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IN THE FEDERAL COURT OF CANADA
(TRIAL DIVISION)

BETWEEN:

THE HAMLET OF BAKER LAKE, et al

Plaintiffs

- and -

THE MINISTER OF INDIAN AFFAIRS
AND NORTHERN DEVELOPMENT, et al

Defendants

Held before The Honourable
Mr. Justice P.M. Mahoney, at
330 University Avenue, 8th floor,
Toronto, Ontario, May 28-31 and
June 1st, 1979 inclusive.

APPEARANCES:

Aubrey E. Golden	for the Plaintiffs
David Estrin	
L.P. Chambers	for the Minister of
D.T. Sgayias	Indian Affairs and
	Northern Development
W.C. Graham, Q.C.	for Essex Minerals
R.W. Cosman	Company Limited
(As agent for C.T. Thomson)	
W.C. Graham, Q.C.	for Pan Ocean Oil
R.W. Cosman	Limited, Cominco
	Ltd., and Western
	Mines Ltd.
T.G. Heintzman	for Urangesellschaft
	Canada Ltd. and
	Noranda Exploration
	Co. Ltd.

VOLUME VIII

Tuesday, May 29, 1979

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--- upon resuming at 10:00 a.m., May 29, 1979

THE COURT: Mr. Golden?

MR. GOLDEN: Good morning, my Lord. I have some housekeeping matters to take care of firstly so maybe I can do that now.

Inadvertently there were two documents that were to be annexed to the Affidavit of Valerius Geist. These are his curriculum vitae and an article which I think is pretty well familiar to all parties, The Reaction of Barren-Ground Caribou to Aircraft. Doctor Geist mentioned that, not in his article, but he mentioned it in his Affidavit, I think in order to found some other statements and comments upon it. We learned last week that they were not included with the original Affidavit. His Lordship may be aware from looking at it that we had to do a telex photocopy-- I'm not quite sure what we engaged in to get the Affidavit in on time, and that undoubtedly counts for the inadvertent dropping off of these two accompanying documents. I have given them to my friends and asked they be accepted with the Affidavit.

THE COURT: Any objection?

MR. GRAHAM: Well, my Lord, the Affidavit does say it is annex B to his Affidavit.

THE COURT: It was supposed to be exhibited.

MR. GRAHAM: From that point of view, whether that's appropriate since he merely says that he is just annexing it, I would like to

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reserve on that. It certainly should be annexed. No problem.

THE COURT: No question about contention. My concern is about any surprise that may be sprung as a result of it.

MR. GRAHAM: We can debate the possible use of it perhaps later. But it being there, there is no problem.

THE COURT: Those will be attached to the document that was filed on May 4th, as they ought to have been in the first place.

MR. GOLDEN: Thank you, my Lord. The next housekeeping matter is more substance-- this is not an artist's depiction of spaghetti dinner, it's Exhibit P-2 and some other documents formed into an overlay. I should like at this time, my Lord-- I have given my friends an opportunity to examine it-- there are some comments with respect to it which I fully accept. We can discuss those as we go. Perhaps I should indicate what is in the overlay and ask that it be taken as an exhibit. There is only one of these four overlays that has not yet been proved, and that one will be proved with one of the witnesses we plan to call. It is not a very controversial one. It contains the location of various archaeological work that was done in the area, Since archaeology seems to be more important-- growing more important in this case, we thought we should include that as well. There are then four acetate overlays to a map which is basically the Land Use

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Study map which your Lordship is familiar with and shows Baker Lake. It's black and white. The coordinates of the corners of the study area are shown and some of the areas lying outside of the area shown. If I may, I will just use a tripod.

THE COURT: Right.

MR. GOLDEN: My Lord, the first overlay then shows the archaeological sites-- they come from two sources, both of which will be identified by Doctor Harp. The second overlay is derived from a production which was not in glorious technicolor, but this is showing as of April 15, 1979 the mining claims that have been staked in a grey colour-- slightly different tone than the background-- with the initial representing the name of each company on it. Those companies are mostly Defendants. There are some that are not. We may have to provide a code for the names of the companies just to be sure that we agree on them. I think they are all fairly self-evident. There is Urangesellschaft, WM, which would be Western Mines, BP, British Petroleum. Other than that, they seem all to be companies before the Court. That is the second overlay. That gives us an idea of the prospecting your Lordship is aware of entitled Holder to Engage in Prospecting Activity in that area. They are not land-use permits as such. They may exist or may not exist with respect to certain portions, and we are, in the course of developing the case, will be filing a number of productions. They are rather voluminous. My friend

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Mr. Chambers, will be filing a large quantity of land use permits we understand. We are trying to organize those in some meaningful way using other display material or using a method of sorting them into books. That will not be possible until argument, but we will at least have them as exhibits. The original productions would be-- we will try to draw it from those. They become rather meaningless after a while. However, that gives a fairly graphic picture of the prospecting permit activities, certainly, and the claims.

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THE COURT: The archaeological sites are the pink?

MR. GOLDEN: The archaeological sites are tiny dots on the--

THE COURT: Are they on the original map or is that an overlay?

MR. GOLDEN: That is an overlay. That is the first of the overlays.

THE COURT: The pink are what?

MR. GOLDEN: Prospecting permits.

THE COURT: The pink are the prospecting permits and the grey are the mining.

MR. GOLDEN: Held as of April 15, 1979. The mineral claims themselves can be relinquished and are often dropped. This map can change in the course of a year.

The prospecting permits also automatically reduce in size and have certain other features attached to them that make that map also a

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changing scene. So, we froze it as of April 15, 1979.

This map is the third overlay, Exhibit P-6, the caribou protection map with the addition of the marked crossing sites, as we call it, by Barnabas Peryouar and Hugh Ungungai-- Barnabas Peryouar being in deep blue or actually purple colour and Hugh Ungungai being in yellow colour. Mr. Sgayias just informs me that on the caribou protection map, which is made an exhibit, Exhibit P-6, the hatched areas which were shown on the original map and which we have labelled, as agreed to by D.I.A.N.D.-- Department of Indian Affairs and Northern Development-- he indicates they are not crossings but areas protected around crossings by the caribou protection map. I have no reason to doubt Mr. Sgayias, but my information was somewhat different, and we will try to reconcile that before very long. In any event, they do locate crossing sites. We are not in this overlay specifically concerned with exact areas. We are more concerned with the sites themselves. The other lines on the third overlay are also on the caribou protection map, but they have been coloured to show a distinction between them. The area encircled in red is what is referred to in the caribou protection map for this year, Area A, which is the primary calving area. The calving area which the authors of this report giving rise to this map, felt would be undoubtedly the calving area that must be protected. B is possible expanded calving area, and that's outlined in blue. I am now indicating those portions

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of these protection areas which appear on this map-- not all, of course, because they go off the map-- which are to the south and east of Baker Lake. There is a similar set of red-outlined areas for Area A, which appears to the north and west of Baker Lake, just encircling Aberdeen and proceeding north. The B area, which is a possible expanded area, comes over-- you see a blue line reaching almost over the Baker Lake to the north and west of it. That is an explanation of that.

The last document or the last overlay is a colour coded reproduction of Exhibit P-2, which we have entitled Personal Hunting Areas, to show that of Barnabas Peryouar, Hugh Ungungai, James Avaala and William Noah. For the record, I should identify the colours. Barnabas Peryouar is pale blue; Hugh Ungungai is a bright red-- almost an orange; James Avaala is a very bright green; and William Noah is a deep green. This area also shows Inuit camps, which your Lordship will recall were all identified by Barnabas Peryouar. They are shown in a deeper red. We don't think it would be useful to add anything more to this overlay, because by the time you get to a fourth one it gets confusing. However, it does help to see the relevant picture.

We have asked my Lord that this be entered as an exhibit, subject to the first leaf, that is the archaeological sites being further identified.

THE COURT: Any objections or

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comments?

MR. HEINTZMAN: My Lord, I have some comments with respect to some of the overlays.

The one showing prospecting permits, I have not had an opportunity to examine that. What I will do is have my client come up and look at the overlay, and before the end of the trial I will tell your Lordship whether it is accurate or not. My friend got the information, as I understand it, from the government Defendants, and I am sure it's accurate, but I would like to have it checked.

THE COURT: Of course.

MR. HEINTZMAN: Secondly, with respect to the overlay showing the crossings, my understanding is the same as has been expressed by my friend; namely, that the crossing areas shown by the government are not crossing areas but crossing protection areas and the actual crossing is somewhere located in the middle of that area, three miles from each side.

THE COURT: Three-mile circumference?

MR. HEINTZMAN: So, three miles from each edge of the protected area is an area that the government has indicated as a crossing from historical evidence.

Thirdly, with respect to the archaeological map or overlay, I understand that is being attached not as presently proven but Mr. Harp will prove that.

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Finally, with respect to the overlay showing P-2, I am quite content that there be an overlay. It is my position that the full exhibit shows some other trips and what not and that may be of significance.

THE COURT: Anybody else?

MR. GRAHAM: I would do the same thing with my client, my Lord, as far as the mining permits. I don't think it will pose any problem. My understanding is the same with respect to the caribou protection map and the crossing areas shown.

THE COURT: Mr. Sgayias?

MR. SGAYIAS: In respect of the caribou protection map, the Crown will call a witness and explain how the map is used. But, it is our understanding there are areas of zone of protection for caribou crossing areas, rather than entire crossings, which is just an area along the--

THE COURT: There are obviously things that remain to be proved, but I suppose it can go in as Exhibit P-9 now, rather than simply as an exhibit for identification. Exhibit P-9.

EXHIBIT NO. P-9: Map: Baker Lake Land Use Study and four overlays.

MR. GOLDEN: I remember the original map, which was Exhibit P-2, which, your Lordship, showed the termination of those, except for one trip that went off the map. I didn't understand Mr. Heintzman's last remark, and I now understand it. He says that there are some that go

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right off the map. That is true. This map happens to be at a little smaller dimension than the exhibit itself.

THE COURT: Exhibit P-2 is Exhibit P-2. If this in any way doesn't reflect it, then I guess Exhibit P-2 is the official evidence.

MR. GOLDEN: Yes. My Lord, this is merely an attempt to depict graphically what is on the other maps.

MR. GRAHAM: My Lord, I wonder, before my friend begins his case today, if I could say that Ms. Price was representing Claude Thomson's clients yesterday and will not be participating in this part of the Plaintiffs' case, and they would like to reserve their right to attend at the time of the defence evidence. He asked me to appear as his agent, as in the first part of the trial.

THE COURT: Certainly, Mr. Graham. Okay, Mr. Golden?

MR. GOLDEN: I have conferred with my friend further with regard to another matter which I now propose to raise. Your Lordship might find it convenient that I filed the Inuit Land Use and Occupancy Project Study as Exhibit-- it has yet to be identified. We have two witnesses who will be dealing with it. We only propose to identify it with relation to the issues that are relevant to this action. It is a comprehensive study and covers a number of areas which are of concern to us. There are three volumes. The underpinnings, as it were, to the atlas

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relating to Baker Lake is in the dominion archives.
We, through the kind assistance of my friend
Mr. Sgayias, were able to work out a plan whereby the
documents could be released. There are a number of
problems. Rather than release the originals, the
dominion archivist, whom we subpoenaed, and who agreed
to come, prepared certified copies of the original
documentation. We only propose to put in the
documentation which consists of maps. We don't propose
to put in-- there are voluminous statements of
hunters who-- they were recorded-- recorded and
interpreted as they went through their map drawings,
for the sake of accuracy. We don't plan to put that in.
We plan to put in fairly large transparencies which
are the basis for the atlas composite. We have, today,
Mr. Tony Wellend, who is currently with the department,
but at that time was employed by Milton Freeman, who
will be testifying as to the method. I explain this
in advance to point out that my friends have kindly
agreed we did not have to call the dominion archivist
and will accept certified copies, rather than have us
prove the originals.

THE COURT: Yes.

MR. GOLDEN: If I may,

Mr. Tony Wellend? Your Lordship will find it useful
to refer to these. May I have them marked as an
exhibit.

THE COURT: A for

identification.

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EXHIBIT A FOR IDENTIFICATION:
Three volumes entitled
Land Use Atlas from
Inuit Land Use and
Occupancy Project.

TONY WELLEND, CRYSLER, ONTARIO: SWORN

THE COURT REGISTRAR: State your name, complete address and occupation for the Court, please.

THE WITNESS: Tony Wellend.
My address is R.R. 3 Crysler, Ontario. My occupation is special assistant to the Parliamentary Secretary in the Minister's office at Indian Affairs and Northern Development.

EXAMINATION IN CHIEF

BY MR. GOLDEN:

Q. Mr. Wellend, thank you for coming today. You have just given us your present position. Can I take you back to 1973 and a position which you held at that time.

A. I was with Milton Freeman Research Limited. I was a regional director of research for the District of Keewatin for The Land Use and Occupancy Study.

Q. We have just filed as exhibit A for identification a three-volume report entitled Inuit Land Use and Occupancy Project. Is that a report that arises from the study you have made?

A. Yes, it is.

Q. We are not calling you with respect to your expertise in any area, but simply to prove certain specific facts that relate to that

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study.

First of all, with relation to the atlas which we find-- I understand you brought your own?

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A. I left it behind since I saw lots of them around.

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Q. One of my main motives in filing that at the present time, my Lord, is to show your Lordship but also to preserve it because it is the last copy we seem to be able to put our hands on. Let me refer you to eighty-seven. I place that in front of you.

THE COURT: Volume 3, page 87.

BY MR. GOLDEN:

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Q. There are maps in the atlas and numbered-- not by page but by map. First of all, will you, without giving again any conclusion, simply describe the four maps, starting at 87?

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A. The map number 87 is trapping period two which was a period which we called the fur trade period 1916 to 1956.

Q. How was that period defined by you?

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A. Well, we attempted to determine social time and we had a series of periods. Period one was before the arrival of the fur trade in the area which was 1916, the Hudson's Bay Company. Period two was the period between the arrival of the fur traders and the establishment of the government communities in Baker Lake.

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Q. Which year?

A. Which was 1956. Period three was what we call the present from the time that people started to centralize in the community of Baker Lake until 1974-- until the maps were drawn.

Q. Now, 87 you indicated was period two?

A. This was period two.

Q. Is it a single map or is it a composite?

A. This map is made up of a composite of one hundred and one maps from hunters that were interviewed in Baker Lake. They indicate, among other things, their trapping areas-- areas they trapped in during this period on individual maps. I then compiled these maps to produce this map.

Q. Will you turn to the next page, please, and tell us about that one.

A. This was Baker Lake hunting in the same period, period two, 1916 to 1956, and was compiled in the same way with the large grey area that you may be able to see, being the area that people hunted caribou in. This is, again, all of the hunters that were interviewed in Baker Lake.

Q. Now, can you describe for us how the composite-- I'm sorry, did I take you through all of them?

A. No, there are two more. Map 89 is, again, a trapping map but it's for the recent period since people centralized into the

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communities. It is a composite once again. Map 90 is the hunting area for the recent period.

Q. Now, to help us just a little bit, I noticed as I began to review these, that sometimes it is necessary to hold them at a slight angle to get a kind of true north running up and down. The coordinate lines seem to run at a slight angle to the page. I imagine there are printing problems involved in that. Is that so?

A. I think it was in order to get the total area that was hunted on one page.

Q. So, we shouldn't look at them straight up and down because we might get confused. Baker Lake would appear to be tilted off to the south?

