

PUBLIC HEARING

SYDNEY TAR PONDS AND COKE OVENS SITES

REMEDIATION PROJECT

JOINT REVIEW PANEL

V O L U M E 18

HELD BEFORE: Ms. Lesley Griffiths, MCIP (Chair)
Mr. William H.R. Charles, QC (Member)
Dr. Louis LaPierre, Ph.D (Member)

PLACE HEARD: Sydney, Nova Scotia

DATE HEARD: Thursday, May 18, 2006

APPEARANCES: Public Works & Government Services Canada:
Mr. Ken Swain

Environment Canada:
Ms. Anne Marie Drake

Cape Breton Save Our Health Committee:
Ms. Mary-Ruth MacLellan

Mr. Don DeLeskie

Grand Lake Road Residents:
Mr. Ron Marman

Sierra Club of Canada:
Ms. Elizabeth May

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1 --- Upon commencing at 8:31 a.m.

2 THE CHAIRPERSON: Good morning, ladies and
3 gentlemen. I would like to get this final session of the
4 public hearings open or started.

5 First of all, just to remind you, if
6 anybody has any undertakings they need to file, they can
7 do that today, or we are also giving people until
8 midnight on Friday, May the 19th, tomorrow, to get that
9 material in.

10 Today is dedicated solely to closing
11 remarks, as you know.

12 And just a reminder, closing remarks, only
13 registered participants are eligible to make closing
14 remarks.

15 You are allowed a maximum of 15 minutes.
16 No AV equipment, please, just speaking.

17 I am going to be very draconian with the
18 timing today, so I will be cutting people off at 15
19 minutes. I will give you -- let you know 2 minutes
20 before your time is up, so that you can wrap up.

21 And there will be no questions, neither by
22 the Panel, nor by anybody else.

23 And if we start to get ahead of our
24 schedule because people aren't using their full 15
25 minutes, I'll just -- I'll be moving forward until I find

1 the next presenter who is in the hall.

2 So, I think that is all that I have to say
3 this morning.

4 So, our first presenter giving closing
5 remarks, Public Works and Government Services Canada.

6 --- CLOSING REMARKS BY PUBLIC WORKS AND GOVERNMENT

7 SERVICES CANADA (MR. KEN SWAIN)

8 MR. SWAIN: Thank you, Madam Chair.

9 I'll make my remarks very brief, hopefully
10 not too fast, but brief.

11 First, by thanking the Panel in managing
12 this review of the project being proposed, and for your
13 leadership in discussing the environmental acceptability
14 of the project.

15 As well, I'd like to thank those members
16 of the public and interest groups and governments who
17 have recognized the importance of the cleanup project to
18 the people of Sydney and all of Cape Breton. They've
19 obviously spent a great deal of time understanding the
20 complex issues surrounding this initiative.

21 In February, 2004, the Government of
22 Canada agreed that improving the environmental quality of
23 the sites was necessary, and they committed up to two
24 hundred and eighty million dollars (\$280 million) to the
25 cleanup.

1 Then in May of 2004, a Memorandum of
2 Agreement was signed, detailing federal and provincial
3 commitments to the project.

4 The MOA also provided the initial proposed
5 scope of the project, subject to modifications resulting
6 from this review process.

7 Since the MOA was signed, the federal and
8 provincial governments have developed appropriate
9 agreements, project management frameworks, and other
10 tools to ensure that we are accountable for successfully
11 completing the cleanup.

12 These tools were developed with adaptive
13 management in mind, and I am confident that we will be
14 able to accommodate any modifications and enhancements
15 resulting from Panel recommendations and subsequent
16 government decision making.

17 In the cleanup process, we will ensure
18 that value is being achieved, and that the funds have
19 been utilized for their intended purpose.

20 We are committed to full compliance with
21 all federal and provincial requirements that affect our
22 initiative, and we are committed to successful
23 achievement of the cleanup, as our federal colleagues,
24 and I am sure, as is the community.

25 In closing, we remain satisfied that the

1 proposed project and its alternative meet the
2 requirements of the Memorandum of Agreement.

3 We await your report of recommendations,
4 and we look forward to options that may be considered in
5 moving forward.

6 Again, I would like to thank the Panel for
7 your fairness, your understanding and your thoughtfulness
8 in leading this most important critical element of the
9 planning phase of the project, and I know that I can
10 speak for federal colleagues and, I'm sure, many others,
11 in complimenting you on a job well done.

12 So, thank you again.

13 THE CHAIRPERSON: Mr. Swain, thank you
14 very much for your remarks.

15 Our next presenter is Environment Canada.
16 Ms. Drake?

17 --- CLOSING REMARKS BY ENVIRONMENT CANADA (MS. ANNE MARIE
18 DRAKE)

19 MS. DRAKE: Good morning. My name is Anne
20 Marie Drake, and I'm Acting Manager of the Tar Ponds
21 Group with Environment Canada's office in Dartmouth.

22 I'd like to take this opportunity to thank
23 the Panel and for providing me the opportunity to make
24 closing remarks on behalf of my Department.

25 In our May 4th presentation, we described

1 Environment Canada's role as a responsible authority and
2 a federal authority with respect to environmental
3 assessment.

4 In this capacity, we have the
5 responsibility to identify issues, ask questions, and
6 make recommendations to the Panel.

7 We indicated that we had dedicated the
8 necessary resources to thoroughly review the EIS, and the
9 supplementary information that the proponent provided,
10 and that our Department's written submission, oral
11 presentation, and our various recommendations, were based
12 on this review.

13 In general, Environment Canada identified
14 several issues that need to be addressed to the
15 satisfaction of the appropriate government departments
16 prior to the issuance of regulatory approvals and
17 authorizations, and therefore prior to the construction
18 of the project.

19 The recommendations that this Department
20 put forward were made to address the issues, and to
21 ensure that the project will be capable of meeting
22 regulatory requirements.

23 It's important to note, however, that it
24 is the Department's position that the issues identified
25 in our review can be addressed as the design process

1 unfolds, provided that the proponent commits to the
2 recommendation outlined in the written submission.

3 Environment Canada has specialist
4 expertise that would be valuable at all stages: design,
5 construction, remediation and follow up.

6 In fact, in our recommendations, we
7 indicated that we would expect to participate, along with
8 other appropriate stakeholders, in the development and
9 implementation of the environmental management plans,
10 monitoring, and follow up programs.

11 We also recommended that a formal
12 mechanism be put in place to enable the appropriate
13 stakeholders to participate in the design and
14 implementation of these programs.

15 In our May 4th presentation, and in the
16 question and answer session that followed, we provided
17 information on the regulatory context that guides our
18 participation in the project. We described our role as a
19 responsible authority and a federal authority under the
20 Canadian Environmental Assessment Act.

21 We also indicated that Environment Canada
22 is responsible for administering Section 36(3) of the
23 Fisheries Act, commonly referred to as the General
24 Pollution Provisions of the Act.

25 In addition, we indicated that should

1 incineration of PCBs take place on federal land, the
2 Federal Mobile PCB Treatment and Destruction Regulations
3 would apply.

4 Environment Canada will diligently enforce
5 these Regulations.

6 Consistent with our departmental mandate,
7 Environment Canada also has a role in providing technical
8 advice and expertise to ensure the project is capable of
9 meeting regulatory requirements.

10 For example, Environment Canada will
11 continue to participate on the Ambient Air Monitoring
12 Working Group, and will be an active member of the
13 Government Technical Committee for the remediation
14 project.

15 In the Department's oral presentation, we
16 shared some information on the Federal Toxic Substance
17 Management Policy and the Stockholm Convention on
18 Persistent Organic Pollutants.

19 I would like to take this opportunity to
20 reiterate some important information pertaining to these
21 policies.

22 Under the Toxic Substance Management
23 Policy, remediation may be used to address Track 1
24 substances like PCBs when they already exist in the
25 environment.

1 The policy also allowed for a cost benefit
2 analysis to identify the appropriate course of action.

3 As such, management strategies focusing on
4 minimizing exposure and the site's potential risks, can
5 be implemented.

6 The Panel had requested yesterday a copy
7 of Canada's National Implementation Plan under the
8 Stockholm Convention on persistent organic pollutants.
9 This plan was filed on May 17th, and Environment Canada
10 will be providing a copy to the Panel for their
11 information.

12 Article 6 of the Stockholm Convention
13 addresses measures to eliminate stockpiles of
14 contaminants and waste POPs.

15 Paragraph 1(e) of the section indicates
16 that countries should endeavour to develop appropriate
17 strategies for identifying sites contaminated by
18 chemicals listed in Annex A, B or C. If remediation of
19 the sites is undertaken, it shall be performed in an
20 environmentally sound manner.

21 Both the proposed project, as well as the
22 alternative approach identified by the proponent, would
23 be consistent with these policies.

24 These approaches are also consistent with
25 the Canadian Council of Ministers of Environment guidance

1 document on the management of contaminated sites in
2 Canada, which recognizes that a site may be risk managed
3 as opposed to fully remediated -- or I should say having
4 the contaminants removed, I guess.

5 We have heard that a managed site will
6 require long term monitoring and maintenance, and that it
7 is -- and that is the reason why we have emphasized the
8 importance of a comprehensive monitoring follow up and
9 mitigation program.

