

THE ALBERTA ENERGY REGULATOR

IN THE MATTER OF Application No. 432
to the Alberta Energy Regulator

AER PROCEEDING

VOLUME 1

Calgary, Alberta

March 5, 2024

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1 Proceedings taken at Govier Hall, Calgary, Alberta

2

3 March 5, 2024 Morning Session

4

5 P. Meysami The Chair

6 H. Robinson Hearing Commissioner

7 E. McNaughtan Hearing Commissioner

8

9 D. Brezina AER Counsel

10 A. Huxley AER Counsel

11 E. Arruda AER Staff

12 T. Wheaton AER Staff

13 D. Grzyb AER Staff

14 A. Lung AER Staff

15 A. Stanislavski AER Staff

16

17 G. Fitch For Qualico Developments West Ltd.

18

19 E. Appelt For the Developers Group

20

21 E. Dixon For Brookfield Residential

22 Alberta Limited

23 M. Cherkawsky For Brookfield Residential

24 Alberta Limited

25

26

1 D. Naffin For Pembina Pipeline Corporation,
2 Plains Midstream Canada ULC,
3 and SECURE Energy Services
4 T. Myers For Pembina Pipeline Corporation,
5 Plains Midstream Canada ULC,
6 and SECURE Energy Services
7 T. Machell For Pembina Pipeline Corporation,
8 Plains Midstream Canada ULC,
9 and SECURE Energy Services
10
11 S. Duncanson For Keyera Corp.
12 J. Baker For Keyera Corp.
13
14 A. Porco, CSR(A) Official Court Reporter
15 _____
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1 (PROCEEDINGS COMMENCED AT 9:00 AM)

2 Opening Remarks

3 THE CHAIR: All right. Good morning,
4 everyone, and welcome to Govier Hall. Thank you for
5 taking the time to participate in this hearing today.
6 My name is Parand Meysami, and I will be chairing this
7 hearing. And with me -- the other Panel Members in
8 this proceeding are, on my right, Commissioner
9 Elizabeth McNaughtan and, on my left, Commissioner
10 Harold Robinson.

11 My colleagues and I respectfully acknowledge that
12 we are holding this hearing on the traditional
13 territory of people of Treaty 7 in Southern Alberta
14 which includes the Blackfoot Confederacy, that includes
15 the Siksika, the Piikani, and the Kainai First Nations,
16 the Tsuut'ina First Nation, and Stoney Nakoda, which
17 includes Chiniki, Bearspaw, and Goodstoney First
18 Nations. City of Calgary is also home to Métis Nation
19 of Alberta District 5 and 6, and we honour the ancestry
20 heritage and gifts of Indigenous people and give thanks
21 to them.

22 The AER staff assisting the Panel are
23 Ms. Danielle Brezina and Ms. Amanda Huxley from law
24 branch. We have Ms. Elaine Arruda as our hearing
25 coordinator. I'm sure you have met or talked to her.
26 Ms. Tara Wheaton, Ms. Anastasia Stanislavski,

1 Mr. Andrew Lung, Ms. Maryam Rahimabadi,
2 Mr. Fahad Hamdan of hearing services who will be
3 supporting us through the week.

4 Technical staff assisting the Panel is
5 Mr. David Grzyb. The Hearing Panel and all the AER
6 staff in the hearing room are wearing name tags whether
7 they are assisting in the proceeding or observing. If
8 you have questions, please approach the staff
9 supporting the hearing for assistance; however,
10 communication with the Panel must be on the record,
11 therefore please do not speak to the Panel Members
12 unless it's part of the hearing. We are not trying to
13 be unfriendly. But in our rules as quasi-judicial
14 decision-makers, any communication that we have with
15 the hearing participants take place openly and
16 transparently and on the record. We appreciate
17 everyone's observance and understanding of this
18 request.

19 In addition to AER staff, we have court reporters
20 to transcribe the hearing. For the benefit of the
21 court reporters, we ask that hearing participants
22 please speak slowly and not to interrupt or talk over
23 each other. Technical limitations only allow five
24 microphones to be live at any time, so please turn off
25 your microphone when you are finishing speaking.

26 Video of the hearing is being live-streamed

1 through a link on the AER website. We do not keep a
2 record of video cast, and the video is not an official
3 transcript. The court reporter will prepare the only
4 official transcript of this hearing. To any viewers
5 who are observing the video cast, we advise that the
6 recording or rebroadcasting of the hearing, audio, or
7 video is strictly prohibited, and the same applies to
8 participants in the room.

9 As well, we would like to advise for anyone in the
10 room that there is the possibility that you appear on
11 the video cast. If you have any concerns, please speak
12 to the hearing staff or AER counsel on one of the
13 breaks and explain your concerns.

14 To make the audio of the webcast work well,
15 everyone must use their microphones. Now I'm going to
16 ask Ms. Arruda to provide the safety procedure and the
17 particulars of this proceeding and the publication of
18 the notice.

19 E. ARRUDA: Thank you,
20 Commissioner Meysami. In the case of a building
21 emergency, announcements will be made through an
22 audible and visual alarm system. Follow the directions
23 announced and those of an AER employee. If you are
24 asked to evacuate, turn left as you exit Govier Hall
25 and proceed down the stairs. The muster point is in
26 the lobby of Eau Claire Tower which is across the

1 street to the west of us.

2 In the event of a medical emergency, call 911 and
3 alert me, the hearing coordinator, who will notify
4 building security. The first aid kit, defibrillator,
5 and fire extinguisher can be found by the sink in the
6 foyer area of Govier Hall. Myself, Ms. Wheaton, and
7 Ms. Stanislavski are first-aiders.

8 On this floor, the fire phone is located on the
9 wall adjacent to the elevators. An AER employee will
10 be present to assist anyone who requires support to
11 evacuate should there be a need to do so. Please note
12 that Govier Hall is the only AER room on this floor.
13 All other conference rooms are private and not to be
14 used as meeting rooms unless you are notified that a
15 room has been booked for you.

16 The subject of today's proceeding is a
17 reconsideration of the Alberta Energy Regulator's April
18 20th, 2022, decision on Amended Application
19 Number 1932335 brought by Qualico Developments West
20 Limited under subsections 33(1) and 33(2) of the
21 Pipeline Act and subsection 81 of the Pipeline Rules.
22 The AER issued its decision declining to decide Amended
23 Application 1932335 on April 20th, 2022.

24 On November 14th, 2022, the AER issued a notice
25 that it would be exercising its authority under
26 Section 42 of the Responsible Energy Development Act to

1 reconsider its April 20th, 2022, decision and advise
2 that it would conduct the reconsideration without a
3 hearing. On May 30th, 2023, the AER advised that,
4 going forward, the reconsideration would be conducted
5 with a hearing.

6 Through Amended Application Number 1932335,
7 Qualico seeks the alteration of certain existing
8 pipelines in the Horse Hill area of Northeast Edmonton.
9 Qualico requests that the AER direct Pembina Pipeline
10 Corporation to alter part of one pipeline and Plains
11 Midstream Canada ULC to alter two parts of one pipeline
12 to accommodate crossings by new or upgraded arterial
13 roadways that are proposed as part of Qualico's
14 development of the Marquis neighbourhood.

15 Qualico also requests that the AER order the costs
16 for the alteration of the pipelines to be shared 50-50
17 between Qualico, Pembina, and between Qualico and
18 Plains.

19 For purposes of the hearing record, the amended
20 notice of hearing and notice of scheduling of hearing
21 have been marked as Exhibits 15 .01 and 73.01 and were
22 distributed directly to all parties, and the notice of
23 hearing was advertised in the Daily Oil Bulletin. That
24 summarizes the details of the giving of notice of this
25 hearing.

26 Commissioner Meysami, I would like to remind

1 participants that materials filed in the proceeding
2 have been marked as exhibits prior to the hearing. The
3 most up-to-date version of the exhibit list can be
4 found in the SharePoint folder for Proceeding 432.

5 THE CHAIR: Thank you, Ms. Arruda. If a
6 party would like to submit a document into the record
7 during the hearing, you're requested to submit -- to
8 submit an electronic copy to Ms. Arruda so that it can
9 be shown on the monitors, and if agreed upon, assigned
10 an exhibit number.

11 Please send electronic documents by email to
12 Ms. Arruda using the hearing services email address and
13 to AER counsel. Because of technical limitations in
14 this room in Govier Hall, we cannot accept memory
15 sticks.

16 We will now register the hearing participants.
17 Please unmute your microphones one by one as you get
18 called to be registered. Please speak clearly and not
19 too quickly into the microphone so that the court
20 reporters can hear you. Please state your name for the
21 record and confirm the party you are representing. Who
22 is representing Qualico Developments West Limited?

23 G. FITCH: Good morning, Madam Chair. My
24 name is Gavin Fitch, that's F-I-T-C-H, of the McLennan
25 Ross law firm, and together with my co-counsel Eric
26 Appelt, A-P-P-E-L-T. We are representing Qualico as

1 well as the Developers Group. Thank you.

2 THE CHAIR: Thank you.

3 Who is representing the Developers Group? You
4 are. Sorry.

5 Who is representing Brookfield Residential Alberta
6 Limited?

7 E. DIXON: Good morning, Madam Chair.
8 My name is Evan Dixon, D-I-X-O-N, and I represent
9 Brookfield Residential, along with my co-counsel Marika
10 Cherkawsky.

11 THE CHAIR: Thank you.

12 Who is representing Pembina Pipeline Corp.?

13 T. MYERS: Good morning, Madam Chair,
14 Panel Members. My name is Tim Myers. I'm with the law
15 firm Bennett Jones. I'm representing Pembina Pipeline
16 Corporation in this proceeding. I'll let Mr. Naffin
17 introduce himself, but we'll be conducting our
18 cross-examination and argument jointly, and with us
19 today is our associate Mr. Thomas Machell.

20 THE CHAIR: Thank you.

21 So who is representing Plains Midstream Canada
22 ULC?

23 D. NAFFIN: Good morning, Madam Chair.
24 Daron Naffin, also of Bennett Jones. I'll be
25 representing Plains Midstream Canada, and if it's
26 helpful and efficient, I'm also representing SECURE

1 Energy Services, who I believe will be next on your
2 list. Thank you.

3 THE CHAIR: Thank you very much.

4 And who is representing Keyera Corp.?

5 S. DUNCANSON: Good morning, Madam Chair and
6 Panel Members. My name is Sander Duncanson. I'm
7 representing Keyera, and with me is my co-counsel Jesse
8 Baker. Thank you.

9 THE CHAIR: Thank you very much.

10 Is there any other participant who would like to
11 come forward? Hearing none.

12 Now I would like to briefly explain the procedures we
13 will use at this hearing. According to Section 21 of
14 the Alberta Energy Regulators Rules of Practice, all
15 witnesses must give evidence under oath or affirmation.
16 The court reporters will provide for this at the time
17 that the witnesses come forward to give evidence.
18 Please note that we will not be qualifying expert
19 witnesses in this hearing.

20 On February 20th, 2024, the Panel issued a hearing
21 schedule for Proceeding 432, Exhibit 8002. We will
22 follow the order of presentation set in that schedule.
23 We will first ask Qualico to come forward to present
24 its direct evidence. Witnesses for Qualico will then
25 be available for cross-examination by Pembina, Plains
26 and SECURE and Keyera, and questions from AER staff and

1 the Panel.

2 Following that, counsel for Qualico will have an
3 opportunity to conduct the re-direct examination of
4 witnesses on matters arising from the cross-examination
5 of the witnesses. After Qualico, we will follow the
6 same process for other participants in the following
7 order: Developers Group, Brookfield, Pembina, Plains
8 and SECURE, and Keyera.

9 Once we have heard from all participants, we will
10 then provide an opportunity for Qualico to present any
11 rebuttal or reply evidence, if they wish. If rebuttal
12 or reply evidence is presented, it will be subject to
13 cross-examination from participants adverse in interest
14 and questions from AER staff and the Panel.

15 Following this, we will provide an opportunity for
16 closing arguments for Qualico and other participants in
17 the order of registration and the orders set out in the
18 hearing schedule. Qualico will be given the
19 opportunity to respond to the closing arguments
20 presented by Pembina, Plains, SECURE, and Keyera.

21 As for today's schedule, the Panel proposes to
22 break for lunch at 12:45. We will reconvene at 1:45.
23 We will also take breaks midmorning and midafternoon.
24 All of this is, of course, dependent on various
25 developments that can alter our schedule. We'll try to
26 be flexible when possible to accommodate everyone's

1 needs.

2 Are there any questions about the process today or
3 the procedure for the hearing we intend to follow?

4 Hearing none.

5 If there is no questions, do the parties have any
6 preliminary matters they wish to raise at this time?

7 Seeing none.

8 I will now ask counsel for Qualico to seat the
9 witness panel and proceed with its direct evidence.

10 G. FITCH: Thank you, Madam Chair and
11 Hearing Panelists.

12 As you can see, the Qualico witness panel is
13 already seated. So maybe what I'll do is I will ask
14 Madam Court Reporter to either swear or affirm the
15 witnesses, and then I'll proceed.

16 BRAD ARMSTRONG, Sworn

17 GEORGE DAL BELLO, SHANE GEREIN, JASON FJELDHEIM,

18 IAN MORRISON, Affirmed

19 Direct Evidence of Qualico Developments West Ltd.

20 Witness Panel

21 G. FITCH: Good morning. Madam Chair,
22 I'm going to just quickly run through the names of the
23 witnesses, and then once they start -- once we start
24 our direct evidence, I'll have them each provide a more
25 fulsome introduction.

26 But starting closest to me, farthest away from the

1 Hearing Panel, is Mr. George Dal Bello of WSP. And for
2 the record, Mr. Dal Bello's curriculum vitae has been
3 filed as Exhibit 79.08 at PDF 4.

4 Next to Mr. Dal Bello is Mr. Shane Gerein of
5 Qualico, and his CV is at Exhibit 79.08, PDF 37.

6 Next to Mr. Gerein is Mr. Brad Armstrong of
7 Qualico. Mr. Armstrong's CV is at Exhibit 79.08,
8 PDF 1.

9 Next to Mr. Armstrong is Mr. Jason Fjeldheim of
10 TAG Developments. His CV is at Exhibit 79.08, PDF 7.

11 And closest to the hearing commissioners is
12 Mr. Ian Morrison of Stantec. His CV is at
13 Exhibit 79.08, PDF page 10.

14 So, with that, I'm going to begin, and I'm going
15 to start with Mr. Fjeldheim.

16 Q G. FITCH: Good morning.

17 A J. FJELDHEIM: Good morning.

18 Q Mr. Fjeldheim, can you briefly summarize your
19 qualifications for the hearing commissioners?

20 A Yes. I have a -- I am currently president of TAG
21 Developments. I have a degree in civil engineering. I
22 started my career at the City of Edmonton as a
23 transportation engineer primarily working on roadway
24 construction projects.

25 I moved from there to a company called Sherrick
26 Management which was a land development company

1 primarily developing in Southwest Edmonton. From
2 there, I became vice president of Melcor community
3 developments where I was responsible for all of the
4 communities in the Edmonton region. So there was about
5 15 communities that were developing at the time I -- at
6 the time I was there.

7 I joined TAG Developments as president seven years
8 ago. We are a primarily industrial developer active in
9 Fort Saskatchewan, Sherwood Park, and Acheson. And we
10 are a full-cycle real estate development firm. What
11 that means is we acquire raw land, plan the
12 neighbourhoods, put in the services, roads, pipes, zone
13 the lots, subdivide the lots, and then we build
14 buildings on them. That's that.

15 Q And, Mr. Fjeldheim, I take it you are a member --
16 excuse me -- of the City of Edmonton Arterial Roadway
17 Assessments Steering Committee; is that correct?

18 A That is correct.

19 Q And I also understand you were chair of the committee
20 from January 2023 to February 2024; correct?

21 A Correct.

22 Q Okay. And what is your role on the witness panel here
23 this morning, Mr. Fjeldheim?

24 A I am here to speak to the City of Edmonton's arterial
25 road assessment levy and represent the Arterial Road
26 Assessment Steering Committee.

1 Q Thank you.

2 Now, before we get to the ARA steering committee,
3 perhaps you can tell the commissioners a little bit
4 more about TAG Developments -- well, I think you've
5 already done that.

6 With regard to TAG Developments, the company of
7 which you're CEO, can you maybe provide the hearing
8 commissioners with a -- a bit of background in terms of
9 TAG's experience dealing with pipelines and crossings
10 and the issues that are relevant in this proceeding?

11 A Yes. Like many other developers, we have had our
12 frustrations with pipeline crossings; however, unlike
13 most developers, we have experience filing Section 33
14 applications. In one case about seven years ago, we
15 were able to resolve our issue with the pipeline
16 company through mediation.

17 We've most recently filed a Section 33 application
18 in October of last year. We had a project constructing
19 32 residential lots in Morinville, and we needed a
20 crossing from Pembina Pipelines. We had previously
21 crossed the pipeline in two other instances ; however,
22 this time, Pembina required us to pay \$3.2 million in a
23 backstop agreement, which obviously cancelled the
24 project.

25 So a few months after filing our Section 33
26 application, we received a letter from Pembina saying

1 that they had reviewed their pipe integrity and, again,
2 determined that no work was required; however, that
3 took 18 months.

4 Q Thank you.

5 T. MYERS: Madam Chair, I hesitate to
6 rise so early in -- in the proceeding. I'd just like
7 to note that none of what we just heard from
8 Mr. Fjeldheim is anywhere on the record of this
9 proceeding. Certainly we're here to talk about two
10 pipelines which are Plains' and Pembina's, but it's not
11 the pipeline that Mr. Fjeldheim's discussing; it's not
12 TAG's experience with Pembina Pipeline Corporation. So
13 just note that for the record in terms of how we're
14 about to proceed down this direct examination.

15 G. FITCH: Thank you, Mr. Myers.

16 All right. We'll carry on, then, and get to the
17 ARA steering committee.

18 Q G. FITCH: So, Mr. Fjeldheim, can you
19 explain for the hearing commissioners what is the ARA
20 steering committee?

21 A J. FJELDHEIM: Yes. So the ARA steering
22 committee -- "ARA" stands for arterial road assessment.
23 It's a cooperative decision-making group made up of four real
24 estate developers and three City of Edmonton staff.
25 There are also technical advisors similar to the AER
26 here. And it is given its authority by City council,

1 the City of Edmonton council, and the City of -- City
2 of Edmonton city manager, and we are responsible for
3 administering the arterial road levy bylaw.

4 Q And, Mr. Fjeldheim, can you explain for the
5 commissioners how are ARA levies calculated?

6 A Yes. So arterial road levies are calculated on a area
7 structure plan basis. An area structure plan is a
8 large statutory plan that encompasses usually between
9 five and seven neighbourhoods. The way the levy is
10 calculated is engineers calculate all of the costs
11 associated with the arterial roads in that area
12 structure plan, and then it is -- that total cost is
13 divided by the total number of developable acres, and
14 then that assessment is applied to development
15 agreements as development agreements are signed. So
16 developers are responsible for paying for all of the
17 arterial roads in an area structure plan.

18 Q Thank you.

19 Mr. Fjeldheim, what would you say is the primary
20 function of the ARA steering committee?

21 A Yeah, the primary function of the committee is to
22 approve all the costs associated with arterial roads,
23 and once calculations are completed on the arterial
24 road levy, we approve the levy rates.

25 Q And why is that important?

26 A Well, levies are a large part -- component of the

1 ultimate costs of housing, and the committee is,
2 therefore, very focused of keeping levy rates as low as
3 possible, and costs associated with the levy are
4 ultimately paid for by the home buyer.

5 Q Thank you, sir.

6 Can you confirm that you were a member of the ARA
7 steering committee when Qualico was directed by the
8 committee to bring an application to the AER under
9 Section 33 of the Pipeline Act?

10 A Yes, I can confirm.

11 Q And why did the ARA steering committee give that
12 direction?

13 A The ARA steering committee at the time was getting
14 multiple requests for pipeline crossings to be included
15 as a cost in the arterial road levy, and while the
16 committee has accepted these costs in the past, the
17 costs of the more recent requests were substantially
18 higher. The committee is used to seeing costs in the
19 area of 15 to \$20,000 per crossing, but the new
20 requests were in the hundreds of thousands and even
21 millions of dollars.

22 And this particular case with Qualico, it is in
23 what's known as the Horse Hills [sic] area structure
24 plan. It's located in Northeast Edmonton. In that
25 plan, there are 45 arterial road pipeline crossings.
26 If each of -- if each crossing is now expected to

1 average \$800,000, that would add \$35 million to the
2 levy, which would increase the levy by about 10 percent
3 or about \$1,000 per housing unit.

4 Also, in the area -- in the Horse Hills area
5 structure plan, there are likely over 100 local road
6 crossings. They have not been planned yet, but just
7 given the neighbourhood layouts, that's a -- probably a
8 conservative estimate. So if all of those crossings
9 are also included, we're talking about -- about \$3,000
10 per housing unit.

11 And so given my experience with Section 33
12 applications and the fact that affordable housing is
13 very much in the public interest, the committee
14 requested that Qualico pursue an application to the
15 AER. The appeal was meant to set a precedent for all
16 developers in the area and the Edmonton region.
17 Further, the committee approved that the costs
18 associated with this appeal be eligible to be included
19 in the levy. It was the committee's opinion that it
20 was in the interest of all residents of the Horse Hills
21 neighbourhood that this appeal happen, and that applies
22 to ranchers and farmers as well as developers.

23 Q Thank you.

24 And, finally, Mr. Fjeldheim, will the costs
25 associated with the pipeline crossings that are the
26 subject of today's proceeding -- will they be included

1 in the levy?

2 A I -- I cannot presume the committee's decision, but
3 based on past experience, costs would have been
4 accepted and then passed down to the residents through
5 the levy system.

6 Q Thank you.

7 All right. Mr. Dal Bello, I'm going to turn to
8 you next. How are you?

9 A G. DAL BELLO: Good morning. Good morning.

10 Q Good.

11 Can you please begin by providing to the hearing
12 commissioners a summary of your qualifications?

13 A Certainly. So I am a civil engineer registered with
14 APEGA as a professional engineer. I'm a senior project
15 manager with WSP. I've been with WSP and a predecessor
16 company since 2010. On the Meridian Street arterial
17 road project, I was the engineering lead for WSP, and
18 we've been acting on the project with Qualico and with
19 previous owners since 2014.

20 WSP is responsible on the project for things like
21 roadworks, underground utility design, and construction
22 support to help Qualico's contractor complete
23 construction. On the project, WSP led all of the
24 technical communication between Qualico and the
25 pipeline companies. We also act and work with MLC, so
26 we had the same role with MLC Group as well. This

1 included all sorts of correspondence of a technical
2 nature, including costs, and we also work for
3 governments, municipal and provincial government.

4 It is very common for clients to approach WSP
5 looking for help coordinating crossings. It's a very
6 complex process, and we help our clients through that.

7 Q Thank you.

8 And, sir, what is your role on the witness panel?

9 A Yeah, so my role is to speak to the discussions that
10 occurred over the last close to ten years on
11 Meridian Street and 167 Avenue and at 172 Avenue, which
12 are the two crossings in the application. So I can
13 speak to things like the degree of coordination that
14 was underway that has taken place. I can speak to
15 items related to engineering design, and I can speak to
16 the amount of accommodation that took place during
17 construction.

18 I can also speak to some of the planning, design,
19 and construction aspects that went into the
20 neighbourhood structure plan in Horse Hill
21 neighbourhood to -- since the project sort of got going
22 in 2014.

23 Q Thank you.

24 And you mentioned you can speak to the level of
25 accommodation that took place, and I take it you're
26 referring to accommodation -- the development

1 accommodating the existing pipelines?

2 A That's correct.

3 Q Thank you.

4 So you -- you mentioned in passing already, but
5 when did WSP first become involved with the
6 Meridian Street project in the Horse Hills area?

7 A So WSP became involved in the Meridian Street project
8 in 2014. At that time, we were working for the
9 previous landowner, Walton, as an engineering
10 consultant for design and construction. These are the
11 lands that were subsequently purchased by Qualico and
12 MLC. At that time, there was a consultant, CIMA+, who
13 was responsible for arterial road design; however, WSP
14 was contracted directly to Walton for all other
15 aspects, including the neighbourhood itself, utility
16 coordination, and pipeline coordination. Our work at
17 that time also included contributing to the
18 neighbourhood structure plan.

19 Q And to your knowledge, sir, when did Walton first
20 engage in discussions with Plains and Pembina regarding
21 the Meridian Street crossings?

22 A Yeah, so in the summer of 2014, I worked with CIMA+ and
23 Walton to obtain approval to go and find the pipelines
24 using hydrovac. We had to go find them as one of the
25 first steps in -- in the process of the roadway concept
26 plan.

1 I wasn't personally involved in some of the
2 conversations between CIMA+ and Walton and Plains, but
3 I do know that Plains Midstream was approached by
4 Pembina in the fall of 2014, and Plains had indicated
5 that they had not reviewed the roadway design at that
6 time, and they also indicated at that time it was
7 impossible to determine the next steps at that time.
8 And there is an Exhibit 05.01, I believe it's
9 page 1082, where that correspondence is -- is actually
10 entered into the record.

11 Q Right. I think you're referring to the amended
12 application, Exhibit 5.01, and Appendix L of the CIMA+
13 concept plan; is that right?

14 A That's correct.

15 And -- and that correspondence is a part of
16 CIMA+'s concept plan document, which is a City-approved
17 document.

18 Q And you -- you mentioned just a moment ago,
19 Mr. Dal Bello, that Pembina approached Plains. I
20 take it --

21 A Oh.

22 Q -- you mean CIMA+ approached Plains?

23 A Sorry. Yes. CIMA+ and Walton approached Plains.

24 Q Yeah. Okay. Carry on.

25 A So at that same time, similarly with Pembina, CIMA+ and
26 Walton approached Pembina. I was not personally

1 involved with their communication at that time, but I
2 was aware that Pembina had received a notice of
3 rezoning for the development and subdivision
4 applications for the development.

5 I was also aware in November of 2014 that Pembina
6 had presented rough pipeline upgrade cost estimates,
7 and they had also indicated a full reroute of the
8 pipeline around development to be paid at the
9 developers' cost, and there is exhibits for that as
10 well. Exhibit 5.01. I believe it's page 1096.

11 Q All right. And that, just for the record, is
12 Appendix K of the CIMA+ concept plan; correct?

13 A That's correct.

14 Q Okay. Thank you.

15 So you -- "you" -- I should say "WSP" -- has been
16 involved with this Meridian Street project as far back
17 as 2014. Can you tell the hearing commissioners what
18 was the engineering status of the Meridian Street
19 project when Qualico acquired the lands?

20 A Sure. Yeah. It was still very early. The project had
21 received approval from the City of Edmonton only for
22 the concept plan of Meridian Street, and that concept
23 plan was based on the approved NSP. Other than that,
24 there was no design approvals for the project in place,
25 and the project had several risks still to be resolved.
26 Notably, obviously, pipelines, but also there's a rail

1 crossing with CN Rail. We had an AltaLink transmission
2 line parallel to the project, which required AUC
3 approval, and we also had a creek crossing, which
4 required a DFO approval as well.

5 Q All right. And there's a lot of acronyms, but I take
6 it when you say "NSP", you're referring to
7 "neighbourhood structure plan"?

8 A Yes, neighbourhood structure plan.

9 Q And "DFO" is the Department of Fisheries and Oceans?

10 A That's correct.

11 Q Okay. Thank you.

12 So, sir, after Qualico acquired the project, I
13 take it WSP continued to be responsible for the
14 Meridian Street project?

15 A Yes. Also, WSP works with MLC Group on the portion of
16 the lands that they had acquired to the west of
17 Meridian Street. Those are the lands that are
18 accessible through 172 Avenue road crossing.

19 Q Okay. So just so we're clear, Qualico owns the lands
20 on the east side of -- of Meridian Street, north of
21 102nd -- 72nd Avenue, and MLC Group owns the lands to
22 the west of Meridian Street, also north of
23 172nd Avenue?