A. That's right.

Q. It's helpful to us to know.

A. There is a star that shows your north on every map.

Q. Now, there is a key to those colours, is there?

A. Yes, there is a key at the back of this map atlas.

Q. Figure seven?

A. It's after map 145. It is figure seven. It folds out and shows you the different animals that were hunted or trapped.

MR. GRAHAM: Where is that?

BY MR. GOLDEN:

Q. It's right at the back.

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A. It's folded out near the end. It is about twenty pages from the end perhaps.

Q. So one would look next to the appropriate colour to find-- let's find caribou to give us an example, which is midway down the first column?

A. Right. Caribou is the basic grey, and that's what the majority of Baker Lake -- the Baker Lake map is. Also, there is pink which indicates fish.

Q. It appears to me to be a pale brown.

A. Well--

Q. Okay.

A. There is some seal hunting on the coast that you will notice down in the area between Chesterfield Inlet and Eskimo Point, which is not on the map, and also whale hunting, fishing.

Q. Now, with respect--

MR. GRAHAM: Perhaps, Mr. Golden, if I can just make an observation at this point. I am having some trouble with your opening observations with this witness; he's not qualified as an expert. He's not giving evidence as to expertise. I take it the purpose of the evidence which you are presently calling is merely to say what these maps purport to show in terms of how this man coloured them. They are, of course, in no way proof of any of the truth of any of the facts shown on them by virtue of this man's evidence, I take it, or you are going to be

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calling him as an expert to show that the hunting and fishing activities which you say are represented by the actual colours took place in those periods? It's not, my Lord, the appropriate function of the man who coloured the maps.

MR. GOLDEN: We will have to call each hunter who made these maps to prove the particular hunting.

MR. GRAHAM: I think, my Lord--

MR. GOLDEN: I am making the observation.

THE COURT: Carry on.

MR. GOLDEN: I am making the preliminary observation that we are not doing that. We are calling some, but we are not going to call one hundred and one hunters to prove each one of these maps. Therefore, we are not relying on the content of each map as a specific statement of the truth of each hunter's trap lines or each hunter's area. If that satisfies my friend-- I can indicate the purpose of calling Mr. Wellend at this point is because-- we are going to call Doctor Freeman, who is an expert, of course, who conducted this study-- but I thought it essential, especially in view of the very specific way the trial is being conducted by all concerned that we put in the factual underpinning, as it were, for the Baker Lake region only. We don't propose to file maps for the whole Northwest Territories.

MR. GRAHAM: I think that illustrates exactly the problem we are into, my Lord.

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If I may say, as I understand it what my friend intends to do is say, I have called some proof of hunting and fishing in Baker Lake, and we are all content with that. If, as he says, he then wants to prove additional hunting and fishing to those which are shown and have been proven to your Lordship, I think it would be appropriate. We don't say he has to call every hunter and trapper back to 1916. It can be done through an expert who can say that studies were done to determine that. But it can't, I submit to your Lordship, be done through this witness through the use of putting in these maps. Anything additional shown on these maps to what has been proved today is not proof.

THE COURT: I understand Mr. Golden proposes to call Doctor Freeman. This witness is presently telling us what these maps represent, without relying on the maps to prove the truth of that without representation.

MR. GRAHAM: If that is the understanding, I am quite content.

MR. GOLDEN: We are using him as a resource at this point. The main purpose in calling him, I am just about to come to, is to identify the maps which go to make up the composite. He will now explain how the composite was arrived at so that we will understand the factual basis that Doctor Freeman will presumably give his opinion evidence with respect to.

THE COURT: Okay.

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MR. GOLDEN: Thank you, my Lord.

Q. Mr. Wellend, we have been talking about these maps. I think we now understand how to use them. I hope we do, anyway. Can we then go to how they were created. Can you describe the process to us, please?

A. Okay. It may be useful to use-- at least to point out sort of generally this map.

THE COURT: Do as you wish.

MR. GOLDEN: It is referred to as a base map and forms part of the material that was sent to us by the dominion archives. It is essential-- these are just tracings-- it is essential to hold it up against the base map to be able to read any one of them. To illustrate it, we have brought one.

THE COURT: That map from the dominion archives, is it to be marked as an exhibit at this time?

MR. GOLDEN: Yes, my Lord. It happens to be a very good map. We have been looking for one for a long time.

MR. GRAHAM: Does it get your client to Toronto?

MR. GOLDEN: No, but it gets us very far. The only problem I have is that it really doesn't form part of this entire exhibit. There are so many documents, and I would like them marked as one exhibit, if that's possible-- perhaps the map as one, and all the certified copies of the tracings as a

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THE COURT: Well, my concern is that for the record it will be clear in the long run. If we are referring to that particular one rather than to the whole bundle of exhibits, perhaps we ought to identify it separately as well.

MR. GOLDEN: My Lord, perhaps for future use if we are looking for a convenient map it might be convenient to pull this one. May this one be Exhibit P-10?

THE COURT: P-10. I understand it is one of the ones the Dominion Archives supplied and is admitted by agreement.

EXHIBIT NO. P-10: Map: Baker Lake and surrounding area.

BY MR. GOLDEN:

Q. I think it is the same scale as the other ones we have been using. If I am not mistaken, it's eight miles to the inch?

A. It's one to fifty thousand. What that translates to, I'm not certain.

Q. One to fifty?

A. Yes.

Q. We have some students who are now experts in this and I will find out from one of them exactly what it is.

Perhaps you would rather take more time with it, Mr. Wellend, but I understand what one does-- perhaps we better do one just to show it. I am producing one of a quantity of one hundred and

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one tracings. With Mr. Wellend's assistance, perhaps we can see how this is related to the map. Can you show us?

A. May I step down?

Q. Perhaps we can hold it up for a moment. I think it is photocopied. Nineteen sixty-six?

A. Sixty-six.

MR. GRAHAM: Sorry, my Lord--

THE WITNESS: I think perhaps we can use that. It is difficult to see through here.

BY MR. GOLDEN:

Q. The original tracings I gather weremt photocopies?

A. Paper is thicker than--

THE COURT: The original map was not on a blackboard.

THE WITNESS: That's right,

it was on a floor.

THE COURT: It would be

eluminated from behind.

THE WITNESS: I can tell you briefly--

THE COURT: I think we can understand if you put it into words. That may be better.

THE WITNESS: Each hunter was interviewed and asked, according to the time periods that I have already explained, where he camped, fished, hunted, trapped during that time period in a logical

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sequence and he then marked those areas on the map with the assistance of a field worker. The camps were marked as dots with different colours according to the different time periods, and the hunting areas were marked-- were outlined and as were trapping areas. So, this indicates an individual map biography showing one hunter's hunting area throughout his lifetime. An interview could take from one hour to three hours, depending on the complexity and so on of the interview. Do you want any specific--

BY MR. GOLDEN:

Q. Perhaps you can take us to the next step in the process, after you collected all the maps together?

A. Okay. I then took all of the maps to my office in Ottawa and took a map-- a base map similar to that one and overlaid one map over another, marked on all the camp sites on a composite map, all of the hunting areas, all of the trapping areas in order to come up with the kind of composite that you looked at earlier in the Land Use Report. As far as hunting is concerned, it only shows the outer limit; it doesn't deal with intensity.

Q. You said, "outer limit"; did it show the area internal to the outer limits?

A. Well, it shows-- it shows everything within the outer limit that was hunted in.

Q. But it doesn't indicate intensity within that outer limit?

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A. That is right.
Q. Now, you then had a composite, you say. What did you do with the composite?
A. I submitted the composite then to Milton Freeman. It was then translated by cartographers-- professional cartographers into this report.

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Q. Was there an intervening step between the time you prepared the composite and the time it was made into--

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A. Oh yes. After completing the composite I then mailed the composite map to Baker Lake, as I did to all of the communities that I was responsible for. A few weeks later I went to the community with Milton Freeman, my director, and verified the maps at a public meeting. A public meeting was held in Baker Lake with the Hunters and Trappers Association-- a large gathering -- and they went over the map thoroughly with checking out everything that they saw on it and adding or deleting, as the case may be.

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Q. This composite that they went over was the composite that you had prepared?

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A. Yes, that is correct.

Q. Now, what was this meeting referred to? I don't know whether you mentioned it or not.

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A. A verification meeting.

Q. Following the verification

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meeting, I understand-- if I may lead on this-- you gave it to a cartographer in order to have a more meaningful display of the information on it?

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A. Not necessarily more meaningful, but something that could fit into a small book, and with proper triangles instead of dots and so on. It is a professional cartographic technique that I am not familiar with.

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Q. Did you examine the cartographer's work to see whether it remained faithful to your composite?

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A. Yes, I am confident that it is the same.

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Q. Just a moment, Mr. Wellend. My friends may have some questions for you.

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My Lord, I am going to tender them all as one exhibit.

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THE COURT: All the traces?

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MR. GOLDEN: Yes, my Lord. I understand you have, at my request, reviewed-- to explain, these are certified copies from the originals held in the Dominion Archives and at my request, have you looked at each one of these?

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THE WITNESS: I went over every one.

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BY MR. GOLDEN:

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Q. Are they the one hundred and one-- are they certified copies and proper copies of the one hundred and one maps which went into your composite?

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A. To the best of my knowledge, they are, yes.

MR. GOLDEN: I ask they be made Exhibit P-11, my Lord.

THE COURT: Exhibit P-11.

MR. GOLDEN: It is one set of one hundred and one documents.

THE COURT: If any are referred to individually later for any reason we may have to mark it separately. I see no reason why the whole bundle should not go in as one exhibit right now.

EXHIBIT NO. P-11: One hundred and one tracings (individual map biography).

MR. GOLDEN: They will actually be in two bundles. They are quite heavy.

THE COURT: Two bundles. There are one hundred and one of them when we do the audit.

MR. HEINTZMAN: My Lord, I observe at this time-- I do not like to be objecting to the introduction of the evidence-- if my friend was going to actually introduce all of that I would have thought that we would have had some prior notice of this, because so far as my own position is concerned, I will want to look through those one hundred and one drawings. It may well be that we will have to have Mr. Wellend come back and answer some questions, because there may be something significant in them. Now, it is my position, the same as Mr. Graham's, that the drawings are nothing more than a tracing done by

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Mr. Wellend. They are not proof of trips of hunting, trips of whatever. Therefore, I will deal with them in that light. I wish to put my position on the record and my concern, that I am going to want to look through those drawings and it may be have Mr. Wellend come back and answer questions with respect to them.

MR. GOLDEN: I understand my friend's concern. Of course, you really can't have it both ways. If I am not to rely on the proof of the facts asserted in each drawing, I don't suppose my friend can for defence purposes do any more than I could for purposes of the Plaintiff. If he wishes to rely on any facts found in any of the drawings I should be happy to engage him in that activity as well, but on the understanding that it then becomes evidence of those facts.

MR. HEINTZMAN: I am not seeking to have it both ways. What I am seeking to have is one consistent way. First of all, that those lines are not evidence of trapping or hunting. They are evidence of where the lines are. B, on the second point, I want to go through those lines and see whether we can see something significant about them.

MR. GOLDEN: Okay.

THE COURT: Mr. Wellend, did you do these interviews yourself of the one hundred and one--

THE WITNESS: No. I did some of them but I certainly did not do all of them.

THE COURT: He prepared this

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from information supplied to him and describes the process, and that's all it is.

MR. GOLDEN: Just to clarify that, you were director, as I understand it, of the Keewatin District?

THE WITNESS: I was responsible for supervising about thirty-five field workers who worked throughout the Keewatin during that period of time.

BY MR. GOLDEN:

Q. You indicated what you have done with the maps and so on?

A. Yes.

MR. GOLDEN: If we wanted to go further I suppose we have to call the hunters or the people who interviewed them. Thank you very much, Mr. Wellend. Your witness.

MR. HEINTZMAN: May I go first, my Lord?

THE COURT: Yes.

MR. HEINTZMAN: Mr. Wellend, if we look at this particular tracing as an example--

MR. GOLDEN: I have neglected a portion of his evidence. I apologize.

THE COURT: Yes?

MR. GOLDEN: In a discussion I got sidetracked and I thought I had finished.

THE COURT: Yes.

BY MR. GOLDEN:

Q. Mr. Wellend, you have also

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prepared a written report on the Keewatin; is that right?

A. Yes, that's right.

Q. And that can be found, as I understand it, in Volume 1?

A. Volume 1, yes.

Q. Just turn to a portion commencing at page 83 which is entitled Inuit Land Use in Keewatin District in Southampton by Tony Wellend; that's you?

A. Yes.

Q. Can you just describe for us, please, in a general way what the text consists of, and that is through to page 114, without giving us all the details-- describe in a general way what you intended to convey by the text.

A. The text is divided--

MR. GRAHAM: May I interrupt my friend again. It seems to me, my Lord, this is now an experts affidavit we are getting into. This is expert evidence. Without having a chance to review-- if this is taken as proof of what is the content of this-- if this is the way my friend intends to go about proving the whole entire contents of the Land Use and Occupancy Project by calling the authors of each one of these chapters in the Project and is to be proof of the content of the chapters, I think, we should have had an affidavit, with respect, so we can deal with it; otherwise I don't think this man can give evidence that these facts which he collected from

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other people are the truth of what they stand for,
unless he is qualified as an expert to do so.

THE COURT: If that is what he
is going to tell us then that's where we are at. If
he has collected it from other people and written an
article-- but I don't think of anything-- he's being
asked how he prepared the article, and I suppose we
should find that out before we assess what sort
of evidence it is.

MR. GOLDEN: Just to clarify
a few points, of course, it will stand and form part
of Doctor Freeman's evidence, in any event. Since we
have the author with us I thought we should ask him--
not what meanings he intended to convey, but what the
purpose of the article was.

THE WITNESS: The purpose of
the article is to describe the land use patterns and
areas covered by the hunters of Baker Lake-- Baker
Lake is one portion of that study or of that report.
It is divided into two-- as are the maps-- into the
fur trade period when people were living in tents and
igloos and so on, and into the settlement period-- it
describes the different land use during those two
periods.

BY MR. GOLDEN:

Q. And we have with respect
to Baker Lake then--

A. I believe Baker Lake is
called the Central Keewatin in period two which would
be the early part of that report, and then period three

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is called Baker Lake portion of the report on it.

Q. In the report-- in the written text which accompanies the atlas, did you attempt to arrive at any conclusions or form any opinions or what else-- perhaps I should not ask any more.

THE COURT: That's getting on to thin ice.

THE WITNESS: Upon studying it, as you will later, one hundred and one maps of Baker Lake hunters, I think it is-- you are bound at least to form the conclusion that people hunted in certain areas and those conclusions are in there, yes. They are not opinions, they are conclusions.

BY MR. GOLDEN:

Q. Did you attempt to draw any scientific conclusions or anything more than an observation of the data?

A. No.

THE COURT: Is the burden of your evidence that your text here is a verbalization of the results YOU got through the process of making the map?

THE WITNESS: Yes, it is. I would say it is a summary of that.

MR. GOLDEN: Thank you, Mr. Wellend.

THE COURT: It stands on the same basis as the map, as far as this witness is concerned. Mr. Heintzman?

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CROSS-EXAMINATION

BY MR. HEINTZMAN:

Q. Just on the last point, Mr. Wellend, I take it you were the author of this chapter and not Doctor Freeman; is that right?

A. That's right, I was the author and Doctor Freeman was the editor of that portion.

Q. Going back-- what do you call this?

A. Individual map biography.

Q. Individual map biography.

The area in green on the left hand side reflects something that you were told or somebody who was acting on your behalf was told with respect to a period between 1916 and 1956?

