

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE
HERMAN J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Friday, July 15, 2022, at 9:31 a.m.

VOLUME 45

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1 Arbitration Place Virtual

2 --- Upon resuming on Friday, July 15, 2022

3 at 9:31 a.m.

4 MS. LAWRENCE: Good morning,
5 Mr. Commissioner.

6 JUSTICE WILTON-SIEGEL: Good
7 morning.

8 MS. LAWRENCE: Our witness
9 today is Gary Moore. I would ask that the court
10 reporter swear him in, please.

11 GARY MOORE; AFFIRMED

12 EXAMINATION BY MS. LAWRENCE:

13 Q. Good morning, Mr. Moore.

14 A. Good morning.

15 Q. You previously provided
16 evidence to the inquiry, so in fact you've been
17 double affirmed, so thank you for that. I'm not
18 going to go through your professional background.
19 You went through some of that last time with
20 Mr. Lewis, but I am going to ask you, sort of,
21 going forward from about 2007 onward in your time
22 at the City. So, I'm going to start with some
23 questions about your background.

24 When the parkway opened in
25 2007, you were also the manager of design, capital

1 planning and implementation division until 2009.

2 Is that right?

3 A. That's correct.

4 Q. And it's at that time
5 that you became the director of engineering
6 services?

7 A. I believe that's -- yes.

8 Q. Okay. So, I have some
9 questions about that role, manager of design,
10 capital planning and implementation. What did
11 that role entail?

12 A. At that time, design
13 prepared the tender documents and designs for the
14 roads and bridges, sewer and water and other
15 linear type infrastructure that was approved in
16 the capital budget.

17 Q. So, you did design of
18 projects, but only those that were approved in the
19 capital budget?

20 A. That's correct.

21 Q. And was there another
22 manager of design who did non-capital budget
23 design work?

24 A. I'm not sure I
25 understand, you know, the term non-capital budget.

1 Any of the projects funding, there may have been
2 some projects in planning or other divisions that
3 didn't fall under our purview, but I can't think
4 of any other projects that were done that weren't
5 under the capital budget. That was mostly how
6 funding for the projects was approved. There may
7 have been other ones that occurred, but it was the
8 capital budget that was the funding source for the
9 majority of the projects.

10 Q. Thank you. So, during
11 this period of time, again, 2007, after the
12 opening of the Red Hill, to 2009, in your role as
13 manager of design, capital planning and
14 implementation, what role, if any, did you have
15 over the asset management division within
16 engineering services?

17 A. At that time, none. They
18 were another division within our group that
19 oversaw the preparation of the budget and back to
20 lead us in what we were doing the design and
21 tender preparation for.

22 Q. Okay. So, they were your
23 colleagues, but you didn't have any supervisory
24 role over anyone in asset management?

25 A. That's correct.

1 Q. You were questioned the
2 last time you were before the inquiry about the
3 Stantec sustainability plan and your recollection
4 was that council had not approved that plan. Do
5 you remember those questions?

6 A. I do believe I recall
7 that, yeah.

8 Q. And you remember that
9 vaguely at least, the sustainability plan that --

10 A. I remember that plan
11 being -- I remember being asked questions in the
12 preparation of that plan, but --

13 Q. And going way back to
14 2007 to 2009, you have a recollection that that
15 plan was being considered and then put to council,
16 who didn't approve it?

17 A. That's my recollection,
18 that, you know, that they were suggesting how much
19 money needed to be set aside to look after this
20 new facility that had been built and was nothing
21 like anything we had ever had in the City before,
22 didn't really fit in with the rest of the regular
23 road program, and I believe that senior staff had
24 had an idea that a separate program needed to be
25 set up in order to look after the long-term

1 issues. It's my recollection that that's what the
2 gist of that study was.

3 Q. Okay. In your role as
4 manager, design, capital planning and
5 implementation in that period between 2007 and
6 2009, did you take any steps to implement the
7 tasks that were set out in the sustainability
8 plan?

9 A. I don't specifically
10 recall any tasks that were set up. I don't
11 believe -- the only thing I really recall doing
12 after that was assisting in the preparation of a
13 maintenance manual summarizing all of the
14 different items that we used, what type of
15 signage, what type of guide rail, you know, where
16 we sourced all these various things, to make it
17 easier for maintenance to do, but I don't believe
18 that was anything else that I can recall.

19 Q. Okay. My question really
20 had two parts. One, in your role as manager of
21 design, capital planning and implementation, did
22 you have any responsibility for the maintenance or
23 preservation of the parkway?

24 A. Officially, no.

25 Q. So, you said officially

1 no. Unofficially, when you said that you were
2 doing the manual for maintenance, was that during
3 this period of time, between 2007 and 2009, or was
4 that before the Red Hill opened?

5 A. I think we were too busy
6 before it opened. I think we were assembling it
7 in that time period. I'm not sure how far after
8 it opened. I think we were working on it, you
9 know, fairly diligently in order to get it so that
10 maintenance had it. But other than that, no,
11 there was nothing else.

12 Q. Is it fair to say that
13 your involvement in the preparation of that manual
14 was really within the scope of your role within
15 the parkway special project, not within your role
16 as manager, design, capital planning and
17 implementation?

18 A. I would say that's fair,
19 yes.

20 Q. So, from 2009, you were
21 the director of engineering services. Right?

22 A. That's correct.

23 Q. Was there a period of
24 time between 2009 and about 2013 that traffic
25 engineering fell under the portfolio of the

1 director of engineering?

2 A. Traffic engineering did
3 fall under that portfolio. I believe it was in
4 that timeframe. There was a number of reorgs that
5 were going on at the time and I believe it wasn't
6 for that long, but I believe you're correct in
7 that it was in that timeframe.

8 Q. Okay. I think you're
9 right. The inquiry has heard about the many
10 reorganizations that happened, especially with the
11 traffic engineering group moving from various
12 places within Public Works.

13 From, I think it was 2013 and
14 I'm asking for your recollection, the traffic
15 engineering group then was reorganized to be under
16 Mr. Mater. Is that right?

17 A. Eventually they went to
18 Mr. Mater, yes, but I couldn't be sure on the
19 exact timeframe.

20 Q. Okay. Can you describe
21 the various divisions that were under you as
22 director of engineering services, apart from
23 traffic?

24 A. There was asset
25 management, there was design, there was

1 construction services, and surveys and technical
2 services --

3 Q. Did surveys and technical
4 services morph into geomatics?

5 A. Yes, it did. Geomatics
6 and corridor management, I think.

7 Q. Okay. So, you went
8 through the divisions and I think that the way
9 that you went through them also describes the
10 chronology of a project within engineering
11 services. Is that fair? So, you start with asset
12 management and they deal with scope and funding?

13 A. That's correct.

14 Q. And then moves over to
15 design once the scope is set and the funding is in
16 place?

17 A. And they prepare the
18 tender and the designs and put it out to tender.
19 And then following that, after it's awarded
20 through the procurement process, then construction
21 services undertakes the contract administration
22 and site inspection services related to that.

23 Q. Okay. And then the
24 survey department or what became geomatics, are
25 they involved in those capital projects or are

1 they somewhat distinct division?

2 A. They had a number of
3 different things. I mean, they were the legal
4 survey group for the City, so all legal survey
5 plans were done within that group. They were the
6 engineering survey group for our group, our
7 division, so they would support asset management
8 if they needed initial surveys of an area, of a
9 road, property information in order to assist them
10 in the preparation of their scope. They would do
11 the detail plans and background, identify services
12 and utilities on a base plan that design would
13 use. They would occasionally support construction
14 services if there was an issue with regard to some
15 discrepancy on the plans. So, they were, sort of,
16 involved all the way through, in and out.

17 Q. Okay. And did lighting
18 for the City fall under that division as well?

19 A. Lighting was originally
20 in traffic and it was the -- I'm trying to think
21 what -- I can't think of the gentleman's name that
22 looked after it. But it, sort of, after the bulk
23 of traffic or traffic operations and maintenance
24 left to go under John, there was a group called, I
25 don't know, the traffic planning, traffic

1 engineering, some of that lighting. So, that
2 lighting stayed under engineering services in that
3 geomatics, technical services group, under Gord.
4 And I think it expanded from one person to
5 eventually four or five people. That's my
6 recollection of how that went.

7 Q. Okay. And is the
8 gentleman whose name you can't recall, is that
9 Mike Field?

10 A. Mike became the face of
11 lighting in his division. I was trying to think
12 of the previous gentleman's name that looked after
13 it. He sort of looked after it for years and then
14 retired. It was sort of a single guy that was
15 responsible for everything within the City.

16 Q. Okay. To your knowledge,
17 why did lighting stay within engineering services
18 when the rest of traffic operations and traffic
19 engineering went under John Mater's group?

20 A. I'm not really sure.

21 Q. Okay.

22 A. At that time, it was
23 mostly maintenance. There was no capability for
24 doing any design, you know, other than being able
25 to identify need, but there was no electrical

1 engineers from that point of view to be able to
2 design feeds and that type of thing.

3 Q. Okay, so it was mostly
4 project management around lighting projects?

5 A. Yes, and maintenance,
6 identifying, you know, when re-lamping and putting
7 out tenders for having a surface to survey
8 neighbourhoods and to replace burnt out bulbs, so
9 there was mostly management administration in that
10 case.

11 Q. Okay. But you don't know
12 why it fell under engineering services instead
13 of --

14 A. Was somebody slicing and
15 dicing? Yes, I don't recall.

16 Q. Okay. So, you were in
17 the role of director of engineering from 2009 to
18 2018. Can you describe your day-to-day
19 responsibilities as director of engineering,
20 including if it changed over time?

21 A. So, obviously it was the
22 general direction of all the four divisions, the
23 coordinations of their work. Asset management
24 was, as we said, they decide what and when,
25 decides how, and construction services makes sure

1 that the contractor fulfills the obligations of
2 the contracts and the roles of geomatics and what
3 eventually became corridor management in terms of
4 the utilities and uses of the corridor, I think
5 are fairly straightforward. I mean, that was just
6 sort of the tip of the iceberg. Looking after
7 that was the easy part.

8 Dealing with the political
9 side, you know, if councillors had questions on
10 projects and why projects weren't being done or if
11 they had, you know, concerns within their realms
12 that they felt needed to be addressed, trying to
13 discuss with them and plan on future projects that
14 would fulfil budgets and all of the other
15 requirements, the needs, trying to figure out how
16 we're going to deal when we should be doing \$250
17 million worth of work and we only have \$40 million
18 to do it was quite challenging.

19 And then, you know, there was
20 all the other duties as assigned, you know,
21 whether it was participating as a Public Works rep
22 in a SARS outbreak committee or the Public Works
23 rep for contingency planning for two possible
24 strike actions within the City four years apart or
25 an MTO committee or a conservation authority

1 committee or a horizon utilities committee and any
2 other conservation authority, liaison committee,
3 as well as a number of human resources related
4 committees as the director in that area and as
5 senior management in Public Works that needed
6 representation.

7 A lot of the other groups were
8 operational and, you know, I think it was seen
9 that I, you know, could, as the engineer, could
10 lend a little more or had a little more time,
11 although I didn't really.

12 Q. Okay.

13 A. The more I did, the more
14 was given to me, so...

15 Q. That is how it goes
16 sometimes. So, it sounds like you were quite busy
17 and had a fair bit on your plate. In the day to
18 day, did you leave the work of your divisions to
19 the managers of those divisions?

20 A. For the most part. I
21 mean, I was -- we were all on the same floor, so
22 we worked together quite close. It was, you know,
23 how are things going or, you know, is there
24 anything I can do to, you know, speed this up or,
25 you know, give you assistance? Is there a

1 sticking point at some place else? You know, I
2 tried to leave the work to them and tried to be
3 the facilitator if there was issues arose, you
4 know, whether it was other departments or outside
5 agencies or anything else that was preventing them
6 or inhibiting them from fulfilling what we needed
7 to get done.

8 Q. Okay. Over the next few
9 days we're going to go through a fairly lengthy
10 chronology in your involvement in various measures
11 taken on the Red Hill and, probably less
12 significantly, but also on the LINC.

13 To frame that discussion, can
14 you describe what your responsibilities as
15 director of engineering services were as they
16 related to the Red Hill?

17 A. Well, I mean, after the
18 road was built and opened and all of the payments
19 were complete, I mean, the office was broken up.
20 It didn't continue to exist, so unofficially, you
21 know, if anyone had a question, it was likely
22 coming to me as the person that was most readily
23 available and had the longest tenure still there.
24 So, can you remember this or where might I find
25 that or what did they do here, was a question that

1 arose. I don't know that there was anything
2 formally on my job description that said I had any
3 responsibility for it other than that, you know,
4 other than obviously my interest in it.

5 Q. Okay. So, if someone
6 raised a specific concern about the Red Hill and
7 requested programming for the Red Hill or the
8 LINC, that would be the kind of thing that would
9 go into the divisions that you were the director
10 of. Is that right?

11 A. Capital works that were
12 programmed and approved by committee that needed
13 to be put out to tender would come. If it was a
14 maintenance type work, patching or crack sealing
15 or guide rail replacement, unless it was a
16 tendered capital work, it would usually go through
17 an operational road group. But otherwise, capital
18 works, linear capital works. There were
19 non-linear capital works, like building of a water
20 treatment plant or a pollution control plant or
21 something like that. That wasn't within our
22 purview.

23 Q. But linear capital works
24 were within your purview?

25 A. Yes.

1 Q. Okay. So, asset
2 management was one of the divisions that you
3 oversaw as director. In your view, did asset
4 management have a role in the preservation of the
5 asset of Red Hill after it was open?

6 A. Yeah, absolutely. It
7 became part of the overall road program of 6,500
8 some-odd lane kilometres within the City, so
9 monitoring that, the condition of that pavement,
10 would fall under their purview, as would all their
11 bridges and culverts and every other works within
12 that area.

13 Q. Okay. So, how would you
14 describe asset management's responsibilities in
15 respect of the parkway after it was built? What
16 were they to do in their role in asset management?

17 A. The same as they would
18 for the rest of the road. I mean, it would just
19 become part of the road program.

20 Q. Okay. Can you describe
21 briefly the road program and how you understood
22 it?

23 A. Typically, over once
24 every five years, on average, sometimes it was a
25 little more, little less, you would do a condition

1 assessment of the road, rideability, a roughness
2 index, you know, that type of thing, number of
3 potholes that would come up within index and give
4 us a comparative overall conditions within the
5 road program that would be prioritized. And they
6 had a special program for doing all that, that
7 stuff, and I don't believe it had any of a higher
8 level of look than any of the other programs.

9 Q. Okay. And is that the
10 same with the LINC?

11 A. Yes.

12 Q. It was part of the road
13 program?

14 A. Yes.

15 Q. The five-year, I think
16 you said, the condition assessment, it would be
17 about every five years?

18 A. On average, yeah. You
19 can't do it all in five years, so you would do a
20 little bit each year and, on average, it took five
21 years to get back around or six years to get back
22 around to that piece of road, so, you know, on
23 average you were doing every piece of road every
24 five or six years.

25 Q. Okay. And you talked

1 about a roughness index?

2 A. Yes.

3 Q. Is that with the inertial
4 profiler device?

5 A. I believe that that's
6 what that device does.

7 Q. And to your knowledge,
8 that happened on every road about every five
9 years?

10 A. On average, I believe
11 that's correct.

12 Q. Okay. And so, the Red
13 Hill and the LINC being part of that would get
14 that inertial profiler to be done on those assets
15 in the same cycle, the five-year cycle?

16 A. Yeah. I don't know
17 whether they were done on the same year or not, or
18 even if all -- I mean, they may have done the
19 roadway and then ramps or the LINC may have been
20 done at a different time, given that their
21 pavings, when they started.

22 Q. Sure. So, you don't know
23 the specifics of exactly how asset management
24 conducted the road program, but, you know, that
25 that was one of the aspects of the road program?

1 A. That's correct.

2 Q. So, then is it fair to
3 say in your role as director that your role in
4 asset management of the parkway was really one of
5 oversight over your managers?

6 A. Yes.

7 Q. Looking back, do you
8 think that you took a more active role in the
9 asset management of the Red Hill and the LINC as
10 compared to other City assets?

11 A. I think I was consulted
12 more in that than other City assets. The other
13 roads, you know, if there was a decision that
14 needed to be done or a suggestion or what did they
15 have here, they were all pretty straightforward
16 and so any questions tended to come to me, you
17 know, of more interest in that regard.

18 Q. And is that because of
19 what you said earlier, that you were a person with
20 long tenure who had that sort of history and
21 knowledge about these roads?

22 A. I believe that's correct.

23 Q. In terms of being
24 consulted more frequently, is that to say you were
25 providing factual information or were you a

1 decision maker when issues came to you? I'm just
2 trying to understand what the consultation is that
3 you're talking about.

4 A. A lot of time it would be
5 providing factual information in terms of, you
6 know, what were the mixes, when did they go down,
7 how did they go down, how does this vary from
8 this, that type of thing. I was involved in and
9 reviewed most decisions with regard to what was
10 proposed on any road, you know. Whether it was
11 repaving Main Street through the downtown or a
12 local arterial in the neighbourhoods or whatever,
13 we reviewed it all. Like I said, we were severely
14 underfunded and I wanted to make sure that we were
15 spending money wisely whenever we did that type of
16 thing.

17 Q. Okay. In terms of that
18 last answer, you said that you were severely
19 underfunded. Did you find over your time as
20 director of engineering that there was -- there
21 became more of a focus to ensure that roads within
22 the City were in good working order?

23 A. Council routinely made
24 additional funding available for roads. They
25 understood, you know, the condition of the roads

1 was a priority for their stakeholders and their
2 taxpayers and that they wanted to try and address
3 that whenever they could. But, I mean, the
4 funding shortfall was the funding shortfall and
5 regular program of \$40 million to \$50 million when
6 it should have been more in the neighbourhood of
7 \$200 million a year is pretty drastic.

8 Q. Okay. In terms of your
9 role over budgeting and financing, so I think you
10 said earlier that asset management was the one,
11 the division, that would go and obtain capital
12 project funding. Is that right?

13 A. Well, they -- finance
14 would provide a pot of money, for lack of a better
15 term, and say, this is going to be your overall
16 budget that's going to come out for the year.
17 Asset management did the condition assessment of
18 the roads, of the water and of the sewer and the
19 other linear infrastructure. They also did some
20 condition assessments of parks and others for
21 other groups. But then they were charged with
22 coming up with a program against those condition
23 assessments for the roads. Water would take the
24 condition assessments that we provided to them and
25 come back and say, okay, this water main is a

1 priority, we need it replaced, or this sewer, and
2 then we would take information from planning that
3 says, there's a new subdivision going on, so if
4 you're going to replace this watermain, you know,
5 we need it to be bigger, and if you're going to
6 replace this sewer, we need it to be bigger.

7 So, you had to assemble all of
8 that information along with this water and sewer
9 need to be replaced, but we don't have the money
10 for it for three years and then you have to
11 coordinate that with the road, so it was a very
12 complicated proposition to assemble a proposed
13 capital budget for review by senior management
14 team and eventually council.

15 Q. Okay. So, I'm trying to
16 understand in that complicated preparation of a
17 capital budget, was that under the responsibility
18 of asset management to do or was that one of your
19 roles and responsibilities?

20 A. Asset management had the
21 horses to prepare that work. They prepared it
22 under my oversight. They would come and say,
23 we're thinking about this road over this road.
24 It's a toss-up. Which one do you think? Well,
25 you know, we can do this one, but if we do this

1 one -- I was involved in the ultimate decisions on
2 the final preparation for presentation, and then
3 after presentation, to the general manager and
4 directors and feedback from finance, which always
5 changed. No, we found you \$2 million more, so now
6 you have to add and spend this money, or no, we've
7 decided to give you \$5 million less, so you had to
8 go back and shuffle the deck, so to speak, and
9 figure out what the best way to deal with that
10 was.

11 Q. Okay. Thank you. I'm
12 going to turn now to questions about the Red Hill
13 in particular. So, after the Red Hill opened, and
14 I'm just going to, sort of, take a snippet of
15 time, until 2012, were you aware of complaints or
16 concerns coming from members of the public about
17 the level of illumination on the Red Hill?

18 A. I can't think of anything
19 specific, but if they complained to their
20 councillor, it's likely that their councillor
21 complained either to me or to someone within the
22 group about it. It was not unusual, not any more,
23 you know, than any other City street or any other
24 constituents, there's not enough sidewalk, there's
25 not enough smooth road, you know, there's not

1 enough parks, there's not enough -- so, it wasn't
2 unusual to receive that type of feedback.

3 Q. Okay. You said if a
4 members of the public complained to a councillor,
5 they would likely pick up the phone and call you
6 or someone within the group about it. Who else
7 within the group, besides you, would you identify
8 as a person that a councillor might contact about
9 the Red Hill?

10 A. Well, councillors didn't
11 have any, you know, hesitation about talking to
12 who they thought might be able to provide them
13 with relief that they were looking for, so it
14 could have been anyone from a manager down to a
15 project manager.

16 Q. Okay. And do you
17 remember receiving any updates from any of your
18 staff about receiving calls from councillors about
19 the Red Hill in particular?

20 A. I don't specifically.
21 Typically we would, you know, provide a response
22 to the councillor, you know, giving them the
23 rationale for what was there. If there was
24 anything specific that council wanted to do, then
25 committee or council would bring it up to staff at

1 a committee meeting or, you know, request staff to
2 take some action. Otherwise, we were mostly in
3 feedback mode.

4 Q. Okay. Just casting your
5 mind back in time to that period of time, would
6 Marco Oddi be the kind of person who would be a
7 recipient of requests or complaints from
8 councillors about the Red Hill?

9 A. It's possible, but, you
10 know, Marco was the construction guy, you know,
11 the guy in the field. I don't know whether they
12 perceived him as, you know, anyone that could
13 resolve issues. He could maybe give feedback on
14 if there was noise issues or berms or walls or
15 that type of thing, because that tended to be a
16 little more in his field as, you know, most of
17 them were built in people's back yards type of
18 thing and he was involved in dealing with the
19 people to deal with that. But other than that, I
20 don't know. I couldn't speculate on what they
21 might do.

22 Q. Okay. My question was
23 really, you know, from your perspective, who were
24 the people that were seen within engineering
25 services as being the point people for issues

1 around the Red Hill?

2 A. Me.

3 Q. Okay. And did you have a
4 perception about why that was, that you were the
5 person that councillors would come to?

6 A. I had a good relationship
7 with the councillors. I, as director, went and
8 met with them twice a year about their concerns.
9 They knew they could call me and, you know, pick
10 my brain and hopefully get an honest answer on,
11 you know, what we could do and what we couldn't do
12 and why things were the way they were.

13 I used to get a lot of calls
14 about stuff that had nothing to do with me, only
15 because they knew my phone number and knew my face
16 and was able to talk to me better than some other
17 staff.

18 Q. Okay. So, just going
19 back to my initial question, in that period of
20 time, from opening of the Red Hill until 2012, do
21 you remember having discussions with councillors
22 about issues from members of the public around the
23 level of illumination in particular on the Red
24 Hill?

25 A. I can't say that I recall

1 specifically. I mean, I do recall, you know,
2 having those types of discussions, but I couldn't
3 put a timeframe or which councillor or, you know,
4 what specifically it was about.

