

RED HILL VALLEY PARKWAY INQUIRY

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE THE HONOURABLE HERMAN J. WILTON-SIEGEL
held via Arbitration Place Virtual
on Wednesday, June 29, 2022, at 9:31 a.m.

VOLUME 40

REVISED TRANSCRIPT

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1 Arbitration Place Virtual

2 --- Upon resuming on Wednesday, June 29, 2022

3 at 9:31 a.m.

4 MS. LECLAIR: Good morning,
5 Commissioner.

6 JUSTICE WILTON-SIEGEL: Good
7 morning, Ms. Leclair.

8 MS. LECLAIR: We have
9 Mr. Becke for his continued examination. May I
10 proceed?

11 JUSTICE WILTON-SIEGEL: Yes,
12 please proceed.

13 MICHAEL BECKE; RESUMED

14 CONTINUED EXAMINATION BY MS. LECLAIR:

15 Q. Good morning, Mr. Becke.

16 A. Good morning.

17 Q. Okay. Registrar, if we
18 can go to overview document 9, pages 252 and 253,
19 please.

20 And, Mr. Becke, you'll see at
21 paragraphs 613 and 614 that Ms. Jacob e-mailed a
22 draft information report in January 2019, so on
23 January 14, relating to the resurfacing of the
24 RHVP. Were you involved in drafting any part of
25 that report? I'm happy to call up the report

1 itself, to the extent it's helpful.

2 A. Sorry, I'm just reading
3 the statement underneath the paragraph. I mean, I
4 may have been asked for limits or something like
5 that, but that would have been it.

6 Q. Okay. So, you don't
7 recall having --

8 A. I don't recall, no.

9 Q. Registrar, if we can go
10 to page 247, please.

11 On January 14, so the same
12 day, Mr. McGuire e-mailed you, Mr. Andoga,
13 Ms. Jacob and Mr. Oddi asking if prior to this
14 year you had received or seen a copy of the 2013
15 Golder/Tradewind report. Mr. McGuire referred to
16 the 2013 Golder/Tradewind report. At this time,
17 had you received -- at the time that you received
18 this e-mail, had you seen the Golder report, so
19 the 2014 draft Golder report?

20 A. I had seen the Tradewind
21 report. I don't remember seeing the Golder
22 report, though, no.

23 Q. Okay. So, in January,
24 mid-January 2019, you don't recall or you don't
25 think that you saw it at that time or you don't

1 recall?

2 A. I don't recall seeing the
3 Golder report, no. I had only seen the Tradewind
4 report.

5 Q. Okay. Did you ever see
6 the Golder report?

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

8 Q. Did you discuss this
9 e-mail with Mr. Andoga, Ms. Jacob or Mr. Oddi at
10 this time?

11 A. I don't remember
12 discussing with them, no.

13 Q. Did you discuss it with
14 anyone else at the City?

15 A. Well, I would have gone
16 and spoken to Mr. McGuire, that asked the
17 question.

18 Q. Do you recall speaking
19 with him?

20 A. I believe I went and
21 spoke to him after the e-mail. We have an open
22 office, so we walk by each other a lot.

23 Q. Okay. And what do you
24 recall about that discussion?

25 A. I don't recall the

1 discussion. I'm just -- that I would have spoken
2 to him about it.

3 Q. Okay. And did anyone at
4 the City indicate to you that they had been aware
5 of the Golder or Tradewind report before 2018?

6 A. Not that I remember.

7 Q. Okay. The Tradewind
8 report was disclosed by the City at a general
9 issues committee meeting on February 6, 2019.
10 What was your role, if any, regarding the
11 preparation for the GIC meeting on February 6?

12 A. I was not involved in
13 that at all.

14 Q. Okay. Registrar, if we
15 can call up HAM28917 and if you can call out the
16 first e-mail, so the 12:49 p.m. e-mail.

17 So, on February 21, 2019,
18 Ms. Jacob sent an e-mail attaching a document,
19 describing the document as a:

20 "Summary of CIMA
21 recommendations so we can
22 ensure nothing is being
23 missed. Include in your
24 discussions."

25 What discussions was Ms. Jacob

1 referring to?

2 A. I'm assuming at this
3 time -- I mean, it's an assumption. I assume at
4 this time it was scope related to the project that
5 we were preparing to put out to tender.

6 Q. Okay. And, Registrar, if
7 you can close that call out and bring up as a side
8 by side the attachment, so HAM28918.

9 Do you recall having any
10 discussions where this was included?

11 A. Discussions regarding,
12 like, with the people that were in the e-mail?

13 Q. Any discussions. So,
14 Ms. Jacob wrote "include in your discussions."
15 You're a recipient of that e-mail, along with
16 Mr. Vala and Mr. Butt. Do you recall any
17 discussions with any of those individuals or
18 Ms. Jacob?

19 A. I don't remember specific
20 discussions, but I'm sure that had we received
21 this e-mail with this document, we would have had
22 a chat.

23 Q. Okay. But you don't
24 recall that specifically?

25 A. I don't recall specific

1 discussions. I'm sorry.

2 Q. And in the next e-mail,
3 so this is an e-mail from Ms. Jacob to Mr. McGuire
4 that you weren't included on, Ms. Jacob refers to
5 CIMA's February 4 memo. Were you -- I'll call up
6 that document. It is HAM12715. Registrar, I
7 believe that that document needs to be marked as
8 an exhibit. It would be 116.

9 THE REGISTRAR: Noted. Thank
10 you, counsel.

11 EXHIBIT NO. 116: CIMA's
12 February 4 memo,
13 HAM12715.

14 BY MS. LECLAIR:

15 Q. Mr. Becke, had you
16 reviewed this document around this time, so around
17 February 21?

18 A. I don't remember when I
19 received it. I do remember reading the document,
20 though.

21 Q. And were you involved at
22 all in the preparation of the February 4 memo?

23 A. No. No, I was not.

24 Q. Okay. And was the
25 February 4 memo used by you for the work that you

1 were doing at the time?

2 A. No, I do not believe so.

3 Q. Okay. Registrar, we can
4 close those documents and go to overview
5 document 10, page 127, paragraph 324.

6 Dr. Uzarowski e-mailed you a
7 final copy of the hot in-place recycling
8 suitability study report. How did you intend to
9 use the findings and results in that report?

10 A. Well, we had, again, paid
11 for the report. I wanted to see what the findings
12 were. But at this point in time, we were no
13 longer doing the hot in-place, so it was just good
14 information to have about the mix designs and the
15 information that Dr. Uzarowski had found.

16 Q. Okay. And when you say
17 good information, do you mean good information for
18 the RHVP or --

19 A. Just good technical
20 information regarding asphalt.

21 Q. Okay. I want to make
22 sure I clearly understand your evidence regarding
23 this project and when you understood that the City
24 was no longer considering hot in-place recycling
25 for the RHVP.

1 Dr. Uzarowski testified last
2 week regarding the October 18, 2018 meeting we
3 spoke about yesterday. He said that after he
4 presented the results, he said:

5 "I gave it to him and
6 then he was interested in
7 my observation, but then
8 he told me that the City
9 decided to, instead of
10 using hot in-place
11 recycling, to use shave
12 and pave on the Red Hill
13 Valley Parkway."

14 And when asked if the decision
15 had already been made, he said:

16 "It's been already made,
17 so he just conveyed the
18 message to me, but at the
19 same time he asked me to
20 continue with my
21 evaluation."

22 And Dr. Uzarowski was
23 referring to you. Do you agree with
24 Dr. Uzarowski's evidence regarding the October 18,
25 2018 meeting?

1 A. I don't recollect that
2 the final decision had been made or at least by
3 myself. If other people had made that decision,
4 for instance, my manager or my director, I was
5 still waiting for the results to come back from
6 the sampling and testing that was completed.

7 However, you know, we were
8 waiting for the results. It was taking some time,
9 so we were probably leaning to the -- I was
10 leaning towards a shave and pave, but I don't know
11 if a definitive answer had been made by that
12 point, that I recollect.

13 Q. Okay. Do you recall
14 telling Dr. Uzarowski that a decision had been
15 made?

16 A. I don't recall telling
17 Dr. Uzarowski. I don't remember that specific
18 discussion.

19 Q. Okay. And just so I
20 understand, when you say you don't recall, do you
21 not recall either way or do you recall that you
22 did not provide that?

23 A. I don't recall either
24 way.

25 Q. Okay. And, Registrar, if

1 we can call up GOL7415 in the native form. I
2 believe this has already been marked as an
3 exhibit, Exhibit 84.

4 Mr. Becke, I believe you told
5 me yesterday that you recalled that Dr. Uzarowski
6 presented a chart at the October 18, 2018 meeting.
7 Do I have that right?

8 A. Correct. Well, a graph.
9 I remember seeing this graph.

10 Q. Okay. And was it this
11 that he showed you at that meeting?

12 A. Yeah. I remember seeing
13 this graph, yes.

14 Q. And what did
15 Dr. Uzarowski tell you when he presented it to
16 you?

17 A. I remember that these
18 gradations were generally the same throughout from
19 original samples to now.

20 Q. And do you recall
21 anything further that Dr. Uzarowski told you
22 relating to the analysis?

23 A. Just that they had done
24 the gradations. That was pretty much the only
25 information he was able to provide. And all I had

1 at this time was that chart that I was being
2 shown.

3 Q. Did he give you any
4 information on any findings or any analysis or did
5 he just advise you that the gradation had been
6 done?

7 A. Findings in what way? I
8 only remember seeing this graph and discussing the
9 gradations, how they go into the graph.

10 Q. Okay. Thank you.
11 Registrar, if we can go to overview document 10,
12 pages 108 and 109.

13 Mr. Becke, I would like to ask
14 you a few questions about your discussions with
15 AME, who I understand was retained by the City to
16 assist in selecting a pavement type for
17 resurfacing. Is that correct?

18 A. For?

19 Q. The RHVP --

20 A. For the resurfacing
21 contract?

22 Q. Correct.

23 A. Yes.

24 Q. Okay. I'm looking at
25 paragraph 279, which starts on 109 and continues

1 on 110. Your e-mail to Reza Nam --

2 A. Namjouy.

3 Q. Thank you. From AME

4 included:

5 "This is a mountain
6 access that winds its way
7 down the escarpment, so
8 the appropriate the
9 friction characteristics
10 is of extremely high
11 importance."

12 Is this view the result of
13 your review of the Tradewind report or was this
14 always your view?

15 A. So, for mountain accesses
16 in general, we use typically an FC2, which is a
17 friction course two type of asphalt, just because
18 of the grades that are in the asphalt. So, a
19 normal mountain access, such as the Sherman Access
20 or the Jolley Cut, we would put that type of
21 asphalt in.

22 However, I think also being
23 the fact that this was a -- at the time that I was
24 engaging with AME, there was a heightened
25 sensitivity, I guess you could say, around the

1 asphalt, so I also included that in there for that
2 as well.

3 Q. What do you mean by
4 heightened sensitivity? Explain --

5 A. Well, by February 13,
6 obviously the council was made aware and
7 information was made aware to the public.

8 Q. Right. And the
9 heightened sensitivity, are you referring to by
10 staff or by council?

11 A. Just the outcome of the
12 discussion when it was brought to council.

13 Q. Right. We can go to 110
14 and 111, Registrar, please.

15 So, on February 25, 2019 you
16 received a draft letter on the selection of HMA
17 for the RHVP resurfacing from Mr. Norris in which
18 AME recommended that the City place SMA 12.5. You
19 forwarded that to Mr. Renaud, writing:

20 "It is interesting, but
21 not unexpected, that the
22 recommended design is an
23 SMA. I think we may want
24 to ask for an acceptable
25 alternative as well as a

1 discussions?

2 A. Just -- not specifics. I
3 had a lot of conversations with Tyler just for
4 day-to-day operational work, so I don't remember
5 the specifics of that discussion.

6 Q. Okay. Registrar, we can
7 close that and if we can go to pages 145 and 146.
8 Apologies, Registrar. Can we go to overview
9 document 10, pages 145 and 146. Thank you.

10 So, on March 5 you received a
11 revised letter from Mr. Norris, which also
12 included SP12.5FC2. Ms. Jacob was also copied on
13 Mr. Norris's e-mail, forwarded the letter to
14 Mr. McGuire. And to confirm, you're not copied on
15 the e-mail or on Mr. McGuire's subsequent
16 response. He responded to Ms. Jacob saying:

17 "Given the challenges
18 we've had with the SMA on
19 the RHVP, I can't
20 consider going back with
21 that mix."

22 Did Mr. McGuire ever make a
23 similar comment to you?

24 A. Similar in what way? I
25 mean, I don't remember specifically talking

1 about...

2 Q. Similar to:

3 "Given the challenges
4 we've had with the SMA on
5 the RHVP, I can't
6 consider going back with
7 that mix."

8 A. I think I may have
9 discussed with Gord about the SMA, but I also
10 wanted to have another, like, two options for a
11 surface asphalt on that road. So, I mean, we
12 probably discussed that, but again, I was also
13 wanting a second type of asphalt for the surface.

14 Q. And why was that?

15 A. Options for the
16 contractors.

17 Q. Okay. Registrar, you can
18 take those down.

19 Mr. Becke, we've been provided
20 with a copy of an anonymous letter that was sent
21 to the City's auditor, Charles Brown, which copied
22 Mayor Eisenberger and some media outlets. Were
23 you aware of such a letter?

24 A. No, I was not.

25 Q. Did you ever see the

1 letter?

2 A. Not until the inquiry.

3 Q. And I take it from your

4 answer that you did not write that letter?

5 A. No, I did not.

6 Q. Do you know who wrote the

7 letter?

8 A. No, I do not.

9 Q. Thank you. Commissioner,

10 those are my questions.

11 JUSTICE WILTON-SIEGEL: Okay.

12 Thank you.

13 MS. LECLAIR: Okay. I

14 understand counsel for the MTO may have some

15 questions.

16 MS. MCIVOR: Hello,

17 Ms. Leclair, and hello, Mr. Commissioner. I can

18 confirm that MTO does not have any questions

19 today.

20 JUSTICE WILTON-SIEGEL: Okay.

21 MS. MCIVOR: Thank you very

22 much.

23 JUSTICE WILTON-SIEGEL: Thank

24 you.

25 MS. LECLAIR: Okay. I

1 understand counsel for Golder have some questions.

2 MS. JENNIFER ROBERTS: Good

3 morning. I do.

4 THE WITNESS: Good morning.

5 EXAMINATION BY MS. JENNIFER ROBERTS:

6 Q. Hello, Mr. Becke. I'm

7 Jennifer Roberts. I'm counsel for Golder.

8 A. Good morning.

9 Q. Commissioner, may I
10 begin?

11 JUSTICE WILTON-SIEGEL: Please
12 proceed.

13 BY MS. JENNIFER ROBERTS:

14 Q. Thank you. Mr. Becke, I
15 want to take you back to the beginning. You
16 talked about your qualifications and you're a
17 civil engineer?

18 A. Correct.

19 Q. With a degree from
20 McMaster. Do I have that right?

21 A. Correct.

22 Q. Okay. So, civil
23 engineering is a wide umbrella, so did you
24 specialize as part of that degree?

25 A. No.

1 Q. You didn't, okay. So,
2 did you take courses in pavement design?

3 A. No, I did not.

4 Q. Not in pavement design.
5 So, when you say civil engineer, what did that
6 degree encompass?

7 A. I had taken a few various
8 different courses. I had taken some structural
9 courses, I had taken some geotechnical courses. I
10 didn't specialize when I left.

11 Q. Okay. Thank you. Now,
12 one of the odd parts of this proceeding is the
13 design documents and finding them. We ultimately,
14 documents for the drawing -- sorry, let me
15 rephrase that.

16 The drawings were first
17 produced by Dufferin and only more recently did
18 Hamilton find its construction set of drawings.
19 Did you, and as part of the -- as part of design,
20 did you have copies of the drawings for the Red
21 Hill Valley Parkway?

22 A. Sorry, with respect to --
23 I'm sorry, just so I understand --

24 Q. I'm asking --

25 A. We had our drawings. Are

1 you -- like, what drawings specifically are you
2 asking for?

3 Q. Design drawings for the
4 alignment for the mainline.

5 A. I believe there was a
6 tender set of documents in the office.

7 Q. Okay. So, that's
8 interesting because when CIMA's -- and I
9 understand your evidence is that you hadn't seen
10 the CIMA reports, but it's clear CIMA asks for the
11 drawings as part of their investigation in 2013
12 and that they don't have them.

13 Were you asked ever for the
14 drawings for the Red Hill Valley Parkway?

15 A. No, I was not.

16 Q. Okay. Do you know the
17 design speed for the Red Hill Valley Parkway?

18 A. No, I do not.

19 Q. You didn't, okay. So,
20 even if CIMA had asked you for it, you couldn't
21 have provided it?

22 A. No.

23 Q. Okay. I want to go
24 forward a little bit in time. If I've got your
25 evidence right, that you worked with Golder in

1 2011 as part of the resurfacing for the Lincoln
2 Alexander, but when you were asked questions
3 about, you know, in and around the point of 2016,
4 you said that you didn't have another engagement
5 with them. Do I have that evidence right?

6 A. Correct.

7 Q. Okay. And in your
8 evidence talking about 2016 when you and
9 Mr. Andoga were exploring microsurfacing and other
10 surface treatments, you said that you weren't
11 aware that Golder had made a recommendation to
12 microsurface as a recommendation in the 2014
13 Golder report. Do I have that right?

14 A. Correct.

15 Q. Okay. And you said that
16 you knew about surface treatments because it's
17 been something that had been discussed at a
18 conference and you found that interesting?

19 A. Correct.

20 Q. Okay. I want to go to
21 the PMTR work.

22 Registrar, could you please
23 pull up Golder 7440.

24 So, there were three reports
25 prepared by Dr. Uzarowski and others within Golder

1 pursuant to a pavement and materials technology
2 review. Were you aware of that work?

3 A. I was made aware of this
4 work later, yes.

5 Q. Later, okay. So, the
6 first phase was about an evaluation of Hamilton's
7 QC and QA practices and recommendations were made.
8 Were you aware of that?

9 A. I had never seen that
10 document.

11 Q. You didn't see it, okay.
12 And phase 2, which we have up here, is really the
13 beginning of a development of specifications for
14 the City of Hamilton.

15 Can we please go forward to
16 image 49.

17 So, one of the things that
18 this report does is it overviews a number of
19 different areas, including here in part 7,
20 pavement preservation.

21 Registrar, could you please
22 call out that section 7, the top. We'll go to the
23 next page in a minute, but I'm struggling to read
24 it, so -- thank you. Okay.

25 So, this talks about a

1 pavement preservation program, it talks about, you
2 know, how that fits into a strategy, and it then
3 identifies a number of preservation treatments,
4 and those are included below, cracked sealing,
5 cracked filling, fog seals, rejuvenation, chip
6 seals, slurry, cape seals, sand seals.

7 And, Registrar, if you could
8 please go to the next page. There we go. And
9 call up that.

10 And then we get additional
11 treatments, including microsurfacing, overlay,
12 surface milling, and then it talks about the
13 emerging technologies, including NovaChip and
14 Metro-Mat, which I think is another seal.

15 So, let's go forward here to
16 the appendix, image 57, please.

17 So, this appendix records a
18 meeting with the City of Hamilton in which the
19 results of the PMTR phase 2 was presented. It's
20 December 19, 2011. And you'll agree, sir, that
21 you're identified as first on that list?

22 A. Yes.

23 Q. You were an attendee at
24 that meeting?

25 A. I don't recollect. I

1 mean, it was 2011. I'm sorry, I don't remember if
2 I was specifically at this meeting.

3 Q. But if you're listed
4 there, you've got no reason to --

5 A. If I'm listed there,
6 correct, yeah.

7 Q. Let's go forward to
8 image 61. Actually, sorry, can you first scroll
9 down.

10 So, what this is doing is it
11 sets out the pavement discussions, general
12 discussions.

13 And, Registrar, can you please
14 scroll to the next page. Thank you.

15 It talks about granular,
16 aggregate.

17 Next page, please.

18 Asphalt cement, it talks about
19 specifications there. Asphalt mixes in
20 subparagraph 5.

21 And go on, please. Next page.

22 More mix pavement
23 rehabilitation. And the bottom of that page says
24 pavement preservation.

25 And if we can please go to the

1 next page, image 61. Just one page. Thank you.

2 Thank you.

3 And under Pavement

4 Preservation, there's more detail in relation to
5 the recommendations.

6 Can you please call up that
7 first section. No, above. There we go.

8 And under Suggestions, we've
9 got:

10 "Pavement preservation is
11 the only way to maintain
12 a network within an
13 available budget.
14 Effective pavement
15 preservation
16 methodology -- "

17 And it talks about that and it
18 says:

19 "Pavement preservation
20 should be correlated with
21 the City's asset
22 management."

23 And then identifies the other
24 methods should be considered, microsurfacing,
25 slurry seal, surface treatment chip seal, and

1 again the same sorts of preservation techniques as
2 are identified earlier in the report. Do you see
3 that, sir?

4 A. Yes.

5 Q. So, when you say that you
6 didn't know that microsurfacing hadn't been
7 recommended as a potential treatment, in fact,
8 that's not the case. That it certainly is
9 recommended in this 2011 report and the
10 accompanying meeting where the report was
11 presented?

12 A. I'm sorry, with relation
13 to what, though?

14 Q. So, this is a
15 preservation technique for roads within the City
16 of Hamilton?

17 A. Correct.

18 Q. That's what it's being
19 proposed for?

20 A. Correct. But the
21 question that I was asked about specific to the
22 Red Hill.

23 Q. Okay. But let's just
24 look at what I'm putting to you, is that with
25 respect to what treatments are available and have

1 been recommended to the City of Hamilton for the
2 preservation of its assets, microsurfacing is
3 included among them. You agree with that?

4 A. Correct.

5 Q. Okay. Now, we've got
6 three PMTR reports with a lot of analysis and
7 extensive recommendations. Had you seen --

8 Sorry, can you take out the
9 call out now, Registrar. Could you please go to
10 the first page.

11 THE REGISTRAR: The first page
12 of the appendix or the first page of the report?

13 MS. JENNIFER ROBERTS: The
14 first page of the report.

15 BY MS. JENNIFER ROBERTS:

16 Q. Have you seen this report
17 before?

18 A. I have seen it.

19 Q. You've seen it. And is
20 this report -- and, sorry, when you say you've
21 seen it, have you seen it because it was presented
22 and given to you at that December 2011 meeting?

23 A. I wasn't given a personal
24 copy.

25 Q. Okay. So, when you say

1 you've seen it, where have you seen it?

2 A. I believe I was
3 eventually given a copy from someone else.

4 Q. From someone else, okay.
5 When you say eventually, are you saying sometime
6 after --

7 A. Correct.

8 Q. Okay. And were these
9 reports with their detailed analysis and their
10 recommendations, is that something that you,
11 within the design section, have access to?

12 A. I'm sorry, specific to
13 the report or --

14 Q. Yeah. There are three
15 reports --

16 A. -- specific jobs?

17 Q. Well, I'm asking whether
18 these reports are available to you within the City
19 of Hamilton as a resource. Did you know where to
20 find them?

21 A. Did I know specifically
22 everyone who had one? I don't recollect everyone
23 that had them, but I'm sure they were available.

24 Q. So, when you say -- I'm
25 confused by your saying that some people had them.

1 My question is actually more general, is whether
2 you knew where they were and you could access
3 them?

4 A. I don't recollect
5 specifically where they were in the office, if
6 that's the question. I'm sorry.

7 Q. Did you know that they
8 existed and that you could access this
9 information, should you need to?

10 A. So, when I had seen the
11 copy I was given, then I knew that it was
12 available. I don't remember reading it from cover
13 to cover.

14 Q. Okay. And the other
15 reports, the phase 1 and the phase 3, similarly,
16 did you have those?

17 A. I had never seen the
18 phase 1 copy.

19 Q. And what about the --

20 A. And I don't know if I had
21 a copy of the third.

22 Q. So, this is one, which
23 we've now established the results were presented
24 to you, you now have a recollection that you had
25 seen that one, but the other two you don't believe

1 that you have seen?

2 A. Seeing the cover now,
3 yes, I understand that I've seen this.

4 Q. Okay. Thank you. I want
5 to go to the Tradewind report.

6 So, you've just given evidence
7 that in fact you didn't know about the Golder
8 report until early in 2019. The evidence you've
9 given is that you received the Tradewind report on
10 August 27, 2018, and we went through that evidence
11 yesterday. That was e-mailed to you and
12 Dr. Uzarowski's covering e-mail says, as
13 requested.

14 You gave evidence that it's
15 your recollection that Dr. Henderson referenced it
16 when you were onsite taking samples in connection
17 with the HIR work that was on August 19, 2018. Is
18 that correct?

19 A. Correct.

20 Q. Okay. We have the City's
21 evidence that an e-mail from Dr. Uzarowski to Gary
22 Moore, including a summary of the 2007 MTO testing
23 and the 2013 Tradewind testing, was forwarded by
24 Mr. McGuire to Mr. Malone of CIMA on August 30.

25 Registrar, could you please go

1 to OD 9, image 57, paragraph 132.

2 Now, Dr. Henderson's evidence
3 in her testimony was that she wouldn't have raised
4 the topic of the Tradewind report. She had no
5 reason to. So, we've got a contradiction in the
6 evidence.

7 I just want to look at this
8 because Mr. McGuire is forwarding an e-mail that
9 Dr. Uzarowski sent to Mr. Moore on January 24 and
10 it contains a summary of the MTO friction testing
11 in 2007, a paper, 2009, early age low friction
12 problem, as well as a summary of the friction
13 testing from Tradewind.

14 And, if you'll look at the
15 bottom part of that e-mail, if we can go below the
16 chart and call out, Registrar, in 2013. Do you
17 see that? Just below southbound lane. There you
18 go. Thank you:

19 "In 2013, friction
20 numbers were measured on
21 the RHVP in both
22 directions by Tradewind
23 Scientific using a grip
24 tester. The average FN
25 numbers were as follows."

1 Thank you. You can take down
2 the call out.

3 So, this is sent on August 30.
4 I'm going to suggest to you that in fact that data
5 existed, because Mr. McGuire is sending it on the
6 30th, and I'm going to suggest that the fact that
7 somebody was looking at this e-mail towards the
8 end of August 2018 was probably what initiated the
9 enquiry of Dr. Henderson in the week prior?

10 A. That's not how I
11 recollect.

12 Q. Okay. You can take that
13 down, Registrar. Thank you.

14 Your evidence is that you
15 received the Tradewind report but you were on
16 holiday and didn't read it right away, but you did
17 read it, didn't you, sir?

18 A. I did eventually read it,
19 yes.

20 Q. Okay. And your evidence
21 yesterday was you didn't understand why they were
22 applying a UK standard and friction on runways.
23 Do you remember saying that?

24 A. Correct.

25 Q. Let's go to the Tradewind

1 report. That's Golder 2981.

2 So, sir, you know now,
3 although you didn't have the Golder report, but
4 you know now that the Tradewind report is an
5 appendix to the Golder report?

6 A. I understand that now,
7 yes.

8 Q. Okay. So, that's the
9 report and your evidence is is that you hadn't
10 seen it until 2019. That's the case?

11 A. The Tradewind report?

12 Q. Well, the Golder report.

13 A. I do not recollect seeing
14 the Golder report. I remember seeing and the
15 first time I seen the Tradewind report was when it
16 was sent to me.

17 Q. Okay. Could we please,
18 Registrar, go to image 101. That's the appendix
19 E. And, Registrar, can you please go to the next
20 page.

21 And here is the Tradewind
22 report. That's the document you recall seeing on
23 August 24. That's correct?

24 A. I don't believe it was
25 the 24th.

1 Q. Sorry, August 24. Sorry.
2 Sorry, August 27. Forgive me. Thank you, sir.
3 Okay.

4 So, this is the report you
5 recall receiving on August 27, 2018. Correct?

6 A. I believe so, yes.

7 Q. Okay. Could we please
8 turn to the next page, Survey Description.

9 And one of the things you
10 noted is that there are no applicable reference
11 standards and indeed if you read the beginning of
12 the survey description, that's in fact recorded
13 here:

14 "In Canada and the U.S.,
15 there are currently no
16 directly applicable
17 reference standards or
18 guidelines with which to
19 compare data collected by
20 continuous friction
21 measurement equipment for
22 roads and highways,
23 although these are well
24 established for airport
25 runways."

1 So, one of the things you said
2 yesterday is one of the reasons why you considered
3 or didn't know how to apply this is because this
4 report talks about friction standards for runways?

5 A. Correct.

6 Q. Right. Well, I'm going
7 to suggest to you that in fact it doesn't. It
8 says they're well established for runways, but
9 then it just talks about what's applicable for
10 roads.

11 A. Okay.

12 Q. Do you want to have a
13 look at it?

14 A. I'm sorry, I don't
15 understand the question.

16 Q. Well, I'm questioning
17 you, sir, that you say one of the reason that you
18 didn't know how to apply this report is because it
19 referenced friction in relation to runways, and
20 I'm saying it actually doesn't.

21 A. No. I said the UK
22 standard, I know I said that, as well as runways.

23 Q. Right. So, what I'm
24 calling out for you, sir, is that it doesn't talk
25 about friction on runways.

1 A. I don't understand. It
2 states right there:

3 "Although these are well
4 established for airport
5 runways."

6 Q. Yeah. There's no data in
7 there. There's no information about friction on
8 runways in this report. You looked at the first
9 page. Shall we go to the second one?

