

RED HILL VALLEY PARKWAY INQUIRY

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

VOLUME 72

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1 Arbitration Place Virtual

2 --- Upon resuming on Thursday, October 20

3 at 9:30 a.m.

4 MS. LAWRENCE: Good morning.

5 Commissioner, may I proceed?

6 JUSTICE WILTON-SIEGEL: Yes,

7 please do.

8 PREVIOUSLY AFFIRMED: GORDON MCGUIRE

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

10 Q. Good morning, Mr.E

11 McGuire. Registrar, could you bring up OD9A

12 page 22, please. Can you call up 46 and 47,

13 please.

14 Mr. McGuire, just to orient

15 you back to where we left off yesterday, in May

16 of 2018 CIMA had been retained to do what we call

17 the lighting study, and in May of 2018 CIMA

18 e-mailed a memorandum to Mr. Field about the

19 findings of the review of the historical EA. And

20 that was going to be, you'll see in 46, "the

21 content of this document in our meeting tomorrow."

22 There's also an agenda for that day that included

23 reference to this memo.

24 Registrar, you can close that

25 callout.

1 So yesterday you said that you
2 attended a kickoff meeting and that you were
3 working -- I'll paraphrase -- with Mr. Field on
4 this matter as a matter of oversight; is that
5 fair?

6 A. Yeah, that's reasonable.
7 I think those are my recollections.

8 Q. So by May of 2018, what
9 did you view your role in the lighting study to
10 be?

11 A. I'm still involved in it.
12 I was one of the originators of it. But my role
13 would be to, again, just keep my eye on it and
14 make sure it's moving forward.

15 Q. Do you recall attending
16 the progress meeting that Mr. Omrani references,
17 would be on May 23rd?

18 A. No, I don't recall.

19 Q. It was the meeting in
20 which CIMA conveyed its findings from the EA
21 review to the City for the first time. Do you
22 remember that?

23 A. No, I don't. Was I in
24 attendance?

25 Q. You were, yeah.

1 A. Okay.

2 Q. CIMA found that there was
3 no documentation that continuous illumination
4 would be precluded, that is, no documentation from
5 the original EA. And we talked a little bit about
6 that generally yesterday. Do you remember
7 becoming aware from CIMA that the former EA or the
8 EA documentation didn't include any preclusion of
9 continuous illumination?

10 A. So again, my
11 understanding of the Red Hill project and back to
12 the original designs and design reviews was that
13 lighting was considered, and I'm not sure if there
14 was a separate report or part of a larger design
15 review. And then the decision was made to do
16 lighting in the form that it was installed, which
17 I think is characterized as decision point and
18 ramp lighting and that was what was brought
19 forward in the project. So again, I guess we're
20 -- I think you've asked me this and I think that
21 was my answer yesterday.

22 Q. It was. And just so that
23 I'm clear, that was your understanding prior to
24 CIMA's retainer of the lighting study?

25 A. Correct.

1 Q. And then what did you
2 understand to be different? Was your
3 understanding different when CIMA completed its
4 review of the historical EA documentation?

5 A. So I think in context,
6 what I understood about lighting in the Red Hill
7 Valley was there was a sensitivity to
8 environmental factors and a variety of other
9 things that the EA or a previous document had
10 considered. What this is telling us is it
11 wasn't -- that whatever took place prior to that
12 didn't completely exclude ever lighting in the
13 valley. That's my understanding at this point.
14 And that they're going to continue on reviewing
15 options and what's required to move forward.

16 Q. So from a go-forward
17 perspective, those findings about the historical
18 EA mean that the issue of continuous illumination
19 had not been completely taken off the table back
20 in the 1990s and 2000s and that would be relevant
21 going forward for you?

22 A. Again, I mean, my
23 understanding of this was, and I think that the
24 2015 review also took a look at this, that there
25 was some consideration of lighting but it was

1 decided to go with the decision point and ramp
2 lighting.

3 Q. Did you perceive that
4 Mr. Field found CIMA's findings from the
5 historical EA to be different than what he
6 previously understood?

7 A. I'm not sure about what
8 Mike understood and you know, I'll be honest with
9 you, in trying to understand all of the elements
10 that fed into the creation of the Red Hill, which
11 I think was about a 30-year project, are
12 difficult. So those were my understandings at
13 that time.

14 Q. Thank you. Registrar,
15 can you go to 16997, please. Pardon me. It's
16 CIM16997.0001.

17 Mr. McGuire, you'll see this
18 is the agenda. I'm not going to take you to the
19 actual memo that Mr. Omrani prepared. The memo
20 speaks about the EA review, and then under next
21 steps it has safety analysis and illumination
22 review. Did you understand the safety analysis in
23 terms of the next step would be to do an updated
24 collision review?

25 A. Pardon me. One second.

1 Something has popped up on my screen. Looks like
2 IT is trying to run a scan or something. Hold on.
3 Apologies.

4 Q. No problem. Did you just
5 decline it?

6 A. Yeah, I did. I'm hoping
7 that doesn't do something else. Anyways.

8 Q. If it does, we'll deal
9 with it. If it comes up you let us know. Under
10 next steps it has safety analysis. Did you
11 understand that that would be an updated collision
12 review?

13 A. Yeah, I understand that
14 it would be a review of all the elements required
15 to provide inputs into the warrants through the
16 TAC and MTO and everything else like that.

17 Q. I think that's the
18 illumination review which is the second (skipped
19 audio) number 4.

20 A. Correct, but I believe
21 that the inputs into that are traffic and
22 collisions and time of day, et cetera, et cetera.
23 So I would say that that first part would be data
24 gathering and the second part would be the review
25 or the calculations of the illumination.

1 Q. I understand. But my
2 question was you understood there was going to be
3 an updated collision analysis done?

4 A. Yeah. Well, I mean, I
5 don't know if it would be an updated one or -- I
6 think I'm aware that they are working with
7 operations at the time, but either way, they will
8 be getting current data.

9 Q. Registrar, you can close
10 this and go back to OD9 page 24, please. Can you
11 pull out paragraph 54.

12 So that meeting we were just
13 looking at with CIMA, which all the documents
14 suggest is when CIMA provides fairly comprehensive
15 assessment of its findings on the historical EA,
16 that was May 23rd. You and Mr. McKinnon meet on
17 June 11. The subject line Linc/Red Hill lighting.
18 Do you recall updating Mr. McKinnon about the
19 progress meeting with CIMA on the lighting study?

20 A. No, I don't.

21 Q. Was it typical to involve
22 the general manager at this relatively early stage
23 in a project? You know, CIMA's done some work but
24 not -- has not finished its work?

25 A. You know, I had meetings

1 with Dan on a reasonably frequent basis and maybe
2 this was just an update for him. I'm not sure.

3 Q. I'm going to suggest to
4 you that you updated him because the EA historical
5 review actually did represent a change from what
6 the City had previously conveyed in past reports
7 about the EA; is that fair?

8 MS. CONTRACTOR: I'm sorry to
9 interrupt, but I don't think that we've seen a
10 document that expressly states that. And so I'm
11 happy for commission counsel put that to Mr.
12 McGuire, but we've been through the 2013 and 2015
13 CIMA reports and witnesses have provided their
14 understanding of that, so I just don't think
15 that's a fair characterization.

16 MS. LAWRENCE: I don't want to
17 have to go back into the September 2016 update
18 to -- information update, but that's the document
19 that I'm referring to.

20 MS. CONTRACTOR: Right. But,
21 Commissioner --

22 JUSTICE WILTON-SIEGEL:
23 Ms. Contractor, I'm going to advise against your
24 interfering in the way that you started recently.
25 It's a perfectly reasonable question to put a

1 suggestion of this nature to Mr. McGuire and he's
2 more than capable of answering whether or not that
3 is the case.

4 MS. CONTRACTOR: I understand,
5 Mr. Commissioner --

6 JUSTICE WILTON-SIEGEL: If you
7 feel there's some document that would help clarify
8 whatever answer he gives then you're entitled to
9 put that document to him and get whatever answer
10 that results with on examination -- on your
11 examination, but we're not going to assess whether
12 or not each and every question is fair from your
13 point of view.

14 MS. CONTRACTOR: Thank you,
15 Mr. Commissioner. My concern was that --

16 JUSTICE WILTON-SIEGEL: I'm
17 not going to hear your concern any further. I
18 understand your concern. I don't think it's
19 reasonable in the circumstances. This is putting
20 a suggestion to Mr. McGuire and I think it should
21 be allowed.

22 MS. CONTRACTOR: Thank you,
23 Mr. Commissioner.

24 BY MS. LAWRENCE:

25 Q. Mr. McGuire, my question

1 was, I'm going to suggest you updated Mr. McKinnon
2 because the historical review of the EA
3 documentation represented a change from what the
4 City had previously conveyed in past reports about
5 the EA; is that fair?

6 A. Again, I'm not
7 100 percent sure what I updated Dan on at that
8 time. My understanding is, and maybe using the
9 phrase EA broadly, that the project had considered
10 lighting but had not included continuous lighting.
11 I know by this point in time there's been a few
12 directions from council to review lighting or to
13 have an assessment or understand it so -- yeah,
14 we're getting information here that tells us that
15 the original EA -- I don't believe, and I'm
16 careful about the words here, I don't believe it
17 considered lighting. It may not have excluded it.

18 Q. Registrar, you can close
19 this callout.

20 We looked at e-mails from late
21 May a moment ago --not a moment ago, yesterday,
22 feels like just a moment ago. These were e-mails
23 between you and Ms. Graham about the Spectator's
24 request for information about asphalt testing. Do
25 you remember that? Yesterday? I'll come back to

1 it, but just in terms of refreshing your memory.

2 A. Is this in advance of the
3 July 19th conversation with the Spectator?

4 Q. It is. In fact, I can
5 take you back to it, just so you can see where I
6 was going with it.

7 Registrar, can you go to
8 page 16.

9 And you'll see from
10 paragraphs 26 to 29, this is when Ms. O'Reilly
11 first e-mails Mr. Moore and it gets flipped to you
12 because he's in the middle transitioning into his
13 retirement and new job. And then in 29,
14 Ms. Graham says -- e-mails you to inquire about
15 the status of the rehabilitation, and this is
16 really my question here. And you say:

17 "Not sure where it landed. We
18 were waiting for a new
19 technology called hot
20 in-place. Marco Oddi may have
21 some insights. Will be in
22 soon."

23 We went through some of this
24 yesterday.

25 My question is, did -- and you

1 said yesterday that you were really just starting
2 to get up to speed on the issue of hot in-place
3 recycling and that project as a whole. You
4 reference Marco Oddi here.

5 Did you understand that he was
6 -- that he had lead or that he was responsible for
7 the hot in-place project?

8 A. I don't -- I don't think
9 I would have identified Marco as the lead but one
10 of the sort of key players that would have been
11 probably a collaborative effort in order to
12 determine how that technology was going to be
13 assessed and applied.

14 Q. I'm going to come back to
15 hot in-place recycling in a moment, but just
16 before we do, I have some questions about
17 budgeting.

18 Registrar, can you put up
19 page 25 and 26, please.

20 You will see at the bottom of
21 25 in June, mid-June, Mr. Andoga e-mailed you and
22 Mr. Sidawi about funding options and sets out --
23 Registrar, can you pull out the e-mail in
24 paragraph 63 at the top of page 26. This is
25 June 14th, Mr. McGuire.

1 The e-mail sets out some
2 funding -- potential funding sources and says the
3 remaining 2.65 million can be funded from the Red
4 Hill resurfacing. And then it has a list of,
5 looks like different capital projects and their
6 amounts for them. And then it says:

7 "This would leave funding to
8 complete ramp repairs in 2018,
9 if needed. With the revised
10 scope of the Red Hill, if hot
11 in-place is determined the
12 preferred option, additional
13 funding will not be needed,
14 therefore no additional
15 funding pressures."

16 So this is June. Do you
17 recall if you were trying to find funds for ramp
18 repairs and you were thinking or Mr. Andoga was
19 considering taking some of the funds from the Red
20 Hill paving if there was any left over? Do you
21 recall this e-mail and the context?

22 A. I recall this e-mail in
23 the context of trying to understand sort of the
24 saving or the cost differential between the use of
25 hot in-place and it looks like I'm getting some

1 information from Rick on what I would assume to be
2 conventional methods. And sorry, to answer your
3 question, I don't think I'm -- I'm focused on
4 whether the ramps are included or not at this
5 point, just trying -- you know, it's really more
6 about a large project and the mainline paving.

7 Q. But complete ramp repairs
8 and 2018 at the bottom there, is that a reference
9 to Red Hill ramps or other ramp repairs that were
10 being considered by public works?

11 A. I'm not certain.

12 Q. Registrar, can you close
13 this down and go to page 40, please. If you can
14 pull out 100. You can put 100 and 101 please.
15 Thank you.

16 So I've jumped forward in time
17 because this is about budgeting as well. And so
18 it's July 19 and you receive information from Alan
19 Jazvac about the project programming for the Red
20 Hill, and he sets out in red, I believe the
21 original budgeted amounts for 2018 and 2019 and I
22 think the black is your questions.

23 "Different strategy if we use
24 HIP, maybe do it all on one
25 year? Dependant on

1 opportunity."

2 And then if you go to 101 you
3 say why are southbound lanes being sampled first
4 and whether both sides would be sampled. So just
5 so that I understand, you understand that hot
6 in-place might be a more cost-effective option
7 than a traditional shave and pave; is that right?

8 A. Yeah, correct.

9 Q. And that goes into your
10 thinking as we go forward about whether to proceed
11 with hot in-place for the Red Hill?

12 A. Correct.

13 Q. Registrar, could you
14 close this down and go to page 26 and 27, please.
15 So apologies for jumping around in time. We're
16 back in June. You see at the bottom of 26 at
17 paragraph 66 you e-mail again the same --
18 Mr. Andoga and Mr. --

19 A. Mr. Sidawi.

20 Q. Sidawi. And you say
21 where are we on this. Is this technology in
22 Ontario yet. So again, you're still getting up to
23 speed about the thinking of the design team and
24 asset management on hot in-place, is that fair, by
25 June, end of June 2018?

1 A. That's fair.

2 Q. And Mr. Becke, you'll see
3 on page 27 at paragraph 68, sends you quite a
4 lengthy update about hot in-place, including that
5 design had retained Golder Associates to complete
6 lab testing and provide guidance on the design.
7 Do you see that?

8 A. I do, correct.

9 Q. Was this the first time
10 that you really got some detail about hot in-place
11 recycling?

12 A. One of the -- I mean one
13 of the benefits about dealing with Mike Becke is
14 he gives you a fairly detailed response. I may
15 have gotten some of this sort of information
16 verbally or in a hallway meeting prior to this,
17 but yeah, I think this is probably the sort of the
18 most comprehensive review that I would have seen
19 up to that point in time.

20 Q. By this point, Golder had
21 put in a proposal for its project where it says in
22 the second paragraph design has retained
23 Golder Associates. That of course was after a
24 proposal was submitted. You didn't actually get
25 into the details of exactly what Golder was doing,

1 what that process would look like, right?

2 A. That's correct.

3 Q. Registrar, could you move
4 so we can see 27 and 28. Thank you. I just
5 wanted to show that you're quite right, Mr. Becke
6 does provide a fair bit of detailed information.

7 Generally through this e-mail
8 or your hallway conversations, what were the
9 drawbacks of hot in-place that were presented to
10 you, if any?

11 A. Well, I think -- I mean,
12 the main drawback that I'm understanding right now
13 is it's not in use locally, and when I say
14 locally, I would sort of say southern Ontario, the
15 GTA area. So it appears to be a technique that is
16 referred to as being used in British Columbia and
17 now northern Ontario, but we don't have kind of a
18 local opportunity to either review or determine
19 what's going on with this.

20 Q. So you'll see at the
21 bottom of 27 and on to 28 the MTO had a contract
22 to do hot in-place resurfacing and there's an
23 invitation from MTO to go and look at the final
24 product. So it was an opportunity for sort of an
25 innovative or new product in Ontario for the City

1 to actually see it. So did you understand that
2 the City needed sort of more information or needed
3 to -- wanted to see the hot in-place recycling
4 process in action as part of its assessment about
5 whether to use it on the Red Hill?

6 A. Yeah, yes, I did. And I
7 thought we were making arrangements for Mike Becke
8 and I think it was Tyler Renaud from construction
9 to go to Thunder Bay and either observe or have a
10 conversation with the contractor in the MTO about
11 what methodologies were being used and how it was
12 being applied.

13 Q. Did anyone convey to you
14 that given the additional work that the City was
15 going to do to try to better understand hot
16 in-place recycling, that there could be a delay in
17 doing resurfacing on the Red Hill?

18 A. I mean, I think I'm aware
19 of that earlier in the year. I think you brought
20 me to an e-mail from Susan that said 2018 is now
21 moved out or something along those lines and we're
22 still making a decision around -- I mean, we're
23 into 2018 now. We're looking at a 2019 schedule
24 right, so --

25 Q. This is June of 2018, and

1 if I understand it, shave and pave season is in
2 the summer. And so if you're already at June and
3 you haven't done a tender, it's not happening in
4 2018; is that right?

5 A. Well, the construction
6 isn't happening in 2018. We could tender the
7 work, but not at this point, no.

8 Q. Did anyone raise any
9 concerns with you about delaying the timing of the
10 resurfacing to 2018? Pardon me, to 2019?

11 A. So by the time I come on
12 board, I mean, I know we're jumping around a
13 little bit, had that conversation in July with the
14 Spectator where I think I was pretty clear that we
15 were working in sort of a pre-engineering cycle in
16 2018 or a tender spec and prep and then moving to
17 construction in 2019, potentially using the hot
18 in-place technology, and I think that was the
19 focus, certainly at that time.

20 Q. So my question was did
21 anyone within the City raise any concerns about
22 delaying the resurfacing to 2019?

23 A. No, I didn't get any
24 specific concerns about that.

25 Q. Registrar, can you go to

1 page 35, please, of OD9A.

2 I'm going to go to that, the
3 process that led to that interview that you had
4 with the Spectator that you were just referring
5 to. So you'll see at the bottom of this page, you
6 sent a calendar invitation to Mr. Moore and
7 Ms. Graham to discuss RHVP asphalt testing, and I
8 understand that this was a meeting because you had
9 been asked for an interview by the Spec; is that
10 right?

11 A. Yeah, that's correct.

12 Q. And you included
13 Mr. Moore even though he, at this point, was
14 working at the LRT and no longer in engineering
15 services. Why was that?

16 A. I believe, if I recall
17 from the e-mails with Jasmine, Nicole had started
18 with Gary and had had previous conversations. And
19 Nicole, I mean Nicole O'Reilly with Spectator.
20 And -- yeah, just trying to figure out what had
21 been said and what she was asking in particular.

22 Q. Did you discuss friction
23 testing at this meeting with Mr. Moore?

24 A. Not to my recollection.

25 Q. Did you discuss his

1 involvement in the initiation of the hot in-place
2 recycling project?

3 A. I mean, a large part of
4 the conversation, I mean, sort of casting my mind
5 back to the article in the Spec, was about us
6 doing sampling and preparing for potentially a hot
7 in-place, so I would have to assume that some of
8 those conversations were about the sampling and
9 what the messaging was around that.

10 Q. Registrar, could you go
11 to the next page, please. So this is a -- in the
12 OD the Spectator article that was published on
13 July 19 for which you were interviewed by
14 Ms. O'Reilly. I know I asked you some questions
15 about sort of media-facing roles. Was this your
16 first interview as director of engineering?

17 A. I can't think of another
18 one, so I would say yes.

19 Q. Was this your first media
20 interview with substance, this kind of lengthy
21 interview, ever or had you done media interviews
22 as the manager of geomatics?

23 A. Well, I did a bit of
24 media work with geomatics but not -- not at
25 this -- not elevated at this level.

1 Q. Did Ms. Ram attend the
2 interview with Ms. O'Reilly?

3 A. I'm uncertain about that.
4 I can't tell you either way. I know that there
5 was a few interviews and there was a few occasions
6 where Jasmine might have been in the room or on
7 the call but I can't tell you on this one.

8 Q. On this one, did anyone
9 else attend?

10 A. No, not to my knowledge.

11 Q. Looking down eight
12 paragraphs, Registrar, in the middle it says "last
13 December." If you could call out that paragraph
14 and the next paragraph, please. Actually --
15 that's great. Thank you.

16 So there's a reference to last
17 December, the City took smaller samples of asphalt
18 to test the viability of recycling. It says at
19 the time the former city -- the City's former
20 engineering director said they were aware that
21 some people felt the Red Hill was slippery. Do
22 you recall that Ms. O'Reilly raised that with you
23 during the interview, that some people felt that
24 the Red Hill was slippery?

25 A. Yeah, I don't recall her

1 asking me about that.

2 Q. You're quoted as saying
3 that the test results came back inconclusive but
4 the City believes hot in-place is possible. So as
5 far as the documents suggest, you didn't have any
6 results back from Golder at this point. What's
7 the basis for saying the test results came back
8 inconclusive?

9 A. So I think at this point
10 I'm referring to the December 2017 Golder work
11 that had the -- I think they did a few studies,
12 and as well as I believe they started pulling some
13 smaller samples which I think was referred to
14 earlier in that article. My understanding is this
15 was just a continuation of what we previously
16 indicated, that we had sampled the material and
17 were continuing to do it and there wasn't a
18 conclusion at this point.

19 Q. Not having a conclusion
20 is different than being inconclusive. Again, what
21 was the basis for you saying that those test
22 results came back inconclusive before you had
23 received any written documents from Dr. Uzarowski,
24 which we'll get to?

25 A. So I believe I'm getting

1 this information -- potentially from the
2 discussion with Gary, and I don't think I have
3 notes on that, along with, you know, I think I'm
4 aware at this point in time we've done some
5 smaller samples and we're still trying to
6 determine the applicability for hot in-place.

7 Q. Dr. Uzarowski testified
8 that he attended a meeting with City staff but not
9 you in March of 2018 and he presented the results
10 of the testing at that meeting, but they don't
11 come -- you may recall you get an e-mail from him,
12 and we will get to that, and then you have to
13 chase him for the -- for a report. Before July of
14 2018, did anyone advise you about the meeting with
15 Dr. Uzarowski from March of 2018?

16 A. I'm not sure if I got a
17 direct update on it, but I know through Mike that
18 we were working with Golder, but no, I don't think
19 I got an update directly on the meeting.

20 Q. Okay. At that meeting
21 Dr. Uzarowski testified that he recommended
22 pavement rehabilitation like microsurfacing, shot
23 blasting, if the resurfacing was going to be
24 delayed. Did anyone advise you of this?

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

1 Q. So I think I'm hearing
2 from your evidence that the reference here, which
3 is attributed to you, that the test results were
4 inconclusive, that comes from Mr. Moore?

5 A. I did try and get a
6 catch-up meeting with him so I would -- yeah, got
7 to be careful on that, but yeah, I'm trying to
8 pull that information forward and he would have
9 been a source of information.

10 Q. Okay. And in fact, I'm
11 hearing from you he's the only source of
12 information because you don't otherwise have the
13 test results; is that right?

14 A. I believe that's correct.

15 Q. Registrar, could you
16 close this down and call out the next paragraph.

17 There's a reference in the
18 article to-- in December 2015 friction testing had
19 also come back quote/unquote inconclusive with a
20 consultant recommending further testing. Instead,
21 the City opted to move ahead with repaving ahead
22 of schedule.

23 Now, the article doesn't
24 attribute this statement to you. Do you recall
25 telling Ms. O'Reilly anything about the 2015

1 friction test results?

2 A. No, I don't.

3 Q. Did you review this

4 article when it was published?

5 A. Yes, I did.

6 Q. After the article was

7 published, did you ask anyone about the 2015

8 friction testing referenced in this paragraph?

9 A. I'm not sure -- I'm not
10 sure if I directly received (ph) anyone about this
11 or not.

12 Q. Registrar, can you close
13 this callout and open up the next paragraph.

14 The article also references an
15 investigation that the Spectator had published the
16 year prior which found that the Red Hill had twice
17 as many crashes than the connecting LINC and that
18 the crashes happened in the curvy stretches and
19 that crashes were most common when it was dark and
20 the ground wet with speeding being the most
21 frequent factor in fatal crashes.

22 So we talked a little bit
23 about this yesterday, but just so the evidence is
24 clear, by the time you read this article in July
25 of 2018 you were aware that there was a collision

1 history on the Red Hill; is that right?

2 A. Yeah, that's correct.

3 Q. And you were aware that
4 the Spectator had done an investigation in 2018 --
5 pardon me -- 2017 about this?

6 A. I think by this time I'm
7 aware of it, yes.

8 Q. Registrar, could you
9 close this and go to HAM52704, please. Can you
10 call up the next page as well please.

11 So this is a July 2017 article
12 by Ms. O'Reilly, which I think is the article
13 that's referenced in the 2018 article. Did you
14 review this article at the time it was published
15 in 2017?