24 A That's correct.

25 Q Thank you.

26 So, sir, as part of WSP's ongoing involvement in

1 the project, were you involved in discussions with
2 either Plains or Pembina regarding the Meridian Street
3 crossings?

4 A Yes, I was. Qualico had directed WSP to basically
5 communicate with the pipeline companies on their
6 behalf.

7 Q And can you please summarize those discussions?

8 A Sure. The story starts in August of 2018. The project
9 was reintroduced to Pembina on August 27th, 2018, and
10 with Plains Midstream, very similar reintroduction of
11 the project occurred on August 20th, 2018. WSP led
12 those meetings.

13 At those meetings, WSP introduced some lessons
14 learned that we had seen, you know, in the area on
15 projects that had been completed, and we talked about
16 numerous options that do exist that did not require a
17 full reroute of the pipeline around the development.

18 During this time, Qualico's position was that a
19 full reroute of the pipeline was not in the best
20 interests of either party, and there seemed to be
21 proven alternatives that needed to be explored.

22 Throughout the design process, WSP facilitated
23 bringing Plains and Pembina to the table to engage in
24 the detailed design, to review technical details. We
25 had a ton of meetings, multiple meetings, and email
26 correspondence directly between WSP, Plains, and

1 Pembina.

2 During this time, WSP was doing the road design,
3 completing the -- the City of Edmonton approvals that
4 were required, and we modified the design specifically
5 to avoid and to accommodate the pipelines. You know,
6 an example of that is raising the road to ensure that
7 there is correct cover over the pipeline, thereby
8 removing the need for a relocation.

9 We also completed a field survey to actually put
10 our design into the field to allow all parties to go
11 out and take a look at it so that there is a very clear
12 understanding of the design for everyone.

13 To obtain the agreement from the pipeline
14 operators for construction, WSP worked to obtain
15 agreements for the new and widened roadways like
16 Meridian Street. Qualico was asked at that time to
17 sign agreements under which they were required to pay a
18 hundred percent of the engineering assessment costs.

19 These assessments were required by the pipelines
20 in order to determine what work would need to be done
21 to their pipe. We asked to provide -- or to -- to be
22 provided those engineering reports from Plains and
23 Pembina, but they were not provided to us, and the cost
24 of construction was understood to be paid a hundred
25 percent by the developers, in this case, Qualico, in
26 those agreements.

1 In the fall of 2019, after the requests from the
2 ARA steering committee to pursue a 50 percent cost
3 share, WSP was involved with Qualico's presentations to
4 both Plains and Pembina. This is where cost sharing
5 was requested as the ARA steering committee had asked
6 us to do so. At that time, Plains and Pembina
7 reiterated their positions that cost sharing was not an
8 option and it would not be entertained.

9 Q Thank you.

10 Sir, did either Plains or Pembina, in your view,
11 demonstrate any flexibility with respect to cost
12 sharing?

13 A No. It was clear to me that the only path forward was
14 either to sign the agreements or to not proceed with
15 the project. Later when it became clear that Qualico
16 was not open to paying a hundred percent of the costs,
17 WSP and Qualico had received a written notice of other
18 project agreements that were cancelled that we had
19 previously held with Plains and Pembina, and this
20 reduced the ability of Qualico to start construction on
21 schedule in 2019.

22 Q And these other agreements that were cancelled by
23 Pembina and Plains after Qualico refused to pay a
24 hundred percent, what -- can you give me an example of
25 what some of these other agreements are?

26 A Sure. The -- the agreements were agreements to allow

1 us to construct in proximity to the pipeline. So when
2 this occurred and the agreements were cancelled,
3 Qualico was unable to do construction in proximity of
4 the pipeline until this matter was resolved.

5 Q Thank you.

6 Finally, Mr. Dal Bello, does WSP play any role in
7 communicating with the ARA steering committee?

8 A Yes. So as noted by Mr. Fjeldheim, one of the key
9 roles of the ARA steering committee is to establish and
10 update the amount of the ARA levies, so WSP on behalf
11 of Qualico completes a regular update of the costs, not
12 just actual costs, but also anticipated costs, and
13 those costs are costs that directly impact the amount
14 that's calculated for the levy in any given year.

15 So our role includes presentation to the ARA
16 steering committee when requested. We also prepare a
17 routine submission of costs, which, you know, includes
18 a justification of why those costs are deemed to be
19 eligible for payment or reimbursement under the ARA
20 basin.

21 So during those routine submissions that we made
22 to the City of Edmonton and the ARA steering committee,
23 we did request from Pembina and Plains if they could
24 provide us anticipated construction or anticipated
25 costs for their pipeline work. We did get some, of
26 course, but, in general, this was not provided to the

1 level of detail that would be expected when we submit
2 costs for road construction to the ARA basin for
3 consideration. These are very detailed construction
4 costs based on contractor-specific estimates with a
5 line-by-line breakdown of which costs and -- and how
6 they've come to be.

7 Q But I take it, then, that the cost estimates that you,
8 on behalf of Qualico, received from Pembina and Plains
9 did not meet this level of detail; is that correct?

10 A That's correct. They did not meet that level of
11 detail.

12 Q Thank you. Thank you, sir.

13 I'm now going to move to you, Mr. Armstrong. Good
14 morning.

15 A B. ARMSTRONG: Good morning.

16 Q As I've done with the other two witnesses so far, sir,
17 I'm going to begin by asking you to provide a brief
18 summary of your qualifications.

19 A Thank you, Mr. Fitch. And good morning, Madam Chair
20 and -- and the Board.

21 My name is Brad Armstrong, and I'm the vice
22 president of community development for Qualico
23 Communities in Northern Alberta, which generally means
24 Edmonton in this case.

25 We're part of a -- Qualico is a fully integrated
26 home building and land development company that's been

1 in business for over 70 years, practicing in the
2 Edmonton region for over 60 years. We're proud of the
3 fact that we're still a privately held company. We're
4 still family-owned and -- and it's the third generation
5 now that's operating the business.

6 We do home building and land development
7 throughout the entire Edmonton region. We -- primarily
8 in the city of Edmonton but in other municipalities
9 throughout the region, including Sherwood Park,
10 Strathcona County, Leduc, Beaumont, Stony Plain, Spruce
11 Grove, and other municipalities.

12 My team is responsible for acquisition of land,
13 negotiation of land acquisitions and other assets, for
14 current and future neighbourhood development, as well
15 as for -- I'm also responsible for the project team
16 that oversees the implementation, planning,
17 engineering, and land development of all of our
18 projects throughout the region.

19 I know it's hard to believe, but I've been a
20 planner for over 30 years, and I've been with Qualico
21 Communities for 17 years now. Prior to work as a
22 planner -- or -- excuse me. Prior to work as -- with
23 Qualico Communities, I've been a professional planner
24 with several municipalities in both Saskatchewan and
25 Alberta.

26 I am currently a member of the Alberta

1 Professional Planners Institute and the Canadian
2 Institute of Planners, and I've got experience as --
3 with the -- serving on the board of directors for the
4 Urban Development Institute, Edmonton Metro Region
5 where I served as a chair of the Board for over two
6 years, and I'm a former board member of BILD Alberta,
7 which BILD, B-I-L-D, stands for "Building Industry and
8 Land Development", which is our provincial association.
9 And I currently sit on the BILD Alberta developer
10 committee.

11 Q Thank you, Mr. Armstrong.

12 You mentioned that prior to working at Qualico,
13 you were a planner at a number of different
14 municipalities. I take it those include Rocky View
15 County just outside of Calgary and Strathcona County
16 just outside of Edmonton?

17 A That's correct.

18 Q Okay. Thank you.

19 And, sir, what is your role on the witness panel
20 today?

21 A I'm here representing, obviously, Qualico and Qualico
22 Communities. I am the panel chair and a policy
23 witness.

24 Q Thank you.

25 Sir, can you please provide the hearing
26 commissioners with a brief summary of your involvement

1 with the Horse Hills development.

2 A Yes, of course.

3 So a part of my role as vice president is I'm --
4 I'm involved in the acquisition of -- of land for
5 future development. So in this particular case, I -- I
6 work directly with the vendor, which was Walton
7 International Group, who owned about 550 acres of land
8 that we were interested in at the time, so I was
9 involved in the direct negotiation of those lands and
10 acquisition for our joint venture in this case.

11 My project management team, which includes my
12 colleague to my right here, Mr. Shane Gerein, is -- is
13 in charge of developing the lands that are currently
14 owned by our joint venture known as Horse Hill Land
15 Company Limited.

16 Q Thank you.

17 Sir, when Qualico acquired the Horse Hills and
18 Marquis lands, did it do due diligence?

19 A Yes, of course. We -- we did. So due diligence is an
20 important part of the land acquisition process.
21 Typically this includes preparation of various
22 engineering and planning reports, including such --
23 and -- and other technical reports, including things
24 like wetland reports, environmental site assessments,
25 geotechnical reporting, all of which is designed to
26 help us understand the suitability of the land for

1 development.

2 Also, at that time, we undertake high-level
3 planning and engineering design that help us further
4 understand the constraints of the development, as well
5 as the efficiency of the land. So once all of that is
6 done, we -- we -- we -- we start to put together a cost
7 estimate and revenue analysis for the project, which
8 includes things like cash flow and a development
9 pro forma to help us determine whether or not this is,
10 in fact, a feasible project.

11 Q Thank you, sir.

12 Can you please explain next how the existence of
13 the Plains and Pembina pipelines factored into
14 Qualico's due diligence?

15 A Certainly. Obviously, we knew that the -- the
16 pipelines were there. We understood that there could
17 be costs associated with respect to crossing the
18 pipelines. We've got a lot of experience around the
19 region doing community development and typically --
20 yeah. So we do have experience in crossing them. So
21 we did view it as a potential risk in terms of the
22 cost, just as we do with other potential constraints
23 that we see on the lands.

24 Q And how would you characterize the, I guess, level of
25 detail or clarity that Qualico had when it was doing
26 due diligence with respect to crossing costs?

1 A I would characterize that as very -- very high-level.
2 I mean, we rely on our external consultants to help us
3 understand what those risks are. But we've also got
4 experience in crossing pipelines in the past, and --
5 and usually they're seen as -- historically they've
6 been seen as quite negligible, the costs.

7 Q So, sir, in this case, did Qualico specifically reduce
8 or lower the price it paid for the Walton lands because
9 of expected pipeline crossing costs?

10 A No, we didn't in this case.

11 Q Can you please explain?

12 A Sure. Yeah. When we go into acquiring a piece of
13 land, we already have a pretty good idea of what, you
14 know -- what the value of the land is going to be;
15 we're aware of what others have paid in the region;
16 we're aware of what our company has paid previously.
17 And even though we really get into the more-detailed
18 analysis during the due diligence process, we -- we do
19 do some preliminary work to help us determine whether
20 or not the value of the land would be -- or what we're
21 paying for the land would be at the right price, for
22 lack of a better term.

23 So in this particular case, we dealt directly with
24 the vendor, which, again, was Walton International, and
25 the price of the land that -- and the pricing guidance
26 that they had given us in order to make the offer was

1 exactly what we ended up paying for at the end of the
2 due diligent [sic] process when we closed on the land.

3 Q You -- you mentioned that Qualico has actually a
4 significant amount of experience dealing with
5 crossings. Can you maybe get into that a little bit in
6 terms of, in Qualico's experience, what are the
7 magnitude of costs historically you've faced when
8 dealing with pipeline crossings?

9 A Well, every situation is a little bit different, but,
10 for the most part, they're -- they're, like, anywhere
11 from zero dollars that we're paying over to the
12 pipeline company up to a few thousand. We would expect
13 that the pipeline companies are responsible for
14 maintaining the integrity and protecting the pipelines,
15 and, in our case, when we're introducing new -- new
16 crossings, we would be responsible for the costs
17 associated with -- with the actual road development.
18 And as Mr. Dal Bello had mentioned, that -- that's been
19 their experience as well, right.

20 So the costs that we've experienced in the past
21 is, yeah, basically zero additional cost other than the
22 road construction up to, yeah, limited amounts of --
23 of -- of capital or of construction costs or additional
24 construction costs outside of what we would typically
25 see on development of an arterial road or even a local
26 road.

1 Q Thank you, sir.

2 So I take it, then, when Qualico learned that, in
3 this case, the crossings would be hundreds of thousands
4 of dollars and potentially millions of dollars, you
5 were surprised?

6 A Well, certainly we were more than a little bit
7 surprised. It was our feeling in most cases that, you
8 know, the cost could be absorbed into the project
9 pro forma, and, in addition -- I mean, in the case of
10 arterial road crossings, these are shareable -- these
11 costs are shareable with other developers throughout
12 the region.

13 So we were, in fact, quite surprised when we
14 got -- after we had closed on the land and then we got
15 into the detailed planning and -- and had further
16 discussions with the pipeline companies to discover
17 that the costs were, in some cases, over a million
18 dollars per -- per crossing. But, in short, you know,
19 we -- we felt that we did our due diligence and --
20 and -- but we could only rely on the information that
21 was provided to us at the time.

22 Q Thank you, sir.

23 Just a couple of questions to close out. Qualico
24 has already in Proceeding 432 filed several documents
25 that are on the record of this proceeding.

26 Can you, sir, confirm that all of the documents that

1 have been filed, you know, either by our office on
2 behalf of Qualico -- can you confirm that those
3 documents were prepared at your request and under your
4 direction?

5 A Yes, they were.

6 Q And, sir, does Qualico adopt those documents as -- as
7 its evidence in this proceeding?

8 A Yes, we do.

9 Q And, sir, is that evidence accurate, to the best of
10 your knowledge and belief?

11 A Certainly, to the best of my knowledge, it is accurate.

12 Q Thank you.

13 All right. Mr. Gerein, next up is you. Sir, can
14 you begin by introducing yourself to the hearing
15 commissioners and briefly summarizing your
16 qualifications?

17 A S. GEREIN: Yes. Thank you, Mr. Fitch.

18 Good morning. So my name is Shane Gerein. I am a
19 professional planner with -- in the blink of an eye,
20 closing in 20 years of experience in planning and
21 development. I am a registered professional planner as
22 well as a member of the Canadian Institute of Planners
23 and the Alberta Professional Planners Institute.

24 Prior to my time at Qualico, I was a principal
25 planner with the City of Edmonton. I spent seven years
26 doing that after coming out of university at the

1 University of Saskatchewan and working in Lloydminster
2 as a consultant for a couple of years to start my
3 career.

4 Today I am a senior project manager at Qualico
5 Communities, and I've been a project manager here
6 for -- what? -- almost ten years, coming up. May --
7 since May 2014.

8 My typical day-to-day is managing land development
9 projects, and that includes the preparation and
10 approval of area structure plans, neighbourhood
11 structure plans. We manage rezoning and subdivision
12 applications ultimately for approval by the
13 municipality. And I lead a team who ultimately plans
14 and services new communities to facilitate the
15 construction of new homes.

16 Q Thank you.

17 And, sir, you might want to put the microphone
18 just a teeny bit closer. Thanks.

19 A There we go.

20 Q So, Mr. Gerein, can you confirm that you are the
21 project manager for Qualico -- Qualico's Horse Hill
22 developments, including the Marquis community that's
23 currently being developed?

24 A I am the lucky project manager, yes, together with a
25 co-manager who leads construction on-site.

26 Q Thank you.

1 And, sir, what is your role on the witness panel
2 today?

3 A So my role today is to speak to the facts, as I know
4 them, of Qualico's Horse Hill development discussions
5 with Plains and Pembina that happened either in person
6 or through our consultants in relation to the pipeline
7 crossings that are at issue with today's proceeding.

8 Q Thank you.

9 So can you please provide, for the benefit of the
10 hearing commissioners, a brief summary of Qualico's
11 Horse Hill development.

12 A Sure. So Horse Hill Land Company Limited -- and this
13 is a joint venture company of which Qualico is a
14 shareholder and a managing partner -- acquired
15 approximately 335 acres of land in the Horse Hill area
16 in 2018. Horse Hill is kind of known as one of four
17 priority growth areas identified in the 2010 capital
18 region growth plan. That plan has been superseded. It
19 is now known as the Edmonton metropolitan region growth
20 plan, and the area of Horse Hills is designated within
21 that plan as part of the metropolitan area.

22 So at full buildout that we're expecting -- I
23 mean, we're kind of throwing darts, of course, when it
24 comes to growth levels, but we expect full buildout to
25 occur of the Horse Hill area around 2045, and that's
26 kind of some of the numbers you can see if you're

1 looking at the Horse Hill area structure plan. And the
2 Horse Hill area structure plan accommodates five
3 separate neighbourhoods across approximately
4 28 hectares of -- 2,800 hectares of land, which is just
5 over 6,900 acres. The area is estimated to house a
6 population at full buildout of approximately
7 70,000 people in 30,000 households.

8 So the first neighbourhood being developed by
9 Qualico in the Horse Hill area is known as Marquis. To
10 date, Horse Hill Land Company has serviced one stage of
11 development comprising [sic] of approximately 170 lots.

12 Development of Marquis is -- is anticipated --
13 again, just predictions -- to be complete by 2035, and
14 this neighbourhood alone -- it's actually called -- I
15 guess to clarify, it's Neighbourhood 2 of Horse Hill
16 area structure plan -- is estimated to consist of
17 13,000 dwellings and an estimated population of
18 approximately 29,500 residents.

19 So I think everybody here knows we're -- we're
20 experiencing a period of growth in Edmonton and Alberta
21 as a whole. We welcomed more than 17,000 new
22 Edmontonians alone last year, so, you know, in theory,
23 at the current pace of growth, if Horse Hill just by
24 chance were the only remaining approved growth area in
25 the city, the land in this neighbourhood of Marquis
26 would be absorbed in less than two years. So we

1 believe this area is in need of housing.

2 Demand of housing is -- is quite high, and ongoing
3 development of employment areas in the northeast part
4 of the city as well as in Alberta industrial --
5 Alberta's industrial heartland, which is Canada's
6 largest hydrocarbon processing region, will drive the
7 need for housing in Northeast Edmonton for some time to
8 come.

9 Looking backing, Horse Hill area was annexed by
10 the City of Edmonton in 1982, so future development and
11 urban growth has been anticipated in this particular
12 area for a long time. Likely, the conversation started
13 prior to that -- or that annexation likely 50 to 60 years
14 ago.

15 Q Thank you, sir.

16 G. FITCH: And, just for the record,
17 Madam Chair, the witness referred to the Edmonton
18 metropolitan region growth plan. That can be found in
19 Exhibit 5.01, Tab 5, PDF 237, and he referred to the
20 Horse Hills area structure plan, which is also in
21 Exhibit 5.01 at PDF page 642.

22 Q G. FITCH: Mr. Gerein, we don't need
23 to -- to pull it up, but in Qualico's amended
24 application at paragraphs 36 to 44, there is a
25 discussion of the extent to which the previous owner,
26 Walton, had to design the project around the existence

1 of the Pembina and Plains pipelines. Can you just
2 discuss that briefly, please.

3 A S. GEREIN: Sure. Are -- are -- are we
4 wanting to show an image of the --

5 Q Sure.

6 A -- neighbourhood structure plan at this time?

7 I think I have a note here, Exhibit 5.01, Figure 5
8 on PDF page 756.

9 Q Right. And, sir, this -- this is a -- I take it a -- a
10 figure from --

11 A Yeah.

12 Q -- the Marquis neighbourhood structure plan?

13 A Yeah. This is what we would call the development
14 concept for Marquis, which is your general guide for
15 land uses, transportation patterns, and sequences of
16 growth within the community.

17 Q Okay. So the figure is pulled up on the screen. Why
18 don't you go --

19 A Okay.

20 Q -- ahead, sir?

21 A Okay. So, you know, it's evident through reviewing
22 some of the concept plan, the discussions that were in
23 the submission that was prepared by Walton and CIMA+
24 that, you know, there was never an appetite to relocate
25 the pipelines that traversed the neighbourhood, and
26 as -- it appears to be that that was related to

1 concerns over feasibility of moving those pipelines.

2 So, you know --

3 Q Sorry, Mr. Gerein. Sorry to interrupt.

4 A Yeah.

5 Q Maybe, just for the record, we should identify that on
6 Figure 5.0, pipelines are indicated sort of with a dark
7 grey --

8 A Yeah.

9 Q -- colouring?

10 A A dark grey colouring. They would be identified in the
11 legend as "public utility lots", which will be the
12 long-term land use designation on a plan of survey.

13 Q Sorry. And please go ahead.

14 A Okay. So the -- the NSP, the neighbourhood structure
15 plan, identifies the presence of 11 operational
16 pipelines within the Marquis NSP area, and the -- the
17 document actually states that all pipeline
18 rights-of-way will be accommodated in the development
19 concept.

20 So now -- and, of course, in planning and
21 development, there are always several constraints, such
22 as, you know, environmental constraints. It could be
23 wetlands. It could be tree stands. It could be the
24 presence of railways. Sometimes you run into an
25 ownership boundary where there might be a farmer, and
26 that's typical in this area, that -- that's not willing

1 to participate in planning or, you know, case in point,
2 the existence of oil and gas or utility infrastructure.

3 So all of these constraints can negatively and --
4 and typically do negatively impact the efficiency of a
5 community. But in this instance, it's important to
6 note there's pipelines that have diagonal routing of
7 pipelines, and this constitutes a constraint which
8 results in the design of the project being less
9 efficient than it would otherwise be.

10 So when designing new subdivisions, kind of --
11 we -- you know, we often talk around the water cooler
12 about plying -- planning and triangles being extremely
13 challenging and inefficient, and you can see how
14 pipelines have an impact on the design.

15 There are areas of the NSP that are constrained by
16 the existence of pipelines that will ultimately have a
17 net -- negative impact on the developability or of the
18 salability of certain parcels of land, and, in this
19 instance, on the map there's a school site kind of
20 towards -- in the southern half. It's got an 'S' on
21 it, and it's covered in green. You can kind of see it.
22 I mean, not the subject pipelines, but you can see how
23 the presence of pipelines is impacting a lot of the
24 parcels in that area, making them less efficient when
25 you apply setbacks and things like that relative to the
26 zoning bylaw. You'll find that there's a very limited

1 developability of those parcels remaining, and it's
2 influenced by the difficulty of planning in triangles.
3 So I think I'll leave it there, Gavin, unless you have
4 any ...

5 Q No, that's fine. Thank you, sir.

6 So can you describe for the hearing
7 commissioners -- we -- we've heard a little bit about
8 it from Mr. Dal Bello, but can you describe for the
9 hearing commissioners generally the discussions that
10 you had as project manager for the Horse Hills
11 development with Plains and Pembina regarding the
12 Meridian Street pipeline crossings?

13 A Yeah. Thanks.

14 Yeah, so obviously we've had meetings, good, civil
15 conversations. Of course, you know, there's been times
16 when I've felt a little bit frustrated and maybe a
17 little disenchanted, and -- and the most surprising
18 aspect of the communication was actually the lack of
19 transparency on the part of Plains and Pembina. Maybe
20 I'll try and call them the "operators" if I'm referring
21 to them later on.

22 Most notably, there was a requirement to pay up
23 front for engineering assessments that cost Horse Hill
24 Land Company \$100,000 for two engineering assessments.
25 So normally when we pay for a study or a report, like
26 anyone, it belongs to you. In the case -- in this

1 case, the operator essentially takes the money, hires a
2 third-party consultant to undertake the assessment
3 using our money, and the unique thing is that we're
4 prohibited from seeing and reviewing the assessment to
5 understand and potentially agree with or dispute any of
6 the proposed alterations, and that impedes our ability
7 to explore alternatives. You know, with our
8 engineering teams as well as -- as anyone from the
9 operators.

10 So what happens is operators simply tell us the
11 work that needs to be done, how much it's going to
12 cost, and we have no input or say; we just have to pay.
13 And this practice appears to be changing.

14 Developers, we have a lot of experience in moving
15 dirt and working underground. You know, we've received
16 cost estimates from the operators. They seem very high
17 to our engineers that are often unable to rationalize
18 the cost estimates that are being presented. So this
19 is definitely a very challenging and, certainly, what I
20 would see as an unusual way of -- of conducting
21 business, specifically the part about paying for
22 reports that we don't have the access to whatsoever
23 or -- or have the option to see.

24 And, you know, when we asked why, I think that
25 we've received next to no explanation as to why that
26 is.

1 Q So, sir, when you -- when you say that Qualico was
2 prohibited from reviewing these engineering
3 assessments, I take it you asked to see them, did you?

4 A Yes, we did.

5 Q And the answer was no?

6 A Correct.

7 Q Okay. And you also mentioned something about the
8 practice changing. Do you mean that -- that this --
9 the practice that you're now experiencing, which is to
10 be told to put the money up front and -- and that's it,
11 that's the new practice, and it's changed from the old
12 practice; is that right?

13 A I actually don't know. And -- and the reason is --
14 like, I think we've heard from, you know, Mr. Fjeldheim
15 and even Mr. Dal Bello and -- and Mr. Armstrong as
16 well, and we've dealt with various pipeline crossings
17 in other areas, not only as Qualico, but as an
18 industry, and, you know, even between operators, I feel
19 like we get different answers and a different procedure
20 and different practice in -- in many different
21 circumstances. So I actually -- I don't know what the
22 practice is and -- for me, though, it's -- it's
23 variable and maybe inconsistent.

24 Q Thank you.

25 So while you on behalf of Qualico are having these
26 discussions with Plains and Pembina, I take it you had

1 to provide periodic reports or updates to the ARA
2 steering committee?

3 A Yes. Absolutely. So part of my job is to, in this
4 instance, after being directed to file the application
5 to the Regulator, I would report to the steering
6 committee on meetings we were having, discussions with
7 consultants, and I would ultimately take direction from
8 the steering committee moving forward.

9 Q So when you provided these reports and updates to the
10 ARA steering committee with respect to the Plains and
11 Pembina pipeline crossings, what feedback did you get?

12 A So originally when the request came, it was the -- the
13 ARA steering committee directing us to engage in
14 diplomatic conversations, meetings with the pipeline
15 companies, and the intent was to try and reach some
16 agreement on sharing the cost for pipeline crossings,
17 and after that, if we were unsuccessful and the answer
18 was no, then the direction was to file the application
19 under Section 33 of the Pipelines Act.

20 Q Thank you, sir.

21 Now, three of the seven members of the ARA
22 steering committee are representatives of the City of
23 Edmonton; correct?

24 A That's correct.

25 Q And were they in support of Qualico filing this
26 application?

1 A I think we've established already that, yes, of course,
2 and not only was the committee in support of us filing
3 the application, it was the committee who directed
4 Qualico to file the application on behalf of -- of the
5 Horse Hill ARA assessment basin, but also on behalf of
6 the land development and home-building industry.

7 Q Thank you.

8 Now, notwithstanding that Qualico is responsible
9 to build the roads, do I understand correctly that the
10 crossings are, in fact, on City of Edmonton land, that
11 is, public road rights-of-way and not on land owned by
12 Qualico?

13 A That is correct.

14 Q And the roads themselves, these arterial roads, those
15 are City roads, right, not Qualico-owned roads?

16 A Yes, that is correct.

17 Q Okay. Thank you. Thank you, Mr. Gerein.

18 So last, but certainly not least, I'm going to
19 turn to you, Mr. Morrison. So, firstly, you can
20 confirm that you were retained by our office on behalf
21 of our client Qualico to provide independent expert
22 support for this proceeding?

23 A I. MORRISON: Yes, I do.

24 Q Right. Can you briefly, then, summarize your
25 qualifications?

26 A Great. Thank you, Mr. Fitch.

1 So I'll just briefly go through my qualifications
2 with an emphasis here to give confidence to the Board
3 that I know what I talk -- I know what I'm talking
4 about when I'm talking about -- in the public interest
5 and about design and operations of pipelines.

6 So I hold degrees in civil engineering with a
7 master's degree in geotechnical engineering, an MBA,
8 and I hold an Institute of Corporate Directors director
9 qualification. I graduated graduate studies in '85.

