

HALIFAX, WEDNESDAY, APRIL 28, 2010

STANDING COMMITTEE ON PUBLIC ACCOUNTS

9:00 A.M.

CHAIRMAN

Ms. Diana Whalen

VICE-CHAIRMAN

Mr. Leonard Preyra

MADAM CHAIRMAN: I'd like to call this meeting of the Public Accounts Committee to order this morning.

We have many guests with us this morning and they are from the Department of Environment and the Department of Transportation and Infrastructure Renewal, and our subject today is really a combined subject - we're looking at environmental monitoring and compliance and the Sysco remediation project.

So, both those items and only two hours on our agenda, so I'm going to get started very quickly with an introduction of our members and witnesses, if we could.

[The committee members and witnesses introduced themselves.]

MADAM CHAIRMAN: Thank you very much, and with that we'll go straight to the opening statements from our guests. We'll start with the Department of Environment and that would be Ms. Vanstone.

MS. NANCY VANSTONE: Thank you very much, Madam Chairman, and good morning to you all. As you mentioned, there are two items on your agenda today that you invited Environment to come to your meeting for - the follow-up to the 2008 Auditor General's Report on environmental monitoring compliance and also to provide information on our role in the remediation of the Sydney Steel Corporation and adjacent sites.

You've already been introduced to my colleagues who have come with me here from the Department of Environment, so I'd just like to make a very brief comment, first off to say that the Department of Environment appreciates the work and recommendations of the Office of the Auditor General because we're committed to continuous improvement. We take our regulatory role very seriously and we have processes in place to protect the environment and human health; however, there is always room to improve.

In 2008 the Office of the Auditor General audited our Environmental Monitoring and Compliance Division and made seven recommendations on how we can improve our operations. Some of these recommendations focused on how the department handles the management of its information systems, and other recommendations dealt with the division's policies and procedures for issuing approvals, doing inspections, and conducting enforcement activities. I am pleased to say that much progress has been made in this area.

Since the 2008 report, the department has made significant progress in the following areas.

The information required to obtain different types of environmental approval is now much more clearly defined so there is no ambiguity about what information is required for what type of activity.

The department has implemented a province-wide computerized tracking system for complaints, inspections, incidents and enforcement.

Managers now have easier access to more information about what is happening in their districts. This helps our managers and our inspectors to better manage their workload.

The department has conducted quality assurance reviews across five program areas and it is continuing to apply this process to additional programs every year.

Madam Chairman, we're confident in our approval process and we had enhanced our record keeping system to make it more clear in the files that all necessary checks and balances are in place.

We are actively tracking our inspections and monitoring activity. We have done a lot of work to implement new systems to improve tracking and quality assurance. I would like to acknowledge and thank the many staff members who undertook this work over the past several years. In particular, I would like to thank our very hard-working inspectors in 10 regional offices who do thousands of inspections every year in the interest of environmental protection.

I would like to move on now to our work on the remediation of the former Sydney Steel Corporation and adjacent sites. The department is the lead regulator for the remediation of the Sysco site. In response to recommendations from the joint panel review process, the Department of Environment has established a dedicated regulatory office. The department now has seven staff members regulating the Sydney tar ponds and coke ovens cleanup and also the Sydney site remediation activity.

Staff monitor remediation through approval processing, regular inspections and response to complaints. A Remediation Monitoring Oversight Board was appointed in early 2008, the purpose of the board is to ensure that the tar ponds and coke oven project is being appropriately regulated by Nova Scotia Environment and is proceeding within approved regulatory guideline permits and approvals. The board is comprised of three external experts and makes an annual report to the Minister of Environment.

So we believe we have an effective regulatory program in place to oversee the remediation of both the former Sysco site and the Sydney tar ponds cleanup. My colleagues and I look forward to discussing our program with you today. Thank you.

MADAM CHAIRMAN: Thank you very much, Ms. Vanstone.

With that, I will turn the floor over to Mr. Darrow, to speak for Transportation and Infrastructure Renewal.

MR. DAVID DARROW: Madam Chairman, good morning and thank you for giving me a few minutes to make some opening remarks regarding the Sysco remediation project.

The production of steel at the former Sydney steel plant ceased in May 2000. In November 2001, following unsuccessful efforts to sell the steel mill, the Government of Nova Scotia created two special funds, totalling \$316.5 million to be used for the remediation of the former steel plant site and the tar ponds and coke ovens sites.

The Sysco Decommissioning Fund was established with an opening balance of \$250 million to pay for the cost related to decommissioning, demolition and remediation of the former steel mill site.

The Muggah Creek Remediation Fund was established with an opening balance of \$68.5 million to underwrite the province's share of the cost related to the environmental remediation of the Sydney tar ponds and coke ovens sites.

Provision was made in the order creating these two funds for the transfer of funding from one fund to the other, subject to the approval of Treasury Board. In fiscal year 2003-04, Treasury Board approved a transfer of \$70 million from the Sysco

Decommissioning Fund to the Muggah Creek Remediation Fund, leaving a total of \$180 million to be used for the decommissioning of the steel mill and environmental remediation of the property on which the steel mill was located.

The decommissioning phase of the Sysco remediation was overseen by receiver Ernst & Young and it involved the removal of approximately 50 buildings and structures from the site; 15 buildings have been retained and are presently in use.

The demolition phase of the Sysco cleanup was substantially completed by 2006. In 2006, government approved the establishment of two companies to further the cleanup and future development of the former steel mill site.

Nova Scotia Lands Inc. was established to oversee the balance of the remediation of the 500-acre steel mill site. Harbourside Commercial Park Inc., was established to manage commercial development of the remediated areas of the site. For remediation purposes, the former steel mill site was divided into several manageable classification units. Each classification unit is subjected to a series of environmental studies in accordance with the methodology recommended by the Canadian Council of Ministers of the Environment, CCME.

Two primary technologies are being used in the remediation of the former steel mill site, namely bioremediation and soil solidification. Bioremediation involves the use of micro-organisms to break down and detoxify chemicals in the environment, and soil solidification involves mixing Portland cement into contaminated media in order to immobilize hazardous constituents.

The actual remediation of the contaminated soil on the Sysco site began in 2006 under the direction of Nova Scotia Lands Inc., following the award of a contract for soil stabilization and solidification to HAZCO environmental services. As portions of the property are remediated, ownership thereof is transferred to Harbourside Commercial Park Inc. for future development and sale. To date, approximately 120 acres of the former steel mill site have been remediated and conveyed to Harbourside Commercial Park Inc.

Fourteen companies have set up business in the park. These businesses employ 136 full-time workers, 20 per cent of whom are former steel workers. It is expected that the remediation of the remainder of the former steel mill will be completed by the end of 2012. As of March 31, 2010, \$97.1 million has been drawn from the Sysco Decommissioning Fund for the decommissioning, demolition and remediation of the former steel mill site, leaving a balance of \$82.9 million in the fund. It is our firm belief, based on what we know now, that this will be adequate to complete the Sysco remediation project.

This concludes my remarks. Thank you very much.

MADAM CHAIRMAN: Thank you very much, Mr. Darrow. We'll begin our first 20 minutes of questioning with the Liberal caucus. I will call on Mr. Colwell to begin.

HON. KEITH COLWELL: Thank you for coming today. This has been a long process, I know, and a very difficult one. I have some basic questions I'd like to ask first. Do you believe that the whole project will be finished by 2014 as originally anticipated?

MR. DARROW: The deadline for completion of the Sysco remediation - there really are two projects underway there and perhaps I should have clarified that in my opening remarks. The Sysco site, the site of the former steel mill, the remediation of that site is being managed by Nova Scotia Lands Inc. That is being fully funded by the Province of Nova Scotia. There is no federal cost sharing in the remediation that's taking place on the Sysco site. We expect that project will be complete by the end of 2012.

The tar ponds cleanup, the remediation of that site, tar ponds and coke ovens site, is being managed by the Sydney Tar Ponds Agency and we expect that remediation will be complete by the end of 2014. Yes, we're quite confident, the project is well underway now, all of the major tenders have been awarded. If you were to visit the site today you would see some dramatic changes in the last 12 months even.

[9:15 a.m.]

MR. COLWELL: Actually, on the tar ponds site, what's the final plan or what's going to be done with that actual site when you're finished? When it's all finished and complete, will buildings be able to be built on it or what are you going to do with it?

MR. DARROW: Our commitment is to leave that site in a - we wouldn't foresee putting large buildings on the site. You could certainly put small buildings on the site. The remediation of the tar ponds site involves stabilization and solidification. This is, again, the process that I described earlier where you're injecting Portland cement into the media and then we put a cover on top of that, we call it a cap and the cap is intended to keep water out of the stabilized media.

