

STATES OF JERSEY

Environment Scrutiny Panel Energy from Waste Plant and Ramsar: Review of Planning Process

THURSDAY, 23rd APRIL 2009

Panel:

Deputy P.J. Rondel of St. John (Chairman)

Deputy D.J.A. Wimberley of St. Mary (Vice-Chairman)

Connétable J.M. Réfault of St. Peter

Connétable P.F.M. Hanning of St. Saviour

Witnesses:

Mr. D. Cabeldu (Co-ordinator, Save Our Shoreline)

Mr. A. Syvret (Spokesman, Save Our Shoreline)

Mrs. L. Luke (Pollution Consultant, Save Our Shoreline)

Present:

Mr. M. Orbell (Scrutiny Officer)

Mr. M. Haden (Scrutiny Officer)

Deputy P.J. Rondel of St. John (Chairman):

This is a public hearing. Good morning, ladies and gentlemen. This is a public hearing for the Environment Scrutiny Panel. I will firstly introduce the members of the panel to you all here today, who are myself, Deputy Phil Rondel as chairman, the vice chairman, Deputy Daniel

Wimberley of St. Mary. Panel members are the Connétable of St. Peter, John Réfault, and the Connétable of St. Saviour, Peter Hanning. Malcolm Orbell and Mike Haden are our 2 officers. I will ask, in the first instance, before calling the witnesses, for Malcolm Orbell, one of our officers, to give a resume of our remit.

Mr.M. Orbell (Scrutiny Officer):

The title of the review is The Energy from Waste Plant and Ramsar: Review of Planning Process, and the review came about following questions raised in the media by environmentalists and groups including today's witnesses, Save Our Shoreline. The review is specifically into the environmental impact assessment for the energy from waste plant, looking in some detail at planning and public consultation processes, together with Jersey's responsibility under the Ramsar Convention to see whether any genuine environmental concerns remain unanswered and if the Island has fulfilled its obligations.

However, it specifically excludes matters relating to the costs of the plant or the technology selected for it.

The Deputy of St. John:

Thank you very much. Could you read out the list of witnesses for today, please?

Mr. M. Orbell:

Our witnesses today are Mr. David Cabeldu, Ms. Lara Luke and Mr. Andrew Syvret.

The Deputy of St. John:

Could those 3 witnesses come forward and take a seat at the end of the table, please? Welcome to you, to the 3 of you. Could, in the first instance we have an outline from Mr. Cabeldu of your concerns, please?

Mr. D. Cabeldu (Co-ordinator, Save our Shoreline):

Yes, thanks very much. Before answering the questions that you sent to us, I would like the opportunity briefly to outline our position and why we are here today, if that is all right?

The Deputy of St. John:

Briefly.

Mr. D. Cabeldu:

Question one will be answered in this outline, and question one is about our involvement with T.T.S. (Transport and Technical Services) and Planning prior to Scrutiny hearings and contacting us in December, okay?

The quick answer to that question is none. We have not had any contact with T.T.S. about the incinerator. To clarify this, I would like to explain S.O.S.'s (Save Our Shoreline) terms of reference and what we are about very briefly because I think you have already read some material that we sent to you about our early years. The

main objective of the organisation, which we formed in 1993, and we have a mission statement, to protect the southeast coast of Jersey from further reclamation and/or development, promote awareness of the abundance and importance of marine species found in the inter-tidal zones especially on the southeast coast. Also to provide a watchdog service with regard to possible pollution and/or leaching from reclamation sites over the coastal management and lobby where necessary. That is what we are all about. We have been in existence before that, we started off in 1989 with a group of residents and then we became Save Our Shoreline in 1993. With regard to the incinerator, S.O.S. would not normally have been involved with this issue because it was not in our terms of reference. Even when it was decided to re-site the incinerator to La Collette, S.O.S. assumed that the relevant safeguards would be put in place regarding any possible problems with the area. Also we assumed that the States Members too would put their trust in the

professionalism of the various departments in providing safe service. We also assumed that there would be an independent and comprehensive environmental impact assessment commissioned and Ramsar, as an organisation, would at the very least, be informed, even out of politeness. So following on from this, which brings it up to today, our watchdog status was put on amber alert, as we call it, when our chairman, Tom Band, was approached by Robert Le Brocq last November with a sheaf of 'Optioneering' plans for La Collette which were drawn up by W.E.B. (Waterfront Enterprise Board). This is not the subject of today but it is how we got into this. From November we started looking into this and I just took time off work, in fact I have not worked since November; I have been working on this solidly and we have been all together working on this issue. The alarm bells really went off when a water discharge permit application was advertised in the *Jersey Gazette* on 14th March and we realised that the permit should really have been sent in

with the original planning application and the contractors had come across the seawater ingress since the incinerator workings. We eventually managed to get a copy of an application which really was not that easy. It was not at Planning where it was supposed to be but eventually we found it. We became seriously worried that leachate had already been running out to sea, so we set up a week of surveillance, 3 of us, with cameras at different positions and during the course of surveillance we monitored 2 positions; Castle Quay and La Collette. You have the pictures and I think you have seen some of the pictures and the time, I did the timeline for you, I gave it to Mr. Orbell. On 23rd March, prior to submitting our objection to the water discharge permit application, I raised our concerns with William Peggie, Environmental Water Regulator, that seawater was likely to or indeed had been ingressing into the incinerator pit. The Environmental Water Regulator had told me and I made a note of this at the time, he sought to reassure me and he

told me and he said exactly, these were his words: “We are only talking about 2 inches of water and that is being contained” and those are his words, I made a note. So on the following day, that was Friday, 27th March, Lara Luke here who is our pollution consultant, went down to have a look at the site. It was a spring tide and she went down and she saw approximately 3 to 4 feet of seawater across the site and you could also see the high tide marks and where it is coming in now. So she came back the following day at a different time to see whether it was just an aberration or whether or not the thing was happening on a daily basis, and it had moved and it was going up and down and she took some pictures. The seawater was coming into the site and going out of the site twice a day over the spring tide, okay. So Mr. Peggie still maintains that no seawater is ingressing the site. This week, on 21st April and we have not had time to send you this email yet because it has only just come in, in response to an email sent by Lara, Lara asked: “Are tidal waters entering the

site at any point?" Mr. Peggie's reply was: "No." While Lara and Keith Shaw were taking pictures of the pit in Castle Quay we noticed that also Castle Quay was flooding at the same tides to a depth of about 8 feet and it has to be noted here that we have been told when we have asked officers about the situation in the past that there will be no unsafe practices at Castle Quay. Now we consider that ... we will come to that obviously in a different question. That was all I have to say in introduction, which brings us to today's point. Our spokesmen will be Andrew Syvret and Lara Luke.

The Deputy of St. John:

Right, okay. If I can start by putting a couple of questions to you. Between 1993 or 2001 when Ramsar was set up, you have had a dormant period when your committee or association have basically not met direct.

Mr. D. Cabeldu:

Yes, we had dormant period until the southeast ... until the offshore reefs were designated and then Ramsar met. But I would like Andrew to answer this question because he was involved in the Ramsar side of things. Maybe could I just put that one over to Andrew now?

The Deputy of St. John:

One second, that being the case, what period of time would the dormant period have been since November of last year backwards to the Ramsar site, the second central Ramsar sites that were put in place?

Mr. D. Cabeldu:

I have got the dates here somewhere.

The Deputy of St. John:

Thank you.

Mr. D. Cabeldu:

Okay, the first meeting of the Ramsar Designation Steering Group for the offshore reefs were held on South Hill on 29th January and that was 2004, I believe.

The Deputy of St. John:

Yes.

Mr. D. Cabeldu:

Prior to that it was ... well the meetings prior to that were to do with the Ramsar designation of the southeast coast.

The Deputy of St. John:

What about after that date? After 2004?

Mr. D. Cabeldu:

After 2004 I do not know.

The Deputy of St. John:

So, you basically had no Ramsar meetings between that date and November 2008?

Mr. D. Cabeldu:

I do not believe we did. We did?

Mr. A. Syvret (Spokesman, Save our Shoreline):

No, no, I certainly did not attend, no.

The Deputy of St. John:

Okay. Obviously we need to get that brought back round.

Mr. D. Cabeldu:

Certainly.

The Deputy of St. John:

That being the case and given that what you are aware of and some of the evidence that has been produced by some, not necessarily members of your group, but

members of the public, have Ramsar themselves, through your groups or S.O.S. not had concerns about pollution whether it be air or water pollution over that period of time? If so, why have you not raised them with the authorities over that 4-year period?

Mr. D. Cabeldu:

Why have we not raised them? We have had no concerns about pollution up until the time that the incinerator was opened, if you like. In fact, we are not concerned so much about the incinerator being a pollutant, a source of pollution in the future, as that the pollution is going to happen during the stage of construction. That is our real concern. The reason that Ramsar have not known about this and we have not consulted with Ramsar or they have not consulted with us, is that nobody in the States had the courtesy, no States body had the courtesy until you did to inform them of what was happening. They had no idea that an incinerator 14 storeys high was going to be built on

a toxic site adjacent to a Ramsar site. They had no idea. It was totally new to them.

The Deputy of St. John:

Okay. Slightly off that, given that the power station emits air pollution on a regular basis when it blows its tubes, et cetera, that never raised concerns with your members over the previous 4 years? Or the discharge from ...

Mr. D. Cabeldu:

I am with you, yes, certainly. We took the situation as it was. The J.E.C. (Jersey Electricity Company) power station was operating on an existing discharge permit and the Ramsar organisation takes things as they find them. So, the Ramsar situation is that they assume that what is there is there and that is the position to date.

Connétable J.M. Réfault of St. Peter:

That is their baseline?

Mr. D. Cabeldu:

That is their baseline, so they knew about what was there and Andrew set up the Ramsar situation through the States because he was working with the States at the time and over a course of 6 years he has progressed the Ramsar designation. As far as we are concerned, we take what was found and we said: "Right, the Havre des Pas and the southeast coast, it is here, this is the baseline. We want it to stay as it is or even improve it because that is the situation that can happen in a Ramsar designation. I think that is correct, Andrew, is it not? That is it.

The Deputy of St. John:

What about concerns to do with the ash pits at La Collette and any possible contamination? That never raised any concerns with yourselves and your members of your association?

Mr. D. Cabeldu:

Well, Save Our Shoreline historically has been proved to be right on several occasions. We were fundamentally and vehemently opposed to the ash pits being put into a marine environment with access to a marine environment. In fact one of our consultants was instrumental in making sure that the ash pits had butyl linings. This goes back to 1989, 1988. We very much were against the ash pits being put into La Collette, but there was nothing much we could do about it because that was policy at the time and we have since been proved right, that the ash that was spread on West of Albert has been proved now to be toxic. In fact the waterfront has recently been specified to be a designated toxic area. But La Collette itself, we were always fundamentally against the ash pits being there. But, having said that, because they were lined, because we were told they were safe and because, again, we put our trust in the fact that things had to be done to a certain extent after 1995 - and this is only after 1995 - not prior to,

then the Ramsar designation came in at that point where the ash pits were going to be contained. But prior to the ash pits being contained in 1995, the ash was mixed in with the general builders' rubble and anything else that went down there. So where the incinerator is being built is on an area that is not totally inert, it cannot be.

