

# ELLIOT LAKE COMMISSION OF INQUIRY

---

DAY 112

October 02, 2013

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ELLIOT LAKE COMMISSION OF INQUIRY

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--- This is Day 112 in the Inquiry proceedings held before  
the Honourable Justice P.R. Bélanger, Commissioner, taken  
at the White Mountain Academy of the Arts, 99 Spine Road,  
Elliot Lake, Ontario, on the 2nd day of October, 2013,  
commencing at 9:00 a.m.

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REPORTED BY: Lisa M. Barrett,  
CRR, RPR, CSR

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2

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4

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7 Kristin Smith, Esq., Government of Ontario

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9 Richard Oliver, Esq., For the City of  
10 Toronto/HUSAR

11

12 Ernie Thorne, Esq., Ontario Professional  
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14

15 Paul Cassan, Esq., City of Elliot Lake

16

17 Carolyn Filgiano, Esq., ELMAC  
18 & Shawn Richard, Esq.,

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1 --- Upon commencing at 9:01 a.m.

2

3 THE COMMISSIONER: Good morning,  
4 everybody.

5 MR. AULT: Good morning,  
6 Mr. Commissioner.

7 Mr. Commissioner, our next witness is  
8 Ryan Priestly. Mr. Priestly, please come to the  
9 stand.

10 THE COMMISSIONER: Good morning, sir.

11 RYAN PRIESTLY: SWORN

12 EXAMINATION-IN-CHIEF BY MR. AULT:

13 Q. Good morning, Mr. Priestly.

14 A. Good morning.

15 Q. Mr. Priestly, I understand that  
16 you currently work with the company, Priestly  
17 Demolition?

18 A. Yes.

19 Q. And what position do you hold  
20 within that company?

21 A. The owner and the president.

22 Q. And president. Now, yesterday  
23 the Commissioner heard evidence from Mr. Phil Glavin  
24 and he gave us a degree of genealogical evidence  
25 with respect to the Priestly family and the Glavin

1 family, and we understand that Priestly Demolition  
2 is a family-run business; is that correct?

3 A. Yes.

4 Q. And how long has Priestly  
5 Demolition been operating?

6 A. Priestly Demolition was  
7 incorporated in 1993 and my father has been in  
8 business since 1971.

9 Q. And we heard evidence from  
10 Mr. Glavin that prior to that he was involved --  
11 that is your father was involved -- in excavation  
12 type work?

13 A. Yeah, we still do some, as well.

14 Q. And where is Priestly Demolition  
15 headquartered?

16 A. It's in King, Ontario, a little  
17 hamlet called Kettleby, Ontario.

18 Q. And where does Priestly do its  
19 business?

20 A. Throughout Ontario and mostly in  
21 the GTA.

22 Q. And is your equipment located  
23 just in the hamlet outside of Aurora?

24 A. No, it's all over Ontario.

25 Q. Do you keep equipment all over

1 Ontario?

2 A. Only when it's on a job site and  
3 then if it needs repair or if it's done on a job  
4 site we bring it back to the yard or take it to the  
5 next job site. The goal is to keep it to the next  
6 job site.

7 Q. But when your equipment is not  
8 in use on a particular job site --

9 A. Yes.

10 Q. -- it's kept just in Aurora?

11 A. Correct.

12 Q. And in your capacity as owner  
13 and president, Mr. Priestly, do you actually do work  
14 in the field?

15 A. From time to time, yes.

16 Q. And do you operate equipment?

17 A. Yes, I do.

18 Q. What sort of infrastructure does  
19 Priestly Demolition work with? What types of jobs  
20 do you take?

21 A. We work for developers and  
22 governments and home owners, so we do anything from  
23 tearing down a residential home, and excavating for  
24 the new foundation to demolishing a 15-storey  
25 hospital in downtown Toronto to doing work at



1 various industrial plants like General Motors or  
2 Valet or Xstrata or a chemical plant we're doing  
3 right now in Windsor and stuff like that, so they're  
4 multi-year projects. We've taken down a couple of  
5 paper mills in Northern Ontario.

6 Q. So you work on buildings as  
7 small as houses and as large as large industrial  
8 buildings?

9 A. That's correct.

10 Q. I'm going to ask you some  
11 questions now generally about your education and  
12 training. I understand that you attended  
13 a construction engineering program?

14 A. That's correct.

15 Q. And where did you attend that?

16 A. Fanshawe College in London.

17 Q. Did you finish that program?

18 A. I did not graduate, but, yeah it  
19 was three years, I went all three years, yeah.

20 Q. And other than attending that  
21 program, have you received any formal training in  
22 demolition work?

23 A. Only in the field.

24 Q. And have you received any  
25 designations in respect of demolition work?

1 A. No, I have not.

2 Q. I'll ask you the same with  
3 respect to heavy equipment. Have you received any  
4 designations or formal training other than work in  
5 the field in the operation of heavy equipment?

6 A. No.

7 Q. The Commissioner heard evidence  
8 last month from a Mr. Dave Selvers, who runs  
9 a company called "Millennium Crane" that he is  
10 a certified hoisting engineer; are you a certified  
11 hoisting engineer?

12 A. No.

13 Q. Do you know what a certified  
14 hoisting engineer does?

15 A. It's a crane operator.

16 Q. It's a crane operator. And why  
17 are you not required to be a certified hoisting  
18 engineer in the course of your work?

19 A. Well, to operate a crane in  
20 Ontario, there is regulation in the Occupational  
21 Health and Safety Act, over a certain weight you  
22 have to become a certified operator. So the  
23 equipment we use are excavators and not cranes.  
24 They do get sort of called both, I guess, from time  
25 to time. Different industries call things different

1 things but we call them excavators or high reach  
2 machines for demolition but they are not cranes and  
3 we are not hoisting loads on a regular basis.

4 So to be a certified crane operator  
5 I think it's over 28 tonnes or 22 tonnes or  
6 something like that, you have to take a course. You  
7 graduate and then you're good to go to lift that  
8 weight in Ontario.

9 Q. Does Priestly Demolition have  
10 any cranes in its stable of equipment?

11 A. Yes, we do.

12 Q. And do you have certified  
13 hoisting engineers to operate those cranes?

14 A. Yes, we do.

15 Q. I'm going to ask you some  
16 questions now, Mr. Priestly, about your experience  
17 in rescue operations and recovery operations.

18 Are you familiar with the distinction  
19 between a rescue operation and a recovery operation?

20 A. I think so.

21 Q. And what do you think that  
22 difference is?

23 A. Well, I think a rescue operation  
24 where you're anticipating rescuing somebody --

25 Q. Right.

1           A.    -- who is alive, and recovery is  
2 not, they're not alive.

3           Q.    Right.  And that's consistent  
4 with the evidence that we've heard at this  
5 Commission of Inquiry.

6                    Have you been involved in your work  
7 with Priestly Demolition in any rescue operations?

8           A.    I'd say mostly recovery.  Not  
9 really rescue, I don't think.

10          Q.    And what are the recovery  
11 operations that you've been involved in?

12          A.    There's been -- we've done a few  
13 fire jobs, a few years ago, Victoria and Queen  
14 Street in Toronto, there's like a 6 Plex.  I think  
15 there was two victims there.  We did the big fire at  
16 Bloor and Kipling in Toronto.  There was, I think  
17 six victims there.

18                    We did a big fire at Woodbine and  
19 Danforth.  There was one there.

20                    Then we've done a few houses.

21          Q.    I take it then that  
22 predominantly the recovery jobs that you are  
23 involved in are fire related?

24          A.    Yeah, the one at Woodbine and  
25 Danforth, I think was an explosion that turned into

1 a fire but, yeah, mostly fire related.

2 Q. So in those instances you've  
3 mentioned five here, who has called you? Who has  
4 deployed your resources?

5 A. A lot of the times the Fire  
6 Department or the Fire Marshal's office.

7 Q. Are those the, the ones that  
8 you've mentioned, the only operations that you've  
9 been involved in that you can recall?

10 A. There's been more. Our company  
11 has done other ones, as well. I maybe didn't go  
12 there myself personally. Those ones there, I all  
13 went personally to those ones.

14 Q. Right.

15 A. But, we've done at least  
16 probably another three that I didn't go to myself.

17 Q. And as a general matter, how  
18 often would you say that Priestly Demolition gets  
19 called in respect of these types of operations?

20 A. Well, emergency for a fire, and  
21 stuff like that.

22 Q. Yeah.

23 A. It just depends on how many  
24 fires there is, but I would say on average a couple  
25 of times a year, you get called for different

1 things, different fires, here and there.

2 Q. And what do you typically do  
3 when you get called? What happens when you get to  
4 the scene of one of these operations?

5 A. Well, you -- once you get there,  
6 then the Fire Department -- if it's a fire, the Fire  
7 Department will say to you, "We want to try and put  
8 the fire out", and sometimes it is hard to get the  
9 fire out depending on the structure of the building.

10 Like, if there's a roof on fire  
11 sometimes it is hard to get out. One time there was  
12 a transformer on fire at the airport and the 427 was  
13 closed and we ripped the transformer apart so they  
14 could put the transformer out.

15 One time there was a freezer factory,  
16 like a -- it's like a freezer plant, I guess you  
17 would call it, and the forklift had backed into the  
18 racking and the racking tipped over and there was no  
19 fire there, but we dug out all the racking and took  
20 the building down because the roof had started to  
21 collapse because the racking was attached to the  
22 roof so when the racking tipped over it caved the  
23 roof down and there was big pipes on the roof with  
24 all the chilling lines, so we took all that down so  
25 when we actually got to where the victim was, it was

1 safe enough to get him out.

2 Q. And in those situations, like,  
3 for example, this incident that you've just  
4 described, when you get to a scene, who do you  
5 report to?

6 A. Well, whoever calls, so in that  
7 particular case, it would be the Fire Department.  
8 Sometimes the Ministry of Labour will call.  
9 Sometimes -- mostly the Fire Department, I guess,  
10 generally calls.

11 Q. You've said that the Ministry of  
12 Labour will sometimes call. In what instances have  
13 you been called, have you been deployed to this type  
14 of operation by the Ministry of Labour?

15 A. Well, at the freezer building we  
16 got called by the Fire Department but the Ministry  
17 of Labour almost took the scene over immediately,  
18 just because there was no actual fire.

19 Q. Right.

20 A. And then it caused a little bit  
21 of confusion on who was in charge, so the Ministry  
22 of Labour took over for a while there, as the lead  
23 on the scene.

24 Q. And in that situation did you  
25 report to the Ministry of Labour?

1 A. Yes.

2 Q. And they gave you instructions  
3 on how to conduct the part of the operation that you  
4 were involved in?

5 A. Yeah.

6 Q. Are you familiar with the heavy  
7 urban search-and-rescue team based out of the City  
8 of Toronto which we here at the Commission have been  
9 calling TF-3?

10 A. Yes.

11 Q. And how are you familiar with  
12 them?

13 A. We've worked with them in the  
14 past and sometimes they'll use one of our job sites  
15 for training. They have in the past. And when it  
16 first started, way back when, they contacted us  
17 about what equipment we had and so on and so forth,  
18 so we met with them and gave them a list of our  
19 equipment at that time, way back when.

20 Q. Do you recall when that contact  
21 was?

22 A. Oh, well, if you told me the  
23 year they started, it was probably that year, like  
24 2000, 2000 maybe.

25 Q. In the early 2000s,



1 approximately?

2 A. Yeah, yeah.

3 Q. Now, you've said that you've  
4 worked with TF-3 in the past. Have you worked with  
5 them in actual operations?

6 A. I don't know if they were at  
7 Kipling and Bloor.

8 Q. They were, yes, we've heard  
9 evidence that members of TF-3 were in attendance  
10 there.

11 A. Yeah, so that's where I would  
12 have worked with them, there. And there the Fire  
13 Marshal was the lead on the scene because it was  
14 very much a fire.

15 Q. And you mentioned that TF-3 had  
16 contacted you in the early 2000s for the purpose of  
17 getting an appreciation of the equipment that you  
18 had.

19 A. Yeah.

20 Q. Have you ever trained with TF-3?

21 A. Not me personally, no.

22 Q. Have any members of your crew  
23 trained with TF-3?

24 A. I know there was talk about it,  
25 but I don't know that it ever happened, I don't

1 think.

2 Q. You mentioned that TF-3 has done  
3 training at job sites that you've been involved in;  
4 has any of that training involved your equipment as  
5 well?

6 A. No, mostly it would have been  
7 just giving them an area of the job site where there  
8 was piles of rubble and debris that would simulate  
9 a possible collapse one day and then they would try  
10 and, you know, just run drills. It looks -- do some  
11 kind of drill where they could maybe bury something  
12 and then try to find it and extract it, maybe try  
13 and create like a cave into the pile to try and get  
14 something out, stuff like that, but not specifically  
15 with our equipment I don't think, no.

16 Q. And it's your understanding  
17 then, in any event, that TF-3 had an understanding  
18 of the equipment that you had available, that  
19 Priestly Demolition had available?

20 A. Well, like I say, we spoke in  
21 early 2000, in the early 2000s, but we didn't speak  
22 regularly.

23 I can't remember the year when the  
24 Kipling and Bloor fire was.

25 Q. It think it was 2003.

1           A.     So that was a long time ago,  
2     right?  But it's not like we go over there training  
3     and keep in steady contact with them.

4           Q.     Are you familiar with the OPP  
5     urban-search-and-rescue team which is called  
6     U-C-R-T, or UCRT?

7           A.     We've done -- they have  
8     a building in Bolton which is near to our office and  
9     we've helped them sort of build like a training  
10    facility there.  We hauled some concrete there one  
11    time for them and stuff.  And sometimes they'll  
12    bring their dogs to our job site and train the dogs  
13    on the job and stuff.  So, yeah, we know them.  
14    I don't think I've ever done anything specific for  
15    them or been called by them.

16          Q.     And you've never trained with  
17    them, I take it?

18          A.     I never have, no.

19          Q.     And have any members of your  
20    crew trained with them?

21          A.     I don't think so, no.

22          Q.     And when they attend at your job  
23    sites or when you assist them with their yard in  
24    Bolton, do you know if they use any of your  
25    equipment in training?

1 A. No.

2 Q. Do you ever do work with the OPP  
3 generally?

4 A. Well, we do work with the police  
5 departments. They all use buildings to be  
6 demolished as a training ground so we have done work  
7 with the OPP. It is not just the search-and-rescue  
8 team, they have a tactical rescue unit, the TRU team  
9 and they've been in our buildings before in the  
10 past. Sometimes they will go even as far as Smooth  
11 Rock Falls, they went up there and did some  
12 training.

13 Q. And I'll ask you the same  
14 question again with the OPP: Has Priestly itself,  
15 either its crew or equipment been involved in the  
16 training in those types of operations with the OPP?

17 A. No.

18 Q. And aside from getting contacted  
19 by TF-3 in the early 2000s, do you know if Priestly  
20 Demolition is on any sort of directory that is  
21 maintained by a rescue-related agency such as the  
22 OPP?

23 A. There's a list that was in  
24 Toronto one time for the City of Toronto, if they  
25 have an emergency they wanted to generate a list,

1 they generated a list, but you only get called on  
2 that list if it's like Sunday morning at 9 o'clock  
3 and nobody else answers their phone and you happen  
4 to answer your phone.

5 Q. Right.

6 A. But it's not -- I wouldn't say  
7 we get called a lot from that list.

8 Q. And is that a list that is  
9 maintained for emergency situations?

10 A. Yeah, like, for instance, you  
11 get called, like, a car will drive into a store  
12 front and when it drives into the store front it  
13 might bend the column or the pillar so that everyone  
14 thinks that, you know, there is a structural issue  
15 and they'll call Priestly and they'll want us to  
16 call an engineer in to help assess the building  
17 structurally and then we'll try to make the  
18 situation safe, either board up the building or  
19 maybe to facilitate some demolition to take down the  
20 building if it's unsafe, if it's not salvageable  
21 type thing.

22 Q. We've heard evidence that the  
23 OPP maintains something called a vital services  
24 directory in various detachments.

25 Are you aware of whether you are on

1 a vital services directly or have you ever been  
2 asked to be on a vital services directory?

3 A. I'm not aware of that.

4 Q. You've mentioned that in  
5 situations where there is a fire you will often get  
6 called by either a local Fire Department; is that  
7 right?

8 A. Uh-hmm.

9 Q. Or the Ontario Fire Marshal's  
10 office?

11 A. Yep.

12 Q. Do you know how either of those  
13 entities would get your contact information, how  
14 they would know to contact Priestly Demolition?

15 A. Well, I would say that they  
16 contact us because we worked with them before, so  
17 once you work with the particular Fire Marshal, I'd  
18 say he keeps your card, sort of thing, keeps your  
19 contact. So, again the Fire Marshal's office, from  
20 my experience, you could be -- you know, you can  
21 live in Toronto and have to go to a fire in Ottawa,  
22 while you may not want to call Priestly in Toronto,  
23 you are going to call someone in Ottawa and then the  
24 Fire Marshal's office works the same way again, so  
25 you could live in Ottawa and go to a fire in Oshawa

1 and then you don't know who to call so you just  
2 start looking around to call someone or maybe the  
3 local Fire Department they have someone that they've  
4 used in the past, like an Oshawa contractor and they  
5 call him.

6 So we just get called from past  
7 experiences is my experience.

8 Q. And not because of any  
9 maintained list or anything like that?

10 A. Not that I'm aware of.

11 Q. You'd indicated that in certain  
12 instances like, for example, at the incident at the  
13 freezer factory, the Ministry of Labour it was your  
14 view had assumed authority over the scene?

15 A. Well, yeah, because it was,  
16 again, I don't want to make it any more confusing  
17 than it has to be but when there was no fire, the  
18 Fire Department to my knowledge, is saying "Well,  
19 there is no fire here."

20 Q. Right.

21 A. And then the police are, like,  
22 "We don't know if the guy is in there", because they  
23 couldn't verify, I think he was single, he didn't  
24 have -- he didn't live with anyone and so it's not  
25 like they could check with his wife to see if he was

1 home or not. So there was a possibility that maybe  
2 he wasn't in there and maybe he had gone home. And  
3 so the Ministry of Labour is like, well, okay, this  
4 is like -- we're going to treat this like  
5 a construction site, basically and we're going to --  
6 and we engineered the process by which we did the  
7 work, which is like a requirement under the  
8 Occupational Health and Safety Act.

9 Q. When you say they treat this  
10 like a construction site, was it your view then that  
11 the powers and authority of the Ministry of Labour  
12 would apply to you as a demolition outfit at the  
13 scene, as it would at any construction site?

14 A. Yeah.

15 Q. And is it your view that if  
16 you're involved in a rescue or recovery that the  
17 powers of the Ministry of Labour are any different?  
18 Are you aware whether there is any difference?

19 A. No, it's just, at a recovery  
20 rescue, there is typically more than one so the  
21 Ministry of Labour has people that specialize in  
22 different areas, so they might have a structural  
23 engineer there. They might have a hygienist there.  
24 They might have the Inspector for the local area  
25 there. They might have the inspector who maybe has



1 inspected that building in the last however  
2 long, six months or a year. That's all. As opposed  
3 to a typical job site where just the regular  
4 inspector would come by and do a site inspection of  
5 your site.

6 Q. Right. But if Priestly  
7 Demolition is called in to an emergency response  
8 situation, such as a fire, do you have a view about  
9 whether the powers of the Ministry of Labour  
10 official are any different in that situation?