The cap will be thick enough such that it could support small buildings, you wouldn't put an office building or something like that on the site. We envision that the site will be used in the future for more passive types of activities, like parks, and walkways, and perhaps some playing fields, those kinds of things.

MR. COLWELL: One of the former test sites, the cooling pond, was stabilized and solidified, but shortly after it subsided. What has happened with that? Has that been corrected and was that an overall problem with the process, or just part of the learning curve?

MR. DARROW: It think it was, to some extent, part of the learning curve and it certainly has been corrected. We have very stringent quality assurance and quality control tests that are done constantly on the work that is being done there, and that has been corrected.

We have done significant analysis there and the determination is that some of that work on the cooling pond was done during the winter months, and we've determined that there were some areas where there was freezing that took place, and when that thawed we had the settling. As I said, that problem has been corrected and certainly we have learned from that lesson and applied that in the work that is being done on the tar ponds.

MR. COLWELL: Just along those lines, has there been a similar process used in other areas of the world, or is this something that is just a new technology?

MR. DARROW: One of the principles that we adopted very early on in the game was that we didn't want this to be a testing ground, we didn't want Sydney to be a testing ground for new technologies, and we were quite adamant. We were under a lot of pressure to adopt new technologies to the site, but at the end of the day, our position was that we were going to go with proven technologies. Indeed, stabilization solidification is a technology that has been around for many years, used in many other locations in remediating contaminated sites in many locations throughout North America and Europe, especially. So no, it is definitely a proven technology.

There is no doubt that this is a large remediation project and maybe distinguishes itself in that regard, in that it is one of the larger soil stabilization solidification projects in the world, but it is certainly a proven technology and we're very pleased with the results that have been achieved to this point in time.

MR. COLWELL: There was also, at one time, some reports from local residents, there was dust and smell coming from the tar ponds. Has that been resolved or in the process of being resolved? What is the status on that?

MR. DARROW: We have one of the most sophisticated air monitoring systems of any remediation project, I think, ever undertaken, let alone an industrial development of this nature. There are many elements to that monitoring process.

When we detect an exceedence of dust or any other chemical for which we are monitoring, we shut down the operations immediately on that site and we take steps to correct the problem before we start back up the activity. I'm talking now about the tar ponds site, but it also applies to the Sysco site. We have a very extensive air monitoring program on that site and, as I say, if we detect an exceedence - which is quite rare - we'll shut down operations immediately.

I would also note that there are other industrial operations in the area that can generate dust from time to time, but our monitoring system will pick that up as well. As I've said, when we pick up an exceedence we'll shut the operation down until we've discovered the source of it and dealt with it, corrected it.

MR. COLWELL: At one time there was, again, local residents were concerned that they were not being heard, the usual sort of situation you would expect with this major operation that you're doing as well, and some of their issues were not being addressed. Have they been addressed and have those issues been resolved?

MR. DARROW: First I would say that this project has had a more extensive public consultation process than any other remediation project that's ever been undertaken. I think I can comfortably say that. I think there were over 1,000 public meetings and many venues by which the public can have input. We've done our best to listen to the comments that have come from the public and to accommodate those comments. At the end of the day, we went through a very thorough environmental assessment process involving an independent environmental panel that approved the methodology that we were using. They attached some conditions to the project.

Even with that considerable public consultation and the very thorough environmental assessment, there are going to be people who disagree with the methodology that you're using. There are going to be people that disagree with the technology and the way that the site is being remediated, but at the end of the day we had a project that went through a very thorough process. It was approved. Quite frankly, we're not going to be able to accommodate every comment or every recommendation that is made.

We diligently follow up on comments and criticisms that are made of the project, and at the end of the day there are going to be cases where we have to agree to disagree because some people would say, for example, that you have to remove every molecule of contamination from the site. Other people in the community will say, don't touch it, leave it where it is, stabilize it and solidify it in place, we don't want that moving around in our community. So you're bound to have circumstances where you've got a conflict between segments within the community, which is very much what we had there. We've done our very best to try and accommodate where we could, but in cases where we're not able to do that, to explain why we have done what we have done.

MR. COLWELL: When the project is finished, what kind of monitoring are you going to do with the water and the air in the area to make sure that this has actually worked and continues to resolve the long-term environmental risks?

MR. DARROW: We have a commitment to monitor that site for the water and the air for an indefinite period of time. The funding agreement that we have signed with the

Government of Canada for the clean-up of the tar pond site provides \$25 million in the outgoing years for the monitoring. There will be continuous monitoring of the site, as I said - water quality, runoff from the site. There will also be monitoring done in terms of the integrity of the cap and those kinds of things. When we find there are issues with the cap or the water quality, we will undertake to address those issues.

We also have a water treatment facility that will be in place for an indefinite period of time that will be treating some of the groundwater from the site. If we reach a point in time where the quality of the groundwater - which we expect will improve over time - we will decommission that treatment facility, but our plan right now is to run that for an indefinite period of time.

MR. COLWELL: The water treatment plant, will that be a tertiary plant?

MR. DARROW: I am going to have to defer that question to Mr. Campbell.

MR. GARY CAMPBELL: I am not a water quality expert, but I think tertiary relates more to sewage and that kind of thing. I don't believe that's the type of plant we're using, but maybe someone from the Environment side can comment better on that.

MS. VANSTONE: Well, Terry MacPherson is our manager for the regulatory. Do you know about the water standard?

MR. TERRY MACPHERSON: It's my understanding that the design is being put together by AECOM, the consultant that has been hired by Sydney Tar Ponds Agency. Its primary focus is organics and metals, so I can say that much. How that translates to primary/tertiary I can't say, but the design will be such that the raw water coming into the facility will meet a given standard for the receiving water on the post-treatment end of the operation.

MR. COLWELL: Do you have the standards that the water is supposed to meet when it exits the plant?

MR. DARROW: Yes, we do.

MR. COLWELL: Could you make that available to our committee?

MR. DARROW: I don't have them in hand at this moment but I can do that, yes.

MR. COLWELL: Yes, that's fine.

MADAM CHAIRMAN: That would be great.

MR. COLWELL: That is a concern because we've seen some difficulties here in Halifax with the system that is far from tertiary and far from appearing to work very well and with the contaminants you're dealing with, it's even more of a concern to the water system. So it would be interesting to see what the outcome from the plant is supposed to be.

The other thing was in 2008, and hopefully these things have been addressed, Grant Thornton released a report on the operational effectiveness of the organization. The report was quite pointed and damning and pointed out a number of issues. There seemed to be an internal conflict. Has that been resolved?

MR. DARROW: Yes, it has. We've made a number of changes in the organization, the Sydney Tar Ponds Agency, and I would also want to point out that the project is subject to an ongoing continuous audit by an independent engineer. The independent engineer, you can gauge kind of how successful the effort of the Tar Ponds Agency's efforts are by the reports that the independent engineer gives to government on a regular basis. I think you'll find that there has been a pretty substantial - since that problem was identified - there have been significant measures taken to deal with the issues, and I'm quite confident in saying that we have those issues well behind us now.

MR. COLWELL: The question would be, you know, it's 2008 and the project started long before that. Why did it take so long to get this stuff resolved? It was a huge project, a lot of money and a lot of anticipation to get it resolved too.

MR. DARROW: I think one of the biggest things that I can attribute that to is that in 2008 the project underwent a transition, a very significant transition. Prior to that, it was all about environmental assessment and developing environmental remediation plans. In 2008 the project entered an implementation phase. The implementation phase would require different skill sets on the part of the workforce. I think that was a pretty stressful time and, as I said before, I'm pleased to say that through the changes that we've made, we've overcome those difficulties. The team that's in place there now is a team that will take this project through to completion and I am absolutely confident in saying that the project will be completed under budget and within the time frame that we've set for completing this project.

MR. COLWELL: Yes, and there were other issues addressed in that too. One of them was service provider accountability where there seemed to be some conflict, or whatever you want to call it, between some of the people, like the design consultant and the Earth Tech Canada Inc. Have those things been resolved as well?

[9:30 a.m.]

MR. DARROW: This is a huge project and there are many players in the project. There's the design engineer, there's the independent engineer, there's the environmental monitoring and compliance folks involved in the project. There are bound to be differences of opinion on a project of this magnitude but I'm very pleased that we have put in place the mechanisms, the communications mechanisms, whereby we are able to get issues out on the table very quickly and have them resolved very quickly. I think if you went down there and talked to the various parties involved, you would find that there's a very good working relationship amongst all of the parties involved on the site at this particular point in time.

