



## COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT

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Transcript | Phase 2

Volume 39

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*Commissioner: Honourable Justice Richard LeBlanc*

Wednesday

22 May 2019

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

This Commission of Inquiry is now open.

The Honorable Justice Richard LeBlanc  
presiding as Commissioner.

Please be seated.

**THE COMMISSIONER:** All right.

All right, good morning.

Ms. Muzychka, when you're ready.

And, Mr. Power, you remain affirmed at this time.

**MR. POWER:** Okay, thank you.

**MS. MUZYCHKA:** Good morning,  
Commissioner, Mr. Power.

**MR. POWER:** Good morning.

**MS. MUZYCHKA:** I just want to return to a question that we asked you yesterday with respect to your use of electronic media: texting, emailing, that sort of thing.

**MR. POWER:** Yes.

**MS. MUZYCHKA:** And I just want to ask Madam Clerk to bring up Exhibit 03719, please. Okay.

Yesterday, I asked you if you messaged from your iPhone other than texts, or from an iPad, and you said that you did not. Is that correct?

**MR. POWER:** I use my iPhone whenever that is.

**MS. MUZYCHKA:** Sorry?

**MR. POWER:** I have an iPhone.

**MS. MUZYCHKA:** Yes.

**MR. POWER:** I have it here.

**MS. MUZYCHKA:** Yes.

**MR. POWER:** And I use that.

**MS. MUZYCHKA:** And you said – but you don't use an iPad?

**MR. POWER:** My iPad? I don't believe I've ever used the iPad to send messages.

**MS. MUZYCHKA:** Okay. Well, let's –

**MR. POWER:** I use it to send emails.

**MS. MUZYCHKA:** That's a message, though.

**MR. POWER:** Okay.

**MS. MUZYCHKA:** So you do use your iPad for messaging.

**MR. POWER:** I don't think I do. But, anyway, something here shows that I did.

**MS. MUZYCHKA:** Okay.

Now, if we could just scroll up to the bottom of the – or scroll down to the bottom of the exhibit. Just bring that down – or bring that up a little bit to the middle. Yeah, this is a message from you to Paul Harrington.

**MR. POWER:** So that's an email from my iPad.

**MS. MUZYCHKA:** Yes, it's a message, isn't it? Is an email a message?

**MR. POWER:** Okay, all right. I was confusing email with the word message. Yes, I use the iPad a lot to send emails.

**MS. MUZYCHKA:** Okay.

I just also want to ask you about your email addresses and how many of those that you use. Because if you look at the top of that email message – just scroll up to the top – you'll see your email address is [ronpower@lowerchurchillproject.ca](mailto:ronpower@lowerchurchillproject.ca).

**MR. POWER:** Yes.

**MS. MUZYCHKA:** And then if we carry on down we get Ron Power/NLHydro@NLHydro.

**MR. POWER:** So that's in the Hydro system that comes up. I know when I send an email I

just send it and I guess whatever happens over at Hydro puts that email address there.

**MS. MUZYCHKA:** Do you have any other email addresses that you use for messaging or emailing?

**MR. POWER:** So the only other email I have is my personal email.

**MS. MUZYCHKA:** And you use that for business purposes?

**MR. POWER:** Occasionally. I mean – so I have a cellphone and if I’m sending myself reminders, like, I might have sent reminders last night for today for something. If I’m home at the house I’ll send myself an email with a reminder from my home – from my iPhone, my personal iPhone.

**MS. MUZYCHKA:** Right. But in terms of your business phone or your business email address, it’s the Lower Churchill Project? Is that the email address you use or –

**MR. POWER:** Yeah, so email –

**MS. MUZYCHKA:** – is there another one?

**MR. POWER:** Yeah, so when we set up the project, we set up a common email address for everyone on the team, which is, you know, @lowerchurchillproject.ca. So that’s the primary email address.

**MS. MUZYCHKA:** Do you have a Hydro address?

**MR. POWER:** Yeah, that’s in the Hydro system.

**MS. MUZYCHKA:** But is it – does it have Hydro.ca on it?

**MR. POWER:** No, I think it’s –

**MS. MUZYCHKA:** Or NLHydro?

**MR. POWER:** Yeah, I think it’s the one you see there on the screen.

**MS. MUZYCHKA:** So is that a separate email address or are you saying it’s the same email address?

**MR. POWER:** So if I send – if someone sends an email to that one –

**MS. MUZYCHKA:** To which one?

**MR. POWER:** – to the one you see there, NLHydro@NLHydro, that comes to my work computer. And if someone sends it to @lowerchurchillproject.ca it comes to my work computer. So I think if you send it to either one it comes to my computer.

**MS. MUZYCHKA:** Okay but they are separate addresses.

**MR. POWER:** Yeah, I guess they are but I think they trigger both.

**MS. MUZYCHKA:** Okay what –

**MR. POWER:** And I don’t know how this stuff works.

**MS. MUZYCHKA:** Okay, but when people ask you for your email, what do you give them?

**MR. POWER:** I give them that [ronpower@lowerchurchillproject.ca](mailto:ronpower@lowerchurchillproject.ca).

**MS. MUZYCHKA:** And not your Hydro address or your personal address?

**MR. POWER:** No, I don’t even remember that one. I mean, you know, it’s @lowerchurchillproject.ca is – that’s what’s on my business card and that’s what’s on my email signature.

**MS. MUZYCHKA:** All right.

**MR. POWER:**  
[ronpower@lowerchurchillproject.ca](mailto:ronpower@lowerchurchillproject.ca).

**MS. MUZYCHKA:** And on your phone you receive those emails?

**MR. POWER:** No.

**MS. MUZYCHKA:** You don’t get any Hydro or Lower Churchill emails on your iPhone?

**MR. POWER:** No. On the iPad that I had with me, I do –

**MS. MUZYCHKA:** Yes.

**MR. POWER:** – because Nalcor owns the iPad. It's a Nalcor iPad.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** But on my phone – no, I used to two or three years ago but I don't now. I took it all off when this ATIPP business and everything started.

**MS. MUZYCHKA:** When it started? When ATIPP –

**MR. POWER:** When this ATIPP – ATIPP, you know, this Access to Information legislation was paid – was passed, I just took anything on my own iPhone, I just took the Nalcor system off it.

**MS. MUZYCHKA:** Why would you do that? Do you think because it was on your personal phone that it would be exempt from disclosure?

**MR. POWER:** I just separated my personal from Nalcor's.

**MS. MUZYCHKA:** Okay but you do use your text feature on your cellphone to text your work colleagues.

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

**MS. MUZYCHKA:** So that would be a business purpose.

**MR. POWER:** Yeah, I guess it would. Yeah.

**MS. MUZYCHKA:** And emails to and from your colleagues or to and from individuals in relation to the project would be business emails.

**MR. POWER:** Yeah, so most of, you know – 99 per cent of my emails are from the iPad – the company iPad. I use my phone for convenience, mostly email to myself.

**MS. MUZYCHKA:** Okay.

All right then, let's move on to –

**MR. POWER:** So, excuse me, if I can just continue. So a lot of people on the project have two iPhones: they have a personal iPhone and a company iPhone. But the company iPhones that Nalcor uses are Blackberries, so I didn't want to have an iPhone and a BlackBerry because I can't figure it out, so I just got an iPhone, my own phone.

**MS. MUZYCHKA:** Okay.

Now, if we can bring up Exhibit P-00498 and this is in Ron Power binder 2 at tab 55. Bring that down to the bottom. Okay, all right, this is an email that goes back to 2012 – summer of August 2012.

And at the beginning of this email chain at page 3 – here we go. No, I think we can come down a bit – page 3. It's not really the beginning of the email chain. Actually –

**UNIDENTIFIED MALE SPEAKER:**  
(Inaudible.)

**MS. MUZYCHKA:** So just if you can explain to me, Mr. Power, what's going on in this email. It's – an Independent Project Review team is being formed and we're looking at members who would be asked to participate. And on the screen there now we have a number of individuals who are being put forward in various capacities.

And if we look at your email, which is at the bottom of page 1, just right – no, no, come back down again, please. So this is –

**CLERK:** (Inaudible.)

**MS. MUZYCHKA:** Yeah, so we'll just start there. So Ron Power to – Ron Power – let's just keep scrolling down – and sent from your iPhone. And then we have a forwarded messages – forwarded message. Okay, continue.

All right, I'm sorry; I need to look at it on paper. Looking at it on the screen is confusing. All right, if we go to page 1 and then we scroll down, please. All right, there we go.

So here is a message from you, Mr. Power, to Paul Harrington and copied to members of the project management team and others. And you

say: “Paul – I have reservations regarding the Government rep. To date, we have had some issues with provincial government staffers who, for whatever reason, are not aligned with our project delivery objectives. Suggest the any involvement of government be kept minimal. Perhaps HSE and Quality are better looked” after “by someone else??”

And then Mr. Harrington responds, just scroll up to the top: “Agreed. Gov person is dropped.”

So, first of all, explain what the team function was and then why the government person was dropped from the roster.

**MR. POWER:** Yeah, so this was in 2012. So I think what was going on at that – or at that time was the Independent Project Review – the pre-sanction Independent Project Review team was being put together. It was being led by Derek Owen. And Derek Owen, on page 3 there, sent a list of suggested people to be on that team.

And then that list was sent by Paul Harrington to me as well as others and then I responded to Paul Harrington with what you see there on page 1.

**MS. MUZYCHKA:** Right.

So, the purpose of the Independent Project Review team was to have, I guess, an independent voice or contribution to the decisions that were being made pre-sanction?

**MR. POWER:** So, I think the Independent Project Review – yeah, it was to review, I think, more the state of readiness to move through the sanction decision.

**MS. MUZYCHKA:** Okay.

And why was it that you were resistant to having government involvement in this team?

**MR. POWER:** So, as I indicated to Ms. O’Brien, and I think to you, in the interviews, I don’t remember, particularly – the particular issue that I’m referring to in this email here. In general, as I indicated, though, I don’t think, you know, people from provincial government would have the requisite experience to assess quality and even HSE.

Now, Ms. O’Brien pointed out, well, perhaps government reps would have the requisite experience to, you know, assess the regulatory aspects and, you know, I said she’s right. But, otherwise, no, I don’t remember.

Maybe I had some issues when we were doing the Strait of Belle Isle work with permitting, but I really couldn’t – I can’t answer that.

**MS. MUZYCHKA:** Well, at this point, you had indicated that you didn’t – you thought that any involvement of government should be kept minimal. So, you know, it’s not necessarily, you know, with HSE or – it –

**MR. POWER:** Fair enough.

**MS. MUZYCHKA:** – there’s a sense there, you know, that you want to keep the government at arm’s-length, in terms of the review of the project.

**MR. POWER:** Yeah. Anyway, I may – I must’ve had some issues with dealing with the provincial government before that time.

**MS. MUZYCHKA:** Right.

**MR. POWER:** But I don’t remember what it was.

**MS. MUZYCHKA:** Okay. ‘Cause surely the government would be able to offer expertise or knowledge in relation to health and safety issues and regulatory environment, Aboriginal issues, environmental regulation –

**MR. POWER:** Regulatory and Aboriginal, health and safety, you know – health and safety systems for a megaproject, I’m not sure a government staffer would have that experience.

**MS. MUZYCHKA:** Well, I’m not sure that all the other individuals would have megaproject experience either, but, in any case –

**MR. POWER:** One thing of interest that I’d like to point out. If you go to page 2, at the top of the page, my email address there is ronpower@nalconenergy.com.

**MS. MUZYCHKA:** Right, another one.

**MR. POWER:** So, there's actually three over there in the Nalcor system, and I don't know how they work. But there's three, you know, you type either one of those three, the email will come to my computer over there.

**MS. MUZYCHKA:** Okay.

All right, I want to ask you now about Ed Bush. We spoke briefly about him yesterday, and I understand he was the project controls manager that you hired sometime in August 2013.

**MR. POWER:** Yeah.

So, and as I indicated in the discussions – so when we awarded the agreement for EPCM services to SNC-Lavalin, the individual that was identified in the key personnel section of that contract, as to project controls manager who we interviewed during the proposal period, was an individual named Philip Guselle.

So, when we awarded the agreement and signed it off on February in 2011, he never showed up. So, the project manager – the project controls manager that SNC proposed in their proposal, who was very experienced and Jason interviewed him, he never showed up.

**MS. MUZYCHKA:** But this is Serge Guerette, isn't it?

**MR. POWER:** No, it's Philip Guselle.

**MS. MUZYCHKA:** Okay. It's a different name than we had located in our records.

**MR. POWER:** Yeah, so I'll get to Serge, if I can continue.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** So, Philip Guselle never showed up, so an individual from the SNC Montreal office, André St-Jean, he came down for a couple months, and then he left. And then SNC went on the street with an advertisement, an ad, one of the ones I showed you a couple of days ago, for a project controls manager, and, eventually, after some time, an individual called Stan Wynne was brought on the project through SNC as the project controls manager.

Now, I don't know if Stan came in response to that ad or if he came from somewhere else in SNC, I don't remember. So, Stan was there for a while, four or five months or something, and he got sick and he left. And then SNC provided another resource from – another person from Montreal, an individual named – excuse me – Mahmoud Berjaoui, and he was kind of there part time. There was some drama going on with the Montreal corporate office, and eventually they yanked Mahmoud out –

**MS. MUZYCHKA:** Okay.

But the question, really, just was whether or not Ed Bush was the project controls manager that you hired in 2013. And, you said, yes, you had.

**MR. POWER:** Well, it was.

So, in 2013, we had gone, with SNC, we had gone through 2½ years, and during that time there was like four project controls managers. The last one that SNC provided on the project was an individual called Serge Guerette.

**MS. MUZYCHKA:** Right.

**MR. POWER:** There was performance issues with Serge, and in the record somewhere there's an email somewhere from me to Normand to say that in agreement with what occurred in the SNC steering committee meeting, that Serge would be de-mobilized from the project.

So, the steering committee meeting, where it was agreed in that steering committee meeting that Serge would be demobilized, that was attended by Paul Harrington, Gilbert Bennett and Lance Clarke. And on the SNC side that was attended by Joe Salim, Patrick Lamarre, I think, and Marie-Claude Dumas from what I remember.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** But there was a steering – an SNC steering committee.

**MS. MUZYCHKA:** Right, so there was an opening and you hired Ed Bush.

**MR. POWER:** There had been – yeah, there was a 2½-year gap. So, regarding Ed Bush, yes, I hired Ed Bush.

**MS. MUZYCHKA:** Okay.

How – did you know Ed Bush prior to hiring him for the project?

**MR. POWER:** Yeah.

So Ed did work terms with ShawMont Limited when I was with ShawMont. And when I went out to the Paradise River hydro project in – partway through that project, in 1988, Ed graduated from university and I hired Ed on. And Ed came out to Paradise River and – as a construction engineer with ShawMont, who participated with me in the construction of that hydroelectric development.

**MS. MUZYCHKA:** So –

**MR. POWER:** And after that –

**MS. MUZYCHKA:** – you had worked with him in that one occasion or had you had further contact with him?

**MR. POWER:** So I worked with him then and then Ed continued on and he supervised the construction of two or three transmission lines for Newfoundland and Labrador Hydro. Then Ed went – I was keeping in touch with Ed during this time. Then he went on and he – with a company called RPA and he project managed a hydroelectric development out in Grand Falls.

And then Ed went on to – spent almost five years on the Hibernia project's civil work, the site development and the early days of the gravity-based structure. So, during that time, I was communicating occasionally with Ed.

**MS. MUZYCHKA:** Were you friends?

**MR. POWER:** We were acquaintances on the Paradise River project but after that, no, we weren't friends. We never socialized. I just knew where Ed was.

**MS. MUZYCHKA:** You would stay in communication, email back and forth –

**MR. POWER:** No, really I'd see Ed every now and then if he was around. But, no I never socialized with Ed. I never with communicated with Ed. I don't think we had emails in those days.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** So then Ed went off the radar, he went away. And when I came on this project, the Lower Churchill Project, I was trying to recruit people who I knew were very talented. And I went on the computer one day and I found Ed Bush's name. He was with a company called, at that time, RPX – no, PMX, sorry, in Toronto, which is a niche project management company that Ed and some other people put together. And they were doing project management for, you know, different projects across Canada.

**MS. MUZYCHKA:** And so they were a recruitment agency, weren't they?

**MR. POWER:** No, no, it's a project management company.

**MS. MUZYCHKA:** Project management.

**MR. POWER:** Yeah, a niche project management company, PMX. They were, yeah, a company, you know, like Hatch is a company, like SNC is a company, like Stantec is a company. Well, PMX was a company smaller than either one of those but, yeah, a company who did project management work.

**MS. MUZYCHKA:** Okay.

But then you hired, Sir, Ed Bush from PMX?

**MR. POWER:** Yeah, so Ed happened to be in St. John's one time and I hooked up with Ed over the computer. And I met with him with Jason and I enticed – I told Ed that I was on the Lower Churchill Project. And I got him interested and told him we were trying to recruit a project controls manager, we'd been trying to get one for three years. And other positions that we couldn't fill, like, contract administrators for site in particular, we couldn't get them. We were advertising continuously for three years.

And so we went to Toronto, Jason Kean and I, with our org chart, and met with Ed's other

people in that PMX company. We told them what we were looking for and then, eventually, through the jigs and the reels, Ed agreed to come on the project in the role of project controls manager. Which he did and he steadied the ship, and it's been steady ever since and I was glad to get him.

**MS. MUZYCHKA:** Now, Ed Bush is part owner or owner of PMX, isn't he?

**MR. POWER:** He's one of the partners. There was four people – partners in that company.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** And Ed was one of them, yes.

**MS. MUZYCHKA:** And so was this a competitive hiring process in terms of bringing Ed on board?

**MR. POWER:** Well, it was in that we were recruiting for a project controls manager and contract administrators for three years continuously.

**MS. MUZYCHKA:** Okay but you did have people filling the capacity over the years. You had Serge Guerette that you were replacing but you didn't advertise.

**MR. POWER:** Project controls was never – Jason was doing most of the project controls work. There was a lot of issues with Serge's performance and production of deliverables. And before Serge, you know, we had Ken McClintock filling in for a few months; we had the other three individuals I mentioned for three months. So, basically, we never had a project controls – an effective functioning project controls manager up to that time and we only achieved that when Ed Bush joined the project.

**MS. MUZYCHKA:** All right, well, let's look at Exhibit P-03616; it's in your binder at tab 1, Ron Power binder. So this is an email and it's dated August 2013. There's an email exchange with respect to the meeting of Mr. Bush and talking – just following up from a meeting that you and Jason had with respect to PMX supporting the Lower Churchill Project via staff augmentation services. And then there's an

attachment of current organizational charts and so on.

So I get the sense that PMX is an agency that you went to because you knew Mr. Bush and that they also provided a service – a staffing service, an agency where you could find engineers or people in the project management industry.

**MR. POWER:** So PMX is not an agency.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** It's a niche project management company and they provide people. So with projects – this is my understanding now of how PMX operated. If there's projects happening and companies want a project controls group to come in and do, you know, the cost management for them or the schedule management, PMX will get involved in those projects.

**MS. MUZYCHKA:** Okay, so let's just look ahead at tab 2 which is Exhibit 03617, book 2. And this is the letter from PMX and it's addressed to you – or to Jason Kean on September 27, 2013. And it starts: "Dear Jason,

"Further to our recent discussions we are pleased to provide you with our proposal for the services of a Project Controls Manager as part of the Lower Churchill Project – Project Delivery Team."

And then he has description of what the project – or the particular project is about. And then he captions the next paragraph with:

**"Nominated Personnel"**

"We propose to provide the services of Mr. Ed Bush ... as our nominee for the position of Project Controls Manager for the Lower Churchill Project" and then it goes on to talk about his experience.

And then it says: "In addition, we are pleased to offer the services of Mr. Sevag Kupelian ... in an advisory and support capacity to the Project Controls Manager." And his descriptions and then they outline the fees and disbursements of –



associated with that and ask whether that's considered satisfactory.

So, you know, it's Mr. Bush putting himself forward in his capacity as the PMX principal, as well as another individual, as opposed to you hiring Mr. Bush in his own personal capacity.

**MR. POWER:** So we requested Ed Bush to give us a proposal for his services because we wanted him on the Lower Churchill Project because SNC-Lavalin could not provide a project controls manager and we couldn't recruit one for three years. So we asked Ed to do this.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** And as I indicated before, Ms. Muzychka, our –

**MS. MUZYCHKA:** Continue.

**MR. POWER:** Our internal – Nalcor's Internal Audit conducted a conflict of interest audit a few years back and PMX, as well as any other – oh sorry – other individuals that were recruited for the project were looked at from a conflict of interest perspective, and there is no conflict of interest.

We couldn't – we were recruiting continuously for three years for this key position of project controls manager. We couldn't get a person. And fortunately I knew Ed Bush and thankfully he agreed to come on this Lower Churchill Project. So we went and visited him and said Ed: We want to hire you and we'd like to get some contract administrators from you as well if you can help us because we can't get them. So he put in this proposal at our request.

**MS. MUZYCHKA:** Okay.

And did he – do you know if Mr. Bush's company received any headhunting incentives or benefits for making referrals for individuals to be hired by (inaudible) –?

**MR. POWER:** Not as far as I know. Obviously when Ed came on board and we paid Ed, the company made a profit from his services. That's the way the world works.

**MS. MUZYCHKA:** Yes. Okay.

Let's just look at 03616 again, which is the email from Jason Kean to Ed Bush and –

**MR. POWER:** That's tab 1, is it?

**MS. MUZYCHKA:** It is, yes.

And in the letter that Jason writes he also attaches a presentation that's dated August 20, and on page 3 of the presentation – if we could scroll down we'll see it.

**MR. POWER:** What red – what page is that? Page –

**MS. MUZYCHKA:** Yes, go to – so there's an organizational chart that's provided. And we can continue to scroll down. Okay, stop there.

And circled in red, it highlights the project controls manager position with Serge Guerette's name. That was the position that you were pitching to Mr. Bush. Is that correct?

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

**MS. MUZYCHKA:** Okay.

**MR. POWER:** And I think there's other positions circled in these org charts that we were trying to recruit, if memory serves me correctly.

**MS. MUZYCHKA:** Okay. So this is sometime on August 20 when you're writing to Mr. Bush.

And if we look at Exhibit 02636, and that's in your binder 1 at tab 57 – no, that's not correct.

**THE COMMISSIONER:** Book 2, I guess.

**MS. MUZYCHKA:** (Inaudible.)

**THE COMMISSIONER:** So we'll be looking at 02636?

**MS. MUZYCHKA:** 02636.

**THE COMMISSIONER:** Okay, yeah, that's tab 57 in your book 2.

**MS. MUZYCHKA:** Right.

And in that email, this is dated – if you look at the bottom of that page, you will see an email from you dated the 6th of –

**THE COMMISSIONER:** September 6, 2013.

**MS. MUZYCHKA:** Is that September 6? Yeah, September 6, you had written to Normand Béchard and you indicated that there was a steering committee meeting on August 28, 2013. That's eight days after Jason had approached Ed Bush about the position, and just advising that Mr. Guerette would be demobilized. So Mr. Guerette was still in the position and the decision hadn't been made to vacate his particular –

**MR. POWER:** So Mr. Guerette wasn't performing. The team was in disarray; it was dysfunctional. The deliverables required weren't being produced. So, you know, this steering committee meeting confirmed that Serge would be demobilized, but we were, before that, recruiting to try to get someone to come in who could manage project controls.

**MS. MUZYCHKA:** Right, so – but you had offered the position to Mr. Bush before Mr. Guerette had been –

**MR. POWER:** We had approached –

**MS. MUZYCHKA:** – the decision was made.

**MR. POWER:** We had approached Mr. Bush, yes, before that to see if he was interested. I don't know if we had any – if the contract with Ed Bush was inked by this time, but the plan was, yes, that we would change out Serge Guerette and replace him with a project controls manager who could meet the project's needs.

**MS. MUZYCHKA:** Right.

**MR. POWER:** And Serge was not meeting the project's needs.

**MS. MUZYCHKA:** But this is a position that SNC could have filled if –

**MR. POWER:** SNC –

**MS. MUZYCHKA:** – it had gone to them.

**MR. POWER:** – couldn't fill it for three years. That's the point.

**MS. MUZYCHKA:** No, but they did fill it. You just weren't happy with the current incumbent.

**MR. POWER:** They never filled it effectively. So the individual that was in the proposal, Philip Guselle, who would have filled this position, he never showed up. Then we went through a series of project – of SNC people, including – just be – including Serge, and project controls was not functioning as it needed to be for this Lower Churchill Project.

So Jason Kean, in amongst – in addition to doing everything else he was doing, was spending a lot of time guiding project controls for the project because SNC could not provide an effective project controls manager.

**MS. MUZYCHKA:** No, I understand –

**MR. POWER:** So we were desperate to get a project controls manager.

**MS. MUZYCHKA:** I understand. But I guess it's apparent that rather than go back to SNC and ask them for a replacement for Mr. Guerette, you went out to PMX and made an offer to Mr. Bush instead.

**MR. POWER:** Yeah, I agree we had – we had gone through four with SNC.

**MS. MUZYCHKA:** Okay, but ordinarily –

**MR. POWER:** So enough is enough.

**MS. MUZYCHKA:** Ordinarily this would've been something you would have gone to SNC for staffing.

**MR. POWER:** Well, SNC weren't successful in recruiting a project controls manager. We gave them three years.

**MS. MUZYCHKA:** But that was their job, right?

**MR. POWER:** So that's why we changed from the EPCM model to the integrated – fully integrated team model. Because SNC, even though they had great people on the project, they

could not bring in the horsepower needed for this megaproject. That's why we made that model change.

**MS. MUZYCHKA:** All right.

How many people did you hire through PMX?

**MR. POWER:** So we hired Ed Bush, project controls manager, and around the same time we hired two contract administrators from PMX because we were recruiting again for three years and we couldn't get site project administrators. Eventually we hired a planner through PMX, but that was part of a competitive process, an individual named Andrew Whitty. We hired Peter Tsekouras who – a construction manager, but at the time that was part of a competitive process because we were at the time interviewing other individuals from other companies, including an individual from Hatch that we were interested in.

So it was Ed Bush, two contract administrators, a planner, Peter Tsekouras and I think there might have been one other – whatever they called –

**MS. MUZYCHKA:** Okay, so it's five or six individuals.

**MR. POWER:** Yes.

**MS. MUZYCHKA:** All right.

**MR. POWER:** And we were glad to get them.

**MS. MUZYCHKA:** All right.

And I see from some of the documents that you were approving the contract renewal, so you were involved in their hiring and –

**MR. POWER:** Yeah, I do that. That's my job.

**MS. MUZYCHKA:** Okay.

And then if they were looking for an increase in their day rates or hourly rates –

**MR. POWER:** I'd consider that.

**MS. MUZYCHKA:** You'd consider it and it would be your decision to make.

**MR. POWER:** In general, yeah. Sometimes Paul Harrington got involved. I would, generally, work with the HR manager on, you know, those type of issues.

**MS. MUZYCHKA:** And you also recommended PMX for various other positions, as we just discussed. You had gone –

**MR. POWER:** Yes, we went –

**MS. MUZYCHKA:** – to them for others.

**MR. POWER:** – to PMX to get people and they provided them, yes.

**MS. MUZYCHKA:** Okay.

Was there any concern about a conflict of interest with you being the person approving the rates, and so on, given your relationship with Mr. Bush and your knowledge from past projects and –?

**MR. POWER:** No.

**MS. MUZYCHKA:** There was no issue from your perspective?

**MR. POWER:** No, this has all been looked at in this conflict of interest audit.

**MS. MUZYCHKA:** Okay. And –

**MR. POWER:** I hadn't spoken to Ed Bush in 15 years when I found him on the computer. So, I wasn't an acquaintance of Ed Bush, or a friend, or – Ed was someone I knew from a past life, and I knew he was good, and I found him and I brought him on the project.

**MS. MUZYCHKA:** Okay.

So, at P-03674, binder 1, Ron Power, tab 22.

This is the internal Nalcor audit from April 2018.

**THE COMMISSIONER:** What tab number again was that?

**MS. MUZYCHKA:** Twenty-two, Commissioner.

**THE COMMISSIONER:** Twenty-two

Thank you.

**MS. MUZYCHKA:** You provided us with this document.

**MR. POWER:** Yeah.

**MS. MUZYCHKA:** Why did you bring this to our attention?

**MR. POWER:** Because, I think, when I met with Ms. O'Brien, the first time, the subject – I must've known the subject of PMX was coming up, perhaps.

**MS. MUZYCHKA:** Okay.

And, so, the audit document was prepared in 2018, correct?

**MR. POWER:** I guess. Yeah, April 23, 2013.

**MS. MUZYCHKA:** And it was prepared by – who is the auditor, Julian Chafe? Is he an employee of Nalcor?

**MR. POWER:** Yes. So, Nalcor has an internal audit team led by an individual named – a manager name Jackie Borden. Her name is on page 2 there. I think the individual you just mentioned works for Jackie Borden.

So, yes, they are – they work for Nalcor.

**MS. MUZYCHKA:** All right.

And, again, this is done in 2018. Your hiring of Mr. Bush took place in 2013 and (inaudible).

**MR. POWER:** Yeah, the audit looked back.

**MS. MUZYCHKA:** So, this is a look-back audit, is it?

**MR. POWER:** Yes.

**MS. MUZYCHKA:** Okay.

And on page 3 of the audit agreement – or document: “The objective of the audit to ensure that the project management team has procedures in place for the effective

management of conflicts of interest .... This includes identifying conflicts of interest, maintaining a conflict of interest log, and establishing mitigation plans to address conflicts of interest.”

And “The scope of the audit will be focused on independent consultants comprising the senior management team.”

So, that would include someone like yourself?

**MR. POWER:** Yes.

**MS. MUZYCHKA:** And “The audit will consist of a review of policies/procedures for adequacy, as well as compliance testing.”

So, it appears that it's a policy procedure audit.

**MR. POWER:** It is, but –

**MS. MUZYCHKA:** And not –

**MR. POWER:** – this audit got into specific people.

So, I indicated when, I think, when I met with you last, that if you wanted to get more details on the audit, you talk to Jackie Borden, the manager.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** But it got into specific people.

**MS. MUZYCHKA:** But the audit doesn't specifically address the potential conflict of interest with Ed Bush and PMX. Is that correct?

**MR. POWER:** So, that was looked at in this audit. It's not recorded here, but that was part of the audit.

**MS. MUZYCHKA:** Yeah, but it's not referred to in the document.

**MR. POWER:** No, I don't see it.

**MS. MUZYCHKA:** Okay.

But your relationship with PMX was examined as part of the audit.

**MR. POWER:** I beg your pardon.

**MS. MUZYCHKA:** But your relationship with PMX was examined?

**MR. POWER:** From what I recall.

**MS. MUZYCHKA:** All right.

Let's look at page 6, Compliance Testing. It says: "In summary" – the last paragraph, under that category – "In summary, several instances of potential conflict of interest were identified during the execution of the audit program. These were discussed with LCP Management and appeared to be adequately mitigated given the measures currently in place and when accounting for the lack of formal, detailed COI procedure."

So, it would appear that there hadn't been, up to this point of last year, a formal conflict of interest procedure with respect to hiring and ...

**MR. POWER:** Yeah, I can't really speak to that.

**MS. MUZYCHKA:** So, there wasn't actually a formal procedure in place to your knowledge?

**MR. POWER:** I'd have to check with the HR manager.

**MS. MUZYCHKA:** So, at the end of the day, it appears that it would be Nalcor's management that decided whether potential conflicts of interest exist. So, it would be yourself or Paul Harrington or the people that are actually involved in the hiring – sort of a self-governing situation. Would that be fair?

**MR. POWER:** So, I know the audit was performed. What I recall, the – there's nothing came out of the audit; there were no conflict of interest. So, I'd like – for example, they were looking for – so, I have a company, as I indicated, do I have people on the project through my company? Do I sign their timesheets? And things like that.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** There was none of that from what I know.

**MS. MUZYCHKA:** I mean, the audit report included there was a lack of formal detailed, conflict of interest procedures. We've seen a lot of policies and procedures, and procedure documents from Nalcor. I mean, certainly, we spent a lot of time with Jason Kean on his evidence and his role in preparing various policies.

Do you know why there was no effort put to have a similarly thorough documentation to cover conflict of interest?

**MR. POWER:** No, I don't know.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** I guess it never got – a formal conflict of interest procedure, I guess, never got inked. But, certainly, conflict of interest was at the front of everyone's mind, because when I was hired on this project back in 2008, and I wanted to come in through an agency rather than form my own company, because I never formed – I never had my own company before. I didn't know what it was. I was told, no, you can't come in through an agency because eventually you will have people reporting to you and if the people reporting to you work for the same agency that you do, then that would be viewed as a conflict of interest.

So, conflict of interest was always at the top of everyone's mind.

**MS. MUZYCHKA:** Right.

**MR. POWER:** But I guess there wasn't a formal procedure in place.

**MS. MUZYCHKA:** I mean, you know, risk was on the top of everyone's mind, but there's volumes of documentation –

**MR. POWER:** What's that?

**MS. MUZYCHKA:** Risk in project management of this magnitude –

**MR. POWER:** Right.

**MS. MUZYCHKA:** – was at the top of people's mind, but there are multiple volumes on how to address and manage, et cetera. So, it's unusual.

**MR. POWER:** Yeah, so I guess this was a HR gap.

**MS. MUZYCHKA:** It's a gap.

**MR. POWER:** Yeah.

**MS. MUZYCHKA:** All right. I just want to touch on a couple of small points.

Yesterday, we were talking about Mr. Mulcahy and we talked about a situation where there was stone being crushed and there was an issue with respect to road building.

Do you recall the issue with the Northern – North Spur? There was a company Gilbert that was tasked with providing the construction services there, as well.

**MR. POWER:** So, I think you're referring to – Hatch prepared the report.

**MS. MUZYCHKA:** Yes.

**MR. POWER:** That should – is that here in this exhibit?

**MS. MUZYCHKA:** It's not there, no.

So, what I was going to ask you about was, or put to you, was the fact that the contract was a reimbursable contract for the production of the roadway.

**MR. POWER:** Okay, so if I could speak.

So, an individual from Hatch, his name is Rick Donnelly, who I know well. He went – he was requested to go to the site by, I guess, Scott, Scott O'Brien, and have a look at what Gilbert, who was the – Gilbert was the contractor that – they had the contract to do the North Spur stabilization scope of work.

So Scott asked Rick to go to the site and have a look at what Gilbert were doing to see – you know, just to get his opinion, because the North Spur, as we know, was the focus area politically and – you know, and technically, it was always the top – at the top of my mind that that thing be built very properly.

So Rick went to the site and had a look around and produced a report. And in that report he had some recommendations and the biggest recommendation in there, he said you'll save a million dollars, or \$1.1 million, if you didn't screen out the rocks as Gilbert were doing. That would save a machine and the operator on that machine. So he said over the life of the project that would save \$1.1 million.

**MS. MUZYCHKA:** Right and that was the report that you received and –

**MR. POWER:** Yes.

**MS. MUZYCHKA:** – discounted.

**MR. POWER:** No – so, no, so just let me continue.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** So I looked at the report and then I went to the site. And the first thing I found out when I went to the site, that Rick, when he went there, never spoke to the construction manager. Now, we had a construction manager on that site, Mark Turpin, who knew the site inside out, upside down and, also, we had a contractor there, Gilbert, who were building it. And neither one of those entities – Mark wasn't spoken to and the contractor wasn't spoken to. So that was the first thing.

So if anyone goes to site – if a consultant goes to site to look at what's going on, the first thing you would do is meet the construction manager and go around the site with the construction manager. So he never did that, first thing. So then this recommendation I'm talking about where Rick said you can save \$1.1 million, when I showed you the pictures when we – when I met with you – he said you could get rid of this machine by not screening the – and you didn't have to screen these rocks out.

**MS. MUZYCHKA:** Right. So I mean he was building a road and –

**MR. POWER:** No, no, this is not the road. The \$1.1 million was not associated with the road; it was associated with the material – the impervious material used to construct the Spur.

And when it got hammered down into place it kept the water going from the upstream side of the Spur into the body of the Spur itself.

**MS. MUZYCHKA:** Okay, now, Mr. Mulcahy testified that it was a contract – a reimbursable contract to build a road to the North Spur and that was a very expensive project – part of the project. And that Gilbert was using crushed stone instead of blasted stone to build the road which was a much higher standard than was necessary.

**MR. POWER:** So Mr. Mulcahy's testimony is different from the report that we discussed when I met with you, the Hatch report.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** So can I talk about the Hatch report first?

**MS. MUZYCHKA:** Yes.

**MR. POWER:** Yeah.

So in Rick's report, he said you can save \$1.1 million by not screening out the rocks. And he said what you can do instead is pick the material from different places in the borrow pit. But he said in order to do that, you'd have to hire more people and more QA – QC people.

And, also, when you went then and when that stuff was put in the back of the dump truck and trucked to the dam and then dumped out on the Spur itself and pushed out with a bulldozer to be then compacted, that any rocks that were in the back of the truck, you'd have to pick them out as well. And contractors don't like doing that, so then you'd need more people – QC people – quality control people on the dam itself to supervise the picking out of the rocks.

So now you need two more quality control teams: one up in the pit and one at the dam. Now, each team is three people. There's day, night and 14 and 7 rotations, so that's six people. So to put six people on the payroll during the period that you're building that dam would cost more – much more than the \$1.1 million that you're saving. That's one point.

But the bigger point is that contractor performed very well, Gilbert. That dam that was built, that North Spur construction, when it was assessed by the geotechnical expert on the – more than once on the independent review – in the IE, independent engineer team, his reports indicate that that – the North Spur was built in textbook fashion – textbook.

And they're – so that contractor was very good and the contractor's means and methods to achieve that standard of excellence to build that Spur involved screening out the rocks before the material went into the dump truck. So when he went to the dam, he didn't have to fiddle around and fight and argue 3 o'clock in the morning with the contractor about take this rock, take that rock out. The rocks were already out and then they flattened down the Spur.

So that was the main recommendation in Rick's report. And I went to the site and I reviewed the rocks that were being screened out with Mark Turpin. And I didn't agree with Rick's recommendation, so I just parked the report and we carried on and built the dam – we built the Spur to what it is today.

**MS. MUZYCHKA:** Okay.

Well, perhaps, then, are you suggesting that Mr. Mulcahy has misremembered the context of the Hatch report and it didn't relate to the road construction that was being built to a higher standard than was necessary?

**MR. POWER:** So regarding the road construction, that was mentioned in the Hatch report as well. But when I got to the site to look, the roads were already built. It was only a few roads around – temporary roads around the Spur itself. So, whether those roads could have been built cheaper than what they were actually built for, maybe, but they were built.

But I will say the contractor built – the contractor, Gilbert, after he got – after they got awarded they were in a risk-reward contract and they got the reward so that they brought that – they executed that work very good and very slickly. And they got, you know, their piece of the pie by bringing that in within the contract price, and they managed to achieve that with using their means and methods, which Mark

Turpin – and I agree with Mark – we didn’t want to jeopardize.

**MS. MUZYCHKA:** Mmm.

**MR. POWER:** So John had an opinion and that’s fine but, you know ...

Anyway, so regarding – as to that Hatch report, I looked at – I went to the site. I looked at the report; I didn’t really agree what was in it. I didn’t see any cost savings so I just parked the report and we carried on and built the Spur.

**MS. MUZYCHKA:** Who had initiated the Hatch report?

**MR. POWER:** I think it might have been Scott.

**MS. MUZYCHKA:** So do you think that he was looking for some efficiencies?

**MR. POWER:** Well, he just wanted someone, you know, cold eyes to come in and look at what we were doing. The North Spur is very political, as we know, and it has to be built properly. And it – you know, I got great confidence in the design, I gained that over the years.

And that’s built in a textbook manner. And that was – you know, the independent engineer made two or three trips up there and everyone came to the same conclusion: Gilbert did a great job. So it’s built perfectly to the design.

**MS. MUZYCHKA:** Okay.

Did you have any communications with Mr. Mulcahy, John Mulcahy, about that part of his testimony and/or ...?

**MR. POWER:** No.

**MS. MUZYCHKA:** Nothing? No.

**MR. POWER:** No.

**MS. MUZYCHKA:** Have you ever had –

**MR. POWER:** I know he – I know Mark Turpin used to be disputing means and methods with John. I was aware of that. They were, you know, in disagreement. But with respect to that particular report, I went to the site myself and I

looked at what’s going on and I read the report. And then I just parked the report and at the end I agreed with Mark, it’s best to let the contractor carry on because if you had to interfere with the contractor’s means and methods, then that’s a claim as well.

**MS. MUZYCHKA:** Okay.

All right, I’m going to ask Madam Clerk to please bring up P-03669. It’s in the PMT binder 3 at tab 77.

We go to page 8. On that chart in there, Nalcor, I understand, had engaged Westney to do an analysis which was included in the 2018 QRA. In that analysis, Westney indicates the Inquiry would cost the project \$135 million. Do you have any views on that? Do you believe that number to be accurate?

