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HOUSE COMMITTEE PROCEEDINGS**

**COMMITTEE: STANDING COMMITTEE ON AGRICULTURE, FORESTRY &
ENVIRONMENT**

Thursday, January 29, 2004

SUBJECT(S) BEFORE THE COMMITTEE:

Honourable Jamie Ballem, Minister of Environment and Energy and Attorney General, will make a presentation concerning construction and demolition sites in the province.

NOTE:

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COMMITTEE

Wilbur MacDonald, Chair

MEMBERS PRESENT:

Wayne Collins replacing Hon. Mitch Murphy

Jim Bagnall replacing Wilfred Arsenault

Andy Mooney

Eva Rodgerson

Fred McCardle

Richard Brown

Ron MacKinley

STAFF:

Marian Johnston, Clerk of Committees.

STANDING COMMITTEE ON AGRICULTURE, FORESTRY AND ENVIRONMENT
Thursday, January 29, 2004
1:00 p.m.

Tape No. 1

Guests: Honourable Jamie Ballem, Minister of Energy and Environment and Attorney General
Lewie Creed, deputy minister
Don Jardine, Director of Pollution Prevention

Guests from the Floor - John Joe Sark
- Bill Fitzpatrick
- Kelly Mullally

Wilbur MacDonald (PC) (Chair): This meeting is called to order. I have two people who are representing members of the committee: MLA Wayne Collins representing Mitch Murphy and MLA Jim Bagnall representing Wilfred Arsenault. The purpose of our meeting today—and before I get into our meeting, I just want to review briefly and quickly the Standing of Special Committees and we're the Standing Committee of Agriculture, Fisheries and the Environment. And as such, we are extensions of the Legislative Assembly and we're governed by the same rules which prevail in the Legislature.

Committees are empowered to examine and inquire into all such matters and things that maybe referred to them by the Legislature which is the primary function of a committee. In addition, by majority vote, committees may meet to examine and inquire into such matters as the committee deems appropriate. Committees are required to report to the House from time to time their observations and opinions and that is the only thing we can report to is to the Legislative Assembly. And of course, the Legislative Assembly is not sitting at the present time. And we possess the powers to send for persons, papers and records. Standing Committees receive their authority, as I've said, from the Provincial Legislature and what this committee is responsible for agriculture, forestry and environment. As chairman, of course, I'm responsible for maintaining order and decorum during committee meetings as the speaker or as the chairman of the whole committee.

Today our prime purpose of being here is to hear from the Minister of Environment and Energy, the Honourable Jamie Ballem. I've also received phone calls from Mr. John Joe Sark and from Mr. Bill Fitzpatrick. Is Bill here? You're there, Bill. Is

John Joe here? You're there, are you John Joe? Okay. I will be asking later whether the committee wants to hear from you because it is the committee who makes decisions; it's not the chairman. But first of all, on our agenda is a presentation from the Minister of Environment and Energy and I think what we'll do, we'll hear from him now.

I want to ask all members when the meeting is over, when we have discussed, we want to sit down and figure out where we're going from here because we are hearing reports. Our prime purpose as a committee, of course, is the beef BSE and we did add a week ago, the hog industry and we are getting a large number of people wishing to meet with the committee. Okay, so I'll now, Richard?

Richard Brown (L): Item 2 so adoption of the draft agenda, so after number 3, we will be putting a motion on to hear other presenters?

Wilbur MacDonald (PC) (Chair): We can.

Richard Brown (L): Okay, also Mr. Chairman, I noticed the Minister of Education, Mildred Dover, who is the representative of one of these sites is in the audience. I have no objection if she wants to come to the table and ask questions too at this time.

Wilbur MacDonald (PC) (Chair): That's entirely up to her if she wishes to come forward.

Richard Brown (L): Thank you, Mr. Chairman.

Wilbur MacDonald (PC) (Chair): If not, it's fine, we'll proceed.

Hon. Mildred Dover: Mr. Chairman, I will sit with

my constituents.

Wilbur MacDonald (PC) (Chair): Okay, very good. Mr. Ballem?

Hon. Jamie Ballem: Thank you, Mr. Chair. I welcome the opportunity to come and speak to the committee on the issue of C&D sites. With me today, I have Deputy Minister, Lewie Creed to my left, and Don Jardine is Director of Pollution Prevention within the department. The approach we wanted to take today, Mr. Chair, was based on the direction of the invitation we received from the committee and some of the transcripts raised a number of questions so what I'm going to do is basically, ask the question and then give the answer or an explanation and at the end of our presentation, we'd be quite prepared to take any questions you may have for us.

The first question, I guess I'm going to get pretty basic here, for the committee is - what is a C&D site?

A C&D site is a permitted facility to dispose of construction and demolition waste. The definition of a C&D debris is provided in Section 1(p) of the Waste Resource Management Regulations and I'll quote, " 'C&D debris' means materials not of a hazardous nature which are normally used in the construction of buildings, structures, roadways, walls and other landscaping material and includes, soil, asphalt, brick, mortar, drywall, plaster, cellulose, fiberglass fibers, gyproc, lumber and wood, but excludes chemically treated lumber and wood."

The intent is to allow inert materials from construction demolition of structures to be disposed in a cost effective matter. Only materials of a non-hazardous nature are acceptable at a C&D site and the following materials are not allowed to be disposed of at a C&D site. And they include but not—this is not the inclusive—asbestos material, chemically treated wood products, oily waste, hazardous waste, compost and remaining waste which is essentially your black cart waste.

Why do we have C&D disposal sites?

PEI currently has two facilities for the management of waste materials, our black carts. The East Prince Waste Management facility in Wellington Centre and the Energy from Waste plant in

Charlottetown. They're the only two places under the Island Waste Management Plan that can handle the black cart waste. By its nature, the C&D materials cannot go to the Energy from Waste plant. It's just not practical to take them there. And it's also very inefficient for us to take that kind of material to the East Prince site. The site, the landfill in East Prince is the lined landfill which costs about a million dollars a cell. We don't want to be putting inert material, non-hazardous material into that because it just fills up much too quickly.

We also have—when you take into consideration that the C&D material is typically quite bulky and it's difficult to compact, that adds to the difficulty that we have. We estimate, and I have to emphasize estimate, that there's between 15,000 and 20,000 tonnes of C&D material or debris that's generated annually in PEI. We also have a number of excavation pits across the province that need to be restored that have been closed—their permits run out and now we're looking that we have to try to restore them and do something with them. And C&D debris provides an environmentally acceptable filler material for these sites.

We have a number of firms that are involved in the disposal of C&D debris scattered across the province. Basically, transportation costs dictates the number of regional sites that are required. We currently have four sites who have operating permits for C&D debris in the province. Maintenance Services Limited has a site in Hazelbrook. Kings County Construction has their site in Brudenell. Waugh Construction in Kelvin Grove and East Prince Waste Management facility at Wellington Centre. They are the only four who have operating permits at this point. There are two other locations who have a permit to construct a C&D site and they're allowed to take C&D debris there on an interim basis, and that's Toomb's Plumbing and Heating in St. Anne's and G. P. MacKinnon in St. Peters.

A question that we commonly hear from people is why do we have these sites and it goes back to, what did we do with C&D debris before Waste Watch came into being in 2001?

What we had was basically a haphazard manner of dealing with this material before we put the regulations into effect. Some material was taken

to excavation pits and just dumped. Some was taken to community dump sites and under Waste Watch, we made a very targeted and specific effort to close those dump sites. We had some that was actually buried on location. Let's dig a hole, stick it in there and it's out of sight, out of mind. Some was dumped onto wet lands. Some was burnt on locations and as I think most of us know, some of it was taken to the back of the woods and just dumped. You can go through an awful lot of woods in this province, Mr. Chair, and see examples of C&D debris that has been dumped there over the years.

The background for our Waste Management Regulations and prior to the adoption of these regs on January 1st, 2002, there were no regulations specific to C&D debris. Someone wishing to establish a major C&D disposal site would have to apply under the Environmental Impact Assessment process which is section 9 of the *Environmental Protection Act* and receive approval.

The department also developed guidelines for the disposal of this debris as part of a restoration plan for excavation pits, and operators could apply for a permit under these guidelines for every job that they wanted to undertake. When we put Waste Watch in place in 2001, we felt that C&D debris needed to be managed in a more regulated fashion and the only way to determine how much C&D is being generated and where it went was to put guidelines in place.

Mr. Chair, we have a very specific process in the regulations for someone receiving approval to establish and operate a C&D site and I'll have Mr. Jardine go through that process for you now.

Don Jardine: Okay, if we have a proponent that's interested in setting up a C&D site, they have to get two approvals. The first one the minister has already mentioned. It was in a place already before the regulations came into place was section 9 approval for an environmental impact assessment in the *Environmental Protection Act*, and actually in the Waste Resource Management Regulations, there's a reference to it in Section 2 (4)(a) which requires any undertaking to be approved by the minister. The definition of undertaking is defined in the *Environmental Protection Act* under Section 1 (p) and I don't think I'll read that at this point.

Section 9 of the act, *Environmental Protection Act* outlines the process to obtain approval for this to get an environmental assessment approved. When a proposed site is in an incorporated municipality, actually Section 9 (4) of the act, *Environmental Protection Act* stipulates "the approval required by this section is in addition to any other requirement imposed by the province or municipality." So because if there are sites are in an incorporated municipality, then we refer them to the municipality for their comments. And of course, this is not possible in areas without a local municipal government.

There is a—we sort of have a working process to file or to go through the approval of sites under the EIA process and this process can take several weeks or several months, even up to a year or more to address all of the concerns that are raised either through the internal review in the department through a Technical Review Committee that we have, and also if it's deemed necessary go out for public comment.

I don't know how many details I need to give here but the proposal is received—there's an initial screening by the department staff to make sure that it meets all of the minimum requirements for a proper application. If it doesn't meet that, then there's some back and forth sometimes with the applicant. Once it passes that, it's registered as an undertaking and it's usually referred to what we call a Technical Review Committee which—this committee is composed of staff from various departments in government which would be our own department and several of the divisions in our department including the conservation people who look at rare plants and dangerous species and things like that. The water people would look at any potential groundwater issues or surface water issues, and air quality is also looked at in terms of dust and noise and things like that.

So it also gets referred to Transportation and Public Works for possible access issues on the highway. There's other—we sometimes also refer to Environment Canada, DFO for their review. So that's—we go through that process and sometimes when we see deficiencies, we have to go back and forth to the applicant to make sure that they get all the information that's required to proceed. Once we get to that state, there's terms of reference for the project that is developed and an environmental impact statement prepared and submitted to us.

Once we receive that, then there can be at that point, a technical, another technical review of that plus a public review. It's open up to the public. We require in some cases, not all cases, it depends on how detailed we have to get but we do require many times, a public meeting or a public forum. And then at that, we receive comments from the public. And also, while that's going on, the documents that are submitted to us are made available in our office for anybody to come in and look at them and they can go through the documents at their leisure without having to go to a public meeting.

So once that process goes through, then there's sufficient information to make a decision, then documents are prepared for Minister Ballem and he makes the final decision. So that's the environmental assessment process. Once the minister is satisfied, he can usually when the approval under the environmental assessment process, he issues what we call an order under Section 28 of the *Environmental Protection Act* and that order allows him to make extra conditions on the approval, some things that are raised by the public or things that are raised by the Technical Review Committee. And if those conditions are met, then the order—there's fines in the *Environmental Protection Act* for those who don't comply.

Also at the same time as they're applying for the environmental assessment process, there's a second process which is to obtain a permit to, I guess, construct the facility. The minister has already read the definition of C&D debris, so we'll skip that. The process to obtain a permit for a C&D site is contained in Section 60 - 64 of the Waste Resource Management Regulations. Now these regulations came into effect for C&D sites on January 1st, 2002.

In Section 62 - there's a number of design requirements for C&D disposal sites which the way it's worded here, it says "every owner of a C&D disposal site shall ensure the C&D disposal site incorporates the following design requirements," and I'll just pick a few here - one metre of soil compacted to a conductivity of 1×10^{-5} cm/sec. A control infrastructure in site, exit infrastructure, drainage plan for surface water including sedimentation, ponds, appropriately designed road surfaces, signage, ground water monitoring wells, a minimum of four. One has to be sort of up slope

or up gradient, I guess, we describe it in the industry, and the other three have to be down gradient so you can detect if the site is having any impact on ground water below down gradient. They have to have weigh scales approved and functioning pursuant to Weights and Measures Canada. That has to be in place for weighing all the debris that comes in. And there's separation distances from property lines, a 30 metres, highways 30 metres and a separation distance from the foundation of the nearest off-site structures for commercial, industrial, residential, institutional purposes is 150 metres. Also the minister can require additional design features if he feels it's necessary when he's reviewing these applications.

Also in these regulations under Section 63, there's operational requirements and those direct the operator to have a plan in place for cover of the material that they take in. Supervision during operating hours. Inspection of all loads by the supervisor at the site, to make sure they only accept C&D debris. No acceptance of industrial waste; no acceptance of remaining waste which is your black cart waste compostables or recyclables. No liquid waste is allowed. Litter is controlled. Erosional control and sedimentation, dust and odours and noise are controlled. Detailed records of what comes into the site, the carrier and the quantity and things like that. These records have to be kept by the owner for a minimum of two years. Also they have to conduct a groundwater and surface water monitoring program at the site. They have to submit a written report to the minister on or before March 31st of each year for the proceeding calendar year identifying what they find and what the quantities of material were. So it goes on from there.

The results of the groundwater and surface water has to be submitted to the minister and in some cases, the minister may require financial security by the operator. So that's—another requirement is in Section 64, where they have to actually prepare an operation and maintenance manual for the site, at least 30 days before they start operations. This document is required and it has to specify they have to have record drawings and specs to show exactly where the cells and the wells and the scales and all the different components, the drainage ponds and things like that, a complete description of operational procedures, monitoring well logs, surface water monitoring logs, all these

things. Contingency plans to deal with waste that is not acceptable, I mean, we realize that some times when you're tearing down an old building or an old house or a factory building, sometimes you come across things when you're unloading that aren't supposed to be there so they have to have a sorting area where they can pick that stuff out and set it aside and then take it off site.

Contingency plans to deal with emergency issues like fire, explosions, spills, things like that. Procedures for the maintenance of disposal records including the names of the generator, and again, this manual has to be submitted to the minister and approved before they can begin operations. So once the department is satisfied that the proponent meets all of these requirements, then a recommendation is prepared for our minister and the minister decides whether he wants to issue that permit as well. He can put—we can put conditions on that as well and the permit usually has an expiry date of one to two years after it is issued.

So hopefully that outlines to you the process that a person or a company would have to follow in order to get approval under the C&D—for a C&D site.

Wilbur MacDonald (PC) (Chair): Are you ready for some questions?

Hon. Jamie Ballem: Yes, Mr. Chair, that concludes our presentation and we're prepared to answer any questions you might have.