10 I would like to reiterate our earlier
11 statements that we would expect the issues that we raised
12 in our presentation, and written submission, to be
13 addressed to the satisfaction of the appropriate
14 regulatory agencies prior to the issuance of regulatory
15 approvals.

16 Over the past few weeks, a wealth of
17 information representing very diverse views, has been
18 presented on a vast array of topics related to the
19 proposed project.

20 We recognize the challenge that the Panel
21 will face in reconciling this information, and providing
22 its recommendations to governments.

23 I am sure that you will approach this task
24 with the same degree of attentiveness and dedication that
25 has been demonstrated throughout the course of these

1 hearings.

2 In closing, on behalf of my departmental
3 colleagues, I would like to thank the Panel for your time
4 and attention this morning, and throughout the course of
5 the past few weeks.

6 THE CHAIRPERSON: Ms. Drake, thank you
7 very much for your closing remarks.

8 Our next presenter is representing Nova
9 Scotia Environment and Labour.

10 Thank you. I think we'll take a 5 minute
11 break.

12 RECESS: 8:42 A.M.

13 RESUME: 8:44 A.M.

14 THE CHAIRPERSON: I understand that
15 Environment and Labour is now here. So, Mr. MacPherson,
16 if you'd like to begin.

17 --- NOVA SCOTIA ENVIRONMENT AND LABOUR (MR. TERRY
18 MACPHERSON)

19 MR. MACPHERSON: Good morning. I would
20 like to introduce myself again today. My name is Terry
21 MacPherson. I am a compliance officer with Nova Scotia
22 Environment and Labour, the Environmental Monitoring and
23 Compliance Division here in Sydney.

24 I would like to thank the Panel and thank
25 all participants. It's been a pleasure participating in

1 this process.

2 As stated in our departmental presentation
3 on May 5th, the mission of Nova Scotia Environment and
4 Labour includes the protection of human and ecological
5 health.

6 Remediation of the Sydney Tar Ponds and
7 Coke Ovens sites is expected to improve environmental
8 conditions, including the quality of surface water and
9 groundwater, as well as to reduce environmental impacts
10 of contaminants on those sites.

11 The Department has outlined previously in
12 both written submissions and during the oral presentation
13 before this Panel, potential issues which were associated
14 with the remediation plans described in the Environmental
15 Impact Statement.

16 Issues such as air quality have been
17 raised by other presenters. We do not need to repeat
18 those potential effects again. Those issues will need to
19 be addressed.

20 Should the project proceed, between the
21 Panel's recommendations and conditions of any approvals
22 which may be issued, those potential effects would be
23 monitored, and mitigative actions would be required.

24 We reiterate that activities associated
25 with the remediation project would be subject to all

1 approvals required by the Nova Scotia Environment Act,
2 and the Activities Designation Regulations.

3 Requirements under the Occupational Health
4 and Safety Act and Regulations would also be monitored
5 for compliance.

6 There are many standard conditions for
7 approvals issued under the Environment Act.

8 For projects such as this, additional
9 conditions can be incorporated to address site specific
10 or project specific situations.

11 Any recommendations by the Panel which
12 provide guidance would be welcomed.

13 Several government departments provided
14 input to this review process.

15 Questions about departmental
16 responsibilities and overlapping jurisdiction were
17 raised.

18 We would like to state clearly that we are
19 open to working with our provincial, municipal and
20 federal colleagues to oversee any activities associated
21 with this remediation project, whether through formal
22 and/or informal mechanisms.

23 Thank you again, and we look forward to
24 the Panel's recommendations.

25 THE CHAIRPERSON: Thank you very much, Mr.

1 MacPherson.

2 Our next presenter would be Mr. DeLeskie,
3 but I don't see him here, so we will move on to the Save
4 Our Health Care Committee.

5 --- CLOSING REMARKS BY CAPE BRETON SAVE OUR HEALTH
6 COMMITTEE (MS. MARY-RUTH MACLELLAN)

7 MS. MACLELLAN: Thank you, Madam Chair,
8 Dr. Charles and Dr. Lapierre. May I say it has been a
9 pleasure to have participated in this full panel review.
10 You have been very fair, kind and considerate to all. I
11 believe that this is the first time that someone was
12 really listening. Your extreme patience has been
13 incredible. Your staff is superb. For the most part I
14 do not believe that we need to say much more. I am sure
15 that you all have a handle on the situation.

16 I will tell you all that I believe it
17 comes down to a decision of what is morally correct for
18 the people, especially -- there's a typo there -- sorry
19 about that, it was 3:00 this morning before I got my
20 printer working -- especially the children and for our
21 island, both of which we hold sacred. Over the years we
22 watched as the degradation took place. We have cried as
23 we buried our loved ones. When we were lied to some of
24 us fought back.

25 For the most part people have a keen sense

1 of caring for each other and an even keener sense of
2 truthfulness and morality. While most are on the lower
3 end of the socio-economic scale, we have brains and a
4 good deal of common sense. We know when the wool is
5 being pulled over our eyes. When this happens, being
6 open and honest to the core, we will turn our backs on
7 those who appear to be devious and seem to fabricate the
8 facts.

9 This is our way of dealing with a history
10 -- a past history of deception and blatant waste of our
11 hard earned tax dollars, while we witnessed our family
12 members and friends suffer and die. While we believe
13 that there are no bad people, everyone has some good in
14 them, we believe there are some who do bad deeds for
15 whatever reason. As we watch more people die and more
16 money wasted, we become sceptical. This speaks volumes
17 to the lack of trust in the proposed process. We are not
18 only the stakeholders who have been shut out of the
19 process, we are the living experiments of the past. When
20 people hurt, we fight back.

21 I will tell you we do not want
22 incineration. We shall stop this from happening with
23 every bit of energy we have. We do not want a process
24 that will leave this legacy for our children and
25 grandchildren, much like a sleeping dragon, that will

1 awaken at a moments' notice. We believe that is what
2 encapsulation will be. We do not want to see one more
3 dollar wasted. We shall not wear the shame of this
4 across our country.

5 We do not want the mess cleaned up -- we
6 do want the mess cleaned up, the whole mess, not just a
7 few patches. But not at the expense of the people's
8 health. We want our rights under the Charter of Rights
9 and Freedoms applied. We want the precautionary
10 principle, "First do no harm" applied. We want our
11 people protected and a safe buffer zone in place before
12 any work begins. Life is sacred. We will settle for
13 nothing less.

14 In conclusion, it is the children stupid
15 speaking. The Proponents believe that their mechanical
16 connect the dot solutions presents an accurate picture of
17 the impacts of the project on this society. We who have
18 endured this exposure for a lifetime disagree and feel
19 that they have ignored crucial points. Most importantly
20 air morbidity.

21 They want us to agree that it is ethical
22 and morally acceptable for them to kill our children to
23 prove -- to try and prove their point. Naturally we
24 disagree. We are not white rats and brown rats but human
25 beings who having endured a lifetime of exposure to

1 fumes, noise, smoke and chemicals and yes, dioxins never
2 want this to happen to anyone again, especially our
3 children.

4 Air studies have shown you what happens
5 when real people become the pawns, when they die of lung
6 Cancer from smoking the plant and that's not grass. It -
7 to be sure they will not release as much as we have
8 experienced before but that is the point. We refuse to
9 accept any solution that gives us more. We want a low
10 tech solution that will keep our children whole. If they
11 proceed they will miss the funerals but they will be
12 remembered.

13 To sum up, I pray that the right outcome
14 will happen and conclude simply by saying that in Cape
15 Breton we are all smart enough to know that when the cat
16 delivers her kittens in the oven you don't call them
17 biscuits. We trust that you will see the truth and look
18 forward to the outcome of this process. God be with you.
19 Perhaps we will meet again some day.

20 Dr. Argo's summary. From my presentation
21 to remind them, it's just -- I didn't have time to really
22 put it -- I just took as it was -- from a human
23 perspective, incineration is the worst possible decision
24 they could have made. Choosing incineration simply
25 because it is a proven technology imposes on the

1 residents a requirement to endure more chemical exposure.
2 We rejected the human health affect risk assessment
3 because it did not consider that the population was
4 previously exposed.

5 TPA argues it is good for the workers. We
6 reject the Canada-wide standards for dioxin because it is
7 not protective. Tar Ponds Agency plans to use it for the
8 release of dioxins. Dr. Magee disagrees. Cape Breton
9 County and Sydney has excessive Cancers, excessive
10 Diabetes, excessive heart disease and excessive kidney
11 disease. Understanding dioxin exposure is to understand
12 the patterns of morbidity.

13 In 1972, 120,000 tonnes of volatile
14 chemicals were released into the atmosphere from the Coke
15 Ovens with absolutely no controls. Dioxin is present in
16 the county for acne, elevated Cancer rates, elevated
17 Diabetes rates, elevated heart health rates. Dioxin
18 affects the sex ratio where the boys aren't. The sex
19 ratio in Sydney in 1991 was .4663 and in the county was
20 .4844 from the Census.