**MR. POWER:** No, so that number certainly isn’t accurate. So that QRA, this work was done before Astaldi issued that notice of arbitration. So if this Westney risk report was done today, that number would be considerably higher.

**MS. MUZYCHKA:** Because?

**MR. POWER:** Because of on the next page, page 9, contractor’s opportunistic behaviours. So this Inquiry has made available a plethora of information that will result in a lot of claims against this project and that’s a fact and I can guarantee you that. This Inquiry will cost this province hundreds of millions of dollars and you can take that one to the bank.

**MS. MUZYCHKA:** Okay, well, I think that there may be people that would disagree with you on that.

**MR. POWER:** Well, our claims experts have that opinion, all our project management team have that opinion, our – some of our very senior legal counsel have that opinion and that’s my opinion after 43 years of working on projects.

**MS. MUZYCHKA:** Well, there are processes and procedures in place to allow for adjudication of claims.



**MR. POWER:** So it's a poker game and our hand is on the table for everyone to see. That's what this Inquiry is doing.

**THE COMMISSIONER:** So, Mr. Power, let me just point something out to you. Really don't care what the – what you feel about the Inquiry or whatever because it really doesn't matter to me because I didn't call it.

**MR. POWER:** No, I understand.

**THE COMMISSIONER:** It's actually the government who represents the public who are paying for this project that called this Inquiry. So I can understand your feelings, I can assure you what I've tried to do from day one is to – and I would defy, basically, Nalcor Energy or anybody who suggests otherwise – is that I've been very careful in advising Commission counsel that the object here is not to cost the public more, but actually to cost it less.

So that may be your view. I don't even think that, to be quite frank, that this Inquiry is going to cost Nalcor Energy \$135 million. It may cost it that if there's been spending beyond or if there's a reason why money is being spent to somehow influence the Inquiry or to do some other thing or whatever, but all it really needs to have happened here is I get close co-operation.

And to be quite frank, Mr. Simmons, from Nalcor Energy has been very helpful to this Commission. And in the circumstances, I think we have worked in a very co-operative way to minimize the risk of claims succeeding here. So while you have that view, let me assure you my view is entirely different. So we will agree to disagree on that.

**MR. POWER:** Okay.

**THE COMMISSIONER:** All right?

Next question, Ms. Muzychka.

**MS. MUZYCHKA:** Thank you.

Just another point on the Inquiry. If we go to P-03780, it's the Ron Power binder 2, tab 63.

**MR. POWER:** Tab which?

**MS. MUZYCHKA:** Tab 63.

**MR. POWER:** Sixty-three?

**MS. MUZYCHKA:** Now, these are iMessages. So, Mr. Power – 03780, Madam Clerk?

**CLERK:** (Inaudible.)

**THE COMMISSIONER:** 03780.

**MS. MUZYCHKA:** 03780, there you go.

So these are iMessages. And I just want to ask you, Mr. Power – if you look at the third or fourth message there's various people, it tells you who their messages are coming from. There's a message received from Ron Power.

Do you know what iMessaging is?

**MR. POWER:** Text messaging.

**MS. MUZYCHKA:** But it's through a different app on your phone.

**MR. POWER:** So, no, I don't know.

**MS. MUZYCHKA:** Okay, it's not a text per se, it's an iMessage.

**MR. POWER:** So anything that I would've sent on this screen, if – would've came from my iPhone. So whatever comes out of my iPhone, whatever –

**MS. MUZYCHKA:** Mmm.

**MR. POWER:** – that's called, I got no idea.

**MS. MUZYCHKA:** So it could be – so do you delete those iMessages as well? Do you know where they come from on your phone?

**MR. POWER:** In the texting, when you text someone.

**MS. MUZYCHKA:** Well, there's texting and then there's iMessages. They're two different functions.

**MR. POWER:** Yeah, so I don't know of that.

**MS. MUZYCHKA:** So how do you know to delete them? You have to know where they are.

**MR. POWER:** I delete the texts.

**MS. MUZYCHKA:** What about the iMessages, do you delete those?

**MR. POWER:** Not as far as I know because I don't know what they are.

**MS. MUZYCHKA:** Okay, because you were asked to produce all of your text messages, iMessages and all nature of messages from your cellphone and it's clear here that you had iMessages. Can you explain that?

**MR. SIMMONS:** Commissioner, if I might here, just before we get – in case we get off track on this – and I can't give evidence myself, but I've used an iPhone for years. Texts and iMessages on my phone come in, in exactly the same app. They stack up together, they're all – they all look alike except one is green and one is blue, whichever they come in at. So I'm not sure that there's any functional difference between the two.

**THE COMMISSIONER:** Right. I think my experience is the same as yours, Mr. Simmons. It's all – I go to my text icon, and I get a text. And, yes, there's a different colour for an iMessage because that comes from another iPhone, so I understand. And then there's other messages that are a different colour because they go to a non-iPhone, but –

**MS. MUZYCHKA:** iMessages also come through your iPad.

**THE COMMISSIONER:** They do.

**MS. MUZYCHKA:** And that's where I was going with that – that that's a separate function.

**MR. POWER:** So in my iPhone there's green text things and blue text things.

**MS. MUZYCHKA:** Okay.

No, you've explained that, but how do you explain the iMessages on your iPad? Do you use the iMessage function there?

**MR. POWER:** On the iPad that we saw earlier, those were emails sent from my iPad.

**MS. MUZYCHKA:** Yes, but you also have the capacity to send iMessages from an iPad.

**MR. POWER:** Yeah, so I don't do that.

**MS. MUZYCHKA:** So these iMessages would've gone through your phone?

**MR. POWER:** Yeah, my iPhone has green – sometimes a green thing comes up, sometimes a blue thing comes up.

**MS. MUZYCHKA:** Okay.

All right, so let's just turn to page 2 – actually, let's start at page 1 since there's a reference. On the 8th of April, 2019, you write: "just had a call from Dave Healey. Water coming up through the ground on the downstream side" et cetera. Site will be mobilizing. "That's why I have been preaching caution re removing the cofferdam until things stabilize."

And then Scott O'Brien says: "K. Will be in shortly." And then you say, on page 2: "further to my note above, I STRONGLY recommend we HOLD on any further cofferdam excavation for now. On a last point, only for there is an Inquiry happening, I would fire" X immediately. Now, why would you say that?

**MR. POWER:** I might've been irritated with someone.

**MS. MUZYCHKA:** But why would the Inquiry be an issue for you?

**MR. POWER:** Why would I use the term Inquiry?

**MS. MUZYCHKA:** Why – you say, only for there is an Inquiry happening, you would fire someone.

**MR. POWER:** Because, you know, we feel – the project management team feels that we're being – you know, we can't do anything now, that we're being watched by this Inquiry. That's the feeling we have.

**MS. MUZYCHKA:** You feel like you're under scrutiny –

**MR. POWER:** Yes.

**MS. MUZYCHKA:** – and that if it weren't for this public scrutiny, that you would fire someone?

**MR. POWER:** No, that was just an emotion at the time.

I don't – you know, I don't think I've fired anybody on this project – or very few. It's just an emotion at the time.

**MS. MUZYCHKA:** Right, but if you had reason or cause to fire someone whether the Inquiry was on or not, you would be able to make that decision, wouldn't you?

**MR. POWER:** Yeah, I would. Yes.

**MS. MUZYCHKA:** Okay. So, that really is –

**MR. POWER:** But this Inquiry is on our – is at the top of our minds, the project management team, all the time. In fact, I'm surprised, personally, why a lot of the younger people on the project management team are still working on this project. It's only their commitment to try to finish this thing 'cause of the scrutiny we're under.

**MS. MUZYCHKA:** Okay. But, you know, in fairness, Mr. Power, you understand why there is such scrutiny over this project? Because a project that was –

**MR. POWER:** Completely.

**MS. MUZYCHKA:** – sanctioned for \$6.2 billion in 2013 has become – or 2012 – has become massively over cost, at nearly double, and the schedule has been completely blown and is more than two years out of date.

**MR. POWER:** So, I'm well aware of the cost numbers, Ms. Muzychka, and believe me, I don't – none of us like it. We're doing – have done and doing our best to keep – to execute this project to the best of our abilities.

I will say the numbers that are being used, you know, I think we need to compare apples to apples. So the \$10.1-billion capex, for example, is a P75 number. So the equivalent P75 capex at the sanction date is actually \$7.5 billion, which is P75 in today's dollars. So that's the actual delta.

**MS. MUZYCHKA:** Right, but that's not what was sold to the people of the province of Newfoundland and Labrador.

**MR. POWER:** No, I agree.

**MS. MUZYCHKA:** And that's –

**MR. POWER:** I agree.

**MS. MUZYCHKA:** That's why there's scrutiny, is because they were told one thing, and now we're being told something else.

**MR. POWER:** So I'm very well aware of that. I feel that deeply, as we all do.

**MS. MUZYCHKA:** And you've also stated in your testimony that you put the blame of the cost overruns on Astaldi and you don't seem to feel that there are any issues on the part of the Nalcor management team or on any of the other practices that we've discussed that may have contributed to cost overrun.

**MR. POWER:** So, in –

**MS. MUZYCHKA:** I mean, Astaldi couldn't have possibly be responsible for increasing the project cost by the magnitude that it did.

**MR. POWER:** So the Astaldi situation has had a significant cost impact on this project.

**MS. MUZYCHKA:** Not \$4 billion worth of impact.

**MR. POWER:** So, it – with the additional monies that had been paid to Astaldi, plus the associated delays, which have cost – you know, other increases – it's a significant portion of that. There are increases on the transmission line side that Jason Kean described up here. There are increases on the owner's team because the project has gone over schedule, but the Astaldi situation is a significant part of that cost

increase. But yes, there are other – a lot of other factors that are contributing to the cost of the project that we see today.

**MS. MUZYCHKA:** And what sort of factors do you see from your perch as a project manager?

**MR. POWER:** Well, I think the estimates were too aggressive – very aggressive – for one. Contractor performance.

**MS. MUZYCHKA:** That's it?

Looking back do you see that you could have done things differently, perhaps?

**MR. POWER:** Perhaps.

**MS. MUZYCHKA:** All right. I'll leave that there.

**THE COMMISSIONER:** That's it? Okay.

Thank you. All right.

Government of Newfoundland and Labrador.

**MR. RALPH:** No questions, Commissioner.

**THE COMMISSIONER:** Thank you.

Concerned Citizens Coalition.

**MR. BUDDEN:** Good day, Mr. Power.

**MR. POWER:** Good morning.

**MR. BUDDEN:** As you know, my name is Geoff Budden. I'm the lawyer for the Concerned Citizens Coalition, and as I'm sure you know, as well, the coalition is a group of individuals who, for many years, have been observers of the Muskrat Falls Project and critics of the project.

So, I have a – I'll probably be close to an hour today. I've got a fair number of questions for you. I'd like to start – this isn't an exhibit, but it's the schedule of witnesses for the Inquiry. And just a few questions about (inaudible) so I'll pass it to you.

**MR. POWER:** Okay,

**MR. BUDDEN:** This is just off the Commission website this morning, Mr. Commissioner.

And as you see, I've drawn a line through your name. It's really the witnesses after that that I'm questioning about. Can you take a moment – I guess take it page by page, but for that first page of two, which of these witnesses yet to come have you actually seen their interview transcripts?

**MR. POWER:** So Lance Clarke's I've seen.

**MR. BUDDEN:** Okay.

**MR. POWER:** Tanya Power I have not seen. Pat McCormick I have not seen. Julia Mullaley I've not seen. Scott O'Brien I have; I don't think I read it.

**MR. BUDDEN:** Okay.

If you want to turn the page, there's another number of individuals on the following page, Mr. Power.

**MR. POWER:** Yeah, I'm going down through those, now.

**MR. BUDDEN:** Sure.

**MR. POWER:** Yeah, so I don't have anyone on this page.

**MR. BUDDEN:** Okay, so you've seen Mr. Clarke and Mr. O'Brien's –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – but nobody else at this point.

**MR. POWER:** Right.

**MR. BUDDEN:** Has the practice been – so I take it you're part of the team that reviews these documents, these interviews for commercial sensitivity.

**MR. POWER:** Yes.

**MR. BUDDEN:** So you typically will get – you and the other project team members will get the statements at least, you know, sometime before those witnesses actually testify.

**MR. POWER:** Yes.

**MR. BUDDEN:** Okay.

So here today, in giving your evidence, you've actually had the opportunity to review Mr. Clarke's evidence and also Mr. O'Brien's evidence, at least as they gave it under oath to Commission counsel.

**MR. POWER:** Yes.

**MR. BUDDEN:** Okay.

Who on that list have you discussed your evidence with?

**MR. POWER:** So, I haven't discussed the evidence in Mr. Clarke's or Mr. O'Brien's with anybody.

**MR. BUDDEN:** Okay.

**MR. POWER:** Because –

**MR. BUDDEN:** You're certain of that?

**MR. POWER:** Yeah, because the topics that are covered – it's day-to-day work.

**MR. BUDDEN:** So you're all basically – all know the same things, I guess, is what you're saying

**MR. POWER:** Yes, exactly.

**MR. BUDDEN:** Okay.

Have you discussed with anybody else on the list forthcoming witnesses? That's on the second page there.

**MR. POWER:** No.

**MR. BUDDEN:** Pardon?

**MR. POWER:** Have I discussed was the question?

**MR. BUDDEN:** Yes, have you discussed, say, anything you've read in Mr. Clarke's, Mr. O'Brien's interviews – have you discussed that evidence or your own anticipated evidence with any of these individuals?

**MR. POWER:** No.

**MR. BUDDEN:** Okay.

Not with Mr. Harrington?

**MR. POWER:** No.

**MR. BUDDEN:** Okay.

So, I'm going to ask you –

**MR. POWER:** I've discussed that I'm going to be here today.

**MR. BUDDEN:** Sure.

**MR. POWER:** Yeah.

**MR. BUDDEN:** But you haven't discussed what you intend to say or how you intend to respond to what other witnesses have said – Mr. Béchard, for instance – nothing like that?

**MR. POWER:** No, because everyone knows what the topics are.

**MR. BUDDEN:** Okay.

All right, I'm going to begin with a few questions from the – your response to the SNC report, and what I'm gonna do to start is just read you a little excerpt from your February 2019 interview.

**MR. POWER:** Yup.

**MR. BUDDEN:** And I'm reading for anybody who's interested, who has it, from page 144. And you're questioned this time by Ms. O'Brien, and this is what you had to say: I'm surprised that Grant Thornton and his forensic auditors never got to the bottom of the story. How did – and the story, the SNC story, has nothing to do with 2013. The SNC – the risk report story had nothing – has nothing to do with 2013. The risk report story has all to do with the goings-on in 2016, and Grant Thornton were aware of that because I told them about it and they never bothered to look into it, and so – and so how did this SNC risk report come to light, is the question.

And Ms. O'Brien says: And what do you believe happened? And you say: Well, it came to light because SNC, in 2016, made a run at the project team to take over the job, is what happened. And Ms. O'Brien said: Okay, so that – so when there was a change, the new CEO – and you say: Exactly.

And, so I'm gonna ask you a little bit about that. You remember saying that to Ms. O'Brien, of –

**MR. POWER:** Yes.

**MR. BUDDEN:** – course. Okay.

So, if I – so you're not – firstly, you're not questioning, you're not challenging that the SNC report was completed in 2013.

**MR. POWER:** No.

**MR. BUDDEN:** Yeah, and you're not challenging it was offered to Mr. Harrington, at that time.

**MR. POWER:** So I don't know that. I didn't know anything about the SNC report until 2017, never heard of it, didn't know –

**MR. BUDDEN:** Okay.

**MR. POWER:** – what it was.

**MR. BUDDEN:** So we've heard evidence that that report was offered to Mr. Harrington and he declined to accept it. Do you doubt that? Do you have any reason to doubt that that's true?

**MR. POWER:** All I know about that is what I heard here in this –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – Inquiry.

**MR. BUDDEN:** Yeah. So you have no evidence to the contrary?

**MR. POWER:** No.

**MR. BUDDEN:** Okay.

So, what you're saying, if I understand you correctly, is that SNC did this report back in

2013. Three years later, Mr. Martin was gone, Mr. Marshall was in, and SNC perhaps saw this as an opportunity they – to get back into the project in a bigger way, squeeze the project management team out, essentially, or at least minimize your role.

That's the game that you saw playing out in 2016?

**MR. POWER:** Yes.

**MR. BUDDEN:** Okay.

And, I guess firstly, even if what you're saying is true, what does that have to say about the merits of what the report actually says?

**MR. POWER:** You mean the SNC risk report?

**MR. BUDDEN:** Yeah.

**MR. POWER:** So as I indicated yesterday, that SNC risk report was prepared shortly after the EPCM – the model was changed from an EPCM model to an integrated team model.

**MR. BUDDEN:** A little while after, I understand that, yeah.

**MR. POWER:** Yeah. And it was prepared not so long after the estimates were prepared by SNC-Lavalin.

**MR. BUDDEN:** Okay. But are you suggesting that it was repaired in – prepared in 2013 because they anticipated there would be problems with the project down the road, that Mark would be forced out, that some new broom would be brought in, that SNC without far-seeing – is that what you're saying?

**MR. POWER:** I don't know, but that's a possibility.

**MR. BUDDEN:** Okay. Oh – okay, that's interesting that you would say that but, I guess, more to the point, why shouldn't SNC do that? I mean, they were there, you guys sort of squeezed them out and now they're looking to come back in. And, for that matter, why should Mr. Marshall not listen to them? I mean, you guys hadn't exactly – you weren't in a great place in 2016, project was way behind whatever

budget. Why shouldn't he look at alternatives to the project management team?

**MR. POWER:** No. Fair enough. Fair –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – question. But I will say, though, that in 2016, as today, we still have a contract in place with SNC.

**MR. BUDDEN:** Yes.

**MR. POWER:** At that time, we had – you know, in Q1, Q2 2016 – I would say somewhere between 130 and 140 SNC people on the project. We had mechanisms for communicating.

**MR. BUDDEN:** Yes.

**MR. POWER:** You know, there was a company representative on our team, which at that time was me, and a company representative in – on the SNC side. So I wasn't aware – made aware that, you know, approaches were being made, as I understand it, to our CEO by SNC.

**MR. BUDDEN:** Mm-hmm.

**MR. POWER:** So, yeah, I took issue with that.

**MR. BUDDEN:** Okay. And again, it's not that you – you didn't see SNC as doing anything wrong. They were just trying to –

**MR. POWER:** Well, I did –

**MR. BUDDEN:** Okay.

**MR. POWER:** – see SNC doing something wrong because we – SNC were on the project as the EPCM consultant. They're still on the project, as part of the integrated team.

**MR. BUDDEN:** Yeah.

**MR. POWER:** Right. So, and – but there appears to be an effort outside of the project, to – by SNC, as I understand it, to get a bigger role, without the project being aware that this was taking place.

**MR. BUDDEN:** Okay. How was that all that different from what happened with the transition

from – into the integrated team approach three or four years earlier? You guys, you know, basically reduced their role on the project management team, advocated to reduce the role of SNC. And now, in 2016, they're trying to do the reverse.

**MR. POWER:** Because –

**MR. BUDDEN:** You're one team of contractors, they're another team of contractors.

**MR. POWER:** – because, in the first instance, we were doing the integration together. Everyone was aware what was happening.

**MR. BUDDEN:** Oh, yeah. But they weren't keen on it, obviously. It wasn't the role they wanted; they wanted to continue with the larger role.

**MR. POWER:** I would say, yes.

**MR. BUDDEN:** Well, obviously they would. Wouldn't you think?

**MR. POWER:** I would think. Yes.

**MR. BUDDEN:** Yeah. Yeah. And just as you guys, in 2016, wanted to continue with the larger role. So again, it's – I can see why, I suppose, when you're the guy who's, you know, whose great job is going to be put on the line here, why you might not like it, but surely, from a management point of view, when you – you're a project manager, you talked about your long experience in that. Mr. Marshall's not doing – wouldn't be doing anything wrong here, would he? He's just trying to do the best for the project.

**MR. POWER:** So I can't speak for Mr. Marshall.

**MR. BUDDEN:** Yeah, or anybody. I mean, if you were in his position, wouldn't you be looking to see what – jeez, what does SNC have here, maybe they are better fit for the project now that the project management team – perhaps some of your flies have been disposed.

**MR. POWER:** Yeah, so I was him, probably yes.

**MR. BUDDEN:** Okay.

**MR. POWER:** Yeah.

**MR. BUDDEN:** Well, while we're talking about SNC, let's go to Exhibit 01769. Madam Clerk, if you could, please call that up. And that is one of your tabs, Sir, I believe it's 51 – it is 51. That's – I'm not sure what volume that is, volume 3, I believe. So I'll give you a second to set up there.

**THE COMMISSIONER:** Volume 2 in your book.

**MR. BUDDEN:** Volume 2, my apologies. And it's page 16 I'd like to start with, Madam Clerk.

**THE COMMISSIONER:** Now I think that's the wrong tab. So the Exhibit number is 01769?

**MR. BUDDEN:** Yes.

**THE COMMISSIONER:** So that's actually – well, it is tab – oh, it's in the PMT binder book 2, not yours, it's PMT binder.

**MR. BUDDEN:** (Inaudible), what this Exhibit is for –

**MR. POWER:** What's the Exhibit number again, please?

**THE COMMISSIONER:** Fifty-one.

**MR. BUDDEN:** 01769.

**THE COMMISSIONER:** And tab 51.

**MR. BUDDEN:** Okay.

**MR. POWER:** Okay.

**MR. BUDDEN:** You're familiar with this document, I assume, Mr. Power?

**MR. POWER:** Yes, I'm familiar with it, yes.

**MR. BUDDEN:** Sure. Tell us a little bit – how it is, what role you played in writing it, pulling the information together?

**MR. POWER:** Yeah. So I never wrote any of this; this was mostly penned by Jason Kean.

**MR. BUDDEN:** Yeah.

**MR. POWER:** So in the – late 2017 or early 2018, I believe, these were prepared by the project team in an effort to document the story as the project team sought at that time.

**MR. BUDDEN:** Okay. So you would've had the opportunity to review it, I presume?

**MR. POWER:** Well, I was reviewing this as it was prepared, but I never really could get my comments in because Jason was just going too fast. But I – I was aware of what was being done.

**MR. BUDDEN:** Okay.

**MR. POWER:** Yeah.

**MR. BUDDEN:** Well, let's ask you a few questions about it. Page 16, please, Madam Clerk. And the third bullet point down, and it is really the third sentence of that bullet point that I'd like to – I think you can be taken out of context or I don't think it's being taken out of context, just to read it.

So would you perhaps read that third sentence, one that begins: It was also a period?

**MR. POWER:** Yeah. "It was also a period when the SNC-Lavalin ... corruption scandals occurred and forced LCMC to change from Engineering, Procurement and Construction Management ... model to an integrated team. As a condition of the financing agreements" –

**MR. BUDDEN:** That's fine, it's that sentence that I am looking at. So what it's saying there is that it was – well, I will read what it says, again. "... SNC corruption scandal occurred and forced" – Lower Churchill Management Corporation – "to change from the ... (EP +CM) model to an integrated team."

And we didn't hear anything about that in your evidence yesterday. What do you have to say about that, about this role corruption played in the transition?

**MR. POWER:** So, now you're right, you didn't hear that in my evidence. I know when the – when these corruption scandals were on the go, that the project sponsors for the project – you know, which was Patrick Lamarre, he was one



of our sponsors, Joe Salim was another sponsor – they disappeared.

**MR. BUDDEN:** Sure.

**MR. POWER:** So there was some impact.

**MR. BUDDEN:** Okay. Was there any hint or suggestion or concern that SNC's work, within this project, was to any degree at all corrupt?

**MR. POWER:** No.

**MR. BUDDEN:** Okay. And obviously SNC, you know, has – it's not the first, I guess, taint of corruption that they had, they – there's been other things said about them over the years, long before they were hired for this project. So, I guess it's this assertion of corruption as a reason for transitioning them to the integrating team approach.

Is that something you stand behind?

**MR. POWER:** So I think the – in general, no. But there're – you know, the change out of the sponsor team and the CEO, I would say definitely had an impact with respect getting the horsepower from the organization to our project.

**MR. BUDDEN:** Okay. But what you wouldn't agree with this sentence, that stand-alone sentence. SNC –

**MR. POWER:** No.

**MR. BUDDEN:** – corruption scandals occurred and forced the transition. You wouldn't agree with that?

**MR. POWER:** No, I wouldn't agree with that.

**MR. BUDDEN:** Okay. That is interesting.

Well, let's move on to a – and again, there's no talk here of SNC-Lavalin not supplying the proper people or anything, is there? That reason isn't – doesn't appear in this quote.

**MR. POWER:** It is in these documents.

**MR. BUDDEN:** Okay, but that – well, we'll get to that. But in this particular place, it's all corruption, isn't it?

**MR. POWER:** In this sentence?

**MR. BUDDEN:** This one reference.

**MR. POWER:** Yes.

**MR. BUDDEN:** Okay.

Let's turn to page 18, please, Madam Clerk.

And this one, I – it's – there are a number of bullet points on the left-hand side, under "Main Drivers for Cost Increase ..." and perhaps you could read that last bullet point to us, the one that begins: "SNC Corruption."

The headline is "Main Drivers for Cost Increase AFE Revisions 1 & 2," I believe that is – and under –

**MR. POWER:** "SNC" –

**MR. BUDDEN:** – there.

**MR. POWER:** – "... Corruption" – scandal – "and forced change to integrated project delivery team because" SNC "did not supply the required people, processes and systems."

**MR. BUDDEN:** Okay. So here there is an acknowledgment, as you've said in your evidence, that there are other problems in addition to corruption but – again, corruption is mentioned again here, isn't it?

**MR. POWER:** It is, yes.

**MR. BUDDEN:** Okay.

Perhaps we could now move on to page 38, same document, Madam Clerk.

The – under Net Consequences, the first paragraph, (a), perhaps you could just read that to us.

**MR. POWER:** SNC "made the decision to switch ... to an Integrated Project Delivery Team Model led by Nalcor under the umbrella of LCMC. SLI would remain the engineer-of-record for all scope for which they had design responsibility, exclusive of the SOBI Crossing."

**MR. BUDDEN:** Okay. I guess, again, if there was an issue with corruption with respect to SNC-Lavalin, why were they kept on at all? Do you have any explanation of that? Like, why would you keep a corrupt company on as engineer of record?

**MR. POWER:** So SNC are very good at engineering, and the engineering for this project is very good.

**MR. BUDDEN:** Okay. But if they are corrupt, I mean, surely there are other good engineering firms. Do you wanna corrupt one on site?

**MR. POWER:** So I don't think I can answer that.

**MR. BUDDEN:** Sure. I guess I'd suggest to you, Mr. Power, that this reference to corruption, really, that wasn't something that was in the minds of the project team at the time. This suggests something that's pasted in after the fact, to try to add a little more justification to the decision to reduce the role of SNC-Lavalin.

Would you agree or disagree with that statement?

**MR. POWER:** So I will say that the goings-on resulted in, you know, change of leadership at SNC, which had some effect on the project but certainly not a main driver.

**MR. BUDDEN:** Okay. And it wasn't something that you guys were discussing at the time, you weren't saying: Look, there's corruption going on here, you know, we better minimize the involvement of SNC-Lavalin.

**MR. POWER:** No.

**MR. BUDDEN:** That wasn't the discussion, was it?

**MR. POWER:** No.

**MR. BUDDEN:** So, what do you make of it appearing years later, after the fact, in this justification? What do you make of that?

**MR. POWER:** I guess there was some – there was some – there was some hangover here of the efforts – so as I indicated yesterday, we went

with the EPCM model. We preferred to stay with the EPCM model and we certainly – I mean, that's what we did. We spent a year going through the EPCM evaluation process and award and all that, and we set – we certainly never set out intending to have to change to this model we have today, midstream. And that caused a tremendous amount of work and, you know, potentially affected the project because the energies of people, like me, got directed into that.

So we still have some anger, I'll say, that SNC never brought the horsepower that they have corporately, that they never brought it to this project.

**MR. BUDDEN:** I accept that and I guess – but what I'm saying by getting back to this document, which is, after all, how Nalcor chose to represent really to this Commission, its position on a lot of things –

**MR. POWER:** Mm-hmm.

**MR. BUDDEN:** – is really – I would suggest is just like any weapon at hand, any bit of mud they have at SNC; let's fling it in, even if it had nothing to do with the real reasons at the time the transition was made.

That's correct, isn't it?

**MR. POWER:** Well, I would say some of the statements here appear to be over the top.

**MR. BUDDEN:** Very much over the top, aren't they?

**MR. POWER:** Over the top, I would say.

**MR. BUDDEN:** Yeah, had nothing to do with the reality on the ground when the decisions were actually made.

**MR. POWER:** Limited –

**MR. BUDDEN:** Very limited.

**MR. POWER:** – limited impact, I'd say.

**MR. BUDDEN:** Okay. Well, we'll move on.

Still on page 38 – perhaps we can scroll up a little bit in this case, Madam Clerk, just to get – yeah, thank you.

I'll read this. The first bullet point under effect on Muskrat Falls Project, it says: "The Project was highly exposed due to SLI's lack of performance. As such, Nalcor initiated an independent review in March 2012 of SLI's corporate practices and systems. The review found that these processes and systems had not been implemented within the Project."

This independent review – what can you tell us about that. Who did that review?

**MR. POWER:** Yeah, so that was performed by Derek Owen; a senior SNC-Lavalin project manager, his name escapes me; and another senior individual whose name escapes me. I thought that was in these binders here.

**MR. BUDDEN:** It may well be, but it's –

**MR. POWER:** Right.

**MR. BUDDEN:** – I don't have it at my fingertips. Derek Owen, I understand and recognize his independence and expertise. He was a witness in Phase 1.

**MR. POWER:** Right.

**MR. BUDDEN:** But you said that this independent review also had somebody from SNC on it?

**MR. POWER:** Senior project manager who wasn't associated with the project.

**MR. BUDDEN:** Okay.

**MR. POWER:** He was brought in as part –

**MR. BUDDEN:** (Inaudible.)

**MR. POWER:** – to do this review.

**MR. BUDDEN:** Okay, that – I would suggest it's a bit of an odd use of the word, independent, unless – so you're saying independent from SNC, or independent from the project?

**MR. POWER:** Independent from the project.

**MR. BUDDEN:** Okay.

**MR. POWER:** Yeah.

**MR. BUDDEN:** And so that report, what I guess – it says here: "The review found that these processes and systems had not been implemented within the Project."

**MR. POWER:** Right.

**MR. BUDDEN:** Can you tell us a little bit more about that? Again, you know, perhaps a little more detail as to what the report actually said.

**MR. POWER:** Yeah, so in the deck number four – we did 12 decks that the Commission have, which is a summary of these – in deck number four that we reviewed yesterday with Ms. Muzychka, the SNC-Lavalin deck, that has the outcomes from that report in that slide deck.

**MR. BUDDEN:** Okay, gotcha.

And do you remember the name of the third author of the report, or even what his position was – his or her position was?

**MR. POWER:** I'll remember it in five minute's time, but I can't remember it right now.

**MR. BUDDEN:** If it pops in your mind you'll –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – you can tell me.

Okay, some more general – or a general question or two. The transition from the EPCM to the integrated team approach –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – what did that do in terms of the number of people on the project team, the number of people involved in the project? Did it increase it, decrease it? Were there –?

**MR. POWER:** Well, it – so there was no longer an owner's team and an EPCM team, so it combined.

**MR. BUDDEN:** Yeah.

**MR. POWER:** How they combined numbers compared to what the numbers were going to be if it was independent –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – I’m not sure.

**MR. BUDDEN:** Okay. Were there, generally – were there savings in the sense of was a – were the numbers reduced? Were they increased? Can you even tell us that?

**MR. POWER:** I don’t know.

**MR. BUDDEN:** Okay.

**MR. POWER:** I know the – you know, the total amount of money that has been spent to date exceeded what was in the DG3 estimate for both of those combined.

**MR. BUDDEN:** Oh yeah, we’re all aware of that.

**MR. POWER:** Yeah.

**MR. BUDDEN:** Yeah. But this particular thing, a transition occurred.

**MR. POWER:** Yes.

**MR. BUDDEN:** There were various reasons for doing that transition, which we’ve just discussed.

**MR. POWER:** Yeah.

**MR. BUDDEN:** I guess I’m now wondering about the consequence of that transition. Did it result in an increase of personnel, a reduction of personnel? But – and I take your answer, you just don’t know.

**MR. POWER:** Right.

**MR. BUDDEN:** Okay.

**MR. POWER:** But with respect to the cost – so if it’s today 500 people, because a lot of those people are in through agencies versus in through Hatch or versus in through SNC, the cost is considerably less for those 500 people.

So if you had 500 people that came in through Hatch, or 500 people that came in through SNC, because they are big companies with large markups, the number and the cost of those 500 people is a lot more through those big companies versus if those 500 people came in through agencies.

**MR. BUDDEN:** Okay, well, that sort of rather transitions nicely. Perhaps, we can move on one page, Madam Clerk. Yeah, there’s a quote here and if we scroll down a tiny bit, there’s a footnote there to contextualize it.

Yeah, this is a – well, it says – speaks for itself: “Reference letter to Premier ... Ball from Nalcor Board of Directors Chair B. Paddick dated 2-Oct-2017.” And this is a quote from that, so that’s coming from Nalcor itself.

It’s bit of a long quote, but I think it’s helpful. I’m going to have a couple of follow-up questions.

**MR. POWER:** Okay.

**MR. BUDDEN:** Could you, perhaps, read this into the record for us –

**MR. POWER:** You want me –

**MR. BUDDEN:** – Mr. Power?

**MR. POWER:** – to read this phrase?

**MR. BUDDEN:** Would you, please?

**MR. POWER:** Yeah.

*“It is important that there be some owner personnel involved in large construction projects to ensure there is a smooth transition from construction to the long-term operation of the facility. The owner’s team presently includes approximately 50 Nalcor employees and approximately 80 contracted resources. The total number of personnel working on the Project in the area of owner’s team, Engineering and Project/Construction Management is approximately 500, with the balance of 370 personnel being contracted resources. In our view, this 90-10 split represents a typical and appropriate division*

*between owner employees and contractors; it is in keeping with best practices for large construction projects. Based on information reported by international organizations with expertise in the management of large projects, it is our understanding that budgets for Project/Construction Management and the owner's team combined typically run between 9 to 11% of total costs. The costs associated with these groups for the LCP are currently running at 9.5% of total costs, but are forecasted to decline" – by 7 – "to 7% by Project completion."*

**MR. BUDDEN:** Okay, a couple of questions on that. Firstly, this dates from late 2017. It's now pretty much mid-2019. Have those numbers or those ratios significantly changed over that period of time?

**MR. POWER:** I don't think so because the – this was prepared, from what I recall, based on, you know, the projections of when the project would be finished at that time, which I think is – hasn't changed much since then.

**MR. BUDDEN:** Okay.

The – this references here in the middle of it sort of: "*Based on information reported by international organizations with expertise in the management of large projects ....*" A lot is packed into that half-sentence but are you able to direct us, through your own knowledge or your own studies, to what some of these sources are, these information reported by international organizations et cetera, et cetera. Can you fill us in on that?

**MR. POWER:** IPA could be one of those but, no, I'm not all that familiar with that. No.

**MR. BUDDEN:** Okay.

Is this something that would have been within your knowledge before you read this – these numbers, these ratios, that kind of thing? Is that something that you would have had in your mind as a goal to achieve?

**MR. POWER:** Not really.

**MR. BUDDEN:** Okay.

**MR. POWER:** No.

**MR. BUDDEN:** So even though you're a pretty senior member of the project management team –

**MR. POWER:** Right.

**MR. BUDDEN:** – this kind of rationale was beyond your experience?

**MR. POWER:** I mean I'm aware, you know, over the years that these kinds of analyses are done, you know, a number of – the cost of, you know, management of a project versus the cost of the project itself.

**MR. BUDDEN:** Sure.

**MR. POWER:** And I'm aware, more or less, of these ranges –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – are typical in the industry.

**MR. BUDDEN:** Okay.

The last two sentences interest me: "Management and the owner's team combined typically run between 9 to 11% of total costs. The costs associated with these groups for the LCP are currently running at 9.5% of total costs, but are forecasted to decline to 7% by Project completion." Are you in a position to say one way or the other whether that forecast is playing out?

**MR. POWER:** I believe it is.

**MR. BUDDEN:** Okay.

And what do you base that belief on?

**MR. POWER:** Occasionally we'd look at this with Tanya.

**MR. BUDDEN:** Okay.

**MR. POWER:** Tanya Power.

**MR. BUDDEN:** Okay, so we'll hear from her, so we'll –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – perhaps, a little bit more.

**MR. POWER:** She could answer this better than I can.

**MR. BUDDEN:** I guess the one thing that sort of struck me here, Mr. Power, they forecasted a decline that is outside of the typical range. And I guess while in the first glance, you know, that's great, you know, our costs are lower, but I guess it begs the question: Is there a point at which the percentage of this kind of administrative force can get too low?

**MR. POWER:** Perhaps – now, we have to realize in our case, you know, the cost of the project has gone up as well –

**MR. BUDDEN:** Yes.

**MR. POWER:** – considerably, as we know. And these percentages may be low because of where the project costs ended up. I really don't know.

**MR. BUDDEN:** Okay. You can see – but see it either way, either they – the cost ballooned and the percentage drops as a percentage of the total cost, or perhaps the – you guys are a little lean in this area. That's another way of looking at it, isn't it?

**MR. POWER:** Yeah, I guess it would be.

**MR. BUDDEN:** Okay.

Well, that – perhaps that brings us to 03684, Madam Clerk. And that's an exhibit that's some – a little bit of time was spent on yesterday so I won't beat it to death. It's – I'm sure it's in your book but I'm not quite sure where.

**THE COMMISSIONER:** Okay, what was the exhibit number again, sorry?

**MR. BUDDEN:** 03684.

**THE COMMISSIONER:** 03684, yes, that's at tab 32 of –

**MR. BUDDEN:** Volume 1.

**THE COMMISSIONER:** – volume 1 of Ron Power's.

**MR. BUDDEN:** Yeah.

This is a short letter so just take a moment and quickly glance down through it, Mr. Power, so that you're familiar with it.

**MR. POWER:** Yes, we addressed this topic yesterday.

**MR. BUDDEN:** Yeah and I just have a couple more questions.

**MR. POWER:** Yeah.

**MR. BUDDEN:** So, firstly, my understanding – and correct me if I'm wrong – but from some of the research been brought to my attention it's pretty unusual for one of – a partner in an EPCM relationship to sort of interview, let alone – to even interview, let alone reject somebody who is being proposed as a – to fill a position at this very senior level. Can you confirm or challenge me on that, whether it is unusual to even ...?

**MR. POWER:** So in my view, it's not unusual.

**MR. BUDDEN:** Not unusual.

**MR. POWER:** No. So everyone who we accepted in the proposal were interviewed and quite a few in the proposal it stage weren't accepted.

**MR. BUDDEN:** Okay. And –

**MR. POWER:** So this is, you know – we've actually awarded here – but, no. So under the terms of the agreement, we have, you know, the right to accept or reject people that are proposed to come on the job.

**MR. BUDDEN:** Sure.

**MR. POWER:** That's normal practice.

**MR. BUDDEN:** I accept it's a normal practice to include that right in the contract, but my question is a little different. Is it normal practice for one partner in an EPC and for the owner represented – I guess, which you guys were – to, you know, be in the weeds to this degree,

interviewing, rejecting on it, like, on a routine, regular basis?

**MR. POWER:** For this particular position, or – ?

**MR. BUDDEN:** Yeah, and other positions that were being proposed.

**MR. POWER:** Yeah, that's normal practice.

**MR. BUDDEN:** Okay, that's your evidence.

**MR. POWER:** Yeah, here in the – yeah, in today's world with the megaprojects, with the position assigned an authorization process, that's part of the contract. Yeah, the owner approves all the positions – all the people who come on the project.

**MR. BUDDEN:** It's a strong letter here that ends with, essentially, a plea that it be – the decision be reconsidered when you get down near the bottom – and that's really what it does. We ask you to reconsider but, in fact, nothing changed, did it? There was no reversal of the decision.

**MR. POWER:** No, because the viewpoint of this individual, who was a very fine gentleman as I indicated – but his viewpoint was diametrically opposed to the viewpoint of SNC-Lavalin when they put together the proposal, which we accepted.

**MR. BUDDEN:** I think that, if I recall your evidence – and, again, I don't have the transcript in front of me, but my recollection was that in the interview he was questioned on how – you know, what – how many personnel – and, again, I'm paraphrasing –

**MR. POWER:** Right.

**MR. BUDDEN:** – how many personnel he envisioned being on site. He suggested 700.

**MR. POWER:** Right.

**MR. BUDDEN:** And you guys were aghast because you thought 500 would do it.

**MR. POWER:** No, no. No, no. He suggested 700. Then when I – we explained the site layout

to him, I said it's a big powerhouse and all that, but there's not, you know, canals and perimeter dams and – like there are on the Upper Churchill, it's all within a, you know, one- or two- or three-square kilometre area. And then he said well maybe I can get away with 500. But, in fact, on the site at any one time, the most we've ever had up there was probably 50, and that was in line with SNC's proposal.