5 Q. Okay. But generally, was
6 it around the level of illumination? Do you
7 have --

8 A. No. There were -- I
9 mean, there was all sorts of this ramp is, you
10 know, too tight, or this ramp, you know, I have to
11 turn left in order to do this. And there would be
12 lots of times that we would get questions on
13 signage and, you know, there's no merge sign, and
14 then I would meet with the resident out onsite,
15 oh, I've never seen that sign before, well, you
16 know, we took the extra steps to try and resolve
17 the issues that people had and meet them out
18 onsite or discuss it with them. Lots of back yard
19 meetings, especially with noise and those types of
20 things, after the opening --

21 Q. Sorry, I just want to be
22 clear on that. I'm sorry to interrupt you. After
23 the opening --

24 A. Yeah.

25 Q. -- was that while the Red

1 Hill office or the team was still active?

2 A. Not necessarily.

3 Q. Okay. So, did this kind
4 of back yard meetings and issues around noise, did
5 that drift into the 2008 to, sort of, 2012 period?

6 A. Yes.

7 Q. And you personally were
8 going out to individuals who had issues around
9 noise or signs or --

10 A. Councillors would invite
11 me to back yard meetings after supper to meet with
12 a number of residents that, you know, why can I
13 hear the roadway, or why isn't the wall tall
14 enough, and you know? So, we went out and would
15 meet with them and try and explain to them why
16 things were the way they were, you know, that we
17 would build a wall higher and it would shade your
18 back yard and I don't think you really want to
19 look at that. And the noise levels, while you can
20 still hear, you know, met all of the programming
21 requirements and everything we said in the EA.
22 So, you know, those were the types of things
23 that -- other duties as assigned and things we did
24 to help councillors address the concerns with
25 their constituents.

1 Q. Okay. I'm going to take
2 you to some complaints that the City received
3 after the construction, just to understand if you
4 were involved in these responses, so further to
5 the answer that you just gave.

6 Registrar, can you bring up
7 OD 5, page 32.

8 Mr. Moore, this is from one of
9 the chapters of the overview document and I want
10 to ensure that you can see the screen?

11 A. Yes, I can see it. Yes.
12 Page 32, right.

13 Q. Registrar, can you call
14 out paragraph 76.

15 And just to make sure that our
16 tech is good for the rest of the day, can you see
17 that call out well?

18 A. Yes, I can.

19 Q. And it's not covered by
20 our video screens?

21 A. No. No, it's not.

22 Q. All right. So, this is a
23 member of the public who e-mailed Councillor
24 Collins in November of 2008 and Councillor Collins
25 forwarded that e-mail to Ms. DiDomenico?

1 A. Yeah.

2 Q. And she had been on the
3 parkway team?

4 A. That's correct.

5 Q. And so, is she another
6 person, to your knowledge, who councillors might
7 look to as being part of, for lack of a better
8 word, the complaints department as it related to
9 the parkway?

10 A. Jennifer was intimately
11 involved in the Red Hill office, all of the
12 documents and public information and reports to
13 committee and council, and so, yes, they would be
14 quite familiar with her.

15 Q. So, this e-mail, we're
16 not going to go through all of it, but it mentions
17 snowy weather ice conditions in the first
18 paragraph.

19 A. Mm-hmm.

20 Q. It has in the second
21 paragraph, it mentions a very serious issue around
22 visibility in terms of identifying exactly where
23 the road is when the non-reflective painted lines
24 on the road are snow covered. It references a
25 lovely ditch and a grassy gully. It references a

1 narrow rumble strip. And in the third paragraph,
2 it suggests placing -- marking the edges of the
3 roadway in a more concrete way than just rumble
4 strips. Do you see that? Then it mentions other
5 400-series highways that have reflective flags or
6 other reflective poles.

7 So, was this the kind of
8 panoply of issues that members of the public would
9 either raise with you directly or via councillors?

10 A. This one is probably a
11 little more detailed than most, but it's a typical
12 type of thing.

13 Q. Okay. Registrar, can you
14 close that down and go to the next page, please.
15 Actually, sorry. Can you go to the next page,
16 which is 34, and can you pull up 35, please.
17 Thank you.

18 So, Mr. Moore, just as a last
19 test of our tech, can you see both of these
20 screens up without any obstruction from our video
21 screens?

22 A. I can. They're both
23 good.

24 Q. Great. Registrar, can
25 you call out paragraph 83 that starts on 34 and

1 goes to 35.

2 So, there's a fair bit of back
3 and forth, there is a response to this member of
4 the public and then there's a followup from the
5 member of the public. I'm not going to go through
6 that.

7 Mr. Gallo references an
8 e-mail, when he talking with folks within
9 community traffic services, about the City's
10 position on lighting, and the excerpts in smaller
11 font here are what Mr. Oddi had told traffic
12 community services and passed on to a member of
13 the public. And I just want you to read that, if
14 you haven't had a chance to.

15 A. Okay.

16 Q. At the time, do you
17 recall if you had any discussions with Mr. Oddi
18 about how to frame the City's position in respect
19 of illumination on the parkway when the City
20 received a request for information from members of
21 the public?

22 A. Not that I can recall
23 specifically. No, I don't.

24 Q. Okay. So, there wasn't
25 any kind of discussion about messaging to explain

1 in a specific way why the LINC and the Red Hill
2 were designed the way they were in terms of
3 illumination?

4 A. Yeah. I don't know what
5 the context of the e-mail that Marco sent and who
6 he sent it to in, you know, 2008, so I really
7 can't -- I don't know about the messaging or who
8 it was sent to.

9 Q. And that's what I mean.
10 I'm asking more generally. Was there some, to
11 your knowledge, consistent message that you and
12 Mr. Oddi developed to respond to issues around
13 illumination, to explain how the Red Hill and the
14 LINC had been designed, just so you had, sort of,
15 a standard message that you could flip to --

16 A. Yeah. I don't believe
17 that we developed anything in that regard, whether
18 it was to lighting or noise or anything else.

19 Q. Okay. So, you took the
20 complaints or the concerns as they came and tried
21 to address them in a tailored way?

22 A. To the best of our
23 ability with our knowledge.

24 Q. Okay.

25 A. It might have been a good

1 idea.

2 Q. Registrar, you close this
3 down. And, in fact, you can close out OD 5.

4 In this period of time -- and,
5 Mr. Moore, I'm going to be asking you some
6 questions about events in 2013, which is why I'm
7 asking you for this particular period of time --
8 so, this is the period of time, just to orient you
9 to what I'm asking about, is before you retained
10 Golder to do a series of projects, before a motion
11 on illumination that we'll talk about.

12 So, in that period of time, do
13 you remember receiving information that members of
14 the public had any concerns about any other aspect
15 of the parkway, apart from illumination? You've
16 talked about noise and you've talked about some
17 other things. I'm just trying to understand
18 exactly what you were hearing from the public.

19 A. I heard about a lot of
20 different things, but I don't -- nothing
21 specifically that I can, you know, put my finger
22 on at this time. I'm trying to recall what, you
23 know, I remember from all the documents I've seen
24 and try and separate those out, so I don't recall
25 specifically what I might have known at that time.

1 Q. Okay. What about in
2 respect of slipperiness of the parkway? Do you
3 recall hearing from councillors or members of the
4 public or your staff that the public had concerns
5 about the parkway being slippery?

6 A. I do recall information
7 of that nature that, you know, people thought it
8 was slippery. I don't know the exact timeframe of
9 that --

10 MR. LEDERMAN: I also wasn't
11 clear on the timing in terms of the question that
12 you were asking Mr. Moore as to the timing as to
13 his recollection of that being raised as a
14 concern.

15 MS. LAWRENCE: I was asking --
16 and I tried to frame it, but just to clarify.
17 That time period between the opening of the Red
18 Hill and before 2013, so up to the end of 2012.

19 THE WITNESS: I don't believe
20 that that slipperiness was -- it seems to me that
21 that slipperiness issue was later in 2013 that we
22 were made aware of it, after a number of rain
23 events or something of that nature. But I don't
24 believe that we were asked to address anything
25 like that prior to that.

1 BY MS. LAWRENCE:

2 Q. Okay. So, we're
3 certainly going to get into those rain events in
4 September of 2013. Apart from being asked to
5 address anything, were you just generally aware
6 that the public had concerns about slipperiness in
7 that time period between the opening of the Red
8 Hill and 2012?

9 A. No, I don't believe so.

10 Q. Okay. I'm going to turn
11 now to another topic. You gave evidence at the
12 last time you were before the inquiry about
13 testing, friction testing, by the MTO when the
14 parkway opened. Do you remember that evidence?

15 A. Yes.

16 Q. And you remember knowing
17 at the time, in 2007, that the MTO conducted
18 testing?

19 A. Yes, before the freeway
20 opened. Yes.

21 Q. And your impression at
22 the time was that the testing revealed that the
23 friction levels were better than the MTO typically
24 expected?

25 A. Yes, and that they

1 were -- my indication was that it was better than
2 they would get and they were good.

3 Q. Okay. We've heard
4 evidence in the inquiry since you last testified
5 about a phone discussion between Becca Lane at the
6 MTO and Ludomir Uzarowski at Golder.

7 So, just starting -- I know
8 that, you know, the folks at Golder. Do you know
9 Becca Lane?

10 A. I've met Becca before.
11 Yes, I know who she is.

12 Q. Have you done any
13 projects with her?

14 A. Not specifically City MTO
15 projects. I've presented with her at various
16 conferences, but I don't think we ever worked
17 specifically together on any project.

18 Q. Okay. Registrar, can you
19 bring up GOL7502 and can you go to image 2,
20 please.

21 So, this is just to orient you
22 to some of the evidence that the inquiry has
23 received. This is a note from Dr. Uzarowski's
24 notebook and it's dated Monday, November 10, 2010.
25 It has a ten. That's 2010. And he testified that

1 he believed that this note referenced a call that
2 he had with Ms. Lane from the MTO about friction
3 tests. And you see there it says, "Becca Lane -
4 2007 friction on RHVP." He could not recall what
5 information he gave Ms. Lane, but he found this
6 note and believes that he had a discussion with
7 her on that day.

8 Registrar, can you close that
9 down. Sorry, I've lost my reference. Just give
10 me a second. Apologies. Registrar, could you
11 bring up OD 4, page 90, please, and if you can
12 call out 212 and 213, please.

13 So, Ms. Lane testified that
14 the MTO had done friction testing in 2010 on the
15 Red Hill, and that that showed that northbound
16 lanes had declining friction performance
17 properties from the start while southbound lanes
18 improved in the first year and then started
19 declining thereafter. And I'm just quoting from
20 an e-mail that an MTO staff member wrote to
21 Ms. Lane in paragraph 212.

22 Just stopping there, were you
23 aware that the MTO had conducted friction testing
24 on the parkway in 2010 --

25 A. No.

1 Q. -- at that time?

2 A. No.

3 Q. Ms. Lane testified in
4 respect of the e-mail exchange she has at
5 paragraph 213. She says:

6 "Good stuff, Frank.

7 Thank you. Perhaps I'll
8 call Ludomir for a City
9 of Hamilton contact."

10 So, she testified that if she
11 told a colleague that she was going to call
12 Ludomir, she would have done it, and then there's
13 that note that we showed you with Ludomir
14 reflecting a call with Ms. Lane. Dr. Uzarowski
15 does not recall what information he gave to
16 Ms. Lane, but he thought if he had given a contact
17 for the City of Hamilton, it would have been you
18 who he would have -- in terms of a contact that he
19 would have provided to Ms. Lane.

20 So, all that to say there's my
21 question for you. Did you speak to Ms. Lane in
22 2010 about friction on the Red Hill?

23 A. No, I don't believe so.
24 I don't ever recall talking to MTO about friction
25 on the Red Hill ever.

1 Q. Okay. And you said you
2 don't believe talking to MTO, so not Ms. Lane, not
3 anyone else from the MTO?

4 A. No.

5 Q. And did Dr. Uzarowski
6 tell you in 2010 that he had received a call from
7 the MTO about friction testing?

8 A. I don't believe so. It's
9 something that I likely would have remembered. I
10 mean, you know, after we did the initial friction
11 testing or they did the initial friction testing,
12 it wasn't on our mind again until we were doing,
13 you know, the five-year review and after those
14 other things I'm sure you'll come to. But no,
15 this was not something we discussed ever.

16 Q. Okay. Did you have any
17 knowledge that the MTO had conducted friction
18 testing at any point between the 2007 test that
19 they provided to you and 2012?

20 A. Until I read it in the
21 documents as part of this, no, I had no idea that
22 they were doing testing.

23 Q. And after 2012? You
24 didn't have any idea they were doing testing at
25 any time?

1 A. No.

2 Q. Okay. Okay, Registrar.

3 You can take that down, please, and you can close
4 this document.

5 Okay. I'm going to turn to
6 another topic, particularly your personal document
7 management practices, sort of how you kept
8 documents.

9 So, during construction of the
10 Red Hill, when you were in the Red Hill team, the
11 project, is it fair to say, generated hard copy
12 documents relating to the parkway?

13 A. Yeah. The ability to do
14 it on the computer was not developed to the point
15 where we could store anything, you know, other
16 than on a floppy disk. So, no, everything was
17 hard copy, multiple copies and photocopies and
18 reams and reams and reams of hard copy documents.

19 Q. Okay. Forests of paper.
20 Is that fair?

21 A. That's fair. Until right
22 near, you know, the end, you know, when the City
23 developed the ability to do internet, I know we
24 were sharing documents on websites and that type
25 of things, but, you know, there was limited

1 communication otherwise.

2 Q. Okay. And the kind of
3 hard copy documents that were generated as part of
4 the project to design and construct the Red Hill,
5 did those include design drawings?

6 A. Yes.

7 Q. And specifications
8 that --

9 A. Yes. All the tenders,
10 all the financials, all of the correspondence with
11 the consultants and, you know, meeting notes, all
12 of that type of thing.

13 Q. I know this is casting
14 your mind back in time a fair bit, but what was
15 the filing system for those hard copy documents?
16 Was there some standard way that hard copy
17 documents in a big project like this would be
18 filed?

19 A. We had a WBS system, work
20 breakdown structure system, and a lot of things
21 were filed according to either their subject or
22 their location. So, if it was, you know,
23 something to do with a ramp, the ramp might have
24 been a 20 series, which was the north-south, the
25 10 series, which was the east-west. Then each

1 ramp or section of roadway had a specific
2 identifier. I know there was preliminary design
3 files and design files and approvals files, and
4 then there was different files that were set out
5 for correspondence with each of the agencies, you
6 know, conservation authority, MOE, MNR, DFO, every
7 letter of the alphabet type of thing. We had
8 banks and banks and banks of file cabinets.

9 Q. Where physically were
10 those filing cabinets? Which building?

11 A. Well, when we did the Red
12 Hill?

13 Q. Yeah, for the
14 construction of the Red Hill.

15 A. The Red Hill office was
16 in the third floor of the City Centre. We had a
17 little office just inside the doors. It was like
18 a wedge. As I was -- I had two portfolios as
19 manager of design as well as looking after the
20 design and construction of the Red Hill, so I kept
21 my office over in the main Public Works section,
22 but that's -- all of the files, as much as
23 possible, were stored there. I think the LINC
24 files, I'm not sure whether they were there or
25 whether they were in storage, and I believe the

1 City's storage was in a number of places, whether
2 it was in the basement of city hall or down at the
3 water treatment plant there. I think there was a
4 bunker there or something that storage was said
5 to, you know, after you were done with it
6 initially, to keep for the requisite seven years
7 or whatever it was.

8 Q. Right. Who was
9 responsible for keeping the Red Hill documents
10 filed in an organized way during construction?

11 A. I don't know
12 specifically. Jennifer was involved with it as
13 well as Chris' admin --

14 Q. It's okay if you don't
15 remember the name.

16 A. Yeah, I was thinking
17 whether we had an environmental planner still on
18 staff at that time as well that may have been
19 responsible for certain, you know, maintenance of
20 files.

21 Q. Okay. And I think you
22 said that when it got closed up, when the team
23 disbanded and the project closed, it got boxed up
24 and there was City storage in a number of places.

25 What documents, if any, did

1 you keep personally instead of putting them in the
2 boxes that went to storage?

3 A. Any documents I had
4 weren't originals. They were copies.

5 Q. Okay.

6 A. Copies that I had used
7 during the process and had just kept for
8 interest's sake or, you know, for if someone asked
9 a question in the future or to have available
10 if -- a lot of the times, you know, it was like
11 where do we find this? Well, I happen to have a
12 copy here if you want to borrow it, type of thing.
13 So, I had nothing original or master copy or
14 master of anything. They were my usable copies of
15 whatever existed.

16 Q. Okay. So, what kinds of
17 documents did you keep as your copies instead of
18 either putting them in the box or, I guess,
19 discarding them if they were just --

20 A. (Indiscernible).

21 Q. So, what kind of
22 documents did you view as important to keep?

23 A. I believe I had a copy of
24 the preliminary design report, a copy of the IADP
25 summary, some of the initial EA 11 by 16 layout

1 type of books, some of the geotechnical
2 investigation information, maybe a copy of some of
3 the fisheries and terrestrial biology submissions,
4 because we were committed to five-year reviews for
5 a number of those things, so we had ongoing
6 consultants reporting back to us and submitting to
7 DFO and MNR and conservation authority. So, I was
8 attending meetings on those types of things when
9 those submissions went in as well, so I may have
10 had some of those copies on my bookshelf.

11 Q. Okay. I think I didn't
12 quite hear you. One of the first things you said
13 after preliminary design report was a copy, I
14 think you said, of the EIDP?

15 A. IADP, IADP. I can't even
16 remember what the --

17 Q. What's the content of
18 that, if you can't remember what the acronym is?
19 Is it design report?

20 A. It's a design report, but
21 it was the document that we used to submit for the
22 environmental assessment, the final environmental
23 assessment approval to the province in 2002 or
24 2003, whenever it was, to get approval for what we
25 had to go forward on.

1 Q. Okay. And you said you
2 kept some of the initial EA 11 by 16 layout type
3 books. What are the 11 by 16 layout type books?

4 A. Well, I mean, they're big
5 format. They've got, you know, what the original
6 alignment was and what some of the original
7 layouts for the interchanges. Because what we
8 finally built was much different than what was
9 originally proposed in the 1980 EA, especially in
10 the north-south.

11 Q. Okay. And you said that
12 you had committed to those five-year reviews for
13 some of the natural habitat, the flora and fauna,
14 I don't know if I'm paraphrasing that
15 appropriately, so you had ongoing consultants.

16 Just stopping there, in terms
17 of the ongoing consultants, who was the person
18 within the City that was dealing with those
19 ongoing consultations?

20 A. Well, I don't know that
21 anyone had officially had their finger, you know,
22 pointed to them. I mean, it was the office
23 initially, you know, who was looking after these
24 things and the breakup of the office wasn't
25 necessarily a comprehensive move in terms of, you

1 know, you shall do this and you shall do this and
2 this shall be apportioned to that. It did develop
3 over a number of years as maintenance took things
4 and development took, you know, adjacent
5 development issues over. But given, you know,
6 Chris was gone and, you know, Marco was back in
7 construction and we were a limited office, it was
8 basically only three of us that did the work
9 anyway, you know, from the engineering side.
10 Jennifer was involved in all of that other stuff.
11 But, you know, if a consultant did a report and
12 gave information to DFO or conservation authority
13 and they wanted some action, then it needed to
14 come usually back to me and then I would write
15 whatever report necessary or ask maintenance or
16 operations or whoever it was, you know, could we
17 get this done under some program to address the
18 issue that's come up. So, that's basically how it
19 worked.

20 Q. So, it was you at the end
21 of the day who would be taking on that
22 particular --

23 A. I ended up -- yeah.
24 Whether, you know, I volunteered or ended up being
25 the best person to do it, yeah, it was me. I

1 don't know that it was anybody else that put my
2 hand up.

3 Q. Okay. So, you've just
4 gone through a number of the different kinds of
5 documents of which you kept copies. Where did you
6 keep those copies of those documents?

7 A. I had a big bookshelf in
8 my office. It was, you know, four, three or four,
9 panels wide and, you know, five or six, seven,
10 shelves high and, you know, that's where
11 everything resided.

12 Q. And that's the bookshelf
13 in your office, in your director of engineering
14 office?

15 A. That's correct.

16 Q. Not that third floor that
17 we were talking about before?

18 A. No. That was after the
19 office was closed.

20 Q. Right. I just wanted to
21 make sure we were talking about the right office.

22 Okay. Turning away from Red
23 Hill related documents and just, sort of, more
24 generally some questions about your document
25 management, starting with hard copy documents,

1 paper documents, what kinds of documents in your
2 day-to-day work as director of engineering did you
3 file in hard copy?

4 A. Well, most of the things
5 that came through my office were personnel related
6 documents or sometimes time sheets and that type
7 of thing, purchase order requisitions, invoices
8 for consultant work, and most of that was in and
9 out because they were passed on as part of a paper
10 chain for an approval process. I tried to keep as
11 little as possible. I mean, if there had been
12 some -- if I was getting copies of reports for
13 review, I usually reviewed them and passed them
14 back with my comments in them --

15 Q. Do you mean staff
16 reports?

17 A. Staff reports, yes.

18 Q. Okay. What about
19 documents like letters or reports, you know, sort
20 of, the usual in 2009 and 2010 and, frankly, even
21 now, we still get things in hard copy, so what
22 other kinds of things would come into the office
23 and what would you keep? I'm sorry to be so broad
24 about it, but it's not clear to me what kind of
25 information you would have. And I'm asking

1 generally about your filing system.

2 A. I had to eventually get a
3 filing cabinet, but for years I only had one
4 drawer in my desk, so I virtually kept nothing.
5 You know, I'm hard pressed to think of, you know,
6 other than personal stuff that I was dealing with
7 or, you know, if I had a file open that, you know,
8 I was attending meetings or, you know, like I said
9 before, working on any of these committees that I
10 had been assigned to, those are the types of
11 things that I would have, you know, kept because
12 they were mostly confidential and weren't part of
13 an approval process. They were information that I
14 would use to prepare for the next meeting or they
15 might have been minutes from some of those
16 different minutes, so those were the types of
17 things that I would keep myself.

18 Q. That's helpful.

19 A. Maybe anything else I was
20 working on specifically that, you know, was only
21 to my attention.

22 Q. Okay. So, when you
23 received things, like, for example, minutes of
24 meetings of these committees that you were a
25 representative on, would you keep those as hard

1 copy or did you have a practice of scanning them
2 into an electronic form and then discarding the
3 hard copy? And I certainly recognize that might
4 have changed from 2009 to 2017, but just generally
5 was that part of your practice?

6 A. I was trying to remember
7 whether we even had the ability to scan things.
8 But I tended to keep things in the fashion that
9 people sent them to me. So, if you sent me an
10 original, I kept an original. If you sent me
11 e-mail minutes, it's unlikely that I printed them
12 out. I might keep them until the next meeting or
13 keep them until the end of that cycle of that
14 committee, but we were always being pressured by
15 information services to purge our files and --

16 Q. Your electronic files?

17 A. Yeah, our electronic
18 files. You know, keep it down to a minimum. I
19 think at one time it was, like, 25 megabytes,
20 which, you know, you have more of that on your
21 camera now. So, I mean --

22 Q. So, I'm going to ask you
23 some questions about your electronic filing
24 system. I just have one set of questions before
25 we get there.

1 Were you a note taker in
2 meetings or in phone calls? Was that, sort of,
3 your practice, to jot down notes during
4 discussions?

5 A. Only if I had to do
6 something. I mean, if I'm in a meeting and
7 there's minutes being taken, then I tended to pay
8 attention to the meeting and not -- I mean, that
9 disturbed me, you know, a lot of people are
10 scribbling away and not paying attention to the
11 meeting. There's a person that's taking notes and
12 taking minutes. Let's pay attention to the
13 meeting. So, no, I didn't scribble down notes if
14 I was in a meeting. I waited for the meeting to
15 come. If I was, you know, in a phone call, you
16 know, I may have had a written to-do list, you
17 know, for the week or for the day in front of me,
18 and as those things got done, I'd cross it off.
19 And once everything was crossed off, it was tossed
20 because it was done.

