



## COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

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Transcript | Phase 1

Volume 54

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*Commissioner: Honourable Justice Richard LeBlanc*

Friday

7 December 2018

**CLERK (Mulrooney):** All rise.

This Commission of Inquiry is now open.

The Honourable Justice Richard LeBlanc  
presiding as Commissioner.

Please be seated.

**THE COMMISSIONER:** Mr. Bown, you  
remain affirmed at this time.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** Just give me a  
second, Mr. Learmonth.

**MR. LEARMONTH:** There's two new exhibits  
I'd like to have entered: P-01601 and P-01602.

**THE COMMISSIONER:** Okay.

So, Mr. Budden, when you're ready.

**MR. BUDDEN:** Morning, Mr. Bown.

**MR. BOWN:** Morning, Mr. Budden.

**MR. BUDDEN:** Madam Clerk, perhaps we  
could go back to Exhibit P-00043, and it's page  
25 I'd like you to bring us to if you could.

And that would be in front of you, Sir, as tab 49,  
page 25.

**THE COMMISSIONER:** Tab 49.

**MR. BUDDEN:** And perhaps scroll down a  
little more, Madam Clerk. It's the next email, I  
believe – yes. The Vaughn Hammond one I'm  
interested in.

**MR. BOWN:** Page?

**MR. BUDDEN:** Page 25. And it's the Vaughn  
Hammond email, which is about halfway down  
the page.

**MR. BOWN:** Okay.

**MR. BUDDEN:** You there, Mr. Bown?

**MR. BOWN:** Yes, I'm there.

**MR. BUDDEN:** Okay.

Firstly, who is Vaughn Hammond and who are  
the individuals who this is directed at – their  
titles, really, rather than who they are as  
individuals. Their positions.

**MR. BOWN:** Vaughn Hammond would have  
been a Cabinet officer in Cabinet Secretariat,  
responsible for distribution of this paper to other  
departments. Would you like me to read the  
positions as I recall them for those individuals  
who received the paper?

**MR. BUDDEN:** Well just describe generally  
what their positions would have been.

**MR. BOWN:** David Quigley, Treasury Board;  
Pauline Blanche, Treasury Board; Terry Paddon,  
deputy of Finance; Todd Stanley, Justice;  
Josephine Cheeseman, I recall was –

**MR. BUDDEN:** Actually, no, that's fine. So,  
essentially, as I understand the process, this is  
this – this paper we've been discussing, this  
Cabinet paper –

**MR. BOWN:** Yes.

**MR. BUDDEN:** – is being circulated to deputy  
ministers and other high-level officials for a  
final vetting before it goes to Cabinet?

**MR. BOWN:** Right.

**MR. BUDDEN:** Okay.

So I see this is going out on Friday at 10:14.  
And if we look at the last line, response is being  
sought by 1 p.m. that day. Does that sound right?

**MR. BOWN:** That happens on occasion,  
absolutely.

**MR. BUDDEN:** Okay.

**MR. BOWN:** It – it's not unusual to have  
Cabinet papers go out and have a – an  
immediate response in order to meet the  
schedule for the following week, which is  
Cabinet committee and then Cabinet.

**MR. BUDDEN:** Okay. It may not be unusual but it would be far from ideal I would suggest. Would you agree with me?

**MR. BOWN:** I guess for those who receive it. Yes, it's difficult, it's a challenge for them to get through the document and respond.

**MR. BUDDEN:** Sure. So it's really contemplated that in this two hours and 45 minutes, this document would be reviewed, comments would be received, and it would go forward?

**MR. BOWN:** For clarity, the decision on distributing the paper and the timeline for comments and the timeline for when it goes to Cabinet, that's decided by Cabinet Secretariat and not by the department.

**MR. BUDDEN:** Okay, I realize that but, nevertheless, that is, it is anticipated or expected that meaningful comment would be delivered in two hours, 45 minutes. That's what it seems to suggest isn't it?

**MR. BOWN:** I'll read it again.

No – can I just attempt to clarify?

**MR. BUDDEN:** Sure.

**MR. BOWN:** It went out at 10:14 in the morning and it said that they wanted comments by the end of the day. Is that correct, or am I reading that incorrect?

**MR. BUDDEN:** You may be reading it incorrectly. Perhaps read that sentence: "Therefore, I have had the submissions placed on your " – department –

**MR. BOWN:** Oh yes, by 1 p.m. today, I get it.

**MR. BUDDEN:** Okay.

**MR. BOWN:** Yes. Sorry. I was reading it incomplete. Thanks.

**MR. BUDDEN:** So they're asking for comments –

**MR. BOWN:** Yes.

**MR. BUDDEN:** – in two hours and some odd minutes?

**MR. BOWN:** Yes, okay.

**MR. BUDDEN:** And these are expecting meaningful comments?

**MR. BOWN:** What I would highlight is that this paper would have been distributed to these departments beforehand so it is common practice that before a paper gets finalized inside a department, it will be circulated in draft by Cabinet Secretariat, or sometimes by department, but rare by the department, it will be circulated by Cabinet Secretariat and they'll receive drafts before the minister signs it.

**MR. BUDDEN:** Yes.

**MR. BOWN:** And as I recall, this paper did go through distribution in the week before.

**MR. BUDDEN:** And yes, that's obvious as we move, as we see the history of it, but nevertheless, this draft, this final draft, it's contemplated there'd be comments on it in two hours and some odd minutes?

**MR. BOWN:** Right.

**MR. BUDDEN:** Perhaps we go to page 31, Madam Clerk.

Who is – I'm just back a tiny bit more to – yeah. Who would Pauline Blanche be?

**MR. BOWN:** Treasury Board.

**MR. BUDDEN:** Okay.

**MR. BOWN:** Panelist and Treasury Board.

**MR. BUDDEN:** Yes and perhaps we can scroll so we can read that email. Perhaps you can just read that into the second paragraph of her email. I think that would suffice. Could you read that to us?

**MR. BOWN:** Down as far as?

**MR. BUDDEN:** Yeah, that one there, yes. "It should be noted however...."

**MR. BOWN:** “It should be noted however, that statements on pg 3 (last bullet on pg) and pg 4, (last par of under Pros) are somewhat contradictory. The first states proceed from export sales will go to Nalcor and not automatically benefit taxpayers whereas pg 4 states taxpayers will benefit as proceeds from export sales will be available to GNL in form of dividends.” What “is it? Earlier statement on pg 3 (3) states that revenue proceed will be dependent on policy decision of GNL at the time.

**MR. BUDDEN:** Okay. So that you would agree – that’s a fairly significant contradiction – the one she points out?

**MR. BOWN:** Well, the – let me read through it – sorry – let me talk it through – if that’s okay.

**MR. BUDDEN:** Sure.

**MR. BOWN:** So the first states that the export sales will go to Nalcor, which is correct and will not automatically benefit the taxpayers. So the revenue goes to Nalcor.

**MR. BUDDEN:** Understand.

**MR. BOWN:** And page 4 states that taxpayers will benefit as proceeds from export sales will be available to GNL in the form of dividends. So that would be – it’s referring to that there has to be a decision of government to have the dividends from Nalcor be paid to government or that those dividends be used as a return to the taxpayers or the ratepayers.

**MR. BUDDEN:** Not quite what it – that’s your interpretation of it but as she points out – on the face, those comments are contradictory, are they not? The money can’t go two places at once.

**MR. BOWN:** No, it’s a temporal thing – it’s a timing.

**MR. BUDDEN:** Okay.

Is this contradiction she points out – was it ultimately addressed before the document was finalized and went to Cabinet? Are you able to tell?

**MR. BOWN:** Once the paper is signed there are no changes to the paper. What happens is that these comments go back to Cabinet secretary and then, the Cabinet Secretariat analysis – they will make any notes of issues that are arrived from other departments.

**MR. BUDDEN:** Can you tell us whether that specific contradiction she identifies was that clarified or addressed in any way before the document went on to Cabinet? Are you able to tell us?

**MR. BOWN:** I was out looking at the Cabinet Secretariat analysis – I wouldn’t be able to tell you.

**MR. BUDDEN:** Okay. Well we can figure it out for ourselves in due course.

So this was Friday, September 2, and it was anticipated that the paper would be – a final comment would be received by 1 pm. Do you – are you able to tell from this thread when that would have actually gone to the various Cabinet members for their consideration?

**MR. BOWN:** I have no – I can’t tell you that. That’s – that would have been part of the Cabinet process when papers were distributed – I have no idea.

**MR. BUDDEN:** Okay. Obviously, if it’s Friday afternoon – if drafts are still being circulated – minor interruption – if drafts are still being circulated on Friday afternoon then, obviously, the earliest it could possibly have gone to Cabinet – the various Cabinet members for their consideration would have been Friday afternoon, September 2.

**MR. BOWN:** Yes.

**MR. BUDDEN:** For a Cabinet meeting that was to take place on Tuesday, September 6.

**MR. BOWN:** Does this say Tuesday or Thursday?

**MR. BUDDEN:** It says Tuesday.

**MR. BOWN:** I think Tuesday is committee. And Cabinet is Thursday.

**MR. BUDDEN:** Okay. So committee would have been Tuesday.

**MR. BOWN:** Right. And then Cabinet meets on Thursday.

**MR. BUDDEN:** Yes. And that Monday would have been Labour Day Monday, September 5. The first September – the first Monday in September.

**MR. BOWN:** That's the normal course in Cabinet Secretariat that papers go out on Friday for committee – be it social policy or economic policy – to meet on Tuesday. And then the papers are distributed after that meeting once the committees report, and then the papers go to Cabinet ministers for Thursday.

**MR. BUDDEN:** Okay. You would concede in this particular instance, however, there's virtually no working time between the circulation of the paper and the meeting of the Cabinet committee on Tuesday? I mean Monday – it's a long weekend and Monday is a holiday. So there would have been virtually no ordinary working time in that interval.

**MR. BOWN:** All I can speak to – it's the normal process.

**MR. BUDDEN:** Okay. The normal process would be a paper on an issue of this significance would be circulated to Cabinet with this little advance notice?

**MR. BOWN:** Lots of papers go out in this – in the same form, equal significance.

**MR. BUDDEN:** Equal significance to, you know, a commitment letter for the largest capital expenditure in Newfoundland history?

**MR. BOWN:** I think there – well this is a commitment letter just to provide the guarantee. There is no dollar advanced. I understand your point. But there –

**MR. BUDDEN:** What do you understand to be my point?

**MR. BOWN:** That it's an open-ended amount to pay for the project.

**MR. BUDDEN:** Into the billions.

**MR. BOWN:** Potentially.

**MR. BUDDEN:** Okay. And the notice was a matter of a few hours – really of working hours – before Cabinet committee.

**MR. BOWN:** Yes.

**MR. BUDDEN:** Okay. Obviously, this is 2018 and we've all talked about hindsight, but do you really see that as an appropriate process for something of this significance?

**MR. BOWN:** The process of Cabinet Secretariat – of how papers are received, how they are distributed, how comments are received, the timing on which they go to committee, the timing on which they go on Cabinet – is set by the Cabinet Secretariat.

**MR. BUDDEN:** Okay.

**MR. BOWN:** So it wouldn't be my determination. My responsibilities were to have the paper prepared, have it distributed for comment, to make the appropriate edits from other departments, have the minister sign it and then submit it. Then the process becomes Executive Counsel, Cabinet Secretariat.

**MR. BUDDEN:** Okay. I realize, obviously, we have a Cabinet system of government. We have specialization, we have departments with particular responsibilities, but really this does put (inaudible) a very heavy onus on your department to really dot your Is and cross your Ts because this oversight process of Cabinet committee – in this particular instance at least – was given virtually no time to be effective.

**MR. BOWN:** If the Cabinet Secretariat had determined that more time was required, they would have scheduled the timing of this to be later.

**MR. BUDDEN:** Okay.

But, however, it's essentially a paper that touches on an area of responsibility of your department?

**MR. BOWN:** Correct.

**MR. BUDDEN:** Okay and you would agree that in the circumstance, whatever oversight is being offered, cannot possibly be effective oversight given these timelines.

**MR. BOWN:** If the Cabinet Secretariat had advised that this – the approval process was going to be the following week or the week after, then we would have followed the direction that we were given.

**MR. BUDDEN:** Okay so it was driven by the approval process?

**MR. BOWN:** Yes.

**MR. BUDDEN:** Okay.

Perhaps, Madam Clerk, we could go to Exhibit 00601? I'm going to be moving around here covering –

**MR. BOWN:** Okay.

**MR. BUDDEN:** – a couple of different areas, so we're moving from this area.

00601 is *Hansard* from April 2, 2012, and it's a – we've covered this before with other witnesses but I'd like to move to page 7 – the very bottom of page 7, please?

**MR. BOWN:** Is this in –

**MR. BUDDEN:** I don't believe you have it in your –

**THE COMMISSIONER:** No, it's not in – you'll have to look at it on the screen.

**MR. BOWN:** Okay. Thank you.

**MR. BUDDEN:** But it's a fairly limited point I wish to make. I'm just going to read the question here.

It starts at page 7, it's then MHA, Mr. Andrew Parsons, who's asking a question to the premier and the question reads as follows: "Thank you, Mr. Speaker." And then we continue to substantive part on page 8.

And I'm quoting now from the question of Mr. Andrew Parsons, April 2, 2012. Quote: "Almost

\$1 billion has been spent on this project to date. I ask the Premier: Are you now prepared to stop spending taxpayers' money on this project until a full, independent review of all options is completed?"

My question is, Mr. Bown, is this: Mr. Parsons here is suggesting – declaring really that –quote: "Almost \$1 billion has been spent on this project to date" this is through – beginning of April 2012.

Does that sound about correct to you?

**MR. BOWN:** No. I – no – it doesn't sound correct to me.

If you include maybe the historical costs as it relates to all the studies that were prepared for Gull Island and et cetera, and bring that forward, maybe that might be the billion, but I don't – there wasn't a billion dollars spent on site works, not that I recall.

**MR. BUDDEN:** Okay, what do you recall as having been spent? I'm not asking –

**MR. BOWN:** Yeah, I don't have a number.

**MR. BUDDEN:** Pardon?

**MR. BOWN:** I don't have number, I don't know.

**MR. BUDDEN:** Okay so on what basis are you –

**MR. BOWN:** But there was some work spent on early site works but I don't think it was in the order of a billion.

**MR. BUDDEN:** Okay.

Can you tell us approximately – if you don't think it's a billion what do you think it was?

**MR. BOWN:** I think we were below a hundred million.

**MR. BUDDEN:** Okay.

The – perhaps, Madam Clerk, we can now move on to Exhibit 00395? And again, this has come up with other witnesses, particularly if you've

seen Mr. Kennedy's evidence with – which I believe you did – with Mr. Kennedy.

What this is – is an email to Robert Thompson, who at that time was clerk of the Executive Council, from Thomas Clift, who was a member – I believe the chair of Governance for the board of directors of Nalcor. And what essentially this is, I would suggest, is – well, why don't you read, perhaps from "Hi Robert," all the way down to the end of numbered paragraph 1.

**MR. BOWN:** That's –

**MR. BUDDEN:** I think it's – actually, it's further – a little further down. It's the next email – yes, that one there.

If you could read from "Hi Robert," through the end of numbered paragraph 1, please?

**MR. BOWN:** "Hi Robert,

"I wonder if you might have a few minutes ..." – to chat for – "some Board Governance issues that we have at NALCOR?

"I can drop over for a face to face meeting, or we can deal with this over the phone if you prefer.

"In order to get you up to speed and also give you a chance to formulate a response, I think ... it is fair to say that our primary concerns are two-fold:

"1) In spite of the numerous requests that we have made of the previous and current administration, we are still really short of Board members. If you include Ed Martin, we have 5 members, without him we are relying on 4 individuals (each of whom are quite busy in their professional lives), to fill the various Board committees and at the same time provide governance on what is arguably the most important file/project which this government has embarked upon for quite some time. Our Board would benefit greatly from the addition of individuals with large-scale engineering project experience, international project experience, labour relations experience and additional finance or accounting experience. In addition, we would benefit greatly from the addition of an individual with connections to Labrador. At the

present time (in all cases) our committees are minimally stocked – as is our Board. I recall a situation recently where I had to get up at 4:30 a.m., while travelling (in California) and attend a 5 hour meeting (via phone), so that the meeting could proceed. Others members can relay similar experiences."

**MR. BUDDEN:** Okay.

So what we have here is the chair of Governance of Nalcor writing – pleading, really, I would suggest – of the clerk of the Executive Council to appoint additional board members. This is, you know, in the year in which sanction ultimately took place.

So looking for extra board members with, I think quoting here: "... large-scale engineering project experience, international project experience ..." – and so on. And apparently these requests had been coming in for some years. They talk about the previous administration which ended in 2003.

Firstly, were you aware of this?

**MR. BOWN:** Of this email? No.

**MR. BUDDEN:** Or of these requests, generally, that the board of Nalcor was seeking additional members with specific experience related to megaprojects?

**MR. BOWN:** No, I had received email or phone call from Peter Hickman over the years indicating that they were down a board member and they would like another board member added, and that process would – what my response to that would be, I would send an email or make a call to the Cabinet Secretariat – the Clerk's office –

**MR. BUDDEN:** Yes.

**MR. BOWN:** – to indicate that a board member is being requested. So that would go through the appointments process.

**MR. BUDDEN:** We've heard evidence of how board members are appointed. I guess my question is just to pursue that a bit – so you'd get these calls from Peter Hickman, who was – we know was counsel to –

**MR. BOWN:** Yeah.

**MR. BUDDEN:** – Nalcor. And but were you aware – this is a bit more detailed here, they're not just looking for extra bodies, they're looking for extra bodies with specific skill sets. Were you aware in 2012 –

**MR. BOWN:** No.

**MR. BUDDEN:** – that that was being sought?

**MR. BOWN:** No.

**MR. BUDDEN:** You're absolutely certain about that?

**MR. BOWN:** Absolutely certain of that.

**MR. BUDDEN:** Okay.

**MR. BOWN:** The first time I was aware of this was when I saw this document in the Exhibits.

**MR. BUDDEN:** What was your reaction upon becoming aware of it?

**MR. BOWN:** Well, it's a very important request.

**MR. BUDDEN:** Okay, and you, as deputy minister of Natural Resources were totally oblivious to this, you were not made aware of it?

**MR. BOWN:** I wasn't aware of this, no.

**MR. BUDDEN:** Okay. Does that not compromise, I suppose, the department's ability to exercise any kind of oversight over Nalcor?

**MR. BOWN:** I don't understand the question.

**MR. BUDDEN:** Okay. The Department of Natural Resources, ostensibly, is responsible for Nalcor, that's been established –

**MR. BOWN:** Yes.

**MR. BUDDEN:** – you don't dispute that.

**MR. BOWN:** Yes.

**MR. BUDDEN:** How can you maintain responsibility for a department which

presumably would include – or a Crown corporation, which presumably would include some responsibilities for oversight, you would agree?

**MR. BOWN:** Yes, having a properly stocked board of directors that would enable them to have sufficient people for committees is important.

**MR. BUDDEN:** Yes.

**MR. BOWN:** I agree.

**MR. BUDDEN:** And you weren't even aware of it?

**MR. BOWN:** I wasn't aware of this specific request, no.

**MR. BUDDEN:** Okay.

So my question is: If you're not even aware that the board is in trouble in this way, how can you possibly exercise any kind of oversight over that Crown corporation? Do you have an answer to that?

**MR. BOWN:** No.

**MR. BUDDEN:** Okay. Would you agree that you can't really exercise proper oversight if requests like this are not even brought to your attention?

**MR. BOWN:** I will just indicate that, you know, the request was made, I don't recall if there was any action that came about of this, but having a – having a fully stocked board – excuse me – would've been preferred.

**MR. BUDDEN:** Well, more than preferred. I mean, they're requesting it there, they obviously feel it's quite important.

**MR. BOWN:** Yes.

**MR. BUDDEN:** Okay. And yet your department wasn't even aware of it.

**MR. BOWN:** I wasn't aware of this, no.



**MR. BUDDEN:** Okay. And you've no reason to believe anybody else from your department was aware of it either?

**MR. BOWN:** No.

**MR. BUDDEN:** Okay.

Perhaps, Madam Clerk, we could call up Exhibit 00206. And I believe this may be in front of you.

**MR. BOWN:** 00206.

**THE COMMISSIONER:** Yes, tab 13.

**MR. BUDDEN:** Tab 13. And to save time, I'll tell you what I understand to be the case from other witnesses.

**MR. BOWN:** Okay.

**MR. BUDDEN:** This was a meeting that took place at The Rooms on April 23, as it indicates April 23, 2010, and in attendance were, from Nalcor: Mr. Ed Martin; Mr. Gilbert Bennett; Mr. Derrick Sturge; and Mr. Chris Kieley, I believe. Yes.

And from the province: Premier Williams; Minister Dunderdale; Gary Norris, I believe, was clerk at the time; Brian Crawley; Elizabeth Matthews, I believe both from the premier's office; Robert Thompson; and yourself.

Firstly, do you remember that meeting?

**MR. BOWN:** At The Rooms? No.

**MR. BUDDEN:** You have no memory at all?

**MR. BOWN:** I recall one off-site meeting that we did at the Johnson GEO CENTRE, but I don't remember this one specifically.

**MR. BUDDEN:** Okay.

Who –

**MR. BOWN:** Chris Kieley would've been the deputy at the department at that time, officially in 2010.

**MR. BUDDEN:** Okay.

The notes from Derrick Sturge identify him as being there from Nalcor.

**MR. BOWN:** Okay. Maybe he had –

**MR. BUDDEN:** Okay.

**MR. BOWN:** – he had moved by then.

**MR. BUDDEN:** Okay, so –

**MR. BOWN:** Okay.

**MR. BUDDEN:** And you have no – you have actually no memory at all, at this moment, of being in this meeting with Ed Martin, all these other people. It really – anybody who was –

**MR. BOWN:** Yeah.

**MR. BUDDEN:** – I would suggest playing any kind of significant role in Nalcor and energy development in Newfoundland at the time, hydroelectric development, was here in this meeting in April of 2010 – and you have no memory at all of it?

None?

**MR. BOWN:** No.

**MR. BUDDEN:** Okay.

Perhaps we can scroll just to page 5, and just have a quick look at that, perhaps, the pre-printed portion, what – also the evidence of Mr. Bennett and others is that what we have here is a pre-printed presentation –

**MR. BOWN:** Yes.

**MR. BUDDEN:** – obviously with the handwritten comments in the margins, appear to be discussions arising out of that presentation.

Just take a quick second. Does this refresh you at all?

**MR. BOWN:** These topics would've been discussed in my presence in other meetings, yes.

**MR. BUDDEN:** You have no recollection of being at a meeting where these topics were discussed in your presence.

**MR. BOWN:** Not this meeting, no.

**MR. BUDDEN:** Okay.

Well, let's scroll down to page 17 and we'll have one more try to see if this refreshes you.

**MR. BOWN:** But believe me, I'm digging the depths of my memory to try and remember this, so –

**MR. BUDDEN:** Okay –

**MR. BOWN:** – I'm not trying to be evasive, I'm trying –

**MR. BUDDEN:** You genuinely don't remember.

**MR. BOWN:** Genuinely don't remember. I'm trying.

**MR. BUDDEN:** Okay.

So what we have here and the previous couple of pages – the discussion here is moved on to – well not moved on, it's all about the Lower Churchill, but they're particularly talking about some of the – I would suggest some of the assumptions for the hydroelectric development of the two options: Gull or, by this point, Muskrat Falls.

Does any of this refresh you at all on any of these subjects of discussion?

**MR. BOWN:** Again, some of these things would have been discussed in my presence and in other meetings.

**MR. BUDDEN:** Okay.

The first notation under general assumptions – I see here the preprinted form is "P75 capital cost estimates." You now obviously understand, I presume, by this point in the Inquiry, what the significance of a P75.

**MR. BOWN:** Now I know. Yes.

**MR. BUDDEN:** Okay.

Did you know back in 2010, 2012 – that era?

**MR. BOWN:** No.

**MR. BUDDEN:** Okay.

Do you recall any discussion at all – even if you perhaps you didn't entirely grasp the significance of it – do you recall any discussion around the P75 estimates or any capital cost estimates for the Muskrat Falls development?

**MR. BOWN:** Not in the context of P75. I've seen the capital cost estimates many, many times, you know, in various presentations or in various documents, but not in the P75.

**MR. BUDDEN:** Okay.

What do you recall of those discussions – and I'm talking about here at these high-level discussions with the premier, other senior officials, on the one hand; Mr. Martin, other senior Nalcor officials on the other hand.

Do you recall any such discussions about capital costs?

**MR. BOWN:** At DG2? Yes.

**MR. BUDDEN:** Okay.

**MR. BOWN:** The \$5 billion capital cost – absolutely.

**MR. BUDDEN:** Do you recall any discussions that perhaps would be reflected by comments of this sort, from around 2010?

**MR. BOWN:** The comments that are in the – typed or comments that are in the – handwritten in the margins?

**MR. BUDDEN:** Well both, because the handwritten ones, I would suggest, flow out of the typed ones.

**MR. BOWN:** Such things as loan guarantee not factored in, because we hadn't done that. GHG, we talked about a number of times. Muskrat Falls, 100 per cent off-peak.

**MR. BUDDEN:** Okay. You actually recall that discussion?

**MR. BOWN:** No, I recall seeing these things previously.

**MR. BUDDEN:** Okay. And just to, I guess, wrap this up – you don't recall any discussion where perhaps it was suggested that Nalcor was going with a P75 and somebody else said: Well, that's a very conservative approach, puts stress on the project costs. Anything at all – even having refreshed yourself here?

**MR. BOWN:** No.

**MR. BUDDEN:** Okay.

**MR. BOWN:** No.

And again I apologize. I've attempted to try even after these sessions and I haven't been able to recall.

**MR. BUDDEN:** Okay.

I guess I'll wrap it up. My time is almost done, but I just want to just cover a few of these – a bit of the evidence that's come out in the past – in this Inquiry that I think might be relevant to you or to the role you played.

So, you were, at this time – the – 2010, 2011, 2012 – I would suggest the senior official in the Department of Natural Resources with regard to the Muskrat Falls or Lower Churchill Project, generally?

Would you agree with that?

**MR. BOWN:** In 2010, the deputy minister would have been the senior official.

**MR. BUDDEN:** Okay –

**MR. BOWN:** (Inaudible) –

**MR. BUDDEN:** – by 2011, 2012 –

**MR. BOWN:** – 2012 –

**MR. BUDDEN:** – yes.

**MR. BOWN:** – I would have been the deputy minister.

**MR. BUDDEN:** So, in the months leading up to sanction you were the deputy minister?

**MR. BOWN:** Yes.

**MR. BUDDEN:** Okay, so you would have been the senior – the point person, I think it was described –

**MR. BOWN:** Yes.

**MR. BUDDEN:** – at one point in your evidence.

**MR. BOWN:** Responsible for all the policy matters, the legislation, the loan guarantee ...

**MR. BUDDEN:** Okay.

Yesterday – I went back to the transcript last night and, as I read the transcript, you acknowledge that you were – and I'll read the words here, as I took them out of the transcript – you were implicitly instructed by politicians to trust Nalcor and accept the information that you were receiving from them on cost estimates without further review.

Do you recall acknowledging that yesterday?

**MR. BOWN:** Yes, I do.

**MR. BUDDEN:** Okay.

And we've also heard evidence that there existed a special relationship between the premier's office and Nalcor in between the premiers of the day, Williams and Dunderdale, and Ed Martin, where there would often be meetings between them, not flowing through Natural Resources, but direct – Nalcor, premier's office – direct contact.

**MR. BOWN:** I can't confirm that – if – I wasn't aware of them. Whether they occurred – somebody else would have to confirm those.

**MR. BUDDEN:** Okay, but if they did occur, you weren't aware of them?

**MR. BOWN:** Yes.

**MR. BUDDEN:** Okay.

**MR. BOWN:** And, as I believe I've mentioned in testimony that if they did occur and direction came out of those meetings, it would flow either from the minister or the deputy minister to me – what the next steps, or what the direction was, or what activities needed to be undertaken.

**MR. BUDDEN:** Okay.

You took issue with Mr. Stanley's characterization of Nalcor as a runaway train.

**MR. BOWN:** Yes.

**MR. BUDDEN:** But, certainly, he was a senior minister and that was – you do acknowledge that was certainly his view of things – appeared to have been?

**MR. BOWN:** That would have been Mr. Stanley's view from his perspective, as being a lawyer in Department of Justice, dealing with the legal matters that he dealt with as it related to Nalcor. He would not have a full view, or a full cross-section, of all activities with Nalcor.

**MR. BUDDEN:** Okay.

And you're certainly aware that your minister, and the government generally in the months leading up to sanction, were clearly predisposed towards the Muskrat Falls Project as was reflected, for instance, in those publications we reviewed yesterday having a pro-Muskrat Falls bias.

**MR. BOWN:** The government was moving; all activities associated in 2012 were leading up toward a sanction decision at the end of 2012.

**MR. BUDDEN:** Okay.

And you also observed, I would assume, Mr. Kennedy's evidence where I put to him his comments about Mr. Vardy in Corner Brook and he acknowledged that they were, you know, they were inappropriate and unfair. So it was also a time where critics of Muskrat Falls Project were coming in from a fair but of criticism from government officials.

**MR. BOWN:** Government officials?

**MR. BUDDEN:** Well, politicians.

**MR. BOWN:** There's a difference between –

**MR. BUDDEN:** I –

**MR. BOWN:** – when you refer to government officials, those would be the public service –

**MR. BUDDEN:** Strike that; Politicians.

**MR. BOWN:** In the political arena how they responded sometimes, I guess, their comments were negative.

**MR. BUDDEN:** And you also sat in on meetings at least one meeting where Nalcor officials and Government of Newfoundland officials were openly talking about using terms like hit squad to attack opposition members in the House basically coming together to attack them if they were being critical of Muskrat Falls. So that was the environment at the time wasn't it?

**MR. BOWN:** And that was a political conversation, so when you get to communications in that arena and that discussion takes place, that's a conversation that's occurring between the politicians on how they're going to conduct themselves.

**MR. BUDDEN:** No, it wasn't it was conversation between Nalcor publicity people and GNL publicity people.

**MR. BOWN:** And in that meeting it would have been directed toward the politicians.

**MR. BUDDEN:** Yes and using terms like hit squad.

**MR. BOWN:** Yes (inaudible).

**MR. BUDDEN:** I guess my point is you, as deputy minister, were operating in an environment where these were the realities of your life. This was the predisposition of politicians, this was a manner which they spoke about critics of the Project, this was how they intended to respond in the House to critics of the Project so that was your reality at the time, wasn't it?

**MR. BOWN:** That was the environment that I worked in.

**MR. BUDDEN:** Okay.

You were a career public servant?

**MR. BOWN:** Still am.

**MR. BUDDEN:** Still am and were mid-career at that point or still a career public servant.

**MR. BOWN:** Yes.

**MR. BUDDEN:** I guess my question is, to what degree were you, I guess, handicapped in the carrying out of your responsibilities as a public servant? The responsibilities to advise as the best governance, the responsibilities to give – you know, fearlessly give advice when you’re operating within this environment. How did that impact you and your ability to do your job?

**MR. BOWN:** I didn’t feel impeded by the fact that politicians had a particular view or approach. I freely gave my advice and I don’t recall being in the presence of a minister who would – you would give your advice or share your thought and they would say: Okay, fine. Thank you. And then they would do whatever it is they were going to do or they would ask you to undertake whatever activity they wanted you to undertake. That’s the normal process but –

**MR. BUDDEN:** Okay.

**MR. BOWN:** – I never felt impeded or impaired by any minister.

**MR. BUDDEN:** So you never felt any degree whatsoever of self-censorship perhaps of not raising topics that you felt were unwelcome that did not want to be heard?

**MR. BOWN:** No.

**MR. BUDDEN:** Okay. Thank you.

**MR. BOWN:** Never felt that way.

**MR. BUDDEN:** Thank you.

Those are all my questions.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** Thank you.

All right, Edmund Martin.

**MR. SMITH:** Mr. Bown, Harold Smith for Ed Martin.

**MR. BOWN:** Good morning, Mr. Smith.

**MR. SMITH:** I only have a few questions but I think we’ll get through them fairly quickly. Did Mr. Martin guarantee that \$6.2-billion DG3 number was the maximum that would be – needed to do the project? Did he guarantee that?

**MR. BOWN:** I’ll step away from the word guarantee for a moment and give you my understanding. We had a firm belief based on the work that was done, the way the work was presented to us, the amount of engineering that was completed, the study work that was done behind that, the experts that they would have retained to do that. Clearly, we understood that there was a potential for cost overrun, but we had a very strong faith that 6.2 was a number that we could rely on.

**MR. SMITH:** And did Mr. Martin discuss with – when you were present in meetings, did he discuss that there were risks, and perhaps some unknown risks too, that might cause a cost overrun?

**MR. BOWN:** We always talked about risks in the general –

**MR. SMITH:** Yes.

**MR. BOWN:** – and that there was – there were risks. But there was always the caveat to that, so there was always two sides; one, yes there are some potential risks. However, we have strategies in place, we have approaches that we’ve taken to reduce risk to date and we have mitigation measures that we plan to use in the future to address risk.

**MR. SMITH:** So although risks were discussed outside the \$6.2 billion that could cause a cost overrun, Mr. Martin and I assume his team – but we’ll stick with Mr. Martin at the moment – that he was of the view that that were mitigation strategies to undermine whatever those risks might be?

**MR. BOWN:** That was the message that was provided to me in rooms where there were politicians as well, you know, ministers, including the premier.

**MR. SMITH:** So in answer to my question about 6.2-billion guarantee, the answer would be, no, he didn't guarantee it. He just said that if there are risks to create a cost overrun, that those risks can be mitigated in his view.

**MR. BOWN:** It was never presented in that way. I understand the point that you're trying to make, but we had a very strong reliance that 6.2 was very solid number because so much work had been done.