A. Yes, that's correct.

Q. And that tracing reflects that particular statement for that particular period? Is that correct?

A. Yes.

Q. Now, I understand-- I want to get clearly what the larger map shows, and that is the larger map reflecting the period 1916 to 1956-- you did not, as I understand it, attempt to correlate out specific hunting areas, but you just lumped everybody together in one map for 1916 to 1956; have I got that correct?

A. The final composite map does reflect what you are saying, yes. If you look at

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the map, I believe it was 87, the trapping in period two, you will find on that map that green line that you pointed out on this map.

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Q. Well, are we talking about hunting or are we talking about trapping?

A. Well, you pointed out the trapping line. This is a trapping map. That is one of these lines on this map. This is the trapping area here. This is a trapping area that was pointed out. This area-- this exact line is shown on map 87. Now, perhaps what you were asking is about the hunting area?

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Q. Yes.

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A. Which would be the larger area in this case.

Q. The brownish line?

A. Yes; and rather than mark on the final composite all of the individual hunting areas, the hunting areas were shown as an outer limit of hunting.

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Q. Right. Well, if we look at page 88 of the map,

A. Yes, that's the hunting composite.

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Q. Yes. Now, you have made no effort to take, for instance, the people who live in the Garry Lake area and present an individual map for them-- the statements that they made to somebody who related it to you-- you didn't make any such efforts?

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A. I took all of the maps--
all of these maps.

Q. Can you answer that
question? Did you make any efforts?

A. Yes, I did. Yes, I did.

Q. You did, but we don't have
that one on page 88?

A. It's not duplicated here.
There were limits as to what could be duplicated.

Q. So, somewhere on page 88
we would have a line for those kinds of people
somewhere on page 88?

A. That's right. If you look
in the Garry Lake area it is all covered in the caribou
hunting, and that's where it would be represented.

Q. Again, the same thing
would apply for somebody from the Back River?
Presumably some people from that area spoke to one of
your interviewers and that interviewer spoke to you
which resulted in some lines which we would find
somewhere up near the Back River. But, on this
particular map, that is not segregated; have I got
that correct?

A. That's is correct.

Q. Now, could you turn back
to page 86. That is a map showing, as I understand
it-- I'm sorry, let's go back for a better
comparison to page 84. I want to compare page 84
with page 88. Page 84 we have people interviewed from
Rankin Inlet. Is that correct?

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A. That's correct.

Q. And we find those people making statements to interviewers who made statements to you, resulting in lines covering a large proportion of the same area shown in the map on page 88?

A. That is correct.

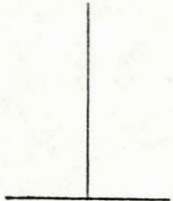
Q. And if we look at page 92, does that reflect statements made by people living at Chesterfield Inlet to interviewers who related them to you which would reflect in lines on the map covering a substantial portion of the map shown on page 88?

A. Well, you are looking at a different time period there.

Q. I am sorry. Did I get the wrong time?

A. If you look at 91--

MR. GOLDEN: In my friend's question there is loaded a statement that somebody spoke to somebody and as a result lines were drawn. I think we ought to get it clear right here and now that the witness testified he did not make the lines on the original maps, Exhibit P-11, but as I understood his evidence, those lines were made by the hunters themselves. If that is not clear-- my friend's question carries in that-- he has got it laid into the question-- of course, the question is of a different context-- the witness answers the question, and I do not want to mis-state the evidence of the witness in the form of a question.



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MR. HEINTZMAN: I am satisfied with the answer the witness has given.

MR. GOLDEN: I am sure you are.

MR. HEINTZMAN: He will correct me if I am wrong.

THE COURT: I guess on re-examination Mr. Golden will clear it up if it is inaccurate.

BY MR. HEINTZMAN:

Q. Is this page 92 the page I should be looking at?

A. Yes, that shows the hunting period for period two for Chesterfield Inlet.

Q. So, if we compare page 92 with page 88, again, we see lines on the map reflecting a large proportion of the grey area on page 88?

A. Yes. Would you like an explanation for that?

Q. Let's do the exercise first. Then if we look at page 68 this map relates to interviews done at Eskimo Point. Is that correct?

A. Yes, that's right, during the same time period.

Q. During the same time period. Again, we have grey area covering a substantial portion of the grey area shown on page 88. Is that correct?

A. Yes, that's correct.

Q. Then if we look at page 62 which, as I understand it, reflects interviews

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done at Gjoa Haven. Is that correct?

A. Yes, that's correct.

Q. Again, we have a grey area covering a substantial portion of the grey area shown on page 88?

A. Yes.

Q. Now, did you wish to make some explanation?

A. Sure. The reason for the overlap is that people living in-- to use the example of Rankin Inlet-- hunted during that period-- hunted or trapped-- in the area around Baker Lake.

Q. That may be the fact, but so far we are talking about lines on a map.

A. They drew the lines on the map to indicate they hunted in the area near Baker Lake.

Q. So, does that mean if we were-- I think I better leave that evidence there because I do not want to leave the impression with Mr. Golden that I am accepting your statements as truth.

MR. GOLDEN: Unless you have some better ones.

THE COURT: I think argument in this case will take place in August, so we can get on with the examination.

MR. HEINTZMAN: Those are all of the questions I have.

THE COURT: Thank you.

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Mr. Graham?

CROSS-EXAMINATION

BY MR. GRAHAM:

Q. I'm sorry, I did not hear the answer Mr. Wellend gave us to the question about whether you were a cartographer?

A. No, I am not a cartographer.

Q. Are you a historian?

A. No, I am not a historian.

Q. What is your educational background?

A. I have a degree in sociology.

Q. Bachelor of Arts?

A. Bachelor of Arts in sociology.

Q. Any other degrees?

A. No.

MR. GRAHAM: No further questions, my Lord.

THE COURT: Mr. Sgayias?

CROSS-EXAMINATION

BY MR. SGAYIAS:

Q. Mr. Wellend, on these tracings, do these tracings purport to show anything about the frequency of use in any area?

A. No, they do not.

MR. SGAYIAS: Thank you.

THE COURT: Mr. Golden?

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RE-EXAMINATION

BY MR. GOLDEN:

Q. Just to clarify one point,
Mr. Wellend, who drew the lines on the map?

A. In the majority of cases
the hunter drew the lines on the maps.

Q. You said the majority.
Were there others?

A. There would be some cases
where the field worker assisted a person in drawing
the lines on the map.

Q. But in the majority?

A. Oh no. Very few cases--
it is where people have trouble-- just trouble doing
it.

Q. I see. Physically?

A. Physically.

Q. Were some of the people
you interviewed very old?

A. Yes. We interviewed the
entire cross-section of the population who hunted on
the land, so there were people who were twenty and
people who were old.

Q. Physically unable to draw
themselves. Who drew the lines then?

A. The field worker who would
be an Inuk person working with them who understood
the language.

Q. With the exception of the
persons who were unable physically to draw the lines,

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who--

A. The hunter drew the lines,

The hunter marked the camp sites on and so on.

Q. Are these the lines that were referred to in the composite-- were used in the composite?

A. Yes.

Q. Did you draw any lines?

A. On these maps?

Q. You yourself, yes?

A. No.

MR. GOLDEN: Thank you.

MR. HEINTZMAN: I wonder if

my friend would ask the witness if he was present when the lines were drawn. That is a point I think that should be cleared up.

THE COURT: I assumed he wasn't unless he said he was.

THE WITNESS: I was in attendance on some of the map biographies-- when some were being produced, but certainly on the small minority of them.

BY MR. GOLDEN:

Q. It wouldn't do much good to have people working with you if you had to do them all yourself?

A. There are a lot of people to talk to.

THE COURT: I guess that's it.

Thank you very much, sir.

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THE WITNESS: Thank you.

MR. HEINTZMAN: My Lord, I wonder if Mr. Wellend could be available because I would like to go through those maps, and if there is anything significant that comes out of them he could be available for further examination.

THE COURT: You have just seen these tracings for the first time? Yes, I think under the circumstances that is fair.

MR. HEINTZMAN: Thank you.

THE COURT: This will probably not be this afternoon or tomorrow, but if you make sure Mr. Golden knows where you are during the next ten days?

THE WITNESS: Yes.

MR. HEINTZMAN: If Mr. Wellend could stick around for a few minutes it might not take me very long to go through them, and then if Mr. Golden wouldn't mind if I talked to Mr. Wellend to understand them?

MR. GOLDEN: No.

THE COURT: Perhaps this would be as good a time as any to take our morning break. We will recess now for ten minutes.

--- short recess

MR. GOLDEN: My Lord, my friend and I are agreed that Mr. Wellend may return to his home. If they require his attendance later they can arrange it through me directly.

THE COURT: Fine.

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MR. GOLDEN: Mr. Estrin will
be examining our next witness.

MR. ESTRIN: David Simailak?

DAVID SIMAILAK, BAKER LAKE, N.W.T.: SWORN

EXAMINATION IN CHIEF

THE COURT REGISTRAR: State
your name, address and occupation for the Court,
please.

THE WITNESS: David Simailak,
Baker Lake, Northwest Territories. I am the Project
Director of the Inuit Tapirisat of Canada, Anik Bay
Project.

THE COURT REGISTRAR: Spell
your surname, please.

THE WITNESS: S-i-m-a-i-l-a-k.

THE COURT: If you want to sit
down, Mr. Simailak, you can.

BY MR. ESTRIN:

Q. Mr. Simailak, you were
born in Baker Lake settlement?

A. Yes, I was.

Q. When were you born? What
year?

A. Nineteen fifty-two.

Q. Did you go to school in
Baker Lake?

A. Yes, I went to school for
six years in Baker Lake, then went to school in Fort
Churchill, Manitoba for five years to-- I got up to
grade eleven, then ended up in Brockville, Ontario

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for six months, at which point I quit school, and then the following fall I went to Ottawa where I took my grade twelve and passed with honours.

Q. Very good. That was when, spring of '71?

A. Yes, spring of '71.

Q. After you graduated from high school, did you go back to the community of Baker Lake?

A. Yes, I went back to school in June.

Q. I'm sorry, did you say school? I asked you if you went back to the community.

A. Pardon me. Yes, I went back to Baker Lake towards the end of June of '71.

Q. What did you do after you came back to Baker Lake?

A. Well, I was unemployed for about two weeks. Then I was hired by the local radio station committee to work with the department of communications on the Northern Pilot Project they were running at that time, where we were setting up the HF radio network in the Keewatin. Also as part of that same project we were putting in some equipment to set up the local FM radio station in Baker Lake.

Q. What was your role?

A. In the beginning I was helping the person that was coordinating the work in the Keewatin, and, then, gradually started being

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trained to become the manager of the radio station in Baker Lake.

Q. Do you recall about when the station went on the air?

A. The first time it went on the air-- our first test was the end of January, 1973.

Q. Do I have it right that you were the manager of the station from that time to about August of '74?

A. Yes, that is correct.

Q. Is there anything different that you might be able to tell us about about the nature of the radio station in Baker Lake in terms of the type of programming it does in terms of what you have experienced in Ottawa or Brockville?

A. Well, the radio station in Baker Lake is very loosely structured, very much a community radio station. The people in Baker Lake make full use of it, for whatever they feel their needs are. And I guess compared to the southern stations it's very much a community radio station.

Q. Now, at some point after you returned to Baker Lake, as I understand it, you got married?

A. Yes, I got married in December of '72.

Q. At the present time you have some children?

A. Yes, I have two boys; one is three going on four in August and the younger

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boy is one going on two in July.

Q. Now, aside from your involvement with the community radio, I understand that you were elected to the settlement council of Baker Lake in the spring of 1972?

A. Yes. I was elected to council in the spring of '72 for a one-year term and, then, again I was elected in the spring of '73.

Q. At some point did you become chairman of the settlement council?

A. Yes, I did.

Q. Would that be in April of '73 or in that year?

A. Yes. If I remember correctly, it would be in the spring of '73.

Q. Were you on council in 1974?

A. Yes, I was on council in '74 until August of that year, at which--

Q. Go ahead.

A. At which point I was selected by the council to be what was called then the settlement secretary.

Q. I take it that was a paid position?

A. Yes. I was in effect secretary to the council.

Q. How long did you hold that position of secretary to the council?

A. I got the job in August of

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'74 and remained in that position until April of '77, at which point I became the secretary-manager when Baker Lake was incorporated as a hamlet, and held that position until the end of April, 1978.

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Q. And your official term of office ended, as I understand it, the end of April, 1978, but I understand you stayed on for a little while to help out? Is that right?

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A. Yes. I stayed on for an extra month helping out the person that was selected by council to replace me as the secretary-manager. I continued working for the hamlet until the end of May, 1978.

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Q. What did you do in the months after that-- summer months of '78?

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A. Early June, '78 I finally got a chance, to use the term, "escape from it all". I took my family, my mother-in-law, her adopted son out to the land, went across the lake to the south shore of Baker Lake, just west of the mouth of the Kazan River. We stayed there for very close to a month, at which point we then moved back into the community because the ice was very close to breaking up and we would have had problems getting back into the community if we waited that much longer.

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Q. While you were out near the mouth of the Kazan, what were you living in?

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A. We were living in tents-- canvas tents.

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you were there?

A. Well, we did as much fishing as we could, but unfortunately it was a very bad spring in terms of weather-- there was a lot of cloud, a lot of snowing and a lot of raining-- so we had very few good sunny days to do any fishing.

Q. Did anyone else fish besides yourself in that group that went out to Kazan?

A. Very much. Everybody did, including my two boys-- although the younger one would be on his mother's back with her sort of helping him hold the line while he is trying to jig through the ice.

Q. I understand when you came back to the community in about August you again took up some secretary-manager duties with the hamlet council, again on a part-time basis?

A. Yes. Well, actually towards the end of July I was asked by the secretary-manager to come in and help out on a casual basis because there had been a big staff turnover in the office that spring because he was having problems keeping up with the work that he had. So, I went in on a casual basis and helped them out for a while. Then because of personal problems he ended up resigning from his position, so in August I was asked by council to step in as the acting secretary-manager until they had a chance to put it out to competition and hire somebody full-time. So, I was in that position until the middle of October, at which point I had to leave

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that position because I had been appointed to another job.

Q. Is that your present job?

A. That is my present job.

Q. What is your present job?

A. I am now the Project Director of ITC's Anik Bay Project, and have held that position since November, '78.

Q. Can you very briefly explain what that is and what its goal is?

A. Very briefly we are doing some work in communication. We will be doing some experimental work with the Anik Bay satellite next year. We are also setting up a complete production centre working with video tape in Baker Lake. But, our main goal, since that satellite is available to groups in Canada, ITC felt they may as well make full use of it, and so what we want to do is link up six communities via satellite-- six different communities via satellite-- and try to use that to enhance our culture, bring our peoples closer together, and see if this can help in any way to preserve our culture.

Q. I take it the programming is not going to be in English?

A. No, it is all in Inuktutuk.

Q. Just one more matter by way of background. I understand that you play an active role in one of the churches up in Baker Lake?

A. Yes. I play an active role in the Christian Arctic Fellowship. Our pastor

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does not like to call it a church. He calls it the Christian Hall. It is a gathering place. I am the organist during the Sunday services.