The Deputy of St. John:

Okay. My final question before I ask the other panel members if they have got anything at this point before we continue; given that the cavern frequently have wash through because of heavy rain which affects the Ramsar site, and also when we have thunder storms the wash off the land into your Ramsar site or into the Ramsar site ...

Mr. D. Cabeldu:

Our Ramsar site.

The Deputy of St. John:

Yes, into the Ramsar site.

Mr. D. Cabeldu:

Our Ramsar site.

The Deputy of St. John:

Gentlemen, this is very difficult for the person who has to transcribe the tape if we have interjections by a number of people. So one person speaking at a time. Is there any concerns ... does it not concern you that we may have considerable contamination through sewerage and wash off the land over that period of time? Given S.O.S. have not raised these issues over that 4-year period, does it not concern you that maybe you should have been meeting on a more regular basis than you have because Ramsar is a designated site within our Island waters, an important site within our waters and were you not concerned and if so, can you give us a reason why you had not met as a body and taken these issues forward?

Mr. D. Cabeldu:

Fine. We have always had concerns about the off-run and the sewerage and E. coli problems. One of the reasons we had not specifically met on this is because the Jersey Aquaculture Association have their own agenda and we think that they have a watchdog basis as well. It is only recently that they have approached us and they asked us if we could bring their current concerns to you as a panel, and we have done this this week. It was a bit of a late submission but they only asked us this week. We have always had concerns about E. coli, especially with the oyster beds, but again this is being monitored over the years and, as you know, the cavern will run off sometimes, last year it ran off 14 times and this year we have had E. coli levels up to 16,000 units per 100 grams at one area which is Green Island. Now 16,000 is quite a lot, it puts it in category C, but prior to that it has been going up very, very slowly. It is going up from category A to category B

and sometimes category C. But the baseline has been going up on a very, very slow level. So it has not been of too much concern to us until the oyster fishermen, in fact the Aquaculture Association, came to us this week. If that is all right with you?

The Deputy of St. John:

Yes, thank you. Deputy Wimberley, have you got any questions at this moment?

Deputy D.J.A. Wimberley of St. Mary:

Yes, I would like to take you back to what you said - we are going back into the history - you said the incinerator was not really within our terms of reference; that is fine, and then you said: "We assumed that there would be relevant safeguards", so can you sort of walk us through that assumption. You know, you are saying, you know, that basically you are trusting T.T.S. to do the job right, whatever it entails making an incinerator down there, so,

you know, what was the background to that assumption rather than saying: "We do not trust them"?

Mr. D. Cabeldu:

Because our last meeting as a group with the then Public Services Committee was with John Richardson and ... this is going back some time do not forget, we have not been asked to meet with T.T.S. for a long time. It was when the Constable of St. Helier was the committee chairman and the president, if you like, of the Public Services Committee and he very kindly asked us up and at that time we felt there was a new and improved, if you like, feeling to T.T.S. So when Simon Crowcroft became president he asked us up and we met with everybody, they took us round the site and we were pleased to see that all the things that we had suggested were happening. The ash was being contained the way we had asked and we felt that at last with the departure of John Mulready and company that things were improving. We thought then:

“Okay, it is being done” and from then on there was a period of a few years whereby we just let the processes go and got on with our lives and became a watchdog group. We are not a regular group where we meet every week, we are a watchdog group. We have a wide membership of about 200 and we have about 12 consultants we can call on and nobody came to us and we were quite happy that things were going to be done right.

The Deputy of St. Mary:

Okay, so you are saying that you observed that the ash was being contained properly. I have got the planning permits here for the making of the reclamation site, the building of the wall which is the first one which is fair enough, and then the second one is the permit for the tipping: “No ash shall be tipped or stored below the mean high water spring tide level.” Would you say that they were complying with that?

Mr. D. Cabeldu:

Prior to 1995, no, after 1995 we very much hope so. We could not be down there all the time but when you say: "Mean high water level", we noticed, and I think you have had some pictures from us recently, a slide of the ash being piled in tiers below the current ash hill, if you like, and that is below mean high water level.

The Deputy of St. Mary:

That strikes me as very odd and also this planning permission covers all the tipping into that area, as I understand it, it does not cover from 1995, it covers, I am not quite sure, I think the date is 1995: "Proposals to meet the recommendations of the report of E.R.M. (Environmental Resources Management)", it says that is how it has got to be done.

Mr. D. Cabeldu:

That is correct. But, at this point, if you do not mind, I do not want to monopolise the meeting because I have brought some witnesses along who are much more qualified than me and this is what we do; I am the coordinator, I am not a technical person and I do not want to monopolise the meeting. I would rather you asked these questions of people who can really answer.

The Deputy of St. Mary:

I am quite happy for anyone to answer these.

Mr. D. Cabeldu:

Yes, but I would rather someone else answer this particular one.

The Deputy of St. Mary:

Fine, yes. So that that is one aspect which is where the ash was tipped and whether it was below high water.

Mr. D. Cabeldu:

Yes, very severely, yes.

The Deputy of St. Mary:

The other one is: "The interior face of the breakwater shall be covered with a proprietary membrane." Well, that was news to me when I read this application this morning. Just finally got hold of it. "To the satisfaction of the Planning and Environment Committee to prevent the migration of fines through the breakwater." But does that stop water as well coming in and out?

Mr. D. Cabeldu:

Well, we would assume by now that membrane would be in a pretty poor state because it was put in there a long time ago.

The Deputy of St. Mary:

Yes.

The Deputy of St. John:

Connétable Réfault?

The Connétable of St. Peter:

David, a few more sort of background questions really for you, there are several of them. Who was your principal contact with the T.T.S. Department within the S.O.S. group?

Mr. D. Cabeldu:

We do not have any contact with them any more.

The Connétable of St. Peter:

But you mentioned several times you have spoken with, for example, one of the officers there.

Mr. D. Cabeldu:

Yes, certainly, yes. Our recent contacts have been with William Peggie who is not, per se, in T.T.S., he is Environment as you know, split down. He is a water regulator and we have had contact at various points with Chris Newton, and Andrew with Steve Smith.

The Connétable of St. Peter:

So who has been the principal contact from your side with those officers?

Mr. D. Cabeldu:

The way we work is if we have a consultant working on a particular situation, that consultant will contact whoever they feel they need to.

The Connétable of St. Peter:

So would it be fair to say it could be any one of you?

Mr. D. Cabeldu:

That is right, any one of us, yes.

The Connétable of St. Peter:

What has been your experience in working with those officers? Would you describe that as good, bad, indifferent?

Mr. D. Cabeldu:

The experience I have had is, as always the experience with the officers, I always get the impression working with officers, and I am being totally honest here, that the officers are always very helpful, they always try and give you the information that you want, but they never give you the whole information you really want. When you push them, there is a sort of reluctance until you ask them a straight question. In the past we have found that if you ask a particular question they will give you an answer and if you are not happy with that answer you then go and do some digging on your own account. It can be that when

you find that the answer to the question is not the one that you have been given, then it gives us cause for concern. So then it makes you wonder why the officers are not giving you always the whole story. That has really always been the case.

The Connétable of St. Peter:

Okay. Can I just for a moment ... you can have a rest for a minute. Lara and Andrew, did you have the same sort of responses? Do you have the same sort of feedback from officers?

Mr. A. Syvret:

I think when you deal with officers of the States, civil servant employees, you have to have a high degree of ambiguity, have to have a high tolerance of ambiguity, sorry. Defensive is an attitude I would use.

The Connétable of St. Peter:

Would you say the same?

Mrs. L. Luke (Pollution Consultant, Save our Shoreline):

Almost. They sometimes take a while to answer something that should be quite simple and then sometimes the most important questions that you are asking are not answered. So you will get a partial answer back, which leaves you wanting to question more and find out more information. But obviously we have not got access to all the records and things so it then presents a very difficult situation.

The Connétable of St. Peter:

So would it be fair to say in the circumstances then that the relationship with the officers has not been ideal from your perspective?

Mr. A. Syvret:

I would prefer to have a Freedom of Information Act, put it that way.

Mrs. L. Luke:

Yes.

The Connétable of St. Peter:

Right. Thank you for that, it is quite clear and succinct.

Coming back to you, David; again, just picking up again about the relationship. The only one you have mentioned on 23rd March, you contacted William Peggie where he said there was about one to 2 inches of contained waters.

Did you question that statement at the time with him?

Mr. D. Cabeldu:

I believed him because he told me that's so, but on reflection, I thought about it afterwards and I thought: "I do not know whether or not that could be right, so I will go and check for myself." So 3 of us went to check and we

spent a week with different places, abseiling down cliffs - well, not quite, but you know - not quite Greenpeace, but, you know, close. We did check all the things we were told and they turned out not to be the case.

The Connétable of St. Peter:

Okay, well thank you for that. Just one last one for you. You made a statement a few moments ago: “The waterfront had recently been specified as a toxic area.” Can you give me some more information on that?

Mr. D. Cabeldu:

I said that the first ... before you said the toxic area, sorry, Constable?

The Connétable of St. Peter:

That the waterfront has recently been specified as a toxic area.

Mr. D. Cabeldu:

Yes, I think it was a proposition, was it P.86? I think Lara has got the proposition there. It was a proposition that was brought for a public inquiry by Senator Stuart Syvret and, as a result, there was not a public inquiry, but I think Planning issued ... I think Deputy Anne Pryke about a month ago issued a statement that Planning had in fact recognised that those areas of the waterfront were deemed to be hazardous waste areas, and I think that the policy is now ... has always been in recent years to remove as much of the ash which has been buried under a metre or 2 of soil when they have building, such as Castle Quay.

The Connétable of St. Peter:

But, for the sake of clarity, could you identify for me what you believe the term “waterfront” means?

Mr. D. Cabeldu:

Well, we have the map where the different areas of ... an ash map, if you like and it goes from 1984 through to 1995 and there are different areas where there have been different levels of dumping. I cannot give you the total facts of that but all I can give you is a broad outline stroke that the West of Albert waterfront, all the development areas that you see now and will be developed in the future have at some point had ash put in them.

The Connétable of St. Peter:

But what I am taking from you there, Dave, is that what you are saying to me, you are saying that the waterfront is anything contained within the outer reclamation wall; would that be correct?

Mr. D. Cabeldu:

Yes, that is ... outer reclamation wall, are you talking about ... well, I am talking about the waterfront, I am not talking about La Collette.

The Connétable of St. Peter:

Okay.

Mr. D. Cabeldu:

I am talking about West of Albert, I am not talking about La Collette.

The Connétable of St. Peter:

West of Albert? So you are talking about the original reclamation area?

Mr. D. Cabeldu:

Yes, I am, yes. We are talking about where Castle Quay is now, where the underpass was and so forth. All that material is the original, I believe, West of Albert site. We are also talking about La Collette phase one which is where the incinerator is being located now.

The Connétable of St. Peter:

Because the waterfront West of Albert is not a Ramsar site, is it?

Mr. D. Cabeldu:

No, it is not. So, I just want to clear that up. But Castle Quay comes into this equation because Castle Quay is part of our submission and Castle Quay is on West of Albert. It is not on the Ramsar site obviously, it is West of Albert.