11 A. No, no, I don't.

12 Q. You don't have a view or you  
13 don't think there is any difference?

14 A. Oh, I think that they have a lot  
15 of power, rescue or not, so probably their power  
16 during a rescue would be heightened. They're mostly  
17 interested in safe work, not to have anyone else get  
18 hurt moving forward. That's my view.

19 Q. Thank you. I'm going to move  
20 now to ask you questions about the collapse of the  
21 Algo Centre Mall itself.

22 Mr. Priestly, when did you first hear  
23 about the Algo Centre Mall collapse?

24 A. Well, I guess the day it  
25 happened I heard about it on the news and stuff.

1 Q. Just on the news?

2 A. Well, we definitely heard about  
3 it on the news and then Phil Glavin is brothers with  
4 Mike Glavin who works with me, so Phil had contacted  
5 Mike and told him that he was going to Elliot Lake  
6 and he was wondering if we were around. And we  
7 were.

8 Q. If we could please turn up  
9 Exhibit No. 6622 and, Mr. Priestly, in the book in  
10 front of you, that document would be at tab 5.

11 Mr. Priestly, are these the notes  
12 that you made in respect of your response to the  
13 Algo Centre Mall collapse?

14 A. Yes.

15 Q. And we see that the first entry,  
16 the first top line there is Sunday June 24th:

17 "First phone call from HUSAR."

18 And is that a notation that indicates  
19 what you just told us about the call from Mr. Glavin  
20 to his brother that's on your team?

21 A. I don't know -- no, I think it  
22 was on Saturday. That's the first phone call  
23 from -- I got a call from Mike on Saturday saying,  
24 you know, "Phil was wondering if you're around", and  
25 I said, "Yeah, I'm around, I'll keep my phone with

1 me so I don't miss his call," and then I never heard  
2 from him until on Sunday.

3 Q. It was Mr. Glavin's evidence  
4 yesterday that he first made that phone call on June  
5 24th, but is it your recollection that it was on  
6 June 23rd? And just to be fair to you --

7 A. Which Mr. Glavin though?

8 Q. Pardon me, Mr. Mike Glavin.

9 A. Oh --

10 Q. Pardon me, Mr. Phil Glavin who  
11 testified here yesterday and who was on scene and to  
12 be fair to you, TF-3 did not arrive in Elliot Lake  
13 until the early morning hours of June 24th.

14 A. Uh-hmm. That's correct.

15 Q. Okay.

16 A. Yes.

17 Q. So is it your recollection that  
18 this would be -- your first phone call would be June  
19 24th and that was the call from Mr. Glavin's  
20 brother, Mike Glavin to you?

21 A. He called -- Mr. Glavin --  
22 Phil's brother Mike, called me on, I thought  
23 Saturday but it could have been Sunday. I can't  
24 really remember.

25 Q. Okay.

1           A.    I just know it was ahead of time  
2 and then Phil called me definitely on June the 24th.

3           Q.    It is quite a family tree  
4 between the Glavins and the Priestlys.

5           A.    And it's -- I'm personally not  
6 related to the Glavins, just so we're all clear.

7           Q.    Mr. Priestly, when did you make  
8 these notes?

9           A.    Geez, my dad always told me to  
10 put the date on there, and I can't remember now.  
11 I think I made them the morning, like that night.  
12 This was on June 27th, I made these notes. I would  
13 have made notes in my book on the way through and  
14 then I would have just summarized the notes on this  
15 one page.

16          Q.    And is it your custom to make  
17 notes in respect of jobs that you take on?

18          A.    I'm not a very good note-taker  
19 though.

20          Q.    And in that call on June 24th,  
21 do you remember what you were told?

22          A.    Well, we basically just -- Phil  
23 said, "I want to know what you have available to  
24 come to Elliot Lake to help with the collapse." Two  
25 of the machines that we brought to Elliot Lake were

1 in Sudbury working at a mine, so they were  
2 relatively close. There was a machine with the  
3 shear and the grapple on it, and then the high reach  
4 machine was in our yard at the time and we had it in  
5 our yard, we just had repaired it so I'm glad it was  
6 actually repaired and not half taken apart, you  
7 know.

8 Q. We'll get to discussing those  
9 machines in detail in just a moment but was there  
10 any request at the time of that first phone call for  
11 any particular piece of equipment that you had?

12 A. Well, he was asking about a high  
13 reach machine. Phil had seen them before so he  
14 understands what they are and what they can do. We  
15 told him that the machine was in the yard, the big  
16 high reach.

17 Q. And after you received this  
18 information are you effectively on standby at this  
19 point just waiting to get any other information?

20 A. I guess unofficial standby, yes.

21 Q. And did you do anything with  
22 this information, did you get your guys, your crew,  
23 any crew members on standby or not?

24 A. I don't think so because it's  
25 like Sunday, and I'm not going to ask guys to not do

1 things on Sundays, if somebody might have something  
2 planned, so I pretty much just wait until they make  
3 it official.

4 Q. Right.

5 A. And then I call the guys.

6 Q. The next notation is Monday,  
7 June 25th at 8:00 p.m. and you write:

8 "Contact us to confirm  
9 availability of equipment."

10 My first question is: Can you recall  
11 whether there was any communication between the  
12 Sunday June 24th call and this phone call at eight  
13 o'clock on June 25th?

14 A. I don't believe so.

15 Q. And can you recall who contacted  
16 you at eight o'clock on June 25th?

17 A. It was Mr. Glavin.

18 Q. And what did Mr. Glavin say to  
19 you at that point?

20 A. He basically wanted to know if  
21 the equipment was still available and how long it  
22 would take to get there and we didn't talk for very  
23 long, maybe five or ten minutes and I said, "Yeah,  
24 the stuff's available and you've just got to let me  
25 know." He talked about flying me up there to have

1 a look at the mall, but I told him, "If you want me  
2 to come up there, I'll just get in my truck right  
3 now and I'll drive up there and I'll be there in  
4 five hours." So he said, "Okay, well, let me call  
5 you back when I know more."

6 And then they called maybe an hour  
7 later saying, "Okay, I think we're going to use you.  
8 We think we need the equipment but we'll just call  
9 back to confirm." And that's the 1:46 a.m. note.

10 That note was very good on the  
11 1:46 because I remember looking at my phone when  
12 I answered it.

13 Q. It was Mr. Glavin's evidence  
14 yesterday that between the first contact which you  
15 have noted at 8:00 p.m. and the communication at  
16 1:46, that there were, in fact, a series of phone  
17 calls between you, and he estimated probably five or  
18 six and definitely more than two.

19 Is that your recollection, as well?

20 A. Well, yes, and part of that was  
21 because of the reception. I don't know what the  
22 reception was like here, at the time, but I know  
23 even at my house, the reception is not that good.  
24 I live in the country so it probably -- like if you  
25 looked up on the call log of your phone, it would

1 probably look like ten calls but I think we only  
2 talked three or four times.

3 Q. And I'd like to ask you some  
4 questions about what Mr. Glavin told you and what  
5 information you requested of him in those series of  
6 phone calls between eight o'clock and 1:46 on June  
7 25th and June 26th.

8 Did Mr. Glavin describe to you the  
9 reason -- first of all, did he say to you that the  
10 rescue had been stopped?

11 A. I don't know if he mentioned  
12 that or not specifically. I know I had seen it on  
13 the television, that the rescue had been stopped.  
14 I remember that was all over the news at the time.

15 Q. So you were aware, by the time  
16 that you spoke with Mr. Glavin on the 25th, that  
17 there had been a stoppage in Elliot Lake?

18 A. Uh-hmm.

19 Q. And did you have  
20 an understanding about why there was a stoppage in  
21 Elliot Lake?

22 A. Well, I think they -- I think  
23 the stoppage was because it was unsafe because the  
24 building was moving.

25 Q. And did Mr. Glavin say anything



1 to you about why the building was moving or where  
2 the building was moving?

3 A. I don't think he told me where  
4 or why but I think he told me that it was -- he  
5 thought it was moving. They had put some kind of --  
6 like basically a very simple system, you see a crack  
7 in the floor and then you put a two by four on each  
8 side of the crack and then you go back an hour later  
9 and it's opened up or whatever and that's how you  
10 know it's moving so. But we didn't get into  
11 specific details of where or why it was moving.

12 Q. Firstly on that point about that  
13 contraption, were you surprised that that type of  
14 measuring device had been used in this situation and  
15 had been relied upon for the purpose of stopping  
16 a rescue?

17 A. Well, I don't think there's  
18 anything --

19 MR. OLIVER: I object to that  
20 question. There is no evidence that the rescue was  
21 stopped because of the measurement. We've heard  
22 multiple witnesses talk about the engineer's  
23 evidence. I think it's unfair to this witness to  
24 put to him that the rescue was stopped because of  
25 measuring devices.

1 THE COMMISSIONER: Well, it had been  
2 relied on for the purpose of stopping a rescue. It  
3 may have been one of the items that was relied on to  
4 stop the rescue. I don't think Mr. Ault was being  
5 specific.

6 In any event you may wish to be more  
7 precise, Mr. Ault.

8 MR. AULT: Thank you,  
9 Mr. Commissioner.

10 BY MR. AULT:

11 Q. Were you surprised,  
12 Mr. Priestly, that that type of device, measuring  
13 device, had been, at least according to what  
14 Mr. Glavin had told you, had been a factor in  
15 stopping the rescue or making a determination about  
16 movement of the building?

17 A. I think the device is very  
18 reliable, like I think the device works. I don't  
19 think it's -- I don't think there is any better --  
20 in a rescue operation you don't have a lot of time.  
21 I think that type of device is a very hands-on,  
22 practical device to use.

23 Is that -- is that what you're asking  
24 me?

25 Q. That's what I'm asking you, just

1 for your general ...

2 A. That's my general opinion,  
3 right, that that works.

4 THE COMMISSIONER: It doesn't have to  
5 be calipers or a very sensitive electronic  
6 equipment?

7 THE WITNESS: That's -- exactly, it  
8 doesn't need to be like a laser or a -- anything  
9 like that. I think that -- if you mount that kind  
10 of device to the floor it is a very concrete way of  
11 doing it. Very ...

12 BY MR. AULT:

13 Q. Did Mr. Glavin provide you with  
14 measurements or a description of the site itself?

15 A. Yeah, like when he was asking --  
16 when he was saying, "Okay, I think we're going to  
17 need some equipment, you know, the building is  
18 unsafe and, you know, it's three storeys high or two  
19 storeys high with the roof and plus the penthouse  
20 over the stairway", so I asked him, "Well, Phil, how  
21 high is it?" And he would tell me, "It's  
22 approximately 50 or 60 feet high and it's, you know,  
23 structural steel framing with precast concrete on  
24 it", and some of the questions I asked him was,  
25 like, "How big are the precast slabs?" So he said,

1 you know, "They're like 25 or 30 feet long, they are  
2 8 feet wide, they are 12, 14 inches thick, they are  
3 big pieces of slab", so you don't want to bring  
4 a piece of equipment that's not going to be able to  
5 safely handle the kind of weight that you are  
6 dealing with.

7                   When you are the -- the section to go  
8 from the parking lot into where they -- where the  
9 victims, where the collapse was, there was the  
10 stairwell and escalators, and the escalators --  
11 I mean, we take out escalators quite often and it is  
12 a tricky job. They're heavy and they're -- they  
13 span a long way from one level to another level on  
14 an angle so, you know, like anything, if you cut it  
15 right in the middle it's going to fall so you have  
16 to know how to cut that safely so it doesn't  
17 collapse, you know, like, if you're taking it out of  
18 the Eaton Centre you can't have it collapse, you  
19 have to take the escalator out safely. And they are  
20 generally constructed of a lot of steel.

21                   So we talked about the  
22 characteristics of the building and we talked about  
23 the height of the building and stuff like that.

24                   Q. You say you talked about the  
25 height of the building and the measurement related

1 to reach. Did Mr. Glavin indicate to you where the  
2 problematic area was?

3 A. Well, he said -- I remember him  
4 asking me or saying to me, that they want to reach  
5 over the building and into the area and, you know,  
6 again, he was -- I'm going to assume he was sort of  
7 estimating the distances. Like he didn't have  
8 a drawing saying, you know, I've got my ruler out  
9 here and it's 62 feet or anything like that.

10 He was saying it's going to be up  
11 about 60 feet and you've got to reach in about  
12 40 feet and then you've got to reach down 30 feet  
13 type thing, so -- and that's the way the  
14 conversation was going.

15 Q. And how long did it take in this  
16 exchange of information or exchange of phone calls  
17 for you to be comfortable that you had the equipment  
18 to potentially assist in this operation?

19 A. Well, not very long. I mean it  
20 doesn't take that long. And the other thing is, our  
21 machine just happens to be the biggest one in  
22 Ontario so, at the end of the day, if you bring that  
23 machine there, that's the biggest machine there is  
24 so, you know, if we decide to bring a smaller one  
25 and not the bigger one and the smaller one wouldn't

1 reach then you would say maybe we should have  
2 brought the bigger one, but when we bring the bigger  
3 one and we know it's the biggest one available, no  
4 other demolition contractor has one even as big,  
5 I don't think, in Ontario, so -- and it's in our  
6 yard and ready to go so it was like a perfect fit.

7 Q. And we'll get into discussing  
8 the machine and the other equipment that you brought  
9 in just a moment but I'd like to ask you a few more  
10 questions on other information that Mr. Glavin may  
11 have provided to you.

12 Did he send any photos to you or did  
13 you request any photos?

14 A. I probably would have requested  
15 photos and I can't remember if he sent me in any but  
16 I'm sure I would have said, "Hey, send me a picture  
17 of the building" and if he could have, I'm sure he  
18 would have. I don't know that he did. I can't  
19 remember.

20 Q. Did Mr. Glavin say anything to  
21 you about the urgency of the situation?

22 A. Well, yeah.

23 Q. What did he say about it?

24 A. It's urgent.

25 Q. Did he say why it was urgent?

1           A.    You know, there's -- I mean --  
2    I can't remember if -- like, I mean it's all over  
3    the news right, so obviously it's urgent, obviously  
4    it's let's go, let's go, let's go, so I don't  
5    remember anything more specific than that, you  
6    know ...

7           Q.    And what did you understand from  
8    what you were hearing on the news, that there were  
9    people in the rubble, that there were signs of life?

10          A.    Yeah, there was still people  
11    missing, right, there was still people missing.

12          Q.    So was it your understanding at  
13    that stage, Mr. Priestly, that this was a rescue  
14    mission or a recovery mission?

15          A.    Well, I think that -- I think  
16    the answer is "rescue mission." You know, I think  
17    everybody is anticipating and hoping there's still  
18    light at the end of the tunnel, right? There are  
19    still people alive in there.

20          Q.    And in light of the fact that  
21    this is still a rescue, you've got the first contact  
22    on June 25th coming at 8:00 p.m. and the final, what  
23    you've described as the go ahead call coming at  
24    1:46 a.m., almost 5 hours later -- pardon me, almost  
25    six hours later. Would you have expected the go

1 ahead to have come earlier than that, given the fact  
2 that it was your understanding that this was still  
3 a rescue?

4 A. I think that they probably could  
5 have pulled the trigger quicker on getting some  
6 heavy equipment there for the job, for sure.

7 Q. And between eight o'clock and  
8 the 1:46 go ahead, were you just waiting for that go  
9 ahead; were you waiting for that trigger to be  
10 pulled?

11 A. I think so I, yeah.

12 Q. Other than Mr. Glavin, did you  
13 speak with any other person on the ground in  
14 Elliot Lake in that period?

15 A. I don't recall, no, I don't  
16 think so.

17 Q. Did anyone in the course of that  
18 period, I suppose, given that the only person you  
19 spoke to was Mr. Glavin, I should say, did  
20 Mr. Glavin ask you for a cost estimate of what it  
21 would cost for you to get up there?

22 A. No.

23 Q. Did Mr. Glavin ask you what he  
24 could do or what the rescuers could do on the site  
25 for the purpose of preparing the site for the



1 arrival of your equipment?

2 A. Yeah, I think he said, you know,  
3 "Is there anything we can do so we're ready when you  
4 get there?" And I think they built that gravel pad  
5 outside the building because it was unlevel there,  
6 so they built a pad so it was level for the machine  
7 to sit.

8 Q. And was that at your direction?

9 A. I can't recall, but I think  
10 I remember saying to him that we're going to need to  
11 sit on a level -- the machine, the high reach  
12 machine can't work on, like -- it has to be sitting  
13 level. It can't be sitting on a slope or, you know,  
14 it has to sit level to operate.

15 Q. Was there any other information  
16 that you asked of Mr. Glavin or that Mr. Glavin  
17 could have provided to you that would have been  
18 helpful to you in making your plans, I should say?

19 A. I can't recall exactly but  
20 I probably would have asked him if, like, the  
21 services were shut off to the building which is kind  
22 of an obvious thing sometimes but sometimes it is  
23 not as easily done.

24 Q. Right.

25 A. So sometimes shutting off the

1 hydro or the gas is more complicated than just  
2 pulling a switch or turning a valve.

3 THE COMMISSIONER: How about access  
4 to the site, width of the roads, that kind of thing,  
5 did you give any instructions?

6 THE WITNESS: I did tell him that the  
7 machine is a very -- it is a heavy machine and it's  
8 a wide machine so I told him that we're going to  
9 need access into the site somehow, and they did fill  
10 in a couple of areas right in town here in  
11 Elliot Lake close to the mall so the machine would  
12 get by without damaging the curbs and so on, and  
13 there was one bridge under construction on the  
14 highway that was -- that was narrower than normal  
15 because it was under construction, but it ended up  
16 fitting through there, as well.

17 THE COMMISSIONER: Where was that,  
18 sir?

19 THE WITNESS: I want to say, was it  
20 in Massey or something like that, they call it?

21 THE COMMISSIONER: Massey?

22 THE WITNESS: Yeah, Massey, Ontario.  
23 Somewhere near there, I think so. In between  
24 Sudbury and the Elliot Lake cut off from Highway 17  
25 so ...

1 BY MR. AULT:

2 Q. Were you offered a police escort  
3 for your trip up to Elliot Lake?

4 A. And that's the other thing  
5 I asked him. I said, "I think we're going to need  
6 an escort to take the machine up there." Like  
7 I don't think it's -- "I wouldn't want to get pulled  
8 over on the way to a rescue with the machine so we  
9 should get a police escort." Phil said "Okay".

10 THE COMMISSIONER: And I take it this  
11 is because of the width of the machine; it's not the  
12 kind of thing that you see every day driving down  
13 the highway, it could be a hazard to other  
14 vehicles --

15 THE WITNESS: That's correct.

16 THE COMMISSIONER: -- and that kind  
17 of thing?

18 THE WITNESS: And when you move that  
19 machine you typically get a trip permit from the  
20 Ministry of Transport so I didn't think they'd be  
21 open before us being able to move the machine.

22 THE COMMISSIONER: You wouldn't have  
23 time to get a permit?

24 THE WITNESS: We wouldn't have time  
25 to get a permit so that's why I requested a police

1 escort.

2 THE COMMISSIONER: Sure.

3 BY MR. AULT:

4 Q. Your next notation is at  
5 6:00 a.m. and you write:

6 "Started mobilizing from yard  
7 in Sudbury."

8 And so what did you do between 1:46,  
9 the time you get the go ahead and 6:00 a.m.?

10 A. Well, most of our people come to  
11 work prior to 6:00 a.m., so I mean we're all there  
12 early in the morning and starting getting the  
13 machines ready and ready for transport before  
14 6:00 a.m. but basically we started -- I just said  
15 like that's just the -- 6:00 a.m. is the time when  
16 we really start, I guess, type thing in the morning,  
17 like, you can call our office at 5:30 in the morning  
18 and someone answers the phone generally so.