10 In '85, I joined Trans Mountain Pipelines as a
11 division engineer responsible for -- for pipeline
12 integrity and operational maintenance. I then went
13 into the head office in Vancouver as a senior civil
14 engineer and supervised the crossings group and as well
15 looked at the pipeline hydraulics and pipeline
16 integrity.

17 I then joined TransCanada PipeLines as assistant
18 manager and then manager of project services. In that
19 role, I supported the company in NEB hearings for the
20 cost of major capital projects and capital replacement
21 projects and supported the company as well too in -- in
22 the various toll hearings and tariff hearings. I was
23 also a core member of the mainline strategic planning
24 team with -- with TransCanada PipeLines, and -- and at
25 that time, I really started to take a deep dive into
26 pipeline development and pipeline economics.

1 Subsequent to that, I took a staff position at the
2 World Bank from '94 to '97. And we had several
3 functions there: One to -- one to develop hydrocarbon
4 infrastructure in -- in developing countries of various
5 types, and the other was to provide regulatory guidance
6 to -- to countries that had substandard regulatory
7 regimes.

8 So in that -- in that capacity, we worked in -- in
9 many countries in -- in Eastern Europe, in -- in the
10 -stans, Pakistan and Kazakhstan, in various countries
11 in Africa, the Caribbean, and South America, and Asia.

12 So in part of this role, what -- what I really saw
13 was -- was very important was the balance between the
14 distribution of costs and benefits in -- in -- in
15 pipeline agreements, but also in other forms of -- of
16 agreement for other types of infrastructure. And what
17 really made the agreements sustainable, and from an ESG
18 perspective, it was that balance of the distribution
19 of -- of -- of the costs and benefits of -- of these
20 projects to avoid the -- the infamous paradox of
21 plenty, which we happen to see a lot in -- in
22 developing countries. And this is where one group has
23 more power than the other group, and oftentimes it --
24 it might be a private entity or a government entity
25 that has more power over municipalities and provinces,
26 et cetera.

1 I left the World Bank in '97 to become a country
2 manager and project director for TransCanada
3 International developing projects in Southeast Asia.
4 And so at that time, we -- we were developing a -- a
5 branch, refined products pipeline, in Thailand. And so
6 my -- my duties there were really from -- from start to
7 finish to -- to plan and -- and develop that -- that
8 pipeline project.

9 The government changed. There was political risk
10 there. The government changed and -- and the joint
11 venture between the Petroleum Authority of Thailand and
12 TransCanada International ended. Just -- we were just
13 ready to sign the agreement. But we planned the entire
14 project and had it approved internally.

15 I went from there and I -- I became vice president
16 of Sorel Thailand, which was an environmental sciences
17 company and technology company, and we were
18 establishing a sustainable aquaculture project there.
19 I bring that up because actually the main portion of
20 the project was a water pipeline being sponsored by the
21 Asian Development Bank, and this was to bring water
22 from the -- from the highlands into the -- into the
23 lowlands where there was a great scarcity of water,
24 and -- and the sustainable aquaculture project was the
25 anchor customer for there. But there was a lot of
26 interaction, again, getting this pipeline approved and

1 planned.

2 In 2001, I -- I joined Stantec again in Canada,
3 and I've been a senior -- a principal and senior
4 principal there for -- for the last 23 years. In that
5 time, a lot of my time has been consulting on pipelines
6 and the development of pipelines in various
7 jurisdictions around the world.

8 I worked in Afghanistan for the redevelopment
9 of -- of the gas industry after the war. I spent about
10 12 years working in Peru and Bolivia developing
11 pipeline projects and advising the government on the
12 development of -- of pipeline projects.

13 In -- right now, I'm working on large pipeline
14 infrastructure projects in various jurisdictions around
15 the world, and that includes doing the business case
16 and the -- generally the economics around those --
17 around those pipelines. So that's a brief statement on
18 my -- on my background.

19 Q Thank you, Mr. Morrison.

20 G. FITCH: Now, Madam Chair, Qualico has
21 submitted three different reports from Mr. Morrison
22 that are on the record. The first is an August 13,
23 2021, report on the public interest, and that is
24 Exhibit 4.01 at PDF 58; the second is a November 29,
25 2023, reply to reports prepared by experts for Plains
26 and Pembina, and that's at Exhibit 64.01, PDF 20; and,

1 lastly and most recently, a report dated February 14,
2 2024, which is a reply to another report filed by
3 Plains and Pembina, and the -- and -- and that last
4 report is at -- at Exhibit 79.02, PDF 24.

5 Q G. FITCH: So, Mr. Morrison, simply can
6 you please confirm that these three reports which I've
7 just identified were prepared by you?

8 A I. MORRISON: Yes, they were.

9 Q And, sir, they are accurate, to the best of your
10 knowledge and belief?

11 A Yes, they are.

12 Q And you adopt those reports as your evidence in this
13 proceeding?

14 A I do.

15 Q And, sir, do you acknowledge that as an independent
16 witness retained to provide expert evidence, you are
17 under a duty to provide opinion evidence that is fair,
18 objective, and nonpartisan?

19 A I am. Thank you.

20 Q Okay. Thank you.

21 So, Mr. Morrison, in your reports, you have
22 expressed the opinion that cost sharing the pipeline
23 crossings that are at issue in this proceeding is in
24 the public interest. Can you please explain why you
25 hold that opinion by -- sorry -- providing a brief
26 summary of your written evidence in those three

1 reports.

2 A Great. Thank you, Mr. Fitch.

3 So my -- my role is -- is to say -- you know, is
4 to provide my opinion on -- on why I think that in this
5 case cost sharing is -- can you hear me okay? --

6 Q Yeah.

7 A -- is in the public interest.

8 So I summarized these reports into five -- into
9 five main points. And -- and what I'll do is I'll just
10 go through the points, and then I'll just do a quick
11 summary.

12 So the points are does it impact the cost of
13 housing, and does it impact the economy of -- of
14 Edmonton and the region? And so I think that this is a
15 fundamental point. So I talked before about the
16 distribution of costs and benefits, and -- and the
17 question about -- about the costs is what the cost is,
18 you know, to the City of Edmonton, to the Province of
19 Alberta, you know, to Canada as a whole. And -- and
20 the next point I'm -- so I'll just summarize the points
21 first, and -- and then I'll go through them in detail.

22 So the next point is, is this a matter between two
23 private corporations? And -- and I'll just give my
24 thoughts about whether it's a matter between two
25 private corporations or between the private
26 corporations and -- and the public as a whole and --

1 and how that -- how that works out.

2 The second difference is -- is -- is quite key
3 here, and I think it goes to the -- to the core of the
4 matter, and this is -- this is the amount paid for the
5 right-of-way, the easement, and this is the impact
6 of -- of those pipelines on this -- on this parcel of
7 land. And what I'll talk about in there is -- is the
8 change of context over time and -- and why this change
9 of context is so important in this matter of -- of
10 public interest around growing municipalities and what
11 that -- that does to the cost of housing and growing
12 municipalities and the distribution of costs and
13 benefits around that question.

14 The fourth point I'm going to talk about is -- is
15 going to be -- is -- is how could -- how could this
16 proposed imbalance between the costs and benefits, how
17 that might be rectified in this case and what the
18 outcomes of -- of that might -- might be in my opinion.

19 And -- and then my last point, and I'll use that
20 as kind of a summation, is talk about how this will
21 improve everybody's benefits and how working together
22 and collaborating instead of being with kind of
23 disparate parties with this -- this tension between the
24 parties, how that could improve the outcomes for all
25 parties. So that's what I'll -- kind of the basis of
26 my argument.

1 So, first of all, I'll talk about, you know,
2 the -- is it -- is -- how -- what's the cost impact for
3 the housing of Edmonton? So we've heard the
4 evidence -- evidence previous to this about -- that
5 actually there's -- there's several different cost
6 impacts.

7 It's not just the crossing and the cost of those
8 crossing impacts; it's actually the loss of
9 developable -- developable acres as a whole and then
10 the -- the suboptimal development of those acres. So
11 you're getting a lower cost per acre, right.

12 So if you had two different scenarios -- one, you
13 know, bare land without impediments, and one such as
14 this with several pipelines, you'd see the cost of
15 those -- you'd see the -- the value of that land being
16 higher than ones that's bisected by several different
17 pipelines and other types of infrastructure. So you
18 have a -- an efficiency there that we're looking at.

19 Now, I think -- I'm -- I'm -- I hope that
20 everybody can agree that the bare land would be more
21 valuable, like, if it was a contiguous parcel; there
22 was a bare land, it would be more valuable than a --
23 than a parcel that's bisected by all these pipelines.

24 And we've also heard evidence that I think is
25 quite conclusive that -- that talks about how much this
26 would cost per house. And, again, that's only these

1 crossings. That -- that figure didn't have anything to
2 do with the suboptimal development, planning, and
3 triangles, as well as the discount of developable
4 acres.

5 So this -- the crossing costs are actually just
6 a -- a -- a fraction of the total amount of the impact
7 of those pipelines across -- across these acres.

8 Now, is it in the public interest to have land
9 that's more efficiently developed? I -- I think that
10 that argument is -- is -- is quite obviously clear
11 that, yes, it is. That the lower the cost of housing
12 in -- in Edmonton, the lower the cost of housing in
13 Alberta, the lower the cost of housing in Canada
14 provides a superior outcome that's in the public
15 interest.

16 So we know that Edmonton is one of the fastest
17 developing communities in Canada right now. Alberta is
18 one of the -- maybe the fastest growing province in
19 Canada right now, and we -- we have affordable housing.
20 And I think that really is the Alberta advantage, and
21 we need to keep that Alberta advantage. And one -- one
22 of the reasons we -- we have affordable housing in
23 Edmonton is because of the organization and -- and
24 efficiency we've seen in -- in the land development
25 process, that we don't have the restrictions, we don't
26 have -- we have better development codes, et cetera,

1 and -- in Edmonton.

2 So I think that it is in the best interest that
3 we -- we minimize that cost of housing. But, again,
4 there's other issues, and it's not just the crossing.
5 It's -- it's the infrastructure, the -- the linear
6 infrastructure partners and the development community
7 working together in collaboration and all pulling in
8 the same direction and -- and to -- to have a -- a
9 order and a structure to the development process that
10 lends itself to efficiency. And so I think that that
11 would be a great benefit of this cost sharing as well.

12 So I see that the real -- there's really two
13 entities here: One is the -- the -- the public entity,
14 the people who are -- are buying the houses, the City
15 of Edmonton, the ARA committees, and -- and -- and then
16 there's the private corporations. So I really do think
17 that this is a public matter, and -- and I think the
18 fact that we're here, you know, as -- as well to --
19 Section 33 talks about the ability of -- of developers
20 to -- to come and have one of these hearings if there's
21 not an agreement, and -- and it's in the public
22 interest to have an agreement. So I think that that's
23 one of the points.

24 So on the second -- on the third point, I'd like
25 to talk about the -- the cost differences. So from my
26 reading of the -- of the evidence material,

1 Mr. Sheckter's property was -- was -- was taken or
2 expropriated, or I'm not sure the exact right word in
3 1971. And there was some disagreement there --

4 Q Sorry, Mr. Morrison. Just maybe for the benefit of the
5 hearing commissioners -- so Mr. Sheckter was the fellow
6 that owned one of the quarter sections that's now being
7 developed back in 1971 when Plains and Pembina secured
8 their right-of-way agreements or -- or right-of-entry
9 orders; is that correct?

10 A That's correct.

11 Q Okay. Sorry. Go ahead.

12 A I didn't explain that.

13 And so in 1971, 50-plus years ago, a certain
14 amount was paid for the use of the land, and there was
15 a small amount that was paid for injurious affection.
16 I think it was a thousand dollars. Something like
17 that. It wasn't very much.

18 And so that was 50 years ago. But in the context
19 of that time, it was -- it was zoned as agricultural
20 land, and they paid the amount for agricultural land
21 plus the small amount of injurious affection for
22 some -- for some development that he had planned and --
23 and some other isolation of -- of packets. And that --
24 that was fine. I mean, at the time, the pipeline paid
25 for that, and that was the value of the land.

26 But I see a difference between the ownership of

1 the right-of-way and the ownership of the surface
2 rights for productive purposes. So in agricultural --
3 in an agricultural setting, after a couple years, the
4 farmer can farm over the pipeline; there's not much of
5 a loss going on. But that was the context 50 years
6 ago.

7 The context today has greatly changed -- 50-plus
8 years ago -- the context has greatly changed, and
9 it's -- it's in the middle -- this -- this area is in
10 the middle -- middle of a developable area, and the
11 people who own the surface rights to the land are
12 having far greater, and I'll call it again, injurious
13 affection than occurred 50-plus years ago. The context
14 has changed.

15 So if we want to apply the principle of -- of, you
16 know, first in time, first in right to this case, we
17 can say -- we can see that somewhere along the line,
18 the surface owner has continually lost the value in
19 this land, and -- and so the distribution of the costs
20 and the benefits is, I would say, quite skewed.

21 And because of this, we can see, I think, there's
22 dissatisfaction among -- among the development
23 community, there's dissatisfaction in the City of
24 Edmonton about the outcome of this, I'll say, deal.

25 And so the deal that was struck 50 years ago, I
26 don't see that it's satisfying both parties today. And

1 one of the things I learned, you know, working in -- in
2 the spirit -- jurisdictions all over the world that
3 it's -- it's really -- the essence of the deal has to
4 continue to satisfy both partners, or the deal suffers
5 and -- and the economy suffers.

6 And so I think that this is what I see happened,
7 is -- is a small amount was -- was paid, and that
8 amount paid wasn't to compensate the owners forever and
9 ever. It -- you know, I don't think anybody thought
10 that that was a -- that that amount paid for the
11 right-of-way at that period of time would release the
12 pipeline owners from responsibility for the -- for the
13 injurious affection to surface costs forever and ever
14 for all -- for all time. I mean, I don't think that's
15 a reasonable assumption.

16 And -- and so, on this, I see that the cost that
17 was paid then was small compared to the large amount
18 of, again, directly attributable loss and value of the
19 land to the surface holders today. And I think that
20 cost sharing in this case can have several -- can have
21 several benefits.

22 So one of the benefits, and we -- we've heard that
23 it's not only the -- the dollar value, but it's the
24 confusion in the process and the delay in the schedule
25 that's occurring, and I think that cost sharing in this
26 case could help on several fronts: One, it would defer

1 some of the -- some of the costs with the crossings,
2 and so that would make up for some of the -- the
3 distribution of the costs and benefits. But also it
4 would get all the team members working in the same
5 direction to minimize the cost of -- of this -- you
6 know, of the direct impact of the pipelines on this
7 developable land. It would -- it would encourage the
8 parties to be more transparent on -- on what the costs
9 are and why those costs are being incurred, and it
10 would encourage them to resolve these issues in -- in a
11 very timely manner.

12 So I think there's several cost signals that
13 sharing -- that -- that -- you know, economic price
14 signals that would share how cost sharing would --
15 would help. And so I see some of those issues as well
16 too.

17 And just a -- just to sum up my points here and --
18 it's -- it's talking about environmental and social
19 governance and -- and the idea about the distribution
20 of costs and benefits over time and -- and how the --
21 how making sure that the -- both parties are -- are
22 still happy with that agreement and how that will
23 benefit, really, all parties.

24 And so I see from the ESG component, you know,
25 there -- there -- there is -- even in Alberta, there is
26 noticeable resistance to pipeline development. And

1 I've, you know, spent most of my life developing
2 pipelines, so I'm squarely on, you know, the side of
3 the -- the efficiency and the safety around pipelines
4 and the necessity to develop Alberta resources.

5 But at the same time, you can see because of
6 this -- this imbalance between the costs and benefits
7 around growing municipalities like Edmonton, due to
8 issues like this, the parties become dissatisfied with
9 the pipeline industry. And because they say, you know,
10 it's all -- it's all take and no -- and no give.

11 So I really think this cost sharing would
12 alleviate some of that tension. The parties would be
13 working together to find the lowest cost fastest and
14 most efficient solutions, and I -- I think that that
15 really -- from -- from -- it's only my opinion. I
16 don't work for a pipeline company.

17 But in my opinion and my background, I would think
18 that -- that -- that, you know, that would improve
19 the -- the -- the social governance issue of the ESG
20 question.

21 And on that note, I think that's all my evidence.

22 Q All right. Well, thank you very much, Mr. Morrison.

23 This is probably not a necessary final question,
24 but I'll ask it anyways. I take it, then, from
25 everything that you've said, it is your independent
26 opinion that cost sharing in this case with respect to

1 these three pipeline crossings is in the public
2 interest?

3 A Yeah, in -- in my opinion and in my experience, having
4 worked all over the world in many jurisdictions, I --
5 I -- I see that -- I think that cost sharing would --
6 would alleviate several of -- of what I see as kind of
7 the systemic issues around the -- the interference
8 between, you know, the development of houses and
9 pipeline infrastructure in growing municipalities in
10 this context in this case, yes.

11 Q Thank you very much.

12 G. FITCH: Madam Chair, that completes
13 the direct evidence of the Qualico witness panel. The
14 panel, of course, is now available for
15 cross-examination.

16 THE CHAIR: Thank you very much, witnesses
17 and Mr. Fitch.

18 I would offer we take a break, and then we begin
19 with cross-examination. How much break is sufficient
20 for you to prepare for crossing? 'Cause we are ahead
21 of schedule.

22 D. NAFFIN: Madam Chair, we're in your
23 hands. Ten minutes would be sufficient. But certainly
24 10, 15 minutes, whatever is in your contemplation is
25 fine with Plains, Pembina, and SECURE. Thank you.

26 THE CHAIR: So how about 10 to? We

1 come -- we reconvene around 10 to. Thank you.

2 (ADJOURNMENT)

3 THE CHAIR: You may proceed.

4 T. MYERS: Thank you, Madam Chair. And
5 good morning again.

6 T. Myers Cross-examines Qualico Developments West Ltd.
7 Witness Panel

8 Q T. MYERS: Good morning, witness panel.
9 I'm just going to make sure I've got everybody's name
10 and location on the panel straight. I can't exactly
11 see that well from -- from back there.

12 So, as I understand it, I've got Mr. Morrison at
13 the far end?

14 THE COURT REPORTER: No. Turn those back to me,
15 please. Sorry.

16 Q T. MYERS: And I've got Mr. Fjeldheim
17 next to him, and then Mr. Armstrong, Mr. Gerein, and
18 Mr. Dal Bello.

19 Mr. Fjeldheim, you're with TAG Developments;
20 right?

21 A J. FJELDHEIM: Correct.

22 Q And I understand based on your direct testimony that
23 you're the former chair of the ARA steering committee;
24 right?

25 A That is correct.

26 Q And how long have you been on the ARA steering

1 committee?

2 A You're testing my memory, but it's about eight years.

3 Q Okay. And how long were you in your role as the chair
4 of that committee?

5 A One year.

6 Q And who are the other members of the committee? I know
7 you had mentioned -- or someone had mentioned there are
8 three representatives from the City of Edmonton, but
9 what are the other members of that committee?

10 A They are other developers that are members of the Urban
11 Development Institute.

12 Q Right. And what developers or which development
13 companies are they with?

14 A Right now, one is with Cantiro, one is with Rohit, and
15 the other is with Qualico.

16 Q Thank you.

17 A Those are the current members, but they rotate.

18 Q They rotate.

19 And how --

20 A Yeah.

21 Q -- frequently would they -- would they rotate?

22 A Probably about every two years. It depends on people's
23 availability of schedule.

24 Q And how is it the case that you've been on the
25 committee for eight years if they rotate every two
26 years?

1 A They don't rotate every two years. I would just say
2 that that's -- it's actually probably longer. Three or
3 four years is probably -- as they rotate. I've been on
4 it for eight years because of my unique experience both
5 as a transportation engineer with the City of Edmonton
6 and my experience calculating arterial road levy rates.

7 Q Okay. And, Mr. Armstrong, who's the representative on
8 the committee from Qualico?

9 A B. ARMSTRONG: At -- at the current time is
10 our land development manager and our -- our GM, and
11 that's Kraig Radtke.

12 Q Okay. And do you know how long he's been on the
13 committee?

14 A Just a few months from what my recollection is, so it's
15 only been the last -- less than a year.

16 Q Okay. And would there have been another Qualico
17 representative on the committee prior to that?

18 A It's been a long time since we've had any
19 representation on there, so --

20 Q Okay.

21 A And there was nobody sitting on there at the time
22 when -- when we were directed by the AER to -- to move
23 forward with this -- or -- sorry -- by ARA. ARA.
24 Sorry. My apologies.

25 Q Right. Okay.

26 And, Mr. Fjeldheim, what part of Qualico's cost

1 sharing application or other submissions were you
2 responsible for preparing?

3 A J. FJELDHEIM: I did not prepare any of the
4 applications.

5 Q Okay.

6 A That's not the role of the steering committee. The
7 steering committee reviews the applications.

8 Q Right. I'm just trying to --

9 A Yeah.

10 Q -- understand your role here, sir.

11 A Yeah.

12 Q Mr. Armstrong, as I understand it, Qualico's cost
13 sharing application was made at the direction and with
14 the support of the City of Edmonton; right?

15 A B. ARMSTRONG: That's my understanding, yes.

16 Q And, sir, there's no representative from the City of
17 Edmonton here to speak to its direction to Qualico in
18 this regard or to speak to its support for Qualico's
19 cost sharing application; right?

20 A As far as I know, that's correct.

21 Q Nobody on this panel from the City of Edmonton; right,
22 sir?

23 A Oh, but there -- yes. There was a letter submitted,
24 though, on -- on behalf of the City of Edmonton.

25 Q Right. But nobody here today or -- or in this hearing
26 room?

1 A That's my understanding.

2 Q So, Mr. Armstrong, Qualico first filed its cost sharing
3 application with the AER in November 2020; correct?

4 A I believe so.

5 Q And, sir, I take it you or someone else at Qualico
6 reviewed that cost sharing application prior to it
7 being filed with the AER; right?

8 A We did, yes.

9 Q And fair to say that you or whoever at Qualico was
10 responsible for reviewing it and directing that work
11 agreed with the contents of the cost sharing
12 application prior to it being filed with the AER?

13 A Yes.

14 Q All right. And then once you were happy with it, you
15 would have provided instructions to Mr. Fitch to file
16 that application with the AER; correct?

17 A Yes, that's correct.

18 Q Okay. So Qualico subsequently filed an amended version
19 of the cost sharing application in January 2022; right?

20 A That's correct.

21 Q Okay. And in that filing, you or your counsel included
22 a black line showing changes from the November 2020
23 cost sharing application to the January 2022 amended
24 cost sharing application; right?

25 A Yes.

26 Q And that's at Exhibit 5.01, and I believe it starts at

1 PDF page 1179. So if we can get that brought up on the
2 page -- or on the screen. And if we go to paragraph 4
3 of that black line at PDF page 1184.

4 A Okay.

5 Q And if we can just scroll down to -- to 1184. Thank
6 you. Just a little bit further so we can see
7 paragraph 4. Thank you.

8 So, Mr. Armstrong, Qualico originally specified
9 that it had discussed with Pembina and Plains the need
10 for, and I quote: (as read)

11 Carrying out engineering assessments and
12 using concrete slabs or other
13 load-distributing structures, "the work", at
14 certain new or upgraded arterial road
15 crossings, "the crossings", to protect public
16 safety.

17 Right?

18 A That's -- that's my recollection.

19 Q And that's what you see on the screen here, sir; right?

20 A Yeah, that's what we're looking at, yes.

21 Q And, again, that was language with which you agreed
22 prior to the original cost sharing application being
23 filed with the AER; correct?

24 A I'm sorry. You're -- you're referring to the stuff
25 that's been crossed out?

26 Q That's right, sir.

1 A Yeah, at the time. Yes.

2 Q Right. And then in the next sentence in this same
3 paragraph, we see that Qualico originally stated that,
4 and I quote: (as read)

5 While Qualico and the operators agree on the
6 need for the work, they have been unable to
7 agree on the sharing of costs for the work.

8 Right?

9 A Yeah. Yeah.

10 Could we just caucus just for a moment?

11 Q Yeah, you bet.

12 A Okay. Thanks.

13 Sorry. Could you just repeat the question again?

14 I'm sorry.

15 Q So in the sentence in the middle of the paragraph, we
16 see that Qualico had originally stated in its
17 application that, and I quote: (as read)

18 While Qualico and the operators agree on the
19 need for the work, they have been unable to
20 agree on the sharing of the costs for the
21 work.

22 Right?

23 A Yeah, I don't know the context. I don't recall
24 everything there, but I -- I -- I believe that the only
25 agreement between Qualico and the operators at that
26 time was -- was that there was work that needed to be

1 done.

2 Q Right. Which is exactly --

3 A Right.

4 Q -- what's stated on the page; right?

5 A S. GEREIN: May -- may I --

6 Q Yeah.

7 A -- maybe interject?

8 I think the context of -- of any agreement was
9 that we were in agreement at the time that maybe
10 something needed to be done or that the crossings
11 might -- might be necessary. We did never -- we never
12 did agree with the pipeline companies on the
13 methodology of construction or the -- whatever it might
14 be in terms of the needs that the pipeline crossing
15 would entail. So, hopefully, that makes sense. No
16 agreement on what was actually necessary. We didn't
17 know what was necessary because we didn't have the
18 information available to tell us what the methodology
19 might be.

20 Q All right. So, Mr. Gerein, if I take you back to the
21 start of that paragraph and the quote that I just read
22 out to Mr. Armstrong, in your original application, you
23 referenced: (as read)

24 Carrying out engineering assessments and
25 using concrete slabs or other
26 load-distributing structures, "the work", at

1 certain new or upgraded arterial road
2 crossings to protect public safety.

3 So you're suggesting to me that that doesn't represent
4 agreement in terms of the work that needed to be done?

5 A No, it does not. That was an idea that we had
6 presented as a possible option for a load-distributing
7 structure, nothing more.

8 Q And that was an idea that you had presented?

9 A That was an idea that our consulting engineers had
10 presented based on some experience that they had had
11 previously.

12 Q Okay. And it just happened to be the case that it was
13 the same idea that Pembina and Plains were also
14 proposing to protect the pipelines?

15 A Yes. I would say it's actually somewhat coincidental.

16 Q Okay.

17 A But, also, I think that you could agree that civil
18 engineers have like minds periodically, and maybe it --
19 you know, maybe it was the best way for it. We don't
20 know. We still don't know.

21 Q Sure. So in the final sentence of paragraph 4, Qualico
22 originally stated, and I quote: (as read)

23 Accordingly, Qualico seeks direction from the
24 AER pursuant to Section 33(2) of the Act and
25 Section 5.4 of Part B of Directive 77 with
26 regard to the sharing of the cost of the

1 work.

2 Right?

3 A B. ARMSTRONG: Yes.

4 Q And, sir, just to confirm, in the original cost sharing
5 application, Qualico wasn't seeking any relief under
6 Section 33(1) of the Pipeline Act. Do I have that
7 right?

8 A You know, I don't recall that exactly. I believe that
9 there were discussions. We were trying to find out
10 just what obligations the pipeline companies would
11 have. I remember being surprised at the time that --
12 that there was any significant costs being asked to --
13 for us to basically endure.

14 Q Right. I'm not talking about your discussions with the
15 pipeline companies.

16 A Right.

17 Q I'm talking about what was written in your original
18 application, and there was nothing in there to indicate
19 that you were seeking relief under Section 33(1) of the
20 Pipeline Act; right?

21 A Yeah. My apologies.

22 Yeah, I understand. That's correct.

23 Q And the reason for that being that Qualico and Pembina
24 and Plains all agree on the need for the alteration
25 work, as you said in paragraph 4 that's up on the
26 screen; right?

1 A Well, we -- not necessarily. We understood that --
2 that there was work that had to be done, at least
3 that's what we were being told by Pembina, so we
4 were -- or -- or by the operators, and so we were
5 relying on them to some degree, but also as Mr. Gerein
6 had indicated, we were relying on information that we
7 got from our own engineers.

8 Q Okay. And you just chose to characterize that
9 situation as agreement on the need for the work in that
10 original application. I've got that right?

