

New Brunswick Board of Commissioners of Public Utilities

Hearing - May 17th 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. I spoke with some of the counsel just prior to the session. And I think we will mark the letter to the Board dated May 12th from the Environmental Protection Branch, which I think is federal, as an exhibit. And that will be D-1.

Mr. Blue, you had some exhibits you wanted to mark as well?

MR. BLUE: Mr. Chairman, I sent the Board a letter dated May 15th 2000 respecting the Province's requested conditions of approval. I would like to have the May 15th letter marked as an exhibit.

MR. CHAIRMAN: And that replaces previous correspondence, does it not?

MR. BLUE: Yes, it does, sir. It replaces my letter of May the 12th. Between May 12th and May 15th Mr. Holgate and I had a chance to review the proposed conditions together and we modified them. And so I would like everyone to discard the May 12th letter, sir.

MR. CHAIRMAN: Okay. That will be C-5.

MR. BLUE: Thank you, sir.

MR. CHAIRMAN: Thank you. Any other preliminary matters?

MR. HOYT: Just before we start, I have the manuals here today revised as we discussed yesterday. I have circulated them to the participants that I saw before the proceedings started. And the rest I will distribute on the break.

We are working on a number of the other undertakings and expect to be in a position to satisfy a number of them by noon today.

MR. CHAIRMAN: Good. Thank you, Mr. Hoyt. Anything else?

Mr. O'Connell?

MR. O'CONNELL: Thank you, Mr. Chairman.

CROSS-EXAMINATION BY MR. O'CONNELL:

Q.620 - Good morning, gentlemen. I don't know whether I'm still supposed to tell you. I'm Bill O'Connell and I'm at table 10. But they took away my number.

My initial line of questioning, gentlemen, is going to deal with documents. And my friend Mr. Hoyt just

indicated that they will be satisfying a number of undertakings by noon.

I expect to be finished with my questioning before noon. So I'm going to ask you now where some of those undertakings stand. Because they are undertakings that I may want to question you on.

And what I have done is I have gone to the transcript of the last two days where the undertakings have been pulled by the Court Reporter.

And the first undertaking that was given on Monday was to provide the date of when the geotechnical studies were done in the Fredericton area.

Are you in a position to provide me with that information yet?

MR. MACDOUGALL: Mr. Chair, with respect to the first four undertakings, all relating to the geotechnical studies, the studies will be available.

They are filled with maps. They are being copied right now. And they will answer those questions. I think it is the first four undertakings. They will be ready.

That date is March 19th '76. But it will be referenced on the documents when they are available.

MR. CHAIRMAN: Any estimate as to when they might be here?

MR. MACDOUGALL: They were sent to Quik Copy this morning to copy and asked to do it as quickly as possible.

MR. CHAIRMAN: Okay.

MR. O'CONNELL: Mr. Chairman, as long as -- should I decide that I want to cross-examine on those materials, that somebody will be available to me who is knowledgeable with respect to those materials, so I can ask questions of somebody who knows the answers.

MR. CHAIRMAN: Yes.

MR. MACDOUGALL: That will be fair, Mr. Chair.

Q.621 - Gentlemen, yesterday you gave several undertakings, one of which is at page 186 of yesterday's transcript.

And you undertook to provide a table showing for each community to be served this year, the year 2000, the peak hour demand, figures for which you have already sized the extra high, the high and the intermediate pressure systems that you are proposing.

Are you in a position to provide that information to me now?

MR. HARTE: The information should be available at the break, 10:00 o'clock this morning.

Q.622 - Where did you go to look for that information?

MR. HARTE: We went to the office in Fredericton.

Q.623 - Am I not correct those are statistics that should be readily available to you? I guess what I'm looking for, if you would explain to me why you couldn't get them overnight?

MR. HARTE: Well, that is what happened. I called the office and asked if someone could bring those -- the information down for this morning.

Q.624 - So it should be available shortly?

MR. HARTE: Yes.

Q.625 - In an hour?

MR. HARTE: That is correct.

Q.626 - Thank you. At page 202 yesterday you undertook to provide the in-fill design to date. Where is that information?

MR. HARTE: That will be provided at the same time.

Q.627 - In an hour?

MR. HARTE: Yes.

Q.628 - Thank you. One of the requirements of the franchise agreement is the filing of insurance policies with the Province of New Brunswick.

Have those policies been filed with the Province?

MR. MACDOUGALL: Mr. Chair, if the witness can't tell you, we will have to undertake to find out whether they have been or have not been.

MR. MAROIS: I do not know the answer. The only thing I know is I guess what was filed in terms of I think the third amendment to the franchise agreement, that there was an agreement on the type of insurance coverage we were to provide.

But if the actual policies were filed or not with the government, I do not know.

MR. BLUE: Mr. Chairman, I perhaps know more about this than Mr. MacDougall, since I was involved in the negotiation of the third amendment and insurance requirements. Both the Province and Enbridge had insurance consultants.

And Enbridge provided copies of the policies that it proposed to have coverage under, which are set out in the amended schedule D in the third amending agreement that provided copies of those policies and sample coverage to the Province's insurance consultants.

There were discussions between those consultants. I do know that before we executed the third amending agreement that the Province's consultants and I were satisfied that the coverage was adequate.

In that sense the Province has seen all of Enbridge's coverage. Whether or not the actual policies have been filed, I simply don't remember. I will try to check that and let the Board know before the end of the day.

MR. CHAIRMAN: Thank you, Mr. Blue.

MR. O'CONNELL: Mr. Chairman, just so you understand where I'm coming from with respect to this issue, it is in my view consistent with the Board's obligations to the general public of the province of New Brunswick that the Board get copies of those insurance policies and review

those insurance policies themselves to determine it is satisfactory for Board purposes.

And therefore my next question obviously is going to be to ask Enbridge Gas New Brunswick or the Province of New Brunswick to undertake to supply copies of all insurance policies to the Board.

MR. CHAIRMAN: From what I heard, Mr. Blue has had an independent consultant review the policies. And the Province is satisfied with the coverage that is effected by those policies?

MR. BLUE: That is correct, sir. Yes. The Province's consultant, Mr. Michael Stonehouse, who is a well-known insurance consultant in Toronto, discussed it with Enbridge's consultants. We did require copies of the language, copies of the policies. We reviewed those carefully.

MR. CHAIRMAN: Okay. Well, Mr. O'Connell is calling for production. It has added comfort to the Board that the Province has had that independent review. And they are satisfied as well.

So Mr. O'Connell is asking that when the policies are available, a copy is filed with the Board.

MR. MAROIS: Okay. We can undertake to do that.

MR. CHAIRMAN: Good.

some confusion to me -- and I'm going to try in my own way to straighten up the situation this morning -- is just exactly what Enbridge Gas New Brunswick is looking for in this application.

And I would ask you to get out the application document itself and look at paragraph 15.

CHAIRMAN: Where is that, Mr. O'Connell?

MR. O'CONNELL: I'm told it's in your blue binder, Mr. Chairman.

CHAIRMAN: Thank you very much.

MR. O'CONNELL: If you gentlemen just let me know when you are ready. There is no rush. You let me know when you are ready and I will put my questions to you. Are you the lucky man, Mr. Marois?

MR. MAROIS: That would be me.

Q.630 - I don't propose to deal with the subsections of Section 15 that asked for various kinds of exemptions. I just want to focus on Section 15(a).

Now 15(a) asks for permit or permits pursuant to three subsections. 16(1), and I will read 16(1) to you. It says, "Except as provided in this Act or the Regulations no gas distributor shall construct a pipeline or any part of a pipeline or undertake any operations preparatory to constructing a pipeline unless it holds a permit."

So you are asking for a permit pursuant to that

section, correct?

MR. MAROIS: Correct.

Q.631 - 18(1) which is also referenced says, "An application for a permit shall be made to the Board in accordance with the Regulations."

And 21(1) says, "The Board may grant the permit for a pipeline subject to terms and conditions that it considers necessary in the public interest, or it may refuse to grant the permit."

Now those are the three sections that you have referenced. And before I -- let me give you the opportunity to articulate this morning what exactly it is you are applying for to this Board in this proceeding? And just to be fair to you, Mr. Marois, then I'm going to -- the next thing I'm going to do is go to Exhibit A-5, those series of maps, and ask you what those maps mean. So if you want to reference those maps, that's okay.

MR. MAROIS: Maybe at the risk of confusing more than helping, but when we filed this application at the end of December, our intention at that time was to request a permit to construct the pipelines in all the 25 communities that were on the maps that were provided at that time.

But following the pre-hearing and the comments from the Chair, we have at least implicitly revised our

position. And what we are asking for today is a permit to construct the gas distribution systems in the seven communities that are identified as the 2000 -- the year 2000 communities, i.e., Moncton, Dieppe, Riverview, St. George, Saint John, Oromocto and Fredericton. So what we are asking for is a permit to construct the pipelines that will be built in 2000 plus the in-fill that will be added in these communities down the road.

Q.632 - Okay. Well one of the things I was going to do was read to you a portion of Mr. Harte's opening statement. Because it seemed to me to say initially that he wanted -- Enbridge wanted, I should say, a permit to build in 25 communities to be given by the Board as a result of this hearing. Because he said for the remainder -- just give me a second to read this if you don't mind. For the remainder of the -- and by the way, page 121 of the transcript of Monday.

"For the remainder of the 25 communities not specifically dealt with in this evidence, the company intends to provide in its annual report to the Board specific information on its construction plans." Note he didn't say anything about asking for approval, just providing information.

"This will include the public information program and where sensitive features are effected, the required

environmental impact assessment. In an attempt to be responsive to the chair's comments at the pre-hearing, we are not suggesting that no public process. We rather believe the public information program in particular and the environmental impact assessments on their ongoing relationship with the New Brunswick Pipeline Coordinating Committee, will provide appropriate public input. We merely suggest that a full public hearing should not be necessary."

So what you are saying, Mr. Marois, now is that your application that is being heard today relates to the seven communities we have listed, plus any in-fill in those communities?

MR. MAROIS: Yes. And maybe Mr. Harte could clarify his opening statements.

MR. HARTE: The reason that we were going to file the PIP and EIA for those new communities would have been with an application for them as well.

Q.633 - So before you, for example, go up the St. John River from Fredericton to Woodstock, Grand Falls, Edmunston, what have you, you would agree that Enbridge Gas New Brunswick will come back to this Board for a formal public hearing on that construction?

MR. HARTE: No. The request was that we will file the information with the Board and file for an application.

The application would be to request that we don't have a formal public hearing.

Q.634 - But the Board will have the jurisdiction to require a hearing should it so desire?

A. That's correct.

Q.635 - Okay. And the same thing applies for the lateral that runs up to Miramichi City and on to Bathurst and Campbellton?

A. That's correct.

Q.636 - Now would you gentlemen agree that under Section 16(1) of the Gas Distribution Act of 1999, when you put -- when you propose constructing a pipeline or any part of a pipeline you need to get a permit for that?

A. That's correct.

Q.637 - Now several people during the course of the last couple of days, including yourselves, I think, but I can't quote you, have used the term lighthanded regulation with respect to construction issues. Would you show me where there is any provision in the Gas Distribution Act 1999 or any of the Regulations that propose or condone or contemplate lighthanded regulation with respect to construction issues?

MR. MAROIS: I'm not personally aware of any specific mention of lighthanded regulation in the Act. Again in this case I think we were quite specific that our

expectation is that there is not necessarily a public hearing for new communities but we will comply with the Act. But like I say, we would -- we would hope that there is not necessarily a public hearing when we do. Because there is going to be ample opportunity for public input through the public information program. And there is going to be open houses. There is going to be a lot of notices given, et cetera.

So a good example is if you go through this extensive process and there are no issues identified, we feel that would be a good example where there might not be a need for a public hearing.

Q.638 - Okay. And, look, bear with me because I'm just a lawyer and I'm stuck with the Act so I have to look at the provisions of the Act and see how they apply to your operation. And for me, because Section 16(1) says, "No gas distributor shall construct a pipeline or any part of a pipeline, I would suggest to you that before you put any new pipeline or part of a pipeline in the ground, you need a permit?"

MR. MACDOUGALL: If I may, the questions were asked yesterday in a similar vein and I think answered on both days in a similar vein. What the applicant is doing is it is not saying that it will not apply for a permit. It is saying it will apply for a permit to construct pipelines.

It only believes that there is in the realm of lighthanded regulation that there is no requirement for a public hearing. Not that the permit application doesn't have to be made. Not that the filing requirements, the PIP, sensitive features if necessary, the Section 5 from yesterday. And that's all on the record.

Also, in response to Irving Oil IR 1, that's tab K, IR 1, the applicant explained that its concept of lighthanded regulation with respect to the construction application wasn't that there was a section that does it, but rather that it is in the Board's discretion under its procedure regulation, and we used examples of paragraph 72(a), (b) and (c), that the Board is the master of its own procedure and is entitled to hold a public hearing or not hold a public hearing, have it oral, have it written or have it electronic. And it's only the context of the public hearing requirement with respect to the other communities, the applicant's position is that except for the seven communities identified it will, if required by law, apply for a permit.

CHAIRMAN: Thank you, Mr. MacDougall. Go ahead Mr.

O'Connell.

Q.639 - Thank you, Mr. Chairman. Okay, gentlemen, can we get out A-5, which is that series of maps, and we will focus on the seven communities. And as a matter of fact, focus

on City of Saint John, which is figure 4.

MR. HARTE: Yes.

Q.640 - Now for illustrative purposes, the red pipeline, if I can call it that, is the Enbridge pipe, correct?

MR. HARTE: That's correct.

Q.641 - Now is it your position that Enbridge can add onto its pipeline in and around the City of Saint John without coming back to this Board for approval?

MR. HARTE: That's what they are applying for, yes.

Q.642 - So when the Board is considering this application they can't look at the map of the City of Saint John which shows Enbridge pipe and say, that's what they are applying for, because you are applying for more than that?

MR. HARTE: We are also applying for the in-fill area outside of those pipelines.

Q.643 - Okay. I want to deal -- let's -- I am going to deal with in-fill in a minute, but let's focus on the red pipeline which is shown in figure 4 as Enbridge Gas New Brunswick preferred routing. I am trying to get a handle on whether -- what the position of Enbridge is. Are you applying to put that pipeline that is shown on figure 4 in terms of red, or more than that?

MR. HARTE: The red and the area that says proposed service area that we would in-fill.

Q.644 - Okay. So can the Board -- just in terms of the red

pipe, the red line on figure 4 -- if for example, you wanted to put in more of the pipe designated by the red line to serve the Town of Rothesay, for example, is it the position of Enbridge that they would have to come back to this Board before extending that red pipe?

MR. HARTE: To Rothesay, yes.

Q.645 - Okay. So when the Board renders its decision, it can look at figure 4, the City of Saint John, and that is the limit of the -- I am trying to word this -- the red line is the limit of the Enbridge pipe that you will be putting in the ground other than in-fill?

MR. HARTE: The area shown on the plan that you are looking at, that figure 4, and the proposed service area, if we intend going outside of that proposed service area then we would have to come back to the Board.

Q.646 - Okay. Well I will tell you what, we will move on to the proposed service area or the in-fill. You have obviously designated a portion of the City of Saint John as proposed service area for in-fill service. Now what happens -- or how do you decide which area was proposed service area? Let's do that first?

MR. HARTE: The area that we have marked is mainly the urban area of Saint John.

Q.647 - Okay. Now what happens if for example, you want to provide service to one of the bedroom communities, such as

Rothesay or Kennebecasis Park or something like that? Do you have to come back to the Board because that proposal is going outside your designated service area?

MR. HARTE: That's correct.

Q.648 - Okay. So when the Board decides on this particular application, what it will be deciding is whether or not and on what conditions Enbridge Gas New Brunswick can put pipe in the ground within the proposed service area only?

MR. HARTE: That's correct.

Q.649 - And the same thing applies for each of the seven communities that we have talked about during the course of this hearing?

MR. HARTE: That's correct.

Q.650 - And the Board can look at any of those maps that show those communities that are part of A-5 and know that it's dealing only with pipe in the ground within the proposed service area?

MR. HARTE: That's correct.

Q.651 - Now on each of these maps that is part of A-5 it says down the lower right hand corner, proposed distribution system, year 2000. So is what you are proposing the Board approve here time limited? Is there a time frame that Enbridge is imposing on itself here?

MR. HARTE: No, there is not.

Q.652 - So are you suggesting that what you want the Board to

do is to give you a permit that does not have time limitations?

MR. HARTE: That's correct, because we would in-fill and add customers within the service area over the next 20 years.

Q.653 - Okay. So why did you put year 2000 down in the lower right hand corner of all those maps?

MR. HARTE: The year 2000 is for the red lines shown within the service area.

Q.654 - Okay. So the red lines showing pipe, that will be installed in the year 2000?

MR. HARTE: That's our intent.

Q.655 - Okay.

MR. MACDOUGALL: A point of clarification. Yesterday Mr. Thompson -- and I want to make sure my witnesses are clear -- yesterday Mr. Thompson indicated that he might be willing to extend the service area somewhat to accommodate a certain community, and then he was questioned by the City of Saint John and he said, economics being what they may he might extend the service area to a mall or an industrial park.

I think there has to be some further clarity so that it's not confusing after that, that that line that Mr. O'Connell is referring to is a moveable line within communities, so that you can attach onto with a street or a subdivision, that was my understanding from the evidence

yesterday.

So I would leave that for purposes of clarity just so that yesterday's comments don't confuse today's comments.

MR. THOMPSON: I think, if I could add to that, Mr.

Chairman, the City of Saint John, as we spoke yesterday, pointed out that even though the area in question was outside the proposed service area, it was still within the City of Saint John. And I think the intention is certainly to provide natural gas service within the proposed service area within a community, in this case Saint John. If we step outside and move to a new community as Mr. Harte has just indicated, we will obviously come back to this Board for a permit to do so.

CHAIRMAN: Frankly, I had some questions on yesterday's testimony too, and that may have cleared it up, but I think probably Mr. O'Connell has some more questions as a result of that.

MR. MACDOUGALL: That's fine, Mr. Chair. The line of questioning is fine. I think clarity is required.

MR. THOMPSON: And if I could add further, the proposed service area, again as I said yesterday, is intended really to maximize the expansion of natural gas service into the community and therefore tries to create a zone around the most densest area. It doesn't necessarily cover the whole of the community. But if we were able to,

we certainly would extend the line to a point within the community that showed the right kind of economic feasibility.

CHAIRMAN: Excuse me. I am going to follow up on that line.

So that means that if, for instance, looking at the Saint John map, there were a large development on the Sandy Point Road as it made its way towards the Kennebecasis River, that you would feel over the next 20 years by the permit that the Board grants that you could serve that subdivision?

MR. THOMPSON: Within the community itself, yes, sir.

However --

CHAIRMAN: You mean within the municipal --

MR. THOMPSON: Within the municipal, yes.

CHAIRMAN: All right. Well there is a follow-up and then you can give me your however. What happens if you have to extend your high pressure or medium pressure pipe, which is the red line that goes University Avenue down to the end of the word Point on Sandy Point Road? Do you think -- or do you believe that you would be able to do that without coming back to the Board?

MR. THOMPSON: Mr. Chairman, to clarify, what we are asking for is a permit to construct within a community. And within that community if there were examples where we had to extend the extra high pressure pipeline, that would be

part of that in-fill in that community, unless --

MR. HARTE: Sorry. If we are going to extend the extra high pressure distribution system or the high pressure distribution system, we will come back to the Board with an application for a permit. If we expand in the intermediate pressure system, the smaller diameter polyethylene pipelines within the community, we are looking for approval for that with this application. I hope that clarifies it.

CHAIRMAN: Mr. O'Connell, you go ahead. I -- we will let you -- it was your line of questioning, you go ahead and if there is anything that the Board has after, we will ask questions then.

Q.656 - Thank you, I think, Mr. Chairman. Gentlemen, just so you understand what my job here to do this morning is to try to get some clarity on the record so we can understand what you are applying for. And so far I have been particularly unsuccessful. I am confused.

So let's try -- focus, if you will, on the red lines on the maps on A-5, which represent the extra high pressure Enbridge pipe. Is it the position of Enbridge that what you are applying for here is to -- for a permit in the year 2000 to put in the pipe as evidenced by those red lines and nothing more, in terms of high pressure pipe?

MR. HARTE: In terms of high pressure pipe, that's correct.

Q.657 - Now let's deal with the more difficult issue for me and that is that in-fill system. Now I thought we just about had you pinned down but you weaseled out on me there. Because I thought that what you said was if you went outside the service areas as shown on the various maps on A-5, you would come -- Enbridge would come back and ask for a permit to do that. But is that still your position or has it changed?

MR. THOMPSON: See if we can make clarity for this proposed service area. What we are really applying for is a permit for the whole community of Saint John. What we have designated here as a proposed service area, is that area that we feel contains the most opportunity for in-fill and the maximization of natural gas service.

So if we stepped outside this dotted line, outside the proposed service area to add another community, we would see that as still being part of the community of Saint John and therefore still being covered by the permit that this Board would issue.

If, however, we stepped out of the community and went to Rothesay, for example, we would apply for a new permit from the Board.

Q.658 - Would it be acceptable to Enbridge or can you use the term municipality rather than community, because to me

community doesn't have a hard definition the way
municipality does?

MR. THOMPSON: Municipality is fine.

Q.659 - So what you are talking about is the municipality of
the City of Saint John?

MR. THOMPSON: Correct.

Q.660 - What happens if the City of Saint John changes in
size? What if there is amalgamation with other
communities? How does that impact on your definition? I
mean, as you well know, we are operating in a province
where there is continuing discussions of amalgamations of
municipalities. Have you thought about that?

MR. THOMPSON: In that situation we feel it would probably
be within the Board's jurisdiction to rule on whether the
new combined community -- the new combined municipality, I
beg your pardon, still operated under the existing permit.

Q.661 - When you -- when Enbridge goes about extending its in-
fill system within a municipality, are there guidelines
that govern how and when you would do that?

MR. THOMPSON: Are we talking operational guidelines, Mr.
O'Connell?

