

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE
HERMAN J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Thursday, July 21, 2022, at 9:32 a.m.

VOLUME 49

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940-100 Queen Street
Ottawa, Ontario K1P 1J9
(613) 564-2727
900-333 Bay Street
Toronto, Ontario M5H 2R2
(416) 861-8720

APPEARANCES:

Emily C. Lewis For Red Hill Valley

Shawna Leclair Parkway

Eli Lederman For City of Hamilton

Sahar Talebi

Heather McIvor For Province of Ontario

Chris Buck For Dufferin Construction

Catherine Lack

Jennifer Roberts For Golder Associates Inc.

Nivi Ramaswamy

Fabriola Bassong

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1 Arbitration Place Virtual

2 --- Upon resuming on Thursday, July 21, 2022,

3 at 9:32 a.m.

4 MS. LAWRENCE: Good morning,

5 Mr. Commissioner.

6 MS. MCIVOR: Good morning, Ms.

7 Lawrence. May I proceed?

8 JUSTICE WILTON-SIEGEL: Yes,

9 please proceed.

10 MS. MCIVOR: Thank you.

11 GARY MOORE; PREVIOUSLY AFFIRMED

12 EXAMINATION BY MS. MCIVOR:

13 Q. Hi, Mr. Moore. You may

14 remember we met before. I'm counsel for the MTO.

15 I'm just going to ask you a few questions today.

16 I'll start with a line of questioning that Ms.

17 Lawrence asked you about, I believe it was on

18 Tuesday, your view that the MTO was very guarded

19 with its friction results, which is something that

20 you've repeated a number of times in your

21 testimony.

22 You told Ms. Lawrence on

23 Tuesday that your view in this regard was based on

24 "the cloak and dagger that we had to go through to

25 get the information in the first place." And then

1 you went on to say:

2 "I mean, they wanted do the
3 testing of our roadway. We
4 said okay, but we want a copy
5 of that information."

6 So I just want to clarify,
7 what did you mean by the cloak and dagger that you
8 had to go through to get that information?

9 A. There seemed to be no
10 direct communication between the MTO and the City
11 that I was aware of and that everything was going
12 through Ludomir, Dr. Uzarowski, and I'm not aware
13 of anything else that could or would happen in
14 that regard. It seemed to be everything -- they
15 wanted to do everything through him.

16 Q. Okay, and that was
17 problematic for you at the time even though
18 Dr. Uzarowski was your consultant?

19 A. Well, it wasn't
20 problematic at the time. I don't think we
21 understood the sensitivity of the issue at the
22 time. It was just -- it's more in hindsight now
23 that it seems irregular. But, I mean, at the time
24 we were quite happy to deal with Ludomir, didn't
25 really -- it wasn't our issue. It was their -- it

1 was MTO's issue that they wanted to do the
2 testing, so....

3 Q. Okay. So we'll circle
4 back to that. So at the time you were satisfied,
5 though, with MTO performing the tests and giving
6 you the information; isn't that right?

7 A. Yes, that's correct.

8 Q. Now, in hindsight, you
9 felt that MTO should have reached out directly to
10 you and not worked with Dr. Uzarowski?

11 A. No, I didn't say that.
12 It's -- this is how I developed my understanding
13 that MTO didn't really want to talk out loud about
14 their friction testing.

15 Q. Okay. Just in terms of
16 the logistics of the communications at that time?

17 A. That's correct.

18 Q. Registrar, would you
19 please pull up Golder 3513. Thank you. If you
20 could call out the bottom portion of the e-mail,
21 that would be helpful. Thank you very much.

22 So, Mr. Moore, you may recall
23 this document was previously put to you, and this
24 is the October 18th, 2007 e-mail, in which Chris
25 Raymond of the MTO provides the results to

1 Dr. Uzarowski, who then forwards it onto you.

2 That's at the top part of the chain there.

3 So take a moment to review, if
4 you need to. So at the bottom of the e-mail,
5 you'll see that Mr. Raymond states:

6 "Should you have any questions
7 regarding the results, please
8 do not hesitate to contact
9 us."

10 So this e-mail was forwarded
11 on to you. Did you consider contacting Mr.
12 Raymond for further information about those test
13 results?

14 A. I don't believe so. I
15 didn't have any questions on the test results in
16 2007 at the time.

17 Q. Did you understand that
18 if you did have questions, Mr. Raymond was
19 offering to act as a resource for you?

20 A. I don't know whether I
21 ever even recalled seeing this or recalling this.
22 You know, I recalled this maybe in 2013 or 2014
23 when I had questions made of (ph), but everything
24 we had done to that date had been through Ludomir
25 with the MTO, so it never really occurred to

1 contact them directly.

2 Q. So just to clarify, you
3 didn't have any follow-up questions, so there was
4 no need to reach out to MTO yourself or to direct
5 Dr. Uzarowski to do so?

6 A. At the time, no.

7 Q. Okay. You'll also note
8 here that Mr. Raymond states in the second
9 sentence:

10 "Please pass the results on to
11 those involved with the
12 project."

13 So you've said that it was
14 your understanding that these test results
15 shouldn't be circulated, but you would agree that
16 Mr. Raymond is saying please distribute as
17 necessary, essentially?

18 A. To those involved with
19 the project, that's what it says. Again, my
20 understanding from Ludomir was that MTO didn't
21 want to talk about, you know, friction in and out
22 (ph) loud voice, so to speak, and they were
23 dealing with us through him.

24 Q. So you understood that
25 through your discussions with Dr. Uzarowski, you

1 didn't have any specific discussions with MTO
2 where they told you not to distribute these
3 results?

4 A. That's correct.

5 Q. Now, I would like to
6 circle back to something else you mentioned, which
7 has now come up on a few occasions. You said:

8 "They wanted to test our road
9 meaning MTO. We said they
10 could as long as they gave us
11 a copy of the results." (As
12 read).

13 Now, we've seen and heard
14 evidence from many people that Dr. Uzarowski in
15 fact reached out to MTO to request this testing.
16 So are you saying that at the time, in 2007, this
17 is what you understood? You understood that MTO
18 was pushing for this test to be done for their own
19 records?

20 A. That -- I believe that
21 was my understanding at the time, is that -- I
22 think I had been made aware of that -- the early
23 age low friction, and that was why they wanted to
24 come in and test our SMA.

25 Q. So you believe that was

1 your understanding at the time, but you can
2 confirm that regardless, the friction testing
3 wasn't at your direction? You didn't instruct
4 Dr. Uzarowski to coordinate this friction testing
5 with MTO?

6 A. I don't believe so.

7 Q. Registrar, we can take
8 this down, please, if we could open up overview
9 document 6 at image 59 and 60 I would appreciate
10 that. Registrar, would you please call out the
11 top portion of image 60, the exchange -- that's
12 right, yes. Thank you.

13 So we're moving forward to
14 2013, and this concerns your 2013 interactions
15 with Dr. Uzarowski, wherein you're asking him to
16 coordinate friction testing. So why did you want
17 Dr. Uzarowski to coordinate friction testing on
18 your behalf here if you found it problematic in
19 2007?

20 A. First of all, I don't
21 think I found it problematic in 2007. Again, the
22 City wasn't initiating, as far as I know, skid
23 testing in 2007. It was -- from my belief, it was
24 MTO that wanted to test our road. And then in
25 this interaction, as Golder was already in the

1 field doing other work and they already had an
2 assignment, and that he was familiar with the
3 entire road, it didn't make sense to involve -- in
4 my view at that time, to involve anyone else other
5 than to ask Ludomir if he could do the skid
6 testing, or arrange for it.

7 Q. You mentioned in response
8 to Ms. Lawrence's questioning this week,
9 specifically she asked you whether Dr. Uzarowski
10 told you that he was going to reach out to MTO in
11 2013 as a first step. And you said you didn't
12 recall, but it was probably the best idea for a
13 first start.

14 So fair to say that as of this
15 time in 2013, you were satisfied with engaging MTO
16 as a first best option to do this testing?

17 A. If that had been the
18 discussion, yes. I wasn't aware of any other
19 capability or -- to do it, so if he said, I'm
20 going to reach out to MTO, I would have been fine
21 with that.

22 Q. Weren't you aware of
23 other providers that could offer skid testing
24 though? Didn't you engage John Emery previously
25 to test the LINC?

1 A. I believe I did. But I
2 don't think they were -- I considered that skid
3 testing, it was more friction testing of the
4 aggregate in terms of British pendulum and sand
5 patch testing, not the skid testing, I guess, I
6 had in mind that the MTO does what they're told
7 behind machine type of thing.

8 Q. So between 2007 and at
9 this time, September 2013, is this the -- did you
10 consider doing any other friction tests during
11 that period?

12 A. No, not to my knowledge.
13 I don't -- I wasn't aware that we -- it was
14 something -- it was not something the municipality
15 did in any way, shape or form. Nothing we had
16 done or nothing that we had on our -- as a
17 standard test or anything like that, and as far as
18 I knew, our numbers were good. No one had ever
19 indicated that we needed to have any sort of a
20 monitoring program, so it never came to light or
21 in any discussion.

22 Q. Now, we do know that the
23 pavement sustainability document recommended
24 friction testing every one to two years. Do you
25 recall that?

1 A. I do recall that.

2 Q. You have acknowledged
3 that asphalt pavement can deteriorate over time;
4 that would be fairly standard. Would you agree?

5 A. Asphalt pavement does
6 deteriorate over time, yes, I would agree with
7 that.

8 Q. And you became aware at
9 least in 2007 that the MTO had developed concerns
10 with SMA pavement, at that time the early age
11 friction problem; correct?

12 A. That was -- I had an
13 understanding that they had had a problem with
14 their early age friction, with their SMA, and
15 that's why they tested ours, and they didn't see
16 the same concern or numbers that they were
17 getting.

18 Q. And were you aware that
19 MTO and various representatives of the industry
20 formed the SMA task group to look into that issue?

21 A. I don't -- I don't know
22 whether I was aware of that. I may have been
23 aware of it at the time, but I don't recall now.

24 Q. So just before leaving
25 this document, at the very top you write to

1 Dr. Uzarowski and you ask:

2 "Did we do any skid resistance
3 testing in our last outing?

4 Can we do it on both?"

5 So I just want to understand
6 this question. It is just that you couldn't
7 recall one way or another whether additional
8 testing had been conducted at the last outing?

9 A. I knew he was out there
10 doing the five- or six-year review, and I don't
11 know whether I was very busy at the time and
12 didn't or couldn't look at what the protocol was
13 or what he had been asked to do, so this was just
14 a quick, you know, did we do any, I don't
15 remember, type of thing, can we do it on both. I
16 believe that's where that comes from but....

17 Q. And you mentioned that
18 when you referred to your last outing, you said:

19 "I believe I was referring to
20 the last study he was doing of
21 the freeway, the five-year
22 pavement condition."

23 Do you recall that?

24 A. I do.

25 Q. And when you say "our

1 last outing," is that a field visit that you would
2 have attended?

3 A. No. I mean, the only --
4 the last one that would -- would have been this
5 five-year review that was still ongoing as far as
6 I was concerned, I guess.

7 Q. But the last -- by "the
8 last outing," are you referring to a specific
9 occasion on which you and Dr. Uzarowski went out
10 to the roadway?

11 A. No, I believe I'm
12 referring to our last review, our last report or
13 last investigation.

14 Q. As part of the five-year?

15 A. As part of the five-year.
16 Nothing -- nothing that we attended in the field.

17 Q. So am I correct, then,
18 that what you've said is, you were just unsure at
19 this time, given that there was a lot on the go,
20 whether this had in fact taken place or not?

21 A. Yeah, it wasn't something
22 that we normally did, so I don't -- it was a
23 question.

24 Q. If it wasn't something
25 you normally did, don't you think you would

1 remember if it had in fact taken place?

2 A. Given the pace of the
3 work around there and all the other things I had
4 to do, no.

5 Q. Thank you, Registrar, we
6 can call this down, and we don't require the OD6
7 any more. Thank you.

8 So, Mr. Moore, you also
9 mentioned a number times through your evidence
10 that friction data generally is not disclosed due
11 to concerns about potential lawsuits and liability
12 and that's your understanding about how MTO treats
13 its friction data. Do you recall those
14 statements?

15 A. I do.

16 Q. Your understanding of MTO
17 practices isn't based on any specific discussion
18 with an MTO representative. Is it more of a
19 general impression that you've gained throughout
20 the years?

21 A. It didn't come from
22 anyone specific at MTO, and yes, it was my
23 experience in that regard. Talking to other
24 people, yes.

25 Q. Did you understand that

1 the reason for that is because there's no bright
2 line test to be applied to all of the roads across
3 the province, or did you have an understanding of
4 the rationale for not publishing raw data sort of
5 in a vacuum?

6 A. I understood the
7 sensitivity of information like that, as well as
8 even our condition assessment type of stuff, is
9 not raw data that we published at that time, and
10 maybe now I'm not sure. But I had an
11 understanding of why that was, yes.

12 Q. I'm sure you're aware,
13 given your long career in the field, that MTO has
14 in fact published, contributed to many
15 friction-related journal articles, publications,
16 sort of educational pieces; is that fair?

17 A. Yes, I'm aware of those.

18 Q. And also given your
19 involvement on committees, CTAA conferences, OMPHA
20 conferences, I'm sure you would have seen MTO
21 present at those conferences sometimes on friction
22 matters?

23 A. Yeah, I don't -- I don't
24 recall specifically, but I have seen MTO and been
25 in participation with them on committees and

1 presentations.

2 Q. And then just to kind
3 summarize before moving on, it would seem that MTO
4 at least provides the raw data in certain
5 instances, for instance, we know the 2007 friction
6 test results were provided to Golder and via
7 Golder to the City; is that fair?

8 A. For our road, yes.

9 Q. Mr. Moore, last Friday
10 Ms. Lawrence asked you about whether you were able
11 to recall a conversation with Becca Lane from the
12 MTO that may have occurred in 2010 about friction
13 on the Red Hill Parkway. Your response was, no, I
14 don't believe so; I don't ever recall talking to
15 MTO about friction on the Red Hill ever.

16 So I just want to clarify.
17 You're not saying that that discussion didn't
18 happen, only that you have no recollection of such
19 a conversation now, in 2022?

20 A. That's correct, I don't
21 have any recollection, but I believe that had I
22 talked to Ms. Lane in that regard, I would have --
23 it would have been a significant event that I
24 would have recalled.

25 Q. Is that the case even if

1 it was more of an informal discussion, for
2 instance at a conference, a CTAA conference, an
3 OMPHA conference, something of that nature?

4 A. That's possible. I don't
5 recall talking to her at any of those, but I can't
6 dispute if Becca says that we had that type of a
7 conversation. That's not something I recall.

8 Q. Thank you. Mr. Moore,
9 you were also asked yesterday, I believe, about
10 the City's consideration of hot in-place recycling
11 on the Red Hill Valley Parkway. You mentioned or
12 referred to the MTO testing hot in-place in
13 Thunder Bay. Do you recall those questions?

14 A. I do.

15 Q. Were you aware that MTO's
16 trial in Thunder Bay did not involve SMA?

17 A. I believe I was aware of
18 that. It was a hot in-place trial, yes.

19 Q. Thank you. Mr. Moore,
20 those are my questions.

21 MS. LAWRENCE:

22 Mr. Commissioner, I have not had a chance to
23 connect with counsel for Dufferin. They had
24 reserved 10 minutes.

25 MS. LACK: Good morning, my

1 name is Catherine Lack (ph). I'm counsel for
2 Dufferin. We don't have any questions for Mr.
3 Moore at this time.

