

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Monday, June 20, 2022. at 9:30 a.m.

VOLUME 33

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1 Arbitration Place Virtual

2 --- Upon resuming on Monday, June 20, 2022 at
3 9:30 a.m.

4 MR. LEWIS: Good morning,
5 Commissioner, Counsel, Dr. Uzarowski. I would
6 like to proceed first with the land
7 acknowledgement.

8 I would like to open this week
9 of hearings by acknowledging that the City of
10 Hamilton is situated upon the traditional
11 territories of the Erie, Neutral, Huron-Wendat,
12 Haudenosaunee and Mississaugas. This land is
13 covered by the Dish With One Spoon Wampum Belt
14 Covenant which was an agreement between the
15 Haudenosaunee and Anishinaabek to share and care
16 for the resources around the Great Lakes. We
17 further acknowledge that the land on which
18 Hamilton sits is covered by the Between The Lakes
19 purchase 1792 between the Crown and the
20 Mississaugas of the Credit First Nation.

21 Many counsel appearing today
22 at this hearing are located in Toronto, which is
23 on the traditional land of the Huron-Wendat, the
24 Seneca, and most recently the Mississaugas of the
25 Credit River. Today this meeting place is still

1 home to many indigenous people from across Turtle
2 Island and I'm grateful to have the opportunity to
3 work on this land.

4 Just remind Dr. Uzarowski that
5 he remains under oath at this time.

6 DR. LUDOMIR UZAROWSKI; previously affirmed
7 EXAMINATION BY MR. LEWIS (cont'd):

8 Q. When we left off on
9 Thursday we had previously talked, Dr. Uzarowski,
10 about your communications in May 2016 with Leonard
11 Taylor at Tradewind, and specifically you -- there
12 was a note of yours dated May 26th, 2016 which
13 stated just Hamilton Leonard Taylor. Do you
14 recall that discussion?

15 A. Yes, I do.

16 Q. And then you also
17 indicated that there was another note on that
18 date, May 26, 2016, which stated Hamilton, and I
19 advised everyone that there wasn't any note in the
20 productions that we were aware of, and then
21 afterwards counsel for Golder produced a couple of
22 pages from your notebooks containing both those
23 notes from May 26th, the second of which I
24 understand was inadvertently overlooked.

25 So, Registrar, if you could go

1 to -- there should be a three-page PDF I believe
2 was sent to you on Friday with note pages in it
3 titled "May 26, 2016 Dr. Uzarowski notes." If you
4 could go to the second image, please. I think
5 this was the note that we had in front of us that
6 you referred to last week, is that right, the
7 May 26, 2016 referring to Hamilton Leonard Taylor?

8 A. Correct.

9 Q. And if you go to the
10 third image, Registrar. And this has this
11 indication of Hamilton, and is that from the same
12 day?

13 A. Yes, it is.

14 Q. And is that what you were
15 referring to in your evidence last week?

16 A. Yes, it is.

17 Q. Do you recall what it
18 refers to?

19 A. In the previous note what
20 it showed was number 11, Hamilton Leonard Taylor,
21 so it was on my list of things to do. And this
22 one was without number, so I think I talked to
23 Leonard Taylor and then just took a note Hamilton.
24 So I talked to him and I passed the result of this
25 conversation to Hamilton.

1 Q. And the result of that
2 conversation was what, that you passed on, and to
3 whom?

4 A. That was Mr. Gary Moore.
5 It was just basically the same as -- there is no
6 clear correlation between the two methods of
7 friction testing.

8 MR. LEWIS: Registrar, if we
9 could make that exhibit.

10 And, Commissioner, I believe
11 that would be number 82.

12 THE REGISTRAR: Noted,
13 Counsel, thank you.

14 EXHIBIT NO. 82: Handwritten
15 notes dated September 9, 2015
16 to January 31, 2017

17 BY MR. LEWIS:

18 Q. Now, jumping forward, if
19 we could take that down and go to overview
20 document 8, image 62. We had left off in December
21 of 2017 and communications about the PSV testing
22 and getting the results and getting it off to
23 Ireland and so the forth.

24 So January -- if we look at
25 this page beginning at 165. On January 22nd, 2018

1 you received an e-mail from David Hein at Applied
2 Research Associates, also known as ARA, with the
3 subject line "Red Hill Valley Parkway friction
4 problem," and he wrote:

5 "Next time you need friction
6 testing on RHVP, let me know.
7 We have an ASTM Brakeforce
8 trailer in the Toronto area
9 every year to do testing. Hot
10 in-place recycling technology
11 'new' not even remotely as
12 Warren/Taisei was doing HIP in
13 the Ontario in the 80s, almost
14 40 years ago."

15 And then you replied in
16 paragraph 66:

17 "Thanks for letting me know.
18 If I need it I will let you
19 know. I agree HIP is not new.
20 Who said it is new? I was
21 involved in it while working
22 for JEGEL. In the 90s Ontario
23 gave up on it and Crupi sent
24 the last HIP train to the US.
25 The technology has

1 significantly improved since
2 then."

3 And so there's nothing that
4 indicates in Mr. Hein's initial e-mail indicating
5 why he sent it. Do you recall any discussions
6 with him that prompted his e-mail on January 22nd,
7 2018?

8 A. No, I don't. I think it
9 was only e-mail exchange.

10 Q. So the e-mail from him
11 was your first contact with him on this topic?

12 A. On this topic at that
13 time, yes.

14 Q. You know Mr. Hein
15 professionally, or you knew him?

16 A. I know him very well. We
17 worked together for John Emery Geotechnical and
18 then we met at conferences and talk, yes.

19 Q. So do you know where this
20 e-mail initiated by -- this e-mail exchange
21 initiated by Mr. Hein, where that came from, why
22 he e-mailed you about this?

23 A. No, I don't. I can only
24 speculate that he must've talked to the City. No,
25 I don't.

1 Q. You don't know that, but
2 you assume that that's the case since you hadn't
3 told him about this; is that fair?

4 A. That's correct, fair.

5 Q. Okay. And his title is
6 "Red Hill Valley friction problem." Had you had
7 any discussions with him about a friction problem
8 on the Red Hill?

9 A. No, I didn't.

10 Q. Was Mr. Hein and ARA
11 working for the City at the time in 2018, do you
12 know?

13 A. No, I didn't. I assume
14 he did but I was not aware.

15 Q. Okay. Then Mr. Hein
16 replied to you that afternoon, this is in
17 paragraph 167, enclosing a link to an article in
18 the Spectator dated January 15th, 2018, titled
19 "Scratching the Surface For Answers on Red Hill
20 Paving." And then he says, "Here is the link to
21 the article. Not very well written."

22 Take that down, Registrar,
23 please. And then you replied in 168, "Thanks,
24 Dave, I haven't seen it."

25 Were you aware of -- you said

1 you weren't. Had you not read it at that point,
2 that article?

3 A. No, I wasn't aware of it.

4 Q. It sounds like -- he
5 says here is the link to the article. It sounds
6 like you had some discussion with it. He says
7 here's link to the article.

8 A. No, I didn't but this is
9 the way that typically Dave Hein communicates.
10 His sentences are always very short, so....

11 Q. And then if we could go
12 to the next page, Registrar. The article itself
13 is excerpted at the next page. But in the
14 fifth-last paragraph on the first of the two pages
15 there's a reference to a fatal collision,
16 referring to their daughter and stepdaughter
17 Jordyn Hastings died in a crossover crash on the
18 parkway on May 5th, 2015, alongside with her best
19 friend Olivia Smosarski. Both girls were 19. At
20 that time were you aware of those fatalities
21 before reading this article?

22 A. No, I wasn't.

23 Q. Or of any others on the
24 Red Hill?

25 A. No, no, I was not.

1 Q. If we could go to
2 image 66, Registrar. And at paragraph 181 you --
3 it's an indication that you received an indication
4 from Mr. Ward that the PSV, this was 45, and that
5 the report from the lab in Ireland would follow
6 shortly and then he e-mailed the report to you
7 approximately 20 minutes later.

8 So you received the results.
9 Do you recall what your reaction was at the time
10 to those results?

11 A. My reaction. I thought
12 it was probably lower than I anticipated, and then
13 I was looking for how to classify this thing and I
14 found that basically it was average or medium.

15 Q. Okay. And when you say
16 you were looking for how to classify it, what do
17 you mean? Do you mean you looked at some source
18 materials?

19 A. Yeah, I look at some
20 technical papers. I know that I found an old
21 paper written by Dr. John Emery where he compared
22 different aggregates, I think limestone, trap rock
23 and steel slag, and he classified this value of
24 45S medium.

25 Q. And is that what you did

1 at the time when you received it or very shortly
2 after, or is that something you did at a later
3 date?

4 A. I don't remember exactly
5 on what day because I think it was between the
6 time that I received it and between the date of
7 the meeting with the City of Hamilton. When I
8 reported that that was medium.

9 Q. Okay. We'll come back to
10 that article later. It's also -- that article is
11 referenced in -- finally in your February 28th,
12 2019 pavement evaluation report; is that right?

13 A. Yes, it is.

14 Q. Under that you thought --
15 you said that you thought the results were lower
16 than you were expecting?

17 A. Yeah, because I knew that
18 this aggregate was on the DSM list so -- but, you
19 know, it is what it is. So, you know, my point
20 was then what to do with it.

21 Q. Right. And did you have
22 a view of the implications at that time?

23 A. It was probably somewhere
24 around, as I said, between this day and the
25 meeting that I was thinking of what to do with the

1 aggregate, if it was used for hot in-place
2 recycling, so in my opinion 45 would not be
3 sufficient.

4 Q. Right. And then I
5 understand that you attended a meeting with the
6 City on February 23rd, 2018 at which you gave a
7 presentation relating to, again, new asphalt
8 specification for the City; is that right?

9 A. Yes.

10 Q. If we could go to
11 image 67, the next page. And at paragraphs 186 to
12 187 -- but on February 21st Mr. Moore sent a
13 calendar invitation to you and Claudio Leon for a
14 meeting on February 23rd that was scheduled prior
15 to a presentation you were giving to the City that
16 same day to discuss new asphalt specifications,
17 and then you e-mailed Mr. Moore on February 22nd
18 requesting a meeting that day to discuss RHVP and
19 other aspects and then the meeting was arranged.

20 So do you recall, were there
21 two different meetings on February 23rd, or a
22 presentation and then a meeting?

23 A. No, I think it was only
24 that -- or a meeting or whatever. When I gave the
25 presentation to the audience and that was only

1 one, and then we -- you know, after that there was
2 a group of engineers -- or people that left and we
3 talk about hot in-place recycling and other
4 aspect. No, I don't recall other.

5 Q. Sorry, so you don't
6 recall what?

7 A. I don't recall other
8 meeting. I think it was the only one.

9 Q. Okay. Sort of a
10 continuation of the -- you did your presentation
11 and then there was a continuation of it?

12 A. Yes, so -- yes.

13 Q. I think later Mr. Becke
14 refers to it as a side meeting?

15 A. Yeah, like sort of side
16 meeting. So the majority of the people that
17 attended my presentation left and there was a
18 group of people -- small group of people that Mike
19 called -- Mr. Becke called a side meeting.

20 Q. And do you recall who was
21 at -- just call it the side meeting or the second
22 meeting, it doesn't really matter -- do you recall
23 who was there?

24 A. I -- you know, it's
25 possible that there were more people than I

1 remember, but I think who was there. Definitely
2 Mr. Mike Becke, Marco Oddi, Tyler Renaud, myself.
3 I know this four were definitely there. It's
4 possible that there were maybe one or two more
5 people, but I'm positive this -- there were at
6 least this four of us.

7 Q. What about Mr. Moore?
8 You had been communicating with him about the
9 presentation. Do you recall if he remained for
10 the side meeting?

11 A. No, he didn't.

12 Q. He left with everyone
13 else?

14 A. He left with whatever,
15 crowd.

16 Q. So then what was the
17 topic of this meeting?

18 A. Of the side -- the side
19 meeting?

20 Q. The side meeting, yeah.

21 A. It was basically just
22 like conversation about the concerns with -- or
23 concerns -- like the opinions about using hot
24 in-place recycling on the Red Hill Valley Parkway,
25 and I think at the end I also said about --

1 express my -- or provided my recommendation for
2 doing shot blasting or blasting or skidabrading.
3 I don't remember exactly what I said for --
4 friction.

5 Q. And so first on the
6 discussion about the hot in-place recycling and
7 opinions about it, what were the opinions that
8 were expressed?

9 A. They were concerned.
10 They were concerned. In particular I think
11 Mr. Tyler Renaud, he -- because he was more
12 asphalt mix person; he was quality control. So he
13 express his concerns. I expressed mine. So
14 overall there was significant concern about using
15 hot in-place recycling on this high speed main
16 road of the city.

17 Q. What was the concern that
18 you expressed and then what was the concern that
19 Mr. Renaud expressed?

20 A. So there was -- it's like
21 hot in-place recycling of SMA. SMA -- I don't
22 know whether I -- on that day I said about the
23 specification. I know later on I stated that
24 newly muni and -- municipal and provincial
25 specification did not -- I don't remember that

1 day. But it was a concern. And, you know, hot
2 in-place recycling of SMA mix that is -- has got
3 graded -- gradation and very high asphalt cement
4 content and has fibre, hot in-place recycling,
5 this mix, and converting it to dense graded mix,
6 that that would be a significant change from that
7 technical point of view.

8 Q. Sorry, was that what you
9 expressed or what Mr. Renaud expressed?

10 A. I think we agreed both
11 with them. Like, you know, I -- probably I said
12 and he agreed, he confirmed my concerns. He
13 understood the SMA mix characteristics, what it
14 was. So like I think I was probably -- I was
15 probably the first one said, but he agreed with me
16 and he shared my concerns from the technical point
17 of view.

18 Q. And I think you said that
19 you weren't sure if it was at this or later
20 meeting, and you referred to the OPSS documents.
21 Are you talking about the MTO and municipal OPSS
22 documents excluding SMA from hot in-place
23 recycling?

24 A. Yes.

25 Q. But you're not -- am I

1 correct, you're not sure if that was something
2 that was discussed at this meeting in particular?

3 A. No, I'm not sure. I know
4 later on I use it but at that meeting I'm not
5 sure.

6 Q. What about the polished
7 stone value results, because you had just said
8 that after getting -- at some point between
9 receiving the results and the later meeting that
10 you said thought that those results were too low
11 for hot in-place recycling. Is that something you
12 discussed at this meeting?

13 A. I don't recall. I'm not
14 sure.

15 Q. All right. And then you
16 said that you provided your recommendations and
17 you said you weren't sure exactly what it was, but
18 can you come back to that and tell me what you
19 think you said and what the reaction was?

20 A. I don't remember exactly
21 what I said, but it was shortly after that meeting
22 that I receive from Dave Hein so I knew about the
23 article and the fatality, so I just said that
24 it -- you know, I think like I recommended using
25 shot blasting as a quick and simple alternative

1 for friction -- friction improvement of the Red
2 Hill Valley Parkway.

3 Q. Did you mean in concert
4 with or after hot in-place recycling, or do you
5 mean in the interim prior to the pavement
6 rehabilitation taking place?

7 A. No, definitely prior to,
8 not....

9 Q. Do you recall what, if
10 any, reaction there was to your suggestion?

11 A. I think it's -- this is
12 probably the first time that I was informed that
13 the City couldn't do it because that would confirm
14 that there was a problem with the Red Hill Valley
15 Parkway and the public would blame the City. I
16 think that was the first time that I heard this.

17 Q. Do you recall who said
18 that?

19 A. I think it was Marco,
20 Mr. Marco Oddi. I know that over three meetings
21 he said this thing three times to me and once
22 Mr. Becke confirmed, but I think at that meeting
23 was probably Mr. Oddi.

24 Q. And to make sure I
25 understand that, what you believe was Mr. Oddi

1 said that the City could not take measures to
2 improve the friction because it would confirm
3 there was a problem on the Red Hill Valley Parkway
4 and the public would -- sorry, was it blame the
5 City?

6 A. Yes, would blame -- you
7 know, I don't remember the words exactly, but the
8 sense was like this, if we do anything that would
9 confirm that there was a problem that the City
10 would be blamed for this.

11 Q. Do you recall anything
12 else from that meeting?

13 A. No, no, I don't. I think
14 it was important, the discussion, but no, I don't
15 remember anything else, no. No.

16 Q. If we could move to
17 images 69 and 70, Registrar.

18 And so in paragraph 192 on
19 image 69, on February 28th, 2018 Mr. Becke
20 circulated a calendar invitation for a meeting
21 that ultimately took place on March 9, 2018, with
22 the subject line "Meeting to discuss rehab
23 strategy for RHVP - 2019."

24 And in paragraph 192 the
25 requested attendees are listed, which include

1 Mr. Oddi, Dennis Perusin, Mr. Andoga, Ms. Jacob,
2 you, Mr. Leon, Mr. Vala and Mr. Renaud. And he
3 indicates:

4 "Further to the presentation
5 on Friday, (thanks Ludomir),
6 we had a side discussion
7 afterwards regarding hot
8 in-place on the RHVP. It
9 sounds like there will be some
10 challenges with this approach
11 that we need to discuss moving
12 forward."

13 And then he asks for
14 availability. And then you respond in 193.

15 And if you could pull that up,
16 Registrar. First you indicate that you:

17 "As discussed and requested
18 after Friday's presentation, I
19 contacted Pat Wiley, the
20 president of EcoPave Asphalt
21 Recycling Inc. Pat does a lot
22 of HIR in BC and will likely
23 be doing some HIR for MTO in
24 the Thunder Bay area this
25 year. Pat has never done HIR

1 recycling of SMA and thinks
2 this is perhaps not feasible.
3 He has referenced the MTO
4 guidelines that do not allow
5 HIR of SMA. I have included
6 below the statements from the
7 MTO June 2015 guidelines on
8 HIR for your information."
9 And then is that next
10 paragraph and the one after that, those are taken
11 from the MTO guidelines. Do I understand that
12 correctly?

13 A. Yes, yes, they are.

14 Q. Okay. And so what was
15 your prior discussion with Mr. Wiley that you
16 referred to?

17 A. So I knew Pat Wiley, so
18 my intention was to talk to him about using
19 recycling SMA, this particular mix, on the Red
20 Hill Valley Parkway. He was -- because that
21 was -- we shared the concerns during this previous
22 additional conversation, additional meeting, or
23 side meeting, so I wanted to know his opinion
24 because he has a lot of experience. So I wanted
25 to know his opinion about this.

1 Q. I see. Okay. And if you
2 can take that down, Registrar, and just go back
3 one image to 191 -- sorry, to paragraph 191.
4 Image 68. Thank you.

5 And there I just see that on
6 the same day prior to that you had e-mailed
7 Mr. Wiley asking him about this issue. Did you
8 have a telephone conversation with him following
9 that?

10 A. Excuse me. I think I
11 also had a telephone conversation. I sent e-mail,
12 but, you know, I -- I think it's very likely that
13 I had -- also had a telephone conversation. I
14 talk -- I had a few of them. When exactly I don't
15 know, but I think it's likely I did.

16 Q. So you e-mailed him
17 asking him a question about it but then we don't
18 have anything that same day when you are then
19 responding speaking -- and you're talking about
20 having contacted Mr. Wiley, so that's why.

21 A. Yes, I think I -- I think
22 I did.

23 Q. In your e-mail reply that
24 we just had taken you to responding to the
25 invitation, did that express your reservations

1 about using HIR on the SMA at that time?

2 A. You mean in item 191?

3 Q. No, in 193, the one that
4 we had just discussed when you e-mailed back to
5 the City.

6 A. Yes, so that was my
7 concern based on my discussion with Pat Wiley.

8 Q. Right. Specific to
9 Mr. Wiley?

10 A. Yes.

11 Q. Okay.

12 A. I think I talked to him
13 on the phone. Sorry. Because I remember that he
14 told me -- he didn't take like the idea of doing
15 recycling of SMA on main highway. So that must
16 have been -- that probably he told me this. So it
17 was on top of this e-mail exchange.

