



COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

Transcript | Phase 2

Volume 16

Commissioner: Honourable Justice Richard LeBlanc

Friday

22 March 2019

CLERK (Mulrooney): All rise.

This Commission of Inquiry is now open.

The Honourable Justice Richard LeBlanc
presiding as Commissioner.

Please be seated.

THE COMMISSIONER: All right.

All right, Mr. Learmonth.

MR. LEARMONTH: Thank you.

THE COMMISSIONER: And Mr. Meaney,
you remain affirmed this morning.

MR. MEANEY: Correct.

THE COMMISSIONER: Okay, thank you.

MR. LEARMONTH: There's two new
Exhibits I'd like to have entered, P-02436 and P-
02437.

THE COMMISSIONER: All right. Those will
be entered as numbered.

MR. LEARMONTH: Thank you.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MR. LEARMONTH: Mr. Meaney, yesterday
you commented that the July 2013 independent
report – independent engineer's report that was
sent to the government had information on cost
and contingencies. Do you remember saying
that?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. Now, I had a look
through, I just wanted to bring up the exhibit,
it's C-I-M-P – it's Exhibit P-02175; it's not in
your books but I just want that exhibit brought
up.

And if we can turn to page 95. Okay.

Then we go down to 5.1.2. Can you read out
what's under the heading, "Evaluate Cost
Estimates and Fixed Price Estimates?"

MR. MEANEY: Sure. It says, "Currently under
review. No comments are yet available. MWH
and Nalcor agreed to update this section once
more large contract bids are received."

The section I – referring to, actually, I think was
a bit later on –

MR. LEARMONTH: Okay.

MR. MEANEY: – in the report.

MR. LEARMONTH: Okay. Can you show me
where –

MR. MEANEY: I believe it was at – in that
draft it may have been in section 9.

MR. LEARMONTH: Section 9?

MR. MEANEY: Yeah.

MR. LEARMONTH: Okay.

MR. MEANEY: I'm just going off memory
here. Because there was a section that talked –

MR. LEARMONTH: Section 9, would that be
page 183?

MR. MEANEY: If we could go back to this
beginning of Section 9, sure, just keep going
down through.

MR. LEARMONTH: Okay.

MR. MEANEY: Wait now, let's just – it was –
I –

MR. LEARMONTH: If you go to page 183,
and 184 and 185, is that what you're referring
to?

MR. MEANEY: Sorry, one – no, if we could
just go up?

That's 9.1 – okay, sorry, keep going down –

MR. LEARMONTH: Okay.

MR. MEANEY: – 9.2, just keep going down if
we could? Oh, and now slow, slow, slow, slow,
sorry (inaudible).

Sorry, keep going down, I think – 9.2.2, yeah, wait now, so here is where – I think this is where it started. So on the bottom there of page 185 –

MR. LEARMONTH: Right.

MR. MEANEY: – there's some commentary there about the range of costs, you know, in terms of a DG3 estimate, and if we could keep going.

MR. LEARMONTH: Right.

MR. MEANEY: Oh wait, now. There was a comment there at the end of 9.2.2, where it talked about, you know, given that this range, you could see an expected range of outcomes between \$5 million and \$7.4 billion, relative to the 6.2 number.

MR. LEARMONTH: Okay, that's where you're referring to (inaudible) –

MR. MEANEY: And I think there might've been, if I – if I could just go down, I thought –

MR. LEARMONTH: You mean 9.2.4, that's contingency, I think you want to refer –

MR. MEANEY: Yeah, that –

MR. LEARMONTH: – to that –

MR. MEANEY: – might've been –

MR. LEARMONTH: – also.

MR. MEANEY: – that might've been the other section I was thinking –

MR. LEARMONTH: Yeah.

MR. MEANEY: – about.

MR. LEARMONTH: The second-to-last paragraph on page 191, is that what you were referring to?

MR. MEANEY: If we could keep going down I'll see if I can – not – wait now, here we go, hang on a –

MR. LEARMONTH: 9.2.4

MR. MEANEY: Yeah, just keep – I think we've missed it. Just go back up if you could? Wait now, wait now.

Yes, so there it is.

MR. LEARMONTH: Okay, so –

MR. MEANEY: (Inaudible.)

MR. LEARMONTH: – that's what you were referring to, is (inaudible).

MR. MEANEY: Yes, that's what I was recalling. There was a comment on range of cost outcomes and then there was also some commentary on, you know, what they had seen historically –

MR. LEARMONTH: Okay.

MR. MEANEY: – on contingency, the –

MR. LEARMONTH: And that's what you were referring to yesterday –

MR. MEANEY: Yes.

MR. LEARMONTH: – when you said that the province, having received this, would at least be aware of those factors.

MR. MEANEY: Yes, and in terms of, I guess, some of the themes that carried on in the subsequent drafts would've been variations of this information.

MR. LEARMONTH: All right.

Now, at the time of, we'll say, as of November the 1st, what was your understanding about the capital cost estimate for the Muskrat Falls Project?

MR. MEANEY: As of November 1, the only number myself and my colleagues on the Finance team would've been aware of was still only the DG3 number, which would've been the 6.2.

MR. LEARMONTH: Yeah.

That's the only number that you knew about?

MR. MEANEY: At that point in time, yes, and then it was shortly after that we had been given an update from the project team.

MR. LEARMONTH: Yeah.

But you – so you weren't aware that there had been multiple cost revisions done before November the 1st, that showed a substantial increase in the cost estimates?

MR. MEANEY: I was not aware. I did see in the Grant Thornton report – I think there was some points during the summer of 2013 where the project management team had updated the CEO and possibly Gilbert on numbers that were higher. I think in the range of around \$7 billion, I think, was what the number that was –

MR. LEARMONTH: Yeah.

MR. MEANEY: – talked about. I was not aware of that, and none of my colleagues were aware of that number or those discussions either.

MR. LEARMONTH: What do you mean your colleagues? Who do you – are you referring to?

MR. MEANEY: That when I – when I say my colleagues that I worked closely, it would have been the finance team.

MR. LEARMONTH: Yeah.

MR. MEANEY: So the Nalcor finance team. So myself, Derrick Sturge, Auburn Warren, Rob Hull and a gentleman named Craig Hippert, we were kind of the core Nalcor finance team that were –

MR. LEARMONTH: Yeah.

MR. MEANEY: – running the financing process.

MR. LEARMONTH: But how could it be that, if you're running the financing process, you don't have up to date estimates?

MR. MEANEY: Through the summer of 2013 we had been indicating to Ed and Gilbert and the project team that, you know, there was an expectation that we're going to need to provide an updated cost estimate prior to financial close.

And we had been raising that point, but through the summer we did not receive any information on that and it wasn't until early November that we had been given an indication in a presentation that we did with Canada and the independent engineer that the cost was up approximately \$300 million. So that would have been in early November.

MR. LEARMONTH: November 2013. But –

MR. MEANEY: Correct.

MR. LEARMONTH: – if you're the finance team, and you're dealing with – you know, up 'til – before financial close you had extensive dealings with the federal government. There was discussion after discussion or written comments in the emails about cost estimates and so on. And are you telling the Commissioner that the information on cost estimates – beyond the 6.202, which was the DG3 number – are you saying that that information was not communicated to you?

MR. MEANEY: No. It was not, no. We weren't aware of a change in the capital cost number until early November. And as I mentioned, at that point in time, we were notified –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that it was up approximately \$300 million.

MR. LEARMONTH: Okay. Do you find that an unusual situation? That you're in charge of – what's your – you have a big responsibility for the Lower Churchill Project? Correct? At this time.

MR. MEANEY: Yes. Correct there.

MR. LEARMONTH: And Derrick Sturge, on your team, is the chief financial officer?

MR. MEANEY: Correct.

MR. LEARMONTH: And you don't have up-to-date, current cost estimates? Is that something that is acceptable to you?

MR. MEANEY: We were trying to get an update, and it wasn't coming, so, yes, I mean,

we should have been made aware sooner than we were.

MR. LEARMONTH: Well, you didn't find out about these estimates until you read the Grant Thornton report, you said.

MR. MEANEY: Yeah, in terms of the numbers that were discussed – the \$7-billion number – that's correct. I wasn't aware of that until I read it in the Grant Thornton report.

MR. LEARMONTH: And what was your reaction when you read the Grant Thornton report and realized that in July 2013, there was an estimate of \$7 billion – so that's \$800 million past the DG2 number, with a comment – qualification that it might be mitigated to 6.9 or 6.8. What was your reaction when you became aware of that information, given your involvement in the project and the fact that you're at the top of the chain – well, you and Derrick Sturge are – on financial matters. What was your reaction?

MR. MEANEY: We were surprised.

MR. LEARMONTH: Yeah.

And you acknowledge that this information should have been provided to you?

MR. MEANEY: We would expect – if that was the estimate that the team had agreed on, we would have expected to receive that information.

MR. LEARMONTH: Yeah. And you said that you had been asking prior to, say, November 1, 2013, for current information on cost estimates?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. Why didn't you receive them?

MR. MEANEY: My assumption would be that that was still under discussion with Ed and the project team.

MR. LEARMONTH: But did – so you didn't get any hint at all about the level of the increases or anything like that?

MR. MEANEY: We had gotten some indication from the project team that they were seeing some pressures but didn't know dollar amounts.

MR. LEARMONTH: Yeah. But they did know.

MR. MEANEY: Based on the information in the Grant Thornton report, yes, they did know. But we didn't.

MR. LEARMONTH: But they wouldn't tell you?

MR. MEANEY: Not – we – not at that point in time, no.

MR. LEARMONTH: Well, not at that point in time. I mean, you just said that you didn't find out about this until you read the Grant Thornton report.

MR. MEANEY: Yes, that's what I mean. That – based on the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – Grant Thornton report, it indicates that they were talking about a number of \$7 billion in July. We were not made aware of that.

MR. LEARMONTH: Okay.

Well, let's just turn – and, by the way, the Grant Thornton report was dated – in question – was dated December 7, 2018.

MR. MEANEY: Yeah.

MR. LEARMONTH: And I want to turn to that. It's Exhibit P-01677. And I believe, if you wanna look at the hard copy, it's in your volume 4, tab 109.

THE COMMISSIONER: Actually, it's 110.

MR. MEANEY: One-ten?

THE COMMISSIONER: Yeah.

MR. MEANEY: Yeah, 110. Okay. I have it.

MR. LEARMONTH: Turn to page 19, please?

MR. MEANEY: Page 19. Yes.

MR. LEARMONTH: Okay. So this is – I referred earlier to July 2013 – if you look at line 13, there's a chart below that. So July 2013, PMT – that's project management team – Comments 2018: *"July 2013 Final Forecast Cost deck presented by Project team to CEO of ~\$7.0B."*

Communication to Executive: "Email from Paul Harrington to Gilbert Bennett July 22 ... *'...here is the deck that has been produced for you and Ed.'*"

And then Excerpt from Presentation: *"We are forecasting the FFC to be ~\$7.0B which is 12% beyond the DG3...."* And then under that: *"Exposure if mitigations are successful...FFC would be reduced to \$6.8"*

So just to confirm, that was the report I was referring to, and you didn't find out about that report until after you read the December 7, 2018, Grant Thornton report?

MR. MEANEY: Correct.

MR. LEARMONTH: Correct. And that's what surprised you when you read this.

MR. MEANEY: Yes, (inaudible) –

MR. LEARMONTH: Why did it surprise you?

MR. MEANEY: Because prior to financial close, we had been given a number of 6.531 and we thought that was the number.

MR. LEARMONTH: Yeah. And you're dealing with Ms. Manzer throughout it, but there's all kinds of comments about cost increases even before November 1 and you're sitting there – as I understand your evidence – believing that the most up-to-date cost estimate is still the 6.2.

MR. MEANEY: We had given – been given indication that it was going – that there was pressure. But the only number we were aware of prior to November 1 was 6.2.

MR. LEARMONTH: Yeah. And you sought clarification on what the pressure was and you never received it. Is that right?

MR. MEANEY: We were indicating we needed – if there was pressure and the number was gonna change, we needed an update sooner rather than later. And –

MR. LEARMONTH: But you didn't get it.

MR. MEANEY: Didn't get it 'til early November.

MR. LEARMONTH: Yeah.

Well, what efforts did you make to get it? I would think in a situation like this – and especially where you're a CFA and you have strong ethical obligations – that you would go to the CFO – or maybe Mr. Sturge or the both of you – and say: Look, we're dealing with the federal government. We have to be transparent and open. We want to know what the estimate is. We're not accepting this position that there's cost pressures. We want to know what the numbers are so that we can be confident that the information we are giving to the federal government is correct.

Did you ever consider making an initiative of that nature?

MR. MEANEY: We met with Ed and the project team on a number of occasions through the summer of 2013; there would've been, I think, a number of emails from Derrick to Ed and Gilbert as well, you know, indicating we do need this information. If there's gonna be an update, we do need it. So I think we were – as the financing team, we were pushing that on a number of occasions through the summer and into the early fall.

MR. LEARMONTH: Of 2013?

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

MR. MEANEY: That we needed the information, that we were, you know, there was discussions going on about this where there was an expectation that we were gonna have to

provide updated numbers prior to financial close, and it wasn't until early November that we received that update.

MR. LEARMONTH: Yeah.

So that left you in a – in retrospect, in a very awkward position, did it not?

MR. MEANEY: Yes, it left us in a very tight spot, you know, weeks before the target financial close date.

MR. LEARMONTH: Yeah.

And isn't it true that even up until – well, you know, even up until November 1 and perhaps beyond, the Government of Canada was putting pressure on Nalcor to provide cost estimates because they weren't getting the information they needed. Isn't that true? I mean, I'll give you an example –

MR. MEANEY: Yeah, sure. Go ahead.

MR. LEARMONTH: – in the November 15th draft report of the IE – I can refer to it if you want, but you can take my word that this is true –

MR. MEANEY: Yeah.

MR. LEARMONTH: – that what's written there is we're not receiving – you know, generally, we haven't received proper cost estimates, or up-to-date cost estimates from Nalcor. This is two weeks before financial close.

MR. MEANEY: So at that point in time, Canada and the – or I guess, the independent engineer would've had details on the DG3 number. So that would've been –

MR. LEARMONTH: Yeah.

MR. MEANEY: – the 6.2.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

Okay, so this July 2013 that I referred to was, well, you've already said it twice so I'm not gonna – turn the page to page 20, of Exhibit P-01677.

Now this is an August 2013 final forecast cost update, so that one is 6.9. And then there's a – you know, discussions – Communications to Executive, the next column, and then Excerpt from Presentation: *"We are forecasting the FFC to be ~\$6.9B which is 10% beyond the DG3..."*

So a slight adjustment but in the same range.

MR. MEANEY: Yes.

MR. LEARMONTH: Is your answer the same as the answer you gave to the July '13 – about the July '13? You didn't have any knowledge of this?

MR. MEANEY: Correct.

MR. LEARMONTH: What about the September 2013? And I'm just gonna go up to the ones before financial close (inaudible) –

UNIDENTIFIED MALE SPEAKER: Sure.

MR. LEARMONTH: – same answer?

MR. MEANEY: Same answer, correct.

MR. LEARMONTH: March 2014, this is 7.517. This is March 2014. Did you ever see that?

MR. MEANEY: Not in – in 2014 I wouldn't have seen any discussion on 7.5 in March, no.

MR. LEARMONTH: What about May 2014? I'm on page 21 now.

MR. MEANEY: May 2014. In – if I could maybe get a bit of chronology on '14, that would be helpful.

MR. LEARMONTH: Yes.

MR. MEANEY: Okay.

So in early –

MR. LEARMONTH: What report are you referring to in '14?

MR. MEANEY: I'm just going to – if – I was going to give some chronology in terms of when information on costs became –

MR. LEARMONTH: Yeah.

MR. MEANEY: – available to me in 2014.

MR. LEARMONTH: Okay.

Well that's going to be helpful but I'm going to deal with that –

MR. MEANEY: Okay. Sure.

MR. LEARMONTH: – information that you kindly provided to us.

MR. MEANEY: Sure.

MR. LEARMONTH: So we'll deal with that in relation –

MR. MEANEY: Yeah.

MR. LEARMONTH: – to the October letter from Alison Manzer.

MR. MEANEY: And actually, that letter – that information that I provided, the chronology was 2015.

MR. LEARMONTH: Yes.

MR. MEANEY: I was actually going to speak to –

MR. LEARMONTH: Okay well that's fine. Okay.

MR. MEANEY: – to 2014 if I could.

MR. LEARMONTH: Okay. Please do.

MR. MEANEY: Okay.

So in, I'll say, early February of 2014, I started the process of preparing memos for the boards of directors of the Lower Churchill Project companies because there was a meeting scheduled in March of 2014. So I started

preparing the memos on the basis of the numbers that were included in the project finance agreements from November of 2013. So that would have been –

MR. LEARMONTH: 6.531.

MR. MEANEY: Exactly. On the capital cost side and then also I had to prepare the AFEs for the financing costs. So now that we had closed on the debt financing and we knew what the numbers were going to be for the financing costs, I also had to prepare AFEs for the financing costs as well.

So that process started in early February of 2014. And then it was around that time that the project management team had given me a heads up that they were seeing some additional cost pressures above the 6.531 relating to some of the major contract awards that were set to be awarded in, I think it was the first part of 2014. And I think the ones that I – that they were specifically referring to at that point in time would have been ones relating to the converter stations as well as the HVDC transmission line.

So through those discussions, they gave, I guess, a contingency – an additional contingency amount that they were proposing to have been added to the 6.531 number because that was the number I was moving forward with at that point in time in terms of preparing the memos. And that number was in the range of, I think, 418 million – 400 – just over 400 million – so the proposal by the project management team was to include in the AFE memo a recommendation for contingency or management reserve above the 6.5 to the tune of \$400 million.

So then, we started pulling together some information to prepare the memos on that basis. In early March, I provided a draft of the AFE memos, including a provision for that, and then I think there was some subsequent discussion on that and with Gilbert and Ed and the project management team and others.

Then, a little bit later in March, I did a – another update of the memo, keeping the AFE amount to be approved in March at the 6.531, but proposing that we might – proposing to add some language in the memo to say that following the award of major contracts, in the

event that the amount was above the 6.531, we would come back to the boards, for the next meeting – would've been June of 2014 – for a further revision of the AFE.

And then I think there was some discussion back and forth on that, and then in, I believe it was the 16th or the 17th of March, I sent – I re-sent to Gilbert a draft of the AFE memos for the boards, which had just the 6.531, as well as the financing costs, and that indicated, you know, for your discussion with Ed. Ed was – had been out of town and was just coming back, I think it was on the 17th of March, and there was gonna be board meetings on the 19th and the 20th of March.

So, I guess there was a discussion between he and Ed, and that AFE memo didn't get brought forth to the boards at that point in time.

MR. LEARMONTH: Why not?

MR. MEANEY: It would've been the decision of Ed, I guess, to not bring it forth at that point in time.

MR. LEARMONTH: And when you refer to Ed, you're talking about Edmund –

MR. MEANEY: Yes –

MR. LEARMONTH: – Martin.

MR. MEANEY: – Mr. Martin, sorry.

MR. LEARMONTH: Yeah, yeah.

MR. MEANEY: The CEO.

I mean, the understanding within the organization is if – anything with respect to, you know, a cost update or a schedule update, Ed had to sign off on that before it was gonna start moving through the steps of further consultation with folks from government, going forth to the boards for a revised AFE, and then –

MR. LEARMONTH: Okay, so are you saying that Mr. Martin had absolute control over the release of the information and projects costs?

MR. MEANEY: In terms of the final decision on cost updates, yes.

MR. LEARMONTH: And in terms of communicating cost estimates to the government and other people, it had to be approved by Ed Martin.

MR. MEANEY: Ed was always the starting point. Yes.

MR. LEARMONTH: Yeah. You couldn't pass on any information –

MR. MEANEY: Yeah.

MR. LEARMONTH: – without his permission. Is that right?

MR. MEANEY: That was the understanding within the organization – that he had to give sign-off before we could start, you know, disseminating to others.

MR. LEARMONTH: Yeah. But doesn't it leave you in an awkward position because, you know, there's situations where you know that figures have changed, but because Mr. Martin has not given you permission to communicate these changes, you're forced – as long as you're going to remain in your position – to communicate stale information? Isn't that true?

MR. MEANEY: Yeah. He had to give –

MR. LEARMONTH: Isn't that true?

MR. MEANEY: I mean there would be periods where –

MR. LEARMONTH: Is that true? Do you agree with what I said?

MR. SIMMONS: Commissioner, I – Mr. Meaney should be given a chance to answer the question –

THE COMMISSIONER: I agree.

MR. SIMMONS: – without being interrupted.

THE COMMISSIONER: I agree and I think he – I think we should answer the – he should be – answer the first question and then you can ask him if – go back to –

MR. LEARMONTH: Yeah.

THE COMMISSIONER: – this one. I would like to hear what he has to say.

MR. MEANEY: If you could repeat the first question, just so I'm ...

MR. LEARMONTH: Well, let's not leave you in an awkward position. I won't repeat it verbatim, but I'll give it to you – the sense of what I was getting at – that there can be a situation where you're communicating information to other parties, let's say the federal government, that you know is stale, that there's more current information, but you're prohibited from communicating the up-to-date, current information because Mr. Martin has refused or declined to give you permission to release that information.

Do you agree that that situation occurred in relation to your dealings with the federal government?

MR. MEANEY: There would be situations where we were waiting for his sign-off on the cost number before we could start disseminating that information.

MR. LEARMONTH: So you would be passing on stale information, outdated information, because you didn't get the permission from Mr. Martin to release the current information. Is that right?

MR. MEANEY: Yeah. There would have been – there would have been a process by which, you know –

MR. LEARMONTH: Yeah.

MR. MEANEY: – starting with his sign-off –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and then steps that would have followed –

MR. LEARMONTH: Yeah.

MR. MEANEY: –that would have allowed us to update the information in the construction reports, for example.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah.

MR. LEARMONTH: But I suggest that puts you in an awkward position because you're passing on information that you know is stale and outdated.

Is that correct?

MR. MEANEY: Yeah. I mean, we –

MR. LEARMONTH: Is it yes?

MR. MEANEY: – we would know that there would need to be an update. Yes.

MR. LEARMONTH: Yeah. So that puts you in an awkward position, doesn't it?

MR. MEANEY: In some instances, yes. Yes.

MR. LEARMONTH: Yeah. Because you have obligations quite apart from common ordinary sense. You have obligations as a CFA, you have high standards of ethical conduct. Is that correct?

MR. MEANEY: Yes. Now it would have been – in the case of – Mr. Learmonth, in the case of the Government of Canada, in terms of when we were able to give them updates on cost or schedule or whatever it might have been, they would have understood that within Nalcor and, I guess, within Nalcor and the province, there would have been a process by which, you know, various folks had to be consulted with before we could give them an update. And they would have been aware of that.

MR. LEARMONTH: How would they have been aware of that?

MR. MEANEY: There was a discussion – I guess the discussion first started in 2014. And maybe if I could – if I could finish the chronology that I was laying out there for '14, it might be helpful in explaining that. Would that –

MR. LEARMONTH: Go ahead.

MR. MEANEY: – would that be okay?

MR. LEARMONTH: Go ahead.

MR. MEANEY: So, I guess, as I had mentioned, we were, you know, we were trying to move things forward to update the boards in March of 2014. It was decided that at that point in time, we weren't going to give the board an update.

MR. LEARMONTH: Who – who decided that?

MR. MEANEY: It would have been the decision of Mr. Martin.

MR. LEARMONTH: Okay.

And do you know why he would have made that decision: not to update the board at that time?

MR. MEANEY: I – I can't – I think it may have been he – he may have been wanting to wait to see where some of these contracts that had come in – that the guys had given us a heads-up on, but I can't say that for certain.

MR. LEARMONTH: Okay.

MR. MEANEY: So if I can keep going – so we moved into April and the –

MR. LEARMONTH: April 2014.

MR. MEANEY: – 2014, yes. And the – the independent engineer report would have been released to the public. So that was around the middle of 2000 and – sorry, middle of April, 2014. As part of the release of that, Mr. Martin did indicate that they were seeing – that there was cost pressures being experienced on some of the major contract awards, that there was also a possibility that first power would be delayed beyond 2017, as had been indicated at sanction, and that he was committed to providing an update once further information was known. So that would have been in the – in about the middle of April, 2014.

MR. LEARMONTH: So in the middle of April 2014, you're saying Mr. Martin knew that the December 2017 date for first power was not achievable?

MR. MEANEY: He stated that publically, yes.

MR. LEARMONTH: Yes.

MR. MEANEY: And that he was – there was cost pressures on the – I guess it would have been publicly known then, the 6.2 number, and that he was committed to provide an update a little bit later in the year. So that would have come up in April.

Keep going with the chronology now – then in May, there would have been discussions within Nalcor in terms of an updated AFE amount that was gonna go to the board. The next board meetings would have been June of 2014. And that's where there was discussion, and the number that was landed on and approved by Mr. Martin to go forward was the 6.99 billion.

MR. LEARMONTH: And that was when?

MR. MEANEY: That would have been in around May of 2014.

MR. LEARMONTH: Well, just look – just go to page 21 of the Grant Thornton report, P-01677. At that point, Mr. Martin would have received the May 2014 management outlook of 7.5 and the March 14 AFE revision to 7.517? It wasn't done then but he would have had these figures, but he went with a lower figure. Is that right?

MR. MEANEY: Yeah. We're in May 2014 we're talking about now?

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes. So he would have made the decision to go with the 6.99.

MR. LEARMONTH: Do you know why he wouldn't have gone the whole way to the 7.50 or 7.517?

MR. MEANEY: I don't. He would have to speak to that.

MR. LEARMONTH: That's his decision. Is it?

MR. MEANEY: His decision, that's the CEO.

MR. LEARMONTH: And likewise, is it Mr. Martin's decision as to when to go for an AFE?

MR. MEANEY: Yes. His sign-off is the start for when we would go forward with the AFE process.

MR. LEARMONTH: Yeah.

But why is there – was there considerable delay between seeking AFEs and the receipt of project cost estimates?

I'll just give you an example. If you turn to page 20 of the Grant Thornton report. You can see, the top: "AFE revision 1 in June 2014 for \$6.99 billion" Now that's 11 months after the July 2013 estimate of 7 billion, so that's almost a year later.

Can you account for or explain the reason for this –

MR. MEANEY: I –

MR. LEARMONTH: – year, almost a year delay?

MR. MEANEY: Sure. I can't – as I said earlier, I – in the case of the 7 billion or the 6.99 number, I wasn't aware of that figure until 2014. So in terms of, you know, discussions between the project management team had had the year before, I wouldn't have been party to those so I wouldn't have been aware of that number.

MR. LEARMONTH: Okay.

MR. MEANEY: (Inaudible.)

MR. LEARMONTH: But you can say that before an AFE was prepared – before you were directed to prepare an AFE, Ed Martin had to provide the direction and no one else?

MR. MEANEY: Correct.

MR. LEARMONTH: He had absolute control over the timing of that?

MR. MEANEY: Correct.

MR. LEARMONTH: Okay.

Okay, are you finished or –?

MR. MEANEY: No, just a little further if I could carry on. And it was to kind of close the loop, Commissioner, on the discussion we had had with Canada in terms of the steps. So I guess we – there was discussions within Nalcor on the 6.99. It was agreed that that would be the figure that we would go forth to the board in June of 2014, to get a revised AFE approval.

In early June, so I think it was the 4th of June, at Nalcor's AGM, Mr. Martin did say he was committed to giving the public an update by the end of June. Then we would have –

MR. LEARMONTH: But what update was provided at the end of June, by the way?

MR. MEANEY: Sorry?

MR. LEARMONTH: Was there an update provided at the end of June, to the public?

MR. MEANEY: Yes.

MR. LEARMONTH: Yes.

MR. MEANEY: So that was the amount – that would have been the 6.99. That was the amount that would've went to the public in June. And just – you know, if I could just close the loop on this step –

THE COMMISSIONER: Just if I can, just think about that for a minute. Are you sure that that update didn't actually happen until September of 2014?

MR. MEANEY: No, in 2014, the update to the public happened in June, and it was the 6.99 figure, Commissioner.

THE COMMISSIONER: Okay.

MR. MEANEY: So Mr. Martin would've given an indication on the 4th of June, at the AGM, that he was committed to give an update by the end of June of 2014. At that point in time, there was some discussions with the federal government, and this is kinda – I'm coming back to the point I made. So we would've had discussions with folks from the federal government to let them know that, you know, yes, Mr. Martin was going to give an update by the end of June. There was a number of steps

internally, both within Nalcor and the province, in terms of consultation on what the update was gonna be.

We would then be coming back to them in June following the approval of the revised AFE by the boards and give them an update. And in 2014 we gave the federal government the update on the 20th of June. And then the public update happened about a week later –

MR. LEARMONTH: Okay.

MR. MEANEY: – in terms of the 6.99.

MR. LEARMONTH: Okay.

MR. MEANEY: And Mr. Learmonth, if I could just add just one more point on that because I think that when you interviewed Mr. Argirov on Wednesday, he had made a comment that – I think he had said there was some surprise on the Canada side – on the independent engineer and Canada's side – in 2014. And I believe he may have been confusing that with the discussion in 2015, which we'll come to a bit later, because, you know, as I just described, in 2014, Canada had been given, I guess, advance notice on a number of iterations that a cost update was coming.

So when we actually did update Canada on the 20th of June, they weren't surprised. And then in the construction reports, that would have been issued on July 20, so that's the construction report issued for the period ending June 30, 2014. You would have seen under the section on final forecast costs, it said final forecast cost has been updated to reflect the board-approved AFE. That was approved in the period. And then the – I'm sorry – the final forecast cost information in the construction report from July onward until into 2015 would have been showing the 6.99 final forecast cost.

MR. LEARMONTH: Yeah.

So the – is that all you have to say at this point?

MR. MEANEY: Yeah.

MR. LEARMONTH: Okay.

MR. MEANEY: In terms of 2014, yeah.

MR. LEARMONTH: Yeah. Okay.

So all these – on – these comments on page 20 and 21 of the Grant Thornton report of: "AFE revision 1 in June 2014 for ... (11 months later)." "AFE revision ... June 2014 for 6.99 billion (10 months later)."

So all these delays – can you provide any explanation as to why there had been such a long delay between the final forecast cost and the AFEs?

MR. MEANEY: In terms of, I guess, the discussions that would have happened prior to myself and some others becoming involved, like, for example, the six – the \$7-billion number we talked about –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I can't because I wasn't aware of those. In terms of once I became aware that the CEO –

MR. LEARMONTH: Yeah.

MR. MEANEY: – had signed off on a number to go forth on the AFE on, with the exception of 2015 – and, you know, a little bit later, I can give some chronology 'cause I put that together to try to be helpful. Typically, if you look at –

MR. LEARMONTH: I don't want to get into that now (inaudible) –

MR. MEANEY: Oh yeah –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – no, no.

But I just – in terms of the process once, you know, I became aware that the CEO had signed off on a number to go forward with on the AFE, with the exception of 2015, that period had been typically – if you look at '14, '16 and even '17, it was within, I'll say, Commissioner, two to three months. So it was – that was kind of the standard process in terms of his sign-off, consultation with the shareholder, lining up the boards of directors to approve or revise the AFE and then providing that update. That would have been the typical time frame.

And in terms of, you know, the Government of Canada and the IE, I think they would've been, as I explained in – based on what happened in 2014, that would've been something they would've expected. In '15 it was obviously a lot longer, and we'll talk about that a bit later.

MR. LEARMONTH: Yeah.

But – well, I guess – I mean, obviously you can't speak to whatever process was going on in 2013 – up until the end of 2013 because you weren't aware that there were forecast costs. You weren't aware of them.

MR. MEANEY: I wasn't aware of any number higher than the 6.531.

MR. LEARMONTH: Yeah.

MR. MEANEY: That's right.

MR. LEARMONTH: And the 6.531 was the number that was in the closing financial documents.

MR. MEANEY: That was –

MR. LEARMONTH: There's two – if you add up the different –

MR. MEANEY: Yes.

MR. LEARMONTH: – things, it's 6.531 –

MR. MEANEY: For the capital cost, yes.

MR. LEARMONTH: – the capital cost.

MR. MEANEY: Yeah.

MR. LEARMONTH: Now, at the time of financial close on November 29, 2013, was an AFE done for the 6.531?

MR. MEANEY: There wasn't an AFE done right at financial close. The plan – as I mentioned earlier was right after the new year, after the financing had closed and we started preparing the documentation in early February, the plan was to do that AFE revision in March.

MR. LEARMONTH: But it wasn't done until when, June?

MR. MEANEY: It ended up not getting done, as I described, until –

MR. LEARMONTH: Yeah.

MR. MEANEY: – June, that's –

MR. LEARMONTH: But why not?

I mean, that's a long delay. I mean, to prepare an AFE – I mean, an AFE, as I understand it, is where you have a cost estimate and then you're asking for permission to spend this money.

MR. MEANEY: Yes.

MR. LEARMONTH: So it doesn't take a long time to prepare an AFE, does it, once you have the estimate?

MR. MEANEY: No, I mean the preparation of the memo is pretty straightforward.

MR. LEARMONTH: Yeah.

MR. MEANEY: It was as –

MR. LEARMONTH: That – you can do that in a couple of hours –

MR. MEANEY: Right.

MR. LEARMONTH: – can you?

MR. MEANEY: I guess the –

MR. LEARMONTH: Is that right?

MR. MEANEY: That's right. The preparation –

MR. LEARMONTH: Yeah.

MR. MEANEY: – of the memo is a short process, but –

MR. LEARMONTH: Yeah.

MR. MEANEY: – as we just talked about, what triggered that going to the boards was getting the sign-off of the CEO and then the steps that followed.

MR. LEARMONTH: Yeah.

So if there was a delay in the presentation of the AFEs to the board, it would've been because the CEO, Edmund Martin, didn't – wouldn't sign off and (inaudible) –

MR. MEANEY: We would've –

MR. LEARMONTH: – is that right?

MR. MEANEY: We would've been waiting for him to give the okay, correct

MR. LEARMONTH: All right. Okay.

But when you're talking about – I mean, after – well, we'll say, in 2014, there's a lot of contracts coming in, and how can you commit the money and sign the contract without an AFE?

MR. MEANEY: So in the case of –

MR. LEARMONTH: No, how can you do that? Yeah.

MR. MEANEY: So if making commitments are going – making contractual commitments are going to put you above the then-approved AFE amount, under our financial authorization procedures, actually, the project team was not able to make that commitment.

MR. LEARMONTH: Yeah.

MR. MEANEY: So in the event that – and this was, I guess the, you know, the situation in 2014 – oops, sorry – and again in '15 was, there was a need – there was going to be a need to make contractual commitments to some of the major contracts, and the outcome of that was gonna be that the final forecast cost was going to exceed the then-current AFE, and as a result we needed to go to the boards to get a revised AFE approved.

MR. LEARMONTH: Yeah, but wouldn't all these delays in the advancing – or your signing off on the AFEs – I know it wasn't your call, it was Mr. Martin's. But wouldn't this cause delay in the advancement of the project because there are contracts out there that can't be signed, they're ready to be signed, they could be ready to be signed, but they can't be signed because you don't have an appropriate AFE?

MR. MEANEY: Yeah. I –

MR. LEARMONTH: Do you see the point?

MR. MEANEY: I see your point. I guess my comment would be: in terms of when the timing was planned for the awards of these contracts, I think you'd be better to have others from the project team to speak to was there a situation where a delay in AFE sign-off caused the delay in contract award, I couldn't speak to that.

MR. LEARMONTH: No, but you agree with the principle.

MR. MEANEY: If the award of the AFE – sorry, if the revision of the AFE was holding up a contract award, there is that potential.

MR. LEARMONTH: Yes.

Now, just turn to – on the same exhibit, P-01677, page 12.

MR. MEANEY: Page 12.

MR. LEARMONTH: Do you have that, Mr. Meaney?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

Paragraphs one – lines – I want you to read into the record lines 1 to 10, each word.

MR. MEANEY: “As indicated above, prior to financial close, bids were received from contractors whom ultimately were hired which collectively, exceeded the DG3 budget by approximately \$600 million, a twenty five percent (25%) overage. The amount of this overage exceeded the DG3 tactical contingency amount (\$368 million) by over \$230 million. Hence, prior to financial close, Nalcor should have been aware that the contingency amount included in DG3 budget was insufficient. Furthermore, Nalcor should have known that by April 2013 when the CH0007 bids were received (four months after sanctioning) that the DG3 contingency amount was exhausted. Accordingly, Nalcor knew that the remaining budget of \$4.2 billion (\$5.8 billion which is base plus escalation, less \$1.6 billion subtotal of DG3

budget at April 2013) after the consideration of CH0007 did not have any contingency remaining.”

MR. LEARMONTH: Okay.

Now, when did you first become aware of that? You can assume that those, for the purpose of my questioning, that those facts – that that’s factual. When did you first become aware of this information?

MR. MEANEY: In terms of this information and in terms of what was known in April of 2013?

MR. LEARMONTH: Well, in terms of the information –

MR. MEANEY: Yeah.

MR. LEARMONTH: – contained in this paragraph.

MR. MEANEY: I would’ve seen it in this report.

MR. LEARMONTH: In the Grant Thornton report?

MR. MEANEY: Right.

MR. LEARMONTH: And the Grant Thornton report, once again, is December 2018.

MR. MEANEY: Right.

MR. LEARMONTH: But you’re the chief – you know, you’re in charge of finance for this project and you didn’t know this.

MR. MEANEY: No, we weren’t made aware of this. Now, I mean, I will say, from a bid evaluation perspective, the finance team wasn’t involved. That –

MR. LEARMONTH: Yeah.

MR. MEANEY: – was done by, you know, the project team and there was a high degree of commercial sensitivity around that and even very few folks within the project team knew about that. So we wouldn’t have been in that process to know. It was only once, I guess, bid

awards happened and information was rolled up that, you know, updates would’ve been provided to finance.

MR. LEARMONTH: Well, I put to you that you should’ve known. This information should’ve been provided to you given your position and your very senior position on financial matters over the Muskrat Falls Project. This should’ve been provided to you. Do you agree?

MR. MEANEY: It’s probably information – yes – that folks from a finance perspective should’ve been aware of.

MR. LEARMONTH: You should’ve been aware of it, yeah.

Well, in fairness, I think you said you weren’t aware of it until you read the Grant Thornton report. I’m not sure if you’ve forgotten something, but this same point was made in the independent engineer’s reports. So if you had read the independent engineer’s report, you would’ve been aware of that before financial close.

MR. MEANEY: Yeah, I just – in terms of the specific dollar amounts and contingency that’s referred to here, that – this is where I would’ve read it, in the Grant Thornton report.

MR. LEARMONTH: Yeah.

And as a financial person, a CFA, it – do you believe this is important information? Lines one to – the information in lines 1 to 10?

MR. MEANEY: In terms of, you know –

MR. LEARMONTH: Budget.

MR. MEANEY: Yeah. In terms of – those of us who are, from a finance perspective, involved in the financing process and needing information as part of that, I think that’s fair. And being aware of this information as we’re moving through that process would’ve been helpful.

MR. LEARMONTH: I mean, this is financial information after all.

MR. MEANEY: This –

MR. LEARMONTH: And you're in charge of finance.

MR. MEANEY: Yeah, now, this information, in terms of, Commissioner, in terms of bid evaluations and the commercial side of that, that would not have been the accountability of finance but, I guess, information that would've come out of that process, once completed, would've been fed into (inaudible) –

MR. LEARMONTH: It would've been. So you should –

MR. MEANEY: We would've been – we should've been – would've been provided information relating to that.

MR. LEARMONTH: You should've received it? The information when it was known to –

MR. MEANEY: Once the, you know –

MR. LEARMONTH: – the project management team?

MR. MEANEY: Once the bid evaluation process was completed and contracts would've been awarded we should've been made aware of this is – or, you know, once the bid evaluation process was completed and there was readiness to award and – that would've been, typically, the time we should've been made aware.

MR. LEARMONTH: Well, I put to you that you should've been aware of this in April 2013. Do you agree?

MR. MEANEY: Yeah. If this was where it was heading, then we probably should've been made aware, yes.

MR. LEARMONTH: Well, look at – you read –

MR. MEANEY: Yeah.

MR. LEARMONTH: – paragraphs – that paragraph again. And I suggest that that information should've been provided to you by the project management team or Mr. Martin or Mr. Bennett in April 2013. Do you agree?

MR. MEANEY: If that was the – if this was information that, you know, they felt it was where it was gonna be where the bids are, they should've provided to us.

MR. LEARMONTH: Well, I'm not asking – like, I want you to look at the information and maybe you want to reread it. And it's a very simple question: Do you agree that the information contained in that paragraph should have been provided to you in April of 2013?

MR. SIMMONS: Commissioner, I think Mr. Meaney has answered the question. Although he's put a qualification on it, it's not inappropriate for him to put the qualification on it that he did. And he's given an answer to the question. He's put the appropriate context in it. I don't think he should be pushed into a corner where he's got to give a yes or no answer to what's stated there in the way Mr. Learmonth is presenting it.