MR. COLWELL: Is there somebody overall, on-site, who can make decisions if there are conflicts that come up now - someone who can say yes, we can do this or no, you can't do that, and really manage the project? Is that in place now? For years with this it wasn't.

MR. DARROW: Yes, we have - between the CEO of the Sydney Tar Ponds Agency and the project manager, that's where the buck stops in terms of those kinds of decisions. If there's an issue with the performance of a service provider, those individuals will be well aware of it and are very committed to moving quickly to resolve issues so that they don't become significant problems down the road.

MR. COLWELL: And they have the authority to do that without having to ask anybody - they can actually move the project forward?

MR. DARROW: The ultimate authority really is the CEO, but a lot of his authority is delegated to the project manager, but between the two of them - and ultimately the CEO is where the buck stops.

MR. COLWELL: And he has clear direction from government what is to be accomplished and when?

MR. DARROW: Absolutely. One of the findings of the operational audit was that there was some lack of clarity in terms of roles and responsibilities, and I can tell you that those matters have now been clarified with position descriptions, mandate letters and those kinds of things.

MR. COLWELL: Why wasn't that done to start?

MR. DARROW: Again, I think there wasn't an indication prior to that that there was a problem. I think you'll find that the management of the project, the operation of the project during the environmental assessment phase went very well - it was just during the transition from the environmental phase, if you will, to the actual implementation of the

remediation that we became aware that there were some issues there that needed to be addressed.

MADAM CHAIRMAN: Mr. Colwell, your time has elapsed now, so I will turn the floor over to Mr. MacLeod for the Progressive Conservative caucus.

MR. ALFIE MACLEOD: Thank you very much, Madam Chairman. I want to welcome all our guests here today. For the record, some of them are very familiar to me and, for the record, I want to let the committee know that prior to the 2006 election I was employed by Ernst & Young on the Sysco remediation project - so in case anybody asks any questions later on, we've got it out front now.

I guess one of the things that I want to talk about, starting off, is of course Sysco and Nova Scotia Lands Inc. and some of the accomplishments that have been made there. One of the biggest challenges for the Sysco site at one point was the slag that was there, and I just wonder, could you give some insight to the committee as to what you've done to deal with that issue and how successful you've been?

MR. DARROW: Perhaps for the benefit of members - slag is a granular, stone-like material that was a by-product of the steelmaking process for, I guess, about 80 years of the operation of the steel mill. As time went on, that granular material, slag, was used as an infill. If you look at a map from 1900, when the steel mill was first opened, and a map today you would see that a large portion of the harbour, or that side of the harbour has been infilled with slag.

It's an inert material; it is very good for road building. It was used in the construction of Highway No. 125, otherwise known as the Sydney Bypass, and it was used in the construction of the Sydney Port Access Road, the Spar Road, as well. As I said, it is a very good construction material.

In addition to kind of infilling a portion of the harbour over the 80 years that slag was being produced as a by-product, it basically created a mountain of the material there - our estimate is that there's probably a couple of million tons of slag on the site and when the steel mill was decommissioned, we facilitated the creation of a small company of former steelworkers to operate that slag. It's basically a quarry where the slag is dug out and it's put through a crusher and crushed to various sizes, that sort of thing. The operation, I think, employs about eight to 10 people on a full-time basis. We have a number of customers for that material. I think we've processed and sold approximately 150,000 tons of slag a year. The operation operates with a small profit. I would also add that the province takes a small royalty back from the sale of every ton of slag.

We are constantly looking for new markets for slag as well. We sold some slag to Ontario a couple of years ago, and we had an 80,000 ton shipment of slag to the U.S. last

year as well. So it's a going concern in terms of the operation. As I say, it operates at a small profit. We are still looking at ways of using that material, and we are presently looking at the possibility of using it in the construction of the twin section of the Sydney Bypass.

MR. MACLEOD: Is much of that material used in the remediation projects - the tar ponds and the Sysco site?

MR. DARROW: I can't tell you the exact amount, but it is being used, yes, in the solidification process. The material is ground up and mixed with Portland cement and is used in that process.

MR. MACLEOD: You mentioned earlier, deputy, about the amount of businesses that are on-site. Are there any new businesses on the horizon, and has there been any recent land sales that will increase the activity of Harbourside Business Park?

MR. DARROW: Madam Chairman, I think I'll defer to the president of Nova Scotia Lands Inc.

MR. GARY CAMPBELL: Yes, there is. We expect that there will be another building put up this summer. We're negotiating for another couple, at least one new building. We have four or five new buildings now on-site, and the site is an excellent one, and there's a lot of interest. Once we get the Spar Road straightened out and Ferry Street Bridge back in place joining the downtown area, we think that it's going to be a prime industrial site in the Sydney area.

MR. MACLEOD: In relation to that, what is the interaction with the Cape Breton Regional Municipality as far as industrial lands now? Is there any interaction with you?

MR. CAMPBELL: Well, we certainly deal with CBRM extensively, and as a matter of fact, one of the main buildings is on a lease-to-purchase with CBRM. They are using it for the composting of their garbage for shipment. So we certainly co-operate with them as best we can. We've had to deal with some taxation issues that we've now overcome and I think the relationship is pretty good with CBRM these days. We are in the process of turning all the roads over to them. They've been plowing them for the last year or so, and we've built a sports field on the site that we'll be hoping that CBRM will manage for us and they are certainly very happy about it. So I think we're okay with CBRM, I haven't heard any complaints of late.

MR. MACLEOD: And when we talk about the remediation of the Sysco site, what is the biggest challenge on the property that's left to tackle?

MR. DARROW: I think I'll defer that question to Joel MacLean.

MR. JOEL MACLEAN: We've just completed the north end of the site. We treated 150,000 tons of contaminated soil. We have two other areas that remain to be cleaned up. There's roughly 20,000 tons in the old blast furnace area, there's the hydrocarbon impacts from an old tank farm that was there. There's an area towards the shoreline, on the west of the site, where there's another 6,000 tons or so of sludge that came from a water treatment facility. We expect to complete that work this year, and beyond that there are a few minor impacts and then there are some roads that need to be redeveloped and then some ground cover.

MR. MACLEOD: When 2012 comes and the remediation process is finished, most of the lands will be then turned over to Harbourside Commercial Park Inc. - is that correct?

MR. DARROW: As the properties are remediated by Nova Scotia Lands Inc., they are conveyed to the Harbourside Commercial Park Inc., yes. The park would actually own the lands and would be the agency that is in the process of marketing them and selling them.

MR. MACLEOD: Is there an end point to the Harbourside Commercial Park Inc., as far as its mandate?

MR. DARROW: We don't have an end point as of now. I think that's something we will evaluate on an ongoing basis to assure ourselves that that's the best mechanism to have in place to market and sell those and administer that park. For the time being, we don't have any plan to change that - that's not to say that at some future point in time we might not come to a conclusion that there might be another entity that might be more suitable in terms of the management of the site than Harbourside Commercial Park Inc.

MR. MACLEOD: Thank you. When we talk about Nova Scotia Lands Inc., my understanding is that when it was first formulated it was meant to deal with not only the Sysco property but other properties that belonged to the Province of Nova Scotia, and I'm just wondering, could you elaborate a little bit on the mandate of Nova Scotia Lands Inc. and where you see that going as the Sysco project winds down?

MR. DARROW: Yes, indeed. When the entity was created, Nova Scotia Lands Inc., its primary mandate was the remediation of the former steel mill site, and that is the primary focus of activity. It also has the ability to assist, and some capability to assist other provincial government property owners - if I can put it that way - in addressing issues on sites, properties that they might own, and in fact the Nova Scotia Lands Inc. has played an instrumental role in the remediation of the coke ovens site and, more particularly, the tar cell portion of the coke oven site. The remediation of that part of the

property has been managed by Nova Scotia Lands Inc., at the request of the Sydney Tar Ponds Agency.

We have been asked by government and by departments over the years to assist with environmental issues, helping to understand environmental issues on other properties and develop remediation plans for those properties.

I would say that until the Sysco site is fully remediated, our capacity to do that is limited. For example, we have been asked by government to look at sites in the Tobin Road area of Sydney Mines and the Princess Mine area of Sydney Mines. Those are sites that were formerly owned by Sysco. Nova Scotia Lands Inc. staff are also involved in baseline environmental studies on the TrentonWorks site in Trenton.

[9:45 a.m.]