4 MS. LAWRENCE:
5 Mr. Commissioner, I believe it's over to Mr.
6 Lederman then.

7 JUSTICE WILTON-SIEGEL: Okay.
8 Please proceed, Mr. Lederman.

9 MR. LEDERMAN: Thank you, Mr.
10 Commissioner.

11 EXAMINATION BY MR. LEDERMAN:

12 Q. Good morning, Mr. Moore.

13 A. Good morning.

14 Q. Commission counsel asked
15 you if you recalled hearing about any concerns
16 about aspects of the Red Hill Valley Parkway,
17 other than visibility, particularly with respect
18 to slipperiness, and you mentioned that you
19 recalled that you had some information of that
20 nature but did not specifically recall the details
21 at that time. I'm talking about in 2013
22 timeframe.

23 I just want to direct your
24 mind back to that portion of the evidence that you
25 gave, I believe it was last Friday, in response to

1 questions that Ms. Lawrence put you to. Perhaps
2 the easiest way to orient you is to bring up
3 HAM439, if we could, Mr. Registrar.

4 This is an e-mail exchange
5 between -- if you just -- that's right. Thank
6 you. It involves -- if you carry on over to the
7 next image, you'll see it begins with this
8 communication from Sam Capostagno to Terry
9 McCleary, copying a number of individuals, with
10 the subject line "Red Hill Expressway." And it
11 starts with a reference to heavy rain and that
12 there were issues with the Red Hill due to heavy
13 rain. "Police called us saying the ramps and the
14 road is very slippery." Do you see that?

15 A. I do.

16 Q. And prior to September
17 of 2013, when this e-mail makes its way to you,
18 were there any other instances where you had
19 learned of complaints regarding the slipperiness
20 of the Red Hill?

21 A. I don't believe so. I
22 mean, I wasn't involved in the operation of the
23 roadway, so I don't -- unless traffic had sent us
24 or operations had sent some e-mail, I don't know
25 how I would know that type of -- or become aware

1 of that type of an issue. I -- not that I recall
2 and I don't believe it was the case.

3 Q. Scrolling back to the
4 first page of this e-mail string. Just give me a
5 moment here. I just need to find the reference.
6 Bear with me for one second. I'm sorry, if we can
7 bring that one down, and I want to go to GOL2641,
8 if we could. Yes. Thank you.

9 Just scrolling over to the
10 next page, if we could. Page 3, thank you. Yes.

11 You'll see this e-mail from
12 Martin White, September 25, 2013, which is
13 addressed to you and a number of other individuals
14 in which Mr. Martin states:

15 "I have not heard this concern
16 expressed previous to this
17 latest incident."

18 Do you see that?

19 A. I see that.

20 Q. If we go to image 3 --
21 I'm sorry, image 2 of this e-mail string, you'll
22 see there's the reply from Mr. McLennan, and he
23 says in the first line on September 26, 2013:

24 "Off the top of my head I
25 would say that there is not a

1 significant claims history for
2 slippery conditions on the
3 RHVP, certainly no more than
4 any other mountain cut, if I
5 can call it that."

6 Do you see that?

7 A. I see that.

8 Q. And so looking at this
9 exchange, there were concerns expressed from Mr.
10 Capostango about heavy rainfall, and then comments
11 from Mr. White, the manager of traffic operations,
12 that he was not aware of any such complaints prior
13 to this. And then you have Mr. McLennan, the
14 manager of risk management, saying that there was
15 no significant claims history for slippery
16 conditions on the RHVP.

17 My question to you, Mr. Moore,
18 is based on that. Did you have a concern at that
19 time about whether collisions in typical wet
20 weather was an issue on the Red Hill?

21 A. I don't recall that I had
22 any such concern, but not being in the operational
23 or the risk mode, I don't know that it would
24 concern me to that extent in any event other than
25 if the road was washing out or there was some sort

1 of problem in terms of the separation of the road
2 surface. But there was nothing that I believe
3 would have caused me any concern in that regard.

4 Q. Thank you. Can I ask --
5 Mr. Registrar, you can take that down. If we can
6 bring up OD6, image 87, at paragraph 230 and 231.

7 This is an e-mail exchange
8 between Dr. Uzarowski and Mr. Taylor of Tradewind
9 in which Dr. Uzarowski is following up with Mr.
10 Taylor for the friction testing results.

11 You'll see that in this e-mail
12 Dr. Uzarowski states that he received a message
13 from his client and that he needs the results this
14 morning before meeting with management to discuss
15 the pavement issue.

16 You'll recall, perhaps, Mr.
17 Moore, during your testimony Ms. Lawrence
18 suggested to you that you did not have a meeting
19 with management and that you were asking for these
20 results to pass them onto Mr. Dziezdziejko. Do you
21 remember she was asking you about that?

22 A. I do remember that, yes.

23 Q. Now, Ms. Lawrence did not
24 ask you if you told Dr. Uzarowski that you had a
25 meeting with management, and my question then to

1 you, Mr. Moore, is when you asked for the friction
2 test results, would you have told Dr. Uzarowski
3 that you had had a meeting with management when
4 you did not have such a meeting scheduled?

5 A. I don't believe I would
6 have. I believe it was shown that I was off that
7 morning, I wasn't even in the office, someone else
8 was acting, so I don't know why I would tell them
9 I had a meeting. It wasn't my nature to lie to
10 somebody. I was simply asking my consultant, you
11 know, for the results in a timely fashion. What
12 he told Mr. Taylor, I don't know.

13 Q. Okay. You'll see then in
14 the next paragraph of OD6, 231, it refers to
15 Dr. Uzarowski sending a second message, a little
16 over an hour later that read as follows, and it
17 states:

18 "My client needs a comparison
19 of friction numbers on the Red
20 Hill Valley Parkway in
21 Hamilton from 2007 and 2013.
22 I have summarized 2007 and
23 need the numbers for 2013. He
24 needs my summary before noon.
25 Could you send 2013 numbers to

1 me?"

2 And why was it important for
3 you, Mr. Moore, to have the comparison between
4 2007 and the 2013 results?

5 A. I don't know that I --
6 they would have meant anything to me otherwise,
7 but I -- I don't know that at that time I was, you
8 know, directing him in that regard but, I mean,
9 it -- without a standard, I don't know how else
10 you would be able to quantify any results, other
11 than a comparison to the ones you previously had.

12 Q. I understand. So you
13 wanted to understand the results by having a
14 comparison?

15 A. I believe that's what
16 that's about.

17 Q. Okay. If we --
18 Mr. Registrar, you can bring down that callout and
19 go over to image 88 of OD6, and just bring up
20 paragraph 233.

21 In response to the request for
22 a comparison between the 2007 and 2013 results,
23 Dr. Uzarowski sent you this e-mail containing the
24 average friction numbers for the 2007 and 2013
25 testing, correct?

1 A. I believe that's correct,
2 yes.

3 Q. When you received this
4 e-mail, Mr. Moore, Dr. Uzarowski doesn't include
5 any disclaimer that the 2007 and 2013 results are
6 not directly comparable, does he?

7 A. I don't see anything
8 there, no.

9 Q. As I understood, your
10 evidence was that you had understood that the 2007
11 and 2013 results, which Dr. Uzarowski provided
12 you, to be directly comparable and that you had no
13 other information that they weren't an
14 apples-to-apples comparison. I just want to make
15 sure I have your evidence correct on that?

16 A. I believe that's correct.
17 I mean, my inference here is -- I mean, I can only
18 read, here's what we had before; here's what we
19 have now. I don't know that there is anything
20 else. You know, if they are not the same numbers,
21 I would have expected, you know, some sort of
22 qualifier that said the grip tester numbers have
23 to be adjusted by X or in whatever fashion that
24 was. So my inference, correctly or incorrectly,
25 was that they were apples to apples.

1 Q. If they were not apples
2 to apples or, as you say, if there was some
3 qualification or limitation to how to interpret
4 the comparison of these numbers, what would you
5 have expected Dr. Uzarowski to advise you at this
6 time when he provided this information to you?

7 A. The same information that
8 he provided five years or four years later when he
9 told me that they weren't apples to apples or that
10 the grip tester numbers were more conservative. I
11 mean, I don't believe there was anything in the
12 report or anything in any summary he ever provided
13 to indicate otherwise.

14 Q. Thank you. Can I ask
15 you -- Mr. Registrar, you can take down this
16 document, and if we can bring up GOL2981, please.

17 This is, as you'll recall, Mr
18 Moore, the draft Golder report which Dr. Uzarowski
19 sent you a copy of on January 31, 2014. If we can
20 go to image 10, please, where it sets out the
21 friction testing section. You'll see in the
22 paragraph listed under the table, Dr. Uzarowski or
23 Golder states in this report:

24 "Although the friction number
25 FN values are higher than when

1 measured in 2007 immediately
2 after construction, between 30
3 and 34, they are considered to
4 be relatively low. Typically
5 the FN value should be at
6 least equal to or higher than
7 40 to be considered adequate.
8 In the United Kingdom, for
9 example, the FN value should
10 be at least 48 for a motorway
11 pavement."

12 When it says in that first
13 sentence that the friction number values are
14 higher than when measured in 2007, was that
15 consistent with your understanding that the 2007
16 and 2013 friction testing results were directly
17 comparable?

18 A. Yes, absolutely.

19 Q. And if Dr. Uzarowski or
20 Golder was of the view at that time that the 2007
21 and 2013 testing results were not directly
22 comparable, would you have expected that to be
23 stated in this report?

24 A. Yes. I mean, I don't
25 know how you -- unless you applied that adjustment

1 to the numbers and then compared, but even if you
2 had done that, it still should have been noted
3 somewhere. There's nothing here to indicate that
4 there's any quantification between the different
5 testing methods.

6 Q. What standard did you
7 understand Golder to be applying in its
8 assessment that even though the FN values were
9 higher than when measured in 2007, that they are
10 considered to be relatively low, and that the FN
11 value should be at least equal to or higher than
12 40 to be considered adequate? What standard did
13 you understand Golder to be applying?

14 A. It's basically -- this
15 statement is basically saying the same as the
16 Tradewind report, and I implied from that that it
17 was the United Kingdom standard. There was no
18 other standard that I was being presented with at
19 the time.

20 Q. I want to -- we'll just
21 bring that down for a moment. As I understood
22 your evidence back in May, when we were -- you
23 were being questioned about the initial friction
24 testing that was performed by the MTO,
25 Dr. Uzarowski advised that the 2007 friction

1 results were better than the MTO was typically
2 getting on its SMA pavements. I want to bring up
3 OD7, image 59, paragraph -- I'm sorry, just a
4 moment. Maybe it would be OD6. Just give me a
5 moment. Yes, pardon me, it is OD6, the same OD
6 document you were in prior to that.

7 You'll see at paragraph 150 --
8 yes, thank you, it carries on onto page 60 of
9 OD6 -- you have this exchange with Dr. Uzarowski
10 about skid resistance testing. And you'll see
11 that in the response to your question,
12 Dr. Uzarowski says:

13 "We did very limited, a few
14 locations only, skid testing
15 on the Red Hill Valley right
16 after construction, that is in
17 2007, and got good numbers,
18 better than MTO typically has.
19 We haven't done any skid
20 testing on the LINC."

21 Do you see that?

22 A. Yes.

23 Q. Following the testing --
24 just a moment. Just before -- there's no
25 reference here to the 2007 results being good from

1 an early age friction perspective, and I guess my
2 question is was this consistent with your
3 understanding that the 2007 friction test results
4 were generally acceptable to the MTO?

5 A. I believe so. I don't --
6 I was aware that they had an early age friction
7 problem and that the numbers we got were good
8 numbers and we were good to go. There was no
9 quantification or indication that they are good
10 from a low friction characterization and, you
11 know, you don't -- you need to monitor them as you
12 go to make sure you achieve some other number,
13 it's just you're -- these are good, you're good to
14 go.

15 Q. Following the 2007 test,
16 and that was the understanding that you had been
17 given, did Dr. Uzarowski tell you that FN values
18 should be at least or higher than 40 to be
19 considered adequate?

20 A. I don't believe I ever
21 seen that number until it was suggested in the
22 five-, six-year review comments, and that was in
23 regard to the English -- the British standard.

24 Q. In 2007, at the time that
25 you get these results from Dr. Uzarowski, did he

1 tell you that the City should do repeat testing to
2 ensure that the FN values reach 40?

3 A. I don't ever recall any
4 suggestion of that. I mean, even in the -- when
5 we were going to do the five-year review there was
6 never a suggestion that skid testing was part of
7 Golder's parameters to review.

8 Q. Let's look at that
9 actually. If we bring up GOL3779. This is the
10 proposal for the five-year review dated March 1,
11 2013. Do you see that?

12 A. I see that.

13 Q. In the first paragraph,
14 it states:

15 "Golder is pleased to provide
16 the following proposal to the
17 City of Hamilton. The purpose
18 is to estimate the condition
19 of the pavement on the Red
20 Hill Valley Parkway in 2013,
21 five years after it was
22 constructed."

23 And then it goes on to say:

24 "The scope of work for this
25 project is identified below."

1 And then it lists the
2 investigations and analyses that Golder is
3 proposing to do to evaluate the condition of the
4 pavement. Do you see that?

5 A. I see that.

6 Q. And you'll see that
7 friction testing is not listed anywhere in this
8 proposal or is included in any part of the list or
9 investigations or further analyses that Golder is
10 proposing to do to evaluate the condition of the
11 pavement, is it?

12 A. No, there's no component
13 of friction testing anywhere within this --

14 Q. And if Golder had been of
15 the view that friction testing or repeat friction
16 testing ought to have been conducted to evaluate
17 the condition of the pavement, what would your
18 expectation have been as to whether or not that
19 would have been included in this five-year review
20 scope of work?

21 A. I don't know what my
22 expectation was, other than Ludomir was usually
23 pretty thorough at including whatever he felt
24 needed or should be or could be looked at.

25 Q. And if Golder thought

1 that friction testing needed to or should be
2 looked at, would you have expected it to be
3 included in this list of tests Golder was
4 recommending?

5 A. I would have expected
6 whatever they thought needed to be done would have
7 been in here, yes.

8 Q. And the fact that it's
9 not included there as being a proposed test to
10 conduct, to what extent was that consistent with
11 your understanding that the 2007 results were good
12 and that no additional testing was required to
13 ensure that the friction values increased by a
14 certain amount?

15 A. I was never expecting to
16 do friction testing again. There'd been no talk
17 of it, no discussion, no, you know, maybe we'll
18 need to look at this in the future type of thing.
19 So I had no expectation that we were going to be
20 doing any friction testing again.

21 Q. Thank you. We can take
22 that down, Mr. Registrar, if you don't mind.
23 Let's go back to OD6 where we were looking at that
24 exchange between Mr. Moore and -- that's page 60
25 of OD6. Yes, that's the exchange we were looking

1 at a moment ago between Dr. Uzarowski and Mr.
2 Moore.

3 In your question at the top of
4 the page that we've called out here, Mr. Moore,
5 when you asked Dr. Uzarowski to do skid testing,
6 you specifically note that during the last few
7 heavy rain incidents police were attributing
8 accidents to the slipperiness of the pavement. Do
9 you see that?

10 A. I see that.

11 Q. And why was it that you
12 were sharing that information with Dr. Uzarowski?

13 A. I guess I needed to give
14 him a background on why I would be asking for
15 this, given that we'd never discussed anything, so
16 that, you know, give him a background or reason or
17 an overview on why we might be wanting to do this.

18 Q. Is it fair to say that
19 you wanted Golder to have the context for which
20 you were making this request?

21 A. It's possible. I would
22 prefer to think it more as, you know, I've heard
23 this, this is why I want to do what -- you know,
24 to address what I've heard. It becomes context,
25 but I don't know that I was cognizant of that at

1 the time.