MR. LEARMONTH: Well, I disagree.

I think it's a very simple question and if he doesn't think he should've been made aware of that information, he can say so and then I'll ask him to provide his reasons. I think it's a very simple, straightforward question and I see no reason to allow Mr. Meaney to put – if his answer is: he agrees. Then that's fine. If it's no, then I want to know his reasons. I don't see anything inappropriate with the question. I mean, I think the – there may be – it's not intentional, but I think the answers he's giving is slightly evasive.

MR. SIMMONS: Commissioner, I have to take exception to that.

Mr. Meaney is entitled to provide some context to his answer so that it's properly understood and it's not taken the wrong way or misunderstood. This is a high-level statement here in this report and I haven't heard anything from what – the way Mr. Meaney has answered it that would suggest that he's not willing to answer the question properly and put the proper context around it.

MR. LEARMONTH: Well, I disagree.

THE COMMISSIONER: Okay. So the two of you don't agree, so that means I have to decide.

So what I've heard so far from Mr. Meaney is that – and I think his last comment was that if the project management team were aware of this, as it's stated, then they should have provided this information to him at the time. I think, you know, that is a qualifier in the sense that if the PMT were aware of it.

But I think it's a fair, you know, I think it's fair to let him answer in that particular fashion in the sense of saying, you know, as I understand what he's saying, if they knew that, then he should've known it at the time. And I'm not sure he's actually not answered your question as a result of what he has said. So I think maybe we should move along.

MR. LEARMONTH: Okay, thank you.

The – I want to ask you some questions about the – some information in the earlier Grant Thornton report that's July 16, 2018. We went over this in the interview. It's Exhibit P-00014. And if you could bring that up, as I said, that's the July 16, 2018 Grant Thornton report on the sanctioning phase, and if you could turn to page 9.

MR. MEANEY: (Inaudible.)

THE COMMISSIONER: Yeah, I don't think that's in your binders.

MR. LEARMONTH: No it isn't, it'll come up –

THE COMMISSIONER: Oh – yeah, on the screen.

MR. LEARMONTH: – on the screen.

MR. MEANEY: Okay.

MR. LEARMONTH: Yeah.

MR. MEANEY: Okay.

MR. LEARMONTH: Do you have that? Do you see the – under the heading, "Financial Analysis?"

MR. MEANEY: Yes.

MR. LEARMONTH: Okay: "The following relate to cost estimates of the option that was selected by Nalcor, the Interconnected Island Option (i.e. Muskrat Falls)."

Okay, the first paragraph: "Nalcor excluded approximately \$500 million of strategic risk exposure from the capital cost estimate for the CPW calculation. We have been informed by Nalcor's Project Team, that strategic risk exposure was to be funded through contingent equity from GNL."

Now, were you aware of the existence – okay, we'll say at the time of financial close. Were you aware of the existence of a September 2012 Westney risk assessment report which considered three or four risks and recommended at P50 – it was a \$497 million –

MR. MEANEY: I don't recall ever seeing that report.

MR. LEARMONTH: You don't? Oh, so – when did you become aware of the existence of this report?

MR. MEANEY: I would've read about it, or I guess I would've heard about it in the testimony in Phase 1 of the Inquiry.

MR. LEARMONTH: And were you surprised when you heard it?

MR. MEANEY: I wasn't aware of it, so I guess, yes, probably would've been a surprise.

MR. LEARMONTH: Yes.

And then if we turn please, to page 64 of the same Exhibit P-00014. You can see this is a reference to the report that I mentioned. I can show you the report, but it may not be necessary. You see risk adjusted schedule suggests an 11- to 21-month delay for first power. Do you see that at the bottom of page 64? You see the chart?

MR. MEANEY: Yes – okay, yeah.

MR. LEARMONTH: Risk adjusted – okay.

Then we'll turn to page 65.

“The above image notes that July 15, 2017 schedule was a P1. This meant that there was a 99% chance that the schedule for first power would not be met. The LCP Project Team noted that *‘there was a low probability that a mid-2017 First Power date would be met. As such, the PMT recommended to Nalcor Executive that a provisional schedule reserve allowance should be made to account for the difference between the target date and the probable date. Given the desire to achieve the best possible date, Nalcor Executive wanted to maintain the Target Milestone Schedule, and thus no schedule reserve allowance was made to accommodate the residual risk exposure identified in the QRA.’*”

Now – so you know what a P-factor is generally, do you?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay, so the – I can just tell you that actually after this report was prepared in September 2015, there was some further discussions with Westney and Westney said, okay, based on this new information or the information you’re providing us, it’s now a P3.

MR. MEANEY: Right.

MR. LEARMONTH: So it’s still – if that information is correct, it’s certainly a long shot to say the least.

When did you become aware of this information?

MR. MEANEY: The quote that you just read out, Mr. Learmonth is that –

MR. LEARMONTH: Well the report – this is –

MR. MEANEY: That’s from the –

MR. LEARMONTH: – this is –

MR. MEANEY: – Westney report?

MR. LEARMONTH: Well it’s based on it. It’s a summary of some of –

MR. MEANEY: Okay.

MR. LEARMONTH: – the information contained within (inaudible).

MR. MEANEY: I wouldn’t have been aware of the Westney report that’s being referenced here. And –

MR. LEARMONTH: Until when?

MR. MEANEY: I guess I would’ve seen or heard discussion on this point as part of Phase 1 of the Inquiry.

MR. LEARMONTH: Yeah.

And you agree that when you were dealing with Ms. Manzer and others on the – for the – for financial close, federal loan guarantee, that there were extensive discussions about schedule.

MR. MEANEY: Yes.

MR. LEARMONTH: Yes.

MR. MEANEY: There would’ve been in the – in terms of the IE report that was provided for financial close, yes.

MR. LEARMONTH: Yeah.

And you were negotiating with Ms. Manzer – not negotiating, but communicating, passing on information to Ms. Manzer on schedule. And you didn’t have the information that I just referred to on page 65.

MR. MEANEY: We did not have that information.

MR. LEARMONTH: Yeah.

So how is it that – do you work in different buildings? I mean, you’re all – well, Mr. Martin was a Nalcor employee, Mr. Bennett was a Nalcor employee, you’re a Nalcor employee, Mr. Sturge is a Nalcor employee – how is it that this information was not provided to you? I think many would want an explanation here – your take on the reason for that. You’re in the same office, the same building; how can that be?

MR. MEANEY: So, I guess, in terms of information on cost and schedule, in terms of capital costs, that would have been the

accountability of, I guess, Gilbert and the project team. And then ultimately, Ed would have provided, you know, a signoff on that. In terms of finance folks, we would have had accountability for, I'll say, financial information that wouldn't have been, you know, the development of the cost and schedule.

So, you know, why – I guess, why we weren't aware of this information, I don't know why.

MR. LEARMONTH: You don't have an explanation for it.

MR. MEANEY: No.

MR. LEARMONTH: No, okay.

I mean, realize obviously, that if you didn't get the information you can't – you can't deal with it, and perhaps we'll have to find out from other people why this information was not provided.

MR. MEANEY: I think that would be a fair question for others.

UNIDENTIFIED MALE SPEAKER: That's right.

MR. LEARMONTH: Thank you.

Now, I want to go back to the – volume 1 of the book of documents. Have you got that, Mr. Meaney?

MR. MEANEY: Volume 1.

Yeah, I'm good.

MR. LEARMONTH: Okay.

Now we, we've already, yesterday we referred to the August 27, 2012 contract. I'd like you to turn to tab 1 of the book. That's P-02154.

MR. MEANEY: Yes.

MR. LEARMONTH: There's a reference here and it's an email September 12, 2012 but it refers to a kickoff meeting which was scheduled for September 13.

MR. MEANEY: Yes.

MR. LEARMONTH: Did you attend that meeting?

MR. MEANEY: I believe so, yes.

MR. LEARMONTH: And what is a kickoff meeting generally?

MR. MEANEY: We would have – I guess we would have awarded the independent engineer contract in late August of 2012.

MR. LEARMONTH: Yes.

MR. MEANEY: And then there would have been a kickoff meeting for everyone on the Nalcor side to, you know, meet the folks on the independent engineer team and get a sense for how things were going to unfold with them in terms of how they wanted to approach their review, the types of documentation that they would have been looking for, us give them an opportunity to get some background on the project.

There's some folks on the team that probably would have been familiar with the Lower Churchill Project but maybe not others so we would have been giving them a, you know, an update, a project update, if you would.

MR. LEARMONTH: Okay.

And tab 3 is Exhibit P-00065. Can you identify this document by referring to page 1?

MR. MEANEY: So this is the Federal Loan Guarantee Agreement that was executed in November 2012.

MR. LEARMONTH: November 30 I think it was.

MR. MEANEY: Yes, yeah, November –

MR. LEARMONTH: That's on the last page of the agreement.

MR. MEANEY: – yeah, November 30, 2012.

MR. LEARMONTH: Okay.

So this – it's – it's what it says, it is
**“Agreement Providing Key Terms and
 Conditions for the Federal Loan Guarantee.”**

MR. MEANEY: Right.

MR. LEARMONTH: Yeah. And, yeah, just refer to – in the end, the last line in paragraph 1 refers to the “Memorandum of Agreement” we discussed briefly yesterday dated August 19, 2011?

MR. MEANEY: Yes, correct.

MR. LEARMONTH: Okay.

So you were involved in the negotiations from the beginning for the federal loan guarantee, is that correct?

MR. MEANEY: Right.

MR. LEARMONTH: Were you – from Nalcor, were you the top person or the lead person?

MR. MEANEY: In the negotiations of the federal loan guarantee, there would have been a number of us involved. I guess that the lead from a finance perspective would have been Mr. Sturge. But also, at certain points in the negotiation, Mr. Martin got involved as well. And there, obviously, would have been representation from the province as well, as part of that process.

MR. LEARMONTH: Okay.

And I note too, in that document that we just left at tab 3, P-00065, that Emera is a party to that agreement also.

MR. MEANEY: Yes. So this agreement here, the Federal Loan Guarantee Agreement of November 2012, the parties to that would have been Canada, Nova Scotia, Newfoundland, Emera and Nalcor.

MR. LEARMONTH: Okay.

And Emera was part of it because this deal was contingent on it being an interprovincial arrangement. Is that correct?

MR. MEANEY: They were –

MR. LEARMONTH: In a general sense?

MR. MEANEY: – yeah, yeah – they were our partners in the development of –

MR. LEARMONTH: Yeah.

MR. MEANEY: – the Lower Churchill Project. There had been agreements signed in – I think it was July of 2012.

MR. LEARMONTH: Yeah.

MR. MEANEY: And then, yes, one of the – I guess from Canada's perspective, one of the keys was that was a regional project.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah.

MR. LEARMONTH: And without it being a regional project – in other words, without Nova Scotia's involvement – the federal loan guarantee would not be granted. Is that correct?

MR. MEANEY: That was one of – going back to the MOA, that was one of the key principles, that it be a regional project, yes.

MR. LEARMONTH: Yeah. And if we turn to tab 5 of volume 1, Exhibit P-02168.

Now this is an email from Paul Harrington to you, March 4, 2013. So at this point, negotiations are well under way for the federal loan guarantee. Correct?

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah. And so, what it is – this is just a commentary on some preliminary comments that a – that a –

MR. MEANEY: Yeah. I believe this was a – this was a document MWH, the independent engineer, had provided a set of questions. It looks like Jason, Mr. Kean, had done a draft response to the various questions. And then, I think the version from Mr. Harrington – and you can see them, in red lines were his comments that were added to Mr. Kean's draft.

MR. LEARMONTH: Yeah. So March 2013, if we see “MWH Comment 2” on page 3, right in the middle, it says: “As noted in Table 2, pg. 15, the 7% indicated P50 ‘estimate contingency’ is considered aggressive or low by a factor of 100% relative to legacy experience with similar projects. While the project benefits from a robust analytical risk analysis effort and some fixed pricing, the low contingency recommendation is considered non-customary and undermines confidence for the cost opinion. The issue is flagged as critical for reconciliation.”

Now – so, do you agree that – that at all times from this point onward, in every report that the independent engineer prepared, that there was a comment made about the position of the independent engineer that the contingency was too low? I know it’s expressed in different ways and different percentages, but do you agree that that was a consistent theme on contingency that was expressed by the independent engineer right up to the December 30, 2013 final report?

MR. MEANEY: As you said, if you look through the different drafts, there was different iterations of the language, but that the theme was generally consistent.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah.

MR. LEARMONTH: Okay.

And, once again, perhaps this is superfluous, but this information, like this email or this commentary in tab 5, Exhibit P-02168, would not have been sent to the Government of Newfoundland and Labrador. Is that right?

MR. MEANEY: I –

MR. LEARMONTH: By you, anyway?

MR. MEANEY: I don’t – I don’t recall, but I don’t think so.

MR. LEARMONTH: Okay.

Okay. If we go to tab 6, that’s Exhibit P-02176.

If we go to page 4, P-02176, this is an email from James Meaney, you, to Mr. Harrington, Kean, Bennett, Sturge and Warren. You’re saying: “Both Ed and the Province have been asking about the latest draft of MWH’s IE report. Ed is wondering what some of the ‘big issues’ are and NL want a copy ASAP. You probably recall we had committed to provide this to NL as part of that LCP Governance & Controls session held a month or so ago.” And, by the way, this is dated July 16, 2013.

MR. MEANEY: Yes.

MR. LEARMONTH: “The consensus among Derrick, Auburn ... this morning was a copy of the report should go to Ed before the Province gets it and he should be ... aware of” – the – “key points. We also need to post to the data room for Canada today (given that they are the ultimate client of MWH).”

Next paragraph speaks for itself.

Then you say: “The one area we I could see some potential sensitivities with Ed and Province is the level of Contingency in the DG3 estimate. Below is the latest commentary in this” – thing.

So, why were you writing at this point that that was an area of sensitivity, potential sensitivities?

MR. MEANEY: I think I actually, Mr. Learmonth, I – in – we – in our discussion yesterday, I had referred to this particular email that I had mentioned –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that I’d – we’d seen the draft of the IE report and that I had sent a note on to Gilbert and the guys from the team that I felt they needed to give, you know, Ed. And then, I guess he had a discussion with the province that this commentary was in here.

MR. LEARMONTH: But you don’t know whether he did have a –

MR. MEANEY: I don’t –

MR. LEARMONTH: – discussion with the government.

MR. MEANEY: No, I don't know if he did or not.

MR. LEARMONTH: No.

Tab 7, P-02177. It's an email from you to Karen O'Neill and Derrick Sturge. Karen O'Neill is a public relations person or –

MR. MEANEY: She's the –

MR. LEARMONTH: – I'm not sure. You –

MR. MEANEY: – communications manager –

MR. LEARMONTH: – communications, yeah.

MR. MEANEY: – on the project. That's right.

MR. LEARMONTH: And Derrick Sturge, of course, is the CFO.

Now, if you look at page 5 of this report, it's an email from Diana Quinton, the Government of Newfoundland and Labrador, to Karen O'Neill, August 12, 2013. And it says: "Are you okay with this response?" And I can just tell you that this was a – these responses were based on an ATIPPA request that had been filed.

MR. MEANEY: Yes.

MR. LEARMONTH: Do you agree with that?

MR. MEANEY: Yes, yeah. I remember we discussed this email in my interview, yes.

MR. LEARMONTH: Okay.

August 12, 2013. Now you had said – you said yesterday and I think that – well, that you had given the Province of Newfoundland and Labrador access to the July 2013 independent engineer's report on July 16?

MR. MEANEY: Yes, I believe that was the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – date it got posted to the data room. Yep.

MR. LEARMONTH: Yeah.

It says: "Thanks Karen. Are you okay with this response? The independent engineer contract is between Nalcor and the independent engineer" – and – "(MWH Canada, Inc.). The independent engineer does not present documents directly to the Government of Newfoundland and Labrador. As of July 30 ... (the date the ATIPP request was processed), the Department of Natural Resources did not have records from the independent engineer. It is the department's understanding that the independent engineer has not yet completed their report. For more information, please contact Nalcor directly."

Now, you had said that, on July 16, access had been given to the Government of Newfoundland to look at this report to the data room.

MR. MEANEY: Yes, the draft –

MR. LEARMONTH: Yeah.

MR. MEANEY: – the July draft report, yes.

MR. LEARMONTH: Assuming this is – this statement is true, does that not indicate that the Government of Newfoundland, for whatever reason, didn't take up the – or didn't get access to it?

MR. MEANEY: I can't confirm if –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that would be (inaudible) – if you go through my emails –

MR. LEARMONTH: Yeah.

MR. MEANEY: – my response to it, you can see that I say somewhere I'm not sure that that statement about –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – July 30 would be appropriate because they did have a draft.

MR. LEARMONTH: Yeah.

Well, they had access to the draft.

MR. MEANEY: They had access to a draft.

MR. LEARMONTH: Yeah.

So there's two possibilities, either this information is correct, that they didn't have the information – if they had received the report, then this information would not be correct, is that true? Do you agree with that?

MR. MEANEY: Yes, and that was kind of – that was the basis that I was going on, is we had transmitted the document so they probably shouldn't say –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that they didn't have it as of July 30.

MR. LEARMONTH: All right. Okay.

Tab 8, P-02350. This is a slide deck. The – if we turn to page 26.

I'll just actually flip back. This is June 14, 2013. Do you know why this slide deck was presented?

MR. MEANEY: There had been a request from folks in the province for us to give them, I think, an update on our governance and controls processes and procedures. So we held a session in June with – it was representatives of Finance and Natural Resources, and a group of folks from Nalcor made that presentation to them.

MR. LEARMONTH: Who prepared this slide deck?

MR. MEANEY: There would have been a whole group of people that would have provided their respective parts to the presentation.

MR. LEARMONTH: Okay.

And so at this point – I realize that it was July 2013 that the revised estimate was – of the project team's – PMT's estimate was \$7 billion subject to a possibility of reduction for mitigation reasons. But this is pretty close to it, and I see that the reference about this document is still on the 6.2.

MR. MEANEY: Yeah, it looks like this document was anchored to the DG3 estimate, which would have been 6.2.

MR. LEARMONTH: Yeah. Okay.

But it's only one month before that project management team had come up with that report.

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. Well, we'll have to ask others what – about that.

I'd also point out that in relation to this June 14, 2013, report – and this is P-02350, dated June 14, 2013. By that time, based on that paragraph that I asked you to read from the Grant Thornton report, second report, the – Nalcor knew that the contingency had been exhausted. Do you remember that?

MR. MEANEY: The statements from the Grant Thornton report?

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes.

MR. LEARMONTH: So would that not be inconsistent with the – with Nalcor on June 14, 2013, suggesting that all is well, that we're still with the 6.202?

MR. MEANEY: I guess, at that point in time, they hadn't updated the – the estimate for purposes of this presentation.

MR. LEARMONTH: Yeah, but they had the information.

MR. MEANEY: If – yeah, if what was stated in the Grant Thornton report is accurate –

MR. LEARMONTH: Yeah.

MR. MEANEY: That was information came in on bids, yes.

MR. LEARMONTH: Do you think that that's somewhat misleading then to say on June 14, 2013, knowing that the contingency was exhausted, and then to represent that the figures

of 6.202 are still current? And if you go to page 43 of this report, you'll see what I mean.

I mean, the representation is that it's still 6.202, correct?

MR. MEANEY: In terms of this particular slide, that would have meant to illustrate what the then-approved AFE was, which was the 6.202.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah. But – anyway you see what I'm – my point, yeah.

MR. MEANEY: Mmm.

MR. LEARMONTH: Okay. And you didn't prepare this deck, did you?

MR. MEANEY: My team prepared certain parts of the deck but not the entire deck.

MR. LEARMONTH: Well, if you had prepared the entire deck, you would have been able to do that in good conscience, in good faith, because you didn't know about the information in the Grant Thornton report, correct?

MR. MEANEY: I wouldn't have been able to prepare the full deck anyways because a lot of the information has nothing to do with my area in terms of finance.

MR. LEARMONTH: Yeah. But what I mean – at that point you would have believed that that information was true and accurate in all respects?

MR. MEANEY: Correct.

MR. LEARMONTH: Yeah.

Tab 9 is Exhibit P-02180. And this is just another – this is an ATIPP request dated August 30, 2013, from Ivan Morgan. I think he was a gentleman employed by the NDP party.

MR. MEANEY: Okay

MR. LEARMONTH: And if you go to page 4. "The response we received from the Department of Natural Resources from an ATTIP we filed, where we asked for all reports presented to the ... government by the Independent Engineer, MWH Global, as required by the Federal Loan Guarantee ... was they 'had no responsive records.'" Is that just – you know, that point that we discussed about earlier about if they had – if the Government of Newfoundland had availed of the opportunity to look at the July 13 report at – that you gave access to on July 16, then this –

MR. MEANEY: It seems –

MR. LEARMONTH: – there's something out of kilter.

MR. MEANEY: It seems inconsistent with fact that we'd post the document to the data room for them.

MR. LEARMONTH: Yeah.

Okay. Tab 10 – Exhibit P-02181. Now, this is September 23, 2013; we're approaching financial close. And on page 2 there's an email from Alison Manzer to you – Alison Manzer representing the federal government – saying – at the bottom – September 23, 2013 – "Thanks trying to take the Rey pain away as best we can!!"

Now, Rey is Rey Hokenson.

MR. MEANEY: Yes.

MR. LEARMONTH: Do agree with that?

MR. MEANEY: Yes.

MR. LEARMONTH: And he was the project manager. He was the person, more so than Mr. Argirov, who, together with Jim Loucks or James Loucks, did extensive work on the preparation of the independent engineer report. Is that a fair way to put it?

MR. MEANEY: Yeah. Mr. Loucks would have been involved, Mr. Hokenson and others as well. Yes.

MR. LEARMONTH: And then you say – so: “Thanks trying to take the Rey pain away as best we can!!” And then on page 1 of this report, your reply on September 23, 2013, was: “Oh I know...like I said, a few cards shy.....”

Now, that’s an uncomplimentary reference to Mr. Hokenson, is that correct?

MR. MEANEY: Yes.

MR. LEARMONTH: So what was going on at this time? Why were these –

MR. MEANEY: Sure.

MR. LEARMONTH: – uncomplimentary comments –

MR. MEANEY: They – I guess –

MR. LEARMONTH: What was the – to use your word – context?

MR. MEANEY: Yeah. I’ll provide the context. And we discussed this, Mr. Learmonth, in my interview.

There had – and I think Mr. Argirov may have spoke to it in his testimony as well that through this period there was a lot of information requests coming from MWH team. There was a lot of documents trying to go back from the project team to the MWH team to answer the question.

The Cassels Brock team and the Nalcor team had put together, I guess, a matrix or a checklist or whatever you want to call it to help manage the flow of information in terms of what requests were coming in and what the status was and what the documents that were – need to be required.

And as you can read down in my email, there was some commentary in an email from Rey that – you know, I think he said: We weren’t making much progress in terms of getting document. And when this got passed on to me I was a bit frustrated by that comment because – as I noted somewhere in the email here – oh yeah, here it is – the email to Alison, Charles and Suhuyini: We updated 26 items from the list

so I’m somewhat surprised to – see that statement below?

So, you know, I guess in terms of my comment, it was a comment made in frustration, albeit it probably wasn’t the most appropriate comment to make – and looking back on it, there was no ill will intended. It was just a comment made in frustration.

MR. LEARMONTH: All right.

And did you hear Mr. Argirov say that he had faith and confidence in the ability and competence of Rey Hokenson?

MR. MEANEY: I did hear him say that, yes.

MR. LEARMONTH: Yes.

Did you have – did you share that opinion?

MR. MEANEY: I think in terms of his engineering knowledge he was very strong. I think just what – at this point in time, what we were challenged by – with was some of the, I guess, organizational –

MR. LEARMONTH: Yes.

MR. MEANEY: – organizational and communication. And, you know, it became very clear that we needed to do a better job as a team to get this information better organized and get everyone moving forward. So there was a big effort put into that and that issue got resolved and all kinds of information and working sessions and face-to-face discussions happened to try to address a lot of the questions.

MR. LEARMONTH: Yeah.

I think Mr. Argirov did acknowledge that there was an issue about organizational –

MR. MEANEY: Yes –

MR. LEARMONTH: – ability but –

MR. MEANEY: – and that’s –

MR. LEARMONTH: – not about competence.

MR. MEANEY: No. Exactly.

MR. LEARMONTH: And you agree with –?

MR. MEANEY: And that's what this spoke to. It was more just organization of documents that we had been providing.

MR. LEARMONTH: Okay.

Tab 11, Exhibit P-02183.

This is a September 24, 2013 – you're writing to Peter Madden at Newfoundland and Labrador Hydro. You say: "Hi Peter

"Can we generate a list of all documents that have been transmitted to MWH via Aconex, including the date which it was posted? Based on below, I'm thinking that might help CBB coral Rey."

Now that's corral – CBB is Cassels Brock & Blackwell, right? It's the law firm –

MR. MEANEY: Yes.

MR. LEARMONTH: – Alison Manzer works for.

MR. MEANEY: Yes.

MR. LEARMONTH: But what do you mean by corral Rey?

MR. MEANEY: Help corral, you know, getting information to Rey. And I think, you know, getting everyone on the same page in terms of how we're gonna exchange information and doing a better job of communicating that. I think I've used that term corral in a couple of emails.

MR. LEARMONTH: Yeah.

MR. MEANEY: And when I say corral, I mean let's get everyone working together and get everyone whether it be – you know, corral everyone in a face-to-face meeting as opposed to exchanging documents. Often that's a lot more effective.

MR. LEARMONTH: All right.

MR. MEANEY: Yeah.

MR. LEARMONTH: And in this exhibit, P-02183, I see at page 7 to –

MR. MEANEY: Yes.

MR. LEARMONTH: – 14 there's a list of certain documents. Well what is this?

MR. MEANEY: Sorry?

MR. LEARMONTH: What is this? Who prepared this and what was the purpose?

MR. MEANEY: I think this would have been the list that I had asked Peter to prepare. And what this would have been would have been – I guess as of that point in time – a list of all the documents – project-related documents – that we had posted in was it – yeah, Aconex, for the IE to have access to.

MR. LEARMONTH: All right.

Tab 12. It's an email from you to Meghan Felton, Auburn Warren about the Limited Notice to Proceed. I think that was given to Astaldi September 24, 2013. It's at P-02184.

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

So you say – this is to do with the Limited Notice to Proceed for CH0007 Astaldi contract – the third paragraph, you write, "Auburn, at this stage I would recommend we not make it available to the broader audience (ie. NL, BLG, BF, Faskens) given the high sensitivities around any public discussion relating to award of this contract. We can do that a little bit further down the road. Thoughts?"

So here, you're recommending that this information not be shared with the Government of Newfoundland and Labrador and I'd like to know why.

MR. MEANEY: I'll come back to – if I could provide a bit of context in terms of how the data room worked, where we post documents and then, Mr. Learmonth, I'll come back to answer your questions as to –

MR. LEARMONTH: That's fine; go ahead.

MR. MEANEY: – as to what was going on then.

So, well, we had set up an Intralinx data room which had many folders. And there was all the documents relating to, you know, primarily the financing and the documents that the independent engineer would have got access. So there was many folders within that data room. And then there was a number of user groups who would have been users of that data room. So it would have included Nalcor users, Canada users, MWH users, Government of Newfoundland users, users from the various lawyers groups, so CBB, BLG, and Fasken.

And, you know, certain documents would go into that data room that everyone would get. Certain documents would go into that data room that only certain users would get. So there would've been some documents that maybe would've only been relevant for the independent engineer, they would get access to it. If there were documents say, some of the financing documents –

MR. LEARMONTH: Right.

MR. MEANEY: – that would've been comments between ourselves –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and Newfoundland, they would get it but say Canada or others wouldn't. So when we would send emails off to Meghan, we would always have to confirm to her of all the users groups that are in there, who gets this particular document or not. And if it's all groups, it's all groups, and in some cases, it wasn't all groups.

MR. LEARMONTH: Right.

MR. MEANEY: So in the case of this particular situation, as I noted here, the – you know, there was a high degree of sensitivity around information being made available to folks on major contract awards. And in this instance, we weren't sure if Ed had had a – you know, if Ed had discussions with senior folks on the province side. So, you know, similar to updates on cost or schedule, if there was going to be a major contract award, typically Ed would go

over and consult with, you know, the senior folks, the minister, the premier, and then, you know, a broader group of folks would be able to be aware of this information.

So in – at that point in time, the Newfoundland – for an example, the Newfoundland user group would've included probably 12 or 14 people from Natural Resources, Finance, Justice, at a whole range of levels within the civil service. So there would've been some DMs and ADMs but also some very junior folks.

MR. LEARMONTH: Mm-hmm.

MR. MEANEY: So in this instance, we weren't sure if Mr. Martin had gone over and gone to consult with senior folks of the province, so we didn't want to get out ahead of that process. So that's why we, you know, said at this point in time let's hold off on posting that.

I believe then a public announcement was made on the LNTP within a week or two from this point in time, Mr. Learmonth. So obviously as part of that, I would've expected that Mr. Martin would've, you know, had consultation with folks in the province before that was announced.

MR. LEARMONTH: So you're not – you wouldn't be allowed to communicate this information to every – anyone in the Government of Newfoundland and Labrador unless Mr. Martin gave you permission?

MR. MEANEY: Yeah, in this instance –

MR. LEARMONTH: No, did you hear what I said?

MR. MEANEY: Sure, yeah.

MR. LEARMONTH: Is that right?

MR. MEANEY: In this instance, we would have erred on the side of caution and not wanted to get out ahead of him, yes.

MR. LEARMONTH: Yeah, because he would have to approve it?

MR. MEANEY: Yeah, in terms of, you know, major updates on contract awards, costs,

schedule. That would've been the CEO that would've been advising the province.

MR. LEARMONTH: And you had no authority to release any information of that kind before he gave you permission, is that right?

MR. MEANEY: That would be fair.

MR. LEARMONTH: Okay, so that – you made the same comment about cost estimates that Mr. Martin had absolute control over that, but that would apply to other documents other than cost estimates, is that correct?

MR. MEANEY: I think this was more the fact that related to an award of, you know, the most significant contract on the project, the Astaldi contract, or the LNTP. So our expectation was he would be giving folks from the province a heads up on that.

MR. LEARMONTH: Okay, well anyway.

Okay, now tab 13. Now, I don't want to spend a lot of time on this, that there was, as I understand it, during October and November, perhaps earlier than that – it's Exhibit P-02188.

MR. MEANEY: Yes.

MR. LEARMONTH: There was some level of review done by Mr. Hokenson and Mr. Loucks and the independent engineer about the suitability of Astaldi for the –

MR. MEANEY: Yes.

MR. LEARMONTH: – CH0007, is that right?

MR. MEANEY: There was a lot of discussion around that, and then they did, you know, conclude in their final report –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that they were satisfactory.

MR. LEARMONTH: Yeah. Well, that's what I'm – I'm going to refer to some other documents but I'm not going to take you through them because ultimately Astaldi was found to be acceptable by the Government of Newfoundland. So I'm not going to go through

all the reports, but I will refer to the exhibits where they're mentioned.

MS. O'BRIEN: Just a second – (inaudible) Canada.

MR. LEARMONTH: Canada – I said Newfoundland – Canada eventually accepted.

MR. MEANEY: Yeah, I mean, they –

MR. LEARMONTH: Yeah.

MR. MEANEY: – accepted the recommendation of the independent engineer, yes.

MR. LEARMONTH: Okay. So those documents, I'm not going to go through them, but just for the record I'll refer to them. There's tab 13; that's P-02188. There's tab 14; that's P-02186. Tab 15, 02187; tab 16, P-02190; tab 17, P-02191; tab 26, P-02209. So that's the – those are the documents, but as I said, Canada eventually – the independent engineer and, obviously, Canada accepted Astaldi, so there's no point in going through all the levels of review that were done. I just mention those references if someone is interested.

Next, tab 18. This is Exhibit P-02198, and this has to do with a meeting that I understand was held in – on November 6, 2013.

MR. MEANEY: Yes.

MR. LEARMONTH: And this was a meeting that was called – would you agree with me that the purpose of the meeting was that there was some disconnect as to the provision of information and there –

MR. MEANEY: Yes.

MR. LEARMONTH: – were a number of outstanding issues, you were getting close to financial close and there were a lot of things that had to be resolved before financial close –

MR. MEANEY: Yes.

MR. LEARMONTH: – could occur?

MR. MEANEY: And part of what we talked about earlier was some challenges with communications, and we agreed that, rather than folks continuing to exchange emails back and forth and whatnot, let's get everyone in a room together and work through some of these key issues.

MR. LEARMONTH: Yeah, but the – there's still – at this late date, November 1, 2013, you indicate in your email on page 1 of Exhibit P-02198 – your email to Alison Manzer dated November 1, 2013 – that the capital – project capital cost, that was still a hot issue, was it? At this stage?

MR. MEANEY: Yes, that was one of the items that had been – I guess there was another email – and most of them are covered here, I think. I'd had a call with Alison that day, and she kind of gave me an outline on what the key five or six issues were, and yes, I think – discussion primarily around contingency, I think, and capital cost was one of the items.

MR. LEARMONTH: Yeah.

So if we go to tab 19, it's Exhibit P-02194.

MR. MEANEY: Yes, that's the email right there.

MR. LEARMONTH: You see – that's the email I think you referred to from you to Mr. Harrington and Lance Clarke?

MR. MEANEY: That's right.

MR. LEARMONTH: And it's indicated – there are a number of points: "Astaldi experience & competency (MWH have negative view" Well, that was resolved. Critical path, milestones, that's schedule. "Contingency is not sufficient (and has been burned up primarily with award of CH0007)."

So you would've known that at the time. I think you said earlier that you wouldn't have known that until you read the Grant Thornton report, but does that correct your understanding?

MR. MEANEY: I think that was the comment that was coming from – not Astaldi, MWH. Maybe that was me reciting what they had –

what Alison had told me. I guess I never saw it in paper, in terms of when I looked at it in the Grant Thornton report – like –

MR. LEARMONTH: Well –

MR. MEANEY: – seeing the actual numbers.

MR. LEARMONTH: Okay.

So you didn't know the – you knew about it generally, would you say?

MR. MEANEY: Yeah, I think when –

MR. LEARMONTH: But this – you're writing this email, so –

MR. MEANEY: Yeah, that would've –

MR. LEARMONTH: – you had to know about it.

MR. MEANEY: – that would've been the first. I guess I wouldn't have been – certainly in April of 2013 I wouldn't have been aware.

MR. LEARMONTH: No.

MR. MEANEY: And then there would've been some commentary here.

MR. LEARMONTH: Yeah.

No, no, but you said earlier that you didn't become aware of this fact until you read the Grant Thornton report. And I mentioned to you that the emails indicate otherwise.

MR. MEANEY: I guess, yeah, I didn't recall this particular email. I –

MR. LEARMONTH: There's no – I'm not suggesting there's a problem; I'm just wanting you to acknowledge that you correct –

MR. MEANEY: Yeah. Yeah.

MR. LEARMONTH: – your evidence on that point.

MR. MEANEY: I guess, yeah, we would have – I would have had a comment here in my email. Sure.

MR. LEARMONTH: Okay. Now, tab 20, Exhibit P-02196. It's an email from Alison Manzer to a number of people on the – we'll say the Canada team, including Nikolay Argirov, Joe Krupski, all their team. And this is a plan that Ms. Manzer has developed to advance matters. Because there's obviously an indication that there was concern on the part of Canada that we were running out of time. Is that fair?

MR. MEANEY: Yeah, this was, I guess, mine and Alison's efforts to – as I described it – corral people and get everyone on the same page.

MR. LEARMONTH: Yeah, but this is Alison Manzer's email to the people I just indicated. And there's a list of items that – I guess it's a –

MR. MEANEY: Yeah.

MR. LEARMONTH: – plan to address the outstanding issues.

MR. MEANEY: Yeah. And I think it would have been part of the – what would have been the items that would have been discussed in the 6th of November meeting.

MR. LEARMONTH: All right.

Exhibit – tab 21, Exhibit P-02196. This is an email from you – at the bottom of the page, November 1. I think this is another time when you used corral. "Please continue with your insistence" – on – "this meeting/presentation with Nalcor/LCP team happen and both Rey and Pyper attend in person (along with Canada). If we are to corral them both and get this over the line, that's the only way it will happen."

Now, are you talking about corralling Nalcor and the LCP team or Rey and Pyper?

MR. MEANEY: Sorry, if I can just read the – yeah, this was – this, again, was a situation where – I think there was, you know, miscommunication, information being stated by folks that necessarily wasn't, you know, based on facts in some cases. And we felt we needed to corral everyone, get 'em in – get 'em on the same page and get the right information going in the right direction.

MR. LEARMONTH: Okay.

And tab 22 is Exhibit P-02199. This is just further arrangements for who's going to attend the meeting?

MR. MEANEY: Yes.

MR. LEARMONTH: Is that correct?

MR. MEANEY: Looks like it, yes. 'Cause that would have been the day before the meeting.

MR. LEARMONTH: Did you attend the meeting?

MR. MEANEY: The meeting on the 6th of November, yes, I was in attendance.

MR. LEARMONTH: Okay. Where was it held?

MR. MEANEY: It was held at the Torbay Road project office in St. John's.

MR. LEARMONTH: Okay. And what time did it start?

MR. MEANEY: I believe it started first thing in the morning and went all day.

MR. LEARMONTH: All day?

MR. MEANEY: Yeah.

MR. LEARMONTH: What is first thing in the morning?

MR. MEANEY: I think it would have started around 9 o'clock in the morning, I would guess.

MR. LEARMONTH: Nine o'clock. Was Ed Martin at that meeting?

MR. MEANEY: No.

MR. LEARMONTH: Okay. Who from Nalcor was at that meeting?

MR. MEANEY: There would have been a host of different folks because there was different, I guess, segments to the presentations, and certain folks would come in for certain parts of the discussion. I think actually, Mr. Learmonth, for my interview, that was a – that was one of the

(inaudible) items. You had asked who was in attendance –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and I think we provided that. There would've been a whole group of folks from the project team: I think Gilbert would've been part of the discussion; Paul Harrington; Lance Clarke; Jason Kean; I think Robert Woolgar was there. There was a whole host of folks depending on what their area of expertise was that were brought in to help with the discussion.

MR. LEARMONTH: Okay. So if we go to the next exhibit, which is – okay, tab 23, Exhibit P-02206.

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. And then if you turn to page 8, that's Project Update, November 6, 2013, draft revision two.

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

Was this – when it was put into final form, was this presented at the meeting?

MR. MEANEY: It wasn't this version of the presentation but there was a presentation made on November 6.

MR. LEARMONTH: Okay, but was the slide deck? I know there was a presentation.

MR. MEANEY: Yes.

MR. LEARMONTH: But I'm wondering, when I read the emails, whether the – any version of this slide deck was presented at the meeting. Do you – can you recall that: yes or no?

MR. MEANEY: Yes, there was a version of it presented and I believe it's the one in tab 25, P-02208.

MR. LEARMONTH: Yeah, are you sure about that?

MR. MEANEY: I'm just going to look through it now. That looks to be the version that was presented in that discussion.

MR. LEARMONTH: Okay. Now, this is the same Exhibit P-02206, I want you to turn to page 6.

MR. MEANEY: Page 6. (Inaudible.)

MR. LEARMONTH: Bottom is – this is November 5, 2013, an email from Jason Kean to Ed Martin, Brian Crawley, Gilbert Bennett, Paul Harrington and Lance Clarke:

“All,

“Attached is the deck inclusive of some slides re the specific growth items.

“Photos to come in the AM.”

So this is just the day before, right?

MR. MEANEY: Okay, yeah.

MR. LEARMONTH: And then Ed Martin replies at the top of page 6:

“A few quick comments - probably more tomorrow morning;

“... category 2 - add some more info on things on or better than budget, such as SOBI ...

“... change title from ...

“... Remove the word risk throughout the slide, including the title.”

And then we go over to page 5 and there's other – here's another email from Ed Martin: “We should consider removing Slide 14 - too defensive? Just talk too it maybe if questioned?”

Now, can you give me some clarification on that? Do you know why Mr. Martin wanted slide 14 removed and suggested just talking about it instead of having it in there?

MR. MEANEY: I'm not sure why he would've specifically noted that. If I could –

MR. LEARMONTH: And then at the top of page 5, it says:

“Ed,

“My rationale for this including this slide is to address the pending question of ‘what are you doing to prevent this from growing to \$7B?’. I am fully expecting for MWH to point out that our costs have grown by \$600+ million since we have used our contingency (much earlier than we had initially viewed).

“Paul and I would” – like – “to maintain the slide and leverage it to respond to this anticipated question.”

Can you provide any clarification on that?

MR. MEANEY: I’m not sure. I wouldn’t have ever seen this commentary.

MR. LEARMONTH: Well, Mr. Martin said, at the bottom of page 5: “We should consider removing Slide 14 - too defensive?”

Was that slide removed?