The Connétable of St. Peter:

Absolutely.

Mr. D. Cabeldu:

Yes.

The Connétable of St. Peter:

Sorry, Mr. Chairman, I have a slight difficulty at the moment because on the one hand we are talking about an area which is not in Ramsar and we are here to talk about Ramsar.

The Deputy of St. John:

Yes, I think we have to increase our parameters somewhat because we are talking about contamination being taken from one site which is outside of Ramsar, i.e. the ash from the Castle Quay site and going on to the current infill at La Collette, so therefore there is an overlap here, I would expect that to be part and parcel of any of our investigation.

Mr. A. Syvret:

I think it is important to say that what goes on West of Albert and what goes on at La Collette is broadly analogous. Obviously we have pits at La Collette but there is loose dumped ash in both sites, West of Albert

and up at Collette. So, you know, the issues are very, very similar.

The Deputy of St. John:

Correct, and we are not talking about a great distance apart. Connétable of St. Saviour?

Connétable P.F.M. Hanning of St. Saviour:

Just one question; going back to the statement we were told that there was 2 inches of water in the pit and then at a later stage there was several feet of water, I believe.

Mr. D. Cabeldu:

And now there is none.

The Connétable of St. Saviour:

And now there is none. Can you confirm this was not tidal water or was tidal water?

Mr. D. Cabeldu:

It was tidal water.

The Connétable of St. Saviour:

It was tidal water?

Mr. D. Cabeldu:

Yes, it was not ...

The Connétable of St. Saviour:

So, in that case, would it be right to say that he could say twice a day that there might be none or there might be 2 inches or whatever the tidal level was at that time?

Mr. D. Cabeldu:

He said it is brackish.

The Connétable of St. Saviour:

He said it is brackish?

Mr. D. Cabeldu:

Yes. So brackish water is salt.

The Connétable of St. Saviour:

Was that the water that was taken to be leaking in around the ... I believe there was a pipe or there was ...

Mr. D. Cabeldu:

There was cut in the ash pit.

The Connétable of St. Saviour:

... a cut in the ash pit?

Mr. D. Cabeldu:

No, it is different water.

The Connétable of St. Saviour:

It is different water? Okay, thank you.

The Deputy of St. Mary:

No, I wanted to go back to ... because I think we will come back to the loose dumped ash and so on when we consider the pit in more detail. But I just want to keep on the history of this about the scoping, which we have not talked about yet. I do not know who is going to cover that, but a major concern with the E.I.A. (Environmental Impact Assessment) as I understand it is the fact that you were not ... no member of the R.S.G. (Ramsar Steering Group) was asked to help with the scoping. Can you confirm that and talk us around that a little bit? Because that was a part of your original dossier that got us all going on this issue was this matter of the scoping.

Mr. D. Cabeldu:

Yes, certainly. Well, Lara has been into the scoping, she can deal with it.

The Deputy of St. Mary:

Right, thank you.

Mrs. L. Luke:

Throughout the pre-scoping report the Ramsar site was mentioned quite a lot and that it should be taken into consideration, but somehow in between that report and the Environmental Impact Assessment it sort of disappears. When you get to the E.I.A. the only mention of it really is with the proposed cooling water outlet. It does not take into account anything in the construction phase. It does mention in the ...

The Deputy of St. Mary:

Can I stop you there, please? I did not want to talk about Ramsar in the E.I.A. because I think we will come to that in the next question. I am concerned about the scoping and who was invited and who was not to the discussions about scoping the E.I.A. so that the E.I.S. (Environmental

Impact Statement) would answer the questions that needed to be answered and, you know, why S.O.S. was not involved and why the R.S.G. was not asked and so on and whether you have any comments on all that?

Mr. A. Syvret:

Well, I think you have documentary evidence that there is a statement been made to the fact that the Ramsar Steering Group was disbanded at the end of 2001 and did not meet to discuss the offshore reefs when it did. The Ramsar Steering Group was never disbanded, was always alive as far as I am aware, and it is a great disappointment that it was not consulted as part of the process, scoping or E.I.A. That is a deficiency in the process, I would suggest.

The Deputy of St. John:

Can I come in there please because if it was not disbanded did the authorities never contact S.O.S. or the

Ramsar Steering Group over the period between 2004 to 2008? There was never any policy in place to be notified of any actions being taken?

Mr. A. Syvret:

No, as far as I am aware once the offshore reefs were designated the Ramsar Steering Group became dormant again, when it would have been a perfect, perfect vehicle for discussion in the scoping process. That is perhaps the most significant downfall of the Babbie Fichtner document, I would suggest, is that there was not adequate consultation with, as I think has been said, the list of people who were not asked about the incinerator reads like an Island *Who's Who* in the environment.

The Deputy of St. Mary:

Okay. I would just like to follow up on that. I looked at the document you sent us about those meeting of the designations ... the steering group about the designation

of the offshore reefs; I notice that there was not representation from Save Our Shoreline on that group, or not normally unless you were sort of considered to be ... but I do not think you were, I think you were on that with some other hat. So, why was Save Our Shoreline suddenly no longer a member of the Ramsar Steering Group with respect to designating the offshore reefs?

Mr. A. Syvret:

The question was asked, no reasonable answer was forthcoming and there is no minute that Save Our Shoreline ... I suggested that Save Our Shoreline should also be included for completeness but I think it was considered because the offshore reefs were not specifically within Save Our Shoreline's original terms of reference because they were concerned principally with La Collette and the southeast coast, it was deemed that they were not necessary around the table.

The Deputy of St. Mary:

Okay, that is some sort of an answer, thank you.

The Deputy of St. John:

I will just move on. What do you consider to be the most significant problems or omissions within the Environment Impact Assessment process and the Babbie Fichtner environment statement? Who is going to answer it, please?

Mr. A. Syvret:

Very, very briefly, I mean, I have just hit on one basically; that the consultation was practically non-existent. The Babbie Fichtner document does cover in some detail our principal issue, which is the rise and fall of tide within the pit and also the permeable land reclamation itself. The simple straightforward reality is that within this Babbie Fichtner document there are lots of alarm bells that would have stimulated concern and input from various different

environmental N.G.O.s (Non Government Organisations) had it been circulated and open to consultation adequately. But that would be certainly my principal issue, is that the document flags a lot of issues but there was simply no opportunity to discuss them. My own experience of the incinerator discussion goes back to sort of 1996. I was part of the founding group that created the Environment Forum in 2003 and a small group of us worked on a critique of the waste management strategy as was being prepared by Babbie Fichtner, and I have to say that I quit the Environment Forum in 2004 because I was really struggling with the fact that we were not being taken seriously and, to be honest with you, there was no adequate discussion of alternative waste management strategies, so I had had enough at that point.

The Deputy of St. John:

Within your Environmental Forum what other groups sat in within that circle.

Mr. A. Syvret:

Well, the Environment Forum was created and we were supposed to be there without affiliation and without a hat. We were supposed to be there for our expertise, and 3 of us were in a small sub-group working on a waste management strategy and it was absolutely obvious that Public Services and Transport and Technical Services had their decision and were going to build an incinerator of the type that we see today several years before we were even in the planning process.

The Deputy of St. John:

That is interesting. Okay.

The Deputy of St. Mary:

Yes, these alarm bells, I just want you to comment on the fact that somewhere in ... I think somewhere in your submissions, I might have them here, right, I think it is in

Ms. Luke's submission, about the fact that when it is about the rise and fall of the tide and the possibility of water ingress and so on, what the Babbie Fichtner report, the E.I.S. says is: "Well, basically we will deal with this as we go along. We will take samples, even the contractor will take samples in the post-design stage, at some particular stage, but certainly pre-construction, and then we will find out how bad it is and then we will take action." I mean I am caricaturing but not by much. I just want your comments on that as a process for an E.I.S.

Mrs. L. Luke:

Well, basically the section in the E.I.S. discuss the possible, the tide ingressing and it mentions all the problems, so it was aware of the potential of the tide coming in and going out. However, there is no mitigation, there is no remediation plan. So, they have got no excuse basically for identifying something and then not putting a possible remedy in place.

Mr. A. Syvret:

I think this is absolutely critical because we have someone telling us that there is a couple of inches, evidence that there is several feet, and now the same person saying that there is no tidal ingress into the pool, yet we have in numerous places throughout the Babbie Fichtner statement sentences as simple as: “Immediate groundwater underlying the proposed site is likely to be groundwater affected by tidal influences” and this is repeated: “Piezometers indicate that groundwater level varies as potentially influenced by the tidal cycle.” It just goes on and on and on. The idea of water ingress into a permeable landfill site is, you know, implicit in so many parts of the Environmental Statement that, you know ...

The Deputy of St. Mary:

Okay. So there are lots of mentions of it and then when it comes to mitigation, how many mentions are there of what you do about it?

Mr. A. Syvret:

There are a couple of very outlined methodologies, statements that it will be dealt with according to best practice, if I can paraphrase it like that, and we are now seeing how that best practice was envisaged with the application for a discharge permit. So I would guess that the way they are going to treat the discharge material that they are applying for a permit for would be the way that they envisage they would treat leachate within the statement. I do not know any reason why the methodologies would have changed.

The Deputy of St. Mary:

But you have to comment on ... the problem I have with the excavation ... with the water in the excavation pit, is

that if you put that in a tank, we will come to whether that has any effect in a minute, but it comes into the pit and then they have a special measure and then they pump it out to sea and it is safe. But what happens to the water that is coming in and out anyway?

Mr. A. Syvret:

That makes the discharge permit a total nonsense, I agree.

The Connétable of St. Peter:

Well, really just picking up a little bit more from what Deputy Wimberley has been saying there and really the difficulty I have got at the moment is that we know that for a number of years it has stayed with the waterfront area, for a number of years the tide has been coming up and down in there. It is permeable ground, clearly that has been flushing in and out for a number of years. Why are you seeing a significant difference now that that flushing is

now visible because they have dug a hole in the middle of it. Why do you see that as being significantly different to the flushing that has been going on ever since the reclamation was done back in the 1980s?

Mrs. L. Luke:

I suppose it has highlighted what has been going on underneath, which obviously a lot of people were not necessarily aware of how the land has been constructed. They probably did not think about which ... I for one, I know, I did not really give it much thought. But now it is like taking the top off something and you can look in and see what is happening. So, you have got water coming in, so it will be taking anything that is dissolved in it on its way in and it will be going back out again. Now, it might have a quick dispersion rate and it might circulate around, but a lot of the problems are not in the water, it is in the sediment below the water and this is where we get the problems with the shellfish and things like that. It can be

exacerbated really by now you have opened up 2 big pits, Tony Legg mentioned about hydropneumatic effect and it opens up loads of voids and fissures. So, you have now got probably areas that are quite large and it will speed up what has been going on for many years underneath. These problems do not just go. It will not be, like with the case of heavy metals, they do not go into the sea and just go away. They will sink and they will go in the sediment and they accumulate. They do not dissolve, they do not get destroyed; they are there. So, unless somebody comes up, scoops them out, they will be there.

The Connétable of St. Peter:

So, is your principal concern then that we are accelerating the flushing process of heavy metals?