16 A. Not to my knowledge.

17 Q. Did you review it before
18 your interview with Ms. O'Reilly in July of 2018?

19 A. I don't think I did.

20 Q. Did you review it after
21 the publication of the 2018 article?

22 A. I believe I did, yes.

23 Q. This article also
24 references a December 2015 testing and an informal
25 chart. Did you ask anyone about friction testing

1 or an informal chart when you read this article in
2 2018?

3 A. No, I don't believe I
4 did.

5 Q. Registrar, you can close
6 this.

7 Having read the 2018 article
8 and then also the 2017 article, did you understand
9 that part of the motivation for resurfacing at the
10 time that it was starting to be programmed was
11 because of concerns about the slipperiness on the
12 Red Hill?

13 A. Sorry, you're asking if
14 I'm aware that the reason it was reprogrammed was
15 to address the slipperiness?

16 Q. Yes.

17 A. I don't think I'm aware
18 of that or -- I don't believe I saw that in the
19 capital detail sheets or whatever the general
20 statements are around sort of the project
21 rationale.

22 Q. Okay. Well, I can take
23 you to it in the article. There's -- at least the
24 Spectator makes the connection that there was
25 friction testing, and then instead of doing more

1 testing, the City decided to repave. And so my
2 question for you is in 2018 did you understand
3 that part of the motivation for resurfacing was
4 because there was concerns that the pavement was
5 slippery?

6 A. No, I didn't. Not at
7 this point in time.

8 Q. Registrar, can you go
9 to 9A page 134, please, and 135.

10 There are some text messages
11 between you and Mr. Moore over time and they are
12 all set out in paragraph 331. These ones, this is
13 just the text of them, and I'm looking right now
14 at the July 19, 2018 set here. I can also take
15 you into the actual text messages but they are a
16 little cut off so I think this is a better
17 version.

18 So you'll see on July 19th,
19 which is the day that the Spec article is
20 published, you text Mr. Moore and say I talked to
21 the Spec about the Red Hill sampling. She said
22 you told her the samples were to test for
23 applicability for HIP treatment. And he says they
24 were the first step. The results did not preclude
25 the HIP process. You say okay, no more details in

1 this sampling cycle? Now we get more details.
2 That is the answer. And Mr. Moore says the first
3 set of tests were to confirm material properties.
4 This set of sampling is to prepare pavement mix
5 recommendations for tendering.

6 Did you have that discussion
7 with Mr. Moore before or after you read the
8 article that the Spec published?

9 A. So this text messaging
10 takes place on June 19 -- or July 19 and I'm not
11 sure of the time exactly, but I've been
12 interviewed at this point and I was looking maybe
13 for a bit more clarity on what had been told to
14 the Spectator about the December sampling cycle.

15 Q. And it looks like
16 Mr. Moore tells you that there was a two-step
17 process for different purposes. Is that what you
18 understood from Mr. Moore?

19 A. Correct, yes.

20 Q. Did you have any other
21 discussions with Mr. Moore orally rather than by
22 text about the HIP process?

23 A. Not to my recollection.
24 Not in that timeframe.

25 Q. Did you have any

1 discussions with him about HIP at any point?

2 A. I believe when we get,
3 you know, into the November timeframe, we have a
4 meeting with Dan, a conversation around HIP and
5 its applicability or selection, so yes, I would
6 have had that conversation.

7 Q. Thank you. Registrar,
8 can you go to page 40, please.

9 So we looked at this earlier.
10 This is the e-mail about budgeting. So this is
11 July 19th, so we're just circling back in terms of
12 the time. Did you believe that by July 2018 that
13 the hot in-place recycling investigation was a
14 worthwhile endeavour?

15 A. By the middle of July I
16 don't -- so if you back this up, any way that we
17 can pursue extending or getting more miles out of
18 our capital dollar is a very worthwhile pursuit.
19 Sort of casting my mind back to the beginning of
20 my transition role, we put a lot of effort into
21 that winter damages. If hot in-place would allow
22 you to do a kilometre and a half of work on
23 previously a kilometre's budget it would expand
24 our ability to address roads.

25 So from a conceptual

1 perspective, hot in-place is very attractive, and
2 in the middle of July it still appears to be
3 pretty attractive, although, not local and I'm not
4 sure at this moment in time its applicability to
5 the SMA and I think we'll get into that.

6 Q. Registrar, can you go to
7 page 42, please. Could you bring up page 41 and
8 42, please.

9 Mr. McGuire, you'll see in
10 paragraph 103, and it goes into 104, that a law
11 clerk in legal e-mailed you, copying Dan Bartley,
12 who is a lawyer in legal, regarding a collision
13 that occurred on the Red Hill in February of 2017.
14 And the law clerk sets out a summary of the issue.
15 It was a motor vehicle accident. And sets out the
16 alleged negligence. And at the bottom of page 41
17 it says we need to complete our Affidavit of
18 Documents, ensure we have appropriate
19 documentation and determine the appropriate City
20 representative.

21 And they note that they spoke
22 to John Searles and to David Ferguson to obtain
23 information, and that Mr. Ferguson suggests we
24 contact you with regard to the issues of road
25 design.

1 And then you reply, referring
2 her to Ms. Jacob and to Chris McCafferty, and this
3 law clerk then contacts Ms. Jacob.

4 So I know you've just really
5 taken over the director of engineering role. At
6 this point you have not been in the seat for very
7 long. Typically either as manager of geomatics or
8 a director of engineering, were you consulted
9 about City representatives to be examined for
10 discovery?

11 A. So in general, yes, I
12 would have an understanding about what was taking
13 place for our interactions with legal, but there
14 was a fair amount of interaction with legal.
15 Sorry, I'm not sure I'm answering your question.
16 Are you asking if I --

17 Q. I can ask the question
18 differently. Here it looks like Ms. Orgera is
19 looking to you for factual information. I want to
20 know more about the design of the road. Are you
21 the right person to go to? And you refer her to
22 Ms. Jacob. That part I understand. That makes
23 sense.

24 My question is separate and
25 apart from you actually having information or your

1 team having information, were you contacted to
2 be -- to really just be on notice of the
3 interactions between legal and City and your
4 staff? That's something you would have been
5 notified and aware of?

6 A. I would be -- I don't
7 think I would be notified of every interaction
8 between my staff and legal, considering -- you
9 know, I mean, if we back it up a little bit, we
10 are issuing sort of a significant amount of
11 contracts. We're probably having contractual
12 relations or potentially concerns with some of the
13 folks that are working for us. We're doing a lot
14 of work for real estate. From a legal surveying
15 perspective, Susan is issuing a lot of work. So I
16 don't think I'm contacted every time my staff
17 engage with legal, if that's what you're asking.

18 Q. My question was more
19 specific around litigation. So when your staff
20 were going to be involved in some aspect of a
21 piece of litigation, like being the person to
22 compile documents or being a person to attend
23 examination for discovery, were those things
24 brought to your attention just as an FYI?

25 A. Yeah, I would say

1 generally, and that would be something that staff
2 would bring to me because it also would be a
3 resource pressure for them not being able to
4 potentially address other works while they are
5 preparing for discovery or something along those
6 lines.

7 Q. Thank you. Registrar --
8 actually before we go on. Were you involved in
9 discussions about this claim apart from this
10 e-mail exchange?

11 A. I don't believe so.

12 Q. Registrar, can you go to
13 page 57 and 58, please.

14 You'll see on page 57 at
15 paragraph 137, staff from Golder, Dr. Henderson
16 and Dr. Uzarowski, are working with Mr. Becke
17 about sampling on the northbound lanes. And on
18 August 27, you'll see in paragraph 138
19 Dr. Uzarowski e-mailed Mr. Becke with a copy to
20 Dr. Henderson an e-mail attaching the Tradewind
21 report. And he wrote, as requested, please find
22 attached the 2014 report on friction on the RHVP
23 and the LINC prepared by Tradewind Scientific.
24 You'll see in 139 there's no documents in which
25 Mr. Becke made that request, even though it says

1 as requested.

2 And Mr. Becke has provided
3 some testimony about this, but I would like to
4 hear your understanding and knowledge about
5 this -- Mr. Beck's receipt. Did Mr. Becke advise
6 you that he had received this report in late
7 August or in early September?

8 A. No, I don't -- I don't
9 believe he did.

10 Q. Even if he didn't mention
11 the Tradewind report by the name Tradewind, did he
12 advise that he had received a report on the Red
13 Hill about friction testing from Golder?

14 A. No, not to my knowledge.

15 Q. When did you first
16 confirm that Mr. Becke had received a copy of the
17 Tradewind report?

18 A. I think -- so near the
19 end of September, when I started working with
20 Susan to try and understand the Tradewind report,
21 sometime in that first few days or week it came to
22 my attention that Mike may have already had this
23 and including the -- I think the year 6 -- sorry,
24 was there two things attached there, the 2014 --

25 Q. No, just the Tradewind

1 Scientific report.

2 A. Okay. So he didn't get
3 the five year review and six year review in that
4 e-mail?

5 Q. It was the six year
6 review by that point. No.

7 A. Okay.

8 Q. I think you might have
9 changed your train of thought. Were you done with
10 your answer?

11 A. Yeah.

12 Q. We'll come back to that
13 when we get to September. I just wanted to
14 understand if you could put a bit of a timeframe
15 on it and that's very helpful that you did.

16 Registrar, can you go to
17 page 63, please. 63 and 64 actually.

18 In August of 2018 audit
19 services had commenced and was working on an
20 audit, which they call a value for money roads
21 audit. You'll recall that audit, I'm sure?

22 A. Yes, I do.

23 Q. So the e-mail I'm taking
24 you to now is from August 24, 2018.

25 Mr. Pellegrini e-mailed you and Mr. Andoga under

1 the subject line "value for money questions on
2 roads". And he says:

3 "In the past couple of weeks
4 I've had a couple of meetings
5 with your staff and the
6 objective of these meetings
7 was to look into how pavement
8 performance is tracked and
9 managed, both holistically and
10 for each segment."

11 So just stopping there, was
12 this your first notice that audit services was
13 conducting a value for money audit in respect of
14 roads?

15 A. So I believe I'm aware
16 that audit has had some conversations and/or
17 meetings with my staff up to this point, but this,
18 to my recollection, is the first time that I
19 understand that we're commencing an audit or an
20 audit has commenced.

21 Q. Had you had previous
22 experience responding to audits or dealing with
23 audit services?

24 A. Yes, I have.

25 Q. Was this audit, as

1 Mr. Pellegrini explains it, different in nature to
2 other audits you've been involved in?

3 A. Not significantly.

4 Q. Mr. Pellegrini, in his
5 e-mail on page 64 at the very top, says --
6 Registrar, can you pull up the three paragraphs
7 before the chart, please, or the table. I'm
8 sorry, on page 64 the top three paragraphs. Yes,
9 thank you.

10 So here Mr. Pellegrini
11 explains that the value for money, that the audit
12 they are doing, is really to see whether the
13 pavement infrastructure is tracking compared to
14 how it was expected to perform when it was first
15 proposed and put down, and he references in the
16 second paragraph an example of a road that they
17 were interested in in the inventory would be the
18 LINC or the Red Hill.

19 He also goes on to say Stantec
20 prepared a report in June of 2007 entitled
21 pavement sustainability plan for LINC and Red
22 Hill. He then speaks about the -- that report
23 and production and the reference to the pavement
24 lifecycle costs reflecting no major rehabilitation
25 or reconstruction for 50 years and that it was

1 related to minor rehab over time, and then it
2 includes the table that I'm not going to pull out.

3 Were you aware before this
4 e-mail of the Stantec pavement sustainability
5 plan?

6 A. No, I wouldn't be.

7 Q. Recognizing you were
8 coming from geomatics, who would you expect, which
9 division, would be responsible for being the
10 holder of the pavement sustainability plan?

11 A. So I mean logically, that
12 should flow to the group called asset management.
13 The report would have come out of that special
14 project office that created the LINC and the Red
15 Hill, but it should get loaded into kind of an
16 overall management system. So sorry, I don't know
17 if I answered your question.

18 Q. You did. You did. The
19 pavement sustainability plan includes
20 recommendations that friction testing be
21 recommended every two years. Did you come to
22 learn that recommendation as part of the roads
23 audit or otherwise?

24 A. Yeah, I believe I did
25 come to learn it. I'm not exactly sure at what

1 time.

2 Q. Would it have been after
3 the public works disclosure of the Tradewind
4 report or before?

5 A. I can't really tell you
6 at what point.

7 Q. Did you, in response to
8 this e-mail from Mr. Pellegrini, ask anyone in
9 asset management for a copy of the pavement
10 sustainability plan?

11 A. No, I don't think I did.

12 Q. Registrar, you can close
13 this down and if you can go to page 66, please.
14 And if you can call out 153.

15 You send an e-mail to
16 Ms. Waite, Mr. Oddi, Ms. Jacob, Mr. Lamont,
17 Mr. Norman, with a copy to Ms. Cameron. And it
18 says, please read below and confirm that you have
19 read it by replying to myself and Diana. And you
20 say somehow the original message got to Gary
21 Moore, and just for context -- maybe we should
22 actually go into the document, just so it's easy
23 to see.

24 Registrar, could you pull out
25 HAM27208.

1 You'll see that e-mail we were
2 just looking at from Mr. Pellegrini is the one
3 that you're saying as well somehow the original
4 message got to Gary Moore. You see that?

5 A. Yeah, correct.

6 Q. Now I find that the font
7 is much smaller. Registrar, could you pull out of
8 Mr. McGuire's e-mail on the left hand image.

9 What led you to say somehow
10 the original message got to Gary Moore? What
11 information did you have that suggested that to
12 you?

13 A. I don't recall. Someone
14 notified me or somehow I got indicated that Gary
15 was aware of it, so I'm not sure how that
16 information came to me.

17 Q. You said earlier you
18 thought you knew that the auditor was doing this
19 audit, but in the third paragraph you say my main
20 concern is that the auditor was on this floor, and
21 talking with staff about our programs without my
22 office having any knowledge of this inquiry. Does
23 that refresh your memory about whether you knew
24 before Mr. Pellegrini's e-mail about the audit?

25 A. Well, so I was aware

1 because I did see him on the floor. I wasn't
2 aware that we were in the midst of the -- or the
3 commencement of an audit, so that's what I'm
4 referring to in that statement.

5 Q. So you weren't aware --
6 you were aware that the audit had been commenced
7 but not that he had interviewed some of your
8 staff?

9 A. I was aware that he was
10 conferring with some of the staff; I wasn't aware
11 that an audit had commenced.

12 Q. I see. Okay. So the
13 reverse, okay. What was your concern about the
14 original message going to Gary Moore?

15 A. At this point I can't
16 really recall. I mean, I'm not sure if I'm just
17 trying to make sure that we keep it in engineering
18 services rather than spread it over to Gary as
19 well. But yeah, I mean, we wanted to try and make
20 sure that I understand what was happening.

21 Q. At this point, was
22 Mr. Moore still working out of City offices?

23 A. I believe, yes.

24 Q. Was he still on the same
25 floor as where your office was?

1 A. Yeah, correct.

2 Q. Registrar, you can close
3 this document and go back into OD9A, please. Go
4 to page 59 and 60.

5 On August 27, CIMA held its
6 second progress meeting on the lighting study and
7 you're listed as an attendee. Do you remember
8 attending that meeting?

9 A. Not really but....

10 Q. Okay.

11 A. I mean, I know that
12 e-mails and things originate after this, so I
13 don't recall the meeting in detail.

14 Q. Okay. Registrar, could
15 you bring up the first two topics on the -- in the
16 table on page 60. Perfect. Thank you.

17 So they are going through the
18 items in these minutes, so the EA study review.
19 So that we already talked about with progress
20 meeting 1. And then operational safety analysis.
21 By this point, this is the next step that came out
22 of that meeting where there's a safety review and
23 also illumination review, and that's set out now
24 that it's clear CIMA has done that work.

25 And do you recall that CIMA

1 conveyed at this meeting that they updated the
2 collision review based on collision data from
3 2008, 2018 and the update didn't reveal any major
4 changes in the predominant collision types. And
5 maybe I'll ask more generally. Do you remember
6 CIMA conveying to the City staff who attended
7 information about their collision review analysis?

8 A. So I remember -- we're
9 kind moving forward in time, I remember reviewing
10 the drafts of the report and the executive summary
11 that asked for, for I think PW18088. Not sure
12 exactly when I'm aware of all of the information
13 they gathered, but this summary tells me they have
14 done an update to their collision database or
15 statistics and they are providing us with some
16 additional details around what is and is not
17 happening and/or changing on the facility.

18 So I'm not sure I answered
19 your question.

20 Q. I'm not sure you did
21 either. My question is, do you remember at this
22 meeting on August 27th that CIMA provided a
23 summary of what their collision review revealed?

24 A. I mean, I don't recall it
25 in specific detail, but, I mean, you know, if I

1 was there in attendance, I'm getting information.

2 Q. Okay. And so one piece
3 of the information that's set out in the minutes
4 is that wet surface collisions continue to be a
5 major factor.

6 Going back to those Spectator
7 articles from 2017 and 2018 that you reviewed,
8 definitely in 2018, did you connect the wet
9 surface collision history that CIMA was providing
10 you in this meeting with the concerns in that
11 article that the Red Hill seemed slippery?

12 A. Yeah, I mean, that's a
13 good question. You know, I'm trying to cast my
14 mind back to all of the information coming
15 forward. I'm not sure when or if I made the full
16 connection that we've got a wet surface or a wet
17 weather accident concern and, you know, that
18 continues. But yeah, I'm more aware of it now. I
19 think one of the things that I remember taking
20 away or have stuck in my mind that people were
21 doing 140 kilometres per hour on the facility,
22 which seemed more than excessive.

23 The other thing that I do find
24 in this one and I don't remember if it correlated
25 correctly, it says that illumination was not

1 identified as an contributing factor. So that
2 was -- I'm not sure if I connected that at that
3 point, but I know it was forwarded to a bit more
4 of our planning around the lighting.

5 Q. That's right. So this is
6 the section in the minutes that is about the
7 collision analysis. So I don't know -- I think
8 that may be a bit of a summary, illumination is
9 not identified as a contributing factor. Do you
10 recall receiving information that non-daylight
11 collisions were not disproportionately high?
12 That's a more technical way of saying --

13 A. I'm aware by the time I
14 author -- you know, go back into the report, which
15 comes in February of 2019, but I mean now I'm
16 aware that the illumination isn't outside of the
17 provincial averages or -- I can't remember how it
18 was exactly framed. So if I was to read this, I
19 would probably be -- because of this illumination
20 review, I would be reading it with respect to the
21 illumination, and the other things would be
22 factors that I would consume but I'm not sure
23 fully focused on.

24 Q. Okay. Registrar, you can
25 close this down.

1 CIMA also goes through their
2 assessment of the illumination review, including
3 doing warrants, the peer review, alternative
4 technologies, and they are, I think as you had
5 said in your evidence earlier, sort of working
6 through in a -- on those issues, whether they are
7 going to recommend continuous illumination or not
8 and what the cost benefit analysis is. Do you
9 remember that part of the meeting?

10 A. Yeah, I don't recall that
11 directly. I know that that was part of the scope,
12 so we're still expecting a report that would
13 identify that. But no, I don't remember that
14 directly.

15 Q. Thank you. Registrar,
16 you can close this down for a moment.

17 Mr. Malone testified that
18 after this meeting you asked him to step into your
19 office for a separate discussion. Do you remember
20 that?

21 A. No, I don't.

22 Q. We'll go forward, and
23 certainly there are some e-mails that suggested
24 there was some discussion. There's e-mails from
25 the following week and into September. Are you

1 confident that there was not a discussion on
2 August 27th or you just can't remember?

3 A. No, I mean, I don't know
4 what my calendar looked like then, and I think I'm
5 in 40 or 50 meetings a month. If Brian stepped
6 into my office after a meeting, it's probably not
7 abnormal or something along those lines. I just
8 may or may not have -- I don't think I recall him
9 coming in, but certainly doesn't mean it didn't
10 occur.

11 Q. Okay. He said you asked
12 him to come into your office and that you began
13 the discussion about considerations around the
14 roadway and paving the roadway and specifically
15 different types of options for paving and
16 resurfacing. Does that refresh your memory at all
17 about a meeting you had with Mr. Malone after the
18 lighting review meeting on August 27?

19 A. No, it doesn't.

20 Q. You testified that he
21 perceived that you may have had some recognition
22 that the proportion of wet road condition
23 collisions was high and that that may have started
24 you thinking about the repaving that was coming
25 up. Does that refresh your memory at all?

1 A. I think that's a
2 reasonable takeaway. I've been interviewed by the
3 Spec. They have identified that there's some
4 concerns about the collisions and I think that
5 they mention it's wet and dark, and I think I'm
6 seeing in a couple other locations wet weather
7 accidents being at a different level than the LINC
8 in particular. So yeah, it's reasonable for Brian
9 to make that statement. I don't recall exactly
10 when that took place, but I think I'm trying to
11 gather some information.

12 Q. What in particular would
13 you be trying to gather from Mr. Malone?

14 A. I mean, Brian is a, you
15 know, a really well connected, very well respected
16 transportation professional, so just not sure what
17 I would have been asking him, but he's a good
18 source of information.

19 Q. He's a good person to
20 sort of brainstorm and try to dig into the issues
21 and maybe he can direct you to places you might
22 not have thought about, that sort of thing?

23 A. Yeah. I mean, he's
24 also -- and I'm not sure he's either a partner or
25 a fairly high placed employee in a very large

1 multi -- I don't know if they're multi-national,
2 but certainly national engineering firm, so he's
3 got a lot of experience and knowledge.

4 Q. So when you say he is
5 well placed, well connected, were you hoping that
6 he was going to personally or through CIMA, be
7 able to help you with something in particular?

8 A. Again, I don't really
9 recall having him into the office. I'm not sure
10 what I was asking him to do personally or
11 professionally.

12 Q. Mr. Malone said he -- and
13 we'll see this in some e-mails -- understood that
14 you were going to send him some additional
15 material. Do you recall having material that you
16 wanted to provide to Mr. Malone to get his input?

17 A. No, I don't. I mean,
18 yeah, apologies, a bit of a gap on this part.

19 Q. Okay. Registrar, could
20 you go into OD9A, page 53 and 54.

21 And Mr. McGuire, just while
22 that's coming up, recognizing that you don't
23 remember that meeting with Mr. Malone, can you say
24 with any confidence whether you and Mr. Malone
25 spoke about friction testing on the Red Hill

1 during that meeting?

2 A. I mean, I don't -- I
3 mean, obviously if you're stitching back what
4 probably happened was that Brian and I had a
5 conversation, I probably asked him about the wet
6 weather stuff. He may have mentioned friction or
7 friction analysis then I think if we fast forward,
8 I sent him some information. But I don't really
9 recall that and I don't recall the framework
10 around it. I know that when we get further in
11 time, we had discovered the Tradewind report, or I
12 read it, some other things start taking place.

13 Q. Okay. You'll see on
14 August 21, so that's the week before this meeting
15 that we've just been looking at, Mr. Ferguson
16 circulates a memorandum to Mr. McKinnon and to
17 Mr. Soldo and you that was initially prepared in
18 March of 2018 and updated in advance it appears
19 for a meeting that is one of Mr. McKinnon's
20 regularly scheduled meetings.

21 Do you recall receiving this
22 memorandum from Mr. Ferguson?

23 A. I recall the memorandum.
24 I don't recall the receipt of it.

25 Q. Registrar, could you

1 bring up HAM1388.

2 Just so that we're looking at
3 the same thing, Mr. McGuire. Do you remember
4 reviewing the memorandum from Mr. Ferguson when he
5 circulated it?

6 A. So, I'm familiar with
7 this memo. I don't recall receiving it and
8 directly commenting on it.

9 Q. Do you remember reviewing
10 it?

11 A. Yeah, was this not in one
12 of our parkway meetings or something along those
13 lines? Isn't that --

14 Q. The chronology appears to
15 suggest this was prepared in advance of a meeting
16 that was scheduled for August 30th. And if you
17 received it before August 30th, which it looks
18 like you did, would you have reviewed it before
19 the meeting for which it was prepared?

20 A. Yeah, potentially, yeah.
21 I mean, I see in here end to end illumination,
22 that would be something that I would look at. The
23 digital signs, pavement markings, a bunch of the
24 other stuff doesn't apply to me. So I would have
25 probably perused it and just looked at what I may

1 need to be ready for.

2 Q. Looking at the piece
3 under additional information, it says traffic
4 engineering are beginning to receive notices of
5 impending legal action as a result of collisions
6 on either the LINC or the Red Hill. It should be
7 noted that some of the claims are as a result of
8 poor design and poor pavement conditions. These
9 items will require a response or attendance by
10 engineering staff at legal discovery.

11 So we looked at that claim
12 that you were consulted on, the one that you
13 referred the law clerk to Ms. Jacob. At this
14 point, were you aware of other claims or impending
15 legal actions in respect of collisions on the LINC
16 or the Red Hill?

17 A. I don't believe I'm
18 directly aware of a specific legal action. I am
19 aware that there's ongoing litigation on our
20 highways and roads. So yeah, not unexpected.