**MR. BUDDEN:** Okay.

**MR. POWER:** So this is an order of 10 – or 10 or 15 more. This is a –

**MR. BUDDEN:** Okay.

**MR. POWER:** – different – completely different viewpoint of the resources that would be required. And I guess this – this was coming out of his Hydro-Québec experience. I don't know.

**MR. BUDDEN:** Okay.

Of course, his Hydro-Québec experience did include building hydro dams.

**MR. POWER:** It did but his viewpoint would have resulted in, for the Muskrat Falls site alone, probably 7 million person-hours just for the site team. Now, the EPCM bid was 2.5 million for the whole job –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – including engineering in Montreal, project management in the home office and all the whole job. So this individual was indicating just for the Muskrat Falls site team, which is probably 30 per cent of the job, you're up to 7 million person-hours at a cost of –

**MR. BUDDEN:** I guess –

**MR. POWER:** – \$680 million.

**MR. BUDDEN:** Yes, big numbers but might that be in retrospect, perhaps, an early warning sign that your numbers at that stage – you know, which wasn't that long before sanction – that your numbers were totally out of whack, that perhaps he was on to something here, this experienced –

**MR. POWER:** No, this was a –

**MR. BUDDEN:** – fine gentleman.

**MR. POWER:** Oh, yes, it was before sanction.

**MR. BUDDEN:** Yeah.

**MR. POWER:** So the numbers of people on the team, either before or after the switch from EPCM to what we have now, that has never been a factor in project performance, in my view.

**MR. BUDDEN:** You don't think.

**MR. POWER:** No.

**MR. BUDDEN:** Okay. And the fact that this guy with, you know, a career in hydro development thought otherwise isn't something –

**MR. POWER:** Well, I'm, not sure if he had a career in hydro development. I know he had worked on some projects for – with Normand Béchard.

**MR. BUDDEN:** He – well, he'd certainly had a chunk of a career in hydro construction. You would concede that.

**MR. POWER:** I don't remember exactly what his –

**MR. BUDDEN:** Okay, yeah.

**MR. POWER:** – pedigree was but he had worked on some projects. Yes.

**MR. BUDDEN:** Sure, because the bottom line, this fact with his pedigree – this guy with this pedigree comes in and says, look, you know, this is what you need. And in – the result, you guys decided, well, you know, he's obviously out of whack with what we want to do here. I'm suggesting to you, perhaps, it might have been, you know – it's all hindsight, I grant you that, but might that not be an early warning sign that the whole –

**MR. POWER:** So the big job I worked for –

**MR. BUDDEN:** May I finish, please?

**MR. POWER:** Okay. Sorry.

**MR. BUDDEN:** You've been good so far. But may – you know, it might have been an early warning sign that perhaps the way you guys were envisioning the project was seriously out of kilt.

**MR. POWER:** So I don't reach that conclusion. The similar sized hydroelectric project, the mirror image of Muskrat Falls that I had worked on – albeit it was years before – we, you know, we never had anything like this. We had like we have now.

**MR. BUDDEN:** Okay. Yeah.

**MR. POWER:** I've never heard of this 700 people. That's 700 people – you'd need another camp. You know, I mean this was just – you know, I – you know, this was just out there.

**MR. BUDDEN:** And so you just concluded that he was in some fashion or other –

**MR. POWER:** Yeah, I couldn't bring – that view, that's not the viewpoint of the execution model that we were moving forward with.

**MR. BUDDEN:** Sure, okay.

**MR. POWER:** He was a nice guy. I mean, he was a gentleman, a real nice guy but just thinking completely – like I indicated yesterday, you know, you have people who believe the earth is round and people who believe the earth is flat and never the twain shall meet. And that's what I saw here.

**MR. BUDDEN:** So he was a flat-earthier, and you were a round-earthier?

**MR. POWER:** Or vice versa.

**MR. BUDDEN:** Okay.

I'm going to move on to some other questions. Moving on to some about Astaldi – not a whole lot, but there's a fairly extensive discussion yesterday, and I'm not going to revisit it because I think that that's been covered quite thoroughly, but I did have one question. When the subcontractors – when the contract was awarded,



my understanding was certain subcontractors had been identified.

**MR. POWER:** Astaldi.

**MR. BUDDEN:** Yes.

**MR. POWER:** Yes.

**MR. BUDDEN:** And was it within the contemplation of the PMT that those subcontractors would bring sort of the northern experience that Astaldi clearly didn't have.

**MR. POWER:** Yeah, so Astaldi had top-shelf subcontractors. They had basically the same subcontractors as Aecon had, and Kiewit.

**MR. BUDDEN:** Sure.

**MR. POWER:** They had AGF for rebar, so they were doing the Hibernia GBS so – and they do projects all over Canada.

**MR. BUDDEN:** Yeah.

**MR. POWER:** They use Doka formwork, which is a top-shelf formwork product.

**MR. BUDDEN:** Mm-hmm.

**MR. POWER:** They had Beton Provincial, Labrador Ready Mix for the crushing and the batch plant operations. They work all over Canada and Quebec. They had the low-heat cement suppliers from Quebec, top of the line. They had the –

**MR. BUDDEN:** I get your point that –

**MR. POWER:** They were top-notch subcontractors – subs – Astaldi had in their bid and, you know, they performed.

**MR. BUDDEN:** Okay.

You were interviewed in April of – the second interview just last month, and there's an exchange on page 107 that's somewhat topical. And I'm going to grab just a couple of pieces from that but I'm quite confident I got the context right. And if I don't, I'm sure your lawyer will challenge me.

Mr. Collins asked you: Is it common for a contractor to bid a team then show up with a different team? And you said: So, I'm not that familiar that a contractor would do that or not. I don't know.

And I guess frankly, and no disrespect intended, but it surprised myself and my client that that wouldn't be something that you would know and that it wouldn't be something that would be, sort of, really at the forefront of your mind and of a project team. And just to contextualize that, you've got a client, an Italian client, that's bidding on a project in Labrador but has reassured you by saying: Look, this is who we are going to work with, you know, these people who you knew from Hibernia, these people with an international reputation and so on.

**MR. POWER:** (Inaudible.)

**MR. BUDDEN:** So, really two questions: Was it not contemplated in the contract? And were there not performance or penalty provisions if the wrong people showed up? Was that contemplated by the contract, as best you understand?

**MR. POWER:** I know it was in the SNC contract. We had liquidated damages for key personnel.

**MR. BUDDEN:** Yeah.

**MR. POWER:** I am not sure if that is in the Astaldi contract or not.

**MR. BUDDEN:** Okay, 'cause would you not agree that's a pretty big deal?

**MR. POWER:** Yeah, especially in hindsight.

**MR. BUDDEN:** Yeah. Yeah.

**MR. POWER:** (Inaudible.)

**MR. BUDDEN:** And – so, when these contractors showed up – and I am quite familiar with the very strong letter you wrote in early May, and we'll get to that in a second. But – so here we are; you know, you've ordered a bid from Astaldi in good faith; you're anticipating that this major international company would show up and, with the local – or the

subcontractors – build the dam. Then the subs didn't show up.

**MR. POWER:** No, the subcontractors showed up –

**MR. BUDDEN:** Okay, but –

**MR. POWER:** – some of the Astaldi supervision never showed up.

**MR. BUDDEN:** Okay, so the issue was at that level?

**MR. POWER:** Yes.

**MR. BUDDEN:** And did the contract contemplate what would happen – what penalties there would be if the supervisors didn't show up?

**MR. POWER:** I don't know.

**MR. BUDDEN:** Okay, you're not sure of that?

**MR. POWER:** I'm not sure. But the bigger – the broader issue with Astaldi, of course, is the project manager who had the northern experience, Ken Chryssolor, he, you know, for health reasons, left the project in early 2014. So there was a, you know, considerable period of time where they went through a series – a suite of project managers. And things never really settled down until 2015.

**MR. BUDDEN:** Okay, that was obviously a personal tragedy he suffered, but –

**MR. POWER:** Yes.

**MR. BUDDEN:** – you know, this is a multi-billion dollar corporation. And presumably, they have other – one would hope they have access to other individuals because all of us are mortal, and all of us have things happen to us.

**MR. POWER:** Right.

**MR. BUDDEN:** I guess, what, if anything, did you guys do for your part to ensure Astaldi complied with? And what penalties were there in the event of non-compliance of key personnel being shown options (inaudible) –?

**MR. POWER:** So, I don't know if there were any liquidated damages. I don't know off the top of my head if there were any liquidated damages with respect to the key personnel.

**MR. BUDDEN:** Okay.

**MR. POWER:** I know what did we do; I know at the top of the house, at the Paul Harrington, Gilbert and Lance Clarke level, there were numerous meetings with Astaldi executives, you know, in – throughout 2014 for sure and maybe some in 2015. You know, numerous –

**MR. BUDDEN:** Sure, yeah.

**MR. POWER:** And I think Ed Martin even –

**MR. BUDDEN:** As you tried to right the ship.

**MR. POWER:** I think Ed Martin even, once or twice, participated in those from what I recall.

**MR. BUDDEN:** Sure. Okay.

Let's – back to 01769, I think for the last time, page 14, in the instance; that's the other exhibit we looked at which is in the PMT binder 51, I believe.

**CLERK:** Page 14?

**MR. BUDDEN:** Page 14.

And this again is spot-on about Astaldi, and it's a long paragraph so we'll cut to what I regard as the chase and I'll read it to you just for you to comment on. And it's the last third or so, beginning at: What was unforeseen.

Oh, back up please, Madam Clerk – yeah, perfect.

“What was unforeseen, and is considered an extreme and unexpected risk ... beyond the DG3 P75 Risk Estimate, was Astaldi's financial instability and its effect on their general inability to complete the work, given the difference between their bid basis and actual productivity achieved. This resulted in a sizeable risk that was too large for Astaldi to financially absorb (i.e. highly probably to have precipitated the default of the parent), hence contributing up to \$750 M to the overall cost overrun.”

So that, again, is your own project team's document.

**MR. POWER:** Yeah. So what I would suggest there, Mr. Budden, is Lance Clarke is up after me and he knows this inside out, so I would ask this question to him.

**MR. BUDDEN:** Okay, I will.

**MR. POWER:** Yeah.

**MR. BUDDEN:** But I'm going to ask you just a question too about it.

**MR. POWER:** Yeah.

**MR. BUDDEN:** When, to you, did this financial instability become manifest? When did you first become aware of it as an issue on the ground in Labrador?

**MR. POWER:** I think, from what I recall, and I could be wrong, I think I started to hear these types of things in probably 2015.

**MR. BUDDEN:** Okay.

**MR. POWER:** I think, but I could be wrong on this.

**MR. BUDDEN:** It could have been earlier than that, even?

**MR. POWER:** It could have been. I wasn't following the commercial – you know, Astaldi's financial and commercial big picture situation, but others were.

**MR. BUDDEN:** Okay. So this is more of a Lance Clarke issue and –

**MR. POWER:** It is for sure.

**MR. BUDDEN:** – perhaps others.

**MR. POWER:** Yeah, it is.

**MR. BUDDEN:** Okay.

Okay. Well, we'll explore it with them.

But I do just – I wanted to follow up: You are aware that advances were made to Astaldi?

**MR. POWER:** Yes, there was a \$15-million advance for the LNTP, and then at contract signing I think there was a \$100 million –

**MR. BUDDEN:** Okay.

**MR. POWER:** – I think.

**MR. BUDDEN:** Were advances made beyond what was contemplated in the contract?

**MR. POWER:** Not as far as I know.

**MR. BUDDEN:** Okay. So as far as you know –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – all advances were within what was contemplated in the contract?

**MR. POWER:** As far as I know.

**MR. BUDDEN:** Okay.

All right, we'll return with that to Mr. Clarke.

**MR. POWER:** But I could – I can't speak to that aspect authoritatively.

**MR. BUDDEN:** Okay. Well, we will get somebody who will.

**MR. POWER:** Yeah.

**MR. BUDDEN:** You – Nalcor, obviously, as part of its evaluation, its technical evaluation, there's also the creditworthiness evaluation.

**MR. POWER:** Yes.

**MR. BUDDEN:** You're aware that before the contract was signed even in 2013, late 2013, Astaldi would've been subjected to a creditworthiness evaluation. That's something that was known to you?

**MR. POWER:** Oh, yes. Yeah.

**MR. BUDDEN:** Okay. Was that something you had any role in at all?

**MR. POWER:** No, that would be Lance Clarke and Jim Meaney and ...

**MR. BUDDEN:** Okay.

Do you know why Nalcor issued a Limited Notice to Proceed rather than the final agreement in late 2013?

**MR. POWER:** Yeah. So my understanding is we couldn't award the contract until financial close was achieved –

**MR. BUDDEN:** Okay.

**MR. POWER:** – because, you know, we never had the money.

**MR. BUDDEN:** Obviously you couldn't commit.

**MR. POWER:** Right.

**MR. BUDDEN:** Yeah. So, as far as you know, that's the only reason it was an LNTP rather than a final contract in –

**MR. POWER:** Yeah, from what I can recall.

**MR. BUDDEN:** Okay, sure.

**MR. POWER:** Yeah.

**THE COMMISSIONER:** So just to – if I can, I'm not sure if it's a good spot to break you, but seeing we started at 9 this morning and I see it's 11 o'clock now.

**MR. BUDDEN:** Yeah, okay.

**THE COMMISSIONER:** Is this a good spot to break or if you –?

**MR. BUDDEN:** Sure. I'm not going to be a whole lot longer, but I don't mind a break.

**THE COMMISSIONER:** Okay.

Let's take 10 minutes then.

**CLERK:** All rise.

### Recess

**CLERK:** All rise.

Please be seated.

**THE COMMISSIONER:** All right, Mr. Budden.

**MR. BUDDEN:** Yes.

Mr. Power, just really last – one more question in this vein. The dome – do you know what it costs and do you know who paid for that, Astaldi or Nalcor or whom?

**MR. POWER:** So I don't know, you know, the exact costs of what the dome or the ICS structure cost from beginning to end. The cost would've been to Astaldi but, obviously, later in the project, there were settlement agreements where Astaldi were given more money to finish the job, so ...

**MR. BUDDEN:** And, again, is Mr. Clarke, perhaps, a better person to speak to –

**MR. POWER:** He is.

**MR. BUDDEN:** – about those details?

**MR. POWER:** He is, for sure.

**MR. BUDDEN:** Okay.

The term, aggressive schedule, is one we've a lot here at the Inquiry. I heard it a lot from members of the project management team.

**MR. POWER:** Right.

**MR. BUDDEN:** And, particularly, I want to talk about here is the – obviously, the schedule at sanction, the completion date of March of 2017, first power date. Was that a term that you were familiar with and you were comfortable with being used?

**MR. POWER:** I think at the sanction itself was at mid-2017 or December 2017. It wasn't March.

**MR. BUDDEN:** Perhaps it was December, but any point it was 2017.

**MR. POWER:** Yeah.

**MR. BUDDEN:** And that was described at the time as an aggressive schedule. Is that a term that you, yourself, would've used?

**MR. POWER:** No, I think I heard the word aggressive during the course of this Inquiry, but I agree it was aggressive.

**MR. BUDDEN:** Okay.

What – and a couple of questions for you along that line. Like, what do you mean – aggressive means different things to different people, what do you mean by aggressive?

**MR. POWER:** Well – so, at the time the schedule was created, it was done by – I remember Lee Stanton had this, I think, 10,000 line-item schedule, which was called a deterministic schedule.

**MR. BUDDEN:** Mm-hmm.

**MR. POWER:** And then the others, you know, Westney got involved and did the probabilistic assessment of that. And, you know, I don't really – I'm not all that familiar with how it all works, but they take out key events and look at it and if this went wrong or that went wrong, then they came up with these P-numbers.

**MR. BUDDEN:** Yes.

**MR. POWER:** So that work showed that, you know, the risks – the low risk and the high risk would have the thing being first power beyond the 2017 date, which is what the deterministic schedule won't show.

**MR. BUDDEN:** Okay.

**MR. POWER:** So the probabilistic work right there showed a later time frame than the deterministic work.

**MR. BUDDEN:** So anything that contemplated a date closer in time than that contemplated by the probabilistic analysis would be an aggressive schedule.

**MR. POWER:** Yeah, I mean, the schedule – you know, everything had to go right. Now, you know, before this probabilistic stuff was invented – which was, you know, wasn't back in the day – I can tell you that –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – when you had, you know, the deterministic schedule, but you would increase the float here and there to give yourself some time because things happened.

**MR. BUDDEN:** Yeah.

**MR. POWER:** Right, so I think the – the Lee Stanton schedule, although it was based on working six days a week instead of seven, so there was some float there –

**MR. BUDDEN:** Right.

**MR. POWER:** – you know, but things had to go right –

**MR. BUDDEN:** But, certainly, for – were you familiar with the Westney P3 probabilistic analysis as of, I believe, late summer of 2012, I believe. Were you familiar at the time of sanction, say, that that number was out there?

**MR. POWER:** So I was familiar that Westney were performing all this work. Jason, I think, was working closely with Westney. I wasn't.

**MR. BUDDEN:** Yeah.

**MR. POWER:** I knew that the – you know, the numbers – the analysis was showing the dates were beyond what this – deterministic schedule. Whether the – I don't recall hearing the P3 number. I only heard that here in the Inquiry.

**MR. BUDDEN:** Of course. You weren't aware of it at the time.

**MR. POWER:** No.

**MR. BUDDEN:** Okay.

**MR. POWER:** But I – you know, we all felt the schedule was aggressive.

**MR. BUDDEN:** Sure. I guess what I'm trying to get at here – and I'll just be flat out with it.

**MR. POWER:** Right.

**MR. BUDDEN:** One can say – I mean Clarendville is 160 kilometres away. You and I can go and get in my car and drive there. It'd be

an extremely aggressive schedule to get us there in an hour. That's really aggressive, isn't it?

**MR. POWER:** Right.

**MR. BUDDEN:** And that's not realistic. However aggressive one wants to drive, your –

**MR. POWER:** Right.

**MR. BUDDEN:** – chances of getting to Clarendville in an hour from here is just not going to happen, is it?

**MR. POWER:** Right.

**MR. BUDDEN:** Okay. So that's an aggressive schedule but it's not a realistic schedule.

**MR. POWER:** That's right.

**MR. BUDDEN:** Okay.

While if we're – say, we're going to leave here to drive to Clarendville and maybe get there in an hour and 40 minutes, that's also pretty aggressive, but perhaps a little more realistic.

**MR. POWER:** Right.

**MR. BUDDEN:** And I guess what I'm suggesting to you is a – to go forward on a P3 schedule and describe it as an aggressive schedule is not much different than saying I'm going to drive to Clarendville in an hour, is it?

**MR. POWER:** So I never saw the schedule like that.

**MR. BUDDEN:** Yeah.

**MR. POWER:** I saw it as more, maybe an hour and a half.

**MR. BUDDEN:** Would you, yourself, personally describe a P3 schedule as an aggressive schedule?

**MR. POWER:** So –

**MR. BUDDEN:** It's a very simple question.

**MR. POWER:** So my understanding of this probability business is that once you go outside

the P25 and the P75, once you go outside on the fringes, then it's very subjective.

**MR. BUDDEN:** The –

**MR. POWER:** So, you know, personally, from what little knowledge I have of the probabilistic methodology – and I did some of it on the – when I was down Petro-Canada, I wouldn't put much credence personally in this P2, P3, P4 business.

**MR. BUDDEN:** Okay but having said that, you do put credence in Westney.

**MR. POWER:** So I never worked very closely with Westney over the years – I never.

**MR. BUDDEN:** Okay but you don't doubt their expertise, you don't doubt – they were hired by Nalcor, after all. And, again, not to go down this –

**MR. POWER:** So, yeah –

**MR. BUDDEN:** – rabbit hole but just let me finish –

**MR. POWER:** Yeah, so I would say –

**MR. BUDDEN:** Just let me finish for a second.

**MR. POWER:** All right, sorry.

**MR. BUDDEN:** So not to go down too far into the weeds, we've gone there with other witness, but –

**MR. POWER:** Right.

**MR. BUDDEN:** – Westney, you would agree, are experts in the quantification of risk and related topics.

**MR. POWER:** Yes and they were spoken of highly by Jason and others who were into this type of work.

**MR. BUDDEN:** Yes.

**MR. POWER:** Yeah. So I say Westney are a competent firm, yes.

**MR. BUDDEN:** Okay. And I guess what I am saying to you – and you're a professional engineer –

**MR. POWER:** Yes.

**MR. BUDDEN:** – you're an experienced person.

**MR. POWER:** Yeah.

**MR. BUDDEN:** You're obviously regarded as a creditable person. Would you, out of your own lips, describe a schedule with that kind of P-factor attached to it as an aggressive schedule or would you use some other term?

**MR. POWER:** An aggressive, I would use, yeah.

**MR. BUDDEN:** Okay.

And I guess the problem I would have then is if you're describing a P3 as an aggressive schedule – which, you know, I would suggest is like the driving to Clarendville in an hour – what – you know, what weight could anybody attach to that, because you're describing something that has a very remote chance of success as an aggressive schedule?

**MR. POWER:** Yeah, so I never thought about the P3 business. What I thought about was that deterministic schedule that said first power end of December 2017 and I thought that was aggressive.

**MR. BUDDEN:** Okay.

And, basically – virtually everything would have to break right for that to be achieved.

**MR. POWER:** Yes.

**MR. BUDDEN:** Okay, but in the real world, as you know, having been in out the real world for a while, that typically does not happen, or hardly ever happens, does it?

**MR. POWER:** So we took measures to achieve that. You know, we did the bulk that – we broke the excavation out of the Astaldi contract, and did that beforehand so that we wouldn't be behind. We built the road, we brought in

construction power. So we did things to enable us to achieve the schedule, but unfortunately, the Astaldi situation never worked out and we never –

**MR. BUDDEN:** Okay. Let's call up P-03047, Madam Clerk. And that is, I guess, your site report from, I think, May 4, 2014, following your visit of the previous week. And that should be in your materials.

**THE COMMISSIONER:** 03047 is at PMT binder 3, tab 80.

**UNIDENTIFIED MALE SPEAKER:** Okay.

**MR. BUDDEN:** So it's actually, and again –

**MR. POWER:** What's the tab number again, please?

**THE COMMISSIONER:** Tab 80.

**MR. POWER:** Eighty.

**UNIDENTIFIED MALE SPEAKER:** Okay?

**MR. POWER:** Thank you.

**MR. BUDDEN:** Okay. Perhaps we can scroll down a little farther, because it's really covering an email that you sent – or report that you sent. So we scroll – yes. Scroll a tiny bit farther, please. You're saying here – we're on page 2 now – and these are your own comments following –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – your visit to the site. We have: The Schedule is probably lost. So I suggest that you yourself knew, by May of 2014, that first power's not gonna be delivered in 2017. You knew that, didn't you?

**MR. POWER:** So the schedule was aggressive, to begin with.

**MR. BUDDEN:** Yeah.

**MR. POWER:** And here we are, six months in whatever –

**MR. BUDDEN:** But your main contractor is being perceived as a joke on site.

**MR. POWER:** Well, here we are, having these big issues, yeah. So, yes.

**MR. BUDDEN:** Yeah.

**MR. POWER:** So I knew –

**MR. BUDDEN:** So at that point, the schedule –

**MR. POWER:** – the schedule was in jeopardy at that point.

**MR. BUDDEN:** Well, in jeopardy, as in falling off a cliff, you would agree?

**MR. POWER:** Well, that's the term I used. You got to – you got to realize when I wrote this, I was very animated, very upset to go to site and see this state of affairs –

**MR. BUDDEN:** Okay.

**MR. POWER:** – at that time.

**MR. BUDDEN:** Okay. Let's scroll down. There's another comment here I want to put to you. Yeah, the – it rather leapt out at me, and this is about halfway down that paragraph: I do believe Manni is conspiring against the project.

Can you tell us a bit more about that, again, who Manni is and why you believed he's conspiring and to what purpose?

**MR. POWER:** So – all right, so Manni is a – and a person, his name is Emanuele Triassi. He was the president or CEO or some – I think, of Astaldi Canada. I always sensed that there was some kind of a rift between Astaldi Canada and Astaldi Rome. I don't have any facts to back that up, this is a sense I was having.

**MR. BUDDEN:** Your sense was that he was conspiring to – to what? To – like, how was a conspiracy manifesting –

**MR. POWER:** All right. So –

**MR. BUDDEN:** – itself, to what purpose?

**MR. POWER:** I don't know why I used the word conspiring, but I just felt there was a rift – a rift that, he wasn't supporting the project as much as he should have. I just felt there was a rift.

**MR. BUDDEN:** Okay.

**MR. POWER:** But, I can't – you know, I used those terms then, yes.

**MR. BUDDEN:** Well, look, I cannot imagine there's a whole lot of fun to have your words from four years ago put back to you, but there they are; that is what you said, at the time, to –

**MR. POWER:** Right.

**MR. BUDDEN:** – the other guys on the team.

**MR. POWER:** Right.

**MR. BUDDEN:** And, I guess, my question is: What was done about it? You got a guy here – or at least one of the senior PMT-members thinks is conspiring against the project. What did you guys do about it?

**MR. POWER:** Well, there – you know, after I wrote this, then there were – there was a lot of intervention at the highest levels of Astaldi.

**MR. BUDDEN:** Okay. And, was Manni gone after this – Emanuele?

**MR. POWER:** I don't think he was around too much longer after this, from what I recall.

**MR. BUDDEN:** Okay. But not let him on the first plane, out of camp or anything?

**MR. POWER:** Well, he wasn't on the site.

**MR. BUDDEN:** I know that, not literally, but he – his involvement didn't end abruptly at this point?

**MR. POWER:** No, I think he phased out –

**MR. BUDDEN:** Okay.

**MR. POWER:** – from what I remember.

**MR. BUDDEN:** Yeah.



**MR. POWER:** I just think –

**MR. BUDDEN:** (Inaudible.)

**MR. POWER:** – there was a rift. I sensed there was a rift between Astaldi Canada and Astaldi Rome.

**MR. BUDDEN:** Sure. So despite, your literal words are that he is conspiring against the project. You're backing off a bit from that now, why?

**MR. POWER:** Yeah, 'cause –

**MR. BUDDEN:** (Inaudible.)

**MR. POWER:** – I don't – I don't really remember why I said that.

**MR. BUDDEN:** Okay. All right.

And, nobody – do you recall anybody, at the time, quizzing you about it, saying: Jesus, Ron, what are you saying here?

**MR. POWER:** No, but they were trying to control me, because I was blowing a gasket when I was seeing all this stuff.

**MR. BUDDEN:** Okay.

**MR. POWER:** So, that's what was happening there.

**MR. BUDDEN:** All right. When you were – or my understanding – and, again, I may be wrong on this, but that you were on site, serving as site construction manager for, perhaps, eight or nine months. Am I correct on that?

**MR. POWER:** Yeah, so the sequence of events was – so, the LNTP was awarded in September, the contract – the Astaldi contract was signed in December, other people – you know, we had a site team, and we had a simple coordination manager, a guy called Mike Collins; he was in this file.

I wasn't, you know, all over this file; I was doing other stuff, as general project manager. I could sense, you know, things weren't going where I need it to be, so I went up, at this period in time, and I made the observations that – we

went through yesterday, with that Norseman Structure still being constructed – and here the winter was over, and what need to happen, which happened the following week, was haul the bloody thing down and get serious about building the spillway.

So then I took action, I – I recognized supervision was an issue, so our guys – I think it was Bill Knox, in particular, you know, came up with a list of names that could help Astaldi. So we sent a letter to Astaldi in mid-May, with those list of names. I was pushing the recruitment on that, but in June I had a heart attack. So I ended up in hospital for 10 days, I came out of it with three stents in my heart. And then my wife put in the talons, so she held me back. So I was kind of not at site then until October.

So October, she let me go, and I went up there and what I did then in October, I – we had set up all these working groups in the meantime, that I talked about yesterday, to help Astaldi. Astaldi were very collaborative, I'll say that, and, you know, really appreciated the help that we could provide.

So I went up myself and took on the winterization program. So I held a meeting every day, with all – the Astaldi superintendent, and the project manager would attend some days, and Erasmo Bassano who's now – who's the construction manager for a very – who eventually built the thing. And everyday we held a meeting and we had actions and – finally, the site get winterized because, you know, the batch plant was – everything was up and running, and the winter was coming and if it wasn't winterized, it'd all freeze up.

**MR. BUDDEN:** Sure. I am –

**MR. POWER:** So I push all that.

**MR. BUDDEN:** – I am gonna stop you there –

**MR. POWER:** Yeah.

**MR. BUDDEN:** – just because I think you've – it's a good launch point but if you wanna return to it later, if you feel a need to. But, I guess my question was, and you just made the comment, you're having daily, you said, meetings with

Astaldi to – to hand – and I assume those meeting included progress reviews, what's taken place –

**MR. POWER:** No, it was strictly –

**MR. BUDDEN:** – what's –

**MR. POWER:** – this was strictly – this was a winterization meeting.

**MR. BUDDEN:** I see.

**MR. POWER:** There were – you know, the site team – as part of operating the site, there were, you know, weekly progress meeting with Astaldi and quality meetings and, you know, all this stuff was happening. I just focused on certain areas, certain areas where I saw things weren't being done, that would jeopardize the project. So if winterization wasn't put in place, you'd be dead in the water once it got cold. So I focused on that.

**MR. BUDDEN:** Sure. So just getting back, for a moment, to the – these weekly progress meetings. Would you typically attend those meetings with the contractors?

**MR. POWER:** If I was up on site, I might. But I – you know, but we had a site team, you know, we –

**MR. BUDDEN:** Sure, yeah.

**MR. POWER:** Des Tranquilla was there and –

**MR. BUDDEN:** Right.

**MR. POWER:** – he kind of ran those things, so.

**MR. BUDDEN:** Do you know if records were kept?

**MR. POWER:** Oh, yes, minutes of all those meetings.

**MR. BUDDEN:** There are, are there? Okay, thanks.

**MR. POWER:** In, you know, in Aconex.

**MR. BUDDEN:** Sure.

I have to ask about your comment, in the text we saw yesterday: Don't worry, I'll get Normand. What did you mean by that?

**MR. POWER:** Normand Béchard.

**MR. BUDDEN:** Yeah, that was – I'm just taking – I'm assuming that's who you meant unless there's another Normand here. But –

**MR. POWER:** No, so –

**MR. BUDDEN:** – you recall the text –

**MR. POWER:** Okay, so I observed Normand's testimony and throughout – and somewhere in that testimony he called Scott O'Brien incompetent. That's the words he used. And Scott O'Brien is not incompetent, he's a brilliant project manager, I can tell you that.

And, yeah, I took umbrage to that because I know Scott for 20-odd years. I brought him on the project and he's doing an incredible job.

**MR. BUDDEN:** Okay.

**MR. POWER:** So get to Normand, what my intention was, was to expose his involvement with this 2016 risk report business. Because I understand – I don't know the details but Stan Marshall knows the details, you can ask him when Stan gets here – that Normand was one of the people involved in the proposal. And the proposal to take over is in here, it's one of these exhibits. And the proposal is to reinstate the EPCM services and to remove the existing project management team.

**MR. BUDDEN:** Yeah but –

**MR. POWER:** And Normand was part of that so I got a problem with that.

**MR. BUDDEN:** Okay, we talked about that so I won't return to it.

**MR. POWER:** Okay.

**MR. BUDDEN:** But the – if I recall his evidence and, also, even more so the evidence of some of the workers on site, the issue is not so much with Mr. O'Brien's engineering skills, but rather his managerial style. I mean, Mr. Knox

and others spoke of him interrupting people, talking over them and so forth. That was their evidence; Mr. O'Brien will have a change to speak to that.

**MR. POWER:** Sure.

**MR. BUDDEN:** But you do recall that being part of their evidence?

**MR. POWER:** So I do recall the workers panel –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – which I indicated yesterday I don't personally put any credence in because you got four grumblers up on the stand, and that's fine.

**MR. BUDDEN:** Well, that's your characterization –

**MR. POWER:** It is.

**MR. BUDDEN:** – but I guess that particular issue where certain people – not everybody – but certain witnesses here – and not just them – have described Mr. O'Brien as being, you know, in my words really more than theirs, but bullying, talking over people and interrupting people, being very harsh on site, sort of firing people on the spot, that kind of stuff. Firstly, is that something that you are aware of by: (a) of the allegations and (b), is that your understanding of his managerial style?

**MR. POWER:** So I'm aware of the allegations because I was watching the –

**MR. BUDDEN:** Yeah.

**MR. POWER:** – right? Regarding, as I indicated yesterday, the people that have been removed on site over the years – and in the big picture there aren't that many over all these number of years – were removed for a very good reason, or it wouldn't have happened, because of the fallout that always occurs when an individual is removed from the project.

So those decisions weren't taken lightly where people were removed. And they were always for the – mostly for safety reasons.

**MR. BUDDEN:** Sure.

**MR. POWER:** Right?

**MR. BUDDEN:** Just to return to the issue of Mr. O'Brien, because we haven't heard it about Mr. Kean, say, or other people, we have heard it about Mr. O'Brien. Is that an accurate description of Mr. O'Brien's managerial style, at least at times?

**MR. POWER:** Yeah, so I wouldn't say that.

**MR. BUDDEN:** Okay. You've never heard him carry on in the ways that those witnesses described – never?

**MR. POWER:** No, he can be firm with people but – and as I indicated yesterday, you haven't heard from all the construction managers who actually built this thing and they wouldn't say what the others are saying.

**MR. BUDDEN:** Okay.

You testified yesterday – it was around the issue of your prior experience and, perhaps, the prior experience of other people. And your point was – if I understood you correctly; I didn't write it down word for word – was that you didn't need hydro construction experience, you needed project management experience and that was a transferrable skill from offshore or some other engineering sector, civil engineer experience. Do you remember saying that?

**MR. POWER:** Yeah so project management is an industry –

**MR. BUDDEN:** I understand that.

**MR. POWER:** – in itself. So project managers, one day they'll project manage building a ship, the next year they're project managing building a tunnel somewhere. That's what project managers do.

**MR. BUDDEN:** Sure, I understand that, but having said that, do you believe – here's – well, okay, let me phrase it this way. We have heard other witnesses, including some with expertise, who say that it is important that the project management team have on it enough people with enough experience in constructing hydroelectric

dams, megaprojects. You seem to be saying something different than that.

**MR. POWER:** So you need to think about what is a – what is the Muskrat Falls generating site? What is the site? So it was a road that got built, so that's a road; it's a camp that got built, that's a camp. The excavation got excavated, so that's blasting out rock to put something in it. A powerhouse got built, which is concrete and rebar and formwork.

**MR. BUDDEN:** Mm-hmm.

**MR. POWER:** The hydroelectric expertise is the shapes – the hydraulic shapes and that comes from the design team – the design team in Montreal. Otherwise – so, for example, in the SNC proposal that we accepted, the construction manager, Nick Mills, who never came to the project, he never worked on a hydro job before. He came out of the mines and energy division as a very experienced construction manager.

**MR. BUDDEN:** Okay.

**MR. POWER:** But he could have aced this, he didn't need hydro experience to build this.

**MR. BUDDEN:** Okay.

And, obviously, there's a transmission element to it as well. I think Stan Marshall described this as a transmission project, but my point is this, I guess, just to focus it. We have other people who say you do need hydro experience. You say that's not as important. The Commissioner has to make a determination at some point –

**MR. POWER:** Right.

**MR. BUDDEN:** – which of those positions he accepts. What is it about that your background, your knowledge, that would – should lead him to accept what you're saying? I'm feeding it to you, just tell me that. What is it – why should he accept your position as opposed to those other positions?

**MR. POWER:** So I can only go by my experience. Now, the other thing you need to keep in mind is that by the time people like Scott O'Brien and others got moved into the project

manager role, they had been on the project two years.

**MR. BUDDEN:** Mm-hmm.

**MR. POWER:** So, you know, in two years, no matter what you're working at, you know it.

**MR. BUDDEN:** Okay.

So, really, you're saying to the Commissioner he should rely on your general project management experience in support of your opinion on this particular issue?

**MR. POWER:** Yeah, that's my view.

**MR. BUDDEN:** Okay, fair enough.

This is really the end of my questions, but I'll tie it together like this: you – you're – we've heard from, you know, premier – former Premier Williams describe the project management team as a world-class team. Other people have used similar terms.

But it looks to me that – and we've heard evidence here that the project management team seems to be pretty disappointed in their choice of major contractors. We've heard Astaldi, we've heard of, obviously, the relationship with SNC-Lavalin which is a contractual relationship, GE, Valard. I mean, it's been a continuing theme through Phase 2.

**MR. POWER:** So I think the –

**MR. BUDDEN:** May I finish please?

**MR. POWER:** Okay, sorry.

**MR. BUDDEN:** No problem.

It's really the project management team says: Look, you know, we came here, we made a – you know, at sanction we said we'd build this thing for \$6.2 billion, we can have first power by the end of 2017, but then all these contractors came on site and just screwed us over. That, I would've said – that essentially is the position of the project management team, isn't it, in a nutshell.

**MR. POWER:** Well, I don't think we said that about Valard. They performed.

**MR. BUDDEN:** Okay. Okay but, otherwise, that's an accurate description?

**MR. POWER:** GE and Astaldi were the ...

**MR. BUDDEN:** Sure, yeah.

I guess what – you know, what my clients were saying in response to that – I guess, just putting this out there because it's been said so I'll give you a chance to comment on it – that you – you're essentially a bunch of engineers from the oil patch with serious experience, nobody doubts that, serious qualifications. But you came to this job and you were basically had by a bunch of bigger players, bigger contractors who – and you guys ended up executing poor contracts that were poorly supervised and hence blew the budget, blew the schedule. What do you have to say in response to that?

**MR. POWER:** So I guess to answer your question, the outcome today certainly isn't what we had intended, you know, with respect to Astaldi. I mean, Astaldi were selected by very senior SNC-Lavalin people. I mean, SNC-Lavalin, when we went through that process, we still had the EPCM model and I trusted, we trusted – and they were great people – and they are as surprised as are with respect to Astaldi's performance. So the –

**MR. BUDDEN:** Just stop you there.

**MR. POWER:** Yeah.

**MR. BUDDEN:** Wasn't the transition from EPCM to integrated back in 2011 or early 2012?

**MR. POWER:** It was in March or April of 2013, when we announced the integrated team.

**MR. BUDDEN:** Okay, and Astaldi was – when was the first contract with Astaldi signed? Fall of 2013?

**MR. POWER:** It was, but the evaluation team, the team that was put together in early 2012 to go to the pre-qualification and then, you know, the final four bidders and then the bid process. It

was the same people on that right to the end, and they were very senior SNC people.

**MR. BUDDEN:** So, it's SNC's fault?

**MR. POWER:** No, I am not saying it's anyone's fault, I'm saying that we had very experienced people who worked for SNC who made the recommendation to us.

**MR. BUDDEN:** Okay.

Well, that's that one. How about GE?

**MR. POWER:** GE, again, we had a bid evaluation team, I don't remember who was on it, and we went through the process for a long time and the bid was evaluated and scored, and GE – well, actually it was Alstom which were – okay, so right, so it's coming back to me.

So, we actually awarded to Alstom and then they were taken over by GE and then GE went, you know, I mean their stock went in half or something, GE just collapsed, as a company. That had a big – so that was a black swan event, I think is the term that's used, and there's been a struggle ever since.

So, that was certainly unknown that Alstom, who we awarded the contract to, actually they got taken over by GE, and the sequence of events and problems that happened since. So that was completely unknown when that contract was awarded.

**MR. BUDDEN:** Do you think in retrospect that you guys were in over your heads?

**MR. POWER:** No.

**MR. BUDDEN:** Okay. Thank you. I have nothing further.

**MR. POWER:** All right, thank you.

**MR. BUDDEN:** Thank you, Mr. Power.

**THE COMMISSIONER:** Thank you.

Edmund Martin?

**MR. SMITH:** No questions, Mr. Commissioner.

**THE COMMISSIONER:** Kathy Dunderdale – not present.

Former Provincial Government Officials '03-'15?

**MR. T. WILLIAMS:** No questions.

**THE COMMISSIONER:** Julia Mullaley, Charles Bown – not present.

Robert Thompson?

**MR. COFFEY:** Thank you, Commissioner.

Bernard Coffey, I represent Robert Thompson, Mr. Power.

Just had a couple of questions. You've – I think I have your words correctly, referring to your May 1, 2014, observations when you were on the site.

**MR. POWER:** Mm-hmm.

**MR. COFFEY:** You said, I was blowing a gasket when I was seeing this. Remember that? Saying – you said that this morning.

**MR. POWER:** I said it here.

**MR. COFFEY:** Yes, you said it this morning.

**MR. POWER:** Yeah.

**MR. COFFEY:** Yeah, that's what I'm saying, yeah.

Do you recall when it was the last time you had been at the site prior to May 1, 2014?

**MR. POWER:** No, I don't.

**MR. COFFEY:** Do you know if you had been at the site between the award of the contract on November 29, 2013 to Astaldi and May 1?