Mrs. L. Luke:

Yes.

The Connétable of St. Peter:

Equally, could we not be saying that all we are doing is reducing the amount of time it is going to take to flush the area of heavy metals anyway?

Mrs. L. Luke:

But it is not going to get rid of them.

The Connétable of St. Peter:

No, it is not going to get rid of them from the environment, but is it going to actually reduce the concentration of heavy metals within the site?

Mrs. L. Luke:

Well, it would be within the site, because it is leaching through, so yes, it would and it would be going out to the marine environment.

Mr. A. Syvret:

I have an important point here, in an email from the head of Health Protection Services back in June 2007, I extract a statement: “We know that the toxic content has been subject to leaching as tests on excavated fill material show reductions in heavy metals below that of fresh ash.” So, you know, leaching has been going on West of Albert and I am pretty certain at La Collette as well. Digging a pit has opened the window on the problem, that is essentially it. By taking the crust off, obviously you affect the integrity of your matrix below, you know, where you are working. But, simultaneously, by applying for a discharge permit for a toxic liquid or for treatment of a toxic liquid, they have provided us - they, whoever they are - have provided us with evidence of what sort of material is flushing in and out. Historically, we are members of the public; we tend to trust the experts although we are learning very, very rapidly that you cannot trust them.

The Deputy of St. John:

Could you tell us what some of the substances are, please? Because I have a whole list of them here and I know some of them are highly dangerous, but ...

Mr. A. Syvret:

Yes, absolutely. This is very, very well documented. The heavy metals, furans, this is science that has been well established, you know, since the industrial revolution. These materials are not good. Obviously what has been going on is that a material, a liquid, perhaps similar to what they are seeking to discharge under permit is an ambient liquid, if you like, that is leaving and arriving on a tide-by-tide basis and to be fair, my own concern was really pricked when I saw that list of the heavy metal analysis. Because if what is flushing in and out of the reclamation site on a day-by-day basis is anyway near what they are applying to treat and discharge then we should be genuinely concerned.

The Deputy of St. John:

Could you give us details of, shall we say, the red list, which would be available, it is for the record, this is the reason that we are asking, although I have a written document, just so that we could have it recorded?

Mrs. L. Luke:

Do you want each substance read out? It is 23 substances which are deemed to be controlled when they are entering waters.

The Deputy of St. Mary:

Page 4.

The Deputy of St. John:

Page 24 on my document.

Mrs. L. Luke:

Yes. This is what the U.K. (United Kingdom) have decided, you know, that these really should be controlled and I think there is a couple that have actually now been designated as safe limits, you know, in water. So, you have got mercury, cadmium, dieldrin, endrin, polychlorinated biphenyls, dichlorovous. Do you want me to list the ...?

The Deputy of St. John:

If you could because as I say it is for the record, so that we have got it when it is being transcribed. Thank you.

Mrs. L. Luke:

Well, I will start again then.

The Deputy of St. Mary:

Particularly the ones that, Ms. Luke, that have come up in the pit, the ones relevant to Jersey.

Mrs. L. Luke:

The ones that have come up in the pit ... you see they have not given a full analysis of the actual ... they have not given a chemical breakdown basically of the water that is there, so they have only tested for some. I mean, most of the ones ... they did not even list mercury in the original test we have got but then we have had mercury results then forwarded after questioning why they did not test for mercury. I think they have got copper, lead, arsenic; they have got cadmium - what else did they test for? They have actually tested for arsenic, cadmium, chromium, copper, mercury, nickel, lead, selenium, zinc and for the pH. Now, that, if you compare it to the actual substances that you are looking to control, would not give a full picture of what the contents are.

The Deputy of St. John:

I am sure.

Mrs. L. Luke:

So, it is a bit difficult when you have not got the full comparison.

Mr. A. Syvret:

It is important to make the point that there are inter-reactions within pollutants and a cocktail effect very, very significant. Just to give an idea of what we are talking about, I worked this figure out last night. The discharge permit for 432 cubic metres a day maximum over 2 years would introduce 28 kilos of lead into the south-east coast in fine dissolved form. I mean, 28 kilos of lead does not sound a huge amount when you compare the number of fishing weights that are perhaps lost or whatever, but it is in a bio-available form in many respects and that is just the 432 cubic metres that ...

The Deputy of St. Mary:

Can you clarify that, please? Is that 28 kilos of lead in a day?

Mr. A. Syvret:

No, 28 kilos over the 2-year period of the discharge permit. That is the couple of inches that we are supposed to be dealing with? So what is going on, on an ambient basis, is anyone's guess, to be honest.

The Deputy of St. John:

Okay. The Constable of St. Saviour?

The Connétable of St. Saviour:

Yes, can I just take you back because you stated that Ramsar take the conditions as existing when they started? We had all these pollutants in the areas that were subject to tidal waters at the start of Ramsar. We still have the same materials subject to tidal waters apparently now. So, can you tell me, other than the speed at which this

might happen, whether there is any difference, because if they are taking it as is, firstly it does not appear to affect Ramsar in any way because they are taking it as is, the fact that it is full of horrible substances is not the point. The point is it is there existing. Now, is there anything new from the red list going into La Collette that was not there before? Also, is the concern to improve things, to stop what is actually happening and has been happening already, which is not a Ramsar problem?

Mr. A. Syvret:

Your question, I understand that you are being quite specific and I will be as deliberately unspecific in response because we are facing sea-level rise, we are talking about strategy documents discussing where we will be in the year 2080 at the moment actively. My reaction would be: “Well, if it was there when Ramsar was designated, it is there now.” We know more about it than we did when it was designated because we have got some analysis of pit

water and, to be frank, we have got photographic evidence of what we have been concerned about for many years but has always been denied, because it has only ever been raised as a concern. I would say that we have evidence that tidal leaching is occurring. Now, beyond the practicalities of what Ramsar were concerned with in 2001 and what Ramsar are concerned with in 2009, according to the letters of the convention and the specifics of the matter, we have a moral duty here. We have moved beyond the political into the moral territory here. I firmly believe that and that is why I am sat here today, so I take your point; obeying the principles and the letter of the Ramsar prescription, you know, as I said, tolerance of ambiguity, to use an expression earlier on, the Ramsar Convention, as I think perhaps you might have seen in my submission, is not a regulatory regime and has no punitive sanctions for violations of or defaulting upon treaty commitments. Nevertheless, its terms do constitute a solemn treaty and are binding in international law in that

sense. The whole edifice is based upon an expectation of common and equitably shared transparent accountability. Failure to live up to that expectation could lead to political and diplomatic discomfort in high profile international fora or the media. That is what I am saying, you know, Ramsar is about doing the right thing.

The Connétable of St. Saviour:

Yes, but the point I am making is that from what I have heard today it would appear that we are not contravening Ramsar in any way because it was there beforehand. We are dealing with the same material. The problem we have got is the moral issue of improving it, of improving the situation, not whether or not we are complying with Ramsar. In fact, Ramsar is a red herring.

Mr. A. Syvret:

Well, no, Ramsar is all about the principle of Wise Use, and Wise Use, the definition is that you hand the

environment on in the same condition or better condition to future generations and our habitat, our environment out there is degrading as a result of the evidence that we bring to the panel today. It is as simple as that.

The Deputy of St. Mary:

Going back to the situation with regard to the land reclamation site in general and using the excavation pit analysis as our pointer, like you said, you know, it has taken the lid off and now we have a better idea of what has been happening, I must say I was pretty shocked by those results and I thought: "Where do all these contaminants come from?" You know, lead, iron, copper and all this stuff. I thought that the reclamation site, apart from the ash pits, was inert waste but are you saying that all that site is potentially as contaminated as that particular sample of water suggests because the sea water is going into that pit? Further down it is going into other spaces under the reclamation site, so, you know, what has been

going on? My understanding was ... I know one of the documents here says it is not all in that waste. One of the documents from Planning and Environment says: "It is not inert waste; be careful" but my understanding was that it was all supposed to be contained; the contamination.

Mr. A. Syvret:

While I was the Coastal Officer at Planning and Environment I raised my concerns about the random nature of tipping at La Collette with the late Gerard Le Claire, with Mike Romeril and also with John Richardson and I will happily say that it is supposed to be inorganic inert waste but I have seen material that certainly would not fall within that category dumped in an open fashion at La Collette.

The Deputy of St. John:

Can I come in on that one please? Given that as far back as the late 1990s, and I will put this on record as a former

member of the Public Services Committee and I know there is another former member within the room at the moment, we were always told that there was an engineered fill within La Collette. Would you confirm that or could you confirm that?

Mr. A. Syvret:

An engineered fill? I mean we come back to that ambiguity word again, do we not? Certainly at the very early stages of La Collette phase 2, we call it La Collette phase 2A, were pretty random and ash was disposed of in the early stages of La Collette phase 2 in the same way that it had been disposed of at the West of Albert site. I have grave doubts as to the continued integrity of the pits. One of the extracts I have describing the ash says very clearly that it contains sharps, and that is the word that they use. You have a photograph of one of the pits open to the elements that I took myself in the late 1990s and the process of dumping, I understand they put a layer of sort

of insulating fill in the bottom of the pit but they have to drive vehicles in and out of that pit to dump so, if a JCB driver can take the corner off a pit, as we were told, then I would be very, very surprised if those pits have maintained their, if you like, integrity, that they remain sealed. If the site is inert, where is the pollution that they want to discharge under permit coming from? If the pits are leaking then we have a source or the site is not inert because the pollution is coming from somewhere.

The Connétable of St. Peter:

Just a quick question; do we know where they are taking their water samples from? Is it the Castle Quay site or the incinerator site?

Mr. A. Syvret:

This is a very important point. I think that this analysis and this research, it is vital that it is done independently from this point onwards because I am not comfortable that the

species and the sampling regime that is currently being done at La Collette is adequate to raise any concerns if there were some, and simultaneously I do not necessarily think that it is the role of the developer or the role of the States of Jersey to be taking samples when we have a situation this grave.

The Connétable of St. Peter:

I accept that but do you know where they are taking the samples from?

Mrs. L. Luke:

The samples that we have got available to us that we have been given, apart from the ones from the application, there were the ones from the trench accident. Now, sample one was taken from the liquid flowing into the trench and sample 2 was taken from the base of the trench.

The Connétable of St. Peter:

That was on the incinerator site then?

Mrs. L. Luke:

Yes, so in an email correspondence to William Peggie, I have got the results in front of me and they show a remarkable difference, really, from the actual flow and then the water that is in the trench.

The Connétable of St. Peter:

Can I just take you to where I am coming from as we are getting a bit confused? The line of the ash bund next to the incinerator plant is above the high water mark. Now, we know that got nicked and there is some really nasty stuff in there which has escaped. Was the testing that they have done so far identifying the substances done within that same incinerator pit or were they taken from the Castle Quay?

Mrs. L. Luke:

From the incinerator.

The Connétable of St. Peter:

So sea water was in the incinerator sump, as I would call it?

Mrs. L. Luke:

Yes, well the application for the discharge I assume came from there but we have not had that one pinpointed, I do not think.