18 Q. And then do you recall
19 the meeting at the City's offices on March 9,
20 2018?

21 A. Yes, I do.

22 Q. Right. And we're going
23 to have to jump around a little bit, but there
24 are -- there's a couple of sets of notes that I
25 want to ask you about first.

1 And if we could go, Registrar,
2 to paragraph 204 and 206. Sorry, I don't have the
3 images. Yeah, 72. And keep up 72 for now and
4 then also, yeah, paragraph 76. Thank you. Which
5 is paragraph 206.

6 There's two sets of notes and
7 the first one in paragraph 204 are -- is undated,
8 and then the second set is at paragraph 206 on the
9 right-hand image there which is dated March 9,
10 2018. Do you recall when you took these notes?

11 A. Yes, I do.

12 Q. When was that?

13 A. So first I prepared the
14 note under item 206 because that was my
15 preparation for the meeting, but then I realized
16 that I needed some additional preparation,
17 additional information to prepare myself for the
18 meeting, so I wrote that -- the one that is shown
19 on the right hand, 204.

20 Q. I see. So did you also
21 write those on -- the one on in paragraph 206,
22 were those also written prior to the meeting?

23 A. Yes, both of them were
24 written prior to the meeting, yes.

25 Q. Okay. And both

1 individually and collectively it's quite lengthy.
2 What was your reason for preparing such detailed
3 notes?

4 A. I knew that I had to
5 deliver a difficult message to the City that --
6 and at that time I considered hot in-place
7 recycling of SMA as not feasible, so I had to be
8 well prepared for delivering such message.

9 Q. Why was that a difficult
10 message at that point to deliver?

11 A. Difficult because the
12 City, Mr. Moore, were very keen on doing hot
13 in-place recycling of SMA on the Red Hill Valley
14 Parkway. They considered -- he considered this as
15 feasible and, you know, very good alternative.
16 But I had to say that it was not feasible. I had
17 to express my concerns.

18 Q. Do you recall who was at
19 the meeting?

20 A. Oh, there was a group of
21 people. Oh, definitely I think we probably have
22 definitely Mr. Gary Moore, Mr. Mike Becke, Marco
23 Oddi, Susan Jacob, Dennis Perusin. Likely Rick
24 Andoga -- I'm not sure. I think Rick Andoga. So
25 there was a relatively big group of technical

1 people from the City. I think they were from
2 engineering services.

3 Q. And do you recall if Rick
4 Shebib was there?

5 A. I think he was but I'm
6 not sure.

7 Q. Or Sarath Vala?

8 A. I think -- again, like it
9 is possible, but I know those people at the time
10 very well. I know that -- yeah, probably there
11 were a few more people.

12 Q. You don't have a specific
13 recollection of them being there but they might
14 have been?

15 A. Yes, yes, correct.

16 Q. What did you bring with
17 you to the meeting?

18 A. I brought with me the --
19 of course my notes, this one, and my additional
20 preparation notes, and the results of the testing.
21 So I brought the results of PSV, and just as a
22 one-page report from Mr. James Wharrie (ph) and
23 the results of DPT testing and macro testing he
24 hasn't (ph) sent back.

25 Q. And those materials that

1 you just mentioned are attached at the end of your
2 undated notes. Are those the materials that
3 you're talking about?

4 A. Yes.

5 Q. If we could, Registrar,
6 take down image on the left just for a moment and
7 if we could go to GOL7414. These are just the
8 handwritten undated notes, and it's image 78.

9 So your notes continue above
10 this and then we've got this one page that has
11 BPN, it says. Is that the British pendulum test
12 results that you were speaking of?

13 A. Yes, they are.

14 Q. And you brought those to
15 the meeting?

16 A. Yes, I did.

17 Q. And then go to the next
18 image, please, Registrar.

19 These are additional notes in
20 the OD, the overview document, and then the next
21 image, 80. James Fisher Testing Services Ireland
22 LTV (ph). Are these the PSV results?

23 A. Yes.

24 Q. And you see at the bottom
25 corrected polished stone value of 45. You brought

1 this to the meeting?

2 A. Yes, it is.

3 Q. The next image, please,
4 Registrar.

5 And then this is table 1,
6 measured texture depth MTD and RHVP. So this is
7 the result of sand patch tests?

8 A. Yes.

9 Q. And that as well you
10 brought to the meeting with you with your notes?

11 A. Yes, I brought this.

12 Q. If you could then take
13 the left one down and put back up the prior image,
14 Registrar, at paragraph 204 which is page 72.
15 Thank you.

16 And how would you describe the
17 tone of the meeting overall?

18 A. Initially at the
19 beginning that was just normal. I have to
20 deliver -- make sure that I would deliver what was
21 in my agenda. Initially it was just normal. I
22 was presenting the results. It change a little
23 bit -- it changed later on.

24 Q. At what point did it
25 change? We'll talk about the substance of it, but

1 just in terms of the tone, at what point did the
2 tone of the meeting change?

3 A. Oh, when I expressed my
4 opinion that the hot in-place recycling of SMA on
5 the Red Hill Valley Parkway was not feasible.

6 Q. So we'll come back to
7 that then. What did you do first at the meeting?

8 A. First, you know, I had to
9 follow my agenda. My main purpose was to make
10 sure that I will deliver what was -- what I
11 prepared for. And so IU --

12 Q. Just before you go on.
13 Would it be better if we -- what's most helpful
14 for your notes? Would it be better if we have
15 your undated notes up, those complete notes on two
16 images? Would that be the best way to proceed?

17 A. I think probably -- I
18 definitely started with undated.

19 Q. So maybe we can pull up
20 72 and 73, then, please, Registrar, for now.

21 If you want to look at the
22 other notes please let me know. So you think you
23 followed your agenda, so what was the first thing
24 you presented?

25 A. So I had to present --

1 first present the result of the test. So I
2 said that -- I brought hard copy but I didn't
3 distribute, so I only said the texture was okay.
4 I probably said that it was -- the average was
5 1.25 millimetres, which is good, and then I talked
6 about BPN.

7 Q. British pendulum?

8 A. Yeah, sorry, British
9 pendulum number. And I said that there was
10 variable, and the average was 39.4 but they range
11 from 21 to 62. And I stated that because of
12 weather conditions I considered them unreliable.
13 Then I talk about just --

14 Q. Did you describe what the
15 weather conditions were that rendered the results
16 unreliable?

17 A. I think I said that the
18 temperature was below zero and there was some
19 light snowfall. This is what I think I said.
20 Number 3, I said that the results of Tradewind
21 Scientific were -- the average was 35 and the
22 average was 35 and 38 but they were variable. And
23 then -- and then I said the MTO results in 2007
24 were good for a new SMA. And yeah, I see I made
25 an error here because it should be 33.8 and 33.9.

1 I said 34.9. It should be 33.8. Because I
2 prepared this notes quickly so -- and with -- but
3 have low value under structure.

4 And then I talk about PSV of
5 45 which was considered for trap rock as medium.
6 Then I said that typical limestone would have
7 lower value, so 42. And the trap rock with values
8 of 50 or higher would be considered to be a good
9 trap rock. And dolomitic stone, you know, in my
10 opinion was -- the best aggregate would probably
11 have 55 or higher.

12 And I said that based on this
13 the conclusion was that it was somewhat risky to
14 reuse this material with this PSV in hot in-place
15 recycling of SMA on the Red Hill Valley Parkway.

16 Q. So if we could go back to
17 a few of those things before we move on.

18 First question is about the
19 British pendulum results. If I understand your
20 evidence correctly from Thursday, that the British
21 pendulum testing was informational, I think was
22 the way you described it, and that the friction
23 testing had been requested by Mr. Moore as opposed
24 to being you proposing it for evaluating hot
25 in-place recycling. Did I get that correct?

1 A. Yes, correct.

2 Q. Okay. So why then is
3 that something that you are bringing up at this
4 meeting?

5 A. Because Mr. Moore ask
6 about the results so I wanted to present it.

7 Q. Okay. And the sand patch
8 testing, I think you had also said that that was
9 informational on the same basis as the British
10 pendulum testing. Is that again bringing it up
11 for the same reason that the testing had been
12 requested by Mr. Moore and you wanted to know the
13 results?

14 A. Yes.

15 Q. And the polished stone
16 value results, you indicated that the -- as you
17 did previously, that it's medium but specifically
18 it's medium for trap rock, right?

19 A. Yeah, I use this term
20 medium, because this is what I found in the
21 technical paper by Dr. Emery. So this is what I
22 used for -- his opinion that was medium value.
23 Yes. Not only for trap rock, just for aggregate.

24 Q. And you do mention 50
25 there, trap rock with 50 is -- I take that as

1 being very good, but 50 is also -- that's the
2 level as we discussed for the DSM approval by the
3 MTO, right?

4 A. Correct.

5 Q. Is that something that
6 you discussed? I don't see that referenced here.

7 A. At the meeting? At that
8 meeting.

9 Q. Yes.

10 A. No, I just stated that
11 trap rock with 50 would be good.

12 Q. Would that not be a
13 relevant number or standard to know that the MTO
14 requires for its aggregates?

15 A. I think I likely stated
16 they said that later on, but I don't have the
17 thing in the records.

18 Q. Okay. And then in item 3
19 as you mention you -- the SN from Tradewind
20 Scientific. Now, did you specifically discuss and
21 use the name Tradewind in this meeting?

22 A. I don't know whether I
23 say -- I can say discuss, but I presented -- I
24 said okay, Tradewind Scientific did the testing
25 and these are the values.

1 Q. Okay. So you did use --
2 you used the name Tradewind Scientific; is that
3 correct?

4 A. Yes, I did.

5 Q. At the time were you
6 aware that the Golder report and Tradewind report
7 had not been shared internally by Mr. Moore?

8 A. No, I didn't know. No, I
9 didn't know.

10 Q. So we see what your notes
11 are there. Do you recall any other detail that
12 you said with respect to the Tradewind report and
13 results other than as disclosed in your notes?

14 A. No, I just presented the
15 results. Nobody ask me about this. Nobody -- no,
16 nobody ask me about this. So I just presented
17 these are the numbers of Tradewind Scientific and
18 there was no question, no -- no.

19 Q. Okay. And did you
20 mention the Golder report in the course of the
21 meeting? And by that of course I mean the draft
22 report that -- to which you appended the Tradewind
23 report?

24 A. I -- I don't recall. I
25 thought everybody knew about this. I mentioned

1 Tradewind Scientific nobody ask me. So -- my
2 impression that everybody knew about it. Maybe
3 not everybody but people knew about it.

4 Q. And in point 6, as you
5 indicated, you said conclusion somewhat risky to
6 reuse in the surface course. And are those the
7 exact words that you used?

8 A. I'm not sure whether that
9 is exact words, but these were my preparation
10 notes. So I -- this is the message that I had to
11 convey to the City.

12 Q. And that was in respect
13 of the HIR. And I think as you mentioned,
14 including with the PSV results that you described?

15 A. Yes, correct.

16 Q. And then right below that
17 it says "Gary - results inconclusive." Is that a
18 note that you wrote prior to the meeting?

19 A. No, that was -- there was
20 a space there and that was my comment that I wrote
21 during the meeting.

22 Q. So what does that
23 reflect? Is that something Mr. Moore said?

24 A. Yes. Mr. Moore said the
25 results inconclusive.

1 Q. Which results was he
2 referring to?

3 A. That I think was a
4 general statement after I presented this items
5 that, you know, the results were inconclusive.

6 MS. JENNIFER ROBERTS: If I
7 might note, Commissioner, I'm just wondering since
8 we're getting to a question of what's added on the
9 day versus what is done in preparation, whether it
10 would be helpful to look at the original.

11 JUSTICE WILTON-SIEGEL: Sure.

12 MR. LEWIS: So --

13 JUSTICE WILTON-SIEGEL: I
14 think that's a good suggestion so we can --

15 MR. LEWIS: If we can take
16 down image on the left, Registrar, and go to the
17 one that I had up before, Golder GOL7414. And I
18 think it's image 76, I think, might be 77. Yes.
19 So there we have -- if you could call up A down to
20 just above B where it says "Gary - results
21 inconclusive."

22 We see conclusion at the
23 bottom, "risky to reuse it in the surface course"
24 and then below that "Gary - results inconclusive."
25 That's the thing.

1 So if I understand you
2 correctly, you're saying the "Gary - results
3 inconclusive" you wrote in during the meeting; is
4 that right?

5 A. Correct.

6 Q. How -- is that something
7 you recall doing or can you tell that from your
8 note itself?

9 A. It's in the notes. I
10 also recall it.

11 Q. Okay. If we can take
12 down that call out. If we could go back to
13 image 72 in the overview document.

14 So with respect to the results
15 being inconclusive, you said you thought that that
16 was a general comment from Mr. Moore, inconclusive
17 in respect of how they applied to HIR or in some
18 other respect?

19 A. It was like he says -- he
20 said that the results were inconclusive. So I
21 think given objective of the meeting was HIR, hot
22 in-place recycling, so -- but he wasn't specific
23 why.

24 Q. All right. Was there any
25 discussion about the MTO restrictions on HIR with

1 SMA?

2 A. I don't see this thing in
3 my notes, but I think they were. I would also
4 look at other -- because I think I brought this
5 thing to their attention that it -- it's not only
6 MTO because MTO is the OPSS provision
7 specification, but also OPSS municipal. Actually
8 it was identical that didn't allow hot in-place
9 recycling of SMA.

10 Q. Then there's -- after the
11 first six points in your undated notes, then
12 there's letters, BCB and then options and so forth
13 below them. So was there a reaction before you
14 got onto those topics or did you continue
15 presenting?

16 A. You know, my purpose, it
17 was to deliver the agenda, it was to deliver what
18 I had in my notes. So whatever the atmosphere,
19 the discussion was, I had to follow what I had in
20 my notes. My objective was to deliver this. So
21 yeah, there was -- there was some discussion, but
22 now it's for BCD, that would probably overlap with
23 what I had in my preparation notes for the
24 meeting, but then there was, you know, some
25 discussion between -- between about the results

1 and the conclusion in the application of....

2 Q. Specifically in there
3 there's references to -- on image 73 after D, it
4 refers to Pat Wiley again:

5 "Pat Wiley says he's never
6 done hot in-place recycling of
7 SMA so he did not want to do
8 it on the RHVP, main road in
9 Hamilton. Also, changing the
10 gradation and other aspects
11 from SMA to SP 12.5FC2 would
12 be impossible according to
13 Pat."

14 Was that something that was
15 discussed in the meeting?

16 A. Yes. I delivered this
17 message, yes.

18 Q. Right. Sorry. That you
19 told the attendees?

20 A. Yes, I did.

21 Q. And so what was the
22 reaction? You discussed already Mr. Moore
23 referring to the test results of being, or
24 something being inconclusive. What was his
25 reaction?

1 A. He was not happy with
2 this.

3 Q. And is this when the tone
4 of the meeting changed? You referred to that when
5 I asked at the outset about the tone of the
6 meeting. Was this the point where the tone
7 changed or was it at some other point?

8 A. That was mainly when the
9 tone changed.

10 Q. So can you describe that
11 and how others reacted as well?

12 A. There was some I would
13 say heated reaction to this and some I would say
14 not typically used language. But I think it was
15 mainly, you know -- Mr. Moore was not happy with
16 this, and Marco, Mr. Oddi was -- I think he had
17 the courage to say that it's not suitable
18 basically, stand up and express the same opinion
19 as I have. And then it became -- so the adrenalin
20 started to go up.

21 Q. Sorry, adrenalin?

22 A. Yes.

23 Q. And to what extent? I
24 appreciate that it can be uncomfortable
25 characterizing words and meanings in a heated

1 meeting, but we need you to tell us what happened
2 and what was said to your recollection and the
3 level of heat as you described it.

4 A. In my opinion it
5 wasn't -- this was not addressed to me, but as the
6 results of this raised adrenalin, the language
7 became somewhat offensive, not something that I
8 have heard, and there was some sort of, I don't
9 know, like, anger or something.

10 Q. As between Mr. Moore and
11 Mr. Oddi?

12 A. I think this conversation
13 between the two of them, that raised the adrenalin
14 level.

15 Q. In terms of the offensive
16 language, who saying the offensive words?

17 A. I think mainly it came
18 from Mr. Moore and then Mr. Oddi reacted in a
19 similar way and then it -- it was hotter and
20 hotter.

21 Q. I think you said it's not
22 something that I have heard. You've been working
23 in the construction world for a long time and have
24 been on many, many work sites and so forth and --
25 (skipped audio) were often colourful language. So

1 are you describing that you hadn't actually heard
2 the words used, the offensive words used, or are
3 you talking about in this kind of context?

4 A. Oh, yes, as you said, I
5 was -- I've been in construction for 48 years and
6 this is language that is commonly used
7 unfortunately on construction site. But I would
8 say the heat and -- almost like the anger. You
9 know, you can have this language on-site but there
10 is no anger. It's like common exchange. But here
11 there was I would say almost anger.

12 Q. Okay. So it was the tone
13 that went with the swearing and the animus behind
14 it, is that what set it apart?

15 A. Yes.

16 Q. What kind -- are we
17 talking about the F word used in various ways, is
18 that one of them?

19 A. Mainly F, S -- yeah,
20 mainly this.

21 Q. I see Mr. Lederman has
22 popped onto the screen.

23 JUSTICE WILTON-SIEGEL: Could
24 you take -- Mr. Registrar, could you take the
25 documents down, please.

1 MR. LEDERMAN: I'm sorry to
2 interrupt. I've just come on screen in light of
3 the questions that were being asked of this
4 witness to describe the tone of the meeting.
5 Presumably Mr. Lewis is going to be asking
6 Mr. Oddi and Mr. Moore questions about what was
7 said or what was expressed, including the tone
8 that was used in the words spoken by the
9 individuals Mr. Oddi and Mr. Moore.

10 To ask this witness to comment
11 on the tone in my view is outside of what a
12 witness who maybe was present in the room can
13 opine about. And I also raise (skipped audio) as
14 to the value of Dr. Uzarowski's impression when
15 there are going to be other witnesses who were
16 participants in that discussion who can speak
17 directly to that.

18 JUSTICE WILTON-SIEGEL: Well,
19 Mr. Lederman, you raise I think a number of
20 different questions. The first and perhaps the
21 principal one is a question of whether Mr. Moore
22 and Mr. Oddi will be asked for their views with
23 respect to that conversation. I leave that to
24 Mr. Lewis to respond to.

25 MR. LEWIS: Yes, they will.

1 JUSTICE WILTON-SIEGEL: So
2 that's for another day. I'm not sure you think
3 anything comes from that at the present time.

4 With respect to the question
5 of tone, I think it's a perfectly reasonable
6 question to ask what Dr. Uzarowski felt was not
7 just the tone of the meeting but the animus for
8 the tone, and I expect that we will get to some
9 issue about the reasons for that in due course.
10 Would that be correct, Mr. Lewis?

11 MR. LEWIS: We'll certainly be
12 asking questions about it.

13 MR. LEDERMAN: I guess what
14 I'm concerned about is we're asking for the
15 impressions about tone from someone who was not
16 the speaker or the person to whom the speech was
17 directed to. As I understood Dr. Uzarowski's
18 evidence, that these were communications between
19 Mr. Moore and Mr. Oddi that he described as being
20 animated, and that's what I'm expressing concern
21 about, is that we're asking about -- asking for
22 the impressions of tone by someone who is not a
23 participant.

24 JUSTICE WILTON-SIEGEL: Okay.
25 Mr. Lederman, I think this is premature. We

1 haven't heard the evidence of the other two
2 persons, and eventually I think the probative
3 value of this testimony is something you can
4 address in both the testimony of the City
5 individuals, but also more importantly, in the
6 submissions at the end of this hearing.

7 MR. LEDERMAN: Yeah, I
8 appreciate that and that really was my point,
9 which is that it is --

10 JUSTICE WILTON-SIEGEL: Nobody
11 is taking anything that is given in testimony
12 today as determinative.

13 MR. LEDERMAN: No, no, I
14 recognize that and I appreciate that. The point I
15 was making about the fact that Mr. Oddi and
16 Mr. Moore are likely going to be asked those
17 questions was to identify what I'm raising about,
18 which is that that is where -- if this line of
19 questioning is probative at all, I would have
20 thought the evidence is most probative from those
21 parties who were the participants of the
22 conversation, rather than individual who was
23 present in the room.