MR. MEANEY: I’m just looking at – slide 14 in this package is a picture. I don’t think that’s the one that’s being –

MR. LEARMONTH: Yeah, I know. And that’s what I was gonna ask you: Can you tell me what slide 14 was?

MR. MEANEY: I’m not sure.

MR. LEARMONTH: You’re not sure?

MR. MEANEY: No.

MR. LEARMONTH: Well, I think it has to do with cost.

MR. MEANEY: Okay.

MR. LEARMONTH: It does have to do with cost. I can put that to you.

MR. MEANEY: Okay.

I wouldn’t have seen that version of it, so ...

MR. LEARMONTH: Yeah.

So I’m suggesting to you that the reference to cost, the \$300 million, was removed from the presentation at the November 6 meeting. Do you agree with that?

MR. MEANEY: Yeah, you mean \$300 million or the amount in Mr. Kean’s email?

MR. LEARMONTH: The increase of – well, both.

MR. MEANEY: There was a – in the version that was presented on the 6th of November, which I think is tab 25 –

MR. LEARMONTH: Yeah.

MR. MEANEY: – on page – sorry, I’m (inaudible).

THE COMMISSIONER: Page 24.

MR. MEANEY: Yes, on page 24. On that slide, which was the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – version that we did present to Canada and the IE, there was mention of –

MR. LEARMONTH: Are you sure about that? You presented that with –

MR. MEANEY: Yes –

MR. LEARMONTH: – with page 24 in –

MR. MEANEY: Yeah, this was the one – this would’ve gone to Canada and the independent engineer. So this slide was in the package that was presented to them.

MR. LEARMONTH: Okay. Now, I just want to check something on that.

But, anyway, we see on page 1 of Exhibit P-02206 that this is an email from Ed Martin to Bev Tucker, which I understand – who I understand is his assistant, “Deck re Project Costs; Project Update to MWH - 6-Nov-2013.”

Now, this is at 10:22 a.m. so –

MR. MEANEY: Yeah, so I'm sorry. It may have been that the meeting started a bit later, because I know it wasn't on the 6th –

MR. LEARMONTH: But these are – I mean, Mr. Martin wasn't at the meeting and if the meeting started first thing –

MR. MEANEY: Yeah, I –

MR. LEARMONTH: – this deck wasn't in existence –

MR. MEANEY: So I'll –

MR. LEARMONTH: – in final form at that time –

MR. MEANEY: I'll provide a bit of clarification on that because, actually, I can recall – the meeting itself – the session started on the 6th of November and it did start in the morning. This particular presentation didn't come until later in the day. I think it was around, I'm gonna say 3 or 3 o'clock in the afternoon. But I do recall – and I don't know if it's here –

MR. LEARMONTH: Yeah, there is an email from Jason Kean –

MR. MEANEY: Yeah, well I sent it to –

MR. LEARMONTH: – but I just want to get your clarification on that.

MR. MEANEY: Yeah. Sorry, my mistake.

So, yeah, the meeting did start at 9 o'clock in the morning. This and the – do you have here in the exhibits, there was an agenda for the meeting. There was – it was an email. I think I had sent it or someone had sent it. It had the agenda for the meeting that day. And in the agenda, project update was down, I'll say, in the latter part of the day.

MR. LEARMONTH: Right.

MR. MEANEY: So I had – there's an email here where I had sent on the presentation to some of the folks that were on the phone and I indicated this is the deck that Jason Kean is reviewing now.

MR. LEARMONTH: Yeah, but that was at 3:26 (inaudible).

MR. MEANEY: Yeah, there you go.

So this part – this particular presentation would've been presented later in the day, not at first thing in the morning.

MR. LEARMONTH: What time did the meeting end?

MR. MEANEY: I think it would've gone the whole day.

MR. LEARMONTH: Whole day.

MR. MEANEY: Or I'll say until, you know, 5 or 5:30, whatever the case (inaudible).

MR. LEARMONTH: Okay. We'll go to tab 25. That's exhibit P-02208.

MR. MEANEY: Yes, here we go. That's the email I was referring to.

MR. LEARMONTH: Yeah.

So this is 3:26 and it says: "This is the deck Jason Kean is reviewing now."

MR. MEANEY: Right.

MR. LEARMONTH: "Rey, please forward to Gerry Germain as I don't have his email address."

MR. MEANEY: Yes.

MR. LEARMONTH: Now, are you saying that this deck was presented at the November 6 meeting, the one attached to exhibit – included in Exhibit P-02211?

MR. MEANEY: Yes. This – the deck that is attached to this email is the one that was presented in –

MR. LEARMONTH: Yeah.

MR. MEANEY: – the meeting.

MR. LEARMONTH: And you're certain of that, are you?

MR. MEANEY: Yes. Yeah, because I would've sent it to the guys on the phone saying here's the (inaudible) –

MR. LEARMONTH: Well, anyway, you're certain of that, are you?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

And on page 24 of –

MR. MEANEY: Yes.

MR. LEARMONTH: – that exhibit –

MR. MEANEY: Yeah.

MR. LEARMONTH: – that's where we have the 300 plus –

MR. MEANEY: Yeah.

MR. LEARMONTH: – 5 per cent – \$300 million.

MR. MEANEY: So that's the slide I was referring to earlier.

MR. LEARMONTH: Yeah.

So is that deck 14? Is there any way you can tell us that?

MR. MEANEY: Sorry?

MS. O'BRIEN: (Inaudible.)

MR. LEARMONTH: Okay.

MR. MEANEY: Yeah.

MR. LEARMONTH: Well, anyway, I'll get something brought down on that.

MR. MEANEY: Okay, sure.

MR. LEARMONTH: Okay. So the deck was presented at the meeting. You have no doubt about that, right?

MR. MEANEY: Correct.

MR. LEARMONTH: Yeah. And then you have your – just a little – on tab 24, Exhibit P-02211, this is just your in-house commentary on the meeting. Is that right? How it went and so on?

MR. MEANEY: Right. Yes.

I think Mr. Harrington had given Mr. Martin an update on, kind of, the key points in the meeting, and I thought he –

MR. LEARMONTH: Well, Mr. Martin never attended the meeting. Is that right?

MR. MEANEY: Not that meeting, no.

MR. LEARMONTH: That's okay.

Is there any reason that this – the email that we just referred to, which you sent at 3:26, Exhibit P-02208 – is there any reason that wasn't sent to the Government of Newfoundland and Labrador? Because you're talking about –

MR. MEANEY: Yeah, no just –

MR. LEARMONTH: – a cost – wait 'til I finish.

MR. MEANEY: Sorry, yeah.

MR. LEARMONTH: You're talking about a cost increase of 5 per cent bumping it up to \$300 million. One might think that it would be appropriate to advise Newfoundland and Labrador about this since they're footing the bill.

MR. MEANEY: There was – they weren't in attendance in this meeting, but there were updates provided to representatives of Newfoundland not long after this presentation.

MR. LEARMONTH: Okay, we'll get into that later.

MR. MEANEY: Okay.

MR. LEARMONTH: But – okay, why wasn't this information communicated to Newfoundland and Labrador on November 6?

MR. MEANEY: They weren't part of that session.

MR. LEARMONTH: Yeah.

But why wasn't the – they didn't have to be part of the process for you to send the deck to them –

MR. MEANEY: Yeah.

MR. LEARMONTH: – to bring them up to date.

MR. MEANEY: Yeah, I mean, it was a presentation for purposes of an update for Canada and the IE.

MR. LEARMONTH: Yeah.

But you could have sent the deck to Newfoundland, couldn't you have?

MR. MEANEY: If they had – it was for purposes of the discussion with Canada and the IE.

MR. LEARMONTH: Yeah.

And you didn't consider sending the deck to the Province of Newfoundland and Labrador –

MR. MEANEY: Not at that –

MR. LEARMONTH: – since it had to do with cost updates?

MR. MEANEY: – at that point in time, I didn't because we were sending it to the folks who were a part of the discussion.

MR. LEARMONTH: Okay. Well, you didn't send it to them, anyway.

You would've had to get Ed Martin's permission to send it in the first place, wouldn't you?

MR. MEANEY: If we were providing updates to folks from the province on capital cost, we would've wanted to make sure he was okay with that.

MR. LEARMONTH: He would've had to authorize it.

MR. MEANEY: He would've given clearance that, you know, it's okay to release information.

MR. LEARMONTH: He would've had to authorize it, right?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

Tab 27 please.

Now this is – has to do with what's referred to as a line-up change. If we go to page – Exhibit P-02212, at the bottom of – starting at the bottom of page 2 and then carrying on to page 3 is an email from Mr. Harrington, November 18, 2013. So we're still – we're very close to financial close, right? You know, 11 days away? Correct?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

It says: "A couple of observations.

"... There's nothing in the scope of work which indicates that the IE should provide unsolicited recommendations and certainly not as per the draft IE report that these recommendations are worded as instructions with timelines to deliver."

And then: "2 Jim Loucks is not a named person in Schedule B nor is that person shown on the Org chart so I vote we ask him to be removed from this work- he has not been authorised."

Now Jim Loucks was the person, together with Rey Hokenson, that they were the leads on this – in the preparation of the independent engineers report in terms of the work on estimates and contingencies.

Do you agree with that?

MR. MEANEY: He would've been the gentleman that was doing the cost and the scheduling analysis, yes.

MR. LEARMONTH: And can you explain to me in the context of this engagement by the independent engineer, how it could be that Mr. Harrington would have anything to do whatsoever with who was doing the work for the independent engineer? I mean, he's talking about voting to remove one of the top people.

Can you explain that?

MR. MEANEY: I think that was his perspective on it, but, as Mr. Argirov had said earlier in the week, that decision was MWH's and Canada's.

MR. LEARMONTH: Yeah.

And Mr. Harrington had no business voicing an opinion on that. Is that correct?

MR. MEANEY: I guess he was entitled to have his opinion, but it didn't have any impact on the decision.

MR. LEARMONTH: Okay.

And then he says: "Paul Harrington" – and this is on page 1 of this exhibit – to you, he says: "Well if he was added he can be removed." There are some – and it's – he was referring to Loucks, I guess, by this other email – he says: "I do not believe he adds any value so when we get through the IE report we should get Loucks and Rey removed from the team. Rey because of his poor organization and general performance and Loucks because he is argumentative and antagonistic towards Nalcor."

Well, once again, just question: What business it is of Mr. Harrington to, you know, voice opinions on that? But I think you've answered that.

So do you agree that – at this point, were you in agreement that Rey Hokenson should have been removed from the team because of his poor organization and general performance?

MR. MEANEY: I mean, I think we had some discussions earlier about some of the organizational –

MR. LEARMONTH: Yeah.

MR. MEANEY: – in terms of organizing information. But, you know –

MR. LEARMONTH: But this is quite deeper. This is –

MR. MEANEY: Yes. I mean, this –

MR. LEARMONTH: – his general performance.

MR. MEANEY: – this was Mr. Harrington's opinion and – I guess that was his opinion on it.

MR. LEARMONTH: Yeah.

And he says: "Loucks" – well, he should be removed, and I'll put those words in – "because he is argumentative and antagonistic towards Nalcor."

Did you find Mr. Loucks to be argumentative and antagonistic towards Nalcor?

MR. MEANEY: I do recall there was a couple of conversations, calls, on discussing the approach to scheduling and how that was developed. And it was – I think probably would've been Mr. Kean, he was the expert, and Mr. Loucks and –

MR. LEARMONTH: Mr. Kean is an expert in what field?

MR. MEANEY: His background, I believe, is project controls and some of this type of stuff, cost estimating and scheduling, I believe.

MR. LEARMONTH: Okay.

MR. MEANEY: And, you know, Mr. Loucks was his counterpart on the MWH side. And I do remember there was a number of conversations that they're just – they weren't getting resolution on their views. And I do recall it was a memo that Ms. Manzer had prepared – been prepared – or had prepared dated the 20th of November where there was some discussion on scheduling. And the instructions were: I want folks to focus on reasonableness as opposed to methodology. And I think that was part of the challenge there.

And I think Mr. Argirov had mentioned on Wednesday, you know, Mr. Loucks was a very – I guess, was it, academic and theoretical may have been the words that he used. And, I guess, he and Jason just couldn't come to an agreement on approach on this particular issue. So I believe that may have been what Mr. Harrington was referring to.

MR. LEARMONTH: Well, you're speculating, are you?

MR. MEANEY: I'm just – I'm recalling that there were some –

MR. LEARMONTH: Yeah.

MR. MEANEY: – conversations where those two couldn't get aligned, right.

MR. LEARMONTH: Yeah. But I question – my question to you was whether you found Mr. Loucks to be argumentative and antagonistic towards Nalcor.

MR. MEANEY: I, yeah, I –

MR. LEARMONTH: Not Mr. Harrington.

MR. MEANEY: Sure, fair enough. No, so –

MR. LEARMONTH: You.

MR. MEANEY: – I didn't – no, I never would've had that exposure with him.

MR. LEARMONTH: So did you ask Mr. Harrington to cease and desist making these useless comments, which I would describe them as being?

MR. MEANEY: I didn't, no.

MR. LEARMONTH: You didn't, no. Okay.

But at this stage in the middle of November, I take it that there was discussion on the way to have, what was called, a lineup change. Because if we look at tab 28, which is Exhibit P-02351. This is from Alison Manzer, the lawyer for Canada, to you November 13: "I have raised this with Canada and suggested sooner than later a chat with Nik and a change of team - why sooner - because we need to have a sane rational view of the certificates and process and earlier than later - perhaps you could start a discussion with Anoop about this."

MR. MEANEY: Right.

MR. LEARMONTH: So, at this point, were you communicating with Ms. Manzer about introducing a change in the –?

MR. MEANEY: I think they – Alison, you know, I guess came in on – Canada had suggested that they may want some changes –

MR. LEARMONTH: Okay.

MR. MEANEY: – in the next stage, and there would've been some discussions with Nik on that.

MR. LEARMONTH: Yeah. But you acknowledged that it was Canada's decision and Canada's decision alone.

MR. MEANEY: Canada and MWH would've had to made that decision, yes.

MR. LEARMONTH: Okay.

Will we take a break now?

THE COMMISSIONER: Yes, we can take it.

It's 11 o'clock now – or close to 11, so we'll take our break now.

CLERK: All rise.

THE COMMISSIONER: Ten minutes.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: All right.

Mr. Learmonth, when you're ready.

MR. LEARMONTH: Thank you.

Mr. Meaney, we're in volume 2 now. Turn to tab 29, Exhibit P-01949.

MR. MEANEY: Okay.

MR. LEARMONTH: Okay. Now this is the independent engineer's report, the draft dated November 15, 2013.

MR. MEANEY: Correct.

MR. LEARMONTH: I've already gone through the contents of it with Mr. Argirov so I'm not gonna, you know, go through all the details, the comments on contingency, project costs. And that because they're in the record and the people understand what it is. But – other than to say – and this is P-01949, just to confirm that you never – you received this report yourself?

MR. MEANEY: Yes, we would have received this draft.

MR. LEARMONTH: And did you personally read it and review it?

MR. MEANEY: I think there would have been a couple of sections that I would have read, you know, the – primarily the section on the back on the pro forma analysis. The other sections, would have been other folks from the project team would have – you know, it would have been their expertise.

MR. LEARMONTH: Okay. And just to be repetitive but I just wanna make sure there's no mistake: this was – you did not send this to the Government of Newfoundland and Labrador.

MR. MEANEY: This draft, no, did not go to the folks in the province.

MR. LEARMONTH: Okay.

Tab 30 is Exhibit P-02215. This is an email from Gilbert Bennett to Ed Martin, dated – at the bottom – November 15, 2013. It says: "Ed,

"We're under some pressure to demonstrate the changes to material contracts as identified by the IE. The attached sheets are intended to show how the growth from 6.202 to 6.531 is occurring.

"Before sending them through to the IE, I'd like you to take a look. From my perspective, the numbers summarise the key changes, and I don't see anything here that the IE would not have access to were they in our office.

"Call me on my cell if you'd like"

So this is dated November 15.

MR. MEANEY: That's right.

MR. LEARMONTH: And if you turn to page 5, you'll see that this is the estimate and the way that it's calculated.

MR. MEANEY: Yes.

MR. LEARMONTH: Correct?

MR. MEANEY: So this would have been a – I guess an action item out of that November 6 session was to get, you know, the – what had been provided was the approximately \$300 million and the request had been made: We need to see the details on that.

MR. LEARMONTH: Now at the November 6 meeting, were there any representatives of the Government of Newfoundland and Labrador present?

MR. MEANEY: No.

MR. LEARMONTH: No.

Now this document, P-02215, page 5, this is dated November 13, 2013 – shows the way that it was – has been increased from the \$6,202,489,666, which was the DG3 number to \$6,531,754,580. Now I just note, and I think we've discussed this before, that there's a later version of this document, which we'll come to later; it's dated November 19. The totals are the same, but there was some adjustment in that between contingencies and material contracts. So the total amount was the same –

MR. MEANEY: Right.

MR. LEARMONTH: – but there were some adjustment in the allocation of that. Is that correct?

MR. MEANEY: Yes, yeah.

MR. LEARMONTH: All right.

So, getting back to page 1 of this exhibit, P-02215, you say that your updated capital costs, Friday, November 15: "FYI....the pigskin is in flight...." I know that's a reference to football – the ball is in the air.

What did you mean by that?

MR. MEANEY: Means it's – the information is now gone to Ed to get his sign-off and then we can release it.

MR. LEARMONTH: Release it to whom?

MR. MEANEY: In this case, it would have been Canada and the independent engineer.

MR. LEARMONTH: Okay.

Why not Newfoundland and Labrador?

MR. MEANEY: In terms of this specific document, this would have been a request to – of Canada and independent engineer. There would have been some subsequent discussions with folks from the province on the update on the number.

MR. LEARMONTH: But nothing in writing up to this point.

MR. MEANEY: The date of this would have been the 15th. In – I – Mr. Sturge does have in his notes that there was a discussion with Mr. Bown a few days before this.

MR. LEARMONTH: Yeah.

MR. MEANEY: And he had in his notes that the discussion on the updated capital cost and a need to meet with Donna Brewer, who was the deputy minister of Finance.

MR. LEARMONTH: That's in Derrick Sturge's notes.

MR. MEANEY: That's in Derrick's notes, yes.

MR. LEARMONTH: Okay. Well, he can speak to that. Thank you for mentioning it.

But there's no reference to any figures in that entry.

MR. MEANEY: Not in his note, no.

MR. LEARMONTH: No. Okay.

Now, tab 31, P-02216. This is an email from you to Paul and – I guess that's Lance Clarke, is it? Paul Harrington and Lance Clarke. Yeah.

“Had a call with Canada/CBB ... on status of FLG Finalizing IE report ... was a hot button...capital cost / major contract update and MWH views on schedule were ... key points ... raised.”

So, here we are, November 19, and there's still hot-button issues with respect to capital cost, contingencies and other things. Is that right?

MR. MEANEY: Based on this, yes, there was still discussions ongoing on those couple of subjects.

MR. LEARMONTH: Yeah.

And then you say: “We got the ok from Ed today on” – the – “first item, so that will go up in” – the – “data room shortly.”

What is the okay from Ed?

MR. MEANEY: We would have gotten the okay to release the document that is the next exhibit in tab 32.

MR. LEARMONTH: Why would you have to get the okay from Ed Martin to release that?

MR. MEANEY: Because if we're giving updates to folks – key stakeholders on cost items, you had to get Ed's okay before that goes out.

MR. LEARMONTH: Yeah. And the Newfoundland Government would be a key stakeholder. I mean, they're footing the bill, right?

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

Then we go to tab 32, Exhibit P-02217. This is an email November 19, 2013, from you to Meghan Felt, copied to Auburn Warren and Jennifer Gray.

“Please post the attached files to the data room this evening. I am going to suggest the ‘Material Contracts’ folder in the ‘Overview’ subfolder.

“Access needs to be given to Canada, Cassels Brock, Blair Franklin and MWH. Do not provide access to NL, BLG and Faskens” – excuse me – “at this time.”

And then we flip over to page 3 of that exhibit – 2 of that exhibit. And that’s the November 19 reconciliation, which is similar in terms of total – was to the one we referred to earlier, there being November 13, the same amount.

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. Now why do you say: “Do not provide access to NL, BLG and Faskens at this time”? Why do you say that?

MR. MEANEY: This is back to the point I made just a few moments ago. There was a discussion a couple of days earlier with Mr. Bown that we needed to get with Donna Brewer, the deputy minister of Finance, and give her an update. So the intention was to review this information with her in person as opposed to this information going out into a data-room folder. Commissioner, this was the point that I talked about earlier. There was a –in the Newfoundland user group, there was a broad set of people and making sure that folks at the more senior level first became aware of it, and then it would disseminate down.

So there was – ended up being a meeting with Donna and Charles and others – and Ed on the 21st. So just –

MR. LEARMONTH: Okay. Well you’re getting ahead of it –

MR. MEANEY: Sorry.

MR. LEARMONTH: I just want to stick within –

MR. MEANEY: Yeah.

MR. LEARMONTH: – this. We’ll deal with this. We’ll talk about the other –

MR. MEANEY: Yeah.

MR. LEARMONTH: – things later.

So, okay. Do not provide access out – now, okay, I understand what you just said, but that didn’t prevent you from sending by email a copy of this report, say, to selected people like, for example, Charles Bown or some senior person – Donna Brewer in Finance. You could have very easily, with very little effort, sent this to those key people.

I understand your point about the people on the lower end of the – or, you know, underneath them may not be appropriate to have it in their hands right away, but what you said certainly doesn’t apply to Donna Brewer or Charles Bown, does it?

MR. MEANEY: No, other than the decision was made to have the discussion of this in person, as opposed to sending –

MR. LEARMONTH: Who made that decision and when?

MR. MEANEY: It would have come out of the conversation I mentioned earlier that Derrick would have had with Charles.

MR. LEARMONTH: Yeah but you have no personal knowledge of that. You’re just relying on the notes provided by Derrick Sturge, correct?

MR. MEANEY: Yes, in that, I guess, we’re – here we are 6 years later and we’re trying to recall, you know, the series of events that happened during that period. So that was the point of reference in terms of some emails and notes.

MR. LEARMONTH: Yeah, well, anyway, so ...

But you had the authority, if we go back to tab 31, P-02216 where you say: “We got the ok from Ed today on first item” So are you saying the okay from Ed on the first item would not have applied to communicating this information by email or otherwise to the Government of Newfoundland and Labrador?

MR. MEANEY: I think if you go – if you go back to Gilbert’s original email to Ed, the request from Gilbert to Ed was we want to release this information to Canada and the IE –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and looking for your sign-off on that.

MR. LEARMONTH: Yeah.

The – okay, now you said: “Do not provide access to NL, BLG and Faskens at this time.” Now, can you advise whether, at any time, this information – or the – this document – and that’s the reconciliation on page 2 of Exhibit P-02217. Can you confirm or can you provide us your evidence on – as to whether this written document on page 2 was ever sent to the Government of Newfoundland and Labrador? We know it wasn’t on the 19th.

MR. MEANEY: Right.

MR. LEARMONTH: Do you know whether it was ever sent to the Government of Newfoundland and Labrador by any means –

MR. MEANEY: I –

MR. LEARMONTH: – or whether the Government of Newfoundland was ever given access to it through the data room?

MR. MEANEY: I can’t confirm that, Mr. Learmonth.

MR. LEARMONTH: You can’t?

MR. MEANEY: No.

MR. LEARMONTH: Okay.

And did you, yourself – Mr. Sturge can speak for his self and I’m sure Mr. Bown will do likewise, but did you ever verbally discuss this figure of \$6,531,754,580 with any representative of the Government of Newfoundland and Labrador before December 13?

MR. MEANEY: Prior to December 13 –

MR. LEARMONTH: That’s the date funds were advanced.

MR. MEANEY: Right. There would’ve been discussions with representatives from Newfoundland on the 6.5 number, yes.

MR. LEARMONTH: I’m not – that’s not the question.

MR. MEANEY: All right.

MR. LEARMONTH: I asked whether you, James Meaney, ever had any such discussions.

MR. MEANEY: I can’t recall specifically having those discussions with folks from Newfoundland. I do know in the trail of emails that I was on, and folks from Newfoundland were on – that followed – came a couple of days after this document, that 6.5 – you know, and that the cost overrun escrow account payment was going to be calculated based on 6.5 as opposed to 6.2 (inaudible).

MR. LEARMONTH: I’m not talking about emails, I said discussions.

MR. MEANEY: I can’t recall discussions on it.

MR. LEARMONTH: Okay. You have no recollection whatsoever, is that right?

MR. MEANEY: I can’t recall any discussions on that.

MR. LEARMONTH: Okay.

And you do acknowledge or confirm that you never sent the hard copy of this document by email or whatever to anyone in the Government of Newfoundland and Labrador. Correct?

MR. MEANEY: I’m not able to confirm if we did and I’m not able to confirm if we didn’t.

MR. LEARMONTH: I’m not talking about we, I’m talking about James Meaney.

MR. MEANEY: Sure.

I’m not able to confirm in my emails that it was sent.

MR. LEARMONTH: Okay. And you've checked, haven't you?

MR. MEANEY: Yes.

MR. LEARMONTH: Right?

Tab 33, Exhibit P-02230, this is an email from Paul Harrington to you dated November – on page 4, sorry of P-02230. Email from Paul Harrington to you, Thursday, November 21, 2013.

Now, if you read through this on page 4 and 5, he's talking about different figures. He's talking about 6.531 and then he's talking about 6.641 and so on. Can you give us some explanation as to the circumstances surrounding this – the receipt of this information by you from Harrington?

MR. MEANEY: Yes, I think this was some commentary from Mr. Harrington as to how – I guess there had been – there had been a session or there was going to be a session around the 21st. I guess maybe there had been so this would have been in the evening.

And there was – I guess in that meeting on the 21st, or the call, there may have been some outstanding questions from Canada and the IE or, I guess from the IE, on cost and schedule. And Mr. Harrington had sent this email in terms of how, you know, he thought it would be best to approach this with Canada and the IE.

And, you know, I look at his – part 2 of his email, I do recall this email. And when I read the commentary here it gave me, you know, reason to believe that the 6.531 was a good number and he gave some reasons as to why.

MR. LEARMONTH: Okay.

Now, turn to tab 34, Exhibit P-02223. On page 1 is an email from Alison Manzer, Canada's external counsel. And point two, which is the one, two – fourth – on the fourth line from the bottom of this email – this is dated November 21, 2013 – Ms. Manzer writes, I quote: "Canada is concerned to be assured that NL is fully aware of this given the equity – that is of the cost increases there is a perception of run away

increases and maybe some elements of withholding that – nip that in the bud I say."

So, obviously, that speaks for itself that Ms. Manzer wants to be sure – expresses the concern of Canada that Newfoundland know all about this.

MR. MEANEY: Yes.

MR. LEARMONTH: And in a subsequent email that we'll find later, you gave her an email back saying NL knows or something like that. Now, what was the basis of – or what gave you the confidence to, you know, make the statement to Canada that NL knows when you had no personal involvement in making NL know yourself. Were you relying simply on what Mr. Sturge told you?

MR. MEANEY: I guess at that time, which would've been on the 21st of November, 2013, I would've gotten – I'm expecting I would've gotten feedback from Mr. Sturge and some of the other guys who were in that meeting with Donna Brewer and Charles and others –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and Ed that that number had been discussed.

MR. LEARMONTH: Yeah.

MR. MEANEY: And that would have been my basis then to say that they are aware.

MR. LEARMONTH: Yeah, but there's no mention of that number in Mr. Sturge's notes, right?

MR. MEANEY: In –

MR. LEARMONTH: November 13 or November 21.

MR. MEANEY: No, but there's discussion in his notes about using the cost at financial close as opposed to the cost at –

MR. LEARMONTH: Yeah.

MR. MEANEY: – DG3 for calculation.

MR. LEARMONTH: Yeah.

MR. MEANEY: So that would imply the 6.5, I suppose, if the 6.2 was being discussed.

MR. LEARMONTH: Well, before you gave that assurance to Alison Manzer, wouldn't it have been very easy if you wanted to, like, end the issue just shoot an email to Charles Bown and Donna Brewer – perhaps someone else, senior people – with a copy of this reconciliation? Because that would end any debate whatsoever, wouldn't it?

MR. MEANEY: I guess we felt our duty to inform them would have been met through the meeting on the 21st that included Donna and Charles and Ed and others, and they would have been made aware of the 6.5.

MR. LEARMONTH: Yeah, but why wouldn't you put something in writing? It seems that – unusual, I suggest, when you're talking about a \$300-million-plus cost increase that, as far as I'm aware, there's no communication of this in writing to the Government of Newfoundland. You're relying on, well, this was said at a meeting and this was said at a meeting. Why not have something in writing so that, at the end, you can say, yes, we communicated this to them. Here's the email or here, I put it in Mr. Bown's hand or Ms. Brewer's hand. Why is there nothing in writing?

MR. MEANEY: Mr. Learmonth, there's some email correspondence that followed this one. I believe it was either the 21st or the 22nd. It would have been communication going back and forth between our counsel and – so Faskens – and Ms. Manzer and it would have been on a number of outstanding business issues that were still being dealt with at that point in time relating to the project finance agreements.

And in that correspondence, it specifically referenced that the overrun payment was gonna be based on the number at financial close of \$6.5 billion, as opposed to the DG3 number of 6.2, and on that correspondence were representatives from the Government of Newfoundland. So there would have been folks from legal and I believe Finance and maybe even Natural Resources, as well – Mr. Morris – I do have that

email. I can find it and I don't know if you have it here in the binder.

MR. LEARMONTH: Well, if it exists, and we don't have it, we'll get it. Okay.

But, anyway, you see my – do you understand my point? You've got a calculation sheet, and I see no evidence – there may be emails where there's discussions about cost overruns and so on, I acknowledge that. But I don't know why, and I'm asking you why, you didn't just end the issue by just sending it –

MR. MEANEY: And –

MR. LEARMONTH: – and say here it is.

MR. MEANEY: It may have been that a copy of that reconciliation – the 6.2 to the 6.5 – was given to the folks in the meeting. I just – I wasn't there, and Mr. Sturge couldn't recall if it was or it wasn't.

MR. LEARMONTH: Well, there's no record in the government records of it. And you may be aware that Minister Dalley and Paul Davis, they're both ministers at the time of financial close. In fact, Derrick Dalley was the minister of Natural Resources. He didn't – he testified very clearly and unequivocally that he had no knowledge about this 6.5.

MR. MEANEY: So I think you'd have to ask Mr. Bown, who was his deputy minister, as to whether or not that briefing was provided.

MR. LEARMONTH: Okay.

You're aware of that evidence, are you?

MR. MEANEY: That Mr. Dalley said that?

MR. LEARMONTH: Yeah. And Mr. Davis.

MR. MEANEY: Yes, and that was – I guess, that was a couple of weeks ago. We saw that testimony, and that was why myself and Derrick and some others started going through our correspondence to figure out, you know, what folks from Newfoundland were made aware of prior to financial close.

MR. LEARMONTH: Yeah, well, we'll hear from you, of course, and Mr. Sturge and also from –

MR. MEANEY: Yes.

MR. LEARMONTH: – I presume, Mr. Bown –

MR. MEANEY: Yeah.

MR. LEARMONTH: – and others, including Ms. Brewer –

MR. MEANEY: Yes.

MR. LEARMONTH: – and get their take on it.

Now, on Exhibit – this same Exhibit, P-02223, the top of page 4 there's a very strong email sent by Alison Manzer. And this is November 21, 2013, where she is indicating, you know, with a high degree of emphasis that the information that Canada is requesting is – has not been provided: "Canada is confused and caught – who is not delivering to whom ... The costing info has created a big issue – late and apparently not well done – causes real concerns for timely delivery ... NOT good at all. You will need to ensure what is needed...."

So here we are on November 29 – 21, where, from the perspective of the counsel for Canada, that there's a lot of outstanding items and some of them is costing information is still a big issue. How can that be that we're so close to financial close and the costing issue still hasn't been – for the project has still not been ironed out?

MR. MEANEY: Sorry, Mr. Learmonth, could you repeat again where – what Exhibit and what page number that –

MR. LEARMONTH: Well, this is P-02223.

MR. MEANEY: P-02223 zero.

MR. LEARMONTH: That's right.

MR. MEANEY: Okay, yeah.

MR. LEARMONTH: Yeah, you got that?

MR. MEANEY: Yes.

MR. LEARMONTH: Tab 34 and it's page 4.

MR. MEANEY: Oh, sorry, I'm one ahead. Okay, page 4.

I guess at this point in time there was still communication challenges, I'll say, between the information that we were providing and the information that MWH was looking for. Alison was pointing out that we needed to get resolution on this in short order and –

MR. LEARMONTH: Yeah, I know that's what she's saying but do you acknowledge that at this point the – Nalcor had not provided sufficient information for the Government of Canada to be able to assess costing issues and so on? Do you think that was a legitimate concern expressed by Ms. Manzer in that email?

MR. MEANEY: That email, I guess, was at least – her perspective on it. I would – you know, I would have to defer to some of the guys on the project – you know, Paul or Jason today feel the same, but I mean that was her perspective on it, I think.

MR. LEARMONTH: Yeah but did you go back and say: Look, what are you talking about? This is not correct.

MR. MEANEY: We –

MR. LEARMONTH: We've got everything, you know.

MR. MEANEY: Yeah.

So, I guess, you know, over the next couple of days, again, there was a number of other calls and focus discussions on if this was still an outstanding issue, then we were getting everyone focused on dealing with it.

MR. LEARMONTH: Yeah. Okay.

Tab 37 – this is the – you mentioned that you assured Ms. Manzer, or confirmed to Ms. Manzer that Newfoundland was aware –

UNIDENTIFIED MALE SPEAKER: Exhibit number?

MR. LEARMONTH: This is P-02329, tab 37.

MR. MEANEY: Yes.

MR. LEARMONTH: You say: “NL are aware of the forecasted capital cost increases.” This is on November 21. And at that point that would have been based on your discussions with Mr. Sturge?

MR. MEANEY: I would’ve, I guess, got a debrief on the meeting that they had, yes.

MR. LEARMONTH: Yeah, but you wouldn’t have seen his notes. He just would have told you that they’re aware of (inaudible)?

MR. MEANEY: At the – yeah, at that point in time back in 2013 I would’ve – he would’ve given me an update.

MR. LEARMONTH: Yeah.

Now, if we turn to tab 39, Exhibit P-02235, it’s an email from you to Nik Argirov. This is November 27, so we’re two days away from financial close.

You say: “Hi Nik

“Thanks for ... your time on the call today. Just wanted to do a quick recap, particularly for the benefit of those who weren’t able to join:

“You indicated the updated sections on the North Spur, Capital Costs and Schedule will be delivered to Canada and Nalcor later tonight/early”

Is this correct? You indicated the updated sections will be delivered to Canada? I guess you’re referring to something that Mr. Argirov said to you, that he –

MR. MEANEY: I –

MR. LEARMONTH: Yeah.

MR. MEANEY: I think so. I probably would’ve just been doing a recap of the call that would’ve happened just prior to this.

MR. LEARMONTH: Okay and so this is two days away from financial close and they were just getting the capital cost estimates, okay.

MR. MEANEY: Or at least, I think, what we were getting here was we were getting the updated sections of the IE report that related to those topics.

MR. LEARMONTH: Okay.

And you’d received an interim report – well, there’s November 15. There’s also one November 27, correct?

MR. MEANEY: Yes. I guess it probably would’ve – it may have been earlier that day, yes.

MR. LEARMONTH: Okay.

Now, tab 41, Exhibit P-02352 is a document 85 pages long. It’s called Master Definitions Agreement among the financiers with respect to the LIL construction project, correct?

MR. MEANEY: Yes.

MR. LEARMONTH: That’s 85 pages of definitions, right?

MR. MEANEY: That’s right.

MR. LEARMONTH: Okay.

And then if we go to tab 42, which is P-02353, this is the Finance Agreement for the Labrador-Island Link Partnership for the Labrador-Island Link Operating – excuse me, yeah, Island Link Limited Partnership, correct?

MR. MEANEY: Yeah, there was a Labrador-Island Link Project Finance Agreement and a Muskrat Falls/LTA Project Finance Agreement.

MR. LEARMONTH: Yeah. And this is 257 pages; I’m certainly not going to go through it.

The next document – so there were – in total there were two master definition agreements and two financing documents, is that right?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay, so we’ll just turn to tab 3 now – excuse me, volume 3. Forty-three – tab 43, P-02354, Master Definitions

Agreement, and this is for the Muskrat Falls/Labrador Transmission Assets, right?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. So this is the same type of document –

MR. MEANEY: It's the equivalent version, yes.

MR. LEARMONTH: It's 87 pages – that's the definition section.

MR. MEANEY: Yes.

MR. LEARMONTH: Then if you go to tab 44, which is Exhibit P-02361, this is the Finance Agreement for the Muskrat Falls/Labrador Transmission Assets.

MR. MEANEY: Correct.

MR. LEARMONTH: And this is a 301-page document. I won't take you through every word of it.

But, anyway, I just wanted – the only point I wanted to make about this – because these are very comprehensive documents – that if you take – if you add up the relevant figures for the earlier agreement, the first one I referred to, and the figures contained in this Exhibit P-02361, do you agree that the total cost as expressed in these – in this document, the combined cost, is the 6.531?

MR. MEANEY: Yes, there's a schedule –

MR. LEARMONTH: Yes.

MR. MEANEY: There's schedules in these agreements that are project budget hard costs – I think is what they're referred to.

MR. LEARMONTH: Yeah.

MR. MEANEY: And, yes, Mr. Learmonth, if you add those three buckets up you add up to 6.531.

MR. LEARMONTH: Yeah. Well, actually, the total amount – I checked – is \$3 less than what's

on your calculation sheet, but I guess that's just a rounding error. Yeah.

But, anyway – so that – so I guess the point is that at the time of financial close, at least in the view of the financiers and anyone else who read this document, it should have been known that it was 6.531, not 6.202.

MR. MEANEY: Yes. And, you know, I guess financiers being – in these agreements being Canada –

MR. LEARMONTH: Well – and Canada.

MR. MEANEY: – Canada –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I mean the lenders were not party to this agreement.

MR. LEARMONTH: No.

MR. MEANEY: The lenders bought the bonds up at the –

MR. LEARMONTH: Yeah but I mean it isn't true – I don't want to delve into this – to a degree. But the lenders – this is an easy ride for the lenders because they're getting a Canada Triple A-rated bond. So they're not going to do much due diligence, are they?

MR. MEANEY: No, that's correct. The way we structured the –

MR. LEARMONTH: They just take it –

MR. MEANEY: – financing was we made the bonds look as close to a Government of Canada bond as we could

MR. LEARMONTH: And it was accepted that way.

MR. MEANEY: And it was accepted that way and that allowed us to get the best pricing on those bonds.

MR. LEARMONTH: Right.

And the bonds were priced on – and the financial documents were signed on November

29. They were priced – the bonds were priced on December 10 and the funds were delivered or received by Nalcor on December 13, correct?

MR. MEANEY: Correct. They settled on the 13th.

MR. LEARMONTH: Yeah.

So when we use the term financial close, I think some people say it's November 29 and other people say it's December 10. I guess it's somewhere in that period.

MR. MEANEY: The – what I'll call the paper financial close –

MR. LEARMONTH: Close.

MR. MEANEY: – was November 29.

MR. LEARMONTH: Right.

MR. MEANEY: The financial close of the money going in the bank came later in December.

MR. LEARMONTH: Right.

All right, Exhibit – tab 45, Exhibit P-02238. This is Saturday, November 30. There's an email on the bottom of page 1 of 02238 from Alison Manzer, 12:28 p.m. This would be a Saturday, right?

And there's certain – prior to Canada accepting the IE report. So, anyway, it's – is this – by your replying to Ms. Manzer on – at the top of page 1 of Exhibit P-02238, was this an acknowledgement or a confirmation that the deal is done?

MR. MEANEY: In terms of the independent engineer report condition precedent being satisfied –

MR. LEARMONTH: Yes.

MR. MEANEY: – this email confirmed that.

MR. LEARMONTH: Yes.

MR. MEANEY: And then there would have been a subsequent email from Canada – it was a

couple of days later – where it confirmed that all of the CPs under the November 2012 agreement had been satisfied.

MR. LEARMONTH: Okay.

MR. MEANEY: And we could proceed to go to market with TD and issue the bonds.

MR. LEARMONTH: Okay and that's what you did. Yeah.

And at tab 46, it's Exhibit P-02355. Now you – at the bottom of page 1 you're sending an email to Alison Manzer. This is January 14 after financial close but you say: Lower Churchill, Nalcor, et cetera.

Then you put – you're referring to, in this email – an email, I guess, sent from Alison Manzer to you which is on page 2, January 14, where she says: "Yes we did. Ignore Rey – I will ensure Nik is available for our meeting." And then you reply to that – this is at the top of page 2. Your reply to that is: "Ok. He never ceases to baffle me. Yet another example to consider in the discussion with Anoop re: going forward. Thanks."

So what baffles you about Rey? And you're referring to Rey, are you?