Q. Who is the pastor of that?

A. The pastor is Armand Tagoona.

Q. I don't know if I am using the right word-- services are conducted in what language?

A. All in Inuktutuk.

Q. Now, given that you have had quite a lengthy record, if I may use the term, public servant of the municipality, I would like to ask you-- I would like to discuss with you the nature of the involvement the community of the-- the settlement council of Baker Lake has had with regard to exploration and mining activity occurring in the Baker Lake area in the last period of time.

Now, you were elected to council in the spring of '72. What year is your first recollection of some specific mining exploration activity coming to your attention in the Baker Lake area?

A. I am never very good at remembering things that happened in the past. I usually tend to look more into the future, because things that have happened -- if I remember correctly, I would say 1973.

Q. Do you have any recollection of what was happening in that year that

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came to your attention?

A. I can remember being contacted by one of the companies that wanted to do some work in the Baker Lake area that summer. Now, unfortunately I can't really remember which company it was. One of their people wanted to come into Baker Lake to have a meeting to discuss their plans for that summer and also the possibility of hiring some Inuit from Baker Lake to work for them for the summer.

Q. What reaction was that request met with?

A. If I remember correctly, I did not attend the meeting at all, although I was informed afterwards that there was a meeting. I was not in town at that time.

Q. All right.

A. I was out either fishing or hunting. But, I do believe there was a meeting held.

Q. Aside from the communication from the company and what you have just told us, do you have any recollection of the government, that is the Department of Indian and Northern Affairs, giving the settlement council any advice as to whether exploration activity was going to take place in the area that year?

A. If I can remember correctly, there was a meeting that spring with a representative from Northern Affairs in Yellowknife to talk about activities that were planned for the

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summer of '73 in the Baker Lake area.

Q. Now, in 1974, that was one of the years you were chairman of the hamlet council, until you resigned your position, of course?

A. Yes.

Q. I am showing you a document dated April 16, 1974, headed Resolution, Baker Lake, Northwest Territories. Do you recognize that document?

A. Yes, I do. This is a resolution, or I prefer to call it a petition, because it was signed by a number of people in Baker Lake-- a petition regarding exploration activity that was planned for three main areas surrounding Baker Lake, the Christopher Island area, the Kazan Falls-Kazan River area and also the Aberdeen Lake-Beverly Lake area for the summer of '74.

Q. What became of this document? What was done with it?

A. If I can remember correctly, this was presented to the Minister of Indian and Northern Affairs by ITC on behalf of the people of Baker Lake.

Q. My Lord, the witness just referred to this document. I have handed the clerk the resolution, Baker Lake, N.W.T., and asked that be made the next exhibit. All these documents are on the Plaintiffs' list of documents.

THE COURT: Exhibit P-12.

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EXHIBIT NO. P-12: Resolution:
Baker Lake, Northwest
Territories, April 16th,
1974.

BY MR. ESTRIN:

Q. Was there any response
from the Government of Canada in regard to this?

A. I can't remember off hand.
It is unfortunately my memory that is pretty slow this
morning.

Q. I understand you were
travelling all last night and did not get a chance to
get to sleep?

A. I have not slept all night.
I left Baker Lake noon yesterday and arrived in Toronto
Airport at seven this morning, so I have not had a
chance to catch any sleep.

Q. Perhaps I can ask you to
refer to what might have happened next. Did your
council request to discuss that matter further with
the government in 1974?

A. Yes. We had a meeting in
Winnipeg in June of that year. I was present at that
meeting. There were two other delegates from the
Baker Lake council with me. We had a meeting with the
then Minister, Mr. Chretien. That meeting was held in
Winnipeg in June of '74.

Q. Do you recall what it was
that you asked the Minister for at that meeting? What
was the subject matter discussed at that meeting?

A. Up to that point the people

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in Baker Lake were becoming more and more concerned about exploration in the Baker Lake area. The people in Baker Lake wanted to see some form of control on exploration. At that point the feeling was that perhaps if the Keewatin could be included under the Land Use Regulations that the Federal Government would be in a position to have more control over exploration going on in the area. So, at that meeting we asked that the Keewatin be included in the Land Use Regulations and that the Land Use Regulations be enforced in the Keewatin, and also asked that the Minister do whatever possible to see that more Inuit from Baker Lake are employed by the companies at a good wage. There were a few employed up to that point but at a very low hourly wage. So, we wanted to see-- the Minister to see what he could do about increasing that. The third thing that we asked for at that meeting was that the people of Baker Lake be fully consulted by the Federal Government before any land use permits are issued and that any comments or suggestions made by the people of Baker Lake be taken or used.

Q. At that meeting did you receive any immediate response from Mr. Chretien with regard to one or more of those three items that you have mentioned?

A. At that meeting he said that he would ensure the Keewatin is included under the Land Use Regulations by January of '75, talk to the companies and do whatever he can to ensure more

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Inuit are employed at a higher wage, and he assured us there would be full consultation at the community level.

Q. Now, in the beginning of 1975, did the council receive some information from the Department of Indian and Northern Affairs about mining activity they were aware of that might be occurring in the Baker Lake area in that year?

A. Yes. The council received information from Northern Affairs office in Yellowknife-- a general information package, if you want to call it that-- on the exploration activities that were to be going on in the Keewatin that summer.

Q. Well, I am showing you the last three pages of this document entitled Summary of Field Work Expected in the District of Keewatin as Known on February 24th, 1975. It is a three-page document. Do you recognize that?

A. Yes, I do. This is the document that I was just referring to.

MR. ESTRIN: My Lord, that is marked as Appendix four-- Roman numeral IV to a larger document which I will be coming to in due course.

THE COURT: Yes.

MR. ESTRIN: It is entitled Baker Lake Land Freeze. I am not sure what is the easiest thing to do. Do I detach it or leave it there.

THE COURT: Is the Land Freeze an Order-in-Council?

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MR. ESTRIN: The Land Freeze that I am speaking of was the land freeze proposal by the people of Baker Lake. I was going to come to it in a minute. That proposal appended a number of background documents.

THE COURT: Are you going through this whole document with this witness?

MR. ESTRIN: Yes.

THE COURT: Perhaps when you finished the whole thing we can mark the document.

BY MR. ESTRIN:

Q. Very well. Referring to Appendix IV of this advice that you received, can you tell us, please-- Mr. Registrar, could you hand that document to his Lordship with the last three pages open-- can you identify for us, Mr. Simailak, which of the areas-- geographical areas where it is noted by the government that activity will occur are not in the Baker Lake area.

A. Not in the Baker Lake area?

Q. Yes.

A. Part of Polar Gas Limited Studies were not in the Baker Lake area, specifically their work around Spence Bay and Pelly Bay, a reference to small prospecting parties that may be working in the Hayes River area and Committee Bay Area. St. Joseph Explorations Limited, Selco Mining Corp. Ltd., Acquitaine Co. of Canada Ltd.-- I am afraid I cannot remember where some of these areas referred to are.

Q. You are referring to Spy

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Lake and Carr Lake?

A. Spy Lake and Carr Lake.

I am afraid I don't remember where they are in reference to Baker Lake.

Q. Then with the exception of the ones you just identified, the remainder are in the Baker Lake area?

A. Yes, they are.

Q. Now, your council received this advice in February. In that same month did your council again communicate with the Department of Indian and Northern Affairs? I am showing you a telex-- three documents stapled together. The first one is dated February 12, 1975, and then there are two other documents attached thereto. Can you tell us what the first of these three items stapled together are?

A. Yes. This is a telex sent to the-- who was then a new Minister of Indian Affairs, Judd Buchanan-- a telex that was sent to him signed by Miss Joan Scottie, who at that point was the chairperson of the Baker Lake council, referring to our meeting in June of the previous year with Mr. Chretien, who was the Minister at that time, mentioning the three points that I mentioned earlier and asking Mr. Buchanan how he felt about the three points, and that if he wished we could arrange a meeting with him to discuss that and get an idea of what his feelings were on the matter.

Q. The next document, is

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that the reply received from the Minister?

A. Yes, it is.

Q. What in essence did you, as secretary, understand the response was?

A. The telex was from the Honourable--

MR. CHAMBERS: This document should speak for itself.

THE COURT: I guess it does, but on the other hand if it is open to any ambiguity, surely what he understood it to say is relevant.

MR. CHAMBERS: Very well.

THE COURT: This may be a lengthy way of getting what the document says into evidence, Mr. Estrin, unless there is some ambiguity that you are trying to explore?

MR. ESTRIN: I think it can be stated very shortly.

THE COURT: However.

THE WITNESS: It says basically that the Crown land in the Baker Lake area were being designated within the land management zone, but that this requires revision to the Territorial Land Use Regulations. As a result, in order to do that, they have to consult with various agencies, including the Yukon and Northwest Territories-- the territorial councils-- and also copies were sent to the native organizations and to industry.

BY MR. ESTRIN:

Q. Let me ask you what you

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understood as to whether or not this would be accomplished immediately or not.

A. Well, from that telex it was our understanding that this was going to be a lengthy process.

Q. Did your council reply to that telegram? Is that the third document in this package?

A. Yes. This is the reply to the Minister, again, signed by Joan Scottie, the chairperson of the council at that point, saying basically that we cannot accept his position that the Regulations will not come into effect for several months, and what we would like is immediate freeze on all of the mining and exploration activity in the Baker Lake area.

MR. ESTRIN: My Lord, I wonder if these three documents stapled together can be marked as the next exhibit.

THE COURT: Exhibit P-13.

EXHIBIT NO. P-13: Three telexes: two from Joan Scottie dated 12/2/75 and 18/3/75 and one from Judd Buchanan dated 27/2/75.

BY MR. ESTRIN:

Q. Was there any response to this telex from Mr. Buchanan's office, if you can recall?

A. If I remember correctly, we went through a long period without a reply of any

kind.

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Q. Then did your council--

I am showing you a letter dated March 25, 1975,
addressed to Mr. Wally Firth, the Member of Parliament
for the Northwest Territories. The letter was signed
by Joan Scottie, chairwoman. Is that a letter that
was issued by your council?

A. Yes, it is.

Q. That letter states at the
bottom that last night's meeting the following motion
was passed-- that is on page two of the letter. Can
you tell us, having read this letter, why this letter
was sent at this point?

A. This letter was sent to
Mr. Firth, who was our MP at the time, asking him for
his support because we were having-- we weren't
really getting anywhere trying to get the Keewatin
included in the Land Use Regulations. Therefore,
council, at their meeting referred to in the letter,
passed a motion saying we phoned Wally Firth and ITC
to get their support and also to issue a press
release to try and gain public support for what we
were trying to do.

Q. What was the purpose of
contacting ITC, specifically?

A. We wanted ITC support to
do whatever they can to help us out. At that time
council was starting to look very seriously at trying
to get a land freeze imposed on the Baker Lake area.
Council felt at that time that having the support of

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ITC can be a very big asset.

MR. ESTRIN: My Lord, can this letter be marked as the next exhibit.

THE COURT: Exhibit P-14.

EXHIBIT NO. P-14: A letter dated 25/3/75 to Wally Firth from Joan Scottie.

BY MR. ESTRIN:

Q. Now, the letter speaks of instructions to prepare press release. Did you prepare a press release?

A. Yes, I did.

Q. On behalf of the Baker Lake settlement council?

A. Yes.

Q. If we refer, my Lord, to Appendix three in this document that we previously looked at, the Baker Lake Land Freeze Proposal, in Roman numerals-- is this document dated April 1st, 1975, Appendix III, the press release that you prepared?

A. Yes, it is.

Q. I see that it basically summarizes what we have already heard about in the history of this matter to that point in time. Is that fair?

A. Yes.

Q. Perhaps since this is your document, perhaps you can just read the second last paragraph on the second page?

A. I quote:

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"It would appear in this matter that the Government is repeatedly ignoring the wishes of the people and procrastinating in the very matters of land usage and consultation with local people, the very things that public claims it's trying to solve. The question remains: are the native people part of a democratic system or are the final results of exploitation inevitable after time spent in role playing."

Q. Mr. Simailak, there appears in that statement some degree of frustration, if I can put it that way. Is that a feeling that has been with you at any point since that time in regard to this matter?

A. Yes, that has always been the case. I believe the majority of the Inuit still feel the same way, that there is a lot of role playing on the part of the Government, who claim they are there to work for the people of Canada. I feel the Inuit are very much a part of Canada, are proud to be a Canadian, want to be Canadians, but want to play an equal part, want to play an equal partner in running the affairs of what we feel is our land.

Q. Can you expand on what you term-- what is this role playing that you were

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talking about there? Has that continued, as far as you are concerned, or not?

A. I believe it is continuing.

It has been my experience in my years working-- being on the council and working for the council-- that any time any Government officials come in to Baker Lake to say they want to meet with the council or with the people of Baker Lake they come in with their decisions already made and go through the process of supposedly consulting with the people and in the end turn around and say they have already made the decision and that is the way that is to be. That has been the case on the vast majority of cases of our dealings with the Government, both federal and territorial.

Q. Subsequent and the time we were just talking about, which was April of '75, the Government did eventually bring in the land use management regime to the Keewatin area. Did the Government, in the administration of those Land Use Regulations, consult with the Baker Lake council in regard to the issuance of those?

A. Could you repeat that, please?

Q. We know as a matter of law the Land Use Regulations, at some point after April of '75, brought into force in the Keewatin area. Did the Government consult the council with regard to whether or not a particular land use permit ought to be issued?

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A. Yes, they did, and every time it was the people of Baker Lake that replied they did not want the land use permit issued for the same reason they were saying time and time again that this is their land, they should have a say in what goes on or what does not go on. The Inuit of Baker Lake said that there should be no exploration going on because it is their land and it's disrupting their land, disrupting the caribou, which is their sole livelihood.

Q. What about mining companies, would they write to the council or come in to Baker Lake to talk to you about their proposed activities and to consult with the council? I am showing you a document dated May 12, 1975 addressed to yourself, the settlement council of Baker Lake. Do you recognize that?

A. Yes, this is a letter we received from Cominco Ltd. informing the council that they will be doing some exploration work in the Baker Lake area during the summer of '75, and specifically, in the Christopher Island, Kazan River, Princess Mary Lake area.

Q. Was there a map attached to that?

A. Yes, there was.

MR. ESTRIN: My Lord, if that can be then marked as the next exhibit.

THE COURT: P-15.

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EXHIBIT NO. P-15: Letter dated
12/5/75 to Mr. David
Simailak from B. Free
of Cominco Ltd.

MR. ESTRIN: I got that from
my friend and I don't have a copy here.

Q. Then in March we have
seen that the council asked for the assistance of ITC
in regard to obtaining some control on what was
happening in the way of the mining exploration
activity. Did ITC, Inuit Tapirisat of Canada, send
some people to Baker Lake in response to this request?

A. Yes, they did.

Q. And the result of their
work in the Baker Lake area, I take it, was the Baker
Lake Land Freeze Proposal document that we had
previously been referring to?

A. That is correct.

Q. In regard to that Land
Freeze Proposal, I am showing you a letter dated
June 2nd, 1975 from the Baker Lake settlement council
addressed to the Inuit Tapirisat of Canada. Do you
recognize that?

A. Yes. This is a letter
that was sent by council to the then president of
ITC,

Q. That letter has the
contents of two motions passed by your council in
that regard; is that correct?

A. Yes. The first motion
quoted in this letter refers to maps that were drawn

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up by the Hunters and Trappers Association and ITC.
Those maps were included in the Land Freeze Proposal.

Q. Was the Land Freeze Proposal that we have been discussing then put before council at this meeting for its approval?

A. Yes, it was.

MR. ESTRIN: My Lord, I ask that the Land Freeze Proposal document with the appendices we had previously been referring to be marked as the next exhibit.