24 JUSTICE WILTON-SIEGEL: Right.
25 So I simply say that that is a premature comment.

1 You will have plenty of opportunity to make that
2 submission at the end of these hearings.

3 MR. LEDERMAN: Thank you.

4 JUSTICE WILTON-SIEGEL:

5 Mr. Lewis, you can proceed.

6 BY MR. LEWIS:

7 Q. So this discussion which
8 is described as heated and so forth with profanity
9 is going between Mr. Moore and Mr. Oddi. Were you
10 able to ascertain what the source of the anger was
11 as between them and the source of the language,
12 why they were using those words and why it became
13 heated?

14 A. You know, two, I think in
15 my opinion there were two. First, you know, what
16 I said that in my opinion, and I presented this,
17 that hot in-place recycling of SMA was not
18 feasible on the Red Hill Valley Parkway. And I
19 think the other stuff was also another delay of
20 the pavement rehabilitation, moving it from 2018
21 to 2019. So I don't remember details of this, but
22 that would be the main reason for this.

23 Q. Sorry, on the second part
24 of that, the moving it -- resurfacing to 2019 from
25 2018, was that as a result of the -- of originally

1 hot in-place recycling or is that just something
2 that was raised during the meeting?

3 A. I think I learned during
4 the meeting that it would be delayed by another
5 year.

6 Q. Was that related to the
7 hot in-place recycling or no, do you recall?

8 A. I don't recall. I think
9 it would be hot in-place recycling was roughly
10 half of the price of milling -- of shave and pave
11 (indiscernible) overlay, so that would require
12 much higher budget for this kind of work instead
13 of hot in-place recycling.

14 Q. In terms of the tone of
15 the meeting, what about the volume of it? How
16 loud did it get, could you characterize that?

17 A. Maybe a little bit
18 raised, but no, I don't recall any loud -- no,
19 there was nothing unusual to volume.

20 Q. So it was -- okay, so it
21 wasn't about the loudness that caused you to
22 characterize that as being unusual. It was
23 that -- just make sure, it was the anger and
24 profanity that was being directed at one another?

25 A. Yeah, maybe not one

1 another, but the -- this atmosphere, yeah, but
2 there was nothing in the volume, no. I don't
3 recall any raised -- no.

4 Q. Did anyone else speak up
5 at the meeting that you recall on the debate about
6 HIR, using it or not?

7 A. I don't have particular
8 recollection. During this -- no, I don't have
9 particular recollection. Until Mr. Moore left,
10 no, I -- it's possible, also some people stated
11 something but I don't recall.

12 Q. And you said until
13 Mr. Moore left. Did he leave at some point during
14 the meeting before it was over?

15 A. Yes, because that was the
16 main part of the meeting. So I had to deliver
17 what was in my agenda and then Mr. Moore left --
18 Mr. Moore left, there were few people left, and
19 then Ms. Susan Jacob left and then we had some
20 discussion with the people that were still in the
21 room.

22 Q. If you could take down 72
23 and leave up 73, Registrar, but also pull up
24 the -- at paragraph 206. Keep 73.

25 So these are your other notes

1 which you indicated that you also made before the
2 meeting, and there's a reference to
3 microsurfacing. Is that something that was
4 discussed during the meeting, and if so, at what
5 point?

6 A. It's hard to say
7 discussed. As I said, I had to deliver what was
8 in my notes. So I talk about this, I said about,
9 but microsurfacing was rather I think what I
10 suggested one of the options, and Mr. Moore said
11 no microsurfacing. So he definitely rejected the
12 idea of microsurfacing.

13 Q. Okay. And so obviously
14 that was before Mr. Moore left the meeting. At
15 what point are you suggesting microsurfacing? Is
16 this prior to resurfacing or after hot in-place
17 recycling is done?

18 A. So in this case I
19 consider microsurfacing after hot in-place
20 recycling because I had some previous
21 experience -- significant experience in hot
22 in-place recycling and often the results are
23 inconsistent, particularly in terms of
24 (indiscernible) surface, so I thought it would be
25 -- it would make sense to put microsurface on top

1 of the hot in-place recycled material to make it
2 uniform.

3 Q. Okay. And so that is
4 about uniformity. Was that about friction or no?

5 A. At the same time friction
6 would be addressed so --

7 Q. Right, it would be
8 addressed, but was that something that was also
9 part of the reason for suggesting microsurfacing
10 after hot in-place recycling, or is that just a
11 happy byproduct?

12 A. I don't recall in detail
13 how I said it, but it would be like if they use
14 the material that was there they did hot in-place
15 recycling, they put microsurface -- put
16 microsurface on top, uniformity, microsurface and
17 friction characteristics would be addressed.

18 Q. And with respect to the
19 resurfacing being delayed to 2019, did you have
20 any recommendations for the interim period?

21 A. Yes, that was discussed
22 after Mr. Moore left and -- with that smaller
23 group of people.

24 Q. Okay. So before -- we
25 will come back to that. Before Mr. Moore left the

1 meeting is there anything else that you recall
2 that was discussed? We have up your second part
3 of your undated notes as well. Is there anything
4 else you recall before Mr. Moore left the meeting?

5 A. I think I delivered
6 everything, because my objective of that meeting,
7 no matter what the atmosphere, was to deliver what
8 was in my agenda. So I had to go through it and
9 deliver everything -- deliver, you know, the
10 message that was there.

11 Q. So you have references
12 there in the left in your undated notes to two
13 options, mill overlay, so that's the shave and
14 pave; is that right?

15 A. Shave and pave. And hot
16 in-place.

17 Q. Is option 2?

18 A. Yes.

19 Q. And then at the bottom
20 you have warning, exclamation mark:

21 "Neither option 1 nor option 2
22 will solve the accident hazard
23 issue. The speed has to be
24 controlled. Skid hazard
25 increases drastically when the

1 speed increases."

2 Is that the message that you
3 delivered?

4 A. Yes, I did.

5 Q. What were you referring
6 to there? I mean, I see it says "skid hazard" but
7 neither of those options will solve it. Why is
8 that?

9 A. Well, because, you know,
10 I learn from that article in Hamilton Spectator
11 about accidents and fatalities, and so I was
12 obviously concerned about this and I wanted -- I
13 had very serious concern about speed, as I
14 mentioned in a previous cross-examination, so --
15 and this hasn't changed. So in my opinion, no
16 matter what was done, the speed was a very
17 important factor to be taken under control.

18 Q. So this was specifically
19 related to speed, this particular comment; is that
20 right?

21 A. Yes, that is related to
22 speed.

23 Q. And then after Mr. Moore
24 left the meeting you had indicated that there was
25 a discussion about the interim period before the

1 rehabilitation took place. What can you tell us
2 about that discussion?

3 A. So after Mr. Moore left
4 there were people -- that group was initially as
5 stated in that invite, but then Ms. Susan Jacob
6 left because Mr. Oddi was still excited. So he
7 was calming down, but she got offended with the
8 language and she left the room. And then there
9 was this group of people so I had to deliver my
10 last item on the agenda under item 206. So the
11 last my last item was to recommend shot blasting
12 or skidabrading as the interim way of improving
13 friction on the Red Hill Valley Parkway.

14 Q. I think that's on the
15 next page, we go to 76 on the right hand image,
16 Registrar. The last point where it says
17 "skidabrading for now - no - public"?

18 A. Yes.

19 Q. And is that something
20 that you wrote during the meeting?

21 A. No, that was in my
22 preparation because this item \$12 per metre square
23 was just taken during the meeting in the right
24 corner. So it was not before my -- so this item
25 with dash skidabrading, that was the preparation

1 for the meeting.

2 JUSTICE WILTON-SIEGEL:

3 Perhaps we might put that note back up.

4 BY MR. LEWIS:

5 Q. Yes, if we could go that.

6 This one would be -- this GOL7414 at image 74.

7 It's actually the second page. So we see \$12

8 above on the right, 12 metres squared above, and

9 then "skidabrading for now - no - public." So

10 this was written beforehand you said?

11 A. No, only the first part.

12 So \$12 per metre square was the price of hot

13 in-place recycling that I probably -- I knew the

14 price before but it was just refreshed. But I

15 said in my agenda skidabrading for now. And

16 during the meeting I added this "-- no" and "--

17 public."

18 Q. And who said no?

19 A. Mr. Marco Oddi and

20 Mr. Mike Becke confirmed.

21 Q. You also mentioned

22 public, so what was the complete statement then?

23 A. So it was like -- I don't

24 remember word by word, but it was the same

25 intention as before, that the City couldn't do

1 anything on the Red Hill Valley Parkway because it
2 would confirm that there was an issue with the
3 pavement on the Red Hill Valley Parkway, and so it
4 was like admitting the guilt and the City would
5 get the blame for this.

6 Q. Is it your recollection
7 that Ms. Jacob had left the meeting by that point
8 as well?

9 A. She left the meeting
10 shortly after Mr. Moore left. She left the
11 meeting, yes.

12 Q. All right. If we could
13 take down handwritten notes and go on that side of
14 it to overview document image 78. Paragraph 214
15 is a note that -- or an e-mail you sent internally
16 at Golder five days later. If you could expand
17 the e-mail itself, Registrar.

18 So this is after the meeting
19 but it's talking about the meeting on the 9th.
20 And do you recall why you sent this internal
21 e-mail at the time, five days later?

22 A. I think I was shocked
23 about what I heard, and I considered this to be
24 very important so I wanted to share with our
25 senior people. Also I think I also send it to

1 Rabiah and Vimy but also with our senior people in
2 the company.

3 Q. In order to document the
4 meeting?

5 A. To document, yes.

6 Q. And in the third

7 paragraph, starts with "frictional

8 characteristics":

9 "I suggested applying
10 microsurfacing on HIR recycled
11 SMA, if they use HIR. This
12 would make the surface uniform
13 and offer good frictional
14 characteristics. Gary
15 rejected the idea. I then
16 recommended using skid abrader
17 or shot blasting, at least the
18 worst areas indicated in
19 Tradewind Scientific report,
20 to improve friction of the
21 current surface if they delay
22 resurfacing. Marco rejected
23 the idea for various reasons.
24 For information, I had
25 recommended this treatment

1 before when they let me know
2 about friction concerns on the
3 RHVP."

4 So did you specifically say --
5 when you were recommending use of the skid abrader
6 or shot blasting did you refer back at that point
7 to the Tradewind report?

8 A. You know, if I said this
9 thing in way, that was very -- it was. I don't
10 recall the details, but if it's in my notes and
11 then I think I did.

12 Q. I'm not entirely sure
13 what you're saying there. Are you saying that at
14 the time that was your recollection of what you
15 had said?

16 A. At the time, yes.

17 Q. Take that down,
18 Registrar.

19 Is there anything else that
20 you recall from the meeting beyond what we've
21 already discussed and what was in your notes?

22 A. No, that I think is it
23 basically, my reaction and -- this is what we
24 discussed.

25 Q. And then you see on the

1 right-hand page, 76, there's some notes from
2 Mr. Becke's notebook and there's an entry dated
3 March 9, 2018. And there's a couple of ones,
4 there's "Gary no to microsurfacing" which I think
5 you've already talked about. That is the fourth
6 bullet.

7 The sixth bullet says
8 "friction numbers/weaker surface afterwards?" Do
9 you have any insight into what that is? Does that
10 jog your memory as to any particular discussion
11 around that?

12 A. I would -- you know, this
13 is what Mike said, but I would say this friction
14 numbers and weaker surface after, so probably
15 after hot in-place recycling, this is why I
16 recommended microsurfacing. Also I consider other
17 options. So that was probably related to this.

18 Q. You can take those down,
19 Registrar.

20 Now, with respect to the
21 British pendulum testing, you described them as
22 being unreliable because of the weather and the
23 temperature; is that right?

24 A. Yes, it is.

25 Q. And at the same time it

1 was anticipated -- I mean, you knew what the time
2 of the year was when the British pendulum testing
3 is going to be done, so that was something, and
4 you had your e-mail exchange with Ms. Rizvi that
5 we looked at last week that referred to that being
6 a potential issue, right?

7 A. Correct.

8 Q. Okay. And the field
9 notes, I take it you would expect that field notes
10 would make mention of items, matters that were
11 affecting test results. That would be your
12 expectation, right?

13 A. Yes, correct.

14 Q. Now, there's -- we've
15 been unable to find any reference anywhere in the
16 field notes taken at the time of the testing that
17 would indicate that the temperature caused a
18 concern or that the snow created an issue or even
19 any reference to it at all. Do you agree with
20 that?

21 A. I don't remember the
22 notes but I think I talked to Amelia.

23 Q. Sorry, you talked to who?

24 A. To Amelia Jewison, the
25 engineer -- yeah, IT who was doing the testing.

1 Q. And she informed you
2 about it?

3 A. She informed me that
4 there was light snowfall and the temperature -- I
5 don't know if it's in her notes, but the
6 temperature was below zero and there was light
7 snowfall.

8 Q. I can tell you that they
9 are not in there. Would you have expected that
10 there would be a reference in her notes if the
11 water that was being applied was freezing? Is
12 that something you would expect to see if that was
13 the case?

14 A. I think not necessary
15 freezing. I think whatever -- I know that later
16 on I verified -- you know, after she told me I
17 look at the weather data, Hamilton, and I noticed
18 that it was light snowfall and temperature below
19 zero was included in the report.

20 Q. Do you know how much
21 below zero it was?

22 A. No, I don't recall, but I
23 assume somewhat below zero.

24 Q. But I take it that she
25 didn't report to you that the water film was

1 freezing either since there was no mention of it
2 in the notes; is that correct?

3 A. No, she didn't. And I
4 think -- I'm not sure about deicing chemicals
5 because I ask her what they use. Because I assume
6 that the City must've used some deicer during
7 weather like this, but I don't recall whether she
8 told me what she observed what was used.

9 Q. And again there is no
10 mention in the field notes of that, and you're
11 saying you have an assumption that deicing was
12 used by the City but you actually don't know that
13 to be the case; is that right?

14 A. No, I don't have any
15 records, but I would definitely anticipate the
16 City to use some deicing chemicals on the road.

17 Q. And then is it fair to
18 say from this that you don't know that the result
19 -- the British pendulum test results were impacted
20 by the conditions at the time but you think that
21 they may have been affected; is that fair?

22 A. I don't have records, but
23 I was of opinion that they were very likely
24 impacted by not only the weather, but also the
25 deicers.

1 Q. Right. Which is again
2 something you don't know was actually applied?

3 A. No.

4 Q. You assumed it was?

5 A. I assumed it was.

6 Q. In terms of the
7 temperature itself though, the temperature itself,
8 the concern there is that freezing will occur,
9 correct?

10 A. Yeah, because -- yes, it
11 is a wet test so -- and the same time I knew that
12 light snow was there and I think it's common sense
13 when the temperature is about zero, below zero,
14 that the City will do something from the deicing
15 point of view.

16 Q. But that comes back to
17 the deicing, right, but Ms. Jewison didn't tell
18 you that the water was freezing, did she?

19 A. No, she didn't. No, I
20 didn't -- I don't recall any conversation and her
21 telling me that the water was freezing.

22 Q. I take it you would have
23 expected that she would tell you that or it would
24 appear in notes if in fact the water was freezing
25 at the time of the test?

1 A. I would probably
2 anticipate, but no, I don't recall her -- this
3 discussion with her.

4 Q. Okay. And the ASTM
5 standard E303 for British pendulum testing,
6 that -- would you agree with me, and we can go to
7 it, but would you agree with me that it does not
8 set a temperature below which the testing cannot
9 occur. It just says that the temperature should
10 be recorded. Would you agree with that?

11 A. Yes. Just see what the
12 ASTM test says.

13 Q. We should probably just
14 put that in the record and call it up. It's
15 MTO38701. Just to identify it, this is ASTM E303
16 standard for British pendulum testing, Doctor?

17 A. Yes.

18 MR. LEWIS: If we could just
19 mark that, Commissioner, as an exhibit. I believe
20 it's 83.

21 THE REGISTRAR: Noted,
22 Counsel, thank you.

23 EXHIBIT NO. 83: Document
24 titled Standard Test Method
25 for Measuring Frictional

1 Properties Using the British
2 pendulum Tester (ASTM E303),
3 MTO38701

4 BY MR. LEWIS:

5 Q. You can take that down.

6 Thank you.

7 After the March 9th meeting I
8 understand that you had some further
9 communications with Mr. Wiley from EcoPave and you
10 reported that you were more optimistic about the
11 use of HIR; is that correct?

12 A. Yes, it is.

13 Q. Okay. So can we go to
14 images 76 and 77. So after -- at the bottom there
15 you'll see 208 you responded to Mr. Wiley's
16 earlier e-mail about HIR and SMA, and then at
17 5:30 p.m. the same day you e-mailed Mr. Moore, and
18 you refer at the top there. If you could call
19 that up as well, 210, Registrar.

20 Do you recall, did you have a
21 discussion with Mr. Wiley after the meeting with
22 the City?

23 A. Yes, I did.

24 Q. And he was more
25 optimistic, so why was that?

1 A. He talked to his
2 associates and -- about this, the subject of first
3 how do you replace (ph) SMA. And then they agreed
4 that they -- it was feasible that they could do
5 it, and he ask me to send him -- I believe he
6 asked to send him a mix design of SMA. So I did
7 and that was his opinion. Now he says he -- they
8 can do it, or they can consider, yes, because....
9 yes.

10 Q. All right. Take that
11 down, Registrar.

12 At this point after the
13 March 9 meeting you have not delivered a report on
14 the Golder pavement evaluation. Did you form a
15 view from that meeting or other interactions about
16 whether Mr. Moore wanted you to deliver a report?

17 A. It's stated in my notes,
18 you know, what to do with results, and I had an
19 impression that he didn't, and I called Mr. Becke
20 a few days after and I ask him about this.

21 Q. Okay. So the first thing
22 is where did you -- you're saying you had already
23 delivered the results. That's the first thing.
24 That's the first part of your answer?

25 A. I presented the results

1 during the meeting, yes.

2 Q. Okay. All right. And
3 where did you get the impression that you referred
4 to about Mr. Moore?

5 A. No, during the meeting it
6 was -- you know, I tried to discuss it, but there
7 was no -- how can I -- there was no atmosphere to
8 discuss this subject because of what we discussed
9 before. So I didn't have any answer. But a few
10 days later I called Mr. Mike Becke who was the
11 project manager and I asked him about it.

12 Q. So if we could pull up
13 images -- we already have 77 -- and also 79,
14 please.

15 And in paragraph 213 at the
16 bottom of image 77 you have a notebook entry from
17 March 13 stating:

18 "Hamilton - talked to Mike
19 Becke and Chris Thompson, got
20 a call from Steve Manolis."

21 And then on the other page,
22 217 and 218 you e-mail Mr. Becke on March 15th
23 requesting a call about HIR and the RHVP. "There
24 is a significant amount of work that should be
25 done for this." And then 218 you have a note

1 referring to "Hamilton - Mike Becke." It says
2 "test results - leave them." "HIR." And then
3 "CIREAM - polymer modified AC."

4 So first of all, why did you
5 call Mike Becke about -- I appreciate he's the
6 project manager, but why did you contact him about
7 whether you should deliver a report?

8 A. Because he was the
9 project manager and he was the engineer on this
10 project so he was the person in charge. That's
11 why I talked to him. That's why I called him.

12 Q. And then in your e-mail
13 to him stated that there is a significant amount
14 of work that should be done for this. Was this
15 with respect to the HIR, the hot in-place
16 recycling?

17 A. For hot in-place
18 recycling, yes.

19 Q. Okay. And what, in terms
20 of determining feasibility?

21 A. Yes, because, you know,
22 Mr. Pat Wiley said that they would consider but
23 there would still be a feasibility study required.
24 You know, is it feasible, and if, how to do it.

25 Q. And so what -- you

1 contacted Mr. Becke. What did he tell you about
2 the -- delivering a report and anything else that
3 you discussed?