21 Q. Okay. We've certainly
22 seen some of the engineers who have given evidence
23 in this inquiry, they have certain notebooks and
24 they, sort of, make notes of their day-to-day
25 interactions. That note from referencing the call

1 with Ms. Lane is one example.

2 Did you have a practice of
3 keeping a notebook like that, where you recorded
4 the events of the day, for example? I'm not
5 talking about a daytimer or a calendar. I'm
6 just --

7 A. Not specifically. I did
8 have a notebook, but it was more of a things-to-do
9 list, you know, call somebody or send person X a
10 copy of this. But, again, as those things got
11 done, I mean, it was --

12 Q. So --

13 A. -- I might have, you
14 know, written one thing to carry over to the next
15 week and write that on, but they weren't something
16 that were, you know, kept for any type of record.

17 Q. Yeah, nothing that would
18 be, sort of, a record of your day and what you had
19 done and who you had spoken to and that sort of
20 thing?

21 A. No. That mostly on my
22 calendar. I had a meeting or call someone or all
23 that type of stuff, which was, you know, all
24 electronic anyway.

25 Q. So, you didn't keep a day

1 planner, like a paper calendar?

2 A. I did originally --

3 Q. Like way back?

4 A. Yeah, way back before we
5 were able to do all that on our computer.

6 Q. Okay. Did you have a
7 practice of filing notes that you did take, to the
8 extent that you took them? Like, did you have a
9 file folder for notes of meetings or phone calls
10 or to-dos or anything like that?

11 A. Only as it related to
12 whatever certain projects. But, again, you know,
13 call Joe next week, and then once that was done,
14 it was gone. But, I mostly relied in projects for
15 minutes for attending the meetings and I might
16 have scribbled on the side of those minutes
17 anything specific or whatever that was --

18 Q. Okay. I'm sorry, I
19 didn't mean to cut you off.

20 A. No. I'm just trying to
21 think of anything else that...

22 Q. Okay. I'm going to turn
23 to your electronic document storage. You had an
24 electronic mailbox for your e-mail, an inbox for
25 your e-mail?

1 A. Yes, that's correct.

2 Q. And did you have a folder
3 system within your inbox that was topic specific?

4 A. Yes. I had as many
5 folders as topics. I tried very hard to keep the
6 inbox portion that was visible to as few as
7 possible. I would like to come in in the morning
8 and, you know, deal with my e-mails and, you know,
9 if it was a CC, somebody was sending me something
10 just for my information, it was read and delete.
11 If it was an e-mail that needed my action, then,
12 you know, it was left there with some sort of
13 action. If it was a copy of something that I had
14 requested or ongoing correspondence specific to
15 some issue, then chances are, that I didn't have
16 any further action on, I would move it over if I
17 thought it was important to keep for future.

18 Q. Okay. So, you had
19 basically a reference folder, folder system for
20 reference materials?

21 A. Yeah. If it was Red Hill
22 or it was the LINC or it was one of my committees,
23 then it usually had a heading that, so I would
24 take the e-mail and just move it over after it was
25 dealt with.

1 Q. And you had a Red Hill
2 folder for those kind of reference materials?

3 A. Yeah.

4 Q. Did anyone else have
5 access to your inbox?

6 A. I believe Diana could see
7 my inbox, you know, for the purposes if I was tied
8 up in meetings all day and a councillor had sent
9 an e-mail, you know, or the general manager,
10 somebody, had sent an e-mail that was marked
11 urgent, that she could either, you know, come to
12 the meeting and get me out or hopefully send it on
13 to someone else that could provide action to that.

14 Q. Did you expect that your
15 assistant, Diana Cameron, would be monitoring your
16 e-mails during the course of a day?

17 A. Well, I know she did.

18 Q. Okay. Did you ask her to
19 do that?

20 A. I think we worked on it
21 eventually. I mean, we worked through various
22 scenarios of her as, you know, we developed more
23 of a better working relationship as we got used to
24 each other and we would do things. And in the end
25 she was, you know, monitoring my e-mail and, you

1 know, dealing with meetings, if people were
2 looking for meetings. I mean, I was on the run
3 from 8:00 in the morning until 4:30 in the
4 afternoon and some of these meetings were three or
5 four, five hours long. I may not have an
6 opportunity to accept or step out or look to see
7 if I'm available tomorrow if someone wants to meet
8 for ten minutes, so she would deal with those
9 types of requests.

10 Q. Did you expect or want
11 her to file e-mails into your folder filing
12 system?

13 A. No.

14 Q. So, you talked about
15 receiving e-mails and if you had something to do
16 on them you would leave them in your inbox so you
17 could deal with them. You talked about deleting
18 e-mails where you were CC'd and it was just for
19 your information, you talked about filing
20 information you wanted to keep as reference in
21 your inbox filing system.

22 Did you save e-mails anywhere
23 else except in the folder system in your inbox? I
24 can give you some places where they could be
25 saved. On to your computer or on to an M-drive?

1 A. The M-drive was the drive
2 where you saved -- I mean, that's where the files
3 for your, I believe, where e-mail was attached to.
4 You had a C-drive on your computer, which was only
5 on the computer and not attached to anything else,
6 but they really didn't want you to use that
7 C-drive. I might have used that for some personal
8 stuff, but the problem with that was every time
9 they changed your computer, you had to move it out
10 or save it some place else or save it to a -- I
11 don't know whether they had -- I guess they had
12 sticks then. But mostly it was it was in the
13 files on that M-drive.

14 Q. Okay. And just so that I
15 understand it because I'm thinking about, I think,
16 2022 technology, was this within, sort of, an
17 Outlook system or was it you had an inbox and then
18 you had systems like a folder tree? Is that how
19 you received your e-mails?

20 A. I believe it was more
21 like the latter. It was integrated with your
22 mail. It just came up on the side, so you could
23 see the main one and then, you know, you just
24 dragged and dropped it right into that. You
25 couldn't see it if your mail wasn't open.

1 Q. Right. So, when you
2 received attachments within e-mails, like Word
3 documents or PDFs, did you, as a general practice,
4 save those attachments separately somewhere, or
5 did you just leave them in the e-mail? Like, did
6 you save the e-mail so that you had the attachment
7 or did you save the document separately?

8 A. You know, if it was just
9 a couple of pages or something like that, I might
10 have saved it. But if they were big files,
11 chances are I may have asked Diana to print that
12 out and then delete the attachment, because it
13 just tended to crash our system if you tried to
14 save big files.

15 Q. Okay. Was there a place
16 where you could electronically store files in a
17 way that wouldn't crash your inbox system?

18 A. There was -- there were
19 other drives, like -- I'm trying to think. The
20 S-drive was a drive that the divisions shared or
21 the S-drive was a corporate drive. So, if you
22 wanted to share something with planning, you could
23 put it in there and then they would pick it up
24 from that drive. And you could put large files,
25 but they didn't want you to leave files there.

1 They wanted you to use it more as a sharing one.

2 There was an N-drive --

3 Q. N like Norman?

4 A. N like Norman. That was
5 division-wide. So, if you wanted to share a file
6 with asset management or if asset management -- I
7 believe asset management used the N-drive to share
8 the background of information with -- you know, if
9 they were asking design to do a project, they
10 would put it on the N-drive and say, you know,
11 okay, it's been put up here and sent on
12 originally.

13 I mean, there were other
14 drives that other sections within the division
15 used initially. Eventually there was ProjectWise
16 set up to deal with project files, you know.
17 After a student left and deleted, you know,
18 \$100,000 worth of design work, we decided to set
19 up ProjectWise so that things couldn't be deleted
20 and they didn't reside on just one person's
21 computer and you could track where they were, but
22 that was mostly set up for dealing with capital
23 works design projects and initially was just up in
24 surveys and technical services --

25 Q. I don't mean to interrupt

1 you. We're going to get back to ProjectWise.

2 A. Okay.

3 Q. I'm still asking about
4 electronic documents right now, though. And my
5 question was, and maybe I'll just rephrase it:
6 Was there any drive in which you stored electronic
7 documents, using this sort of folder system that
8 you used in your inbox?

9 A. Other than the M-drive on
10 my computer, no, not that I recall.

11 Q. Did the M-drive have
12 capability to save Word and PDF documents or was
13 it just a place where you would put e-mails?

14 A. It was e-mails with
15 attachments, so you have --

16 Q. Okay.

17 A. Yeah. I don't know
18 whether you could detach something and save it
19 within that file.

20 Q. That was my question.

21 A. Yeah. I don't recall. I
22 think it was --

23 Q. Okay. Did you have a
24 practice of saving every e-mail on a topic when it
25 came in into those reference folders?

1 A. No, I don't -- no.

2 Q. So, what was your
3 decision-making process about what you needed to
4 save into your folders versus what you did not
5 save?

6 A. If I got an e-mail that
7 said, we're going to deliver you the report next
8 week, I don't think I would have saved that type
9 of an e-mail. I'm going to get the report next
10 week, okay, thanks, read it and delete. If I get
11 an e-mail that says, here is the report, I'm going
12 to keep it. If I get an e-mail that says, you
13 know, we're discussing at length a number of
14 changes and we go through everything, I might save
15 it initially. But once all those changes are done
16 and it's been acted upon and there's no further
17 action, then, you know, I may have, you know,
18 deleted -- I may not have deleted it immediately,
19 but if I'm going through that at a later date
20 trying to find storage volume, then no, this
21 doesn't tell me anything of importance at this
22 time, so I'll likely delete it.

23 Q. Okay. So, I think you
24 said earlier that IT was, sort of, constantly
25 telling you that you were hitting your storage

1 limit. I may be paraphrasing about what you said,
2 but was that the circumstance?

3 A. That's the type of thing.

4 Q. And did you have a
5 built-in schedule to purge or archive e-mails or
6 e-mail folders?

7 A. No, no. I didn't want it
8 to go through and, you know, simply delete an
9 e-mail because it was two weeks old.

10 Q. Right.

11 A. So, I didn't like that
12 automated stuff.

13 Q. Okay. Did you have a
14 manual practice to go through and delete things?
15 You seem to be, sort of, referencing that in
16 your --

17 A. Well, even when I got an
18 e-mail or a notice, I believe there was an
19 automated notice that said, you know, you're
20 approaching your storage limit --

21 Q. Right.

22 A. -- or you would go to
23 type an e-mail and it would say, sorry, you've
24 exceeded your storage limit, and so you have to go
25 in and deal with that before you're able to deal

1 with e-mails.

2 Q. That's quite a stick that
3 IT had. Okay. Did you have a process to use a
4 PST file to zip up e-mails so that they weren't
5 taking up space?

6 A. I did that on two or
7 three occasions. And then when I went back to get
8 them, I could never find them because they had
9 done some sort of update and now they were put
10 away some place and I could never find them and
11 get them open again, so I didn't do that anymore.

12 Q. Okay. Did you have a
13 process to not use PST but zip up e-mails and dump
14 them somewhere else that wasn't in your M-drive?

15 A. No.

16 Q. Did you have a process of
17 regularly deleting items that were in your deleted
18 folder, like your recycle bin?

19 A. Yeah, because sometimes
20 they counted that storage against your regular
21 storage, so you would go through and delete, you
22 know, purge, like you say, empty the recycle bin
23 so that you could get every bit of storage you
24 needed to provide your action on.

25 Q. Okay. And did you take

1 any steps to ensure or to understand what happened
2 to e-mails that you deleted and then deleted from
3 your recycle bin in terms of whether they could
4 ever be accessible again?

5 A. I'm sorry, I didn't
6 really understand. Did I do anything?

7 Q. What did you understand
8 about whether you could access e-mails that you
9 had put in your recycle bin and then deleted from
10 your recycle bin? Did you understand that they
11 were gone forever?

12 A. I don't think so. I
13 mean, I think I understood that IT could recover
14 anything --

15 Q. Okay.

16 A. -- back. I don't know
17 whether there was a timeframe on it or what was
18 involved, but it was simply that it wasn't on my
19 computer anymore.

20 Q. Did you prefer to receive
21 reports from consultants in hard copy or in
22 electronic copy?

23 A. I preferred reviewing
24 reports in hard copy --

25 Q. Okay. So, you preferred

1 to receive them in hard copy --

2 A. I was old school. I like
3 to have the hard copy so that I could flip back
4 two pages without, you know, and look at something
5 and I preferred to have it in my hand.

6 Q. Okay. And, again, I know
7 in this case may have changed over time, but if it
8 was hard copy, you only received it in hard copy,
9 did you have a practice of scanning that hard copy
10 into an electronic form for your file folder
11 system?

12 A. Maybe not until, you
13 know, very late before I was going to retire, when
14 we had more capability and those types of things,
15 but I think mostly at the time we asked for five
16 copies of a final report, even if four of them
17 went on the shelf together --

18 Q. When you say the shelf,
19 do you mean your bookshelf?

20 A. Well, my bookshelf or the
21 library at the back or wherever else, you know.
22 Just because they came to me doesn't mean they
23 were always destined for me.

24 Q. Okay. Did you have a
25 practice of keeping at least one copy of

1 consultant reports that you received on your
2 bookshelf? Is that where you would store the hard
3 copy?

4 A. If there was an extra
5 copy that was of interest to me or that I may have
6 to refer to it sometime in the future, then
7 chances are I kept a copy. If not, they were
8 passed on to the relevant division.

9 Q. Okay. I think I might
10 have heard you say they could be passed on to the
11 library. Did I --

12 A. There was a library for
13 reports in the back of our contract section where,
14 you know, old copies of EAs or approvals or
15 documents of that nature were kept.

16 Q. Okay. During your tenure
17 as director of engineering services, did you take
18 any steps to digitize, scan, the documents that
19 you were one your bookshelf?

20 A. Not that I can
21 specifically recall, no.

22 Q. To your knowledge, did
23 the documents that were in the library you were I
24 just talking about, were those ever digitized?

25 A. No. It was a hard copy

1 library.

2 Q. Okay. Specifically about
3 reports that you received from Golder Associates
4 over time, did you have a practice of putting
5 consultant reports from Golder on your bookshelf?

6 A. If they were done for me,
7 yes.

8 Q. Okay. Now, I have some
9 questions about ProjectWise, which you were
10 raising before. So, you said that there had been
11 a bit of an issue with losing some documents and
12 that led to the development, purchasing, of a
13 system to restore documents within engineering
14 services. Is that right?

15 A. Yes.

16 Q. And was ProjectWise, to
17 your knowledge, for capital works projects that's
18 were going to go from asset management to design
19 to construction?

20 A. It originated as the
21 plans and base plans and survey information, as a
22 place to store that, work on it. A lot of the
23 draftsmen used to, you know, keep a copy on their
24 desk and then share it with someone and they would
25 update it and then there would be two copies and

1 no one would know which copy was right, so that
2 document system was -- that's how it originated,
3 and then so it originated within the surveys
4 group, and then was shared with the design group.

5 And then because now design
6 had created a file folder for working on project A
7 that was now tendered, then further trees were
8 added so that construction services could keep all
9 of their payment certificates and construction
10 photos and documents related to that in that. So,
11 the short answer is yes, it was primarily, if not
12 solely, for the tracking, handling and sharing of
13 capital works projects, capital works related
14 projects.

15 Q. Okay. And did you want
16 your project managers to upload all project
17 documents into ProjectWise to facilitate that
18 process of moving from division to division?

19 A. Well, I mean, that's
20 where we handled all of that, so --

21 Q. Well, it only works if
22 it's used. Right?

23 A. Yeah, but there was
24 nothing else. That's where design went to get the
25 base plan and that's where eventually asset

1 management went to set up the original scope of
2 work that said, project A has this budget in this
3 amount and this budget in this amount and here is
4 the scope of work, and then design would take that
5 from there and then ask surveys to provide a base
6 plan in this amount of detail and they would add
7 that plan. There was no other place to do that
8 work, so there was a -- it was always a discussion
9 with the construction group to keeping all of
10 their files in there. They eventually all went
11 there, but sometimes in the interim, you know, if
12 you were looking for photos or documents, that may
13 or may not have been there. But because they
14 didn't need to be shared with anybody else, it
15 was --

16 Q. Right. They were the end
17 of the chain?

18 A. They were the end of the
19 chain.

20 Q. So, did the project
21 folders within ProjectWise, did that include or
22 was it intended to include all of the e-mail
23 correspondence at various stages?

24 A. The relevant e-mails, I
25 guess, you know.

1 Q. Okay.

2 A. Again, you know, we had a
3 limited amount of space, so just every little
4 e-mail on a project I don't think was expected to
5 be in there, you know.

6 Q. So, on projects that you
7 had primary responsibility for, for example --
8 actually, maybe I'll ask it this way.

9 For your own projects, did you
10 personally upload documents to ProjectWise?

11 A. Well, I wasn't looking
12 after capital works projects, so chances are I
13 didn't have --

14 Q. A need to?

15 A. -- a need to.

16 Q. Okay. Did you personally
17 use ProjectWise to keep track of what your
18 divisions were doing? Did you go into it, check
19 things? Did you have facility in using it?

20 A. No. I tended to go to
21 the person responsible.

22 Q. Okay.

23 A. It was a huge task to go
24 in there and try and find the right tree with the
25 right section to find out. Or I would ask Diana

1 to, you know, get me this information, please.

2 Q. Okay. Did you save
3 anything into ProjectWise? And maybe I'll just
4 put a caveat on that. Before you were intending
5 to retire, just in the course of your time as
6 director of engineering from 2009 to, let's say,
7 2017, did you save documents into ProjectWise?

8 A. I believe I did.

9 Q. On what kinds of
10 projects?

11 A. I think it was mostly
12 with relationship to a specific project. So, you
13 know, if a councillor had sent me an e-mail with
14 respect to some construction project that was
15 happening out there and we had given him a
16 response with respect to the project timing or
17 when it was going to be finished or if there had
18 been a complaint that we had dealt with from a
19 resident, then I would have gone into ProjectWise
20 and put e-mail, you know, within the -- I think
21 there was a correspondence tab in the construction
22 administration subfolder type of thing, so that's
23 the type of thing that I would put in there.

24 Q. Okay.

25 A. Like --

1 Q. Did you understand that
2 ProjectWise was built with a system that had
3 permissions in terms of who could access
4 particular documents or folders?

5 A. Yes.

6 Q. And, to your knowledge,
7 who set the permissions within the system from a
8 tech perspective?

9 A. I think Gord was the
10 primary administrator and then eventually I think
11 Charlie Larchel [ph] became the administrator. I
12 think there were some other key users within each
13 section that, you know, if they got a new project
14 manager, they could, you know, append them to
15 certain projects. I had no authorization for
16 creating or setting who had permissions. I had to
17 go to them.

18 Q. Okay. In terms of the
19 decision making about who had permissions over
20 particular folders, do you ever remember actually
21 doing any decision making about who could have
22 access and who could not?

23 A. No. It was a working --
24 it was designed to assist the working groups, so
25 the working, the managers and the senior project

1 managers were mostly involved in those
2 discussions. I mean, you know, who you give this
3 to and who works on this, that's what they knew.
4 And who they wanted to have permissions, you know,
5 that was mostly done at that level.

6 Q. Okay. So, you don't
7 recall ever being directly involved in deciding
8 what permissions would be on any particular --

9 A. It's highly likely that
10 was I was involved in a discussion, but I don't
11 specifically recall. And they knew better than I
12 on who they wanted to have permissions on.

13 Q. Okay. Do you recall that
14 there was a directors' office folder within
15 ProjectWise?

16 A. I believe that, yes.

17 Q. And did you ask for that
18 directors' office folder to be set up?

19 A. I assume I did, but I
20 don't recall.

21 Q. How did you intend to use
22 the directors' office folder? For what topics?

23 A. I don't know.

24 Q. Okay.

25 A. I don't recall what I put

1 in there or what I might have put in there.

2 Q. Was it your practice
3 during your tenure as director to save documents
4 into the directors' office folder within
5 ProjectWise?

6 A. If I was looking for
7 space and I had, you know, some document that was
8 taking up space or that I was no longer using that
9 I felt, you know, that needed to be saved for some
10 reason, then it's very possible that I would --
11 that's one spot that I would put it.

12 Q. Okay. Were you aware of
13 the permissions that limited access to that
14 folder?

15 A. I don't recall now, but I
16 was likely, probably likely, aware at the time. I
17 mean, it was a directors' folder. I'm not sure
18 whether the managers had a view or whether it was
19 just me and Diana and, you know, I was just using
20 it as a repository. I'm not sure.

21 Q. Okay. So, do you recall
22 at least that you know that you and Diana had
23 access to that folder?

24 A. I would assume so, but I
25 can't -- I mean, I don't know for a fact

1 whether -- I believe that's the case.

2 Q. Okay. You certainly had
3 access to it?

4 A. Yes, I had access --

5 Q. You're not sure about
6 Diana?

7 A. I believe Diana had
8 access.

9 Q. Okay.

10 A. I don't know, I'm not
11 aware, of whenever else. All the administrators
12 obviously had access, including Gord and Charlie
13 and everyone else.

14 Q. Okay. And you're not
15 sure whether that directors' office folder had
16 permissions that extended to your managers?

17 A. I don't know.

18 Q. Okay. Did you use that
19 folder to store confidential human resources
20 information?

21 A. I don't believe so.

22 Q. Okay. Did you intend it
23 to be a confidential place in which you could
24 store materials that you didn't want staff to be
25 able to come upon if they were in ProjectWise?

1 A. No. That was my
2 computer.

3 Q. Okay. So, you just
4 didn't see that folder in that way?

5 A. No, I didn't.

6 Q. Okay. And I think you
7 said that if you were looking for a place to store
8 something to get it out of your inbox, I presume,
9 you might save it in the directors' office folder.
10 Was there any other kinds of documents of a
11 particular kind or a particular size that you
12 would use the directors' office folder to store?

13 A. No. I mean, I knew
14 ProjectWise was for sharing or as a repository for
15 a place of reference, so, I mean, that's the type
16 of document. You know, are we going to need this
17 in the future? Is someone going to need this in
18 the future? Is someone going to need this for
19 background? Is it going to, you know, provide
20 something? That's the type of things that I would
21 put in there. I can't think of anything else.

22 Q. Okay. Commissioner, I'm
23 seeing that the time is now 11:30, our usual time
24 for a break.

25 JUSTICE WILTON-SIEGEL: Yes,

1 that's fine. Let's take a break. We'll return at
2 a quarter to 12:00.

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

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

5 MS. LAWRENCE: Thank you,
6 Commissioner. May I proceed?

7 JUSTICE WILTON-SIEGEL: Yes,
8 please proceed.

9 MS. LAWRENCE: Thank you.

10 BY MS. LAWRENCE:

11 Q. Mr. Moore, I have a few
12 questions about the pavement and materials
13 technology reports that Golder was retained on and
14 prepared for the City.

15 Registrar, can you pull up
16 overview document 5, page 24, please. Thank you.

17 So, I understand in 2009 the
18 City retained Golder to complete a pavement
19 materials and technology review. Is that right?

20 A. I believe so, yes.

21 Q. And was that about all
22 the roads in the City and their pavement and
23 materials?

24 A. Yes.

25 Q. And was this retainer in

1 the project because the City had concerns that the
2 pavement in the City was underperforming in terms
3 of durability?

4 A. Yes. I mean, I sat on a
5 number of other committees with other
6 municipalities and we weren't the only ones that
7 were experiencing problems with asphalt, so in
8 order to -- you know, they say you can't fix
9 something unless you monitor it, so we started in
10 with this to try and figure out what we were doing
11 and what our condition was at the time to try and
12 get better.