Mr. D. Cabeldu:

Can I clarify that? There has always been a bit of, where is all the water coming from? The discharge permit application has attached to it a breakdown of the water they wish to discharge from the incinerator workings. That is entirely separate from the accident. As for Castle Quay,

I believe they have been doing some monitoring and that is entirely separate again.

The Connétable of St. Peter:

That is very clear. Thank you very much.

The Connétable of St. Saviour:

Going back to a very early point that was made that the safety level or the level they were looking at was mean high water level. As we know, you can get springs and neaps and if you get a big spring, you are going to be considerably higher. Are you saying that the safety levels that they are working to are only safe from the smaller tides?

Mr. D. Cabeldu:

I can answer that, I think. Tony Legg did a study or produced a study. I think it was for Senator Syvret's report and it was on the hydro-pneumatic action of the

tides on landfill, and it is a fact that under pressure because of the way the tides come in and out and we know what has happened down at St. Catherine's. What has happened there, the waters can come in, below the fill and rise above mean high water sea level on various occasions, depending on the impacts and the voids and the fissures and so, yes, it does affect above mean high water level, not just on springs I would think, although obviously on the springs it would be a visible ... in fact we know that on the spring tides from our own observations, we can see the water come up and down like a pump on the surface, so on the neap tides you would not see that but if you could see that, it would be doing that above mean high water sea level.

The Deputy of St. John:

If I could come in on that? So the surge of one metre or thereabouts, that we had in March 2008, which happened on the top of a big spring tide, it would make a significant

impact on anything within the ash pits, I would presume?
Possibly Mr. Syvret would want to deal with that.

Mr. A. Syvret:

I have in front of me here and I do not know how many times we can all read this but in the Babbie Fichtner document, the environmental statement, chapter 16, section 3, it covers projected sea level rise, tidal surges and, well, taking the highest recorded high tide of 12.05 metres and adding the worst case predicted sea level rise of 17 centimetres over the design life of the facility gives an absolute worst case high tide of 12.22 metres, which is below the 13.1 metres above admiralty datum, where it is sited, but the margin between 12.22 metres and 13.1 metres is not huge and obviously we have got a design life of the incinerator. But we are not specifically here to discuss the incinerator as Save our Shorelines; we are here to discuss a much greater problem which is the coming and going of the tide within the reclamation site

and the liberation of the ash. If those are the design parameters for the incinerator as will be built and probably decommissioned within 30 years, where we will be in 50 years time with sea level rises, with surges, et cetera, et cetera, it is not the right site.

The Connétable of St. Peter:

I think it would be fair to say, Mr. Chairman, that the site has been subject to overfill.

The Deputy of St. John:

For what it is worth, it has been subject to overfill?

The Connétable of St. Peter:

By at least 2 metres.

The Deputy of St. John:

I am not sure of the actual figure; that will come out when we put questions to T.T.S. (Transport and Technical

Services) but I am aware that, in the time that I was on Public Services, once again, for the record, we were given assurances that the superfill as it was called, was put in place. I am seeing the former vice-president of the committee who is in the audience, nodding to that effect, so we increased the actual height above sea level in the late 1990s because we were concerned of global warming.

The Connétable of St. Peter:

I believe, to carry on with that point, I think there is consideration at the moment about 'super super-filling' because of the lack of space. It is not going to impact immediately on the E.f.W. (Energy from Waste) plant but again hopefully a little bit more comfort in that particular area anyway.

Mr. D. Cabeldu:

Can I just make one point here? I do not know how true it is but it has been mentioned to me that the Castle Quay alone will reduce the life of La Collette by 3 years. That is the sort of problem we are facing at the moment. These huge developments are going to shorten the life even a lot more and with the new waterfront development, if they are going to have the new underpass, where is that going to go? How many years is it going to take off La Collette?

The Connétable of St. Peter:

But this is, I believe, why 'super super-fill' is being considered.

Mr. A. Syvret:

But then one has to wonder how, if there was a problem with the pits and you have got pit on top of pit on top of pit, how you sample each one and, well, we have evidence that there is pollution down there and it is coming from somewhere so we cannot ... the precautionary principle,

all the various other different checks and balances that we should have in place really should be saying, you know, that there is a problem there and we need to come up with a solution.

The Deputy of St. Mary:

Just some quick factual questions, there is mention in one of your documents I looked through and could not find it immediately, of membranes in the sealed pits. How are they joined up because there was a suggestion that they are not actually joined up? I thought they were sealed to each other so that you had a sealed pit.

Mr. D. Cabeldu:

We have seen them; they are overlapped with car tyres or lorry tyres to hold them down. Is that right, Lara?

Mrs. L. Luke:

I believe so, yes.

Mr. D. Cabeldu:

But they are not glued or anything like that.

The Deputy of St. Mary:

They are just overlapped and the bottom of the pit is going to have how many tens of thousands of tonnes?

Mr. D. Cabeldu:

Yes, with sharps on the bottom.

Mr. A. Syvret:

I have a letter, I am not sure if the panel have seen it but this came to us just a day or 2 ago, from contractors and I just quote, and this is obviously something of great concern because the contractors should be in possession of information from the people that buried the ash.

The Deputy of St. John:

Is this letter being offered in as evidence?

Mr. A. Syvret:

Has it come to the panel yet? I was given this yesterday, I am not sure.

The Deputy of St. John:

No.

Mrs. L. Luke:

It was the latest correspondence from Mr. Peggie.

The Deputy of St. John:

Will we be getting a copy?

Mr. A. Syvret:

You will be getting a copy.

Mr. D. Cabeldu:

It only arrived on Tuesday, I think.

Mr. A. Syvret:

We have, under the sub-title Cell Make-Up: “Further to this morning’s meeting, the likely make-up of the cell is as follows [and the word “likely” is a struggle anyway], excavation followed by graded material to prevent materials in the ground causing failure in integrity [so that is the insulating layer they put down first]. The felt layer, geo-membrane (of unknown specification).” Now, if the contractor that is working in this toxic environment is unaware of what the geo-membrane is, what it is made of, where it is, clearly, because they hit it, then, you know, it is not good practice. The process is not fit for purpose.

The Deputy of St. Mary:

Thank you; that is an answer to that question. Salinity, now the excavation pit water, there is this discussion with Mr. Peggie about whether it is sea water or whether it is

not sea water. Have you had any progress on testing for salinity because that would settle the argument, would it not?

Mr. A. Syvret:

It has been referred to throughout as brackish.

The Deputy of St. Mary:

Yes, but has it been tested for salinity?

Mr. A. Syvret:

Yes, I believe so. It is about 15 parts, I think.

The Deputy of St. Mary:

Does that suggest that it was half rain water and half sea water or what does it suggest?

Mr. A. Syvret:

The definition of brackish water is a mix of sea and fresh water and the discharge permit from day one has been brackish but I could not put my hand on my heart and say that I have seen a salinity test of that water.

Mrs. L. Luke:

No, I do not think I have. We have got an application here as well.

Mr. D. Cabeldu:

We have asked several times about the salinity and we do not get an answer. Just no answer.

The Deputy of St. Mary:

The same as for the mercury?

Mr. D. Cabeldu:

Yes.

The Deputy of St. John:

Could one answer the question please, one at a time because this is all going on tape and obviously it is very difficult for the person who has to transcribe?

The Deputy of St. Mary:

Any comments on asbestos because, again, it is one of these things where you see an email and it flies by and you think, I just want clarification on whether asbestos has been dumped on the reclamation site and whether that might have an impact on Ramsar, given this leaching process that we now know about?

Mrs. L. Luke:

I do know of people that were working in the construction business. About a few years ago they were taking it down to the reclamation site asking where they should dump the asbestos expecting to be told it was in a designated place and they have just been told to put it anywhere, quite

literally. I believe I have seen since then, from another source, that the same thing has happened.

The Deputy of St. John:

Is that hearsay or have you got the evidence?

Mrs. L. Luke:

It is not hearsay. I firmly believe who told me.

The Deputy of St. Mary:

Is there any way of sort of following that up at all in terms of you getting some kind of verification, even if they are not prepared to put a name to it?

Mr. A. Syvret:

I do not know. As I have just said, it is not the asbestos issue but I would be willing and am stating today, categorically, that I have seen non-inert material being dumped freely into the site so, while I cannot corroborate

and it would be up to Lara's witness whether he wanted to or not, or she wanted to or not, it would not surprise me.

The Deputy of St. Mary:

Is there an effect of asbestos on the marine environment?

Mrs. L. Luke:

For the purpose of this, I just looked at heavy metals for today, so I have not really fully gone into the asbestos side.

The Deputy of St. Mary:

Can you comment on this note here on the discharge permit application? There is a type table of all these metals with the sea water analysis and the pit water analysis and then there is a little handwritten note and I want your comment on this. A comment by Jodie Robert, environmental something that I cannot read, this is the pit water analysis: "This is an acid digested sample and

represents the quality of the water within the pit. This is not representative of the likely final discharge post treatment.” What is that about?

Mrs. L. Luke:

That would mean that they have analysed the water that is there and before they treat it with anything, that is how it stands but the only treatment they had down for the discharge application was checking for pH but that does not really solve any other contaminants that are in there.

Mr. A. Syvret:

I think the point he is making is that you have obviously got a pre-treatment sample and a post-treatment sample and he is making it clear that the post-treatment material will be different to the pre-treatment material. It is as simple as that; that is all he is saying.

Mrs. L. Luke:

Yes.

The Deputy of St. Mary:

So, moving on to the settlement tanks and then there is a hydro-carbon filter in the sea, in their position, would those settlement tanks do anything to rid this water of these contaminants?

Mrs. L. Luke:

With the rate of inflow and the quantity of water that they are intending on pumping through these tanks, the actual settlement time will be quite minimal. So, I mean, you do need time to settle solids out. You might get rid of some, if it was, I do not know, some chunky solids, obviously they would settle, but the majority, no, because you are dealing with ash, you know, with a lot of the contaminants.

The Deputy of St. Mary:

As a layman I do not know whether this is soluble; lead, sink, copper, iron, manganese or whether it is insoluble and will it come down or will it stay up?

Mrs. L. Luke:

There has not been a breakdown that we have seen either. Heavy metals have different absorption rates so I will use this just as an example; so you have got the water from the trench, from the accident, it was coming through, so they have taken a sample from there and it has come with one reading from the lead, shall I take that one as an example? Yes, right, the lead; so we have got the one from the flow and it is at 12 and then if you look at the actual results from the water that was collected from the trench, and I assume it was around the same time, the results are 97. So that either shows that, you know, it is landing in highly contaminated land and it is absorbed quickly but I did ask Mr. William Peggie what his comments were and he did not offer me any comments on

why there is such a remarkable difference from what is, in effect, the same water. So, you know, without a full chemical breakdown of the actual water, you cannot give a full picture.

The Deputy of St. Mary:

Okay, if you go back to that first sentence: “This is an acid digested sample”, what does that mean?

Mrs. L. Luke:

It would just mean the chemical way of testing so obviously there are different formats of testing and for different things so it is just a type of test.