Wilbur MacDonald (PC) (Chair): Mr. Bagnall, followed by Mr. Collins.

Jim Bagnall (PC): Okay, my first question, minister, Jamie, I guess we're going by first names here. It seems to be a concern that, and I may have missed it and if I had, I'm sorry I missed it, but when a community is going to have an application for a D&C site, or C&D site in their community, are we going—when do they let know, are they letting know the minute the application comes into your department that there has been an application for a C&D site for their community?

Hon. Jamie Ballem: The short answer is no, they're not, and the current regulations don't specify exactly a date and part of the difficulty that we have and that is going to be part of the review

that we're doing of our existing regulations is at what point do you become public? I mean, when a proponent comes in and they've got a preliminary plan or a— it's a verbal application or a verbal what if, you don't make it public then because it's not really an application.

The second part is when they apply for the permit for the undertaking, is that when the time that we should make it notified. So we're going to try to get a little more specific when the public is notified and how. As Don mentioned in going through the regulations, there's a specific point in an incorporated municipality that you go to the council and say, here's and we refer the proponent to the council. But in an unincorporated area, there's no body to notify so we're reviewing that but in the current regs, there's no.

Jim Bagnall (PC): And I guess you answered it, is there going to be a review of the regs and if so, when?

Hon. Jamie Ballem: That's ongoing now. We have a number of issues. I mean, we're trying to—we came here to talk about generally C&D sites, but we all recognize that there is a specific application in the works. There was a number of concerns that were raised by the residents of the proposed site in Ten Mile House and the residents in the area. We do have a record of all those concerns and we're in the process of going through them and that will be incorporated into the process of regulation review.

Jim Bagnall (PC): One of the things that I've been listening and hearing on these sites is 150 metres from, for the nearest homes.

Hon. Jamie Ballem: Yes.

Jim Bagnall (PC): They seem to—many concerns that I've heard seem to tell me that 150 metres is too close to anybody's home where they're putting these things. And I know if it's 300 metres, is that too close? Or if it's 500 metres, is that going to be too close when the sites comes? To me, 150 metres seems like a very short distance for a site where there's going to be trucks traveling on a daily basis and noise and machinery on a daily basis, loaders and stuff moving it around. I hope that's part of one of the regulations because. . .

Hon. Jamie Ballem: Yes, that issue was raised at a community meeting that was held in Tracadie Cross. Where I'm struggling personally right now is what is the distance? And you indicated yourself, Jim, that okay 150 metres doesn't sound like enough. What is enough? That's a question that we're trying to deal with. As you said, 300 metres, is that far enough? Or is that too close? And that's where I'm struggling with now, we're having discussions within the department.

Jim Bagnall (PC): I guess another question that I have and I'm not going to tie up all the time here but is there work done with the Department of Highways when regulations are being drawn up for these sites as per the class of highway that these sites are going to be on? Whether there's going to be site, sufficient site for a gateway or a driveway for these sites? You know, like there's some roads that have, there's some roads where we can't put anymore driveways in, you know, like because of . . .

Hon. Jamie Ballem: Controlled access.

Jim Bagnall (PC): . . . controlled access highways, yet we, because there is a driveway there, we'll let a big company go in with trucks. So that seems to be a concern in—and when we're looking at sites and I think more work has to be done with the Department of Highways to work together on that.

Hon. Jamie Ballem: As Don indicated when he talked about the process and the technical review that we go through, it is referred to TPW for their officials to look at the site. Site distances is an issue for them. I think, and I don't want to be quoted but my understanding on transportation is that a residential driveway requires a shorter site distance than a commercial enterprise. That's all referred to and it comes to transportation. When it comes to--the driveway's there so we'll let and on a controlled access highway, we'll just let somebody come in with a bunch of trucks. If it's a change in use, it has to go, transportation has to take it to Executive Council for a change in use of that driveway and the controlled access. So if it was a residential driveway and you want to make it commercial, you can't without having approval of Executive Council on a controlled access highway. But if it's a commercial now, it can remain commercial.

Tape No. 2

Don Jardine: If I can just add one thing to that, most of these sites are also excavation pits, operating excavation pits which have truck traffic going into them already. So this site at Ten Mile House is an excavation pit on that property. So there already is an access there for truck traffic.

Jim Bagnall(PC): I guess just one other thing. If these regulations are all being reviewed now and I just don't know exactly, is there an opportunity for someone to pick up the regulations and look them over as they are now and make, maybe, some possible suggestions that your department might be considered interested in looking at.

Hon. James Ballem(PC): Our regulations are a public document. They're available to the public at any time and yes, we would welcome suggestions. Keep in mind these regulations have only been in place for two years.

Jim Bagnall(PC): I understand that.

Hon. James Ballem(PC): And they're evolving as we speak and, you know, when you look at the number of 150 metres, that was taken in part from Nova Scotia regulations on C & D sites. We do understand there's a difference between Nova Scotia and PEI but again I go back, I guess I ask the question is what is the proper distance? But, yes, we would welcome input from people.

Jim Bagnall(PC): Thank you.

Wilbur MacDonald(PC)Chair: Mr. Collins?

Wayne Collins(PC): Thank you, Mr. Chairman. Mr. Minister, when Mr. Jardine was talking about giving us a cursory look at some of those regulations, it sounded like quite a job in terms of keeping up with the water testing and the sorting and everything else that goes into that. Do the regulations require that the on-site supervisor be certified or the others working in the C & D site be certified in some way?

Hon. James Ballem(PC): No, there's no certification process for people on the site at this time. But that's a good point.

Wayne Collins(PC): Now that it's under review

maybe it's something that should be considered. What about when Mr. Jardine mentioned that the minister may require financial security for the site? What was that referring to? Is that in relation to any long term environmental effects that might be discovered further down the road?

Hon. James Ballem(PC): My understanding is that that will allow, if we deem it required that, you know, it's worthwhile to have that. Yes, we can ask for some sort of financial security.

Wayne Collins(PC): Kind of a bond.

Hon. James Ballem(PC): Kind of a bond type of thing, yes.

Wayne Collins(PC): Okay. That's all I have to ask.

Wilbur MacDonald(PC)Chair: Anymore questions? Richard, Mr. Brown?

Richard Brown(L): Well, minister, I want to thank you for coming to the meeting today. Your presentation was quite informative. I've been contacted by a number of people over the last few weeks concerning C & D sites and I was out to a meeting at Ten Mile House, out at Tracadie, a couple of weeks ago along with the Minister of Education who represents the area. And the Technical Review Committee was there or a representative of the Technical Review Committee was there. And I, as the Minister also stated at that meeting, was very disappointed by the presentation by the Technical Review Committee.

A number of questions were asked to the Technical Review Committee on this proposal and this project, and I may be corrected by the minister if she wants to come up and correct me, but I would guess 90 per cent of the questions weren't answered. And the people of that area were extremely frustrated.

And I hope, Minister, that that meeting will not be taken as requirement 2.c of section 9 of the Environmental Impact Assessment which says "Notify the public of the proposal and provide an opportunity for comment". I hope that's not the checkoff for that, that meeting is not the checkoff for that requirement because there was a proposal, there was an opportunity to ask questions but I don't think the questions were

answered properly and I stand to be corrected. You know, we have to get a better . . . (Applause from floor)

Wilbur MacDonald(PC)Chair: Order please. Order please.

Richard Brown(L): If you want to comment any time?

Hon. James Ballem(PC): Sure. I guess the difficult position that I put our staff representatives in that night and that day, because we had staff present at the open house for the entire, the duration from 12 till 10, was that we sent them out there with the instructions that this is not our meeting. This is the meeting of the proponent and the proponent is the one who's to answer the questions. They were not there to represent the Technical Review Committee. They happened to be the staff person who was there and we didn't want them taking ownership of that project because our job, as a Department of Environment, our job as the regulator, is to ensure that the regulations are followed and the environment is protected. And if the community felt frustrated and the residents that were at that meeting felt frustrated because they didn't get satisfactory answers from our staff then I'm going to take the blame for that because our staff were out there to be observers, collect the information, bring all of the concerns back and we will be addressing them.

We've had, I've had a request from a representative group from the area to meet. We're meeting with them on Monday and we'll be going through the questions and the concerns that were raised at the meeting and any other concerns that they may have at that time. Will we be having another public session? We haven't decided yet. Technically that fulfilled the requirements of the regulation for the proponent to have it. But that's not saying or discounting the possibility that we will be, whether we need another public meeting or will the meeting with the representatives be suffice.

But I think, as I said, I think we put our staff in a difficult position because we said, you go out there and listen to the concerns, take a record in fact of the meeting on the previous Sunday that was held in the community. We asked people, I think Mr. Fitzpatrick asked the residents to take their questions in writing and we asked if they could

make two copies so that we could have a copy of each one. It was not our meeting and we didn't want to take ownership of it.

Richard Brown(L): I would argue, Minister, that the environment is a public issue and the more public meetings you can have into the environment and into educating your staff and the public at large on environmental issues the better it is. You indicated earlier that this does satisfy Section C, Section 9(2)c so really there is no further requirement under the legislation to have another public meeting but at your discretion.

Hon. James Ballem(PC): Under the current regulations, yes.

Richard Brown(L): And that's where I have a problem with it. You look at the act. Three little tiny sections—Environmental Impact Assessment—three little tiny sections and it's total discretion on your part. *The Minister in considering a proposal submitted pursuant to Subsection 1 may*—I have a real problem with that and I think the public does. You can choose to change the rules for different projects, which I don't think should be allowed. And I think the legislation should be changed also with the regulations. And I understand you had indicated earlier that the regulations are being reviewed at this time. Can you tell me—you indicated there are four sites presently working, two are under temporary permit or conditional permit right now—how many other sites do you have on the books right now or how many people have come into your department asking for these sites?

Hon. James Ballem(PC): Well, taking the four that have full operating permits, the two that have a permit to construct and the application from Ten Mile House, I think that's the seventh.

Don Jardine: There's one other one. And there have been some turned down in the past as well.

Richard Brown(L): So there is—we've been hearing there's eight or nine sites. So there's not eight or nine applications, you have not been informed by eight or nine different people.

Hon. James Ballem(PC): A combination of current sites with operating permits, the permit to construct and applications on there's eight total.

Richard Brown(L): So that's the eight. Four, two and two. Okay. How many sites does the Department of Environment—I all it the Department of Environment, I know it's got a longer title—do they feel is needed for PEI? Have you got a strategy or have you got a policy that says we need this many sites of this much size and this is where we think the general area of location should be?

Hon. James Ballem(PC): In my remarks earlier, one of the issues that we talked about is, I mean, one of the issues concerning proponents of C & D sites is transportation costs. So they're going to want to set up a site that's close to where they're generating the debris. There's two schools of thought that these C & D sites are pretty expensive to set up. I mean we're looking at probably \$200,000 to establish a site by the time you put the scales in and the liner and everything else that needs to be done. Someone better be pretty confident I think in a business plan that they're going to have enough material to make that site worthwhile.

So on one hand, you can look at it and say the market place will dictate how many we have. The other way is that we estimate that we have between 15 and 20,000 tons annually are produced, how much can each site take? And part of the review that we're looking at is doing exactly what you're suggesting, Mr. Brown, is that we say we need to have this many sites and that's all we're going to permit. When you look at the geographic set up right now that we have, of the six that are in place and I'm adding the two that have a permit to construct, we have two in Kings County; we have two in the Summerside area; we have one in the Charlottetown area and one in rural Queens. There's none in West Prince. And when you think of the population base and the amount of material that's going to be generated you would assume there's going to need to be more in the central part. Possibly one in West Prince. So we're going to be reviewing how many we need, the tonnage that goes in on an annual basis but again, and I'm asking the question, not giving an answer, do you get so involved that you're saying there shall be nine total in the province or do you let the market dictate and we'll make sure that they're operating properly.

Richard Brown(L): How many pits are currently identified at the Department of the Environment,

construction or excavation pits, identified on Prince Edward Island at this point in time?

Hon. James Ballem(PC): Four hundred.

Richard Brown(L): Four hundred. So potentially we have 400 C & D sites because your policy is to restore these pits. So potentially we have 400 C & D sites.

Hon. James Ballem(PC): I mean that if you want to take that the only way to restore an excavation pit is to put a C & D site on it, yes, you're right. But it's one of the options of restoring an excavation pit.

Richard Brown(L): What is the policies of getting a permit for a pit now, an excavation pit? Is there a restoration plan that has to be applied?

Don Jardine: Yes, there's an application process to get an excavation pit permit. There's another set of regulations called the Excavation Pit Regulations. The procedures are laid out are in those regulations and there's a bit of a review as well and there's setbacks required from property lines similar to what we're talking about.

Richard Brown(L): Basically the same setbacks apply to the pits that apply to the C & D sites.

Don Jardine: I wouldn't agree with you there until I check with the regs.

Richard Brown(L): Okay, good. Mr. Chairman, if anyone else wants to jump in any time.

Wilbur MacDonald(PC)Chair: Mr. MacKinley?

Ron MacKinley(L): This 150 metres seems to come up quite a bit. That seems awful close. Like if you look, Jamie, you're familiar with most farms are 660 feet wide so two farms is only 1260 feet. Something like 600 metres would more be away from homes which is only three farms wide, you know, if you look at the farms. So I think you should be looking at probably your 600 metres. Another thing too, these liners, can you explain the liners you're talking about, these liners, how they work?

Hon. James Ballem(PC): I just want to comment on the distances, Ronnie. Part of the difficulty of putting a distance on it, if there's a thick

wood lot between the site any residences, then that's a shorter distance because it provides a buffer but if you have an open field and it's 600 metres. I mean there's a difference between the distance of what's providing the additional buffers, but yes, you make a good point.

Ron MacKinley(L): Well, down there, the one we're talking about here I believe somebody was on T.V. said they could see it from the back yard.

Hon. Jamie Ballem: Yeah, I saw that.

Ron MacKinley (L): So you got no wood lot so if you made 600 metres and all of sudden you were concerned about your wood lot you could put it in regulations if there's a certain wood lot in the middle you could be shorter than 600 metres.

Hon. James Ballem(PC): Yes and Don's going to do that.

Ron MacKinley(L): Explain this liner to me.

Don Jardine: The liner, okay you have to remember most of these sites are in excavation pits which are into bedrock so we want to put a liner in to create, you know, a buffer.

Ron MacKinley(L): Excuse me, bedrock means that if you dumped water in there it would go down.

Don Jardine: It could, yes. So we want to make sure, so the liner that's required is one metre thick so 3.28 feet thick and it has to be to the permeability, which is the ability to drain water, of 10-5 cm per second. So it's a very sort of tight soil, I guess. So you don't have that direct contact because C & D debris has a lot of bulky material in it so it allows the rainwater to get through it pretty easily so you have this liner at the bottom which just sort of acts like a bathtub and then it drains that water off into, there's a sediment pond requirement too so they can drain the water off.

Ron MacKinley(L): But you got this site and you got three, about that high of clay that's compacted and it's sloped that water is going to run to a drain. What do you do with the water once it gets there?