21 Chemical sensitivity is present in the
22 county and Sydney, conditioning. Women under 30 and non-
23 smokers have more than twice the risk of breast Cancer
24 than women exposed later. The same applies to ovarian
25 Cancer. Chemical profiles in the sediment of the harbour

1 obtained by DFO, Dr. Yeats, correspond with the risk
2 profiles for Cancer in the population. Low doses of
3 dioxin impairs the endocrine function of the pancreas.
4 The production of insulin.

5 Dioxin is involved with CVD, IHD, stroke,
6 hypertension and heart failure in the county and Sydney.
7 Pica, children love it. A pathway for ingestion of
8 minute amounts of dioxins and heavy metals. Dioxins are
9 capable of producing biochemical effects at the lowest
10 doses, corresponding to background. Dr. Magee says that
11 the CWS release of dioxins is not harmful. I have no
12 doubt, personally or professionally that from a health --
13 a human health perspective the choice of incineration is
14 the worst possible one that could ever have been made.
15 The Tar Ponds Agency wants to hide behind the flawed
16 human health risk assessment.

17 I want to thank you, Madam Chair for your
18 time once again and your patience. But I'd also like to
19 thank our secretary/treasurer who's been here with me
20 every day and who has kept me grounded. I have serious
21 ongoing health issues and she's not only our
22 secretary/treasurer. She's also my nurse. Thank you.

23 THE CHAIRPERSON: Thank you very much, Ms.
24 MacLellan. I'm just going to give a little reminder
25 because gradually people are trickling in this morning

1 and didn't hear my very brief opening remarks. We're
2 doing closing remarks as you all know and there's a 15
3 minute limit. I'm going to be very firm on that though
4 everybody's coming in under at the moment. And I will
5 give you -- let you know when you're two minutes before
6 the end of your time. So our next presenter is Mr.
7 DeLeskie.

8 --- CLOSING REMARKS BY MR. DON DELESKIE

9 MR. DELESKIE: Madam Chair, Honourable
10 Panel members, once again I want to thank you for being
11 here and giving us the opportunity to vent our anger, our
12 position and our hurt and our grief. I just have a few
13 things to say. Why was this in the first place allowed
14 to happen. Why was the Tar Ponds and the Coke Ovens, why
15 was that allowed to happen in a city. Why didn't anybody
16 speak out. Why is the city today, basically holding
17 people hostage.

18 People that have to pay taxes and live on
19 contaminated ground. It takes an ordinary person a
20 lifetime to buy a place. We just can't take our homes
21 and say well, we'll just tear them down and then go and
22 buy another one. Men, women and children have died in
23 the past, they will die in the future. They will keep
24 dying.

25 We can do away with incineration and

1 everybody will say it's a win/win situation but it's not
2 a win/win situation. I'm coming across the overpass
3 today and I see a bulldozer in the Coke Ovens while this
4 here Panel is here. Ground being dug up while the Panel
5 has been here. We are just a test case here.

6 If the Government gets away with what they
7 done to the residents of Sydney and the surrounding area
8 then they'll say we can do it anywhere else in this
9 nation. And I say I think it's criminal that they turn
10 around and holler at Third World countries and other
11 countries and say, crimes against humanity. Take a look
12 at their own country first. And take a look at Sydney,
13 Nova Scotia.

14 And I want to say once again, I come to
15 you and I'm glad you are here, I come to you and I plead
16 with you to remember that there's people living here.
17 And the people will die. They will die because of the
18 negligence and the criminal acts of the Federal and Nova
19 Scotia Government. And as long as I have a breath in my
20 body, until the Good Lord calls me home, I will do my
21 best to bring those responsible for this injustice to the
22 people of Sydney and the surrounding areas to account for
23 their actions.

24 And with that, I want to say to you, each
25 and every one of you I think you are wonderful people,

1 good people and I ask you, just remember the children.
2 Just remember the children. You can forget all about us.
3 Remember the children. It's too late for us. We've been
4 sucking this down for the last 100 years. It's too late
5 for us. We have been out there fighting for the
6 children. I came today to speak for the children.

7 And I want to thank you, Madam Chair, and
8 you. I think you are honourable people and I think you
9 will do the honourable thing. If my late brother was
10 here, my twin who fought so hard for the cleanup, he
11 would say, "Donnie, I think we've got some hope." And
12 with that, I say thank you.

13 THE CHAIRPERSON: Thank you very much, Mr.
14 DeLeskie. I now call upon the Grand Lake Road Residents.
15 --- CLOSING REMARKS BY GRAND LAKE ROAD RESIDENTS (MR. RON
16 MARMAN)

17 MR. MARMAN: Madam Chairlady, Dr. Charles,
18 Dr. LaPierre, we would first like to thank you for the
19 many opportunities we have had over the last three weeks
20 to ask our questions and for the opportunity to speak
21 once more.

22 We would like to thank Sydney Tar Ponds
23 Agency and the various individuals working with them for
24 taking the time to answer our questions in a manner that
25 we could understand. We would also like to thank

3383 Grand Lake Road Residents
(Closing Remarks)

1 everyone who participated in this review and from whom we
2 have learned so much.

3 So, here we are nearing the end of the
4 review process. I must say that I have never spent so
5 much time in one room with so many individuals with a PhD
6 after their name. Indeed, we have seen occasions where
7 people have been called "Dr." who did not have a PhD and
8 other times when individuals who were called "Mr." should
9 have been referred to as "Dr." However, in the end it
10 eventually works out.

11 We are sure that in the end the best
12 decision will be made regarding how we are to proceed
13 with this cleanup. We certainly do not envy the Panel's
14 job of making these recommendations.

15 We have seen experts in their field
16 recommend a procedure and experts contradict what other
17 experts have said. It is quite obvious that it is a
18 complicated project and also very obvious that there are
19 many ways to handle this problem. It is evident that no
20 matter which decisions are made we will not be able to
21 please everyone.

22 Our group has concentrated on having
23 incineration removed from the project. We had various
24 organizations attend our community meetings, and while it
25 very quickly became apparent that we could not agree on

3384 Grand Lake Road Residents
(Closing Remarks)

1 what was the best method to use on the cleanup, the one
2 thing we could agree on was that incineration had to be
3 removed, and that includes any part of the material being
4 incinerated.

5 We first began by examining the site
6 criteria in hopes that we could show that if the
7 preferred site did not meet the site requirements then
8 perhaps no site would be suitable.

9 We think that we have shown without a
10 doubt that the VJ Site does not meet incineration site
11 criteria. Representatives from DEVCO have concurred with
12 our statement that the site is a wetland. They have also
13 stated the project has flooded on more than one occasion
14 since they began operations in 1970, and they have
15 written documents on file to support this statement.

16 The site does not meet the 1,500-metre
17 setback required by CCME Guidelines. While there is some
18 indication that these Guidelines may be changed, they
19 have not been formally revoked and must be followed as a
20 condition of federal money being committed to this
21 project.

22 We must also consider the lakes that could
23 be affected by an incinerator on this site, Kilkenny Lake
24 that is part of the Town of New Waterford's water supply,
25 as well as Grand Lake that is being looked at as a source

1 of fresh water for the SYSCO site and may well fit into
2 the CBRM's future plans as a source of water for the
3 Whitney Pier area.

4 Incineration can only hurt the entire
5 CBRM. Our lone university provides much-needed
6 employment in this area. The representative from CBU did
7 not see an incinerator operating less than one kilometre
8 away from the institution as a problem.

9 However, this individual was not sure if
10 she spoke on behalf of the board of directors or was only
11 speaking on behalf of a small committee at the
12 university, a committee that did not have input from all
13 the professors or instructors and no student
14 representation.

15 In this age where many of my generation
16 have given up smoking because we are more aware of
17 protecting our health, do we really feel that health-
18 conscious young adults would not have a problem attending
19 a university with a toxic incinerator operating across
20 the road?

21 We do not want the bad publicity we have
22 received as a result of the Tar Ponds to be turned into
23 bad publicity because we now have a Tar Ponds
24 incinerator. We must not overlook the opinion of three
25 physicians that have presented here. All have been

1 against incineration.

2 It was noted that while the incinerator
3 may work perfectly fine, the emotional stress of
4 residents living near an operating incinerator is a
5 health problem. In the words of one physician, "we must
6 do nothing to harm."

7 In the end we live in a real world and
8 money is what sometimes guides our decisions. One of the
9 most enlightening questions was asked by Dr. Charles when
10 he asked STPA to explain the difference in this project
11 with and without incineration. The response was that
12 whether we incinerate or not, we will not destroy all of
13 the PCBs that are over 50 parts per million.

14 Without incineration we will save over \$70
15 million dollars, the job will be able to be scheduled
16 better and weather conditions will not be a factor, and
17 with or without incineration we will have a safe site.

18 We maintain that it would not be
19 financially responsible to incinerate. There is no added
20 value at the end of the project to justify spending over
21 \$70 million dollars.

22 Give the residents of Grand Lake some
23 peace of mind by taking incineration off the table and
24 use the money saved to help alleviate the concerns of
25 residents that live around the Coke Ovens and Tar Ponds

1 Site. Set up a buffer zone and make sure that there
2 isn't a backyard that a mother cannot let her children
3 play in without being concerned for their health.

4 And Mr. Lelandais would like to add
5 something.

6 MR. LELANDAIS: Yes, Madam Chairman, I
7 would just like to take the opportunity to, along with
8 Ron, add my thanks to the Panel and to the Tar Ponds
9 Agency for a well-conducted review. I appreciate your
10 patience in dealing with all the presenters and, again, I
11 don't relish your job ahead of making the
12 recommendations. It will be difficult enough.