10 A. I'm sorry, I don't
11 understand.

12 Q. You said yesterday that
13 one of the reasons you did not know how to apply
14 the information in this report was because it
15 referred to friction on runways, and I'm saying to
16 you, sir, that you're mistaken in that
17 observation, that if you had read it, you would
18 know it doesn't do that?

19 A. No. What I said is the
20 data is with respect to UK standards and airport
21 runways.

22 Q. And I'm saying -- and
23 we'll go to the question of UK standards, but I'm
24 saying it does not deal with friction data on
25 runways.

1 A. Okay.

2 Q. Right? So, is there --

3 MS. HALE: I also just want to
4 interject for a moment, Ms. Roberts. I think we
5 need to be -- the testimony of Mr. Becke yesterday
6 was that he didn't quite understand how they were
7 applying the UK standards in the Province of
8 Ontario or how airport runways fall in line with,
9 you know, pavement the vehicles drive on. So, it
10 wasn't that he was thinking about how to apply
11 this. He was looking at the report and having
12 questions about the report.

13 MS. JENNIFER ROBERTS: Okay.
14 So, absolutely. We can get to that. Thank you,
15 counsel. I still think my point stands. There's
16 nothing in here talking about airport runways.
17 Let me move to the next point, though. I think
18 I've made that one.

19 BY MS. JENNIFER ROBERTS:

20 Q. So, you're right.
21 There's a discussion about the UK standards, so
22 let me just stay on that one. In your evidence
23 you weren't sure how to apply it because of the
24 reference to the UK standards and there being no
25 Ontario standard that was applicable.

1 You didn't, though, next
2 follow up with Golder and say, you know, we want
3 an explanation about how to address, how to
4 interpret, this report, did you?

5 A. I did not read the report
6 right away and I did not quite understand it and I
7 did want to talk to Ludomir and I don't remember
8 talking to Ludomir.

9 Q. Okay. And you didn't
10 follow up directly with Tradewind either, did you?

11 A. No, I did not.

12 Q. Okay. And I can't see
13 here, but I take it you didn't undertake your own
14 investigation as to the application of friction
15 standards to measured data?

16 A. I'm sorry, I don't
17 understand.

18 Q. Well, there's nothing in
19 your evidence to suggest that you then undertook
20 your own investigation of friction standards, so
21 let me turn it into a question. Did you?

22 A. Did I engage?

23 Q. In your own investigation
24 as to what standards were applicable?

25 A. No, I did not.

1 Q. Thank you, Registrar.
2 You can take down the call out. Sorry, you can
3 take down the whole document. I might have jumped
4 on that one. Hold on.

5 You said yesterday that you
6 were told that the results of friction testing
7 were inconclusive and you said you might have been
8 told that by Gary Moore or possibly Marco Oddi.
9 Do you remember saying that?

10 A. Correct.

11 Q. Was that in connection
12 with the 2017 British pendulum testing or was that
13 in connection with the Tradewind friction testing?

14 A. I do not remember.

15 Q. It was just friction
16 testing?

17 A. It was just friction
18 testing.

19 Q. Okay. So, forgive me,
20 Registrar. I'm going to go back to that document,
21 which is Golder 2981. Could you please go to
22 image 116. There we go. So, this is -- thank
23 you. If you can make that larger, Registrar, that
24 would be so helpful. Can you call up -- just make
25 the whole thing larger. Thank you. Okay. Thank

1 you. Okay.

2 So, this is the data that
3 Tradewind obtained from their friction testing.
4 When you read the Tradewind report, did you see
5 this?

6 A. Yes.

7 Q. I take it, sir, you're
8 not suggesting that there's anything inconclusive
9 in the data itself?

10 A. No.

11 Q. Thank you. Now we can go
12 out of this document. Thank you.

13 So, I want to go forward again
14 in time to the 2017 pavement evaluation.
15 Yesterday you gave evidence that the proposal was
16 forwarded to you.

17 And, Registrar, can you please
18 go to OD 8, image 21, paragraph 50.

19 So, paragraph 50, Mr. Moore
20 forwarded Dr. Uzarowski's e-mail attaching the
21 proposal from November 23 to you and to Mr. Andoga
22 and he writes:

23 "Here is what Ludomir
24 will be doing."

25 And if we actually go to that

1 document, it's Hamilton 52830. It might be 31.

2 Sorry, Registrar. The
3 attachment is there. Is that 531? Sorry, 52831?

4 There we go. Thank you. Okay.

5 And it sets out the scope of
6 work. Do you see that?

7 A. Yes.

8 Q. So, I take it, sir,
9 there's no dispute that as of the end of November,
10 you knew that Golder was going to oversee certain
11 testing done, including a British pendulum
12 testing, pavement texture measurements?

13 A. Mm-hmm.

14 Q. And do you understand,
15 sir, that pavement texture measurements using a
16 volumetric technique is to test macrotexture?

17 A. Okay.

18 Q. It's a question. Is that
19 something that --

20 A. I'm not familiar with the
21 ASTM standard.

22 Q. But a pavement texture
23 measurement, do you understand that to be testing
24 for macrotexture of a surface?

25 A. No. I know of the

1 British pendulum test. I'm not aware of this
2 test.

3 Q. Okay. Thank you. And
4 then the last one is coring of the surface course
5 asphalt layers, and then they go on to describe
6 that that is to -- in the bottom paragraph:

7 "The cores will be
8 brought to the Golder
9 laboratory and they will
10 be broken down and the
11 aggregates from the
12 surface course asphalt
13 layers will be extracted
14 from each core and the
15 extracted aggregates will
16 then be sent to a
17 laboratory in Ireland for
18 testing of polished stone
19 value."

20 Do you see that?

21 A. Yes.

22 Q. And so, you understood as
23 of the end of November that one of the tests that
24 was going to be conducted on the aggregate from
25 the Red Hill was a polished stone value testing?

1 A. Okay.

2 Q. Is that a yes, sir? You
3 understood --

4 A. I understand that's what
5 it says.

6 Q. And you understood it.
7 Correct?

8 A. Okay. Yes.

9 Q. Thank you. You can take
10 down that call out, Registrar. Thank you.

11 And did you understand that
12 PSV testing is a test to measure the polishability
13 of an aggregate?

14 A. Okay. Yes.

15 Q. You understood that,
16 Mr. Becke?

17 A. At the time, I don't know
18 if I understood it at the time. I'm not a
19 friction expert.

20 Q. I'm not suggesting you
21 have to be a friction expert. We're actually
22 talking about pavement construction at this point.

23 A. Okay.

24 Q. And were you aware that
25 the higher the value given, the greater resistance

1 to polishing?

2 A. At the time, I don't know
3 if I knew that.

4 Q. Okay. Were you aware,
5 because you had been project manager on a number
6 of pavement constructions, including the
7 resurfacing of the LINC and I'm sure any number of
8 others, that polished stone value is in fact an
9 important requirement in aggregate being supplied
10 for the construction of a road?

11 A. Yes, but it also has to
12 be on the Designated Sources list.

13 Q. Right. And do you know
14 what the PSV required is under the Designated
15 Sources list?

16 A. No, I do not.

17 Q. But, you know, in and
18 around this time you knew, in 2017, 2018, you knew
19 that aggregate being supplied to a municipal
20 project had, by that point, did have to meet the
21 requirements of the Designated Sources list?

22 A. Yes. I mean, I don't do
23 mix designs --

24 Q. I'm not suggesting you
25 do.

1 A. -- so, what we call an
2 asphalt, if it requires the Designated Sources for
3 Materials, then we expect that the material meets
4 the Designated Sources for Materials List.

5 Q. And that includes a
6 requirement for PSV. Did you know that?

7 A. For some aggregates, I
8 assume so, yes.

9 Q. Okay. So, Golder's
10 evidence is that the results of the investigation
11 it conducted pursuant to the pavement evaluation,
12 that those findings, those test results, are
13 presented on March 9, 2018. And, in fact,
14 Golder's evidence is that Dr. Uzarowski walks into
15 the March 9 meeting with the test results.

16 And if we can go, please, to
17 overview document 8, image 74.

18 So, this is a list of the data
19 from the British pendulum testing. Those are the
20 numbers.

21 A. Okay.

22 Q. And Dr. Uzarowski goes
23 into the meeting and he's got this as part of his
24 notes. And if you look, if we can please turn to
25 overview document 8, next page, 75, paragraph 205,

1 he also goes in with a one page report from James
2 Fisher Services regarding PSV test results.

3 And if we can please go to
4 overview document 8, page 72, paragraph 204.

5 So, Dr. Uzarowski's notes --
6 thank you -- and you can see that, amongst the
7 topics he understands he's presenting and he's
8 gotten his notes, he's got one, texture. That's
9 the texture measurement that was the first item in
10 that proposal. And he's got the VPN, the numbers.
11 And then the SN from Tradewind.

12 Now, your notes say that there
13 are concerns with friction number, but your
14 evidence is that you don't recall the name
15 Tradewind being used at the meeting. Do I have
16 that right?

17 A. That's correct.

18 Q. Okay. And then item 5 is
19 PSV, 45. Do you see that?

20 A. Yes.

21 Q. So, I'm going to suggest
22 to you that in fact that the PSV, well, all of
23 these items were present, that the PSV of 45 was
24 presented. Your evidence yesterday was that you
25 were really focused, like laser focused in, on the

1 issue of hot in-place recycling and, you know,
2 what was being said about the application -- what
3 was being said about whether that was feasible or
4 not.

5 You're aware, though,
6 Mr. Becke, that an aggregate with a PSV of 45
7 would not be acceptable for an application on a
8 pavement of high volume, high speed?

9 A. I don't know that it's
10 that standard.

11 Q. You don't?

12 A. No.

13 Q. Okay. If I suggest to
14 you that a finding of a PSV is highly relevant to
15 the question of whether the existing aggregate can
16 be used in hot in-place treatment, do you have any
17 reason to disagree with that?

18 A. Disagree with that
19 statement?

20 Q. Yeah.

21 A. Coming from, like, a
22 standard?

23 Q. Well, let's just look at
24 it. So, you know that you're contemplating using
25 hot in-place recycling of an existing surface?

1 A. Correct.

2 Q. Correct? And that
3 existing surface contains aggregate. Right?

4 A. Correct.

5 Q. Okay. And you know that
6 in order to construct a surface for a pavement
7 that's going to be used for high volume, high
8 speed, you need a good quality aggregate. Is that
9 not correct?

10 A. Yes. It has to meet the
11 Designated Sources List.

12 Q. Here, you do something
13 different, though. Here, you're proposing to
14 reuse the existing aggregate, so the question is
15 what's the quality of that aggregate?

16 A. And that was the purpose
17 of doing the investigation.

18 Q. Right. That's exactly
19 it. So, the PSV testing is in fact highly
20 relevant to the question of whether you can use
21 this aggregate as part of a hot in-place
22 treatment. That's correct, sir, is it not?

23 A. Okay.

24 Q. Do you have any reason to
25 disagree with that?

1 A. Well, again, I was never
2 presented these results in a report or that I
3 remember being presented, and we were looking at
4 doing a mix design review.

5 Q. Well, so that's exactly
6 what I'm questioning, sir. I don't see how you
7 could possibly say that these results weren't
8 presented to you when your evidence is is that
9 what you were looking at is whether hot in-place
10 recycling was feasible and the PSV test is crucial
11 to that analysis?

12 A. But my understanding was
13 the discussion was regarding the SMA and not being
14 able to hot in-place that asphalt because of the
15 SMA.

16 Q. Okay. So, I still think
17 it comes down to the same question, sir. If
18 you're reusing it, even as SMA, it still has to
19 have a good quality aggregate in it, doesn't it?

20 A. Correct, but again the
21 discussion we were having was whether or not the
22 SMA asphalt itself, because of the makeup of the
23 SMA, could actually be recycled.

24 Q. And one of the questions
25 as to whether it could be recycled is what was the

1 resistance to polishing of that aggregate. Is
2 that not the case?

3 A. Okay.

4 Q. Well, are you disagreeing
5 with that assertion?

6 A. No, I'm not disagreeing.
7 I'm just trying to understand -- again, I do not
8 remember the specifics being presented. I
9 remember it was discussed as a concern. I never
10 received a report and at the time we were talking
11 about SMA being recycled as part of the process
12 because of the type of process that was being used
13 to recycle.

14 Q. Commissioner, I think
15 I've got -- I don't think I'm going anywhere
16 further with that.

17 JUSTICE WILTON-SIEGEL: I
18 think --

19 THE WITNESS: I'm sorry. I
20 just --

21 JUSTICE WILTON-SIEGEL: Let me
22 see whether I can try, Mr. Becke.

23 THE WITNESS: Okay.

24 JUSTICE WILTON-SIEGEL: You
25 were at this meeting?

1 THE WITNESS: Correct.

2 JUSTICE WILTON-SIEGEL: The
3 subject of the meeting was whether using SMA in a
4 hot in-place recycling format was possible.
5 Correct?

6 THE WITNESS: Correct.

7 JUSTICE WILTON-SIEGEL: The
8 evidence is that Dr. Uzarowski expressed grave
9 doubts about that at this meeting. Correct?

10 THE WITNESS: That the
11 discussion -- sorry.

12 JUSTICE WILTON-SIEGEL: The
13 evidence was that Dr. Uzarowski expressed doubts
14 about -- I'll strike --

15 THE WITNESS: About recycling
16 the SMA, correct.

17 JUSTICE WILTON-SIEGEL: Right.
18 The evidence of Dr. Uzarowski, based on his notes,
19 is that among other reasons for his doubts was the
20 fact that the aggregate in place in the SMA that
21 would be recycled was inadequate. Was that
22 something you understood? In other words, the
23 issue is not at the top level, is it feasible to
24 use SMA or not. You were paying a consultant to
25 give you a much more appropriate technical

1 analysis of whether that was feasible or not and
2 his technical analysis was that he had doubts
3 because the aggregate that would be recycled did
4 not meet the requirements for recycling. So, did
5 you understand that?

6 THE WITNESS: I understand.

7 JUSTICE WILTON-SIEGEL: Did he
8 say that and/or did you understand that?

9 THE WITNESS: I did not
10 understand that at the time. I understand what
11 the question's being stated now.

12 JUSTICE WILTON-SIEGEL: You
13 didn't understand that at the time?

14 THE WITNESS: Correct.

15 MS. JENNIFER ROBERTS:
16 Commissioner, I'm going to move forward.

17 JUSTICE WILTON-SIEGEL: Yes.
18 Please do, Ms. Roberts.

19 MS. JENNIFER ROBERTS: Thank
20 you.

21 BY MS. JENNIFER ROBERTS:

22 Q. Okay. So, Golder's
23 evidence is that Dr. Uzarowski raised the question
24 of what to do with the test results with you, and
25 there's a note on March 9 to that effect.

1 If we can look at OD 875,
2 paragraph 206.

3 THE REGISTRAR: Sorry,
4 counsel. Apologies, my OnCue computer just froze,
5 so I'm just going to have to reset it.

6 MS. JENNIFER ROBERTS: No
7 problem. My colleague is reminding me that Golder
8 7440, the PMTR report, needs to be marked as an
9 exhibit. I think that's Exhibit 117, Registrar?

10 THE REGISTRAR: Sorry, I'm
11 just writing it down. Thank you.

12 EXHIBIT NO. 117: PMTR
13 report, GOL7440.

14 MS. JENNIFER ROBERTS: And,
15 similarly, Hamilton 52831 also needs to be marked
16 as an exhibit, 118.

17 EXHIBIT NO. 118:
18 November 23 proposal,
19 HAM52831.

20 JUSTICE WILTON-SIEGEL: That's
21 Exhibit 118?

22 MS. JENNIFER ROBERTS: Yes.

23 JUSTICE WILTON-SIEGEL: And
24 the other one was 117?

25 MS. JENNIFER ROBERTS:

1 Correct.

2 THE REGISTRAR: Thank you,
3 counsel. I noted both.

4 MS. JENNIFER ROBERTS: Thank
5 you very much. Okay.

6 BY MS. JENNIFER ROBERTS:

7 Q. So, I was looking to go
8 to overview document 8, image 75, paragraph 206.
9 Now, this is a transcript of Dr. Uzarowski's notes
10 and there's a note here. If you can call out the
11 notes themselves, Registrar, just to make them a
12 little easier to read. Just that page will do.
13 Thank you. Okay.

14 So, I'm not going to go back
15 through this evidence, but I want to point out a
16 note saying:

17 "What to do with test
18 results, PSV..."

19 Do you see that?

20 A. Yes.

21 Q. Okay. Thank you,
22 Registrar. You can take down that call out.

23 Dr. Uzarowski has a note of a
24 conversation with you on March 15, 2018. That's
25 overview document 8, image 79, paragraph 218.

1 There we go. Thank you. So, the notebook
2 includes an entry for -- this is March 15. It
3 follows from the 217:

4 "Hamilton, Mike Becke,
5 test results-leave them."

6 Do you see that?

7 A. Yes.

8 Q. Dr. Uzarowski's evidence
9 is that that note was a record of a conversation
10 with you in which you discussed the test results,
11 decided that they weren't going to do further
12 friction testing and that a report was not
13 required?

14 A. I do not remember that at
15 all. I did not ask for the report or anything
16 like that. That wouldn't be my call.

17 Q. I was just going to get
18 to that. So, you don't recall that conversation?

19 A. No, I do not.

20 Q. Okay. Well, you have
21 mirror notes on many occasions, Mr. Becke. You
22 don't have a mirror note from that day. So, I
23 take it that you just don't have a recollection at
24 all?

25 A. I don't have a

1 recollection at all, no.

2 Q. Thank you. So, yesterday
3 when you said that you never received a report,
4 I'm going to suggest to you that you in fact
5 agreed that there wouldn't be one?

6 A. That's not -- I would not
7 make that statement.

8 Q. Are you saying you
9 wouldn't have agreed to that?

10 A. Correct. It wasn't my
11 original request for the report.

12 Q. So, it was -- sorry, you
13 can take down the call out, Registrar.

14 It was Mr. Moore's -- the
15 original proposal was addressed to him, so you're
16 suggesting that that would have been Mr. Moore's
17 call still at that point, in March of 2018?

18 A. Correct.

19 Q. Okay. And you said and
20 you repeated that you didn't receive a report and
21 I'm going to suggest to you there's no evidence
22 that you actually asked for one either. That's
23 correct?

24 A. That's correct.

25 Q. Now, much later in the

1 chronology --

2 And, sorry, Registrar, you can
3 take down the document.

4 Much later in the chronology,
5 in November of 2018, it's Mr. Gord McGuire who
6 asks that the results of the pavement evaluation
7 be delivered in a report, and I think we've seen
8 that. You said that you've never seen the
9 pavement evaluation report. Is that correct?

10 A. No, I have not.

11 Q. Okay. Can we please go
12 to Golder 6612.

13 You see this is dated February
14 20, 2019. Now, there's a number of drafts of
15 this. I won't go through them. There's evidence
16 when a draft was presented at a meeting with
17 Mr. Gord McGuire on November 18, 2018, that this
18 is the final version. And, just to confirm, I
19 take it, sir, that despite seeing this document
20 now, your evidence remains that you were never
21 provided it?

22 A. The final report? I
23 don't remember receiving the final report, no.

24 Q. Okay. In fairness, it's
25 addressed to Mr. McGuire. Do you see that?

1 A. Yes.

2 Q. Okay. And so, I take it
3 that this is an instance where a report that goes
4 to the head of engineering just isn't shared with
5 design. Is that the case, sir?

6 A. I guess. Again, I had
7 never seen this report.

8 Q. I'm going to go into a
9 different topic.

10 Registrar, you can take down
11 that document. Thank you.

12 You said yesterday and you
13 said again this morning that you were waiting for
14 results from Golder on the hot in-place recycling
15 process, and we've got documentary evidence from
16 the City of Hamilton that that decision not to
17 proceed with hot in-place was in fact made in
18 August of 2018. You were taken to that yesterday.
19 Do you remember that?

20 A. Which document are you
21 referring to?

22 Q. It's a chronology and it
23 says in August of 2018, the decision was made that
24 they weren't going to proceed with the hot
25 in-place recycling. Do you remember seeing that?

1 A. I believe so. I think
2 you would have to show me the document, though.

3 Q. Well, you were taken to
4 it yesterday, but your evidence is that, you know,
5 if that decision was made, you didn't know about
6 it. Do I have that --

7 A. That the decision was
8 made by the director or the manager, then I was
9 not --

10 Q. It wasn't shared with
11 you. That's what you're saying?

12 A. Correct.

13 Q. Okay. And we went to it
14 and you were taken back to it today. On
15 October 16, October 18, there's a meeting at which
16 contractors presenting a different technique for
17 hot in-place technology. Do you remember that
18 evidence?

19 A. Correct.

20 Q. Okay. And the evidence
21 is is that at that meeting you met with
22 Dr. Uzarowski afterwards and discussed the
23 findings or, sorry, and he presented what's been
24 variously described as a graph or a chart. Do you
25 remember that?

1 A. Correct.

2 Q. Okay. Now, it's

3 Dr. Uzarowski's evidence that at that meeting he
4 was told that Hamilton wasn't going to proceed
5 with the hot in-place recycling technology and you
6 reiterated again this morning that that's not a
7 recollection that you have got. Do I have that
8 right?

9 A. Again, it's not my
10 recollection. I was still thinking about the hot
11 in-place.

12 Q. Okay. Perhaps can we
13 please go to Golder 7415. That's the graph that
14 commission counsel took you to earlier this
15 morning. Okay.

16 So, this is the graph that you
17 recall seeing?

18 A. Correct.

19 Q. Okay. And my
20 understanding of this is that it showed the
21 gradation analysis of aggregate and what's
22 existing in the SMA and then what it needs to go
23 to.

24 Actually, Registrar, can you
25 please move this document so we can see what's

1 below the graph. Yeah. And I'm not interested on
2 the data on the left. I'm just interested in the
3 graph, if that can be made larger. Is that
4 possible? Okay.

5 And you recall this is the
6 graph you recall seeing?

7 A. Yes.

8 Q. Okay. And the blue line
9 at the bottom is the existing SMA. Do you see
10 that?

11 A. Okay. Yes.

12 Q. And the dotted line
13 through the middle, if you look at the legend at
14 the bottom, that's SP12.5 FC2, so that, as I
15 understand it, is actually where you want to get
16 to by way of aggregate after the hot in-place
17 recycling. Is that correct?

18 A. That was the intent.

19 Q. Okay. And so,
20 Dr. Uzarowski's evidence is that what this graph
21 shows you is in order to get to the gradation
22 required for that FC2, you have to -- would have
23 to add a great deal of additional new aggregate.
24 Is that something you understood?

25 A. Yes, I believe -- I think

1 I understand what you're saying, yes.

2 Q. Okay. And, in fact, his
3 evidence and testimony was that not only did you
4 need to add a great deal of aggregate, but it
5 effectively had to be bespoke aggregate to meet
6 the gradation required by the FC2. Did you know
7 that?

8 A. I think we talked about
9 60/40, 70/30. There was a bunch of discussions
10 about -- I don't remember if it was at this time
11 that we talked about the chart. I remember the
12 discussion with Dr. Uzarowski was that the SMA
13 fell within this band and that it was in generally
14 in line with what they expected from the results.

15 Q. Okay. So, that's a
16 different conversation, though. That's the
17 conversation which he concluded from all of this
18 analysis that what in fact was supplied was what
19 was consistent with Trow's mix design. What I'm
20 asking is something different.

21 That is, you understood
22 following this meeting that in order to get the
23 objective outcome of an FC2, you would have to add
24 a lot of aggregate that was new?

25 A. There was discussion that

1 it was looking that way. I think I remember that.

2 Q. Okay. And then, so the
3 consequence of that, though, sir, is that you knew
4 as of October 18 that that advantage of cost
5 efficiency that was one of Hamilton's objectives
6 couldn't be achieved?

7 A. I don't know if that was
8 the final decision at that meeting, because we had
9 again not received anything, no reporting or
10 anything like that. I remember discussing,
11 talking, about those topics. I don't know if a
12 definitive answer was made at that time.

13 Q. Okay. I'm not asking
14 about a definitive answer, though. I'm saying
15 that this result, which is presented to you at
16 that meeting -- that's correct?

17 A. Yes, correct.

18 Q. This results tells you
19 that it cannot be cost effectively -- that
20 recycling of the SMA cannot be cost-effectively
21 done?

22 A. The discussion was that's
23 what they think, but it was not presented as
24 actual fact. We did not -- because they had not
25 completed the mix design yet.

1 Q. Well, they don't have
2 to -- you don't have a mix design to figure out
3 that in order to use the -- in order to achieve a
4 new mix, it's not going to be cost effective
5 because you've got to add so much. Right? You
6 don't need to get to design the mix to make that
7 conclusion. You can see it from this graph?

8 A. Well, no. The purpose of
9 what we had asked Dr. Uzarowski to do was
10 determine the mix design that would be required
11 and what beneficiating mix would be needed because
12 of the mix design.

13 Q. You're not actually
14 answering my question --

15 A. I'm saying --

16 Q. I'm putting to you that
17 you, sir, knew at this meeting that in order to
18 recycle the existing aggregate and achieve an FC2,
19 you would have to add a great amount of additional
20 new aggregate. Correct?

21 A. We did talk about 70/30,
22 60/40, correct.

23 Q. Thank you. And,
24 therefore, I'm suggesting to you that you, acting
25 as an employee of the City of Hamilton with the

1 objective of a cost efficient treatment, knew that
2 it couldn't be done?

3 A. But I wasn't, at the
4 moment, making a definitive answer that that was a
5 yes or no.

6 Q. I'm not asking for
7 definitive.

8 A. Okay.

9 Q. You knew. You're looking
10 at it.

11 A. Okay.

12 Q. So, I'm suggesting to you
13 you knew at this meeting that the SMA could not be
14 cost-effectively recycled?

15 A. I mean, that was
16 discussed. Okay. Yes.

17 Q. Okay. Thank you. Okay.
18 Registrar, you can take down this document. Thank
19 you very much.

20 I want to go, please, to
21 overview document 9, page 94, paragraph 235.

22 So, I think your evidence
23 yesterday was that -- your evidence on this point
24 is that you don't recall that Ludomir was told
25 that a final decision not to do hot in-place

1 recycling of the SMA was -- sorry, let me
2 rephrase.

3 So, your evidence is is that
4 you don't remember that Ludomir was told at this
5 meeting that you couldn't or that the City was not
6 going to do hot in-place recycling. That's right?

7 A. I don't remember making a
8 definitive we were not going to --

9 Q. Thank you. I'm just
10 recapping. But your evidence yesterday was that,
11 you know, it was sometime around here that you
12 were told. Do I have that right? Around this
13 time?

14 A. Correct.

15 Q. Okay. So, let's just
16 look, if we can go to paragraph 235. It's the
17 front page of the Hamilton Spectator.

18 A. Yes.

19 Q. And, Registrar, can you
20 please call that out.

21 So, this is on October 25.
22 You e-mailed this extract and the headline here,
23 "Is something wrong with the asphalt on the Red
24 Hill? We may never know." But the first line is:

25 "The City is not using

1 cost-saving recycling
2 technology."

3 Do you see that?

4 A. Yes.

5 Q. All right. So, I suggest
6 to you that as of October 25, 2018, it was certain
7 and in fact a matter of public knowledge that the
8 City had made that decision. Is that not correct?

9 A. Okay.

10 Q. Well, do you disagree
11 with me?

12 A. Well, that's what the
13 article says. Again, I did not make the
14 definitive answer that we were not doing it. If
15 the decision was from -- I don't know who provided
16 this information to the Spectator and if they
17 provided that information, then that was the
18 decision. I was still looking to get the
19 results --

20 Q. Don't worry. I'll get
21 there. I'll get there. My point is in answer to
22 the question of when did you know that the City
23 was not going to use hot in-place, it is at least
24 the case that as of October 25 you knew that the
25 City was not going to use hot in-place. Do you

1 agree with that?

2 A. Okay. Sure.

3 Q. Okay. Just one final
4 point. Registrar, you can take down the call out.

5 One of the things you said
6 yesterday is that you wanted the hot in-place
7 technology report because Hamilton had paid for
8 it. Do you remember saying that?

9 A. Correct.

10 Q. Okay. So, as of October
11 of 2018, you've got this gradation analysis and
12 you've got -- you know that that's been done, but
13 you don't have a report and somehow you're waiting
14 on a report.

15 Was reviewing the invoicing
16 for Golder's work something that you were
17 managing?

18 A. I can't remember at this
19 time. I might have because at this time, I guess,
20 Gary was gone.

21 Q. Okay. So, Golder's
22 evidence is that in its work for the City under
23 the roster those were all lump sum engagements and
24 that they progress billed for work, only billing
25 for work that was completed.

1 So, when you say that you
2 wanted the report because you paid for it, I'm
3 suggesting to you that that was not the case, that
4 at that point, in October of 2018, the City of
5 Hamilton hadn't paid for a report. Do you have
6 any information --

7 A. Okay. I understand your
8 comment. Yes.

9 Q. Do you have any evidence
10 to contradict that?

11 A. No, I do not. No.

12 Q. Okay. Thank you. Those
13 are my questions. Thank you very much.

14 JUSTICE WILTON-SIEGEL: Okay.
15 Thank you.

16 EXAMINATION BY MS. HALE:

17 Q. Good morning, Mr. Becke.

18 A. Good morning.

19 Q. I have some questions for
20 you in re-examination.

21 A. Okay.

22 Q. So, yesterday commission
23 counsel asked you a number of questions about the
24 meeting with Norjohn about scrub seal in late
25 March 2016?