THE COURT: What about the letter you have been talking about?

MR. ESTRIN: Well, it's actually contained. It is Appendix two to that proposal.

THE COURT: Exhibit P-16, the Land Freeze Proposal.

EXHIBIT NO. P-16: Baker Lake Land Freeze Proposal.

BY MR. ESTRIN:

Q. I see by reference to that same letter of June 2nd that the motion passed by your council that the ITC was asked to prepare all necessary papers for the presentation-- for your presentation to the Minister. What happened to the Land Freeze Proposal document?

A. When it was drawn up and finalized it was presented by representatives of ITC and also two or three representatives from Baker Lake to the Minister's office. Now, the Minister was not

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present at that meeting and so the Proposal was presented to three or four civil servants in the Minister's office.

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Q. Did you receive a response directly to the request that the areas mentioned in this Land Freeze Proposal be frozen, if you like, from further development or activity?

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A. No. It was a while before we received any reply of any kind. Again, if I remember correctly, before any reply was received a letter was sent by the president of ITC to the Minister referring to this document and also referring to activity that was going to be going on again in the Baker Lake area that summer.

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Q. I am showing you a letter dated March 3rd, 1977 addressed to the Honourable Warren Allmand from the president of ITC. Is that a copy of the letter you were referring to? I think if you turn to page two.

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A. Yes, this is the letter I am referring to.

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Q. Did you receive a copy of that letter from ITC?

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A. Yes, we did.

Q. What is stated in the first paragraph on page two with regard to the response, if any, to the Proposal? Is that what in fact happened or didn't happen?

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A. Yes. The Land Freeze Proposal was presented to three or four civil servants

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in the Minister's office, and Mr. Buchanan, who was the Minister at that time, finally replied in a very general way and, in effect, rejected the whole Land Freeze Proposal and said that he felt there would be enough control of exploration under the Land Use Regulations.

Q. We will come back to this letter. That left us at the end of 1975 in terms of chronology, more or less.

THE COURT: Is it your intention to mark that?

MR. ESTRIN: Let's do that now then. Yes, I would ask this letter of March 3rd, 1977 be marked as the next exhibit.

THE COURT: Exhibit P-17.

EXHIBIT NO. P-17: A letter dated 3/3/77 to Warren Allmand from Michael Amarook.

BY MR. ESTRIN:

Q. Now, coming to the year 1976, I think we know that the Land Use Regulations came to be applied to the Keewatin at that point in time. Do you recall any meetings with the Department of Indian and Northern Affairs officials with regard to your proposal to freeze areas or the administration of Land Use Regulations, the issuance of land use permits?

A. Yes. There was a meeting held in Baker Lake with representatives from the Department of Indian and Northern Affairs from

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Yellowknife and the council in Baker Lake, Hunters and Trappers Association and the local land claims committee.

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Q. Do you recall what the subject matter of the meeting was as far as the Government was concerned?

A. That meeting was, again, if I can remember correctly--

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Q. You are doing terrific.

A. -- wanting to consult with the people of Baker Lake about exploration activities that were to be going on that summer.

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Q. Did this have anything to do with proposals to issue land use permits?

A. Yes. The Department of Indian and Northern Affairs was consulting with the community as to which-- if not all of the permits applied for should be issued.

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Q. What was the basic reaction of the council at that meeting?

A. The reaction, again, of the council, the Hunters and Trappers Association and the local land claims committee was that none of the land use permits applied for should be issued, again for the same reason, that the Inuit of Baker Lake felt that the exploration activity that were going on-- the aircraft and helicopters flying around were disturbing caribou to such a degree where caribou were becoming harder to get in the Baker Lake area. So, the request at that meeting was for the regional

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engineer to use his authority, as outlined in the Territorial Land Use Regulations, not to issue any land use permits in the Baker Lake area.

Q. Who was that request-- who was the engineer at that time, as you understood it?

A. The engineer at that time was Mr. Bob Hornal.

Q. What was his response?

A. His response was basically that he would have to consult with Ottawa on this matter.

Q. As far as you can recollect, were land use permits issued in 1976? If you are not--

A. I am afraid I cannot remember.

Q. Fine. We have those documents. We will refer to those later.

In the fall of 1976, in October, I understand that another Minister of Indian and Northern Affairs came into the picture, Mr. Allmand. Do you recall his visit to Baker Lake?

A. Yes. In October of 1976 he was in Rankin Inlet opening a special session of the territorial council. He, at that time, also made a trip into Baker Lake.

Q. For what reason-- well, what happened in Baker Lake when he came?

A. Well, there was a meeting held with the council, the Hunters and Trappers

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Association, and, again, at that meeting a proposal--
a land freeze proposal was presented again to the
Minister.

Q. Did Mr. Allmand give you
any response at that time?

A. His response at that time
is that he would have to study the matter, talk to his
people in Ottawa and then get back to the council on
his decision.

Q. If you will refer to the
letter that we just looked at a moment ago of March
3rd, 1977 addressed to Mr. Allman from ITC-- it is
marked Exhibit P-17-- there is some reference there
in the first paragraph to applications for land use
permits in the Baker Lake area or in the Keewatin
being filed. Is that something that came to the
attention of your council, these applications that
were being made?

A. Since it was the policy
of the Department of Indian and Northern Affairs to
consult with the community, I would assume they were
brought to the attention of the community.

Q. In this letter, the
president of the ITC-- turning to the second page--
the second last paragraph it says-- well, it makes a
request that these land use applications not be
granted. He says, "I have consulted with community
council in the Keewatin and they fully support this
position." Is that the position of council?

A. At that time?

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Q. Yes.

A. Yes, it was.

Q. Then I understand you

received at the end of March, 1977, addressed to the chairman of the Baker Lake council, a message from Mr. Allmand dated March 29, 1977. I am showing you such a document. Do you recognize that?

A. Yes, I do. This is a telex that the council received from Mr. Allmand.

Q. In essence, what were you informed about by this message? I'm sorry, my Lord, can we have this marked then as the next exhibit, first of all?

THE COURT: It might be the best way of finding out what the information was.

MR. ESTRIN: Yes.

THE COURT: P-18.

EXHIBIT NO. P-18: Message form dated 29/3/77 to Norman Attungala from Warren Allmand.

BY MR. ESTRIN:

Q. What basically did you understand by this message?

A. From what we understood this is a result of the council's meeting with him in October of '76, and that new prospecting permit and land use applications in the Baker Lake area would be deferred for a period of one year and that a study would be conducted to ascertain the impact of exploration activity in the Baker Lake area on the

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wild life, especially caribou migration.

Q. Just read the last sentence on that first page.

A. I quote:

"I also stated in my announcement that I was reacting to concerns expressed by the people of Baker Lake who depend so heavily on the caribou and the fish as a food source."

Q. All right. And that was the land freeze we came to see imposed by Order-in-Council. Now, in 1977-- I would like to show you a map-- it is entitled Mineral Exploration Activity Keewatin District, the summer of '77, the Department of-- well, it is the Department of Energy Mines and Resources. It is referred to originally in your Affidavit made on the interlocutory. Do you recognize this map?

A. Yes, I do.

Q. Can you tell us where you have seen that before and how it came into your possession?

A. This map was sent to us by the Department of Indian and Northern Affairs office in Yellowknife outlining the mineral exploration in the Keewatin for the summer of '77-- in Yellowknife.

Q. That would be prior to-- what was expected prior to the land freeze?

A. Yes.

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MR. ESTRIN: My Lord, can that then be marked as the next exhibit.

THE COURT: P-19.

EXHIBIT NO. P-19: Map: Mineral Exploration Activity Keewatin District summer 1977.

BY MR. ESTRIN:

Q. I am also showing you a document dated January 4, 1978, which was referred to in your Affidavit on the interlocutory application, addressed to Mr. Norman Attungula, the chairman of the Baker Lake council. Is that a letter dated of that date? Is that a letter received by the hamlet council?

A. Yes, it is.

Q. Was there a map attached to it, as we have it there?

A. Yes, there is.

Q. What, in essence, was the information being conveyed in that letter, as you understood it?

A. This is a letter informing the council and the people of Baker Lake of new prospecting permits that were issued effective January 1st, 1978, covering areas located outside the area withdrawn from this position around Baker Lake.

MR. ESTRIN: My Lord, I ask this letter and map attached thereto be marked as the next exhibit.

THE COURT: Exhibit P-20.

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EXHIBIT NO. P-20: Letter dated
4/1/78 to Norman
Attungula from R.W.
Hornal (prospecting
permit map attached)

BY MR. ESTRIN:

Q. Now, the withdrawal and
the freeze was originally for one year. What
information did you have in the spring of 1978 with
regard to whether or not the withdrawal of these lands--
the freeze imposed by Order-in-Council would continue?
Did you have any understanding or any belief as to
what might happen at the end of that year period?

A. Our understanding was that
during that year a study would be done and that the
Minister would then decide, based on recommendations
in that study, as to what he should do with regard to
the Baker Lake area.

Q. Did representatives of the
Department of Indian and Northern Affairs come to
Baker Lake in March of '78 to give you information as
to what the thinking was of the department at that
time, as a result of having received the study? I am
thinking of a special meeting of council that was held
in March.

MR. GRAHAM: Let the witness
answer.

THE WITNESS: Yes, there was.
There was.

BY MR. ESTRIN:

Q. And what information or
what understanding was council given at that meeting

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by officials of the Department as to whether or not the freeze would be continued after the year it was initially put on for?

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A. I am afraid I can't remember off hand what was discussed at that meeting.

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Q. Well, in March, 1978 I understand that a-- let me show you this document and see if you recognize it. I am showing you a document dated March 8, 1978. It is in English and in Inuktutuk. Can you identify that?

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A. Yes. This is a petition that was drawn up by the council, the Hunters and Trappers Association and the land claims committee and signed by about eighty-seven and a half percent of the eligible voters in Baker Lake at that time.

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Q. What was the purpose of the petition?

Perhaps, my Lord, this can be marked as the next exhibit at this point.

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THE COURT: P-21.

EXHIBIT NO. P-21: Petition dated 8/3/78: English and Inuktutuk.

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MR. ESTRIN: If I can leave that question until after lunch-- if this is a convenient time?

THE COURT: We are going to continue until one o'clock.

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MR. ESTRIN: I'm sorry, I wasn't aware.

THE COURT: We will finish,

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unless you finish your examination before then.

MR. ESTRIN: Well, I was just having a bit of concern about Mr. Simailak.

THE COURT: I am not sure how much sleep he will get over the noon hour, whether it is an hour and a half or an hour.

BY MR. ESTRIN:

Q. What was the purpose of this petition?

A. Well, the feeling was as a result of our meetings with representatives of the Minister that the freeze was going to be lifted, even though it appeared as though the study proved how much we used the land around Baker Lake. This petition started off as a motion in council saying basically ITC actively support the people of Baker Lake using any means at their disposal to get a total freeze on the area set aside by the Minister until land claims have been settled to the satisfaction of the Inuit.

Q. You say it was signed by eighty-seven percent, approximately, of the voting population of Baker Lake. What was then done with this petition?

A. This petition was then taken to the ITC annual meeting held in Eskimo Point that year, and representatives at that annual meeting were asked to show their support for the people of Baker Lake by adding their signatures to the petition.

Q. Was the petition then delivered to the Government?

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A. Yes. The petition was delivered to the Government by ITC on behalf of the people of Baker Lake.

Q. Was it in that time period that Baker Lake council took some official action with regard to preparing to go to court, if necessary, in regard to this course of events?

A. Yes. Shortly after this petition the people of Baker Lake, with ITC, appointed you, as our solicitor, to take this matter to court.

Q. Was a motion passed in council in that regard?

A. Yes, there was.

MR. ESTRIN: Perhaps, my Lord, if I may just have a moment?

THE COURT: Yes.

MR. ESTRIN: I believe these documents may have been already marked as Exhibits. It is certain correspondence of March of '78.

THE COURT: The letter 16th of March, '79?

MR. ESTRIN: Yes, that is the one.

THE COURT: Simailak?

MR. ESTRIN: To Bundrock?

THE COURT: I guess there is a mistake in the year. It says 1979.

MR. ESTRIN: It should be '78.

THE COURT: The letter of 16th of February, '78?

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MR. ESTRIN: Yes, from Bundrock
to--

THE COURT: To Doctor Bundrock.
Those are the exhibits?

MR. ESTRIN: Yes. I wonder if
I might have those.

THE COURT: Yes.

MR. ESTRIN: I would like to
have those two exhibits, I-1 and I-2.

Q. Mr. Simailak, I am showing
you a letter which has been marked as Exhibit I-2 in
this matter, dated February 16, 1978, addressed to
Mr. Norman Attungula, chairman of the settlement
council-- of course it was a hamlet at that time.
Have you seen that letter?

A. Yes, I have.

Q. Was that letter discussed
by council, or the requests and the information
contained therein discussed by council?

A. I can't remember off hand
exactly, but I would assume because of its importance
it naturally was brought up in council.

Q. I am showing you Exhibit
I-1, which is a letter of March 16, 1978, from yourself,
as secretary-manager, to Doctor Bundrock. I take it
that is the reply?

A. Yes, it is.

Q. I wonder if you would just
read the first two paragraphs on the first page.

A. Of which letter?

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your letter.

Q. Of the letter March 16th,

and I quote:

A. The first two paragraphs,

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"As you know Inuit of the Northwest Territories, and particularly the people of Baker Lake, do not recognize your right to be on our land without our approval. At present we have partial freeze on land use activities in our area, which we are fighting to have continued until our land claims have been justly settled by the Canadian Government. We are not against development per se, we are for responsible development. It is your complete responsibility to refrain from working on our land until land claims are negotiated by the Federal Government. Until this issue of ownership of the land, upon which you desire to work, has been finally settled to our satisfaction, it is your responsibility to wait until such time as your land use activities, exploration activities are approved by the proper authorities."

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Q. Was the substance of what the reply would be as contained in this letter, discussed with members of council before it went?

A. Yes.

Q. What can you tell us about your personal position with regard to this type of request by mining companies, as a Plaintiff in this action and as an Inuit residing in the Baker Lake area? What can you tell us as to whether or not the statements you made in here on behalf of Baker Lake council reflect your own position or not?

A. The statements made in this letter do reflect my own personal views on this whole issue. I know it also reflects the views of the vast majority of the people of Baker Lake. As it says in the letter, "we are not against development per se", we feel there is room, there is time-- enough time that we can leave the territories alone for the next while and just leave the land and the caribou alone and not get into exploration-- a lot of exploration possibly by mines opening up because we feel there are enough resources in Canada-- in southern Canada today at this point to serve the needs of Canada as a whole and so we feel-- at least I feel and I know a lot of other people also feel-- why at this point try-- will not even try-- why at this point very rapidly destroy some of the little virgin land left in Canada. We feel that the land should be left alone for the next while, the caribou left alone for the next while and that will give us that much more time to preserve a

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very unique culture in Canada that Inuit and people in southern Canada can be proud of.

Q. Mr. Simailak, you have had a very busy work life. You have told us about all your employment. Do you hunt?

A. I hunt whenever possible. However, unfortunately I do very little hunting.

Q. When you were employed-- you are of course still employed-- when do you hunt?

A. I usually try and hunt on as many weekends as possible. However, in a community like Baker Lake, where there is a lot of responsibility that an individual has-- to himself, to his family, to the community-- one does not often have that much time-- at least as much as free time as we would like to get out and do some hunting and fishing.