19 Yeah, that's just a notation saying  
20 like, they call at 1:46 and the first thing in the  
21 morning we started and started packing up to come up  
22 so I called the guys and told them to bring a bag  
23 with them because we're going to go to Elliot Lake,  
24 and we may be there for a day and a night or two  
25 days and two nights or -- it just depends so we

1 don't really know and bring some clothes and ...

2 THE COMMISSIONER: When you use the  
3 expression "mobilizing" you are talking about staff  
4 rather than equipment?

5 THE WITNESS: That's correct, yeah,  
6 and the machine -- the high reach machine was  
7 actually assembled in our yard. We had it actually  
8 put together at the time for repair purposes so we  
9 actually had to take the boom off it, and then take  
10 the machine, put it on a float.

11 The high reach machine takes three  
12 trailers and then the two machines that were in  
13 Sudbury took two trailers, and then I drove up in my  
14 truck separately. I left a little bit early and  
15 then I have a crew that lives in Sudbury.

16 BY MR. AULT:

17 Q. Right.

18 A. So they came over from Sudbury  
19 to Elliot Lake. And sometimes that's kind of nice  
20 because, you know, people in Northern Ontario get  
21 along great with people in Northern Ontario, you  
22 know, I don't -- the guys in Sudbury would get along  
23 good with people here so they were here earlier than  
24 me.

25 Q. Right.

1           A.    So they got here probably  
2 around, I want to say 11:00 a.m. and I got here  
3 around 4:00 p.m., so ...

4           Q.    Well, let's look at the actual  
5 equipment that you determined to bring to  
6 Elliot Lake. And if we could please see Exhibit No.  
7 9555, which is tab 7 in the volume in front of you,  
8 Mr. Priestly.

9                   Looking at that lower e-mail we see  
10 this is an e-mail sent from you to a PG1596 and you  
11 say "Phil" -- I take it that's Phil Glavin?

12           A.    Yep.

13           Q.    On Tuesday June 26th at 2:45 and  
14 you write:

15                   "Phil,

16                   As requested the equipment  
17 requested for the project is as  
18 follows:

19                   1. Komatsu PC850 with 150 of  
20 reach. The machine has a shear  
21 attachment.

22                   This machine is 3 loads."

23                   That's what you were saying earlier,  
24 Mr. Priestly, about transporting the machine in  
25 three loads.

1 A. Yep.

2 Q. And is that three trailer loads,  
3 three tractor trailers?

4 A. Well, the base machine is on  
5 a float, they call it, but yeah, it's three trailer  
6 loads, three tractor trailer loads.

7 Q. And you say:

8 "The base machine needs  
9 an escort which we can escort or  
10 use a police escort. We should  
11 double-check the route to make  
12 sure we can move it through  
13 construction routes et cetera."

14 And I think in response to a question  
15 from the Commissioner you had indicated that that  
16 was done?

17 A. Yeah.

18 Q. And if we could look at Exhibit  
19 No. 7950. We can look at a picture of this machine  
20 that we've heard so much about.

21 And Mr. Registrar, we are going to be  
22 looking at a couple of pictures here in sequence so  
23 it might be a good idea to dim the lights.

24 Is this the high reach machine?

25 A. Yes.

1 Q. The Komatsu 850.

2 And what is the reach of this  
3 machine? You had indicated it's 180 feet. Looking  
4 at this photograph, please describe what that means.

5 A. Well, if you extend the arm  
6 straight up vertical.

7 Q. Right.

8 A. Then it will reach 150 feet  
9 vertical.

10 Q. So the length of the arm is  
11 150 feet?

12 A. That's correct.

13 Q. And we heard from Mr. Glavin, as  
14 well as from others, what the features of this  
15 machine are, in effect, what it can do.

16 And if you could please describe that  
17 for the Commissioner, what are the features of this  
18 machine? What makes it unique?

19 A. Well, this machine has the most  
20 height of any demolition machine in Ontario. This  
21 machine worked at the World Trade Center when that  
22 happened back in the day. This machine you can put  
23 various attachments on the end so we have a rotating  
24 grapple, we have a rotating shear. We have --

25 THE COMMISSIONER: While you are



1 describing it, sir, there is a laser pointer on your  
2 desk somewhere. Perhaps as you are describing these  
3 various parts you can just turn that on and just  
4 shine it on the board?

5 THE WITNESS: So this is the  
6 attachment here on the end.

7 BY MR. AULT:

8 Q. Yes.

9 A. So this attachment has a shear  
10 attachment and a concrete crushing attachment, and  
11 we have another attachment which is just a straight  
12 shear, and we have a rotating grapple for this so  
13 you can put on various attachments for this machine.

14 This, we refer to as the "stick" of  
15 the machine and this piece in the middle here, we  
16 call this the "mid stick". And then this is the  
17 main boom.

18 So this is where it uncouples here to  
19 transport and then this part of the boom here is  
20 telescopic so this part here actually extends up  
21 straight. So you can put this -- you put the mid  
22 stick up first and then you put this arm up and then  
23 you extend it up if you want more reach.

24 Q. Sorry, what do you mean by  
25 "telescopic"? Does it extend?

1           A.    It extends, yeah,  
2    telescopically, it extends.  So it has a big  
3    hydraulic ram and air cylinder, and it pushes  
4    another section of the boom out.

5           Q.    Looking at the photograph, the  
6    part of the angle of the boom that we see on the  
7    left-hand side of the image that's what you call the  
8    main arm or the main boom?

9           A.    That's correct.

10          Q.    And what do you call the side of  
11   the angle on the right-hand side of the image?

12          A.    We call it the stick.

13          Q.    The stick.  Okay.  And  
14   ordinarily what is this machine used for?  What type  
15   of jobs does it do?

16          A.    Tearing down high structures, so  
17   right now it's on a hospital job, tearing down like  
18   a 15-storey hospital.  We take down big water towers  
19   with it.  We take down paper mills with it.  We take  
20   down all kinds of different high structures.

21                It was custom built.  Like it's a  
22   purpose-built machine for demolition.  There is dust  
23   suppression on it so you can hook a hose to the back  
24   of the machine here and then there is a hose that  
25   runs all the way up here and there is two nozzles

1 right here. You can almost see them a little bit,  
2 so they shoot out water, and there is a pump on the  
3 machine so it will lift the water all the way up the  
4 boom so you can do dust suppression while you're  
5 working.

6 It's got additional counterweight  
7 down here so it can -- the additional counterweight  
8 is to offset the weight of the boom and so on and so  
9 forth.

10 It's got full length track guard and  
11 so on. It's just a custom purpose built machine for  
12 demolition.

13 THE COMMISSIONER: Where are they  
14 made, sir?

15 THE WITNESS: That one was made in  
16 Portland Oregon, in a place called Jewel. Jewel  
17 Manufacturing.

18 BY MR. AULT:

19 Q. Had you ever used this machine  
20 in any of the recovery operations that you earlier  
21 told us you'd been involved in?

22 A. I don't believe so. Mostly  
23 because the transportation of this is very  
24 cumbersome. It is three truck loads and so on and  
25 so forth and we've never had a previous experience

1 where we needed the height. We've used our other  
2 high reach machines. We have six high reach  
3 machines in our fleet and so we use high reach  
4 machines quite frequently on other emergency jobs.

5 Q. How was Mr. -- first of all, how  
6 long have you had this machine?

7 A. Since 2004.

8 Q. And how was Mr. Glavin aware of  
9 this machine; from his brother?

10 A. Yeah, well, I mean you see it  
11 around Toronto, if you drive it around Toronto you  
12 will see it. So if Phil would recognize a Priestly  
13 job site and recognize a new machine. But when we  
14 got it, I would definitely mention it to people and  
15 back, like I say, in the early 2000s, I may have  
16 even told people about it, but I mean Phil would  
17 know it. I would -- like, I don't know how Phil  
18 would not know it, you know, because his brother  
19 works for us, his father used to work for us and  
20 that machine is like the pride of our fleet. That's  
21 our biggest machine and, you know, we talk about it.  
22 we advertise it.

23 Q. Sure. And from your discussions  
24 with Mr. Glavin, what was your understanding about  
25 what this machine would do in Elliot Lake?

1           A.    Well, he was describing on the  
2 phone to me that they wanted to try and reach over  
3 the roof of the building and down into where the  
4 collapse was and try and fail the beam back there  
5 because the precast was sitting back there on the  
6 escalators and they were afraid the beam was going  
7 to fail at any time.

8           Q.    And you thought this machine  
9 might have the reach to do it?

10          A.    Well, I said, "If this doesn't,  
11 nothing will, so at least if we bring this one then  
12 we'll know."

13          Q.    And if we could go back to  
14 Exhibit No. 9555.

15                THE COMMISSIONER:  If you could put  
16 the lights back on, Mr. Registrar.  Thank you.

17                BY MR. AULT:

18          Q.    We see that the other two pieces  
19 of equipment that you indicated were requested were:

20                    "2.  The link belt 460 with  
21 second member shear.

22                    3.  Komatsu PC490 with  
23 grapple."

24                    And then you write below that:

25                    "Machine 2 + 3 are in Sudbury

1                   and can be there in a couple of  
2                   hours notice. The big machine  
3                   is in our yard and will be about  
4                   6 hours travel time as it is  
5                   heavy and takes a while."

6                   Mr. Registrar, if you don't mind  
7                   dimming the lights, I'm going to be asking  
8                   Mr. Priestly questions about machines 2 and 3 and  
9                   looking at pictures while we do it.

10                   And if we could see Exhibit No. 9899,  
11                   I will first ask you questions about the Link Belt  
12                   460.

13                   Is this the Link Belt 460, this  
14                   machine?

15                   A. Yes.

16                   Q. And what is this machine  
17                   typically used for?

18                   A. This machine has got a shear  
19                   attachment on it which is this whole piece here,  
20                   that is all one unit. So this is the main boom of  
21                   the machine, and we actually take the stick off so  
22                   this is a machine that would come standard from the  
23                   factory with this boom on it and then it would have  
24                   a stick on it with a bucket so we take the stick off  
25                   and we take the bucket off and we put the shear on

1 and that's why we call it a second member because it  
2 goes on to the boom as a second member.

3 So this shear weighs probably  
4 28,000 pounds and it will cut 1 inch plate, so this  
5 machine is used predominantly for processing steel,  
6 thick steel, big steel and tearing down buildings  
7 that are steel.

8 We use it also on concrete bridges so  
9 when we take down bridges over the 400 series  
10 highways, we use the shear as well because it will  
11 cut the rebar so as you're taking the bridge down  
12 you can cut the rebar so you can keep advancing  
13 through the job without having to be in a big tail  
14 and mess of rebar.

15 So very versatile machine. We use it  
16 all the time. It almost never sits, always busy.

17 Q. And if we could please see  
18 Exhibit No. 9578.

19 THE COMMISSIONER: It doesn't have  
20 that huge, long reach, of course?

21 THE WITNESS: It doesn't have the  
22 high reach capability, that's right.

23 BY MR. AULT:

24 Q. In this shot we get a close-up  
25 of that shear. This looks to be a pretty heavy duty

1 piece of cutting machine, pretty heavy duty shear?

2 A. That's right.

3 Q. And what did you think this  
4 would be used for in Elliot Lake?

5 A. Well, the high reach machine is  
6 basically, you know, it's designed and built for,  
7 purpose built for reach, high reach, so the  
8 attachment on the end of it is a very -- like a lot  
9 smaller than this attachment.

10 So the shear on the high reach  
11 machine will cut steel, but it won't cut 1 inch  
12 plate, for instance, and when you cut a bigger beam  
13 you actually have to cut the beam in pieces to  
14 actually get the shear around it and keep cutting it  
15 and keep cutting it whereas this shear here will go  
16 right around the whole beam and as fast as you can  
17 close the jaw on the shear, it cuts the steel beam,  
18 just like a pair of scissors on a piece of paper,  
19 just snap.

20 So when it's a steel frame building  
21 and we've got to manage the steel that you take  
22 down, this machine will help process the steel, make  
23 it smaller so you can pile it up, and it will chew  
24 concrete so we are not going to be stuck in  
25 a position where the high reach machine has done so



1 much, and now we've run into thicker steel or  
2 thicker concrete and we can't advance any further.

3 This machine will then come in, do  
4 the lower, thicker materials and help process the  
5 material that you generate from the demolition.

6 Like some of the beams we took down  
7 from the roof are 30, 40 feet long, so if you start  
8 stacking those all over the place, it can become  
9 a hazard so this machine will cut those beams in  
10 half and stack them up nice and neat so you don't  
11 have piles of steel and stuff everywhere.

12 Q. Sure. And roughly what is the  
13 reach of this machine?

14 A. I think the machine will reach,  
15 like over 30 feet so maybe call her in around 33 to  
16 35 foot range, somewhere like that.

17 Q. And if we could look at Exhibit  
18 No. 9900, look at a picture of the Komatsu 490,  
19 which is the third piece of equipment that you  
20 indicated that you'd bring to Elliot Lake.

21 And please describe this machine and  
22 what you thought it would be used for.

23 A. So this is a standard excavator  
24 490, Komatsu. It's got a regular boom and a regular  
25 stick on it and instead of having like a regular

1 bucket on it here we put on this grapple. So you  
2 can see here, it is actually grabbing this steel  
3 beam, so the grapple is very good for material  
4 handling.

5 Any demolition job we're doing where  
6 there is a grapple on that, the grapple will handle  
7 all the material, load out all the garbage and steel  
8 off a job. You can grab a tennis ball with that  
9 grapple and throw it to the guy on the other  
10 machine. It is very precise. So it's, again,  
11 it's -- the grapple is referred to as a contractor's  
12 grapple but it's predominantly used in demolition.

13 Q. Thank you, Mr. Registrar. Raise  
14 the lights.

15 Are any of these machines able to, in  
16 effect, operate as a crane and lift material up?

17 A. You can use any of the machines  
18 to lift something up, yeah.

19 Q. To, in effect, hoist something?

20 A. Yeah, I don't think you're  
21 supposed to hoist anything more than the capacity of  
22 the machine will hold. I think that's what the  
23 regulation says so ... In that machine there is  
24 a chart inside the cab and if the chart says you are  
25 able to lift 1,000 pounds, then you are allowed to

1 lift 1,000 pounds.

2 Q. I won't ask any follow-ups that  
3 might get you into any trouble. Were you asked, in  
4 addition to this equipment about any additional  
5 equipment that you might need on site?

6 Were you asked if there was anything  
7 on site that you would need in addition to this  
8 equipment and I'll be more specific. We've heard  
9 evidence that as you were arranging this equipment  
10 and while you were en route to Elliot Lake,  
11 Millennium Crane had three cranes on site. Were you  
12 asked whether those cranes would be of assistance to  
13 you in your work?

14 A. Yes.

15 Q. And what did you say?

16 A. No.

17 Q. And why did you say that?

18 A. Well, I didn't envision needing  
19 the crane for the work, the way they described it to  
20 me, so I didn't think we were going to need the  
21 crane for actual doing the actual rescue.

22 And when we assemble the high reach  
23 machine here, these are counterweights in the back,  
24 and these are very heavy, so we decided we could  
25 probably use our own machine to use the

1 counterweights just so they didn't have to wait  
2 around for us to get there, because at that time  
3 they were stopped so I think they asked, you know,  
4 do we think we need these cranes or should we let  
5 them go type thing, and I said, "I don't think we're  
6 going to need them."

7 Q. And did you have rigging  
8 equipment with you? Did you have slings?

9 A. Yeah, we had our service truck  
10 there and he always has rigging equipment with him,  
11 so we brought whatever we needed when we were going  
12 there from our yard.

13 Q. And did you have -- what kind of  
14 slings did you have with you?

15 A. Like chain --

16 Q. Chain links. Did you have wire  
17 slings?

18 A. We had wire rope slings and we  
19 had a chain spreader.

20 Q. If we could please go back to  
21 Mr. Priestly's notes at Exhibit No. 6622, and  
22 Mr. Priestly, these are at tab 5. We see that your  
23 next notation is at 4:00 p.m. and you write:

24 "Ryan Priestly on site, met  
25 with HUSAR, MOL ..."

1                   And then what does it say after that  
2 word?

3                   A.     (Reading):

4                   "and wrote a plan."

5                   Q.     And wrote a plan. First of all,  
6 had you been to Elliot Lake prior to June 26th?

7                   A.     Never.

8                   Q.     When you got to town, how did  
9 you know where to go?

10                  A.     Well, I guess somebody told me  
11 where to go. I don't think it was that difficult to  
12 find. Just pull into town. I think it's the second  
13 stop light, you make a left and your first right and  
14 you follow it around to the mall.

15                  Q.     And describe what you saw when  
16 you got to the scene.

17                  A.     A lot of people, a lot of  
18 emergency people and people everywhere, people from  
19 the town, at the fence line.

20                  Q.     You indicate that you met with  
21 HUSAR and MOL. Are those the first people that you  
22 met with?

23                  A.     I parked my truck and  
24 I basically walked up to where they had some tents  
25 set up and that, and tried to find, you know, Phil

1 or someone I knew or somebody that -- and, yeah,  
2 so ...

3 Q. And those tents, did they appear  
4 to be command tents?

5 A. Yeah, I think so.

6 Q. And at that point who did you  
7 think was in charge of the situation?

8 A. I think -- well, I guess HUSAR  
9 was in charge in my opinion. That's who I was  
10 taking my direction from.

11 Q. And when you say you met with  
12 HUSAR, do you recall who specifically you met with?

13 A. Well, then Phil introduced me to  
14 Tony, and Bill Neadles and crew.

15 Q. And is that Tony Comella?

16 A. Tony Comella, yeah.

17 Q. And after you met with  
18 Mr. Neadles and Mr. Comella, and I take it you're  
19 with Mr. Glavin, what did you do next?

20 A. Well, I think the Ministry of  
21 Labour was there, as well.

22 Q. Do you recall who from the  
23 Ministry of Labour was there?

24 A. Roger.

25 Q. Do you recall his last name?

1 Was it was it Roger Jeffreys?

2 A. Yes. Sorry about that, Roger  
3 Jeffreys was there and he was very helpful because  
4 he is a structural engineer so he was very helpful  
5 in giving the background of what's happened, why  
6 it's at where it's at and, you know, and some of the  
7 issues with moving forward.

8 Q. And what did he say to you about  
9 the situation at that point?

10 A. Just, for me, you know, I want  
11 to know what the structural issues are with the  
12 building. I want to know why the building's  
13 collapsed already before I start taking one of the  
14 biggest machines that you can buy and start  
15 demolishing it, so I personally want to invest some  
16 time in assessing the situation and having somebody  
17 from the Ministry of Labour, who is an engineer, is  
18 very helpful. So you can discuss things back and  
19 forth and he was very good.

20 Q. And do you recall what he said  
21 to you?

22 A. Just -- we generally talked  
23 about, you know, the beam that had collapsed and the  
24 slabs that had come down. We talked about the  
25 weights of the slabs, we talked about the thickness

1 of the steel. We looked around the job site, like  
2 we looked around the collapse, we looked at the  
3 escalators with the precast on it. And we looked at  
4 the beam that has the big bend in it, that was  
5 holding up those escalators. And Tony Comella was,  
6 you know, interested in getting at that beam first,  
7 which is what Phil was describing about reaching  
8 over and down in, trying to fail that beam.

9 Q. So I take it you did  
10 a reconnaissance of the site; you did a walk around  
11 of the site?

12 A. Yes.

13 Q. And Mr. Jeffreys was on this  
14 walk around?

15 A. Well, he was definitely there  
16 when we wrote the plan and I think he walked around  
17 with us a little bit as well because at that time it  
18 was -- the rescue had stopped and there was very,  
19 very limited access to the building.