1 A. Correct.

2 Q. And your evidence was
3 that your knowledge of the product was that scrub
4 seal is a type of seal used on local or rural
5 roads. So, to confirm, would scrub seal be
6 appropriate to use on a high-volume road such as
7 the Red Hill?

8 A. Not that I knew.

9 Q. And so, what was your
10 understanding as to why it would be inappropriate
11 to use scrub seal on high-volume roads?

12 A. Just the nature of the
13 product itself. I don't think it's conducive to
14 high-volume roads.

15 Q. Okay. And so, commission
16 counsel took you to Mr. Andoga's e-mail of
17 April 15, 2016 and I would like to ask you some
18 follow-up questions on that.

19 And, Mr. Registrar, if you
20 could pull up OD 7, page 119, please, and 120 as
21 well, if possible.

22 So, at paragraph 382 on
23 page 120, you'll see Mr. Andoga's e-mail that you
24 weren't copied on but later forwarded. When you
25 received Mr. Andoga's e-mail on April 15, 2016 at,

1 as you can see there, at paragraph 383, so when
2 you received this e-mail, had you heard about any
3 rehabilitation needs of the Red Hill?

4 A. No.

5 Q. Had you heard about any
6 rehabilitation needs of the Lincoln Alexander
7 Parkway?

8 A. No. I mean, no. I mean,
9 we knew that there was some cracking occurring,
10 but that was about it. I had not heard we were
11 doing anything.

12 Q. So, you said yesterday
13 and just to confirm that you had seen some
14 cracking on the LINC, so you were keeping on eye
15 on the LINC, was your testimony yesterday?

16 A. Yes.

17 Q. So, given this context,
18 do you recall what your takeaways were from this
19 e-mail?

20 A. Again, my focus at this
21 point was the LINC because of the cracking we were
22 seeing that was occurring prematurely and I think
23 I focused in on that discussion or that being part
24 of the e-mail.

25 Q. Commission counsel also

1 took you to e-mails between Mr. Andoga and
2 yourself.

3 Mr. Registrar, if you could
4 pull up HAM761, please. Thank you.

5 So, your evidence yesterday
6 was that at this time, so April 15, 2016, you were
7 not aware of any concerns about the skid
8 resistance on the Red Hill. Mr. Becke, you note
9 here:

10 "Are we thinking
11 microsurfacing?"

12 At that time, did you know of
13 any other uses for microsurfacing, other than to
14 affect the road's skid resistance?

15 A. My understanding of
16 microsurfacing was to seal the roadways, to -- you
17 know, it was preventive maintenance for things
18 such as local and collector roads at most or
19 mostly rural applications.

20 Q. So, at that time, was
21 your response, are we thinking microsurfacing,
22 related to asset preservation, as you just said,
23 rather than friction?

24 A. Yeah, and I was thinking
25 for the LINC.

1 Q. Did you have any other
2 understanding at the time about microsurfacing
3 being used to improve frictional properties of a
4 road?

5 A. No.

6 Q. Commission counsel asked
7 you yesterday, quote:

8 "QUESTION: Other than
9 the e-mail we looked at,
10 when Mr. Andoga
11 identified improving skid
12 resistance as the
13 objective of pavement
14 rehabilitation, did
15 anyone ever tell you that
16 friction needed to be
17 improved on the Red Hill
18 Valley Parkway?"

19 Did you view Mr. Andoga's
20 e-mail to mean that friction needed to be improved
21 on the Red Hill?

22 A. No.

23 Q. And I just want to
24 confirm your evidence about something that counsel
25 for Golder had raised this morning. Your evidence

1 yesterday was that you didn't know that
2 microsurfacing had been recommended as a potential
3 treatment for the Red Hill Valley Parkway. Let me
4 make sure that that's correct.

5 Your evidence yesterday was
6 that you didn't know that microsurfacing had been
7 recommended as a potential treatment for the Red
8 Hill. Is that correct?

9 A. Correct.

10 Q. And, Mr. Registrar, can
11 we bring up Golder 7440, image 57, please.

12 Counsel for Golder took you to
13 this this morning. To your knowledge, in your
14 brief review of these minutes that counsel took
15 you to, this was a general meeting. Correct?

16 A. Correct. Yes, it was a
17 general meeting.

18 Q. So, general pavement
19 specifications for all roads in Hamilton were
20 discussed?

21 A. Looking at the document,
22 yes.

23 Q. Thank you. That can be
24 taken down, Mr. Registrar.

25 Now, turning to your previous

1 testimony, you discussed with commission counsel
2 yesterday that in 2018, when the Red Hill Valley
3 Parkway rehabilitation project was still in its
4 programming stage, there were discussions around
5 the scope of the project.

6 Typically, what was design's
7 role during discussions regarding a scope of a
8 project?

9 A. I mean, so the scoping
10 document comes from the asset management section.
11 They provide the -- they collect the data that
12 comes from the various departments that may have
13 input into the asset that's being reconstructed or
14 worked on. If there is questions that may come
15 up, then they may -- we may be asked questions
16 about, you know, the scope and whether or not
17 something can or can't be done or if it's
18 practical as part of that scope. But normally the
19 scope then comes from the asset management group
20 and then we take that scope and we apply it.

21 Q. In what circumstances
22 would you provide your views on the scope as a
23 member of the design section?

24 A. As a member of the design
25 section, if there was something that maybe didn't

1 make sense, I would question why it was being
2 asked.

3 Q. Would you raise any
4 concerns that you may have about the use or
5 availability of public funds?

6 A. Yeah. If it was
7 something that would be of concern, expensive or
8 something like that, yes, it would be on the topic
9 of us or something that we would be cognizant of
10 when we were moving forward with something.

11 Q. Thank you. So, moving to
12 another topic, talking about the proposal to do
13 hot in-place recycling, on November 24, 2017
14 Mr. Moore sent you a copy of Golder's proposal to
15 do the hot in-place recycling testing.

16 Based on the purpose of the
17 design section as you described, would you have
18 expected to receive previous reports with respect
19 to the Red Hill during the programming stage,
20 before scope had been finalized?

21 A. Would we have -- no, I
22 mean, unless it was part of the scoping document.
23 Normally those things, if that is provided as part
24 of the scoping document, then that's something
25 that we would look at, but it's not something I

1 would get normally ahead of time.

2 Q. At the time, would you
3 have been expected to be advised about the results
4 of a skid resistance study?

5 A. I was not -- I did not
6 request that report, so because it was being
7 requested by the director, again, when I was sent
8 the FYI, my role on that part was to help set up
9 the traffic control and get the parties involved
10 that could set up a timing that they would be
11 there to do the testing.

12 Q. And at the time, would
13 you have been expected to be advised of an urgent
14 safety issue concerning a road, such as the Red
15 Hill, that was about to undergo repaving?

16 A. If there was a safety
17 concern that was brought to my attention, yes.

18 Q. And what would you have
19 done if you were advised of a safety concern?

20 A. I would have brought it
21 up to our senior leadership.

22 Q. And based on the role of
23 design as you described it yesterday and your
24 expertise, what would you have made of the results
25 of any skid resistance tests if you were provided

1 with them?

2 A. Again, I'm not an expert
3 with the testing or the process, so -- are you
4 asking specific to the report that I was provided
5 or the -- sorry, just so I understand the
6 question.

7 Q. I think more generally
8 you provided testimony yesterday that in your role
9 in the design department you were provided with
10 the scope and you were going to put things out to
11 tender, and so your focus was that process?

12 A. Correct.

13 Q. So, in the context of
14 going forward to repaving, what would you have
15 made of the results of any skid resistance tests?

16 A. Well, we were gearing up
17 to resurface the road. The entire intent now was
18 to resurface the road, so any concerns were going
19 to be addressed as part of that resurfacing
20 contract.

21 Q. Thank you. You were
22 asked about your involvement into the
23 investigation of the hot in-place recycling and
24 you said that generally hot in-place recycling is
25 an environmentally-friendly and cost-saving

1 option?

2 A. Correct.

3 Q. So, unless potential
4 safety concerns are raised as an issue, would it
5 be reasonable, in your view, for the City to
6 consider the cost to the taxpayer when making
7 decisions on roadway maintenance operations?

8 A. Yes.

9 Q. Would it be reasonable,
10 absent, of course, safety concerns, for the City
11 to consider roadway maintenance options based on
12 minimizing inconvenience to the public, such as
13 lane closures?

14 A. Correct.

15 Q. And at the time that it
16 was decided to defer the repaving in order to look
17 into the hot in-place alternative, were you aware
18 of anyone raising safety concerns about the delays
19 in repaving?

20 A. I'm sorry, can you
21 rephrase that? Sorry.

22 Q. At the time that it was
23 decided by the department to defer the repaving in
24 order to look into the hot in-place recycling,
25 were you aware of anyone raising safety concerns

1 about deferring the repaving?

2 A. No.

3 Q. I would like to now
4 discuss the March 9, 2018 meeting between Golder
5 and the City.

6 And, Mr. Registrar, if you
7 could please take us to overview document 8,
8 image 76. Thank you.

9 So, this is the transcription
10 of your notes. If you need to see your actual
11 notes, I can bring you to those as well. But you
12 provided testimony yesterday that your typical
13 practice in terms of taking notes was that you
14 would note if any safety concerns were being
15 raised?

16 A. Correct.

17 Q. Based on your typical
18 practice, what would be other things that you
19 would typically write down in your notes?

20 A. Things that are important
21 that I need to remember or things that I need to
22 reference back to. Decisions, if decisions are
23 made, they're also noted.

24 Q. Would you note down,
25 like, a relevant timeline of something important

1 that needed to be --

2 A. The timeline would be --
3 yes, it would be noted as well. Correct.

4 Q. And I take it based on
5 your testimony that you would identify any safety
6 concerns raised, that you would have also noted if
7 a particular method to address that safety concern
8 was raised?

9 A. If a safety concern was
10 raised and there was a method, yes, I would have
11 noted that.

12 Q. So, I see from your notes
13 here that you note "Gary - no to microsurfacing."
14 Do you recall who at the meeting recommended
15 microsurfacing?

16 A. I don't specifically
17 recall, but, I mean, I assume through the
18 discussions we'd had, it was Ludomir.

19 Q. Do you recall any other
20 treatments being recommended on the Red Hill?

21 A. I don't specifically
22 recall.

23 Q. So, not skidabrading?

24 A. Again, my recollection
25 from the meeting, I don't recall, and I don't

1 believe I wrote those notes down about the
2 skidabrading.

3 Q. Would the term
4 skidabrading or shot blasting have meant anything
5 to you at this time?

6 A. I'm not familiar with
7 that process.

8 Q. So, given the context
9 that you were gearing up for the Red Hill
10 resurfacing, would the recommendation, if it was
11 offered to do skidabrading or shot blasting, would
12 that have been something you would have written
13 down in your notes?

14 A. I assume I would have
15 wrote them down.

16 Q. Thank you. So, now
17 moving to some of the questions that counsel for
18 Golder asked you today about the Tradewind report.

19 Mr. Registrar, you can take
20 down the overview document. Thank you.

21 Counsel for Golder brought you
22 to the Tradewind report this morning and asked you
23 about your previous testimony that you were told
24 that the results from the friction testing were
25 inconclusive and you told counsel for Golder that

1 you didn't consider the data itself to be
2 inconclusive. What did you understand to be
3 inconclusive?

4 A. The fact that they were
5 referencing a UK standard and something that they
6 also mentioned was with respect to airports.

7 Q. So, it was the analysis
8 of the data and not the data itself?

9 A. Correct, yes.

10 Q. And so, Mr. Registrar,
11 could you please bring up Golder 6453, please.
12 And if it can be called up in native form, that
13 would be great.

14 So, Mr. Becke, I believe you
15 told us before that you did not understand any
16 concerns to have been raised previously about
17 frictional characteristics of the Red Hill Valley
18 Parkway. So, this is a draft of the Golder
19 pavement evaluation report dated December 14, 2018
20 and counsel for Golder took you to the final
21 version of the document this morning.

22 But if we could please go to
23 page 3, Mr. Registrar. Thank you. So, if you
24 could please call up the second comment from
25 Michael Maher. Yes, that one. Just enlarge it if

1 possible or can that be done? That would be
2 perfect, please. Just zoom in. Thank you.

3 So, that comment, Mr. Becke,
4 it says, quote:

5 "We should avoid the word
6 'restores' as it implies
7 that we have concluded
8 that the friction is
9 inadequate. We have
10 previously stated that
11 there are no strict
12 guidelines."

13 Now, Mr. Becke, is this
14 consistent with your understanding that Golder had
15 not advised the City that it had concluded that
16 friction on the Red Hill Valley Parkway was
17 inadequate?

18 A. Correct.

19 Q. Thank you, Mr. Becke.

20 Those are my questions.

21 JUSTICE WILTON-SIEGEL: Okay.

22 Thank you, Ms. Hale. Dufferin, I think, is the
23 remaining party.

24 MR. BUCK: Mr. Commissioner, I
25 confirm we have no questions.

1 JUSTICE WILTON-SIEGEL: Okay.
2 I'm going to suggest we take our break now. We'll
3 return at 11:30 with any further questions that
4 Ms. Leclair may have and then we'll proceed
5 immediately to the next witness.

6 --- Recess taken at 11:13 a.m.

7 --- Upon resuming at 11:30 a.m.

8 MS. LECLAIR: Commissioner, I
9 have a few brief questions in re-examination. May
10 I proceed?

11 JUSTICE WILTON-SIEGEL: Yes,
12 please proceed.

13 MS. LECLAIR: Thank you.

14 FURTHER EXAMINATION BY MS. LECLAIR:

15 Q. Mr. Becke, counsel for
16 Golder took you to a copy of the Tradewind report
17 that was appended to the 2014 Golder report. Do
18 you remember that?

19 A. Just recently, you mean?

20 Yes.

21 Q. Correct. Did you ever
22 see a copy of the Tradewind report with a draft
23 stamp?

24 A. I don't believe the copy
25 I got had a draft stamp on it.

1 Q. Did any copy of the
2 Tradewind report that you saw have a draft stamp?

3 A. I only received the one
4 copy and I can't recollect if there was a draft on
5 it or not.

6 Q. Okay. And to make sure I
7 understand your evidence clearly, did you ever
8 receive the 2014 Golder report, which included an
9 analysis on the condition of the RHVP?

10 A. No.

11 Q. Counsel for the City
12 asked you about whether you would normally expect
13 to receive prior reports in context of the
14 programming of a project. Do you remember that?

15 A. Yes.

16 Q. And you answered that it
17 would not be typical unless those reports formed
18 part of the scope. Is that right?

19 A. Typically that's how it
20 comes to us, yes.

21 Q. Would you consider the
22 hot in-place recycling suitability study as a
23 typical project?

24 A. No. It's probably not
25 considered a typical project just because it's a

1 new technology.

2 Q. I understand from the
3 evidence you have given today that you have never
4 received a copy of the 2014 Golder report.
5 Correct?

6 A. Correct.

7 Q. Did you ever receive any
8 data or analysis from the inertial profile testing
9 conducted on the RHVP by Golder in 2016?

10 A. No.

11 Q. For a project where
12 you're considering recycling the existing
13 material, do you think it would be relevant to
14 receive prior reports that relate to that
15 material?

16 A. As part of the scope, it
17 would make sense for it to be as part of the
18 scope.

19 Q. And when you say as part
20 of the scope, what do you mean by that?

21 A. So, normally we will
22 receive, as part of the scoping document, a core
23 report once it comes to design, and then we'll
24 review the core data as part of the design
25 process, once it's come from scope to design.

1 Q. So, to make sure I
2 understand, so before the scope is established,
3 you would not consider those reports to be
4 relevant to the work?

5 A. For a typical work that
6 we do at the City, the core data is not provided
7 to us until a becomes a project, typically.

8 Q. And for this project,
9 which I understand from your evidence that you
10 consider atypical, would it have been relevant to
11 receive the reports prior, in the programming
12 stage, prior to the scope being set?

13 A. I'm sorry, just so I
14 understand your question, which reports are you
15 speaking to?

16 Q. Any reports that relate
17 to the existing material that's being considered
18 for recycling.

19 A. See, in this situation,
20 we were doing the investigation, so that was more
21 the report I was focused on. So, if I understand
22 your question correctly, had there been other data
23 provided? Is that why you're asking?

24 Q. Well, would it have been
25 helpful for you to receive that data?

1 A. Depending upon what
2 was -- sorry. I understand. Depending upon what
3 it was, it may have been helpful. It would depend
4 upon the information we were receiving.

5 Q. For example, the 2014
6 Golder report that I referenced or the inertial
7 profile testing, would those have been helpful?

8 A. Depending upon the data
9 that they provide, because again I've not seen
10 those reports, then it may have been helpful if
11 that had been provided, but again, I haven't seen
12 those reports, so I don't know what's in those
13 reports.

14 Q. Okay. What kind of data
15 would have been helpful?

16 A. Pavement thickness is
17 normally what we look at when we're doing
18 resurfacing projects, so the different layers of
19 the asphalt is what I'm normally looking for.

20 Q. Okay. And as part of the
21 investigation that you referenced, would receiving
22 more data have been helpful?

23 A. The data we were actually
24 doing, receiving as part of the mix design, was
25 really what I needed.

1 Q. When you say as part of
2 the mix design, what data are you referring to?

3 A. The large samples that we
4 took in July and August. The characteristics of
5 the makeup, the mix design, is what we needed to
6 know how to move forward with the hot in-place.

7 Q. And would it have been
8 helpful to receive data relating to the same
9 material? Any data that had been previously
10 provided, would it have been helpful?

11 A. Well, the data that --
12 like, I was relying on Golder to review the data
13 and provide that comment back to me. The reason
14 we're hiring Golder was to provide that
15 information back to me as part of the mix design
16 process.

17 Q. Is it your evidence that
18 the only data that would have been helpful would
19 have been the data relating to the hot in-place
20 recycling suitability study?

21 A. For the hot in-place that
22 we were doing, that mix design was important
23 because that was what was going to tell us if it
24 was possible to reuse material in the mix design
25 process for the actual equipment that was going to

1 be doing the hot in-place. So, other data, I
2 mean, as it came, would have been maybe part of
3 the review process, but for me the hot in-place
4 data that we were doing as part of that collection
5 in July and August dates was what I really needed
6 to know whether or not I can move forward.

7 Q. And in your role as, at
8 the time, senior project manager of design working
9 on the RHVP resurfacing project, would it have
10 been helpful to your work to receive reports
11 relating to the condition of the RHVP, the
12 condition of the asphalt?

13 A. Condition of the asphalt?

14 Yes.

15 Q. Counsel for the City took
16 you to a December 14 draft of the 2017 Golder
17 pavement evaluation. Do you recall that?

18 A. Yes.

19 Q. Did you ever see that
20 draft?

21 A. No.

22 Q. Did you ever see any
23 draft?

24 A. I never received that
25 report.

1 Q. In draft or final form.

2 Is that correct?

3 A. Correct.

4 Q. In December of 2018, did
5 you have an understanding of Golder's conclusions
6 regarding friction testing?

7 A. With respect to the
8 Tradewind report? Just so I understand to answer
9 your question.

10 Q. With respect to the
11 adequacy of friction testing on the RHVP.

12 A. Did I have an -- I'm
13 sorry, I just want to make sure I'm answering the
14 question. The 2017 report or just in general?

15 Q. In general, focusing in
16 time to December, in or around December 2018, did
17 you have an understanding of Golder's conclusions
18 regarding the adequacy of friction testing on the
19 RHVP?

20 A. My understanding is there
21 was concerns with the friction numbers.

22 Q. Counsel for Golder asked
23 you about your understanding of the City's
24 decision not to proceed with hot in-place
25 recycling for the RHVP, and you answered in that

1 context that if your director or manager made the
2 decision, it was not shared with you. Do you
3 remember that?

4 A. Yes.

5 Q. Was it your understanding
6 that the director of engineering, Mr. McGuire, or
7 the manager of design, Susan Jacob, were
8 responsible for that decision?

9 A. They would have been
10 responsible for that decision, if that was the
11 final decision, yeah. I was, again -- I need data
12 to determine whether or not I can or can't move
13 forward with something, and then I would provide
14 that information and then there would be
15 discussion as to whether or not we should move
16 forward or not. If it's made at a higher level,
17 then that's at that higher level. As a senior
18 project manager at the time, I'm just collecting
19 information and data to see what can be done.

20 Q. Was it your
21 understanding, though, that it would be the
22 director of engineering or the manager of design
23 to make the decision?

24 A. If that -- yeah. I mean,
25 if that decision was made before we had all the

1 data, then they would (indiscernible).

2 Q. And if the decision was
3 made after, whose decision would it be?

4 A. So, if we had received a
5 report that stated that it was not feasible, an
6 actual report, then I would present that report
7 and we would say it's not feasible, we're not
8 going to move forward with it.

9 Q. When you say "we," who
10 are you referring to there?

11 A. I would include everyone
12 involved: Asset management, engineering services,
13 design, the director, the manager.

14 Q. Okay. And if the
15 decision was made before the receipt of the
16 report, is it your evidence that the decision
17 would have to be made by the director of
18 engineering or the manager of design?

19 A. They normally would make
20 that decision if it -- yes.

21 Q. Subject to any questions
22 you may have, Commissioner, those are my
23 questions.

24 JUSTICE WILTON-SIEGEL: I
25 don't have any other questions. Thank you.

1 Mr. Becke, thank you for
2 attending the inquiry.

3 THE WITNESS: Thank you.

4 JUSTICE WILTON-SIEGEL: You're
5 excused.

6 THE WITNESS: Thank you.

7 JUSTICE WILTON-SIEGEL: Okay.

8 I think we probably need about five minutes in
9 order to get the next witness in place, so perhaps
10 we can adjourn for five minutes. Four minutes,
11 let's say. We'll return at a quarter to 12:00.

12 --- Recess taken at 11:41 a.m.

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

14 DEREK NUNN; AFFIRMED

15 EXAMINATION BY MS. HENDRIE:

16 Q. Good morning, Mr. Nunn.

17 A. Good morning. I don't
18 know if I have the right format on my screen here.

19 Q. That's okay. If you have
20 any issues once we start pulling up documents,
21 just let us know.

22 A. Okay.

23 Q. So, I'd like to start off
24 with some questions about your professional
25 background and your education. So, I understand

1 that you're currently employed by Walker
2 Construction Limited?

3 A. That's correct.

4 Q. And you've been employed
5 by Walker or its subsidiary, Norjohn Contracting &
6 Paving, since 2006 or 2007?

7 A. That is correct.

8 Q. And can you explain what
9 the relationship is between Walker Construction
10 and Norjohn?

11 A. Sure. I'll do my best
12 here. Walker Industries is the parent company
13 with several subsidiaries. One of them was
14 Norjohn Contracting & Paving Limited. We changed
15 our name essentially two years ago to Walker
16 Construction with all of our company names
17 becoming, I'll say, "Walker-ized." So, no change
18 in ownership. It's simply a change in name.

19 Q. And am I correct that
20 your current position is manager of pavement
21 preservation, and that's at Norjohn?

22 A. Okay. So, we are
23 currently Walker Construction Limited. My title
24 changes regularly, but yes, we can leave it at
25 pavement preservation manager.

1 Q. Okay. Thank you. And am
2 I correct that you have held a similar position
3 but, as you said, under different titles, since
4 approximately 2011?

5 A. That's correct.

6 Q. So, while your e-mail
7 signature might reflect different positions over
8 different times, your roles and responsibilities
9 have remained the same as of around that time?

10 A. Essentially the same,
11 yes.

12 Q. And can you describe that
13 role for us, what your responsibilities are, what
14 your day-to-day looks like?

15 A. The role is mostly
16 engineering sales, if you will, trying to promote
17 some of our new technologies to municipalities,
18 advertising, as well as some day-to-day
19 operations. I don't look after any of the
20 estimating, but certainly oversee some of that and
21 it's to grow our pavement preservation business,
22 if you will.

23 Q. And prior to taking on
24 that more managerial role in or around 2011, what
25 was your position?

1 A. I can't remember. I
2 think I was the manager of sales and marketing,
3 again, for our pavement preservation type work or
4 sometimes we call it our emulsion based work.

5 Q. And prior to joining
6 Norjohn or Walker, where were you employed?

7 A. Prior to that I was with
8 Lafarge Canada and then prior to that it was with
9 the Warren Paving group.

10 Q. And when did you start
11 there?

12 A. I started with the Warren
13 Paving group in 1994, I believe. We were acquired
14 by Lafarge in approximately 2000. I left for a
15 brief stint of less than a year to a smaller firm
16 in the Kitchener area around 1999, and then back
17 within the Lafarge fold and stayed with them until
18 2006, 2007, when I joined the Walker group.

19 Q. And what is your
20 educational background?

21 A. I attended McMaster
22 University for civil engineering and management.

23 Q. So, Bachelor of Applied
24 Science?

25 A. No. I think it's

1 actually Bachelor of Engineering and Management,
2 but yes.

3 Q. And are you a licensed
4 engineer in Ontario?

5 A. I am.

6 Q. As of when? What year?

7 A. I think that was roughly
8 around 1999, 2000. I'm not sure of the date.

9 Q. So, as background to what
10 we're going to talk about today, I think it would
11 be helpful to understand sort of what Norjohn does
12 and the types of products and tools that Norjohn
13 has.

14 So, could you just describe
15 for us just sort of generally speaking what the
16 products and technology that Norjohn offers?

17 A. Okay. Norjohn offers
18 most road construction type work, some underground
19 work, and I will call it traditional hot mix
20 paving. That's not what I've been involved in.
21 We have another sister company called Walker
22 Emulsions that produces asphalt emulsions, which
23 are a little bit different technology. I'll call
24 them cold technologies where we can truck an
25 asphalt emulsion and actually blend and spread

1 pavement preservation technologies further afield
2 from the plant. So, that has been kind of my area
3 of development and expertise, is to promote and
4 sell surface treatments. We have introduced some
5 specialty products called FiberMat, our ultrathin
6 bonded wearing course, scrub seal. We do some, I
7 would say, more experimental type work in the
8 municipal world and it's typically for rural
9 roads, some higher-volume county roads and always
10 trying to get into the 401 or MTO-type projects.
11 Is that enough description?

12 Q. That is. Thank you. So,
13 you mentioned that you work predominantly on the
14 emulsion side of things?

15 A. That's correct.

16 Q. And what is an emulsion?

17 A. So, an asphalt emulsion
18 is essentially a blend of asphalt cement, which is
19 the black tar sticky goo, if you will, that most
20 people associate with paving. It's a petroleum
21 product. In order to emulsify it, I'm not an
22 expert on this, but I know that they shear it,
23 blend it with water and add a soap or some sort of
24 emulsifying agent essentially to suspend the
25 asphalt particles within the water. So, this, we

1 end up with a brown looking liquid and it can
2 either be sprayed directly on the road or added to
3 aggregates. And then once it makes contact with
4 the road or the existing environment or the
5 aggregates, the water starts to evaporate off,
6 leaving the asphalt cement behind, which binds the
7 rock together.

8 Q. And what is the overall
9 purpose of an emulsion-based treatment?

10 A. Most of the
11 emulsion-based treatments are for maintenance
12 and/or pavement preservation, essentially
13 extending the life of an existing road. There are
14 some technologies out there where we can convert
15 gravel roads into, we'll call it, a hard top
16 surface by using traditional surface treatments,
17 but again, they're in a rural type application.

18 The benefit, I would say, of
19 using emulsion-based products is that they can be
20 trucked a little bit further, there's no reliance
21 on a hot mix plant and they are thinner
22 treatments. They don't offer a whole lot of
23 structural strength, but they are to maintain or
24 preserve an existing asset, if you will.

25 Q. And you may have said

1 this before, but just so I'm clear, does Walker or
2 Norjohn offer more traditional paving products in
3 addition to the emulsion-based products that you
4 were involved with?

5 A. Yes, we do. We have
6 two -- well, three asphalt plants now and several
7 paving crews for traditional type mixes.

8 Q. And on the promotion side
9 of your role, how does Norjohn or Walker typically
10 generate business and promote products.

11 A. I guess our -- I don't
12 know if we have a set strategy or not, but
13 certainly we advertise in some magazines that are
14 used throughout the industry. We attend several
15 conferences, be it Good Roads, the Association of
16 Ontario Road Supervisors. I'm trying to think of
17 what other things we might attend in the province.

18 But we also attend regular
19 meetings with local associations where we're given
20 10 or 15 minutes to do a PowerPoint presentation
21 and talk about some of the new technologies that
22 we've brought to Ontario. Probably the best
23 example or the most effective one is when we can
24 actually do what we'll call a Lunch & Learn,
25 provide lunch for some folks, invite them out

1 close to a job site and then get them out to
2 actually see the product going down. It's much
3 easier to understand when you see the equipment in
4 action and how fast or effective or how it's
5 actually going down.

6 Q. And, on the flip side of
7 it, do clients or prospective clients also contact
8 you to enquire about products that you offer or
9 issues that they might be having and if there's
10 anything you can assist them with?

11 A. I would say yes. Not
12 often enough, but they do call. I think that's
13 through some of our promotions and just being in
14 the industry for some time, they know that we've
15 developed and brought forth some new technology.
16 So, they will call and say, have you got something
17 that we should be thinking about, that we should
18 look at? What are your suggestions? I would
19 leave it at that.

20 Q. So, it goes both ways?

21 A. Definitely.

22 Q. And both of these ways
23 that we've talked to, so prospective clients
24 reaching out to you and similarly your office and
25 your team sort of advertising and pitching within

1 the industry, did those apply to the City of
2 Hamilton as well?

