                   There are supposed to be intermediate  
21 buoys and ropes that have to have some type of block on the  
22 bottom to hold them. I'm not quite sure. We expect them to  
23 be at the 500-metre mark, to mark out the safety zone for  
24 marine mammals.

25                   There's also to be buoys, chains, ropes

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1 and blocks at 2,500 metres, and these will have to be rather  
2 substantial so they do not go under water in the strength of  
3 the tide, and to be able to be seen clearly at a distance of  
4 2,500 metres when the tide's running, anything under six  
5 foot in length, and probably six feet around in anything but  
6 clear conditions would not, in my opinion, be able to be  
7 seen.

8                   As fishermen, we will have to keep our  
9 gear clear of these, and according to the maps I've been  
10 able to find from Bilcon, this will extend for 7.5  
11 kilometres along the coastline, and will extend off to 2,500  
12 metres. It takes in a lot of our fishing area for  
13 entanglement purposes.

14                   There will be a ship coming in and going  
15 out, and from my experience, sometimes it will have to come  
16 in from up the shore according to tide and wind conditions.  
17 Sometimes it'll come in from down shore.

18                   Sometimes, if the weather hasn't quite  
19 cleared enough yet or the sea conditions haven't quite  
20 cleared enough yet, it may have to jog back and forth,  
21 waiting for conditions to improve.

22                   There may be tugs which, while the ship  
23 is there, if it's poor conditions, they will have to wait in  
24 the area and may jog back and forth, also seriously  
25 interfering with my gear.

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1112  
PARTN. FOR THE SUSTAINABLE DVLP. OF DIGBY NECK AND ISLANDS  
(Mr. KEMP STANTON)

1                   There will be a work boat that sometimes  
2 will be criss-crossing the area looking for whales or marine  
3 mammals and maybe doing maintenance on all these buoys.  
4 That'll be going through my gear.

5                   And the time of blasting and the time of  
6 ship arrivals is not dependable because of sea conditions  
7 and because of fog conditions, so I will not know whether I  
8 can operate in that area or not.

9                   And we, as fishermen, will have to deal  
10 with these difficulties while working in bad weather, strong  
11 tides, poor visibility, and at the convenience of the  
12 Proponent.

13                   He decides when the ships come in. He  
14 decides when to blast. He decides when he moves buoys, not  
15 us.

16                   This is added to all the activities.  
17 already taking place in that vicinity.

18                   Around coves and points in this area,  
19 when the tide is running, even though there is little wind,  
20 the water is seldom still. The water travelling at high  
21 speed over uneven bottom in these areas, the currents may  
22 change their flow within a few feet.

23                   You can have 180 degree turnabout in the  
24 tide just because of the turbulence and the eddies in this  
25 area.

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1                   With trap buoys partly submerged in  
2 these conditions, spotting harbour porpoise at anything more  
3 than 200 metres is... If I was looking for them, I would  
4 consider it almost impossible to see them.

5                   Weather prediction is more unreliable  
6 than normal in our area. We very often receive weather  
7 predictions that are off by 60 to 80 percent over a short  
8 period of time just because of the difficulty of predicting  
9 weather when cold masses and warm masses of water are  
10 meeting in the area.

11                   Fog moves in quickly. Only a minor  
12 change in the wind can bring fog that is filling the St.  
13 Mary's Bay over the hill and, within 5 to 10 minutes, you  
14 can't see 40 feet, so it's unreliable.

15                   It's unpredictable because if you can't  
16 depend on the weather forecast for wind, you don't know when  
17 the fog will be coming.

18                   Swell and fairly severe swell can  
19 appear, not from local conditions, but from conditions in  
20 the Atlantic. There doesn't have to be any wind. If  
21 there's been a storm in the Atlantic, all of a sudden you  
22 will notice a swell building with no predictability to it.

23                   This will render ships and blast  
24 schedules unreliable. Even if they have a fairly good idea  
25 what the weather's predicting, it's hard to predict the

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1 swell along with it.

2                   With all these obstacles and  
3 uncertainties, we can continue operations, but it wouldn't  
4 make economic sense if I'm dealing with all these  
5 obstructions, I'm dealing with times I can't go there, I'm  
6 losing a lot of gear because once my gear gets wound up in  
7 these big buoys, I can't lift it. I have to just give up on  
8 it.

9                   There is some existing documentation,  
10 mostly on commercial and endangered species, in the Bay of  
11 Fundy. Some commercial, some not, have never been studied  
12 properly, it at all, and especially locally.

13                   It isn't always predictable that the  
14 creature you think is in the Bay of Fundy will be there  
15 because the warmer Bay, St. Mary's Bay, is so close. You  
16 can't generalize as to what will be in our area necessarily  
17 by what is in the rest of the Bay.

18                   Even lobster, which is exceedingly  
19 important, has never really been studied as far as blast  
20 effects goes. Herring. I heard one of your experts say  
21 that light would attract it.

22                   Yes, it will, but only for a short time,  
23 and if a light comes on quickly, the herring will move so  
24 fast that you'll just see scales left in the water. They're  
25 damaging themselves.

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1 Light may attract them for a short  
2 period, but eventually they will leave the area, and it will  
3 be a long time before they come back.

4 Nobody knows what we call sand fleas  
5 just what you get in a trap when you haul it up. It's eaten  
6 the bait and it drops on your washboard and it's all less  
7 than an inch long.

8 Nobody has studied it to see what  
9 effects this may have or may not have on them.

10 Snails, mussels and a majority of plants  
11 have never been studied for what effects this will have.  
12 Just mostly what people notice most.

13 The majority of plants, and especially  
14 not the ecosystem as a whole, are understood at all. You  
15 may have a small idea, but complexity makes it... We aren't  
16 that smart.

17 Examples of on land searches made to  
18 locate endangered plants, one totally unexpected. Did they  
19 look in the ocean to see what marine species might be there  
20 that just were totally unexpected?

21 The Proponent seems to be fixated on the  
22 land. He does not understand or pay enough attention to our  
23 ocean environment, we think.

24 Since we know so little about what  
25 creatures inhabit the area, their densities, whether or not



1 they're in decline, their relationships with one another as  
2 a whole and the consequences of changes to any one of these  
3 connections, we would think that the precautionary principle  
4 should say do no harm.

5                   If you don't know what you're doing may  
6 do harm, don't do it.

7                   Past experience has shown the local  
8 people, and particularly fishermen, to mistrust Government  
9 promises, Regulations, agreements and enforcements in the  
10 extreme. We don't believe anything they say any more.

11                   We were told that the Digby Wharf would  
12 be sold off to a private group and that it would be kept up  
13 and that everything would be wonderful. It's a regular  
14 disaster now for fishermen. Go down and look at the wharf.  
15 It is not maintained.

16                   Less than a year ago, there was a  
17 drilling operation and a pipeline that was abandoned. The  
18 junk was left in place on the bottom.

19                   The agreement when that project started  
20 was all materials were to be removed from the bottom of the  
21 ocean, but the Government unilaterally let the Proponent out  
22 of that agreement and agreed that they wouldn't remove the  
23 junk.

