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New Brunswick Board of Commissioners of Public Utilities

Hearing - May 16th 2000

IN THE MATTER OF AN APPLICATION BY ENBRIDGE GAS NEW BRUNSWICK
INC. DATED DECEMBER 31, 1999, FOR A PERMIT OR PERMITS TO
CONSTRUCT PIPELINES IN ORDER TO PROVIDE NATURAL GAS
DISTRIBUTION SERVICE

Henneberry Reporting Service

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Chairman: David C. Nicholson, Q.C.

Commissioner: Monika Zauhar

Commissioner: John Chenier

Commissioner: Jacques A. Dumont

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MR. CHAIRMAN: Good morning, ladies and gentlemen. Any
preliminary matters?

MR. O'CONNELL: Yes, Mr. Chairman.

MR. CHAIRMAN: Go ahead, Mr. O'Connell.

MR. O'CONNELL: As you directed yesterday, Board staff met
yesterday evening with representatives of the applicant to
deal with the issues that were raised during the opening
statements yesterday afternoon.

And I would like to just briefly report this morning
on the agreement or agreements that have been reached
between the applicant and Board staff.

With respect to the issue of a detailed project
schedule, it is agreed that that schedule will be made

available to Board staff prior to construction start.

With respect to the issue of a listing of all necessary permits, the applicant and Board staff have agreed that that will be provided tomorrow.

With respect to the breakdown of the \$22 million in expenditures that were the subject of an interrogatory, it is agreed that the breakdown will be provided in a format satisfactory to Board staff prior to the start of construction.

With respect to the 1:10000 -- 1:1000 sorry, maps, it is agreed that they will be provided to Board staff by Tuesday the 23rd of May.

And finally with respect to the changes in the route in the Petitcodiac and Marsh Creek areas, that subject will be dealt with during cross examination of this panel.

MR. CHAIRMAN: Thank you, Mr. O'Connell. Mr. Stewart?

MR. STEWART: Mr. Chairman, the other -- can at least the other formal Intervenors have the benefit of those undertakings as well. And I just heard that the agreement was to provide that to Board staff.

MR. CHAIRMAN: Mr. MacDougall?

MR. MACDOUGALL: I guess I would throw that to Mr. Harte even though he is up there. If there is any -- I don't know if there is any issue about that. Because I -- we didn't discuss that, Mr. Chair.

MR. HARTE: I have no problem providing that information.

MR. CHAIRMAN: Just thinking, it is one thing for Mr. Harte and his team to make that available to Board staff. It is another to all the Intervenors.

I wonder if you could use a couple of extra days after you delivered them to Board staff to get them to the other Intervenors. Would that be acceptable, Mr. Stewart?

MR. STEWART: Oh, that would be fine.

MR. CHAIRMAN: Yes. Okay. All right. Any other matters?
Mr. Blue?

MR. BLUE: Mr. Chairman, one of the premises of this hearing is that we will have a Saint John lateral operating by November the 1st.

I'm pleased to inform the Board that I received a copy of a letter from Michel Mantha, the Secretary of the National Energy Board to Ian Leadley, the Manager of Regulatory Affairs at Maritimes and Northeast Pipeline, which among other things states that, and I quote.

"The Board is of the view that M&NP has satisfied the requirements of Condition 13 of Certificate GC-102 and approves the results of M&NP's consultation with CWS, New Brunswick Department of Environment and New Brunswick Department of Natural Resources."

This is probably the final regulatory hurdle to construction going forward having been removed. So we are

one step closer to the commencement of clearing the construction of the Saint John lateral.

I would like to file a copy of this letter. Other copies will be on the back table.

MR. CHAIRMAN: We will give that C-2.

MR. BLUE: Thank you, sir.

MR. CHAIRMAN: Thank you. Are you ready to continue your cross examination, Mr. Blue?

MR. BLUE: Yes, Mr. Chairman.

MR. CHAIRMAN: Go ahead, sir.

Q.126 - Mr. Harte, I would like to pick up where we left off yesterday. And this is the -- pertains to the position of EGNB that once this oral hearing is over and a decision is out, Enbridge does not want to have an oral hearing with respect to other communities that will not receive service until years 2 through 5.

Do you recall that position?

MR. HARTE: That's correct.

Q.127 - Okay. Now I would like you to refer to exhibit A, page 12 of 50. And this is where you list the communities to be served by region in the years.

Tell me when you have that reference, sir?

MR. HARTE: I have that.

Q.128 - Mr. Harte, if we look at exhibit A, page 1 of 50, we have that nice green map that you prepared showing the

communities will be served and where they are.

And perhaps you can put your thumb where that map is as well?

MR. HARTE: Okay.

Q.129 - Now sir, let's look at Campbellton or Miramichi or Bathurst which will be receiving service in year 3. Do you see those?

MR. HARTE: Yes, I do.

Q.130 - And are you saying that there should be no oral hearing before Enbridge goes into those communities, just to be clear?

MR. HARTE: Our intent to make an application in that regard without an oral hearing.

Q.131 - Okay. And the same is true of course of Grand Falls and Edmundston up in the northwest, to be served in year 5?

MR. HARTE: That's correct.

Q.132 - Now will it surprise you if I tell you the Province disagrees with that position of Enbridge?

MR. HARTE: I don't know whether I would be surprised or not. But you have that right.

Q.133 - All right. Is that all you want to say to my question?

MR. HARTE: No. I mean, we can make the application to the Board. And it is the Board's discretion whether they

would like to have a public hearing or not.

Q.134 - Fair enough. You are just saying what Enbridge would like?

MR. HARTE: That's correct.

Q.135 - All right. Now you will agree with me that the areas that I have mentioned are areas that are quite geographically distinct and separate from the Moncton, Saint John, Fredericton, Oromocto, St. George areas that you are serving this year?

MR. HARTE: Geographically, yes.

Q.136 - Thank you. Now yesterday when we closed off, I had asked you to consider whether if the Board agrees with the process that Enbridge is requesting, namely no oral hearing, when you in-fill in the areas that I have mentioned, whether you would comply with Section 5(12) through 5(20) of the Gas Pipeline Regulations.

Have you had a chance to think about that?

MR. HARTE: Yes, I have.

Q.137 - And can you respond? Would you?

MR. HARTE: Yes, we would be willing to comply with those sanctions apart from Section 13(c) where it says that the hourly, daily, seasonal and annual capabilities existing for proposed distribution system.

We design our distribution system for a peak hourly demand, not for daily, seasonal or annual volumes.

Q.138 - That's fine, sir. But apart from that you would be prepared to comply with subsection 5(12) through 5(20) of the Gas Distributors and Marketers Filing Regulations?

MR. HARTE: Yes, we will.

Q.139 - Thank you. Now I would like to talk about the manuals. And as a reference point let's go to Board staff IR number 28. That is exhibit I, schedule 28?

MR. HARTE: I have that.

Q.140 - Now sir, what Board staff asked you about are the environmental management program, the construction safety manual, the emergency procedure manual, quality assurance program, joining program, operation and maintenance manual. And you give a response about when they will be ready.

But in section B of your response you state, and I quote, "EGNB plans to submit the above manuals to the Board for approval. However, because of confidentiality concerns and proprietary information contained in these manuals, EGNB wants to ensure that these concerns are addressed in the manner that manuals were approved and/or filed with the Board."

Do you see that?

MR. HARTE: Yes.

Q.141 - Will you agree with me that each of the manuals that the Board staff are asking you about are required by a

specific provision of the gas pipeline regulations?

For example the quality assurance program is required by Section 14, the joining program by Section 15, the construction safety and environmental protection plan by 19 (1), and the operation and maintenance manual by Section 26 and the emergency procedures manual by Section 31?

MR. HARTE: That's correct.

Q.142 - Okay. Now will you also agree with me that the Gas Pipeline Regulations require that the construction safety and environmental protection plan be accessible to every person engaged in construction at the site?

MR. HARTE: Yes.

Q.143 - And that the operations and maintenance manual is required by Section 27 to be available at each maintenance site and accessible to every person engaged in maintenance there?

MR. HARTE: They will be available.

Q.144 - Okay. And the emergency procedures manual must be made available to relevant public authorities?

MR. HARTE: That's correct.

Q.145 - All right. Now you are going to comply with all those requirements?

MR. HARTE: The requirements that you have stated, yes.

Q.146 - Well, could you reconcile the fact that you are

complying with them and those manuals will be available to the concerns that you are expressing in the response to schedule 28 (b) about confidentiality provisions?

I don't understand what needs to be confidential and from whom.

MR. HOYT: Mr. Chairman, if I might, with respect to the confidentiality concerns and the manuals, in the letter by which the five or six that are referred to in this question were submitted to the Board, we raised these confidentiality concerns again. And perhaps this would be an opportune time for me to go through some of the reasons related to those.

We had understood in discussions that Mr. Harte had had with Board staff that there was a process in place related to a number of the manuals and that it was EGNB's intention to claim confidentiality with respect to any of the contained proprietary information of importance to the applicant.

For other manuals that aren't actually required to be filed with the Board, that those manuals would be available for review by Board staff but that they likely in many cases would not have to be filed with the Board.

In many of the manuals of EGNB there is important proprietary information that goes to the basis of how Enbridge does its business. There is a long history. And

in the case of many manuals it would be very harmful to have that information available in the community.

With respect to safety manuals we realize the role of the Board in terms of its safety mandate. And as Mr. Harte has indicated, in particular instances the applicant will not have difficulty making those manuals available.

For example there is an additional manual that was submitted to the Board with the most recent filing, that is a natural gas awareness for firefighters manual, which is an extensive emergency procedures and safety type manual that is widely available now.

Again the public interest we feel with respect to manuals will be safeguarded by having them available for the Board to review.

Perhaps we could look at the particular manuals that were filed in response to this IR and determine those in which there are specific confidentiality concerns.

But the reason that I thought it was appropriate to speak at this time is that there are a number of other manuals cross-referenced in those.

And in the event that they are submitted, we are concerned that it leaves or sets a precedent of making all of those available to the Board and for inspection.

Just on a similar note, the third amendment to the general franchise agreement which was filed yesterday

contains a provision whereby a similar issue is addressed with the Province.

And in that case the decision that had been reached is that manuals would be available for inspection and review by the Province, but that they would in effect not be filed with the Province but would be held in escrow by our firm in the event that there were Right To Information Act requests and so on.

So there are proprietary and confidentiality concerns which would be addressed and are concerned about manuals being examined globally or a decision being made that would apply in all cases.

MR. CHAIRMAN: Mr. Blue?

MR. BLUE: Mr. Chairman, perhaps I could shorten this, because Mr. Hoyt is involved in it and obviously the company has concerns. But I would like to know exactly what propriety information Enbridge would place in a construction safety and environmental protection plan.

It is the Province's submission that that is a document that the Department of Environment, the Department of Natural Resources, the interpipeline coordinating committee and the Board ought to have.

Now if there are confidential personal information about individuals' home phone numbers or bank accounts, sure, that can be redacted. But it would be the

Province's position that the construction safety and environmental protection plan is a public document.

That is how -- what the people of New Brunswick can look at to see how the company is carrying out its work. Put a copyright protection on it, and they have all the pledgers of copyright litigation to protect it if someone copies it.

The same is true of operation and maintenance manuals.

It is the Province's position the Board has got to have those. The public has got to be able to come and see them to know how the company operates.

The interdepartmental pipeline coordinating committee has got to have them. Again if there is anything personal, that can be redacted.

The emergency procedures manual, the Province believes that police forces, emergency forces in the province should have along with the company, so that they know what the company is going to do in an emergency and what the company expects of them.

But I don't want to pursue it more in cross examination. Perhaps Enbridge could consider the comments I have made and the concerns that I'm expressing and reassess just what is it in the three manuals that I have mentioned that would be prejudicial for the public to have, that couldn't be protected by copyright or

reasonable redaction.

MR. CHAIRMAN: Mr. Blue, one thing that would be helpful to the Board, there are so many different manuals that are named here and in the interrogatory and in the letter from Mr. Hoyt, I think it might be useful if you, Mr. Hoyt, during the next break or something, if you were to list off the manuals that you have no problem in filing with the Board that are public documents, and then isolating those three or four or whatever there may be that you believe there is proprietary information in them.

And Mr. Blue calls it redacting. We used to call it the black marks a lot rule before this Board. So if there is something like phone numbers or whatever then, you know, they can be blacked out.

However let's leave it for now, Mr. Blue. And during the next break perhaps Mr. Hoyt can put together a list for us.

MR. BLUE: Before the Board in the evidence, I'm talking about the six manuals listed on exhibit I, schedule 28 which the Board staff asked about.

MR. HOYT: And just so that the applicant's position is clear, our concern is that the company has a long history. And what is represented in these and other manuals is how it does its business.

So there is an overriding concern about not only

information that might somehow be proprietary to a person, but the elements of those manuals that go to how the company actually does its business.

But Mr. Chair, I would be happy to take up your suggestion. The only thing is it would be very useful for me to discuss this with Mr. Harte who is most familiar with the substance of the manuals. And I don't know how we would do that while he is on the stand.

MR. BLUE: I have no objection to Mr. Hoyt discussing it with Mr. Harte while Mr. Harte is under my cross examination anyway.

MR. CHAIRMAN: Anybody else have any objection? Then you can do so, Mr. Hoyt.

MR. HOYT: Thank you, Mr. Chairman.

MR. CHAIRMAN: Okay.

Q.147 - Mr. Harte, have you in fact provided the Board with these manuals for the Board to review as we are sitting here today. Has that been done yet?

MR. HARTE: Yes, we have.

Q.148 - Okay. Thank you. And what are the arrangements for the rest of us to review those? I am just trying to find out because it wasn't clear. Is it in the process, as you understand it, Mr. Harte, that interested parties, including the Province, would be able to review the manuals that have been filed or just the Board staff?

MR. HARTE: I think that's what Mr. Hoyt was addressing in his letter to the Board when he filed the manuals.

Q.149 - Thank you. I'm sorry. Thank you. Mr. Chairman, I am referring to Mr. O'Connell's letter of May the 11th 2000, which we should probably mark as an exhibit, informing us "That parties wishing to review the manuals may do so and file their comments subsequent to this hearing." That is Mr. O'Connell's letter dated May 11th.

MR. HOYT: Mr. Chairman, again, our letter was in response to that letter, so that the comments I just made relate to the specific issue that I think Mr. Blue is headed for.

So again, I think your suggestion to make the discussion on the break -- or to have the discussion on the break and then I could report back and perhaps deal with some of the issues.

CHAIRMAN: Is that all right, Mr. Blue?

MR. BLUE: I don't know what letter Mr. Hoyt is referring to. I will speak to him at the break.

CHAIRMAN: Okay.

MR. BLUE: Can we have an exhibit number for at least Mr. O'Connell's letter, Mr. Chairman, now?

CHAIRMAN: I think that is the one that Mr. Hoyt was referring to. Mr. Hoyt, would you repeat what you said please?

MR. HOYT: No. The letter that I was referring to was the

letter that I wrote to the Board enclosing 15 copies of the manuals.

And in it I expressed concern about the propriety information in response to the letter that Mr. O'Connell had circulated to us and to Intervenors indicating that there would be this process of asking questions about these manuals.

CHAIRMAN: Okay. But the letter of May 11 initiated that, did it not?

MR. HOYT: Yes, it did, Mr. Chair.

CHAIRMAN: That was my understanding. The letter from Patterson Palmer Hunt Murphy to all parties, I guess, dated May 11 will be C-3.

MR. BLUE: Mr. Chairman, just so the evidence is clear, the Province did not receive a copy of the letter that Mr. Hoyt sent to the Board enclosing the manuals expressing concern about the process in exhibit C-3.

CHAIRMAN: It doesn't show any copies. It was just to the Board, I guess.

MR. BLUE: And Mr. Chairman, I put on the record my concern and objection to parties during the hearing communicating with the Board without sending other parties copies of the letter.

Q.150 - Anyway, let's go on, Mr. Harte, to something less contentious than manuals.

And I would like to talk about construction costs.

And there are three documents I want to refer to. One is exhibit A, page 46, which are your project costs, estimated project costs and with a total of 22,052,003. Do you see that? 46.

MR. HARTE: Yes, I do.

Q.151 - And you give another breakdown of construction costs in exhibit I, schedule 29, page 2 of 2.

CHAIRMAN: Exhibit I, interrogatory 22?

MR. BLUE: Schedule 29.

Q.152 - And it is the same number 22,052,503?

MR. HARTE: That's correct.

Q.153 - And in exhibit A-4 of a document that you filed yesterday, total cost EGNB construction laterals, et cetera is the same number again, 22,052' -- a slightly different number \$22,052,081?

MR. HARTE: That's correct.

Q.154 - But it is basically the same number?

MR. HARTE: The same number, yes.

Q.155 - Now, sir, in the rate case, and in the continuation of the rate case dealing with the Maritimes and Northeast facilities, the Board heard evidence that Maritimes is building I believe it is five transfer stations and two laterals -- seven transfer stations and two laterals. Is that correct?

MR. HARTE: That's correct.

Q.156 - And that has changed the configuration of the facilities that Enbridge thought it was going to build when it filed the construction application?

MR. HARTE: If approved, that's correct.

Q.157 - All right. And in addition Maritimes require -- changed the delivery pressure it was going to provide to Enbridge, and that too caused a change in the facilities that Enbridge requires compared to what was applied for in the application. Is that fair?

MR. HARTE: I'm sorry, are you talking about the construction application or the original application?

Q.158 - The construction application.

MR. HARTE: No, the delivery pressure is the same.

Q.159 - All right. But compared -- I'm sorry, the delivery transfer compared to the proposal. The facilities in the construction application compared to the facilities in the proposal were different because of the change in the delivery pressure from Maritimes?

MR. HARTE: That's right.

Q.160 - Now, sir, the cost number that we have here, the 22,052,081, am I correct that that is for the facilities in the original construction application but it doesn't show the effect of the difference in the facilities caused by the decision to let Maritimes construct the seven

custody transfer stations and the two laterals?

MR. HARTE: The cost of the custody transfer stations were always with Maritimes Northeast. It's just the two laterals that would make this difference.

Q.161 - Yes. And the question is these facility costs, the \$22,052,081 have not taken out the facilities that have been made unnecessary due to the fact that Maritimes is constructing the two laterals?

MR. HARTE: That's correct.

Q.162 - And what would the difference in the constructions costs be, do you have a number for that?

MR. HARTE: Yes, I do. Just give me a minute, please. For Maritimes & Northeast building the two laterals to Moncton and St. George the new bottom line is \$19,278,050.

Q.163 - I guess that's good news, is it, Mr. Marois, for the deferral account?

MR. MAROIS: Yes, it is.

Q.164 - Did we have this \$19 million number in the rate case, Mr. Marois? I forget, I'm just --

MR. MAROIS: We didn't address specifically the 19 million. But we did indicate the amount of dollars that would be removed from our capital budget, which is the same amount.

Q.165 - Thank you. So this \$19,278,000 we have heard about it the first time this morning. Is that fair, Mr. Marois?

MR. MAROIS: To my knowledge it is.

Q.166 - Thank you. And, Mr. Harte, does that number include the cost of the major river crossings that you and I talked about yesterday?

MR. HARTE: Yes, it does.

MR. BLUE: Mr. Chairman, for my next question I wanted to refer to a interrogatory that the Province asked Gas New Brunswick during the RFP process. And I have copies here rather than making everyone reach for them.

CHAIRMAN: Good, Mr. Blue. I don't have a copy. That will be C-4.

Q.167 - Okay. Mr. Harte, in the interrogatory 100 that has been marked as C-4 during the approval process, the Province noted that Gas New Brunswick had told it that it had done community distribution designs using the gas network design program developed by Enbridge Consumers Gas. Do you see that at the top of the page?

MR. HARTE: Yes, I see that.

Q.168 - And then further on the Province noted that Gas New Brunswick had said that it intended to use the gas distribution design and analysis software developed by Stoner Associates?

MR. HARTE: That's correct.

Q.169 - And the gas distribution design analysis software developed by Stoner Associates allows Gas New Brunswick to coordinate its system design with the geographical

information service we were talking about yesterday, does it?

MR. HARTE: It will, yes.

Q.170 - All right. And the question I have is are you, in fact, using the Stoner gas distribution design and analysis software to design your system as we are sitting here today?

MR. HARTE: It was used to design the system that's here today.

Q.171 - Okay. So you have it in operation and that's the one you are using?

MR. HARTE: The Stoner software is in operation and that's what we are using, yes.