20 You know, people weren't milling  
21 around the building, you know. They had shut the  
22 roof off to access and they had shut off the  
23 building for access for people because -- because  
24 they had.

25 Q. And in the walk around you



1 had -- well, first of all, you say they'd shut down  
2 access. Was it your understanding that the Ministry  
3 of Labour had shut down access or that the rescue  
4 leaders had shut down access?

5 A. Oh, geez, I can't recall who  
6 exactly did that but I would think that probably the  
7 Ministry of Labour was trying to protect everyone's  
8 safety so maybe they shut it down. I don't know.  
9 I can't recall.

10 Q. Did you feel you needed the  
11 Ministry of Labour's permission to do the  
12 reconnaissance that you did inside the building?

13 A. Well, yeah, I met Roger Jeffreys  
14 very early on when I got there and he introduced  
15 himself and like I say, he was a very good asset in  
16 trying to learn about the site, you know, he had  
17 been there and he had -- he is a structural engineer  
18 so for me, that's critical. That's very critical.

19 Q. You indicated that in the course  
20 of your walk about of the building you saw a beam  
21 that was quite bent.

22 A. Uh-hmm.

23 Q. And if we could please see  
24 Exhibit No. 7924, and page 45 of that exhibit. This  
25 is a picture of the collapse zone from the third

1 storey, the parking level looking south and looking  
2 east.

3 Can you describe, on this photograph,  
4 which is the beam that you said was bent? This, of  
5 course was taken on June 23rd prior to that beam in  
6 the middle which failed being removed.

7 A. It is the beam here. It's very  
8 hard to see but it was this beam down here  
9 (indicating).

10 Q. That was supporting the loads of  
11 the escalator and the core slab?

12 A. Yeah, the escalator and the  
13 stairwell and the core slab.

14 Q. And looking at the beam did you  
15 form an impression about how bent it was?

16 A. Very bent.

17 Q. And did you form an impression  
18 about how likely that beam was to fail?

19 A. I think that when you see a beam  
20 bent like that in person, it is a matter of time  
21 before it fails. It may fail in an hour, it may  
22 fail in one year.

23 Q. Okay.

24 A. But it's only a matter of time.  
25 It's going to fail, in my opinion. It's not going

1 to stay like that forever.

2 Q. Right, right. And in doing this  
3 initial assessment personally, and in speaking with  
4 HUSAR and TF-3 and with the Ministry of Labour, did  
5 you have a sense of the urgency of the situation?  
6 Could you describe that for us?

7 A. Well, you know, I drove up  
8 there. We got there. We looked around. We wrote  
9 a plan and we got to work and we didn't stop. We  
10 worked all night until the next morning and then,  
11 yeah, like I think the urgency was urgent.

12 Q. When you did this walk about of  
13 the building, did anybody indicate to you where the  
14 possible victims were thought to be in the collapse  
15 zone?

16 A. Yeah.

17 Q. If we could please see the next  
18 page of this exhibit. Could you please indicate,  
19 looking at this photograph -- this is quite from the  
20 same vantage point as the last photograph but  
21 looking directly into the collapse zone -- where you  
22 were told the possible victims were thought to be?

23 A. Well, the -- when I got there  
24 this car was gone --

25 Q. Right.

1           A.    -- and some of this other core  
2    slabs had been removed.

3           Q.    Had been removed, right.

4           A.    So I can't see that picture too  
5    good with the light though, that's fine, that's  
6    fine.

7                        There is a telephone -- pay phone  
8    booth here, like not booth, there is three or four  
9    pay phones in a row right there and there is  
10   a victim right beside there, they thought. And then  
11   they had indicated one being generally in this area.

12                      When I got there they had it flagged,  
13   there was like a pylon or whatever there, I can't  
14   remember exactly, but they thought that's -- that's  
15   where they thought the other one was.

16           Q.    Did you receive any information  
17   about whether one of the victims was thought to  
18   still be viable or not?

19           A.    I don't really, you know,  
20   I think there was a glimmer of hope, like, we're  
21   saying, but you don't know. I don't think anyone  
22   knew that there was one alive or dead; it's just the  
23   one near the phone booth, I think was closer. They  
24   could stick a camera down there and see but I'm only  
25   guessing.

1                   That's not my job. When I come  
2 there, I just try and act as fair and as quick as  
3 I can to try and help the situation. I'm not --  
4 like, to me, I was acting like they were alive but  
5 I don't know if they were or not.

6                   Q. So I take it then that they  
7 didn't get into discussion with you about the signs  
8 of life that they had seen or that they had detected  
9 in any particular spot?

10                  A. They talked about the dogs  
11 having hits, whatever, you know what I mean, like,  
12 the dogs --

13                  Q. Okay.

14                  A. -- you know, they talked about  
15 stuff like that, but it was -- it was a very busy  
16 area. Like there was a lot of people there and  
17 there was a lot of different thoughts on it all and  
18 my job specifically was to try and take the building  
19 down to gain access.

20                         So that's what I was focusing on and  
21 that's, you know, I don't have any training for if  
22 they're alive or dead or anything like that. That's  
23 not -- I'll ask questions along the way because I'm  
24 like anyone else, I'm curious, but it doesn't -- it  
25 has no bearing on my decision for what I got to do

1 next.

2 Q. And as far as you were  
3 concerned, you told us a moment ago, you were  
4 operating on the basis that the victims were still  
5 viable?

6 A. I think so, yeah. They wanted  
7 to make sure, like, Tony Comella from the HUSAR team  
8 definitely wanted to make sure that nothing fell  
9 from the area that was still up, onto these victims.

10 Q. Can we please go back a page in  
11 that exhibit, Ms. Kuka.

12 Is that where you were pointing at  
13 with the laser pointer?

14 A. Yeah, this beam was gone before  
15 I got there, I think, and so I don't know -- maybe  
16 some of the -- maybe some of this was gone, but  
17 there was still precast here leaning down and the  
18 phone booth was down in this area, and definitely  
19 our intention was to try and not let anything  
20 further fall down onto these people.

21 Q. Let's move now to discuss the  
22 plan. You said in your notation that you met with  
23 HUSAR and MOL and wrote a plan.

24 If we could please go to Exhibit No.  
25 7296, which is tab 27 in the book in front of you.

1 A. Tab sorry, what?

2 Q. 27. Mr. Priestly, is this the  
3 plan that you wrote about, that you described? It's  
4 stapled to the -- it's actually stapled to tab 8, to  
5 the front of tab 8.

6 A. Yep.

7 Q. And it's also on the screen.

8 A. Okay.

9 Q. So please describe what this  
10 plan is and how this document came about.

11 A. Well, again, when we got there,  
12 and the Ministry of Labour was there, you know,  
13 everyone wants to move as quickly as possible, but  
14 obviously we had some time before the machine got  
15 there.

16 I got there at four o'clock and the  
17 machine didn't get there until a little bit later  
18 and then we had to assemble the machine, so we  
19 thought it was best to try and spend some time  
20 planning. So, you know, I think between Roger and  
21 Bill Neadles and everyone, they said that -- Tony  
22 Comella, I think, as well, "Let's sit down and let's  
23 write a plan. Let's try to see what direction we're  
24 going in."

25 So, at that point in time like the

1 plan might seem --

2 Q. We'll go through the plan in  
3 just a minute.

4 A. Okay.

5 Q. First of all, why did you  
6 understand this was necessary, this document was  
7 necessary? Is this something that you would do in  
8 the ordinary course?

9 A. Well, in Ontario, under the  
10 Building Code, you have to write a methodology for  
11 a demolition over a certain size building, so  
12 a building more than 6,000 square feet or three  
13 storeys in height, you have to write a demolition  
14 plan and it has to be stamped by an engineer.

15 Q. So this was something that you  
16 anticipated having to do in any event, no matter  
17 what?

18 A. I think this is a great idea,  
19 yeah.

20 Q. And who participated? You'd  
21 indicated that Roger Jeffreys participated in the  
22 formulation of this plan?

23 A. Yeah.

24 Q. And Tony Comella.

25 A. Yeah, I don't know whose



1 signature is at the bottom. I know that's mine, and  
2 I can't remember -- is that Roger Jeffreys' on the  
3 right?

4 Q. On the right-hand side.  
5 I believe the evidence will show that.

6 A. And the one on the left is that  
7 Tony's or ...?

8 Q. We anticipate the evidence will  
9 show that is a gentleman by the name of Dan Hefkey.

10 A. Okay.

11 Q. Do you recall him being present  
12 for that discussion?

13 A. Yes.

14 MS. SMITH: Objection, your Honour,  
15 the evidence to date has been from Mr. Neadles that  
16 it is actually his initials on the left.

17 MR. AULT: Pardon me.

18 THE WITNESS: Okay.

19 MR. AULT: Of course.

20 THE WITNESS: Sorry, it's a little  
21 scribbly.

22 BY MR. AULT:

23 Q. It's a little scribbly,  
24 absolutely. Absolutely.

25 And what was Mr. Jeffreys' role in

1 the formulation of this plan?

2 A. Well, like I said before, he is  
3 a structural engineer so he's providing the  
4 engineering background for the plan. So I think if  
5 I was to come there and say, "I want to cut the beam  
6 at the bottom of the building out and collapse more  
7 building", he would stop me, because he's  
8 an engineer, right? So I think that he's basically  
9 saying, "Listen, let's sit down, let's create a plan  
10 so we can move forward so we know that we are not  
11 going to cause any more stress on the building  
12 structurally and we're going to be able to do it  
13 safely. We don't want anyone else to get hurt."

14 Q. Would he stop you because he's  
15 an engineer or would he stop you because he's part  
16 of the Ministry of Labour?

17 A. Well, I think he would stop me  
18 'cause he's an engineer that works for the Ministry  
19 of Labour. I think that any engineer would stop me.  
20 I'm just saying that there was no other engineer  
21 there at the time. I didn't bring an engineer, and  
22 I don't know that HUSAR had an engineer there. The  
23 engineering background was Mr. Roger Jeffreys. Like  
24 he was -- the guy that if you had a question related  
25 to engineering, you would ask Roger.

1 Q. If we could look at the specific  
2 elements of this plan. The first element is to  
3 confirm all services including gas, water,  
4 electricity, et cetera are shut off prior to any  
5 operations taking place. Is that something standard  
6 that you would ordinarily do?

7 A. Well, yes. And, again, I put  
8 that in the plan because I want it to be part of the  
9 written plan so that when I reach in there with the  
10 machine, I don't cut a line that's got gas in it.

11 Q. Right.

12 A. I don't cut a wire with hydro in  
13 it. We don't need any of that to happen and it's  
14 a mall. It's a big place. It's not easy to just,  
15 like I say, shut it off, so I just wanted to confirm  
16 that it was all shut off.

17 Q. So would you say that you  
18 primarily had the pen in coming up with this plan.  
19 You had control of writing this document?

20 A. Well, we wrote it together.

21 Q. Right.

22 A. But we didn't use my computer to  
23 write it. Somebody else, you know, wrote it but,  
24 I mean, I -- that was one of the things that  
25 I personally would like to see, that the services

1 are shut off before we start doing any further work  
2 to the building.

3 Q. And the second element of the  
4 plan is to confirm that a cold zone is in place.  
5 What was the purpose of the cold zone?

6 A. Well, I just want to make sure  
7 that nobody is going to go in there while we're  
8 working on the building. So, when I got there it  
9 seemed like it was controlled, you know, like there  
10 was a fence up and there were policemen everywhere  
11 but I was like -- let's -- when we actually  
12 physically start the demolition, let's shut the  
13 fence and whoever is going to be in, stay in, and  
14 whoever is going to be out, stay out, and let's make  
15 sure we don't have anyone trying to get into the  
16 building.

17 That's also part of the Occupational  
18 Health and Safety Act. When you are tearing down  
19 a building you are supposed to have it secured and  
20 there was a lot of the public there.

21 And I just -- you know, people are  
22 curious. I don't want somebody getting in there  
23 trying to take a picture and putting it on YouTube  
24 and the next thing you know they get hit in the head  
25 with a sprinkler pipe, or something, I just said,

1 "We've got to make sure that we keep the area  
2 secure, let's control it."

3 Q. And the third element is to:

4 "Move the Komatsu 850 with UP  
5 20 attachment onto new stone pad  
6 adjacent to building and check  
7 compaction using the Komatsu  
8 850."

9 So the 850, that's the high reach  
10 machine?

11 A. Yes.

12 Q. So what are you describing in  
13 this element of the plan here?

14 A. Well, the machine is very heavy  
15 and before we extend the boom up and over the  
16 building, I just wanted to run the machine back and  
17 forth a few times on the pad.

18 Q. Right.

19 A. To make sure it was well  
20 compacted.

21 Q. And the fourth element is to:

22 "Place spotter on roof in safe  
23 location with Ministry of Labour  
24 and HUSAR escort."

25 So, would the spotter, if he's not

1 part of the Ministry of Labour or HUSAR, would that  
2 be part of your team?

3 A. Yes.

4 Q. And what was the role of the  
5 spotter?

6 A. To direct me operating the 850.

7 Q. Because you couldn't see into  
8 the building?

9 A. That's correct.

10 Q. And number 5 is to:

11 "Reach the Komatsu 850 with  
12 the UP20 attachment over  
13 penthouse and into collapse zone  
14 to check for position of UP20 in  
15 close proximity to concrete  
16 slabs resting on beam at north  
17 end of escalator with no  
18 contact."

19 And so please describe what this  
20 element of the plan would be.

21 A. So, we wanted to take a dry run  
22 to see if we were going to be able to reach the area  
23 where the slabs were sitting on the escalators.

24 Q. And what would the dry run  
25 entail, just reaching over with the arm?

1 A. That's correct, yeah.

2 Q. And trying to get as close as  
3 possible to this --

4 A. Yeah.

5 Q. -- slab as possible. Then  
6 number 6 is to:

7 "Remove the spotter from the  
8 roof area prior to any contact."  
9 Right?

10 A. Yeah.

11 Q. And number 7 would be to:

12 "Apply pressure with the UP20  
13 onto the concrete slab resting  
14 on the beam at the north end of  
15 the escalator."

16 Mr. Priestly, what was the purpose of  
17 this plan? What was the purpose of doing that?

18 A. The purpose was to try and not  
19 have -- to have a controlled drop of those slabs  
20 early on in the -- early on to not have it go on the  
21 victims. So, the beam was bent in such a bad way,  
22 that it looked like, if we could just even apply  
23 pressure on that beam, there's a good chance that  
24 those -- the beam would fail in a controlled manner  
25 and drop down to the floor and then the slabs would

1 be down on the floor and the victims would be out of  
2 harm's way of any potential of more slabs landing on  
3 top of the pile.

4 Q. How could you ensure that it  
5 would fail in a controlled manner?

6 A. Well, the machine is, you know,  
7 you can reach the machine -- the machine you can  
8 control in a very controlled manner. Like, you  
9 know, you can grab this cup and put it wherever you  
10 want, so the idea was to reach over there and grab  
11 the beam or cut the beam and just slowly lower it  
12 with the machine.

13 So when it's bent like that, like  
14 I was saying earlier, it could fail at any time. So  
15 you could put pressure on that beam a little bit and  
16 best case scenario is it fails off the column and  
17 then slowly you just lower it down to the ground.  
18 That's the best case scenario.

19 And the worst-case scenario is that  
20 something unexpected would happen but we couldn't  
21 reach the beam so we never got to that.

22 Q. So the plan didn't work?

23 A. Well -- sure.

24 Q. Because you couldn't reach the  
25 beam?



1 A. No.

2 Q. Approximately how far away from  
3 the beam were you?

4 A. We were probably, like, 20 feet.  
5 Like we were quite aways away from the beam,  
6 I think. I couldn't see exactly myself. We were --  
7 like the spotter was saying, okay, that's it.

8 The beam -- the main boom on the  
9 machine was within, like, inches of touching the  
10 penthouse roof --

11 Q. Right.

12 A. -- and we couldn't boom down low  
13 enough to reach in to touch the beam.

14 Q. To your right, over your right  
15 shoulder there, Mr. Priestly, is an aerial shot of  
16 the collapse zone, it is Exhibit No. 2114. In doing  
17 the dry run, where was the Komatsu 850 positioned?

18 A. Right here (indicating).

19 Q. Basically right where that  
20 yellow truck is?

21 A. Yeah. So when we reached from  
22 here, over this penthouse and tried to reach down  
23 into here.

24 Q. And looking back at the plan  
25 that's on the screen now, you write:

1                   "Decision (A) If beam failure  
2                   occurred - assessment to be  
3                   completed by HUSAR/MOL/Priestly.

4                   Next steps are to 'nibble'  
5                   building from top down and out  
6                   to the angle of repose on both  
7                   sides, exposing collapse zone  
8                   with no overhead items over  
9                   collapse zone."

10                  So if the beam failed, what was the  
11                  next step? What are you saying here?

12                  A. Once we -- if this beam had  
13                  collapsed then the intent was all this material here  
14                  would be sitting down on the ground level now.

15                  Q. Right.

16                  A. And then we would take the rest  
17                  of this building down so we could get in there with  
18                  the heavy equipment to get this stuff out of the way  
19                  but then we knew for sure that nothing was going to  
20                  further fall on the victims.

21                  Q. Once the -- if failure of the  
22                  beam had occurred, and that beam was resting on the  
23                  ground and the core slabs that were on it were  
24                  resting on the ground -- which was the objective; is  
25                  that correct?

1 A. That's correct.

2 Q. If that had happened, was it  
3 your understanding that the primary risk to the  
4 rescuers would at that point have been taken care  
5 of?

6 A. Well, to a certain degree. That  
7 would definitely help but I think that's why they  
8 said, "We are going to go re-evaluate."

9 Q. Right.

10 A. Reassessment here. So because  
11 right now that beam was the one that was very bent.  
12 Like it was under extreme load and bent like -- bent  
13 really bad. And if this was then sitting on the  
14 ground, there was definitely a lot less of potential  
15 danger, but as even this picture shows, there is  
16 a beam here and you can see there's -- it's almost  
17 like there's a gap here and there's a couple of  
18 other things that were still hanging up high there,  
19 but nothing crazy so ...

20 But the other issue was that the  
21 slabs -- this building, the slabs on the roof are  
22 very big. They're very heavy. And to try and work  
23 those slabs by hand, like for the rescuers to go in  
24 there and try and rig those slabs up with slings and  
25 so on and so forth, it's very difficult, like, very

1 slow, and somewhat dangerous, in my opinion.

2 THE COMMISSIONER: I think I'll stop  
3 you there, Mr. Ault. We'll take our morning break  
4 and we'll return in 20 minutes.

5 --- RECESS AT 10:31 A.M.

6 --- RESUMED AT 10:54 A.M.

7 BY MR. AULT:

8 Q. Ms. Kuka, if we could please put  
9 back up Exhibit No. 7296.

10 And before the break, Mr. Priestly,  
11 you were describing with respect to Plan A, so to  
12 speak, if we can call it that, that even if the beam  
13 had been caused to fail as a result of the operation  
14 and the core slab and the beam itself were resting  
15 on the ground, and as you understood it, and as  
16 you've said to us, that would eliminate what was  
17 thought to be the primary risk to rescue workers,  
18 that the next step would be to, as we see here under  
19 Decision A:

20 "'Nibble' building from top  
21 down and out to the angle of  
22 repose..." et cetera.