Q.662 - Yes.

MR. HARTE: If we are going to extend -- what we had applied
for was the existing urban areas within Saint John. And
if Saint John urban area grew and it was economically

feasible to extend to those areas, then we would extend to those areas as part of the in-fill within the City of Saint John.

Q.663 - See, the difficulty I have with all this, and I suspect the difficulty the Board might have with all this, is determining what exactly the permit will apply to. And basically what you are saying, I think, is that if they issue a permit allowing you to do certain construction within the City of Saint John in terms of in-fill, Enbridge says it can go anywhere within the City?

MR. HARTE: That's correct.

Q.664 - But in terms of high pressure pipe, it can't do anything but the pipe that is outlined on A-5?

MR. HARTE: That's correct.

Q.665 - So tell me, yesterday when you were being questioned by counsel for the Union of New Brunswick Indians, you -- one of you and I forget which one, readily agreed to extend to the St. Mary's area. Do you know if that is still within the City of Fredericton?

MR. THOMPSON: Sorry, Mr. O'Connell, I missed your last comment.

Q.666 - Remember you -- as a matter of fact, I think it was you, Mr. Thompson, that agreed yesterday to extend in-fill service to the St. Mary's Band area?

MR. THOMPSON: Yes, I did.

Q.667 - Is that within the City of Fredericton?

MR. THOMPSON: Yes, it is.

Q.668 - All of it?

MR. THOMPSON: Yes. Just to clarify that, Mr. O'Connell.

The piece that we would add to our service area is that piece that is within the City of Fredericton. I understand the St. Mary's Reserve extends for many miles outside the City limit.

Q.669 - Yes, okay. I am going to move on to another topic, gentlemen, I just have to reshuffle my stuff here. Are you gentlemen aware of the documents entitled "Proposed Conditions of Approval" that was circulated by Board staff to the applicant and others?

MR. HARTE: Yes, we are.

Q.670 - Do you have copies of it there with you? If not, I can certainly provide you with them.

CHAIRMAN: Is that marked as an exhibit, Mr. O'Connell.

MR. O'CONNELL: Thank you, Mr. Chairman.

CHAIRMAN: It hasn't.

MR. O'CONNELL: It has not?

CHAIRMAN: I don't think so. So maybe it would be appropriate to mark it. That will be B-1.

Q.671 - Gentlemen, are those proposed conditions of approval acceptable to Enbridge Gas New Brunswick?

MR. MAROIS: Mr. Harte is the one that can talk to I guess

the technical aspect of it. Maybe the only thing I would like to do is read to you comments made by our counsel yesterday that we hope that the conditions, if any, that would be part of the decision would be based on the evidence that is being heard this week.

So I guess from my perspective is it's hard to comment on some of these conditions before all the proceeding is over.

So that's my general comment, but from a technical point of view I cannot comment on these.

MR. MACDOUGALL: Mr. Chair, before Mr. Harte goes on, I guess this was raised at the beginning of the proceeding too in the context that we felt we would try to get the evidence on the record and then the Board would make its decision on the approvals. The parties were allowed to make written submissions.

I guess the question here is now saying, here is a list of conditions, will you do each one of these conditions. So telling the applicant the condition itself in advance, I really think that's the Board's decision based on the evidence. So I feel the line of questioning is a little awkward in that you say, well here is a condition, will you abide by it, and we can just sit here going through every condition in advance.

It is our understanding of the process that the Board

will determine the conditions based on the evidence. We will argue at the end of this proceeding based on the evidence our position on these conditions, after all of the evidence is in. This seems to be putting the cart a bit before the horse, just asking Mr. Harte to go through each condition.

If that is the case we would have to do them one at a time and on some of these Mr. Harte would probably have to have his environmental people with him as well. If we want to do that process I think that's the only way we could do it.

CHAIRMAN: The difficulty is our horse can't finish the race. Mr. O'Connell does not sum up and I think that is where the difficulty is coming from. Mr. O'Connell, if I can suggest something. Do you have another line of questioning, and perhaps you can speak with Mr. MacDougall in the break and arrive at something satisfactory, and/or carry on with this line of questioning.

MR. O'CONNELL: Well I am happy to accommodate you, Mr. Chairman. I guess from my perspective I thought it was reasonable to give this panel the opportunity to speak to these, and if they have something that they are not comfortable with, to say so to the Board.

And so we can do it either generically, and if that doesn't work then we can go through these conditions of

approval one by one. I don't think it should take long, but I think -- I really thought I was being quite fair to this particular applicant, giving him the opportunity to speak to these conditions and tell the Board which ones they like and which ones they don't like, and the ones they don't like, we will ask them why.

CHAIRMAN: All right. Maybe we could -- Mr. MacDougall?

MR. MACDOUGALL: Mr. Chair, I think it would -- if we did it slowly, because we haven't got the time to go through each one and Mr. Harte could go through the conditions, he could determine which ones he could comment on today as appropriate or if he thought inappropriate. If some of them were environmental it could go to the next panel, and we could go through all the conditions one by one.

I don't think the company has sat down and done all that because of the process I raised at the beginning of the proceeding. There is nothing untoward with this and I accept that Mr. O'Connell isn't doing it to create a burden. It's just that they will have to be reviewed and the environmental ones will have to be reviewed with the environmental panel which Mr. Harte is on.

So we could go through each one. If it appears acceptable he could do that. If it has to be deferred to the next panel he could do that. If it is unacceptable he can explain why.

CHAIRMAN: Okay. Mr. O'Connell, your choice. Do you want to wait until after the break and give the panel an opportunity to review it over the break and then start the line of questioning after the break?

MR. O'CONNELL: Well look, I wouldn't want the Board to think that this is being done as an ambush. We provided on May 11th with a letter these copies to everybody, saying -- I forget exactly what I said, but something like this is a work in process, and it was certainly my intention all along to put these to one or both panels and ask them questions.

I am happy to go on to something else and come back to this after the break.

CHAIRMAN: Well Mr. Marois said I had to take a break at 10:00. So --

MR. BLUE: Mr. Chairman, before we break I would like to make a comment.

CHAIRMAN: Yes.

MR. BLUE: In hearings that I have been on in pipeline approvals, what Mr. O'Connell is doing is quite conventional. And the idea is to get the company's comments on the conditions in the record before the Board makes its decision so that the Board is not plagued by applicants coming back after the conditions are imposed saying, we can't live with that or it's impractical. All

that Mr. O'Connell is doing, as I understand, is making sure that the company has heard the fife as far as the conditions are concerned, to use a naval term.

But we could do it either in writing. The company can commit in writing and put that in the record or orally, but it's a fairly conventional -- fairly conventional move that Mr. O'Connell is making.

CHAIRMAN: I certainly agree, Mr. Blue, and I am going to take the break now and it will be a 15 minute break and that will give the witnesses an opportunity to look at the list and we will come back and do it.

(Recess)

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

MR. O'CONNELL: Thank you, Mr. Chairman. Gentlemen, just --

MR. HOYT: Just before Mr. O'Connell starts, I am sorry, Mr. O'Connell. Just with respect to a couple of the undertakings, we now have the contractor prequalification binder that was provided to contractors which was requested by Ms. Abouchar yesterday.

I also have the main distribution and 30-year in-fill grid design for peak hour volumes in the seven year 1 communities, which also shows the capacity of the district stations and the gate stations which was designed on Stoner, which was requested by a couple of the parties.

And I could make that available to Mr. O'Connell now

for his cross examination. And we could have copies made at dinnertime.

And then thirdly, I have a summary plan of the Westmorland Street bridge, geotechnical information from the Subsurface Surveys report, which is a summary of -- a substantial report which we are in the process of having copies.

But if it would be of assistance now I could provide that plan to him as well.

MR. CHAIRMAN: Mr. O'Connell?

MR. O'CONNELL: Thank you, Mr. Chairman. Well, perhaps I will go ahead. And I will get those from you and look at them over lunch.

Q.672 - Now gentlemen, you have had the opportunity of reviewing the conditions of approval?

MR. HARTE: Yes, we have.

Q.673 - Now I would not propose to take you through each of these. But I would like to give you the opportunity to tell the Board which ones are not acceptable for Enbridge Gas New Brunswick and why?

MR. HARTE: Thank you.

MR. MACDOUGALL: Mr. Chair, would it be appropriate -- if Mr. Harte wanted to go through them, would it be appropriate for him to do so?

MR. O'CONNELL: I'm just trying to do this as quickly as

possible. Mr. Harte, whatever you want to do in terms of these is certainly fine with me.

MR. HARTE: Okay. Thank you. Enbridge Gas New Brunswick, we don't have any problem with (a).

With (b) I presume that the wording there -- when it says that the Board-designated representative of any proposed material change. I presume that means a large change in the project rather than a change in the materials in the project, just for clarification?

MR. O'CONNELL: That's correct.

MR. HARTE: Thank you. I have no problem with (c) or (d). With (e) the interim monitoring report shall be filed within six months of the in-service date.

I have a problem with the six months. Because we should be finished construction by October. And that will bring us through till March. And I would like to wait till the growing season starts.

And maybe we could change that six months to nine months, so that we can have an observation in the springtime to see what has taken and what is growing.

MR. O'CONNELL: The Board staff will take that under advisement, Mr. Harte.

MR. HARTE: I have no problem with (f). Now with (g), when we talk about environmental monitoring report, part of the financial report that we would be filing would include a

breakdown of external costs incurred to date for authorized project.

But items -- costs associated with technical and environmental measures, that would be part of the financial report. And I'm just concerned why we have to file it twice?

MR. O'CONNELL: The Board staff will take it under advisement, Mr. Harte.

MR. HARTE: I have no problem with (h). I have no problem with (i). I have got a major problem with (j) because we are asking for approval for the in-fill as well as the main grid system, and December 31st 2000.

That would mean if any customers wanted to come on line off of that system this winter, we wouldn't be able to add the customers.

Also this date like this is similar to what we would file with a transmission line and a leave to construct for a transmission line in other jurisdictions.

But because the in-fill piping system is all part of the regulations, it would include all that. So I have got a real problem with that December 31st day.

MR. MAROIS: Maybe just to add to Mr. Harte's comment, is that the date we have a problem with. But it is inconsistent with our proposal. Our proposal is to allow us to build and identify municipalities over the life of

the franchise. So if you have a date it really goes against what we are trying to achieve here.

Q.674 - So it would be the position of Enbridge Gas New Brunswick that there should not be a date other than 20 years down the road for termination of the permit?

MR. MAROIS: There could always be I guess a 20-year date. Because at the end of 20 years we will have to review our franchise anyway. But our objective is not to have any date, like I say, at all.

MR. O'CONNELL: Okay. The Board staff will take that under advisement.

MR. HARTE: I have no problem with (k). No problem with (l).

With (m) when we talk about blasting, normally what we had filed with blasting is rather than 200 meters it would be 100 meters, unless there was some reason that the blasting experts wanted something over and above the 100 meters, depending on the rock condition.

It is normally, we would have 100 meters. The same with the well-monitoring would be 100 meters.

MR. O'CONNELL: Board staff will take both of those under advisement, Mr. Harte.

MR. HARTE: I have no problem with (o).

Q.675 - Gentlemen, can you get back out A-5 which are those drawings that we looked at earlier this morning?

MR. HARTE: Yes.

Q.676 - Now would you agree with me because of the discussion this morning, those shaded areas that designate the service area really don't mean anything anymore?

MR. THOMPSON: I think that, as I said this morning, Mr. O'Connell, the shaded area was simply an attempt to try to identify the densest areas in the municipality where the largest number of customers were located. That is the reason it was --

Q.677 - Yes.

MR. THOMPSON: -- described that way.

Q.678 - I recognize -- I remember you saying that, Mr. Thompson, early this morning. I guess to me -- you didn't say that anywhere in your prefiled evidence, did you?

I guess to me it is logical for somebody to look at A-5 maps and think that what you are suggesting with the shaded area is the area that you are going to -- to which you are going to limit your in-fill.

That not being the case, it seems to me that the shaded areas don't mean anything anymore. They are meaningless.

MR. THOMPSON: Well, I think for the larger purpose of determining that we are talking about the permit request for the whole municipality, I would take that as being fair.

Q.679 - Okay. Now Enbridge Gas New Brunswick has gone through the public information process and the environmental impact assessment process for the city of Saint John, correct?

MR. THOMPSON: Correct.

Q.680 - And did you use these maps that are A-5 as part of that process?

MR. THOMPSON: We used -- what we used in the public information process were maps that showed alternate routes. This is the -- the final map that you have before you is our preferred routing.

That came out of those discussions, the public information process and discussions we had with municipal officials and other interested stakeholders.

Q.681 - What is Enbridge Gas New Brunswick's proposal with respect to future PIP's or environmental impact assessments as the in-fill system expands throughout the city of Saint John or any other of the seven municipalities?

MR. THOMPSON: Well, our intention is not to hold a similar public information process. But certainly there is a process that happens whenever we approach any particular area to insert the in-fill mains in that area.

And the whole mode is the business owners on those particular routes are informed well in advance of our

activities.

And there is always an in-touch communication around that site with the sort of supervisor who is looking after that particular in-fill activity.

Q.682 - Okay. But as your -- as Enbridge's system expands throughout the city of Saint John, does Enbridge -- is Enbridge telling the Board that they will hold open houses, information sessions, so the residents of for example Millidgeville can get information as to what is going to be going on in their street and in front of their homes?

MR. THOMPSON: I don't think we would be adverse to holding information sessions, Mr. O'Connell. It is simply not something we do as a general rule.

We feel that the information that we post through mailboxes for example give a good indication of our activities. And those pieces of information have contact names and so forth.

However, in the situation where we would connect for example with marketers, it is very likely that on Millidgeville or any other area we would like to gather with those marketers and give residents and businesses the opportunity to ask questions about conversion costs and so forth.

So it is not a practice that we are unfamiliar with.

Q.683 - Is it a practice you are prepared to undertake to the Board that you will do?

That is a very poorly-worded question. But what I'm trying to say is will you undertake to the Board you will do that?

MR. THOMPSON: It's not our intention to commit to hold open houses of the kind I have just described as a formal process. Remember that the reason that we are even in a community is the fact that that community has shown interest in having natural gas brought to their community.

They have already contracted likely with marketers to -- for natural gas service. And they will be very aware that there will be activity of the kind that I have described.

So when we arrive in the area to install the mains, it's not going to be a total surprise for them.

Q.684 - All right. Let me try it this way. Would you agree with me that the in-fill system that you propose for the City of Saint John will be installed over a 20 year period?

MR. THOMPSON: Yes.

Q.685 - And what you are saying to this Board is you are not prepared to undertake to the Board to do anything in terms of a public information program other than what has already been done in the year 2000?

MR. THOMPSON: What it sounds -- it sounds as though you are

suggesting that over 20 years there is never going to be any other information coming from Enbridge Gas New Brunswick about the in-fill. That's not the case.

First of all, to obtain the interest for any community that we are going into, what we will be doing is delivering a sort of say yes to natural gas, sort of a sure can for interest in natural gas.

Areas of high interest to ourselves, particularly those that currently use oil and propane, for example, will be very aware that we are interested in bringing natural gas service to those communities. We will be delivering surveys in order to gauge the extent of that interest.

We will be working with marketers who are the ones, of course, that are providing the end use application and whatever promotions that they might want to offer. And I have no doubt that marketers themselves, as the business picks up and as interest in natural gas grows -- we have already seen a great deal of media interest in natural gas. And I'm sure that many readers of newspapers and watchers of television know that Enbridge Gas New Brunswick are on the scene and natural gas is coming.

So I don't think the need for formal open houses is there. I think that that kind of information will be spread by the kind of activities I have just described

with ourselves and marketers.

MR. MAROIS: Maybe just to add to Mr. Thompson's responses.

What we are proposing is fully consist with what is done in other jurisdictions. For example, if you look in Quebec, once the grid line is in a community, you don't go to a formal process either to get a permit of to inform the community that you are expanding your system on a daily basis.

This year it's a big event. We are bringing gas to the province for the first time. It's major -- a major undertaking. But on an annual basis it's going to be an ongoing -- an ongoing project where we will do short main extensions street by street. So people will get used to us. They will see our trucks on the road. They will understand better what natural gas is. They will see publicity from us. They will see publicity from marketers. So we will be part of the, I guess, the day to day living of people. So I think you have to bring it down to earth, that it's going to be a relatively small undertaking on an annual basis. And like I say, it's fully consistent with what is done in other jurisdictions such as Quebec and Ontario.

Q.686 - Mr. Thompson, your responses to my questions have focused on people wanting natural gas to come to New Brunswick. And people wanting natural gas in their

community. People wanting natural gas in their business or their institution.

What about the people who don't want natural gas? Who are concerned about natural gas in the street in front of their house and who have all those sort of concerns? Wouldn't you agree with me that absent some sort of a public information program there is no opportunity for those people to express their concerns?

MR. THOMPSON: It's certainly our intent to create a program of education and awareness about natural gas. It won't be simply focused on the benefits to be gained from natural gas. It will also focus on the safety of natural gas. The safe way in which our construction mains are installed. The codes and policies that encompass all applications of natural gas end use. So we will be providing those people with information about the characteristics of natural gas that would help allay their concerns.

There is no doubt that people do ask questions about safety. We do provide them with information about the safety of natural gas and the way in which we carry out our business.

The fact is that if people don't want to use natural gas, they won't use it. But the main will pass unnoticed in front of their home. There is nothing inherently

dangerous about having natural gas run in front of somebody's home.

Q.687 - Mr. Thompson, my question was absent a PIP wouldn't you agree that there is no forum for people to speak up who don't want natural gas, who have concerns about natural gas running down the street in front of their house or their business?

MR. THOMPSON: I think the forum exists. I think the forum exists through this Board. If people are concerned enough about that particular proposal, they can certainly contact this Board. They can certainly contact Enbridge Gas New Brunswick. And we would be prepared to provide them with the information they were seeking.

I don't think that it's typical to have an open house simply for people who are, you know, nervous about natural gas.

My experience is that they make their concerns known at various stages and we try to allay their concerns.

Q.688 - So just exactly what is the forum that you are suggesting that people who have concerns about natural gas?

MR. THOMPSON: Well as I told you before, before we go into a community, before the operations department run natural gas down a street, each of the home owners -- home owners are contacted and an information sheet is provided to them

about the fact that natural gas is coming.

There is a point at that juncture that they can make their concerns known to the site supervisor. And the site supervisor would visit that home and talk to that individual perhaps and explain what was happening.

MR. MAROIS: And if the person is still concerned, they can always voice their concern through different parties. Like the people will be used to the Board, they will know that we are regulated. And if there are real concerns, I'm certain they will make their way to the Board.

I think what must be understood here is when you do in-fill it's street by street. It's not practical to hold open houses. It's something that will slow down the process to the point where you won't be able to add customers. So you need to find a balance in providing a way to the customers to -- potential customers that have any concern to voice them without implementing something that you just cannot live with. So it's a fine balance. But like I say, it's simply not practical to do that on an ongoing basis.

Q.689 - And, Mr. Marois, I acknowledge that. And I was putting my questions in terms of big lumps of the City of Saint John rather than street by street?

MR. MAROIS: Yes, but it's going to be done street by street in the sense that there might be -- there is going to be

an increased level of activity in the earlier years. But it's still going to be street by street. What we are seeing this year is really exceptional in the sense that we are coming into a virgin municipality all at once. And it's -- it has its own challenges. But on an ongoing basis, it's going to be a very different approach.

Q.690 - Okay. Let's move on to environmental impact assessments. And is there -- what is Enbridge Gas New Brunswick's proposal to the Board with respect to conducting environmental impact aspects as you expand your in-fill areas?

MR. HARTE: I would prefer that we hold the environmental questions until the environmental group is here.

Q.691 - Mr. Harte, do you know the answer to the question?

A. Well, we have various ways of having an environmental impact assessment depending on the size of the project and what we intend to do. So if it's a small extension on a particular street and an in-fill we have a check list and a check sheet that we go through in the field that does -- it's sort of a red flag sheet, if you would like, to see if we need to do more work from an environmental perspective.

Q.692 - Okay. Thanks very much. Can we talk for a minute about the situations that were reviewed yesterday. One being the Marsh Creek situation and the other one being

the Petitcodiac River situation and the changes in the route. I am struggling for the word route. Changes in the route of your pipelines in those two locations.

As I understand what happens here, and I want to go back to your public information program, you held open meetings for people who lived around the two sites, or worked around the two sites, were you reviewed various alternate routes. Is that correct?

MR. HARTE: That's correct.

Q.693 - And in the Petitcodiac situation how many different routes were put before the people of the area?

MR. HARTE: I believe that was three.

Q.694 - And when was that meeting held? Or was there more than one meeting and if so, when were they held?

MR. MAROIS: There were three meetings held in that particular -- sorry, two. I will get you the dates.

Q.695 - Thank you.

MR. THOMPSON: I was right the first time, there were three. February 1st, 2nd and 3rd. Moncton, Dieppe and Riverview.

Q.696 - Now at that stage and in the first three days in February, had Enbridge Gas New Brunswick decided on its preferred route across that water?

MR. HARTE: No.

Q.697 - So you weren't in a position to tell the people who

came to your meetings what the preferred route was across

the Petitcodiac?

MR. HARTE: No. We had various alternate routes.

Q.698 - And I take it sometime after the 3rd of February the decision was made by Enbridge Gas New Brunswick as to which would be its preferred route?

MR. HARTE: With the input from our environmental consultants, yes.

Q.699 - Yes. And that sometime -- do you remember approximately when that was, when you first decided on your preferred route?

MR. HARTE: I would have to get that date from the environmental consultants.

Q.700 - But it was after the last meeting on the 3rd of February?

MR. HARTE: Yes.

Q.701 - And then as a result of input or commentary from someone, I forget who, to be honest with you, you changed your route to the causeway route?

MR. HARTE: That's correct.

Q.702 - Now were the people who attended your meetings ever advised of the first choice of preferred route by Enbridge?

MR. HARTE: No. They were shown the various alternate routes. They were not shown that preferred route.