24                   We were told that when we voted no to  
25 Sunday shopping, we thought that was a democratic thing, but

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PARTN. FOR THE SUSTAINABLE DVLP. OF DIGBY NECK AND ISLANDS  
(Mr. KEMP STANTON)

1 now there's Sunday shopping. We didn't vote for it, but  
2 they told us it wouldn't happen if we voted against it. It  
3 did.

4 DEL could find no sediment pond  
5 guidelines when we asked them when they were building their  
6 sediment pond and we didn't think it was being done  
7 properly. We asked DEL to provide us with guidelines on  
8 that.

9 We were told that there was only one  
10 copy in Nova Scotia, and it took them two months to find it.  
11 For people that are supposed to be regulating these things,  
12 one copy of the guidelines in Nova Scotia and six months  
13 even to locate it, or two months to locate it, was  
14 ridiculous. It was an insult.

15 I'm sort of rushing through this, and  
16 I'll try to make... I didn't get this one quite right.

17 The first indication we had that there  
18 was a quarry on the way in my village, anyway, and we are  
19 the closest fishing village to this quarry. Not exactly.  
20 That may not be exactly right.

21 To get to the quarry site, it is the  
22 shortest distance to get there from our fishing village.  
23 You'd have to go across land to get there shorter.

24 The first indications that we had that  
25 there was a quarry coming was when Gordon Baltzer, who was

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1 our MLA at the time and Minister of Fisheries, we asked him  
2 to come down and please support us in having our wharf  
3 repaired.

4 He informed us that we didn't need  
5 repairs on our wharf because we would be able to lay our  
6 boats to the new terminal that was going in at Whites Cove.  
7 That's the first indication that we had, any of this.

8 It was disappointing to know and to find  
9 out later that this isn't a wharf. He had misunderstood the  
10 whole thing. You can't lay small boats to it or any amount  
11 of small boats, and especially in bad weather.

12 He had just misinterpreted the whole  
13 thing, but he was our MLA and he was also, at the time,  
14 Minister of Economic Development.

15 This is getting into attitude, so we  
16 never really got informed. Then, when we went to the CLC  
17 meetings, and we did attend some of, not the first, but some  
18 of the later CLC meetings, and they had an archaeologist  
19 there. And we questioned him about the village that used to  
20 be at the site.

21 And his response was, he told us that no  
22 one of any historical significance had ever lived there and  
23 nothing of any historical significance had ever taken place  
24 there.

25 And we thought there had been, so we

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1 asked and he said it's a fishing village just like thousands  
2 of other fishing villages all around Nova Scotia. There was  
3 nothing special about it.

4                   When asked why he did not consult local  
5 people about what might be there or what might have took  
6 place there, we were told he didn't because we were likely  
7 to lie to him. We were not likely to tell him the truth.  
8 He had to have empirical knowledge in order to make a  
9 determination.

10                   I didn't really think that was a good  
11 use of traditional knowledge, but I'm only a fisherman.

12                   I was invited to Bilcon's office. I  
13 can't remember the date, but it was in the early stage. And  
14 I wasn't directly invited by Bilcon. They called a group of  
15 fishermen, and there was supposed to be six to seven  
16 fishermen at a meeting, so I went.

17                   And I waited outside the office for an  
18 hour and 10 minutes, and none of the other fishermen showed  
19 up. They said it was bad weather or bad planning, or some  
20 didn't arrive.

21                   And the only people there were three  
22 Bilcon employees, and I decided it wasn't advisable for me  
23 to go in with three Bilcon employees and talk to them  
24 because I already knew that they had started a lawsuit  
25 against a lady for something she said and that they had

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1 started a lawsuit against the newspaper for something they  
2 said.

3 So for my own protection, I just did not  
4 feel comfortable being alone in a room with three other  
5 people that were prone to thinking about lawsuits.

6 And still, sometimes, when I'm out in  
7 public and talk about this, anything I say, I usually say,  
8 "I believe" first so that I'm sure, or fairly sure, that I  
9 can't be sued.

10 Another item that sort of I heard Mr.  
11 Buxton say, and if I'm correct... I may not be.

12 I looked into it three different times,  
13 and I think the first test blast that they planned at the  
14 original 3.9-hectare site was to have very close to 50,000  
15 pound of explosives in the ground and it was to be exploded  
16 in 1,000 pound charges, not 45 as recommended by the  
17 experts.

18 It seemed massive. It seemed  
19 unadvisable. From my point of view, not being in the  
20 blasting community or anything, I just looked at it as  
21 stuffing a trailer truckload of explosives in the ground,  
22 and even though there may be a delay between the blasts, I  
23 think if you blast with 45 kilograms of explosives it has a  
24 small effect.

25 If you have 80 delays, it doesn't have

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1 80 times the effect, but it has more. For them to say that  
2 they're going to blast once every two weeks and then find...  
3 Or up to 80 separate explosions, I can't... I haven't got  
4 the education to be able to evaluate it, but it doesn't seem  
5 to me reasonable that one blast of 45 kilograms would be the  
6 same effect on creatures in the water as 80 blasts. I may  
7 be wrong.

8                   And finally, in conclusion, I believe  
9 right now that, in the past five years, we've been treated  
10 as well by the Proponent as we can ever expect to be  
11 treated. He has wanted something from us.

12                   If once he gets the permit, what type of  
13 treatment can local fishermen and can local people expect?  
14 I don't know. It may be good.

15                   But his need for a permit sort of  
16 guaranteed somewhat good treatment, and I don't think we  
17 received it.

18                   Fishermen seem to be required to move  
19 aside when they're blasting, and they seem to be being told  
20 that when there's a ship coming in, we have no right to be  
21 in the way. We get out of the way and, at their  
22 convenience, we go back and we get on with our work.

23                   This doesn't make sense to me because if  
24 they had a quarry going and I was a fisherman and I come to  
25 the area and I set my traps and I said, "Look, I'll move out

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1 when it's convenient for me to let you blast and I'll move  
2 my traps out of here and I'll not fish in the area when it's  
3 convenient, you know, when it's convenient for me I'll let  
4 your ship come in."

5                   We were there first. We've been there  
6 for 250 years. And to just been told now I have to move  
7 aside, I may have to... If my predictions are right and I  
8 know that if this 2,500 metre zone with buoys is correct, 80  
9 percent of my traps that make my living will be within that  
10 area.

11                   And with the tugs and the ships and the  
12 work boats and the buoys and the uncertainties, I doubt very  
13 much that I can make a living there any more.

14                   Why are not considered as the nearest  
15 receptors? When they talk about the nearest receptors, the  
16 nearest people that can hear anything from that quarry, I  
17 fish within 100 yards of the shore there, but they go to the  
18 houses out in Little River.

19                   Am I not human? And I have not heard  
20 yet... I've heard you say not allowed to blast within this  
21 distance of a waterbird, this distance of a whale, this  
22 distance of everything except me.

23                   If I'm there in my boat, nobody has yet  
24 told me how far I have to vacate the area or whether they  
25 are allowed to blast within 100 metres of me. Nobody has

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(Mr. KEMP STANTON)

1 informed me of this yet.