MR. MACLEOD: Thank you very much. You bring up a good point, because when people talk about Sysco they generally think about the site of the steel plant. But Sysco owned a large number of properties throughout Cape Breton Island, not just in Cape Breton County, so there have been other areas. I think Irish Cove was an area that was remediated as well, and there may be some other areas that have to be looked at - is that correct?

MR. DARROW: I think in the mid-1990s, I believe between 6,000 and 7,000 acres of property was conveyed from Sysco to the province. That property is under the administrative control of the Department of Natural Resources, and it is spread throughout Cape Breton and Pictou County as well.

MR. MACLEOD: I thought now maybe we would turn a little bit to some of the things that are going on at the tar ponds. One of the questions there, of course, is if there are cost overruns, who pays?

MR. DARROW: If there are cost overruns, it depends on what the nature of the cost overrun is. If the cost overrun can be attributed to an unknown condition before the project was undertaken, it is cost shareable. If it can be attributed to a change in regulation during the period of the remediation project, then it's subject to sharing by both governments. If it were attributed to something else, perhaps a mistake that somebody made in the Tar Ponds Agency, for example, we would be expected to cover that cost. I would say that, as I've said before, we are well advanced on this project now, the tar ponds clean-up, all of the major tenders have now been awarded and the work is underway. There's, I think, a very strong level of comfort that the project will be delivered both within budget and on time at this stage.

MR. MACLEOD: One of the concerns we hear in the community a lot is what actual benefits are coming back into the community by way of jobs and purchases and those types of things. I believe that I'm correct in saying this but the awarding of a couple of contracts to the Aboriginal community and set aside for the Aboriginal community, this is one of the first projects that has seen that, at least in Nova Scotia and maybe in all of Canada The cost benefits of that have been good for the Aboriginal community as well as the rest of the community.

I'm just trying to get a sense of the dollars that are actually being spent, how much of them do you see staying within the economy of Cape Breton and, as well, how many jobs does that help create and maintain over the period of the time of this operation?

MR. DARROW: We have produced an economic benefits report recently that would have those numbers in terms of the extent to which local companies have benefited from the project. I think, my recollection is and I stand to be corrected on this, that about 80 per cent of the cost that has been incurred to this point in time has been to the benefit of Nova Scotia companies and the vast majority of that money has gone to Cape Breton companies.

One of the priorities that we set at the outset of this project, there were two major priorities, one was to complete the remediation of these contaminated sites and complete it successfully. The second one was to do it in a manner in which local companies could derive maximum benefit from it. Very early on in the game we developed a comprehensive economic benefits strategy. The results of that will demonstrate very clearly - and I could certainly provide copies of the economic benefits report to members of the committee - that emphasis has really paid off in terms of the benefits that have been derived by local companies.

You mentioned the Aboriginal set-aside and it is the first Aboriginal set-aside in Nova Scotia. We worked closely in the lead-up to the project, actually getting underway, we worked closely with a number of groups within the community. In fact, the funding agreement that was signed in 2004 required us to work and try to find opportunities for the First Nations communities in Cape Breton to benefit from the project. Back in mid-2005, in that range, we developed an Aboriginal procurement strategy, which provides that some portions of the project are tendered for the benefit of only Aboriginal companies and so only Aboriginal companies - companies that have majority ownership by Aboriginals - can bid on those components of the project.

We talked earlier about the cooling pond, the cooling pond was the first Aboriginal set-aside project in the cleanup and there have been several others since. I think the results will show that effort has been very worthwhile. What we had hoped to do in the process was to create capacity within the community, in the case of the Aboriginal set-aside, create opportunities for Aboriginal companies to acquire skills they

could then use to bid on other projects and not cleanup related projects. I think you'll find that has indeed happened and, in fact, beyond our expectation.

MR. MACLEOD: When we're dealing with the tar ponds project, there are a number of layers of engineers and you hinted at that earlier. Could you give us an overview of the number of layers of engineering companies that are there and the roles they perform? There has been a lot of concern within the community that engineers are overriding engineers who are overriding engineers who are making excuses for engineers. It has created some anxiety within the community so I'd just like to get a sense of where that is.

MR. DARROW: I'll take a stab at this. We do have an independent engineer who monitors all of the operations on the site. That independent engineer reports directly to the two governments, the two funding partners. That level is perhaps a little unique in a project of this nature, but we felt it was one of the checks and balances that we required.

The design engineer, AECOM would have responsibility for inspecting the work of the contractors. The contractors themselves would have their staff that would be inspecting work. The Tar Ponds Agency would have the capacity to do some high level inspection work as well. With the exception of the independent engineer component, that's standard for projects of this nature.

We felt that because of the complexity of this project and the history of the project that we needed that extra level of monitoring and that's why the two governments agreed to put in place the independent engineer for that purpose. It may seem like there's a lot of inspection going on in the site but we feel that we have the right balance. It's important that we do the proper due diligence to ensure at the end of the day there aren't any surprises.

MADAM CHAIRMAN: The time has elapsed for the Progressive Conservative questioning. We'll move to the NDP, I'd like to ask Mr. MacKinnon to begin the questioning for the NDP for 20 minutes.

MR. CLARRIE MACKINNON: It's a pleasure to have so many knowledgeable witnesses with us this morning. I want to focus on the health of people that live nearby. That has been a concern of mine from day one with the entire project. I lived in Cape Breton for a number of years, I love Cape Breton and I still own a house there and I have many friends in the Whitney Pier area.

What I want to focus on is monitoring and first I want to look at the air quality monitoring in relationship to both the tar ponds and Sysco sites. I guess my basic question is, what is being done to ensure the health and safety of the neighbouring areas, the

people who live nearby is the real question here? So I ask that from an air quality monitoring perspective.

MS. VANSTONE: As my colleague, Mr. Darrow, mentioned there is quite an extensive air quality monitoring program in place for these sites. We do it at a variety of levels. We have an air quality monitoring program targeted at the workers on the site, from an Occupational Health and Safety perspective; we have a fence line monitoring program with the neighbours, between the sites and the neighbours, and we do monitoring at those sites to meet national standards; and we have ambient air quality monitoring that also keeps track of any changes to air quality in the area.

In fact, in the Sydney area overall is also a site where we have our air quality health index, which is a project with the federal government. It is in several communities across Nova Scotia, but it is specifically in Sydney as well, which is something for the public to be aware of about the air quality in that community.

Many of the elements of the approvals for these activities deal with air quality, and so we do monitor that very seriously.

MR. MACKINNON: Looking at the measurement of suspended particulates, for the layperson we are told that you're operating according to the six-day National Air Pollution Surveillance schedule. What is that?

MS. VANSTONE: Thank you, but I think when we get into that level of technical detail, I'm going to defer to Terry MacPherson, who is our manager of the regulatory program there.

MR. MACPHERSON: Thank you, Mr. MacKinnon. That is simply the national schedule that they operate on a six-day cycle. That particular schedule is such that they will capture every day of the week in that cycle.

MR. MACKINNON: Okay, one of the concerns is the volatile organic compound analysis, and that is done on a monthly basis, so there must be variations expected there in the VOC emissions. Can you perhaps just talk about that for a moment?

MR. MACPHERSON: For specifics on the schedule for the ambient network, I think primarily what they look for are trends. That particular program, the ambient program - which has the instrumentation established in, I believe, six stations in the community - that particular data is reviewed in a more long-term context. What they do, where the fence line monitoring program for the actual tar ponds clean-up work that the contractors are obligated to meet by compliance standards - they're measuring real-time VOCs at the fence line. That criteria was established under a rigorous review program, such that we believe that the community is protected provided the contractors are meeting the standard that is established for fence line. Beyond that, for the ambient program, it is

my understanding that we get monthly reports from the Sydney Tar Ponds Agency to that effect, but I'm under the impression and understanding that there are not significant issues related to VOCs and the distribution within that sort of suite that it is a problem for the community and the ambient network.

[10:00 a.m.]

MR. MACKINNON: Looking at the working conditions on-site, what happens if exceedance is detected?

MS. VANSTONE: The first thing we would do with something like that is an inspector would go to the site, probably there would be a stopping of the work at the site if there was a concern, and then we would be working with them on addressing the issue.

I'm just going to defer again and ask Mr. MacPherson if there is anything more specific in terms of more detail on what would happen in something like that.

MR. MACPHERSON: Beyond our involvement, the project actually has a process whereby you have an early warning system. So before they even meet a threshold that would be considered a risk for the community beyond the fence line, the early warning system is such that the contractor, All-Tech, which is actually doing the monitoring, once they get what we would describe as a ping or a hit - that's something that might be approaching the threshold - will contact the contractor right away and the contractor will modify their work such that subsequent samples at fence line should be able to verify whatever the contractor has done for mitigation measures or changes in the work are bringing those numbers down. So they really have their own policing mechanism or self-regulating before we even get involved.