**MR. SMITH:** And do you have any doubt that Mr. Martin believed that 6.2 was a good number?

**MR. BOWN:** I had no doubt that he believed, he was very convincing.

**MR. SMITH:** Did you discuss or did – was there any discussion about, well, if a cost overrun occurs, whether or not there's sufficient monies to cover it?

**MR. BOWN:** The concern was that if there was a cost overrun, it would impact rates. And I think minister – Mr. Kennedy spoke a lot about this, that the concern was any increase would impact rates and that would be a primary concern. A secondary concern would be if there were cost overruns, then there would be an equity requirement from the government. And the government's physical capacity at that time was known that we would be challenged.

**MR. SMITH:** I'd like to come back to that question again, because I just wanted to understand that in meetings that you may have held with Mr. Martin present and discussing these issues, whether or not there was any reference to available funds, either from the sale of electricity to mitigate. Because Mr. Kennedy talked about that one of the plans was to use the sale of electricity to other markets, okay –

**MR. BOWN:** Mm-hmm.

**MR. SMITH:** – to help fund any cost overrun. He also talked about the possibility of reducing

the rate of return from 8.4 per cent, in order to mitigate – again, mitigate against rising rates, but also to offset the cost overruns. Did he ever talk about that?

**MR. BOWN:** Yes, but not in the context of cost overruns. Those matters were raised – I guess the way that the project was characterized to us, and to the public at that time, was that there was – in the early years, there was a differential in the electricity rates, there would be a bump in the beginning. And we spent a great deal of time and analysis in 2012 looking at ways to mitigate that bump.

And we looked at things like export sales and revenue from other subsidiaries of Nalcor. But the focus was on mitigating rates associated with that bump. I don't recall us ever having a conversation saying that these matters would be used to mitigate cost increases. I don't have a recollection of that.

**MR. SMITH:** But, again, if cost increases or overruns create a higher rate and you're using this material to – these funds, whether it be sales – whether it be lease – water lease rents that are forgiven.

**MR. BOWN:** Mm-hmm.

**MR. SMITH:** Whether it be other sources of revenue to mitigate the rate, you are effectively using it to offset any overruns, are you not?

**MR. BOWN:** Right.

**MR. SMITH:** Yeah.

**MR. BOWN:** That's the math.

**MR. SMITH:** On another topic, did your officials or you have any difficulties accessing Mr. Martin when you needed to speak with him or to check something or verify what you were working on? Did you have any difficulties connecting with him and –

**MR. BOWN:** No.

**MR. SMITH:** – getting him to help you?

**MR. BOWN:** No. Generally, it would be to engage Mr. Martin with the minister or with the premier.

**MR. SMITH:** Looking at the retention of MHI for a minute, that retention process was done early April into May of 2012.

**MR. BOWN:** Right.

**MR. SMITH:** And the timeline was June, I understand, or July – early July meeting of the House of Assembly.

**MR. BOWN:** Right.

**MR. SMITH:** Right. Which is about two months or so – about two full months. And Mr. Learmonth indicated to you that it really didn't happen in the House of Assembly until December, so you really had six extra months. But I'm concerned about whether you had six extra months or whether this was just merely a moving target where very rarely would you have more than a couple of months before the next target date.

**MR. BOWN:** I guess that was the challenge as we went through. And I believe I did raise this in my testimony with Mr. Learmonth, that receiving the data was the challenge in terms of when the project or the piece of work would get finished.

**MR. SMITH:** And – but in not only receiving the data, but the – MHI would have to analyze that data and produce a report on it, would they not?

**MR. BOWN:** Yes.

**MR. SMITH:** And so if the data wasn't available in April-May time frame, and there was a two-month window to get to the House, do you know of any time when the data was available and the target date was more than two months away?

**MR. BOWN:** We started the exercise with an understanding that the data would be available. And the only reason that the times changed was because we would become aware last minute that data wasn't available.

**MR. SMITH:** Are – I'm just trying to determine whether or not from your perspective – you indicated to us a couple of times that strategic risk wasn't on your radar because you didn't understand what it was because no one had explained it to you, okay? Or – the concept of tactical risk, I think, is in the same ballpark – two types of risk. My question really is were you aware that whether you include strategic risk in the cost – capital cost is a matter of dispute between experts?

**MR. BOWN:** I guess my point – my response to that would be from where we sat – where I sat in giving advice to the minister and the minister, in turn, advising the premier, would be that all costs would be in the cost at sanction regardless of whether at any particular point they were at dispute that the 6.2 would include all costs.

**MR. SMITH:** I'm going to refer you to your transcript in your interview with Commission counsel, page 139.

And in that you state: We discussed the red-meat syndrome concept. During any time that we had a discussion on costs and contingency prior to and after sanction, this was the view that was given to all the people who were in the decision-making frame for the Government of Newfoundland and Labrador, not me, okay? The confident report from Nalcor was that they had prepared this so as to ensure that they would keep costs down, and, in so doing, it was necessary to keep contingency tight so as not to attract companies to draw down on the contingency.

**MR. BOWN:** Correct.

**MR. SMITH:** Okay. So there was a concerted effort and – known to government that there would be tight contingency amounts. There wouldn't – they wouldn't be, shall we say, flush with cash?

**MR. BOWN:** You are correct, that is what I said at – in my testimony, and I agree that, in response – and I think Mr. Kennedy may have touched on it, you know, why – questioning contingency, why the contingency's so low, and the response was the purpose was to keep it low so as to not attract contractors to try and avail of

the contingency amount so as to drive up the cost.

**MR. SMITH:** And then at page 140, whether the right estimate had been given, given the tight contingency – and I assume Mr. Kennedy or somebody of his thinking would be in that group.

Martin and Gilbert's response was, quote, we have prepared this to ensure that we keep the cost as low as possible.

And you're attributed to have said that – in that – at page 140 – the decision-makers in the room, the premier and Jerome Kennedy, were satisfied with that response.

That is –

**MR. BOWN:** As it related to contingency.

**MR. SMITH:** Right. Okay.

So there was an understanding that the contingency was intentionally lowered – kept low so as not to create an effort to use it?

**MR. BOWN:** That was explained.

**MR. SMITH:** Yeah.

And, one final topic, I think. With respect to your comments that you believe Mr. Martin was opposed to the PUB, or Nalcor was opposed – Mr. Martin bringing the message that Nalcor was opposed to the PUB review, would you have concluded that he was opposed because of the timelines and trying to make sure that everything was done, or was he opposed because he just didn't want somebody to review his –

**MR. BOWN:** I –

**MR. SMITH:** – numbers?

**MR. BOWN:** – believe, as I said yesterday, I thought I was clear that he was opposed because of the risk that it would bring to the project schedule.

**MR. SMITH:** Risk to the schedule?

**MR. BOWN:** Yes.

**MR. SMITH:** Thank you, Sir.

**MR. BOWN:** You're welcome.

**THE COMMISSIONER:** All right, thank you.

Kathy Dunderdale?

**MS. E. BEST:** Good morning, Mr. Bown.

I'm Erin Best, counsel for Kathy Dunderdale.

**MR. BOWN:** Good morning, Ms. Best.

**MS. E. BEST:** I'm gonna jump around a little bit in my questioning, but I'll try and let you know where I'm going, okay?

**MR. BOWN:** Okay.

**MS. E. BEST:** Madam Clerk, if you could please bring up P-01237?

**THE COMMISSIONER:** Tab 160.

**MS. E. BEST:** Oh, sorry; I should have let you know that.

**THE COMMISSIONER:** I'll –

**MS. E. BEST:** Thank you.

**THE COMMISSIONER:** – try to keep doing that –

**MS. E. BEST:** Okay, thanks.

**THE COMMISSIONER:** – if you want.

**MR. BOWN:** Okay, well, I'll just look at this one on the screen.

**MS. E. BEST:** Sure.

So just – I wanna look at this first page here. This is the – these are Mr. Kennedy's notes; we've looked at them before. You recognize them, right?

**MR. BOWN:** Correct.

**MS. E. BEST:** This is from that April 1, 2012, meeting.



**MR. BOWN:** Yes.

**MS. E. BEST:** And this is, I believe, you stated, when you were directed to call MHI.

**MR. BOWN:** Correct.

**MS. E. BEST:** Okay. So Ed Martin is listed as being present at this meeting?

**MR. BOWN:** Yes.

**MS. E. BEST:** And I think you said he was likely invited to attend by the premier's office?

**MR. BOWN:** Yes.

**MS. E. BEST:** Okay. It seemed to be suggested earlier that Mr. Martin was at this meeting to comment about the retention of MHI. But I'd like for you to look down on the notes a little bit. Madam Clerk, if we could scroll down, please?

So we see there – that's fine, thank you. We see there things like DG3 numbers and update on Holyrood numbers, other options. Are these things that Mr. Martin could've been invited to the meeting to actually discuss?

**MR. BOWN:** This would've been discussing the data that's necessary for MHI to complete the review. I think if you look at the second sub-bullet, it says MHI review.

**MS. E. BEST:** Okay, so could –

**MR. BOWN:** So yes.

**MS. E. BEST:** So those could be the things that Ed Martin –

**MR. BOWN:** In addition –

**MS. E. BEST:** – would've had to –

**MR. BOWN:** Yeah.

**MS. E. BEST:** – comment on at this meeting?

**MR. BOWN:** Yes.

**MS. E. BEST:** And not necessarily – or, I guess, not whether MHI would be retained at all?

**MR. BOWN:** I think there would've been a fulsome discussion amongst all the people in the room about the engagement of MHI.

**MS. E. BEST:** Okay, but was that specifically why Ed Martin would've been there? Or would've been invited? Wouldn't that have been a government decision: whether or not to actually go ahead and retain MHI?

**MR. BOWN:** The answer is yes.

**MS. E. BEST:** Thank you.

I'll step away from this document now; I'd like to talk to you about oversight.

Commission counsel asked about the Department of Natural Resources being a passive bystander. Do you recall that?

**MR. BOWN:** Yes.

**MS. E. BEST:** Would you describe Minister Kennedy as being a passive bystander?

**MR. BOWN:** Hardly.

**MS. E. BEST:** Why not?

**MR. BOWN:** Minister Kennedy, or Mr. Kennedy, was deeply engaged in all elements and asked questions daily and retained me or other staff to chase down answers to his questions.

**MS. E. BEST:** Thank you.

What about Danny Williams when he was premier? Was he a passive bystander?

**MR. BOWN:** No, there were frequent meetings in the premier's office about the project and the next steps.

**MS. E. BEST:** Okay. And Kathy Dunderdale, was she a passive bystander?

**MR. BOWN:** There were active meetings with Premier Dunderdale about the project. Many –

**MS. E. BEST:** Wherein questions were asked –

**MR. BOWN:** Yes.

**MS. E. BEST:** – and answers demanded?

**MR. BOWN:** Yes.

**MS. E. BEST:** Thank you.

So these people all – they pushed back; they asked questions and, as I said, demanded answers from Nalcor. Is that right?

**MR. BOWN:** In those meetings, yes.

**MS. E. BEST:** Thank you.

And do you recall – when government made the decision to send the reference question to the PUB, do you recall that there was some pushback from Nalcor but that government insisted on sending the question anyway?

**MR. BOWN:** I believe that's the way I characterized it yesterday, that while the sentiment from Nalcor was that they didn't want to do this, the decision was governments. And then the reason that Nalcor continued to participate was they were directed to implement.

**MS. E. BEST:** Thank you.

Do you recall anyone in government ever being instructed to be a passive bystander in regard to Nalcor's work?

**MR. BOWN:** No.

**MS. E. BEST:** No?

**MR. BOWN:** No.

**MS. E. BEST:** Thank you.

When Tom Marshall was on the stand, in response to a question about government oversight, he said there was a plethora of oversight. He spoke about SNC lawyers, engineers, acts, internal and external auditors, the executive of Nalcor, the board of Nalcor, the federal government, Nalcor AGMs being public, annual reports, tabling of documents in the House of Assembly and Nalcor open information sessions.

Do you agree that all of that was part of government's oversight role?

**MR. BOWN:** Yes.

In addition to that, there were, again – like I said – frequent meetings, weekly/monthly, with questions being posed about the project.

**MS. E. BEST:** Thank you. Do you also agree that the involvement of the premier's office in this file indicated a heightened level of oversight compared to, say, the oversight of other Crown corps?

**MR. BOWN:** It was very clear in the public service that the premier's office was lead on the file.

**MS. E. BEST:** So did that indicate a heightened level of oversight?

**MR. BOWN:** Yeah. Probably not lead on the file. That the – probably use a better word – that the premier's office fully supported the project going ahead.

**MS. E. BEST:** So let me unpack that for a second.

So what I asked you, first of all, is that the involvement of the premier's office – was that normal for a government project? Or was that – did that indicate a heightened level of oversight of the project?

I mean, is the premier's office –

**MR. BOWN:** It's not usual for the premier's office to be so involved in a particular file.

**MS. E. BEST:** Okay. So when the premier's office is involved, is that because there is a heightened level of oversight?

**MR. BOWN:** Right.

**MS. E. BEST:** Okay. And when you say that the premier's office was in support of the project, do you mean they were exercising their oversight role over the project?

**MR. BOWN:** Providing direction, asking questions, making sure activities were completed.

**MS. E. BEST:** Okay, because at all times it was known that the project would only proceed if it was found to be the least-cost option –

**MR. BOWN:** That's correct.

**MS. E. BEST:** – and in the best interests of the shareholders?

**MR. BOWN:** That's correct.

**MS. E. BEST:** Thank you.

You stated a number of times throughout your testimony that you trusted Nalcor. Now that makes some sense to me, because government created Nalcor and funded it specifically to do this work, is that right?

**MR. BOWN:** That's correct.

**MS. E. BEST:** So can I ask you – and this hypothetical to be sure – but how would it have worked if everyone at government had been instructed: Do not trust Nalcor.

If that had been the case, how would that have looked, what would have been the point of that? Would there have been another entity created, as I've stated before, a Nalcor 2, to redo all the work of Nalcor 1?

Is – I mean– can you expand or, on that, or agree –

**MR. BOWN:** There would've been –

**MS. E. BEST:** – or disagree.

**MR. BOWN:** – a secretariat of some sort that would've been created, excuse me, and staffed and experts retained.

**MS. E. BEST:** To redo all the work of –

**MR. BOWN:** Yes.

**MS. E. BEST:** – Nalcor that Nalcor was –

**MR. BOWN:** Yes.

**MS. E. BEST:** – created and funded to do in the first place.

**MR. BOWN:** To validate and verify.

**MS. E. BEST:** Okay.

**MR. BOWN:** Excuse me for (inaudible). Sorry.

**MS. E. BEST:** And back in 2010 to 2012, you didn't have any reason at that time not to trust Nalcor, did you?

**MR. BOWN:** No. There was nothing that was brought forward that would've caused me to not trust them.

**MS. E. BEST:** Okay.

And would it be normal for government to not trust any of the people or the work being done by one of their Crown corps?

**MR. BOWN:** I can't speak for all Crown corporations, but generally no.

**MS. E. BEST:** Okay.

**MR. BOWN:** I want to go back to my evidence that I gave yesterday –

**MS. E. BEST:** Mm-hmm.

**MR. BOWN:** – that there was a – myself and the deputy minister of Finance did prepare a note indicating that at that point we felt that given the importance of the investment, and both ministers signed, that maybe it was appropriate at that time to have an independent review outside of Nalcor.

So most of the reviews that were being done were being led by Nalcor.

**MS. E. BEST:** Mm-hmm.

**MR. BOWN:** The one that was being proposed in the note that was submitted by Derrick Sturge was going to be led by Nalcor, we felt that it would be appropriate that there be an independent review outside of Nalcor.

**MS. E. BEST:** Yes, thank you. So, actually that segues into my next question.

So ministers Marshall and Skinner signed that –

**MR. BOWN:** Yes.

**MS. E. BEST:** – document, is that right, and put that forward, along with yourself, who helped to prepare it –

**MR. BOWN:** Yes.

**MS. E. BEST:** – right?

So when Mr. Marshall was on the stand and asked about this, his evidence was that the PUB reference question satisfied his request for an independent review, and when I questioned him on it further, I asked him if the MHI report also satisfied his request, and he said that it did.

Were you aware of that?

**MR. BOWN:** I heard his evidence.

**MS. E. BEST:** Okay. And do you agree with that?

**MR. BOWN:** I believe –

**MS. E. BEST:** And if now, what did you do about it, I guess?

**MR. BOWN:** What we were instructed to do. So when the decision was made not to go forward in the path that we had proposed in the briefing note, then the direction was given to move forward with the PUB interview and subsequent to do the MHI review.

**MS. E. BEST:** Okay. And your minister was satisfied with that at the time?

**MR. BOWN:** He was satisfied at the time.

**MS. E. BEST:** Thank you.

Were you ever directed by anyone to give Nalcor veto power?

**MR. BOWN:** I believe the context that – to be fair – the way that Mr. Learmonth raised that yesterday was in the context of in the current view, hindsight, looking in the – looking backwards and with the body of evidence demonstrating how we started that process, the discussions that were taking place at Nalcor that we weren't aware of. That if you brought that

forward to the future, then you could imply that they had a veto.

**MS. E. BEST:** Okay.

**MR. BOWN:** I think I just wanted –

**MS. E. BEST:** So –

**MR. BOWN:** – to put in the context in –

**MS. E. BEST:** Thank you.

**MR. BOWN:** – which he said it.

**MS. E. BEST:** So stepping back into your shoes in 2010 to 2012, it wasn't your impression at that time that Nalcor had any kind of veto power.

**MR. BOWN:** At that day, no.

**MS. E. BEST:** Okay.

**MR. BOWN:** And I believe that's a discussion that we had.

**MS. E. BEST:** Thank you.

I'd like to take you to the MHI scope of work. Madam Clerk, if you could pull up P-00770, please. And that seems to be tab –

**THE COMMISSIONER:** Ninety-two.

**MS. E. BEST:** – 92, book 2. Now, if you could scroll down, please, to where it says vii. Keep going down, please.

Okay, coming up, vii. That's great. Thank you.

This section here and – this is in the Scope of Work: "A review of the other changes made by Nalcor to cost inputs from DG2 to DG3 for both the Isolated Island and Interconnected Island alternatives.

Information required: Changes in costs between DG2 and DG3, Supporting information to explain the changes in costs.

Outcome: A report on the reasonableness of Nalcor's cost inputs for the other items adjusted since DG2."

What does that mean to you? What do you think is included in there?

**MR. BOWN:** Very clearly, that they would review all the costs for DG3 and provide us with a view of what has changed since DG2, and provide us with an assessment whether the cost inputs, as they've changed, are reasonable.

**MS. E. BEST:** Okay.

So, if some of those costs are supposed to include risks, then would that also be included?

**MR. BOWN:** I made this comment yesterday in my testimony, that the scope was broad enough and general enough that as – if any additional information would become available to them, that they would include that; they weren't restricted to that.

**MS. E. BEST:** Okay.

And, section eight, viii, there next, so: "A review of the CPW input changes and results for the DG3 inputs for both the Isolated Island and Interconnected Island alternatives." And then it goes on and it states there specifically in the bullets: Revised capex cost variations.

Again, this section, would this similarly encompass risk?

**MR. BOWN:** The point is that they were asked to review all inputs for cost, and acknowledged that at the outset the – or, risk was removed but the scope was written broad enough should that, any additional information become available to them as they were doing their work, they would include it.

**MS. E. BEST:** Okay.

**MR. BOWN:** They would make that determination themselves.

**MS. E. BEST:** Yes. Thank you.

I'd like to talk about that additional information actually if – Madam Clerk, if we could go to page 14 of this document, please?

1.2 there on the screen: "Where discrepancies, omissions or obscurities in the information are

evident, the Consultant shall bring them to the attention of the Client and secure written instructions from the Client before proceeding with any work."

Did that happen?

**MR. BOWN:** No.

**MS. E. BEST:** Okay.

I'm going to jump to a document on a different topic here now. Madam Clerk, if you could please pull up P-01369.

**THE COMMISSIONER:** And that's at tab 14, book 1.

**MS. E. BEST:** Page 12, please. You were questioned on this document yesterday – you recall that?

**MR. BOWN:** Yes, I do.

**MS. E. BEST:** And you were asked whether government is ultimately accountable for the actions of Nalcor. You said yes. But I wonder, did you mean that government is accountable for the actions of Nalcor when Nalcor acts within its mandate?

**MR. BOWN:** I believe that's the point that I was trying to make yesterday and probably didn't say it very clearly. But if Nalcor is doing what it's supposed to be doing –

**MS. E. BEST:** Yes.

**MR. BOWN:** – then yes – government is accountable. If they're doing things that they're not supposed to be doing – regardless – as anything comes out of this Inquiry or otherwise – no.

**MS. E. BEST:** Okay. So just to really make it clear here, if Nalcor does something that's outside its mandate or is in – specifically in direct contravention of the direction given by government, then government isn't accountable for that.

**MR. BOWN:** The implicit view would be Nalcor would not do anything outside its

mandate without seeking prior approval of government.

**MS. E. BEST:** Okay, and if it did?

**MR. BOWN:** Then the government has different levers at its disposal. It can remove the CEO. It can remove the board. It has tools.

**MS. E. BEST:** If it becomes aware of these issues.

**MR. BOWN:** Yes.

**MS. E. BEST:** Thank you.

Madam Clerk, if we could please go to P-01417 – 1-4-1-7 – which may not – oh – wait now.

**THE COMMISSIONER:** (Inaudible) 1-7. Tab 97 – book 2.

**MS. E. BEST:** 97.

**MR. BOWN:** 97.

**MS. E. BEST:** Book 2.

**MR. BOWN:** Oh, I have it.

Okay, I'm familiar.

**MS. E. BEST:** Now, Mr. Bown, this is an email to yourself –

**MR. BOWN:** Yes.

**MS. E. BEST:** And I apologize if I missed it yesterday, but did this actually ever see the light of day? Was this actually turned into a letter that was sent?

**MR. BOWN:** In my testimony yesterday, I said I wasn't aware if this ever became a letter. This was a draft that I was instructed to make and this would be my first draft. Again, I wrote it to myself so I could print it out and make edits.

**MS. E. BEST:** So these are just, sort of, almost like just a comment to yourself? A thought?

**MR. BOWN:** No, it's more than that. I was instructed to prepare a draft of a letter –

**MS. E. BEST:** Yeah.

**MR. BOWN:** – that would go to Premier Dexter.

**MS. E. BEST:** Okay.

**MR. BOWN:** Whether that letter actually went, I can't advise.

**MS. E. BEST:** Okay.

And we haven't seen a copy of it?

**MR. BOWN:** Yeah.

**MS. E. BEST:** And I wonder if you can give me some background on this situation. Perhaps you can tell me if you agree with this or not. Had there previously been representations made by Premier Dexter as to the timing of the UARB – and scope of the UARB review?

Had there been an agreement between the government of Newfoundland and Labrador and the Government of Nova Scotia, with respect to the timing of that review, and then Nova Scotia broke away from that timing?

**MR. BOWN:** Again, that's the genesis for preparing this email. I think there was reference to a meeting that took place, it would have been in, I would suppose, in May. As I indicated yesterday, it was during the time of my son's graduation so I did not attend the meeting but I was briefed on the meeting after the fact and it was clear that there was an understanding between the two premiers that the UARB review process would be in line with the sanction decision timing of Muskrat Falls.

**MS. E. BEST:** Okay.

And to delay that process, would that result in delay of the project and impact to the ratepayer?

**MR. BOWN:** The impact was on the loan guarantee, and being able to secure the loan guarantee. So if both projects didn't go through sanction at the same time, then you wouldn't be able to proceed through to financial close 'cause you would not have met the conditions precedent of the loan guarantee. That was the principle concern.

**MS. E. BEST:** Right.

And not securing the loan guarantee would certainly have impacted the ratepayer negatively, is that right?

**MR. BOWN:** Well it meant that if the project was sanctioned going forward, then equity would be used to fund the project upfront.

**MS. E. BEST:** Mm-hmm.

**MR. BOWN:** And equity is higher cost than debt.

**MS. E. BEST:** Okay.

So just to go back a little bit and clarify something, so the Government of Nova Scotia and Premier Dexter had previously agreed on this timeline and then changed his mind.

**MR. BOWN:** That's my understanding, yes.

**MS. E. BEST:** Thank you.

Madam Clerk, if we could please go to P-01128, which would be volume 4, tab 144.

**THE COMMISSIONER:** Can you just give me that one again, I'm sorry.

**MS. E. BEST:** Oh, 01128, volume 4, tab 144.

**MR. BOWN:** 144, I have it.

**MS. E. BEST:** So this is a Direction Note that was raised yesterday, a direction note from November 2012, I understand. And I just want to clarify because I got the sense when this was being discussed that everyone might have been thinking that this referred to oversight of project cost estimates.

Whereas, I look at this document and it refers to – actually, if we can please turn to page 2, Madam Clerk – wait now, maybe page 5, sorry, page 5, yeah. You state there in the fourth bullet point: For the period during construction, they examined two – sorry, third bullet point: “They looked at two oversight phases for the project: ... During Construction” and “Post Construction (operations) ....”

**MR. BOWN:** Yes (inaudible).

**MS. E. BEST:** So it's my impression that this note has to do with oversight of costs and, actually, it's referred to in here a number of times, incurred costs, during project construction and post-construction. Is that right?

**MR. BOWN:** The best reference to that would be – go back to page 1 of the note.

**MS. E. BEST:** Okay.

**MR. BOWN:** Go down – scroll down to: Accountability Oversight Options and you see two phases of – stop – “... two phases of Project expenditure under consideration for accountability oversight: Project Development/Construction ... Project Operations.”

**MS. E. BEST:** Yeah, okay.

So this is not about oversight of project cost estimates, this is about oversight of project costs in those two phases.

**MR. BOWN:** Yes.

**MS. E. BEST:** Thank you.

Yesterday, when you were questioned about Todd Stanley's interview you said: I don't ever recall a time when Nalcor sought approvals from the premier's office without other ministers being there. And then later on when questioned you said: “It could have happened without me knowing.”

So I want to ask you what is the likelihood that that would have happened without you knowing? I mean, wouldn't you have found out about it? If the premier's office and Nalcor were making decisions, I mean, wouldn't that inevitably trickle down to you? Wouldn't you find out about it?

**MR. BOWN:** I think the testimony that I gave during my interview was that if indeed that occurred – so, again, the length of my service being very long.

**MS. E. BEST:** Mm-hmm.

**MR. BOWN:** In the early part of my service if that had occurred, by the time it reached me –

**MS. E. BEST:** Mmm.

**MR. BOWN:** – it would've been in the form of direction from the deputy minister or the associate deputy minister, and I would not have known that it originated from the premier's office. So that, that was –

**MS. E. BEST:** Okay, well, what about –

**MR. BOWN:** – how I would characterize it.

**MS. E. BEST:** What about in the time span of 2010 to 2012, around there, do you –

**MR. BOWN:** I don't recall any time that there was a meeting of the premier or Nalcor alone where decisions were made that were passed down to departments or to the Cabinet Secretariat.

**MS. E. BEST:** Okay. Thank you.

Just a couple of questions left. Were you confident, at the time of sanction, that Muskrat Falls was the least-cost option?

**MR. BOWN:** Based on the information that we had at that time, yes.

**MS. E. BEST:** And did you have confidence in the \$6.2 billion cost estimate?

**MR. BOWN:** As I'd stated a moment ago, we relied on that number and the – and even with the conversations around it, that the fact that risk could exist, but it was always with the caveat that mitigation of risk was well in hand. So, yes, we were very confident in the number.

**MS. E. BEST:** Thank you.

Those are my questions. Thank you.

**THE COMMISSIONER:** All right, thank you.

Former Provincial Government Officials '03 to '15?

**MR. T. WILLIAMS:** Good morning, Mr. Bown.

**MR. BOWN:** Good morning, Mr. Williams.

**MR. T. WILLIAMS:** Tom Williams, I'm representing former government officials – elected government officials, I should say, as you've clarified, for the period of 2003 to 2015, with the exception of former Premier Dunderdale.

I'd like to start off – and probably it goes back to one of your earlier statements with Mr. Learmonth and discussions you had with respect to the composition and the drafting of the Energy Plan. And if we could just – I just want to touch on that again.

What was your importance – what was your impression of the importance – I'm sorry – of that document at the time that it was being drafted?

**MR. BOWN:** It was a very important document; it was a premier-led initiative.

**MR. T. WILLIAMS:** Okay.

And you mentioned that the committee had – a committee had been formed. Can you just review with me again who was on that committee, or who was involved in –

**MR. BOWN:** Ed Martin; Gilbert Bennett –

**MR. T. WILLIAMS:** Okay.

**MR. BOWN:** – Jim Keating; Chris Kielely, who was the deputy minister at the time; myself; Tracy English, who was an analyst in the department at the time; and another – a lady, Squire, from Nalcor.

**MR. T. WILLIAMS:** And how involved were the committee members in the actual composition of the document, and the – you know, working their way through it?

**MR. BOWN:** The committee members were principally engaged in the visioning and the scoping out of the document. I think on occasion, once or twice, writers were brought in to help move the process along as it – I think, ultimately, we were a bit slower than we had intended. And – but some of the members were drafting more than others.



**MR. T. WILLIAMS:** And how long a process did it actually take to – from start to finish? Do you remember?

**MR. BOWN:** I wasn't there for the early part.

**MR. T. WILLIAMS:** Okay.

**MR. BOWN:** So, again, the process started with a Cabinet directive to go ahead and prepare the Energy Plan and I don't recall the exact date of that. A discussion paper was prepared, consultations took place, a what-we-heard document was prepared and then there was approval to go ahead and actually start crafting the document. I think from the time that I started, it was a year and a half maybe, it took us to complete it.

**MR. T. WILLIAMS:** And how involved was the Executive Branch of government with respect to reviews and input in – you know, the stages moving along with the (inaudible).

**MR. BOWN:** They were involved moving along.

**MR. T. WILLIAMS:** Okay.

And what was your impression as to the importance of the Energy Plan in drafting the policy and direction of the Department of Natural Resources following its completion?

**MR. BOWN:** As I had indicated in my testimony, the Energy Plan actually became our work plan.

**MR. T. WILLIAMS:** Okay.

**MR. BOWN:** So we would track our activities during the year, we'd plan our budget for the coming year on the elements of the Energy Plan that we felt that we could complete. So it was a work plan.

**MR. T. WILLIAMS:** Okay.

I just want to switch gears now a little bit. I'd like to speak with respect to the Department of Natural Resources. You started with the department back in what date?

**MR. BOWN:** 1988.

**MR. T. WILLIAMS:** Okay. So it went, obviously, through various different names, but it was the same Department of Energy, Department of Natural Resources, it was –

**MR. BOWN:** But I was in and out –

**MR. T. WILLIAMS:** Okay

**MR. BOWN:** – as well.

**MR. T. WILLIAMS:** So, prior – you moved out of the department at what date?

**MR. BOWN:** 1994.

**MR. T. WILLIAMS:** You moved – okay. And when did you go back to the department again?

**MR. BOWN:** In about 2002, in the mines branch.

**MR. T. WILLIAMS:** Okay.

So, were you there continuously 'til you finished? Did you say you finished in 2012 (inaudible) –

**MR. BOWN:** Yes, I was there continuously since 2002.

**MR. T. WILLIAMS:** Okay.

And you were there consistently during that period of time?

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** Okay, and with respect to the period of 2000 – we'll say 2003 through to 2012 'til you completed there – how would you describe the level of engagement of the ministers that were involved who headed that department during that tenure?

**MR. BOWN:** From 2002 to 2006 I was in the mines branch, so I'll speak to that –

**MR. T. WILLIAMS:** Okay.

**MR. BOWN:** – separately, but I always found that the ministers were very engaged in the files, and very engaged with staff.

**MR. T. WILLIAMS:** Okay.

And with respect to Minister Kennedy, in particular – he was, I think, in that department from October of 2011 through to January of 2013?

Will that be correct?

**MR. BOWN:** Absolutely.

**MR. T. WILLIAMS:** Okay.

And how engaged was Minister Kennedy in his role as Minister of Natural Resources?

**MR. BOWN:** He was very engaged; he came on board with a specific task of dealing with Muskrat Falls.

**MR. T. WILLIAMS:** He gave evidence, as you're aware – indicated that he worked days, nights, weekends – didn't differentiate between Sundays and Mondays, or any other day.

Would that be a fair assessment?

**MR. BOWN:** As did his deputy.

**MR. T. WILLIAMS:** With respect to his approach, in particular in regards to the Muskrat Falls Project, he nearly described himself as a skeptic during the process of review for that project.

Would you agree with that classification?

**MR. BOWN:** That would be – his starting point was a skeptic and he worked himself through to the point where he gave – he presented Bills 60 and 61 in the House of Assembly.

**MR. T. WILLIAMS:** He also gave repeated evidence that – and I don't know if I'm overstating, but he – it appeared that he was nearly obsessed with two primary issues where as he repeated: Did we need the power and was it the lowest cost option?

Were these themes that rang through for you in dealing with him?

**MR. BOWN:** I wouldn't say nearly obsessed.

**MR. T. WILLIAMS:** He –

**MR. BOWN:** I'd say he was obsessed.

**MR. T. WILLIAMS:** Okay.

**MR. BOWN:** (Inaudible.)

**MR. T. WILLIAMS:** All right, then that's a fair comment.

Okay, so he would want all the information, I trust; I mean, he wanted to know anything related to cost – that it could influence this project from a cost perspective.

**MR. BOWN:** Anything and everything.

**MR. T. WILLIAMS:** And I would suggest to you that he was also a very copious and detailed note-taker during his tenure.

**MR. BOWN:** Far better than me.

**MR. T. WILLIAMS:** Okay.

And would it be fair to say that he would keep notes with respect to meetings or anything of importance? I mean, he submitted over 300 pages of notes to the Commission in just relation to this project alone.

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** Okay.

So, if it was something of importance we'd figure we'd see it detailed in his notes in terms of dates and times, things of that nature.

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** Okay.