Q. Are you able to tell us approximately how many people in the community-- in the hamlet of Baker Lake of how many Inuit might be working full-time at the present-- at this point in time?

A. It is hard for me to say because I am not in a position now where I have to know how many people are employed. But judging from the past, I would say somewhere in the neighbourhood of eighty people.

Q. Do you know some of these eighty people that you are talking about?

THE COURT: Are you restricting these questions to the Inuit people? Are you including

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R.C.M.P. or--

BY MR. ESTRIN:

Q. Inuit people in Baker Lake.

A. I would think about eighty Inuit people are employed full-time in Baker Lake.

Q. And what is the adult population of Baker Lake? Are you aware of that? There was an enumeration, I understand, taken recently. Do you know that figure?

A. The figure I heard from the enumeration for the federal election was in the neighbourhood of four hundred to four hundred and twenty.

Q. Of that number how many would be white people as opposed to Inuit?

A. Again, I would say in the neighbourhood of fifty.

Q. Now, of approximately eighty of the Inuit people that you say are working full-time, do you know many of these people?

A. I would say I know all of them.

Q. Can you tell us whether you have hunted with any of them?

A. I have. Yes, I have hunted with some of them. I have met a lot of them, if not all of them, out on hunting trips.

Q. When you were secretary-manager of the hamlet-- let me ask you: does the hamlet employ Inuit people?

A. Yes. And from talking to

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the present secretary-manager, the council has about thirty people working for the hamlet.

Q. When you were secretary-manager, were you aware whether any of these people who were full-time employees went hunting?

A. They went hunting whenever they felt it was necessary for them to go out and get the caribou meat.

Q. As administrator, did that cause any problems?

A. Naturally it did, because we ended up with a lot of vehicles sitting there because the driver is out hunting or his helpers are out hunting-- we did have problems with keeping all our vehicles and that on the road.

Q. When you have been out hunting, have you had any occasions in which you have noticed low flying planes or helicopters in the areas in which you have been hunting?

A. Yes, I have. The first time that I can remember would be about the third week in August of 1976. I was up the Kazan River with a number of other people, because at that time there was a small herd of caribou down below the Kazan Falls, so we were up there trying to get some caribou meat.

Q. When you say "we", how many people were there, approximately?

A. Well, in the group I was with there was four or five of us, which would include my father, my uncle, brother and one or two other

relatives.

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Q. What were you doing in this area?

A. We were going after caribou.

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We had just gone up the Kazan River because we had heard there was a small herd of caribou there, so we stopped and there was the small twin engine aircraft on floats following the river down river, going down river and flying very low-- how low it would be, I have no idea, but it was low.

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Q. What effect, if any, did it have on your hunting?

A. Well, the area that we went into, where we had heard where caribou were, the

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caribou were quite far inland-- a lot further inland than they had been just a short while before-- at that point we had met some people coming down the river after they had caught some caribou and said the caribou are very close and that they are very close to shore.

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Q. Did you see this plane at some point in time when you and the other people you were with were trying to shoot the caribou?

A. That was the second time.

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The second time we saw an aircraft was on that same trip, a day or two later. This time it was a single engine aircraft. We had seen a very big bull, and seeing a bull of that size is rare, so the older people in our party were very excited-- they wanted that caribou-- so we started plunging inland after

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it-- and being an office boy, at that time I was
having a very big problem keeping up with my father
and the other people in the party-- but the aircraft
came along while we were after this caribou, and
because of the noise and low altitude of the caribou--
of the aircraft, the caribou took off on us, although
we were still quite far from the caribou. So, we ran
out of luck on that one.

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Q. You mentioned your father.
What is his name?

A. My father is Norman
Atangalaag (Attungula).

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Q. He is the gentleman that
is the chairman of the hamlet council from time to
time?

A. Yes.

20 Q. Was there any other
occasion you were hunting when you encountered low
flying planes or helicopters?

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A. Yes. There was another
occasion. This was July of last year-- July of '78.
This is in Schultz Lake-- we had gone up the Thelon
by freighter canoe and gone into Schultz Lake, and our
first encounter with an aircraft was a Cessna 185 that
had landed on Schultz Lake. We didn't know it was
there at that point. We stopped and we were still in
the water and looking around through binoculars

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looking for caribou. Then all of a sudden all I heard
is an aircraft trying to take off. This being July--
it was a very nice day, the sun was out-- there was

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no wind, so the sound of the aircraft trying to take off was being carried for a long, long ways. That day we didn't see any caribou. So, we continued on a ways a bit and then stopped, went up on a hill, started looking around for caribou again. Again, we did this through binoculars. Then we heard a single Beaver fly over us, again very low, and I would-- from the direction he was going in, I would imagine he was going to the Urangesellschaft camp on the north side of Schultz Lake. Again, it was very loud, and again we didn't see any caribou. We finally did come across two caribou about two days later.

Q. I take it that you killed the caribou and brought them back to Baker Lake?

A. Yes, we did.

Q. What did you do with the caribou meat that you obtained? Aside from eating it yourself, I take it-- who would the meat you take on a hunt be shared with, if anyone?

A. On that trip I was hunting with my father, and we each got one. So the one I got was shared between my immediate family, my wife and my two boys and my mother-in-law.

MR. ESTRIN: My Lord, would this be a convenient time?

THE COURT: If you are changing subjects this is a convenient time. We will recess now until two o'clock.

--- luncheon adjournment

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890. D. Simailak, ex in chf
(Estrin)

THE COURT: Please take the
stand.

MR. ESTRIN: My Lord, my
examination of Mr. Simailak is complete.

THE COURT: Mr. Graham?

MR. GRAHAM: Thank you,
My Lord.

CROSS-EXAMINATION

BY MR. GRAHAM:

Q. Mr. Simailak, this
morning you told us that you hunted yourself.
How long have you been hunting, sir? Since
what year?

A. It depends how you
mean. On my own or with my parents?

Q. Yes, with your
parents?

A. My parents, as
far back as I can remember.

Q. Do you remember
what year that would be?

A. 1956-57.

Q. When you first went
back to Baker Lake?

A. No. At that time
I was only four, five years old.

Q. But from 56-57
you would have been hunting on and off when

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891. D. Simailak, cr-ex
(Graham)

you were in Baker Lake?

A. Tagging along with
my father, yes.

Q. In the last few years
you have been hunting as much as your job would
permit?

A. Yes, that's right.

Q. Were you able to
hunt last winter?

A. Last winter --

the winter of 77-78?

Q. Yes. Not this
recent winter but the winter before that?

A. Either once or
twice only.

Q. Do you know anything
about the hunting down in Christopher Island
that winter?

A. No.

Q. You don't know
anything about whether the hunting down in
Christopher Island was good?

A. I can't remember
that, no.

Q. I take it from what
you told us this morning that a fair number
of the people in the community would be like
yourself, where they would be able to go out

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892. D. Simailak, cr-ex
(Graham)

hunting on weekends only; is that right?

A. There are some, although most of them that are -- those that are employed full-time -- most of the people that are in what you might call service jobs do get out a lot more than the people in say management jobs do.

Q. Would you see those people when you were out hunting yourself?

A. Yes.

Q. That's how you know where they were hunting and what type of hunting they were able to do, is it?

A. Yes.

Q. You told us about being up the Kazan River in August of 76. I believe you said you were in a group of four or five other people; is that right?

A. Yes.

Q. Were there other groups there at the same time when you were there?

A. Not in the same area. There were other groups of people up and down the Kazan River.

Q. Your group went up in a boat with a motor, did it?

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893. D. Simailak, cr-ex
(Graham)

A. Yes.

Q. And the other groups

would have got there with canoes and boats
and motors as well?

A. Yes.

Q. How many other

groups would have been in the area at that
time? Do you have any idea?

A. I wouldn't know.

I could not take a guess at all.

Q. How many? Did

you see any others?

A. Yes.

Q. A couple, three

or four other groups?

A. I can't remember

how many there were. There was a good number
of people.

Q. You told us about

meeting some -- another group which had
shot some caribou; is that right?

A. Yes.

Q. Did they tell you

where they shot the caribou?

A. Yes, they did.

Q. Did they have caribou

with them --

A. Yes.

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894. D. Simailak, cr-ex
(Graham)

Q. -- when you saw them?

A. Yes.

Q. Do you remember how many they had?

A. The group we met there were two men each with a canoe. I remember one having three but I don't remember how many the other person had.

Q. Did each of those two canoes have motors on them?

A. Yes.

Q. Did they tell you where they shot the caribou?

A. Yes, they did.

Q. How close to the Kazan River is it did they shoot the caribou? Do you remember that?

A. This was right on the Kazan River.

Q. It was right on the Kazan River itself?

A. Yes.

Q. Did they tell you how many caribou had been in the herd that they shot these caribou out?

A. I can't remember them mentioning how many there were, but I do remember them saying there was a good

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D. Simailak, cr-ex
(Graham)

number of caribou in the group that they were --
that they got their caribou from.

5 Q. Did they tell you
what direction the caribou went on -- the
remaining caribou after they shot theirs?

10 A. Yes. They told
us that after they shot their caribou the
rest of the caribou walked up the hill a bit
but then just stopped and started grazing
again.

15 Q. They walked up
the hill up inland a bit, did they?

A. Up the hill a bit,
yes, because this was quite close to the shore
where they caught the caribou.

20 Q. Had they shot
any more caribou once they moved up the hill?

A. No.

Q. Do you know whether
there are any other hunters around that area
at that time?

25 A. The two told us
that they did see other people in the area
that they were in.

Q. How long would it have
been the time when they shot the caribou and
when they met you?

30 A. This would have been

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896. D. Simailak, cr-ex
(Graham)

about two hours.

Q. Then you told us about another situation in July on the Thelon River, and you were at that time actually on Schultz Lake, were you?

A. Yes, we were.

Q. You got there by canoe?

A. Yes.

Q. A canoe with your motor on it?

A. Yes.

Q. What type of motor was that? Do you remember?

A. We were both -- there was two canoes both on twenty-two foot canoes -- freighter canoes with a twenty horsepower mercury outboard.

Q. At the time you said you were looking for the caribou and prior to seeing the aircraft, had you seen any caribou?

A. No.

Q. That was a Cessna 185 you saw?

A. Yes.

Q. Were you able to identify that aircraft as to who it belonged

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897. D. Simailak, cr-ex
(Graham)

to or anything like that?

A. No, we weren't,
because we were on the south side of Schultz
and the plane was closer to the north side.

Q. I see. Was it
on that same day you saw the Beaver?

A. Yes, it was.

Q. Had you seen any
caribou prior to seeing the Beaver?

A. No.

Q. You were asked
this morning by my friend about your views
as a Plaintiff in this law suit. Are you
one of the Plaintiffs in this action?

A. I can't remember
offhand whether my name is actually on that.

Q. I suggest to you
that I cannot find it. Are there other
Plaintiffs that won't know they are Plaintiffs
like you?

THE COURT: Did he
say anything about the Plaintiff?

MR. GRAHAM: My friend
said he was a Plaintiff.

THE COURT: I see.

BY MR. GRAHAM:

Q. Do you remember
when you gave an Affidavit at the time of the

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Interlocutory proceedings in this matter last
year?

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A. Yes.

Q. You swore an Affidavit?

A. Yes.

Q. Attached to that

Affidavit were a series of exhibits?

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A. Yes.

Q. Do you remember

that?

A. Yes.

Q. In that Affidavit

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you refer to -- paragraph fourteen -- the
fact that until such time as land claim
settlements have been made with the government
of Canada, and accordingly other persons,
have no legal authority or authorized entry
upon or over the Baker Lake land. Do you
remember making that statement?

MR. ESTRIN: Just a
minute. That isn't quite the whole of the
statement. Would you allow him to see the
statement that he actually made?

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BY MR. GRAHAM:

Q. I would be quite

happy to. I am showing you the Affidavit you

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swore on the 12th of April, 1978. Do you recall swearing that Affidavit?

A. Yes, I do.

Q. Just looking at paragraph fourteen, which starts at the bottom of page 4, where you refer to the Petition, and then you go on to page 5 to state --

MR. ESTRIN: Give him an opportunity to read the paragraph.

BY MR. GRAHAM:

Q. Certainly. Read that whole paragraph.

A. Yes.

Q. You recall swearing that part of the Affidavit, paragraph fourteen?

A. Yes.

Q. Having read that paragraph, you refer to the land claim settlement with the government. I take it from that and what you have told us this morning that the Hamlet's position is that until the land claims are settled they are not going to agree to anyone coming on the land for mining or any other purposes; would that be a fair way of putting it?

A. Yes.

Q. What about other

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(Graham)

purposes? Amongst the materials that were attached to your Affidavit there were some land use applications from the Department of Energy, Mines and Resources, from the Department of Geological Surveys for mapping purposes. Were you aware of those applications?

A. I can't remember them. I would have to see what year they were.

Q. I show you a letter dated October 20th, 1977, addressed to yourself from Mr. Umpherson, attaching a Land Use Application from Energy, Mines and Resources in respect of the Amer Lake area north of Baker Lake. It states:

"After our telephone conversation on October 19th, you explained to me you still wanted copies of all Land Use Applications sent to Baker Lake. I also understand that Baker Lake will respond negatively to all Land Use Applications."

Do you remember getting that letter?

A. Yes, I do now.

MR. GRAHAM: May I mark that as an exhibit?

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(Graham)

THE COURT: I-5.

EXHIBIT NO. I-5: Letter dated
20/10/77 to D. Simailak from
J. E. Umpherson.

BY MR. GRAHAM:

Q. Do you know whether
the council opposed the granting of Land Use
Permits to Geological Survey for the purpose
of mapping, as set out in the MIA's permit
application?

A. Again, that was two
years ago so I can't remember offhand.

Q. Did you -- sorry.

A. Based on previous
decisions by council I would think that they
again replied negatively.

Q. Were you aware of
activities of the government carrying on
aircraft activities in the area in the last
couple of years prior to these discussions
you went into with the government on the land
freeze?

A. For mapping purposes?

Q. Yes.

A. Yes, I do.

Q. Are you aware
they had helicopters in the area, field
survey working done as well as the mining

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902. D. Simailak, cr-ex
(Graham)

companies?

A. Yes.

Q. Yes.

A. Yes, I do.

Q. You are aware they were using fixed-wing aircraft in the conduct of these surveys as well?

A. Yes.

Q. Do you recall when council first objected to government activities of that nature in an around the Baker Lake area?

A. I can't remember that, no.

Q. But, again, I take it the position was this was going to have to at least await the settlement of land claims before any firm decision could be made about that?

A. That was the usual reply given by council, yes.

Q. As I understand it, and understand your evidence from this morning about the desire of yourself individually and a representative to some extent of the council wanting to be a partner in dealing with the land, was it the desire to be a partner and having a part of the decision making process

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(Graham)

as to how the land would be used that caused you to say, well, let's wait until the land claims settlement is arrived at before we allow any further activity?

A. I would say, yes.

Q. And that's to allow, from your point of view, if I understand it, the council and community of Baker Lake to participate in the decision making process as to what use would be made of the land, isn't it?

A. Yes, and which areas of that land were to be used.

Q. Which areas would be used for mining activities, which areas would be reserved for hunting, which areas generally would be set aside for any other -- any activity in the area?

A. Eventually, yes.

Q. And again following that along, that was one of the reasons for the land freeze request, wasn't it, so that you could stop the activities again until the land claims were settled?