MR. MACKINNON: When we look at the health and safety of workers, how often to date have there been work stoppages or respirators used on-site?

MR. MACPHERSON: The air monitoring that is being done on the site now is primarily that the first line of defence would be the OSH monitoring right directly at the work site, then the fence line program and then the ambient program.

We don't necessarily get the OSH data. That's more a labour component. My understanding is that they have fairly strong oversight for Occupational Health and Safety on the site. They have an individual and that's their only job with the Sydney Tar Ponds Agency.

I haven't heard that there were issues. As an example, my understanding is if they were to get, say, a number in one of the OSH monitors, either work would be modified or

the employees or workers near that job site would put the proper protection on such that they were safe.

MR. MACKINNON: It's my understanding that there are a lot of safeguards and it's very comforting to know that with this particular project. What were the recommendations from the environmental assessment of the Sysco Remediation Project, and what is the current status of each of these?

MS. VANSTONE: In terms of the environmental requirements, the Sysco remediation site operates under an industrial approval that has very detailed requirements placed on that site, in terms of ensuring there are no environmental problems associated with the site.

In terms of the Sydney tar ponds, there is both an environmental assessment approval that addresses the recommendations that came from the Joint Review Panel, so those are put into the environmental assessment approval and also reflected in an industrial approval. So we feel there are excellent provisions in those approvals.

In addition, on the Sydney tar ponds we have been required to do, I think, a dozen or maybe 13 additional approvals on specific elements of the project. Those have been moving along as the project moves along. I think certainly the majority of them, probably at least 10 of those approvals, have already been issued for that part of the project.

The department, in addition to those approvals that are put in place, then monitors to make sure that the operations are in compliance with the details in those approvals.

MR. MACKINNON: In relationship to the Sysco site, I'm interested in the compartmentalization that took place - the 30 areas that were classified. I guess there were 30 units classified. I think it was anticipated that there would be hydrocarbon impacts and also metals impacts. I'm just wondering about those 30 classification units and whether the anticipated hydrocarbon impacts and the metal impacts were, in fact, present, and what has been done.

MS. VANSTONE: You started to point some of the specifics and the many details around the environmental considerations associated with these projects. That's why I neglected to actually say in response to your previous question, one of the major recommendations that came from the environmental assessment process and the recommendations of the joint review panel, was that we establish a dedicated regulatory office so that we put in place a team that was focused on these projects. We have done that. That's the group that Mr. MacPherson leads with experts who deal with the compliance monitoring issues. They're experts in contamination. So we do have that process well in hand in terms of the regulatory oversight on that. With your specific

question around compartmentalization in those 30 units, I'm going to ask Mr. MacPherson if he has any further information or could expand upon that.

MR. MACPHERSON: My understanding - the reference that Mr. MacKinnon is making to the 30 units - I think, that was just how the Sysco site was broken up into sectors, and the structure that was in place that the consultant used to do the phased assessments and then the subsequent remedial action. My understanding, for the organics, whether it was petroleum hydrocarbons, or coal tar, or metals, that was in part, the reason for employing the solidification stabilization technology in the pug mill that was used on the site, but I may want to ask my colleague, Joel MacLean with Nova Scotia Lands Inc., to maybe explain in a little bit more detail, on just how that sector activity took place or was sequenced.

MR. MACLEAN: Originally the site classification units were - when they first came into the site, rather than try to do an assessment on the overall site, which is roughly 400 acres, it was decided that it would be much more effective to break the site into these classification units based on the types of activities that went on in different areas on the site. For example, there was a steel shop area and generally that would be one classification unit because you would expect a certain type of contamination that you would expect to find there. Overall, the 30 classification units were based on that, just on the types of activities that went on across the site, but you're correct, the types of contamination in general are metals and hydrocarbons, the two main types of contamination.

What happened when we actually did the assessments there, we grouped some of those classification units together, and we did about roughly eight Phase II, Phase III, CCME environmental assessments. From there, that's where we determined what had to be done on the site in terms of remediation.

MR. MACKINNON: I really appreciate the opportunity and sometimes I hate to share time but as a social democrat, I guess I have to. I do have a number of other questions that I would like to put to you this morning. However, I will share the time, but I do have a feeling of comfort that there are so many good experts working on this project. Certainly like the member for Cape Breton West, sometimes I think there might be a few too many on-site, but we won't get into that. So I'll share the time.

MADAM CHAIRMAN: Mr. Smith, please.

MR. MAURICE SMITH: Thank you, Madam Chairman. Panel, I'm pleased to see you here. I just want to give you a little background of mine. I'm a Sydney boy. I grew up in Sydney. My dad worked at the car repair shop on the plant. My uncle worked at the coke ovens. My mom's a Pier girl, lived on Henry Street, and grew up there. So the area you're talking about is very familiar to me, and as a kid I played in the Wash Brook on

the way home from school and we skated on the Wash Brook. We never concerned ourselves with environment, or mess, or anything of that nature, and I guess this is a fairly recent concern of people. Well, recent I guess in terms of my time anyway, but one of the things, when I got married in 1971 and we were looking for a place to go to live, I said, well, why don't we go back to Sydney? My wife wasn't from Sydney and she said I'll go anywhere but Sydney, and it was because of the tar ponds, the coke ovens, and the mess from the steel plant.

So I'm very pleased to see that this project is ongoing and that you're telling us how successful it is. I'm hoping to see, at the end of the day, that it will be a huge success. I guess that brings me to some of the questions that I wanted to talk about. It's for, I guess initially the deputy minister, you talked at the beginning in your opening remarks about the Remediation Monitoring Oversight Board. I'm just anxious to know basically, tell me a little bit about that board and who is on it and how they got to be there and what they do and that sort of thing.

MS. VANSTONE: Thank you very much for the opportunity to talk about this board because it is a unique arrangement for us in terms of regulatory oversight. The recommendation for the board came from the joint federal-provincial review panel on the environmental assessment. They recommended that the department establish a board with external advisors on it to provide a report directly to the minister on how we were doing as the Nova Scotia Department of Environment in terms of our lead responsibilities on the regulatory matters associated with the tar ponds.

The board was established in early 2008, was when they formally came together for the first time. There was an invitation for membership and we have three members on the board who, I think, are very well qualified individuals. Edwin MacLellan is a professor with Cape Breton University; Colin Hines, who is an environmental auditor and consultant; and Sinclair Dewis who is a retired expert from Environment Canada and an environmental auditor. It's a part-time board so the cost is approximately \$20,000 per year to support their work. They have access to Mr. MacPherson and his colleagues in the regulatory office in terms of looking at our approvals, looking at how we have responded to complaints, our inspection programs. They have a public address in terms of any information that the community may want to provide to them. They provide an annual report to the minister, which they did their first report to the minister was last year. I believe it was in the April time frame and we're expecting their second report very soon.

The kind of things in that first report, they spoke to the importance of the department to staff up our regulatory office and we're pleased to see that we had a full staff complement in place at that time. They were generally very positive of our regulatory program and felt that we were moving through that process effectively in terms of timely consideration of the applications and issuance of the approvals and appropriate

oversight and use of external experts and our own expertise in the department so they were complimentary of our regulatory activities to date.

They encouraged us to ensure that we have a very strong relationship with the federal government in this and just around the time the report came out we signed a memorandum of agreement with the federal government through Public Works and Government Services Canada in terms of integration and effective communication on our shared interests in this site. They also encouraged that we have good communications and collaboration across the many agencies and individuals who have an interest in the Sydney Tar Ponds and we certainly have that in place. We have many departmental cross-agency committees who are active and meeting regularly on the work that they're doing.

MADAM CHAIRMAN: Mr. Smith, I'm afraid your 20 minutes is up but we can come back for the next round. There will be 13 minutes in the second round so I do apologize for having to interrupt. We'll turn the floor over to Mr. Colwell who has 13 minutes now for the Liberal caucus.

MR. COLWELL: I'm going back to the off sets for the Aboriginal community. I think it's wonderful that you managed to do that. Can you explain to me under free trade how you managed to do it?

MR. DARROW: I'm not a free trade expert but I understand that there is a provision in the Free Trade Agreement and in the trade legislation that provides that if an area can be determined to have a depressed economy, for whatever reason, that there is some ability to put in place mechanisms whereby local companies, including local Aboriginal companies in this case, could have a slight advantage over other companies.

[10:15 a.m.]