Now with respect to the issue of risk, Mr. Kennedy had given evidence that he was familiar with risk in a general term, but that he had never been advised nor had he ever been in any meetings, despite the fact that there was numerous Nalcor presentations, et cetera, whereby issues with respect to strategic risk, tactical risk, management reserve were ever explained out in any detail.

**MR. BOWN:** By and large, any meeting that Minister Kennedy was in, where the project was discussed, I was with him.

**MR. T. WILLIAMS:** Okay.

And I think you acknowledge that you were not familiar with these terms, either.

**MR. BOWN:** No.

**MR. T. WILLIAMS:** Okay.

Would you agree me – agree with me that if there was an issue concerning risk that was gonna influence cost, he'd wanna know about it.

**MR. BOWN:** Yes he would.

**MR. T. WILLIAMS:** Okay.

And would you also agree with me that if there was any issues that concerned this project in his meetings with Nalcor, that he would vehemently challenge the representatives Nalcor, ask questions and demand answers?

**MR. BOWN:** He would challenge.

**MR. T. WILLIAMS:** Okay.

Would you also agree with me that Minister Kennedy, on behalf of government as a whole, was very conscious of the fact that he wanted to have disclosure to the public of the factors considering costs of this project prior to sanction?

**MR. BOWN:** Yes he did.

**MR. T. WILLIAMS:** And that he felt a responsibility, as did government as a whole, that the public be aware at all times as to what this project was going to entail if it was to be sanctioned.

**MR. BOWN:** Yes they did.

**MR. T. WILLIAMS:** Okay.

So, when it comes to the scope of services, this is where I'm (inaudible) with the MHI report – at the time that MHI were being retained, and this again being April of 2012, we've referred to

the exhibit, and maybe we can bring it up, Madam Clerk, 01237.

At this point in time, Nalcor were not in the position to assess risk. They didn't have the numbers to be able to assess risk at that point, is that correct?

**MR. BOWN:** If we look at the evidence that we see from Nalcor's emails, it's clearly evident that they did not have that information –

**MR. T. WILLIAMS:** So, they couldn't –

**MR. BOWN:** – or they didn't claim to have it.

**MR. T. WILLIAMS:** They couldn't instruct MHI to assess risk at that point in time in any event, 'cause they didn't have the numbers, is that correct?

**MR. BOWN:** That's (inaudible).

**MR. T. WILLIAMS:** And is it also correct that Nalcor had independently retained Westney Consulting, who had (inaudible) previously assessed risk factors and we're going to assess it again, subsequently?

**MR. BOWN:** I agree with you based on my review of the documentary evidence.

**MR. T. WILLIAMS:** So when we look at this exhibit, and if we can just scroll down, Madam Clerk, where it speaks to the risk issues, if we can go –

**THE COMMISSIONER:** Tab 160.

**MR. T. WILLIAMS:** Pardon me?

**THE COMMISSIONER:** Tab 160.

**MR. T. WILLIAMS:** Tab 160, and it's on the screen, and I'll only be referring – so, if we could go down a little further, is it – no back, I'm sorry, back up the page, am I on the right exhibit?

**MR. BOWN:** I think it's (inaudible) page 10.

**MR. T. WILLIAMS:** Page 10, yeah. I'm sorry, yes it is page 10. Thank you. Okay, there we go.

So, right there we have, in the middle we have June 7 cut off and we can stop there and it simply has an arrow go down risk analysis contingency. That's the only reference here to risk in this note, is that not correct?

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** So aren't we being somewhat presumptive to say the evidence that was given in your direct, get the impression that government did not want to assess risk or did not want to include that, that's not the case here, it's simply risk is brought up but there's no indication that government did not want to assess risk is there?

**MR. BOWN:** Oh no.

**MR. T. WILLIAMS:** Definitely not and in fact -

**MR. BOWN:** - the context is that risk, the information, risk analysis would not be completed within the time frame.

**MR. T. WILLIAMS:** So there was representatives from Nalcor at this meeting who would have indicated that risk could be studied at this point in time given the fact that they didn't have the numbers and in fact they were already planning on doing it with Westney.

Would that be correct?

**MR. BOWN:** The documentary evidence shows that an email prior to this meeting – that that information was shared internally within Nalcor.

**MR. T. WILLIAMS:** And if government, there were representatives from the premier's office there as well as Mr. Kennedy, if government had concerns regarding risk that was going to have a cause factor, then they certainly wouldn't dismiss it would they?

**MR. BOWN:** No.

**MR. T. WILLIAMS:** Okay.

With respect to the final report that MHI submitted and I just want to deal with that briefly, you would agree with me that Mr. Kennedy was not supplied, there's no emails

from you to him whereby you emailed him copies of the draft reports.

**MR. BOWN:** I would never email him copy of the draft report. He was next to me. It would be my normal practice to print them out and I did that –

**MR. T. WILLIAMS:** Yeah.

**MR. BOWN:** – and I did that, just to be clear, I did that frequently with all ministers, they were next door to me if I had document that I wanted them to see I wouldn't email it to them I would print it out, I'd walk it over, share with them and say okay here's what you're receiving.

**MR. T. WILLIAMS:** Okay.

But, we don't have any documentation or Mr. Kennedy has no notes of ever having received previous draft reports except the last one, we do have an email whereby you did email the last report to him.

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** So you did in fact draft, send him a draft. It was the last draft.

**MR. BOWN:** It was the last one

**MR. T. WILLIAMS:** And you sent that to him.

**MR. BOWN:** For him to –

**MR. T. WILLIAMS:** But there's no evidence that he'd seen any other ones previous to that.

**MR. BOWN:** No, but that would be my practice to give him drafts.

**MR. T. WILLIAMS:** Okay.

But your practice is different because you did email him the last one.

**MR. BOWN:** The last one so that he could distribute to others.

**MR. T. WILLIAMS:** And there's no notes available, do you have any specific recollection with respect to Mr. Kennedy ever requesting any amendments to any of those drafts?

**MR. BOWN:** Oh, no.

**MR. T. WILLIAMS:** And in fact, I think it's your evidence, correct me if I'm wrong, but that in fact the drafts, the omissions that came out of that report would have been done as between Nalcor and MHI directly and that Minister Kennedy would not have any involvement in requesting that things be taken out of the report.

**MR. BOWN:** The only amendments that were requested by the department, made by me, were changes in the executive summary to include – to be clear who MHI was, to be clear what their task that they were undertaking, to make a change in a particular table and provide them with a sentence on the loan guarantee.

**MR. T. WILLIAMS:** Okay. So government was not requesting that this report be amended to take out aspects in this regard.

**MR. BOWN:** No.

**MR. T. WILLIAMS:** Okay, the last point I want to touch on is the Wood Mackenzie report.

**MR. BOWN:** Mm-hmm.

**MR. T. WILLIAMS:** And it's raised by Mr. Learmonth, he acknowledged – he brought out to you that Nalcor were not a proponent of natural gas (inaudible). They were not – they had already dismissed it by the time we got into this point in 2012.

**MR. BOWN:** I'll answer it in two ways. In the Oil and Gas division of Nalcor – proponents of natural gas; in respect of the Muskrat Falls Project it was discounted or – “discounted,” I shouldn't say, it's the wrong word – it was scoped out –

**MR. T. WILLIAMS:** It was eliminated.

**MR. BOWN:** Eliminated earlier on.

**MR. T. WILLIAMS:** Okay. And it had been eliminated from considerations right up to that point, for example, it wasn't put to the Public Utilities Board.

**MR. BOWN:** Correct.

**MR. T. WILLIAMS:** Okay.

So I would suggest to you that the primary reason that natural gas even came back on the table was that Dr. Bruneau had a public presentation; a paper, I believe, had been filed with respect to the viability and the possible viability of a natural gas option. Is that correct?

**MR. BOWN:** And I believe that Minister Kennedy was considering natural gas even before that, but that sort of ignited (inaudible) –

**MR. T. WILLIAMS:** (Inaudible.)

And Dr. Bruneau's interest was more along the lines of the pipeline option, as opposed to LNG.

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** And would it be fair to say that Mr. Keating, when addressing this issue, was focused on responding to Dr. Bruneau's pipeline issues, as opposed to the LNG side of things.

**MR. BOWN:** I can't speak specifically for Mr. –

**MR. T. WILLIAMS:** Well, we've seen some emails whereby, I think, he suggested that Wood Mackenzie deal just with the pipeline issue.

**MR. BOWN:** And that was in response to – that was a drafting request after the next-to-last draft was received, after the LNG portion had been taken out, just to clean up the opening paragraph.

**MR. T. WILLIAMS:** Exactly, but he was more concentrated, is what I'm getting at –

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** – on the pipeline issue, as opposed to the LNG.

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** Okay.

So would you agree with me that even though this option had been dismissed, it was Minister Kennedy, on behalf of government, that came

back and said we want to go back and look at this again, and they retained Ziff to do that independently?

**MR. BOWN:** Yes, early in 2012.

**MR. T. WILLIAMS:** Right.

And then they had second – there was a number of meetings, in fact, then after the Ziff report with Wood Mackenzie to confirm those numbers.

**MR. BOWN:** Indeed.

**MR. T. WILLIAMS:** Okay. And that given your evidence and my earlier questions, Mr. Kennedy didn't care what the result of that was – good, bad or indifferent – he just wanted to know what the analysis said. Would that be correct?

**MR. BOWN:** He was reviewing two options – we had asked Ziff to review two options.

**MR. T. WILLIAMS:** Yes, but what I'm suggesting to you that he wanted to find out the results, whether they be good, bad or indifferent. He just wanted the information from that analysis.

**MR. BOWN:** From the Ziff analysis, yes.

**MR. T. WILLIAMS:** Okay.

So there's nowhere in his notes where he indicated that he wanted any changes made to that report that was coming in from Wood Mackenzie, correct? You've not been shown any notes –

**MR. BOWN:** No.

**MR. T. WILLIAMS:** – whereby he requested any changes.

**MR. BOWN:** No.

**MR. T. WILLIAMS:** So it just seems odd to me that we have a gentleman, a minister, who has requested – even though it's been already eliminated as a viable option – who has now requested two subsequent reports to be considered. He's queried and questioned all

aspects of this project, he's insistent on knowing any factors that could influence rates, he keeps meticulous and detailed notes.

And then it was suggested that he may have been the one who requested the reference to LNG be taken out.

**MR. BOWN:** Mm-hmm.

**MR. T. WILLIAMS:** Now, in fairness to you, Mr. Bown, when you were asked these questions by Commission counsel, Mr. Learmonth, in his relentless fashion – as he often is in terms of demanding responses – put to you – he said, after questioning and raising this issue, he said – and I'll quote him from your testimony from Monday –

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** – from Wednesday, I'm sorry.

He said: "Who gave that order or direction?"

And you responded: "I can't be absolutely specific who that order came from ..." – it was directed to me to call Bill [sp Bob] Fleck, and I did.

He then put it to you again – there was some discussion, but he came back to it again a second time. And he said: "Okay, well who gave the order ...?"

And you responded: "I don't recall specifically but I was directed ...."

He continued –

**MR. BOWN:** Mm-hmm.

**MR. T. WILLIAMS:** – and he comes back again, and he says: "... unless you were directed. That's the first part of the issue, but I want to know who gave that direction. It had to be someone above you and you were deputy minister."

So he's implying there's only two levels here now – it's you and Minister Kennedy.

And you go: "Yeah."

“Well, who was it?”

And you responded: “It doesn’t ...” – really – “come to mind, the actual moment of that direction. I’m not being evasive, I’m being honest.”

And then he goes back for the fourth time to you, and says: “Oh. You remember getting the direction ... but you’re saying you don’t remember who gave it? Is that what you’re saying?”

And you came out and said: Well, I would say to the best of my recollection, it was Minister Kennedy.

**MR. BOWN:** (Inaudible.)

**MR. T. WILLIAMS:** Now, I’m suggesting to you, Mr. Bown, that at that point in time you were having discussions with Nalcor, there was officials from the premier’s office who would’ve been involved in these reports, there was a number of people who were involved in this. And in fairness to you, given the fact that your responses, on three occasions, were you don’t remember; that, you know, you were directed, but you really don’t know who directed that to come out.

Would you agree?

**MR. BOWN:** I would disagree with you.

**MR. T. WILLIAMS:** Pardon me?

**MR. BOWN:** I would disagree with you.

**MR. T. WILLIAMS:** You would – you have a specific recollection?

**MR. BOWN:** I have a recollection of being directed by Minister Kennedy to do it. My – the reason I didn’t answer Mr. Learmonth is I – as I said, I didn’t have a specific moment in mind of when that occurred – between the 27th and the 29th of when that actually occurred.

But I do recall – and I said to the best of my recollection, I do recall having a conversation with Minister Kennedy, and the only person who would’ve given me that direction would’ve been Minister Kennedy.

**MR. T. WILLIAMS:** Were you not having detailed discussions with Nalcor regarding those reports at the time?

**MR. BOWN:** No, not in terms of what should or should not be included.

**MR. T. WILLIAMS:** But there was – there’s exchanges of emails between yourself and Mr. Keating with respect to the Ziff report –

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** – and that he wanted to review the LNG findings.

**MR. BOWN:** Yes.

**MR. T. WILLIAMS:** And were there not discussions with the premier’s office with respect to these two reports – would they have not been involved in these matters as well?

**MR. BOWN:** No, Minister Kennedy was dealing directly with the premier’s office –

**MR. T. WILLIAMS:** Okay.

**MR. BOWN:** – on the –

**MR. T. WILLIAMS:** So –

**MR. BOWN:** – reports.

**MR. T. WILLIAMS:** So despite the fact that you answered: I don’t really – it really doesn’t come to mind, I’m being honest.

**MR. BOWN:** The exact moment, the exact time that that occurred, I could not place. But I do – as I said, the best of my recollection I do – I know I had a conversation with him, I just can’t recall the exact day that we had that conversation.

**MR. T. WILLIAMS:** Yeah, and despite all the frailties of your memory that you allowed to Mr. Learmonth that you don’t have a great memory, you do have a great one on this one.

**MR. BOWN:** I know what I know on this one.

**MR. T. WILLIAMS:** That’s all the questions I have.

Thank you.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** Robert Thompson.

**MR. COFFEY:** Good morning, Mr. Bown.

My name is Bernard Coffey. I represent Robert Thompson. I have some various topics to canvass with you. One of them is – if we could bring up, please – and this is this commitment letter that you’d been referred to. If we could bring up, please, P-00043.

**THE COMMISSIONER:** Tab 49, book 2.

**MR. COFFEY:** Oh, I’m sorry, yeah. I’m trying (inaudible). Thank you.

And you’ve seen this?

**MR. BOWN:** Yes.

**MR. COFFEY:** I’m going to take him through it.

If we could go, please, to page 5, scroll down a bit.

Sorry, I have the wrong page number. Just a moment, please, Commissioner.

**MR. BOWN:** That red 5, or I guess they’re the same in this one.

**MR. COFFEY:** Yeah, it would be the red, but –

**MR. BOWN:** Yes, I have it.

**MR. COFFEY:** Oh, could you just go up to the first page, again, please. Just a moment, please, Commissioner, I’m going to locate it here. I have the wrong page number, Commissioner. I’m sorry; I’ll just be a second.

**THE COMMISSIONER:** Do you want us just to scroll through, Mr. Coffey?

**MR. COFFEY:** Yes, please. It’s – in fact, it’s Mr. Todd Stanley’s response to the Cab Sec, so it’s further down. Yes, it’s at page 27. I don’t know why I wrote 5, but it’s page 27, please.

And you’ll – see that, Mr. Bown? Mr. Stanley responded in the middle of the morning at 10:36: “We were involved in drafting. We’ve reviewed and are good.”

**MR. BOWN:** Yes.

**MR. COFFEY:** Okay.

So, now, Mr. Stanley has as well – and that is consistent, of course, with your evidence that explained to the Commissioner how Cabinet papers would be circulated by Cab Sec.

**MR. BOWN:** Yes.

**MR. COFFEY:** You know, in fact, at times even beforehand, before they were finalized.

**MR. BOWN:** Correct.

**MR. COFFEY:** Various drafts.

And just so the Commissioner understands – because I don’t think he’s ever worked in Cab Sec and I don’t think either of Commission Counsel have – when a – could you explain to the Commissioner when a Cabinet paper from NR, for example, would appear in Cab Sec, there is such a thing as EPC, SPC. And what are they?

**MR. BOWN:** So when a –

**MR. COFFEY:** (Inaudible) economic –

**MR. BOWN:** If you don’t mind –

**MR. COFFEY:** Yeah. Yes, sure, go (inaudible).

**MR. BOWN:** – I’ll step back even further –

**MR. COFFEY:** Yes, go ahead.

**MR. BOWN:** – if you like. So when a paper –

**MR. COFFEY:** Because I think this is important for the Commission to – Commissioner to understand.

**MR. BOWN:** When a paper arrives in Cabinet Secretariat it’s immediately assigned to a Cabinet officer and the Cabinet officer has specific departmental responsibilities; they have



more than one department. And they do a review of the paper even before it's signed and they will pass back initial comments. They may actually be involved in the drafting process as well.

Once the paper is ready to be signed, it comes back to Cabinet Secretariat again, depending on the circumstance, and it gets circulated to departments for their review so as they don't – they are not rushed in the review process prior to the Cabinet paper being signed. Also, that ensuring that the paper that the minister signs has addressed – includes all the concerns of relevant government departments.

So when a signed paper is received, the same Cabinet officer does a formal distribution to departments, receives comments, prepares a Cabinet Secretariat analysis. And that analysis initially goes – depending on the subject matter –

**MR. COFFEY:** Mmm.

**MR. BOWN:** – would be assigned to EPC, or the Economic Policy Committee, or the SPC, the Social Policy Committee. And that's – those are committees of Cabinet ministers who meet on Cabinet papers prior to going to Cabinet. And they have to approve or give – or not approve – a Cabinet paper before it goes to Cabinet. And Treasury Board is also part of that process as well, on financial papers, that those papers would be routed to Treasury Board.

**MR. COFFEY:** And that's – and this EPC or SPC Cabinet Committee, that's that Tuesday meeting –

**MR. BOWN:** Yes.

**MR. COFFEY:** –you referred to before things end up at Cabinet.

**MR. BOWN:** So a paper doesn't make it on the Cabinet agenda until it gets the approval of the ministerial committee.

**MR. COFFEY:** And, in relation to this particular commitment letter, which was signed then in October by Premier Dunderdale, Mr. Stanley testified about this. And I believe an October 22, 2012, transcript – and it's in the vicinity of pages 24 through 26, he was asked

about it and his comment was: “While again the legal issue would be there's no exposure created by this commitment letter 'cause it was a non-binding document.” Okay?

**MR. BOWN:** Yes.

**MR. COFFEY:** I think that's my –what I wrote down last night looking at his transcript. What was your understanding at that time, back in August, September, October of 2011 in terms of, you know, was this a binding commitment? Or what was the purpose – or your understanding of the purpose of this – what's referred to as a commitment letter?

**MR. BOWN:** Sure, it was to give an assurance to the Government of Canada as we prepared or continued our discussions on the loan guarantee that as the guarantor of the project – the guarantor of the debt – that should there be cost overruns, that the province would commit to the equity necessary to complete the project.

**MR. COFFEY:** I'm going to suggest to you, bearing in mind Todd Stanley's evidence given to this Commission in which he refers to it as non-binding, and elsewhere I believe he refers to it; in fact, it would only become binding from his perspective, legally, at financial close when he was being questioned about it – this was more a political commitment, this letter. This was a commitment being given by a premier to the federal government.

**MR. BOWN:** Yes.

**MR. COFFEY:** Okay.

**MR. BOWN:** Absolutely.

**MR. COFFEY:** (Inaudible.)

**MR. BOWN:** And, actually, if you like, the Department of Finance wrote the financial considerations of this particular paper. We didn't draft it ourselves.

**MR. COFFEY:** Yes.

**MR. BOWN:** The first sentence on page 5 reads: “Authorizing the Commitment Letter does not place any immediate financial obligations on Government.”

**MR. COFFEY:** Yeah, and that's – in fact, that's the page 5 reference I intended to go to.

**MR. BOWN:** Yeah.

**MR. COFFEY:** Thank you.

**MR. BOWN:** Yeah.

**MR. COFFEY:** How – with respect to – you were asked about, I think by Mr. Learmonth, about that October 31, 2011, email to Mr. Sturge. And then Mr. Sturge's and Mr. Harrington's response is P-00810 and that's tab 55.

**MR. BOWN:** Yes.

**MR. COFFEY:** And you were asked about that and you testified, I believe – no, your memory is that even before that, your own Department of Natural Resources had done some of its own research.

**MR. BOWN:** Yes.

**MR. COFFEY:** And Mr. Learmonth said – and I think I've got it quoted correctly – page 91 of 171 of the transcript: Well, I think if you'd – I think it says done – you would have seen anyway that there's a significant issue of cost overruns on megaprojects and, particularly, for hydro projects.

I'm suggesting if you've done research – that would've been the result of your research. Now, we got to bare in mind, this is 2011 – October 2011.

I'm going to ask that the – Madam Clerk, bring up, please P-00004?

**THE COMMISSIONER:** (Inaudible.)

**MR. COFFEY:** That – no, this would not be in your material. This is Dr. Flyvbjerg's –

**MR. BOWN:** Yes.

**MR. COFFEY:** – report for the Commission.

**MR. BOWN:** Yes.

**MR. COFFEY:** Right? And you've been, I think, referred to this – kind of – just generally, and you said you'd – I think – read portions of it.

**MR. BOWN:** I've read it, yes.

**MR. COFFEY:** So, okay, you've read it.

Now, if we could go to page 6, please? Scroll down a bit, please? Ah, right there.

Here, the doctor says: "Our previous research (Ansar et al. 2014) was based on 245 dams, including 186 hydro-electric dam projects. For this report, we enlarged and updated the sample from 186 to a total of 274 hydro-electric dam projects." And – then he's got a footnote.

Now, in relation to this, that's a 2014 – our previous research on dams, okay? And which, by the way, Commissioner, is available online if you – I don't think it's being exhibited here with that particular earlier paper is available, and, in fact, it is referred to in – in the references.

If we could go toward the end of this paper, please, which is page – I think it's page 35. That's where I want to go.

And these are the references, and then you can scroll down through them. And I'm gonna suggest, and I'm not going to ask you to do it, but – right now, Mr. Bown, but I'm going to suggest to you that, in looking at it, I think there are – (inaudible) – there are 68 references, I believe there, if my count is correct. And out of those background references that the doctor referred to there, only two of them, at least based upon the titles, involve hydro projects and predate October 2011. And one of them is the 2000 world dam study.

**MR. BOWN:** Yes.

**MR. COFFEY:** And – in fact – I think – I (inaudible) say, I think, that's probably the only one.

If you do a Google search, I'm going to suggest to you, that, you know, in this kinda topics – hydro cost, overruns and North America – one

will find that most of the entries are much more recent, like since 2011. So when you told – when you told Mr. Learmonth that you had done research – that your department had done research – but you couldn't really recall what it was, is that consistent with having found very little of anything on the topic, on that particular topic: cost, cost overruns, hydro projects in North America?

**MR. BOWN:** I don't have a specific recollection to that, Mr. Coffey.

**MR. COFFEY:** Now you were asked about the, you know, or suggested to you that, you know, Mr. Learmonth clearly suggested to you that you were passive, in his view. Now I'm going to ask you about – from your perspective – the role of the civil service, vis-à-vis politicians, and in particular your minister, and then ultimately the premier. And I'm going to put to you an analogy and ask you for – if you think it an apt analogy, okay?

You've watched – you've just told the Commission – you've watched the proceedings from time to time. These proceedings, haven't you?

**MR. BOWN:** Yes, I have.

**MR. COFFEY:** And have you seen incidences where there were submissions made by lawyers, opposing submissions, to the Commissioner –

**MR. BOWN:** Yes.

**MR. COFFEY:** He's heard them, he's heard, you know, whoever was speaking out and then he's made a decision and was it your observation that whatever the decision was, the lawyers accepted it and moved on.

**MR. BOWN:** Right.

**MR. COFFEY:** Now, in relation to then, your role as an ADM or is it DM in government, in putting forward a position, making observations, making recommendations or providing options – once a decision direction, the decision has made, direction is given, would your acceptance of it and implementation of it be analogous to what you've seen of the lawyer's reaction's here?

**MR. BOWN:** Once a decision is made, you act on the decision.

**MR. COFFEY:** Yes.

You don't go back and continue to argue the point, right?

**MR. BOWN:** No that would get you out the door.

**MR. COFFEY:** Thank you.

**THE COMMISSIONER:** Some lawyers do but –

**MR. COFFEY:** Some – well this one hasn't.

And, in fact, Commissioner, in this context I'm going to suggest I think even a review of the record could show that no one has.

**THE COMMISSIONER:** I was being –

**MR. COFFEY:** Not in this, Sir.

**THE COMMISSIONER:** – I was just being –

**MR. COFFEY:** I know –

**THE COMMISSIONER:** – a bit facetious.

**MR. COFFEY:** – I understand. Excuse me. And I don't doubt you've seen that in the past in other instances.

If we could then – I'm going to move on to another topic – because you were asked about this.

The role of the Newfoundland and Labrador Hydro, you know, as it used to be and still is but before there was a Nalcor and its relationship with the Government of Newfoundland and Labrador in terms of the Hydro's role in addressing the electricity needs of the province, okay?

Because at one time there wasn't a Nalcor, right?

**MR. BOWN:** Correct.

**MR. COFFEY:** And when you, in fact – technically when you joined Natural Resources in 2006 – there was no Nalcor.

**MR. BOWN:** Correct.

**MR. COFFEY:** And what was your view or understanding of the role Hydro then played in relation to addressing or dealing with or forecasting the electricity needs of the province in contradistinction to the role of the PUB in that regard – Public Utilities Board?

**MR. BOWN:** So in respect of capital budget requests each year, the utility would file its budget applications –

**MR. COFFEY:** Sure.

**MR. BOWN:** – and they would go through the normal approval process. In terms of general rate increases, an application would be filed and there would be hearings, et cetera on that.

In that time period, projects that were going to be built such as Granite Canal and a couple of others. (Inaudible) from my history in the department that those were brought to government for approval and didn't go through the Public Utilities Board.

**MR. COFFEY:** And, in fact, there were Cabinet exemptions issued under the (inaudible) legislation.

**MR. BOWN:** And it shows up as a regulation under *The Public Utilities Act*.

**MR. COFFEY:** Yes.

But in relation to – in particular what I'm interested in – is this planning for the electricity needs of the province. Like –

**MR. BOWN:** Mm-hmm.

**MR. COFFEY:** – making sure we had enough and reliable electricity.

**MR. BOWN:** Yeah.

**MR. COFFEY:** In the Natural Resources department, who did you see as having that responsibility? Was it –

**MR. BOWN:** That rested with Newfoundland and Labrador Hydro. They filed their generation supply demand report with the Public Utilities Board.

**MR. COFFEY:** Okay.

So whatever the legislation might or might not say, it was your understanding that in practice, in terms of the PUB's involvement in that, either, by default, it was being left to Newfoundland and Labrador Hydro, or the PUB had explicitly somehow, you know, transferred or – the legal phrase, anyway, is – anyway – devolved the responsibility onto Hydro?

**MR. BOWN:** Correct.

**MR. COFFEY:** Did you ever make any inquiry as to the legal niceties of that, or did you just say – or did you just accept that it was Hydro's role and that was it?

**MR. BOWN:** That was this long-standing practice when I arrived.

**MR. COFFEY:** If we could look, please, at Exhibit P-01069.

**THE COMMISSIONER:** That's not one in front of you, I don't think. No, you'll have to see it – yes, yes it is, 17.

**MR. COFFEY:** I'm – oh, yes, it is. I apologize.

**THE COMMISSIONER:** Tab 17. Book 1.

**MR. COFFEY:** At tab 17, I believe.

Now, Mr. Learmonth asked you about this. This was – I – my understanding is it was an internal – or a Natural Resources internal review –

**MR. BOWN:** Right.

**MR. COFFEY:** – done or prepared at the request of the then-deputy minister of Natural Resources, Robert Thompson. And, if we could look, please, at page 9. Scroll down a bit.

**MR. BOWN:** See it?

**MR. COFFEY:** No, I'm sorry, it isn't – the number is wrong. And, Commissioner, I'm –

**THE COMMISSIONER:** Okay, do you want us to scroll through?

**MR. COFFEY:** I – no, in fact – just one second, Commissioner.

Well, if I – first of all, I’ll bring you to, perhaps, to page 23? Can you go to the top of the page please?

Yeah, this is Holyrood (LNG Fuel Option), and if you could just scroll down a bit please? And you’ll see there, Mr. Bown, on the bottom right-hand – left-hand side, Notes to Chart – and the chart is redacted. But the second bullet, “Natural gas cost estimated by DNR based on:” – and there’s certain things.

There – the point – my point of bringing you to this is that if you look at this document, LNG – or the possibility of using LNG, anyway – was at least addressed here in this paper.

**MR. BOWN:** Correct. I think the reason for the redaction, Commissioner, would be this would be based on PIRA data, which is proprietary.

**MR. COFFEY:** If we could go to page 10? Thank you, Madam Clerk.

Scroll down a little bit. Thank you. A bit more, just a bit more – all right, there.

There’s a Cumulative Present Worth at the bottom table in the middle of the page. There’s an asterisk “Calculated by DNR.” Do you see that Mr. Bown?

**MR. BOWN:** Yes.

**MR. COFFEY:** And in fact, it’s for the period – two of them – for the period of 2010 to 2041. And there are, you know, figures given there in billions of dollars.

So I’m gonna suggest to you that personnel within your department, using – or presumably – you know, data that they received from Nalcor and whatever other data they used or saw fit to use, in fact, themselves, calculated the CPW, or a CPW, for the Island Isolated and the Labrador HVDC options separately for the period 2010-2041.

**MR. BOWN:** Yes.

**MR. COFFEY:** They did that themselves.

**MR. BOWN:** Yes, and actually if you look at the top of the table, it says CPW is a discounted – or is our net present value of revenue requirement that’s necessary to fund the project cost and pay back the financing. So operation and maintenance, which include financing, fuel, power purchases, depreciation, return on rate base and miscellaneous revenue. So CPW is a net present value of a revenue requirement stream.

**MR. COFFEY:** And in fact, those – yeah, those definitions are – what page are the actual – red numbering page?

**THE COMMISSIONER:** Page 10.

**MR. COFFEY:** Page 10, yes.

**MR. BOWN:** Yeah.

**MR. COFFEY:** Now, you – in answering Mr. – or commenting to Mr. Learmonth on this, did I understand you correctly to say that that’s the sort of calculation or analysis – your department commonly did that?

**MR. BOWN:** Yes.

**MR. COFFEY:** For oil and gas –

**MR. BOWN:** Yes.

**MR. COFFEY:** – for example. There was nothing unusual about this sort of approach?

**MR. BOWN:** I’ll explain the difference.

In oil and gas, you’re calculating net cash flow, which would be your gross revenue less cost, and you do a net present value of your net cash flow, and that’s the number that you’re presenting in a chart like this. The difference here is this is a net present value over revenue requirement; the mathematics of this are exactly the same. It’s just a net present value of a stream of numbers.

And this is something that the department did on a regular basis, verification of financial models

with oil companies, with mining companies, did this many, many times over the years, and actually, this was a core requirement inside of the department for negotiating equity interests in oil and gas projects or negotiating royalty arrangements prior to our engagement in equity interests.

**MR. COFFEY:** Okay. You were asked about, earlier today, about calculation of electricity rates and – in the context of, you know, mitigation, and you referred, I believe, to as I – did I understand you correctly to say that because – in the early years after Muskrat Falls came online, that there would be a differential –

**MR. BOWN:** Yes.

**MR. COFFEY:** – in the electricity rates, and therefore a higher cost of Muskrat Falls – due to Muskrat Falls rates, than there would otherwise been and there'd be a bump. You refer to that.

**MR. BOWN:** Yes.

**MR. COFFEY:** And you said there was work done on that and how that, you know, might be addressed, the bump.

**MR. BOWN:** Correct.

**MR. COFFEY:** And of course the amount of bump would depend upon what the actual rate was – happened to be at the time –

**MR. BOWN:** Correct, what the costs were.

**MR. COFFEY:** – when Holyrood was being shutdown.

**MR. BOWN:** Yes.

**MR. COFFEY:** How much work was done on that?

**MR. BOWN:** There was a considerable amount of work that was done by Nalcor and presumably – hopefully that would have showed up in the materials that they provided. They did a – quite a number of rate mitigation analyses and while we were on this page, actually, there's a very good illustration of what the bump was; the blue line to the top being the Isolated Island revenue requirement and the red line being the

revenue requirement for the – for Muskrat Falls. And you can see there in 2016 to 2020 that the rates were going to be higher than they would have been based on the current – on the oil price forecast at that time.

And that was just the nature of the financing arrangements for a hydro project. So work was done; it was important at that time that when this was going to be approved that there would be a statement on rate mitigation for that period of time.

**MR. COFFEY:** Now in relation to this May 2011 “Decision Note”, if we could go – I believe it's Exhibit P-00807.

**THE COMMISSIONER:** Tab 37.

**MR. COFFEY:** Oh yeah, thank you, Commissioner.

And go ahead, Mr. Bown.

**MR. BOWN:** In volume –?

**THE COMMISSIONER:** Volume 1 – or I'm sorry, volume 2, tab 37.

**MR. BOWN:** I have – I got it.

**MR. COFFEY:** Yes.

And you've been taken through this and you've explained the context in which it occurred –

**MR. BOWN:** Yes.

**MR. COFFEY:** – and you saw – and it arose, I gather, out of exchanges yourself and Mr. Paddon had?

**MR. BOWN:** Yes.

**MR. COFFEY:** Okay.

I'm going to ask then that you – and this, of course, Brenda Haynes sends it to Mr. Delaney and my understanding was to Cab Sec on May 11, 2011. This would have been drafted over a period of time?