2 And one last word, and I'll give it up.

3 From my point of view, and this came from my grandfather,  
4 and he was a smart man.

5 He said, "You'll come to people all  
6 through your life", he said, "and they're going to be a lot  
7 smarter than you. No doubt." "But", he said, "a smart  
8 person can do anything. A wise person knows whether he  
9 should or not."

10 Thank you.

11 --- Applause

12 THE CHAIRPERSON: Mr. Stanton, you didn't  
13 show your slide. Were you going to show us a slide?

14 Mr. KEMP STANTON: He couldn't bring it  
15 up. Basically what I needed was the map to show where the  
16 buoys were, and it would have...

17 THE CHAIRPERSON: At some later time, if  
18 you have it, maybe you could bring it up and we would  
19 appreciate seeing it or, if it could be... oh, is this it?

20 Mr. KEMP STANTON: Yeah. That is a copy.

21 Mr. BOB MORSCHEs: Doctor, I made those  
22 recently and I put them on a PC to verify that they would  
23 work, and they did there, but on this PC they did not.

24 THE CHAIRPERSON: Well, we have...

25 Mr. BOB MORSCHEs: But you have the hard

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1 copies---

2 THE CHAIRPERSON: That's fine.

3 Mr. BOB MORSCHEs: ---of that.

4 THE CHAIRPERSON: I hadn't looked at it.

5 Mr. BOB MORSCHEs: And that's a  
6 cartographic map there. It's just not a suggestion.

7 THE CHAIRPERSON: All right.

8 Mr. BOB MORSCHEs: All those measurements  
9 are accurate and his buoys are exactly where he normally  
10 places them.

11 THE CHAIRPERSON: All right. Thank you  
12 very much. We'll look those over later.

13 **PARTNERSHIP FOR THE SUSTAINABLE DEVELOPMENT OF DIGBY NECK**  
14 **AND ISLANDS SOCIETY - Mr. KEMP STANTON - QUESTIONS BY THE**  
15 **PANEL:**

16 THE CHAIRPERSON: Mr. Stanton, I have a  
17 couple of questions for you.

18 You've lived in this community all your  
19 life---

20 Mr. KEMP STANTON: Yes.

21 THE CHAIRPERSON: ---and you've fished  
22 here all your life, all your working life.

23 Mr. KEMP STANTON: 95 percent of the  
24 fishing I've done has been within five miles of Whites Cove.

25 THE CHAIRPERSON: Okay. So you're as

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1 familiar with Whites Cove as any other fisherman in this  
2 environment.

3 Mr. KEMP STANTON: The only other person  
4 I know of that knows more is my father, still fishes with me  
5 at 83, and he's fished there all his life.

6 THE CHAIRPERSON: And you said that 80  
7 percent of the traps that you set are set in that general  
8 area around Whites Cove.

9 Mr. KEMP STANTON: You see the outermost  
10 ring on the map that you have, they would be. 80 percent of  
11 them would be in that area.

12 THE CHAIRPERSON: I see. What are the  
13 tidal currents like off Whites Cove? How fast are they  
14 running under the extreme conditions?

15 Mr. KEMP STANTON: The most extreme  
16 conditions---

17 THE CHAIRPERSON: Two knots?

18 Mr. KEMP STANTON: ---three knots.

19 THE CHAIRPERSON: Two to three.

20 Mr. KEMP STANTON: I would think I was  
21 very safe in saying three knots.

22 THE CHAIRPERSON: Okay. And what about  
23 the sea conditions there if you had to characterize the  
24 environment in the broadest sense of the word?

25 You've sat in on all these sessions and

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(QUESTIONS BY THE PANEL)

1 you know we're discussing the weather and the ship arrival  
2 and all of that. If you had to characterize what the  
3 environment would be like, I mean, it's generally a  
4 prevailing wind from the west to the northwest, right, and  
5 then you've got a fast tide.

6 In your words, how would you describe  
7 it?

8 Mr. KEMP STANTON: It's changeable. We  
9 have about 40 words for the different state of the sea, and  
10 they're all there at one time or another.

11 You get a short swell, you get a chop,  
12 you get a long swell. But at Whites Cove itself, about the  
13 only rougher place as far as water goes in that area would  
14 be down at the mouth of Petit Passage because of the tide  
15 coming up over, especially against the wind.

16 It piles up the sea and the sea tends to  
17 break there. Even when there isn't breaking sea in most of  
18 the other areas, the tide piles up and the eddies created by  
19 the tide going around the point pushes back against itself.

20 So it's a confused sea state, at best.

21 THE CHAIRPERSON: I know the word  
22 confused.

23 Now, you get swells coming in from the  
24 Atlantic. They come in around and they actually enter in  
25 and you can feel them coming, can you? That's what I heard

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1 you say, was it?

2 Mr. KEMP STANTON: What comes from the  
3 open Atlantic, usually you don't feel it in a small boat in  
4 that area.

5 It's such a long swell that even on a  
6 day when we call it greasy smooth, you look in on the shore  
7 and the swell is piling up and piling up, but you get no  
8 sensation of moving in your boat because it's so long.

9 THE CHAIRPERSON: That's because it's a  
10 long wavelength.

11 Mr. KEMP STANTON: That's right.

12 THE CHAIRPERSON: I heard you say that  
13 you participated in the CLCs. Did you participate in all of  
14 them or some of them, or what percentage did you participate  
15 in?

16 Mr. KEMP STANTON: I don't really know  
17 how many took place.

18 THE CHAIRPERSON: Half of them, a third  
19 of them?

20 Mr. KEMP STANTON: I would say I took  
21 part in maybe four. If I said four, I may be lying, so I  
22 think I'm safe in saying four.

23 THE CHAIRPERSON: How would you  
24 characterize the process itself? How did it work?

25 You've heard us, again, we're trying to

1 understand how that worked, and I think you're the first  
2 person we've spoken to, aside from the Proponent, who was  
3 actually in the meeting knowingly, that we know that you  
4 were there.

5 How would you characterize it?

6 Mr. KEMP STANTON: It was unfriendly, the  
7 atmosphere from the beginning. You would expect that.

8 But as we... There's a word in all  
9 these documents that just make us unmanageable, and it's  
10 "insignificant". And after about the first 30, 40 times we  
11 heard that word, it became more and more confrontational.

12 THE CHAIRPERSON: How...

13 Mr. KEMP STANTON: It wasn't necessarily  
14 the Proponent, maybe, because every effect that... The  
15 definition of "insignificant" was anything that happened in  
16 the local area, and we just took that as meaning that, well,  
17 if we were in the local area, we were insignificant, too.

18 THE CHAIRPERSON: You mean like in  
19 reference to people's employment or the way they lived,  
20 or...?

21 I don't understand.

22 Mr. KEMP STANTON: Well, nothing of any  
23 historical significance ever took place at Whites Cove.

24 THE CHAIRPERSON: Oh, I see.

25 Mr. KEMP STANTON: We believe that

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(QUESTIONS BY THE PANEL)

1 fishermen and their lives are significant. It was just like  
2 every other fishing village in Nova Scotia. Thousands of  
3 others, as if, well, they're all like. They're just  
4 fishermen.