**MR. POWER:** I don't remember.

**MR. COFFEY:** So you may not have been on the site in between.

**MR. POWER:** I don't remember, yeah.

**MR. COFFEY:** Do you recall whether or not, as you put it, having blown a gasket, whether or not you said anything to Nalcor's site team at that time?

**MR. POWER:** So, I would have had discussions with Nalcor's site team while I was there.

**MR. COFFEY:** You know, about the lack of progress, is what – what I'm getting at is this, I suppose, is just to ask you – I take it you were somewhat surprised by what you saw on May 1 and taken aback by it.

**MR. POWER:** Yes.

**MR. COFFEY:** Had you had any idea or inkling before you arrived on May 1 as to what you might find when you arrived?

**MR. POWER:** I can only speculate on that now, you know. Maybe I did. I knew – or I – you know, we had a site team and concerns were being conveyed, you know, in the regular communication.

**MR. COFFEY:** Do you recall what those concerns were and who was conveying them and how they were doing so? Because there doesn't seem to be much in writing here about that.

**MR. POWER:** So, no, I don't recall. I mean, there was progress meetings with Astaldi. There would've been minutes of meetings where issues were being discussed and documented.

**MR. COFFEY:** Would those minutes arrive in St. John's for you to look at?

**MR. POWER:** Yeah, the minutes would be distributed, yes.

**MR. COFFEY:** So, the minutes of the meetings on site?

**MR. POWER:** Yeah, they'd come in on the computer.

**MR. COFFEY:** In on the computer, so you'd be able to see –

**MR. POWER:** Yeah.

**MR. COFFEY:** – what was minuted.

And what, if any, was the delay in relation to – like, a meeting on a particular day, like day one, when would you expect to see the minutes on your computer in St. John's?

**MR. POWER:** I'm thinking within a few days, I'm thinking.

**MR. COFFEY:** Okay.

**MR. POWER:** But, you know, that may not always be the case.

**MR. COFFEY:** Now, Commission counsel, I believe one of the last questions she asked you was, you know, to what you would attribute cost overruns. And I think you responded contractor performance, which is the second thing, and you said as well, I believe, the estimates were too aggressive?

Which estimates are you talking about? Which estimates were too aggressive, at what stage and which ones?

**MR. POWER:** So, in my mind, the estimates for the project – let me backtrack a bit.

I'm thinking more that the – in my view, the contingency was low.

**MR. COFFEY:** And did you, at the time, think that?

**MR. POWER:** Yes, we expressed that concern.

**MR. COFFEY:** And in this context, we is whom?

**MR. POWER:** Well, I expressed it, you know, I discussed it with Paul.

People had different views on contingency.

**MR. COFFEY:** Well, would you tell the Commissioner, please, what it was you told Paul. And in this context it's Paul Harrington, I presume?

**MR. POWER:** Yes.

**MR. COFFEY:** And you told Paul what concerning contingency at what stages?

**MR. POWER:** So, when Westney did their work and recommended that 7 per cent contingency, that's in one of the Westney reports, that the project eventually went forward with, I thought that was low, so it would've been around that time, whenever that report got issued, that, you know, I would've expressed that concern.

**MR. COFFEY:** And that – if we could bring up, please, P-00832, and this will come up on your screen, Sir.

**THE COMMISSIONER:** Three-two, yes, that's not gonna be in your book.

**MR. COFFEY:** If we just go to the – this is the – from Jack Evans to Jason Kean, this is the Nalcor management reserve lender's owner contingency report version 8, September 2012, and it's – attaches the updated final report. Could you just go to the next page, please? The next page again.

Yeah, yes: "Analysis of ... Management Reserve and Lender's Owner Contingency for the Lower Churchill Project."

Just a second, please, Commissioner, could we go to page 12, please?

Now, this is –

**MR. POWER:** Mmm.

**MR. COFFEY:** – just the total cost-risk assessment. I'm gonna go back to the contingency in a moment, but this, I understand, is Westney's analysis of the total cost risk assessment all in. This is strategic risk and tactical risk? Do you see that?

**MR. POWER:** Yeah, that's what it looks like, yeah.

**MR. COFFEY:** And you'll see there that at P75, the figure is \$6,737 million, correct?

**MR. POWER:** Yeah.

**MR. COFFEY:** And I believe if one checks the record, one will find that the escalation, it does – this does not include escalation – escalation was approximately \$360 million at DG3. So when you add 6.737 and 360, you get \$7,097,000,000, which is your P75 value, all in.

**MR. POWER:** Yeah.

**MR. COFFEY:** So in relation to that, earlier today you'd referred to comparing the current \$10.1 billion at a P75 to the DG3 P75 –

**MR. POWER:** Yes.

**MR. COFFEY:** – and you said \$7.5 billion.

**MR. POWER:** Yeah, 'cause that was the 7.1 in today's dollars.

**MR. COFFEY:** Okay.

**MR. POWER:** That's in a deck here. If you escalate that to today's dollars, that's the comparison.

**MR. COFFEY:** Okay. And if we could, then, just to deal with this contingency – if we could bring up, please, P-00014.

**THE COMMISSIONER:** Again, it'll be on your screen.

**MR. COFFEY:** It'll be on the screen, I believe.

If we could try, please – I'm sorry, not P-00014. I apologize. P-00130. I apologize, Commissioner. P-00130. And try page 272. P-00130, page 272.

Now, this is the – well, this is the larger Nalcor document itself, this Exhibit P-00130, but this portion of it has the Westney report, the tactical risk report in it. And, in fact, this is one of the pages, and you will see it there, Mr. Power, in front of you. And you'll see "the ... contingency" – will – "be \$368 million" off to the left hand side. See that?

**MR. POWER:** Yeah.

**MR. COFFEY:** At P50, which is that 7 per cent, I take it, that you were referring to.

**MR. POWER:** Yep.

**MR. COFFEY:** Now, you say that you told Paul that you thought 7 per cent was low. Are we talking about, at this stage, you did that at the DG3 – running into the DG3 decision? Is that the time you're talking about, or DG2 or both?

**MR. POWER:** No, I think it's when the stuff showed up, which is, you know, between DG2 and DG3.

**MR. COFFEY:** In between the two?

**MR. POWER:** Yeah, I believe.

**MR. COFFEY:** So, really, it would be this report? And, in fact, the 368 is 7 per cent.

**MR. POWER:** Yeah, so I wasn't into this risk work; I just heard there was a 7 per cent contingency, which I thought was low. You know, others were – Jason and others were doing the risk work.

**MR. COFFEY:** And so, do you recall speaking to Paul Harrington about it?

**MR. POWER:** So, I had an opinion –

**MR. COFFEY:** Yes.

**MR. POWER:** – that 7 per cent was low. I'm thinking I would've mentioned it to Paul.

**MR. COFFEY:** Did – you did so verbally, I take it. You didn't do so in writing?

**MR. POWER:** No. That's right. It would've been conversations.

**MR. COFFEY:** And what were you – what – you said you thought 7 per cent was low; well, what should it have been, in your – based upon your experience, what were your thoughts?

**MR. POWER:** I would've been more comfortable, I think, you know, with a 10 to 15 percent.

**MR. COFFEY:** So, 50 per cent more than it was or double it, effectively. Because 10 percent – 10 to 15 per cent, 10 per cent is almost double 7, and 15 per cent is more than double 7, so ...?



**MR. POWER:** Right, yes.

**MR. COFFEY:** So you thought the contingency, and based on – again, based upon your own experience, should have been the contingency amount?

**MR. POWER:** I did but, you know, in one of the Westney documents on the front page where this – where they recommended the 7 per cent, they gave the reasons why they did that, and –

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

**MR. POWER:** – it's because we had all these quotations in and early work was started and things. So they had good reasons for that 7 –

**MR. COFFEY:** Oh yeah.

**MR. POWER:** – per cent. I just thought it was low.

**MR. COFFEY:** But having seen those good reasons, you still told Paul – your memory is you told Paul: Look, this looks low to me. I'm thinking 10 to 15 per cent.

**MR. POWER:** Yeah, based on, yeah, my experience type of thing.

**MR. COFFEY:** And so, you know, you told him it was low, but did you tell him, look, Paul, we should have it at 10 to 15 per cent?

**MR. POWER:** I think I just indicated that in my view, it seemed to be low.

**MR. COFFEY:** What was his response to you?

**MR. POWER:** Oh, I think Paul anchored back to the Westney report and the reasons why they thought it was – the 7 per cent was adequate or, you know, what was appropriate, I guess is the word.

**MR. COFFEY:** Okay.

Now, if I could – you also – now, just after the break this morning in answering a question concerning probabilistic analysis for the schedule, I think in the context the question –

**MR. POWER:** Yeah.

**MR. COFFEY:** – was being asked. Do you remember that? Mr. Budden was asking you about it.

**MR. POWER:** Yeah.

**MR. COFFEY:** You said – and I think I got it right – you said back in the day – was your phrase – there weren't – probabilistic analysis weren't used for that; they were deterministic.

**MR. POWER:** Yeah, that's right.

**MR. COFFEY:** And – okay. Could you tell the Commissioner, please, looking back on your career – because your career began in 1977 after you left – well, certainly after you left school –

**MR. POWER:** Yeah.

**MR. COFFEY:** – in the spring of '77 – can you tell the Commissioner what your memory is of when probabilistic analysis of schedules began?

**MR. POWER:** Maybe in the '90s.

**MR. COFFEY:** In the '90s.

**MR. POWER:** I think. You know, I'm not a probabilistic guru.

**MR. COFFEY:** Yes.

**MR. POWER:** But I seem to recall that kind of, you know, analysis coming about.

**MR. COFFEY:** And I take it, then, from that comment that you, yourself, are not comfortable in that world, that others would do that work.

**MR. POWER:** Yeah, I wouldn't know how to do it, no.

**MR. COFFEY:** Thank you very much, Commissioner.

**THE COMMISSIONER:** Thank you.

Okay, Consumer Advocate.

**MR. HOGAN:** Hello, Mr. Power. My name is John Hogan. I'm counsel for the Consumer Advocate.

**MR. POWER:** Good morning.

**MR. HOGAN:** Mr. Power, Ms. Muzychka took you through your CV and your history – your work history yesterday, but I just want to follow up and get some more detail on some of the projects you’ve worked on.

**MR. POWER:** Sure.

**MR. HOGAN:** So I’m going to be referring to some detail you gave during one of your interviews, so I’ll give you that –

**MR. POWER:** Sure.

**MR. HOGAN:** – information and just probably ask you to follow up –

**MR. POWER:** Yeah.

**MR. HOGAN:** – on some questions I have.

So, first of all, you mentioned that you worked on the Granite Canal Hydroelectric project.

**MR. POWER:** So I forgot to mention that yesterday.

**MR. HOGAN:** Sure, okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** Sorry, you mentioned it in your interview then, that’s fine.

**MR. POWER:** Yeah, I did.

So what I did, I worked on some of the feasibility work over the years on that. But in 1997, when that project started to get hot, I’ll say, I actually laid out and executed a field investigation program.

**MR. HOGAN:** So that’s what – you said that in your interview, so what does that mean, a field investigation program? Can you explain that to the Commission?

**MR. POWER:** Yeah.

So, before you go into engineering to actually do the drawings that are going to be used to build the structures associated with that project, it’s

necessary to understand the ground conditions. So what we did, as part of the field investigation program, we did survey work and we did diamond drilling in the areas where the powerhouse and other structures were going to be built to find out where the rock was and the condition of the rock, if there’s faults in the rock and things like that. And also that particular project had a large power canal associated with it that had to be blasted out of rock.

So we did a series of excavation – we used an excavator to dig down to the top of the rock right along the roof of the canal to find out the level of the rock so that when we calculated the amount of rock excavation that went into the bid documents, it would be accurate.

**MR. HOGAN:** So, your – I’ll just sum it up for you; this is what you said in your interview: I did the field investigation, included survey, soils investigation, diamond drilling to locate the structures. Is that –?

**MR. POWER:** Yes, that’s right.

**MR. HOGAN:** Okay.

And you also said you left around 1997 and the project went into execution in the year 2000. So you weren’t involved with the start of the construction or the completion at all of that project. Is that correct?

**MR. POWER:** No, that’s right. No, I went on to lead at Terra Nova (inaudible) –

**MR. HOGAN:** We can talk about that later if you want later. But just –

**MR. POWER:** Yeah.

**MR. HOGAN:** – let’s just stick to Granite Canal for now. Do you know – despite the fact that you weren’t there for the start of the project or the completion, do you know how many megawatts the Granite Canal was, or is?

**MR. POWER:** I think it’s 40.

**MR. HOGAN:** Thank you. I’ll move now to Silver Mountain hydro development. Can you tell me what you did there?

**MR. POWER:** So, that was a feasibility study that was done for that project.

**MR. HOGAN:** So again, did that project proceed?

**MR. POWER:** No.

**MR. HOGAN:** So, you wouldn't have been involved with any construction, obviously, on that project?

**MR. POWER:** No.

**MR. HOGAN:** Okay.

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

**MR. HOGAN:** Next, I'll ask you about the work on the Churchill Falls, which I guess is the Upper Churchill?

**MR. POWER:** Yes.

**MR. HOGAN:** You said in your interview: You rehabilitated one of the bays. Can you explain what that means? What does rehabilitating one of the bays mean?

**MR. POWER:** All right.

So, up at Churchill Falls we have different reservoirs, and when the water flows from one reservoir, which is normally at a certain water level, into another reservoir which is a different water level, there is a dam that keeps the one body of water separate from the other, but in order to keep water flowing into the one with the lower elevation, there is a structure called the control structure that the water goes through. So, it's a concrete structure that has gates, and you lift the gate up, and the water goes in, and you operate the gate to make sure you control the level of the water, of the reservoir that you are putting the water into.

**MR. HOGAN:** Okay, so the rehabilitation part is what I am concerned with, that just sounds like maintenance to me. Is that correct?

**MR. POWER:** So, the rehabilitation is these structures have been in operation for, you know, 20 or 30 years, at that time. So there had to be

refurbishment of the concrete and repairs to the gates and things like that.

**MR. HOGAN:** Repairs, maintenance, et cetera.

**MR. POWER:** More than annual maintenance because it is done probably once every 30 years, so it's a – you know, a large rehabilitation project. But it's not new construction.

**MR. HOGAN:** It's not new construction.

**MR. POWER:** Right.

**MR. HOGAN:** Correct. You also worked at the waste water treatment plant, the Holyrood Generating Station?

**MR. POWER:** Yes.

**MR. HOGAN:** So how big was that? How large was that project?

**MR. POWER:** In terms of dollar value?

**MR. HOGAN:** Sure, in terms of dollar value.

**MR. POWER:** I don't know. It might be 5 or \$10 million.

**MR. HOGAN:** Five or \$10 million. Okay, thank you.

And then Petty Harbour, which I think you did mention yesterday, do you know how many megawatts Petty Harbour is?

**MR. POWER:** That's a small plant. The relevance of that is the work that I did there, which is stability analysis, is applicable to hydraulic structure irrespective of the size.

**MR. HOGAN:** Okay.

**MR. POWER:** But though it's a small plant.

**MR. HOGAN:** Do you know how many megawatts it is?

**MR. POWER:** I don't know, five or six megawatts or something.

**MR. HOGAN:** Thank you.

You also mentioned in your interview about doing some work at the Glynmill Inn Pond.

**MR. POWER:** Yeah, that's a small dam that I built.

**MR. HOGAN:** A small dam. So that's not a hydroelectric dam, is it?

**MR. POWER:** No.

**MR. HOGAN:** Okay.

**MR. POWER:** But it's a dam.

**MR. HOGAN:** The dam, okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** So those are just some of the – I just wanted to get some more details on some of those. Now –

**MR. POWER:** Sure.

**MR. HOGAN:** – we know you – or you said you've graduated in 1977.

**MR. POWER:** Yes.

**MR. HOGAN:** And then correct me if I'm wrong, you would've went to work in the oil industry in around 1997. Is that right?

**MR. POWER:** So I graduated in '77. I went on the Hibernia project full time – which is a civil engineering project, but it wasn't a hydro project – in 1992. Yeah, so I really got into the oil and gas, yes. Oil – I got in – in Terra Nova was when I really got into an oil project. But I – but from that day to this, I don't know anything about oil production. I was in a management role.

**MR. HOGAN:** Okay, so from 1977 to 1997 you were in and out of all these various projects, some of which we've talked about here, correct?

**MR. POWER:** Yes, and one I also forgot to mention yesterday was around that in 1997 I worked on a cost estimate update for the Gull Island hydro project.

**MR. HOGAN:** Costing. Was that office work or was that field?

**MR. POWER:** Office work.

**MR. HOGAN:** Okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** So I just – that's 20 years or so when you were in and out of these various projects –

**MR. POWER:** Yes.

**MR. HOGAN:** – some of which were hydro related, some of which were small five-megawatt, 40-megawatt projects.

**MR. POWER:** Right.

**MR. HOGAN:** And when Mr. Normand Bécharde was here I just – this is his evidence that he said before the Commission on March 27 and I just want to get your comment on it.

**MR. POWER:** Yeah.

**MR. HOGAN:** And he said to me, when I was asking him questions: "You see, to be – in my mind and this is only my opinion – to be a good component manager of a project like this" – like Muskrat Falls – "people should have at least 20 to 25 years of experience in the field. Not in the office, because this isn't the field where the game is going. So having played a role in an office, doesn't make you capable of driving such a project."

So his evidence coming from SNC, who was retained by Nalcor to originally drive this project, was that someone leading a project like this should have 20 to 25 years' experience in the field. Based on what you're telling me, you didn't have that. So I'm wondering if you could comment on what Mr. Bécharde says.

**MR. POWER:** So I can. So I did indicate that I worked for four years in Nigeria on a very similar project as Muskrat Falls in the field.

**MR. HOGAN:** Okay and when was that?

**MR. POWER:** That was from 1982 to 1986.

**MR. HOGAN:** Okay.

**MR. POWER:** It was the same volume of concrete, same size project as Muskrat Falls.

**MR. HOGAN:** Okay, so that would've been four years' experience on a project similar to Muskrat Falls. And it also would also have been only about five years after graduation, correct?

**MR. POWER:** Yeah but I ended up in a senior role.

**MR. HOGAN:** Okay.

So you have – you're saying that's four years out of the 20 to 25 Mr. Béchard has opined on.

**MR. POWER:** Yeah, so if you take Mr. Béchard's statements as what you want to do – so when SNC provided their proposal to us, which we accepted, the project manager that they proposed – and he was there for the first year, François Couturier, he had never worked on a site.

**MR. HOGAN:** Okay, I am not asking about him, I am asking about – you to comment on what Mr. Béchard says in relation to your experience.

**MR. POWER:** Mm-hmm.

**MR. HOGAN:** Do you either agree or disagree? Or do you have – are you indifferent to what Mr. Béchard –

**MR. POWER:** So I disagree.

**MR. HOGAN:** You disagree.

**MR. POWER:** Yeah.

**MR. HOGAN:** You thought you had the requisite experience?

**MR. POWER:** Yeah because I – over my career I got a lot of project management experience.

**MR. HOGAN:** Okay. Thank you.

Madam Clerk, if we could turn to Exhibit P-01817, please. So, Mr. Power, you would have seen this document yesterday.

**THE COMMISSIONER:** Yeah so that's tab 2 in your book.

**MR. POWER:** Yeah, I can see it on the screen there, I think.

**MR. HOGAN:** Okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** So I always forget the tabs. So can you just remind me, this was prepared for the Commission?

**MR. POWER:** So this was a – so when Grant Thornton were assigned by the Commission – sorry – we, the project team, decided in order to aid the Inquiry –

**MR. HOGAN:** Who is we?

**MR. POWER:** We, the project management team.

**MR. HOGAN:** Team.

**MR. POWER:** The Nalcor project management team.

**MR. HOGAN:** That would include who? Yourself ...

**MR. POWER:** So, Paul Harrington –

**MR. HOGAN:** Yeah.

**MR. POWER:** – Jason Kean –

**MR. HOGAN:** Yeah.

**MR. POWER:** – me, Scott O'Brien, perhaps Pat Hussey.

**MR. HOGAN:** Okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** So you prepared – I cut you off, sorry. You prepared this for ...?

**MR. POWER:** Yeah so we prepared 12 decks that – in preparation for presentation to Grant Thornton so they could get a complete understanding of the project.

**MR. HOGAN:** Okay. So was that your own idea to do this or were you instructed to do this?

**MR. POWER:** No, this was just the project management team.

**MR. HOGAN:** Project management team, right.

**MR. POWER:** Yeah because the project management team had put together these volumes –

**MR. HOGAN:** Mm-hmm.

**MR. POWER:** – four or five volumes. And then when Grant Thornton came into the picture, yeah, the project management team took it upon themselves to prepare 12 decks that we could present to Grant Thornton as an aid to them –

**MR. HOGAN:** Give your story, your version of –

**MR. POWER:** Exactly.

**MR. HOGAN:** – events, I guess. Okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** If we could turn to page 10, please.

So this is a page about – well, you can see it when it comes up why you change, why the decision was made to change to the EPCM model. And I guess it's fair to say there's some pros and cons for each model there, is that correct?

**MR. POWER:** Sure.

**MR. HOGAN:** Okay so I want to just ask you about a few of them. If you look at the EPCM model which was –

**MR. POWER:** Yeah.

**MR. HOGAN:** – obviously initially in place, the second bullet there says: “Lower risk of

capacity concern & Crown Corp. decision making.” So am I reading that right, it says that there's a lower risk of Crown corp. decision-making in the EPCM model?

**MR. POWER:** I'm not sure I can talk to that particular comment. The first part, capacity concern, I certainly can because the thinking was a large company like SNC would be able to bring in the resources. Crown corporation decision-making –

**MR. HOGAN:** Oh, I – just let's follow up on that then. You're saying that Nalcor doesn't have the resources that SNC would.

**MR. POWER:** Well, at the time that was our thinking.

**MR. HOGAN:** Yeah, okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** And then the Crown corp. decision-making, the way I read it is that it almost sounds like there's a risk of letting the Crown corp. make decisions, and you'd rather download the responsibility to an EPCM contractor. Do you agree or disagree?

**MR. POWER:** I'm not sure where that statement came from. That might've been something – Lance Clarke might be able to answer that one better than me.

**MR. HOGAN:** Yeah.

**MR. POWER:** There was a bunch of us, you know, were –

**MR. HOGAN:** No, I understand that.

**MR. POWER:** – inputting into this, right?

**MR. HOGAN:** So do you understand my interpretation of it and can you say if you agree or disagree?

**MR. POWER:** Just what's the question again?

**MR. HOGAN:** The way I read it, it sounds like there's a risk in allowing a Crown corporation to make decisions. And the benefit of the EPCM model is that you're downloading the

responsibility to make these decisions to someone like SNC.

**MR. POWER:** Yeah, so that's the way it reads.

**MR. HOGAN:** Okay.

So implied in that is that the Crown corporation doesn't have the capability or capacity or ability to make certain decisions. Is that correct, based on my interpretation?

**MR. POWER:** Probably not as astutely as –

**MR. HOGAN:** As SNC.

**MR. POWER:** – SNC.

**MR. HOGAN:** Or an EPCM contractor.

**MR. POWER:** Right.

**MR. HOGAN:** Okay, if we could look at the second-last bullet on the left. So for the integrated LCP team, it says: "Owner oversight reduces risk." Can you comment or elaborate on that?

Just look at the first bullet first. It might help because it says with an integrated team: "Large portion of risk" is "passed to designer & construction contracts. Owner oversight reduces risk."

**MR. POWER:** Large portion of risk is passed to the designer. Well, that's the same in both.

**MR. HOGAN:** What does that mean?

**MR. POWER:** Well, the design risk resides with the designer.

**MR. HOGAN:** And where does the oversight risk come into play there – the owner oversight risk?

**MR. POWER:** Owner oversight reduces risk. So I guess the way I'm reading that now, with the integrated team model the owner is more involved and has more oversight which could potentially reduce risk.

**MR. HOGAN:** Right, okay. And that makes sense, assuming that the owner has the requisite expertise, correct?

**MR. POWER:** Right.

**MR. HOGAN:** So you would have to compare the owner to the EPCM contractor to determine whether that's a pro or a con in that situation, wouldn't you?

**MR. POWER:** I guess, yes.

**MR. HOGAN:** Yeah, okay.

Just another question I have on the change to the integrated team. Wouldn't – isn't that a riskier situation then, because you're taking away – on an EPCM contract you're telling SNC, in this case, go do the project, it's your responsibility. And if anything goes wrong you can hold them to account because you have a contract with them. But with an integrated team model, the owner is now taking on the responsibility to lead the project, meaning that there's no one to blame other than the owner itself.

**MR. POWER:** So if you look at the liabilities in the SNC contract, in reality the EPCM consultant had very limited liability. So your first statement there, I think the owner always ends up with the liability.

**MR. HOGAN:** So we have to look at the terms of the contract.

**MR. POWER:** Yeah.

**MR. HOGAN:** In terms of the –

**MR. POWER:** In general, if something goes wrong, the owner owns it.

**MR. HOGAN:** Okay.

So you're saying that the contract signed with SNC, there was no liability on SNC to deliver the project at a certain cost?

**MR. POWER:** There is but it's limited. The amount of money that you could go after SNC for was very limited.

**MR. HOGAN:** Yeah but there was – there is an amount then, is what you’re saying though. And I would put it to you that there’s no one that the taxpayer or the ratepayer in this situation can go after, in this case, because Nalcor –

**MR. POWER:** No, so SNC–

**MR. HOGAN:** – has taken responsibility itself.

**MR. POWER:** – still has the liability for design risk.

**MR. HOGAN:** Okay but contractor risks, the overrun risks, et cetera, et cetera that you’ve talked about already today, that is the responsibility of Nalcor now as the lead on the integrated team. Is that –

**MR. POWER:** Yeah but –

**MR. HOGAN:** – correct?

**MR. POWER:** But when we had the EPCM model, that liability was not assumed by SNC-Lavalin.

**MR. HOGAN:** Okay, well we’ll have to review the contract –

**MR. POWER:** Yeah.

**MR. HOGAN:** – I guess, on that one.

If we could, please, turn to Exhibit P-03682. Again, this is a document you were shown yesterday.

**THE COMMISSIONER:** 03682. That would be at tab 30 in book number 1 for you.

**MR. HOGAN:** So you recall this from yesterday?

**MR. POWER:** Yes.

**MR. HOGAN:** So my understanding – you correct me if I’m wrong – this was a document put forward by SNC as sort of a pre-bid document, pre-qualification document to demonstrate their experience with hydroelectric projects –

**MR. POWER:** Yes.

**MR. HOGAN:** – over \$100 million.

**MR. POWER:** So when we went out with the expression of interest to companies, to six companies, to provide engineering and project support services, the SNC proposal that came in had this in there to demonstrate their company experience.

**MR. HOGAN:** And you had comfort in this document. This document gave you comfort, I guess, in SNC’s experience.

**MR. POWER:** Yeah, so this sheet we’re looking at here certainly gave us comfort that SNC-Lavalin had the engineering and design expertise to design, do the engineering for the project, yes.

**MR. HOGAN:** My question is if you rely on this to retain SNC in the first place and then you decide to switch to an integrated team, who on the integrated team – and certainly Nalcor as an entity have never done hydroelectric projects over \$100 million. So Nalcor wouldn’t have even been able to pre-qualify itself for the Muskrat Falls Project based on this set of standards.

**MR. POWER:** Yean but the SNC hydroelectric team –

**MR. HOGAN:** Pardon me?

**MR. POWER:** But when we went to the – when we discontinued the EPCM and went to the model we have today, the SNC team, who do this work, we still have them. This is the design team in Montreal. They’re still there.

**MR. HOGAN:** But who on the integrated team from Nalcor now, who are taking more responsibility, would have done projects – hydroelectric projects over a hundred million dollars?

**MR. POWER:** So I did.

**MR. HOGAN:** Which one?

**MR. POWER:** Jebba in Nigeria.

**MR. HOGAN:** Okay, yeah. Who else?



**MR. POWER:** Well, many people on the project management team had done projects well in excess of a hundred million dollars.

**MR. HOGAN:** Hydroelectric projects over a hundred million dollars, who on the integrated team had done that?

**MR. POWER:** Yeah but, see, the Lower Churchill Project is an energy project that has a powerhouse as part of the project. So the powerhouse is a technical thing that needs to be constructed and the engineering, the hydro expertise –

**MR. HOGAN:** I understand that.

**MR. POWER:** (Inaudible.)

**MR. HOGAN:** Mr. Power, just you need to follow my logic that this was a document put forward that gave you comfort when SNC was retained. There was reliance placed on this document that SNC was a good company to hire because they had done numerous hydroelectric projects over a hundred million dollars.

My question is very simple: Who on the integrated team from Nalcor, other than yourself, had done hydroelectric projects over a hundred million dollars?

**MR. POWER:** But just to go back –

**MR. HOGAN:** There's no but, this is just –

**MR. POWER:** Well, you just said –

**MR. HOGAN:** If you could just name the people at Nalcor on the integrated team who had done hydroelectric projects over a hundred million dollars and then we can –

**THE COMMISSIONER:** I think what you're really asking – I think the point that Mr. Power might be raising with you is you're referring to the integrated team as opposed to the project management team.

**MR. HOGAN:** Other –

**THE COMMISSIONER:** Because on the integrated team there would've been SNC people –

**MR. HOGAN:** Other than SNC people is what my question is.

**THE COMMISSIONER:** Okay.

Go ahead then, Sir. Just clarify that and then he should be able to answer that.

**MR. POWER:** So I would like to clarify though that what –

**MR. HOGAN:** Okay.

**THE COMMISSIONER:** Just a second, Mr. Power.

**MR. POWER:** Okay, sorry.

**THE COMMISSIONER:** You'll clarify after you answer the question. So just answer the question: Who else on the integrated team, other than yourself, had hydroelectric experience over hundred-million-dollar projects that was not an SNC person?

**MR. POWER:** There was tens of people.

**MR. HOGAN:** Okay, let's name –

**MR. POWER:** Numerous people.

**MR. HOGAN:** Let's name some.

**MR. POWER:** Neil Ferguson –

**MR. HOGAN:** Okay.

**MR. POWER:** – who ran the Hatch office in Winnipeg. He was a hydroelectric specialist.

**MR. HOGAN:** Okay and he was a Nalcor member on the integrated team?

**MR. POWER:** Yeah, we had a lot of people who worked on large hydro.

**MR. HOGAN:** Okay, who else? Can you name anyone else?

**MR. POWER:** If I had the file here I'd be able to pick them off the org chart.

**MR. HOGAN:** Okay, I'm just going to refer to something you said in your interview transcript

on February 6, 2019. Ms. O'Brien was asking you questions and she said: On your org chart there for the integrated management team there's a number of people there, 15 or so from what I can see here. And you said: Right. And Ms. O'Brien said: They were – they would all be Nalcor with the exception of Normand Bécharde and Mr. Guerette. Is that correct?

**MR. POWER:** With the org chart that she was looking that was the management team org chart.

**MR. HOGAN:** So there was only two SNC people on that org chart.

**MR. POWER:** Yeah.

**MR. HOGAN:** Okay.

So other than those two from SNC and the one individual you named then, can we name – can you name anyone else from Nalcor that would've done projects of this size? And if you can't recall, I guess, then that's your answer, we'll have to leave it at that.

**MR. POWER:** So I know we did an assessment, a spreadsheet of hydro experience on the integrated team, and it came up to, like, well over a thousand years of hydro experience when you add up people's experience. I don't have it here.

**MR. HOGAN:** Okay, you don't have any names off the top of your head?

**MR. POWER:** I can't think of it right now.

**MR. HOGAN:** Okay.

**MR. POWER:** But we had all the SNC people that – on the team, and still do have a lot of them.

**MR. HOGAN:** Mr. Budden asked you earlier this morning about John. You called him Johnny – Johnny –

**MR. POWER:** Colasurdo.

**MR. HOGAN:** – Colasurdo, okay.

**MR. POWER:** Yeah.

**MR. HOGAN:** I'll just follow up a little bit.

Was it your sole decision not to hire him, or was it a group of people got together to discuss it?

**MR. POWER:** So he was interviewed by me and Jason and maybe Scott O'Brien. And if it was me and Jason, it was the two of us; if Scott was there – I don't recall or not – it was three of us. But, yeah, we made the decision.

**MR. HOGAN:** Okay. Collectively?

**MR. POWER:** Yes.

**MR. HOGAN:** And again the numbers that he proposed, which you said you had a fundamental disagreement with, was that – I thought you said today that SNC were diametrically opposed to his position on how many people were needed on site.

**MR. POWER:** The SNC proposal was diametrically opposed to that position.

**MR. HOGAN:** Okay.

So can you explain to me, then, why – if SNC's proposal was diametrically opposed –

**MR. POWER:** Right.

**MR. HOGAN:** – why were SNC writing a letter saying they wanted him hired? Wouldn't that be a conflict –

**MR. POWER:** Because after –

**MR. HOGAN:** – with themselves?

**MR. POWER:** – we awarded the agreement to SNC and the project director who we approved in the agreement, Roger Nichol, who came – who had never – who didn't know anything about hydro, but he came out of the, I think, the mines division or something, but he had access to the resources within SNC. Roger left the project after three or four months and then we had a couple of interim projects, so then SNC recruited Norman Bécharde who came from Hydro-Québec.

So Norman Bécharde, when he came on the Lower Churchill Project, he had never worked

with SNC-Lavalin before, so he didn't know the proposal. He didn't – he came out of a different – Hydro-Québec and he knew this individual, Mr. Colasurdo. And that was their viewpoint, which was different than what we had awarded the proposal to SNC for. You know, we had a proposal from SNC, we evaluated for a year, we approved a whole bunch of people, we approved the approach and then when Norman came out of Hydro-Québec, who never worked for SNC before, he brought in Mr. Colasurdo, who had a different approach.

**MR. HOGAN:** Okay. But SNC still wanted him to be hired. They wrote that letter –

**MR. POWER:** And Norman wanted him to be hired, yes.

**MR. HOGAN:** Could you just turn to P-00858, please?

**THE COMMISSIONER:** Five, eight, which would be tab –

**MR. HOGAN:** Mr. Power is looking at the screen –

**THE COMMISSIONER:** – tab 93. Yeah, but I just want to make sure it is on the record –

**MR. HOGAN:** Okay. Okay. Page 3, please.

So this number, the \$350-million financial impact –

**MR. POWER:** Yeah, that's an approximation –

**MR. HOGAN:** Who did that math? Was that yours?

**MR. POWER:** I would've done that, yeah.

**MR. HOGAN:** Okay.

And if we can just turn to page 4, and you say: This is unacceptable expectations; the project will not pass through DG3.

Where did you get that information? With an extra \$350-million cost, you wouldn't get through DG3?

**MR. POWER:** So I put that in that deck, I'm – you know, I don't know if that was factual or not, but I was trying to keep – I was trying to put the pressure on everyone to keep the cost down.

**MR. HOGAN:** Fair enough. But you don't – that number, \$350 million is a – I mean, we know that the project proceeded through financial close with an extra \$300 million –

**MR. POWER:** Yeah.

**MR. HOGAN:** – that Nalcor was aware of and cost –

**MR. POWER:** That might not have been true.

**MR. HOGAN:** – just let me finish. So that's what I'm asking you.

**MR. POWER:** Right.

**MR. HOGAN:** You don't know where that information came from, that –?

**MR. POWER:** No, that's something I put there to keep the heat on the people, to try to keep the cost down.

**MR. HOGAN:** Okay. So that is not necessarily true?

**MR. POWER:** Agreed. Agreed.

**MR. HOGAN:** I will just turn to Astaldi; a few questions on that.

You mentioned in your transcript that the issues with Astaldi had knock-on effects with other contractors. Do you recall that?

**MR. POWER:** Yes.

**MR. HOGAN:** Okay. Can you maybe give the Commission some other details about what other contractors were affected by the Astaldi delays or issues?

**MR. POWER:** I would say ANDRITZ have been affected 'cause Astaldi's delays caused them to submit to us extension of time claims.

**MR. HOGAN:** Okay.

**MR. POWER:** That's one there, for sure.

**MR. HOGAN:** Yeah. Anyone else?

**MR. POWER:** Well, the owner's team.

**MR. HOGAN:** Okay.

**MR. POWER:** That's a significant cost 'cause we're still here.

**MR. HOGAN:** Okay.

**MR. POWER:** Right.

**MR. HOGAN:** Dealing with the Astaldi issues you mean (inaudible) –

**MR. POWER:** Well, we're trying to finish the project which has been delayed primarily due to the Astaldi issues back in the beginning.

**MR. HOGAN:** Okay. Any other contractors?

**MR. POWER:** Well, they're the two big ones, I think, that come to mind.

**MR. HOGAN:** Okay.

**MR. POWER:** I might think of something else but –

**MR. HOGAN:** So throughout your transcript – your interview, I should say, you often use the word that you challenged the group, I guess, on issues regarding Astaldi and their bid. Do you recall saying that?

**MR. POWER:** Yes.

**MR. HOGAN:** Okay.

So, for example, one of the issues that have come up is the rates, the pour rates, the concrete pour rates. Mr. Georges Bader gave evidence that the rates purposed by Astaldi had not been achieved in Canada before, to his knowledge, and he further said that Nalcor should've been aware of that.

**MR. POWER:** Can you repeat that again?

**MR. HOGAN:** Mr. Georges Bader –

**MR. POWER:** Right.

**MR. HOGAN:** – do you know him?

**MR. POWER:** Oh, yes. Yeah.

**MR. HOGAN:** Yeah. So he had said that basically if the – the rates that had been purposed by Astaldi – and I'm paraphrasing him, I don't have his evidence before me –

**MR. POWER:** (Inaudible.)

**MR. HOGAN:** – the rates that were posed in the bid –

**MR. POWER:** Right.

**MR. HOGAN:** – had not been achieved in Canada and therefore if Nalcor had examined the bid, he said he would've certainly have known and it would've stood out to him.

So my question is: Did this come up at all when you were challenging individuals on the team regarding the rates?

**MR. POWER:** So the estimates that were done by three different people – which is Paul Lemay from SNC, John Mulcahy and another individual called Paul Hewitt – the rates, in their experience, were better than what Astaldi included in their bid.

So when the bid came in, then it was analyzed by those – Paul Hewitt wasn't on the technical team but Paul Lemay was and John Mulcahy was, as well as the other senior SNC people. So they were very familiar with what had been achieved on other hydro projects. And, you know, the rates proposed by Astaldi, as far as I know, were in line with their experience.

**MR. HOGAN:** Okay, so that was your –

**MR. POWER:** Yeah, but I wasn't given the detail –

**MR. HOGAN:** That was your reliance.

**MR. POWER:** – I was challenging them.

**MR. HOGAN:** Okay. And there was no discussion about whether those rates had been

achieved in Canada. You don't recall that conversation?

**MR. POWER:** My –

**MR. HOGAN:** I know you relied on these three individuals.

**MR. POWER:** My understanding was the rates had been achieved.

**MR. HOGAN:** Okay.

**MR. POWER:** And these people that I just mentioned were aware that the rates have been achieved and they were the ones who were evaluating the Astaldi proposal.

**MR. HOGAN:** Okay.

And just further on the challenging of them, you – Ms. Muzychka had asked you this yesterday just to confirm that there was never a discussion about a backup plan for the ICS, was there?

**MR. POWER:** No.

**MR. HOGAN:** Okay.

So there was never a discussion about any contingency for cost and schedule in the event the ICS wasn't successful?

**MR. POWER:** No.

**MR. HOGAN:** And that was never discussed, even though that at the time the contract was awarded it was only a concept, correct?

**MR. POWER:** Well, it was a concept, but I mean it's not a difficult concept. It's a steel building that's, you know, covered in, that has cranes in it and you work inside of it.

**MR. HOGAN:** Okay.

Were you involved in the decision to take the ICS down?

**MR. POWER:** So the decision to take the ICS down was an Astaldi decision.

**MR. HOGAN:** Did you have any communication with Astaldi, recommendations or anything like that?

**MR. POWER:** Well, it was a topic of discussion. Not so much – all right, the topic of discussion – let me backtrack a bit.

So when the ICS came down, it came down actually – it had always been intended to come down. When the ICS went up, it would come down. It actually came down in the time frame that it had been planned to come down in. But when it did come down, there wasn't as much done underneath the ICS as there had planned –

**MR. HOGAN:** Right.

**MR. POWER:** – to be done.

**MR. HOGAN:** So when it was decided – when it was taken down, which was earlier than expected or planned, did –?

**MR. POWER:** No, it wasn't earlier than planned; it was taken down when it was planned –

**MR. HOGAN:** Yeah.

**MR. POWER:** – to come down.

**MR. HOGAN:** Not as much work had been completed.

**MR. POWER:** That's right.

**MR. HOGAN:** Right.

**MR. POWER:** There was issues getting the gantry cranes – that you need the cranes in order to work under that ICS, unless –

**MR. HOGAN:** So my question then is: What – did you make any recommendations or suggestions to Astaldi about whether the ICS should remain up or whether it should be taken down?