**MR. BOWN:** Yes –

**MR. COFFEY:** And you described there was a fair amount of work done.

**MR. BOWN:** – in excess of a month of background work before we finished the note.

**MR. COFFEY:** If you can look please at Exhibit P-00901. And that is –

**THE COMMISSIONER:** It's not on the screen. That will have to be on the screen.

**MR. BOWN:** Okay.

**MR. COFFEY:** Oh no, that's not the one.

That's not the exhibit I wanted. I'm sorry, Commissioner. Just a moment – I'll finish.

No, it's 00981.

**THE COMMISSIONER:** 00981 is tab 31 –

**MR. COFFEY:** Yes.

**THE COMMISSIONER:** – book 1.

**MR. COFFEY:** Thank you, Commissioner.

And this is the – once you get it there – but it's a briefing note, based upon the emails. The briefing note occurs at page 2. But based upon the emails above at page 1 – midway down page 1, there's an email from yourself to Terry Paddon, April 26 at 16:26 hours, 2011.

You tell him, "Yes. We need to meet. I've attached the latest version from Derrick today. I'm ok with your Decision," okay so that's, presumably, that –

**MR. BOWN:** Yes.

**MR. COFFEY:** – that note's attached.

You go on to say, "I'm ok with your Decision note on our independent review; we should advance to Robert for his review."

And the – would that – to say your, that is, in this context – Terry's decision note on our independent review or Terry's department's decision note on our independent review – would that be the May 11 –

**MR. BOWN:** Yes.

**MR. COFFEY:** – one?

**MR. BOWN:** So, what we agreed is that it would go under the – as opposed to – normally do these joint department – we just do it under one department. Terry wanted to do it under the Department of Finance, but it was a joint note.

**MR. COFFEY:** And in this context, if we go down a little bit – yes – down – no, right there, you'll see that in the email that Mr. Paddon had sent to you at 4:18 on April 26, he had pointed out that, after referring to Yvonne setting up a meeting, he said, "Please note – I will be on vacation from May 3 to the 10th." So he was gonna be gone.

**MR. BOWN:** Yeah.

**MR. COFFEY:** So your understanding about then – what was meant by advancing it to Robert? What was that about?

**MR. BOWN:** That prior to giving it to ministers for review and sign off, to have the clerk review it and to see if this is – we were on the right path, if we were – if this was something that would be acceptable.

**MR. COFFEY:** And so therefore, bearing in mind that it did end up being signed by Ministers Skinner and Marshall, I'm going to suggest to you that Mr. Thompson had no objection to what was in it.

**MR. BOWN:** No. I saw no objection from him whatsoever. And it's not unusual in public service, and when you're preparing a policy note, to have a discussion with the clerk beforehand to ensure that – make sure you're on the right path. And if you have the clerk's support, it's generally a good idea – you know you're on the right path to advance it and have your minister sign it.

**MR. COFFEY:** One final point I'd like to address is this: is you were asked – I believe by Mr. Budden, okay – you were taken to – I believe the hit-squad deck – and you were asked about – in any case, you were asked about, you know, overtly political comments or activities,

you know, bearing in mind that you're a civil servant and –

**MR. BOWN:** Yes.

**MR. COFFEY:** – how you've addressed them over the years – your – you've been a civil servant since 1988?

**MR. BOWN:** Yes.

**MR. COFFEY:** So how many premiers have you served or under?

**MR. BOWN:** All but two.

**MR. COFFEY:** Okay. And –

**MR. BOWN:** Smallwood and Moores.

**MR. COFFEY:** Okay. So everyone else, beginning with Brian Peckford all the way up until Premier Ball.

**MR. BOWN:** Right.

**MR. COFFEY:** I'm going to suggest to you that, in public, at times, and, in fact, in particular relating to Newfoundland Hydro as it then – as it is and, then, was – that there have been some fairly, at times, sharp public criticisms by politicians of the critics in the public.

**MR. BOWN:** Yes.

**MR. COFFEY:** And would you be surprised to learn that, for example, on March 11, 1994, then-Premier Wells referred to Cyril Abery's position as asininity or being a form – asininity – being related to asinine?

**MR. BOWN:** Yeah. I believe Mr. Abery was the CEO of Hydro at the time?

**MR. COFFEY:** He had been the former –

**MR. BOWN:** Had been the former, okay.

**MR. COFFEY:** He was then – by that time he was –

**MR. BOWN:** Sure, yeah.

**MR. COFFEY:** And there was a – the Hydro privatization effort was ongoing.

**MR. BOWN:** Yes.

**MR. COFFEY:** And it was quite controversial. Do you remember that?

**MR. BOWN:** Yes. I actually did some economic analysis on that.

**MR. COFFEY:** Okay.

**MR. BOWN:** So –

**MR. COFFEY:** And, at times – and Mr. Abery was a critic of the position that Mr. Wells was – or Premier Wells was taking.

**MR. BOWN:** Yes.

**MR. COFFEY:** And the fact that at – politicians, at times, in public, did, I'll use the phrase, be critical of the positions taken by critics – or critical of the critics.

**MR. BOWN:** Yes.

**MR. COFFEY:** So any criticism that occurred circa 2010 to 2012 by politicians of critics, okay, that wasn't new to you?

**MR. BOWN:** No –

**MR. COFFEY:** What happened between 2010 and 2012 wasn't new?

**MR. BOWN:** No, and actually it's not new as it relates to Muskrat Falls or a hydro project. It occurs in other departments and other files as well.

**MR. COFFEY:** Yes.

**MR. BOWN:** It's not unheard of.

**MR. COFFEY:** But it had – do you ever remember if it did occur in relation to hydroelectricity back in the '90s?

**MR. BOWN:** I recall it was very intense at that time.

**MR. COFFEY:** Thank you, Commissioner.



**THE COMMISSIONER:** All right, I think we'll take our break here now and next will be Todd Stanley, Terry Paddon.

Ten minutes?

**CLERK:** All rise.

**Recess**

**CLERK:** All rise.

Please be seated.

**THE COMMISSIONER:** Okay.

Mr. Learmonth.

**MR. LEARMONTH:** Yeah. There's three new exhibits that we received we'd like to enter P-01585, P-01603 and P-01604.

**THE COMMISSIONER:** These are all arising from testimony, are they?

**MR. LEARMONTH:** Yes, they are.

**THE COMMISSIONER:** Okay, good.

All right. Good. Thank you.

Todd Stanley, Terry Paddon?

**MS. VAN DRIEL:** Good morning, Mr. Bown – try this again, that's better.

My name is Gerlinde van Driel. I represent Todd Stanley and Terry Paddon.

**MR. BOWN:** Good morning.

**MS. VAN DRIEL:** Good morning.

I just have really one question. I had a couple more but they seem to have been addressed by other counsel so I won't dwell on those.

In respect of the direction note that both Terry Paddon and yourself put together and that was ultimately signed by your Minister Skinner and Minister Marshall at the time for the Department of Finance. So I think your testimony was just now that you spent a considerable amount of time on that, you and Terry Paddon, in fact, a month or more I understand.

**MR. BOWN:** Yes.

**MS. VAN DRIEL:** And what caused you and Terry Paddon to come to the decision to prepare this note and spend so much time on it? What – you must have felt, in a certain way, an unease about the numbers, the figures, the estimates that were going around at that time.

**MR. BOWN:** We had a belief that at that stage of the project, after DG2, prior to DG3, and the fact that there hadn't been an independent look at the project, that the time was appropriate to do that, and that we'd been aware that Nalcor was preparing the document to do a review that they would sponsor and we firmly believed that if any such review would take place it would be done – be commissioned by government.

**MS. VAN DRIEL:** That was sort of out of the ordinary, though, of the usual route that the government takes when it funds a particular capital cost-intensive project, is that not the case?

**MR. BOWN:** That's correct.

**MS. VAN DRIEL:** Yeah. So why this time?

**MR. BOWN:** Again, we felt that it was important that we have a good solid look at the project, the costs, and, again, it was a comprehensive review. It wasn't just looking at the costs, it was looking at the financing, et cetera, as well. And at that time the loan guarantee wasn't finalized.

**MS. VAN DRIEL:** Was that also because you felt that the information may perhaps – coming from Nalcor, maybe from Mr. Martin or anybody else there that you were dealing with, was not convincing or solid or – again, I'm sort of puzzled why you went beyond what you normally would do.

**MR. BOWN:** It's not that we believed that the numbers were not convincing or puzzled but I think we felt that it was appropriate for government to do its own review.

**MS. VAN DRIEL:** Right, okay.

Good. That's all I have. Thank you.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** All right.

Consumer Advocate?

**MR. HOGAN:** Good morning, Mr. Bown.

**MR. BOWN:** Good morning.

**MR. HOGAN:** John Hogan for the Consumer Advocate.

**MR. BOWN:** Good morning, Mr. Hogan.

**MR. HOGAN:** I am going to cover all the topics again that probably you've touched on, but let's just start with the question about the relationship between Nalcor and the premier's office, which you've testified about and you've heard testimony about.

I just wanna know if there was any difference between that relationship throughout the different ministers that were involved in Natural Resources. So we'll talk about Ministers Skinner, Dunderdale and Kennedy.

Was there any difference in that relationship between the premier's office and Nalcor during those three ministers' time in – as ministers in Natural Resources?

**MR. BOWN:** I don't recall a difference, no.

**MR. HOGAN:** No difference at all?

**MR. BOWN:** No.

**MR. HOGAN:** Okay, 'cause Mr. Kennedy certainly said that he took issue with it. I don't think Minister Skinner was quite as stern about that.

So I'm just wondering, if when Mr. – Minister Kennedy showed up, he took issue with it, whereas other ministers maybe hadn't.

**MR. BOWN:** I believe I recall from – Mr. Kennedy's testimony was not the engagement in the premier's office 'cause he felt very comfortable; whenever there was that engagement, he was going to participate. Rather, it was Cabinet meetings – when Nalcor would

come to give a presentation – that he didn't see that document beforehand. And that was the source of his concern. And I believe that's what he –

**MR. HOGAN:** Yeah.

**MR. BOWN:** – I know I understood that because he raised that concern with me and it was my job to make sure that that didn't happen anymore.

**MR. HOGAN:** But did Minister Skinner or Minister Dunderdale ever raise a concern with you about the relationship between the premier's office and Nalcor?

**MR. BOWN:** I don't recall any, no.

**MR. HOGAN:** Just –

**MR. BOWN:** Other than the general fact that there was – an understanding of the ministers. They understood and recognized that this was an important file in the premier's office – whether it was Premier Williams was in the office, or Premier Dunderdale was in the office. The ministers had a very clear understanding that –

**MR. HOGAN:** That there was deference to the premier's office.

**MR. BOWN:** Absolutely.

**MR. HOGAN:** Yeah.

In terms of those three ministers – your role is to give advice to the minister?

**MR. BOWN:** Correct.

**MR. HOGAN:** One of your roles is to give advice to the minister?

**MR. BOWN:** Yes.

**MR. HOGAN:** Was it easier to give advice to any of those three in particular?

**MR. BOWN:** Every individual is unique, and as a deputy minister or as an executive, you adjust your own patterns of behaviour and you adjust to the personality of the individual. And I found

a path for each and every one of them that I was able to work successfully with them.

**MR. HOGAN:** Mmm.

**MR. BOWN:** So, no one was any better or worse than the other –

**MR. HOGAN:** It was different.

**MR. BOWN:** – they were all – they were just unique.

**MR. HOGAN:** The Emera negotiations – when you were outside the room. This was in Nova Scotia, was it?

**MR. BOWN:** Yes.

**MR. HOGAN:** What about here in Newfoundland? Or was there ongoing negotiations?

**MR. BOWN:** Yes.

**MR. HOGAN:** And were you outside the room as well?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay.

Was there anyone – and you might have said this – was there anyone inside the room from government?

**MR. BOWN:** No.

**MR. HOGAN:** No one?

**MR. BOWN:** No.

**MR. HOGAN:** So there was no one representing the shareholder during the negotiations?

**MR. BOWN:** It was a commercial negotiation; Mr. Martin would update government.

**MR. HOGAN:** The owner of the commercial entity was not in the room – the shareholder. (Inaudible) –

**MR. BOWN:** The owner of Nalcor?

**MR. HOGAN:** Correct.

**MR. BOWN:** Correct.

**MR. HOGAN:** Yeah, okay.

**MR. BOWN:** It was a commercial negotiation between Nalcor and Emera, and Nalcor would provide updates and details and detailed briefings on what was going on.

**MR. HOGAN:** Yes, but, so, and they would get briefings and you would trust that the briefings you're getting are accurate, but certainly you would agree that you can't get the full story unless you're in the room.

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay, you might miss out on the vibes, the tone.

**MR. BOWN:** Mm-hmm.

**MR. HOGAN:** Maybe you might even miss an issue if you're not briefed on it, is that fair to say?

**MR. BOWN:** Yes, and the direction I was given was to be there in support as needed.

**MR. HOGAN:** Not questioning the direction –

**MR. BOWN:** Yeah.

**MR. HOGAN:** – or whether you followed it.

**MR. BOWN:** Okay.

**MR. HOGAN:** I'm just concerned that there was no one in the room on behalf of the shareholder, that's (inaudible).

**MR. BOWN:** Yes (inaudible) understand your point.

**MR. HOGAN:** Yup.

Now, when you were being briefed, I know there's probably lots of issues that were being negotiated, is that fair to say?

**MR. BOWN:** Many.

**MR. HOGAN:** Many issues.

I just wanna clear something up. Was the cost of the project being negotiated?

**MR. BOWN:** No.

**MR. HOGAN:** 'Cause I heard –

**MR. BOWN:** I don't recall –

**MR. HOGAN:** There's –

**MR. BOWN:** I don't recall –

**MR. HOGAN:** – some media reports this week about some confusion that Mr. Bennett might've had. And I thought what Mr. Martin had said in the media, and I could be wrong, was that there was a negotiation going on with the cost of the project.

That doesn't make sense to me because the cost is what it is, right?

**MR. BOWN:** Yeah, if anything, probably a misrepresentation or misunderstanding of the conversations around the Maritime Link, and how they were gonna share any –

**MR. HOGAN:** Yeah.

**MR. BOWN:** – cost overrun, and like, we –

**MR. HOGAN:** Risk.

**MR. BOWN:** – covered that in my testimony.

**MR. HOGAN:** The risk of the overrun on –

**MR. BOWN:** Yes, or how – and how that would be shared –

**MR. HOGAN:** Who's gonna pay for that.

**MR. BOWN:** – how that would be shared between (inaudible).

**MR. HOGAN:** But the base cost is what it is at that point –

**MR. BOWN:** It is –

**MR. HOGAN:** – in time.

**MR. BOWN:** – what it is. Yes.

**MR. HOGAN:** No negotiating with that.

**MR. BOWN:** Nalcor determined its own cost; Emera determined their own cost.

**MR. HOGAN:** And what happens if you go over and we go over.

**MR. BOWN:** Right.

**MR. HOGAN:** Right. Okay.

**MR. BOWN:** Yup.

**MR. HOGAN:** So just tell me if you agree with this statement.

Now you said your – one of your roles is to give advice because you, as a deputy minister, or any civil servant, is the constant in government, whereas ministers come and go.

**MR. BOWN:** Mm-hmm.

**MR. HOGAN:** Right, so you would have the expertise and the knowledge to provide that advice.

Is that correct?

**MR. BOWN:** I wouldn't say expertise, but experience.

**MR. HOGAN:** Well, I hope someone in the Department of Natural Resources has expertise in natural resources.

**MR. BOWN:** Yes, yes.

**MR. HOGAN:** Okay, and would that be you?

**MR. BOWN:** I don't have all the expertise; that's why we have staff, you know, technical staff and policy staff.

**MR. HOGAN:** Okay.

But you are the one that is giving advice.

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay.

But I just wanna ask about a few examples. I guess Mr. Learmonth covered all these issues with you.

Narrowing the choice that was put to the PUB to have two (inaudible) go before the PUB – the Interconnected Option and the Isolated Option – did you give advice on that?

**MR. BOWN:** I posed a question of whether this – is this the choice that we want to make. The ultimate decision was a political decision, but I did –

**MR. HOGAN:** Did you give advice to say: You should do two, minister, or you should do five, or –

**MR. BOWN:** No.

**MR. HOGAN:** You didn't give advice on that.

**MR. BOWN:** I didn't give advice.

**MR. HOGAN:** Okay.

**MR. BOWN:** I asked the question, what is the path that you wanna take?

**MR. HOGAN:** Right.

The removal of LNG from the Wood report, did you give advice to the minister on whether that should be removed or not?

**MR. BOWN:** I took direction.

**MR. HOGAN:** You took direction. So, you did not give advice.

**MR. BOWN:** No.

**MR. HOGAN:** Waiting for approval at the UARB before sanction, did you give advice on that? Being, you know, should you –

**MR. BOWN:** Explain that in a little bit more detail.

**MR. HOGAN:** So this was sanctioned before the UARB decision was finalized. The project was sanctioned in December, 2012.

**MR. BOWN:** Yes.

**MR. HOGAN:** The UARB decision was afterwards.

Did you give advice on whether sanction should wait until the UARB process was finalized?

**MR. BOWN:** I didn't give advice that it should wait. I gave advice that this – these are the implications of the path that we're on.

**MR. HOGAN:** Right.

**MR. BOWN:** This is what's going to happen. Again, clearly in line with my primary focus at that time, the loan guarantee – if they didn't line up, I would give a briefing and a clear understanding that they knew what would happen if (inaudible).

**MR. HOGAN:** But no advice on what path to choose?

**MR. BOWN:** There was no path to choose. We were on a path to sanction in 2012.

**MR. HOGAN:** And the deletion of the risk from the scope of work from the MHI report, did you give advice on that?

**MR. BOWN:** I was part of a discussion in the meeting where that decision was made.

**MR. HOGAN:** So where I'm going with this – and it's not necessarily a criticism – but you didn't really give any advice on all of these issues, which are all at the forefront of this Inquiry. Agreed?

**MR. BOWN:** I would have had discussions with ministers on all these points.

**MR. HOGAN:** Discussions but not advice.

**MR. BOWN:** Well, do this or do that?

**MR. HOGAN:** Yes.

**MR. BOWN:** You don't generally speak – I'll back up. That's not the way it works. You sit in front of a minister. You provide briefing materials and you give the necessary information to allow them to make a decision. So you give them the best information. So

you're briefing them. So you're advising them by giving them advice. Do you see the –

**MR. HOGAN:** Who's going to give them advice on this is what you should or shouldn't do? I mean these guys are coming in – men and women are coming in in minister roles – let – I'm just picking out Minister Kennedy because he's who you worked with. He's a lawyer. He doesn't know anything about these issues. Who's going to tell him, you know, why would you limit it to 2 for the – P2 (inaudible) for the PUB? What's the reason for that? And this is why you should do it.

Who's telling him that if you're not telling him that?

**MR. BOWN:** But I'm not telling him he must make a choice. I'm telling him this is the information, this is the implications of your decisions.

**MR. HOGAN:** But no one's giving him advice on what the best option is?

**MR. BOWN:** He's seeing both.

**MR. HOGAN:** He's making his own decisions.

**MR. BOWN:** Well no, we're talking it out and then we come to a place where he makes a decision. And he wouldn't make a decision singularly on those pieces either. Those are collective decisions that would have been made with the premier's office.

So significant decisions like that, he wouldn't have made those of his own accord. And particularly on the decision on the Public Utilities Board, Department of Justice was involved in that exercise as well.

So the advice and the briefings were coming from multiple sources on that particular question.

**MR. HOGAN:** I'll leave it at that. I just – it doesn't sound to me like he got any advice. Recommendations, let's say that.

**MR. BOWN:** He got a good – very good understanding –

**MR. HOGAN:** Understanding.

**MR. BOWN:** – of what the choices are and what the implications of those are.

**MR. HOGAN:** Just to go to the cost overruns, and you did some research on this and Mr. Coffey brought you to this again this morning. There was no formalized research paper done on this issue was there?

**MR. BOWN:** No, there wasn't. It was ad hoc – Google. Right? Probably a bad phrase to use.

**MR. HOGAN:** Okay.

**MR. BOWN:** I asked staff to go do research. How they did that, I probably shouldn't have been so cavalier as to say Google.

**MR. HOGAN:** No, okay.

Well, that's –

**MR. BOWN:** Right? But the staff were asked to go do research.

**MR. HOGAN:** Okay, but there was nothing printed, there was no documents. There's nothing we can look at to see what the research show.

**MR. BOWN:** There was no formal report from that.

**MR. HOGAN:** Okay. And I just question why – I mean, Mr. Budden brought you through a lot of reports yesterday. A lot of time and effort put into all these reports. Why wasn't that a report?

**MR. BOWN:** We dealt with many questions, day to day to day, from Minister Kennedy. You know, we wouldn't write a report for every question. If you wrote a report for every question that Minister Kennedy asked –

**MR. HOGAN:** Right.

**MR. BOWN:** – we would've had multitudes.

**MR. HOGAN:** You wrote reports that were pro-Muskrat, I would put to you that a report on cost overruns would be anti-Muskrat.

**MR. BOWN:** Yeah. We – again, we prepared, at his direction, those particular papers to provide information to inform the public debate; acknowledged with Mr. Budden that there are pro-Muskrat Falls messaging in those documents.

**MR. HOGAN:** Okay. Did he direct you or not to do a report on overruns?

**MR. BOWN:** No, he did not.

**MR. HOGAN:** Did he say don't do it, or did he just not direct you to do it?

**MR. BOWN:** Get me some information; just get me some information.

**MR. HOGAN:** Get me some information. Okay.

**MR. BOWN:** Not do a report. And I had many of those requests of a similar type.

**MR. HOGAN:** Ad hoc requests?

**MR. BOWN:** Yes.

**MR. HOGAN:** You were asked – probably feels like a long time ago – about the CDM program and the energy efficient – Conservation and Efficiency Partnership, I think, it's called.

**MR. BOWN:** Yes.

**MR. HOGAN:** So I think the number we saw was \$5 million to coordinate and assist with energy conservation, correct?

**MR. BOWN:** Yes.

**MR. HOGAN:** So that's a pretty small number, isn't it?

**MR. BOWN:** Yes, it is. It was – and, again, it was acknowledged at the time – hopefully, I'm not jumping ahead of you.

**MR. HOGAN:** (Inaudible.)

**MR. BOWN:** It was acknowledged at the time that this was a starter program, then we would get this up and running. This was the most that we could afford, and as we –

**MR. HOGAN:** Why was that? How did you come to the conclusion that \$5 million was the most – was this a –

**MR. BOWN:** It was a –

**MR. HOGAN:** – Natural Resources budget?

**MR. BOWN:** It was a Natural Resources budget.

**MR. HOGAN:** Who would've made that decision to allocate \$5 million to this program?

**MR. BOWN:** All budget decisions are made by the minister and then brought forward to the Treasury Board. Treasury Board then makes the decision whether they – those get approved and then they get forwarded to Cabinet.

**MR. HOGAN:** So the Natural Resources minister would've said I want x-million dollars for this program?

**MR. BOWN:** We would've brought forward a listing of expenditures for the year; we would've included that.

**MR. HOGAN:** Do you know if that number was higher when it was first put to the Treasury Board?

**MR. BOWN:** No, that was the number.

**MR. HOGAN:** That was the number?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay.

So can you just give us some details on the program and how it worked? I want to know who would've had access to it and how.

**MR. BOWN:** It was a –oh my golly –now you're drawing on my memory.

It was a – we engaged a number of consultants to do energy audits on homes. I think we had a low income portion and then a, you know, the rest of the residents of the province. Energy audits would be done on their home.

We had negotiated an MOU with Natural Resources Canada where we piggybacked on top of one of their energy efficiency programs so that anybody who qualified for our program also qualified for the federal program as well.

So we were able to leverage our dollars with (inaudible) dollars.

**MR. HOGAN:** So you would get an audit to come and look at your – an auditor to come look at your house and tell you if you do these things, you'll reduce your costs.

**MR. BOWN:** And you do the work, you submit the proper documentation, and the cheque would come from (inaudible).

**MR. HOGAN:** So was it a pilot project?

**MR. BOWN:** It was something that we had wanted to extend. We started with that and we wanted to do more.

**MR. HOGAN:** And did you do more? I can't remember.

**MR. BOWN:** We were unable to do more. Budget constraints meant that all of our initiatives in that regard were cancelled.

**MR. HOGAN:** The theory would be if you spend the money, it'd save people money in the long run, right?

**MR. BOWN:** I understand.

**MR. HOGAN:** Right.

**MR. BOWN:** And that's why we did it. But, again, the decision was – budget cuts in decided department and then there's a prioritization and –

**MR. HOGAN:** And that decision was made –

**MR. BOWN:** – that decision was made (inaudible).

**MR. HOGAN:** – knowing full well the consequences of it, obviously.

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay.

**MR. BOWN:** But again, subsequent to that the Climate Change and Energy Efficiency Office was created inside the Department of Environment, which currently still exists.

**MR. HOGAN:** I just wanna talk a little bit about MHI. I think you said yesterday – I can't remember your words so I'm paraphrasing it – you did have faith in them.

**MR. BOWN:** I hired them.

**MR. HOGAN:** You hired them.

**MR. BOWN:** Well, we – government hired them.

**MR. HOGAN:** Yeah.

**MR. BOWN:** They were under contract.

**MR. HOGAN:** You had faith in them, obviously, that they are –

**MR. BOWN:** Absolutely.

**MR. HOGAN:** – competent.

**MR. BOWN:** Competent.

**MR. HOGAN:** Very competent.

**MR. BOWN:** The Public Utilities Board chose to hire them –

**MR. HOGAN:** Well that was gonna be my question. Where did your faith in MHI come from? What did you know about them?

**MR. BOWN:** We were familiar with the work that they had done through the whole process with the Public Utilities Board. Again, we had followed that process all the way through.

**MR. HOGAN:** Okay. But you didn't get their report until that Friday and they were retained on Monday. Correct?

**MR. BOWN:** But the MHI report had been released in January.

**MR. HOGAN:** In January.



**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. So you – you looked at that, you digested that report over January, February, March. Is –

**MR. BOWN:** Yes.

**MR. HOGAN:** – that right? And then so – but the decision was made pretty quickly on that Monday or was there discussions ongoing about retaining MHI for DG3?

**MR. BOWN:** As I indicated, the decision to call MHI was made that Monday. I can't recall if in the days leading up to that there was some discussion, there may have been some preliminary comment made – maybe we should hire these folks – but the decision was made that day.

**MR. HOGAN:** Okay. And – so what was in the MHI report that gave you comfort in retaining them?

**MR. BOWN:** Their knowledge of the project. They had done a –

**MR. HOGAN:** Okay.

**MR. BOWN:** – a full – comprehensive review.

**MR. HOGAN:** Was it the fact that they had already looked at the project would mean that they would be able to a good job at DG3?

**MR. BOWN:** Absolutely. And –

**MR. HOGAN:** Okay. But what about the competence level? And I'm not saying that they're incompetent, you know, but did you do any background checks on MHI?

**MR. BOWN:** I don't recall if we did background checks, but the fact that we needed a consultant – or wanted a consultant – to do a piece of work. One had just finished doing a piece of work.

**MR. HOGAN:** But finishing a piece of work doesn't mean it's good. Right? It means they know it. They know the project. Doesn't mean their quality was good. Doesn't mean it was bad either.

**MR. BOWN:** Absolutely. And we had reviewed the report and had no issue. They had negative statements in there about the project. That wasn't at issue. But we could see that they did a fulsome review.

**MR. HOGAN:** And there was no review of any other reports they had done? No discussions with anyone else: Were you satisfied with MHI's work? Anything like that?

**MR. BOWN:** No.

**MR. HOGAN:** No.

**MR. BOWN:** No.

**MR. HOGAN:** Just want to ask you a little bit about the Consumer Advocate's role – or lack thereof – at the PUB hearings.

Were you involved at all with the Consumer Advocate? I did ask Mr. Kennedy a little bit about that, and he had written a letter with some guidelines to the Consumer Advocate about his participation at the PUB hearings.

**MR. BOWN:** I believe I had one conversation with the Consumer Advocate.

**MR. HOGAN:** What about?

**MR. BOWN:** Just was no different than my conversations with Maureen Greene – how are things going?

**MR. HOGAN:** And when was this. This was with Tom Johnson?

**MR. BOWN:** Yes.

**MR. HOGAN:** And when was this?

**MR. BOWN:** That would have been during the process that the hearings were ongoing.

**MR. HOGAN:** Okay. And what was the – how did that come about? Did you call him? Did he call you?

**MR. BOWN:** No, I called him. Just to say how are things going?

**MR. HOGAN:** Okay.

**MR. BOWN:** But (inaudible).

**MR. HOGAN:** Is it normal for you to call the Consumer Advocate during – while he’s undertaking any of these things on behalf of the consumer?

**MR. BOWN:** The role that I was playing during the reference question process was to ensure that the process was moving as efficiently as possible, that we could get an end result. So I had established a relationship with Maureen Greene, which proved to be very valuable in addressing some of the concerns that she had. And it was just a check-in with Mr. Johnson saying: Are you satisfied?

**MR. HOGAN:** What was the reason that you thought that things weren’t going smoothly?

**MR. BOWN:** No, I was just – again, it was just a check.

**MR. HOGAN:** All right. And what did he say?

**MR. BOWN:** Things were going okay. Things were going fine.

**MR. HOGAN:** Things were going fine.

So you had no role in drafting those guidelines to Mr. Johnson?

**MR. BOWN:** No.

**MR. HOGAN:** No.

**MR. BOWN:** No, that was done with the Department of Justice and actually a lawyer in my office.

**MR. HOGAN:** Okay. Who was that?

**MR. BOWN:** Paul Scott.

**MR. HOGAN:** Any reason you wouldn’t have participated in that discussion?

**MR. BOWN:** Not my skill set.

**MR. HOGAN:** Not your skill set.

**MR. BOWN:** No.

**MR. HOGAN:** All right. So we know that there was a report, an expert report, that Mr. Johnson obtained but it wasn’t submitted to PUB. Did you know anything about that?

**MR. BOWN:** The only reason – I know that they had retained Knight –

**MR. HOGAN:** Knight Piésold.

**MR. BOWN:** Piésold.

**MR. HOGAN:** Yeah.

**MR. BOWN:** Piésold. I know that they had retained them. I wasn’t aware that a report was done but, correct me if I’m wrong, I think I saw in evidence yesterday with Minister Kennedy that I had a meeting regarding the – that report.

**MR. HOGAN:** So you knew about the report? You know now, obviously.

**MR. BOWN:** I know now.

**MR. HOGAN:** Did you know then?

**MR. BOWN:** I don’t recall.

**MR. HOGAN:** So you don’t recall if there was any discussions about: tell Mr. Johnson he can’t submit it?

**MR. BOWN:** Again, there was a piece of evidence in Mr. Kennedy’s testimony yesterday, where I was giving a briefing to him and there was a reference to that but it didn’t draw a memory with me. But I only saw it briefly, quickly yesterday.

**MR. HOGAN:** So you don’t recall this report.

**MR. BOWN:** No, I’ve never seen it.

**MR. HOGAN:** You’ve never seen it.

**MR. BOWN:** No.

**MR. HOGAN:** Do you know if anyone at government has seen it?

**MR. BOWN:** Not that I’m aware of.

**MR. HOGAN:** Okay.

Can we just look at P-00601, please, page 8.

**THE COMMISSIONER:** 601

**MR. HOGAN:** So this is some Hansard notes.

**THE COMMISSIONER:** Look at the note.

**MR. HOGAN:** April 2002.

Page 8, please.

**UNIDENTIFIED MALE SPEAKER:** 2012

**MR. HOGAN:** That's fine there, page 8, yeah. There you go.

So, you see right in the middle there, this is Premier Dunderdale speaking, and she says: "A recommendation that had already been endorsed by Navigant, by Manitoba Hydro, by the Consumer Advocate Mr. Johnson and his expert Knight Piésold," –

**MR. BOWN:** Yes.

**MR. HOGAN:** – "and Dr. Wade Locke."

So she's seen the report.

**MR. BOWN:** No, Mr. Johnson submitted a brief to the Public Utilities Board with a summary of the work that Knight Piésold had done for him.

**MR. HOGAN:** So she's saying – she's making a statement without having seen the report, is what you're saying.

**MR. BOWN:** Yes, she's relying there on the submission made by the Consumer Advocate.

**MR. HOGAN:** How do you know that she didn't see the report?

**MR. BOWN:** I didn't see the report.

**MR. HOGAN:** How do you know she didn't see the report?

**MR. BOWN:** Well, if that report had been submitted it would have come through Department of Natural Resources or Justice; it

would have been distributed, regardless of how it came into government.

**MR. HOGAN:** If it had been officially given to the Department of Natural Resources.

**MR. BOWN:** Yes.

**MR. HOGAN:** It's possible she could have got it unofficially.

**MR. BOWN:** I –

**MR. HOGAN:** Right?

**MR. BOWN:** Sure.

**MR. HOGAN:** I'm – we'll ask her – I mean, it's her statement.

**MR. BOWN:** Yes, sure. But I'm not aware of that document.

**MR. HOGAN:** You're not aware of the document, –

**MR. BOWN:** No.

**MR. HOGAN:** – you never saw it, you never read it –

**MR. BOWN:** No.

**MR. HOGAN:** – you never had any discussions about it.

**MR. BOWN:** And my understanding of her statement would be based on the submission that Mr. Johnson made.

**MR. HOGAN:** Okay. I don't – where are you getting that assumption? I don't really follow that.

**MR. BOWN:** Because that's the only way – I'm making that assumption. That's the only way that she would know, because I did read Mr. Johnson's submission.

**MR. HOGAN:** Okay.

Just back to MHI quickly. Did your department get a technical briefing from MHI after you received the DG3 report?

**MR. BOWN:** Yes.

**MR. HOGAN:** And who was involved in that? Who attended that technical briefing?

**MR. BOWN:** That briefing took place in Toronto; Minister Kennedy was present at that briefing.

**MR. HOGAN:** Just Minister Kennedy?

**MR. BOWN:** And myself.

**MR. HOGAN:** Yourself?

**MR. BOWN:** Yeah.

And I believe the premier was at that briefing as well.