3 A. Yes, to a certain extent
4 for sure. Some of the other relationships that we
5 have is that if we get a contract that has been
6 called for tender, then we're also promoting some
7 of our technologies through that once we've landed
8 a contract.

9 Q. So, the time period that
10 we're mainly going to focus on today is, sort of,
11 the short window between mid-2016 in and around
12 March and April through to the end of 2016 when
13 you had some discussions with City of Hamilton
14 staff.

15 But thinking prior to 2016,
16 had you or your team worked for or with the City
17 of Hamilton previously?

18 A. Yes, we had. As a
19 subcontractor, we had done some surface treatment
20 work for them and we had also secured their annual
21 surface treatment contract for one or two years.
22 I can't recall how many times we had won that.

23 Q. And the annual surface
24 treatment, what types of roads were involved in
25 that program?

1 A. Those are mostly rural
2 roads. I believe it was after the amalgamation
3 that the road network grew significantly and it
4 was about maintaining many of the rural roads.

5 Q. So, it wasn't related to
6 the Red Hill Valley Parkway or the Lincoln
7 Alexander Parkway?

8 A. Not at all.

9 Q. You mentioned that this
10 was a maintenance program, so were the staff that
11 you or your team dealt with in relation to the
12 annual surface treatment program, were those staff
13 in the maintenance division?

14 A. I believe that is the
15 division that they work for.

16 Q. Had you had any
17 interaction or involvement working with staff in
18 the City's engineering services department?

19 A. Conversations early with
20 them and then when we had some technologies that
21 would be, I'm going to say, promoted within the
22 works that we did have, the maintenance folks
23 would say, we need to take that to engineering,
24 or, we need to move this further along the chain
25 for other decisions, if it wasn't within the

1 maintenance budget, I assume.

2 Q. You said earlier that you
3 would have some conversations early. What do you
4 mean by that? Early in what sense?

5 A. I'm not sure what you
6 mean by the early part. Sorry.

7 Q. So, was this sort of,
8 like, in the idea generation stage they would say,
9 we have something, we're interested in this
10 technology, but there wasn't necessarily a project
11 or a specific road that they were thinking of?

12 A. No, more so that we had
13 landed work and then talked to the maintenance
14 folks and said, we've got another product that we
15 would like to try. Do you have a suitable road
16 for it? Is it within the budget? Is it
17 something -- because we're in kind of a promotion
18 type. We want to expand what we can do with some
19 of our other technologies.

20 So, we take it to maintenance,
21 who we've got our contract with, and say, what
22 about this road? It's in pretty rough shape. Are
23 there plans for that? And it's kind of a back and
24 forth with them. Oftentimes, that would be --
25 sorry, that's not a maintenance issue. They would

1 have to take that to capital or engineering or --
2 I don't know if there's a planning department. It
3 would go further along the chain, if you will.

4 Q. Had you done any work or
5 any projects in relation to the Red Hill Valley
6 Parkway or the Lincoln Alexander Parkway prior to
7 2016?

8 A. No.

9 Q. Registrar, if we can call
10 up overview document 7, image 119.

11 A. This is where I may need
12 to -- I can't see it on the screen there, Chloe.
13 Here we go.

14 Q. If you need us to, I'll
15 call out paragraphs and documents to make things
16 easier to read, but if you need us to zoom in,
17 zoom out, just let myself or the registrar know.

18 So, you'll see in
19 paragraph 380 there, Registrar, if we could call
20 that out, please.

21 This is an e-mail from you to
22 Mike Becke at the City and the subject line is
23 "Scrub seal" and you wrote -- this is on March 22,
24 2016. You wrote:

25 "Just wanted to touch

1 base and let you know
2 that our emulsion group
3 has done their homework
4 and is formulating an
5 asphalt emulsion
6 appropriate for scrub
7 seals."

8 And you go on to describe some
9 of the work that's been done and in the last two
10 lines say:

11 "Hoping we can meet face
12 to face soon to discuss
13 how such a project may
14 come together. Please
15 let me know if you and
16 your team are available
17 in the next week or two."

18 And, Registrar, if we could
19 close this call out and call out paragraphs 380
20 and 381. Thank you.

21 So, Mr. Becke responded the
22 next day and he copied in a number of staff in the
23 City's asset management department, Richard Andoga
24 Sam Sidawi, Nick Piedigrossi and Alan Jazvac, to
25 loop them in. And then you'll see in the last

1 sentence there of paragraph 381, you and
2 Mr. Jazvac arranged for a meeting that you had
3 requested to take place on April 27, 2016.

4 And we'll come to that meeting
5 in a minute, but what led you to e-mail Mr. Becke
6 about scrub seals on March 22?

7 A. Okay. I cannot recall
8 when he first contacted me, but I know that
9 Mr. Becke reached out and asked if we could do the
10 scrub seal. I didn't know too much about it at
11 the time, but wearing my sales hat, I said we can
12 do anything.

13 We met with him onsite at a
14 subdivision where they were thinking about trying
15 it and this is certainly well after that, because
16 if our emulsion group had formulated something, we
17 were getting closer to ready to go to be able to
18 put this down. And in that time, we had made the
19 decision that there was no way we would place it
20 in the subdivision area where he had originally
21 talked about, and so we just continued the
22 discussion as to where we could find an
23 appropriate road to trial the scrub seal on. It
24 was new for the City of Hamilton, it was new for
25 Norjohn, Walker Construction at the time, and we

1 were hoping to get a rural road that was, I'll
2 say, flat, straight, fairly easy to put this stuff
3 down and easily measured; thus, the reference to
4 the engineering firm as well.

5 Q. So, this was, as I
6 understand your evidence, a followup to some prior
7 conversation that you and Mr. Becke had had that
8 you were then following up on in this e-mail?

9 A. Correct.

10 Q. And you said you don't
11 recall exactly when, but it was sometime prior to
12 March 2016?

13 A. Yes. If I was reaching
14 back and touching base with him with this e-mail
15 to say that we had been able to formulate the
16 emulsion and contacted a manufacturer for the
17 equipment, we'd obviously had some prior
18 discussion to this. So, this is --

19 Q. And --

20 A. Sorry, go ahead.

21 Q. No, go ahead.

22 A. I was going to say this
23 is in response to some other back and forth, maybe
24 phone calls or other e-mails. I'm not sure.

25 Q. And, as I understand what

1 you said, you were hoping for a rural road and
2 Mr. Becke had originally proposed looking at this
3 for a subdivision road. Is that right?

4 A. I wish I knew the area.
5 I could probably drive the roads again, but we
6 walked some of a subdivision that did not have any
7 curb and gutter. It was just a little bit too
8 windy and up some hills and it was going to be
9 difficult for the equipment to get in there, so we
10 did request something flatter and straighter.

11 Q. And so, would I be
12 correct, then, that this e-mail and your
13 discussion with Mr. Becke about the scrub seal, it
14 didn't have anything to do with either the Red
15 Hill Valley Parkway or the Lincoln Alexander
16 Parkway?

17 A. Nothing at all.

18 Q. And what is a scrub seal?

19 A. So, a scrub seal is an
20 emulsion that is applied to an existing road, so
21 it's sprayed down out of a normal asphalt emulsion
22 distributor truck. It might be easier with a
23 video or a photo. But then the scrub part of the
24 scrub seal, that emulsion is then forced into the
25 cracks, essentially being scrubbed into the

1 cracks, using a specialized piece of equipment
2 with a set of brooms on it. And then there's a
3 traditional chip spreader that simply places stone
4 on top of that and then it's rolled.

5 So, very similar to what you
6 might consider surface treatment or tar and chip.
7 There's a myriad of names used for these types of
8 processes where you spray, apply stone, roll it
9 and you leave. It is for rural applications only
10 because there is a lot of loose stone that remains
11 and it would be foolish to place it on
12 high-traffic roads, so it is for rural
13 applications.

14 Q. Okay. Registrar, we can
15 end this call out and if we can call out image 120
16 and keep 119 up as well. Thank you.

17 So, you'll see there,
18 Mr. Nunn, in paragraph 382, about three weeks
19 later, on April 15, 2016, Richard Andoga e-mailed
20 you and he copied a number of City staff, Gary
21 Moore, Sam Sidawi, Brian Hughes and Paul McShane,
22 and the subject line of his e-mail was "LINC/Red
23 Hill Rehabilitation." And he wrote there --
24 Registrar, if we could call out the text at the
25 top. Thank you.

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He wrote:

"Next year, the City of Hamilton is proposing to address the pavement rehabilitation needs of both Lincoln Alexander Parkway and the Red Hill Valley Expressway. The objective is to improve skid resistance of the RHVE, seal the existing pavement for the ramps of the LINC and extend pavement life, as well as increase the service level the roadway provides."

And then he invited you to submit a proposal recommending a rehabilitation strategy that would meet those objectives, in addition to completing the 500-metre test strip.

And then he says:

"The intent would be to complete base repairs at settlement areas along

1 the RHVE. In addition,
2 the rehabilitation of the
3 LINC ramps that are also
4 in need of repair, and
5 then they would be
6 surface treated."

7 And advises that the test
8 strips would be located on the Dartnall Road
9 interchange. So, do you recall receiving this
10 e-mail?

11 A. Yes.

12 Q. Prior to receiving
13 Mr. Andoga's e-mail on April 15, had you spoken
14 with him at all about the LINC or RHVP
15 rehabilitation or the rehabilitation needs of
16 those roads?

17 A. Not specifically. And I
18 can't remember the order of operations here, if we
19 had met and tried to do a presentation on some of
20 the technologies that we had available or if it
21 was after this e-mail.

22 Q. So, there is a meeting,
23 that meeting that comes out of your initial scrub
24 seal e-mail exchange with Mr. Becke. There's a
25 meeting that does get lined up for April 27. And

1 I believe that this, the discussion of what comes
2 from this e-mail from Mr. Becke or Mr. Andoga,
3 comes -- they happen at the same time, so I don't
4 know if that's what you're thinking of or if there
5 was something different?

6 A. Yeah. I'm not sure of
7 what the order was, if he had sent this first and
8 wanted to set up the meeting or if this was as a
9 result of the meeting that we had had. That's all
10 I was getting at, Chloe.

11 Q. Well, we'll come to the
12 meeting, so if at any point any of the documents
13 or my questions --

14 A. Okay.

15 Q. -- trigger your
16 recollection. So, did you know Mr. Andoga prior
17 to receiving this e-mail?

18 A. I've met him at some
19 industry events, probably spoken to him on the
20 phone a couple of times about some of the products
21 that we have, very specifically met him or got to
22 know him a little bit better at a tech transfer
23 conference. It was in California. I can't
24 remember how many years ago that was, but he was
25 in attendance at that.

1 Q. So, I asked you
2 specifically about any conversations you recall
3 with Mr. Andoga, if you recall any conversations
4 with Mr. Andoga prior to this e-mail, but had you
5 spoken with anybody else at the City or did you
6 have any understanding about the fact that the
7 City was proposing rehabilitation on the Red Hill
8 and the LINC for 2017?

9 A. No, nothing other than
10 what I would have received here. With the
11 submittal of a proposal, I know that we did send a
12 quote through for a 500-metre test section, I'm
13 guessing roughly, on the Dartnall Road
14 interchange, and that was all part of the
15 conversation. But to get into the specifics of
16 the Red Hill Valley, no, this would have been it.

17 Q. And Mr. Andoga's e-mail
18 states that the City is proposing to address the
19 pavement rehabilitation needs. Pavement
20 rehabilitation is different than either a
21 resurfacing or a repaving. Is that right?

22 A. Pavement rehabilitation
23 needs could cover a lot of things, so I -- there's
24 reconstruction, there's rehabilitation, there's
25 preservation, and it's a fine line as to what

1 you're walking on in terms of the definitions, I
2 suppose, and I don't know what they are.

3 Q. Okay. And so, I read
4 Mr. Andoga's e-mail in the first paragraph there
5 as indicating four things that he and the City are
6 specifically looking for in the rehabilitation. I
7 see improving skid resistance on the Red Hill
8 Valley Parkway, sealing the pavement on the LINC
9 ramps, extending the pavement life and increasing
10 service levels that the RHVP and the LINC
11 provides.

12 Are those objectives and that
13 reading, is that consistent with how you
14 understood what Mr. Andoga's e-mail was asking?

15 A. Yes. And I would jump
16 forward in my mind to say Norjohn/Walker has a
17 single product that we could offer for this and
18 there are other technologies within the Ontario
19 market that would fit this bill as well.

20 Q. Norjohn/Walker had just
21 one, the one product?

22 A. Yeah. The only thing
23 that we would recommend for something of this
24 size, speed and nature of traffic would be
25 ultrathin bonded wearing course.

1 Q. And we'll come to that
2 proposal, that recommendation, in just a moment.
3 But the first objective of improving skid
4 resistance, is skid resistance a concept or
5 something that you're familiar with in your line
6 of work?

7 A. To a certain extent, yes.

8 Q. Okay. And what is that
9 extent?

10 A. Well, that in areas where
11 there's polished aggregates or steep slopes or,
12 I'm going to say, a need for additional skid
13 resistance, there are products that can provide
14 better skid resistance than others, if you will.
15 And I would say the best one that we have is,
16 again, the ultrathin bonded wearing course.

17 Q. And so, was there
18 anything particularly noteworthy about Mr. Andoga
19 specifically indicating that improving skid
20 resistance was an objective?

21 A. No. There was nothing
22 specifically to that. When he refers to the skid
23 resistance objective, the sealing the existing
24 pavement and the extending the life, as well as
25 increasing service levels, that's almost verbatim

1 from my presentation on bonded wearing course, so
2 it's kind of a hint, I would say, that we may have
3 something to offer.

4 Q. Okay. Had you previously
5 had discussions with either Mr. Andoga or any
6 other City staff about the friction levels or the
7 skid resistance on the Red Hill Valley Parkway?

8 A. No.

9 Q. And, aside from what
10 Mr. Andoga wrote here in this e-mail, were you
11 told anything else about that objective of
12 improving skid resistance on the Red Hill Valley
13 Parkway in or around this time?

14 A. No, not that I recall.
15 It's certainly become evident since.

16 Q. And had anyone expressed
17 concerns or issues about friction or slipperiness
18 on the Red Hill Valley Parkway to you?

19 A. No.

20 Q. And we know in the
21 inquiry that a few months prior to this e-mail, in
22 December 2015, the City had received a consultant
23 report that found there was a significantly high
24 proportion of wet surface conditions on the Red
25 Hill Valley Parkway. Was that something, thinking

1 back in 2016, was that something that you were
2 aware of in terms of the high proportion of wet
3 weather accidents on the Red Hill?

4 A. I was not aware of that
5 until I started reading everything involved with
6 this inquiry.

7 Q. So, just during the
8 course of the inquiry?

9 A. Correct.

10 Q. And, more generally, were
11 you made aware or were there any discussions about
12 safety concerns in relation to Red Hill Valley
13 Parkway in and around this time, in 2016 --

14 A. There were not, no.

15 Q. Okay. Thank you. So, in
16 the second paragraph, Mr. Andoga describes that
17 the City's intention was to complete the base
18 repairs at settlement areas along the Red Hill
19 Valley Parkway and that the stress and joint
20 pavement cracking on the LINC would also be
21 addressed.

22 Am I correct that the base
23 repairs and cracking were not things that
24 Mr. Andoga was looking for you to include in
25 Walker's proposal or Norjohn's proposal? Is that

1 right?

2 A. If I recall correctly,
3 the City was going to do that work themselves and
4 then we would provide the surface.

5 Q. And settlement areas,
6 what did you understand those to be?

7 A. I'm going to assume that
8 there's some soft spots below the surface that
9 need to be dug out. It would be extensive
10 base repairs. Roads settle all the time. I don't
11 know what that would be. It would not be within
12 our scope to go out there and do that work for
13 them, and we probably had that discussion.

14 Q. Okay. So, the portion
15 that would relate to you would be the surface
16 treatment. Is that right?

17 A. Correct. And, Chloe, I
18 just want to be clear. Surface treatment can be
19 many things. Sometimes I refer to it as literally
20 tar and chip, but a surface treatment can be
21 ultrathin bonded wearing course, it can be
22 FiberMat, it can be microsurfacing. Just treating
23 the surface would be the final pass, I'm thinking,
24 in his context here, not what I was talking about
25 as surface treatment before. I hope that

1 clarifies it.

2 Q. Yes. Thank you.

3 Registrar, we can end this call out and if we
4 could go to image 121, please.

5 So, you'll see there in
6 paragraph 385 you responded to Mr. Andoga saying
7 that Norjohn was definitely interested and
8 referencing the meeting on April 27, which comes
9 out of your discussions with Mr. Jazvac in
10 relation to the scrub seal. And you say:

11 "I don't plan to have a
12 formal presentation, just
13 some open discussion. I
14 am thinking the ultrathin
15 bonded wearing course
16 would be a possible
17 solution."

18 And I think you touched on
19 this before, but why was ultrathin bonded wearing
20 course at this time what you were thinking could
21 be the possible solution?

22 A. It addressed everything
23 that he had suggested earlier, the friction, the,
24 not smoothness, but sealing the existing pavement,
25 everything that he wanted it to do. And though we

1 have other technologies, they are not suitable for
2 the high-speed, high-traffic volumes that are on
3 the Red Hill Valley or the LINC. This would be
4 the only smooth paving product that we would have
5 within the Walker/Norjohn arsenal that would be
6 suitable.

7 Q. And in paragraph 386 just
8 below, ten days later, on April 25, you responded
9 to Mr. Andoga's e-mail and attached three
10 documents, including the proposal for the
11 ultrathin bonded wearing course. And, as you
12 describe in your e-mail, the three documents
13 attached were a cover letter, a document outlining
14 the process and some local specifications.

15 A. Okay.

16 Q. So, I'll take you now to
17 the cover letter that you attached.

18 Registrar, if we could bring
19 up HAM33921 and if we could call out the third
20 paragraph.

21 So, in this paragraph you
22 provide a description of what the bonded wearing
23 course is. So:

24 "It's an ultra thin lift
25 of hot mix asphalt

1 suitable for high-speed
2 traffic. It extends
3 pavement life by sealing
4 the existing surface and
5 greatly improves skid
6 resistance, particularly
7 in wet conditions, with
8 the use of premium
9 aggregate. There are a
10 number of other benefits
11 that BWC provides and it
12 does have some
13 limitations."

14 There isn't a specific mention
15 of emulsion here, but would I be understanding,
16 based on what your evidence was previously, that
17 the BWC is an emulsion-based product?

18 A. It's a combination of
19 both. It is actually a hot mix asphalt product
20 produced at a hot mix asphalt plant, but we have a
21 specialized paver that sprays an emulsion down
22 right before the hot mix asphalt goes down to bind
23 it to the existing road. This is normally done
24 with any other type of paving. It's just with
25 this particular mix, there was a very heavy

1 application of that emulsion that needs to go down
2 and it can only be done with a specialized spray
3 paver.

4 Q. Okay.

5 A. That's why this
6 particular technology falls into my territory, if
7 you will, at Walkers, because there is that
8 emulsion component to it.

9 Q. Okay. Understood. So,
10 the proposal here says that it greatly improves
11 skid resistance. How does the bonded wearing
12 course improve skid resistance?

13 A. The bonded wearing course
14 itself is kind of an open textured material, so
15 under wet conditions the water kind of channels
16 and drains through, I will call it a popcorn or
17 skeletal type matrix of stone. There's no real
18 mid-sized aggregates in this to make it a dense
19 mix. So, when the water -- when rain falls on it
20 or water sheds off of it, it actually trickles
21 down into the matrix and moves its way to the side
22 of the road rather than sheeting on top, because
23 it's open textured. That's probably the best way
24 to describe how it improves skid resistance. It's
25 comparable to any other hot mix in dry conditions,

1 but that's where you would find some benefit under
2 wet conditions.

3 Q. Is that why the reference
4 there to the particularly in wet conditions?

5 A. That is correct.

6 Q. And the premium
7 aggregate, how did the aggregates get selected for
8 the bonded wearing course?

9 A. To date, we have only
10 used aggregates by gradation, and so they have
11 typically been limestone or whatever we can find
12 that's available. But on any high-speed road
13 which we have not done yet, I would advise the use
14 of a premium hard trap rock type aggregate.

15 Q. And the sealing of the
16 existing surface which is mentioned here, how does
17 the bonded wearing course do that?

18 A. As I had mentioned with
19 the specific spray paver, the emulsion that is
20 sprayed down in front of the hot mix goes down at
21 a much heavier rate than normal. So, typically
22 there's, I'm going to say, 0.25 litres per square
23 metre of, we'll call it, tack coat that goes in
24 front of a typical hot mix paver. We apply this
25 at 0.9 litres per square metre and it's also not a

1 watered down product, so there's -- when I mention
2 the water evaporating off, there's six times the
3 amount of asphalt cement that's left behind that
4 essentially seals the existing pavement. That's
5 where the sealing comes in.

6 Q. And the reference there
7 in the last line to a number of other benefits,
8 what other benefits are there?

9 A. Well, one of the benefits
10 that we have heard and we have not yet measured
11 ourselves is that it -- there's actually a
12 reduction in tire noise because of this open
13 texture, but it's -- that's a tough one for us to
14 measure and to actually promote. But when you do
15 ride on it and go from a dense high-whining mix
16 under tire noise and drive on to the bonded
17 wearing course, it does seem to be quieter within
18 the cab of the truck and outside as well.

19 Q. And the limitations there
20 referenced in that very last part of your --

21 A. I want to keep telling
22 you about the benefits, too. It's also -- because
23 it is so thin, we can apply it very quickly, and
24 so there's less disruption to the travelling
25 public, if you will, that we can just get in and

1 out.

2 The limitations are the fact
3 that it is so thin it does not provide much, if
4 any, structural strength to the entire payment.

5 Q. And, Registrar, if we
6 could end that call out and if we could call out
7 the first paragraph. Thank you.

8 So, in the last sentence of
9 the first paragraph, in the last line there on the
10 call out, it says:

11 "We feel BWC is the most
12 appropriate option for
13 your particular
14 circumstance."

15 And I think you may have
16 touched on this already, but for our benefit, the
17 particular circumstance that you're referring to
18 here, what would those be in the context of the
19 Red Hill Valley Parkway and the LINC?

20 A. I'm going to say the
21 friction -- what he had asked for, the friction,
22 the sealing and then the speed at which everything
23 needed to be done.

24 But I did want to clarify
25 here, Chloe, that Norjohn offers -- okay. Bonded

1 wearing course is the most appropriate option that
2 we could provide. Certainly there's a myriad of
3 other choices, but that's part of the salesmanship
4 here, too.

5 Q. Okay, Registrar. We can
6 end that call out.

7 And so, in the second
8 paragraph there, it says:

9 "Like the idea of a test
10 section in 2016."

11 As I understand, based on what
12 Mr. Andoga had written in his e-mail and here, the
13 idea would be that there would be the test strips,
14 the 500-metre test strip, that would be placed if
15 the proposal was accepted, that would be placed in
16 2016, and then those would be evaluated for
17 consideration in 2017 rehabilitation. Is that
18 right?

19 A. My understanding is that
20 we were going to attempt bonded wearing course on
21 one of the Dartnall ramps. I think it was the
22 off-ramp heading -- oh, my goodness. I don't know
23 the direction that it would be. And then the
24 opposite side was going to have microsurfacing
25 done to it. And then we're going to compare the

1 two technologies.

2 Q. Okay. Thank you. And in
3 that second last paragraph, you reference the
4 upcoming meeting scheduled for Wednesday,
5 April 27, and we know that that meeting did
6 ultimately take place on April 27.

7 A. Okay.

8 Q. Do you recall attending?

9 A. Yes.

10 Q. And my next question is
11 going to be who you recall attending. So, to
12 assist you, because this is not a memory test,
13 I'll call up some documents and I'll see if this
14 refreshes your memory.

15 So, Registrar, if we could
16 call up HAM33918.

17 This is a calendar invitation
18 that was sent around and you are on the calendar
19 invitation, along with a number of other City
20 staff: Lisa Castronovo, Alan Jazvac, Richard
21 Andoga, Sam Sidawi, Michael Becke, Nick
22 Piedigrossi, George Berenyi, Brian Hughes.

23 And then, Registrar, if we
24 could also call up OD 7, image 121.

25 So, this is, on the left side,

1 the original calendar invitation. And then in
2 paragraphs 387 to 388, there is some discussion
3 where Mr. Andoga forwarded your e-mail that we had
4 just looked at with the attachments to Gary Moore,
5 Sam Sidawi, Brian Hughes, Paul McShane, Mr. Becke,
6 Dennis Perusin, Marco Oddi and Mr. Jazvac, so
7 there's a little bit of overlap in terms of who
8 was told about this the meeting. But, again, as I
9 said, not a memory test, but do you recall who
10 attended the meeting on April 27?

11 A. I remember it was a
12 fairly full room. I can't remember all of the
13 names for sure. I want to say if George Berenyi
14 is on there, he was likely there. And Paul
15 Murray, that's who we were dealing with on the
16 maintenance side for the introduction. I believe
17 Mr. Andoga was there. I'll say Paul McShane. I
18 can't remember if Mike Becke made that meeting or
19 not. Sam Sidawi, Gary Moore, and I cannot recall
20 if Al Jazvac was in the meeting or not. And
21 Mr. Andoga. I didn't know everybody that was
22 going to be in attendance and we didn't go around
23 the room.

24 Q. Fair enough. I just
25 listed a number of City employees. Did you attend

1 on your own or did anybody else from
2 Walker/Norjohn come with you?

3 A. I think I was solo on
4 that trip.

5 Q. And going into the
6 meeting, what was your understanding of the
7 purpose or the objective of it?

8 A. My objective was kind of
9 twofold: To talk a little bit about scrub seal
10 and what we had planned and where it was
11 appropriate to be used, and then the bonded
12 wearing course presentation after our earlier
13 discussions on what the proposal was.

14 Q. And, Registrar, if we can
15 call up RHV887.

16 Mr. Nunn, once this document
17 pops up, I understand this is a PowerPoint
18 presentation that -- it doesn't have a date on
19 here, but I understand that this is a PowerPoint
20 presentation that you prepared for this meeting.
21 Is that correct?

22 A. That's correct.

23 Q. And was this PowerPoint
24 something that you created specifically for the
25 meeting with the City on April 27 or was it sort

1 of a standard presentation that you had?

2 A. It's a combination of
3 some standard presentations, but given that we
4 were going to talk about scrub seal and bonded
5 wearing course, I just combined the two of them
6 together, I think. But it is pretty much a canned
7 presentation.

8 Q. Okay. And I won't take
9 you through all of the slides as it's quite a long
10 presentation, but do you recall if you did present
11 the slideshow at the meeting?

12 A. I know that we set it up
13 kind of semi-formally, put it up in front the
14 group, and I would much rather deal dynamically
15 and say if you have any questions, fire away at
16 any time.

17 And so this, as I said, was a
18 dynamic group. I probably did three or four
19 slides in the canned presentation and then the
20 questions started and it was open discussion.

21 Q. Thinking more
22 specifically about the bonded wearing course piece
23 and the proposal for the LINC and the Red Hill
24 rehab, what do you recall about the discussion at
25 the meeting?

1 A. Simply going through some
2 of the benefits that we had to provide and then I
3 don't want to say getting grilled, but that it was
4 questions of whether or not we would be capable of
5 doing the whole thing, paving it, how long would
6 it take, what were the costs, things that would
7 take a long time to answer, that's for sure, but
8 not right there at the time. And so, there was
9 ideas thrown out whether or not things were
10 possible or capable. And, again, I can't provide
11 any kind of a quote or any kind of promise when
12 I'm in a meeting until I see what the documents
13 might bear out.

14 Q. Do you recall who in the
15 meeting was asking the questions or was throwing
16 out ideas?

17 A. They were coming from all
18 different sides, because there was comments from
19 maintenance because we had already used bonded
20 wearing course on some lower-volume roads. I know
21 that there was concerns about how to maintain
22 things after it's there. It was kind of a
23 free-for-all.

24 Q. Okay, so you don't
25 remember who specifically from the City was

1 participating? It was kind of a chorus of
2 everybody?

3 A. A chorus of everybody,
4 but I would say -- I don't know if it's Paul
5 McShane or not. I know that Paul and Gary had
6 engaged conversation that just got louder and it
7 was kind of fun. But no, there was nobody that
8 really led the charge.

9 Q. And what do you mean by
10 engaged conversation?

11 A. I can't recall the
12 specifics, but it was a heated, fun, dynamic
13 meeting where they're questioning each other and
14 that's all I remember, that there was a lot of
15 commotion in the room as they talked about things
16 that were not relevant to what I was presenting.

17 Q. So, you described it as a
18 heated, fun, sort of tone and tenor. Is that how
19 you would describe it?

20 A. In comparison to what I
21 typically do, usually I will go and do one of
22 these presentations, there will be five or six
23 people in the room and it's me presenting and
24 there's questions at the end and it's boring.
25 This was a much larger room, they're much more

1 passionate, heated and dynamic, and it was fun.
2 That is literally what I remember, was okay, we're
3 going off script here and I will answer questions
4 as best I can.

5 Q. Okay. Do you remember
6 anything in particular about sort of what
7 Mr. McShane or Mr. Moore were saying about the
8 proposal for the bonded wearing course on the Red
9 Hill, the utility --

10 A. No. We talked about
11 timing, who would be doing any of the rehab type
12 work, the except of the limits, how urgent it was,
13 where the mix would be coming from. Just it was
14 almost like the work was going to happen for sure
15 and then nothing came of it after that.

16 Q. And you mentioned urgent,
17 there was discussion about how urgent the work
18 was. Did you get a sense from the City that there
19 was an urgency in terms of the timing or the need
20 for rehabilitation?