Don Jardine: In the regulations, they require a sediment pond or a drainage program. So it would have to go through that program.

Ron MacKinley(L): Yes, but what do you do with the water when it's in the pond?

Don Jardine: Once it comes out of the cell?

Ron MacKinley(L): Yes.

Don Jardine: It would go into the pond and then there would be a discharge from that pond.

Ron MacKinley(L): And where does that go?

Don Jardine: Wherever it happens to be in the area, whether it's a wood lot or just on the . . .

Ron MacKinley(L): No, but is that water good? Could you drink that water?

Don Jardine: They have to—there's requirements in the regulations to test that water on a regular basis.

Ron MacKinley(L): Well, you got one down there, down east, the one that all the trouble was, the one where it was dumped in, Hazelbrook. Is there discharge on that one?

Don Jardine: Yes.

Ron MacKinley(L): And where does the water go from the discharge?

Don Jardine: It fans out into like a bit of a wood lot right there.

Ron MacKinley(L): Has that water been tested?

Don Jardine: Yes.

Ron MacKinley(L): And the water always came back pure.

Don Jardine: I don't know what your definition of pure is.

Ron MacKinley(L): Well, you can drink it or it's not polluted.

Don Jardine: Well, I wouldn't recommend anybody drink surface water.

Ron MacKinley(L): So all right, the water is coming into a wood lot. What's in this water that

you tested? Have you got any—what kind of material did you find in the water?

Don Jardine: Well, there's requirements in the regulations as to what they actually test for and I can refer you to those. Minimum requirements surface water, it's in Schedule A of the regulations. Indicator Risk for Surface water—alkalinity, ammonia, chloride, conductivity nitrate, total kjeldahl nitrogen, pH, total phosphorus, suspended solids, total suspended solids and sulfate.

Ron MacKinley(L): So what have you found? You have done tests of the water. So what are your findings coming out of this material? The material dumped there would be the same as dumped anywhere else.

Don Jardine: I don't have any results in front of me but total dissolved solids would typically go up because it's runoff water, right?

Ron MacKinley(L): Yes, but how high and then—you don't have it, could you get me that information?

Don Jardine: We could get you that information.

Ron MacKinley(L): Now going back to the liners, what happens if the liner gets a leak and it goes in the bedrock?

Don Jardine: What happens? There's a groundwater monitoring network that would be—it's in place for that very reason, in case that event does happen.

Ron MacKinley(L): So if you find the water is testing higher than you should. So what do you do to fix the leak? How do you find the leak?

Don Jardine: How do you find it?

Ron MacKinley(L): Do you dig up all this material and move it?

Don Jardine: That hasn't happened yet so I guess we're sort of speculating here.

Ron MacKinley(L): Yes, but these are only new . . . Like, I know manure storages have been done that way in other provinces or states and they put in this here liner. What I assume as a layperson a

liner means a liner that's leak proof, like a big foam rubber thing or something. But all of a sudden it's just clay and this clay does leak from time to time. And when it does leak you have a major problem because you've got all this stuff on top of it.

I'm talking about, coming from factory farms, you know, all the manure and that and actually I just got an article, I didn't have it with me today, but where the liner broke. The liner that you're talking about here, this clay, it leaked and they're finding these liners are leaking. So maybe there should be something besides a liner of clay. Put your line of clay in and then have another type of liner on top of that. See, it's only, you're talking \$200,000, the minister. But \$200,000, I believe they charge \$90 a ton to fill these things up.

Hon. James Ballem(PC): That's the minimum cost, yes.

Ron MacKinley(L): Minimum cost, well \$90 a ton.

Hon. James Ballem(PC): No, minimum cost of \$200,000 to set up.

Ron MacKinley(L): Yes, well let's say you spend 200 but for every ton of material you put in there you get 90 bucks. That's \$1,250 a ten-wheeler load. I mean, that's a lot of money. They're not like it's a charity organization, I'll tell you that .

Hon. James Ballem(PC): I know there is operational costs involved like, you know, there has to be people on site, you know, they have to have equipment to bury it.

Ron MacKinley(L): Well Jamie, you've got to check them, you probably got a hymach, and you probably got a dozer and probably a loader. But when you look at the amount of material that's coming in there. Like if you take a loader going into a pit, you need a hymach, you need a dozer in front just to load it and you get \$50 for the load of shale when it's loaded and delivered or \$60 delivered five or six miles down the road. So all of a sudden you're hauling in material, \$90 a ton. I mean there's an awful difference between \$50 or \$60 or even \$100 a load for shale. But the same equipment is loading and digging out and it's a lot harder on the equipment digging than covering. So there's something not adding up here on the cost either because it seems to be awful high.

Don Jardine: Well, I don't know where you're getting that \$90 a ton because I don't think they charge that much.

Ron MacKinley(L): I got it from the minister. How much do they charge a ton?

Don Jardine: I think if you go over to the site in Hazelbrook, they have their rates posted right up on their sign for different products.

Ron MacKinley(L): You mean you don't know how much they're charging?

Don Jardine: Well it's different for different products. I think \$50 for some things, \$40 for others.

Ron MacKinley(L): A ton?

Don Jardine: Yeah.

Ron MacKinley (L): Well, let's say \$50 a ton, you get 15 tons, \$750 a load. You still get \$750 a load coming in there, being dumped and if you got to sort a few things compared to what the original job of that equipment is digging the hole and removing it which you're lucky to get \$50 or somebody wants a load of shale it's probably \$75. So maybe you should be looking at, not only the liner, the clay liner, but having another type of liner on top of that or in the middle of it.

Hon. James Ballem(PC): But the other part, the material that's coming out, it takes up a whole lot less space in the hole than the loads going back in. That's pretty bulky material and the cell itself only has a limited lifetime. So when you start amortizing the minimum of \$200,000 construction cost over a limited life of the cell, I'm not going to get into the economics of the site itself because that's a private business, but I doubt if they're making a fortune on it.

Ron MacKinley(L): Let's say you're taking in bricks and wood, the wood is going to rot. Once you take, you could take a barn that fell down, go in with a hymach, looks like a lot of material. You take a barn, go in with a hymach in two or three hours and a dozer and then load it, you don't have near the material.

Hon. James Ballem(PC): I'm just going by ...

Ron MacKinley(L): Not burying this stuff in big wooden beams, they're burying it in little chips by the time everything goes through it, it's compacted.

Hon. James Ballem(PC): Based on my understanding of how the Hazelbrook site operates, that the wood is separated out and it's then put through a chipper and burnt at the Energy From Waste Plant. So it's not buried. The material that's buried is the material that has no other use. If concrete foundation material, I know that in some of the sites that they separate that out and use it to reinforce the shore lines.

Ron MacKinley(L): Well, a piece of concrete is going to take no more space than shale coming out because it's already been compacted.

Hon. James Ballem(PC): But it's not being buried. They're using that . . .

Ron MacKinley(L): What are they burying there? If they're not burying wood, they're not burying concrete, what are they burying?

Hon. James Ballem(PC): Gyproc, plastics, plaster, the asphalt, bricks, mortar, drywall.

Ron MacKinley(L): They wouldn't bury asphalt because asphalt's worth some money too so they're separate it.

Hon. James Ballem(PC): Asphalt shingles.

Ron MacKinley(L): Asphalt shingles? So that's only compact stuff so it's not going to take that much. The pit is going to be worth a lot more getting your \$50 or \$90 a ton than it was for the guy hauling the shale out of there. You must have figured that out.

Hon. James Ballem(PC): It could be.

Don Jardine: You've got to remember though that the developer has a \$200,000 capital investment he has to recover.

Ron MacKinley(L): But if you know the size of the pit, you people are the engineers in there. You could soon figure out how much material's going in there. And I'll tell you \$750 or \$1,200 a load, it wouldn't take you long to get your \$200,000 back. So what I'm talking about is maybe this here liner

we're talking about will leak some day. You know it mightn't be 10 or 20 or 30 years but what will we do then? That's—where if you had this other liner in a liner. Like I assumed a liner, they go in and they put down this clay and they compact it and then they have actually some type of felt or some type of liner to go in there. But it's not, it's just clay.

Don Jardine: The liner at Wellington is different. It has a plastic but see the material going to Wellington is different in nature. So you have to look at what the risk of the—this is inert material, you've got to remember. It's stuff that doesn't have a lot of contaminants in it.

Ron MacKinley(L): Yes, but it has contaminants in it. You said there it doesn't have a lot. Well, how much is a lot? Like these are the things you've got to look at and, you know, like I mean, this government here and the Waste Watch is a good thing but they criticize for all the places we build up filling up holes. I assumed when this new Waste Watch thing came out there would be nothing hardly getting buried at all. That they were going to get rid of all of these pits. But now all of a sudden we hear there could be up to 400 of them. So if you look at the spin on this Waste Watch thing and I'm not against Waste Watch. I think it's good and we've got to recycle as much as we can. But all of a sudden now we're here on a committee finding out there's going to be a whole bunch more dumps. Like a lot of people were of the idea that there would be no more dumps, that it was all going to be handled through Waste Watch.

Hon. James Ballem(PC): It's easy to say, and you used the word spin so I'll use it, if you want to put a spin on it and say there's going to be 400 C & D sites now you know there's not but the other thing is that if the proper materials go into these things and the regulations, then if it does leak we have the monitoring of the water that's coming out in the sediment pond.

The other part of it is these are not dumps and when you look at the amount of material that was buried prior to Waste Watch and the amount that's buried now, it is significantly less. And I think we had enough situations and one that made a lot of media attention in the nineties was in the community and the village of Cardigan where the dump, which really was a dump, was causing

problems in the wells and government decided they weren't going to bother taking any action on it. I really don't think we want to go back to that.

Ron MacKinley(L): Well, the thing is I'm looking at here is a dump, a dump. You call them D & A sites, but still you're dumping material there, you're filling it up. The 400 figure came from, you admit it, that there was a possibility it could be 400, it's highly unlikely. But it's anywhere from nine up. What I'm looking at here is looking down the road, 10 to 15 years from today. See I think these things are safe now and I think they'll be safe for so many years. But what happens to people that are sitting here 20 years from today.

It's quite logic that the problem they had down East, when the government approved that they thought it was safe, there was mistakes were made. There's all kinds of these examples or they wouldn't allow them to take place. So now all of a sudden the liner is what I'm looking at. I know this stuff's got to go somewheres. But the liner is what I'm looking at, is to make sure that some other politicians, that we probably won't be around here, that in 20 to 30 years that it's not turned around and all of a sudden it sprung a leak. And how do you correct that situation. That's the problem I'm looking at.

And no matter yourself, some material could be contaminated that's going into the site. I mean you can't watch every little nick and corner of everything going in and that's why you've got the liner. And then, it seems sensible to me, the liner, and then it comes out and you can get a look at the water. You've got these water monitoring things for the short term but what happens in 15 or 20 years time, all of a sudden there's a problem there. How long do people monitor those pumps? Like, the water coming out of these.

What happens when this site goes up, somebody takes the site, sells the site, it's closed 15 years from today and all of a sudden there's a leak somewhere. How do you monitor that? That's all I'm saying. Is there not something else besides this clay liner that's being used? Is there anything on the books?

Don Jardine: There's nothing in the regulations that requires . . .

Ron MacKinley(L): No, but is there anything that could go on there besides it?

Don Jardine: Sure.

Ron MacKinley(L): Like you're looking at making regulations and this is what this committee is for. It's not only for the problem we're in now. It's the problem where we could be in 10, 15 or 20 years from today. It's all right, like it's water under the bridge, but you can go back and government's made lots of mistakes before on both sides. And it's cost the government now a lot of money to clean these up. If you go to Nova Scotia, you go to the Tar Ponds, you go anywheres you want. Everybody thought this stuff was all safe and then all of a sudden, 15, 20 years later, 40 years later, it's starting to show up.

So these are things I think when you look at the regulations that you want it not only safe for today and tomorrow. Like if you approved this tomorrow I assume we'd go out there in two years time and everything looks good. But what about the residents that are going to be there in 20 or 30 years time?

Don Jardine: It's a good point. Thank you.

Tape No. 3

Wilbur MacDonald (PC) (Chair): Mr. Collins and then Mr. Brown and then Mr. Mooney.

Wayne Collins (PC) (Chair): Just a quick question. Is the current plan under the regulations the kind of procedure for putting down that clay and the monitoring and the test wells and everything else, does all of this reflect industry best practices as we know them in 2004, for C&D sites?

Don Jardine: Well we were, I guess we looked at what other provinces are doing with their regulations and there's not that many provinces that actually regulates C&D sites. I guess, I mean the way we look at it, we looked at what Nova Scotia had in place for C&D sites. We've checked with New Brunswick and the other provinces that are close to us and we felt that—they felt that that was good practice for them. So we thought we'll adopt that here. It certainly is a lot better than what we were doing before which was basically not requiring anything. So we think it's an improvement. These things were illicit. They were haphazard before and we now have a control system. We can regulate it and we can make sure

that everything that we require is put in place. But not to say it could be better, I'm not going to deny that. Maybe they could be better and that's I guess, part of the reason why we're here.

Lewie Creed: I think it's a matter of risk management. I mean obviously, the facility at East Prince which is a waste management facility has a different liner because the materials are going to have the likelihood of having more contaminants. Where a C&D site, properly managed, should have inert material. It has the backup of the clay liner as Don said that wasn't in place before. It has the further backup and further safety feature, if you will, of the monitoring wells. So I think it's a degree of risk management related to what the operation of the site is intended for and the material that is intended to be placed in the site.

Wilbur MacDonald (PC) (Chair): Mr. Richard Brown?

Richard Brown (L): Thank you. Who tests the wells?

Don Jardine: Who tests the wells? The proponent.

Richard Brown (L): The proponent, so he would take. . .

Don Jardine: They hire independent consultants to . . . They pay for it, but typically it's somebody like a Jakes Whitford or AEI or somebody like that. But we have the ability to go in and test them anytime we want to.

Richard Brown (L): And how many times have you gone in and tested?

Don Jardine: Well we've tested the wells around Hazelbrook a couple of times.

Richard Brown (L): But the requirements right now is how long?

Don Jardine: How long?

Richard Brown (L): To submit the test results?

Don Jardine: Once a year.

Richard Brown (L): Once a year. My colleague

said earlier the liner and the permeability of the liner. We see here and you indicated earlier about nitrates and in your State of the Environment Report done by the former Minister of the Environment, stated that nitrate levels are increasing on Prince Edward Island. They've gone from 3.5 per cent of the wells over the limit to 5.2 per cent of the wells now. There's a problem occurring there. The liner will protect against this?

Hon. Jamie Ballem: The majority of—the nitrates I think if you check in that report, the nitrate levels that are higher concentrations are in the areas where higher agricultural production takes place and the nitrates are a result of chemical fertilizers or manures going into the system.