13 Q. Okay. Registrar, can you
14 actually pull up page 25 as well.

15 Mr. Moore, just reviewing,
16 Golder prepared a report on phase 1 and in the
17 introduction at the bottom of page 24 --

18 Registrar, can you pull up the
19 bottom of page 24, please, the indented text.

20 It says here that the concern
21 was about quality of the new reconstructed as well
22 as rehabilitated pavements and the long-term
23 performance of the pavements. And so, this review
24 was intended to assess the quality of materials in
25 construction?

1 A. This review is focused on
2 the construction quality, including -- yeah.
3 Okay.

4 Q. You agree with that?

5 A. Yeah, I believe so.

6 Q. Registrar, can you close
7 this down.

8 And just stopping here,
9 because we're in 2009, apart from the retainer for
10 the phase 1 of the PMTR, did the City have other
11 retainers with Golder for other contracts?

12 A. I believe they were on
13 the roster system for geotech as a pavement
14 expert, so I wouldn't call them retainers. They
15 were given specific projects to do.

16 Q. Okay. Did they have
17 specific projects that they were retained to do?

18 A. Other than this one, at
19 that point in time, I don't believe -- I don't
20 know whether there were any others.

21 Q. Okay. With you being
22 involved as part of a project, were there any
23 other projects with Golder where you had, sort of,
24 a direct involvement?

25 A. Well, this one was across

1 the division type of thing. It affected not only
2 eventually what we were going to specify and how
3 we would specify it and those abilities, so, I
4 mean, that's why I was involved in this. It
5 wasn't a specific investigation into a single
6 project that some project manager would handle, so
7 that's why I was involved with this one. I don't,
8 you know, if they were of that nature, if they
9 were administrative in nature or affecting that
10 type of thing, then it's likely that I would have
11 been the project manager.

12 Q. Okay. And so, sitting
13 here today, this is in 2009, the Red Hill is open,
14 so their work with construction of the Red Hill is
15 concluded. Did you have any projects that you
16 were working on, either directly or indirectly,
17 where Golder was involved as the consultant?

18 A. In 2009?

19 Q. Yeah.

20 A. I don't believe so.

21 Q. Okay. In 2010, phase 2
22 of the PMTR starts.

23 Registrar, can you bring up
24 OD 5, page 27, paragraph 58, please. Thank you.

25 So, this is a call out of the

1 draft phase 2 proposal and it was for a thorough
2 review of the type of asphalt mixes used by the
3 City and their suitability for the intended
4 application that will be carried out, and then it
5 lists a number of different mixes that were going
6 to be assessed. And do you remember approving
7 Golder to complete this project, this phase 2?

8 A. I do, yes.

9 Q. And, again, that was
10 related to asphalt mixes generally to be used on
11 City roads. Is that right?

12 A. Yes.

13 Q. Okay. You said that this
14 was a project that crossed divisions, I think is
15 how you put it, and so that's why you were
16 involved. Was there a project manager who
17 actually dealt with the day to day of this project
18 with Golder?

19 A. Me.

20 Q. Okay. Registrar, can you
21 close this down.

22 I'm going to get into some
23 other Golder contracts, but just stopping there on
24 that last answer where you were the project
25 manager on the PMTR phase 1 and phase 2, did you

1 have other projects where you viewed yourself to
2 be the project manager while you were director?

3 A. Up until this time or in
4 the future?

5 Q. At all. I'm just, sort
6 of, trying to understand how you divided your time
7 and whether you acted as, in effect, a project
8 manager on other projects?

9 A. I can't recall, you know,
10 specifically other projects at this time. I mean,
11 this one was unique in that we were trying to deal
12 with an issue that was City-wide and how we dealt
13 with things. It's not something that one section
14 within the division would have been able to
15 address. Eventually it came with recommendations
16 on how we should tender things, how we should
17 check things, how we should inspect things, how we
18 should deal with contracts, so it needed my
19 oversight to approve the recommendations that we
20 were going to implement within the division.

21 Q. Yes, I think we have your
22 evidence on that. But in terms of other projects
23 where you had that kind of role, where you had a
24 really direct oversight project management
25 function, can you think of any other projects,

1 apart from dealing with Golder, I wasn't clear
2 before, any other project where you took on that
3 kind of role?

4 A. If they were Red Hill
5 related, I may have done some, but I can't
6 specifically recall an instance or a project at
7 this time.

8 Q. Okay. And can you recall
9 any projects that were not related to Red Hill
10 where you took on that direct project management
11 role?

12 A. Only in respect to
13 further asphalt studies that we did. I'm trying
14 to think whether there was any consultants or any
15 projects that we worked on that were
16 administrative, you know, in nature type of thing,
17 but I can't. Again, I can't -- nothing comes to
18 mind.

19 Q. Okay. Do you recall
20 engaging with consultants directly on any other
21 project, with any other consultants besides
22 Golder?

23 A. If we had consultants
24 that were engaged in a bridge design or some other
25 complicated design within the City or a study, it

1 would be unusual for me to sit in on a meeting and
2 engage, you know, the consultant.

3 Q. Sorry, I don't think my
4 question was clear.

5 A. Okay.

6 Q. Did you have any other
7 projects that were not about the Red Hill and not
8 with Golder where you dealt with -- I'm going to
9 use retainer. I recognize there's a roster. But
10 where you dealt with the selection of the
11 consultant, you dealt with the work of the
12 consultant and their scope, you dealt with
13 invoicing, all of those things that a project
14 manager usually does?

15 A. I can't recall a specific
16 occasion.

17 Q. Okay. So, is it then
18 fair to say apart from your interactions with
19 Golder over time, and we'll go through those, that
20 you didn't have direct interactions with
21 consultants during your tenure as director of
22 engineering?

23 A. I don't know that to be
24 the case because I don't -- I can't recall a time
25 but there may have been, but I just can't recall.

1 I can't say either way.

2 Q. Okay. You had said
3 earlier that you didn't think in the 2009 to 2010
4 period that Golder had any other roster
5 assignments or projects with the City. I
6 understand that Golder did have some ongoing
7 involvement with instrumentation on the Red Hill.
8 Is that right?

9 A. That's correct. They
10 were involved in the initial instrumentation, so
11 there was an ongoing thing there for, I believe,
12 two years after we opened.

13 Q. Okay. What was the
14 ongoing thing that they were doing?

15 A. They were required to
16 monitor and report. I believe the reporting
17 aspect went to or was supposed to go to Rich
18 Shebib within our corridor management group, the
19 information that came from that monitoring station
20 down near Queenston Road. So...

21 Q. Okay. Just so that I
22 understand the nature of the data that was
23 collected from the instrumentation, did that
24 include traffic counts?

25 A. I believe there was

1 ability within that, traffic volumes, speed,
2 loading information, as well as strain information
3 down through the pavement.

4 Q. Okay. Can you explain
5 for me as a layperson, what's the strain
6 information?

7 A. So, I'm trying to put
8 this --

9 Q. Simply.

10 A. -- in very layman's
11 terms, as best I can.

12 Q. Thank you.

13 A. When you apply a load or
14 a tire goes over the pavement, it induces a force
15 or pushes down on the pavement, and the pavement
16 actually yields or bends under that load. And all
17 the different layers transfer that load or force
18 or impact down to the bottom layer.

19 And the way to measure,
20 because it's bending out, if you blew up a balloon
21 to measure, you know, the force on the outside of
22 the balloon, you would measure that in strain on
23 the outside membrane of the balloon. Well, it's
24 the same thing. You're measuring that strain or
25 how much the asphalt deforms on the bottom layer,

1 and that's the strain.

2 Q. Okay.

3 A. I hope that's --

4 Q. That's helpful. So, in
5 terms of the data that was provided to Mr. Shebib,
6 did that include the strain data?

7 A. He would have got it all,
8 but he would have been more interested in the
9 volumes and types of vehicles, because there was
10 an ability there to identify, you know, a truck
11 over a car type of thing by the load. So, I'm not
12 quite sure the format in which that was given to
13 Mr. Shebib or how he incorporated it, but I know
14 that's what they were -- the original intent of
15 doing that for the two-year period.

16 Q. Okay. But, to your
17 knowledge, Mr. Shebib was not doing any analysis
18 on the strain --

19 A. No, that wasn't --

20 Q. Volume and traffic counts
21 because he was in corridor management. Right?

22 A. Yes.

23 Q. Registrar, can you take
24 this down and pull up OD 6, page 11, please.

25 Mr. Moore, on February 1,

1 Dr. Uzarowski sent you an abstract for a proposed
2 paper. It was entitled TAC, Transportation
3 Association Conference, 2013, and the paper title
4 in the abstract was "Evaluating Performance of
5 Perpetual Pavement on the Red Hill Valley Parkway
6 Five Years After Construction," and it included a
7 relatively short abstract.

8 Registrar, can you call out
9 the indented text on this page, please.

10 So, here, you'll see it
11 references in the third paragraph, the first two
12 are about descriptions:

13 "Five years after
14 construction, the
15 pavement is in excellent
16 condition. In light of
17 the fact the pavement on
18 the RHVP was the first
19 perpetual pavement
20 constructed in Canada, a
21 condition inspection of
22 the pavement will be
23 carried out. It will
24 include a visual distress
25 inspection, falling

1 weight deflector and
2 smoothness measurements
3 using an inertial
4 profiler."

5 Then it says:

6 "This paper discusses the
7 advanced material
8 characterization tools
9 that were used during the
10 design phase to evaluate
11 the quality of the
12 asphalt mix."

13 And the very last line:

14 "Finally, the paper will
15 discuss the various field
16 investigations carried
17 out on the RHVP in its
18 fifth year -- "

19 Registrar, can you close this
20 down and bring up page 12 as well:

21 " -- of service and a
22 detailed analysis carried
23 out to evaluate its
24 performance to date and
25 to evaluate the impact of

1 measured performance on
2 its life cycle."

3 So, that says, as I understand
4 it, two things. One, first, five years after
5 construction, the pavement is in excellent
6 condition, that there's going to be some
7 evaluation done, and that this paper is going to
8 discuss the evaluation after its completed. Is
9 that how you understood the abstract when you
10 received it from Dr. Uzarowski?

11 A. That's the way that was
12 proposed, yes, I believe so.

13 Q. Okay. And do you
14 remember having discussions with him about jointly
15 writing this paper before he sent you the
16 abstract?

17 A. No, I don't believe so.

18 Q. Okay. Did you solicit an
19 abstract for the TAC paper in respect of the Red
20 Hill from him?

21 A. No. It tended to come
22 the other way around.

23 Q. Okay. Registrar, can you
24 call out paragraph 19, please. And you respond:

25 "I don't see anything

1 the idea is you're going to monitor this. You
2 know, you're going to monitor it. You're not just
3 gathering the data, but you're going to look at
4 it. If there's any big problems, you're going to
5 let me know.

6 Q. Sitting here today,
7 that's how you understood it?

8 A. I believe that's how I
9 understood it.

10 Q. Okay. And you go on to
11 say:

12 "I don't see anything
13 about the evaluation of
14 the performance."

15 So, just at this point, had
16 any of the field investigations that are
17 referenced in the abstract been completed?

18 A. No. Not that I'm aware
19 of, no.

20 Q. Maybe I'll rephrase. You
21 hadn't asked Golder to go and complete, you know,
22 a smoothness measurements or falling weight
23 deflectometer measurements at this point?

24 A. No.

25 Q. Registrar, can you close

1 that down. The abstract says the pavement is in
2 excellent condition five years after construction.
3 You didn't have any analysis or data or evaluation
4 of the pavement to confirm that statement that
5 Dr. Uzarowski put in the abstract. Right?

6 A. Yeah. I don't know. I
7 don't believe so. I mean, I don't believe we had
8 done any, you know, pavement monitoring to that
9 date on the facility.

10 Q. Okay. Did you view the
11 abstract as a bit of a preliminary pitch from
12 Golder to ask for an assignment to complete the
13 evaluations that are set out in the abstract?

14 A. I don't believe I did at
15 the time, especially with the first one,
16 especially since I rejected it. No. Ludomir had
17 done a number of papers on the Red Hill starting
18 from day one. Some of them -- most of them were
19 related to the design and the perpetual pavement,
20 the construction of the perpetual pavement. The
21 Red Hill was a very good source of expanding the
22 knowledge of asphalt. There was a lot of new
23 technologies, from the SMA to the perpetual
24 pavement to the way we placed it to the
25 specifications within the contract documents.

1 Everything had advanced knowledge of that type of
2 paving.

3 And, frankly, we were, you
4 know, very happy to support and share that
5 information, you know, with the pavement groups,
6 whether we're using groups or the CTAA or the Hot
7 Mix Producers or wherever that was. But when I
8 read this one, I believed it was -- there was
9 nothing substantially new in it, the way it was
10 written there anyways.

11 Q. Sure. I think you gave
12 some evidence last day about some of the papers
13 that you co-authored with Dr. Uzarowski about the
14 Red Hill, and those often went by and large in
15 parallel with paid work that Golder was doing for
16 the City. You remember --

17 A. If they were doing
18 something, then they wrote a paper about what they
19 were doing.

20 Q. Right. And so, my
21 question before, and you may have already answered
22 this but just to rephrase it: Did you understand
23 that Dr. Uzarowski was suggesting doing an
24 evaluation five years after construction that the
25 City would pay for his consulting services and

1 then to do this paper relatedly?

2 A. I don't believe so at the
3 time. I believe the paper came first. The
4 suggestion to do the paper came first in this
5 case. Had we had other discussions that would
6 have said, hey, you know, it's been five or six
7 years, we should go out and look, then, you know,
8 we would have seen the proposal for that --

9 Q. Okay. Sorry to interrupt
10 you. We can go to the proposal that comes next.
11 Would that be helpful?

12 A. Well, yeah. Sure.

13 Q. Registrar, can you put up
14 page 15 of the same document, please.

15 So, going to the bottom of
16 this page, Dr. Uzarowski e-mailed you and says,
17 "As discussed this morning," and then he attached
18 three different proposals of work. Do you
19 remember having a meeting with him on March 1,
20 before he sent these proposals?

21 A. No, I don't.

22 Q. Okay. Registrar, can you
23 also bring up page 16, please.

24 So, you'll see here this is
25 just the summary. One of the proposals is

1 activating the instrumentation on the RHVP, the
2 second phase 3 of the PMTR, and the third is the
3 pavement condition evaluation five years after
4 construction. Do you remember receiving those
5 proposals?

6 A. Not specifically, but I
7 recognize these as things that we were looking to
8 do, yes.

9 Q. Okay. I'm going to start
10 with the second thing, the phase 3 of the PMTR,
11 and that's summarized in paragraph 30. Golder was
12 offering to implement phase 1 and phase 2
13 recommendations about quality assurance and about
14 asphalt mixes and about the pavement management
15 system and to make recommendations.

16 So, really, this was bringing
17 together phase 1 and phase 2 and actually figuring
18 out how to implement it within the City. Do you
19 remember that?

20 A. Yes. This was my
21 initiative. This was a followup to 1 and 2. We
22 now need to have some training and develop
23 specific language within our specifications and
24 policies and protocols for ensuring we achieve
25 what we're looking to do.

1 Q. Okay. Registrar, you can
2 close this down. And let's go next to the
3 activate the traffic monitoring and pavement
4 response. This is the first of the proposals.
5 Registrar, can you pull up GOL3776 and can you
6 call out the first paragraph and the bullet
7 points. Actually, the bullet points in the second
8 paragraph.

9 So, this is a proposal and it
10 says:

11 "The City has requested
12 that the pavement
13 instrumentation
14 collection system both
15 for traffic monitoring
16 and pavement response be
17 reconnected for online
18 downloading."

19 And then it has five bullet
20 points for the scope of this project. The first
21 is activating the existing traffic monitoring and
22 pavement response monitoring systems.

23 So, just so I'm clear, this is
24 in 2013. What does it mean to activate the
25 existing traffic monitoring and pavement response

1 program? Because that sounds to me like it had
2 not been activated before 2013.

3 A. So, it more appropriately
4 should have said reactivate, but it had been
5 working for the two years afterwards, but you
6 actually had to go out to the little building and
7 download the information and then transfer it in.
8 At the time it was built, you know, online
9 capability wasn't really a thing. So, because it
10 was a two-year thing, it stopped in 2009.

11 Q. Right.

12 A. And I don't know that I
13 had really been aware of that. I think I went to
14 Rich one day and said, do we have this
15 information? And, you know, we haven't had it
16 since 2009 because it stopped. So, you know, I
17 think there was a number of questions and
18 initiatives that this type of information was good
19 to support. So, it was, you know, can we get this
20 back up and running and Rich said, well, if you
21 do, make sure it has the capability that I can
22 just log on to a website and get it myself. We
23 don't want to have to go out there amongst the
24 traffic anymore. And then, so, that's what we had
25 asked Golder to do, because they were familiar

1 with the system that had set up.

2 Q. Right. And, of course,
3 you put time and effort into thinking through the
4 instrumentation that was going to be on the Red
5 Hill and you wanted the data. Right?

6 A. We spent hundreds of
7 thousands of dollars installing this capability
8 and we didn't want it to sit there idle, so to
9 spend a couple of tens of thousands of dollars in
10 order to get it up and running and have this
11 capability. And it's very good information, you
12 know, for design of future stuff and monitoring
13 from an asset management point of view of how much
14 traffic's been on there, what is the loading and,
15 you know, verifying our design assumptions in
16 terms traffic and strain, so...

17 Q. Okay. In the last
18 paragraph, it says:

19 "This proposal covers
20 only data collection,
21 downloading and storage.
22 It doesn't include data
23 compiling and analysis."

24 And so, just, I don't know if
25 this refreshes your memory about the scope of

1 Golder's work in the first two years and whether
2 it included data compiling and analysis. It
3 certainly doesn't here.

4 A. Yeah. I don't know how
5 we proposed to get around that or whether it was
6 simply we were able -- we now, after the fact, had
7 that capability of analyzing it ourselves or we
8 were going to gather it all, say, over a ten-year
9 period and then have it, you know, lumped or five
10 years or two years, you know, every two years,
11 send it to somebody and say tell us what this
12 says. I don't recall now what our plan was or
13 whether we were planning to ask Golder to later do
14 an analysis on it or whether it was going to be
15 incorporated as part of the next proposal that
16 you're going to show me.

17 Q. I am going to show you
18 the next proposal.

19 Registrar, can you close this
20 down and could you go into GOL3779.

21 So, this is the third of the
22 proposals that Dr. Uzarowski sent you and this is
23 the five-year condition evaluation, and he sets
24 out three large bullet points of scope.

25 Registrar, can you pull out

1 the three bullet points.

2 So, the first is field --
3 sorry, if you can pull out all the them. Yes,
4 exactly. Thank you.

5 Field investigation. One is a
6 windshield visual condition inspection. That's
7 actually driving the road. Right?

8 A. Yes.

9 Q. Then there's the inertial
10 profiler testing to determine the international
11 roughness index, the IRI. I think you said before
12 that doing that testing was part of the roads
13 program through asset management?

14 A. We did that for every
15 road in the City, like I said before, yes.

16 Q. Okay. The next is the
17 FWD testing and the next one is the rut depth
18 measurement, if feasible, so those are the field
19 investigations.

20 And then there's the analysis
21 of compiling that collected data and evaluating
22 the current condition, comparing the measurement
23 performance to the performance anticipated for
24 400-series highways and setting a baseline for
25 future comparisons.

1 And then finally, they're
2 going to do a report that sets it all out.

3 So, starting with field
4 investigation, how familiar were you with the data
5 or the metrics that emerge from doing a falling
6 weight deflectometer test?

7 A. Very little. I mean, if
8 you told me it was 12 or 3 or 22, I wouldn't know.
9 I know what it is and basically what it was used
10 for. I mean, we had done that on several of our
11 roads, you know, to identify a condition. You
12 know, was it the subgrade that was faulty? Was it
13 the layers of asphalt? You know, those types of
14 things.

15 Q. It's, in essence, a
16 structural condition evaluation. Is that fair to
17 say?

18 A. Yes.

19 Q. But you weren't familiar
20 with actually the metrics that go into analyzing
21 the structural condition evaluation?

22 A. No.

23 Q. Okay. What about the
24 inertial profiler testing or the IRI?

25 A. I know it's a machine

1 that drives on the road that has a number of the
2 sensors and comes up and sort of the computer
3 generates this index from which we can make a
4 decision on given that we have a database of and
5 there's some sort of standard against which you
6 can compare.

7 Q. Okay. When you looked at
8 these proposed steps in this proposal, did you
9 understand at the time, in March 2013, that any of
10 these investigations would assess the frictional
11 characteristics of the pavement?

12 A. I don't believe so.

13 Q. Okay. One of the things
14 that Golder proposes in the second bullet point
15 under Analysis, the second sub-bullet point under
16 the second bullet point, is a comparison of
17 measured performance to performance anticipated on
18 400-series highways. What were you expecting him
19 to produce in terms of this comparison to
20 400-series highways?

21 A. The performance of the
22 pavement.

23 Q. Okay. But what metrics
24 were you expecting him to include in terms of the
25 performance of anticipated 400-series highways?

1 A. Those can measure it with
2 what you're measuring, the rut, the rutting and
3 the roughness.

4 Q. Okay. Were you expecting
5 him to do a detailed analysis that said, on
6 400-series highways, maybe the expectation is X,
7 Y, Z, and here we have on the parkway X, Y, Z, and
8 so we're comparing those, or were you expecting
9 more of a, you know, it's as good as a 400-series
10 highway, something that was, sort of,
11 qualitatively a bit more vague?

12 A. Yeah. I don't know that
13 I turned my mind specifically in detail to that
14 other than, you know, okay, we're going to get
15 comparison to other highway pavements, so I'm not
16 sure exactly what I was expecting --

17 Q. Okay.

18 A. -- now at this time from
19 then.

20 Q. My question was: Were
21 you expecting, sort of, like a, to put it simply,
22 a thumbs-up, thumbs-down comparison, or were you
23 expecting a detailed analysis?

24 A. I don't think I was
25 expecting a detailed analysis, especially for the

1 value of the --

2 Q. Of the project?

3 A. Of what he was proposing.

4 Q. Okay. In your view, did
5 you think a comparison to 400-series highways for
6 the Red Hill would be useful for you to have?

7 A. This is the only facility
8 of its kind that the City owns and the only other
9 roadway that is close to it would be 400-series
10 highways. So, to have some sort of gauge that
11 says, you know, they're getting rutting out on 403
12 and you're not getting rutting, they're getting
13 pavement breakup on Highway 407 and yours seems to
14 be reacting, you know, far better in that case,
15 would be a good thing to have, I don't think, or
16 otherwise.

17 Q. Sure.

18 A. It's performing the same.

19 Q. Okay. Did you expect
20 Golder to analyze the results from their field
21 investigation and provide a narrative description
22 of the assessment with the data?

23 A. Yeah, if they're doing an
24 inertial profiler, an FWD, and rut measurement, I
25 would expect them to analyze that information and

1 give me the, you know, what that means.

2 Q. That was my question.

3 Thank you. That's Golder's value-add for this
4 project. You could have gone out and contracted
5 people to subcontract to do this work?

6 A. Right.

7 Q. But Golder provides the
8 analysis. Right?

9 A. Yeah, but they don't --
10 Golder has the ability because they knew what was
11 built, how it was built, why it was built and all
12 the background behind it, so any, you said value
13 added, is in that. I mean, otherwise, someone is
14 just looking at numbers.

15 Q. Okay. Registrar, you can
16 close this down and if you can go to page 17 of
17 OD 6, please. Actually, it might be easier to go
18 into the document itself. If you can go to
19 GOL2973, please.

20 So, here, this is your
21 response to the three different proposals. You
22 say:

23 "Yes, five-year
24 condition, go ahead.
25 \$23,500. Use of the

1 instrumentation, yes, go
2 ahead."

3 And then you say on the PMTR
4 phase 3, to do the first three points. I'm not
5 going to go back to that, but you're modifying
6 their scope and authorizing a slightly lesser
7 amount and then holding off some of the
8 sections that he's proposed for future
9 assignments?