11 A That's fair. That's the way that it's written.

12 Q Right. If we can go down to the next page, to
13 paragraph 5, please. So here we again see Qualico
14 describe the alteration work in the original cost
15 sharing application as: (as read)

16 Concrete slabs or other load-distributing
17 structures.

18 Right?

19 A Yeah.

20 A S. GEREIN: Correct.

21 Q And then if we can go to paragraph 63, which is on PDF
22 page 1208. We, again, see Qualico describe the
23 alteration work in the original cost sharing
24 application as: (as read)

25 Concrete slabs or other load-distributing
26 structures overtop of the pipelines and under

1 the newly constructed roads where pipelines
2 cross the roads.

3 Right?

4 A B. ARMSTRONG: Yes, that's correct.

5 Q And if we keep going down one more paragraph to -- to
6 64, which is on the screen there, Qualico's original
7 evidence was as follows: (as read)

8 As discussed above, there is no disagreement
9 between Qualico and the operators that
10 alteration of the pipelines is required to
11 permit needed residential development to
12 occur in Horse Hill and Marquis while
13 protecting the safe and beneficial ongoing
14 operations of the pipelines.

15 Right?

16 A Sorry. Could you repeat that again? You're just --
17 you're just reading the underlined portion there?

18 Q I'm reading what was originally included in your
19 evidence, sir, which was the quote: (as read)

20 As discussed above, there is no disagreement
21 between Qualico and the operators that
22 alteration of the pipelines --

23 A Yeah, that's correct.

24 Q (as read)

25 -- is required to permit needed residential
26 development to occur while protecting the

1 safe and beneficial ongoing operations of the
2 pipelines.

3 A That's correct. But, again, we weren't aware of what
4 the alterations were.

5 Q Right. But you've --

6 THE COURT REPORTER: Who said that? I'm sorry.

7 A B. ARMSTRONG: Oh, that was me. My
8 apologies.

9 Q T. MYERS: And -- and, sir, you weren't
10 aware of what they were beyond concrete slabs and
11 load-distributing structures. Is that what you mean?

12 A That would be correct.

13 A S. GEREIN: I -- I might interject. It's
14 concrete slabs or other load-distributing structures,
15 meaning, again, we didn't know without knowing the
16 results of an assessment what was necessary to make
17 sure that the pipelines were aligned with the
18 CSA standard.

19 Q Okay. And we're almost done with -- with the black
20 line here, gentlemen. In that same paragraph, Qualico
21 went on to say in the last sentence: (as read)

22 The only disagreement is as to the sharing of
23 the cost of the work required.

24 Do you see that?

25 A B. ARMSTRONG: Yes, I do see that. But,
26 again, it's -- like, we didn't know what the work was,

1 and, more importantly, we didn't know what the cost of
2 the work was at that time.

3 Q So from the time of Qualico filing the original cost
4 sharing application in November 2020 to filing the
5 amended cost sharing application in January 2022,
6 neither Pembina nor Plains communicated to Qualico that
7 they no longer believed the pipeline alteration work
8 was necessary to accommodate Qualico's road crossings,
9 did they?

10 A I -- I actually don't recall that, but -- I don't know.
11 Mr. Dal Bello?

12 A G. DAL BELLO: I don't recall any
13 conversation or communication on that.

14 Q Okay. And do you recall whether or not Qualico has
15 ever been told by Pembina or Plains that they do not
16 view the pipeline alteration work to be necessary?

17 A I -- I don't recall specifically, but we have heard
18 varying ideas on the topic.

19 Q Varying ideas in -- in what respect, sir? That they
20 don't think that the alteration work is necessary to
21 facilitate the road crossing?

22 A We've heard all types of alteration conversation
23 varying from full-view routes to no work required,
24 depending on the context of the conversation. Often,
25 the pipeline companies would provide us very little
26 information about how they were coming up with that

1 decision.

2 Q Okay. But, certainly, sir, in terms of the description
3 of the work that we just went through in the original
4 application, it didn't reference rerouting the
5 pipeline. It didn't reference anything other than
6 concrete slabs or load distributing structures; right?

7 A As written, that's correct.

8 Q Right. So, Mr. Fjeldheim, I'd like to take you to PDF
9 page 136 of Exhibit 4.01. So this is a letter from the
10 AER to Qualico's counsel, dated November 19th, 2021.
11 Do you see that on the page?

12 A J. FJELDHEIM: Yes.

13 Q And in the letter, the AER says it's in receipt of
14 counsel for Qualico's letter of November 10th, 2021,
15 requesting the AER to further pause its review and any
16 decision of the subject application while Qualico
17 reports the outcome of hearing commissioner directed
18 alternative dispute resolution to the Arterial Road
19 Assessment Steering Committee of the City of Edmonton.
20 Do you see that in the first paragraph?

21 A Yes.

22 Q Then the AER says that it will be holding the -- it
23 will hold the processing of Qualico's application in
24 abeyance until January 4th, 2022; right?

25 A Yes.

26 Q And if we go to PDF page 139 of the same exhibit, we

1 see a response from Qualico's counsel to the AER dated
2 January 4th, 2022; right?

3 A Yeah.

4 Q And in that letter, counsel on behalf of Qualico says
5 that Qualico intends to proceed with its application
6 but will be amending it first; right?

7 A Yeah. That's what it says, yes.

8 Q And, sir, I take it the ARA steering committee directed
9 Qualico to amend its cost -- or its -- its original
10 cost sharing application based on the report the
11 committee received from Qualico regarding the outcome
12 of the AER commissioner lead ADR that was conducted in
13 late 2021; right?

14 A No. We didn't direct Qualico's application. What
15 happened at the meeting in between those two dates is
16 that it was a cost update from Qualico because the
17 arterial road levy is, in fact, paying for all the
18 legal costs associated with this application, and so
19 Qualico came back with a budget update on the legal
20 costs to ensure that we want -- the committee
21 maintained that it wanted to proceed with the hearing.

22 Q So there was no discussion at that committee meeting
23 regarding any of the amendments that we just went
24 through in the black line of the amended cost sharing
25 application? That wasn't discussed at that meeting?

26 A That was not, no.

1 Q Okay. So, Mr. Armstrong, who made the decision to
2 amend the cost sharing application?

3 A B. ARMSTRONG: So Mr. Gerein was on the -- on
4 the front lines. I mean, I supported what -- what his
5 recommendations were, and he probably is the best
6 equipped to answer that.

7 A S. GEREIN: That's correct.

8 I mean, collectively we made the decision with
9 direction from the ARA steering committee to proceed.

10 Q Sorry. Mr. Fjeldheim just said that the direction was
11 not to amend the application from the ARA steering
12 committee, so what do you mean by the direction --

13 A Maybe it --

14 Q -- of the ARA steering committee?

15 A -- wasn't -- it might not have been to amend the
16 application, but it was to continue to proceed with the
17 application.

18 Q Okay.

19 A And then, of course, through our legal counsel and
20 discussions, we -- we moved forward appropriately.

21 Q Okay. And was part of your decision-making process in
22 amending the cost sharing application to specifically
23 indicate that there was, all of a sudden, a dispute
24 with respect to the alteration work, notwithstanding
25 the original evidence that the only dispute was with --
26 with respect to costs?

1 A Again, we agreed that maybe something had to be done to
2 alter the pipelines. We never agreed on the
3 methodology necessary to achieve the desired outcome.

4 Q And you just wanted to make it more clear in the
5 amended cost sharing application that suddenly some
6 dispute had arisen with respect to that work despite
7 what you previously said. Do I have that right?

8 A Could you repeat the question, please.

9 Q The purpose of amending the application was to, I
10 guess, more clearly articulate that a dispute with
11 respect to the need for the work had suddenly arisen,
12 and you wanted to make that more clear in the amended
13 application. Do I have that right?

14 A Not that it had suddenly arise -- arisen that there --
15 just to reinforce that there really was no agreement
16 other than that something likely should be done in the
17 public interest.

18 Q So, Mr. Fjeldheim, if we can go to PDF page 399 of
19 Exhibit 6.01. Sir, do you recognize this document?

20 A J. FJELDHEIM: No, I do not.

21 Q Well, it's an agreement between Plains and Marquis JV
22 Limited, dated May 15th, 2022. You can see that at the
23 top of the page; right?

24 A Yes.

25 Q And under this agreement -- and, by all means, take the
26 time to review it if you need it, but under this

1 agreement, Marquis agreed to pay for 100 percent of the
2 cost of the alteration work for the crossing of Plains
3 pipeline at the intersection of 172nd Avenue and
4 Meridian Street; right?

5 A I haven't reviewed the document, so I can't speak to
6 what it says.

7 Q Right. But it's up on the screen, sir, so if you'd
8 like to take a moment to -- to take a quick look, I
9 would encourage you to do so.

10 A Yeah. Okay.

11 G. FITCH: I just want to -- I rise just
12 to point out that tomorrow, as part of the Developers
13 Group witness panel, there will be a representative
14 from MLC Group, one of the parties to the agreement,
15 who can speak to this agreement with firsthand
16 knowledge. Obviously, Mr. Fjeldheim has no firsthand
17 knowledge of this agreement.

18 T. MYERS: And it's my understanding that
19 there won't be a representative from the ARA steering
20 committee as part of that panel, so that's why I'm
21 putting these questions to Mr. Fjeldheim.

22 Q T. MYERS: So, Mr. Fjeldheim, would you
23 take it, subject to check, that Marquis agreed to pay
24 for 100 percent of the costs of the alteration work for
25 the crossing of Plains pipeline at the intersection of
26 172nd Avenue and Meridian Street?

1 A J. FJELDHEIM: I can take it subject to
2 checking, yeah.

3 Q And would you take it, subject to check, that this
4 crossing is one of the crossings for which Qualico is
5 still seeking a cost sharing order as part of its
6 amended cost sharing application?

7 A I believe so, yeah.

8 Q And Marquis JV is a joint venture formed by MLC Group,
9 which is another developer working in the Horse Hill
10 area; right?

11 A Yes.

12 Q And neither the City of Edmonton nor the ARA steering
13 committee directed Marquis JV or MLC to file an
14 application under Section 33 of the Pipeline Act with
15 the AER in respect of this crossing; right?

16 A That is correct. Because Marquis Joint Venture has not
17 requested the ARA steering committee include the costs
18 in the arterial road levy bylaw.

19 Q Okay. Mr. Armstrong, in Qualico's original cost
20 sharing application, Qualico was seeking a cost sharing
21 order in relation to the crossing of a 12-inch Pembina
22 pipeline at Marquis Boulevard just east of
23 Meridian Street; right?

24 A B. ARMSTRONG: Yes, that's the one that we --
25 we did, yeah, deal with Pembina directly with. Yes,
26 correct.

1 Q Right. And that request was removed from the amended
2 cost sharing application; correct?

3 A Well, it was at -- at the request of Pembina -- or
4 at -- at their direction. Oh. Then my understanding
5 is the reason that -- that we were asked to remove that
6 was they wouldn't give us access to cross or give us
7 the crossing agreements that we required in order to
8 build Marquis Boulevard.

9 Q All right. Sir --

10 A If --

11 Q -- I'd --

12 A If we didn't withdraw that.

13 Q -- I'd suggest --

14 A Yeah.

15 Q -- to you the reason that it was removed is because
16 your affiliate, Horse Hill, called or entered into a
17 backstopping agreement with Pembina, dated April 21st,
18 2021, in respect of that crossing; right?

19 A It did, but my recollection there is -- is that, again,
20 we're up against a clock here, right, in terms of
21 getting our neighbourhoods built, and we're going
22 through the process of trying to understand what all is
23 required in order to complete all of the work.

24 And so we did actually enter into an agreement at
25 that time because we understood -- we didn't understand
26 at the time that there was any other opportunity for

1 us. We didn't understand that there was an opportunity
2 to actually challenge what it was that Pembina was --
3 was asking us to do and pay for, so we reluctantly went
4 into an agreement.

5 And when it came to our attention through the ARA
6 committee that there was an opportunity to potentially
7 challenge this, we did talk about withdrawing or -- or
8 still continuing on with that agreement and then
9 challenging it through the AER process. But they
10 respectfully asked us to remove our -- our appeal on
11 that particular crossing was -- was my recollection.

12 I don't know if -- Mr. Gerein, if you have
13 anything to add.

14 A S. GEREIN: Yeah, I'll just add to that.

15 So realistically what happened is we were,
16 obviously, negotiating with the -- with the operators,
17 and, obviously, our project, Phase 1 of our -- of our
18 subdivision required the crossing of one of the
19 pipelines. That was originally part of our
20 application.

21 In meeting with Pembina, kind of at, let's say,
22 the eleventh hour and feeling like we were -- you know,
23 we needed to have this crossing for any -- our -- our
24 project to have any chance at success, they said, Okay.
25 We'll give you this crossing, but we would like you to
26 remove that crossing from the application that's in

1 front of us today. And in order to secure success for
2 our project, we essentially had to accept that at that
3 time.

4 A B. ARMSTRONG: Yeah, and if I could just add
5 to that.

6 It was -- it was a business decision that we made
7 not to pursue it at that time.

8 Q Right. And perhaps we can bring that agreement up, and
9 I provided that to your counsel yesterday. It was
10 labelled "PPS Aid to Cross Number 1".

11 T. MYERS: Ms. Arruda, I don't know if
12 that can be shown on the screen.

13 E. ARRUDA: It can.

14 T. MYERS: I do have hard copies if it's
15 helpful to anybody, but I understand that we're working
16 electronically, so I'm happy to proceed this way if
17 that suits the Panel.

18 Q T. MYERS: So, Mr. Armstrong, under this
19 backstopping agreement, Horse Hill, which, again, is
20 Qualico's affiliate, agreed to pay for the full amount
21 of the pipeline alteration work; right?

22 A B. ARMSTRONG: That is my recollection.
23 Although when I look at the contents of the -- the
24 agreement, I have to say I'm quite surprised that we
25 did sign it at that time, but -- because of the content
26 that -- what was in there.

1 But, you know, land development is a giant
2 collaboration, and we have to rely on other parties to
3 determine what the needs are, and -- and in this
4 particular case, it was very expensive for us to delay
5 any further, and we thought that we would have the
6 opportunity to deal with this through an appeal process
7 or through the AER -- AER process in this case, and,
8 you know, I felt that that was probably -- we were put
9 into a position where we had to make a decision: Do we
10 continue on with the development, or do we wait for the
11 outcome of a potential AER submission?

12 And in this case, you know, collectively, we
13 decided to proceed. So we were really put up against
14 the wall in this case is -- is -- in my opinion. But
15 we felt that it was in our best interest and our
16 partners' interest to proceed with the development, and
17 we really couldn't wait any longer.

18 A S. GEREIN: And I will add that the -- the
19 other crossings that are the subject of the -- of the
20 hearing, we were able to have the City temporarily
21 relax the crossing of the other pipelines in order to
22 have this hearing. So ultimately we were just giving
23 a -- they have given us a period of grace, and -- hence
24 those remain in the application to BILD.

25 Q So if we can go to PDF page 5 of this agreement.

26 Now, Mr. Armstrong, you indicated that you were

1 surprised that you'd entered into this agreement based
2 on its contents, but if we look at this page, you were
3 the one that executed it; right?

4 A Yeah, I'm not -- just to clarify, I'm not surprised
5 that I actually signed the agreement, for sure.

6 But when I looked at, you know, the costs that
7 we're being asked to pay for, if you just go down a
8 couple more pages there, like, on A-2, right, I mean --
9 when I look at -- you know, I -- you know, when
10 we're -- when we're developing our lands, sometimes
11 we're really put into these positions. We only have
12 22 weeks of -- of time where we can actually build
13 throughout the year in -- in our northern climate,
14 right. And our objective was to originally start
15 construction back in 2019. So we've already
16 experienced a couple of years of delay due in part to
17 our, you know, trying to negotiate through the process
18 of what to do with the cost of these pipeline
19 crossings. So it was -- yeah. We were intent on
20 moving forward with construction in 2021.

21 So now -- yes. When I look back at it now, and --
22 and I think that we all have a better understanding of
23 what it is that we're being asked to do here, so I'm
24 actually quite surprised that -- that we were asked to
25 pay for, as shown on here, the \$394,000 for pipe repair
26 on something that should be maintained by the -- by the

1 operator, in my opinion. So that, I think, equates to
2 about 63 metres worth of pipeline replacement.

3 So that's the part that surprises me.

4 A G. DAL BELLO: The cost --

5 A S. GEREIN: It's just that we have a
6 better understanding now.

7 A G. DAL BELLO: The cost shown on the screen
8 also includes a 20 percent contingency, which is a
9 little unusual given the detailed nature of the work
10 considering we're about to go to construction and we've
11 already done a significant -- you know, we talked about
12 50, \$100,000 worth of assessment engineering to get to
13 this point. So the -- it's a little unusual in our
14 industry to carry that level of contingency.

15 Q Mr. Dal Bello, in your industry, is it unusual to be
16 provided with the details of costs that are going to be
17 required to be paid under an agreement, to sign that
18 agreement, and then to express surprise over what those
19 costs are?

20 A The -- the level of detail provided here is not
21 consistent with the level of detail we would provide.
22 So it is fair to say that our clients -- developers
23 such as Qualico would be surprised.

24 T. MYERS: Madam Chair, I wonder if we
25 might mark this agreement as the next exhibit, please.

26 THE CHAIR: Mr. Fitch, any objections?

1 G. FITCH: No.

2 THE CHAIR: Thank you. Yes.

3 EXHIBIT 85.01 - 2024-03-05 PPS Aid to

4 Cross #1.pdf

5 Q T. MYERS: So, Mr. Fjeldheim, did the ARA
6 steering committee direct Qualico's affiliate to enter
7 into this backstopping agreement with Pembina and to
8 cause Qualico to remove this crossing from the scope of
9 its amended cost sharing application?

10 A J. FJELDHEIM: No.

11 Q And, Mr. Armstrong, the same Qualico affiliate, Horse
12 Hill Land Company, it entered into two separate cost
13 recovery agreements with Plains in March of 2019;
14 right?

15 A B. ARMSTRONG: Yeah. I don't recall the
16 exact dates, but I -- I believe that's correct.

17 Q And we can bring them up 'cause these were also
18 provided to your counsel yesterday.

19 T. MYERS: So, Ms. Arruda, if we could
20 start with PPS Aid to Cross Number 2.

21 Q T. MYERS: So you'll see there on the
22 screen, sir, that this is an agreement between
23 Qualico's affiliate and Plains, dated March 11th of
24 2019; right?

25 A B. ARMSTRONG: Yes. I've -- I've reviewed
26 those since we received them.

1 Q And as we can see in the first paragraph, it relates to
2 the crossing of Plains pipeline at 167 Avenue and
3 Meridian Street; right?

4 A That's correct.

5 Q And under this cost recovery agreement, Horse Hill
6 agreed to reimburse Plains for the cost of the
7 alteration work of this crossing; right?

8 A That's correct.

9 Q And the cost of that alteration work was estimated to
10 be \$858,000 at that time; right?

11 A That's -- that's what I see there, yes.

12 Q And if we go down to PDF page 5, we see at the bottom
13 of the page there that you were the signatory of this
14 cost recovery agreement as well; right?

15 A That's correct.

16 Q And then if we go to the next page, similar to the
17 Pembina agreement that we just looked at, it sets out
18 the scope and schedule of the work; right?

19 A It does, yes.

20 Q If we --

21 A Yeah, it's -- it's a high-level. Like, we don't have
22 any of the details in here.

23 Q Okay. And if we go down one more page, it shows you a
24 drawing or an engineering drawing prepared by WSP of
25 the crossing; right?

26 A It appears to be, yes.

1 Q And then if we go down to the final page of the
2 document, similar to the Pembina agreement we just
3 looked at, we've got a breakdown of the costs to be
4 borne by Horse Hill Land Company; right?

5 A Yes, which includes the third-party construction,
6 right, which we have no control over or understanding
7 of what -- what the extent of that work is.

8 T. MYERS: Madam Chair, if we can mark
9 this as the next exhibit, please.

10 THE CHAIR: Objection? No.

11 Yes, please, Ms. Arruda.

12 D. BREZINA: Just for clarity, the first
13 document that was entered as an aid to cross will be
14 marked as 85.01. And the second --

15 E. ARRUDA: The second aid to cross from
16 Mr. Myers will be marked as 86.01.

17 EXHIBIT 86.01 - 2024-03-05 PPS Aid to
18 Cross #2.pdf

19 T. MYERS: Thank you for that.

20 I -- I should have asked what the number was after
21 asking that it be marked, so -- so thank you.

22 THE CHAIR: Before you continue your
23 cross, I have a question --

24 THE COURT REPORTER: I can't hear you.

25 THE CHAIR: Can you hear me now?

26 Just give us a second. I want to just check

1 something with the Panel Members. Thank you.

2 If you were so kind to share with the Panel the
3 hard copies -- we are a bit old-school -- that would be
4 great.

5 T. MYERS: Absolutely.

6 THE CHAIR: Thank you.

7 T. MYERS: And I'm about to go to a third
8 agreement right now. So I'll, for efficiency's sake
9 and to cut down on Mr. Naffin's steps, provide that as
10 well.

11 D. NAFFIN: It's only about three of them.

12 THE CHAIR: Thank you very much.

13 You may proceed.

14 Q T. MYERS: So, Mr. Armstrong --

15 T. MYERS: Or, Ms. Arruda, perhaps we can
16 get PPS Aid to Cross Number 3 up on the screen when you
17 return to your seat.

18 Q T. MYERS: So, Mr. Armstrong --

19 Mr. Armstrong, we've got the second of the two Plains,
20 Horse Hill Land Company cost recovery agreements up on
21 the screen, and you'll acknowledge that it's a cost
22 recovery agreement between Qualico's affiliate, dated
23 March 11th, 2019 -- and it relates to the crossing of
24 Plains pipeline at 172nd Avenue and Meridian Street;
25 right?

26 A B. ARMSTRONG: Yes, I agree.

1 Q And that's the same crossing that I discussed with
2 Mr. Fjeldheim a few moments ago, the one that Marquis
3 JV subsequently agreed to pay for; right?

4 A I believe so, yes.

5 Q And this cost recovery agreement follows the same form
6 as the cost recovery agreement you and I just discussed
7 in relation to the 167 Avenue and Meridian Street
8 crossing; right?

9 A Yeah. It appears to be almost identical with -- with
10 the exception of some of the details.

11 Q Right. Qualico's affiliate agreed to reimburse Plains
12 for the full cost of the alteration work under this
13 agreement; right?

14 A At that time we did, yes.

15 Q And at that time the cost recovery agreement was
16 entered into, the estimated cost of that work was
17 \$327,000; right?

18 A That's my recollection, yes.

19 Q You signed this agreement on behalf of Horse Hill Land
20 Company; right?

21 A That is my recollection, yes.

22 Q And the details of the work and the breakdown of the
23 costs are set out at the end of the agreement; correct?

24 A They were. But, similarly, it's got some costs in
25 there that -- you know, third-party costs that we
26 didn't really have any idea on when I look at it and --

1 and 20 percent contingency which we didn't have any
2 control over. But, yes, we did sign that.

3 T. MYERS: Madam Chair, if we could mark
4 that as the -- the next exhibit, please.

5 THE CHAIR: Please go ahead.

6 D. BREZINA: That will be marked as 87.01.

7 EXHIBIT 87.01 - 2024-03-05 PPS Aid to
8 Cross #3.pdf

9 T. MYERS: Thank you.

10 Q T. MYERS: So I'd like to move to
11 discussing the process that led to Qualico purchasing
12 the subject lands, and I think, Mr. Armstrong, these
13 questions are probably for you.

14 So at paragraph 20 of your amended cost sharing
15 application -- if we could perhaps pull up Exhibit 5.01
16 and go to PDF page 1190. You say here, and I quote:
17 (as read)

18 Qualico acquired the Marquis lands and
19 development from Walton's receiver in
20 August 2018 and has recommenced their
21 development.

22 Do you see that, sir?

23 A B. ARMSTRONG: That's shown as number -- or
24 paragraph 20? Yeah, I do.

25 Q And when you say that "Qualico acquired the Marquis
26 lands", you'd be referring to the real property; right?

1 A Yes. It's more or less, yeah, about 330 plus or minus
2 acres. That's correct.

3 Q Right. And when you say that Qualico acquired the
4 development, I take it you're referring to development
5 plans and approvals that had been prepared or obtained
6 by Walton prior to 2018; correct?

7 A Yes, that's correct. A significant amount of the work
8 had already been undertaken by them, and -- and their
9 plan originally was to proceed with development
10 themselves, and then the situation had changed, and
11 then they offered the land up for sale.

12 Q And the Horse Hill area structure plan and the Marquis
13 neighbourhood structure plan form part of the overall
14 development; right?

15 A Sorry. Could you repeat that?

16 Q The Horse Hill area structure plan and the Marquis
17 neighbourhood structure plan, those would form part of
18 what you've referred to here as the development; right?

19 A Well, those are the neighbourhood structure plans and
20 the area structure plans, so that -- that's the general
21 overall planning for the area.

22 A S. GEREIN: I'll just add that's the
23 council-approved statutory planning framework for the
24 community.

25 Q And the development would also include the concept plan
26 report prepared by CIMA+ for Walton; right?

1 A G. DAL BELLO: Yeah, that -- that is a
2 document that the City of Edmonton would have approved
3 that Walton had prepared. Any purchaser, Qualico
4 included, would have had access to that.

5 Q Right.

6 And on that basis, Mr. Armstrong, I take it you
7 would have -- or someone at Qualico would have reviewed
8 those plans and reports as part of the due diligence
9 you undertook prior to purchasing the Marquis lands and
10 development; correct?

11 A B. ARMSTRONG: That's correct. So our --
12 yeah. Our team -- yeah. As part of the -- the due
13 diligence process, for sure, we -- we examined all the
14 documents that were prepared by the previous developer.
15 That's correct.

16 Q So if we can go to PDF page 663 of Exhibit 5.01 -- and
17 this is within the Horse Hill area structure plan. If
18 we go to the bottom of the page, it indicates that
19 there are six wellsites and ten pipelines within the
20 plan area; right?

21 A S. GEREIN: Yes. Obviously, it says here
22 that -- what you just read, yes.

23 Q And if we go to PDF page 673 of the same document --
24 and it's a bit tough to tell on the map, but the
25 pipelines are shown in purple and orange, right, if you
26 look at the legend?

- 1 A B. ARMSTRONG: Yes, that's correct. So --
2 yeah. These are pipelines that are shown as part of
3 the overall -- appears to me like that's the Marquis
4 neighbourhood structure plan.
- 5 Q We're within the -- the Horse Hill area structure plan,
6 sir?
- 7 A And -- and overall Horse Hill area structure plan.
8 That's correct.
- 9 Q Right. And if we go to PDF page 753, now we're within
10 the Marquis neighbourhood structure plan. And at the
11 bottom of the page, it says that there are
12 11 operational pipelines in the NSP area; right?
- 13 A I would agree with that, yes.
- 14 Q And if we go to PDF page 754, it lists all of these
15 pipelines in the table there. Do you see that?
- 16 A Yes, I see it.
- 17 Q All right. Now, if we go to PDF page 969, this is the
18 CIMA+ concept plan report, and it summarizes the
19 concept plan for Meridian Street, Arterial A, and
20 Arterial B within the Horse Hill area structure plan
21 area; right?
- 22 A Yeah, I'll direct that to Mr. Dal Bello.
- 23 A G. DAL BELLO: Yeah, it looks like that's
24 correct.
- 25 Q Okay. And this concept plan -- or this would be the
26 concept plan for the arterial road that's crossing

1 Plains and Pembina's pipelines at 167th Avenue and
2 Meridian Street and 172nd Avenue and Meridian Street;
3 right?

4 A That's correct. The -- the intent of the concept plan
5 in the City of Edmonton's arterial roadway design
6 progression is to identify traffic operations, number
7 of lanes, weave distances, and things like that. It
8 does not look at anything other horizontal alignment.