The Deputy of St. John:

Let us move on slightly to the operation of the plant. According to the Planning and Environment Department the environment impact assessment judgement that the impact of airborne pollutants from the J.E.C. stack on

marine habitat once the plant is in operation will be insignificant because of the low level of disposition and dilution factor and the receding water and the enormous flushing effect of the tidal exchange and being that the impact on the marine environment will remain the same as or potentially less than the current situation, presumably referring to emissions from the existing Bellozanne chimney as well as other sources. Are there any comments on that, please? On this statement? Who would like to comment?

Mrs. L. Luke:

The J.E.C. stack chimney I think is exempt from regulations.

The Deputy of St. John:

No, I am talking about when the new plant is running.

Mrs. L. Luke:

Well, the flue gases are going to be piped through the same chimney, are they not?

The Deputy of St. John:

Correct.

Mrs. L. Luke:

So, in effect, anything that goes through that chimney is going to be exempt from any regulations. In saying that, Jersey has got no air quality laws so even if we were to put any in place, which would be nice, in the next couple of years, they would not have to conform anyway.

The Deputy of St. John:

No, well, I think you will find that it was going through the stack, it is a separate pipe all through but it will be going up the stack.

Mrs. L. Luke:

But it would still be the actual stack of that J.E.C. which is exempt from regulations under the waste law. I would have to refer back to the law to find the actual bit that states that. As with emissions, you are going to have potential risks whatever. You know, it does not matter, even with the best flue cleansing system, it is not 100 per cent efficient so whatever way there is going to be some discharge, so there will be some effect. A lot of the problems are not like you could take an air quality reading, say, from the tunnel. I have done this in the past and looked at a biological indicator such as lichens. Now, you can have the biological indicator stating to you that the area is polluted, however, you can take a static air quality sample and it will show that it is good; it is below the relevant things. However, it shows that there is long-term damage on the environment and that can apply, well, from the dispersion. When you looked at the E.I.A. with the dispersion model with the health impacts, it does not actually, what they could have done, in effect, is identify

hot spots. They know the prevailing winds, they know all the information and they can estimate. They did it in effect, but they did not tell us they did not apply it to where it is. They did not say: "Well, look we have got a hospital close by, is this hospital going to be affected? We have got sick people in here. We have got the States Chambers which is not that far away." You know, you could have identified these spots where you are most likely to get problems. Now, in theory, and what would be best practice, you would have air quality monitoring stations at these hot spots, which then would be able to alert the public that there is a problem. I mean a drop in efficiency can multiply the emissions from the pipe. We have got none of these safeguards in position.

The Deputy of St. John:

Do you think that by using the same stack - going back slightly - the T.T.S. or Babtie Fichtner actually found a

loophole in which to get around some of the bylaws within the Island or do you think I am on a red herring here?

Mrs. L. Luke:

It is possible. I mean I was not there when they were drawing up the plans so I cannot say what is in a person's mind when they are writing something however you would normally assume that one would build a stack going upwards, not sideways and then out, so, I do not know. You would have to ask them.

The Deputy of St. John:

Right, okay. Did you want to pass a comment?

Mr. A. Syvret:

No, nothing specific on that point, no.

Mr. D. Cabeldu:

I have just got one point. We circulated to you a report from Dr. Stephan Funk on this particular point. Dr. Funk came to us with his concerns some time ago, and that was one of our early submissions to you, and I have just dug this out for you so that you can relate to it. It is to do with the air quality solely with respect to risk to humans. One of the points he made, and he pretty much trashed the E.I.S. in this particular circumstance. On 3 areas Dr. Funk addressed the Babbie Fichtner and the E.I.S. on this matter and he said that: "The Babbie Fichtner and E.I.S. fails to qualify and quantify potential risk to the Ramsar site throughout." He also says: "It assesses air quality solely with respect to risk to humans [which is interesting to us]. It is a well established fact that levels of toxicity of chemicals is not identical for all organisms and varies greatly. What might pose no risk for humans might be highly toxic to other organisms and vice versa, therefore the conclusions for human health cannot be extrapolated for the Ramsar site." There are several other instances

whereby he demonstrated that the E.I.S. has not fully done its duty, if you like, for want of a better word. So, I thought that was worth bringing in here.

The Deputy of St. Mary:

When you mentioned “sideways” that is an interesting point. The flue gases from the incinerator go how many metres, roughly? Do you know that off the top of your head because I do not know that off the top of my head?

Mrs. L. Luke:

I do not, no.

The Deputy of St. Mary:

But it does go sideways and then it goes up the chimney. Now, I have read somewhere that the speed at which the flue gases come out of the chimney is very important because, in relation to grounding of the plume that you might get this: “Whoops, down it goes” and that is when

you get real concentrations that might be harmful. Any comment on that whole area of the fact that, you know, of the loss of speed and so on and how that could be mitigated, if anything can be done about that? Whether it is a real concern, I mean, I am just hoping that you know more about it than I do.

Mr. A. Syvret:

No, the only statement I would make is that it is, in mind of the fact that Bellozanne currently dumps more dioxin than all of the incinerators combined in the U.K., the reason I do not have any particular comment to make about what comes out of the flue is that at this stage, you know, we are going to have a vast improvement on our present situation but it is important to remember that science advances on a day by day, month by month basis and what was asbestos, for example, what was not toxic 60 to 70 years ago is considered highly toxic now. So, yes, we should do the best that we can but certainly we are duty

bound to keep an eye open on the best current science, and the best current science is increasingly suggesting that there is a risk even with very clean incineration but we have experts in this working for the Government, do we not?

The Deputy of St. Mary:

Can I pick up on something you said in that? You said there would be a vast improvement on the existing situation and that comes through in a lot of the official documents, but has any measuring been done, to your knowledge, of the Bellozanne deposition on the existing Ramsar site?

Mr. A. Syvret:

Not on the existing Ramsar site.

The Deputy of St. Mary:

Well, that is what they are talking about. They are saying that the Ramsar situation will be better therefore we did not need to notify because it is bound to be better; the new incinerator than the old incinerator. I have no doubt that overall the new incinerator's emissions will be somewhat better than the old one but on the actual Ramsar do we have any data, as far as you know?

Mr. A. Syvret:

Not that I am aware of. The only work I am aware of on incinerator fallout was summed up on some work done in the late 1990s around Bellozanne looking at dioxins in milk but beyond that I am not aware that ... I mean, to be honest with you it is not a stone that we want to turn over as an Island.

The Deputy of St. Mary:

No, but certainly not on the Ramsar site. There was one more which was the monitoring and was the last question

in the House about this, and apparently the monitoring of the flue emissions, ongoing during operation, will be by the operator, which is presumably T.T.S. and that would be published. It would be on real time. It will be published now. Does that satisfy you or would you prefer some other method in terms of knowing what is coming out of the chimney?

Mrs. L. Luke:

That will be like a little loophole because if there is no law governing it, they can tell you whatever. What can you do about it? You have got no comeback. You know, you cannot say: "Sorry, you have broken emission levels." There are no obligations to give health warnings. You know, there are just not enough controls over it, really. On the point of the emissions that come out of the stack, and obviously everything has different properties as well so some gases might disperse quicker. You have got particulate matter so everything, it is quite dependent on

the wind speeds, directions, weather, and that would have a great deal of effect and also the only thing I would like to mention about dioxins, really, they are quite well known as cancer causing and things but, however, it is quite difficult to trace them back as the actual cause for a cancer because they usually mix with other components which, you know, like an aggravating factor, which you quite often find smoking will also combine, so you might have pinpointed that cancer as a smoking related one, for example, lung, and it could actually be a dioxin that has caused the cancer and it affects the same respiratory tract that smoking does.

The Deputy of St. John:

I will just move on. I will go to the other end regarding cooling water, the outflow from the plant and the potential for temperature and salinity variations of the immediate surrounding waters and the possible chemical contamination for additives or contaminants; how might

these affect the marine environment and how serious a threat do you think they are?

Mr. A. Syvret:

Well, certainly as far as the thermal component is concerned, on a local basis that is a positive. People may remember the hot water outfall from the powering station when it existed. That created a wonderful nursery area for lots and lots of juvenile fish species so, you know, it is important to see that there is a balance here, you know? There is a positive there. Not too many elsewhere but, essentially, salinity and temperature are not an issue, given the dilution factor and the volumes. Whatever contamination we are discussing I am not aware of. I do not know what they propose to use in the way of additives or contaminants in that outfall, and I have not seen that discussed anywhere so I guess that will require another discharge permit for the running of the plant.

The Connétable of St. Peter:

Can I just add a bit in on there? They are using, and I have forgotten the name of the chemical, they did show it to us when we visited the site. It is the same chemical that they use ... it is the same water flow from Victoria Pier, which is treated to stop the formation of molluscs within the actual feed pipes and that is the only chemical which they are planning to use.

The Deputy of St. John:

I do not know if any member who was present can recall the name by any chance?

The Connétable of St. Peter:

Apparently molluscs adhere to the walls of the pipe work and this is more like I would call it a Fairy liquid to make the surface slippery so the molluscs cannot adhere to it but ... my word is Fairy liquid, not the technical term.

Mr. A. Syvret:

It sounds like I need some for my boat.

The Deputy of St. John:

Any other questions, gentlemen, on that particular point?

No? All right, let us move on again to underlying and ongoing environmental concerns. Could I have your comments on the following matters, if at all possible? Will compliance with the European Union Directive of Air Quality (draft directions) offer sufficient protection for Island residents in respect of atmospheric emissions and, if not, why not?

Mrs. L. Luke:

I think I have answered most of that previously. If you have not got legislation then nobody has got anything to fall back on. It is all very good having a policy and having a standard but if it is breached, there is no way that you can redress the matter. So, it would be putting people's

health at risk and there is no excuse, really, for not being able to monitor things and being able to alert people of incidents. There could be an incident down there that completely takes out the flue for all we know and then we should be able to warn people. In England they have different levels of alert up to the highest level, when it advises the public to stay indoors and close the windows until the risk is over; and what have we got?

The Connétable of St. Peter:

Can I just come in a little bit? A little bit of history again. Back in a former life I was involved with health and safety issues before we had a Health and Safety at Work (Jersey) Law, and generally the tack that was taken then with regard to health safety is that you looked to U.K. best practice and that was used as the Jersey benchmark as well. Now, I would suggest to you and take your views from you whether you felt that as we have no direct legislation currently in place in Jersey, whether there

should be put in place the understanding that, you know, European best practice will be used as a benchmark and therefore - I am putting words in your mouth now - that there should be, perhaps, procedures to deal with it if ever the benchmark levels were exceeded.

Mr. A. Syvret:

Yes, absolutely. I mean, we have this issue across different sectors. There is one thing having statutory instruments, even if we have them, it is another thing having a regulator and with the water pollution law, you know, one could argue whether that has been successful or not, given the fact that the States are the regulator and the Island's largest polluter; a conflict of interest.

The Deputy of St. Mary:

When we look at this business of no redress because there is no legislation, I guess that when we have T.T.S. here, what they will say is that it is built into the contract

that because it is like a legal - I have tried to find it in the contract and I cannot find it but that is another issue - but they say it is built into the contract so that if the plant exceeds the limits in the waste incineration directive which, presumably are safe limits, then the contractor will be liable, so it is between T.T.S. and the contractor, but I am just throwing that to you and asking for comments on whether you think that is a sufficient protection for the public?