Q.172 - Could we go to Exhibit A, page 36 next, Mr. Harte?

MR. HARTE: Yes.

Q.173 - And this is a nice drawing of a district regulator station. And there happens to be one on my street at home. And you say -- do you see that?

MR. HARTE: Yes, I do.

Q.174 - And you say that the district regulator stations will be constructed within a municipal right-of-way, and Enbridge will obtain a permit from the municipality for this purpose. Do you see that?

MR. HARTE: That's the intent, yes.

Q.175 - What is the status of your discussions with

municipalities about placing these above ground stations on municipal rights-of way? Have you had that discussion yet?

MR. HARTE: We have had general discussions. But I haven't applied for any permit to install any.

Q.176 - Is that -- could you just tell us what the tenor of the discussions has been? Have they accepted that or is that a --

A. They haven't accepted or rejected that. Just more or less here are the types of stations we build. They will be in these enclosures which will be above ground. Very similar to a hydro transformer box.

Q.177 - All right, sir. Now, Mr. Harte, you told us -- you told me earlier this morning that you don't design your system for hourly, daily and seasonal annual capacity. You design it for a peak day?

MR. HARTE: Peak hour.

Q.178 - Peak hour, okay. Can you provide us with a table showing for each community to be served this year, the year 2000, the peak hour demand figures for which you have sized the extra high, the high and the intermediate pressure systems that you are proposing?

MR. HARTE: I can provide that.

Q.179 - All right, sir, thanks very much. Thank you, Mr. Chairman, that you witnesses. Those are my questions.

CHAIRMAN: Thank you, Mr. Blue. Mr. Stewart?

MR. STEWART: If we could have a break at this time, but just in terms of who goes next, I only have a few questions. And I think, sir, other intervenor counsels have agreed that I can go next.

CHAIRMAN: That's fine. We will take a break because I don't want to get into who is the second most senior called to the bar. So we will take a break.

(Recess)

MR. CHAIRMAN: Just before I say yes, Mr. Cooper, I had a question of the panel. And I guess it is Mr. Marois. Yesterday the applicant filed A-4 which is "total cost EGNB construction laterals", that document. And that shows \$22,052,081.

Now is that reduced by the same amount as you indicated the Board's interrogatory was reduced?

MR. MAROIS: No. That amount has not been reduced by the impact of the Maritimes and Northeast project. This is the full budget that was filed in the original construction application.

The only difference with this document is that it shows the breakdown by municipality.

MR. CHAIRMAN: All right. Maybe I didn't phrase that correctly, Mr. Marois. You indicated in response to

Mr. Blue's questions that because of what occurred last week, and Maritimes and Northeast having to construct all of the stations plus the two laterals, that the response to the Board's interrogatory, and I forget the number, was reduced from 22 million to 19 million something?

MR. MAROIS: Yes. That is correct.

MR. CHAIRMAN: Okay. Would this not? The 22,052,000 on this, was that not reduced in the same fashion?

MR. MAROIS: Well, maybe to avoid confusion, even though we know that we are now heading towards the Maritimes and Northeast solution for the laterals, we did not modify this application.

Because like Mr. Harte mentioned, we wanted to get our full facilities approved in case the Maritimes and Northeast solution did not go ahead. So we are not modifying the proposal.

But we are showing the impact if the Maritimes and Northeast solution is approved, then the amount you see in front of you of 22 million would be reduced to 19,278,000.

MR. CHAIRMAN: Okay. I guess my way of looking at it is that you have suggested to the Board that you wish to change your proposal so that the Maritimes and Northeast would be building certain things. And that is what we heard last week. And the Board has to make a decision on that.

Now for purposes of clarity, so that Mr. Blue or Board staff or somebody like that doesn't have to go digging, I would suggest that on something like this that when counsel makes an opening statement, you could indicate that, that because of what is proposed as of last week, et cetera, it would reduce the figures here on this one. And also in reference to the responses to the interrogatories.

MR. MAROIS: Point taken.

MR. CHAIRMAN: Okay. Thank you.

MR. MACDOUGALL: Mr. Chair, just as a follow-up on that, as was mentioned, I think we tried to do it in Mr. Harte's statement, just to the effect that what the applicant is asking for here is the permit to construct all of the facilities, knowing if the other ones are taken out then the fuller permit will allow the construction of those facilities that remain.

But the applicant's position at the end of this will be it will still be asking this Board for the permit to construct all of the facilities including the St. George and Moncton lateral. And because if this Board has not yet determined on the M&NP issue or if the other conditions such as the M&NP approval are in place, we wouldn't want to be coming back to the Board to do that.

So the applicant will be asking, as Mr. Harte stated in his opening statement, for the ability to have a permit

to construct all of those facilities with respect to the numbers, as they may change if the Board agreed with the M&NP proposal.

Just for the record I could refer you to, under the rates case, the M&NP proposal, exhibit L, schedule 1. That was the Province of New Brunswick interrogatory number 1 where the numbers were specifically listed as \$2.63 million for those two laterals.

And I believe I shouldn't talk because I'm not an engineer or mathematician. If you take that number away from the 22 million and change you get the 19 million and change.

So that number was presented. So no one ever said in the rates case the 19 million number. But the figure of 2.63 was there and taken from the 22', the math just leads to the 19' figure.

MR. CHAIRMAN: Okay. I appreciate what you are saying, Mr. MacDougall. I just -- we have so many hearings on the go and so many different things in front of us that to spend an extra four or five minutes at the commencement with the explanation and then if (a) occurs or (b) occurs, this is how it would reflect in the evidence we have before us, I think would be helpful.

MR. MACDOUGALL: As Mr. Marois said, we totally agree with that, Mr. Chair.

MR. CHAIRMAN: Okay. Thank you, Mr. MacDougall. Now

Mr. Cooper?

MR. COOPER: Mr. Chairman, just to deal with the role of the municipalities in these hearings. In yesterday's comments by Mr. Hoyt in respect to the meeting that was held yesterday morning, at page 89 of yesterday's transcript of the proceedings, it indicated -- or his comments indicated there that the municipal issues would be taken off the table for the purposes of direct examination and cross-examination, but that the municipalities would continue to participate in the hearing albeit probably at a lesser extent than otherwise would have been the case.

We commented later that that was our understanding of our meeting. Your response to those comments was, among other things, good.

I'm just wondering if that is interpreted as consent of the Board that that is the process that we would follow? Or was that just merely an expression of relief?

MR. CHAIRMAN: I think, Mr. Cooper, it is both. And you have now avoided having to decide whether you are the next senior member of the bar.

And Mr. Stewart, you are certainly not. But you are sitting in the place for cross-examination. So go ahead, sir.

MR. STEWART: Mr. Chairman, I think we did determine at the break that I am -- I have delusions of youth, I guess, that at least as between myself and Ms. Abouchar, I'm by far and away senior to her.

MR. CHAIRMAN: Mr. Holbrook has admitted to a bar.

MR. HOLBROOK: I'm old.

CROSS-EXAMINATION BY MR. STEWART:

Q.180 - Gentlemen, if I could begin I think where the Chairman left off. Because I just also had a couple of clarification questions on some of these numbers that were thrown around here.

And if I could refer you to exhibit A-4, which is the breakdown of the costs by municipality that you provided yesterday.

Now the question I -- the initial question I had is where did these numbers come from? But I think you may have hinted at it. Or Mr. Marois may have indicated in response to the Chairman's question.

Were these numbers part of the original proposal that was submitted to the Province? Is that -- or were these something you have just put together?

MR. HARTE: No. These have no real relationship to the initial proposal at all. Because in the initial proposal, Maritimes and Northeast had a lateral policy was in place. They were running a lot of laterals into these various

municipalities.

And actually we are now running some of these laterals ourselves. So that the \$22 million in the original proposal and this one have no real relationship to one another.

Q.181 - Okay. Then when were the numbers that appear in exhibit A-4 generated?

MR. HARTE: Early this year.

Q.182 - And I appreciate that it is only a minor discrepancy.

But response to Board staff IR number 29, exhibit I, schedule 29, page 2 of 2, you also provide the \$22 million figure.

And I'm just trying to determine whether that one or exhibit A-4 is the most current or accurate analysis?

MR. HARTE: There is a slight difference in the number mainly because we priced each municipality individually and broke it out. And through the rounding process it ended up being a little different.

So I would say that the numbers in A-4 are the more accurate numbers.

Q.183 - All right. And then page 2 of schedule 29, exhibit I is just in fact a summary of exhibit A-4, is that correct?

You have just aggregated the municipal breakdown?

MR. HARTE: That is correct.

Q.184 - Okay. And again the numbers may have -- I may be able

to go back and dig through the rates case evidence. But you have indicated that the \$22,052,000 and some odd dollars are reduced to 19 million and something.

That is a result of M&NP building two of the laterals, is that correct?

MR. HARTE: If M&NP --

Q.185 - Or that is the proposal?

MR. HARTE: Yes. If M&NP goes ahead with the laterals to Moncton and Saint John, it will be reduced to 19 million.

Q.186 - Okay. So if I look at exhibit A-4, in Moncton you have \$5,833,301. How much is the Moncton number reduced if M&NP builds the pipeline?

MR. HARTE: Give me a minute. It would be approximately \$1.7 million.

Q.187 - And the St. George figure is reduced then by, what is it?

MR. HARTE: Approximately 900,000.

Q.188 - And I don't have a calculator with me but just so I am clear, the numbers you are giving me, for example Moncton, the 5.833 is reduced by 1.7 million, and whatever that arithmetic gives us, that is the new figure for Moncton if Maritimes and Northeast builds the lateral?

MR. HARTE: That's correct.

Q.189 - And in the same vein, the 1.7 million you have for St. George is reduced by 900,000 to whatever that is, I guess,

800,000, if --

MR. HARTE: Yes, approximately 900,000.

Q.190 - Right. So it is reduced by 900,000, and whatever the difference is is what the new number for St. George is?

MR. HARTE: That's correct.

Q.191 - Okay. Now can I refer you to page 14 of exhibit A?

MR. HARTE: Okay.

Q.192 - Now I am looking at Section 5.1 of your evidence. And the first thing I am trying to determine is exactly what it is that you propose to build in the next year or between now and I guess the end of the year 2000.

And are these bullets here that are listed in Section 5.1 a breakdown of what you intend to build between now and the end of the year 2000?

MR. HARTE: That's correct.

Q.193 - Okay. So for example for the first bullet is 42 kilometres of pipe size number 8 with an operating pressure of 350 PSI?

MR. HARTE: That's correct.

Q.194 - And that is the total of that type of pipe that you will build in each of the municipalities in question?

MR. HARTE: That's correct.

Q.195 - And I didn't go through and do the arithmetic, but I think in the summary of your evidence you indicate that by the end of the year 2000 you are going to be building 119

kilometres of pipe?

MR. HARTE: That's right.

Q.196 - So that would be the total of all these bullets, the 42, the 18, the 14, the 17, et cetera?

MR. HARTE: Yes.

Q.197 - Okay. Now how much is the 119 kilometre figure reduced if the Maritimes and Northeast suggestion is approved?

MR. HARTE: Says 11 kilometres in Moncton and 4.7 kilometres in St. George.

Q.198 - And that is, well, 15.7 kilometres I guess it will be reduced?

MR. HARTE: That's correct.

Q.199 - Now is that -- if I can refer you to the first two lines of Section 5.1 of exhibit A. You talk about 89 kilometres of extra high pressure and high pressure steel and 30 kilometres of intermediate pressure. Does the 15.7 -- which of those two things does it reduce?

MR. HARTE: The 11 kilometres is eight inch steel.

Q.200 - So that would come off the 89?

MR. HARTE: That's correct.

Q.201 - Right. So eight inch steel is an extra high pressure line?

MR. HARTE: Extra high pressure, yes.

Q.202 - Right. And what about the 4.7?

MR. HARTE: The 4.7 in St. George is four inch steel extra high pressure.

Q.203 - So the reduction of 15.7 comes off the originally proposed, or I guess still technically proposed, suggestion that you are going to build 89 kilometres of extra high pressure line --

MR. HARTE: That's correct.

Q.204 - -- in the year 2000?

MR. HARTE: Yes.

Q.205 - And I think it is in your evidence in just about every one of these hearings, but I know it is part of exhibit A somewhere that your intention is to build -- or to have attached by the end of your 20 year forecast 70,000 customers. Is that correct?

MR. HARTE: That's correct.

Q.206 - Approximately. And how many kilometres of pipeline will you have installed by that point?

MR. HARTE: Maybe if you give me a few minutes I could provide that. Maybe the next break. Would that be okay?

Q.207 - Okay. And I know it is in the thousands of kilometres?

MR. HARTE: I believe it's around 1,400 kilometres but I can get you the exact number.

Q.208 - So assuming the Maritimes and Northeast proposal is accepted for the moment, you are going to build 103.3

kilometres of your approximately planned 1,400 or so kilometres over the next 20 years in year 2000?

MR. HARTE: That's correct.

Q.209 - Now if I may, can I -- I know we have got all kinds of maps here, but probably the simplest one to refer you to is exhibit A-5, that was the little bundle of maps that your counsel handed around yesterday afternoon.

MR. HARTE: Okay.

MR. MACDOUGALL: Mr. Chair, again just for questioning purposes, I think lots of people have taken the maps apart. If when referring to a map if Mr. Stewart could just give the lower right-hand corner designation so people can find it in the IR? That is the figure number. And the name, the community.

Q.210 - Well, there are, as I understand it, as part of exhibit 5 -- at least the first five are maps of the proposed distribution system that will be constructed in the year 2000?

MR. HARTE: That's correct.

Q.211 - Figure 1 is Fredericton, figure 2 Oromocto, et cetera?

MR. HARTE: That's right.

Q.212 - Now the red line -- or the bold red line that appears on each of these figures -- and maybe it is easiest to take the figure 1 or the City of Fredericton as an example, it is the one on top. That red line is the

extent of the year 2000 construction that you are proposing today?

MR. HARTE: That's correct.

Q.213 - And accordingly each of the maps -- for example, if we go to figure 3, which is Moncton, Riverview, Dieppe, the red lines that are here, that they make up part of the 119 kilometres that you are talking about?

MR. HARTE: That's right.

Q.214 - Except if the Moncton sort of mini lateral gets built by M&NP you will only be building from the Moncton -- or I guess it is probably Dieppe town limits in?

MR. HARTE: That's correct. I guess around the area of the proposed service area on route 15.

Q.215 - Right.

MR. HARTE: That's where M&NP would end their transmission lateral.

Q.216 - And so if I am looking at figure 3 of exhibit A-5 -- well it is -- isn't it almost where -- or where on that line would the -- if M&NP builds the lateral, where will it change?

MR. HARTE: Right where it shows the proposed service area, the boundary.

Q.217 - Right.

MR. HARTE: That's where M&NP would end.

Q.218 - So assuming again that that M&NP proposal is accepted,

then you will only be building the pipeline represented by the heavy bold red line within the shaded proposed service area?

MR. HARTE: That's correct.

Q.219 - And I take it then that the other almost 1,200 kilometres or so of pipeline over the next 20 years will be made up of a couple of things. It will be made up of running all the pipelines inside the shaded proposed service areas on these maps, on exhibit A-5? That is one element of it?

MR. HARTE: That's one element, plus the other communities that we identified.

Q.220 - So you will have the other communities where you will have mains and these high pressure steel lines, and then you will have also inside that community where you serve its proposed service area. Is that correct?

MR. HARTE: That's correct.

Q.221 - If I could -- just a question about this exhibit C-4, that's the RFP interrogatory number 100 that Mr. Blue put to your attention?

MR. HARTE: Yes.

Q.222 - In here there is a question about, you know, the software system that you are going to use to design your gas distribution system. Is that the software that you will be -- that you have used to design the in-fill of

each of these communities?

MR. HARTE: Yes, it will be.

Q.223 - Yes, it will be. So has the in-fill of the communities yet been designed?

MR. HARTE: Not all of them, no.

Q.224 - No, okay. What ones have been designed?

MR. HARTE: We have designed some of the major communities that we are going to this year in part --

Q.225 - All right.

MR. HARTE: -- but we haven't completed all the designs.

Q.226 - Okay. What ones have you -- which of communities that you are going to this year have you completed an in-fill design for?

MR. HARTE: We haven't fully completed in-fill designs. We have done partial in-fill designs.

Q.227 - All right. What partial in-fill -- what communities have you prepared partial in-fill designs for?

MR. HARTE: In Fredericton, Moncton and Saint John.

Q.228 - All right. And you have done that using this whatever it is --

MR. HARTE: The Stoner software system.

Q.229 - -- the Stoner software system?

MR. HARTE: Yes.

Q.230 - Will you provide a copy of that in-fill design to date -- that you have completed to date?

MR. HARTE: I can provide it.

Q.231 - Thank you. And how long will it take you to generate that?

MR. HARTE: I should be able to provide that for tomorrow.

This is similar to Mr. Blue's question on the distribution design that the Province requested. It would be the same information.

Q.232 - All right. Now if I could, Mr. Harte, I would like to refer you to Board staff interrogatory number 1. That's exhibit I, schedule 1.

MR. HARTE: Yes.

Q.233 - And I want to make sure that I understand exactly what it is you are requesting of the Board when it comes to this light-handed regulation in the construction sphere.

Now if I could refer you to -- well I think I guess it's the second paragraph of your response after you talk about the items you file before and after the fiscal period.

And you say EGNB does not believe that any additional permitting should be required for in-fill which consists solely of an expansion of the distribution system within the municipalities in which the grid mains have been previously approved by the Board.

So is it your position that you do not need a construction permit from this Board to build anything else

in the municipalities that you are going to construct mains for in the year 2000?

MR. HARTE: Our application includes the mains that we are going to build in the year 2000.

Q.234 - Right. After that?

MR. HARTE: After that, 2001 on we would hope that the Board in their approval on this application would approve the in-fill, and therefore we would not file an application to the Board for those in-fill.

We would file with the Board the details of where we are going to in-fill and the cost estimates associated with that with the proposed customer capture.

Q.235 - Okay. My question is this. Because what you seem to be suggesting here is that you don't need a permit to do any of the in-fill. And is your position that you will or will not apply for a permit from the Board? How you do that is another issue for the moment.

But will you or will you not seek a permit from the Board to do the in-fill, for example, in the city of Saint John?

MR. HARTE: This application includes the in-fill.

Q.236 - All right. So the permit that you are applying for now includes not only the 119 or the 103, depending on which proposal goes forward, worth of mains, but also all of the in-fill that you are going to do in each of the

proposed service areas?

MR. HARTE: That's correct.

Q.237 - So that's what you are asking this Board to do now?

MR. HARTE: That's correct.

Q.238 - Okay. And I appreciate that you have indicated that you are going to give it to us in the morning. But up until this point you have provided no evidence as to the design of the in-fill?

MR. HARTE: That's correct.

Q.239 - And, I'm sorry, Mr. Harte, I just want to make sure I get the point clear. You acknowledge that you need a permit to do all the in-fill, just that the permit you are seeking now will also cover the in-fill work, or what you describe as in-fill?

MR. HARTE: That's correct. The permit that we have applied for is for all of the communities including the in-fill work.

Q.240 - Okay. Now going forward you intend to, good Lord willing, serve a bunch of other communities in the province of New Brunswick, Chipman, Miramichi, Woodstock, et cetera?

MR. HARTE: That's correct.

Q.241 - All right. And will you need a permit to construct or an additional permit to construct those facilities, or is your application to construct in those communities part of

this application as well?

MR. HARTE: It's part of this application. As I said previously, we would file with the Board the public information program, environmental impact assessment to go to those communities. And then at the Board's discretion to decide whether we require a hearing or not. Our application would be that we do not have a public hearing.

Q.242 - All right. So then the permit you are requesting here today covers not only what we looked at in Section 5.3 or the breakdown of the 119 kilometres for the pipe, but also all of the in-fill for Fredericton, Oromocto, Riverview, Moncton, Dieppe, Saint John and St. George, but also the remainder of the communities that you intend to serve?

MR. HARTE: That's correct.

MR. MACDOUGALL: Mr. Chair, if I may, just to add some clarity. I think what Mr. Harte said though was that they would file that information and not require a public hearing for those other communities. Not that they wouldn't require a permit for other communities going forward. Just to add some clarity.

MR. STEWART: Well, Mr. Chairman, the --

MR. MACDOUGALL: That's the purpose of 5 and the Section 7.

Q.243 - Okay. But is there -- I'm trying to understand what it is that they are applying for here. I mean what they may or may do or make a condition for the permit, we will

get into. Or maybe I will ask the witness some more questions if there is some confusion. But -- and I will just ask the question.