9 Q And the concept plan report, it's from January of 2015.
10 You can see that in the top right-hand corner; right,
11 sir?

12 A That's correct.

13 Q And if we go to page 27 of this report, which is PDF
14 page 995 of the exhibit -- thank you -- it discusses
15 the pipelines within the Horse Hill area structure plan
16 and, in particular, the subject Plains and Pembina
17 pipelines; right?

18 A Yeah. I see that, yeah.

19 Q And with respect to the Plains pipeline, the report
20 says that: (as read)

21 The pipeline can be left in place, but that
22 it is likely that recoating and installation
23 of bridging blocks would be required to
24 protect the existing infrastructure.

25 Do you see that?

26 A Yeah, I do.

1 A B. ARMSTRONG: Right. But it -- it doesn't
2 really talk about who's responsible for that payment;
3 right?

4 A G. DAL BELLO: Yeah. I -- I think -- you
5 know, at the time, and it is shown in the appendices of
6 this report, CIMA+ was operating on the information
7 that they were getting which, as you will see in the
8 appendices, is very high-level.

9 Q And then if we go to the next page, PDF page 996, with
10 respect to Pembina's 20-inch pipeline, the report says
11 that: (as read)

12 The majority of the pipeline will not need to
13 be modified except for the diagonal crossing
14 situated north of 167 Avenue which will
15 require either the installation of protection
16 slabs or realignment of the facility to
17 remove the skew in the crossing.

18 Right?

19 A Yeah, that's -- I see that there in the third paragraph
20 down, yeah.

21 Q And it goes on to say that: (as read)

22 A preliminary assessment indicates that
23 protection of the existing pipeline crossing
24 is the preferred option.

25 Right?

26 A I see that, yeah.

1 Q And then on the same page, right where we're looking,
2 the report says that: (as read)

3 The estimated costs for the installation of a
4 pipeline protection slab is approximately
5 \$1,135,200.

6 Correct?

7 A Yeah, I do see that written there; however, if you do
8 look at the correspondence in Appendix L, it describes
9 those as pipeline upgrades, and it is described as
10 rough cost estimates.

11 A B. ARMSTRONG: So we didn't have any details
12 other than that.

13 Is that right?

14 A G. DAL BELLO: Yeah. Yeah.

15 I think at this point, the purpose of CIMA+
16 writing this paragraph is to just draw attention to the
17 correspondence in Appendix L and briefly summarize
18 what's contained in that appendix.

19 Q The concept plan report also included conceptual
20 engineering drawings of the pipeline crossings at
21 Meridian Street and 167th Avenue and Meridian Street
22 and 172nd Avenue; right?

23 A I don't see those drawings. Sorry.

24 Q So if we can go to page 1025, just scroll down, there's
25 a series of engineering drawings, two of which relate
26 to the two intersections that I just referenced. Would

1 you take that subject to check, Mr. Dal Bello?

2 A Yeah. I -- I see now what you're talking about, yes.

3 Q Yeah. And those engineering drawings were included in
4 the amended cost sharing application of Qualico as
5 Figure 6 and 7; right?

6 A Yes.

7 Q So if we can go back to the amended cost sharing
8 application on PDF 1190, and I'm looking at
9 paragraph 21 now. Mr. Armstrong, here you say that:
10 (as read)

11 Before acquiring the Marquis lands, Qualico
12 conducted due diligence and was aware of the
13 existence of the pipelines and the need to
14 construct new arterial roads that would cross
15 the pipelines.

16 Do you see that there?

17 A B. ARMSTRONG: Yes, I do.

18 Q And then you suggest: (as read)

19 There was no specific adjustment made to the
20 purchase price for the Marquis lands because
21 Qualico had no knowledge of the cost of the
22 new crossings, and Qualico's historical
23 experience has been that crossing costs are
24 not significant.

25 Do you see that?

26 A Yes. And we still maintain that -- that position from

1 that time when we acquired the lands.

2 Q All right, sir. But as I just discussed with
3 Mr. Dal Bello, based on the contents of the CIMA+
4 concept plan report, prior to purchasing the lands, you
5 did have knowledge that the estimated costs for the
6 installation of a pipeline protection slab was
7 approximately \$1.1 million; right?

8 A Well, I don't -- I think it was referring to -- my
9 recollection is that it was -- like, from what we just
10 saw was that it was referring to the pipeline crossing,
11 not necessarily the slab. And I don't see any great
12 detail in there.

13 The other thing that the previous paragraph
14 referred to was that more work had to be done in order
15 to understand it. But I do stand behind -- our --
16 our -- our contention here is that we didn't have
17 knowledge of what the cost that new crossing was going
18 to be. We certainly didn't know what the cost sharing
19 amount was going to be. And it is true that our
20 experience in the past, recent past, is that we haven't
21 had to take on these types of costs in the past. So --
22 yeah. So we were surprised.

23 A G. DAL BELLO: Also, in addition, we focused
24 on -- I think it's Appendix L which is what you put on
25 the screen, but I believe it's appendix -- sorry. It
26 is in Appendix K what we just looked at.

1 In Appendix L, there is correspondence during
2 CIMA+'s time from Plains Midstream which indicates that
3 at the time CIMA+ was preparing their report and their
4 drawings, it was impossible to determine the work or
5 the cost that needed to be done.

6 Q But somehow somebody came up with an estimate of
7 \$1.1 million for the installation of a pipeline
8 protection slab; right?

9 A Yeah. The -- the email where that originates from is
10 in appendix -- Appendix K of the CIMA+ concept plan. I
11 think it's page 1096 if you --

12 Q Right. And it's also referenced within the concept
13 plan report at PDF page 996 as you and I just
14 discussed; right?

15 A That's right, yeah.

16 Q So in paragraph 22 on the screen here, which is the
17 amended cost sharing application, you go on to say
18 that: (as read)

19 It was only when Qualico got into
20 conversations with Pembina and Plains and
21 learned how much the operators were saying
22 the crossings would cost that this became an
23 issue.

24 Do you see that, sir?

25 A B. ARMSTRONG: Yeah, I certainly do.

26 Q But it didn't prevent you from entering into two cost

1 recovery agreements with Plains that we discussed a few
2 minutes ago pursuant to which you agreed to pay for the
3 full cost of the alteration work at the crossings of
4 Plains pipeline; right?

5 A We did enter into those agreements. That's -- that's
6 correct. But, again, I mean, this is part of setting
7 the stage, so to speak, for what we had to do in order
8 to get our project completed.

9 And so, again, we felt like we were kind of forced
10 into the situation. Although, you know, at the end of
11 the day, we did end up signing the agreements, but
12 sometimes you have to advance these things, and then --
13 and then we get the opportunity to reconsider, so ...

14 Mr. Gerein.

15 A S. GEREIN: Well, one key piece here is
16 that those agreements that we were speaking to, we had
17 to cancel or terminate or whatever terminology you
18 would like to use. And the reason for that, it was
19 because originally at Qualico -- and I admit we were
20 under the impression that these were a
21 pay-or-nothing-happens approach, meaning that we
22 essentially had to sign those agreements to advance
23 development.

24 At that time is when we proceeded with the cost to
25 the ARA steering committee who then essentially
26 directed us to make this application to the AER. And

1 at that time, that was leading, I guess, our
2 decision-making in terms of -- of terminating those
3 agreements.

4 Q So if we go to paragraph 52 of the amended cost sharing
5 application. It's on PDF 1206. Top of the page there.
6 We can see that the most recent cost estimate you
7 received from Pembina with respect to the crossing of
8 its pipeline at 167th Avenue and Meridian Street was
9 \$559,000; right?

10 A G. DAL BELLO: Yeah, we see that. Yeah.

11 Q And if we go down to paragraph 55, the most recent
12 estimate you have from Plains with respect to the
13 crossing of its pipeline at the 167th Avenue
14 intersection is \$858,000; right?

15 A Yeah, we see that.

16 Q And both of those amounts are less than the
17 \$1.1 million estimate referenced in the CIMA+ concept
18 plan report that you had and that Mr. Dal Bello
19 reviewed and that Qualico reviewed prior to purchasing
20 the lands and the development; right?

21 A S. GEREIN: Yes, we acknowledge that. But
22 the amount in the concept plan did not specifically
23 speak to who is required to pay, as far as I recall.

24 A B. ARMSTRONG: But -- and also when you add
25 up the two, they're both -- you know, collectively
26 they're over a million dollars.

1 Q So, Mr. Armstrong, I -- I heard during your direct
2 examination that your experience is that you often
3 cross pipelines and you're often responsible for the
4 costs but that the costs are much lower than what
5 you're dealing with here. Do I have that right in
6 general?

7 A I think the intent is we're -- we're responsible for
8 construction of the road infrastructure, and the
9 pipelines are typically responsible for protecting --
10 ensuring that the pipelines are -- are protected and it
11 is in the public interest, obviously. And so certainly
12 that's -- that's what we do, yeah. We build roads.

13 Q And, sir, there was nothing in the concept plan report
14 to indicate to you -- or to you, Mr. Dal Bello, that it
15 would be the pipeline companies bearing the costs of
16 those protection slabs; right?

17 A G. DAL BELLO: My understanding from when
18 CIMA+ was communicating with the pipeline companies,
19 they were looking to find a solution that would allow
20 that report to be approved to allow the detailed design
21 to progress to the next stage. That's the intent of
22 their conversation at that point.

23 Q Nothing in the correspondence between CIMA+ and Plains,
24 nothing in the correspondence between CIMA+ and Pembina
25 that would indicate that either of those pipeline
26 companies had any intention of playing -- paying for

1 the alteration work necessary to facilitate the
2 arterial road; right?

3 A In -- I believe it's Appendix K, the correspondence
4 from Pembina indicates, I think, a small amount
5 relative to the -- the total amount that they would
6 cover. I'm not sure why that is the case, but a very
7 small amount --

8 Q But --

9 A -- and then nothing for that -- for that point from
10 Plains Midstream.

11 Like I said, they indicated it was impossible to
12 determine.

13 A B. ARMSTRONG: Just to clarify, though, I
14 think with respect to CIMA+, I mean, it's not really
15 their role to determine, you know, who pays. It's
16 really their role to help design the arterial road at
17 that time, right.

18 Q I'd like to go to PDF page 421 of Exhibit 6.01. So
19 this is Qualico's reply submission from February 28th
20 of 2023, and in the second-to-last paragraph on the
21 page, you're responding to positions of Pembina and
22 Plains that Qualico is seeking a cost-sharing
23 arrangement that is more advantageous to Qualico than a
24 50-50 split of the pipeline alteration cost; right?

25 A Sorry. Could you highlight where that is?

26 Q Second-to-last paragraph: (as read)

1 Plains and Pembina also suggest that while
2 Qualico argues that they should share in the
3 costs of altering their pipelines, Qualico is
4 trying to obtain a windfall because Plains
5 and Pembina would not be entitled to
6 reimbursement when other developers pay their
7 share of arterial road costs in the catchment
8 under the ARA bylaw.

9 So you're responding to the -- the position of Pembina
10 and Plains in terms of that ARA reimbursement process;
11 right?

12 A Sorry. Could you just give us a moment, please.

13 Q Yeah.

14 A Yeah. Okay. Mr. -- Mr. Fjeldheim is eager to answer
15 this one.

16 A J. FJELDHEIM: Hi. Can you repeat the
17 question, just so that I have it clear?

18 Q Right. And -- and all I'm asking, sir, is that in the
19 paragraph that we're looking at, you are -- well, I
20 guess not you because you didn't prepare any of the
21 submissions, but Qualico is responding to the positions
22 of Pembina and Plains that Qualico is seeking a cost
23 sharing arrangement that is more advantageous to
24 Qualico than a 50-50 split of the pipeline alteration
25 costs. That's all I'm asking you to confirm, is that
26 that's what this paragraph is responding to.

1 A Well, I think this paragraph is actually responding to
2 the -- the windfall argument that Qualico will benefit
3 from the cost share agreement where -- the reason that
4 has no merit is that Qualico is just sort of the
5 vehicle for the arterial road levy in this situation,
6 and so the costs of the crossing would go into the
7 levy, and so the windfall is actually to all the people
8 that end up living in the Horse Hills neighbourhood.

9 Q So, sir, you understand that the basis for Pembina and
10 Plains' position is that under the ARA bylaw, Qualico
11 will be reimbursed for a portion of the cost of
12 constructing the arterial road by other developers in
13 the catchment area; right?

14 A B. ARMSTRONG: I'm sorry. You're responding
15 to Mr. Fjeldheim's comment just now, or is it ...
16 Okay. My apologies.

17 A J. FJELDHEIM: Yeah, you're so grabby.

18 A B. ARMSTRONG: Sorry.

19 A J. FJELDHEIM: Ask the question again,
20 please.

21 Q Is it your understanding -- or you do understand that
22 the basis for Pembina and Plains' position is that
23 under the ARA bylaw, Qualico will be reimbursed for a
24 portion of the cost for constructing the arterial road
25 by other developers in the catchment area; right?

26 A They're actually -- the levy -- the way that the levy

1 is -- it works is that you pay based on the developable
2 land that you develop, so Qualico will pay their
3 proportionate share of the crossings, and the arterial
4 roads and other developers will also pay those shares
5 which then goes into the cost of housing. It just is
6 added on as a cost across the whole Horse Hills area.

7 Brad has ...

8 A B. ARMSTRONG: Right. And just to clarify a
9 little bit more, when we're building particularly in
10 new neighbourhoods like Marquis and Horse Hill, this
11 is, like, what I would call a "pioneering stage". So
12 the term "windfall", I don't know if that was our
13 response or if that was a word that was used by -- by
14 the operators in their submission, but it -- it's the
15 furthest from the truth because we have to front in,
16 you know, millions and millions of dollars worth of
17 infrastructure, so when -- when we talk about or --
18 or -- getting paid back, this is -- you know, the hope
19 is that we'll get paid back in time, including from
20 when we develop future stages of development.

21 So it's not like the arterial road assessment
22 has -- has a big, giant bank account filled with reams
23 of cash to pay us back as we build these things. I
24 mean, we have to build these things in stages. We have
25 to build these new neighbourhoods in stages. So -- so,
26 I mean -- mean, the characterization of it as a

1 windfall is -- is -- is not really accurate, would be
2 my assessment. So, yeah, we hope to get paid back,
3 but -- over time.

4 And the other thing that we are interested in
5 is -- is reducing our costs wherever possible so that
6 we can make it more affordable for -- for the new
7 home-buying public, which is, I believe, in the public
8 interest.

9 Q Thank you for that, Mr. Armstrong.

10 So just to confirm, we are looking at your
11 submission, and it's your words, "windfall", in the
12 paragraph that we're looking at, but if we can go to
13 the last two sentences of the paragraph, it says:
14 (as read)

15 Qualico would only be entitled to
16 reimbursement for amounts it had to pay to
17 construct the arterial road. Qualico would
18 not be entitled to reimbursement for the
19 portion of the alteration work paid by the
20 pipeline operator.

21 Which would be also alteration work that would be
22 ordered if -- if the relief that Qualico is seeking in
23 the application is granted; right? Do you see those
24 two sentences there, sir?

25 A Yeah. Could you just highlight that again? Thank you.
26 Oh, sorry. I was looking at the wrong paragraph.

1 Yeah. Thank you. Yeah. No, we agree.

2 Q Right. And you understand that that's not the position
3 that's being advanced by Pembina and Plains when it
4 comes to reimbursement under the ARA bylaw; right?

5 A Yeah.

6 Go ahead.

7 A J. FJELDHEIM: Are you saying that Pembina
8 and Plains is wanting reimbursement from the ARA bylaw?

9 Q No, sir, that's not what I'm saying at all. I'm
10 looking at the last two sentences of this paragraph
11 where you're characterizing what Pembina and Plains'
12 position is --

13 A Yes.

14 Q -- and you're responding by saying Qualico would only
15 be entitled to reimbursement for amounts it had to pay
16 to construct the arterial road. Qualico would not be
17 entitled to reimbursement for the portion of the
18 alteration work paid by the pipeline operator,
19 assuming the AER directs the pipeline operator to pay
20 for those alteration costs.

21 A That's correct. The by -- the ARA bylaw would not pay
22 back the pipeline --

23 Q Right.

24 A -- company.

25 Q And I put it to you that the position being advanced by
26 Pembina and Plains is that if the AER decides to grant

1 Qualico's request for a cost sharing order, whereby
2 Qualico and one of the pipeline companies would split
3 the cost of the alteration work 50-50, Qualico wouldn't
4 ultimately be responsible for 50 percent of the costs
5 of that work; right?

6 A B. ARMSTRONG: Just so that I have it
7 clear -- so if -- if -- if the operators contributed
8 towards the cost, then we wouldn't be reimbursed for
9 their portion, that's correct.

10 Q Okay. That's not what I'm asking, sir.

11 A Oh, I'm sorry.

12 Q I'm asking if the AER directs a 50-50 cost sharing as
13 part of this proceeding --

14 A Right. Okay. Yeah.

15 Q -- Qualico is entitled to reimbursement of a portion of
16 its 50 percent; correct?

17 A Well, it -- it really -- I mean, we're -- we're
18 responsible for our proportionate share of the cost.
19 Right. That's correct.

20 Q Right. Which isn't 50 percent of the overall costs of
21 the alteration work, assuming the cost sharing order is
22 granted; right?

23 A J. FJELDHEIM: Yeah. If the cost sharing
24 order is granted, the -- the leviable costs in that ARA
25 bylaw go down, and so then as the ARA costs go down,
26 the levy that is spread across the whole neighbourhood

1 also goes down. So then all of the housing units in
2 that area benefit from a cost share agreement, so it's
3 the public -- it's the public and the home purchasers
4 that are the ones that benefit, not Qualico.

5 Q Thank you for your --

6 A B. ARMSTRONG: Right.

7 Q -- responses this afternoon, gentlemen.

8 I'm going to turn it over --

9 A Oh, okay.

10 Q -- to Mr. Naffin now.

11 Thank you.

12 (DISCUSSION OFF THE RECORD)

13 D. Naffin Cross-examines Qualico Developments West Ltd.

14 Witness Panel

15 Q D. NAFFIN: Good afternoon, panel. I see
16 that it's afternoon now. I had to quickly check my
17 watch 'cause we're right on the razor's edge.

18 Mr. Morrison, I've got a series of questions for
19 you, if I may, sir. You spoke to your qualifications
20 earlier this morning, and I just wanted to confirm,
21 sir, that you're not an accredited appraiser; correct?

22 A I. MORRISON: That's correct.

23 Q And you're not a licenced land agent in the province of
24 Alberta; is that correct?

25 A That's correct.

26 Q And you're not a licenced Alberta realtor; correct?

1 A That's correct.

2 Q And you're also not an accredited urban planner;
3 correct?

4 A That's correct.

5 Q Thank you, sir.

6 And based on a review of your CV that's included
7 in Qualico's evidence, you haven't previously appeared
8 before the Alberta Energy Regulator; correct?

9 A I worked on the APPL Pipeline, but we -- I don't know
10 if you -- 'cause we got to the hearing, but then the
11 hearing was cancelled, so I don't know if that's an
12 appearance or not.

13 Q Well, if the hearing was cancelled, sir, I -- I think
14 you wouldn't have appeared at it. Is that --

15 A Okay.

16 Q -- fair?

17 A Yeah.

18 Q Okay.

19 A I just wanted to make the distinction that I wasn't --

20 Q No, I understand. That's fine. Thank you.

21 Mr. Morrison, I'd like to now discuss some aspects
22 of your initial report.

23 A M-hm.

24 Q And that's at Exhibit 4.01 starting on PDF page 58 as
25 Mr. Fitch had indicated earlier. And before we get to
26 the actual report, sir, I heard you say this morning, I

1 thought, that in terms of the pipeline acquisitions
2 that we're dealing with in this matter, I think you
3 referred to a singular pipeline, and you said that it
4 had been acquired by way of an expropriation in 1971.
5 Is that what I heard you say, sir?

6 A Yeah. I can't really remember what the -- what the
7 term was. It was -- yeah. I guess it was a right of
8 entry, then. Oh, sorry.

9 Yeah, I couldn't really remember what the term
10 was. I know that it had gone back. There was an
11 objection by -- by Sheckter. And it went to a hearing,
12 and then, I guess, a leave of entry was -- was granted.
13 But I'm not -- I'm not quite sure of the terminology
14 there.

15 Q Okay. And so which pipeline -- we're dealing with two
16 pipelines in this proceeding, sir. Which one are you
17 referring to?

18 A It was the one that -- that Sheckter was, you know, in,
19 that hearing. I mean, that -- that's what I was
20 talking about. So, you know, I'm not too familiar with
21 the -- with those layouts of the pipeline. I focus
22 more on the -- on the public interest side of it. So
23 if I -- if I can get some guidance from --

24 Q No. That's fine, sir. I'm actually interested in your
25 report because you speak to the details associated with
26 the acquisitions of these pipelines in your report;

1 correct?

2 A Yeah. But that wasn't -- like, the purpose of my
3 report was to talk about the public interest, and this
4 was an example that required, you know, to talk about
5 the -- the basis of that argument. But -- but the
6 details, you know -- I mean, I don't want to get in an
7 argument that I -- I -- I didn't, you know, talk to
8 the -- to the specific details of this -- this pipeline
9 or that pipeline. I -- I was talking about, really,
10 about the -- the basis of that argument and what I saw
11 in -- in that -- in those notes about the hearing.

12 Q Okay, sir. So notwithstanding you speak in detail to
13 the acquisition of the subject pipeline interests on
14 Mr. Sheckter's quarter, you can't speak to those
15 details in any detail in this proceeding today?

16 A Well, I'm sure my colleagues -- I -- I rely on them to
17 provide those details.

18 Q Well, sir, I'm talking about your independent expert
19 report --

20 A Yeah.

21 Q -- right. So I'd like to hear from you.

22 A Okay.

23 Q And you're saying you don't know how many acquisitions
24 there were and what the manner of acquisition was at
25 the time the pipeline companies' interests were
26 acquired. Is that fair?

1 A Yeah. What I reviewed was I reviewed the -- the
2 evidence that -- that was on that in the -- in the
3 file, and -- and that evidence was from 1971, and it
4 talked about the -- the process that went on and the
5 amount that was paid by the pipeline companies to -- to
6 Mr. Sheckter.

7 Q Okay, sir. Let's move to your report. You say at
8 paragraph 10 --

9 A M-hm.

10 Q -- that in acquiring pipeline rights-of-way, pipeline
11 operators obtain their rights by paying a relatively
12 small amount of money generally based on a
13 predetermined entry fee, and the short-term productive
14 loss of the lands during the installation of the
15 pipelines; correct?

16 A That's correct, yeah.

17 Q Okay. And, sir, do you have any experience with
18 pipeline right-of-way acquisitions in Alberta?

19 A Yes, I do.

20 Q You do?

21 A Yeah.

22 Q Okay. So, sir, I'd take it, then, you'd agree with me
23 that when such rights-of-way are acquired -- excuse
24 me -- the pipeline company typically pays an initial
25 per-acre payment --

26 A M-hm.

1 Q -- reflecting the full fee simple market value for the
2 right-of-way acreage that is acquired; correct?

3 A Full fee simple value for the acreage acquired.

4 So my understanding -- you know, and I'm not a
5 land agent, right, so I -- I'm not dealing with the
6 specifics of that, and I -- I've generally dealt with
7 it as a -- as a -- a, you know, pipeline developer or
8 working for pipeline developers, so, you know, my --
9 the -- the idea about talking in detail, like I said,
10 I'm not a -- I'm not a land agent. I was looking at --
11 more at the -- at the -- at the level of compensation
12 in general and not the detail.

13 Q Okay. But -- sorry. I -- I guess what I'm struggling
14 with is when I read your report --

15 A M-hm.

16 Q -- you do speak in detail to the kinds of things I'm
17 asking you about.

18 So you said when pipeline rights-of-way are
19 acquired -- I'll read you the sentence --

20 A Yeah.

21 Q -- again.

22 A M-hm.

23 Q They're: (as read)

24 Acquired by paying a relatively small amount
25 of money, generally based on a predetermined
26 entry fee --

1 A Yeah.

2 Q (as read)

3 -- and the short-term productive loss of the
4 lands during the installation of the
5 pipelines.

6 Right?

7 A Yeah.

8 Q So you are talking about detail.

9 A Well, I'm talking -- (as read)

10 Generally based on predetermined entry fee
11 and the short-term --

12 So the idea I'm trying to get across there is that
13 there is a set formula, right, that they come in,
14 and -- and you -- you pay a certain amount, and the
15 amount is based on, you know, what the -- what the
16 productive value of that land is for a certain period
17 of time, understanding that the farmer can farm on top
18 of that afterwards, and then in this case there was
19 this injurious affection that was talked about because
20 there was some ongoing issue with -- with that land.

21 Q Okay. So, Mr. Morrison, I'm trying to be fair to you,
22 but --

23 A Yeah. M-hm.

24 Q -- as we are going to here from Mr. Telford, who is an
25 appraiser, is a land agent --

26 A M-hm.

1 Q -- is a realtor, and we're going to hear from him, so I
2 want to give you an opportunity to speak to these
3 things.

4 So, sir, I take it you're not able to agree with
5 me that when you acquire a pipeline right-of-way in the
6 province of Alberta, it's based on an initial
7 payment -- initial per-acre payment that reflects the
8 full fee simple fair market value for the right-of-way
9 acreage that's acquired? Are you able --

10 A Yeah, so --

11 Q -- to speak to that?

12 A -- the point I was trying to get across there -- you
13 know, I didn't want to talk about the -- the formula.
14 I didn't want to talk about that. What I'm talking
15 about is that a certain amount was paid on -- on the
16 context at that time, and that's -- that's what I'm
17 talking about.

18 Q Okay. Sir, so you can't --

19 A And so --

20 Q -- confirm whether or not the full fee simple fair
21 market value was paid?

22 We can hear from Mr. Telford on that, and I'll
23 move on.

24 A Well, it said in the -- if -- if -- if -- if the --
25 if -- if it was correct from what it was -- was --
26 if -- if the process was correct in 1971, I assume that

1 that process was undertaken and that formula was
2 developed and he was paid at that amount.

3 Q Okay. So I'm going to put it to you, sir, that there
4 is no formula. Okay? And I'm going to put it to you
5 that the full fee simple fair market value on a
6 per-acre basis is paid for the right-of-way when it's
7 acquired.

8 A M-hm.

9 Q Okay. And you can't -- you don't have any basis to
10 disagree with me on that. Is that fair?

11 A If the -- if the -- if the process went as it should
12 have, he was paid according to that equation or
13 formula.

14 Q Okay, sir. And when you talk about the entry fee --

15 A M-hm.

16 Q -- the entry fee under the Surface Rights Act in
17 Alberta is a statutorily prescribed amount in addition
18 to the initial market value payment for the
19 right-of-way. Are you familiar with that?

20 A Yeah. You know, my argument wasn't talking about that,
21 right. And so, you know -- I mean, my -- my argument
22 was talking about the amount they paid then was
23 appropriate for the context at the time, and I'm not
24 saying there are any -- that there are any errors made.
25 I'm saying that money was paid for that context, and
26 the context has dramatically changed today, and so the

1 context -- what happened on the surface, what the
2 surface was at that time, is very, very different
3 today, and that's what my argument is about. It's not
4 about the exact amount he was paid.

5 Q No, sir. And I understand you're making arguments.
6 I'm just trying to get at the underlying facts that
7 you've specifically referred to you in your report, but
8 I'll move on.

9 At paragraph 12, sir --

10 A M-hm.

11 Q -- you comment that the initial 1967 easement agreement
12 associated with the Plains pipeline does not pay annual
13 compensation; correct?

14 A At paragraph 12?

15 That's my understanding, yeah.

16 Q Okay. And based on our conversation so far today, sir,
17 I was hoping you might be aware, but I take it you're
18 not, that the Land and Property Rights Tribunal and its
19 predecessors in the Alberta Courts have repeatedly
20 confirmed that annual compensation is not properly
21 payable in connection with pipeline rights-of-way. Are
22 you aware of that, sir?