MR. MEANEY: Yeah. I guess it – what baffled me was he had sent me an email saying he had a conflict with a meeting that we wanted to have with them – if you look on page 4. And I guess at that point in time that meeting would have been coordinated on the basis that we could do ours and, you know, Emera could – and MWH could meet with Emera so there wasn't a conflict.

So, I guess, she responded, yes. And then my comment was, I guess, baffled in that this was something, I guess – from an organization perspective, again, I was a little bit frustrated because I thought that had all been coordinated.

MR. LEARMONTH: This is a comment on the organizational skills of (inaudible).

MR. MEANEY: And I think in terms of organizing calendars in this case, yes.

MR. LEARMONTH: Okay, very good.

Then tab 47 – this is a January – on page 1, January 22 email from Ms. Manzer to you. She says, I think – it's 02239: "I think you just post – we will ensure the ongoing is understood – hopefully soon ... a new team." Is that a reference to changing the personnel in the independent engineer's team?

MR. MEANEY: Yeah, I guess at that point in time – and I think Mr. Argirov talked it about it in his testimony – that plans started getting underway in 2014 to make some of the changes to the team as they moved into phase 2.

MR. LEARMONTH: All right.

And is this – did – is there any doubt that, from your perspective anyway, that the decision to change the team – you may provide comments and so on if requested, but that's a hundred per cent up to Canada.

MR. MEANEY: At the end of the day the independent engineer works for Canada so it would have been their and MWH's decision on any personnel changes.

MR. LEARMONTH: Okay.

MR. MEANEY: They had final say.

MR. LEARMONTH: Tab 49 which is Exhibit P – this is an email from Mr. Harrington. He's talking about "Prepare IE Periodic Report." So, well, the first point is that there were obligations in the contractual documents that Nalcor signed that required Nalcor to provide updated financial information to Canada on a monthly basis. Is that correct?

MR. MEANEY: Sorry, I'm just – Mr. Learmonth, you're reading that –?

MR. LEARMONTH: No, I'm not reading it; I'm just saying it as an introduction to this.

MR. MEANEY: Okay, sorry, could you repeat the statement?

MR. LEARMONTH: Yeah.

Will you confirm that under the agreements with the Government of Canada that Nalcor was under an obligation to provide monthly updates of cost estimates –

MR. MEANEY: Yes, yes, there –

MR. LEARMONTH: – to the Government of Canada. Is that right?

MR. MEANEY: There was a report under the project finance agreements called a construction report and –

MR. LEARMONTH: Construction?

MR. MEANEY: Yeah, that would've given –

MR. LEARMONTH: And you'd – in other words, obviously Canada, as guarantor, and the lenders to some extent, would want to know if there are any project increases. And they didn't want to get them every year; they want to get them every month so they could have a handle on it.

MR. MEANEY: So they would've been seeing, yeah, the trend in terms of cost and schedule.

MR. LEARMONTH: Now, on the – getting back to Exhibit P-02243, so Mr. Harrington is just writing, he says: "The report shall cover the general status of construction versus the milestone schedule, the status of the budget versus actual expenditures" et cetera. So that's what he's talking about there, is it?

MR. MEANEY: The report shall cover the general status –

MR. LEARMONTH: The reporting?

MR. MEANEY: – of construction versus (inaudible). That may have – yeah, that may have been a – I guess that would've been the reference that was in the IE scope of work, is what he's talking about there, I think.

MR. LEARMONTH: Yeah.

Do you know what Mr. Harrington says at the bottom of this is that he's talking about Rey

again – or no, excuse me – yeah, Rey, in the last part: “Rey has overstepped his scope of work here by not only reporting on the status of the REA but also passing opinions on the handling of REA” et cetera.

And then at the end he says – and you can read the whole paragraph: “... this in itself is an unwarranted intrusion in an ongoing commercially sensitive manner which is following due process.” What – you got that email, what was your reaction to that?

MR. MEANEY: I guess that would’ve been Mr. Harrington’s opinion at the time. I’m not exactly sure what the basis of that comment was.

MR. LEARMONTH: I take it you didn’t pay any attention to it. Is that right?

MR. MEANEY: Yeah.

MR. LEARMONTH: Just ignored it?

MR. MEANEY: I certainly wouldn’t have – I don’t think I would’ve acted on it. That would’ve been his email and, again, would’ve been his opinion.

MR. LEARMONTH: Yeah.

At tab 51, P-02248, and this is an ongoing – this business or this issue with Rey and his ongoing work seemed to be subject of much discussion between you and Ms. Manzer. Would you agree with that?

MR. MEANEY: There were a number of email exchanges back and forth on it, yes.

MR. LEARMONTH: Because if we see on Exhibit P-02248 at tab 51 it’s an email from Ms. Manzer, March 28, 2014, copied to Nik Argirov: “Nik Canada is also asking. The recent issues with Rey have really driven us to the brink and we need to get this turn over done soon.”

Do you know what she’s referring to in terms of being driven to the brink?

MR. MEANEY: Yeah, I don’t recall what she would’ve been referring to at that point in time.

MR. LEARMONTH: Yeah.

Did you share that view that Rey was driving you to the brink or whatever?

MR. MEANEY: I don’t see that I would’ve responded to it.

MR. LEARMONTH: Yeah.

MR. MEANEY: So I don’t know if I shared that view.

MR. LEARMONTH: Okay.

Tab 52, which is Exhibit P-02252. Now, could you just have a look through this? This is revisions. This is an email from Nik Argirov to Gilbert Bennett and you –

MR. MEANEY: Right.

MR. LEARMONTH: – attaching an updated ZIP file. Can you give me some information on what this is about? The attachment, like, there’s a report –

MR. MEANEY: Sure.

MR. LEARMONTH: Yeah.

MR. MEANEY: If I look at the date – so the date of the email was April 14, 2014.

MR. LEARMONTH: Yeah.

MR. MEANEY: The next day the – a redacted version of the November 29 IE report was released publicly. I think I mentioned that earlier on in my testimony and Mr. –

MR. LEARMONTH: Yeah.

MR. MEANEY: – Martin provided some update as part of that discussion.

MR. LEARMONTH: Yeah.

And the last – the November 29 interim report that was prepared by the independent engineer, can you confirm that you didn’t receive that report – Nalcor didn’t receive the report until February of the following – February 2014?

MR. MEANEY: That's correct. We would've not received the final version of the interim IE report dated November 29 until February 2014.

MR. LEARMONTH: Yeah.

MR. MEANEY: And I believe it was the 20th or the 21st.

MR. LEARMONTH: Yeah. And you didn't – so, at the time of financial close, the last report you'd received was the November 27 draft?

MR. MEANEY: Yes, we had given our –

MR. LEARMONTH: Yeah.

MR. MEANEY: – final comments on it and then it would've gone to, you know, MWH and Canada and then on that email on the 30th that we would've gotten –

MR. LEARMONTH: Yeah.

MR. MEANEY: – confirmation that they're good.

MR. LEARMONTH: But not the final November 29 report. You didn't –

MR. MEANEY: No, we didn't get that 'til –

MR. LEARMONTH: – never got that until February.

MR. MEANEY: – February 2014.

MR. LEARMONTH: And I suppose that wouldn't have really bothered you that much because you got the financing in place, so you –

MR. MEANEY: From our perspective, the requirement of the IE report was a requirement of Canada.

MR. LEARMONTH: Yeah.

MR. MEANEY: It was a CP that they had to be satisfied with. So we got confirmation from them they were satisfied, we moved forward.

MR. LEARMONTH: You didn't need to see the report, no. That's understandable.

Tab 53, which is Exhibit P-02254, this is a reference to the – can you just comment on this email from Nik – from Paul Harrington, April 14. He says –

MR. MEANEY: Yeah.

Yeah, so this was – I guess as I mentioned, this was the day before that the IE report was made public, and I guess Mr. Harrington wanted to give Mr. Argirov a heads-up on what he noted in his email.

MR. LEARMONTH: Okay.

Tab 55, Exhibit P-02356, it's an email from you to Alison Manzer. What is – what are you discussing here?

MR. MEANEY: Sure, I –

MR. LEARMONTH: What is this about?

MR. MEANEY: If I could just read it, that'd be great.

MR. LEARMONTH: Yeah, take your time.

UNIDENTIFIED FEMALE SPEAKER:
02256?

MR. LEARMONTH: 022 – no, 02356.

MR. MEANEY: All right, let me (inaudible). I think this may have been relating to the start of the discussions around Nik's departure from MWH.

MR. LEARMONTH: Okay.

MR. MEANEY: As an employee.

MR. LEARMONTH: Yeah.

And there are – we'll come to a lot of emails about that. Once again, I'm not going to go through everything because there was a considerable period of time when things were up in the air.

MR. MEANEY: Yes.

MR. LEARMONTH: Ultimately, the arrangements were put in place and the contract

at MWH was assigned to Argirov Engineering, right?

MR. MEANEY: But later on down the road.

MR. LEARMONTH: But there was a long process –

MR. MEANEY: Yeah.

MR. LEARMONTH: – and there were problems in negotiations and so on.

MR. MEANEY: In 2015 there was a period where Nik departed as an employee of MWH and then he was subcontracted to them.

MR. LEARMONTH: Yeah.

MR. MEANEY: And then in '16, as you noted, the actual IE contract got assigned from MWH to Argirov Engineering. And I think Mr. Argirov, in his testimony, spoke to the rationale or what was the circumstances around that.

MR. LEARMONTH: Yeah. And I think it would be obvious to anyone that that would be an item of concern to Nalcor, because there had to be an independent engineer in place with proper instructions to approve the funding and so on. Is that correct?

MR. MEANEY: It would've been an item of concern for Nalcor, for Canada and Emera because they had the same independent engineer as we did.

MR. LEARMONTH: Yeah. That's right, Emera was – he was the independent engineer for Emera also.

MR. MEANEY: Yeah.

MR. LEARMONTH: Okay, page, exhibits – exhibit in tab 56, Exhibit P-02357. This is an email that you wrote on November 25, 2014.

I guess this is to Auburn Warren, is that right? You say: "Correct..." – page 2 – "Canada has asked we circulate a draft of the cost overrun certificate by Dec 1, which we are on track to do. MWH would then circulate a draft of the IE cost overrun certificate within a few days after that. My objective would be to provide the

Province with that full package the first week of December"

So this has to do with the COREA account, is that right?

MR. MEANEY: That's right. So that would've been December 2014 was coming up.

MR. LEARMONTH: Yeah.

MR. MEANEY: There would've had to been a COREA payment based on the change in the cost from the 6.99 to the – or sorry, from 6.531 to 6.99.

MR. LEARMONTH: Yeah.

MR. MEANEY: And what we wanted to make sure was that the province had ample notice that, in the event they had to go out and borrow the funds in the market, they weren't getting jammed.

MR. LEARMONTH: Right.

MR. MEANEY: Yeah.

MR. LEARMONTH: And they were – the COREA, I think people understand it; there's been evidence on it. But can you just give us a very short –

MR. MEANEY: Sure.

MR. LEARMONTH: – description of what – how the COREA account operated and what the –

MR. MEANEY: Sure. So –

MR. LEARMONTH: – requirements are in terms of funding?

MR. MEANEY: So one of the provisions in the – I guess it started in the November 2012 federal loan guarantee agreement, and I believe it was section 4.10 of that document; that eventually became section 10.28 of the project finance agreements. And it's a provision whereby, on an annual basis, if forecasted cost to completion exceeds what was the project budget baseline that would've been set in the November 2013 agreement – so that would've been the 6.531 – a

cost overrun was calculated, and then, based on the number of years to – forecasted for commissioning, you'd divide it by that number. So, simplistically, if your overrun was \$300 million, and you were three years to commissioning, you'd have to make an installment payment of \$100 million in one December, then a hundred and a hundred.

MR. LEARMONTH: Yeah. And would the purpose of that be as simple as this, that the lenders are putting out the money, advancing the money based on a capital cost estimate, and if it goes over that, they want to make sure that the Government of Newfoundland and Labrador, who's provided a equity guarantee, that they're putting their money in sort of up front so that –

MR. MEANEY: Right.

MR. LEARMONTH: – the money will be there to address the cost overrun?

MR. MEANEY: So in this instance, the lender, as you described, was effectively Canada.

MR. LEARMONTH: Okay, yeah.

MR. MEANEY: Because Canada, you know, Newfoundland had, the province had made the commitment that they would provide the amount of a base and contingent equity required to complete the project.

MR. LEARMONTH: Yes.

MR. MEANEY: So if it was forecasted that there was going to be an increase in costs above the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – debt and the base equity, Canada – or no, sorry – Newfoundland would have to pre-fund that on an installment basis.

MR. LEARMONTH: Yeah. So in other words, Canada's saying, like, there are cost increase, we want to see your money –

MR. MEANEY: Yeah.

MR. LEARMONTH: – in an account so it'll be there to cover these things.

MR. MEANEY: Then – the province made a commitment –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I guess, starting back with the letter from Premier Dunderdale in 2011, and then they made the commitment in the FLG agreement in 2012, and then in the equity financing agreements in '13, that they would be there for those funds.

MR. LEARMONTH: All right.

At tab 57, P-02359. Now, this is a – this and in a few other – a few later tabs we're going to see some cost overrun certificates. So if you turn to Exhibit P-02359.

MR. MEANEY: Yes.

MR. LEARMONTH: It's an email to Nik Argirov dated December 8, 2014.

MR. MEANEY: Right.

MR. LEARMONTH: Attached beginning on page 2 is a Cost Overruns Certificate dated December 8, 2014. So is this the format that you must follow in order to advise Canada of the cost overrun?

MR. MEANEY: Yeah. So in the project finance agreements –

MR. LEARMONTH: For the purposes of the COREA?

MR. MEANEY: Yes.

MR. LEARMONTH: Yes.

MR. MEANEY: In the project finance agreements there would've been a form of COREA certificate established – and the form of the IE certificate. So this was what we would've issued on an annual basis in December of each year in terms of declaring the cost overruns and what the implications of that were.

MR. LEARMONTH: And the money had to be in the account by December 14, is that right?

MR. MEANEY: Yeah, it was, yeah –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – I think it was the – it would've been the anniversary of the settlement date. So if that fell on a weekday – that would've been the 13th. And if that –

MR. LEARMONTH: Yeah.

MR. MEANEY: – fell on the weekend, it would've been the 14th, 15th, whenever it would've been.

MR. LEARMONTH: Fine.

And if we just look at page 36 of that exhibit, P-02359, I think that's where the increase is indicated – 6.990, that's the jump.

MR. MEANEY: Right. So this would've – I think – sorry, page – yeah, so page 36. So this would've been the update that we would've given –

MR. LEARMONTH: In July.

MR. MEANEY: – in – yeah, July. And that would've been the basis of the calculation.

MR. LEARMONTH: Yeah. The – yeah, July 22, 2014, is the cost update, and that's on page 15 of the exhibit.

Now, the – can you confirm that it was not just firm costs that had to go into the COREA account, that it was a reasonable estimate of costs as well as firm costs?

MR. MEANEY: There – yeah, there would've been – I guess, in – there would've been a combination of probably –

MR. LEARMONTH: Yes.

MR. MEANEY: – firm costs and estimates.

MR. LEARMONTH: And estimates.

MR. MEANEY: Yeah, that's fair.

MR. LEARMONTH: Okay. Very good.

Now, the – tab 58 was – Exhibit P-02360 was a cost overrun certificate. Tab 59, P-02358, is a

cost overrun certificate. Tab 60, P-02362, is a cost certificate. And they're just the same format of – as the one that you just identified, is that right?

MR. MEANEY: Yes, looks like it.

MR. LEARMONTH: Different amounts and so on, but –

MR. MEANEY: Yeah.

MR. LEARMONTH: – it's the same point. Okay, well, I won't go through them.

Tab 61, P-02366. Now, this is – this appears to be some – it looks like there's some issues that Nalcor has with the operation of the Oversight Committee is – could you just go through that exhibit, P-02366 (inaudible) –

MR. MEANEY: Sure. I think there had been some commentary back and forth with folks from the Oversight Committee in terms of providing some variance explanation in one of their reports – would've been around that time. And I guess there was one – I do recall there was one in particular – I think it related to Muskrat Falls – where they were asking for a detailed reconciliation of a variance of \$5 million on an aggregate spend amount of north of a billion dollars. So, you know, I think my comment was I was wondering if it was material or relevant.

MR. LEARMONTH: Okay. So there were, I mean, obviously – well, I shouldn't say obvious, but presumably, you know, you could've done without the Oversight Committee 'cause it increased the work on the project, is that right?

MR. MEANEY: (Inaudible.)

MR. LEARMONTH: I mean, I'm not making that in a disparaging way.

MR. MEANEY: No.

MR. LEARMONTH: I'm just saying this was another type of work that Nalcor had to do in addition to running the company ordinarily, is that right?

MR. MEANEY: I mean, it was another, you know, I guess, set of stakeholders that we had to

provide information to. I will say – you know, I'd say in the early days of the Oversight Committee we – both sides went through some growing pains –

MR. LEARMONTH: Yes.

MR. MEANEY: – in terms of, I guess, folks on the Oversight Committee's understanding of how to provide oversight to the project and then us understanding the type of information that they were looking for.

MR. LEARMONTH: Yes.

MR. MEANEY: I mean, I'd be the first to admit that, you know, if someone – the folks – at least in the early days, the folks that were asked to be part of the Oversight Committee – so these were folks that would've been, you know, quite busy in terms of assistant deputy ministers –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and deputy ministers in Finance and Natural Resources and other functions, and they were being asked to provide oversight on a megaproject which, you know, while they were folks who were very competent in their respective areas, it was a challenge to them. And I – you know, you could tell that they were challenged by it. And we were challenged with trying to provide information to them that – to help them understand that. But I think, as time went on with the Oversight Committee and they – I guess they figured out the processes in terms of how they would do their reporting, and they brought in some external expertise to the Oversight Committee, I think that process ran a lot smoother.

MR. LEARMONTH: Yeah.

MR. MEANEY: And if I look at where it is today, it's come, you know, a great length and we do have a, I guess, a good, for lack of a better word, a good routine in terms of how we provide them with information and we meet on a monthly basis. And it's certainly come a long way from the early days where, you know, I think we had some frustrations on our side and then I suspect folks on the other side did as well.

MR. LEARMONTH: Okay.

MR. MEANEY: But I just mentioned –

MR. LEARMONTH: So –

MR. MEANEY: – a bit of context.

MR. LEARMONTH: – is the comment your making, do I get it correctly when I say this, that at the beginning the Oversight Committee was staffed by, although very intelligent people, that they didn't have any really knowledge of construction matters and –

MR. MEANEY: There –

MR. LEARMONTH: – megaprojects.

MR. MEANEY: – there would've been a – there would've been a few gentlemen who would've had a construction background. There were two gentlemen, one from Public Works and another one from maybe Municipal Affairs, I think he was. So one gentleman was Cluney Mercer, I think he was Municipal Affairs, and then Cory Grandy was from Public Works, and Cory still is on the Oversight Committee. So those gentlemen would have had, you know, certainly a lot of experience on construction matters. I don't believe they had, I'll say, megaproject construction experience.

MR. LEARMONTH: All right.

But anyway, as things moved forward –

MR. MEANEY: Yes.

MR. LEARMONTH: – generally there was a sort of a –

MR. MEANEY: Yeah. Yeah, there was an improvement, and I think, I recall it was probably around the period that Charles Bown and Paul Carter took over that they kind of brought some better structure to the reporting and the weekly – and the monthly updates. And then, I think it was around that same time that some of the external folks who did have big project experience came on board, and it certainly, I think, improved the interaction.

MR. LEARMONTH: Okay.

Next tab 63, Exhibit P-02269. Now this is an email from you to Nik Argirov about a site visit, February 3, 2014. And on page 11 of this site visit report for the period November 24 to November 27, on page 11, a reference that, well, there's some comments on it, but: "Astaldi Canada's progress on the ICS (shelter structure) for the Powerhouse construction is considerably behind schedule. At the time of the IE site visit the ICS portion over Bays 1 and 2 was substantially completed (minus much of the wall cladding (Photos ...))" – and so on.

Now, do you agree that, and I – you know, Mr. Argirov gave his view on this that, you know, he said that in 2014, the progress that Astaldi had made was of concern, it was very limited. Do you agree with that?

MR. MEANEY: I think it, as I understand it, yeah, 2014 was the year that they didn't have the progress everyone was hoping and it kind of set everything back in the years that followed.

MR. LEARMONTH: Yeah. But what I – now that you know about the P1, P3 – you know, P3 schedule comments of Westney, okay, and then added on to that the first year of the work of the – one of the main contractors, very little is accomplished.

Do you agree that by February 2015, it was, I would suggest, ridiculous to suggest that there could be first power by December 2017? Do you agree with that?

MR. MEANEY: I don't know if I'd be qualified to opine on that, Mr. Learmonth, just because I think folks who are more directly involved with the construction side would have been more appropriate to give that perspective.

MR. LEARMONTH: Okay. Fair enough.

The next document is tab 65, which is a – Exhibit P-02369. There's a reference here to – in the bottom of page 1 at February 13, 2015 from Mark Bradbury to you about a meeting with Craig Martin of Cabinet Secretariat and David Steele and Richard Noble. So this was after the Grant – the E&Y team had been put on – put to work. Is that right?

MR. MEANEY: Yes. It looks like this would have been – and I don't recall when they got initially engaged, but I guess it was probably around this time and this would have been some type of a – I guess a meeting with them to start things off.

MR. LEARMONTH: Okay.

Now at – just going back to tab 64. There's a – Exhibit P-02368 – and there's a document whereby at volume 1, tab 4 – if we could just bring that up. Volume 1, tab 4, P-022165.

MR. MEANEY: Volume 1, tab 4. Okay. Sorry, what's the reference number?

MR. LEARMONTH: I had – is it 02165?

MR. MEANEY: Okay. I think that's the one I have here, yeah.

MR. LEARMONTH: Tab 4 of volume 1.

MR. MEANEY: Okay yeah, I think I have that.

MR. LEARMONTH: 02165. Sorry about that.

Okay, so this is a request – as you go through this, Mr. Argirov is asking you or – you know, to give a reference to him in response to a project that MWH is bidding on in Israel. Is that right?

MR. MEANEY: Looks like that was the case, yeah.

MR. LEARMONTH: Let's just go through it and I think you can confirm that.

MR. MEANEY: Okay, yeah. Bid on international project –

MR. LEARMONTH: Yeah.

MR. MEANEY: – yes, it looks like that was the case.

MR. LEARMONTH: Do you agree?

MR. MEANEY: I'm looking at Mr. Argirov's email here in the chain.

MR. LEARMONTH: Yeah. Just take your time to read it.

MR. MEANEY: Sure.

MR. LEARMONTH: We can go down through it.

I think he's asking for a reference.

MR. MEANEY: Yes, yeah. He'd asked for a reference on a project they were bidding on in Israel, I guess it was.

MR. LEARMONTH: Okay.

And then on – so that's his request to you and you say you're gonna deal with it or you're busy or whatever. But anyway – then in tab 64 of volume 3. This is P-02368.

MR. MEANEY: Yes.

MR. LEARMONTH: You give a reference?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

Now is this a usual type of business that the independent engineer is asking Nalcor – someone from Nalcor to provide a reference on their work? Do you consider that to be a, you know, a usual, standard type of request or –

MR. MEANEY: Yes. When – actually, when we did the independent engineer RFP – when was that – back in 2012, we would have asked them to provide a reference they had from both lenders – a reference from parties who would have been lenders in arrangements they were involved in as well as borrowers. So –

MR. LEARMONTH: Yeah.

MR. MEANEY: – in this instance – because we were the borrower.

MR. LEARMONTH: Yeah.

So you found that to be perfectly acceptable.

MR. MEANEY: Pretty standard, yep.

MR. LEARMONTH: Yeah. Okay.

The – now I mentioned earlier about Nik leaving MWH and the first reference to that that I have is tab at 66, which is P-02273. And it's an email from you to Gilbert Bennett and Paul Harrington, April 14, 2015. "Just got a call from Alison Manzer...Nik is going to be announcing this week he's leaving MWH. Tired of the internal politics, particularly dealing with folks in US headquarters." – et cetera.

Now, so this is the first indication that we found that Mr. Argirov is leaving and, as I said before, I'm gonna refer to some exhibits because this – the negotiations –

MR. MEANEY: Yeah.

MR. LEARMONTH: – that he had with MHA – MWH were extensive. I think you went up to Toronto for a meeting and –

MR. MEANEY: Yes.

MR. LEARMONTH: – it was an item of concern, obviously –

MR. MEANEY: Yep.

MR. LEARMONTH: – for Nalcor.

MR. MEANEY: And –

MR. LEARMONTH: So –

MR. MEANEY: – it wasn't until – I think it was finally in terms of this – Nik becoming a subcontractor, I think it wasn't until September of 2015 that he – I think it was an IE consent letter or consent agreement got signed. So yes, it took a fair bit of time in 2015.

MR. LEARMONTH: Well actually there – December 30 there was an assignment assumption and consent agreement. And that's –

MR. MEANEY: No, I think, Mr. Learmonth, that one you're talking about, that's what happened in 2016.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah. I'm referring to '15.

MR. LEARMONTH: Okay.

MR. MEANEY: Yeah.

MR. LEARMONTH: But there was an assignment assumption and consent signed in December (inaudible).

MR. MEANEY: In '16, yes, yeah. In '15 there was an IE consent –

MR. LEARMONTH: Yes, yeah.

MR. MEANEY: – agreement. And then '16, yes, was the full assignment.

MR. LEARMONTH: That was the final document –

MR. MEANEY: Yes, that's correct.

MR. LEARMONTH: – for the assignment.

Okay. So I'm just going to refer – for those who have any interest in this issue – these are the other documents that deal with Mr. Argirov's departure and making arrangements with MWH to have the contract assigned.

So tab – it'd be – P-02273, P-02275, P-02370, P-02276, P-02371, P-02372, P-02373, P-02279, P-02282 – and that's the meeting in Toronto that I referred to.

MR. MEANEY: Yes.

MR. LEARMONTH: And then P-2375, P-02376. And then there's an agreement that was signed September 2015 with an effective date of May 11, 2015, and that's P-02341. And the – ultimately the December 30 assignment assumption and consent agreement is P-02339. So I'm not going to go into all those agreements, but to say that's the record of it.

Now we're in volume 4, Mr. Meaney.

MR. MEANEY: Right.

MR. LEARMONTH: We'll go to tab 81 which is exhibit P-02290. And on page 2 of that exhibit, P-02290, there's a letter to you from Alison Manzer of Cassels Brock in which, to put it mildly, there's a concern expressed about the

level of reporting on cost overruns and other matters.

Is that a fair way to put it?

MR. MEANEY: Yeah, there was – there was some concern after they received an update in September of 2015 on the – on the changing costs.

MR. LEARMONTH: Yeah. And to summarize Mr. Argirov's evidence, he said that what prompted this was that there was a revision in the AFE to \$7.65 billion –

MR. MEANEY: Yes.

MR. LEARMONTH: – which was done in September 2015 –

MR. MEANEY: Right.

MR. LEARMONTH: – and that when he got that, he was, quote, very upset, because he knew that – that this didn't happen, you know, just in September, that it had developed over time yet there had not been proper recording made of cost overruns by Nalcor in the, you know, the months before the AFE was done.

Is that, generally, your understanding?

MR. MEANEY: That would have been – that would have been one of the concerns, yes.

MR. LEARMONTH: Yeah, one of the concerns. What were the other ones?

MR. MEANEY: There was concerns about the frequency of updates, that they wanted to have, you know, monthly calls – I think at that point in time, we may have not have been having monthly update calls. One of the other concerns was within the \$7.65 billion, they had some questions as to was there enough of an estimate – and it's on page 4 of that letter – around the powerhouse and the HVDC transmission line.

MR. LEARMONTH: Right.

MR. MEANEY: I do specifically recall the issue about the powerhouse. I don't recall what it was with the line, but there was a lot of discussion around the powerhouse for sure.

MR. LEARMONTH: Now I'm going to just read paragraph one of this October 16 letter to you. And this letter was addressed to you, as I understand it, because you were the lead communicator with Alison Manzer on behalf of Canada. Is that right?

MR. MEANEY: I would have been the primary point of contact on the Nalcor side.

MR. LEARMONTH: Yeah.

She says: "I am writing further to our recent" – this is the first paragraph – "telephone conference, being the Muskrat Falls Project update call with Canada and the Independent Engineer on Monday, September 28, 2015. The review during the course of that call was surprising to both Canada and to the Independent Engineer, as to a number of matters but most particularly as to the cost overruns identified, for the first time, during the course of that call. Both Canada and the Independent Engineer feel that the buildup of these cost overruns, and a proper estimate of further anticipated cost overruns, should have been identified on a month to month basis in the course of the regular reporting, and the recently held site visits. Canada is not prepared to proceed with the current reporting regime, without amendment, as it cannot accept significant cost overruns building, and being identified, late in the review process, and before they are able to provide input to properly recognize Canada's concerns in the setting of cost estimates, and contingencies. Accordingly Canada requires that we hold an all hands meeting, and work to a revised reporting process which will avoid these types of unreported, and unresponsive, identification of delay and cost issues."

Now – and I understand eventually there was a meeting in Ottawa on October 30 of that year.

MR. MEANEY: Correct.

MR. LEARMONTH: Now at the end of this report, the second-to-last paragraph – or the last paragraph on page 4, Ms. Manzer writes: "If this cannot be suitably done in this manner, then the Independent Engineer will need to take this into account in their approval of the monthly draws,

their reporting of site and related visits, among other matters, which we would prefer to avoid. However Canada has its responsibilities to ensure suitable and appropriate management of the costing of the project, and the Independent Engineer has its responsibilities to Canada in this regard, all of which must be suitably recognized in the review and reporting process."

So, as I said, Mr. Argirov said he was very upset –

MR. MEANEY: Yes.

MR. LEARMONTH: – when he received this information and he was – and his concern was: it looked like he wasn't doing his job, that's what he said, because he didn't get the proper information from you, he couldn't report it and he was concerned that, I guess, Canada would say: Well, why aren't you bringing us up to date on this? And the answer was: I didn't get the information. That's why he said he was upset.

MR. MEANEY: Okay.

MR. LEARMONTH: You heard him, did you?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

Now if – I'd like you to take the time now, even if it takes a few minutes or five minutes, I'd like you to go through this letter, Exhibit P-02290, and tell me two things. One: Are there any factual errors in this letter? And two: Whether you believe that the concerns expressed in this letter are fair.

MR. MEANEY: Right.

MR. LEARMONTH: So just go through it and take your time.

MR. SIMMONS: Commissioner, I don't know how long the process will take, but I notice it's coming up on 12:20. So I just throw out there that if this might take some time, if it might be more productive to – for Mr. Meaney to do this part on the lunch break and it might go a bit

quicker if he could report after. But I'm, you know, at your disposal.

THE COMMISSIONER: Any thought on that, Mr. Learmonth? Did you wanna let him review the letter –?

MR. LEARMONTH: Well, I don't know. Can you give us any estimate as to how long you'd like to take to review that?

MR. MEANEY: Yeah, I mean if you're asking me to kind of address each point in the letter, if that's the way you want – would like to proceed, I would like a bit of time to go through it. I could also –

MR. LEARMONTH: Okay.

MR. MEANEY: – I guess as part of it, Mr. Learmonth, I had provided a chronology –

MR. LEARMONTH: Oh yeah.

MR. MEANEY: – of what happened in 2015 and –

MR. LEARMONTH: Well, we're gonna go through that.

MR. MEANEY: – maybe we can use that as part of the discussion.

MR. LEARMONTH: Okay. No, but what I – okay, well – we – what I would propose is that we take a lunch break early but that we come back early.

MR. MEANEY: Okay.

MR. LEARMONTH: So in other words, if we came back at 1:15?

THE COMMISSIONER: Okay.

MR. LEARMONTH: Are – I don't know how the rest of the room feels about that if that's too – early.

THE COMMISSIONER: What do you say we come back at 1:30? Then was towards – it's just about 20 after 12. And I do want to finish Mr.

Meaney today, so let's come back at 1:30 and hopefully we'll be able to (inaudible).

MR. LEARMONTH: Okay. If I could just explain to Mr. Meaney. I want you to go through it, you don't have to – like, when you come back – go through every sentence, because I just want to focus on the items that you think are, (a), factually incorrect or unfair comments. So that –

MR. MEANEY: (Inaudible) Mr. Learmonth –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – I guess or, Mr. – sorry, Mr. Learmonth – I guess in terms of my focus, would it be – you know, the items that are listed 1, 2, 3, you know, through 7 in the – is that the area you want to focus on?

MR. LEARMONTH: Well, what I want to focus on is the letter.

MR. MEANEY: Okay.

MR. LEARMONTH: Here's the base of it. You get a letter which is a very serious letter with a potent message that unless you clean up your act, we're cutting off the funding. This is a very serious issue. Do you agree?

MR. MEANEY: That was the tone of the message, yes.

MR. LEARMONTH: Yeah. And I want to know whether your take on this letter – whether this was a fair letter, whether it was factually correct and whether the comments made on it, in your opinion, were fair and justified as opposed to being unfair and unjustified.

MR. MEANEY: Right.

MR. LEARMONTH: Okay?

MR. MEANEY: Okay.

THE COMMISSIONER: All right.

So we'll adjourn now 'til 1:30.

CLERK: All rise.

Recess

CLERK: All rise.

This Commission of Inquiry is now in session.

Please be seated.

THE COMMISSIONER: All right, Mr. Learmonth, when you're ready.

MR. LEARMONTH: Yes, thank you.

Mr. Meaney, when we broke for lunch, you were gonna review Exhibit P-02290 to see whether –

MR. MEANEY: Yes.

MR. LEARMONTH: – one, there are any factual errors and, two, whether there are any comments that you feel constitute unfair commentary, we'll say.

MR. MEANEY: Sure.

MR. LEARMONTH: Have you had a chance to conduct that review?

MR. MEANEY: I have, yes.

MR. LEARMONTH: Okay. Can you take us through, starting on page 1 –

MR. MEANEY: Sure.

MR. LEARMONTH: – and –

MR. MEANEY: Yes.

MR. LEARMONTH: – give us the – your answers?

MR. MEANEY: Yeah, sure, no problem.

So I'll start with the first paragraph. And I won't read every word but I'll try to hit on, Mr. Learmonth, what I think are the key points, and if I miss one, then, by all means, let –

MR. LEARMONTH: Yeah.

MR. MEANEY: – me know.

MR. LEARMONTH: Well, okay, you can do that, but would it not be better if you just told us the things that you disagree with?

MR. MEANEY: I was gonna take the approach of – I guess, you had asked what was factually accurate –

MR. LEARMONTH: Factually inaccurate.

MR. MEANEY: Oh, inaccurate.

MR. LEARMONTH: Yeah.

MR. MEANEY: Oh, okay, I'm sorry, I –

MR. LEARMONTH: No, I just shortened it up because I presume most of it is accurate.

MR. MEANEY: Okay. Yeah, no, I can – I went about it the other way but I guess we can get to the same place, okay.

So maybe I'll take the approach of – the fair statement approach, and then I can talk about if there's any factual inaccuracies, if that works.

MR. LEARMONTH: Well, can you do the facts first?

MR. MEANEY: Sure, okay, no problem.

So, I guess, if – in terms of anything being factually inaccurate, there was one point – I don't know if I'd say it's inaccurate, but there was a comment there; it's number 2 on page 3, so about change orders?

MR. LEARMONTH: Yes.

MR. MEANEY: And it said: "Change Orders should be provided to the IE ... information. The IE should be kept abreast of more significant Change Requests and/or Potential Claims" – in – "discussions and development."

So in the project finance agreements, there is a provision that dictates which change orders the IE does get a copy of. And I think, in this instance, we had been providing the ones that we were supposed to under the project finance agreements. So I don't know if it's an inaccuracy; it was just maybe a bit of a misunderstanding. And if you look at the correspondence that had the resolution of the matters, we didn't need to address it because it was already being followed. So I mean that'd be one –

MR. LEARMONTH: All right.

MR. MEANEY: That'd be one point.

Again, if I go down to 5, 6 and 7, it's not so much a matter of factual inaccuracy; it was more what they were proposing. There were some concerns in terms of the independent engineer taking on liability by being at the table for these negotiations. So we ended up with the resolution that he would be kept abreast of what was going on –

MR. LEARMONTH: Yeah.

MR. MEANEY: – on a timely basis and be allowed to provide input but not be at the table.

MR. LEARMONTH: Okay, but where does it say about liability?

MR. MEANEY: Oh, no, this was – it wasn't in the letter but it was more when we met with Canada as a follow-up to this letter that we identified that by Nik participating in negotiations with the contractors – that's noted in 5, 6 and, I guess, 7 –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that that created the potential for a liability for him. And the resolution was not to have him at the table but we'd keep him informed and allow him to provide input. So it's not – I guess, kind of like the change orders, when it was something that required clarification.

MR. LEARMONTH: All right. Okay.

MR. MEANEY: Okay?

So – and then there was – sorry, there was one other point and I missed it when we started. There was a comment up in the first paragraph, down towards the bottom. And it said –

MR. LEARMONTH: On page 1?

MR. MEANEY: On page 1, sorry, yes.

“Canada is not prepared to proceed with the current reporting regime, without amendment, as it cannot accept significant ... overruns building,

and being identified, late in the process” – and it was this latter part that I wasn't sure what they were referring to – “and before they are able provide input to properly recognize Canada's concerns in the setting of cost estimates, and contingencies.”

I don't know if it's inaccurate, but I just wasn't quite sure what they were referring to in that sentence, the latter part of that sentence: “... able to provide input to properly recognize Canada's concerns in the setting of cost estimates, and contingencies.” I believe it may have been to do with the incorporation of costs associated with the Astaldi delay, but – and I'm not certain, and so reading it again, I wasn't totally clear what they were referring to there. But that was the only last point I would make.

MR. LEARMONTH: Well, before Canada “are able to provide input to properly recognize Canada's concerns in the setting of cost estimates, and contingencies.”

MR. MEANEY: Yeah, I just wasn't totally sure what they were referring to there. I think it may have been when we presented to them the \$7.65 billion cost estimate –

MR. LEARMONTH: Okay.

MR. MEANEY: They felt that it may not have had enough contingencies for the delay impact as a result of the Astaldi situation and there was discussions that followed that and –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I can explain that a bit later. So that was the only one that I just wasn't quite exactly sure what it was referring to.

MR. LEARMONTH: Yeah. But you're not saying it's an error. You're saying (inaudible).

MR. MEANEY: Yeah. It was just something that I wasn't quite sure what they were referring to.

MR. LEARMONTH: All right. Anything else?

MR. MEANEY: No. I think that covers it, in terms of the context of, you know, inaccuracies or needing clarification.

MR. LEARMONTH: Okay. Now what about the fairness of the comments.

MR. MEANEY: Sure.

So I'll start from the top again on page – I guess page 2 of the exhibit. So – "... surprising to both Canada and to the Independent Engineer," – yes, I mean, that was a fair comment. They expressed their surprise to us.

"... cost overruns identified, for the first time, during the course of that call." I would say yes – that was the first time they heard of it.

"... should have been identified on a month to month basis in the course of ... regular reporting, and the recently held site visits."

So I just – I'll provide a bit of context on reporting. So that would have been the construction reports. There was another document that we produced on a monthly basis called the material contract summary that would have shown a budget and award values for the major contracts, and then the last form of reporting would have been – at that point in time, we weren't doing a monthly call but we were, I guess, it was every other month or every two or three months we were having calls or having meetings when they were down in site.

So those would have been – those would have been the forms under which they would have received reporting and –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I did go back – because we discussed this in my interview. I did go back and it's part of what helped me develop my chronology in terms of, you know, updates on –

MR. LEARMONTH: Yeah.

MR. MEANEY: – cost information –

MR. LEARMONTH: Yeah.

MR. MEANEY: – there wasn't any changes there. What there was – and I can talk about it when we get to my chronology – there was some commentary on the Astaldi situation if you looked in the construction narrative, but I guess, in terms of the overall comment being a fair one they would have thought there would have been more in the monthly reports saying that was a fair statement.

MR. LEARMONTH: Okay.

MR. MEANEY: So we just move down then I guess to the various listed items – timely submission of monthly contractor reports – yes. There was an issue with the timely receipt of the contractor reports

MR. LEARMONTH: Where are you now?

MR. MEANEY: Sorry. I'm on the bottom of page 2 and the top of page 3.

And he did specifically note that while some contractors were doing a good job – I think he noted here – sorry – they noted here – ANDRITZ and Nexan – some others like Astaldi and Gilbert at that point in time they were reporting – the monthly reporting process was not going well. That was a fair statement and we addressed that – we can talk about that a little bit later.

Item 2, we talked about – that was the change orders.

Item 3, the desire to meet face to face on a quarterly basis and continue on with that process. That was fair and that was something that we did implement and has been ongoing.

They had a comment here specifically about the Astaldi reports, you know, not being available and how is it going to be addressed. The issue there was – I guess there was a lot of information in the Astaldi reports that our team felt wasn't right. There was a lot of information in the Astaldi reports, I guess, that were of – of a

commercial nature because of the situation that was going on.