Q.703 - Yes. They were shown the alternate routes, one of

which was chosen and then another one of which was later the causeway route?

MR. HARTE: Right. But the causeway route was one of the alternate routes that they were shown.

Q.704 - Yes. Exactly. And the people who came to your public meeting also were not told when you changed your mind and elected to use the causeway route?

MR. HARTE: They weren't informed of either.

Q.705 - Exactly. So there has been no forum organized by Enbridge Gas or otherwise which told the people of the Greater Moncton area what the preferred route was that was finally chosen by Enbridge?

MR. HARTE: Except in this hearing process.

Q.706 - Except for this hearing process?

MR. HARTE: Right.

Q.707 - Now Marsh Creek, the Marsh Creek crossing here in Saint John. When did you have your public information meetings with respect to -- that dealt with the crossing of Marsh Creek?

MR. THOMPSON: We had two meetings in Saint John, on February 7th and February 8th.

Q.708 - And how many alternate proposals for the crossing of Marsh Creek did you outline at that meeting?

MR. HARTE: There was two alternates.

Q.709 - And finally Enbridge Gas new Brunswick chose its

preferred route, correct?

MR. HARTE: I'm sorry, there was two alternate routes to cross Marsh Creek but there was another alternate route that didn't cross it, yes.

Q.710 - And sometime after those meetings on February 7th and 8th, Enbridge Gas New Brunswick chose its preferred route?

MR. HARTE: That's correct.

Q.711 - And it was one of those alternate routes, two of which crossed and one which didn't cross, that was chosen?

MR. HARTE: That's correct.

Q.712 - And was the choice of route by Enbridge Gas New Brunswick ever communicated to the people of the city of Saint John that went to those meetings and expressed an interest?

MR. HARTE: No. Except for this hearing.

Q.713 - Except for at this hearing?

MR. HARTE: Right.

Q.714 - And then as I understand it, Enbridge Gas New Brunswick changed its mind and went to a different route?

MR. HARTE: No. It went with one of the proposals, which was crossing Marsh Creek.

Q.715 - Okay. And that was never communicated to the people of the city of Saint John other than through this hearing process?

MR. THOMPSON: That is correct.

Q.716 - Okay. Mr. Harte, during the other hearing that I attended, dealing with rates, we talked at some length with respect to the development period and when it ended.

In terms of construction issues, is it the position of Enbridge Gas New Brunswick that there is a development period for this project?

MR. MAROIS: Well, I guess the concept of the development period doesn't have as much a direct link to the construction application as it did with the rates application, but they are closely tied. It is going to be how fast and how mature the construction takes place that is going to impact when the development period ends.

So there is a relationship, but it doesn't have a direct consequence on this application per se.

Q.717 - As I recall the evidence from the rates hearing, the position of Enbridge Gas New Brunswick was that the development period ended when it became a mature utility?

MR. MAROIS: That is correct.

Q.718 - Would you say that in terms of construction, there is also a development period that ends when Enbridge Gas New Brunswick is a mature facility?

MR. MAROIS: It is difficult to answer because I'm not too sure I understand the extent of your question. But the -- what is going to take place in terms of construction and which municipalities we go, how fast we are able to add

customers, et cetera, is a key element in determining when we become a mature utility.

But in terms of this specific application, there is no specific request we are making that is linked to the fact that we are in a development period or not.

So I don't know if that answers your question or --

Q.719 - Well, let me tell you the reason I asked the question.

You have asked for this Board to give you blanket authority to install what you call in-fill over a 20 year period. And then when the issue of the condition of approval for whatever date was raised -- or, you know, the permit expires on such and such a date, Enbridge says, no.

It's not -- we don't want any date. We want blanket approval to go ahead over the 20 year period without regulation in terms of in-fill in municipalities.

And I guess it caused me to think of whether or not the concept of development period would apply to construction and whether there should be two types of regulation, a regulation that permits you to go and do your in-fill inside municipalities for a limited -- a time limited period of time. And then another type of regulation after Enbridge Gas New Brunswick is a mature utility.

MR. MAROIS: No, I don't believe there is a relationship in that regard. What we are asking here in terms of

construction is exactly what is going on in other jurisdictions. And let me give you the example of Quebec, that I know well. If you go into a new municipality based on the -- depending on the guidelines that the regulator has adopted, you would file what we call a leave to construct application, so it's very similar to obtaining this current permit application.

But once you get your leave to construct or your permit to go to the municipality, what you do once you are in the municipality, you don't have to go back to your regulator on an ongoing basis when you do a main extension in a street or on two streets or on three streets. So it's -- like I say, it has really nothing to do with the development period or not. It's a, I guess, a recognized way of doing business for utilities.

Q.720 - Okay. But is it the position of Enbridge Gas New Brunswick that it can install those main extensions without coming back to this Board for approval?

MR. MAROIS: During the development period? In the communities or municipalities --

Q.721 - Yes.

MR. MAROIS: -- that are part of this application?

Q.722 - Yes.

MR. MAROIS: You are correct.

Q.723 - So you have to come back to the Board?

MR. MAROIS: No, no. Let me go through this again.

Q.724 - Yes, please.

MR. MAROIS: We are asking for a permit to construct to go into seven municipalities this year. Other than main extensions to the high pressure or extra high pressure grid, we would not come back to this Board to request a permit. We would only come back to request a permit for an extension to the high pressure and extra high pressure grid. So that is our request.

Maybe just to add, we will not come back for a permit request, but we would keep the Board informed on an annual basis of our project for the upcoming year, what we are planning on building. So there will be a continuum -- a continual exchange of information, but not a request for permit.

Q.725 - Mr. Marois, in other jurisdictions are there guidelines, Board-imposed or Enbridge-imposed guidelines that govern where and when you can put in main extensions?

MR. MAROIS: Yes. Typically -- like in Quebec for example there are dollar thresholds. So if you have a main extension in -- for the case of Gas Metro, for example, if you have a main extension or a project that is under a million dollars, you do not go to the Board.

But if it is over a million dollars you have to come in with a leave to construct application.

So you could have an example where -- a situation where let's say you go to a new municipality, and if it is under a million dollars, you don't even have to go in for a leave to construct application.

Q.726 - Let me just ask a couple of questions about issues that are peculiar to the province of New Brunswick. And the first one would be dealing with the spring freshet.

Are there particular construction techniques that deal with the years when we have significant flooding in the St. John River basin?

MR. HARTE: We don't anticipate flooding in the St. John River basin should affect the distribution system.

Q.727 - What about -- I will try to express this. Is it possible that when the water comes up, and if it comes up around a piece of pipe, that that pipe will float, that it will move?

MR. HARTE: Not with the backfill conditions that we have, it shouldn't float.

Q.728 - Okay. You can tell I'm struggling with a concept that I really don't understand myself.

The other one that occurred was the issue of the forest fire danger in the summer and whether construction of the pipeline or some portion of the pipeline there might be increased forest fire risk and how Enbridge would propose to deal with that?

MR. HARTE: With the depth that the pipeline is at, if there is a fire in the area of the pipeline, remember that the pipeline, if it is on a municipal right-of-way, so therefore it is outside of the forest area, if you would like, if there is a forest fire adjacent to it, the cover on the pipeline should insulate it sufficiently from the fire that it should not be a problem.

At the time when there is a fire, then we would have to communicate with the Emergency Measures people at that time. And we may want to shut down that particular piece of pipeline and retest it after the fire is out.

I think that would be a one-on-one situation depending on the particular fire.

Q.729 - What about during construction? Is there some system in place to deal with Enbridge contractors or subcontractors, work forces causing or starting a forest fire during construction?

MR. HARTE: We have identified that as an issue. And we will have to put procedures in place for our contractor when working there.

Q.730 - Okay. One of the things that I didn't ask you about, and I have a note here that tells me I should have, is your dealings with the Atlantic Coastal Action Program over the Marsh Creek change of route. And can you explain what contact you had with them after you changed the

route?

MR. HARTE: We sent them a letter and notified them.

Because they had expressed a concern about us crossing Marsh Creek when we did our Public Information Program. Because they were concerned about the pollution level in the creek.

So we had sent them a letter to say that we would not be having a wet crossing here, that we would be directionally drilling the creek. And hopefully that will alleviate any concerns they have. And we haven't heard back from them.

Q.731 - Okay. Now as I recall your evidence from yesterday, we were talking about sewage and creosote contamination in and around Marsh Creek. And your evidence was, I think, that your pipe was going to be something like 2 meters underneath?

MR. HARTE: Probably 2 to 3 meters, yes.

Q.732 - Underneath the creek bed?

MR. HARTE: That's correct.

Q.733 - Now what testing have you done for contamination in the area, you know, 2 to 3 meters underneath the creek bed?

MR. HARTE: Adjacent to the creek, either side of it, we got samples of the drawings from testing that M & NP had done in that area, that showed there was no contamination in

the boreholes that they did either side of the creek, which indicates to us that the contamination in the creek is contained to the creek itself.

Q.734 - And did you -- how wide is the creek at the area where you propose to drill under it?

MR. HARTE: I would have to get back to you on that exact length.

Q.735 - I guess the purpose of my question, have you done any testing directly underneath the creek bed where the pipe will go?

MR. HARTE: No.

Q.736 - And isn't it possible that some of the contamination, whether it is sewerage or creosote, might have leached into the creek bed underneath the water?

MR. HARTE: There is a possibility.

Q.737 - And don't you think it would be wise to check for the contamination in the area where you pipe is actually going to go?

MR. HARTE: Well, I think once we start drilling the creek, if we run into contamination, then we would have to put a stop to the construction.

Q.738 - Well, that is my next question. How do you tell when you are drilling through underneath the creek bed whether or not you are hitting contaminated soil or mud or clay or whatever it is under there?

MR. HARTE: When the drill head comes out the other side, you will see the contamination in the drill head.

Q.739 - So it is not a smell thing. It is not a chemical testing thing. It is a look at it type of examination?

MR. HARTE: It would be, yes.

Q.740 - You will see contamination?

MR. HARTE: Yes. But remember when they drill or when they put the pilot drill in through there, it is not like they are removing any material from that area, even if it is contaminated. But the material would stay in the creek bed.

Q.741 - Mr. Harte, do you know what effect or impact the types of contamination that we have been talking about here, you know, sewage and creosote have on the yellow jacket covering for your pipe?

MR. HARTE: That's what I'm saying. If there is any, we would have to do a testing at that time to see what material was there.

Q.742 - Is it possible that contamination of this type would leach down to the area of the pipe later, if it is not there now?

MR. HARTE: I believe this contamination in this creek has been there for many, many years, and that if there are some areas where some soils that this material would leach through, I think that we would see that when we do our

drilling.

Q.743 - Have you ever tested to see what creosote for example does to yellow jacket covering over time?

MR. HARTE: Well, we know that hydrocarbons do affect yellow jacket over time, yes.

Q.744 - I guess it seems to me not to be unreasonable to suggest that some sort of testing to determine prior to pipe going into the ground what creosote will do to the yellow jacket covering is a reasonable thing to suggest?

MR. HARTE: We weren't planning on testing the creek and the substances in the creek or testing samples from the creek bed.

That is why we were going to directionally drill, is I want to stay away from the creek.

Q.745 - Look, I'm not a scientist. So I don't know the answer. But I guess it seems to me logical to suggest that it would be appropriate to find some mechanism to take something out of the creek bed and apply it to that yellow jacket coating over time and see what it does to it.

Once the pipe is in the ground and natural gas is flowing through it, it is too late.

But there are other coatings for pipe. What about epoxy coating? Have you tested that to see how it reacts to creosote?

MR. HARTE: I'm not aware of the testing on epoxy coating as far as creosote is concerned.

Q.746 - Enbridge hasn't done it?

MR. HARTE: Well, they may have. I'm just saying I'm not aware of it. I would have to check on that.

Q.747 - And you are not aware of whether or not Enbridge has tested the yellow jacket covering to see how it reacts to creosote for example?

MR. HARTE: No. But we have tested yellow jacket. And well aware that hydrocarbons does deteriorate yellow jacket.

Q.748 - Look, what is suggested to me is that Enbridge Gas New Brunswick do an information search to see what information it can generate with respect to the impact of creosote on yellow jacket coverings and provide that information to the Board?

MR. HARTE: We can do that. We can take an undertaking to do that.

Q.749 - Okay. And just to go back to Public Information Programs, what the practice and the position of Enbridge Gas New Brunswick is is when you change a route after a Public Information Program has taken place, you do not go back to the same area to inform the locals of the new route?

MR. HARTE: The Public Information Program -- the route that we chose was one of the routes that was shown to the

public during that PIP process. So therefore we didn't feel there was any need to go back.

And the only reason that we went back to the Atlantic Coastal Action Program -- because they were the only ones that expressed a concern in that area.

Q.750 - Okay. Just so I understand, that what Enbridge Gas is telling this Board is that once you have done that Public Information Program and shown the alternate routes that you are looking at when you choose your preferred route, or if you later choose a preferred route and then change preferred routes, you are not going back to the people that attended the Public Information Program?

MR. HARTE: Unless they specifically expressed an interest in one of those locations.

Q.751 - Okay. Yesterday we were talking -- or you were talking to somebody with respect to the three routes across the Petitcodiac River.

And you talked in terms of plan A, plan B and plan C, and how difficult plan C was. And the concern that came to mind arose out of your reluctance to really give serious consideration to plan C.

And is it possible if that causeway, where you are presently planning to put your access into Riverview, disappears because of a government decision, is it possible that Riverview, New Brunswick might lose its

supply of natural gas?

MR. HARTE: I think prior to removing the causeway, they would have to put some other access to Riverview. And that other access could be a bridge or some other form to cross there.

And then we would be looking at approval to build into the design of that structure the gas pipeline.

Q.752 - Okay. And as I recall your evidence from yesterday, Enbridge Gas New Brunswick undertook to the Board that it would pay the cost of maintaining the supply of natural gas to Riverview, is that correct?

MR. HARTE: That's correct.

Q.753 - And would Enbridge Gas New Brunswick also be prepared to pay the cost of removal of the existing pipe on the causeway?

MR. HARTE: I think that whoever the contractor is that is removing the causeway, we would disconnect and abandon the gas pipeline there. And it could be removed with the causeway. I don't think it would be necessary for us to go in and excavate to remove that prior to them removing the causeway. It can be done at the same time.

Q.754 - Okay. Thank you.

MR. O'CONNELL: Mr. Chairman, I just have one more area of questioning. It is going to take me a couple of minutes to find the materials that go with that.

MR. CHAIRMAN: Take your time.

Q.755 - Gentlemen, the issue was raised with respect to licencing of pipelines and what could be a bit of a bureaucratic problem in licencing all the bits and pieces.

And does Enbridge Gas New Brunswick have a proposal to make to the Board with respect to the licencing of pipelines as it goes ahead?

MR. HARTE: I'm sorry. I don't understand. Licencing of pipelines?

Q.756 - Once -- as I understand the way the system operates, what you are applying for here is a permit to construct. Once a pipeline is constructed there is testing that has to take place.

And then the pipeline has to be licenced to operate?

MR. HARTE: A leave to open, yes.

Q.757 - And we were discussing, you know, how big -- yesterday with somebody else you were discussing the problems involved of all the little bits and pieces of pipe getting licenced as they start to operate.

And my question to you was does Enbridge Gas New Brunswick have a proposal to make to the Board to deal with that practical problem?

MR. HARTE: Yes. For the pipe -- for the pipeline itself, the main grid system that we are putting in, after the system is tested we would then make an application to open

the pipeline. And that would be part of our normal procedure for the distribution system and installing plant.

If we have the service laterals where -- this is where I would see there be a problem. You have got a customer, a furnace has broken down, that customer needs heat. And we have to run a service line in. And then before we can open that service line we would have to apply to the Board for a leave to open that service line, if you will.

I would like to propose that we would have a sort of blanket approval from the Board on service laterals that we could install them and test them in accordance with the regulations and requirements, and that we would file that testing and file the leave to open with them. But that would not prevent us moving forward and getting gas to the customer.

So if the Board or Board staff could see their way to finding a process that would make it easier to add the customers, and rather than us really upsetting the customers before they become customers, if you would like, and having a bureaucratic system set in place, I'm sure we could work out something that is a much easier process.

Q.758 - All I will ask for is an undertaking from Enbridge Gas New Brunswick that they will work with Board staff to develop a system similar to the one you have just

described?

MR. HARTE: We would be pleased to.

Q.759 - Okay. Gentlemen, the last area of questions I have are areas of concern provided to me by the Archeological Services Heritage Branch of the New Brunswick Department of Economic Development, Tourism and Culture.

Are those things best posed to you, or should I wait for the environmental panel?

MR. HARTE: Should wait for the environmental panel. Thank you.

MR. O'CONNELL: Gentlemen, thank you very much. Those are all the questions I have for this panel.

MR. CHAIRMAN: We will take a five-minute break.

(Recess)

BY MS. ZAUHAR:

Q.760 - Gentlemen, I just have a couple of questions, and I think probably directed to the panel in general, Mr. Harte or Mr. Thompson could answer them.

May I just refer you to exhibit A-5, the maps, and no particular map, I just want to make sure that I understand this, that with respect to what is being requested through this application, potentially, based on your testimonies, what could happen, and I say worst case scenario, and I mean that in the sense of a worst case scenario, New Brunswick could see at the end of the year 2000 gas --

natural gas distribution around or within the limits of those seven municipalities that differ completely from what is shown in exhibit A-5 in terms of the shaded areas, correct?

MR. HARTE: In the year 2000 we only intend to construct those pipelines as shown in red on those plans. We don't intend to go into the other areas this year.

Q.761 - True, but there -- within your understanding or your intent with respect to this application, you could construct just a portion of the main pipeline as shown in what is depicted in red here on these maps, or even nothing at all, correct? There is nothing -- let me put it this way. There is nothing that would necessarily obligate you to undertake construction in any of those seven communities beyond the good faith of EGNB?

MR. HARTE: That's what our application was made for, so that that's what we wish to do is to construct all of what is shown in red this year. So if the Board gives its approval and we can construct by the beginning of July, it is our intent to do all of that this year, yes.

Q.762 - To do all of the red that is depicted. Okay. Does EGNB see the Board as -- let's say in the interest of the public does it see it as having a mandate to ensure that whatever work is being allowed pursuant to the permit that is eventually obtained actually is undertaken?

MR. THOMPSON: I think that is information that we would provide to the Board on an annual basis. The report that we would make to the Board would be, here is what we did last year and here is our plans going forth for the next year.

Q.763 - And I understand that, sir. Let me -- perhaps I didn't express myself well enough. Do you see the Board as having a mandate to ensure that whatever work is being permitted under the particular permit granted pursuant to the application, that that work is actually undertaken by EGNB?

MR. HARTE: I guess we have never really been faced with that type of situation, but I -- hypothetically I guess if we tendered the work out and let's say the price for doing the work was two or three times what we had estimated, then we may have to come back to the Board to discuss that prior to us investing the amount of money that we have there, but we don't anticipate that. But I guess hypothetically something could happen that may make us want to change our mind and may make us want to come back to the Board prior to construction.

Q.764 - Okay.

MR. MAROIS: Sorry to interrupt, but to answer your question, to my knowledge -- and I guess we are struggling with it because usually it's the opposite, like the

distributor wants to do something and then they go to the Board and the Board says yes, and then we are eager to do it. I am not aware of -- in my experience of any conditions where you needed to do it. But I guess in the case of New Brunswick this is all greenfield and as part of our proposal to obtain the franchise we did commit to service certain municipalities within a certain time frame and this particular process here is part of this big global commitment.

So we did not see the Board putting a condition that, you will build this, but it is our firm commitment to do it. And the fact that we will be coming back to the Board on a regular basis, I am certain that if we did not do what we said we would do that the Board will raise that as a concern and we will have to render an account.

Q.765 - True, except pursuant to your application as your evidence stands you are actually looking for a permit to allow you to construct as depicted -- as the red line depicts on the maps plus all the in-fill within the confines of the municipal limits for those seven communities. And that could be five years, ten years, 15 years, 20 years.

So once that permit, according to your application and your understanding of your application, if it were to be granted that way, then it's -- I mean I use the term

loosely -- sort of blanket coverage to go ahead and proceed within the confines of Moncton or Fredericton or Saint John or whatever it be.

But keeping in line with your answer, Mr. Marois, how -- and I guess I ask the question in the first place to see what your reaction would be in terms of obtaining a permit that imposes not conditions, but that it be for a particular specified term, at which point what work has been undertaken up to the end of the expiry of that term would then be open for review by the Board and for the permits to be obtained?

MR. MAROIS: I guess from my view is we have already committed to do this in the sense that we have committed to come back on an annual basis to keep the Board abreast of what we have done, how much it has cost, how many customers we have added. So I guess implicitly our understanding is the Board would have -- there is already a process suggested that the Board would have an opportunity to raise any concern it may have.

So we didn't -- I don't necessarily see a link between a time line and the opportunity for the Board to review the progress we are making compared to our application.

Q.766 - Okay. I guess how I would answer that would be -- and that's very true, everything you say is very true. However, the process that is suggested by EGNB is strictly

for an information purpose and for keeping the Board apprised. You would not be -- and I think your evidence clearly reflects that you would not be seeking further approval to construct as long as you are within the confines of those municipal boundaries. You -- if everything goes in terms of your application you would already have that permit to proceed in the years to come at your liking, at your own leisure, in terms of what is economically feasible and cost efficient and so on.

So really any information that you would file on an annual basis would be strictly for review purposes and keeping the Board up-to-date and good public relations and -- but not for approval purposes.

MR. MAROIS: Well it's not for approval of a new permit.

And just maybe to answer your question, we would also come in for a permit if we do an extension to the high pressure system. But in our mind it's more than just providing information to the Board because our understanding of the Board's power, even though we are not coming in for a request for a new permit, the Board has all the power to question the progress we are making in the areas where we already have a permit. And if there are concerns it's going not the way they were expecting, I am certain -- like I say, our view is they have all the powers to raise those concerns and to come to us with any suggestion,

recommendations or other --

Q.767 - Okay.