**MR. HOGAN:** Okay, and who from Manitoba Hydro?

**MR. BOWN:** (Inaudible.)

**MR. HOGAN:** And how long did that meeting last?

**MR. BOWN:** That was a morning meeting. And I know that in Mr. Wilson's testimony, he said that he didn't present a deck, but actually he did present a deck. I have a copy of that.

**MR. HOGAN:** Right.

**MR. BOWN:** And he would have presented that deck.

**MR. HOGAN:** So who's asking questions at that meeting? Anyone?

**MR. BOWN:** Minister Kennedy. And –

**MR. HOGAN:** And the premier? –

**MR. BOWN:** Yeah.

**MR. HOGAN:** Were there any concerns expressed at that time?

**MR. BOWN:** I don't recall any concerns being expressed.

**MR. HOGAN:** You don't remember or you don't think that –

**MR. BOWN:** I don't recall any concerns being expressed about the report.

**MR. HOGAN:** I just want to talk a little bit about the record that would be kept, I guess, paper documents for a department generally. Is there an obligation to keep files so when new ministers come in, they can review them and be brought up to speed and know what's happened in the past? And by files I mean emails, letters et cetera.

**MR. BOWN:** Each minister is responsible for their own files.

**MR. HOGAN:** But what about the department's files though?

**MR. BOWN:** The department has files.

**MR. HOGAN:** Yes. And is there a policy that says you need to keep these?

**MR. BOWN:** There's an electronic filing system that stays resident in the department, it's a –

**MR. HOGAN:** And what –

**MR. BOWN:** – TRIM system.

**MR. HOGAN:** Is there any requirement that you take minutes of meetings and take notes of phone calls, like a phone log?

**MR. BOWN:** No.

**MR. HOGAN:** There's no requirement for that?

**MR. BOWN:** No.

**MR. HOGAN:** Okay. Because some of the MHI edits, you said came through via phone call to you. Right?

**MR. BOWN:** I don't –

**MR. HOGAN:** You would have discussed –

**MR. BOWN:** – believe I said that –

**MR. HOGAN:** You would have discussed edits, changes to the MHI report?

**MR. BOWN:** I didn't – oh – after they were made?

**MR. HOGAN:** Yes.

**MR. BOWN:** And again, I was making the – I was saying my practice would be. I didn't have clear recollection of that.

**MR. HOGAN:** Okay. But is there a practice in the department at the time to use phones as opposed to emails, to make sure there is no written record?

**MR. BOWN:** No.

**MR. HOGAN:** No?

**MR. BOWN:** No. It's meant to be a personal contact. It's – put it this way, it's way more efficient to have a conversation – as I'm sure you do in your own business – than to send a short email to resolve an issue, than to have a lengthy phone conversation.

**MR. HOGAN:** If we go to P-01444 please.

**THE COMMISSIONER:** It's not one in front of you?

**MR. HOGAN:** I may have the wrong reference actually, Commissioner. So I'll just skip that for a second. If we can go to 01261.

**THE COMMISSIONER:** That's tab 102.

**MR. BOWN:** It's binder which, Commissioner?

**THE COMMISSIONER:** Binder 3. So, it's number 2 in that binder.

**MR. BOWN:** Yes.

**MR. HOGAN:** Scroll down to the title page, please. Okay, there.

So this might be a small point, but this is July, 2012 before sanction. Okay? Agree?

**MR. BOWN:** Yes.

**MR. HOGAN:** And it says: Small Hydro Development as an Alternative to Muskrat Falls. So we're before sanction, and, again, that's a small point but I do want to ask it, that it suggests to me that Muskrat Falls is – the decision has already been made, whereas you should still be analyzing both projects side by side at this point.

**MR. BOWN:** Into 2012 – in 2010 there was an MC, as I've stated in my testimony, that Muskrat Falls would be the next generation source and the work that was advancing forward was to step by step by step to get through each gate to make the determination if we're going to continue on, on that path. And then 2012, we were still on that path moving forward.

**MR. HOGAN:** Right. But not analyzing alternatives. Is that what you're saying?

**MR. BOWN:** I don't believe there was any analysis solely dedicated to alternatives at that stage.

**MR. HOGAN:** Between 2010 and 2012.

**MR. BOWN:** No, I'm just saying in 2012.

**MR. HOGAN:** So, Mr. Learmonth asked you yesterday when the decision was made where there was no turning back. So, would it have been 2010?

**MR. BOWN:** I can't give you an estimate of when government decided there was no turning back.

**MR. HOGAN:** Well, if you're – I guess, if you're looking at something as an alternative, it sounds like to me the decision is made though, at this point in time, at least July, 2012 if we're looking at this document.

**MR. BOWN:** If we go through Decision Gate 2

–

**MR. HOGAN:** The decision's made.

**MR. BOWN:** – then you make a decision that you've gone through concept selection and then you make your decision. If you go through Decision Gate 3 and you don't go through it, then there's no decision.

**MR. HOGAN:** What happens at DG3 to not go through with them? What could have happened?

**MR. BOWN:** Then they would've had to pursue the Isolated –

**MR. HOGAN:** But what could have come up at DG3 to not go through?

**MR. BOWN:** Well, the – whatever government would have decided, as it was a factor that would be unacceptable: no loan guarantee; costs would have been much, much higher than they anticipated; the impacts on rates would have been much higher than anticipated, you know, a number of facts like that. Engineering difficulties that were unearthed, part of the process from DG2 to DG3.

So there are a number of things that occurred during that period of time that would have caused a change.

**MR. HOGAN:** But it was pretty much full steam ahead from 2010 onwards to go forward with Muskrat falls. Is that fair to say?

**MR. BOWN:** It became implementation.

**MR. HOGAN:** It became implementation in 2010?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. As opposed to looking at the two options. Once 2010 hit.

**MR. BOWN:** We still continued to do the analysis to ensure that that decision was correct; did that through the PUB review. If that had demonstrated that it wasn't least cost, then clearly that would've caused a decision point. And ...

**MR. HOGAN:** Can we look at P-01435, please?

**THE COMMISSIONER:** It's tab 143, book 4.

**MR. HOGAN:** We can scroll down. This is where Jim Prentice was involved. So his – I guess this is a draft letter here, is it?

**MR. BOWN:** Yes.

**MR. HOGAN:** You want to get it there in your document?

**MR. BOWN:** Yes, thank you. Yes.

**MR. HOGAN:** It's just the subject line I want to ask about 'cause it says: "The Concurrent Sanction of the Nalcor Lower Churchill Projects with Emera's Maritime Link Project."

I want to focus on the word concurrent because that's not what happened, is it?

**MR. BOWN:** There was a sanction agreement between the two parties that did occur. There was a concurrent sanction. But the actual financial close did not occur at the same time. So I'm separating the two.

**MR. HOGAN:** Well, just talk a little bit about that then. I mean, if it didn't happen at the same time, was that – what was the concern, if any, for you that they weren't happening at the same time?

**MR. BOWN:** It was our ability to meet the conditions precedent in the loan guarantee and being able to draw on the loan guarantee. As I had testified earlier, if in that instance, with work occurring on the project in 2013, we would have been using 100 per cent equity, knowing full well that once you had the loan guarantee in place you draw down 100 per cent debt. But you were drawing down your equity earlier than you would have planned.

**MR. HOGAN:** But sanction – I mean you've heard – I've asked Mr. Kennedy about it, sanction happened before the UARB approval, correct?

**MR. BOWN:** Yes, it did.

**MR. HOGAN:** And did you see any risk in that?

**MR. BOWN:** Absolutely.

**MR. HOGAN:** Right.

**MR. BOWN:** I was – we were all concerned about that. And that was part and parcel the reason why the –

**MR. HOGAN:** What was your concern? Because Minister Kennedy seemed less concerned when I asked him. He said he was pretty sure it was going to happen. It was conditional approval of the federal loan guarantee, but didn't seem worried. You just sort of expressed a little bit more concern than he did.

**MR. BOWN:** Because I was closer to the negotiations on the loan guarantee, knew the details more intimately than him. Obviously, I would've briefed him. But I was just – my concern would be, okay, now we have a time crunch to meet all those conditions precedent so we can get financial close as planned in 2013.

**MR. HOGAN:** What happens if conditions aren't met and the project is sanctioned?

**MR. BOWN:** The government made the decision at sanction that it was going to allow the project to make investments. So if –

**MR. HOGAN:** What do you mean by make investments?

**MR. BOWN:** Well, they went ahead with the early site works.

**MR. HOGAN:** But then you do it on the condition that you'll get the federal loan guarantee if certain conditions are met.

**MR. BOWN:** Yes.

**MR. HOGAN:** And what happens if –

**MR. BOWN:** If those conditions aren't met.

**MR. HOGAN:** Yeah. And you didn't get the federal loan guarantee?

**MR. BOWN:** Then you wouldn't have the loan guarantee and you –

**MR. HOGAN:** So we just do the project and it's going to be more expensive.

**MR. BOWN:** Well, you'd have to go to the markets – go to conventional financing and it would be more expensive.

**MR. HOGAN:** It would be more expensive.

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. Now, I know –

**MR. BOWN:** So, that was –

**MR. HOGAN:** – we got it –

**MR. BOWN:** – my concern.

**MR. HOGAN:** – yes, that was your concern.

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay.

Just – in terms of the federal loan guarantee, or in relation to it, I mean, you talked about the – Newfoundland and Labrador guaranteed the completion of the project and guaranteed payments, right?

**MR. BOWN:** Yes.

**MR. HOGAN:** Did Canada necessarily care what the cost was?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay, what was their limit?

**MR. BOWN:** In – on cost?

**MR. HOGAN:** Yeah.

**MR. BOWN:** They didn't have a limit on cost, but their concern was the ability to recover the revenues.

**MR. HOGAN:** That's my point. Cost didn't really matter to them because it was all guaranteed anyways.

**MR. BOWN:** They did – didn't – put it this way, they weren't going to guarantee –

**MR. HOGAN:** 20 billion.

**MR. BOWN:** – a \$20 billion project.

**MR. HOGAN:** Okay.

But they were gonna guarantee a \$6, \$7, \$8, \$9 billion dollar project.

**MR. BOWN:** And they had their own financial advisors; they had retained Blair Franklin, who had done all their analysis for them and prepared a report for them, and they also had Cassels Brock engaged as their expert legal firm to go through it as well.

So, it was a tremendous amount of due diligence of the project on the Government of Canada's side.

**MR. HOGAN:** It didn't really matter to Canada – you tell me if I'm wrong – whether this was the least-cost option, did it?

**MR. BOWN:** It did.

**MR. HOGAN:** How?

**MR. BOWN:** Because –

**MR. HOGAN:** Why?

**MR. BOWN:** Because they had made statements to that effect – that they were supporting the least-cost project. They had made those representations and support – a report that they had done during the JRP process.

So, they were behind the least-cost project.

**MR. HOGAN:** Okay –

**MR. BOWN:** (Inaudible) –

**MR. HOGAN:** – and do you – we've heard about it – do you know what analysis they did to determine it was the least-cost option?

**MR. BOWN:** Natural Resources Canada prepared their own report, and that was public.

**MR. HOGAN:** I think we've seen it.

**MR. BOWN:** Yep.

**MR. HOGAN:** If we could go to – sorry to jump around on all these documents – 00807, please?

And you probably don't need to look at it. It's the note from – Ministers Marshall and Skinner signed.

**MR. BOWN:** Okay.

**MR. HOGAN:** I don't wanna take you to any text in particular. I just wonder if you are aware if Nalcor was consulted about this decision.

**MR. BOWN:** No.

**MR. HOGAN:** They were not.

**MR. BOWN:** No.

**MR. HOGAN:** Okay.

Do you know if they became aware it existed?

**MR. BOWN:** I have no knowledge that they would know it existed. I would never have shared that with them.

**MR. HOGAN:** Okay.

And – 'cause they didn't wanna proceed with the PUB.

**MR. BOWN:** Correct.

**MR. HOGAN:** I assume that means they wouldn't have wanted to proceed with any independent review?

**MR. BOWN:** They were considering their own style of review, as shown in the note that was provided by Derrick Sturge.

I think our view of what a review would look like was different than theirs.

**MR. HOGAN:** Why wasn't this decision shared with them? I mean, we're having a hard time; there's blurred lines between who's working for who and who's doing what. It was an integrated team.

Why wasn't this decision shared with them?

**MR. BOWN:** This was a decision that we were making independently of them – of having a full review of the project.

**MR. HOGAN:** This is the – this is actually the only example I think we've seen where it's an independent decision where Nalcor's not



involved and not at the table; they're not at the meetings, there's no emails with them involved.

**MR. BOWN:** Mm-hmm.

**MR. HOGAN:** Why this one?

**MR. BOWN:** Myself and Mr. Paddon felt it was important that we made this independent of them.

**MR. HOGAN:** Yeah – as your role in – for oversight?

**MR. BOWN:** Well, as his role in Department of Finance and my role in Department of Natural Resources.

**MR. HOGAN:** And is your understanding that this decision turned into the PUB decision?

**MR. BOWN:** That's my understanding, and that was the testimony that Mr. Marshall gave.

**MR. HOGAN:** Yeah, I understand, but that's – is that what you understand it to be?

**MR. BOWN:** That's what my –

**MR. HOGAN:** Do you have a recollection of that?

**MR. BOWN:** No, because –

**MR. HOGAN:** And I –

**MR. BOWN:** I –

**MR. HOGAN:** – don't think he did either; I think he just –

**MR. BOWN:** Correct. And neither did Mr. Paddon.

**MR. HOGAN:** No. So you don't either.

**MR. BOWN:** No.

**MR. HOGAN:** If we could look at P-00072, please?

**THE COMMISSIONER:** It's on the screen?

**MR. HOGAN:** So this is one of the reports that Mr. Budden would have taken you to yesterday.

**MR. BOWN:** Yes.

**MR. HOGAN:** "Electricity Rates Forecasting."

So, just to confirm, this was done within your department –

**MR. BOWN:** Yes.

**MR. HOGAN:** – this is Department of Natural Resources.

So you said these were pro-Muskrat submissions to the public, I guess. Is that fair to say?

**MR. BOWN:** The –

**MR. HOGAN:** I can't remember what words you used yesterday with Mr. Budden.

**MR. BOWN:** Sure.

They were information documents with –

**MR. HOGAN:** Information documents.

**MR. BOWN:** – pro-Muskrat messaging.

**MR. HOGAN:** I think you said they would be factual. Correct?

**MR. BOWN:** Yes.

**MR. HOGAN:** I just wanna take you to a couple of points – ask you about them.

If we could turn to page 7, please?

"The NL (Island) rate of 12.6 cents per kWh represents the blended cost of all generation sources on the Island including Holyrood and lower cost hydroelectricity."

Do you recall where that number, 12.6, came from?

**MR. BOWN:** That would have come from not only the rate sheet – but that's 'cause the rate sheet doesn't show the blended cost – but Hydro-Québec – as I recall, Hydro-Québec

issues a report each year on what the blended cost is, and I believe Manitoba Hydro issues a similar-type report, which has blended costs –

**MR. HOGAN:** Blended costs.

**MR. BOWN:** – and I think you can go to the National Energy Board and get a similar number as well.

**MR. HOGAN:** Okay, so you sound like you know this issue.

So why are you using the blended costs? I'm wondering because people don't see the blended costs on their bills from my understanding. And the numbers since 2009 up to 2013 are numbers like 9.6, 8.9, 9.5, 10.4, 10.9 – never hits 12.6.

So I'm just curious why you would use the blended cost, and to me, I think that's misleading to the public, that that's their number because that's – if – the public aren't going to understand this blended cost. They're just gonna see 12.6. And that's not a number that had ever been on their bills.

**MR. BOWN:** In 2012 – this would be the blended cost –

**MR. HOGAN:** Again –

**MR. BOWN:** I'm trying to recall –

**MR. HOGAN:** Yeah.

**MR. BOWN:** – now what blended was.

**MR. HOGAN:** Okay.

**MR. BOWN:** And I don't recall what blended was. I just – I understand where it's – likely came from. I just can't recall what blended meant at the time.

**MR. HOGAN:** Wanna take a second to think about it?

**MR. BOWN:** Residential, commercial, industrial – no, this was residential. I don't

recall. Sorry. I didn't look through this report before this.

**MR. HOGAN:** Okay.

Well, do you agree with me that – do you know that that number had never been 12.6 on people's power bills? Do you – can you recall or do you know?

**MR. BOWN:** No.

**MR. HOGAN:** You don't know?

**MR. BOWN:** No.

**MR. HOGAN:** Okay. Do you agree that it would be misleading if it's – what I told is true?

**MR. BOWN:** If it's not correct. But then I'd need to understand – there was – clearly there was a rationale of why that was put there the way it was.

**MR. HOGAN:** So who would know the answer to that? We're not going to ask them, because we only got two witnesses left.

**MR. BOWN:** My staff prepared this.

**MR. HOGAN:** I'm just suggesting there was a bit of a political angle put on some of these items.

So let's just look at page 5.

And untruths or misleading at a minimum.

Scroll down a little bit, please? That paragraph there – yeah, the second paragraph. Sorry, keep going. Ah, no – that one there. So the one on top there. Just – I'll read it out.

It says “ ... and controlled ... ” – right in the middle there – “ ... and controlled by a small number of oil-producing countries, ‘events’ in the Middle East, such as the Arab Spring or the war in Iraq, can have short term impacts on both the supply and price of oil. History demonstrates that there is an ‘event’ every three years on average.”

**MR. BOWN:** So this actually is a quote that – out of a report that we received from PIRA.

**MR. HOGAN:** From PIRA. But it's not cited.

**MR. BOWN:** No, it's not cited, but the –

**MR. HOGAN:** And there are footnotes in this report.

**MR. BOWN:** Yes, but this was the understanding, and – don't know why that one wasn't footnoted. But this came from PIRA.

**MR. HOGAN:** Okay, but no one would have known that.

**MR. BOWN:** No, but I recognize the statement.

**MR. HOGAN:** Okay, and "events," in quotes, is pretty vague, isn't it?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. And I would assume – actually I'm not gonna assume – events happen all over the world, make oil go up and make oil go down, don't they?

**MR. BOWN:** Sure, and I'll go even further to say that that's probably not true today. Events happen in the Middle East all the time, and they're not having the same kind of influence on oil price.

**MR. HOGAN:** Okay.

On that thought, oil's jumping around and the rates, we talked about – well, I did with Mr. Kennedy – about the stability of rates. Are you aware that rates were stable, historically?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. And there's a Rate Stabilization Plan in place isn't there?

**MR. BOWN:** I'm somewhat familiar with the RSP.

**MR. HOGAN:** Common sense tells you that it's there to make sure rates stay stable in the case of things like events, changes (inaudible).

**MR. BOWN:** Oil price change, hydrology.

**MR. HOGAN:** So, what was – why were our rates going to go up when we have this in place and it's worked pretty good for a long time?

**MR. BOWN:** Again, it was based on the forecast of oil prices continuing to increase.

**MR. HOGAN:** Again, the forecast – oil does go up and down and the Rate Stabilization Plan has worked.

**MR. BOWN:** Yeah.

**MR. HOGAN:** So what was going to change? Why wouldn't it work anymore?

**MR. BOWN:** The price of oil was going to continue to increase.

**MR. HOGAN:** For the first time in history, it was never going to come back down. I mean, come on.

**MR. BOWN:** And then there was the longevity of Holyrood is part of that as well.

**MR. HOGAN:** I'm going to try this again, 01414, maybe. If this isn't it, I'll move on. That's tab 94.

**THE COMMISSIONER:** Book two.

**MR. HOGAN:** Scroll down a little bit, please. Yeah, that was a good guess.

Okay, so this is the email, you looked at this yesterday, I think.

**MR. BOWN:** Yes.

**MR. HOGAN:** Requesting you to come to these meetings.

**MR. BOWN:** Yes.

**MR. HOGAN:** You went to one.

**MR. BOWN:** I went to one.

**MR. HOGAN:** Okay.

Do you know what – can you just give an overview of what the point of these meetings were? They were Nalcor meetings about the Lower Churchill Project, right, in 2012?

**MR. BOWN:** Yes, just an update session around the table with all the leads doing the various elements of the project.

**MR. HOGAN:** And you were too busy to go.

**MR. BOWN:** Those meetings, the ones I went to was really, really long.

**MR. HOGAN:** Yup.

**MR. BOWN:** Some of the discussion was really, really in-depth.

**MR. HOGAN:** Yup.

**MR. BOWN:** And I was deeply involved with loan guarantee and other matters.

**MR. HOGAN:** So did anyone from government attend those meetings?

**MR. BOWN:** No.

**MR. HOGAN:** No one replaced you when you were not able to go?

**MR. BOWN:** No.

**MR. HOGAN:** So you see where I'm going with this. You just said these were really long and in-depth meetings. You know, if someone from government had been at that meeting, it could have provided an extra layer of oversight.

**MR. BOWN:** Likely, but those – again, when I say there were detailed, they were right down in the weeds of design elements of the project.

**MR. HOGAN:** But no one was there at government to hear the details.

**MR. BOWN:** No.

**MR. HOGAN:** Last couple of questions.

You were asked, or it was suggested to you this morning, I think you agreed, there was heightened level of oversight because the premier's office was involved. I think you agreed, did you?

**MR. BOWN:** Heightened oversight in that inside of government we were fully aware that the premier's office was engaged in this file.

**MR. HOGAN:** And there was a lot of trust put in Nalcor.

**MR. BOWN:** Yes.

**MR. HOGAN:** So my question is, if there's an error here in this whole thing or errors or there's something done wrong, and there's extra oversight, where's the failure? Where does the failure lie?

**MR. BOWN:** Which failure – just to be clear.

**MR. HOGAN:** Well, let's – okay, fair enough. If there's a failure on Nalcor's part to advise or to report or to discuss and there's the suggestion that there's a very heightened level of oversight here for this project on behalf of the government.

**MR. BOWN:** Mm-hmm.

**MR. HOGAN:** I guess what I'm putting to you is that, it wasn't enough oversight. It still falls to the shareholder to look at what Nalcor is doing.

**MR. BOWN:** But if you don't receive the information –

**MR. HOGAN:** That's my point, though.

**MR. BOWN:** – which you need, then, regardless of how much oversight you put there, it's not going to resolve that fact.

**MR. HOGAN:** Well, and then it was put to you that if Nalcor acts within its mandate, the shareholder's responsible for that – for those decisions.

**MR. BOWN:** Yes.

**MR. HOGAN:** And I think it was suggested if Nalcor acts without its mandate, the shareholder is not responsible.

**MR. BOWN:** Well, there's going to be – no. You're –

**MR. HOGAN:** Okay.

**MR. BOWN:** What I said was if –

**MR. HOGAN:** No, I'm not saying you said it.

**MR. BOWN:** No.

**MR. HOGAN:** Yeah.

**MR. BOWN:** I didn't say that.

**MR. HOGAN:** Yeah.

**MR. BOWN:** If they acted outside their mandate, then the government, Cabinet, has tools within its ability to rectify that.

**MR. HOGAN:** Exercising their oversight role.

**MR. BOWN:** Exercising their oversight role, remove the CEO, remove the board directors.

**MR. HOGAN:** Right. So the oversight role should catch things that are – when people are acting outside of the mandate.

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. So, ultimately, at the end of the day, regardless of what was done, it does fall on the government to exercise that oversight.

**MR. BOWN:** Well, if there's activity outside the mandate, as determined here, then government has to act on that.

**MR. HOGAN:** And heightened level of oversight or not, still oversight has to be applied, doesn't it?

**MR. BOWN:** Yes.

**MR. HOGAN:** Okay. That's all the questions I have.

**MR. BOWN:** I agree with you.

**MR. HOGAN:** Thank you.

**THE COMMISSIONER:** Thank you.

All right, it's 12:30 now, so we'll take our break.

Next is NunatuKavut Community Council.

Were you planning to go back today or you're okay, Mr. Ryan?

**MR. RYAN:** Sorry, Commissioner, do you mean –

**THE COMMISSIONER:** I don't know if you were – are you going back to Nova Scotia or are you here?

**MR. RYAN:** I am returning to Nova Scotia, but I should be fine.

**THE COMMISSIONER:** Should be fine. Okay.

So we'll come back, then, at 2 o'clock this afternoon.

**CLERK:** All rise.

### Recess

**CLERK:** All rise.

This Commission of Inquiry is in session.

Please be seated.

**THE COMMISSIONER:** Okay.

The NunatuKavut Community Council?

**MR. RYAN:** Good morning, Mr. Bown.

My name is Victor Ryan and I'm counsel for NunatuKavut Community Council, which, as you may know, is an organization that represents Inuit in South and Central Labrador.

Before we begin, Commissioner, I just wanted to flag an issue with respect to the disclosure for Mr. Bown. I believe there was a, like, a technical glitch, which appears to be, you know, no fault of anyone. But I was unable to access a portion of the disclosure for Mr. Bown until yesterday,

and it was – I don't believe the entirety of the disclosure, but it was a fairly significant portion; sufficient, that I was not able to look through the entirety of it between yesterday and now.

Just wanted to put it on the record and raise it in the event that there is an issue that arises from one of those documents. Certainly, would like to reserve the right to question Mr. Bown in any capacity with respect to those.

**THE COMMISSIONER:** So, is this something you've brought to the attention of counsel here?

**MR. RYAN:** So, I just spoke with Commission counsel briefly about this right now, but, yesterday, all of Commission counsel and administrative staff were made aware of it. It's rectified. It's rectified for the additional two witnesses for the rest of Phase 1. So, I think, moving forward, it's not going to be a problem, just with respect to this one witnesses – the time between the completion –

**THE COMMISSIONER:** Mmm.

**MR. RYAN:** – of the disclosure and cross-examinations. It's just not enough time to –

**THE COMMISSIONER:** Right.

**MR. RYAN:** – review all of the documents.

**THE COMMISSIONER:** Okay, so – Mr. Learmonth?

**MR. LEARMONTH:** We did speak about it, and as I explained, there's – it's just an oversight – a breakdown in our system delivery system. It hasn't happened very often, but there's no real reason for it other than to say there was a breakdown in our system, and we will, of course, try to make sure it doesn't happen again.

**THE COMMISSIONER:** So, is this a technical breakdown, or –?

**MR. LEARMONTH:** No, it's just a – procedures in the office didn't work out. There was a delay for these two counsel, and we're sorry about it, but there's nothing we can do about it now.

**THE COMMISSIONER:** All right. And delay for two counsel, did you say?

**MR. LEARMONTH:** Yes, Ms. Urquhart, also.

**MS. URQUHART:** Yes, (inaudible).

**THE COMMISSIONER:** Same for you? Okay.

I'm just trying to think now how to rectify this, if need be. Once you had an opportunity to review the documents – and this will be the same for Ms. Urquhart as well – not sure I'm going to have time to bring Mr. Bown back, but somehow, someday, obviously, I've got to give you the opportunity to, if you have questions about documents, to provide that. I'm not exactly sure how I'm going to do that right at the moment, but I'm going to try to be creative if I need to be.

Mr. Fitzgerald?

**MR. FITZGERALD:** Yeah, Commissioner, I just want to point out that Mr. Bown is currently on the oversight Committee. He was involved in oversight. He may be a witness in Phase 2.

**THE COMMISSIONER:** Yeah.

**MR. FITZGERALD:** And if these documents do come up they might have an opportunity to ask him on at that point in time. Just throwing it out there.

**THE COMMISSIONER:** That might be one option. I'm still not certain that Mr. Bown is going to be a witness in Phase 2. But anyway, it's – that's a question I need to look at a little bit down the road to be quite honest with you.

But in the meantime, you know, we'll work it out somehow, someday for both you and for Ms. Urquhart if something does arise. Okay, just can you make sure you allow – let Mr. Learmonth or Ms. O'Brien know?

**MR. RYAN:** Yes.

**THE COMMISSIONER:** Okay, perfect. Sorry about that.

**MR. RYAN:** That's not a problem. Thank you, Commissioner.

So, Mr. Bown, I'm going to focus my questions on the environmental assessment process.

**MR. BOWN:** Sure.

**MR. RYAN:** And I just wanted to start off by asking if you could please describe for the Commissioner, in your view, what was the Government of Newfoundland and Labrador's mandate with respect to the environmental assessment process?

**MR. BOWN:** That's a difficult question for me. I guess that was led by the Department of Environment. So they had the mandate to do the environment assessment in concert with the Government of Canada. They developed the guidelines. I didn't have part of developing the guidelines. And that was done, again, as a – in partnership with the Government of Canada.

**MR. RYAN:** Okay. But you're a civil servant and you had some interaction with the environmental assessment process. I'm just wondering if you can give us a view to how – what the government would consider its mandate going through an environmental assessment process.

**MR. BOWN:** They would be following the legislation, the environmental assessment act. So this project, no different than any other, would have to comply with the rules and procedures under the environmental assessment act, and because it was shared with the Government of Canada, under the environment act as well.

**MR. RYAN:** Okay. So just following the provisions in the relevant legislation.

**MR. BOWN:** Absolutely.

**MR. RYAN:** Can you give the Commissioner a view to what you believe Nalcor's mandate was going through the environmental assessment process?

**MR. BOWN:** I guess their mandate would be to respond to the guidelines that were publishing within the environment act and within the environmental assessment act. There are requirements for filing of documents as well. And once the panel was established, to respond to the requirements of the panel.

**MR. RYAN:** And do you see those two mandates as substantially similar, identical, quite different?

**MR. BOWN:** They are different. One is a regulatory role, one is responsibility of a proponent to fulfill the requirements of the environmental assessment process.

**MR. RYAN:** Are they complimentary or do they conflict with each other?

**MR. BOWN:** That would be complimentary. In order –

**MR. RYAN:** Okay.

**MR. BOWN:** – in order to achieve one you have to do the other.

**MR. RYAN:** Okay.

Madam Clerk, if we could please bring up exhibit P-00097, which, unfortunately, Mr. Bown, is not in your paper documents.

So this is the Nalcor document in advance of Decision Gate 2, and it's the Project Risk Analysis.

**MR. BOWN:** Mm-hmm.

**MR. RYAN:** Page 65, please, Madam Clerk.

So would you have had an opportunity to review this around the time of DG2?

**MR. BOWN:** No.

**MR. RYAN:** No. Have you ever reviewed this document?

**MR. BOWN:** No, I have not.

**MR. RYAN:** Okay. So this is – as I understand it – a document that Nalcor created to identify and plan around strategic risks in advance of DG2.

**MR. BOWN:** Mm-hmm.

**MR. RYAN:** And this document was updated subsequently post-DG2 to reflect steps taken. And so there are some introductory body in this

report and then this portion that we're in now is a breakdown of each identified strategic risk and some analysis of that strategic risk.

And so this is R14, so the 14th strategic risk. And the risk title is: "Securing generation project release from Environmental Assessment."

And the risk descriptions says: "As a result of a lack of information in the Generation EIS" – environmental impact statement I'm assuming – "a legal challenge to the" environmental assessment process "by Hydro Quebec, or Aboriginals claiming insufficient consultation, could result in a schedule slippage for achieving" environmental assessment "release and hence a delay in Project Sanction."

And then below that Nalcor gives four principal root causes that may account for this delay. And I was hoping, Mr. Bown, that you could just read out the fourth one, it's just the last one.

**MR. BOWN:** "Inaction, indecision and political interference as a result of conflicts between Nalcor and Province's mandates. We are encumbered."

**MR. RYAN:** Are you able to shed some light for the Commissioner on what this root cause might mean?

**MR. BOWN:** I have no idea. I don't understand the context for that.

**MR. RYAN:** Right. So you, in your role as – at this time, are you deputy minister of Natural Resources? I think this document is –

**MR. BOWN:** No, I was the assistant deputy minister.

**MR. RYAN:** Assistant deputy minister. And you would've had fairly significant contacts with Nalcor at this time, is that correct?

**MR. BOWN:** Put in that context, yes.

**MR. RYAN:** Do you take issue –

**MR. BOWN:** Significant is –

**MR. RYAN:** – with the fact that there were significant contacts or –?

**MR. BOWN:** Well, I don't know if they were significant. I had other duties as well.

**MR. RYAN:** Was this your main duty?

**MR. BOWN:** No.

**MR. RYAN:** Okay.

**MR. BOWN:** Absolutely not.

**MR. RYAN:** Was this – was it the plurality of your duties?

**MR. BOWN:** No, this was just one of the duties that I had at that time.

**MR. RYAN:** Just one of them?

**MR. BOWN:** Yes.

**MR. RYAN:** Okay.

So you have no idea what the conflict between Nalcor and the province's mandate could mean at all?

**MR. BOWN:** That's the first time I've ever heard – read that phrase.

**MR. RYAN:** Okay.

So at no point did anyone from Nalcor ever come to you to complain about a conflict of mandate, to complain about Nalcor being encumbered by the government?

**MR. BOWN:** No. No.

**MR. RYAN:** Okay.

**MR. BOWN:** The answer's no.

**MR. RYAN:** And you never heard anyone else receive that kind of conversation from Nalcor?

**MR. BOWN:** No. Not in my presence, no.

**MR. RYAN:** All right.



So I've asked a few people about this document, a few people from Nalcor, and no one else, so far, has been able to explain what political interference from government was.

However, Gilbert Bennett, while, to be fair, he did say he wasn't personally aware of what this might mean, speculated that it could be that certain employees of Nalcor were eager to completely mitigate any risks and were willing to have conversations about accommodating stakeholder interests and that the government's slower pace might account for the frustration from some people at Nalcor, that might be the conflict of mandate – in mandate.

Is that something that you saw in your time around the environmental assessment process?

**MR. BOWN:** No. Government's mandate was very clear in establishing the guidelines and consultation, so I didn't see a conflict.

**MR. RYAN:** Okay.

So at no point did – were you party to a conversation where Nalcor wanted to advance negotiations or the settling of any sort of stakeholder interests or issues, and government preventing that?