23 If the thinking was that there was  
24 still possibly a viable victim in the rubble pile,  
25 why was the next stage of Plan A not to proceed in

1 at that point to attempt to access that victim once  
2 the primary hazard had been removed? Do you have  
3 any view on that?

4 A. Well, I think that as soon as  
5 they could access the victim safely, that was the  
6 intention.

7 Q. The next part about Plan A is to  
8 nibble the building from the top down and out to the  
9 angle of repose on both sides. How would that  
10 contribute to accessing the victim safely if the  
11 escalator and the slabs that were resting on it were  
12 on the ground?

13 A. Well, the slabs and the  
14 escalators would have created, like, a very big pile  
15 of debris on the ground.

16 Q. Right.

17 A. And assuming the victims were  
18 underneath the debris, there was still quite a bit  
19 of debris to be removed to get the victims out.

20 Q. When you mentioned that the beam  
21 and the slabs were to be lowered in a controlled  
22 manner, the objective was to lower them in such  
23 a manner that they would not be lowered onto the  
24 place where the victims were thought to be; is that  
25 fair?

1 A. Yes.

2 Q. And if that's the case, then the  
3 additional debris created by the fallen beam and  
4 slabs and possibly escalator, that would be a matter  
5 of, at most, having to move around that debris to  
6 access where the victims were; is that correct?

7 A. Yes. You would have had to walk  
8 over it or around it or something, but it wasn't  
9 going to be on the victims.

10 Q. Or access the pile from a  
11 different direction?

12 A. Well, yeah. But I think that  
13 effort was exhausted already right before we got  
14 there, and that was the issue, that they were  
15 unaccessible.

16 Q. Would it have been possible, Mr.  
17 Priestly, to -- well, first of all, you're aware  
18 that Millennium Crane had been on site; correct?

19 A. Yeah. I never saw Millennium  
20 Crane or met Millennium Crane. They're all gone  
21 before I got there.

22 Q. I understand. And you're aware  
23 that certain debris had been removed from the pile?

24 A. Uh-hmm.

25 Q. Including the beam that overhang

1 the pile and the car.

2 A. Uh-hmm.

3 Q. And I think you noted that some  
4 slabs had been removed from the pictures that you've  
5 seen that were taken on June 23rd to when you got  
6 there.

7 Could, in your view, your equipment  
8 have resumed that type of rigging operation to take  
9 slabs directly out of the pile after the escalator  
10 had been taken down?

11 A. No. We didn't have the reach  
12 for that.

13 Q. And was that discussed in the  
14 formulation of this plan, the fact that you would  
15 not have the reach to do that, to resume that type  
16 of rigging operation?

17 A. Well, I think that's one of the  
18 other issues why the rigging operation came to  
19 a halt is because the slabs were very difficult to  
20 rig. They're very heavy, and you have to put some  
21 kind of rigging around the slabs, that when they're  
22 sitting one on top of the other, you can't get the  
23 rigging around the slab very easily.

24 THE COMMISSIONER: Well, that's not  
25 the evidence we've heard. We've heard that it

1 stopped because of the danger that was posed by the  
2 escalator and the slab resting on top of the  
3 escalator. And I think what Mr. Ault is asking you  
4 is: Once you removed that danger by collapsing  
5 safely the escalator and the slab, what was to  
6 prevent Millennium Crane from resuming the slinging  
7 operation, if the slinging operation so far had been  
8 relatively successful?

9 THE WITNESS: Yeah. No, from my --  
10 from what I saw there, it's such a tangled pile of  
11 debris, that the rigging would be very difficult.  
12 You'd have to cut slabs to rig them out safely  
13 because they're all intertwined. You know, they're  
14 not, like, neatly stacked one on top of the other,  
15 and then between the slabs, some services, like  
16 pipes and so on and so forth, so I think it's a lot  
17 more difficult than using the excavators to try and  
18 lift the slabs out, which is what we did in the end.

19 BY MR. AULT:

20 Q. Did any of the rescue leaders  
21 ask you whether you would have the capacity to  
22 resume that rigging operation?

23 A. I can't remember.

24 Q. And did it come up in the  
25 formulation of this plan whether a crane should be



1 called back in for the purpose of resuming that  
2 rigging operation?

3 A. I don't recall having that  
4 conversation.

5 Q. How long would it take to nibble  
6 the building down from top down and out to the angle  
7 of repose on both sides, exposing the collapse zone  
8 with no overhead items over the collapse;  
9 approximately how long would that take?

10 A. Like, six to eight hours.

11 Q. And did it seem to you that that  
12 would be a lengthy process if there was thought to  
13 be a viable victim still in that pile?

14 A. Well, I think it's a guaranteed  
15 process. I think that rigging the slabs out was  
16 very difficult. The slabs are not easy to rig.  
17 They're not very safe to rig. When a piece of core  
18 slab comes to the job site, it's in 100 per cent  
19 structural shape. Like, it's in perfect condition,  
20 and you unload it off a truck, and you set in place.

21 After the collapse, they're cracked.  
22 They're broken in half, and when you try and lift  
23 those pieces of precast up, there's no guarantee  
24 that pieces won't fall off of them or they won't  
25 actually fail and half themselves, in my experience

1 in the past, so ...

2 Q. So you didn't think it was  
3 a viable option, and I take it from your evidence  
4 that it wasn't discussed in the formulation of this  
5 plan?

6 A. Yeah. No. I don't think it's  
7 a viable option, no. I think the safest way to go  
8 about that was to take down the part that had  
9 collapsed and make a nice pathway in so you could  
10 get in and then gently, delicately remove the slabs  
11 in such a way that there would be no further  
12 pressure on the victims.

13 Q. And it's your evidence, again,  
14 that it was not discussed in the formulation of this  
15 plan.

16 A. I don't believe so.

17 Q. If we could go back to Exhibit  
18 No. 6622, please, which are back to your notes, Mr.  
19 Priestly, which is tab 5 or just on the screen.

20 We see at six o'clock that:

21 "High Reach arrived & we began  
22 assembly."

23 And then below that at nine o'clock:

24 "Start Demo."

25 Can you give us a description of how

1 long it takes to set up the high reach and how long  
2 it took you to get into position here?

3 A. Well, you have to assemble the  
4 main boom of it and the attachment and then put all  
5 the counterweights on it, and that takes, you know,  
6 a couple of hours. And then we basically drove it  
7 over to the building and started immediately. We  
8 did the dry run first, and then we started the  
9 demolition.

10 Q. And the dry run didn't work; you  
11 were unable to reach the beam.

12 A. That's right.

13 Q. And so you moved to what we can  
14 call Plan B; is that fair?

15 A. Sure.

16 Q. And if we could please go back,  
17 then, to Exhibit No. 7296, and we'll look at what  
18 Plan B actually was.

19 Beside the notation "Decision B," it  
20 says:

21 "If beam does not fail --  
22 assessment to be completed by

23 HUSAR/MOL/PRIESTLY

24 -Next steps are to remove  
25 penthouse and 'Nibble' building

1 from top down and out to the  
2 angle of repose on both sides  
3 exposing collapse zone with no  
4 overhead items over collapse  
5 zone."

6 Plan A and Plan B seem to be very  
7 similar except for the fact that in one case the  
8 beam has been caused to fail, and then in another  
9 case, in Plan B, the beam has not been caused to  
10 fail; is that fair?

11 A. Yep.

12 Q. And given that similarity, what  
13 did you think was the purpose of causing the beam to  
14 fail in Plan A?

15 What would that achieve?

16 A. Well, I think I already answered  
17 that question earlier, so just to repeat myself,  
18 I think it was to make sure that nothing further  
19 fell on the victims.

20 Q. And the risk, then, in Plan B  
21 that you were attempting to neutralize with Plan A  
22 was that the demolition work, this nibbling of the  
23 building, would cause the beam itself to collapse in  
24 an uncontrolled manner?

25 A. Well, it's not so much that.

1 The escalator was and the precast was, it was on  
2 an angle aiming down towards where the victims were.

3 Q. Right.

4 A. So, hypothetically, if you --  
5 you know, if we dropped a steel beam on that precast  
6 slab, it would have slid down and onto the pile  
7 where the victims were, so the intent was to try and  
8 eliminate that risk early on with the plan, and then  
9 Plan B was to take the building down so it was safe  
10 to go in and take the people out.

11 THE COMMISSIONER: How were you going  
12 to prevent, under Plan B, the slab from sliding down  
13 off the escalators?

14 THE WITNESS: Just to perform the  
15 demolition in a very controlled manner, not go too  
16 quickly and not cause any structural unplanned  
17 failures.

18 So we basically cut down the  
19 penthouse in a sequential manner to lighten the load  
20 as you're going. So, for instance, we'd reach up  
21 there. We'd take the one beam out, cut at one side,  
22 cut at the other side, and then we'd lift out the  
23 roofing. So there is tin pan on the penthouse, so  
24 I would literally reach up there with the machine.  
25 We'd grab one piece of tin pan, and I would swing

1 out, put it in the parking lot, and I'd grab another  
2 piece and swing out over the parking lot. And then  
3 there was open web steel joists that held up the  
4 roofing, take down the steel joists one member at  
5 a time. There was masonry wall up there, and then  
6 push those masonry walls out onto the parking deck  
7 slab instead of draw them inside where they could  
8 land on the precast, for instance, and then once the  
9 penthouse was gone, we worked our way down, level by  
10 level, in the same approach, trying to --

11 THE COMMISSIONER: But I don't hear  
12 you saying anything that would, for example, prevent  
13 any form of vibration or perhaps even an accidental  
14 hitting with your machine so that the sliding of  
15 that slab wouldn't occur.

16 In other words, there was nothing  
17 done or nothing anticipated to hold back that slab,  
18 I think, some way or another.

19 THE WITNESS: That's correct.  
20 I think that, you know, if you could secure that  
21 slab to the escalator itself -- for instance, if you  
22 were to take a chain, wrap it around the slab and  
23 wrap it around the actual escalator itself and then  
24 tighten that up, then if that beam did fail, that  
25 piece of precast would fail with the escalator, and

1 it wouldn't slide off the escalator. But at the  
2 time when we were there, it was decided that nobody  
3 was going to go in there to do anything like that.  
4 It was deemed a "no-go zone," so the machine that we  
5 used -- you used the term "vibration," and, yeah,  
6 the machine will cause some vibration, for sure.  
7 But when we tear down buildings, we do vibration  
8 monitoring often, and, say, you know, a standard job  
9 with a shear, you won't exceed the allowable limits  
10 of a vibration.

11 THE COMMISSIONER: So I take it your  
12 answer, then, is that attempting to secure that slab  
13 would have been too dangerous?

14 THE WITNESS: I think, yes, that was  
15 the intent.

16 THE COMMISSIONER: All right.

17 THE WITNESS: And, again, not to try  
18 and muddy the waters at all, but if you were to pave  
19 the front parking lot of the mall, and the roller  
20 that vibrates when you pack the asphalt, that would  
21 create probably more vibration than we created doing  
22 the demolition.

23 THE COMMISSIONER: Okay.

24 THE WITNESS: And in Toronto,  
25 I always use the example of a streetcar.

1                   If you're in Toronto on King Street  
2 and you are standing inside a storefront and the  
3 streetcar goes by, and it goes ta-dunk, ta-dunk, you  
4 can feel it in the building. Well, when I'm tearing  
5 down the building across the street, you can't feel  
6 it in the building.

7                   BY MR. AULT:

8                   Q. I take it also in response to  
9 the question from the Commissioner that another  
10 element about attempting to make sure that the slab  
11 would not fall is that you were going to be as  
12 careful as possible; is that a fair statement?

13                  A. Yes.

14                  Q. And go as slowly as necessary?

15                  A. Yeah. I mean, we've done a lot  
16 of this type of work, and it's very -- it can be  
17 very, you know -- it can be a lot of pressure to try  
18 and go fast, but you don't want to go fast and cause  
19 anything to go any worse than it already is. So  
20 just try and keep a solid pace to the task at hand  
21 to try and do it carefully and not have anything  
22 fall on the victims.

23                  So that was sort of the goal.

24                  Q. And before getting to how you  
25 actually did take the building down, just another



1 question on the comparison between Plan A and Plan  
2 B. In either case, it's going to take, at best,  
3 I think you said six to eight hours to get into  
4 where the victims were thought to be; is that fair?

5 A. That's correct.

6 Q. So looking at Plan B, as you'd  
7 indicated, the first step was to address the  
8 penthouse and to start "nibbling" down from the top;  
9 is that correct?

10 A. Yes.

11 Q. And if we could please see  
12 Exhibit No. 9580. Mr. Registrar, we are going to be  
13 looking at a few photographs here of the initial  
14 stages of the demolition, so it might be a good idea  
15 to dim the lights.

16 Could you please describe what we're  
17 looking at in this photograph, Mr. Priestly?

18 A. This is a Komatsu 850 high-reach  
19 machine, and I'm removing the windows.

20 Q. And this is of the --

21 A. Of the penthouse.

22 Q. -- of the penthouse. And  
23 looking at Exhibit No. 2114, beside you, where is  
24 your crane positioned at this point in time?

25 A. Sitting right here. Then we're

1 reaching up, taking these windows out.

2 Q. And what sort of preparatory  
3 work was -- you had indicated that you had  
4 positioned the crane approximately where the yellow  
5 truck is in that photograph.

6 A. Yeah. It would be maybe  
7 a little further back here because we're right here,  
8 but, yeah.

9 Q. And was any other preparatory  
10 work required for you to start this process at this  
11 time, aside from the levelling of the ground that  
12 you had described earlier?

13 A. No. Just the services being  
14 disconnected.

15 Q. And if we could please see  
16 Exhibit No. 9897. Could you please describe what's  
17 occurring in this photograph, Mr. Priestly?

18 A. This is the Komatsu PC850 again,  
19 and we are taking down this architectural feature  
20 here. So this is a leg here. It's fastened to the  
21 ground here. It's got a foundation, comes up here  
22 and then goes across here.

23 We had to take this down because  
24 where I'm sitting in the cab here, I can't see now,  
25 so I had to take this down to be able to do more.

1 Q. And at this time --

2 THE COMMISSIONER: Were you the  
3 operator in the cab, Mr. Priestly?

4 THE WITNESS: Yes, I was.

5 THE COMMISSIONER: You were? Okay.  
6 And you were responding and dialoguing with your  
7 spotter?

8 THE WITNESS: There is no spotter at  
9 this time.

10 THE COMMISSIONER: Not at that time?

11 THE WITNESS: The spotter was only  
12 when we did the initial dry run. And then the  
13 spotter was taken off the roof.

14 THE COMMISSIONER: I see. Okay.  
15 Thank you.

16 BY MR. AULT:

17 Q. We heard evidence from Mr.  
18 Comella that he thought that you may have had  
19 a camera on the end of this arm; is that accurate?

20 A. This machine has a camera right  
21 here, but yes. That has a camera on the arm.

22 THE COMMISSIONER: Were you using it?

23 THE WITNESS: It's turned on, but it  
24 doesn't -- like --

25 THE COMMISSIONER: Your eyes are

1 better?

2 THE WITNESS: My eyes are better and  
3 it's not -- by not -- like, for instance, you know,  
4 if I took the wall down behind this architectural  
5 feature first, that's great and fine, but then  
6 moving forward, I have to do everything by camera,  
7 and eventually I know that I'm going to need the  
8 lower machines to cut the beams where the escalators  
9 are, so that's why we took this architectural  
10 feature down and moved our way in.

11 BY MR. AULT:

12 Q. And if we could please see  
13 Exhibit No. 9898. Can you please describe what  
14 stage you're at in this photograph, Mr. Priestly?

15 A. So now the architectural feature  
16 is gone, and I'm starting to -- this would be the  
17 ceiling void of the -- what we're calling --  
18 referring to as the penthouse. So this would be  
19 like a drywall bulkhead here that I've taken down,  
20 and I'm going to start to take down the ceiling  
21 tiles in here so I can see the actual structure of  
22 the roof before I take down the roof.

23 Q. Before starting this process, do  
24 you recall whether you had the benefit of looking at  
25 any structural drawings of the building?

1           A.    I don't recall if we had them  
2 before because I did some work after, and I bid the  
3 demolition work, and I know I saw the structural  
4 drawings. I just don't remember if I saw them  
5 beforehand.

6           Q.    Could we please briefly look at  
7 Exhibit No. 9279 and page 70 of that Exhibit? I'm  
8 going to show you a picture now, Mr. Priestly, of  
9 a drawing that we've heard evidence was available at  
10 the site, and I'd just like you to tell us whether,  
11 after seeing the photograph of this drawing, you  
12 recall whether you had seen it prior to starting  
13 this work or not. Does that look familiar to you?

14          A.    Could have been, for sure, yeah.  
15 I know we talked about -- we used the Google Earth  
16 map. Like, they didn't have a site plan. That's  
17 why they used the Google Earth map for the cold zone  
18 as attached to the plan, so they may have had that  
19 plan, as well, yes.

20          Q.    Mr. Priestly, after you got that  
21 front architectural feature of the buildings down  
22 and you had dealt with the removal of the penthouse,  
23 what was the next step as far as removing the front  
24 of the building went? And perhaps to assist you in  
25 describing that we could see Exhibit No. 1876, and

1 page 42 of that Exhibit.

2 Ms. Kuka, could you please focus in  
3 on the middle -- the interior L of that part of the  
4 mall there?

5 MS. KUKA: This?

6 BY MR. AULT:

7 Q. This, and just up a little bit  
8 and a bit to the right, and even closer than that  
9 would be terrific.

10 A. That's good.

11 Q. That's good. Okay? Thank you.

12 A. So to keep progressing -- so the  
13 machine was out here to start, and we took down the  
14 penthouse, which was up in this area here.

15 Q. And you're pointing to the top  
16 of what is shown as the escalator area?

17 A. Yes.

18 Q. Okay. Yeah.

19 A. This is the escalator and stair  
20 opening here, right here. So I believe this is, if  
21 you would, the balcony or the porch area, so the  
22 architectural feature ran here and here. We took  
23 that down, and then we took this balcony down,  
24 starting here, up to back about here, somewhere  
25 where the post is probably, right about here.

1 Q. That's the entire exterior  
2 walkway at that second level of the mall; you  
3 removed all of that next?

4 A. Yeah. After we had the  
5 penthouse removed, and then we did the balcony.

6 Q. Thank you.

7 A. So basically we did what we  
8 could on the penthouse and the higher portion of the  
9 mall until we needed to advance further into the  
10 building, and then we used -- and then we took down  
11 the balcony here.

12 Q. And was it necessary to take  
13 down that balcony, the exterior walkway for the  
14 purpose of extending your reach into the building?

15 A. Well, that and also to the --  
16 yes, to use the smaller machine, the Link Belt 460,  
17 with the shear on it so we could get in to cut these  
18 beams.

19 Q. And why was it necessary, at  
20 that point, to cut those beams? You've described  
21 having to nibble away at the penthouse and, to use  
22 your phrase, doing what you could with the  
23 penthouse.

24 A. Yeah.

25 Q. And dealing with the exterior

1 walkway. It seems like at this point, you were  
2 getting into what would really be the risky element  
3 of this project, which is dealing with those  
4 elements which have been compromised as a result of  
5 the collapse; is that a fair statement?

6 A. Yeah. The escalator --

7 Q. Right.

8 A. -- area, predominantly, yeah.

9 Q. And how did you go about dealing  
10 with the escalator?

11 A. Once we had the balcony or the  
12 porch, the walkway removed, then we took down this  
13 beam right here, from this column to this column,  
14 and we took out this floor in between. So now  
15 you're looking at from the machine where I'm  
16 sitting, and you're looking into the building. You  
17 can see this beam that goes from this column over to  
18 this column. This beam is in place, holding the  
19 escalator, and the escalator is facing downward  
20 towards this area, where the victims are in this  
21 area.