A. Yes.

Q. And the land claims, as I understand it, would follow along what took place in the western Arctic -- there would

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D. Simailak, cr-ex
(Graham)

be some lands which would be owned as to surface rights and some lands which would be owned as to both surface and minerals rights or anything that would lie underneath the land?

A. I would say very generally, yes, but I feel I am not in a position to discuss land claim proposals and what not in detail.

Q. But you would be familiar, to some extent, with those proposals, in view of your present occupation with the ITC?

A. To a very small extent because I am working in the communications field.

Q. But, to your knowledge, it would involve claims for general ownership, over and above the suggestion of just hunting and fishing rights? They would go to actual ownership of the land?

A. That at this point is my understanding, yes.

Q. So, again, if we look at Exhibit I-1, and that is the letter that Dr. Bundrock, you remember -- when the letter which you signed says, "We are not

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(Graham)

against development per se, we are for responsible development", that goes to the role that the community would be able to play in regulating that development, doesn't it?

A. Yes, in the sense that where that development would be if it was to be.

Q. Right. You just came down this morning from Baker Lake, so you can give us some description of the life that goes on in Baker Lake. From your experience with the municipality, I wonder if you can help us by telling us something about the municipal services that are provided in Baker Lake. How many vehicles would be owned by Baker Lake Council, do you know, or operated by them?

A. Municipal services?

Q. Yes.

A. There are three water delivery vehicles, two sewage pick up and disposal vehicles, two garbage pick up and disposal vehicles -- and that I believe would be it for municipal services.

Q. And there is the cat or track vehicle that you use to go to the airport to pick up favorite

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906.

D. Simailak, cr-ex
(Graham)

members of the party that went to Baker Lake
for the trial -- things like that as well,
I take it?

A. That is a passenger
carrier, not municipal services.

Q. That's not municipal
services. Are there other passenger carrier
vehicles like that operated by the municipality?

A. That is the only
track one the municipality has. It has a
one and a half ton truck that is used by the
administration people.

Q. Yes.

A. And the garage
people, the mechanics and that have one
three-quarter ton truck that they used to
use but is not running at the moment because
of mechanical problems.

Q. Does the municipality
operate a snowplow that runs between the airport
and the municipality, or is that handled
by the Northwest Territories?

A. That's the Ministry
of Transport.

Q. That's the Ministry
of Transport?

A. Yes.

Q. Do you know how

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907.

D. Simailak, cr-ex
(Graham)

many vehicles that would be operated by that
sort of large nature around the municipality?

A. I can't remember,
no.

Q. But they do operate
that snowplow that goes out to the airport
and back?

A. Yes.

Q. Does it plow the
other roads around the municipality as well?

A. No. The Hamlet
does the roads in town.

Q. Do you plow the
road -- does the Hamlet plow the road out
to the garbage dump, for example?

A. Yes.

Q. How far is the
garbage dump in town? Do you remember?

A. I am not very good
at judging distances. I don't know. Maybe
a mile -- a mile and a quarter.

Q. And the fire brigade,
does the municipality operate the fire brigade?

A. Yes. It is a
voluntary fire brigade.

Q. If the siren goes,
it is the municipality's truck that replies to
the fire?

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908. D. Simailak, cr-ex
(Graham)

A. Yes.

Q. We were there a couple of weeks ago and heard the siren go one evening because of a fire and it went on for about half an hour or so. Would normally the siren go -- how long would it go for before it would get people in from the fire brigade?

MR. ESTRIN: There were several questions there. Perhaps we should clarify if there was a fire.

THE COURT: There is a ten o'clock curfew.

BY MR. GRAHAM:

Q. I will get to the curfew. Do you remember a fire that occurred about three weeks ago, the first time that we were up there conducting discoveries?

A. The first time you were up there?

Q. Yes.

A. I think so. Yes, I do.

Q. Do you remember how long the fire siren actually blew on that occasion? I am trying to get some idea of how long it takes to get the fire department people in.

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909. D. Simailak, cr-ex
(Graham)

A. Well, the length of the -- how long the siren is on depends on how long it is before somebody goes and shuts it off.

Q. So it could run --

A. As soon as the siren goes voluntary men go down to the fire hall as fast as they can, because if the siren goes it means there is a fire, usually.

Q. So, sometimes it runs twenty minutes, half an hour, something like that?

A. Yes.

Q. And actually His Lordship mentioned the ten o'clock curfew -- the siren is blown at ten o'clock at night, every night as well?

A. Yes.

Q. How long is it blown for?

A. Usually three short bursts.

Q. And there is a gravel pit operation at Blueberry Hill, Is that correct?

A. Yes.

Q. Is that run by the municipality?

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910. D. Simailak, cr-ex
(Graham)

A. That gravel pit is not really run by anybody. It is there -- the Hamlet uses it, private contractors use it.

Q. The trucks go from the municipality out to the Blueberry Hill gravel pit to get gravel and bring it back to the community?

A. Yes.

Q. Do you know how far Blueberry Hill would be from the community?

A. Three, maybe four miles, I would guess.

Q. What direction is that? Is it along the lake to the west?

A. Southwest.

Q. Southwest. Is it past the airport?

A. Just past the airport, yes.

Q. Sort of south to the airport. And the garbage dump, which direction is it?

A. East of the community.

Q. East of the community along the lake?

A. Yes.

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911. D. Simailak, cr-ex
(Graham)

Q. When we were there we noticed quite a few of skidoos. Do you have any idea how many skidoos there are in Baker Lake at this time?

A. No.

Q. Would it be fair to say most families have a skidoo?

A. Yes.

Q. Many families have more than one skidoo? Many have two?

A. Some do, yes.

Q. You are getting some three wheel tundra vehicles. Do you know how many of those there are around?

A. No.

Q. Those are tyotas. Is the number of those increasing -- being increasing over the last couple of years?

A. The number is increasing, yes.

Q. People are using those in the summertime to be able to get outside the community?

A. They are used mostly in town.

Q. Used sometimes to get out past the graveyard -- over the hill from the graveyard?

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912. D. Simailak, cr-ex
(Graham)

A. I would think very rarely.

Q. Do you know how many television sets there are in Baker Lake?

A. Not at all, no.

Q. The communications data hasn't collected that much yet?

A. Well, we have only started in November of last year. So, a lot of our projects is still at the planning stage.

Q. Were you planning to do any television programs actually in Baker Lake with the use of this satellite?

A. In Inuktutuk, yes.

Q. And that will then be used in connection with the satellite to be deemed to the other communities you described to us this morning?

A. From Frobisher Bay, yes.

Q. Do you know what the present hourly wage is of Inuit peoples that are employed by the mining companies in Baker Lake at the moment?

A. Not at the moment, no.

MR. GRAHAM: Thank you

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913. D. Simailak, cr-ex
(Heintzman)

very much, Mr. Simailak.

THE COURT: Mr. Heintzman?

CROSS-EXAMINATION

BY MR. HEINTZMAN:

Q. From which area
are you from, Mr. Simailak -- you and your
family?

A. I was born right
in Baker Lake.

Q. What about your
parents and grandparents?

A. My parents and
grandparents are originally from the Quoich
River, Chesterfield Inlet area.

Q. The Chesterfield
Inlet area?

A. The whole area in
there.

Q. Are they from the
peoples that are sometimes called Qaernermiut?

A. Yes.

Q. Perhaps you can
show us. Is it Quoich Inlet?

A. Pardon me?

MR. ESTRIN: Quoich
River.

BY MR. HEINTZMAN:

Q. Where is that on

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914. D. Simailak, cr-ex
(Heintzman)

this exhibit? What is the number of this exhibit?

P-10. Is it just down near Chesterfield Inlet?

A. Quoich River is east
of Baker Lake. This is Quoich River here.

Q. Quoich River comes
into the Chesterfield Inlet just east of
Baker Lake?

A. Yes.

Q. Your parents and
grandparents would go down to the sea to hunt
sea mammals sometimes in the year and come
inland to hunt caribou other times?

A. Yes.

Q. Now, in your Affidavit
that you swore in the Interlocutory proceeding,
you say in paragraph nine -- I will show it
to you -- referring to the IDS Study -- the
third sentence, paragraph nine, you say that
you participated in the discussions and you
believe that the Study and the maps are
accurate as to the extent value is important
to the families in Baker Lake of the matters
referred to in that Study.

MR. ESTRIN: Mr. Heintzman,
the word "generally" was omitted from your
reference. It is "generally accurate".

BY MR. HEINTZMAN:

Q. Perhaps we can read in

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915. D. Simailak, cr-ex
(Heintzman)

the third sentence. "I believe that based on discussions I have participated in at the Hamlet Council and on the basis of discussions I have had with individual hunters, residents of Baker Lake, the Study and maps contained therein are generally accurate as to the extent value and importance to the families and to the economy of the Hamlet of Baker Lake of the renewable resources of harvesting," etc.

Now, was that statement accurate? Is that correct?

A. Yes.

Q. One of the figures in the IDS Study relates to the amount of the harvest of caribou by residents of Baker Lake, and the estimate is forty-one hundred caribou taken each year. Is that a figure -- that is 1975 -- I show you page 66 of the IDS Study where they say that our best estimate of the current annual caribou harvest by Baker Lake Inuit is forty-one hundred. Do you see that?

A. Yes.

Q. So that's one of the figures that you were referring to in your Affidavit. Is that correct?

A. I can't remember whether we were -- I was thinking of the

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report as a whole or whether it was parts of it that were discussed, because that report was never really discussed in detail by most of the people in Baker Lake because it was not -- the translation was not finished until very late. Therefore, most of the people did not have a chance to study it in detail.

Q. Well, that --

A. So, naturally discussions were held in Baker Lake would have had -- were of more a general nature.

Q. Well, that figure, would you not agree with me, Mr. Simailak, is one of the very important figures contained in that study?

A. Yes, it is.

Q. In your Affidavit you have sworn that the extent value and importance of those figures was generally accurate; isn't that correct?

A. That was my understanding, yes.

Q. And that figure of forty-one hundred caribou was one of those very important figures to which you were deposing in your Affidavit; isn't that correct?

A. Yes.

Q. You have, in answer to questions from Mr. Estrin, given us some

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917.

D. Simailak, cr-ex
(Heintzman)

figures as to the percentage of people involved in the harvesting of caribou and other resources in the Baker Lake area. Are you familiar -- and your counsel has produced it in this action -- with the study done by Mr. Stager with respect to the occupation of people in Baker Lake?

A. I am familiar with that report, yes.

Q. In 1975, when that study was done, what was your position in the community?

A. 75?

Q. Yes.

A. I was the Settlement Secretary.

Q. And this study was done in conjunction with the settlement; is that not correct?

A. Would you repeat that, please?

Q. Was the study not done in conjunction with the co-operation of the settlement itself?

A. In the sense that the community knew the study was being done.

Q. Well, in the introduction to the report it says -- and

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your counsel has produced this document --
and, therefore, permission to undertake the
work was sought and received from the Settlement
Council during the summer of 1975 and thus
this report is directed to both the Settlement
Council and the Polar Gas Project; is that
correct?

A. Yes.

Q. Now, I believe you
have already told us that the -- you know the
population now of Baker Lake is about one
thousand persons? We have heard that in
evidence from Mr. Noah.

A. Around that figure,
yes.

Q. In Mr. Stager's
study he shows the population growth of
Baker Lake from 1961 to 1975 -- and I am
showing you page 43 of his report -- and
it shows that in 1961 the population was
421 persons, in 1971, 754 persons. Does
that accord with your recollection, approximately?

A. In that whole time,
I couldn't take a guess at all, because up
to that -- up to say the last year -- a
couple of years I never really concerned
myself about the population of Baker Lake.
In fact, I still don't.

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919. D. Simailak, cr-ex
(Heintzman)

Q. Well, I take it as one of your functions as Secretary of the Council that you would be concerned with statistics like those statistics?

A. Not necessarily, I would think.

Q. On page 42 of Mr. Stager's study he says that at the end of 1972, after the most recent population survey, there was a recorded 690 persons -- sorry, people living in Baker Lake. This was the largest number ever recorded in the village resulting from a steady increase. It is expected that the community will continue to grow, but probably remain under one thousand.

Now, I take it from that that, in fact, the community has grown at a larger rate than was expected at that time?

A. Yes.

Q. And on page 45 of his report -- Mr. Stager's -- it shows that in 1963 and 75 more than half the population is younger than 15 years of age. Is that correct with respect to Baker Lake? Would you say that that is a correct statistic?

A. I would say that it is.

Q. Then turning over to

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page 58 of the report, Mr. Stager estimates -- in fact, from his study -- states that the number of people involved in the various kinds of employment that Mr. Estrin was asking you about -- he shows the number of people in wage employment, number of people in sewing, number of people in carving and print making, and the number of people in hunting and trapping and the total. Do you see these statistics?

A. Yes, I do.

Q. And you will see taking wage employment almost full-time -- we have got seventy-five people in wage employment almost full-time, whereas we have eight people in hunting and trapping almost full-time.

Now, would that record an accurate relationship between the number of people in wage employment and the number of people in hunting and trapping full-time?

A. Again, I can't remember that far back because that's 1975.

MR. ESTRIN: I don't have a copy of that here. I wonder if I can look at that.

BY MR. HEINTZMAN:

Q. Sure. Well, you were the Settlement Council Secretary at this

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921. D. Simailak, cr-ex
(Heintzman)

time. I assume these were statistics or figures that Council was interested at that time?

A. But as I said, I can't remember that far back now.

Q. Would you agree with me that those statistics are probably correct?

A. It's possible.

MR. GOLDEN: The witness already told him he doesn't know.

MR. ESTRIN: The witness said he is not familiar with statistics in the community. My friend has produced a survey and is trying to pass it off as something published by the Hamlet Council. Because some outside organization, in this case Polar Gas, decides to commission a study and seeks the co-operation of the Hamlet Council, and says they do, does not, of course, make that a document published or an admission on behalf of the Hamlet Council. If my friend wants to prove it was officially adopted and approved by the Council, it is one thing; but I haven't heard him ask that. If he wants to do it, it is up to him. I think that would be proper if he wants to put it forward on that basis.

THE COURT: He's entitled to ask him if he agrees with the figures. If the witness obviously doesn't know, then he's

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922. D. Simailak, cr-ex
(Heintzman)

unable to agree.

MR. ESTRIN: Yes.

THE COURT: That is the position we are in at the moment.

MR. ESTRIN: I quite agree. But, my friend insists the witness should be able to agree with the figure.

THE COURT: Again, I remind you the time for argument is later.

BY MR. HEINTZMAN:

Q. In the words of his Lordship, Mr. Simailak, can you assist us as to those figures which I read to you from this report, wage employment of 75 persons almost full-time as opposed to eight persons in hunting and trapping almost full-time, Can you say that those figures are accurate, not accurate or don't you know?

A. Okay. I don't know.

Q. Then showing the seasonal activity of people in Baker Lake -- you will see that on page 60 where Mr. Stager lists wage employment in January through December as running between 24 and 30 percent of seasonal activity in the community so far as wage employment is concerned. For hunting, trapping and fishing it is running between a low of 12 percent in January and a high of 30

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D. Simailak, cr-ex
(Heintzman)

percent in July. Can you help us as to whether those statistics are accurate, not accurate or don't you know?

A. Again, I don't know.

Q. All right. In your capacity as Secretary of the Council, have you gone back to review the historical documents relating to the origins of Baker Lake?