**MR. BOWN:** No. Never.

**MR. RYAN:** Okay.

I'd just like to move on to the Joint Review Panel report, and that's at Exhibit – it's P-00041, and I also don't believe that it's in your documents.

**THE COMMISSIONER:** No, it's not.

**MR. RYAN:** But maybe – actually, Madam Clerk, if we could just go to Exhibit P-00051 instead, and this is the Government of Newfoundland and Labrador's response. And it's at tab 65, volume 2.

So, Mr. Bown, you're familiar with the JRP report?

**MR. BOWN:** Yes.

**MR. RYAN:** And you had some hand in the drafting of the Government of Newfoundland and Labrador's response, correct?

**MR. BOWN:** I would've reviewed the response that came forward.

**MR. RYAN:** Can you tell the Commissioner if, at the time the JRP report was released, it was the view of the Government of Newfoundland and Labrador that the issue of consultation with Indigenous groups was concluded?

**MR. BOWN:** I can't speak to that. I wouldn't be able to give you that acknowledgment.

**MR. RYAN:** Okay.

**MR. BOWN:** Again, that would be resting within, I guess at that time, the Labrador and Aboriginal Affairs, currently Indigenous Affairs, within the – I think there was a minister at that time – currently the premier, so I wouldn't have an insight into whether there was a belief that consultation had concluded.

**MR. RYAN:** But you certainly would have worked with that ministry in the preparation of this response, would you not?

**MR. BOWN:** In our – in this response here?

**MR. RYAN:** Yes.

**MR. BOWN:** I don't believe so. I think they would at some point would have reviewed this, but they wouldn't have participated in our specific response. It was prepared by the staff within the Department of Natural Resources.

**MR. RYAN:** Okay, so maybe I'll just repeat that just so I have it clear. So the Joint Review Panel report comes out. It's a, I think, 350-, 380-page document.

**MR. BOWN:** Mm-hmm.

**MR. RYAN:** Pretty wide ranging, has a number of recommendations about, you know, the environmental impacts of the project to the air, the water, the land. There's some economic discussions in there, both on a macroeconomic sense of is this in the best interest of the province, but also in the microeconomic sense of

what does this mean for your average worker in Happy Valley-Goose Bay, in Mud Lake, in North West River and Sheshatshiu, has a number of recommendations and findings about Indigenous consultation, and the Government of Newfoundland and Labrador's response was solely drafted by the ministry of Natural Resources.

**MR. BOWN:** No. That wouldn't –

**MR. RYAN:** Okay.

**MR. BOWN:** – be correct.

**MR. RYAN:** So –

**MR. BOWN:** The government of – if I could explain?

**MR. RYAN:** Sure.

**MR. BOWN:** I believe I shared this in testimony yesterday or the day before – the day previous – that the panel report as received came into government. It was allocated to those departments that had responsibilities for particular recommendations, so there was a deputy minister steering committee; there was a – and inside each department there was an intergovernmental working group of officials, and within each – inside each department, there was a working group to deal with each of the recommendations.

So it was the entire document was divided up throughout government.

**MR. RYAN:** And who drafted the response?

**MR. BOWN:** From Natural Resources, it would have been our staff. The response as a whole would have been an aggregate of all responses that came from each department through to the Department of Environment, who would have brought that to Cabinet for approval.

**MR. RYAN:** Okay. So the ministry of Natural Resources, the JRP panel report comes out, someone, in government, says 10 recommendations are related to you, please respond to them, and then I will Frankenstein's monster all of the recommendations from all of the ministries into one document.

**MR. BOWN:** So the Department of Environment and Conservation, at the time that was their name, that was their role. They were the coordinator of the environmental assessment.

**MR. RYAN:** Okay.

So you, in drafting – and, when I say you, I mean the ministry of Natural Resources – had no contact with any other government ministries when you were drafting your portions of this response?

**MR. BOWN:** No. We would have drafted our pieces individually. They would have come together inside the Department of Environment.

**MR. RYAN:** Okay.

Well, I think that's very interesting, Mr. Bown, because I'll put it to you, as I read the government's response to the Joint Review Panel report, it doesn't read to me like a very fulsome response to a very sweeping document that is the JRP report. Are you aware of any conversation within government where civil servants would have brought up the possibility of responding to the JRP report in a more integrated way that maybe reflected a careful attention to the JRP report instead of this piecemeal process?

**MR. BOWN:** No. This – the process for how it was going to be responded to by each department came from the Department of Environment. So here's how – we allocate those – these recommendations to you, here's how we want you to respond, here's a template, and we want you to respond to that template.

**MR. RYAN:** Okay.

And so your ministry and other ministries that aren't the ministry of Environment and Conservation had no say in how the government would respond to the JRP report?

**MR. BOWN:** No. We dealt with each other's – dealt with our own recommendations.

**MR. RYAN:** Okay.

Have you read the federal government's response to the JRP report?

**MR. BOWN:** Quite some time ago – a long time ago.

**MR. RYAN:** Okay. I don't know that it's really important to bring it up, but if you – maybe I'll ask: Do you remember that response being quite a bit more detailed than the Government of Newfoundland and Labrador's response?

**MR. BOWN:** No, I don't. No, it's been a long time since I've seen that.

**MR. RYAN:** Okay.

Well, maybe we'll just bring it up, then, very quickly, Madam Clerk. It's Exhibit P-00050. So the Government of Newfoundland and Labrador's response, there's no preamble, there's no introduction; there's no actual body of response to the JRP report.

**MR. BOWN:** Mm-hmm.

**MR. RYAN:** It is simply a list of the recommendations and whether or not the government accepts or rejects or accepts the intent or spirit of the recommendation. Correct?

**MR. BOWN:** Yes.

**MR. RYAN:** And so this is the Government of Canada's response to the JRP report. And maybe if we can just scroll through the first one or two pages, Madam Clerk. So you'll see that the federal government actually sort of, I would characterize, gives some thought to how they would respond to this Joint Review Panel report. Not merely accepting or rejecting recommendations, but it seems that someone in the federal government sat down and did a little bit more strategic thinking about how they would respond to the JRP report than the Government of Newfoundland and Labrador. Is that a fair assumption?

**MR. BOWN:** There's a difference between how both reports were prepared, yes.

**MR. RYAN:** The federal government report is – would you say it's more comprehensive?

**MR. BOWN:** I haven't read it in a while. It's more text as it relates to the background and the process. The Government of Newfoundland and

Labrador's response was a direct response to each of the recommendations presented.

**MR. RYAN:** Did anyone in the ministry of Natural Resources ever – I believe you've already answered that question, really.

So in the Joint Review Panel report, the JRP – the Joint Review Panel itself, it's not a recommendation, but they note that the information that they had concerning current land and resource use by members of NunatuKavut was uncertain. That finding or that notation is not reflected at all in the Government of Newfoundland and Labrador's response to the JRP.

Without – obviously you haven't reviewed the Government of Newfoundland and Labrador's response in a while, but if you accept that, is that not an example of how the Government of Newfoundland and Labrador's tactics in responding to the JRP report missed or omitted important, what I would call, findings from the JRP report?

**MR. BOWN:** The best that I can do is speak for the Department of Natural Resources on how we prepared our response in the format that was prescribed by the Department of Environment. And it was the Department of Environment who gathered all the responses together in their own Cabinet documents, which they brought to Cabinet, which was, in turn, the response to the panel. So I can't answer your question for the government; I can only respond to questions direct to our response in the Department of Natural Resources.

**MR. RYAN:** That strikes me as a bit of a – too fine a point on it. I mean, you're here giving testimony as the assistant deputy and then deputy minister of the Department of Natural Resources, which I believe you've already given testimony was the lead ministry with respect to the creation of Muskrat Falls. So it's your answer, then, that you can't give any response about the drafting of this document on behalf of government, you can only speak to the Department of Natural Resources?

**MR. BOWN:** You're correct.

**MR. RYAN:** Okay.

Do you think that maybe the fact that so many different government ministries have so many different lead responsibilities in the lead up to this project, might make it a little bit difficult to determine who exactly shouldered the ultimate responsibility for the project?

**MR. BOWN:** In this particular exercise, the environmental assessment, it was the regulator who had the responsibility and it was Department of Environment.

**MR. RYAN:** Sure. I – surely though, you are in a position to say that if there were portions of the JRP report that were not recommendations that related to the ministry of Natural Resources, the ministry of Natural Resources, in helping to prepare the government’s response, would not have responded to those?

**MR. BOWN:** I can – honestly, the best that I can speak to – I’m trying to be helpful – is that this was a prescribed process, very prescriptive, laid out before the process even started. And we followed through with that prescription on how we responded to the each of the recommendations. The responsibility for government’s response rested with the Department of Environment.

**MR. RYAN:** Yes, Mr. Bown, but I think I have your point on that. I’m not asking you who bears responsibility for making that decision, my question is: If the ministry of Natural Resources responded to the JRP report solely to the recommendations, that means that anything in the JRP report that related to the ministry of Natural Resources that wasn’t contained explicitly in the recommendation would have gone unanswered by the Government of Newfoundland and Labrador.

**MR. BOWN:** I can’t recall if there was anything related to the Department of Natural Resources that wasn’t assigned to the department for a response.

**MR. RYAN:** Well, you haven’t read the JRP report in quite a while, I’m assuming.

**MR. BOWN:** But I have to assume that when we went through the process as a whole it was appropriately assigned.

**MR. RYAN:** Why do you have to assume that?

**MR. BOWN:** Because that was the responsibility of the Department of Environment. We reviewed the document and we understood very clearly which of the recommendations were associated with the Department of Natural Resources.

**MR. RYAN:** I thought that they – the Department of Environment simply told you which responses –

**MR. BOWN:** They did.

**MR. RYAN:** – to recommendations to review.

**MR. BOWN:** Yes, they did.

**MR. RYAN:** So is it that the ministry of Environment told you which recommendations to respond to, or did the ministry of Natural Resources take a careful review through the JRP report to determine exactly what needed to be responded to?

**MR. BOWN:** It was the former.

**MR. RYAN:** Okay, I feel like that’s inconsistent with what you just said, which is that someone from the ministry of Natural Resources would’ve had to review the whole document to make sure that everything was covered.

**MR. BOWN:** I didn’t say that. I just said we would’ve looked at the document as a whole. We would’ve understood what was the responsibility of our own because it was prescribed to us. That was how I answered your question.

**THE COMMISSIONER:** I think the question – if I can help you, Mr. Ryan, because I think you’re missing the point of the question. The question is that it’s clear from the responses that DNR responded to certain recommendations that were assigned by the Department of Environment. We all got that.

**MR. BOWN:** Yes.

**THE COMMISSIONER:** Okay? The issue that Mr. Ryan is raising is that if it wasn’t a recommendation, but if it was a finding in the

report that did not get into the recommendation, what he's suggesting is then because you were only responding to certain recommendations, you would not have responded to those findings that may have had some relevance to the Department of Natural Resources. Do you understand the question?

**MR. BOWN:** I understand the question.

**THE COMMISSIONER:** Okay, so there's a distinction being made here.

**MR. BOWN:** Yes.

**THE COMMISSIONER:** So the question, then, that Mr. Ryan is asking you is that if you were only given the recommendations to respond to, then – and if there were findings in the report that would relate, that would be relevant to the Department of Natural Resources, would that mean that the report – that the responses would not respond to those findings?

**MR. BOWN:** The answer to your question is, yes. If there was something there and it wasn't covered in the list of recommendations to respond, the answer to your question is yes.

Thank you, Commissioner, for clarifying the question.

**MR. RYAN:** Yes, thank you, Commissioner. And thank you, Mr. Bown.

**MR. BOWN:** Appreciate that.

**THE COMMISSIONER:** That was your question, I assume.

**MR. RYAN:** Yes, that was precisely my question. A more eloquent rendition of it than I could do.

Those are all my questions.

Thank you, Mr. Bown.

**MR. BOWN:** Thank you very much.

**THE COMMISSIONER:** All right.

Thank you, Mr. Ryan.

Ms. Urquhart. Grand Riverkeepers, Labrador Land Protectors?

**MS. URQUHART:** Good afternoon, Mr. Bown.

So I'm Caitlin Urquhart, and I'm the – I'm counsel for Grand Riverkeeper Labrador and the Labrador Land Protectors.

**MR. BOWN:** Good afternoon.

**MS. URQUHART:** So you may be familiar with them. They're a citizens organizations in Labrador that are dedicated to protecting the ecological integrity of the Grand River, now referred to as the Churchill River.

So I have a few questions; similar to Mr. Ryan, my questions mostly centre around the environmental assessment and the process surrounding the responses and the process itself.

So in response to Mr. Ryan's questions, you were just saying there was a prescribed process when – August 25, the JRP releases their report with their 83 recommendations, and there was a prescribed process as to how you were to address them.

Can you describe that a little bit for me? What was the process?

**MR. BOWN:** That the Department of Environment allocated the recommendations by department or agency and provided a template to fill in, and then the specific responses – the categories of responses that we would use.

**MS. URQUHART:** Okay, and then what happens to them?

**MR. BOWN:** Sorry.

So the departments would – departments and agencies would complete their responses, it would get approved by the minister. And I think in the documents here there is the briefing note from the department – or decision note, I should say, approving those recommendations. The minister would approve those; that would be sent to the Department of Environment where it would be – all the responses from departments and agencies would be pulled together into one response. And then a Cabinet paper would be

submitted on behalf of the department – or by the Department of Environment to Cabinet to approve the responses to the recommendations.

**MS. URQUHART:** So in that process, I'm expecting there's a lot more, sort of, toing and froing. You know, were you – was the Department of Natural Resources working with the Department of Environment? Was there collaboration? Was there communication between the departments about how you were gonna address these issues?

**MR. BOWN:** I think in the – there was an interdepartmental working committee.

**MS. URQUHART:** Okay.

**MR. BOWN:** But I think that their role would be just to help the departments understand how best to respond. So there were certain phrases that were used in each of the responses. And I think there was – what they would do is help the departments understand how best that they could use those phrases in their response.

**MS. URQUHART:** Well, we've heard previously that there was some sort of an environmental assessment committee. Is that –

**MR. BOWN:** Yes.

**MS. URQUHART:** – would that be your understanding?

**MR. BOWN:** Yeah.

**MS. URQUHART:** This is like a committee that's established in order to respond to the recommendations.

**MR. BOWN:** Yeah, sorry. I referred to it as an interdepartmental committee, but it wasn't – it is under – I guess under their structure would be an environmental assessment committee.

**MS. URQUHART:** And in effect their –

**MR. BOWN:** Yes.

**MS. URQUHART:** – it's a committee made up of various different people from different departments, so –

**MR. BOWN:** Yes, correct.

**MS. URQUHART:** – it's one in the same. Okay.

I'm just trying to – you know, as we've – we're hearing testimony from various different people and people use different terminologies.

**MR. BOWN:** Sure.

**MS. URQUHART:** So I'm trying to, sort of, determine – figure out whether we're all talking about the same thing or we're talking about different things. So that's the EA committee that was referred to. Okay.

And so was it part of the process – the prescribed process to meet with Nalcor?

**MR. BOWN:** No.

**MS. URQUHART:** So, Madam Clerk, can we go to P-01534?

**MR. BOWN:** (Inaudible.)

**MS. URQUHART:** So as we noted, the JRP –

**THE COMMISSIONER:** Tab 167, book 4.

**MS. URQUHART:** Sorry, thank you –

**THE COMMISSIONER:** No problem.

**MS. URQUHART:** – Commissioner.

So this is an email that was sent from Dawn Dalley at Nalcor on August 26, so the day following the JRP report –

**MR. BOWN:** Yes.

**MS. URQUHART:** – the release of the JRP report. The subject line is: "Ed's notes from this afternoon." And attachment: "LCP - EA Panel Report – Response ...."

And we have Glenda Power, Milly Brown, Heather Maclean and yourself –

**MR. BOWN:** Yes.

**MS. URQUHART:** – this was sent to.

So did you attend the meeting the day following the release of the report with Ed Martin?

**MR. BOWN:** I don't recall. Actually, I'd like – is there more here?

**MS. URQUHART:** Yeah, you can scroll down –

**MR. BOWN:** Commissioner, sorry, I didn't –

**MS. URQUHART:** – the following page is the notes from the meeting.

**MR. BOWN:** – (inaudible).

**THE COMMISSIONER:** Tab – book 4, tab 67 or 167.

**MR. BOWN:** This looks like a document that was provided by Nalcor just advising us. Glenda Power would be Communications in the premier's office, Milly Brown would be the communications director in the communications secretariat, Heather Maclean being the communications director at Natural Resources. And myself, of course.

They had sent us a copy of remarks that Mr. Martin was going to make – no, or –

**MS. URQUHART:** I think that he –

**MR. BOWN:** – or had made.

**MS. URQUHART:** – he had made.

**MR. BOWN:** He had made.

**MS. URQUHART:** So were you present at that meeting?

**MR. BOWN:** This looks like something he did in public, so this – not that there was a meeting. Either this was a speech or scrum or media – it doesn't look like meeting notes. It says: "Good afternoon. Welcome everyone."

**MS. URQUHART:** Yes. And if we go back to the beginning though it's the notes from –

**MR. BOWN:** "Ed's notes from this afternoon."

**MS. URQUHART:** This afternoon, and from his response.

So why would Ed Martin be sending you his notes about his thoughts and in response to the JRP?

**MR. BOWN:** Part of their normal process to keep us aware of the things they would say in public.

**MS. URQUHART:** And so do you think that it's appropriate for them to be sending you – you know, before you even had an opportunity to review the document – to be sending you what their thoughts are on the JRP report?

**MR. BOWN:** It wasn't requested, but I understand that over the years part of the protocol was if they were speaking in public, they had public messaging, that they would at least let the premier's office know what they were saying.

**MS. URQUHART:** Okay. And so –

**MR. BOWN:** And it didn't matter the topic – I'm sorry for interrupting.

**MS. URQUHART:** No, that's fine. You're allowed to finish your –

**MR. BOWN:** Yeah.

**MS. URQUHART:** So I guess my next question, is it – was it normal practice or part of this prescribed process that you would send drafts of the recommendations to Nalcor for their review and response?

**MR. BOWN:** I don't recall ever sending a draft of a response to Nalcor.

**MS. URQUHART:** If we can go, please, to P – oh, I think that's the wrong one, sorry. Let me just grab it here. So actually, I'll start first – we have 01401.

**THE COMMISSIONER:** 01401, that's tab 59 in book 2.

**MR. BOWN:** Yes. I'm familiar with this – I looked at this in the Exhibits.

**MS. URQUHART:** Right. So this is Gilbert Bennett; it's an email that –

**MR. BOWN:** Yeah.

**MS. URQUHART:** – that he sent to you. The subject is: “thinking.” And it indicates here his thoughts or response directly to the recommendations of the –

**MR. BOWN:** Yeah.

**MS. URQUHART:** – Joint Review Panel.

**MR. BOWN:** Yeah.

**MS. URQUHART:** So do you think that that's appropriate? That somebody at Nalcor is directly contacting one of the leads of the government's response to the JRP to say: Here's where I'm thinking we're going here?

**MR. BOWN:** Yeah, I don't recall ever seeing it. But when I looked at it I recall saying: This is – wouldn't be appropriate. This was unsolicited and not something that I would encumber our team with.

**MS. URQUHART:** And if we can go to 01487, please?

**THE COMMISSIONER:** 01487 – that one you're going to have look at on the screen.

**MR. BOWN:** Okay.

**MS. URQUHART:** Apologies.

So this is a note here and if you scroll down, please, Madam Clerk? So this is a note sent from Paul Scott to Gilbert Bennett and Dawn Dalley –

**MR. BOWN:** Okay.

**MS. URQUHART:** – as well you're cc'd and Vanessa Newhook, who I'm not familiar with. But in any event –

**MR. BOWN:** Vanessa was the assistant deputy minister of Royalties and Benefits.

**MS. URQUHART:** Okay.

So in this case we have Paul sending to Gilbert: “Below is an addition to the current language in the response rationale on Recommendation 12.12. Charles just received it and we'd appreciate your thoughts.”

**MR. BOWN:** Okay.

What is 12.12?

**MS. URQUHART:** So we can scroll down and you can see. It's “Modifications to the Benefits Strategy.”

**MR. BOWN:** I understand.

**MS. URQUHART:** So can you – do you have any – obviously someone from your department appears to have been sending it, because you'd appreciate Gilbert Bennett's thoughts on the government's response to this issue.

**MR. BOWN:** Yeah, but that doesn't look like it was at my request. I reviewed it.

**MS. URQUHART:** And you're cc'd on it –

**MR. BOWN:** Yes.

**MS. URQUHART:** – and it's one of your staff people –

**MR. BOWN:** Sure, I understand.

**MS. URQUHART:** – so how did you respond when you saw that? That that was going out?

**MR. BOWN:** Hmm. That was a surprise to me.

**MS. URQUHART:** So were other departments also communicating with Nalcor in their response?

**MR. BOWN:** I don't know. I don't know the answer to that.

**MS. URQUHART:** I'm just going to – if we can go, Madam Clerk, please to 01601?

**THE COMMISSIONER:** That'll be on the screen.



**MS. URQUHART:** So this is a Matrix for NL Response to Recommendations, it's dated October 26, 2011 –

**MR. BOWN:** Yes.

**MS. URQUHART:** – and I'm just going to note for the record that this came from the Government of Newfoundland and Labrador disclosure.

**MR. BOWN:** Yes.

**MS. URQUHART:** And I'm just noting when I – you know, it's quite – it's within – understanding that August is in the middle of summer, and so people are getting back in the swing of things and they're, kind of, decided –

**MR. BOWN:** Yeah.

**MS. URQUHART:** – to put together a matrix of who's going to respond to what. So I suspect this is, sort of, what you would have received once the Department of Environment had gone through and said: Okay, we're going – Natural Resources is going to take on 4.1, 4.2, 4.3, 4.4 – you've got all these ones, right?

**MR. BOWN:** Yes.

**MS. URQUHART:** And they filled it in saying – indicating who's going to respond to what.

**MR. BOWN:** Yes.

**MS. URQUHART:** And then if we can go to the following exhibit which is – and actually Madam Clerk, if you don't mind just scroll through – just so you can get a sense, like it's completely filled out –

**MR. BOWN:** Yes.

**MS. URQUHART:** – all of these have been filled in and it's three pages there, so –

**MR. BOWN:** Okay.

**MS. URQUHART:** – you can just see that.

And we can go to the following exhibit which is 01602, and now the difference here is this

actually came from the disclosure we received from Nalcor.

And so this is a similar heading indicating November 1 – so some time later. And what I'm noting here is that a number of the departments have been, sort of, removed or moved out of this – out of the columns.

Do you have any information as to why some of those would've been sort of, (inaudible) around or taken – a lot of departments would've been taken out of there?

**MR. BOWN:** No, I don't. This would've come from the Department of Environment?

**MS. URQUHART:** Okay.

So unfortunately, we don't have anyone from there to speak on behalf of that. And as you've indicated, you don't have the same – you don't – you didn't have a relationship where you would know exactly what was going on in their department at all times.

**MR. BOWN:** Correct.

**MS. URQUHART:** Okay, so – and I just note that this one came from Nalcor.

Is there any reason why this would've been sent to Nalcor?

**MR. BOWN:** No idea.

**MS. URQUHART:** Okay.

During the JRP process, to your knowledge, were – did any of your staff send presentations that they were going to provide to the Joint Review Panel, to Nalcor?

**MR. BOWN:** I would be – from my department?

**MS. URQUHART:** Yes.

**MR. BOWN:** That would be me.

**MS. URQUHART:** Okay, so you – because you're the primary point of contact.

**MR. BOWN:** I was the one who made the presentation.

**MS. URQUHART:** You – so there was only one presentation from the Department of Natural Resources to the JRP?

**MR. BOWN:** I apologize, the Department of Natural Resources at that time included Forestry and Agrifoods.

**MS. URQUHART:** Yes.

**MR. BOWN:** Right.

**MS. URQUHART:** Yeah, so do you – are you aware – I mean, I know that there's a number of folks who also would've been either ADMs or other scientists who – I know a number of scientists presented.

Do you have any information or were you ever aware that anyone provided their presentations to Nalcor in advance of their presentation to the JRP?

**MR. BOWN:** I don't recall.

**MS. URQUHART:** Okay.

**MR. BOWN:** But I don't.

**MS. URQUHART:** So you said in response to Mr. Learmonth the other day, not everyone agreed with Nalcor's proposals or – I can't remember exactly whether it was proposals or positions – in response to the JRP. Some did not support – I took that to mean Nalcor's position.

**MR. BOWN:** Mm-hmm.

**MS. URQUHART:** So it was apparent – I would put to you – that it was apparent within the department, what Nalcor's position was on a – you know – various different issues on the recommendations.

Is that correct?

**MR. BOWN:** Yeah, we would've had a view. Yes.

**MS. URQUHART:** You would've – I mean, you were in daily or weekly –

**MR. BOWN:** Yes.

**MS. URQUHART:** – contact with them, you knew what they – what their position was.

**MR. BOWN:** Yes, we would've had a view on some but not all. But yes.

**MS. URQUHART:** And so when you say not everyone agreed – because I understood you to be saying, I think, that we heard evidence from Minister Kennedy that we – sort of – adopted or had taken on the position that Nalcor had put forward.

**MR. BOWN:** Yes.

**MS. URQUHART:** And so, I took you to be saying well not on everything but some things you were aligned on.

**MR. BOWN:** Yes.

**MS. URQUHART:** Okay.

So, how was it that it came to be known by the government officials? Is it just because you had that close relationship that you knew what their position was or were there – I mean obviously there was some communications in the interim?

**MR. BOWN:** It would have just the nature of the content, that's all.

**MS. URQUHART:** I mean they obviously had meetings –

**MR. BOWN:** Yes.

**MS. URQUHART:** – for example, on full clearing is a – a rather straightforward one and I know that that was the full clearing of the reservoir so removing all the trees was something that had been discussed between departments. We've seen evidence to this effect previously that it had been discussed between the Department of Natural Resources and Nalcor.

**MR. BOWN:** Forestry.

**MS. URQUHART:** Yeah.

**MR. BOWN:** I think the issue there was with determination. There was confusion in the recommendation whether it was all about the clearing for the purpose of methylmercury or clearing for the purpose of economic development of the wood.

**MS. URQUHART:** Yeah, so greenhouse gas and lumber availability.

**MR. BOWN:** Yeah.

**MS. URQUHART:** Okay.

So, in terms of that though, I'm trying to understand your evidence in terms of how folks within the department would have known what Nalcor's position was on that (inaudible). You know, we can use that specific or – but generally on the recommendations.

**MR. BOWN:** On the forestry, I have no idea why. But I guess from us, it would be our general contact that we had with them but it wouldn't be in the fulsome nature of all their thoughts about the panel report. It would have been their tone and their view. And indeed, there were some that the responses that they themselves were responsible for answering as well.

**MS. URQUHART:** And so did you ever receive – bear in mind that there are some documents we didn't get until just yesterday but there is – and I don't know whether it would be in there – but did you ever receive – I know that Nalcor had prepared a review, a strategic review of the recommendations.

Would you have ever seen something like that from them?

**MR. BOWN:** I don't recall seeing that, no.

**MS. URQUHART:** Okay.

So when the project is released, obviously there are a number of these recommendations, which are under the purview of your department – I believe – by the time it's released you were deputy minister.

Is that correct – or shortly thereafter?

**MR. BOWN:** It's was released in 2012.

**MS. URQUHART:** It's released, yeah, March 15, 2012.

**MR. BOWN:** Yes.

**MS. URQUHART:** Okay.

**MR. BOWN:** And I'm deputy in September.

**MS. URQUHART:** Okay.

So, what process was in place to track compliance on those conditions in the release?

**MR. BOWN:** As I understand – as I recall – Department of Environment put a tracking system in place to follow the recommendations. And I think that's the normal course of what they do for all their releases.

**MS. URQUHART:** So that would be including the ones that Department of Natural –?

**MR. BOWN:** Yes, all departments.

**MS. URQUHART:** And so they would, say, have to follow up with Forestry –

**MR. BOWN:** Follow up with –

**MS. URQUHART:** – or have to –

**MR. BOWN:** Yes.

**MS. URQUHART:** – follow up with Energy or whomever to –

**MR. BOWN:** Yes.

**MS. URQUHART:** – confirm that things were complied with?

**MR. BOWN:** Yeah. Again, when the projects were – was released, it's with a set of conditions.

**MS. URQUHART:** Yes.

**MR. BOWN:** Right. And so – and the department, then, is responsible for ensuring that they follow those conditions to ensure they're in compliance with the release from the minister.

**MS. URQUHART:** Okay. Flip over the page.

So you're also discussing conservation – we were talking about conservation and demand management I believe on Wednesday if I'm not mistaken.

So I wanted to bring you if we can, Madam Clerk, please to P-00070. And this –

**THE COMMISSIONER:** On the screen.

**MR. BOWN:** Okay.

**MS. URQUHART:** And so this is a – one of, I believe, seven releases that the Department of Natural Resources – these are publications that were developed to be circulated in the public, and if we go – so this particular one is called Electricity Demand Forecast: Do we need the Power?

And if we go to page 11. If – so I'm just – the Conclusions here indicate "It is clear that we need the power." "To ensure that power is available to all customers, the development of Muskrat Falls will ensure that all sectors have access to reliable and least-cost electricity." And it goes on.

But when I've reviewed this document, not once does it say conserve, reduce, efficient or efficiency. Nowhere in this document does it discuss conservation or demand management, in this entire 16-page publication to the public about why do we need this power.

What would you – what do you – you know, this is a publication from the Department of Natural Resources; you're the assistant deputy minister of Energy.

**MR. BOWN:** Mm-hmm.

**MS. URQUHART:** How can you explain that?

**MR. BOWN:** The focus at that time – and I'm gonna say – it wasn't until – I agree with you. And the question, their own question that was being answered or – was, why do we need to build this? Is there a demand that exists so that we need to build this? That was a very narrow question, and yes, I agree with your point that

CDM – energy efficiency was not included in here.

**MS. URQUHART:** And at this time there was actually a conservation and demand management program that had been initiated, and there was a policy within government to implement a CDM program. So I guess your answer is that it was – the intention was to explain why we need the project?

**MR. BOWN:** Right, that was Minister Kennedy's focus, why we need the project.

**MS. URQUHART:** And so, when I go through these seven releases, there's one – another one which is at P-00073, but we don't need to refer to it, just the title is called Environmental Benefits of Closing Holyrood. But there's not one that says the risks and the environmental impacts of building Muskrat Falls.

**MR. BOWN:** You're correct.

**MS. URQUHART:** Do you find that somewhat problematic?

**MR. BOWN:** Again, we were just responding to – I understand that it wasn't done – that we were responding to the request from the minister to pull together specific papers that he had identified to respond to what was going on in the public debate at that time.

**MS. URQUHART:** So we don't have one of these papers about, say, methylmercury?

**MR. BOWN:** No.

**MS. URQUHART:** That doesn't exist?

**MR. BOWN:** No.

**MS. URQUHART:** And, Madam Clerk, if we can go to P-00051, please.

So this is the Government of Newfoundland and Labrador's response to the JRP.

**THE COMMISSIONER:** Tab 65, book 2.

**MR. BOWN:** I have it.

**MS. URQUHART:** So the Government of Newfoundland and Labrador determined that partial clearing of the trees, of the organic matter, in the reservoir would be sufficient. There's a number of indications throughout the Joint Review Panel that the panel had significant concerns about adverse impacts of methylmercury on downstream waterfowl, fish, seals and, ultimately, the human populations that rely on those animals.

**MR. BOWN:** Mm-hmm.

**MS. URQUHART:** So I have a hard time figuring out how we got to accepting that partial clearing was okay, and I wanted to get your thoughts on that.

**MR. BOWN:** To be clear, just for context, the response, while it was from the Department of Natural Resources, was from the Forestry and Agrifoods branch, which has a – there was a CEO, which is equivalent to a deputy minister, and they had two assistant deputy ministers as well.

So that response, while it comes under the cover of the Department of Natural Resources, there is an equivalent executive team for Forestry and Agrifoods that prepared that response. It's under the Department of Natural Resources 'cause the minister of Natural Resources signs.

**MS. URQUHART:** Okay.

And so, in terms of, for example, if we go to page 28, Recommendation 13.3 – is that it – 13.13.

So research – so this is one of a number of recommendations which are around human health, and how are we gonna address methylmercury, and this is a well-known concern and here are some of the things that we can do.

And so, again, these – this – the response is released, and a number of these are saying we're gonna leave it to the proponent, it's their job to do, they're gonna do their research. That's it.

So how are we ensuring, and what steps – so I understand there's a sort of checklist in place, but is it – my understanding is that the

department is satisfied that we'll leave it to the proponent; you don't think that there is any risk of bias or that there's any need for internal department people to be doing these studies and making – and validating them?

**MR. BOWN:** If I could be helpful?

**MS. URQUHART:** Mm-hmm.

**MR. BOWN:** What you have here is the government's response in full.

**MS. URQUHART:** Yes.

**MR. BOWN:** And this response is not from the Department of Natural Resources.

**MS. URQUHART:** Mm-hmm.

**MR. BOWN:** This would have – I'm uncertain of who this one was directed toward –

**MS. URQUHART:** Mm-hmm.

**MR. BOWN:** – whether it was Department of Environment or Labrador and Aboriginal Affairs.

So –

**MS. URQUHART:** Well, I mean, let me see if I can find one here that's a good example of what was directed to your department, and essentially there are a number of these issues. For example, as I said, full clearing, but there are a series of issues which the government's response has indicated we agree with the intent, and we think Nalcor should do the study.

I used to work in chemical management – the federal Environment. And one of points of pride is that our government scientists do the research to ensure that it's unbiased. We don't accept third party testing; we do our own to make sure that we are confident with those studies.

**MR. BOWN:** Mm-hmm.

**MS. URQUHART:** So what I'm curious about is why in so many of these occasions, that those studies have been permitted to be done by Nalcor.