21 Q. When you read this, where
22 it says some of the claims are as a result of poor
23 design or poor pavement, and I'll suggest that
24 what you can infer from that is that the
25 allegations made in these legal claims is that

1 there's a poor design or poor pavement conditions,
2 did you know that, that there were legal actions
3 that specifically had allegations of poor design
4 or poor pavement conditions?

5 A. No, I mean, I wasn't
6 aware of that and I'm not sure -- I don't recall
7 the e-mail that I forwarded to Susan or -- and
8 Chris McCafferty, if it contained the same
9 allegations or the basis of the claim, but what
10 I'm seeing here is someone is advancing some basis
11 of claims and these are what they are saying.

12 Q. So apart from the
13 July 2018, that e-mail exchange with the law
14 clerk, you were not aware that there were legal
15 claims that asserted poor design or poor pavement
16 conditions?

17 A. Not to my knowledge. I
18 mean, some of the experience I've had, I mean
19 there's certainly a lot of elements in a lot of
20 the legal claims that they identify pretty much
21 everything that could have been wrong with the
22 site; incorrect inspection, incorrect lighting,
23 vegetation wasn't trimmed, drainage is incorrect,
24 et cetera. So it doesn't seem like that this
25 is -- this isn't what I would -- this is what I

1 would expect if someone is going to legal action.

2 Q. So this memo, as I say
3 appears to be prepared for one of the regularly
4 scheduled Red Hill meetings that we talked about
5 yesterday.

6 Registrar, could you close
7 this down and can you go to HAM61547, please. Can
8 you call out the substance of this calendar. Just
9 before you do, this is August 27. Pardon me. Can
10 you go to image 2, please. Can you call out the
11 bulk of this calendar. This is August 30.

12 So Mr. McGuire, this is your
13 calendar from that day?

14 A. Okay.

15 Q. For the court reporter, I
16 see you nodding but you actually have to say yes.

17 A. Okay.

18 Q. So you see in your
19 calendar there are in the morning a Red Hill/LINC
20 discussion, GM's boardroom, Dan McKinnon, and then
21 there is also meeting and go for lunch 10:30 to
22 1:30 and that's from Dan McKinnon. I can tell you
23 that is to you and to Mr. Soldo, whereas the first
24 one is those bimonthly meetings that go to a
25 number of people.

1 Registrar, you can close this
2 down. And before you do, can you mark this the
3 next exhibit, please.

4 THE REGISTRAR: Counsel, it's
5 Exhibit 187.

6 MS. LAWRENCE: Thank you.

7 EXHIBIT NO. 187: Calendar
8 dated August 17, 2018; HAM61547

9 BY MS. LAWRENCE:

10 Q. So based on a copy of the
11 calendar that we received, there's these two
12 related meetings or two meetings, and separately
13 the inquiry has received information that
14 Mr. McKinnon, this meeting and go for lunch, in
15 the body of that it actually references the Red
16 Hill. Do you remember having both of these
17 meetings on August 30?

18 A. No, I don't. I mean,
19 again, I don't have specific recollection it. I
20 met with Dan and Edward and a number of the folks
21 on a fairly regular basis and obviously bimonthly
22 and other things like that, and I don't recall the
23 lunch meeting, not with any specific detail.

24 Q. So Mr. Soldo has not been
25 in his role for very long and it's possible that

1 this may have been one of either the first or one
2 of your first meetings with you and Mr. McKinnon
3 and Mr. Soldo kind of get to know each other.

4 Does that refresh your memory?

5 A. Not greatly but it's
6 probably a reasonable assumption.

7 Q. Registrar, you can close
8 this down and can you go to HAM55560, please.

9 So this is a timeline that was
10 prepared, I think with input from several staff in
11 May of 2019. Do you remember being involved with
12 the preparation of this preliminary reconstructed
13 timeline?

14 A. Yeah. We assembled, I
15 think a couple of timelines and maybe -- I'm not
16 sure if this one is for the FOI. Looks like it
17 goes further back than that. And there was at
18 least one or two under way.

19 Q. And the inquiry has heard
20 evidence that some staff sat in a boardroom and
21 tried to -- with legal with them, with pads try to
22 sort of --

23 A. Post-It notes.

24 Q. Yeah, Post-It notes.

25 A. I think we were trying

1 to, yeah, put stuff on the wall and figure out
2 what was going on.

3 Q. To reconstruct the
4 timeline as the document is called.

5 Registrar, can you go to
6 image 5, please. And can you call out the first
7 half of this document.

8 So this is a little bit out of
9 order, but it has the dates in August all
10 together. So this timeline says on August 1st
11 that E. Matthews-Malone retires from her position
12 as director of roads and traffic and that's the
13 position that Mr. Soldo takes over. He starts
14 just before she retires.

15 On August 15, Mr. White
16 e-mails Mr. Soldo a draft of the 2017 annual
17 collision report which shows wet weather issues on
18 the Red Hill. Soldo requests meeting with key
19 players, and then it says held on August 30. And
20 then there is the August 27, Mike Becke gets an
21 e-mail from Golder with the Tradewind report. And
22 then there's two items for August 30. One is you
23 suggest conventional paving. Wants to get tender
24 out. We'll come to that. And then the other one,
25 and this is the one I'm going to ask you some

1 questions about, key players meeting with David
2 Ferguson, Edward Soldo, Gord McGuire, Dan
3 McKinnon, discussing wet weather issues on the
4 RHVP.

5 The calendar we just looked at
6 has an 8:30 to 9:30 meeting from Dan McKinnon but
7 that's not specific to -- there is no subject that
8 says wet weather condition discussion. That's a
9 part of the bimonthly meetings. Do you recall
10 meeting with Mr. Ferguson and Mr. Soldo and
11 Mr. McKinnon and discussing wet weather issues on
12 the Red Hill on August 30?

13 A. So my understanding is
14 that that -- did that memo not include a breakout
15 chart of the LINC and the Red Hill, or was that at
16 a different time? The Dave Ferguson memo?

17 Q. It may be just because
18 we're just coming up four minutes to a break and
19 so my mind is going blank, but I don't know what
20 you're referencing, I'm sorry.

21 MS. CONTRACTOR: I think he's
22 referencing the pie chart at the last page of the
23 memo you took him to.

24 BY MS. LAWRENCE:

25 Q. I see, sorry, I didn't

1 realize you meant pie chart. We can go back into
2 that memo if you would like?

3 A. That's fine. If I
4 remember correctly that that pie chart was on that
5 memo and that memo was brought forward to this --
6 I believe the August 30th meeting.

7 Q. Do you remember that
8 meeting and discussing the pie chart?

9 A. Not in great detail, but
10 I mean now I'm aware of the or continue to be
11 aware of the wet weather considerations --
12 (indiscernible).

13 Q. I'm sorry. I'm just
14 trying to understand your answer. Not in great
15 detail but you're now aware, you mean at the time
16 on August 30 you're becoming aware of the wet
17 weather --

18 A. Well, I think I'm aware
19 earlier, you know, probably at the beginning or
20 middle of July, maybe earlier than that, for the
21 Spec articles and now there's a bit more
22 information here. So I mean, I don't recall the
23 meeting in detail, but I do know that we received
24 that memo because I recall it and I also recall
25 that it included those pie charts or graphs.

1 Q. So at that meeting, did
2 you convey the information that you received just
3 a few days before from CIMA, in respect of the
4 lighting summary about the collision review that
5 they had just completed?

6 A. No, I don't recall if I
7 did, but, I mean, it asked for an illumination --
8 I think it was part of the conversations around
9 the illumination. I'm not sure if I submitted
10 that to the group at the time or potentially at a
11 future time.

12 Q. I heard your answer to be
13 I don't recall if I did; is that right?

14 A. Yeah, correct.

15 Q. So you've got on
16 August 27 information about non-daylight
17 collisions don't seem to be of high proportion.
18 Wet weather conditions, you know, for the third
19 time CIMA done an analysis with information and
20 has concluded there is wet weather conditions at
21 high proportions. And now Mr. Ferguson and
22 Mr. Soldo are also saying in the 2017 annual
23 collision report the proportion of wet weather
24 collisions is high; is that right?

25 A. Yeah, correct.

1 Q. At this meeting, and this
2 is really just to help to refresh your memory,
3 Mr. Soldo asked for some language in the memo --
4 in Mr. Ferguson's memo to be changed, language
5 around the claims. Do you remember that
6 discussion in the meeting?

7 A. No, not specifically.

8 Q. Registrar, you can go to
9 OD9A, page 67, please.

10 So this is some of the back
11 and forth. On August 30, so the same day as that
12 meeting, Mr. Ferguson e-mailed Mr. McKinnon,
13 Mr. Soldo, Mr. White and you regarding the
14 August 21 memo and said that he had provided a
15 status update memo and there was the change we
16 just referenced in paragraph 156. He sent that
17 quite late in the evening of August 30, and you
18 respond do you have the 2015 CIMA report on the
19 Red Hill available. I would like to review it if
20 possible.

21 So we'll get through that
22 chronology of this, but you're asking -- this is
23 sort of after 8 p.m. Do you recall whether you
24 had reviewed the 2015 CIMA report before you asked
25 for it from Mr. McGuire?

1 A. So from Mr. Ferguson?

2 Q. Pardon me. From

3 Mr. Ferguson.

4 A. I'm reasonably -- I think
5 I reviewed the report, but considering that it was
6 requested by operations, I think I'm not sure if
7 we have a copy of it so I'm asking Dave if he's
8 got one.

9 Q. Yeah, I think you said
10 yesterday that you reviewed it, at least the
11 portions on illumination?

12 A. Correct.

13 MS. LAWRENCE: Just to refresh
14 your memory about that evidence.

15 Commissioner, I'm seeing it's
16 11:00 o'clock. Might this be an appropriate time
17 for our morning break?

18 JUSTICE WILTON-SIEGEL: That's
19 fine. Let's break until 11:15.

20 --- Recess taken at 11:02 a.m.

21 --- Upon resuming at 11:15 a.m.

22 MS. LAWRENCE: Commissioner,
23 may I proceed.

24 JUSTICE WILTON-SIEGEL: Please
25 do.

1 BY MS. LAWRENCE:

2 Q. Registrar, could you
3 bring up OD9A page 67 and 68.

4 So Mr. McGuire, we were
5 looking at this just before the break. And you'll
6 see on these two pages that you asked Mr. Ferguson
7 for the CIMA report which we just discussed before
8 the break. And Mr. Ferguson replied in 158, yes,
9 I'm going to set up a common file folder so
10 everyone can access and we'll save all the
11 documentation there. I'll send out a link once we
12 have it completed. Give me a week or two. And
13 you say we will put all the results of our studies
14 in there once it is set up.

15 Then on September 5, so
16 jumping forward a little in time, Mr. Ferguson
17 e-mailed you and Mr. Soldo and Mr. White and said
18 the following folder has been created to save
19 documents. I'll have my staff review reports and
20 add them.

21 And then on September 5,
22 Mr. Olszewski e-mailed traffic -- the traffic
23 operations and engineering folks and circulated
24 the same link and suggested that staff put
25 documents in there.

1 Registrar, could you go to the
2 next page, please.

3 And then Mr. Cooper the
4 following day says I've added the CIMA report from
5 2013. Once the current ones are final, I'll add
6 them there too.

7 Just stopping there. Do you
8 recall discussions with Mr. Ferguson or others
9 about setting up this folder before that e-mail
10 exchange on August 30?

11 A. No, I don't.

12 Q. In the last paragraph
13 that I just took you to, where Mr. Cooper added
14 the 2013 CIMA report, had you reviewed that report
15 before it was put into the file folder?

16 A. I don't recall.

17 Q. Registrar, could you go
18 to page 58, please. Could you pull up 141.

19 Still on August 30th, you
20 exchanged e-mails with Ms. Jacob and Mr. Becke
21 about the status of hot in-place and Red Hill
22 resurfacing. In fact, rather than do it this way,
23 we're going to go into the underlying document.

24 Registrar, it's HAM1421.
25 Could you call it out, just because the font is a

1 bit small.

2 So Mr. McGuire, looking at
3 that first e-mail, you e-mail and say can we --
4 given the work today, can we estimate the next
5 phase? Is there a planned pave next year with
6 this technique? Should we meet on this, as it's a
7 high priority project for the department?

8 I note that you're sending
9 this at 8:53 a.m. That's the same time that your
10 calendar shows that you're in the meeting with
11 Mr. McKinnon and Mr. Soldo and Mr. White and
12 Mr. Ferguson, that's the people who are on the
13 bimonthly meetings. Did you send this e-mail to
14 Ms. Jacob and Mr. Becke being prompted from
15 something that happened in that meeting that
16 morning?

17 A. So, I mean, noted that as
18 well. It appears that I'm in the meeting. Looks
19 like I'm trying understand what the schedule and
20 where we are with the HIP, and then I note it's a
21 high priority for the department. So that's not
22 the division but that's the entire public works
23 department. So there must have been a cue in the
24 meeting to ask where we are with the repave.

25 Q. Was it a high priority

1 for the department because of the wet weather
2 collision issues that were being discussed at that
3 meeting?

4 A. I don't recall. I
5 know -- I mean, there was a number of things in
6 Dave's memo but I can't remember all of them and
7 whether they're all applicable to the Red Hill or
8 some were to the LINC as well. But yeah.

9 Q. So Ms. Jacob responds
10 about glitches and delays in the MTO contract,
11 which is the one that Mr. Renaud and Mr. Becke
12 were going to both see. And she says if
13 everything goes well, possible tender towards
14 April 2019 for implementation in July/August 2019.

15 So at this point on August 30,
16 and before she gives you that timeline, did you
17 expect that the pave was going to happen in 2019?

18 A. Yes, I did.

19 Q. So she's confirming that
20 it can't happen in 2018; the plan is for it to
21 happen in 2019?

22 A. Yeah, I don't believe I
23 ever had an expectation it was being -- the
24 contract was being physically done in 2018. By
25 that I mean the paving.

1 Q. When I say done, I mean
2 actually laying the surface?

3 A. Correct.

4 Q. And you say should we
5 just consider going with a conventional paving
6 method? Were you having some concerns or at least
7 questioning whether to continue down the road of
8 assessing hot in-place recycling?

9 A. Clearly, yes.

10 Q. Was the basis of those
11 concerns the potential delay if the MTO contract
12 wasn't sorted, if the City didn't have time to
13 assess the suitability?

14 A. Yeah. I mean, there's a
15 number of things in Susan's e-mail here. The
16 first line says glitches and delays, it's a bit of
17 a concern. The second line or the second sentence
18 indicating that the local suppliers weren't
19 providing the BC-based contractor. That raises
20 some flags because if we bring somebody in and
21 they can't get material locally then we're putting
22 ourselves in a bind.

23 And then there's some other
24 issues that she identifies about regulatory and
25 having to bring in their own plant, et cetera, so

1 when I read that e-mail, it felt like while hot
2 in-place is still an interesting and probably very
3 useful concept, I'm not sure if this project and
4 this method is going to line up.

5 Q. Ms. Jacob also says that
6 Golder still has to work through the samples and
7 see how feasible it is to do, and if successful,
8 we have to do a report to council and there might
9 be some local -- opposition from local contractors
10 who won't be providing the material as I infer
11 from what she's saying.

12 Was your concern more about --
13 or your suggestion considered going back to a
14 conventional paving method related to a potential
15 that having to get through all of these hoops that
16 Ms. Jacob references could push the repaving into
17 2020, or was it about the substance of the
18 feasibility of hot in-place or both?

19 A. I would say both. I
20 mean, at this point, you know, she has identified
21 that it's still considered experimental and that
22 we will be sole sourcing a company from, it looks
23 like another province. So those are big concerns.
24 And it doesn't appear that MTO, who has got sort
25 of a bituminous section and a large paving

1 footprint, has got this under way yet.

2 Q. Did you want to ensure
3 that resurfacing occurred in 2019 as a result of
4 the information that is starting to come in from
5 various sources about wet weather collisions?

6 A. I mean, at this moment in
7 time I don't -- I don't believe that that's a
8 consideration. I'm trying very hard to understand
9 here the budget and, you know, we had some back
10 and forth with Rick about if it was hot in-place
11 would it save us money, and then if we go
12 conventional, what's the cost. And then we have a
13 two-year -- I think if I remember correctly, we
14 have a two-year project. We're in year one of it,
15 and we are looking at year two and we're still not
16 certain about the method.

17 So those are sort of the
18 overarching concerns I've got at this point and I
19 certainly don't want to move it to 2020 while we
20 continue down exploring. So I don't think I
21 factored in at any point the wet weather, but the
22 reuse of the material and how that is all being
23 put together, that's -- I think that's the main
24 focus here.

25 Q. Okay. So you were

1 concerned about the reuse of this material given
2 the anecdotal information about slipperiness and
3 the wet weather collision reviews?

4 A. Yeah. I mean, I'm
5 starting to be -- obviously I'm alive to it and
6 now I'm wondering how we're going to reuse that
7 material and what -- in what form and how is it
8 going to come out the other end, and Susan's
9 e-mail is pretty good at identifying the
10 challenges.

11 Q. Yes, but Susan doesn't
12 have the insight into the wet weather collisions
13 or the media reports that you've seen over the
14 last six weeks before this e-mail exchange. Were
15 you concerned about the idea of putting this SMA
16 asphalt through recycling process when you weren't
17 (skipped audio). Were you concerned about doing
18 that?

19 A. Yeah, I mean, definitely
20 I'm concerned about it and I'm suggesting we just
21 consider a standard methodology. So I think what
22 you are asking is, at this point in time, am I
23 alive to the wet weather issue and am I
24 considering is the SMA a contributing or a
25 potential contributing factor and should we --

1 should we be reusing it.

2 Q. That's exactly my
3 question.

4 A. I don't know if I made
5 that conclusion yet, but I'm alive to the fact
6 that there's wet weather concerns and that the
7 Spec has had articles on it and the transportation
8 folks have a -- and CIMA have done studies on the
9 wet weather collisions, so yeah.

10 Q. So you are connecting the
11 dots between those things and the concept of skid
12 resistance that might be at play here, and that
13 this asphalt may have skid resistance problem.
14 Have you gone that far?

15 A. I don't think I've gone
16 that far. I'm just trying to understand here if
17 we've got -- if we're reusing this material and
18 there's some concern about its performance.

19 Q. Registrar, you can close
20 this down and can you go to OD9A, page 59, please.
21 Can you call out 142.

22 So just the way the OD is
23 drafted, you can't tell that it's later that
24 afternoon; we're still talking about August 30th.
25 You e-mailed Ms. Jacob, Mr. Oddi, Mr. Andoga,

1 Ms. White with a copy to Ms. Cameron, who by
2 August is your assistant, under the subject line
3 RHVP road material testing reports. And you asked
4 of your direct reports, prior to asking Gary, are
5 there copies of the asphalt testing reports that
6 reviewed the material on the RHVP. And then it
7 says I believe the samples are being sent overseas
8 for testing. Let me know if you have copies we
9 can use.

10 So what asphalt testing
11 reports are you referencing there?

12 A. My understanding is I'm
13 asking about the polished stone value or the
14 testing reports. I mean, the samples that were
15 sent overseas, I think the only thing that I
16 recall there was -- I think it was a lab in
17 Ireland or maybe Scotland that did a review. So
18 that's what I'm asking for. I don't know where I
19 got that knowledge.

20 Q. So you're asking
21 specifically for what we call in the overview
22 document the 2017 Golder pavement evaluation
23 testing, that is the sampling and the results from
24 that sampling; is that right?

25 A. Yeah, that's what it

1 appears.

2 Q. Did anyone respond to
3 this e-mail?

4 A. I don't recall, and I
5 don't know if anyone brought me materials in a
6 hardcopy fashion or if they responded -- no, I
7 don't recall.

8 Q. Okay. You say prior to
9 asking Gary, did you go ask Mr. Moore about
10 whether he had copies of any asphalt testing
11 reports?

12 A. I don't believe I did.

13 Q. Registrar, can you close
14 this down and go to go to page 61, please. Keep
15 out 62 as well please. Can you call out 146 and
16 147. Or maybe just 146 for a moment.

17 On August 30th, 7:11 p.m. you
18 e-mailed Mr. Malone under the subject line
19 friction numbers on RHVP, which is with a forward.
20 And you wrote this is a study of the RHVP prior to
21 opening. FN is around mid 30s. And this is an
22 e-mail that you are forwarding. The e-mail from
23 Dr. Uzarowski to Mr. Moore.

24 Registrar, could you go into
25 that document, it's CIM16163.

1 So this has a number of
2 attachments, which I won't bring up for the
3 moment, but one of them is an academic paper on
4 early age low SMA friction, and the other is --
5 the two others are Excel spreadsheets of pavement
6 testing from the MTO in 2007.

7 Do you remember finding the
8 e-mail that is forwarded -- that you then forward
9 to Mr. Malone?

10 A. No, I don't remember
11 directly finding it. I mean, I think, you know,
12 clearly something triggered in my mind --
13 August 30th seems to be a pretty busy day with
14 respect to the Red Hill and meetings and
15 conversations. So yeah, I mean, I must've gone
16 into that director's folder. That's my belief.
17 And clearly I found this and forwarded it to
18 Brian.

19 Q. So this is forwarded at
20 7:11 p.m. Are you still in the office?

21 A. I would say no.

22 Q. You have access to
23 ProjectWise from computers external to the office?

24 A. So I would have -- I
25 mean, my belief here is that I've got my laptop

1 and it's got VPN, so I would have hooked up at
2 home and it would be kind of just like being in
3 the office virtually. I have the exact same
4 permissions and yeah.

5 Q. So then metadata on the
6 document, that is the underlying document, the
7 e-mail from Dr. Uzarowski to Mr. Moore on
8 January 24, 2014, that that was stored within the
9 director's office folder and that's your
10 recollection of where you found it as well?

11 A. Yeah, correct.

12 Q. Why were you in the
13 director's office folder on that evening?

14 A. Well, I mean, August 30th
15 appears to be kind of a busy day on Red Hill
16 asphalt so I must have been continuing to think
17 of it. And I went through the director's office
18 folder and I think I saw a folder called
19 pavements, and in there -- I think it was called
20 pavements -- that's what I saw. And so I've been
21 having conversations with Brian about the stone
22 mastic and yeah, that's what I determined or what
23 I found.

24 Q. It looks like in the
25 afternoon you're asking Ms. Jacob and Mr. Becke to

1 try to locate testing reports. Were you in
2 ProjectWise trying to locate testing reports
3 before you went and asked Mr. Moore?

4 A. Yeah, that's a reasonable
5 potential of it. Yeah, obviously again, August 30
6 is a pretty busy day.

7 Q. In terms of the
8 director's office folder, are you confident,
9 sitting here today, that this e-mail when you
10 found it on August 30 was in a subfolder within
11 the director's office folder called pavements?

12 A. I'm not 100 percent
13 confident. If we kind of go back, the director's
14 office folders in ProjectWise were fairly sparse,
15 I think would be kind a reasonable view of it. I
16 think there was maybe 10 to 15 folders. I
17 think -- low level pump station and something
18 about a CP bridge. I think that one folder was
19 called pavements, and I'm wandering around a
20 little bit here, but that's my recollection.

21 Q. I think we will come --
22 definitely there was a folder called pavements.
23 My question really is whether you can say with
24 confidence that this particular e-mail was in that
25 folder or if it was a folder above or a

1 differently named folder?

2 A. I think inside the
3 pavements folder there was some subfolders but I'm
4 not 100 percent positive about where this one sat.

5 Q. The inquiry has received
6 an audit trail for this document which identifies
7 it. It was uploaded into ProjectWise by Mr. Moore
8 on May 15, 2018.

9 Registrar, could you call up
10 in native form HAM64405.

11 So this is an Excel
12 spreadsheet. It's not sort of in narrative form.
13 But you'll see under column D, action date, it has
14 a 2018, 05, 15, and then user is J. Moore. And
15 you'll see it is -- RHVP in the ProjectWise path,
16 RHVP background and audit 2018, Red Hill
17 correspondence former director/pavements, and then
18 the document itself is friction numbers on RHVP.

19 You'll see that there's two
20 notations from Mr. Moore at the same time under
21 copied, and then it says the next in this audit
22 trail is 2018, 10, 02 at 11:59. Do you see that,
23 the third one down?

24 A. Yes.

25 Q. It says G. McGuire.

1 We'll come to a document you that prepared for
2 Mr. McKinnon later where you actually enclosed a
3 snapshot of an audit trail. It's not one that
4 looks like this but I think one that you can
5 actually screenshot right from ProjectWise. Are
6 you generally familiar with audit trails?

7 A. Yeah.

8 Q. So you forwarded this
9 e-mail to Mr. Malone on August 30 but it doesn't
10 come up in the audit trail. Do you know why?

11 A. No.

12 Q. Is there a typical way
13 that you open files within ProjectWise, you know,
14 a read only or a view or a photo? Does
15 ProjectWise have options about the format to view?