Richard Brown (L): So earlier you said, the capital investment was \$200 thousand. The impression I get out of today's meeting is that it is a self-regulating industry. The industry guards the site. The industry does the testing. There seems to be no—there's a lot of regulations but it's all industry dependent. Like you bring in the test results. Your person mans the gate. We heard from the Member from the Charlottetown area that no certification for these people at the gates. They're employees of the people that own the site the majority of the time. So the capital investment of \$200 thousand and the return of investment on that, if a lot of these sites get developed, you know, shouldn't we have more independent review of these sites?

Hon. Jamie Ballem: Well I guess your definition of independence—as Don indicated, it's not a matter of the proponent or the owner/operator of the site going and taking a water sample in and telling us here is the water sample. They have to hire someone to do it. Like a Jakes Whitford is one example. These are professionals and they're going to give—their reputation and their business is to do this. We require that the proponent pay for the testing to be done. We monitor the sites on a regular basis, unannounced site visits by our inspectors so, yeah, there is independence and monitoring and there's the penalty process for violations of the regulations.

Richard Brown (L): So there is inspection reports? And are these public to the community or to the area residents that they can see them? Like we need these sites. I'm not saying shut all the

sites down. We need construction debris sites. How they're developed, how they're managed and how they're brought into being, we're discussing here. That's what I consider and we should do it the best practice that we can. We shouldn't have to depend on Nova Scotia's best practice because Nova Scotia, quite honestly, is one big hunk of rock and PEI is quoted as saying, we're one big sandbar. So rock is a lot more tighter than sand, I'd say, and we depend more on our groundwater than Nova Scotia who depends on lakes, Killarney Lake and things like that. So the more we can do to secure these sites and to have the community involved, after all the Throne Speech said, "We're here for the community, and we believe in the community."

You know, if we're going to have a process that may do this and may do that, like I look at Nova Scotians so you took our regulations from Nova Scotia. Okay, we have two pages or three sections of the act for our environmental assessment. They have one, two, three, four, five, six pages and they're. . . Would your, government—Nova Scotia's has a Nova Scotia Environmental Assessment Board, would you, as minister, be willing to give up your authority and pass it over to this Board? Or to let this board review environmental impact statements?

Hon. Jamie Ballem: One point I want to clear up, I guess, there are three sections you talked about for our environmental impact assessment is just for the C&D sites or the waste management. It's not the Waste Resource Management Regulations. It's not the entire regs for. . .

Lewie Creed: The reference to referring to Nova Scotia is with respect to the Waste Resource Management Regulations which govern, among other things, the operation of C&D sites. Some borrowing was done in terms of what's in place in Nova Scotia. In terms of the environmental impact assessment process, that is something that has been a long standing part of our legislation here in PEI. It is currently backed up by guidelines in terms of the environmental impact assessment process that Don referred to earlier and we're in the process of developing regulations that would provide probably a broader context than the current guidelines and would put them obviously in regulation.

Richard Brown (L): The situation we have here

is like if you could have been at the meeting, minister, in Tracadie, it was pretty simple questions being asked and no answers given. That's my interpretation of it. People want to be assured that the right decisions are being made and that all the information is out. The people of Hazelbrook have been saying that their site wasn't done properly and I guess they have you in court over that. We want to have confidence in the process here and we want the people to have confidence in the process here.

How can the people have the confidence in the process when the Hazelbrook site was up for development and you had a letter here from the then deputy minister of Environment to Executive Council on that site. And his, and this was your deputy minister at the time, said and probably, okay, "This is not acceptable as it did not have the approval for a landfill site and probably would not get approval for a landfill site at this location." How are people to have confidence when your own deputy minister recommended against Hazelbrook?

Hon. Jamie Ballem: But you're talking about a landfill site, not a C&D site. They're two different things.

Richard Brown (L): They are then?

Hon. Jamie Ballem: Yes, they are.

Richard Brown (L): Okay, and the landfill, like okay, so I have some pictures here of Hazelbrook and these are different items. Is this a landfill or a C&D site? When I see pictures of that, like what does it end up? If we can make a set of regulations that the people have confidence in and that it's open to the public and that all the information is made available to the public. Because right now, the way the sites are developed, it's may, the minister may do this or may not to do this. Different proponents come in. They may do this; they may not do this. Whereas Nova Scotia's is pretty strict and that pretty strict provides confidence to the area residents. So until the new regulations are in place, until the new act or whatever changes you want to make, would you agree then or would the department agree to a moratorium on anymore C&D sites until such regulations are updated and legislation is updated? Would you agree to that, minister?

Hon. Jamie Ballem: Well our regulations are only two years old and we are in the process of reviewing them. One of the questions that came up is if we changed the regulations, would it be retroactive to include an application that's in the works? And we don't have a final legal opinion on that. But we're looking into can we make them retroactive. I would have to say that, no, we're probably not willing to look at putting a moratorium on because I expect that in four years time, we'll be still reviewing regulations and making changes and when does it end. So we're—it's an ongoing process.

Wilbur MacDonald (PC) (Chair): Mr. Mooney?

Andy Mooney (PC): One thing I'll put on record, I was a tremendous supporter of Waste Watch. In St. Catherines, where I live east, the dump site for the Town of Souris was on our road and when you saw the stuff that was in that hole over the years, like as kids, it was there when we were quite young and a lot of people in the evenings would drop in there to see the wildlife that was on the go. But that was a dump, that's a completely different thing. But seeing what was put in them holes over the years as a community dump, it's a strange thing living as close to it as we did that our kids aren't growing horns, to tell you the truth.

I was a major supporter of these changes and C&D disposal and a dump are completely and utterly two different things if they're run properly and I'll put that in there. I had, now I'm going to ask a question and it may seem silly, but it was a question that was posed to me one evening. A gentleman asked me, as far as a liner in the C&D site and the amount of tires that we have on Prince Edward Island with no home to go to, now I don't know if this even makes sense, but he asked me to ask the powers that be if you shredded these rubber tires and in a liner had, like let's say, if it's 3.5 feet you're using of compacted clay, if you put a foot and a half and then used six inches of very finely shredded rubber that would use up these stockpile of tires that we have here and then put the rest of your compacted material, wouldn't that make a tighter seal and also dispose of tires environmentally?

Don Jardine: Sorry, what were the tires going to be on top of it?

Andy Mooney (PC): Well if you were putting 3.5

feet . . .

Don Jardine: Oh, inside the clay.

Andy Mooney (PC): . . . of compacted clay, let's say you put a foot and a half of clay and then four or five inches of shredded of these tires that's rubber, shredded very finely, compact it and then the rest of your clay liner packed on top of it, would it make it a tighter seal?

Don Jardine: Actually, I don't think it would because these shredded tires are sometimes used in septic fields. Like in the State of Texas, they've allowed shredded tires or tire chips to be used as a replacement for gravel in tile beds so they're actually a drainage mechanism. And also I know that there are landfill sites in Maine and some of the states where they actually use the tire chips as a drainage layer to collect the leachate that drains out of those sites. So actually the tires would make a drainage, it would make it a faster, it would be worse.

Andy Mooney (PC): Would that depend on how, if they were shredded versus junks. I know junks of rubber would be the same as junks of gravel, no doubt. Anyway, it's something I told this gentleman I would bring up.

Don Jardine: I don't think that would improve the situation myself.

Andy Mooney (PC): Anyway my only concern on this is site distance because I mean the sites are needed. . . just as even the Opposition is saying they're needed but site distance to me is very important and I know with—as I said, we're a couple of miles from the old landfill site that was on our road and my goodness, this is day and night. I mean it's just basically going to be materials that aren't toxic and aren't going to break down. They're just going to be buried and gone. But still if it was in our community, I certainly would like it out of sight.

Wilbur MacDonald (PC) (Chair): Okay, I understand you have questions?

Richard Brown (L): Just two more little questions.

Wilbur MacDonald (PC) (Chair): Two little questions, Mr. Brown?

Richard Brown (L): So minister, the Independent Review Board, are you willing to look at it for C&D's or any. . . ?

Hon. Jamie Ballem: The environmental panel, you're suggesting?

Richard Brown (L): Yes.

Hon. Jamie Ballem: Well in my understanding in the history of the province, there's only been one environmental panel and that was for the bogs in Miscouche and with all of the other issues that we've dealt with, it's never gone to the panel. I don't feel that we need to have go through that extra layer of bureaucracy for this type of a site.

Richard Brown (L): So you're taking the responsibility for the approval or disapproval of these sites?

Hon. Jamie Ballem: That's, yep.

Richard Brown (L): Okay, just one other comment. I met with some groups and you know, contrary to opinions sometimes, meetings are pretty good. Public meetings are pretty good. You get some real good ideas at a public meeting. Sometimes you scratch your head and you wonder, that was a damn good idea. We have all these experts and we have all these people that are paid to come up with ideas and this little fellow in the corner came up with the best idea of all. One of those ideas was, why don't we have for demolition of houses and things like that, someone from government or someone to go in—you have to get a permit to demolish your property. Someone from government go in and say, okay, this has to be removed, that has to be removed, and this has to be removed before you can demolish this house and send it to a C&D site.

Hon. Jamie Ballem: Well there has to be, as you indicated, there has to be a permit for demolition and I'll use a site that you're very familiar with, the Eric Found Centre and that was, there were conditions put on the permit, very specifically, how various materials were dealt with. When you take a—use a house for example, then I think under the regulations, that here's, there's a demolition where/how it's going to be disposed of and I think even the site restoration is involved in some of it. But where do you stop? If it's just a plain, ordinary straight-forward house, do you still

say, let's get the bureaucrats in and say, well, we think you should—this looks fine, take the whole thing and dump it out in a C&D site or dispose of it by separating the wood and shredding and burning it.

Richard Brown (L): I guess my comment to that is wouldn't it be better to do it now than end up with a problem in 10 or 12 or 13 years? To say, oh, we should have did that? Like asbestos, at one time, we were all running around in it. We were swimming in it and the experts at that time say, go ahead, have a great swim. Now, there's millions and millions of people suffering because of those policies. I'm just saying an ounce of prevention maybe good at some time.

Hon. Jamie Ballem: Yes.

Andy Mooney (PC): But I know, like an old fish plant that was in Souris. . .

Wilbur MacDonald (PC) (Chair): Mr. Mooney, okay, you have to be recognized by the chair. Mr. Chair, go ahead.

Andy Mooney (PC): Okay, Mr. Chair.

Wilbur MacDonald (PC) (Chair): You can go ahead.

Andy Mooney (PC): Like the old fish plant in Souris, like before it came down, Environment had to have a look at it before they could get the approval and I know that because on behalf of the town, I was lobbying awful hard to get that approval through so that eyesore could be taken down. Prior to them taking the building down and it was being hauled away, they had wells on site that had to be completely sealed and the building was taken off the site and being gone. So I think as far as any type of building that has any hazard material, there's tremendous guidelines there now. They're almost makes it hard to get rid of some of the old eyesores of buildings.

Don Jardine: I can respond to that a little bit. The department has developed a check list especially for industrial buildings. Like Mr. Mooney has indicated the fish plant that was torn down, like we made the owner of the building hire a consultant to go through the building and identify mercury switches, any kind of lead paint, asbestos, all those types of contaminants. They had to do a

survey of the building and submit that to us. Where you know it's an older building and it may have some of that stuff PCB ballast and some of the light fixtures and things like that. So we have a check list developed and the C&D operators are aware that we have this check list and if you look in some of their manuals, they've identified that this stuff isn't allowed into their site.

Hon. Jamie Ballem: The other part, I guess, the point is that because there's a considerable investment, capital investment in these sites and the bulky material and there's a limited life span, I think that, again, I'll speaking to you as a business man who is involved in the construction business in the past, you're going to use, get every cent of value out of the project you can. And there's going to be an economic benefit for people to take whatever's salvageable and usable, whether it's shredding the wood and getting paid for it at the Energy from Waste plant as a fuel as opposed to burying it because there's going to be enough stuff that they're going to—you know it's going to fill up their cell quicker.

Wilbur MacDonald (PC) (Chair): Thank you very much. I just have one comment to make.

Ron MacKinley (L): I have a question before you finish.

Wilbur MacDonald (PC) (Chair): Okay, could I make my comment?

Ron MacKinley (L): Yes.

Wilbur MacDonald (PC) (Chair): I would suggest you look at the hog—if you want to start a hog operation now, there is regulations and we've had two large ones in our area being very successful in where they were placed. Maybe that's an idea. I'm not sure how far back they are from the nearest. . . Mr. MacKinley, final comment?

Ron MacKinley (L): Yes, when did you start these D&C sites, when did they start being, C&D sites?

Don Jardine: January 1st, 2002, is when the regs came into effect.

Ron MacKinley (L): Alright, and can you get a permit now for a landfill site?

Don Jardine: Could you?

Ron MacKinley (L): Yeah.

Don Jardine: You could apply for one.

Ron MacKinley (L): Would you get it, like is there any landfill site permits going out?

Don Jardine: Wellington Centre is the only one at the present time.

Ron MacKinley (L): So these are, basically came in when the Waste Watch thing started?

Don Jardine: Yeah.

Ron MacKinley (L): And another thing, the sites, there's one in New Haven and there's one out in Tracadie there, will these be approved, these sites if you come to approve them, yes or no, will they be approved on your new regulations you're talking about in this committee or will they be approved under your old regulations where you have. . .?

Hon. Jamie Ballem: You made reference to New Haven. What did you mean by it?

Ron MacKinley (L): Well, apparently there's one applied for—there's a C&D. . .

Hon. Jamie Ballem: No application from New Haven.

Ron MacKinley (L): No application, but the municipality met. . .

Don Jardine: They're trying to get the by-laws changed.

Ron MacKinley (L): Alright.

Hon. Jamie Ballem: What we're looking at, as I had indicated earlier, we're checking with our legal people to see if changes that—if we do make changes to the regulations, can they be applied to an existing, you know a permit that's—or an application that's already in place and we don't have the final view on that. If we can. . .

Ron MacKinley (L): I'm wondering if the one in Tracadie will go under, it's quite obvious you're going to come in with new regulations.

Hon. Jamie Ballem: We're going to change the regulations probably.

Ron MacKinley (L): Yeah, somewhat.

Hon. Jamie Ballem: Yes.

Ron MacKinley (L): So you come in with new regulations, so does the one in Tracadie apply under the new regulations or is this the regulations that are already there?

Hon. Jamie Ballem: We don't know if we can legally. We will bring them under changed regulations if we change the regulations, if we can. But if we can't legally, and that's why we're asking for a legal opinion, whether or not we can change the rules in the middle of the application process.

Wilbur MacDonald (PC) (Chair): Thank you very much. We'll take a 5-minute break.

Hon. Jamie Ballem: Thank you, Mr. Chair.

Tape No. 4

Wilbur MacDonald(PC)Chair: Where did our people go?

Marian Johnston(Committee Clerk): You have a quorum, Mr. Chairman.

