

1 to the same conclusion.

2 Mr. Commissioner, the officials in the Department of
3 Resources who reviewed the Westray proposal should have
4 recognized the serious challenges facing the operator and
5 should have required more detailed and comprehensive mine
6 plans before approving the project. Had they done so,
7 they might have forced the company to confront some of
8 the problems that were to bedevil the mine in its short
9 existence.

10 The Department's approach to deferring to the mine
11 operator rather than carrying out its statutory
12 responsibilities is illustrated by the issuance of a
13 mining permit in August of 1991. This permit was
14 required, you will recall, under the new Mineral
15 Resources Act, and it would be automatically issued under
16 that Act if the mine held a lease and was producing
17 saleable coal on the date that the Act came in effect
18 which was March the 6th of '91.

19 Now the evidence, of course, is that Westray had a
20 lease at that time, but was not producing coal for sale
21 on that date, March the 6th, 1991. Kevin Atherton, whose
22 job it was to trace the production of coal in that mine
23 was absolutely certain in his testimony. The earliest
24 Westray started producing coal for sale was June, not
25 March the 6th.