5                   And from being treated that way all our  
6 lives by many people, especially experts, we may not have  
7 given them enough leeway, but many times when we would ask  
8 for an expert or ask for information, "We will get back to  
9 you on that."

10                   And very seldom did we seem to get the  
11 information, from our point of view.

12                   THE CHAIRPERSON: Was the CLC used as a  
13 way of obtaining traditional knowledge? Did that kind of  
14 give and take on within the CLC?

15                   For example, I've just asked you  
16 questions about the tides and about the swells and about the  
17 sea state and about the productivity. Did that kind of  
18 information get transferred in there?

19                   Mr. KEMP STANTON: None of those  
20 questions were ever asked of me. I can't... Or any other  
21 fisherman while I was at the meetings.

22                   Now, what went on while I wasn't at the  
23 meetings, I can't really comment on. But it would have...  
24 Their attitude seemed to be that if they... Or our attitude  
25 was if they wanted some information, if Bilcon wanted some

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(QUESTIONS BY THE PANEL)

1 information on that area, we aren't dangerous.

2                   They could have come down on the wharf  
3 and talked to a bunch of us fishermen, and they may have got  
4 a little more... Like we may have stretched things a  
5 little bit for them, but they could have got a fairly good  
6 idea of what we thought would go on in the area.

7                   We really don't believe that over a 50-  
8 year period you can bring ships in of that size without  
9 destroying at least one of them.

10                   THE CHAIRPERSON: In document, the  
11 Environmental Impact Statement, there is a section that  
12 deals with the physical environment and the sea and so  
13 forth.

14                   Is there any way of gauging, are you  
15 able to gauge, what the input from traditional knowledge  
16 might be into that section? Somebody contributed,  
17 presumably, but do you have any way of gauging it for us?

18                   Mr. KEMP STANTON: I don't see, really,  
19 very much information there that's specific to the area.

20                   They never went out and put a fine mesh  
21 trap down there and brought it back up and said here's what  
22 lives on the bottom. It's mostly regional, seems to me to  
23 be mostly gathered from regional sources and kind of, well,  
24 that's probably there, or maybe...

25                   You know, we have different tide

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1 conditions, different water temperatures, different  
2 mixtures, and if you're going to have a ship there, and all  
3 this blasting, you should really know exactly what, or  
4 pretty what is there, and in what proportions, because once  
5 you bring one of those ships in and she scours the bottom in  
6 the area, and any contaminants that the copper bothers may  
7 be caused.

8                   There is high levels of copper in the  
9 water in that area. Not prohibitively high, but from what  
10 I... I've done a lot of research since this project, and  
11 copper tends to settle into the bottom sediment, and if  
12 every week you're stirring up that sediment from the bottom,  
13 you may be increasing the concentrations of copper, and from  
14 a simplistic point of view, my point of view, I use copper  
15 paint on the bottom of the boat to kill sea life.

16                   It sounds dangerous to me. Whether it  
17 is or not.

18                   THE CHAIRPERSON: Just a moment. Okay.  
19 I think I've exhausted my questions. Dr. Grant will ask  
20 you some.

21                   Dr. JILL GRANT: Mr. Stanton, you  
22 indicated that you and your father fished these waters off  
23 Whites Cove. Are there other fishermen who fish off this  
24 area, as well?

25                   You indicated that you and your father



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(QUESTIONS BY THE PANEL)

1 fished these waters, and are there other fishermen who are  
2 fishing these waters off Whites Cove?

3 Mr. KEMP STANTON: Yeah. Usually there's  
4 three other boats that fishermen, as intensely probably as I  
5 do.

6 Now, the boats are getting bigger and  
7 they're going further, so probably at no time would most of  
8 them have any more than 45 to 50 percent of their gear in  
9 that area, and they tend to, when lobster is abundant in St.  
10 Mary's Bay, they move the traps around there. When they  
11 thin out there, they move them back into our area.

12 And some of them would be off to the 80,  
13 90 fathom mark, and in the spring they tend to come in 30  
14 fathom or closer, and the lobsters come into within two  
15 fathom of the shore. So it's a fluid situation.

16 Dr. JILL GRANT: Can you give us an idea  
17 of how often you would be checking your traps in those  
18 areas, if you're setting traps in those waters? How  
19 frequently would you be going into the waters to check them?

20 Mr. KEMP STANTON: For the first month of  
21 the season, I would like to be able to do it every day,  
22 weather permitting.

23 After that, the frequency goes down, and  
24 maybe during January I might only get out three times, maybe  
25 four, during January, because that water is so cold that the

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1 lobsters aren't moving, and it isn't worth my while.

2                   It's all a product of how well the  
3 lobsters are moving, how many lobsters there is, when the  
4 water gets warmer and lobsters tend to move on the shore, we  
5 usually haul. More often in the spring, it'll get up to  
6 maybe three times a week, maybe every two days, dependent on  
7 how the fishings go.

8                   Dr. JILL GRANT: If a ship was coming in,  
9 and that delayed you from checking your traps when you  
10 wanted to be checking them fairly often, what would the  
11 implications of that be? What would the effect of delays  
12 for you to be able to get to your traps mean for you?

13                   Mr. KEMP STANTON: As far as the ship  
14 coming in and going out, it's going to disturb me for a  
15 short period of time, and I'll have to move out of the area.

16                   But we only have two hours to two hours  
17 and a half to work on our off-shore traps, and then the tide  
18 push them under. So if it's during that two and a half  
19 hours, I don't get those traps hauled that day.

20                   But if the terminal goes in, and that  
21 stuff goes in, if I was fishing there right now and they put  
22 the terminal there, it would be on top of three or four of  
23 my traps. I'll have to move the traps away from that, so  
24 when the ship comes in eight to nine traps would be  
25 physically covered by the ship and the terminal.

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1                   And so if it comes in from above, if it  
2 comes in from below, it's variable, but it's going to be a  
3 major disturbance, and it makes me move... We have a  
4 system, we can haul traps in one place at one time of tide,  
5 and we can haul traps in another place at another time of  
6 tide, and if when you should be there hauling traps you  
7 can't be, then you don't get them hauled that day.

8                   Dr. JILL GRANT: Thank you.

9                   One of the maps provided by the  
10 Proponent shows sediment, two sediment banks around an area  
11 of boulders, and this is in the area that the ship may be  
12 coming in over.

13                   I wonder whether you think there would  
14 be any effect from the ship coming over those sediment  
15 banks. Is ship turbulence likely to make the bottom turn  
16 up? Is that going to present a problem for fishing in that  
17 area?

18                   Mr. KEMP STANTON: Yes. I don't know, I  
19 researched this as much as I could. In some circumstances,  
20 a prop wash from a ship that's making a violent maneuver can  
21 roll 10-tonne boulders over bottom. That's extreme.

22                   But this area, from the EIS they seem to  
23 think that sand is an unproductive habitat. We find it not  
24 so in the extreme. If I put a trap overboard on bedrock, I  
25 expect to come back in four days and the bait will still be

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(QUESTIONS BY THE PANEL)

1 in that trap. There may be some lobsters in it, but the  
2 bait will still be there.