16 A. Yeah, it does. I think
17 there's a photo preview and I'm not sure if it's
18 available for all file formats.

19 Q. Do you typically use a
20 particular method to open documents within
21 ProjectWise -- or pardon me -- to view documents
22 within ProjectWise?

23 A. Yeah, I would have
24 assumed I just got in there and opened them and
25 reviewed them.

1 Q. But if you did, to your
2 understanding of the way audit trails work, it
3 would have come on this audit trail, right? If
4 you did it that way?

5 A. Yeah, my understanding,
6 and again, it's been a little bit, but -- I think
7 what you are asking is is there a way preview this
8 and not have it captured in the audit trail.

9 Q. That is my question. I
10 recognize you may not be able to speak to that. I
11 don't think your -- you haven't put yourself
12 forward as a ProjectWise, you know, sort of
13 technical expert, but if can you speak to that,
14 that would be helpful.

15 A. I think there probably is
16 a way, but I'm not sure -- I mean, is there not a
17 read only -- does that not flag that someone has
18 gone in and accessed the file? I'm not sure of
19 that.

20 Q. Okay. Given that you're
21 not sure of that, I'm going to move on to a
22 different topic and perhaps we'll come back to
23 that.

24 Registrar, you can close this
25 down, and I would ask that it be made the next

1 exhibit.

2 THE REGISTRAR: Noted counsel.

3 That's Exhibit 188.

4 EXHIBIT NO. 188: Excel
5 spreadsheet; HAM64405.

6 BY MS. LAWRENCE:

7 Q. Thank you. While we are
8 here, Registrar, could you bring up HAM64401. So
9 this is the copy of the original e-mail from
10 Dr. Uzarowski to Mr. Moore that you then forward
11 to Mr. Malone, and it has those attachments. So
12 we were looking at it within your forwarded
13 e-mail, but this is the original, and it has those
14 three attachments, and I believe that this
15 document is actually not yet in evidence, and so I
16 would ask that it be made the next exhibit, which
17 is HAM64401. Registrar, please tell me if I'm
18 incorrect about that and if it is already in
19 evidence.

20 THE REGISTRAR: Sorry,
21 counsel, I'm not sure if you're asking if it's in
22 the OD or if didn't have a doc ID previously.

23 MS. LAWRENCE: That's a good
24 question, Registrar. To my understanding, it's
25 not referenced, this particular doc ID is not

1 referenced in the OD, and so it should be made the
2 next exhibit.

3 THE REGISTRAR: So it will be
4 Exhibit 189.

5 EXHIBIT NO. 189: One-page
6 e-mail dated 1/24/2014;
7 HAM64401

8 BY MS. LAWRENCE:

9 Q. I'm not going to make the
10 attachments exhibits. I just want to ensure that
11 this document is easily accessible. Registrar,
12 you can close that down.

13 Registrar, can we go back to
14 CIM16163, please. We're back to your forward, Mr.
15 McGuire.

16 Why did you forward this
17 e-mail to Mr. Malone?

18 A. Again, so I don't have a
19 direct recollection of this, and this is again on
20 August 30th. You know, you've told me and the
21 record indicates that we've been having
22 conversations. Brian has brought forward some
23 information to us through the lighting and the
24 illumination, and I'm forwarding him some
25 information regarding friction because we must've

1 had a conversation about it, but I'm still trying
2 to figure out what it means to repurpose this HIP
3 or this SMA, and I think I'm just handing this
4 over to Brian for a look.

5 Q. Did you speak to
6 Mr. Malone on August 30 before or after you sent
7 this e-mail?

8 A. I don't believe I did.

9 Q. Are you confident that
10 you did not?

11 A. I don't -- I don't
12 remember either way.

13 Q. So you say, "This is a
14 study of the RHVP prior to opening," and then FN
15 is around mid 30s, and then you go down and
16 Dr. Uzarowski says, in 2007 the MTO performed
17 friction testing in both southbound lanes. The
18 following table summarizes the results of this
19 testing. The complete test results are attached.
20 And that's -- two of the attachments are those --
21 the actual friction testing reports from MTO, and
22 there is a chart. And then below that it says:

23 "In 2013, the Friction Numbers
24 were measured on the RHVP in
25 both directions by Tradewind

1 Scientific using a Grip
2 Tester. The average FN
3 numbers were as follows,"
4 and then it sets out
5 southbound and northbound, both right lane and
6 left lane. And then there's a reference to, you
7 know, sort of a summary of the paper that's
8 attached where it's speaking about SMA and early
9 age low friction problems.

10 So you've read that underlying
11 e-mail enough to flip it to Mr. Malone and
12 reference the FN around mid 30s. What did you
13 know at the time that you sent this about FN
14 numbers, friction numbers, and what the range of
15 being in the mid 30s meant, if anything?

16 A. I mean, you know, in
17 rereading this e-mail, it's interesting, I don't
18 appear to have read far down into this e-mail
19 because I indicate that it's just a study prior to
20 opening, but it does also include 2013 numbers,
21 which is clearly post opening. I don't, at this
22 point in time, understand any of the relevance of
23 a friction number in the mid 30s.

24 Q. Is your evidence today
25 that you didn't note the reference to 2013 or

1 Tradewind Scientific or note that the numbers that
2 are underneath there were a different set of data?

3 A. Yeah, I mean, my
4 recollection or my belief is when I sent this to
5 Brian in my two line message, is that this was a
6 study prior to the opening so.... Average number,
7 33, mid 30s, right. So that's sort of what I got,
8 and I don't appear to have read it in great
9 detail.

10 Q. Were you looking to
11 Mr. Malone because you didn't at the time
12 understand the significance of -- or understand
13 the relevance of a particular friction number or
14 range of friction numbers?

15 A. I mean, clearly at this
16 time, I mean, I'm asking questions about the hot
17 in-place, I'm asking questions about the testing,
18 I'm getting some information about the wet
19 weather, and here's a piece of information and
20 I've had a conversation with Brian and I forward
21 it to him. But I don't have a recollection of
22 what exactly I'm looking for here.

23 Q. There's also reference to
24 this academic paper about early age low friction
25 problem in SMA. Were you aware before 2018 that

1 SMA had an identified early age low friction
2 problem?

3 A. No, I was not.

4 Q. Did you read the attached
5 paper? It's Ponniah, Tam, Dziejko, Dhillon,
6 Brown are the authors? Did you read that paper on
7 August 30?

8 A. I don't believe I did. I
9 mean, I have since read the paper, but I don't
10 recall reading it at that time.

11 Q. Did you note that Dr.
12 Uzarowski said -- this at the very bottom of this
13 e-mail, the friction results following
14 construction were below anticipated value of 30
15 and range from 24.9 to 28.8? Did you note that?

16 A. Sorry, where does he say
17 that?

18 Q. At the very bottom.
19 Registrar, can you pull up the last paragraph --

20 A. Okay, sorry. Yeah, there
21 it is. No, I don't -- I don't recall reading
22 that. I mean, I appear to have done a cursory
23 review of this and forwarded it to Brian.

24 Q. Registrar, could you
25 close this callout, please. So we spoke earlier

1 today about your e-mails with Mr. Ferguson about
2 having a common folder for RHVP-related documents.
3 Did you put this into the common folder once it
4 was set up on September 5?

5 A. My understanding of that
6 folder was it was for the studies, and I don't
7 believe -- well, I guess you're right. There's a
8 couple of spreadsheets there. No, I don't believe
9 we did put it in there.

10 Q. Why not?

11 A. Good question, and it
12 appears to be, you know, the study of the Red Hill
13 prior to opening, so yeah, I didn't make that
14 connection.

15 Q. Registrar, can you go to
16 OD9A, page 62 and 63, please. Can you call out at
17 page 62, 148.

18 The inquiry has a copy of a
19 different e-mail from Dr. Uzarowski to Mr. Moore.
20 That one is from December 17, 2015, and it
21 attaches the Tradewind report in a native format.
22 Pardon me. It attaches the Tradewind report. The
23 inquiry has a copy of the native format.

24 Registrar, could
25 you close that down and call out the screenshot at

1 the top of page 63.

2 So, Mr. McGuire, what you
3 can't see in this e-mail is that there's an
4 underlying e-mail that Dr. Uzarowski sends on the
5 same day that basically cut and pastes the
6 January 24, 2014 set of data that we were just
7 looking at, and then a little bit later that same
8 day he then sends this. So the chain is actually
9 longer than this snip would appear. So this is
10 the native version, and it is -- it says:

11 "Hi Gary, please find attached
12 the 2013 report from Tradewind
13 Scientific on friction testing
14 on the Red Hill Valley Parkway
15 and LINC. I will look for
16 some standards or anticipated
17 values and call you."

18 In this version that the
19 attached document, it's not titled Tradewind
20 report, but it is the Tradewind report that I'm
21 sure you're now familiar with. Did you open
22 the -- did you open this e-mail on August 30?

23 A. Not to my knowledge.

24 Q. This e-mail was contained
25 within ProjectWise within the director folder

1 within the payments folder?

2 A. Yeah.

3 Q. In this native format,
4 you can see between at the top where it says Gary
5 Moore and where there is a copy of the attachment,
6 it says "you forwarded this message on 2018-08-30
7 7:13 p.m." So that's two minutes after you
8 forward the other e-mail from Dr. Uzarowski to
9 Mr. Malone. Did you forward this e-mail to
10 anybody?

11 A. So my recollection of
12 this is I did not, but clearly -- I mean, there's
13 a record and an audit trail that indicates -- I
14 don't think anyone else could have been in that
15 folder at that time but me. So I'm not sure what
16 happened with this one, but I don't recall
17 forwarding it, and I'm not sure if the record
18 indicates that it went somewhere or anyone
19 received it.

20 Q. So we don't have an audit
21 trail and it's really just this banner that comes
22 up, which is just a feature of Outlook when
23 there's a step taken to forward something. But in
24 any event, there is that. Mr. Malone has
25 testified that he did not receive a copy of this

1 e-mail from you. Can you think of anyone else
2 that you would have forwarded it to, including
3 yourself, frankly?

4 A. No, I can't think --
5 well, I mean, I can think of, you know, a few
6 folks that we potentially send it to. But I truly
7 don't -- I mean, this one feels anomalous. I'm in
8 those folders at 7 clock at night and I found some
9 stuff, I sent it to Brian. I don't appear to have
10 read it in great detail, and then there's this,
11 you know, indicating that I've looked at or moved
12 this other message forward, but I truly don't
13 recall that.

14 Q. I think your evidence has
15 been that you don't recall reviewing this e-mail
16 in any detail; is that right?

17 A. Yeah, that's correct.

18 Q. And what about opening up
19 the attachment?

20 A. No, I don't recall that.
21 Sorry, just for clarity, that's the -- that file
22 is the Tradewind report that's not marked draft?

23 Q. That's right.

24 A. Okay.

25 Q. Are you confident that

1 you did not open up a copy of the Tradewind report
2 that is attached here on August 30?

3 A. Yeah, I don't have any
4 recollection of doing that.

5 Q. Registrar, could you
6 close this down and go to OD9A, page 71 and 72,
7 please. Can you pull out 171 -- pardon me, 172 at
8 the bottom. So on September 4 -- and just for
9 your information, so September 4 is a Tuesday.
10 It's the Tuesday after Labour Day Monday,
11 August 30 is the week before on the Thursday, if
12 my calendar is correct.

13 So on September 4, Mr. Malone
14 exchanges e-mails with some of his colleagues.
15 You are not included on this e-mail, and he says:

16 "The City of Hamilton is
17 asking us for assistance in
18 interpreting pavement friction
19 testing results they have
20 received. The issue may
21 expand into discussions of
22 pavement design as well. Does
23 anyone at CIMA have expertise
24 in this area?"

25 And then there's some back and

1 forth about potential colleagues who might.

2 Did you ask Mr. Malone for
3 assistance in interpreting pavement friction
4 testing results?

5 A. Again, I mean, we had a
6 meeting that I don't recall, and I ended up
7 sending him some information. From a high level
8 perspective here, I'm still trying to understand
9 at this point in time what this hot in-place
10 methodology means to me and what we're seeing with
11 respect to the potential of -- or the conversation
12 around wet weather. So that's kind of where my
13 mind is at at this point in time.

14 Q. So is Mr. Malone's
15 framing that the City of Hamilton asked for
16 assistance in interpreting the friction --
17 pavement friction testing results, is that not
18 what you were asking for?

19 A. You know, I'm cautious
20 about interpreting too much into what Brian points
21 out here, but, you know, again, it's a pretty busy
22 time. I'm trying to figure out what's happening
23 across a lot of different avenues and really just
24 trying to sort out the schedule and the material
25 for this going forward. So Brian's interpreting

1 that as, you know, we're looking for some pavement
2 design, then that may be what he's taken away from
3 it.

4 Q. Registrar, can you close
5 this, and can you -- actually can you open 72 and
6 73 and then call out paragraph 175, please.

7 Mr. Malone provides quite a
8 detailed response back to you. Is this what you
9 were hoping for when you sent him the e-mail on
10 August 30?

11 A. Yeah, I mean, again what
12 I read or what I've got back from Brian on this is
13 that at a high level, the conversation around wet
14 weather, he's brought back some information around
15 what he's seeing in this. Sorry, I probably
16 didn't answer your question there.

17 Q. Well, my question was
18 trying to understand the meeting that you can't
19 recall on September -- pardon me, August 27, and
20 Mr. Malone's framing that the City is asking for
21 interpretation of pavement friction. He comes
22 back and there's -- we'll get into the e-mail in
23 more detail -- there's some factual information,
24 but also there's some reference to standards. So
25 I'm trying to understand was this what you were

1 looking for when you e-mailed Mr. Malone, or were
2 you looking for something more formal or something
3 different? I'm just trying to understand what
4 your intentions were and expectations were of
5 CIMA.

6 A. So, I mean, at this point
7 I'm, you know, again, aware of the wet weather
8 perceptions, and I'm also aware of our hot
9 in-place process and the concept that there may be
10 a relationship between the two, and asking
11 questions of -- you know, I sent Brian a bit of
12 information. I didn't ask him for much in that.
13 I just flipped him the results, and he provided me
14 this back.

15 Q. Registrar, could you also
16 pull out the rest of 175, which is on page 73.
17 I'm not sure if that's actually any bigger for
18 you, Mr. McGuire, but so you'll see Mr. Malone
19 starts off by telling you in the very first
20 paragraph that these appear to be the test results
21 from 2007 done by the MTO at the time when the
22 RHVP was being finished and that Mr. Moore had
23 provided Mr. Malone with these results in August
24 of 2015, and he says:

25 "Unfortunately, they failed to

1 offer an ability to quantify
2 any friction problem that may
3 be the source of the collision
4 performance."

5 Were you aware before
6 Mr. Malone told you in this e-mail that Mr. Moore
7 had already sent the 2007 friction test results
8 from MTO to CIMA?

9 A. So in the meeting that I
10 don't recall, Brian may have mentioned that he
11 received information previously, but I really
12 can't identify that. But no, this appears to
13 be -- you know, what I'm reading in this is, okay,
14 so I sent him some information that he already
15 had. So that's the first, I think I really
16 quantify that.

17 Q. So he goes on to say, and
18 this is on page 73 now, what was missing when we
19 viewed these figures back in 2015 was an
20 identification of a threshold or relative
21 comparison. The paper, which is the SMA low
22 friction paper, makes mention of expected FN
23 values of 30. Gary may have had the view that
24 because the RHVP values were higher, that they
25 were acceptable; however, when I asked what values

1 the MTO used as acceptable, he said he did not
2 know, and that the City did not have a number, and
3 it was not clear what the expected value for SMA
4 pavements in the early, slippery stages. Then he
5 has a graph, which is from the paper, about how
6 friction values increase for SMA from the start of
7 their life onwards.

8 This information, was that
9 useful to you in trying to -- was this the kind of
10 information you were looking for and was it useful
11 to you when you sent Mr. Malone the friction
12 testing data?

13 A. So in retrospect, this is
14 probably the first sort of significant detailed
15 review of friction that I'm getting, so I would be
16 cautious about what exactly, you know, I
17 understand here. What I'm getting from this
18 e-mail is that CIMA's had this information. You
19 know, the first sentence, it was unable to
20 quantify the friction problem from the information
21 he had previously. Then he goes on to say there's
22 no threshold or relative comparison, and then
23 there's some other examples about what may or may
24 not happen with SMAs as they age.

25 Sorry, I probably didn't

1 answer your question, but that's what I would have
2 taken away from it.

3 Q. My question is was that
4 useful, and I think your evidence was, this is the
5 first time I'm learning some of this. And so can
6 I read from that that yes, it was useful and that
7 it was giving you a bit more information points?

8 A. Yeah, correct.

9 Q. At the bottom Mr. Malone
10 says:

11 "Perhaps I misunderstood last
12 Thursday when we talked" -- So
13 last Thursday would have been
14 August 30 -- "but I thought
15 you said that additional
16 testing had been done, either
17 in 2014, or subsequent to the
18 November 2015 CIMA report."

19 So just stopping there, does
20 that refresh your memory about speaking to
21 Mr. Malone on August 30?

22 A. No, not in any great
23 detail, but I potentially -- if I cast my mind
24 back, I think the Spectator indicated that there
25 was testing done in December of 2015 or something,

1 and maybe that's what I was referring to.

2 Q. On August 30, did you
3 have testing that was done at some point either in
4 2014 -- in 2014 or that could be used, framed as a
5 2015 chart?

6 A. I don't believe I did,
7 no.

8 Q. I'm going to suggest to
9 you that the Tradewind report in that e-mail that
10 had the forward banner would have met additional
11 testing. Did you have that when you spoke to
12 Mr. Malone on the 30th?

13 A. Sorry, I don't believe I
14 spoke to Mr. Malone on the 30th, did I?

15 Q. He says, when I spoke to
16 you last Thursday, and you say you can't remember.

17 A. Oh, okay. Yeah, well --
18 so Brian and I would have spoke during the day,
19 correct?

20 Q. I don't -- I'm asking
21 you.

22 A. Okay.

23 Q. There's a reference to
24 speaking last Thursday, which I can tell you by
25 calendar, the Thursday before September 4th was

1 August 30. That was the same day you had a very
2 busy day that we've gone through, and I think
3 you've already given your evidence that you don't
4 remember speaking to Mr. Malone on the day.

5 A. No, and if I did, I mean,
6 it would've -- anyways, I don't recall speaking to
7 him. Sorry, if I did, it would have had to have
8 been, you know, after 7 o'clock at night or
9 something like that based on sort of the time
10 stamps from the records. I don't recall that.

11 Q. Sitting here today, can
12 you identify what additional testing you had on
13 August 30 that you may have mentioned to
14 Mr. Malone when you spoke to him on August 30, if
15 you take Mr. Malone's statement there and this
16 e-mail?

17 A. No. I mean, I think the
18 reference I would have been making would be to the
19 comments in the Spectator that they had identified
20 that there was additional testing in December
21 of 2015, but that might have been what I was
22 referring to.

23 Q. Is it possible that you
24 were referring to the Golder testing that was done
25 in 2017?

1 A. Did I -- did I know by
2 this time that the testing that Golder was doing
3 in 2017 also related to friction, or was it -- I
4 think my understanding up to this point was it was
5 mostly materials based for reuse for the HIP, and
6 I apologize for --

7 Q. No need to apologize.
8 That's helpful information about what your
9 understanding was about the Golder 2017 testing.

10 So your evidence is you don't
11 think that you would have connected that testing
12 to something that might be useful to Mr. Malone in
13 the context of this discussion?

14 A. No, I don't believe I've
15 got -- I mean, I don't believe I have knowledge
16 that we retained Golders for, you know, the
17 specific sort of friction testing in 2017, in
18 August. I think that arrives in a month or two.

19 Q. Registrar, could you
20 close these. After receiving Mr. Malone's
21 September 4 e-mail, did you discuss his e-mail
22 with Mr. Malone further?

23 A. I don't believe I did.

24 Q. Did you share the
25 information that Mr. Malone provided with anybody

1 at the City?

2 A. I don't believe I did.

3 Q. Why not?

4 A. It appeared to be
5 information that CIMA already had, and, you know,
6 while he provided me some background, I'm looking
7 at information that where was now 11 years old and
8 that he already had, so my assumption is he's
9 folded that into whatever work he's done on behalf
10 of the City.

11 Q. Did you do any other
12 research to try to better understand how friction
13 data is assessed or the ranges that are used?

14 A. Yes, I did. I don't
15 believe that started directly at this moment in
16 time.

17 Q. Registrar, can you go to
18 page 70, please. Can you pull out 167 and 168.

19 The next day, you e-mail Mr.
20 McKinnon with the subject line, and I think this
21 is a typo, it says "Hers here LINC" and some
22 quotes, and you link to the 2017 Spectator article
23 that we've already talked about today.

24 And then you pull out two
25 quotes that are directly from that article. I

1 think with the typos that your opening sentence
2 here is, here's the LINC and some quotes. That
3 suggests to me that you may have had a discussion
4 with Mr. McKinnon before you sent this e-mail.
5 Did you?

6 A. I don't recall.

7 Q. Why did you send this to
8 Mr. McKinnon?

9 A. You know, I don't recall
10 directly, but I do know that I was still -- I
11 mean, obviously back to the are we using the HIP
12 and what's the budget looks like. I think I'm
13 beginning to fold in the performance or perceived
14 performance of the existing material and, you
15 know, if we decide -- because I think -- well, I
16 know my July 19th interview indicated that we were
17 considering hot in-place, and I'm at a point now
18 where I think we're beginning to not consider hot
19 in-place, so there may be some budget and
20 hopefully not schedule impacts.

21 Q. But you don't say any of
22 those things in this e-mail. Instead, you
23 reference this LINC, and then the two quotes that
24 you pull out relate to Mr. Moore saying that there
25 was only an informal chart and friction testing

1 was not fulsome and the results were not
2 conclusive.

3 A. Yeah, those are -- again,
4 the concern about the material performance and
5 what we would do to it to repurpose it in hot
6 in-place. I think that's the context by which I'm
7 pulling that out.

8 Q. The night before, you
9 found and forwarded to Mr. Malone the 2014 e-mail
10 from Dr. Uzarowski that has a chart within it and
11 then it has the reference underneath to the
12 Tradewind report average friction levels. And we
13 know that there's that banner on a December 2015
14 e-mail chain from Dr. Uzarowski that also -- that
15 document also contains the Tradewind report.

16 I'm going to suggest to you
17 that you were e-mailing Mr. McKinnon because you
18 have connected Mr. Moore's statements to the media
19 with documents that you have now found within
20 ProjectWise; is that correct?

21 A. Well, that's a
22 suggestion. I don't have a recollection of
23 opening and reading the Tradewind report on
24 August 30th. To the best of my recollection, it
25 was later in September when that report, you know,

1 was opened and reviewed.

2 Q. Leaving aside -- I don't
3 mean to interrupt. I'm sorry, go ahead.

4 A. Sorry. I mean, I think
5 the last line says he wouldn't say whether
6 concerns over friction play a role in deciding
7 what pavement to use. In my mind, I'm still
8 focused on what are we doing here with this
9 resurfacing project and is it a good idea to reuse
10 this SMA. And I don't think I have arrived at
11 that yet, and we're looking at contributing
12 factors.

13 Q. Did you have a discussion
14 with Mr. McKinnon after you sent this e-mail?

15 A. I don't recall that.

16 Q. Is that to say you don't
17 think that you did?

18 A. No, I don't recall either
19 way.

20 Q. Did you advise Mr.
21 McKinnon of your discussions and/or e-mails with
22 Mr. Malone?

23 A. I don't believe I did.

24 Q. Did you speak to Mr.
25 Moore to try to understand further the documents

1 that you had located within ProjectWise?

2 A. No, because I mean
3 Brian's response indicates he's already had this.

4 Q. Registrar, you can close
5 this down. Can you go to page 77 and 78, please.
6 And can you pull out 189. I'll start here. This
7 is September 10th. Your assistant sent a calendar
8 to you and Mr. Becke and Mr. Oddi "Discuss Asphalt
9 Audit." It was scheduled for 30 minutes on the
10 following day.

11 Registrar, you can close this.
12 If you can open -- call out 190 to 194, please.

13 There's the calendar
14 invitation, and then the following day you e-mail
15 the same people, Mr. Becke and Mr. Oddi, and say,
16 "have you seen these Golder reports on asphalt?
17 Did we ever report to PWC?" And then there's a
18 reference to a link that ends with "PMTR report."

19 So were those the pavement
20 materials reports that Golder did going back, not
21 about the Red Hill, but just generally about
22 pavement materials used by the City?

23 A. Yeah, correct. And you
24 started off with a discussion with Mike and Marco
25 about the asphalt audit and --

1 Q. That's the subject line?

2 A. Yeah. And so the thread
3 behind that and those PMTRs, which was pavement
4 materials technology review, I think. To my
5 understanding, there was three or four of those
6 done in sort of a phased approach from around the
7 early 2010s up till 2017 or something along those
8 lines.

9 Q. Yes, that's right. So
10 are you just learning about the fact that those
11 had been done and that the reports exist in
12 September of 2018?