MR. LEARMONTH: Yeah.

MR. MEANEY: And because of that, Nik wasn't getting information relating to, I think it was production. It was mostly he was looking at data on concrete production that –

MR. LEARMONTH: Yeah.

MR. MEANEY: – normally he would've got all those reports. So what we ended up doing was our team at site provided that to him directly, so I mean that was a fair statement in 4, that he wasn't getting the information. Five, 6 and 7 we've talked about.

If I go to the next paragraph there on page 4 of the exhibit, I guess the key point: "At this time there is significant concern that appropriate contingencies and estimates have not been included with regard to the power house and HVDC," – that's similar to the point that I talked about on the first page, is that they had concerns as to whether or not the 7.65 had adequate estimates for the Astaldi delay situation.

MR. LEARMONTH: Right.

MR. MEANEY: And it didn't, and we told them that, and that was part of the following discussion that happened on that.

MR. LEARMONTH: Right.

MR. MEANEY: So the next paragraph, we require a meeting be set, yes, fair, we agreed to it, and then, I guess, the last paragraph, you know, in terms of what they said, if this can't be suitably addressed with – you know, it will – it will factor into our – or, the Independent Engineer will need to take this into account in their approval of the monthly draws, and so on and so forth.

I mean, that's fair. Their – they, as the guarantor, and I guess, effectively, in some respects, the lender, are within their rights to do that. So that –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – would be a fair statement that if they didn't get resolution, that could be a step they would take.

MR. LEARMONTH: Yeah, and that would get your attention, wouldn't it?

MR. MEANEY: That would get a lot of people's attention, yes.

MR. LEARMONTH: Yeah.

So, okay – well just before we turn to your summary – so, in terms of cost overruns, is it correct that up until you sent the 7.65 revised AFE in September, that the information that Nalcor was providing to the Independent Engineer was that the budget was still at \$6.99 billion, is that correct?

MR. MEANEY: The – prior to the update in September –

MR. LEARMONTH: Yes.

MR. MEANEY: – the final forecast cost data in the monthly reports would have still been showing a final forecast cost of 6.99 –

MR. LEARMONTH: Yeah –

MR. MEANEY: – correct.

MR. LEARMONTH: – so you understand their concern?

MR. MEANEY: Yes.

MR. LEARMONTH: And it was legitimate.

MR. MEANEY: Yes. And I guess that's – and I don't know, maybe we'll get there shortly. When we talked about this in my interview I really needed – because we talked a lot about it and I could recall some of the factors that were influencing it, Mr. Commissioner, in terms of what was causing the delay but I didn't really have the full, I guess, chronology of events; so that was why I put together the document that's now Exhibit 02412 and –

MR. LEARMONTH: Okay, well that's what I'm going to turn to next in fact, thank you for providing –

MR. MEANEY: And I can provide just a bit of opening commentary on that and then I'll get into it.

MR. LEARMONTH: Okay, well I don't want, you know, I don't want to cut you off but why are you making an opening commentary?

MR. MEANEY: I just want to provide one quick little bit on context for the Commissioner and then we can go through the – if that would be helpful.

So I guess the key message that I want you to walk away with and I'm going to try to explain it here in the chronology was when I went back and looked at what happened in 2015, there wasn't a, I guess, an intentional effort on the part of the – certainly the finance folks and even some of the other folks of the Nalcor to not give Canada and the IE update in the time frame that we normally would when cost updates happen.

MR. LEARMONTH: How do you know that? You can speak for yourself, you can't speak for the project management team.

MR. MEANEY: I'll – I think when I go through the chronology and maybe I talk about some of the folks who were involved in terms of trying to advance the AFE approval, I think – I won't speak on their behalf but at least –

MR. LEARMONTH: Well, no, I want, you know, you're under oath or affirmation. I don't want you to speak on behalf of anyone –

MR. MEANEY: Sure, I'll –

MR. LEARMONTH: – you're here to speak for yourself.

MR. MEANEY: I will. Okay, no problems.

MR. LEARMONTH: And what knowledge you have.

MR. MEANEY: Yup. Okay. So –

MR. LEARMONTH: Not what you've – you're guessing at or speculating at.

MR. MEANEY: Sure, no problems. So I guess – and then I will say from my perspective there

was no wilful intent to, you know, mislead folks from Canada or not provide them with a timely update. There was a sequence of events, that – if I look at our process in terms of how FFC and other things would get reported in the various monthly reports – the process by which that was going to happen, I guess when it started in around March, the intention was going to be that by June there was going to be an update.

MR. LEARMONTH: Whose intention?

MR. MEANEY: The intention of folks on the management team.

MR. LEARMONTH: So how do you know? How can you speak for them?

MR. MEANEY: I – if I can – if I can – I'll go through my chronology and maybe that would be helpful.

MR. LEARMONTH: Okay. I just want to take you back, you said there was no wilful intent. Given the fact that misleading information was provided to Canada do you agree that that's the case?

MR. MEANEY: I think there was no wilful – when I –

MR. LEARMONTH: Do you agree that there was misleading –

MR. MEANEY: Yes.

MR. LEARMONTH: – information provided to Canada and that's what caused Ms. Manzer to read her letter.

MR. MEANEY: That there was – there was – the information wasn't updated.

MR. LEARMONTH: Do you agree it was misleading?

MR. MEANEY: I think I would say the information wasn't updated.

MR. LEARMONTH: Okay. I'm asking you, do you agree that it was misleading? That Canada was misled by the information they were receiving and that's why Nik Argirov was very upset?

MR. MEANEY: I would say there was not an intent to mislead.

MR. LEARMONTH: Didn't ask you that question. I asked you whether you believed that Nalcor was providing misleading information. We'll talk about intent later.

MR. MEANEY: Okay.

I would say not misleading but not up to date.

MR. LEARMONTH: Okay. So you don't think it was misleading?

MR. MEANEY: It was not up to date.

MR. LEARMONTH: So you deny – in your opinion, the information you're providing the Government of Canada on the cost situation was not misleading.

MR. MEANEY: I can see how they were surprised because the information wasn't updated on a more timely basis.

MR. LEARMONTH: Okay, well –

MR. MEANEY: So I –

MR. LEARMONTH: Okay.

MR. MEANEY: Go ahead, sorry.

MR. LEARMONTH: Was it misleading to not provide accurate information to Canada on the cost updates? What is the problem you have answering that one way or the other?

MR. MEANEY: I guess, from my perspective, I would say misleading to me implies that there's an intent to mislead the party that's receiving the information. That's how I would interpret misleading. And what the point I was making was I don't think there – I know there wasn't, at least from my perspective – there wasn't a wilful intent to mislead anyone.

MR. LEARMONTH: But was there a general intent to mislead them?

MR. MEANEY: I don't think there was an intent to mislead anybody.

MR. LEARMONTH: Well, if you're not providing, you know, we can talk about this all afternoon if you want – Canada is very upset because the information that you are sending to them on cost updates is dated – it's out of date, there's – it's obvious that you had information before September about the increase to 7.65 yet you knew about – the revised cost forecast. Yet you continued to send information to Canada up until October 2015 to suggest that the correct capital cost estimate applicable at that time was 6.99 and you knew that that wasn't true.

MR. MEANEY: So, I guess what I –

MR. LEARMONTH: Do you agree? Is that correct, what I said?

MR. MEANEY: So –

MR. LEARMONTH: Is that correct?

MR. MEANEY: What we knew –

MR. LEARMONTH: Is that correct?

MR. MEANEY: If – Commissioner, if I could be allowed to speak on –

THE COMMISSIONER: Well –

MR. MEANEY: – I'll try to respond.

THE COMMISSIONER: Let's – you know, I haven't got 'til next May to figure this out, right? So I think we need to get to some answers here. Like, it's – whether it's semantics or whatever else we're talking about, the last question to you, I think, was a question you can answer.

I know you're not gonna say misleading 'cause you think it implies intent. Okay, I got that. So the last question is, I think, the relevant one, and I think that's a question you should be able to answer and that should be a yes or no. We don't need a whole story about it; we just need a yes or no –

MR. MEANEY: Okay.

THE COMMISSIONER: – so we can move on. I wanna get to your –

MR. MEANEY: Sure.

THE COMMISSIONER: – chronology and (inaudible) –

MR. MEANEY: Sorry – so Mr. – if you could repeat the – as the Commissioner said – the last question, I'll try to answer.

MR. LEARMONTH: Okay. Do you agree that the information that was – you were sending on behalf of Nalcor to Canada before this situation blew up with Ms. Manzer – do you agree that that information on cost estimates was misleading?

THE COMMISSIONER: No, I don't think that was the question you asked, 'cause the misleading thing – we're just gonna get back and go in circles.

The question I think you asked is: do you agree that before September, when this cost – when the costing changed to 7.65, up to then, do you agree that notwithstanding the fact that Nalcor knew the costs were greater than 6.99 billion, you continued to present reports to Canada that showed that the price was remaining at 6.99 billion?

MR. MEANEY: (Inaudible) respond to that question –

THE COMMISSIONER: Yes –

MR. MEANEY: – yes.

THE COMMISSIONER: – or no.

MR. MEANEY: Yes.

THE COMMISSIONER: Yes. Okay. You do.

MR. LEARMONTH: Okay. Now, I don't know why I can't ask whether he agrees that that created a misleading impression.

THE COMMISSIONER: Well, because the two of you have a different understanding of the word misleading, so I'm gonna just take it my way. I think I got the gist of what's going on here and – like, you know – I just – let's move on.

MR. LEARMONTH: Okay. If you want to move on, I will.

THE COMMISSIONER: Yeah.

MR. LEARMONTH: I won't push that point anymore. Although, I – well, anyway, I'll just carry on.

Okay, let's get into your LCP 2015 Cost Update Chronology – that's Exhibit P-02412.

MR. MEANEY: Sure.

MR. LEARMONTH: So do you want to start off with this. And just so everyone will understand, the 7.65 billion cost estimate was not communicated to Canada until October – September or early October 2015. Is that correct?

MR. MEANEY: It was September 28, 2015.

MR. LEARMONTH: Yeah.

MR. MEANEY: Okay.

MR. LEARMONTH: Okay, start off with your chronology.

MR. MEANEY: Sure.

So as I was saying earlier, Commissioner, there was a lot of discussion in my interview with Mr. Learmonth and Ms. O'Brien on this particular issue. And what I had said in my interview is, I guess, a couple of things; one was I need – I wanted to go back through my notes and my correspondence to kind of figure out what actually happened between that period in, say, you know, February, March of 2015 to the time that we did give the update to the Government of Canada in September. So that was part of what this effort was.

And then the other point I had raised in my interview was I also wanted to go back and look at the construction reports in terms of the reporting of final forecast cost and what was the trigger in our process to update final forecast costs in – you know, because primarily the focus was around the construction reports.

And I think I talked about this a little bit earlier in my testimony when we were talking about the 2014 update in that – in the report, the construction report issued in July of 2014, you saw the final forecast cost get updated at that point in time to \$6.99 billion, and it referenced final forecast costs as being updated to a line with the board-approved AFE. So that was part of what I wanted to look at in terms of what was our processes by which, once the CEO gave the okay on the cost estimate, the steps that unfolded to eventually update FFC in our reporting. So we touched upon it a little bit earlier and I'll reiterate it here.

So if you look at the chronology – and when we had my interview, I recalled the meeting in March but I hadn't recalled the one in February that I know here and it was because I didn't have anything in my notes on it. But what I did was I went actually back to look – went back and looked at the package that the project management team had put together for the Inquiry. And they did note that there was an update on February 13, 2015, and it did note, actually, I guess in the meeting attendance that I was there. I didn't specifically recall this one but, you know, I may have been mixing up the February and the March.

So, anyways – so there was an update to Ed Martin, the CEO, by the project management team and I attended it on February 13, 2015. Just prior to that an AF – a revised AFE of 7.49 billion was put forth. And the requirement was because there was some upcoming major contracts that had to be awarded.

At that point in time they proposed a timeline of consultation with the province in April, notify the Oversight Committee in May, board approvals in June – there were scheduled meetings in June – notify Canada in June, and then at that point in time it proposed a public update a little bit after that. As I noted here –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – I didn't have a copy of that presentation and it was only when I went back and looked at the project management team's package that I'd seen it. Then come forward –

MR. LEARMONTH: Okay, well – no, let's just stop. So this is February 13, 2015.

MR. MEANEY: Yup.

MR. LEARMONTH: This is information that you didn't give us at the interview, correct?

MR. MEANEY: Correct. And I just explained as to why I didn't recall the February meeting. I had recalled the March meeting –

MR. LEARMONTH: Yeah, but –

MR. MEANEY: – and I –

MR. LEARMONTH: – you agree that this information that you didn't give to us at the interview, correct?

MR. MEANEY: On the February one, yes.

MR. LEARMONTH: Yes.

MR. MEANEY: Yes, yes.

MR. LEARMONTH: Okay. Okay.

Now, let's just go through this line-by-line. February 13, 2015: “Cost and Schedule Update” briefing presented to E. Martin by PMT.” Now, I put to you that it was abundantly clear at that point that the schedule was lost because it was an aggressive schedule to begin with and, second, because, by that time, Astaldi had failed to produce any significant work during 2014.

MR. MEANEY: And I think – Mr. Learmonth, you posed that question to me earlier, and I think I said – and I'd say the same – I'm not sure I'd be the best one to opine on that, so ...

MR. LEARMONTH: Okay.

MR. MEANEY: (Inaudible.)

MR. LEARMONTH: But anyway, at this meeting – and this – bear in mind, this – well, this figure of \$7 billion was known to the project management team back in July 2013, right?

MR. MEANEY: A figure of 7, yes.

MR. LEARMONTH: Yes. Yup.

MR. MEANEY: So this is –

MR. LEARMONTH: But anyway, February 13, 2015. So this wasn't really surprising information to the project management team, given they had estimated \$7 billion in July 2013. I mean, this is a long time after that, correct?

MR. MEANEY: It may not have been a surprise to them; I can't speak on their behalf.

MR. LEARMONTH: It was a surprise to you?

MR. MEANEY: Well, this was a – you know, this is the first time I was involved in the discussion that – you know, in the range of that \$7.5 billion.

MR. LEARMONTH: Okay. Okay. So the "PMT indicated \$7.49B AFE revision required to award upcoming contracts."

And, you know, they can't award the contracts that are upcoming unless they have an authorization for expenditure, an AFE, correct?

MR. MEANEY: In a situation where the award of those contracts would push the amount over the then-approved AFE, that's right. They don't –

MR. LEARMONTH: Okay.

MR. MEANEY: – have the financial authority to award those contracts.

MR. LEARMONTH: That would delay them in awarding those contracts.

MR. MEANEY: Potentially, yes.

MR. LEARMONTH: Well, what do you mean potentially? It would.

MR. MEANEY: I guess it would depend –

MR. LEARMONTH: If the contracts were ready to be awarded –

MR. MEANEY: If they were ready to be awarded –

MR. LEARMONTH: Yeah, if the contracts were ready –

MR. SIMMONS: Commissioner, I think Mr. Learmonth should not interrupt the witness and allow him a chance to finish the answers to questions.

MR. LEARMONTH: I'm not interrupting him.

THE COMMISSIONER: Let's just keep going now.

MR. LEARMONTH: Okay, so the "PMT indicated \$7.49B AFE revision required to award upcoming contracts." Correct?

MR. MEANEY: That's what it said, yes.

MR. LEARMONTH: Okay. And then: "Proposed timeline - GNL consultation in April 2015, notify OC in May 2015, Board approvals in June 2015, notify Canada" – and – "IE in June 2015, and public update in July/August 2015."

My question to you is, why weren't all these parties notified in February 2015 when the information was available?

MR. MEANEY: I think we talked about this point a bit earlier that from the time that the CEO gave the okay to go ahead for an AFE –

MR. LEARMONTH: The who?

MR. MEANEY: The CEO.

MR. LEARMONTH: Yeah, Mr. Martin.

MR. MEANEY: Mr. Martin it would have been at that time, yeah.

From the time he – from when he gave the okay, then there would be a process that would follow that he would consult with government in terms of giving them an update; materials would be prepared for briefings with the boards. Depending on when the board meetings were, he would, you know, then fall in line with an upcoming board meeting, or there might have to be a specific board meeting called. And then right around the time that the board approves the revised AFE, that would be right around the time that Canada would get an update as well.

MR. LEARMONTH: Yeah, I know, but why does it take so long? If you know in February 2015 that, you know, the project management team is indicating \$7.49-billion AFE revision, why isn't that information acted on immediately?

MR. MEANEY: Because there would have been a process by which, I guess, the CEO gives his sign-off, consultations with the shareholder occur and then, you know, boards are consulted as well.

MR. LEARMONTH: Well, hold on. The – in this entry, February 13, 2015, the GNL was not to be consulted until April 2015. Why the delay?

MR. MEANEY: Mr. Learmonth, I don't know. That sequence, I guess, was prepared by the PMT in terms of their presentation. Why they chose those dates, I couldn't specifically answer. That was just the – I was just stating there that was the sequence that they had proposed.

MR. LEARMONTH: Yeah, but – and I want to know and I want to make sure I find out everything you know about this. Do you understand the point that these are long intervals between communicating to key people? I would have thought, for example, that when it became apparent – well, this goes back to July 2013, but – okay, let's just forget about that – then in February 13, 2015, when the project management team comes up with the 7.49 AFE revision required to award contracts, that you wouldn't walk to the Confederation Building; you'd run and say: Look, we have a problem here. There's a big cost increase. You wouldn't wait for two or three months to do it.

MR. MEANEY: I don't know why they proposed April as opposed to February. You'd have to ask –

MR. LEARMONTH: Do you understand the point?

MR. MEANEY: I understand that this seems like a longer period of time, yes. But why they chose those dates, you'd have to ask the folks who prepared the presentation.

MR. LEARMONTH: Okay. You can't offer anything?

MR. MEANEY: I can't on those dates, no.

MR. LEARMONTH: But you acknowledge that it appears to be a –

MR. MEANEY: In terms of –

MR. LEARMONTH: – long delays?

MR. MEANEY: In terms of if, at that point in time, Mr. Martin would give his okay, then an expectation would be he probably would be talking to the shareholder much – in a much shorter time period after that.

MR. LEARMONTH: You'd expect that?

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

MR. MEANEY: So if we could, can I move on to the –?

MR. LEARMONTH: No, no.

MR. MEANEY: Okay.

MR. LEARMONTH: I'll direct you where – when you're to move on.

The next point is that the briefing deck was not circulated. Now, what – so there was a briefing deck presented, was there?

MR. MEANEY: I made that comment in the context of – as I mentioned, I didn't have a copy of it when I put this chronology together a couple of days ago, I guess it was. So I probably should've said briefing deck not circulated to JM. And where I got it was when I looked at the project management team's package that they had put together for the Inquiry, that's where I found it. That was the point of that comment.

MR. LEARMONTH: Okay. Was that on – sent to you by email, the briefing deck?

MR. MEANEY: No, no. I had – I guess it's the packages that the chronology in the Grant Thornton report was based on. There was a set of presentations that were prepared by the project management team that Grant Thornton used as the basis of their report. That's what I'm

referring to in terms of a – I say: the PMT package prepared for the MF Inquiry. So that's what I was referring to.

MR. LEARMONTH: Okay.

Now – so this is February; you had this information. This – and I think you said earlier that it should take only two to three months for the whole process to unfold. Did you not say that?

MR. MEANEY: From the time that the CEO would give the okay – typically, in other years – you know, '15 being the exception – yeah, two to three months was the typical time frame.

MR. LEARMONTH: Well, why would it take that long after the CEO gives the okay?

MR. MEANEY: In terms of consultation with the shareholder –

MR. LEARMONTH: Well, that could be done in one afternoon. That could be done day one.

MR. MEANEY: Sure – yeah, I guess, consultation with the shareholder –

MR. LEARMONTH: Okay, I'm suggesting to you that could be done in one day.

MR. MEANEY: Okay. Preparation of briefing materials –

MR. LEARMONTH: But you've already got the project management team's presentation so there's not much presentation, is there?

MR. SIMMONS: Commissioner, Mr. Meaney is trying to answer the question, and it will only take him a minute, I'm sure, for him to answer the question without interruption, and then Mr. Learmonth, I'm sure, can answer any follow-up – can ask any follow-up questions.

MR. LEARMONTH: I'm not interrupting. I'm not interrupting him. Okay. Go ahead, Mr. Meaney.

MR. MEANEY: So, I guess, in terms of the time from the CEO to give his okay, for consultations to happen with the shareholder –

and I say consultations. It may not have only been one meeting; there may have been – you know, may have to be a number of meetings to get folks up to speed on it. That wasn't, you know, abnormal, I guess. Then if there was an existing board meeting scheduled within that time frame, obviously, that worked out for a board AFE approval. If there wasn't one scheduled in the near term, they have to coordinate to get the boards organized to do that. There would have to be the logistics of planning Mr. Martin's public update. And in the instance of 2015 – and I talk about a bit later – as part of 2015 update, the plan was for Mr. Martin to do that from site and have a media tour to give folks an appreciation for the work that was going on.

So in this case, you know, in terms of coordinating logistics, that would take some time as well. So that would have, I guess, add to time in terms of the timeline to get to the board AFE approval process.

MR. LEARMONTH: Okay. Well, let's just go back over that. So from the time Mr. Martin decides he's going to go forward with this request – okay, so after he makes that decision, he can notify the Government of Newfoundland and Labrador, notify the Oversight Committee, let's say, within a week. Would you agree?

MR. MEANEY: He – Mr. Martin –

MR. LEARMONTH: If he wanted to.

MR. MEANEY: Mr. Martin would meet with, you know, the premier's office and the ministers. The Oversight Committee was – typically, updates were provided to them by management –

MR. LEARMONTH: Yeah.

MR. MEANEY: – as opposed to Mr. Martin.

MR. LEARMONTH: But you can just send the information to them.

MR. MEANEY: For – I think, for items of this nature, you wouldn't just send the information; there would be a briefing in person.

MR. LEARMONTH: Okay.

MR. MEANEY: But if –

MR. LEARMONTH: And Mr. Martin can control the date of the board approval. He can call – request a meeting of the board even if it's done on an emergency basis, correct?

MR. MEANEY: The practice was if there was a board meeting coming up in the near future they'd do it as part of a scheduled board meeting. If the situation arises that there was going to be a gap and it was a more pressing need, then an emergency meeting would be called.

MR. LEARMONTH: Yeah. So that's not a problem. This is – I don't know if it's an emergency, but it's a very significant item. Do you agree?

MR. MEANEY: Oh, yes.

MR. LEARMONTH: It would probably justify an emergency meeting. Anyway, so we've got a little bit of time for that.

MR. MEANEY: Right.

MR. LEARMONTH: And then notifying Canada and the IE, that can be done immediately, correct?

MR. MEANEY: That would be done following the approval of the board of the AFE.

MR. LEARMONTH: Well, you could notify them earlier than that though. You could say: We're – we want to give you a heads-up that we're going for a revised AFE and we want you to know it.

MR. MEANEY: But the process would be – we would make sure we had board approval before we notify Canada and the IE.

MR. LEARMONTH: But you could notify Canada. And I'm saying there's nothing preventing you from doing that. Correct?

MR. MEANEY: That wasn't what our – the process was.

MR. LEARMONTH: Yeah. And then public update, that would be like three months later? Why would it be so long –?

MR. MEANEY: Again, this was the timeline that had been proposed by the PMT in that briefing in –

MR. LEARMONTH: Was that the PMT or Mr. Martin that proposed that timeline?

MR. MEANEY: Oh, I think that was in the briefing that had been prepared by the PMT.

MR. LEARMONTH: Okay. Okay, so let's leave February now.

MR. MEANEY: Yeah.

MR. LEARMONTH: So we're at \$7.49 billion AFE revision required to award upcoming contracts in February 2015. Okay.

Let's go to March 2015, March 8.

MR. MEANEY: Okay. So this was the meeting then when we had – in my interview that I recalled. And the reason I recalled it was when I went back and looked at my notes – and I do indicate this here – that I had a note in my books of a 7.499 revised AFE proposed in – I said, including \$166 million contingency.

And then, again, I didn't have the briefing package that was used for that discussion. I looked at the package that the project management team had been – had prepared for the Inquiry and there it was. So the next couple of bullets here are some of the key points.

So it indicated a revised AFE of 7.499 which required to award the dam contracts as well as the remaining LIL right-of-way clearing contracts. The recommendation was that the AFEs – and I guess the consultation process happened and at that point it was in March, April.

And then there was a scheduled board meeting in June. And that would have been the time to get the board to approve the AFE. And that's what I note here. And, I think we talked about this a little bit earlier in my discussion on 2014. Once the board approved the revised AFE, that would allow the final forecast cost in the various monthly reports to be updated. And at that point in time, the board meetings were scheduled for June 15 and 16.

And then this last bullet here is just – is a comment that was right out of the deck that they had – that the cost increases resulting from schedule delays, acceleration or change in milestone dates would not included the revision. What's in parentheses was my comment – I think this probably would have included the – this would have included the Astaldi impact.

MR. LEARMONTH: So without the cost increases running from schedule delays, acceleration or change in milestone dates not being included in the AFE revision, I suggest to you that the – this AFE proposed revision of 7.499 was low. Do you agree?

MR. MEANEY: If you had to factor in the full impact of the Astaldi situation, that was – that would be correct.

I guess at that point in time, it wasn't known what the impact was gonna be.

MR. LEARMONTH: I didn't mention Astaldi. I said the cost increases resulting from schedule delays, acceleration or changes in milestone dates was not included.

MR. MEANEY: Yeah. So I guess if there – the point that they would have made is, if you did factor in those components, it would increase the number.

MR. LEARMONTH: But why wouldn't they be in – why wouldn't they be – why wouldn't the number be increased by knowing about those circumstances?

MR. MEANEY: I couldn't speak to that.

And then – just another piece of information here, and it's important 'cause it ties back to

what I mentioned earlier in terms of the types of monthly reports that Canada and the IE get.

MR. LEARMONTH: Mm-hmm.

MR. MEANEY: So there was a couple of the material contracts that hadn't been awarded at that point in time. The North Spur, there was an LNTP awarded, but not the final contract. The North and South Dam award had been targeted for Q2 2015 but actually didn't happen until the latter part of October 2015. And then the balance of plant award that had been targeted for the third quarter of 2015 actually got pushed out until June of 2017.

And I raise these points because if the – say, let's take for example the North and South Dam award. If that had have occurred in the time frame that was contemplated then, the – that report that I had mentioned, the material contract summary? You would have seen an update to that.

So you would have seen, for that contract, it would have been carrying the budget number, and then you would have seen an update with a contract award. So had that contract award happened in the time frame that had been contemplated – which was in Q2 – Canada and the IE would have saw that cost – you know, that component of the cost increase in the material contract summary report.

So that's why I mentioned it –

MR. LEARMONTH: If you mentioned it.

MR. MEANEY: Pardon?

MR. LEARMONTH: If you mentioned it in the – your reports.

MR. MEANEY: Well, if we had have – if we had it – if the contract had have been awarded, it would have gotten updated in that report because that was how that report got updated. You carry a budget –

MR. LEARMONTH: Yeah.

MR. MEANEY: – figure, which –

MR. LEARMONTH: But it wasn't awarded.

MR. MEANEY: No, it wasn't, but this – but I –

MR. LEARMONTH: So – okay, go ahead.

MR. MEANEY: And my point for raising this was, again, at the time of the decision in March of 2015 to proceed with an AFE revision that would have happened in June of 2015, there also would have been at that point in time a view that the North and South Dams would have been awarded in Q2 of 2015. So you would have seen an increase in the cost of that contract in the material contracts summary report.

It's just one of the monthly reports that Canada and the IE would have seen. So they would have seen, you know, a signal that, in the case of that contract, the cost was going up.

MR. LEARMONTH: Okay, well, I'd like to stick to what happened, not would have happened –

MR. MEANEY: Okay.

MR. LEARMONTH: – if this happened. Let's talk to – let's talk about reality here, okay –

MR. MEANEY: Sure.

MR. LEARMONTH: – what actually happened.

MR. MEANEY: Okay. No problem. It's just a piece of context in terms of –

MR. LEARMONTH: Well –

MR. MEANEY: – why they didn't see changes in report.

MR. LEARMONTH: So by March you know, as the lead contact with the independent engineer and Canada, that there's gonna be – there's a proposal on the table for a 7.499 AFE. But you didn't report this in your monthly report in, say, March or April, did you?

MR. MEANEY: No.

MR. LEARMONTH: Why not?

MR. MEANEY: Because as we've talked about already a couple times, the process had to unfold

in terms of the CEO gave his approval, consultation with the shareholder, board approved AFE, then the cost would get updated in the construction report.

MR. LEARMONTH: Yeah, but that's the internal process that you're talking about with Nalcor. I'm looking at your contractual obligations to Canada. Never mind the internal process, I'm talking about the commitment that you gave – Nalcor gave to Canada to provide monthly updates –

MR. MEANEY: So –

MR. LEARMONTH: – not the internal processes.

MR. MEANEY: But as part of, I guess, what happened in 2014, we did have the discussion with them that there's gonna be a number of steps, you know, in terms of internal processes and processes with our shareholder that needed to happen before the AFE would get approved and the updated numbers –

MR. LEARMONTH: Yeah.

MR. MEANEY: – would be reflected in the construction reports.

MR. LEARMONTH: But your reporting requirements to Canada had nothing to do with AFEs; they had to do with cost estimates.

MR. MEANEY: Our –

MR. LEARMONTH: They had nothing to do with AFEs.

MR. MEANEY: Our – so our process was the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – the reporting of FFC in the reports that we did provide to Canada was tied – if – in a situation where the FFC was going to go over the then-approved AFE, it was tied to AFE approvals.

MR. LEARMONTH: Okay. Well, why then – if that's what you're saying now, when Alison Manzer wrote you this letter, why didn't you say, hold on, we didn't have to give you these

cost overruns because the AFEs weren't processed? Why didn't you say that then?

MR. MEANEY: I think when we got this this letter from Alison, the focus from their perspective and, I guess, ours was, you know, everyone acknowledged that things hadn't gone as well as they should have and there hadn't been the type of, I guess, regular updates that they were expecting. The resolution was let's have a discussion about what's in the 7.65 –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and then let's also address the process going forward.

MR. LEARMONTH: Yeah.

MR. MEANEY: And so in terms of resolving the issue with Canada – so we got Alison's letter; we met on the 30th of October –

MR. LEARMONTH: Right.

MR. MEANEY: – in Ottawa, went through the points in their letter, had a very fulsome discussion on the Astaldi situation and helped them understand why there wasn't cost relating to that delay in the 7.65. And that was the beginning of the ongoing commercial negotiation caveat that found its way into the COREA certificates. And then we agreed on changing the, you know, the monthly reporting – the monthly calls – the quarterly face-to-face.

So that was, basically, the items in Alison's email. We had our meeting. There was some correspondence back and forth. There was finally an email sent by our counsel, Xeno Martis, to Alison saying, in terms of fixing this –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and the go forward, here's how we're going to address the points that you raised. And then, on the 30th of November, Alison, on behalf of her client, Canada, confirmed that they accepted it, and as Mr. Argirov said, we all moved forward, and there was never an issue about it again.

MR. LEARMONTH: Yeah. But you seem to be suggesting – I know you want to talk about

that part of it and Mr. Argirov did say that. But the problem – this internal process that you had to get AFEs – you never – when this problem was presented to you in firm terms by Ms. Manzer, you never went back to her and said: Look, we didn't have to report these cost overruns because there weren't AFEs. This is our internal process, and we're going to – that's why we didn't do it. I don't see any indication of that. You agreed earlier that you weren't reporting on a timely basis in the manner that you were required to, correct?

MR. MEANEY: Yes. That's right.

MR. LEARMONTH: Yeah. So why are you talking about the resolution of this? I'm talking about what happened before the problem was resolved.

MR. MEANEY: Because, I guess, in the case of the issue, the issue had been brought to us by Canada. It was their issue and they sent us the letter on it. So that's the letter of the 16th. And they wanted to deal with certain things to make sure, going forward, it wouldn't happen again.

MR. LEARMONTH: Yeah.

And you agreed that it was legitimate for Canada to raise these concerns because you hadn't been complying with your reporting requirements.

MR. MEANEY: Our –

MR. LEARMONTH: Is that right?

MR. MEANEY: Our – yeah.

MR. LEARMONTH: Is that right?

MR. MEANEY: Our reporting –

MR. LEARMONTH: Is that right?

MR. SIMMONS: Mr. Commissioner, can Mr. Meaney be allowed to answer the question and –

MR. LEARMONTH: Well, he's so evasive.

MR. SIMMONS: – if the answer is not suitable –

MR. MEANEY: (Inaudible.)

MR. SIMMONS: – then there can be a follow-up question.

MR. LEARMONTH: Well, we'll be here for – you know, we're not gonna finish today, so ...

MR. MEANEY: Mr. Commissioner, I –

THE COMMISSIONER: Excuse me just for a second, Sir.

MR. MEANEY: Sorry, go ahead.

THE COMMISSIONER: I don't really want you to get involved in this.

MR. MEANEY: Sure.

THE COMMISSIONER: So I'm gonna deal with this the best way I can.

What I'd like this witness to do and I'd like counsel to do the same thing, is ask a question, let the witness answer the question. But I want the witness to answer the question that's being asked. I think I've got the context now because it's been told to me – quite detailed. So the only way we're gonna get through this is basically to get these answers. Now, I know Mr. Learmonth is not gonna give up. So – and I think he should continue. So what I – so fair enough.

Mr. Learmonth, you ask the question. You let the witness answer the question.

You, you answer the question.

MR. MEANEY: Okay.

THE COMMISSIONER: All right.

Now, go ahead.

MR. LEARMONTH: Thank you.

Now, the – you've indicated earlier – you've agreed that you weren't reporting – Nalcor was not reporting cost increases in the manner that was required under your contractual obligations with Canada. Is that correct?

MR. MEANEY: Yes, the cost figures weren't being updated.

MR. LEARMONTH: They weren't, yeah. And so you weren't fulfilling – Nalcor wasn't fulfilling its reporting requirements to Canada, correct?

MR. SIMMONS: Commissioner, sorry for interrupting.

But to the extent that there's a legal interpretation required as to what the legal obligations were for reporting, I just want to put on the record that Mr. Meaney wouldn't be in a position to present any kind of legal view on that.

MR. LEARMONTH: I didn't ask for a legal view on that.

THE COMMISSIONER: Well, I think you referred – you did say legally. But, anyway, I think the question is clear.

Go ahead and ask the question.

MR. LEARMONTH: Okay.

THE COMMISSIONER: And that qualification is understood, Mr. Simmons.

MR. LEARMONTH: Okay.

So can you answer the question?

MR. MEANEY: Sorry, if you could repeat the question now –

MR. LEARMONTH: Okay.

So do you agree that as – the reason, or one of the reasons for the letter being sent by Ms. Manzer to Nalcor was that Nalcor was not complying with the reporting requirements that it had with respect to communicating to Canada, on a monthly basis, cost overruns? Do you agree with that?

MR. MEANEY: There wouldn't always be reporting of cost overruns on a monthly basis, but if they did occur we would have to report them in the month. Is that – so, I guess, yes.

MR. LEARMONTH: Okay. So if there wasn't a cost overrun in a month you didn't have to report it obviously.

MR. MEANEY: Yeah.

MR. LEARMONTH: Yeah. But you agree with that point, do you?

MR. MEANEY: That the reporting wasn't being updated, yes.

MR. LEARMONTH: Yeah. And that your discussion about the: we didn't have an AFE and this is our process. That had nothing to do with Canada's concerns, did it?

MR. MEANEY: I don't know if I would say that.

MR. LEARMONTH: Okay. Well, tell me why you wouldn't say that.

MR. MEANEY: I wouldn't say that because there was a – the process that we had to follow, in terms of updating the AFE and updating the FFC, fed in to the monthly reporting that we provided to them. And we had had that discussion in 2014 and they understood that there was steps for that to happen.

MR. LEARMONTH: Well, then why didn't you go in to this description of this process that was internal to Nalcor when Ms. Manzer wrote the letter? And go to them and say: The reason we haven't been reporting is that we have this internal process and it requires us to have an AFE before we ...? I don't see any indication that that happened; moreover, it appears that you complied with all the requests that they made.

MR. MEANEY: We didn't have that discussion at that time, that's true.

MR. LEARMONTH: Well, why didn't you? If that was your position, which you're trying to say now – put forward as a reason for not bringing up-to-date cost estimates forward. If that was the reason why didn't you tell Canada?

MR. MEANEY: I don't know why we didn't have – I can't say why we didn't have that discussion then. I guess we were more focused

on addressing the items in their letter going forward.

MR. LEARMONTH: Yeah. So when this was resolved and that everything went well after that, were you able to defer reporting cost overruns until you had AFEs?

MR. MEANEY: So going forward –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – oh, yeah.

So, going forward, there still was a process by which from the time, I guess, starting in the earlier part of '16 under Mr. Marshall, there still would've been a process by which he would give sign-off on, you know, the amount that was going to be for a revised AFE. He would still consult with government and then there would be a board approved AFE and the reporting in the construction report would get updated. And if you were to look at the construction reports in July of 2016 and July of 2017 you would've seen that: what I just explained. The FFC got updated when the board approved the AFE and Canada never had an issue with that –

MR. LEARMONTH: Hmm.

MR. MEANEY: – going forward.

MR. LEARMONTH: Yeah, because the reporting was done on a monthly basis.

MR. MEANEY: The –

MR. LEARMONTH: Is that right?

MR. MEANEY: The –

MR. LEARMONTH: Is that right?

MR. MEANEY: If I could finish.

MR. LEARMONTH: Well, I asked – because the reporting was done on a monthly basis.

MR. MEANEY: So you would've seen an update in the monthly report in which the board approved the AFE. So you would see a change.

MR. LEARMONTH: Yeah. But in other months where there were known cost overruns there would be – they’d be included also, wouldn’t they?

MR. MEANEY: No. No, the – well, I guess, until the AFE got approved – you know, until the AFE got approved you wouldn’t have seen a change in the FFC above the AFE until –

MR. LEARMONTH: Above, yeah.

MR. MEANEY: – until the AFE was – a new AFE was approved by the board.

MR. LEARMONTH: Yeah, but that would be – it could be done on a prompt basis, right?

MR. MEANEY: There was still – in 2016 and 2017 there was –

MR. LEARMONTH: Hmm.

MR. MEANEY: – still a couple of months –

MR. LEARMONTH: Yeah.

MR. MEANEY: – delay. And that was – not delay. There was still a couple of months in terms of when – how the process unfolded.

MR. LEARMONTH: Yeah. Well, you know, Mr. Argirov said very clearly that what was supposed to be included in the monthly construction reports, in terms of cost updates, was a reasonable estimate – that was the term he agreed with – a reasonable estimate of any cost increases. He didn’t say it had anything to do with an AFE or anything like that. He just said a reasonable estimate.

Now, that’s a little different from what you’re saying, don’t you think? Because you’re still trying to tie this to an AFE –

MR. MEANEY: Well –

MR. LEARMONTH: – the reporting requirements to an AFE, are you?

MR. MEANEY: So if there –

MR. LEARMONTH: Are you still trying to tie the reporting requirements to an AFE as opposed

to a reasonable estimate of costs or a reasonable cost estimate?

MR. MEANEY: So there would –

MR. LEARMONTH: Are you?

MR. MEANEY: If I could finish.

So there would still – the reasonable cost estimate – if you look at how the construction reports go on a month-to-month basis. So you’ll see, you know, the incurred cost for the month, the year-to-date costs and then a final forecast cost. And on a month-to-month basis you might see variations in terms of the final forecast cost within the category. So even within, say for example, within the final forecast cost you’d have owner’s team, you know, contracts and procurement, environmental, legal and then you’d have a line item that would be contingency.

MR. LEARMONTH: Right.

MR. MEANEY: And if you were seeing, you know, I guess, increased costs in some of the contract packages, as an example, what you would see would be a drawdown on the contingency and an increase in the final forecast cost for the contract package, the – that line item.

MR. LEARMONTH: Yeah.

MR. MEANEY: And –

MR. LEARMONTH: And that didn’t require an AFE.

MR. MEANEY: No, because you’re –

MR. LEARMONTH: No.

MR. MEANEY: – you’re within the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – AFE. So, as long as –

MR. LEARMONTH: Okay.

MR. MEANEY: – that’s happening and, you know, you haven’t drawn down the contingency to –

MR. LEARMONTH: Right.

MR. MEANEY: – zero or a negative number, the reasonable estimate is still –

MR. LEARMONTH: Yes.

MR. MEANEY: – what was the then-approved AFE.

MR. LEARMONTH: Yeah, because it’s within the AFE.

MR. MEANEY: Right.

MR. LEARMONTH: But I’m talking about when your final forecast costs go above the most recent AFE,

MR. MEANEY: So –

MR. LEARMONTH: – you still have to report that.

MR. MEANEY: So on –

MR. LEARMONTH: Is that right?