23 A I believe I am, but, you know, the focus was -- is that
24 I don't agree with that. I mean, the -- the context
25 has changed, and -- and so the -- the injury, I'll call
26 it, to the current owners is vastly different from what

1 was anticipated 53-plus years ago. You know, is
2 that -- is that payment a -- basically a -- a
3 carte blanche forever and ever amen? I mean, that
4 doesn't seem reasonable to me.

5 Q We'll come to that, sir.

6 A Okay.

7 Q So if we can move to paragraph 14 of your report. You
8 indicate that the difference between -- and this is
9 where you're going with --

10 A Yeah. M-hm.

11 Q -- your current statements. You indicate that the
12 difference between what the pipeline operators paid to
13 acquire their rights-of-way and what Qualico will have
14 to pay to alter the pipelines, the subject road
15 crossings is what you call "stark"; correct?

16 A Yes. Yeah.

17 Q Okay. And, sir, what you're essentially doing is
18 you're comparing what pipeline operators paid to the
19 original landowner in the late 1960s to acquire a
20 right-of-way --

21 A M-hm.

22 Q -- to costs borne by Qualico to alter a pipeline
23 crossing or pipeline crossing locations in 2024;
24 correct?

25 A Yes, that's -- and -- and also that -- that's what I
26 said, you know, just in my testimony, is -- is that's

1 only a small portion of the devaluation of that land,
2 of the -- of the surface rights of that land, and --
3 and so there -- that land has gone up in value and --
4 you know, on -- on a continual basis from 1971 to
5 today, and the amount paid in 1971 only considered the
6 context in 1971. And the value of that land today has
7 greatly increased, and so the -- that amount as -- was
8 essentially frozen in time. But the injury to the
9 owners of that land has continued to increase through
10 time.

11 And that's the whole basis of my argument, is that
12 the context has changed and that one payment doesn't
13 give the easement holders -- or I don't believe it
14 should, in my opinion, give the easement holders to --
15 enjoy the benefits of that without contributing to --
16 to the -- to the -- the change in the value of the
17 land, to -- to make that -- that distribution of the
18 costs and benefits -- benefits fair. And -- and the
19 whole idea about being the in public good is -- is --
20 is -- basically that's getting a free ride for an
21 indefinite period of time forever and ever. Is it not?

22 Q Are you done, sir?

23 A I am.

24 Q Okay. I'm trying to get us out of here before the
25 lunch break, so --

26 A Okay.

1 Q -- when I ask a question, if you could answer the
2 question rather than presenting your arguments, as you
3 call them, that might be helpful.

4 A Okay.

5 Q What I understand you to be saying, sir, is that you
6 think that the initial landowner at the time these
7 rights-of-way were acquired ought to have been paid
8 more?

9 A No, I didn't say that.

10 Q You're not saying that?

11 A No. Now, that landowner -- I'm not saying that that
12 process was flawed, but what I'm saying is -- is that
13 the cost of that to the current landowners, somewhere
14 along the line, somebody's taken a big haircut on that
15 because the land is no longer worth 250 or \$300,000 an
16 acre; it's only worth \$117,000 an acre. So what
17 happened to that value, and where did that go?

18 Q Okay, sir. So what you seem to be advocating -- if I
19 can just use a simple example or analogy, every time a
20 person sells their home and somebody purchases it or
21 you have several subsequent purchasers, each time
22 there's a difference in value --

23 A M-hm.

24 Q -- the original homeowner should be --

25 A No. That's why I said --

26 Q -- adjusting --

1 A -- no to your first question. He got what he got.

2 Q Okay, sir. We'll agree to disagree on that one.

3 A Well ...

4 Q If we can move, sir, to paragraph 15 of your report.

5 A M-hm.

6 Q You say: (as read)

7 In most cases, the pipeline developer
8 originally took a straight-line, least-cost
9 approach from origin to destination or point
10 to point --

11 A M-hm.

12 Q (as read)

13 -- while knowing that development could occur
14 at a later date.

15 Correct?

16 A In -- in this case, I think they should have known that
17 development would have occurred at a later date, yes.

18 Q Yeah, I'm just asking you to confirm what you said at
19 this point, sir.

20 A Yes. Yeah. M-hm.

21 Q Thank you.

22 And, sir, given that the route of the subject
23 pipelines was established in the late 1960s, you have
24 no specific knowledge as to what considerations went
25 into the routing exercise for those pipelines, do you,
26 sir?

1 A The 1960s, I was -- I was a babe --

2 Q And so the answer is no?

3 A -- in the 1960s.

4 Pardon? The answer is no --

5 Q All right.

6 A -- of course not.

7 Q Thank you, sir.

8 A However -- but, I'll say -- is that during -- as -- as
9 we -- as we heard, you know, in -- in previous panels,
10 is that, you know, this was considered -- like, I think
11 it was taken into the City of Edmonton -- what date was
12 that? It was nineteen -- 1982, and Mr. Gerein
13 suggested or -- or -- or stated that planning had gone
14 on long before this. And -- and we know that there was
15 some injurious affection there because of -- this
16 person was planning, but that's not the point I'm
17 making.

18 The -- the point I'm making is that Mr. Gerein got
19 what Mr. Gerein got. That process was, as far as I
20 know, intact, but the change in the context of the land
21 now is far different than it was in 1971. And what I'm
22 saying is that the value of that land has continued to
23 increase but -- but the injurious affection has not
24 changed a cent since 1971.

25 D. NAFFIN: So, Madam Chair, that was a
26 simple question saying, You don't know what was in the

1 minds of the pipeline company when they routed the
2 pipeline in the late 1960s. I keep getting
3 extraordinarily long, purported arguments. It might be
4 helpful to give the witness some direction in terms of
5 responsiveness, or I may be here until 3:00.

6 THE CHAIR: If you can just simply answer
7 the question directly --

8 A I. MORRISON: Okay.

9 THE CHAIR: -- that would be helpful.

10 A I. MORRISON: Sorry.

11 THE CHAIR: Thank you.

12 D. NAFFIN: Thank you, Madam Chair.

13 Q D. NAFFIN: So, Mr. Morrison, similarly --
14 so you've indicated you have no knowledge what was in
15 the minds of the pipeline companies when they routed
16 the pipelines because you were a babe. We've
17 established that. And, similarly, sir, you have no
18 specific knowledge as to whether they knew or didn't
19 know that residential development would occur on the
20 subject lands nearly 60 years later, do you --

21 A I. MORRISON: Of course not.

22 Q -- sir?

23 You said "of course not"?

24 A No, I would -- I don't --

25 Q Right.

26 A -- know what's in their mind.

1 Q I just didn't hear you. Sorry.

2 A I don't know what's in their mind.

3 Q Thank you.

4 A Maybe I'm not speaking up enough.

5 Q And, sir, you then indicate in your report at
6 paragraph 15 that the pipeline operators saved money by
7 taking a point-to-point approach as opposed to
8 developing a common multiuse right-of-way corridor;
9 correct? That's what you said?

10 A Correct.

11 Q Thank you.

12 And, sir, I think we can agree that there were no
13 such multiuse corridors in the subject area in the late
14 1960s; correct?

15 A I'm not sure whether that's correct or not.

16 Q Okay. Thank you, sir.

17 At paragraph 16, sir, you then speak to the future
18 routing decisions to be made by pipeline operators and
19 say that if cost sharing doesn't occur in this
20 proceeding --

21 A M-hm.

22 Q -- pipeline operators will continue to make decisions
23 to route pipelines point to point. That's what you
24 say; correct?

25 A I -- I say that.

26 Q Right. And, sir, given that pipeline routing decisions

1 are made on the basis of many considerations, as you
2 acknowledge in your third report, you can't possibly
3 know what routing decisions will be made by future
4 pipeline operators for specific future pipelines, can
5 you?

6 A I cannot.

7 Q Thank you, sir.

8 And, similarly, sir, in the last sentence of
9 paragraph 19 of your initial report, PDF page 61 of
10 Exhibit 4.01, you say that the pipeline companies in
11 this case used a point-to-point routing model because
12 they believed that they would not have to bear the
13 economic loss and could transfer future liability to
14 the landowners at no cost to themselves; correct? Is
15 that what you've said on the page, sir?

16 A Yes. Would you mind if I expanded on that point?

17 Q I have a question to follow up, sir.

18 G. FITCH: I didn't -- I didn't rise
19 before, but we all know -- all the lawyers in the room
20 know that when the cross-examining lawyer basically
21 says it's a yes-or-no question, that's really not
22 correct. Mr. Morrison is entitled to provide
23 explanation and context. I agree he shouldn't be
24 overly long, but he doesn't just have to say yes-or-no.
25 Let's be clear.

26 D. NAFFIN: So -- so, Madam Chair, I'm not

1 quite at the same age as Mr. Fitch, but I do -- I don't
2 recall saying that I needed a yes-or-no answer
3 remotely, and, frankly, I would agree with what
4 Mr. Fitch just said.

5 A I. MORRISON: I'm sorry. Because that was
6 my impression, which is why I was answering "yes" or
7 "no".

8 D. NAFFIN: What we had embarked on before
9 was a lengthy diatribe in response to even the simplest
10 of questions. So that's what I was getting at.

11 G. FITCH: Objection to the use of the
12 word "diatribe".

13 D. NAFFIN: Sorry. My apologies.

14 But, in any event, we're just trying to get
15 answers to the questions.

16 Q D. NAFFIN: So, Mr. Morrison, what I had
17 said is that the last sentence of paragraph 19 of your
18 report, you say that the pipeline companies in this
19 case used a point-to-point routing model because they
20 believed that they would not have to bear the economic
21 loss and could transfer future liability to the
22 landowners at no cost to themselves; right? That's
23 what you say?

24 A I. MORRISON: Yes. And could I -- could I
25 explain that?

26 Q Well, I haven't asked a question, sir --

- 1 A Okay.
- 2 Q -- yet beyond --
- 3 A Sorry.
- 4 Q -- that's what you say, so I'll ask you the question --
- 5 A Yes, please.
- 6 Q -- and then I -- I -- I agree with Mr. Fitch. Then you
7 get to answer it.
- 8 A Okay. Sorry.
- 9 Q Okay. So, again, sir, my question is: You can't
10 possibly know what the pipeline companies believed
11 nearly 60 years ago, can you, sir?
- 12 A Well, I do know what process they used because I have
13 planned many pipelines myself. And if I could just
14 take a second, I'll -- I'll just take a minute or two
15 minutes, and I'll just describe the process, and -- and
16 I -- I hope that that will more fully answer the
17 question because if I just answer it like that, if I
18 just say "no", it's -- we -- you -- it -- we won't have
19 it -- we won't have been able to explain the context of
20 that statement. May I just ...
- 21 Q Sorry. I'm -- I'm kind of old-school. I'm just asking
22 questions.
- 23 A Okay. So --
- 24 Q I'm trying to get answers.
- 25 A So the idea is -- is that pipelines are based on cost
26 polygons, and then you do a multiCAN analysis of other

1 factors. If there's no cost attributed to future
2 liabilities, there's no cost attributed to future
3 liabilities. The -- the route is determined by the sum
4 of the costs of the polygons, and the lowest costs that
5 meets all the attributes -- that meets the test wins.
6 And so if there's no cost, there's no cost.

7 And so once you attribute a cost to future surface
8 developments, they will take that into account, and it
9 will provide a price signal to all -- it -- it will
10 provide a price signal to alter that right-of-way, and
11 so that is -- that's the correct answer.

12 Q So, sir, I've read all these things in your report, and
13 they're on the record. What I'm getting at is you
14 don't know what the pipeline companies believed in the
15 late '60s. You said you were a babe at the time. So
16 unless you have some ability that I'm not familiar
17 with, you don't know what they believed 60 years ago,
18 do you, sir?

19 A But -- but I -- I do know what the -- what the
20 methodologies they used were. I mean, I -- I've grown
21 up in the -- in the pipeline industry, and I know how
22 the practices work.

23 THE CHAIR: So if you may, when counsel
24 poses the question --

25 A I. MORRISON: Yes.

26 THE CHAIR: -- answer the question

1 directly, and then you can add your --

2 A I. MORRISON: Okay.

3 THE CHAIR: -- explanation after.

4 How is that, Mr. Fitch -- or, Mr. Naffin?

5 D. NAFFIN: Oh, I'm sorry, Madam Chair. I
6 thought you were speaking to Mr. Morrison. My
7 apologies. What was the question for me?

8 THE CHAIR: I provided him direction to
9 answer your question first, and then they can provide
10 commentary explanation.

11 D. NAFFIN: That would be great.

12 THE CHAIR: Would that be satisfactory?

13 D. NAFFIN: That would be satisfactory.

14 Thank you.

15 THE CHAIR: Okay.

16 D. NAFFIN: That's what I was trying to
17 get at.

18 Q D. NAFFIN: And, Mr. Morrison, at
19 paragraph 20 of your initial report, you indicate that
20 because the construction of pipeline infrastructure is
21 not centrally planned, what you call a "spider web of
22 rights-of-way" is being created in the Edmonton area;
23 correct?

24 A I. MORRISON: That's correct.

25 Q And I take it from your statement, sir, that you're an
26 advocate of central planning as it relates to the

1 pipeline industry; is that right?

2 A In some instances.

3 Q Thank you, sir.

4 And, sir, further into paragraph 20, you suggest
5 the presence of pipelines on land diminishes its value;
6 correct?

7 A That is correct.

8 Q Okay. But, sir, you don't have any specific evidence
9 supporting that notion that the presence of pipelines
10 diminishes the value of land in your reports in this
11 proceeding; correct?

12 A Excuse me?

13 Q I'm asking you --

14 A I thought this -- that's what this hearing was about.

15 Q No, sir. That would be a compensation hearing probably
16 at the Land and Property Rights Tribunal.

17 So you're making the assertion that pipelines
18 devalue land?

19 A Yes.

20 Q What I'm confirming is that you don't have specific
21 evidence in your reports --

22 A Not in --

23 Q -- confirming that.

24 A -- my reports, but in the other evidence, there is.

25 Q I'll disagree with you there, sir, but you don't have
26 any in your reports where --

1 A Well, I don't have any in my reports, no.

2 Q Right. Thank you, sir.

3 And, sir, in the balance of your initial report,
4 you speak to the virtues of pipeline corridors and
5 suggest that pipeline construction should take place
6 within them. Is that fair?

7 A Where applicable, yeah. Where there's a -- where
8 there's a net present value to having them in corridors
9 is to the public good, I believe they should be in
10 corridors. Where there's no public good, it doesn't
11 matter.

12 Q Right. And just to clarify, sir, you say in one of
13 your later reports that you're not suggesting that the
14 subject pipelines be rerouted into corridors; correct?

15 A Yes, correct.

16 Q Okay. Thank you, sir.

17 And, Mr. Morrison, with respect to corridors, I
18 take it you would be supportive of a multiuse or
19 multi-facility pipeline corridor being located on the
20 subject Qualico lands; correct?

21 A Not now.

22 Q Not now?

23 A No.

24 Q Why is that, sir?

25 A Well, I -- I think that there's -- there's too much
26 work that's already gone into it, that it would be

1 counterproductive at this time.

2 Q Yeah, it strikes me, sir, that all of your pro corridor
3 comments envision the corridor not being on the subject
4 lands, and what I'm putting to you, sir, is I take it
5 you would be okay if a multi-pipeline,
6 multi-right-of-way corridor was located on the subject
7 lands given that you endorse corridors writ large; is
8 that correct?

9 A No.

10 Q No. Okay.

11 D. NAFFIN: Those are my questions.

12 Thank you, Madam Chair.

13 THE CHAIR: Thank you very much.

14 And I guess we are at lunch hour based on my
15 schedule. So I would suggest we come back at 1:30 to
16 be exact, if that works. Thank you very much. Thank
17 you.

18

19 PROCEEDINGS ADJOURNED UNTIL 1:30 PM

20

21

22

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1 Proceedings taken at Govier Hall, Calgary, Alberta

2

3 March 5, 2024

Afternoon Session

4

5 P. Meysami

The Chair

6 H. Robinson

Hearing Commissioner

7 E. McNaughtan

Hearing Commissioner

8

9 D. Brezina

AER Counsel

10 A. Huxley

AER Counsel

11 E. Arruda

AER Staff

12 T. Wheaton

AER Staff

13 D. Grzyb

AER Staff

14 A. Lung

AER Staff

15 A. Stanislavski

AER Staff

16

17 G. Fitch

For Qualico Developments West Ltd.

18

19 E. Appelt

For the Developers Group

20

21 E. Dixon

For Brookfield Residential

22

Alberta Limited

23 M. Cherkawsky

For Brookfield Residential

24

Alberta Limited

25

26

1 D. Naffin For Pembina Pipeline Corporation,
2 Plains Midstream Canada ULC,
3 and SECURE Energy Services
4 T. Myers For Pembina Pipeline Corporation,
5 Plains Midstream Canada ULC,
6 and SECURE Energy Services
7 T. Machell For Pembina Pipeline Corporation,
8 Plains Midstream Canada ULC,
9 and SECURE Energy Services
10
11 S. Duncanson For Keyera Corp.
12 J. Baker For Keyera Corp.
13
14 D. Lopez, CSR(A), RPR Official Court Reporter

15

16 (PROCEEDINGS COMMENCED AT 1:33 PM)

17 THE CHAIR: So next we have Keyera.

18 Please proceed.

19 S. DUNCANSON: Thank you, Madam Chair. My
20 name is Sander Duncanson, and I am counsel for Keyera.

21 Thanks to my friend Mr. Naffin, who was -- I was
22 able to cut down some of the questions that I prepared
23 in advance, so I expect to be hopefully faster than --
24 than I had originally estimated.

25 BRAD ARMSTRONG, Previously Sworn

26 GEORGE DAL BELLO, SHANE GEREIN, JASON FJELDHEIM,

1 IAN MORRISON, Previously Affirmed

2 S. Duncanson Cross-examines Qualico Developments West
3 Ltd. Witness Panel

4 Q S. DUNCANSON: And like Mr. Naffin, most of
5 my questions, if not all of them, are going to focus on
6 you, Mr. Morrison. As you know, Keyera doesn't have
7 any direct stake in the applications that are before
8 the AER. We're more interested in the policy
9 implications of -- of what's being put forward.

10 So, Mr. Morrison. I don't think we need to pull
11 up your qualifications. You summarized them earlier
12 this morning. And if you'd like to pull them up, we
13 certainly can.

14 But I understand that you have a fair amount of
15 experience working for pipeline companies, including
16 Trans Mountain and TransCanada; is that right?

17 A I. MORRISON: That's correct.

18 Q And your roles included project development roles
19 involving cost of construction and design matters as
20 well as roles involving pipeline integrity; is that
21 right?

22 A That's correct. And -- and while I was a division
23 engineer for Trans Mountain, my role was to look after
24 the -- you know, there was crossings involved, and
25 my -- my division was just between Jasper and Hope. So
26 I looked after crossings, looked after pipeline

1 integrity, operational maintenance, and -- and then
2 when I was with -- in the -- in the head office, again,
3 looked after the -- the crossing sections again and
4 other matters around civil engineering.

5 Q Based on your experience working for those two
6 companies in particular, you would agree with me that
7 pipe integrity is a key concern for pipeline companies
8 in Canada?

9 A Absolutely.

10 Q And when we talk about pipe integrity, what we're
11 referring to is both ensuring compliance with technical
12 code requirements, but also more broadly minimizing
13 risks to human health, to the environment, and to
14 private property. Is that fair?

15 A Completely. Yeah.

16 Q And would you also agree with me, based on your
17 experience working on behalf of pipeline companies,
18 pipe integrity is not something that can be compromised
19 or negotiated?

20 A Do you mean it never is compromised?

21 Q What I'm -- what I'm suggesting to you is from the
22 perspective of the pipeline company certainly --

23 A Oh, yeah. So -- no. I -- I -- well, so I have quite a
24 bit of experience in pipeline integrity, and it's all
25 about the failure criteria. And -- and so you have
26 your overlapping -- you know, you have your forces

1 imparting failure and you have your forces imparting
2 structural integrity.

3 And so the -- the question is what's the area
4 under the curve where it crosses. And so different
5 jurisdictions have different rules, and so our rules in
6 Canada are significantly different than rules in Europe
7 and -- and rules in the US.

8 So from, you know -- when you say it can't be
9 compromised, what I'm trying so say is it's not an
10 absolute. It depends on the rules that govern the
11 situation.

12 Q Okay. But you -- you would agree with me,
13 Mr. Morrison, that it is the pipeline company that is
14 ultimately responsible for ensuring the integrity of
15 their pipelines, and from the perspective of a pipeline
16 company, these are not requirements that can be
17 negotiated; they are absolutes. They have to maintain
18 the integrity of their pipeline and comply -- comply
19 with the Code?

20 A Yeah. Well, as I explained before, it's not an
21 absolute, and it varies in different jurisdictions.
22 But I -- I -- I am -- I -- I think that all pipeline
23 companies think that's probably the worst -- a -- a
24 break in a pipeline is probably the worst thing they
25 would ever want to experience.

26 Q And based on your experience working for pipeline

1 companies, they would not be willing to compromise on
2 that or negotiate with a third party on what they would
3 perceive as reduced requirements around pipe integrity?

4 A So when -- when we were -- when TransCanada was in the
5 hearing in the National Energy Board, the vice
6 president of engineering at that time was asked, Is
7 your integrity management program a Chevy or a
8 Cadillac? And Dave Reid said, It's Cadillac. And
9 the -- the opposing said, Well, we want a Chevy, right.

10 And so what I'm trying to say is that this is a --
11 it's not a -- a fixed point; it's a continuum. And it
12 depends on the regulations and -- and how much a
13 company wants to put in. And -- and they can put in a
14 lot more than just the regulations, as you state, but,
15 you know, it's -- it's a decision -- it's a conscious
16 decision that's made on -- on how much -- you know,
17 what the level of integrity, SIL, is.

18 Q Fair enough.

19 And not to belabour the point --

20 A Yeah.

21 Q -- but you would agree that it is the pipeline company
22 and the pipeline company only that is ultimately
23 accountable if something goes wrong with the pipe
24 integrity?

25 A Yes.

26 Q Okay. Mr. Morrison, you describe yourself in your --

1 the initial report that you filed with the AER as an
2 expert in project economic assessment?

3 A That's correct.

4 Q Do you recall saying that?

5 A That's correct.

6 Q And I understand you're not an economist; is that
7 right?

8 A There's no regulatory -- like, it's not a regulated --
9 regulated profession. So you can't say, I'm a
10 professional economist, as I would say, I'm a
11 professional engineer; however, I've literally done
12 hundreds of economic analysis on different projects.
13 So, from that point of view, I do a lot more economics
14 than I do engineering.

15 Q Okay. Fair enough.

16 And I was going to get you to confirm, I think,
17 exactly what you said, which is that your expertise in
18 project economic assessment is based on your work
19 actually doing economic assessments for pipeline
20 projects; correct?

21 A Yes. And I've had -- I've had training as well too.

22 Q Now, Mr. Morrison, when -- when you were working for
23 pipeline developers on new project designs and you were
24 preparing, you know, the business case or the cost
25 estimates for those projects, did you look at, you
26 know, what might happen 40 to 50 years into the future

1 in terms of population growth and what that might look
2 like in the vicinity of our pipeline?

3 A That's a -- that's a really good question.

4 So certainly we look at end of life, and -- and --
5 so in -- in pipelines I've been involved with, you
6 know, what -- what we generally do is a probabilistic
7 analysis on impacts. And so the further out you get,
8 the more uncertainty there is in what's going to happen
9 in the future.

10 So oftentimes with that, you'll use scenario
11 analysis. So, you know, there's -- there's different
12 forms of analysis you can use, and -- and instead of
13 using a probabilistic analysis, you'll use scenario
14 analysis. So certainly at times, depending on the
15 level of investment, you'll say, What's the scenario if
16 the population grows to a very large extent?

17 So -- so you will use scenarios, but it's -- it --
18 you know, it's specific on the context of the situation
19 you're -- you're dealing with.

20 Q Okay. And maybe just to be more specific, I mean, I
21 know -- well, again, you said that you did a fair bit
22 of work for TransCanada and Trans Mountain. I happen
23 to also do a fair bit of work for those companies, so I
24 know how those projects get designed and built.

25 When -- when the company is coming up with its --
26 its plan for a pipeline early on -- and particularly

1 what I'm interested in is, you know, thinking back to
2 when you were working at TransCanada and Trans
3 Mountain, not necessarily what's, you know, done in
4 certain jurisdictions today, but we're looking at
5 practices that -- that, in some cases, go back quite a
6 long time.

7 Are you saying that at that time the pipeline
8 companies were running various scenario analyses and
9 probabilistic assessments about population growth?

10 A Not around specific -- like, certainly we'd look --
11 certainly we'd look at -- at population growth as -- as
12 a whole, but we wouldn't look at population growth
13 around specific areas.

14 So at -- at that time, you know, the -- the -- so
15 the practice then is a lot different than it is now.
16 And so what I've seen in that time is -- is, for
17 example, you know, sensitive areas are -- are far more
18 important than they were at that time, you know,
19 wetlands, et cetera, et cetera, et cetera. The -- the
20 valuation of externalities is far more important today
21 than it was then. There is no question about it.

22 And -- and -- as I think that's the same with --
23 with most industries. You know, the standards today
24 are -- are vastly different than they were when I
25 was -- you know, when I started out in the -- in the
26 '80s in the pipeline companies.

1 Q So you would agree with me that standards change and
2 practices change?

3 A Yes, completely. Yeah.

4 Q And at the time that you were working for Trans
5 Mountain and TransCanada, there was not a formalized
6 risk assessment around what might happen in terms of
7 land-use planning 50 years in the future around our
8 pipeline --

9 A I think that's --

10 Q -- right?

11 A -- correct, yes.

12 Q Now, just one small point, Mr. Morrison. You referred
13 several times earlier today to the argument that you
14 were putting forward, but I also heard you confirm to
15 Mr. Fitch that you're appearing here today as a fair,
16 objective, and nonpartisan witness.

17 So you do understand, Mr. Morrison, that your role
18 is not to make arguments in support of Qualico's
19 application; right?

20 A Sorry if I misspoke.

21 Q Okay. So I want to turn now to the general themes in
22 the reports you put forward. I -- I heard you say
23 earlier in response to Mr. Naffin that the purpose of
24 your report -- at least this is what I heard you say,
25 but tell me if I got it right -- the purpose of your
26 report was not to address the specifics of the

1 pipelines in question in this hearing; the purpose of
2 your report was to address the public interest. Did I
3 get that right?

4 A Well, I guess that there's a twist I wouldn't agree
5 with there. And what I -- what I'm saying is these are
6 examples. Like, the pipelines we're specifically
7 talking about, the context of the situation we see, the
8 reason why we're here today is -- is an example of what
9 I've seen many times before, not only in Alberta but in
10 multiple other jurisdictions.

11 And -- and so what I was putting forward, what I'm
12 saying is I -- I believe that there's a -- the -- the
13 first in -- first in time, first in right applied to
14 the context of today where we have this vast change in
15 land use is -- is an inefficient way to approach the
16 problem, and I believe that both parties could --
17 could -- you know, the -- the position of both parties
18 would improve if that was modified. That's what I'm
19 saying.

20 Q Okay. But -- but I thought I heard what you -- what
21 you said to Mr. Naffin was you really weren't focused
22 on the specifics of these pipelines; you were looking
23 more at the broader public interest. Is that fair?

24 A Right. That's -- I'm -- what I'm saying is that this
25 is in the public interest to have cost sharing. That's
26 what I'm saying in this situation.

1 So I wasn't looking at the specifics of the, you
2 know -- I mean, that's not my role. I don't -- you
3 know, I don't know the section numbers. I don't -- you
4 know, I -- I wasn't looking at that.

5 Q Okay. And so when I heard you talk about that earlier,
6 it surprised me a little bit. I'm not used to hearing
7 people in hearings like this present themselves as an
8 expert in the public interest.

9 Do you consider yourself an expert in assessing
10 the public interest in Alberta?

11 A Well, I've certainly had experience -- a lot of
12 experience with pipelines in the application of
13 environmental and social governance.