13 I have nothing further to add to the
14 presentation. Ron and I composed it together and Ron
15 made a good presentation of the summation. The only
16 thing I would like to add is, we do feel that
17 incineration is definitely a bad process for our
18 particular area.

19 Having listened to the Bennett
20 Incorporated presentation last night, we must agree with
21 the proponents of incineration that there are times when
22 incineration might be the only answer. This is not one
23 of the times.

24 To repeat again, our mandate from the
25 residents of Grand Lake was to attempt to have

3388 Grand Lake Road Residents
(Closing Remarks)

1 incineration removed from the process of remediation. I
2 think we did our best to try to get that message across.
3 Our mandate did not include endorsing any of the
4 alternate remediations, so we won't go that route. I
5 don't think we have the expertise to do so, anyway.

6 Again, thank you very much for everyone.

7 THE CHAIRPERSON: Mr. Marman and Mr.
8 Lelandais, thank you very much for your remarks.

9 Is the Cement Association of Canada here?
10 My next presenter on my list is the Junior Chamber
11 International. Is there a representative of JCI here to
12 make closing remarks?

13 Sierra Club?

14 --- CLOSING REMARKS BY SIERRA CLUB OF CANADA

15 (MS. ELIZABETH MAY)

16 MS. MAY: Good morning. I don't suppose I
17 could have the extra time from people who didn't show up?
18 Just checking.

19 I want to begin by thanking this Panel, as
20 many of the participants have already done this morning,
21 for your diligence, professionalism, courtesy, respect
22 and clear commitment to coming to fair and just
23 conclusions and good advice to the levels of government
24 that have commissioned your work. We are all deeply
25 grateful.

1 I'd like, in the short time I have, to
2 review the evidence on the Sydney Tar Ponds Agency
3 project and evidence thus far, a quick review of
4 alternatives and those preferred by Sierra Club of
5 Canada, and lastly to turn your direction to what we see
6 as the scope of your authority and discretion under the
7 Canadian Environmental Assessment Act.

8 To restate our goal as an organization
9 with local members here in Sydney, and with a national
10 commitment to safe remediation and the advancement of
11 environmentally appropriate, innovative technologies that
12 are Canadian and can be exported globally, all of those
13 concerns add up in this case to a paramount goal that the
14 cleanup must protect public health of the residents,
15 allow restoration of the local environment and create a
16 more positive economic and social climate for the future
17 of Sydney and its citizens.

18 Turning to the Sydney Tar Ponds Agency
19 proposal and the conduct of this hearing so far, it's
20 been troubling that the Proponent has what I'm calling a
21 have-its-cake-and-eat-it-too attitude to the whole thing.

22 On one hand it's always too soon to have
23 any detailed answers because we're in the pre-design
24 phase, on the other hand it's far too late to look at any
25 alternatives because they're so far along in the pre-

1 design phase.

2 I don't think that holds water. It's
3 clearly early enough in the process to direct them to the
4 alternatives that have already been part of the
5 technology assessment process in the community.

6 Similarly, by the way, one of the other
7 have-your-cake-and-eat-it-too items is the constant
8 efforts to say that this isn't a very dangerous site and
9 that it's not particularly a large toxic waste site. I
10 think the fact that the Federal Government has committed
11 \$280 million dollars to remediation here is because it's
12 known nationally as an important site that must be
13 remediated.

14 We submit that the Panel and the public
15 still do not have adequate information on which to base a
16 decision. The Guideline order, Section 5.3, stated that:

17 "The Environmental Impact Statement
18 must be concise, analytical and
19 complete."

20 It was none of those.

21 The adequacy of the information base --
22 turning to the question of PCB sludge, I do apologize
23 that I had thought we had an undertaking.

24 At page 600 of the transcript, when I re-
25 read it, what I discovered was that Sierra Club of Canada

1 questioned as to the delineation and location of PCB hot
2 spots outside those areas which are not now targeted for
3 removal in the original project proposal before it was
4 suggested they might leave them in place.

5 I should have noticed sooner that Mr.
6 Potter's response was that would provide an answer to my
7 question in the course of replying to another
8 undertaking, but it wasn't specifically noted. As a
9 result, we still don't have that information.

10 As to the Coke Ovens Site, the extent of
11 contamination is still not sufficiently categorized. We
12 have no information on location of buried pipes, nor any
13 clear information of whether previous employees on this
14 project with the Sydney Tar Ponds Agency's predecessor
15 identified that there might be dangerous chemicals in
16 those pipes that shouldn't be disturbed. Those answers
17 have not been provided.

18 However, the key inadequacy of the
19 project's Environmental Impact Statement is the absence
20 of set and binding regulated action levels and
21 permissible concentrations of key contaminants, whether
22 of water released to aquatic ecosystems or to air from
23 incinerator or dust or volatile organics moving off site
24 or for residual concentrations in soil.

25 Here much of the blame must lie with the

1 regulators, both provincial and federal. Marlene Kane's
2 evidence made it very clear that no one should rely on
3 the Nova Scotia Department of Environment or the Nova
4 Scotia Department of Health to act to stop dangerous
5 operations or to be protective of health.

6 Yesterday's presentation by Environment
7 Canada represented, in my extensive experience with that
8 department, a 30-year low point.

9 Given that the department seems prepared
10 to allow the burial of PCBs over 50 parts per million in
11 violation of federal law, we cannot count on them either.

12 Now, I just want to make a brief reference
13 to page 600 of the transcript again in which I read out a
14 memo from May 31st, 1996 prepared by JWEL-IT, in which it
15 was noted:

16 "An expert legal opinion clearly
17 indicates that in-situ containment of
18 PCBs will not meet existing
19 legislative requirements of either
20 the Nova Scotia Environment Act or
21 the Canadian Environmental Protection
22 Act."

23 For the record, our concerns are that
24 allowing those to remain in the sludge could well violate
25 the Canadian Environmental Protection Act. This question

1 was not put directly to Environment Canada yesterday.

2 So, Sierra Club of Canada would like to
3 place parties, including the Federal Government, on
4 notice that burial of PCB sludge in excess of 50 parts
5 per million is, in our view, a violation of the Canadian
6 Environmental Protection Act and could be subject to
7 future legal challenge.

8 Turning to the proposal itself, we know
9 that the evidence on incineration and the risks of
10 incineration was quite strong. I don't need to repeat
11 the evidence of Dr. Carman and Dr. Connett.

12 We also know in terms of location the
13 Grand Lake Road Residents and New Waterford Fish & Game
14 Association have made it abundantly clear that the site
15 chosen, or one of the sites preferred, of Victoria
16 Junction is inappropriate.

17 But beyond that, we know that incinerators
18 are not reliable and the only margin of safety for the
19 public is to be very far away from an incinerator. So,
20 placing such a PCB-destruction facility within a
21 residential community near dairy farms is clearly
22 unacceptable.

1 Tape 4 Relating to solidification and
2 stabilization, one fundamental point needs to be
3 underscored.

1 The proponent has been unable, in the
2 course of this hearing, to provide a single example of
3 successful remediation involving the component materials
4 of the Tar Ponds and Coke Ovens, with high levels of
5 tarry, coking and coal materials with cyanide, arsenic,
6 lead, benzene, naphthalene, benzopyrene, the whole host
7 of PAHs, as well as the PCB material that was added, as
8 well as the discharge material from sewers.

9 In fact, in the technology test for
10 stabilization and solidification of this material from
11 the Tar Ponds, the technology failed.

12 You have heard from Dr. G. Fred Lee, a
13 leading expert in North America, that it is not a
14 question of if solidification and stabilization here will
15 fail, but merely when. Dr. Lee was unequivocal that
16 choosing stabilization and solidification for this site
17 was not a professionally competent decision. Costs will
18 climb, the ecosystem will not be protected.

19 And, in the short term, the proponent's
20 plan for de-watering, air drying, even backhoes and other
21 construction equipment, in the absence of any covering or
22 negative pressure to contain the PAHs, the benzene, and
23 other volatile releases, as well as dust and other
24 material, is clearly reckless.

25 The stabilization and solidification plan

1 is a public health threat, and I use those terms
2 deliberately, based on the traditional principles of
3 public health of prevention of exposure to the public of
4 substances that are dangerous. That's the essence of a
5 public health decision. No amount of hypothetical health
6 risk assessments can remove the imperative of avoiding
7 any additional exposure to a community that is already
8 over-exposed to these substances.

9 In terms of alternatives for public
10 health, our number 1 recommendation is that those areas
11 outside the fence must also be protected. This involves
12 remediation work on neighbourhood soils.

13 Dr. Lambert's evidence was clear. There
14 is extensive soil contamination at levels that exceed
15 CCME guidelines. The background levels, as reported by
16 government, are not accurate background levels, Dr.
17 Lambert's evidence was clear on that from his own
18 sampling, and North Sydney, as a controlled community,
19 with the high readings that were obtained, was severely
20 compromised by the sites that were chosen for those soil
21 samples, being those most likely to show high readings of
22 contaminants.