MR. MEANEY: Yeah, yes. So –

MR. LEARMONTH: Okay.

MR. MEANEY: – on a month-to-month basis, you would see, you know, drawdowns of contingency and whatnot. And then if you got to a point where –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I’ll say the – you know, the next draw that you needed to award a contract or whatever the case may be, would push you over the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – total AFE –

MR. LEARMONTH: Yeah.

MR. MEANEY: – that would then be a trigger to go get a revised AFE.

MR. LEARMONTH: But you’d still have to report it, even before you got a revised AFE.

MR. MEANEY: No. What we would do if we – you would be updating the AFE and then updating the FFC as part of the same process.

MR. LEARMONTH: Yeah, but you would – if you have an AFE for \$1 billion and in any given month, let’s say take a month, you realize that that one – the AFE of \$1 billion is short because you have new information that leads you to believe that – or there’s a final forecast cost of \$1.5 billion. You still have to report the increase on the – in the monthly report to Canada because that’s a reasonable estimate. Correct?

MR. MEANEY: So, in that situation –

MR. LEARMONTH: Is that correct?

MR. MEANEY: – in that situation, the reasonable estimate would then have to be – you’d have to revise the AFE to update the FFC.

MR. LEARMONTH: Yeah. But you don’t have to revise the AFE before you report that to Canada.

MR. MEANEY: That was the process and that is the process.

MR. LEARMONTH: Yeah. So you don’t have to keep up to date as long as you don’t have a revised AFE.

Are you saying that you don’t have to show cost increases in any given month that may exceed the AFE?

MR. MEANEY: No, ‘cause I think if you were – if we’re coming to a point where commitments or, you know, trends and costs with a higher probability were gonna exceed the then-approved AFE, that would start the process of getting that update to happen.

MR. LEARMONTH: But I’m not talking about that. I’m talking about in a month, okay? Let’s take one month, okay? And I’ll go back to what Mr. Argirov said about the reasonable estimate.

So in January of any given year, you start the month with an AFE of \$1 billion, okay? Information comes to your attention during the month of January that allows you to make a reasonable estimate that there's an increase of \$200 million in the cost. That puts it over and above the \$1 billion AFE. Are you with me?

MR. MEANEY: Yes.

MR. LEARMONTH: Now, I'm suggesting to you that you have to report that overage to the independent engineer because there's nothing in contingency to cover it. Do you agree with me?

MR. MEANEY: So in that instance, there – the process that we've talked about, the consultation with the CEO and the eventual approval of a revised AFE, would give you, I guess, a replenishment of contingency and then you would carry on with (inaudible).

MR. LEARMONTH: But I'm saying before you get – just stick to the – I think the example's very easy. I'm saying: January 1st, your AFE is \$1 billion. In the month of January, you find out that there's \$200 million in costs that are not accounted for in the AFE. Correct? Do you understand what I'm saying?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

Now, I'm saying: In the report for January, whether you have a revised AFE or not, you still have to report to Canada that you're \$200 million over budget.

MR. MEANEY: That's not how our reporting process –

MR. LEARMONTH: Well, that's the way Mr. Argirov said it should work. That if you had – if you come up with a cost any given month, it has to be reported.

MR. MEANEY: I don't – I would have – I don't know if how he characterized it is – was intended to be something different than the process that I just explained in terms of how it worked in our process.

MR. LEARMONTH: Well, so you understand my example.

MR. MEANEY: I do understand your example.

MR. LEARMONTH: And you're saying: In that situation, that you wouldn't have to report the \$200 million because – until you got an AFE for it. Is that what you're saying?

MR. MEANEY: So the FFC –

MR. LEARMONTH: Is that right?

MR. MEANEY: So the FFC would not be updated in that situation until the – the revised AFE was approved. That's the process in our reporting.

MR. LEARMONTH: Well, that's not what Mr. Argirov said, I'm sorry.

MR. MEANEY: I'm, yeah, I – yeah, and –

MR. LEARMONTH: Okay.

Well, let's take that example a little further. You have – on January 1st of any given year, you have the same \$1 billion for an AFE, okay?

MR. MEANEY: Right.

MR. LEARMONTH: During January, you get cost increases of, you know, that – an additional \$200 million above the AFE.

MR. MEANEY: Yes.

MR. LEARMONTH: You don't go for a revised AFE; you wait. And then in February – excuse me – then in February, there is another \$200 million. Then in March, there is another \$200 million. Are you telling me that in those circumstances, you'd still be justified in reporting the \$1-billion figure without reference to the cost overruns of \$200 million in each month?

MR. MEANEY: So in the example, Mr. Learmonth, that you just gave under what I'll say was the new protocol that we agreed to with Canada going forward –

MR. LEARMONTH: No, I'm talking about the existing protocol –

MR. MEANEY: Well –

MR. LEARMONTH: – that led Mr. Argirov to be very upset when he found out about the 7.65.

MR. MEANEY: So I guess in the context of – 2015, I think, is the example we're talking about here now, would that be right? As an example?

MR. LEARMONTH: Well, you know the date we're talking about. It was October 2015 –

MR. MEANEY: Okay.

MR. LEARMONTH: – that Ms. Manzer wrote you the letter.

MR. MEANEY: Yeah, so I guess in terms of how that process worked, there would have been a delay in updating the final forecast cost as you described. Like, that wouldn't get updated until the AFE got approved.

MR. LEARMONTH: Okay.

MR. MEANEY: So that was the process.

MR. LEARMONTH: Well, then why was the independent engineer upset that he didn't hear about the \$7.65 billion until just before the AFE was announced? Why would he be upset? If what you're saying is correct.

MR. MEANEY: Sure. I guess he was caught off guard a bit – sorry, not a bit, he was caught off guard. And I think he maybe would have thought at least maybe some indication would have been given to him that there was a trend coming here.

And the point I was trying to make there was, once we revised, Commissioner, the protocol with Canada in terms of we would be having, you know, monthly calls with them in a situation where, in Mr. Learmonth's example, if we were seeing trends that were driving, say, 100 in January, and then we didn't – we knew that the AFE, because of the process, wasn't going to be getting updated until say March, you know, we would have been – in our revised, I guess, communication protocol with them, we would

be giving them a heads-up in the meeting, in the call, that: Listen, we're seeing a trend here in terms of whatever the example may be. We're trying to – we're making the process to revise the AFE. The meeting is coming in March, and then you'll see that reflected in the reporting going forward.

So it was more of a – it wasn't only just the reporting in the construction report itself; reporting was a broader process in terms of both monthly reports, monthly calls and quarterly face-to-face discussions.

MR. LEARMONTH: Okay.

Now, do you agree that the – that there was a revision in June 2014 to the AFE to \$6.99 billion?

MR. MEANEY: Yes.

MR. LEARMONTH: Do you agree that in September 2014 there was a revision from \$6.99 to \$7.65 billion?

MR. MEANEY: In September 2015.

MR. LEARMONTH: Yes.

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

Okay, so based on what you're saying, you didn't have to report any cost increases beyond the \$6.99 billion to the independent engineer until September 2015 because you didn't do a revised AFE before that. Is that what you're saying?

MR. MEANEY: Well, Mr. Learmonth, this – the scenario we just described is where I was hoping to get a chance to give a bit more background on my chronology 'cause I think –

MR. LEARMONTH: No, no. I want to get this clarified before we go on any further, okay? So the question I put to you was that in June 2014 there was a revision from 6.2 to 6.99, correct?

MR. MEANEY: In June of 2014 there would've been an increase to 6.99, yes.

MR. LEARMONTH: The next increase in the AFE was in September 2015, and that was to \$7.65 billion.

MR. MEANEY: Right.

MR. LEARMONTH: Now, if you don't have to report cost overruns or cost increases until there's a revised AFE, isn't it true that, based on what you said, you wouldn't have had to report any cost increases between September of – June of 2014 and September of 2015 until September because that's when the next AFE came? Is that what you're saying?

MR. MEANEY: I guess that is what happened between June 2014 and September 2015. That is what happened.

MR. LEARMONTH: Yeah. And what reaction did you get from Canada?

MR. MEANEY: They were surprised and would've expected to get information sooner.

MR. LEARMONTH: Okay.

Well, if their expectation was reasonable, how can you stand by what you just said, that you don't have to report any cost increase until there's a revised AFE?

MR. MEANEY: I think what I was trying to convey – and this is what I was trying to lay out in my chronology – was –

MR. LEARMONTH: Well, did I get it wrong, sorry? Did I get it wrong?

THE COMMISSIONER: No, just let him answer the question.

MR. MEANEY: What I was – what I had tried to convey was there would have been a process in terms of, typically, Commissioner, a couple of months from the time the AFE recommendation happened to when the FFC was updated. And then Canada would have seen that. That was the process, and in every period other than the one we're talking about, that happened on a pretty timely basis. In the period between when the update – in the period of 2015 – if you go to the next item in my chronology – so in the March 2015 meeting –

MR. LEARMONTH: Okay.

MR. MEANEY: – that we were just talking about, you can – as you can see – that was when Mr. Martin said, okay, let's proceed with a revised AFE of – at that time it would have been \$7.49, \$7.5 billion. And we're going to start the process of consultation with the shareholder and we're going to have – in the June 2015 board meeting, we're going to get the revised AFE approved, and then in July of 2015 the FFC in the construction report would have got updated.

So that was what the process was going to be in, say, starting in March of 2015, and what I was going to try to give some context here with my chronology was –

MR. LEARMONTH: But why don't you answer the question? I asked you – I gave you an example, and you've just dodged it, just went right by you. I'm going to give it to you again for the third – maybe the fourth time, okay? Can you listen and maybe write it down? Based on what you have said earlier, we know that in June 2014 the AFE was revised from \$6.2 to \$6.99 billion. Do you agree?

MR. MEANEY: Yes.

MR. LEARMONTH: And we know that the next revision to the AFE was in September 2015 to \$7.65 billion.

MR. MEANEY: Correct.

MR. LEARMONTH: Do you agree?

MR. MEANEY: Correct.

MR. LEARMONTH: Yeah.

Now, based on what you've said, does it not – do you agree that it follows that because you weren't required to report cost overrun or cost increases or give reasonable estimates of them to the independent engineer until there was a revision to the AFE, that you would have been entirely justified in not reporting the cost overruns to the independent engineer until the 7.65 revision had been done in September.

MR. MEANEY: I don't think that's what I was saying.

MR. LEARMONTH: Okay. Well, I've misunderstood. Then you can over that.

MR. MEANEY: I – and I don't think that's what I was saying.

MR. LEARMONTH: Well –

MR. MEANEY: I think what happened –

MR. LEARMONTH: Then what were you saying?

MR. MEANEY: What I was trying to say was – 'cause we were talking about what happened in 2015 – was the process that started in March would have followed what would have been a reasonable period of time to update the FFC and the AFE in June of 2015. And because of a number of factors, which I was gonna try to convey in my chronology here, it didn't happen. And that was, I guess, part of the commentary I was making at the outset.

When I went through this, it wasn't that there was ever an intention to delay the update to Canada until September of 2015.

MR. LEARMONTH: So why didn't it happen?

MR. MEANEY: That's what my chronology was gonna try to explain. And if I could get to it, I'd hopefully provide an explanation as to what happened.

MR. LEARMONTH: Yeah.

But you were supposed to provide these updates on the cost estimates that occurred between June 2014 and September 2015 on a monthly basis. Do you agree with that?

MR. MEANEY: When the 7.65 got recognized and, you know, when that process started, Mr. Learmonth, I couldn't say if it was, you know, when – between June 2014 and, I guess, March of 2015, when that started to happen, I couldn't say that. So I – so it was really when the, you know, the number kind of became more substantiated in March that that was when the process started to do the formal update.

MR. LEARMONTH: Okay, so you should have reported known reasonable estimates of cost overruns, starting in March 2015?

MR. MEANEY: So –

MR. LEARMONTH: Is that right?

MR. MEANEY: – March would have been the starting point for when we would have been updating the final forecast cost to be what would be a reasonable estimate.

MR. LEARMONTH: Well, I suggest that was the time when you should have been reporting that information to Canada also.

MR. MEANEY: I'm – in terms of how our process worked –

MR. LEARMONTH: No, I'm not talking about your process, I'm talking about your relationship with Canada. Forget about your internal process – you've made that very clear.

MR. MEANEY: Right.

MR. LEARMONTH: But I'm talking about your obligations to report to Canada –

MR. MEANEY: Okay.

MR. LEARMONTH: – not your internal processes.

MR. MEANEY: So, in that instance, in what we, I guess, became – the new way going forward, in that instance, in, say, March, you know, after Mr. Martin had given the okay and there had been some discussion with the shareholder, assuming everyone was okay with that, in our monthly call with Canada under the kind of the new structure, we would have been giving some indication that we're seeing trends here and that we're in the process of going to be updating the AFE. And that process when it happened – you know, maybe the next month or the month after depending on when the board meeting was.

MR. LEARMONTH: Yeah, but Mr. Argirov said the opposite. He said he was totally surprised and very upset. He didn't indicate that there – he had received any information before

October or September 2015. That was the point of him being very upset. And now you're trying to suggest that you were keeping Mr. Argirov up to date.

MR. SIMMONS: Commissioner, I think Mr. Learmonth has misunderstood the answer. I think that Mr. Meaney had said that if the process that was adopted after October of 2015 had been in place earlier in 2015, this is what would've happened. He wasn't saying that this was the way it worked –

THE COMMISSIONER: Right.

MR. LEARMONTH: Well –

MR. SIMMONS: – earlier in 2015.

THE COMMISSIONER: So let me – and I think that is correct, but let me just, sort of, say this. And I'm gonna make this as simple as I can make it. So I live at home with my partner, and we share our money, we do things together, we understand our finances. So if my wife goes out and buys a new car, I would expect to know that she spent X number of dollars on a new car well before nine, 12, 15 months and find out later.

The point I think that you may be missing, and I understand there was a process and whatever and you didn't – you weren't necessarily the person who authored that process. I think the point of these questions is – and I think this is the real issue here – is that in this particular case, the money was coming from the Government of Newfoundland and Labrador, coming from the taxpayers of the province.

So first of all, what is the obligation with regards to increase in costs to them? Secondly, you have a federal loan guarantee which requires that certain reporting be made. Now you two are having a grand discussion about what that requirement was or whatever – I don't know, figure that all out when the time comes. But the point, Mr. Meaney, is, you know, what's hard to understand here, notwithstanding this process which you likely didn't author, is, how it would take so long to, basically, advise of such significant increases in money.

We're not talking here about 15 cents, we're not even talking about \$15,000. We're talking about

hundreds of millions of dollars. And I think if you sort of just start to think about maybe that perspective, you might understand why Mr. Learmonth is asking the questions he's asking. Anyway –

UNIDENTIFIED MALE SPEAKER:
Commissioner –

THE COMMISSIONER: – that's only to try to see if we can't get this moving a little bit because I understand exactly what you're saying, I understand what transpired. I'm gonna hear a little bit more about what the reasons were for more delay in 2015, that's fine. But if we go really to the gist of what we're talking about here, I don't think I'm too far off the mark.

MR. MEANEY: So Commissioner, actually I – the way you just laid it out in terms of, you know, notifying the province and then Canada?

THE COMMISSIONER: Mm-hmm.

MR. MEANEY: I – actually, I could address that because in this instance – and this is what the chronology showed, so on –

THE COMMISSIONER: Yes, we know, in March later on there was discussion with the – I'm not talking about – see, let's – it's hard for you to understand – I'm gathering it's hard for you to understand exactly the principle that we're talking about here.

You're relating it to the facts, and that's fine. And I'm okay with all that, and you have the right to do that. All I'm trying to do is say here's the reason why the questions are being asked. Just appreciate that's the basis upon which the questions are being asked.

So now let's get to this chronology, let's get moving and let's get cracking here so we can get this done.

MR. MEANEY: Okay. (Inaudible.)

THE COMMISSIONER: So Mr. Learmonth?

MR. MEANEY: Oh.

THE COMMISSIONER: No, let's – I'm not here to have a discussion with you; I'm just here to tell you what I think and –

MR. LEARMONTH: Well, can I ask for the last time an answer to the question I put to him three or four times? 'Cause I haven't got an answer yet.

THE COMMISSIONER: One more time and that's it.

MR. LEARMONTH: Okay.

Now, in June 2014 there was a revised AFE to \$6.99 billion, correct?

MR. MEANEY: Yes.

MR. LEARMONTH: In September 2015, there was a revision in the AFE from 6.99 to \$7.65 billion?

MR. MEANEY: Yes.

MR. LEARMONTH: And there were cost increases that you knew about, that you could make reasonable estimates for between June 2014 and September 2015, correct?

MR. MEANEY: I guess the project team, the folks who prepare that information –

MR. LEARMONTH: Yeah.

MR. MEANEY: – yes, they could have.

MR. LEARMONTH: Yes, they could.

MR. MEANEY: Yes.

MR. LEARMONTH: But you're saying that because there wasn't a revised AFE between June 2014 and September 2015, you weren't required to report any cost overruns to the federal government until such time as there had been a revision to the 6.99 AFE. Is that what you're saying?

MR. MEANEY: Because of –

MR. LEARMONTH: Is that right?

MR. MEANEY: Yeah, I'll answer it. Because of the way our process worked and the delays in the process, yes, that's what happened.

MR. LEARMONTH: Yeah, but I'm talking about your obligations to report to Canada. I'm not talking about your internal process; I'm talking about your obligations to Canada and the fact that Mr. Argirov and Alison Manzer were both obviously very upset at this late reporting.

MR. MEANEY: So it's – I think it's fair to say we did have an obligation to let them know sooner.

MR. LEARMONTH: Yeah.

MR. MEANEY: It didn't happen in 2015 for, I guess, some of the reasons I've talked about, and we addressed that as part of the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – outcome of the letter from Ms. Manzer and we resolved that going forward.

MR. LEARMONTH: Yeah. But we're talking now about why you didn't report these – on a monthly basis – any cost overruns incurred between June 2014 and September 2015. Why – if there were reasonable estimates that you could have made which is obvious from the documentation, why weren't these amounts reported to Canada, these cost overruns?

MR. MEANEY: I wouldn't be able to tell you in terms of between – at what point in time the contingency that was in the 6.99 – at what point in time in that June 2014 period through September 2014 period – or, sorry, '15 period – would have gotten fully drawn down. So I don't know when in that – the spectrum of that time period we talked about, you would have been in that overrun situation.

MR. LEARMONTH: Well, it was – there was – once again I point out that Mr. Argirov was very upset. He was – he just – he had a firm hand on cost, so if it had been a case of that the – there was still contingency available, he wouldn't – there wouldn't have been any basis to Canada's argument because there would have been enough money in the AFE to cover it.

MR. MEANEY: And –

MR. LEARMONTH: Is that right?

MR. MEANEY: My point was that, in terms of – between June 2014 and September 2015, I don't know at what point in time in terms of, you know, a more up-to-date forecast, the view was that the contingency would have been fully exhausted. I can't answer that.

MR. LEARMONTH: Yeah (inaudible) –

MR. MEANEY: So I guess – so somewhere in that time frame, it would have been reasonable that if we had a view that the contingency was exhausted, that might have been the time to be giving, you know, Canada and company the notice that there's overruns above what is the approved AFE.

MR. LEARMONTH: Well, are you suggesting that in February when there was a – PMT indicated a \$7.49-billion AFE, that it wasn't plain and obvious to anybody that the contingency was exhausted? I mean, the \$368-million contingency – initial one – was exhausted in April 2013. So you're telling me that it's possible that in February 13, 2015, when the \$7.49-billion AFE was identified, are you saying that there still could have been contingency left in the 6.99? Are you saying that?

MR. MEANEY: No, no. What I – I guess what I was trying to say is maybe that was the time, in February or March, where it was viewed that the contingency had been exhausted. I –

MR. LEARMONTH: Right.

MR. MEANEY: I was kind of taking from – like, I don't know if it would have been in September of 2014 as opposed to February of 2015. That was the point I was trying to make.

MR. LEARMONTH: Okay, so it was February or March. And let's say it's March.

MR. MEANEY: All right, so it was March.

MR. LEARMONTH: So after March, it was obvious it was exhausted, and you should have

made – should have reported the cost increases after March, do you agree?

MR. MEANEY: So that would have been the time –

MR. LEARMONTH: Do you agree?

MR. MEANEY: – to start letting them know that there were –

MR. LEARMONTH: Yes.

MR. MEANEY: – amounts above the 7.499.

MR. LEARMONTH: Okay. And that –

MR. MEANEY: Yes.

MR. LEARMONTH: – would have been – thank you for acknowledging that. And that would have been – the way you would have communicated that would have been in the monthly reports.

MR. MEANEY: It may or may not have showed up in the next monthly report.

MR. LEARMONTH: Okay, the –

MR. MEANEY: It would have – so in – let's – if we could use the example here, if – say it was – March was our point where 7.49 was identified.

MR. LEARMONTH: And you know the contingency's gone.

MR. MEANEY: And we know – and we're saying, okay. And let's say the board meeting was scheduled for June. Say that was when the board meeting was scheduled, for June, in my example.

MR. LEARMONTH: Okay, well, what difference does the board make if you know that there's a reasonable estimate of a cost overrun over the AFE?

MR. MEANEY: So what we would have –

MR. LEARMONTH: No, what – can you answer that?

MR. MEANEY: I'm gonna try to answer it in terms of how we report it to Canada. That's what I'm trying to do – is if in, say in March it was identified that 7.49 – so as you said, the contingency was fully exhausted. In the – I guess the reporting we would've done with them in April – so that would have included – reporting wouldn't have just been solely the construction report. Reporting also would have been our monthly calls, and as part of that, you know, a presentation that we provide to them in terms of progress and also key trends and risks –

MR. LEARMONTH: Right.

MR. MEANEY: – there's a section of that. So in that, we would have stated, you know, we're seeing trends in whatever the particular item was. So say it was increased costs in time and materials contracts for right-of-way clearing, as an example, so we would have been given indication, in that report, that that's a trend we were seeing that was going to increase costs above the then-approved AFE. We'd be giving that trend, you know, that is outside of the –

MR. LEARMONTH: Is that what you did or that's what you should have done?

MR. MEANEY: No, that is the – I guess, that is the revised approach that we agreed to –

MR. LEARMONTH: No. I'm not talking about the revised approach –

THE COMMISSIONER: Now – okay, we've covered this, Mr. Learmonth. Let's move on. I think I know the point you're making. I think it's been made as best it's going to be made and I'm going to take from that what I can out of it, but I think we just need to move on now.

MR. LEARMONTH: Well –

THE COMMISSIONER: 'Cause you two are never gonna agree on –

MR. LEARMONTH: But –

THE COMMISSIONER: – the answer to this question and, you know, he – you asked him, basically, what should have happened. He's explaining what – I think he's trying to explain

what should have happened by virtue of what they decided to eventually do with regards to –

MR. LEARMONTH: After the resolution.

THE COMMISSIONER: After this. Right.

MR. LEARMONTH: But I'm not interested in that.

THE COMMISSIONER: I know.

MR. LEARMONTH: And I never asked for that.

THE COMMISSIONER: Right. I know that.

But let me just say this to you: I think I got the point, so let's move on. There's no sense – the – there's no sense putting this to this witness. He's not gonna change his view or whatever the situation is. I'll assess it all, based upon all of the evidence that I hear in the Inquiry. I just think we've spent enough time on this and I'd like to move on.

MR. LEARMONTH: Yeah. Well, if that's your decision, then I will certainly comply.

THE COMMISSIONER: Thank you.

MR. LEARMONTH: Okay.

So we're on March 8, 2015, and we talked about – we came down to the paragraph that ended: “was not included in the AFE revision (this would have included Astaldi impact).”

So, “Additionally, N. Spur and Balance of Plant contracts had not been awarded at that time either.”

MR. MEANEY: And – I think I covered that part, as well, is that if those – in 2015, if those contracts had have been awarded – so let's take north dam as an example – if that had have been awarded in Q2, as was contemplated, in that other report, not just the construction report, you would also would have seen in the material contracts report that that line item – you would have seen an award value and it would have been above the then-approved budget for that package.

MR. LEARMONTH: Okay.

MR. MEANEY: So that would have been a signal to Canada and the IE that there's cost increases in that package.

MR. LEARMONTH: Yeah, but I'm not talking about what would have happened. I wanna talk to what did happen. Do you understand that –

MR. MEANEY: Yes.

MR. LEARMONTH: – point?

MR. MEANEY: So, in –

MR. LEARMONTH: So don't talk to me about what would have happened.

MR. MEANEY: So, in that –

MR. SIMMONS: Mr. Commissioner, Mr. Learmonth asked Mr. Meaney about that part in the notes and now tells him he doesn't want him to speak to it. So –

MR. LEARMONTH: No, that's not correct.

MR. SIMMONS: – if he asks this question, he should get the answer to it.

MR. LEARMONTH: No, I don't think that's correct. I told him I didn't wanna hear what would have happened. I wanna hear what did happen.

MR. MEANEY: So, what did happen in the spring of 2015 was the north and south dam contract did not get awarded in that time frame. It didn't happen until October 2015.

MR. LEARMONTH: Right.

MR. MEANEY: And then the balance of plant contract, which was one of the contracts, I guess, that was driving the overall increase to the AFE to the 7.499, that had been targeted to happen later in 2015. That didn't happen until 2017.

So then, if we move on in my chronology, a note there from Paul Harrington to Ron Power 'cause Ron wasn't at that meeting on the 8th: "*We have the OK from Ed to prepare the AFE and we*

will keep this under wraps until we get the AFE approved in June."

So, the plan was then to approve it in the June board meeting that was planned for June 15 and 16.

MR. LEARMONTH: Yup.

MR. MEANEY: I guess, Commissioner, back to the point you made earlier, you know, now the duty of Nalcor to inform their shareholder and, you know, the representatives of the province. So on March 9, 10, Mr. Martin and Mr. Sturge met with representatives of the Government of Newfoundland. There was a meeting on March 9 and then another meeting on March 10, and I've noted there who the attendees were for that discussion. So they – the folks noted there would have been aware at that point in time that there was an estimate of 7.5.

We're carrying through now to April –

MR. LEARMONTH: No, no. Before we leave that, I noticed that there was a meeting with the Government of Newfoundland and Labrador so that information would have been given to the Government of Newfoundland and Labrador. What about Canada? Did you notify them of that?

MR. MEANEY: So –

MR. LEARMONTH: Did you?

MR. MEANEY: At that point in time, they had not been notified.

MR. LEARMONTH: Okay.

MR. MEANEY: Okay.

MR. LEARMONTH: Why not? You were been dealing with Alison Manzer, you were the lead person. Why wouldn't you have passed that information on to Canada at that point if you'd told the Government of Newfoundland and Labrador?

MR. MEANEY: There was still, I think, there was still discussions ongoing with the province at that point in time. So until there was, I guess –

MR. LEARMONTH: Well, how would ongoing discussions with the province affect your obligation to report to the independent engineer?

MR. MEANEY: 'Cause once the – once the, I guess, the CEO signed off, then the shareholder would be the next port of call to update, and assuming they were okay, then Canada and the IE – you know, I guess the boards and then Canada and IE would have been the next port of call.

MR. LEARMONTH: Okay. So that – so you wouldn't notify Canada until – they would be one of the last ones to know.

MR. MEANEY: A bit later in the process, yes.

MR. LEARMONTH: Okay.

MR. MEANEY: So –

MR. LEARMONTH: And what is that based on? What – is there anything in writing that gives Nalcor the right to decide when the Government of Canada is notified?

MR. MEANEY: No, there'd be nothing in writing, nothing in writing. It just would have been, you know, agreement from the CEO, a sign-off with the shareholder, then starting the process and going to the boards for AFE approval. Now as I mentioned, in – I guess in the new protocol now, if there's say a month in between – when you get the agreement with the shareholder and when the board AFE is going to get approved, in our monthly call with Canada and the IE, we would be letting them know that, you know, we're seeing a trend here, there is an increase coming. That process wasn't in place in 2015 or this part of 2015, so that didn't happen back then.

MR. LEARMONTH: So is it correct that you weren't allowed to communicate anything about cost overruns to Canada until Ed Martin authorized you to do that?

MR. MEANEY: That'd be a fair statement, yes.

MR. LEARMONTH: That's correct, is it?

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

And around this time of March 9 – or, you know, March 2015 – did it give you some discomfort that you weren't allowed to report this information to the independent engineer and Canada? Were you uncomfortable with that? We talked about that in the interview, and I'll refer to the transcript later.

MR. MEANEY: Sure.

I mean, I recognize that we did need to give Canada and the IE the update, and –

MR. LEARMONTH: In March, yeah.

MR. MEANEY: Well, I recognized that we needed to give them the update in shorter order. I wouldn't necessarily say, you know, on March 9 or March 10, but a recognition that we needed to get the process going so that they could be notified.

MR. LEARMONTH: Yeah.

But you weren't allowed to? You couldn't call up the independent engineer and tell them: Look, we got a \$7.5-billion figure here. We've talked to the Government of Newfoundland about it; we want you to know about this and we'll give you further particulars later. You weren't allowed to do that, were you?

MR. MEANEY: At that point in time, yeah, there was – I would say it was – you know, no.

MR. LEARMONTH: No, you weren't.

MR. MEANEY: Right.

MR. LEARMONTH: You had to get Mr. Martin's approval?

MR. MEANEY: In terms of sharing that type of information with, yeah, let's say, Canada and the IE?

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes.

MR. LEARMONTH: And didn't that give you some – make you feel a little bit uncomfortable?

You have – you know the information. It's already been communicated to the Government of Newfoundland so it had to have some foundation to it, but you're prohibited from giving information to Canada 'cause Mr. Martin won't let you.

MR. MEANEY: That was –

MR. LEARMONTH: Didn't that cause you any discomfort?

MR. MEANEY: That was the process that was understood in the organization in terms of how it would happen.

MR. LEARMONTH: Were you comfortable with that process?

MR. MEANEY: That's the process in the organization, and I guess me, as someone who ultimately reports up in to the CEO, in terms of how an organization like Nalcor works, you're looking for the CEO to give the sign-off.

MR. LEARMONTH: Yeah.

But you're a CFA, right? And you have ethical obligations, correct?

MR. MEANEY: I have – there are certain ethical obligations in terms of my conduct as a CFA charterholder.

MR. LEARMONTH: Right.

MR. MEANEY: And those would be more around, you know, committing of a crime, as opposed to – you know, like a – there are certain – every year when you do your renewal of your CFA, there's certain representations you have to make in terms of, you know, your conduct.

MR. LEARMONTH: But there's a code of conduct also. It doesn't – and I can show it to you –

MR. MEANEY: Okay.

MR. LEARMONTH: – but it doesn't – it's not restricted to criminal activity or anything like that.

MR. MEANEY: No, but I guess, in terms of my renewal, that's something that we have to, as part of the renewal process, acknowledge that, you know, we didn't conduct any type of matters that they're saying we shouldn't.

MR. LEARMONTH: So knowing this information in March – and I think you've acknowledged that Canada was entitled to know that information in and around March. Is that true?

MR. MEANEY: I acknowledged that Canada were entitled to know in short order.

MR. LEARMONTH: In short order.

MR. MEANEY: Yeah. In short order. Now, that would be within, you know, I'd say, you know, next month or so, in terms of –

MR. LEARMONTH: Yeah.

MR. MEANEY: – when we'd be next talking to them.

MR. LEARMONTH: So if Mr. Martin had authorized you to release this information to Canada you would have done so, say, by April?

MR. MEANEY: If – yeah –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: – I mean – if in – say in this example here, he had – Mr. Martin had gone, you know, met with the province – everything was good and he said, guys, you can tell Canada tomorrow, then I guess we would have gone and told Canada tomorrow.

MR. LEARMONTH: So what is reporting to the province have anything to do with it? With your obligations to Canada.

MR. MEANEY: The province are the shareholder.

MR. LEARMONTH: Yeah. But how does that tie in with your reporting requirements to Canada?

MR. MEANEY: The province are the shareholder of Nalcor and we have an obligation

to advise our shareholder, and then we would advise Canada and the IE after that.

MR. LEARMONTH: Okay. Did the Government of Newfoundland and Labrador tell you not to report this information to Canada?

MR. MEANEY: I don't recall anyone from Newfoundland ever saying that, no.

MR. LEARMONTH: No. So why would the input or reaction of the Government of Newfoundland and Labrador to this information have any bearing on your obligation to report to the independent engineer?

MR. MEANEY: Because their expectation, as shareholder, would have been that they were advised before Canada and the IE were.

MR. LEARMONTH: How do you know that?

MR. MEANEY: That's kind of been the experience I've had over the years, you know, in terms of these situations.

MR. LEARMONTH: Have you been in situations like this before?

MR. MEANEY: Like what before?

MR. LEARMONTH: Well, you said in these situations.

MR. MEANEY: No. I meant in situations – I mean situations where there's a – there's going to be an update to the cost. That's the situation I was talking about.

MR. LEARMONTH: Okay.

Now, if you thought that this information should be reported to Canada, say, by April – let's pick that date – did you go to Mr. Martin and tell him that, in your view, that this information should be reported and that you – you know, you demand his authorization?

MR. MEANEY: So when it was agreed –

MR. LEARMONTH: Did you?

MR. MEANEY: When it was agreed in March that we were going to go to get the board

approval in June, based on what the process had been previously, I'd – I guess I accepted that that was an acceptable process. And that would have been the time that we would have been advising Canada because if it's within a couple of months, that would have been the normal process.

MR. LEARMONTH: No, but you said that you thought Canada – or words to the effect that Canada should have been advised – if it was up to you, you would have advised them in April.

MR. MEANEY: I think my comment, Mr. Learmonth, was – I said: Canada should be advised in relatively short order. And I was more in the context of, you know, a couple of months as opposed – you know, within the next month or so –

MR. LEARMONTH: Yeah.

MR. MEANEY: – as opposed to eight months later or nine months –

MR. LEARMONTH: Yeah.

MR. MEANEY: – later, right.

MR. LEARMONTH: Okay.

So, not having received authorization to communicate that to Canada in April, did you go to Mr. Martin and complain and say: Look, I feel uncomfortable about this and I want your authorization to report this to Canada. We have a duty to do so – something along those lines. Did you do that?

MR. MEANEY: No.

MR. LEARMONTH: No?

MR. MEANEY: Nope.

MR. LEARMONTH: Why not?

MR. MEANEY: Because in March, we had agreed that we were gonna do it in June. That at – you know, my assessment was that was the reason – that was a reasonable time period based on what had happened in the past.

MR. LEARMONTH: Yeah.

But you still say that you think Canada should have been advised by April.

MR. MEANEY: No, I didn't – I don't know if I said that.

MR. LEARMONTH: You said in short order and then you referred to April.

MR. MEANEY: I think what I said was: In the next couple of months – April, May, June. I don't know if I specifically, you know –

MR. LEARMONTH: Well, you did.

MR. MEANEY: – focused on April. And if I did –

MR. LEARMONTH: You did.

MR. MEANEY: – okay, I – then I, I guess maybe that was a – I wasn't specifically thinking just that month. It would be sometime in the next couple of months.

MR. LEARMONTH: Okay.

But you didn't report it, say, in the next couple of months, did you, to Canada.

MR. MEANEY: In 2015, no. It didn't happen.

MR. LEARMONTH: 2014 – 2015, yeah.

MR. MEANEY: We're talking about (inaudible).

MR. LEARMONTH: It didn't happen.

MR. MEANEY: Yeah.

MR. LEARMONTH: But why, then, if you thought it should be reported to Canada, say, one month or two months after March, why didn't you go to Mr. Martin and, you know, tell him that you felt that this was something that should be done and you wanted his authority to communicate this to the Government of Canada?

MR. MEANEY: I –

MR. SIMMONS: Commissioner, that question just – has already been answered. I'm sure that

question has been asked and answered (inaudible).

MR. LEARMONTH: No, the question has been asked, but it hasn't been answered. That's the difference.

MR. SIMMONS: Mr. Meaney had said he was satisfied that – with the timing for the matter to go to the board in June.

MR. LEARMONTH: Yeah. But why didn't you go to Mr. Martin?

MR. MEANEY: I think, as Mr. Simmons just stated, when he had given the indication he was okay with a June update, I was okay with that.

MR. LEARMONTH: Okay. But in June, when that date passed without your receiving authorization to go to Canada, why didn't you go to Mr. Martin then?

MR. MEANEY: So, that's – I guess that's part of what my chronology is trying to explain is that there was an ongoing effort to get that update out as soon as possible. So if we could carry on, it might be helpful.

MR. LEARMONTH: I'll decide when we carry on.

MR. MEANEY: Sure, yeah, I guess – what I meant, Mr. Learmonth, was the question you're asking actually does – it comes in the chronology in a little bit. I'm sorry, I didn't mean to be – that didn't come up the right way.

MR. LEARMONTH: Okay.

MR. MEANEY: So, you know, there was a meeting with the shareholder. In the report issue – in the construction report issued in April, as I note there, while the FFC wasn't updated, there was commentary in the construction report that Canada had gotten that there was an expectation of a – of an impact from the Astaldi situation.

MR. LEARMONTH: Yeah, but obviously that didn't satisfy – but when Mr. Argirov found out about the 7.65, he didn't come back and say: Well, yeah, you've sort of told me that there's problems here, I'm satisfied with the way you've reported it. He was very upset.

MR. MEANEY: I think, actually, when we – after the letter was issued and we met in Ottawa and there was the discussion around the issues that they had outlined in their letter and one of the issues was the Astaldi situation, I seem to recall Mr. – Mr. Argirov had acknowledged that he'd, you know, that he'd seen a trend going on with Astaldi, that, you know, his expectation was that there was going to be a delay and then they wanted to understand how that had been factored into the \$7.65-billion figure. So I think – I don't – I think that's how I would characterize how the discussion was on Astaldi.

MR. LEARMONTH: No, Mr. Argirov didn't mention that when he was testified, and he could have been cross-examined. I don't –

MR. MEANEY: I don't know why he wouldn't –

MR. LEARMONTH: He just said he was very upset.

MR. MEANEY: I – that's what he said.

MR. LEARMONTH: Yeah, but –

MR. MEANEY: So, 20th of May –

MR. LEARMONTH: Okay, hold on now. Just hold on now.

MR. MEANEY: Sure.

MR. LEARMONTH: Okay, so "April 20, 2015" –

MR. MEANEY: Yes.

MR. LEARMONTH: – "MF/LTA Construction Report issued for the period ending March 31, 2015. It noted, '*Overall, the CH0007*' – that's Astaldi – '*progress is tracking behind plan, however, Devco have been collaborating with the Contractor in the implementation of organizational changes at the construction management level*' – et cetera. '*A revised work plan and schedule is expected from the Contractor in April to address the recovery plan for CH0007, as well as to facilitate mitigation strategies for the remaining Muskrat Falls Generation Contractors.*'"

MR. MEANEY: So that was in that report and then you would have seen similar commentary in the reports issued in May, June and July of 2015. So, as I note here, while at that point in time the FFC hadn't been updated, there was commentary in order to advise Canada and the IE that there was an expected impact of the Astaldi-related situation.

MR. LEARMONTH: Yeah. But that wasn't communicated to Canada, was it?

MR. MEANEY: No, that was it – that was in the – that piece of information there, that was in the construction report.

MR. LEARMONTH: Hmm.

MR. MEANEY: That's the commentary right out of the construction report.

MR. LEARMONTH: But I'm talking about the numbers. There are no numbers.

MR. MEANEY: No. No. There was just that commentary in the construction report.

MR. LEARMONTH: But that didn't seem to satisfy Mr. Argirov, did it? I mean, I didn't hear him say: I was a little bit concerned, I had been provided with some level of update. He didn't seem to think that the reporting was satisfactory at all and that's why he was very upset.

MR. MEANEY: I don't know if he was referring to the – you know, the cost reporting or the construction commentary. I don't – I wouldn't want to speculate on that.

MR. LEARMONTH: That was cost overruns, that's what's specified in Ms. Manzer's letter more so than anything else.

MR. MEANEY: Sure. And so I don't know if, you know, in terms of what his view was on the non-cost commentary that was given on Astaldi.

So May 20, I attended a leadership team meeting on behalf of Gilbert and, from my notes, I had noted Ed had indicated a number of priorities that he had in the short term to the leadership team. And one of them was a Muskrat Falls' cost and schedule update and roll out a rate

smoothing plan. And I had in my notes: in the next month or so.

And then I – there was actually – there was meetings to those – minutes to those meetings that were taken by our corporate secretary. And I actually got a copy of those when I was preparing this, just to make sure I had it right. And, you know, other than my comment “next month or so,” the first part was what was in the minutes to that meeting.

So at that point in time, still was an expectation that the update was going to happen in June. So, you know, back to my comment earlier, I still thought that was a reasonable timeframe.

MR. LEARMONTH: You thought it was a reasonable timeframe.

MR. MEANEY: That was in terms of the timeframe for us to get them the update. We were still working on a timeframe that was reasonable based on our past experience.

MR. LEARMONTH: Yeah.

MR. MEANEY: Okay.