2 Q. Can I ask you to look
3 back at GOL2981. I'm sorry to be hopping around
4 again, but we're back into the draft Golder
5 report. If we go back to -- yes, thank you -- the
6 section 5 and section 6 dealing with friction
7 testing, and 6 dealing with analysis and
8 recommendations.

9 Let me ask you this, and we've
10 reviewed this a few times over the course of your
11 testimony, Mr. Moore, but did you understand from
12 the analysis and recommendations here that Golder
13 was indicating that the 2013 friction results
14 indicated that there was a potential safety issue
15 on the Red Hill Valley Parkway?

16 A. I don't believe I
17 perceived anything that he said in that light.
18 The numbers we got were higher than the initial
19 numbers, and until the issue of comparing them to
20 some unknown standard could be rationalized, they
21 are simply better numbers. If the first -- my
22 implication, rightly or wrongly, was that if the
23 first set of numbers were good and the second set
24 of numbers are higher, then there's no problem.

25 Q. I have a similar or the

1 same question with respect to the subsequent
2 discussion that you testified about in which you
3 raised that concern or question with Dr. Uzarowski
4 when you met with him on February 7, 2014, and
5 discussed the Tradewind report.

6 My question is, at that time
7 when you talked to Dr. Uzarowski about this, did
8 he indicate to you in that discussion that these
9 friction results posed any potential safety issue
10 on the Red Hill?

11 A. I don't recall any
12 discussion in that regard, no.

13 Q. You're a professional
14 engineer, Mr. Moore?

15 A. That's correct.

16 Q. And you know that
17 Dr. Uzarowski is a professional engineer as well?

18 A. Yes, sir.

19 Q. And you're aware of
20 guidelines that are set out by the PEO, the
21 Professional Engineers of Ontario, that are
22 established by the regulator of engineers,
23 correct?

24 A. I'm aware of those, yes.

25 Q. If we could bring up

1 Exhibit 89, HAM64291. These are the guidelines
2 from the PEO -- and as I understand it, the PEO is
3 the licensing and regulatory body for professional
4 engineers in Ontario?

5 A. I believe so.

6 Q. If we could go over to
7 image 4. This talks about, under section 1, the
8 PEO mandated criteria for guidelines and the
9 purpose -- thank you. I'm sorry, can we bring
10 down that callout.

11 You'll see, sir, in that first
12 paragraph, section 2(4)(ii) of the Professional
13 Engineers Act states:

14 "For the purpose of carrying
15 out its principal object, PEO
16 shall establish, maintain and
17 develop standards of
18 qualification and standards of
19 practice for the practices of
20 professional engineering."

21 Do you see that?

22 A. I see that.

23 Q. It goes on to say:

24 "The association's
25 professional standards

1 committee is responsible for
2 developing practice standards
3 and preparing guidelines."

4 That's consistent with your
5 understanding as to what these guidelines are
6 intended to provide?

7 A. Yes.

8 Q. Okay. And if we go over
9 to image 9. This deals with an engineer's duty to
10 report in the course of a client engagement, and
11 the guideline provides that engineers should do
12 the following if they identify any potential harm.
13 I just want to bring that up.

14 So you'll see in the left-hand
15 column towards bottom of the page, the last full
16 paragraph at the bottom of the page:

17 "What should engineers do if
18 in the course of carrying out
19 their work, they discover
20 situations that endanger
21 safety or the public wealth?
22 In most cases, however, here
23 is how you should try to deal
24 with any situation you believe
25 might endanger the safety or

1 welfare of the public."
2 And then the PEO provides a
3 number of points of guidance as to what an
4 engineer should do, and it's looking at 1 through
5 4. You'll see that the PEO establishes that:

6 "The first step is for the
7 engineer to ensure themselves
8 that the problem is real and
9 that they correctly assess the
10 potential harm that might
11 result."

12 Do you see that in
13 subparagraph 1, Mr. Moore?

14 A. I do.

15 Q. And then the next steps
16 are:

17 "To advise the client of the
18 issue and take all reasonable
19 steps to ensure the client is
20 aware of any danger that you
21 believe might result from a
22 failure to deal with the
23 situation."

24 You see that in number 2?

25 A. Yes.

1 Q. That was 2 and 3?

2 A. Yes.

3 Q.

4 "Following that, the engineer
5 should follow up with the
6 client after a reasonable
7 period of time to see if
8 appropriate action has been
9 taken."

10 Do you see that?

11 A. I see that.

12 Q. And you'll see in the
13 second sentence under number 4:

14 "The engineer should advise
15 the client or employer that
16 because of the engineer's duty
17 under the Professional
18 Engineers Act, it will be
19 necessary to take this matter
20 to appropriate authorities if
21 the client or employer does
22 not take action."

23 Do you see that?

24 A. I see that.

25 Q. And you knew and

1 understood of these obligations that were required
2 of professional engineers in the province of
3 Ontario?

4 A. I was aware of them, yes.

5 Q. You expected that
6 professional engineers engaged by the City, you
7 would expect them to follow these guidelines as
8 well?

9 A. All engineers, yes.

10 Q. And if an engineering
11 consultant identified a potential harm, how would
12 you expect the engineer to communicate concerns
13 about potential harms to a client?

14 A. It's been my past
15 experience with other engineering firms in other
16 asset management-related reviews such as bridges
17 that if a bridge was found to be unsound, that I
18 would be notified immediately that, you know, the
19 bridge needed to be closed, or that if a slope was
20 unstable, that remedial steps needed to be taken.
21 So -- I mean, I had experienced in the past that
22 such firms, if they found something of that
23 nature, would give you notice. I mean, even if it
24 was something that said, you know, it's not
25 something that needs to be done today but it needs

1 to be done within the next six months or before
2 the next freeze-thaw cycle or something of that
3 nature, you know, that was usually the practice
4 that we see.

5 Q. Given the nature of this
6 reporting, would you expect that that
7 communication or that provision of notice to a
8 client would be in writing?

9 A. Yeah, usually, that's how
10 it comes. If something is immediate, we may get a
11 phone call and then followed up with written
12 clarification and notification but....

13 MS. LAWRENCE:

14 Mr. Commissioner, my apologies for interrupting my
15 friend's examination. Mr. Lederman has twice put
16 to Mr. Moore what his expectations would be in
17 reporting, and I'm quoting Mr. Lederman now, to a
18 client. Certainly in my view it's absolutely
19 appropriate for Mr. Lederman to be asking Mr.
20 Moore about his expectations of engineering
21 consultants to him, but in suggesting the broader
22 request for a commentary on how clients should
23 expect things, I fear this is treading into
24 something that looks more like Mr. Moore providing
25 some sort of evidence generally about the

1 standards of professional engineers, and certainly
2 Mr. Moore is not here to do that kind of opinion
3 evidence. So I just wanted to raise before Mr.
4 Lederman continues my concern about treading into
5 the potential of giving expert evidence, rather
6 than Mr. Moore's personal expectations about
7 dealing with his colleagues who are professional
8 engineers.

9 MR. LEDERMAN: So that's a
10 fair point, and my question was not for Mr. Moore
11 to comment about the expectation of clients
12 generally, but it is to refer to his personal
13 expectation as an engineer but also as an engineer
14 who will retain other consultants as engineers as
15 a client, but not clients at large.

16 MS. LAWRENCE: And to be fair
17 to Mr. Moore, he answered that, I think, with that
18 understanding. I just -- a couple of questions
19 have gone by and I just wanted to raise that
20 concern with you, Commissioner.

21 MS. JENNIFER ROBERTS:
22 Commissioner, may I just add an additional point
23 here, is that the obligations under the
24 Professional Engineers Act are not disputed, and
25 the evidence of Dr. Uzarowski is that he didn't

1 identify a safety concern. So this seems all a
2 bit academic. I'm not sure where we're going with
3 it.

4 MR. LEDERMAN: Well, I don't
5 think this is -- whether it's academic in Ms.
6 Roberts' view or not, I don't view it as academic,
7 and I think it goes to key issues for this inquiry
8 to consider in the terms of reference. So --

9 JUSTICE WILTON-SIEGEL: I'm
10 having trouble seeing how this is of any relevance
11 when it's framed at the very general level at
12 which you have been proceeding. It's true, but
13 it's not related to anything in this inquiry, thus
14 far.

15 MR. LEDERMAN: Well, I think
16 we'll have to -- that will be the subject,
17 presumably, of our closing submissions,
18 Commissioner, as to whether or not there was a
19 safety issue raised by this, as to whether that is
20 an issue for this commission to evaluate.

21 JUSTICE WILTON-SIEGEL: Well,
22 you haven't in any of the questioning thus far
23 even used the words "safety issue."

24 MR. LEDERMAN: Well, this
25 entire section is devoted to an engineer's duty to

1 report in the event that there is a risk of harm,
2 which harm and safety issue I view as synonymous.

3 JUSTICE WILTON-SIEGEL: Well,
4 I'll allow you to proceed. I'm just not sure how
5 far this is of particular relevance. The issue
6 becomes whether or not there was such an issue,
7 which is a different question altogether.

8 MR. LEDERMAN: Very well. I'm
9 going to move on in any event to ask Mr. Moore
10 about whether -- we can take down the guidelines.

11 BY MR. LEDERMAN:

12 Q. I can just ask you, Mr.
13 Moore, if Dr. Uzarowski had any concerns about
14 safety or potential safety issues on the Red Hill,
15 given the 2013 friction results, what would you
16 have expected him to do?

17 A. I would have expected him
18 to identify those concerns to me.

19 Q. Thank you. And, I think
20 you've answered this, but just so it is clear, did
21 Dr. Uzarowski ever express such a concern to you?

22 A. Not that I recall, no.

23 Q. If we could bring up
24 GOL2981. Go to image 114, that is the Tradewind
25 report conclusion. You'll see in the second-last

1 paragraph, last sentence, "we recommend"?

2 A. Yes.

3 Q. Here in this -- in the

4 Tradewind report, the last sentence is:

5 "We recommend that a more
6 detailed investigation be
7 conducted and possible
8 remedial action be considered
9 to enhance the surface texture
10 and friction characteristics
11 of the Red Hill Valley Parkway
12 based on the friction
13 measurements recorded in the
14 survey."

15 Commission Counsel had asked
16 you whether you thought that Tradewind's
17 recommendation for further investigation indicated
18 a safety issue on the Red Hill Valley, and as I
19 understand your evidence, you said you did not
20 view this recommendation for further investigation
21 to indicate a safety issue on the Red Hill because
22 it's not unusual to recommend -- for a consultant
23 to recommend additional investigations. And a
24 similar question that I was asking you with
25 respect to your expectation of Dr. Uzarowski I'm

1 going to ask you in terms of your expectation of
2 Tradewind.

3 If Tradewind had a concern
4 about safety or a potential safety concern arising
5 from its findings, what would you have expected
6 Tradewind to say in its report?

7 A. I would have expected
8 nothing less from any engineering firm, to
9 identify any safety issue or a timeline to deal
10 with that, had it been the case.

11 Q. We can bring down that
12 callout and go back to image 10 and 11, which is
13 the conclusions, analysis and recommendations of
14 Golder in the draft report.

15 You'll agree with me, Mr.
16 Moore, that Golder does not include any timelines
17 as to when its recommendations about shot blasting
18 or skidabrading should be implemented, does it?

19 A. I was just looking for
20 where they were suggesting shot blasting or
21 skidabrading.

22 Q. I'm sorry. Just a
23 moment. Sorry, I misspoke. I'm talking about --
24 I meant to say microsurfacing. You'll see in the
25 second-last paragraph on the second page:

1 "On the remaining portion of
2 the RHVP, the existing cracks
3 and surface course should be
4 routed and sealed to prevent
5 the ingress of water and
6 ingress of the material into
7 the pavement structure.
8 Following the routing and
9 sealing, it is recommended
10 that a single layer of
11 microsurfacing be applied by
12 carrying out the mill and
13 overlay where required and
14 applying microsurfacing. The
15 issue of relatively low FN on
16 the Red Hill Valley Parkway
17 would also be addressed."

18 Do you see that?

19 A. I see that.

20 Q. So I misspoke when I said
21 shot blasting. I meant to say microsurfacing.
22 Did Golder here as their recommendation for
23 conducting microsurfacing indicate or include any
24 timelines by which they were suggesting that this
25 be carried out?

1 A. I don't see any
2 indication of any timelines on any of the
3 recommendations.

4 Q. I think as I understood
5 what you were saying a moment ago is that if there
6 had been any safety concern at all about this, you
7 would have expected the consultant to express a
8 point about setting a particular timeframe by
9 which a remedial step or a recommendation be
10 implemented; is that right?

11 A. I would have expected
12 that would have been prudent, yes.

13 Q. In the absence of a
14 specific timeline being set out, what was your
15 understanding regarding the urgency, if any,
16 associated with this recommendation?

17 A. I believe I took that
18 these are things you can do, they're
19 recommendations, they're options of what you can
20 do when you're ready to do it, and there's no
21 urgency in any regard to doing any of these.

22 Q. Okay. So that was your
23 understanding from the Golder reference in the
24 draft Golder report. Let's now look back over at
25 the timeline, if any, set out in the Tradewind

1 report. And if you go back to image 114. We're
2 now in the last page of the Tradewind report, and
3 again in that if we can highlight, Mr. Registrar,
4 the last sentence of the middle paragraph:

5 "We recommend that a more
6 detailed investigation be
7 conducted and possible
8 remedial action be considered
9 to enhance the surface texture
10 and friction characteristics
11 of the Red Hill Valley Parkway
12 based on the friction
13 measurements recorded in the
14 currently survey."

15 Tradewind, similarly, does not
16 provide a timeline for its recommendation that the
17 City conduct further investigation and consider
18 possible remedial measures, does it?

19 A. No, it does not.

20 Q. And Mr. Taylor's evidence
21 was that he did not know how Tradewind would have
22 ascertained any urgency in this case given the
23 lack of standards in Canada to compare it to. And
24 my question, Mr. Moore, is that in the absence of
25 a specific timeline, what was your understanding

1 regarding the urgency, if any, of Tradewind's
2 recommendation?

3 A. Well, even if they are
4 comparing it to the British standard, they are
5 still only just recommending additional
6 investigation and possible remediation to be
7 considered, so that there doesn't seem to be any
8 implied urgency in any of that.

9 Q. Thank you. Mr.
10 Registrar, we can take that callout down, and
11 let's now go back to the microsurfacing
12 recommendation in the Golder draft report which is
13 at image 10 and 11. Thank you. We were just
14 looking at that paragraph on the second page in
15 terms of the recommendation for microsurfacing.

16 What did you understand, Mr.
17 Moore, about Golder's recommendation regarding
18 microsurfacing?

19 A. That it was primarily to
20 seal the pavement. I mean, you can't possibly get
21 all of the cracks by routing and sealing, so in
22 order to prevent the ingress, that the
23 microsurfacing was a possible option to be
24 considered.

25 Q. And so that was the

1 primary purpose, and what about the relationship
2 of the microsurfacing in connection with friction?

3 A. I don't know that I was
4 convinced there was any low FN, so I don't know
5 whether I was -- that it was applicable or not,
6 and even so, that, you know, was the
7 microsurfacing going to be higher than what we had
8 out there. There was no way to measure that
9 either, so, I mean, I think that was on my mind at
10 the time. But I know that the microsurfacing was
11 going to seal the services, what the primary
12 attempt was.

13 Q. I think you had said and
14 testified earlier that your -- that microsurfacing
15 was not something that you had had a successful
16 experience with previously. Do you recall that?

17 A. Yes.

18 Q. If we could bring up
19 GOL6453, please. If we go to image 3. Call out
20 the paragraph under the chart above the heading
21 "Closure."

22 This is a copy of a draft
23 Golder report flowing from the proposal that
24 Dr. Uzarowski had sent to you in 2017 to evaluate
25 the pavement surface and aggregates of the RHVP.