10 A. Right.

11 Q. Did you need anyone
12 else's approval within the City to approve these
13 proposals in terms of their dollar values?

14 A. I don't believe so. I
15 believe at the time as a director I had up to
16 \$100,000 per assignment and, as they were under
17 the roster system, that was, I believe, the upside
18 limit as well at the time. As long as there were
19 budgets available underneath the relevant
20 categories, then -- I know there was a time when I
21 only had a \$50,000 limit and it went to \$100,000,
22 but I don't know when that occurred. I believe it
23 was before this, so I believe that this was -- I
24 had authority for awarding these without any
25 further review.

1 Q. Okay. And you said as
2 long as there was budget within the particular
3 roster category, so you had funds earmarked for
4 the roster category that Golder fell under, the
5 geotechnical. Is that right?

6 A. Well, it was more of the
7 specific. Like, the PMTR would have come out of a
8 design administration account, Red Hill Valley
9 instrumentation probably would have come out of a
10 traffic account, and the five-year evaluation, it
11 probably had a separate -- I think we had a
12 standard investigation and standard review account
13 or something of that nature.

14 Q. Okay. So, is that to say
15 on that last point that engineering services had
16 earmarked some amount annually for investigation
17 and standard review?

18 A. Yes.

19 Q. Okay. And when you said
20 that the instrumentation contract would come out
21 of traffic, you mean within corridor management.
22 Is that right?

23 A. Yes, yes.

24 Q. Not John Mater's group?

25 A. Not John Mater's group,

1 no.

2 Q. Okay. So, Golder had
3 this prior experience on the Red Hill and
4 familiarity with design. Is that why you
5 determined them to be appropriate for a roster
6 assignment for these three proposals?

7 A. Well, the PMTR, I mean,
8 they had done 1 and 2. I mean, I had seen Ludomir
9 present at countless presentations and I knew that
10 he was held in high regard in the asphalt industry
11 with regard to his knowledge of those types of
12 things and his ability to deal with asphalt
13 standards and designs and specifications and those
14 types of things, which is why we got involved
15 initially --

16 Q. Right.

17 A. It was an ongoing working
18 relationship that we regarded with Ludomir and
19 Golder as experts in this field.

20 Q. Okay. And they had the
21 familiarity with the Red Hill on the first two
22 projects?

23 A. Yes.

24 Q. Okay. Does Diana Cameron
25 do the preparation of purchase orders for you?

1 A. Yeah. I might mark up
2 one in hand and then she would prepare it and
3 whatever the process would go through.

4 Q. Okay. And am I correct
5 that the fact that there had been an assignment of
6 a roster project got listed on a chart for each
7 roster category?

8 A. That's correct.

9 Q. And as roster captain for
10 the geotechnical category, you kept that chart?

11 A. I did.

12 Q. And was that chart
13 available to anybody else if they wanted to look
14 at it?

15 A. That chart was reported
16 to purchasing several times a year. I think at
17 one time it was quarterly --

18 Q. Okay. Was it saved in a
19 place where other staff within engineering
20 services, non-financial staff, could access it?

21 A. I believe it eventually
22 was. I don't recall at the time because it was
23 necessary -- we went through during the first of
24 each year type of thing to say, okay, where are we
25 going to need a consultant? What's the likelihood

1 of the extent of the fees to make sure that there
2 was an equity amongst the assignments for all
3 those on it. So, if a project manager then needed
4 to get that consultant, I believe we put it
5 somewhere where they could go and see it, but I
6 don't know when we implemented that or when that
7 capability came about and I'm not sure whether
8 this was just saved on a portion of my M-drive or
9 not. I'm not sure.

10 Q. Okay. So, Registrar you
11 can close this down.

12 When Golder first proposed the
13 five-year pavement condition evaluation that we
14 just looked at, it didn't include any component
15 for friction testing. Right?

16 A. That's correct.

17 Q. At this point, so this is
18 March 2013, to your knowledge, had the City
19 conducted any friction testing on the Red Hill
20 since it opened?

21 A. Not to my knowledge, no.

22 Q. Okay. And I think you
23 said before to your knowledge at the time, you
24 were not aware that the MTO had conducted friction
25 testing?

1 A. Yeah. In fact, we'd
2 never conducted the friction testing initially.
3 It was done by MTO and then us transferred that,
4 the results, through Ludomir and Golder.

5 Q. Yeah. So, you were asked
6 in your first attendance at the inquiry about the
7 sustainability plan and you said at the time that
8 you didn't give any feedback about the skid
9 resistance section in that sustainability plan,
10 because once you built the road, then it becomes
11 an asset management type initiative. Do you
12 remember giving that evidence to the --

13 A. I believe I do.

14 Q. Okay. Registrar, can you
15 bring up the sustainability plan. It's HAM320.
16 And if you can go to image 26, please.

17 So, this is in the main part
18 of the Stantec document talking about, sort of,
19 the benefits of sustainability plans.

20 Registrar, if you can call out
21 the fourth paragraph, "The expected traffic
22 patterns." Actually, Registrar, can you call out
23 that paragraph and the next paragraph as well.

24 So, here, it says:

25 "The expected traffic

1 patterns were similar
2 with those associated
3 with 400-series highways,
4 and so the deterioration
5 models and expected life
6 service should be based
7 upon MTO performance
8 models for 400-series
9 highways."

10 Did you understand at the
11 time, as the Red Hill opened, that there would be
12 increased traffic patterns over time that would
13 reflect 400-series highway traffic patterns?

14 A. I'm not sure what that
15 means. I mean, we're a 90 kilometre facility and
16 it's two lanes in either direction, so I don't
17 really know that -- I don't know what -- that it
18 would reflect like a 400-series highway, other
19 than, you know, it's got interchanges, not
20 intersections and it's a separate facility.
21 There's not mixed traffic, you know. You're not
22 pulling out beside someone to pass in the other
23 lane type of thing. So, those types of -- yeah,
24 it looks like a highway. I guess I'm not quite
25 sure what you're asking in that case.

1 Q. Fair enough. I'll move
2 on.

3 Registrar, can you bring up
4 image 94.

5 So, this is just the front
6 page, so this is Appendix A, which is the actual
7 sustainability plan for the Red Hill and the LINC.

8 And, Registrar, can you go now
9 to image 100, please.

10 So, you'll see at the bottom
11 under Inspections and Monitoring Pavement
12 Condition -- Registrar, can you call that out
13 under 2.2. So, it says:

14 "Pavement performance is
15 affected by a large
16 number of variables.
17 Most are considered at
18 the design stage and
19 pavement condition tends
20 to deteriorate over time
21 and sometimes it's faster
22 or slower than the
23 predicted performance."

24 And so, the sustainability
25 plan suggests a monitoring program to provide

1 pavement condition information and identify
2 deficiencies. You would agree that's what a good
3 monitoring program would do?

4 A. We did that with all of
5 our roads.

6 Q. Registrar, can you close
7 this down and go to image 101, please, and can you
8 bring up 102 as well.

9 And I think I spoke too soon
10 when I pulled those out. Just for
11 comprehensiveness, Registrar, can you pull out the
12 top two bullet points on page 101.

13 These are the other two
14 benefits of the monitoring program: Identify
15 areas with a possibility of premature failure, and
16 allow for adjustments to address changes in
17 predicted pavement condition. You would agree
18 those are also things that a good monitoring
19 program does?

20 A. They should. I don't
21 disagree with that.

22 Q. Okay. Can you close that
23 down, Registrar.

24 So, the sustainability plan
25 suggests four different items to do as part of a

1 monitoring program. In this section, one is skid
2 resistance every one to two years, and that's in
3 2.2.1. The next is surface condition evaluation
4 in 2.2.2, and that's advanced by a high-speed
5 profiler, so that's the IRI, the inertial profiler
6 we were talking about. And then there's the
7 construction condition evaluation. I think we
8 talked about the falling weight deflectometer
9 deals with that. And then there's drainage
10 condition, which deals with subdrains and culverts
11 to make sure if there's any drainage issues.

12 Registrar, can you bring up
13 the summary at 2.3.

14 So, you'll see skid resistance
15 is two years, surface condition survey is one
16 year, FWD testing is every five years and drain
17 inspection every two years. So, I know that the
18 sustainability plan was not approved by council.
19 Given that there was no -- or at least the budget
20 was not approved by council. In your view, which
21 department within the City was responsible for
22 deciding whether to implement the four evaluations
23 that we just went through?

24 A. Well, given that they go
25 to the condition of the pavement, had they been

1 approved, I would have anticipated that at least
2 asset management would have been centrally
3 responsible, although I don't know who would have
4 carried out. The drainage inspection could have
5 been done by the operations group. Skid
6 resistance testing, I don't know because we
7 didn't -- at that time, we didn't do any of that.
8 That was something we were totally unfamiliar
9 with, I believe, so, in terms of using it as an
10 asset management tool. At least that was my
11 understanding, but I wasn't involved with the
12 asset management group at this time.

13 Q. Okay. So, just stopping,
14 the question I asked: As I understand it, the
15 budget for the sustainability plan wasn't
16 approved; it's not to say that council had any
17 concerns with the substance of the sustainability
18 plan. Is that your understanding and
19 recollection?

20 A. Yes, but if you're
21 proposing to take action and you're proposing a
22 budget to do that action and council doesn't
23 approve the budget, then it's sort of de facto.
24 You're not going to do what you're proposing to do
25 at all.

1 Q. Okay. Well, I'm going to
2 suggest to you that it would be up to asset
3 management to decide whether to do any of these
4 and find some budget to do them on some sort of
5 schedule, that asset management's hands are not
6 tied from deciding whether to engage in some of
7 these actions. Do you agree with that?

8 MR. LEDERMAN: I'm sorry to
9 interrupt, Commissioner. I'm not sure I
10 understood that question and certainly not as it
11 relates to how this witness can answer it.

12 MS. LAWRENCE: Sure. As
13 director of engineering with oversight over asset
14 management, I'm asking that question and I'm happy
15 to revise it because I do think I asked a
16 double-barreled question.

17 BY MS. LAWRENCE:

18 Q. Mr. Moore, do you agree
19 that asset management has the discretion to decide
20 whether to implement one or more of these items
21 and, if they do decide to do that, then they have
22 to find the budget for it?

23 A. If they decided to do
24 this, if they had identified that one or more of
25 these issues were relevant in their

1 decision-making process of identifying road
2 conditions and supporting their budget decisions,
3 yes. I don't know whether, you know, the expected
4 frequency has anything to do with it. That would
5 have been up to their discretion as well. So,
6 one, or none or all, they're all things that I
7 guess could have been done.

8 But the report was authored
9 through the asset management group, so I guess
10 that's what -- that's who would have been looking
11 for direction from council on it.

12 Q. Okay. So, Registrar, can
13 you keep this call out up and call out on the
14 other page GOL3779.

15 And so, just going back to the
16 proposal that Golder first made on this condition
17 evaluation, I see some significant overlap in
18 terms of the inertial profiler testing and the
19 falling weight deflectometer and I think the rut
20 depth goes to the surface condition survey. Do
21 you agree?

22 A. They are the same thing,
23 yes.

24 Q. So, those are all things
25 that, if some division was going to do this, it

1 would be asset management who would be engaging
2 with these -- assessing these types of actions.
3 Is that right?

4 A. I'm sorry, in which
5 group?

6 Q. It would be asset
7 management, I think you've said, who would be
8 assessing whether to engage in these types of
9 investigations?

10 A. These are pavement
11 condition assessment tools and asset management is
12 responsible for assessing the pavement conditions.

13 Q. Okay. So, you said
14 earlier how busy you were as the director of
15 engineering. It sounds like you had a very, very
16 full plate. Why are you individually the person
17 who is dealing with Golder in respect of this
18 evaluation?

19 A. Given my familiarity with
20 the project, it is obviously linked to the
21 proposed paper, so I am responsible ultimately
22 with the asset management group. I don't know
23 that I didn't go to asset management to make sure
24 that we hadn't done these things. It's likely
25 that I would have, knowing that these were the

1 types of things that were being done on the rest
2 of the road. So, it may have been that, you know,
3 if we haven't done this yet, then we can get it
4 done through this study. So, other than that,
5 I -- you know, my interest in maintaining how
6 things were going on the Red Hill.

7 Q. Okay. And was that
8 interest why you didn't download this project to
9 someone from asset management to project manage
10 for you?

11 A. I don't believe it was --
12 I don't believe that this, at this time, what
13 they're talking about for \$23,000, I mean, I still
14 was looking for a timeframe. I thought this was a
15 very quick in and out with a report coming, so I
16 don't think I anticipated that this was going to
17 be a big drag on my time.

18 Q. Just in terms of the
19 topic, why didn't you download this to asset
20 management?

21 A. I don't know why I didn't
22 at the time.

23 Q. I think you said, you
24 know, also your interest in maintaining how things
25 were going on the Red Hill. Did you keep this

1 project as basically project manager of this
2 project because you saw yourself as having primary
3 responsibility for the parkway's continued
4 preservation and pavement condition operation?

5 A. No. More the interest
6 was in the perpetual pavement and, you know, we
7 had put the money in and, you know, from a total
8 package, from a total pavement operation. I mean,
9 operations was out there, you know, looking after
10 guide rails and flooding and those issues, and
11 traffic was out there looking after paint marking
12 and signage and those types of things, so, I mean,
13 it wasn't all-encompassing. It was more
14 specifically the pavement in terms of the total
15 performance with regard to the loading and that
16 type of thing.

17 Q. Okay. Some people have
18 described the parkway as your baby or have
19 described the parkway as your road. Had you heard
20 those kind of characterizations before?

21 A. For lack of someone else
22 to be able to go to to ask a question, I'm not
23 sure that -- you know, I didn't consider it my
24 road. And I had an interest in it. I had spent
25 20 years of my life building it, so yes, I had an

1 interest in it, but there was no one else really
2 with the capability to answer the questions. So,
3 if people considered me the guy to go to to ask a
4 question or give them direction on where to go, I
5 can't help that's, you know, the way they think.
6 So...

7 Q. Okay. Did you tell
8 anyone within the asset management division that
9 you had assigned Golder to do the five-year
10 review?

11 A. I don't recall
12 specifically.

13 Q. Did you involve anyone
14 else in the project management of the project that
15 came out of this proposal?

16 A. Some of the stuff was,
17 like, the IRI and the FWD, which I knew were
18 standard things within asset management --

19 Q. Mr. Moore, I'm going to
20 interrupt you. I had a very specific question.
21 Did you involve anyone else in the project
22 management of this project that came out of this
23 proposal? If you could answer that first.

24 A. I don't recall
25 specifically, but it's unlikely. I undertook a

1 lot of this on my own without consulting with them
2 on some of the aspects of this.

3 Q. When you say "them," you
4 mean asset management?

5 A. Yes.

6 Q. Okay. The timeline for
7 the five-year report on the left-hand side at the
8 very bottom:

9 "It is assumed that the
10 project will be completed
11 within 2023 -- "

12 A. 2013?

13 Q. Pardon me, yes, 2013: If
14 you can close this down, Registrar, and go back
15 into OD 21.

16 Golder did a visual inspection
17 in April of 2013 and then did a --

18 Sorry, Registrar. I probably
19 spoke too quickly. OD 6, page 21.

20 So, you'll see in 44 is the
21 purchase order, and then in 45 is the reference to
22 visually inspect the pavement.

23 Registrar, can you put up
24 page 27.

25 And you'll see at paragraph 56

1 they did the profiler and the FWD testing in May.
2 And then they prepared internally a report that is
3 dated June 2013.

4 Registrar, can you bring up
5 GOL1428. Thank you. And if you can pull out the
6 next page as well.

7 So, Mr. Moore, this is a draft
8 that at the very bottom on the second page you'll
9 see has the June 2013 date, and it, you'll just
10 see from the table of contents, sets out the
11 results of the visual condition, the surface
12 profile and the FWD. This is just a working
13 draft.

14 Do you recall if Dr. Uzarowski
15 provided you with this working draft to update you
16 about the status of this project?

17 A. I don't recall. No, I
18 don't. I don't know whether he did or not.

19 Q. Do you recall if he
20 updated you not by providing you with this
21 document but just orally about the status of the
22 field investigations?

23 A. I don't. I'm sorry, I
24 don't recall.

25 Q. That's all right.

1 Can you go to image 5,
2 Registrar, and if you can pull out the text at the
3 bottom.

4 I recognize you eventually get
5 this in a report, but does this assist you with
6 refreshing your memory about whether Golder gave
7 you an update about this information about the
8 slight to moderate distortions and the slight to
9 moderate cracking that it had observed? I'm
10 sorry, and the timing, in or about June of 2013.

11 A. No, I don't know.

12 Q. Okay. Can you close that
13 out, Registrar, and if you can go to image 6,
14 please, and if you can pull out 3.2.

15 So, there's a reference in
16 here. Even though this is a June 2013 document,
17 there's a reference to asphalt cores taken on
18 August 6 to investigate the longitudinal cracking
19 that was observed in the pavement structure. Do
20 you recall Dr. Uzarowski coming to you saying that
21 there had been this cracking and that he wanted to
22 do asphalt core drilling to further investigate
23 it?

24 A. I don't. I don't
25 specifically recall.

1 Q. Okay.

2 A. Yeah, I don't. It

3 doesn't --

4 Q. It doesn't ring a bell?

5 A. No.

6 Q. But you would expect if
7 Golder was going to take on some additional work
8 like this, they would have made sure they approved
9 that with you first?

10 A. That was usually the
11 case, yes.

12 Q. Okay. Registrar, you can
13 close this out and if you can go back into OD 6,
14 please, if you can go to page 8 of OD 6.

15 So, Mr. Moore, I'm going to go
16 back a few months in time. We were just looking
17 at June 13, at least the report, back to January
18 of 2013.

19 Registrar, can you pull out
20 the motion that's set out here.

21 So, in January of 2013, the
22 Public Works Committee passed a motion to
23 investigate upgrading the lighting on the Red Hill
24 in the vicinity of the Mud/Stone Church Road
25 interchanges and that staff were directed to

1 investigate better reflective signage and lane
2 marking and other initiatives.

3 Do you recall receiving
4 information that PWC had passed this motion?

5 A. I do remember this
6 motion. I don't know how I was aware. I may have
7 been at the meeting when it was passed, so --

8 Q. Okay. Registrar, can you
9 close that down and go to the next page, please.
10 And if you can pull out paragraph 13. Thank you.

11 So, this is an e-mail with
12 Mike Field. He's in street lighting, which is
13 under Mr. McGuire, who is under you in geomatics.
14 Is that right?

15 A. Correct.

16 Q. And then there's
17 Mr. Gallo, and he's in traffic operations. Is
18 that right? Pardon me. Traffic engineering. Is
19 that right?

20 A. Mike Field?

21 Q. To Ron Gallo.

22 A. Yeah. I'm not sure where
23 Ron was at the time.

24 Q. He's a science guy?

25 A. He was at one time under

1 my section as traffic engineering that looked
2 after traffic signal design, so --

3 Q. I think I misspoke when I
4 said science guy. I meant signals guy.

5 A. Yeah.

6 Q. And Mr. Field copies
7 Mr. McGuire, who is manager of geomatics at the
8 time?

9 A. Right.

10 Q. And I think you said
11 earlier you were referencing Gord as being an
12 administrator on ProjectWise?

13 A. Yes.

14 Q. You were referring to
15 Gord McGuire. Is that right?

16 A. I was, yes.

17 Q. And Gary Kirchknopf, who
18 is also in geomatics as a senior project manager,
19 traffic planning, at the time?

20 A. Yes, that's correct.

21 Q. And, to your knowledge,
22 was that the team, Mr. Field, Mr. McGuire and
23 Mr. Kirchknopf, from engineering services who were
24 supposed to be involved in this motion?

25 A. I'm sorry, in which

1 function?

2 Q. In this motion, in the
3 project that came out of the motion.

4 A. No. I think the problem
5 with the motion was that it covered several
6 different groups of staff that were -- it
7 shouldn't have been an all-encompassing -- when
8 they said staff, it was the royal staff and
9 usually that type of thing, it was then up to the
10 general manager to decide which staff were most
11 appropriate to deal with it.

12 Q. Yes. And so, from
13 engineering services, did you understand that it
14 was Mr. Field, Mr. McGuire and Mr. Kirchknopf who
15 would be on the team responsible, not necessarily
16 the entire team, but on the team?

17 A. For the lighting
18 component, yes.

19 Q. Okay. And so, you were
20 aware, then, that the motion could result in
21 countermeasures relating to lighting?

22 A. I would have to go back
23 to the motion to see what it said, but I believe
24 it was investigation.

25 Q. It said investigate

1 upgrading lighting and my question was: Were you
2 aware that the outcome of responding to this
3 motion could include some recommendations in
4 respect of lighting?

5 A. Likely, yes.

6 Q. And so, you wanted to
7 have at least someone on the project team who had
8 lighting expertise?

9 A. I don't know that it was
10 I wanted to have someone on the team. It was who
11 was most appropriate to have on the team. I mean,
12 again, even though Mr. Field is a project manager
13 for lighting, he's a representative of what we do
14 in terms of maintenance and didn't have the design
15 capability for lighting as might be needed here,
16 but would give his services of whatever he could
17 do for them in that regard.

18 Q. Okay. Did you personally
19 have involvement in deciding who to staff on this
20 project from engineering services?

21 A. Not to my knowledge.

22 Q. Okay. Who was
23 responsible to ensure that the city staff from
24 engineering services had knowledge such that they
25 could provide a meaningful contribution to the

1 work to respond to the motion?

2 A. Well, it appears that
3 there was a discussion held amongst traffic and
4 geomatics to find out who was the most appropriate
5 person to have attend this.

6 Q. You take that from this
7 e-mail?

8 A. Yes.

9 Q. Okay. So it says:
10 "In discussing with Gord
11 and Gary -- "

12 And I think here that's Gary
13 Kirchknopf who was copied. You're not?

14 A. No, I'm not. I'm not
15 involved in this.

16 Q. So, did you understand
17 that it was Gord and/or Gary, Mr. McGuire or
18 Mr. Kirchknopf, who was responsible for
19 determining the project team individuals from
20 engineering services?

21 A. If they were
22 communicating with traffic and trying to figure
23 out who to best put on a team to deal with this
24 motion, then yes, his ability to delegate staff
25 and determine resource levels would have been up

1 to him.

2 Q. Him, Mr. McGuire, or

3 him --

4 A. Yes, Gord.

5 Q. Gord, okay.

6 A. Gord and/or Gary, both.

7 Q. Both, okay. Did you know

8 CIMA, the consultant, by reputation?

9 A. Yeah, I was aware of

10 CIMA.

11 Q. Did you know Brian Malone

12 personally? He's a principal or was a principal

13 at CIMA?

14 A. Brian used to work for

15 the City for a number of years prior to joining

16 CIMA, so yes, I knew Brian.

17 Q. Once you heard that CIMA

18 had been retained to prepare a report to respond

19 to the motion, did you have any reservations about

20 CIMA's expertise to complete a response to assist

21 in responding to the motion?

22 A. I don't know that I was

23 aware that CIMA had been contracted. If traffic

24 was stick-handling this, then it was there. I

25 don't believe I was involved in the consultant

1 choice or setting up the terms of reference or
2 anything in that regard. So...

3 Q. I'm not suggesting you
4 were. My question was: Once you heard about CIMA
5 taking over -- maybe I'll stop there. Is it your
6 evidence that you didn't know through course of
7 their retainer that they were retained on this
8 project? We're going to come to documents which I
9 think --

10 A. I don't think I was
11 initially. I think eventually I became aware of
12 their involvement, but not initially.

13 Q. So, when you became aware
14 of their involvement, did you have any
15 reservations about their expertise to complete a
16 report to help respond to the motion?