**MR. POWER:** So we weren't – we would've – no, Astaldi made the decision.

**MR. HOGAN:** Do you make any recommendations or suggestions to Astaldi

about whether the ICS should stay up or come down?

**MR. POWER:** No, because the plan was always to take it down. It wasn't a recommendation; it was going to come down.

**MR. HOGAN:** I'm going to try again.

**MR. POWER:** All right.

**MR. HOGAN:** Because it came down before the work was completed, is that correct, the planned work was completed?

**MR. POWER:** It came down at the end of the season. So when the winter came, that was the time to take down the ICS.

**MR. HOGAN:** It was taken down before the scheduled work was completed, is that correct?

**MR. POWER:** Before the work that had been planned to be done underneath the ICS was done. Yes.

**MR. HOGAN:** So when that decision was made by Astaldi, right, before that decision was made –

**MR. POWER:** Right.

**MR. HOGAN:** – did you make any suggestions or recommendations to Astaldi regarding that decision?

**MR. POWER:** So I wouldn't have made any recommendations.

**MR. HOGAN:** Okay.

**MR. POWER:** I may have been in discussions.

**MR. HOGAN:** Okay. What were those discussions and what did you say to them?

**MR. POWER:** Well, I think we were just talking about the ICS.

**MR. HOGAN:** I understand that, Mr. Power. You were talking about the ICS.

**MR. POWER:** Right.

**MR. HOGAN:** So what did you say to them about in terms of leave it up, take it down? I mean this is not a trick question.

**MR. POWER:** So I don't recall. I mean, the ICS was taken down at the end of 2015, so I wasn't on the site then. I was –

**THE COMMISSIONER:** It's a simple – Mr. Power, this is – I just find the way you approach the questions a little surprising at times. The question is – we know when it was taken down, we know when it was built.

**MR. POWER:** Right.

**THE COMMISSIONER:** We also know that it was built to do a certain amount of work.

**MR. POWER:** Right.

**THE COMMISSIONER:** That amount of work didn't get done.

**MR. POWER:** Right.

**THE COMMISSIONER:** So it ended up getting taken down before the work got done.

**MR. POWER:** Right.

**THE COMMISSIONER:** Okay? Now, the question is: Did you – what discussion did you have with Nalcor – with Astaldi about the taking down of the ICS? Simple question: What discussion did you have with them? And we're talking about you personally.

**MR. POWER:** Yeah, so I don't know that I had any discussion, Mr. Commissioner.

**THE COMMISSIONER:** Okay.

You said before you may have discussed it with them, but now you're saying you didn't.

**MR. POWER:** May have. It was the logical thing to do to take it down at the end of the year, after the season was over.

**THE COMMISSIONER:** I don't think we're going to get any more from Mr. Power.

**MR. HOGAN:** Okay, I'll leave it.

Thank you very much, Mr. Commissioner.

Mr. Commissioner, it is 12:30. I'm not quite done so I can keep going or –

**THE COMMISSIONER:** Okay, we can take our break here then, and we'll come back at 2 o'clock this afternoon.

**CLERK:** All rise.

### Recess

**CLERK:** All rise.

This Commission of Inquiry is now in session.

Please be seated.

**THE COMMISSIONER:** All right.

Mr. Hogan, when you're ready.

**MR. HOGAN:** Thank you.

Okay, Mr. Power, I don't have very many more questions. I just want to turn to the issues regarding GE. And I think you were asked about that a little bit this morning, and wondering if you can just comment on some further detail, provide your opinion on what the issues are there.

**MR. POWER:** So – and the first I'll say is the project got split, as you know, in May or June of 2016, which is three years ago, and I haven't been involved with that side of the project since that time, and I think the GE – you know, the entering of GE into the picture has happened since that time.

So, other than I hear that there's a lot of issues with GE, I really can't speak to that scope of work because I don't – I haven't been involved with that for three years.

**MR. HOGAN:** So, did you have any involvement with GE prior to three years ago?

**MR. POWER:** So, before the split, I had Darren DeBourke, who is the project manager for that scope. He reported to me, so I was kind of on the fringes of – I signed off on the Alstom award, for example.

**MR. HOGAN:** Okay.

And who – so, who would be in charge of the GE scope of work now?

**MR. POWER:** Today?

**MR. HOGAN:** Today, yes. Not reporting to you. You're not on that –

**MR. POWER:** No.

**MR. HOGAN:** – part of the project.

**MR. POWER:** So, the VP who is in charge of that scope of work today is Jim Haynes, and reporting to Jim Haynes is – I think it's Gerard Dunphy.

**MR. HOGAN:** What's that?

**MR. POWER:** I think Gerard Dunphy –

**MR. HOGAN:** Okay.

**MR. POWER:** – who reports to Jim Haynes, I think, is the project manager or project director, but –

**MR. HOGAN:** Okay.

**MR. POWER:** So, I'm not involved with that scope of work anymore.

**MR. HOGAN:** Anymore, okay.

So, can you provide any evidence or any – yeah, I guess any evidence about when ratepayers can expect to receive electricity down on the Labrador-Island Link?

**MR. POWER:** I really can't comment on that because that's the transmission side of the project, and I'm not involved with that now.

**MR. HOGAN:** Yeah. So, you don't – you can't comment on where they were, what the expectations are in terms of delivery? I mean, I know it's not – your focus is not the transmission aspect, but you are still involved with the project.

**MR. POWER:** I am, but I'm involved on the generation project.

**MR. HOGAN:** Okay, but the generation must work hand in hand, to some degree, with the transmission aspect of it.

**MR. POWER:** So, at the moment, there's a bipole – there's one side of the system working. And I know that the transmission team are working with GE to get the software finished so they can commission the – sorry, the monopole is working now, which is the single pole – the single side of the converter system, and that team was working with GE to get the software developed to enable the bipole, which is the complete converter system, to be working. As to when that will be operable, I really can't – I can speculate maybe the end of this year, but I really don't know.

**MR. HOGAN:** Okay.

So as far as you know, there's issues still being worked out with the software.

**MR. POWER:** Yes, that issue – the software issues are still be worked –

**MR. HOGAN:** Okay.

**MR. POWER:** – by that team, yes.

**MR. HOGAN:** Thank you.

Just back to the \$250,000 approval – I think I have it right – then, that decision needed to be made by the office in St. John's for any changes or decisions at the site for anything over \$250,000? Do I have that right?

**MR. POWER:** Yes, any changes –

**MR. HOGAN:** Yeah.

**MR. POWER:** – that would exceed that amount, yes, would have to go through our formal change process –

**MR. HOGAN:** Okay, so –

**MR. POWER:** – which would likely involve involvement from the people in the St. John's office.

**MR. HOGAN:** Right.

So I'm just wondering if anyone – was there any tracking of these requests?

**MR. POWER:** Well, certainly.

**MR. HOGAN:** Was there – is there a database or anything of how many times these requests came in and were either approved or disapproved?

**MR. POWER:** So we have a change management database that has all the change orders in there and all the deviation requests in there. Whether or not the history of a change order from beginning to end is in that database, I don't really know.

**MR. HOGAN:** Okay.

And on average can you say – and maybe it depends on the size of the request – how long this process would take by the time there was a request put in to the office on Torbay Road?

**MR. POWER:** So I don't –

**MR. HOGAN:** To either get approved or rejected.

**MR. POWER:** Yeah, I don't think there's a standard answer for that. A particular change order, if it's straightforward and all – everything's in order, could be turned around very quickly, potentially in a matter of days. Some of the larger change orders and change requests could take much longer than that before – you know, for all kinds of reasons, including getting agreement with the particular contractor on the compensation – the agreed compensation, for example, of a change order.

**MR. HOGAN:** So there's obviously a tracking of approved change orders over a quarter of a million dollars, so I'm wondering if anyone on the project management team, on an ongoing basis, recalculated the cost to the ratepayers as each change order was approved.

**MR. POWER:** So to get to that step, you know, there's a monthly cost report, and occasionally – one of the last ones was a couple of years ago now – but there would be a project estimate update which would – you know, which would have, in the past, required an AFE. So the



current AFE that we're all working to is the \$10.1 billion, so that's what it is now.

**MR. HOGAN:** Okay.

The last question I have, just to go back – Mr. Coffey was asking you about your comment about some – why – some of the reasons for the overruns, and one of them was you said, I think the estimates were aggressive. And then Mr. Coffey took you – you said the contingencies were too low, right?

**MR. POWER:** Yeah. Yeah.

**MR. HOGAN:** So on the actual estimates, though, the \$6.2-billion capital cost estimate, did you feel that that was too low?

**MR. POWER:** So with respect to the \$6.2-billion cost estimate, at the time, I had confidence in the estimate because it was produced by very competent people, and I had no reason to think otherwise.

Now, I know the probabilistic work was done – you know, the P75 number and all that, and I think the 6.2 was a P50 number. So I was aware if the P75 number had to be selected, it would be –

**MR. HOGAN:** It would be a different number.

**MR. POWER:** It would be a different number. But, with respect to the generation of the estimate itself, we had very experienced people, very highly paid people and very good people producing those estimates at that time.

**MR. HOGAN:** That's all the questions I have.

**MR. POWER:** All right, thank you very much.

**MR. HOGAN:** Thank you.

**THE COMMISSIONER:** Thank you.

All right. The Innu Nation is not here.

Nunatsiavut Government is not here.

NunatuKavut?

**MR. COOKE:** Afternoon, Mr. Power. My name is Jason Cooke, and I'm the lawyer for NunatuKavut Community Council.

**MR. POWER:** Okay.

**MR. COOKE:** I don't have a ton of questions for you, but I did want to ask some questions about the North Spur. And I noticed that this morning when you were giving evidence, you'd used the phrase, I think, top of your mind when discussing issues related to the North Spur.

**MR. POWER:** Yes.

**MR. COOKE:** Okay.

And I just want to take you to a few documents. The first is – Madam Clerk, is P-03704.

**THE COMMISSIONER:** Okay, so that would be book 2, tab 58.

**MR. COOKE:** You see that document –

**MR. POWER:** I do.

**MR. COOKE:** – Mr. Power? Could we scroll down to the bottom half, Madam Clerk? Page 1.

And this is an email from Paul Harrington to yourself and Bob Barnes. Looks like it's dated September 03, 2013.

**MR. POWER:** Mm-hmm.

**MR. COOKE:** And it starts off – it says: "Bob/Ron; We keep getting the North Spur vulnerability issue thrown in our faces at every turn by the unqualified naysayers and doubters."

And is that consistent with your recollection around the time, Mr. Power?

**MR. POWER:** So, I am not familiar with those particular terms, but the North Spur has always been a very prominent issue and a lot of people have been concerned about it. So, I think that might have led to Paul Harrington writing that.

**MR. COOKE:** And if you look on, the request that Mr. Harrington is making of you and Mr. Barnes is for "a brief/concise technical report

that deals with the North Spur stability.” You see that?

**MR. POWER:** Yeah.

**MR. COOKE:** And if you go to the bottom of that same paragraph, it says: “The report should be stamped by a PEng and entered into Aconex.” Which is the, I understand, the, kind of, document database for the project.

**MR. POWER:** That’s correct.

**MR. COOKE:** Okay.

If we can go up to the top now, and this has your response, and could you just start reading it for us? And I may pause while you’re doing that, but just start at the beginning of the email please –

**MR. POWER:** Yeah.

**MR. COOKE:** – Mr. Power.

**MR. POWER:** So, I wrote: “Paul – now that the field info is in hand and the final design is ostensibly nearing completion, I strongly recommend an independent design review. I am proposing that it be performed by Zak and David Besaw. To be frank, I am becoming less and less confident in SLI design competence. I am seeing this in msny places. Also there has been a strong propensity to overdesign as well. The specification writing efforts for the North Spur ... are lacking at present. So, I believe the report you are looking for can be produced by the noted individuals. Scott and Robert will put the arrangements in place.”

**MR. COOKE:** Thank you. A few questions flowing from that. First of all, you mentioned a Zak. Who is Zak?

**MR. POWER:** Zak, his last name is very difficult to pronounce. He’s an SNC people – sorry, a Hatch senior geotechnical engineer. I can’t pronounce his name. Erzinclioglu, or something like that; it’s a very long, difficult spelling.

**MR. COOKE:** And, what was his role at that time with the project?

**MR. POWER:** So, Zak – I’m sorry, Hatch had provided and continue to provide services and expertise in certain areas. So, we often – we sometimes engaged Zak to work with us, and to work with the SNC designers, to – you know, to do design reviews and things like that.

**MR. COOKE:** And, David Besaw – I’m not sure I’m saying the name right, but –

**MR. POWER:** Yeah, so he’s a senior engineer and geologist that used to work with Hatch.

**MR. COOKE:** Okay, so they were both with Hatch?

**MR. POWER:** At that time.

**MR. COOKE:** Yeah. And I understand that Hatch is in, at least, a similar kind of business as SNC-Lavalin in terms of engineering and project management. Am I correct on that?

**MR. POWER:** That’s correct.

**MR. COOKE:** Okay. So, going back a bit, you say you “strongly recommend an independent design review.” What caused you to strongly recommend that at that time?

**MR. POWER:** So, I – so, first thing I’d like to say – and that’s what’s indicated in the – when Ms. O’Brien interviewed me, and when Ms. Muzychka interviewed me – today, I have more than full confidence in the SNC design and in the SNC designers. And, you know, I indicated to both Ms. O’Brien and Ms. Muzychka that I certainly wouldn’t say this today and I recanted.

At the time, obviously, I was concerned – maybe I was thinking that – I was thinking that I had concerns with SNC’s design efforts on the North Spur, but I don’t have that concern today.

**MR. COOKE:** Okay.

Well, let’s stick with –

**MR. POWER:** Okay.

**MR. COOKE:** – what your concerns were in 2013 for the time being, okay? So, certainly, in September of 2013, it seemed you had serious

concerns with SNC-Lavalin in regards to the North Spur. Fair comment?

**MR. POWER:** So, that's how it reads, yeah, so I must have at that time, yes

**MR. COOKE:** Because you say: "To be frank, I'm becoming less and less confident in SLI design competence," correct?

**MR. POWER:** That's what I said then.

**MR. COOKE:** Yeah. So, you're really expressing concerns about SNC-Lavalin's design competency in regards to the North Spur.

**MR. POWER:** When I wrote that, yes.

**MR. COOKE:** Yeah.

So, you also say there's a – use the term "a strong propensity to overdesign." And I just wanted you to elaborate on that if you could?

**MR. POWER:** Well, you know, that's not a bad thing, but as an example, for example, as an example of over-design, for the intake and powerhouse, when you're up on top of those structures, there's a handrail on both sides and the handrail is very, very, very strong compared to some handrails I've seen before in powerhouses, so that was the one – that was one of the ones that came to my mind.

**MR. COOKE:** Okay.

So, in terms – 'cause the context of this particular email is about the North Spur –

**MR. POWER:** So I'm not sure of the strong propensity to over-design, but it very well may be because I think one of the things – yeah, now, some of it is coming back to me – SNC were very conservative in their North Spur design with respect to the risk of landslides, and other people were thinking that they were too conservative and the concerns were unrealistic and that could potentially drive the cost of the contracts, so the contractors would get nervous that we could actually have slides because of the conservatism in the design and the conservative thinking of the design.

**MR. COOKE:** So at the time, and, again, I wanna stick with what you –

**MR. POWER:** Yeah.

**MR. COOKE:** – what you understood or knew or were concerned about in September 2013, not now.

When you say – when you're questioning your confidence in their design competency, what do you mean by that?

**MR. POWER:** So I guess at the time – I'm trying to recall now, I'm not evading the question – maybe I saw, you know, over-design taking place that could potentially, you know, cost the project some money or something.

**MR. COOKE:** And that, to you, is an issue of design competency?

**MR. POWER:** I really don't remember the incident – you know, exactly what incidents I was thinking about when I wrote that.

**MR. COOKE:** I guess I just –

**MR. POWER:** Other than the overdesign, I know I always commented on the handrails for sure.

**MR. COOKE:** Okay. Because, to me, overdesign is, as a project manager – may be problematic from a cost perspective; you're spending more than you need to –

**MR. POWER:** Right.

**MR. COOKE:** – than you have to.

**MR. POWER:** Right.

**MR. COOKE:** But I guess I'm struggling. To me, that doesn't seem to be an issue of design competence per se.

**MR. POWER:** No, I agree with your statement, but I really don't remember what – you know, what caused me to – now, maybe – you know, at the time maybe I wasn't into it enough. Maybe I was thinking there were issues but, later, when I did dig into the North Spur in great detail, I'm

very confident in what design – what got designed and what got built.

**MR. COOKE:** But to be fair, if I'm, for example, Paul Harrington reading this and his – the person directly under him with project management responsibilities –

**MR. POWER:** Sure.

**MR. COOKE:** – yeah, where you're strongly recommending an independent design review, I mean, he would have to take that suggestion under serious consideration.

**MR. POWER:** So we did perform the independent design review; in fact, we performed many, in particular, the North Spur.

**MR. COOKE:** I'm going to take you to another document, Mr. Power. That's – Madam Clerk, it's P-03784.

**THE COMMISSIONER:** So that would be book 2, tab 101.

**MR. COOKE:** And, Madam Clerk, could we go to, I think it's page 3. And if you could just scroll down to that middle email – a little bit up. Thank you.

And so this is an email from Paul Harrington.

**MR. POWER:** Mm-hmm.

**MR. COOKE:** And it starts off and it says: "The IE report did not come out and clearly state that the stabilization design and plans we have for the N Spur are reasonable and/or robust ...." So am I correct in assuming that IE stands for independent expert?

**MR. POWER:** No, independent engineer.

**MR. COOKE:** Independent engineer, okay.

**MR. POWER:** Yeah.

**MR. COOKE:** And in this case you had referred to the fact that the two gentlemen from Hatch, in fact, did the report. Is your understanding this is the report that Mr. Harrington's referring to?

**MR. POWER:** So did I write this email?

**MR. COOKE:** You must have at some point because it was on a chain that goes to you.

If you look at page 1 –

**MR. POWER:** So, no, Paul Harrington wrote that.

**MR. COOKE:** Yeah, no – yes, Paul Harrington wrote it.

**MR. POWER:** Right.

**MR. COOKE:** Yes but I believe you were one of the recipients, or at least eventually you were on the chain of the emails because this comes from – originally from an email. You're at the last point of it. So it's from Mr. Harrington.

**MR. POWER:** Okay.

**MR. COOKE:** Okay.

**MR. POWER:** Can I read that again, the ...?

**MR. COOKE:** Yeah. If you want to take a moment and read through it, Mr. Power, take your time.

**MR. POWER:** Yeah, okay.

**MR. COOKE:** So according to Mr. Harrington at this time the – what Hatch produced, in terms of stabilization design and plans, according to him I guess they weren't equivocal enough. He says, "they are sitting on the fence."

**MR. POWER:** The independent engineer is sitting on the fence.

**MR. COOKE:** Yeah. Which are the two gentlemen from Hatch that you –

**MR. POWER:** No.

**MR. COOKE:** No.

**MR. POWER:** No, the independent –

**MR. COOKE:** Oh.

**MR. POWER:** – engineer –

**MR. COOKE:** Okay.

**MR. POWER:** – is Nik Argirov and it's an MW – it's the company – it's people from a company called MWH. So the independent engineer, which is led by Nik Argirov, he's the main contact. They have a geotechnical expert on their team.

**MR. COOKE:** I see.

I want to take you further in the message where Mr. Harrington says – this is about halfway through. It says, “we need to have a positive IE report by end of next week otherwise the Federal Loan Guarantee will slip further out and you know what that does to Nalcor's appetite to sign big ticket contracts – we will be delayed – so this is top priority ....”

**MR. POWER:** Yeah.

**MR. COOKE:** And do you have a recollection that there was, I guess, a need to get this – a favourable IE report in order to ensure the federal loan guarantee?

**MR. POWER:** So I'm aware that, you know, we were pushing to get the federal loan guarantee, and this email here says the IE report did not come out and clearly state that the design are reasonable and robust. So I think the request from Paul is to get the experts lined up and clearly indicate to the IE, or get the independent engineer on board, that the design we have is reasonable and robust.

**MR. COOKE:** Mmm.

**MR. POWER:** That's what I'm reading here.

**MR. COOKE:** Yeah and if you read at the end, in fact, what he's saying is that this needs to get done the same day.

**MR. POWER:** Yeah, that's what I'm reading here.

**MR. COOKE:** And further up, Mr. Harrington says: “We have no time for any open ended questions or promises to get back with data ....”

**MR. POWER:** Yes, I'm reading that.

**MR. COOKE:** Yeah. And that seems consistent with the fact that he wants it produced that day, don't you think?

**MR. POWER:** Yes.

**MR. COOKE:** Okay.

So were you feeling that yourself, in terms of your role at the time – it seems like there was a lot of pressure to get a favourable, or favourable-enough report on the North Spur in order to, I guess, either secure or get the right timing on the federal loan guarantee. Do you recall that?

**MR. POWER:** So what I recall was there was a lot of work and a lot of reviews had been done on the North Spur, and Paul wanted the people who did that to put their findings down on a piece of paper.

**MR. COOKE:** And was that done ultimately?

**MR. POWER:** Yeah, ultimately, it was, but I don't know if it happened that particular day that we have here. Is the – does the rest of the email chain indicate what happened, or ...?

**MR. COOKE:** Yeah, we can take a – why don't we start on page 1.

**MR. POWER:** Maybe I should open the paper copy here. What's the tab number again for that?

**THE COMMISSIONER:** Book number 2, tab 101.

**MR. POWER:** 101, okay.

Okay, so after Paul sent that then, there was a note there from Scott O'Brien: “We will get after it right away ... We can brief you in advance of the 10:00 PDT” – I'm not sure what PDT stands for.

**MR. COOKE:** Yeah, I was going – actually, I was going to ask you about that. I –

**MR. POWER:** Oh maybe it's Pacific Daylight Time, because MWH, I believe – I believe the independent engineer was out in Western Canada or the Western US, so that could be Pacific Daylight Time, perhaps.

**MR. COOKE:** Okay.

And so if it was Pacific Daylight Time, 10 a.m. Pacific Daylight Time would be 2:30 in this time zone, I believe.

**MR. POWER:** Yeah, I think it's 4½ hours or something.

**MR. COOKE:** Four and a half hours, yeah.

**MR. POWER:** Yeah.

**MR. COOKE:** Yeah.

**MR. POWER:** All right so then Paul came back and said: "I have an EXcom meeting this morning" and so on.

And then Robert Woolgar said: I just spoke with Zak and have a meeting booked "this AM with Zak/Bob Ilett/Scott to brief Zak on the issue – we will have Zak review the report ... this AM with Bob Ilett in the context of where the report is 'light' in reference to the North Spur to have Zak speak to his conclusions on the North Spur through his Independent review which took place a" number "of weeks ago – once review is done this morning, I will loop back with Jim Meaney prior to the" call at 1:30.

And then it just – and then I say, "pls include me in the meeting." So –

**MR. COOKE:** And do you recall if you were included in the meeting?

**MR. POWER:** No, I don't recall.

**MR. COOKE:** And did it give you any concern at this time, Mr. Power, that it seems, from my perspective, that this seems awfully rushed in terms of getting a report, in terms of needing it in a matter of hours, number one, and number two, Mr. Harrington's direction that really there's no more time for data or information requests at this juncture.

**MR. POWER:** So what I remember is there was a lot of review work being done – a lot of review work – and Paul was impatient for the people to – who did the review work, to put their findings down between (inaudible) to complete the work.

**MR. COOKE:** But it seems to me that there was a report from the independent engineer, and it's less that the work wasn't done, but that the answer was not as unequivocal as Mr. Harrington would like or that he thought may be needed to get the federal loan guarantee.

**MR. POWER:** No, that's correct. So Paul's request then is to get all the experts together including the Hatch expert, Zak, and to get in on a telecon with the MW – with the IE people and the IE geotechnical expert to go through their concerns.

**MR. COOKE:** And you don't remember the specific meeting, but is it your recollection that that occurred?

**MR. POWER:** Yeah, that occurred for sure.

**MR. COOKE:** So in the – we looked at the September email, Mr. Power, where you expressed some pretty serious concerns about SNC-Lavalin and design competency and the like. And so now this is all occurring a couple of months later in November. At that time did you – did – were your concerns with SNC-Lavalin alleviated [sp. alleviated] or did they remain at that time?

**MR. POWER:** No, so they were alleviated [sp. alleviated]. So when the Hatch people, Zak and – I'm not sure if it was Dave Besaw, I think it was this other individual, Bob Ilett, you see there. So they performed a review and they were quite happy and still are, because they've – Hatch have performed numerous reviews since. They were at that time good with the North Spur design.

**MR. COOKE:** And if they – essentially, is it your evidence then that if the Hatch consultants were good on it, you would – that would be satisfactory for you?

**MR. POWER:** Yes.

I think in that earlier email we looked at I think I was just suspicious. I was – I really wanted full confidence in the North Spur design. Now, you know, I know I expressed my concerns, as I did, which I indicated I wouldn't do today. But when Zak was brought in – and I think this guy, Bob Ilett, from what I recall and others reviewed that

design at the same time as well, if I recall. But after Zak reviewed it – and I think there was actually a presentation to the team when that review was done from what I recall – yeah, we were satisfied with the North Spur design.

**MR. COOKE:** I'm going to take you to another document, Mr. Power, which is – Madam Clerk, it's P-03705.

**THE COMMISSIONER:** So that'd be tab 59, book 2 of Mr. Power's exhibits.

**MR. COOKE:** And, Madam Clerk, could we start at page 3.

Mr. Power, can I take you to page 3 of that exhibit?

**MR. POWER:** Yes, please. Yes.

**MR. COOKE:** And that's a letter from Normand Bécharde to you –

**MR. POWER:** Mm-hmm.

**MR. COOKE:** – dated November 25, 2013. You're familiar with this letter?

**MR. POWER:** Yeah, so I would have seen this at that time. Yes.

**MR. COOKE:** Okay.

And, really, it seems to be flowing out of the work that Hatch did, and they call it a cold eye review.

**MR. POWER:** Yeah.

**MR. COOKE:** And that's consistent with what you've been telling us about the Hatch consultants.

**MR. POWER:** Yeah.

**MR. COOKE:** Okay.

And one of the points in the letter – and if we go right near the bottom of the first page of the letter, where Mr. Bécharde says: "We do not disagree with a new study and 3D Model since those results can be used as a tool to be understand the behaviour of the North Spur, but

it is not considered required in order to go forward with construction." Then Mr. Bécharde says: "The modeling should be performed by the Project Design Team since they have a thorough knowledge of the geological conditions and have already interpreted the data that would feed the model."

And then if we could just scroll down a little bit.

Then it goes on to say: "If Nalcor feels that a Third Party involvement would add credibility to the process, we propose that they would be involved as an advisor/reviewer during the study."

Do you see that, Mr. Power?

**MR. POWER:** I do.

**MR. COOKE:** Yeah.

So, I take – the essence of this letter is that Mr. Bécharde is not disagreeing necessarily with the suggestions of Hatch, but more the issue of who should perform the modelling and, in his view, it should be the project design team. Is that your read of the letter?

**MR. POWER:** Yes, that's my read of it.

**MR. COOKE:** Okay.

I am going to take you back to page 1 of the exhibit. And this is an email from you to several people, including Scott O'Brien, Paul Harrington, Lance Clarke, Jason Kean, Gilbert Bennett and Clarence Hewitt. Do you see that at the top?

**MR. POWER:** Yeah.

**MR. COOKE:** Yeah. And it appears that it's attaching the letter from Mr. Bécharde from SNC-Lavalin.

**MR. POWER:** Yeah.

**MR. COOKE:** Yeah.

And then you write a message with different parts addressed to different folks. The middle part is to Lance and Paul. It starts with, "this design-related missive from SLI has certain

undertones that I do not like.” Do you see that, Mr. Power?

**MR. POWER:** I do.

**MR. COOKE:** Okay.

So what I wanted to ask you is what do you say those undertones are in the letter? Or what did you think then they were?

**MR. POWER:** So at that time, that’s when we had changed from EPCM model to the integrated team. There was some tension certainly in those days, in particular from Bernard Gagné, who was Normand’s boss. And I think the undertones that I felt there was SNC were taking issue with the fact that we were engaging a third party to do work that they felt they could do.

**MR. COOKE:** Okay.

But I want to come back to the – because you specifically referred to the letter. You say – or, as you call it, the “missive.”

**MR. POWER:** Yeah.

**MR. COOKE:** Right. And I guess what I’m asking is looking at the letter itself – and feel free to go – what do you identify in a letter as those undertones? What specifically in the letter?

**MR. POWER:** Maybe it’s the – we had expressed, I guess, a sentiment that we need to do the – this 3-D model that’s referred to in the letter to better understand the behaviour of the spur.

**MR. COOKE:** All right. I understand that.

Maybe I’ll just repeat the question again. Because in your email, you talk about the letter, and you say the letter has certain undertones that you don’t like. And so, if you can, can you draw the Commissioner’s attention to the place or places in the letter where you say those undertones are?

**MR. POWER:** So I think maybe the fourth paragraph from the end: “If Nalcor feels that a Third Party involvement would add credibility

to the process, we propose that they be involved as adviser/reviewer during the study.”

So, I think the undertone, as I said, was SNC wanted to do this work themselves, and from what I’m reading here, at that time, we wanted it done by someone else independent. And SNC are pushing back saying: No, it’s better – we should be doing the work, and anyone else should only be an advisor or a reviewer while SNC are doing the work.

**MR. COOKE:** That’s not really an undertone to the letter. I mean, that’s the whole – the whole point of the letter is that SNC-Lavalin is saying – project design team is in the best place to do this, not a third party like Hatch, but if you want – if Nalcor wants a third party, they should be there as an advisor. Isn’t that really what the letter is saying?

**MR. POWER:** Yeah. I’m reading it now. That’s what it says, but at the time, I felt there was undertones there.

**MR. COOKE:** Okay. So, let’s go back to your email – page 1.

**MR. POWER:** Yeah.

**MR. COOKE:** And you go on and you say: “It reflects the ‘attitude’ that I am sensing lately from Normand and Bernard Gagne related to the notion that SLI are exemplary designers.” Do you see that?

**MR. POWER:** Yeah. I’m reading it.

**MR. COOKE:** So, I take it – can we infer from that that in your opinion, at least at the time, that you did not feel that SNC-Lavalin were exemplary designers?

**MR. POWER:** So, what’s written here is what’s written here but –

**MR. COOKE:** And the context of the – all of these messages are in relation to North Spur, correct?

**MR. POWER:** So, I can’t say that’s for sure.

**MR. COOKE:** So, you can’t say –



**MR. POWER:** No. That could be a general statement there, which, again, I certainly recant and I wouldn't say that today.

**MR. COOKE:** And then you go on and you say: "I plan on writing some formal letters very soon documenting the design deficiencies that I have seen and am continuing to see with SLI." So –

**MR. POWER:** Yeah, so, I don't know if any letters got written or not. I don't recall.

**MR. COOKE:** You don't recall?

**MR. POWER:** No.

**MR. COOKE:** But again, these are quite serious comments about SNC-Lavalin. Serious – you're voicing serious concerns two-plus months after you initially did in September. Correct?

**MR. POWER:** No, I agree.

**MR. COOKE:** Yeah.

And you're coming – in context – you're a professional engineer.

**MR. POWER:** Mm-hmm.

**MR. COOKE:** So –

**MR. POWER:** Yeah, I just don't remember what the deficiencies are that I was thinking about at that time.

**MR. COOKE:** Okay that was gonna be my next question.

**MR. POWER:** Yeah.

**MR. COOKE:** You can't recall?

**MR. POWER:** No.

**MR. COOKE:** Okay.

Do you recall whether they related to the North Spur?

**MR. POWER:** No, I don't recall.

**MR. COOKE:** Okay.

And last thing on this email – you say at the end, "You will note that Bernard Gagne and another individual were copied on this."

So, first of all, what was Bernard Gagné's role with SNC-Lavalin?

**MR. POWER:** He was VP of the hydro division or something.

**MR. COOKE:** Okay.

**MR. POWER:** And I think Normand reported – Normand Béchard reported up to Bernard.

**MR. COOKE:** Mm-hmm.

And then the other person is – a name, Benoit Mathieu?

**MR. POWER:** Yeah – who I don't know.

**MR. COOKE:** Okay.

And why did you feel it was noteworthy to flag this in your email, that they were copied?

**MR. POWER:** Well, because this letter that was written by Normand had obviously been elevated to these two individuals. So it's important that people know that whatever we were disputing or talking about at the time, obviously the matter was being elevated up to those two by Normand.

**MR. COOKE:** You've given other evidence on your relationship with Normand Béchard, but I guess it's safe to say in November 2013 it seems you still had concerns – it's – let me put it this way, see, I read two kinds of concerns here. One is that kind of an – a concern with attitude that you mention.

**MR. POWER:** Yes.

**MR. COOKE:** Yeah. That – correct?

**MR. POWER:** Yes.

**MR. COOKE:** And one – the other concern, maybe more generally with SNC-Lavalin, is about design deficiencies.

**MR. POWER:** So that's what I wrote here at that time, yes.

**MR. COOKE:** Just one more exhibit and just switching gears a little bit – Madam Clerk, could we take a look at – I think I have an extra number – I think it's, perhaps, P-03717?

**THE COMMISSIONER:** (Inaudible.)

**MR. COOKE:** Yes, P-03717.

**THE COMMISSIONER:** (Inaudible) that would be at tab 74, book 2.

**MR. COOKE:** Mr. Power, these are, I guess, two emails that you wrote, but I think you wrote them to yourself. Oh, sorry – do you need some time to –?

**MR. POWER:** No, which tab is it again, please?

**THE COMMISSIONER:** Seventy-four.

**MR. POWER:** Yeah, so I think this was in January 2015.

**MR. COOKE:** Yeah.

**MR. POWER:** Yeah, so this was at the time when I started to spend a lot of time at the Muskrat Falls site. It's at the time when we had – when Astaldi had availed of the two construction managers from the Nalcor team, and they had joined the Astaldi team. A whole new bunch of supervisors had been brought in to work for Astaldi. And we were trying to start off 2015 on a really positive note with respect to the Astaldi scope of work.

So, I would've been – I'm thinking, I would've been sending this to myself just to get ideas, 'cause I know I did put together a presentation that I, you know, presented to a bunch of people to try to help, you know, ratchet up the energy level, I'll say.

**MR. COOKE:** Okay.

And who would've been the bunch of people that you had made a presentation to?

**MR. POWER:** It would've been the Nalcor site team and maybe some Astaldi people.

**MR. COOKE:** And do you think these notes then, kind of, were the – helping you to prepare for that presentation, or –?

**MR. POWER:** Yeah, so this was kind of a brain dump, if I can use that term, of things that were, you know, coming to mind. And then, eventually, I put together a deck, which I may have used some of these things in it, to do a presentation to the team.

**MR. COOKE:** Now, I think most of the notes are self-explanatory. There is one, though, I did wanna ask you about, 'cause I wasn't sure, and wanted you to have the chance to elaborate on it. So, that's on page 2.

**MR. POWER:** Mm-hmm.

**MR. COOKE:** And, it's in the bottom quarter of the page. So it's the one, I guess, fifth from the bottom: "Upper Churchill analogy – legacy project – history books – everyone will be proud."

**MR. POWER:** Mm-hmm.

**MR. COOKE:** So, could you just elaborate what that – what you mean by that?

**MR. POWER:** Yeah. So, the Upper Churchill hydro development was executed in the early '70s. It's, you know, a very prominent – a fantastic project, an underground powerhouse of almost 5,500 megawatts. It's recognized worldwide as a great achievement, an engineering and – achievement – the project is a great achievement. And it was my hope that the Lower Churchill development would be recognized as a great achievement, as well.

**MR. COOKE:** So, I take it from your answer, Mr. Power, when you're looking at the legacy and the – you're really looking at it from an engineering point of view. Is that fair?

**MR. POWER:** No, I'm looking at it from, you know, 'people will be proud of this project' view.

**MR. COOKE:** But, I guess, I come back – when we look at the Upper Churchill, you know, the legacy, I would suggest, you know, really depends on one’s perspective. For example, I think a lot of people in Newfoundland and Labrador would not look presently at the legacy of the Upper Churchill project particularly favourably.

**MR. POWER:** And no, fair enough. So, to your point, I’m thinking the facility that got built.

**MR. COOKE:** Yeah. And, I guess, for my clients and other Indigenous people in Labrador – I don’t know how much you’re aware on – of the Upper Churchill history, but that – the project was done without any consultation with Indigenous peoples in Labrador whatsoever. Were you aware of that?

**MR. POWER:** I’ve become aware of that –

**MR. COOKE:** Yeah.

**MR. POWER:** – in recent years.

**MR. COOKE:** Yeah. And, you’re aware that there was, you know – the flooding caused by the dam and the reservoir flooded significant lands used by both the Innu and Inuit in Labrador. Are you aware of that?

**MR. POWER:** I am more aware of that now in the last years where – in particular, when I stay in the camp at the Muskrat Falls site I read the books up there. Yes.

**MR. COOKE:** Those are my questions, Mr. Power. Thank you.

**MR. POWER:** Thank you.

**THE COMMISSIONER:** Thank you.

Sorry. Yes, go ahead.

**MS. MUZYCHKA:** Before I forget, there was one Exhibit that we needed to enter.

**THE COMMISSIONER:** Okay.

**MS. MUZYCHKA:** P-03809.

**THE COMMISSIONER:** Okay.

**MS. MUZYCHKA:** Thank you.

**THE COMMISSIONER:** That will be entered as numbered.

All right, the Conseil des Innus are not present, so Grand River Labrador and – Riverkeeper Labrador and Labrador Land Protectors.

Ms. Urquhart.

**MS. URQUHART:** Good afternoon, Mr. Power.

**MR. POWER:** Good afternoon.

**MS. URQUHART:** My name is Caitlin Urquhart and I represent the Grand Riverkeeper and Labrador Land Protectors.

**MR. POWER:** What’s your last name again?

**MS. URQUHART:** Urquhart.

**MR. POWER:** Urquhart.

**MS. URQUHART:** And so they’re – you’re likely familiar with them, some citizens groups in Labrador that are dedicated to protecting the ecology of the Grand River.

**MR. POWER:** Yes, I’m aware of the name there. Yeah.

**MS. URQUHART:** So we’ve gone over a fair bit your background in the hydroelectric realm, and one of the items that you discussed yesterday were the benefits of hydroelectric projects. I’m wondering if you can elaborate a little bit actually on some of the costs or negative impacts that you’re aware of that result from hydroelectric projects.

**MR. POWER:** Well, I guess some of the negative impacts we’ve just heard from the previous lawyer. The flooding of areas, traditional areas, which occurred at the Upper Churchill – so that would be a negative impact, I guess. I know there is a concern with

methylmercury generation, so that could be considered a negative impact.

**MS. URQUHART:** It could be or it is a negative impact?

**MR. POWER:** It is, depending on the concentration, I guess, or – depending if the methylmercury generation actually happens.

**MS. URQUHART:** So you're aware that when a reservoir is impounded, that methylmercury is a natural occurring substance that happens from the anaerobic decomposition of material in the reservoir?

**MR. POWER:** Yeah. I'm not fully aware of the process, yes, but I'm aware that happens, what you just said.

**MS. URQUHART:** And that it is an absolute – it's not, you know, whether or not it's going to happen. When you impound a reservoir, methylmercury is produced.

**MR. POWER:** Okay.

**MS. URQUHART:** Would you agree with me? Are you aware of that?

**MR. POWER:** Yes.

**MS. URQUHART:** Yeah?

**MR. POWER:** Yes, I'm aware. Yes.

**MS. URQUHART:** Okay, just wanted to confirm. So it's not a maybe situation, it's a –

**MR. POWER:** Okay.

**MS. URQUHART:** – it is. It follows from impoundment.

So – and in terms of flooding of areas, so what – it sounds to me like you're discussing is – and what, obviously, Mr. Cooke was discussing was the reservoir itself, so that sort of habitat destruction and fragmentation we're talking about in that realm. Correct?

**MR. POWER:** Mm-hmm.

**MS. URQUHART:** And then displacement of people and access routes. So the folks, the trappers who used those pathways, they knew who would've used those for their summer hunting grounds, et cetera.

**MR. POWER:** Sure.

**MS. URQUHART:** Okay.

Are there any other impacts or risks associated with hydroelectric that you can think of?

**MR. POWER:** Well, the risk of flooding if a structure fails, I guess.

**MS. URQUHART:** So dam failure or, I guess, rim failure or something to that effect?

**MR. POWER:** Yeah, that's a risk.

**MS. URQUHART:** And is that always a risk?

**MR. POWER:** So I guess any dam that's constructed – so it's less of a risk of dam failure, for example, with a concrete dam, I think, than with an earth dam. So I guess it's degrees of risk.

**MS. URQUHART:** Mm-hmm.

We've talked about that a lot in the Inquiry so I think we're all pretty familiar with, sort of, the degrees of risk, but there is always a risk of failure. Is that correct?