1 Dr. Uzarowski provides Gord McGuire a draft copy
2 of this in December of 2018, which then leads to a
3 final copy being given to the City in March
4 of 2019.

5 And I recognize, Mr. Moore,
6 that you would have not received a copy of this
7 report at the time. However, it does reference
8 communications between Golder and the City about
9 skid resistance on the Red Hill during your tenure
10 as director of engineering, and that's why I want
11 to ask you about it.

12 If we can then look at the
13 bottom part of the paragraph that says "other
14 treatments." Do you see that?

15 A. Yes.

16 Q. It says:

17 "Other treatments could be the
18 application of microsurfacing.
19 However, although this
20 improves frictional
21 characteristics, seals the
22 cracks and can correct minor
23 dips in pavement, it is
24 significantly more expensive
25 than shot blasting. It also

1 requires good weather
2 conditions for successful
3 application."

4 Do you see that?

5 A. I see that.

6 Q. Is that reference to
7 those challenges or problems, is that consistent
8 with your understanding of the limitations of
9 microsurfacing?

10 A. Sealing the cracks and
11 correcting minor dips, yes, it absolutely does
12 require perfect weather conditions for a
13 successful application.

14 Q. Thank you. We can take
15 that down, Mr. Registrar, and we can bring down
16 the document. Thanks.

17 In your evidence this week,
18 Mr. Moore, you were asked some questions about
19 your view about following recommendations of
20 consultants, and you, I think described, as I
21 recall your evidence, that when you were asked
22 about following recommendations of consultants,
23 you talked about feeling the need to be an
24 informed client, and I just wanted to ask you,
25 what do you mean by that?

1 A. You need to be an
2 informed client in all stages of the engagement of
3 a consultant in your ability to identify what
4 you're really asking him to do or your
5 expectations from him, giving direction throughout
6 what they're doing. A lot of times the consultant
7 doesn't understand initially what you're going
8 through. Given the fact that I was on the
9 consultant side for seven years, I understand that
10 side of it and how the consultant field works and
11 what they're looking for and what they need, and
12 the more clarity that you can give them and better
13 understand how they're working, the better product
14 you're going to get back from them at the most
15 economical or fulsome type of report from them.
16 There are times where an uninformed client will
17 get back what he put into it, and that's not
18 always the fault of the consultant.

19 So in order to be -- to get
20 back what you really need from them, you need to
21 put in as much as they are and understand what
22 you're getting back. And you can't just blindly
23 accept their recommendations as they are because
24 sometimes they don't understand what all of the
25 constraints are. And if you're looking for

1 options and then you're going to do your own
2 recommendations from those, or whether you're
3 looking for hard recommendations and having them
4 look at all of the constraints that may come to
5 bear on whatever you're trying to achieve, that's
6 got to be part of it.

7 Q. Thank you. Now, I want
8 to go back to the period of time between
9 January 31, 2014, or really when you meet with Dr.
10 Uzarowski on February 7, 2014, and the period of
11 time between then and December 2015. There are no
12 e-mails between you and Dr. Uzarowski regarding
13 friction resting results between that -- in that
14 time frame, between February 2014 and
15 December 2015. Having regard to the fact that
16 there was no written communication, did
17 Dr. Uzarowski, to the best of your recollection,
18 follow up with you at any time between your
19 meeting with him on February 7, 2014, and December
20 2015 regarding the friction test results?

21 A. Not that I recall, and I
22 don't believe I seen any e-mails, reports or
23 correspondence to the contrary, so I can't -- or
24 support that. I just don't know.

25 Q. How about follow up at

1 all with respect to the recommendation relating to
2 microsurfacing?

3 A. Similar. I don't have
4 any evidence to support or dispute it.

5 Q. Did he raise any concerns
6 with you that a failure to investigate the matter
7 further could lead to a safety or potential safety
8 concern on the Red Hill?

9 A. Not that I'm aware of. I
10 mean, I would have an expectation if he had
11 concerns of that nature, we would have seen
12 correspondence to that and he would have arranged
13 meetings, and I don't believe that there was
14 anything that I can recall of that nature.

15 Q. You were asked and I
16 believe your evidence was that when you reviewed
17 the Golder and Tradewind reports in 2014, you were
18 confused by the fact that the 2013 results were
19 considered relatively low under a UK standard, but
20 the results were higher than what the MTO had
21 found to be acceptable in 2007. Do I have that
22 right?

23 A. That's correct.

24 Q. You were asked, actually
25 a number of times by Ms. Lawrence as to whether

1 you were sure that you had asked Dr. Uzarowski for
2 clarification on the application of the UK
3 standard during your discussion with him in
4 February of 2014. I think you were clear in your
5 evidence that this is what you recalled. Can you
6 just tell us why you are reasonably confident that
7 you did raise that question or concern with
8 Dr. Uzarowski in your February 2014 meeting?

9 A. That was the single
10 biggest thing in the Golder report and the
11 appended Tradewind that just jumped off the page
12 and made no sense in being able to ascertain the
13 value of the friction results. Without that
14 clarification or, you know, well, this is why this
15 is or why we should use it, which none of the
16 reports indicated anything in that fashion, there
17 was nothing else to tell me, other than the
18 comparison back to the 2007 results.

19 Q. Can we look at OD7.
20 OD7, page 82, paragraph 256, which recites
21 Dr. Uzarowski's response to you of December 17,
22 2015, attaching the Tradewind report. In the text
23 of his e-mail, he says:

24 "Please find attached the
25 November 2013 report from

1 Tradewind on friction testing
2 on Red Hill and LINC. I will
3 look at some standards or
4 anticipated values and call."

5 (As read)

6 My question to you, Mr. Moore,
7 is that consistent with what you had asked
8 Dr. Uzarowski to do when you met with him on
9 February 7, 2014?

10 A. Partially, I believe, in
11 reference to the standards. I don't know what the
12 anticipated values is, but it seems to be at least
13 addressing some of the outcomes of the report,
14 yes.

15 Q. And then you'll see in
16 the next paragraph, 257, following that
17 December 17 e-mail to you, Dr. Uzarowski e-mails
18 Mr. Taylor of Tradewind, and you'll see -- Mr.
19 Registrar, you'll see in the indented portion on
20 257, just the last sentence. That's fine. He
21 says to Mr. Taylor:

22 "Do you know if there is any
23 correlation between GTN and
24 FN? The GTN limits you gave
25 in the report are from the UK.

1 Do you know what limits are
2 typically used in the US or in
3 Canada?"

4 Is the information that
5 Dr. Uzarowski is now asking Mr. Taylor for in
6 December 2015 consistent with what you had asked
7 Dr. Uzarowski to do in 2014 when you met with him
8 on February 7, with respect to understanding why
9 the results were good according to the MTO but
10 relatively low as per the UK standard?

11 A. No, not really, but these
12 are critical to understanding how the numbers
13 between the MTO method and the grip tester method.
14 I don't know how you would present any other --
15 any recommendations without understanding how
16 these apply.

17 Q. You were asked a few
18 times by Ms. Lawrence and also by Ms. Roberts
19 about whether you had followed up with
20 Dr. Uzarowski between February 2014 and
21 December 2015 to try to get the answers that you
22 had asked Dr. Uzarowski in 2014. And let me ask
23 you, what was your experience with Dr. Uzarowski's
24 general level of responsiveness to your requests?

25 A. Ludomir was a busy guy.

1 Dr. Uzarowski was a busy guy, and I believe you've
2 seen a few times where I had to remind him that
3 things were outstanding, if I had an urgency for
4 them.

5 Q. I think you've said that
6 you didn't understand Golder or Tradewind to have
7 expressed any view as to urgency with respect to
8 their recommendations?

9 A. This was an information
10 report, you know, how are we doing on the
11 five-year review. Here's what we found out there.
12 Got some outstanding questions, and there was no
13 urgency for any action that I was aware of coming
14 out of any report, and as far as I can recall,
15 this was not something of any urgency. It was
16 sitting on the corner of my desk.

17 Q. Was it your practice, Mr.
18 Moore, to follow up with your consultants for
19 matters that you did not understand to be urgent
20 or otherwise time-sensitive?

21 A. If I didn't have a need
22 for it, given the normal level of the work that
23 was going on there, then I wasn't any better than
24 anybody else in chasing things that weren't, you
25 know, of an urgent nature.

1 Q. Could we bring up
2 GOL2698, please. We've looked at this exchange of
3 correspondence before. Might as well bring up
4 page 2 as well of the string of e-mails. This is
5 the exchange in 2016 that you have with
6 Dr. Uzarowski regarding additional skid testing.
7 Remember you were asked some questions about that,
8 and your e-mail at the bottom of page 1 -- well,
9 it starts at the top of page 2. You indicate that
10 spending \$300,000 for testing is too much, and you
11 reiterate your request for testing on four to
12 six spots.

13 Again, similar to the
14 questions I was asking you about in the 2014
15 timeframe or 2015 timeframe, we're now in 2016,
16 did Dr. Uzarowski at any time in the 2016
17 timeframe express any safety concerns or potential
18 safety concerns with respect to the friction
19 levels of the Red Hill if you did not proceed with
20 shot blasting or skidabrading?

21 A. I don't believe so. I
22 don't recall any specific conversation, but I
23 believed it was, you know, if you want to do this
24 type of thing, here's what you can do.

25 Q. Between this time,

1 March 2016 and 2018, did Dr. Uzarowski ever follow
2 up with you at any point to discuss or to pursue
3 shot blasting or skid resistance?

4 A. I don't believe so. I
5 think we were focused on the resurfacing at that
6 time, but I don't recall any specific conversation
7 in that regard.

8 Q. Again, if Dr. Uzarowski
9 had had any concern that a failure to pursue shot
10 blasting or skidabrading might lead to safety
11 concerns or an increase in wet weather collisions,
12 what would you have expected him to do?

13 A. As anyone, I would expect
14 him to bring it to my attention in more than
15 some -- a more formal fashion. I mean, if it was
16 that important, I mean, not just give up or be put
17 off but, you know, document that, hey, I've told
18 you this, you have that decision, but I don't
19 recall anything in that regard.

20 Q. And you've mentioned, at
21 least formally, but what about informally? Did he
22 bring any concerns to you even in an informal
23 setting?

24 A. I don't recall.

25 Q. At this point in time,

1 2016, did you have any experience with shot
2 blasting and skidabrading?

3 A. No, I've never had any
4 experience in that regard.

5 Q. Why were you not
6 interested in the shot blasting and skidabrading?

7 A. Through my -- I mean, I
8 don't recall what exactly I said at the time other
9 than what I've said here. The costliness of it,
10 and it wasn't addressing all of the things that we
11 were needing to be done, the addressing of the
12 pumps and bumps or sumps or whatever you want to
13 call them, as well as the other cracking. So, I
14 mean, we were still looking for an
15 all-encompassing -- something to address those
16 things.

17 Q. You gave evidence, Mr.
18 Moore, that the decision to resurface the Red Hill
19 was made around April of 2016 and that the primary
20 reason for the resurfacing was to address cracking
21 and sealing of pavement, and if the proper high
22 friction type of mix is used, a high friction
23 surface would also be achieved. Do you recall
24 giving that evidence?

25 A. I believe so.

1 Q. What role, if any, did
2 the timing of the resurfacing play in the reason
3 for not carrying out friction testing in 2016?

4 A. I don't believe I felt it
5 was necessary. There was nothing that was going
6 to tell us to feed into our -- what we were going
7 to pave, so, I mean, I don't know what -- what it
8 would have accomplished.

9 Q. Well, I guess I'm putting
10 it in the context -- in 2016, in the context of
11 getting that Lakewood Beach community -- we looked
12 at that correspondence where there was the
13 suggestion that skid testing would be done in
14 2016. I guess my question is, what role, if any,
15 did the plans to resurface in April of 2016 have
16 on the fact that the friction testing was not
17 ultimately carried out in 2016?

18 A. I believe that I was
19 under the impression that it would have resolved
20 their concern with the Red Hill by providing a new
21 pavement, I believe their (ph) concerns. I mean,
22 they had asked for friction testing as something
23 that would have led to repaving, had it been low,
24 but we're going to do the repaving, so it was
25 really a moot point to address their concerns.

1 Q. We can take down this
2 document, Mr. Registrar.

3 In November of 2017, you and
4 Dr. Uzarowski discuss the possibility of doing hot
5 in-place recycling on the Red Hill, and can you
6 just tell us why were you interested in looking to
7 use hot in-place?

8 A. We had already committed
9 to doing that resurfacing, but the hot in-place
10 offered a very large opportunity for project
11 savings, as I believe I mentioned yesterday,
12 something in the neighborhood of 12 to \$15 million
13 on that resurfacing of the Red Hill alone, and if
14 it was successful -- I believe that if it was
15 successful application there, then possibly there
16 were other roads within the Hamilton area that we
17 could use the technology. So it was very
18 interesting. I mean, we were in a huge roads
19 deficit, in terms of the monies available for
20 expenditure on road restoration within the City.
21 So any opportunity that we could take to take
22 advantage of technology, to stretch the dollar,
23 was things that we looked at with great interest.

24 Q. And what about the
25 benefits in respect of road closures?

1 A. Well, I mean, there was
2 the -- with hot in-place, I mean, you don't have
3 to remove the material, which saved hundreds if
4 not thousands of loads of material being on city
5 streets and then coming back in the same fashion
6 in the terms of the new material. So, I mean,
7 there's a very ecologically related savings in
8 there, as well as the timeframe. If you have to
9 shave it and pave it and close it and open it and
10 close it and open it, there is an implication.
11 It's much more livable than if you have to
12 reconstruct the highway, but it's a train, it can
13 go, it doesn't affect other traffic by increasing
14 truck traffic in that type -- in that fashion.

15 Q. So you're talking to
16 Dr. Uzarowski in November 2017 about the
17 possibility of doing hot in-place. Did Dr.
18 Uzarowski follow up with you regarding shot
19 blasting or skidabrading between March of 2016 --
20 we were looking at that correspondence -- and this
21 timeframe, November 2017, when you started
22 considering hot in-place?

23 A. I don't recall.

24 Q. Did Dr. Uzarowski tell
25 you that he had had any concerns about considering

1 hot in-place in relation to any concerns about
2 frictional characteristics of the roadway?

3 A. He was quite supportive
4 and quite excited about assisting us in -- in the
5 investigation of this method.

6 Q. As I understood your
7 evidence, you began splitting your time with the
8 LRT project from January 2017 onwards.

9 What was your -- in January
10 of 2018, what was your level of involvement in the
11 resurfacing project?

12 A. I don't know exactly
13 what it was. I likely still had my finger in the
14 pie, but I was -- probably 50 to 60 percent of my
15 time, my total available time, was LRT, between
16 that and all my other duties.

17 Q. Who was leading that
18 project at this point in time? Talking about the
19 resurfacing in the January 2018 timeframe.

20 A. If memory serves me
21 correctly, by that time it was in design, so I
22 think Mike Becke was, you know, primarily
23 arranging meetings and tracking progress and that
24 type of thing.

25 Q. Now, just going to the

1 questions that -- you were asked a number of
2 questions by commission counsel about a meeting
3 held on March 9, 2018, with City representatives
4 and Dr. Uzarowski, and you'll recall that you were
5 asked about this meeting in which Dr. Uzarowski
6 provided his views about the feasibility of hot
7 in-place recycling. Do you remember that sequence
8 and that exchange?

9 A. I do.

10 Q. As I understood your
11 evidence, Mr. Moore, your recollection was that
12 Mr. Wiley's views about the feasibility of hot
13 in-place on SMA was different than what
14 Dr. Uzarowski had been saying at this meeting; is
15 that right?