21 A. No, not necessarily.
22 Just that's kind of the tone of the entire
23 meeting, that it was let's get this done and
24 trying to figure out how to actually do the
25 Dartnall ramps and who would be responsible for

1 what. But the specifics of it, no, I don't recall
2 at all.

3 Q. And just to go back to
4 the tone for a second, you described it as heated
5 and heated can mean a couple different things.
6 Was it heated in terms of angry or, like,
7 differing opinions? Was it heated in terms of
8 excitement? How would you describe sort of the
9 heated nature of the meeting, from your
10 perspective?

11 A. Definitely not anger. It
12 would be differences of opinions and people
13 looking at things from their own side, be it
14 maintenance, line painting, the prep work that
15 needed to be done, who would be responsible for
16 what. But no, there was no anger. That's for
17 sure. It was just more dynamic than any meeting
18 than I had been in before.

19 Q. And what did you
20 understand, based on the discussion at the
21 meetings, the reason or the reasons that the City
22 was looking to rehabilitate the LINC and the Red
23 Hill? Beyond sort of what Mr. Andoga had said in
24 his initial e-mail, what information was provided
25 to you?

1 A. There wasn't any
2 information provided. That's why we were going to
3 do the test section on the ramps. So, there was
4 no greater scope as to what could be done or what
5 should be done. It was, let's try this out on the
6 ramps and see if this is going to meet the needs,
7 meet the traffic needs and withstand the volume.
8 That was essentially it.

9 Q. And on the needs, did
10 anyone mention addressing top-down cracking as one
11 of the objectives?

12 A. Not that I recall, but if
13 it did get brought up, that would be something
14 that we could address with that thicker seal of
15 the bonded wearing course.

16 Q. Okay. And just while we
17 have the slides up, Registrar, if we could call up
18 image 12.

19 So, I know you said that, you
20 know, you only got a couple of slides in. This is
21 the first bonded wearing course slide and it's the
22 12th slide. And do you recall if you got to this
23 point in your presentation or had you sort of gone
24 off script by that point?

25 A. That, I can't recall,

1 Chloe. I may have gotten to this, but I think we
2 got right into the meat and potatoes of it first.
3 I don't think they were interested in our earth
4 first stuff. These are more airy, fairy type
5 things of the Walker canned presentation.

6 Q. And before we leave this
7 meeting, do you recall if anyone mentioned
8 anything about friction test results or anything
9 about the Tradewind report, anything like that at
10 the meeting?

11 A. No. I've never heard of
12 the Tradewind report and if there was any
13 discussion regarding friction, it would have been
14 in comparison between bonded wearing course and
15 what microsurfacing has to offer, because that's
16 what we were talking about.

17 Q. And what is your
18 understanding of the differences between those
19 types of treatments --

20 A. The microsurfacing can
21 also offer better friction resistance or I'm going
22 to say restore some friction, probably not in wet
23 conditions. And when you mentioned the top-down
24 cracking, if that was an issue, I would have been
25 a proponent of saying, if you have top-down

1 cracking, microsurfacing wouldn't be your answer.

2 Q. And why is that?

3 A. It's a much more brittle
4 wearing course and that cracking would reflect
5 through the microsurfacing fairly quickly.

6 Q. If the City had -- just
7 going back to my earlier question, if the City had
8 a report or information about friction conditions
9 on the roadway, is that something that you, as a
10 contractor, would expect or would it be helpful to
11 have that information provided to you in a meeting
12 like this if you're considering potential
13 rehabilitation methods?

14 A. In a meeting like this,
15 no. I have never seen any kind of a friction
16 report and I would not expect to see that. If
17 this work eventually got called and there was a
18 need for that, my expectation is they would hire a
19 consultant and basically put a mix design together
20 that would meet whatever their parameters are, but
21 certainly not in this kind of conversation.

22 Q. Thank you. And,
23 Registrar, we can end this call out but this
24 document will need to be marked as an exhibit and
25 I believe it's Exhibit 119.

1 THE REGISTRAR: Noted. Thank
2 you, counsel.

3 EXHIBIT NO. 119:
4 Walker Construction
5 PowerPoint presentation,
6 RHV887.

7 BY MS. HENDRIE:

8 Q. So coming out of the
9 meeting on April 27, were there any next steps for
10 you and for Walker in terms of the proposal?

11 A. Not that I recall. It
12 was kind of a sit and wait. If we had already
13 provided pricing and a proposal, then we were
14 waiting to see what came out of the meeting.

15 Q. So, I'll take you to
16 the -- pricing comes a couple weeks later.

17 So, Registrar, if we could
18 call up HAM25162 and also HAM25159.

19 So, Mr. Nunn you'll see in the
20 document on the left side of the screen at the
21 very bottom there's an e-mail from you to
22 Mr. Andoga and Mr. Jazvac attaching the pricing
23 for the BWC proposal on the ramps, and then on the
24 right side of the screen is the actual pricing and
25 it's a quote for \$37,503.

1 So, do you recall how the
2 pricing came about? Was that a next step that you
3 initiated after the meeting?

4 A. Yeah. If we had been
5 given a 500-metre test section, I think we got
6 some drawings. I remember going over it with my
7 estimator on Google Maps and we kind of figured
8 out, okay, well, we'll be starting here and ending
9 here, and then we put an estimate together and
10 provided the pricing.

11 Just my notes at the bottom
12 there, the premium aggregate that we would have
13 sourced, we would have found that from one of two
14 sources, I'm sure, and yeah. It was just a
15 gradation and we would have submitted some sort of
16 a mix design after that, but not until we got the
17 quote approved.

18 Q. And so the pricing, was
19 that's something that the City had asked you to
20 prepare either at the April 27 meeting or sometime
21 after or was this just a next step that you
22 initiated on your end to sort of keep the ball
23 rolling on this?

24 A. It may have been in
25 conversation that they had asked, okay, we need to

1 see the numbers now. And so, that probably would
2 have been part of the discussion, that if they
3 were doing, when I say they, the City of Hamilton,
4 doing all of the prep work, base work, crack
5 repair prior to, then we would have agreed to say,
6 we can come in and do the bonded wearing course
7 only and they would have wanted a number, and so
8 there's the number.

9 Q. And you'll see in the
10 e-mail chain on the left, it's circulated. After
11 you send it to Mr. Andoga and Mr. Jazvac, it gets
12 circulated internally at the City. And in the top
13 e-mail, Mr. Becke expressed some questions and
14 some comments, but it doesn't go to you, so I'm
15 wondering if there was any further followup from
16 the City, either questions similar to what
17 Mr. Becke expressed or comments about the pricing
18 or if it sort of went quiet at this point?

19 A. I'm going to guess it
20 went quiet at this point because when I see I
21 think Derek needs to resubmit a quote covering all
22 the works, I don't believe we submitted anything
23 beyond that. We may have had some discussion
24 whether it was night or weekend work, but I think
25 we were planning on closing down the ramp for a

1 very short period of time and then reopening it.

2 But no, things kind of went dead after this.

3 Q. Did you have any

4 understanding of why it did?

5 A. No. I think I followed

6 up a little bit later to say, did you get our

7 quote? Are we moving ahead with this? But I did

8 not hear anything specific on this.

9 Q. Okay. Thank you,

10 Registrar. We can close the call out of these

11 documents and if we could call up overview

12 document 7, images 123 and 124.

13 So, Mr. Nunn, the next time we

14 see contact between you and staff at the City of

15 Hamilton is in late November 2016, and you'll see

16 in paragraph 393 Mr. Andoga reached out to you at

17 the end of November 2016 asking about the

18 possibility of using the bonded wearing course on

19 two local residential roads in the City and he

20 asked for your thoughts on the feasibility, the

21 use and the value.

22 And in paragraph 394,

23 Registrar, if we could call out Mr. Nunn's reply

24 e-mail on both pages. Thank you.

25 So, you provide some

1 information about the two roads that Mr. Andoga
2 had asked about. And then in the second last
3 paragraph there or, sorry, the third last line on
4 the second call out, it says:

5 "Also have to ask about
6 the Dartnall ramps, LINC,
7 Red Hill and Strachan."

8 When you say that, was that a
9 followup to the proposal that we had just looked
10 at?

11 A. Yes.

12 Q. And why were you asking
13 about them? Is it because you hadn't heard back
14 at that point?

15 A. We hadn't heard back. I
16 drive those roads often just to check on things
17 and knew that nothing had really happened, and so
18 yeah, it was just a followup.

19 Q. And, ultimately, as I
20 understand, the proposal didn't go ahead for the
21 ultrathin bonded wearing course on the Dartnall
22 ramps. Is that right?

23 A. That is correct.

24 Q. And what was your
25 understanding as to why it didn't proceed and what

1 that was based on?

2 A. I don't know if it was
3 cost. I don't know if it was they had found
4 another solution. That I don't know and I'm not
5 going to speculate on that.

6 Q. And after your e-mail
7 exchange with Mr. Andoga in the end of
8 November 2016, did you have any further
9 communications with City staff pertaining to the
10 rehabilitation of the LINC or the Red Hill?

11 A. No.

12 Q. Thank you.

13 A. We would have had contact
14 with some other projects, but not for the LINC or
15 the Red Hill.

16 Q. Okay. So, communications
17 and contacts with Mr. Andoga or other City staff,
18 but not specific to the Red Hill or the bonded
19 wearing course proposal?

20 A. Correct. It would have
21 been back with the folks we were dealing with at
22 maintenance.

23 Q. Thank you, Registrar. We
24 can end that call out.

25 And, Commissioner, those are

1 my questions for Mr. Nunn, but I'm reminded that I
2 need to mark the two documents that I just took
3 Mr. Nunn to as exhibits.

4 That's, Registrar, HAM25162,
5 and I believe that would be Exhibit 120.

6 THE REGISTRAR: I have that
7 one, counsel. Thank you.

8 EXHIBIT NO. 120: E-mail
9 from Mr. Nunn to
10 Mr. Andoga and Mr. Jazvac
11 attaching the pricing for
12 the BWC proposal on the
13 ramps, HAM25162.

14 MS. HENDRIE: The next one
15 would be HAM25159, and that would be Exhibit 121.

16 THE REGISTRAR: Okay. Great.
17 Thank you.

18 EXHIBIT NO. 121:
19 Attached pricing for BWC
20 proposal, HAM25159.

21 MS. HENDRIE: So,
22 Commissioner, as I said, those are my questions
23 for Mr. Nunn, and I understand counsel for
24 Dufferin does not have any questions.

25 JUSTICE WILTON-SIEGEL: Okay.

1 MS. HENDRIE: I understand
2 counsel for the MTO reserved five minutes for
3 Mr. Nunn.

4 MR. BOURRIER: Good afternoon,
5 Commissioner. I can confirm that the MTO doesn't
6 have any questions for Mr. Nunn.

7 JUSTICE WILTON-SIEGEL: Thank
8 you, Mr. Bourrier. Okay.

9 MS. HENDRIE: Similarly, I
10 believe counsel for Golder also reserved five
11 minutes.

12 MS. RAMASWAMY: Commissioner,
13 I recognize this is around the lunch break, so
14 just to query whether you would like us to proceed
15 or --

16 JUSTICE WILTON-SIEGEL: If
17 it's five or ten minutes, I think you should
18 proceed.

19 MS. RAMASWAMY: Sure.

20 JUSTICE WILTON-SIEGEL: Rather
21 than have Mr. Nunn come back after lunch.

22 MS. HENDRIE: And,
23 Commissioner, just for your benefit, I understand
24 that counsel for the City may also have five to
25 ten minutes of questions as well.

1 JUSTICE WILTON-SIEGEL: Is
2 counsel for the City on the line? Mr. Mishra, how
3 much time do you require?

4 MR. MISHRA: I anticipate
5 maybe about five minutes of questions for
6 Mr. Nunn.

7 JUSTICE WILTON-SIEGEL: So,
8 Mr. Nunn, I'm in your hands. It sounds like it's
9 between 10 and 15 minutes. I assume your
10 preference would be to finish now rather than come
11 back at 2:15.

12 THE WITNESS: I had a big
13 breakfast. I'm ready to continue.

14 JUSTICE WILTON-SIEGEL: Okay.
15 That's fine. Then let's do so. We'll start with
16 counsel for Golder.

17 MS. RAMASWAMY: Thank you,
18 Mr. Commissioner.

19 EXAMINATION BY MS. RAMASWAMY:

20 Q. Hello, Mr. Nunn. I'm
21 counsel for Golder and I have a few questions for
22 you today.

23 So, You talked about
24 settlement areas. Do you remember that?

25 A. I don't remember the

1 settlement areas specifically. They would have
2 been on the Dartnall ramps, though, because that's
3 what we were discussing.

4 Q. Right. You spoke about
5 settlement areas in general, not specific
6 locations.

7 A. Okay.

8 Q. So, dips are essentially
9 a type of settlement. Would you agree with that?

10 A. What is essentially a
11 type of settlement? Sorry.

12 Q. Dips.

13 A. Dips, sure. Yes.

14 Q. Right. And so, would
15 bonded wearing course address dips or would that
16 be a separate repair that you would need to do for
17 dips?

18 A. It would be dependent on
19 the depth of them and what the cause is. If it's
20 a compression of the asphalt cement in the top
21 layer only, we could probably address that with
22 ultrathin bonded wearing course, but if it's a
23 failure of the base or well into the pavement
24 structure, no, then it would have to be properly
25 repaired.

1 Q. Okay. Thank you for
2 that. Mr. Nunn, are you familiar with the Ontario
3 Provincial Standard Specifications or OPSS?

4 A. I know of them. I know
5 them all by heart.

6 Q. Fair enough. Are you
7 aware there's an OPSS standard for bonded wearing
8 course?

9 A. I do not believe that
10 there is a standard for bonded wearing course.
11 This is --

12 Q. Right.

13 A. Sorry, go ahead.

14 Q. No, I was just going to
15 say that's my understanding as well.

16 A. Okay.

17 Q. And are you aware if
18 there's an OPSS standard for microsurfacing?

19 A. I believe there is now,
20 yes.

21 Q. Right. Thank you. To
22 your knowledge, has bonded wearing course been
23 used on high-volume use roads in the past? Like,
24 have you done projects or are you aware of
25 projects?

1 A. We have not done it. I'm
2 going to say prior to it being called ultrathin
3 bonded wearing course, it was known as NovaChip.
4 It was a proprietary product and I know that there
5 was work done on some of the ramps of the 407.
6 There has been work done in the City of Ottawa.
7 We've done work on some higher-volume county roads
8 and I'm going to say outside of the province
9 there's certainly been work done on interstate
10 highways in the United States.

11 Q. Okay. Thank you,
12 Mr. Nunn.

13 Those are all my questions,
14 Commissioner, subject to your questions.

15 JUSTICE WILTON-SIEGEL: Okay.
16 Mr. Mishra.

17 EXAMINATION BY MR. MISHRA:

18 Q. Hello, Mr. Nunn. My name
19 is Vinayak Mishra and I'm counsel for the City of
20 Hamilton. I have a couple questions for you today
21 and I'll try to keep this as brief as possible.

22 A. Okay.

23 Q. We previously looked at
24 an e-mail from Mr. Andoga to yourself on April 15,
25 2016. For reference, it's HAM25036. I don't

1 intend to call it up unless it will be helpful to
2 refresh your memory, but essentially in that
3 e-mail Mr. Andoga advised you that the City of
4 Hamilton is proposing to address the pavement
5 rehab needs of both the LINC and the Red Hill
6 Valley Parkway, and he asked you to submit a
7 proposal for the Red Hill Valley Parkway and the
8 LINC rehabilitation.

9 Do you remember that e-mail?

10 A. Yes.

11 Q. And your evidence is that
12 no one from the City advised you that there was
13 any safety concerns regarding friction levels on
14 the Red Hill Valley Parkway. Is that right?

15 A. That is correct.

16 Q. And then you attended a
17 meeting at the City on April 27 when you gave a
18 presentation on scrub seals and the ultrathin
19 bonded wearing course. Correct?

20 A. That is correct.

21 Q. And at this meeting, no
22 one raised any safety concerns about skid
23 resistance on the Red Hill Valley Parkway either?

24 A. No, they did not.

25 Q. And your evidence is at

1 this meeting you didn't understand there to be any
2 urgency from the City around the rehabilitation.
3 Correct?

4 A. No. There was my
5 personal excitement that we could be placing our
6 product on a project of this size, so that may
7 have skewed things a little bit, but there was no
8 real urgency. It was another conversation.

9 Q. Understood. So, the
10 excitement around the project side, I take it from
11 the lack of urgency, you didn't understand there
12 was any safety concerns on the LINC or the Red
13 Hill that needed to be addressed urgently?

14 A. No.

15 Q. And after this meeting,
16 no one raised any safety concerns about skid
17 resistance on the Red Hill Valley Parkway. Is
18 that correct?

19 A. That is correct.

20 Q. Okay. So, I want to ask
21 just a couple of questions about the ultrathin
22 bonded wearing course itself. I understand that
23 this was one of the -- this was a course that was
24 recommended to the City. As I understand it, this
25 was the only treatment that Norjohn had available

1 that was suitable for use on an expressway. Is
2 that right?

3 A. That would be the only
4 one that we could recommend. We could do
5 traditional shaving and paving, if you will, but
6 we would not be competitive just being out of the
7 area.

8 Q. Understood. So, given
9 the high speed and high traffic of the
10 expressways, your evidence is that the ultrathin
11 bonded wearing course is the only treatment of
12 this kind that Norjohn had available?

13 A. That we would recommend,
14 that is correct.

15 Q. And Norjohn's other
16 treatments were more suitable to rural
17 applications. Correct?

18 A. That is correct.

19 Q. Not highways?

20 A. No.

21 Q. And at this time, as of
22 2016, Norjohn hadn't placed any treatments on
23 highways or expressways. Is that right?

24 A. We have placed a
25 treatment called FiberMat, but we've placed it as

1 a stress absorbing membrane interlayer and it gets
2 paved over top of so it's not exposed to the
3 travelling public. It's within the pavement, so
4 we have done some work on highways, yes.

5 Q. Understood, but nothing
6 on the surface course. Is that fair?

7 A. Not yet.

8 Q. Fair enough. And not
9 using the ultrathin bonded wearing course as of
10 2016?

11 A. That is correct.

12 Q. And one last question.
13 It's your evidence that you would not recommend
14 microsurfacing if there was top-down cracking on
15 the roadway. Is that right?

16 A. There's a couple of
17 reasons why I wouldn't recommended microsurfacing,
18 and that's because we no longer do it. It's not
19 within my tool box. But yes, if there is cracking
20 issues, the microsurfacing is extremely brittle
21 and I don't know if that would satisfy the life of
22 what they would be looking for.

23 Q. Perfect. Thank you,
24 Mr. Nunn. Those are all of my questions.

25 A. All right. Thanks.

1 JUSTICE WILTON-SIEGEL: I'm
2 just completing my note, Mr. Nunn. Ms. Hendrie?

3 MS. HENDRIE: No further
4 questions for me, Commissioner.

5 JUSTICE WILTON-SIEGEL:
6 Mr. Nunn, thank you very much for attending the
7 inquiry. Very interesting.

8 THE WITNESS: All right.

9 JUSTICE WILTON-SIEGEL: You're
10 excused. And the rest of us, we'll adjourn for
11 lunch and return at 2:20. Thank you.

12 --- Luncheon recess taken at 1:05 p.m.

13 --- Upon resuming at 2:21 p.m.

14 MS. BRUCKNER: Good afternoon.
15 Madam court reporter, I understand that Mr. Vala
16 has not yet been sworn.

17 SARATH VALA; AFFIRMED

18 EXAMINATION BY MS. BRUCKNER:

19 Q. Hello, Mr. Vala. My name
20 is Hailey Bruckner. I'm commission counsel and
21 I'm going to be asking you a couple questions
22 today. I'm going to start off with some questions
23 about your background.

24 I understand that you have a
25 Bachelor's degree and a Master's degree in civil

1 engineering. Is that correct?

2 A. Yes, that's correct.

3 Q. And you are a registered
4 professional engineer in Ontario?

5 A. Yes, that's correct.

6 Q. Do you have a specialty
7 or a focus within civil engineering?

8 A. In my Master's?

9 Q. In your professional
10 career, do you have a specialty or a particular
11 area of focus as a professional engineer?

12 A. Right now, I focus on
13 municipal infrastructure, linear infrastructure.

14 Q. Okay. Have you had
15 previous areas of focus?

16 A. When working in the
17 consulting industry prior to my job at the City of
18 Hamilton, I was a roadway design engineer.

19 Q. Okay. Do you have a
20 specialty in pavement design?

21 A. No.

22 Q. I understand that you
23 were a project manager, design, engineering
24 services, at the City of Hamilton from
25 January 2016 to February 2020. Is that right?

1 A. That's correct.

2 Q. And then you were senior
3 project manager, transportation, with the City
4 from February 2020 to February 2021?

5 A. Yes.

6 Q. Could you describe your
7 role as project manager, design engineering
8 services?

9 A. As a project manager in
10 design at engineering services, my role was to
11 take a set scope for a capital project and develop
12 design and design drawings for that and prepare a
13 tender ready contract and tender the project for
14 the scope that's been set.

15 Q. Did you handle multiple
16 projects at one time in your role in design?

17 A. Yes.

18 Q. Did you work on roadway
19 projects?

20 A. The projects involved the
21 roadway and also some involved underground
22 infrastructure, such as water mains and storm
23 sewer.

24 Q. Okay. What was the size
25 and scope of the roadways that you worked on for

1 the City of Hamilton?

2 A. It varied from project to
3 project.

4 Q. Okay. Generally
5 speaking, was it more rural roads or were you
6 working on a lot of expressways and highways?

7 A. My experience in City of
8 Hamilton as a project manager mostly was either
9 with the resurfacing of arterial roads or
10 reconstruction of arterial roads.

11 Q. Who did you report to as
12 a project manager in design?

13 A. I reported to the senior
14 project manager. I started off reporting to Chris
15 McCafferty, who was the senior project manager
16 when I started, and then later on to Mike Becke.

17 Q. And Mike Becke would have
18 reported to the manager of design, who was Susan
19 Jacob. Is that correct?

20 A. That's correct.

21 Q. Okay. And Ms. Jacob, in
22 turn, would have reported to the director of
23 engineering services?

24 A. That's correct.

25 Q. And that was Gary Moore

1 and then Gord McGuire?

2 A. Yes.

3 Q. Did you ever have any
4 direct dealings with Mr. McGuire or Mr. Moore in
5 your role with the City?

6 A. Very limited, if any.

7 Q. Okay. In your role in
8 design, did you work with technologists?

9 A. Yes.

10 Q. Did the technologists
11 report to you?

12 A. They didn't report to me,
13 but we work together as a team delivering
14 projects.

15 Q. Who did you generally
16 work with of the technologists?

17 A. At my tenure in design, I
18 worked with three different technologists. Is
19 there a specific time period that you are looking
20 at?

21 Q. Is there one that you
22 worked with primarily in relation to roadway
23 projects.

24 A. All three of them. Like,
25 we were a team, so all three of them worked with

1 me on roadway projects, on whatever projects I was
2 working on at different times.

3 Q. Okay. Did you work with
4 one of them in connection to the Red Hill?

5 A. I worked with two of
6 them. It started off with Nicholas Zanello, and
7 then later on Tashfeen Butt.

8 Q. Okay. What's the
9 relationship between design and asset management
10 in terms of how the two Public Works groups work
11 together?

12 A. When you say
13 relationship, could you please clarify --

14 Q. How do those two groups
15 work together?

16 A. Both asset management and
17 the design are different sections within
18 engineering services, and, you know, they are
19 involved in the delivery of capital projects that
20 are programmed. But my understanding, asset
21 management programs, the capital program, and then
22 gathers the scope for each capital project and
23 ensures there is adequate budget and then hands it
24 off to design and design group develops the design
25 and the contract documents and takes it up to the

1 contract and award and then hands it off to the
2 construction section, which is a different part of
3 the engineering services.

4 Q. So, generally speaking,
5 when you're working on a project, you expect that
6 asset management will develop the budget and the
7 scope and then it gets handed over to you in
8 design to do your work?

9 A. That's correct.

10 Q. Who did you work with in
11 asset management in connection with the Red Hill
12 Valley Parkway rehabilitation project?

13 A. Alan Jazvac was the
14 project manager typically. I don't recall exactly
15 who it was. It was more typically within asset
16 management, but typically the practice, it could
17 have been Alan Jazvac, who was the project manager
18 for surface infrastructure, and Rick Andoga, who
19 was the senior project manager at that time.

20 Q. So, you were the project
21 manager for the Red Hill Valley Parkway
22 rehabilitation project. Is that correct?

23 A. For the rehabilitation
24 resurfacing project, yes.

25 Q. All right. Do you prefer

1 to refer to it as the resurfacing project as
2 opposed to the rehabilitation project?

3 A. I recollect it as
4 resurfacing, but --

5 Q. Okay. Who assigned you
6 to the Red Hill Valley Parkway resurfacing
7 project?

8 A. I don't exactly recall
9 who it was, even the date, but I believe it was
10 somewhere in 2017 when verbally I was informed
11 that the Red Hill Valley Parkway rehabilitation
12 resurfacing was programmed and it could probably
13 be assigned to me by probably Susan or Mike.

14 Q. Okay. And you think that
15 that was sometime in 2017. Do you have a sense of
16 what season in 2017 it would have been? Spring?
17 Summer? Fall? Winter?

18 A. Towards winter works,
19 maybe late 2017, so I would say late summer or
20 early fall.

21 Q. Do you know why you were
22 selected as the project manager for the Red Hill
23 Valley Parkway resurfacing project?

24 A. Sorry, I don't know.

25 Q. Okay. What were you told

1 about the project when you were assigned as
2 project manager in mid to late 2017?

3 A. That it's a resurfacing
4 project that would be assigned to me. Typically
5 that is all what is told on that. The practice is
6 that we go into the CPMS system to see what the
7 scope is and deliver that scope.

8 Q. Were you advised as to
9 the objective or the purpose of the Red Hill
10 Valley Parkway repaving project?

11 A. No.

12 Q. Is that something that
13 you're generally advised of in your role in
14 design?

15 A. Not that, no. Not that
16 type of --

17 Q. You don't need it in
18 order to put together the tender, like,
19 information about the objective?

20 A. It is -- when we go to
21 the CPMS system where the scope is listed and then
22 it mentions what entails the scope of the project
23 and that is tendered. If there is any specific
24 question that comes up, then we clarify it with
25 asset management or whoever provides that scope.

1 Q. When you were assigned --
2 sorry, let me approach this a different way.

3 Prior to being assigned to
4 work on the repaving project, had you ever worked
5 on any other Red Hill Valley Parkway related
6 project?

7 A. No.

8 Q. When you were assigned
9 the Red Hill Valley Parkway repaving project in
10 mid to late 2017, were you advised of past
11 discussions with Norjohn or Miller Group about
12 microsurfacing, bonded wearing course or any other
13 pavement treatment or surface treatment for use on
14 the Red Hill Valley Parkway in 2016?

15 A. No, not that I can think
16 of.

17 Q. Were you ever advised of
18 any prior discussions with Miller Group or
19 Norjohn?

20 A. No.

21 Q. When you were assigned to
22 the Red Hill Valley Parkway repaving project, were
23 you given information about prior work that had
24 been completed by engineering services or
25 consultants retained by engineering services on

1 the Red Hill Valley Parkway?

2 A. When you say, is there a
3 specific person or a team that I'm looking for
4 that would have provided me this information?

5 Q. Any reports completed by
6 consultants retained by engineering services
7 connected to the Red Hill Valley Parkway. So, I
8 can give you some example of consultants. There's
9 CIMA, Golder, Stantec. Any reports at all?

10 A. I don't recall any
11 specific reports being included as part of the
12 scope summary.

13 Q. Okay. Other than the
14 scope summary, were you provided with any
15 documentation about the Red Hill Valley Parkway
16 when you were assigned as the project manager?

17 A. I don't think so.

18 Q. Is there a central
19 repository of information that you could have
20 accessed to see what work had been done on the Red
21 Hill Valley Parkway by other Public Works
22 departments?

23 A. Typically there is a
24 repository of plans, which is called a SPIDER
25 system, so if we wanted to go look and review the

1 as-built drawings or existing information, we go
2 to the SPIDER system and review information.

3 Q. So, that's the as-built
4 drawings and construction documentation. Is that
5 right?

6 A. Yes.

7 Q. In terms of reports or
8 documentation or any other work that was completed
9 after the construction of the Red Hill Valley
10 Parkway, was there a central repository of
11 information for that sort of document?

12 A. When the project was
13 assigned to me, I was not aware of a central
14 repository.

15 Q. In terms of assessing
16 whether or not you had all the information you
17 would need in order to put together the project
18 tender, what steps would you generally take to do
19 that?

20 A. We start off by reviewing
21 the scope report that is created by asset
22 management within the CPMS system and depending
23 upon the scope of the project, you know, and what
24 is entailed in it, if it is a simple arterial road
25 resurfacing project, I go and then make a site

1 visit and, based on if there are any observations
2 which were not inconsistent with what is set in
3 the scope, I come back and then have a
4 conversation with asset management, provide the
5 documentation to that and then I review it if
6 something need to be done.

7 But, you know, if everything
8 is consistent, I deliver the scope. If it is
9 arterial road reconstruction projects, I call up
10 for a (indiscernible) scope more than road
11 resurfacing with underground infrastructure. I
12 call for the project startup meeting with all the
13 stakeholders who have provided scope and who might
14 have provided input into the contract and then
15 make sure get a sign-off, review the scope with
16 them and then make sure that that is exactly what
17 needs to be done. We'll get a buy-in and then,
18 you know, the project scheduling and milestones,
19 we have to sign off on that and then get going on
20 the design of the project, develop the drawings
21 and contract out and deliver it.