23 Any remediation work must include
24 treatment of residential and community soils contaminated
25 above CCME guidelines. Specifics are included in Dr.

1 Lambert's brief.

2 During remediation, a buffer zone must be
3 established around the site to protect residents,
4 regardless of what remediation technology is chosen.

5 Any health risk assessment prepared in
6 absence of baseline health data is reckless with the
7 health of the residents.

8 We do recognize that no technology is
9 perfect, nothing is without risk. There is no magic wand
10 here. The project, as proposed, is not capable of
11 adequate remediation, or mitigation that would make it
12 acceptable to us, even if incineration was dropped and it
13 was only stabilization and solidification.

14 Community consultation through the JAG
15 process, and you've heard this many, many times, the
16 community was assured its voices would be heard. They
17 overwhelmingly preferred the choice of removal of
18 material, soil washing, and destruction.

19 If the agency proponent had chosen soil
20 washing combined with closed-loop destruction of
21 residuals, Sierra Club of Canada would still be here with
22 questions and concerns, but we would be searching for
23 tweaking the project, for mitigation measures, to object
24 to make it safer than it otherwise might be. We would
25 not, as we are here, be objecting to the entire operation

1 as described.

2 The Coke Ovens Site, we've mentioned, is
3 still not adequately assessed. We do not believe this is
4 a site that one could consider for future use.

5 The key to the Coke Ovens Site is to
6 remediate to the extent economically and technically
7 feasible -- I don't think we know what that is yet.

8 I was impressed that the TD Enviro people
9 felt they could excavate soil to the depth of 6 meters,
10 but we must have sufficient containment to avoid
11 recontamination of remediated areas, and we must protect
12 the residents surrounding that site during remediation.

13 I turn now to the issue of your role.
14 There are a number of things that you have power to do as
15 a panel.

16 Certainly, there are significant
17 uncertainties about the detailed engineering for the
18 project proposed by the Tar Ponds Agency, raising serious
19 concerns that the project will not work as promised.

20 Evidence presented to the panel shows that
21 the environmental effects of the project could be
22 significant, and that the alternative technologies may
23 work better.

24 There is precedent for a Review Panel to
25 reject a project outright. For example, the Old Man Dam

1 Review Panel recommended that the Old Man Dam be
2 "decommissioned" as it was pretty much built by the time
3 the panel was able to report.

4 Another panel, the Nuclear Fuel Waste
5 Panel, recommended that the search for a specific site
6 for high level nuclear waste not proceed. This
7 recommendation was accepted.

8 The Review Panel, in our view, has not yet
9 obtained the information necessary to complete its
10 assessment. You have an obligation, under section 34(a)
11 of the Canadian Environmental Assessment Act, to obtain
12 the information needed, and I won't read out that section
13 of the Act in the interests of time.

14 The panel submitted a lengthy Information
15 Request to the Tar Ponds Agency on March 16th. The Tar
16 Ponds Agency responded on March 29th. The scheduling of
17 hearings was announced on April 7th, and, throughout
18 these hearings, we have had continual requests for more
19 and better information.

20 The panel has not stated that it is
21 satisfied that the necessary information to proceed with
22 the hearings was provided. It is open to you to state
23 that there still wasn't adequate information, and that
24 the significant doubts about, and environmental concerns
25 about, the methodologies proposed by the Tar Ponds Agency

1 raised in this hearing are so significant that further
2 technical hearings will be required.

3 I offer you another precedent for that.
4 The Alaska Highway Pipeline Environmental Assessment
5 Panel first issued an interim report in 1979 stating that
6 there was a need for additional technical review. The
7 panel reconvened in 1982, issuing its final report in
8 June 1982. This is offered by way of existing precedence
9 within the scope of the work of a Review Panel.

10 When you leave Sydney, you'll be leaving
11 the people here to the Tar Ponds Agency, which, I think
12 is evident from much of the testimony you've heard, has a
13 poor track record in several areas.

14 First of all, their technical competence
15 for the protection of health, the relatively
16 straightforward cleanup of the Domtar tank, you've heard
17 in detail how the negative pressure building structure
18 failed because the charcoal filters didn't work, and so
19 on, how the air monitoring equipment didn't work, how
20 well they may have made improvements in understanding how
21 to detect leaks from the facility moving offsite.
22 Overall, there is not a good track record. You've also
23 seen video of the dust moving off the site from the
24 removal of the old byproduct structure.

25 And we also know that when you walk away

1 from this hearing, you cannot, based on what you've
2 heard, particularly from Marlene Kane's information on
3 the biomedical incineration, have any real confidence
4 that the regulators will move in to protect people.

5 THE CHAIRPERSON: Two minutes, Ms. May.

6 MS. MAY: Yes. The Sydney Tar Ponds
7 Agency also has a very poor record in the area of public
8 consultation.

9 Having gone through all the exercise of
10 the JAG process, and all the millions of dollars that
11 were spent, and hundreds of thousands of volunteer hours
12 invested, they chose to ignore the recommendation of the
13 community, and have never, once, provided, in any
14 transparent fashion, the rationale, other than to say
15 that they came up with a cost more than twice as high as
16 the leading proponent.

17 We also know that the Community Liaison
18 Committee is chosen -- much as you heard last night from
19 Mr. Musial, stakeholder consultation from the Sydney Tar
20 Ponds Agency is that they like to talk to people they
21 know will agree with them. They need to have a much more
22 open, progressive view to the public consultation. We
23 remain ready to participate in the Community Liaison
24 Committee, and we have been denied that opportunity, as
25 have others.

1 So, in closing, we urge you to use your
2 authorities, within the Canadian Environmental Assessment
3 Act, to ensure that more money isn't wasted, to ensure
4 that the health of people in this community is protected,
5 to ensure that the cleanup proceed expeditiously to
6 actually remove the toxic contamination from this
7 community, not merely cover it over and leave it for
8 another generation.

9 Thank you.

10 THE CHAIRPERSON: Thank you very much, Ms.
11 May.

12 Mr. Brophy. Dr. Ignasiak.

13 --- CLOSING REMARKS BY DR. LES IGNASIAK:

14 DR. IGNASIAK: Madam Chair, Members of the
15 Panel, the Sydney Tar Ponds and Coke Ovens Site has been
16 a sore in public eye for a long time.

17 By 1996, the total cost of all aborted
18 attempts at the remediation of the sediment, by
19 incineration on site and encapsulation of the
20 contaminants, reached about \$80 million.

21 Under mounting public pressure, the
22 Federal and Nova Scotia Governments decided to take steps
23 to finally develop a comprehensive solution to the
24 "national disgrace" as then the Federal Minister of
25 Environment, Sergio Marchi, called the site.

1 In the wake of 2 disastrous remediation
2 attempts, Minister Marchi promised, I'm quoting, "An
3 open, transparent process that would involve the public,
4 and avoid the failures that back-room decisions had led
5 to in previous remediation attempts."

6 The Federal and Provincial Governments
7 agreed to embark on a community based consultation
8 process called Joint Action Group. It was JAG's mandate
9 to engage the community and to identify technology
10 options that would both be cost effective and
11 environmentally acceptable to the citizens of Sydney.

12 \$165 million fund was set up to carry some
13 preliminary engineering work, and to initiate the
14 community driven JAG process that would lead to the
15 development of a range of remedial options that could be
16 applied to the Tar Ponds and Coke Ovens Site cleanup.

17 The citizens of Sydney are well aware of
18 what happened after that. Their choice was rejected,
19 though it would cost less than the incineration and
20 encapsulation approach that the government decided to
21 endorse on May 12th, 2004.

22 After the May 12th agreement, despite the
23 Mayor of CBRM, John Morgan's, protest, despite the
24 assurances of Honourable Steven Aben, the then Minister
25 of Public Works and Government Services, that a rigorous

1 public engagement will be assured, and most advanced
2 environmental technologies will be employed, as you know,
3 incineration, solidification and stabilization, combined
4 with the encapsulation, was literally forced on Sydney
5 residents.

6 Most of them were tired by this time, but
7 some fought back. They won the first round by forcing
8 the Federal Government to call for public hearings.

9 For the first time since the commencement
10 of the uneasy dialogue between the government bureaucrats
11 and the Sydney residents, thanks to the members of the
12 Joint Review Panel nobody was excluded from being
13 listened to. And finally, the bureaucrats were forced to
14 listen to Sydney residents.

15 The incineration is no longer a part of
16 the remedial approach. Sydney residents won the second
17 round. What was left from the proposed bureaucrat
18 selected project is solidification and stabilization
19 combined with encapsulation.

20 Contrary to what the agency and their
21 consultants would like you to believe, solidification is
22 not proven technology for wastes with high organic
23 content.

24 Over a period of less than 3 weeks, the
25 myth of monolith rock has evaporated. I can see that the

1 consultant still does not understand that while the TCLP
2 test may be considered too aggressive with respect to
3 metals, it is actually under-estimating the leachability
4 for organics.

5 The consultant doesn't understand that
6 phenols, major components of coal tar, during treatment
7 with cement, will be converted to phenolates, while
8 phenols have relatively low solubility in water, and even
9 lower under acid and TCLP conditions, after treatment
10 with cement, when the PH, which is the basicity,
11 increases them dramatically, the phenols will be
12 converted to sodium salt, and will leach almost
13 quantitatively. This is not my imagination. These are
14 well proven facts.