MR. MAROIS: So we are working under that premise.

Q.768 - I just have a question with respect to development period. Perhaps, Mr. Marois, I think you answered that earlier question from Solicitor O'Connell. May I just refer you to paragraphs 4 and 5, I guess, 6 as well, of the actual application.

MR. MAROIS: Yes, I have that.

Q.769 - Okay. And I just want to make sure that I understand, because I think perhaps I don't.

When Solicitor O'Connell asked what relationship there existed between the construction plan and the development period in terms of when a development period would be over and the utility could be considered a mature utility, I think your evidence was that that's not directly applicable to the construction.

Now I understand that construction, installation of pipeline, development of in-fill, expansion to other complete areas of New Brunswick will obviously be an ongoing process throughout the life of the utility, but does the application not make specific reference to the 23 communities, municipalities, areas, communities, and the construction plan based on that schedule contained in paragraph 5, and that that was to sort of be the outreach

for the development period as such?

MR. MAROIS: You are fully correct. And I guess I could have been more precise when I answered Mr. O'Connell's question. As we speak today, we have moved away a bit from what was in the initial application, because in the initial application our expectation was that we would have a global permit for the 25 communities. but following comments made by the Chair at the pre-hearing conference we I guess modified -- implicitly modified our application to reflect the fact that what we are asking today is a permit for the seven communities we will be building in the year 2000, and then come back for new municipalities.

So from that perspective our application has evolved and initially there was, yes, the notion of a development period for which we were asking -- I guess we were asking a permit for all the municipalities we were anticipating to serve during the development period, but now we really have moved away from that.

So you are correct. There has been this evolution in our application.

Q.770 - Okay. So does that mean that that would lengthen or shorten the initial plan for construction?

MR. MAROIS: It has no bearing on what will happen. It's really just in terms of the approval. What we were hoping to do initially was to get a permit for all the

municipalities we had identified. Now in a sense we have narrowed our application to the --

Q.771 - To seven.

MR. MAROIS: -- to the seven. So -- but it has nothing to do -- it doesn't change our plans in the sense that we are still planning on building in these municipalities. It's just that we have narrowed the scope of what we are asking for today.

Q.772 - Sure, I understand that, but I think that the 25 communities referred to in the initial application, those were meant to be undertaken within I think it was eight years, I think that was the development period of eight years that was raised at the rates hearing --

MR. MAROIS: Based on our --

Q.773 - -- eight or ten years or --

MR. MAROIS: Based on our plan, all of these municipalities would be served within five years.

Q.774 - Okay. So that still stands today.

MR. MAROIS: That still stands. That's our best forecast, yes.

Q.775 - Okay. I guess that's just what I wanted to clarify as to whether we have now thrown -- now -- so do you still maintain that there is no direct relationship between the development period for construction of five years for those five communities and the bigger picture of the

development period talked about in the rates hearing, such that at that point it would be or would not be considered a mature utility?

MR. MAROIS: I will try to answer that. I guess the way I understand is the fact that the consequence of the notion of a development period on our initial application was that we were asking for a permit for all the municipalities that we were considering serving within that development period. So there was a notion of the development period in the application and what it meant. It meant that we wanted a blanket permit for all these. We have moved -- since moved away from that.

So from that perspective the notion of development period has no direct consequence or we are not asking anything special during the development period for this application.

So I don't know if that answers your question.

Q.776 - Yes, it does. Although costs incurred for purposes of operations, maintenance, construction, would be at the end of the day considered in the financial picture, and all of those issues discussed at the rates' hearing, correct?

MR. MAROIS: Correct. The costs --

Q.777 - In terms of cost of operations and --

MR. MAROIS: Yes. The cost consequences of what we are going to be doing will be treated in a manner for which we

are asking -- we are seeking approval in the rates application, you are correct.

Q.778 - Okay. And I have just one more question. With respect to again 5-A -- exhibit 5-A -- figure 2, Oromocto, do I -- am I looking at this correctly to assume here that the Oromocto reserve -- the native reserve in Oromocto is included in the proposed service area?

MR. THOMPSON: That's correct.

Q.779 - It is?

MR. THOMPSON: Yes, it is.

MR. MAROIS: Just to clarify maybe, part of the St. Mary's is as well in the Fredericton -- yesterday there was some confusion, we might need a geography course in New Brunswick, but after the hearing yesterday we were able to confirm that approximately 50 percent of the population in St. Mary's is already covered under the proposed service area on this map.

Q.780 - Okay. So then just to clarify your testimony from yesterday when questioned by Solicitor Abouchar, with respect to that dip just above Union Street in -- sorry -- I guess I am referring now to figure 1, exhibit 5-A -- so that dip actually reflects a dip I guess of only 50 percent.

MR. THOMPSON: We looked at this overnight and I tend to -- from an survey -- an aerial survey of the area we -- as

Mr. Marois has pointed out, approximately 125 homes are currently within the proposed service area of Fredericton within the Fredericton municipality. And as I indicated yesterday we would be prepared to include that portion of the St. Mary's reserve that is not shown on our map within the Municipality of Fredericton, and that includes I understand a school and a recreational hall. So we have extended it.

Q.781 - Yes. The school would be of great interest as well.

MR. MAROIS: Of course.

MS. ZAUHAR: Okay. Great. Thank you, gentlemen.

CHAIRMAN: It is self evident that you can't serve the northeast or the northwest unless Maritimes and Northeast Pipelines build the laterals, period. I don't want to get tied up with the development period, but quite frankly it would appear logical that the development -- you would be able to operate as a mature utility earlier if in fact you could only serve the communities in the southern region, i.e., not have to or not serve those in the northwestern or the northeastern because the laterals weren't built?

MR. MAROIS: If I understand your question, and maybe I can paraphrase to make certain I do, is would Enbridge Gas New Brunswick become a mature utility faster if we did not serve the northern part of the provinces. I don't think we can necessarily draw that conclusion because as you

appreciate, many factors come into determining if we are mature or not, and I guess they are all dictated by time, when will we have sufficient customers to be able to, I guess, act like a mature utility.

So I guess another way of putting it is the majority of our investments and the majority of our customers will come from the southern part of the province. So in my view, it is really how rapidly we will be able to add sufficient customers in that part of the province to be able to determine when we will become a mature utility.

So I find it difficult to have a direct correlation between if we do not serve the northern part we will become mature sooner.

CHAIRMAN: Okay. I will not continue with that. My only concern after all the cross and direct has been to point out there is a very dramatic difference between the experience in Ontario and Quebec, as with New Brunswick, and you alluded to it this is a greenfield situation. And frankly up until probably the last couple of years the only time New Brunswickers noted natural gas is when there was an incident. And I have been -- and this Board is acutely aware of that fact. Our approach has been to make certain that the public has the opportunity to learn as much as it can and to complain if it wishes to.

So with that having been said, I have no expertise in

reference to how large an area or how large a customer base you can serve without extending your high pressure pipelines.

And for instance, I will refer you to figure 4 on A-5, that is the city of Saint John. When we heard a representative of the city talking about Spruce Lake and serving that, who knows what is going to happen at Spruce Lake, and if there is an industrial plant or plants that are there that make it economically feasible for you to serve it, that may require you to extend the line. It may not. I don't know.

Likewise you may find that if you look at the map on the west side, route 102, which is the old Fredericton highway, goes up along the Saint John River, to the west of the Saint John River, to the boundary -- the southern boundary of Grand Bay/Westfield, and that, believe me from the people I know who live there, they consider that to be a community onto itself.

But they probably have realized or are not aware when they look at the maps in the paper that your red line, which stops in the old City of Lancaster, as I see it, or perhaps not, perhaps a little further than that, they are not going to get natural gas service, from what they see in the paper. But if you can extend it up there with the use of medium pressure or plastic pipe, then my concern is

-- and counsel for the Board has asked questions in reference to it as well -- that there be a mechanism that those folks can feel confident that they can get before a public body, which is this Board, and make their complaints and have us adjudicate on them.

All of that having been said, I think that that is something that the Board will have to decide, but again I am sure you realize that we will attempt a co-operative method with the applicant to make certain that those things are available.

That wasn't a question, that was just a statement.

Mr. MacDougall, re-direct.

REDIRECT EXAMINATION BY MR. MACDOUGALL:

MR. MACDOUGALL: Mr. Chair, I will try to use my redirect not to cause any more confusion on some of the issues such as in-fill, but I feel compelled to ask a few questions. So hopefully they will lead in the right direction.

Q.782 - Mr. Thompson, to start off could you give us an idea of what the role of marketing is in the in-fill process?

MR. THOMPSON: Well, the role of marketing is twofold, I think. It is to create a level of awareness about natural gas. It is to educate the public about natural gas, its benefits and its applications.

There is a kind of a knowledge about natural gas that is obviously lacking in the province because natural gas

hasn't been here.

So our first concern is to ensure that potential customers know about the product and they know about its benefits and they know about its characteristics, which lead us to assure people that it is a very safe product.

Secondly of course it is about developing a persuasive argument that the use of natural gas in the homes or businesses will give them a benefit to their bottom line, whether they are homeowners or business owners.

It will give them an energy that is very flexible, can be used for many applications, is delivered to their premise 365 days a year, 24 hours a day. And it is very cost-effective and will save them money.

So it is twofold, education and awareness and use the fuel.

Q.783 - Mr. Thompson or Mr. Harte, what sort of difficulties would be encountered in trying to plan all of the in-fill today absent data from the marketers and with respect to customer attachment going forward?

MR. HARTE: What we have used is we have used sort of general data, if you would like, on average usage for types of customers based on the surveys that were done and the amount of energy that they are using in their homes.

So therefore we would need specific data in each in-fill area to properly -- and input from the marketing, the

marketers that are out there, to properly design everything specifically.

But most of the in-fill areas, and as we have experienced in the past with the distribution piping, are very small, most of the residential areas.

And most of it will be inch and a quarter diameter polyethylene, or at the most 2-inch diameter polyethylene pipes. So that they are very small in size anyway.

Q.784 - And in carrying out in-fill or moving forward, what sort of parties would -- either in the distribution area that was outlined in the shaded section on the maps we were referring to earlier or in other areas of the municipality, what sort of activities would go on with respect to dealing with third parties such as municipalities or marketers or areas not shown directly in the shaded area?

MR. THOMPSON: Well, from a marketer perspective, as I spoke this morning, the reason that we are in any community is because there has been a demand for the product. And that demand would probably be directed to us in two ways.

(1) would be the interest that was shown as a result of the marketing I have just talked about. And (2) a signed contract from the marketers who are now bringing it to our attention that a certain area looks to be a good

potential for in-fill.

On the municipal side of life, I have no doubt that there is a whole process that Mr. Harte can explain about the connections that are made in the municipality, once we determine that we are going to go into a community.

MR. HARTE: I think that going into the community, that when we design the distribution networks we would look at how we can cover the majority or all of the customers within that community with the least amount of disruption and the least amount of piping.

So therefore we would intend in most cases only to install the pipeline on one side of the road and then run service laterals and actually even branch services from one home to another, in an attempt to reduce the amount of disturbance in the area and also to reduce costs for the servicing.

So therefore that would also help in the feasibility of the particular project.

Q.785 - So Mr. Thompson, how would you react and how would you follow up if a marketer came to you and said that there was a new development going to occur in the Sandy Point Road area, or one of the gentlemen from the municipality came to you and said, one of our industrial parks is going to have two or three new customers that aren't shown in the shaded area over the next couple of years?

MR. THOMPSON: Well, we would -- let's take the industrial

customer, one. And first of all we are in touch with the industrial parks in Saint John for example.

So we are maintaining a sort of watching brief, if you will, around potential customers. We would be talking to them. We would visit them certainly and give them a sort of background on natural gas, its application, its purpose around the processes that they may be using.

Or if it is a temperature-sensitive load, heating and so forth, the kind of applications that would be beneficial, and endeavor to connect them to marketers.

If marketers came forward with an area of interest, it may be that they have done some spotting of a certain development and found out there is a level of interest that they feel we would be interested in.

What I would do is survey that area either by mail or telephone to elicit the sort of level of interest, get information out about natural gas to those people that have not made any contact with a marketer, make sure that people understand benefits and allay any fears they may have about natural gas as a fuel.

Q.786 - Now Mr. Harte, if you were going to go into an area shown on this map as in-fill or into any area in any municipality which the company has now described as in-fill, what type of permits would you potentially require to continue to do that work?

MR. HARTE: Depending on who owns the particular roadway.

But in most cases we would apply for a municipal permit from the municipality to do that work. And we would supply the municipality with detailed drawings that would show the proposed location.

And the municipality would be involved in that process as well. We would talk to them about other utilities and where they are located within the municipal right-of-way.

And then we would make the application for permit. And then I would presume the municipality would approve that permit location. And then we could go ahead and construct.

Now when we do the construction work we also provide - - it's contracted-out work. We also provide our own inspection services on the work. There will be qualified people there.

We also do a complete reinstatement. So we will reinstate a particular road allowance to its original condition. If we cut the road or cut the sidewalk, we will guarantee that road for the life of the road or that repair for the life of the road.

So therefore we don't want to be any encumbrance on any of the municipalities that we are going into.

Q.787 - And if during that in-fill process you were to encounter a water course, would there be permitting

applications required in that instance?

MR. HARTE: Most definitely. And we would have those applications filed.

Q.788 - So in follow-up to some of Mr. O'Connell's questions, that the in-fill process would not be without regulatory review, do you believe that that is a fair statement?

MR. HARTE: That's correct. All of the interested parties and any water course, railway or any other type of crossing, highway crossing we would have, we would deal with those agencies and get the necessary permit approvals before we proceed.

Q.789 - So there would be regulatory review although it not be regulatory review by this Board?

MR. HARTE: That's correct.

Q.790 - In applying for a water course alteration permit in an in-fill situation, would there be some form of environmental assessment or background sensitivity work required?

MR. HARTE: That would be done right up front to decide what type of crossing. And that would give the input into the type of crossing that we would have, whether it be a wet crossing, a dry crossing or we would directionally drill the particular river crossing or creek crossing.

Q.791 - So if there was a requirement for an environmental screening, the company would carry that out?

MR. HARTE: Very much so.

Q.792 - Mr. Harte, going back to your broader schedule and some of the questions that were raised yesterday, what occurs to your overall schedule if you don't get one specific permit for a specific water course by July 1?

MR. HARTE: We could still start construction in other areas and then move back in a particular crossing once the approval comes in. The way the distribution system pipeline works is that you have the flexibility to move in and move out of areas.

For instance even if you are in a particular area and it happens to be raining, you could move out of that area because of the water course or the problems associated with the rain, move to another part of town and then move back in once it has dried up.

So we don't see that that would hinder our progress.

Q.793 - So would it be fair to say that the construction of a distribution line is not purely linear?

MR. HARTE: It's definitely not, no.

Q.794 - And yesterday in response to issues on mobilizing contractors, particularly an example was used with respect to drilling the St. John River. And you stated that that might not occur until late July, early August, and there might be some special equipment required.

Notwithstanding when you would drill the St. John

River, would that delay your plans to construct elsewhere along the routes proposed?

MR. HARTE: No, it wouldn't.

Q.795 - Mr. Thompson, yesterday there were some questions raised with respect to the PIP at that time of this application and going forward.

Just for clarification, is it your understanding that the legislation requires that a PIP is to be filed at the time of the filing of an application for subsequent communities?

MR. THOMPSON: Yes.

Q.796 - In this application an exemption was granted by the Board for the time of filing. Going forward is it the company's intent to attempt to have the PIP ready for the time of the application?

MR. THOMPSON: It is.

Q.797 - And do you propose there would be some form of environmental screening carried out before the PIP was filed?

MR. HARTE: Yes, there will be.

Q.798 - Just going back to in-fill but on a different sort of topic, is Canadian Forces Base Gagetown any different from any other customer with respect to the in-fill process? How would it be different?

MR. THOMPSON: No, I don't see it as being different at all.

Q.799 - Going now to the issue of the route changes at the Petitcodiac and at Marsh Creek, during the PIP process how many parties expressed specific concern over the alternative route that is now being used as the preferred route over the Petitcodiac?

MR. HARTE: There was no concerns expressed about the Petitcodiac.

Q.800 - And how many parties expressed specific concern over the crossing at Marsh Creek?

MR. HARTE: There was just the one party. And that was the Atlantic Coastal Action Program.

Q.801 - With respect to Commissioner Zauhar's comments earlier today, are your construction plans and your ability to construct totally within your hands after you get a permit from this Board?

MR. HARTE: That's correct. Apart from us having to come back to the Board to apply for leave to open after the testing of the pipeline and notifying Board staff prior to the actual testing of the pipeline.

Q.802 - What I'm trying to get through to, Mr. Harte though, we talked earlier about water course alteration permits and other issues.

Do you have the right just to construct anywhere you feel like? Or is there third-party involvement?

MR. HARTE: The necessary permits from third parties are

always involved.

Q.803 - And is there a role for the -- to go back to Mr.

Thompson, is there a role for the marketers to play in that process?

MR. THOMPSON: In terms of water crosses particularly?

Q.804 - No. Just in terms of the rollout plan with respect to in-fill?

MR. THOMPSON: Well, certainly the marketers are an absolutely key element of the distribution system. The distribution system -- the in-fill follows the market.

The market is dependent to a great extent on marketers selling their products and Enbridge Gas New Brunswick delivering the right level of generic advertising and education into the marketplace.

Q.805 - Mr. Thompson, is there any specific arrangement with CFB Gagetown now, contractual arrangement to serve?

MR. THOMPSON: Well, the arrangement we have with CFB Gagetown upon their request was to carry out a survey of their heating plant, give them energy advice of a sort of unbiased nature and help them through the process of choosing contractors and so forth to carry out that work.

And at the same time of course Mr. Harte and his staff ensured that they negotiated with the Base, cooperated with the Base around where the distribution system would be laid.

Q.806 - And if for some reason the Base as a group decided not to go to natural gas, would that affect the feasibility of your plans to go to Oromocto?

MR. THOMPSON: Yes, it would. The Gagetown plant is a huge load and therefore would have an impact on the overall Oromocto plant.

MR. MACDOUGALL: Mr. Chair, just one more question.

Q.807 - Mr. Harte, how many years have you been involved in an employed capacity in the design and construction of natural gas pipeline?

MR. HARTE: 32.

MR. MACDOUGALL: And not wishing to date Mr. Harte. I just wanted to get that on the record, Mr. Chair. Thank you very much.

MR. CHAIRMAN: Thank you, Mr. MacDougall. Thank you, gentlemen. You are excused.

We will break and come back at 1:30.

(Recess - 12:14 p.m. - 1:30 p.m.)

MR. CHAIRMAN: Preliminary matters are the pile of paper in front of me. By the look of things a number of the undertakings have been complied with.

And Mr. MacDougall, I presume we should give these an exhibit number?

MR. MACDOUGALL: And Mr. Hoyt is going to go through them one by one, if you like.

MR. CHAIRMAN: All right. I won't start. Because he would probably have a different order from me.

MR. HOYT: Just to go through the undertakings, I have provided 15 copies of the responses to the Board. And copies for all the other participants are at the back of the room.

The first thing that was mentioned yesterday was the Subsurface Surveys survey study done in relation to the Westmorland Street bridge in Fredericton, which we indicated this morning had been done in March 1976.

The first document is actually the study itself which is the thick document, Mr. Chairman, entitled "soils investigation, Fredericton bridge."

MR. CHAIRMAN: That will be A as in Alfred, 9.

MR. HOYT: The next undertaking related to the scope of that study.

MR. CHAIRMAN: My shorthand is terrible, Mr. Hoyt. Just hang on a sec'.

MR. HOYT: I apologize, Mr. Chairman.

MR. CHAIRMAN: Okay. Go ahead, sir.

MR. HOYT: The next undertaking related to the scope of that study. And the scope, as will be found from the report itself, is not just the bridge itself, but that it also extended upstream and downstream of the current location of the Westmorland Street bridge. And there is a site

plan included in the survey which will demonstrate that.

The next undertaking related to a second study concerning a crossing of the St. John River in Fredericton. There actually is no second study.

What Mr. Harte was referring to is a plan showing the results of the study related to a water main crossing the St. John River, again in Fredericton. And what that is is a series of four plans.

MR. CHAIRMAN: I have lost you.

MR. HOYT: It is this here, Mr. Chairman.

MS. LEGERE: Is that it?

MR. HOYT: Yes.

MR. CHAIRMAN: No wonder I couldn't find it. A-10 is a five-page exhibit.

MR. HOYT: And there is also a summary plan of the Westmorland Street bridge, geotechnical information. It is a one-page plan that is this size.

MR. CHAIRMAN: Right. That is A-11.

MR. HOYT: The next undertaking related to the distance between the Westmorland Street bridge and the water main crossing the St. John River. And I understand that that distance is greater than 20 meters.

To give some sense I think Mr. Blue's question was concerned about how close those two lines might be.

The next document is a listing of the permits and the

various municipalities and the status of those permits,
which was requested by Mr. O'Connell.

MR. CHAIRMAN: That is headed "permanent application status
report May 16"?

MR. HOYT: That's correct.

MR. CHAIRMAN: Okay. And that will be A-12.

MR. HOYT: The next item is a series -- the next thing is a
series of drawings for the main distribution and the 30-
year grid design for peak hour volumes in the seven year 1
communities, which is designed on Stoner.

It is a package. There is a set for Fredericton,
Moncton, Oromocto, Saint John and St. George.

MR. CHAIRMAN: I will give those all one number, A-13. There
are seven communities. But I presume that Riverview and
Dieppe are included in Moncton?

MR. HOYT: That's correct, Mr. Chairman.

MR. CHAIRMAN: What should I call them?

MR. HOYT: Maybe I would ask Mr. Harte to give them a name.

MR. CHAIRMAN: Sure. Mr. Harte?

MR. HARTE: Distribution network with Stoner design.

MR. CHAIRMAN: Thank you.

MR. HOYT: And the last document is the contractor
prequalification document that was requested by Ms.
Abouchar. And it is just titled "contractor
prequalification".