22 Q. Okay. Registrar, could
23 you please take us to HAM26046.

24 So, we're going to call up
25 some documents, Mr. Vala, and if you have any

1 difficulty seeing them, just let me know and we
2 can address that. This is a calendar invitation
3 that you send around on June 12, 2017 under the
4 subject line "CPMS 10986, Red Hill Valley Parkway
5 rehabilitation."

6 And, Registrar, if you can
7 just call out the invitees to that meeting.

8 You invite Mike Becke,
9 Ms. Jacob, Richard Andoga and Jason Worrton to this
10 meeting. Is this the primary meeting that you
11 mentioned that you generally have at the outset of
12 a project to discuss scope?

13 A. This meeting is the start
14 of my tenure and upon reviewing the scope I found
15 there was scope provided by traffic, so I invited
16 traffic and asset management who provide the scope
17 and design my supervisors.

18 Q. Okay. So, you invited
19 Mr. Worrton because you noticed that there was some
20 scope provided by traffic in the document you
21 received from asset management?

22 A. Mm-hmm. That's correct.

23 Q. I'm going to take you
24 into that document.

25 Registrar, you can close this

1 down and take us into HAM26047, please, and call
2 up images 1 and 2.

3 So, this is the detail report
4 for the Red Hill Valley Parkway rehabilitation
5 that was included in the calendar invitation that
6 we were just looking at. Is this document
7 prepared by asset management?

8 A. It's in the system. It
9 is uploaded by, I believe it is, all this is put
10 together by asset management, yes.

11 Q. And it would have been
12 prepared by Alan Jazvac as the project manager?

13 A. I can see the
14 initials there, yes, AJ.

15 Q. And so, at the very top
16 of image 1 under Details, this has a project
17 number, a budget year, which is 2018, and a
18 construction year, which is also 2018. The detail
19 sheet also specifies that the rehabilitation is in
20 the northbound direction.

21 This information sheet, as I
22 understand it, is particular to the northbound Red
23 Hill Valley Parkway resurfacing?

24 A. Yes, that's correct.

25 Q. And the red part on the

1 map on the first page, is that the area that's to
2 be rehabilitated?

3 A. Yes. The red part shows
4 the entire Red Hill Valley Parkway highlighted,
5 but again, if we read the scope, it calls for
6 specifically the northbound direction.

7 Q. Yes, and we can do that.
8 Registrar, at the top of image 2, there's limits
9 at the very top right under road rehabilitation.

10 And so, I think that that's
11 what you're referring to, Mr. Vala?

12 A. Yes.

13 Q. Where it sets the limit
14 and it specifies northbound?

15 A. That's correct.

16 Q. At this point in time, I
17 take it that engineering services was planning a
18 phased resurfacing of the Red Hill?

19 A. That's correct.

20 Q. What was the anticipated
21 timing for the two phases, so northbound,
22 southbound, resurfacing as of June 2017, when this
23 detailed sheet is circulated?

24 A. At that time, in 2018,
25 the northbound or the northbound lanes were

1 supposed to be rehabilitated or resurfaced and the
2 other direction would be done the following year,
3 in 2019.

4 Q. Okay. Registrar, you can
5 close that call out and if you could call out the
6 section under Traffic Scope, which is just below.

7 So, there's a section here
8 under Traffic Scope, Mr. Vala, and you'll see that
9 there are a number of items flagged in all capital
10 letters that say "to be discussed further,"
11 including modifications to alignments, median
12 barriers.

13 Do you recall reviewing that
14 section of the detail sheet?

15 A. Yes.

16 Q. And I take it from the
17 fact that this is prepared by Mr. Jazvac that
18 those notes in the all capital are from asset
19 management?

20 A. Most likely.

21 Q. Okay. At this time, in
22 June 2017, what, if anything, were you told about
23 the rationale for traffic's requests in the scope
24 of the repaving project?

25 A. I mean, I didn't have

1 anything else other than this, which was the
2 reason why I wanted to confirm the scope and call
3 for the meeting here.

4 Q. Were these requests
5 discussed in more detail at that meeting?

6 A. Yeah. The intent of the
7 meeting was to confirm what was needed to be done,
8 what was needed to be delivered, because there
9 were a few things which were left open-ended.

10 Q. And do you recall what
11 was said about the items flagged for further
12 discussion at that meeting?

13 A. I can't exactly recall,
14 but scope, a detailed scope from traffic was
15 provided following that meeting.

16 Q. Okay. Were there any
17 discussions of median barriers at the initial
18 meeting?

19 A. Sorry, I can't recall.

20 Q. Okay. At this time, so
21 June 2017, were you aware of any safety concerns
22 related to the Red Hill Valley Parkway?

23 A. No.

24 Q. Were you aware of any
25 complaints about the pavement on the Red Hill

1 Valley Parkway being slippery when wet? Sorry, I
2 didn't catch that.

3 A. No.

4 Q. Had you been told
5 anything about friction levels on the Red Hill
6 Valley Parkway?

7 A. Not that I can recall.

8 Q. Okay. Had you been
9 advised of top-down cracking on the Red Hill
10 Valley Parkway?

11 A. No.

12 Q. Were you given any
13 reports from City consultants about the Red Hill
14 Valley Parkway to review following this meeting
15 that you had to discuss the scope?

16 A. At what point in time?
17 Following this meeting?

18 Q. This is June 2017 when
19 you had this meeting to discuss the scope.

20 A. So, around June 2017, no.

21 Q. Okay. Registrar, if you
22 can close this down and if you could please take
23 us into HAM26073 and call up images 2 and 3,
24 please.

25 So, this is Mr. Worrton

1 responding to your calendar appointment or
2 invitation on June 12, 2017 and he sends an e-mail
3 around with traffic engineering's proposed scope.

4 Do you recall receiving this e-mail?

5 A. Yes.

6 Q. What did you think of the
7 scope that was traffic was proposing for inclusion
8 in the resurfacing project?

9 A. I didn't think anything.

10 Q. Was it atypical for
11 traffic to make requests at this level and in
12 detail for a resurfacing project?

13 A. I was fairly new to the
14 City. I started in 2016. And, based on my
15 experience working at the City, a scope of this
16 size was not typical, like, once the scope's been
17 set, so...

18 Q. So, it was a little bit
19 out of the ordinary, from your perspective
20 anyways?

21 A. Yeah. I just like to
22 also add that there were also a few items that
23 were left open-ended when the scope was set, so...

24 Q. Right. And for your job,
25 is it problematic for you if items in the scope

1 are left open-ended?

2 A. Yeah. I can't deliver
3 things without knowing what needs to be done.

4 Q. How exactly do open-ended
5 items in a scope impact your ability to work on
6 and put together a tender?

7 A. I wouldn't be able to
8 tell the contractor what needed to be done if
9 things are left open-ended.

10 Q. Okay. Who was
11 responsible for working with traffic engineering
12 to define and sort out what the scope of the
13 resurfacing project should be?

14 A. I don't know, but if I'd
15 have to guess, probably asset management.

16 Q. Who makes the final call
17 as to what is and isn't included in the scope of a
18 repaving project?

19 A. I believe it's a
20 collective decision, but I don't know exactly who
21 makes the decision.

22 Q. A collective decision
23 made by who?

24 A. I assume engineering
25 services. I don't want to speculate. I'm not

1 sure.

2 Q. Okay. If there was
3 dispute between project groups, would the decision
4 about what was and wasn't included in the scope be
5 resolved at the director level, in your view?

6 A. Probably.

7 Q. Registrar, could you pull
8 up image 1 of this document.

9 So, you'll see that Mr. Andoga
10 forwards Mr. Worrone's e-mail setting out traffic's
11 proposed scope. He removes the traffic operations
12 and engineering staff from the e-mail and he
13 forwards it to Mr. Moore, copying Ms. Jacob,
14 yourself and others in design, as well as
15 Ms. Matthews-Malone and Brian Hughes.

16 A. I don't think I was
17 copied.

18 Q. I'm sorry, you get added
19 in up above, the next e-mail up. My apologies.

20 Do you recall receiving this
21 e-mail from Ms. Jacob to you where she says:

22 "Gary is working with
23 John Mater, director of
24 transportation on this.
25 Please don't act on the

1 scope below until he has
2 cleared it."

3 A. Yes.

4 Q. Was it atypical in your
5 view and your experience up to this point,
6 recognizing that you only started in 2016, for two
7 directors to be working to confirm the scope of a
8 repaving project?

9 A. Not having a set scope
10 was in itself atypical.

11 Q. Was it out of the
12 ordinary for you to receive a direction from
13 Ms. Jacob not to act on the scope of a project?

14 A. At that time, it didn't
15 seem out of the ordinary.

16 Q. Because you would have
17 had trouble acting on it given that it wasn't
18 defined?

19 A. Yes.

20 Q. Ms. Jacob says at the end
21 of this e-mail to you:

22 "Always ensure the
23 budgets match the scope
24 provided."

25 What did you understand that

1 to mean?

2 A. I recall that the scope
3 being provided -- I thought at that point of time
4 that probably the scope provided wouldn't be fit
5 in the budget allocated for the project, so that
6 needed to be sorted out.

7 Q. Had you had discussions
8 with Ms. Jacob, Mr. Becke or anyone else in your
9 group or engineering services generally about
10 concerns about the expense of the scope that
11 traffic engineering was proposing? Sorry, just
12 for the record, can you say your response out
13 loud?

14 A. I didn't. I think it was
15 all happening so fast. Like, the e-mail came the
16 same day and then the response from Susan Jacob
17 also came the same day, so I don't think I had the
18 opportunity to discuss anything about it.

19 Q. Okay. Registrar, can you
20 take this down and take us to HAM5442 at image 1,
21 please.

22 So, on June 16, 2017,
23 Mr. Ferguson sends an update on traffic
24 engineering's proposed scope for the resurfacing
25 project. Do you recall receiving this e-mail?

1 A. Yeah.

2 Q. Registrar, could you
3 please call out the very last paragraph of
4 Mr. Ferguson's e-mail.

5 So, I'll give you a moment to
6 review this, but Mr. Ferguson asks for
7 confirmation that the ramps will be repaved as
8 part of the resurfacing project, and he references
9 collisions on a particular ramp in wet weather
10 conditions. Did you take note of Mr. Ferguson's
11 comments about the off-ramp to the Stone Church
12 and Upper Red Hill Valley Parkway in this e-mail
13 when you received it?

14 A. I'm still reading through
15 it, so if you can give me a --

16 Q. Yes, absolutely. Take
17 your time.

18 A. This was included in the
19 e-mail, yes.

20 Q. Did you take note of
21 Mr. Ferguson's comments about the off-ramp to
22 Stone Church and Upper Red Hill Valley Parkway?

23 A. It is in the e-mail and
24 it's directed to all the relevant people who would
25 define the scope and the scope was still being set

1 at that point in time, so I didn't take any
2 further note.

3 Q. Okay. But you reviewed
4 it?

5 A. Yes.

6 Q. So, Mr. Ferguson says
7 that if the ramps are resurfaced, the City might
8 want to add some additional friction on that
9 particular ramp. Was any additional pavement
10 friction process applied to the Stone Church Upper
11 Red Hill Valley ramp as part of the Red Hill
12 Valley Parkway repaving?

13 A. No.

14 Q. Prior to this e-mail from
15 Mr. Ferguson, had you ever discussed friction
16 levels on the Red Hill Valley Parkway with anyone
17 else within the City?

18 A. No.

19 Q. Registrar, you can take
20 this down. Thank you. And if you could take us
21 to HAM26106 at image 2.

22 So, Mr. Andoga responds to
23 Mr. Ferguson's e-mail. You're still copied. And
24 the first paragraph of his e-mail, you'll see,
25 says:

1 "Upon further review,
2 we'll proceed with the
3 project scope as outlined
4 in your e-mail. We're
5 assuming the request for
6 mentioned placement of
7 continuous guide rail
8 and/or the previous
9 discussion surrounding
10 lighting improvements
11 will not be required."

12 It goes on to say:

13 "Council direction as
14 well as funding source
15 will be required for any
16 such enhancements."

17 Do you recall any previous
18 discussions regarding lighting improvement said on
19 the Red Hill Valley Parkway in connection with the
20 resurfacing project?

21 A. I don't. Sorry.

22 Q. You don't know what
23 improvements traffic had requested?

24 A. No.

25 Q. Did you understand from

1 this e-mail that Mr. Andoga was effectively
2 rejecting the proposal for median barriers and
3 continuous lighting unless traffic could obtain
4 council direction and a funding source for those
5 items?

6 A. Sorry, can you repeat the
7 question?

8 Q. Did you understand from
9 this e-mail that Mr. Andoga was effectively
10 indicating that lighting improvements and a median
11 barrier would not be included in the resurfacing
12 project unless traffic was able to secure a
13 funding source and council direction?

14 A. Okay. Yes.

15 Q. Okay. Did you have any
16 discussions with Mr. Andoga about this e-mail
17 before he sent it?

18 A. No.

19 Q. Okay. Any discussions
20 with him after he sent it?

21 A. No.

22 Q. So, following this e-mail
23 exchange and some others, traffic does decide not
24 to pursue the median barriers or lighting
25 improvements as part of the Red Hill Valley

1 Parkway rehabilitation scope. Were you involved
2 in any of the discussions leading up to that
3 decision?

4 A. No.

5 Q. Do you know why traffic
6 made the decision to remove those requests from
7 their requested scope?

8 A. I'm not sure.

9 Q. Registrar, you can take
10 this down and if you can take us to GOL3008,
11 please.

12 So, on October 4, 2017
13 Mr. Becke e-mails Dr. Uzarowski at Golder. You're
14 not copied, but Mr. Becke sets out an agenda for a
15 meeting that he's scheduling and you'll see that
16 you're referenced at item 4.

17 Registrar, can you call out
18 item 4 of the agenda.

19 So, the agenda there says:

20 "Asphalt for the Red Hill
21 Valley Parkway
22 resurfacing. I will get
23 Sarath to come in to
24 discuss this one with
25 us."

1 At this point in time, so
2 that's October 2017, had you ever met
3 Dr. Uzarowski previously?

4 A. No.

5 Q. Had you done any prior
6 work with Golder?

7 A. No, not --

8 Q. Sorry, did you say not
9 really?

10 A. Not at the City.

11 Q. Okay. Had you worked
12 with him in prior roles outside of the City?

13 A. I might have in
14 consulting.

15 Q. But you don't think you
16 would have met Dr. Uzarowski?

17 A. No.

18 Q. So, Mr. Becke says that
19 he will bring you in to talk about the asphalt for
20 the resurfacing. Why was he bringing you into
21 this meeting with Dr. Uzarowski?

22 A. I'm not sure, but because
23 it was related to the Red Hill Valley Parkway
24 resurfacing.

25 Q. Okay.

1 A. As I was the project
2 manager, maybe he thought I should be informed.

3 Q. Okay. When you are
4 engaged as the project manager for a resurfacing
5 project, what is your role in assessing asphalt
6 mix generally?

7 A. Not much. We prescribe
8 typically on a resurfacing project based on
9 guidance what surface mix and binder mix, if it is
10 reconstruction, needs to be applied based on the
11 MTO guidance and the City's standard guidance
12 available. Other than that, not much.

13 Q. Is that an assessment
14 that you make?

15 A. Sorry, which assessment?

16 Q. The assessment about
17 which type of asphalt mix to use for a repaving
18 project.

19 A. Typically on an arterial
20 road paving project, there is guidance available
21 and, based on the guidance and the traffic, we
22 determine which mix to go. It's a collaborative
23 effort.

24 Q. Okay. A collaborative
25 effort between two?

1 A. Between design.
2 Typically I used to discuss it with Mr. Becke and
3 also at that point in time we had another project
4 manager with some background in materials started
5 in construction, so Tyler Renaud, I used to
6 discuss with them as well.

7 Q. Do you recall discussing
8 the asphalt mix with Mr. Becke and Mr. Renaud --

9 A. No, not for this project.

10 Q. Okay. You said that
11 there's typically guidance available and you
12 mentioned guidance from the MTO. Is there other
13 guidance available as to which asphalt mix should
14 be selected?

15 A. That was a standard
16 guidance sheet that was available for all the
17 staff in design depending upon what the traffic
18 is, what kind of facility it was and which
19 suggests what surface mix to use.

20 Q. And so, generally on a
21 resurfacing project, you make the decision based
22 on a collaborative discussion within your group
23 based on that available guidance?

24 A. Yes.

25 Q. But that's not the

1 process that was followed for the Red Hill Valley
2 Parkway?

3 A. No. For the Red Hill
4 Valley Parkway, there was a consultant hired. But
5 I just wanted to add that that was also not a
6 typical arterial.

7 Q. What did you know about
8 the asphalt on the Red Hill Valley Parkway as of
9 October 2017?

10 A. I reviewed nothing
11 specific. I might have reviewed the drawings to
12 see what the pavement structure had been like.
13 But at that point in time still the scope was in
14 discussion, so I didn't get into the project as
15 much. I was waiting for the scope to be
16 confirmed.

17 Q. And did you know that
18 there was an SMA on the Red Hill Valley Parkway?

19 A. I'm not sure.

20 Q. Okay. Do you recall if
21 you attended a meeting with Dr. Uzarowski,
22 Mr. Becke and Mr. Oddi further to this e-mail?

23 A. My recollection is vague.
24 I might not have ended up attending this meeting,
25 but again, my recollection is vague.

1 Q. I may be able to assist
2 with that. Registrar, could you take this down
3 and take us to HAM1049 at image 2, please.

4 So, for your reference,
5 Mr. Vala, this is an e-mail exchange about the
6 limits of the resurfacing project and possibility
7 including a section of the LINC in the project.
8 But you'll see --

9 Registrar, could you please
10 call out the second paragraph of Mr. Vala's e-mail
11 at the bottom of this.

12 So, you'll see here in this
13 e-mail, which is a few days after that e-mail that
14 we were just looking at, you say:

15 "In a meeting Tuesday
16 morning with
17 Dr. Uzarowski, a pavement
18 specialist with Golder
19 Associates that was
20 closely involved in the
21 LINC and Red Hill project
22 construction, he
23 recommended that the
24 shoulders also be
25 referenced along with the

1 main lanes. There was a
2 dip analysis pavement
3 smoothness survey using
4 inertial profile
5 completed along the Red
6 Hill and to identify
7 locations with dips and
8 bumps that need to be
9 addressed during the
10 rehabilitation (by
11 padding the service after
12 the initial milling and
13 additional depth
14 milling.) The general
15 observation is that most
16 of the dips with due to
17 the presence of utilities
18 under the pavement or in
19 the transition slab areas
20 of the structure."

21 Does that help to refresh your
22 memory about whether or not you had a meeting with
23 Dr. Uzarowski?

24 A. It helps. Thanks.

25 Q. Okay. Does it help in

1 terms of what was discussed at that meeting?

2 A. Sure. Yes.

3 Q. Okay. What was discussed
4 at the meeting?

5 A. As I had stated, you
6 know, it looks like the shoulders -- it was
7 recommended that the shoulders also be resurfaced
8 as part of the project and that there was a dip
9 analysis that was done identifying that there were
10 areas which are dips and which couldn't be
11 addressed using the conventional, you know,
12 milling and resurfacing strategy, so which might
13 need additional depth milling, as I state in the
14 e-mail.

15 Q. At this meeting, do you
16 recall if Dr. Uzarowski gave you information about
17 the type of asphalt that had been used in the
18 construction of the Red Hill Valley Parkway?

19 A. I can't recall, no.

20 Q. Okay. Do you recall when
21 you learned that the Red Hill Valley Parkway was
22 paved with an SMA?

23 A. It is when I started
24 reviewing the record drawings that I looked at
25 what the structure was and at that point in time I

1 learned that it was a perpetual pavement and for
2 the surface, a stone mastic asphalt mix was used.

3 Q. Do you recall when you
4 started reviewing those drawings?

5 A. Not entirely sure. Maybe
6 around this time.

7 Q. Okay. At this meeting,
8 was there any reference at this point, in
9 October 2017, to the use of hot in-place recycling
10 on the Red Hill Valley Parkway?

11 A. I can't recall.

12 Q. Okay. So, you note that
13 there was a dip analysis done by Golder using an
14 inertial profile, sorry, inertial profiler. Were
15 you provided with the dip analysis, pavement
16 smoothness survey that Golder had done?

17 A. Later in the time. I
18 don't know if it was exactly around this time, but
19 I was provided with -- you know, I think it was
20 more around 2018 when additional samples were to
21 be collected. It's right before that I was
22 provided with some drawings and some charts that
23 Golder had done. I didn't have an entire
24 analysis. It was more of a drawings and charts
25 which identified what the bid was and what the

1 location was and around the stationing, so it was
2 plans and some tables showing what the dip, the
3 depth of the dip or bump was.

4 Q. And who provided you with
5 those documents and the inertial profiler testing
6 results for the Red Hill Valley Parkway?

7 A. I believe it was Mike
8 Becke and, you know, he wanted some help with, you
9 know, identifying locations with the most severe
10 dips for collecting samples. But it was -- I
11 think it was later in the year at a point in time
12 when hot in-place recycling was being considered
13 as a strategy.

14 Q. Okay. So, when Mr. Becke
15 provide you with those documents, did he give them
16 to you in hard copy form or electronically?

17 A. It was hard copy.

18 Q. At any point, were you
19 directed to electronic folders or systems in which
20 other information on the Red Hill Valley Parkway
21 could be found?

22 A. In relation to -- at this
23 point in time?

24 Q. In this point in time or
25 at any time leading up to 2019.

1 A. Later in the date, you
2 know, at one point of time when I was
3 participating in the CIMA safety assessment, you
4 know, CIMA had approached me for, you know,
5 understanding what the design speed of the
6 original Red Hill Valley Parkway was. And then at
7 that point in time, when I was trying to find that
8 out, I was directed to a folder where, you know,
9 some information was available from the original
10 design.

11 Q. Okay. And who directed
12 you to that folder?

13 A. I can't exactly recall.
14 It could have been Mr. Oddi.

15 Q. And you went there to
16 find the design speed of the Red Hill Valley
17 Parkway for CIMA's use for the roadside safety
18 assessment?

19 A. Yes. I found it from the
20 project detail report.

21 Q. Okay. So, stepping back
22 in time to October 2017, in addressing the
23 resurfacing strategy for the Red Hill Valley
24 Parkway, is assessing how to deal with dips and
25 bumps part of your role in design?

1 A. I think so. Mike asked
2 me to help me with that work, so I didn't think it
3 would fall within my role.

4 Q. Okay. So, you have a
5 line here in this e-mail about addressing those
6 dips and bumps by way of padding the surface after
7 initial milling and additional depth milling. And
8 what exactly does that mean?

9 A. The way I understood from
10 the conversation was that, you know, when the dip
11 locations were identified you know, you take it
12 out, mill some and then, like, you know, bring it
13 to the current grade. And that is what I
14 understood as initially mill it and then address
15 where the dip is, fix that dip, prior to actually
16 going and then milling it so that, you know, it
17 becomes a final smooth surface and averts the dip.

18 Q. Okay. So, the way you
19 said that, you said as I understood it from the
20 conversation. Is this strategy here for dealing
21 with dips and bumps on the Red Hill something that
22 was by your initiative or is this something that
23 was presented at the meeting with Dr. Uzarowski?

24 A. It was -- I can't recall
25 exactly. I don't think I initiated it. I think

1 it was something that came out of the discussion
2 at the meeting.

3 Q. Okay. Do you know who
4 proposed this as a means of dealing with the dips
5 and bumps?

6 A. I can't recall. There
7 were discussions happening and this was one of the
8 options, I believe, that was suggested.

9 Q. Okay. Do you recall if
10 this idea was presented by Dr. Uzarowski?

11 A. Sorry, I can't recall.

12 Q. Do you recall if, aside
13 from this proposed manner of addressing the dips
14 and bumps, there were any other means of
15 addressing the dips and bumps on the Red Hill
16 Valley Parkway discussed at this meeting with
17 Dr. Uzarowski?

18 A. No, I can't recall.

19 Q. Okay. Registrar, could
20 you close this down and just call out the final
21 line of this e-mail under Harry. So, down here,
22 you say:

23 "Harry, Susan has
24 suggested that all the
25 sewers and culverts

1 crossing the Red Hill be
2 inspected/CCTV to ensure
3 that the dips aren't
4 being caused due to any
5 structural damage."

6 Can you expand a little bit on
7 what you meant by that?

8 A. Sure. I think one of the
9 common themes that was identified as part of the
10 dip analysis which came up was typically wherever
11 there was underground infrastructure crossing the
12 road, like, you know, culverts or water mains or
13 storm sewers, you know, these dips were identified
14 at those locations. So, I believe in relation to
15 that, Susan might have suggested that we do CCTV
16 camera investigation of the existing underground
17 infrastructure, these culverts which are crossing
18 to make sure there is no structural failure for
19 the culverts themselves. If there is, just doing
20 the resurfacing of milling and overlaying would
21 not address when there is failure underneath the
22 pavement, so that was the context here.

23 Q. Do you recall what the
24 outcome of that inspection was?

25 A. I'm not sure if that CCTV

1 inspection was completed or not.

2 Q. Okay. Registrar, if you
3 could close this down and call out Mr. Andoga's
4 response, the e-mail right above.

5 So, Mr. Andoga responds to you
6 but he seems to be responding primarily to your
7 question about whether or not -- sorry, Registrar,
8 can you close that just a little bit so we can
9 still see the top of Mr. Vala's e-mail.

10 So, your e-mail in the first
11 paragraph is a question about whether or not --
12 yes, that's perfect, Registrar. Thank you. It's
13 a question about whether or not the Red Hill
14 Valley Parkway rehabilitation limits can be
15 extended to include a portion of the LINC that's
16 not covered in the LINC rehabilitation scope. Do
17 you see that?

18 A. Yes.

19 Q. Okay. And so, Mr. Andoga
20 responds and he seems, I think, to be responding
21 primarily to that point. He says:

22 "I don't have an issue."

23 And then he goes on to say:

24 "We are also dealing with
25 two very different

1 pavement types. Do we
2 have a defined strategy
3 confirmed to date?"

4 So, my understanding is that
5 is a reference to the pavement types on the Red
6 Hill and the LINC. What did you understand
7 Mr. Andoga to mean by that statement, that you
8 were dealing with two very different pavement
9 types?

10 A. My understanding was that
11 the pavement structure for LINC was different from
12 pavement structure of the Red Hill Valley Parkway.
13 The Red Hill Valley Parkway was a perpetual
14 pavement, which was different and could handle
15 more traffic, but I don't think it was the same
16 case with the pavement structure for LINC.

17 Q. And just quickly circling
18 back, I had asked you a question about
19 Mr. Ferguson's proposal about additional friction
20 on the Stone Church upper Red Hill Valley
21 off-ramp. At this point, did you have any
22 knowledge as to whether or not that ramp had any
23 SMA mix on it?

24 A. No.

25 Q. Okay. Did you ever come

1 to learn any information one way or the other
2 about what that ramp was paved with?

3 A. No.

4 Q. Okay. Did you end up
5 extending the limits of the Red Hill Valley
6 Parkway resurfacing project as proposed in this
7 e-mail exchange?

8 A. Yeah, modifying the
9 limits. It was actually a reduction in the
10 limits.

11 Q. So, you did modify them?

12 A. I believe so, yes.

13 Q. When Mr. Andoga asks you
14 about a defined strategy, what did you understand
15 him to mean by that?

16 A. From what I gathered, I
17 don't exactly remember, but reading now I'm
18 thinking it would be, like, you know, in the scope
19 of the project, you know, what resurfacing
20 strategy needs to be done is defined. And for
21 this project, it wasn't defined, like, if it was
22 milling 50mm and then repaving 50mm. So, I was
23 thinking, like, whether or not that decision has
24 been made or not.

25 Q. Okay. Registrar, you can

1 take this down and if you can take us to OD 8,
2 image 35, at paragraph 92, please.

3 So, on December 14, 2017, you
4 e-mailed Paul Nunes at the MTO about the proposed
5 resurfacing of the Red Hill Valley Parkway in
6 2018. My understanding of this is that you're
7 primarily e-mailing him to find out if you are
8 going to require an MTO encroachment permit for
9 the work?

10 A. That's correct.

11 Q. I understand from this
12 e-mail that at this time, the intention was still
13 to reference the northbound lanes of the Red Hill
14 Valley Parkway and that that was planned for the
15 spring/summer of 2018. Is that right?

16 A. That's correct.

17 Q. Okay. So, this is
18 December 2017. Had the scope for the resurfacing
19 project been settled at this point?

20 A. I don't think so.

21 Q. What aspects of it were
22 still unsettled?

23 A. The traffic scope wasn't
24 settled, the resurfacing strategy, whether it was
25 a 50mm milling or overlay. That hasn't been

1 settled. So, all the things that are being
2 discussed in the e-mail, I don't think a
3 resolution ever came.

4 Q. Okay. In an ideal
5 situation, how long would you generally want to
6 complete the design and tendering process for a
7 project the size of the Red Hill Valley Parkway
8 resurfacing?

9 A. It depends on the scope.
10 If it were to be a simple mill and overlay, you
11 know, something like four to six weeks would have
12 been sufficient to take the project to tender.
13 But if it entailed other aspects, you know, which
14 involved including other disciplines within the
15 City and then any underground work or, you know,
16 we did various things like that which require
17 additional design, you know, the time would have
18 been increased.

