

1 words by suggesting they now believe they had exaggerated  
2 their concerns. Their memoranda speak for themselves,  
3 Mr. Commissioner, and they stood on the record for almost  
4 five years without being withdrawn or amended, and we  
5 submit that is the evidence you should believe.

6 In the end, we're left to speculate about what  
7 happened in the Department of Resources in these weeks.  
8 Was Gerald Phillips able to persuade John Mullally or Pat  
9 Phelan to back off? Did anyone else intervene? Were the  
10 regulators simply hobbled by the work they were doing to  
11 support the mine and keep it in production?

12 What we do know is that after this episode, the  
13 operators of the Westray mine acted as if they could  
14 develop the mine as they saw fit, regardless of the  
15 approvals issued by the Department. The ink was barely  
16 dry on the approved plan for the Southwest section when  
17 Westray began developing a different area of the section  
18 with a different pillar design.

19 We submit you should find that the failure of the  
20 Department of Resources to enforce the Mineral Resources  
21 Act in relation to the Southwest section in the months  
22 leading up to the explosion is one of the most serious  
23 lapses in the exercise of regulatory authority that  
24 emerges from the evidence. The explanation which was  
25 given in testimony is that even though they were