Mr. Harte, you said that when you go to new communities you intend to file information on a public information program or what have you.

Do you envision at that time when you file that information that you will be seeking a permit, a construction permit from this Board?

MR. HARTE: Yes. A construction permit but not a public hearing.

Q.244 - Okay. So for the other communities other than those that are part of A-5, Fredericton, Oromocto, Moncton, et cetera, you will actually have a separate construction application for which you are indicating you may or may not want or need an oral hearing?

MR. HARTE: That's correct.

Q.245 - All right. But it's going to be a separate permit application?

MR. HARTE: That's correct.

Q.246 - And you are not applying for any approval to construct anything for those other communities as part of this application?

MR. HARTE: That's correct.

Q.247 - But you are looking for the Board to set a procedure

for when you do make those subsequent permit applications, your so-called lighthanded regulation?

MR. HARTE: That's right.

Q.248 - All right. Now if I could refer you back to your response to Board staff interrogatory number 1 again.

Now you give us two lists of things that you are apparently going to file with the Board, or your proposal is that you will file with the Board, both prior to and at the end of a fiscal period, quote, unquote. What is the fiscal period?

MR. MAROIS: As I indicated in previous hearings, initially our intention was that our fiscal period was going to be from October to September. But now that we are going to a partnership, it will be the calendar year.

Q.249 - All right. So when I say prior to fiscal period -- when I see prior to a fiscal period and at the end of a fiscal period, I can now read prior to and at the end of a calendar year. They are going to line up with a calendar year. Is that correct?

MR. HARTE: Yes. We will file with the Board after this construction season this year, calendar year.

Q.250 - Okay. But you are talking about you will -- I'm just reading here. It is proposed that EGNB will provide the following information to the Board on an ongoing basis.

So the first thing I want to determine is when it is

that you are going to do these filings that you are suggesting you are going to do here.

So the documents that you have indicated under number 1 as you are going to file prior to the fiscal period, just when is that going to be? I suppose both with respect to this year and going forward.

MR. HARTE: So that would be prior to the end of this year.

Q.251 - So prior to December 31, 2000?

MR. HARTE: That's correct.

Q.252 - And -- okay. That's good. That gives me 364 days.

But is it going to -- because the next one is at the end of a fiscal period, right. So how much prior to a fiscal period or is that for the next year going forward or --

MR. HARTE: That's for the next year going forward.

Q.253 - All right. So if you are proposing you are going to file for 2001's plan as it were, that will be filed with the Board when?

MR. HARTE: Probably December of this year.

Q.254 - Okay. By the end of December, the first of December?

MR. HARTE: I would think that -- it would certainly be prior to the end of December. I would think it would be early on in December.

Q.255 - Okay. So early on in December you are going -- your proposal is that going forward you will file with the Board the documents listed under your number 1 in Board

staff IR number 1?

MR. HARTE: That's correct.

Q.256 - Okay. So your plan going forward is that you will file with the Board customer addition forecasts. Is that correct?

MR. HARTE: That's correct.

Q.257 - Now will that be for the year 2001?

MR. HARTE: That's correct.

Q.258 - And 2001 only?

MR. HARTE: That's correct. What we plan on constructing next year.

Q.259 - All right. Proposed in-fill areas, what does that mean?

MR. HARTE: That's what in-fill areas we intend to construct in 2001.

Q.260 - Right. Proposed new communities to be served?

MR. HARTE: The new communities we intend to put an application in to construct for in 2001.

Q.261 - Okay. See, that's where we are getting back to where I was earlier. When you indicate the proposed new communities to be served, will that constitute a separate application or a new application for a permit?

MR. HARTE: It will constitute a new application.

Q.262 - All right. So that's a bit of a separate category.

If you propose to serve a new community in 2001, you are

going to file a separate application for a new permit?

MR. HARTE: That's correct.

Q.263 - All right. Whereas these other things you are going to be talking about, proposed in-fill areas, at least your proposal is that that will be under the auspices of the permit you are asking this Board to give you today?

MR. HARTE: That's correct.

Q.264 - Or as a result of their decision?

MR. HARTE: Correct.

Q.265 - All right. Now the capital expenditure forecast, distribution main, services, yard lines and meters and other facilities required.

Are you going to break this forecast or this expenditure forecast down between proposed in-fill areas and new communities to be served?

MR. HARTE: That's correct.

Q.266 - All right. And you will also break it down based on the three categories you have indicated, distribution mains, services and other facilities that might be required?

MR. HARTE: That's correct.

Q.267 - All right. Have you done that for the current application? Is there some materials here I could look at so I have a sense of what it is you are going to file when you file a capital expenditure forecast?

MR. HARTE: We did file for the distribution mains, the other facilities and service laterals in this application. And I have agreed to provide more detail as requested by Board staff.

Q.268 - Okay. But then point me to it, please? I just want to know what this capital expenditure forecast is going to look like, or what you are proposing it looks like?

MR. HARTE: Sorry. Page 46 of 50, exhibit A.

Q.269 - All right. So that is what you propose to file on an annual basis with the Board about your capital expenditures for the next construction year?

MR. HARTE: Based on discussion with Board staff, Board staff has requested some additional detail.

Q.270 - Okay. What additional detail are you going to provide or do you propose to provide?

MR. HARTE: Break out some of the costs regarding pertinent items which may include rock and sand backfill and reinstatement costs, break out material costs other than just pipeline and material.

Q.271 - Anything else?

MR. HARTE: Board staff said they would give me a list and lay out the way that they would request that.

Q.272 - All right.

MR. MACDOUGALL: Mr. Chair, just so you know that Mr. Harte is responding now to the meeting yesterday on the points

that were raised on information required.

And Board staff is going to provide Mr. Harte. And he will fill it in and they have reached some agreement, we understand.

MR. STEWART: That is all well and good for them to reach an agreement, Mr. Chairman.

MR. MACDOUGALL: No. But I'm sure the format of that could be provided, Mr. Chair.

Q.273 - Do you have an intention to break these capital costs down by community like you did in exhibit A-4?

MR. HARTE: That's correct.

Q.274 - Okay. So it won't look like page 46 of 50 of exhibit A. It will look more like exhibit A-4?

MR. STEWART: More like exhibit A-4 with some more detail.

Q.275 - With some more detail, a breakdown of some of the various cost items?

MR. HARTE: That's correct.

Q.276 - Now as I understand it, at the end of a fiscal period, which I guess in this case the first one of those will be at the end of December 2000, you propose to file the documents that are listed under number 2, "customer additions actual"?

I'm referring to Board staff IR number 1 again.

MR. HARTE: That's correct.

Q.277 - All right. "A construction update", will that consist

of -- you say as-built drawings. Will there be anything else?

MR. HARTE: That would also include actual costs versus the estimated costs.

Q.278 - Okay. Well, there is a third item there, "capital expenditures actual", okay. So you will provide the Board with what you actually spent. I understand that.

But on the -- will there be anything else to the construction update other than as-built drawings?

MR. HARTE: There may be an explanation for variances if we change what was in the original application from what we actually constructed.

Q.279 - All right. Anything else you can think of?

MR. HARTE: Not that I can think of, no.

Q.280 - Okay. And when you say as-built drawings, will these be engineering drawings?

MR. HARTE: That's correct.

Q.281 - And who will they be sealed or certified by?

MR. HARTE: By a professional engineer.

Q.282 - All right. By an employee of Enbridge Gas New Brunswick?

MR. HARTE: It will be an employee of Enbridge Gas New Brunswick, yes.

Q.283 - And do you have that person hired now?

MR. HARTE: The person will be on staff starting June 1.

Q.284 - Oh, okay. So you are going to file -- there are really sort of two parallel processes here going forward, if I understand your proposal.

One is you are going to be filing -- at least according to your proposal, you are going to be filing I guess just before -- at the end of a year you are going to be filing what we did last year, and before the beginning of the next year, what you intend to do over the following year?

MR. HARTE: I would say that we would probably file what we are planning on doing the following year first. And then early in the new year we will file what we completed the previous year.

Q.285 - All right. And when would you expect the Board would issue you a permit for the element of your new construction for the new communities?

MR. HARTE: Early in the following year, I would think, around April time frame.

Q.286 - So you will agree with me that at a minimum the Board should have an opportunity to review your previous year's actual results prior to issuing you a permit for the subsequent year?

MR. HARTE: Yes.

Q.287 - When do you expect that you will be finished your work on your proposed year 2000 project?

MR. HARTE: Based on our schedule, by the end of October.

Q.288 - And I think you have already undertaken to provide a copy of that schedule to the Board and to us?

MR. HARTE: We will provide an updated schedule. We already had a schedule provided.

Q.289 - Okay. The information that you are going to be filing for the next fiscal period, and again at least according to your proposal, for your proposed in-fill areas and your proposed new communities to be served, when will those plans -- you are going to file it prior to the fiscal year, I think you said in early December, or early on in December, I think is what you said -- when will you be generating those plans?

MR. HARTE: We would probably start around August, September of this year.

Q.290 - And when and how do you intend to advise the various marketers when and where you intend to go in the next year?

MR. THOMPSON: What we would be doing is actually working in close conjunction with the marketers, Mr. Stewart. One of the issues that I raised in my opening remarks was the fact that as an industry we have to work very closely together.

And we will be working hand in hand with the marketers in terms of delivering that kind of information to them on

an informal basis and also requesting that they will be bringing forward information as to areas that they feel have the highest propensity for conversion.

So marketers in an informal way would be seeing that information fairly early on.

Q.291 - All right. When will they see it in a formal way?

MR. THOMPSON: When it is filed with the Board.

Q.292 - And just so I'm clear, in response to Irving Oil interrogatory number 7 -- and I'm not pointing out the inconsistency for the sake of inconsistency. I just want to make sure that I have the right answer.

I think you said marketers will be provided with the information concerning construction in new communities and the in-fill filed with the Board prior to each fiscal year once approved by the Board.

So it will be -- marketers will be informed when you file with the Board, not after the Board's approval?

MR. THOMPSON: Quite.

Q.293 - That's correct?

MR. THOMPSON: Yes.

Q.294 - Okay. Can I refer you to Irving Oil Limited interrogatory number 8? It is exhibit K, schedule 8.

MR. THOMPSON: Yes. We have that.

Q.295 - All right. Now the question was posed about how your request for so-called lighthanded regulation was going to

affect your obligation to get a licence from the Board under Section 25 of the Act.

And as I understand it your response is you don't think it is appropriate, and you have asked the Province to amend the Act.

Exactly what have you asked the Province to amend the Act to say?

MR. THOMPSON: We undertake to get you that information, Mr. Stewart.

MR. STEWART: So when can you provide that information? My concern is, Mr. Chairman, that I may have some questions which flow out of the response to that question.

MR. MAROIS: We would have to consult with counsel just because we don't remember if we did make a specific request. I do remember we raised a concern about this legislation but I can't remember if we made a suggestion as to what it should be.

MR. STEWART: Well I am going by what is here. It says EGNB has asked the Province of New Brunswick to amend Section 25.

MR. MACDOUGALL: Mr. Chair, me and Mr. Hoyt also discussed it. Mr. Hoyt was at the meeting. If you can, Mr. Hoyt could talk to the gentlemen very quickly and then they could give their answer.

CHAIRMAN: Mr. Hoyt can give the answer.

MR. STEWART: Sure. As long as it is binding, that's fine.

MR. HOYT: The request related to the requirement of Section 25 to get a licence to open the pipeline following completion of construction, the applicant's position is that all the approvals required in terms of the pipeline are part of the permit process and that all of the inspections and everything that are required along the way should suffice, and that there shouldn't be a separate licence to open procedure required.

So the request is actually not to amend it but in effect to delete it, the obligation to obtain the licence.

MR. STEWART: All right. And what has been the Province's response to that request?

MR. HOYT: The Province indicated that they would consider the request.

MR. BLUE: The Province also said it is going to be a long time before there are any amendments to this Act, so the company has to live with it for a while.

And leave to open requests, Mr. Chairman, are fairly common. It is to make sure that before you turn on the tap and flow the gas, the line is not going to blow up. I say that facetiously.

Q.296 - So we are clear for the record, is it Enbridge Gas New Brunswick's intention to apply for a licence under Section 25 until such time as the Act is amended, which according

to Mr. Blue, may be a long time?

MR. HARTE: For the main pipeline that we will be constructing this year and the main grid system, we put an application in to leave to open.

The amendments that we were looking for would be -- the way the Act is written that we would have to apply for a leave to open for each service lateral that was installed to every residential home and every commercial home that we put a service lateral into, and therefore that whole process could delay actually adding customers on the distribution system.

And we think that it is unnecessary for that type of thing. A leave to open is usually for a transmission pipeline not for service laterals or small distribution lines.

Q.297 - All right. I think I understand what your position is. My question is do you intend to apply for a licence until such time as the Act is amended, if at all?

MR. HARTE: Under the present requirements we would have to.

Q.298 - Thank you. Does Enbridge Gas New Brunswick -- or has Enbridge Gas New Brunswick asked the Province of New Brunswick to consider amending any other provisions in the Gas Distribution Act or its regulations?

MR. MAROIS: Yes, we have.

Q.299 - And what are those?

MR. MAROIS: There is a long list of concerns. I don't remember them all by heart. The majority of the concerns relate to the fact that the current legislation is clearly aimed more at pipelines, so it's very hard to apply in a practical manner to a distribution system.

Q.300 - All right. So many or most of those requested amendments would turn on these construction issues in terms of the regulations and licencing, et cetera?

MR. MAROIS: Yes. There might be other concerns as well.

Q.301 - Will you undertake to file with the Board a list of those items in the Act or the regulations that you have sought the Province's -- or sought amendment from the Province?

MR. MAROIS: I would like to consult with counsel first, if there is any sensitivity there.

MR. MACDOUGALL: Mr. Chair, on that I don't think that that is necessarily appropriate. The panel here and elsewhere has said they will comply with the Act so long as the Act and regs are in place. Compliance would be with respect to the sections, for example that we have just talked about, leave to open. There may be a dispute between counsel for the Board, counsel for the applicant and others as to what that leave to open means.

Clearly the applicant did not have a chance to have input into the regulations before they were draft -- they

were not put out in draft and commented on by the applicant, notwithstanding that the applicant would have liked that opportunity.

That having been said, after this process the applicant will be reviewing the Act and the regs, as we understand the Board will likely be doing, as coming under the marketers hearing we were aware that there is a problem with the definition of customer. I believe the Board itself said they saw that problem. There are a whole host of issues.

The Act as it now stands, with the regulations as they now stand, are the regime under which this hearing is going forward and in which the applicant will continue to go forward, if it has to comply with those requirements under the Act.

If the applicant wants to make suggestions to the Province or to the Board with respect to its regulations, as those discussions have also been had, I think that's appropriate for the applicant to do.

It has held off on doing those at this stage to allow this proceeding to go forward. And other parties also can make comments to the Board or to the Province about changes that they think should occur in the regime.

Filing those today, most of which were informal discussions, except with respect to issues such as the

customer definition under the marketers hearing, I don't see the value in that and it would take an awful lot of time because there may be quite a few changes.

MR. STEWART: Mr. Chairman, in any other circumstance I would probably agree with Mr. MacDougall.

But the issue that we are faced with here is the applicant has applied for a construction permit to allow it to do, you know, what it deems as in-fill work under the auspices of that permit, potentially going forward for 20 years. And I think it is completely appropriate for the -- or at least till that work is completed over a several -- long period of years.

I mean, if the applicant is having discussions about how it feels the regulation should be amended, then that is a relevant consideration for the Board and for the parties to know the context in which this application for a permit which will have proactive effect, if in fact that can be done and that I think is subject to some debate, and that is why it is relevant.

If they want to limit their application to a permit to the end of this year, then fine. But if they want it to have far-reaching, forward effect like that, then let's have -- I think it is fair game to understand how they want the regulations changed, so we will know the environment that they intend to operate in the future.

MR. MACDOUGALL: Mr. Chair, it is not open to the applicant to change the Act nor the regs. That is within the remit of the Province and this Board with respect to its regs. This applicant takes the full regulatory risk of that being changed for a whole host of reasons, change in government, change in philosophy. Regulatory risk is regulatory risk.

The applicant at some time can suggest changes to a regime that can or cannot be accepted, other parties can do so, provinces do so. There is absolutely nothing inappropriate with that.

This applicant takes the full regulatory risk of moving forward in the province and will continue to do so, but it will have suggestions at some time. Those suggestions may change. There may be more tomorrow than there were yesterday.

I can't agree with Mr. Stewart's submission because this applicant has said it will abide by the regulations and the Act in place at the time. With respect to this permit we know what they are and we will abide by them.

MR. STEWART: I am not suggesting any -- Mr. Chairman, I think it is appropriate to know the context of the application.

CHAIRMAN: Mr. Stewart, frankly when you said how you understood it, some of it didn't ring true with me and

that may be for any number of reasons.

However, my understanding is the applicant is applying to serve the five or seven communities this year, and as well, the in-fill in those communities in this application.

My understanding is that next year it will apply for the new communities which it wishes to serve plus the in-fill in those communities going forward, just the same as it is doing in this application now.

MR. STEWART: I understand, Mr. Chairman, but I think Mr. Harte's evidence was that for example that all the in-fill that will take place in Fredericton, Moncton, Dieppe, Oromocto, Saint John will be done under the auspices of the permit they are seeking today.

Q.302 - And so my suggestion is that -- well and maybe we need to put on the evidence -- and I will ask Mr. Harte the question, how long before you expect all of that in-fill work to be completed?

MR. HARTE: It can be ongoing. I would think that most of it would be completed in a three to four year period.

MR. STEWART: And that is the context of my statement, that we are going to have -- they are seeking a construction permit that will go forward for work to be done three and four years out.

CHAIRMAN: Well frankly under the old Pipeline Act one of

your clients would apply and we would say construction to be completed within two years, or something like that.

Anyway continue with your questioning. I mean, this is something for the Board to have to decide what is appropriate and what is not.

MR. MACDOUGALL: I guess, Mr. Chair, the problem is there -- Mr. Stewart has asked a question if we would undertake to provide all that. We have now responded.

So I -- you know, to be responsive to his question, I think the Board has to determine whether we have to respond to that question or not, unless he just wants to ask other questions, but that is what led to this, the fact that he asked if we would provide that and I guess the applicant's position is that it doesn't think it is appropriate for the reasons it has just stated.

MR. STEWART: My position is that it is.

MR. BLUE: Mr. Chairman, as long as it's on the table the Province would like to get in. I think there is nothing more useful -- useless, rather, than speculating about possible amendments to a statute in a public hearing to approve a construction program for the next year.

The Act is the Act, as Mr. MacDougall has said. I think the Province has said to the applicant and has said to the Board, and I will say it here, that it will look at the Act after you have had a few years of experience in

operating under it.

Once that happens I think that it is not telling any tales out of school that there will be a process for hearing suggestions about Act amendments from everybody and members of the public.

And the government will consider those and if it feels the Act -- necessary to amend the Act, it will propose that to the Cabinet.

But to speculate about what -- Enbridge's wish list in this hearing, I think is just a waste of time.

CHAIRMAN: Does anybody else have any comments?

MR. O'CONNELL: Nothing from Board staff.

CHAIRMAN: Good. Well, we will take a break and get back.

(Recess)

MR. CHAIRMAN: To begin, I want to apologize to counsel for having lost it. I don't know whether it was Mr. Stewart saying wish list, that I just started thinking about the Board's wish list. Then I forgot what the question was.

But my fellow Commissioners have beaten me into shape.

And the Board will not require the panel to answer the question, Mr. Stewart.

MR. STEWART: Thank you, Mr. Chairman. Just one or two more questions.

Q.303 - If I could refer you to Irving Oil interrogatory number 2, that is exhibit K, schedule 2?

MR. THOMPSON: Yes.

Q.304 - Okay. As I understand it -- and I'm thinking about the situation where you are applying for a new permit to serve a new community, say Chipman for example, just to pick one.

And I'm just trying to understand what it is that you are suggesting should be the process the Board adopt for giving you a construction permit in that context.

So if I look at your response to the interrogatory, you say that you intend to annually seek a permit to construct a pipeline in new communities.

Well, my for instance is, you know, in the next fiscal year you intend to go to Chipman. And you are going to be seeking a permit to do that.

You indicated the application would not necessarily require an oral hearing. I understand your position on that point.

Now it says then you would carry out a public information program. What would that consist of? Or what are you suggesting it would consist of?