4 A. So, you know, I don't
5 recall the detailed conversation, but my first
6 question was test results, what should I do with
7 the results. And my conclusion was to leave that.
8 Don't -- they didn't -- there was no request to
9 repeat the testing and I understood at that point
10 of time they didn't want a report, or didn't need
11 the report.

12 Q. Sorry, did Mr. Becke tell
13 you that or -- is this what you took it from it?

14 A. I think that was my
15 conclusion.

16 Q. And sorry, that was the
17 conclusion to not do a report based on the
18 testing. And what about the British pendulum test
19 results? You had referred to them as being
20 unreliable in the meeting and otherwise. What
21 about that? Did you discuss those results and
22 whether there should be any retesting done?

23 A. It is likely. I don't
24 recall the detailed conversation. It was still
25 March so it was still in winter. I think my

1 intention was basically to say should I put them
2 in the report and should I repeat, and my
3 conclusion was just say leave it, don't do it.

4 Q. And as you said, there's
5 going to be a lot of work done. There would be a
6 feasibility study done to determine whether HIR
7 could be done. Was that -- did you consider about
8 the -- whether that would impact the schedule for
9 repaving?

10 A. Most definitely. With a
11 feasibility study and also the mixed design for
12 hot in-place is a very complex so it would take
13 time.

14 Q. Right, so I'm just
15 wondering if, given concerns that you had
16 expressed about friction on the Red Hill and your
17 suggestion of taking interim measures, whether the
18 length of time this was going to take is something
19 that you considered and discussed with anyone?

20 A. Sorry, I don't understand
21 the question.

22 Q. You've just identified
23 that doing an HIR feasibility study is going to
24 take quite a bit of time.

25 A. Oh, yes.

1 Q. Right? And so if that
2 impacting the repaving, the timing of the
3 repaving, I'm wondering if that's something that
4 you further discussed at that time with respect to
5 interim measures regarding friction?

6 A. Not during that call on
7 under item 218, but what was discussed at the end
8 of the meeting on March 9th, that would be a very
9 important step to take.

10 Q. And Golder was engaged to
11 conduct the HIR suitability study. Do you recall
12 who engaged you and Golder to do that? How did
13 that come about?

14 A. Oh, that hot in-place
15 feasibility study, so that was Mr. Becke, Mr. Mike
16 Becke. So he was my main point of contact on this
17 assignment.

18 Q. Registrar, if you go to
19 overview document 9 starting on image 7 and 8.

20 While he's pulling them up, am
21 I correct that Golder's project risk committee
22 became involved in this project?

23 A. Yes, yes. We concluded
24 and discussed the thing with our management that
25 involving project risk committee was necessary for

1 this assignment.

2 Q. Why is that? When does
3 project risk committee get involved?

4 A. Because it was -- on one
5 hand it was innovative project, but on the other
6 hand, you know, the OPSS specifications,
7 provincial and municipal, said clearly don't do
8 it. So there was some (skipped audio) info. So
9 that is the policy of Golder, that they wanted the
10 risk committee to consider what is -- to go ahead
11 and if what steps should be taken.

12 Q. Okay. And that includes
13 what contractual provision should be inserted into
14 in any agreement with the City?

15 A. So from the contractual
16 point of view, there was some other aspect of
17 contractual. I think as -- when -- at that time
18 when we want -- so there was some contractual
19 aspect. Also if it was considered feasible and to
20 move ahead with it, what should be some
21 contractual aspect included in the agreement with
22 the City that would cover this additional risk of
23 this very significant innovation.

24 Q. All right. And you did
25 determine -- Golder did determine to move forward,

1 correct, with the feasibility study?

2 A. Yes, the project risk
3 committee gave the okay to move ahead with this.

4 Q. And if we could go to
5 pages 10 and 11. I understand you attended a
6 meeting with the City again on May 14, 2018; is
7 that correct?

8 A. Yes, it is.

9 Q. We have your notes from
10 that date, May 14, in paragraph 13 at the bottom
11 of page 10 and the top of 11. Registrar, if you
12 could expand those. Do you recall what the
13 purpose of this meeting was?

14 A. This meeting was about
15 hot in-place recycling after Mr. Wiley said that
16 they would consider using hot in-place
17 recycling -- they would consider HIR of the SMA on
18 the Red Hill Valley Parkway.

19 Q. Right. So it's about --
20 again about HIR?

21 A. Yes, it is.

22 Q. Okay. Do you recall who
23 was at this meeting? There's a calendar
24 invitation in the prior paragraph to Mr. Andoga,
25 Mr. Perusin, Mr. Oddi, Mr. Renaud, and you. Do

1 you recall who was there?

2 A. I don't have detailed
3 recollection. I would anticipate probably the
4 similar people that attended the previous one, but
5 no, I don't have detailed recollection.

6 Q. Was Mr. Moore there?

7 A. Yes, he was.

8 Q. Was Mr. Oddi?

9 A. Yes, he was.

10 Q. And Mr. Andoga?

11 A. I would have to check
12 on -- I know that he was on the previous one but
13 on this one sorry, I don't recollect.

14 Q. You don't specifically
15 recall. And Mr. Renaud?

16 A. I think he likely was.

17 Q. And what about Mr. Becke?

18 A. Definitely was. I think
19 he was. I think he was. I think he arranged that
20 meeting.

21 Q. He sent the invitation?

22 A. Yes.

23 MS. JENNIFER ROBERTS: It
24 might help the witness if we could go to the
25 calendar invite which has these names on it.

1 MR. LEWIS: We could. I did
2 just read it to him, that these are the people on
3 the invitation, are the people I read to him.

4 MS. JENNIFER ROBERTS: You're
5 asking him for his memory and there is actually a
6 document on it so --

7 JUSTICE WILTON-SIEGEL: Which
8 document are you suggesting be put to the witness?

9 MS. JENNIFER ROBERTS:
10 (Inaudible).

11 MR. LEWIS: It's Golder 2860.

12 MS. JENNIFER ROBERTS: Thank
13 you.

14 BY MR. LEWIS:

15 Q. Mr. Andoga, Mr. Perusin,
16 Mr. Oddi, Mr. Renaud and you, sent by Mr. Becke?

17 A. Yes.

18 Q. Does that assist your
19 memory as to who was actually there any further?

20 A. I think, yeah, the people
21 listed here, and definitely Mr. Gary Moore.

22 Q. You can take that down,
23 please.

24 And how would you compare the
25 tone of this meeting compared to the one on

1 March 9th?

2 A. Drastically different.

3 Q. More normal?

4 A. More normal, yes.

5 Q. And what can you tell us
6 about what was discussed at this meeting?

7 A. At this meeting, like,
8 the subject -- main subject was the feasibility of
9 hot in-place recycling. So EcoPave said they
10 would consider, but now the question is okay, so
11 what to do in order to determine if it's feasible.
12 So, you know, like more technical discussion,
13 sampling, because it would require a lot of
14 samples.

15 At that point of time was not
16 only feasibility, but also if, then the mix
17 design, so would require a lot of material. And
18 Rick and -- so Mr. Andoga funding, and
19 specifications and other aspects of this -- yes,
20 at that point of time I think it was feasibility
21 plus potential mix design.

22 Q. And on the second page
23 there, 11, the last part of notes where it says
24 "Mike is back on the 22nd," if you could just
25 expand that, Registrar, the last block of notes.

1 It says "Mike is back on the 22nd," then set it
2 says "Gary - what is outstanding." Were these
3 notes taken before or during your --

4 A. During -- I'm sorry.
5 During.

6 Q. All of the notes or just
7 this portion? We can go to the actual notes if we
8 need to.

9 A. They look to me like all
10 of them were taken during the meeting.

11 MS. JENNIFER ROBERTS: Could
12 we please go to the note so we can clarify what
13 is -- prepared in advance and what's prepared on
14 the day? I think that that might assist the
15 witness's memory.

16 MR. LEWIS: Yes. It's GOL3874
17 at image 2, I believe. 2, yeah.

18 BY MR. LEWIS:

19 Q. Can you tell what you
20 took before or during, or if it was a combination?

21 A. I think they look tidy,
22 but I think they were likely taken during, because
23 how would I know about Rick and funding. That
24 would be only -- that could come only during the
25 meeting. And Pamela and Heather Bell, that was

1 from Mr. Becke. So in my opinion that was during
2 the meeting.

3 Q. The reference to Pamela
4 and Heather Bell, those are MTO people?

5 A. MTO people, yes.

6 Q. Mr. Becke related that to
7 you. Did you ever meet or discuss with Pamela
8 Marks or Heather Bell at the MTO regarding hot
9 in-place recycling for the City of Hamilton?

10 A. No, not for the City of
11 Hamilton, not SMA.

12 Q. Okay. And then so at the
13 bottom, the Gary part where it says "what is
14 outstanding," what's that referring to, do you
15 know?

16 A. Towards the end of the
17 meeting Mr. Moore said what was outstanding. So
18 break down for Mike, I think he must have repeated
19 that the PSV report is inconclusive, mask (ph) a
20 specific issue, hot in-place recycling. Pavement
21 condition blasting, that was -- no, that was after
22 he left.

23 Q. So I'll come back to that
24 last point in a second. You're saying that you
25 think Mr. Moore mentioned that the PSV results

1 were inconclusive again?

2 A. I think -- no, if it's in
3 the notes, so he -- yeah, he repeated that PSV
4 report were -- or the result was inconclusive.

5 Q. All right. Do you know
6 what you said about that to him?

7 A. I don't remember what I
8 said, but in my opinion there were pretty
9 conclusive. The results are what they are. 45 is
10 45. So it would be either inconclusive or
11 challenging what to do. But I didn't see anything
12 inconclusive. You know, they are what they are.

13 Q. But you don't recall if
14 you said that to him or not?

15 A. I know I don't recall.

16 Q. And then on the last
17 point about shot blasting or blasting, pavement
18 condition blasting notes, I think you said that
19 Mr. Moore had left the meeting by that point; is
20 that right?

21 A. That's correct.

22 Q. Okay. So who did you
23 raise this to, the people that were remaining?

24 A. Yes, correct.

25 Q. And who said no?

1 A. Again, that would have to
2 be one of the two. I don't remember exactly who.
3 Marco, Mr. Marco Oddi would be the first and Mike
4 could confirm. But it's hard to for me because it
5 was during the (indiscernible) meeting, it's hard
6 to say who at what particular meeting. But it
7 would have to be -- that would be Marco or Mike.
8 Likely Marco, Marco Oddi.

9 Q. Okay. And was this again
10 about the interim time period if -- prior to the
11 resurfacing?

12 A. Yes, it was.

13 MR. LEWIS: This would be a
14 good time for the break, Commissioner? It's
15 11:30.

16 JUSTICE WILTON-SIEGEL: Okay.
17 It's right on 11:30. Let's take a break and
18 return at quarter to 12:00.

19 --- Recess taken at 11:30 a.m.

20 --- Upon resuming at 11:45 a.m.

21 BY MR. LEWIS:

22 Q. We're back, may I proceed
23 Commissioner?

24 JUSTICE WILTON-SIEGEL: Yes,
25 please proceed.

1 MR. LEWIS: Thank you.

2 BY MR. LEWIS:

3 Q. Now, Dr. Uzarowski, we
4 know that Mr. Moore's retirement internally was
5 announced in April 2018 stating that it would be
6 effective on May 25th, 2018. Were you aware at
7 the time of the May 14 meeting that Mr. Moore was
8 retiring?

9 A. No, I wasn't.

10 Q. At some point after that
11 you became aware?

12 A. At some point after that,
13 yes.

14 Q. Okay. And did Mr. Moore
15 either at the meeting on the 14th or at any time
16 after, did he ask you to complete any outstanding
17 work?

18 A. No, he didn't.

19 Q. All right. If we could
20 go to overview document 9, images 23 and 24.

21 And in paragraphs 51 through
22 56 there's references to the -- beginning on
23 June 6, 2018 that you e-mailed Mr. Becke copying
24 Vimy Henderson the proposal for the HIR study in
25 two phases; Phase 1 being the preliminary

1 investigation and specification development, and
2 Phase 2 for construction consultations and QA
3 field laboratory testing and acceptance.

4 And do you recall what the
5 timing was, the expected timing was of the study?

6 A. Well, the timeline -- I
7 understand they wanted to have -- initially wanted
8 to have the sink (ph) area as soon as possible. I
9 don't recall the detail timeline for this.

10 Q. Okay. And I guess it's
11 called HIR suitability study. Is it the first
12 phase that's the -- really determining the
13 feasibility aspect of it, and then the second is
14 implementation; is that right?

15 A. Yes. So the first one
16 was to determine is it feasible and is the outcome
17 of the Phase 1 was positive, then move to Phase 2
18 which was, you know, pretty complex, yes,
19 particularly the design.

20 Q. Okay. If we could jump
21 ahead now to images 53 and 54.

22 And in paragraph 126 at the
23 bottom of 53 you see that on August 27, 2018 you
24 e-mailed Mr. Becke copying Vimy Henderson with a
25 copy of the Tradewind report. And you wrote the

1 top of 54:

2 "As requested, please find
3 attached the 2014 report on
4 friction on RHVP and the LINC
5 prepared by Tradewind
6 Scientific."

7 Now, it says "as requested."

8 Do you have any recollection about how it came
9 about that you came to send the Tradewind report
10 to Mr. Becke?

11 A. No, I don't know. I
12 don't recall. I don't recall whether he ask me or
13 he asked Vimy. I don't recall.

14 Q. All right. So Vimy was
15 also involved in the HIR feasibility study?

16 A. Yes, she was.

17 Q. Okay. Do you recall
18 why -- do you know why he requested it at that
19 time?

20 A. No, no, I don't.

21 Q. You have no recollection
22 of any discussion preceding you sending this to
23 him either with him or with Ms. Henderson; is that
24 right?

25 A. That's right.

1 MR. LEWIS: And as indicated
2 in paragraph 127, Commissioner, the inquiry has
3 not received any documents preceding this that
4 would shed any light on this issue.

5 BY MR. LEWIS:

6 Q. And do you recall if you
7 had any discussions about the Tradewind report
8 with Mr. Becke following your sending it to him?

9 A. No, I don't recall any
10 discussion.

11 Q. Go to images 97 and 98.
12 97. I guess it's at 97.

13 Paragraphs 241 and 242
14 indicate that Mr. Becke sent a calendar invitation
15 to you for a meeting on October 18th. And
16 Mr. Becke writes:

17 "Further to our discussion,
18 this meeting is to discuss the
19 HIP sampling for the RHVP. If
20 you are available at 1
21 o'clock, we also have a room
22 for presentation from
23 EnviroTech regarding their HIP
24 process. If you can come to
25 our office shortly before

1 1:00, I can bring you to the
2 presentation." (As read)
3 And then there is a follow-up
4 e-mail at paragraph 242 on October 16 from
5 Mr. Becke to you, again, regarding the meeting.
6 Do you recall the meeting on October 18th with the
7 City?

8 A. Yes, I do.

9 Q. And we do have some notes
10 of yours. If we can go, Registrar, to RHV933, and
11 it's images 857 and 858. I guess it's just -8.
12 Maybe it is 858 and 859. There we go. Okay.

13 So can you tell us what this
14 meeting was about and why you were there.

15 A. So this meeting was -- I
16 was informed by Mr. Mike Becke that EnviroTech
17 will give a presentation on hot in-place
18 recycling. EnviroTech is another hot in-place
19 recycling company that's like former branch of
20 Crupi.

21 So only -- I invited myself,
22 or I ask Mr. Becke if he could invite me to that
23 meeting with EnviroTech because I was very
24 interested in the subject. So Mr. Becke agreed
25 but at the same time -- was it October the -- I

1 was working my very preliminary observation of
2 feasibility -- suitability of application hot
3 in-place recycling on the Red Hill Valley Parkway.

4 So the first time would be
5 that EnviroTech meeting, and then my -- the
6 presentation what I heard, but I know I was late.
7 I was late for this EnviroTech, but, you know, I
8 only, you know, took a note from what I -- the
9 part that I attended.

10 Q. Right. And sorry, you
11 mentioned EnviroTech in relation to Crupi. You
12 said that they were related somehow?

13 A. I think EnviroTech is a
14 branch Crupi, the branch that took care of hot
15 in-place recycling.

16 Q. Okay. And do you recall
17 who was at this meeting?

18 A. Definitely Mr. Crupi, I
19 don't remember his first name, and Robert
20 Bowerman, he was the -- from EnviroTech. So I
21 think Rob was delivering the presentation. He was
22 the, you know, technical person or stage manager
23 for Crupi or for EnviroTech. So this was the
24 EnviroTech side, and there were a few people from
25 the City of Hamilton. I definitely know that

1 Mr. Becke was there because he was the one who
2 invited me. Who else? I think there was a group
3 of people, but I don't remember exactly who was
4 there.

5 Q. Okay. Do you recall if
6 Gordon McGuire was there?

7 A. No, he wasn't. He came
8 later, after the meeting with EnviroTech.

9 Q. I see, on the same day.
10 Okay. So you had the meeting with EnviroTech and
11 Crupi, and so what was the second meeting, then?

12 A. It was -- maybe a meeting
13 is a big word for this. After, you know, this
14 team left, like, EnviroTech and people from the
15 City who attended, Mr. Mike Becke left, and I --
16 by that time I had this very preliminary analysis,
17 including the plot of what would be required to
18 convert SMA to continuously graded mix that, you
19 know -- we initially called hybrid mix, but I
20 didn't like the word hybrid. I wanted this to be
21 FC2 mix. So my initial -- at that point of time
22 we're only gradation analysis what would be
23 required.

24 Q. Okay. So sorry, did
25 you -- so you had this meeting. Mr. Becke was

1 there. Who else was there? You had also
2 mentioned -- I asked you about Mr. McGuire and you
3 said he was at a second meeting. Was he --

4 A. So -- sorry, I
5 interrupted.

6 Q. Was he there too?

7 A. It was -- no, my meeting
8 was with Mr. Mike Becke, but then Mr. Gord McGuire
9 came, and then he -- I think Mike introduce him to
10 me, and I introduced myself, and, you know, we
11 started talking about hot in-place recycling on
12 this.

13 Q. Okay. And so what did
14 Mr. Becke and you discuss at the meeting?

15 A. My -- I brought the plot
16 of gradation, so my initial opinion at that point
17 of time that it would be extremely difficult to do
18 hot in-place recycling of SMA and to change the
19 gradation from upgraded SMA to dense graded FC2 --
20 Superpave 12.5 FC2 mix. It would be extremely
21 difficult and expensive. It would require
22 customized aggregates.

23 Q. And what did Mr. Becke
24 tell you?

25 A. That after -- you know,

1 after I presented the results, I brought this. I
2 don't know, like maybe, you know, two copies, one
3 for him, one for me. I gave it to him, and then
4 he was interested in my observation, but then he
5 told me that the City decided to instead of using
6 hot in-place recycling to use shave and pave on
7 the Red Hill Valley Parkway.

8 Q. Okay. And so was
9 Mr. Becke, was his -- when he informed you of
10 that, was he referring to a decision that he had
11 just made following your presentation to him, if I
12 could call it that, or is this a decision that had
13 already made, as he conveyed it to you?

14 A. It's been already made.
15 So he just conveyed the message to me, but at the
16 same time he asked me to continue with my
17 evaluation.

18 Q. And did he tell you why
19 the City had decided not to use hot in-place
20 recycling, instead do the shave and pave?

21 A. No, he didn't. He just
22 let me know that they decided to go move with --
23 to go ahead with shave and pave.

24 Q. And did he explain to you
25 why he wanted you to continue with the suitability

1 study in the report given that decision?

2 A. He didn't -- I think he
3 said something like we're interested in this, so
4 please continue, don't stop, continue, move ahead,
5 we are interested. But why, no. I can only, you
6 know -- I can only speculate. No, he didn't.

7 Q. He didn't tell you?

8 A. No.

9 Q. Okay. And sorry, was
10 Mr. McGuire in the meeting during that part of the
11 discussion, or did he come in after that? Do you
12 recall when he came in?