13 A. So I'm trying -- if you
14 back up to the transition into my role in the sort
15 of December, January timeframe, there's a large
16 focus on asphalts. Because of the winter damages,
17 we keep coming back to that, but a lot of
18 questions about what's the material, how are we
19 testing it, what are we doing from a
20 sustainability perspective. So I'm not sure if
21 this is the first time I've become aware of the --
22 you know, sort of the discussions with Golder on
23 this but -- sorry, go on. We need an answer
24 there.

25 Q. So you may have known

1 about them because they may have been relevant to
2 some of your earlier work?

3 A. Yeah, correct.

4 Q. Mr. Becke replies and he
5 says:

6 "I was speaking to Ludomir
7 last week and he sent it to me
8 then. This is the first I
9 have seen this report. I have
10 read it and I have questions
11 for him but I have not had a
12 chance to talk to him since.
13 I am not sure what was done
14 with that report. We should
15 talk about it first."

16 And then you respond:

17 "We seem to have done a full
18 asphalt QA review through
19 these reports. I wonder if
20 there was a report developed
21 for this."

22 We know that Mr. Becke has
23 received a copy of the Tradewind report, and to
24 your knowledge, Mr. Becke would have been familiar
25 with the pavement materials reports as well; is

1 that right?

2 A. Yes, my belief is that
3 Mike would have been familiar with what was going
4 on with Golders but -- yeah, sorry, when I read
5 that sentence in 192, I think that was the review
6 of our contractors that ended up going over to
7 audit but not related to the Red Hill.

8 Q. So I can tell you
9 Mr. Becke testified that he believes he was
10 referring to the Tradewind report in his e-mail to
11 you. So you send him an e-mail saying, have you
12 seen these Golder reports, and you reference the
13 PMTR reports, and he responds saying:

14 "This is the first I've seen
15 this report. I have read it
16 and I have questions for
17 Ludomir but I have not had a
18 chance to talk to him. I'm
19 not sure what was done with
20 that report."

21 And then you come back on kind
22 of a different topic and say, we have done a full
23 asphalt QA. So given that I just now told you
24 what Mr. Becke has testified he was thinking
25 about, it seems like you were ships passing in the

1 night in terms of what you're talking about. Is
2 that how you read this as well?

3 A. Yeah, I do, and I don't
4 know if I was aware of that context, but if it's
5 under the asphalt audit, my mind is to -- I mean,
6 not specific to the Red Hill, but my mind is to
7 the rest of the City and how those asphalts were
8 performing. That was sort of the genesis of
9 audits -- value for money audit.

10 Q. I see. That's what the
11 context of these e-mails are, is you trying to
12 collect documents to provide to audit?

13 A. Yeah, I mean, I see that
14 the next line is Mr. Pellegrini and Dipankar, so
15 that was that stream.

16 Q. Well, that's just how
17 we've drafted the OD, but I think -- all of these
18 are under the e-mail "Discuss Asphalt Audit" from
19 an invitation that you had for a meeting about
20 that. So I think you're right conceptually, but
21 don't take the OD listing as necessarily
22 indicative.

23 So did you ever have a
24 discussion with Mr. Becke following up from what
25 he was talking about, "This is the first I have

1 seen this report"?

2 A. I mean, not that -- we
3 had a lot of discussions on audit, and I can't
4 tell you exactly if I followed up directly on this
5 particular one, but we had numerous discussions on
6 pavement and pavement management around the audit.

7 Q. I'm hearing from your
8 evidence you did not follow up in a way in which
9 it became clear that Mr. Becke was talking about a
10 different report than you were talking about and
11 that it was the Tradewind report; is that right?

12 A. Yeah, that's correct.

13 Q. Registrar, you can close
14 this down. Can you go to page 89, please. Can
15 you call out 226.

16 The inquiry has received one
17 note file, and it is titled September 21, and when
18 we open it in native using OneNote, you can see
19 that you and a guest user modified the note on
20 September 6 and September 20, and that there is an
21 imbedded document called "Gord McGuire Agenda,"
22 and one called "Gord PAD," capital PAD.

23 Can you tell me a little bit
24 more about whether you can identify what that
25 document is and what purpose it was prepared for?

1 I can tell you I think it is related to
2 discussions with Mr. McKinnon during your QT time.
3 So I can direct you that way, and maybe you can
4 confirm if that's the case.

5 A. Yeah, I mean, this
6 appears to be the additions to an agenda for --
7 I'm not sure when I met with Dan, I guess it's the
8 21st -- about what it is we wanted to talk about.

9 Q. So Mr. McKinnon does have
10 a note in his calendar that you had a QT scheduled
11 for September 21st, and you'll see that this
12 agenda has "Digital billboards." RHVP -- actually
13 just stopping there. Digital billboards, was that
14 on the Red Hill?

15 A. No, I believe those are
16 proposed in other locations in the City.

17 Q. And it says "RHVP
18 friction testing." Did you raise with Mr.
19 McKinnon the issue of friction testing on the Red
20 Hill on September 21?

21 A. Again, I don't have a
22 direct recollection of bringing up friction
23 testing, you know, in the -- sort of in the
24 fashion of the Tradewind-style testing. I think
25 what I'm aiming at here is, you know, what are we

1 doing with the hot in-place, and do we have a
2 potential concern about reusing that SMA.

3 Q. That's not what that
4 says. That says RHVP friction testing. That
5 seems a bit more specific. Doesn't it?

6 A. Yeah, I agree, but, you
7 know, look, to my recollection, I don't have
8 really a lot of insight into the friction testing
9 until the end of September. That's my belief, and
10 I'm not sure if Dan has a different recollection
11 or not.

12 Q. Registrar, you can close
13 this down and go to page 77. Actually, just
14 before we go there. In respect of your QT with
15 Mr. McKinnon, did you update him about your back
16 and forth with Mr. Malone at your QT?

17 A. I don't -- I don't recall
18 that.

19 Q. Registrar, could you pull
20 out 186, please. So this is the third progress
21 meeting for the lighting study, and this is just a
22 summary from the OD, but the notes from that
23 meeting indicate that CIMA was advised that a full
24 illumination could likely be warranted but that
25 install and the cost to deal with environmental

1 assessment processes would be significant. And
2 you're listed as being present at that meeting.

3 Is that summary here
4 reflective of your recollection of that meeting?

5 A. So again, I mean, I don't
6 recall every specific meeting. This looks like
7 it's consistent with what ended up in the final
8 report.

9 Q. By this point, had you
10 decided how the lighting study would be reported
11 to PWC or council, and I'm asking specifically the
12 nature of the report that you were going to be
13 preparing?

14 A. No, I don't think we
15 turned our mind to that yet.

16 Q. Did you anticipate by
17 this point that it would be wrapped up within a --
18 or to be included within a broader traffic safety
19 report?

20 A. No, I don't believe
21 that -- I have that in my mind at this point, but
22 I'm not sure how we're going to report it forward.

23 Q. Thank you. I didn't
24 intend to ask all those questions without taking
25 you to a document. I was just hoping to be able

1 to not take you to a document, but just to refresh
2 your memory, CIM16848, please.

3 These are notes of a meeting.

4 Thank you. I think that there's actually a
5 specific reference to doing a joint report, and I
6 just want to make sure that I take it to you
7 because it might assist you in your recollection.

8 At the bottom of page 2, it
9 references thinking about it requires an EA, and
10 the process will be receive, report and consider
11 information report. No recommendation in the
12 report.

13 So had you started thinking
14 through what that was going to look like and is
15 this reflective of your thinking at the time?

16 A. Sorry. These are Brian's
17 notes?

18 Q. I'm sorry, these are
19 Brian's notes of this meeting.

20 A. Okay. Thinking about it
21 requires an EA and that process will not be
22 receive and consider information.
23 Recommendations. Yeah, I mean, I'm reading
24 through that. I'm not sure what you're asking me.

25 Q. So I'm asking two related

1 things, and I'm sorry not to be clear. Registrar,
2 could you actually pull up image 2 and image 3. I
3 asked you before without taking you to these notes
4 if you recalled whether you were going to include
5 lighting within a traffic report. And so there's
6 a reference here to thinking about it and that
7 process -- even thinking about thinking about it
8 requires an EA. I thought that was a typo, but I
9 actually think that might make sense as a
10 sentence. Even thinking about it -- "even
11 thinking about thinking about it requires an EA
12 and that process will not be," and then it says
13 "receive report and consider," and then it says
14 "information report," which is clearly the kind of
15 report you would do to -- at PWC. And then it
16 says "no recommendation in the report."

17 Just like the top EA says --
18 I'm not sure if that's going to be useful, but it
19 seems to me that you were starting to think
20 through what you're going to report and how you're
21 going to report to PWC; is that right?

22 A. Again, these are Brian's
23 notes and --

24 Q. Fair enough.

25 A. Yeah, so I think the

1 reference to the 2.4 is that projects that
2 exceeded 2.4 million required full environmental
3 assessment, and then the line below that says you
4 can't piecemeal, so I can't issue three adjoining
5 \$2 million projects and avoid an EA because that's
6 considered piecemealing. But I -- yeah, compare
7 facilities.

8 Q. And then if I can also
9 direct you to the top of image 3, it says:

10 "All generally lit, fully, not
11 partial. No way to get
12 assessment of the partial
13 application. Not going to
14 report on lighting. That will
15 be in traffic safety report."

16 (As read)

17 Does that assist you with your
18 thinking at this point, about how this information
19 was going to be reported to PWC?

20 A. No, not significantly.

21 Q. Registrar, you can close
22 this down. Did you discuss friction at this
23 meeting? Mr. Malone was there.

24 A. I don't recall.

25 Q. Registrar, can you go to

1 OD9A, page 90, please. Can you call out 227 and
2 228.

3 Moving forward to
4 September 26, I think you've already made
5 reference in your evidence to finding the
6 Tradewind report on September 26; is that right?

7 A. Correct.

8 Q. How did that come to be?
9 What were you doing within ProjectWise that you
10 found out?

11 A. That's a great question.
12 I'm not really sure I can answer it. I think
13 given sort of the confluence of activity that's
14 taking place around the hot in-place and what
15 we're doing with the resurfacing, et cetera,
16 maybe, you know, I just poked around inside that
17 file set to see if there's anything else or
18 anything that might be of value.

19 Q. So these two paragraphs
20 relate to two different documents, or one of them
21 is less clear than the other. So in 227, the
22 inquiry has a spreadsheet and a screen capture of
23 a ProjectWise audit trail indicating that the City
24 has determined that you opened a file containing
25 the Tradewind Scientific report from the public

1 works document management system. And that
2 language is taken from a briefing note that you
3 prepared for Mr. McKinnon. Do you remember
4 setting out in your briefing note what you could
5 recall about how you came across the Tradewind
6 report?

7 A. No, I don't recall kind
8 of outlining the circumstances around it. It's
9 generally been -- I was in that folder and -- for
10 whatever reason and found that file.

11 Q. Registrar, can you go to
12 HAM62030, image 6. Actually image 1, please.

13 This is not the briefing note
14 that you first make for Mr. McKinnon, which we'll
15 come to, but I think a summary that sort of
16 expands over time. Do you remember working on
17 this document?

18 A. I do.

19 Q. Registrar, can you go to
20 image 6. Actually can you go to image 5 and 6.

21 You see in the left-hand side,
22 during a search of our document management system,
23 I found an e-mail and opened it September 26. The
24 attached audit trail snapshot indicates the times
25 and are system generated by the server. And then,

1 what I had discovered was the 2013 Tradewind
2 report done by Golders. And then you have in this
3 document a screenshot. Registrar, could you pull
4 out the screenshot. Sorry, the screenshot on the
5 right-hand side.

6 So you can see this is a
7 screenshot. The e-mail is at the top "re Red Hill
8 SMA.msg." Then it shows Mr. Moore creating it on
9 May 15, and you accessing it on September 26 at
10 8:12 a.m. and then checking it in at 11:32 a.m.
11 You see that?

12 A. Yeah.

13 Q. Which document, because
14 we've looked at a couple of them now, did you open
15 and make the screenshot from?

16 A. So in that screenshot,
17 the thing that -- at the top left that says "re
18 Red Hill SMA," that's the document that would have
19 been opened.

20 Q. But do you remember the
21 content? The Tradewind report is in there, I
22 think you've indicated in your document. Do you
23 remember anything else about if it was from
24 Dr. Uzarowski to Mr. Moore or if it was some other
25 document?

1 A. I believe it's an e-mail
2 from Golders to Gary.

3 Q. Did you make this
4 screenshot at the time when you I guess closed it
5 on September 26, after 11:23 p.m. on that day?

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

7 Q. When did you take this
8 screenshot?

9 A. I'm not sure.

10 Q. Because it only shows
11 that first time that you go in and out of it. I
12 presume you go back to this document more than
13 once; is that right?

14 A. Yeah, or the file gets
15 saved out to a network drive or onto the local
16 drive or something like that and you don't need to
17 come back into ProjectWise.

18 Q. Can you recall which it
19 is? Is it you didn't have to go into again, or
20 you took the screenshot before you went in again,
21 or you actually saved it somewhere different?

22 A. I don't recall. And, you
23 know, one of my practices was to, you know, print
24 a lot of stuff, so it may well have gone out in
25 hard copy and I may have referenced it that way.

1 Q. Registrar, could you
2 close this down. Registrar, could you bring up
3 HAM62457, please. Oh, I'm sorry, can you bring
4 this up in native. Sorry.

5 While this is coming up, Mr.
6 McGuire, do you know whether audit trails in
7 ProjectWise capture the e-mail as it's being
8 opened and closed or the attachment? Are those
9 separate audit trails? Again, I recognize you
10 might not know, just asking.

11 A. That's a good question,
12 and what I -- yeah, I don't think I have
13 sufficient IT background to give you that answer.

14 Q. Fair enough. Registrar,
15 do you need another --

16 THE REGISTRAR: Sorry, I don't
17 have that one in native. I have HAM62645 and
18 62647.

19 MS. LAWRENCE: I'll come back
20 to that. Registrar, can you just try again. I
21 think you do have it in native. HAM62457. If
22 not, we can sort that out at lunch. It's okay,
23 Registrar, we can sort it out at lunch.

24 THE REGISTRAR: Yeah, I'm
25 sorry, I don't have it.

1 BY MS. LAWRENCE:

2 Q. Okay. Registrar, can you
3 go to 9A, page 90, please. Thank you.

4 In addition to that e-mail
5 that we were -- the audit trail we were just
6 looking at, we also have -- the inquiry has
7 received evidence that you opened Mr. Moore's
8 January 24, 2014 e-mail, which was to a Mr.
9 Dziedziejiko on the same day. Do you recall
10 opening up an e-mail that was from Mr. Moore to
11 Mr. Dziedziejiko, which contained information
12 about Red Hill friction results?

13 A. No, I don't recall that.
14 What was the title of that e-mail? Actually I
15 don't -- yeah, that's fine.

16 Q. I actually don't have the
17 name of it handy, but it did contain information
18 that related to the Red Hill. Do you know Mr.
19 Dziedziejiko?

20 A. No, I don't.

21 Q. So when you opened the
22 document that contained the Tradewind report, did
23 you review the Tradewind report at that time, like
24 on that day?

25 A. I would have to say yes.

1 I'm not sure what my calendar looked like and at
2 what point.

3 Q. Did you think to send it
4 to Mr. Malone?

5 A. No, not immediately.

6 Q. Did you call him and tell
7 him that you'd received it? To be clear,
8 Mr. Malone doesn't suggest that you did.

9 A. No, I did not.

10 Q. You didn't even think
11 about contacting Mr. Malone?

12 A. Not in the first
13 instance, no.

14 Q. What were your initial
15 thoughts upon reviewing the Tradewind report?

16 A. Well, I was -- I mean, I
17 was surprised that it was a report. You know, I'm
18 aware from previous media and interviews that the
19 City's position or the City's statements where
20 there was just an informal chart. This is not an
21 informal chart; it's a report. So yeah, that was
22 kind of my first take of that.

23 Q. Ms. Jacob testified that
24 you spoke to her sometime on September 26 after
25 5 p.m. about the Tradewind report. Do you

1 remember that?

2 A. No, not specifically, but
3 I do -- I mean, I do recall having a conversation
4 with Susan about this. I didn't know exactly
5 5 p.m.

6 Q. Sure. Fair enough. But
7 closer to the end of the day you do remember
8 talking to her about the report?

9 A. Yeah.

10 Q. What, if anything, did
11 you ask her to do?

12 A. You know, I asked her --
13 so a little background here. Susan is the design
14 lead on the Red Hill project, so I wondered if
15 she, you know, had this information. I wanted to
16 know what she -- what her view of the report would
17 be, but I think I just brought her the Tradewind
18 report and potentially she also had the year 6
19 summary, or I'm not sure if we found that during
20 that day or not.

21 Q. Let's just take that one
22 thing at a time.

23 A. Yeah.

24 Q. So she's the design lead
25 on the Red Hill resurfacing project, right?

1 A. Correct.

2 Q. And you wanted to know if
3 she already had this information. Did she confirm
4 one way or another whether she had this
5 information before you provided it to her?

6 A. So I don't have her
7 direct words, but my recollection is no, she
8 hadn't seen this before.

9 Q. We can come to it in a
10 moment, but she does prepare a summary for you
11 about the Tradewind report. Did you ask her to do
12 that?

13 A. Yeah, I did.

14 Q. Was that because you
15 assumed that she had more technical expertise
16 around friction and materials than you did?

17 A. Yeah, correct.

18 Q. She also prepared a
19 summary that includes the -- what we call the
20 Golder report, the six-year review. So let's talk
21 about that. Do you recall when you first found
22 the Golder report?

23 A. I don't recall finding
24 the Golder report. I don't believe it's in
25 ProjectWise, in the director's folder, to my

1 knowledge.

2 Q. Did you find a hard copy
3 version of it somewhere?

4 A. My understanding is that
5 Diana had found a hard copy version either in a
6 filing cabinet, or that Mike Becke had been
7 provided a copy earlier, but from what I
8 understand now, Mike had only been provided a copy
9 of the Tradewind report.

10 Q. So let's talk about
11 Diana. You think that she may have found a copy
12 of the Golder report in a hard copy in a filing
13 cabinet, and do you think that that happened on
14 September 26?

15 A. Again, I don't really
16 recall when we found the year six report. I mean,
17 clearly it's available to us because I think on
18 the next day Susan provides a summary of it.

19 Q. That's right.

20 A. Yeah. So I'm not sure
21 where it was.

22 Q. Ms. Cameron has testified
23 that there was a collection of documents that were
24 in Mr. Moore's office and then when you moved into
25 Mr. Moore's office, they got moved around and into

1 a filing cabinet and that she took you to that
2 filing cabinet. Does that assist?

3 A. Not really. I think in
4 this summary document that I identify, that I'm
5 not sure when we found it, and that was -- this
6 was sort of my recollection closer in time but --
7 yeah.

8 Q. Okay. So you can't
9 assist the inquiry with any further information
10 about where the Golder report was or who located
11 it?

12 A. The year six report?

13 Q. Yes.

14 A. No. My understanding was
15 that it was either in design or Susan had it, or
16 Diana had a copy of it, but that's not clear to
17 me.

18 Q. Just to narrow down the
19 time, are you confident that the Golder report
20 was -- that you first learned of the Golder report
21 and obtained a copy on September 26, not before?

22 A. Yeah, correct, I'm not
23 sure -- yeah, I'm not sure when that report
24 surfaced, and I don't recall when I first read it.
25 It's a significant report. I think it's -- yeah,

1 it's over 100 pages, I think, or more.

2 Q. So in terms of the order
3 that things happened, you found the Tradewind
4 report electronically within ProjectWise, and
5 thereafter the Golder report surfaced in hard
6 copy?

7 A. That appears to be --
8 that appears to be what happened, yeah, correct.

9 Q. You don't remember it
10 happening the other way around, where the Golder
11 report surfaced and then you went looking for the
12 Tradewind report electronically?

13 A. No, I don't.

14 Q. And you don't remember
15 when you personally actually read the Golder
16 report?

17 A. No.

18 Q. Did you read it before
19 you asked Ms. Jacob to prepare a summary of it?

20 A. No, I don't think so.

21 Q. I think you reference
22 that you thought that perhaps Mr. Becke gave you a
23 copy. He's testified that he did not, and so I
24 just want to understand. Do you have a clear
25 recollection that Mr. Becke provided you a copy of

1 the Golder report?

2 A. No, I don't, and if my
3 previous testimony was I thought Mike gave it to
4 me, that was one of the avenues that I thought the
5 Golder's data had arrived.

6 Q. Registrar, I think that
7 you have that native version of that document now,
8 it's HAM62457. Registrar, could you make that a
9 little bit bigger. It's very difficult to see the
10 font. It's okay if you can't see everything.
11 There we go.

12 Mr. McGuire, this is a Excel
13 spreadsheet that has reference to a number of
14 different audit trails, and you'll see we use doc
15 IDs as we've been calling out documents all day.
16 I assume but I'll just confirm, you weren't
17 involved in the preparation of this audit trail;
18 is that right?

19 A. No.

20 Q. But it is -- if you'll
21 see the very first one, it's doc ID 16795, there's
22 I think the reference, which we looked at before,
23 to Mr. Moore's creation and then your checking out
24 of a document named "Red Hill SMA.smg." Do you
25 see that in the first three lines?

1 A. Yes.

2 MS. LAWRENCE: I would like to
3 make this the next exhibit, which I think is 189.
4 I'm sorry, maybe it's 190. Registrar?

5 THE REGISTRAR: It's 190.
6 Thank you.

7 EXHIBIT NO. 190: Spreadsheet;
8 HAM62457

9 BY MS. LAWRENCE:

10 Q. Registrar, you can close
11 this down. Can you bring up OD9A, page 85,
12 please. At 2:14 on September 17th, you send a
13 calendar invitation for Ms. Jacob, Mr. White and
14 Mr. Soldo for a meeting to review the scope of the
15 resurfacing, and it's in fact not obvious from the
16 OD, but that meeting was scheduled for
17 September 27 in the afternoon. So that would be
18 the day after you discovered the report and after
19 you asked Ms. Jacob to put together a summary.
20 I'm going to come back to her summary in a moment,
21 but do you recall attending that meeting with
22 Mr. White, Mr. Soldo and Ms. Jacob on that day?

23 A. No, not -- no, I don't
24 recall in detail.

25 Q. Did you tell Mr. White

1 and Mr. Soldo about the Tradewind report or the
2 Golder report on that day?

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

4 Q. Why not?

5 A. I mean, at this point I
6 think we're just -- you know, I've had it for
7 what, 12 hours or 24 hours. Trying to digest what
8 it is we have in front of us.

9 MS. LAWRENCE: Thank you.

10 Commissioner, I'm about to move on to a topic that
11 will take longer than one minute, and we are about
12 one minute away from our regular lunch break.

13 JUSTICE WILTON-SIEGEL: So
14 let's move forward to 1 o'clock, and we'll say
15 it's 1 o'clock and we'll take our break until
16 2:15.

17 --- Recess taken at 12:59 p.m.

18 --- Upon resuming at 2:15 p.m.

19 MS. LAWRENCE: Commissioner,
20 may I proceed?

21 JUSTICE WILTON-SIEGEL: Please
22 do.

23 BY MS. LAWRENCE:

24 Q. Mr. McGuire, before lunch
25 we were talking about events in September of 2018.

1 Registrar, can you bring up OD9A, page 90 and 91,
2 please.

3 You'll see at page 90,
4 paragraph 229 that Ms. Jacob e-mailed you under
5 the subject line "RHVP-Brief," attached documents,
6 says please see attached. And the attached
7 document in paragraph 230 notes and says three
8 reports were analyzed by Ms. Jacob, and she has a
9 summary of findings. Do you remember receiving
10 this brief from her?

11 A. Yes, I -- yeah, I do
12 remember.

13 Q. Do you recall at this
14 point -- and I think I asked you this before lunch
15 but just to confirm -- you had not reviewed the
16 Golder report that Ms. Jacob is referencing in
17 this memo?

18 A. I don't believe I have.

19 Q. Registrar, could you pull
20 out the information under "Summary of findings" on
21 page 90 and on page 91.

22 So she notes that there is
23 slight to moderate distortion, slight to moderate
24 longitudinal cracking top down nature, and two
25 significant flooding events up to 2014.

1 In the next bullet, she notes
2 cracks on the top asphalt, and not affecting the
3 second lift, first lift debonded from the second
4 lift, and that there was three times more traffic
5 per year anticipated and that was designed for.

6 She also says a full
7 resurfacing was recommended in the year 21. So
8 just stopping there, did you understand that the
9 reference to slight to moderate distortion, top
10 down cracking, and the reference to the lifts
11 being -- the second lift and the first lift, that
12 there were from the Golder performance review of
13 the pavement, 5/6 years after?

14 A. Yes, correct.

15 Q. You read the other two
16 documents that she's summarizing, the Tradewind
17 report and the memo from Dave Ferguson. So is it
18 fair to assume whatever -- you didn't know that it
19 was from who you assumed was from the Golder
20 report?