MR. LEARMONTH: But this number is May – the 7.5 estimate of May 2015, May 22, I mean that – that didn’t really change much from February. So it didn’t seem like there was much new information. Do you agree?

MR. MEANEY: I mean it was – at that point in time it was still 7.5. That’s right.

MR. LEARMONTH: Yeah.

MR. MEANEY: So in – on the 22nd of May, I found some correspondence of mine where I’d wrote an email to Derrick and Auburn that there was a discussion that Ed was going to do an update based on, I guess, a two-step update. He was going to do one update in June based on the \$7.5 billion number, and then come back at a point later, once there was, hopefully, greater clarity on the Astaldi situation, and give a progress update which would have covered, you know, a more comprehensive estimate in terms of the impact of that delay situation. Now that was – at least that was the plan at that point in time.

MR. LEARMONTH: So why wouldn’t you just do one estimate?

MR. MEANEY: I think at that point in time –

MR. LEARMONTH: But this thing about stretching it out, is this a case of, sort of, breaking the bad news gently?

MR. MEANEY: No, I think in – I think he was eager to get out in June to give, you know, the update on what the figure was known then. And there was a hope – and it comes a bit later, I think, in my chronology – that there was negotiations were going on starting in, say, June of 2015, that would hopefully give some greater clarity on the Astaldi delay situation.

Then a bit later in the year, you’d be able to come back and give, you know: In addition to the 7.5, here’s what we see as being the additional cost associated with that situation. Now that was at least the view at that point in time.

MR. LEARMONTH: That had to do with the Astaldi situation, did it?

MR. MEANEY: Yes, that –

MR. LEARMONTH: Yeah.

MR. MEANEY: – and I think I mentioned that – it’s a little bit later in the chronology – about the –

MR. LEARMONTH: Okay.

MR. MEANEY: – in June.

MR. LEARMONTH: So let’s just look at Exhibit P-02417, it’s at tab 128 of volume 5 of your documents.

MR. MEANEY: Yes – that’s the email I was referring to.

MR. LEARMONTH: Okay.

This is an email from you –

MR. MEANEY: Yes.

MR. LEARMONTH: – to Derrick Sturge.

MR. MEANEY: Yes, and Auburn. Yes.

MR. LEARMONTH: Okay.

It says: "Hi Derrick

"Auburn and I chatted about the considerations of Ed doing a 'two step' update where \$ impact of any schedule change comes at later point. In particular, we were thinking about it in the context of Canada/IE and the December 2015 COREA." Okay, let's just stop there. What do you mean by that?

MR. MEANEY: So, I guess it would be depending on the timing of when that second update happened, having that information available for when we had to do the COREA certificate in December of 2015.

MR. LEARMONTH: Yeah.

So why would the timing of the release of the two-step process have anything to do with that?

MR. MEANEY: I guess we – if we would want – if he was going to give an update on – if he was going to take that two-step approach, having the second step occur enough ahead of December 2015 so that Canada and the IE could be aware and that information would be factored into the calculation of the COREA in December of 2015.

MR. LEARMONTH: But why couldn't you do it all at once? Why would – I don't understand why there'd be a two- stage process?

MR. MEANEY: That was just – at that point in time, that was what, I guess, Ed and others were talking about doing. Why, you know, why you would do one way or the other? That was the process that was being talked about.

MR. LEARMONTH: Well, you're talking about it too. I mean, you're writing an email about it.

MR. MEANEY: Yeah. I'm writing an email saying: You know, I'm just wondering how this process might work and how it was going to play into the update on the COREA later in the year. Could you talk to Ed and kind of get a sense for, you know, you know –

MR. LEARMONTH: Yeah.

MR. MEANEY: – how this thinking that – might work.

MR. LEARMONTH: Yeah. So what you're saying is: "Wondering while you are with him" – that's Ed, I take it –

MR. MEANEY: Yes.

MR. LEARMONTH: – "at MF site next week (if you might get a chance to quietly query on whether step 1 cost update in June absolutely necessary (as opposed to one update in ... Sept, that covers both), and if so, is he thinking there would be a second one later in the year? Our sense was that if he does one in June, that will probably buy a few months before Canada/IE will be looking for impact of any schedule delay, particularly after site visit in July ... and they won't buy the June update as the basis for the COREA calculation and related certificates in December."

So what are you talking about – buying time for?

MR. MEANEY: I guess just – no, not buying – just saying, you know, in terms of the numbers that they were use as the basis for the COREA calculation, I think our expectation was that, if he was gonna do an update in June and then a subsequent update, it would be in, you know, say, let's say it was September (inaudible). Then that would have been that the updated number would have been the base for the COREA calculation. It was just kinda trying to figure out if he's going to do this two-step process, how would that all work in the context of the COREA calculation.

MR. LEARMONTH: Okay. But what do you mean when you say: That will probably buy a few months before Canada/IE will be looking for the impact of any schedule delay?

MR. MEANEY: I think my – I think my point there was – if he did a cost update in June of say 7.5 that was clear didn't have the impact of the Astaldi situation factored into it, our – my expectation was Canada, not long after that but within a couple of months, they're probably gonna learn, okay, you know, what's your guys' view on what this might be.

MR. LEARMONTH: Why not tell all the news at once? Why a two-step process?

MR. MEANEY: Well, I guess that's what – that's what ended up happening. This was just question at that point in time, in late May, how this two-step process might work. That's all it was.

MR. LEARMONTH: Okay.

Did you think it was a good idea to have a two-step process?

MR. MEANEY: I just – I don't know if I thought it was a good or a bad idea. I was just kinda wondering how it might work in terms of, you know, the process unfolding.

MR. LEARMONTH: Yeah.

MR. MEANEY: So back to chronology, now we're on to May 25. So –

MR. LEARMONTH: (Inaudible.)

MR. MEANEY: I had a meeting with two of the guys from the project team, Lance Clarke and Jason Kean. They had said, you know, based on some further work that's been done, and I guess more information came in relating to the LIL DC line, that the view was now that the 7.5 was 7.6. So that was the update that they had given.

Then we can go on to –

MR. LEARMONTH: So once again, no communication with Canada?

MR. MEANEY: At that point in time, no.

MR. LEARMONTH: No.

MR. MEANEY: May 27th, we talked a little bit about this earlier, and I put it in there more for, you know, not something that it was a direct input to the cost update, but the point is there was a lot going on here with ourselves and Canada and MWH and Nik at that period of time.

And, you know, I guess maybe instead of folks focusing on, you know, more discussions on –

related to what was going on with construction and what was going on with activities, this was – I'll use the word, I guess, a bit of a distraction for folks. So this was just context of what was going on.

MR. LEARMONTH: What was the distraction?

MR. MEANEY: Well, this was the – where Mr. Argirov was negotiating to leave MWH and go out as a subcontractor, this was – we talked about it a little bit earlier.

MR. LEARMONTH: Yeah.

MR. MEANEY: And that process dragged on for a lot longer than anyone imagined and a lot of peoples' focus was into that, and maybe not into what would've been more normal communication related to what was going on with the project. That's just my point of view.

MR. LEARMONTH: So you're putting that forward as an excuse for not providing –

MR. MEANEY: No, not for –

MR. LEARMONTH: – the cost overrun updates to Canada?

MR. MEANEY: No, not for an excuse. Just context of what was going on at the time, that's all. No excuse.

MR. LEARMONTH: Okay.

MR. MEANEY: And then in my notes, June the 5th, I had a –

MR. LEARMONTH: Okay.

MR. MEANEY: – note that LCP cost update discussion with Ed, and a (inaudible) –

MR. LEARMONTH: Okay, now – okay, just before it. May 27, 2015, the meeting in Toronto. Was Nik Argirov there?

MR. MEANEY: That was the one you pulled up the presentation for earlier.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah.

MR. LEARMONTH: He was there?

MR. MEANEY: Yes, Nik was in that meeting.

MR. LEARMONTH: Did you tell him about the 7.5-billion figure or 7.6-billion figure, just even as an aside?

MR. MEANEY: I don't recall telling him in that meeting, no.

MR. LEARMONTH: Well, you couldn't have 'cause you weren't authorized. Isn't that right?

MR. MEANEY: Right, correct.

MR. LEARMONTH: So you're sitting there at a table, you know that there's a figure available, but you can't tell him because Mr. Martin didn't give permission.

MR. MEANEY: At that point in time –

MR. LEARMONTH: Is that correct?

MR. MEANEY: – at that point in time, I didn't have the authorization to give him the information.

MR. LEARMONTH: Okay.

MR. MEANEY: Okay.

We go to June 5, and as I said, I had in my notes: Need to have package together for GNL next week. So, you know, as I went back and tried to understand what was the chronology, it still seemed that at the point of early June, things were moving forward with that – the board meeting's to revise the AFE in the middle of that month.

MR. LEARMONTH: Mm-hmm.

MR. MEANEY: The next point here, and so I – what I did note as I went through my emails and my correspondence, there was a bit of a gap in terms of what happened between early June and then the time when the board meeting happened. And obviously, it didn't get approved as part of the June board meeting. So I went back to try to

–

MR. LEARMONTH: Well, why was that?

MR. MEANEY: Sorry?

MR. LEARMONTH: It didn't get approved at the June board meeting?

MR. MEANEY: No, the revised AFE for the 7, I guess, at that point in time, would've been 7.6.

MR. LEARMONTH: But why wasn't it done in the June board meeting?

MR. MEANEY: And this is what I – I'm not – I know it didn't happen in the June meeting –

MR. LEARMONTH: Why not?

MR. MEANEY: This is what I was trying to understand when I went back and started looking through the chronology of events. So –

MR. LEARMONTH: Okay but did you find out any reason why it wasn't approved in the June board meeting?

MR. MEANEY: I didn't have anything in my notes or in my emails that would have specifically said this was why it didn't happen, but –

MR. LEARMONTH: But do you have any understanding of it at all as to why it didn't happen in June?

MR. MEANEY: I think I – what I tried to lay out in my chronology here was maybe one of the factors that influenced why it didn't happen in June. And this is probably something that when Mr. Martin gives his testimony, he could probably address better than me.

MR. LEARMONTH: Yeah, but I'm asking whether you have any information as to why it wasn't passed at the June meeting. We can ask Mr. Martin also but I want to know –

MR. MEANEY: Sure. Yeah, I –

MR. LEARMONTH: – whether you have any information on that point, yeah.

MR. MEANEY: I didn't have anything in my notes or my emails that explicitly stated why it didn't happen in the June 15, 16 meeting.

MR. LEARMONTH: Was it presented at the June 2016 – well, it should be June 15, 2015, right?
That's a typo?

MR. MEANEY: Yeah, the revised AFEs were not presented in that meeting.

MR. LEARMONTH: Okay, but that's a typographical error you've got there, isn't it?

MR. MEANEY: Sorry what's ...?

MR. LEARMONTH: June 15, 2015, meeting?

MR. MEANEY: So they were – yeah, so no, the – no, I had a meeting. There was a meeting –

MR. LEARMONTH: But it says meeting with Jamie –

UNIDENTIFIED MALE SPEAKER:
(Inaudible) board meeting there.

MR. LEARMONTH: – given AFE would not occur in June for the LCP board meetings.

MR. MEANEY: Right, so that –

MR. LEARMONTH: That's a different set of boards, is it?

MR. MEANEY: Yes, that's – so that June 15 in the chronology, that was the meeting I had with myself, Karen, Gilbert and Paul –

MR. LEARMONTH: Okay, I see what you mean.

MR. MEANEY: – to discuss the revised update. The meetings happened over two days on June 15 and 16 –

MR. LEARMONTH: Right.

MR. MEANEY: – and the revised AFEs didn't get presented then. If I could just step back one event in the chronology there. So, as I mentioned, I was trying to figure out what happened in early June to put what was the plan

and what was going to be a reasonable plan on track for board approval in June.

The only thing that I could come across that seemed to be of some significance or that – at least in my experience at Nalcor over the last eight years I've been there – is when major political, I guess, announcements have happened right around the same time Nalcor was planning to make some kind of an announcement or a GRA application as an example, that our schedule for that got delayed because of the political announcement or event or whatever the case was going to be.

MR. LEARMONTH: Yeah but would that affect your reporting requirements to Canada, a provincial election?

MR. MEANEY: Well, in 2015 – so what the plan had been, as I mentioned earlier, was the board meeting was going to happen in June. Ed was going to do a public update for – you know, he would typically do the public update within a couple of days of the June – of the board meeting. And, of course, having an update of that nature right around the same time as a political announcement may not have been received very well, so –

MR. LEARMONTH: By whom?

MR. MEANEY: By the province.

MR. LEARMONTH: Okay.

MR. MEANEY: And – but, as I mentioned, you know, Mr. Martin might be able to provide some more ...

THE COMMISSIONER: Okay, can we take our break now?

MR. LEARMONTH: Yeah.

THE COMMISSIONER: All right, we'll take 10 minutes.

CLERK: All –

THE COMMISSIONER: Maybe we can try to figure out, too, during the break how much longer we're going to need for cross-examination so I can figure out your time and

everybody else's time to figure out how we're going to finish this witness.

All right.

CLERK: All rise.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Okay, just before we begin, Mr. Learmonth, I know people have families, commitments, things of that nature, so I'm going to try to map out the plan. Did somebody say something or ...? Oh, okay – just to map out the plan.

So we're going to sit 'til 5 o'clock today and we're going to finish at 5. We're going to start on Monday morning at 8:30 with this witness and we will continue on with him. Based upon what I've been told, we should be able to finish Mr. Meaney in time to get our witnesses on Monday done, based upon what Commission counsel have told me, they think the timing will be for the two witnesses set on Monday.

We may be doing a bit of a switch next week with regards to the witnesses called on Tuesday and Wednesday. I'm kind of thinking now I'd like to hear from Mr. Sturge. So I'm thinking, maybe, we might be doing him on Tuesday, but that depends on Commission counsels' availability and readiness to do that. So that's a work-in-progress right at this stage of the game.

So we're on 'til 5 today and we'll keep going until 5. And then that gets everybody home. It's a weekend. And Mr. Meaney has been on the stand all day as well. I'm pretty mindful of that.

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

MR. LEARMONTH: Thank you.

Okay. Now, I think we stopped off at the end of June 15, 2015, Mr. Meaney. Is that correct?

MR. MEANEY: Yes. That's the entry (inaudible) –

MR. LEARMONTH: Okay. So June 16, 2015.

MR. MEANEY: So on June 16 there was a meeting between the Nalcor and the Astaldi CEOs and, I guess, the teams – the commercial teams. And what I'll point out here is the commercial discussions with Astaldi that were ongoing from June until 2015 and then, obviously, beyond that into '16, would've had the biggest impact in terms of any potential AFE and FFC update. And that came down the road in terms of the full impact of that but –

MR. LEARMONTH: Yeah. But why couldn't you do one, say, in May based on what – or one done in March based on what information you had then –

MR. MEANEY: I –

MR. LEARMONTH: – and do another one three or four months later?

MR. MEANEY: Sure. So I think what the hope was was around this time there might be some greater clarity on what the Astaldi impact was gonna be and then that would be able to be reflected in – as soon as we could – an update, but it never happened. I mean, obviously, the discussions with Astaldi carried on through the end of '15, into '16 and never got resolved 'til the end of 2016.

MR. LEARMONTH: Yeah, but you could've done an AFE, say, in March based on the information you had available at that point, could you?

MR. MEANEY: Yeah, and that was, as I said, that was the plan. This was just a – this point here was just a bit of context as to what was going on in '15 in terms of all the influences.

MR. LEARMONTH: No, but I'm saying you could've had an AFE approved in March 2015 based on the information you received in February 2015. Is there a reason that couldn't have been done?

MR. MEANEY: Well, there would've been – I guess if you use the March as the starting point there when Ed gave his sign-off, then that update would've happened in June, but it didn't.

MR. LEARMONTH: Based on the dates that Mr. Martin would choose to get various information out, correct?

MR. MEANEY: Based on the – yeah, the steps that would happen in terms of updating folks.

MR. LEARMONTH: Yeah. And his timing of those steps, correct?

MR. MEANEY: What was the process – yes.

So, June 22, I sent an email to Paul and Gilbert just saying I – I think I was actually at home this evening and – that evening. And he called – he was prepping for discussion with the minister and he was asking some questions about what was driving the change from the 7.5 to the 7.6. Let him know, you know, what it was – that it was the Labrador-Island Link related cost. He had some questions about it and I said to the guys, you know, might wanna just be prepared to update the deck. But I think based on that, it seemed like they're still – even though the meeting hadn't happened in June, or the update hadn't happened in June, he was prepping with the province so it was possible that it was gonna happen in July.

This entry for June 25 is probably similar to the discussion about what was going on with the independent engineer, the one earlier. This was just something that – this was a matter that come up in the project finance agreements that we were moving through a period where after financial close everything was debt funded for a period, and then we went into pro-rata debt and equity. And this was something that a lot of folks from the Nalcor finance team and the Canada team got involved with. And again, you know, just another thing that was going on while everything else was going on.

Then July 6 through 8th, so Canada and the IE were down in Newfoundland for site visits. Day one was in St. John's and days two and three were at the Muskrat Falls site. It was attended by representatives of Nalcor, MWH, Canada and the Oversight Committee. And I had in my notes that there was – in a debrief session on the 8th of July, commentary from the independent engineer that the power – you know, he acknowledged that the powerhouse was progressing behind. There was an Astaldi

recovery plan to come. And then they were having a session the next day, I think, with some of the folks on the scheduling side that they focus on that aspect of the project.

And then –

MR. LEARMONTH: Okay – go ahead.

MR. MEANEY: And then in terms of other components of the project, in particular the spillway, because prior to that site visit, Canada was really concerned that while there was issues going on in the powerhouse, was the spillway still tracking on schedule in terms of being able to, I guess, start putting water through the spillway. So, you know, the feedback from the IE at that site visit was that seemed to be still on track and everything else seemed to be generally going okay.

MR. LEARMONTH: Okay.

Now, this entry for July 6 to July 8, 2015, now, this was – JM notes from July (inaudible) debrief with Canada, IE, OC included commentary. So were they present?

MR. MEANEY: Yeah – in that meeting –

MR. LEARMONTH: Yeah.

MR. MEANEY: – would've been representatives from Canada, the independent engineer and the Oversight Committee.

MR. LEARMONTH: Okay.

So, at this meeting, the Government of Newfoundland and Labrador would've known about the 7.5, correct?

MR. MEANEY: Certain individuals from the Government of Newfoundland would've.

MR. LEARMONTH: Yeah. Well, the government because you met with them in March.

MR. MEANEY: Yes.

MR. LEARMONTH: So the Government of Newfoundland and Labrador would know about

the 7.5, or thereabouts, figure. But the Government of Canada wouldn't.

MR. MEANEY: So the –

MR. LEARMONTH: Is that right?

MR. MEANEY: The two –

MR. LEARMONTH: Is that right?

MR. MEANEY: If I could clarify.

MR. LEARMONTH: Well, can you say is that right or wrong?

MR. MEANEY: So the Government of Newfoundland – or I should say representatives of the Government of Newfoundland, yes, would've known.

The folks that were in this meeting from the Oversight Committee, I'd have to look in my notes to see who it was – I would guess it probably would've been Cory Grandy and Cluney Mercer, the two guys who had the construction background.

MR. LEARMONTH: Yeah.

MR. MEANEY: So they probably were not – actually, I'm almost sure that they would not have been aware of the 7.5.

MR. LEARMONTH: How do you know that?

MR. MEANEY: Because in terms of when updates – well, I guess if you go back to my earlier part of my chronology and the meetings on the 9th and the 10th of March, they weren't there. Typically, these type of updates would be Finance and our folks would know. Municipal Affairs and public works and government services folks wouldn't be in that discussion normally.

MR. LEARMONTH: Okay. So this is July 6 to July 8 (inaudible) –

MR. MEANEY: Yeah, so that was the update –

MR. LEARMONTH: – just so I got this straight.

MR. MEANEY: Yeah.

MR. LEARMONTH: You're at a meeting with the independent engineer and the Government of Newfoundland and Labrador. Even though the representatives of the Government of Newfoundland and Labrador, of the Oversight Committee, may not have known themselves about the 7.5 estimate, the Government of Newfoundland and Labrador knew at that time, correct?

MR. MEANEY: Yes.

MR. LEARMONTH: But the independent engineer didn't know at that time?

MR. MEANEY: At that point in time, no.

MR. LEARMONTH: And the reason that the independent engineer didn't know was because you weren't authorized by Ed Martin to provide that information. Is that correct?

MR. MEANEY: At that point in time, the approval of the AFE had not happened and then we were not authorized to provide the information.

MR. LEARMONTH: Until the AFE was – yeah. So did this give you any discomfort? You're sitting in a meeting, you know that one of the entities – whether it's the representatives of that entity or not. They know about the 7.5, you know about the 7.5, the independent engineer doesn't know anything about it. Did that give you any concern at that point?

MR. MEANEY: So at that point in time I was still hopeful that, actually, the update was going to come later in July, and so, you know, we would be able to give them an update within a few weeks. Then, well, I guess the next entry here is –

MR. LEARMONTH: No, but at that time, did that give you any discomfort that you weren't allowed to tell the independent engineer about the 7.5 figure?

MR. MEANEY: I don't recall if I felt discomfort in that meeting or not.

MR. LEARMONTH: So you may not have at all? You may not have felt any discomfort?

MR. MEANEY: Well, I think at that point in time I was hopeful that we were going to be giving them an update within a couple of weeks still in the month of July and took –

MR. LEARMONTH: You think that –

MR. MEANEY: – comfort in that they were going to know soon.

MR. LEARMONTH: You think that's transparent?

MR. MEANEY: I think that's what the situation was.

MR. LEARMONTH: But do you think you were acting in a transparent manner –

MR. MEANEY: I –

MR. LEARMONTH: – by not telling the independent engineer when you're sitting down with him about this cost increase?

MR. MEANEY: I think at that point in time I didn't have the authorization to give him the information, so that –

MR. LEARMONTH: I know that.

MR. MEANEY: – that was the circumstances.

MR. LEARMONTH: Yeah.

And you didn't go back to Mr. Martin and ask for the authorization. You just assumed that he wouldn't give it. Is that correct?

MR. MEANEY: We would be – you know, when it was time we would be notified.

MR. LEARMONTH: Yeah.

MR. MEANEY: So I guess what happened in July, the next, I guess, I would say, external event that wouldn't have been planned when we embarked in March to do a June update, was that there was a number of the Canadian premiers came to Muskrat Falls site; notably minister Wynne from Ontario, Premier Davis would have

been up there and others. So because of the organization of that in the middle of July, having Ed do his update at site and coordinating media event around that, that was determined that that wasn't going to happen.

MR. LEARMONTH: Why? Why would it – why would a –

MR. MEANEY: I guess, in terms of –

MR. LEARMONTH: Just answer the question –

MR. MEANEY: Sure, in terms –

MR. LEARMONTH: – ask the question: Why would a meeting of Canadian premiers at the Muskrat Falls site have any bearing on the communication of information?

MR. MEANEY: That would be, you know, one of those – I think, one of those situations kind of like the event that I noted back in the earlier part of June – is having an announcement made by Nalcor and the CEO that costs are going up right around the same time as there is a political event going on up at Muskrat Falls to get – and I think there was discussions about possible partnerships or opportunities with Ontario – may not have gone over well.

MR. LEARMONTH: Okay, is that your – you just surmised that or did someone tell you that?

MR. MEANEY: No, and that's one, I guess, like the June 8 there was probably people like, you know, Mr. Martin, or others who could provide, you know, if that did in fact influence it. But that's something that I do know because I – what I do know is in conversation with Karen O'Neill – so who was trying to coordinate this – Ed's update at site – was that she did tell me that it couldn't happen in June – or sorry, in July – because this event was happening right in July. Karen advised me that that was something that bumped it from July.

So then we move into – now the plan is August. And the next couple of entries, I don't need to necessarily go through them all line by line but, basically, it shows the chronology through late July, early August, middle of August, that the

plan was to do a board meeting in – on the 20th of August, and then Canada –

MR. LEARMONTH: Okay, hold on now, just –

MR. MEANEY: Okay.

MR. LEARMONTH: – slow down a bit.

MR. MEANEY: Sure.

MR. LEARMONTH: So what heading are you under now?

MR. MEANEY: Sorry, I'm just kind of going through a couple of headings there, so –

MR. LEARMONTH: Okay, but what date are you on now?

MR. MEANEY: So I would start with the 24th of July 2015.

MR. LEARMONTH: Okay, so you're on – okay, you've gone and skipped through –

MR. MEANEY: Yeah, so we –

MR. LEARMONTH: Okay, now, just take –

MR. MEANEY: Yeah.

MR. LEARMONTH: – it easy.

MR. MEANEY: Sorry.

MR. LEARMONTH: Okay, now, August 13, so: Karen O'Neil sends an email to Ed Martin, Charles Bown, Gilbert Bennett, P. Harrington and J. Meaney with revised MF update schedule. What was the revised schedule at that point?

MR. MEANEY: So the revised schedule was – at that point in time the board meeting was going to be on the 20th of August, Canada would get updated the next day and then the public update would happen a few days later up at the Muskrat Falls site.

MR. LEARMONTH: Okay and what schedule update – what was the result of the – what was the new date that was selected?

MR. MEANEY: Sorry, what –

MR. LEARMONTH: Well, there was an update on schedule. Was there a new date for first power given?

MR. MEANEY: In – no, I think at that point in time it just would've been an update of the, you know, the 7.6 number. There wasn't going to be an update on schedule at that point in time.

UNIDENTIFIED MALE SPEAKER:
(Inaudible) the update.

MR. MEANEY: Yeah, that's right. Barry, this – or, Mr. Learmonth, this is the schedule for when the events were going to happen.

MR. LEARMONTH: Well, it says: Revised MF update schedule.

MR. MEANEY: Yeah, when I say – when Ed was going to give his update, the schedule for when Ed was going to give his update.

MR. LEARMONTH: Okay, so it's not a schedule update –

MR. MEANEY: No, no, sorry –

MR. LEARMONTH: – for Muskrat Falls.

MR. MEANEY: No, not a project schedule. No.

MR. LEARMONTH: But it doesn't say that.

MR. MEANEY: Yeah, my apologies. I was trying to say when – the schedule for his MF update.

MR. LEARMONTH: Okay.

MR. MEANEY: So at that point in time the meeting was – the board meeting was planned for the 20th of August and Canada and the IE notified on the 21st and then public update a couple of days later.

So shortly after that I had gotten an email; I guess an inquiry had come from Ed. He was looking for a reconciliation of the numbers, so trying to understand, you know, the 6.99 in June of 2014 to the 7.5 that we'd talked about in – earlier –

MR. LEARMONTH: Yeah.

MR. MEANEY: – in the spring.

MR. LEARMONTH: Hold on now, he was asking you for information on how that was calculated?

MR. MEANEY: I think at – is that email one of the exhibits? Because I think in here I just summarized the email.

MR. LEARMONTH: There's an email at tab 129 of volume 5, Exhibit P-02418.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

MR. MEANEY: No, it's not that one.

MR. LEARMONTH: Well, let's deal with that one now.

MR. MEANEY: Okay. It was one that had an attachment to it –

MR. LEARMONTH: Okay, well hold on, just like to deal with this one.

MR. MEANEY: Yeah.

MR. LEARMONTH: On page 1, it's Exhibit P-02418 and it's at tab 129.

MR. MEANEY: 129.

MR. LEARMONTH: This is June 22 so we're going back a little bit.

MR. MEANEY: Yeah, and that's – that – I – the email I was referring to was the one on August the 14th, 2015.

MR. LEARMONTH: Yeah.

MR. MEANEY: But that was a prior one.

MR. LEARMONTH: Yeah.

MS. O'BRIEN: Tab 169?

MR. LEARMONTH: No, the one I'm talking about is 129.

Okay, so it says: "He asked me" – I take it that's Ed, right? "I just spoke with Ed. He is prepping for discussion with Minister this evening. He asked me again about what was driving change from \$7.5 to \$7.6b." Would you have that information, as opposed to the project management team?

MR. MEANEY: Well, actually, if you look at the – I think, the chain of emails, I actually – I had to go back to the guys on the project management team to confirm what it was, and it was the LIL right-of-way clearing.

MR. LEARMONTH: Okay. So he went to you, rather than to the project management –?

MR. MEANEY: Yeah, yeah. Why he went to me in that instance, I can't recall, but he did. And I had to go back to the guys to confirm.

MR. LEARMONTH: Okay.

MR. MEANEY: We were – I think we were on the August 14 entry on page 4.

MR. LEARMONTH: Right.

MR. MEANEY: So there's an email, and I think this was one that we discussed in my interview so I'm thinking it might be – but anyways, it was a reconciliation of what all of the things that had changed from – on a one page – from 6.99 to 7.5 to 7.6 to 7.65, 'cause I believe he was getting prepped for the meeting that's the next entry there, August 18.

MR. LEARMONTH: Mm-hmm.

MR. MEANEY: So he was wanting to make sure he'd had a good handle on all the numbers and, when he went to speak with the premier and the minister, he could explain it all well. So he (inaudible) – that meeting –

MR. LEARMONTH: So August 18?

MR. MEANEY: I'm on August 18, yes.

MR. LEARMONTH: So this, once again, this information wasn't passed on to Canada and the independent engineer, right?

MR. MEANEY: Not at this point in time, no.

MR. LEARMONTH: Why not?

MR. MEANEY: Because that – we would've gotten the approved AFE and then we would've been giving them the update on August 21, which was just a couple of days later.

MR. LEARMONTH: So why do you update Government of Newfoundland and Labrador before there's a revised AFE but you don't update the Government of Canada?

MR. MEANEY: I think I mentioned this earlier, they're our shareholder so we give our shareholder an update.

MR. LEARMONTH: You give 'em an earlier look than the –

MR. MEANEY: As the –

MR. LEARMONTH: – guarantor?

MR. MEANEY: Yes, the shareholder kinda wants to know before the guarantor. So –

MR. LEARMONTH: Well, they can both know at the same time, though, can't they?

MR. MEANEY: The shareholder would want to know first.

MR. LEARMONTH: Why?

MR. MEANEY: I think that was – that – I guess they, as shareholder, don't want to be surprised. And when I say shareholder, I would say, you know, it would probably be – it would be primarily the folks in the premier's office and the –

MR. LEARMONTH: Yeah.

MR. MEANEY: – ministers. They get the first, you know, heads up.

MR. LEARMONTH: Yeah, but they don't like to be surprised, but neither does the Government of Canada like to be surprised, like they were when they got the 7.65 figure, do you agree?

MR. MEANEY: Yes, fair point.

MR. LEARMONTH: Yeah.

MR. MEANEY: So August 18, so at this point in time the plan was the boards were going to meet on the 20th, and then we were going to give Canada the update on the 21st. Ed and Gilbert went over, met with the premier and the ministers. The outcome of that –

MR. LEARMONTH: How do you know that? Did – were you there?

MR. MEANEY: I believe I have an email from – there's an email I have, and I don't know if it was I got an update from – I think Gilbert had given me an update and I had sent an email to Derrick and Auburn. I think that was how I identified that in my chronology.

MR. LEARMONTH: Okay.

MR. MEANEY: It may be – let's just see now if it's here.

Yeah, I think it was an email that I had. I don't ...

MR. LEARMONTH: Okay, carry on.

MR. MEANEY: Okay. So that meeting happened and as a result everything got pushed out. The – basically, the outcome was they were going to – based on the discussion with the province, the shareholder, it was determined that the meeting was going to be pushed out to September – the update, sorry – that Ed's update was going to be pushed out to September. So –

MR. LEARMONTH: Do you know why?

MR. MEANEY: I don't know why. I just know that in that discussion it was decided it was going to happen in September.

MR. LEARMONTH: Okay.

MR. MEANEY: Then come to August 20. So the plan had been up until, I guess, the day before that in that meeting we were going to give the board the update, and they were going to approve the revised AFE at that same point in time and then the next day we were going to update Canada. But because of what happened on August 18, we gave the update to the board, but the decision was made that the AFE approval was going to get pushed out to

September to coincide with the feedback that came out of the meeting with the premier and the minister.

MR. LEARMONTH: What was the feedback from the premier and the minister?

MR. MEANEY: That an update wasn't going to happen until September.

MR. LEARMONTH: So the government delayed the delivery of this information?

MR. MEANEY: I think in that situation it was a discussion with the government that delayed the meeting – or the update, sorry.

MR. LEARMONTH: Okay. And what do you base that information on?

MR. MEANEY: It was the email that I had that Ed and Gilbert went over and spoke with the premier and the minister, and out of that, the update got pushed out 'til September. I would've assumed that would've been based on feedback from the shareholder.

MR. LEARMONTH: Okay, can you – I don't think I have that email. Would you be able to give it to me when you –

MR. MEANEY: Yeah, we can get that one, no problem.

MR. LEARMONTH: Okay. I'll wait to receive it from you.

MR. MEANEY: So then, as I mentioned, the 20th of August the boards approved the – or sorry, the boards were given an update, so they were aware of the 7.65. There also would've been discussion – because as part of this update, I think, Ed wanted to start talking about rate mitigation and rate smoothing, and so that was part of the discussion. And then there would've been some update with the board on the Astaldi situation. But the revised AFE approval was going to get pushed out to September to coincide with when, you know, it was agreed with the province that an update would happen.

MR. LEARMONTH: Okay. So that – it was pushed out 'til September –

MR. MEANEY: Yeah –

MR. LEARMONTH: – because of the wishes of the province?

MR. MEANEY: With the – based on the discussion that Ed and Gilbert had with the premier, the outcome of that meeting was it was going to get pushed to September.

So the next entry –

MR. LEARMONTH: Okay, at this point – I mean, we're into September, early September – you must've been pretty concerned, I take it, about the fact that you hadn't been able – authorized to –

MR. MEANEY: Yeah, it –

MR. LEARMONTH: – to notify –

MR. MEANEY: – I think were we all –

MR. LEARMONTH: – to notify –

MR. MEANEY: – we were all –

MR. LEARMONTH: Wait 'til I finish.

MR. MEANEY: Sorry, yeah.

MR. LEARMONTH: You must've been concerned about the fact that you had not received permission from Ed Martin to communicate this information to Ottawa.

MR. MEANEY: Well, I –

MR. LEARMONTH: Do you agree?

MR. MEANEY: (Inaudible.)

MR. LEARMONTH: You were concerned?

MR. MEANEY: I think there was concern that it had dragged on as long as it had. I think what I would add in this case is I think the decision that bumped it from August to September may not have been – I think Ed's preference was to do it in August at that time, 'cause we had planned, you know, the 20th, do the board meeting and then, a week later, do the update. But the feedback from the shareholder who he reports

into was that it wasn't going to happen in August.

MR. LEARMONTH: So the direction or opinion of the shareholder had some effect on the date that this information was provided to the federal government, is that correct?

MR. MEANEY: Yes, that appears to be what the situation was.

MR. LEARMONTH: Okay.

MR. MEANEY: And –

MR. LEARMONTH: So if there was delay, part of the delay was caused by the Government of Newfoundland and Labrador?

MR. MEANEY: In this instance, it was very clear that that was the delay, yes.

MR. LEARMONTH: Okay.

MR. MEANEY: And I would guess that Mr. Martin could probably provide some commentary on that.

So on that – so the 20th of August we updated the board. On the 20th of August, 2015, the next construction report was issued. So the prior couple of months in April, May, June, July – as I noted a bit earlier in my document, the chronology on the CH0007 contract was pretty consistent, in terms of the way it was being described. And then for the first time, basically, if you looked at the – there was a key milestones schedule in the construction report – all the key milestones that had to do with the powerhouse where it said under review, under review, under review. And then this was the commentary below the milestones chart in terms of what was going on with the CH0007 contract. And that was the language right out of the construction report, which Canada and the IE would've seen.

Then we move forward to September. So the boards finally approved the AFE. So Muskrat approved their component on the 8th of September and then the two other entities, the LIL entity and the LTA entity, approved it on the 21st. There was a bit of delay there between the two and I think it may have been because of certain people's availability.

And then on the 21st – so we come to that same – the same day, the 21st. Again, I had sent an email to Derrick and Auburn. I think I noted in the email that I had gotten an update from Gilbert that the meeting that he and Ed had gone over to Cabinet did not go well. And, as a result, the cost update that was then planned for – I guess it would've been a couple of days after the AFE – was going to be approved or was –

MR. LEARMONTH: There was – what do you mean it didn't go well? What do you mean it didn't go well?

MR. MEANEY: I think it wasn't received well. And there was a – you know, I think that there was unhappiness from folks in Cabinet. There was also – as I noted here I think there was some concerns about being out and talking about rate mitigation as part of that update and then was – expressed from government.

And there had also been some concerns expressed about the timing of Nalcor's update going out relative to when the Oversight Committee's report was going out. And I think what had happened was the Oversight Committee was supposed to come out around that time with a report and what they didn't want happening was Ed come out with his update and then the Oversight Committee – their report kind of come out right after that and not, you know, seem like it was lagging as opposed to, I guess, leading, which is what the objective was for the OC.

So at that same time – so we're now at the next event there in my chronology. So September 21 to the 24, so at that point in time Canada and the IE, again, were in town for a site visit. And it was our intent that as part of them being there in town we were going to give them the update face to face. And if you go back to Alison's letter of the 16th of October, up on the first page, you know, she does note that "should have been identified on a month to month basis ... and the recently held site visits."

MR. LEARMONTH: Right.

MR. MEANEY: So I think, you know, they were a bit surprised that, you know, they got the update on the 28th. The week before they had been in St. John's with us face to face, why

didn't you guys provide the update then? And as I noted here, that was the plan but because of the outcome of the Cabinet meeting, it got put on hold. And so as I note here in my email –

MR. LEARMONTH: Well, okay, why would the outcome of the Cabinet meeting have anything to do on your – with your reporting requirements to Canada?

MR. MEANEY: Well, that would have been – the timing of that would have been tied. So we would have done the AFE approval, we would have been given the update to Canada and then shortly thereafter that, the public update was going to happen. Because the public update got pushed out, things were in limbo in terms of being able to talk to Canada, so I had the –

MR. LEARMONTH: Well, hold on, if I can just clarify.

MR. MEANEY: Sure.

MR. LEARMONTH: The reason you didn't talk to Canada is because Ed Martin wouldn't let you at that point. Is that correct?

MR. MEANEY: Well, at that point in time, he would have been given, I'll say, instructions from the shareholder to put a hold on him giving an update.

MR. LEARMONTH: To Canada?

MR. MEANEY: No, to giving his update, I guess, what would have been his public update.

MR. LEARMONTH: Yeah.

MR. MEANEY: And I guess because of that, the feedback was, well, hang off on updating Canada.

MR. LEARMONTH: Are you suggesting that the Government of Newfoundland at any time directly or indirectly gave directions to keep Canada in the dark?

MR. MEANEY: No, I don't think that was – I'm not implying that. I wouldn't imply that. I just think that the timing of when we were able to give updates was influenced by the discussion

that was going on between our CEO and the shareholder.

MR. LEARMONTH: So if you'd received permission from Mr. Martin to –

MR. MEANEY: At –

MR. LEARMONTH: – listen to the question.

MR. MEANEY: Yes, sorry.

MR. LEARMONTH: If you had received permission from Mr. Martin, say, on September 22, 2015, you would have advised the independent engineer on the – at the meeting on site at September 23?

MR. MEANEY: Yes, if we had been given the green light on that day we would have been giving the update.

MR. LEARMONTH: Do you understand why this could be very concerning to Canada? I mean, do you understand it?

MR. MEANEY: Yeah, I think, you know, they were concerned that: Folks, we were in town the week beforehand –

MR. LEARMONTH: Yeah.

MR. MEANEY: – why didn't you tell us then? Yeah and they – that was the point that they raised in their letter and, obviously –

MR. LEARMONTH: But do you agree with that as being a legitimate point?

MR. MEANEY: That when we were there in town, you didn't give us an update?

MR. LEARMONTH: Yeah, you knew but you didn't give us an update. Do you agree that that's a legitimate point?

MR. MEANEY: Yeah, I can understand how they would have been, you know, upset that we were there face to face with you, why would – why didn't you tell us.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

MR. MEANEY: And – you know, so I had to scramble and reach out to Anoop Kapoor, who was kind of the lead on the Canada side, and say: Listen, Anoop, I'm really sorry. We were gonna give you that update tomorrow. Something's changed with Ed's schedule – and I didn't get into, kind of, the full details as to what it was, but it was based on the Cabinet meeting – and said I'm gonna have to get back to you on a revised date for an update.

So then we ended up landing on –

MR. LEARMONTH: So did – when you talked to Anoop, did you let him know that you knew the figure but the only reason you couldn't give it was that Ed didn't let you? Did you –

MR. MEANEY: I don't think I would – I wouldn't have said that to Anoop. I just –

MR. LEARMONTH: Why not?

MR. MEANEY: I just would've said because of the – you know, that the – as I said in my – it was actually an email that I sent to Anoop that, because of the change in Ed's schedule in terms of the update, I'm gonna have to delay my update to you and I'll have to get back to you on that. There was, you know, there was a lot – there was kind of a lot going on, I guess, in terms of that day, and all the plans that had been made to do updates of folks all kinda had to get changed on short notice – like (inaudible) that day.