MR. CHAIRMAN: And that will be A-14.

CHAIRMAN: Anything else?

MR. MACDOUGALL: Yes, there is a little more, Mr. Chair.

Not undertakings though. These are -- there are new exhibits that will be referred to likely by this panel as the proceeding goes forward. Copies have been given to Ms. Legere, I think have been distributed to you and to the others in the room.

We will start with two photographs. The first photograph is entitled, "Example of Main Line Construction".

CHAIRMAN: A-15.

MR. MACDOUGALL: And the next photograph is "Examples of Distribution Line Construction".

CHAIRMAN: That's A-16.

MR. MACDOUGALL: The next document, Mr. Chair, is a letter dated April 12 from Fisheries and Oceans to Mr. Highfield.

CHAIRMAN: That's A-17.

MR. MACDOUGALL: And, Mr. Chair, there is one other document that Mr. Hoyt will distribute now. What it is, it's corrections that will be referred to to one of the panel members, corrections to the evidence.

It probably shouldn't be given an exhibit number. We will give it to everybody now but then Mr. Hannah will speak to the corrections, but they have already been typed

in, so then the replacement pages can be put in.

Some of our other witnesses are going to read corrections orally in but he had the chance to get his typed on the pages.

CHAIRMAN: Anything else, Mr. MacDougall?

MR. MACDOUGALL: There will be things after the panel is sworn, Mr. Chair, just corrections and things like that. So maybe we could have the -- unless anyone else has --

CHAIRMAN: Well I will check. Any counsel have any other matters? No, I guess not. Would the secretary swear the panel.

Mr. Harte was sworn. He is still under his oath of --

MR. MACDOUGALL: Sure.

CHAIRMAN: -- what was that, three days ago. All right. My fellow commissioner pointed out properly that I discharged the panel. However, to cover that eventuality I consider you to still to be under oath, Mr. Harte. Thank you.

PANEL SWORN -

NEIL HARTE, MIKE BROPHY, GREG GILLIS, MIKE RILEY

KEN HANNAH

DIRECT EXAMINATION BY MR. MACDOUGALL:

CHAIRMAN: Go ahead, Mr. MacDougall.

MR. MACDOUGALL: Mr. Chair, if I could I would like to introduce the panel and then get them to adopt their various evidence and make corrections as we go through.

To start with, Mr. Harte, who was up there previously.

The next gentleman -- the gentleman next to him is Mr Mike Brophy, also with Enbridge. The gentleman next to him is Mr. Greg Gillis from Agra Earth and Environmental.

The gentleman next to him is Mr. Mike Riley from Dillon Consulting. And the gentleman next to him is Mr. Ken Hannah from Godfrey & Associates.

Mr. Chair, I am going to try and do each of these one at a time. It will take a little while but we will get through them all.

Q.1 - Mr. Gillis and Mr. Hannah, were exhibits F, the Saint John Environmental Assessment, and exhibit G, the St. George Environmental Assessment, prepared under your joint direction and control?

MR. HANNAH: Yes, they were.

MR. GILLIS: Yes, they were.

Q.2 - And are there -- can we now go to necessary corrections on those before we have them adopted as your evidence.

MR. HANNAH: Mr. Chairman, I refer you to exhibit F, page 4 of 191. Page 4, section 1.4.2 entitled Provincial Approvals.

Q.3 - 4 of 191.

MR. HANNAH: The correction is the deletion of the second bullet under that heading and the removal of the word "and" at the end of the first bullet.

CHAIRMAN: The bullet referring to water course alteration regulation --

MR. HANNAH: That's correct.

CHAIRMAN: -- and the reg. 90 80.

MR. HANNAH: That is correct.

CHAIRMAN: What is the second correction?

MR. HANNAH: The first correction is removal of the second bullet and also removal of the word "and" at the end of the first bullet.

This same correction applies to the other three exhibits, D, E and G, for Fredericton, Moncton, Dieppe, Riverview and St. George.

CHAIRMAN: I think if I might I will stick with the Saint John volume now.

MR. MACDOUGALL: You can stick with that, Mr. Chair. This section is the same in all four, so the correction should be made for all four and the gentlemen will adopt their evidence with that correction made to all four.

CHAIRMAN: Okay.

MR. HANNAH: Mr. Chairman, the second correction is on page 119 of 191. This is the replacement -- the first of the two replacement pages that have been submitted.

MR. BLUE: Mr. Chairman, I am looking at the amendment that we first made to delete the second bullet on page 4 of exhibit F, and what we are deleting is reference to the

water course alteration regulation.

Is that a substantive edit or is that just a proofreading edit, because the next paragraph goes on to talk about permits for water course crossings?

MR. HANNAH: Mr. Chairman, that is a housekeeping correction. It is incorrectly listed under the Clean Environment Act and if you will notice in the subsequent paragraph it is correctly referred to the Clean Water Act.

MR. BLUE: Thank you, Mr. Chairman.

CHAIRMAN: Next was 119. All right.

MR. HANNAH: This is revised text under section 4.2.2.3, Saint John Central.

CHAIRMAN: Okay.

MR. HANNAH: This revised text reads, "Field investigation has determined that horizontal directional drilling is possible under Marsh Creek and alternative route G is selected as the preferred route replacing the initially selected alternative route H. Alternative route G is only marginally longer than the shortest route and eliminates the requirement for a fifth custody transfer station in Saint John."

MR. MACDOUGALL: And, Mr. Chair, that textual change matches the revised maps that were sent in last week. So this now conforms the text to the revised maps.

MR. HANNAH: The third and last change, Mr. Chairman, is on

page 120. It's a replacement of table 4.8. The change is simply to re-describe the Saint John central route to conform with the previous text and the previously submitted revised drawing.

CHAIRMAN: Thank you.

MR. HANNAH: And that's all, Mr. Chairman.

Q.4 - Mr. Hannah and Mr. Gillis, with those changes do you adopt exhibit -- now I have lost my number -- F as your testimony in this proceeding?

MR. HANNAH: We do.

MR. GILLIS: Yes.

Q.5 - Are there any changes to the other exhibit that was prepared under your direction and control, exhibit G, the St. George, other than the global text you mentioned earlier?

MR. HANNAH: Not to my knowledge, no.

Q.6 - Do you adopt exhibit G as your testimony in this proceeding?

MR. HANNAH: I do.

Q.7 - Mr. Gillis?

MR. GILLIS: Yes, I do.

Q.8 - May we go to Mr. Gillis for Moncton. Now was exhibit E, environmental impact assessment for the communities of Moncton, Riverview and Dieppe prepared under your direction and control?

MR. GILLIS: Yes, it was.

Q.9 - Do you have any corrections to make to that evidence?

MR. GILLIS: Yes, I do. And if I could refer to you table 4.7 on page 128 of 219 on exhibit E?

Q.10 - Okay. Page?

MR. GILLIS: 128.

MR. DUMONT: F, did you say F?

MR. GILLIS: E.

CHAIRMAN: 128, that's after the maps, 128, right.

MR. GILLIS: So in table 4.7 there should be an additional column. The additional column will be a combination of routes R and S. And the additional column should contain the following information. On Edinburgh Drive from St. George Boulevard to Salisbury Road. On Salisbury Road from Edinburgh Drive to Southeast side of traffic circle on Route 114. And then on causeway/Route 114 from Salisbury Road to the causeway gates. Then on Coverdale Road from Craig Court to Golf Course Road, the through distance should remain at 4.0 kilometres, 3.0 kilometres and 7.0 kilometres.

The location is not on public road allowance. It should read on the causeway shoulder -- on the next page, excuse me, on 4.7. On the causeway shoulder from the north of the gate/bridge and to attach the bridge to Coverdale Road.

The rest should read, Moncton Industrial development to that column. Secondary markets, institutional school, shopping mall, retail and fast food service station, scattered, single and multiple, type 1 constraints. One potential rear plant site. One potential archaeology site. Two potential species of special status sites.

Type 2 constraints. Church on the southside of the Salisbury Road. Fire hall on north side of Coverdale Road. One water course crossing. One wet land. And 59 potentially contaminated sites.

MR. DUMONT: Both developing under S for --

MR. GILLIS: Route. They will now be on the combination of route R and S.

MR. MACDOUGALL: Mr. Chairman, I don't know how anybody else is following that. Mr. Chair, I can follow up. We didn't have a time to have that fully completed on the schedule.

We will undertake to do that. We wanted to have it read into the record for the purposes today. And what that does is again conform the new maps, so all of the descriptions -- or generally all of them are already under route R and S. But for purposes of questioning, the map and the move is just to the causeway and this conforms to that and we will endeavour to get replacement pages or new columns set in.

It's hard to change the evidence per se, because the

evidence was certain routes. When the route is changed all the streets and everything change. But they are all the same. They just got compiled into one single route, which is what was reflected on the map filed a week ago.

CHAIRMAN: Good. That will be great.

MR. GILLIS: The next change is on section 4.2.2.6. And it is basically a statement saying, a combination of R and S was selected as the preferred route.

CHAIRMAN: What page is that?

MR. GILLIS: I believe page 134 of 219, excuse me.

CHAIRMAN: Okay. So under 4.2.2.6?

MR. GILLIS: That's right.

CHAIRMAN: Where?

MR. GILLIS: The entire section should say -- should read a combination of R and S was selected as the preferred route, which will refer back to the column that we just identified in the previous table. Thank you.

Q.11 - Mr. Gillis, does that complete your changes? Again, taking account of the one global change mentioned by Mr. Hannah earlier to the --

MR. GILLIS: Yes, it does.

Q.12 - And do you adopt exhibit E, the environmental impact and social economic impact assessment for Moncton, Riverview and Dieppe as your evidence in this proceeding?

MR. GILLIS: Yes, I do.

Q.13 - Now Mr. Chair, if we could go to exhibit D, the environmental and social economic impact assessments for Fredericton and Moncton.

CHAIRMAN: Fredericton/Oromocto?

Q.14 - Fredericton and Oromocto. Mr. Riley, was exhibit D prepared under your direction and control?

MR. RILEY: Yes, it was.

Q.15 - Do you have any corrections to the evidence filed in exhibit D?

MR. RILEY: Yes, I do, Mr. Chairman. I have four changes.

The first change is on -- it follows page 93 of 250. It's in table 317. And you see in table 317 across the top there are headings. The third column over it states, site border designation. And I would like to change border to Borden, B-o-r-d-e-n.

The second change is on page 152 of 250. Okay. Table 410. At the -- near the bottom of that table there is a column that says -- on the left-hand side says, type 2 constraints. If you go over to the far column on the right, which says under route V. The first line says one water course crossing. Change 1 to 2. In actuality there were two included in the analysis, but this is a typo.

The next change is at page 158 of 250. The first section down in segment 4, King Street to St. Anne Point Drive. The first sentence where it says, route 8 was

selected. That should be route J. And that conforms with all the mapping that was -- that has been presented.

The second paragraph down, it says -- again, it says route 8, that should be route J as well. And the third paragraph of that segment, the third line. It says, alternatives I and J. It should be I and H.

Okay. The final change is in table 5(1), which is -- follows page 164 of 250. The second page of table 5(1). The bottom section where it says, aquatic environment. The second column, the fourth bullet, where it says, fisheries resources, refer to section 3281. That should read refer to section 3284.

And that is all the changes I have.

Q.16 - Now, Mr. Riley, do you adopt exhibit D as your testimony in this proceeding?

MR. RILEY: Yes, I do.

MR. MACDOUGALL: And, Mr. Chair, just on those last changes, most of those were in relation to comments that came out of the Pipeline Coordinating Committee and we have tried to conform even some of the typographical mistakes to -- in accordance with their wishes. And particularly the routing, just for your understanding of the routing changes, none of the preferred routes changed. There was just typographical errors when it should have been route J, but route J was always showed as the preferred route.

Q.17 - Mr. Harte, I will probably surprise him because I forgot to go through this on the break -- exhibit H environmental protection plan, was that prepared under your direction and control?

MR. HARTE: Yes, it was.

Q.18 - Do you have any changes to exhibit H, environmental protection plan?

MR. HARTE: No, there are no changes.

Q.19 - Do you adopt exhibit H as your testimony in this proceeding?

MR. HARTE: That's correct.

MR. MACDOUGALL: Mr. Chair, there is a letter with a similar statement in it at the front of each of exhibits D, E, F and G, all of the environmental assessments. I would like to read -- that letter is written by Mr. Harte.

I would like him on the stand to adopt that letter. And I would like just particularly to quickly read in one paragraph and have Mr. Harte confirm.

Q.20 - In the letter which is part of each of exhibits D through G, the second paragraph states "Enbridge Gas New Brunswick is fully committed to the construction and operation of the natural gas distribution systems in a manner that respects the environment. Accordingly EGNB intends to implement the mitigation measures set out within" -- and in this one, "exhibit D of this

application." It says exhibit E, F and G in the other three. Do you accept that statement that EGNB intends to implement the mitigation measures set out in the economic impact assessments, Mr. Harte, as the evidence of the company?

MR. HARTE: Yes, I do.

Q.21 - Thank you.

MR. MACDOUGALL: Mr. Chair, because Mr. Brophy didn't have the opportunity to adopt any evidence, he is going to summarize the evidence. So we will put it to Mr. Brophy.

MR. CHAIRMAN: Go ahead.

MR. BROPHY: Thank you, Mr. MacDougall. Good afternoon, Mr. Chairman and Board members. My name is Mike Brophy. And I'm a senior specialist with the safety and environment group at Enbridge.

Over the next five or 10 minutes or so, I would like to present a brief overview of some of the issues surrounding the environmental and socioeconomic impact assessment process that Enbridge Gas New Brunswick followed to get us to this point here today.

As you are aware, Enbridge Gas New Brunswick has retained three local New Brunswick consulting firms to undertake an environmental and socioeconomic impact assessment of the activities related to the construction of the distribution system in the year 2000 and to

recommend mitigation measures to minimize potential impacts.

These firms include Dillon Consulting Limited for Fredericton and Oromocto, Agra Earth and Environmental Limited for Moncton, Riverview and Dieppe, and Godfrey Associates Limited for Saint John and St. George.

At this point I would like to take a minute to look at some of the general environmental and socioeconomic issues surrounding this application, as I'm sure we will have ample opportunity over the next day or two to look at the comprehensive work that has been done by these consulting firms.

Enbridge Gas New Brunswick is proposing to construct and operate natural gas distribution systems to supply the communities of Fredericton, Oromocto, Moncton, Riverview, Dieppe, Saint John and St. George.

These distribution systems will be owned and operated by Enbridge Gas New Brunswick and will be designed to carry natural gas from the M & NP transmission pipeline into these communities.

The project will involve the installation of steel and polyethylene distribution pipelines along road allowances, primarily along road allowances in each of these communities.

Over the last seven years I have had the opportunity

to coordinate the planning and installation of both transmission and distribution pipelines for Enbridge.

But today we are here to discuss the planning and installation of our distribution lines to these communities that I previously mentioned.

You have before you exhibit 15 and 16. And I would just like to point your attention to those as I make just a few comments.

MR. MACDOUGALL: Those are the two photographs, Mr. Chair.

MR. BROPHY: In order to make sure we have a common understanding of the type of pipelines that we are talking about in this application, I would like to use the following pictures to illustrate some of the differences between issues surrounding the construction of transmission pipelines versus distribution pipelines.

To date the only recent natural gas pipeline experience in New Brunswick has been for the M & NP transmission pipeline, I believe. However distribution pipelines have several major differences.

If I can first refer you to exhibit A-16, the first comment that I have relating to the difference is the size of the pipeline.

And you can see in comparing -- well, exhibit A-16 you can't actually see the pipe. But the size of pipe we are talking about in those distribution pipelines are similar

to what we would be planning for these applications.

And basically if you were to take your index finger and your thumb and look at a circle in that regard, that is around a 4 to 6, in that range, 4 to 6-inch pipe. And that is approximately what we are talking about in this application.

And I would like to compare that to the picture in exhibit A-15 which is a transmission line. It is actually the M & NP construction in New Brunswick. And in the case of transmission lines we are talking about much bigger pipelines, some of which you could even walk through if you chose to do so.

The next difference that I would like to bring to your attention is the size of the trench. And if you look at exhibit A-16 we have two pictures shown on that page.

To highlight the size of a trench for distribution pipeline, I would like to refer you to the bottom picture on that page. And that is a trench that has been open-cut.

I know that we are not proposing to open-cut all these trenches in municipalities. We would be using directional drill and boring techniques. But this was something to kind of give you an idea, if we were to open trench, what that would be.

And the width of that trench is in the range of about

half a meter, to give you some context. This trench itself here hasn't been finally restored. It is just after the backfill of that trench.

And in comparison, on exhibit A-15 is a trench that was used by the M & NP pipeline for a transmission line as opposed to distribution, and with the slope to maintain the integrity of that trench.

At the top it would be in the range of 10 to 15 meters wide. So there is a difference between about from a half a meter, in that range, to 10's of meters.

The next item I would just like to bring to your attention is the width of the right-of-way and the level of disturbance.

And if I can keep your attention on exhibit A-15, you look at the width of activities within that easement -- it is a cross-country easement because it is a transmission pipeline. But the width of that right-of-way is in the range of about 25 meters wide that they would have to clear, in that range somewhere.

However in the case of exhibit A-16, as you can see, the right-of-way is actually the road allowance. So there is no additional right-of-way beyond what the road allowance is.

And therefore any level of disturbance is primarily contained to the previously-disturbed road allowance in

those cases for distribution.

The next item I would just like to point your attention to is the water course crossing technique. And what I have done on exhibit A-16, at the top picture, that is actually the installation of a distribution pipeline in a road allowance that is directly adjacent to a wetland.

And the method that is being used there is directional drill. If you can see, along the edge of the road allowance is a black fence. That is called a sediment control fence to maintain that no sediment or dirt goes beyond that work area.

And the break further down in the picture between where there is no sediment fence is actually a water course crossing that we have set back away from and we are directional drilling under.

And in comparison to that, on exhibit A-15, this is an example of one type of a transmission line water course crossing. This is actually the crossing of the Canaan River west of Moncton on the M & NP transmission pipeline.

And what is being used here, I believe it is the dam and pump, or a dam and pump method where they have environmental mitigation in place. And it is totally acceptable. But it is to a much larger scale than what is needed in the distribution example that I gave.

I think we have already noted, but I will just

reconfirm, our proposed method is to avoid instream work by the use of directional drill or the placement above or below culverts and not to directly cut through water courses.

Another point just in general relating to these pictures, the use of road allowance versus cross-country right-of-way easements is the ability to move to other locations if a problem does arise.

So for example in either case on exhibit A-16, if a problem did arise, they could use that road allowance and go down to the next area, stop construction there, have experts come in or whatever the issue is and move down.

Whereas in exhibit A-15 and as common with many transmission lines that I have worked on that are cross-country, if you have a problem in one spot that blocks your access there, you don't have ready access to roads at many cases. You have to travel a kilometer back along the easement to get to a road or that type of thing.

What I would like to do is summarize that. It's one short paragraph in each of the EA's, I am going to read it just from the Saint John section 4 which is route selection and it is as follows.

The proposed -- the process of identifying the route for a distribution network is very different from selecting the route of the transmission system.

The latter usually extends over long distances, tries to avoid built-up areas and frequently encounters a wide variety of environmental and physical constraints that are typical of a rural environment.

Conversely, a distribution network is usually located in developed areas utilizing existing public road allowance, focuses on the most densely populated and other industrial areas and encounters fewer environmental constraints generally.

The environmental impact assessments that I spoke about for the various communities were conducted primarily between January 2000 and March 2000, although ongoing studies are still being conducted, and these included specialists in the areas of biology, archaeology, socioeconomic assessment, environment and land use planning, engineering and stakeholder consultation.

Essentially the studies consisted of three major phases. Phase I was the baseline data collection and feature mapping, and more details are in the EA. Phase II is the route selection component. And Phase III included the environmental and socioeconomic impact assessment of the preferred routes with the detailed mitigation and looking at specific issues along the route.

And of course this was tied into the PIP or Public Information Process.

As mentioned previously by Mr. Thompson, early and continuous consultation with the public, government agencies and other stakeholder groups has been an integral part of this process.

The PIP included the following elements:

Identification and communication with key community members and interest groups, continual personal visits to government agencies and stakeholder groups, advertisements in local newspapers introducing the study and providing notice to the public open houses to discuss routing alternatives and issues, notification to residents located along these routes.

It also included ten public open houses which were held in the target communities, and these included project information packages and questionnaires for direct input into the project itself.

Connected to this were six additional meetings that were held directly with First Nation representatives, even though they were available to go to the ten public forums as well.

The use of a 1-800 telephone number to facilitate long distance calls, formal receipt of public input through letters and phone calls, and the establishment of a web page and e-mail links.

The PIP has been very comprehensive and has resulted

in amendments to the proposed pipeline routes. And I think as Mr. Thompson I believe had mentioned, one example of this was the relocation of the pipeline from a portion of Lincoln Road due to the identification of a potential burial site by the Oromocto First Nation.

Just a few details on the mitigation. A variety of environmental mitigation measures and practices have been developed for this project to address mitigation of specific potential environmental concerns.

Mitigation measures to address potential effects of construction were developed for features including, but not limited to, the quality and quantity of groundwater resources, species of special status, both flora and fauna, designated areas and other critical habitat features, wetland resources, fish habitat and fisheries resources, potential effects on economic environment, effects on land use, community and emergency services and archaeological and heritage resources.

The assessment of environmental and socioeconomic impacts associated with the construction and operation of the distribution system has concluded that the construction and subsequent operation of the pipeline facility proposed in the company's application is not expectant to have any significant adverse impact on the environment given the implementation and recommendations

and mitigation measures provided in the environmental impact assessments.

The identified mitigation measures were based on industry experience in similar projects and have been demonstrated to be effective when properly applied and incorporated into the planning process.

The evidence demonstrates that the company's plans are also expecting to contribute positive benefits to the local and provincial economy.

Enbridge Gas New Brunswick is committed to conducting all of its operations in an environmentally responsible manner and will promote employee and public awareness of environmental issues.