16 A. If I recall correctly, up
17 until that time everything I had heard from
18 Mr. Wiley and Dr. Uzarowski was that, you know,
19 this was a highly likely adoptable type of a
20 technology that we could do on this road, and I
21 believe at this time after four or five months of
22 investigation, now I'm hearing that it's not.

23 MR. LEDERMAN: Okay. I see
24 that it is 11:30, Mr. Commissioner. I do have
25 some other questions relating to this hot in-place

1 topic, but I can do that following the morning
2 break.

3 JUSTICE WILTON-SIEGEL: That's
4 fine. I appreciate that. Let's take a 15 minute
5 break. We'll come back at a quarter to 12.

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

7 --- Upon resuming at 11:46 a.m.

8 BY MR. LEDERMAN:

9 Q. Just before the break I
10 was asking you, Mr. Moore, about your
11 understanding about Mr. Wiley, and if we could
12 just bring up OD8, image 76 and 77 at paragraphs
13 208 and 209. And carrying over onto the next
14 page, the e-mail.

15 This e-mail exchange follows
16 the March 9, 2018 meeting and indicates that
17 Mr. Wiley appears that he is willing to consider
18 the feasibility of hot in-place on the SMA. Do
19 you see that?

20 A. I see that.

21 Q. You'll see from
22 Dr. Uzarowski's e-mail referenced in paragraph 209
23 that Dr. Uzarowski was agreeing to investigate the
24 feasibility of hot in-place?

25 A. It appears now that again

1 he's changed his mind that it is -- that it's
2 feasible. It will take some work but it's
3 feasible.

4 Q. Sorry, Mr. Registrar, if
5 we could just scroll up a bit or bring down the
6 callout. With paragraph 211.

7 Is that the reference that
8 you're referring to where you're saying that Dr.
9 Uzarowski has changed his view, or in this case
10 changed his tune?

11 A. Yeah, I believe that's
12 supposed to be "now," not "no."

13 Q. Understood. I take it
14 that at this time when we're having this exchange
15 that Dr. Uzarowski never said that spending time
16 investigating hot in-place would not be advisable
17 because there was a skid resistance hazard on the
18 Red Hill?

19 A. Not that I can recall,
20 no.

21 Q. Indeed, if Dr. Uzarowski
22 had had any concerns about the frictional
23 characteristics of the Red Hill at this time, what
24 would you have expected him to have done?

25 A. I would expect him, or

1 anyone else to bring it to our attention that
2 there was a concern that we needed to do something
3 imminently. I didn't believe that to be the case,
4 in any fashion.

5 Q. All right. If we can
6 pull up, Mr. Registrar, HAM54182.

7 This is the draft Golder
8 report provided to the City in December of 2018
9 following Golder's proposal to do BPT coring and
10 PSV testing a year earlier in November 2017.
11 You'll recall -- I think this was brought up
12 during the course of your testimony?

13 A. I believe so.

14 Q. I know that you didn't
15 receive a copy of this at the time, but it
16 purports to reference communications between
17 Golder and the City about skid resistance during
18 your tenure and I would like to walk you through a
19 few sections.

20 If you could just look at
21 images 2 and 3, you'll see at the bottom of page
22 2, the very last paragraph on page 2, it says "as
23 discussed with the City," Mr. Registrar. And then
24 it carries over onto the next paragraph. Just
25 bring that all up together.

1 You'll see it says:
2 "As discussed with the City,
3 if there is a concern with
4 frictional characteristics of
5 the SMA surface course on the
6 RHVP, and immediate effective
7 solution would be to carry out
8 shot blasting/skidabrading of
9 areas of concern on the
10 existing pavement surface.
11 This treatment is quick and
12 relatively low cost. It
13 restores the skid resistance
14 and improves friction
15 characteristics immediately.
16 However, it does not address
17 pavement cracking or bumps and
18 dips in the pavement. Other
19 solutions could be the
20 application of microsurfacing.
21 However, although this
22 improves frictional
23 characteristics, seals the
24 cracks and correct minor dips
25 in the pavement, it is

1 significantly more expensive
2 than shot blasting. It also
3 requires good weather
4 conditions for successful
5 application."

6 With respect to the first
7 sentence where it says "as discussed with the
8 City, if there is a concern with frictional
9 characteristics," Golder does not state that it
10 has a concern with the frictional characteristics
11 at this time in December of 2018, does it?

12 A. That's not what that
13 says, no.

14 Q. You'll see that -- if we
15 go now to GOL6612. This is the -- the original
16 draft that we were just looking at is now revised
17 and is in the final version dated February 28,
18 2019. And if you go to page 3, that language was
19 then changed when you see under the -- the
20 paragraph under the chart that says:

21 "As was brought to the City's
22 attention a number of times
23 previously, an immediate
24 effective treatment to address
25 a concern with frictional

1 characteristics of the SMA
2 surface course on the RHVP
3 would be to carry out shot
4 blasting, skidabrading, other
5 areas of concern on the
6 existing pavement surface."

7 Do you see that?

8 A. I see that.

9 Q. And as I understood your
10 evidence, Mr. Moore, at no point did Dr. Uzarowski
11 or Golder express any concerns to you about the
12 frictional characteristics of the RHVP; is that
13 right?

14 A. That there was a safety
15 concern with them or otherwise, no, not that I'm
16 aware of.

17 Q. Did you rely on Golder to
18 tell you if it had any such concerns?

19 A. Golder was our pavement
20 consultant. I mean, those are -- from design to
21 construction, through all the work that we had
22 done, I would have expected that -- you know, I
23 had no one else to tell me that they -- of
24 information in that regard, so they were the ones
25 that we were trusting to give us any information

1 in that regard.

2 Q. Thank you. Mr.
3 Registrar, we can take that down. And we can
4 bring down the Golder report entirely.

5 During the course of your
6 testimony, Mr. Moore, commission counsel asked you
7 if you had shared the Tradewind or Golder
8 report -- I'm now talking about the draft 2014
9 Golder report that appended the Tradewind report
10 -- with anyone, and you responded -- when you
11 responded that if anyone had asked you for a copy
12 you would have provided it, commission counsel
13 indicated that was not her question.

14 So now I'm going to ask you
15 the question. If anyone at the City had asked you
16 for a copy of these reports, would you have shared
17 it with them?

18 A. Yes.

19 Q. Did you ever refuse to
20 provide the Tradewind report to anyone at the
21 City?

22 A. To my knowledge, no, not
23 that I can recall. We were still -- I believe I
24 was asked for it once and we were still waiting
25 for the clarification. You know, if they had

1 said, listen, just give me the data, never mind
2 the clarification, I've got my own guy, great.
3 If -- they said, okay, we'll wait for your
4 clarification, and then that was all I remember.

5 Q. Is there any reason why
6 you would not have wanted colleagues in the
7 traffic group not to have a copy of the report?

8 A. Not to have it, no. I
9 mean, if they -- they had their -- for whatever
10 reason, if they needed it to support whatever,
11 then, I mean, I would have needed to provide them
12 with the context of the report and, you know, what
13 it did say and what it was missing, obviously.
14 You don't want to simply give -- here it is, and
15 not provide the context in which you understand it
16 existed. So, you know, other than that -- but I
17 don't know what they would have done had they
18 received it.

19 Q. Did you have any
20 motivation or incentive to not provide a copy of
21 the Tradewind report to either traffic or to Mr.
22 Malone at CIMA?

23 A. When asked I gave Mr.
24 Malone the information that was -- I believed that
25 was relevant to his question in terms of the

1 summary and the important part of the numbers that
2 I felt that he was asking for in terms of what we
3 got and how it compared to what we had in 2007.
4 When outside counsel and risk asked for the
5 report, I provided them the report. So, I mean, I
6 discussed the report at committee, so it's not
7 like it was -- I was hiding the fact that we'd had
8 one and did it. Everyone knew it existed.
9 Traffic knew it existed. I shared with them that
10 it was done when they were asking for the
11 crosswalk information. So....

12 Q. Did you stand to gain any
13 benefit from not sharing the report with other
14 City staff or with CIMA?

15 A. I don't believe so. I
16 don't know what that would have been.

17 Q. I want to take you to the
18 exchange of e-mails that you were asked about in
19 2017 where Councillor Conley was seeking to obtain
20 the friction testing results, and the best place
21 to find that is OD7, image 183, starting there,
22 and then it carries on to 184 and 185. Can you
23 bring that up, Mr. Registrar. Thank you.

24 You may recall that this was
25 the exchange of correspondence, and I think you

1 testified that you were on vacation from June 5 to
2 June 12, 2017. If we could just, Mr. Registrar,
3 also bring up the next page there. That's right.
4 It shows the sequence of the various back and
5 forth while you were away starting on June 5,
6 looking to get friction testing results. Do you
7 see that? You remember you were asked a number of
8 questions?

9 A. I do. I see it, yes.

10 Q. While you were on
11 vacation between June 5 and June 12, did anyone
12 contact you while you were away to advise you
13 about Councillor Conley's request?

14 A. Not that I recall.

15 Q. If we could bring up
16 HAM57154, Mr. Registrar. Yes, thank you.

17 This was the exchange you were
18 asked about in terms of your exchange with
19 Mr. Ribaric, assistant to Councillor Conley.
20 You'll see in the top part of the exchange, second
21 line -- the second e-mail from you to Mr. Ribaric
22 dated June 27, 2017, you say, "Ron, have Doug call
23 in this regard. Thanks."

24 And then Mr. Ribaric responds,
25 saying, "Will do." Do you see that?

1 A. I do.

2 Q. And as I understood this,
3 you were asking Councillor Conley to call you to
4 discuss this request, correct?

5 A. Correct.

6 Q. And I believe you
7 testified that you did not recall how this issue
8 ultimately got resolved. You didn't recall the
9 discussion that you had with Councillor Conley, if
10 you had one?

11 A. I believe that's correct.

12 Q. If the issue or the
13 request of Councillor Conley had not been resolved
14 or if Councillor Conley had not been satisfied
15 with any information that he received, would you
16 expect Councillor Conley to have continued to
17 follow up with you about this?

18 A. Oh, absolutely.

19 Q. Do you have any
20 recollection of Councillor Conley following up
21 with you further about this after this exchange?

22 A. I don't.

23 MS. LAWRENCE: I am always
24 reluctant to interrupt a colleague's examination.
25 This is the June 5, 2017 exchange, and just as a

1 matter of fairness to the witness, there is the
2 the further exchange with Mr. Ribaric. I just
3 want to ensure that the right information is put
4 to Mr. Moore before he finalizes his evidence on
5 that point.

6 MR. LEDERMAN: This is
7 June 27, 2017 I'm referring to.

8 MS. LAWRENCE: Okay. I just
9 wanted to make sure that -- because it wasn't
10 directed at any particular part of this e-mail, I
11 just wanted to understand -- I leave it to you. I
12 just want to ensure that the information -- that
13 any information, additional information is
14 provided to Mr. Moore, and it may be more helpful
15 go back into the OD.

16 MR. LEDERMAN: No. Just so
17 it's clear so there's no confusion, my question to
18 Mr. Moore is, after this exchange, June 27, 2017,
19 whether he received any further follow-up from
20 Councillor Conley on the basis that the issue
21 hadn't been resolved, and I think he said he
22 didn't recall.

23 MS. LAWRENCE: Thank you.

24 BY MR. LEDERMAN:

25 Q. We can take that down,

1 Mr. Registrar.

2 Mr. Moore, you were asked a
3 number of questions about illumination on the Red
4 Hill, and as I understood your evidence, you said
5 that lighting that ended up being included on the
6 Red Hill is what was approved as a result of
7 extensive negotiations with a number of different
8 organizations and community groups. You recall
9 giving that evidence?

10 A. I do.

11 Q. Could you describe the EA
12 process, the environmental assessment process?

13 A. My understanding is
14 projects in Ontario fall under a number of
15 different sections. Some are pre-approved; some
16 are under municipal EAs. The EA that -- I'll call
17 it the mountain east-west, north-south
18 transportation corridor project, which was the
19 original project, was a full EA that eventually
20 went to a consolidated hearing board for approval,
21 and subsequently was approved and we started, and
22 then funding was withdrawn by the province. And
23 in order to satisfy the province and their
24 funding, we had to re-start the EA from the
25 north-south portion, and the way we chose to start

1 that was under an exemption order type of process,
2 and it required extensive consultation with all of
3 the groups because if we were going to get an
4 exemption order from the minister, then we had to
5 ensure that he wasn't going to get letters from
6 every group that may or may not have an opposition
7 to the project.

8 So there was extensive --
9 there was a plan to come up with the consultation
10 process. There was even a consultation process
11 set up to develop the consultation process, and an
12 extensive array of experts were brought to bear on
13 every subject you could possibly think of, and
14 that process of consultation and negotiation with
15 not only those groups but the province and the
16 First Nations peoples resulted in what we put
17 forward to be approved under the exemption process
18 or -- with the impact assessment and design
19 details.

20 Q. With respect to the EA
21 process for the Red Hill, who was involved in the
22 EA negotiation process?

23 A. From the City's point of
24 view? From everyone's point of view?

25 Q. From the City, and who

1 was that?

2 A. Our director, Chris
3 Murray, was the lead on that. There were -- I
4 believe Laura was the consultant that supported us
5 through that process and led our consultation, and
6 I think Ecologics was involved in documentation
7 and preparation of the documents. There were
8 several consultants. I mean, all of the team
9 members were involved in -- myself and Mr. Oddi
10 and Jennifer, in terms of attendance at meetings
11 and directing and coordinating consultants and
12 reports and those types of things.

13 Q. What can you tell us
14 about your -- what you recall from the discussion
15 regarding complete illumination?

16 A. As I recall, there was a
17 general opposition to full illumination of the
18 Valley, from the adjacent homeowners to the
19 conservation authority to the people that were
20 representing the flying squirrels from a species
21 at risk perspective. The Niagara Escarpment
22 Commission in particular when we were trying to
23 get approval -- escarpment crossing approvals,
24 their opposition to any illumination was
25 extensive.

1 Q. Could we pull up HAM2638,
2 please. It's Exhibit 63. This is the Laura
3 public consultation report. If I can ask you to
4 look at image 85. If we could highlight in the
5 right-hand box the second sentence in saying "he
6 stated." This is about -- there we go. That's
7 right. Thank you, Mr. Registrar.

8 You'll see that -- Mr.
9 Registrar has quite rightly highlighted the
10 section I would like to ask you about, which --
11 and one more sentence to be highlighted beyond
12 that.

13 He stated that:
14 "Artificial lighting, street
15 lighting, highway light
16 standards, vehicle lights, can
17 affect the breeding habits of
18 birds; however, these effects
19 are difficult to quantify and
20 studies are limited.

21 Mitigation measures should aim
22 to limit usage of light
23 standards to intersections and
24 on/off ramps."

25 Do you see that?

1 A. I see that.

2 Q. Is that consistent with
3 some of the objections you had heard through the
4 public consultation process about continuous
5 illumination?

6 A. I believe it's consistent
7 with what we were hearing about lighting, yes.

8 Q. And if we scroll over to
9 image 142 of this document. You'll see in the
10 third row, and if we could highlight the
11 right-hand column, you'll see that it says:

12 Table 1 suggests --"
13 Sorry, the left side:
14 "Table 1 suggests the
15 proponent intends to install
16 lighting along the proposed
17 Expressway, including along
18 the viaduct. However, the
19 impact of this lighting on
20 nocturnal wildlife is not
21 considered in this report."

22 And then the response is
23 provided on the right side, saying:

24 "Lighting will only be located
25 at the ramps and at the

1 interchange intersections."

2 Do you see that?

3 A. Yes.

4 Q. Again, is that consistent
5 with your understanding of the objections and how
6 those objections were resolved through the public
7 consultation process about continuous
8 illumination?