15 And, what is worse, there are many other
16 potentially explosive problems with solidification, and
17 stabilization of Sydney sediment (* 14:04) material in
18 particular. I will not dwell on the subject any more.

19 I do believe, based on what I have seen so
20 far, that the Members of the Panel will be able to safely
21 sail through the murky waters of misinformation they were
22 frequently provided with, and will be able to come up
23 with recommendations that will prevent this project from
24 turning into another failure.

25 I do believe that the people of Sydney,

1 after so many years of disappointment, deserve the best
2 possible cleanup. Best possible cleanup will provide the
3 city with new perspective and opportunities.

4 Sydney cleanup will be watched by
5 international community. Successful cleanup will attract
6 attention of international community. A substandard
7 cleanup will seriously damage Canada's reputation as an
8 environmentally conscious country.

9 I have spent here the last 3 weeks, and I
10 have established many contacts with many of you. You
11 have impressed me with your fighting spirit. You have
12 already won 2 rounds. I think you will win the 3rd last
13 and decisive round, and finally will get the cleanup you
14 deserve and you have been fighting for for such a long
15 time.

16 Thank you.

17 THE CHAIRPERSON: Thank you very much, Dr
18 Ignasiak.

19 Clearly we're getting well ahead of our
20 schedule, and we have some people who are going to
21 present who haven't arrived yet.

22 So, with your indulgence, I'm going to
23 suggest that we take a break until 10:30. I'm sorry, I
24 hope you can find some things to do. It is a nice
25 morning, you might like to actually get out of this room

1 and get some fresh air and some sunshine.

2 So we will resume at 10:30 with the
3 remaining closing remarks. Thank you very much.

4 --- RECESS: 9:36 A.M.

5 --- RESUME: 10:31 a.m.

6 THE CHAIRPERSON: Ladies and gentlemen, we
7 will now resume.

8 I hope you enjoyed your break. I know
9 some of you got outside in the sunshine. I must say I
10 did give consideration to Ms. May's suggestion about
11 scooping up the unused closing remarks time and taking it
12 all for myself and maybe adding another hour to my
13 closing remarks, but I gave you a break and you got
14 outside instead. So I hope you enjoyed that.

15 So we're now going to go back onto our
16 roster, and I understand that the representative of the
17 Cement Association of Canada is here, if you'd like to
18 come forward.

19 --- CLOSING REMARKS BY CEMENT ASSOCIATION OF CANADA

20 (MR. COLIN DICKSON)

21 MR. DICKSON: Good morning. I'm Colin
22 Dickson, Director of Business Development with the Cement
23 Association of Canada. I represent the Atlantic Region,
24 and my office is in Halifax, Nova Scotia.

25 Thank you for the opportunity to make

1 closing comments to the Review Panel on behalf of the
2 Cement Association of Canada.

3 The purpose of our participation in this
4 Panel Review has been to provide technical information on
5 the use of solidification and stabilization technology in
6 the remediation of contaminated sites and to provide a
7 significant number of comparable examples where the
8 technology has been effectively used to minimize the
9 adverse environmental effects of historical contamination
10 from past industrial use of lands and water courses.

11 The project before the Panel is the
12 remediation project. Section 16 of the Canadian
13 Environmental Assessment Act lists the environmental
14 effects of the project among the factors to be considered
15 by the Panel in the making of its recommendations to the
16 Federal Minister. Likewise, under the Provincial
17 Environmental Assessment Regulations, the Panel is to
18 consider the environmental effects of the technology to
19 be used in the proposed undertaking.

20 We will confine most of our closing
21 comments to the evidence as it relates to the
22 environmental effects of the use of stabilization and
23 solidification technology as part of this project. The
24 environmental effects of the use of S/S are positive and
25 beneficial for the following reasons.

1 S/S is a well-established remediation
2 technology that is proven to be effective of human health
3 and the environment. S/S treatment protects human health
4 and the environment by immobilizing hazardous
5 constituents within the treated material. S/S treatment
6 is used to minimize risk posed by contaminated material
7 in land disposal in contaminated scenarios. S/S
8 treatment of already non-leaching PCB sediment at the Tar
9 Ponds will provide an additional protective measure in
10 the cleanup of the site.

11 In situ S/S treatment reduces risks posed
12 to the surrounding community and site workers by reducing
13 truck traffic associated with removal, processing and
14 replacement of contaminated sediment. In situ S/S
15 treatment reduces risk posed to the surrounding community
16 and site workers by reducing hazardous volatile air
17 emissions associated with excavation and handling of
18 contaminated sediment.

19 In assessing the environmental effects of
20 the project, the Panel is called upon to consider the
21 current conditions at the Tar Ponds and Coke Ovens site
22 and anticipate the environmental effects of the
23 remediation project. The record before the Panel shows
24 that the environmental effects of the use of the S/S
25 technology in the remediation project results in positive

1 and beneficial environmental effects specifically.

2 The Cement Association and our affiliate,
3 the Portland Cement Association in the United States,
4 presented and entered into the record before the Panel
5 detailed information on a number of successful S/S
6 projects similar in scope and contamination as the Sydney
7 Tar Ponds, including coal tars with polycyclic aromatic
8 hydrocarbons, polychlorinated byphenols, heavy metals, in
9 marine environments near surface waters used with
10 engineering barriers including piles, cement, slurry
11 walls, and sites with mixed hazardous constituents of
12 organic and inorganic compounds.

13 The effect of the treatment of the
14 contaminants presently existing at the site is a positive
15 environmental effect of the use of S/S on this project.

16 CAC and PCA, or Cement Association of
17 Canada and Portland Cement Association, provided
18 substantial information on the long-term effectiveness of
19 S/S and the treatment of organic and inorganic hazardous
20 constituents.

21 For example, we described the long-term
22 effectiveness study conducted by the Electric Power
23 Research Institute at Columbus, Georgia's manufactured
24 gas plant site. Sampling, laboratory testing, ground
25 water monitoring and modelling was filed with the Panel

1 and concluded that S/S continued to be an effective long-
2 term walk-away solution for the site.

3 In one project example we presented, over
4 14 years worth of post-closure monitoring, after in situ
5 S/S at the refinery sludge basin in Whiting, Indiana,
6 overseen by the Indiana Department of Environment
7 Management, found no adverse environmental effects from
8 the use of S/S there.

9 S/S treatment has been used since the '50s
10 to manage nuclear waste, since the '70s to treat
11 industrial waste, and more recently in the '80s, it's
12 been used to remediate brown field sites under the
13 Superfund project program.

14 The technology continues to be recognized
15 by regulatory agencies as the best demonstrated available
16 technology for such uses and has been demonstrated on
17 actual sites comparable to the Sydney Tar Ponds.

18 The Panel is also called upon to consider
19 measures that are technically and economically feasible
20 that would mitigate any significant adverse environmental
21 effects of the project.

22 In our submission, the information before
23 the Panel showed that for S/S with appropriate
24 engineering controls, the record does not disclose any
25 significant adverse environmental effects which would

1 arise from the use of solidification and stabilization
2 technology as part of this project.

3 Nevertheless, it's useful to recap some of
4 the measures which are usually taken to ensure the
5 effective use of solidification/stabilization technology.

6 S/S is a flexible tool that can be adapted
7 to meet different conditions. Contaminants and other
8 materials, including coal tars which may be encountered,
9 the combined and sometimes varying influences of the cap,
10 the drainage systems, changing leaching characteristics,
11 changed ground water flow, or hydraulic conductivity
12 characteristics can be incorporated into the detailed
13 designs and plans for the project.

14 Engineering controls and barriers can be
15 developed to ensure that contained material within the
16 scope of the project does not under any circumstances
17 enter water courses or adversely affect fish or fish
18 habitat.

19 The CAC and PCA presentation indicated a
20 suite of useful test methods with indicative
21 relationships between screen tests that would complement
22 other more sophisticated methodologies to ensure
23 effective use of S/S.

24 Site-specific leaching test program could
25 account for site-specific conditions in test samples.

1 Testing in general for [--] durability and salt lake
2 exposure characteristics can be anticipated and
3 implemented in the project's implementation plan. The
4 evidence shows that salt water environments pose no harm,
5 and in fact, may be beneficial in the S/S remediation
6 solution.

7 Protection during construction has been
8 successful at S/S sites located in very active urban
9 environments beside rivers and beside salt water.
10 Minimizing the opportunities for off-site migration of
11 dust and volatiles will, we expect, be part of the
12 proponent's performance goals.

13 Finally we note that unsuccessful
14 technology vendors have attempted to present different
15 technologies as alternatives to the project currently
16 before the Panel.

17 While the purpose of our presentation and
18 appearance before the Panel is to provide technical
19 information on the demonstrated effectiveness of
20 solidification/stabilization technology, we would offer
21 some comments on the benefit of S/S over alternatives in
22 this order.

23 The use of S/S treatment at the Sydney Tar
24 Ponds site will improve the buildability and the reuse of
25 the property in the future. We provided a number of

1 examples where properties were beneficially reused after
2 in situ S/S, including waterfront parks, golf courses,
3 harbour facilities, and even LEED certified platinum
4 office buildings.