21 A. Yeah, correct.

22 Q. There's also a reference
23 to new surface course should incorporate
24 aggregates that have good polished stone value,
25 and there's a reference to the 2018 samples that

1 were being reviewed. Did you understand that that
2 was Ms. Jacob, that was her commentary that she
3 was adding in, or did you understand that that was
4 from the Golder report?

5 A. Yeah, good question. You
6 know, looking at it now, I mean, it can't be from
7 the Golder report because that's from 2018, right.

8 Q. Yes. You didn't go back
9 and look at the Golder report or talk to Ms.
10 Jacob, try to sort out what she's summarizing
11 versus what information she's providing to you as
12 context?

13 A. No. I mean, she provided
14 me this, and I think we had a quick conversation
15 or -- whenever this was provided back, but I
16 didn't ask her to go through each bullet point.

17 Q. There's a reference to
18 the condition of the paved shoulder, and to
19 routing and ceiling may be required to stop
20 ingress of water into the road structure.

21 Did you understand if Golder
22 had provided any recommendations to remediate the
23 performance issues that they had seen in the
24 pavement?

25 A. Sorry, this is

1 September 27th?

2 Q. Yes.

3 A. Yeah, no, I don't believe
4 so.

5 Q. In the Golder report,
6 there is a recommendation for microsurfacing. Do
7 you recall knowing that in September of 2018?

8 A. I don't believe so.

9 Q. I asked you about this
10 earlier, but back in March of 2018, Dr. Uzarowski
11 has testified that at that time he conveyed
12 Golder's view that there should be pavement
13 remediation, including microsurfacing or shot
14 blasting or skidabrading. Did you know that by
15 September of 2018?

16 A. No, I don't think -- I
17 don't believe I do.

18 Q. Registrar, can you close
19 these down. Pages 79 and 80, please. On
20 September 11, Mr. McKinnon forwarded you and Mr.
21 Soldo an e-mail from a councillor about a
22 complaint from a member of the public, and you
23 were tasked with responding to this. Do you
24 remember that?

25 A. I do.

1 Q. Registrar, can you go to
2 page 81, please. You have a back and forth with
3 Ms. Cameron which is -- the content is referenced
4 at the top of page 81, and it says -- you're
5 putting together the beginning of a draft reply to
6 this member of the public, and you say:

7 "Can you add the Red Hill
8 resurfacing as an H priority
9 sheet?"

10 What's an H priority sheet?

11 A. That's a good question.
12 I don't recognize that as -- it feels like a typo
13 of some sort.

14 Q. Do you have priority
15 sheets? Maybe not H priority sheets but just
16 priority sheets?

17 A. No, I don't believe we
18 do.

19 Q. Do you do that for your
20 own to-do list that Ms. Cameron might be helping
21 you with?

22 A. I can't provide any more
23 insight into H priority sheet.

24 Q. Understood. You say in
25 your draft response:

1 "We have had a series of
2 reports that indicate there is
3 inconclusive results from the
4 previous testing."

5 What was the basis for that
6 statement?

7 A. You know, again, that's
8 the reference to the information that I've got
9 back from the Spectator. I don't believe I'm
10 aware of the 2017 Golder's testing yet and --
11 yeah, that's the information I've got at hand.

12 Q. So you're using the same
13 language that Mr. Moore had previously used?

14 A. Yes.

15 Q. Registrar, can you go to
16 page 91, please. So you do respond on
17 September 28, so you get this before September 26
18 and then you respond after September 26. So when
19 you respond, you have a copy or you'd found the
20 Tradewind report, and you say "this testing has
21 come back with inconclusive results."

22 By the time you have the
23 Tradewind report in hand, what is the basis for
24 saying that there's testing with inconclusive
25 results?

1 A. Again, you know, I think
2 I'm trying stay pretty high level here with this
3 response. I don't believe, you know, this is a
4 day or two after, that I've fully digested or
5 comprehended what we've got from Tradewind, and,
6 yeah, I'm trying to provide her some insight into
7 the fact that we'll be resurfacing.

8 Q. So it's doesn't sound to
9 me like you're trying to be high level. It's
10 actually pretty specific to say "inconclusive
11 results." It sounds to me like you're trying to
12 be consistent with what Mr. Moore said in the
13 past.

14 A. That's me. I mean,
15 that's the thread or the language that's been used
16 about the testing in the past and that's sort of
17 the language that is being carried forward.

18 Q. So you say in this
19 response:

20 "As you mentioned, this
21 testing has come back with
22 inconclusive results. As a
23 result, we are expediting
24 resurfacing of the roadway to
25 occur in 2019."

1 Earlier I'd taken you to
2 Spectator articles where the Spectator seems to
3 connect inconclusive results with repaving. I
4 wouldn't attribute that connection in those
5 Spectator articles to Mr. Moore to you, but here
6 it does look like you are connecting those two
7 things, the "inconclusive results," and then "as a
8 result we are expediting the resurfacing."

9 By September 2018, did you
10 understand that that had been the rationale for
11 programming the resurfacing to occur in 2019?

12 A. So at that point, no, I
13 don't believe that I've come to the conclusion
14 that that was the rationale for the reprogramming,
15 but that language is consistent with what was in
16 the Spec article, and maybe, you know, I am just
17 repurposing our sending some of that back to the
18 resident.

19 Q. Did you ever come to the
20 conclusion the rationale for the reprogramming of
21 the resurfacing first to be done in 2018 and then
22 in 2019, that that was connected to the complaints
23 about slipperiness on the Red Hill?

24 A. No, I don't think I ever
25 came to that conclusion, you know, given the

1 information that we've had or I got in the
2 interim, but -- I'm sorry, I'm just re-reading
3 this. Yeah, the resurfacing of the road, from my
4 understanding, was based on condition assessments.

5 Q. Registrar, could you go
6 page 92 and 93, please.

7 On October 2nd, Mr. Ferguson
8 e-mailed CIMA requesting a quote for a roadside
9 safety assessment, and then he forwarded the
10 e-mail that he sent to Mr. White and to Mr. Soldo,
11 and that kicks off the CIMA project for the
12 roadside safety assessment.

13 To your understanding, did
14 this roadside safety assessment request come out
15 of the August 30th meeting that you attended where
16 wet weather conditions were discussed?

17 A. Was I copied on this?

18 Q. No, but I know that you
19 come to know about the roadside safety assessment,
20 so I was just giving you the timing. It was in
21 October that he reached out.

22 A. Sorry, no, I'm just
23 reading the original.

24 Q. Go ahead.

25 A. Yeah, my understanding

1 was that this was to -- and maybe I'm not reading
2 this correctly -- that this was to evaluate what
3 was required for addition into the capital
4 programming. And maybe it says that. I can't
5 read it that quickly.

6 Q. You can take your time.
7 It might be useful if you go to 332, to Mr.
8 Ferguson's initial e-mail to Mr. Malone where he
9 references the scope, but also that the Red Hill
10 is being paved next year and Edward would like to
11 include any works that might come out of this into
12 the budget.

13 A. Yeah.

14 Q. I think your evidence is
15 that you understood this was related to setting
16 the scope for the resurfacing from traffic's
17 perspective, and so my initial question was did
18 you understand that this request had come out of
19 discussions about the -- on August 30th about the
20 wet weather collisions?

21 A. No, I don't understand if
22 it came directly out of that or it was a function
23 of the conversation around getting the scope and
24 the programming for the Red Hill.

25 Q. By October 2, had you

1 advised Mr. Soldo of the existence of the
2 Tradewind report?

3 A. And what day is that? Is
4 that like a Monday or something or --

5 Q. I can tell you it's a
6 week before you attend the sort of next Red Hill
7 group meeting. I don't know if that assists.

8 A. Yeah, again, I think
9 there's few timelines and chronologies that sort
10 of indicate when people were informed, and I don't
11 have that in front of me right now. I'm not 100
12 percent sure when he received it.

13 Q. Do you remember the
14 context of when he received it? Was it at a
15 meeting? Was it you and he having a discussion at
16 the office?

17 A. Yeah, I think -- I don't
18 really have a full recollection of when I
19 transferred it or handed it over to Edward but --

20 Q. Okay. I think that it's
21 a little after this period of time, but maybe I'll
22 ask those questions again when we get there.

23 A. Sure.

24 Q. Did you think to add to
25 this scope for CIMA a review of the Tradewind

1 report?

2 A. Sorry, at this time I
3 don't think I'm on this e-mail.

4 Q. Okay. When you became
5 aware of the roadside safety assessment going
6 forward with CIMA, did you consider asking to add
7 a review of the Tradewind report to CIMA's scope?

8 A. Not immediately.

9 Q. Did you at some point?

10 A. I mean, further on we get
11 into a discussion, I think it's in the December
12 timeframe, about having an evaluation of the
13 Tradewind report, but not immediately, no.

14 Q. Registrar, could you go
15 to page 87, please. Pardon me. 97, please.

16 In October Ms. O'Reilly
17 followed up again on asphalt testing and asked if
18 there was someone she could talk to. Ms. Graham
19 forwards this to you, and you forward it to Ms.
20 Jacob and Mr. Becke, and you said, "Let's review
21 this today," and Ms. Jacob said, "We should buy
22 some more time before responding to this e-mail."
23 And you say, "Agreed. That's why I want to talk
24 today." Why did you want to buy some time before
25 responding to this e-mail?

1 A. Yeah, I mean, so on
2 October the 3rd, she's asking if -- and I think if
3 I read in there, are we working towards that HIP.
4 I don't believe we have the results back yet from
5 all the testing.

6 Q. So why don't you just say
7 that? Instead what you say is I think we
8 should -- what she says -- Ms. Jacob says I think
9 we should buy some more time. Why did you want to
10 buy some more time?

11 A. Sorry, I don't know how
12 much time we were looking to acquire.

13 Q. Did your agreement with
14 Ms. Jacob for you to buy some more time relate to
15 the discovery of the Tradewind report and trying
16 to figure out what it meant?

17 A. Sorry, so that's Susan
18 saying we should by some more time, and no, I
19 can't recall exactly why. Maybe it was in order
20 to try and understand if we were on or off the HIP
21 or how we were going to potentially communicate
22 the testing or test results, and as you indicate,
23 the Tradewind ones.

24 Q. By October 3, are you on
25 or off the HIP? Maybe I'll put it differently.

1 Have you decided that you're not going to use HIP
2 on the Red Hill?

3 A. You know, I think there's
4 some varying timelines in there. I think -- I'm
5 pretty much convinced by early October that the
6 HIP is not going to work, and, you know,
7 considering all the things that we know, that
8 we're moving forward with a conventional paving.
9 I think that statement was first -- probably
10 August 30th, and then by now I think, in my mind,
11 we're committed to moving with a straight paving
12 job, but I don't know exactly when that gets
13 completely locked in.

14 Q. Who makes that final
15 decision? Is it you?

16 A. Yeah, I believe so.

17 Q. After you have found the
18 Tradewind report, is part of the reason that you
19 take HIP entirely off the table is because you
20 want to ensure that the repaving is going to
21 happen in 2019?

22 A. Well, sorry, I don't know
23 how that's tied to the Tradewind report, but I
24 don't believe we're going to get to HIP in this
25 cycle, and the Tradewind report, you know, brings

1 in some questions about the differential
2 performance between the SMA and the LINC, so I'm
3 just trying to weigh all those factors.

4 Q. I see. My particular
5 question, I'll reframe it, is is one of the
6 reasons that you want to go with conventional
7 paving is that you want it to be done in 2019 and
8 not have any situation in which it would be
9 delayed further?

10 A. Yeah, correct.

11 Q. Registrar, can you go
12 page 94 and 95, please. The inquiry has received
13 notes from Debbie Edwards, who is a city
14 solicitor, regarding a call that you had with her
15 on October 4, 2018. We have handwritten copies,
16 but I think it might be easier just to review the
17 transcriptions.

18 Registrar, can you call out
19 the underlined portion which begins at 10/04/18.
20 Exactly. Right there.

21 Why did you reach out to Ms.
22 Edwards on October 4?

23 A. So, you know, I think in
24 conversation with Dan, we determined that we
25 should get this over the legal and -- or -- yeah,

1 I think that was the reason for it.

2 Q. When you say "in
3 conversation with Dan," did you give Dan
4 information that you had found the Tradewind
5 report before October 4th?

6 A. I think -- yeah, I think
7 I did. I can't remember what day that is but....

8 Q. He testified that you had
9 a hallway discussion about it. Do you remember
10 that?

11 A. Not -- no, not directly,
12 but I do remember trying to get -- getting Dan the
13 information reasonably quickly from the time that
14 I found it.

15 Q. Did you give him a copy
16 of the Tradewind report or the Golder report for
17 him to review?

18 A. Certainly not the Golder
19 report, considering it's, you know, halved. I'm
20 not sure if I give him a copy of the Tradewind
21 report or just told him that the report existed.

22 Q. These are notes that
23 reflect a conversation with you. They are
24 Ms. Edwards' notes, and it says -- she records, a
25 number of test results from past which show staff

1 were aware plus. Do you remember giving Ms.
2 Edwards any information about staff being aware,
3 and if so, what this note refers to?

4 A. No, I -- yeah, I can't
5 give you any insights into those notes, or
6 Debbie's notes.

7 Q. Do you remember this call
8 with Ms. Edwards or no?

9 A. No, not really.

10 Q. Had you spoken to
11 Mr. Moore before October 4 and after you found
12 Tradewind report?

13 A. No, I had not.

14 Q. Maybe so we can nail it
15 down, had you talked to and advised Mr. Soldo of
16 the existence of the Tradewind report before you
17 went to legal?

18 A. That I'm not sure. I
19 think there's some indications that it was the
20 next week when Edward was identified or got a copy
21 of it, but I don't have direct recollection of
22 that.

23 Q. Okay. Just trying to
24 find some sort of sign markings. It says at the
25 bottom "December 10 meeting on perf on Red Hill."

1 Is that in reference to a internal staff meeting
2 or to a public works committee meeting or
3 something else?

4 A. Well, to my
5 understanding, council isn't sitting because we're
6 basically, I mean, four years removed from now, so
7 there's a municipal election on. So I don't think
8 public works committee would be sitting by early
9 December, but maybe I'm wrong. So I would have to
10 assume it's an internal meeting.

11 Q. Is it possible that would
12 be a deadline to prepare a report that would
13 eventually go to public works committee or
14 council?

15 A. I can't give you an
16 answer on that one.

17 Q. At this time, had you and
18 Mr. Soldo finally decided on how you were going to
19 provide the lighting and the traffic components
20 around the Red Hill to public works committee?

21 A. I don't believe so.
22 Sorry, when Dave's e-mail to CIMA was just a
23 couple a days earlier or?

24 Q. Yeah.

25 A. Yeah, I don't think we

1 turned our minds to a report to council yet.

2 Q. Regardless of the
3 particular format of what that would look like in
4 terms of whether it being a joint report or two
5 separate reports, by October 4 did you -- was it
6 your thinking that the Tradewind report and the
7 Golder report would be referenced and disclosed to
8 the public works committee?

9 A. So, I mean, I think we're
10 like four days removed from me finding this, or
11 working days. I don't think I've got enough
12 information yet about everything that's taking
13 place. You know, the role that I have at the
14 director level wasn't just focused on the Red
15 Hill, so I don't think I've got enough information
16 to figure out what we're doing with this data yet.

17 Q. So it wasn't that you
18 read the Tradewind report and immediately said,
19 oh, this is going to have to go to public works at
20 some point? You wanted to do an assessment over
21 time?

22 A. Yeah, correct.

23 Q. Looking through,
24 December 10th is actually the first public works
25 committee meeting of the new council. Does that

1 assist?

2 A. Not really, but I don't
3 know -- I don't think we brought a report.
4 Obviously we would see that on the record.

5 Q. That's true. I think any
6 report that was going to be on December 10th I
7 think gets moved to February. Does that ring a
8 bell to you?

9 A. No, not really.

10 Q. Registrar, could you
11 close this down and go to page 95 and 96, please.
12 If you can call out 244 and 245. I jumped a
13 little bit in time, and I'm not calling all of it
14 out, but you sent a briefing note to Ms. Edwards
15 and said, let's talk in the morning. That's just
16 before in earlier paragraphs. And then it looks
17 like you arrange a call to speak with her. Do you
18 remember that?

19 A. No, I don't recall.

20 Q. Registrar, could you
21 close this down. Could you go to HAM64308. Image
22 20, please. Do you remember putting this briefing
23 note together for Dan?

24 A. Yes.

25 Q. Could you go to the next

1 page, Registrar. Then the middle of the page,
2 close to the bottom, four paragraphs up, you
3 write, CIMA was not aware of the friction test
4 produced in 2013 apparently. By this point had
5 you reviewed a copy of the 2015 CIMA report?

6 A. I must've.

7 Q. Had you noted, and it may
8 be in the paragraph just above, that CIMA had
9 suggested skid resistance testing in that report?

10 A. Yeah, correct.

11 Q. How did you know that
12 CIMA was not aware of the friction test produced
13 in 2013? You do say apparently. Was that just a
14 presumption because it's not referenced in the
15 report itself?

16 A. Yeah, correct.

17 Q. Registrar, could you go
18 to the next page, please. At the very bottom --
19 Registrar, can you pull out the last paragraph.

20 You say:

21 "The result is this" -- and
22 that's having gone through some historical
23 documents and really into 2018 --

24 "this facility needs a
25 resurfacing and we have a

1 budget for this in 2019. That
2 will address the need to
3 rehabilitate this facility and
4 we will select an asphalt mix
5 that has suitable friction
6 attributes to ensure we are
7 meeting or exceeding current
8 guidelines."

9 Did you consider whether there
10 was any interim measures that should be considered
11 between October and when the resurfacing was going
12 to occur?

13 A. Well, no, not
14 immediately.

15 Q. Registrar, you can close
16 this down, and can you go back to page 21, please.
17 Can you call out on the top half of this page down
18 to "in 2015." One more. Thank you.

19 So it looks, Mr. McGuire, like
20 you have reviewed the 2014 Golder report, or
21 perhaps you've just taken from Ms. Jacob, from her
22 summary. Do you recall if when you were preparing
23 this in October, you've actually gone and looked
24 at the Golder report at this point?

25 A. So this is what, the date

1 on this one?

2 Q. This is the document --
3 sorry to interrupt. This is the document you
4 provide to Ms. Edwards on October 4, so it's very
5 soon after Ms. Jacob put together her summary.

6 A. Okay. So I'm not sure if
7 it was myself or Susan. I recognize the top
8 bullets as sort of Susan's. I suspect, I mean,
9 it's probably my writing in the bottom two
10 paragraphs, and it looks like I did read or got
11 through at least a chunk of that Golder report.

12 Q. The actual report itself
13 is not -- is less than 15 pages. And at the end
14 of it you can see you reference to page 8. It's a
15 recommendation to apply microsurfacing over the
16 entire facility to address the relatively low FM
17 coefficient and remove the frictional component as
18 an element.

19 So by October, you do know
20 that Golder has made that recommendation, right?

21 A. Yeah, correct.

22 Q. And do you know at this
23 point that between 2014 and 2018 microsurfacing
24 had not been applied to the Red Hill?

25 A. I don't know that

1 positively, but I'm pretty sure that someone would
2 have brought it to my attention if it had been
3 done.

4 Q. You can close this,
5 Registrar. Thank you. You can close this as
6 well.

7 Did you consider whether
8 microsurfacing could or should occur before
9 repaving?

10 A. You know, I think if I
11 sort of recall the context of the Tradewind
12 report, it provided some information and some
13 background, but it didn't directly call Canadian
14 or Ontario standards, so I wasn't sure actually of
15 the full applicability of what they had determined
16 with their measurements. I think, if I remember
17 correctly, they had some conclusions to do the
18 further testing, which I'm not sure at that point
19 in time I know what had been done. And I think
20 another -- I think the other conclusion was to do
21 possible remedial work. We're lining up for a
22 resurfacing, which is, you know, a significant
23 remedial activity.

24 Q. So - but my question was
25 in between October and when the resurfacing was

1 going to happen, likely in the spring or summer,
2 did you consider whether the recommendation that
3 Golder made, having reviewed the Tradewind report
4 and appended it, to do microsurfacing? Did you
5 consider whether that should happen in that
6 interim period?

7 A. I don't think I
8 considered that, no.

9 Q. Registrar, can you go to
10 HAM64308, at image 13, please.

11 These are notes from the call
12 with you and Ms. Edwards and Mr. Sabo on
13 October 5. I think you said earlier you don't
14 remember this call?

15 A. Yeah, I don't.

16 Q. Ms. Edwards' handwriting
17 is mostly legible. You'll see in the first bullet
18 point:

19 "Gord to speak with Gary Moore
20 before finalizing note to Dan
21 McKinnon. Need more context
22 ESP since Golder report is
23 draft if not final."

24 Did you reach out to Mr. Moore
25 as it appears was discussed on October 5?

1 A. No, I don't believe I
2 did.

3 Q. Why not?

4 A. I think Dan did, but I'm
5 not sure.

6 Q. Did you, in October, make
7 contact with Mr. Malone who you had contacted the
8 month before about the 2007 friction?

9 A. No, I did not.

10 Q. Why not?

11 A. At the time I brought it
12 forward to internal staff, and they were reviewing
13 it, and we've got solid and competent engineering
14 staff, so I'm trying to process what we have in
15 front of us.

16 Q. So by this point
17 Ms. Edwards and Mr. Sabo know about it. There's a
18 note that references it. Ms. Jacob has a summary
19 for you. You give her the documents. Does
20 Mr. Becke know? Can you say one way or another?

21 A. Well, I mean, I think he
22 does because he actually received it before anyone
23 else, but I'm not sure if he's been kind've read
24 in by Susan about the Tradewind report.

25 Q. Okay. So again, we'll

1 get to when I think you update Mr. Soldo -- sorry,
2 McKinnon, you've told him. Is there anybody else
3 that you have advised of the existence of the
4 Tradewind report in -- let's say till October 9?

5 A. At some point in time
6 communications gets pulled in, and I'm not sure if
7 that's through Jasmine or -- her manager name
8 escapes me at the time.

9 Q. Mr. Hertel?

10 A. Yes.

11 Q. That's - definitely they
12 do at some point. Maybe I'll put it in this way
13 to help. Mr. Zegarac eventually gets updated. To
14 your recollection, did Ms. Graham get pulled in
15 and advised of the existence of this before or
16 after Mr. Zegarac?

17 A. I'm not sure when Jasmine
18 was pulled in.

19 Q. Okay. So I think we have
20 Ms. Jacob, Ms. Edwards, Mr. Sabo, possibly
21 Mr. Becke, Mr. McKinnon. They all have been
22 advised by you of the existence of the Tradewind
23 report.

24 Now I'm going to turn to
25 October 10, page 112, please. I'm sorry. OD9A,

1 page 112. Apologies, Registrar.

2 On October 10 there was a
3 public -- there was an agenda that -- in respect
4 of the Red Hill Valley working group, and it lists
5 Mr. McKinnon, Mr. Soldo, Mr. Ferguson, Mr. White,
6 and you. Do you remember attending that meeting?

7 A. No, not specifically.

8 Q. Do you have a
9 recollection that you told Mr. Soldo about the
10 existence of the Tradewind report at some point in
11 connection with this meeting, if not actually at
12 the meeting?

13 A. Again, I don't have a
14 complete recollection of when Edward was provided
15 a copy of this report. My understanding was it
16 was in the first couple of weeks of October, but I
17 can't provide you a definitive date.

18 Q. What exactly -- how
19 exactly did you advise Mr. Soldo of the Tradewind
20 report? Was it in discussion?

21 A. Yeah, good question. I
22 don't know if I sent him a hard copy and followed
23 up with a call. I can't recall.

24 Q. Turning to these minutes.
25 It says "proposed resurfacing" and it says "M?R?".

1 Do you know what that means?

2 A. No, I don't.

3 Q. And then it says:

4 "Public Works Committee
5 Reports. Martin White to add
6 street lighting OBL item to
7 his safety report. Gord
8 McGuire, Edward Soldo to
9 co-write a safety audit
10 report."

11 So by this point, are you --
12 has the plan coalesced that you and Mr. Soldo are
13 going to write a safety audit report that builds
14 in street lighting?

15 A. It appears so. Yeah, I
16 would have to say yes.

17 Q. Do you remember that?

18 A. No, not directly.

19 Q. Okay. Did you advise
20 Mr. Ferguson or Mr. White of the existence of the
21 Tradewind report either at this meeting or before
22 or after this meeting? I mean immediately before
23 or after this meeting?

24 A. Sorry, Dave Ferguson or
25 Martin White?

1 Q. Yeah.

2 A. No, I don't -- I don't
3 recall him giving them that file at this meeting
4 or after.

5 Q. Do you recall ever having
6 sort of a direct communication with Mr. Ferguson
7 or Mr. White in which you disclosed the existence
8 of the Tradewind report or discussed the existence
9 of the Tradewind report?