9 A. I don't -- I don't recall
10 specific things, but the outcome was that we
11 proposed decision point lighting to get buy-in
12 from everyone in order to achieve the approval.

13 Q. Who made that decision to
14 submit for only partial illumination in order to
15 get that approved?

16 A. It would have been -- I
17 mean, it would have been vetted by all of the
18 consultants that it was a viable option and
19 that -- and then put through the team and
20 eventually to buy in from counsel. I mean, these
21 reports were all approved to go forward in what we
22 were going to build out there, ultimately by
23 council.

24 Q. Thank you. We can take
25 that down, Mr. Registrar. We can take down this

1 Laura document.

2 Commission counsel took you to
3 the executive summary of the 2019 CIMA
4 illumination review report, but I wanted to take
5 you to the actual report itself and just ask you
6 some questions as to whether that -- whether the
7 report was consistent with your understanding of
8 the EA. For that, if we could bring up CIM16288,
9 please.

10 THE REGISTRAR: Excuse me,
11 counsel, I don't believe I have that document.
12 May be under a different ID.

13 MR. LEDERMAN: Sorry, let me
14 try that again. CIM0016288. Does that assist?

15 THE REGISTRAR: No, sorry, I
16 still don't have that.

17 MR. LEDERMAN: Just a moment.
18 Sorry.

19 THE REGISTRAR: Sorry, could
20 it be 16208?

21 MR. LEDERMAN: Sorry, Mr.
22 Registrar, I didn't hear you.

23 THE REGISTRAR: Sorry, could
24 it be CIM16208? Or it is for sure 288?

25 MR. LEDERMAN: We're checking.

1 We'll see if we can locate
2 that, but in the meantime, I'll move on.

3 THE REGISTRAR: Thank you,
4 Counsel.

5 MR. LEDERMAN: Thank you.

6 BY MR. LEDERMAN:

7 Q. Mr. Moore, you were asked
8 about a conversation you had with Mr. Malone in
9 June of 2013 regarding illumination. As I
10 understood your evidence, you did not recall the
11 details of that discussion. But in terms of
12 your -- what you believe you would have
13 communicated to Mr. Malone at that time, would it
14 have been consistent with what you understood were
15 the limitations associated with continuous
16 illumination that we just reviewed through that EA
17 process?

18 A. I don't -- I don't recall
19 the details of our discussion. It's -- I don't
20 know what else -- what other regard I would have
21 been able to discuss it other than what I was
22 aware of at the time.

23 Q. Would you have told Mr.
24 Malone that full illumination of the Red Hill was
25 prohibited?

1 A. I don't believe I would
2 have used that term but -- without the explanation
3 of it's not approved and we built what we got
4 approved.

5 Q. Did you direct Mr. Malone
6 to exclude illumination from the scope of the 2013
7 CIMA report?

8 A. I had no ability to
9 direct Mr. Malone in that regard or in any
10 fashion.

11 Q. Could we pull up RHV599.
12 This is the staff report dated December 7, 2015,
13 and if we could go over to image 4. You'll see in
14 the second full paragraph -- I'm sorry, in the
15 first full paragraph:

16 "During the design and
17 approval stage for
18 construction of the RHVP, a
19 joint stewardship board of the
20 Red Hill Valley was created
21 which included representation
22 from the Haudenosaunee Six
23 Nations. It was agreed upon
24 at that time that lighting
25 considerations would be

1 restricted to only
2 intersections and on/off
3 ramps. The purpose for this
4 decision was the result of the
5 potential negative impacts to
6 the surrounding ecosystems."

7 (As read)

8 You see that, Mr. Moore?

9 A. I see it, yes.

10 Q. Is that consistent with
11 your understanding of the limitations around
12 illumination at the time that the Red Hill was
13 constructed?

14 A. We proposed, yes, that
15 there'd be decision point lighting, which is the
16 intersections and the off ramps and -- I mean, the
17 opposition was -- to full illumination was for the
18 most part due to potential impacts to the
19 ecosystem, so for the most part that's a correct
20 characterization of what I -- what I was aware of
21 at the time, yes.

22 Q. If we can -- we can take
23 that down, Mr. Registrar, and bring up
24 CIM17450.0001. Yes.

25 This is the September 19, 2016

1 lighting staff report, and if we look at the last
2 paragraph on this page:

3 "The original environmental
4 assessments completed for the
5 LINC and RHVP included a
6 review of lighting. It was
7 identified that through the
8 Red Hill Creek Valley, that
9 lighting would have a
10 detrimental environmental
11 impact and lighting
12 restrictions were imposed.
13 Decisions regarding adding
14 lighting on the LINC and/or
15 Red Hill would require
16 (skipped audio) and original
17 EA to the impacts of lighting
18 could be reexamined. It would
19 be prudent to delay such EA
20 reviews so it may be coupled
21 with other proposed changes
22 such as the widening of the
23 LINC/RHVP to six lanes."

24 Is that consistent with your
25 understanding of the limitations around

1 illumination?

2 A. I believe it's consistent
3 with the overall -- we could only build what was
4 approved, and you couldn't do anything else
5 without revisiting the EA. So I believe that's a
6 correct characterization of that.

7 Q. We can take that down,
8 Mr. Registrar. You'll recall during your
9 testimony Ms. Lawrence had asked you about the
10 public works committee meeting in December of 2015
11 and the specific -- listen to the audio recording
12 of that meeting in which Councillor Collins had
13 expressed the view he didn't want to delay in
14 doing the illumination review and wanted to start
15 the process to look at selective over full
16 lighting without delay. Do you recall being asked
17 about listening to that portion of the meeting and
18 then being asked some questions about that?

19 A. I believe I do.

20 Q. As I understood your
21 evidence, you said you understood that Councillor
22 Collins was looking for what a report detailing
23 what it would take if they decided to do full
24 illumination. As part of your response to Ms.
25 Lawrence's question you said staff don't just take

1 action from a verbal request from councillors in a
2 committee unless it's a direction that is recorded
3 in the minutes.

4 Commission counsel noted that
5 there was a direction coming out of this but I
6 don't believe that she took you it to. So I do
7 want to just bring you to the direction that came
8 from this meeting and I think the easiest place to
9 find it will be at -- from the September 2016
10 report to council, which can be found at
11 CIM17450.0001.

12 Just bring that up, Mr.
13 Registrar. Thank you.

14 You'll see there it records
15 the council direction on the first full paragraph
16 under the table. Do you see that Mr. Moore.

17 A. Okay, yes.

18 Q. So am I correct that
19 coming out of the December 7, 2015 public works
20 committee meeting, staff were directed to report
21 on the cost and process of investigating improved
22 lighting system on the RHVP?

23 A. That's what it says.

24 Q. And looking at this, I
25 take it that there was no direction set out here

1 as to the timing by which staff were being
2 directed to carry out that report?

3 A. There's none noted here.
4 Typically you would note the full extent of any
5 direction, report back by December or January or
6 the next possible meeting or something like to
7 that effect, but it doesn't appear that here. If
8 council had wished to put as part of its direction
9 a timeframe by which that direction was to be
10 carried out, in your experience is that something
11 that would have been included in the formal
12 council direction?

13 A. Yes. We were no stranger
14 to having timelines requested or imposed however
15 you want to interpret them. If council, committee
16 in this case, deemed them urgent. Otherwise they
17 were left to the discretion of staff of when they
18 could get it back to them.

19 Q. Thank you. Mr. Registrar
20 we can take down this document. Could we bring up
21 OD6, images 79 to 80. I'm interested in
22 paragraphs 203 to 205, which we have. You were
23 taken to this exchange of e-mails with Mr. Lupton
24 and you were asked questions by Ms. Lawrence about
25 this.

1 I understood your evidence,
2 when you were being asked about this exchange, is
3 that you were frustrated at what you had
4 understood to be council's direction regarding
5 illumination at that time; is that right?

6 A. I believe that's correct.

7 Q. You were asked about that
8 and the tone and the exchange of your
9 communication with Mr. Lupton, but I don't believe
10 commission council took you to the follow-up
11 e-mail that deals with how this then is dealt
12 with, which is at image 86 at paragraph 224. This
13 is the e-mail that you send to Mr. Lupton, Mr.
14 White, Mr. Lokes (ph), Mr. Field, Mr. McGuire and
15 Nancy Clark on January 15, 2014 regarding the
16 conversation that you had with Councillor Collins.
17 And here you write:

18 "I talked to Councillor

19 Collins after PW --"

20 I take it that's public works?

21 A. I believe so, yes.

22 Q. "-- on Monday regarding
23 his expectations regarding the
24 outstanding lighting report
25 for the Mud Street

1 interchange. He is not
2 expecting anything until the
3 improvement suggested and
4 approved in your last report
5 had been implemented and have
6 had reasonable time to be able
7 to comment on their
8 effectiveness or not. I would
9 say he's looking for anything
10 in 2014 or maybe beyond. Ms.
11 Clark, this is new BL item
12 that will have to go beyond
13 this term of council and
14 cannot at this time be given
15 date at least not in certainty
16 before Q4, 2015." (As read)
17 Do you see that?

18 A. I see that.

19 Q. And did this exchange
20 that you had had with Councillor Collins clarify
21 the issue that you were frustrated about that you
22 had been expressing to Mr. Lupton in that prior
23 e-mail exchange?

24 A. I have to say yes, I
25 believe that was the reason I was talking to

1 Councillor Collins.

2 Q. How did that resolve that
3 frustration, having that discussion with
4 Councillor Collins?

5 A. From here -- I don't
6 recall the conversation directly but from the text
7 here he wasn't looking -- I believed I was under
8 the impression that they were looking for another
9 report in addition to the report they had already
10 asked for. So this clarification was that no,
11 we're still looking for the original report, it
12 was just a clarification of that.

13 Q. Thank you. Mr.
14 Registrar, you can take that down.

15 You'll recall during your
16 evidence you were schedule questions about
17 comments you made with respect to the 2015 draft
18 CIMA report, and I just want to go through a few
19 of those with you. I just want to have an
20 understanding of the purpose of your comments
21 generally.

22 I think the easiest place to
23 pull this up would be OD7, images 43 and 44,
24 paragraphs 131 and 132. I don't know if you're
25 able to enlarge them. Can you see them well

1 enough?

2 A. I can see them, yep.

3 Q. You'll see at

4 paragraph 132 in the text of the e-mail

5 Mr. Ferguson e-mails you under the subject link,

6 "RHVP/LINC report." He says:

7 "As you're aware I'm just

8 finalizing the RHVP/LINC

9 report and I've included the

10 following recommendations that

11 impact engineering services."

12 And then he lists out those --

13 that list of recommendations. And then if we go

14 over to the page, to page 45, you respond by

15 saying in paragraph 134 that you were not aware

16 and -- you then set out your comments which

17 commission counsel took you to during the course

18 of your evidence.

19 Following this exchange you

20 then meet with CIMA and traffic on October 20,

21 2015. Do you recall that? Or you were asked

22 about that?

23 A. Not particularly, sorry.

24 Fair enough.

25 Q. Fair enough. Let's go to

1 OD7, image 50 at paragraph 152. October 28

2 Mr. Ferguson responds to you by e-mail saying:

3 "Do you have any comments on
4 the RHVP report or are they
5 general and similar in nature
6 to LINC comments?"

7 Paragraph 153 you respond to

8 Mr. Ferguson saying:

9 "Generally the same,
10 especially in the calculation
11 of cost and benefits but
12 there's more, here it is."

13 And my question is, is this
14 the first time, Mr. Moore, that you've reviewed
15 the draft 2015 CIMA report? So we looked at the
16 fact that you received the draft recommendations
17 that were sent to you. But around this time,
18 October 28, 29, 2015, is that the first time you
19 have an opportunity to look at the draft 2015 CIMA
20 report?

21 A. I don't know. I wasn't
22 aware he was doing a staff report. I don't know
23 that he was -- the fact he sent it to me for
24 review implies that I hadn't seen it before, but I
25 couldn't tell you for sure.

1 Q. But is this -- when we
2 look at -- and we looked at when you were being
3 asked by Ms. Lawrence questions about the comments
4 that you made in the draft CIMA report, is that
5 the first time that you had made any comments in
6 the report itself?

7 A. I believe those were my
8 initial comments. I don't think I had multiple
9 times. I just made comments and then reviewed
10 them with....

11 Q. What did you perceive
12 your role to be in providing the comments that you
13 did to Mr. Ferguson?

14 A. Not being involved as a
15 stakeholder along the way the development of it
16 and discussions. I assume they are just looking
17 for my general comment. You know, I had extensive
18 experience with consultant reports and preparing
19 them and finalizing them, so I assume they were
20 looking for the benefit of my experience. I don't
21 know that there was anything else. I had no real
22 say or involvement in the process.

23 Q. I see that you sent your
24 comments to Mr. Ferguson but not -- you're not
25 sending your comments directly to CIMA. I guess

1 my question is, whose decision was it as to
2 whether or not to present your comments on the
3 draft report to CIMA?

4 A. It would have been the
5 group that was directing them, who had hired them
6 and given the mandate and was directing them
7 throughout the process.

8 Q. If we can bring up HAM690
9 in native format, if we could, Mr. Registrar. We
10 looked at -- or you were asked about this during
11 the course of your testimony.

12 Thank you, Mr. Registrar. If
13 we could go to image 41. Thank you.

14 Mr. Moore, you were asked by
15 commission council, and there's -- the suggestion
16 was made to you that you deleted this section with
17 the intention to remove the friction testing
18 recommendation from the 2015 CIMA report. And I
19 as understood your evidence, you said that you did
20 not believe the discussion was in the right
21 context here and that you were making these
22 comments so that there would be some opportunity
23 for discussion about these comments later on.

24 I want to just make sure I've
25 got your evidence clear on this point. Could we

1 look at image 52 of this document. This is the --
2 under section 9 recommendations section, and if
3 you go to image 54 it sets out CIMA's
4 recommendations -- image 54. Yes, thank you.

5 This sets out CIMA's
6 recommendations in its report with respect to
7 friction testing. And it's apparent from this
8 that you don't propose in your markup with your
9 comments a deletion of this recommendation; is
10 that right?

11 A. I simply wanted to pull
12 out that there is no frame of reference for this
13 testing so they can be aware of what they're
14 exactly asking for.

15 Q. And in the context of
16 what I think you said earlier about wanting this
17 as an opportunity to have a discussion, I just
18 want to understand.

19 Is that consistent with what
20 you were seeking to achieve by inserting that
21 comment and combined with the deletion that you
22 had proposed earlier on?

23 A. I mean, it was usual to
24 ask someone for their comments in advance of some
25 sort of a review or even if a call back that says

1 what did you mean here. I didn't have any
2 expectation they would just take them carte
3 blanche and either accept them or delete them out
4 of hand.

5 Q. While we're on this could
6 we go to image 32 and 33. This deals with the
7 pavement surface.

8 I just want to look at -- Mr.
9 Registrar, if we could also bring up image 33,
10 next to it, and there's a graph. Sorry, the next
11 page, 26 I guess. You'll see this graph. As I
12 understand it it provides a breakdown of the
13 collision frequency over time. And looking at the
14 numbers and my understanding or review of this
15 graph, Mr. Moore, is that it shows that the
16 frequency of wet surface collisions have decreased
17 since 2003 -- 2013 and you look at that red line
18 dropping down from 2013 at 50 down to 25 in 2015.
19 Do you see that?

20 A. I see that.

21 Q. And do you recall being
22 aware of that graph showing that decline in wet
23 surface collisions between 2013 and 2015 when you
24 reviewed the draft 2015 CIMA report?

25 A. It's possible, but I

1 don't recall specifically seeing that so I can't
2 say that I did or didn't.