**MR. POWER:** Yeah.

**MS. URQUHART:** Madam Clerk, if can please pull up 03703, and this is going to be in your binder number 2, tab 57.

**MR. POWER:** Five-seven?

**MS. URQUHART:** Five-seven, yes.

**MR. POWER:** Okay.

**MS. URQUHART:** And this is an email from May 11, 2016. It's from yourself to – well, actually, what I'm – I'm going down. Madam Clerk, please, if you can just scroll down, we'll start with the – oh, a little bit up. Sorry. This – in this email seems –

**MR. POWER:** So tab 57 –

**MS. URQUHART:** It should be 57. Is that –?

**MR. POWER:** I’m not getting that –

**THE COMMISSIONER:** Book number 2.

**MR. POWER:** Book 2.

**THE COMMISSIONER:** Okay, yours is – you’re missing a page I think, are you?

**MS. URQUHART:** It should – it’s also on your screen there, if that’s –

**MR. POWER:** Okay.

**THE COMMISSIONER:** See my copy here.

**MR. POWER:** Okay, thank you.

**MS. URQUHART:** Thank you, Justice.

So this is an email from Paul Harrington to you – addressed to you.

**MR. POWER:** Excuse me. So, Mr. Commissioner, what’s on the screen is not what’s in this book. It’s the same book as mine.

**THE COMMISSIONER:** 03703?

**MS. URQUHART:** Let me just double-check that I have the right tab here.

Oh, sorry, 54, apologies.

**MR. POWER:** Okay.

**MS. URQUHART:** I have the wrong number done.

**MR. POWER:** Okay.

**MS. URQUHART:** So you’ll see this is an email sent to you and – from Paul Harrington. And just the second paragraph here he indicates – oh, actually, perhaps if you would read that into the record.

**MR. POWER:** What’s on the screen here?

**MS. URQUHART:** Yes. Yeah, that email – well, I mean, it’s also in your book. It’s the part where – you can start with Ron.

**MR. POWER:** Okay. So this is from Paul Harrington: “Ron

“I sent the emails to Jason and the expect him to forward to the guys.

“I just want to express to you the important issue of mature and balanced response to this ATIPP ....”

**MS. URQUHART:** And just to be clear, that’s an access to information and privacy protection –

**MR. POWER:** Yeah.

**MS. URQUHART:** – request.

**MR. POWER:** Yes.

**MS. URQUHART:** Continue.

**MR. POWER:** “... we will use all the weapons in our Arsenal to resist this using all legal levers.

“We need to support the younger folks in our team by being solid and positive that we will prevail.

“So I am looking to you to bolster that with me.

“I know the s is a crappy request for personal info but we cannot let this take over our drive to finish the project or distract us too much.

“We will get top legal advice and we will get a result that protects our rights.

“I am totally determined to succeed and you know me long enough that that is no small matter.”

**MS. URQUHART:** I think that that’s sufficient. I – can you recall what ATIPP request this was regarding?

**MR. POWER:** Yeah, so at that time – that was in May 2016 – I think the ATIPP that came in at that time was a request for the compensation records for all the members of the project

management team to be responded to by the ATIPP requester and hence, it would be made public.

**MS. URQUHART:** Okay.

And, obviously, government agencies generally have to disclose this information. Is there a reason why this is particularly concerning to the project management team?

**MR. POWER:** Yes, because the members of the project management team are not government employees, they're independent consultants who happen to be working on a government project.

**MS. URQUHART:** And if – Madam Clerk, if you can just scroll up to the top of this page, please. Can you read your response to Paul Harrington there, please?

**MR. POWER:** Yeah, so: “Paul – this is a bigger threat to the project than the Astaldi situation. Gilbert” – that would be Gilbert Bennett – “needs to open his eyes and direct his energies to stopping this. Without any input from me, most of the PMs were ready to walk out today. We can discuss further in the morning, Thanks.”

**MS. URQUHART:** Thank you.

In terms of the North Spur design, obviously, my understanding is that that went through various iterations. Is that correct?

**MR. POWER:** I don't know if the design went through various iterations but, certainly, there were a lot of iterations or a lot of reviews of the design carried out over the years.

**MS. URQUHART:** Were there different options for the design?

**MR. POWER:** No, I don't think so. I think the design was developed and essentially what got designed is what got designed. I don't think the design was ever modified.

**MS. URQUHART:** Okay.

And who had final decision-making authority on the design for the North Spur?

**MR. POWER:** It was SNC-Lavalin.

**MS. URQUHART:** SNC-Lavalin.

**MR. POWER:** Yes.

SNC-Lavalin in – even in the integrated team model that we have today they are the engineer of record.

**MS. URQUHART:** Madam Clerk, if we can go back to P-03784, please, for a moment. And that's in binder 2 at tab 101, I believe – let me double-check my numbers are correct here. That should be right.

**THE COMMISSIONER:** Yeah.

**MS. URQUHART:** And this is the email that Mr. Cooke had just directed you to. And if we go to page 4 at the very bottom, please – so this is from James Meaney, essentially.

So he says: “Hi Nik” – referring to the independent engineer – “Please find attached for discussion on the call this afternoon Nalcor's ‘key’ comments on the draft IE report dated Nov 15, 2013. As we will discuss further on the call, we will ... be following up ... with more detailed comments blacklined into the report.” And speak to you – we'll speak to you shortly.

And then, obviously, Mr. Cooke led you through the subsequent emails in which Paul Harrington was essentially saying we don't have time for any more back and forth. We have to get this resolved; it needs to be unequivocal on the North Spur.

And I'm going to put to you that, in this case, Paul Harrington is either exerting or attempting to exert pressure on the independent engineer to change his conclusions around the North Spur.

**MR. POWER:** So I don't think that's quite correct. Paul's point is the independent engineer report did not come out and clearly state that the design and plans are reasonable and/or robust. So we had just gone through a review by the senior hedge people and Paul wanted dialogue between the senior Hatch people, and I'm assuming SNC-Lavalin and the IE, to understand what the concerns were by the independent engineer that were preventing them from, you

know, saying that the plans for the Spur are reasonable and robust.

So there was a lot of reviews done on the Spur and Paul just wanted to make sure, from what I recall, that everyone was talking to each other, and if there were concerns, what were they and, you know, have they been addressed by the Hatch reviewers?

**MS. URQUHART:** And if they hadn't?

**MR. POWER:** Well, if they hadn't, there'd have to be, I guess – and I can't really speak for Paul but there'd have to be an assessment of what those concerns were.

**MS. URQUHART:** Madam Clerk, if you can please go to 03705. And so, again, this is one that Mr. Cooke just brought you to and is an email from November 26, 2013, in which you've received a letter from SNC specifically about the North Spur design. And you had requested – this is my understanding – you'd requested a hydro geological study from an independent third party. Is that correct?

**MR. POWER:** If I can just scroll down to the letter again, please. Yeah, so what I am reading here, Hatch did a cold eyes review.

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** And as part of the cold eye review they recommended to perform a 3-D model of the North Spur hydro geology.

**MS. URQUHART:** Yes.

**MR. POWER:** Right? And then the – can you just scroll down a bit more, please?

So – yeah, so SNC are saying here that the model work that was recommended, that it should be done by them.

**MS. URQUHART:** Mm-hmm.

So, Mr. Cooke asked you whether the design deficiencies that you mentioned – so Madam Clerk, please, if you could just scroll to the first page again.

And you'll note just in your email that you've indicated that you're intent on sending some formal letters documenting the design deficiencies from SLI, and he asked you whether this – those deficiencies were leading to the North Spur. And your – you said you couldn't recall. Is that correct?

**MR. POWER:** No, I couldn't recall. I can't recall.

**MS. URQUHART:** However, you were adamant that the North Spur analysis ought to be done by a third party and not by SNC. Is that correct?

**MR. POWER:** So I don't know if I was adamant. It sounds like in the letter from SNC, they're saying that I wanted it done by a third party.

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** So I –

**MS. URQUHART:** And this is your response to that.

**MR. POWER:** Yeah, so my response is – doesn't indicate who I wanted it done by. My response is I detected an attitude at that time in relation to, I guess, who should do the – that SNC were insisting they do the design and maybe I wanted it done independently. I don't remember.

**MS. URQUHART:** So my understanding from the evidence that you just gave was that it was then done by an independent third party, and not SNC.

**MR. POWER:** (Inaudible) who actually did the study.

**MS. URQUHART:** Yes.

**MR. POWER:** So I don't know if I said that but I don't remember who actually did it.

**MS. URQUHART:** It wasn't the Hatch report?

**MR. POWER:** No, Hatch had done a cold eyes review –

**MS. URQUHART:** Right, and –

**MR. POWER:** – prior –

**MS. URQUHART:** – then they also did a –

**MR. POWER:** – prior to this letter.

**MS. URQUHART:** Yes.

**MR. POWER:** And in the cold eyes review, reading –

**MS. URQUHART:** Yes, then they recommend the hydrology –

**MR. POWER:** Yeah –

**MS. URQUHART:** – study.

**MR. POWER:** – so I –

**MS. URQUHART:** Yeah.

**MR. POWER:** Yeah, so I don't know –

**MS. URQUHART:** (Inaudible.)

**MR. POWER:** – who did that.

**MS. URQUHART:** Okay.

So, it was – it appears to me on reading this letter that as at November 26, 2013, you were of the view that SLI had design deficiencies and you had requested that specifically, with respect to the North Spur, because that's what this letter is talking about, that the studies pertaining to that be done by a third party.

**MR. POWER:** So I don't remember if that's – if I wanted it done by a third party or not.

**MS. URQUHART:** And you don't recall whether or not the study was done?

**MR. POWER:** Well, all these studies were done, but I don't remember who did them.

**MS. URQUHART:** Okay.

You mentioned some concerns in – again, in a previous email of – relating to SLI – or SNC's designs and, particularly, their propensity to

over design and you mentioned some concerns relating to the cost of that. Were you at all concerned for the people who were living downstream of the dam?

**MR. POWER:** So, over-design makes things – so the over-design – the only over-design I can think of, off the top of my head, up on that site, is the handrails on top of all the concrete structures.

**MS. URQUHART:** But here you're – sorry, here you're talking about a design deficiencies. So, I'm asking, was the only concern that you had about cost? Or were you at all concerned about the people who live – the human beings who live downstream from this project?

**MR. POWER:** So, I'm always concerned about dam safety.

**MS. URQUHART:** Madam Clerk, if we can please pull up P-00440.

**THE COMMISSIONER:** That one will be on your screen.

**MS. URQUHART:** This is a presentation that was performed – that was provided by Hatch in, I believe, February – it says January to February 2017. This was their dam safety presentation.

**MR. POWER:** Mm-hmm.

**MS. URQUHART:** And, Madam Clerk, if we can please go to page 40. And this particular deficiency is noted on a number of pages, but I just find this place in particular, it's most – it's legible. Some of the slides are a bit hard to read.

So, here under Emergency preparedness you'll see Minor deficiencies. So, the second one there is: "Verify readiness of all third party stakeholders."

So, my understanding is that at this time – at this point in time, Hatch is indicating through their audit process that the stakeholders aren't adequately – or they're – you're not – you don't have confirmation that stakeholders are adequately prepared for a potential dam failure. Is that what you understand that to say?



**MR. POWER:** No. When I read this emergency response statement is that the minor – verify the readiness – well, I guess, he – whoever did the audit – wasn’t given the assurance that the – all third party stakeholders – “Verify readiness of all third party stakeholders.”

**MS. URQUHART:** So I take that to mean that Nalcor didn’t have confirmation from all stakeholders that they were sufficiently prepared or had their emergency preparedness readied – at the ready.

**MR. POWER:** Yeah, no, you could be right there. Yeah.

So, I guess, you know, that’s an action from the – from this audit –

**MS. URQUHART:** The audit.

**MR. POWER:** – to make sure that all of that gets in place.

**MS. URQUHART:** Madam Clerk, if you can please go to P-00446? That won’t be in your book, either, I don’t believe.

This is the report – Hatch report, North Spur Dam Break Analysis; Final Report, from June 26, 2015. And Madam Clerk, if you can please go to page 4.

Nope, that’s still page 3. Scroll – keep scrolling. Perfect, thank you.

And, Mr. Power, if you would please read number 2, the first two sentences there, please.

**MR. POWER:** “The report is North Spur Dam Break Analysis (the “Project”). Data required to support” – the – “detailed engineering assessments have not always been available and in such cases engineering judgments have been made which may subsequently turn out to be inaccurate.”

**MS. URQUHART:** So this is just one of the disclaimers of this report.

And, Madam Clerk, if you’ll please continue to page 10.

So this report deals specifically with two different scenarios: one being the fair-weather scenario, and the other one being the probable max-flooding scenario. Are you familiar with this report, Mr. Power?

**MR. POWER:** So I’m familiar that this report was done.

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** But no, I’m not familiar with the report. I mean, there’s other people on the team who are, you know, into this scope of work.

**MS. URQUHART:** Who would those people be?

**MR. POWER:** So Greg Snyder, for –

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** – sure. He’s the engineering manager. He would be the key person today. Back then there was an individual, his name is Robert Woolgar, who was a – he’s not on the project anymore. Robert was into that.

But certainly Greg Snyder and Régis Bouchard. Both Greg and Régis work for SNC-Lavalin.

**MS. URQUHART:** So my understanding on reading this report is that it deals with these two scenarios: the fair-weather scenario and the probable max-flooding scenario. Now, neither of these scenarios would reflect 50-, 100- or 500-year flood scenarios. Is that your understanding?

**MR. POWER:** So, the probable maximum flood scenario that you mentioned is a – you know, it’s a greater than one in 10,000-year event. I don’t think there’s an actual number associated with it, but it’s certainly greater than a one in 10,000-year event. What it is close to – you know, I can’t really speak to it, but the – Greg Snyder certainly could.

**MS. URQUHART:** Okay.

**MR. POWER:** Or I could get it for you.

**MS. URQUHART:** All right.

And, you'll see here on the – one, two, three, four – fifth column, you can see the community of Mud Lake, which is approximately 40 kilometres downstream of the Muskrat Falls hydroelectric plant. You'll note that in the event of dam failures, for the North Dam, they would have less than two hours to evacuate, and in the event of a North Spur, on the base case, they would have just over two hours to evacuate.

So, is that concerning to you, when at the same time you also have safety reports that indicate that your third parties aren't at the ready to evacuate when they may only have two hours to do so?

**MR. POWER:** So, regarding the safety of it that we talked about a second ago –

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** – the reason that program is in place is to ensure that all those deficiencies that were identified there are actually closed –

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** – and the action's done before the reservoir gets filled.

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** So, the earlier document you read that had the deficiencies –

**MS. URQUHART:** Yes. That one's from 2017.

**MR. POWER:** Yeah. So, the actions in there –

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** – have to be done before the reservoir is filled. So, you know, those actions would be in place prior to water coming up in the reservoir.

**MS. URQUHART:** Coming up to what level? Because there's already water behind the reservoir.

**MR. POWER:** Yeah, but it wasn't at that time.

**MS. URQUHART:** In 2017?

**MR. POWER:** Right.

**MS. URQUHART:** There was no impoundment in 2017?

**MR. POWER:** Only against the cofferdam. Yeah, there was some.

**MS. URQUHART:** Wasn't that to 25 metres?

**MR. POWER:** No. Twenty-three, I think – 23 or 24.

**MS. URQUHART:** Madam Clerk, if you can please call up P-00445.

This is a document that was released in January 2017. It's entitled Responses from Nalcor Energy to Public Questions on the North Spur.

Do you know who prepared this document?

**MR. POWER:** This would likely be **Régis and Greg Snyder**, the SNC people.

**MS. URQUHART:** And what was the purpose of the document?

**MR. POWER:** So I'm assuming that this would've been prepared for the – for our public relations people to be able to respond to questions, as it says, from the public regarding the North Spur.

**MS. URQUHART:** Would this have been sent up the chain so to speak? Would you have reviewed this?

**MR. POWER:** I may have. I'm not quite sure. Certainly, Gilbert Bennett takes great interest in, you know, interfacing with the public and responding to public concerns publicly – publicly responding to public concerns.

**MS. URQUHART:** So, it would've gone through Gilbert, likely?

**MR. POWER:** Yeah.

**MS. URQUHART:** Madam Clerk, if you'll just go down to page 2. I believe – I didn't make a notation – I believe it's at the bottom – oh, sorry.

Sorry, scroll up a little bit? Apologies, I don't have it in front of me.

Oh, yeah, sorry, scroll up again. Perfect.

If you can read just in response to question number 3, in which they're discussing guidelines relating to a natural dam and whether or not it ought to be considered as a dam or rim or edge. The final line here says: "The North Spur has been correctly considered as a dam and analyses performed have demonstrated that the North Spur will remain stable under all hazards and loading conditions."

This is a completely unqualified assertion. Are you comfortable with that?

**MR. POWER:** I am.

So, one of the things I had done, in the last X number of months, is after the North Dam – you may be aware of this already – but after the North Dam was constructed, it was finished, I tasked SNC to produce a report called post-construction assessment of the North Dam. So they took all the data and – they took all the data that was discovered from when they were building – when we were building – when we were performing the North Spur stabilization work, all the soils information, the lab data, all the actual geometry of the layers of the different, you know, materials – strata in the dam as the dam was being constructed, the as built – the results of how the thing was built.

And then the SNC designers then took that as built, how did that – North Spur is actually – has been built and went back and rechecked the design, all the design assumptions against the – what was actually built, and the results were positive.

And that's been reviewed – excuse me – by a Hatch expert as well.

So, I had that done recently, it's called *North Spur – Post Construction Assessment* report.

**MS. URQUHART:** I don't know – does the Commission have a copy of that report? Are we able to get a copy of that report?

**THE COMMISSIONER:** We should be able to get a copy. I don't believe I've seen it in any of the documents that I've reviewed on this, so ...

**MS. URQUHART:** Nor have I.

**THE COMMISSIONER:** That's something, maybe, we will – I will instruct Commission counsel to try to get a copy of that as quickly as we can.

**MS. URQUHART:** Thank you, Commissioner.

**THE COMMISSIONER:** I'd like that to be entered as an exhibit as well.

**MS. URQUHART:** (Inaudible.)

So, notwithstanding that you now have an as-built report, my concern is when we started this conversation, you indicated that there was always a risk that a dam may fail.

Are you comfortable with the assertion that the North Spur will remain stable under all hazards and loading conditions?

**MR. POWER:** So, based on all the work that I've seen done on the North Spur and all the competency of the people who did the study work and the design – and I attended some of the expert review work that was done in early 2018, I believe it was. There was a panel of four experts who did a review of the spur. I sat in on some of that and I've read – well, you know, I've glanced through the reports.

So, yes, I'm comfortable, or confident, with the North Spur design. And I'm very confident in the construction that was performed by Gilbert that it has been constructed, you know, very well and in accordance with the design drawings.

**MS. URQUHART:** And, Madam Clerk, if you'll go, please, to page 3 of the fifth paragraph.

So it indicates here that the design team is very experienced. The engineers have more than 40 years' experience in sensitive clays and so on. The people of Labrador, they have generations of experience with the clays and the conditions in that area and I wonder whether – to what

extent you think that they have been convinced from these reports.

**MR. POWER:** So I can't answer that question. I know there's still some skepticism because I read it on, you know, some of these media sites.

**MS. URQUHART:** And do you – to what extent do you think that their expertise has been considered in these reports?

**MR. POWER:** I don't know. All I know is there have been a lot of experienced engineers –

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** – from SNC and Hatch and a whole bunch of other companies who have, you know, participated in the design and who have reviewed the design. And I had that post-construction assessment work done. I insisted that be done.

**MS. URQUHART:** Mm-hmm.

**MR. POWER:** So, you know, based on that I know, and the competency of the people who performed the work, I have confidence. I mean, what else can I tell you?

**MS. URQUHART:** However, at the end of the day, there is always a risk that a dam may fail.

**MR. POWER:** So dam failures occur in this world. Generally, they're very rare. You know, you read about one every now and then, I guess, but this – in my view anyway, the Muskrat Falls facility, which holds back the water into the river, has been very well designed and reviewed by, you know, the best people out there who do these things.

**MS. URQUHART:** Well, there's more of a risk now than, say, if there weren't a dam there at all.

**MR. POWER:** So I understood from the expert review panel that if the North Spur did not be – had not been stabilized, that over time it would wash out. I heard that.

**MS. URQUHART:** There wouldn't be a reservoir full of water behind it.

**MR. POWER:** No, that's correct.

**MS. URQUHART:** Right.

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

**MS. URQUHART:** Thank you.

Those are all my questions.

**MR. POWER:** All right, thank you.

**THE COMMISSIONER:** All right, I think we'll take our afternoon break and then we'll come back with the – Astaldi Canada Inc.

Ten minutes.

**CLERK:** All rise.

### Recess

**CLERK:** All rise.

Please be seated.

**THE COMMISSIONER:** All right, Mr. Burgess, we'll start with you.

**MR. BURGESS:** Thank you, Commissioner.

Paul Burgess on behalf of Astaldi Canada Inc.

Good afternoon, Mr. Power. I'm not going to take you too long I hope, but I want to cover off some of the evidence that you've testified so far. First of all, you – did you view the evidence that was given by the witnesses for Astaldi? Did you see that evidence?

**MR. POWER:** I saw parts of it.

**MR. BURGESS:** Okay.

And I'm going to be referring you to documents throughout my questions. Some of the exhibits may be in your binder, some not, but we'll get through it.

First of all – and I want to make sure because I know your role has changed, but for a significant amount of time you were the general project manager. Correct?

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

**MR. BURGESS:** And you were – would've been aware then that – and the questions I'm going to ask you relate primarily to Astaldi. So in – on September 24, 2013, there was a Limited Notice to Proceed where Astaldi could go in and was engaged to do certain work and that would terminate on October 31, 2013. Are you familiar with that?

**MR. POWER:** I'm familiar with the Limited Notice to Proceed, yes.

**MR. BURGESS:** Okay. And with any of these documents, if you want me to have it brought up on the screen or refer to the exhibit number, I can, but for these I don't think it's necessary. But if at any point you wish to have that done, please let me know and we can do it.

**MR. POWER:** Sure.

**MR. BURGESS:** The Limited Notice to Proceed then, was amended, I would suggest to you, and – on October 31, 2013, because the first one was going to terminate October 31, 2013, in the event there wasn't a contract. This amendment was amended on October 31, 2013, and that would terminate November 30, 2013. Are you familiar with that document or that principle?

**MR. POWER:** Yes, I'm familiar with that. Yeah.

**MR. BURGESS:** Okay.

And for the Commissioner's reference, the Limited Notice to Proceed is Exhibit P-02139 and the amended Limited Notice to Proceed is Exhibit P-03138.

And we've heard the evidence of some of the Astaldi witnesses who indicated to the Commission that while the Limited Notice to Proceed would allow them to progress certain works it had certain restrictions, primarily because without having a long-term contract with – between Astaldi and Nalcor, they couldn't enter into long-term commitments and relationships; would impede their ability to proceed to a certain extent.

Did you hear that evidence and do you agree with that principle?

**MR. POWER:** So I heard part of that evidence. So I will, though, anchor back to the scopes of work that were in the LNTP. So the LNTP was signed by Nalcor and Astaldi and from what I recall, one of the deliverables inside the LNTP was to actually put those contracts in place. Is that correct?

**MR. BURGESS:** Okay.

And so what I'm going to ask you to do –

**UNIDENTIFIED FEMALE SPEAKER:**  
(Inaudible.)

**UNIDENTIFIED MALE SPEAKER:**  
(Inaudible.)

**MR. BURGESS:** What I'm going to ask you to do that will make things progress, Mr. Power –

**MR. POWER:** Okay.

**MR. BURGESS:** – a lot quicker this afternoon is if you could listen to my questions and respond to my questions, as opposed to go on with other things.

**MR. POWER:** (Inaudible.)

**MR. BURGESS:** You'll have a, certainly, an opportunity to expand if necessary.

**MR. POWER:** Okay.

**MR. BURGESS:** But in the – but the LNTPs, you acknowledge, had certain restrictions on how much work could be done by Astaldi and limitations. Would you agree with that at least? Yes or no.

**MR. POWER:** Yes, for work outside of the LNTP.

**MR. BURGESS:** Right.

And would you agree with me that site access was only granted to Astaldi late in December of 2013? Do you agree with that? Yes or no.

**MR. POWER:** So I'm not sure when it was granted.

**MR. BURGESS:** Okay.

And in your role, though, at that time – so we're talking about November and December of 2013 – could you indicate to the Commissioner what your position was? Were you general project manager at that time?

**MR. POWER:** Yes.

**MR. BURGESS:** And would not the LNTP be directly within your scope and authority to deal with those issues?

**MR. POWER:** No, it would be the project manager for component – for the generation site, Scott –

**MR. BURGESS:** And who would've been that at the time?

**MR. POWER:** – Scott O'Brien.

**MR. BURGESS:** Scott O'Brien. So Scott O'Brien –

**MR. POWER:** Yeah.

**MR. BURGESS:** – though, would report directly to you, correct?

**MR. POWER:** Yes, that's correct.

**MR. BURGESS:** And as I understand your evidence that you've given, you had a pretty close management team, which included Scott O'Brien and yourself and others, correct?

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

**MR. BURGESS:** And there was open and frequent communication, correct?

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

**MR. BURGESS:** Okay.

Then the contract with Astaldi was signed on November 29, 2013, and I'm not going to refer – just for the Commissioner's purpose, P-01865. Do you agree that that contract with –

**MR. POWER:** Yes.

**MR. BURGESS:** – Astaldi was signed on that date?

**MR. POWER:** Yes.

**MR. BURGESS:** And you've indicated in your evidence that one of the reasons for the delay in the signing of the contract with Astaldi, or the only reason, was the financial closure that Nalcor had to enter into with the federal government, correct?

**MR. POWER:** That's my understanding –

**MR. BURGESS:** Right.

**MR. POWER:** – yes.

**MR. BURGESS:** Would you agree with me that initially when Astaldi placed its bid, it was contemplated that the contract would be awarded in June of 2013? Would you agree with that? Yes or no.

**MR. POWER:** I'm not sure if it was June or July, but in mid that year, yes.

**MR. BURGESS:** Okay. So June or July 2013, correct?

**MR. POWER:** Originally, yes.

**MR. BURGESS:** Originally. And then that got delayed because – as we've just indicated, because of the delay in the financial close with the federal government, correct?

**MR. POWER:** Yes.

**MR. BURGESS:** Right.

Now, I just want to clarify – and there will be some questions I'll have later – with respect to signing authority and signing for people. And I notice on some of the documents, there would be people sign on behalf or for other people. Sign-offs on evaluation documents, things of that nature.

**MR. POWER:** Yes.

**MR. BURGESS:** That's a process that happened – I won't say frequently, but it did happen within Nalcor, correct?

**MR. POWER:** Yes, it's a delegation-of-authority process.

**MR. BURGESS:** Right.

And so if you or anyone else signed a document on behalf of anyone, I take it they would either communicate with that person for whom which they are signing or they would be comfortable themselves with the document they're signing. One of those two. Is that correct?

**MR. POWER:** Yes.

**MR. BURGESS:** Right.

Now, I want to go back and just explore a little bit of Nalcor's core values, and for that I'm going to be bringing you back – there was a kick-off meeting between Astaldi and Nalcor on December 19, 2013, in St. John's, and I think you were at that meeting. Is that not correct?

**MR. POWER:** Yes. Was that in St. John's or at site?

**MR. BURGESS:** Well, let's – Madam Clerk, if we could look at P-03143, and I'm not sure that's in this witnesses binder or not. It's P-03143.

**THE COMMISSIONER:** I don't think that's going to be in the binder.

**MR. BURGESS:** Okay.

So if you could look at the screen, Mr. Power. And, Madam Clerk, just if you could go to the – I think it's the next page, I just want – so in context for Mr. Power, he can see – no, continue on down, please. Continue on. Stop there, please.

**MR. POWER:** (Inaudible.)

**MR. BURGESS:** Just go up a little bit.

**MR. POWER:** Yeah, okay.

**MR. BURGESS:** So if you see there it says: Nalcor Kick-Off Meeting, December 19, 2013, St. John's, Newfoundland.

**MR. POWER:** Yes.

**MR. BURGESS:** Does that bring back your recollection of that meeting?

**MR. POWER:** I remember being in the kick-off meeting. I didn't remember it was at the Delta.

**MR. BURGESS:** Okay.

I want to bring you to a couple of quotes that are in there, and this is minutes of meetings, so I want to make sure that it coincides with your recollection or if you take any issue.

Madam Clerk, page 4, please, and the sixth paragraph down, or – sorry, we'll go – at the top, sorry.

And this is Mr. Paul Harrington.

**MR. POWER:** Yeah.

**MR. BURGESS:** And the notes indicate – and I'm going to read it out to you, and then you can tell me whether it's your recollection this was said and if it's accurate and if, in fact, you agree with it.

Mr. Harrington is noted to have said: "We are on a mission" – that being Nalcor. "On the project for 8 years; Can only do it by working together; We are honest sincere people and we are fair; This is the single biggest contract on this project and we have got to make it work; This project is the future of the province" – and – "carries a heavy burden."

Do you recollect that or does that – based on your recollection, is that accurate?

**MR. POWER:** Yeah, so, I don't remember these specific words but I certainly remember that sentiment.

**MR. BURGESS:** Okay.

And then if we could scroll down, Madam Clerk, and just stop there, please. And this is comments attributed, again, to Mr. Harrington, I believe, and it's started – it says he started the meeting with a "Value Moment" – anchor back to one of the values."

And my understanding is that these are core values of Nalcor, and they're listed as: "Teamwork; Open Communication; Honesty

and Trust; Safety; Respect and Dignity; Leadership; Accountability.”

Is that what you understand Nalcor’s core values to be?

**MR. POWER:** Yes.

**MR. BURGESS:** Thank you.

And if you could go down, Madam Clerk, to the second-last line on that page, and this is an excerpt from comments from yourself, Mr. Power, that it’s attributed to you on the last line. And it says: “Nalcor – lean and efficient ....” Do you recall that or does that reflect your views?

**MR. POWER:** Yes, I recall that.

**MR. BURGESS:** Okay.

Now, the contract that was assigned by – between Astaldi and Nalcor, we heard from Mr. Palumbo, on behalf of one of the Astaldi witnesses, who indicated that in his view and that of Astaldi that there was a level of co-operation around this time. It entered into with LNTP and you’ve – I assume, you heard him talk about the good faith and the references in the documents, and that the kickoff meeting on December 19, 2013, was an amicable one. Would you concur with that, Sir?

**MR. POWER:** Yes.

**MR. BURGESS:** Okay.

Yet, I want to bring you to an Exhibit P-03021. Again, Commissioner, I don’t think it’s in the binders for this witness, but I’m uncertain.

**THE COMMISSIONER:** I’ll just check it there. No, it’s not (inaudible).

**MR. BURGESS:** P-03021. And this is a meeting – and if you can scroll down, Madam Clerk, so we can just see. It’s from Nalcor and we can just go to the signing page, if you will.

And it’s signed by Mr. Scott O’Brien and it shows who it is copied to. But in this – if we could go back to page 1, Madam Clerk, in this, it’s a letter from Mr. O’Brien to Astaldi and it’s

outlining major concerns. So this was December 18, 2013.

First, Sir, let me ask you: Are you familiar with this letter?

**MR. POWER:** I think this – when I happened to be looking at the Inquiry that day when Mr. Palumbo was here was this letter brought up at that time?

**MR. BURGESS:** It was, Sir.

**MR. POWER:** Yeah. So I saw it then.

**MR. BURGESS:** Right.

**MR. POWER:** But, you know, otherwise than that, I wasn’t familiar with it. No.

**MR. BURGESS:** So the point is this: We’ve heard from you, we’ve heard from other witnesses – in particular, the Astaldi witnesses – that things were going along with the LNTP. Then we see the entering into the contract on November 29, 2013, we see a kickoff meeting, which is – seems to be very amicable. But in between this, we see a letter dated December 18, 2013, that doesn’t seem to reflect that amicable and co-operative relationship that people were talking about and expected. What, if anything, can you say to that?

**MR. POWER:** Yeah, so I don’t agree that this is not co-operative. This is – Nalcor and Astaldi do the same thing all the way through this project, they’re reserving their commercial rights.

So the – as I indicated here in the last day or two, we worked very collaboratively with Astaldi and Astaldi worked very collaboratively with Nalcor right through the execution of the CH0007. It got difficult in later years but at the same time, this is normal contract management that both parties put their notices in place to protect their commercial aspects. I don’t see anything here by writing this letter to say we’re not co-operative.

**MR. BURGESS:** Okay.

**MR. POWER:** That’s my view.



**MR. BURGESS:** And I'm not saying you're not co-operative, but I'm saying that the tone of the relationship seems to be different in this letter than what we've heard from the evidence. You've signed a contract for \$1.1 billion just two weeks before, or three weeks before, and then we see this letter before the contract is essentially started, or just as it's started and its major concerns being expressed with milestones and scheduling.

So can you see why there seems to be – it seems to be hard to square that letter with the relationship as was being described?

**MR. POWER:** No, to me, I don't see that.

**MR. BURGESS:** Okay.

Then if I could bring you, Sir, to Exhibit P-03039 and that's in the project management – the PMT binder 3, tab 79. So that's P-03039, PMT 3, tab 79. Do you see that, Mr. Power?

**MR. POWER:** Yeah.

**MR. BURGESS:** And this is an email from yourself to – it looks like the project management team or, certainly, Nalcor people, I'll call it. And it's dated November 2 so it's a few weeks before a contract is signed.

**MR. POWER:** Yeah.

**MR. BURGESS:** And if you want to take a look to refresh your memory, but I'll go down to page 3 of that document where it seems that you are saying – and I'll – the top of the page says: "I may be perceived as being naive or difficult, but we need to be in the driver's seat. It is our money. We should sign the contract with Astaldi when we are ready. The messaging that will" be "send to Astaldi will be the right one. Our focus now needs to be to get Astaldi to deliver the goods."

What I'm taking from that, Sir, if I interpret it, is that you're suggesting that that contract should not be signed at that point in time. That's the message I take from that. Can you tell me if I've read it wrong and interpreted it wrong at least?

**MR. POWER:** Yeah so the – so this email was written because the deliverables that were to be

completed under the LNTP, in my view, at that time, weren't getting done as they should and I was cautioning the team on – about that.

**MR. BURGESS:** Right, but when I read this it tells me that you're suggesting to the team, don't sign the contract at this point because we still have concerns with the LNTP. Is that not correct?

**MR. POWER:** But I did – it is, but I did say in here we'll get there, which we did –

**MR. BURGESS:** Right.

**MR. POWER:** – I'm sure we'll get there.

**MR. BURGESS:** Right.

So it's that working together, it's the good faith and co-operation that you'll get there. Is that what I understand your evidence to be?

**MR. POWER:** Yes.

**MR. BURGESS:** Correct, okay.

Now I just want to go back to the core values for a second and ask you some general questions –

**MR. POWER:** Okay.

**MR. BURGESS:** – and you saw the core values. But we've heard instances – I won't go into them in a lot of detail – but we've heard of instances where people are suggesting that Nalcor representatives would sometimes yell and shout at meetings.

First of all – and there were some questions asked of you earlier today – do you acknowledge that sometimes some of the Nalcor representatives could yell or would yell and shout at meetings? Are you aware of that, yes –

**MR. POWER:** No.

**MR. BURGESS:** – or no?

**MR. POWER:** No.

**MR. BURGESS:** You're not aware of it.

**MR. POWER:** No, not yelling and shouting. No.

**MR. BURGESS:** Okay. And if that was correct, that would be inappropriate behaviour and inconsistent with the core Nalcor values. Am I correct in that, Sir?

**MR. POWER:** Well, that's a supposition, if that was correct.

**MR. BURGESS:** Okay, so you're – so if you assume that there was yelling and shouting at meetings, that is not consistent with Nalcor core values, correct?

**MR. POWER:** So –

**MR. BURGESS:** Yes or no, Sir.

Do you want me to repeat it? It's a fairly –

**MR. POWER:** No, I –

**MR. BURGESS:** – simple question, Mr. Power. I can repeat it if you wish.

**MR. POWER:** Yeah, so it wouldn't be.

**MR. BURGESS:** Thank you.

**MR. POWER:** Yeah.

**MR. BURGESS:** On the same, what you call, supposition, hypothetical – call it what you want – were you ever aware that Nalcor representatives walked out of meetings as they just got started or before they concluded? Are you aware of that?

**MR. POWER:** I may have heard that but I can't specifically say for sure.

**MR. BURGESS:** How can you say you may have heard? You either heard it, Sir, or you didn't hear it. Which is it?

**MR. POWER:** Well, I may have heard it here in the Inquiry.

**MR. BURGESS:** And what is it you think you heard so we can understand what your thinking is on this?

**MR. POWER:** So I may have heard someone from Astaldi, here, testifying that someone from Nalcor walked out of a meeting.

**MR. BURGESS:** Okay.

If that was correct information, would you agree with me that walking out of a meeting in that instance would be inconsistent with Nalcor's core values?

**MR. POWER:** Not necessarily.

**MR. BURGESS:** And why not necessarily?

**MR. POWER:** Because there could be a reason to walk out of a meeting.

**MR. BURGESS:** Okay.

**MR. POWER:** I've seen people walk out of meetings all the time.

**MR. BURGESS:** All the time.

**MR. POWER:** Well, over the years I've seen people walk out of meetings. I've seen Astaldi people walk out of meetings.

**MR. BURGESS:** Okay.

**MR. POWER:** That happens.

**MR. BURGESS:** All right, and is that appropriate?

**MR. POWER:** So, you know, at the time, actions like that are understandable and they're just swept under the rug and life goes on.

**MR. BURGESS:** Okay.

And can you explain to me – you're familiar with Mr. Don Delarosbil, are you?

**MR. POWER:** Yes.

**MR. BURGESS:** And who would his counterpart be at Nalcor? Can I –

**MR. POWER:** It would be the construction manager at the site.

**MR. BURGESS:** Construction manager at the site. And who would that have been during Mr. Delarosbil's time at site?

**MR. POWER:** Mostly Peter Tsekouras.

**MR. BURGESS:** So I don't know if you heard Mr. Delarosbil's evidence, but what he did –

**MR. POWER:** Some of it.

**MR. BURGESS:** Okay.

One of the things he did indicate that there was meetings that he would attend that he found that was not useful because his counterpart was not in attendance, or someone with the authority to make decisions on Nalcor's side was not in attendance. And he didn't go to those meetings in the future although members of his team did. Did you hear that evidence?

**MR. POWER:** Yes, I heard him say that.

**MR. BURGESS:** And what, if anything, do you have to comment on his position?

**MR. POWER:** So I don't agree with that assertion.

**MR. BURGESS:** Why don't you agree?

**MR. POWER:** Because the site were empowered to manage the work under the agreement.

**MR. BURGESS:** So, in your evidence – and I've heard you testify quite a bit over the last day and a half –

**MR. POWER:** Yeah.

**MR. BURGESS:** – you don't accept that Nalcor had the appropriate people with authority on site. Is that correct, yes or no?

**MR. POWER:** Correct.

**MR. BURGESS:** And despite having that said by many of the contractors, many of internal people who ultimately resigned from Nalcor, you still don't accept that.

**MR. POWER:** It wasn't said by many of the contractors; it was said by some contractors.

**MR. BURGESS:** Well, I'll ask the questions and you can answer them.

**MR. POWER:** Okay.

**MR. BURGESS:** So let me ask again. We've heard evidence of many contractors, more than one, more than Astaldi, and it seems to be fairly consistent – now, you can disagree with that if you want, but it seems to be fairly consistent from the contractors – and we'll get into that in a second with respect to the credibility you put to the contractors.

But it seems to be a fairly consistent theme that contractors were frustrated with the level of authority on site. Do you acknowledge that that was a fairly consistent view held by the contractors?

**MR. POWER:** I acknowledge I heard some of that here in the Inquiry.

**MR. BURGESS:** Okay.

You didn't hear it before. Is that your evidence?

**MR. POWER:** I might have heard it from Don Delarosbil before, over the years.

**MR. BURGESS:** Okay.

And you didn't hear it from anyone internally with Nalcor that that was a communication being stated by many contractors and former employees?

**MR. POWER:** So, I heard it from some former employees, like Des Tranquilla, that we heard.

**MR. BURGESS:** Right.

**MR. POWER:** But I never heard former employees say the contractors were saying it.

**MR. BURGESS:** Right. But you heard contractors, at least Mr. Don Delarosbil?

**MR. POWER:** Yes.

**MR. BURGESS:** And you weren't aware of any other contractors with that point of view, were you?

**MR. POWER:** No.

**MR. BURGESS:** So, Scott O'Brien or no one else on your management team communicated that to you?

**MR. POWER:** Communicated what to me?

**MR. BURGESS:** That contractors were concerned and frustrated with the level of authority on site?

**MR. POWER:** No.

**MR. BURGESS:** Okay.

In your evidence, you talked about the project managers with Astaldi. Are you familiar – I think you are – with Guido Venturini?

**MR. POWER:** Yes.

**MR. BURGESS:** Mr. Venturini, as I understand it, not only was he involved in the bid proposal team, but he was also involved on site. Is that correct?

**MR. POWER:** He was there for a time, I believe.

**MR. BURGESS:** Right. And I would suggest to you he was there for at least for 2014, correct?

**MR. POWER:** No, I don't think he was there after Don Delarosbil came – or he was gone before that, from what I remember.