17 A. I mean, a lot of it had
18 to do with traffic issues, so I wouldn't have an
19 opinion on their ability. Traffic assessed what
20 they needed to have and engaged CIMA, so, you
21 know, I was familiar with their design capability.
22 I'm sure they provided their background to traffic
23 in terms of their ability to bring to bear their
24 expertise. They're a well-known firm, so I
25 wouldn't have an opinion on their ability to deal

1 with the issues that traffic was asking them to
2 deal with.

3 Q. Okay. Mr. Commissioner,
4 I note the time. It's ten after 1:00. Apologies
5 for going a little over our normal lunch break.
6 Would this be an appropriate time to take the
7 lunch hour?

8 JUSTICE WILTON-SIEGEL: Yes,
9 it would. And since it's now ten past, let's
10 return at 25 past 2:00. Thank you.

11 --- Luncheon recess taken at 1:09 p.m.

12 --- Upon resuming at 2:26 p.m.

13 MS. LAWRENCE: Good afternoon.
14 Commissioner, may I proceed?

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

17 MS. LAWRENCE: Thank you.

18 BY MS. LAWRENCE:

19 Q. Registrar, can you bring
20 up overview document 6, page 9, paragraph 13,
21 please.

22 Mr. Moore, before lunch you
23 said you didn't have any role in deciding who from
24 engineering services would be on the team put
25 together in respect of responding to this motion.

1 Is that right?

2 A. I believe that's correct.

3 Q. This is an e-mail that we
4 were looking at before from Mr. Field, and in the
5 indented portion in the bottom he says:

6 "It is our opinion that
7 the safety issue should
8 be reviewed holistically.
9 Therefore, the
10 consultant's scope should
11 encompass street lighting
12 review and what counter
13 benefits would be
14 attributed to adding
15 lighting."

16 Do you recall have any
17 discussion with Mr. McGuire, Mr. Kirchknopf or
18 Mr. Field about the scope of the project to
19 respond to the motion?

20 A. I do not.

21 Q. Registrar, you can close
22 this down and if you can call out paragraph 17,
23 please, which I believe is on page 10.

24 So, we're still in January and
25 Ms. Cameron, your assistant, e-mailed Mr. Field,

1 Mr. McGuire and you that John Mater and his group
2 would be taking lead on the motion and would
3 report back to PWC on November 18, 2013.

4 What did you understand taking
5 the lead to mean?

6 A. Well, they would
7 stick-handle, you know, exactly what it says, the
8 lead, so you know, when the report went, how it
9 would go back, if they needed a consultant. I
10 mean, they would be the responsible authority to
11 addressing this motion back to committee.

12 Q. Okay. Mr. Mater
13 testified that he viewed the role of taking lead
14 as facilitating the engagement of the consultant,
15 gathering information for the consultant and
16 putting pen to paper for the draft staff report
17 going back to council. Does that encompass what
18 you view as taking the lead?

19 A. I would agree with that.

20 Q. Mr. Mater also testified
21 that in his view, taking the lead did not mean
22 that his group would ultimately be held
23 responsible for all of the recommendations in the
24 report. Would you agree that staff from
25 engineering services had an important role to play

1 in responsibility over the recommendations that
2 ultimately went to PWC?

3 A. Well, it would depend on
4 those recommendations. There could be several
5 groups that would be responsible for addressing
6 them.

7 Q. Okay. And so, depending
8 on the countermeasures that were ultimately
9 proposed, implementing these countermeasures would
10 be a shared responsibility that crossed divisions?

11 A. Across Public Works.

12 Q. Across Public Works?

13 A. Yeah.

14 Q. Registrar, you can take
15 that down.

16 So, as we talked about before
17 lunch, from engineering services, Mr. McGuire,
18 Mr. Field and Mr. Kirchknopf were on the project
19 team such that they went to progress meetings with
20 CIMA and that sort of thing. Did you tell
21 Mr. Kirchknopf that you had retained Golder to
22 conduct the five-year pavement evaluation after
23 you retained Golder in 2013?

24 A. I don't recall doing
25 that, no.

1 Q. Okay. Did you tell
2 Mr. Field that you had retained Golder?

3 A. No, I don't believe so.

4 Q. Did you tell anyone in
5 Mr. Mater's group that you had retained Golder to
6 conduct the pavement evaluation?

7 A. I don't I believe I've
8 seen that there was any relevancy in that to
9 there.

10 Q. So, that's a no?

11 A. I likely didn't. The
12 pavement condition had nothing to do with the
13 terms that council was looking for in terms of
14 lighting and paint marking and signage.

15 Q. Okay. So, the answer is
16 you didn't tell anyone in Mr. Mater's group that
17 you had retained Golder?

18 A. At that time, I don't
19 believe so, no, for the pavement condition
20 assessment, no.

21 Q. Was there a repository
22 that would list all of the open roster assignments
23 related to the Red Hill?

24 A. Other than the reporting
25 on the roster that went to purchasing, I'm not

1 sure whether there was a central location at that
2 time or not.

3 Q. Did there become a
4 central location where --

5 A. I was trying to think
6 whether they ultimately did. I was trying to
7 think whether I could see anyone else's categories
8 and I don't believe I could ever see any of
9 traffic's categories or building's categories or
10 planning's categories, even though there may be
11 some overlap. I don't recall being able to do
12 that, no.

13 Q. Okay. And did you tell
14 anyone at Golder that the City had assigned CIMA
15 to do a safety audit of the Red Hill?

16 A. I don't believe I was
17 aware of it at that time.

18 Q. When you became aware?

19 A. I don't believe I did.

20 Q. Why not?

21 A. I didn't see the
22 relevancy or the linkage between the two.

23 Q. I have some questions now
24 about lighting on the Red Hill. In 2013, what
25 constraints, if any, did you understand existed in

1 respect of making changes to illumination on the
2 Red Hill?

3 A. I'm sorry, you'll have to
4 try that again.

5 Q. Sure. In 2013, what
6 constraints, if any, did you understand existed
7 with respect to making changes to the illumination
8 on the parkway?

9 A. I don't think I'm
10 following what kind of changes are you, you know,
11 referring to? I mean, the types of lightbulbs
12 that are in the lights or the type of lighting
13 that's installed on the road?

14 Q. Yes. My question is:
15 What did you understand at the time to be any
16 limitations or prohibitions on making changes to
17 illumination?

18 A. Well, there were physical
19 constraints, but there were also the fact that
20 what had been installed was what had been approved
21 under the EA.

22 Q. What were the physical
23 constraints?

24 A. Well, the fact that the
25 Ontario hydro transmission lines fell over a large

1 portion of the Mud Street interchange made it
2 difficult, if not impossible, to implement
3 lighting in that area. They won't allow poles in
4 under their transmission lines, so there's those
5 types of constraints. If you were looking to, you
6 know, put any additional lighting in, I'm not sure
7 that the bridges were built to accommodate light
8 standards, you know, on the bridges or on the
9 parapet walls or the barrier walls that separated
10 those certain areas. So, there was a lot of
11 physical constraints in that regard.

12 Q. Okay. Registrar, can you
13 go to OD 6, page 9 and 10.

14 So, you'll see at the bottom
15 of page 9, paragraph 15, there's a list of people.
16 It's a little hard to read, with all of their
17 positions. But Mr. White, Mr. Gallo, Mike --

18 A. Cosentino, yeah.

19 Q. Cosentino?

20 A. Yeah.

21 Q. Mr. Stephen Cooper,
22 Mr. Field, Stewart Lloyd -- I think I haven't
23 missed anyone. That's right. Sorry. They met to
24 review the motion that we looked at before lunch
25 and the minutes of that meeting record that

1 Mr. Cooper had become the project manager and they
2 came up with a list of issues that are reflected
3 in the minutes. And the fourth one down, this is
4 page 10, says, "Is lighting suitable?"

5 Did anyone tell you in
6 January 2013 that part of the mandate for the
7 consultant would be to consider whether the
8 decision point lighting on the Red Hill was
9 sufficient from a safety perspective?

10 A. I don't believe so. I
11 don't believe that I was involved in setting up or
12 discussing the mandate or bringing the consultant
13 on board or in the general discussions for this
14 study.

15 Q. Okay. So, just if you
16 can listen to my question carefully, I said: Did
17 anyone tell you that that was part of the mandate?

18 A. I don't believe so, no.

19 Q. Okay. If they had, would
20 you have had concerns about assigning a consultant
21 to consider the issue of whether decision point
22 lighting was suitable?

23 A. I mean, as lighting was
24 not in my purview, I don't know why I would have
25 had, you know, the review of that. I mean, I

1 assumed they were doing that for some factor, but
2 is lighting suitable? I mean, that was a mandate
3 to be looked at, so I don't know why I would have
4 had a concern. I may have had some information to
5 provide had they asked.

6 Q. Okay. The vicinity of
7 the study area that CIMA was retained to review
8 was the Mud/Stone Church Road interchange area.
9 Did you -- and this is in 2013 -- personally think
10 that lighting in that study area was sufficient
11 for safe driving?

12 A. I don't think I had an
13 opinion either way. I mean, safety wasn't part of
14 something that I was mandated to look at as part
15 of my job and we had done a thorough investigation
16 as part of the construction of the freeway and the
17 design and the negotiations with respect to the EA
18 and all those approvals, and that's what was
19 implemented, so I don't know why I would have any
20 concern.

21 Q. Okay. Do you agree that
22 even when one does a thorough investigation as
23 part of construction, it's important to look and
24 assess how the driver actually experiences the
25 road once it's built?

1 A. That sounds like a nice
2 thing to do, but I don't know whether it's a
3 practical or reality thing or whether anyone ever
4 does it, but it's not something I've ever been
5 involved with.

6 Q. Right, because you do the
7 construction and then you pass it on to
8 operations. Right?

9 A. Yes.

10 Q. Okay. Mr. Field
11 testified that at some point in the later part of
12 CIMA's work, which, just to orient you in time,
13 ran from January 13 to November-ish 2013, so in
14 the later part of CIMA's work, you conveyed to him
15 that there was an environmental assessment
16 undertaken as part of the design and approvals
17 process for the Red Hill and that the EA had
18 identified some design constraints related to
19 lighting and the environment.

20 Do you recall conveying that
21 information to him in 2013?

22 A. I remember talking about
23 that in some fashion. I don't know that it was
24 Mike and I don't know that it was in 2013. I do
25 remember a discussion in that regard, but --

1 Q. So, my question is quite
2 specific to what you conveyed to Mr. Field. Can
3 you search your memory and see if you can recall
4 if you provided any of this information to
5 Mr. Field?

6 A. It's information that I
7 would have had, but I don't recall a specific
8 discussion with Mike.

9 Q. Okay. And when you say
10 you don't recall, are you confident that you did
11 not or you just can't recall either way?

12 A. I just can't recall
13 either way. I'm not disputing that it may have
14 taken place, but I don't recall.

15 Q. I'm just asking because
16 sometimes people view "I don't recall" in
17 different ways, so I just want to clarify what you
18 mean when you say you don't know.

19 A. Yeah. No.

20 Q. You said that there had
21 been some, I think you said, discussion with a
22 number of, I think you used, all the letters in
23 the alphabet, all the different commissions and
24 those sorts of things. Did the decision point
25 illumination on the Red Hill involve negotiation

1 with the Niagara Escarpment Commission?

2 A. Yes, it did.

3 Q. And some conservation
4 authorities?

5 A. Conservation authorities,
6 Niagara Escarpment Commission, natural resources,
7 as well as a number of other interest groups.
8 There was a group that was interested in the
9 flying squirrels as a species at risk, so I'm not
10 sure whether Environment Canada was involved in
11 that discussion as well. As well as local
12 interest groups and the public in general.

13 Q. Okay. You said earlier
14 that there was some environmental assessment
15 related documents sitting on your bookshelf after
16 the Red Hill opened. Did you review the
17 environmental assessment reports that you had on
18 your bookshelf when this motion came to light to
19 upgrade lighting?

20 A. I don't believe I did. I
21 don't recall specifically going and pulling it off
22 and reading anything.

23 Q. Okay. Did Mr. Field or
24 Mr. McGuire ask you for any documents related to
25 environmental assessments, assessment reports,

1 around the Red Hill?

2 A. Not that I recall. They
3 were there if they needed them.

4 Q. Did Mr. Field ask you for
5 background information about the history of how
6 decision point illumination came to be on the Red
7 Hill?

8 A. I don't recall anything
9 that specific and I don't recall a specific
10 discussion in that regard.

11 Q. Okay. So, part of CIMA's
12 mandate was to investigate upgrading lighting,
13 that's what the motion said, and to do that, it
14 might have been helpful for them to have
15 background about the history of lighting. Were
16 you asked by anybody to provide -- pardon me,
17 anybody employed by the City to provide that
18 background?

19 A. Not that I'm aware of,
20 no.

21 Q. Okay. But you can see
22 that that kind of information, given your
23 historical knowledge, might have been very helpful
24 to CIMA?

25 A. Yeah. There was a

1 website available that had all of our EA documents
2 and all of our background and every one of our
3 individual reports linked to the City's web page
4 for a number of years after the project opened, so
5 a lot of that stuff was openly available.

6 Q. Okay. And was that a
7 website attached to a Red Hill Valley Parkway
8 implementation, so like a public-facing --

9 A. It was a public-facing
10 website, yes.

11 Q. So, not the City's
12 website, but --

13 A. I think there was a link
14 off of the City's website, but I'm not sure how it
15 resided specifically.

16 Q. Okay. But my question
17 more was: It was a special website not on the
18 City's website, on a page on the City's website,
19 but its own website that had information about the
20 Red Hill.

21 Maybe to help refresh your
22 memory, the Red Hill Valley Project page?

23 A. It may have resided as a
24 page within the City's website, but I can't be
25 sure of exactly how that -- I wasn't big on how

1 those internet stuff worked at that time.

2 Q. Okay. Fair enough. I
3 just wanted to try to understand what you were
4 getting at.

5 In 2013 and given your
6 experience at the design stage, did you view the
7 potential for upgrading the illumination from
8 decision point illumination to some increased
9 level of illumination? Did you view that to be a
10 politically sensitive issue?

11 A. Politically sensitive
12 issue?

13 Q. I can rephrase.

14 A. Yeah.

15 Q. Did you see that to be an
16 issue that might engage the public in some public
17 discourse and debate?

18 A. I would anticipate that
19 that would have been a large part of any
20 discussion, as it was during the EA, especially
21 from adjacent residents and nature groups and the
22 Haudenosaunee interest within the valley.

23 Q. And given that kind of
24 public discourse that might be anticipated, that
25 would likely engage the politics within city

1 council. Is that fair?

2 A. Oh, yeah. There wasn't
3 going to be a staff thing that just did it.
4 That's for sure.

5 Q. Okay. And so, if CIMA
6 did make a recommendation to staff to increase the
7 level of illumination and if council adopted that
8 recommendation, did you anticipate that that
9 increase or change in lighting would have actually
10 been feasible to implement?

11 A. I mean, there's possible.
12 Feasible, given my experience with the opposition
13 that had occurred during the EA, that would have
14 been up to council to deal with. So, I mean,
15 anything is technically possible, but it would
16 have been extremely difficult or extremely
17 challenging to come up with an approval of that
18 nature.

19 Q. And it would have been
20 extremely expensive as well. Is that fair to say?

21 A. Yes.

22 Q. Did you express those
23 views about it being challenging and expensive to
24 Mr. Field or Mr. McGuire while CIMA was doing its
25 work?

1 A. I don't believe I was
2 aware of what exactly they were doing until I seen
3 the final recommendations.

4 Q. Okay. I'm going to take
5 you through some documents to attempt to refresh
6 your memory about what you saw, materials relating
7 to CIMA's work.

8 Registrar, can you go first to
9 CIM8453.0001 and can you have both pages up,
10 please.

11 So, this is a progress
12 meeting, progress meeting number 1 it says at the
13 top, it's June 6, 2013, so this is right around
14 the same time that Golder is working on their
15 inertial profiler and they're doing the falling
16 weight deflectometer, just to orient you in terms
17 of time. This is at CIMA in Burlington and you'll
18 see that Mr. Cooper, Mr. Field, Mr. Gallo and
19 Mr. Kirchknopf attend for the City and then there
20 are a number of CIMA employees, including
21 Mr. Malone.

22 You didn't attend this
23 meeting, but I do want to know if anyone raised
24 any of the issues that were addressed at that
25 meeting with you after the fact.

1 So, first, Registrar, can you
2 go to the third paragraph from the bottom on
3 image 1, "City okay with CIMA examining."

4 So, these minutes don't
5 attribute any of the comments to particular
6 individuals, but it says:

7 "City okay with CIMA
8 examining high-friction
9 pavements on ramps,
10 however, mainline has a
11 different new pavement
12 that may not be
13 recommended to be
14 overlaid with high
15 friction."

16 So, knowing what, you know,
17 about Mr. Cooper, Mr. Gallo, Mr. Field and
18 Mr. Kirchknopf, who among those four individuals
19 would have knowledge about the different new
20 pavement that may not be recommended to be
21 overlaid?

22 A. I'm not sure.

23 Q. Okay. Had you had any
24 discussions with Mr. Kirchknopf about the nature
25 of the pavement at this point, in June of 2013?

1 A. I don't believe so. I
2 don't recall any specific discussion in that
3 regard.

4 Q. I mean more generally
5 with Gary Kirchknopf, just had you talked over the
6 course of the years that you worked with him about
7 the nature of the pavement on the Red Hill?

8 A. Oh, we, I mean, we talked
9 about all that type of stuff. Gary was very
10 interested in all those types of things, so he may
11 have been aware. I don't know. He may have
12 talked to asset management. I don't know.

13 Q. Okay. You certainly
14 sitting here today don't have any particular
15 memory about conveying information about the
16 pavement to Mr. Kirchknopf, Mr. Field or
17 Mr. Cooper?

18 A. It doesn't really make
19 sense to begin with, because you wouldn't overlay
20 the pavement that was out there. You would do a
21 shave and pave. You can't simply overlay a
22 highway because of the clearance under the
23 bridges. So, you know, having knowledge of that,
24 I don't know whether they took that into
25 conversation, but it doesn't seem to be considered

1 here. Typically you wouldn't simply overlay a
2 road of that nature.

3 Q. Okay. So, I don't think
4 I've asked this question. Did anyone convey after
5 this meeting in June back to you that there had
6 been some discussion with CIMA about the potential
7 for a high-friction pavement or an overlay on the
8 mainline or the ramps?

9 A. I don't recall. It
10 doesn't -- it likely would have, you know, sparked
11 some memory because the SMA was the highest
12 friction pavement considered out there, so I don't
13 know what higher friction pavement they would have
14 been considering, so that would have sparked my
15 interest on that, had this been made aware to me,
16 but I don't -- so, I don't believe it was.

17 Q. Okay. So, I think I
18 heard your answer just a moment ago to be that you
19 would not have thought that a high-friction
20 pavement overlay would be appropriate on the
21 mainline for the reasons that you have said among
22 both the level, the depth, of the pavement and the
23 nature of the SMA.

24 What about on the ramps? If
25 someone had asked you about applying a

1 high-friction overlay to the ramps, would you have
2 had a view about that?

3 A. Well, the ramps are all
4 paved with FC2, which is the next highest category
5 of frictional pavement that is considered out
6 there. So, again, I don't know what they would
7 have been considering as a higher friction
8 pavement.

9 Q. Okay. So, at a minimum,
10 you would have wanted more information about why
11 they --

12 A. Yeah. It would have
13 sparked interest and I can't say that I was aware
14 of these types of things.

15 Q. Okay. And what I'm
16 hearing you say is you would have -- this would
17 have raised an interest for you and you don't, in
18 your mind today, have any recollection. And so,
19 is it fair to say, then, you're quite confident
20 that you didn't receive information after
21 June 2013 about the potential for high-friction
22 pavements on the ramps or the mainline?

23 A. I can't say with
24 certainty, but this appears as something that I
25 would have had interest in and I can't recall --

1 Q. Okay. Can you close that
2 call out, please, and can you bring up item 4 on
3 image 2.

4 So, again, this isn't
5 attributed to any particular person at this
6 meeting, but it says:

7 "CIMA needs to be
8 cautious with
9 illumination. BC -- "
10 Which I think here is benefit
11 cost:
12 " -- is critical for the
13 assignment due to the
14 political and other
15 design and cost
16 constraints. Site
17 specific locations are
18 probably better than full
19 illumination."

20 Do you agree that CIMA needed
21 to be cautious about lighting recommendations?

22 A. Well, I would hope they
23 would be cautious with all of their
24 recommendations. I don't know that there's any
25 more caution that needs to be done with

1 illumination. I'm not sure whether it was the
2 benefit cost that they needed to be -- what this
3 was referring to, so it appears that that's what
4 they were talking about.

5 Q. Okay. There's a
6 reference to political, other design and cost
7 constraints. Is that a reference to the evidence
8 you gave earlier about the physical constraints
9 and the environmental assessment, to your
10 knowledge?

11 A. Not to my knowledge. I
12 don't know what they knew.

13 Q. Okay. And sitting here
14 today, so this is June of 2013, were you the
15 source of the information that was passed on to
16 CIMA about -- and I'm just quoting here --
17 political and other design and cost constraints?

18 A. I don't believe so
19 because I don't believe that I was aware that
20 these meetings or that the work was underway of
21 this nature.

22 Q. Okay. It says:
23 "Site specific locations
24 are probably better than
25 full illumination."

1 Would you agree that it's
2 CIMA's job to conduct an assessment as to whether
3 illumination was having an effect on the safety of
4 the roads?

5 A. I'm sorry, what was that
6 again?

7 Q. Would you agree that it
8 was CIMA's job to conduct an assessment as to
9 whether illumination was having an effect on the
10 safety of the road?

11 A. I don't know what the
12 terms of their engagement was and, you know,
13 Mr. Mater or Mr. Mater's group would have been in
14 a better position to assess what they should or
15 shouldn't have done.

16 Q. Okay. Mr. Moore, you've
17 now been interviewed in this process and you
18 prepared for today, so you do know what their
19 scope was because you've looked at the documents.
20 Is that fair?

21 MR. LEDERMAN: So, just a
22 moment. Mr. Commissioner, I don't think that's an
23 appropriate question to ask this witness. The
24 witness isn't here to testify on other people's
25 testimony and what the inquiry has already heard

1 as part of these proceedings. He's a witness who
2 is here to testify as to his knowledge of the
3 events as they transpired at that time, so I don't
4 think that's an appropriate question.

5 JUSTICE WILTON-SIEGEL:

6 Mr. Lederman, I don't think we've had the question
7 yet. I'm going to ask Ms. Lawrence to put the
8 question again.

9 BY MS. LAWRENCE:

10 Q. My question was -- and
11 maybe I'm rephrasing my question now. In the
12 preparation for today, you have reviewed the scope
13 of CIMA's terms of engagement. Is that right?

14 A. I've reviewed hundreds of
15 documents. I don't know whether I can recall
16 this. If you want to show it to me, maybe I can
17 remember seeing it, but other than that, I
18 couldn't tell you what the exact scope of their
19 assignment was.

20 Q. Okay. I'm going to move
21 on because we're certainly going to come to the
22 scope of the engagement and I'll come back to this
23 line of questioning.

24 I think you said earlier that
25 CIMA's going to do its consultant work and staff

1 are going to do their recommendations -- and I'm
2 putting those things to you -- and I think you
3 said earlier it would be ultimately council's
4 decision about whether to go ahead with changes to
5 illumination. Is that right?