**MR. BOWN:** I don't have a response for you. I don't know and I'd be very subjective if I was trying to respond. Honestly, I couldn't answer you honestly and clearly.

**MS. URQUHART:** I mean, with the Department of Natural Resources, you're working with these scientists, so I just wondered if there was a sense among people – we've heard from Todd Stanley that people were overworked, there weren't enough people –

**MR. BOWN:** Mm-hmm.

**MS. URQUHART:** – to do the work. You've indicated that this wasn't even your primary, I mean, this is a huge project and this wasn't even your primary job. So is that part of it? Was there a lack of capacity? Just, you know, generally, what was your sense of it? Why were, you know, why were people satisfied to let it go to Nalcor to be done?

**MR. BOWN:** I don't have an answer. I can't answer your question.

**MS. URQUHART:** Okay.

**MR. BOWN:** Sorry.

**MS. URQUHART:** That's okay.

Just check that I've got everything here.

**MR. BOWN:** The Department of Natural Resources doesn't have any scientists.

**MS. URQUHART:** There's no scientists, even in Forestry and Agrifoods?

**MR. BOWN:** Sorry, the current Department of Natural Resources, I apologize, yes, the Forestry and Agrifoods branch. Yes, they have scientists.

**MS. URQUHART:** Would have scientists, right.

**MR. BOWN:** Yes.

**MS. URQUHART:** So that's really, I mean, those are the people who I'm thinking of because that's who most of these types of –

**MR. BOWN:** Yes.

**MS. URQUHART:** – studies would've been required by, right?

So – and you were acting on the instruction from the minister so there's no – and I guess I just want to confirm, sorry I'm going to check this one more time just to make sure that the last – I have one last question. I just want to make sure that you're going to be able to answer it, otherwise I'll just move on.

Sorry, what number is that?

So it says it's – it's a bit unclear to me whether it's Department of Natural Resources. It kind of – seems like it's a bunch of the departments worked together on this one perhaps.

So, when it comes to – and it's on page 29, if we can scroll down please. This is – it was a recommendation – continue please – there was a recommendation from the Joint Review Panel that in the event of a catastrophic failure of a dam, resulting in the loss of property or the loss of life of Labradorians that there would be no fault insurance carried by the proponent in order to compensate those people down river.

If we continue, scroll down, we see that the response of the government was to accept the intent, which was a common phrase within this document, but then actually not agree with it and go for something else, which was that they be required to have insurance for losses as per industry standard and it would only be for losses resulting in the negligence of the proponent.

**MR. BOWN:** Yes.

**MS. URQUHART:** Now, I wonder if, you know, what are your thoughts? How can this be acceptable, that people who live down river of a major hydroelectric project, if it – if any of those dams breaks – if there's a catastrophic failure, people are going to lose their homes, they're going to lose lives. And that's a real risk that they then have to go and prove that there's been negligence on the part of Nalcor.

**MR. BOWN:** So, I'm trying to be helpful –

**MS. URQUHART:** Yeah.

**MR. BOWN:** – in my response. So that responsibility, at that time, and currently does rest with the Department of Municipal Affairs, Emergency Services, and that department is the one who dealt with the issues over the past – the winter before last – dealt with the compensation. Also, the dam safety inspection and monitoring rests within the Department of Municipal Affairs as well. Okay?

Just trying to be helpful.

**MS. URQUHART:** No and, unfortunately, you're in the position of being the person who's here and we're not going to have anyone from any of those departments, so you –

**MR. BOWN:** But hopefully –

**MS. URQUHART:** – getting the questions in the –

**MR. BOWN:** – I can be helpful in at least guiding you to the responsibility.

**MS. URQUHART:** I appreciate that.

Those are all my questions. Thank you.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** All right.

Emera Inc.?

**MS. PHILPOTT:** No questions. Thank you.

**THE COMMISSIONER:** No.

Former Nalcor Board Members?

**MR. GRIFFIN:** No questions, Commissioner.

**THE COMMISSIONER:** Okay.

Newfoundland Power – I'm sorry, Manitoba Hydro International?

**MS. VAN IDERSTINE:** Good Afternoon, Mr. Bown.

My name is Helga van Iderstine. I'm counsel for Manitoba Hydro International.

**MR. BOWN:** Good Afternoon.

**MS. VAN IDERSTINE:** So, I just have some questions to start for clarification.

If Madam Clerk could bring up Exhibit P-00770. And I –

**THE COMMISSIONER:** Tab 92, book 2.

**MS. URQUHART:** Thank you.

And just scroll down to the second page there. Stop.

So, this is the agreement that was ultimately signed with Manitoba Hydro International and you'll see that the – Her Majesty in the Right of Newfoundland and Labrador is identified as the client and MHI is identified as the Consultant. Do you see that?

**MR. BOWN:** Yes.

**MS. URQUHART:** And now Ms. Best asked you a question about comment third on page 14 of this document. If you can go down – we can go down to that. So these are general terms and conditions, do you see that?

**MR. BOWN:** Yes.

**MS. URQUHART:** I gather those are standard terms and conditions that can find their way into every contract.

**MR. BOWN:** This – the majority of the body of this contract is standard terms and conditions –

**MS. VAN IDERSTINE:** Okay.

**MR. BOWN:** – of a government contract.

**MS. VAN IDERSTINE:** And, so, if we look at that one, in particular, it talks about information supplied by the client, and that would be the Government of Newfoundland and Labrador.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And my information is – and perhaps you can correct me if I'm wrong – is that Government of Newfoundland did not actually provide any specific

documentation or information to the MHI; rather, it facilitated information to come from Nalcor.

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** So this section doesn't really apply.

**MR. BOWN:** Yeah.

**MS. VAN IDERSTINE:** So, if we could just look now at document P-00058, and that is Manitoba – the MHI DG3 report.

**THE COMMISSIONER:** That is at tab 138, book 4.

**MS. VAN IDERSTINE:** So, Mr. Bown, as my – I understood earlier, first of all, Mr. Kennedy, who was the minister at the time this report was commissioned and delivered.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And from the evidence that I've heard, I understand that Mr. Kennedy was a particularly hands-on minister?

**MR. BOWN:** He was.

**MS. VAN IDERSTINE:** And he wanted to know what was going on in the department, when significant reports came in, and he would review those reports himself.

**MR. BOWN:** Yes, he would.

**MS. VAN IDERSTINE:** So, I would guess that when Manitoba Hydro International reports, in draft, initially came in, and then the final report came in, he would've wanted to know they were coming in and want to review them.

**MR. BOWN:** I – it was my practice to provide him with drafts and reports of any work that we were doing, and, subsequently, he – when he read this, we also met with Mr. Wilson in Toronto –

**MS. VAN IDERSTINE:** So –

**MR. BOWN:** – to brief.

**MS. VAN IDERSTINE:** So, in talking about this particular report, though, by the time you get around to the final version of it, my understanding is, is that you had some input into the executive summary.

**MR. BOWN:** I asked Mr. Wilson to add two paragraphs. One, to identify who Manitoba Hydro was.

**MS. VAN IDERSTINE:** So, let's just –

**MR. BOWN:** Second –

**MS. VAN IDERSTINE:** Let's just – if we scroll down now to page – I think it's page 7. Oh, that's the Executive Summary, so this is what we're talking about.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** Okay.

**MR. BOWN:** I don't know which exact paragraph that would be now, but to indicate the scope – the work that they were asked to do and who they are.

**MS. VAN IDERSTINE:** Right. And so, the second – so, in that first paragraph, it talks about – the fourth line down: "MHI was asked to review the work completed by Nalcor Energy since Decision Gate 2" –

**MR. BOWN:** Yeah.

**MS. VAN IDERSTINE:** – "in preparation for Decision Gate 3" –

**MR. BOWN:** Yeah.

**MS. VAN IDERSTINE:** – "and to determine which option is the least cost based on the updated cost and technical data provided by Nalcor."

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And "MHI was also asked to complete a reasonableness assessment on all inputs into that analysis." And so you were, obviously, aware of that, and that's what you were making sure was in that report.



**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And if you'd had any concerns about any other aspects of the report, or thought that something wasn't meeting the scope that you'd asked for, or it was unclear to the reader, you would've asked that that be clarified or corrected.

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** So if we could just go back in time a little bit, my understanding is the first draft came to you sometime in July and it was a partial report that Mr. Proteau had drafted.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And after that one came in – so as part of your practice – was your practice the same with each draft that you would provide it to your staff, who would include Mr. Parsons, who knew something about hydroelectric.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And you'd provide it to Mr. Kennedy as well, to review.

**MR. BOWN:** I would put a copy on his desk.

**MS. VAN IDERSTINE:** And so after that report came in, then we know that there was another report that came in on August 2 and that's at P-00754. Can we take a look at that?

**THE COMMISSIONER:** That's at tab 106, book 3.

**MS. VAN IDERSTINE:** Thank you, Mr. Commissioner.

So just – if we can just look at that, so this one comes in on August 2. And when it comes in – were you already talking about having a meeting with Manitoba Hydro International in Winnipeg when – at this time? Or did that come in – that meeting get arranged as a consequence of this report coming in?

**MR. BOWN:** I think it was arranged as a consequence of the report that that – there

would've been a plan that we would've got together to meet.

**MS. VAN IDERSTINE:** Yeah.

**MR. BOWN:** The original plan for the meeting was to have it in St. John's as was stipulated in the agreement that all meetings would take place in St. John's. There is an email that we have provided as evidence that indicates that Mr. Snyder had requested for us to come to Winnipeg to have the meeting.

And, actually, I do recall Mr. Wilson was on holiday at that time. He was in Minnesota. And that in a phone conversation he indicated that if we went to Winnipeg, he would come from Minnesota to join us for the meeting, so that he and I could have a conversation about the – how the work was going.

**MS. VAN IDERSTINE:** Right. And so what I understand from that is that two things – a couple things happened. First of all, the report comes in and you're planning to meet with him to – with MHI to discuss the report. Is that correct?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** And as part of arranging that and discussing it, you would have, again, given your – the report to your staff to review?

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** Given it to Mr. Kennedy to review. And would you have also provided it to Nalcor to review?

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And then as part of those arrangements then, you would've had some communications directly back to Mr. Snyder and/or Mr. Wilson by telephone to discuss the report.

**MR. BOWN:** To discuss the review of the report.

**MS. VAN IDERSTINE:** Yeah. Okay, so just the review –

**MR. BOWN:** Not to discuss the report.

**MS. VAN IDERSTINE:** – of the report, which was going to take place in Winnipeg.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** Okay.

So, just for completeness, this email attaches the report. And you can see – just for your confirmation, you can see in the last paragraph they do talk about the holidays everybody's on and –

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** – those arrangements.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** So, if we can go now to – yeah, so this came to you on August 2, note that, and then the meeting, as I understand it, took place on August 12 and 13 in Winnipeg.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** Do you recall who was at that meeting?

**MR. BOWN:** From Newfoundland and Labrador it was myself, Gilbert Bennett, Paul Harrington – oh my golly, there was one more. It's in the evidence there who was going to attend. And from –

**MS. VAN IDERSTINE:** Did Jason King go?

**MR. BOWN:** Jason Kean, you're correct.

**MS. VAN IDERSTINE:** Kean – excuse me, yeah.

**MR. BOWN:** Yeah, and from Manitoba Hydro it was Al Snyder, Mack Kast, Paul was there, and there was one or two other people who were advisors, maybe even Gerry Proteau.

**MS. VAN IDERSTINE:** Some of the technical people –

**MR. BOWN:** Yeah.

**MS. VAN IDERSTINE:** – came in to comment on the technical aspects.

**MR. BOWN:** Yes, yeah.

**MS. VAN IDERSTINE:** So the purpose of that meeting was to discuss the report that's attached to Exhibit 00754. And I gather information with respect to a technical nature was being exchanged during that – those meetings.

**MR. BOWN:** Absolutely, it was to discuss the technical issues – or not technical issues, but technical matters inside the document. Also, there was – there had planned to be a meeting of MHI and Nalcor in St. John's during that week, which got relocated to Winnipeg, so there was an additional technical meeting non-related to the report.

**MS. VAN IDERSTINE:** So some of the – again, some of the technical people that were preparing technical aspects of the report were meeting with Nalcor to go through those technical pieces that you may not have been as – had been able to provide any input or interest into.

**MR. BOWN:** I didn't participate. Yeah.

**MS. VAN IDERSTINE:** So, certainly through that process, Nalcor was providing MHI with further information and facts about what was going on.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And so, what we know is that shortly after this report, or that meeting, Mr. Bennett then provided to Mr. Wilson the Westney report relating to tactical risk.

Were you aware of that?

**MR. BOWN:** No, that wouldn't have – I wouldn't have been known to that. That wasn't provided to me and I wasn't part of that conversation.

**MS. VAN IDERSTINE:** But you were aware that that – you are now aware that that happened.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** Okay. And just, again, that's at P-00763, if we're looking for it, on the transcript and I don't think we need to go through it. That's the one that does not have anything with – about strategic risk in it. That talks about the 378 million –

**MR. BOWN:** Right.

**MS. VAN IDERSTINE:** – tactical risk.

**MR. BOWN:** So I learned of that through the transcripts and –

**MS. VAN IDERSTINE:** Yeah.

**MR. BOWN:** – the interview and the testimony here.

**MS. VAN IDERSTINE:** Right. And that's the information that's generally included in the final report with respect to the risk.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** So then the next major event that seems to happen is – and if we can go to P-00773? When I say major event, I know lots was going on in your world that had nothing to do with MHI –

**MR. BOWN:** Yeah.

**MS. VAN IDERSTINE:** – during that period of time. So –

**THE COMMISSIONER:** Tab 120.

**MS. VAN IDERSTINE:** Thank you very much, Mr. Commissioner.

So at P-00773, Mr. Wilson sends an email to you at 12:01 a.m. on September 19 attaching a further report.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And this is the report with the redlining on it so that you can see what changes were made.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** So when you received this report, you were obviously aware then that changes had been made to the report?

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And would you have understood that some of those changes reflected what had happened in Winnipeg?

**MR. BOWN:** And any subsequent telephone conversation, meeting or email exchange.

**MS. VAN IDERSTINE:** And you would have reviewed the report?

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And both – with interest, both the redlining, what had been removed, I assume, and any other changes that you might notice.

**MR. BOWN:** We discussed that thoroughly.

**MS. VAN IDERSTINE:** Yes. And you would have provided this to Mr. Kennedy as well?

**MR. BOWN:** I would have thrown a copy on his desk.

**MS. VAN IDERSTINE:** So if we can just go to P-01274 now? And I – see if I can find that one.

**MR. BOWN:** I don't mean literally throw it on his desk but –

**MS. VAN IDERSTINE:** No, I appreciate –

**MR. BOWN:** – we put it in his inbox.

**MS. VAN IDERSTINE:** So these are Mr. Kennedy's notes for September 19, 2012. And I'm assuming that he didn't make these at 12:02 a.m., but these would have been made sometime later in the day.

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And if we scroll down to the last page of this document, page 4, it looks like what – it's an agenda for a meeting that was for that – reflected in those notes. Does that meet with your recollection?

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And so was this a – do you know, was this a pre-arranged meeting, like, that had been set up prior to the MHI report coming in?

**MR. BOWN:** Can we just go back to the top again, please?

**MS. VAN IDERSTINE:** Sure.

**MR. BOWN:** Because I didn't see who was attending the meeting – pre-arranged meeting. Yeah, it wouldn't have had anything – wouldn't have been coincident to that.

**MS. VAN IDERSTINE:** It would not have been coincident to it?

**MR. BOWN:** No.

**MS. VAN IDERSTINE:** So it would have been a – with the idea that the MHI report maybe was coming in and that you – they were meet – a planned meeting to discuss it?

**MR. BOWN:** I think it would have been part of that, but the meeting agenda is very broad.

**MS. VAN IDERSTINE:** Yes.

**MR. BOWN:** So it would have been with the acknowledgement that that would be discussed at the meeting.

**MS. VAN IDERSTINE:** So do you know, had Mr. Kennedy reviewed them, the MHI draft report that came in earlier that day before this meeting?

**MR. BOWN:** I can't say that he would have reviewed it. I can't –

**MS. VAN IDERSTINE:** Do you know whether you had reviewed it?

**MR. BOWN:** I would have.

**MS. VAN IDERSTINE:** And so the contents of that report would have been discussed at this meeting, then, I take it.

**MR. BOWN:** Yes, I would have given an update.

**MS. VAN IDERSTINE:** Now, if I can go back to – did I ask you for that one already? P-00774.

So after you received –

**THE COMMISSIONER:** Tab (inaudible).

**MS. VAN IDERSTINE:** – the MHI report on September 19, I gather that you would then have, as your practice would be, you'd forward it to Nalcor for their review as well?

**MR. BOWN:** Yes. And actually, Paul Wilson, in a number of email had asked me to: Could he send or would I send?

**MS. VAN IDERSTINE:** Yeah.

**MR. BOWN:** So it was at the request of MHI to ensure that they received copies.

**MS. VAN IDERSTINE:** And so in this email, this is an email directly from Mr. Wilson to Mr. Crawley, and that would be acceptable to you then?

**MR. BOWN:** That was the arrangement to ensure that they got the information necessary to complete the report.

**MS. VAN IDERSTINE:** And this is an email where Mr. Wilson is telling Mr. Crawley that there's some areas that they're just not going to change.

And if you scroll down to page 4, (inaudible). Oh, going a little too far – go back up, sorry. Scroll up a little bit further. Yes, right there.

So (inaudible): "MHI does not agree with Nalcor's position that escalation should be included in the contingency calculation." And he goes on to discuss that. So this would be an example where MHI was pushing back against Nalcor and saying we're not going to accept that kind of change and our – the wording is as is.

**MR. BOWN:** Correct. But ultimately, as we get to the final version, there was additional exchanges of information between – as we see through the documentation – exchanges of

information between Nalcor and MHI where, I believe, that position did change.

**MS. VAN IDERSTINE:** No. If you look up – let's go up to the paragraph above, the one that says Muskrat Falls generating project contingency in the DG –

**MR. BOWN:** Okay.

**MS. VAN IDERSTINE:** Nalcor appears to have wanted it or the 15 per cent with escalation in there?

**MR. BOWN:** Yeah.

**MS. VAN IDERSTINE:** And so if we can actually go down in this report. Mr. Wilson said it's highlighted in the report.

So if we can just go down to page 66 of this – ah, yeah. Go to 66, it's not 66 of the report.

This is what Nalcor wanted in the report.

**MR. BOWN:** Okay.

**MS. VAN IDERSTINE:** And if we go back to P-00058 and look at page 58 – if I have these numbers right – you'll see that MHI did not accept that change.

**MR. BOWN:** Okay.

**MS. VAN IDERSTINE:** So, by the time you get the final report in October of 2012, is it fair to say that you'd had a number of chances to look at it and examine it, and ensure that it was meeting the expectations you had for the scope that you had requested?

**MR. BOWN:** Yes.

**MS. VAN IDERSTINE:** And if you'd had any questions or concerns about the report, you had opportunities to address them with Mr. Wilson?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** And by the time you had the – the Toronto meeting took place – it's my understanding that the government – and by the time that government sanctioned, not only did you have the MHI's DG3 report, but you

would also have had – and when I say you, I'm talking about government generally, not you specifically – the environmental assessment report that had been done in the '90s with respect to small hydro?

**MR. BOWN:** The Shawmont report?

**MS. VAN IDERSTINE:** You'd talked about it earlier, saying that the environment – that there'd been a report provided with respect to small hydro that had suggested that there would be environmental concerns if they put the plants in certain areas.

**MR. BOWN:** Yes, we would – obviously, we would have –

**MS. VAN IDERSTINE:** You would've had –

**MR. BOWN:** – had received that.

**MS. VAN IDERSTINE:** You had the DG – you did a DG2 analysis – or you did some sort of CPW analysis within the Department of Natural Resource and Finance in 2010?

**MR. BOWN:** Natural Resources.

**MS. VAN IDERSTINE:** Yeah, there was a – of course, this – the PUB analysis then report?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** At DG2, we have reports done by MHI?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** The Ziff report, the Wood Mac report and MHI wind report?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** You would've had Hatch wind report as well?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** Nalcor's (inaudible) device and workup with respect to – the projects and projects' reliability?

**MR. BOWN:** Are you speaking to anything specific here –

**MS. VAN IDERSTINE:** No, well they would've given –

**MR. BOWN:** – or just in general?

**MS. VAN IDERSTINE:** General because they've given you so many opportunities to speak to about that.

**MR. BOWN:** In general, yes.

**MS. VAN IDERSTINE:** Yeah, you've now had that MHI DG3 report.

MHI did not – was not asked to look at the economic analysis of the export markets though, were they?

**MR. BOWN:** No.

**MS. VAN IDERSTINE:** No, but that was something you – the government had advice with respect to that particular issue?

**MR. BOWN:** Nalcor was providing advice on that.

**MS. VAN IDERSTINE:** MHI did not look at the Emera agreement – that was something else that was separate?

**MR. BOWN:** No.

**MS. VAN IDERSTINE:** They didn't look at the loan guarantee. That was something else that was separate?

**MR. BOWN:** Correct.

**MS. VAN IDERSTINE:** They weren't to look at political concerns or environmental concerns. I take it that was something that was separate?

**MR. BOWN:** It was not included.

**MS. VAN IDERSTINE:** And as we've seen, the premier, apparently, spoke in *Hansard* about the Knight Piésold report that the Consumer Advocate obtained – that report was out there somewhere?

**MR. BOWN:** No, we didn't – hadn't received that report.

**MS. VAN IDERSTINE:** And so that wasn't provided to MHI?

**MR. BOWN:** No.

**MS. VAN IDERSTINE:** Thank you. Those are my questions.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** Good. I think we'll take our break here now – if everybody wishes, because Mr. – I think we still have you, Mr. Kelly and as well you, Mr. Fitzpatrick – Mr. Fitzgerald rather.

So we'll take 10 minutes.

**CLERK:** All rise.

### Recess

**CLERK:** All rise.

Please be seated.

**THE COMMISSIONER:** All right. Mr. Kelly.

**MR. KELLY:** Good afternoon, Mr. Bown.

Ian Kelly for Newfoundland Power.

**MR. BOWN:** Good afternoon, Mr. Kelly.

**MR. KELLY:** I've been working away with a number of the witnesses trying to be sure we understand the evidence surrounding the PUB reference. And that's the area I want to explore with you a little bit as well.

And let me start this way: there are a number of things, I think, are now pretty well clear. The first is that this project didn't have to go through a PUB process. It had been exempted on public policy grounds, correct?

**MR. BOWN:** Right.

**MR. KELLY:** And we had Premier Williams, for example – former Premier Williams – talk about some of those public policy reasons. And

as we got to April/May of 2011, you and the deputy minister of Finance with the ministers of Natural Resources and Finance – Ministers Marshall and Skinner – had decided on an approach which would be an independent review done by government.

**MR. BOWN:** Correct.

**MR. KELLY:** Correct. And that's – we saw that in Exhibit 00807. And if I understood from your answer to Ms. van Driel, you contemplated that that would be a very comprehensive approach.

**MR. BOWN:** Correct.

**MR. KELLY:** Okay.

And did I take it from your answer to a question by Mr. Coffey – he took you to an exhibit, 00981 – and essentially was saying to you Mr. Thompson, the Clerk of the Executive Council, also supported that approach. Do I have that correct or not?

**MR. BOWN:** It would be correct. We were given the okay to move that decision note forward.

**MR. KELLY:** Right. So do I follow that correctly then – Mr. Thompson would have given you approval to send –

**MR. BOWN:** Yes.

**MR. KELLY:** – the recommendations of Ministers Skinner and Marshall forward to Cabinet?

**MR. BOWN:** To the – no.

**MR. KELLY:** No.

**MR. BOWN:** To be submitted to the Cabinet secretary for transmittal to the premier's office.

**MR. KELLY:** To the premier's office, right.

**MR. BOWN:** Yes.

**MR. KELLY:** Okay. Now, if I put all that together, then do – should the Commissioner then conclude that it was a political decision by

the premier to send it to the PUB – to make this PUB reference? In other words, if the ministers of Natural Resources and Finance had signed off on an alternative approach, the civil service all the way to the Clerk of the Executive Council had signed off on that alternative approach, that largely only leaves the premier's office – if that's where it went – to make the decision.

**MR. BOWN:** I think that would be consistent with the minister – Mr. Marshall's evidence.

**MR. KELLY:** As well.

**MR. BOWN:** Yes.

**MR. KELLY:** Right. So it would have been a political decision, not a civil service decision.

**MR. BOWN:** Correct.

**MR. KELLY:** Okay. And we understood from Mr. Thompson's evidence that that was because the Public Utilities Board would be seen as an independent entity, an independent review?

**MR. BOWN:** Yes.

**MR. KELLY:** Okay. Now, then we saw from Exhibit 00846 – which was the paper to actually do the reference – that the process was contemplated to be similar to the insurance review. Correct? We can go there if you like. The reference is to the insurance review in the document.

**MR. BOWN:** The fact that the government had the authority to issue a reference question and there was past practice, yes.

**MR. KELLY:** Exactly. And the past practice specifically referenced was the insurance review.

**MR. BOWN:** Yes.

**MR. KELLY:** Okay. And we know from the Public Utilities Board witnesses that they contemplated a similar relatively robust process based upon that model.

**MR. BOWN:** Yes.

**MR. KELLY:** Correct? And the reference was made on June 17 of 2011. Then we had this five-month period, until the Nalcor submission came in, correct?

**MR. BOWN:** Correct.

**MR. KELLY:** And that came in November 10?

**MR. BOWN:** Yes.

**MR. KELLY:** Okay, now at that stage, the next thing that I can figure out that happens that affects the process, is that you meet with Ms. Maureen Greene, the board's counsel. And I want to take you to Exhibit P-01214. I don't think it's in the books –

**THE COMMISSIONER:** It's not, no.

**MR. KELLY:** All right, and if we could scroll up a little bit – just stop there. The first five items are describing – you go to meet with Ms. Greene and she's laying out for you how they see the process going forward. Correct?

**MR. BOWN:** Yes.

**MR. KELLY:** And item 5 is the board is going to report end of June.

**MR. BOWN:** Yes.

**MR. KELLY:** Okay, and then the next part of it begins, "Aside from the schedule a number of issues were identified. 1. The CA plans to have his expert (Knight Pieshold) prepare a report for release." number 1, and number 2, "CA will be seeking access to confidential information." And 3 deals with natural gas and 4 deals with Grand Riverkeepers – I'll skip through those.

And then you write the "PUB was advised that end of June is too late and March 31 is our date for submission of Board report. Response was that March 31 is not possible given activities that must take place." So if I just stop there for a minute, this is a response that Ms. Greene is giving to you. That that won't work for the PUB process.

**MR. BOWN:** Yeah.

**MR. KELLY:** Okay, and then you write – and you're writing this to Minister Kennedy, "The following responses were given to PUB on the other issues:" – so this is what you are telling Ms. Greene, correct?

**MR. BOWN:** Yes.

**MR. KELLY:** Okay. "A report from CA was not in his TOR and will delay the process as he wants sufficient time to complete. The CA will not have access to the confidential info, therefore the report will not be based on all facts. A second report; additional to MHI, will cause some public confusion and could be contrary to MHI report. NR will meet with CA to discuss."

Now that's a pretty powerful statement telling the PUB what the process is going to be and to put it differently, what the process is not going to be.

**MR. BOWN:** Mm-hmm.

**MR. KELLY:** Would you agree with that?

**MR. BOWN:** I agree.

**MR. KELLY:** And just – we'll hold that thought and go to number 2: the "CA will not have access to confidential information. NR will discuss with CA." And again, that's a pretty significant statement as to what the process is going to be or not going to be. Agreed?

**MR. BOWN:** Agreed.

**MR. KELLY:** Now, how did this meeting come about, and, in particular, how would it come about that you, on November 24, would be saying these specific things to Ms. Greene?

**MR. BOWN:** I was asked to meet with Ms. Greene to deliver the messages and to respond in kind on these particular points.

**MR. KELLY:** Who asked you to do that and to respond on these points?

**MR. BOWN:** As noted above, I'm reporting back to the minister and the deputy minister.



**MR. KELLY:** Did the minister – did Mr. Kennedy ask you to meet with Ms. Greene and respond in this fashion on these points?

**MR. BOWN:** These would have been the understandings that I had when I went to the meeting. Very clear. And that's why I'm reporting back in this specific fashion.

**MR. KELLY:** Right. And the reason I'm asking you is because I asked Mr. Kennedy these questions and he had no recollection of this.

**MR. BOWN:** Yeah, I – the only reason that I would have gone to the PUB would have been under specific direction.

**MR. KELLY:** Okay. Now, the next place I wanted to take you is to Exhibit 00600, which is the board's report.

Just before I get there, we know from the record as well that Minister Kennedy then signed two letters in which these statements were implemented and conveyed to the Consumer Advocate and the board respectively.

**MR. BOWN:** Yeah.

**MR. KELLY:** Right.

**MR. BOWN:** Yeah. Actually, before you leave this –

**MR. KELLY:** Sure

**MR. BOWN:** – can we just scroll to the top, please?

**MR. KELLY:** Please do.

**MR. BOWN:** If you would be so kind. So it's also noted that Don Burrage – who I had a relationship with in –

**MR. KELLY:** Yes.

**MR. BOWN:** – terms of discussion of these items to ensure that he was fully aware because he was part of the process at the beginning.

**MR. KELLY:** Right.

**MR. BOWN:** So I just wanted to note as well that this was shared with Don Burrage.

**MR. KELLY:** Right. And the point out of this is that this wasn't a civil service directive. This was a political directive as to the limiting of the PUB process?

**MR. BOWN:** Yes.

**MR. KELLY:** Okay. And can I take you then to Exhibit 00600, to page 61? This is the board's report. And Mr. Simmons took you to this passage at the top. And this deals with the risk assessment, et cetera.

**MR. BOWN:** Yes.

**MR. KELLY:** And Mr. Simmons took you there in the context of discussing what was there about the risk assessment. But I want you to focus on the sentence that says: "The amount of this reserve was set out in a confidential exhibit reviewed by the Board and MHI." So in accordance with what we saw in Exhibit 01261, the Consumer Advocate would not have had access to that risk assessment, would he?

**MR. BOWN:** Correct.

**MR. KELLY:** Right, and so the Consumer Advocate would not have been in a position to ask questions about the risk assessment at the time of the PUB report?

**MR. BOWN:** You are correct.

**MR. KELLY:** Right, and we know from the record that as a result of these limitations on the PUB process, no additional intervenors were possible, it got limited down to only the Consumer Advocate.

**MR. BOWN:** Correct.

**MR. KELLY:** Who then would not have had the ability, as we just said, to ask these questions?

**MR. BOWN:** Correct.

**MR. KELLY:** So what I take out of that is that at the end of this process, there was a political decision which limited the PUB at least in the

following ways: it limited the PUB process, would you agree with that? In other words, there was no time for a technical conference; you couldn't have RFIs on these process – these issues?

**MR. BOWN:** Correct.

**MR. KELLY:** Okay. It limited the potential for other parties with standing?

**MR. BOWN:** It – the answer to your question is yes.

**MR. KELLY:** Yes.

**MR. BOWN:** But there was a process for people to make submissions and appear at the hearings. Just wanted –

**MR. KELLY:** Yes, but you could only ask a question through the Consumer Advocate.

**MR. BOWN:** Correct.

**MR. KELLY:** Right.

**MR. BOWN:** Yes.

**MR. KELLY:** And if the Consumer Advocate didn't have access to certain information, that's not terribly helpful, is it?

**MR. BOWN:** Correct.

**MR. KELLY:** Right, okay. So – and then we limited the available evidence because the Consumer Advocate couldn't put in expert evidence, correct?

**MR. BOWN:** Correct.

**MR. KELLY:** Nobody else would have standing, so nobody else could put in evidence, correct?

**MR. BOWN:** Correct.

**MR. KELLY:** Okay. Thank you, Mr. Bown. Those are my questions, thank you.

**THE COMMISSIONER:** Thank you, Mr. Kelly.

Mr. Fitzgerald?

**MR. FITZGERALD:** I intend to be very brief. There's been a lot covered here, and in light of Mr. Coffey's questioning of you, a lot of the questions I had with respect to the role of civil servants and speaking truth to power, as you mentioned, that has already come out. A couple of small points I want to clean up and just highlight – Exhibit P-01178, please? Is that in your volume? I think it is.

**THE COMMISSIONER:** Yes, it is. Tab 72 in book 2.

**MR. FITZGERALD:** Seventy-two. I just note this was an email where there was risk analysis referred to by Mr. Harrington in his scope of work, and that the risk analysis couldn't be completed in time.

When Mr. Learmonth was taking you through this, he did mention it was sent to Brian Crawley, Paul Humphries and Jason Kean. It was also sent to Gilbert Bennett according to this document, wasn't it?

**MR. BOWN:** Correct.

**MR. FITZGERALD:** Okay, thank you. Just a little clarification.

I'd like to thank Mr. Ralph. He's provided us with the calendar entries. They've been entered as exhibits with respect to the issue of the Department of Natural Resources meeting on natural gas issues independently of Nalcor. Those exhibits, Commissioner, are P-01585, P-01603 and P-01604. Those are just the calendar entries.

And just recently – Mr. Learmonth is aware of this – obviously, now, 'cause it's an exhibit. I would like to direct the Commission to Exhibit 01641 please.

**MR. LEARMONTH:** I haven't – I was supposed to – I'll have that entered now, 01641.

**THE COMMISSIONER:** Okay. So that'll be marked as entered.

**MR. FITZGERALD:** Oh yeah, thank you.

**THE COMMISSIONER:** I haven't seen that yet.

**MR. FITZGERALD:** No, no. And my apologies, Mr. Learmonth. I just assumed it was in.

But in any event, if I can go to page 2, Mr. Bown? Actually, before I go to page 2, can we go back to page 1?

Who is Vanessa Newhook?