22 Q. Okay.

23 A. So now we're going to take --  
24 start from the top, and we're going to take the beam  
25 here down, so we cut one side with the shear, and we



1 try and cut it in such a manner that it will sit up  
2 there still so it won't actually fail prematurely.  
3 So we do that by cutting the beam on a slight angle,  
4 and then we put the shear on the -- sorry, on the  
5 other side here -- feels like I have the shakes with  
6 this pointer -- and then you cut the beam on this  
7 side, and the shear is actually underneath the beam  
8 at the same time as when you're cutting it.

9           So now that it's cut free, the  
10 machine is actually holding that beam up, and then  
11 we let it down slowly, so the escalators would  
12 basically -- they're on the angle now, and they just  
13 tilt down level with the second floor.

14           And then I basically remove that  
15 material, so the staircase and the escalator and the  
16 beam, I remove that as much as I can. So I take the  
17 escalator and the stair, and I drag it out and put  
18 it in the parking lot. So now you've got the  
19 escalator running from the ground floor to the  
20 second floor. So now the escalator is facing the  
21 machine, if you will, and I take the beam and the  
22 second floor out, so now the only beam left in place  
23 is this beam. Do you understand? Am I doing a good  
24 job explaining it?

25           Q. I think you're doing a good job

1 explaining it, but to go through it again --

2 THE COMMISSIONER: Was all of this  
3 work being done by the 850?

4 THE WITNESS: No. The 460.

5 THE COMMISSIONER: It was done by the  
6 460?

7 THE WITNESS: Yeah.

8 BY MR. AULT:

9 Q. You described an --

10 THE COMMISSIONER: So did you -- I'm  
11 sorry, Mr. Ault.

12 MR. AULT: Not at all.

13 THE COMMISSIONER: Did you have to  
14 move the big one out of the way?

15 THE WITNESS: Yeah. We just back it  
16 up a way.

17 THE COMMISSIONER: You just back it  
18 up on its tracks --

19 THE WITNESS: And drive the other one  
20 in.

21 THE COMMISSIONER: All right.

22 THE WITNESS: And, like, when you  
23 grab the escalator, the escalator probably weighs,  
24 like, 10 tons, so you drag that escalator out and  
25 put it in the pile. And all the precast, like, the

1 precast slabs, they probably each weigh, like, 4 or  
2 5 tons, so every time you take down a piece of  
3 precast, you need to move it out of the way. You  
4 need to take it out to the parking lot and get rid  
5 of it.

6 THE COMMISSIONER: But that's all  
7 done by the 460?

8 THE WITNESS: Yes.

9 THE COMMISSIONER: It's a more  
10 mobile --

11 THE WITNESS: That's right.

12 THE COMMISSIONER: -- machine?

13 THE WITNESS: That's right.

14 BY MR. AULT:

15 Q. You had described the process,  
16 at least initially, at the third-floor level as  
17 first removing the exterior beam, the exterior beam  
18 that we see, which is the beam that would have  
19 joined the exterior walkway.

20 A. That's right.

21 Q. And if we could please see  
22 Exhibit No. 7924 and page 55 of that Exhibit, just  
23 to put this in more real terms here. We're looking  
24 at a photograph of the area that we're speaking  
25 about now. And so the beam that you first cut,

1 I take it, would actually not be visible in this  
2 photograph. It would be more in the foreground,  
3 closer to us.

4 A. Right here, yeah.

5 Q. And how did you cut that beam to  
6 ensure that it didn't, when you cut it, come  
7 crashing down? Did you use one machine or two  
8 machines?

9 A. Just used the one machine  
10 because it's all you can fit. That's all we can  
11 fit.

12 So you just use the one machine, and  
13 the beam is horizontal.

14 Q. Yes.

15 A. And when you cut it, we try and  
16 cut it on an angle. So if the column is on this  
17 side and the beam is fastened to a column, we cut it  
18 on an angle like this so the beam that you're  
19 cutting will actually rest or sit on --

20 Q. On the angle?

21 A. -- on the stub that's left, on  
22 the angle. That's right. And then you cut it. You  
23 take the shear out of that beam. You go over to the  
24 other side. You place the shear underneath the  
25 beam, and you close the shear, and you cut it, and

1 then you lower that section down.

2 Q. As you indicated to the  
3 Commissioner, you recall using the Link Belt 460  
4 with the big shear --

5 A. That's right.

6 Q. -- to do that cutting. And what  
7 sort of load was that exterior beam carrying when  
8 you cut it?

9 A. I think I removed all the  
10 precast first, so it was just the load of the beam  
11 itself on that one.

12 Q. And that allowed it, I take it,  
13 to rest on that angle without being forced down by  
14 the weight on top of it?

15 A. That's right.

16 Q. And after you removed that beam,  
17 how did you expose the second beam? And, first of  
18 all, can you please point out on this photograph  
19 where that second beam would be, the second beam  
20 that you removed on the third level?

21 A. That's the beam that the  
22 escalator is sitting on, which would be right here.

23 Q. And how did you expose that beam  
24 to be able to cut it?

25 A. Well, once this floor is all

1 gone, you can see it. It's exposed. The ceiling  
2 below that, I believe, was already removed.

3 Q. Right.

4 A. I think that -- I can't remember  
5 if I removed the ceiling below it or if it was  
6 already done before we got there, but the ceiling  
7 below that's all gone now, so you're just looking at  
8 the frame, the metal frame of the building holding  
9 up the back side of that escalator, and all this  
10 here is gone. I've taken all this down: The doors,  
11 the windows, the roof. These walls, I've pushed  
12 onto the parking garage, and now you've just got the  
13 steel frame left with the escalator.

14 Q. And so was that beam, before you  
15 cut it, was it bearing any weight from that  
16 escalator complex and stair complex?

17 A. This beam was bearing -- yeah.  
18 I'm going to -- for round numbers, half the weight  
19 of the escalator.

20 Q. And did that cause you concern  
21 about repeating the cutting process that that extra  
22 weight would, in fact, cause the beam to fall and  
23 not rest on the angle?

24 A. Not so much. Only because this  
25 beam would have been a bigger beam; would have been

1 a stronger beam probably than the beam at the  
2 exterior, so it would have been a little bigger beam  
3 to withstand the weight of the escalator, and the  
4 same theory would still apply.

5 Q. But you'd cut it at an angle at  
6 one end.

7 A. Yeah.

8 Q. Cut it at the second end, the  
9 other end.

10 A. Yes.

11 Q. And from there, what would you  
12 do?

13 A. Well, I would lower it down  
14 gently, and I can't remember here exactly if it  
15 actually came down on its own weight, and I just  
16 lowered it down gently, or if I actually had to help  
17 it down, because the escalator itself is very strong  
18 and rigid, so I can't remember if the escalator was  
19 wanting to sort of stick up in the air a little bit,  
20 and then I had to just sort of help it down.

21 Q. And you were able to lower the  
22 escalator?

23 A. Yep.

24 Q. So that it was resting on the  
25 floor below it?

1           A.    Yep.  So now the escalator is  
2 lying flat on the second floor, if you will.

3           Q.    And I think we may have  
4 a picture of that.  If we could please see Exhibit  
5 No. 9901.

6                    It's a little unclear but is -- in  
7 the right-hand side of the image --

8           THE COMMISSIONER:  Can you blow that  
9 up, Ms. Kuka, on the right-hand side, the second  
10 half of the picture?

11                   BY MR. AULT:

12           Q.    Mr. Priestly, do you see the  
13 hole there?  And that black square that we're  
14 looking at, is that part of the escalator resting  
15 flat?

16           A.    This part here?

17           Q.    Yes.

18           A.    It may be, yeah.

19                    It's hard to tell, but it looks like  
20 the railing right there, doesn't it?

21           Q.    It does.

22           A.    Yeah.  So I would say that's it,  
23 yeah.

24           Q.    So now you've got the escalator  
25 lying flat.  Did the core slab that was resting on



1 that escalator, which we looked at in the earlier  
2 image, did that fall with it? Was that lowered with  
3 it?

4 A. It did. It fell with it. Yeah.

5 Q. And what did you do with the  
6 escalator and the core slab at that stage?

7 A. I tried to remove it.

8 Q. And were you able to remove it  
9 from the second floor?

10 A. I can't remember if I had to  
11 take more of the balcony down there first or if  
12 I was able to remove it first.

13 THE COMMISSIONER: But you're working  
14 with the 850 at that point, though?

15 THE WITNESS: Yes. I think  
16 definitely the 850 didn't remove the escalator.  
17 Definitely did it with the 460.

18 BY MR. AULT:

19 Q. Mr. Priestly, you didn't have  
20 spotters on the roof when you were doing this part  
21 of the job; is that correct?

22 A. That's correct.

23 Q. And you had indicated that you  
24 weren't using the camera too much, that your eyes  
25 were superior?

1 A. Yeah.

2 Q. If we could please look at  
3 Exhibit No. 7924 and page 49 of that Exhibit.  
4 Looking at this image, Mr. Priestly, we see that  
5 it's apparent that the core slab and the debris  
6 that's on the core slab resting on that escalator,  
7 which you've just told us you lowered as one piece,  
8 appear to be quite precariously placed there; would  
9 you agree with that?

10 A. Yes.

11 Q. Let me ask you: Do you think  
12 that any part of this debris or any part of this  
13 core slab fell from the slab and onto the pile below  
14 it?

15 A. I don't believe so.

16 Q. What is the basis for that  
17 belief?

18 A. Well, once we had it done, like,  
19 once we had the escalators torn down and everything  
20 out of the way and then the pile where the victims  
21 were, there was no evidence of new debris on the  
22 pile, like, not even one of those masonry blocks  
23 fell on that pile, it seemed like. And when I did  
24 all that work that night, it creates a certain  
25 amount of dust so you could see the fresh dust on

1 the pile, and it's like a light layer of snow.  
2 Like, if you set your foot in it, you'd see, like,  
3 a footprint in the dust, and there was no new  
4 elements that had fallen on the pile from what it  
5 looked like, to me, it looked like anyway.

6 Q. But you can't be certain of  
7 that?

8 A. I didn't take a picture before  
9 and after and cross-examine it in my office or  
10 anything like that, no.

11 Q. Right. And you didn't have any  
12 spotters looking at the pile as this was going on.

13 A. That's right.

14 Q. And you couldn't see into it  
15 yourself.

16 A. Right. I can definitely  
17 guarantee that none of the big pieces fell into the  
18 pile. We knew for sure.

19 Q. After you removed the escalator  
20 and the core slab from the mall, what was the next  
21 step?

22 A. We did the -- we repeated that  
23 same process, moving to the next level down, so we  
24 did -- we removed the second floor beams and the  
25 escalator that went from the ground floor to the

1 second floor and removed the debris in that area so  
2 we could get to the pile where the victims was.

3 Q. And I take it from what you're  
4 describing, then, once you cleared out the escalator  
5 from the first floor and the elements of the  
6 structure between the first floor and the second  
7 floor, really, you had quite a clear access to the  
8 compromised beam; is that correct?

9 A. Yes.

10 Q. And did you have, at that point,  
11 a sense of whether the beam was carrying any load  
12 other than the beam itself? I guess I should say:  
13 Was anything on the beam?

14 A. I think I removed the escalator  
15 first. I think I physically cut the escalator  
16 before I cut the beam.

17 Q. Right.

18 A. So the beam probably had little  
19 or no load on it.

20 Q. And so you're seeing the beam  
21 quite naked at that point, then?

22 A. Yeah.

23 Q. And could you give us a sense  
24 of, from that perspective, how wowed the beam was?  
25 How much of a bend was in that beam?

1           A.    It was bent, like -- I'm going  
2 to guess -- like, you know, 18 to 24 inches down  
3 from -- like, if the beam was supposed to be at this  
4 level, it was down (indicating), like, 24 inches  
5 from where it was supposed to be.

6           It was bent a lot.

7           Q.    Are you surprised that the beam  
8 didn't fail, with all of the work that occurred so  
9 close to it and, in fact, in contact with it?

10          A.    I would say "surprised" is  
11 a good way to describe it.

12          Q.    And how did you remove that  
13 compromised beam?

14          A.    With the 460, with the shear,  
15 cut one end first and then cut the other end and  
16 take the beam down carefully.

17          Q.    Same process as with the other  
18 beams that you've described.

19          A.    Yes.

20          Q.    And at that point, you've got  
21 clear access to the pile; is that correct? Or  
22 you've created clear access to the pile.

23          A.    Yes, yes.

24          Q.    And what was the next step of  
25 the operation, Mr. Priestly?

1           A.    We then had it so you could walk  
2 right up to the pile and then ...

3           Q.    How did you do that?

4           A.    I used a steel beam basically as  
5 a giant rake, and I rake all the material out down  
6 to the concrete floor, so it's, like, basically like  
7 sweeping the floor with a broom, only I'm using  
8 an excavator with a big steel beam, and I just rake  
9 all the concrete and drywall and everything out. So  
10 we get down to the bare slab, up to the pile where  
11 the victims were, and then we used the machine with  
12 a grapple on it, and we started to go into the pile  
13 where the victims were.

14          Q.    If we could please see Exhibit  
15 No. 7924 and page 109 of that Exhibit.

16          THE COMMISSIONER:  And you said "the  
17 machine with the grapple."  That was the 490?

18          THE WITNESS:  Yeah, that's correct.

19          THE COMMISSIONER:  Yeah.  Thank you.  
20 Okay.  That's it there?

21          THE WITNESS:  Yeah.

22          THE COMMISSIONER:  Yeah.

23          BY MR. AULT:

24          Q.    And when you describe having  
25 swept the floor, is this the result of that work?

1 A. That's correct.

2 Q. After the compromised beam had  
3 been removed and all of the structure that was to  
4 the south of it had been removed as you've  
5 described --

6 A. Uh-hmm.

7 Q. -- what were the rescue workers  
8 doing? Could you tell where the rescue workers were  
9 located in relation to where you were conducting  
10 your operation?

11 A. Once we got to this point,  
12 really I took instruction very carefully and very  
13 detailed from them.

14 Q. And who is "them"? Who were you  
15 taking instruction from?

16 A. Well, Tony Comella was the  
17 pointman in charge, and so basically we started, and  
18 Tony stood right beside the machine, and we  
19 literally started pulling. With the teeth of the  
20 grapple, we'd just pull back some debris very  
21 gently, very gently and then start to lift off  
22 precast very gently. And as soon as we pulled back  
23 or lifted up, we'd check -- like, the rescue workers  
24 would check everything for any kind of evidence, you  
25 know. I think they found a lady's purse or

1 something like that. I can't remember.

2 But, like, when you do that kind of  
3 work, it's -- you know, that machine can literally  
4 open the grapple and drive the grapple into the pile  
5 and grab a whole bunch and scatter out on the  
6 ground. That's not what we do. We literally grab  
7 as little as we possibly can and pull it out bit by  
8 bit, and you extract the pieces from the pile as  
9 gently as possible.

10 THE COMMISSIONER: Were you running  
11 that machine yourself, again?

12 THE WITNESS: Yeah. They never let  
13 me stop.

14 So literally and -- the workers  
15 there, we'd do so much around the workers, and they  
16 would keep sifting by hand through the debris, and  
17 then once we had so much, I would grab the steel  
18 beam, and I would clean it out, and we'd go again,  
19 and keep going.

20 BY MR. AULT:

21 Q. If we could please go to Exhibit  
22 No. 6622, which are your notes, again, Mr. Priestly.

23 We see that at 9:00 p.m. you have the  
24 notation:

25 "Start Demo."



1 And at June 27th, at 6:00 a.m.:

2 "Completed Demo of Building."

3 So when did you consider the  
4 demolition to have been completed for the purpose of  
5 making this notation?

6 A. I think that was around the time  
7 when, you know, all the escalators were done, and  
8 I had cleaned out that ground floor to the point  
9 where could you walk in there safely, and you could  
10 look up above your head and not wonder if anything  
11 else was going to come down on you.

12 So I trimmed up the sides of the  
13 areas where there was pipes that were hanging down  
14 and drywall walls that were hanging down and taking  
15 down anything that looked like it was, you know,  
16 a possibility of it falling on its own prior to  
17 anyone going in there. So literally cleaned it --  
18 cleaned it back so it was nice and safe, nice and  
19 clean and nothing -- nothing. I think we took a car  
20 off the roof, and I pushed the car back because  
21 there was a couple of cars near the edge, stuff like  
22 that. So that was around 6:00 a.m. That's all I'm  
23 saying there.

24 Q. And did you do all of that prior  
25 to -- or from 9:00 p.m. to 6:00 a.m.?

1 A. Pretty much, yeah.

2 Q. So it took fully nine hours  
3 to -- and I'm not suggesting that's a long period of  
4 time to do that amount of work. I'm just saying  
5 that it took nine hours to get to that point.

6 A. Uh-hmm.

7 Q. And at any time in the course of  
8 that nine-hour period, did any rescue worker come to  
9 you and say, "Well, let me get into the pile and  
10 have a look at what's going on"?

11 A. I can't remember if there was --  
12 like, around the 6:00 a.m. mark, like, when we were  
13 getting close, they did let the dogs in there, I  
14 think, and go in there and have a look. They wanted  
15 to see if they got a scent.

16 Q. But your work was not stopped  
17 prior to that for the purpose of rescue workers  
18 going in to the pile itself; is that correct?

19 A. I don't believe so, no.

20 Q. You mentioned the process of  
21 clearing the sides of the building. Could we please  
22 see Exhibit No. 9904?

23 Is this a picture of you clearing out  
24 the side of the building -- clearing out the side  
25 with the collapsed hole, I should say?

1           A.    Yeah.  So, like, stuff like  
2  these pipes, and -- I don't know if this beam here  
3  looks like it's on an angle, but this drywall here,  
4  stuff like this, I would have taken down this little  
5  bit of stuff here.  I would have taken it down just  
6  so there's no chance of any of this falling, because  
7  when we were doing the actual pile where the victims  
8  were, I was in a machine with a cab on it, but there  
9  was probably six to ten rescue workers in the  
10 immediate area.

11                Like, we basically formed a line and  
12 advanced through the pile.

13           Q.    And what were the rescue workers  
14 doing at this stage?

15           A.    During this picture?  They  
16 weren't in there.

17           Q.    They weren't there?

18           A.    Yeah.  This was probably just  
19 before we started the rescue work and the -- I think  
20 they asked me to clean this up so there's nothing  
21 falling.

22           Q.    And prior to you cleaning it up,  
23 was it the case that there were pieces overhanging  
24 that appeared like they could fall?

25           A.    Yeah.

1 Q. And so how did you make sure --  
2 or I should ask, did any of the pieces fall in the  
3 process of you removing them, fall onto the pile  
4 itself?

5 A. Well, stuff like this pile of  
6 tin studs, I can actually reach there and grab that  
7 and pull it out.

8 Q. Right.

9 A. And there could have been, you  
10 know, a piece of tin stud fall, but generally most  
11 of it would stay together with the machine as I pull  
12 it out. And sometimes I could just actually push  
13 it, like, push it inside the wall here so it  
14 wouldn't fall. So there's a couple of pipes  
15 sticking out here. Well, I would reach in  
16 underneath this area, reach in here, and cut it so  
17 the pipe would fall inside here and fall down inside  
18 the building, so just general stuff like that.

19 Q. And what about slabs of concrete  
20 that were overhanging from the parking level over  
21 the hole? Did you see any of those?