6 A. Yeah, once they're
7 provided with a full comprehensive assessment of
8 what they're looking for.

9 Q. Okay. And you would
10 expect and you did expect at the time CIMA to
11 provide that comprehensive review?

12 A. Well, CIMA's able to
13 provide the comprehensive review. Sometimes their
14 information is taken by staff and additional
15 information is used to provide the information to
16 council in stuff that would be outside of CIMA's
17 ability.

18 Q. Okay. Registrar, can you
19 close the call out on the document down and go to
20 OD, page 29, paragraphs 60 and 61, please.

21 THE REGISTRAR: Sorry,
22 counsel, which OD?

23 MS. LAWRENCE: 6, page 29.
24 And if you can pull out 60 and 61, please.

25 BY MS. LAWRENCE:

1 Q. So, Mr. Malone is one of
2 those engineers I mentioned earlier who keeps a
3 notebook of his, sort of, daily events and his
4 notebook contained two entries on June 6, 2013.
5 The first one relates to the meeting, the minutes
6 of which we were just looking at, and the second
7 references a discussion with you. It says 10:00
8 and that appears to be a 10:00 a.m. or maybe it's
9 ten minutes, but it says 10. And it says:

10 "Gary Moore, status of
11 the Red Hill review,
12 reasons why a design as
13 is lighting, X through
14 red valley enviro
15 constraints."

16 So, I think you testified
17 earlier that you can knew Mr. Malone personally
18 because you had worked at the City with him?

19 A. Yes, that's correct.

20 Q. And did you work in the
21 same division of Public Works with him?

22 A. No. He worked at the
23 City in the traffic department and I was at the
24 region in the freeway project office.

25 Q. Okay. But you knew who

1 he was?

2 A. I knew who he was, yeah.

3 Q. Mr. Malone testified that
4 he gave you an update as to what CIMA was doing on
5 the project. Do you recall him giving you an
6 update as to CIMA's work on the project?

7 A. I can't say that I
8 remember a specific -- I assume this is a phone
9 call or --

10 Q. He testified it was a
11 phone call.

12 A. I mean, I know I talked
13 to Brian a couple times, maybe two or three times,
14 over a period of years, but I can't say I remember
15 specifically this discussion.

16 Q. Okay. Do you remember
17 anything about this discussion?

18 A. No, I don't.

19 Q. Okay. Do you remember
20 having a discussion with Mr. Malone that occurred
21 in 2013?

22 A. I know I talked to Brian,
23 like I said, a couple times, but I couldn't tell
24 you when it was.

25 Q. Okay. The inquiry has

1 received information that suggests that you talked
2 to him once in 2013 primarily about lighting and
3 then once in 2015 primarily about friction
4 results. Are those the two conversations that you
5 recall?

6 A. They're most likely the
7 instances that I recall. Speaking to him, I
8 can't, you know, picture sitting in my office
9 talking to him or, you know, anything like that.

10 Q. Okay. I'm going to put
11 some points to you in hopes of refreshing your
12 memory. At this time, in June of 2013, CIMA is
13 assessing the warrants for illumination. Do you
14 remember having a discussion with Mr. Malone about
15 full illumination being warranted on the Red Hill?

16 A. No, I do not.

17 Q. Mr. Malone testified that
18 you conveyed that lighting was -- and I'm quoting
19 from him -- prohibited or not permitted through
20 the Red Hill Valley and that the reason was for
21 environmental assessment constraints that had been
22 passed when the facility was originally designed
23 and ultimately approved, and that there was a
24 federal and a provincial environmental assessment
25 process that was carried through for the facility.

1 Does that refresh your memory
2 about this discussion with Mr. Malone?

3 A. Not -- no. I don't --

4 Q. Okay. And do you take
5 any issue with what I just put to you in terms of
6 the information that you had at the time about the
7 history of illumination on the Red Hill?

8 I'll put it to you again. I
9 just want to understand if you have any difference
10 in terms of what Mr. Malone understood the
11 lighting to be and what you understood the
12 lighting issues to be.

13 A. Yeah. I mean, the
14 lighting that's there was the lighting that was
15 approved. What was approved was what was
16 negotiated in order to achieve a successful -- I
17 remember it was the impact assessment and design
18 process document which documented what we were
19 going to build, which supported our EA submission
20 to the province. So, it was a commitment, this is
21 what we will build if you give us an approval. I
22 mean, you read it that way, it's that's what's
23 allowed to be built. If you want to change that,
24 you've got to change your approval process. So,
25 if someone, you know, read that as nothing else

1 being allowed, I can't comment on that, but, I
2 mean, that's how I understood the -- whether it
3 was the lighting or, you know, the fact that we
4 were only two lanes of 698 lanes and, you know,
5 why a number of ramps weren't built and different
6 access bridges. It was in the approval process
7 that we achieved, it was this is what we will
8 build and this is what we were given approval to
9 build.

10 Q. Okay. So, at the time
11 when the EA was approved, it was your
12 understanding that the decision point illumination
13 was what had been approved?

14 A. That's correct.

15 Q. But was it also your
16 understanding through that EA process that full
17 illumination had not actually been adjudicated or
18 assessed or considered under the EA because of the
19 agreement to go with decision point illumination?

20 A. Full illumination was
21 originally proposed for the entire facility and it
22 was on that basis on which we received the
23 feedback. I mean, the Niagara Escarpment
24 Commission was trying to protect, you know, the
25 viewshed of the crossing through the escarpment

1 and they, no way, shape or form, wanted full
2 illumination. They wanted the minimal amount. In
3 fact, they wanted no illumination, if I remember
4 correctly, because they didn't want any lights
5 shining on the natural environment of the
6 escarpment and we were able to achieve the
7 decision point illumination that was installed
8 there to those locations and then, you know, which
9 fit in with other objections along the way, you
10 know. The residents that abutted it didn't want,
11 you know, their back yards lit up all night long
12 because that's what it would have done had the
13 full illumination. People in charge -- even
14 adjacent to interchanges weren't even happy with
15 the minimal amount of lighting that we did do.

16 So, I don't know what level of
17 assessment of full lighting you're looking for,
18 but discussion with all these groups was very
19 fulsome with regard to continuous illumination
20 rather than the decision point lighting.

21 Q. My question was
22 specifically that the EA didn't have anything that
23 had grappled with the issue of full illumination
24 and rejected it. Is that right?

25 A. No, I don't know that for

1 a fact. There are hundreds of documents in there
2 and letters, so I'm not sure that that's -- what
3 level it's rejected, other than I said that the
4 original design was contemplated, it was discussed
5 with, you know, as was geometrics, as was roadway
6 width, as was how much tree removal we're going to
7 do and, you know, where can we put retaining walls
8 rather than large-scale excavations to minimize
9 impact. So, all those types of things were
10 discussed in the EA.

11 Q. Thank you, Mr. Moore. If
12 you can focus on my question and answering my
13 question first, but if you want to add more after
14 you answer my question, I'm sure the Commissioner
15 would be happy to receive it, but if you can
16 really listen to my question.

17 A. All right.

18 Q. Do you see a distinction?
19 And the distinction I'm trying to get at is an EA
20 that approves decision point lighting would be
21 different than an EA that rejects expressly full
22 illumination?

23 A. It's my understanding
24 that that's not the way the EA operates.

25 Q. Okay. I'm going to move

1 on.

2 Mr. Malone also testified that
3 this call provided him with clarification that
4 lighting was prohibited and that, in effect, that
5 narrowed the parameters of the scope of CIMA's
6 assessment. In other words, he left that
7 conversation with you with the understanding that
8 CIMA's scope of work did not include an assessment
9 to make a recommendation on illuminating the
10 mainline.

11 Did you direct Mr. Malone to
12 exclude illumination on the mainline from CIMA's
13 final report?

14 A. I don't recall the
15 specifics of the discussion, but I would not and
16 could not direct someone else's consultant that I
17 wasn't involved even in the -- on the team that
18 was doing this, so I don't know how -- I couldn't
19 make that.

20 Q. Okay. Mr. Malone
21 testified that somebody at the June 6 meeting, so
22 Mr. Cooper, Mr. Field, Mr. Gallo and
23 Mr. Kirchknopf were the City folks there, that one
24 of them directed him to speak to you and that he
25 understood you to be a representative from the

1 City.

2 Is that how you viewed your
3 role in your discussion with Mr. Malone?

4 A. I don't believe so
5 because I don't know how I would be interpreted to
6 do that when I hadn't been involved in anything to
7 that date, other than maybe as an external
8 reference to the input for the study. And I'm not
9 sure on why Mr. Malone would have come to those
10 conclusions --

11 Q. Okay. Did you
12 understand, coming out of this conversation with
13 Mr. Malone, that CIMA would not be addressing or
14 referencing the illumination of the mainline in
15 its report?

16 A. Again, I don't recall the
17 specifics or even the discussion in general, but I
18 don't know how I would, you know, understand that.

19 Q. Putting yourself back
20 into 2013, would you have directed Mr. Malone to
21 not assess illumination on the mainline because
22 you viewed it as unfeasible to implement?

23 A. I don't believe so.
24 Sitting here today, I don't know, you know -- I
25 didn't have the ability to direct him in that

1 nature. The information I provided, I would have
2 thought that he was quite capable of developing an
3 assessment on that basis. Yes, it's possible to
4 build this, we don't have approvals under the
5 current EA, and to do anything else would require
6 another full EA. But without that EA, you can't
7 really assess the impacts and abilities to do
8 that, so I don't know anything else further than
9 that.

10 Q. Okay. So, you didn't say
11 anything like, you know, why waste your time doing
12 this scope when it's never going to happen?

13 A. No.

14 Q. And again, to be clear,
15 I'm not saying Mr. Malone has said you did that.
16 I'm just suggesting and asking for clarity that
17 you didn't make any sort of comment that would go
18 to that --

19 A. I don't know that that
20 would have been, you know, even within, you know,
21 me to do that.

22 Q. Okay. Did you update
23 Mr. Kirchknopf, Mr. McGuire or Mr. Field that you
24 had spoken to Mr. Malone?

25 A. I don't know.

1 Q. You can't remember?

2 A. I don't recall.

3 Q. Okay. What about

4 Mr. Cooper, the project manager on the CIMA
5 project, did you update him that you had spoken to
6 Mr. Malone?

7 A. No, I don't -- I don't
8 recall, but I don't believe so.

9 Q. Okay. Registrar, can you
10 go to OD 6, page 35, paragraph 77.

11 So, the next progress meeting
12 with CIMA and then the internal City team was on
13 July 4, 2013 and they prepared and presented a
14 slide deck and minutes came out of that meeting.
15 And on July 4, Mr. Field forwarded Mr. Applebee's
16 message, which include the PowerPoint and the
17 minutes, to you and to Mr. McGuire and to
18 Mr. Kirchknopf.

19 Did you have any discussions
20 with Mr. Field such that he should keep you in the
21 loop going forward?

22 A. I don't believe so. I
23 don't recall any direction in that regard --

24 Q. Okay. I ask because you
25 hadn't really, from the documents, seemed to be

1 very involved to this point and then Mr. Field
2 copied you and you're his boss's boss. Do you
3 have any information that would be helpful to
4 explain why Mr. Field sent this to you?

5 A. No, I don't. You would
6 have to ask Mr. Field why he sent it to me.

7 Q. Okay. Did you review the
8 presentation and the minutes? And, sorry, I'll
9 take you to into that presentation and minutes so
10 you can see it.

11 Registrar, can you bring up
12 HAM51990 and if you can scroll down.

13 Does this look at all familiar
14 to you? We can scroll down further.

15 A. Yeah, if you could scroll
16 down further.

17 Q. Sure. And then there's
18 some reference to freeway segments and then
19 there's references to ramp segments.

20 Mr. Registrar, can you could
21 go down to image 8 would be perfect.

22 This might be something that,
23 if you did review this, you would note it?

24 A. No. It doesn't look
25 familiar.

1 Q. Okay. Registrar, can you
2 bring up on the other page HAM51991.

3 These are the minutes of that
4 progress meeting where this presentation was
5 presented. Do you recall reviewing these minutes?

6 A. I can't say there's
7 anything there that jogs my memory that --

8 Q. Okay. I'll ask you some
9 specific questions about it.

10 Registrar, can you go to
11 image 1 of 990, please. Pardon me, image 2.
12 Thank you.

13 So, there's a recap of CIMA's
14 collision analysis results that indicated a high
15 proportion of single motor vehicle collisions,
16 collision on non-daylight conditions and
17 collisions on wet road collisions. Do you recall
18 learning of this collision pattern from this
19 presentation?

20 A. I don't believe so
21 because I don't know what the relevance of any of
22 those things are.

23 Q. Okay. That doesn't help
24 you with determining whether you reviewed this
25 presentation at the time?

1 A. No. I mean, if I'd have
2 read that in detail, I might have had to ask the
3 guys, you know, what does this mean or where's the
4 other information, and that doesn't -- I don't
5 recall that.

6 Q. Okay. And do you recall
7 having any conversation with those individuals? I
8 can understand your last answer. You said if I
9 read it in detail, I would have to ask the guys
10 what that means and you don't recall that. You
11 mean you don't recall a conversation?

12 A. I don't recall having a
13 conversation with them in that regard.

14 Q. Okay. Registrar, can you
15 going back to image 8, please.

16 So, this is some segments on
17 the mainline around Dartnall. They've segmented
18 out different parts of the study area and they
19 have a geometry review where they say:

20 "The length of speed
21 change, shorter than
22 typical design in respect
23 of some ramps."

24 Would that have been something
25 that would be noteworthy to you if you had

1 reviewed this?

2 A. No, I don't believe so.

3 I don't know what any of that -- you know, without
4 the background, without the speed, without the
5 full design. I was more the practical guy on how
6 to get it built rather than the ultimate
7 geometrics of design, but that's --

8 Q. Okay. Registrar, can you
9 go to the next image, please.

10 There's also a reference to an
11 alignment discontinuity, which is the kink. Had
12 that issue of the kink, which is just the curve
13 not being a perfect curve, had that been raised
14 with you at some point in years past?

15 A. It has been raised in
16 years past, but this may -- I don't know when --

17 Q. Okay.

18 A. -- that -- I do remember
19 discussions --

20 Q. Yeah.

21 A. I mean, it's --

22 Q. I think it goes back as
23 far as under Hart Solomon. I don't know if that
24 assists.

25 A. I believe so. I mean --

1 Q. Okay. There's --

2 A. It's still there today.

3 Q. There's some potential
4 countermeasures. Installing PMPRs, which are
5 cat's eyes, installing warning signs, pavement
6 markings, install them with resurfacing,
7 enforcement of high travel speeds.

8 Registrar, can you go to the
9 next page, please.

10 And then the last two that are
11 listed under potential countermeasures, pavement
12 friction surface testing/improve pavement friction
13 through high-friction pavement, and then there's a
14 drainage review. And then there's a suggestion of
15 changing, extending the lane for the speed change
16 in three areas.

17 Would any of those have been
18 noteworthy potential countermeasures, if you had
19 read this?

20 A. If I had read this, it's
21 likely that I would have made comments and
22 returned it to the guys.

23 Q. Okay. Did anybody tell
24 you that CIMA was still thinking about the
25 potential of an application of a high-friction

1 pavement overlay?

2 A. No, I don't believe so.

3 Q. And did anyone update you
4 that CIMA was considering recommending friction
5 testing?

6 A. Again, I don't believe I
7 was -- I had that level of involvement in this at
8 this time.

9 Q. Okay. Registrar, can you
10 go to image 19, please.

11 So, this is in respect of
12 ramp 6, which is the interloop ramp. You can sort
13 of see it in the picture. Is it clear enough for
14 you?

15 A. On Dartnall Road, yeah.
16 It's a Dartnall Road loop ramp, yeah.

17 Q. I actually think it's the
18 Mud Street ramp, interchange ramp.

19 A. No, that's Dartnall Road.

20 Q. Okay. We'll come back to
21 that. Under Geometry Review, it says:

22 "The curve radius below
23 typical design depending
24 on existing
25 superelevation (we don't

1 anyone ever asking me about the superelevation
2 with regard to that ramp. That's the best I can
3 do.

4 Q. That's helpful. Thank
5 you.

6 MR. LEDERMAN: May I just make
7 a comment on that, Mr. Commissioner? Which is
8 that to the extent that there's a question as to
9 whether he recalls something or that he has no
10 recollection of receiving that information, in the
11 event that Ms. Lawrence has a document or an
12 e-mail that would assist, then that would
13 obviously be preferable to put that forward to
14 assist the witness in determining whether it's a
15 recollection of a negative event or whether, to
16 the best of his recollection, he never did receive
17 such information.

18 MS. LAWRENCE:
19 Mr. Commissioner, you're muted.

20 JUSTICE WILTON-SIEGEL: I
21 don't disagree, but I haven't seen any evidence
22 where there's a document that should have been
23 put, so that wasn't --

24 MR. LEDERMAN: No. I haven't
25 either, so I'm just asking if Ms. Lawrence needs

1 clarification as to whether he doesn't recall
2 versus having no knowledge of it, if there are
3 documents that have been produced as part of this
4 inquiry.

5 JUSTICE WILTON-SIEGEL: I will
6 leave that to Ms. Lawrence.

7 MS. LAWRENCE:
8 Mr. Commissioner, I will certainly attempt to
9 assist Mr. Moore with refreshing his memory with a
10 document any time I can.

11 JUSTICE WILTON-SIEGEL: Thank
12 you.

13 MR. LEDERMAN: Thank you.

14 BY MS. LAWRENCE:

15 Q. Mr. Moore, just before we
16 leave this page, just looking at the picture of
17 ramp 6, if you flip that photo around in your
18 mind, does that now look at the Mud Street ramp?

19 A. Okay. I know where that
20 is now. That's the freeway headed north and
21 that's the pond in the centre and that piece of
22 road which was confusing me is the Old Mt. Albion
23 Road, so that's the ramp from the Mud Street
24 extension to the freeway westbound. So, you're
25 correct, it is a portion in the Mud Street ramp.

1 It was throwing me.

2 Q. It was just --

3 A. It's a carbon copy of the
4 Dartnall Road interchange, so --

5 Q. Okay. Thank you. I'm
6 glad that we could clarify that.

7 Registrar, if you can close
8 these down and go to OD, page 35, paragraph 76.

9 So, the same day as that
10 second progress meeting, Mr. Kirchknopf responded
11 to an e-mail from Mr. Applebee who is at CIMA, who
12 had just sent a copy of the PowerPoint
13 presentation and the minutes and says:

14 "Regarding the parkway
15 mainline pavement
16 treatment, please be
17 advised that the City's
18 asset management section
19 has retained Golder
20 Associates to oversee all
21 testing and monitoring of
22 the specialized surface
23 material. Please contact
24 Ludomir directly."

25 Did you have a discussion with

1 Mr. Kirchknopf directing him or suggesting to him
2 that he send this note to CIMA?

3 A. I don't recall. No, I
4 don't.

5 Q. Do you recall any
6 discussions with Mr. Kirchknopf about providing
7 CIMA with more information about the pavement
8 structure on the Red Hill?

9 A. I don't. I don't recall.

10 Q. Okay. Is it more likely
11 or not that you gave Mr. Kirchknopf this
12 information?

13 A. Well, it's a little
14 confusing in that please be advised the City's
15 asset management section has retained Golder, so
16 I'm a little confused in that. It could have been
17 very likely that I did, you know, tell Gary that,
18 you know, if they have got questions on the
19 pavement, to contact Golder and he assumed that it
20 was asset management, whether me directly, but I
21 mean he would have information on the weight in
22 motion. So, other than that, I can't give you any
23 more clarity.

24 Q. And, at this time, you
25 hadn't asked Golder to conduct any friction

1 testing. Right? This is July 2013. I can tell
2 you when you ask --

3 A. Yeah, no. I don't
4 believe the friction testing request was until
5 later on 2013.

6 Q. That's right. But
7 sitting here today, you can't recall having a
8 conversation with Mr. Kirchknopf about providing
9 this information to CIMA?

10 A. No, I do not recall.

11 Q. Okay. And recognizing
12 that you don't recall, do you recall telling
13 Golder that CIMA might contact them?

14 A. It's possible, but I
15 don't recall.

16 Q. Okay. Registrar, can you
17 close this out and bring up page 38 and if you can
18 pull out the top of the page at paragraph 85.

19 So, I'm just orienting you in
20 time, Mr. Moore. In late July of 2013, CIMA sent
21 a draft of their report to Mr. Cooper and
22 Mr. Cooper forwarded it to Mr. Gallo and
23 Mr. Field.

24 You can close that down,
25 Mr. Registrar.

1 Did you review a draft of the
2 draft CIMA report at some point in 2013? I can
3 bring it up if you think it might refresh your
4 memory.

5 A. That would be helpful,
6 you know.

7 Q. Sure. Registrar, can you
8 bring up CIM8118.0001 and if you could just go
9 down into the table of contents.

10 This may or may not help you,
11 but it goes through a collision analysis, it goes
12 through an illumination review, it goes through
13 quite a significant field investigation. I'm not
14 sure visually what would help you to refresh your
15 memory. I will take you into one of these
16 documents, but does this help you in answering the
17 question about whether you reviewed a draft --

18 A. I don't believe I did. I
19 don't see anything there that refreshes my memory
20 in that I, you know -- there's a couple of other
21 items in there that likely would have had interest
22 to me and I may have taken action, but I don't
23 recall anything.

24 Q. Okay. Registrar, can you
25 close down the CIMA document and go to page 43 of

1 OD 6 and if you can call out 98, please.

2 So, Mr. Cooper does review a
3 draft of the CIMA report and he writes to
4 Mr. Cooper with his comments on it, and the third
5 bullet point says:

6 "The illumination of the
7 mainline has been
8 excluded. This is
9 decision is based upon
10 information that we
11 provided to CIMA. The
12 exclusion is not well
13 explained. Considering
14 that illumination on the
15 main was the first
16 request in the council
17 motion to review, I think
18 there should be far more
19 explanation as to why it
20 was excluded."

21 So, we're in August. Do you
22 recall having any discussion with Mr. Field about
23 the exclusion of the illumination of the mainline
24 in the CIMA draft report?

25 A. No, I do not. I do not

1 recall any discussion of that nature.

2 Q. All right. Do you
3 remember over time understanding that CIMA might
4 look at full illumination and, at the end of the
5 day, that illumination -- pardon me, not full,
6 illumination of the mainline was excluded from
7 their analysis?

8 A. Other than being aware
9 that they were doing the project and working on
10 various items, no, I don't recall any discussion
11 in that regard.

12 Q. And, again, this is just
13 an attempt to refresh your memory. Did you have
14 any discussions with Mr. Field about CIMA's
15 findings that certain ramps be illuminated, not
16 the mainline, but at certain ramps?

17 A. No, I don't believe so,
18 because I think I would have recalled a discussion
19 of that nature. It would have been a fairly
20 significant discussion. I know that there's
21 challenges in that, but I don't recall discussing
22 that with Mike at that time.

23 Q. What do you mean it would
24 have been a fairly significant discussion?

25 A. Well, my understanding is

1 illumination needs to be consistent across the
2 facility, so simply picking and choosing or cherry
3 picking and lighting some ramps and not others, I
4 don't believe is a desirable type of action. It's
5 not to say it can't be done, it's not to say that
6 it isn't done, but I think that would have been my
7 reaction to that at that time and I don't recall a
8 discussion in that regard.

9 Q. Mr. Commissioner, it is
10 20 to 4:00. We came back from lunch at 2:25, so
11 I've gone well beyond our normal break that we
12 take at 3:15 if we start back from lunch at 2:15,
13 so I'm in your hands as to with you would like to
14 take a break and for how long.

15 JUSTICE WILTON-SIEGEL: Okay.
16 I think we should take our break now and let's
17 take a 15-minute break.

18 MS. LAWRENCE: Thank you.

19 JUSTICE WILTON-SIEGEL: We'll
20 be back at five to 4:00.

21 --- Recess taken at 3:40 p.m.