Wilbur MacDonald(PC)Chair: We have a quorum but it would be nice if we had one or two more but we'll not wait too long. Are they coming? Well, perhaps we'll begin, they'll be along shortly. We indicated at the beginning of our committee meeting that we had requests from John Joe Sark and Bill Fitzpatrick to say a few words or to address the committee. Is the committee agreeable to that.

Committee Members: Yes, agreed.

Wilbur MacDonald(PC)Chair: So, okay, I'd ask
...

Richard Brown(L): I was called earlier today too, I'll let the committee, there's a representative from Hazelbrook also has just a little comment on what went on there.

Wilbur MacDonald(PC)Chair: That would be

Mrs. Kelly?

Richard Brown(L): Yes.

Wilbur MacDonald(PC)Chair: Okay, we'll also hear from her. I would ask you to make your comments—we're not here to make any decisions today. We're just here to listen. Okay. We make our recommendations to the Legislature and that will be done later when the Legislature opens or our discussions are finished with. So I would ask who wants to be the first? Should we let John Joe be the first? Would you like to come up, John Joe. And then Bill, if you wouldn't mind. You can come up front now if you like. There's three chairs there. Ms. Kelly, do you want to come up too? You can have the center one, John Joe. I've know John Joe for a long, long time. He did upset me one day in the Legislature but I'll forgive him for that.

Ron MacKinley(L): You probably deserved it. (Laughter)

Wilbur MacDonald(PC)Chair: Go ahead, John Joe.

John Joe Sark: Honourable committee members, ladies and gentlemen, I wish to express my views in relation to the C & D disposal site proposed for Ten Mile House. The development will in the area of an ancient portage route used for thousands of years by the Mi'kmaq people of Epekwitk, Prince Edward Island. As a Mi'kmaq person my points of conflict are—Aboriginal title: The province of Prince Edward Island's own documents acknowledge established possession, occupation and use of this land by the Aboriginal people since time immemorial. The title has never been extinguished or relinquished by the Mi'kmaq people and remains our land in law.

Even though this province has not acknowledged our claims the Supreme Court of Canada has established clear precedent to support it in the following cases:

A. The Supreme Court of Canada in the Delgamuukw decision of 1997 states "that the provinces do not have authority to extinguish Aboriginal title or Aboriginal rights". In light of this decision, Honourable Members, how could the province of Prince Edward Island allow Green Isle Environment Incorporation to establish a construction and demolition disposal site on this

land and yet in the area of Ten Mile House, without first resolving Aboriginal rights and Aboriginal titles to that land in question.

The Supreme Court of Canada held in complementing 1996 decisions of Cote and Adams: “that where traditional use by an Aboriginal group of a particular area and for a particular purpose has been continued for pre-contact times this use can give rise to a constitutionally protected Aboriginal right though this may not be a recognized right of occupation–Aboriginal title.

On issue number one as out outlined above I request that the province of Prince Edward Island enter into negotiations with all the Mi’kmaq people of Prince Edward Island on the issue of Aboriginal rights and Aboriginal title and in the interim halt all construction and development of a demolition site at Ten Mile House.

2. Since this site has an ancient Mi’kmaq portage route there is strong probability of an Aboriginal sacred burial ground on this site. Any construction of a demolition disposal site would be a flagrant and disrespectful violation of the most fundamental rights of the Mi’kmaq people. The local residents near this site have found Aboriginal artifacts which is further proof that this was more than a portage route for the Aboriginal people. Therefore I formally request that a thorough archeological investigation be done on this site in accordance with the Archeological Act of Prince Edward Island as soon as possible.

In conclusion, I wish to quote from Chief Seattle’s speech to the American Government in 1851. His words still ring true to this day. He said, “Even though the white man whose God walks and talks with him as a friend to friend cannot be exempt from the common destiny. We may be brothers after all. We shall see. One thing we know which the white man may one day discover—our God is the same God.

You may think that you own him as you wish to own our land, but you cannot. He is the God of man and His compassion is equal for the red man and the white. The earth is precious to Him, and to harm the earth is to heap contempt on its Creator. The whites too shall pass, perhaps sooner than all other tribes. Contaminate your

bed, and you will one night suffocate in your waste.”

Thank you very much. (Applause from the audience)

Wilbur MacDonald(PC)Chair: John Joe, any questions, would you answer some questions?

John Joe Sark: Oh, sure.

Wilbur MacDonald(PC)Chair: And we’d like to have your statement, could we have it? Just pass it along, she’ll get it. Do you want it back, John Joe?

John Joe Sark: No, I have a copy.

Wilbur MacDonald(PC)Chair: Okay. Any questions for John Joe?

Richard Brown(L): I have one.

Wilbur MacDonald(PC)Chair: Richard, Mr. Brown, one question?

Richard Brown(L): Right now there’s no requirement to investigate sites for archeological artifacts?

John Joe Sark: Well, the province has an Archeological Assessment Act but it has no teeth in it. They have an archeologist but they don’t have money to give him gas to go to investigate these sites and it’s kind of foolish, you know, if you have an Archeological Act why don’t you do something about it. The history of the Aboriginal people of this Island is also your history and we should be protecting it.

You know, like we see monuments going up for the Scottish and the Irish and the French. We were here for 12,000 years, you know. We went through a scalping policy with bounties on our heads and blankets, proclamations for measles. We still survived, we’re still here. We still walk on this land and in many cases we have portage routes, we also had places where people would be buried, where people would camp and there’s usually a spring or brook goes by. Like Chief Seattle said, we’re all going to die in our own waste if we don’t watch out what we’re doing.

Richard Brown(L): Thank you, John Joe.

Wilbur MacDonald(PC)Chair: Anyone else? Well, thank you John Joe. As usual you certainly gave us a lot of thought today and I thank you for coming and I appreciate very much that you gave us your copy so that we can all have a look at it later, okay. We'll copy it for everyone. Thank you very much. Bill, would you like to.

Bill Fitzpatrick: Thank you very much for allowing us the time to have a few words. I'll try to stick to the text but I can't guarantee it. Good afternoon, Chairperson and committee members. My name is Bill Fitzpatrick and I'm here today as Chair of the Ten Mile House Committee of the Tracadie and Area Residents for Resource Protection or as we are referred to, TARRP.

Let me begin with just a bit of background information. As many of you are aware, TARRP was formed in '98 after it was announced that a 320 acre parcel of property in Tracadie Cross would be used for waste management facilities to serve Queens and Kings Counties.

TARRP is comprised from area residents from the communities of Ten Mile House, Tracadie Cross, Blooming Point, Scotchfort, Donaldston and Bedford. TARRP raised serious concerns about the site, the selection process and the need for another mega- landfill in this province. Through guest speakers and consultation we raised the level of awareness about waste management in this province. Over this past several years TARRP has been working with the provincial government to co-manage the 320 acres and it is anticipated that the sensitive bog area of the property will soon be protected under the Natural Areas Protection Act.

It is important to note that TARRP is not opposed to the Waste Watch system. We believe that our efforts have already had a positive impact on the implementation of the Waste Watch system in this province. Today I'm here before you on behalf of the TARRP regarding an application filed by the PEI Department of Environment and Energy, by Green Isle Environmental Incorporated for a permit to own and operate a construction and demolition disposal site on properties No. 822650 and 131763.

The residents of Ten Mile House and area are opposed to this application. More than 150 area residents attended an open house hosted by

Green Isle on January 14, 2004. Many more people were prevented from attending due to the -40 degree weather that day. Those who did attend came with many questions and received few answers. Although this application has been with the department since February/March 2003, residents only learned about the application just prior to the open house. A few had letters but most of us found out by accident. Due to the short time frame we have had, the concerns I will highlight but believe me they're not all inclusive. No. 1 - This is not the first time a waste disposal site has been proposed for the same site in Ten Mile House, and I will emphasize, the same site. In 1995 a similar application by Superior Sanitation was not approved by the provincial government. Why was it not approved at that time? We don't know. The site remains the same. The only thing that has changed is that more people are now living in the area in even closer proximity to the proposed site. Green Isle has just confirmed that at least three residents are located within a 150 metres of the site which contravenes Section 62 (k) of the C & D Disposal Site regulations. Why carry this application and torment any further?

And just a comment here on Mr. Jardine where the department does a pre-screening on the application. They couldn't have screened this too well because they didn't measure the distances. More than 40 residences and businesses are located within one kilometer of the proposed site. A licensed daycare is located only steps away and I emphasize the word "licensed". And elementary school, senior's housing complex, church and recreation facilities are also within one kilometer of the proposed site. The Confederation Trail is less than a half kilometer from the proposed site. This proposed site is not located in an isolated area. It's in the midst of an active growing community with a mixture of lifelong residents and new residents. The quality of life for our residents will be lost and the viability of businesses is threatened.

No. 3 - Our residents rely on groundwater. The proposed site has a shallow water table and soil and bed rock conditions that are not suitable for a landfill. Wells will become contaminated. And I'd like to just comment on the point on this tight soil on PEI and I, and there's a number of farmers around this table and tight soil only lasts until there's the first frost and there is no tight soil after that because the frost breaks it up. I've farmed for

a number of years and I've picked stones off for 99 per cent of those years and to me they didn't grow, they had to come up from down below. So they're going to come up through first 50 feet or hundreds of feet. Nobody knows or nobody bothers to find out. So that's a real issue, you know, it's a real issue because when you put anything in the ground it doesn't stay wherever you put it. It moves, constantly in motion.

No. 4 - the proposed site is situated on one of the narrowest points of land on Prince Edward Island. If you pick up a map of PEI and just have a look. That's exactly where it is. A stream flows through the property, MacAulay's Creek and contains large trout and is a known spawning area. It borders the Heritage Hillsborough River, which has just recently been designated as a Heritage River, and the oyster industry as well as Tracadie Bay and the mussel industry. Contamination of these waterways, which are less than one kilometer from the proposed site, will lead to disaster in the thriving aquaculture industry.

No. 5 - The Ten Mile House, Tracadie Cross area has increased in population according to recent Statistics Canada figures. A waste disposal site will negatively impact our community's ability to continue to grow.

No. 6 - There will be noise and air pollution. That is unacceptable. Property values will severely decline and who's going to be responsible?

No. 8 - There is no assurance of what type of waste will be disposed of at this site. Toxic materials such as asbestos, lead from paint and wood preservative are included in C & D waste whether they know they're there or not. If you have 14 coats of paint how do you not know there's not lead in the bottom one. Would the company also accept waste from other companies and truck it to the proposed site? That wasn't really clearly answered the night in Tracadie. Who was checking the loads that come in? The private owner/operator controls the site. Who is protecting the residents and environment? In our common sense approach you don't leave the fox in charge of the hen house.

No. 9 - The St. Peters Road, Highway No. 2, is ill equipped to handle the current traffic volume. Safety concerns are only heightened due to the increased volume of traffic that would be coming in

and out of the proposed site. It's a lot of additional traffic. It will be extremely stressful on residents and the traveling public. Local residents have applied for access in this same area and have been turned down. We have recently learned that there is a C & D site operating that is not located on an all-weather highway. Why should our safety be jeopardized for this excuse?

No 10 - The company lacks credibility within the community. According to one official from the Department of the Environment the company filed an application for this permit, as I said earlier, in February/March of 2003. Why are the residents only being consulted now? The company has provided conflicting information. For example, in its proposal it states that ten trucks a day will be going in and out of this site. Information sent by Green Isle to the media states that only four to six trucks a day. There is a difference. The proposal says there will be a sedimentation pond for runoff and the media information referred to it as a pond for wildlife habitat. There's a vast stretch of the imagination. Which is it? Which is the truth?

The company opted to have an open house rather than a public meeting and also showed complete disrespect to the residents and their safety by not postponing the open house to a day when it wasn't -40 degrees centigrade. According to the Department of the Environment we understand that the company is currently stockpiling derelict trucks at this site and there's no requirement to remove parts or prevent oil or other liquid spillage. And basically, Mr. Ballem I think, directly commented that there wouldn't be oil on the site. Well, the oil is already on the site and there's no permit.

And just another comment on the meeting in Tracadie that night with regard to, I believe Mr. Ballem's comment, that the Department of Environment didn't want to, it wasn't their meeting, and I was specifically told by the company representative that he didn't want me to give him our concerns, they were to go to the department. So there was certainly a discrepancy there, who we were supposed to talk to that night and I don't think anybody wanted to meet with us.

Our search for information regarding this application has also raised questions about the process concerning construction and demolition sites. The *State of the Environment Report* issued

by the provincial government in June, 2003 contains a section on waste management. It states "The need for additional final disposal sites will be minimized resulting in fewer controversies normally associated with selection of waste management sites". But what is government doing about it? This is the third time? This is the third time our communities have had to deal with a proposed disposal site. The third time in nine years. Despite the fact that the application has been in the review process at the department for eleven months we still cannot get answers to basic questions such as exactly how close are all the residents to the proposed site? Surely some one was required to do the measuring and see if there was an examination done on the businesses. A copy of the proposal documents are only available for review at the department's office at the Jones Building in Charlottetown during office hours when most of us are at work.

I would like to acknowledge the residents who have taken time off work to be here today. We do not wish this upon another community. This is not a case of not in our back yard. As it stands now however every community in this province is a potential location for a C & D disposal site. How can this be so? You might wonder if it's due to the fact there's no limit to the number of C & D sites which can operate within this province and the regulations concerning these sites are not strict enough or clear enough I might emphasize. With four sites currently in existence why is there need for any more? What is the overall strategy for C & D sites under the province's waste watch system? We just finished closing landfill sites. Why are we creating new ones? What is the amount of construction and demolition waste that is created in the province annually and what is the need for a new site? What is the life span of existing sites in the province? What is to prevent these private companies from accepting waste from off- Island? Currently I don't believe there's anything in the regulations.

The regulations concerning construction and demolition sites were modeled after data gathered in Nova Scotia because the data was not available for Prince Edward Island. Soil types and geography are different in our province. Regulations for PEI need to be created with data gathered on PEI. We have identified many concerns with the regulations such as the setback distances from property and waterways are not tough enough. Who was consulted on the

regulations? The community and the public in general were not. The lack of community involvement in the application process is completely unacceptable.

This application has been with the Department of the Environment, as I said earlier, for almost a year. Why have we only been notified in the last month? Most residents were notified there would be an open house on January 14th, 2004 through an ad in the newspaper which appeared on January 10th. The Department of the Environment's current regulations regarding community input are archaic. Indeed the department is in the midst of an environmental impact assessment and the residents are just now being made aware of where the proposed development. Communities must be involved at the outset, not as an afterthought. And if government is reviewing the regulations after just two years, then in my opinion there's something wrong with the regulations from 2002. Something is in dire straits if they see shortcomings already to this.

While it is true that we are an unincorporated community, we are represented in the provincial government by a member of the Legislature who has clearly heard from constituents that we are opposed to this development. The Honourable Mildred Dover has also publicly stated her opposition to the proposed site. Government has an ethical responsibility to protect its citizens. We urge government to revisit the long term plan for C & D sites, government's high and getting higher tippage fee, are forcing disposal companies to establish their own sites in order to reach a positive bottom line. This needs to be reconsidered for the betterment of us all.