5 In situ mixing will likely burn less
6 fossil fuel at the site than a technology involving
7 excavation, transportation and replacement of fill, and
8 certainly much less fossil fuel than incineration.

9 Solidification/stabilization mix designs
10 are sustainable as they can use byproducts such as cement
11 kiln dust, a byproduct of manufacturing cement, fly ash,
12 and ground granulated blast furnace slag.

13 In situ S/S does not transfer the
14 contaminants to somebody else's back yard or require
15 long-term storage of contaminants in a free form. S/S
16 has been applied full scale in the field using a wide
17 variety of methods and mix designs.

18 The flexibility in the application of this
19 robust treatment technology allows experienced
20 contractors to adapt mixing methods, mix designs and
21 safety controls to the unique conditions of the site.

22 In situ S/S treatment is carried out using
23 basic construction equipment with a minimum of
24 specialized equipment. Necessary specialized equipment
25 can be leased or purchased fairly easily on the open

1 market. Local heavy equipment operators can easily and
2 quickly, and certainly effectively, be trained to operate
3 the equipment in the mixing for the S/S process. Local
4 labour force is used for the majority of the work in an
5 S/S project.

6 The use of solidification/stabilization
7 technology is not dependent on obtaining trans-boundary
8 approvals for the transportation of contaminants, nor on
9 obtaining further regulatory approvals for other
10 jurisdictions in order to complete an S/S project.

11 In short, solidification/stabilization is
12 a proven technology. It can be used by the project now.
13 To allow the proponent to get on with the project that
14 many members of the public feel is long overdue, the
15 proponent has shown it considered and rejected
16 alternatives which would not be as effective technically,
17 that would not be as economically feasible.

18 In choosing S/S, the proponent has adopted
19 a proven technology that it knows will work effectively,
20 is not dependent on approvals from other jurisdictions,
21 and is economically feasible.

22 Thank you very much.

23 THE CHAIRPERSON: Thank you very much, Mr.
24 Dickson. Can I just ask if there's anybody here from
25 Junior Chamber yet? Mr. Brophy.

1 --- CLOSING REMARKS BY MR. ERIC BROPHY

2 MR. BROPHY: Good morning, Madame Chair
3 and Panel Members. My name is Eric Brophy, and today I'd
4 like to begin by entering into the record the World
5 Health Organization's definition of health, i.e.:

6 "A state of complete physical, mental
7 and social wellbeing and not merely
8 the absence of disease or infirmity."

9 The definition has been accepted by our
10 federal and provincial governments and its health
11 officials.

12 It's my belief that in any remediation
13 project, this definition has to be kept uppermost in
14 everybody's minds when they're doing the projects.

15 Previously I questioned whether the
16 Environmental Impact Statement Guideline, Article 9.4,
17 "Human Health," had been complied with. This guideline
18 calls for a health assessment of residents in order to
19 create baseline data.

20 I also brought the Panel's attention to a
21 draft publication titled, "A Canadian Health Impact
22 Assessment Guide, Volume 1, The Beginner's Guide." And
23 that was dated May of 1997. I reviewed that publication
24 last night. In the overview of this guide, under the
25 purpose, we find:

1 "This guide examines the need and the
2 procedure necessary to incorporate
3 the assessment of human health
4 effects in the environmental
5 assessment process."

6 To the question, "What types of indicators
7 should be used to assess potential health effects?" the
8 answer given was:

9 "Baseline information needs to be
10 compared to the potential effects
11 likely to be caused by the project.
12 To obtain this information, the types
13 of indicators required are direct
14 measures of health. For example,
15 cancer incidents, injuries and
16 changes in stress levels, etc. And
17 indirect measures of health, eg.
18 levels of toxic chemicals in human
19 tissues, discharges of hazardous
20 substances to the environment, etc."

21 It then refers the reader to chapter 3 of
22 the publication to get a better understanding of the
23 health indicators used in EA.

24 There was a Table 242, "Features of Health
25 Considered in EA." And I found there listed a feature

1 "Effects on Physical Health." It then lists the
2 following characteristics:

3 "Mortality, morbidity, communicable
4 and noncommunicable diseases, acute
5 and chronic effects, injuries and
6 accidents, effects on future
7 generations."

8 And I repeat that.

9 "Effects on future generations,
10 effects on high-risk groups,
11 aggravation of existing health
12 conditions, for example, asthma."

13 That's very important in this area. In
14 addition, under the feature titled, "Effects on Social
15 Well Being", we find, in part:

16 "Effects on psychological well being,
17 for example, stress, anxiety,
18 nuisance, discomfort."

19 They're all listed. They're things that
20 should be looked at during any remediation process.

21 I think here, they're being discarded.

22 The guide further distinguishes between
23 occupational health and public health by stating:

24 "Although occupational and public
25 health concerns should be assessed in

1 the same EA, the actual assessments
2 need to be done separately. This is
3 because occupational exposures are
4 likely to be different from public
5 exposures, and because occupational
6 publications are different from the
7 general public, since they are
8 largely comprised of healthy adults."

9 I read in the EIS or one of the releases
10 that Dr. Magee, I think it was, stated that the workers
11 on site would be more at risk. I disagree with that.

12 Those workers are healthy adults. The
13 public surrounding this -- these Tar Ponds, they sure
14 don't have health.

15 Madam Chair, this short review of this
16 guide indicates to me the EIS is lacking. It does not
17 comply with the aforementioned EIS guideline pertaining
18 to human health.

19 I request the Panel consider this
20 implication in your deliberations and recommendations.

21 I would also like to bring the Panel's
22 attention to the health and safety plan as described in
23 the project description, page 98.

24 It states, in part:

25 "A master health and safety plan will

1 be developed for the site by a health
2 and safety professional, to ensure
3 adequate precautions are taken for
4 the protection of workers and the
5 general public. It will include a
6 worker monitoring program, including
7 medical checks before, during and
8 after completion of the work. The
9 plan will be modified over the life
10 of the project, as new information
11 becomes available, for improved
12 worker protection."

13 It goes on to list the objectives of the
14 plan.

15 Madam Chair, this plan is heavy on
16 protection of the worker. Witness the reference to
17 medical checks before, during and after completion of the
18 work.

19 It is sadly lacking, and does not address,
20 protection of the public.

21 I personally find this very appalling, in
22 light of the fragile health of the majority of our
23 residents.

24 Perhaps protection of the general public
25 requires a safety plan of its own, separate from an

1 occupational health and safety plan.

2 Again, I mention this for your
3 consideration.

4 To continue, Madam Chair, I was reviewing
5 the transcripts of May 2nd, Volume 3, the evening
6 session.

7 And on page 629, in response to Ms. Debbie
8 Ouellette's question pertaining to air monitoring/odours,
9 I saw a response from Dr. Magee on lines 10, 11 and 12, a
10 response I don't believe to be entirely accurate.

11 And I quote Dr. Magee:

12 "The nature of smelling odours is
13 complicated, and it's not a -- it
14 doesn't have a direct link to human
15 health."

16 I'd like to comment on Dr. Magee's remark.

17 And I refer to what is known as the Love
18 Canal Follow Up Health Study, a six year project by the
19 New York State Department of Health, begun in 1996 or
20 1997.

21 That study looked at ways people could
22 have been exposed to chemicals.

23 Two of the possible methods mentioned were
24 air transport, as evidenced by odour complaints during
25 open dumping, and chemicals seeping into people's yards

1 and homes, often identified by odour complaints.

2 Odour is something that we have to pay
3 attention to. It is the first indicator that something
4 is wrong. We can't disregard it.

5 And for Dr. Magee, who should have known
6 better, to state it doesn't have a direct link to human
7 health, that's not right, Madam Chair.

8 Contrary to what Dr. Magee said, there is
9 a direct link.

10 Having said that, I will agree with his
11 comment on lines 18, 19 and 20, ie.:

12 "But you can smell an odour for a
13 very short period of time and not
14 have any consequences on human
15 health."

16 I feel that would be a more accurate
17 comment, as it need not result in a health effect -- a
18 detrimental health effect.

19 And Madam Chair, in conclusion, I urge all
20 involved in this project to place health considerations
21 above all else. This community has suffered enough.

22 And in closing, I thank you and the Panel,
23 Dr. LaPierre and Mr. Charles, for the excellent work you
24 and your staff did. It was a privilege to appear before
25 you.

1 God bless you all.

2 THE CHAIRPERSON: Thank you very much, Mr.
3 Brophy.

4 We will now turn to the Sydney Tar Ponds
5 Agency for their closing remarks. Mr. Potter?

6 --- CLOSING REMARKS BY SYDNEY TAR PONDS AGENCY

7 (MR. FRANK POTTER)

8 MR. POTTER: Thank you, Madam Chair.

9 I want to start by complimenting you and
10 your Panel members for carrying out what was truly a very
11 difficult job. We all admire your patience and fairness.

12 It has been a very long three weeks for
13 many people.

14 In terms of thanks, I'd like to also thank
15 the Secretariat, the presenters who came before us over
16 the three week period, the public who attended the many
17 sessions, as well, the garrison officials who looked
18 after all of our many requests.