Mrs. L. Luke:

Not really, seeing as the licensing of that stack is exempt from any regulations whatsoever, so it might be quite difficult if you have got gases being piped through a stack that is exempt from everything, how can you then make somebody enforce it because then, by law they could turn around and say: "Well, no, it is exempt", so I think it is a very grey area.

The Deputy of St. Mary:

No, I will put it to you what T.T.S. will say, I suggest, and then I want your comment on that, is T.T.S. will say: "But we have a contractual relationship with the supplier of the plant and if the plant does not perform according to X, Y, Z, then we will sue the contractor", now that may not be much comfort for the public but, on the other hand, at least the contractor is bound to do that and that will be what they will say and I just wondered, you know, I have problems with it but I wondered whether you have problems with it?

Mrs. L. Luke:

Yes.

The Deputy of St. Mary:

I mean, you are going back to the stack and saying there is not a legal remedy, if you like, for the population or for

any possible regulator but T.T.S. will say: “But we have a club in our hand to club the contractor with.”

Mrs. L. Luke:

But then could they not use that - just an imaginary case, a court case or something, then they could use, in their defence of polluting: “Well, it is exempt so we do not have to comply with any regulations”, they will say.

The Deputy of St. Mary:

The contractor might say that?

Mrs. L. Luke:

Yes.

The Deputy of St. John:

Right, we will move on then. Do you have any evidence that heavy metals or other toxic substances from La Collette reclamation site may contaminate with pollutants

from other sources, including Bellozanne, to affect the development of E. coli and other bacterial infections in farmed shellfish which are within the Ramsar site?

Mr. A. Syvret:

I will come to that afterwards, but I think Lara has done more work on this than I have done.

Mrs. L. Luke:

Yes, there are a lot of complex reactions between heavy metals and various bacteria, and there are quite a few different studies. In particular, the one I want to mention is the E. coli one and, as you may be aware, the mollusc is a bottom feeder so they eat the heavy metals and they bioaccumulate within the oyster or mussel and what happens is if then they are affected by E. coli as well you can get a doubling effect because it has been proved that the peptides that are in the E. coli also absorb heavy metals as well so you can have like a double effect in the one

shellfish. So, therefore it then leads to greater public health risk because then you have got shellfish which is quite the food to eat over here and then obviously it accumulates in humans too and, as with each individual there are different levels of toxicity, and then it leads to other health effects from there and there is also cadmium, which Tony Legg has mentioned on a recent study that has just been completed, that it can accelerate the absorption of heavy metals as well. So, even if there is a small amount of cadmium, it can accelerate the absorption rate of heavy metals and also it can cause a barrier, for some strange reason, of being able to detect bacteria in shellfish. So, there are numerous complex issues.

The Deputy of St. Mary:

Sorry, just quickly, what exactly accelerates the absorption of the cadmium; we got lost there?

Mrs. L. Luke:

The actual cadmium in the thing accelerates the absorption and once it is there, it goes quicker.

The Deputy of St. John:

I see, within the E. coli or within the shellfish?

Mrs. L. Luke:

No, within the mussel or the oyster, yes.

The Connétable of St. Saviour:

Could I just ask from that, are you saying that we could in fact get false readings when they are tested?

Mrs. L. Luke:

Well, if it is hiding it, you would have to get the shellfish, really and analyse them totally or have a breakdown of what the contents are. But, yes, it could. It could hide things so we would not know, say, for another period of 5 years you might not notice something and then all of a

sudden it would be everywhere and that is in particular with the norovirus that affects the oysters.

Mr. A. Syvret:

I am not sure if the panel have seen the submission from the Aquaculture Association?

The Deputy of St. John:

Yes.

Mr. A. Syvret:

Yes, you have? I mean you now have an entire industry effectively waving a flag and saying, you know: "We do not want this discharge permit granted" and they are far more expert in these matters than we are because obviously their livelihoods depend on it but I have been concerned now, and States Members at the time may remember a paper that I wrote for some residents of Grouville when they were campaigning against the large development of

an oyster processing plant next to Seymour Inn. I suggested that in the medium to long term, aquaculture, the farming of filter feeding bivalves in Jersey will not take place simply because our habitats will not be of sufficient quality to guarantee their consumption by humans. I think we need to think about the cocktail that is out there and that is increasingly important. In many ways it is not specific to this question, but one of the Ramsar criteria that we were given our designation under was that we harbour the early life stages or critical life stages of lots of organisms that broadcast spawn so it is not to say that, you know, because an oyster spawns in Jersey, it is going to be a Jerseyman that eats the oyster. This is critical because certainly something like a chancre or brown crab will start its life in the perfect nursery habitat to the southeast coast and then wander off to deep water as it grows. So, this potential for broadcasting our problem, perhaps in small quantities, you know, it is really there and

this is why we need some decent science done on this subject.

The Connétable of St. Peter:

No, I have got a question which is not really linked to the one you have just asked.

The Deputy of St. Mary:

This is a question for yourselves, actually, do you think that the aquaculture people will be willing to come to us?

Mrs. L. Luke:

Yes.

Mr. A. Syvret:

Yes.

Mr. D. Cabeldu:

Can I make one point before we close that question? Mr. Legg came to me last week, early this week actually, because he had been in Ireland and he asked if we could get the submission in very quickly and he apologised for not getting it in before because he had been in Ireland. One thing he did mention, that at one stage when he was tested at Green Island the waters would have been in the lowest 8 per cent of Western Europe in water quality and that is very alarming. It is a constant thing but at that point in time it might have been an overflow incident or it might have been whatever but at that time our waters on the southeast coast were in the bottom 8 per cent of Western Europe, and I find that truly alarming.

The Deputy of St. John:

Frightening. Thank you. Any other comments on that particular point? No? I will go to question 18, given the construction of the new waste plant is going ahead, what steps do you think should be taken to avoid future

problems associated with the dumping and containment of ash products from waste incineration? Are you satisfied that the planning process for the Energy from Waste plant has given sufficient weight to this issue?

Mr. A. Syvret:

From what I have read of the Babbie Fichtner document, no, in an answer. I am also aware, from very, very recent information, that I would be happy to provide to the panel, that the incinerator operators could have to treat bottom ash as hazardous waste as well because of doubts over its eco toxicity. This could substantially increase the cost of incineration. The Environment Agency has admitted that it does not have 100 per cent confidence in its classification of incinerator bottom ash as non-hazardous waste. So, we may be dealing with the whole fraction here; not just the fly ash which we are presently most concerned with, and there may be a reclassification of bottom ash as well. It is obvious to me, it is obvious from

the fact that someone took the corner off an ash pit and, from what I have seen down there, that the membranes have not maintained their integrity. So, if we continue with business as usual, then we are only going to compound the problem. So, I am not happy. It may well be that this information, I only received this in March so it might be that, you know, Babbie Fichtner are aware of this but it might also be possible that they are not. So, no, grave concerns about what they propose to do with the ash in future.

The Connétable of St. Peter:

Just a supplementary to that one, are you aware how they deal with bottom ash in the U.K.?

Mr. A. Syvret:

At the moment it is weathered and then used as an aggregate for road building and things along those lines.

The Connétable of St. Peter:

So going back into the environment?

Mr. A. Syvret:

Yes, but that may well have to stop.

The Connétable of St. Peter:

Yes, I am also aware that sometimes you can convert them into concrete blocks.

Mr. A. Syvret:

Yes, I mean like nuclear waste, they vitrify it and things along those lines as well, yes, absolutely but you can see, I think the process of “weathering” is what is on view in one of those photographs we have provided of an open pit. Obviously it is quenched to start off with but you have a hot sunny day and I myself have left a favourite fishing spot because I was very worried about what I was breathing in.

The Deputy of St. John:

Just moving slightly across but we are still on about the ash, one of the photographs you produced shows the actual dumping, wherever it is, of which there was a plume of ash, I believe, or you claimed it to be ash. Have you got details of where that photograph was taken from?

Mr. D. Cabeldu:

I took that one. I took that from just by La Plage Hotel. I zoomed in on it and I was on my way up to take pictures of something else and I noticed that happening and while I was taking that picture, the tide was coming in; it was really low, it was a neap tide of about 32 feet, I think. It was coming in at mid afternoon and there were about 40 Brent geese and when I got there, there were only 2 and they were coming in below the discharge pipe, the water cooling discharge pipe where this water will go, and as they were coming in they were feeding on the weed by

there and I thought: “Great, they have got ash on their heads and they will have water coming out” and, you know 10 per cent of our Brent geese are in this area, but that is where I took it from.

The Deputy of St. John:

Because what worries me about this because that is right alongside the new ash pit that had just been dug, but alongside that there is a crushing plant for aggregates.

Mr. D. Cabeldu:

It was not the crushing plant because I then went up to La Collette Gardens and by the time I got there the lorries had just finished dumping and the dumper trucks were milling about and a lorry was being decontaminated, so it was the same lorry that was dumping there. While I was there I noticed that the piles that were there, whatever they had been dumping, I do not know, it was by the ash

pits, but the piles, it was a force 5 and they were skimming off on the top.

The Deputy of St. John:

You say they were decontaminating the lorries, what was the process?

Mr. D. Cabeldu:

Well, it took about 15 to 20 minutes because I was getting a bit annoyed, really because I was standing there on top of an uncomfortable pile of whatever on a bunker and I thought: "Let us get on with it because I want to see another lorry come in" and what happens is that lorries come out and they look like a pressure washer and they were doing the wheels, they were getting the material off the wheels before it went back on to the road and they were doing the same thing, I believe, at Castle Quay the other way. So the lorries were being pressure washed before they went on to the road.

The Deputy of St. John:

They were just removing the mud?

Mr. D. Cabeldu:

Yes, whatever, yes.

The Deputy of St. John:

But they were not pressure washing the inside of the vehicle?

Mr. D. Cabeldu:

Well, it seemed to be going on a long time. I got in as close as I could and Lara watched the process at the other end so maybe she can tell you a bit more about that but before she does, I had a sequence of pictures and I think I gave you a sequential caption of what happened to that, to that, to that, to that and then I put it together with others so we got a sort of an overview of what was happening. We

have been told that this does not happen, that it just does not happen unless it is very severe conditions.

Mr. A. Syvret:

Yes, and my email that I have already sent to the panel of 29th June from Steve Smith was about such fugitive emissions. It is acknowledged they happen. That is a photograph of it happening on one day and I myself, as I just said, have moved off the outer wall of the reclamation site when fishing because of what is blowing over and billowing into my lungs.

The Deputy of St. John:

The purpose of asking the question because this ash that was being moved, I presume, from the site at Castle Quay and being placed in this ash pit, and there is another photograph somewhere with ash in the ash pit, all appears to be damp, at least damp.

Mr. A. Syvret:

That is a 1997 photograph, that.

The Deputy of St. John:

Right, but generally when it is moving and this is brought straight up from the current incinerator, it would be wet.

Mr. A. Syvret:

I know; I take your point. It might well be that the ash that is billowing is fresh ash that has been brought from La Collette that has dried. I mean, I am telling you that I have seen ash billowing around down there from piles of ash that are being disturbed by the wind. I have an email here from Steve Smith, Head of Health Protection Services, who has acknowledged that dusty materials being moved around La Collette give rise to fugitive emissions. I tell you, it takes place.