22 A. Along the top, there was a  
23 couple of little pieces that I had probably chewed  
24 down because it looked like they had been -- they  
25 looked like they could've been unsafe to work under.

1 Q. And did any of those pieces of  
2 concrete fall in the course of you doing this  
3 clearing work?

4 A. Definitely. I don't think I  
5 would've been able to grab all the concrete. So,  
6 for instance, there would've been some here that  
7 when I chewed it down -- I think it was back in the  
8 corner. There was, like, a little triangle shape  
9 here, so I just took that triangle shape down.

10 Q. Right.

11 A. And we didn't think there was a  
12 victim back there, so at that time, it was safer to  
13 take the concrete down than ...

14 Q. But my question is: Did any of  
15 the concrete fall onto the pile as you were doing  
16 this?

17 A. Yes. I said -- like, the  
18 triangle at the back corner definitely would've  
19 fallen straight down.

20 Q. And if we could see in this --  
21 pardon me. It's not this exhibit. It's Exhibit  
22 7924, page 59. Is this some of the concrete that  
23 you're describing, Mr. Priestly?

24 A. Yeah.

25 Q. You described taking some piping

1 away or some meshing away. Did that seem to you  
2 like it would pose a real hazard or risk to rescue  
3 workers in the pile?

4 A. Well, like, some of this piping  
5 here, that's bent --

6 Q. Yes.

7 A. -- if it's welded, it probably  
8 won't fall, but if it's got, like, a victaulic  
9 coupling, then it could fall at any time.

10 And if a piece of that sprinkler fell  
11 on you, yeah, it would definitely hurt.

12 Q. Mr. Priestly, you had started to  
13 describe the process of approaching the pile, and  
14 you'd indicated that rescue workers were aligned  
15 beside your machine as you approached the pile; is  
16 that correct?

17 A. Yep.

18 Q. And so what was that process?  
19 How did that carry on, that process?

20 A. Very systematically. Like, just  
21 very piece by piece, just grabbing from the pile and  
22 trying to grab pieces from the top of the pile all  
23 the time. So as you'd take pieces off the pile, the  
24 pile would be safe all the time.

25 You know, you're not trying to reach

1 in and pull stuff out of the bottom of the pile to  
2 cause stuff to fall down.

3 It's hard to describe because the  
4 pieces were just on all different angles, and, you  
5 know, there was pipe and all kinds of stuff in  
6 there, so you just, literally, just trying to pick  
7 the pieces up, and then before we picked the pieces  
8 up, sometimes they'd crawl up the pile, the rescue  
9 workers, and look around underneath the piece and  
10 make sure there was nothing fastened below it or  
11 held onto the piece, so when you lift it up, it just  
12 lifts off the pile nice and freely.

13 Q. You earlier indicated to us that  
14 when you did your walk-through of the building, you  
15 were told where two possible victims were thought to  
16 be located.

17 A. Uh-hmm.

18 Q. And did the rescue workers  
19 appear to you to be going to any particular spot,  
20 and specifically did they go to either of the spots  
21 where you were told the victims were thought to be  
22 located?

23 A. Absolutely. They went to the  
24 spots where the victims were first.

25 Q. And do you recall whether they

1 focused on one area more than another area?

2 A. When you're looking in the  
3 building, the telephone booth was on the right side,  
4 so I guess that's the east side.

5 Q. East side, that's correct.

6 A. So that victim --

7 Q. And perhaps I'll pause you for  
8 a moment. It may help if we could pull up page 46  
9 of this exhibit.

10 If you could please carry on, Mr.  
11 Priestly.

12 A. So the phone booth is here;  
13 right?

14 Q. Okay.

15 A. Is that right? That's right;  
16 right?

17 Q. That's correct. I think the  
18 phone booth may be a little bit closer to that white  
19 wall, but --

20 A. Oh, right here, yeah.

21 Q. -- in that general area, yeah.

22 A. I see that. So the one victim  
23 was right near there, so we tried to get in this  
24 area first.

25 Q. And did anybody indicate to you



1 whether that was a victim that was thought to be  
2 a viable victim or not a viable victim; did you have  
3 a view on that or any knowledge about that?

4 A. I just take direction.

5 Q. Okay.

6 A. They say -- there's  
7 definitely -- they could see that victim more  
8 clearly. Like, I think they could see her foot in  
9 the rubble, so I think they knew exactly where she  
10 was, and we thought that that was going to be the  
11 least amount of work to get at first, so that's  
12 where we went.

13 Q. We've heard evidence, Mr.  
14 Priestly, that that -- the victim that was located  
15 where you've just indicated, closer to the phone  
16 booths was thought by rescuers to have been  
17 deceased, and that if there was a viable victim, it  
18 would've been the other victim. Is there any  
19 reason, in your view, why the rescue workers would  
20 not go to that second victim, the one that was  
21 thought to be viable?

22 A. Well, again, it's difficult to  
23 maybe see from this picture, but some of this  
24 precast in this area was easily removed, and it had  
25 to be removed first, so although the other victim

1 might be more in the middle of the pile, you're  
2 actually going to have to remove this piece of  
3 precast, for instance, in order to remove this piece  
4 of precast. Does that make sense? So that was  
5 the -- the intention was to start at the top, and as  
6 we started to unload the pile, it just -- it looked  
7 like that victim was going to be -- just sort of  
8 come to the top sooner by the way the precast had  
9 fallen.

10 Q. It makes sense, but we've seen  
11 the wonders that your equipment can achieve here. I  
12 would have thought that there would have been a way  
13 for you to immediately attempt to gain access to  
14 that victim that is, as you've described, more in  
15 the middle; was that not possible?

16 A. Well, the problem is that all  
17 the work that we've done to date with the machinery  
18 is there is no victim there, so ultimately the work  
19 that you do is -- yes, it's careful, and it's  
20 controlled, but it's -- you know, you're not trying  
21 to work over top of someone.

22 When you're trying to empty out the  
23 pile to find someone in the pile, I mean, I don't  
24 even want -- I don't want even the weight of this  
25 cup of water to fall on it.

1                   Like, we are literally trying to do  
2                   it as gently and as delicately as possible, and when  
3                   you are dealing with these concrete slabs that are  
4                   so, so big and so heavy and all broken, like in the  
5                   picture there, you just -- you have to start at the  
6                   top of the pile, and you have to work your way down.

7                   There is just no other -- you know,  
8                   there's no magic vacuum where you can suck the stuff  
9                   off of there and take it away, you know. We have to  
10                  start at the surface and work our way down into the  
11                  pile.

12                 Q.     And how did you actually deal  
13                 with these slabs and other debris that was on the  
14                 pile? What mechanisms did you use?

15                 A.     Well, the machine with the  
16                 grapple could grab some, and some of them they can't  
17                 grab; some of them we slinged. Some of them were so  
18                 broken up that we just slinged the actual rebar of  
19                 the slab and picked the slab up nice and gently. So  
20                 it was a combination of physically grabbing the  
21                 slabs with the grapple and slinging the slabs with  
22                 wire slings and hoisting them off of the pile.

23                 Q.     Ms. Kuka, could we please have  
24                 a look at Exhibit No. 9905? Is this an image, Mr.  
25                 Priestly, of what you were just describing?

1 A. Yeah.

2 Q. And did you have the ability  
3 with this equipment to lift any of the slabs up on a  
4 90-degree angle?

5 A. Yes.

6 Q. And did you do that with any of  
7 the slabs here?

8 A. I would have done it with those  
9 ones. It's just now when I take them out there --  
10 so I would have picked these -- sorry. I would have  
11 picked these slabs up off of the pile, so I would  
12 have picked them straight up in the air, and then  
13 I would have backed up with the machine, and then  
14 I put them down on the ground, and I back up with  
15 them on the ground, because all these rescue workers  
16 -- although this picture might seem like there's a  
17 lot of room in here, like, I'm constantly watching  
18 to make sure that I'm not swinging the concrete into  
19 anyone. Like, I don't want this rescue worker here  
20 on the right side to get hit by the piece of  
21 concrete, so I actually set it back down. We know  
22 the victim's not here, so I just set it back down on  
23 the ground again, and then I drag it out, and I put  
24 it in the pile in the parking lot, but that slab,  
25 I didn't drag it off the pile. I would've lifted

1 that slab up and then taken it off, backed the  
2 machine up, and then put the slab on the ground and  
3 backed up.

4 Q. And if we could please go back  
5 to Exhibit No. 6622. You've recorded here in your  
6 notes at 10:00 a.m. approximately that you found the  
7 first victim; is that correct?

8 A. Yeah. That's approximately. I  
9 mean, I'm not -- I'm sure there's a lot more  
10 detailed time somewhere, but I'm just saying it was  
11 around mid-morning when we found the first -- or  
12 actually removed the first victim from the pile.

13 Q. And how would you describe the  
14 urgency with which rescue workers approach getting  
15 into the pile to attempt to locate these victims  
16 after the building was cleared, and you were able to  
17 access it from the south?

18 A. I think it was very urgent.  
19 I think that, you know, we literally just tried to  
20 go so carefully not to do any further damage to the  
21 victims, always hoping that there's a chance that  
22 they're alive. So we just tried to do it in such a  
23 systematic manner that we didn't apply any further  
24 pressure to the pile constantly. So we just lifted  
25 the pieces, piece by piece, and once they got the

1 first victim, they literally, like, dug it out by  
2 hand, the rescue workers, the fine material around  
3 the victim.

4 Q. And did you or your team have  
5 any role in dealing with the victims after they were  
6 located?

7 A. No. As soon as they find the  
8 victim, I park the machine or back it out to the  
9 parking lot and then park it, and then they come in  
10 and remove the body.

11 Q. And you've indicated that there  
12 is -- and I accept that these are approximate times  
13 -- that it's about three hours between finding the  
14 first victim and finding the second victim. But  
15 what I'm interested in is your recollection of how  
16 long it took to access or to find the second victim  
17 after the first victim had been dealt with and,  
18 specifically, after you started work again to remove  
19 elements from the pile.

20 A. Maybe hour and a half, two hours  
21 maybe, because once we found the first victim, then  
22 they have to do, you know, take pictures and the  
23 coroner and all that. So then they carried the  
24 person out, and then we start again, everyone, and  
25 then probably another hour and a half, two hours

1 later, the second one was found approximately.

2 Q. And can you recall in that hour  
3 and a half, two hours, how much material had to be  
4 removed in order to access that victim?

5 A. If I had to take a guess,  
6 probably I'm going to guess maybe 40 tons -- like,  
7 a lot, I think.

8 Q. And after the second victim was  
9 found, what role did you play in dealing with the  
10 site on June 27th?

11 A. Well, they always want to go  
12 through the remainder of the pile to confirm there's  
13 no other victims. So the dogs, I think, went up one  
14 more time to make sure, and then we basically  
15 searched the rest of the pile, and then that was it  
16 for the pile where the victims were. That was all  
17 cleaned. And it was put into the parking lot area.  
18 And then the OPP takes a bunch of photos. They took  
19 a lot of photos. It took a while to do that. And  
20 then the Ministry of Labour asked us to save some  
21 steel from the building. So we used the machine to  
22 take down some steel once they had photographed  
23 everything.

24 Q. Mr. Priestly, just a couple more  
25 questions that I'd like to ask you. The first is in

1 respect of Exhibit No. 9340, which is tab 17 in the  
2 book in front of you. We see this is a letter from  
3 Rob deBortoli, the CAO of the City of Elliot Lake,  
4 and it's dated June 26th, and it is addressed to  
5 Priestly Demolition, and it is called a "Letter of  
6 authorization." And it indicates:

7 "This letter will confirm that  
8 Priestly Demolition is  
9 authorized to be on the property  
10 known as 151 Ontario Avenue to  
11 facilitate in the ongoing  
12 operations to extract victims  
13 from the collapsed portion of  
14 the Algo Centre Mall.

15 It is recognized that Priestly  
16 Demolition will not be  
17 responsible for the relocation  
18 of any material relocated from  
19 its present location on the  
20 site."

21 Was this something that you requested  
22 from the City of Elliot Lake?

23 A. Yes.

24 Q. And why did you request it?

25 A. Well, as strange as it may seem,



1 before you actually start taking apart somebody's  
2 building, I like to know that we're on the same  
3 page. So I basically just said to the City of  
4 Elliot Lake, I said, "Listen, before we start the  
5 work on the mall, I just want to make sure that you  
6 guys are giving me the official go-ahead to do the  
7 work so people don't ask after, 'Why did you do  
8 this? Or why did do you that?'" Because, really,  
9 I'm following instruction from others.

10 Q. And did you have any difficulty  
11 in getting this letter of authorization?

12 A. I don't think so. I think I --  
13 I don't think I -- it's not like I was making a  
14 request that was unachievable. I just said,  
15 "I would like to have some kind of letter of  
16 authorization prior to starting so that we are on  
17 the same page before I start tearing down the mall."

18 I don't want to be responsible after,  
19 saying that my activity there caused the collapse or  
20 caused the rest of the mall to be damaged or what  
21 have you.

22 Q. Could we please see Exhibit No.  
23 9897?

24 THE COMMISSIONER: Could we go back  
25 to the lights, Mr. Ault?

1 MR. AULT: Yes. Yes, Commissioner.  
2 Thank you.

3 BY MR. AULT:

4 Q. Having said we can go back to  
5 the lights, I'd like to ask you about something  
6 that's a little bit murky now that the lights are  
7 on, and if you look at the smaller screen, it's a  
8 bit clearer.

9 And in particular, in the image --  
10 the wood shoring that is to the left of the 850  
11 machine, do you see that wood shoring?

12 A. Yes.

13 Q. Did this shoring, from your  
14 perspective, serve any purpose?

15 A. Definitely didn't hurt. There  
16 is a lot of rust on those beams.

17 I don't know that that specific  
18 shoring right there in that picture, but further  
19 south, underneath there, was some really bad rusted  
20 beams. So I think that it served the purpose of  
21 nothing else -- of safety factor for the people  
22 working there.

23 I mean, something collapsed; right?  
24 Like, the roof of that mall fell unexpectedly in the  
25 middle of the day. So anyone moving forward,

1 thinking that the mall is in good condition is  
2 probably not realizing the big picture there.

3 The mall is rusty, and it's in bad  
4 shape, in my opinion.

5 Q. And it was a benefit of having  
6 those there, I take it?

7 A. Yeah. I think, you know, if  
8 nothing else, it's -- you know, you've got --  
9 there's probably 50 to 80 people working there --

10 Q. Right.

11 A. -- trying to do this, this  
12 emergency work, and it's -- you know, policemen,  
13 firemen, all that, and ambulance and stuff, and, you  
14 know, they're -- now you're working underneath more  
15 rusty beams so -- and there is no question that once  
16 the building has had a collapse like that, you're  
17 definitely wondering what could be next.

18 Q. What could be next; right?

19 A. Yeah.

20 Q. One last document, and it's  
21 going back to Exhibit No. 7296, please, Ms. Kuka.  
22 And this is the plan that you put in place prior to  
23 commencing the demolition, the Plan A and the Plan  
24 B.

25 A. Okay.

1 Q. And just looking at the top of  
2 the document, we see it's titled "Rescue/Recovery  
3 Procedure Plan."

4 Did you have any role in giving  
5 a title to this document?

6 A. Oh, I don't know. I don't know.  
7 I probably would have -- yeah, I don't know.  
8 I can't remember, honestly. I don't think I wrote  
9 the title, in my opinion.

10 Q. And in your view, does rescue or  
11 recovery more accurately describe the procedure that  
12 took place?

13 A. Well, I would have liked to have  
14 thought it was a rescue. I would have liked to have  
15 found somebody alive in there, so I don't think  
16 there is anything wrong with the title, if that's  
17 what you're asking me.

18 Q. But I take it from your answer  
19 that, effectively, if it had been a rescue or  
20 recovery, you, in effect, would have proceeded in  
21 the same manner; is that what you're saying?

22 A. I think so. I think it's  
23 important to try and do what we did there, as  
24 carefully as possible. I think, generally speaking,  
25 once Priestly Demolition arrived on the site,

1 I think things moved forward in a pretty expeditious  
2 (sic) manner time-wise.

3 I think if the collapse happened on  
4 a Saturday, and here it is on Tuesday, and virtually  
5 in eight hours it was -- you know, eight, nine  
6 hours, we had one person pretty much out and the  
7 other person a couple of hours thereafter.

8 I don't think it was -- I think it  
9 was pretty quick, in my opinion, compared to, say,  
10 the first couple of days when they were trying to  
11 hoist stuff out. It was much quicker, much quicker  
12 to do it this way.

13 Q. Thank you, Mr. Priestly. Those  
14 are my questions. My friends may have some  
15 questions for you.

16 THE COMMISSIONER: Other questions in  
17 cross-examination, Mr. Oliver?

18 MR. OLIVER: Yes. Thank you.

19 CROSS-EXAMINATION BY MR. OLIVER:

20 Q. Good afternoon, Mr. Priestly.

21 A. Hello.

22 Q. For the record, my name is  
23 Richard Oliver, lawyer for the City of Toronto.

24 I just have a couple of questions of  
25 you.

1                   The first is to do with your  
2 Priestly's acquisition of what I'll call the  
3 long-arm Komatsu, the 850.

4                   My understanding is that you  
5 purchased this in 2004?

6                   A.     That's correct.

7                   Q.     So you would not have had the  
8 850 in response to the Bloor Street explosion, which  
9 would have been in 2003?

10                  A.     That's correct.

11                  Q.     And you gave evidence that you  
12 provided the City of Toronto with a list of  
13 equipment around the time HUSAR was formed.

14                  Would you have had the Komatsu 850 at  
15 the time you gave this list of equipment?

16                  A.     No.

17                  Q.     Now, Sergeant Glavin, Phil  
18 Glavin gave evidence yesterday that when he made the  
19 call to you on the 24th, he was just looking for the  
20 availability of the 850. He was not actually  
21 discussing with you any plans or potential plans to  
22 deploy it; does this accord with your memory?

23                  A.     I think so. I mean, he  
24 basically called me and said, "Listen, what -- where  
25 is that big machine, and what's its availability?"

1 And it just happened to be in our yard at the time,  
2 which is probably a good thing for availability  
3 purposes.

4 Q. He didn't tell you, "Get it  
5 ready. I think we're going to need it"?

6 A. He didn't say, "Load it on the  
7 truck, and I'll call you in an hour." That's for  
8 sure. He said, "Okay. Thank you. I'll call you  
9 back."

10 Q. And you did hear from him again  
11 on June 25th around 8:00 p.m. And you've given  
12 evidence that there was a series of phone calls. It  
13 may have been ten, but some of them were just lost  
14 reception.

15 A. Yeah.

16 Q. Now, are you able to tell me,  
17 beginning at 8:00 p.m., how long that series of  
18 phone calls lasted?

19 A. I'm going to guess maybe  
20 a couple of hours, like until about maybe ten  
21 o'clock or so, you know maybe 10, 10:30, something  
22 like that.

23 Q. So in or around 10, 10:30, you  
24 had, from Sergeant Glavin all the information that  
25 you thought you needed to deploy? You didn't have

1 approval to deploy, but you had all the information  
2 you thought you needed?

3 A. I had enough information to know  
4 what we're going to need, yes.

5 Q. Now, we heard last week from  
6 Sergeant Chuck Guy of TF-3 that the order of the  
7 removal of the pieces of the pile on the -- that  
8 would be the 27th, after you'd removed the front of  
9 the building. We heard, in your evidence-in-chief,  
10 that the first victim, who we know to be Ms.  
11 Perizzolo, came out first; and the second victim,  
12 Ms. Aylwin, was located second.