19 I'd like to thank the media, as well, for
20 their fair and balanced reporting.

21 I'd like to thank our team here, many who
22 haven't been home for over a month.

23 We worked very hard preparing for the
24 hearings. We worked very hard during the hearings.

25 So, now, what have we learned over the

1 past three weeks?

2 There are many views on how to clean up
3 the sites. Some of the public have very strong views on
4 how to do that.

5 No solution will make everyone happy.
6 There's no silver bullet.

7 The solution that we are proposing has
8 generated much discussion. Groups have opposed parts of
9 our plan. Some groups have opposed all of our plan.
10 Regulators found our report acceptable.

11 There were concerns identified, and there
12 is a need for addressing those as we proceed with the
13 detail design.

14 We've had clarification on government
15 policies and guidelines.

16 We've talked about land ownership and
17 liabilities.

18 There have been concerns raised about
19 criteria and enforcement.

20 And incineration, I think we've talked on
21 everything from siting to continuous emission monitoring
22 to upset conditions.

23 There's been many concerns and opinions
24 offered on risk assessment and modelling.

25 We've talked about the redundancy of our

1 design.

2 We talked a lot about long term
3 monitoring, the need for that, as well as the importance
4 for real time monitoring.

5 We talked about the future site use and
6 its implications for the design of the cleanup.

7 We've talked about economic opportunities,
8 how it relates to our second objective for the cleanup,
9 economic development.

10 We've heard from vendors, some who support
11 the approach, some who wish that we would use their
12 technology.

13 Funding, both the overall funding and the
14 various costs, the various components have been talked
15 about.

16 Communications has been a dominant
17 discussion, I think, many times. Mainly, in particular,
18 to, I guess, in relation to timely access to information.

19 And two items that have come up, I think,
20 that have been important, as well, are ones regarding
21 trust and accountability.

22 If there's one common theme, I think the
23 one thing we've heard over and over again is that nobody
24 wants to delay this project. We all want this to move
25 ahead.

1 So, where do we go from here?

2 The Panel will produce their reports,
3 governments will consider the recommendations from their
4 report, the Sydney Tar Ponds Agency will be given
5 direction on implementing the final project.

6 I'd like to take a couple of minutes to
7 talk about how we plan on carrying out the work once the
8 project's defined.

9 We'll do this by taking in consideration
10 the concerns we've heard here in the past three weeks.

11 We will work with the federal and
12 provincial regulators, as the detail design is developed.

13 We'll work with them individually, one
14 department at a time.

15 We'll work with them in groups of
16 departments, in particular, probably Environment Canada
17 and the Nova Scotia Environment will be two departments
18 we'll deal with extensively.

19 We'll ensure that through our Technical
20 Working Group Committee that we coordinate the roles of
21 all departments, to make sure they're all aware of each
22 department's activities.

23 We've committed to reviewing assumptions
24 and repeating modelling as the design is finalized.

25 We will develop our performance and

1 monitoring criteria with the regulators.

2 We will also continue to consult with the
3 community through our Community Liaison Committee, our
4 many community committees that we talked about over the
5 past few weeks.

6 We will have open houses at critical
7 stages of the design to make sure that public input can
8 come back in before decisions are made.

9 We've -- we'll continue to use our web
10 site and newsletters and advertisements and other
11 mechanisms for getting messages out to the public.

12 We will continue to explore new ways of
13 ensuring the community has easy access to information,
14 whether that's through technology or other means of
15 meeting with the community.

16 The detail design will be influenced by
17 the future site use.

18 We've committed to working with the
19 Municipality to make sure that their desires for this
20 community fit into our plan for the cleanup.

21 As I mentioned, economic opportunities
22 will continue to be very important.

23 I want to go back to the issue of trust
24 and accountability.

25 I believe that the Sydney Tar Ponds Agency

1 has won the trust of a large part of this community. I
2 think you saw some of that over the past few weeks.

3 We want to win the confidence of all the
4 community. That is our objective.

5 I talked in the past about the staff of
6 the Tar Ponds Agency. We all live here. We are all part
7 of the community.

8 We care about the fish. We care about the
9 birds. We care about the air. Most importantly of all,
10 we care about the people.

11 In closing, I'd like to say that we have a
12 sound plan in place. We've thought it through carefully.
13 We'll get the job done, safely and effectively. That is
14 my commitment to this community.

15 Thank you.

16 THE CHAIRPERSON: Thank you very much, Mr.
17 Potter.

18 --- CLOSING REMARKS BY THE JOINT REVIEW PANEL

19 THE CHAIRPERSON: Ladies and gentlemen,
20 since we were appointed to this Panel this past
21 September, we've given daily study and consideration to
22 achieving the mandate that was entrusted to us.

23 We have reviewed numerous documents
24 including the extensive project file that many of you
25 made use of during the review process.

1 The information base grew in volume and
2 detail with valuable submissions provided by government
3 departments, organizations and citizens with information
4 to share during the public comment period and
5 subsequently during these hearings. The Panel wishes to
6 recognize each and every contribution received during the
7 review process. Besides the exchange of technical
8 information we have certainly learned also from the
9 personal experiences that you have chosen to share with
10 us.

11 As we immersed ourselves in the many
12 documents characterizing the Tar Ponds and Coke Ovens
13 Sites we have gained insights into the industrial legacy
14 that Sydney has been working to resolve. We've joined
15 your efforts to bring a successful conclusion to Sydney's
16 greatest environmental challenge.

17 The assessment process recognized the
18 concern and complexity associated with the Tar Ponds and
19 Coke Ovens remediation, and the need for the highest
20 level of attention to detail that we, as a joint
21 independent Panel, could provide.

22 We are committed to providing
23 recommendations based on careful consideration of all we
24 have heard and read to help guide the decision-makers.
25 As we begin to consolidate our findings on the

1 environmental assessment of the project we will conclude
2 the data gathering phase that began with a joint panel
3 agreement in the summer of 2005 at midnight, Friday, May
4 the 19th, tomorrow. No new information will be
5 considered by the Panel after that time.

6 We assure you that we have listened
7 intently to the information exchange throughout the
8 process. As we close the public hearings we do so with a
9 commitment to submit our report to the Federal and
10 Provincial Ministers on or before July 13th.

11 This is in keeping with the terms of the
12 Joint Panel agreement that established a unified
13 environmental assessment for the Sydney Tar Ponds and
14 Coke Oven Sites remediation project. We have considered
15 both the Federal and Provincial assessment requirements
16 during the review. It is our understanding the
17 governments will make the Panel report available to the
18 public in due course. We will remain as a standing Panel
19 until such time as governments have responded to our
20 report.

21 On a personal note, the Panel wishes to
22 recognize the many individuals who have participated in
23 the hearings.

24 You may recall in my opening remarks I
25 defined participation as presenting or submitting

1 information, questioning or simply listening. Some of
2 you have played an active role in the proceedings.
3 Others have shown interest and support for the process
4 through your presence and attentive listening.

5 We are well aware that many community
6 participants have dedicated hours and days and sometimes
7 weeks and months of personal time to this endeavour with
8 no monetary reward. This is time you could have spent
9 with your family, in your home or garden or on leisure
10 activities. We appreciate that you are motivated by a
11 sense of responsibility to your families, your neighbours
12 and community and to the generations to come.

13 And we commend you for exemplifying both
14 civic responsibility and environmental stewardship.
15 Exchanging technical information can be an intense
16 activity. Many of you worked long and hard on this issue
17 and feel passionately about the outcome. So my
18 colleagues and I want you to know that we have greatly
19 admired and appreciated your patience, your courtesy and
20 good humour throughout the Review Panel process. And
21 frankly you've made my job an easy one.

22 We thank the Sydney Tar Ponds Agency for
23 their cooperation with the Panel. You've worked hard to
24 demonstrate knowledge and preparedness and have shown
25 flexibility and thoroughness in responding to the many

1 questions and information requests pitched at you
2 throughout the hearings. We appreciate that you have all
3 been working very long hours throughout this process and
4 are now looking forward to some well deserved rest.

5 The Panel trusts that the community will
6 take our report, when we've completed it, in the context
7 and spirit in which it is intended. That is to bring
8 technical and community interest together in a thorough
9 environmental assessment. And to provide recommendations
10 to decision makers eager to see a safe and effective
11 conclusion to the remediation.

12 We want the community to feel confident
13 that the project has been given an appropriate level of
14 review, discussion and technical scrutiny. We hope you
15 will soon see the results of your diligence and
16 commitment and be able to direct your attention toward
17 implementation of a remediation project and a cleaner,
18 greener future for Sydney beyond the Tar Ponds. So thank
19 you very much.

20 (HEARING CONCLUDES)

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CERTIFICATE OF COURT REPORTERS

We, Lorrie Boylen, Ruth Bigio, Sandy Adam, Janine Seymour and Gwen Smith-Dockrill, Court Reporters, hereby certify that we have transcribed the foregoing and that it is a true and accurate transcript of the evidence given in this Public Hearing, SYDNEY TAR PONDS AND COKE OVENS SITES REMEDIATION PROJECT, taken by way of digital recording pursuant to Section 15 of the Court Reporters Act.

Lorrie Boylen, CCR
Sandy Adam, CCR
Ruth Bigio, CCR
Gwen Smith-Dockrill, CCR
Janine Seymour, CCR

Thursday, May 18, 2006 at Halifax, Nova Scotia