MR. THOMPSON: It would consist of precisely the kind of program that is filed here as exhibit C. It would be the full public information program as mandated by the Board.

Q.305 - So you are adopting that mandate going forward for whenever you serve a new community?

MR. THOMPSON: Yes, we are.

Q.306 - Okay. And I know that Mr. Blue covered this in his cross-examination. But I notice in this interrogatory there is a bit of a qualification to it.

You say if the construction of those pipelines would affect any sensitive features, you would then file the information required by 7(4) and 7(21).

Now what if it doesn't? Are you going to file any other information other than the public information program data?

MR. HARTE: I would file information to say that there was no sensitive features.

Q.307 - All right. So in my example, if you are serving say the Village of Chipman, and your proposal is that you go to the Board and you file with the Board the results of your public information program, advise the Board whether or not your proposal will involve or affect any "sensitive features", what else would you file with the Board in support of that application for a permit, if anything?

MR. HARTE: We would file information regarding pipe-sizing, costing information, number of customers we would expect to add.

Q.308 - All right. So you would add then your capital expenditure forecast for that building permit or that community to be served, say Chipman in this example?

MR. HARTE: That is correct.

Q.309 - And would you provide information on the proposed in-fill areas in that community?

MR. HARTE: Information? What type of information?

Q.310 - Well, I don't know. You tell me.

MR. HARTE: From information regarding customer adds and information that we would get from a public information program. I think --

Q.311 - Would you tell us or tell the Board where the pipes are going to go and where the mains are going to go and what your in-fill distribution plan is for that community?

MR. HARTE: We would give similar plans to what we have filed this year as to what we would be willing to construct in the first year of that community.

Q.312 - All right. Now Mr. Blue asked you about Section 5 of the Filing Regulation.

Would you be filing information that would normally be required under that regulation as well or that section of the regulation? I think he said 5(12) to --

MR. HARTE: 5(12) to 5(20), yes.

Q.313 - Right.

MR. HARTE: Apart from what we had said in that 5(13).

Q.314 - All right. So I'm just trying to make my own list here mentally. You are going to file -- or your proposal is that if you file the results of your public information

program, you would confirm or not whether there are sensitive areas affected by your program.

And if sensitive areas were affected then you would meet the filing requirements under subsection 7(4) to 7(21) of the filing regulation.

And you would also file the information required from subsection 5(12) to 5(21) of the filing regulation, is that correct?

MR. HARTE: That is correct.

Q.315 - Okay. Anything else?

MR. HARTE: Part of the filing would be, you know, again the testing requirements and any other requirements under the 5(12) to 5(20) and with details.

Q.316 - Right. Would you propose to file your distribution in-fill plan for the community, like you have undertaken to do for, you know, the ones you are going to -- Saint John, Moncton, et cetera?

MR. HARTE: We would file the design that we had, depending on how much we intended to construct in that particular year or the following year.

Q.317 - Okay. So you would just put in what in-fill information you were intending to do in that particular year?

MR. HARTE: That would be the intent, I would think, at this time.

Q.318 - Okay. Of the 1,400 odd kilometers of pipeline that you will build over the next 20 years, how much of that -- we have already sort of indicated that, you know, 119 or 103 of that will constitute the mains for Saint John, Moncton, Oromocto, Dieppe, Fredericton, et cetera.

How much of that 1,400 kilometers will constitute the in-fill for those communities?

MR. HARTE: As you had asked before, that 1,400 kilometers was an estimate.

Q.319 - Yes.

MR. HARTE: The actual number is 1,450 kilometers.

Q.320 - All right.

MR. HARTE: And that the majority of that, I would say, in excess of a thousand kilometers would be what we would consider to be in-fill or be polyethylene intermediate pressure in the distribution system.

Q.321 - All right. So broad strokes, a thousand kilometers of medium pressure polyethylene pipe will be the in-fill in the major communities that you are putting mains in in the year 2000?

MR. HARTE: In-fill. Or they could be what we put the application in for. Like in some of the communities we are going to be fairly small. And they wouldn't have the high-pressure or extra high-pressure pipelines. We may just have the small diameter pipelines.

Q.322 - So if the demand for it -- like places like Chipman or St. George, you wouldn't -- you would just build -- you wouldn't need a big steel line in --

MR. HARTE: That is correct.

Q.323 - -- because it is small? Okay.

And how much will it cost to put that approximately a thousand kilometers of pipeline in these communities, Moncton, Fredericton, Saint John, et cetera?

MR. HARTE: Approximately \$93 million. That is for the pipelines alone.

Q.324 - Right. What about for temporary work areas that might be required?

MR. HARTE: A temporary work area would be included in that cost.

Q.325 - All right. What about district regulating stations?

MR. HARTE: Approximately \$9.5 million.

Q.326 - And how many district regulation stations would we be talking about for this thousand kilometers?

MR. HARTE: Approximately 67. That is between custody transfer and district regulator stations.

Q.327 - Right. And how many customer meter sets? I'm just going off of page 14 and 15 of exhibit A.

MR. HARTE: 70,000 customer meter sets.

Q.328 - 70,000?

MR. HARTE: Yes.

Q.329 - Now again -- and remember I'm only talking about the in-fill in Fredericton, Oromocto, Riverview, et cetera that are part of this application?

MR. HARTE: I'm sorry. I gave you the numbers for all of the communities.

Q.330 - Right. So how many meter sets for Moncton, Fredericton, Saint John, the communities that are part of this application?

MR. MACDOUGALL: Mr. Chair, while Mr. Harte is getting that, I guess I have to come back.

The first question Mr. Stewart asked was what would be the cost for the thousand kilometers of in-fill pipe, which I believe is for all of the Province, not for Fredericton, whatever. That is his first question. Then he continued with that.

So I believe Mr. Harte's numbers have been dealing with all of the in-fill in all the communities from number one. Because the first question was what is the cost of the thousand kilometers?

If that is the case, if that is not the information Mr. Stewart wants, we don't want to leave the impression that we are building \$93 million of in-fill in those seven communities.

MR. STEWART: Well, that was my question. So if we are on different wavelengths here, then we will need to clarify

that, Mr. Chairman.

MR. MACDOUGALL: So I think Mr. Stewart has to start his questions again and clarify what cost he is looking for. Is it for a thousand kilometers of in-fill? Or is it for the in-fill in seven communities?

Q.331 - So let's start at the bottom and work backward. How many customer transfer stations or district regulating stations are included in the in-fill for Fredericton, Oromocto, Moncton, Riverview, Dieppe, Saint John and St. George?

MR. HARTE: Moncton, Riverview, Dieppe there is seven in total.

Q.332 - Yes.

MR. HARTE: Oromocto has one. Fredericton has four. And Saint John has five. And St. George has one.

Q.333 - Okay. And where are the other 67?

MR. HARTE: In the other communities.

Q.334 - In the other communities. And --

MR. HARTE: I'm sorry. Not the other 67. 67 is the total for district regulator stations and custody transfer stations.

Q.335 - Okay.

MR. BLUE: Mr. Chairman, in the pause, could I just observe that the facts that Mr. Stewart is seeking to elicit are already in the case. The proposal to the Province and

part of the case, all these numbers, all these facts are set out there.

And specifically, estimated station costs, where they are is on page 4.124. The estimated main costs, the numbers, the \$91 million is on page 4.122. I mean --

MR. CHAIRMAN: Mr. Blue, this is cross-examination. If Mr. MacDougall wants to adopt that. And it may be helpful to Mr. Stewart. Mr. Stewart, you can go ahead.

MR. BLUE: It sounded a lot like late information requests.

MR. STEWART: Thank you, Mr. Chairman.

MR. BLUE: And I'm sorry. I shouldn't be objecting. But it is just that all this information is in the case.

Q.336 - The question was -- I think you gave me the numbers for how many -- we were just talking about the in-fill for the communities that are part of this application. And we were talking about district regulating stations.

And you gave me the numbers for each of the communities that are involved in your application today?

MR. HARTE: That's correct.

Q.337 - That's correct. Okay. Now as I understand it the custody transfer stations, at least for Fredericton, Oromocto, Moncton, Riverview, Dieppe, Saint John and St. George, the proposal is that those are going to be built by Maritimes and Northeast?

MR. HARTE: That's correct.

Q.338 - Right. And if they are not then you are still seeking a permit to construct those here?

MR. HARTE: We have not applied for a permit to construct.

Q.339 - All right. So they will be built by the pipeline no matter what?

MR. HARTE: That's correct.

Q.340 - Okay. So how many then kilometers of pipeline will the in-fill of Fredericton, Oromocto, Moncton, Riverview, Dieppe, Saint John and St. George consist of?

MR. HARTE: It could take a little while to add up the numbers. But as Mr. Blue had indicated, it is on page 4 of 122 in the proposal. But they are broken down by diameter and length for each of the communities.

Q.341 - Sure. You can do some rough arithmetic. I just want to get a sense of what that is.

MR. HARTE: I'm sorry. The table I'm looking at, I believe there might be an error in the numbers. I'm going to have to get back to you with that.

Q.342 - All right. Well, thank you, Mr. Harte.

MR. STEWART: Mr. Chairman, I only have but a question or two more. But they both flow out of the answer to that question.

I'm just wondering, maybe if you want to break for lunch a little early and come back. And then Mr. Harte can do his arithmetic. I don't want to delay this any

more, Lord knows, than we have.

MR. CHAIRMAN: Okay. Let's break for lunch and come back at quarter after 1:00.

MR. MACDOUGALL: Can I just check, Mr. Chair. Can this be done over the lunch break, Mr. Harte? Is that -- I don't know the magnitude of the question, of the --

MR. HARTE: The numbers are out of whack. But I will see what I can come back with after the lunch break.

(Recess - 12:00 p.m. - 1:15 p.m.)

MR. HOYT: Mr. Chairman, just on one preliminary matter to report on our discussion concerning the manuals. I just wanted to note that it is important that Mr. Blue noted that he is only talking about the six manuals that are referred to in exhibit I, schedule 28.

And the initial request was to have all the manuals remain confidential. Because we are concerned about opening the door in respect of many other manuals that the applicant has or is in the process of preparing.

This isn't a matter of attempting to hide anything. It is really trying to protect the company and the way it does business.

That being said, we are prepared to provide the emergency procedures manual, the safety awareness manual, the firefighter awareness manual and the environmental management program which was filed as part of the EIA's in

exhibits D, E, F and G.

With respect to the quality acceptance manual, what we would like to provide is the table of contents which shows the types of things that the company does quality assurance and acceptance testing on, but do not want to provide the actual how-to, how the quality testing is done.

With respect to the joining program, again there are some references to Z662 requirements, code requirements which are public. But the rest of the manual is essentially a how-to and how the company carries out those functions. Again that is a manual over which we would claim confidentiality because of proprietary concerns.

This goes again to the overall workings of the company, it's involved in many international projects. Competitors would love to get their hands on the information in a package of manuals by which this company carries on business. So again it is in that light that these concerns are raised.

Just one other point. Mr. Blue referred to my letter to the Board dated May 15th which did not in fact go to other Intervenors. In hindsight it should have gone to other Intervenors. And I have made copies. And they are available at the back of the room.

Just as a note on that, I guess in any case I think

people are used to getting letters with my signature in connection with these various applications. And what I try to do is err on providing too much information as opposed to too little.

So with respect to that particular letter, I apologize. And it is available for everyone at the back of the room. Thank you.

MR. CHAIRMAN: Thank you, Mr. Hoyt. Mr. Blue, do you have any comments to make to the Board on that?

MR. BLUE: Mr. Chairman, members of the Board, Mr. Hoyt and I discussed this. I on the record am prepared to agree with him that what he has proposed to file is satisfactory to the Province.

MR. CHAIRMAN: Thank you. Just ask Board staff and Mr. Hoyt, any problems with anything that is going on here at all?

MR. O'CONNELL: None, Mr. Chairman.

MR. CHAIRMAN: Thank you very much. Mr. Hoyt?

MR. HOYT: I would expect to be able to provide those manuals to the participants here tomorrow morning.

MR. CHAIRMAN: Mr. Stewart?

MR. STEWART: Thank you, Mr. Chairman.

Q.343 - Mr. Harte, just before we broke we were just trying to put some numbers around I guess the scope or the extent of the in-fill that is going to be covered by the permit or

as part of the application for the permits you are applying for in this proceeding.

And maybe we just need to just back up a little back to start through it. Because as I understand from Mr. MacDougall there was some confusion about whether we were talking about the whole thing or just the in-fill or whatever.

As I understand it, the proposed Enbridge Gas New Brunswick distribution system say between now and the end of year 20 is to construct approximately 1,450 kilometers of pipeline?

MR. HARTE: That's correct.

Q.344 - All right. And approximately 119 or down to 103 depending on what Maritimes and Northeast does, of that 1,450 are going to be the -- I think as you have identified them, the mains for the communities that are involved here in this application, Moncton, Fredericton, Saint John, Oromocto, et cetera?

MR. HARTE: That's correct.

Q.345 - All right. So that leaves us with approximately 1,330 kilometers of pipeline left, some of which is going to go to service Chipman and all the other communities that you may serve in the future.

And some of it will constitute the in-fill of the communities that are part of this application, is that

correct?

MR. HARTE: That's correct.

Q.346 - All right. So of the 1,330 kilometers, how many kilometers will constitute the in-fill for Fredericton, Oromocto, Moncton, Riverview, Dieppe, Saint John and St. George?

MR. HARTE: Approximately 750 kilometers.

Q.347 - And what is the approximate cost or the estimated cost for the installation of that 750 kilometers of pipe?

MR. HARTE: Approximately \$5 million.

Q.348 - That is both material and installation costs?

MR. HARTE: That's correct.

Q.349 - So the cost of the in-fill for Moncton, Dieppe, Riverview, Fredericton, Oromocto and Saint John is approximately -- I'm sorry, you said -- I didn't even write the number down. You just told me, was it 5 million?

A. 5 million.

Q.350 - 5 million. Is that based on a unit cost?

MR. HARTE: Yes. Because -- remember that the pipelines that we are installing here, they are large diameter steel pipelines predominantly. And within the in-fill in the communities of the 750 kilometres there is 600 of it that is inch and a quarter polyethylene, so they are very small diameter pipelines within the urban area.

Q.351 - So what is the per unit cost?

MR. HARTE: Oh, it's broken down by community, by size.

Q.352 - And the laying of the 750 kilometres of pipe, the in-fill for Moncton, Dieppe, Riverview, Fredericton, Oromocto, Saint John and St. George will take place over the next three to four years, that is your plan at this point?

MR. HARTE: That's correct.

Q.353 - All right. Now as I understand it, or as I think as we talked about before -- we got our wires crossed there before lunch, the -- there will also be district regulating stations constructed as part of this in-fill process?

MR. HARTE: That's correct.

Q.354 - And how many of those will there be in Moncton, Dieppe, Riverview, Fredericton, Oromocto, Saint John and St. George?

CHAIRMAN: Why don't you just refer to them as the municipalities in this application?

MR. STEWART: The municipalities. All right. I would be happy to, Mr. Chair.

MR. HARTE: I am sorry. That previous number I gave you for the 5 million is incorrect.

Q.355 - Okay.

MR. HARTE: Sorry. It is actually -- the zero is missing.

It is \$50 million.

Q.356 - That sounds better.

MR. HARTE: Approximately 2.3 million.

Q.357 - For the?

MR. HARTE: District regulator stations.

Q.358 - And how many of those are there?

MR. HARTE: A total of 29. That would also include the district regulator stations, a combination of that and the custody transfer stations. They were together.

Q.359 - So the in-fill for the communities or municipalities in this application -- I am sorry, you said 26, is that right? What was the number you just gave me, I apologize? 2.3 million and the number of them was?

MR. MACDOUGALL: 29.

Q.360 - 29.

MR. HARTE: 29.

Q.361 - I apologize. I didn't -- I was too busy talking and not writing it down. So I guess because they are polyethylene pipe you don't have cathodic protection, or do you?

MR. HARTE: No. There is no cathodic protection.

Q.362 - Is there any other major elements of the in-fill system other than meters, which we will get to in a second, that -- you know, we have got the pipelines, the district regulating stations, anything else?

MR. HARTE: The service laterals to the buildings.

Q.363 - The service laterals, of course. And how many of those are you -- do you predict will be built as part of this in-fill for the municipalities in this application?

MR. HARTE: That would take us a few minutes to find that information out.

Q.364 - Sure.

MR. HARTE: It doesn't appear that we have that information with us.

Q.365 - Okay. Do you have any idea how many meters you will be installing? I guess -- would that be the same? I mean, you have approximately 1 meter for every service line?

MR. THOMPSON: Well, if you are talking about a five-year -- are we talking here about a five-year --

Q.366 - Well, I'm talking for the municipalities that you are going to be in-filling under this permit?

MR. THOMPSON: For the full 20 years?

Q.367 - For however long the permit is good for, whatever you are applying for here?

MR. THOMPSON: I just want to be sure, Mr. Stewart, around the numbers, that is all, that we are going to give you.

Q.368 - Yes.

MR. HARTE: Each customer is a meter. That is how we count customers, is number of meters.

Q.369 - Right on.

MR. HARTE: Yes.

Q.370 - So do you know how many meters you are going to have to construct as part of the in-fill for the municipalities in this application?

MR. THOMPSON: In those communities, Mr. Stewart, over the 20-year cycle, we have approximately 51,000 customers added to the system, each of which would require a meter.

Q.371 - All right. And will you have then approximately the same number of service laterals?

MR. THOMPSON: Yes. And regulators.

Q.372 - And regulators?

MR. THOMPSON: Right.

Q.373 - Can you hazard a dollar value for the cost of installing the service laterals and the meters?

MR. HARTE: Approximately \$69 million.

Q.374 - Thank you. And just so I'm clear, the 750 kilometers worth of pipeline, the 29 regulating stations, the approximately 51,000 service laterals and meters, you want to construct those under the auspices of the permit that you are applying for in this proceeding?

MR. HARTE: That is correct.

MR. STEWART: Those are all my questions. Thank you.

CHAIRMAN: Thank you, Mr. Stewart. Mr. Cooper left so I'm not faced with his call to the bar anymore. Counsel, who

is next?

MS. ABOUCHAR: Mr. Chairman, I am.

CROSS EXAMINATION BY MS. ABOUCHAR:

Q.375 - Okay. For my first question, it pertains to -- well actually the first set of questions here are going to pertain to the executive summary, exhibit A, is it?

MR. HARTE: Yes, exhibit A.

Q.376 - Yes. So the first page, page 2 of 4, paragraph 4. And this certainly has already been raised by previous cross-examiners. The paragraph about how you are going to deal with the remaining 25 communities. I would like to just explore your concept of lighthanded regulation.

For those 25 communities will Enbridge undertake to carry out an environmental assessment study for any additional laterals or mains going to those communities?

MR. HARTE: If there are sensitive features involved in those communities, we will have a environmental assessment study done.

Q.377 - So not unless there are sensitive features, is that --

MR. HARTE: We will have an environmental screening along the pipeline routes. And if there are sensitive features, then we will expand that.

Q.378 - And how will -- what will be the process of the environmental screening?

MR. HARTE: I would like to leave that to have the

consultants respond to that with our environmental panel, the next panel if I could.

Q.379 - Okay. I will bring that -- I will bring that up with them.

MR. HARTE: Thank you.

Q.380 - If you are only doing a full environmental assessment where there are sensitive sites, I would like to know how you would identify -- what you would include as a sensitive site?

MR. HARTE: Again, I would quite prefer for you to refer that to the environmental panel.

MR. MACDOUGALL: Mr. Chair, we tried to request yesterday that this panel on the aboriginal issues or other issues could refer to the policy issues. The environmental and routing panel is the next panel if the question -- Mr. Harte will also be on that panel. However, you know, Mr. Brophie from the company as well as the three gentlemen are there.

So that series of questions we would think would be more appropriate for that panel. The questions are certainly legitimate but it would probably be best for the panel that we have set up for those questions.

MS. ABOUCHAR: Mr. Chair, certainly I'm not meaning to have any duplication. However, this seems to me to be a policy question more than a question for Enbridge's consultants.

If it could be taken as such with the panel -- the following panel, then we will bring it up then.

Q.381 - I understand that, Mr. Harte, you will be on the panel?

MR. HARTE: Yes, I will. I would prefer that the representative from the company that's -- that's here to represent environmental matters would respond to those questions.

Q.382 - But this question is about going forward. It's about Enbridge's policy for going forward for treating these communities. It's about what you will ask your consultants to do.