3 Q. We can take that down,
4 Mr. Registrar.

5 I now want to look at a
6 January -- the January 2018 staff report which can
7 be found at HAM46147. If we go to appendix A,
8 which can be found at image 12, you'll see that
9 this has the -- the appendix to the report that
10 has the list of the countermeasures and their
11 status.

12 You'll see that the fifth line
13 -- fifth row up from the bottom -- I'm sorry if we
14 look at -- yes the fifth line up, conduct friction
15 pavement testing medium and it says "completed."

16 Did you review this table?

17 A. Is this not a 218 report?

18 Q. Yes, January 218.

19 A. No, I wasn't in public
20 works at that time. Yes, until May. Not that I
21 recall. I don't know whether I had an opportunity
22 to review this or not.

23 Q. Mr. Registrar, you can
24 take that down. Mr. Commissioner, I have -- I may
25 be nearing the end of my examination. There's a

1 couple of points I wanted to check on.

2 JUSTICE WILTON-SIEGEL: Are
3 you suggesting we take a lunch at this point?

4 MR. LEDERMAN: I think that
5 would be -- yeah, I think that would be
6 appropriate and then I think I won't have very
7 much time left at all to complete my examination.

8 JUSTICE WILTON-SIEGEL: It's
9 10 to one now. Why don't we return at 10 past 2.

10 MR. LEDERMAN: Thank you.

11 --- Recess taken at 12:51 p.m.

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

13 JUSTICE WILTON-SIEGEL: Mr.
14 Lederman, over to you.

15 BY MR. LEDERMAN:

16 Q. Thank you,
17 Mr. Commissioner.

18 So I just wanted to touch upon
19 one area that I had asked Mr. Moore -- you about a
20 short while ago and I just wanted to make sure
21 I've covered it off.

22 If we could go to OD7, image
23 187, Mr. Registrar. I just wanted to bring you
24 back, Mr. Moore, to the questions I was asking you
25 earlier about the exchange with Councillor Conley

1 on June 27 that led to the -- that setting up of
2 that phone call, and it's at paragraph 550 which
3 talks about June 27, '17, at 11:23 a.m., Mr. Moore
4 responded to Mr. Ribaric. He wrote:

5 "Well, have Doug call in this
6 regard. Thanks."

7 And Mr. Ribaric forwarded this
8 e-mail to Councillor Conley a few minutes later
9 writing, "FYI, Gary is at extension 2382" and then
10 bring that down, and at 5:51 Mr. Ribaric was
11 responded to Mr. Moore, "will do."

12 And then at the one point I
13 didn't bring to you when last were looking at this
14 this morning, Mr. Moore, is over on page 188 at
15 5:53, same day, June 27, 2017 at 4:06 p.m.
16 Councillor Conley e-mailed you under the subject
17 line "Gary friction testing" copying Mr. Ribaric
18 saying:

19 "Gary have you got any
20 information or results from
21 the pavement friction testing
22 done last year?"

23 And I just wanted to be clear
24 that it's clear from this exchange, Mr. Moore,
25 that if you did have a call with Mr. Conley, as

1 you had invited in your e-mail at 11:23 a.m., it
2 obviously hadn't taken place by 4:06 p.m. when you
3 get that e-mail from Councillor Conley; is that
4 fair?

5 A. I believe so.

6 Q. But then I was asking you
7 about, in the event that a call was had
8 subsequently or at some point after this exchange
9 or this e-mail at 4:06 p.m. with Councillor
10 Conley, I believe your evidence was that you
11 couldn't recall whether you had such a telephone
12 call with Councillor Conley.

13 I just want to be clear, Mr.
14 Moore, that if Councillor Conley had been of the
15 view that this issue that he had been requesting
16 in this exchange of e-mails had not been resolved
17 after this e-mail is sent at 4:06 p.m. on June 27,
18 2017, what you have expected him to have done if
19 it had not been resolved to his satisfaction after
20 that?

21 A. Well, I might considered
22 one of two things; that he would either continue
23 chasing me or possibly go onto the general manager
24 in that regard if he didn't get the information he
25 was looking for.

1 Q. And then after receiving
2 this e-mail from Councillor Conley, and I take it
3 you don't recall whether or not you had the
4 discussion with him, but did you ever get any
5 further follow-up or chasing from him after this
6 point?

7 A. I don't have anything to
8 indicate that there was any further discussion in
9 this regard from him, so I don't recall.

10 Q. Anything from the City
11 manager to that effect?

12 A. Not to my knowledge, no.

13 MR. LEDERMAN: Thank you, Mr.
14 Moore, those are my questions.

15 JUSTICE WILTON-SIEGEL: Okay.
16 Ms. Lawrence.

17 MS. LAWRENCE: Thank you I do
18 have some questions.

19 EXAMINATION BY MS. LAWRENCE (cont'd):

20 Q. Mr. Moore, you were asked
21 this morning about the management meeting that
22 Dr. Uzarowski mentioned in an e-mail to Tradewind
23 when requesting the Tradewind report. Do you
24 remember those back and forth this morning?

25 A. I do.

1 Q. And you said you didn't
2 believe that you would tell him there was a
3 management meeting if there wasn't one, right?

4 A. I remember saying that,
5 yes.

6 Q. I'm just going to take
7 you back to that back and forth, make sure I have
8 my reference correct. Give me one second.

9 Mr. Registrar, bring up
10 page 87, please. 230 and 231, I believe.

11 THE REGISTRAR: Page 87 of
12 which document?

13 MS. LAWRENCE: 86.

14 BY MS. LAWRENCE:

15 Q. You can go to 230 and
16 231, please. So in the second e-mail
17 Dr. Uzarowski says "he needs my summary before
18 noon." You see that at the very bottom?

19 A. I see that.

20 Q. You can close that down,
21 Registrar. And then if you can go to page 88. At
22 2:33, and you don't need to call it out, he sends
23 you the e-mail, January 24th e-mail, at 11:44. So
24 15 minutes before noon.

25 Leaving aside whether you told

1 Dr. Uzarowski why you needed the results,
2 management meeting, some other reason, you agree
3 that you did ask Dr. Uzarowski to get you results
4 by noon? I just want to confirm your evidence on
5 that.

6 A. I don't have any evidence
7 either way other than I believe I immediately
8 e-mailed them to --

9 Q. To Tom?

10 A. To Tom. Senior's moment.
11 So it would make sense that I may have, but I
12 don't recall.

13 Q. So you don't recall
14 giving him any -- you don't recall asking him for
15 it?

16 A. I don't -- no, I don't.

17 Q. You don't recall giving
18 him any deadline?

19 A. It's possible but I just
20 don't -- I just don't recall.

21 Q. Registrar, you can take
22 that down.

23 You were asked some questions
24 this morning by Ms. McIvor about what you
25 understood about the early age SMA friction issue

1 that the MTO had identified. I understood your
2 evidence to be that you thought that the Red Hill
3 did not have the same concern or the same kinds of
4 numbers that the MTO had been getting on its own
5 roads. Did I understand your evidence when Ms.
6 McIvor was examining you correctly?

7 A. I believe I was made
8 aware of the issue MTO was having in that regard,
9 and then when we received the test results they
10 indicated that we didn't have that issue with our
11 road.

12 Q. So the early age friction
13 issue is that when the pavement is first placed
14 the friction is not great but over time the MTO
15 came to realize that over time it got better, that
16 once road got used the friction numbers increased.
17 Is that how you understood the issue that the MTO
18 was wanting to test the Red Hill for? Let me
19 rephrase that.

20 You understood the issue
21 around early age friction was that on initial
22 placement friction is not very good but it does
23 get better over time. Do you understand that?

24 A. I understood it got
25 better with time, but I also understood that the

1 early age low friction numbers were so bad they
2 couldn't open the road.

3 Q. I think your evidence,
4 both today and I think when I was questioning you
5 earlier, was that you understood the Red Hill did
6 not have -- had friction numbers or friction
7 values that were better than what the MTO was
8 typically seeing on early age friction pavement;
9 is that right?

10 A. No, no. Better numbers
11 of friction, period. It only becomes an early age
12 concern if it doesn't meet whatever their criteria
13 was.

14 Q. Okay. When you were
15 examined by Mr. Lewis you gave evidence that you
16 understood that friction numbers on the Red Hill
17 would go -- would increase over time. Do you
18 remember giving that evidence?

19 A. I believe so. I knew I
20 was aware that -- or under that impression that
21 yes, they were going to get better, which was
22 consistent with what MTO was telling us with
23 regard to their issue.

24 Q. So I think that's where
25 I'm getting confused.

1 Did you understand in 2007
2 that the Red Hill numbers didn't have any early
3 age friction issues; that they were as good as a
4 road without any early age friction issue problem,
5 or did you understand that the Red Hill had some
6 early age friction problem and the friction
7 numbers were going to go up but those numbers were
8 not as bad as the MTO was seeing on their own
9 roads?

10 A. I believe there's a
11 little bit of confusion in the reference to the
12 numbers. You're doing early age friction tests.
13 If those tests are below some threshold then
14 there's an early age friction issue. If the tests
15 are not below that threshold and are good, then
16 you don't have an "early age friction issue."
17 Your friction numbers are good to go and they will
18 be (sic) nothing but climb. I hope that
19 clarifies.

20 Q. It does clarify. I think
21 what was built into my question was that
22 eventually the MTO realized that SMA with
23 problematic friction numbers upon -- once
24 installed, that they did end up getting better
25 over time; that the early age issue that MTO was

1 seeing resolved itself as the road was used. Did
2 you become aware that the MTO learned that as they
3 were assessing their SMA placement?

4 A. That's not my
5 understanding. Their problem was that the early
6 age friction numbers that they were finding were
7 so low that they had to adopt a number of steps to
8 unofficially raise the numbers to a threshold
9 where they can actually put traffic on it and then
10 get the normal type of rise. So their issue was
11 that they were so low they had to take artificial
12 steps, not that okay, we've got low but they are
13 going get higher eventually. They knew that but
14 their problem was they were so low that they had
15 to do these other steps.

16 Q. I understand. So that's
17 in 2007. That's what you knew in 2007, that the
18 MTO was having problems with their SMA and they
19 had to put steps on it so they could open the
20 roads. Was that your understanding in 2007?

21 A. I believe -- I can't put
22 a date on exactly when -- I did know that early
23 on.

24 Q. Did you come to learn at
25 some point after 2007 that the early age friction

1 issue that the MTO had identified actually over
2 time it did resolve once traffic was actually on
3 the road, that the friction values increased?

4 A. I believe so. I believe
5 I understood that.

6 Q. Do you recall when you
7 came to understand that?

8 A. I believe it was all part
9 is parcel of -- they knew it was going to increase
10 if they could get the traffic on it but it was so
11 low they didn't want to put the traffic on it to
12 reach the certain threshold. That was their
13 conundrum. After reached that threshold it was
14 going to get nothing but better, so I believe it
15 was all -- I don't believe that that was separate
16 bits of knowledge.

17 Q. To your understanding
18 does friction increase over time on non-SMA roads?

19 A. I don't know.

20 Q. We went through this when
21 I was examining you and then this morning when you
22 went through this with Mr. Lederman.

23 You obtained the friction
24 test. You sought out the friction test as part of
25 -- in response to the back and forth with Mr.

1 White and Mr. McLennan following from the
2 September rainstorms. Do you remember that series
3 of events?

4 A. I do.

5 Q. I believe that you said
6 to -- in response to a question from Mr. Lederman
7 that you didn't have any concerns about safety at
8 the time that you obtained -- that you asked
9 Golder to obtain the friction testing, right?

10 A. I believe I said that.

11 Q. In response to a question
12 about the Tradewind report you said that -- pardon
13 me, questions from Mr. Lederman, you testified
14 that the UK standard leapt out you when you read
15 the Golder report and the Tradewind report. Do
16 you remember saying that this morning?

17 A. Yes, I do.

18 Q. Just so that I understand
19 -- I understand your evidence generally over the
20 last several days to be that friction testing does
21 -- is not an analysis that's used to assess
22 pavement condition; is that right?

23 A. It's not something that's
24 been adopted as a metric that's routinely used,
25 no.

1 Q. In fact this morning Mr.
2 Lederman took you to this. The initial proposal
3 from Golder in 2013 didn't include doing friction
4 testing, include other kinds of tests?

5 A. That's correct.

6 Q. So if friction testing
7 was not common for assessing pavement -- that
8 pavement condition and you had obtained it for the
9 benefit of Mr. McLennan, at least in response to
10 his question, why didn't you just send over the
11 Tradewind report to Mr. White and Mr. McLennan and
12 then just say I don't really understand this, you
13 can deal with it. Why didn't you do that?

14 A. I wasn't in the habit of
15 off-loading half-done stuff to somebody else when
16 I've been asked to do it. They were numbers. One
17 is in risk and one is in traffic, neither of them
18 were engineers. I said I would do it and I hired
19 Golder to give me that information. So I mean, it
20 never occurred to me to send anything half
21 finished.

22 Q. Did you feel any
23 obligation, colleague to colleague, to eventually
24 provide that -- the results that you had said you
25 would obtain to them?

1 MR. LEDERMAN:

2 Mr. Commissioner, I believe this question has been
3 already been asked of this witness during the
4 course of Ms. Lawrence's questioning over the last
5 three days.

6 MS. LAWRENCE: You're very
7 right, Mr. Lederman. I can move on.

8 BY MS. LAWRENCE:

9 Q. Mr. Moore, you said this
10 morning there's a back and forth with Mr. Lederman
11 where he was asking you about your understanding
12 that the MTO friction results and the Tradewind
13 friction results, the actual values were apples to
14 apples, and he asked you if there were some
15 qualification or limitation on how to interpret
16 the comparison of these numbers.

17 What would you have expected
18 Dr. Uzarowski to advise you at the time when he
19 provided this information to you? And that
20 question was just after looking at the 2014
21 e-mail.

22 And then you responded:

23 "The same information that he
24 provided five years later or
25 four years later when he told

1 me they weren't apple to
2 apples and the grip test
3 numbers were more
4 conservative. I mean, I
5 didn't believe there was
6 anything in the report or
7 anything in the summary he
8 ever provided to indicated
9 otherwise." (As read)

10 So you mentioned Dr. Uzarowski
11 providing the same information to you that those
12 figures were not apples to apples five years later
13 or four years later, and that the grip tester
14 numbers were more conservative.

15 What can you tell me about the
16 time when Dr. Uzarowski conveyed that information
17 to you and how or whether it met your
18 expectations?

19 A. I don't know what -- can
20 you clarify what expectations I was -- with regard
21 to what? With regard to Golder's actions or?

22 Q. Yeah. Mr. Lederman had
23 said what would you have expected Dr. Uzarowski to
24 advise you and -- in respective what he advised
25 you in 2014. And you said the same information

1 that he provided four or five years later when he
2 told me they were apples to apples and the grip
3 test numbers were more conservative?

4 I'm just trying to understand,
5 first question, tell me a little bit more the
6 circumstance where he provided you that
7 information and, two, how or if that met your
8 expectations when he did convey that information
9 to you?

10 A. I believe it was in some
11 correspondence that we had reviewed that you
12 showed me with regard to Ludiomil finally
13 responding to my reply and -- first of all, I
14 don't believe it was responsive to the questions
15 that I had asked him with regard to the British
16 standard. And secondly, that's great, you're
17 telling me now that after four engineers the
18 numbers that I'm looking at aren't apples to
19 apples, so I was obviously disappointed in the
20 timing of that information being finally provided.
21 See, without any further information it virtually
22 rendered the report useless to me.

23 Q. Okay. I'm trying to --
24 so your evidence this morning was when he provided
25 me with information that they weren't apples to

1 apples, and I'm not sure what correspondence
2 you're talking about, or whether there was some
3 other experience where Dr. Uzarowski provided you
4 with information that those numbers were not
5 apples to apples.