19 Q. And when would you need
20 to tender the project in order to meet a
21 spring/summer 2018 repaving schedule?

22 A. For what scope?

23 Q. For either of the scopes
24 that were under consideration at this point in
25 time for the Red Hill Valley Parkway.

1 A. If it were to be a simple
2 mill and overlay, it would have gone anywhere
3 between April up to early -- late May, late May or
4 early June. But if it included any additional
5 scope, then if it was milling various and
6 depending upon how much of it, you know, decided,
7 like, you know, whether or not it could be in
8 April or March.

9 Q. To your knowledge, when
10 did the City first start considering hot in-place
11 recycling for use on the Red Hill Valley Parkway?

12 A. I don't remember the
13 exact date, but probably somewhere in 2018.

14 Q. Registrar, could you take
15 this down and take us to HAM1132, please.
16 Registrar, could you take us to HAM1132, please.

17 So, Mr. Vala, this is a
18 calendar appointment for a meeting scheduled on
19 March 9, 2018 with Dr. Uzarowski to talk about hot
20 in-place recycling on the Red Hill Valley Parkway.
21 Do you recall attending this meeting?

22 A. Which meeting is this
23 about? Sorry, the date?

24 Q. So, the meeting is
25 scheduled for March 9, 2018.

1 A. Yeah. I might have
2 attended this, yes.

3 Q. Okay. Before this
4 meeting, how involved had you been in discussions
5 about the City's considerations around hot
6 in-place recycling?

7 A. Not much.

8 Q. Okay. Not much or not at
9 all?

10 A. I would say not at all.

11 Q. Okay. Were you involved
12 in the technical analysis of whether hot in-place
13 recycling could be used on the Red Hill Valley
14 Parkway?

15 A. No.

16 Q. Who was primarily
17 responsible for assessing or considering the use
18 of hot in-place recycling on the Red Hill Valley
19 Parkway?

20 A. I'm not sure, but I was
21 getting the updates from Mr. Mike Becke.

22 Q. Okay. Did you understand
23 that Mr. Becke had a role in the assessment of the
24 use of hot in-place recycling on the Red Hill
25 Valley Parkway?

1 A. Somewhat, yes.

2 Q. What do you mean by
3 somewhat?

4 A. Because he was the person
5 providing me with the information on where things
6 were, updates.

7 Q. Okay. Was it your
8 understanding that you would continue in the role
9 of project manager for the Red Hill Valley Parkway
10 repaving project if the City opted to use hot
11 in-place?

12 A. I wasn't sure what was
13 going to happen if hot in-place recycling would
14 have been obtained and if hot in-place recycling
15 would have been pursued. I wasn't sure which form
16 and if the project would have gone through the
17 tendering process, and --

18 Q. So, you weren't certain
19 if you would continue as project manager if hot
20 in-place was used with on the Red Hill Valley
21 Parkway?

22 A. Yes, I was not.

23 Q. Okay. Did you have any
24 expectation as to who would potentially take over
25 your role as project manager if the City opted to

1 use hot in-place?

2 A. I wasn't sure, no.

3 Q. Registrar, could you call
4 out the list of invitees, so the two on this
5 e-mail.

6 So, these are the individuals
7 that this calendar invitation is sent to. Do you
8 recall who among these individuals attended the
9 meeting on March 9, 2018?

10 A. I recall a few people
11 attending it. I don't recall. Dr. Uzarowski was
12 there, Mr. Becke was there, Mr. Oddi was there, my
13 manager, Susan Jacob, was there --

14 Q. Do you recall --

15 A. Gary Moore was there.

16 Q. Okay. And do you recall
17 if Mr. Andoga was there?

18 A. I can't recall him
19 either. I'm not certain. It's vague.

20 Q. I also see
21 Dennis Perusin, Claudio Leon and Tyler Renaud
22 listed here. Do you remember if any of those
23 three individuals attended the meeting?

24 A. I'm not certain.

25 Q. Okay. Registrar, you can

1 close this down. Thank you. And if you could
2 please take us to OD 8, image 69, paragraph 193.

3 So, you'll see here that
4 Dr. Uzarowski replies to the calendar invite and
5 he actually only sends this response to Mr. Becke,
6 so you're not copied.

7 But, Registrar, could you call
8 out paragraph 193, please.

9 And, Mr. Vala, if you could
10 take a moment to review that, please, and let me
11 know when you have done that.

12 A. Sure. Okay.

13 Q. Did Mr. Becke update you
14 about this e-mail from Dr. Uzarowski?

15 A. I don't think so. I
16 can't recall.

17 Q. Did he advise you at any
18 time in advance of the March 9, 2018 meeting that
19 Dr. Uzarowski had suggested that hot in-place
20 recycling might not be feasible on an SMA surface
21 like the Red Hill?

22 A. I don't think so.

23 Q. Okay. Do you know who
24 Pat Wiley is?

25 A. No.

1 Q. Had you ever heard the
2 term EcoPave before?

3 A. No.

4 Q. Did you have any sense as
5 to why the City was considering using hot in-place
6 recycling on the Red Hill Valley Parkway?

7 A. No.

8 Q. Registrar, you can close
9 this down. Thank you.

10 Commissioner, I'm about to ask
11 some more detailed questions about the March 9,
12 2018 meeting, but I see that I've taken us
13 slightly over our time for the break and I think
14 this might be an ideal place for before we dive
15 into the meeting.

16 JUSTICE WILTON-SIEGEL: That's
17 good. Then let's take the break. We'll return at
18 a quarter to 4:00.

19 --- Recess taken at 3:27 p.m.

20 --- Upon resuming at 3:45 p.m.

21 MS. BRUCKNER: Commissioner,
22 may I proceed?

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

25 MS. BRUCKNER: Thank you.

1 BY MS. BRUCKNER:

2 Q. Mr. Vala, before we took
3 our break we were talking about the lead-up to the
4 March 9, 2018 meeting with Dr. Uzarowski about hot
5 in-place recycling on the Red Hill Valley Parkway.

6 A. Yes.

7 Q. And you recalled that you
8 attended this meeting?

9 A. Yes.

10 Q. What was discussed at the
11 March 9, 2018 meeting?

12 A. I don't recall the
13 details, but, you know, generally speaking it was
14 about determining the feasibility of hot in-place
15 recycling strategy for the resurfacing of Red Hill
16 Valley Parkway.

17 Q. Okay. Did Dr. Uzarowski
18 advise at that meeting that hot in-place recycling
19 would not be feasible on the Red Hill Valley
20 Parkway?

21 A. I can't recall the exact
22 words, but I think it was to that effect.

23 Q. Okay. Registrar, could
24 you please take us to OD 8, image 76,
25 paragraph 207.

1 So, Mr. Vala, for your
2 reference, Mr. Becke took some meeting notes at
3 this meeting, which we have transcribed in our
4 overview document.

5 Registrar, if you don't mind
6 just calling out the text there of the notes.

7 Mr. Vala, could you take a
8 moment to review these notes and let me know when
9 you have done that?

10 A. Okay.

11 Q. So, on my review, it
12 looks like the first three bullet points in
13 Mr. Becke's notes relate to the process of using
14 hot in-place recycling on an SMA specifically. Do
15 you recall any discussions at the March 9, 2018
16 meeting was the feasibility of using hot in-place
17 recycling on SMA?

18 A. I think that's what the
19 meeting -- yes, that happened at the meeting.

20 Q. Okay. Do you recall why
21 Dr. Uzarowski indicated that hot in-place
22 recycling might not be feasible on the Red Hill
23 Valley Parkway or an SMA surface?

24 A. I can't recall. I didn't
25 understand the details of the discussion.

1 Q. Okay. Is that because
2 you don't have or why didn't you understand the
3 details?

4 A. They were terminology and
5 techniques being discussed which I was not
6 familiar with.

7 Q. Okay. So, there's a line
8 five points down that says:

9 "Sample for HIP to go to
10 BC? Do it as a section
11 of the repairs to the
12 'dips' in RHVP."

13 And it's my understanding that
14 you did end up identifying locations of dips on
15 the Red Hill Valley Parkway for the collection of
16 samples for the hot in-place recycling testing in
17 or around June 2018. Is that correct?

18 A. Yes. Yes, I did identify
19 the sample locations.

20 Q. Other than identifying
21 the sample locations, did you have any other
22 direct involvement in the hot in-place recycling
23 analysis for the Red Hill Valley Parkway?

24 A. No.

25 Q. Do you recall the tone of

1 the meeting or the mood of the room at the
2 March 9, 2018 meeting.

3 A. There was discussions
4 back and forth happening about this and there were
5 some raised voices.

6 Q. Okay. Raised voices,
7 that can mean a couple of different things. Would
8 you describe those voices as being angry?

9 A. Yeah, it was more like a
10 raised voice. I'm not sure if exactly anger would
11 be the expression --

12 Q. Okay. What would be the
13 expression?

14 A. Could be frustration.

15 Q. Okay. Who was raising
16 their voice at the meeting?

17 A. I remember Gary Moore
18 was, you know, speaking loudly.

19 Q. Okay. Was anyone else
20 raising their voice or speaking loudly at the
21 meeting?

22 A. No.

23 Q. Okay. You said you would
24 describe it as frustration. Do you recall what
25 Mr. Moore was frustrated about?

1 A. I don't recall the words
2 or the lines, but I believe the context was about
3 at one point of time Dr. Uzarowski had stated that
4 the hot in-place recycling was a feasible option
5 on this, on Red Hill Valley Parkway, and in the
6 meeting I believe he was conveying that it was not
7 possible.

8 Q. Okay. And Mr. Moore was
9 frustrated about that?

10 A. Yes.

11 Q. Okay. So, Dr. Uzarowski
12 has testified before the inquiry and he indicated
13 that, from his perspective, the tone of the
14 meeting changed when he advised that hot in-place
15 recycling would not be feasible on the Red Hill.
16 He describes Mr. Moore's reaction as heated and
17 said there was some not-typically-used language
18 used, which I believe refers to obscenities. Do
19 you recall anyone using profanity or other strong
20 language at the March 9, 2019 meeting?

21 A. I can't recall.

22 Q. Dr. Uzarowski indicated
23 that it was his recollection that Mr. Oddi became
24 involved in the conversation and sided with
25 Dr. Uzarowski in the discussion around hot

1 in-place resurfacing and that he and Mr. Moore
2 engaged in an angry exchange after that point. Do
3 you recall Mr. Moore and Mr. Oddi engaging in an
4 exchange where their voices were raised or there
5 was a high adrenaline at the March 9, 2018
6 meeting?

7 A. I can't recall exactly
8 what was being said, but I remember that Gary was
9 speaking in a higher voice.

10 Q. Okay. Do you recall
11 Mr. Oddi speaking in a higher voice?

12 A. No.

13 Q. Do you recall what
14 Mr. Oddi's contribution was to the meeting?

15 A. I can't recall the
16 contribution, but I believe he was there attending
17 it because he was involved in the original
18 construction of Red Hill Valley Parkway.

19 Q. Okay. Do you recall him
20 making contributions about the construction of the
21 Red Hill Valley Parkway?

22 A. Probably. I don't have
23 the -- I can't recall exactly what he was saying,
24 but the context was around that.

25 Q. Okay. From your

1 perspective, was there anything abnormal about the
2 tone or conduct of the participants at the
3 March 9, 2018 meeting?

4 A. When you say abnormal,
5 yeah. There was raised voices. That was abnormal
6 for a meeting.

7 Q. Okay. Other than
8 Mr. Moore, Dr. Uzarowski and Mr. Oddi, do you
9 recall anyone else speaking at the meeting?

10 A. No.

11 Q. Did you personally
12 contribute orally to the meeting?

13 A. No.

14 Q. Do you recall what
15 contribution Mr. Moore made to the discussion,
16 aside from what we've just discussed?

17 A. I can't recall.

18 Q. Do you recall if
19 Mr. Becke made any contributions to the meeting?

20 A. I believe he was working
21 with Dr. Uzarowski on asphalt. I'm not sure
22 exactly whether if it was for the Red Hill Valley
23 Parkway or something else.

24 Q. Do you recall if he spoke
25 about the work he was doing with Dr. Uzarowski at

1 the March 9, 2018 meeting?

2 A. I can't recall. Sorry.

3 Q. In your view, was anyone
4 making decisions at this meeting?

5 A. I don't think any
6 decisions were made at the meeting. It was more
7 of a discussion.

8 Q. Do you recall anyone
9 leaving the meeting before it was over?

10 A. No.

11 Q. Okay. To your knowledge,
12 did Mr. Moore and Ms. Jacob remain at the meeting
13 until it ended?

14 A. I'm not sure. Probably.

15 Q. Okay. Do you recall if
16 some of the attendees at the meeting stayed
17 afterwards to continue a discussion with
18 Dr. Uzarowski?

19 A. Sorry, I'm not sure.

20 Q. Did you personally stay
21 after the meeting concluded to speak to
22 Dr. Uzarowski?

23 A. I don't think so, so no.

24 Q. Registrar, can you please
25 leave this up but split screen with GOL5970.

1 Thank you.

2 So, just to orient you,
3 Mr. Vala, I'm leaving Mr. Becke's notes from the
4 meeting up on the screen, but beside them I've
5 pulled up an e-mail that Dr. Uzarowski circulates
6 internally at Golder on March 14, 2018 which is an
7 internal memo that he sends to his colleagues
8 describing the meeting on March 9, 2018. Could
9 you take a look at Dr. Uzarowski's notes and let
10 me know when you have done that?

11 A. Okay. Okay.

12 Q. Are Dr. Uzarowski's notes
13 consistent with your recollection of the March 9
14 meeting?

15 A. No.

16 Q. Okay. What elements are
17 inconsistent with your recollection?

18 A. The third paragraph.

19 Q. Okay.

20 A. Where it refers to
21 specific technology and --

22 Q. Okay.

23 A. Yeah, and the Tradewind
24 Scientific report.

25 Q. Okay. Is it inconsistent

1 with your recollection because, to your knowledge,
2 those things weren't discussed or because you
3 don't recall those things being discussed?

4 A. I can't recall these
5 things being discussed, not the report.

6 Q. Okay. Do you recall
7 Dr. Uzarowski communicating to those in attendance
8 at the meeting that hot in-place recycling of SMA
9 should be approached with caution?

10 MR. MISHRA: Mr. Commissioner,
11 I just need to interject. I want it noted that
12 Mr. Vala is being asked to interpret a set of
13 notes that he didn't prepare, nor that he was
14 copied on. So, I just think we need to have
15 some -- there's some hesitation in terms of some
16 of these questions that are being asked and --

17 JUSTICE WILTON-SIEGEL:
18 Mr. Mishra, the last questions have been with
19 specific reference to statements in
20 Dr. Uzarowski's internal memo and I think it's
21 perfectly reasonable to point to those statements
22 and ask whether he has any recall of those matters
23 being discussed.

24 Now, I can't recall what the
25 most recent question was. Could that be restated,

1 please?

2 MS. BRUCKNER: I believe the
3 question was: Did Dr. Uzarowski communicate to
4 those in attendance that hot in-place recycling of
5 SMA was to be approached with caution?

6 MR. MISHRA: Sorry,
7 Mr. Commissioner. My concern was not with that
8 line of questioning but the previous question
9 where he was asked to interpret what parts of the
10 notes he found were problematic or he disagreed
11 with.

12 JUSTICE WILTON-SIEGEL: All
13 right. Well, I think we passed on that question
14 anyway, passed by it, and I think I'm not
15 proposing to go back and strike it, if that's what
16 your suggestion is.

17 MR. MISHRA: Okay.
18 Understood, Mr. Commissioner.

19 JUSTICE WILTON-SIEGEL: And
20 I'm not sure anything will turn on it and, to the
21 extent it does, you can certainly address that in
22 subsequent submissions at the end of this section
23 of the evidence.

24 MR. MISHRA: Understood. I
25 only raised the objection just in terms of the

1 weight of the evidence that he provided.

2 JUSTICE WILTON-SIEGEL: But
3 that's for another day.

4 MR. MISHRA: Understood.

5 JUSTICE WILTON-SIEGEL: Okay.
6 Please proceed, Ms. Bruckner.

7 BY MS. BRUCKNER:

8 Q. Mr. Vala, did
9 Dr. Uzarowski communicate to those in attendance
10 at the March 9, 2018 meeting that hot in-place
11 recycling of SMA was to be approached with
12 caution?

13 A. I'm not sure. He might
14 have. I'm not sure.

15 Q. So, we were just
16 discussing the third paragraph of Dr. Uzarowski's
17 notes here, which you said were inconsistent with
18 your recollection as you didn't remember comments
19 of that nature.

20 And so, Dr. Uzarowski says:

21 "Frictional
22 characteristics, I
23 suggested applying
24 microsurfacing on hot
25 in-place recycled SMA if

1 they use hot in-place
2 recycling. This would
3 make the surface uniform
4 and offer good frictional
5 characteristics. Gary
6 rejected the idea."

7 I note that there is also a
8 reference that says "Gary - no to microsurfacing,"
9 in Mr. Becke's notes on the other side of the
10 page.

11 Did Mr. Moore reject the use
12 of microsurfacing on the Red Hill Valley Parkway
13 following hot in-place recycling at the March 9,
14 2018 meeting?

15 A. There were quite a few
16 things being discussed. Sorry, I can't recall
17 exactly if this was raised and rejected.

18 Q. Okay. Do you recall if
19 Dr. Uzarowski explained why microsurfacing would
20 be necessary or appropriate on the Red Hill Valley
21 Parkway following hot in-place recycling?

22 A. He might have. I'm not
23 certain.

24 Q. Okay. Dr. Uzarowski goes
25 on to say in that third paragraph:

1 "I then recommended skid
2 abrader or shot blasting,
3 at least the worst areas
4 indicated in the
5 Tradewind Scientific
6 report, to improve
7 friction of the current
8 surface if they delay
9 resurfacing. Marco
10 rejected the idea for
11 various reasons."

12 Did Marco Oddi reject or
13 comment on a suggestion from Dr. Uzarowski that
14 the City use Skidabrader or shot blasting on the
15 Red Hill Valley Parkway if the resurfacing of the
16 Red Hill Valley Parkway had to be delayed?

17 A. Sorry, I can't recall.

18 Q. Okay. You can't recall
19 one way or the other?

20 A. Yes, I can't recall if he
21 proposed it and it was rejected, no.

22 Q. Dr. Uzarowski testified
23 that he was told at the meeting that the City
24 could not implement any interim measures prior to
25 resurfacing because that would confirm that there

1 was a problem with the Red Hill Valley Parkway and
2 the public would blame the City. Did anyone from
3 the City make a comment of that nature at the
4 meeting, to your knowledge?

5 A. I don't think so. I
6 don't recall.

7 Q. Do you remember any
8 mention of the term skidabrading or shot blasting
9 at the meeting?

10 A. No.

11 Q. At this point in time,
12 would you have known what microsurfacing,
13 skidabrading and/or shot blasting were?

14 A. No.

15 Q. Okay. They're not
16 something thou that you would have encountered in
17 your role in design?

18 A. No, not in any of my
19 projects.

20 Q. Did you know that these
21 treatments can be used to increase frictional
22 characteristics on a roadway?

23 A. No.

24 Q. Do you recall
25 Dr. Uzarowski mentioning anything like the worst

1 areas of the Red Hill Valley Parkway at this
2 meeting?

3 A. I can't recall. Sorry.

4 Q. Okay. Do you recall
5 Dr. Uzarowski recommending any interim measures to
6 the existing pavement if resurfacing was delayed?

7 A. No, I can't recall. No.

8 Q. Was there any discussion
9 at the meeting about possible safety concerns if
10 the resurfacing of the Red Hill Valley Parkway was
11 delayed?

12 A. I don't think so, but I
13 can't state one way or the other.

14 Q. So, Mr. Becke's notes
15 state at the bottom, just at the bottom before the
16 line there:

17 "Concern with friction
18 numbers."

19 Were concern raised about
20 friction numbers on the Red Hill Valley Parkway at
21 the March 9, 2018 meeting?

22 A. Not that I could
23 understand. There was multiple things being
24 discussed. It didn't occur to me that there were
25 any concerns with friction.

1 Q. Do you have any expertise
2 in friction?

3 A. No.

4 Q. If there had been
5 discussions about friction numbers on the Red Hill
6 Valley Parkway, is that something that you would
7 have paid close attention to or flagged for your
8 own work in design?

9 A. If I would have
10 understood it, I would have.

11 Q. Okay. Do you recall what
12 information, if any, Dr. Uzarowski provided about
13 friction levels on the Red Hill Valley Parkway at
14 this meeting?

15 A. I can't recall, no.

16 Q. Did Dr. Uzarowski present
17 the results of friction testing from the Red Hill
18 Valley Parkway at the meeting?

19 A. I don't think so.

20 Q. Okay. To your knowledge,
21 did he present the results of friction testing
22 conducted by Tradewind Scientific?

23 A. I don't think so.

24 Q. You don't think so or you
25 don't recall one way or the other?

1 A. Memory is vague. It
2 doesn't ring a bell that any results were
3 presented.

4 Q. Okay. Did anyone at the
5 meeting mention the Tradewind Scientific report?

6 A. No.

7 Q. In March of 2018, would
8 the name Tradewind Scientific have meant anything
9 to you?

10 A. No.

11 Q. Okay. Were you at all
12 familiar with the company?

13 A. No.

14 Q. Had you ever heard the
15 name mentioned previously by City staff?

16 A. No.

17 Q. As of March 2018, did you
18 know that Tradewind had conducted friction testing
19 on the Red Hill Valley Parkway?

20 A. No.

21 Q. Had you ever heard any
22 discussions amongst City staff about friction
23 testing on the Red Hill Valley Parkway?

24 A. At that point in time?

25 Q. At that point in time.

1 A. No.

2 Q. Did you later hear
3 discussions about friction testing on the Red Hill
4 Valley Parkway separate from anything connected
5 with the hot in-place recycling?

6 A. Only when it was made
7 public.

8 Q. When the Tradewind report
9 was made public?

10 A. Yes.

11 Q. So, there's a line at the
12 bottom of Dr. Uzarowski's notes, paragraph 3, that
13 says:

14 "For your information, I
15 had recommended this
16 treatment before when
17 they let me know about
18 friction concerns on the
19 Red Hill Valley Parkway."

20 And I understand that to be in
21 reference to the microsurfacing or, sorry, the
22 skidabrading and shot blasting that he references
23 there. Were you ever advised that City staff had
24 concerns about friction on the Red Hill Valley
25 Parkway?

1 A. No.

2 Q. Were you ever advised
3 that Dr. Uzarowski had recommended skid abrading
4 or shot blasting on the Red Hill Valley Parkway
5 prior to March 9, 2018?

6 A. No.

7 Q. Following this meeting,
8 were you left with the impression that there was
9 an issue with friction levels on the Red Hill
10 Valley Parkway?

11 A. No.

12 Q. After this meeting, were
13 there any discussions back among engineering
14 services staff about microsurfacing, skidabrading,
15 shot blasting or improving the friction on the Red
16 Hill Valley Parkway in the short term if there was
17 not going to be a repaving?

18 A. No.

19 Q. Did you ever have any
20 conversations with anyone at Golder about friction
21 test results or the frictions properties of the
22 Red Hill Valley Parkway?

23 A. No.

24 Q. Was it your impression
25 that Mr. Moore was yelling at Dr. Uzarowski during

1 this meeting?

2 A. Yes.

3 Q. How would you describe

4 the manner in which he was yelling at

5 Dr. Uzarowski at this meeting?

6 A. His voice was raised and

7 he was speaking in a loud fashion.

8 Q. Okay. And that was

9 directed at Dr. Uzarowski, from your recollection?

10 A. Yes.

11 Q. And I think you said, in

12 your view, Mr. Moore was frustrated. Was he

13 yelling in a frustrated manner?

14 A. Seemed. It seemed to me.

15 Q. Okay. Did you view

16 Mr. Moore's conduct towards Dr. Uzarowski as

17 aggressive?

18 A. No.

19 Q. Okay. Why not?

20 A. It seemed like -- can you

21 give me define how aggressive is? Like, what is

22 perceived as aggressive?

23 Q. What is perceived as

24 aggressive as compared to not aggressive?

25 A. Yes, please.

1 Q. I can give maybe a
2 synonym. Did you perceive it as threatening or
3 like he was coming at Dr. Uzarowski in an intense
4 or angry manner?

5 A. I don't recall it being
6 that way, no. As I said, it was more of a
7 frustration of things probably not progressing.

8 Q. Okay.

9 A. That's how I gathered it.

10 Q. Okay. Registrar, we can
11 take this down. Thank you very much, and if you
12 could take us to OD 8, image 90, at paragraph 449.
13 Sorry, Registrar. No, you're right. I'm the one
14 that's wrong there. 249 is correct.

15 So, this is an e-mail from
16 Mr. Becke to Mr. Andoga, copying you and
17 Ms. Jacob, on April 25, 2018. And, in the first
18 paragraph -- sorry, not in the first paragraph.
19 Mr. Becke says:

20 "I was concerned to hear
21 that the traffic
22 department would be
23 putting out a contract to
24 place and install new
25 cat's eyes reflectors

1 this year, 2018, when we
2 will be resurfacing the
3 Red Hill Valley Parkway
4 in both directions next
5 year, 2019."

6 Were you at the project
7 coordination meeting Mr. Becke references in this
8 e-mail?

9 A. No.

10 Q. Did he discuss his
11 concerns with you and Ms. Jacob about traffic's
12 plans after this meeting, aside from this e-mail?

13 A. I don't think so.

14 Q. Okay. Did you know why
15 Mr. Becke was concerned about traffic's plans to
16 install cat's eyes?

17 A. I think it was because it
18 would be throw-away cost. That's my
19 understanding. If something was installed and
20 then we were going to resurface it and then
21 reinstall it, it would probably be a throw-away
22 cost.

23 Q. Okay. So, the e-mail
24 goes on to say:

25 "As you with aware, the

1 Red Hill Valley Parkway
2 was originally intended
3 to be resurfaced this
4 year by a conventional
5 shave and pave. However,
6 new technology has come
7 to light that will
8 provide the City with
9 faster, cheaper and more
10 environmentally friendly
11 way of resurfacing the
12 road while having less
13 impact to traffic during
14 construction. We opted
15 to defer the works to
16 2019 in order to complete
17 further review of this
18 technology and take some
19 samples from the road so
20 we can complete the
21 appropriate asphalt mix
22 design needed."

23 The new technology being
24 referenced there, that's the hot in-place
25 recycling?

1 A. Yes. That's what I would
2 think.

3 Q. Who made the decision to
4 defer the resurfacing to 2019?

5 A. I'm not sure.

6 Q. Do you recall if it was
7 an individual or if it was done a collective
8 decision?

9 A. I believe it was through
10 this e-mail or around this time that I was
11 informed that it was being delayed, but I --

12 Q. So, do you -- I'm sorry,
13 go ahead.

14 A. I don't know who made
15 that decision. The decision was informed to me.

16 Q. Okay. So, you were
17 advised either through this e-mail from Mr. Becke
18 or would you have been advised by Mr. Becke or
19 Ms. Jacob by another means? Do you remember if it
20 was specific to this e-mail?

21 A. Maybe verbally in talking
22 to them, passed this e-mail, but I can't recall to
23 the exact moment that I knew that was the delayed.
24 I think it was probably through this e-mail.

25 Q. Okay. And you weren't

1 told who made the decision to delay the
2 resurfacing?

3 A. No.

4 Q. Were you part of the
5 deliberations or discussions around the decision
6 to delay the resurfacing?

7 A. No.

8 Q. Mr. Becke also says:
9 "I understand that there
10 is perceived safety
11 concerns on the Red Hill
12 Valley Parkway."

13 In this e-mail. Other than
14 what's set out here in terms of traffic's
15 concerns, were you aware of safety concerns on the
16 Red Hill Valley Parkway at this time?

17 A. No.

18 Q. To your knowledge, did
19 anyone raise comments that Dr. Uzarowski had made
20 at the March 9, 2018 meeting about the terms
21 skidabrading or shot blasting, if he did in fact
22 make those comments, in response to the delayed
23 repaving schedule?

24 A. Sorry, can you repeat the
25 question?

1 Q. To your knowledge, did
2 anyone raise comments that Dr. Uzarowski had made
3 at the March 9, 2018 meeting in response to the
4 proposal that the repaving project for the Red
5 Hill Valley Parkway should be delayed?

6 A. No.

7 Q. Registrar, you can take
8 this down. Thank you very much. And if you could
9 take us to HAM6019, please.

10 So, Mr. Vala, these are notes
11 from the November 1, 2018 startup meeting for the
12 Hamilton Red Hill Valley Parkway and LINC safety
13 reviews, which we have been referring to as the
14 roadside safety assessment. You'll see that
15 you're listed as an attendee at this meeting.

16 What was your role in the
17 roadside safety assessment?

18 A. I was asked by Susan
19 Jacob to attend these meetings to participate, to
20 understand, you know, if there is any -- by the
21 time, I was informed that the resurfacing for both
22 directions needed to happen, so I was more
23 involved in the design. The design had taken off,
24 so I was asked have been involved, participate in
25 these meetings to identify if any outcomes from

1 this safety study could become the part of the
2 scope for the project that was being delivered.

3 Q. Okay. Did you regularly
4 attend meetings for this project?

5 A. I think there were two
6 meetings that happened and I attended both of
7 them.

8 Q. Okay. At this point, in
9 November 1, 2018, was the City still persuing hot
10 in-place recycling on the Red Hill Valley Parkway?