MR. MACDOUGALL: Mr. Chair, Mr. Harte and another company witness on that panel, Mr. Brophie. So Mr. Harte and Mr. Brophie are the two people who would best answer those. So that's our position. That they would best answer it. It's not just the three consultants. It's Mr. Brophie who is the environmental person with Mr. Harte.

CHAIRMAN: Okay. Ms. Abouchar, is that satisfactory then? The company is saying the other --

MS. ABOUCHAR: There will be a company representative to answer that question?

CHAIRMAN: There will be two, one of the equal members of this panel plus a new fresh face as I understand it.

MS. ABOUCHAR: These are important issues for the aboriginal

community and we will bring them up with you in the next panel.

MR. HARTE: Thank you.

Q.383 - On the issue of policy then with lighthanded regulation, will Enbridge Gas -- as I understand the evidence so far, Enbridge Gas intends to apply for a permit to construct for the future laterals and mains to the other additional 25 communities?

MR. HARTE: That's correct.

Q.384 - And my understanding is that Enbridge's preference is not to have a full environmental hearing for those communities?

MR. HARTE: That's correct.

Q.385 - If in the Board's discretion they decide that a full hearing is not necessary, what is the process that Enbridge proposes for members of the public to raise their concerns about the pipeline?

MR. THOMPSON: There would be a public information program put into place, Ms. Abouchar, such as was put into place for the -- for the communities that we are before the Board on.

So there would be ample opportunity for meaningful input and opinion to be brought forward at that point.

Q.386 - What will be the content of the public information program or package that you will be giving to the public?

MR. THOMPSON: Well, it will be much like the package that we provided and which I spoke of in my opening statement.

We would put as much information into that package as we thought was necessary to give the public a good outline of what our plans were, where we were intending to go with our routes and any other significant information that we thought should be on the public record.

We would also at the public information meetings, having followed the notification process as laid out in exhibit C here, ensure that at those meetings sufficient staff with sufficient technical background and expertise were on hand to answer specific questions, and be prepared to change our routing in accordance with the public input should we see the need to do so.

Q.387 - Would the information that you provide in your package to the public have such information as the location of sensitive sites?

MR. THOMPSON: Well certainly from the point of view of an environmental assessment screening process that Mr. Harte just spoke to, I have no doubt that during that program process those sensitive sites will be shown.

I would defer to Mr. Harte on that, but I think I'm correct in saying that.

Q.388 - So would the public information package include an environmental screening for those sites -- for all sites?

MR. HARTE: For all new locations, yes.

Q.389 - And would the public information package include an environmental assessment for those communities where sensitive features were identified?

MR. HARTE: The public information program, that's part of the environmental assessment. So we get input in the public information program.

Q.390 - My question though is, when the public gets this package of information, will it have the environmental assessment that you are proposing to do for those communities where there are sensitive features?

MR. HARTE: That's correct.

Q.391 - It will include --

MR. HARTE: It will include.

Q.392 - -- an environmental assessment for those communities where there are sensitive features?

MR. HARTE: If there are sensitive features, it will include the screening process.

Q.393 - So how much time from the time that you provide this package which includes either a screening or an environmental assessment to the public, will they have to review that document and provide comments?

MR. THOMPSON: Well in the current public information process we began the first one if memory serves on January 26th and we filed evidence to the Board, I think, on March

the 15th. And so in that particular case there was a full three months for that information to be noted and comments made to it.

Q.394 - And then how much time -- so three months for the public to comment. How much time will Enbridge then have to incorporate the comments into their decision making?

MR. THOMPSON: Well I think that we found on a few occasions in the last public information program that we changed as we worked through the public information meetings.

I mentioned a specific instance, for example, with the Oromocto Band Reserve where we changed a route based upon the input we got from that meeting on that day. And within a week or so that concern was validated and the route was changed.

So it's something that we do in progress. It's not something that we wait for until we file the evidence.

Q.395 - All right. So say somebody gives a comment at the end of that three month period, how much time would you give yourselves to incorporate that comment?

MR. THOMPSON: I'm not sure I understand, you know, the content of the question. It seems a very hypothetical question.

It does depend rather on what the issue is, when it was raised, how it was raised and what is needed to mitigate in favour of the input, if indeed it needs

mitigation.

There is a process today where intervenors can come forward and present this Board with information that they believe was not either fully covered during the process and have that tested with the Board.

So I guess the three months is really a minimum. There is still a hearing process to go through. The Board still calls for intervenors. And at that point that information could be put to the test, I guess.

Q.396 - And if under your hypothetical of lighthanded regulation there is no hearing, what is the forum for the public to raise their concerns and test the evidence?

MR. THOMPSON: I think that when you say no hearing, we were saying no oral hearing. But there is certainly a process whereby the information will be filed with this Board. And the Board in its wisdom will determine the kind of distribution of that information to interested parties and other intervenors.

CHAIRMAN: I just want to check my memory here. Gentlemen, the public information process that you went through in this particular hearing, I believe the Board allowed you to do that after or during the lead-in time to the hearing itself. Whereas normally if we hadn't been pushed for time, that would have been completed before your application was filed. Am I off base on that?

MR. THOMPSON: Yes, I think that's right, Mr. Chairman.

CHAIRMAN: Thank you. So that it may have been three months this time, but the next time it would be done before the application was even filed.

MR. THOMPSON: That's true, thank you, Mr. Chairman.

Q.397 - Okay. Well let's get -- let's assume that you have taken -- I mean it took three months for public input and there is no reason to expect that it would take any less time for public input. So let's say you have three months prior to your filing the application to have a public input period.

If we are looking at your next filing, your annual filing, the first -- which will be your first annual report, which you said in evidence with Mr. Stewart would occur in December, am I right in understanding that there would be a public process for comment starting in October?

MR. THOMPSON: We are presuming here that in that process we have identified a new community that we want to go to? Is that the premise of your question, Ms. Abouchar?

Q.398 - Yes. I'm assuming that in your -- you are contemplating an application to this Board for another construction permit.

MR. THOMPSON: So -- well presumably, we would lay that information before the Board as we testified this morning, in terms of the community that we were going to go to, and

indeed at that point start the process of identifying if there were any sensitive features and so forth.

There would have been a sort of a general discovery of the area, but we would get a bit more specific. And during that process there would be ample time, it seems to me, for public input to be given prior to that coming to the Board's attention.

Q.399 - So will you be providing your informal application, if you will, to the public --

MR. THOMPSON: I think -- sorry.

Q.400 - -- three months prior to your application to the Board?

MR. THOMPSON: Well I think that the information that we file to the Board becomes, you know, public knowledge immediately. And it's in the public domain. So presumably any interested party to the process can obtain that particular filing that we have made prior to, and therefore access the information.

Q.401 - But how is the -- my question was whether you would be providing it to the public prior to your filing it with the Board?

MR. THOMPSON: if the public information process was constructed around a certain community, we assume that that PIP would begin perhaps in September, October. So that that information would be public we would have had

meaningful input and opinion from those individuals most affected by that particular community expansion.

Q.402 - Just back to a question that I had. I have now sorted out that the public is going to get the information three months -- sometime before -- three months before the application is filed with the Board. Now how is the public going to -- what is the forum for the public to raise their issues to this Board under your hypothetical of lighthanded regulation?

MR. THOMPSON: I think you would find that in the public information process we carried out recently, one of the pieces of information we provided to the public during those public information sessions was notification of our application to the Board, the Board's address and phone number for parties who needed to contact the Board for any reason to do so. And we supplied that to ensure that people knew that they didn't necessarily have to come to the PIP, they could actually speak directly to the Board.

Q.403 - And if they raise a concern, how is that concern going to be resolved absent a hearing?

MR. THOMPSON: Well I am not sure I can speak on behalf of the Board's administrative process, but I would assume that if an interested party delivered that kind of question to the Board or concern to the Board, the Board would make the applicant aware of that concern right away.

Q.404 - And how do you propose to resolve the concern absent a hearing?

MR. THOMPSON: I don't think you necessarily need an oral hearing to resolve a concern. I think that, as I indicated earlier, that concerns do get raised. Issues do come forward. We had an issues management process during this last public information process, and people found their concerns and directed them along -- you know, 1-800 number, a website, exit questionnaires, at the door. When the route design was being dropped off. And consequently every one of those issues were spoken to. I mean, I spoke personally to customers myself on certain of their questions and issues. So as I said, Ms. Abouchar, it really is a sort of dynamic process, it doesn't stop and then restart again. We try and do this as we are moving along, because plainly people want their issues looked after right away.

Q.405 - And some issues, like the issues of concern to the Union of New Brunswick Indians may not be resolved before you file your application with the Board, so let's be specific. In the situation of aboriginal people, how do you propose to consult them?

MR. THOMPSON: We are in consultation with the Union of New Brunswick Indians, I think, on a fairly regular basis, and intend to do so.

Q.406 - My question really wasn't about what you have done in the past, my question --

MR. THOMPSON: No, I --

Q.407 - -- was about how you propose to notify the Union of New Brunswick Indians, for example, of your future plans?

MR. THOMPSON: Sorry, Ms. Abouchar. I was going on to say that it's our intention in the future to maintain that kind of contact. As you have heard Mr. Marois speak to, we are moving forward to signing a memorandum of understanding. We have had our principals leading to a friendship agreement with the Mawiw. It is very much our intention to work closely with the first nations on these issues. And we have been doing so and we intend to carry on doing so.

Q.408 - Regarding the issues raised by Mr. Marois, I would like to explore that now, if you will. The -- you have stated in your exhibit A, page 22 of 50, that it has been assumed that approximately 90 percent of the construction labour force will be local. Is most of that labour force short term or long term?

MR. HARTE: That's for the duration of the construction project.

Q.409 - For the duration --

MR. HARTE: For the duration of the construction project.

Q.410 - So that is three to five years?

MR. HARTE: Actually we would be adding customers and installing service laterals and short main extensions for the next 20 years.

Q.411 - For the next 20 years. And Mr. Marois made some statements under -- in his testimony about all the great things that Enbridge hopes to do for aboriginal people in the province. I would just like to explore some of those items and get some more -- some specific detail about Enbridge's plans. Because at this point my client doesn't know the specifics about what benefits are going to be provided.

Starting with item 1 that was mentioned by Mr. Marois, training. Could you provide some specifics on what kind of training you envision, you propose for aboriginal people to take part in this industry?

MR. MAROIS: The first thing I would like to do is maybe comment on your question. You said all the great things we want to do for the aboriginal people. Our position is all the great things we want to do with the aboriginal people. We see this as a partnership.

And the way we have approached both the UNBI and the Mawiw is to work with them to try to start identifying. I mentioned the process. I think we have to work together to identify the opportunities, then identify the requirements of these opportunities. Identify what is

already there in terms of, for example, candidates. What kind of training do they require about the gas. Because there are existing programs. One of our objective is not to reinvent the wheel. So we want to take advantage of everything that is there.

And then once there are gaps, I think these gaps will need to be addressed. But it's a process and we don't -- definitely don't have all the answers as we speak.

Q.412 - Let's talk about the existing programs. I believe in your evidence you have talked about a program with the New Brunswick Community College for training?

MR. MAROIS: That would be Mr. Harte, yes.

MR. HARTE: That's correct.

Q.413 - How many aboriginal people would you consider sponsoring for positions in that training program?

MR. HARTE: New Brunswick Community College has indicated that with each program they would put on that they would have three to four places available for aboriginal people in each class session that they go through.

Q.414 - Three to four places per year?

MR. HARTE: There may be two programs a year. There may be multiple programs at various Community Colleges. So it could be many different Community Colleges that have programs on.

Q.415 - So I'm still not understanding. Is it three to four

places per year per college?

MR. HARTE: Per class. Per class.

Q.416 - Per class. And would Enbridge Gas New Brunswick be sponsoring those aboriginal people to take those classes?

MR. MAROIS: We have not made that determination yet.

Q.417 - So basically if aboriginal people could come up with the money, they could take that position. Is that your current understanding of how it would work?

MR. MAROIS: Not necessarily. I just said we haven't determined that yet. We haven't gone to that level of detail. So it's not impossible that we could effectively end up sponsoring some students. I'm just saying it has not been determined as we speak.

Q.418 - But construction is starting in two months, right?

MR. MAROIS: Yes. But there is a -- the majority of the training that Mr. Harte is alluding to is not related to construction. We have identified that the majority of the job opportunities will be as service fitters. So the people that actually do the installation and the service of the equipment. And that will be a long-term career opportunity. So it's not a short-term issue.

Q.419 - So what is the budget that Enbridge Gas New Brunswick is prepared to allocate to enabling aboriginal people to take those places -- the three to four places per class per year in the Community College?

MR. MAROIS: I really don't feel comfortable with your line of questioning. I got the impression you want to negotiate in the public forum. We don't have that budget at this time. I believe that budget will fall out of the identification of the opportunities.

Q.420 - Mr. Marois, you have stated in the information that this project is going to benefit aboriginal people. Mr. Arunus has given evidence that his intention is that this project bring meaningful long-term benefits to aboriginal people. Part of what the Board has to consider today is are the benefits that this project is bringing to New Brunswickers. My questions are testing the benefits that may be there for aboriginal people.

MR. MAROIS: Let me give you an example of the process that's involved. We sent the -- our proposed agreement to the UNBI in January called the Principles Leading to the Friendship agreement. We got a response from the UNBI on March 27th. And the indication we got from them is they were not willing to sit down to look at the specifics before such an agreement was finalized and signed.

So it's a -- it's a process where I think we both need to work together. To sit down and better understand the issues, opportunities. And I think it's going to -- what we effectively end up doing will fall out of this process. So I cannot answer your specific questions at this time.

The only thing we have committed to are principles.

We really believe that it's mutually advantages to build a long-term relationship. But exactly what we are going to be doing, I am not able to answer at this time.

Q.421 - On the issue of job applications, I'm going to move to job opportunities. That was another issue that you raised as a benefit for First Nations.

What types of job opportunities is Enbridge prepared to provide First Nations people? You mentioned service fitters. I assume that is one of them?

MR. MAROIS: Yes. But it is not Enbridge that is going to offer that opportunity, because that is a nonregulated activity. So what we want to do is to work with the First Nations to help them take advantage of that opportunity.

What must be understood is Enbridge in itself will not be a huge employer. We are talking about 90 employees over 20 years. So we will be outsourcing a lot of our services. And the majority of the jobs will be created in the nonregulated side.

So that we have no control over. But what we can do is help identify these opportunities, the training that is required, the licencing requirements, et cetera.

Q.422 - Is Enbridge considering in their commitment to provide job opportunities -- I mean there has been a commitment on the record to provide some job opportunities.

And I understand that you are not directly responsible for all the jobs that happen as a result of your project, of your activities.

But is Enbridge prepared to encourage other contractors to provide job opportunities to First Nations people?

MR. MAROIS: We have already done that. We have already indicated to the contractors that are willing to bid on our jobs that we will give preferred status to the ones that are able to demonstrate to us that they maximize aboriginal content. So that has already been started.

We have already sent out the job postings we have been doing up to now. We have sent to all First Nations in the province. And we also have posted them in -- I can't remember the name of the newspaper. I believe it is The Mi'kmaq.

So there is already a process in place to inform aboriginal people of the opportunities. And like I say we have already started with the contractors.

Q.423 - And with the contractors, how many contractors have come forward with demonstrating aboriginal content?

MR. MAROIS: Well, I can let Mr. Harte talk about the process.

MR. HARTE: Many of the contractors who will be doing the work would not be hiring most of their staff till after

they have actually been awarded the contract. But we --

Q.424 - So how will you know whether they meet the aboriginal content preference or not?

MR. HARTE: Because they will make a commitment when they tender on their work as to what the aboriginal content will be --

Q.425 - And how many have made --

MR. HARTE: -- on their bid.

Q.426 - How many have approached you willing to make that commitment?

MR. HARTE: We have told them that we are not really interested in dealing with any of the contractors who haven't made that commitment.

Q.427 - You will not -- you are not interested in dealing with any contractors who have not made a commitment to hiring aboriginal people?

MR. HARTE: In the construction contracts. That is what we are talking about.

Q.428 - In the construction contracts?

MR. HARTE: That's right.

Q.429 - So your commitment to aboriginal people is to ensure that every contractor is going to have -- employ aboriginal people?

MR. HARTE: That's correct.

Q.430 - And what will be the minimum content, the minimum

content of employment of aboriginal people?

MR. HARTE: We haven't established that.

Q.431 - And do you intend to establish a minimum content?

MR. HARTE: As Rock had mentioned earlier, that we would give preference to those contractors that had a larger percentage of aboriginal content.

So when we bid the work out, and if their bid is competitive, they will get preferential treatment and be awarded the contracts.

Q.432 - And are you prepared to pay more for a contract that has aboriginal content than one that doesn't?

MR. HARTE: Depends what you mean by more. If the numbers are in general terms fairly close, then we would be willing to make sure that we hire those contractors with the aboriginal content.

If you are talking that we are going to pay 50 or 100 percent more money for a contract, then I would say no.

Q.433 - So 10 percent?

MR. MAROIS: Well, Ms. Abouchar, I don't think it is proper -- let me refer you to a document that UNBI has approved.

It is the memorandum of understanding. And the wording in that document is -- and I refer to --

Q.434 - I don't believe UNBI has approved any --

MR. MAROIS: Yes, it has. The Chiefs have approved the memorandum of understanding.

Q.435 - I don't believe they have approved the MOU that is currently in discussion.

MR. MAROIS: That article has not changed. I could quote you the ones they have approved.

Q.436 - I would just like to get back to the construction. Because construction is coming up. Construction is happening on July 1st. And I'm just trying to explore the --

MR. MAROIS: Yes. But I think if we go to the point -- like I say, it is the UNBI that insisted on this document. So I think it is important we refer to it.

Q.437 - I think that --

MR. MAROIS: And the wording in there is everything else, all things being equal. So the intention here is not to pay a premium. The intention is to give preferable treatment to the ones that do show aboriginal content.

Q.438 - But earlier the evidence said that -- Mr. Harte said that there was a willingness to pay a 10 percent premium in order to get that goal?

MR. HARTE: I did not say any percentage.

Q.439 - Okay.

MR. HARTE: I said if they were close but slightly higher, that we may consider them.

Q.440 - Okay. Would you pay up to 10 percent?

MR. HARTE: If I had a contractor that had virtually no

aboriginal content and another contractor that had a lot of aboriginal content, we would certainly consider that.

Q.441 - And how is this all going to occur before July 1st?

Has the UNBI been informed that -- encouraged to -- been informed about how you are going about choosing contractors who have preferred -- have original content?

MR. MAROIS: Yes, they have. And I have tried to set up a meeting to discuss this. And like I said, the intention was to sign an agreement prior to have those type of discussions, so --

Q.442 - And your evidence was that the contractors knew that this was a preference of yours?

MR. HARTE: All of the contractors are aware, yes.

Q.443 - And is there a document that you can provide that shows that the contractors are aware of this preference?

MR. HARTE: Yes, there is, yes.

Q.444 - Would you undertake to file that with the Board?

MR. HARTE: Yes.

Q.445 - I'm sorry. Mr. Marois, were you -- oh, is that the document there?

MR. MAROIS: What document?

Q.446 - The document --

MR. MAROIS: No, no, no. I don't have the document that --

MR. MACDOUGALL: I think we just made an undertaking to provide it. They were just waiting for the next question.

MS. ABOUCHAR: Okay. I'm sorry. I was under the impression that they were looking for the document.

Q.447 - So will you undertake to provide that then to the Board and to the parties by tomorrow?

MR. MAROIS: Yes. We can take that undertaking.

Q.448 - Thank you. On the issue of supply of goods and services, that is another item that Mr. Marois said that Enbridge was prepared to commit to benefit First Nations people.

What steps have you taken -- because I'm aware that construction is starting in July -- what steps have you taken to ensure that First Nations are considered in your contracts to supply goods and services?

MR. MAROIS: Well, I think the prime example is the one that Mr. Harte just mentioned. That is the biggest activity that is going to occur in the next coming months, is the pipeline contract.

Q.449 - And what about supplying goods specifically? What has Enbridge done to determine what types of aboriginal businesses supply goods in New Brunswick?

MR. MAROIS: I don't have any other specific example other than again just to talk about this period of the agreement we are working on right now.

Again I just want to cite one sentence in there. It says UNBI will provide EGNB with a list of aboriginal

businesses that specify area of expertise.

So I think we need to work together to identify those businesses that are out there. That is the intent. The intent is really to have something that is a partnership.