The Deputy of St. John:

I just want to confirm that what we are seeing is not the crushing plant in operation at the same time as the lorries who ride alongside them that are dumping the ash.

Mr. D. Cabeldu:

No, it was much further down, and I saw that the same group of vehicles ... and although the ash had been moving around from the top; the same vehicles in a different process and then I watched the process again on another day when I did not have a camera and it was definitely not the aggregate crushing plant. It was around by the ash pits.

The Connétable of St. Peter:

Just a supplementary on that one; are you sure that that is concentrated ash and not just spoil from the Castle Quay dig-out which may have contained some ash?

Mr. D. Cabeldu:

Well, our understanding is that - because we watched the lorries go from different places - our understanding is that the lorries that contain what is deemed to be containing contaminated material, i.e. ash, whether or not it is mixed in with inert waste as well, it is taken to that area which is alongside the incinerator by the ash pits, the material that is deemed to be rubble is taken to another area of La Collette and so on, so I think there are 3 different grades of material. I could be wrong but we have seen lorries go past that gate and go down to the end and dump to sea or whatever.

The Connétable of St. Peter:

My point, David, is that what we are seeing here may not be just ash. It may be dust.

Mr. D. Cabeldu:

Certainly, certainly.

The Connétable of St. Peter:

I am not trying to minimise the impact but I do not want us to be seen to be making it bigger than it really is.

Mr. D. Cabeldu:

No, we are saying we have watched the material but it is where the material came from; it is not the aggregate situation; it is the ash pit. It is in that compound.

The Deputy of St. Mary:

It would not go there unless it was in that category of containing ash?

Mr. D. Cabeldu:

So, at the very least we can say that that material that is blowing to sea contains some element of contaminated waste.

The Connétable of St. Saviour:

On that very subject, are we talking bottom ash here or are we talking the worst pollutants, or a combination of the two?

Mr. D. Cabeldu:

It could be a combination; it could be a combination of all three. We do not know but I think in that area mostly fly ash is dumped there, I think, is that right?

Mr. A. Syvret:

It is a mix.

Mr. D. Cabeldu:

It is a mix, yes. But it is a combination of all 3 things, I think.

Mr. A. Syvret:

But obviously the fly ash is the most mobile. It is the easiest liberated, yes.

The Deputy of St. John:

Can I just come back in on decontaminating the lorries? I know this is old stuff but coming back in, you say they took approximately 20 minutes. Are you aware that because of the area that they are going, it is only right that any vehicle coming off that site, or coming off the Castle Quay site have their wheels sprayed deliberately to get rid of any mud? They power wash them deliberately so that they do not contaminate all the streets. You are aware of that?

Mr. D. Cabeldu:

That is perfectly normal.

Mrs. L. Luke:

Sorry to interrupt there. I have actually watched and I do have video of one such lorry leaving the site with no wheel wash, so it does not always happen. The lorry went from Castle Quay. It dumped at the site of the incinerator,

where it has been fenced off and it left the site when it was finished and it definitely did not have a wheel wash.

The Connétable of St. Peter:

I think the thing, Mr. Chairman, I think it is worth saying that we will always have an errant occasion, and that you have clearly seen an errant occasion.

Mrs. L. Luke:

Yes.

The Connétable of St. Peter:

I think the concern, coming back to Dave to the comment of decontaminating the lorry, and it creates the impression in my mind that it was full of contaminants and yes, it was, but this could have just been normal ground mud.

Mr. D. Cabeldu:

Yes, I am not saying they went round with helmets on and so forth, I just assume that what they are doing is exactly what I have just said; just cleaning the wheels off so that it does not go on to the road.

The Connétable of St. Peter:

Yes, just wheel washing, effectively.

Mr. D. Cabeldu:

Yes, they took a long time. They are very thorough.

The Connétable of St. Peter:

Good to hear it.

The Deputy of St. John:

The operators that you have seen, that you have been observing over the last several weeks and months, within the ash pit areas, do the staff themselves, do they wear masks, et cetera?

Mr. D. Cabeldu:

Well, Lara has been to the Castle Quay site so Lara could tell you.

Mrs. L. Luke:

They were issued masks. I do not know how they are managing their site; I am not their site manager, whether they are made to wear them, which they should really, for health and safety. I do not know. Some did have some on and some did not.

The Deputy of St. Mary:

Who is some? Some drivers or some workers?

Mrs. L. Luke:

Workers, you know, that were around the site.

The Deputy of St. John:

Those who would be close to the ash pits, basically, or those ...?

Mrs. L. Luke:

Yes, well, those who were there involved in the actual excavating of the site.

The Deputy of St. John:

Right.

The Deputy of St. Mary:

Can I just ask a question? Something that occurs to me all the time when we are discussing moving the material from Castle Quay to La Collette, is how they distinguish the ... the Minister gave a reply recently with exact tonnages of inert bottom plus and fly ash plus, you know, how do you distinguish when you are digging with a digger, which lorry to put what? That is obviously relevant to, you know, you are saying: "Well, if it goes to that pit

then we know that it is contaminated, if it goes down the bottom end and it goes into the sea, then we know it is clear”, how exactly do you make this decision on a building site with a digger?

Mrs. L. Luke:

Is Castle Quay part of the West of Albert?

The Deputy of St. Mary:

Yes.

Mrs. L. Luke:

Then that was done before 1995, so anything, there could be anything, literally. So, whatever they are digging up, they really have not got a clue. So, as far as I am led to believe, that they have dealt with the whole issue of that excavation on dealing as contaminated because they do not really know where anything is.

The Deputy of St. Mary:

No, sorry, the answer the Minister gave, which you probably have not seen, is that there were 100,000 odd tonnes of inert, perfectly okay waste or rubble and then there was so many thousand tonnes - I have not got the figures on me - so many thousand tonnes of the fly and then so many thousand tonnes of the ... as if they could literally pick out sort of ...

Mr. A. Syvret:

Yes, but to answer your question, I think it is an arbitrary decision based on observation on the day. What is coming out of the site with the bucket goes to either a lorry that is going to take it to a contaminated site or a lorry that takes it to an inert site.

The Deputy of St. Mary:

I was just hoping that you guys might sort of, be able to spot a pocket of fly ash or something.

Mr. A. Syvret:

I hope someone can.

Mrs. L. Luke:

In the answer to Stuart Syvret's proposition, they did answer a question on the positioning of things down there and prior to 1995, when obviously they just put anything anywhere and there were no actual records kept in the early days, after 1995, when they put them in the liners. Now, that was actually in the answers on that comment. So, there were no records even kept where the ash pits are.

The Deputy of St. John:

Talking about records - currently have you observed any of the lorry drivers or staff within T.T.S., because there are obviously 2 different departments, a private company, I presume, doing the haulage and staff from T.T.S. - are you aware of any records being kept by the Castle Quay

operators or the contractors who are doing the movement of this ash? Are you aware of any records being kept?

Mrs. L. Luke:

No.

Mr. A. Syvret:

We do not have sight of those. We would not necessarily.

The Deputy of St. John:

No, I just wondered. That is fine, okay.

Mr. D. Cabeldu:

As you know, Castle Quay was not even on our radar so, you know, you are asking questions about Castle Quay records and so forth; Castle Quay was not on our radar until we went down to La Collette to see about pit water and then we thought: "What is going on here?" and the other thing I would just like to point out about Castle Quay

is it just seems absolutely unbelievable to watch this careful process. Sometimes we have seen a lorry come down from the bottom and up to the ramp and get washed off and so forth and go on to the roads so all this careful process is going on and then the tide comes in, swirls around the ash and it goes out to sea anyway. So, all this careful process, which is fine, you know, health and safety and so forth, but making sure the wheels do not get any ash on to the road, on to the public highway and yet the stuff is invisible; it goes into solution and it goes out to sea twice daily, 8 foot across a site. God knows how many thousands of gallons of water that is twice a day and the stuff must get into that water and go out to sea again. It just seems, well, it does not equate for me and I am sure it does not equate to my colleagues. It does not make sense that you are wheel washing one at one end ... while the main problem is going out to sea at the other end. It just makes no sense at all.

The Deputy of St. John:

Okay, I am conscious of the time. There are another 7 or 8 minutes before midday and therefore we will just wrap up. Do you have any evidence of wider concerns about the underlying integrity or possible health risks surrounding landfill reclamation sites in general and do you have any additional points that you would wish to make before we close this public hearing?

Mr. A. Syvret:

No, I mean, in response to wider concerns, I think we probably have made our case today and I do not think we have got too much more to add. The only thing I would like to say, and I am sure Lara and David will probably sum up as well, is that we are at a pretty critical juncture here. Saying bad things about the Ramsar site on the southeast coast does not come easily or naturally to me. I have spent the last 15 years telling the world how great it is. Every media that you could think of I have taken down

there, from the BBC holiday programme through to the Discovery Channel so, what I am doing here, in a negative sense, is shooting myself in the foot because I also make a living from the habitat as well. So, you know, I come here with a genuine rationale. It is really important, if we are looking at the history of the site and I would like this on record, that when La Collette phase 2 was created, the land was bought by the States of Jersey from the Crown and the land was valued and bought and the purchase price was £275,000 for those 81 acres. Now, we are sat here in 2009 with the ability to look at past mistakes and avoid making them again. That equates to 84 pence per square metre of reclamation site. Now, I think it is fair to say, historically, we have not valued our wetlands, we have not valued that southeast coast as highly as we should and we are in a situation now where, personally, I think it is time to open the books, do some good science and for the Government to level with us about the

standard of dumping and the legacy that will be left for future generations.

The Deputy of St. John:

Finally, if we find that it is necessary to call you again, at some future hearing, would you be willing to come forward?

Mr. A. Syvret:

We would be disappointed if we were not asked again.

The Deputy of St. John:

Thank you very much and, just for the record, could you each give your various qualifications; yourself and Ms. Luke to start, please?

Mr. A. Syvret:

Okay, yes, I am Andrew Syvret, Bachelor of Science in fishery studies, Coastal Officer for the States of Jersey,

1996 to 2001, with 20 years of practical experience in the marine environment.

Mrs. L. Luke:

I have got a Bachelor of Science with honours in environmental studies and I also have a diploma in pollution control. I have also got a diploma in Comprehensive Building and just a general and keen interest in the environment and health.

Mr. D. Cabeldu:

I have no qualifications whatsoever.

The Deputy of St. John:

A concerned Islander.

The Deputy of St. Mary:

He is quite good at uploading things to websites though.

The Deputy of St. John:

On behalf of the panel, can I thank you very much indeed for the time that you have given this morning? In fact, the concerns you have shown over the last few months and in many cases, over many years, for the environment of Jersey, can I thank you? Does any other member wish to say anything or have any officers got any comments they would wish to pass?

The Connétable of St. Peter:

None other than thank you very much.

Mr. A. Syvret:

Thank you.

Mr. D. Cabeldu:

Thank you.

Mrs. L. Luke:

Thank you.

The Deputy of St. John:

Thank you very much indeed. The meeting closed at
11.58 a.m.