**MR. BURGESS:** Mr. Delarosbil came in 2015, Sir.

**MR. POWER:** Oh, sorry, sorry, sorry.

**MR. BURGESS:** In 2014, I would suggest to you, Mr. Venturini was there. Would you agree or disagree?

**MR. POWER:** So I think he was based in St. John's for a large part of 2014. They had – Astaldi had an office on Elizabeth Avenue.

**MR. BURGESS:** And do you take issue with the fact that he was based in St. John's?

**MR. POWER:** No, I'm just making – you asked me was he on site for – or you're saying he was on site for all of 2014, and I don't recall having – me, anyway – having much or any dealings with Guido at the Muskrat Falls site.

**MR. BURGESS:** Okay.

**MR. POWER:** I remember José Alves was there, Mauro Abbafati was there, then Giacomo Orsatti was there. I remember dealing with those people, but I don't remember dealing with Guido on the site. I don't think he was on site much.

**MR. BURGESS:** Are you familiar with Mr. Venturini, though, with his experience?

**MR. POWER:** So I met him. I understand he's a (inaudible) –

**MR. BURGESS:** But I'm asking you are you familiar with his experience?

**MR. POWER:** No.

**MR. BURGESS:** Okay.

Madam Clerk, if –

**MR. POWER:** I'm somewhat familiar with his experience.

**MR. BURGESS:** And I would put it to you, then, Mr. Power, he's very experienced in this kind of project. Would you agree or disagree?

**MR. POWER:** So I never saw that put into action.

**MR. BURGESS:** I thought you just said you never saw him that much.

**MR. POWER:** Well, I saw the results of 2014.

**MR. BURGESS:** Okay. But did you see Mr. Venturini?

**MR. POWER:** Not very much on the site, from what I recall.

**MR. BURGESS:** Okay.

Madam Clerk, P-03047. And, Commissioner and Mr. Power, it's in PMT 3, tab 8, I believe.

**THE COMMISSIONER:** Tab what?

**MR. BURGESS:** I can't read my own notes.

**THE COMMISSIONER:** (Inaudible.)

**MR. BURGESS:** Tab 80, sorry, tab eight-zero, I believe?

**THE COMMISSIONER:** Eighty?

**MR. BURGESS:** PMT 3, tab 80? It's P-03047.

**THE COMMISSIONER:** Correct, yeah.

**MR. BURGESS:** And, Madam Clerk, if you could scroll down, please? Keep going down, please. Stop there, please.

And this was an exhibit that you were referred to this morning, Mr. Power. And in particular I want to look at the statement five lines down, you were brought to this earlier but I just want to go back to it and review it.

And it says: "While I do not" – this is a statement from yourself, I believe.

**MR. POWER:** Mmm.

**MR. BURGESS:** Do you –

**MR. POWER:** Mm-hmm.

**MR. BURGESS:** – acknowledge that?

**MR. POWER:** Yes.

**MR. BURGESS:** And it says: "While I do not doubt the sincerity of Mario and Jennifer (I do believe Manni is conspiring against the project) ...." And you indicated earlier in your evidence today that's Manni Triassio or Triassi rather, correct?

**MR. POWER:** Yes, Emanuele Triassi.

**MR. BURGESS:** Right, and then you go on to say: "... the bigger question is whether Astaldi can deliver this. I am not convinced."

Now, I wanna go back to that comment that you say, in brackets: "I do believe Manni is conspiring against the project." And I believe that you – if I understood your evidence today, you acknowledged that that wasn't accurate and, in fact, unsubstantiated. Is that not correct?

**MR. POWER:** Yeah, I can't really recall why I said that. I just sensed a rift between Astaldi Rome and Astaldi Canada.

**MR. BURGESS:** Okay, I'm gonna deal with that part of your comments or your evidence in a second.

Let me go back to the fact that you make a comment that you're alleging someone is conspiring – someone with Astaldi in a very high position is conspiring against the project, and you've admitted that it has no basis or foundation, correct?

**MR. POWER:** Correct.

**MR. BURGESS:** And can you explain to me that how or why a person, any person, but let alone any person – a senior person in the Nalcor management would make a slanderous, unsubstantiated comment like that about a person with Astaldi?

**MR. SIMMONS:** Commissioner, that's – the characterization and the question is inflammatory, and it's a legal interpretation and it's not appropriate, I think, to put to the witness –

**MR. BURGESS:** Commissioner, I'll withdraw –

**MR. SIMMONS:** – in that context.

**MR. BURGESS:** – the –

**THE COMMISSIONER:** I think the question could be better worded. Because when you bring in, you know, adjectives like slanderous or whatever, it does have a legal connotation that I'm not sure this witness could answer.

**MR. BURGESS:** Fair enough, Commissioner, I'll withdraw the slanderous part.

Is it appropriate for any person, let alone a senior management person with Hydro, to make such a serious, unsubstantiated comment about a person with Astaldi?

**MR. POWER:** On the face of it, no, but we're in a situation there where we're six months into a project; a lot of money has been spent, and there's very little to show for it.

**MR. BURGESS:** Okay.

And somehow you jumped from that to this unsubstantiated comment. And you can justify that. Is that what you're doing now?

**MR. POWER:** So, I guess what I'm conveying is the frustration I was feeling at the time and a sense that I had that there was a rift between Rome and Astaldi Canada, which was resulting in this job not getting built.

**MR. BURGESS:** Well, let's go to that last – let's go to the second part, then, of your allegation. Your allegation then – I don't see it in writing, but in your evidence, you said earlier today that there was – you thought – a rift between Astaldi Canada and Rome. And what is your basis for that comment?

**MR. POWER:** I was sensing that at the time. What the basis is I can't remember now, but I was sensing it at the time.

**MR. BURGESS:** And based on just senses tingling. Is that what leads you to this?

**MR. POWER:** Well, it might have been the behaviours in meetings where these people were in the meetings with us.

**MR. BURGESS:** Okay.

**MR. POWER:** Maybe that's where I observed it. I don't remember but I know I sensed a rift at that time.

**MR. BURGESS:** All right.

Now, Mr. Delarosbil, who you've indicated you're familiar with and you dealt with him, I

believe, directly from time to time. Is that correct?

**MR. POWER:** Yes.

**MR. BURGESS:** Would you agree with me that Mr. Delarosbil is both an experienced and well-respected project manager in Canada?

**MR. POWER:** Yes.

**MR. BURGESS:** And when you were giving your evidence, it seemed to me that you discounted his evidence and said it should have no credence or credibility because it's a contractor looking for \$800 million. So as I understand it, you've just made a blanket statement that said the Commission shouldn't accept anything he says because he's a contractor looking for money. Is that correct?

**MR. POWER:** No, that's not what I implied.

**MR. BURGESS:** Okay. Well, can you explain what you implied?

**MR. POWER:** Yeah. So Astaldi are – have claimed against the project for \$800 million. Don Delarosbil is working with Astaldi, working on that. So, in my view, that's his mandate with Astaldi, and what he was giving evidence here in the Inquiry is in support of that.

**MR. BURGESS:** So are you somehow suggesting that Mr. Delarosbil is not giving truthful evidence –

**MR. POWER:** No.

**MR. BURGESS:** – because of a claim? You're not saying that?

**MR. POWER:** No.

**MR. BURGESS:** Right.

No more than, I assume, that you're not giving false information based on a defence by Nalcor. Correct?

**MR. POWER:** Exactly.

**MR. BURGESS:** Right.

Now, you mentioned this \$800-million number.

**MR. POWER:** Yes.

**MR. BURGESS:** Can you explain what that is?

**MR. POWER:** So my understanding is Astaldi – there’s a notice of arbitration against Nalcor that was submitted by Astaldi sometime in September 2018. And I understand in that, if you add up the numbers in that arbitration, Astaldi are looking for \$800 million. I think there’s a \$500-million figure and a \$300-million figure.

**MR. BURGESS:** Okay.

And – well, we’ll leave it for legal argument whether it’s 500 or 800 or whatever that notice is. And, again, we’re not getting into the arbitration issues, specifically.

**MR. POWER:** Sure.

**MR. BURGESS:** So it’s the notice of arbitration, though, is the basis for your comments, whatever amount that is. Is that correct?

**MR. POWER:** Yes.

**MR. BURGESS:** Okay.

Now, I want to go back to your knowledge of Astaldi’s concerns with respect to on-site authority.

**MR. POWER:** Okay.

**MR. BURGESS:** And you had mentioned that you do recall having a couple of discussions or communications with Mr. Delarosbil explaining his concern or expressing his concern. Is that correct?

**MR. POWER:** No.

**MR. BURGESS:** Okay. I thought you had given in your evidence that Mr. Delarosbil might have raised that issue with you a couple of times. Was I mistaken, because that’s what I understood your evidence to be?

**MR. POWER:** I don’t think he raised it with me. I think he might have raised it in a meeting we had.

**MR. BURGESS:** Were you at that meeting?

**MR. POWER:** Yeah, that was a meeting in St. John’s, I think.

**MR. BURGESS:** So you were in a meeting – so I’m clear about this.

**MR. POWER:** Right.

**MR. BURGESS:** You were in a meeting – you, personally, with Mr. Delarosbil – where he expressed concern on the authority on site by Nalcor representatives. Correct?

**MR. POWER:** No.

**MR. BURGESS:** Okay. What did he say or what did – was communicated at that meeting?

**MR. POWER:** The meeting I’m thinking about is a meeting where Don came to St. John’s to sit down with Scott O’Brien to sort out commercial issues that weren’t getting sorted out at the site.

**MR. BURGESS:** And were you at that meeting?

**MR. POWER:** Not for the whole meeting. I think I was just in for the beginning of it.

**MR. BURGESS:** And were you there when Mr. Delarosbil expressed his concern with respect to Nalcor’s authority on site?

**MR. POWER:** So I’m not sure – no, I’m not sure he actually said that.

**MR. BURGESS:** If he didn’t say it, though, is it fair to say that Mr. O’Brien communicated to you after the meeting the Mr. Delarosbil had expressed those concerns in person? Is that correct?

**MR. POWER:** I don’t remember.

**MR. BURGESS:** Okay.

Madam Clerk, if we can bring up P-03022, please. And, again, Commissioner, I don’t think

it's in the binders, or at least my review didn't indicate it was there, but it's P-03022.

**THE COMMISSIONER:** I'm sure it's not there. It should be on the screen.

**MR. BURGESS:** And do you see that letter, Mr. Power?

**MR. POWER:** I can see the top of it, yeah.

**MR. BURGESS:** Okay.

If, Madam Clerk, we could scroll down, it's a letter from Astaldi Canada and it's attention: Desmond Tranquilla with cc's. And the subject is: "Request For Company Representative To Be Based At Site For Discussions, Modifications & Approvals." And, essentially, it's a letter signed by Mr. Mauro Abbafati –

**MR. POWER:** Mm-hmm.

**MR. BURGESS:** – on page 2. He was the acting project manager at the time for Astaldi. You can see that it's copied to certain individuals. And, in essence, it's indicating that Astaldi – it's confirming that Astaldi has asked, on several occasions – and this is June 23, 2014 – that someone from Nalcor with more authority be on site. Are you familiar with this letter?

**MR. POWER:** No. So that's when I was having this health issue and I wasn't on the job at that time.

**MR. BURGESS:** Okay.

Now, we've seen and heard the evidence of other witnesses – and it's been put to you with respect to, for example, Mr. Tranquilla and other individuals – that there was resignations because of their concern with being utilized appropriately and fully and the lack of on-site authority. You're familiar with those letters and those resignations, correct?

**MR. POWER:** Yeah, we saw them here.

**MR. BURGESS:** Right.

**MR. POWER:** Yeah.

**MR. BURGESS:** And, what, if anything, did you do about it? And I say you; you were the management team at Nalcor. This certainly, Sir, had to give you some concern –

**MR. POWER:** It did. And I worked with Des and worked with Scott to – so that everyone was clear on their roles and their financial authority.

**MR. BURGESS:** And what changed? Because we've heard evidence that said these concerns were being raised by former Nalcor employees, by contractors and there was no change. So, what changed? What did you do?

**MR. POWER:** We educated the site team – the site leadership as to the execution model. So Des was there for another year, I think, after that.

**MR. BURGESS:** And then he resigned because of this issue, though, didn't he?

**MR. POWER:** He eventually did.

**MR. BURGESS:** For this issue. Correct?

**MR. POWER:** Des wanted more autonomy, I guess, yes.

**MR. BURGESS:** Right.

**MR. POWER:** That – because that was his experience.

**MR. BURGESS:** That's the whole issue, though, isn't it, Mr. Power, that there were people on site with Nalcor saying we don't have the proper authority. And I'm asking you, other than educate your existing people –

**MR. POWER:** Right.

**MR. BURGESS:** – what, if anything, did you do to try to address the issue, or is that it?

**MR. POWER:** No, so what we did is we assigned Ed Bush to the site in the construction manager role in early 2015, and then we hired Peter Tsekouras, as the construction manager, who ended up being there for the construction manager, for the powerhouse and intake. And he was there three years and he worked very closely with Peter Tsekouras, with Erasmo



Bassano of Astaldi and Don Delarosbil and those guys and they built what's there today.

And after Des left, we assigned Dave Pardy as the site manager and he was there for three years and all that noise went away. So what we did was we changed out the construction management team, to answer your question.

**MR. BURGESS:** Okay.

I want to ask you a question with respect to the ICS and a follow-up question that was asked to you by Mr. Hogan earlier today with respect to Nalcor's position when – with the dismantling of the ICS. And I wasn't sure I quite understood your response or if you, in fact, gave a response.

But I would put it to you – because the ICS was a huge issue for both Astaldi and Nalcor, wasn't it?

**MR. POWER:** Agreed.

**MR. BURGESS:** And you, in your role as general project manager –

**MR. POWER:** Right.

**MR. BURGESS:** – that would be one of your top priorities. Is that correct?

**MR. POWER:** Yes.

**MR. BURGESS:** And I suggest to you that such a decision was either approved by Nalcor, or agreed upon by Nalcor, or there was some communication of some sort from Nalcor to Astaldi with respect to that decision. Isn't that correct?

**MR. POWER:** The decision to dismantle the ICS at the end of 2015? Yes. Yeah.

**MR. BURGESS:** Whenever it was dismantled – let's forget the time –

**MR. POWER:** Yeah, no, yes, we agreed to that.

**MR. BURGESS:** And you agreed on it and that would have been communicated to Astaldi, correct? They would have known what Nalcor's position was?

**MR. POWER:** Yeah, that may be in letters.

**MR. BURGESS:** Okay.

But your recollection, you would agree that Nalcor didn't take any issue with that did they?

**MR. POWER:** No.

**MR. BURGESS:** Okay.

Now, the termination of Astaldi, that happened on November 8, 2018 – and we can get on the screen, I believe, Madam Clerk, P-03132.

Again, Commissioner, I apologize. I'm not sure if it's in the binders but, Madam Clerk, P-03132.

**THE COMMISSIONER:** No, it's not in the binder.

**MR. BURGESS:** Okay.

**THE COMMISSIONER:** It's on the screen.

**MR. BURGESS:** And that's November 8, 2018, and it's a letter to Mr. Don Delarosbil's attention of Astaldi. And if you could go down, Madam Clerk, to the signing page so we can show to the witness who signed it. And that's signed by Scott O'Brien and Gilbert Bennett.

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

**MR. BURGESS:** Are you familiar with that letter?

**MR. POWER:** So I'm familiar that the letter was sent. I wasn't involved with crafting the letter or – actually, in 2018 I had very limited involvement with the Astaldi file, Astaldi scope of work – very, very limited.

**MR. BURGESS:** Sorry, say that again? In November of 2018 –

**MR. POWER:** No, in all of 2018 –

**MR. BURGESS:** Yes.

**MR. POWER:** – I personally had very little involvement with the Astaldi scope of work or the Astaldi file.

**MR. BURGESS:** And why was that, Sir?

**MR. POWER:** Because I was doing other things. This was being handled by Scott O'Brien and Mike Harris, who is our disputes person, and – yeah, and legal advisors and – you know, they were at it all the time. I'd probably drop in to a meeting to see what's going on –

**MR. BURGESS:** And I'm not going to ask you any specific questions behind that letter, but I just wanted –

**MR. POWER:** Yeah.

**MR. BURGESS:** – to make sure that – I would have thought, as the general project manager –

**MR. POWER:** No, so I wasn't general project manager then.

**MR. BURGESS:** Right, sorry. Your position was ...?

**MR. POWER:** Deputy director.

**MR. BURGESS:** Right.

But something like this, I would have thought, would generate discussion for which you would attend meetings. And I'm not going to ask you about those meetings, though.

**MR. POWER:** Okay. So –

**MR. BURGESS:** But is that fair?

**MR. POWER:** So I had some discussion but I wasn't into this work.

**MR. BURGESS:** Okay.

Would you have known in November of 2018 how much work was left by Astaldi to do or is that something you're not familiar with?

**MR. POWER:** Yeah, I was – I am familiar because, as I indicated here today or yesterday, one of the things I did – one of the tasks I did in 2016 was pursue a plan B option should the negotiations with Astaldi not conclude.

**MR. BURGESS:** When was that?

**MR. POWER:** In 2016.

**MR. BURGESS:** Right. But I'm talking about in November of 2018, what was your knowledge, if any, as to what amount of work was left for Astaldi to complete on the job?

**MR. POWER:** Yeah, so I was getting there.

**MR. BURGESS:** Okay.

**MR. POWER:** So in 2016 we stopped plan B and put it up in the cupboard. And then in 2018 when, you know, all these – work was happening with Astaldi, it became a distinct possibility that plan B would have to be resurrected again. So we took it down off the shelf and updated it to reflect the remaining scope of work.

**MR. BURGESS:** Okay.

And what percentage of Astaldi's work was left to do? Can you quantify it that way for me?

**MR. POWER:** I know it was less than 10 per cent. I don't – I can't tell you the exact amount.

**MR. BURGESS:** Okay.

Can you tell me from a monetary amount what amount of work was left to do?

**MR. POWER:** You mean if Astaldi had to complete the work, how much they would have been paid?

**MR. BURGESS:** Correct.

**MR. POWER:** No, I don't remember. Others can give you those numbers; I don't know the numbers,

**MR. BURGESS:** Who others?

**MR. POWER:** Scott O'Brien.

**MR. BURGESS:** Okay.

**MR. POWER:** Probably Lance Clarke.

**MR. BURGESS:** All right.

Now, in your evidence earlier today you said that Pennecon was – is in there now doing Astaldi work. Correct?

**MR. POWER:** Yeah, so when Astaldi were terminated –

**MR. BURGESS:** Yes.

**MR. POWER:** – then Pennecon, sometime later, were awarded a contract to finish the work.

**MR. BURGESS:** And you had indicated, I believe, in your evidence – so I want to make sure that I was clear on this – that that contract was \$150 million. Is that correct?

**MR. POWER:** I think it's around \$150 million. That's an estimate. It could be more, it could be less. I'm not sure of the number but that's the figure that comes to mind.

**MR. BURGESS:** What's your basis? I mean, you said you were involved in the plan B when it came down off the shelf.

**MR. POWER:** Right.

**MR. BURGESS:** What's your basis for the \$150-million amount that you testified to earlier today?

**MR. POWER:** It's what I recall as being the estimate to complete that work –

**MR. BURGESS:** Okay.

**MR. POWER:** – more or less. Now, that might be off.

**MR. BURGESS:** You look like you're thinking.

**MR. POWER:** (Inaudible.)

**MR. BURGESS:** I'm going to give you some time.

**MR. POWER:** Oh, I am because there was a bunch of numbers kicking around. There was Astaldi's, there was – and we had number crunchers at this as well, as part of the team that were working on this. So there was estimates of if Astaldi had to finish what would we have paid

Astaldi to finish it. There was estimates of what –

**MR. SIMMONS:** Commissioner, if I might interrupt here. We're well into the time period now in 2018 around termination of the contract and I'm afraid we're – I'm afraid this is sounding like an opportunity for Mr. Burgess, on behalf of Astaldi, to acquire some information that might turn out to be useful for other purposes.

So subject to how important this line of questioning is for the Commission, I have some concerns about the appropriateness of it.

**MR. BURGESS:** Would you like me to respond or not first?

**THE COMMISSIONER:** Yeah, if you could address the concern here.

**MR. BURGESS:** Yeah.

**THE COMMISSIONER:** Because I – you know, I've been looking towards Mr. Simmons as you were asking these questions wondering when we were getting to the point of no return.

**MR. BURGESS:** I understand. And I'm not trying to stray into the arbitration, but I would say this to the Commission.

**THE COMMISSIONER:** Yeah.

**MR. BURGESS:** It's my understanding with the arbitration that the pleadings will be filed by Astaldi, which is essentially the statement of claim within the next month, and within a month or two there will be a defence and perhaps a counterclaim which will quantify these amounts.

I have asked the team working on the arbitration for Astaldi if these amounts will come out in the arbitration and they said through Redfern process – and, clearly, it's an issue that will come into the arbitration. I'm not trying to stray into the arbitration but from the Commissioner's standpoint, and to defend Astaldi, it seemed to me relevant that the Commission should have some indication of the amount of work left to do or paid to do, which goes to the cost.

**THE COMMISSIONER:** Well –

**MR. BURGESS:** But I'm willing to stop whenever the Commissioner feels appropriate.

**THE COMMISSIONER:** All right, so I want to be very careful because, you know, I was fairly insistent with the Astaldi witnesses in how this was going to be handled.

So, from my perspective, what I understand is that there was less than 10 per cent of the work left to be done on the contract. I think what the value of that work might've been really is – I can't see how relevant that would be to my addressing the Terms of Reference, at this particular point in time, what that actual value might be. I think the fact that I know that it was less than 10 per cent of the work is probably all I need.

**MR. BURGESS:** Okay. Fair enough.

But, I mean, if you – so you can understand why I was asking the question – again, not related to the arbitration – was I would've thought it would be relevant if there are additional work to be done that's not in the budget, then we're seeing the project go higher. And I thought that that was a relevant issue, but I'm more than happy to move forward.

**THE COMMISSIONER:** Well, let me assure you that one of the things that I've requested from Nalcor is an updated costing of the project. And this is going to be one of the confidential exhibits because, of course, there are still outstanding claims with contractors. Just as I have the contractor's claims, I'm also going to have Nalcor's position with regards to those.

**MR. BURGESS:** And I wasn't aware of that, Commissioner.

**THE COMMISSIONER:** So I am going to have information related to, you know, what Nalcor is potentially expecting. You know, so far, you've gotten the 10 per cent, Mr. – it was earlier in the day that Mr. Power referred to the fact that the contract with Pennecon was around \$150 million. I don't think I need anything more than that.

**MR. BURGESS:** I wasn't going any further with it either.

**THE COMMISSIONER:** Okay.

**MR. BURGESS:** So I'll move on, Mr. Power, that – were you familiar that there was individuals that worked with Astaldi that was – three individuals, in particular, removed from site July 7 of 2018?

**MR. POWER:** Yes, I'm aware of that.

**MR. BURGESS:** Okay.

What was your role in that?

**MR. POWER:** So I sat in on a meeting in the Torbay Road office. I believe Gilbert was there, Paul Harrington and Scott. Now, some people may have been on the phone. I wasn't familiar at all with what was going on, but I sat in on the meeting.

And, eventually, the letters were written and I signed – Scott was away or he wasn't in the office or something, so I signed the letters on behalf of Scott.

**MR. BURGESS:** Okay.

**MR. POWER:** And that –

**MR. BURGESS:** So I understood your evidence earlier today to say you didn't know much about that, but you did, in fact, participate and signed the letters as you say.

**MR. POWER:** So, I learned – yeah, I did.

**MR. BURGESS:** And –

**MR. POWER:** But I didn't – I wasn't involved in that issue. And, right now, I wouldn't be able to talk in any detail. I know there was safety investigations done and this type of thing, and the conclusion by the – by Gilbert and by Scott was that we proceed to demobilize those particular individuals.

**MR. BURGESS:** Okay.

Madam Clerk, if you can bring up Exhibit P-03123. And this will be on your screen, Mr. Power. It's a letter in relation to Brian Chaput. 03123, and this is the letter dated July 7, 2018, from Nalcor to Astaldi, and it's in relation to

removing Mr. Chaput. And I was going to ask 'cause I understood you to say this morning you didn't know much about it. But if you go back – go down to the signing page, Madam Clerk, just scroll down a little bit. That is, in fact, your signature, Sir, isn't it?

**MR. POWER:** It is, yes.

**MR. BURGESS:** And we can bring up – there are similar letters. I'll tell for the Commissioner's purpose: P-03124 is the termination letter for Mr. Brian Doyle, and P-03125 is the termination letter for Jamie Jones. So, you're familiar that three of those individuals were unilaterally removed by Nalcor, correct?

**MR. POWER:** Yes.

**MR. BURGESS:** And you may have heard from Mr. Delarosbil. Did you hear his evidence when he talked about this issue?

**MR. POWER:** I think I heard some of it.

**MR. BURGESS:** Okay, what had he had indicated to the Commission, was he felt that it was unusual and not appropriate that such a unilateral and – action, with such serious consequences as this should have been done at least with his consultation so that he could decide and coordinate what would or should happen in these circumstances.

**MR. POWER:** Yes, I heard him say that.

**MR. BURGESS:** And how do you respond to that?

**MR. POWER:** So, all I know is when these letters were sent, there was caucus by the management team. The incident was very serious, a safety incident, an incident investigation had been performed. And the team, us, made the decision based on the seriousness and based on the incident report and, you know, the actions of these individuals, which in relation to that incident, resulted in a decision to revoke access.

**MR. BURGESS:** Okay.

And you didn't think that that was a stronger reaction than appropriate in the circumstances or at least a communication with Mr. Delarosbil was appropriate. Is that correct?

**MR. POWER:** So at the time, when I heard what everyone was saying, I supported the decision.

**MR. BURGESS:** Okay.

If you heard Mr. Delarosbil's evidence, I understood him to say that through discussions between Astaldi representatives at a very high level with Mr. Stan Marshall, it was communicated to the Astaldi representatives that Mr. Chaput would be, in fact, reinstated back to site. Did you hear Mr. Delarosbil say that?

**MR. POWER:** Yes.

**MR. BURGESS:** And Mr. Chaput did not return to site. Were you aware or have any communications with Stan Marshall or anybody that that was the wishes or the instructions of Mr. Marshall?

**MR. POWER:** No.

**MR. BURGESS:** The evidence that I heard from you, Sir, from the last day and a half, and particular with Astaldi – so I represent Astaldi. The other legal counsel and Commissioner can be concerned with other contractors, but for my purposes, I'm just dealing directly with Astaldi.

**MR. POWER:** Okay.

**MR. BURGESS:** And I heard the Astaldi witnesses, and much like other contractors came forward to this Commission and said: Well, it's a construction site; things aren't perfect. You do your best; you address things. We could've been at fault for certain things, but there was fault to share around.

In the day and a half of your evidence, I have not heard you acknowledge that in some way, Nalcor was responsible or should take some of the responsibility for any of the delays related to the Astaldi work and the cost overruns other than I heard you say to Ms. Muzychka in a general question: Perhaps.

I'm going to ask you directly, are you telling me now – 'cause I haven't heard you say it. If you said it, I missed it and I apologize –

**MR. POWER:** Mm-hmm.

**MR. BURGESS:** – but I haven't heard you once say Nalcor could've done better. Is that your evidence?

**MR. POWER:** So, I'm not sure what your question is.

**MR. BURGESS:** Okay, let me say it again.

**MR. POWER:** Okay.

**MR. BURGESS:** Do you acknowledge that Nalcor should accept some of the responsibility for the cost and schedule problems associated with the Muskrat Falls Project in relation to Astaldi? You can address with others other contractors, but you've said today – what I heard you say was Astaldi contributed most significantly to the cost and schedule overruns.

**MR. SIMMONS:** Commissioner, Mr. Power, of course, is an individual witness giving his own evidence. He's being asked to take a corporate position for Nalcor, which I don't think he's in a position to do and shouldn't be called upon to do.

**THE COMMISSIONER:** Well, there's two – there's really two things to this question that I have problems with. One is, is that – is the point that you just raised, but this – but that can be, you know, qualified by the fact that this is Ron Power speaking, not Nalcor.

But the bigger issue for me is that with the present arbitration under way, I don't think I want that question as specific with regards to Astaldi. If you had asked your question in more general terms, as others have asked, which is, you know, do you believe that Nalcor has any – can accept any of the blame for what has transpired here, I think I'd be more willing to allow that question. But I'm not going to allow a question that basically could feed into ultimately what this arbitration is going to decide.

**MR. BURGESS:** Well, then, I'll ask the general question. I refrained from asking for other

contractors 'cause I thought you might indicate to me my scope is –

**THE COMMISSIONER:** I'm not asking –

**MR. BURGESS:** – limited to Astaldi.

**THE COMMISSIONER:** I don't even want it specific to contractors. There's more than just contracts that went awry –

**MR. BURGESS:** Anybody.

**THE COMMISSIONER:** – here. So, you know, like, if it's a general question related to the project and any personal views of this particular witness as to whether or not there's any acceptance of responsibility for what's transpired in a general way, I think that's a fair question to ask.

**MR. BURGESS:** Do you want me to repeat it – or that's the question. I'm fine with that question, Commissioner.

**THE COMMISSIONER:** So you understand what I'm asking you? I'm not asking you with respect to any particular contractor because I don't want your answer to be used later in any other proceeding. What I'm asking you – or what I'm suggesting as an appropriate question is that considering the project as a whole, is there – you know, based upon your involvement and your own personal views, is there anything that – is there any acceptance on the part of you on – you know, you – that Nalcor could've done anything better in this project? In other words, is it all everybody else? Or does Nalcor share any responsibility for this?

**MR. POWER:** Yeah, so personally speaking, I'm sure there are things that Nalcor could've done differently. I can't tell you what they are, you know, without working through it. Does that answer your question, Mr. Commissioner?

**THE COMMISSIONER:** I think so.

**MR. BURGESS:** That's all my questions, Commissioner, thank you.

**THE COMMISSIONER:** All right. Thank you.

Former Nalcor Board Members?

**MS. MORRIS:** No questions, Commissioner.

**THE COMMISSIONER:** Okay.

Nalcor Energy?

**MR. SIMMONS:** Thank you, Commissioner.

Good afternoon, Mr. Power. It's getting late in your second day here, so I'm not going to do anything very extensive. Part of what I'm going to do is to go to a number of different documents that touch on some of the things that you've given evidence on, over the last couple days, for a question or two, but in some cases, just to identify for the Commissioner where those different documents are.

The first thing, though, I wanted to ask you was, in relation to interview transcripts, you'd been asked questions about which transcripts you'd seen and so on. And there is an undertaking that, on a Commission form, that people who are give access to information prior to public release have to sign. Have you signed such an undertaking?

**MR. POWER:** Yeah, I believe I did because I couldn't get the transcripts unless I had signed it.

**MR. SIMMONS:** Okay, thank you.

And, you were asked some questions this morning by Ms. Muzychka regarding different email addresses that appear for you. Some are Lower Churchill Project, some are Nalcor Energy and so on. And I think your answer said was they all come to your computer?

**MR. POWER:** Yes.

**MR. SIMMONS:** The same ones.

And, Commissioner, I spoke to Ms. Muzychka about that point and she there's no problem informing you at this point that Nalcor IT people tell us that Mr. Power has only one mail account, and that the different addresses are what's known as aliases, but they all feed into the same single email account.

**THE COMMISSIONER:** Okay. Thank you.

**MR. SIMMONS:** Okay. So Mr. Power, I want to bring you to Exhibit P-03706, please.

**UNIDENTIFIED MALE SPEAKER:** Six (inaudible).

**MR. SIMMONS:** Just get you to –

**THE COMMISSIONER:** So that would be tab, book 2, tab 60.

**MR. SIMMONS:** Yeah, if we can scroll down a little, Madam Clerk, please, to the title of the document. Okay, you can stop there.

So, Mr. Power, this is the Muskrat Falls Generation Management Plan – Construction Phase. This is – is this a document you're familiar with?

**MR. POWER:** Yes.

**MR. SIMMONS:** Okay. Can you tell me, just very generally, what this is – this plan is about and what the material covers?

**MR. POWER:** So this describes how the Muskrat Falls management team operates during the construction phase of the project.

**MR. SIMMONS:** Okay. Can we go to page 42, please?

There's a section here, and this is – would be 42 in the upper right-hand corner. There's a section here on Team Organization. And this goes on for several pages. If we took our time and read through this, is this where we'd be informed about how the project management team, both at the St. John's site and at the site in Muskrat Falls, are organized and set up?

**MR. POWER:** Yes.

**MR. SIMMONS:** And, if on page – if you go to page 45, please. There's a section here dealing with Management Team Roles and Responsibilities: Project Manager, Deputy Project Manager, it goes on for several pages. Are these descriptions of the roles fulfilled by these people on the project team?

**MR. POWER:** Yes.

**MR. SIMMONS:** And on page 43 – I won't bring you to the particular line, but there's a reference on page 43 to this being "an Area-Based approach."

**MR. POWER:** Yes.

**MR. SIMMONS:** And you'd also made reference earlier, I think in your evidence, to the organization for this project being based on area reporting.

**MR. POWER:** Yes.

**MR. SIMMONS:** Now can you give me some explanation about what this area-based approach it is – is, and what it meant for how management of the project, the construction management that was structured here?

**MR. POWER:** So we have an area manager, for example, for mechanical and electrical work. So under that area manager, the scopes of work that fall under that area manager are the turbines and generators, the gates and the balance of plant. So it's three different scopes of work and each of those scopes of work has a package leader. So that package leader and the team assigned to each package leader then would handle all the concession requests if they couldn't be handled at the site, engineering change notices, document reviews and things like that –

**MR. SIMMONS:** Mmm.

**MR. POWER:** – what's done within that stream. And the area manager, at the top of that stream, reports directly to Scott O'Brien.

**MR. SIMMONS:** Okay. And I believe I heard you say that this area management approach had been something that was originally proposed by SNC in its EPCM –

**MR. POWER:** Yes.

**MR. SIMMONS:** – proposal.

**MR. POWER:** Yes, they described it.

**MR. SIMMONS:** That's where it came from?

**MR. POWER:** Yes, it did.

**MR. SIMMONS:** Okay. And can you tell me about how this area management approach as implemented through the plan that you have there, how that divides up roles and responsibilities between the head office and the site?

**MR. POWER:** Yeah. So the site – at the site, there was an area construction manager for mechanical & electrical, and, which is Bill Knox these days. And they're responsible for the actual site installations, and they interface extensively with the St. John's area manager and the package engineers. And the St. John's area manager and the package engineers support the site, on a continuous basis.

**MR. SIMMONS:** Okay. Can we go, please, to Exhibit P-02462?

**UNIDENTIFIED MALE SPEAKER:** Two.

**MR. SIMMONS:** And –

**THE COMMISSIONER:** I don't think that one's in your book, so that'll be on your screen.

**MR. SIMMONS:** This might be a late addition. So this is a letter, this is back in August of 2011, and it's to Mr. Normand Béchard. I believe it is from you as a project manager.

**MR. POWER:** Yeah.

**MR. SIMMONS:** And the subject matter is: SLI – Area Management Execution Approach. So I'm not going to go through this in any particular detail, but, what can you tell me about what was happening here in August of 2011 concerning the area management approach and SLI's involvement?

**MR. POWER:** So I'd have to scroll down through the letter, just get down toward the end of it.

**MR. SIMMONS:** Mm-hmm.

**MR. POWER:** It required actions. Yeah, so this was sent – now Normand was new on the job in those days, so I prepared this letter, and I believe there's a lot of attachments to this, including a lot of the presentations that we had received from SNC during the – our proposal stage. So



this was really to inform Normand that we have this area that the management – the execution of the generation scope, the management of it, is based on the area management approach. And I picked up on the fact that I read somewhere that SNC were drifting from that and they wouldn't be reporting and operating on the area approach.

So I – the required action from this letter was that the minutes of meetings be revised with the statement revised to actually reflect – to get back to the area management approach.

**MR. SIMMONS:** I think you told us before that Mr. Béchard had come into the project after the proposal had been made by SNC and the EPCM contract had been put in place, hadn't been a participant in that –

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

**MR. SIMMONS:** – and that your observation was that his approach was diverging from that that was proposed by SNC.

**MR. POWER:** Yes, that's what I was – that's what we were saying.

**MR. SIMMONS:** Right. And at this point here in August of 2011 it is at this point you are informing Mr. Béchard of what the agreed upon approach is that they should be following.

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

**MR. SIMMONS:** Okay.

Now, there are a number of other letters in – have been put in evidence as exhibits when you took the stand yesterday morning that addressed some of the evidence you've given about problems and issues with SNC's performance of the EPCM work during 2011-2012. Commissioner, those are in evidence; I'm not going to go through those now in any detail.

Can I go, please, to Exhibit P-00522?

**THE COMMISSIONER:** Again, on your screen.

**CLERK:** 00522?

**MR. SIMMONS:** 00522, please, yes.

Mr. Power, this is headed: Lower Churchill Project Review Report, March 9, 2012. Is this a document that you're familiar with?

**MR. POWER:** Yes, I spoke to this earlier today, but I couldn't remember all the names.

**MR. SIMMONS:** Okay. So what is this?

**MR. POWER:** So, at this point in time, in March 2012, we had been – so the letter of intent to proceed with SNC-Lavalin for the EPCM services, that was signed on December 10 or in – sometime in December of 2010, I'm not sure of the date. So, at this point in time, SNC had been the EPCM consultant, you might say, for 12 or – sorry, 12 – 15 months or a year and two months in. So this was a review that Paul Harrington had performed to ensure that we were on the road from a project management readiness perspective to proceed into project sanction, which was anticipated to occur, I think, later this year.

**MR. SIMMONS:** Okay.

And the review team members were Derek Owen – who I think you've told us before who that was – and you couldn't remember the names of the other two. Is Mr. Stan Genega and Paul Gendreau –?

**MR. POWER:** Yeah. So Paul Gendreau was a senior SNC project manager out of the mines and metallurgy division, I believe. Stan Genega, I forget who he was with.

**MR. SIMMONS:** Okay.

**MR. POWER:** But these are three senior project managers.

**MR. SIMMONS:** Okay.

Now, if we look down at the bottom of the page, heading (2) Systems and Tools, you told us before – earlier in your evidence about the PM+ program and how it was intended to be implemented, and if you can have a look here it says, "PM+ and M&M procedures ...."

Is M&M the mines and metallurgy division?

**MR. POWER:** Yeah, so the M&M division, from a project management perspective, is very strong, and that's what I indicated when we went through the capability of the different SNC departments. So I indicated, when we went through that, that the hydro division is very strong technically for the design work, but that the project management strength is in – is not in that hydro division, it's in the other divisions; hence, why the project director and the general construction manager and other key personnel never came from the hydro division. They had no hydro experience. They came out of the other parts of SNC with the project management experience. So, yes, I think it's the mines and metallurgy division.

**MR. SIMMONS:** So am I correct in reading this report that as of March of 2012 the findings of the review team members were that the PM+ and the M&M procedures had not yet been properly implemented –

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

**MR. SIMMONS:** – on the project? And that that was SNC's responsibility to do that.

**MR. POWER:** Yes.

**MR. SIMMONS:** Page 2, please. There's a heading (3) Resources, if we can go down there.

It starts out here saying: "SLI have several senior positions open, which at this stage of the project is a very serious concern. Furthermore, several positions are on the third incumbent which, severely impacts team performance."

Does this relate to the evidence you've already given –

**MR. POWER:** It does.

**MR. SIMMONS:** – about the failure of SNC to bring in the people that needed to be on the job in order to –

**MR. POWER:** Yeah, the struggles –

**MR. SIMMONS:** – move it forward?

**MR. POWER:** – the struggles SNC were having to recruit and to resource the project.

**MR. SIMMONS:** So the independent review team here essentially concurred with Nalcor's view that this was a serious problem that needed to be addressed.

**MR. POWER:** Yes.

**MR. SIMMONS:** Am I correct?

**MR. POWER:** Yes.

**MR. SIMMONS:** Yeah, okay.

Can we go to Exhibit 03682, please? P-03682, and that is at –

**THE COMMISSIONER:** That's at tab 30 in book 1.

**MR. SIMMONS:** So you've been referred to this before, and so I think you're familiar with this document.

**MR. POWER:** Yes.

**MR. SIMMONS:** And the next one, 03683, at tab 31 is a similar document. This one lists hydroelectric projects over \$100 million performed by SNC-Lavalin, and the next one I think lists civil engineering projects over \$100 million performed by SNC-Lavalin.

**MR. POWER:** Yeah, so the one on the screen now, the hydroelectric projects over \$100 million.

**MR. SIMMONS:** Mm-hmm.

**MR. POWER:** There's quite a lot of experience, SNC has a lot of experience being involved with those projects, but the experience is technical. So everything here and highlighted in yellow is technical work that SNC does for those projects, except for Shipshaw, which was a 150 – \$140- or \$150-million powerhouse that SNC did in Quebec. But SNC's experience on the – from the hydro division here is technical and that was the point.