Q.450 - So Mr. Marois, have you taken any steps to notify aboriginal businesses of your intention to hire aboriginal businesses for supply of goods and services?

MR. MAROIS: One thing we have done is we have toured -- we made a tour of the three major cities, Moncton, Saint John and Fredericton.

And we held breakfast with the business communities to inform them of, how could I say, the type of business opportunities that will come from the arrival of natural gas. And aboriginal communities or business people were invited to those sessions.

So that was one public session that was aimed at I guess sensitizing the business community of the opportunities we can offer.

Q.451 - How many aboriginal businesses attended those sessions?

MR. MAROIS: To my knowledge, even though we did even telephone follow-ups, none.

Q.452 - So are you taking any special steps to notify aboriginal businesses and to speak with them and inform them of your -- I mean, if they don't know of this

preferred goods and services commitment --

MR. MAROIS: Well, I think, like I said --

Q.453 - -- or the types of goods and services that you require, how is this commitment going to be meaningful?

MR. MAROIS: Well, I think there is various aspects to that question. Like first and foremost, by working with groups like UNBI, we anticipate that they would turn back and inform their community. That is the way we see it.

The same thing with the Mawiw. I think -- I hope that that is one of their roles, their major roles. So they are aware of what we are doing, and --

Q.454 - You are asking the institutions to take on the role of contacting their businesses and telling them about Enbridge's policies?

MR. MAROIS: Well, I think -- I hope that, how could I say, that we can -- that one of the functions of these groups is to inform their communities of opportunities that they would like them to be aware of.

But for example when we request from our contractors that they have aboriginal content, by definition they will have to seek out those -- that content. So they will be doing what they need to do to make certain that the people are aware of these opportunities.

Q.455 - And what steps will Enbridge take if it comes to -- you know, we are already two months in front of

construction. And at this point it doesn't sound like you have had a whole lot of people coming forward.

What steps will Enbridge take in order to ensure this commitment if aboriginal businesses haven't on their own come to you?

MR. MAROIS: One thing that seems to be happening right now is -- for example I think it is directly as a result of our requirement that the contractors do aboriginal content.

And we were told this by the Mawiw. We had a meeting with them last week. They told us that they were being approached by unions. So we anticipate or we assume that because we are pushing for this, the unions are seeking aboriginal content. So that is one example where I think there is some -- something is going on to try to make things happen.

But I think in all honesty there is a limit to what we can do. We can make this information known. We can work with the union, with the Mawiw.

But I don't see ourselves actually having to go in the actual First Nations and getting people. Like we don't really know where to start in that regard. So we need the help of the associations.

Q.456 - So would the people -- would the aboriginal people have to become union members in order to take advantage of

that opportunity?

MR. MAROIS: I don't believe so. Because our expectation is we will deal with businesses that are either unionized or nonunionized. I just gave that example as I guess an indication that there is activity out there.

Q.457 - What about just on a smaller scale? Has Enbridge for example told the UNBI or Mawiw how much sand and gravel will be required for the construction?

MR. MAROIS: No. But what we have done is -- what we are prepared to do, and like I said, we have had such a meeting with the Mawiw.

And we were trying to get such a meeting with the UNBI. We have started putting together a matrix of job opportunities and the type of requirements that these jobs have. So I think we have to sit down and go through these.

But what really stands out is the majority of opportunities in terms of numbers will be at the fitters level, the technician level.

So that is where they seem to be. And we are talking hundreds of opportunities here. So that is where I think the energy should be focused.

Q.458 - What about construction inspectors? Has Enbridge -- does Enbridge -- has Enbridge thought about or would Enbridge consider training aboriginal people to be

inspectors of construction activities?

MR. HARTE: We have some senior inspectors that we are bringing into town that have previous experience in the construction work.

And the junior inspectors that we have on site that started work actually yesterday are basically engineering university students that we will put through the training program.

And we did look through those engineering students for aboriginal content in there, to see if we could bring some aboriginals on as university students to have them work.

We went for first and second-year students so that we could train them to be pipeline inspectors. And then they could come back year after year or summer after summer to do this work.

Q.459 - And were there any aboriginal applications?

MR. MAROIS: I believe there was only one.

Q.460 - And have you made your hiring decisions at this point?

MR. MAROIS: Yes. That's correct.

Q.461 - And is there -- are there going to be any aboriginal construction inspectors?

MR. MAROIS: The one individual that applied was hired.

Q.462 - And what about small business training? A lot of the jobs, as you are saying, are going to be in fitting, in the follow-up work, fitting, installation, service, that's

the kind of area that requires some business infrastructure.

Has there been any -- is there any commitment on the part of Enbridge Gas New Brunswick to assist at the aboriginal community to become involved by providing some small business training?

MR. HARTE: When we discussed it with both the UNBI and the MAWIW we talked about the opportunities in that end of the business.

First they have to get licensed, they have to get through the fitter certification program through the Community College to be licensed fitters.

And we talked to them about the opportunities of starting a business here and explaining to them that if we were getting into the natural gas business and the province today has a small contractor, that's where I would focus my efforts, and we would be willing to help and assist them if they are willing to get in that business.

Q.463 - What kind of help and assistance are you willing to provide them?

MR. HARTE: We would like them to come forward and we will see what help they require and is needed. We will --

Q.464 - But what kind of -- I mean help me here. I know we are talking hypotheticals, but I want a sense for this

Board about what real benefits are going to be available -

-

MR. HARTE: Well it makes --

Q.465 - -- and in that context what kind of help and assistance could you give to them?

MR. HARTE: For instance, we will be hiring contractors ourselves to do inspection work on installations. All new gas installations will be inspected by qualified gas technicians before the gas is turned on.

So if there was an aboriginal contractor, small contractor, with some fitters that wants to do that work, we would certainly prefer and give them the preferred work in that area.

Q.466 - And would Enbridge give some assistance to such a contractor getting started?

MR. HARTE: Depends on the level of assistance. We would give assistance obviously.

Q.467 - What kind of assistance?

MR. HARTE: Assistance on how to run the business, how to organize yourselves, numbers and types of people that you should require to do these inspections. We could give them some training on doing inspections.

Q.468 - Thank you.

CHAIRMAN: The Board is going to take a ten minute recess.

(Recess)

CHAIRMAN: Go ahead, Ms. Abouchar.

MS. ABOUCHAR: Thank you, Mr. Chair.

Q.469 - On page 48 of 50 of exhibit A there is a discussion of land requirements. And the text says that an easement will be needed from the Province of New Brunswick. Have you applied for an easement from the Province?

MR. HARTE: The application hasn't been sent in as yet.

Q.470 - Are you aware of the claim of aboriginal title to New Brunswick?

MR. HARTE: Not specifically.

Q.471 - Have you read the evidence that the Union of New Brunswick Indians has put in for this hearing?

MR. HARTE: Yes, I did read the evidence.

Q.472 - In that evidence -- I'm sorry, did you say that you have read the evidence that the Union has put in?

MR. HARTE: Yes, I did -- I did look through the evidence, yes.

Q.473 - And did you read the evidence of Mr. Paul? I assume you read the evidence of Mr. Paul?

MR. HARTE: Yes.

Q.474 - And did you -- in that evidence Mr. Paul states that he -- the union has informed Enbridge during the public meeting -- and it might not have been yourself -- that the First Nations have aboriginal and treaty rights and claim title to territory through which Enbridge proposes to

construct the pipeline.

MR. HARTE: You are correct, that was not to me. I had not heard that, although I did read the evidence.

Q.475 - So you then are aware that there is a claim that the First Nations in New Brunswick have a claim -- are making a title claim to New Brunswick?

MR. HARTE: I am not sure whether -- they have a claim or are making a claim?

Q.476 - They claim -- my question was, were you aware of the claim of aboriginal title in New Brunswick?

MR. MAROIS: My understanding of the evidence is the UNBI is working on the claim, is that the case?

Q.477 - The evidence presented is that the Union -- that the First Nations in New Brunswick claim title to the province, and the evidence -- and that was in Mr. Paul's statement, and my question was whether you -- the simple question was whether you are aware that they claim title?

MR. HARTE: We read the evidence, yes.

Q.478 - And did you read -- then I assume that you read the response to the Board's IR number 2 -- actually it was Enbridge's IR, I'm sorry -- of the Union interrogatory number 2.

MR. THOMPSON: What exhibit is that?

Q.479 - Exhibit L.

CHAIRMAN: I is interrogatory.

MS. ABOUCHAR: I'm sorry. Those are -- okay -- then, I am sorry, that doesn't appear to be in -- it was filed with the Board and filed with the applicant, the responses to Enbridge's IR's of the Union of New Brunswick Indians.

MR. MACDOUGALL: And that, Mr. Chair, to date doesn't have an exhibit number. So it would probably be appropriate to give it a UNBI exhibit number in that it is the UNBI's responses to the applicant's questions.

MS. ABOUCHAR: And that was part of this -- that document would be part of the proceedings before this Board, am I incorrect in that assumption?

CHAIRMAN: No, you are not. I am just trying to find it.

MS. ABOUCHAR: Okay. I am just wondering if I should as a practice have -- right now give exhibit numbers to all of -- no. Okay.

CHAIRMAN: No. The filing regulation says that the interrogatories and answers to interrogatories are part of the record, period.

MR. MACDOUGALL: I believe on May 10, Mr. Chair.

CHAIRMAN: I will just ask the secretary to give me a hand.

MS. LEGERE: It is the blue binder under Section C, the May 10 letter.

CHAIRMAN: Do you have a copy of that, Ms. Abouchar?

MS. ABOUCHAR: I have one copy, yes.

CHAIRMAN: Yes. Well could you bring it up here for a

second. Do all parties have it? Because we have finally located it here.

MR. MACDOUGALL: Yes. We certainly have it, Mr. Chair.

CHAIRMAN: Okay. Sorry about that. Go ahead.

MS. ABOUCHAR: Thank you.

Q.480 - The IR is a question from Enbridge asking about the Board's jurisdiction to determine aboriginal title issues in the Province of New Brunswick, and the preamble states, Mr. Paul states that UNBI's first concern is that the proposed construction will occur in land over which First Nations have aboriginal title. And in the context of this IR Mr. Paul explains exactly the status of its claim. And I will just read that for you right now. The Government of Canada has set up a comprehensive claim process to resolve claims of title. The process is one of negotiation, not litigation. Since 1994 the Mi'kmaq and Maliseet of New Brunswick have asserted through the comprehensive claim process a comprehensive claim to the land including waters forming the Province of New Brunswick. The UNBI, together with Mawiw and the Aboriginal People's Council have completed parts 1 and 2 of the comprehensive claim process to the satisfaction of the federal government. The Indian and Northern Affairs has committed itself to supporting work on the third part of the process.

So can I just ask the question again. Are you aware that aboriginal people in New Brunswick claim title to New Brunswick?

MR. HARTE: Yes.

Q.481 - Okay. I am now going to move onto another topic, the topic of water crossings.

On page 49 of 50 of exhibit A -- this is actually just a question because I really don't know the answer -- a permit is required from the Canadian Pipeline Water Crossing Committee.

Who is the Canadian Pipeline Water Crossing Committee and what is their jurisdiction to give permits?

MR. HARTE: I am afraid I will have to defer that to the Environmental Committee.

Q.482 - Okay. On page 1750 of the same document it states that prior to construction, designs and drawings will be prepared by Enbridge for each water crossing.

Will Enbridge provide those to interested parties prior to construction?

MR. HARTE: Yes. They can be made available.

Q.483 - And when will they be made available?

MR. HARTE: The water crossings should be available by the end of this month.

Q.484 - And they will be provided to all the interested parties of this hearing?

MR. HARTE: Well, provided to interested parties. I don't know if all the parties are interested.

Q.485 - Would you undertake to provide them to the Union of New Brunswick Indians?

MR. HARTE: Yes.

Q.486 - And will Enbridge be filing these with the Board for approval prior to construction?

MR. HARTE: Yes. I already had said that, with Board staff, that we would file all the drawings prior to construction.

MR. MACDOUGALL: Mr. Chair, just for clarification on that, I believe Ms. Abouchar's question was whether they would be filed for approval. I believe the permits would be approved by the body from where the permit was coming from and be filed with the Board.

Q.487 - I'm actually not talking about permits right now.

I'm talking about designs and drawings, construction designs and drawings for each water crossing. I'm asking whether they will be filed with the Board for approval before construction?

MR. HARTE: They will all be filed.

Q.488 - They will be filed with the Board?

MR. HARTE: That's correct.

Q.489 - And are you -- is the Board going to be approving these drawings, designs?

MR. HARTE: They will have them approved. It's part of the

regulation that we have to file those drawings. So if they have any concerns, I would imagine they would get back to us.

Q.490 - So who will be -- what regulatory body will be approving these?

MR. HARTE: The Board -- well, I gather the Board will approve them. We will send in stamped approved drawings by Enbridge Gas New Brunswick for the Board's review. And if the Board has got any comments, they would get back to us.

Q.491 - Will Enbridge be filing these with the Department of Natural Resources, the New Brunswick Department of Natural Resources for approval?

MR. HARTE: Yes.

Q.492 - Under -- is that under the water cross?

MR. HARTE: Under the water crossing permit approval, yes.

Q.493 - And will the Union of New Brunswick Indians have an opportunity to comment on those water crossing designs and drawings prior to construction?

MR. HARTE: Yes.

Q.494 - And when will that be taking place?

MR. HARTE: Well, if I have the drawings, by the end of May, they will be filed at that time. And they will have the opportunity then.

Q.495 - And when do you expect the Board will be approving

those drawings, designs?

MR. HARTE: I wasn't really expecting anything back from the Board as far as approval goes. I was -- the approved drawings would be filed with the Board. And I would expect if the Board has any problem with them, they would get back to us prior to construction.

Q.496 - Okay. Thank you.

MR. CHAIRMAN: I don't want the Board to have to do anything more than statutorily we are required. And it is my understanding that water crossing, et cetera is under the Department of the Environment, Province of New Brunswick. And that is where the approval and the permit has to come from.

Mr. Blue, is that your understanding?

MR. BLUE: Mr. Chairman, the company will require water course alteration permits under the Clean Environment Act. And that approval comes from the Department of the Environment.

The Department of the Environment of course consults with the Department of Natural Resources and Energy about those crossings. I expect to be canvassing that in the next panel for that process.

Q.497 - So I guess my question is -- these are documents that are relevant to First Nations concerns. They would like to comment on them.

They would like to have the assurance that their comments will be taken account of in making whatever decision flows out of the location and construction, detailed plans for water crossings.

And I was looking to have for them -- this is the process that they are part of. If it is not this process, if it is not this Board who is approving them, to whom my client can provide input, where is that going to happen?

MR. HARTE: We certainly can provide water crossing drawings to UNBI. And we would be willing to accept their input and -- to the location and construction type of those crossings. And we would be willing to pass that information on to the Department of Energy as well.

Q.498 - I think I understood it was the Department --

MR. HARTE: The Department of Environment, sorry.
Environment.

Q.499 - Okay. Thank you for that. On the issue -- the next issue, please turn to page 48 of 50. It is another land issue.

I'm interested in the destination for the pipeline in Oromocto that is going to end up at the Base Gagetown heating plant. Is that a fairly important customer to Enbridge?

MR. THOMPSON: Yes, it is.

Q.500 - So would you be constructing this to Oromocto if it

weren't for it going to the Base Gagetown heating plant?

MR. THOMPSON: Well, Oromocto would have been on our overall plan. And we are simply getting there a little early because of the Gagetown situation.

Q.501 - So if it weren't for the Gagetown heating plant you wouldn't be constructing there in year 2000?

MR. THOMPSON: That's correct.

Q.502 - And is an easement required from the Federal Crown to locate the pipe on Base Gagetown?

MR. HARTE: No. An easement would not be required.

Q.503 - And do you have any correspondence to that effect?

MR. HARTE: No. We are not intending to apply for an easement, because the distribution plan that would be on CFB Gagetown will only be to service the buildings on Gagetown.

Q.504 - But your construction, your pipeline is going to be occupying federal land, is it not?

MR. HARTE: Only to service the CFB Gagetown buildings.

Q.505 - And on what basis -- but the pipe -- you will have -- Enbridge will be constructing a pipeline. It will be buried in Crown land. And will you have -- is there any agreement? Is there any right to occupy that land that you expect to apply for from the federal government?

MR. HARTE: No specific agreement. Because they have asked for the service laterals to be on their land to supply the

buildings on their property. So we wouldn't require any special agreement, no.

Q.506 - But it is Enbridge's pipe -- Enbridge's pipeline is going to be on the federal land, is that correct?

MR. HARTE: That's correct.

Q.507 - And will you be servicing that pipeline?

MR. HARTE: That's correct.

Q.508 - So you will be -- if there is an emergency and you had to take some action that involved the pipeline on that land, would you enter the land and deal with the emergency?

MR. HARTE: That's correct.

Q.509 - So you consider that you have certain rights to take actions on that land and for your pipeline to occupy that land?

MR. HARTE: It would be no -- that's correct. It would be no different than if I was running a pipeline into a shopping centre with multiple stores, you supply multiple customers.

It is really just what we would consider to be like a large service lateral on their property to service their buildings.

Q.510 - But normally -- my understanding is everywhere else you will have to have some kind of easement. You have to have an easement over the provincial Crown land. We have

discussed that. You will have to have some kind of arrangement with the municipalities over municipal land to occupy that?

MR. HARTE: We would not require an easement over the provincial lands. We only intend to apply for a permit. The same with the municipalities. We would just look for a permit approval to construct there.

Q.511 - Do you have any written opinion from the federal government that an easement is not required?

MR. HARTE: I know from other jurisdictions and other bases throughout Canada where we have installed plant, we have not obtained easements for those facilities.

Q.512 - But you have a standing right to enter into the land and do what you needed in a case of emergency?

MR. HARTE: That's correct.

Q.513 - So have you -- in the other jurisdictions where you have pipelines going onto federal bases, what is the arrangement with the federal government?

MR. HARTE: I don't understand. What do you mean arrangement? We have pipelines -- for instance I was very involved with the installation of pipelines in Petawawa in Ontario, and very extensive distribution pipelines to supply all the PMQ's and the heating plant, et cetera in Petawawa.

And there is no real special arrangement at all. They

are the ones that want the service to their buildings and their property. We will provide the service. And we installed meters at the individual buildings there. And we bill for the consumption.

Q.514 - When was that built, the pipeline into Petawawa? That was some time ago?

MR. HARTE: At various stages throughout the 1980's through to 1990.

Q.515 - So have you -- has this -- have you had any discussions with the federal Crown regarding your putting the pipeline into federal land?

MR. HARTE: Yes. We have had a couple of meetings specifically to talk about that. And we have actually got meetings set up next week to get into more detail of the pipeline location within CFB Gagetown.

Q.516 - And is there -- have you had any discussions in that context with the Federal Crown about whether or not such use of land would trigger the federal environmental assessment process?

MR. HARTE: We haven't got into a specific discussion with them in that, no.

Q.517 - Your consultants point out in exhibit D that one of the bases for triggering CEAA, the Canadian Environmental Assessment Act, is that if a project passes through or takes place on federal lands, and the federal government

transfers an interest in those lands to allow the project to proceed. Can you -- are you telling me today that the federal government is not required to transfer any interest to you in those lands?

MR. HARTE: That's correct.

Q.518 - On page -- still on the same page there is a discussion of -- actually it is not on that. On page 49 of 50 there is a discussion about different permits that are required?

MR. HARTE: Yes.

Q.519 - And there are permits required from the Department of Fisheries and Oceans for crossing streams?

MR. HARTE: Yes.

Q.520 - What is the status of those permits?

MR. HARTE: I would like to also refer that to the environmental panel.

Q.521 - All right. We will put that over to another time.

Archeology is my next area of discussion. And I just -- and clearly the Union of New Brunswick Indians has a very strong interest in identifying and preserving buried archeology, archeological finds and sites that are significant to them.

And in the environmental assessments a number of field studies are identified by the consultants as being necessary. But they don't include studies in archeology.

And I believe this is a policy question. So I would like you to answer it. If you tell me otherwise, we can hold it off.

But my question is whether Enbridge would undertake as a policy to do detailed field work including shovel testing prior to construction?

MR. HARTE: The panel for the environmental can address the archeological work that they have been doing.

Q.522 - And in far as this is a policy question, will you be able to answer that in the context of the second panel?

MR. HARTE: Yes. In fact we already have an archeologist that has been going over the various pipeline route locations.

Q.523 - Okay. We will take that up then in the individual locations.

MR. HARTE: Thank you.