So we landed on a revised date of the 20th of September. That was obviously – it finally happened. We gave Canada the update. The next day, Ed gave the public update from Muskrat Falls site. And then on the 16th of October, we received this letter, which we've been talking about. We met with Canada in Ottawa on the –

MR. LEARMONTH: Okay, well, just before we leave that.

MR. MEANEY: Sure.

MR. LEARMONTH: You wrote this document, did you, that we're –

MR. MEANEY: Yes.

MR. LEARMONTH: – referring to, P-0241[sp. P-02412] – you say: “Letter received from CBB on behalf of Canada expressing concerns over cost overruns that were reported to Canada/IE during Sep 28 update It proposed changes to reporting”

I suggest to you that the letter – the purpose of the letter was not to suggest changes to the reporting; it was to express great concern by Canada that you had not followed existing reporting protocols.

MR. MEANEY: I – my read of the letter – and this was my read of the letter – was that they had expressed concerns about how things unfolded with the timing of the update and – on September 28 – and, you know, I guess the notice or – that they got – or didn't get ahead of that, that they also wanted a change to the protocol going forward and they wanted to have a discussion on what contingencies and amounts were included in the 7.65 – and that's that –

MR. LEARMONTH: Yeah.

MR. MEANEY: – paragraph on page 4 – and that if we weren't prepared to have this discussion with them in short order, then obviously they would exercise their rights, which are noted at the end of the letter.

MR. LEARMONTH: Yeah.

So what I suggested – the main thrust of the letter is that they are very unhappy and concerned that you had not followed reporting requirements prior to October 2015. Do you disagree with that? You don't think that that was the main thrust of the letter?

MR. MEANEY: No, I think –

MR. LEARMONTH: That it was just to describe like –

MR. MEANEY: Yeah.

MR. LEARMONTH: – we wanted to talk about the future.

MR. MEANEY: Now I –

MR. LEARMONTH: I think they were talking about the past if you read the letter.

MR. MEANEY: I think that was – Mr. Learmonth, that certainly was covered and that was, you know, the first paragraph there.

MR. LEARMONTH: Yeah.

MR. MEANEY: So I –

MR. LEARMONTH: Yes, it was – yeah.

MR. MEANEY: Yes, that was the first paragraph. But so they talked about what had transpired up to that point and then what needed to change going forward. So I think both those points were covered in the letter.

MR. LEARMONTH: And what had to change? Was it you were now required to meet your reporting requirements?

MR. MEANEY: That they wanted more frequent reporting in terms of calls. That they wanted to get things back on track in terms of submission of monthly contractor reports. That they wanted to meet face to face on a –

MR. LEARMONTH: Yeah.

MR. MEANEY: – an agreed-to basis.

MR. LEARMONTH: Yeah.

MR. MEANEY: And that – at least the initial proposal was, they wanted Nik to, you know, to be at the table with the Nalcor team in terms of commercial negotiations with major contractors. And then the last point was they wanted to have a discussion on what was included in the 7.65 and what were the contingencies relating to I guess the powerhouse and HVDC as they have noted there.

MR. LEARMONTH: Yeah.

So what had fallen off the tracks? Their reporting requirements, correct? You used the word fallen off the tracks.

MR. MEANEY: Yeah.

So I think there was a couple things that had fallen off the tracks. One was the timeliness of our processes in terms of – from the time the CEO gave the go on the AFE to when we got that approved and gave Canada the update. And as I tried to explain in my chronology, there was a number of factors – many of which unexpected – that influenced that. And then as a result, our ability to have more timely reporting to them got set back.

And then – so then we got to the meeting on the 30th of October, and we spent all day in Ottawa with these folks. We went through the various items in the letter. There was some, you know, draft documents went back and forth in terms of what this revised communication protocol was gonna look like.

Finally, on the 20th of November, our legal counsel, Mr. Martis, sent what was the memorialization of the communication guideline off to Alison. And on the 30th of November, she responded that she confirmed on behalf of her client that they were in agreement with these guidelines. So that was, I guess, the agreement on the change in the process going forward.

The other piece that was important in that meeting was to address what was their point in – on the last page about contingencies and estimates relating to, in particular, the powerhouse that were in the number that was gonna be used for the COREA certificate in December of 2015. And so that was where we had a lot of discussion about what the situation was with Astaldi, the range of potential outcomes in terms of what the cost impact might be.

And it was agreed that – everyone knew at that point in time, for purposes of the COREA certificate that was gonna come up in just a couple of months, that there wasn't enough clarity to put in, I guess what you'd call, a reasonable estimate at that point in time. So this was where the discussion on, you know, the ongoing commercial negotiations caveat started.

MR. LEARMONTH: That – the ongoing – the caveat applies only to the Astaldi contract, is that correct?

MR. MEANEY: No. It would've – it applied to – and I think we talked about this, Mr. Learmonth, in my interview. It was in relation to the Astaldi contract, first and foremost, and then the knock-on effect that the settlement of that contract would have on the overall project schedule –

MR. LEARMONTH: Right.

MR. MEANEY: – and other contractors. So it's –

MR. LEARMONTH: Yeah.

MR. MEANEY: – I would say it was not just the CH0007 contract, it was the whole impact relating to that situation.

MR. LEARMONTH: Yeah, but it's all based on the CH0007 –

MR. MEANEY: Yeah, that would've been the driver.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yes, that's fair.

MR. LEARMONTH: All right.

MR. MEANEY: And then – so just moving ahead in the chronology. And we're almost done.

So on the – on December 14, 2015, we issued the COREA certificate. So the calculation of the COREA, at that point in time, would've been based on the \$7.65 billion number. So a payment would've been made in December of 2015 on that basis. And it had the caveat where basically all the parties recognized that this didn't – this amount didn't recognize the full impact of what the Astaldi situation – the knock-on was going to be. Excuse me. And that once greater clarity was known on that that would get reflected in a subsequent COREA payment.

And of course the discussions with Astaldi carried on through '15 into '16 and it wasn't until the – I'm trying to think when it was – it would've been the 16th of December, maybe, 2016 that we signed the completion contract with Astaldi. So if you look at the COREA

certificate for December 2016, which would've been issued just a little bit before that, that caveat was there because at the time the COREA certificate was issued, we hadn't executed the completion contract with Astaldi.

MR. LEARMONTH: All right, okay.

MR. MEANEY: So that is my chronology. And hopefully it was helpful, Commissioner.

MR. LEARMONTH: Hmm. Okay.

Okay, (inaudible) tab 85, and that's Exhibit 02381.

And I just wanted you to confirm that – the document speaks for itself. I'm not gonna go through it in any –

MR. MEANEY: Sorry, Mr. Learmonth, which book are we in now?

MR. LEARMONTH: Okay, we're in book 4.

MR. MEANEY: Four.

MR. LEARMONTH: And it's Exhibit 02381, tab 85.

MR. MEANEY: Zero – yes. So that would've been the LIL COREA certificate. And then there would've been an equivalent Muskrat LTA one.

MR. LEARMONTH: And then 86, tab 86, that's P-02382, is another Overruns Certificate dated December 14, 2015, correct?

MR. MEANEY: Yeah, so the first one would've been the IE's Confirmation Certificate.

MR. LEARMONTH: Right.

MR. MEANEY: And then that one was the one that Labrador-Island Link issued. That's right.

MR. LEARMONTH: Okay. And then at tab 87, P-02383, that's the *MF/LTA 2015 IE Cost Overruns Confirmation Certificate*?

MR. MEANEY: So that's the IE's confirmation, yes.

MR. LEARMONTH: And then –

MR. MEANEY: Same as –

MR. LEARMONTH: – the next tab, 88, Exhibit P-01913. That’s the *MF/LTA 2015 Cost Overruns Certificate* dated December 14?

MR. MEANEY: Right.

MR. LEARMONTH: And these are just the method that you have to follow to deal with those cost overruns.

MR. MEANEY: That’s the – in accordance with the declaration of certificates under the project finance agreements.

MR. LEARMONTH: Okay. All right.

Now, if you go to tab 91, Exhibit P-02385, it’s an email from you to Stephen Pellerin. And it’s a response to an email from Paul Harrington to Julia Mullaley, February 26, 2016.

What role was Julia Mullaley playing at this time?

MR. MEANEY: So, at that point in time, was she the – she would’ve been either the clerk or the chair of the Oversight Committee. And I’m not sure –

MR. LEARMONTH: Well, both, wouldn’t she?

MR. MEANEY: Could’ve been, yeah, could’ve been.

MR. LEARMONTH: Okay.

MR. MEANEY: And – yeah. So, yeah, so at that point in time – yeah, maybe she did serve both those roles.

MR. LEARMONTH: Right.

Tab 93 is Exhibit P-02388. This is at the time when Mr. Martin was – well, there was a change in the CEO and you had communications with Mr. Argirov it appears where Mr. Argirov is suggesting that he didn’t think it was a good idea; that there was risk involved.

MR. MEANEY: I think at that point in time – so March 19, when was it that – I thought it was a bit latter, was it in April?

MR. LEARMONTH: Well, if you look at page – exhibit – this Exhibit P-02388, if you go to page 1. There’s an email from you to Lance Clarke, Saturday, March 19. You say: “While I didn’t specifically put it in my note, he was very adamant that in his mind GNL should not be giving any consideration to changing out Nalcor/LCP management. So on that basis, I would think that’s a fair assumption.”

MR. MEANEY: Yeah.

MR. LEARMONTH: Was that based on a telephone conversation with Mr. Argirov?

MR. MEANEY: Yes, it looks like that might’ve been what it was.

MR. LEARMONTH: Yeah.

MR. MEANEY: I think, Mr. Learmonth, that might’ve been the time – and I ask – I think Mr. Martin, if I recall Mr. Martin departed from Nalcor in April.

MR. LEARMONTH: Right.

MR. MEANEY: And I think that would’ve been in response to in the Budget Speech, which had happened in March, a comment had been made by – I think it was Minister Bennett at the time –

MR. LEARMONTH: Right.

MR. MEANEY: – that there had been a lack of confidence in Nalcor’s leadership, so that probably was what sparked Nik calling.

MR. LEARMONTH: All right.

The – if you go to tab 94, which is Exhibit P-02387.

MR. MEANEY: Yes.

MR. LEARMONTH: Says, “EY report on ice.” This is March 19, 2016. This is at P-02387.

What – can you fill me in a little bit on this?

MR. MEANEY: So there was a – Ernst & Young were working on a report that I guess was supposed to be issued sometime around then and then it got put on hold and then it got subsequently issued. I don't – it might've been later in March or in April it got issued.

MR. LEARMONTH: Okay. And was there a conflict between Nalcor and EY in terms of their investigative work?

MR. MEANEY: I think there were some challenges. I think one of the challenges that was had then was they didn't believe that negotiating with Astaldi was – you know, to come up with a new commercial terms was the right approach. That they, you know, we should basically tell Astaldi to go finish the work and suck it up in terms of that was going to be their cost. And I think that was kind of one of the issues, that there was a bit of, I guess, difference of opinion. And that was why – that exhibit we looked at earlier, Mr. Learmonth, where someone had asked us: was there anything from Nik's certificate where he gave some commentary as to what he thought was the right approach that Nalcor was proposing. So that was what that was about.

And then, obviously, we ended up negotiating with Astaldi and then the completion contract was signed in 2016. And I do believe that in the testimony of the gentleman from Grant Thornton a little bit earlier in Phase 2 that that question was posed to him and I thought he had said that he saw that that was, given the circumstances, that was the – a reasonable approach as well.

MR. LEARMONTH: Okay.

The next document is Exhibit P-02389 and that's at tab 95.

MR. MEANEY: Five – okay.

MR. LEARMONTH: This is a letter from Ed – from Gilbert Bennett –

MR. MEANEY: Right.

MR. LEARMONTH: – to Julia Mullaley, clerk of the Executive Council.

MR. MEANEY: Right.

MR. LEARMONTH: April 12, 2016.

MR. MEANEY: Right. So this would've been – I guess it would've been the EY report, that I referred to earlier, got issued and then this would've been Nalcor's response to it.

MR. LEARMONTH: Yeah.

But in the third paragraph on page 1, Mr. Bennett writes: "The management of project cost and schedule is a critical and ongoing activity. LCMC is actively managing cost, schedule and related risks. LCMC had recognized that the September 2015 cost update was outdated, and actions to update the project cost and schedule forecasts, including a mid-project risk assessment, were initiated and underway as part of ongoing project management activities prior to the start"

So this is an acknowledgement, in some form, that the September 2015 cost update was outdated. Do you agree?

MR. MEANEY: I guess, yeah. At that point in time – so it would've been April – I'm guessing there must have been some commentary in the EY report on that and –

MR. LEARMONTH: Yeah.

MR. MEANEY: – this was a response to it.

MR. LEARMONTH: But Mr. Bennett is acknowledging that, isn't he?

MR. MEANEY: That's what it looks like, yes.

MR. LEARMONTH: Yeah.

And do you acknowledge it too? Would you agree with Mr. Bennett's statement at the bottom of that – page 1 of that document, P-02389?

MR. MEANEY: At that point in time, that would've been a fair statement because that was, I guess, back to what was the ongoing commercial negotiation caveat that we put in the COREA certificate, that it was known that there was gonna be a cost impact above 7.65, but it – what that was going to be was still under determination.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah.

MR. LEARMONTH: But do you agree with the statement that: “LCMC had recognized that the September 2015 cost update was outdated, and actions to update the project cost and schedule forecasts, including a mid-project risk assessment, were initiated and underway as part of ongoing project management activities prior to the start of the EY review.”

Do you agree with that statement? And if you do, say yes. If you don’t, tell me what you think is wrong with it.

MR. MEANEY: I think it was a response to a comment in the EY report.

MR. LEARMONTH: Yeah.

MR. MEANEY: And if I could – if – is the EY report here, in the thing?

MR. LEARMONTH: No.

MR. MEANEY: So I’m only saying that I guess it is. If in the EY report the date said that as of April 2016 that they felt the cost update was outdated, then Gilbert was acknowledging that.

MR. LEARMONTH: Okay but do you – okay, well, let’s break it down. Do you agree with the first part which says: LCMC had recognized that the September 2015 cost update was outdated? Do you agree with that statement? And that’s the one we were talking about that caused the concern with Canada, right?

MR. MEANEY: I don’t – and this why I had mentioned the, you know, having seen the EY report, because I don’t know if he was referring back to the update that was given to Canada in the fall of 2015, or if this was in response to – as an example and I don’t have the ... If EY had said in their report as of March 2016 we feel that the cost update of 7.65 is outdated, that may be what that is acknowledging. I just don’t have the benefit of the EY report to say what specifically it’s referring to in terms of at what point in time.

MR. LEARMONTH: Okay.

Okay, well, that’s your answer. Yeah.

Paragraph – tab 96, Exhibit 02390, this is some information about the – I guess it’s some – April 26, 2016, it’s 02390. There was consideration about cancelling the whole project?

MR. MEANEY: So at this point in time, yes, there – I guess this would have come out shortly after Ernst & Young’s report. There was discussions going on or I guess comments made by the government at the time that, you know, they were looking at that as, you know, what the ramifications would be, whether or not that was an option.

Mr. Marshall, April 26 – I guess he would have just come on board. Do we know the date that Mr. Marshall joined Nalcor? I think it was right around that time.

MR. LEARMONTH: I think it was in April 2016.

MR. MEANEY: Yeah, so I guess it would have been right around that time. And I think one of the questions that had been posed to him by the new government – sorry, by the government was: Can we cancel this project? Is that an option?

So what I was asked to do, along with input from our legal counsels and other folks within the company, was to put together the memo that’s the attachment to this email that outlined what are all the considerations. Basically, what was asked for from government was a briefing note, like, in the format that they would often see, to say, you know, here’s the considerations in terms of cancellation. And then also attached to that memo would have been legal opinions which –

MR. LEARMONTH: Yeah.

MR. MEANEY: – are from McInnes Cooper and Faskens.

MR. LEARMONTH: Okay.

Now, there’s a document – tab 97, P-02391. It’s called: Muskrat Falls Astaldi Commercial Discussion Update.

MR. MEANEY: Yes.

MR. LEARMONTH: At whose direction would this report have been prepared and what was the purpose of it?

MR. MEANEY: So I'm just trying to see – so I had – I think this was – it was an email that was in the set of documents that was provided to me before my interview. I recall seeing this one. And it was – I think it was a draft – a first cut at a couple of key points that we wanted to put in an Astaldi update deck. So I had kind of taken a cut at it and I think I sent it on to a gentleman named Steve Goulding who was being tasked with compiling a more fulsome presentation.

So I think – if I could just read, I think this may have been – being prepared for an update discussion with Stan. That would be my ... But this was just a, you know, I guess a first cut at a couple of slides that would eventually go into what was the final briefing deck that was provided to Mr. Marshall.

MR. LEARMONTH: Okay.

Tab 98, this is Exhibit P-02392. Oh no, actually, we've gone through that probably one time too many already, so I'm just going to skip over that.

MR. MEANEY: Okay.

MR. LEARMONTH: Tab 99 – no, that's –

MR. MEANEY: All part of the same –

MR. LEARMONTH: That's just a reference – that's P-02307. That's just a reference to the assignment of the contract to Argirov Engineering.

MR. MEANEY: That's right.

MR. LEARMONTH: Okay.

Tab 100, that's P-02393. That's another one of those cost overrun certificates which you've described the nature of them. And that's just a standard form, is that right?

MR. MEANEY: That's right, yes.

MR. LEARMONTH: Yeah.

And this is December 13, 2006, so what was the AFE in existence at that time?

MR. MEANEY: At that point in time the AFE would have –

MR. LEARMONTH: 9.1 or something?

MR. MEANEY: Yeah with a total of 9.1. And then it was shortly after this we signed the completion contract with Astaldi. And as part of that we had to revise the Muskrat Falls AFE and that brought the total number up to around 9.4.

MR. LEARMONTH: Oh I think the completion contract with Astaldi was signed December 1, 2016.

MR. MEANEY: That might have been the effective date. I think it was actually signed a little bit later and I only have – I have a specific recollection of the day being over at Torbay Road on a Friday in a snowstorm. So that's why – and I had somewhere to be that night and that's why I recall it was later than December 1.

MR. LEARMONTH: Okay.

Well, it doesn't really make much difference, I don't think, whether it's December 1 or ...

MR. MEANEY: No and like I said, I think that was the effective date.

MR. LEARMONTH: Okay.

Tab 104, it says Exhibit P-02393.

MR. MEANEY: Right.

MR. LEARMONTH: This is a long email which you prepared and sent to Karen O'Neill, Deanne Fisher and others at Nalcor about the LIL?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay and it's a fairly detailed description. What would have caused you to write this –

MR. MEANEY: I think there was –

MR. LEARMONTH: – type of detail –

MR. MEANEY: There was –

MR. LEARMONTH: – on March 7, 2017?

MR. MEANEY: Sure. I think what had happened was – yeah, there, you can see at the bottom of the chain an email had come from Michael Connors at NTV to our coms folks. And they had tried to do a first cut of some key messages and then I had –

UNIDENTIFIED MALE SPEAKER: We don't seem to have the right Exhibit, Mr. Learmonth.

MR. LEARMONTH: That's 02395.

MR. MEANEY: 02395, yes.

So I had sent a follow-on email to Karen's first cut at the explanation with some additional information.

MR. LEARMONTH: All right.

Now, what is the present ownership of units in the LIL? We've heard different information. It was supposed to be 51 – at some point I think it was 51 per cent for Nalcor, 49 per cent for –

MR. MEANEY: Yeah, I –

MR. LEARMONTH: – Emera and then we – there's been public information – I don't know if it's right or not – that it changed very much in favour of Emera, correct?

MR. MEANEY: Yeah –

MR. LEARMONTH: That there were some changes?

MR. MEANEY: Yeah, this – I think this was around – currently it's around the 51/49, Mr. Learmonth.

MR. LEARMONTH: It is?

MR. MEANEY: Yes, yeah.

That number there would've been – and I think I explained it in the email that the number

would've increased at that point in time as a result of – with the second federal loan guarantee, financing the additional costs in the Labrador-Island Link would've been – that would've been funded by Nalcor (inaudible) funded by debt instead. So it brings – sorry – it brings the – it adjusted the equity percentages.

MR. LEARMONTH: All right. So what are – the equity percentages are now 51 per cent?

MR. MEANEY: I think it's currently around – I'd have to confirm but I think currently it's around 51 Nalcor, 49 Emera.

MR. LEARMONTH: Yeah.

Because there was some public reports, I think from the government, that at some point it was 58 per cent.

MR. MEANEY: Yeah, I think this was –

MR. LEARMONTH: Yeah.

MR. MEANEY: – this was that time period.

MR. LEARMONTH: Okay, very good.

MR. MEANEY: Yeah.

MR. LEARMONTH: Okay.

Well, you'd know that, wouldn't you, more than anyone else?

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah, all right.

Exhibit – tab 105, Exhibit P-02396, page 1. At the bottom it says: "FLG2 Agreement and COREA & PFE Acknowledgement." What's the connection between the FLG2 agreement and the COREA and PFE acknowledgment? And exactly – the agreement actually – the Acknowledgement- Amended and Restated Muskrat/LTA Project is on page 5 of Exhibit 023 –

MR. MEANEY: Right. So as –

MR. LEARMONTH: – 96.

MR. MEANEY: Yeah.

So as part of the FLG2 arrangement, there would've been a restructuring of the COREA. And while those discussions were going on – so that would've been through the latter part of 2016. And then this agreement was signed in March 30, 2017. So during that December 2016 period, it was agreed to between Canada and Newfoundland and Nalcor that there was gonna be a freeze on the COREA payment in that year.

MR. LEARMONTH: Yeah, because the province didn't have the money to put it up, is that right?

MR. MEANEY: Yeah.

Well, I guess one of the big drivers of the FLG2 was, because of the cost increase to 9.1, there would've had to have been a much more significant equity contribution made by the province. And by negotiating the federal loan guarantee and – the second federal loan guarantee – and issuing the \$2.9 billion of additional FLG2 debt in May of 2017, that reduced the amount of equity that the province was going to have to put in to the tune of around \$2.7 billion, and I think that was covered off in – the gentleman from Grant Thornton who did a report in Phase 1, Brockway.

MR. LEARMONTH: Mr. Brockway.

MR. MEANEY: Mr. Brockway. So that was talked about in his report.

MR. LEARMONTH: That's right. But at this point the Province of Newfoundland was strapped for cash, is that correct?

MR. MEANEY: Yeah, I mean, that was one of the – in terms of one of the primary drivers of FLG2, it was –

MR. LEARMONTH: Yeah.

MR. MEANEY: – the government-to-government discussion that, you know, Newfoundland's in tough fiscal situation, now we've got this added cost increase, how are we gonna resolve something here.

MR. LEARMONTH: And the poor fiscal situation was caused or contributed to by the cost overruns for Muskrat Falls Project?

MR. MEANEY: I – if – so I guess I'll give my perspective on that and – if you look at – and I do recall there was a report recently issued by the Auditor General. And they looked at the factors that had driven the increased levels of debt in Newfoundland over the past (inaudible) five, six years, whatever it was. And they – the conclusion was actually the biggest single contributor to that was operating deficits – so annual operating deficits of the province. So that would be expenditures exceeding revenues. The Muskrat Falls equity requirements that had to be provided by the province, they were not included in that number; they're not part of operating deficits. So I will say in terms of the province's challenging fiscal situation in 2016, I think the drivers would have been oil prices went, you know, took a tank in terms of a major revenue source for the province and, you know, spending was in excess of revenues, and that was driving deficits.

MR. LEARMONTH: Yeah. So you're saying that the Muskrat Falls cost overruns had nothing to do with the dire fiscal situation the province was in in 2016. I mean, the province was making increased equity contributions, how could that not be a factor?

MR. MEANEY: It was – Mr. Learmonth, I guess my point was it was part of what was impacting the province fiscal situation.

MR. LEARMONTH: Right.

MR. MEANEY: The contributions that they had to provide for Muskrat Falls was not the biggest driver of the province's fiscal situation.

MR. LEARMONTH: Yeah, but my question was, did it cause or contribute to? And I guess what you're saying, it contributed to the –

MR. MEANEY: It would've been –

MR. LEARMONTH: – (inaudible) fiscal (inaudible).

MR. MEANEY: – yeah, it would've been one of –

MR. LEARMONTH: Okay.

MR. MEANEY: – number of factors. That’s right.

MR. LEARMONTH: Okay, fine.

And, just so I understand, I understand that the Government of Canada didn’t charge any fee for the original \$5 million loan guarantee.

MR. MEANEY: That’s right.

MR. LEARMONTH: But that for the \$2.9 billion guarantee, the second guarantee –

MR. MEANEY: Yes.

MR. LEARMONTH: – there was a fee assessed of –

MR. MEANEY: Yes.

MR. LEARMONTH: – point five per cent per annum.

MR. MEANEY: Yeah, it’s a point five per cent guarantee fee on the \$2.9 billion of debt.

MR. LEARMONTH: Yeah.

MR. MEANEY: So, I guess in the early years that’s about \$14 million a year. And then as the debt gets repaid it’s a declining balance.

MR. LEARMONTH: But it’s \$14 million for the first year, of course.

MR. MEANEY: Yeah, until you start repaying the debt it’s a flat about \$14 million and then it declines over time.

MR. LEARMONTH: Okay.

Tab 106, it’s a Lower Churchill Project financial close completion guarantees COREA, May 2018 – excuse me. Why would this be prepared in May 2018?

=

MR. MEANEY: I think this was a package –

MR. LEARMONTH: Excuse (inaudible) it’s P-01819.

MR. MEANEY: This was a part of the package that was prepared by the project management team that, I guess, they would’ve prepared for purposes of the Inquiry.

MR. LEARMONTH: So why would they prepare something on COREA? I mean that (inaudible).

MR. MEANEY: Yeah, and I mean they had, I guess, it was nine or 10 different packages in – or parts in their package – and this was one that they felt needed to be part of the story.

MR. LEARMONTH: Okay, but it’s a bit unusual for the project management team to prepare something on –

MR. MEANEY: Yeah, yeah.

MR. LEARMONTH: – COREA, do you agree?

MR. MEANEY: Yes, you know, it – typically – so yes, I mean, yeah, this was something that was prepared by the project management team.

MR. LEARMONTH: Okay.

The – and on page 4 there’s a description of, well, I guess it’s the project management team’s description of the COREA.

MR. MEANEY: Yes.

MR. LEARMONTH: How that operates.

MR. MEANEY: Yes.

MR. LEARMONTH: Yeah.

MR. MEANEY: I think I had given them some input on this. They had asked for my comments on it, so I had –

MR. LEARMONTH: Yeah.

MR. MEANEY: – to leave some input on it.

MR. LEARMONTH: I think in, at Exhibit P-02397, page 1.

MR. MEANEY: Ah, yeah, the next page.

MR. LEARMONTH: At the bottom you're talking about May 23, 2018 email to Ron Power –

MR. MEANEY: Yes.

MR. LEARMONTH: – Lance Clarke.

MR. MEANEY: Yeah, (inaudible).

MR. LEARMONTH: So this is what you're talking about?

MR. MEANEY: Yes, yeah.

MR. LEARMONTH: So you gave some direction to them on –

MR. MEANEY: (Inaudible) they had given me a draft of those slides and I had given them some feedback in terms of what I thought of what they, how they conveyed it.

MR. LEARMONTH: Yeah.

Okay. Now, tab 108, Exhibit P-02398. It's an email from you to Derrick Sturge about dealing with fixed and firm contract costs.

MR. MEANEY: Yes.

MR. LEARMONTH: Okay.

And this was in response to a Grant Thornton question, which is found on page 3 of Exhibit P-02398.

MR. MEANEY: Right.

MR. LEARMONTH: It says, "In the presentation provided to Grant Thornton on May 30 ..., " – 2011 [sp. 2018] – "Financial Close / Completion ... Corea" – noted – "it was understood" – that – "Canada and the IE that only fixed and firm costs were to be considered in the overrun calculation of COREA. Can you please provide evidence that supports" –

MR. MEANEY: Right.

MR. LEARMONTH: – "that Canada was aware and understood this?"

MR. MEANEY: So that was a – sorry, go ahead, Mr. Learmonth. I didn't mean to interrupt.

MR. LEARMONTH: Did you prepare the response?

MR. MEANEY: So this was a response to Grant Thornton – yes, I had prepared that response and the request was can you provide evidence, so what the evidence I had provided was those – the COREA certificates we were talking about earlier that had the ongoing commercial negotiation caveat in it.

MR. LEARMONTH: Okay. This email was dated October 23, 2010. Did any information come to your attention that would cause you to change this answer or this response?

MR. MEANEY: I think in terms of the question, to say can you provide evidence that supports a statement of an understanding of the link between capital costs and the COREA? This was my response, to say this is the – this is what the evidence that I have that supports that – where there was a link.

MR. LEARMONTH: Yeah, but did – have you come across any information that would cause you to change that response if you were writing it now?

MR. MEANEY: No, because that was – in terms of having, you know, evidence I can provide, it would – it still would be those COREA certificates.

MR. LEARMONTH: You wouldn't change it now if you were writing it now.

MR. MEANEY: No, I think, in terms of responding to the question, I would keep the same response.

MR. LEARMONTH: The next exhibit is at tab 111, Exhibit P-02400. Now, this is a –

MR. MEANEY: Mr. Learmonth, which –

MR. LEARMONTH: 02400 –

MR. MEANEY: Okay, tab –

MR. LEARMONTH: It's tab 111.

MR. MEANEY: Tab 111. Yes, right.

MR. LEARMONTH: Okay.

You're saying – this is to Canada and others. Argirov gets this, anyway, and so do others: Hello folks, according to provisions of the MLT – MF/LTA and LIL project finance agreements, please find attached the respective construction reports.

Now, do you – was – were these construction reports that you were now sending to Canada on a monthly basis, correct?

MR. MEANEY: This would have been the first one, yes.

MR. LEARMONTH: Yeah.

And did you send these reports to either the Oversight Committee or directly to the Department of Natural Resources?

MR. MEANEY: What ended up happening was we would issue these to the folks from Canada and the IE, and then those same reports would get posted in the data room for the Oversight Committee folks to get access.

MR. LEARMONTH: Okay so all these construction reports would be available, or access would be given to the Oversight Committee?

MR. MEANEY: Yeah.

They went into the Oversight Committee data room folder, yes.

MR. LEARMONTH: Including this – well this one, December 30, 2013, would have been –

MR. MEANEY: I –

MR. LEARMONTH: – before the Oversight Committee was –

MR. MEANEY: Yeah, I just – that's why I paused there for a moment. I'd have to go back and check when it was that we – I guess when the Oversight Committee was established and –

MR. LEARMONTH: Well you don't have to check because it was March 2014. So –

MR. MEANEY: Okay.

MR. LEARMONTH: – this is – yeah.

MR. MEANEY: Now, Mr. Learmonth, it may have been – and I'd have to confirm – even though it was March of 2014 that they were established, we may have put in the data room, you know, the ones that preceded that. That's just –

MR. LEARMONTH: Okay.

MR. MEANEY: – the point I was going to make.

MR. LEARMONTH: Well it's – okay that's fair enough.

Now this construction report, the form of this construction report – Exhibit 02400, page 2, dated December 20. Now this is a – there's a declaration. It's a certification provided by Gilbert Bennett on the bottom of page 1 and it's a certification on a number of points.

Is – was this the format that was – has been followed since the – your first reporting to the independent engineer?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay so it's a – basically a sworn statement.

MR. MEANEY: It's a standard form report that he would be making representations on, yes.

MR. LEARMONTH: Yeah.

Well, at the top of page 3, it says – actually number 3, at the top of page 3: "Attached hereto as Schedule 'B' is a true and accurate analysis of the Cost to Complete as at the end of the Applicable Month." So this is a, you know, a sworn – or I don't know if it's sworn – but it's a certainly a certification.

So if this form of report was used say in 2015, how could Mr. Bennett sign the certificate saying that: "Attached hereto as Schedule 'B' is

a true and accurate analysis of the Cost to Complete as at the end of the Applicable Month?”

In other words, assuming that these construction reports were sent, say, in March 2015, how is it that Mr. Bennett could send such a certificate, if he did, with that information in it?

MR. MEANEY: Maybe that’s a question for Mr. Bennett.

MR. LEARMONTH: No but, you know, you went on at length – which is your right – but you went on at length about you didn’t have to report anything unless there was a change to the AFE, or you said that at one point. I know you changed your evidence but there’s no reference here to an AFE. This has to do with cost to complete.

MR. MEANEY: So at this point in time, the – I guess the budget or the AFE would have been the project budget, which would have, between the reports, totalled up to the 6.531.

MR. LEARMONTH: Yeah. But if – you know, in February of 2015 you knew that there were – there was a new cost estimate of, what, it was 7.5 or 7.6, correct?

MR. MEANEY: Sorry –

MR. LEARMONTH: Well, starting –

MR. MEANEY: – time frame?

MR. LEARMONTH: – in February 2015, based on your –

MR. MEANEY: Yeah.

MR. LEARMONTH: – chronology –

MR. MEANEY: Yes.

MR. LEARMONTH: – you knew in – as early as February 2015 that there were cost increases, correct?

MR. MEANEY: Yeah, the PMT would have been an update that yes, there was a cost –

MR. LEARMONTH: And Mr. Bennett is the vice-president, right?

MR. MEANEY: Yes.

MR. LEARMONTH: Okay. So with this language, “Attached hereto as Schedule ‘B’ is a true and accurate analysis of the Cost to Complete as at the end of the Applicable Month,” there’s no reference there to an AFE, is there?

MR. MEANEY: Not in that statement, no.

MR. LEARMONTH: No. And this is the form that was used throughout, including in 2015. Is that correct?

MR. MEANEY: Yes. Some of the – if you look at the 20 – I guess – 15 version, some of the notes that would have been below the charts, in terms of what AFE or project budget it was anchored to, would be different from what’s here now.

MR. LEARMONTH: Yeah. But paragraph 3 says: “Attached hereto as Schedule ‘B’ is a true and accurate analysis of the Cost to Complete as of the end of the Applicable Month.” Correct?

And that’s followed by: “Attached hereto as Schedule ‘C’ is a true and accurate analysis of the Cost Variances ... at the end of the Applicable Month, with a narrative explanation as to any variances from the original Project Budget.” Right?

MR. MEANEY: Correct.

MR. LEARMONTH: Okay. Now, as early as February 2015, you and Mr. Bennett, I take it, was aware of the fact that there was a – the project management team was saying it was \$7.5 billion, correct?

MR. MEANEY: They had given it – they had presented a proposal to the CEO for an AFE revision of \$7.5 billion.

MR. LEARMONTH: Yeah. And up until September – or perhaps October – 2015 you were sticking with the budget of 6.99. Is that correct?

MR. MEANEY: That would have been the information presented in the reports at that time.

MR. LEARMONTH: Yeah, but you knew that that wasn't accurate, in terms of the cost to complete.

MR. MEANEY: We knew the number needed to be updated.

MR. LEARMONTH: But it wasn't updated, up until October 2015.

MR. MEANEY: That's right.

MR. LEARMONTH: So I suggest to you that's a – I don't want you to take this in a legal sense, but that's clearly a misrepresentation then. Do you agree?

MR. MEANEY: I'd wanna defer to the legal counsel in terms of that.

MR. LEARMONTH: Okay, very well.

Do you agree that it's an inaccurate statement?

MR. MEANEY: Commissioner, it's 5 o'clock.

MR. LEARMONTH: No, I want an answer.

THE COMMISSIONER: I don't think he should be sitting on that question over the weekend. I think we should (inaudible) –

MR. MEANEY: No, and I'm only raising it because I think earlier on we went through a lot of iterations on this point and I don't –

THE COMMISSIONER: This – so this question's (inaudible) –

MR. LEARMONTH: It's a different document.

THE COMMISSIONER: Excuse me just for a second.

So this question's a little different.

MR. MEANEY: Okay.

THE COMMISSIONER: Okay.

So you have a report that you say was pretty consistent all the way through. The report says in paragraph 3: "Attached hereto as Schedule 'B' is a true and accurate analysis of the Cost to Complete as at the end of the Applicable Month." Paragraph 4 says: "Attached hereto as Schedule 'C' is a true and accurate analysis of the Cost Variances as at the end of the Applicable Month, with a narrative explanation as to any variances from the original Project Budget."

So in February, you already have stated, in 2015 you were aware that the budget had gone up to 7.5 – or the cost was going up to 7.5, yet you can – as you said earlier, you stuck to the 6.99 or the – that's the way it stayed until later in October. So the question asked, were these statements accurate?

MR. MEANEY: So –

THE COMMISSIONER: And I think that's an easy question to answer.

MR. MEANEY: Sure, yeah.

So if you look at the way cost to complete is calculated in the report, it would be the difference between final forecast costs and incurred cost project to date. So in terms of – it's an accurate calculation of cost to complete based on that final forecast cost figure, but I guess as you – as we've discussed, Mr. Learmonth, at that point in time, we recognized that the final forecast cost needed to be updated.

MR. LEARMONTH: Yeah.

MR. MEANEY: Yeah.

MR. LEARMONTH: So do you agree – do you think that this was accurate information if this type of report was used say in March, April, May 2015 and it contained a 6.99 figure and you knew that that was off? Do you think it was a fair description or an accurate presentation of information to Canada? And to the lenders, by the way, Toronto-Dominion Bank. It's not only Canada – it's not only the independent engineer; it's the bank.

MR. MEANEY: So that – just for clarification, Toronto-Dominion Bank in this arrangement are

not the lender. Toronto-Dominion Bank are the collateral agent so that –

MR. LEARMONTH: Okay.

Well – okay, I'll accept that. I was wrong there, but please answer the question.

MR. MEANEY: Sure. So I guess in terms of how we updated final forecast cost in the construction reports and the, how cost to complete would be determined based on that, if you – if someone was to agree to our process in terms of what was the triggers to update it, I'm – yeah, I'm –

MR. LEARMONTH: I'm not talking about your processes.

MR. MEANEY: Okay.

MR. LEARMONTH: I'm talking about what you reported to the independent engineer.

MR. MEANEY: So if you were to put aside our processes for a moment in terms of how we updated final forecast cost in the construction reports –

MR. LEARMONTH: Please do.

MR. MEANEY: Okay. And then you were to say what was your forecast at that point in time –

MR. LEARMONTH: Not the AFE, the forecast.

MR. MEANEY: No, no. Yeah, I know.

And if you were to say that the final forecast cost doesn't have to be linked to the AFE, then one could make the argument that this would not be an accurate calculation of the cost to complete.

MR. LEARMONTH: Okay, I'll put this to you. I suggest to you that you've qualified that, that it's a plain and obvious case of providing the independent engineer and the collateral agent with inaccurate information. Now, we can stay here all night and talk about that; I'll give you one more opportunity – and it's now – to agree with that or disagree with it.

And your answer will be on the record so you may want to think about your answer.

MR. MEANEY: Okay.

Mr. Learmonth, would I be able to take a moment to look at the definition of cost to complete in the Master Definitions Agreement? 'Cause that is a defined term. I'd like to read that as part of my answer, if that'd be okay.

I know we looked at that earlier on. Oh, sorry.

Do you recall what tab that was in?

MR. LEARMONTH: Is that the master definition –

MS. O'BRIEN: I think –

MR. MEANEY: Yes.

MS. O'BRIEN: – it's Exhibit P-02352 –

MR. LEARMONTH: Okay.

MS. O'BRIEN: – and –

THE COMMISSIONER: Tab 52, book 3.

MR. MEANEY: Tab 52, book 3.

Tab 52, book 3. I got that, right?

THE COMMISSIONER: No, I don't think that's right.

MR. MEANEY: Okay, yeah.

I think – is that –?

THE COMMISSIONER: No, that's not it.

MS. O'BRIEN: Volume 2? I think it would be volume 2, tab 41.

MR. MEANEY: Tab 41, okay.

MS. O'BRIEN: And it's page 11, Madam Clerk.

At the very bottom of the page.

MR. MEANEY: Yes, yeah.

MR. LEARMONTH: Have you found it?

MR. MEANEY: Yes, I just – there was another definition in costs to complete that I wanted to –

MR. LEARMONTH: Yup.

MR. MEANEY: – I wanted to review.

MR. LEARMONTH: Take your time.

MR. MEANEY: So if you were to, I guess, put aside, as we talked about, the processes by which we updated FFC –

MR. LEARMONTH: I've already told you four times to put that aside.

MR. MEANEY: – then based on that, I guess that statement wouldn't be accurate.

MR. LEARMONTH: Thank you very much. Can we adjourn now?

THE COMMISSIONER: Yes.

MR. LEARMONTH: I'm almost finished but not completely.

THE COMMISSIONER: All right. Yes. I'm sorry we went a little longer because I promised everyone we were going to be out by 5:00.

So we'll adjourn now until Monday morning and we'll start at 08:30 with Mr. Meaney on Monday morning.

CLERK: All rise.

This Commission is concluded for the day.