**MR. BOWN:** She – Vanessa was the assistant deputy minister, Royalties and Benefits.

**MR. FITZGERALD:** And we know Mr. Foote was –?

**MR. BOWN:** Assistant deputy minister of Petroleum Development.

**MR. FITZGERALD:** Okay. Page 2 please. And scroll up a little bit.

I believe you might have reviewed this over the lunch hour, Mr. Bown?

**MR. BOWN:** Quickly, yes.

**MR. FITZGERALD:** What is this?

**MR. BOWN:** This is a meeting note between – for a – again, preparation for a meeting between the governments with the deputy minister, myself, Paul Scott and Wes Foote. Meeting with Antonio Hernando Villaroya of Unión Fenosa Gas.

**MR. FITZGERALD:** And where's Unión Fenosa to?

**MR. BOWN:** Spain, I believe.

**MR. FITZGERALD:** Okay.

**MR. BOWN:** Yeah, Spain.

**MR. FITZGERALD:** And we have representatives there from the Government of Canada, Keith Warren?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** And the Newfoundland Government – who is there from the Newfoundland Government?

**MR. BOWN:** Diana Dalton, was the deputy minister at the time, and myself, Paul Scott and Wes Foote.

**MR. FITZGERALD:** There's no indication that Nalcor representatives were here.

**MR. BOWN:** No, there was not at this meeting.

**MR. FITZGERALD:** And what was the purpose of the meeting?

**MR. BOWN:** Unión Fenosa was interested in opportunities to develop gas offshore Newfoundland and Labrador.

**MR. FITZGERALD:** I believe it says the meeting is at the request of Unión Fenosa Gas to –

**MR. BOWN:** Yeah.

**MR. FITZGERALD:** – meet Newfoundland Government representative to discuss Newfoundland offshore natural gas opportunities.

**MR. BOWN:** Yes.

**MR. FITZGERALD:** No agenda has been provided.

So there was – so when – obviously they reached out to the government for a meeting?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** And did the meeting occur?

**MR. BOWN:** Yes, it did.

**MR. FITZGERALD:** Thank you.

Exhibit P-01399, please, and that is tab 57, volume 2. If we could go lower – no, no – yes, sorry. Yes, if we could just go down further.

Mr. Simmons was asking you a question with respect to the Nalcor submission to the PUB. Do you recall that?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** And it was sent to you for review –

**MR. BOWN:** Yes.

**MR. FITZGERALD:** – or comment or whatnot, whatever is – you – I guess you were on a need-to-know basis here or he was informing you, was he?

**MR. BOWN:** This wasn't for – you know, I guess they say it was for comment, but there wasn't much time.

**MR. FITZGERALD:** For keeping you in the loop?

**MR. BOWN:** Yeah.

**MR. FITZGERALD:** And when you received that, who did you send that to?

**MR. BOWN:** I sent that to the clerk –

**MR. FITZGERALD:** Which is Mr. Thompson?

**MR. BOWN:** – Mr. Thompson; I sent it to the deputy minister of Justice, Don Burrage; I sent it to the deputy minister of Natural Resources, Diana Dalton; and, the deputy minister of Finance, Terry Paddon.

**MR. FITZGERALD:** Okay, thank you.

Now, if we can just scroll down a bit further – no, scroll up. Sorry, my apologies.

And, ultimately, Mr. Scott reports back to you?

**MR. BOWN:** Yes, so I shared it with my staff as well.

**MR. FITZGERALD:** Okay. So there were a number of departments in government – including Justice and Finance – who would've seen Nalcor's submission to the PUB – or draft submission?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** It wasn't just Natural Resources or yourself?

**MR. BOWN:** No.

**MR. FITZGERALD:** Okay, thank you.

If we can go to P-01214 – I believe Mr. Kelly just brought you to this Exhibit; I don't believe it's in your book. If we just go below here.

It's my understanding that there was a meeting – you attended the meeting with Ms. Greene?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** And then following that meeting, you report back to – who's that? Mr. Kennedy, the minister?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** And Diana Dalton, and she's the ...?

**MR. BOWN:** Deputy minister.

**MR. FITZGERALD:** And if we can go a bit lower? And you – you believe you said near the end of your testimony you sent that to Mr. Don Burrage?

**MR. BOWN:** Right at the very top.

**MR. FITZGERALD:** Right at the very top. Okay, thank you.

So Justice was aware of what was going on at this point in time?

**MR. BOWN:** Absolutely.

**MR. FITZGERALD:** And Justice was aware of the political decision?

**MR. BOWN:** Yes.

**MR. FITZGERALD:** Were there any concerns raised by Mr. Burrage at the time?

**MR. BOWN:** I don't recall.

**MR. FITZGERALD:** Thank you, Mr. Bown.

Those are all my questions.

**MR. BOWN:** Thank you.

**THE COMMISSIONER:** Thank you.

Redirect.

Mr. Learmonth?

**MR. LEARMONTH:** Yes, thank you.

The first thing I wanna do is correct something which came up in Ms. Van Iderstine's questioning –

**MR. BOWN:** Sure.

**MR. LEARMONTH:** – of Mr. Bown.

If we look at first Exhibit 00774, page 65; it's tab 123.

**THE COMMISSIONER:** Tab 123.

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** It's in ...?

**THE COMMISSIONER:** Book 4.

**MR. LEARMONTH:** Four.

**THE COMMISSIONER:** Or book 3, rather.

**MR. LEARMONTH:** Do you have that brought up?

**MR. BOWN:** What was the tab again?

**MR. LEARMONTH:** 124 – 123.

**MR. BOWN:** (Inaudible.)

**MR. FITZGERALD:** Three.

**MR. LEARMONTH:** Do you have it?

**MR. BOWN:** I'll read from the screen, Mr. Learmonth.

**MR. LEARMONTH:** Page 65, is what I'm talking about.

**MR. BOWN:** Yes.

**MR. LEARMONTH:** Okay.

Now, Ms. Van Iderstine was – generally, the discussion went that she was pointing out an example where Nalcor asked for a change but MHI put their foot down and wouldn't make the change. Do you remember that discussion?

**MR. BOWN:** Yes, and I responded that I thought that the change was made, in my response.

**MR. LEARMONTH:** Well, I just want to point out, if you look on page 65, do you see the words at the end of the first sentence in paragraph two –

**MR. BOWN:** Yes.

**MR. LEARMONTH:** – "... which in MHI's experience, is at the lower end of the range for this level of estimate."

**MR. BOWN:** Yes.

**MR. LEARMONTH:** That was taken out.

**MR. BOWN:** Correct, and I noted that –

**MR. LEARMONTH:** Yeah, and if you refer to the Exhibit at – Exhibit P-00058, at page 58 you'll notice that those words were taken out. So any suggestion that, you know, that Manitoba Hydro was resisting all changes does not appear to be correct. Do you agree?

**MR. BOWN:** I agree with you. And I made that point a moment ago.

**MR. LEARMONTH:** Yeah, okay.

I'd like you to bring up Exhibit P-01417, there was discussion about this with – which arose – it was presented by, I believe, it was Mr. Hogan.

**THE COMMISSIONER:** Tab 97.

**MR. LEARMONTH:** 01417.

**MR. BOWN:** Tab 97?

**THE COMMISSIONER:** In book two, yeah.

**MR. BOWN:** Go ahead, I have it.

**MR. LEARMONTH:** Okay. So this was that draft letter you were doing when expressing – I think you’re drafting it for the premier, were you?

**MR. BOWN:** Yes.

**MR. LEARMONTH:** Expressing disappointment or unhappiness that MHI – that Emera had decided to – or the Government of Nova Scotia –

**MR. BOWN:** (Inaudible.)

**MR. LEARMONTH:** – had decided to have a full-blown, open-ended examination of the Maritime Link?

**MR. BOWN:** Correct.

**MR. LEARMONTH:** Yeah. Now, this letter was prepared on July 7, so that would be July 5, would it?

**MR. BOWN:** Yes.

**MR. LEARMONTH:** Yeah.

Now, it was very clear to the Government of Newfoundland, I would suggest, that this schedule you had, which – you know, of a very early sanction, was not really necessary because you knew that the process in Nova Scotia was gonna be extended. Correct?

**MR. BOWN:** The – I’ll answer it in two parts.

The review through the UARB was one of the conditions precedent for the financial close.

**MR. LEARMONTH:** Right.

**MR. BOWN:** Right? So the concern in terms of the timeline for 2012 was a sanction decision from Emera –

**MR. LEARMONTH:** Right.

**MR. BOWN:** – so that we could conclude the term sheet.

**MR. LEARMONTH:** Yes.

**MR. BOWN:** Yes, so I’m agreeing with you.

**MR. LEARMONTH:** Yeah. So you knew that things were being pushed out –

**MR. BOWN:** Correct.

**MR. LEARMONTH:** – into the future and your government – I don’t mean your government – but the Government of Newfoundland and Labrador, the premier wasn’t happy with this because there was a much tighter schedule envisaged by the Government of Newfoundland and Labrador, right, and this was gonna interfere with that?

**MR. BOWN:** Right.

**MR. LEARMONTH:** Okay.

Now, this is July 5. This is in the middle of Manitoba Hydro’s review. Given that you knew – you knew that the rush that you had been under on April 1 to get this done by June, since that had all passed, I suggest that you would’ve had – you could’ve insisted that the risk review, that had been removed from the scope of work, be put back in because there’d be plenty of time to do it.

**MR. BOWN:** As I indicated a moment ago, the UARB review would impact financial close.

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** The decision for sanction – that schedule was still on.

**MR. LEARMONTH:** No, but it didn’t have to be on. It may have still been on, but I mean, if the participation of Emera in the Maritime Link was essential in order to get the federal loan guarantee – which it was – then you knew at this point that the dates you had were not achievable.

**MR. BOWN:** But the date for sanction still was achievable.

**MR. LEARMONTH:** Well, you could sanction anyway, but there'd be no need to. That's what I'm saying. Because you'd be way ahead of Nova Scotia; there'd be no need whatsoever to sanction.

**MR. BOWN:** What ultimately happened in terms of the schedule that Nalcor was telling us that we were working toward, was sanction in December and then early project works. So, actually, there were investments that were made in 2013.

**MR. LEARMONTH:** Yeah, but that's government's decision; it's not Nalcor's decision.

**MR. BOWN:** Yes.

**MR. LEARMONTH:** So I'm suggesting at this point there was a pause in the schedule, or there ought to have been, and you should've said, okay, we couldn't get the risk review done within the earlier time frame, which, you know, ended – the end of it was in June, now you knew that you could extend that with no problem and get a full risk review done.

**MR. BOWN:** I didn't see a pause in the schedule.

**MR. LEARMONTH:** No, I'm saying that there could've been.

**MR. BOWN:** Yeah, but that wasn't – I understand.

**MR. LEARMONTH:** You see what I mean?

**MR. BOWN:** It wasn't identified to us.

**MR. LEARMONTH:** There was no need to rush, is what I'm saying, when you knew that Nova Scotia's process was going to take a lot longer.

**MR. BOWN:** I was still under a rush directive to –

**MR. LEARMONTH:** Yeah, but do you agree with me that the rush that was perceived was not really necessary?

**MR. BOWN:** In hindsight?

**MR. LEARMONTH:** Yes. Well, even at the time.

**MR. BOWN:** No, I don't believe so, again, because we were focusing towards sanction and –

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** – the UARB was financial close.

**MR. LEARMONTH:** Yeah, but I keep on coming back, there was no need to sanction the project by September because the Nova Scotia part of this was definitely not going to be ready for sanction by then. Do you agree?

**MR. BOWN:** Yeah, I agree that that impacted the time frame.

**MR. LEARMONTH:** Yeah, so there was – you could've adjusted – the schedule for sanction could've been adjusted to run concurrent with the Nova Scotia timeline, and that would've given you plenty of time to get a risk review done on Nalcor's DG3 numbers.

**MR. BOWN:** Again, my response is I was still under a schedule –

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** – to get the loan guarantee done, to get all these pieces in place –

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** – for a sanction decision.

**MR. LEARMONTH:** Okay.

But I understand that. That's what you – you've said that a few times. But I'm saying that that time frame was – there was no need to have such a tight – be on such a tight schedule when you knew that the Nova Scotia approval would not be forthcoming for a long time.

**MR. BOWN:** That wasn't observed at the time.

**MR. LEARMONTH:** It wasn't?

**MR. BOWN:** No.

**MR. LEARMONTH:** But do you agree with me that it certainly was obvious that what I said was just – is true?

**MR. BOWN:** The pressure from Nalcor was to do all these things to –

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** – get the sanction decision done. So even in the event of that, that pressure did not relent.

**MR. LEARMONTH:** Yeah, but – well, the pressure from Nalcor, but I'm talking about the decision-maker which is the government.

And if the government was serious about getting a very thorough, up-to-date, accurate, high-quality cost estimate, as Mr. Kennedy said, this was a perfect opportunity to pull back and get the risk review done.

**MR. BOWN:** Yeah, and that wasn't perceived at the time.

**MR. LEARMONTH:** Was it overlooked or was there any discussion of it or anything like that?

**MR. BOWN:** There was no discussion of changing the time frames on anything related to sanction or anything else as a result of the decision in Nova Scotia.

**MR. LEARMONTH:** Why not?

**MR. BOWN:** That was the direction that came from the – well, the direction that would have been given to me, political direction would be to continue on, on the path that we're going.

**MR. LEARMONTH:** Yeah.

But I suggest to you that's incompatible with this desire the Department of Natural Resources, led by Minister Kennedy, had to – or this obsession to get the best cost estimate possible.

**MR. BOWN:** And there was no direction from Minister Kennedy to change the path that we were on.

**MR. LEARMONTH:** Well, did you recommend to him? Did you mention this to him that, look, we have talked –

**MR. BOWN:** No, I did not.

**MR. LEARMONTH:** Why not?

**MR. BOWN:** I didn't recognize that at that time that – well, I would not have recognized at the time. My focus was (inaudible).

**MR. LEARMONTH:** But it was pretty obvious, isn't it?

**MR. BOWN:** It wouldn't have been obvious to me at that time.

**MR. LEARMONTH:** But looking back, don't you think it should have been obvious to you at the time?

**MR. BOWN:** In the moment that I was – I understand your question, but in the moment I was in at that time, that would not have been obvious.

**MR. LEARMONTH:** Well, but you agree, looking back, that it ought to have been obvious?

**MR. BOWN:** If we had – if the decision had been made to push sanction back, that would have impacted the project schedule.

**MR. LEARMONTH:** Well, anyway, I'm not – okay, I'm just saying there was no need – I'm suggesting to you that this December date for sanction, given what was going on in Nova Scotia, was an artificial deadline that you could easily have pushed that to the spring.

**MR. BOWN:** I can't make – I can't decide whether that was appropriate to move it off to the spring. That was – Nalcor's set the schedule for the project development.

**MR. LEARMONTH:** I mean, Nalcor – I don't believe the Maritime Link was approved by the Nova Scotia UARB until November 2013 – late November 2013.

**MR. BOWN:** Correct.



**MR. LEARMONTH:** Yeah. So it looks a bit, I'd say, foolish for your government to be pushing for such an early sanction date when you knew that you had to wait until Nova Scotia got its approval from the Nova Scotia UARB before the federal loan guarantee could be available.

**MR. BOWN:** Well, it wasn't my government.

**MR. LEARMONTH:** Well, okay.

**MR. BOWN:** Right, but – I apologize for making that clarification, but project works did start in 2013.

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** Investments were made, the government made –

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** The government made a decision that it wanted to sanction and make equity investments in 2013 in advance of the UARB decision.

**MR. LEARMONTH:** Okay.

So this – the fact that the Nova Scotia – the Emera approval of the Maritime Link was going to be delayed, that didn't make – that didn't have any bearing at all on the decision to have this sanctioned –

**MR. BOWN:** Yes, I've noted –

**MR. LEARMONTH:** – in December.

**MR. BOWN:** – that don't – did not change.

**MR. LEARMONTH:** No, nothing. And no thought was given to what I said about getting – that there being plenty of time now to get the risk assessment done by MHI.

**MR. BOWN:** There wouldn't have been additional time because the path we were still on was to have everything ready for sanction.

**MR. LEARMONTH:** Okay. Well, anyway, okay.

The – there was discussion in cross-examination about the selection of MHI – the very quick – the selection of the MHI as the consultant that would do the – review the DG3 numbers?

**MR. BOWN:** Yes.

**MR. LEARMONTH:** Yeah. And there was some question about why the hurried decision to retain them. I'd ask you to consider these points. The PUB had chosen MHI, that's for sure, but the PUB did not accept the recommendation of MHI. Do you agree? Because if the PUB had accepted it, it would have said: Yes, this is the least – the Interconnected Option is the least-cost option.

**MR. BOWN:** I guess what the – as I remember the PUB report is that they acknowledged the work of MHI who'd indicated that they wanted to see the DG3 numbers in order to be able to answer their question.

**MR. LEARMONTH:** Yeah. But they didn't accept the report and give the blessing to Muskrat Falls that government was looking for.

**MR. BOWN:** Nor did they reject the report. They indicated –

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** – that they wanted more information.

**MR. LEARMONTH:** Yeah.

But when you're retaining – I mean, it's very common, I think, when you're – when a party is retaining an expert for a very important review, that there be an interview process, a request for proposals and an interview with candidates to see what their track record is, like, a thorough examination of the background and the experience and expertise that the proposed consultants bring to the table.

Are you familiar with that process? It's very common to interview consultants before a selection is made.

**MR. BOWN:** It's not common inside of government that there's an interview of

consultants. Generally, the process is a procurement process; you go through an RFP.

**MR. LEARMONTH:** Yeah. But I'm just wondering why there was this jump to retain MHI, rather than sitting back and saying, look, let's get a selection of consultants and see what they have to offer and interview them, given the consequences to the province of a proper review.

**MR. BOWN:** Like, following on the testimony of Mr. Kennedy, there was a time impairment that there was a rush to have a piece of work done in time for a then planned debate in the House of Assembly.

**MR. LEARMONTH:** Yeah. Okay. And that's why it was such a rush.

**MR. BOWN:** Yes.

**MR. LEARMONTH:** Yeah. Okay.

There's one question I wanted to ask about – it didn't really come up in cross-examination, but it's just a very short question about – and I'd like to put it to Mr. Bown – about a meeting that he had with Andy Wells. It'll only take a few minutes, would that possible?

**THE COMMISSIONER:** I guess what I'd have to do is ask other counsel, because technically you're going beyond what would normally be permitted.

Does anybody have a problem with Mr. Learmonth putting a question about the meeting with Andy Wells?

Mr. Fitzgerald – we should turn off this mic here.

Thanks, Mr. Leamon.

Mr. Fitzgerald.

**MR. FITZGERALD:** I have nothing in principle with the question, but I will point out that Mr. Learmonth has already an opportunity to ask about the email to the premier, he had an opportunity in his first go around to ask about the process for hiring consultants with MHI, that's not new information.

You know, there's redirect and there's a second bite at the apple. And I have no issue with the question being posed, I'm sure Mr. Bown will answer it, but, I mean, I just wonder how far down we're going with redirect.

**THE COMMISSIONER:** Mr. Learmonth.

**MR. LEARMONTH:** Well, the other question is –

**THE COMMISSIONER:** Your mic.

**MR. LEARMONTH:** The other question was raised also, I did touch on it, but there was more questioning done by –

**THE COMMISSIONER:** Yeah, I don't see any problem with a question related to the selection of MHI. There was other questions from the Consumer Advocate on that that I think he was going to, and I was fine with that. But what about this issue – are you objecting, Mr. Fitzgerald, to Mr. Learmonth asking a question about the meeting with Mr. Wells?

**MR. FITZGERALD:** No, I just wanted to make my point.

**THE COMMISSIONER:** Okay, thank you.

**MR. LEARMONTH:** Okay.

**THE COMMISSIONER:** Go ahead then, Mr. –

**MR. LEARMONTH:** Thank you.

Do you recall meeting with Andy Wells, the chair of the PUB, on February 12, 2012?

**MR. BOWN:** Yes.

**MR. LEARMONTH:** And did you call that meeting?

**MR. BOWN:** I called and requested a meeting with Mr. Wells.

**MR. LEARMONTH:** Yeah.

**MR. BOWN:** Well, Mr. Wells testified that when he came into the meeting there was just two of you there that he, you asked him, you wanted to know how the, how's everything

going at the PUB, Andy? And he said that it's not going anywhere, and he was having problems getting documentation and so on.

And he also said in his evidence that you asked a question that: Andy, based on what you know about this project to date, what you've learned to date, would you recommend – what recommendation would you give to government? And he says that his answer was: I would call the premier's office and I would tell her to call Ed Martin and tell him to shut this down right now. And apparently you said, according to Mr. Wells: Okay, well, thank you very much. And that was the end of the meeting.

Is that an accurate summary of what was said at that meeting?

**MR. BOWN:** No. I never asked – I never posed that question to Mr. Wells. And this has been raised quite some time ago. There was a media request 8, 10 months ago, which was responded to, which indicated that my response was that I had great respect for the work that Mr. Wells did at the PUB and had great respect for a quasi-judicial nature of the PUB itself.

The reason that I went to see him was at the request of the minister just to get an understanding of how things are going. I would never ever pose a question like that. That's not in my nature.

**MR. LEARMONTH:** Well you – Mr. Wells was – said that the account, which he gave, which is very close to what I just put to you – he said it was verbatim or close to verbatim.

**MR. BOWN:** Mm-hmm.

**MR. LEARMONTH:** And you deny that, do you?

**MR. BOWN:** Absolutely.

**MR. LEARMONTH:** Okay. So, what was your recollection of that discussion on February 12?

**MR. BOWN:** We just had a very cordial meeting. I was asked – tasked to go over and ask him how things were going.

**MR. LEARMONTH:** Well, I think this meeting was in the Confederation Building.

**MR. BOWN:** No, it was not.

**MR. LEARMONTH:** Or in the Natural Resources Building.

**MR. BOWN:** No, it was not. It was in his office.

**MR. LEARMONTH:** It was in his office? Okay.

**MR. BOWN:** Yes.

**MR. LEARMONTH:** Well, anyway, that's your version of it.

Thank you very much.

**MR. BOWN:** Absolutely.

**THE COMMISSIONER:** Right. I do have some questions.

I just want to go back for a moment, Mr. Bown, on the issue of the MHI report 'cause I thought I had heard you say to the Consumer Advocate, earlier, that one of the reasons that MHI was chosen at this meeting was because they had done work – they had been accepted by the PUB to do their work.

**MR. BOWN:** Yes.

**THE COMMISSIONER:** Okay.

So, I'm not sure I read the PUB decision the same way you do, but it's clear that the PUB did not rely upon the MHI report to actually answer the question that was put to them in the reference. Am I right in that?

**MR. BOWN:** As I said to – yes – as I said to Mr. Learmonth – they didn't reject it, nor did they accept it.

**THE COMMISSIONER:** Right. But, I mean, they didn't reject it or they didn't accept it but, I mean, the fact is they didn't accept it – I don't – I didn't see anything in the report that said that they were not rejecting –

**MR. BOWN:** Right.

**THE COMMISSIONER:** – the MHI report.

So, here's the government, basically, looking at MHI, and part of the reason why, as I understand you telling the Consumer Advocate's counsel that MHI was chosen, was because the PUB basically had used them. But they didn't rely on them and I just wonder – this strikes me as rather strange that you would then go back and take the same expert that wasn't relied upon by the PUB to give an answer.

**MR. BOWN:** The context for the response was that the PUB had selected them through a process and they were intimately familiar with the work. I believe I had answered that question.

**THE COMMISSIONER:** Yes, you did say they were familiar with –

**MR. BOWN:** Yes –

**THE COMMISSIONER:** – the Nalcor work.

**MR. BOWN:** Yeah.

**THE COMMISSIONER:** I have no doubt about that.

**MR. BOWN:** Yeah.

**THE COMMISSIONER:** But it just goes – I just – anyway – okay, that's fine.

I'd like to move on to P-00029, the Energy Plan for a moment. If you could you bring that up please. And this time I'm going to break a rule and look for page 48 on the bottom of the page, as opposed to the red page number; page 48. You just got to go down to page 48. You're going to have to scroll it down. Please go up. Okay, keep going; 48, please.

Okay, whoa, whoa. Go back up, please.

So I wanna – you're one of the main people that worked on this – on the Energy Plan. Correct?

**MR. BOWN:** This was really early in my –

**THE COMMISSIONER:** Right.

**MR. BOWN:** – career but –

**THE COMMISSIONER:** But you're one of the ones –

**MR. BOWN:** I was one of the persons who participated.

**THE COMMISSIONER:** Right. And as Mr. Williams pointed out to you this morning, this is a very important government document.

**MR. BOWN:** Yes

**THE COMMISSIONER:** And it actually set the work plan for your department.

**MR. BOWN:** Yes.

**THE COMMISSIONER:** Okay. So if you read the first policy action on that page, it says: "Maintain least-cost power as the primary objective in electricity rate setting in the province."

So can you tell me what that means?

**MR. BOWN:** The current policy within the Electrical Power Control Act is that next-generation source should be least cost.

**THE COMMISSIONER:** Okay.

Now, I haven't – I did a search of this document to find out if least cost was referred to anywhere else. Are you – do you – are you aware of whether or not reference to least cost – that phrase – was used anywhere else in this Energy Plan?

**MR. BOWN:** I don't recall.

**THE COMMISSIONER:** Okay.

I'm trying to figure out – and, again, in my simple way of looking at things – somehow we've got, from a policy that was going to be the development of the Lower Churchill – didn't indicate when it was going to be, but it was certainly part of the policy in the Energy Plan – to referring to least-cost option.

Where did the reference to least-cost option come from? Because I'm not sure least-cost

option means the same thing as the least-cost power.

**MR. BOWN:** So, if I refer to – and, hopefully, I’m answering your question, Commissioner – to the second paragraph under: Rate Setting.

**THE COMMISSIONER:** Mm-hmm.

**MR. BOWN:** “The primary principle in setting rates is to provide power at the lowest possible cost. This will be maintained as an objective, however, we must also have the flexibility to encourage other important priorities such as energy conservation and”– energy –

**THE COMMISSIONER:** Yeah.

**MR. BOWN:** “– environmental considerations.”

**THE COMMISSIONER:** Right, okay. So – but where does this become the least-cost option?

**MR. BOWN:** Muskrat Falls?

**THE COMMISSIONER:** Well, no, I’m wondering: Where did this terminology, least-cost option, come from?

**MR. BOWN:** It would’ve come from the Electrical Power Control Act.

**THE COMMISSIONER:** No, that refers to the least-cost, so it’s almost the same wording as this. Where did the reference to least-cost – and if you don’t know the answer, that’s fine, I’m just trying to figure this out in my own mind. Where did – do you know where the reference to least-cost option came from?

**MR. BOWN:** No, I don’t.

**THE COMMISSIONER:** Okay.

**MR. BOWN:** Still don’t understand.

**THE COMMISSIONER:** So the other query I have when I’m looking at this is when we’ve been talking about least-cost option, there’s been one standard and that is the Muskrat Falls Project, Interconnected. That’s the one standard. Then you run against that, other options that basically would determine what is least-cost and

somebody define the Isolated Option as one of the options.

If we were looking at the least-cost – and I know, for instance, 2041 was a – a plan for 2041 as an option where we’d be basically using LNG or whatever – and whatever. But did anyone ever think about as an option, for instance – and you were involved in this early on – the idea of saying, okay, if we get to 2041, and even if we have to buy power at market rates, did anyone ever think about the fact that, well, what do we do – what do we need to do now just to make sure we have power – enough power to 2041? It could be a couple of CTs; it could be a small hydro development, something. Did anybody define or look at this from the perspective of giving the consumer the least-cost power?

**MR. BOWN:** Commissioner, I do recall seeing, at one point, a CPW analysis on that scenario.

**THE COMMISSIONER:** No, I think you saw the CPW analysis on the –

**MR. BOWN:** Interconnected?

**THE COMMISSIONER:** Right.

**MR. BOWN:** But I thought there was also – and, again, I should answer you yes or no. I don’t recall that being done specifically.

**THE COMMISSIONER:** Okay. That’s fine.

Okay, I wanted to ask you, oftentimes in your evidence you’ve referred to Mr. Kennedy or you refer to hearing somebody else’s evidence or whatever. I want to make sure I understand what you recall. Not what you recall as a result of listening to testimony of others in this hearing, what would you recall?

So when you tell me that you referred to Mr. Kennedy or Mr. Keating or listening to so and – to Mr. Marshall’s evidence for instance, or whatever, are you telling me that your answer is based upon the evidence that they gave as opposed to your own individual recollection?

**MR. BOWN:** It would be both because what I’ve encountered going through this whole exercise – and this has been a long period of what we’ve been covering here, and going

through the evidence and actually listening to the other people who have testified here – has improved and allowed me to make statements that, yes, this is my understanding.

**THE COMMISSIONER:** So when you make a statement that refers to what Mr. Marshall said or what Mr. Kennedy said in his testimony or from a note, you actually have an independent recollection of those things?

**MR. BOWN:** The majority of the times. On several of those occasions – and I think I would have noted in my testimony that I’m referring to those specific documents.

**THE COMMISSIONER:** Yeah, you’ve done that quite often. But I was – I’m trying, in my own mind, to figure out what thing you’re taking – you know, is this your own independent recollection along with that, or is it basically your recollection coming from that?

**MR. BOWN:** No, it’s my recollection with it in most cases. And in those cases where I said it was from that, I indicated that.

**THE COMMISSIONER:** Okay.

Now, I have to ask you this question only because of the manner in which I’m hearing your testimony. And there have been a number of witnesses who have testified here at this Inquiry regarding sanction issues for this particular project.

And I never expect necessarily that I’m going to hear anybody express any sort of regret or any sort of admission of any sort of responsibility for their involvement. And I’m well aware that the public are basically watching this. Some people are watching it; some people are getting information via the media with regards to what’s happening here, so I want to give you the opportunity to respond to this question.

Whether you were the ADM or the DM, it’s pretty clear to me, based upon everything that I’ve seen in this Inquiry up to date, you had an integral role in this Muskrat Falls Project. You were the government face, if I can speak to that, not the politician’s face, but the bureaucrat’s face on this project to a significant extent.

**MR. BOWN:** I would agree with you.

**THE COMMISSIONER:** You’d agree. So you’ve admitted now to some – let me call them – shortcomings, although you may describe them otherwise.

For instance, you’ve stated to me that you didn’t follow up on Mr. Kennedy’s request for information on cost overrun history for hydroelectric projects. You indicated that your – that the government had accepted – through your department it accepted the reasonable – the recommendation of the JRP on the integrated resource management and I’m not sure what was done subsequent to that.

You admitted involvement in the shareholder expectations letter, which appears to have gotten lost in your department, I think, to use your terminology. There was the accountability protocol. And you were aware that changes were being made to the MHI report. You were assuming that these changes were being made based upon new information being provided, but you made no inquiry in that regard.

These are just some things that I’ve heard. And I just want to ask you whether there’s anything you want to say regarding any expression of concern, regret, responsibility, to some degree, and I recognize that, you know, you’re doing the beckoning of the politicians, but for you, individually, is there anything you want to say about expressing anything related to your involvement in this particular project?

I have no doubt you tried your best, but you know where we are right at the moment, we wouldn’t be having this Inquiry otherwise, and my question is do you regret anything?

**MR. BOWN:** Commissioner, I’m always one to accept responsibility where the responsibility should be accepted, and in the case of the particular issues related to the accountability protocols and the letter of expectations, those are things that were my responsibility at that time. They didn’t advance, and I have to accept responsibility for that, that they didn’t occur in a timely fashion.

**THE COMMISSIONER:** Okay.

**MR. BOWN:** I am prepared to do that.

**THE COMMISSIONER:** Is there anything else you want to say about this generally?

**MR. BOWN:** No, I don't think I have anything else I'd like to share.

**THE COMMISSIONER:** All right.

**MR. BOWN:** No, that's the most important point that I see, that that was a shortcoming, and I didn't follow up on.

**THE COMMISSIONER:** All right.

Thank you, Mr. Bown. Thank you very much.

**MR. COFFEY:** Commissioner, Bernard Coffey. If you – just before we break, to answer two points you made.

**THE COMMISSIONER:** Mm-hmm.

**MR. COFFEY:** For what it's worth, and I do have something of a chronological, you know, compilation of material. Briefing note 3571, page 11 of 14. That's 3571. I don't know if it's ever been exhibited, I believe it's a 2009 one, page 11 of 14.

There is a reference, chronologically the first I've seen, is the least-cost option.

**THE COMMISSIONER:** Okay. Thank you.

**MR. COFFEY:** And that was back in that time.

And you posed a question to Mr. Bown about analysis up to 2041, at that point. I believe the exhibit number – my computer died, but I believe it's P-01069.

It's that October 26, 2011 – I'm sorry, 2010 – Natural Resources memorandum produced for Mr. Bown and Robert Thompson.

And you will find there – and I referred Mr. Bown to this this morning. There is a CPW calculation there done by NR between 2010 and 2041 for the Isolated Island.

**THE COMMISSIONER:** Right. And I –

**MR. COFFEY:** Okay. So I –

**THE COMMISSIONER:** I don't want to –

**MR. COFFEY:** Yes.

**THE COMMISSIONER:** – get into this too much, but –

**MR. COFFEY:** (Inaudible.)

**THE COMMISSIONER:** – I've seen that, and I've also seen the difference between what the cost would be with a 2041 option, the way it was done by DNR, and what it would be and certainly far less than 2.2 billion.

But in any event, that's not where I was going with that –

**MR. COFFEY:** (Inaudible.)

**THE COMMISSIONER:** – question. I just wanted to ask the question.

**MR. COFFEY:** Sure.

**THE COMMISSIONER:** All right. So, Monday, we begin with Mr. Martin, I believe.

**MS. O'BRIEN:** That's correct.

**THE COMMISSIONER:** Okay. 9:30, Monday morning.

Thanks everybody, have a nice weekend.

**MR. BOWN:** Thank you, Commissioner.

**THE COMMISSIONER:** Thank you.

**CLERK:** All rise.

This Commission of Inquiry is concluded for the day.