We are asking the Standing Committee on Agriculture, Forestry and Environment to number one, to ask the Minister of Environment and Energy to not approve the permit application by Green Isle Environment Incorporated for the proposed C & D site in Ten Mile House; to ask the Minister of the Environment and Energy to develop a strategy with public input on the need for C & D sites in Prince Edward Island; to ask the Minister of Environment and Energy to develop new retroactive regulations for C & D sites that are based on PEI data and not imported data and include public input again. We are more than happy to help. There's an old saying sometimes

you're too close to the woods to see the trees and I think that's the case when you're in a department and you're making your own regulations to govern yourself. That is not really satisfying enough.

To ask the Minister of the Environment and Energy to update the Provincial Environment Impact Assessment guidelines to include community consultation at the outset of the process, not at the end. And to keep a minimum until more data is collected from PEI. We cannot assume everything is right unless you have data from where the site is coming, at least the province because the provinces are totally different. You can't use data from Nova Scotia.

So on behalf of TARRP, thank you for listening to our concerns. We trust that your committee will consider our input and recommendations and take action. Thank you.

Wilbur MacDonald(PC)Chair: Thank you very much Bill. You'll answer some questions. (Applause from the audience) Do we have anybody? Mr. Brown?

Richard Brown(L): Thank you, Mr. Chairman. First of all I'm extremely disappointed that the minister and the deputy and the director left. That shows their interest in this process. I think that (indistinct) . (Applause from audience) So when you go to the department and want to look at the impact statement and what has been done to date, what is in that file? What do you see?

Bill Fitzpatrick: All you really see is, you can go and see the proposal. I don't think—you can't see anything in writing of what has been done to date. You can get some information by whatever means you can verbally but that's about it.

Richard Brown(L): So they don't have a formal document that can say here's the site, here's where it's going to be.

Bill Fitzpatrick: That is there, here's the site, where's where it's going to be but that data in the document is nine years old. That's the data they were using nine years ago. Same engineer's report, nine years ago. There's no new data.

Richard Brown(L): Like I've been reading Nova Scotia's legislation that ours is supposed to modeled after. Theirs is a lot more stringent than

ours in terms of public communication. So you have indicated to the committee that this application was put in in February and the first notice you received was . . .

Bill Fitzpatrick: January 10th, 2004.

Richard Brown(L): and what does the department say when you ask them why the delay?

Bill Fitzpatrick: They just say according to the regulations.

Richard Brown(L): According to what? The regulations that are there.

Bill Fitzpatrick: Well, you heard what the minister said. It's just totally inappropriate as far as we're concerned, as a community. We should be notified within the first two or three months.

Richard Brown(L): I notice in Nova Scotia they have a registry, which is a public registry, which says any application that come in to the Nova Scotia government is automatically put on this registry and anyone then can go and see this registry and see what applications are involved and what's going to happen to their environment over the next few years, so the public can see not only one application at a time, but they can see the whole applications and to see the implications that are going to affect all of these proposals instead of just one at a time. It seems that one at a time is coming through here and all of a sudden we're going to end up with a bunch and we're going to say well, we should have looked at it as a total. So, one letter, to how many people?

Bill Fitzpatrick: Probably a dozen.

Richard Brown(L): Like, just within the 150 metre range?

Bill Fitzpatrick: And not even them all within that close range.

Richard Brown(L): When asked, how did they pick them?

Bill Fitzpatrick: Don't know.

Richard Brown(L): They don't know.

Tape No. 5

Bill Fitzpatrick: They don't have a clue.

Richard Brown (L): Just sent out a letter to some people and okay, these guys may approve of it so we'll send it to them.

Bill Fitzpatrick: Again the company sent them out.

Richard Brown (L): Oh, the government didn't send them out?

Bill Fitzpatrick: Oh no. The government doesn't have much to do with it.

Richard Brown (L): So the government washes its hands of this permit until the end?

Bill Fitzpatrick: That's right.

Richard Brown (L): So there's no one protecting the interests of the public until the permit is issued?

Bill Fitzpatrick: That's right.

Richard Brown (L): Okay, that's interesting because I know when I was on City Council and things like that, it was our job to protect the residents and that the by-laws and that were put there for the residents and it was led by a person within City Hall.

Bill Fitzpatrick: I would just like to point out that back in '95, under very similar conditions did the community find out, by accident again, about the site in '95 and they changed the regulations in 2002, and obviously they didn't consider the community's an issue by not letting them know. Because they never changed that portion of the legislation or the regulations.

Richard Brown (L): So you're saying that the regulations are very weak, that the act is very weak and changes are needed and you'd like a moratorium. But you're heard from the minister earlier today that there will be no moratorium. What is your thought about that?

Bill Fitzpatrick: That's just unacceptable.

Richard Brown (L): And there is some comment, Mr. Chairman, that have been made or you know, well, there's IRAC and I know that the Hazelbrook group went to IRAC but IRAC clearly stated in their decision that they don't look at environmental impact statements, they're not allowed to. So really, the residents of this area have no appeal process here. So I think that's a thing the committee must take a look at too. Either we have to pass it over, some sort of an appeal mechanism here for people that when a decision is made, a 90-day appeal period that they can have these reviewed.

I want to thank you for coming to the committee today. I've learned quite a bit from you and keep up the . . .

Wilbur MacDonald (PC) (Chair): Mrs. Rodgerson?

Bill Fitzpatrick: Could I just make one more comment?

Wilbur MacDonald (PC) (Chair): Go ahead, Bill.

Bill Fitzpatrick: Like we've heard today from the department and from the minister and a number of times you heard the word, monitoring, right? You know, monitoring, but in my opinion, if we get water contamination in wells, monitoring is too late. When it shows up, it's too late. It's a passé. They can just close the community down then.

Wilbur MacDonald (PC) (Chair): Mrs. Rodgerson?

Eva Rodgerson (PC): I appreciate your coming to do a presentation today and I was reading the letter, you know, with some of your points in it and I guess, after the meeting I just had—I got this today, I asked the minister about number one, the site. The same site in 1995 was not approved by the government. So anyway, I was just wondering in that, like he had said that an individual had put in an application but they never proceeded with it. He said it wasn't that government didn't approve it. So I was just wondering if you had any information on this.

Bill Fitzpatrick: That's basically what I was coming to find out, it was, and I used the right words there, not approved as opposed to being rejected because it was just left be and I don't

know why that is. Like usually when you have an issue, you should deal with it. You know, and that's why we're here today because it wasn't dealt with.

Eva Rodgeron (PC): My understanding from the minister, and again, I stand to be corrected, was that the proponent never moved forward with the application and it was just laying there dormant. It wasn't. . .

Bill Fitzpatrick: Just to give you some information on that, back in '95, July 15th, of '95, was the actual public meeting. How long it was going on prior to that, I don't know and at that time it was going to be a C&D and compost site. But there was such an uproar, I suppose, in the community that they eventually kept bantering back and forth between the department and the company and the last literature I saw on it was in September of '96, the company offered to remove the compost site, part of it if they would approve the C&D site. And after that, I don't know what happened after that. Again, there was no communication to the community. Like this has been hanging over our heads again until '97-'98 when they tried to put that mega dump up there and then it came to surface again. That hopefully is done but now we're back at this one.

Eva Rodgeron (PC): Thank you.

Wilbur MacDonald (PC) (Chair): Mr. Collins?

Wayne Collins (PC) (Chair): Thank you, Mr. Chairman. Mr. Fitzpatrick, thank you very much for your presentation today. What is your understanding of the current stage of the environmental impact assessment?

Bill Fitzpatrick: From what we can gather by asking different questions in different angles is that it is approximate or half way through the process of the assessment.

Wayne Collins (PC) (Chair): So there's a fair ways yet to go here before any final decision is made.

Bill Fitzpatrick: Well, I don't know who knows what exactly the assessment is.

Wayne Collins (PC) (Chair): You spoke about the need for community consultation at the outset

of an EIA. What form would that community consultation take? What kind of recommendation would you make in that regard?

Bill Fitzpatrick: Well, they should have, probably call a public meeting and say this is what we're proposing, you know, when it's at the early stages. I think be honest with people like and I think it's been anything but in our community is what the experience we're having. Like we're finding out those things by accident and trying to do things and we're not informed. We got to go digging for information. You got to almost use the *Freedom of Information Act* to get anything and it's just—you know, what's the point in all this?

Wayne Collins (PC) (Chair): What data would have changed from 1995? You say you're looking at the same nine-year old data and that, what specifically might have changed that you would like to see updated to get a better understanding of what you're dealing with?

Bill Fitzpatrick: Well I think when they put in another application that there should have been new data had to come with it.

Wayne Collins (PC) (Chair): Any particular type of information that you. . .

Bill Fitzpatrick: I don't know what has changed. That's the whole thing. Like I'm not an engineer with Environment, but I don't know how you could use nine or ten-year old data. Doesn't every application have to come with all those documents?

Wayne Collins (PC) (Chair): I take it then, Mr. Fitzpatrick, you don't believe this is a fait accompli, do you?

Bill Fitzpatrick: Certainly not.

Wayne Collins (PC) (Chair): Good, thank you very much.

Wilbur MacDonald (PC) (Chair): Anyone else? Okay. Thank you very much, Bill.

Bill Fitzpatrick: Thank you.

Wilbur MacDonald (PC) (Chair): Kelly Mullally, oh I always call you Mrs. Kelly, I'm sorry. Mrs. Mullally.

Kelly Mullally: It's been sometime since we saw each other, Mr. MacDonald. My name is Kelly Mullally and I'm a community councillor in Hazelbrook and I'm also a resident and a property owner and a business owner in Hazelbrook.

First of all, I'd like to say we appreciate the residents of Hazelbrook being able to sit at this table today because when the C&D site was being approved in Hazelbrook, we weren't offered that opportunity even though Mr. MacDonald—we're a shared constituency. Mr. MacDonald and both Ms. Dover represent the residents of Hazelbrook and I'm not sure if this committee existed at that time. But we weren't afforded the opportunity to come and to speak and make representations. Be that as it may, we appreciate the opportunity to be here today. And hopefully, every community that's affected by a future application will have that opportunity.

There are a number of points that's not nearly as formal a presentation, I guess, as I want to make but there are a number of points that I would like to make on behalf of all communities that are living with or potentially living with a C&D site. I'll make specific references to Hazelbrook because that's our experience and that's what I know. But the points I do want to make do cover, I believe, all communities that are potentially looking at one of these things coming in their back yard.

I guess going right back to the beginning, the genesis of the whole C&D site, Hazelbrook was curious and I'm sure most Islanders are, why this aspect of waste management was privatized to begin with. We've turned something that was previously driven by environmental responsibility into something that's driven by profit. We're still confused as to why a decision was made by the provincial government to take that turn, to take something that communities were concerned about and morally and ethically, as a group, were concerned enough about to have the province monitor and police and run and turn it into something that was literally for sale.

There are tippage fees involved, absolutely, at C&D sites. At the Hazelbrook C&D site, I'm surprised Mr. Jardine wasn't familiar with them. I would have thought that would have been part of his responsibility but there are tippage fees at the Hazelbrook C&D site and if you want to bring your C&D waste in today, it's \$80 a ton.

Ron MacKinley (L): Where does the \$40 and 30 come in?

Kelly Mullally: It's varying degrees depending on what you're bringing in. Shingles are less. Glass is less. But household waste is apparently free. You can throw that in for free. The only thing that's—so I guess what it comes down to is the point that there is no incentive when these sites are privately operated for somebody to go the extra mile. If you own the hole, why would you go to the expense and the trouble of sorting the material out, paying to bring it somewhere else when you can just bring it into your own site. Again, it's the inmates running the prison, but that's another point.

Location - waste from a construction and demolition industry is, unless I'm wrong, industrial waste. C&D sites should be located in an industrial site. Should they not? (APPLAUSE from floor). These sites are chosen for very specific reasons and that goes back to the profit driven mode again. They're chosen for their suitability as far as location to a large, major centre is concerned like Charlottetown, their access to highways. They're not chosen for their suitability to the residents that have to live with them. The common factor that you'll find, I think, if you take a look at all the sites that exist right now and all the potential applications that are in, there may or may not be a community council that exists in these communities. And I can almost guarantee you that none of them have an official plan that deal with this. It's a common thread and I don't think it's a coincidence.

As far as the legislation is concerned, I think we can all agree that there are holes big enough to drive a garbage truck through in this legislation that exists right now, and I think it is vital and urgent that the provincial government re-examine this legislation immediately. Unfortunately, that didn't happen before these sites were approved and are operating so there are some communities on this Island that had to live with that while that process continues, and that's a shame. But hopefully, you folks at this table can remedy that as soon as possible.

The ironic part again with Hazelbrook, I guess, is as lax as the legislation is that exists, the provincial government that existed at the time couldn't even fulfil those conditions before approving the site at

Hazelbrook and accepting waste. The site at Hazelbrook has been accepting construction and demolition waste since 1999. Nothing has changed at the site. The only thing that has changed is that on February 14th, 2003, Chester Gillan gave a permit for that to happen. Prior to that time, it was happening under the Pit Remediation Program that you heard about. The function, the process, the material has not changed since that time.

Minimum separation distance was spoken about earlier today at the table and again, it's ironic, but in order to have an excavation pit on Prince Edward Island, you have to have a separation distance of 300 metres from the nearest foundation. In order to have a construction and demolition site in your community, you only have to be 150 metres away from the nearest foundation. It's easier to have a construction and demolition site in your community than it is to have an excavation pit. Something is drastically wrong.

There was discussion about the planning department and a change of use. Well, again I don't think it's brain surgery to figure out that an excavation pit operates a whole lot different than a dump does. Of course, there is going to be concentration of traffic, concentration of noise, concentration of dust, concentration of effluent. That is a change of use.

There is no liability insurance in place on any of these sites nor is that necessary under the existing legislation. The minister can order it at his discretion. There is not one of these sites that exist right now where he has ordered that. Somebody made a good point about if somebody who owns one of these sites sells up and moves on, I believe it was you, Mr. MacKinley, the community is left literally holding the bag.

Monitoring, well there was also talk at the table about no certification or training for the folks who are running these sites. The young man who runs our site actually lives in New Haven and when he heard there was a potential C&D site being built there, he said, "not in my neighbourhood, I know how these things work."

The monitoring system is interesting and again, it's ironic because even though these sites have been privatized and there are private individuals, they are called proponents, but they're business people

who are running these sites. Whenever there is a question of something improper or illegal going on at one of the sites, you're always directed to the Department of the Environment.

You'll notice today that none of the proponents are here nor will you ever see a proponent at the table at most of these public meetings. The Department of the Environment has been put in the interesting position of having to be the middle man between the people who are actually operating the sites and the residents who have to live with them.