3                   If I put a trap overboard on sand  
4 bottom, and come back in three hours, the bait is gone.  
5 Something small is there in the sand that can come out of  
6 the sand, eat the bait, and when you hold up the bait bag a  
7 whole lot of these little critters dump out.

8                   The only way I can describe it is I've  
9 heard that in Africa if you took and weighed the weight of  
10 all the mammals you would come up with a weight much less  
11 than if you weighed all the ants in Africa. I think there's  
12 an awful lot of small stuff.

13                   And a lot of this stuff on bottom is not  
14 sand. When it comes up in our gear and in our traps, it's  
15 crushed shell. Maybe it may be laying over sand, but  
16 there's all kinds of shells, razor clams, mussel, anything  
17 at all. It's a veneer over the sand, I would say.

18                   Dr. JILL GRANT: In the Environmental  
19 Impact Statement, it suggests that discussions have been  
20 held with lobster fishermen from this study area. Are you  
21 aware of discussions?

22                   I know you said you did not attend a  
23 meeting. Have the other fishermen in the area been  
24 discussing compensation? Is there something happening  
25 there?

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(QUESTIONS BY THE PANEL)

1                   Mr. KEMP STANTON: I believe that, not  
2 positive, but I believe Roger Tidd, who used to fish from  
3 our village, may have talked with the Proponent. He no  
4 longer owns a lobster license, he's out of the business.

5                   And I believe that those fishermen from  
6 Little River, I can't quite think of his name now, but he  
7 fished urchins, and he lobster fished, and he I think had  
8 long talks with the Proponent.

9                   Dr. JILL GRANT: But you have not  
10 discussed compensation with the Proponent at all, yourself?

11                   Mr. KEMP STANTON: It's hard for us to  
12 even consider compensation, especially yet, because we're  
13 hoping that it doesn't go ahead. But if the Proponent goes  
14 by regulations, he does not have to compensate us for any of  
15 our gear that's lost. Well, my gear especially.

16                   Because in order for us to be  
17 compensated by a tug or anything like that, we have to have  
18 our gear marked with a radar reflector, and unless it is  
19 marked by a radar reflector, it is considered that the boat  
20 that interferes with it may not be able to see it.

21                   So we can claim no compensation unless  
22 we have a radar detector to mark our gear, and it's not  
23 feasible to fish single and double traps on a line because  
24 the buoy that would be needed would drag your traps away.

25                   Dr. GUNTER MUECKE: Yes, you just

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1 mentioned that, and I'd just like to get a bit of context  
2 here, is do you fish with single traps, or you have trawls  
3 of traps?

4 Mr. KEMP STANTON: Probably 80 percent of  
5 what I fish is singles. Maybe 10 percent is doubles, and  
6 another 10 percent, the last 10 percent, I fish on trawls.

7 So it depends on how smooth the bottom  
8 is and how far off you're going to go. A single trap lots  
9 of times will just skid back and forth, and if you put more  
10 on, you have better chance of holding it in one place.

11 Dr. GUNTER MUECKE: So when you put traps  
12 further off shore, where it's perhaps calmer, you put them  
13 on trawls, is that right?

14 Mr. KEMP STANTON: You'd put them on  
15 trawls basically so the tide wouldn't be able to carry them  
16 away, and that they... It isn't, nothing to do with the  
17 smoothness of the surface. It's the bottom they're sitting  
18 on.

19 Dr. GUNTER MUECKE: Yes. Okay.

20 Mr. KEMP STANTON: And it's, fishing with  
21 my father, if I had chosen another crew, I might've put out  
22 a few more trawls, but my father is getting old, he's 83  
23 years old, he fishes with me every day, and I just don't  
24 feel safe using that type of gear.

25 So being an independent fisherman, I can

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1 make that choice, and I can choose to fish where I can take  
2 him with me.

3 Dr. GUNTER MUECKE: I was wondering, have  
4 you ever had any experience with prop wash from large ships  
5 coming into the area that you have laid your trawls?

6 Mr. KEMP STANTON: Not really. I have  
7 seen a 70-foot vessel aground, and seen the absolute...  
8 It's amazing the size rocks that they can roll over when  
9 they try to get off the shore.

10 But far as large ships maneuvering  
11 around our traps, no, we've never had any large ships in  
12 that close among our traps.

13 Dr. GUNTER MUECKE: You have no direct  
14 experience with that. What about other fishermen that you  
15 know, would they have experience with that?

16 Mr. KEMP STANTON: I doubt it very much.  
17 Large ships very, very seldom, on the shore like we have,  
18 ever come... You know, they want to stay off, away from the  
19 shore.

20 If the ship comes in, you must remember  
21 that it is not only that ship. If conditions are poor, I  
22 think probably it may be being assisted or towed by one or  
23 maybe two tugs, and it will be using bow thrusters.

24 There will be extreme amounts of  
25 turbulence if that happens.

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(QUESTIONS BY THE PANEL)

1                   Dr. GUNTER MUECKE: Well, I just want to  
2 get an idea how much of a problem that may be. Do trawls  
3 sometimes get dislodged and tangled?

4                   Mr. KEMP STANTON: Yeah. On full tides,  
5 I don't if you know what I'm talking about, but on full  
6 tides lots of times our traps will be moved along the  
7 bottom, sometimes up to half a mile, if the bottom is fairly  
8 smooth, especially if there's sand. And that's a three-knot  
9 tide.

10                   I would suspect that behind a ship  
11 heavily loaded, trying to leave under control, you may get a  
12 speed of at least 15, 18, 20 knots of water movement behind  
13 it. So it definitely will move traps a fair distance.

14                   Dr. GUNTER MUECKE: I guess but I want to  
15 get an idea of if traps tumble as a result of prop wash,  
16 let's say, how much work is involved in disentangling them?  
17 I've never done it, so I...

18                   Mr. KEMP STANTON: Depends on how many  
19 you get in a bunch. If you get 25 traps wound together,  
20 you're in trouble, especially with a small boat like mine.

21                   If you've got four or five traps, as  
22 long as you haven't got to worry about if you... If I tried  
23 to lift that bunch of traps, and I drifted down on one of  
24 the bigger buoys that had a block of cement on them that I  
25 couldn't lift, I would become entangled in the whole thing,

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1 and I'd lose the whole bunch.

2                   And that's one of our problems, because  
3 these buoys don't exactly stay still, the big ones like they  
4 will have. They have to have quite a bit of slack rope or  
5 slack cable in order to stay at the surface.

6                   So they're going to move, say, 200  
7 yards. In fog conditions, and when I'm setting the gear,  
8 and it goes a little bit further and winds up around that, I  
9 will not get that trap back. Maybe when they pick the buoys  
10 up to do maintenance on them, which may have to happen twice  
11 a year, I might get it back then.

12                   But once you get that buoy spread off  
13 from the other one, then it tends to entangle others in the  
14 close proximity.

15                   Dr. GUNTER MUECKE: Maybe it's not a fair  
16 question, but in terms of lobster catchers, the area that  
17 you're in, how productive is it with respect to lobster  
18 relative to other areas of the coast? Like I said, this may  
19 be not a question you can answer, or would want to answer,  
20 but would you characterize it as particularly rich or  
21 average in terms of lobster catches?