Q.524 - And again maybe you will tell me that this is for the next panel. But my sense of it is that it is a policy question.

The Union of New Brunswick Indians has -- in the evidence they have stated a very strong interest in avoiding any loss to areas of traditional use and resources that are traditionally used for medicines and for other traditional purposes.

In the environmental assessments again that have been

filed, they don't identify as being necessary any further -- any studies at all for that matter, on traditional use of resources by aboriginal people.

Will Enbridge undertake as a policy to do detailed field work with the assistance of aboriginal people trained in identification of medicinal plants and traditional uses?

MR. HARTE: We have identified that that is required. And the details we can get from the environmental panel.

Q.525 - I'm sorry. The details?

MR. HARTE: Can be provided from the environmental panel.

Q.526 - Has Enbridge asked their consultants to do a detailed field work on the topic of traditional use?

MR. HARTE: Yes.

Q.527 - And when was that request made?

MR. HARTE: We have discussed it numerous times over the last two to three months with the environmental consultants.

Q.528 - And what is the status of these studies?

MR. HARTE: I would rather lay that off to the panel. When they come up here they can give you the exact status where they are at.

Q.529 - So your evidence is that you have asked your consultants to do the studies about traditional use?

MR. HARTE: That's correct.

Q.530 - And are you in agreement that there is -- there have been no studies done to date? There are certainly no studies in evidence before this Board about traditional use?

MR. HARTE: That's correct. There is no studies done to date.

Q.531 - Have you asked -- have you given your consultants a deadline to complete these studies?

MR. HARTE: They can give you the deadline once the panel comes up here. But I know that they are well aware that it has to be done. And --

Q.532 - I would really like to know whether Enbridge, as an employee of these contractors, has given a deadline for when these studies are to be completed?

MR. HARTE: Well, the studies could not be complete until such time as they went through a growth period in the springtime for these plants. So therefore they have been delaying actually doing the studies until this month, until such time as they can properly identify the plants in those areas.

Q.533 - So will those studies be available to this Board before it makes its decision whether to approve this project?

MR. HARTE: If the Board wishes, yes.

Q.534 - Will you undertake to have those studies completed

prior to -- prior to construction?

MR. HARTE: Yes.

Q.535 - Will you have these studies undertaken -- will you undertake to have these studies completed in enough time prior to the construction that the Union of New Brunswick Indians can fully participate, can comment, can be involved from the beginning in the studies?

So let me be more specific. Will you undertake to have these studies completed 30 days prior to construction?

MR. HARTE: Yes. They will be completed 30 days prior.

Q.536 - And how do you propose to involve the Union of New Brunswick Indians in carrying out these studies?

MR. HARTE: We would certainly have discussions with them and what they are aware of along the right-of-way that we are constructing a pipeline.

Q.537 - So construction is beginning July 1st. 30 days would be June 1st. That gives a month -- the month of May which we are practically through. Do you expect to be able to meaningfully involve the First Nations in these studies in carrying out and commenting on the studies?

MR. HARTE: Well, the dialogue with First Nations has been ongoing since we first started on the project. And they have not come forward and identified any specific areas that I'm aware of.

Q.538 - And have you -- have you asked them specifically what plants are going to be disturbed and what other traditional resources are going to be disturbed?

MR. HARTE: It did come up in our discussion through a public information program when we met with UNBI and also Mawiw.

Q.539 - I will refer you to the Union of New Brunswick interrogatories of Enbridge. I believe that is exhibit J.

Q.540 - Okay. In that interrogatory 10, Enbridge was asked whether First Nations were consulted with respect to burial sites, prehistoric villages, campsites, portages, location of medicinal plants and trees used by First Nations for basket making. And there was a response that referred to this route change by Oromocto.

And then the next question was asking for the dates of conversation, names of people interviewed, specific questions asked and notes taken regarding Aboriginal burial sites, prehistoric villages, campsites, portages, significant locations medicinal plants and trees used by First Nations community for basket making. And the response was, please refer to UNBI interrogatory 10.

And I see an answer in interrogatory 10 which is very, very general, with the one exception that a meeting was held with Oromocto and some information about burial sites was provided.

Do you have anything further to provide an answer to the interrogatory 11, providing specific dates of conversation, names of people interviewed, specific questions asked and notes taken regarding Aboriginal burial sites, prehistoric villages, campsites, portages, and significant locations of medicinal plants and trees used by First Nations communities for basket making. Do you have anything more to add to that interrogatory?

MR. MACDOUGALL: Mr. Chairman, again, just to get back to the earlier point. And I know Mr. Harte is trying to answer some of these questions. The question there again was specific to routing and environment. We have five people on a panel who can address these questions, who can provide much fuller answers. Some of these questioners -- some of the consultants might be able to provide further background.

I'm concerned here that the questions are environmental and routing being asked to a panel that we specifically requested two or three times go to the environmental and routing panel. That's the normal process. And that if the question is not asked again, we have to redirect people through them if there is further information. The fullness of the answer would best come out through the best panel. I believe that's the purpose.

I'm afraid Mr. Harte wants to continue, but my -- I guess

my concern here is that they are environmental and routing questions and we have a environmental and routing panel.

CHAIRMAN: Thank you, Mr. MacDougall. Ms. Abouchar, can you try and sift from your questions what is on a policy basis and that which would be applicable to the environmental panel? It will save a lot of time.

MS. ABOUCHAR: I understand that. And I will. I am eager to try to take as little time as possible.

MR. MACDOUGALL: Ms. Abouchar, policy questions on environmental issues will be addressed by Mr. Harte and Mr. Brophy. So it's sort of questions that are not specific to the environment. But they will answer all nature of environmental and routing questions on that panel.

MS. ABOUCHAR: Okay.

CHAIRMAN: So that's all on that next panel then.

MS. ABOUCHAR: Okay. In that case I will deal with the policy aspect of your proposed study with the next panel.

Q.541 - I believe we touched on the question of inspection and monitoring a little bit in our earlier discussion about benefits for First Nations, potential for First Nations. I just want to get a little bit more information, please, about the issue of inspection and monitoring.

Will Enbridge -- could you outline for us the qualifications of environmental inspectors that are hired

to oversee construction, only in a general -- in a general way. Is there a -- is there an education component to the qualification or a training component?

MR. HARTE: There are various levels of environmental inspection on the construction project. There will be qualified people that have expertise in that area that will be assigned to the project. And they will be responsible for the environment and for the training for the others on the project.

As I said before, we will have senior pipeline inspectors and pipeline inspectors on the project that will also be trained by the environmental people on those environmental issues. We will have engineers in the field that will also be trained on those environmental issues.

Q.542 - Will Enbridge be hiring then independent environmental inspectors to oversee the issues, the environmental and socio-economic issues?

MR. HARTE: Yes, we will

Q.543 - And how will the various government departments be kept informed of the reports of those inspectors?

MR. HARTE: I would prefer to talk about the details with the environmental panel.

Q.544 - Okay. Well here is a -- perhaps this is more of a policy question. How will you keep the Union of New Brunswick Indians advised of the inspection reports?

MR. HARTE: I would prefer to leave that up to the environmental panel as well.

Q.545 - Okay.

MR. MACDOUGALL: Mr. Chair, I guess we will just request that the environmental questions go to the environmental panel. And we can give Ms. Abouchar 10 minutes or so to go through the questions. And that's why I raised it on day one.

Q.546 - Okay. No, that's fine. I'm getting the -- I'm getting the drift, policy for environmental questions will be later. I won't take much longer.

The issue of site specific environmental inspection plans then, should that be put aside to the next panel?

MR. HARTE: Yes.

Q.547 - Okay. I have -- this next line of questioning I would like to refer you to the map that was filed with the application and also distributed yesterday. It's figure 1.

CHAIRMAN: That's exhibit A-5.

MS. ABOUCHAR: Exhibit A-5. The figure showing the distribution area for Fredericton and Oromocto.

CHAIRMAN: That's just -- figure 2 is Oromocto, I think.

MS. ABOUCHAR: I'm sorry, of Fredericton. Just refer you to figure 1. And I just note when looking at this diagram the sort of orange or pale orange area takes a dip along

Ring Road and then comes up again. And right in that dip, that section that is excluded from the service area is where St. Mary's Indian Reserve is located.

And I notice that that was the proposal initially filed and it's still the proposal as of a few days ago, to specifically exclude this St. Mary's Reserve from the proposed service area. Why was that decision taken?

MR. THOMPSON: I don't think there was a decision taken to specifically exclude the St. Mary's Reserve. I think, as we responded in an IR on the question, that the proposed service area was developed in a way to encompass the maximum urban connotation that could be pulled into a service area for maximizing the expansion of natural gas into that area. It certainly does not exclude any area that lies outside that proposed service area.

Q.548 - But St. Mary's is not included in the orange proposed service area?

MR. THOMPSON: I see that, Ms. Abouchar.

Q.549 - And is the purpose of the orange area to show where gas will be distributed?

MS. ABOUCHAR: The proposed service area, as I said, was designed to encompass the maximum number of households and businesses that ultimately would be serviced by natural gas service in order to maximize the spread of natural gas as quickly as possible and at the least unit cost. The

idea is to try to have a service area that's contained in some way without bringing into that area all the external pieces that might lie far outside the routes that are originally planned.

Q.550 - But this -- I'm sorry. I know -- the reason I'm revisiting this question is because the answer to your IR was -- didn't answer the question of why it is not proposed that St. Mary's should receive gas when the rest of the surrounding area -- I mean this specifically dips underneath the Reserve. It seems -- my question is in -- just in your marketing language, why is that St. Mary's is not included? Are there not enough homes there?

MR. THOMPSON: It's probable that in the original proposed service area routing it was felt that the area that described in orange on that map brought into effect the maximum amount of density in terms of new conversions to natural gas. It may have been thought at that time that the areas that lay outside that particular orange area -- and I note that they include other pieces on this map, did not conform with the density that was used at the time to establish that proposed service area. I don't think -- I don't think, I know that it wasn't specifically excluded.

One has to draw, you know, a proposed service line somewhere. And I guess this is the way that it was developed to gain the maximum amount of natural gas use.

Q.551 - Who would have been responsible for determining from your side of the -- from the company's side, who would have been responsible for determining what parts of the city receive natural gas in the year 2000 and what don't? Would that have been your responsibility?

MR. THOMPSON: Well my responsibility lies around the fact that the year 2000's mains are developed to get to the maximum amount of customers. And particularly the larger customer. We typically in this kind of situation with grid mains we would go to the larger commercial industrial customers first because they are the ones that have the highest volumes. And then we spread out from there into the residential area.

Q.552 - But you are already here. You are already in Fredericton?

MR. THOMPSON: Yes.

Q.553 - And the transfer station is a street -- two streets away from the Reserve, which is as close as you are going to get to any Reserve in the province. And it's a residential community with 1,080 people in the middle of Fredericton which is already being served with natural gas.

I'm asking under those situations why is that area not being serviced?

MR. THOMPSON: Ms. Abouchar, your comment on the transfer

station, Mr. Harte suggests there is no transfer station there.

Q.554 - Okay. The pressure regulating station. And in any event, it is two streets away from the main infrastructure that you are putting in, the main pipeline that you are putting in to service the city of Fredericton. And I put it to you that there is not going to be a Reserve, other than Oromocto potentially, that is closer to that in the province of New Brunswick.

And my question is, given the population, which is 1,080 which is in your -- the evidence presented by Enbridge under the rates hearing, why is this area not being serviced?

MR. HARTE: There seems to be some confusion about the pressure regulating station that you are referring to or the custody transfer station.

Obviously as we responded to in our IR, having any area outside the proposed service area does not limit the opportunity that that area would have natural gas extended to it, depending on the extent of the conversion and the availability of natural gas to service it.

Q.555 - Well why would you draw a map that has an orange area that is called the proposed service area with specific boundaries if it wasn't because that was the area that you were -- you intended to service?

MR. THOMPSON: Well I think I already answered that, Ms.

Abouchar. it was drawn presumably to encompass the maximum density of homes and businesses in that particular area. It does not exclude any area that is outside that PSA from getting natural gas should the interest in conversion be there.

Q.556 - So in order for this First Nation to receive gas, they would have to come and convince you that it was worth your while to bring gas to the community? It is their burden? It is their onus to convince you that it is worth your effort?

MR. THOMPSON: Well I think when we talk about the burden being on this community, in fact what usually happens is that communities come forward to us for many reasons and from many areas to get natural gas. This wouldn't be unusual. It's not a burden, it simply shows an interest.

In fact, the only meeting that I attended of UNBI on St. Mary Reserve, the natural gas conversion was discussed at that meeting, the issue of natural gas conversion, the benefits it would bring to St. Mary's Reserve.

And I had a small conversation with a counsellor who asked me about whether or not there would be federal funds available for the conversion. I mean, it's not that we --

Q.557 - So interest has been expressed by --

MR. THOMPSON: Excuse me, Ms. --

Q.558 - -- St. Mary's to have gas come to their community?

MR. THOMPSON: Well I spoke to them about it.

Q.559 - Okay.

MR. THOMPSON: That's what I am just saying.

Q.560 - And my question then is why isn't that area included in the service area?

MR. THOMPSON: Ms. Abouchar, the fact that --

MR. MACDOUGALL: Mr. Chair, excuse me, Mr. Thompson has answered that question with respect to density and otherwise. His answer I doubt will change if he is asked a fourth time.

CHAIRMAN: That would be the third crack, I think, Ms. Abouchar, on that one.

MS. ABOUCHAR: Okay. I just --

CHAIRMAN: So go on to another topic.

Q.561 - I would just like to then ask the panel on a policy level whether they understand the message that this sends to First Nations communities when Mr. Marois committed himself to providing access to -- making access available to First Nations for gas? Does Enbridge understand the message that this sends to First Nations communities?

MR. THOMPSON: And I would simply repeat that at that particular meeting, on that particular reserve, I personally spoke to band councillors about the opportunity that they could get from conversion to natural gas, so I

don't think there is any message that is being sent.

We want them to have that benefit, conversion will do that for them.

Q.562 - And would you consider amending your map to include St. Mary's in that case?

MR. THOMPSON: Yes.

Q.563 - And will you undertake to amend your map to include St. Mary's?

MR. THOMPSON: Yes.

MS. ABOUCHAR: Thank you, panel, those are my questions.

CHAIRMAN: Thank you, Ms. Abouchar. I am just trying -- Mr. Holbrook, do you -- are you next? I am not privy to counsel's agreement as to cross-examining.

MR. HOLBROOK: It works for me, Mr. Chairman.

CROSS-EXAMINATION BY MR. HOLBROOK:

Q.564 - Good afternoon, Mr. Chairman, members of the Board, Mr. Thompson, Mr. Harte, Mr. Marois. It is a pleasure to see you again.

I just have a few questions related to the design of your system and how you intend to operate. And as I am sure you are aware, I am here on behalf of MariCo, which are the indigenous producers developing hydrocarbons in the province.

Am I correct -- I guess what I should do is just refer you over to what we have labelled exhibit A-5. And just

as a point of reference figure 3, since Moncton is near and dear to my heart.

This is just a few clarification questions, I think based upon what has been discussed so far in this proceeding.

As I understand it, the red lines on that exhibit represent what we are referring to as your main trunk line system in that Moncton area, is that correct?

MR. HARTE: The main grid system, yes.

Q.565 - And as I understand it, the grid system, as you term it, is anticipated to operate in approximately -- is it 300 pounds roughly PSI?

MR. HARTE: A little over, 325 PSI.

Q.566 - And then you have characterized, as I understand it also, in your proposed service area what you refer to as in-fill, which would be smaller diameter pipes that would be operating to provide the direct delivery service?

MR. HARTE: That's correct. They would be operating at 60 PSI.

Q.567 - And as far as -- in terms of just the detail of what that infrastructure is anticipated to look like, where will I find that type of detail? Is that the Stoner software that you referred to earlier?

MR. HARTE: We will use the Stoner to provide that detail. We haven't -- we have designed the distribution system

with Stoner based on a generic load pattern with different types of customers. We will get into specific designs in each community, small community with Stoner as we move forward, once we get more information from the marketing and the sales group as the actual loads for each of the customers.

Q.568 - I know you have provided a lot of information in this filing, but maybe just to condense it down into some basic terms that I can understand.

You have your main grid system, which is the red that we have referred to on the exhibit, in this case figure 3 of A-5. If I am a customer in relatively close proximity to that grid system, what are the logistics in terms of once that pipeline is in place -- maybe I should preface this, my understanding is that your proposal for this grid system, this main grid system for the Moncton area is to construct this summer and be available to provide service this fall, November?

MR. HARTE: That's correct.

Q.569 - As a practical matter, how do I -- what should I anticipate if I am a customer, potential customer that is located, let's say for the sake of simplicity, right along that grid system?

MR. THOMPSON: Well you can anticipate that as the Board determines our case, we will be communicating to those

customers who are along -- you are looking at figure 3, let's say along Mountain Road, and informing them that based upon our hearing, that main will be constructed during the summer, will be available for natural gas in the late fall, and hence they are one of the very lucky ones because they get to get natural gas first.

Q.570 - Okay. Now let's assume that you complete your portion of the red line, the main grid line. What is anticipated with the -- at that point in time you have got a high pressure line, relatively high pressure, for distribution facilities.

Are you anticipating that you are going to build off of that your smaller diameter pipe that you referred to as part of your in-fill, or is it anticipated that the customer is going to be expected to come to you and are you planning on allowing direct taps off of that?

MR. HARTE: There will be direct taps off of it if the customers are directly on the pipeline route. And those customers that are adjacent to it through the market surveys that we get and the interest, then we would look at expanding into those communities with the most interest.

Q.571 - So your assumption is if I understand it, Mr. Harte, is that if you are directly on it or you are of a larger volume, that you would anticipate that the customer would

lay a plant line of about something of that vicinity in the case of an industrial customer or commercial -- large commercial, directly to the facility and you would have a series of taps off of this main grid line?

MR. HARTE: We would install the service laterals off the main grid line to the customers.

Q.572 - You would?

MR. HARTE: If they were adjacent to the pipeline, yes.

Q.573 - Okay. And it is your expectation, as I understand your testimony, that that could be reasonably anticipated for service come this next winter?

MR. HARTE: Come November 1.

Q.574 - I raise the question as a party that will be concerned as a potential marketer with just logistics, and I am sure you have heard this expressed before, of when do you advise the customer that they are in a position to anticipate service, and what are the logistics involved in commencing that service itself? And the focus has been so far on the main grid line and not on the lateral lines or in-fill lines.

MR. THOMPSON: I could maybe speak to that a little bit, Mr. Holbrook.

Q.575 - Go ahead.

MR. THOMPSON: As we move out of this particular hearing, one of the things that we will be doing from a marketing

side is talking to marketers, singly and in groups, to start to establish some procedures as we go forward, in terms of developing just that kind of process that you are talking about.

We very much want to work closely with marketers in this process, naturally. We do go where the market is. We go where the highest number of customers have the highest propensity to convert. And we do carry out surveys in order to establish that kind of base.

So what we will be doing as we move forward on that base -- I mentioned earlier that we will be delivering along this route, we want to talk to marketers about the steps that are taken in order for that business opportunity to be handed off, because plainly we don't do that work. So you can expect along with other marketers that we will be talking about that very soon.

Q.576 - Is there any particular formula that you are utilizing right now in terms of line extensions? I know you have used terms I guess so far to -- in reference to your main grid density and obviously where the roads are in terms of public right-of-way.

But is there any particular formula you are utilizing right now that you could point to in terms of -- maybe not the grids since you have already laid that out for the moment, but in terms of the laterals off the grid, the

in-fill? Is there a volumetric threshold for distance or anything along those lines?

MR. THOMPSON: What we have tried to do is to obviously maximize the natural gas opportunity off that grid as fast as we can and for as least cost as we can.

It does really -- it does get driven by interest. It does get driven by signed commitments for natural gas. And part of that process we will be developing those kinds of, if you will, rules of thumb as we go forward.

Currently from an internal prospective, those are discussions we are still having to make sure that as we move forward in this development period, we can give marketers like yourself some kinds of rules of thumb that perhaps they can work on.

Our feeling is that the -- sorry, the areas directly adjacent to those mains is where we will begin to create interest around natural gas itself and the concept.

Q.577 - I believe if I have read your testimony correctly that you indicated that the trunk line, what I term a trunk line, your main grid line, the red lines in this case on the exhibit we were referring to exhibit 5 -- A-5, that the choice was a combination of a number of factors. I believe you alluded to -- as I mentioned a moment ago, the public right-of-way, density, which is the term as I understand it, for market potential?