13 A. He came in during my
14 conversation with Mr. Becke.

15 Q. Okay. And if we could go
16 to GOL7415. Actually this might need to be a
17 native document, if we have it.

18 I believe these are the
19 results that you were speaking of.

20 Do we have the native file for
21 that, Registrar, Golder 7415? There we go.

22 Are these the gradation
23 results that you were talking about, that you
24 brought to the meeting?

25 A. Yes --

1 Q. Okay.

2 A. -- this is.

3 Q. Right. And you gave
4 Mr. Becke as copy I think you said; is that right?

5 A. Yes, I gave him a copy of
6 this.

7 Q. Okay.

8 MR. LEWIS: And if we could
9 make that an exhibit, Commissioner. I believe
10 it's 84.

11 JUSTICE WILTON-SIEGEL: Sure.

12 EXHIBIT NO. 84: Test results
13 (4 pages), GOL7415.

14 THE WITNESS: I think a copy
15 of the plot itself. I'm not sure about the tables
16 but the plot.

17 BY MR. LEWIS:

18 Q. The plot being the
19 graphing?

20 A. The graphing, yes.

21 Q. Okay. You can take that
22 down, Registrar, thank you. And if we could go to
23 overview document 9, images 149 and 150.

24 And in paragraph 356 you see
25 that Mr. Gord McGuire forwarded an e-mail to you

1 from Ms. Jacob -- it was to Mike Becke on
2 November 28th, 2018. Oh, sorry, he forwarded --
3 sorry, I misread that. They had an exchange.
4 Mr. McGuire forwarded Ms. Jacob's to Mr. Becke on
5 November 28th. And there's a discussion there
6 where Mr. McGuire says:

7 "I talked to Ludomir last
8 night and he is bringing that
9 TSV report along today as he
10 is meeting with you
11 apparently. Please bring it
12 to me and I will review."

13 Mike Becke says."

14 "I did not know he was coming
15 in. I will bring you the
16 report once I get it."

17 Mr. McGuire says:

18 "Okay. He told me that last
19 night. Let me know if he
20 comes by. Thanks."

21 And then in 357 at the top of
22 the page Mr. Becke e-mails you to confirm that
23 you'll attending and that:

24 "I will leave the office soon.
25 I will bring boxes with the

1 results."

2 And then the same day you
3 e-mail Mr. McGuire attaching the mean texture
4 depth and polished stone results from the testing
5 that had been done on the Golder pavement
6 evaluation.

7 And so do you recall the
8 conversation with Mr. McGuire that gave rise to
9 this exchange?

10 A. No, I don't.

11 Q. Okay. Do you recall what
12 prompted Mr. McGuire to request the results, the
13 mean texture depth and PSV results?

14 A. You know, he knew about
15 the work that we did, so he wanted to see these
16 results. He was definitely interested in, but I
17 don't recall.

18 Q. He wanted them, but you
19 don't recall the specifics behind it?

20 A. No, I don't.

21 Q. All right. So if we
22 could expand at paragraph 358, Dr. Uzarowski's
23 e-mail.

24 You have some comments about
25 it. You talk about the coring and testing and

1 that there was -- carried on the night of
2 December 6th and 7th, 2017. Then there was light
3 snow and negative temperatures during the testing.
4 And then in number 2 you refer to the PSV testing
5 and refer to the results as 45 as average or
6 medium for trap rock aggregates.

7 And is that the same
8 reference -- you referred a couple times back to a
9 paper by John Emery. Is that the same --

10 A. When I talk about a PSV
11 of 45, yes, that was in the paper, yes.

12 Q. Okay. And in the last
13 number there, you say:

14 "Please note we attempted to
15 run the British pendulum test.
16 However, due to light snow and
17 negative temperatures the test
18 was considered meaningless."

19 So we'll come back to that.

20 But if we could then,
21 Registrar, go to Golder GOL7431.

22 And is this the paper that
23 you're talking about? It's by B.S. Heaton and
24 J.J. Emery and N.A. Kamel, 1978.

25 A. Yes, it is.

1 Q. Okay. As I said, this is
2 referenced in the -- when you ultimately deliver
3 the pavement evaluation report in February 2019,
4 it's referenced -- this paper is referenced in
5 there, right?

6 A. Yes, it is.

7 Q. All right. And it's in
8 1978 paper, and I want to go to paragraph 32 which
9 is at image 9.

10 THE REGISTRAR: Sorry,
11 Counsel, what was the page number?

12 MR. LEWIS: 9, image 9.

13 THE REGISTRAR: Thank you.

14 BY MR. LEWIS:

15 Q. Maybe it's image 8. One
16 more prior. Sorry, could you go back. And go
17 back one more. Oh, image 6. Must've written it
18 upside-down. Typed it upside-down. There we go.

19 Paragraph 32, it's the last
20 paragraph in the body of the paper. There's also
21 a figure earlier on, but this refers to -- in the
22 second sentence:

23 "The cases cover two of the
24 more widely used aggregates in
25 Ontario, limestone and trap

1 rock, with low and medium PSV,
2 41 and 45 respectively and two
3 aggregates of high PSV, blast
4 furnace slag 54 and steel slag
5 59."

6 Is that the reference to which
7 you were referring?

8 A. Yes, it is.

9 Q. Okay. If you could take
10 that down.

11 MR. LEWIS: If we can make
12 this an exhibit as well, please, Registrar,
13 Commissioner, would be 85.

14 THE REGISTRAR: All right,
15 counsel, thank you.

16 EXHIBIT NO. 85: Document
17 titled "Prediction of Pavement
18 Skid Resistance Performance",
19 GOL7431.

20 BY MR. LEWIS:

21 Q. Take that down and go
22 back to overview document 9, image 150.

23 And it was what I was
24 referring to in point 4 when you said the British
25 pendulum test results were considered meaningless,

1 which seems to be stronger language than you used
2 previously when you referred to it as unreliable.
3 Did you intend to convey any different meaning
4 or --

5 A. You know, no. You know,
6 it was the same meaning, the same meaning. They
7 were not reliable.

8 Q. Okay.

9 A. I know I plotted them,
10 and I look at the trend, did it make sense. So
11 I -- but, you know, roughly many case is the same.
12 Well, it's for me was the same, meaningless or
13 unreliable.

14 Q. Okay. Did you at this
15 point -- notwithstanding the views about the
16 unreliability of the British pendulum test
17 results, had your views changed at all at this
18 point in time about the Red Hill Valley Parkway
19 friction and having relatively low friction?

20 A. No, they were still the
21 same.

22 Q. Okay. And if we could go
23 to next image, 151. Paragraph 363 on November 29,
24 Mr. McGuire e-mailed you.

25 And if you could just expand

1 that e-mail at 363, please. Thank you.

2 The files on the project, I
3 have a copy of the original proposal, and then he
4 says:

5 "That proposal suggests you
6 will provide recommendations
7 after the testing. Can you
8 supply the final report on
9 this testing when you can.

10 I'm meeting with our legal
11 team early next week because
12 they are looking for all our
13 files on this project." (As
14 read)

15 Is this first time you've been
16 asked to prepare the pavement evaluation report?

17 A. For the -- yes, it is.

18 Q. Okay. So you can take
19 that down, and if we could go to images 183 and
20 184, please. In paragraph 436, which spans the
21 two pages, and could you just expand that e-mail,
22 436.

23 And this is Mr. Becke writing
24 to you on December 6, 2018. And it's about the
25 HIR, hot in-place recycling, suitability study,

1 and he's following up on that, and he's requesting
2 the report you from you. He's indicating:

3 "As per our conversation I am
4 writing to let you know we
5 will need the report before
6 the Christmas shutdown. The
7 report can be in draft format,
8 but I will need the
9 information soon to move
10 forward with questions." (As
11 read)

12 And he's referring to this
13 resurfacing being a priority with council at this
14 point. And then:

15 "In the interim, I have a
16 meeting coming up next week
17 that some of the preliminary
18 information would be useful to
19 have for that meeting. Is it
20 possible to get a PDF copy of
21 the graphs you showed me in
22 our HIP meeting back in
23 October? It will show that we
24 are working on the asphalt mix
25 and I can explain the current

1 status of the gradations and
2 what we would get with a
3 proposed change via HIP."

4 Now, am I correct from what
5 you've said previously that on October 18th
6 Mr. Becke had informed you that the City had
7 decide not to use hot in-place recycling?

8 A. Yes, correct.

9 Q. Okay. And did you have
10 any discussions with him -- he says, "further to
11 our conversation next week." Did that remain the
12 case, that they were not going to be proceeding
13 with HIR to your knowledge?

14 A. To me it was clear, right
15 from that meeting that hot in-place recycling was
16 only at the evaluation or investigation stage, not
17 implementation.

18 Q. Did that knowledge affect
19 your approach to finalizing it or timing to
20 finalizing the suitability study?

21 A. No, no, I, you know -- I
22 still had to deliver this thing as soon as
23 possible about, but also I needed a lot of
24 laboratory testing results from our lab in Whitby.

25 Q. Okay. All right. If we

1 could go to -- take that down, please.

2 And just before that at 434
3 and 435, right before the e-mail we were just
4 looking at, these refer to December 6th e-mails
5 about arranging a meeting between you and Mr. Gord
6 McGuire on December 18th, so Mr. McGuire e-mailed
7 Ms. Cameron requesting that she set up a meeting
8 the following week with you, and she contacted
9 you, and ultimately it was scheduled for
10 December 18th. Do you recall who requested this
11 meeting in the first place?

12 A. I thought that I did,
13 but, you know, the records show something
14 different, so it must've come from Mr. McGuire.

15 Q. Okay. Well, I mean, it
16 simply indicates there that he's asking
17 Ms. Cameron to arrange the meeting. Apart from
18 that do you have a recollection of asking for the
19 meeting in the first place or no?

20 A. I don't have a particular
21 recollection of asking for the meeting, but I
22 remember that I wanted to meet with him.

23 Q. Okay. And why did you
24 want to meet with him?

25 A. Why I wanted to meet with

1 him. Because I -- you have this thing in your
2 records, but I talk to my mentor, Dr. Michael
3 Maher, and I talked to (indiscernible) Hamilton so
4 we had a discussion about this, and then he
5 advised me, meet with the City with Mr. McGuire
6 and tell him everything that you know and the
7 history of the pavement on the Red Hill Valley
8 Parkway.

9 Q. Okay. Then, but -- fine,
10 but what prompted to wanting to do that? That's
11 the -- that's, then, the purpose of the meeting,
12 but what was the reason for wanting to have the
13 meeting at this point in time?

14 A. They were concerned with,
15 you know -- of course I talked to him about the
16 death article, about fatalities, about concern
17 with frictional characteristics of the pavement
18 there and also about particular -- about what I
19 heard that the City didn't -- decided not to do
20 anything, to avoid the blame we discuss. So I
21 talked to Michael, and this is what he advised me.

22 Q. Sorry, you said that --
23 not to doing -- to avoid the blame that we
24 discussed. Do you mean to avoid being blamed for
25 something?

1 A. You know, it is like --
2 to us, one, this is what I was told by the City;
3 that they decided not to do anything, not to admit
4 the guilt and not to be blamed for this. So this
5 is the City. And at the same time, you know, I
6 was concerned that the City may try to blame
7 Golder for what we advised and they decided not to
8 follow, not to do.

9 Q. Okay. And did any of
10 that have to do with the reference in the e-mail
11 that we talked about before on November 29th when
12 Mr. McGuire referred to the legal team's
13 involvement?

14 A. Oh, definitely, you know,
15 I think it is because I talk -- I know I talked to
16 our senior management. I talked to our legal
17 counsel, so that was discussed and that was a
18 significant point.

19 Q. And I'll just -- we're
20 not asking you at any point to tell you (sic) what
21 the discussions were with legal counsel. If
22 you -- just so you know, I'm not asking you
23 specifically for those communications.

24 A. Sorry, there was some
25 misconnection for the -- you know, this last

1 sentence, I didn't hear what you said.

2 Q. Oh, I just -- I'm not
3 asking you specifically for communications that
4 you had with legal counsel at Golder. As I expect
5 Ms. Roberts will take the position that those
6 communications are privileged, so I'm just
7 anticipating her jumping in.

8 Okay. And did you and
9 Mr. McGuire have a discussion and understanding
10 about this meeting in advance, any ground rules
11 for the meeting?

12 A. I don't know, you know,
13 at what particular time, but, you know, we
14 discuss, you know, how this meeting would look
15 like, and we agreed that it would be face to face.
16 So it would be Mr. McGuire with myself because we
17 talk about -- like, if the City wants to have a
18 lawyer to be present, then I would bring our
19 lawyer with me. But the final agreement was no,
20 just face to face, a friendly exchange of
21 information.

22 Q. Okay. And were you aware
23 at the time this meeting was scheduled that the
24 Tradewind report or the Golder report had been
25 located within the City? Is that something that

1 you had become aware of?

2 A. No. I think Mr. McGuire
3 told me during the meeting.

4 Q. Okay. So we'll get to
5 that. There's -- if we could go, Registrar, to
6 RHV933. So your transcription of your typewritten
7 notes at image 866. And these are notes from
8 December 10 and December 12, 2018. So it's after
9 the meeting is being scheduled for the 18th of
10 December but before the meeting itself.

11 Do these -- what are these
12 notes referring to? Do you recall?

13 A. So the first one, the
14 first one was my face-to-face meeting with
15 Dr. Maher, and, you know, I presented the case and
16 our conversation.

17 Q. Sorry, that's Michael
18 Maher at Golder who you referred to previously?

19 A. Yes. He was my mentor,
20 and he was a principal and senior engineer, and
21 this is our discussion notes from our discussion
22 on December the 10th.

23 Q. I see. Okay. And
24 December the 12th, it also refers to Mr. Maher at
25 the top.

1 A. Yeah. I don't remember
2 exactly what -- Hamilton rock tunnel was, you
3 know, this nuclear waste material, so it was not
4 related to Hamilton.

5 Q. Okay. All right. It
6 says on the December 10 note, the fourth one under
7 number one. It says, "should send the report."
8 What report is that referring to?

9 A. Let me see where it is.

10 Q. It's the fourth bullet
11 under number 1, "should I send the report."

12 A. Yes, should I -- what to
13 say, "should I send the report."

14 JUSTICE WILTON-SIEGEL: Could
15 I suggest that you put this note up in its
16 original form.

17 MR. LEWIS: It is. Golder
18 GOL7497.

19 MS. JENNIFER ROBERTS: At
20 image 72 I think.

21 MR. LEWIS: At image 72. If
22 you could blow that up, please. Thank you.

23 THE WITNESS: So your question
24 about the --

25 BY MR. LEWIS:

1 Q. Yeah, "should I send the
2 report," what is that referring to, what report?

3 A. Should I send. I think
4 it was about the Golder report 2014.

5 Q. Oh, okay. And do you
6 recall what you decided?

7 A. I don't recall whether I
8 brought this report with me, but I know that
9 Mr. McGuire showed me a copy of that report -- of
10 the Golder report.

11 Q. In the meeting on the
12 18th?

13 A. During the meeting, yes.

14 Q. Okay. All right. But
15 you think it does refer to the Golder in any
16 event?

17 A. I think it -- this is the
18 Golder report.

19 Q. Okay. It says:
20 "Tradewind, some concerns but
21 not drastic and skid
22 resistance a contributory
23 factor." (As read)
24 Are these things that you were
25 telling Mr. Maher?

1 A. Yes, this is what I
2 discussed with Michael.

3 Q. Okay. And skid
4 resistance a contributing factor to what?

5 A. You know, skid resistance
6 or skid resistance number are only one factor in
7 frictional characteristics of the pavement. So
8 this is only one factor. There are a number
9 factors that impact the frictional
10 characteristics, so this is, like, just to refresh
11 my mind on this point.

12 Q. Okay. So it's
13 contribute -- that skid resistance is a
14 contributing factor to friction?

15 A. To friction or skid
16 resistance is, like, you know -- it was -- the
17 meaning was skid resistance numbers. So, you
18 know, when we measure there were only numbers. So
19 this is only one of the factor of what we call
20 frictional characteristics of the pavement. There
21 are large number of factors, but this is -- that's
22 the only one that impacts --

23 Q. So you're talking also
24 about macrotexture?

25 A. Oh, macrotexture, and

1 then, you know, other items like, you know,
2 everything, speed and, you know, factors related
3 to roadway, driveway, so it's like roadway --

4 Q. Okay.

5 A. -- driveway, yeah and,
6 you know, this -- a large number of items.

7 Q. Right. But -- so is
8 what -- your meaning there, then, and I'm just
9 going the suggest is that your meaning, it's one
10 of the contributing factors; skid resistance is
11 one of the contributing factors to collisions.

12 It's one of them. There's a number of
13 contributing factors as you describe, but it's a
14 contributing factors to collisions?

15 A. Well, I think what John
16 Emery called a safe aspect. You know, we call
17 it -- typically we call it frictional
18 characteristics, yes. Yeah.

19 Q. Sorry, I get the
20 frictional characteristics.

21 A. Yeah.

22 Q. I understand that, but I
23 just want to get to the end point. You're saying
24 here that skid resistance is a contributing -- one
25 of the contributing factors to collisions in this

1 instance? Was that your --

2 MS. JENNIFER ROBERTS: That's
3 not the word he's using.

4 MR. LEWIS: Well, I don't -- I
5 don't know. He's a --

6 JUSTICE WILTON-SIEGEL: He can
7 put the --

8 MR. LEWIS: -- a number of
9 words.

10 JUSTICE WILTON-SIEGEL:
11 Ms. Roberts, he can put the question.

12 MS. JENNIFER ROBERTS: Fair
13 enough. He's just trying to push language that
14 the witness has never used. And I'm -- I guess,
15 fair enough to do the cross-examination, but I'm
16 conscious of -- you're trying to get to an end
17 here, or it seems the question he's trying to get
18 to an end, and I'm not sure is supported in any of
19 the evidence that was given.

20 MR. LEWIS: All I'm,
21 Commissioner, asking is because he talked about a
22 number of -- he said that there's a number things
23 which include -- into skid resistance and then
24 referred to a number things. And I said it's like
25 macrotecture, and he went on to talk about other

1 things as well, which I take as meaning, and we
2 can agree or not, are things which are
3 contributory as a whole to -- potentially to
4 collisions.

5 JUSTICE WILTON-SIEGEL: Right.
6 I think you can put the question and Dr. Uzarowski
7 can answer whether he agrees with your
8 characterization or not.

9 THE WITNESS: I would, you
10 know -- do you want me to answer right now?

11 BY MR. LEWIS:

12 Q. Yes, please.

13 A. So I think collisions are
14 a much, much higher step, I think. Because for
15 collisions there are a large number of factors.
16 So I think, you know, at this point of time I'm
17 talking only about the skid resistance numbers.
18 So those numbers that we measure. So this is only
19 this one piece, one line in what was John Emery
20 shows as number factors that impact the safety
21 of -- on the pavement. So it's -- yeah, at this
22 point I was thinking one factor contributing to
23 frictional characteristics of the pavement. This
24 I remember John always emphasized.

25 Q. You're talking about in

1 the "Get a Grip" presentation --

2 A. Yes.

3 Q. -- that you referred to a
4 number times?

5 A. Yes, yes.

6 Q. Okay. And it's just --
7 again, you use -- you said, impacting on the
8 safety of the pavement. So, again, that's the end
9 point. That's the -- it's one of the many
10 contributing factors to safety; is that right?

11 A. Yes. This is what John
12 shows in his presentation, so that's one line.
13 This is this one line. This is like, you know,
14 the piece of pavement that is -- contributes to --
15 I would say -- contributes -- there are such large
16 number of factors, it's like -- I think this is
17 the factor contributing to frictional
18 characteristics from the pavement; that's the
19 numbers.

20 Q. Thank you. And then the
21 December 12th note, the last one number 11 refers
22 to a report for Gord Hamilton. Do you know what
23 that refers to?

24 A. Yes. That was the draft
25 report on the 2017 investigation.

1 Q. Right. Okay. And so
2 then if we could take those down, and if we could
3 go to images 214 and 215 of overview document --
4 sorry, of overview document 9. Apologize.
5 Overview document 9, 214 and 215.