There has been monitoring going on at the Hazelbrook C&D site but it's been happening by the residents. Since 2002, we have taken over 200 photographs of improper or illegal material that has been brought into that site and buried there. Those materials include pressure treated wood, creosote timbers, industrial oil containers, industrial paint adhesive and sealant cans, household waste, garbage, food containers, cat feces, Styrofoam, rotting food, discarded tires. None of these materials are construction and demolition materials, and it's not that difficult to figure out when they're crossing the gate.

There's been some discussion about well, those materials really wouldn't be going in there unless somebody was bringing them in there on the side. I can remember the old days when people used to just drag everything out to the back 40 and dump it in there. I guarantee you, that is not happening. These materials are coming in when industrial dumpsters are brought to sites and the entire site is taken down and if they have a little bit of garbage left over, chuck it in. It's construction and demolition waste, sure it is. It's a whole lot of other things as well.

There's a reporting system, I understand that's in place. It's one year. You talk about contaminated wells? If the well is contaminated today, it's 364 days until we may hear about it. That's an awful long time for groundwater to move.

Hazelbrook is a 10.5 acre property, the C&D dump. There are over 14 monitor wells on this site right now. The additional wells were put in because hydrocarbons were found in the testing wells. The wells were put in at the insistence of the Department of Environment. But oddly enough, the tab was picked up also by the Department of the Environment. Something is

wrong.

I guess all I can say to finish up is to reiterate the requests. I think that the suggestion of an immediate moratorium makes sense. I can't believe that there is so much demand and so much C&D waste just waiting to be dumped right now that we have to open yet more of these sites. I think immediately all applications should be frozen. I think there should be an investigation. There should be a thorough environmental assessment and I mean a complete one done on all the sites that exist right now, and let's start and try to regain some ground that we've lost in the last two years. And please don't use Nova Scotia as your gold bar. There was a fire at a C&D site in Prescott, Nova Scotia, two years ago. It burned for two weeks. Let's do it better than that. Thanks. (APPLAUSE from floor).

Wilbur MacDonald (PC) (Chair): Questions please, from members? Mr. MacKinley?

Ron MacKinley (L): You talked about, yeah, there was one proposed up in New Haven and one of the young gentlemen that worked at the site when I drove into your site down there, is one of the biggest proponents leading the charge against the one in New Haven. I guess we're probably talking about the same person, are we?

Kelly Mullally: Yes.

Ron MacKinley (L): So even though there are guidelines, by listening to you here today and being a Member of the Legislative Assembly, no matter what the ministers and them come into say, they're not following their own guidelines. That's basically what you're saying.

Kelly Mullally: They haven't demonstrated that they have, no.

Ron MacKinley (L): Yeah, so how can we even trust even if they come out with new guidelines? Like how do we get to the bottom of it, that's the . . . I don't know if this committee can do that or not but the ministers can come in; they can smile; they can say we're doing this, doing this extra. We're going to take in new guidelines and put on like a spin to it but the question is, here's one that's already been approved. Here's a resident from that area and basically, what you're saying is that the department is not following their own

regulations or guidelines.

Kelly Mullally: Well, they're unofficially rewriting the regulations as they go along. If you check the regulations, there is no such thing as a conditional permit to operate a C&D site. It doesn't exist. It's not in the regulations. Minister Gillan chose to issue permits for a conditional C&D site which was allowed to operate while it was being constructed. It doesn't exist in the regulations. Hopefully, Justice Jenkins will help us affirm that shortly.

Ron MacKinley (L): But we have, you know, by today, we seem to be—you know, I came in and I thought this was just going to be a meeting that we were going to be hearing from the people from out there and their concerns and probably if we have, you know, a better seal when you're site distance—but now all of a sudden, we're talking about a site that's already been approved. Yet the residents have got over 2000 pictures, did you say?

Kelly Mullally: Two hundred for sure.

Ron MacKinley (L): Two hundred pictures of stuff that shouldn't be going in there. Like I mean, who is policing this? This is the question I have. I mean, it's alright, you know, if you listen to the minister and them today, you think everything was just fine. Maybe move the site back a little farther, 150 feet is pretty close. Say we move it back 600 metres or 200 metres but there's a lot more than that. . .

Tape No. 6

Kelly Mullally: The minister told CBC radio today that he visited the site along with his deputy minister and all he saw was lumber and concrete. Well, he must have inherited a set of blinders with his portfolio because I'll tell you I'm in there almost every month and I'm proud to say it, I go in and I take a look around and it takes you five minutes to see the illegal material. It's blatant, because there are never charges laid. So it's not hidden, it's right there in front of you.

Ron MacKinley(L): I heard the minister myself on CBC radio today. Oh, he said, my deputy and I just sort of went out and checked this out ourselves and we didn't see anything but some concrete and I assume that's going to go somewhere to shore up the beaches somewhere.

Oh, it was a very different picture from what you're saying here.

Kelly Mullally: Well, I sent those photographs, a series of photographs to Minister Ballem when he assumed his portfolio in October when we asked that charges be laid for illegal operation at the site because they were in there operating the site at 10:00 o'clock at night and I sent those photographs to Minister Ballem and I requested a community meeting with him and a tour of the property and he never replied to my e-mail. I sent those pictures and a message again two days later and requested a meeting and a tour of the property with the community but he never replied.

Ron MacKinley(L): He never even got back to you.

Kelly Mullally: No, Sir.

Ron MacKinley(L): Maybe we should have had you people in first and the minister in after. (Laughter and applause from the audience).

Kelly Mullally: We'll come back.

Ron MacKinley(L): I know. It's interesting you mention the minister and department left.

Richard Brown(L): No wonder they left.

Ron MacKinley(L): No wonder they left. But I mean this is a very serious thing because people's lives are here.

Kelly Mullally: It's deadly serious.

Ron MacKinley(L): Yes, it's a very serious matter.

Kelly Mullally: We wouldn't have emptied our coffers to go to court if it wasn't serious.

Richard Brown(L): How much did it cost you?

Kelly Mullally: We don't have our bill yet. You don't even want to know what the tab is at this point.

Ron MacKinley(L): It would be a fair amount.

Kelly Mullally: Yes. We had no choice because

there was no appeal process.

Ron MacKinley(L): And what's the closest foundation to the one down in Hazelbrook? They're saying 150 metres.

Kelly Mullally: They're just within 150 metres. If you took the 300 metre from excavation pit you're have half the community.

Ron MacKinley(L): So they're within the 150 metres.

Kelly Mullally: Just.

Ron MacKinley(L): Of all the places around it.

Kelly Mullally: Unfortunately, yes.

Ron MacKinley(L): All right.

Wilbur MacDonald(PC)Chair: Mr. Collins?

Wayne Collins(PC): Thank you, Mr. Chairman and Ms. Mullally, thank you for your very insightful presentation this afternoon. I appreciated hearing it. I've only just one question for you really and that is what industrial site or sites, given the three counties and the need, the need I think everyone has agreed that C & D must continue under some auspices, we have to have some place to put this particular debris, but what industrial site or sites would you recommend as likely C & D sites on PEI and how would you finance them?

Kelly Mullally: That's a good question. I can't put a pinpoint on a map for you, Mr. Collins, but what I could agree to—well it's definitely something that this committee would be able to take a good look at I would assume—we've been able to establish business and industrial parks on Prince Edward Island where businesses that are deemed to be industrial because of the noise . . .

Wayne Collins(PC): What we're saying is there is no industrial sites currently out there existent on Prince Edward Island today without creating an industrial site.

Kelly Mullally: Not that I'm aware of. Maybe PEI could break new ground.

Wayne Collins(PC): So again, the question

would be, where would we put those industrial sites and how would they be financed?

Ron MacKinley(L): Well first of all we wouldn't put them in somebody's back yard without even telling them.

Kelly Mullally: If it's a business, again obviously these business operators have found the capital to come up for these individual sites, so is there any reason why they couldn't, if not individually, how about pooling their resources and building one central, commercially funded site?

Wayne Collins(PC): We've heard earlier today though about the reasons being transportation costs for these companies to move them about. Now I don't know if you're buying that or not. I'm just saying that's what I heard.

Kelly Mullally: Sure, it's inconvenient.

Wayne Collins(PC): It's the reason why we need on in West Prince and maybe more in the central more populated areas of the Island. But, you know your alternative is that these belong in industrial sites.

Kelly Mullally: Absolutely.

Wayne Collins(PC): And my question is what sites are currently existent? If not we'll have to create them which means we've got to still find areas on Prince Edward Island willing to accept them anywhere within the proximity of 150 to 600 metres.

Kelly Mullally: Fair enough. There were 400 abandoned excavation pits I think that Mr. Jardine said. Certainly out of those 400 there must be at least one or two that are less damaging, farther away from residential communities, farther away from day cares, farther away from churches, farther away from children on the street, that are more suitable.

Wayne Collins(PC): All right. I accept that that's not a bad place to look. That's not a bad place to look, those 400, I agree with you, because they already come with 600 metre buffering, right? But how would they be financed? I mean given that demolition is a profitable business, these businesses are making money tearing down buildings and recycling it.

Kelly Mullally: Sure, the same way they're financed now.

Wayne Collins(PC): So they would still be, private enterprise would still be financing them.

Kelly Mullally: Oh, I see what you're saying, if it went back to being a government run organization.

Wayne Collins(PC): I didn't say that it would be a government run organization. I'm just saying . . .

Kelly Mullally: It's a possibility though, isn't it. Although I doubt it's going to come back again. I doubt it. You're rid of it now but it's an option I guess that's worth exploring.

Wayne Collins(PC): All right. Thank you very much.

Wilbur MacDonald(PC)Chair: Mr. Brown?

Richard Brown(L): When your site was being selected was there public meetings?

Kelly Mullally: If you look at the application that was put in for the Hazelbrook C & D site under Public Consultation it's blank.

Richard Brown(L): There was no . . .

Kelly Mullally: There is nothing on this. Has there been public consultation for this application? There is nothing there. It's blank. There was a meeting that was held in the Hazelbrook United Baptist Church. It was a combination of the annual general meeting actually and the proponent was invited to attend as were members of the Ministry of the Environment. The proponent choose not to attend. So questions were asked to the Department of the Environment. I think the situation was probably, the experience was probably identical to what happened with you fellows. There were lots of questions. There were very few answers, very, very few answers.

Richard Brown(L): So that was the checkoff then?

Kelly Mullally: And it was checked off. There was other smaller meetings, I won't deny, after the fact but they were equally less effective.

Richard Brown(L): Was there any meeting that there was the drawings were put up and what's going to happen, the operation manual put out on the table for you . . .

Kelly Mullally: Absolutely not.

Richard Brown(L): . . . to say here's the application, number one, here's what's coming in, here's what's going out. Here's what's going to happen. Here's the operation manual. Nothing like that?

Kelly Mullally: No, I do remember a meeting where Ms. Dover said that the constituency split between the driveway to the site and the actual site and if we had a problem with the driveway to the site we were to contact her. Otherwise we were to contact Mr. MacDonald.

Ron MacKinley(L): Terrible. At least they split things up.

Kelly Mullally: Yes. There was consultation that way.

Richard Brown(L): So how hard was it to get information? Were you given information freely by the department? You know, like my thing is the more information the residents of an area have the better the decision will be. If you start hiding information, that's the number one indicator to anybody that says something's wrong. So if we're not willing to pass out everything to them then we're just setting ourselves up for problems later on. You know, my thing is pass out all the information. So when you went down to the department was everything available and put on the table for you?

Kelly Mullally: What happened was we put a written list together of documentation and information that we wanted and the first reply that we got—I think we sent like a six or seven page letter—the first reply that we got was thank you for your letter, here's a copy of the regulations—not answering a single question that we had posed. We kept sending repeated letters like that. Eventually we were directed to the Freedom of Information Act and/or legal counsel. Once we were forced to start our legal actions the department wouldn't deal with us directly any more and forced us to deal with the legal department for the government and/or Freedom of Information.

Richard Brown(L): So you had to go through Freedom of Information for all this information?

Kelly Mullally: Yes, we did. We're still going through Freedom of Information.

Richard Brown(L): And how long would that take, like to get some documents from Freedom of Information? Like would you file it today and get it on Friday?

Kelly Mullally: No, actually not. There's a very long drawn out process where you compile your list of what you want, they go to the ministry and say this is what they want, what's appropriate? They give a list back saying this is what we think answers the questions but we don't want to give them this, this and this. The list comes back to you. It's quite involved because of, I guess the privacy aspect of it and who deems what is public knowledge and what isn't.

Richard Brown(L): So would some of this information come back blanked out?

Kelly Mullally: Absolutely.

Richard Brown(L): You had blanked out paper?

Kelly Mullally: Absolutely.

Richard Brown(L): So they'd send you a sheet of paper and like a paragraph . . .

Kelly Mullally: Names or . . .

Richard Brown(L): . . . paragraphs would be blanked out.

Kelly Mullally: Yes.

Richard Brown(L): So that's quite a process.

Kelly Mullally: It's a heck of a process. Even our lawyer had trouble getting documents.

Richard Brown(L): It's pretty hard to read a letter through black marker too.

Kelly Mullally: It sure is. But you can sure fill in the blanks.

Richard Brown(L): I know. We have a term

sheet from Encana we're still trying to get through the black mark but it's hard. So I notice that you went to IRAC with your order.

Kelly Mullally: We went to IRAC on a completely different issue actually. We went to IRAC to challenge the permit that was given to put the weigh scales on the site and our arguments were about the entrance way permit to the site. If you check with the Department of Transportation there's no valid entrance permit for this property. It doesn't exist.

Richard Brown(L): So how did they get their access?

Kelly Mullally: Apparently somewhere along the line somebody dropped the ball. From documents that we acquired through IRAC that the Planning Department advised when this pit property was separated from the farm property, when it was sold in 2002, it was recommended that the pit property maintain the existing property number so that it could maintain the entranceway permit. Well, somebody at the Planning Department bungled up and gave it a new property number but no entranceway permit was ever granted or applied for.

Richard Brown(L): And then you were forced into court.

Kelly Mullally: And then we were forced into court. There was no other means of appeal for our community, it doesn't exist on the books.

Richard Brown(L): So there's no appeal also. I was shocked when I heard that was an appeal for this when I was doing some of my research. I said, well IRAC must have made a decision here on this site. And reading the decision it's quite clear in IRAC that, hey, we can't hear this. We'll hear the weigh scale and the entrance but as for anything else we're not allowed to hear it. So who hears—is the minister the final king of the castle sort of thing? He or she decides what's going to happen to these sites.

Kelly Mullally: The minister has discretion, yes. And if you're not happy with that discretion then you have the option of starting a court action in the Supreme Court and having a justice of the supreme court make a determination to see if the minister acted in good faith or not.

Richard Brown(L): And you're talking thousands of dollars.

Kelly Mullally: Thousands of dollars.

Richard Brown(L): Is there any money available to you by the government? Like, in the other provinces there's proponent or there's intervener money. A lot of provinces have where if I think the environmental laws are being broken and I'm going to court there's intervener funding. A lot of legislation across the country have that. Have you applied for intervener funding?