22 --- Upon resuming at 3:55 p.m.

23 MS. LAWRENCE: Thank you,
24 Mr. Commissioner. May I proceed?

25 JUSTICE WILTON-SIEGEL: Yes,

1 please do.

2 MS. LAWRENCE: Thank you.

3 BY MS. LAWRENCE:

4 Q. Registrar, can you bring
5 up OD 6, page 45, paragraph 105, please. Thank
6 you.

7 CIMA provided Mr. Cooper at
8 the City with a document that it called the final
9 draft that had some revisions following
10 Mr. Field's comments and other that we just looked
11 at, and that was on August 23.

12 Registrar, can you close this
13 down and go to page 51, paragraph 126, please.

14 Mr. Cooper wrote to
15 Mr. Ferguson, Dave Ferguson, who has now joined
16 the City, and Mr. White about you, and he said,
17 Mr. Cooper said:

18 "I was speaking to
19 Mr. Field this morning
20 and he said that -- "

21 You:

22 " -- Gary Moore saw the
23 report and was not
24 pleased with the
25 recommendations provided

1 by CIMA. Have you spoken
2 to him about this? Are
3 you aware of anything in
4 particular that he does
5 not like or agreed with?"

6 So, in reviewing this -- and,
7 again, this is Mr. Field to Mr. Cooper from you,
8 but it says Gary Moore saw the report and is not
9 pleased with the recommendations -- do you recall
10 by September 19, had you reviewed a copy of any of
11 the drafts of the CIMA report that the City had
12 received?

13 A. I don't recall. I mean,
14 it's apparent here that I saw the report, but I
15 don't recall from this what I was not pleased
16 with, so I don't recall.

17 Q. But you'll agree that,
18 again, the way that this is relayed, by this
19 point, you think you had seen the CIMA report and
20 the recommendations contained in it?

21 A. I don't doubt that I had
22 seen it by this time. I don't know whether I just
23 got a copy of the final draft maybe in some sort
24 of a general review for the staff report or
25 something like that. I don't know.

1 Q. Okay. You don't remember
2 the details of how you got it? You don't remember
3 if Mr. Field provided it to you, for example?

4 A. I don't, no.

5 Q. Okay. Registrar, can you
6 bring up CIM8098.0001.

7 And I'm just going to take you
8 through and ask if this assists in refreshing your
9 memory about what you weren't pleased with.

10 First, can you go to image 8,
11 Registrar.

12 This isn't a question about
13 whether you were pleased or not, but there's a
14 number of documents that are referenced at the
15 bottom of that page: The impact and design
16 process, a website and the public consultation
17 report. Do you recall did you provide Mr. Field
18 or Mr. Malone with these references to these
19 documents?

20 A. I don't believe I did. I
21 don't recall providing that information, but that
22 looks like the information that was available on
23 that public-facing website.

24 Q. Okay. Registrar, can you
25 go to image 44, please.

1 So, just before we get here,
2 I'm taking you through aspects of this report.
3 I'm not taking you through all of it. I assume
4 you reviewed it in advance of today to prepare for
5 today.

6 There's various
7 recommendations relating to signage and to
8 pavement markings. Would you be displeased about
9 any of those kinds of recommendations?

10 A. I don't know I would be,
11 sitting here today.

12 Q. That's not really part of
13 your scope. That's absolutely traffic's scope.
14 Right?

15 A. Yeah, absolutely.

16 Q. So, looking to this at
17 the bottom, if you can pull out, Registrar, 6.2.1.
18 So, this is in respect of the installation of
19 permanent pavement markings or cat's eyes. Did
20 you have any concerns in 2013 about this
21 recommendation, to install cat's eyes?

22 A. I don't know why I would.

23 Q. Okay. Registrar, can you
24 go to image 25 and 26, please.

25 So, there's an illumination

1 review and there's references to the methodology,
2 which says that the decision not to illuminate the
3 entire parkway section was inextricably linked to
4 environmental concerns and approvals. Were you
5 the source of that information for CIMA, to your
6 knowledge?

7 A. I don't believe so, I
8 believe that's in all those other documents that
9 were previously referenced.

10 Q. Okay. Registrar, can you
11 go to images 27 and 28, please, and can you pull
12 out the section under 4.4.2.

13 And so, the illumination
14 results warranted the illumination of certain
15 ramps as set out here. Not all the ramps were
16 warranted to be illuminated, but some were. Maybe
17 I'll take you actually to image 60 and 61, please.

18 And so, you'll see this
19 version actually just has it in red, but you'll
20 see it says:

21 "Install lighting on-ramp
22 at ramp 5, ramp 6, ramp
23 7A and B, and ramp 8."

24 And I can certainly go I take
25 you to where those ramps are. I know they're not

1 all that clear. Was this the part of
2 recommendations that you were not pleased with?

3 A. Yeah, I don't -- I know I
4 would have concerns with, you know, fully
5 illuminating a portion of the facility and not
6 fully illuminating from my knowledge of what was
7 preferable and what was not preferable in terms of
8 that. I don't know whether this was specifically
9 what was -- I guess it goes back to Mike's letter.
10 I don't know what he meant by I wasn't pleased,
11 so --

12 Q. Well, I'm asking you what
13 were you displeased about?

14 A. I don't know. I don't
15 know what the extent of this comment was or what
16 he was referring to. I can't see anything -- I
17 mean, would I have concerns with some of these
18 things? Yes, I would have concerns. I don't know
19 whether or not pleased is the term.

20 Q. Okay. So, when you
21 reviewed the CIMA report, did you have concerns
22 with their recommendation to illuminate ramps 5,
23 6, 7A/B and 8?

24 A. I don't recall
25 specifically reviewing it and what specific

1 concerns I might have had. Looking here today, I
2 know I may have had concerns with the full
3 illumination of a partial interchange within the
4 facility. But, I mean, having concerns and
5 wanting to discuss them more fully is not an
6 unusual thing when this is the first time you've
7 seen something.

8 Q. Okay. So, you said
9 earlier that lighting wasn't really in your scope,
10 so you said it would be good to have discussions.
11 What did you view your role personally to be in
12 assessing the appropriateness of a lighting
13 recommendation?

14 A. I guess that the
15 approvals, you know, that all of the i's were
16 dotted and the t's were crossed with respect to
17 what was originally approved and any subsequent
18 modifications to that, regardless of what it was,
19 were consistent with what was approved.

20 Q. I understand the
21 substance of your concern. My question was: Why
22 were you personally wading in when you had
23 Mr. Field and Mr. McGuire involved in this
24 project?

25 MR. LEDERMAN: Sorry to

1 interrupt. I guess I'm having some trouble with
2 that question because I don't believe Mr. Moore
3 said that he did wade in and he couldn't recall
4 what that reference was to him being displeased
5 about something in the draft report, so I don't
6 know that that question, that the witness can
7 answer that question in light of what we've heard
8 from Mr. Moore.

9 MS. LAWRENCE: That's fine. I
10 can hold this question until we get to the aspects
11 where he does wade in.

12 MR. LEDERMAN: That's fine.

13 JUSTICE WILTON-SIEGEL: Okay,
14 that's fine.

15 BY MS. LAWRENCE:

16 Q. Registrar, can you go to
17 image 58.

18 There's a countermeasure for
19 the whole study area to conduct friction testing,
20 you'll see at the top of the first chart.

21 Registrar, can you also pull
22 up image 44.

23 And this is the narrative that
24 goes along with that recommendation.

25 Registrar, can you pull out

1 6.6.1.

2 Did you have any view about
3 CIMA's recommendation that the City conduct
4 friction testing when you reviewed the report in
5 2013?

6 A. Sorry, ask me that
7 question again?

8 Q. Did you have any view
9 about CIMA's recommendation that the City conduct
10 friction testing when you reviewed the report in
11 2013?

12 A. I don't know whether I
13 had a view at that time in regard to this, other
14 than I, you know, was aware it was sort of
15 something that wasn't traditionally done and that
16 we didn't have any background in performing this
17 testing, other than the information that had
18 provided in that regard from MTO through to our
19 consultant. So, I may have had some questions or,
20 you know, what are we going to do with this type
21 of information, but I don't think I would have any
22 other type of comment in that regard.

23 Q. Okay. So, your questions
24 would have been: We can't do this in-house, how
25 am I going to implement this, and looking for

1 guidance on that?

2 A. What are we going to do?
3 When are we going to do this? How are we going to
4 do it? You know, what is it for? What does it
5 achieve? We have a baseline, but then -- so, I
6 probably wasn't clear on its applicability as a
7 countermeasure.

8 Q. Okay. So, not just
9 issues around questions about how to implement
10 this, but also challenging its usefulness?

11 A. I believe if I read that
12 at that time that's the type of comment I may have
13 made.

14 Q. Okay. The parkway didn't
15 have any design specifications that specified
16 friction values. Right?

17 A. Not that I'm aware of.

18 Q. And coming out of this
19 draft report, you didn't tell anyone at the City
20 or at CIMA that there was no design specifications
21 on friction to which to compare testing that was
22 being proposed, did you?

23 A. No, but I wasn't -- I
24 don't believe I was consulted in that regard.

25 Q. I understand, but where

1 you just said you would have these questions, but
2 you didn't actually raise those questions with
3 anyone. Is that right?

4 A. So, up to this point, I
5 haven't talked to anyone. Alls I've done is seen
6 this.

7 Q. And told Mr. Field you
8 weren't pleased?

9 A. Well, I don't know what I
10 told Mr. Field or how I relayed that.

11 Q. Okay. But coming out in
12 the project that CIMA was doing, certainly the
13 inquiry doesn't have any evidence, any documents,
14 to suggest that you conveyed any concerns at the
15 time about not having design specifications to
16 which to compare friction testing. Do you have
17 any evidence that you did?

18 A. No, I didn't.

19 Q. Okay. You didn't? Okay.

20 A. I don't have any evidence
21 that we had any design specifications or any
22 standards whatever.

23 Q. My question was: Did you
24 have any evidence that you conveyed that to
25 anybody?

1 A. I couldn't convey it if I
2 didn't have it, so, I mean, no. I would say no.
3 I have no evidence that I conveyed that
4 information.

5 Q. Okay. Can you close
6 these two documents out, Registrar, or this
7 document out and call up OD 6, page 52. And on
8 the other image, can you call up GOL1430, please.

9 So, looking at paragraph 130
10 on image 1, the inquiry has obtained a second
11 draft of what becomes the Golder report, that is
12 at the time called the five-year report, and it's
13 now dated September 20, 2013 and it has some new
14 draft language and a new text under Analysis and
15 Recommendations. You'll recall this morning I
16 took you to a few different sections of the
17 June 13 draft.

18 Registrar, can you go to
19 image 10 of image 2. Maybe it's image 9. There.
20 So, it's under 5.1, we're just looking at the same
21 two things on each screen now.

22 Do you recall either
23 Dr. Uzarowski sending you a copy of the draft
24 report that had this information or conveying it
25 to you orally?

1 A. Specifically, no, I don't
2 recall.

3 Q. Okay. Registrar, you can
4 close out image 2 and if you can keep up 52 and
5 bring up page 53 as well.

6 Do you recall in September of
7 2013 Hamilton experienced very heavy rainfall, not
8 a flood, but just a significant amount of rain
9 over a weekend?

10 I'm sorry, I think I saw you
11 move your mouth, but I didn't hear anything.

12 A. Yeah. No. I mean, I
13 don't -- we have lots of heavy rainfalls. I don't
14 specifically remember this one.

15 Q. Okay. Registrar, can you
16 pull out the indented text at the top of page 53,
17 please.

18 So, I'm going to take you
19 through a few documents which eventually as a
20 chain gets forwarded to you. So, this is from
21 district supervisors within roads operation and
22 they say:

23 "Saturday, due to heavy
24 rain, we had some issues,
25 quite a few accidents.

1 We checked the ramps and
2 the road has been very
3 slippery there. Not much
4 we can do. Every time it
5 rains, this is an ongoing
6 issue. I feel it's a
7 pavement problem and
8 speed problem."

9 And if you can take out that
10 call out, Registrar, and if you can pull out the
11 call out at the bottom of that same page.

12 This is also from a district
13 supervisor e-mail and she says:

14 "We're getting several
15 collisions every time it
16 rains and police are
17 asking us to do
18 something, like add sand,
19 putting these signs."

20 And, in particular, that's
21 slippery when wet signs:

22 "It can take the
23 liability away from the
24 City and on to drivers
25 who choose not to slow

1 down."

2 If you could put that down,

3 Registrar.

4 Again, Mr. Moore, I'm just
5 setting you up to refresh your memory about this
6 back and forth.

7 And if you can go into the
8 middle of the page now.

9 So, this is also from a
10 district supervisor who says:

11 "It's a Superpave project
12 that has more liquid
13 asphalt and small glass
14 shards that, for obvious
15 reasons, makes it
16 slippery when wet."

17 And this is the e-mail in
18 which there's a suggestion for slippery when wet
19 signs to be placed throughout the Red Hill,
20 especially on the ramps.

21 Registrar, if you can close
22 those down.

23 So, that's the back and forth
24 and Bryan Shynal flips this to you.

25 Registrar, can you go to the

1 next page, please. You don't have to call it out,
2 Registrar.

3 But in paragraph 135, he flips
4 it to you, to Mr. White, to Mr. Mater and to
5 Mr. Lupton and Mr. White has already been brought
6 in. And you respond 25 minutes later. So, this
7 is Monday morning.

8 Registrar, can you pull up
9 136, please.

10 So, you say:

11 "The surface course is
12 meant to last 14 to
13 17 years before a shave
14 and pave."

15 Can you see that five lines
16 down?

17 A. Mm-hmm.

18 Q. So, at the time, in 2013,
19 you were anticipating a shave and pave in about
20 2021 to 2024, somewhere in there?

21 A. This is in 2013?

22 Q. Yes.

23 A. Yes. So, typically, you
24 know, if all else things being equal, if the
25 amount of traffic is as you originally intended, a

1 typical timeframe on which you can do it, you
2 know, when you're looking at a normal road.

3 Q. Okay. In fact, the
4 parkway had been planned out for a shave and pave
5 at around 14 to 17 years. Right?

6 A. I don't know that it had
7 been planned out for that.

8 Q. Okay.

9 A. I don't know where that
10 information would come from.

11 Q. You say at the very top:
12 "There is no glass shards
13 of any kind in the mix."

14 And I think you know today
15 that is correct. There's no glass shards in SMA.
16 Right?

17 A. Yeah, I was responding to
18 all of the inaccuracies in all of those other --

19 Q. I understand.

20 A. -- correspondence.

21 Q. So, you mentioned that
22 the surface course mix is SMA and you say:

23 "It's a gap graded
24 premium asphalt surface
25 course with premium

1 aggregates to provide for
2 long-term skid resistance
3 and grip."

4 A. Yeah.

5 Q. Then you reference the
6 sand and say don't put sand down. And then you
7 say, and I'm now five lines from the bottom:

8 "These are
9 high-performance
10 pavements that were
11 tested when they were put
12 down. They exceeded all
13 MTO criteria, in fact,
14 better than any
15 400-series highway."

16 What were you referring to
17 when you said they were tested when they were put
18 down? What tests?

19 A. All the tests:
20 Gradation, asphalt content, the test with respect
21 to the asphalt, compaction, all the different
22 layers. We looked at -- we didn't use standard
23 MTO testing. We went above and beyond their
24 standard protocols to ensure that we got quality
25 when we put down the pavement.

1 Q. Okay. This e-mail is
2 directed at slippery when wet signs and you make
3 specific reference two sentences up to:

4 "This kind of pavement
5 providing skid resistance
6 and grip."

7 A. Mm-hmm.

8 Q. When you said "exceeded
9 all MTO criteria, in fact, better than any
10 400-series highway," that sounds a lot like the
11 language that Dr. Uzarowski provided to you when
12 he gave you the 2007 friction test. I'm going to
13 suggest to you that you were actually referencing
14 friction testing when you said exceeding MTO
15 criteria?

16 A. It would have been
17 included in that reference, yes.

18 Q. Okay. You then go on to
19 say:

20 "Recent testing has shown
21 little cracking, no
22 rutting or no related
23 deformation."

24 And then you say:

25 "There's no reason why

1 weather. I mean, these were extreme wet weather.
2 I mean, the way that the staff were referring to
3 this was that the road was under water, which has
4 nothing to do with any pavement performance. But
5 this response was, you know, to try and give the
6 staff better information on what was out there.

7 Q. Okay, Mr. Moore. I think
8 I took you --

9 A. Sorry I didn't answer
10 your question.

11 Q. I took you to the e-mail
12 from the district roads supervisor that said every
13 time it rains, this happens. So, did you connect
14 the issue with wet weather collisions to what you
15 had reviewed in the CIMA report?

16 A. I don't believe so. I
17 don't believe it was something that what I would
18 have turned my mind to.

19 Q. Okay. So, coming out of
20 this, Martin White says, we're going to do a
21 collision history.

22 Registrar, you can close this
23 down.

24 We're going to see what the
25 collisions actually say, not just rely on what the

1 roads people anecdotally provide to us. And he
2 suggests asking about whether there's a claims
3 history.

4 Registrar, can you go to
5 page 56, please.

6 Mr. McLennan says, who is in
7 risk -- sorry, can you go to the next page,
8 please. I want to get to paragraph 149, so I
9 think it might be two more over. Thank you. And
10 if you can pull out Mr. McLennan's e-mail. So,
11 your copied on this and you know John McLennan
12 from risk?

13 A. I do.

14 Q. And did you think it was
15 a good idea, what Martin White was suggesting?
16 Figure out what's going on on the road in terms of
17 a collision history, but also see whether there's
18 any litigation history?

19 A. It's consistent with
20 something we would do if we had been given some
21 indication on any road. This road is in bad
22 condition. Well, John, have we got -- is there
23 one road that's worse than the other? We got a
24 big collision. So, we would use that type of data
25 to help guide us in decision making.

1 Q. Okay. In the second
2 paragraph, Mr. McLennan responds:

3 "In the event of a
4 serious accident in the
5 future, this experience
6 will be cited and the
7 allegation will be 'we
8 knew of a problem and
9 ought to have done
10 something about it.'
11 Lawyers love to use the
12 word 'ought.'"

13 Can you close this down,
14 Registrar, and can you go to page 59 and 60.

15 So, at the bottom you can see
16 this is a few days later, on September 30. You
17 and Dr. Uzarowski exchanged some e-mails.

18 Registrar, can you pull out
19 the top of page 60, please.

20 You say to him:

21 "...the police have been
22 attributing accidents to
23 the 'slipperiness' of the
24 pavement. Did we do any
25 'skid resistance' testing

1 in our last outing?"

2 So, here, skid resistance

3 testing, you know that another term for that is

4 friction testing. Right?

5 A. Yes.

6 Q. And when you say "our

7 last outing," what do you mean?

8 A. I believe I was referring

9 to the last study that he was doing out on the

10 freeway.

11 Q. The five-year pavement

12 condition?

13 A. The five-year, yeah.

14 Q. Okay. And he says in

15 response:

16 "We did very limited (a

17 few locations only) skid

18 testing on the RHVP right

19 after construction, i.e.

20 in 2007, and got good

21 numbers, better than the

22 MTO typically has."

23 Did you recall that the

24 testing that he was referring to here had been

25 conducted by MTO?

1 A. Yes.

2 Q. And did this refresh your
3 memory about the results from the MTO testing that
4 he had conveyed to you back in 2007?

5 A. I believe so. I mean, I
6 knew that we had -- that MTO had done testing and
7 that Ludomir had indicated that it was good.

8 Q. Okay. And at the time,
9 did you understand that there was a standard by
10 which skid resistance testing can be compared
11 because Dr. Uzarowski here is saying good numbers,
12 better than what the MTO typically has?

13 A. Yeah. I don't know
14 whether that was a reference to a standard or
15 simply comparatively speaking that, you know,
16 against what numbers MTO got.

17 Q. Okay. But you understood
18 that Dr. Uzarowski, in 2007 and then now here, is
19 reminding you that there is a way to determine if
20 friction numbers are good or not good?

21 A. Well, I don't know that
22 that's implied here. We've asked for the skid
23 testing. Analysis or comparison, I guess, is
24 something that may or may not be implied, but I
25 don't know that that was anticipated or that the

1 difficulty with that was being anticipated, was
2 anticipated at this time.

3 Q. Okay. But at this time
4 you would have understood if you do skid testing
5 that you're going to get some results that you can
6 use coming out of skid testing?

7 A. Hopefully you're gonna
8 get numbers you can use, yes.

9 Q. Hopefully you're not
10 paying for good value?

11 A. That's always what you're
12 aiming to do, yes.

13 Q. You seem to approve his
14 suggestion to get a price and to let you know and
15 to organize it. Is that right?

16 A. That's correct.

17 Q. And you were doing that
18 following from that back and forth, including
19 Mr. McLennan's last e-mail about doing some due
20 diligence, to doing something so that you know so
21 that you can say that you ought to have done
22 something so you've done something. Is that
23 right?

24 A. I believe you're correct
25 in that it was my consideration of John's note

1 and, you know, trying to figure out the ought to
2 do part, what we could do proactively to provide
3 him some information in the future and skid
4 testing, I guess, came to mind and, hence, a
5 proactive approach. That's why -- Ludomir was out
6 there doing the other testing anyway, so I don't
7 know whether I knew that he was done everything
8 out there. I may have been under the impression
9 that he was still doing work out there, so I think
10 that was my impetus to ask him, you know, you're
11 out there anyways, can you do this?

12 Q. Okay. And were you also
13 doing it because you knew that CIMA intended to
14 recommend performing friction testing at least in
15 the study area that they had been looking at?

16 A. I would like to say yes,
17 but I don't know that that influenced my decision
18 here.

19 Q. You don't know if you
20 were being that efficient?

21 A. Yeah.

22 Q. Okay. You didn't give
23 Dr. Uzarowski any other direction about the type
24 of testing to be done. You left it to him?

25 A. No. I was relying on him

1 to, you know, provide me with, you know, however
2 you do this.

3 Q. Okay. Were you aware
4 that following from this e-mail, Golder reached
5 out to the MTO to see if they could redo testing,
6 like they had in 2007? Did he tell you that?

7 A. I don't know whether he
8 did or not. I don't specifically recall. It was
9 probably the best idea for the first start.
10 You've got MTO numbers in the first place. If
11 you're going to get any meaningful numbers, it
12 would have been an ideal person to approach to do
13 it rather than reinvent the wheel, so I'm not
14 surprised that that was his approach.

15 Q. Do you recall did he
16 advise you that MTO couldn't do it or had declined
17 to do it and that they had reached out to a
18 company called Tradewind?

19 A. I don't believe so. I
20 don't recall a discussion in that regard and,
21 again, I don't believe it did, because I think the
22 first time I found out how it was done was when I
23 read the Tradewind report and discussed that with
24 him.

25 Q. Okay.

1 MR. LEDERMAN:

2 Mr. Commissioner --

3 MS. LAWRENCE: I'm out of
4 time.

5 MR. LEDERMAN: Yes. I'm just
6 raising that it's 4:33 and we have him for a
7 number of days still.

8 MS. LAWRENCE: I was about to
9 raise it as well. I just wanted to allow
10 Mr. Moore to finish up his last answer. But,
11 Commissioner, I think this is a good time to break
12 for the weekend. Mr. Moore is planning to be back
13 Monday to Thursday.

14 JUSTICE WILTON-SIEGEL: Well,
15 that's fine. I concur in that view. So, we'll
16 stand adjourned until Monday morning at 9:30.

17 --- Whereupon the proceedings adjourned at
18 4:34 p.m. until Monday, July 18, 2022,
19 at 9:30 a.m.

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