6 And it's -- paragraph 526 sets
7 out your notebook entries. It continues on to the
8 next page from December 18th, and do you recall
9 meeting with Mr. McGuire on December 18th, 2018?

10 A. Yes, I do.

11 Q. And where was that?

12 A. In Hamilton in his
13 office.

14 Q. Okay. And it indicates
15 from -- it says, from about 10 to 11. Now, can
16 you tell us what your -- when you took these
17 notes. Of course we can always go to the
18 originals if we need to. But did you take these
19 before, during or both?

20 A. Generally these were my
21 preparation notes, but during the meeting I
22 also -- I added some additional comments, and at
23 the end I also wrote and CIMA.

24 MS. JENNIFER ROBERTS:
25 Commissioner, can we please go to the original

1 notes, so Golder 7404, image 40?

2 JUSTICE WILTON-SIEGEL: I

3 think we should.

4 MR. LEWIS: Golder 7404?

5 MS. JENNIFER ROBERTS: That's
6 what I've got.

7 MR. LEWIS: Sorry, I'm just
8 trying at the same time to find the typewritten
9 notes for my own benefit. Although, these are
10 quite neatly written.

11 BY MR. LEWIS:

12 Q. So from this can you --
13 there's also I think another page. If you could
14 go to the next image for a moment. You referred
15 to this part about CIMA which I think is that last
16 part there. Is that the additional part you were
17 talking about?

18 A. Yes. That was during the
19 meeting or right after. I think this was during
20 the meeting.

21 Q. Okay.

22 A. At the end of the
23 meeting.

24 Q. Okay. And then going
25 back to the previous image, please, Registrar.

1 And what about these? Were
2 these all taken before the meeting or in
3 something -- any of them taken during?

4 A. Generally, you know,
5 these were my preparation meeting for the --
6 preparation notes for the meeting, but I -- it's
7 likely that I added some comments during the
8 meeting.

9 Q. Okay. All right. As we
10 go along perhaps you could let us know if there's
11 something pertinent that pops out in that regard?

12 At A it says, "hand out the
13 draft report." Is that the Golder pavement
14 evaluation report that you just referred to?

15 A. Yes, it is, 2017 report.

16 Q. Okay. So if we could
17 keep these notes up are, Registrar, but also pull
18 up HAM54182.

19 And is it dated December 17,
20 2018? Is this report you're talking about?

21 A. Yes, it is.

22 Q. All right. And this is
23 an unsigned copy of that report.

24 Maybe if we can keep both of
25 those up. I just hear some drilling which I

1 believe is coming from above us, so hopefully that
2 won't continue.

3 So did you actually give
4 Mr. McGuire a copy of this report?

5 A. Yes, I did. I think it
6 was still a draft, I think, stamp on this thing.
7 This is the one, yes.

8 Q. It's certainly unsigned
9 in any event.

10 A. No, it's not.

11 Q. Sorry, it's not signed?

12 A. It's not signed.

13 Q. Right. Okay. And so
14 hand out the draft report. You did give him a
15 copy, and then maybe you could tell us how the
16 meeting proceeded.

17 A. If we can make little bit
18 because I -- a little bit bigger.

19 Q. Maybe expand the
20 left-hand page of the notes.

21 A. Thank you very much.

22 Q. Yeah. Well, maybe I'll
23 start with the -- with D just to begin with. You
24 wrote beforehand, I take it, "Present the history
25 of SMA on RHVP. Do not use names, just say the

1 City." (As read)

2 What does that mean about not
3 using names? Do you mean not using individual's
4 names?

5 A. Sorry, I missed, you
6 know -- the picture was frozen for the last --

7 Q. Okay.

8 A. -- sentence or two
9 sentences.

10 Q. So the fourth line under
11 1B says, "Present the history of SMA on RHVP. Do
12 not use names, just say the City." (As read)

13 What that's referring to?
14 Does it mean not mentioning the names of
15 individuals?

16 I think Dr. Uzarowski might
17 have frozen.

18 MS. JENNIFER ROBERTS: Yeah.

19 MR. LEWIS: Okay.

20 MR. JENNIFER ROBERTS:

21 Dr. Uzarowski is frozen again I think.

22 (DISCUSSION OFF THE RECORD)

23 MR. LEWIS: Okay. It may
24 be -- I'm going to suggest that we try to proceed
25 right now, but if it continues to be a problem,

1 that maybe we should take an earlier lunch to make
2 sure that we can resolve the issue and don't lose
3 time as a result of it. That would be my
4 suggestion. If that makes sense, Commissioner.

5 JUSTICE WILTON-SIEGEL: I
6 think that a good suggestion. Let's proceed and
7 see how we do.

8 MR. LEWIS: Okay.

9 BY MR. LEWIS:

10 Q. So if we could pull these
11 back up, Registrar, the notes.

12 Is Dr. Uzarowski frozen again?
13 I believe he is. And is everyone having that
14 issue with him? I'm not seeing a problem with
15 anyone else. I just want to make sure that it's
16 not at our end. I don't think it is.

17 MS. CONTRACTOR: We're having
18 the same issue.

19 UNIDENTIFIED VOICE: We are as
20 well.

21 MR. BUCK: Dufferin is too.

22 THE WITNESS: I can see it
23 now.

24 MR. LEWIS: Okay. I'm going
25 to try, but if it freezes again, Commission, I

1 think should just give him that --

2 JUSTICE WILTON-SIEGEL: If it
3 freezes one more time, we'll take our lunch break.

4 BY MR. LEWIS:

5 Q. Okay. So, Dr. Uzarowski,
6 in your notes at 1(b) it says, "Present the
7 history of SMA on RHVP. Do not use names, just
8 say the City." (As read)

9 What's that referring to?

10 A. Yeah. Well, I presented
11 the -- you know, the brief history of placing and,
12 you know -- of using SMA on the Red Hill Valley
13 Parkway, and, you know, the -- I didn't use
14 name -- I just -- names of particular people
15 involved. I just say, the City.

16 Q. Okay. And why is that?
17 Why did you write that note, that reminder to
18 yourself?

19 A. Because it was -- you
20 know, I think that what I discuss with Dr. Maher,
21 that, you know, it was just a friendly exchange of
22 information just to let them know the history of
23 this, so I didn't want to use -- to blame any
24 particular person. If Mr. McGuire wanted to ask
25 me, he could ask me. I had no problems with this.

1 But at this point of time there was just friendly
2 exchange of information.

3 Q. Right, but isn't a -- I
4 mean, a friendly exchange of information, would
5 that not include indicating who the individuals
6 were involved at various time periods so
7 Mr. McGuire would have an appreciation of that and
8 could ask questions accordingly?

9 A. If he could -- you know,
10 if he was interested, he could ask me. I have no
11 problem. But there was so many people involved
12 like Mr. Moore, Mr. Oddi, Mr. Becke and, you know,
13 other people. So at this point of time I think
14 discuss -- we said, okay, we will just say the
15 City.

16 Q. Okay. And do you recall
17 in the conversation did you hold to that, only
18 using the City and not using individual names? Do
19 you recall?

20 I believe Dr. Uzarowski has
21 frozen again so....

22 Commissioner, can I suggest we
23 then take a break and see if --

24 JUSTICE WILTON-SIEGEL: Let's
25 take our lunch break now. We'll return at

1 2 o'clock. And Ms. Roberts, if you and your
2 office can communicate with Dr. Uzarowski's office
3 that would be appreciated. Hopefully --

4 MS. JENNIFER ROBERTS: Of
5 course.

6 JUSTICE WILTON-SIEGEL: --
7 this can all be resolved by 2 o'clock. Thank you.
8 Stand adjourned until that time. Thank you.

9 --- Recess taken at 12:44 p.m.

10 --- Upon resuming at 2:00 p.m.

11 MR. LEWIS: Good afternoon,
12 Commissioner. I understand we have a better
13 connection with Dr. Uzarowski. May I proceed?

14 JUSTICE WILTON-SIEGEL: Yes,
15 please proceed.

16 MR. LEWIS: Thank you.

17 BY MR. LEWIS:

18 Q. Dr. Uzarowski, when we
19 left off, it had got a little jagged at the end
20 there. I was asking you about your note.

21 And if the Registrar could
22 pull up the last -- the December 18, 2018
23 handwritten note. Yeah, both pages. That's
24 great. Thank you.

25 And the part about -- under

1 1(b), do not name names, just say the City, and I
2 asked you about that. Did you in fact keep
3 individual names out of it during the meeting with
4 Mr. McGuire?

5 A. I think later on I -- I
6 think in one of the statements I talk about
7 Mr. Gary Moore.

8 Q. Okay. And do you recall
9 in relation to what --

10 A. It was -- sorry, for
11 interrupting you. Sorry. I'm sorry.

12 Q. In relation to what
13 issues?

14 A. I think it was when I
15 delivered the hard copy on February -- I think
16 February the 7th, 2014, then, he wasn't
17 particularly happy with me in mailing him the
18 report a few days before. So I think that was the
19 only part that I recall that I mentioned some
20 names.

21 Q. Okay. And so I see in
22 (f), item (f) near the bottom of the left-hand
23 side there, it says, "2017, hired Tradewind
24 Scientific for skid testing report early 2014."
25 (As read)

1 And then the first bullet is
2 "No e-mail with report requested by the City."
3 (As read). And then second bullet "hard copy
4 delivered, discussed."

5 So you did send an e-mail with
6 the report of course -- with the Golder report and
7 the Tradewind report to Mr. Moore. I think it was
8 January 31st, 2014. So can you tell us what this
9 note is reflecting?

10 A. This particular note, so,
11 you know, I just let Mr. McGuire know that in 2013
12 we hired Tradewind Scientific to do skid testing,
13 and the report was delivered early 2014, and, you
14 know, that -- no e-mail with report requested by
15 the -- so this is like, you know, what I mentioned
16 before, that Mr. Moore was not happy that I
17 e-mailed him the report, and then hard copy was
18 delivered at the beginning, so it was February
19 the 7th, 2014 and discuss.

20 Q. Sorry, are you saying
21 that note, though, about no e-mail with report
22 requested by the City, is that a reference you're
23 saying to the fact that Mr. Moore was not happy
24 with it being e-mailed, or are you saying there
25 that it was not sent by an e-mail?

1 A. No, your first statement
2 that --

3 Q. Okay.

4 A. -- he was not
5 particularly happy with me e-mailing the report to
6 him.

7 Q. Okay. And so this is a
8 note that you made before the meeting; is that
9 correct?

10 A. Yes, it is. Yes.

11 Q. Okay. And so why were
12 you writing that in advance? What did you think
13 of relevance of that point would be?

14 A. Because I wanted to make
15 sure that I would not miss anything. It was,
16 like, in my opinion that was significant that
17 Mr. McGuire should know about this.

18 Q. Had a question been
19 raised with you about there not being a record of
20 it having been sent?

21 A. I recall that -- I think
22 early -- during that meeting he showed me a copy
23 of my report. So it wasn't only Tradewind, but a
24 copy of Golder -- this bulky, 200 pages of
25 something report with Tradewind Scientific

1 attached, but the hard copy of our report.

2 Q. Right. But you wrote
3 this note, as I understood it, prior to the
4 meeting?

5 A. Yes.

6 Q. And so I'm asking if
7 prior to the meeting it had been raised with you,
8 or you were aware that there was no record of the
9 report having been e-mailed to Mr. Moore?

10 A. No, I don't recall prior
11 to. I think I was -- I was, you know, pretty
12 pleased that he showed -- Mr. McGuire showed him
13 my report, and no, I don't think that I knew it
14 prior to the meeting.

15 Q. Okay. Why were you
16 pleased that he showed your report? Did you have
17 some suspicion that it had not been shared?

18 A. No, because it was
19 always, you know, Tradewind, Tradewind, Tradewind,
20 but in my opinion Tradewind was only a part of
21 that assignment. You know, the important thing
22 was the entire report where we provide our
23 recommendations for the treatment -- addressing
24 the issue on the Red Hill Valley Parkway.

25 Q. Right. I'm just coming

1 back to the note from your discussion with
2 Mr. Maher from I think it was December 10th that
3 we discussed before lunch, where one of your notes
4 was a question about whether or not you should
5 share the report, and you indicated that you
6 thought that referred to the Golder report itself.

7 So, again, I'm wondering if
8 you had a concern or if you had been -- if anyone
9 had told you that it had not been -- that the
10 Golder report had not previously been shared
11 within the City.

12 A. I think it wasn't a
13 concern about sharing because I think I didn't
14 know at that time. But it was -- you know, the
15 intention was just to show Mr. McGuire what we did
16 and what we recommended.

17 Q. Okay. Item D in your
18 note refers to "use technologies for skid
19 improve" -- I assume that means improvement -- and
20 then it goes on to list microsurfacing, shot
21 blasting, skidabrading, blasting, Blastracing and
22 then other very expensive....

23 What is -- what are these
24 referring to? Are these about the methods of the
25 friction improvement that you had suggested?

1 A. Yes, they are.

2 Q. Okay. Because it said
3 "use technologies." I'm just wondering if there
4 was a different context?

5 A. No, this was -- use
6 technologies that we recommended that might -- in
7 the report there was only microsurfacing, but
8 later on we recommended also other treatments.

9 Q. Okay. And then at the
10 bottom of the left-hand note and with an arrow to
11 the right it says, "the skid hazard is still
12 there" with an exclamation mark, and then the
13 arrow goes over to what as appears to be the
14 paragraph on the right-hand page. Is this
15 something that you discussed -- or you told
16 Mr. McGuire?

17 A. Yes, it is.

18 Q. Okay. And does the arrow
19 by "the skid hazard is still there," is that
20 intended to reference that paragraph J?

21 A. Yes. So basically I --
22 you know, I wanted to squeeze everything into two
23 pages, and there was no room at the bottom, so I
24 put it on the previous page, but I put an arrow to
25 talk about this after item J.

1 Q. All right. And does
2 the -- item J, does that indicate what you told
3 him?

4 A. Yes, yes. Yes, it is.

5 Q. Okay. Now if we could
6 pull up -- if we could keep that up or at least
7 the left hand of the image perhaps or the whole
8 thing is fine, and then pull up HAM54182 which is
9 the draft report that you brought to the meeting
10 with you that we briefly talked about. And then
11 if you go to the second image. At the very bottom
12 where it says "as discussed with the City," the
13 very bottom paragraph there. It says:

14 "As discussed with the City,
15 if there is a concern with
16 frictional characteristics of
17 the SMA surface course on the
18 RHVP an immediate effective
19 solution would be to carry out
20 blasting/skidabrading of areas
21 of concern."

22 On -- and then if you could go
23 to the next page, Registrar -- on the existing
24 pavement surface. "The treatment is quick and
25 relatively low cost." (As read)

1 I'm wondering about the
2 language when you say "if there is" --
3 "As discussed with the City,
4 if there is a concern with the
5 frictional characteristics of
6 the SMA surface course." (As
7 read)

8 Why that language, the if?
9 You did have a concern, did you not?

10 A. I think it was maybe not
11 very fortunate language, but, you know, SMA (ph)
12 not a safety consultant, and it would require
13 safety evaluation to say what the impact of
14 particular factors is, and I didn't know about --
15 when I was preparing this report, I didn't know
16 about CIMA. So that was my concern that time.

17 Q. Okay. In the meeting,
18 though, you referred to -- as per your notes --
19 skid hazard, and yet, in -- and in here it says,
20 "if there is a concern." That just seems to be a
21 rather different emphasis. Would you agree?

22 A. Yes. I think it was a
23 fortunate statement. Obviously I was -- I had
24 some concerns about the skid numbers. I
25 recommended treatment, particularly this interim

1 that they could do right away. So obviously it
2 was my concern, and also at the same time it's
3 like -- something like you can improve one factor
4 quickly and at low cost. And so it was -- the
5 intention was just do this simple -- apply this
6 simple low-cost treatment to address one factor.

7 Q. And then in the note at
8 the top of the second page of the note -- yeah, if
9 we can expand it, it says, "micro, blasting no
10 PSV." Do you know what that refers to?

11 A. So basically that would
12 be like, you know, extremely brief summary of my
13 discussion with Mr. Gary Moore. Apply
14 microsurfacing or if -- you know, if cost is an
15 issue, et cetera, so use blasting or skidabrading,
16 and, you know, I also say that no PSV, it means
17 that the decision was not to do -- not to repeat
18 PSV testing in 2014.

19 Q. Oh. So you're referring
20 back to 2014 that you did not have PSV results at
21 that time?

22 A. No, no. So it was like
23 when we met with Mr. Moore on March the 7th, 2014,
24 so we talk about my --

25 Q. I think -- let me just be

1 clear, is it February 7th? I think it was
2 February 7th.

3 A. Sorry, I thought -- yeah,
4 it was February. Sorry, if I made an error, I
5 apologize. It was on February the 7th, 2014 I met
6 with Mr. Gary Moore, and we talk about
7 microsurfacing, blasting, and I ask him if he
8 wanted us to do PSV, and the decision was, no,
9 don't do the PSV; it was already on the DSM.

10 Q. Okay. Thank you. And
11 then in point (g), if you can take that down,
12 Registrar. Well, actually I guess it was already
13 up there. I apologize. Yeah, thank you.

14 Refers to "LU contacting
15 contractors, final decision - no." (As read)

16 What's that referring to?

17 A. So at the end of 2015 and
18 2016 we talk about bump -- dips and bumps, and
19 skid improvement recommendations, and that I
20 contacted Skidabrader and Blastrac -- so these
21 contractors -- and, you know, presented this to
22 Mr. Moore, but his final decision was no. He was
23 not interested in using this technology.

24 Q. Okay.

25 A. And this report on dips,

1 that was added during the meeting, report on dips.

2 And so the last part of item (g), it was added

3 during the meeting that Mr. McGuire requested.

4 Q. Oh, the -- right. A

5 report on that, which there had not been a report?

6 A. No, no. Initially he

7 thought it was report, but we had only this

8 e-mail. No, we had only Excel spreadsheet and the

9 map, so he requested this thing to be sent to him.

10 Q. Okay. And then there's

11 a -- under (i) there's a reference to PSV texture,

12 British pendulum number and so forth and then the

13 meeting on March 9th. And then:

14 "Discussed HIR, results

15 presented considered

16 inconclusive, no report.

17 Explained by the City people

18 that they cannot do is shot

19 blasting because this would

20 show the public that there is

21 a problem with RHV-admitting

22 guilt and getting the blame."

23 (As read)

24 A. Yes.

25 Q. Okay. So what's that

1 referring to? Is that what you've described
2 previously about -- in the meetings in -- earlier
3 in 2018?

4 A. Yes, that was -- I think
5 it was March the 9th, 2018 meeting, and that was
6 the part of after Mr. Moore and Susan Jacob, and
7 that was our discussion. This is what I was --
8 the message that was conveyed to me.

9 Q. And then on the next page
10 of your note you refer to it. If we go to that,
11 Registrar. And I think this says:

12 "I was informed that the City
13 is working with CIMA, safety
14 aspects on RHVP, including
15 speed, geometry, loading."

16 (As read)

17 I don't know if friction is
18 included. I think you indicated that that note
19 was written during the meeting; is that right?

20 A. It was during or just
21 right after, but that was -- you know, I think it
22 was probably during the meeting.

23 Q. Okay. And there's a
24 reference to CIMA. And you've said previously
25 that it was at this meeting with Mr. McGuire that

1 it was the first you were aware of it. Is that
2 the case, this is the first you became aware of
3 CIMA's involvement with respect to the Red Hill?

4 A. Yes, it is.

5 Q. Okay. And what was
6 Mr. McGuire's reaction to your -- you had your
7 agenda. You told him what you were going to tell
8 him. Was he on receive for all this, or did he
9 have -- what you've already referred to, for
10 example, requesting the report and then
11 spreadsheets from the dips and bumps testing and
12 so forth? Did he have anything to say in response
13 at this point?

14 A. So I think he appreciated
15 the meeting and the information that I shared with
16 him. He wasn't particularly happy that I talk
17 about speed and volume. So at the end he just
18 almost, you know, just made a clear impression to
19 me that, you know, speed and volume was none of my
20 business, that there was other consultant taking
21 care of this, and then, you know, safety
22 consultant who would take -- who would look at
23 safety aspects on the Red Hill Valley Parkway.
24 And he -- you know, so he told -- he told me about
25 CIMA, but I don't think he showed me any report.