In the procurement policy that we have put in place for the Sydney Tar Ponds Agency there is a provision in there that every project that is tendered, we look at several things. One, of course, we look at price but the final decision takes into account other factors as well. I can't give you the formula at this point in time but it does take into account other factors. Local content is one of the factors that we're allowed to take into consideration in evaluating tenders. That formula is made available to all bidders, has been made available to them for years now, so they're certainly aware of the rules. The rules are in place at the beginning of the game and they are not changed during the game. It is because of the nature of the economy and some of the challenges in the local economy, that we were able to put in place those special provisions in the procurement policy.

MR. COLWELL: I'm pleased to hear that but we were trying to build a new community centre in North Preston, which was a really depressed local community and

we had endless problems with bidding and ensuring that some of the local people got the work. I want to thank your department, by the way, for all the assistance in that project at that time. The support we received from them was outstanding. I just wondered how you managed to do it with the Aboriginal community. I'm really pleased that you did and I think it is very positive.

In talking to some of the employees in the area down there, they said there was an organizational structure change or attempt to change here not very long ago. Could you explain that to me?

MR. DARROW: I assume that's the reference to the issue that became apparent back in 2008, where we became aware of some issues with the Sydney Tar Ponds Agency and the performance of the agency. When we became aware of those we engaged an outside consultant to do an operational audit of the operations of the agency.

The recommendations that we received back from that consultant dealt with a number of issues, including the organization, roles and responsibilities of various individuals within the organization. Those recommendations have been implemented and I would say have been very effective at getting the agency back on track and performing to its peak capability now.

I think those issues are, as I say, related to that problem and I'm pleased to say that they are well behind us at this point in time.

MR. COLWELL: The question is, how did it manage to get like this? I mean this project has been going for a long time and it probably would seem obvious pretty early on that there could be some difficulties like this. Why weren't they addressed earlier? This had to have a negative effect on the program.

MR. DARROW: I think it's not unusual for an organization that is undertaking a project of this magnitude to encounter problems from time to time. I think that one of the reasons for that is that all of the people involved in this project are very passionate about what they do, so that's a good thing.

There are times, I think, when that passion may result in some conflicts. As I said, we didn't become aware of those until we were going through this transition from an environmental assessment phase, a planning phase, into an actual implementation phase. As I mentioned before, the types of skills that are required are quite different with those two phases. There may well have been issues prior to 2008 but certainly there was no indication that they were anything out of the ordinary. I think that transition kind of brought a light and maybe some increased stress that exacerbated those problems. As I said, as soon we became aware of them we moved quickly to engage a consultant to do an operational audit. Upon receiving the report from that audit, we've moved very quickly to implement the recommendations that had been made.

MR. COLWELL: Were there any staff changes because of those recommendations?

MR. DARROW: There have been a number of staff changes. Shortly after that audit was done there was a change in the CEO position of the agency.

MR. COLWELL: And that has been working well ever since that time?

MR. DARROW: That has been working very well since that time, yes.

MR. COLWELL: Again, back on the water treatment system that is going to be installed at the site, I believe you indicated it would be \$25 million ongoing allotted for monitoring and whatever else needs to be done to ensure that the work is successful. In other areas where this technology has been used, have there been any issues that you are aware of that may come up when the job is complete that people said, this could happen?

MR. DARROW: Again, I want to emphasize that for both of the sites, the Sysco and the tar ponds-coke ovens remediations - if we've erred, we've erred on the side of conservatism, in the sense that we've only employed proven technologies. While I can't tell you the details in terms of how that water treatment facility will work, it's a technology - again, we're not going to use Sydney as a testing ground for new technologies. So the technology is proven, but I can't give you the details on the process. It is proven, we have every expectation that it will produce an effluent that meets all of the guidelines. If for whatever reason it doesn't, we will do what has to be done to correct the problem.

MR. COLWELL: If for some reason something does happen down the road - hopefully it never does, as we all hope because we don't want to have to spend more money on this project than has already been allotted - is there a plan in place to provide more funding from federal and provincial governments for this if necessary?

MR. DARROW: The funding that's in place now is intended to take the project, the actual remediation part of the project, through to completion by the end of 2014. As I said, there is an allotment that has been set aside for the operation of the treatment facility for an indefinite period of time and for that monitoring. The total amount of funding that has been set aside is \$400 million for the cleanup of the tar ponds and coke ovens site. If there were some unforeseen things discovered 10, 15, 20 years down the road, they would have to be addressed by the government of the day. I can tell you that the environmental assessment, the baseline studies, the number of boreholes and test holes that have been done on that site are huge. We have, I think, a very good understanding of what's there on the site, the nature of the contamination, but it is a big site. If problems became apparent

outside of the ongoing monitoring and the treatment, that would be an issue, I think, for the governments of that day to have to address.

MR. COLWELL: When this continues, there has been so much controversy around this in the local community, as you're well aware, right or wrong - when you're finished with this and your treatment system and monitoring are in place, do you feel at that point that the community will be satisfied that you've done a good job?

MR. DARROW: Thank you for that question. We've seen a transition in the community over the course of the last three or four years and, in fact, perhaps most dramatically in the last couple of years when we've transitioned from the study phase, the environmental assessment phase into the actual implementation phase.

Don't get me wrong, the project has its detractors and those people are not inclined to back down from the criticisms of the project, but I think if you talk to the average person in Sydney today, most people were saying two years ago, get on with it. Now we've gotten on with it, I think they're looking forward to the day when the project will be complete. Again, it's more than just the remediation of an old industrial site, it's, I think, an opportunity to change the face of a community. I think you'll find that's one of the reasons why people are so passionate about this project. It's not just a remediation project, it's about much more than that, it's about how a community sees itself.

The member here mentioned about how people identify with themselves, I think his words were, anywhere but Sydney. People have identified. It's been a long-time legacy but our hope is through remediation of these sites and the future development of the sites, that will change. I don't want to be over dramatic about it, but I think it will change how a community, how people in the community see themselves. I'm confident that when it's all said and done, people will be pleased with the results.

MADAM CHAIRMAN: Mr. Colwell, your time has elapsed. If I could, I'd like to turn the questioning over to the Progressive Conservative caucus and Mr. MacLeod.

MR. MACLEOD: Just a quick question on the Sysco site. Mr. Campbell, you had mentioned earlier about the realignment of the tar cell and the road and the opening of Ferry Street bridge. Do you have a timeline on those two projects?

MR. CAMPBELL: The Ferry Street or the Spar Road straightening out is underway right now. We expect that will be in place this Fall. The Ferry Street bridge is going to take a little longer because of the work that's going on in the tar ponds. We'll put the abutments in first, but the solidification will have to happen and there are sewer lines to be relocated. We're probably a couple of years away before the new Ferry Street bridge is back in place.

MR. MACLEOD: Now, if we could go back to the tar ponds and our independent engineer. The question is, I guess, is the independent engineer the watchdog in conjunction with the Department of Environment? Or, above the Department of Environment? What role does the independent engineer and the Department of Environment play in the overall project?

MR. DARROW: I don't think there's any confusion between those two groups in terms of what their roles are. Certainly the role of the Department of Environment would be environmental monitoring and enforcement.

The role of the independent engineer has more to do with the physical execution of the project. There are a number of policies in place around procurement, the independent engineer would be looking to see that all of the tendering is carried out in compliance with those policies. The other thing the independent engineer would be doing is to ensure that the remediation is being carried out consistent with accepted engineering standards as well.

The independent engineer really doesn't have a - we haven't put a box around what that entity does, but as I say, as far as environmental monitoring and enforcement of environmental regulations, that would certainly be up to the Department of Environment. The independent engineer is more focused on the execution of the project from a procurement and engineering perspective.

[10:30 a.m.]

MR. MACLEOD: So earlier when you mentioned about the levels of engineers, there was a mention that most of the contractors had engineers that looked after the specifications of the different materials that were going into their projects. There have been reports of engineers at the contractor level agreeing to certain types of specifications for certain equipment that would be bought locally, and that the independent engineer has come across and said, no, that's not suitable. My question is, where did they get the power to do that?

MR. DARROW: Well, again, the independent engineer really can only provide advice. I mentioned earlier in response to a question, where does the buck stop? The buck stops with the CEO of the Sydney Tar Ponds Agency. The independent engineer is able to comment on technologies and suitability of technologies. At the end of the day, it's the Sydney Tar Ponds Agency that's responsible for implementing the project. I think there has been a good degree of co-operation, and in terms of the choices that have been made - I can't speak to the specific example that you're referring to, but the contractors have inspectors and engineers on-site because if there are questions down the road, in terms of performance, they want to be assured that they understand how the work was done in the event that that happens.