11 A. To my knowledge at that
12 time, yes.

13 Q. Okay. Do you recall when
14 the decision was made to revert to a conventional
15 shave and pave?

16 A. I don't think a
17 definitive. What was conveyed to me at sometime
18 late 2018 was that, you know, to take a
19 conservative approach. And if I may elaborate a
20 little bit, you know --

21 Q. Of course.

22 A. The conservative shave
23 and pave would require preparing the tender
24 documents as it would be tendered to contractors
25 and drawings within preparing the specifications

1 that were together with that, so that would take
2 more time than, you know, if the decision was made
3 to go with the hot in-place recycling. So, I was
4 told to assume a conservative approach and while
5 additional testing was being done in determining
6 the feasibility of hot in-place recycling, so, you
7 know, at this point in time, to my knowledge, hot
8 in-place recycling, there was further testing
9 going on to determine the feasibility but, you
10 know, I was operating under the conservative
11 approach of tendering the project using the
12 conventional shave and pave.

13 I think it was later after
14 this and then sometime in 2019 when I was informed
15 that the testing results might have indicated that
16 it was not suitable and we would be going with the
17 conventional shave and pave.

18 Q. So, up until you learned
19 that the hot in-place recycling had been
20 determined not to be feasible, I think you said
21 there was a period of time where you were
22 preparing a tender for a conventional shave and
23 pave on the understanding that if hot in-place
24 recycling proved to be feasible on the Red Hill
25 Valley Parkway, you would revert to that

1 technology. Is that correct?

2 A. Yes, and that would be an
3 easy switch.

4 Q. Okay. And you were
5 advised that that wouldn't happen sometime in
6 2019?

7 A. Sorry, that wouldn't
8 happen?

9 Q. Sorry, that you wouldn't
10 be reverting back to hot in-place because it
11 wasn't feasible on the Red Hill Valley Parkway
12 sometime in 2019?

13 A. Sometime in 2019, yes, I
14 was informed that we are proceeding with the
15 conventional shave and pave, yes.

16 Q. Okay. And who
17 communicated that to you?

18 A. I think it was in
19 discussions with Mike Becke.

20 Q. Okay. So, stepping back
21 to the safety review or, sorry, the safety
22 assessment, what was the purpose of the roadside
23 safety assessment?

24 A. I believe this study was
25 called for by the traffic group, so I was not

1 entirely sure of what the scope of this study is.
2 I didn't look at the terms of reference. But
3 going by the title, you know, it was probably to
4 review the roadside safety of the Red Hill Valley
5 Parkway.

6 Q. Okay. So, CIMA had
7 prepared prior safety reports on the Red Hill
8 Valley Parkway in 2013 and in 2015. Do you recall
9 if you reviewed those reports as part of your
10 participation in the roadside safety review?

11 A. Not around this time. I
12 reviewed the draft report that came out of this
13 assessment.

14 Q. Did you ever review the
15 2013 or 2015 CIMA reports for the Red Hill Valley
16 Parkway?

17 A. No.

18 Q. Were you aware that those
19 safety studies had been done?

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

21 Q. Okay. I may be able to
22 refresh your memory a little bit on that point.

23 Registrar, can you take us to
24 OD 9, image 141, paragraph 340.

25 So, on November 23, 2018, you

1 are copied on an e-mail circulating a draft of the
2 roadside safety assessment. Did you review the
3 draft roadside safety assessment at this time?

4 A. It was e-mailed to me.
5 Yes, I looked at it.

6 Q. Okay. So, there's a
7 covering e-mail here from Mr. Salek of CIMA, which
8 is quite lengthy and goes on to the next page
9 there. And you'll see under the last point before
10 the bullet points that have sections 1, 3, 4.2.

11 So, the last paragraph of this
12 e-mail, Registrar, if you don't mind calling that
13 out for us. Sorry, the whole paragraph. So,
14 like, from "during" down. Yeah, yeah, that's
15 perfect. Thank you.

16 And so, you'll see here at
17 section 1.1, CIMA's looking for confirmation of
18 which recommendations from the 2013 and 2015
19 studies were implemented by the City.

20 And if you could take this
21 down, thank you, Registrar, and take us into
22 HAM35556 at image 7. Thank you.

23 So, this is the draft roadside
24 safety assessment that you received, Mr. Vala, and
25 that you indicated you had reviewed.

1 Registrar, if you can pull up
2 the next image over as well.

3 And so, you'll see here that
4 at the bottom of image 1, so the last paragraph
5 before the points there, CIMA lists the main
6 findings from the 2013 and 2015 CIMA safety
7 reviews.

8 And then over on to the next
9 page, Registrar, if you can pull out from some of
10 the main recommendations in the previous studies
11 on image 2.

12 You'll see that CIMA also
13 lists a number of their prior recommendations that
14 had been made to the City. Were you aware before
15 receiving this draft report that CIMA had
16 previously made recommendations about the Red Hill
17 Valley Parkway?

18 A. No.

19 Q. And you'll see that
20 there's a specific recommendation there four
21 bullet points down that says "conduct pavement
22 friction testing." Were you aware before
23 receiving this draft that CIMA had previously
24 recommended friction testing on the Red Hill
25 Valley Parkway?

1 A. No.

2 Q. You'll see a second last
3 point there says:

4 "Install high-friction
5 pavement on approach and
6 through the curve of the
7 Mud Street east-west
8 on-ramp."

9 Were you aware of this
10 recommendation prior to receiving this draft
11 report?

12 A. There was something in
13 the scope statement that you had shown, so --

14 Q. I think that one is about
15 the Stone Church ramp on to the Upper Red Hill
16 Valley Parkway, if that helps at all.

17 A. Okay, so no.

18 Q. Okay. Did you note these
19 prior CIMA recommendations in reviewing the draft
20 safety assessment?

21 A. I saw them, but I didn't
22 make any special notes about them because the
23 traffic group, it was addressed to the traffic
24 group who commissioned this study and then, you
25 know, both Susan Jacob was also copied on it,

1 so --

2 Q. Okay. Were you
3 responsible for taking steps to confirm for CIMA
4 whether their prior recommendations had been
5 implemented by the City?

6 A. I didn't feel it was my
7 responsibility.

8 Q. Okay. Even if you didn't
9 feel it was your responsibility, did you take any
10 steps to determine if friction testing had been
11 done on the Red Hill Valley Parkway?

12 A. No.

13 Q. Did you take any steps to
14 determine if a high-friction surface had been
15 applied on the Mud Street ramp?

16 A. No.

17 Q. Did you at any point
18 become aware as to whether or not these prior
19 recommendations from CIMA had been implemented by
20 the City?

21 A. Sorry, can you ask that
22 question again?

23 Q. Did you become aware as
24 to whether or not CIMA's prior recommendations
25 listed here had been implemented by the City?

1 A. No.

2 Q. In your view, who would
3 have been responsible for taking steps to confirm
4 for CIMA whether prior recommendations had been
5 implemented?

6 A. These were safety
7 concerns, traffic concerns, and this was
8 identified as part of a study that was
9 commissioned by traffic, so I would assume whoever
10 commissioned the study would make note of it and
11 bring it to the attention of the appropriate
12 authorities within the City.

13 Q. Okay. Was information
14 about whether or not prior CIMA recommendations
15 listed here had been implemented relevant to your
16 work in preparing the tender for the repaving
17 project?

18 A. I didn't think so.

19 Q. Okay. Registrar, could
20 you take this call out down and take us to
21 image 23, please, and if you could call out the
22 section under Overall Findings in the summary of
23 Collision History Review.

24 So, CIMA also does a collision
25 history review as part of the roadside safety

1 assessment and there are overall findings,
2 including that wet surface collisions are found to
3 represent 64 percent of mainline collisions and
4 73 percent of ramp collisions. The proportion of
5 wet surface collisions on the mainline presented
6 an increase compared to the 2015 study, 50 percent
7 in brackets, lost control and speed too fast for
8 conditions, apparent driver actions were reported
9 in 33 percent of mainline collisions, 44 percent
10 for wet surface collisions and 56 percent of ramp
11 collisions, 68 percent for wet surface collisions.
12 And then last point there is:

13 "These findings suggest
14 that inadequate skid
15 resistance, surface
16 polishing, bleeding,
17 contamination and
18 excessive speeds may be
19 contributing factors to
20 collisions."

21 Did you note CIMA's conclusion
22 there in the collision history that inadequate
23 skid resistance might have been a contributing
24 factor to collisions on the Red Hill Valley
25 Parkway?

1 A. Yes.

2 Q. Did you discuss how to
3 address that finding as part of the resurfacing
4 project?

5 A. Was there -- my
6 understanding was there was specific
7 recommendations, that would be added to the
8 scope --

9 Q. I can take you to that
10 actually so you're not answering in the abstract.

11 Registrar, to you take us to
12 image 24, which I believe is the next page over?

13 So, you'll see here that CIMA,
14 under 3.4, lists recommendations to reduce
15 collision frequency and severity.

16 Registrar, could you call out
17 section 3.4 for us.

18 So, I note that a number of
19 these recommendations seem to me anyways, and you
20 is correct me if I'm wrong, to relate to the
21 resurfacing project. So, the first one there is:

22 "Ensure the pavement
23 design for the upcoming
24 resurfacing considers the
25 history of wet surface

1 collisions and
2 investigates the need for
3 higher friction
4 surfaces."

5 Does that help to refresh your
6 memory about what discussions you may have had
7 with City staff about how to address samples
8 findings in this report?

9 A. Okay. I read it, but I'm
10 not sure how it would become part of the design
11 resurfacing project.

12 Q. Okay. Were steps taken
13 to address this recommendation in the repaving
14 project?

15 A. We resurfaced it, which
16 would improve the friction. A newly resurfaced
17 pavement would have better friction than the
18 existing surface.

19 Q. Okay. And did you have
20 discussions about that in connection with the
21 history of wet surface collisions on the Red Hill
22 Valley Parkway as flagged in this report?

23 A. No.

24 Q. Did you take steps to
25 investigate the need for a higher friction surface

1 on the Red Hill Valley Parkway?

2 A. No.

3 Q. Did you consider whether
4 to install a high-friction pavement approach and
5 through the curve on the Mud Street east-west
6 on-ramp, which is another one of the
7 recommendations here?

8 A. I'm not sure how it could
9 be considered.

10 Q. What do you mean you're
11 not sure how it could be considered?

12 A. In my role, it was
13 delivering the set scope. I'm not sure what it
14 means when it says considered installing
15 high-friction pavement.

16 Q. In your view, is that
17 consideration something that would have to be done
18 at the programming stage, before the scope gets to
19 you?

20 A. I would assume so.

21 Q. In your view, did anyone
22 at the City take steps to address any of these
23 recommendations from the safety assessment?

24 A. I'm not sure.

25 Q. Who would have been

1 responsible for assessing or considering whether
2 or not the City would act on these
3 recommendations?

4 A. Whoever has called for
5 the study.

6 Q. Okay. Were any of these
7 recommendations incorporated into the scope of the
8 Red Hill Valley Parkway resurfacing project?

9 A. It might have as part of
10 the pavement design --

11 Q. Okay. I'm sorry, go
12 ahead.

13 A. Sorry. Pavement design
14 was done by the consultant, so I can't speak for
15 what exactly the scope involved and if this was
16 shared with the pavement design contractor.

17 Q. I understand that AME
18 ended up doing the pavement design for the Red
19 Hill Valley Parkway resurfacing, which was, I
20 think, different from the general practice for
21 picking an asphalt mix that you had described
22 earlier.

23 Do you have any knowledge as
24 to why AME was brought in to do the assessment for
25 the mix on the Red Hill Valley Parkway

1 resurfacing?

2 A. I don't exactly know.

3 Q. Did you have any

4 involvement in AME's work?

5 A. No.

6 Q. Were you aware that

7 Mr. Becke received a copy of the Tradewind report

8 on August 27, 2018?

9 A. No.

10 Q. Did Mr. Becke forward the

11 Tradewind report friction analysis to you when he

12 received it in August 2018?

13 A. No.

14 Q. Do you recall ever

15 discussing the Tradewind report or analysis with

16 Mike Becke at the end of August or early

17 September 2018?

18 A. No.

19 Q. Do you recall ever

20 discussing it with Ms. Jacob at the end of August

21 or early September 2018?

22 A. No.

23 Q. When did you become aware

24 of the Tradewind report?

25 A. When it was made public,

1 when it was the e-mail was sent to all the
2 employees within the City or with the --

3 Q. So, that's in or around
4 February 2019 probably?

5 A. Probably. I don't
6 remember the exact date.

7 Q. Ms. Jacob prepares a
8 chronology in which she indicates that the
9 decision to revert to a shave and pave over hot
10 in-place recycling on the Red Hill Valley Parkway
11 was made on August 30, 2018. Is that consistent
12 with your recollection?

13 A. No.

14 Q. Okay. And that's for the
15 reasons that we talked about earlier?

16 A. Yes.

17 Q. Did you ever come to have
18 any understanding about what the City's motivation
19 or objective was in resurfacing the Red Hill
20 Valley Parkway?

21 A. No. I believe it was
22 program.

23 Q. Okay. You believed it
24 was standard programming?

25 A. Yes.

1 Q. Were you aware of
2 top-down cracking on the Red Hill Valley Parkway
3 prior at any point in connection with the
4 resurfacing project?

5 A. I might have been. It's
6 normal phenomena, I suppose, for asphalts to
7 crack.

8 Q. Was top-down cracking
9 ever communicated to you as the basis for an
10 accelerated schedule for the paving of the Red
11 Hill Valley Parkway?

12 A. No.

13 Q. Were friction levels on
14 the Red Hill Valley Parkway ever communicated to
15 you as the basis for an accelerated repaving of
16 the Red Hill Valley Parkway?

17 A. No.

18 Q. Registrar, could you take
19 us to OD 9, image 286, paragraph 699.

20 So, this is an e-mail on
21 January 25, 2019 from Mr. Alzwick [ph], and I'm
22 sure that I've just pronounced that incorrectly,
23 to Mr. Ferguson and Mr. White. You and Mr. Becke
24 and Mr. Declair were also copied and you'll see
25 that he's referencing a CIMA engagement, but he

1 also says that as of January 25, 2019, there is an
2 extremely accelerated delivery and tender schedule
3 for the Red Hill Valley Parkway resurfacing
4 project.

5 Would you agree with that
6 statement, that there was an extremely accelerated
7 delivery and tender schedule for the project as of
8 January 2019?

9 A. Sorry, I'm not able to
10 see where that is written.

11 Q. So, it's the very first
12 paragraph there:

13 "In discussion with Mike
14 Becke and his design team
15 for the Red Hill Valley
16 Parkway yesterday, there
17 is an extremely
18 accelerated delivery and
19 tender schedule for this
20 project that needs
21 immediate attention."

22 A. It's contextual and, if
23 given an opportunity, I might be able to provide
24 the context.

25 Q. I'm sorry, I don't think

1 I understand what you're saying. What's
2 contextual?

3 A. The extremely accelerated
4 delivery, the phrase being used here, I feel is
5 contextual and I can provide the context if given
6 the opportunity.

7 Q. If you would like to
8 provide context, please go ahead.

9 A. So, around this time, the
10 original intent, based on my understanding, was to
11 have the Red Hill Valley Parkway paved in summer
12 of 2019, but around this time, I believe, you
13 know, the decision, I was informed that the
14 decision was to get the results in as soon as
15 possible and probably even in May, end of
16 May 2019. So, you know, that kind of accelerates
17 the tender delivery by a couple of months when it
18 was moved from summer, which being end of June,
19 early July, to May, as soon as the asphalt plants
20 open. It kind of puts the pressure on the
21 delivery of the contract. So, I believe the
22 acceleration, accelerated delivery being referred
23 to here, is in reference to the tendering of the
24 project. And since, you know, many aspects of the
25 scope were still being confirmed, you know, that

1 kind of adds on to the other challenge of
2 delivering this project, which is what I feel was
3 being referenced here.

4 Q. At this point in time, in
5 your view, was there urgency around the completion
6 of the repaving for the Red Hill Valley Parkway?

7 A. There was urgency to put
8 the tender out.

9 Q. In order to complete the
10 repaving on the timeline that you anticipated?

11 A. Yes.

12 Q. Why did the repaving need
13 to be completed on that timeline?

14 A. I wasn't sure. I wasn't
15 given a specific reason.

16 Q. Okay. Registrar, you can
17 take this down.

18 One final question for you,
19 Mr. Vala. Audit services, the City auditor,
20 received an anonymous letter in March 2019.

21 Registrar, could you take us
22 to RHV890.

23 Mr. Vala, have you ever seen
24 this letter outside of your preparations for these
25 hearings?

1 A. No.

2 Q. Do you have any knowledge
3 as to who wrote it?

4 A. No.

5 Q. Thank you. Subject to
6 any questions from you, Mr. Commissioner, those
7 are my questions for Mr. Vala. I know that I've
8 taken us a little bit past our timeline. I
9 understand that the City, that Golder has about
10 ten minutes of questioning for Mr. Vala and that
11 the MTO may need five minutes and that the City
12 needs approximately 15 to 20, and Mr. Vala has
13 indicated that he's prepared to stay a little bit
14 late with us today if he would be able to finish
15 his evidence.

16 JUSTICE WILTON-SIEGEL: Yes.
17 Thank you, Mr. Vala. Then let's proceed with the
18 remaining questions.

19 MS. JENNIFER ROBERTS:
20 Commissioner, I confirm that Golder has no
21 questions. Thank you.

22 JUSTICE WILTON-SIEGEL: Thank
23 you.

24 MS. BRUCKNER: I believe the
25 MTO had indicated that they would like to reserve

1 five minutes.

2 MR. BOURRIER: I can confirm,
3 Commissioner, that we don't have any questions for
4 this witness.

5 JUSTICE WILTON-SIEGEL: Okay.
6 Thank you.

7 MS. BRUCKNER: And I believe
8 that Dufferin also has no questions, but I would
9 ask their counsel to confirm.

10 MR. BUCK: That's correct. I
11 can confirm we have no questions.

12 JUSTICE WILTON-SIEGEL: Okay.
13 Thank you, Mr. Buck.

14 MR. MISHRA: Mr. Commissioner,
15 may I proceed with my questions?

16 JUSTICE WILTON-SIEGEL: Please
17 do, Mr. Mishra.

18 MR. MISHRA: Thank you.

19 EXAMINATION BY MR. MISHRA:

20 Q. Thank you, Mr. Vala.

21 I'll try to keep this as brief as possible, as I
22 appreciate it's been a long day. I first want to
23 ask you a couple questions about the scope of the
24 rehabilitation on the Red Hill Valley Parkway.
25 This is back in the June 2017 timeline.

1 I understand that in
2 June 2017, when the Red Hill Valley Parkway rehab
3 project was still in the programming stage,
4 there's discussions around scope. What was
5 designs's role during the process where scope is
6 determined?

7 A. During that process?

8 Q. That's correct.

9 A. It was, in my
10 understanding, to act as a conduit to make sure
11 the scope is gathered from all stakeholders and
12 conveyed to asset management so that the scope can
13 be confirmed.

14 Q. Would you be privy to
15 discussions in other departments about scope?

16 A. No.

17 Q. And did design have any
18 particular input into the project scope?

19 A. No.

20 Q. Okay. I would like take
21 you to HAM26073. If you can put up images 1 and
22 2, Mr. Registrar, that's much appreciated.

23 THE REGISTRAR: Sorry,
24 counsel, would you mind repeating the doc ID for
25 me?

1 MR. MISHRA: Of course. It's
2 HAM26073 and images 1 and 2. Thanks.

3 THE REGISTRAR: Thank you.

4 BY MR. MISHRA:

5 Q. And if you can call out
6 Mr. Worrton's e-mail on image 2.

7 Now, Mr. Worrton outlines a
8 number of suggestions with respect to the Red Hill
9 rehabilitation project.

10 You can take down that call
11 out.

12 You're then sent an e-mail
13 from Ms. Jacob advising that Mr. Moore and
14 Mr. Mater were working on this. Would you expect
15 that Mr. Moore and Mr. Mater would work together
16 to determine the appropriate scope for this
17 rehabilitation?

18 A. Yes.

19 Q. Any concerns with
20 Mr. Mater and Mr. Moore working together on this?

21 A. No.

22 Q. Okay. Around this time,
23 around the time that you received this e-mail,
24 were you involved in any discussions regarding
25 increasing the frictional properties of the

1 roadway?

2 A. No.

3 Q. You were also asked by
4 commission counsel if you had reviewed any
5 consultant's reports pertaining to the Red Hill in
6 and around this time and you advised that you had
7 not. Is there anything you needed from a
8 consultant's report, in particular, the 2013 CIMA
9 report or the 2015 CIMA safety report on the
10 roadway, that you had needed for the purpose of
11 the design work that you were conducting?

12 A. For the road resurfacing,
13 no.

14 Q. And am I correct that
15 Mr. Worrton, Mr. Ferguson and Mr. Mater from the
16 traffic engineering side were involved in the
17 scope discussions?

18 A. Yes.

19 Q. Turning to the hot
20 in-place recycling discussions -- can we take down
21 this image, thank you -- you were asked a number
22 of questions about your involvement in the
23 investigation into hot in-place recycling for the
24 resurfacing project and, in particular, why hot
25 in-place recycling was being pursued. What was

1 your understanding as to why hot in-place was
2 being pursued?

3 A. I wasn't aware of the
4 particular, any specific reasons, of why hot
5 in-place was being considered.

6 Q. Commission counsel had
7 previously brought you to an e-mail involving
8 Mr. Becke and others from the engineering group
9 where hot in-place was described as a faster,
10 cheaper, more environmentally friendly with less
11 impact to traffic during construction --

12 JUSTICE WILTON-SIEGEL: Wait a
13 second. I do think that's a bit of a leading
14 question.

15 MR. MISHRA: I can take him to
16 the e-mail if that's preferred.

17 JUSTICE WILTON-SIEGEL: You
18 better take him to an e-mail and ask him to
19 comment on it. That's another thing.

20 MR. MISHRA: Understood.
21 Apologies. Just give me one second to pull up the
22 e-mail of reference. I believe it's OD chapter 8,
23 image 90.

24 BY MR. MISHRA:

25 Q. Looking at paragraph 249,

1 you'll see that there's an e-mail sent on
2 April 25, 2018 from Mr. Becke to Mr. Andoga,
3 copying yourself and Ms. Jacob.

4 Could you call out the
5 paragraph 249, including the excerpted section of
6 the e-mail as well. Thank you, Mr. Registrar.

7 And I'll give you a second to
8 review this e-mail. This was previously brought
9 to you by commission counsel and I believe they
10 did bring your attention to the middle paragraph,
11 but I'll let you read the entire e-mail for
12 context.

13 A. Yes, I'm good.

14 Q. Okay. So, in the second
15 paragraph, you'll see that in the e-mail there's a
16 note that says:

17 "However, a new
18 technology has come to
19 light that will provide
20 the City with a faster,
21 cheaper and more
22 environmentally friendly
23 way of resurfacing the
24 road while having less
25 impact to traffic during

1 construction."

2 Do you remember noting this at
3 the time that you had read the e-mail back in and
4 around April 25, 2018?

5 A. Yes.

6 Q. To your knowledge, were
7 any of these descriptions of hot in-place accurate
8 or do you just have no knowledge one way or the
9 other on if these descriptions apply to this new
10 technology?

11 A. I wasn't fully familiar
12 with the technology, but it's a recycling, so I'm
13 thinking it's environmentally friendly.

14 Q. Okay. And unless
15 potential safety concerns are raised as an issue,
16 would it be reasonable for the City to consider
17 maintenance options regarding roadway maintenance
18 based upon the cost to the taxpayers?

19 A. Can you repeat your
20 question?

21 Q. Sure. Unless there's
22 potential safety concerns, would it be reasonable
23 for the City to consider different maintenance
24 options based on the cost of those roadway
25 maintenance options?

1 A. Yes.

2 Q. And would it also be
3 reasonable, again, absent safety concerns, for the
4 City to consider maintenance options regarding
5 roadway maintenance based on minimizing
6 inconvenience to the public?

7 A. Yes.

8 Q. At this point in time, so
9 April 2018, were you aware of anyone raising any
10 safety concerns about delays in repaving the Red
11 Hill Valley Parkway?

12 A. No.

13 Q. Okay. So, turning to the
14 March 9, 2018 meeting, I would like to take you to
15 OD 8, image 76, at paragraph 207. Thank you,
16 Mr. Registrar.

17 So, these are the notes that
18 Mr. Becke had taken of this meeting and commission
19 counsel had already talked you through these. I
20 just have a couple of follow-up questions
21 regarding this meeting.

22 I understand from your
23 evidence that you didn't recall any discussions of
24 microsurfacing. Is that right?

25 A. Yes.

1 Q. You didn't recall any
2 discussions of skidabrading. Is that correct?

3 A. Yes.

4 Q. And I understood from
5 your evidence that you didn't recall any
6 discussions about shot blasting as well. Is that
7 right?

8 A. Yes.

9 Q. Okay. Given the context
10 that you were gearing up for the resurfacing of
11 the Red Hill Valley Parkway, are any of these
12 recommendations items that you would have made
13 note of?

14 A. In the context, sorry?

15 Q. So, given the context
16 that you were gearing up for the Red Hill Valley
17 Parkway resurfacing, are any of these
18 recommendations, so microsurfacing, skidabrading
19 or shot blasting, are any of these recommendations
20 items that you would have made note of or that you
21 would have paid any special attention to, given
22 your role in the design work?

23 A. If they were considered,
24 yes.

25 Q. Okay. Now, you

1 previously testified that you don't recall any
2 discussions about the need to take interim safety
3 measures if the Red Hill resurfacing project would
4 be delayed. I understood from your evidence you
5 don't recall Dr. Uzarowski saying anything along
6 those lines. Is that right?

7 A. Yes.

8 Q. And you don't recall any
9 discussions along these lines at that meeting. Is
10 that right?

11 A. Yes, I can't recall.

12 Q. If Dr. Uzarowski or
13 Golder held such views, would you expect them to
14 be clearly stated at the meeting?

15 A. Yes.

16 Q. Would you expect them to
17 be clearly identified in writing following the
18 meeting as well?

19 A. Yes.

20 Q. Okay. At any point
21 during your work on the Red Hill resurfacing
22 project, were you advised that Golder had any
23 concerns about frictional characteristics of the
24 Red Hill?

25 A. Sorry, did you say it was

1 a concern or was I made aware?

2 Q. At any point during your
3 work on the Red Hill resurfacing project, were you
4 advised that Golder had any concerns about the
5 frictional characteristics of the Red Hill?

6 A. No.

7 Q. If, at this March
8 meeting, Dr. Uzarowski advised the City of a need
9 to take interim safety measures if the Red Hill
10 resurfacing project would be delayed, to the best
11 of your recollection and your best practices, is
12 that something that you would have made a note of?

13 A. Yes.

14 Q. And with respect to the
15 ultimate resurfacing, I understand that SP12.5 was
16 used as a surface course. Do you recall that
17 information?

18 A. Yes. SP12.5 FC2.

19 Q. Is there any issues with
20 using SP12.5 over SMA for the purpose of a
21 resurfacing?

22 A. Not that I can recall
23 reading anywhere.

24 Q. Okay. Mr. Commissioner,
25 I'm just going to take a look at my notes to see

1 if there's anything else.

2 Thank you, Mr. Commissioner.

3 Thank you, Mr. Vala. Those are all of my
4 questions.

5 JUSTICE WILTON-SIEGEL: Okay.
6 Ms. Bruckner?

7 MS. BRUCKNER: Thank you. I
8 have a couple of quick follow-up questions on that
9 image that we were just looking at.

10 Registrar, could you take us
11 back to paragraph 207 of OD 8.

12 FURTHER EXAMINATION BY MS. BRUCKNER:

13 Q. Mr. Vala, just for some
14 context for me, Mr. Mishra asked you a number of
15 times if you would have noted certain aspects of
16 this discussion. Did you take notes at the
17 March 9, 2018 meeting?

18 A. No.

19 Q. Okay, so you weren't
20 taking a record of this meeting to record things
21 that were or were not important to you in your
22 role in design?

23 A. Yes. Typically I don't
24 take notes. I follow it up with e-mails that I
25 remember if something was not working.

1 Q. Okay. Do you recall if
2 you sent any follow-up e-mails after the March 9,
3 2018 meeting?

4 A. No.

5 Q. Okay. Sorry, you don't
6 recall one way or another or you didn't send any?

7 A. I didn't send any.

8 Q. Okay. One housekeeping
9 matter. Registrar, I should have marked HAM1049
10 as Exhibit 122 earlier in my examination and would
11 ask that we do that now. Otherwise, those are all
12 of my questions, subject to anything from the
13 Commissioner.

14 THE REGISTRAR: Noted. Thank
15 you, counsel.

16 EXHIBIT NO. 122: E-mail
17 exchange about the limits
18 of the resurfacing
19 project, HAM1049.

20 JUSTICE WILTON-SIEGEL: I
21 don't have any questions, apart from my inability
22 to find a reference which I will find later.
23 Perhaps you can take the document down,
24 Mr. Registrar. Okay.

25 Mr. Vala, that completes the

1 examination. Thank you very much for attending
2 today. You're excused.

3 THE WITNESS: Thank you.

4 JUSTICE WILTON-SIEGEL: Thank
5 you also to counsel for your indulgence in running
6 over half an hour here. We'll stand adjourned
7 until 9:30 tomorrow morning. Thank you.

8 --- Whereupon the proceedings adjourned at
9 5:00 p.m. until Thursday, June 30, 2022 at
10 9:30 a.m.

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