MR. THOMPSON: Yes.

Q.578 - And is it also fair to characterize it as the route takes into consideration the access to the gas supply as well?

MR. THOMPSON: I'm sorry, the gas supply --

Q.579 - Well, in the instance -- I am looking at the Moncton scenario.

MR. THOMPSON: Yes.

Q.580 - And I believe in your testimony you pointed out the factors we are talking about as well as access to Maritimes Northeast to tie into that capacity and the gas supply potential behind that capacity?

MR. THOMPSON: I see. Yes, I think -- yes.

Q.581 - Is it fair to characterize that the same considerations that have given rise to the proposals that we see here today, which are a combination of market potential and access to capacity gas supply, would also govern future determinations by Enbridge to go out and expand the main grid system?

MR. THOMPSON: The marketer may go out and sign customers on their own behalf. We are certainly expecting that we are going to have customers, marketers, builders, developers and so forth coming forward to us with their own plans, and therefore we would take a look at the volumes that were brought forward, the capital expenditure and, you

know, the feasibility of that process.

So I mean we are obviously very prepared to look at loads that may not be adjacent to this grid main but certainly may be well worthwhile attaching to the overall system.

Q.582 - In reference to the thought process that you have gone through to date, is it fair to say you would go through a similar thought process in evaluating the decision making to expand the grid in the future?

MR. THOMPSON: Yes.

Q.583 - Okay. And my understanding -- and this is just a clarification -- is that you would anticipate that while the in-fill facilities are covered by -- at least the in-fill facilities in reference to the municipalities that are identified in this application would not require additional Board approval, that you would anticipate that further extensions of your grid systems, the red lines, would be involved in future permit applications?

MR. THOMPSON: That would likely involve a new community, Mr. Holbrook.

Q.584 - Well let's put it this way. You have identified at this point in time the grid systems. If you were to make any expansion on that grid system, the red lines, what I refer to as the trunk line, would you anticipate that you would have to seek Board approval?

MR. THOMPSON: I think the sense is if we had to expand the grid main outside of this particular proposed service area, we would come back to the Board because we would see that as a new community.

Q.585 - I see. But you could -- this is just a clarification, you could in your view expand the red lines that we see here, the additional grid system, what I refer to as the main trunk line system, the high pressure line, you could expand that as long as you stayed within the defined market areas that you are proposing?

MR. THOMPSON: Well I think as they are defined here, my understanding is, Mr. Harte can confirm it, that the grid system as laid down in Moncton now would look after the rest of the proposed service area, because we would be using much smaller polyethylene pipe and so forth. So I don't think we would need to expand.

As I say, I am moving into engineering -- the engineering area here. Maybe Mr. Harte could pick up. But that's my understanding.

MR. HARTE: The only area I would see of short extensions to this grid system may be in some of the areas of the industrial parks where we may want to extend some steel high pressure if there was a large customer there, but it would still be within the proposed service area that was shown on the plan.

MR. HOLBROOK: Okay. Thank you, gentlemen. Thank you Board.

CHAIRMAN: Thank you, Mr. Holbrook. Are there any other counsel that wish to ask questions outside of Board counsel? Mr. Noble?

CROSS-EXAMINATION BY MR. NOBLE:

Q.586 - Thank you, Mr. Chair and Board members. You will be pleased to know that I do endorse Mr. Cooper's comments this morning. We won't be going through the length of questions that I would have had otherwise.

But I do have a couple of issues that I would like to discuss with -- or questions that I would like to raise with the panel. And predominantly I guess they are directed to Mr. Harte. So congratulations.

I wanted to raise at first instance some information that was discussed in cross-examination yesterday, or some statements that were made in cross-examination yesterday, particularly with respect to the tender that you ultimately will be calling so as to be in shape to deal with issues on July 1st.

In the cross-examination, Mr. Harte, as I understand it, you were confirming that you will be calling for the tenders prior to execution of agreements or commitments with municipalities. Is that accurate?

MR. HARTE: That may be so, that if we don't have an

agreement with the municipality in place that we may actually call for a tender around the middle of June, and we may not have an agreement in place at that time. We certainly would not go ahead with construction without an agreement in place.

Q.587 - Excuse me. I am a little confused. I thought you had said that you will probably be calling the tender around the 1st of June?

MR. HARTE: I said the first couple of weeks in June.

Q.588 - So if you call it within that period you are not expecting to award the tender until the end of June?

MR. HARTE: It would be awarded subject to the approvals. So if one of those approvals happened to be the City of Fredericton, we would not proceed without the permits from the City of Fredericton.

Q.589 - I see. And I guess in issuing those tenders have you made any commitments or are you making any commitments to discuss the contents with the City of Fredericton prior to -- prior to the issue?

MR. HARTE: I am not sure what type of contents you would like us to discuss with the City.

Q.590 - I guess what I am interested in is, as with the construction permits, you have to work on the basis of some assumptions, and I was wondering if you were going to be discussing any of those assumptions with the

municipality in advance of issuance of the tender?

MR. HARTE: Assumptions being things like timing with the municipality, coordination with other municipal works, yes, we would certainly be discussing that.

As we submit drawings to the municipality I would expect them to be coming back to me with concerns they have.

Q.591 - And so that will be discussed prior to the call for tenders?

MR. HARTE: That will be discussed during the process of the permit process.

Q.592 - I see. Now that gives me the information I was looking at with respect to the tenders.

I am going to be asking you questions with respect to exhibit A as well. Particularly I would like to start with the issues of stockpile areas which is set out on page 15 of 50.

MR. HARTE: Yes.

Q.593 - It's perhaps a minor concern in some circumstances but there is reference specifically to stockpile areas which might be upon road allowances. I wonder if you could just give me an outline of what we are talking about with a stockpile area on a municipal road allowance?

MR. HARTE: If we excavate in the boulevard of the municipal road allowance then sometimes there is opportunity to

stockpile the excavated material along the trenchline, so therefore after we put the pipeline in and the material is of a quantity and quality we can use for backfill, we will use the native material to backfill the trench.

Q.594 - Okay. And you are not talking about something that is going to require any kind of security or protection or -- you are just talking --

MR. HARTE: We normally backfill all of a trench the same day that we excavate. Usually we just leave open tie-in holes for the following day.

Q.595 - Sir, on page 16 of 50 there is reference to removal of stumps, which leads me to ask about removal of trees or items from areas adjacent to city streets. Is that going to become a problem at all?

MR. HARTE: I don't anticipate that we will be removing any trees within the City of Fredericton, and if -- if we are then I think we would have to go through the City for approval prior to doing that.

Q.596 - Okay. One other question that arises not from exhibit A but from exhibit N, which is the interrogatories that were directed to the City of Fredericton, or by the City of Fredericton.

In interrogatory number 1 you make reference to local construction information which was sought to establish the cost factors. I guess what I am asking you is what local

construction information was sought?

MR. HARTE: I'm sorry. Could you repeat that again?

Q.597 - Well the reference -- your response to the interrogatory referred to local construction information which was sought to establish the unit costing.

And what we are interested in is knowing what local construction information you are referring to?

MR. HARTE: Local construction information would be general soil conditions in the area, is it clay material, is it shale material, is it rock material, can we easily bore the roads, bore driveways, discussion with some contractors around pricing and any special requirements for constructing within the municipality, unusual requirements.

Q.598 - I see. In, in interrogatory number 3 you also refer to all costs for restoration are budgeted for fiscal 2000.

As I understand your undertaking today, reinstatement costs are going to be provided to the Board counsel or Board staff shortly?

MR. HARTE: A pertinent cost that would include reinstatement, yes.

Q.599 - Is that information going to be made available to the intervenors as well?

MR. HARTE: If you wish.

MR. NOBLE: Well I guess that is what I am asking for.

There were, Mr. Chairman and Board members, several questions that I would otherwise ask, but those are just the particulars that we were looking for today. Thank you.

CHAIRMAN: The Board will take --

MS. ABOUCHAR: If I could seek the Board's indulgence, I have one question which I actually forgot to ask, and unfortunately it is of Mr. Marois who will not be on the environmental panel, and I am just wondering if I might just ask that one question.

CHAIRMAN: One question. Go ahead.

MS. ABOUCHAR: Mr. Marois, you used an expression in your evidence from this morning when you were referring to agreeing to fund certain costs related to your application that the UNBI would incur, you used the expression, agreed incremental costs, and I just would like you to please explain by what you mean by agreed incremental costs?

MR. MAROIS: And I believe in there was also the word reasonable. The word agreed I picked up from your -- I guess your own comments at the rate case hearing when you talked about agreed. So agreed I think by definition is we -- both parties should agree with the costs, but by word incremental what we mean is costs -- additional costs that the UNBI would have to incur because of their dealing with us, Enbridge Gas New Brunswick. So they are

additional costs.

MS. ABOUCHAR: Could I just ask one more question. That doesn't quite answer my question.

From the point of view of -- just in, you know, lay language, from the point of view of the First Nations, does that mean that if they wanted to say review a study they would seek your agreement and then you would -- if you agreed you would provide them with the funds to review that particular study and then -- and that's how your relationship would progress on a case by case basis? Is that what you understand by that expression?

MR. MAROIS: Well I hope that the relationship would evolve to a point where we do not -- we would not need to do it on a case by case basis.

I think where it stands today we do not necessarily see eye to eye as to what this expression means, but I hope that down the road once we are on the same wavelength, that they will feel comfortable that if they incur costs they will be refunded because it meets our common definition of reasonably agreed upon incremental costs.

And to give you an example, if you want to talk layman terms, one area that presently I am struggling with is we have received an invoice from UNBI where that includes a charge from Mr. Darrell Paul. Well in my view that's not

an incremental charge because Mr. Darrell Paul is a full-time employee of UNBI. UNBI is not incurring additional costs for Mr. Paul because he is dealing with us. So I do not perceive that as being an incremental cost.

CHAIRMAN: It's my understanding that the City of Saint John and Saint John Energy have a few questions each.

City of Saint John. And is there anybody else? No, okay.

CROSS-EXAMINATION BY MR. BAIRD:

Q.600 - Thank you, Mr. Chairman. I would like to indicate and echo the comments of the City of Fredericton and City of Moncton that most of our questions we are going to hold in abeyance, because we are in the process of negotiation with respect to the details of construction.

But there were a number of issues that really came up as a result of some of the earlier questions. And one of them really came up with respect to the questioning of both Mr. Stewart and Ms. Abouchar with respect to the areas shown on exhibit 5, the maps that were handed out at the beginning of the hearing. And I would suggest that we could look at Saint John's, which is figure 4.

The service areas are shown there, and as was discussed during the hearing, we have the grid system and then the in-fill areas, which are shown in the shaded areas.

We have a concern that the Spruce Lake Industrial Park is not shown as one of the service areas, and in fact, given the extent of the map, isn't even on the map, because it's beyond the extent of this particular map, although it's still within the City of Saint John.

And I guess just to bring the panel back, in one of our interrogatories, exhibit O, schedule 7, we asked about Spruce Lake Industrial Park and had you considered it.

And I won't read your response, but basically said you had looked at it and market forces were such that you didn't anticipate it coming forward at this time. And I guess that left me with some hope that in the future, market forces, additional demand, that it would be considered.

And I guess I would like you to confirm that that in fact these service areas are subject to change and in fact there may well be areas outside the defined service areas shown on exhibit 5 that you would consider providing service to subject to demand, and could I have your comment on that?

MR. THOMPSON: Yes, I think as I indicated to Ms. Abouchar, having a proposed service area does not limit the extension of natural gas supply to a customer, provided that the volume, the revenue, the cost and so forth are balanced off against the opportunity for conversion.

We are very interested in supplying gas wherever we can place it feasibly. And it think that's the -- that's the bottom line.

Q.601 - Could you comment on I guess maybe the -- some of the challenges in Spruce Lake Industrial Park, because if you look at the system, the grid system that you laid out -- I don't want to put words in your mouth, but it would almost look like you would have to establish another custody transfer station, and another leg of the grid in order to do Saint John Industrial -- Spruce Lake Industrial Park, because of its distance from the system that you have laid out on these maps?

MR. THOMPSON: Yes. And I think that that was one of the issues that though the M & E pipeline is relatively close -- in fact it goes right through the park I understand -- there would be a significant cost to tap into that line.

And consequently it becomes a factor of what volumes are there to support such a significant investment. And currently there are two customers, two major customers at that site. One is a seasonal customer, an asphalt plant.

And one a large customer, a large volume customer. And our view is simply that we want to stay in touch with the Saint John Industrial Park in assessing that ongoing -- in an ongoing fashion.

But certainly those are some of the issues that were

raised by the question about Spruce Lake Industrial Park.

Q.602 - And I guess really though it's not part of your application?

MR. THOMPSON: I understand.

Q.603 - And so in the future that would be one of those pieces that would have to come back even though we are part of the Phase 1 of the whole thing?

MR. THOMPSON: That's correct.

Q.604 - The second question really deals with the follow-up to the questions Mr. Holbrook had with respect to individual services and the, as you phrased it, those customers that find themselves fortunate enough to be adjacent to your grid lines that you are proposing to develop this year.

In, again, an interrogatory that was submitted by the City of Saint John, exhibit O, schedule 9, questioned the potential for extensions off of the line that comes out Westmorland Road and then basically ends at Canadian Tire, if you are familiar with the exact location?

MR. THOMPSON: McAllister Mall.

Q.605 - Yes.

MR. THOMPSON: Yes.

Q.606 - There -- and really as part of the initial discussion during the public information session, there was some discussion with your consultants, which I have, you know, confirmed that they were aware of, that there is a lot of

commercial development happening in that area. Some of it is ongoing and it's under construction now.

How would you see -- and I guess I have taken from the testimony so far that the grid line wouldn't be extended, but in fact there would be the lower pressure polyethylene lines that would go off of that.

You would anticipate that notwithstanding the development that's occurring right now, that those would be future year development and so they are basically into a waiting situation, because we are only able to service those ones that are immediately adjacent, and I guess the corollary is there is no possibility of a -- well I guess I must admit I am thinking of the fact that we are in the midst of constructing roads right now in that area, that seems to me that there would be an opportune time for an extension that would service some of these additional commercial customers?

MR. THOMPSON: Yes, I think our situation would be that we would be looking for future conversion opportunities obviously. And as those customers came on line, we would be looking to connect them with the, if you will, the lower pressure polyethylene in-fill mains.

In this particular situation I believe this was dealing with Mark Drive in Saint John. And I know -- I drove that particular area myself and I saw there were

some construction work going on. I wasn't aware that -- certainly I didn't see too much new -- new construction of buildings and so forth beyond McAllister Mall.

I mean what we are looking for here is conversion interest to be shown. The marketers will doubtless be knocking on many doors and as that interest is shown we will looking forward and connect those customers. We are very interested in doing that.

We simply have to be in a situation here where -- with our backbone mains we have to reasonably stop at some point that we feel we can adequately construct through our construction season.

Q.607 - I guess I would -- I don't -- obviously, I am not familiar with what your loads may be. It may be of interest that they are proposing to construct a 100,000 square foot store in that area this year. Maybe that's not significant in your context?

MR. THOMPSON: No, all loads are significant. All customers are important. It's just the fact that at this particular -- in this particular area, we covered what we thought to be the most -- the largest customers around McAllister Mall area and the prime opportunity in the year 2000 to connect.

Q.608 - My final question deals with exhibit A-4, which was the breakdown in construction costs that was introduced at

the beginning of the hearing.

And the last page is the Saint John breakdown. And I notice with interest that the unit prices on the -- and the only one that seemed directly comparable with other communities was the 6-inch steel, number 6 steel, and when I compare it with some of the other communities, the unit -- dollars per unit is substantially more, if not doubled.

And I wondered is that -- was that based on detailed examination of the route or was that sort of a city-wide figure that was given to compensate for the amount of rock that we might have to deal with in this situation?

MR. HARTE: The main difference is the difference in the amount of rock that we may have to excavate and sand pile the pipe and lay it out.

Q.609 - Was that derived on the basis of examination of your proposed route or was it a rule of thumb factor established there?

MR. HARTE: It was more of a rule of thumb, the city itself.

Q.610 - Okay.

MR. BAIRD: Thank you very much.

CHAIRMAN: Mr. Holgate? That is Mr. Marr. I beg your pardon. I wrote Mr. Holgate and he started to grin and I realized that was immediately above Mr. Marr. It's late in the day.

MR. MARR: That's right. Thank you, Mr. Chairman.

CROSS-EXAMINATION BY MR. MARR:

Q.611 - The questions I have are brief and probably may not be applicable at this stage. They are all pertaining to dealings with our existing infrastructure. I will start with the four questions that I have here and if you -- if you feel that they can't be addressed at this time then that's fine. I think they are more perhaps along the line of construction and need construction details to answer them. But let me start.

The first question I have is in construction, how will the existing utilities infrastructure be identified as to its location and what the method to deal with the existing infrastructure is?

MR. HARTE: We would look first of all to the municipalities and the other utilities to provide that information that is available for undergoing structures, and they also prior to construction our contractors would get a feel for the location of those structures.

Q.612 - So will it be done via the contractor moreso than a representatives directly of Enbridge?

MR. HARTE: It will be done with Enbridge first of all so that we can pick a line location within the right-of-way that would be agreeable with the municipality, so that we would stay away from the existing municipal structures.

Q.613 - As much as possible?

MR. HARTE: As much as possible.

Q.614 - Right. During construction now what assurances are given to the municipality and in my case in particular at Saint John Energy, the utility, with respect to the possible assurances that we have been given that damages will not occur to our existing inground structures? I guess what I am asking, is there an allowance for a representative to be at the job site to identify with your contractor the structures and how they are to be dealt with?

MR. HARTE: If I -- for a minute, the locate for in particular Saint John Energy and your utility, locate and the plant, if there is any special considerations I would think that this should be communicated at that time, and that the contractor that would be doing the work would have to hand excavate to ascertain the location of the utility before he used mechanical equipment to prevent any damages, and that we would hold the contractor responsible for any damages that occurred as a result of his work, but the intent for the construction is that we don't want to see any damages.

Q.615 - Very good. So it will be dealt with by the contractor and his liability insurance, if there is any damages that do occur?

MR. HARTE: Yes, very much so.

Q.616 - Very good. How were the -- is there any provision for the costs of doing these field locates?

MR. HARTE: As with ourselves we believe that the field locate is a safety issue and therefore in our business is paramount and therefore we will provide locates free of charge, and I would expect the same from the other utilities within a municipality.

Q.617 - We generally do provide those free of charge, but in cases where there is multiple visits to the same location, say pre-construction, during the excavation or partially during the excavation and perhaps again, we have a policy to charge for ongoing visits to the same site. That's all I was interested in. We won't need any contractor on site to do a particular locate at a particular time.

MR. HARTE: The pre-construction, normally we would take information of plans not in the field, unless there was something specific that you want to be identified in the field. So therefore we would then pick a line location away from where the electric utility was. During construction the contractor would get the locates there and if there was any post construction because of damages or any concerns you had with the plant, then they would be rebillable to the contractors doing the work.

Q.618 - Okay. Your contractors I assume will be made fully

aware of their responsibilities in carrying out the contract. Is there -- is it possible that the utilities, Saint John Energy in particular in this case, can get a copy of the contract text that pertains to the responsibilities of the contractor?

MR. HARTE: In general terms we could provide that. In fact we would be willing to even provide some training for some of your field people on construction of the gas lines and how it will involve the electric facility in Saint John, and we would want to keep up that line of communication anyway.

Q.619 - Yes. That would be very much appreciated. Basically that's all the questions I had, Mr. Chairman. They were all dealing with existing structure and I think you answered them very well, or to my satisfaction. Thank you.

MR. HARTE: Thank you.

CHAIRMAN: Thank you, Mr. Marr. What is Board counsel's preference?

MR. O'CONNELL: I would prefer to start in the morning, Mr. Chairman.

CHAIRMAN: All right. We will break now and reconvene at 9:00 in the morning.

MR. HARTE: Mr. Chair, I have one item here, an error that -
- yesterday, just that right when I responded to a

question yesterday we talked about a hundred percent x-ray on welds on the river crossing when we do it, and that's something that's -- a term that we use in the industry. It really should read radiography rather than x-ray.

MR. BLUE: Mr. Harte, before you put the pipe through the Saint John River you do a hundred percent radiographic inspection?

MR. HARTE: Yes.

CHAIRMAN: Thank you. Break until tomorrow morning then.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to the best of my ability.

Reporter