Kelly Mullally: There's nothing that's available.

Richard Brown(L): There's nothing in PEI for that.

Kelly Mullally: No. Can get legal aid.

Richard Brown(L): So you're on your own, you're against the government lawyers, you're against the proponent's lawyers.

Kelly Mullally: We absolutely are and I guess one of the infuriating points is it's double dipping in a way because we're paying for our legal fees and we're also paying for the government to defend itself against us.

Richard Brown(L): Okay. I feel sorry for you. Thank you.

Wilbur MacDonald(PC)Chair: Mr. MacKinley?

Ron MacKinley(L): Well if I look here Hazelbrook has no official plan or council, do you?

Kelly Mullally: Now we do. Well, we have an interim one anyway. Get one if you don't.

Ron MacKinley(L): But you didn't have one. Am I right?

Kelly Mullally: No, we didn't at the time.

Ron MacKinley(L): Now, Tracadie, do they have an official plan out there?

Richard Brown(L): No, they're not incorporated.

Ron MacKinley(L): Where this new C & D site is

looked at. And Brookfield had none either.

Kelly Mullally: No.

Ron MacKinley(L): Now, as you said the minister, the Speaker at that time, told you or whoever, Mildred Dover was her name, said if you had trouble with the driveway that's in her riding, the other is in the member's riding. If you look at Brookfield it was on a corner of a riding so it took in District 16 was mine—they knew they weren't going to matter too much there—and then they had a little bit of Beths and a little bit of Normans, just enough on the corner. So you'd almost think there's a pattern here. See, I think, I'm starting to wonder if the government knew they had Waste Watch, they got people there, economists and everything figuring it out and they knew they were going to—they just didn't decide within a few minutes they were going to have these C & D sites.

Kelly Mullally: I hope not.

Ron MacKinley(L): No. So they knew these were coming. It looks like to me there's a strategy developing here. It's go where it's less effective. Because they've got to have them somewhere. We all know that. Go where it's least votes we're going to lose and also make sure you've got communities that don't have official plans. It's almost like a pattern because why did Brookvale, Brookfield, the Tracadie area and your area all seem to be where the sites are.

Kelly Mullally: The top three things in real estate, location, location, location.

Ron MacKinley(L): Yes, there's something not adding up here. It almost looks like the government agenda is go out, get these, we'll take the hit for it, worry about the consequences later, get them on the border so whoever happened to have a site on the closest area to some area where you've got a little bit of fall here or a little bit of fall there. And they were away up in the polls so it was a good idea for them, they got re-elected. Anyways it's a very interesting thing. These committees are something when you start looking into them.

Wilbur MacDonald(PC)Chair: Mr. Collins?

Wayne Collins(PC): I'll defer to any other

member of the committee that would like to speak. I've already spoken once on this but I do have a few more.

Wilbur MacDonald(PC)Chair: I have nobody on my list.

Wayne Collins(PC): There's no one on the list. Okay, fine. I would like to point out though to Ron that these C & D sites were not proposed by government. These C & D sites have come from the private sector. They are the proponents of them. All right.

Ron MacKinley(L): Don't worry about me, you worry about the residents that are there.

Wayne Collins(PC): Two questions though. And I would like to know this honestly because I want the facts here. We've heard earlier very serious concerns raised by Mr. Fitzpatrick about the possibility of water contamination and decreased real estate values. Your neighborhood has lived alongside this for about the last four or five years. Has anyone's water been deemed contaminated as caused by this C & D presence?

Kelly Mullally: Residentially?

Wayne Collins(PC): Residentially.

Kelly Mullally: No, not that they have proven yet anyway. Thank goodness it's still okay.

Wayne Collins(PC): What has happened with real estate values in your area? Do you have any documented situation about number of sales, property values, up, down, steady, whatever?

Kelly Mullally: No, I haven't crunched those numbers yet but interestingly enough we picked up the phone and chatted with some real estate agents when this thing first started coming down. Nobody would go on record. They all assured us that the property values would go down 25 to 50 percent.

Wayne Collins(PC): And what's happened? Have you kept a tab on sort of sales in your area.

Kelly Mullally: No, it's a very small community and probably don't, I can tell you that.

Wayne Collins(PC): So there hasn't been a sale in four or five years since that's been there?

Kelly Mullally: It's been in operation for two.

Wayne Collins(PC): As a C & D .

Kelly Mullally: Well, it's been taking C & D since 1999.

Wayne Collins(PC): It's been there since '99.

Kelly Mullally: Yes. We could probably find some numbers for you if you like.

Wayne Collins(PC): I'm just saying it would be interesting to know and certainly would be helpful I'm sure to Mr. Fitzpatrick as well.

Kelly Mullally: Sure, sure. But I guarantee you if you speak with any real estate agent operating on this Island it's not a selling feature.

Wayne Collins(PC): No, I didn't expect it would be a selling feature. Thank you.

Wilbur MacDonald(PC)Chair: Okay. Thank you very much, Mrs. Mullally. We appreciate you taking the time to come and I thank all those who have come. We do have things we have to discuss among ourselves as to where the next meetings and so on so I'll just adjourn for a minute and allow you to leave.

(SHORT ADJOURNMENT)

Wilbur MacDonald(PC)Chair: I'll ask the Clerk to give us information as what we have received on our ads in the paper so far.

Marian Johnston(Committee Clerk): I thought I'd just give you an update. As you know the deadline for the public to indicate they want to come before committee hasn't come yet. For BSE it's tomorrow, Friday, the 30th of January.

Ron MacKinley(L): I had a phone call from Clifford McKenna and he wants to come before the BSE committee, so save us getting it in tomorrow, Clifford McKenna phoned me last night. I couldn't believe it, he doesn't read the paper. I said it's been in the paper and I couldn't just think of it, it was about 9:00 o'clock last night. You know

Clifford.

Wilbur MacDonald(PC)Chair: Yes. Okay.

Marian Johnston(Committee Clerk): And for the hog deadline, for people to respond on the Hog Crisis ad was February 10th and so I just thought I would tell you. I have about 25 people for both issues. Some people want to talk about both, some people want to talk one or the other.

Andy Mooney(PC): Is that 50 in total or just 25 in total?

Marian Johnston(Committee Clerk): About 25 at the moment.

Ron MacKinley(L): Well, that's good.

Marian Johnston(Committee Clerk): And I'm expecting more to come in.

Ron MacKinley(L): Well, Clifford phoned me there last night, I told him, do you read the paper. He said, I don't read the paper. I'm so busy trying to keep from going broke. So anyway I told him I'd mention it to you.

Wilbur MacDonald(PC)Chair: So how do you feel we should handle this now? Eva?

Eva Rodgeron (PC): That was my question. I'm wondering if we've got all these applications do we prioritize them b, like say if I'm the first one to make the request, if there's a group that represents maybe 20-25 people, how do we prioritize all these requests?

Andy Mooney(PC): In the past like the Agricultural Committee, remember the other year Ronnie, my God, met with ninety some on the livestock and the stream issue and basically they came in, they had, what was it—like a 10 or 15 minute presentation on the floor. Like, you didn't have somebody come in and stay an hour. You had the short presentations. Go, like this is how much time you have. So in the run of a day you'd see quite a few people.

Ron MacKinley(L): Yes.

Wilbur MacDonald(PC)Chair: We could do 12 in three hours apparently, well, if you did 10 in

three hours you'd be lucky wouldn't you?

Marian Johnston(Committee Clerk): You can do three an hour and that is still being strict with the schedule. It takes about 20 minutes each.

Andy Mooney(PC): The year that we did the Agriculture Committee we were pretty tight on the time. We just told them point blank when they started.

Wilbur MacDonald(PC)Chair: So why don't we meet for four hours . Then two days would pretty well wrap them up.

Marian Johnston(Committee Clerk): I would like to have some dates from you. We're meeting again on February 12th but that agenda is full. The Minister is coming back to talk about the hog crisis and also the Hog Commodity Marketing Board will be making their presentation that day.

Wilbur MacDonald(PC)Chair: February 12th.

Marian Johnston(Committee Clerk): Yes. That meeting was already set up.

Wilbur MacDonald(PC)Chair: Yes, two presentations.

Marian Johnston(Committee Clerk): And we were going to—at that time I'll be able to give you a final total on how many people we're going to see. But perhaps if I had a couple of dates from you I could start contacting these people because it's only fair to give them as much warning as we're able to give them.

Wilbur MacDonald(PC)Chair: What do you say, what about February 17th, that's a week away from the 12th. And 17 and 7 is 23, am I correct?

Marian Johnston(Committee Clerk): The 17th of February would be a Tuesday.

Wilbur MacDonald(PC)Chair: Oh, okay. Tuesday. Is there anything wrong with the Tuesday. Oh, I'm sorry 12 and 7 is 19.

Marian Johnston(Committee Clerk): The 19th.

Ron MacKinley(L): We could always meet two days in one week if you want to.

Wilbur MacDonald(PC)Chair: Okay, what about the 17th and the 19th then?

Ron MacKinley(L): That's fine.

Eva Rodgeron (PC): Can I ask a question here? I come every Wednesday morning for committee. Is there any Wednesdays that's open? Like, it seems like I come for two hours on one day, and two on the next.

Ron MacKinley(L): That's fine with us if it suits everybody.

Eva Rodgeron (PC): If it's suits everybody else, if there's any opportunity to meet Wednesday and Thursday rather than Tuesday and Thursday?

Marian Johnston(Committee Clerk): That will be the 18th and the 19th.

Richard Brown(L): We're accommodating, Eva.

Eva Rodgeron (PC): Thank you.

Marian Johnston(Committee Clerk): On the 18th would the committee like to start at 1:00 o'clock?

Committee Members: Yes.

Wilbur MacDonald(PC)Chair: Yes.

Marian Johnston(Committee Clerk): And on the 19th would we like to start in the morning and try and, what time would you like to start?

Wilbur MacDonald(PC)Chair: We have committee meetings on Wednesday.

Marian Johnston(Committee Clerk): On the 18th start at 1:00 o'clock but on the 19th I wonder if we'd like to start earlier than 1:00 or would you like to start at 1:00 o'clock again?

Wilbur MacDonald(PC)Chair: Why don't we start at 10:00 o'clock on the 19th?

Ron MacKinley(L): Whatever you want, doesn't matter to me.

Wilbur MacDonald(PC)Chair: Is that okay?

Richard Brown(L): We're okay.

Wilbur MacDonald(PC)Chair: Ten o'clock on the 19th.

Jim Bagnall(PC): Are you going to go through morning and afternoon on the 19th?

Wilbur MacDonald(PC)Chair: Yes.

Marian Johnston(Committee Clerk): And try and schedule as many people in as I can.

Wilbur MacDonald(PC)Chair: I think over four or five hours we might get exhausted. You get so to the point where you're not . . .

Eva Rodgeron (PC): You're not thinking.

Fred McCardle(PC): If they're all telling you the same thing, is there any need to hear everyone?

Wilbur MacDonald(PC)Chair: We're going 15 minutes.

Marian Johnston(Committee Clerk): Everyone who indicates.

Wilbur MacDonald(PC)Chair: We want to hear everyone.

Marian Johnston(Committee Clerk): The other item I wanted to bring up with committee members is tomorrow at the Loyalist Inn your luncheon tickets are ready and available and they'll be at the Loyalist Inn for you. You won't have to pay for them, it's all organized, you just have to go.

Wilbur MacDonald(PC)Chair: Is everybody going tomorrow.

Eva Rodgeron (PC): Is there an agenda for tomorrow.

Marian Johnston(Committee Clerk): It's the annual meeting, I understand, of the Federation of Agriculture, it's their meeting.

Wilbur MacDonald(PC)Chair: I haven't got the agenda here.

Marian Johnston(Committee Clerk): And I believe that the federal minister is speaking at the luncheon but I don't have anything.

Eva Rodgeron (PC): The day's agenda . . .

Wilbur MacDonald(PC)Chair: Well I think registration is approximately eight to nine.

Ron MacKinley(L): It's up on top of my desk.

Wilbur MacDonald(PC)Chair: And I think after that we start.

Eva Rodgeron (PC): I usually get an agenda.

Fred McCardle(PC): They take resolutions most of the day.

Richard Brown(L): So when is a good time to go?

Fred McCardle(PC): They'll be discussing various resolutions all day.

Richard Brown(L): So do they have the (indistinct)

Jim Bagnall(PC): I think you'd want to be there to listen to the federal minister speak. That's one of the reasons . . .

Wilbur MacDonald(PC)Chair: At lunch and then Mr. Murphy is speaking at 11:30 so we should be there.

Richard Brown(L): They didn't get back to you. Because I've been in contact Speller's office and Murphy's office to say maybe the two of them could come to a committee meeting that we could arrange up there. They didn't get back to you yet either?

Wilbur MacDonald(PC)Chair: No. No word.

Richard Brown(L): Okay.

Marian Johnston(Committee Clerk): No, it's not a committee meeting as such because we have to have a room and we have to have transcription and we have to have a sound system. So thank you very much. Your tickets will be ready for you. Just identify yourself at the desk.

Wayne Collins(PC): Since I sit, Marion, just a substitute member here, I'm not required to be up there tomorrow. Mitch is going to be there

anyway, right?

Richard Brown(L): I hear he's not back until Monday.

Marian Johnston(Committee Clerk): I don't know who's attending. I'm just letting the committee know.

Wilbur MacDonald(PC)Chair: Check upstairs.

Eva Rodgeron (PC): But anybody can go.

Richard Brown(L): Everybody should go anyway, Mr. Chairman, (indistinct)

Wilbur MacDonald(PC)Chair: That's right. I thank you very much. Okay, we'll just review this, just to review. We're coming back here on February 12th.

Marian Johnston(Committee Clerk): 1:00 o'clock, we're going to hear from the Minister and from the Hog Marketing Commodity Board.

Wilbur MacDonald(PC)Chair: And February 18th and 19th and we'll see where we go from there.

Richard Brown(L): No meeting on the 5th?

Marian Johnston(Committee Clerk): The 5th? Well, we had decided that we would meet on the 12th and that meeting had already been set up prior to today?

Richard Brown(L): When are the grocery stores coming in?

Marian Johnston(Committee Clerk): I am working on that. I have, there's two industry organizations who are very anxious to come in—the grocery distributors and the Federation of Independent Groceries, both would like to attend.

Wilbur MacDonald(PC)Chair: That's good. Should we have them on the same day?

Richard Brown(L): You're the boss.

Marian Johnston(Committee Clerk): Stores themselves are still organizing as to who they will send. I don't have names yet.

Richard Brown(L): Oh, yes, they're after me but I'm ready for them too, Mr. Chairman.

Wilbur MacDonald(PC)Chair: Well, we would count on that.

Marian Johnston(Committee Clerk): Are we adjourned?

Wilbur MacDonald(PC)Chair: Okay, adjourn.

Marian Johnston(Committee Clerk): Thank you.