1 It was just he told me that CIMA was taking care
2 of safety aspect and collisions, including
3 speed -- so he didn't want me to talk of anything
4 about speed or volume or this aspect.

5 Q. Okay. And is that --
6 there is a reference in the draft report to that.
7 Was it -- was there discussion about that at that
8 time?

9 A. Yes. Initially I
10 included our concern with speed and volume of
11 traffic. I don't know if any other aspects, but
12 then we discussed this thing with our legal
13 counsel, and we concluded that the decision
14 was since it was included in the CIMA report, that
15 I couldn't move it from the final version of the
16 report.

17 Q. Okay. And taking out any
18 discussions with legal, was that at Mr. McGuire's
19 request? There is some correspondence
20 subsequently where he asked you to remove it.

21 A. No, it was after his
22 request to remove it, but -- so he requested
23 removal of this aspect. I discussed with our
24 legal counsel, and since CIMA was doing this
25 thing, that decision -- well, okay, CIMA was

1 covering this aspect; we can remove it from our
2 final report.

3 Q. Okay. And is there
4 anything else pertinent -- that occurred during
5 the call that we haven't discussed?

6 A. Well, there are certain
7 aspect that I raised before. I don't know whether
8 this is what you mean. But in the middle -- like
9 towards the end of the conversation there was a --
10 some sort of interruption. This is what you want
11 me to talk about?

12 Q. Well, just -- I want you
13 to say anything pertinent, but that's one thing,
14 sure.

15 A. Yeah. Because it was
16 supposed to be face-to-face meeting, and towards
17 the end of the meeting there was some interruption
18 on the phone. I think -- my impression was that
19 somebody stepped in someone room and say, like,
20 you know, some noise, like, you know, what's up or
21 something like this, and Mr. McGuire was I
22 think -- I don't know not embarrassed but, you
23 know, stressed, so he started to reduce the volume
24 in the phone. So I -- I don't know. Like my
25 personal impression that somebody listened to our

1 conversation.

2 Q. Okay. So if we could go
3 to overview document 9 -- take that down,
4 Registrar -- images 220 and 221.

5 Paragraph 534 to 36, you
6 e-mailed Mr. McGuire about the meeting and thanked
7 him for the meeting and then raised the concern
8 that:

9 "Towards the end of the
10 conversation you reduced the
11 volume on the stationary
12 phone. This surprised me as I
13 thought we were the only
14 people participating in the
15 meeting. Could you please
16 clarify if our conversation
17 was recorded or if others were
18 listening through the speaker
19 phone." (As read)

20 Is that what you were
21 referring to?

22 A. Yes, it is.

23 Q. Okay. And you can take
24 that down, Registrar, actually. I guess it's just
25 535 Mr. McGuire's response the same day. It says:

1 "No. There was no recording
2 or anyone else listening
3 during the meeting. There was
4 a call in, and I reached over
5 to reduce the ringer volume.
6 My office is secure and there
7 was no intent to capture
8 anything but the overall
9 discussion via notes." (As
10 read)

11 And so was your impression
12 about this -- this was just based on what happened
13 during the meeting; is that right?

14 A. Yes, this is what
15 happened during the meeting and also my impression
16 after the meeting.

17 Q. What happened after the
18 meeting that caused you to think that someone had
19 been listening in?

20 A. Mr. McGuire walk me to
21 the door, and it was, you know, a friendly
22 atmosphere, and there was a person passing, and
23 Mr. McGuire got very aggravated at him, unusual.
24 And also I saw Mr. Moore walking from roughly
25 where we met in other direction, so I -- that was

1 my concern that somebody listened to our
2 conversation.

3 Q. Sorry. Did you recognize
4 the person that you perceived Mr. McGuire being
5 angry at that was passing by?

6 A. No, I didn't know that
7 person.

8 Q. Okay. And then you also
9 saw Mr. Moore, Gary Moore, walking nearby?

10 A. Yes. He was walking from
11 the location where roughly the meeting was to
12 other location in the office.

13 Q. All right. And just so I
14 understand. It was because Mr. McGuire reduced
15 the volume on the phone because that's what it
16 appeared to you that he was doing?

17 A. I think -- you know, I
18 didn't know exactly what he was doing, but for me
19 it wasn't a ring; it was somebody stepped in, and
20 that noise was not a ring.

21 Q. Okay. It was like you
22 heard someone on the other end, is that what you
23 mean?

24 A. Yes. Like somebody
25 entered the room and said something, so I heard

1 somebody on the other end.

2 Q. Okay. And did anyone
3 tell you at any point that the meeting was
4 recorded or someone was listening in?

5 A. No, nobody told me.

6 Q. Okay. And were you aware
7 of any practice among staff in your experience of
8 recording meetings or listening in on them
9 surreptitiously?

10 A. No, I didn't. I think
11 our agreement was clear.

12 Q. Right. And did you
13 accept Mr. McGuire's explanation?

14 A. I didn't respond, but --
15 I didn't agree with it.

16 Q. But you still believe
17 that someone was listening in; is that right?

18 A. That's correct.

19 Q. Okay. You can take those
20 down, Registrar, and go to images 250 and 251.
21 And -- this is at paragraph 609.

22 It's a long e-mail from you to
23 Ms. Rizvi which you ask her to review, and which
24 you indicate you intend to send to Dr. Skinner,
25 Mr. Linardi and Dr. Mahar for their records. And

1 can you describe what the purpose was of writing
2 this.

3 A. The purpose was because
4 they knew, Dr. Skinner, Mr. Linardi and Dr. Maher,
5 they knew about the meeting that I was supposed to
6 have with Mr. McGuire, so I summarized the
7 conversation and I wanted to send it to them just
8 for the records.

9 Q. Okay. So a recounting of
10 the meeting the prior month on December 18th?

11 A. Yes, it is.

12 Q. Okay. I think that one
13 thing that does not appear in there is what we
14 were just discussing, which is the issue about
15 someone potentially listening in. I don't see any
16 reference to that in this e-mail. Do you know why
17 that is absent?

18 A. Well, I didn't put this
19 thing in writing, but I discuss this thing with
20 Mr. Linardi.

21 Q. Well, I don't want to
22 know what -- if we're talking about a privileged
23 conversation with legal counsel, I'm not asking
24 you for that, but -- and we know that you
25 addressed it directly to Mr. McGuire. But aside

1 from discussions that you had with Mr. Linardi, is
2 there a particular reason why you did not include
3 that in here?

4 A. No, no. No, it's not.
5 It was just like a summary of facts; what was
6 discussed during the meeting. So no, this is --
7 this is just -- I didn't think it was necessary to
8 include this thing in this.

9 Q. All right. If we could
10 go to images 215 and 216.

11 And paragraph 527 is --
12 reproduces Mr. McGuire's notes relating to the
13 meeting. And there's one thing I wanted to ask
14 you about which is on image 216 on the right.

15 Registrar, if you could --
16 yeah, that's fine. Thank you.

17 The sixth line from the bottom
18 indicates:

19 "Forced to say this; was told
20 the City wouldn't want to
21 admit there is an issue to
22 address." (As read)

23 Do you know what that refers
24 to, and does that ring a bell as to what you
25 described to Mr. McGuire?

1 A. Yes. It was like -- the
2 City of Hamilton was my client, so it was not nice
3 to me to say this, but I was -- maybe not -- I was
4 forced to say what I was told. So I respected the
5 client. It was a very good client, but I had to
6 say what I was told.

7 Q. Okay. And what you were
8 told was what? I mean, it says, "wouldn't want to
9 admit there is an issue to address." (As read)

10 Does that go back, again, to
11 the issue that you were discussing about -- that
12 it would be admitting a problem if there was some
13 friction improvement methods undertaken?

14 A. Yes. The City told me
15 that they couldn't do anything because that would
16 admit that there was a problem, they would get the
17 blame, and they would get the blame for this.

18 Q. You can take that down,
19 Registrar.

20 And there are a lot of
21 communications between you and Mr. McGuire
22 following the meeting -- we already looked as a
23 couple of them -- following the meeting on
24 December 18th. We're not going to look at all of
25 them. But in general could you describe your

1 impressions of the tone and approach as those
2 communications progressed.

3 A. I think the tone has
4 changed. It was more, I would say, maybe not the
5 best word like aggressive -- so the tone has
6 changed from what it was initially. Yeah. So
7 that -- yeah, it has changed significant.

8 Q. Okay. Now if we could go
9 to images 221 and 222.

10 And so there's an -- so this
11 is showing an e-mail from you on December 21st,
12 2018 responding to Mr. McGuire's e-mail on
13 December 18th which is earlier. But your response
14 includes, in red, a sort of imbedded response each
15 of his questions. And without reading through
16 it -- but essentially as I understand it you're
17 answering his question saying there is no standard
18 for skid number requirements in Ontario; that the
19 British pendulum numbers from December 2017 aren't
20 reliable, and you give him contact information for
21 three companies for shot blasting or skidabrading
22 to improve friction, just as a summary; is that
23 fair?

24 A. Yeah, it's fair. Also
25 there was some, like, you know -- I think --

1 because I know even this particular e-mail
2 Mr. McGuire -- so in the previous -- previously
3 you said that PSV was okay or sufficient. I say,
4 no, we didn't say sufficient; we say medium. So
5 there was like this sort of -- but overall, yes,
6 this is correct, your summary is correct.

7 Q. So I think that's a
8 subsequent e-mail where you have that discussion
9 about that, and we'll come -- about the PSV?

10 A. Oh, yes.

11 Q. That's in the subsequent
12 e-mail, so we'll come to that. Let's not jump
13 ahead.

14 A. Oh, sorry.

15 Q. But it's the third point
16 I want to discuss at the top of 222, and you
17 indicate at the very top --

18 Maybe if you could expand the
19 top paragraph there on 222. Thank you. That's
20 fine.

21 A. Thank you. Thank you.

22 Q. And this is when -- you
23 know, this is in response to his request for
24 references for the use of the shot blasting
25 method. And you indicate:

1 "As discussed during our
2 meeting on Tuesday and
3 previously within the City the
4 concern and skid potential on
5 the RHVP is still valid and
6 the City should consider how
7 to address this."

8 And I'm wondering about the
9 use of the word "should consider." Is that a --
10 does that term "should consider" have a particular
11 meaning in engineering consulting?

12 A. Yeah. That was my
13 recommendation that -- this is like, you know,
14 going back to previous recommendation of applying
15 these interim treatments. So in my opinion it
16 should be considered.

17 Q. It should be considered.
18 Does that mean it's a recommendation that should
19 be done? I mean, should consider, the way you've
20 just described, means that you should think about
21 it, I think. Or does it mean that it's something
22 that is a recommendation that should be done?

23 A. It's -- for me it's a
24 delicate -- but I would say should consider -- in
25 the meaning for me was as a recommendation, should

1 be done.

2 Q. Okay. Thank you.

3 And if you could go to
4 overview document, same overview document, 244 and
5 245, those images.

6 And I think this might be the
7 one that you were referring to before about TSB,
8 but this is in paragraph 590. January 13, 2019 he
9 responded to your December 21st, 2018 e-mail, and
10 there's a number of items. How did you interpret
11 the overall approach of his e-mail? And we can
12 expand it if you like.

13 You can do that, Registrar.
14 The e-mail at 590 at the bottom and the top of the
15 next page. At the top he says:

16 "Thanks for the updates on the
17 file and I have a few more
18 questions and updates for
19 you."

20 That's a bit cut off I think.

21 A. You know, my opinion it
22 was that -- it was becoming more aggressive.

23 Q. A little bit more
24 positional?

25 A. More positional, yes, and

1 also something -- you know, like I mentioned this
2 PSV -- maybe not here, but, like, twisting what we
3 said because -- yeah, that was my general
4 impression.

5 Q. Okay. We'll come to the
6 PSV thing in a second. In the middle paragraph
7 Mr. McGuire -- well, no, it's the one with the red
8 text. In your response below in point 3, you
9 indicate that:

10 "The concern about skid
11 potential on the RHVP is still
12 valid and the City should
13 consider how to address this."

14 However, in the draft report
15 on the bottom of page 2 you wrote that:

16 "As discussed with the City if
17 there is a concern about the
18 frictional characteristics of
19 the SMA surface course on the
20 RHVP, can you please provide
21 clarity on these statements."

22 (As read)

23 So he's talking about that
24 same thing that I asked you about, about if there
25 is a concern. And did you later change the

1 language in the final draft on that point?

2 A. Yes. In the final
3 version of the report, I -- we removed that
4 sentence.

5 Q. Okay. And in the second
6 paragraph it says:

7 "Both of the MTD and PSV
8 elements are identified as
9 adequate and the City will
10 require a framework to measure
11 them against. Public works is
12 submitting a report to the PW
13 committee early in February
14 and will require this
15 information." (As read)

16 Is that what you were talking
17 about before about the use of the term adequate
18 for PSV?

19 A. Yes. Because I don't
20 know if this -- on the next e-mail I corrected
21 that. I didn't say it was adequate because for --
22 hot in-place recycling, I considered this thing
23 not adequate.

24 Q. Right. Give me one
25 moment. Just bear with me for one moment if you

1 would, please. And in the red line there I'm just
2 noticing this. He said:

3 "In your response below in
4 point 3 you indicate that 'the
5 concern about skid potential
6 on the RHVP is still valid and
7 the City should consider -- no
8 that's right -- how to address
9 this.'" (As read)

10 Okay. No, I apologize. I
11 thought it said something else. Move on.

12 Okay. If we could go to
13 images 267 and 268.

14 So this is a response to
15 Mr. McGuire's e-mail from you on January 18th
16 responding to his January 13th e-mail. And just
17 to cover off what you were just speaking of.

18 The first paragraph, if you
19 could expand that, Registrar. This is about the
20 PSV and the use of the term adequate. Is this
21 what you were referring to?

22 A. Yes, it is.

23 Q. Okay. And you indicate:

24 "We do not state the PSV was
25 identified as adequate, which

1 you state below. We stated
2 that: 'The corrected PSV of
3 the tested aggregates was 45.
4 This value is considered to be
5 average/medium. As discussed
6 during the meeting there is a
7 concern that an aggregate with
8 a PSV of 45 will not provide
9 sufficient long-term
10 frictional characteristics if
11 the surface course asphalt mix
12 is subjected to hot in-place
13 recycling.'" (As read)

14 Now, you indicated that it
15 was -- Mr. McGuire was becoming more aggressive,
16 and I suggested the word "positional", which you
17 agreed with. Is it fair to say that this e-mail
18 is more forceful and positional than your previous
19 e-mails?

20 A. Yes. Because this
21 statement that would -- you know, our
22 recommendation upside-down, we said, no, it's not
23 suitable, and now if I said adequate, I would say,
24 no problem. So it was -- as you read this is the
25 position of being positional.

1 Q. I'm not being critical.
2 I'm just being observational.

3 A. Yeah, yeah. This is,
4 like, you know, that was my conclusion.

5 Q. Okay. If you could take
6 that down, Registrar, just so we can see the whole
7 part.

8 And on that you deal with a
9 number of issues in there, but in the first
10 paragraph when you say that the PSV of 45 is
11 insufficient to maintain long-term frictional
12 characteristics if HIR is used in referring to
13 recycling the aggregates, would that not also
14 apply to the existing surface?

15 A. This is like I -- you
16 know, we recommended interim improvement --

17 Q. Right.

18 A. -- so this is we -- you
19 know, we -- I know it is just this one element,
20 one factor, one item, but, you know, for me it was
21 very obvious. It cheap, quick, do it and improve
22 it. Will you solve everything, no, but you will
23 improve this one particular thing.

24 Q. Right. But my question
25 isn't really about why you didn't mention it here.

1 That isn't what I mean. I just -- just asking
2 substantively is the same concern -- exist (ph) if
3 it's going to -- if there's a concern about
4 whether you can maintain adequate frictional
5 characteristics with a PSV of 45 in a recycled
6 pavement? Am I correct that the same would a
7 apply to the non-recycled pavement; is that fair?

8 A. In my opinion recycled
9 pavement would be long term. So, let's say if I
10 had 45 now and, you know, as I stated before that
11 that was relatively low, but if I use the same
12 aggregate, it's 45 today; it would not get better.
13 It would go -- only go down, so it could only get
14 worse. There are no miracles that it would
15 suddenly come up, so it would be -- it's not
16 today. We will be looking at 10, 15 or something
17 years. It can only get worse.

18 Q. But you're not going to
19 get an improvement from it?

20 A. No. Unless you do
21 something like shot blasting or something in the
22 future, but without anything, no, it will not go
23 up. It will not improve.

24 Q. Okay. Can we go to 271,
25 272.

1 This is another long e-mail
2 from Mr. McGuire on January 20th responding to
3 yours that we just looked at from the 18th of
4 January, and it runs onto the next page.

5 In the first paragraph he
6 refers to our conversation last week that preceded
7 your e-mail of the 18th to him. Do you recall
8 what that conversation was about or what you
9 discussed? He just says -- but he says:

10 "In that conversation we
11 agreed that providing a
12 reference framework to your
13 draft report was required to
14 provide context to your
15 findings."

16 Do you recall that discussion?

17 A. If he says, we must have
18 had probably telephone conversation, but I don't
19 recall details of this.

20 Q. And then in
21 paragraph 4 -- and if maybe you could call up 4
22 and 5, Registrar. Yeah. And here he indicates
23 that:

24 "What Golders has provided in
25 this assignment is a series of

1 measurements, and your review
2 of those results, with
3 recommendations based upon
4 unknown standards. As the
5 client this does not meet our
6 requirements of the
7 assignment."

8 And then he goes on to talk
9 about the speed and traffic volumes being outdated
10 and doesn't refer to the most current studies done
11 by another consultant, which I think you had
12 indicated before you understood to be CIMA at that
13 point.

14 With respect to the first
15 paragraph there, what was your reaction to that
16 statement?

17 A. My reaction was that
18 probably Mr. McGuire anticipated that there was a
19 clear standard for friction testing and friction
20 requirements in Ontario, like OPSS or other
21 standards, but -- so I think this is what he
22 understood, but this thing doesn't exist in
23 Ontario, so I wasn't able to reference something
24 that didn't exist.

25 Q. Okay. And in the next

1 paragraph about the speed and traffic data, had
2 you been provided with any CIMA reports or work
3 product by this point?

4 A. Sorry, what was -- not
5 from the City, no.

6 Q. Or anyone else directly
7 from CIMA?

8 A. No, not from CIMA, not
9 from the City.

10 Q. Okay. And was it
11 following this admonition from Mr. McGuire that
12 you removed from the draft pavement evaluation
13 report the references to traffic volume and speed?

14 A. Yes. I talked to our
15 legal counsel, and then there was an agreement
16 that, you know, since CIMA is doing this thing, we
17 can remove it.

18 Q. Okay. You can take that
19 down, Registrar. And then in the next paragraph
20 there it starts:

21 "There are a series of reports
22 being generated for committee
23 and council on this matter."

24 And it says:

25 "I have included a section on

1 the 2017 Golder's assignment,
2 and hope I can have sufficient
3 details to be able to provide
4 a complete context on the
5 results. My report is due
6 Monday to the GM, and I had
7 expected results with the
8 framework to address the lack
9 of reference standards. My
10 report will include this
11 element and discussion around
12 the meaning of results." (As
13 read)

14 I read as he's requesting that
15 you provide like a final report to him. Is that
16 how you understood it at this point?

17 A. Yes. Correct.

18 Q. Okay. But there wasn't a
19 final report, and we'll look at it, but I think
20 it's February 28th is the date of the final
21 pavement evaluation report. Do you know what
22 the -- why the time lag?

23 A. It was -- yeah, we -- I
24 discuss this thing with our senior management, so
25 the report was going to our senior people for

1 review, came back to me and then again to the them
2 and also to our legal people, so this is why it
3 took time.

4 Q. Take that down,
5 Registrar. If we could go to -- there's a note on
6 January 29th of yours. If we could go to RHV933,
7 image 45, please. No, that can't be right. One
8 moment. Sorry, it would be near the end,
9 Registrar. I just seem to have the wrong
10 reference there.