We will promote the use of natural gas as an environmentally preferred fuel and will continue to invest in the development of technology to improve efficient utilization.

We are committed to meeting or exceeding the letter and spirit of environmental legislation and will set measures -- measurable targets of environmental performance and report progress made on meeting these targets.

We will be -- we have and we will be identifying training needs and will require that all our personnel whose work may create a significant impact on the

environment receive the appropriate training based on job requirements.

So just in conclusion, Enbridge Gas New Brunswick, our natural gas distribution system for the communities of Fredericton, Oromocto, Moncton, Riverview, Dieppe, Saint John and St. George will be built in an environmentally responsible manner resulting in no significant adverse environmental or socioeconomic effects, and I look forward to our continuous relationship with project stakeholders as we strive to bring the benefits of natural gas to New Brunswick over the next 20 years.

Thank you very much.

MR. MACDOUGALL: Mr. Chair, a couple of other items. Mr. Chair, one of the exhibits that was put in at the beginning of the proceeding was exhibit A-3, that was a letter addressed to Mr. Highfield from Mr. Hoyt, but on behalf of Enbridge Gas New Brunswick, setting out a list of commitments that the company was willing to make based on submissions to it during the process leading up to this proceeding from various government departments and Board staff.

Q.22 - I would just like with respect to letter A-3 to ask Mr. Harte if he adopts that letter and those commitments on behalf of Enbridge Gas New Brunswick as part of this proceeding?

MR. HARTE: Yes, I do.

MR. MACDOUGALL: And, Mr. Chair, one more final item before cross-examination. There was a document given an exhibit number yesterday, D-1, and this is a letter of comment put in by Mr. George Lindsay, provincial manager, Environmental Protection Branch, that would be the federal government, in the Province of New Brunswick.

Mr. Lindsay's letter, although filed as a letter of comment and although Environmental Protection Branch I believe had also at other times to comment with the company, listed a list of questions that they felt were still not answered.

We feel it is appropriate for this panel to answer those questions as Mr. Lindsay's letter is by way of letter of comment, he won't be getting up to ask the questions.

We can respond to them, and Mr Gillis will be able to go through the letter and provide the company's responses to the questions posed by Mr. Lindsay on environmental matters, if that is appropriate.

CHAIRMAN: Yes.

MR. MACDOUGALL: We are trying to mix our panel around here, so again Mr. Gillis will address those issues on behalf of the company.

CHAIRMAN: I seem to be missing my D's.

MR. MACDOUGALL: D-1.

CHAIRMAN: D as in David.

MR. MACDOUGALL: D as in David, yes. For both of us.

MR. BLUE: Mr. Chairman, I have several copies of that letter, if that would be helpful.

CHAIRMAN: Yes. I just -- sorry about that. Go ahead, Mr. MacDougall.

MR. MACDOUGALL: Mr. Chair, I believe Mr. Gillis was going to sort of go through the letter from the front.

MR. GILLIS: Yes, that's correct. Thank you very much, Mr. Chairman.

The first comments I would like to make refer to the first full paragraph on the first page -- excuse me -- the second full paragraph on the first page, "the paragraph that begins with, the department's main concern relates the need for site specific surveys".

And what I would like to do in responding to this is to briefly review the process that we went through in collecting the information, the process that we are continuing to have ongoing to collect more information, and our relationship with the regulatory groups in both of those procedures.

Our first task in this was to collect data in order for which to conduct our environmental impact assessment.

And in doing that we identified a full range of data

sources, including researchers, resource managers, published information that is available in the province, information from non-governmental organizations.

We augmented that by discussions in the public information process with members of the general public and affected groups. In addition to that we had meetings with representatives of the aboriginal community. These discussions went on and our goal was to identify areas of concerns or sensitive features that would expand our data base.

As examples of the kinds of information we obtained from discussions with the aboriginal community representatives, as was mentioned earlier we obtained information about a potential burial site along the Saint John River at the juncture of the Oromocto River, at the juncture of the Saint John River, which caused us to do some relocation.

We were also informed at one phase of our investigations of a potential fishery which was being conducted which was reported to us by aboriginal fishermen.

We investigated this by contacting a technical resource person with the Union of New Brunswick Indians and verified that in fact it was not being conducted by aboriginal fishermen in the vicinity of the Petitcodiac

Causeway.

This information is consistent with the kinds of things that we normally learn in conducting environmental impact statements. If people have issues they tend to bring them forward, and we have conducted similar investigations and had contacts with the representatives of aboriginal groups there, had sites identified with us, and developed protocols to address those sites with the full cooperation of the aboriginal community in doing that.

The data sources that we identified and used in the preliminary assessments and the final impact assessments that we did could not of course include field investigations because there was still snow on the ground, and we wanted to ensure that we conducted that.

So what we did is we identified high probability areas or areas with high potential for things like fisheries resources, rare plants, archaeological resources and sensitive wetlands. We used available information in helping us predict these locations.

Subsequent to these identifications we have had discussions with the regulatory agencies on identification of techniques for us to go forward with and confirm or collect additional information.

This additional information, for example, the plant

information, we have had to wait until actually starting next week to go out and survey for rare plants because we have had a late spring in New Brunswick this year, and --

CHAIRMAN: We are a month behind.

MR. GILLIS: Just about a month behind, that's right. It was our intention to have that data available for the middle of May and it looks like we are going to be a week or so late.

Our intention in conducting this plant survey is to look at two things. One, we have a list of rare and endangered plants that we are concerned with. We have identified sites with high potential for such plants and we have qualified people going to assess those, qualified botanists.

The second aspect of this is to look at medicinal plants that have been reported to be used by native Indians in the New Brunswick area. We have lists of these plants, we have vetted those lists against the list of rare and endangered plants we have, and there are no species that we found in common. So our list of rare endangered plants is very much different than the medicinal plant information that we have.

We are at present attempting to contract with an aboriginal botanist that we have identified to help us in this regard to ensure that our medicinal plant surveys are

well and truly conducted. We have every confidence in the botanist that we have to do this, but we would like to augment that and it looks like we will be able to do that.

With respect to archeology, we have conducted a similar program in archeology, where we identify high potential areas for archaeological sites and historical and heritage resource sites. We have conducted some of the field work to date and we are moving into an additional field program on the archaeological services.

And to assist us in that -- this program, we are going to be using the services of an aboriginal archaeologist which we have used for the few -- past few years. I guess over the last three or over years this gentleman has worked with us.

That information -- we hope to be able to complete that investigation by next week sometime, weather permitting.

With respect to wetlands, again we are conducting our survey on wetlands. The wetlands in question are primarily ones that are small isolated wetlands. They are in urban settings. We will investigate them nonetheless.

And similarly with fish communities, although many of the streams or most of the streams that we are going to be adjacent to are very small headwater streams and we have a lot of data about those streams, we are nonetheless

conducting fisheries investigations to ensure ourselves of the type of fish communities.

Now this information will be collected and used to develop site specific environmental protection plans in those areas where such plans may be required. And these site specific environmental protection plans are plans which have environmental protection measures over and above the standard level of environmental protection that one may have during a construction program.

We needed a criteria to develop in order to identify where such site specific environmental protection plans would be applied. We have developed this criteria and submitted it to a number of the regulatory agencies.

And the criteria is as such, for the development of site specific environmental protection plans, areas determined to include in these features will require a site specific environmental protection plan.

The criteria include the following. Proximity to areas of known or high potential for archaeology. Proximity to designated environmentally significant areas, ESA's. Areas of ground disturbance within 30 meters of a water course/wetland and where one of the following is applicable: Areas of known or elevated potential for the presence of species of special status, water courses with some salmonids or good habitat potential for

salmonids, areas of high erosion potential, and areas of known or potential for acid rock drainage.

The final element is the general proximity to areas of known or elevated potential for the presence of species with special status. In saying this, what we mean by this is even if they are not close to a water course or a wetland, if we identify a species with special status in an area that we are likely to contact it, we will have special environmental protection measures there.

It's our intention to -- on those areas that we develop site specific environmental protection plans, to present these to the regulatory agencies for their comment and hopefully their approval. Information on rare plants, for example, would be submitted to the Department of Natural Resources and Energy. Archaeological information submitted to the Heritage Resources Branch or Archaeological Services Group. Information on fisheries, Natural Resources and Energy, and information on wetlands as well.

That's a brief outline of the approvals process and what have you.

If we can then turn to the next page, page 2, the wildlife and habitat. And there there is a comment relating to the Migratory Birds Convention Act. And it's our intention -- first of all, as has been explained, this

routing is routed through streetscape primarily and there is very little opportunity for standing vegetation of the sort that birds nest in. So it is our intention that any areas that have a potential for nesting birds is to delay any construction in that area until such time as the bird nesting is finished.

There is one area in particular that we would look at for that regard and that is the area on the rural portion of the St. George connection. We are going along an abandoned road and there is some overgrowth along that road.

If we can turn to page 3, the third paragraph from the bottom where it talks about lists of rare plant species. The questions here are in the middle of the paragraph, what criteria was used to identify potential rare plant sites and why are these sites not identified on constraint maps?

The criteria used was criteria similar to that which we have used in the past and has been vetted by Dr. Hal Hinds who is I guess the most reputable botanist in the province who has worked with us in the past.

We don't identify sites on constraint maps for rare plants because they are rare, and you don't want people going there looking for rare plants, fundamentally. Locations in a general sense are identified. But that's

the reason they are not put on constraint maps.

Who will conduct these rare plant surveys? I think I have covered that.

What methodology will be used? We have vetted the methodology for surveys with the -- with the people from Natural Resources and Energy.

What time of the year will surveys be conducted? As soon as we get out there, which would be next week. Studies completed by mid May -- unfortunately mid May is past us and the season is a little bit late as I mentioned earlier. We will get to these. These surveys will start next week.

The next paragraph, herpetological surveys not being considered for all the routes. Based on the information we collected there is only a few areas that herpetological surveys would be considered and those areas are going to be surveyed by qualified herpetologists.

And the surveys for wood turtles are going to be done for areas including St. George area. The surveys for wood turtles will be done -- initially we were thinking of looking for evidence of their nesting, but the herpetologist that we are going to be using has told us that we can actually track these turtles. I have never done that myself, but he can identify them through tracking them, so we can find out the presence from that

regard.

I believe that speaks to the paragraph at the top of page 4 as well. We will be providing this information as soon as we collect it. And, again, it is our intention to try to limit the distribution of this information to the regulatory agencies if possible, because of the status of some of these.

On the next paragraph I would ask Mr. Riley to comment with respect to the Fredericton report.

MR. RILEY: Thank you, Greg. As indicated in that paragraph the Environment Canada has indicated there are a couple of rare species that aren't indicated in the report. In actuality they are. While they are not written in the text, there is a table, table 312 which follows page 69 of 250 under the section page 3 -- or actually it would be on page 3 of that table where it talks about the Regent Street bog.

Get my papers here. The nonbelling horsefly and henry-zelfin are actually listed. So I mean they were considered as part of the -- part of the assessment.

Greg?

MR. GILLIS: Thank you. The next full paragraph below that talks about coastal marshes. And I think we have eliminated the necessity for discussion about that.

We can move on to some of the elements, and not all of

the elements in the next -- the next page. With respect to the third bullet -- the second bullet point, excuse me, discussions with Ms. Gautreau of the Canadian Wildlife Service. We are somewhat puzzled by this and we will have to have some discussions. Because we have -- we certainly have communicated with Ms. Gautreau and we have fax information indicating we both communicated and received communications back.

The information at the third bullet from the bottom with respect to caves and the surroundings in the Saint John and St. George areas, we could find no pathway to interfere with these -- these animals in the pathway analysis that we conducted to determine the risk.

The same thing for the next thing, for wintering Harlequin ducks.

The next item that we would like to speak to is at the top of page 6, relating to contaminated sites. And I will ask Mr. Brophy to comment on that.

MR. BROPHY: At the top of page 6 under contaminated sites, I believe the issue was how would it be possible to know if contaminated material was encountered. And it went on further to say, gross contamination may -- may be obvious, but lower levels would be undetectable by visual observation.

And as part of our training that is part of the

package for inspectors and our field personnel, we do contaminated, or as we call it, suspect soil training, and it would include that. So things like change in colour in the soil could be an indicator that maybe there is something that we need to test for.

Smell, definitely, especially for hydrocarbons. You know if you are near a gas station and the soil smells strongly, there could be a problem. And then definitely free product in the trench.

So we believe that these indicators would -- would point us to any appropriate testing we would need.

Definitely the levels that preclude you from putting that material back in the trench are usually tied to your senses. So if you can smell or see there is a problem, then usually you would get it tested to see if we need to take that away and bring in clean fill.

Thank you.

MR. GILLIS: The next comment would be at the bottom of page 6 on the environmental protection plan. And really this and the next sections speak to schedule. And as I have related, the schedule that we are attempting to meet is -- is as soon as the field season allows us to.

There is one comment here about, find and retain qualified individuals. We have a staff of qualified individuals on -- in full employment. And we augment that

staff by specialists as needs be. And that has been our practice for the last 25 years. So we have been able to do that.

The next comment would be with respect to groundwater.

And I will ask Mr. Brophy to address that as well.

MR. BROPHY: I think the comment the top of page 8 really is where the question was in that letter. And they were asking I believe for example why a distance of 100 meters for what we propose to test, if we were to blast for wells.

And basically that is based on past experience with blasting with projects. And whenever we do blasting we have to hire a professional to guide us on that blasting and to do the blasting. And if they have recommendations that exceeded that usual 100 meters then we would heed to those recommendations.

And then it also talks about relief. In addition are there contingency plans for immediate relief of anyone impacted? And definitely if somebody's well was impacted due to our activities we would supply an alternate supply and deal with them to resolve that. Thank you.

If I'm not mistaken I think the last issue or one of the last issues is under -- at the bottom of page 8. It is under "environmental management program and training" there.

And it talks about the environmental program in exhibit I comprises three pages. And it talks about training as described, who will give the courses listed therein.

I think Mr. Harte had talked about that a bit in the last few days. But just to recap, training courses will be delivered by a qualified company or external personnel.

And any additional site-specific training, say for example the archeology, we don't have an archeologist that works for Enbridge, they would be provided by that specialist through the consulting firms.

MR. CHAIRMAN: We will take a brief recess.

(Recess)

MR. CHAIRMAN: Go ahead.

MR. MACDOUGALL: Mr. Chair, two items I think left on page 8 of that letter. Mr. Gillis I think will start.

MR. BROPHY: I just realized over the break there was the issue regarding the well monitoring there. The other question I just kind of missed there was the -- what will be monitored in terms of quantity and quality.

And that would be determined with the regulatory authorities. But generally that is things like total and fecal coliform and any other high levels of minerals that are common in that area, so -- and that is page 8 again.

MR. GILLIS: A final comment related to page 8 relates to

the section entitled "cumulative environmental effects."
We are aware of the more recent guidance of Environment
Canada on cumulative environmental effects.

It is an addendum to the 1994 guide that we have been
using and includes a series of case studies which as I
said we are aware of. There was a draft put out in
February 1999 and a final put out in I believe it was
December 1999.

Thank you very much.

MR. MACDOUGALL: Mr. Chair, I'm just not sure. Mr. Harte
might be going to refer to the section under commissioning
or decommissioning.

MR. HARTE: The first -- regarding the commissioning of the
plant and how will freezing conditions testing be
conducted prior to anticipated completion of October 31st
2000 before the winter sets in.

When we dewater the pipeline and we dry the pipeline
out, we would take a Dupont test to make sure the water
content and the gas was below the freezing level, prior to
us introducing the gas into the system.

And when you talk about eventual decommissioning of
the gas pipeline lateral, there is a requirement in the
Act where we would have to sectionalize the pipeline if we
abandon it in place when it gets decommissioned. Under
Z662 we would have to follow those requirements.

MR. MACDOUGALL: Mr. Chair, the panel attempted to go through this letter in some level of detail. I believe it caught all of the questions or most of them.

There might have -- there were some statements and paragraphs that were skipped over that I think the panel felt were more in the line of comment from Environment Canada. So those are our comments on that letter.

If there is any follow-up I understand Mr. Highfield or Board counsel would make any comments on behalf of Environment Canada if Mr. Lindsay, who is in the room, feels necessary.

Absent that, all the corrections and everything, I know that was a little longer than usual. But this panel is now available for cross-examination.

MR. CHAIRMAN: Good. Thank you, Mr. MacDougall. Mr. Blue?

MR. BLUE: Thank you, Mr. Chairman.

CROSS-EXAMINATION BY MR. BLUE:

Q.23 - Panel, before we start I just want you to understand the perspective that I will be asking my questions from.

The Province knows that you have all been working hard to get construction commenced by July the 1st. I'm representing today the regulatory authorities who you will be dealing with in connection with your site-specific environmental protection plans and other steps you are going to be taking.

And my goal today in my questioning is to try to get some specificity in what we can expect and to let you know our problem. So if you will accept that premise we can begin.

Is that okay, Mr. Harte?

MR. HARTE: Yes. That's fine. Thank you.

Q.24 - Okay. Who is the quarterback on this panel? Who is the boss of the panel?

MR. HARTE: Mr. Brophy.

Q.25 - Thank you.

MR. HARTE: He has a very strong defence.

Q.26 - Mr. Brophy, are you an officer of Enbridge Gas New Brunswick Inc.?

MR. BROPHY: No, I am not.

Q.27 - What company are you an officer of?

MR. BROPHY: I am not an officer of any company.

Q.28 - All right. Are you an employee of Enbridge?

MR. BROPHY: Yes, I am.

Q.29 - Of what company?

MR. BROPHY: I am directly employed by Enbridge Consumers Gas. And I am -- have been employed indirectly by Enbridge Gas New Brunswick as well.

Q.30 - Has it been your job to supervise the work of Mr. Gillis, Mr. Hannah and Mr. Brophy?

MR. BROPHY: The majority of --

Q.31 - I'm sorry. Mr. Riley?

MR. BROPHY: The majority of that work has been done by a number of employees at Enbridge Gas New Brunswick. I am part of the team that helps to develop and review the issues pertaining to general pipeline construction.

The specific, site-specific issues are more directed locally down in our offices here.

Q.32 - By whom?

MR. BROPHY: That would be by the operations and planning staff in conjunction with the consultants.

Q.33 - And do the operation and planning staff report to you, Mr. Harte?

MR. HARTE: Yes, they do.

Q.34 - All right. Thank you. Now I want to come to exhibit D-1 which is Mr. Lindsay's letter on behalf of the Environmental Protection Branch of Environment Canada.

Do you have that, Mr. Brophy?

MR. BROPHY: Yes, I do.

Q.35 - Can you turn to page 6 and tell me when you are there?

MR. BROPHY: I'm on page 6.

Q.36 - Under the heading "environmental protection plan", Mr. Lindsay says, and I quote, "At present the EPP presented in exhibit H is too generic to be of real use in the field for ensuring adequate mitigation, and site-specific EPP's are critical to ensuring that adverse effects' impacts

will be avoided."

Do you see that statement?

MR. BROPHY: Yes, I do.

Q.37 - Do you agree with that statement?

MR. BROPHY: Yes, I do.

Q.38 - Thank you. Now I would like to talk about exhibit J, schedule 10 and the oral evidence that you gave a few minutes ago or Mr. Gillis gave a few minutes ago.

Do you have exhibit J, Mr. Brophy?

MR. BROPHY: Just a minute please.

Q.39 - That is the response to the Province of New Brunswick's IR number 10?

MR. BROPHY: Yes. I have that.

Q.40 - In that response you had told everyone that you would have site-specific environmental protection plans by mid May 2000, correct?

MR. BROPHY: That is -- that is what appears there, yes.

Q.41 - Okay. Now can you give me specific dates by which the Department of the Environment and the Department of Natural Resources of New Brunswick will receive the site-specific environmental protection plans that Mr. Gillis said you were working on?

MR. BROPHY: What I would like to do is it may be more appropriate to have Mr. Gillis -- I know he has addressed that. He could probably give you more accurate dates.

Q.42 - That's fine. Go ahead, Mr. Gillis.

MR. GILLIS: The -- with respect to the site-specific environmental protection plans, what we have done is we have prepared a draft site-specific EPP which indicates that there is the kinds of information will be provided.

And it is our intention -- we have already provided this document to regulatory agencies for their comment. It is our intention then to fill that in with the field information which we will get within the next week.

And hopefully by the end of next week or the first of the following week at the latest, we will have site-specific EPP's starting to be delivered.

Q.43 - Okay. The first of the week after next is June 29th -- or is May 29th?

MR. GILLIS: That would be correct, yes.

Q.44 - Can I make a note that on May 29th that the Department of the Environment and the Department of Natural Resources can expect site-specific environmental protection plans with the field data and mitigation measures, proposed mitigation measures included in them?

MR. GILLIS: That would be correct with the only caveat being if we are unable to collect some aspects of field data on some locations, those particular EPP's may not be available. In other words, it may be a staged delivery of the site-specific EPP's.

Q.45 - Okay. When you get those data, what is the outside -- what is the outside period you are expecting it will take you to collect those data?

MR. GILLIS: It would be in -- within two or three days of the date that I mentioned.

Q.46 - Two or three days of May 29th?

MR. GILLIS: That's right.

Q.47 - Thank you. Now do you agree, Mr. Gillis, that the experts in the Department of the Environment and the Department of Natural Resources must have time to review the site specific plans?

MR. GILLIS: Yes, I agree that they must.

Q.48 - When do you need them back? By that, I mean when do you need the government reviewer's comments to be returned to you in order that you can inform the company that construction can proceed in accordance with them?

MR. GILLIS: As long as the comments are received by start of construction, that would be fine. The intention would be to supply the draft site specific environmental protection plans to the contractors as part of the tendering package.

Q.49 - Mr. Gillis, would you agree with me that it is possible that the government reviewers, once they review your site selection -- specific site selection plans, may want you to make some changes in them?

MR. GILLIS: Yes, they may.

Q.50 - And how long do you need after government reviewers inform you that they want changes in their site specific environmental protection plans to make them before you give them to the contractors?