10 A. No, I don't recall that.

11 Q. Do you recall having a
12 discussion with Mr. Soldo once you provided him
13 with a copy of the report, recognizing you don't
14 really remember how exactly you gave him the
15 report, but do you remember having a discussion?

16 A. We had a number of
17 discussions around the report. I don't recall one
18 specific one. Yeah, I mean, once he was aware of
19 it, we had a bunch of different discussions on it.

20 Q. I'm thinking about the
21 first discussion that you had. Once he had had
22 a -- you told him about it or you gave him a
23 report, so he was aware of it, he read it, what
24 was his first reaction, if you recall?

25 A. Yeah, I mean, I think our

1 reactions were that this report, you know, was
2 indicating the differential performance in the two
3 assets, but, you know, we still needed to get more
4 information around what it actually meant.

5 Q. Did Mr. Soldo, in that
6 first discussion after you disclosed the report,
7 did he convey any concerns about the current
8 safety of the roadway as a result of the Tradewind
9 report?

10 A. No, I don't recall him
11 bringing up, you know, an immediate concern.

12 Q. Registrar, can you call
13 up page 113 as well as 112 and call out 280,
14 please. So from the 15th to the 19th you had some
15 discussions with Mr. Oak regarding the sources of
16 funding required for the Red Hill, and you advised
17 that you had budgeted for the full amount
18 available for funding, not for the rehabilitation,
19 and expected to use all of the funds.

20 As I understand it, you
21 budgeted or the City budgeted for an expensive
22 conventional shave and pave and was hoping to
23 recoup or to reduce some of the costs by using hot
24 in-place; is that right?

25 A. Yeah, that's correct.

1 Q. So where you say here
2 we're going to use all the funds, is it fair to
3 read that as confirmation that by this point you
4 were proceeding with a conventional shave and
5 pave?

6 A. Yeah, I think that's a
7 reasonable assumption, and again I don't know if
8 we have a complete pin on the moment in time when
9 that was decided but....

10 Q. Registrar, could you
11 close this and go to page 109 and 110, please.
12 This handwriting is Mr. Beck's notes from a
13 meeting that he had on October 18. I'm not going
14 to ask you to try to read his handwriting, but it
15 is, and we know from his testimony, in respect of
16 a meeting he had with Dr. Uzarowski and others on
17 October 18. And Dr. Uzarowski testified he didn't
18 think that you were at this meeting, but that you
19 came by after the meeting and had a discussion
20 with him about hot in-place recycling. Do you
21 remember that?

22 A. I remember having some
23 conversations with Dr. Uzarowski on both the
24 aspects of the audit and those PMTR reports and
25 findings that they had made for us. And I believe

1 we had a conversation around hot in-place as well.

2 Q. Can you pinpoint that to
3 accord with Dr. Uzarowski's memory that it was on
4 October 18?

5 A. No, I couldn't tell you
6 what day.

7 Q. Assuming that his
8 recollection is consistent and that your
9 recollection of meeting with him happened on this
10 day, was this the first time you met
11 Dr. Uzarowski?

12 A. Potentially. I'm not
13 sure if he was in the office for any of the
14 other -- I mean, there was also work going on on
15 those PMTR and our form 800s, and I'm not sure if
16 he was in for any of that prior to it, but it may
17 have been one of the first times that we met.

18 Q. Do you recall discussing
19 hot in-place -- do you recall the details of your
20 discussions about hot in-place?

21 A. No. Again, you know,
22 when Mike Becke and Dr. Uzarowski are having a
23 conversation about materials, I'm just listening
24 to what does this mean for us and what is the
25 schedule and is there a budget implication. They

1 get into the technical details fairly quickly.

2 Q. Dr. Uzarowski testified
3 that at the meeting with Mr. Becke, Mr. Becke
4 informed him that the City was deciding not to
5 proceed with hot in-place for the Red Hill, but
6 was going to proceed with the shave and pave. Do
7 you have any knowledge about when Golder was
8 advised that hot in-place was not going to be used
9 on the Red Hill?

10 A. Sorry, on this date Mike
11 told Golder's that we weren't proceeding?

12 Q. That's what Dr. Uzarowski
13 testified to.

14 A. Okay. Yeah, then this is
15 probably the first time that they are hearing, to
16 my knowledge, that it's not going to be applied to
17 the Red Hill.

18 Q. You said "probably" and
19 "to my knowledge." You don't have a firm
20 recollection or knowledge about that either way?

21 A. Yeah, correct. Again,
22 I'm not sure when the decision was made and if I
23 informed Susan or how that went from that
24 perspective, whether she picked up the phone and
25 talked to somebody or this was the second time

1 that they had heard. I'm not sure.

2 Q. But you definitely didn't
3 personally communicate this to Golder?

4 A. No, I did not.

5 Q. With the City deciding
6 not to pursue with hot in-place on the Red Hill,
7 why did the City continue to work with Golder in
8 respect of the hot in-place suitability study?

9 A. You know, there's -- back
10 to that winter damages thing. We had that
11 discussion earlier. If there's a way of extending
12 and stretching the dollars available in the
13 capital, it's well worth proceeding. I don't know
14 how far down the line we were in this study. I
15 think we had done the sampling and a number of
16 things were -- most of the physical stuff had been
17 done. I think we were at a point of the studies
18 and the summary, so it made sense to finish it off
19 from a couple perspectives. One, determining the
20 suitability of hot in-place in general, and then
21 secondly to try and get ourselves, our staff, some
22 understanding of the new technology.

23 Q. Registrar, could you go
24 page 113, please. And call out 281, please. This
25 key messages document prepared by Ms. Graham is

1 from late October. She testified that she drafted
2 this document based on a conversation she had with
3 you in preparing for an interview with Nicole
4 O'Reilly, and it was to create speaking points for
5 the City spokesperson. There's a reference at the
6 very first bullet point "we are expediting the
7 repaving plan."

8 So that may just be
9 communications language, but what is the reference
10 to expediting? That seems to me to be an
11 acceleration of something, so I'm wondering why
12 that term is used.

13 A. Yeah, again, you know, I
14 think we used the word "expediting" in the
15 July 19th or -- so feels like that -- and I would
16 have had a conversation with Jasmine as well.
17 Yeah, it feels like, you know, we want to make
18 sure that this project gets out and delivered,
19 would be the way I'm looking at it.

20 Q. So I see that being --
21 that's a high priority. But just so that the
22 evidence is clear, there's been no expedition --
23 you're not expediting it in that it was set for
24 one thing and you're moving up the timeline to an
25 earlier period of time, right?

1 A. No, and for clarity, it
2 was budgeted as a multi-year project, so I think
3 the total budget ended up to be around -- the
4 budget amount around 14 million or something split
5 into two years. So in year 2, which is 2019, we
6 were preparing to go ahead with this project.

7 Q. It was a two-year project
8 and it was originally 2018, 2019, so now it's
9 going to be done in 2019, 2020; is that right?

10 A. No, it was a two year --
11 my understanding was it was potentially a two-year
12 funding cycle that we could use in the second
13 year. We could do it all in one year with both
14 years -- first year's funding and the second
15 year's funding.

16 Q. I understand. By 2019,
17 did you understand that both the southbound and
18 northbound lanes of the Red Hill would be done in
19 2019?

20 A. Yes, that was my
21 understanding.

22 Q. Registrar, can you go
23 page 102, please. At the top of this page, on
24 October 23rd, Mr. Becke e-mailed you and Ms. Jacob
25 and said he got a call from the MTO that the

1 Spectator was contacting them about hot in-place,
2 and he says, "Not sure how the Spec will use that
3 information." Pardon me, I should have said the
4 MTO provided them with information regarding HIP,
5 but also included the fact that they do not allow
6 it on SMA.

7 Did that leave you with any
8 concerns about the communications over time that
9 the City was considering using hot in-place on the
10 SMA on the Red Hill?

11 A. Yeah, I don't recall, you
12 know, having a significant concern hearing that
13 the MTO wasn't allowing it on the SMA. I'm not
14 sure if MTO's SMA mix was potentially different or
15 something like that, so maybe they've come to
16 their own -- a conclusion. But no, I mean, we
17 were already at a point where we're not going to
18 use it, so....

19 Q. But you had had
20 communications where there was discussions about
21 whether you were going to use it. Did the fact
22 that MTO didn't use it on SMA -- maybe I'll start
23 with this. Was that new information to you when
24 Mr. Becke told you that?

25 A. I would say yes. I

1 hadn't heard that before.

2 Q. So that, if you were
3 still considering it, would have been another
4 hurdle to get over if you were going to use hot
5 in-place; is that fair?

6 A. Yeah, correct.

7 Q. The back and forth
8 around -- from this e-mail, it sort of continues,
9 and you'll see at 260, Ms. Graham e-mailed you and
10 Mr. Becke and said, "Reporter does want the name
11 of the consultant - Golder and Associates?"

12 And you respond -- pardon me
13 -- might be easier to actually get the e-mails
14 out, but the way that we do it is using initials,
15 so you added Ms. Jacob into the e-mail exchange
16 where Mr. Becke and Jasmine Graham are on it
17 already and you say, "Hi Susan, FYI," and then
18 Susan says, "Consultant is not tactful." And
19 Jasmine says, "Lol, what do you mean?" And you
20 say, "I believe he is fairly 'direct.'"

21 Did you have any concerns with
22 Ms. O'Reilly reaching out to Golder and to
23 Dr. Uzarowski in particular?

24 A. No.

25 Q. Were you concerned that

1 he may reveal the existence of the Tradewind
2 report or the friction values contained in it?

3 A. No.

4 Q. What concerns did you
5 have, if any, about his directness?

6 A. None really. I mean,
7 Susan identified that -- yeah, when the reporter
8 would speak to Ludomir -- pardon me -- Dr.
9 Uzarowski, that would be potentially what they
10 were dealing with.

11 Q. Registrar, could you pull
12 out the bottom of 103, 263. Ms. O'Reilly also
13 contacted the mayor's office communication staff,
14 and you worked with her to pull together some
15 speaking points. Do you recall that?

16 A. Sorry, with Michelle or
17 with Jasmine?

18 Q. With Michelle and
19 Jasmine, I think.

20 A. Probably. I don't recall
21 directly but....

22 Q. So you reference or you
23 referenced here in Ms. O'Reilly's e-mail that you
24 said "recent testing showed significant cracking
25 from the top down." So the recent testing that's

1 referenced there that showed significant cracking
2 from the top down, I'm confused about which
3 testing you were talking about. Are you talking
4 about the 2014 Golder report or something else?

5 A. So to my understanding,
6 I'm getting this information from Mike Becke
7 and -- I'm not sure who else was out in the field,
8 but when those panels were lifted and I think -- I
9 can't remember what time it was. It was in July
10 or August that we picked up a series of panels on
11 the north and the southbound Red Hill, and
12 Golder's went out and did some testing and used
13 some of that for the mix design for the HIP. So
14 that's my understanding is that from those
15 samples, there was some top down cracking.

16 Q. So where it says "recent
17 testing showed significant cracking from the top
18 down," it was during the recent sampling you found
19 significant cracking; is that right?

20 A. I believe that's what I
21 -- yeah, that's my understanding of what
22 information I had at that time.

23 Q. That's helpful.
24 Registrar, could you close this down. I'm about
25 to move on to another topic and it's 3:15, which

1 is our time for our usual afternoon break.

2 JUSTICE WILTON-SIEGEL: Well,
3 let's stand adjourned until 3:30.

4 --- Recess taken at 3:15 p.m.

5 --- Upon resuming at 3:30 p.m.

6 MS. LAWRENCE: May I proceed?

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

9 BY MS. LAWRENCE:

10 Q. Registrar, can you bring
11 up HAM61520, please. Can you go to image 18,
12 please. This is a bit hard to read. Thank you.

13 Mr. McGuire, do you recognize
14 this Spectator article from October 25, 2018?

15 A. Yes.

16 Q. You're quoted it in. Do
17 you recall being interviewed for it?

18 A. Yeah, I believe I was
19 interviewed for it.

20 Q. Did you review it after
21 it was published?

22 A. Yeah, I would have read
23 it.

24 Q. It references friction
25 testing in 2015 was inconclusive four paragraphs

1 down. Do you see that?

2 A. Yes.

3 Q. So by this point, unlike
4 in the 2017 article that you that reviewed or the
5 2018 article that you reviewed, you now had a much
6 clearer sense of the friction testing that had
7 been done in 2014 set out in the Tradewind report.
8 Did you take any steps to confirm if friction
9 testing was done in 2015?

10 A. After this article? I
11 think -- I mean, at this point in time we're
12 looking through the records to find out, you know,
13 what's going on with the Golder assignments, but
14 no, I don't believe looking for 2015 results. I
15 think at this point in time I'm thinking she's
16 referring to 2014 results.

17 Q. To the reference that
18 Mr. Moore had made to her, as set out in earlier
19 articles?

20 A. Correct.

21 Q. You say at this point
22 we're looking through records to find out what's
23 going on with the Golder assignments. This is
24 October 25, 2018. Are you sure that people --
25 that anybody, and I'm not sure who you mean by

1 "we," are looking through records to try to find
2 what's going on?

3 A. Well, obviously we're
4 going to be in earnest I think shortly with the
5 Freedom of Information request, but I think -- I
6 mean, we're trying to sort out what happened with
7 the friction test and how it was acquired.

8 Q. When you say we are
9 trying to find it out, before you received the
10 Freedom of Information request, what steps exactly
11 did you or did you instruct your staff to do to
12 inquire into the Tradewind report?

13 A. So I think I asked staff
14 if they had seen it before, and I'm not sure when
15 that was. Did some research in ProjectWise and in
16 our Spider system to see if there was any other
17 data that we may have had on it, but that was
18 probably the extent of it.

19 Q. So that sounds like you
20 were doing some poking around in ProjectWise and
21 Spider, and you may or may not have asked staff
22 about this at this time. That was what you did
23 before the FOI; is that right?

24 A. I believe so, yes.

25 Q. Mr. McKinnon had said in

1 his examination that he viewed this to be
2 something you were working on and that he had on
3 his large plate as well, but that it was, in
4 effect, in the sort of -- not in the high priority
5 slot of his time or yours, given how busy you were
6 with other things within your division and the
7 department. Would you agree with that?

8 A. I mean, it was a very
9 busy time, and yeah, it probably wasn't
10 prioritized at a really high level.

11 Q. Registrar, could you make
12 this document smaller so that we can see the
13 entire image. Maybe pull out the bottom half.
14 I'm not sure what you did there to make it larger,
15 if it was a callout. Thank you. Apologies. I'm
16 just looking for the reference that I would like
17 to take you to.

18 Registrar, apologies. Can you
19 close this out and take it from a little bit
20 higher, from sort of under the blue hyperlinking,
21 showing the bottom two-thirds. That would be
22 perfect. Thank you.

23 THE REGISTRAR: I think I will
24 zoom in on it like I did before because it's just
25 going to be really hard for everybody to read it.

1 BY MS. LAWRENCE:

2 Q. That would be great.

3 Thank you. So in the middle of the document
4 that's up now, it says "the City did not see the
5 need." It's about halfway between this document.
6 Can you see that, Mr. McGuire?

7 A. Yeah, correct.

8 Q. Thank you.

9 "Didn't see the need to test
10 the quality of the asphalt
11 because the decision had
12 already been made, because of
13 the cracking, that the road
14 needed to be resurfaced."

15 And that appears to be a
16 comment attributed to you.

17 Did you assess whether to test
18 the quality of the asphalt after receipt of the
19 friction -- after you learned of the existence of
20 the friction report?

21 A. Sorry, I'm just trying to
22 re-read this. It's been a little while since I've
23 been through it.

24 Q. Of course. And I'm going
25 to take you next to the next line, so if you want

1 to read that one as well, that would be....

2 A. Yeah, I'm not sure where
3 that quote is coming from, didn't see the need to
4 test the quality of the asphalt because the
5 decision had been made. If she got that from
6 me -- okay. And then....

7 Q. You don't have to agree
8 that the quote is accurate, but my question was,
9 did you assess the need to test the quality of the
10 asphalt after the decision to resurface, which had
11 been made, but after you saw the Tradewind report?

12 A. Yeah, so I'm a little
13 puzzled about the term "quality." Like, we did
14 test the -- we broke out and I think we tested the
15 polished stone value. I'm not sure if she's
16 referring to, like, an extracted asphalt cement
17 test here or something. Maybe I -- you know, it's
18 been a few years since I had this conversation
19 with her.

20 Q. My interest is really
21 more in the next outline in any event. It looks
22 like Ms. O'Reilly put to you:

23 "When asked whether the City
24 would consider testing the
25 asphalt quality as a way to

1 see if it could be a factor in
2 any crashes, McGuire said he
3 couldn't comment."

4 Had you considered whether to
5 test the asphalt in a way to see if it could be a
6 factor in any crashes?

7 A. I mean, at this point
8 we're alive to the Tradewind report. We're, you
9 know, aware of the wet weather issues. I think in
10 my summary on media or something, I note that she
11 said something in here, and I'm not sure I either
12 agreed with it or it was a comment that I fully
13 understood.

14 Q. Okay. So you didn't
15 think you understood the question from
16 Ms. O'Reilly?

17 A. I'm not sure of exactly
18 what it is that I did say in response to that.

19 Q. Regardless of what you
20 and Ms. O'Reilly talked about, my question was
21 really actually about what you were doing behind
22 the scenes. Did you -- and I'll put it more
23 pointedly. Did you consider testing the friction
24 values on the Red Hill after you had seen the
25 Tradewind report to assess whether the friction

1 values could be a factor in any of the crashes?

2 A. So, I mean, at this
3 point, you know, Tradewind tells us that there's a
4 differential in material performance from the Red
5 Hill and the LINC, and it also tells us it's using
6 an international standard with a piece of
7 equipment from -- I believe it's from Ireland or
8 something like that, and we don't have an
9 applicable friction standard in Ontario, so I'm
10 not sure yet if I know if I -- if there was a
11 decision or a desire to pursue friction testing,
12 what it is we would actually pursue.

13 Q. The Tradewind report says
14 that the friction values on the Red Hill were
15 below or well below the UK investigatory standard.
16 Did you take any steps to consider whether to do
17 friction testing, including whether if it was even
18 possible to do friction testing in a way that
19 would be useful to you?

20 A. So here, we're about a
21 month away from the finding of that report. The
22 report said to -- I believe the conclusions or the
23 summary indicated that we should do follow-up
24 testing. So trying to resolve whether or not
25 that's been happening. I think the other thing it

1 did say was to do remedial activity. The
2 resurfacing, as I think we've talked about, is a
3 fairly significant remedial activity. So at this
4 point, it's October. Very little can be done on
5 that facility across the winter, so in my mind,
6 we're pointing and driving hard at the resurfacing
7 project.

8 Q. I take it that your
9 answer is no, you didn't consider doing friction
10 testing?

11 A. At this point in time,
12 no, I don't believe we had come to that conclusion
13 that that's something we needed to do.

14 Q. Did you ever assess
15 whether to do friction testing?

16 A. We did friction test I
17 believe the -- we did friction test the facility
18 pre and post resurfacing.

19 Q. You're quite right about
20 that. I should have been more specific. Prior to
21 the disclosure of the Tradewind report, did you
22 ever consider whether to do friction testing?

23 A. I don't -- I don't
24 believe we did. I mean, I don't believe that I
25 did.

1 Q. As between you and Mr.
2 Soldo's group dealing with the sort of traffic
3 safety side of it, in your mind who is -- would be
4 the person to make the decision about whether to
5 do friction testing or not?

6 A. You know, that's a good
7 question. From a material's perspective, if there
8 was applicable standard, then it would go to the
9 materials group, which would be the engineering
10 services.

11 Q. Even if there was an
12 applicable standard, don't you think materials
13 would still be with the materials group?

14 A. Yeah, correct. But, you
15 know, when I look at some of the discussions
16 around friction and friction testing, there's a
17 lot of sort of decision trees that don't
18 necessarily have hard values around them. Some of
19 them flow through, you know, are you seeing more
20 of this and more of that. Have you considered,
21 you know, roadside maintenance activities or
22 different signage or something along those lines.
23 So kind of a long answer to not really sure
24 exactly where the friction component lands.

25 Q. Thank you. Prior to the

1 receipt of the FOI in that month or so from
2 September 26 to the November 8, did you reach out
3 to anybody outside the City who you thought might
4 give you more information about whether there are
5 applicable standards for friction or how to go
6 about analyzing the Tradewind report?

7 A. No, I think we were doing
8 some internal research and trying to figure out
9 what the report meant. Again, you know, the
10 report indicated that it was below an
11 investigatory standard. We're trying to determine
12 what that meant, and again there wasn't a Canadian
13 standard or Ontario standard, North American
14 standard that I think we could reach out to. I
15 know I did some searches to try and see if there
16 were municipalities that had friction programs and
17 I don't believe I ever found one.

18 Q. Registrar, could you
19 close this and go to page 115 and 116 of OD9A,
20 please. Sorry, as you are pulling that up, I'm
21 advised that this is not an exhibit and should be
22 made an exhibit. HAM16520. It's actually part of
23 a larger package, but I suggest that the entire
24 doc ID be made the next Exhibit, 191.

25 THE REGISTRAR: Noted,

1 counsel. Thank you.

2 EXHIBIT NO. 191: Report,
3 69 pages; HAM61520

4 MS. LAWRENCE: Thank you. I'm
5 also advised that yesterday I forgot to make a
6 document an exhibit that I put to Mr. McGuire.
7 This is completely out of where we are in the
8 chronology right now, but the April 25, 2018
9 kick-off lighting study minutes from CIMA,
10 CIM16263, I'll ask that be made the next exhibit,
11 192.

12 THE REGISTRAR: Thank you,
13 counsel, noted.

14 MS. LAWRENCE: Thank you.
15 Thank you for the housekeeping.

16 EXHIBIT NO. 192: Minutes of a
17 meeting dated April 25, 2018;
18 CIM16263.

19 BY S. LAWRENCE:

20 Q. Mr. McGuire, on
21 October 17 you're copied on an e-mail -- sorry, I
22 think I have the date wrong. You'll see in 286,
23 on October 25, there is an e-mail from Mr. Field
24 to Mr. Omrani. Registrar, could you pull that
25 out. I'm sorry, 186, please.

1 JUSTICE WILTON-SIEGEL: Sorry,
2 286?

3 MS. LAWRENCE: 186.

4 Commissioner, you're good?

5 JUSTICE WILTON-SIEGEL: 186 or
6 286?

7 MS. LAWRENCE: It's that part
8 in the afternoon. Apologies, 286. The Registrar
9 had it up. He reads my mind. Thank you,
10 Registrar.

11 JUSTICE WILTON-SIEGEL: Yeah,
12 got it.

13 BY MS. LAWRENCE:

14 Q. Apologies. So this is an
15 e-mail that you're not copied on, Mr. McGuire. It
16 is between Mr. Field and Mr. Omrani at CIMA that
17 he notes:

18 "We pushed our report date
19 from December 10 to February
20 of 2019. The pressure is
21 off."

22 And this is in the context of
23 CIMA finalizing the lighting study report.

24 I asked you earlier about if
25 December 10th meant anything to you and noted that

1 that was the first public works meeting of the new
2 council. Does that refresh your memory about
3 discussions about when to report on the lighting
4 study?

5 A. No, not significantly. I
6 mean, you know, reports move through cycles on a
7 fairly regular basis and I wouldn't be aware of
8 the public works dates specifically. But what
9 you're telling me is that we were lined up for the
10 10th and then now we're moving off into February.

11 Q. At this point, again
12 we're still in October, did you expect that the
13 Tradewind report would be disclosed publicly to
14 council or to a public works committee?

15 A. I don't think I turned my
16 mind to that at this point.

17 Q. Is it fair to say that
18 you didn't want to make that call until you
19 actually understood if the Tradewind report values
20 really had meaning, given the issues with the
21 standards and those sorts of things?

22 A. Yeah, correct.

23 Q. Registrar, could you
24 close this down and could you go to HAM63096.
25 This is minutes of a meeting with you and with

1 others in respect of an audit meeting, and it
2 appears to be sort of going through what audit is
3 looking for. Do you recall looking at the
4 attendees if this is an internal meeting to
5 prepare to respond to the value for money audit?

6 A. So those are all internal
7 attendees, yes.

8 Q. Did you advise the
9 attendees at this meeting of the existence of the
10 Tradewind report?

11 A. No, I don't think so.

12 Q. Did you understand that
13 the Tradewind report would be responsive to the
14 requests from audit in respect of the value for
15 money?

16 A. So at this point in time,
17 no, I don't believe so.

18 MS. LAWRENCE: Registrar.
19 Could you mark this as the next exhibit.

20 EXHIBIT NO. 193: Minutes of a
21 meeting dated October 24,
22 2018; HAM63096

23 MS. LAWRENCE: Could you go to
24 OD9A, page 117 and 118, please.

25 THE REGISTRAR: It's

1 Exhibit 193.

2 BY MS. LAWRENCE:

3 Q. Thank you. Mr. McGuire,
4 you'll see at the bottom of page 117 at 293 and
5 294, you start to have some back and forth with
6 Ms. Graham about a reporter from the Daily
7 Commercial News, and Ms. Graham first e-mails
8 Mr. Ferguson and Mr. White in traffic operations
9 and engineering about collision hot spots, and
10 then asked you to respond to three questions from
11 the reporter, which I think Ms. Graham prepares
12 the initial response.