Again, it looks like there are a lot of inspectors on the site, but with the exception of the independent engineer, that's standard procedure for due diligence on a project of this magnitude.

MR. MACLEOD: I want to make it perfectly clear that nobody is complaining about the fact that there are a lot of people inspecting, because as you know and as I know as a lifetime resident of Cape Breton, we want to get this project done, we want to get it done right, and we don't want to have to have anybody come back and revisit it. It still begs the question as to with the large number of differing engineers, with the company, with the Sydney Tar Ponds Agency, within the agency itself, and then with the independent engineers - my experience has been that if you put four people in a room you can get five different opinions.

When you say that you're trying to be sure that everything is proper - and that is a good thing, nobody would question that - but my question then is still the same. Who, at the end of the day, has the final say? Is it the CEO of the Sydney Tar Ponds Agency? Is it the independent engineer or is it the contractor who bid on a project and said, this is what we're going to do and this is what we're going to purchase? Who has the final say as to what is the right product, the right specs to follow, and who can override whom?

MR. DARROW: Again, the buck stops with the CEO of the Sydney Tar Ponds Agency. I mentioned that the independent engineer reports directly to governments. The independent engineer does not report or is accountable to the Sydney Tar Ponds Agency. All reports that come to government on the project from the independent engineer go to the Sydney Tar Ponds Agency. The work of the independent engineer is overseen by a management committee, which is comprised of senior officials from the two levels of government, the federal and provincial governments.

The management committee is responsible for ensuring that the project is implemented in accordance with the funding agreement that was signed in 2004, so there are some basic requirements that are spelled out in that funding agreement. The management committee is accountable to governments for ensuring that those requirements are met. Those are very clear requirements set out in writing that have become part of the cleanup project. The CEO for the cleanup project is well aware of what those particular requirements are and has incorporated those into the project.

Again, at the end of the day, as far as the remediation is concerned, the project itself and the conduct of the project itself, the buck stops with the Chief Executive Officer of the Sydney Tar Ponds Agency.

MR. MACLEOD: So we have engineers, watching engineers, watching engineers, who report to a management committee that doesn't have engineers on it, that is watching the money.

MR. DARROW: Engineers don't report to the management committee. Again, the management committee is a joint committee of two levels of government. We have put in place a secretariat consisting of officials from Public Works and Government Services Canada and the Department of Transportation and Infrastructure Renewal.

I can assure you that the lines of accountability are very clear. I would also say that over the years since 2004, there has been a good degree of co-operation among the various parties that have been involved in the accountability framework for the report. For the most part, issues are resolved, are able to be resolved at the technical level. It is the exception, rather than the rule, when the CEO of the Sydney Tar Ponds Agency has to step in and exert his authority.

Again, I think you'll find that there's a good degree of co-operation with the regulatory authorities, with the funding authorities, and with the other interested parties that are involved in the project.

MR. MACLEOD: Thank you for that answer. I'll try this on a different tack now. When you are a small, local supplier who has equipment that meets the specs of the contractor, and you make an offer to supply and the contractor agrees with that, and then as it goes through these very clear lines of supervision and definition, it gets cancelled by somebody else. How do we explain that to the local supplier, as to why their products, when accepted by the contractor who is ultimately responsible for the work that is being done, cannot get his foot in the door?

I guess as clear as the lines might be for those who are intimately involved with the project, it doesn't seem to be that clear to some of the suppliers who are trying to keep their business alive and well in Cape Breton.

MR. DARROW: I'm going to defer to Gary in just a moment, but I would say that we've gone out of our way on this project to engage local suppliers. We've had supplier workshops prior to the project actually getting underway and tried to, at the outset of the project, to make small contractors, local contractors and suppliers, aware of what our requirements were going to be so that they could prepare ahead of time and ensure that they would be able to bid competitively on various components of the project.

Beyond that, I'm going to defer to Gary Campbell to address this.

MR. CAMPBELL: Thank you. I understand where you're coming from because I've heard some of the same issues. I can assure you that when the specs are prepared, and I think it would be safe to say the specs on this project are maybe just a step up from what is usually done because it is such a sensitive project. The specs are prepared and everybody bids on them and they should know what they are bidding on.

Quite often I think what happens is people don't read these, or they just kind of assume that that's what is written down, but I'll do it the same way I always have done it. In this case we have the federal government watching this project very carefully. The independent engineer is there on-site continually, so all of the times when there might be - times when people have thought that they were doing it the way they usually did, and suddenly it is found, no, that's not how the spec reads, the spec reads you have to do it this way. That has caused some concern at times.

MR. MACLEOD: I know my time is just about up so I just want to thank all the visitors here today. I appreciate the time and the effort and the answers they have given and wish you all the best with the project as it moves forward.

MADAM CHAIRMAN: Thank you very much, Mr. MacLeod. We'll turn the floor over to Mr. Smith for the NDP caucus - 13 minutes.

MR. SMITH: Thank you, Madam Chairman. Just to advise, I am going to share the time with a colleague. I'll give you a break, Mr. Darrow, I'll go back to Environment. Again, and this is probably more a general question than a specific one to the tar ponds or to the project, but the Environmental Goals and Sustainable Prosperity Act has a goal to put a new regulatory regime in place for contaminated sites. I'm interested in that. Could you just explain that to me, what that all means?

MS. VANSTONE: Yes, thank you for that question. The Environmental Goals and Sustainable Prosperity Act, as you may be aware, has two very broad goals. One is to ensure that we have a healthy and vibrant environment, one of the cleanest and greenest by 2020. But also, very important to that, is that we have a very strong economy by 2020, at or above the Canadian average. So it is a very interesting piece of legislation because it builds right in that the combined objectives on the environment and the economy.

They made some very specific objectives within that legislation, and one of them was to put new regulatory tools in place around contaminated sites. What they were specifically getting at is the challenge we have with contaminated sites across Nova Scotia - not unique to Nova Scotia, but certainly in Nova Scotia in terms of the redevelopment of these sites.

We have been talking a lot about the Sysco remediation, the Sydney tar ponds, but we have many smaller sites - we refer to them as brownfield sites - and they're really almost frozen from development because people are not clear on who's responsible for cleaning them up, what are the liabilities associated with the cleanup, where's the funding for the cleanup, what are the standards, are they clear, and do they change over time. So those are some of the types of barriers that we have for contaminated sites.

The department has been working in this area to meet the objective of the Environmental Goals and Sustainable Prosperity Act to put new tools in place, and there

is a time frame put on that of 2010. Some of the things that we have done to lead up to this: we have put in place a stakeholder committee, and departmental staff met with that group over the last 12 to 18 months to get their input and ideas. We have had a review done by the Law Reform Commission on contaminated sites in Nova Scotia, particularly talking about the liability challenges. That report was completed in December, and so that has also informed our process.

What we would like to do now is take that work and bring that out to consult more broadly with Nova Scotians about the challenges, the opportunities for us to turn these from a brownfield site where there is no development or activity happening into something that adds to our economic prosperity, and allow us to redevelop those sites and achieve some of the things that we have heard about with the Sysco and Sydney tar ponds properties, in terms of how they can turn around a community when you have these lands in the heart of the community, and you can remediate them and have redevelopment happening there.

So we expect very soon to be coming out with a consultation document, and I am going to get that input and bring that forward as recommendations into government. We will be working hard to meet that 2010 timeline, to have recommendations coming out by then.

[10:45 a.m.]

MR. SMITH: Thank you very much, deputy minister. I'm going to pass it over to my colleague. I just wanted to thank you all for coming and also wish you success in this project. It is one that we're all watching pretty closely, so thank you.

MADAM CHAIRMAN: Mr. Preyra.

MR. PREYRA: Thank you very much for coming. The member for Cape Breton Nova - the member for Whitney Pier - takes all of us down on a tour of his constituency, and I know I was there this Fall and he drove us around. I noticed the Minister of Transportation and Infrastructure Renewal, in answering a question yesterday in the House, said much the same thing - that the first thing he did when he got into that constituency, he got a tour from the member for Cape Breton Nova. We did see a lot of what's being done there and what needs to be done.

I want to go back to a couple of questions that were asked earlier. One is this question of engineers monitoring engineers. It seems to me, in looking at the Auditor General's Report, a lot of the issues come back to quality assurance. How do we reassure the public that the risk is being dealt with, that it's not that great. How do we reassure them that these projects have been completed in the best possible way, issues relating to monitoring and to inspections, to enforcement, and doing our own due diligence. It seems

it's the nature of the beast that you require people to monitor the monitors. So you're kind of stuck between two really bad options - you're not monitoring and monitoring to reassure to that level. So I understand where that question is coming from, that there are pretty good structural reasons, and it's just a comment.