22                   Mr. KEMP STANTON: It's not particularly  
23 rich, but when lobsters get scarce everywhere else it's a  
24 low base line. When lobsters are played out in St. Mary's  
25 Bay, and they aren't getting hardly anything, then bring

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1 them around where we are. And they won't get a lot of  
2 lobster, but they'll get some lobster every day.

3 I'm one of the old-fashioned people. I  
4 stick to one place, and if there's lobster there, I do good.  
5 If there isn't lobster there, I do bad.

6 Dr. GUNTER MUECKE: I very much  
7 appreciate that.

8 Dr. JILL GRANT: One quick question about  
9 the visibility of marine animals from a boat. You're out  
10 there as a fisherman on a regular basis. How technically  
11 feasible do you feel the strategy is that the Proponent  
12 offers for being able to identify marine mammals from a work  
13 boat?

14 Mr. KEMP STANTON: I very much doubt you  
15 would be able to... You might be able to tell that there  
16 was a whale there, on a really clear day, at 2500 metres.

17 Chances of identifying it by species are  
18 almost nil. On average day, without too much swell, and if  
19 you are lucky, you may, some hundred and fifty to a thousand  
20 metres, maybe you might be able to identify by species, but  
21 that's the larger whales. If it was a minke or if it  
22 happened to be a fin whale, you would have almost no chance.  
23 They tend to travel large distances underwater without  
24 being seen from the surface, and they're fast.

25 THE CHAIRPERSON: Mr. Buxton? Oh.

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1 Dr. GUNTER MUECKE: Just one last  
2 question, Mr. Stanton, that I sort of left out.

3 In terms of, you refer to bottom tide  
4 and the habitat of lobster. When you set your traps, do you  
5 have preferred locations where you, from experience, know  
6 that you're going to get a better catch relative to others,  
7 and do you think that is related to the kind of bottom that  
8 you're dealing with?

9 Mr. KEMP STANTON: It's hard to say.  
10 Lobsters are unpredictable, or we'd catch them all in one  
11 year.

12 Sometimes, I think they're feeding on  
13 different things. When a female has eggs or is about to  
14 have eggs, especially in the spring when the water warms up,  
15 she tends to move to the shore. We believe, since a lobster  
16 can't make its own shell material, she may be after mussels  
17 and things like that. That's the way they build new shell  
18 material. They eat other shellfish.

19 When the large females move to the  
20 shore, usually the smaller lobsters move off. They're  
21 terrible cannibals.

22 So this year I can set gear in one place  
23 and do really, really good the first day. Next year, I set  
24 them in the same place and maybe not. It's probably a  
25 function of what the lobster needs at that time, and what

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1 the temperature is at that time.

2 At lower temperatures, I think lobsters  
3 only need to eat about once every month, or once every month  
4 and a half. So they may sit right next to your trap for two  
5 weeks and never go in because they don't need to eat.

6 Dr. GUNTER MUECKE: I get the impression  
7 that finding lobster is an art and not a science.

8 Mr. KEMP STANTON: There's some that are  
9 better at it than others, but there's no guarantees.

10 THE CHAIRPERSON: Mr. Buxton?

11 **PARTNERSHIP FOR THE SUSTAINABLE DEVELOPMENT OF DIGBY NECK**  
12 **AND ISLANDS SOCIETY - Mr. KEMP STANTON - QUESTIONS BY THE**  
13 **PROPONENT:**

14 Mr. PAUL BUXTON: Thank you, Mr.  
15 Chairman.

16 Mr. Stanton, you've talked about  
17 boulders on the bottom and the fine sediment on the bottom  
18 in the area of the terminal. Yesterday, we showed a map  
19 showing the results of the side scan sonar that was done by  
20 Canadian Seabed Research.

21 Do you have any faith in that mapping at  
22 all?

23 Mr. KEMP STANTON: In general, it  
24 probably does give you contours. But I, in the last two  
25 years, I've had three divers overboard in that area to see

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1 what was on the bottom. For this project, especially.

2                   And not being a diver myself, I trusted  
3 what they said when they come up, and they said it was  
4 boulders.

5                   Mr. PAUL BUXTON: The side scan sonar  
6 that was done, if you had thought that that was wrong, why  
7 didn't you ask the question to the people that did the work  
8 that were here yesterday? You were here yesterday?

9                   Mr. KEMP STANTON: Yeah, but I only  
10 usually get one question, and I have to use it  
11 strategically. You get to ask several questions and make  
12 several comments, but I'm limited. I only get one crack at  
13 the can.

14 --- Applause

15                   Mr. PAUL BUXTON: Talking about CLC  
16 Minutes, because it leads to another... Or CLC Meetings,  
17 because it leads to another subject, you in fact attended  
18 two meetings, one where ballast water was discussed, and one  
19 where the archaeologist was present, and you noted that.

20                   I'm just wondering whether you still are  
21 of the opinion that there was a village at Whites Cove?

22                   Mr. KEMP STANTON: Yes. I'm of that  
23 opinion because my uncle was a Hersey, Clarence Hersey, and  
24 he was born at Whites Cove, and he told me, and his daughter  
25 told me, that his grandmother was buried at Whites Cove, and

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1 that there were crosses at Whites Cove, white crosses.

2 Now, I don't know whether there was, but  
3 being my relatives, and having no special reason to lie to  
4 me, I believed them when they said yes, there was a village  
5 at Whites Cove.

6 Mr. PAUL BUXTON: But isn't it  
7 interesting that the archaeologist found no evidence, an  
8 historian who is the Chair of the History Department at  
9 Acadia University found no evidence, there's no evidence in  
10 the Deeds. We have identified the Hersey house, and it's  
11 clearly set out in our documents.

12 But I'm puzzled as to where the evidence  
13 comes from, since it doesn't exist anywhere in the records.

14 Mr. KEMP STANTON: I would say it's  
15 totally traditional knowledge.

16 Mr. PAUL BUXTON: Thank you. Are you  
17 aware that the archaeologist does not act under instructions  
18 from Bilcon, but in fact is permitted, and all his  
19 instructions are received from Nova Scotia Museum, and his  
20 report goes to Nova Scotia Museum and not to Bilcon, and  
21 that that report was accepted by Nova Scotia Museum?

22 Mr. KEMP STANTON: I don't know what  
23 criteria the Nova Scotia Museum uses, but the report that I  
24 seen in your EIS said that a certain site was a garbage  
25 dump. In the 1960s, I was in that building. It was a

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1 cottage owned by Dickinson, Reverend Dickinson. He had a  
2 building named after him in the university in Halifax. And  
3 I burned my hand on that stove.

4 And when I told your archaeologist about  
5 that, he said, "Yes, too bad". That was the only comment I  
6 got. And I don't know, they may have included that in the  
7 report afterwards, but if it wasn't included, then your  
8 report that's in Halifax isn't accurate.

9 Mr. PAUL BUXTON: Are you still convinced  
10 that there's 50,000 pounds of blasting powder in the, or  
11 blasting agent in the first blast, or is that the figure  
12 that is painted on the building next door to Bilcon's  
13 office?