14 So when I was working on the -- on the
15 Chad-Cameroon line in Africa, one of the -- one of the
16 largest issues there was ESG. And so when the World
17 Bank was going in there assessing that, they would not
18 lend the money unless there was appropriate ESG in
19 place.

20 When I worked on the Camisea pipeline in Peru --
21 again, we were working for the government at this
22 time -- ESG was one of the key concerns of -- of the
23 government in this very unsophisticated jurisdiction.
24 And then afterwards, Bob Scase, Lila Hernandez, and
25 myself advised the government on the development of the
26 Minister of Environment because prior to that it had

1 been under the Minister of Energy.

2 When I was working in Afghanistan, looking at the
3 rehabilitation of Afghan gas, certainly ESG was a key
4 component of -- of that industry. When I was working
5 in Bosnia, Herzegovina, after the war, certainly ESG
6 was a key component of -- of that development. And --
7 and I can go on and on and on.

8 So would I say I'm an expert? Well, I don't know,
9 you know, where the drawing line is, but I have been
10 involved in a lot of ESG in various jurisdiction and
11 advising governments on -- on how -- the sustainable
12 development of hydrocarbons in the economy.

13 Q Okay. And you equate ESG with the public interest in
14 Alberta?

15 A Yes.

16 Q Okay. You would agree with me, Mr. Morrison, it is
17 ultimately the AER's job in this hearing to decide what
18 is in the public interest?

19 A Absolutely.

20 Q Okay. If we could turn up your reply report. This is
21 Exhibit 79.02, and I'm looking at PDF page 27.

22 And in the very last paragraph, you fairly
23 succinctly summarize the -- the key points of your
24 participation in this hearing, or your "submission" as
25 you call it here.

26 A M-hm.

1 Q And you say that the -- the intent of your submission
2 is twofold: first, it's to demonstrate that the cost
3 incurred by the pipeline companies 50 years ago was
4 small when compared to the cost incurred by impacted
5 stakeholders today.

6 A M-hm.

7 Q And then, second, you talk about providing a solution
8 in terms of a price signal that will influence future
9 pipeline routing decisions; right?

10 A That's correct.

11 Q Okay. I'm going to ask you a few questions, hopefully
12 not more than that, about each of those two key points
13 from your submission.

14 And on the first point about looking at what the
15 pipelines paid for their easements 50 years ago
16 relative to the cost of pipeline crossings today, I
17 want to clarify, first, one point.

18 And I'm -- I -- I'm sorry. I was taking good
19 notes this morning, and I've read your reports several
20 times, and I'm still not completely clear on your
21 position.

22 See, you say in some places in your reports that
23 the landowners were not properly compensated for the
24 pipeline easement, but then I heard you say earlier in
25 response to Mr. Naffin that you're not disputing that
26 the amount -- that the -- that the amount of the

1 payment at the time of the taking was not the fair
2 market value at that time.

3 A M-hm.

4 Q Did I get that right?

5 A Yeah. So -- and I'm sorry if I -- I -- I did -- I
6 wasn't clear on that point.

7 So, "the landowners", I meant in -- in a continuum
8 of time, so landowners may change. So I think the fact
9 is clear, is that there was an economic loss by the
10 group of people holding land over time because of the
11 presence of the pipeline on that land. So that's what
12 my meaning is.

13 So you might have seen various transactions over
14 time, but somewhere -- so as the value of the land
15 increase -- increases, the impediment caused by the
16 pipelines increases. So, you know, what was the
17 impediment 50-plus years ago is not the same as what it
18 was today. So that -- that's what I meant to say if I
19 didn't communicate that properly.

20 Q Okay. So -- so when you say that the owners of the
21 land were not properly compensated, you agree that the
22 owner of the land at the time of the taking was
23 properly compensated based on the actual fair market
24 value of the land at that time? Or at least you have
25 no reason --

26 A I have no reason --

1 Q -- to --

2 A -- to doubt that.

3 Exactly. I have no reason to doubt that, and
4 that's not --

5 Q Okay.

6 A -- what I'm -- that's not what my -- I'll say what my
7 position is.

8 My position is -- is that the context today around
9 large growing municipalities is such that the -- the
10 value of that land, the economic cost of that land, has
11 been diminished, and that the public -- and so the
12 public is suffering.

13 Like, as we heard, these costs are passed on.
14 Like, it's not a free ride. These costs are passed
15 on -- on to the homeowners, right. And that -- it
16 seems to me that the pipelines in this situation have
17 benefitted from not participating in that -- in the
18 economics for over 50 years.

19 And so my position is it would be a -- to -- to
20 balance the -- the distribution of costs and benefits
21 of infrastructure development, I think it would be a
22 sustainable position, a -- a good position for
23 environmental and social governance, that some of these
24 costs be shared by the people who are benefitting from
25 being on that land.

26 Q Okay. And -- and we will get back to -- to that

1 broader sort of policy perspective in a minute, but,
2 again, just focusing sort of on the -- this land
3 acquisition concept and --

4 A M-hm.

5 Q -- and, you know, we said on Day 1 when the -- when the
6 land taking occurred there was no issue there with
7 compensation. It was sometime later that there became
8 an issue.

9 It -- it struck me when I was reading your reports
10 that you draw a distinction -- or you make a difference
11 between pipeline easement rights and fee simple
12 ownership rights; is that right?

13 A I -- I feel that there is a difference, yes. And --

14 Q Okay.

15 A -- one of the differences is -- is because the pipeline
16 ownership rights seem to be governed by a first in
17 time -- or first in time, first in right, where the --
18 it -- it -- it -- it's not the same case with -- with
19 the -- with the land ownership as their rights are --
20 their economic costs are continually diminished over
21 time because the value of their land holdings goes
22 down. So that's -- that's what I think occurs in that
23 situation.

24 Q Okay. Now, in your view, if -- if the pipeline company
25 happened to own the land in fee simple as opposed to
26 owning its land rights in the form of an easement, in

1 your view, would it be appropriate that there be cost
2 sharing when somebody wanted to cross that land?

3 A I think that -- I think in -- in -- that -- that -- so
4 that case is -- is -- occurs sometimes, and I think
5 that -- that -- that if they want to cross the land and
6 they can't agree on the price, they come to the AER to
7 get a right of entry as the same way as Qualico has
8 come to the AER to ask for a cost sharing.

9 So I -- I think that that situation actually
10 occurs.

11 Q So if you -- if you have a -- a landowner --

12 A M-hm.

13 Q -- who owns their land in fee simple --

14 A Yeah.

15 Q -- and someone wants to cross their land without their
16 consent, your position is that the landowner should pay
17 a portion of those crossing costs?

18 A No. So what I said is if -- if they can't come to an
19 agreement -- so let's say a pipeline comes to a
20 landowner, and they want to cross their land, and they
21 can't come to agree -- to an agreement, they come to
22 the AER or an equivalent body, and the AER makes that
23 decision.

24 Q Right. And you would agree in that situation the
25 landowner is never told, And you've got to pay for half
26 of the pipeline crossing cost; right? It's the

1 pipeline company that's coming in --

2 A Yeah. But they have --

3 Q -- wanting to cross the land, and they pay for it.

4 A J. FJELDHEIM: Ask for a moment.

5 A I. MORRISON: Can we have a moment?

6 Q Certainly, if you need to confer with your client.

7 A We have -- we have two parts to this answer. So I'll

8 say from --

9 Q And -- sorry. Just before -- before we go on,

10 Mr. Morrison. When you say "we" -- my questions are

11 directed at you as an independent body here on this

12 panel, not speaking as an advocate for Qualico as I

13 thought we established.

14 A Yes.

15 Q Correct?

16 A Yeah. So -- but there's --

17 Q So when you say "we", you're referring to "I".

18 A There's -- there's two parts, though.

19 Q Okay.

20 A So should -- and maybe I'm -- I'm -- I'm not getting

21 the process right here. But should I answer my part,

22 and then should Qualico answer their part, or ...

23 THE CHAIR: Yeah, that's okay.

24 A I. MORRISON: Yeah. So -- so from my point

25 of view, there's -- there's a couple of costs involved,

26 and I -- I -- I -- so we could say from a -- an

1 elemental point of view or simple point of view, the
2 cost is only the cash transaction, but what really
3 happens is there's all kinds of other costs involved.

4 And so when a pipeline -- a landowner comes up
5 and -- let's say a pipeline comes up and they want to
6 cross lands, which is often the case. And in the
7 larger scale of the public interest, it's -- it's
8 worthwhile for the pipeline to go across.

9 But in -- in that actual transaction, there's cash
10 costs, and then there's other costs, and one of these
11 costs is the -- the valuation -- the overall -- the
12 valuation of the land because it's -- it's now bisected
13 by a pipeline, and its use is limited. So -- so
14 that's -- that's my answer to that, but there was also
15 another situation based on this.

16 Q S. DUNCANSON: Well, okay. So maybe before
17 we turn it off -- over to the Qualico folks -- and to
18 be clear, I wasn't asking for Qualico's corporate
19 position on this. I'm really focused on your --

20 A Sure.

21 Q -- expert opinion on this topic.

22 I still don't think I fully understand your
23 position. What -- what I -- what I'm hearing you say
24 is you do see a distinction between the pipeline
25 easement --

26 A Yeah.

1 Q -- rights --

2 A Yeah.

3 Q -- and fee simple ownership rights --

4 A Yeah.

5 Q -- and I was trying to understand how this scenario
6 that we find ourselves in today in this hearing would
7 be different, in your view, if instead of owning an
8 easement, the pipeline owned the land and fee simple --

9 A Yeah.

10 Q -- where you've got a third party that's wanting to
11 cross that land at -- without the landowner's
12 permission.

13 You said they could go to the AER and get a -- a
14 right of entry --

15 A Yeah.

16 Q -- if it was a pipeline seeking to do the crossing, but
17 you would agree with me in that case that the landowner
18 would not be paying for the cost of that third-party
19 crossing --

20 A Yeah. And so --

21 Q -- right?

22 A So what I said -- so -- first of all, so let's say
23 there's a negotiation, and the landowner said, I want
24 this exorbitant fee for you to cross my land. The
25 pipeline owner would come, and they would say, I don't
26 agree with that. It's ridiculous. And -- and so we'll

1 go to the AER, and we'll get a right of entry.

2 And so what happens -- what I -- what I -- what
3 happens -- what my argument is is that, of course, the
4 process is the same for here. So we're saying, We
5 don't agree with this cost sharing agreement, and so we
6 come to the AER, and we get the Section 33, and that's
7 where we put the argument forward.

8 So the -- the fundamental difference is -- I
9 see between a pipeline and what happens on the surface
10 is that what's happened in the past here is that once
11 the pipeline is -- is -- is in the ground, it -- it can
12 operate, you know, as -- as it will. What happens on
13 the surface is -- is different, though, because that
14 value changes over time around a municipality. And so
15 the value of -- of that land continues to increase, but
16 there's no compensation for that. So there's an --
17 there's an inequity there between the rights of the
18 pipeline and the rights of the -- of the surface
19 holder.

20 Q Okay. And I think that's actually quite helpful,
21 Mr. Morrison, 'cause what you're saying is there's a
22 change in the valuation of that surface area over time,
23 and with a pipeline, that surface area is an easement,
24 but if it was owned in fee simple, it would be that
25 owner who --

26 A Exactly.

1 Q -- bears that value?

2 A That's exactly what I'm saying. Yes.

3 Q Okay. And -- and your view is that the pipeline, by --
4 by virtue of it -- its land rights being in the form of
5 an easement as opposed to fee simple ownership, that it
6 does not own that value, so to speak, of the surface --

7 A Exactly.

8 Q -- that notwithstanding that it might have paid
9 equivalent of fee simple ownership rights, somebody
10 else owns that and -- and the pipeline remains liable
11 for that over time?

12 A Well -- yeah. So what we're seeing now, in -- in my
13 opinion, is that that agreement has -- has stayed in
14 the -- the valuation of that agreement has stayed
15 static since 1971, and I -- I don't -- I don't believe
16 that that's efficient, and -- and I -- I think that
17 that is not in the public interest to keep that
18 because, as it stands right now, you know, the --
19 it's -- the cost of housing will be -- will be driven
20 up because of this.

21 Q Okay. And I -- I think that this might help explain
22 another term you used this morning which I had,
23 frankly, never heard before in the context of real
24 estate transactions, which is the essence of the deal
25 must continue to satisfy the parties.

26 A Yeah. And -- and so it's -- it's quite interesting,

1 actually, and so if both parties are not satisfied in a
2 deal, that -- that deal can be construed as -- as, I
3 would say, losing its value -- losing some value.

4 So if -- you know, in a -- in a perfect world, the
5 deal should be structured so that -- that -- that both
6 parties continue to be satisfied over time. And if
7 because of a -- the fact that we're sitting in -- now
8 with the first in time, first in right around growing
9 municipalities, that -- that deal starts to benefit one
10 party more than the other. And my -- what my position
11 is is that I don't think that that's in the public
12 interest.

13 Q Okay. So, Mr. Morrison, we're -- we're starting to
14 find ourselves in a bit of a similar pattern to the
15 exchange you had with Mr. Naffin before lunch, which --
16 which is that I haven't even gotten to my question
17 before I get the speech.

18 A I'm sorry.

19 Q So -- so let's try to stick to the questions, and then
20 I will -- I will let you give whatever speech you want
21 to afterwards.

22 A Okay.

23 Q But on this concept of, you know, the essence of this
24 deal must continue to satisfy the parties, I have to
25 say when -- when I heard you say that, it made me think
26 of my wife's grandfather, who -- every time I see him,

1 he talks about how he should never have sold that piece
2 of land which happens to be in Windsor Park in Calgary
3 because when he sold it 50 years ago, it was worth
4 almost nothing, and now it would be worth a small
5 fortune, in his -- in his mind.

6 You're not suggesting that he should be able to go
7 knock on the door of the current owner of that property
8 and say, Hey, the deal doesn't satisfy me anymore. I
9 need to get a cut of the increase in land value over
10 time?

11 A No, I'm not saying that.

12 Q But you're saying that that does apply in the context
13 of pipelines?

14 A What I'm saying is -- is I think the -- the way -- the
15 first in time, first in right is creating an imbalance
16 in the cost and benefits, and I think that it would be
17 more efficient and in the public interest if that
18 imbalance was corrected.

19 Q Okay.

20 A I -- I don't think when I -- oh, sorry.

21 Q Well, so my question is, this distinction that -- that
22 you're creating between easement rights and what you
23 perceive to be the -- what comes within the basket of a
24 pipeline easement's rights as opposed to fee simple
25 ownership, is this just pipelines, or, in your -- in
26 your opinion, would this extend to other types of land

1 rights? I mean, I think about --

2 A Well, yeah.

3 Q -- things like power lines or --

4 A Yeah. And -- and certainly in -- in the power line
5 regulations, I believe there's an entrance for this as
6 well.

7 But we see this distortion in many things. So,
8 for example -- and, you know -- and I don't want to go
9 down a rabbit hill here, but -- but first in time,
10 first in right has been shown not to be appropriate in
11 many different situations.

12 So, for example, patents only last for so long.
13 You know, drugs -- the patents on drugs only last for
14 so long. This is the -- this is the same argument
15 because it's in the public interest to have that
16 modified over a period of time if the circumstances are
17 appropriate. And in this case, I think the
18 circumstances -- in my opinion, I believe the
19 circumstances are appropriate to modify that. So it's
20 in -- I -- and I believe it's in the public interest to
21 do so.

22 So, you know, there's many different ways to
23 approach it, the administration of -- of rights, and
24 this particular choice of administration is first in
25 right, first in time. But, you know, the literature
26 will say there's five or six different methodologies

1 to -- to do it, one of the most effective being, you
2 know, the administration of rights through a -- a board
3 like the AER to decide when it's appropriate and when
4 it's not appropriate. And -- and I -- I think that
5 there's a -- there's a -- you know, a -- I'm afraid to
6 say "argument", but I think there's an -- there's an
7 argument for that in this case.

8 Q Okay. So I -- and I think I'm -- I'm almost finished
9 with that first theme of -- of your argument/submission,
10 but -- so what you're saying is you recognize that
11 there is this longstanding principle of first in time,
12 first in right in Alberta, but you don't think that
13 that is economically efficient, and you think that this
14 is the opportunity for the AER to change that?

15 A In -- in this case. So it -- it's very contextually
16 specific. So in a case like Edmonton where the
17 municipality is, you know, growing over time, and I --
18 I think that it is appropriate in this case to -- to
19 look at that.

20 Now, in other cases, it's not appropriate to look
21 at it. So I don't think you wanted to be prescriptive,
22 and I don't think a prescriptive solution would be the
23 answer, but I think to -- to have a hearing like this
24 and to find the solution is -- is -- is an efficient
25 way to do it.

26 Q Okay. And you do recognize that the solution, in your

1 words, that you're talking about would be to depart
2 from the first in time, first in right principle?

3 A In this specific case, I do. Yeah.

4 Q Yeah. Okay. So I just have a few -- a few questions
5 for you about the second theme in your submission,
6 and -- and I don't think we'll be much longer.

7 So -- so, as I understand, what you said in your
8 written submissions as well as so far today, in your
9 view, there is -- there is a policy benefit if
10 pipelines are routed through corridors particularly in
11 places like this where there's also urban development
12 in proximity; is that right?

13 A Yeah. So I've been on -- in three panels. I've been
14 in three task forces: one for the greater Edmonton
15 regional district, one for the Alberta industrial
16 heartland, and one for the capital region. And in all
17 those cases, and the pipeline companies were all
18 involved in those, we -- you know, the -- the consensus
19 was -- is that pipeline corridors are efficient coming
20 into large municipalities and that it's in the public
21 interest to -- to -- to have those. Yeah. So I
22 think --

23 Q Okay.

24 A -- everybody -- there was -- everybody agreed. So I
25 don't -- sorry. I don't think my opinion was off base
26 there.

1 Q Okay. Now, you -- you agree, Mr. Morrison, that for a
2 pipeline to get approved by the AER, the route for the
3 pipeline must be approved as being in the public
4 interest?

5 A That's correct.

6 Q And there's nothing that needs to change in the
7 regulatory framework to ensure that pipeline routes are
8 only approved if they are found to be in the public
9 interest; right?

10 A I believe that's correct. Yeah.

11 Q For AER-regulated pipelines that are not located within
12 utility corridors, is your view that the AER got the
13 public interest test wrong when it approved those
14 projects?

15 A No, I don't. I think that -- and as we talked about,
16 times change. And, you know, wetlands weren't
17 considered to be a valuable asset; you know,
18 sustainability wasn't considered to be a valuable
19 asset. You know, the -- the -- the -- the -- the
20 stakeholders were -- were -- were minimal. And they
21 weren't really stakeholders that approved it; they were
22 more like rights holders that approved it.

23 And so, over time, the -- you know, the -- the
24 pipeline routing -- in -- in -- in -- in my view now,
25 some of the larger oil companies have some of the
26 best -- and I -- I've looked all over the world -- some

1 of the best ESG in the world. You know, there --
2 there's more considerations, and oftentimes their
3 practices are well above the regulatory practice.

4 So we worked -- worked for Chevron in the Carabobo
5 project in -- in Venezuela, and their -- their projects
6 were their -- their standards. I mean, it was project
7 standards first, regulations second.

8 And so, you know, the short answer is no. I -- I
9 think, you know, times change, and to -- to be
10 efficient, the jurisdiction needs to -- to change with
11 those changing times.

12 Q Okay. But I guess I'm -- I'm a little confused again
13 because in this hearing we're talking about existing
14 pipelines. You -- you said earlier you're not
15 suggesting that those pipelines should be rerouted, the
16 proverbial ship has sailed on the --

17 A Yeah.

18 Q -- route for those projects.

19 What you're saying is if we -- if we do something
20 different, if we throw away the first in time, first in
21 right principle, that might change the way that
22 pipeline companies think about routing --

23 A Right.

24 Q -- and it might create more of an incentive to go
25 into --

26 A Exactly.

1 Q -- utility corridors?

2 A That's correct, yeah.

3 Q Yeah. Okay.

4 A So you're -- you're putting a price on that polygon,
5 you're putting a -- you're changing the price. And
6 when that price changes, that sends a signal to the
7 routers -- the pipeline people who are doing the
8 routing to -- to potentially use a different path.

9 Q Okay. Now, you -- you talk a fair bit in your
10 submissions about maximizing the -- the overall value
11 of the land and minimizing costs on development and --
12 and -- and negative impacts on land.

13 In -- in your view, when the -- when the AER is
14 determining whether the route for a pipeline is in the
15 public interest, is that -- is that one of the things
16 that it should be thinking about, is: Is this route
17 that's been proposed -- is this maximizing the overall
18 value, or is it -- is it minimizing potential conflicts
19 in the future with land development? Like, are those
20 the things that -- that, in your view, the AER should
21 be mindful of when it's approving a pipeline route in
22 first instance?

23 A Yeah, so -- so there's -- there's -- there's
24 quantitative elements and non -- nonquantitative
25 elements. And so you do a, you know, multi-account
26 analysis, a triple bottom-line analysis. The

1 methodology is all the same. And so you'll -- you'll
2 get a -- a net present value for a certain project, but
3 then you'll get the -- the qualitative elements that
4 are hard to quantify, and you need to -- to judge those
5 as well too.

6 So the public interest is both of those combined.
7 So you -- you can't quantify some things and -- but
8 they're still in the public interest, right, but it's
9 hard to put a reliable dollar value on something.

10 So I -- I think that there's both the quantitative
11 and the qualitative side. The economics can generally
12 be quantified, but -- but other issues, such as
13 sustainability or -- or species at risk, are very hard.
14 Like natural capital, I mean, it's almost impossible to
15 put a strong argument around that. And so those are
16 qualitative arguments that also need to come into the
17 equation.

18 Q So effectively in -- in -- in your view, when the AER
19 is looking at a new pipeline route, they need to be
20 looking at this really through a land use planning
21 lens, which is, How can we figure out where the best
22 place to put this pipeline would be to maximize value
23 for the overall region?

24 A Yeah. And -- and I -- I think they want an unfettered
25 ability to do that because it's so complex that a
26 prescriptive -- you know, one-size-fits-all solution,

1 which is the -- the whole idea, I think, behind this
2 regulatory function.

3 Q Okay. I appreciate your patience with me,
4 Mr. Morrison.

5 S. DUNCANSON: Panel, those are all my
6 questions.

7 THE CHAIR: Thank you very much.

8 I'm going to -- next we have on the agenda AER
9 staff and counsel. So if they wish to take a break
10 before questioning, that would work, or if you want to
11 go directly to questioning ...

12 D. BREZINA: AER counsel does not have any
13 questions.

14 THE CHAIR: Thank you, Counsel.

15 So I believe Panel would like to confer. We may
16 have some questions for the witnesses. We'll take a
17 break -- let's say 20 minutes -- and hope we are
18 efficient. It may run over, depending how heated the
19 discussions are, but we'll be back around 2:30. Thank
20 you.

21 (ADJOURNMENT)

22 THE CHAIR: So thank you very much for
23 your patience, and we have some questions for the
24 witnesses.

25 Mr. Robinson, do you want to begin?

26 H. ROBINSON: Yeah. Sure.

1 The Panel Questions Qualico Developments West Ltd.

2 Witness Panel

3 Q H. ROBINSON: This is just a real simple
4 clarification question. We had three exhibits
5 introduced as part of a aid to cross: 85.01, 86.01,
6 87.02. I just want to make sure I'm following the
7 bouncing ball right.

8 Two of those weren't actually carried through
9 with. Which -- which two were not?

10 A B. ARMSTRONG: That's correct. It was -- I
11 believe it was ATC 2 and 3 were not carried, the -- the
12 two Plains Midstream agreements.

13 Q Okay. That translates to me to the 86 and 87.

14 A Okay. Oh, sorry.

15 Q The exhibits, yeah.

16 A Right.

17 Q Yeah, I got that. The last two.

18 A That's correct.

19 Q Okay.

20 A That's my understanding.

21 Q Okay. Mine too now. Thank you.

22 THE CHAIR: Thank you very much.

23 Ms. McNaughtan -- Commissioner McNaughtan.

24 E. MCNAUGHTAN: Thank you very much,

25 Madam Chair.

26 Q E. MCNAUGHTAN: A couple of questions, first

1 of all, for you, Mr. Armstrong and/or Mr. Gerein. I
2 hope I said your name correctly. And pardon me, but I
3 can't remember which of you spoke about it, but you --
4 in the past, you would create an estimate based on a
5 low cost, or you got low-cost estimates for crossings,
6 and the current crossings were an unexpected number.

7 Can you tell me more about what was the nature of
8 those low-cost crossings, who would do the work,
9 what -- what -- was there a significant difference
10 between those low costs and this particular type of
11 methodology proposed?

12 A S. GEREIN: Sure. Thank you through the
13 Chair.

14 Without specific details on low cost versus high
15 cost, we've experienced pipeline crossings in certain
16 communities that we have where we have not experienced
17 any cost at all in terms of protecting the pipeline
18 with a low-distributing structure, not having to enter
19 into what we've dubbed as "backstopping agreements" to
20 assess the integrity of the pipeline. So we have had
21 examples where there hasn't been any applicable cost
22 other than, essentially, moving forward with the
23 surface construction.

24 So I think what we're saying here is that the
25 practice is really kind of seemingly all over the
26 place. We have a really hard time understanding what

1 to expect, when to expect these -- these types of
2 costs, and we do feel like the practice might be
3 changing, and it's -- it's very difficult to keep up.

4 So, hopefully, that addresses your question.

5 Q Thank you.

6 Mr. Armstrong and/or Mr. --

7 A B. ARMSTRONG: Yeah.

8 Q -- Gerein, in the submissions so far, it's clear that
9 at one point Pembina received -- or -- pardon me --
10 Qualico received an offer from Pembina for the
11 167 Avenue crossing work of about \$559,000 to be
12 covered by Qualico, and the indication was it was not
13 100 percent of the costs that would be incurred,
14 implying Pembina would cover some of those.

15 Why did you -- why did Qualico not accept that
16 offer, which was a cost sharing offer?

17 A S. GEREIN: The reason that we did not
18 accept that is because we were directed by the ARA
19 steering committee to proceed with an application for
20 either pipeline alterations, which, again, we don't
21 understand the -- the breadth of, and potentially
22 pursue diplomatic discussions with the pipeline
23 companies to share those costs; therefore, we were not
24 in a position, based on the direction provided by the
25 committee, to move forward with that work.

26 Q Thank you.

1 Question, then, for Mr. Dal Bello, I believe, with
2 WSP. If I could have Exhibit 5.01, PDF page 1121,
3 Section P brought up, which is -- so page 1121, I
4 think. Oh, there it is. I may have the wrong page
5 number. I'm looking for Section P of this. Is it
6 perhaps the page before? Oh, Section P. Right.
7 There. There we go. Thank you.

8 And Line Item P3 is: (as read)
9 Plains Midstream and Pembina Pipeline
10 concrete slab protection for approximately
11 \$3.5 million.

12 And as I understand it, this is the cost estimate that
13 Qualico would have put forward to the ARA steering
14 committee for the Meridian Road work that was required;
15 is that correct?

16 A G. DAL BELLO: That's correct, yeah.

17 Q And there are a number of different costs that are
18 presented throughout the submissions, which add up for
19 the pipeline work, as I understand it, to about 1.5 --
20 somewhere to 1.5 and \$2 million. Could you tell me why
21 this estimate is higher than that?

22 A At the time that this estimate was prepared, we did not
23 have all of the information available. So this is
24 2019, prepared at the time when the detailed design was
25 complete, but we didn't have submissions from the
26 pipeline companies. So we did carry estimates for what

1 we expected or what we thought based on what we knew
2 would be the cost, and so, obviously, that number added
3 up to 3.486 million.

4 Q Thank you.

5 And then as you would refine that cost estimate,
6 you would notify the ARA steering committee; is that
7 correct?

8 A That's correct. Every year as actual costs have come
9 in, we have already started notifying the ARA steering
10 committee as of this past December, and on a yearly
11 basis, this number will be refined to -- to ultimately
12 match actual costs.