I had a question about the complaints process, about people complaining about dust and smell, and generally how complaints are handled. It was mentioned in the Auditor General's report in Recommendation 3.6, that management should ensure that information entered into the complaints tracking system is complete and accurate and that policies and procedures for handling complaints are followed.

That's another thing that runs through the Auditor General's Report, information systems management. Could you tell us something about the activity tracking system that was being developed around the time and your response to that? I think it's Ms. Vanstone who will answer that. You said that you were working on the system and it should be on-line by 2010. I just want to get an update on where it is and how effective it has been in responding to that concern about the handling of complaints.

MS. VANSTONE: We're very proud of the new activity tracking system that has been put in place and it actually was implemented in September 2009. That system is now the working system for our environmental monitoring and compliance division right across the province. It's a very comprehensive system. It tracks complaints specifically. It also tracks our inspection activities, our approvals, the timelines associated with our approvals for when we should be going back and doing follow-up activity and audits. It tracks information on contaminated sites. So, for us, we're very excited about this because this will give us a lot more information. Right now we only have a few months of information on it but it really will be a very dramatic improvement in terms of the amount of information that we have.

Also, it allows us to be very clear in terms of the type of information and activities that we do because we record it in the activity tracking system. There are many checks and balances in the system in terms of the quality of the data. We have required fields that inspectors have to fill in before they can complete an inspection so that we know that they have dealt with all of the items. We have opportunities to identify what information is appropriate for a specific activity and what is not so that it becomes very clear in the file, in terms of what has been the history of our activity at that site. It's also a system that is built from a corporate perspective across the province. So it's building on a system that was put in place in the Occupational Health and Safety Division of the Department of Labour and Workforce Development. In fact, it evolved when we were the Department of Environment and Labour. It's also a system used by our colleagues in the Department of Agriculture in terms of food safety and it was built right from the outset using data collected in our Department of Service Nova Scotia and Municipal Relations on a

business registry data. So it has a lot of data integrity, has a lot of corporate data tools built into that.

Specifically on the complaints process to your question about how we deal with that, we do as a department respond to every complaint. That doesn't mean that we are always dealing with them directly. In some cases we might have a complaint where we would redirect it to another more appropriate agency if someone has contacted us, but we do respond to those complaints. We do a bit of a triage often on the complaints. So the speed with which we respond will depend on the nature of the complaint, the seriousness of the activity, the risk associated with it, and what else is going on.

MR. PREYRA: I had a question about, the earlier question about cost overruns. It was something that the Auditor General flagged in his February 2010 report, and I guess this is more a question for Mr. Darrow. In one of his recommendations, 5.4 to be specific, he says "An independent analysis of the costs necessary to complete the remediation project of Sydney Steel Corporation and adjacent sites should be conducted."

I understand from your answer to that question earlier, Mr. Darrow, you are satisfied that this project will be completed on time and within budget, and that there are contingency plans in place for post-completion monitoring if that's a possibility?

MR. DARROW: I think the issue that the Auditor General was addressing in his February report had to do with an adjustment to the Sysco Decommissioning Fund. I mentioned that government established these funds in 2001, to fund both the cleanup of the tar ponds and coke ovens site and the Sysco site. The decision was made by government in December 2008, to reduce the amount of funding in the Sysco Decommissioning Fund by \$35.2 million. That was done following consultation with Nova Scotia Lands Inc.

We were asked, could we complete the project and sustain a reduction of \$35.2 million in the fund. We indicated, based on our analysis, that there was a certain element of risk involved, and at the end of the day it's a question of how risk averse you want to be. If you are prepared to take some risks, and that was the case, the government of the day decided that it could take that risk. It's a risk around unknowns that might be discovered as we go into the final phases of the remediation project on the Sysco site.

The government of the day felt that the risk of finding things that we didn't already know, that would cost significant dollars to address, were low and consequently elected to reduce the fund by \$35.2 million. Before the books were closed on that fiscal year 2008-09, the government of the day decided that it wanted to take more of a conservative approach, reverse that adjustment and put the \$35.2 million back into the fund.

I'm comfortable, again, that we have sufficient funds in both the Sysco Decommissioning Fund and the Muggah Creek Remediation Fund to complete the project. I'm certainly well aware that until we've completed the project there are some risks involved, but I'm satisfied that the balances in both of the funds will be adequate to complete those two projects.

MR. PREYRA: Thank you, Mr. Darrow.

MADAM CHAIRMAN: Your time has elapsed now for the questioning. With that I'd like to just close up our topic this morning. We have a request for two different pieces of information, one was the water quality standard that's in place, and I think that may be coming from Mr. Darrow, I'm not sure - perhaps it's the Department of Environment? Okay, thank you. The other one was the economic benefits report that Mr. Darrow definitely said that he would provide.

I wanted to ask the committee - Mr. MacKinnon, you asked a question about the respirators and how often they may have been used on-site? I believe that was one of your questions around occupational health & safety. We didn't ask for that information, would you like that to be provided because I don't think it was available here?

MR. MACKINNON: Certainly from a work stoppage perspective, and the use of respirators, I don't think there have been many, if any, in recent times from what I hear, but I would like to have that information if possible.

MADAM CHAIRMAN: I thought we'd give you the opportunity to ask for that so if we could have that as well, that would be great. I'd like to give just a couple of minutes to the two deputy ministers to give any closing comments you might have. Perhaps we'll begin with Ms. Vanstone.

MS. VANSTONE: Thank you very much for the opportunity to be here today. I appreciate the committee's interest in our follow-up actions, particularly on the activity tracking system and our new quality assurance programs on environmental monitoring compliance. Staff worked very hard on those and we're very proud of what we've accomplished on those improvements.

Also, in terms of the discussion around the Sysco remediation and the Sydney tar ponds, many of the questions, quite rightly, were to the actual activity that is going on in that remediation. From an environment perspective, I just want to reiterate that we have a very strong regulatory program in place around these activities and the monitoring requirements and compliance requirements are in the approvals and those approvals extend beyond 2014.

Again, I just really want to thank you very much for the opportunity to be here and for your interest.

MADAM CHAIRMAN: Mr. Darrow.

MR. DARROW: I would only just want to reiterate something that I said previously and that these two projects, we have an opportunity here to transform a community. Anybody who has been aware of the issues around the tar ponds and coke ovens site will know that there has been a lot of controversy for many, many years. In fact, I think the first evidence of a problem was discovered back in about 1972, so it has been a long road to get here. We're trying to take a very measured and conservative approach to the remediation to ensure that we are successful. We're very confident at the end of the day that this will be a transformative project for Sydney.

I would just like to say, personally, that it has been a great deal of satisfaction being involved in a project of this nature and thank government for the opportunity to be involved in it. Thank you very much.

MADAM CHAIRMAN: On behalf of the committee, thank you to all our witnesses today. We appreciate you being here. I realize it's a very big subject to actually have two separate departments represented. The committee may, as we plan our upcoming agenda, perhaps look to come back to either the Department of Environment or to Transportation and Infrastructure Renewal around this, simply because we may feel there are more questions.

But for today I think we certainly have a much better understanding of it and of the importance both of environmental monitoring across the province and specifically the Sysco and tar ponds remediation.

I thank our visitors again and you're welcome to prepare to leave. For the committee, we have just a little bit of business. If you look at your agenda, next week we have the Department of Health coming with the Pharmacare Programs that we will be looking at. We will also, it's very clear, we'll take the hour after that to do our agenda setting. Hopefully members of the committee could plan to stay that extra hour. It may take less time, but we'd like to have that in our schedule.

There's also a request from our committee clerk asking for the items we would like to have brought forward for that discussion. The committee clerk put the three different caucus' leftover items from previous discussion onto one sheet. It's been e-mailed to members of the committee and we're asking each caucus to send in any of those items. If you want to bring some of those forward again or if you have any new items to add to that to let Mrs. Henry know, please. She had asked for it by yesterday, but I would say if we could get it to her by the end of Thursday, that would be good.

What we'd like to do is then be able to send that list out again with any updates to all members so we're well prepared when we come to the committee next Wednesday. I'd ask for your co-operation on that and perhaps to take that back to caucus. Thank you. With that, I'd like a motion to adjourn.

MR. COLWELL: So moved.

MADAM CHAIRMAN: Thank you, we are adjourned.

[The committee adjourned at 11:00 a.m.]