MR. GILLIS: As I said, the intention will be to give the draft information to contractors. Following receipt of the comments, the approach that I believe would take place, would be there would be a discussion, particularly if there are any contentious issues.

Quite frankly, in my understanding of how these things are going to be put together, I would doubt that that would be the case. But were that the case, I would propose that we would have a discussion with anyone having concerns about those things. Make those required revisions immediately. So it would be within a day or so of receipt of those comments that we could have those plans altered.

Q.51 - Mr. Gillis, let's just do a little schedule together. Let's say site specific environmental protection plans provided to the government reviewers by Monday May 29th, or shortly thereafter, taking your point on some data maybe not being available?

MR. GILLIS: Yes.

Q.52 - Let's say the government reviewers get their comments

back to you between June 15th and June 22nd. Okay?

MR. GILLIS: Yes.

Q.53 - Let's assume that your plans require modification. You are saying that you could have your revised site specific environmental protection plans back to the government reviewers by, what would be fair, June 25th?

MR. GILLIS: Depending upon the date. If I get them June 27th, I would doubt. June 25th. If I get them say June 23rd would be fine with me.

Q.54 - June 23rd would be fine with you. And if the government reviewers take some time to consider the changes that you are proposing, not because they are trying to delay, but just because they are busy too, and you got them back by June 29th, would that allow construction to commence on time?

MR. GILLIS: I should ask Mr. Harte to comment on this but I don't think we would necessarily be starting construction in those specific locations where we require site specific EPP's.

Q.55 - Is that true, Mr. Harte?

MR. HARTE: Yes. If there was a delay of a week or two on the site specific approvals from the government, that wouldn't prevent us from starting construction on other locations on the project.

Q.56 - Okay. But, Mr. Harte and Mr. Gillis, is the time table

that I have given you one that you can live with?

MR. HARTE: Yes.

Q.57 - Mr. Gillis, the next point I want to cover with you is the criteria that you have given us for when you will do a site specific environmental protection plan.

MR. GILLIS: Yes.

Q.58 - And you have given us about three set of criteria in the written documents. The first one I want to turn up is exhibit J, schedule 11. That is a response to the Province of New Brunswick, do you see that?

MR. GILLIS: Yes.

Q.59 - And there you give us really three tests, water course crossing method, will ground disturbing activity take place within 30 meters of the water course? Second, sensitivity of the water course. And three, site specific environmental conditions.

Then if we go to exhibit I, schedule 30, page 1, that's the response to Board IR number 30.

CHAIRMAN: That is an interrogatory, Mr. Blue?

MR. BLUE: Yes, it is, sir. Board staff IR number 30.

MR. GILLIS: Yes.

Q.60 - There you say that the tests would include water course at wetlands, sites of known species with special status occurrence, archaeological heritage resources. And then you introduce the idea that appropriate regulatory

agencies will have the opportunity to provide input into the development of the SPP? Do you see that response?

MR. GILLIS: Yes.

Q.61 - And I take it you agree that you haven't yet asked any regulatory authorities yet for input into the site specific environmental protection plans?

MR. GILLIS: It's my recollection that we had this discussion with the kinds of things that we would put in these with the meeting that we had with the Department of Natural Resources and Energy and the Department of Environment.

Q.62 - I am talking about specifics. You haven't talked to any regulatory authorities about specific site environmental protection plans?

MR. GILLIS: Will you just give me a moment, please? It's my understanding that the information that I read into the record here just a moment ago, or earlier this afternoon, has indeed been delivered to the regulatory agencies.

Q.63 - Yes. And you are referring to the formal April 12th, 2000, response to the New Brunswick Department of the Environment, are you?

MR. GILLIS: Yes.

MR. BLUE: Mr. Chairman, perhaps we should mark that as an exhibit.

CHAIRMAN: That will be C-5.

MR. BLUE: Thank you, Mr. Chairman.

Q.64 - Mr. Gillis --

MR. O'CONNELL: Mr. Chairman, are there any more copies of that available, just before we go any further?

MR. BLUE: Mr. Gillis, do you have a copy of E-5 in front of you now?

MR. BROPHY: Do you have an additional copy? I know there was quite a bit of correspondence and I just want to make sure we have exactly what you are referring to. Even just to look at yours to make sure it's the same. Thank you.

CHAIRMAN: The Board secretary has just pointed out that there is an existing C-5, so this should have been C-6.

Q.65 - All right. Now with that interlude, Mr. Gillis, do you have a copy of C-6 in front of you?

MR. GILLIS: Yes, I do.

Q.66 - And if you go to page 2 and look at your response to comment 4, am I correct that the criteria for doing a site specific EPP that you read into the record during your evidence in chief earlier this afternoon was taken from this response?

MR. BROPHY: Yes, that's correct.

Q.67 - Okay. Now can I therefore rely on this response as your final position on the criteria for doing a site specific EPP and basically forget about exhibit J, schedule 11, and exhibit I, schedule 30?

MR. BROPHY: The information in this response is more precise, yes.

Q.68 - Okay. Thank you. Now can we go back to Mr. Lindsay's letter, page 7. Do you have that, Mr. Gillis, or Mr. Brophy?

MR. BROPHY: Yes.

Q.69 - The first bullet after this second paragraph says that exhibit 1, schedule 30, page 1 of 1, it is noticed that site specific EPP's while submitted for sensitive features identified in the documents with the potential to be significantly impacted, EGNB is advised to err on the side of caution when deciding whether or not a particular feature has "potential to be significantly impacted and therefore requires an SSEPP. Every reasonable effort should be made to avoid any adverse environmental effect."

Do you see that statement, Mr Brophy?

MR. BROPHY: Yes, I do.

Q.70 - Do you agree with that statement?

MR. BROPHY: Yes, I believe that's consistent with the previous definition.

Q.71 - Thank you. Now I just would like for purposes of analysis to have you look at exhibit D, page 190 of 250.

And that's, Mr. Riley, I think your work, is that correct?

MR. DUMONT: What page number is it?

MR. BLUE: It is page 190 of 250.

MR. RILEY: Yes, sir.

Q.72 - And this is heading 6.2.4.1, and it says, "The proposed project could potentially affect two ESA's, Regent Street Bog, also categorized as a wild life management area, and Baker Brook, located in the vicinity of the preferred route." Do you see that statement?

MR. RILEY: Yes.

Q.73 - Then under the heading, recommended mitigation, you say, "mitigative measures recommended for the protection of wetland resources and fish habitat and fishery resources will also function to protect the ESA's", right?

MR. RILEY: Yes.

Q.74 - But you do not specify any specific mitigation measures there, do you?

MR. RILEY: Your question, sir.

Q.75 - Yes.

MR. RILEY: No, I mean could you repeat your question?

Q.76 - Yes. I said you do not suggest any specific mitigation measures for the protection of either the Regent Street Bog or the Baker -- or Baker Brook?

MR. RILEY: Correct.

Q.77 - And is that because you have not yet collected the data?

MR. RILEY: You are right. Excuse me. Could I clarify that answer, please. On the Regent Street Bog we are not

impacting it. We are going on the road allowance. So it's not impacting the Regent Street Bog.

Q.78 - All right. We will test that in a couple of minutes. Now could we have a look at the Environmental Protection Plan, exhibit H. And this is a in single volume, I, believe, is it, Mr. Harte?

MR. HARTE: Yes. We have it here, yes.

Q.79 - And who was speaking to exhibit H?

MR. BROPHY: It depends on the issue you are pertaining to.

Q.80 - Okay. Could we go to page 31 of 48 under the heading "water course crossings"?

MR. BROPHY: Okay.

Q.81 - And at the last sentence in the first paragraph you state that "A site-specific erosion and sedimentation control plan will be developed for significant water course crossings."

Do you see that?

MR. BROPHY: Yes, I do.

Q.82 - A site-specific erosion and sedimentation control plan does not exist at the present time, does it?

MR. BROPHY: Pardon me?

Q.83 - I say site-specific erosion and sedimentation control plans for the water crossings do not exist at the present time, do they?

MR. BROPHY: The final ones to be submitted for regulatory

approval, they haven't been finalized. They are in various forms right now.

Q.84 - And similarly you say in the final paragraph on the page "Options other than horizontal directional drilling include boring for small water courses or in larger water courses and stream crossings with specific mitigation measures implemented." Right?

MR. BROPHY: That is what that reads, yes.

Q.85 - And again we have no site-specific mitigation measures, do we, for your proposed water crossings?

MR. BROPHY: We have no site-specific mitigation measures for instream crossings, because we are not proposing any instream crossings.

Q.86 - Okay. So there will be no wet crossings of water courses?

MR. BROPHY: We are not -- we are not proposing any.

Q.87 - Do we have all the necessary data to convert we are not proposing any into saying there will not be any?

MR. BROPHY: I can say at this time there will not be any. If there are some changes to that, then definitely that would be a change from here, and we would have to definitely go back to the regulatory authorities to discuss that.

Q.88 - Okay. Thank you. Now could we turn to exhibit J, schedule 14. And tell me when you have that.

MR. BROPHY: I have that, yes.

Q.89 - Okay. In (b) you are asked by the Province "What will the review process be for the erosion and sediment control plan once it is submitted?"

And (b) you state that "The review process will be covered by the permit approval received from the governing authority having jurisdiction over the particular site location under construction."

Do you see that?

MR. BROPHY: Yes, I do.

Q.90 - You are referring to the water course alteration permit application process, are you?

MR. BROPHY: That is one of the processes definitely, yes.

Q.91 - Okay. This is a technical point. But would you agree with me that the requirements for a water course alteration permit would not necessarily cover an erosion and sediment control plan?

MR. BROPHY: I guess if the particular -- the only instance I can think of may be what you might refer to is if you have say a roadside ditch out on the street here on say King Street, and we were to put in a pipeline and restore that, and it rained right away, you could have some erosion right at that time.

And definitely that is not within 30 meters. So you wouldn't need a water course alteration permit. So I

guess it could be applied, yes.

Q.92 - All right, sir. Thank you. I would like to talk about IR -- exhibit J, schedule 16 which is Province of New Brunswick IR number 16.

And this is about fish habitat surveys?

MR. BROPHY: I have that.

Q.93 - Have you designed your fish habitat surveys yet?

MR. GILLIS: Yes. They are pretty well completed.

Q.94 - Okay. Have you discussed your proposed fish habitat surveys with any officials of the Department of the Environment or Department of Natural Resources?

MR. GILLIS: Yes, we have.

Q.95 - And who would that be?

MR. GILLIS: With Catherine Collette.

Q.96 - Okay. And when was that?

MR. GILLIS: If memory serves, two weeks ago our senior fisheries biologist, John Bagnall had a discussion with her.

Q.97 - Okay. So you are -- are you satisfied then that you are on track with the Department of the Environment with respect to fish habitat surveys?

MR. GILLIS: With the Department of Natural Resources and Energy, yes.

Q.98 - Natural Resources?

MR. GILLIS: Yes.

Q.99 - Could we refer to exhibit H, page 33, table 4.2 entitled "pipeline water course crossing construction techniques"?

MR. BROPHY: Can I ask for that reference again please?

Q.100 - Yes. It is exhibit H, page 33, table 4.2?

MR. BROPHY: Okay. I have that, yes.

Q.101 - Where does this table come from?

MR. BROPHY: This table came from various sources. But I believe the majority of the information here came from a process, the water course crossing committee guidelines.

Q.102 - What is the water course crossing committee, Mr. Brophy?

MR. BROPHY: It is a body that meets, both federal government, industry representatives from pipelines. There is also provincial representatives that go.

I know that for example the equivalent of the PCC for New Brunswick was there from Ontario, from the last meeting.

And it is kind of a best practices group that gets together and publishes kind of guidelines on best practices.

Q.103 - So federal government, provincial government and industry?

MR. BROPHY: Yes. Yes. That's correct.

Q.104 - This is then a list of best practices. But I'm

correct, am I, there is nothing specific in here about specific river crossings in New Brunswick?

MR. BROPHY: No. This just gives an indication of the types of crossing methods you may want to apply. And in determining from this list you would want to look at the type of water course.

So for example if you were to plow a piece of pipe in, you wouldn't plow it across say the St. John River, because that would be probably an inappropriate method for a big water course like that.

Q.105 - All right. Thank you. Now I want to have a little discussion with you about wetlands. And this is exhibit J, schedule 18.

Q.106 - Do you have that reference?

MR. BROPHY: Yes, I do.

Q.107 - Who prepared this response, by the way?

MR. GILLIS: I believe we did.

Q.108 - Okay. Mr. Gillis, you are asked basically why Enbridge considers provincial wetlands to be a type 2 constraint and you give a response. Is that correct?

MR. GILLIS: That's correct, yes.

Q.109 - But let's just be clear. It's true, isn't it, that a type 1 restraint when you are doing environmental analysis for site selection means that mitigation may not be possible?

MR. GILLIS: Perhaps I can explain types 1, 2 and 3
constraint listing?

Q.110 - Sure, you go ahead.

MR. GILLIS: Thank you. This listing and these categories were developed for the main line Maritimes and Northeast Pipeline project. And the reason we developed these constraint classes was to get away from some of the ideas of routing which involved assigning weights to various categories. And assigning those weights and putting them in a numerical -- giving them a numerical weighting, adding up the numbers at the bottom and saying the one with the lowest number wins, or the highest number wins, or what have you. We have always been uncomfortable with doing that. So what we did is we looked at the nature of the sort of construction activity that was being proposed by the Maritimes and Northeast project. And in routing came up with class 1, 2 and 3 constraints.

The class 1 constraints -- and as Mr. Blue has indicated, it relates in the first two categories specifically to potential for mitigation. And if you recall looking at the picture that was presented in -- at the opening of the presentation here, the right-of-way for the Maritimes and Northeast Pipeline was 25 meters wide was the area of the construction that they were going to look at.

It was our conclusion then that mitigation for wetlands and a few other areas included as class 1 constraints may well not be possible and, indeed, would be very difficult.

Class 2 constraints we listed things which we are confident based on our experience mitigation would indeed be possible.

And class 3 constraints were defined as engineering constraints.

In consideration of the Enbridge proposal we identified the requirement for width of right-of-way or construction requirements as being much, much reduced from a 25 meter open cut, number one.

The second thing was the potential for directional drilling was much greater for the distribution pipeline than it was for the large diameter transmission line pipeline.

The third thing is based on our experience we have had a lot of success in rehabilitation of wetlands that have experienced construction activity. We have created artificial wetlands ourselves. It has worked very well. Ducks Unlimited impoundments are indeed artificial wetlands from one way of looking at them. So it was our feeling that these elements could well be mitigated given the nature of the construction activity. And that's why

we put them as class 2 constraints. It has -- it says nothing at all about their importance. Their importance or the importance of the wetland resources are addressed as level 1 constraints or class 1 constraints by species habitat or habitat for a species of a particular concern. Other elements such as that which remain as class 1 constraints.

I hope that explains.

Q.111 - That was your -- that was your comment. Now would you answer my question.

MR. GILLIS: Sure.

Q.112 - Which is, is it true that the nomenclature of type 1 constraint means that mitigation may not be possible?

That's what you mean?

MR. GILLIS: That's our nomenclature, yes.

Q.113 - It may be but it may not be?

MR. GILLIS: That's correct.

Q.114 - And a type 2 constraint means that mitigation is possible?

MR. GILLIS: That's correct.

Q.115 - And has it been communicated to you by representatives of the Department of Natural Resources and Energy, other than Mr. Barnett, that the Department believes that you should treat the problems as wetlands as a type 1 constraint?

MR. GILLIS: From the position of sensitivity, yes, they have communicated that to me.

Q.116 - And as you mentioned, Mr. Gillis, Marities and Northeast when it was doing its routing for the Saint John lateral considers wetlands as a type 1 constraint, didn't it?

MR. GILLIS: Yes, they did. We did that work.

Q.117 - Mr. Gillis, I'm going to show you appendix A from the Maritimes and Northeast Pipeline Saint John lateral environmental report in 1998, table A-15 and following. And I believe you have seen it before. Can you identify that document?

MR. GILLIS: Yes, I can.

CHAIRMAN: C-7.

Q.118 - C-7, thank you. If you look on just the front page of C-7 we see constraints based on potential mitigation class 1, class 2 and class 3 do we, Mr. Gillis?

MR. GILLIS: Yes, that's correct.

Q.119 - And in the class 1 constraint we see wetland?

MR. GILLIS: Yes.

Q.120 - And that was for wetlands in New Brunswick on the route of Maritimes and Northeast Saint John lateral. Is that correct?

MR. GILLIS: With specific reference to the nature of the impact associated with the construction of the Maritimes

and Northeast Pipeline.

Q.121 - Yes. And you have explained that that is a much wider trench, much deeper trench and much more perturbation of the wetland?

MR. GILLIS: That's correct.

Q.122 - Mr. Gillis, from practicing in New Brunswick can you agree with me that the New Brunswick Department of Transportation when it's planning highways considers wetlands as a type 1 constraint?

MR. GILLIS: I'm really not sure whether or not they have used this nomenclature. I do know that they consider the wetlands to be very sensitive features.

Q.123 - Mr. Barnett was just pointing out to me that the highway goes through the Grand Lake Meadows, doesn't it?

MR. GILLIS: Yes, it does.

Q.124 - And that is kind of a significant wetland?

MR. GILLIS: That is a significant wetland, yes. And we did that routing as well or were associated with it.

MR. BLUE: Mr. Chairman, can you give me about two minutes?

MR. CHAIRMAN: Certainly. Why don't we take a 10 minute break right now. And my intention would be to go at least until 5:30 tonight.

MR. BLUE: Yes. That's fine.

(Recess)

MR. CHAIRMAN: Go ahead, Mr. Blue.

MR. BLUE: Thank you, Mr. Chairman.

Q.125 - Mr. Gillis, just on this class 1 and class 2

environmental constraints issue with respect to wetlands.

Because I'm going to have to go back and explain this to people who are stern, that ask me to ask these questions.

Can you please tell me in very clear terms why you think it is appropriate for natural gas distribution service in the context of New Brunswick initial construction program to classify wetlands as class 2?

MR. GILLIS: First of all, if the exhibit that you just presented, C-5 --

Q.126 - Yes.

MR. GILLIS: -- if we could turn to page A-18 on that.

Q.127 - I think it was E-6. You are referring to the --

MR. GILLIS: I'm sorry. It is the one that you gave me out of the Saint John lateral report.

Q.128 - Okay. That is E-7?

MR. GILLIS: C-7?

Q.129 - C-7.

MR. GILLIS: C-7. Okay. I'm sorry about that. If we could turn to page A-18 on that document.

Q.130 - Yes. I have it.

MR. GILLIS: If you look at the paragraph titled Wetlands --

Q.131 - Yes.

MR. GILLIS: -- the second full sentence starting, Although

all wetlands were mapped and considered as constraints in the quarter selection process. Do you have that?

Q.132 - Yes.

MR. GILLIS: The second part of that sentence says, only those identified as constituting a significant value to wildlife were considered as class 1 constraints.

Q.133 - Yes.

MR. GILLIS: Okay. We tried to include as many wetlands as we could as class 1 constraints because of their significance to biodiversity and what have you.

The major reason that we are looking at class 2 constraints for wetlands in this, irrespective of the Golay score, is the nature of the impact associated with construction of a distribution gas pipeline compared to that associated with the construction of a main line.

And we are talking of an easement of between 20 and 25 meters required for construction of a natural gas transmission line and an easement of something in the nature of 1 meter or a construction in the nature of 1 meter, if they go through wetlands.

Everything that I hear indicates to me that the high probability is that they would avoid going through wetlands and go under them using directional drilling, horizontal directional drilling.

If you use horizontal directional drilling and you set

up some distance in the vicinity of 30 meters away from the edge of the water course or wetland, then the effect on the wetlands is negligible

That is why I would consider them a class 2 constraint. Because the potential for mitigation of the kinds of effects on that construction activity are far, far greater than those associated with the main line.

Q.134 - Mr. Gillis, how long have you been an environmental planner practicing in New Brunswick?

MR. GILLIS: Since about 1972.

Q.135 - And I'm correct, am I not, that you did the environmental planning work for Maritimes and Northeast on its main line system and for the Saint John lateral?

MR. GILLIS: Yes, we did.

Q.136 - And you are satisfied, and the Board can write in its report that you are satisfied that as an environmental planner, it is not taking any risks by classifying wetlands for gas distribution service as class 2, is that fair?

MR. GILLIS: First of all, yes, I am. The full answer to that is that I believe highly sensitive wetlands are protected because of the other elements including environmentally significant areas, ecological reserves, areas of significance to endangered species, those kinds of things, which are still classed as class 1 constraints.

Q.137 - Yes.

MR. GILLIS: Which in sensitive wetlands they would be present. Do you understand what I'm saying?

Q.138 - Yes, I do. Thank you, sir. That is helpful. Can we move to a new topic?

And I think, Mr. Harte, this is for you. Can we turn to exhibit J, schedule 21? Do you have that, sir?

MR. HARTE: Yes, I have that.

Q.139 - Now, sir, I don't know if the preamble to the IR is accurate but the answer is that EGNB will not have a Director of Environment?

MR. HARTE: Not on staff.

Q.140 - All right. And what I wanted to test with you is why that is the case. I would like to refer you to interrogatory 102 sent to Gas New Brunswick and to which Gas New Brunswick responded during the proposal process.

CHAIRMAN: That would be C-8.

Q.141 - And will you accept for me that this is a true copy of the information?

MR. HARTE: Yes.

Q.142 - All right. And what it says was that Gas New Brunswick told the Province that there would be an environmental affairs department in Gas New Brunswick that would be led by the environment land supervisor, right?

MR. HARTE: That's correct.

Q.143 - And the environment land supervisor will have a masters degree in environmental studies or related -- it says disciple but I think it means discipline. Minimum seven years work and experience in managing environmental issues in the natural gas industry or similar industry. Extensive knowledge of technical environmental issues as well as government policies and directions. Right?

MR. HARTE: That's correct.