11 JUSTICE WILTON-SIEGEL: I'm
12 wondering whether it's the document that is shown
13 as image 45 which appears right after the document
14 styled image 73.

15 MR. LEWIS: Possible. In the
16 actual overview document?

17 JUSTICE WILTON-SIEGEL: No, in
18 the notes. I thought you were going -- if you're
19 not going for the notes, then disregard my
20 comment.

21 MR. LEWIS: Sorry,
22 Commissioner, in which document are you talking
23 about?

24 JUSTICE WILTON-SIEGEL: In the
25 notes, 7414.

1 MR. LEWIS: Oh, in 7414. That
2 is --

3 JUSTICE WILTON-SIEGEL: I'm
4 sorry, 7404 is what I have in front of me.

5 MR. LEWIS: 7404?

6 JUSTICE WILTON-SIEGEL: Yes.

7 MR. LEWIS: One moment. It's
8 874 within -- image 874 within RHV933. There we
9 go. My apologies.

10 So this is a January 29th --
11 oh, I see, it says, image 45. Right. That's from
12 the original.

13 BY MR. LEWIS:

14 Q. January 29th there's a
15 reference to Gord McGuire. Does this refer to a
16 call or meeting or something that Mr. (sic)
17 required, do you know?

18 A. I think it was a
19 telephone call. I don't recall another meeting on
20 this day.

21 Q. Okay. And what did you
22 discuss with him? There's a reference to "we
23 didn't put this material down 2016, 2017." Do you
24 know what that refers to?

25 A. I think Mr. McGuire was

1 only involved when I was the -- only in Red Hill
2 Valley Parkway, so it would have to be Red Hill
3 Valley Parkway, and the material -- we didn't put
4 this material down to the 16 (ph), so I think it
5 was probably microsurfacing.

6 Q. Okay.

7 A. I think likely -- because
8 I don't see any other.

9 Q. Okay. But you don't have
10 any specific recollection of it beyond the note?

11 A. No, no. But I believe
12 that would likely be microsurfacing.

13 Q. Okay. And then "three
14 sets of measurements," do you know what that's
15 talking about?

16 A. So those three sets of
17 measurement -- I think that would be three sets
18 measurement. I think it was likely friction 2007,
19 friction 2013 and friction 2017.

20 Q. Okay.

21 A. Or other option would be
22 what we did in 2017. But I don't recall the
23 details, you know, which of the two it was.

24 Q. Okay. And if we could go
25 to overview document 10, images 125 and 126, and

1 it's paragraph 321.

2 On March 1st, 2019 you
3 e-mailed Mr. McGuire attaching the final version
4 of the report titled "Evaluation of Pavement
5 Surface and Aggregates, Red Hill Valley Parkway
6 City of Hamilton."

7 And so this is the final --
8 this is the final version of the draft that you
9 delivered to Mr. McGuire at the meeting on
10 December 18th, 2018?

11 A. Yes, it is.

12 Q. Okay. And you indicate
13 about the British pendulum test results, the
14 polish stone value being 45 and characterized as
15 average/medium and the average texture depth
16 generally considered to be good. There's no
17 reference to the traffic volume and speed here, so
18 this -- you did in fact remove it as you
19 described?

20 A. Yes, we did.

21 Q. And if we could go to
22 image -- actually let's go to the report itself.
23 If we could go to GOL6612. It's dated
24 February 28th, 2019. And if we could go to
25 image 2.

1 And in the context of the
2 British pendulum number discussions, in the last
3 paragraph -- maybe you could expand the last
4 paragraph, please.

5 So you refer to the British
6 pendulum numbers and say that:

7 "While the average of 39 can
8 be considered as good, the
9 test results were variable.
10 The values below 30 would be
11 considered as low. And six of
12 the readings were below 30,
13 i.e., 20 percent of the
14 locations tested." (As read)

15 And then you go on to describe
16 the -- why the test results are not reliable.
17 What's the source of the number 30 as being the
18 threshold between low and not low?

19 A. This value -- I used
20 this -- I downloaded a paper. Initially I thought
21 it was the Virginia Tech paper, but I think later
22 on -- I think it was, like, presented at Virginia
23 Tech. And that was a technical paper on British
24 pendulum numbers, so British pendulum testing
25 numbers in winter, and that included -- this is

1 why; that included low temperature, snow and
2 deicing chemicals. So the conclusion in that
3 paper was that if it was, I think, 39 it was okay;
4 30 was low, for these winter conditions. So I
5 based my opinion on that particular paper.

6 Q. I see. And is that paper
7 referenced in the report? Let me see.

8 A. I don't --

9 Q. I don't believe -- if we
10 could go to images 3 and 4, see the references.

11 A. No, I don't think the
12 paper is referenced. Because I remember that
13 initially I save it under favourites. Later on
14 I -- because it was in my old computer I couldn't
15 find. The favourites didn't work anymore. So I
16 was looking for that paper, the original paper. I
17 couldn't find it. I found a similar paper that
18 gave similar values, but I know it was not the one
19 that originally used, but the values were similar.
20 So I have a copy of that similar paper but not the
21 original one because I know that I couldn't find
22 original one that I saved under favourites.

23 Q. Okay. Has that been
24 produced to us, do we know? I'm not sure that we
25 have that.

1 MS. JENNIFER ROBERTS: Sorry,
2 Counsel, the paper Dr. Uzarowski subsequently
3 found has been produced in answers to, I recall,
4 undertakings.

5 MR. LEWIS: Okay. Thank you.

6 BY MR. LEWIS:

7 Q. And there I just note on
8 the image at the left under "references," number 1
9 that's the Heaton, Emery and Kamel paper that we
10 discussed earlier that had the reference to PSV
11 value of 45, right?

12 A. Yes, it is.

13 Q. Okay. So if we could go
14 back to image 2, and the bottom paragraph if you
15 could expand that, please.

16 And in the context of talking
17 about the British pendulum numbers, in the fifth
18 line you indicate:

19 "A detailed, reliable friction
20 testing survey was carried out
21 on the RHVP by Tradewind
22 Scientific using a grip tester
23 on November 20, 2013. The
24 grip number values were
25 variable and range from 27 to

1 54, and the average GN value
2 in the eastbound direction was
3 34.5 and in the westbound
4 direction 37.5."

5 And then you go on to say
6 that:

7 "The actual designation of
8 pavement surface friction
9 standards such as minimum skid
10 number, SN, is not commonly
11 practised by any
12 provincial/states in Canada
13 and the United States."

14 And then you go on, and we'll
15 look at it in a minute, you reference the TAC
16 guide example, which is on the next page.

17 Now, the first thing is, am I
18 correct that the error we talked about earlier
19 about the lane direction and the grip numbers that
20 that has carried through to here?

21 A. (Reading document).

22 Q. I believe it has. We
23 can --

24 A. No, I think here
25 westbound -- westbound would be that way, so it

1 would be south -- southbound -- it's 37.5, and
2 eastbound would be the northbound, so it is
3 corrected here.

4 Q. Okay. You have corrected
5 it here, right?

6 A. It looks like -- yeah, it
7 is correct because westbound would be the
8 southbound roughly, yes, so I think it is correct.

9 Q. Okay. So does that mean
10 that you had adverted to the error at some point
11 during the -- prior to writing this? Do you
12 recall how you came to realize that?

13 A. I -- you know, I
14 corrected the error because -- yeah, I was -- in
15 my initial report in my e-mail and in 2014
16 obviously there was an error, so here I probably
17 look again at this thing; I realize what it should
18 be.

19 Q. Just give me one moment.
20 I may come back to that once I have a look at
21 it. I don't want to do it on the fly.

22 If we go to the next page, we
23 see the table 1 "Criteria For Identifying a Low
24 Friction Pavement Surface." And we talked about
25 this on the first day of your evidence last week

1 in relation to the Golder report, right, and one
2 of the sources by which you came up with the
3 reference in the Golder report to FN40, right?

4 A. Yes, it's correct. This
5 is table two six in the TAC guide, yes.

6 Q. Right, Yeah. And do you
7 know why in here you did not refer to the U.K. PMS
8 guide and the SCRIM number? Those are the other
9 sources of the FN40 that you relied upon. Do you
10 know why you didn't use those in here?

11 A. You know, writing this
12 thing, it was probably, you know, better and more
13 clear to -- no, sorry, it is still Pennsylvania,
14 but more clear to reference what was in that
15 table. I don't have any particular -- no, I don't
16 have any particular recollection why I put this --
17 this paper. I think this paper was -- delivering
18 the right message what it should be.

19 Q. As I indicated, you refer
20 to the Tradewind testing as a "detailed, reliable
21 friction survey." Does that remain your view,
22 that it was a "detailed, reliable friction testing
23 survey"?

24 A. Yes, it is.

25 Q. And one thing I note is

1 there's no reference in here to the results on the
2 LINC from the Tradewind report. Was there a
3 reason for not including that in the comparison
4 between the LINC and the Red Hill Valley Parkway
5 results?

6 A. Oh, definitely there is
7 no LINC here. And, you know, the focus was on the
8 Red Hill Valley Parkway, so we didn't include the
9 LINC, no.

10 Q. Right. But would that
11 not be a relevant piece of information that the --
12 part of the same facility, albeit with a different
13 pavement at a different time, had a very difficult
14 result?

15 A. No. Our focus was on the
16 Red Hill Valley Parkway, and SMA should be -- you
17 know, if they followed what we advised, it
18 probably would be, the issue would be solved. If
19 they applied microsurfacing, it would be roughly
20 the same, so no. But at this point of time we
21 just focus on the Red Hill Valley Parkway only.

22 Q. Did anyone ask you not to
23 include the LINC results?

24 A. No, nobody.

25 Q. Okay. And then below

1 that table 1, if you could expand the text there,
2 Registrar. There's a reference to being:

3 "Brought to the City's a
4 number of times" (as read),
5 and, "an immediate, effective
6 treatment to address a concern
7 with frictional
8 characteristics of the SMA
9 surface course on the RHVP
10 would carry out shot
11 blasting/skidabrading of areas
12 of concern on the existing
13 pavement surface." (As read)

14 And now that is a different
15 wording than in the December 2018 draft where, as
16 we discussed, it said:

17 "As discussed with the City,
18 if there is a concern with
19 frictional characteristics of
20 the SMA surface course on the
21 RHVP, an immediate, effective
22 solution would be to carry out
23 shot blasting/skidabrading of
24 the areas of concern of the
25 existing pavement surface."

1 (As read)

2 Was this change brought about
3 by discussions with Mr. McGuire?

4 A. Yes. Mr. McGuire ask
5 about this and I talk to our senior management and
6 we decided to remove that statement.

7 Q. Well, and to change it.

8 A. To change it, yes. To
9 change it.

10 Q. So the last thing about
11 that, it does say, though, that it's to address,
12 "a concern with frictional characteristics of the
13 SMA surface course."

14 And that appears to be an
15 unattributed concern still. And, I mean, you did
16 have a concern about it, so why that language?
17 Why not express it as Golder's view?

18 A. Sorry, are you talking
19 about this particular paragraph, or --

20 Q. Yeah, it says -- so I'll
21 say it again. In the first two lines it says:

22 "An immediate, effective
23 treatment to address a concern
24 with frictional
25 characteristics of the SMA

1 surface course on the RHVP
2 would be to carry out shot
3 blasting, et cetera." (As
4 read)

5 And I'm just wondering, again,
6 about the wording. It's to address a concern. It
7 sounds unattributed as opposed to being Golder's
8 recommendation.

9 A. You know, if we had a
10 concern, it was, you know, going back to 2013
11 about information from police, and then when
12 Amelia was doing the testing, there were three
13 accidents, and then we found out about it after
14 because obviously there was -- you know, still --
15 you know, that one factor was still there. You
16 know, one spent (ph). You know, in particular --
17 in our opinion that was particular first thing; it
18 was so easy to improve it. This one factor, it
19 would definitely not harm. I'm not saying it's
20 perfect because it's a short term. But it would
21 help. At least this one item would be addressed,
22 would improve.

23 Q. Okay. Thank you.

24 Take that down, Registrar, and
25 if you could go to -- well, before going to

1 anything.

2 While this is all going on,
3 you or Golder were also preparing a draft and then
4 a final version of the HIR suitability study,
5 right? This was all sort of
6 non-contemporaneously?

7 A. That's correct.

8 Q. Okay. And the draft, one
9 was delivered or was being prepared in December
10 2018, and then the final is provided --

11 If we go to overview
12 document 10, image 127. And it's, yes, 323.

13 Mr. Becke on March 7th e-mails
14 you writing:

15 "It's been a bit since our
16 last discussion. I was hoping
17 to get an update on the report
18 for the HIP works on the RHVP.
19 Please provide me with an
20 update when you can."

21 And then on March 11th you
22 e-mail them attaching a final copy of the HIR
23 suitability study.

24 And if we could pull that up,
25 Golder GOL6583.

1 THE REGISTRAR: Sorry,
2 Counsel, did you say GOL6483?

3 MR. LEWIS: No, 6583. I may
4 have said 6483, but I meant 6583.

5 THE REGISTRAR: Apologies,
6 sorry.

7 MR. LEWIS: Thank you.

8 BY MR. LEWIS:

9 Q. So is this a copy of the
10 final HIR suitability study?

11 A. Yes.

12 Q. Okay. And just generally
13 what was your conclusion for the suitability
14 study, the bottom line?

15 A. Overall conclusion was
16 that, you know, in theory it's possible. But
17 practically it would be practically not --
18 practically, it would be expensive. You know,
19 expensive, and it would require raising the
20 elevation, et cetera. So our overall conclusion
21 that besides being theoretically possible (ph)
22 that -- you know, I also discuss this thing with
23 British -- with BC. So in theory it was possible;
24 but practically we didn't recommend this.

25 Q. Okay. And I think if we

1 go to image 10, Registrar. You talk -- it's the
2 middle of three paragraphs beginning with "this
3 approach." If you could expand that and the next
4 two paragraphs after that, Registrar. So the
5 second paragraph on the page. Yeah.

6 And first of all, there's a
7 reference and sort of see this throughout the
8 materials too. The -- and I always have trouble
9 pronouncing it -- beneficiating mix. That is what
10 you are adding to it, right, to make it better, to
11 put it lay person's terms; is that right?

12 A. Yes. I notice that --
13 it's not beneficiary. It's beneficiating mix.
14 This is the addition, extra mix that you add to
15 improve the characteristics.

16 Q. Right. Sorry, to improve
17 the?

18 A. The characteristics of
19 the final mix, of the blend, yes.

20 Q. Right, right. And the
21 non-recycled part of it, I guess is what you're
22 adding to that, to what you're recycling?

23 A. Yes, that would have to
24 be --

25 Q. And is that what you were

1 talking about --

2 A. -- very complex.

3 Q. -- about the depth. As I
4 read the middle paragraph here, is it saying that
5 you would -- in order to do this you would end up
6 with an 80-millimetre top lift, is that right,
7 because so much beneficiating mix would have to be
8 added?

9 A. Yeah, I -- you know, at
10 that time I was involved in Thunder Bay in just a
11 conventional -- hot in-place recycling called
12 conventional mix, to conventional mix. So this
13 graded to this graded, and we added about 30 -- 25
14 to 35 percent of beneficiating mix. But here if I
15 wanted to add from upgraded to dense graded, then
16 I did a lot of, you know, gradation analysis. We
17 would need probably about adding 50 percent of
18 beneficiating mix to meet the requirements of
19 dense graded FC2 mix. Yeah, so that was roughly
20 about 50 percent based on my analysis.

21 Q. And is that what you were
22 referring to, though, that it would change the
23 grade?

24 A. Yes. So I would change
25 the grade from the upgraded mix SMA to bring it to

1 be within the envelope for the FC2 -- SuperPave
2 12.5 FC2 mix.

3 Q. Right. It says in the
4 middle paragraph, though, that doing that, this
5 would raise the existing surface grade by
6 approximately 40 millimetres. So does that
7 actually mean the surface of the road?

8 A. Yes. Because, you know,
9 we would have to go down all the way through SMA
10 because SMA was cracked. But then it would have
11 an additional 50 -- it was only initial. Later on
12 we could probably think about details, but at that
13 point of time we had to go all the way, all the
14 depth in SMA, and then you would have to add
15 another 50 percent or beneficiating mix, so it
16 would drastically increase the volume.

17 Q. Okay. Is the other part
18 there to do with the aggregates? As I'm reading
19 this, I understand it as saying, well, if the PSV
20 of the existing aggregates is 45, and so if you're
21 going to bring it up to 50, you're going to need
22 to add aggregates with a 55 PSV in order to
23 achieve an overall PSV of 50. Is that what you're
24 saying there?

25 A. This is what I -- I read

1 number of papers how blending of aggregates with
2 different PSV works. There is not a perfect
3 solution, but that was - you know, at this point
4 of time I say, okay, if I have 45, if I have
5 something much better, then I will have the blend
6 of better and worse, so I can bring it to about 50
7 overall.

8 Q. All right. And in the
9 third line of the paragraph in the expanded text
10 here it says:

11 "We understand that the
12 desired PSV by the City would
13 be 50." (As read)

14 What is that from? Is that
15 based on your recommendation, or is that something
16 that someone at the City expressed to you as a --
17 as the City's desire.

18 A. Well, I don't remember
19 anybody from the City just bring this particular
20 number to me, but it was -- for me it was, like,
21 DSM -- minimum PSV for aggregate to be on the DSM
22 list, 50, so this -- the final PSV of the blend
23 would have to be at least 50.

24 Q. No, that I get. It's
25 just it sort of expresses it as a wish of the

1 City, and I'm just wondering if that was the case,
2 or if that was actually your -- just part of your
3 recommendations based on the MTO's DSM
4 requirements?

5 A. That was part of -- of
6 course part of my recommendations based on DSM
7 requirements, but I also -- like, you know, the
8 City would like to meet these requirements.

9 Q. Okay.

10 A. Because 45 was not
11 sufficient so that would be....

12 Q. If you could take that
13 down, Registrar.

14 And we know that the Tradewind
15 report was publicly disclosed on February 6th,
16 2019 in a press release by the City attaching the
17 Tradewind report and a memo by CIMA dated
18 February 4th, 2019. And did you have any
19 involvement in or awareness of the CIMA
20 February 4th, 2019 memo before it was made public?

21 A. No, I didn't.

22 Q. Okay. And aside from
23 delivering the final pavement evaluation report
24 and the HIR suitability report that we've
25 discussed, what was your involvement with City

1 staff after the Tradewind report was made public
2 on February 6th relating specifically to the Red
3 Hill Valley Parkway?

4 A. For Red Hill Parkway I --

5 Q. We know that audit
6 services -- there's audit services, which I want
7 to talk about specifically. Was there anything
8 other than the audit services' communications?

9 A. I think that Mr. Becke
10 asking me for falling weight deflectometer results
11 on the Red Hill Valley Parkway because it weighted
12 on the LINC and on the -- it would have to be on
13 the Red Hill Valley Parkway for the test -- the FW
14 testing that we did in the 2013.

15 Q. Thank you.

16 A. I think he asked me for
17 those FWD testing result.

18 Q. Okay.

19 MR. LEWIS: I think,
20 Commissioner, there's I believe just a couple of
21 short topics that I need to finish off with
22 Dr. Uzarowski about. It's 3:27, so I would
23 suggest this would be a good time to stop for the
24 day. I will not be more than half an hour
25 tomorrow morning, and so I did indicate to counsel

1 that it's possible I would move on. I may be
2 shorter than that tomorrow, but as it is the end
3 of the day, I don't want to put undue workload on
4 Dr. Uzarowski at the end of the day.

5 JUSTICE WILTON-SIEGEL: Okay.

6 MR. LEWIS: I wonder if we
7 could have a breakout room for counsel?

8 JUSTICE WILTON-SIEGEL: We'll
9 stand adjourned until 9:30 tomorrow morning and
10 counsel can participate in the breakout room.
11 Thank you. Have a good evening.

12 --- Whereupon at 3:27 p.m. the proceedings were
13 adjourned.

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