14 Mr. KEMP STANTON: Yes, that's my  
15 building, and I went through the material twice, and I asked  
16 three other people, including a mining engineer, Mr. Mahtab,  
17 and he looked at the material and he assured me I was  
18 correct.

19 So if I'm wrong, I'm wrong. But I  
20 thought you put in for a blasting permit, and that's where I  
21 derived the material from. I may have misinterpreted it,  
22 and if I did, tell me.

23 Mr. PAUL BUXTON: Well, the math is  
24 fairly simple. There were 56 blast holds, and there's 45  
25 pounds per hole. And I'm not a terribly good mathematician,

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1 but that's 2520 pounds, give or take. Certainly isn't  
2 50,000. So maybe you could correct your building.

3                   On a more I think important note, I want  
4 to come back to the meeting that Bilcon held with the  
5 fishermen to get their traditional knowledge and to discuss  
6 the boat coming in.

7                   You recall the evening because you say  
8 that you sat out in the car, but you say there were no  
9 fishermen in our office.

10                   Mr. KEMP STANTON: Ms. Herron come out,  
11 and I asked her when the fishermen would arrive, and she  
12 informed me that they would not be there; they had called  
13 in, and because of the storm or because of some reason they  
14 wouldn't be there. She brought me out some sandwiches. She  
15 said, "If you would like to come in, you can". I said, "Is  
16 there any other fishermen in there?" She told me no, so I  
17 did not.

18                   Mr. PAUL BUXTON: Well, would it surprise  
19 you if I told you that Roger Tidd was there, and Bruce, I  
20 think it's Bruce Therriault, and I can't remember the name  
21 of the third fisherman. Would it surprise you if I said  
22 that they were there?

23                   Mr. KEMP STANTON: It would surprise me  
24 if you said they were there while I was there, because I  
25 went and looked in the door and I didn't see anybody.

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1                   Mr. PAUL BUXTON: Well, it's very  
2 interesting, because we have minutes of that meeting, as we  
3 have minutes of every meeting that was held with anybody,  
4 including minutes of the CLC on our record here, and I can  
5 assure you that there were fishermen there.

6                   And in fact, a result of the meeting  
7 with the fishermen that attended the meetings, that fish in  
8 Whites Cove, resulted in the little arrangements that we  
9 made by increasing the diameter of the ships' turning circle  
10 as it came into dock, which is clearly in the Environmental  
11 Impact Statement. That was not made up or devised; it came  
12 from information from the fishermen that we consulted that  
13 fish in Whites Cove.

14                   Mr. KEMP STANTON: I can't argue with  
15 you. I have no knowledge of it. If Ms. Herron would have  
16 told me that there were other fishermen in the premises, I  
17 would have felt comfortable enough to go in, but I've met  
18 you on other occasions, and I was... I guess I may have  
19 been on your property. I was asked to leave. I left. I  
20 went to the Matabus Scott property. I was told to leave  
21 there.

22                   When I went to the middle of the  
23 right-of-way to the highway, you screamed at me, and told me  
24 to leave. Leave, or you would call the police. So I stood  
25 in the middle of the road and told you to call the police,

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1 and I am not comfortable with being screamed at. I really  
2 am not. I do not believe I've ever screamed at you.

3 Mr. PAUL BUXTON: We seem to have  
4 different memory tracks, Mr. Stanton.

5 However, I have a more substantive  
6 question. Do fishermen set their traps, and the lobster  
7 fishermen, specifically, set their traps in the fishing  
8 lanes? Sorry, I'll correct that. In the shipping lanes?

9 Mr. KEMP STANTON: I believe some of them  
10 do, yes. It probably is true to a certain extent. There is  
11 a certain amount of gear that you can afford to risk, and  
12 some people are more risk-prone than others, but if you put  
13 gear in a place like the shipping lanes where you expect a  
14 ship to be moving through in a straight direction is one  
15 thing; if there's a possibility of a ship coming in, turning  
16 possibly with the assistance of tugs, which... It's  
17 another.

18 Mr. PAUL BUXTON: Do fishermen set their  
19 lobster traps, lobster fishermen set their lobster traps in  
20 the track which the Princess of Acadia takes on every single  
21 voyage?

22 Mr. KEMP STANTON: I would suspect that  
23 some of their gear is there. I have no knowledge. I don't  
24 fish up that far. That's a different fishing district than  
25 I fish in.

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1                   Like I say, I don't know what  
2 arrangement they may have with the Princess of Acadia as far  
3 as compensation. I don't know what their risk, their  
4 toleration for risk is. I doubt if they would be people  
5 like me that fish their gear in such a concentrated area. I  
6 am just a local fisherman. I do not have a big boat. I  
7 don't have the capacity to travel far.

8                   Mr. PAUL BUXTON: Yes, thank you. Where  
9 could you fish? I understand that you're a traditional  
10 fisherman in Whites Cove, and I understand that you've  
11 always fished there, but where could you fish? Could you  
12 give us the extent of the area which is covered by the  
13 license which you hold?

14                   Mr. KEMP STANTON: The license covers  
15 from Gulliver's Cove down to somewhere around Shelburne.  
16 With a 35-foot boat and fishing in winter months, it would  
17 just be unacceptable, foolish and you know, I wouldn't risk  
18 my father's life, you know, on a trip that far in the  
19 winter, in a small boat like that.

20                   Mr. PAUL BUXTON: I wasn't suggesting  
21 that you should. I was just trying to get the extent of the  
22 licensed area. So it's from Shelburne all the way around to  
23 Centreville. How many miles of coast might that be?

24                   Mr. KEMP STANTON: Have no idea. My  
25 father, my grandfather, my great-grandfather and me have

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1 fished that same stretch of shore, five miles long and about  
2 a mile, a mile and a half out, and I see no reason to leave  
3 my home and my area, because you want rock.

4 --- Applause

5                   Mr. PAUL BUXTON: This is a little more,  
6 a little bit more complex, but bear with me if you can.

7                   Given the fact that the ground fishery  
8 certainly in this area is in fairly poor shape, I think you  
9 could say, and certainly some difficulty with scallop  
10 fishing of late, as a fisherman, do you know the ecosystem  
11 sufficiently well to be sure that fishing activities over  
12 the long term do not cause irreversible damage?

13                   Mr. KEMP STANTON: Some types of fishing  
14 activities do cause irreversible damage. It's no doubt.  
15 The damage that is irreversible is miniscule. The damage  
16 that is fairly long term from dragging is reversible.

17                   I have been pleasantly surprised that  
18 our ecosystem has withstood what we have done to it, and  
19 what has been done to it, and the pollutants that's been put  
20 in it, but in my opinion, it can't withstand too awful much  
21 more, and I have been trying through the fishery groups to  
22 convince people to fish less traps, do things the correct...

23                   I think if we give the ecosystem a  
24 reasonable chance, and do away with most types of dragging  
25 in some areas, it has a very good chance of coming back to

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1 70 to 80 of what it was within maybe two or three decades.

2 Mr. PAUL BUXTON: Yes, thank you very  
3 much. I'm certainly no expert on the subject, but I do note  
4 that the Sierra Club feels that bottom-dragging is certainly  
5 irreversible damage, and in fact, went to the Supreme Court  
6 of Canada to try to have bottom-dragging stopped.