13 Now, Captain Guy gave evidence that  
14 the fact that Ms. Perizzolo was removed first wasn't  
15 the intention; that pieces would have had to have  
16 been removed in that order, whether or not she was  
17 there or not; does that accord with your  
18 recollection?

19 A. Well, yeah. That's what I was  
20 trying to say earlier.

21 It's just very difficult to try and  
22 explain now the way the pile was; right? And there  
23 was less material on the first victim, so you had to  
24 take that material off anyway, and that's just the  
25 natural way that you did the job systematically to



1 get the victims out.

2 Q. So to put it another way, the  
3 material that was found on the first victim would  
4 have had to have been removed, in any event, to  
5 reach the second victim?

6 A. Yeah. Sure. That's good.

7 Q. And my understanding is you were  
8 just taking direction as to which pieces to remove.

9 A. Yes.

10 Q. You wouldn't have been part of  
11 any plan to decide on the order of removal.

12 A. Yes. If they asked my opinion,  
13 I will give them my opinion, but, otherwise, I try  
14 and follow very simple instruction.

15 If they say "Lift this cup," I lift  
16 this cup. If they say "Lift this pitcher," I lift  
17 this pitcher. I try and keep it very simple.

18 Q. Okay. Well those are all the  
19 questions I have, and on behalf of TF-3, I want to  
20 thank you for your work on those days.

21 A. Thank you.

22 THE COMMISSIONER: Ms Filgiano? No?  
23 Mr. Feaver? Ms. Smith? Mr. Cassan?

24 CROSS-EXAMINATION BY MR. CASSAN:

25 Q. Good afternoon, Mr. Priestly.

1 My name is Paul Cassan. I'm am counsel for the City  
2 of Elliot Lake and the Elliot Lake Fire Department.

3 First thing I'd like you do for us  
4 because we've heard people call your 850 crane, is  
5 just tell us clearly what's the difference between  
6 that piece of hydraulic equipment and a crane.

7 A. Well, an excavator is  
8 purpose-built with a bucket on it, so it's for  
9 moving, you know, earth and gravel around and so on  
10 and so forth, which a crane cannot do.

11 And the evolution of the high-reach  
12 machine is basically just for high-reach equipment,  
13 and it's still all hydraulic, and instead of having  
14 a bucket on it, it has these other attachments I  
15 described earlier, but there is no wire rope on it.  
16 There is no hoist device on the excavator. It is  
17 all hydraulically driven and all hydraulically  
18 controlled, but its main purpose is carry that  
19 attachment and perform work with that attachment.

20 A crane is designed to hoist, I  
21 think, is the best way to describe it. So the crane  
22 would generally sift through one area and pick the  
23 piece up at this spot and then hoist it over into  
24 this spot, which the excavator is not really  
25 designed for doing.

1 Q. And am I correct in  
2 understanding that, really, when you're operating  
3 a crane, your only option is to lift the piece  
4 vertically?

5 A. Yes. Pretty much, yes.

6 Q. Whereas with your piece of  
7 hydraulic equipment, you've got the ability to  
8 manipulate that piece of debris, in this case, pull  
9 it out on an angle, lift it, turn it, things like  
10 that, that you could not do with a crane?

11 A. That's correct. The big  
12 difference there would be down pressure. Like, you  
13 could never apply any down pressure with a crane,  
14 but with an excavator, you could push down if you  
15 needed to.

16 Q. Is that something that was  
17 useful in this operation?

18 A. I think there are times when you  
19 definitely want to push stuff out of the way.

20 Q. Okay.

21 A. So, yeah, I think it would be  
22 helpful here.

23 Q. And I presume, as well, that you  
24 could characterize the attachment of the hydraulic  
25 equipment as a rigid attachment to the excavator,

1       whereas the business end of the crane is a flexible  
2       attachment, subject to swinging and what have you;  
3       is that fair?

4                   A.     Yes.

5                   Q.     Mr. Priestly, do you have any  
6       rescue training specifically?

7                   A.     Like -- no.

8                   Q.     Okay.

9                   A.     I've had experience from other  
10       projects, but no formal training. I have first aid  
11       training.

12                  Q.     Okay.

13                  A.     That might be out of date right  
14       now, apparently, but I've taken first aid training  
15       in the past and WHMIS training, fall arrest  
16       training.

17                  Q.     CPR?

18                  A.     Yep.

19                  Q.     You're not a doctor, of course,  
20       but in your experience, do you think that the  
21       operation that you performed, had there been a live  
22       victim in the pile, could have uncovered that  
23       victim, and that person could have stayed alive?

24                  A.     I think that -- yes.

25                  Q.     You've told us that you used

1 your high-reach machine for this process, and it's  
2 the only one in Ontario. Is there any other  
3 equipment that you're aware of that could have  
4 performed the same operation?

5 A. Well, there is other high-reach  
6 equipment in Ontario. That one just happens to be  
7 the absolute biggest, so there is other  
8 high-reaches. Other demolition contractors have  
9 other high-reaches as well. I think that --

10 Q. But it would have effectively  
11 been the same equipment and the same process?

12 A. Yes.

13 Q. Maybe I'm incorrect in  
14 understanding what Plan A was, but was Plan A,  
15 essentially, to push the escalator out of the way,  
16 away from the pile?

17 A. It was to -- Plan A was  
18 basically to try and take away the risk of any  
19 debris falling on the pile, so, yeah, to push it  
20 down away from the pile. How you describe it is  
21 correct, I think.

22 I mean, it's just -- the intent was  
23 to try and not let any more debris fall on the pile.

24 Q. And in your observation, did any  
25 more debris fall on the pile? And I want to be

1 a little bit more clear because Mr. Ault actually  
2 asked you this question, and you were talking about  
3 nibbling away the concrete at the edges.

4 A. Yes.

5 Q. And I think that you said that  
6 some concrete did fall on the pile. My interest is  
7 more: Did any debris fall on the pile in the  
8 vicinity of the victims?

9 A. I think the answer is no.

10 Q. So as I understand what you've  
11 told us, you cut the escalator down, and it  
12 eventually rested on the second floor of the  
13 building. Did the removal of the escalator ever  
14 involve pulling the escalator over the pile where  
15 the victims were located?

16 A. No.

17 Q. Is it fair to say or to provide  
18 an analogy that when you were in at the pile and  
19 removing the debris where eventually Ms. Perizzolo  
20 was found, that you were, essentially, peeling it  
21 like an onion, like layers of an onion?

22 A. Yes. I mean, we were definitely  
23 peeling layers, definitely.

24 Q. You mentioned you had a chain  
25 spreader with you. I don't know what that is.

1     Could you tell us?

2                   A.     Basically, it's got an eye at  
3     one end where you hook it to the machine, and then  
4     it's got two equal length chains with hooks on it.

5                   Q.     And that was actually probably  
6     the device that we saw toward the end of Mr. Ault's  
7     examination where you were pulling those pieces of  
8     slab on the floor?

9                   A.     Yes.

10                  Q.     You told us about a pylon, and  
11     we've heard a little bit about that, but explain  
12     what the pylon signified and what it demonstrated to  
13     you during the operation.

14                  A.     They had a marker, like a pylon,  
15     I think it was, or whatever it was -- there was  
16     something there -- where they thought the victim --  
17     the second victim we found was, and the second  
18     victim was right around that area where the pylon  
19     was.

20                  Q.     And was the pylon touched or  
21     knocked over or affected at all during your  
22     operation?

23                  A.     No.

24                  Q.     You've frequently told us that  
25     you can pick up a cup with your high-reach machine,

1 and I think you said, as well, with the grapple  
2 skidder, or the grapple skidder -- that's a boy from  
3 Northern Ontario; right?

4 A. Yeah.

5 Q. Do you have a way to determine  
6 or measure the amount of force, amount of gripping  
7 force that those devices apply?

8 A. Well, it's just by feel and by  
9 eye, but, I mean, again, when you grab this cup and  
10 you can see it, once you squeeze the cup, you know  
11 you've applied enough pressure that you can now lift  
12 that cup without it falling out of the grapple,  
13 so...

14 Q. So it's a fine enough control  
15 that you have the ability to pick fairly delicate  
16 debris up without breaking it?

17 A. Yep. We use those machines all  
18 the time to salvage stuff, for instance, take down  
19 a wood building with a grapple. We'll literally  
20 pick out the pieces of lumber and set them in a pile  
21 and not damage the lumber, and sometimes we save  
22 steel out of a building when we tear it down, and we  
23 handle the steel with a grapple and not damage the  
24 steel.

25 Q. So it's designed for that?



1 A. Yeah.

2 Q. And how long have you been  
3 operating that type of equipment? I know you  
4 purchased that piece of equipment in '04, but have  
5 you operated grapple-type devices for longer than  
6 that?

7 A. Well, I've been operating  
8 equipment since I was very young, and we've had  
9 grapples in our fleet since I can remember, and our  
10 first high-reach purchase was in 1993, so I've been  
11 operating high reaches since, like, 1993.

12 Q. And did you have to take any  
13 specific training for that?

14 A. When we bought it, our first  
15 high-reach was actually one of the very first ones  
16 in North America.

17 It was from the Komatsu factory  
18 directly, and they sent an operator up from the USA,  
19 and then later on, probably like in early -- late  
20 '90s, early 2000s, they sold another one, and they  
21 actually called our company, and we -- I went down  
22 and a couple of our other operators went down, and  
23 they had, like, an exhibit show where they  
24 demonstrated the new machine, and we ran it. So  
25 that's about it.

1 Q. So you don't have to go to  
2 school, particularly, for this piece of equipment;  
3 it operates, essentially, the same as the other  
4 pieces of equipment you've been operating?

5 A. Yes.

6 Q. And how long have you been  
7 operating heavy equipment? I know you said since  
8 you were very young, but --

9 A. I'm still very young.

10 Q. -- I think I've got more grey  
11 hair than you, and I'm very young.

12 A. So at least 20 years, probably  
13 25 years.

14 Q. I want to ask you about the  
15 structural drawings. Did you have an opportunity to  
16 review the structural drawings with Chief Officer in  
17 the command tent?

18 A. I vaguely remember that, but I  
19 tried to say when Mr. Ault was asking me the  
20 question, that you know, they did have some  
21 drawings, and I think Mr. Jeffreys from the Ministry  
22 of Labour had reviewed them, and really at that  
23 point in time, the drawings were good to have, but I  
24 just can't remember -- I'm picturing that in my head  
25 because I priced the demolition of the mall after to

1 the owner, and I remember looking through the  
2 drawings then.

3 At the time of the rescue, the  
4 drawings were helpful if they were there, but,  
5 I mean, when you see that beam bent like that, that  
6 was -- you wanted to work around that beam as much  
7 as possible.

8 Q. It wasn't drawn like that, and  
9 certainly -- and is it fair to say you're dealing  
10 with the situation as it arises and, essentially,  
11 taking it apart piece by piece?

12 A. Yeah. You definitely are trying  
13 to manipulate the structure down in such a way that  
14 you don't put any more weight on that beam than it's  
15 already got.

16 Q. Were you the only equipment  
17 operator that was operating the Priestly equipment,  
18 or did you have other operators with you?

19 A. I had other operators with me,  
20 but I was the only operator that physically  
21 demolished the building and worked in the  
22 rescue/recovery. They were working in the parking  
23 lot, and then after we got the victims out, another  
24 guy ran the machine in the building. And that was  
25 because once we started that operation, everyone --

1 they just said, "We'd rather you keep operating the  
2 machinery because everyone's comfortable," so all  
3 the guys had watched all night long, and then you're  
4 working beside them. They just said, "Would you  
5 keep going?" So I said, "Fine, only a couple more  
6 hours."

7 Q. So you would operate the  
8 high-reach and then pull the high-reach out of the  
9 way, and then you would get into the other piece of  
10 equipment and bring the shear in, for instance?

11 A. Yep.

12 Q. Okay. Finally, Mr. Ault was  
13 asking you -- actually, it was the Commissioner, I  
14 think, asking you about whether or not it would've  
15 made sense for Millennium Crane to come back after  
16 you had taken away the debris from overtop and made  
17 the area safer.

18 I just wonder if you could tell us  
19 about the speed with which your equipment would  
20 operate versus your experience with how quickly a  
21 crane would've been able to achieve, if it could  
22 achieve, the same result?

23 A. I think that the -- the  
24 excavator is much faster at, you know, removing  
25 material, for sure, especially if you don't have to

1 rig it. So if I can reach in there and grab it and  
2 lift it, it's much quicker than trying to get cables  
3 around it, then trying to lift it, and then as you  
4 start to lift it, you have to just lift a little  
5 bit, lift a little bit. And then I think the crane  
6 operator would've been working from remote control,  
7 so everything would've been by remote control. And  
8 then as you lift a piece up through the roof, people  
9 would have to get out of the way underneath just in  
10 case something were to fall, and then it would take  
11 quite a long time to cycle that crane all the way  
12 out to the parking lot and dump that piece down.

13 So I think that the crane could be  
14 useful if it wasn't a collapse like that. If it  
15 was -- if the precast was -- all the hollow core  
16 slabs were all intact, I think the crane would be  
17 very useful because you would pick up a whole piece,  
18 lift it out; pick up a whole piece; lift it out, but  
19 that was the not the case. They're all broken up,  
20 so sometimes you can only -- like, the picture with  
21 the machine, that might be like a very -- like, that  
22 might have been like 5 per cent of a panel, you  
23 know, so you lift that out, and then now you got  
24 a piece of rebar that's however long. And the  
25 machine with the grapple is good at managing that

1 kind of material, whereas the crane, it's very  
2 difficult to rig up a piece of rebar that's long.

3 Q. Well, thanks very much, Mr.  
4 Priestly. And thank you very much on behalf of the  
5 Fire Department for your assistance in the rescue.

6 A. Thank you.

7 THE COMMISSIONER: Mr. Ault, any  
8 re-examination?

9 RE-EXAMINATION BY MR. AULT:

10 Q. Just one question in response to  
11 a question from my friend Mr. Cassan. You discussed  
12 the length of time it would take for a crane to  
13 remove slabs, and one of the elements that you  
14 mentioned was that the pieces of slab would have to  
15 be slung or rigged to be removed from the pile; is  
16 that right?

17 A. Yeah.

18 Q. But in your evidence-in-chief,  
19 you indicated that when the excavator got to the  
20 area of the pile where the victims were thought to  
21 be located, pieces of slab had to be rigged and  
22 lifted from the pile, even by your equipment; isn't  
23 that true?

24 A. Not all the time.

25 Q. But some pieces had to be slung

1 and rigged?

2 A. Some pieces, yeah.

3 Q. And that process is,  
4 effectively, the same process in that it takes time  
5 to sling it and to lift it carefully?

6 A. Well, except for with the  
7 excavator, I could lift up one end. They could  
8 sling it. I could set it back down again, reach  
9 over, sling it, and then pick the piece up. So I  
10 still think it's quicker with an excavator, but I  
11 have, like, all kinds of experience with an  
12 excavator, and my experience with a crane is they're  
13 slow moving, in my experience.

14 Q. But the process of that rigging  
15 had to be done in the areas around the victim, at  
16 least to a certain extent, in the same way it would  
17 have to be done with a crane; is that correct?

18 A. I think that it's quicker with  
19 an excavator.

20 Q. Okay. Thank you very much.  
21 Those are my questions.

22 THE COMMISSIONER: Mr. Priestly, your  
23 evidence was very interesting and informative, so I  
24 thank you for coming to Elliot Lake and giving us  
25 the benefit of your experience and your expertise.

1 Have a good trip back to Toronto.

2 THE WITNESS: Thank you very much,  
3 Your Honour.

4 THE COMMISSIONER: Thank you.

5 Mr. Ault, I take it we have no  
6 further evidence today, and do you have comments to  
7 make in relation to Mr. Green, who was supposed to  
8 testify this afternoon?

9 MR. AULT: I do, Mr. Commissioner.  
10 We were to have heard the evidence this afternoon of  
11 Mr. John Green. I can advise that on September  
12 26th, Commission Counsel received a letter from Mr.  
13 Green's doctor, a Dr. Howard Lesiuk, who is a doctor  
14 in the Department of Neurosurgery and Interventional  
15 Neuroradiology at the Ottawa Hospital. And the  
16 doctor, Mr. Green, advised Commission Counsel that  
17 due to a recent injury that Mr. Green had suffered,  
18 it was his opinion that, among other things, Mr.  
19 Green was suffering from significant cognitive  
20 impairment.

21 As and as a first order of business,  
22 Mr. Commissioner, I would like to enter this letter  
23 which was circulated to the participants on Thursday  
24 last week, September 26th, as the next exhibit.

25 THE COMMISSIONER: Number please.



1 MS. KUKA: Exhibit No. 9909.

2 EXHIBIT NO. 9909: Letter  
3 provided to the participants on  
4 Thursday September 26, 2013  
5 provided by Mr. Green's doctor.

6 MR. AULT: And just for the record,  
7 Mr. Commissioner, I note that the letter is dated  
8 September 16th, but to confirm, it was only provided  
9 to Commission Counsel through Mr. Green's lawyer on  
10 September 26th.

11 In addition, Mr. Commissioner, Mr.  
12 Green, through his counsel, requested that in light  
13 of the medical information, Mr. Green be released  
14 from his summons.

15 And as the participants were advised  
16 on Thursday last week, you have granted that  
17 request, and I note that that request was granted,  
18 not only in light of the medical information, but  
19 also because Mr. Green had been interviewed by  
20 Commission Counsel previous to receiving the letter  
21 from his doctor, and it is the view, in light of the  
22 information that was gleaned from that interview and  
23 in combination with the evidence that the Commission  
24 has heard already from others in Stage 2 --  
25 including Mr. John Thomas, Mr. Alex Griska, and Mr.

1 Tony Comella -- that Mr. Green would not provide  
2 meaningful evidence to the mandate of this  
3 Commission of Inquiry.

4 THE COMMISSIONER: All right. Thank  
5 you. Any comments arising out of that?

6 Thank you. We'll rise, then, until  
7 nine o'clock tomorrow morning. I gather your first  
8 witness tomorrow will be Mr. Lacroix, Inspector,  
9 Ministry of Labour.

10 MR. AULT: That's correct, Mr.  
11 Commissioner.

12 THE COMMISSIONER: And you'll be  
13 questioning Mr. Lacroix.

14 MR. AULT: That's correct.

15 THE COMMISSIONER: And then we have  
16 Mr. Jeffreys tomorrow after Mr. Lacroix has  
17 completed his evidence.

18 MR. AULT: That's correct. Mr. Doody  
19 will be doing Mr. Jeffreys.

20 THE COMMISSIONER: All right. Thank  
21 you very much. Good afternoon.

22

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24 --- At 12:27 p.m. the Inquiry proceedings adjourned  
25 to 9:00 a.m. on Thursday, October 3, 2013

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REPORTER'S CERTIFICATE

I, LISA M. BARRETT, RPR, CRR  
CSR, Certified Shorthand Reporter certify;

That the foregoing proceedings were  
taken before me at the time and place therein set  
forth, at which time the witness was put under oath  
by me;

That the testimony of the witness  
and all objections made at the time of the  
examination were recorded stenographically by me  
and were thereafter transcribed;

That the foregoing is a true and  
correct transcript of my shorthand notes so taken.

Dated this 2nd day of October, 2013

Lisa Barrett

NEESON & ASSOCIATES

COURT REPORTING AND CAPTIONING

INC.

PER: LISA BARRETT, RPR, CRR, CSR

CERTIFIED REAL-TIME COURT REPORTER

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