13 Q Thank you.

14 And I have one last question, then, for
15 Mr. Fjeldheim. Has the ARA steering committee
16 considered inviting pipeline companies and/or utility
17 companies to be part of the steering committee given
18 that cooperation and coordination is -- is raised by
19 Qualico and the witness panel as being in all parties'
20 interests and strategic planning would seem to be
21 something that a growing urban area would look at?
22 Have you invited pipeline companies to join you?

23 A J. FJELDHEIM: To date, we have not invited
24 pipeline companies, but I think that that's a good
25 idea, and having pipeline companies participate,
26 similar to how utility companies like EPCOR and TELUS

1 participate, I think it would be a -- a good step
2 forward.

3 A S. GEREIN: And maybe I'll add to that, if
4 I may. Collaboration at the plan level, I think, is a
5 very important step to take as well. We've talked
6 extensively today about area structure plans and, you
7 know, neighbourhood structure planning and -- and that
8 process. Those are intensive collaborations amongst
9 various stakeholders, but, to date, you know, when
10 trying to engage the operators to participate in that
11 type of planning, they have not actively participated.

12 Q Thank you. Those are my questions.

13 THE CHAIR: Thank you very much,
14 Commissioner McNaughtan.

15 I have some questions also for the witnesses, if
16 you are so kind to be patient with me.

17 Q THE CHAIR: My first question is for
18 Mr. Fjeldheim. You mentioned the levy system. Would
19 you be so kind to elaborate on this levy system that --
20 how does it work, and where is it applied, where is it
21 not? Because also, if I didn't mishear you, you
22 mentioned that for the Marquis JV crossing, they chose
23 not to use the levy system. How is the cost that they
24 absorbed -- is -- going to be reflected in the housing
25 or -- what's the difference? Why one way here and the
26 other way somewhere else?

1 A J. FJELDHEIM: Can I just ask ...

2 Okay. So for the first part of your question,
3 I'll try and explain kind of Levies 101. So the
4 Municipal Government Act is the act that governs the
5 application of levies in municipalities. And so the
6 Municipal Government Act gives municipalities the power
7 to charge levies, but there is a stipulation in the
8 Municipal Government Act that there's defined benefit
9 from those levies. So if you're paying for a piece of
10 arterial road, it has to benefit the land that you're
11 developing and then ultimately the residents that are
12 in that land. And so that's a stipulation that's laid
13 out in the Municipal Government Act.

14 And so the City of Edmonton arterial road levy
15 bylaw is then created within that framework where there
16 are different -- they're referred to as "basins". So
17 all of the residents that are in a basin contribute to
18 all of the roads that are also in that basin.

19 So at the beginning of construction of a basin,
20 all of the arterial roads are estimated by an
21 engineering firm. The City of Edmonton then, through
22 our committee, takes the total costs of all the
23 arterial roads in that basin and then divides that by
24 the number of hectares that will be developed
25 ultimately in that basin so that every -- every
26 homeowner that ultimately lives in that basin pays

1 their proportionate share of the cost of the arterial
2 roads. Does that make sense?

3 Q It does.

4 A Okay. Do you want me to do an example?

5 Q Sure.

6 A Okay. So if a basin has, say, \$300 million worth of
7 arterial roads and there is -- check my math. How many
8 hectares would be in there? Say a thousand hectares
9 were in that basin, the arterial road levy would be
10 \$300,000 per hectare; right? Anyway, it's the --
11 the -- yeah, 300 million -- use your calculator. So
12 \$300 million for all of the arterial roads divided by
13 the 1,000 hectares of development. Then each
14 hectare -- when you sign your development agreement,
15 there is a map of your -- your development, your stage,
16 and if it's 5 hectares, it would be 5 times \$300,000
17 per hectare. So you would have to pay \$1.5 million to
18 the levy. The levy then takes that money, and we give
19 it back to the developer that constructed the road at
20 the beginning.

21 Q Right.

22 A Does that make sense?

23 Q It does, yeah.

24 A And so then if pipeline crossings in a certain basin
25 add \$35 million to the cost of the arterial roads in
26 that basin, that would increase the levy by over

1 10 percent, so instead of 1.5 million, it would be
2 1.75 million. And so then every house in that stage
3 has to then increase in cost and increase in price in
4 order to cover the increase in levies.

5 Q That's very good. Thank you. That --

6 A Okay.

7 Q -- clarifies it.

8 Now it takes me to my next question, then. So
9 Marquis JV chose -- I believe that was your statement,
10 that it chose not to use the levy system; they absorbed
11 the cost. So what happens in that situation? So
12 it's -- it's discretionary, or it's optional, is it,
13 participating in the levy system or not?

14 A It is. There's also -- claiming your costs or -- like,
15 wanting the costs that you've incurred in your arterial
16 road, you have to be on the standard four-lane arterial
17 road with sidewalks on both sides. Anything above and
18 beyond that, you have to come to the ARA steering
19 committee, do a presentation, and then the seven
20 members will vote on whether it's an eligible cost for
21 the basin.

22 So whether -- so we kind of have the power to
23 increase the levies in the whole basin or decrease them
24 should a developer have some cost savings. But if a
25 developer has a piece of work that's outside of the
26 standard and they do not come to the committee to have

1 the rate increased, then it -- it'll be at their cost.

2 Q So the developer absorbs it in that case?

3 A Yes. Although I think -- you could maybe ask -- that
4 developer will be here tomorrow. You can ask. They
5 might have a plan to come at a later date, pending the
6 outcome of this hearing, and try and get those costs
7 absorbed by the committee, but I can't say whether the
8 committee will accept it or not.

9 Q Good reminder. Thank you.

10 A Yeah.

11 Q I will make sure to do that. So those were my
12 questions for you.

13 I believe this question is probably for
14 Mr. Armstrong or -- yeah. Let's go with that. And if
15 you need to confer --

16 A B. ARMSTRONG: Yeah. Okay.

17 Q -- that's fine.

18 So in the 2015 report from CIMA+ had a traffic
19 projection. They -- they had a traffic study done,
20 certain traffic at the time and then projection over
21 time. Time has lapsed -- it's about at ten year -- and
22 construction has begun. And that intersection, from my
23 understanding, 167, hasn't been upgraded yet. So, to
24 your knowledge, how has the traffic been using that
25 intersection and that crossing? Is there an increase,
26 and particularly is construction utilizing that

1 intersection at the moment?

2 A Sorry. Is -- is construction using that intersection
3 now?

4 Q Construction machinery, heavier load.

5 A I believe it is, but I'll -- I don't know if
6 Mr. Dal Bello can explain that, but -- go ahead.

7 A G. DAL BELLO: So the -- the road, as it
8 stands today -- I believe there's a picture somewhere.
9 It's still got a 7-metre standard rural roadway, and,
10 you know, we have to abide by the City of Edmonton's
11 road bans and other traffic laws just like every other
12 operator using public roads, and we -- we don't have
13 equipment crossing otherwise.

14 A B. ARMSTRONG: Yes. And we've upgraded the
15 arterial road north of 167th Avenue to two-lane status
16 and a brand-new bridge, and -- and so it makes sense
17 that they would be using that. That's the most
18 convenient location.

19 But in terms of actual traffic numbers, it's
20 probably increased a slight amount, but what CIMA+ was
21 doing in terms of the overall design and -- and -- and
22 maybe Mr. Dal Bello can correct me if I'm wrong here,
23 but I anticipate they're looking at anticipated traffic
24 volumes for peak demand into the future.

25 Q Okay.

26 A Right. And -- yeah.

1 Q Thank you very much for that.

2 There was a mention -- and I may have missed it.
3 I can't remember. It may have been you -- that there
4 was an easement from City of Edmonton and -- upgrading
5 that intersection. Somebody mentioned, I --

6 A S. GEREIN: Madam Chair, not an easement,
7 but an interest in upgrading the intersection. It is
8 part of essentially the scope of the project. The
9 demand from the City was the intersection be upgraded
10 basically to its ultimate form. Of course, when --
11 when we were directed to make this application and
12 knowing that we were not in a position to proceed with
13 those pipelines, they were willing to give us a little
14 period of grace in order to, hopefully, have the
15 hearing, understand our obligations moving forward,
16 and, you know, hopefully, we'll be in a position to
17 undertake the full intersection improvements within the
18 next, you know, 24 months. Something like that.

19 Q Thank you for that.

20 So I have one more cost question I should have
21 asked earlier, but ...

22 So in the evidence, there is total cost of the
23 Meridian Street, around \$34 million now. Because of
24 the passage of time, numbers have -- may have changed,
25 but there was a -- \$34 million. The cost of -- the
26 upgrade to the pipeline crossing is about -- somewhere

1 between 1.5 to 3.

2 Now, what would be the impact on Qualico from
3 the -- so you have to pay for the whole road. If --
4 the cost impact. If we don't make an order, what
5 percentage of that cost would Qualico absorb?

6 A We would absorb our proportionate share based on our
7 land ownership within the -- the arterial road basin.

8 Q Which would be ...

9 A Well, I'm just thinking here on Qualico's aspect.

10 What -- what was the total acreage -- does anyone
11 remember -- of Horse Hill? I mean, we've got
12 335 acres, I think, in Horse Hill. I think I mentioned
13 this morning there was about 6,900 acres. Sorry.
14 69 -- yeah. Yeah. So 5 percent.

15 A J. FJELDHEIM: So one thing that the
16 committee should maybe keep in mind is when the
17 arterial road steering committee -- depending on the
18 outcome of this hearing, if -- if we find that crossing
19 these three pipelines averages \$800,000 per pipeline
20 crossing, what we're going to have to do is count all
21 the pipeline crossings in the whole Horse Hills area
22 structure plan, which is 45 as of today, and we will
23 then say 45 pipeline crossings times \$800,000 as an
24 estimated pipeline crossing cost, and we will add that
25 to the levy as soon as this hearing has a judgment.
26 Because what happens is once development is going and

1 the levy rate is set, if all the costs are not included
2 in the levy, then we are undercharging the development
3 as it's progressing, so we always have to make sure
4 that all the costs that can be -- that can be
5 anticipated are included in the levy on Day 1.

6 So it was a surprise to see these numbers coming
7 in at such high values because our levy rate was set
8 without having \$800,000 pipeline crossings, and so if
9 that is the case going forward, we're going to have to
10 adjust the levy to account for all 45 pipeline
11 crossings, not just this one that Qualico was doing.
12 Does that make sense?

13 A B. ARMSTRONG: I think --

14 Q It does.

15 A And I think the other thing to keep in mind in terms of
16 the impact is -- as I mentioned in my earlier
17 testimony, is that -- that the construction -- we don't
18 get paid back right away, right, especially early on
19 into the development. We have to carry the -- all of
20 these costs as the front-end developer here with the
21 hopes that as other developers come into the basin,
22 then they contribute their -- that's what we call an
23 "over-expenditure". So it goes beyond what our
24 proportionate share of the -- of the construction costs
25 are. So we have to carry that; we have to finance
26 that.

1 And so there is quite -- quite a big impact on us
2 as well. So we have to cover all of those until others
3 come into the basin and start contributing back. And
4 we would get some credit against our -- our levies, is
5 kind of how it -- well, that's how it works as well.
6 So it's not just this -- a matter of us getting
7 reimbursed right away from -- from the arterial road
8 assessment levy system.

9 Q So you -- you're speaking of the \$34 million?

10 A Yeah.

11 Q Yeah.

12 A That's correct.

13 Q Okay. So one last question, which is for our
14 decision-making purposes. What happens to Qualico as a
15 corporation if we don't make an order?

16 A Well, I think it -- it's not really what happens to us;
17 it's what happens to -- to the public at the end of the
18 day, the home-buying public, right. We have to pass
19 all costs on to the new home buyer. We have -- that's
20 how we -- it contributes to increased cost of housing
21 'cause we haven't got a choice.

22 So we have an interest in keeping costs at a
23 minimum, or as low as we possibly can, because that
24 helps make it more affordable. We know roughly what
25 the new home-buying public can afford. You know, as an
26 example, the average household income in the region is

1 about \$105,000, and -- and with that you can afford,
2 you know, a mortgage -- or qualify for a mortgage at
3 least of about \$400,000, right. So anytime that we
4 increase the cost of housing, that reduces the number
5 of people that can qualify for those numbers to get
6 into home ownership, or it forces them to go into
7 alternative forms of housing that they can't afford.
8 So, really, what we're trying to do from the public
9 interest point of view is -- is to minimize the impact
10 on the home-buying public.

11 Of course, I mean -- you know, we're in business.
12 If we increase -- if prices go up too rapidly, that can
13 slow down absorptions, like when we do our land
14 development, and when that happens, that increases the
15 time it takes for us to get paid back. It increases,
16 you know, the amount of interest that we have to pay,
17 and that too can contribute towards the cost of housing
18 in the future.

19 Q Thank you very much.

20 A But -- but we will come back to the steering committee,
21 you know, to ask for additional costs or, you know,
22 compensation through the ARA steering committee.

23 Q From the other --

24 A Yeah.

25 Q -- developers?

26 A So -- so that everybody is paying, right.

1 Q Right.

2 And then my final question is: Should we find
3 ourselves in a position to make the order, on what
4 terms and conditions? And if you want to caucus, feel
5 free, because to satisfy Subsection (1), the Regulator
6 has the discretion to decide on terms and conditions.

7 A Thank you, Madam Chair. We'll take a moment to -- to
8 caucus. Thank you.

9 Q Go ahead, please.

10 A Thank you, Madam Chair, and thank you for the
11 opportunity to discuss.

12 You know, when we talk about, you know, what's in
13 the public interest, we -- we believe in that. We
14 believe that any cost related to pipeline upgrades or
15 crossings can have an impact on the cost of housing.
16 We recognize that, yeah, there is a loss of developable
17 acres as a whole as a result of previous, you know,
18 pipeline alignments and -- and those sorts of things.
19 It makes our land, you know, less efficient, but these
20 are all things that we factor into the pricing of our
21 land and how we acquire it, and -- and we're living
22 with that.

23 But for -- you know, in terms of -- there's
24 other -- other costs associated with the loss in time
25 in terms of getting approvals that we work with, but
26 we're able to -- to work within that as well.

1 So, you know, after briefly discussing it here,
2 you know, we're not really arguing about -- so much
3 about what the cost of these things are. We leave
4 that -- we do leave that to the experts. We do agree
5 that protection of the pipeline is of -- of utmost
6 importance, but we also believe that that is the area
7 of responsibility that lays directly with the pipeline
8 company.

9 So our thoughts on this matter are that while --
10 if we were to be granted pipeline crossings to
11 facilitate community growth, neighbourhood development,
12 that any upgrades to the road surfaces and -- and
13 the -- the engineering that's required to spread out
14 that load to project -- to protect the pipeline and --
15 and -- and the load forces, that would be taken on
16 by -- by the development industry. And then any
17 upgrades and replacements to existing pipelines, that
18 would include bringing it up to CSA requirements and
19 all the rest of it, that should remain with the
20 pipeline companies and, of course, any additional
21 requirements that they might have that go beyond what
22 the standards are.

23 Did I capture that?

24 A J. FJELDHEIM: I think so, yeah.

25 A B. ARMSTRONG: That would be the
26 responsibility of the pipeline company.

1 So, I mean, we've talked about 50-50 in the past,
2 but, really, that should -- that should be the standard
3 that we feel would be appropriate for sharing --
4 sharing of costs.

5 Q So besides cost sharing, and, of course --

6 A Yes.

7 Q -- as good licensees, pipeline companies must abide and
8 do abide by the rules and regulations. Those are the
9 terms and conditions that you suggest, cost sharing
10 mainly? Or --

11 A J. FJELDHEIM: So I think, yeah, he might
12 have kind of misspoke at the -- right at the end there,
13 but it was anything to do with the road structure, so
14 if there needs to be concrete slabs or a thicker road
15 structure in order to dissipate the loads that are
16 transferred down to the pipeline, would be the
17 development industry's cost 'cause that's what we do.
18 We build roads. Anything associated with repairing or
19 replacing or bringing the pipeline up to current
20 standards, that would be the cost of the pipeline
21 company.

22 Q Excellent. Thank you.

23 A B. ARMSTRONG: And -- and in addition to
24 that, it would be -- you know, it would be helpful to
25 have access to the information so that we can -- it can
26 be properly -- well, understood and -- that we could --

1 full transparency in terms of understanding what --
2 what the requirements are for design.

3 Q That's very helpful. Thank you very much.

4 And just one last question, and then I will check
5 with my colleagues if they have any follow-up
6 questions, but ...

7 So we read and heard, for safety reasons, the
8 crossings need to be upgraded to make the pipeline
9 safe. Is there a need for an order for that work to
10 be done?

11 A G. DAL BELLO: A need for an order? Like ...

12 Q From the Regulator. From us.

13 A Oh.

14 Q An order -- we must make an order for the upgrade to
15 happen; otherwise, it won't happen.

16 A J. FJELDHEIM: I think -- just to jump in,
17 the -- right now, I think we agree that there does need
18 to be an order because without an order, we're in a
19 situation where we don't get a crossing agreement until
20 we prepay the crossing costs that are a little bit of a
21 black box, and we don't really know what we're paying
22 for. We can't see the reports. And so I do think that
23 an order needs to be given.

24 A S. GEREIN: And to jump in, I mean,
25 without understanding the requirements of -- of any
26 alterations, we can't possibly agree to set alterations

1 if we don't know what has to be done. So, hopefully,
2 that adds a little ...

3 Q Thank you. That's very helpful.

4 A G. DAL BELLO: Could I just add?

5 Q Please go ahead.

6 A Like, I think there is a need for transparency of
7 process, and -- and the uncertainty of process leads
8 to uncertainty that affects all aspects of land
9 development in Alberta.

10 Q Thank you.

11 Any final thoughts on my last question? If not,
12 I'm going to turn to my colleagues. All good? Okay.

13 A B. ARMSTRONG: All good. Thank you,
14 Madam Chair.

15 THE CHAIR: Commissioner McNaughtan.

16 E. MCNAUGHTAN: Thank you, Madam Chair.

17 Q E. MCNAUGHTAN: Just one question,
18 Mr. Fjeldheim. You said that if -- if you go forward
19 with the levy on the 45 crossings at \$800,000 a
20 crossing, should that -- those numbers work out, it
21 would add to the levy of everyone, and it wasn't what
22 you were expecting.

23 Could you tell me what you were expecting in a
24 dollar figure or approximate figure? Because we have
25 heard a lot about a range. And what -- what would the
26 ARA steering committee have expected in this region for

1 crossings?

2 A J. FJELDHEIM: So the way that the rates are
3 calculated is based on historic costs of arterial
4 roads, and so what we would do at -- at the outset of a
5 basin like Horse Hills, before anybody's built any
6 roads, is we would take the arterial road costs of a
7 previous basin that has been developed over the last
8 five or so years and average the cost of those arterial
9 roads and then apply them to the arterial roads in the
10 Horse Hills basin. So whatever the crossing costs were
11 in the last five years is going to be included in the
12 next going forward.

13 And, like I said in my previous statements,
14 arterial road requests for these kind of changes to the
15 arterial road levy have not come to us before. In the
16 past, pipeline crossings were 15, \$20,000 for a
17 concrete slab, and now we're getting hundreds -- or
18 hundreds of thousands of dollars or millions because
19 the pipelines are now being dug up and replaced. So
20 that's a change that hasn't been included in the
21 arterial road levy, and so if the ruling is, Now you
22 have to include them, then we'll have to include them
23 for every pipeline crossing in the city of Edmonton.

24 Q Thank you.

25 THE CHAIR: And, Commissioner Robertson --
26 Robinson.

1 H. ROBINSON: Thank you, Madam Chair.

2 Q H. ROBINSON: It goes back a little bit to
3 my clarification question with the Exhibit 85.01.
4 Sorry. I just got to make sure I ..?

5 When -- when you, Mr. Armstrong, were talking
6 about the -- the figure at A2, this NDT and pipe
7 repair, sleeve repair coating, it sort of stuck in your
8 craw, if I can put it that way, when you mentioned it,
9 and I'm curious as to -- to why. Why would --
10 that particular payment for that particular thing,
11 \$394,847?

12 A B. ARMSTRONG: Well, thank you, Mr. Robinson.

13 It stands out to me because what we're being asked
14 to do is pay for the replacement of 63 metres,
15 approximately, of 50- or 60-year-old pipeline there,
16 right, and that's clearly, in my view, is -- would be
17 the responsibility of the pipeline company.

18 And so -- and it goes to sort of the cost share
19 principles that we kind of just laid out, right. I
20 mean, I don't believe it's in the public interest
21 for -- for us to be paying for -- for the pipeline
22 companies to replace their -- their older
23 infrastructure. I don't know what the life of these
24 pieces of infrastructure are, but it is certainly in
25 their interest to have somebody else pay it, you know,
26 for them or on their behalf. So that's -- that's the

1 one that kind of stood out to me.

2 A S. GEREIN: Maybe I'll try and add --

3 A B. ARMSTRONG: Sure.

4 A S. GEREIN: -- to that just a little bit.

5 I think, big picture, when you look at that --
6 that -- kind of that cost estimate in general and you
7 think about it relative to the cost estimate --
8 estimate that we had brought up that was very lengthy
9 that was prepared by WSP, it's hard for us to ascertain
10 what exactly is included within some of those costs,
11 and, of course, that's not the biggest cost on that
12 page, and -- and I think we just don't understand the
13 underlying requirements that would lead us into an
14 amount of that nature, right.

15 So we have to ask the questions. That's what we
16 have to do as -- as developers. We have an obligation
17 to make sure we're keeping the cost minimized within
18 the basin, and, you know, this just doesn't give us the
19 understanding that we need when undertaking
20 improvements that we're being asked to take on. So,
21 hopefully, that helps.

22 A B. ARMSTRONG: Right. And -- and I guess it
23 also stands out a little bit as, like, we're put in a
24 position as, like, If you want to make this crossing,
25 this is your only alternative. You have to pay for
26 this. Otherwise, I haven't got a project, right.

1 And so at that particular point in time, we
2 weren't aware of, you know, the potential opportunity
3 to -- to bring this forward to the AER -- AER at that
4 time, nor did we really have -- have the time to bring
5 it forward because, you know, as I -- I may have
6 mentioned earlier, these projects are -- you know,
7 they're highly leveraged.

8 We only have so much time, you know, for
9 construction throughout the year when we can actually
10 build our infrastructure. Being in a northern climate,
11 we only have about 22 weeks of construction that we can
12 rely on in any particular year, so ...

13 Those are just a couple of the components that
14 stood out to me.

15 Q And have you been sort of involved or seen a -- you
16 know, perhaps related to this project, a type of
17 breakdown where you had, then, an appreciation of the
18 alterations that -- the cost of alterations made
19 necessary because of arterial road work versus -- or
20 that allowed you to distinguish between the cost
21 incurred because roadwork was required versus the cost
22 that would have otherwise simply been incurred as a
23 result of maintenance required without the introduction
24 of repair work -- or alteration? Sorry.

25 A Yeah, we'd actually like to see that, but we haven't
26 seen any of that kind of cost breakdown.

1 Q Okay.

2 A J. FJELDHEIM: I think that's the kind of
3 cost breakdown that we would like to see, if there's a
4 certain amount of maintenance that's required, because
5 the pipe is 50 years old. I think that should be
6 incumbent on the oil and gas company, the pipeline
7 company, if there is something that's defined that this
8 is because of the arterial road, then that would be a
9 starting point to start negotiating a cautionary
10 agreement. The current practice is 100 percent of all
11 the costs go -- and are tried -- or are paid for by the
12 developer.

13 Q All right. Thank you.

14 A B. ARMSTRONG: Yeah. And if I could just
15 add, I think one -- one of the other things -- and, I
16 mean, we agreed to this prior to entering into this
17 agreement, but we also paid for the inspection on that,
18 which was --

19 Was that the \$100,000 report, or ...

20 A S. GEREIN: 50.

21 A B. ARMSTRONG: They're -- they're about
22 \$50,000 each or whatever. So we pay it for them to --
23 to have their lines inspected to ensure that it meets
24 whatever the current standards are, and -- and then I
25 guess -- I don't know what process they go through, but
26 these are the things we would like to have more

1 discussion about, and -- and this is where I think that
2 we can talk about -- where we can separate, you know,
3 the costs. We'll build the roads, the pipeline company
4 should maintain their pipelines, would -- would be --
5 or -- or my position, anyway. I can't speak for the
6 entire industry.

7 THE CHAIR: Was that all?

8 H. ROBINSON: That's it. Thank you.

9 THE CHAIR: Thank you very much. Thanks
10 for all the helpful answers you gave.

11 So you have an opportunity for a redirect. We can
12 take a break if you want to think about it.

13 G. FITCH: No, I don't need a break.

14 I -- I think just a couple of quick things,
15 Madam Chair, and it shouldn't take long.

16 G. Fitch Re-examines Qualico Developments West Ltd.

17 Witness Panel

18 Q G. FITCH: So, Mr. Gerein, you were
19 asked, well, several times now about Exhibits 86.01
20 and 87.01 which are the two Plains cost recovery
21 agreements: One for 167th Avenue, and the other for
22 the 172nd Avenue crossing. You -- I'm sure you
23 remember that?

24 A S. GEREIN: I -- I do.

25 Q Okay. So I think it's on the record that the
26 agreements were terminated. And just so it's clear,

1 who terminated them?

2 A Qualico terminated the agreements.

3 Q Okay. And why?

4 A Because we were directed to -- by the ARA steering
5 committee to proceed with diplomatic talks with
6 pipeline companies to try and find a cost sharing
7 formula. And if that didn't work, we were directed to
8 make an application to the Alberta Energy Regulator,
9 and at that time, we knew it was -- we -- in order to
10 facilitate the direction from the committee, we had to
11 terminate the agreements.

12 Q Thank you.

13 And now just a -- a couple of quick ones for you,
14 Mr. Morrison.

15 You recall being questioned by my friend
16 Mr. Naffin about the transaction in 1971, and he asked
17 you "which pipeline"? Do you recall that?

18 A I. MORRISON: Yes.

19 Q Okay. And -- and your response generally was, You
20 know, I didn't -- I didn't really know the specifics,
21 but there was material in the evidence that I looked
22 at, and that's -- that formed the basis for your
23 opinion. Do you -- do you remember that exchange?

24 A I do, yeah.

25 G. FITCH: Okay. Can we, Ms. Arruda,
26 pull up Exhibit 64.05, please. Next page.

1 Q G. FITCH: So my question for you simply,
2 Mr. Morrison, is when you were referring to materials
3 in the evidence that you looked at to inform yourself
4 about the 1971 compensation paid to Mr. Sheckter, is
5 this what you were referring to?

6 A I. MORRISON: That's correct. Sorry. That
7 is correct.

8 Q Okay. Thank you.

9 G. FITCH: That's all I have,
10 Madam Chair. Thank you very much.

11 THE CHAIR: Thank you very much, Counsel.

12 And that brings us to our end of day today.
13 Tomorrow we will be beginning at the same time, at
14 9:00, and we will start with Developers Group, which
15 you're representing. Thank you.

16 And today's hearing is adjourned.

17

18 PROCEEDINGS ADJOURNED UNTIL 9:00 AM, MARCH 6, 2024

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1 CERTIFICATE OF TRANSCRIPT:

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3 We, Angela Porco and Derek Lopez, certify that the
4 foregoing pages are a complete and accurate transcript
5 of the proceedings taken down by us in shorthand and
6 transcribed from our shorthand notes to the best of our
7 skill and ability.

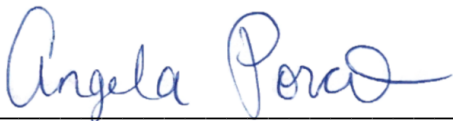
8 Dated at the City of Calgary, Province of Alberta,
9 this 5th day of March 2024.

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Official Court Reporter

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D. Lopez, CSR(A), RPR

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Official Court Reporter

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