7 But I have no further questions, Mr.  
8 Chair. Thank you.

9 THE CHAIRPERSON: Ms. Grant is going to  
10 ask you another question.

11 Dr. JILL GRANT: Actually it's a  
12 question for Mr. Buxton.

13 You raised the questions around the  
14 archeology on the site. I wonder is your archeologist going  
15 to be here on the socioeconomic day?

16 Mr. PAUL BUXTON: We hadn't planned on it  
17 because no comments were received, I think, by anybody on  
18 archeological issues, and the archeological report was  
19 accepted by Nova Scotia Museum three years ago. So if you  
20 feel that... We could try and contact him, if you feel that  
21 that's important, but the report itself has been on record  
22 for a long time, and essentially, it isn't our report.

23 It's Nova Scotia Museum's report, and  
24 is, you know, a product of his work to Nova Scotia Museum.  
25 We paid for it, of course, but we have nothing to do with

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1 the extent or the quality of the work. That's set out by  
2 Nova Scotia Museum.

3 Dr. JILL GRANT: My understanding is that  
4 the report has to be presented to the Museum, but that  
5 doesn't necessarily make it the Museum's report, and I  
6 certainly stand to be corrected on that, but we had asked  
7 for an updated CV for the archeologist. The one that we  
8 have is dated from 1991, and so we had asked for some  
9 updates so we could see what experience the archeologist has  
10 in Nova Scotia archeology.

11 Are you able to provide something that  
12 is more recent than 1991?

13 Mr. PAUL BUXTON: That has been provided,  
14 I am told.

15 Dr. JILL GRANT: Well, respect, the one  
16 that we have, the most recent entry in it is from 1991,  
17 so...

18 Mr. PAUL BUXTON: We'll certainly check  
19 on that. Certainly, we requested that from the archeologist  
20 and it was my understanding that we had it, but we'll  
21 certainly check it.

22 THE CHAIRPERSON: Okay. Any questions  
23 from the audience?

24 Mr. BOB MORSCHEs: Doctor, I assisted...  
25 Oh, I'm sorry. I thought---

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PARTN. FOR THE SUSTAINABLE DVLP. OF DIGBY NECK AND ISLANDS  
(QUESTIONS BY THE PROPONENT)

1 THE CHAIRPERSON: No, no, that's fine.

2 Mr. BOB MORSCHEs: ---you waved to me.

3 THE CHAIRPERSON: Yeah.

4 Mr. BOB MORSCHEs: I assisted Mr. Stanton  
5 with his presentation, and I'm sorry that this computer  
6 didn't accept it.

7 I do have the displays that you have,  
8 the Exhibits, which I would be glad to go ahead and give  
9 them to Mr. Buxton if he so needs them, which demonstrates  
10 the amount of sea life that's in that area.

11 And the important thing there is the  
12 cartographic rendering that I did of the shipping lane, and  
13 the buoy layout, not only for Bilcon but also of what Mr.  
14 Stanton has. It's a cartographic transfer of a general map  
15 that they have in their EIS that I put on a Canadian map,  
16 and put the exact locations for all the buoys and the  
17 shipping lane.

18 THE CHAIRPERSON: If you give that  
19 information to the Secretariat, then it will go into the  
20 Public Record, and everyone has access to it.

21 Mr. BOB MORSCHEs: Aye, sir.

22 THE CHAIRPERSON: Thank you. Could I  
23 line you up again? It just makes it easier for us to see  
24 what the activities are. And Mr. Stanton, we'll do our best  
25 to get more than one question for the group. I mean, we've

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(QUESTIONS BY THE PUBLIC)

1 just been pressed for time. That's the only limitation.

2 PARTNERSHIP FOR THE SUSTAINABLE DEVELOPMENT OF DIGBY NECK  
3 AND ISLAND SOCIETY - Mr. KEMP STANTON - QUESTIONS FROM THE  
4 PUBLIC:

5 Ms. JUDY PEACH: Yeah. I would just ask  
6 Mr. Stanton what he would consider a village, because I  
7 think there might be a little bit of difference between a  
8 local definition, and a maybe regional definition.

9 Mr. KEMP STANTON: As far as I can find  
10 out, there probably at one time would have been no more than  
11 six families there. Now, in that period, I don't know how  
12 many people would live in one house. Probably more than  
13 nowadays, but it wasn't just one dwelling, as I understand  
14 it.

15 THE CHAIRPERSON: Thank you.

16 Mr. BOB MORSCHEs: Just a point of  
17 clarification regarding something that Paul Buxton said;  
18 that the suit, the dragging suit was an action taken by  
19 Ecology Action Centre, and the Sierra Legal Defence Fund  
20 Canada, and the Sierra Legal Defence Fund Canada and the  
21 Sierra Club of Canada have nothing to do with each other. I  
22 mean, they're not the same organization, even though we do  
23 do things with them on occasion.

24 THE CHAIRPERSON: Thank you. That  
25 clarifies that for us. Any other questions? Please come

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PARTN. FOR THE SUSTAINABLE DVLP.OF DIGBY NECK AND ISLANDS  
(QUESTIONS BY THE PUBLIC)

1 forward. Miss Peach, I believe, is it?

2 Ms. NORA PEACH: Nora, Nora Peach.

3 THE CHAIRPERSON: Nora Peach. Yes?

4 Ms. NORA PEACH: Yeah. A few years ago,  
5 I helped with a study of the White Cove area, and did a  
6 lot... Two of us worked on the deeds, and it seems to me we  
7 found quite a lot of evidence that there were people settled  
8 there. I don't know if it was year round, but they had  
9 houses, they had property, they had animals, they had a  
10 field and so on to keep animals, and they had boats and so  
11 on.

12 So there's quite a lot of evidence in  
13 the deeds, so that's something I could... I could bring  
14 some of that for you, and maps and...

15 THE CHAIRPERSON: If you have it, that  
16 would be good.

17 Ms. NORA PEACH: But if you're not  
18 interested. I don't know whether---

19 THE CHAIRPERSON: No, no.

20 Ms. NORA PEACH: ---this is still part of  
21 your...

22 THE CHAIRPERSON: No, that would be  
23 interesting. It would be just anoth-...

24 Ms. NORA PEACH: It makes it simpler  
25 without this study, but...

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PARTN. FOR THE SUSTAINABLE DVLP.OF DIGBY NECK AND ISLANDS  
(QUESTIONS BY THE PUBLIC)

1 THE CHAIRPERSON: If you could just give  
2 it to the Secretariat when you have it,---

3 Ms. NORA PEACH: Okay.

4 THE CHAIRPERSON: ---that would be fine.

5 Ms. NORA PEACH: Right.

6 THE CHAIRPERSON: Thank you very much.  
7 Others? It would appear not.

8 Okay, then, Mr. Buxton, everybody, we're  
9 all... Okay, this brings this session to an end. We'll see  
10 you tomorrow at 9:00. Thank you all. Thank you, Mr.  
11 Stanton.

12 --- Whereupon the matter was adjourned at 5:15 p.m. to  
13 resume on Friday, June 22, 2007, at 9:00 a.m.