6 A. I -- I don't know what
7 correspondence that was.

8 Q. You just said I
9 understood there was some correspondence --

10 A. There was some
11 correspondence from Ludomir I believe that showed
12 that information, that the grip tester was more
13 conservative and other information. So I don't
14 know what -- I don't know what exact exhibit to
15 our reference that was. I believe it was in 216
16 or 17 when he finally did provide that type of
17 information.

18 Q. I don't mean to confuse,
19 I'm trying not to. Do you recall having any
20 discussions with him about that? Is that what you
21 were referring to, or was it only written
22 correspondence?

23 A. I believe it was the
24 first time and the only time I remember seeing it
25 was in that correspondence.

1 Q. Then your recollection
2 was that correspondence directed to you and did
3 you review it at the time that it was sent?

4 MR. LEDERMAN: I'm just going
5 to --

6 MS. LAWRENCE: I would like
7 him to answer the question first and then we can
8 ask -- unless it's an objection of course.
9 Apologies.

10 MR. LEDERMAN: It's not an
11 objection but I'm wondering whether if it assists
12 to actually put the correspondence up so that he
13 can answer the question.

14 MS. LAWRENCE: No, I would
15 like his memory before I go to that, recognizing
16 his memory seems to be confused. I would like to
17 understand what he believes he's talking about
18 first.

19 MR. LEDERMAN: If you're
20 recognizing that the witness appears to be
21 confused then it appears that it would be most
22 appropriate to put the correspondence before him.

23 JUSTICE WILTON-SIEGEL: I
24 think we can ask him to describe in whatever
25 detail he can recall the correspondence and then

1 we'll proceed to put a particular piece of
2 correspondence I guess before him and see whether
3 that's what he's referring to. I don't know we
4 should pre-judge his answer. Go ahead.

5 BY MS. LAWRENCE:

6 Q. My question, which he
7 didn't answer was, was your recollection that the
8 correspondence was directed at you?

9 A. I believe it was.

10 Q. Is it correspondence that
11 one of the council has brought you to today? Is
12 that what's in your mind right now?

13 A. I don't know whether it
14 was today or yesterday.

15 Q. Was it the pieces of
16 correspondence that Mr. Lederman raised with you
17 that the pavement evaluation final report from
18 Golder, there's one with -- there was some
19 language and then Mr. Lederman took you to a
20 second things and there was different language.
21 Is that what you're talking about?

22 A. I don't -- I don't know.

23 Q. So again, and I just want
24 the evidence to be very, very clear. You said in
25 response to Mr. Lederman today that there was

1 information that Dr. Uzarowski told you that the
2 numbers were not apples to apples and that the
3 grip test numbers were more conservative. Apart
4 from this piece of correspondence that you're
5 thinking about, was there any other circumstance,
6 any other time where Dr. Uzarowski provided that
7 kind of information to you?

8 A. Not to my knowledge, no.

9 MR. LEDERMAN: Are you going
10 to take him to the correspondence?

11 MS. LAWRENCE: I don't think
12 this is going to get clarified. I think he's
13 clarified it to my satisfaction.

14 Commissioner, if you would
15 like me to take him to it I can.

16 JUSTICE WILTON-SIEGEL: I
17 think if there's a particular piece of
18 correspondence we should put that before him to
19 see whether that has any relevance.

20 MS. LAWRENCE: Sure. I'll
21 have to pull it up. I might get this wrong,
22 HAM46147. I suspect that is not actually -- no.
23 Apologies, Registrar you can take it down. Give
24 me a moment to attempt to find the correspondence
25 that Mr. Moore may be referring to. Mr. Lederman,

1 of course if you have it handy you can let me
2 know.

3 MR. LEDERMAN: I'm sorry, I
4 didn't hear you.

5 MS. LAWRENCE: If you have it
6 handy -- I think Mr. Moore said it's the two
7 documents that he took you to this morning, so if
8 those references handy I'm just looking for them
9 right now.

10 MR. LEDERMAN: It isn't a
11 document that I took him to this morning. I'm
12 referring to the correspondence that is contained
13 in the OD that addresses the points that Mr. Moore
14 was describing that Dr. Uzarowski was providing
15 clarification about which -- I'll give you the
16 page references. It's OD7 referred to at page 113
17 and paragraphs 361 -- 362 to 364.

18 BY MS. LAWRENCE:

19 Q. Why don't we bring those
20 up. Thank you. In 361 -- Registrar, why don't
21 pull up 361 and 362 so we have it.

22 Dr. Uzarowski e-mailed Mr.
23 Taylor and asked for information about correlation
24 and then Mr. Taylor responded. He included a
25 paper. Registrar, can you go to the next page,

1 please. And then Dr. Uzarowski responded and said
2 thank you, 363 -- asked for any values for the
3 grip test used on -- in Canada. And close that
4 down. And then Mr. Taylor responded by e-mail
5 saying he wasn't aware of anything. And now we're
6 at March -- you can close that down -- and then
7 Dr. Uzarowski made a note in his notebook, Gary
8 Moore, and then in March he made some notes in his
9 notebook.

10 As far as I understand it, you
11 didn't -- there's certainly nothing in the
12 inquiry's records you ever received this
13 correspondence. Is it your evidence you did
14 receive this correspondence between Mr. Taylor and
15 Dr. Uzarowski?

16 A. It was this information
17 that I was recalling. I had thought I had seen a
18 memo that I hadn't recalled from Ludomir giving me
19 this information but...

20 Q. Well, I did take you
21 through it, that on March 6 he made some entries
22 in his notebook. It says, "spec profile results
23 blasting and micro." And then from there he then
24 goes -- and after what appears to be a meeting
25 with you, notes of meeting with you, he goes and

1 asks for information and shot blasting.

2 Earlier you told me -- you
3 told the inquiry in response to my questions that
4 Dr. Uzarowski didn't convey to you that the
5 numbers were apples to apples and didn't convey
6 that the grip tester numbers were more
7 conservative. But this morning you said quite
8 clearly four, five years later when he conveyed
9 this to me, so I'm trying to understand your
10 evidence. Can you assist with that.

11 A. Other than I was -- I
12 thought I had seen correspondence. I'm not sure
13 quite how the question came to me but given all
14 this, I don't recall ever seeing correspondence or
15 being told from him any clarification with regard
16 to the British standard. I was a little surprised
17 in that I hadn't -- I hadn't recalled the
18 information about the grip tester but I've seen so
19 many memos and so many documents my head is
20 spinning.

21 Q. That's fair. It's a lot
22 of information. I think we have your evidence on
23 this point. You can take OD down.

24 Mr. Lederman asked you this
25 morning did you ever refuse to provide the

1 Tradewind report to anyone at the City. And your
2 response was:

3 "Not to my knowledge, no, not
4 that I can recall, we were
5 still -- I believe I was asked
6 for it once and we were still
7 waiting for clarification, you
8 know, and they -- and they had
9 said listen just give me the
10 data." (As read)

11 I'm sorry, I'm reading through
12 the translations -- transcriptions.

13 "Give me the data. For
14 clarification I've got my own
15 guide, great. Okay. We'll
16 wait for your clarification
17 and that's all I remember."

18 (As read)

19 I'm sorry, I think I've
20 muddled that. That is from the transcription from
21 this morning. From my notes and my recollection
22 you said I believe I was asked for it once and we
23 were still waiting for clarification and if they
24 had come and said wait, I've got my own guy,
25 great, then you would have given it to them. I

1 think that's what your evidence was this morning;
2 is that right?

3 A. I believe so, yes.

4 Q. I know -- I was asked for
5 it once, I don't know you're referring to. Do you
6 have any more insight into when you say I was
7 asked for it once? I can take you to one e-mail
8 that I think might be it, but I'm not sure.

9 A. Let's try that.

10 Q. Okay. You can go to OD7,
11 page 112, paragraph 356. Is this what you were
12 thinking of this morning when you said that?

13 A. Yes, I believe so.

14 Q. So this was right after
15 the LBCC back and forth where Mr. Ferguson said
16 that -- said to the LBCC that friction tests would
17 be done in 2016. I don't believe that there was
18 any e-mail request. This e-mail -- actually,
19 maybe we'll go into the e-mail just so that you
20 can see how it looks.

21 Can you go, Registrar, to
22 HAM58666. I'm sorry, I might have said that too
23 quickly. HAM58666. If you can turn up image 2.

24 This e-mail starts with the
25 delegation request from LBCC being added. Diana

1 Cameron flips that to a number of people including
2 you. So this is after the delegation is added.
3 This is after Mr. Ferguson has said that friction
4 tests will be done in 2016.

5 And then you respond to
6 Mr. Ferguson and Mr. Lupton and the subject is
7 about delegation request and you say, "FYI, some
8 skid resistance friction testing has been done."

9 Can you give the inquiry any
10 other information about how or why you sent this
11 this e-mail to Mr. Ferguson and Mr. Lupton at this
12 time?

13 A. This is after Dave
14 responded to the LCC --

15 Q. LBCC. It is. So it's
16 February 16 that he responds and says that the
17 friction testing will be completed, and then on
18 February 16 you respond, "Perfect." And then the
19 delegation request goes in for the upcoming public
20 works committee meeting and delegation request
21 includes LBCC on for discussion. At the end of
22 the day they don't actually make any -- they don't
23 proceed with it, but that's what you have when you
24 send this response.

25 You gave some evidence about

1 this. I'm really just trying to understand.
2 Given what you said this morning I believe I was
3 asked for it once and we were still waiting for
4 clarification. Maybe I'll start with this.

5 Did Mr. Ferguson or Mr. Lupton
6 ask you orally for an update in or around
7 February 25th.

8 A. I don't know, I don't
9 recall. It's very possible. I don't know why out
10 of the blue I would have sent them this.

11 Q. Well, it's not out of the
12 blue because there is this delegation request
13 that's dealing with it.

14 A. Yes, but I mean, it seems
15 to answer a question so I'm not -- I'm not sure
16 why I would have sent it to him. When I was
17 answering the question this morning I believe I --
18 I believe this had been in response to a request
19 for the report but -- it's obviously -- I don't
20 believe it is, no. So this was the only time I
21 thought that I had been directly asked for the
22 report.

23 Q. So --

24 MR. LEDERMAN: I'm sorry to
25 interrupt, Mr. Commissioner, but if Ms. Lawrence

1 is putting the sequence of events to the witness
2 I'm just not sure why you're not also putting
3 paragraph 355 to the witness to assist him in
4 answering that question.

5 MS. LAWRENCE: Because 355, to
6 my knowledge, isn't copied to Mr. Moore.

7 MR. LEDERMAN: I understand
8 that, but you're asking him for his -- the
9 explanation for why he is saying what he can
10 recall. And you walked him through the sequence
11 of events but then skipped over the e-mail
12 communication that he's not copied on but seems to
13 make reference to the fact that there was some
14 request made of Gary.

15 MS. LAWRENCE: Sure. Let's do
16 that.

17 Can we go back to the overview
18 document 7, page 112, paragraph -- let's keep the
19 whole page up. In fact, can you bring up 111 as
20 well.

21 So you see at 3:50 Mr. Moore
22 -- that's Mr. Ferguson's e-mail about the LBCC in
23 which he commits to doing -- commits that --
24 engineering services is going to do friction
25 testing. You respond perfect. Ms. Leduc has a

1 back and forth with Ms. Wunderlich because -- I
2 believe it's because the delegation hasn't gone
3 out, and then it goes out, the top of 112.

4 So now we're at the bottom of
5 the e-mails that we were just looking at.
6 Ms. Cameron forwards that to Mr. Mater, Ms.
7 Matthews-Malone, Mr. McKinnon, you and Mr. Murdoch
8 and Mr. Lupton says, responds -- I'll have to
9 double check, I'm not sure if you're copied on
10 that response. "Hey, guys, let's make sure we
11 send me up some history on this one." (As read)
12 I'm pretty sure you're not copied on that but I
13 can double check that.

14 Later in that day Mr. White
15 responds to Mr. Lupton, Mr. Mater and
16 Mr. Ferguson, and not you, saying it's about
17 safety stuff. The issue is mostly the asphalt
18 friction test, which he Gary says was done. We
19 asked for a copy but we haven't seen it yet.

20 And then independently in a
21 different e-mail chain you respond about the
22 roughness skid testing.

23 Does looking at that whole
24 chain assist you in refreshing your memory about
25 what you were talking about this morning when I

1 said "I believe I was asked for it once"?

2 A. I believe I was referring
3 to this e-mail, line 356, that I had seen
4 previously because I'm still trying to get
5 analysis for -- put it into context so -- which
6 implied to me that I was still holding on to it to
7 get clarification before I could give out anything
8 but this -- you know, other than saying it might
9 have been in response to the e-mail that is in 354
10 that I am cc'd on or sent directly to, that I was
11 just giving the history in case someone didn't
12 remember it. Other than that, I don't know.

13 Q. I think I went through in
14 your evidence that Mr. White said in this same
15 e-mail we've asked for a copy of the results but
16 we haven't seen them yet, and then you said this
17 morning I believe I was asked once but you didn't
18 identify if you could recall who asked you. Could
19 recall now who asked you once for results?

20 A. No, I don't recall.

21 Q. Your evidence remains
22 that you were asked for the friction testing
23 results once and then this was your response in
24 356.

25 A. I believe at the time

1 yes, that's what it was for.

2 Q. And that's the only time
3 from 2014 to 2018 in May when you left, apart from
4 Ms. Crawford that you were asked -- I guess and
5 Mr. Connelly's e-mails that we just looked, at
6 that you were asked for copies friction test
7 results?

8 A. The only other time was
9 Mr. Malone when he shared -- I shared the summary
10 reports -- summary results with him.

11 Q. And of course when --
12 asked, but when you raised it at the council
13 meeting?

14 A. Yes.

15 Q. Apart from those times
16 you don't recall being asked for friction test
17 results at any other time?

18 A. No, I do not.

19 Q. Not the results nor an
20 actual report?

21 A. Or the report, yes.

22 MS. LAWRENCE:

23 Mr. Commissioner, just let me look through my
24 notes, just for the moment.

25 Commissioner, it's been

1 obviously a very long five days and I appreciate
2 Mr. Moore's attention, including today. Could we
3 take a five-minute break just so I can ensure that
4 I have carefully looked at all of the evidence he
5 gave to other participants before I conclude my
6 examination?

7 JUSTICE WILTON-SIEGEL: On the
8 assumption that counsel do not have any problem
9 with that, let's take a five-minute break and
10 return at 5 past 3.

11 --- Recess taken at 2:59 p.m.

12 --- Upon resuming at 3:05 p.m.

13 MS. LAWRENCE:
14 Mr. Commissioner, thank you for the brief break
15 for me to check my notes. I have no further
16 questions of this witness. Thank you very much
17 for his time and attention.

18 JUSTICE WILTON-SIEGEL: Well,
19 then, Mr. Moore, it's been a very long five days
20 for all of us but I'm sure it's been particularly
21 long for you. We appreciate you're attending the
22 inquiry and your patience in going through this
23 testimony. You're excused, if you want to leave.

24 With respect to the rest of
25 us, I don't think there is anything further we

1 have to do today, so I guess for the record we're
2 now taking a two week scheduled break.

3 The next week on which
4 witnesses are available is the week of August
5 the 8th but I believe the first witness is not
6 available until the 10th, so we would stand
7 adjourned now until 9:30 a.m. on August the 10th.
8 Thank you very much, and I wish everyone a
9 pleasant couple of weeks.

10 MS. LAWRENCE: Thank you.

11 --- Whereupon at 3:07 p.m. the proceedings were
12 adjourned Wednesday, August 10th, 2022 at
13 9:30 a.m.

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