**MR. SIMMONS:** Okay.

And can we bring up 03683, please, which is tab 31, volume 1? So this is the next one and this

one is, “Major Civil Engineering Projects Over \$100,000,000.” So –

**MR. POWER:** Right, so –

**MR. SIMMONS:** Sorry, go ahead, yeah.

**MR. POWER:** So the first three projects listed are all megaprojects, you know, in the billions, and they’re all EPCM and they’re all the other divisions, I think the mines and metallurgy division. So these are the megaprojects where SNC do the EPCM scopes of work. So that division, as are other parts of SNC – very strong in the – so we wanted the strength of the organization.

**MR. SIMMONS:** Right.

So – and you’ve explained this in your evidence earlier, and I’m just going to suggest what I take out of it now, and you can tell me if I’m on the wrong track or if I’ve got it right. I think the point that you were making was that when SNC-L made its proposal here to provide the EPCM services, the engineering and technical expertise they were proposing to provide came from their hydro division, but the project management expertise was coming from outside the hydro division.

**MR. POWER:** Yes.

**MR. SIMMONS:** Okay. And that that project management expertise would be – was proposed to be supplied by people who wouldn’t necessarily have had the hydro experience that you found inside the hydro division. It could be in the mines and metallurgy division.

**MR. POWER:** That’s correct. A lot of the key personnel never came out of the hydro division.

**MR. SIMMONS:** Okay. And that was what SNC-L proposed and that was acceptable to Nalcor when the proposal was accepted and the EPCM –

**MR. POWER:** Yeah, the (inaudible) –

**MR. SIMMONS:** – contract was entered into.

**MR. POWER:** Yeah, the broad organization had the strength, yes.

**MR. SIMMONS:** Okay.

You were asked a number of questions about the bid evaluation for the North and South Dams contract, CH0009. I had one specific thing to ask you about. You’d been asked a number of questions about the scoring of the project teams being put forward by the two bidders that were still in the running.

Can I bring you, please, to Exhibit P-01870, which is the bid evaluation?

**THE COMMISSIONER:** That’s tab 100 in PMT book 3.

**MR. SIMMONS:** And I’m going to go to page 26. So we can stop there for a moment, and I don’t know how familiar you are at this point with this material. This is an appendix to the bid evaluation form, and this here is the scoring – this is part of the technical scoring for – it says: Execution Plan Evaluation.

**MR. POWER:** Okay.

**MR. SIMMONS:** And if we scroll down now, please, and we can stop there. Item number 4 is organization charts and key personnel and there’s a weighting assigned there of just 3 per cent. Would you know whether that weighting, that 3 per cent, is what corresponds to the evaluation of the project team being put forward by the proponent?

**MR. POWER:** What’s the question again?

**MR. SIMMONS:** The – you had been asked some questions by Ms. Muzychka yesterday –

**MR. POWER:** Yeah.

**MR. SIMMONS:** – about the bid evaluation team’s evaluation of the project teams being put forward by the two proponents, Barnard-Pennecon and H. J. O’Connell.

**MR. POWER:** Yeah.

**MR. SIMMONS:** And my question is how that finds its way into the actual scoring? And my understanding is that it finds its way in here as item number 4, which is where the organizational charts and the key personnel are

evaluated. And the weight that's assigned to it is only 3 per cent of the total technical score.

**MR. POWER:** So what I'm looking at here, this is in the award recommendation?

**MR. SIMMONS:** This is in the award recommendation.

**MR. POWER:** Yeah, so that would be – yes, that would be it. Yeah.

**MR. SIMMONS:** So the weight applied to that would be only 3 per cent. Okay.

Now, generally, in respect of the award of this contract, in respect of the evaluation of the contract, the award of the contract, all the work that went on in connection with this, I know you weren't involved in the doing of the work but that it was reported up to you.

**MR. POWER:** Right.

**MR. SIMMONS:** Are you aware, or do you have any concern that there was any kind of interference in that process, either from inside Nalcor or outside Nalcor that in any way would have improperly affected the evaluation and the award of that contract?

**MR. POWER:** No.

**MR. SIMMONS:** Okay.

A few questions regarding the Astaldi contract, and can we go, please, to Exhibit P-03140?

**THE COMMISSIONER:** So that would be tab – actually, I don't think that's in our –

**MR. SIMMONS:** No, this was in the Astaldi exhibits, Commissioner.

**THE COMMISSIONER:** Right. It's going to be on your screen.

**MR. SIMMONS:** And if we scroll down a little bit, please, and we can stop there.

So this is an internal Astaldi email from November 22, 2013, which is seven days before Astaldi signed the contract to perform the work. And it's from Mr. Ken Chryssolor, who I think

you've identified as being the proposed project manager for Astaldi. Correct?

**MR. POWER:** Yes.

**MR. SIMMONS:** And he came to the site for a short period of time and had to leave.

**MR. POWER:** Mm-hmm.

**MR. SIMMONS:** Yes? And had Mr. Chryssolor been evaluated during the bid evaluation process as being someone who brought a lot of important expertise to the performance of this work?

**MR. POWER:** Yeah, the cold climate experience.

**MR. SIMMONS:** Okay.

And I understand you had not seen this message before it became an exhibit here at the Inquiry?

**MR. POWER:** Yeah, that's correct.

**MR. SIMMONS:** Correct.

So, in it, Mr. Chryssolor appears to caution, in fairly strong terms, people within Astaldi about whether they should sign the contract. My question to you is did you – first question: Did you have any dealings, direct dealings, with anyone from Astaldi prior to the award of the contract? Were you in communication with any of the Astaldi people?

**MR. POWER:** Yeah, no.

**MR. SIMMONS:** Pardon me?

**MR. POWER:** No.

**MR. SIMMONS:** No. Okay.

And –

**THE COMMISSIONER:** So is this in November when the contract was signed? Because we should clarify because I think there was a Limited Notice to Proceed before that time and I think the witness has already testified that he did have contact.

**MR. SIMMONS:** Ah, yes.

**THE COMMISSIONER:** So I think we better clarify that.

**MR. SIMMONS:** Okay.

Well, I'm thinking of the – so can you describe to me what type of contact you might've had with anyone with Astaldi prior to the signing of the contract on November 29? And the Commissioner's pointed out the LNTP was in place during that time.

**MR. POWER:** Yeah, the LNTP was in place. But I – Scott O'Brien was dealing with Guido Venturini, I wasn't.

**MR. SIMMONS:** Okay. Did you have any dealings with Mr. Chryssolor before the contract was signed?

**MR. POWER:** No.

**MR. SIMMONS:** Or any communications with him?

**MR. POWER:** I don't know if I ever did meet him at that time.

**MR. SIMMONS:** So did anyone – prior to the contract being signed, did anyone from Astaldi bring to your attention any of the concerns that are in this email message?

**MR. POWER:** Not to my concerned – not to my attention, no.

**MR. SIMMONS:** As far as you know, did anyone on the Nalcor team – was anyone on the Nalcor team made aware of these concerns before the contract was signed?

**MR. POWER:** So I think Lance was talking to Emanuele Triassi.

**MR. SIMMONS:** Okay. And we can hear from Mr. Clarke tomorrow.

**MR. POWER:** He's here tomorrow, yeah. That's what I understand.

**MR. SIMMONS:** Okay.

You had told us about your visit to the site in early 2014 and, in particular, you looked at the pictures of the Norseman Structure that you found there.

**MR. POWER:** Mm-hmm.

**MR. SIMMONS:** And I think – if I gather what you've explained to us about that, that was something that caused you to question Astaldi's management, construction management and supervision at the site, the fact that that structure was still in place and not finished at a time of the year when it – the work could've been carried on without the structure there. Have I got that right?

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

**MR. SIMMONS:** So was it not so much that the structure wasn't finished as the fact that there didn't seem to be any planning taking place around the way the work was –

**MR. POWER:** No, it was –

**MR. SIMMONS:** – being performed?

**MR. POWER:** – the fact that there was still work being done in the structure –

**MR. SIMMONS:** Yes.

**MR. POWER:** – to build the structure –

**MR. SIMMONS:** Yes.

**MR. POWER:** – when it was actually time to take the structure down and get rid of it.

**MR. SIMMONS:** Okay.

You were asked some questions about the availability of construction power at the site. And do I understand correctly that it was Nalcor's responsibility to bring construction power to specific locations –

**MR. POWER:** Yes.

**MR. SIMMONS:** – at the site?

**MR. POWER:** Yes.

**MR. SIMMONS:** And it was then the contractor's responsibility to pick up the power from there and to make use of it?

**MR. POWER:** Yes.

**MR. SIMMONS:** Do you know when Astaldi had construction power available for Astaldi at the site?

**MR. POWER:** I can't say for certain.

**MR. SIMMONS:** During the time period that we hear about when there was issues about getting construction power available and Astaldi was continuing to run on generators, do you know if that was taking place before or after Nalcor had fulfilled its responsibility to get construction power on site?

**MR. POWER:** So the efforts to – by Astaldi – and we participated a lot with them, to get utility power we called it, to replace generators and things like that, that went on for a very long period of time. So what was your question again?

**MR. SIMMONS:** So what was the problem at that stage? Was the problem that Nalcor had not brought the power to the site or that Astaldi was not able to pick it up and use it?

**MR. POWER:** Yeah, so I don't remember if Astaldi had the power there at the date we said – oh, sorry. I don't remember if Nalcor had the power to these takeoff points at the date we said we did – we would. I don't remember that.

**MR. SIMMONS:** Mmm.

**MR. POWER:** But I do know there was a lot of problems. Whether that was there by the contractual date or not, there was a lot of power taking it from there and creating the E-houses, they called it, which is the trailers where all the transformers and all the stuff needed to be installed by Astaldi and then distributing it around the site. So I don't know all the details on that.

**MR. SIMMONS:** But what you can tell us is that from the time that Nalcor had made power available, it took some time and effort after that

before Astaldi was able to pick up the power and start utilizing it.

**MR. POWER:** Yes.

**MR. SIMMONS:** Okay.

Now, you were asked a couple of questions yesterday about during the period of Astaldi's poor performance during 2014 and, then, into 2015, when work was under way to try and improve Astaldi's productivity and get the contract back on track, whether the overall project schedule could have been re-baselined during that time.

Now, so the first question is what do we mean when we're talking about re-baselining the project schedule? What does that involve? And what's the objective of it?

**MR. POWER:** So, a re-baseline – so, the project goes along for a certain period of time, and you realise you may be behind schedule or ahead of schedule, at that time. And you need, then, to determine from there when you're going to get the work that's not done ahead of you done in a planned manner. So, you know, with the challenges that Astaldi had in 2014 and into 2015, it was obvious, from our monthly reports, we were falling behind the progress curve.

**MR. SIMMONS:** Mm-hmm.

**MR. POWER:** And then at some point, and I don't remember when it was, but when you look at the project curve, you'll see these steps.

**MR. SIMMONS:** Mm-hmm.

**MR. POWER:** And when the step is in – you look at this curve and you see a step and it goes again. Well, the step is when you re-baseline.

**MR. SIMMONS:** Mm-hmm. Okay.

So, is there a difference between recognising that a contractor is falling behind and having all the information you need in order to be able to re-baseline the schedule?

**MR. POWER:** Yes.

**MR. SIMMONS:** And what's the difference between the two?

**MR. POWER:** Well, you have done – one is you recognise you're behind –

**MR. SIMMONS:** Mm-hmm.

**MR. POWER:** – because you're behind on the progress curve. But in order to be able to re-baseline, you have to understand all the steps that need to be done and when you can achieve them to move ahead.

**MR. SIMMONS:** Okay.

So, in 2014, then, there was a recognition that Astaldi was behind on the performance of its work, correct?

**MR. POWER:** Yes.

**MR. SIMMONS:** Okay.

Can you say or are you able to explain when the point was reached where there was enough information or certainty about what was going to happen with Astaldi's performance in order to do that re-baselining?

**MR. POWER:** I can't answer that.

**MR. SIMMONS:** Okay. Was it possible to do it immediately in 2014 –

**MR. POWER:** I would say no.

**MR. SIMMONS:** – when the extent of the problem was recognised?

**MR. POWER:** No. I would say no because we're still trying to understand the ramifications of the situation.

**MR. SIMMONS:** Okay.

You've given evidence about Nalcor assisting Astaldi by supplying – allowing them to use the services of Bill Knox and Roy Collier, who you described as experienced construction supervisors –

**MR. POWER:** Construction managers.

**MR. SIMMONS:** – construction managers – and just as a reference point, if we can go to Exhibit P-03693, please. And that's binder 1, tab 41, but it'll come up on your screen.

So, this is a letter to José Alves, project manager at Astaldi. If we scroll down. Is this correspondence where Nalcor makes the services of Mr. Knox and Mr. Collier available?

**MR. POWER:** Yes. This is where Roy Collier and Bill Knox became employees of Astaldi –

**MR. SIMMONS:** Okay.

**MR. POWER:** – per that first bullet point there.

**MR. SIMMONS:** Okay.

And is it correct that prior to that, even before that, the Nalcor team had been supplying Astaldi with the names of experienced construction supervisors that they could recruit?

**MR. POWER:** Yeah, so, starting back in May, there was a letter on the file with a list of names, but certainly when Bill Knox and Roy Collier went to work for Astaldi, then the first thing they did was recruit a lot of supervision people off the Hebron project and Long Harbour and projects out west and so on, which ended up on an Astaldi org chart – shown on an Astaldi org chart shortly after, and many of them were there 'til the end of the project.

**MR. SIMMONS:** Okay.

Now, just for reference, Commissioner, the correspondence in May of 2014 with the recommendations on construction supervisors is at P-03692. We don't need to go there right now.

And, if we scroll down on the Exhibit that's on the screen now, P-03693, to the third page, please. And do you recognize what this is, Mr. Power?

**MR. POWER:** Yeah. So, at the top of the screen there, there's three red boxes. So, the two on the right, you'll see one is Roy Collier and one is Bill Knox, and both of them report to the general construction manager, who was Erasmo Bassano. And the three of them got very close.

And then, underneath that, a lot of the positions, as you will see – Chris Parsons, general superintendent. So, he actually – he was actually working with Astaldi before this date, but he was recommended and recruited by Roy and Bill.

Daryl Burton, who's the lead concrete superintendent, they recruited him at this time. And, a lot of the – there's other people on this chart here, as well.

**MR. SIMMONS:** So, this is an Astaldi organization chart. In the top corner, it says effective January 2015. So these –

**MR. POWER:** Right. But then there was a chart issued in – at the 30th of January, '15, that actually had more names in there. But, yes, this is the –

**MR. SIMMONS:** Okay.

**MR. POWER:** This was the result of the – us making – Nalcor making available those two very experienced construction managers and Astaldi taking them on. And so they created this organization and then immediately implemented some very positive actions like they set up the war room, it was called, a morning meeting, and that's when Ibbs and others started to see the turnaround.

**MR. SIMMONS:** Okay. And so, I take it then that you did see positive results from these changes?

**MR. POWER:** Oh yes. For sure. And it was very collaborative with ourselves and Astaldi.

**MR. SIMMONS:** Okay. All right.

You had been brought to an Internal Audit report concerning the examination of conflict of interest management, and that's at P-03674. Can we go to that, please?

**THE COMMISSIONER:** That's at tab 22, book 1.

**MR. SIMMONS:** You were referred to this earlier, and I just want to bring you to page 4, please. You'd been asked the question, I believe,

as to whether there were any conflict of interest policies or procedures in place, and if we scroll down – we can stop there. Under the heading Control Environment, it says: "There are currently two documents in use governing conflict of ... interest on the LCP. There is the Nalcor Code of Conduct and Business Ethics Handbook, which is signed off by every LCP team member during the orientation process."

Were you familiar with those – the existence of those two documents?

**MR. POWER:** Certainly the code of conduct. The business ethics handbook, I may have seen it. I don't recall it right now.

**MR. SIMMONS:** Okay. And then it also goes on to say: "There is ... a master service agreement ... template used for developing MSAs" – I guess that's master service agreements –

**MR. POWER:** Yeah.

**MR. SIMMONS:** – "with recruitment agencies." And the "... template contains a clause governing" conflict of interest. Would you be familiar with that fact?

**MR. POWER:** Well, I'm aware of these things because the HR manager we have tells me this, right.

**MR. SIMMONS:** Yes. Okay.

And so there's an HR manager in place, and it is her responsibility to monitor and manage those issues, is it?

**MR. POWER:** Yes. She monitors and manages that.

**MR. SIMMONS:** Okay. All right.

Now, just a couple of points coming out of some specific things that you were asked about by Mr. Burgess. And the first is Mr. Burgess had put it to you that Astaldi was only granted site access in late December of 2013. Now, I'll present you with what I understand; you can tell me if it's correct or not.



**MR. POWER:** Yeah.

**MR. SIMMONS:** Is it correct that access to the site, in the broader sense, was available to Astaldi when the LNTP was signed or about the time of the LNTP in September of 2013.

**MR. POWER:** You mean to be able to drive into the site?

**MR. SIMMONS:** Yes.

**MR. POWER:** Yes.

**MR. SIMMONS:** To carry out activities contemplated by the LNTP that had to be carried out at the site – but that the powerhouse excavation was not available until excavation was completed, which was late November 2013.

**MR. POWER:** Yes.

**MR. SIMMONS:** So it's not correct to say there was no site access until December 2013. There was site access before that. The excavation was available around the end of November 2013. Do I have that correct?

**MR. POWER:** Yes.

**MR. SIMMONS:** Okay.

And you were asked about – by Mr. Burgess about whether Nalcor had approved the dismantling of the ICS at the time that it was dismantled. And I believe that conversation came to the point where you agreed that Nalcor Energy took no issue with it.

So was there a discussion within the project management team about the ICS and the decision to dismantle it being part of Astaldi's means and methods that were within its responsibility to make the decision concerning.

**MR. POWER:** So there were those discussions.

**MR. SIMMONS:** Yes. Okay.

**MR. POWER:** But we were certainly in agreement with –

**MR. SIMMONS:** Yeah. You were in agreement. Did Nalcor actually direct or – the

removal of the ICS or did it acquiesce once Astaldi had made the decision –

**MR. POWER:** So –

**MR. SIMMONS:** – to remove it.

**MR. POWER:** – to the best of my knowledge, we never directed.

**MR. SIMMONS:** Thank you. I don't have any other questions, Mr. Power.

**MR. POWER:** Okay, thank you.

**THE COMMISSIONER:** Just a bit of a mea culpa, here. I keep forgetting to ask the unions if they have any questions and I did it again today. So I apologize again to you. I just can't seem to – you keep moving around.

**MS. QUINLAN:** No questions, Commissioner, thank you.

**THE COMMISSIONER:** Anyway, thank you very much. Sorry about that.

All right. Ms. Hutchings?

**MS. HUTCHINGS:** Thank you, Commissioner.

You'll all be happy to know I only have a couple of questions, so I'll be finished shortly.

Let's see.

So there was some discussion during your evidence today with respect to the project controls manager that you were trying to secure or have secured for the project in terms of – I guess with respect to SNC-Lavalin. Is that correct?

Am I correct or is it Astaldi? Was –

**MR. POWER:** What's the question again?

**MS. HUTCHINGS:** I'm sorry. Okay.

You were asked a question today about the – it involved with Serge Surette or I think his name is Surette.

**THE COMMISSIONER:** Guerette.

**MS. HUTCHINGS:** Guerette, right. I knew that wasn't correct.

Serge Guerette, he was there for – he was ultimately replaced by Ed Bush.

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

**MS. HUTCHINGS:** Right.

And I think the question – you made a comment that you were three years trying to fill that role; have it – have the role filled by a replacement.

**MR. POWER:** Yeah, so throughout 2011 and 2012 and up to end of August, I guess it was, 2013, there had been four, I think, project controls manager, the last of whom was Serge Guerette –

**MS. HUTCHINGS:** Okay.

**MR. POWER:** – in through SNC, yes.

**MS. HUTCHINGS:** Okay.

And I think there was some question as to whether or not Nalcor had considered applications from SNC-Lavalin as replacements for Mr. Guerette or for that position?

**MR. POWER:** Yeah, so there weren't.

**MS. HUTCHINGS:** Okay.

**MR. POWER:** There had been – SNC had been, as I indicated, at that time, at the fourth project controls manager, so we sourced Ed Bush, and Ed went into that role.

**MS. HUTCHINGS:** Okay, all right.

Now, want to show you document P-03687, please, and I don't know, it's one of the more recent ones that's been entered.

**THE COMMISSIONER:** 03687.

Okay, so that's at tab 35, book 1.

**MS. HUTCHINGS:** Okay, so can you speak to this particular document?

**MR. POWER:** Yeah, so I had this prepared by our HR department, who managed the recruitment. So this just demonstrates – so for the period from the 24th of July, 2014, up to the 1st of February, 2018, we – this list provides – on the left-hand column, this table provides – in the left-hand column, a listing of the people we were recruiting for. So if you scroll down to the end of this file, so that would (inaudible) – maybe just go to page 11, it might be easier. All right, just scroll up a bit please.

So what it shows, we recruited for 354 positions during that period. In total, over on the right-hand side, in total we received 8,385 résumés, of which only 270 were from SNC-Lavalin. So this is an indication that when we went outside of the EPCM model and we opened up the project to the integrated – to the project delivery team with people from a lot of companies, you can see the candidate set that we were able to pick from, which is 8,385, whereas SNC themselves only provided 270.

So it just shows the benefits of going to a – the broader integrated team. We were able to get the people we needed, whereas – with SNC themselves were putting forward to – they couldn't recruit the people that were needed.

**MS. HUTCHINGS:** And would that include the project control manager?

**MR. POWER:** So I think – no, the project controls manager was recruited before this –

**MS. HUTCHINGS:** Oh yes, I know.

**MR. POWER:** – before the time frame.

**MS. HUTCHINGS:** Right.

But would that, say – your – my understanding of your evidence is that they couldn't even fill the project control manager after – to replace Mr. Guerette?

**MR. POWER:** So Serge was demobilized and – so we had been recruiting up to that point. Now we were in the integrated team by that point, and I sourced Ed Bush, so we put Ed into that role.

**MS. HUTCHINGS:** Right. Okay.

Can I have the witness now be shown Exhibit P-03809? This is at tab 108.

So do you recognize this document, Mr. Power?

**MR. POWER:** So, I prepared this. This is to – so this is a list here of projects that I’m personally familiar with, as you can read on the right hand side (inaudible) –

**MS. HUTCHINGS:** Can you just tell us how you got the information? I know you’re familiar with the projects, but where did the –how did you get this information?

**MR. POWER:** So, Wreck Cove I worked on; Hinds Lake I worked on; Cat Arm I worked on; Jebba I worked on; Paradise River I worked on; Granite Canal I am very familiar with; Hibernia I worked on; Voisey’s Bay – our HR manager worked on and I got that information; Terra Nova FPSO I worked on; Hebron GBS I am familiar with from the media and so on; Keeyask, I spoke to the project manager there, and Mackay River, I got that information from Paul Harrington, who worked on that project.

**MS. HUTCHINGS:** So, are these projects comparable to Muskrat Falls? The Lower Churchill Project –

**MR. POWER:** Well, you know, Keeyask, toward the bottom, is a large hydro project. Hebron, of course, is a – it’s a large project; it’s not hydro. But what we have here is a sampling of large – or large, medium and small projects.

**MS. HUTCHINGS:** Okay. And what does this information that you have compiled here – what does this document tell us?

**MR. POWER:** So, it tells us that except for the Jebba Hydro Project that I worked on in Nigeria, where the project manager was based at the site, for all these other projects the project manager was based in the head office, and not at the site.

**MS. HUTCHINGS:** Okay.

**MR. POWER:** Because I’ve heard a sentiment here in the Inquiry, from certain people who have provided testimony, that the project manager should be at the site, is normally at the

site; but in my experience, as I got listed here, that’s not the case.

**MS. HUTCHINGS:** Okay. Thank you.

Can I have the witness now be shown P-01902 please, and I am not sure where the –

**THE COMMISSIONER:** That’s gonna be on the screen; we don’t have that one in –

**MS. HUTCHINGS:** And I’ll ask to turn to page 21 please.

**MR. POWER:** So, maybe if we can stay at the front page first.

**MS. HUTCHINGS:** Oh, front page first.

**MR. POWER:** I guess.

**MS. HUTCHINGS:** There you go.

So, what is – are you –

**MR. POWER:** Yes.

**MS. HUTCHINGS:** – familiar with this report?

**MR. POWER:** I am.

So, the organization called Independent Project Analysis, which Grant Thornton quote quite a bit in their reports –

**MS. HUTCHINGS:** Okay.

**MR. POWER:** – we had that company do several – do work for us – several assessments. So, in December – November, December, 2015 time frame, we had this mid-execution assessment done, and if you go to the next slide (inaudible) – the next – what page is it?

**MS. HUTCHINGS:** 21.

**MR. POWER:** Page 21, you can see that this organization, which are – is a project management organization, well-recognized, they rated the LCP project team as good and it’s – versus the – and it’s above the megaproject average.

So, I asked that this be put in to demonstrate that the project delivery team that we put together, and that we're actually doing this project with, was assessed by IPA – integrated – or Independent Project Analysis, Inc. and that's the ranking our team got.

**MS. HUTCHINGS:** Okay.

Commissioner, I have no further questions.

The only thing I do want to indicate is that Mr. Power had indicated that there was a chart that was done, and I believe it may have been done by somebody internally at the request of Mr. Harrington, dealing with the experience on the project management team with respect to hydro experience, because there were – I vaguely recall the document, I remember saying all the names that were there, and there were a number of people there from Newfoundland Hydro, actually.

So, we're going to try to find that document, and, perhaps, either through –

**THE COMMISSIONER:** It is already entered as an exhibit.

**MS. HUTCHINGS:** Is it? Okay. We were trying to find it, actually.

**THE COMMISSIONER:** So, it actually was entered as an exhibit in Phase 1, and I thought –

**MS. HUTCHINGS:** Maybe through Mr. Harrington, himself.

**THE COMMISSIONER:** It was either Mr. Harrington or Mr. Martin.

**MS. HUTCHINGS:** Okay.

**THE COMMISSIONER:** I can't recall, but I do recall that that is an exhibit.

**MS. HUTCHINGS:** Okay. I will double-check on that because I was with Mr. Harrington at that time, and I couldn't remember.

But anyway –

**THE COMMISSIONER:** (Inaudible.)

**MS. HUTCHINGS:** – if we – okay, so, if that's entered, then we don't need to –

**THE COMMISSIONER:** And if –

**MS. HUTCHINGS:** – address it.

**THE COMMISSIONER:** – it's not, if you can't find it, then speak to Commission counsel –

**MS. HUTCHINGS:** Yes.

**THE COMMISSIONER:** – and we'll certainly have it entered.

**MS. HUTCHINGS:** Absolutely.

**THE COMMISSIONER:** All right?

**MS. HUTCHINGS:** Thank you.

**THE COMMISSIONER:** Redirect, Ms. Muzychka.

**MS. MUZYCHKA:** Thank you, Commissioner. I've got a number of points.

Mr. Power, you mentioned in your testimony today in defence to being questioned about not having people with hydroelectric experience on the project. And you cited that SNC-Lavalin had sent you a project manager who didn't have hydro experience. Isn't that correct? Isn't that what you said?

**MR. POWER:** In 2012, yes.

**MS. MUZYCHKA:** And so my question to you is that at the time, you had Normand Béchard, who was part of the team and had been since July 2011?

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

**MS. MUZYCHKA:** And he had extensive hydroelectric experience?

**MR. POWER:** He had hydro experience. I don't remember what his résumé read like –

**MS. MUZYCHKA:** Okay.

**MR. POWER:** – at the moment.

**MS. MUZYCHKA:** Well, I would suggest to you it was extensive. But in any case, if you don't recall that, he would have – when he came to the project, he certainly brought the hydroelectric experience from SNC-Lavalin to the Lower Churchill Project?

**MR. POWER:** No. He brought the hydro experience from Hydro-Québec.

**MS. MUZYCHKA:** From Hydro-Québec but through –

**MR. POWER:** See –

**MS. MUZYCHKA:** – SNC-Lavalin?

**MR. POWER:** – he hadn't worked with SNC-Lavalin before.

**MS. MUZYCHKA:** No. But I guess he came through them as being your EPCM contractor at that time.

**MR. POWER:** Yes. He was in through SNC-Lavalin. Yes.

**MS. MUZYCHKA:** Right. So, having Mr. Bécharde there would provide the experience; therefore, it wasn't necessary for them to send you a project manager with extensive hydroelectric experience? Because Mr. Bécharde was in fact that key person.

**MR. POWER:** You're making a statement or – ?

**MS. MUZYCHKA:** I'm asking you whether that was the case. Because you were saying that justification for SNC not sending – or sending you a project manager with no hydroelectric experience was justification that it wasn't necessary to have that hydroelectric experience. Do you follow? This arises from your –

**MR. POWER:** So, the first project manager, who's Mr. Francois Couturier, with SNC, who was there from February 2011 until sometime in December, he had extensive hydroelectric design experience but he – you know, he never worked on a construction site. There was no project manager from SNC to replace Francois until probably July of 2012.

So it's a 6- or 7-month gap there. And at that time, an individual called Alfie Hanna, who came out of the oil and gas division, he was an executive VP. He assumed the role of project manager for a period of two to three months. Then he left the project.

So, essentially, in 2012, except for the short period of time that Alfie Hanna was there, there was no SNC project manager, and we just showed that in the – that audit report that we brought up on the screen there – Mr. Simmons brought up a few minutes ago.

So Normand was acting project manager during that period because there was no dedicated project manager.

**MS. MUZYCHKA:** Okay.

But the point was that you had said in response to a question that, you know, justifying the fact that there weren't people with hydroelectric experience in management roles – was justified – and perhaps this came up in the discussion with Darren DeBourke – but certainly I think you had said something like, well, SNC-Lavalin had sent us a project manager who didn't have hydroelectric experience and that was considered to be perfectly acceptable. And I guess –

**MR. POWER:** And it would be, yes.

**MS. MUZYCHKA:** Yes, so you did say that.

**MR. POWER:** Yes.

**MS. MUZYCHKA:** Yes. So my question to you or the point that I'm bringing to your attention is that that sort of overlooks the fact that also on the team was Normand Bécharde, who did have the hydroelectric experience. So therefore it's not that – you know, it was okay to have someone without hydroelectric experience because there was, in fact, someone who did have that hydroelectric experience.

**MR. POWER:** Yeah, there were a lot of people with a lot of hydro experience. The team was replete with hydro experience. The hydro experience was bountiful. We had the whole – all the designers from the SNC office in

Montreal who were in St. John's for the first year.

**MS. MUZYCHKA:** Mmm.

**MR. POWER:** And there – so there was hydro experience coming out of our ears.

**MS. MUZYCHKA:** Okay.

But Normand Béchard came down believing that he would be in charge of the generation, wasn't he?

**MR. POWER:** No, he came down to be the general project manager for the EPCM scope of work.

**MS. MUZYCHKA:** Okay.

All right, I just want to move to the questions you had on the North Spur this afternoon.

**MR. POWER:** Sure.

**MS. MUZYCHKA:** There was some discussion about the Hatch report. Do you know if the modelling that Hatch recommended was done by the time the FLG was signed?

**MR. POWER:** I don't know. I do know that all that modelling work was done.

**MS. MUZYCHKA:** It was ultimately done?

**MR. POWER:** Oh yes, all that work was done.

**MS. MUZYCHKA:** But you don't know whether it was done before the financial –

**MR. POWER:** I don't remember.

**MS. MUZYCHKA:** – guarantee.

Okay.

And what about the hydrographic soil studies – were they also done before FLG?

**MR. POWER:** Which studies?

**MS. MUZYCHKA:** Hydrographic soil studies.

**MR. POWER:** So I'm not familiar with that.

**MS. MUZYCHKA:** Okay.

So you wouldn't know whether it was done or not done.

**MR. POWER:** No, I'm not familiar with that particular study.

**MS. MUZYCHKA:** Okay.

If we could bring up Exhibit P-03784.

**THE COMMISSIONER:** That's tab 101 in book 2.

**MS. MUZYCHKA:** And, we're gonna look at page 3, please.

Scroll up to – right there is fine.

I just want to ask you about the statement that's about halfway down the page, or three-quarters. We were looking at this earlier this afternoon.

**MR. POWER:** Mm-hmm.

**MS. MUZYCHKA:** The part of the paragraph that reads "we need to have a positive IE report by end of next week ...." Do you see that?

**MR. POWER:** Yeah.

**MS. MUZYCHKA:** "... otherwise the Federal Loan Guarantee will slip further out and you know what that does to Nalcor's appetite to sign big ticket contracts – we will be delayed – so this is top priority ...." So, what would this have done to the schedule had the federal loan guarantee –?

**MR. POWER:** So, what was the date on this again?

**MS. MUZYCHKA:** This was November 22, 2013.

**MR. POWER:** Yeah. So, I wasn't into this stuff, but the federal loan guarantee was part, I believe, of having financial close. I think, you know, financial – the term financial close included – so, with financial close, I think, now I'm not the right one to speak to that, but I think

the federal loan guarantee went with the financial close. So, without financial close, we couldn't award the contract to Astaldi.

**MS. MUZYCHKA:** So, there would be delay?

**MR. POWER:** Oh, yeah, there would be delay. Yeah.

**MS. MUZYCHKA:** Okay. And what does it mean when it said there: "... you know what that does to Nalcor's appetite to sign big ticket contracts ..."?

**MR. POWER:** "... that does to Nalcor ...."

**MS. MUZYCHKA:** What's meant by that?

**MR. POWER:** (Inaudible.)

So, if it had to slip out – I'm not sure what that statement really means there. I think you'll have to ask Paul Harrington.

**MS. MUZYCHKA:** You don't know what he's referring to when he's asking about Nalcor's appetite?

**MR. POWER:** No, I think Nalcor won't – wouldn't sign or we – yeah, we couldn't sign the big ticket – the contract with Astaldi, for example, without financial close.

**MS. MUZYCHKA:** So you think that refers to the inability to sign on the –

**MR. POWER:** Well, you know, if this wasn't, say, a Crown corporation, if this was private industry perhaps – and I'm only speculating here because I don't know – perhaps you could actually sign a contract, assuming that you're going to get financial close, you know, next week or next month or something like that.

**MS. MUZYCHKA:** The Astaldi contract wasn't signed at this point, was it?

**MR. POWER:** The Astaldi contract, I think I heard today, was November 30 and this is before the 30th, right?

**MS. MUZYCHKA:** Yes.

**MR. POWER:** Yeah. So this is – you know, we need the – we need the federal – my understanding now, we need the federal loan guarantee as part of financial close in order to sign the Astaldi contract.

**MS. MUZYCHKA:** Okay but –

**MR. POWER:** And Nalcor's appetite – so, Nalcor, you know, being a Crown corporation with the processes who we have, we couldn't sign a big contract without having this stuff in place.

**MS. MUZYCHKA:** Okay.

**MR. POWER:** So I think that's what Paul is referring to there.

**MS. MUZYCHKA:** Right. Just going back to the CH0009 contract – and we were just looking at the evaluation sheet and the various ratings that were there.

**MR. POWER:** Yeah.

**MS. MUZYCHKA:** At the time that you were asked to review the recommendations of the bid evaluation team, were you aware of the individual weightings that were assigned to the various categories?

**MR. POWER:** So I would have had a cursory look at that when I approved the bid evaluation plan back in 2014 – September 2014 time frame, whenever that was. I would have had a look at it then.

**MS. MUZYCHKA:** Right. You wouldn't have been, you know, focused on any particular category. You just indicated that you listened to the team and –

**MR. POWER:** No, that's correct. You know, I didn't get into that kind of detail.

**MS. MUZYCHKA:** Okay. So it wouldn't have stuck out in your mind whether one particular factor had a 2 per cent rating or one had a 4 per cent rating or 10 per cent?

**MR. POWER:** No. No.

**MS. MUZYCHKA:** Okay.

Lastly, you indicated – you provided an exhibit, P-03809, which you had prepared, based on your experience in various projects. And with the exception of Geoff, I think you indicated that the other contracts all had the project manager based on site – or, sorry, at the head office.

**MR. POWER:** Yeah, in the home office. Yeah.

**MS. MUZYCHKA:** Okay. So that's just a sampling of projects that you personally have been involved in.

**MR. POWER:** That's all.

**MS. MUZYCHKA:** That's all.

**MR. POWER:** That's all.

**MS. MUZYCHKA:** So there could very well be many more projects in which the project manager is on site, but they're not – this is not a random sample or a study that was done by anyone. That's just –

**MR. POWER:** That's just –

**MS. MUZYCHKA:** – something from your experience.

**MR. POWER:** – projects I know about.

**MS. MUZYCHKA:** Right. So – and Des Tranquilla might have other knowledge of different projects, and other people who worked on different projects over the years may have a different experience than you.

**MR. POWER:** Yes, certainly.

**MS. MUZYCHKA:** Okay. Thank you.

**THE COMMISSIONER:** Okay, so as to prevent a big groan from the room, I just have a couple of questions that I want to ask. And I'm not going to ask them in the way I would normally ask them because I'm trying – I'm very aware that you've been on the stand all day since 9 o'clock. But can I –

**MR. POWER:** Mm-hmm.

**THE COMMISSIONER:** – just as you, first of all, at the time of – let's say November of 2013

– at the time just before financial close, how much was the project management team involved in trying to assist getting the financial close to occur when it did?

**MR. POWER:** So I, personally, wasn't involved in (inaudible).

**THE COMMISSIONER:** Yeah, I understand that, but you were on the team, there was, obviously, discussions. We've seen an email from Mr. Harrington –

**MR. POWER:** Yeah.

**THE COMMISSIONER:** – where he was, obviously, pushing it.

**MR. POWER:** Yeah, so –

**THE COMMISSIONER:** How concerned was – how involved was the project management team? Maybe not yourself, but other members of the project management team in getting this financial close to happen in November –

**MR. POWER:** So I would say Paul Harrington was very involved.

**THE COMMISSIONER:** Okay.

**MR. POWER:** For sure.

**THE COMMISSIONER:** Any others? Mr. Clarke?

**MR. POWER:** Perhaps Lance Clarke. Perhaps Brian Crawley was on the team at that time.

**THE COMMISSIONER:** Okay.

**MR. POWER:** Jason in a support role, you know, doing the risk work or whatever needed to be done.

**THE COMMISSIONER:** Okay. So –

**MR. POWER:** And Jim Meaney –

**THE COMMISSIONER:** Right.

**MR. POWER:** – on the finance side.

**THE COMMISSIONER:** On the finance side.



**MR. POWER:** Yeah.

**THE COMMISSIONER:** Okay.

So here – so as I understand it, the project management team, Mr. Harrington – others perhaps on the team, not yourself – were obviously pushing to get financial close to happen. And I understand this was in the context of getting the Astaldi contract going and other contracts going as well.

So I'm not going to refer you to the specific exhibit, but there's already been an exhibit that's been produced by GT. You've seen the Grant Thornton report for Phase 2, have you?

**MR. POWER:** Yes.

**THE COMMISSIONER:** Okay.

So I know that – let's assume for a minute that if the report is correct, that at that particular time, the project management team was well aware that in – at least in April 2013 that the contingency that was had in this budget was, basically, exhausted.

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

**THE COMMISSIONER:** Okay?

And you were also aware, at that stage, that the contracts that were coming in were coming in above what the estimate that provided for; in fact, it was about \$600 million known early in 2013.

**MR. POWER:** Yes.

**THE COMMISSIONER:** All right.

So I find it a bit surprising that the project management team would be pushing for financial close knowing that there was not sufficient money in the budget to handle this particular project. Why would – why was it that the project management team were pushing so hard for financial close when they knew that? Why weren't they addressing the issue of getting more money in the budget beforehand?

**MR. POWER:** So I know there was a lot of communications from Paul Harrington upward

regarding that and the instruction to the delivery team was to carry on.

**THE COMMISSIONER:** Right.

But financial close basically settles on, you know, the federal loan guarantee, the financing that you're going to have available. So if members of the project management team knew that the contingency was exhausted, that the budget was not significant enough or high enough, that – why would – is it prudent to proceed, than to rush or push the issue of financial close, knowing that the money you're getting is not going to be enough likely to complete the project? Did anyone give that some thought?

**MR. POWER:** So that reality that you're talking about was – you know, that was communicated up to the top of the Nalcor house.

**THE COMMISSIONER:** Okay, so you're saying the project management team did communicate your concerns about this up to senior management?

**MR. POWER:** Yes.

**THE COMMISSIONER:** Okay. But we know nothing happened.

**MR. POWER:** So we know the decision was made to carry on.

**THE COMMISSIONER:** Right.

**MR. POWER:** Yeah.

**THE COMMISSIONER:** Okay, thank you, Mr. Power.

**MR. POWER:** Thank you.

**THE COMMISSIONER:** I appreciate your time.

**MR. POWER:** Thank you very much.

**THE COMMISSIONER:** And I'm sorry that we're so late today.

**MR. POWER:** Thank you.

**THE COMMISSIONER:** All right, we're adjourned until tomorrow morning at 9:30.

**CLERK:** All rise.

This Commission of Inquiry is concluded for the day.