13 Registrar, could you call out
14 the top of 118, please.

15 Under the red, the question
16 from the reporter is, "Is the quality of the
17 asphalt originally compromised?" And the response
18 is:

19 "The asphalt is at the end of
20 its expected lifecycle,
21 originally from 2007 - this
22 resurfacing project is falls
23 under regular maintenance
24 work."

25 As of October -- end of

1 October here of 2018, did you understand that the
2 asphalt was at the end of its expected lifecycle?

3 A. Well, my understanding in
4 what I had been given to this point was the
5 facility was paved in that sort of multi-layer
6 deep-strength asphalt. The surface course was --
7 the SMA was expected to last X amount of time, but
8 I believe that X amount of time was related to the
9 traffic volumes. The traffic volumes had
10 increased, and we have done some technical studies
11 and what I'm led to understand comes back and why
12 we're programming is it's time for this facility
13 to get resurfaced.

14 Q. Registrar, can you close
15 this down and go to page 121 and 122. Can you
16 call out 302.

17 So Ms. Graham sends, at the
18 reporter's request, a heat map from the traffic
19 section which showed the red dots indicating
20 collisions that resulted in a fatality. The
21 darker the purple, the more collisions in that
22 area. Registrar, you can close that down. The
23 heat map is on the top of page 122.

24 Had you or anyone in public
25 works at this point compared the locations of

1 collisions to locations with lower friction
2 values, as set out in the Tradewind report?

3 A. No, not to my knowledge.

4 Q. At this point, apart from
5 Mr. Soldo, are you aware of anyone in traffic
6 engineering and operations is aware of the
7 existence of the Tradewind report?

8 A. No, I don't -- I don't
9 have any insight on that.

10 Q. Registrar, can you go to
11 page 124 and 125. Can you call out 310.

12 I'll orient you to this in a
13 minute, Mr. McGuire, but first a little bit of
14 background.

15 Mr. Field sent you a copy of
16 the draft lighting study that CIMA had prepared on
17 November 5. Do you recall reviewing it at the
18 time?

19 A. Sorry. Did they send
20 me -- I think we asked for a couple of things from
21 them. I mean, there was the full study and then
22 there was kind of an executive summary or a
23 condensed version.

24 Q. Yeah. You contact
25 Mr. Malone to ask for that condensed version.

1 This is the first part of that before that
2 happens, just really your receipt of the draft
3 report itself, which was on November 5, and I
4 wondered if you reviewed the complete report when
5 you received it. Maybe I'll ask it in this way.
6 Did you wait until you got the executive summary
7 from CIMA to review them together?

8 A. So I mean, if they sent
9 it to me November 5th and then I had a call
10 November 7th, it sounds like, you know, Brian's
11 made some notes that I've reviewed it, so I would
12 have to assume that I've reviewed it.

13 Q. It does seem that way.
14 Mr. Malone indicates that you're very happy with
15 it and describing it well-done and comprehensive,
16 so I'm going to assume that you read it.

17 You left a voice mail for
18 Mr. Malone on -- I think on the 6th, and then you
19 spoke to him on the 7th, and this is his notes
20 that he's sending internally to his colleagues at
21 CIMA.

22 In the fourth full paragraph,
23 Mr. Malone reports to his colleagues that you have
24 concluded that it makes no sense to proceed with
25 recommending for an EA for only lighting because

1 Hamilton is also examining a number of other major
2 improvements on the roads.

3 We've had some discussions
4 about this already, but was that your view at this
5 point, that recommending an environmental
6 assessment process just for lighting would be
7 premature, given the other work, the other major
8 improvements that were going on within the Red
9 Hill Creek?

10 A. I mean, if I remember
11 correctly, this report -- the full report had
12 conclusions in there. I think they also had a
13 conversation or discussion around next steps or
14 what's required for lighting. I don't know if I
15 concluded it would make no sense or if through
16 reading that section -- my understanding of that
17 was we would have to do kind a multi-year
18 environmental assessment around the environment
19 and everything else like that for both facilities,
20 and in order to do that, we would want to fold in
21 all the other elements, which I think Brian pulls
22 in here, and maybe there's more. I'm not sure if
23 I've concluded based on his report or -- are you
24 suggesting I've concluded on my own prior to
25 reading this report or....

1 Q. Okay. But coming out of
2 the report, wearing your hat where you know not
3 only about lighting, which CIMA knows about, but
4 about all of the other things that could be
5 planned on, in respect of the Red Hill or the
6 LINC, you have much more insight into that part of
7 it, what is going on in the City, than CIMA would.

8 So coming out of this
9 illumination report, do you conclude that, oh,
10 there's a lot of things going on and we're not
11 going to proceed with one of the next steps that
12 CIMA suggests would be the appropriate next step
13 to proceed with illumination?

14 A. I don't -- I mean, I
15 don't think that CIMA suggests that we go ahead
16 and do a standalone lighting coming out of this
17 report, and I believe CIMA's also engaged with
18 that word and their folks about what else is going
19 on, so they would have probably as much
20 information on what's taking place on the facility
21 as I would.

22 Q. Mr. Malone references a
23 joint report on lighting in the next paragraph,
24 and so at this point -- and again I've asked you
25 this a few different times -- was there a decision

1 as between you and Mr. Soldo that you do a joint
2 report that addressed lighting and also the
3 roadside safety, and on Mr. Soldo's desk as well
4 is a speed study?

5 A. I mean, I don't directly
6 recall it, but apparently, yes, there is a
7 discussion going on around that, and it does make
8 sense to coordinate the lighting issues together
9 with whatever else is coming forward.

10 Q. The next paragraph says
11 you've asked for a two-page summary on the
12 lighting report. Were you anticipating providing
13 that summary to public works committee?

14 A. I'm not sure if I was
15 anticipating -- I mean, directly attaching it to a
16 report or extracting, you know, kind of the
17 highlights out of that as elements in a report.

18 Q. Was it your intention to
19 append a copy of the Tradewind report to the staff
20 report?

21 A. The Tradewind report?

22 Q. I'm sorry. Was it your
23 intention to append a copy of the lighting study
24 to the staff report?

25 A. I don't believe it was

1 because, you know, I think the lighting study in
2 its entirety is like 50 pages or something, along
3 those lines, and if we went together with Edward
4 and he had all of the speed studies and things
5 like that, it would become a fairly significant
6 report from a volume perspective.

7 Q. At the bottom of this,
8 Mr. Malone reports that you said that the intent
9 of this joint report that you were preparing with
10 Mr. Soldo would to be conclude the report with a
11 recommendation for funding to undertake a
12 comprehensive review of the parkway, the asset,
13 and complete a functional evaluation for action
14 going forward.

15 He goes on to say, the
16 recommendation will recognize we need to do close
17 monitoring for changes, so that future actions are
18 adjusted to optimize the original infrastructure,
19 the improvements that are being completed and the
20 improvements already planned.

21 Then he says, this is to his
22 colleagues:

23 "Bluntly, this is code for
24 seeing if the collision issues
25 on the Red Hill are resolved

1 with the new pavement."

2 Stopping there. Do you recall
3 that it was your intention to seek a
4 recommendation for funding to undertake a
5 comprehensive review of the parkways?

6 A. So in the recommendation
7 in the report which goes in February of 2019,
8 yeah, I believe we recommend \$125,000 or something
9 for the development of the terms of reference,
10 which would then -- and I think it's -- that has
11 been let or been tendered and assigned to do a
12 functional review of the Red Hill and LINC.

13 Q. I think you're right
14 about that. At the time, in 2018, what did you
15 envision the functional evaluation to be for?

16 A. Well, fundamentally the
17 widening or not widening of the facilities so that
18 some decisions could be made about moving forward
19 on things like lighting or medians or, you know,
20 HOV lanes or transit only facilities or things
21 like that. There was a lot of conversation going
22 on around what may or may not take place on that
23 facility. Those facilities are the LINC and Red
24 Hill as one.

25 Q. Registrar, could you

1 close this callout and the document and go into
2 CIM22413, image 33 to 34.

3 You'll see on 33 in the
4 highlight it says "VM Gord McGuire" and then it
5 says "Gord McGuire" and then there's some notes,
6 and I understand from Mr. Malone's evidence that
7 this note reflects the conversation that you had.

8 And if you go down to the --
9 say the second-to-last paragraph, if you can call
10 it that, it says "glaring issue" -- that's right,
11 yes, thank you Registrar. "Glaring issue, no
12 correlation with lighting, is correl with wet
13 road, need data, resurface, hand grenade," and
14 then it looks like an "n." (As read)

15 Do you recall having
16 discussions with Mr. Malone about wet surface
17 collisions on this call that you had to discuss
18 lighting?

19 A. Not -- not distinct
20 recollection. I do, you know, recall having a
21 good conversation or review of that report,
22 because it was a fair amount of effort and it was,
23 I think as I noted, well done. I'm not sure where
24 he's getting all this from, and if it was from our
25 conversation -- I'm not sure what the "need data"

1 refers to or the rest of the comments.

2 Q. Do you remember using the
3 phrase "glaring issue" or "hand grenade" in
4 respect of the -- anything to do with friction or
5 friction values on the Red Hill?

6 A. No, I don't recall using
7 that -- those words.

8 Q. Do you recall using those
9 words at all in respect of anything?

10 A. Look, I don't recall the
11 conversation in particular. I don't recall using
12 the words "hand grenade" specifically.

13 Q. What about "glaring
14 issue"?

15 A. Yeah, I'm not sure if
16 that's his heading or -- I'm trying not to read
17 too much into someone else's notes.

18 Q. Sure. I think my
19 question more is do you remember using the word
20 "glaring issue," and if you did, what was it in
21 respect of?

22 A. So I don't recall the
23 conversation from it appears to be just about four
24 years ago with Mr. Malone on this. He's taken
25 some notes, and I can try and provide you some

1 insights, but I can't tell you the exact words and
2 phrases used in that call.

3 Q. This is still October
4 of 2018. Did you view the continued high
5 proportion of wet weather collisions and now the
6 exclusion really of any correlation with lighting
7 to be a glaring issue that suggested there was
8 something wrong with the pavement surface on the
9 Red Hill?

10 A. I don't think I've come
11 to that conclusion. I'm still of the
12 understanding, you know, that there's high speeds,
13 that there's a fundamentally different geometric
14 design on the Red Hill than there is on the LINC,
15 and it's got grades and a variety of other things.
16 So still not 100 percent -- I don't know if anyone
17 is -- on the wet weather rates.

18 Q. Did the conversation that
19 you had with Mr. Malone prompt you to raise the
20 Golder or Tradewind reports with him?

21 A. No, not at that time.

22 Q. Did you think that the
23 information in the Tradewind or Golder reports
24 would be helpful to the work that CIMA was doing
25 on the roadside safety assessment?

1 A. So, I mean, the Tradewind
2 report, you know, still -- we've gone through it a
3 couple of times, but it refers to some data that
4 was acquired, you know, laid over an investigatory
5 framework from the UK, and it recommends potential
6 remedial action. I mean, the remedial action
7 that's coming is a major resurfacing.

8 So at this point in time, the
9 Tradewind report is telling me that the
10 resurfacing is something that addresses what they
11 may have considered a potential.

12 Q. Is the answer to my
13 question no?

14 A. I would say yeah, no.

15 Q. Registrar OD9A, page 130
16 and 131. Can you call out 314 and 315.

17 On November 8, the City got a
18 FOI request, and it had a turnaround of completing
19 an information sheet by November 15, and the
20 request itself is set out in 315, which is access
21 to any reports, memos, drafts, correspondence
22 about friction testing on the Red Hill in the last
23 five years and any reports, memos, including
24 drafts or correspondence about asphalt or pavement
25 testing, assessments and plans in the last two

1 years.

2 I assume sitting here today,
3 you're quite familiar with this FOI request,
4 right?

5 A. Yes.

6 Q. And when you received a
7 copy of it, was it obvious to you that the
8 Tradewind report and the Golder report from 2014
9 would be responsive or likely to be responsive
10 documents to this FOI request?

11 A. Yes.

12 Q. To this point had --
13 prior to this receipt, I think your evidence has
14 been that you had not even turned your mind to
15 whether the Tradewind report had to be or should
16 be publicly disclosed?

17 A. Yeah, I don't think I
18 formed an opinion on that one way or another.

19 Q. At this point with the
20 FOI request, if the Tradewind report or Golder
21 report were responsive, they would be disclosed to
22 through process; is that right?

23 A. That's correct.

24 Q. Did that cause you some
25 concerns, given the inconsistencies that you had

1 seen in the way Mr. Moore had framed the friction
2 testing results versus charts in some of the
3 media?

4 A. Yes. I mean, we had that
5 conversation, it was characterized as a -- I can't
6 remember again -- informal chart, and it is in
7 fact a report.

8 Q. Were you concerned about
9 the potential reputational damage for having to
10 disclose this document publicly and that that
11 would reveal that those media -- that that
12 information media was not as accurate as it could
13 have been?

14 A. So I think, you know, I'm
15 going to be very careful about my role here. I'm
16 not a communications officer for the City or
17 legal, so I'm aware that we've got this report and
18 we've made other statements around it. Not
19 certain right now that I'm characterizing this as
20 a major issue for the corporation that I need to
21 manage, but I do need to understand, you know,
22 what it is we're going to release. So probably a
23 long answer to your question.

24 Q. Not a long answer, and a
25 helpful answer in that when I'm asking these

1 questions, I'm interested in what your knowledge
2 was, what your feelings about it were, what your
3 understanding was about it. Certainly if you also
4 want to explain what you viewed your scope of
5 responsibility to be to, but my questions are not
6 limited just to your scope of responsibility.

7 At this time when the City
8 received the FOI request, who in City staff, to
9 your knowledge, knew about the existence of the
10 Tradewind report?

11 A. It would have been, you
12 know, the folks that we talked about to this
13 point, Susan and Mike Becke. Not sure -- I'm not
14 sure if they have shared that with the PMs and
15 their project team. I think probably Marco, Dan,
16 Jasmine, Diana, Edward. Sorry, I'm gapping a
17 little bit.

18 Q. That's all right. Diana,
19 do you mean Diana Cameron?

20 A. Yeah, Diana Cameron.

21 Q. And Edward, you mean
22 Edward Soldo?

23 A. Yeah, correct.

24 Q. Also Debbie Edwards?

25 A. Oh, right, yeah.

1 Q. And Ron Sabo, because you
2 spoke to him as well?

3 A. Just for clarity, how
4 long do we go today?

5 Q. Till 4:30. Almost done.

6 Did you give any direction to
7 Ms. Jacob -- pardon me, Ms. Jacob or Mr. Becke
8 about whether they were permitted to share the
9 existence of the Tradewind report with their PMs
10 or project team?

11 A. No, I didn't.

12 Q. You didn't give direction
13 either way?

14 A. No.

15 Q. Did you provide a copy of
16 the Tradewind report to Mr. Oddi, Marco Oddi,
17 directly, or are you just assuming when you added
18 him to the list that he would have become aware of
19 this through someone else?

20 A. I'm assuming that he
21 would become aware of it. I don't recall giving
22 him a report directly, although that may have
23 happened.

24 Q. Okay. We have a copy of
25 an e-mail that you sent of this FOI request which

1 comes in through the clerk's office to Ms. Cameron
2 to you. Registrar, could you close this down and
3 go to page 131, paragraph 318. Thank you.

4 So you send it very shortly
5 after you receive it to Ms. Edwards and
6 Ms. Graham. At this point, does Ms. Graham know
7 about the existence of the Tradewind report?

8 A. I'm going to have to say
9 yes.

10 Q. Have you personally told
11 her about it?

12 A. Well, I'm really not
13 involved in developing those chronologies. Did
14 that occur in October or did that occur later on?

15 Q. You mean the timelines
16 that we looked at earlier?

17 A. Yeah.

18 Q. To my understanding,
19 those are much later.

20 A. Okay. So my
21 understanding is that Jasmine is aware of it at
22 this point.

23 Q. Is it as you send over
24 this FOI you also tell her, oh, there's a document
25 that's going to be responsive to this?

1 A. Sorry, maybe I missed
2 that?

3 Q. When you are forwarding
4 this FOI request, is this also at the time where
5 you tell Ms. Graham, oh, there's also a document
6 that I believe is going to be responsive to this;
7 it's the Tradewind report?

8 A. So are you asking if this
9 is the first time that Jasmine has seen this?

10 Q. Well, you're not
11 including the Tradewind report in this particular
12 e-mail, but I'm asking at the same time as you
13 were sending this e-mail about the FOI, are you
14 also telling Ms. Graham about the existence of the
15 report?

16 A. I don't have any direct
17 recollection of when we brought communications in
18 on this.

19 Q. Registrar, you could
20 close this down. You send this e-mail, and then
21 we at the inquiry have received copies of voice
22 mails that that you left for Ms. Edwards. You
23 left one for her at about 11:44, which was
24 40 minutes after you sent her the e-mail, and then
25 you left a second message for her at about 6 p.m.,

1 which I'm going assume, I'm going to infer she
2 didn't get back to you during that day. Were you
3 concerned or anxious about the FOI request such
4 that you're leaving two messages for legal counsel
5 about it?

6 A. Well, I mean, I'm
7 reaching out to counsel. I don't know, you know,
8 if you're characterizing it as anxiety or anything
9 else along that line. I do know that I believe
10 I've got vacation scheduled in the next week,
11 where I'm going to be out of the country for a
12 couple weeks. So maybe just trying to make sure
13 that -- I mean, this is going to be a pretty big
14 lift too for us to go through all the information,
15 so trying to connect with Debbie.

16 Q. Okay. So you do have
17 some concerns about your own timing, given your
18 vacation coming up?

19 A. Yeah, I mean, that's one
20 aspect. I mean, it's obviously a concern.
21 Someone is asking for this report, and we kind of
22 need to understand what the next steps look like
23 as we developed the responsive materials.

24 Q. Registrar, could you
25 bring up HAM64308, image 8, please.

1 Ms. Edwards testified that
2 these are her notes of a call she had with you
3 either in the evening of November 8 or in morning
4 of November 9. Do you remember connecting with
5 Ms. Edwards after you reached out to her?

6 A. No, I don't, not
7 directly.

8 Q. She is recorded as
9 saying, not yet talked to Gary. Did you convey to
10 Ms. Edwards that you had not yet talked to Gary?

11 A. I don't recall the
12 conversation, so if those are her notes, then
13 that's what she put down from there.

14 Q. All right. I think you
15 said earlier in the last time you had a
16 conversation with Ms. Edwards, there was a
17 reference to speaking to Gary. You had not in
18 fact talked to Mr. Moore before the receipt of the
19 FOI; is that right?

20 A. Yeah, to my knowledge,
21 the next time I connect with Gary is in a meeting
22 in Dan's office. I think it's kind of the end of
23 November, maybe early December, something like
24 that.

25 Q. What advice in particular

1 were you seeking from Ms. Edwards?

2 A. I think I was trying to,
3 number one, get that copy over to her as well
4 because the Tradewind report may have some
5 implications on some of the files in her office
6 and, number two, I think I was probably looking
7 for some support because she does assign Brydena
8 to this file.

9 Q. I understand, and maybe I
10 can ask a more specific question. In terms of the
11 legal advice that you're going to get, were you
12 looking for advice about which documents were
13 going to be responsive to the FOI request or legal
14 advice on something else? What was the kind of
15 advice that you were hoping to receive from legal?

16 A. I'm hoping -- or not
17 hoping, but I'm looking to get a collaborative
18 approach at going through this while we do -- you
19 know, I can't remember the exact phraseology
20 there. Is it two years? So that would be --
21 that's, like, the 2017 testing, all of the other
22 testing, and then back to five years, which would
23 be the Tradewind testing. Somebody's going to
24 help us out to go through what is and isn't
25 responsive and help us with that work.

1 Q. Registrar, could you go
2 to OD9A, page 132. If you can call up 324,
3 please.

4 So Ms. MacNeil reaches out to
5 you and you say:

6 "Are you available on the 13th
7 this weekend? I will prepare
8 a summary of events and
9 forward it to you on this
10 matter."

11 We looked before at -- not in
12 significant detail, but we looked before at that
13 briefing note that you had prepared for Dan
14 McKinnon. Had you been keeping that up-to-date
15 since October? Had you been adding to it, I mean?

16 A. You know, that document,
17 it kind of evolves. I can't tell you exactly when
18 I was in and out of it, but yeah, it was an area
19 that I tried to consolidate what I knew when and
20 sometimes add to it. I'm not sure if that answers
21 your question.

22 Q. Well, it sounds like you
23 don't really remember if there was any adding to
24 it in October. But at some point you did update
25 it; is that fair?

1 A. Correct, yeah.

2 Q. Registrar, you can close
3 this down, and if you can go to page 134 and 135,
4 and if you can call out 331. We'll start with
5 this.

6 So this is a document from
7 November 11th, which is a text exchange between
8 you and (inaudible) referred to as Gary, but I
9 think you've already identified these texts to be
10 between you and Gary Moore.

11 So there's -- on this page
12 you'll see there's the reference is to the
13 July 19, 2018 text that we've already gone
14 through. So, Registrar, you can close that down,
15 and if you can call out the next page, at 135. So
16 you see where it starts "November 11, 2018"?

17 A. Yes.

18 Q. From here, this is an
19 exchange that you appear to have. Looks like,
20 looking at text messages, that it's all on the
21 same day. Do you recall having a series of text
22 messages with Mr. Moore all on the same day, on
23 November 11th?

24 A. Yeah, I believe they are
25 all on the same day, and it appears to be

1 November 11th, yes.

2 Q. November 11th was a
3 Sunday. Are you working on Sunday to prepare the
4 summary for Ms. MacNeil?

5 A. Yeah, I guess so.

6 Q. So you say:

7 "Gary, have you seen the FOI
8 request on friction testing,
9 it's due next week?"

10 He says, "No."

11 And you say,

12 "Diana sent it to
13 you. I just re-sent it asking
14 friction testing back five
15 years."

16 And Mr. Moore says,

17 "I've been
18 off. For some reason I'm not
19 getting e-mail. Anything I
20 have I gave to Rick or Tyler
21 and I put everything in the
22 files. I have nothing."

23 And then you respond and say:

24 "There's a 2014 draft by
25 Golders with an appendix from

1 Tradewind Scientific that is
2 in ProjectWise. Rick and
3 Tyler haven't seen those? FOI
4 asked for these kinds of
5 records. Are you in tomorrow?
6 We should review this."

7 Just stopping there. Can you
8 identify the surnames for Rick and Tyler?

9 A. That would be Rick Andoga
10 for -- he was the senior project manager in the
11 asset management group. He was on the materials
12 or the surface side, so the roadside.

13 Q. I think we've come across
14 him already.

15 A. Tyler Renaud. I'm not
16 sure if you've come across him yet.

17 Q. He's the one who was
18 going up, I think you testified, to CB MTO project
19 for the hot in-place; is that right?

20 A. Yeah, correct. He's a
21 P.Eng. He's on materials. QA, project manager in
22 construction.

23 Q. It said -- so you say,
24 "Rick and Tyler haven't seen those?" So just to
25 confirm, stepping away from the text message for a

1 moment, had you confirmed if Mr. Andoga or
2 Mr. Renaud had previously obtained copies of the
3 Tradewind report?

4 A. I can't remember -- I did
5 at some point in time canvass staff, and I'm not
6 sure which staff that I canvassed about if anyone
7 had seen these reports.

8 Q. Recognizing it's very
9 late in the day, and I can ask you this again
10 tomorrow, but do you recall, sitting here today,
11 which staff you were sure confirmed that they had
12 a copy of the Tradewind report before you found it
13 on ProjectWise?

14 A. I don't have any record
15 that any other staff had a copy of this prior to
16 the 2018 sort of August to September timeframes
17 between myself and Mike Becke.

18 Q. Thank you. Was Mr. Moore
19 still working out of an office in the City at this
20 point, November of 2018?

21 A. He was still with the LRT
22 group, and I'm not sure if he's in the -- suite
23 320 or if he's over at 100 Street at this time.

24 MS. LAWRENCE: Thank you.
25 Commissioner, I'm noting the time, it's 4:31, and

1 I think this is a good time to end for the day.

2 JUSTICE WILTON-SIEGEL: I

3 think so. It's been a long day. All right.

4 Unless there's anything else we have to do this

5 evening, I don't think there is, we'll stand

6 adjourned, then, until 9:30 tomorrow morning.

7 MS. LAWRENCE: Thank you.

8 JUSTICE WILTON-SIEGEL: Have a

9 good evening, everyone.

10 --- Whereupon at 4:31 p.m. the proceedings were

11 adjourned until Friday, October 21, 2022 at

12 9:30 a.m.

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