Q.144 - But what you are telling us, that in reality Enbridge Gas New Brunswick does not have such a person on staff?

MR. HARTE: Not at this time, no.

Q.145 - And not for this project?

MR. HARTE: That's right. I should -- our parent company, we are under contract with them that the environmental department through Enbridge Consumers Gas out of Toronto, we are under contract for them to provide those services and that they would also have local consultants that would provide that service as required locally. In addition to Mr. Mike Brophy who is here today that would assist with those services.

Q.146 - Right. Is Mr. Brophy the person from the parent company that is providing the services of the Environmental Affairs Department leader?

MR. BROPHY: On this project I am, yes.

Q.147 - So Mr. Brophy, do you have a direct and sole

management responsibility for the environmental aspects of the project?

MR. BROPHY: I manage the environmental assessment program for Enbridge Consumers Gas and I am also assisting with the management of that program for this project with Enbridge Gas New Brunswick.

Q.148 - If we look at exhibit J, schedule 21 again, in part C you tell us that Enbridge Gas New Brunswick's operations manager will be the contact person with the Board, and various of levels of government and other agencies such as the Pipeline Coordinating Committee?

MR. HARTE: That's correct. That will be the local contact.

Q.149 - And that is you?

MR. HARTE: That's correct.

Q.150 - But wouldn't the Director of the environmental department be the better person to have that contact with respect to environmental matters?

MR. HARTE: Yes. I can call them in if that's what is required. It depends on the issue.

Q.151 - But, Mr. Harte, you have got a lot of issues on your plate, contractors, specifications, finance, management, all those things. I put it to you, wouldn't the environment be managed a bit better if you had staffed this position with the permanent employee who looks after environmental affairs of the company?

MR. HARTE: For this specific project we will have that environmental assistance both from our parent company in Toronto and also with the environmental consultants local.

Q.152 - Okay. Then accepting that answer for the moment, Mr. Harte, can you tell us what exactly is the chain of reporting responsibility between Mr. Gillis, Mr. Riley, Mr. Hannah and Mr. Brophy and yourself? How does that work?

MR. HARTE: The environmental consultants are under contract through me to Enbridge Gas New Brunswick and they will provide on this particular project advice and direction on the environment, and they prepared the documents that are in front of us here today.

Mr. Brophy is down and he is reviewing our policies and procedures with in regards to what the consultants have put together in their report to make sure that we have covered all the bases for the environment to go forward with the pipeline project.

Q.153 - Mr. Harte, I am not sure I understand that answer. Would it be possible for you to do a flow chart showing the individuals who are handling environmental matters on behalf of the company, whether they are consultants or not, or maybe they are people who work for Mr. Gillis or Mr. Riley or Mr. Hannah as well as are working with a list of contacts and phone numbers for the reviewing people to

contact?

MR. HARTE: I can provide that.

Q.154 - Okay. Thank you, sir. That would be very helpful.

It may speed up work. And that would be -- that would be,

Mr. Harte, for before, during and after construction?

MR. HARTE: That would be maybe different flow charts
though.

Q.155 - That's fine, but we -- but will you undertake if the
flow chart changes to give us a new flow chart?

MR. HARTE: That's correct.

Q.156 - Okay. Thank you. For reference point, Mr. Harte, I
would like to look at exhibit 1, schedule 31, this is in
response to Board staff IR 31 again.

MR. BROPHY: Is that exhibit I?

Q.157 - Yes, it is.

MR. BROPHY: And schedule 31, is that correct?

Q.158 - Yes. This just has to do with environmental
inspectors.

MR. HARTE: We have that.

Q.159 - You say it is the intention of Enbridge Gas New
Brunswick to contract out environmental inspection
services to qualified staff from local consulting firms.
The individuals so contracted will be experienced as
environmental inspectors in similar projects. These
inspectors will ensure that detailed mitigation including

site specific environmental protection plans for preferred routes are adhered to.

Do you see that?

MR. HARTE: That's correct.

Q.160 - I would like to contrast that response to exhibit I, schedule 5, dealing with regular inspection staff.

MR. HARTE: Yes.

Q.161 - And you say that the inspection staff monitoring each crew will be certified by the Public Utilities Board Safety Division following a two week certification training course and testing conducted by Enbridge Gas New Brunswick training staff?

MR. HARTE: That's correct.

Q.162 - What I don't see in IR response 31 is any similar certification or training for environmental inspectors. And could you explain why we don't have plans for such training or certification?

MR. HARTE: The environmental inspector that we have in interrogatory 31 is someone that we would hire that is already qualified.

Q.163 - Well what qualifications must they have?

MR. HARTE: Well a particular one would be have a degree in environmental inspection and in fact would be involved in this project to date.

Q.164 - So we are ruling out summer students, are we, Mr.

Harte?

MR. HARTE: This environmental inspector is a qualified inspector that we are already using on the project through the consultants that we would hire on for the duration of the project.

Q.165 - But can you just answer my question specifically.

Does that exclude summer students?

MR. HARTE: That's right.

Q.166 - Will the inspectors be working full time in that role while the project is going on?

MR. HARTE: During the duration of the project, yes.

Q.167 - Okay. And will one person be assigned to one particular aspect of the environmental inspection, or will there be several people who might be contacted about a specific matter?

MR. HARTE: There will be one person that would be responsible for the environmental inspection of the project and then we will bring other inspectors in as required probably at locations like water course crossings.

Q.168 - Okay. And what we are concerned about and we have talked about in other hearings is the environmental inspector facing the foreman that has the hardhat, the cigar and a size 18 collar, and telling him to do something.

So by having continuity you are going to avoid that -- not intimidation, but the difficulty of telling contractors to back off?

MR. HARTE: I would say intimidation would be the other way.

We have an inspector on the job site, we have a chief inspector on the job site, the field engineer is on the job site and the environmental inspector there, and they all have a higher authority than that supervisor on the job.

Q.169 - All right. Now we are going into the seven communities. How many inspectors would you have in each community?

MR. HARTE: It varies depending on the size of the community. Inspectors themselves, we have 12 inspectors.

Q.170 - This is environmental inspectors?

MR. HARTE: At different levels, I guess. The qualified individuals that we would have, we will hire one full-time and then we may require part-time services from consultants and environmental inspection.

Q.171 - Okay. Who is going to coordinate the environmental inspection for the whole project, Mr. Harte?

MR. HARTE: The environmental inspector.

Q.172 - Pardon me?

MR. HARTE: The environmental inspector will coordinate it.

Q.173 - But will there be some overall coordination of all the

environmental inspection going on in the different communities?

MR. HARTE: That's right. The environmental inspector that we hire will coordinate that, and if they need additional staff to look after that, then we will bring them on.

Q.174 - I'm sorry. I have in my mind's eye a picture of each community having a full-time environmental inspector.

MR. HARTE: No.

Q.175 - Oh.

MR. HARTE: No. I would have one full-time inspector, environmental inspector for all the project. And then depending on the particular area that they are working and the different communities, we may bring on part-time inspectors to look after that work.

Q.176 - All right. So the people doing the actual inspection on the ground at the sensitive area would be part-time people?

MR. HARTE: We would hire them from the consultants on a part-time basis, yes, on an hourly basis.

Q.177 - And then I get back to my earlier question, would the part-time person be the same part-time -- same individual for sensitive areas in each community, admitting that he might not work full-time at that project?

MR. HARTE: Depending on the schedule of construction, we may move an individual from one community to another or we

may need different individuals in each community as the construction is going on at the same time. But the environmental inspector that is full time on the job will coordinate that.

Q.178 - What I'm concerned about, Mr. Harte, is how do you ensure consistency within a community if you have part-time people who may be different for different sensitive areas within a community?

MR. BROPHY: Perhaps I can give you a general overall view.

It might kind of put these pieces together for you regarding environmental inspection. And what we are planning to do for this project is very consistent to what we do in other jurisdictions as well.

But often -- the first component, I guess, and the basic component is the EA and the site-specific plans and the drawings.

As well, as part of our training program for inspectors, not environmental inspectors but the regular inspectors, is going to be the environmental training modules that we talked about in response to the Environment Canada letter. So they have some basic or more than basic training on environmental issues.

Then as Mr. Harte had mentioned, there would be the full-time environmental inspector, when they are going to be in certain areas, that they need them there. And

because of the nature of distribution lines that we discussed, you are able to coordinate that person to be there when they are required.

And another component to that, which I think is a question you had asked, is specific issues. So say you have a qualified environmental inspector on the project full time, and we have completed our stage 2 archeology, and there is an archeological concern.

Well, in that case we wouldn't have an archeologist there 100 percent of the time. We would bring them in and have them there when we are working on that site.

So it is really several components that tie in together in order to protect the environment at the locations.

Q.179 - Okay. Mr. Brophy, let me see if I understand what you are telling me. Your assessment is that knowing the number of environmentally-sensitive areas in your construction schedule, that one full-time environmental inspector is sufficient.

That is point 1. Is that fair?

MR. BROPHY: I believe it will be. If it isn't then another person will be brought on during the construction in those areas.

Q.180 - All right. The second thing you are telling me is that work on environmentally-sensitive areas will be

scheduled in a way that the full-time inspector will be available each time an environmental issue or construction through an environmentally-sensitive area occurs?

MR. BROPHY: That is the environmental inspector you are --

Q.181 - Yes.

MR. BROPHY: -- referring to?

The environmental -- work can be scheduled so that when the environmental inspector needs to be in an area during construction, they can be there.

Q.182 - Is that consistent with saying that the environmental inspector will be present when work is occurring in any environmentally-sensitive area?

MR. BROPHY: These -- the environmental inspector will be present in all areas where they are required to monitor that activity.

So for example the King Street example out the front door, you are not in an area that has been identified as a problem. You don't need the site-specific plans. We wouldn't require that they be there for that construction.

Q.183 - Understood. But on considering the Baker Brook or the Regent Street bog or --

MR. BROPHY: Yes.

Q.184 - -- the St. John River crossing --

MR. BROPHY: Yes.

Q.185 - -- you are telling me the environmental inspector is

going to be present for each of those construction activities at those areas?

MR. HARTE: Specifically if you are talking about the river crossing in Saint John, we would bring on an inspector, additional inspector just for the river crossing.

Q.186 - All right.

MR. HARTE: And that would come from our consultants. So that would be a part-time environmental inspector just for that specific job.

The Regent Street bog, as Mr. Riley said before, that we are in the road allowance outside of the bog area, and if it was some work regarding a siltation fence or something has to be constructed adjacent to the bog, well then it would be the responsibility of the pipeline inspector with the crew to ensure that the integrity of that siltation fence is maintained.

Q.187 - But the environmental -- is the environmental inspector going to be available to inspect laying a distribution line or directionally drilling distribution line or any activity that affects or perturbs an environmentally-sensitive area?

MR. HARTE: If they believe that they have to be there, then we will have someone there.

Q.188 - All right. But -- I understand that. But I'm on the consistency point.

Will it be the same person who will be present for construction work on all environmentally-sensitive areas?

MR. HARTE: Not necessarily so, no.

Q.189 - Thank you. I want to talk about your total suspended solids monitoring program. And you responded to our questions about this in exhibit J, schedule 15.

MR. BROPHY: I have that, yes.

Q.190 - In request A, we asked you what triggers would be used by Enbridge to indicate that a total suspended solids monitoring program is required.

And your answer is include consideration for proposed water course crossing construction practices, nature of work in the vicinity of the water course, site conditions and the sensitivity of the water course.

And my problem with that response is that it's qualitative rather than specific.

So could you be more specific about conditions that would trigger a total suspended solids monitoring program and cause you to begin one?

MR. BROPHY: A total suspended solids monitoring program is only put in place when you have suspended solids entering a water course, otherwise --

Q.191 - In other words, you muddy up a stream going across, that's what we are talking about?

MR. BROPHY: Like -- yes, if you were to do an open cut on a

water course, it would be a valid point to have that monitoring program, because you have solids -- suspended solids coming up.

So based on the evaluation of the consultants that would -- that's where the recommendations would come from for a total suspended solids monitoring program.

So in the case where you are away from the banks directionally drilling and not directly impacting that water course, there is no need or in my mind no validity for having that monitoring program, because you would have no suspended solids as a result of construction.

Q.192 - But what about a ditch that drains into a water course. You are constructing ditch, it rains in that -- and it starts to drain into a water course. Would that cause you to do a monitoring program?

MR. BROPHY: So you are saying a normally dry ditch, however it's raining the day they are doing construction, is that correct?

Q.193 - I don't know. I am just saying there may be other circumstances other than a wet crossing or dry crossing of a stream that may cause you to silt up a water course? I don't want you to -- I don't want you to pick on my example, okay.

MR. BROPHY: I'm sorry. I am just trying to picture it in my mind where a circumstance like that would be. But I

know there is -- I have seen cases particularly in agricultural areas where you may have tile drains that drain into a ditch and they drain into bigger ditches and often there is always water there although they are not natural creeks, and in those circumstances we often directionally drill those anyways. So again, it wouldn't -- wouldn't apply there in that case.

Q.194 - Well are you telling the Board that during your construction program no one needs to worry about silting up of water courses or streams caused by your trenching work? That's just not a practical worry?

MR. BROPHY: Not -- if the recommended mitigation measures are put into place, I don't -- and this is subject to any comment from the consultants, but I don't believe we will need any total suspended solids monitoring programs.

Q.195 - Well let me just ask you -- let me ask you something about your protocol.

Assuming that the consultants say, I'm sorry, we have got to do a total suspended solids monitoring program. Now what is your protocol for where you will take samples, the number of samples that will be taken? Do you have such a protocol?

MR. BROPHY: Again that would be determined on a site specific basis depending on the sensitivity of the water course and other factors surrounding that.

Q.196 - And who would be responsible for carrying out the program to monitor total suspended solids under your protocol?

MR. BROPHY: I would propose that the monitoring program would be designed with assistance from the consultants and the monitoring itself would most likely be done by the consultants or a qualified person.

Q.197 - And would you agree with me that we should be concerned about all water courses that you might encounter in your construction program and in-filling and not just ones in sensitive areas, that is, we should be concerned about avoiding total suspended solids in those streams or muddying them?

MR. BROPHY: So that's natural streams, is what you are talking about?

Q.198 - Yes.

MR. BROPHY: I think that's -- that's a consistent objective with our program here, yes.

Q.199 - Now one thing I don't have is, is the trigger for doing a total suspended solids study where your consultants tell you that you may -- you may disturb a stream, is the trigger as simple as that?

MR. BROPHY: The determination on whether the program is done is on a risk-based assessment, so there actually have been cases where we have done large directional drills and

perhaps there would be some sort of monitoring -- well there would be monitoring during the Saint John River crossing even though we are going to drill that. So it -- that's the foundation of why -- when that program would come into play.

Q.200 - Yes. Can I put it this way, Mr. Brophy, can I have an undertaking from the company that if your consultants advise you that there may be a problem with a particular natural stream in New Brunswick, that you will inform the Department of Natural Resources person and Department of the Environment?

MR. BROPHY: Yes, if the consultants indicate that we should be doing a sediment monitoring -- or a suspended solids monitoring program, then we would consult with those agencies, yes.

Q.201 - Thank you. I want to talk now about environmental effects monitoring. And here I am looking at exhibit H, page 48. It's the last topic you deal with.

MR. DUMONT: What page again, sir?

MR. BLUE: It is exhibit H, page 48 of 48, sir.

Q.202 - Do you have that reference?

MR. BROPHY: Yes, I do.

Q.203 - And what we are talking about here is monitoring environmental effects after construction, is that correct?

MR. BROPHY: Yes, it is.

Q.204 - And you say in the last sentence, where applicable separate and distinct post construction monitoring programs maybe implemented for land based and water based construction activities?

MR. BROPHY: That's correct.

Q.205 - Now we asked you about that statement in exhibit J, schedule 17. That is IR number 17 from the Province. And do you have that reference, sir?

MR. BROPHY: Yes, I do.

Q.206 - And you say an environmental effects monitoring program is currently being developed by Enbridge Gas New Brunswick for sensitive features, including water courses, wetlands and archaeological resources. Do you see that?

MR. BROPHY: Yes, I do.

Q.207 - And that is true, is it?

MR. BROPHY: Yes. The environmental effects monitoring programs where they are required are being developed as part of that site specific environmental protection plan, so yes.

Q.208 - All right. And you have told us in schedule -- exhibit J, schedule 25, that you will develop your post construction monitoring program in consultation with appropriate authorities, Department of Environment, Department of Natural Resources. Is that fair?

MR. BROPHY: What is that reference again, please?

Q.209 - It is exhibit J, schedule 25. It is New Brunswick IR 25.

MR. BROPHY: Yes, I see that.

Q.210 - So I take it when you say that it is being developed as part of the site specific environmental protection program, that you don't have a specific environmental effects monitoring program developed as we are sitting here today. Is that fair?

MR. BROPHY: That's correct. Yes. A portion of -- if a monitoring program is required, say for example a specific water course, then those details would be part of the water course alteration permitting process.

Q.211 - Well, Mr. Brophy, just in terms of Enbridge's policy with respect to post construction environmental effects monitoring, what usually triggers it?

MR. BROPHY: For effects monitoring?

Q.212 - Yes.

MR. BROPHY: There is various levels of effects monitoring, so if you go with the most benign case, the example out on King Street here, if we put a pipeline in there, it is not in a sensitive area but there would be some sort of effects monitoring because the pipeline inspectors in the area would be driving by making sure that things are growing back, and all the way up to a specific monitoring plan for a sensitive feature where you have to have

measurements and that, so there is a wide range. And Enbridge develops those depending on the sensitivity of that feature.

Q.213 - All right. Let's take an environmentally sensitive area undefined where you have species or maybe some -- and you put in one of your high pressure lines, just as an example. When would you start an environmental effects monitoring program?

MR. BROPHY: So for example are you referring to something like the line in St. George where there may be birds nesting, or is that consistent with what you are asking?

Q.214 - Or the four-toed salamander or some rare species of land frog?

MR. BROPHY: Well initial assessment would be done prior to construction.

Q.215 - Yes.

MR. BROPHY: And through the recommendations of the consultants that monitoring program would continue as needed.

So if they had gone out, say for the example of the breeding bird survey, and found that there was no issues at the time of construction, well then they would decide whether they had to come back based on their expertise.

Q.216 - Okay. Once you decide to have a post construction monitoring for an environmentally sensitive area, what is

your typical number of years afterwards to monitor for?

MR. BROPHY: Is that for distribution pipelines?

Q.217 - Yes.

MR. BROPHY: It's approximately a year.

Q.218 - Thank you. I couldn't think of it when I talked about the four-toed salamander. It's Mr. Lindsay's rusty spire snail at Baker Creek -- Baker Brook -- would be an example. Again you would monitor for a year, environmental construction effects.

MR. BROPHY: Well that was a general comment for how long our monitoring programs for distribution lines generally last, but if -- depending on the construction technique it might be less than that.

Q.219 - Okay. Thank you. Could we turn to exhibit I, schedule 21. This is an IR response to Board staff. And this is about applicable regulation safety environment. Do you have that reference?

MR. BROPHY: Yes, I do.

Q.220 - And in C we asked what standards or guidelines had been used in assessing the impact of the proposed construction on the environment. And your response to C says, "The approach to environmental and socio-economic impact assessment has adhered to the environmental impact assessment guidelines adopted by the Province of New Brunswick as a policy statement, NBDOE guidelines." Do

you see that?

MR. BROPHY: Yes, I do.

Q.221 - And indeed you say the NBDOE guidelines were originally adopted as government policy in October, 1975?

MR. BROPHY: I see that.

Q.222 - Are you aware that the appropriate rules for guidelines in assessing the impact are set out in the regulations to the Clean Environment Act, regulation 87 83?

MR. GILLIS: Yes, we are.

Q.223 - I was just curious then why we mention a 1975 guideline?

MR. GILLIS: I am not quite certain why that reference was there, sir. It should be 75 relating to 83 and then 85 by legislative session, going on to information presented in '87, the guidelines. So --

Q.224 - Okay, sir. That's great.

MR. GILLIS: We understand the process, so --

Q.225 - Now just going back to the discussion we had at the beginning about the schedule and site specific environmental protection plans. Mr. Harte, there is a possibility that when the government officials at the Department of the Environment or the Department of Natural Resources and Energy look at your site specific environmental protection plans, they might say that you

have missed some area altogether.

In other words, there is some area that they are aware of that you have not done a site specific environmental protection plan for and may require you to do one. I am not saying that will happen, I am just saying that is a possibility and I think you would agree that that is a possibility?

MR. HARTE: It's a possibility but I would have thought that by this time if there was something they were really concerned about -- I mean they have given us enough items in writing that if there was an area of concern, I would have thought they would have addressed at this time, but if they come up with something then we will have to deal with it.

Q.226 - Well the world is not perfect.

MR. HARTE: Yes.

Q.227 - So it might happen.

MR. HARTE: It might happen, yes.

Q.228 - Can you live with that?

MR. HARTE: We will have to live with that, yes.

MR. BLUE: Okay. Thank you, Mr. Chairman. Thank you, panel. Those are my questions.

CHAIRMAN: Thank you, Mr. Blue. Mr. Stewart is not here.

Does Irving have any questions of this panel? No?

MS. TRAHEY: No.

CHAIRMAN: That's a No.

Ms. Abouchar, yesterday I heard a number of questions that were for this panel and were deferred and that will take longer than we have time for today. So do you object if I canvass other counsel and see if there might be someone who has a short cross?

MS. ABOUCHAR: No.

CHAIRMAN: Good. Thank you. Mr. Holbrook, do you have any questions for this panel?

MR. HOLBROOK: Mr. Chairman, I have no questions of this panel.

CHAIRMAN: Okay. Mr. Noble?

MR. NOBLE: No, Mr. Chairman, I have no questions.

CHAIRMAN: Okay. This is going to be quick I think. Mr. Baird just left. Mr. Marr? He has gone too.

MR. BLUE: He couldn't stand the tension.

CHAIRMAN: I think what we will do is we will break until tomorrow morning at 9:00. Thank you.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to the best of my ability.

Reporter