A. No. I never bothered with that when I was the Secretary.

Q. So, you wouldn't be of much help to us with respect to the statistical analysis undertaken by Mr. Vallee?

A. Not at all. No.

Q. Thank you very much. Just one minute. Can you tell us whether there was a large herd of caribou near the Kazan River last week?

A. There was a herd of caribou down -- from what I heard down starting about the south end of Parker Lake.

Q. Did a group of hunters from the community go out to hunt the caribou in that vicinity?

A. Yes, they did.

Q. Where did the caribou go?

MR. ESTRIN: Have we

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924. D. Simailak, cr-ex (Heintzman)

established Mr. Simailak went on this hunt?

MR. HEINTZMAN: Perhaps he can assist us as to what he learned as to where that caribou went?

MR. ESTRIN: My Lord, I have not generally objected to all this hearsay about hunt and how many people were there, what they saw two hours ago and all that, but now I think --

THE COURT: Those were people he met while he was hunting?

MR. ESTRIN: Yes.

THE COURT: That's what they told him.

MR. ESTRIN: But that was hearsay. I did not object to that. If Mr. Simailak wasn't on this hunt and merely heard about the caribou being in this Parker Lake area -- himself not being there, I don't see how that can assist us.

MR. HEINTZMAN: I am devastated. My friend led evidence as to who he met coming down the Kazan River, what they told him about the caribou. When I tried to get the same evidence from the witness somehow it is improper.

MR. ESTRIN: I wasn't asking him, My Lord, with respect to --

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925. D. Simailak, cr-ex
(Heintzman)

MR. HEINTZMAN: My friend
made his objection and I will sit down.

THE COURT: I agree with
the objection at this point. It is fair. At
least it is right. It's not fair. Mr.
Chambers?

CROSS-EXAMINATION

BY MR. CHAMBERS:

Q. Mr. Simailak, you
will recall you said in chief that I believe
in June, 1974 there was a meeting with the
Minister, Mr. Chretien at the time, in
Winnipeg?

A. Yes.

Q. Now, this was a
meeting involving Mr. Chretien and whom, and
the members of the Baker Lake community?

A. Yes. There were
three representatives from Baker Lake.

Q. Were there also
representatives of the Inuit Tapirisat at
that meeting?

A. Not at that meeting,
no.

Q. Now, you said,
sir, at that meeting that the representatives
of the Baker Lake community represented --
presented three demands to the Minister. One

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926.

D. Simailak, cr-ex
(Chambers)

was that the Baker Lake community -- the area around Baker Lake community be included or subjected to land use regulations. Secondly, that the people at Baker Lake be employed by the mining companies at good wages. Also, that the community be consulted before land use permits were issued. Is that correct, that these three demands were presented to the Minister at the time?

A. Yes.

Q. There was no talk at the time about any land freeze?

A. Not at that time, no.

Q. Then it is also a fact, is it not, that a little more than a year later -- in November of 75 -- the Minister did, in fact, subject the lands around Baker Lake to the land use regulations?

A. 75 did you say?

Q. Yes. In November, my understanding is, of 1975.

A. Well, that is correct.

Q. So, that demand of the Baker Lake community was met?

A. At that point, yes.

Q. As we know later on

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when land use permits were issued by the government to companies that on each occasion the Baker Lake community, in fact the Council, was consulted in the sense that the applications were sent to the Council for comments?

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A. Yes.

Q. On each occasion?

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A. Yes.

Q. So that demand

was met by the Minister -- the demand that was presented to him in June of 1974?

A. Part of the demand

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was met, yes.

Q. So, two of the

three demands we know have been met, Namely, that the land be subjected to The Land Use Regulations; secondly, that the Baker Lake community will be consulted every time land use permits were issued in pursuance of these regulations. That has also been met.

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A. It depends on how the word "consulted" is used. Yes.

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Q. But these applications were sent to the community, to Council, and the Council was invited to comment on them?

A. Invited to comment, yes.

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Q. As you have said, the

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Council on some or all occasions commented negatively?

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A. That is correct.

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Q. Now, are you aware whether the Minister made representations to various mining companies -- to the mining industry -- with a view to inducing them to employ local labour?

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A. I can't remember offhand now.
Q. Well, did the community or the Tapirisat subsequently make any complaints to the Minister that this demand had not been met?

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A. Excuse me. Did who?
Q. Did the Baker Lake community, the Council, or anyone else or Tapirisat subsequently complain to the Minister about this demand had not been met?

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A. I can't remember offhand, no.
Q. But the fact is, is it not, that the various mining companies have employed local labour in their exploration activities?

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A. They have hired a few, yes.

D. Simailak, cr-ex
(Chambers)

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Q. Now, I draw your attention, sir, to Exhibit P-13. P-13 is the exchange of telexes between the Council of the community of Baker Lake and the Minister, Judd Buchanan at the time. The telex to him is of November 12, 1975, and his reply of February, 1975 and then the reply by the Council to him of the 18th of March, 1975.

Now, what the Minister said to you in the telex to the Council -- it is the second sheet of Exhibit P-13 --

"Re your telex February 12 concerning Crown lands in Baker Lake area in accordance with the assurances given. The Baker Lake settlement, Council by Mr. Chretien. These lands are being designated within land use management zone. This requires revision to the territorial land use regulations. Revisions have been prepared and are presently before the territorial councils of the Yukon and Northwest Territories. As a matter of policy, the revised regulations have also been forwarded to agencies representing native groups and to industry and we are now awaiting their response after the results of the consultation and discussions are reviewed. The revisions may then be

D. Simailak, cr-ex
(Chambers)

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referred to the Governor-in-Council for official inclusion in the territorial land use regulations. This process, will, however, take several months. In the meantime, your counsel will be kept informed by Mr. Ritchie, the Regional Director of Resources, Yellowknife, of any plans for mining activity near Baker Lake. I understand Mr. Ritchie will be meeting with you in early March to discuss possible exploration activity near Baker Lake in the summer and he will report the results of this meeting to me. I have asked him to discuss with you the other matters raised in your telex of February 24th at that time. The Honourable Judd Buchanan, Minister of Indian and Northern Affairs."

So, Mr. Buchanan, in other words, let you know there were a number of matters that had to be considered and gone through before the land could be subjected to these land use regulations?

A. Yes.

Q. So, the Baker Lake Council was, in fact, aware of the requirement of the Minister to comply with all the steps he outlined?

A. Yes.

Q. That is correct, is it not?

A. Yes.

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D. Simailak, cr-ex
(Chambers)

Q. Are you also aware, sir, that the Minister had contacted the ITC, the Inuit Tapirisat, on December 9th, 1974, for comments on the modification of land use regulations?

A. I can't remember that now.

Q. Was this meeting on the 26th of March, 1975? There was a meeting on the 25th of March, 1975, am I right, involving -- between ITC and the Minister?

A. Again, I don't remember that at all.

Q. Are you aware whether at that meeting or around that time, in March, 1975, that the ITC was asked by the Minister to submit concrete proposals as to modification of land use regulations that seemed proper to the ITC?

A. As I said, sir, I cannot remember that.

Q. And you are also, I take it, then not aware that by June, 1975 the ITC had not seen fit to reply to the Minister's request?

A. Again, I don't remember that.

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D. Simailak, cr-ex
(Chambers)

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Q. Thank you. Now,
in the spring of 1975 the land freeze proposal,
which is embodied in Exhibit P-16, was made.
As I recall your testimony, sir, you said that
Baker Lake Council asked the Tapirisat to
formulate this proposal. Is that correct?

A. Yes.

Q. And the Tapirisat
did formulate those proposals?

A. Yes, they did.

Q. And can I take
it that the Tapirisat formulated this
proposal after close consultation with the
Council and member of the Baker Lake
community?

A. Yes.

Q. After formulation
of this proposal in the Baker Lake community,
the Council studied this proposal and
approved it?

A. Yes.

Q. And after that,
this proposal was then sent to the Minister?

A. It was presented
to the Minister's office.

Q. The Minister's
office?

A. Yes.

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933. D. Simailak, cr-ex
(Chambers)

Q. Look at page two of
this proposal,

A. Yes.

Q. The second page
of the text -- of the proposal. Perhaps I
can backtrack and go to the first full page.
The paragraph, which is an expression of
concern about mining exploration activities
on the caribou, and particularly, on caribou
hunting. Then on page two it says that the
areas that are marked off on the accompanying
maps reflect the reliance of the community
on the caribou.

Now, there are no
maps attached to Exhibit P-17. Would you
have copies of these maps, sir?

A. No. There was
only one set of maps that they were attached
to the proposal that was presented to --
that was presented to the Minister's office,
and the only copies of those maps are in the
Minister's office.

Q. Now, I have been
informed that unfortunately these maps have
been lost, but fortunately before they were
lost apparently somebody made a copy of this
map -- or one of these maps. I am showing
you such a map here. You will see this is a

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D. Simailak, cr-ex
(Chambers)

map of the area around Baker Lake and has three basic things marked on it. First, it has circular black lines, then there are square lines, red lines -- square red lines and then there are parallel broken lines. Do you see that?

A. Yes.

Q. The circular lines and the red squares?

A. Yes.

Q. I would ask you, sir, to disregard the red broken lines -- the red square lines, sorry. Just concentrate on the black circular lines?

A. Yes.

Q. You will see they are numbered. Let's take one at the top of the map here. It would be which area, roughly?

A. Well --

Q. Above Schultz Lake. This would be Schultz Lake area; would it not be?

A. It's north of

the Schultz Lake.

Q. And it has numbered 3X and 1X and then 6 in the broken lines and then 7 again broken lines and the large C and

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935.

D. Simailak, cr-ex
(Chambers)

the numbers 4 and 5. You see, in the proposal for land freeze, Exhibit P-16, there is itemized -- attached, I should say, to this report, an itemization of areas, and under each area say (?) Aberdeen,, Beverly, Wharton, Tebesjuak, Mallery, and the next area (B) is Kazan Falls, area (C) is Sand Hills. So; area C that's marked with a C here I have just referred to above Schultz Lake, and it would be this Sand Hills area referred to in Exhibit P-16? Is that right?

A. I would believe so, yes.

Q. Then there are numbers: 1) fishing; 2) geese nesting areas; 3) fishing; 4) fishing; 5) geese nesting areas; 6) autumn caribou migration route; 7) spring caribou migration route. Do you see these numbers? Three would be fishing, the number one would be fishing, number six is the autumn caribou migration route in that area and seven is the spring caribou migration route in area C, , and five is geese nesting area. I don't want to take up any more time of your time, but you can see from the other map areas -- for example, the next area would be D -- C is a circular black line just east of Baker

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Lake. Do you see that?

A. Yes.

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Q. It has numbers
and broken lines. Then in the area D, in
Exhibit P-16, you will have under the heading
of Map Notation one traplines, two Hunters
and Trappers Association cabin, etc. These
numbers refer to these map notations?

A. Yes.

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Q. Is that correct?

A. Yes.

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Q. Can I take it that
when the Tapirisat of Canada on instructions
from the Baker Lake Council formulated the
land freeze proposal that they consulted
the Baker Lake area people to have them
identify where the people in the area hunted,
among other things and where they trapped?

A. Yes.

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Q. Is that correct?

A. Yes.

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Q. And these areas
were indicated to the Tapirisat by the Council
or members of the Baker Lake community on a
map such as the one I am showing you and were
marked with roughly circular black lines and
numbered?

A. Yes.

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937. D. Simailak, cr-ex
(Chambers)

Q. And these numbers were then incorporated in the report under map notations?

A. Yes.

Q. When you look over these map notations and compare them with the circular black lines on this map I am showing to you, sir, would you agree with me that these are, in fact, the areas that are referred to in these map notations?

A. Looking at the map very briefly, I would say, yes.

Q. So these circular black lines -- roughly circular black lines then were designated areas in which the Baker Lake community or members of it hunted?

A. I would say that was made clear to the court in Baker Lake that the people in Baker Lake hunt over a much larger area. But, if I remember correct, the people in Baker Lake were being quite conservative when they were drawing up this map because they were -- they felt at that time that if they asked for too large an area that their request for land freeze would automatically be just turned down.

Q. But nevertheless, you would agree with me that this map that I

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am showing you, accurately represents the areas in which the members of the Baker Lake community at that time indicated to the Tapirisat the areas in which they hunted?

A. Very conservatively, yes.

MR. CHAMBERS: May I have this map marked as Exhibit D?

THE COURT: D-1. This is your first exhibit.

EXHIBIT NO D-1: Map: Baker Lake and surrounding area.

MR. CHAMBERS: I would just like to repeat for the record, My Lord, the red lines indicated on that map are to be disregarded because, of course, the witness could not identify these.

THE COURT: It is a copy of a map that apparently was originally attached to Exhibit P-16.

MR. CHAMBERS: I also understand, My Lord, that these red lines -- whatever they designated -- apparently mineral claim areas -- were not on the map at the time that Exhibit P-16 was submitted to the Minister.

Q. You said, Mr. Simailak, that the community started to formulate the idea of a land freeze and that this idea was

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939. D. Simailak, cr-ex
(Chambers)

formulated, if I understood you correctly,
about March or so of 1975?

A. Yes.

Q. Is that correct?

A. That's about the time,
yes.

Q. But; you also said that
the Minister then rejected this idea of land freeze
as proposed by the ITC and also by the Baker
Lake Community Council?

A. Yes.

Q. And upon further
representations the then Minister, Allmand,
I believe then said that he would freeze the
issue of further land use permits in the area
until a study had been done and completed?

A. Yes.

Q. And this study
that came into being as a result of this was
this so-called IDS Study? Is that correct?

A. Yes.

Q. You also said
the Minister did not commit himself, if
I understood you correctly -- he would
impose a land freeze but that he would
take the report into consideration and
then make up his mind?

A. Yes.

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940. D. Simailak, cr-ex
(Chambers)

Q. Are you aware of
the fact, sir, that the IDS Study did not,
in fact, recommend a land freeze?

A. Yes, I do.

Q. So, they merely
suggest a controlled development of the
area?

A. Basically, yes.

MR. CHAMBERS: That's all
the questions. Thank you, sir.

THE COURT: Mr. Estrin?

RE-EXAMINATION

BY MR. ESTRIN:

Q. Mr. Simailak, you
were asked about this document which has been
marked as Exhibit I-5, which is a copy of
application for land use permit, in regard
to the geological survey of Canada. I wonder
if you would look at the first page and
direct your attention, particularly, to the
third paragraph. Do you see what type of
operation was going to be involved? Can you
just perhaps read the third paragraph?

A. The third paragraph,
and I quote:

"This type of operation is
involved with the collection
of geological data by small

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941. D. Simailak, re-ex
(Estrin)

groups of people travelling
by foot, boat and helicopter."

Q. What was the attitude
of Council towards activity being carried on by
helicopter, and in particular, in areas around
Baker Lake?

A. The Council has never
liked any activity involving helicopters or
aircraft -- fixed-winged aircraft.

Q. I take it they didn't
care who it was?

A. No.

Q. You were asked about
land claims. I don't want to get into that,
I just want to ask you -- we have heard you
refer, in passing, to the land claims committee.
What is it? Who was present at certain meetings?

A. The land claims
committee is a committee of ITC.

MR. CHAMBERS: My Lord,
I wonder if this arises fairly out of cross-
examination. There was no evidence about
any land claim negotiation.

MR. ESTRIN: I'm not
asking about that, with respect, My Lord.
He was asked about his knowledge of the land
claims proposal. I do not want to ask him about
that. I just want to ask him if he had any

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basis about knowing that.

THE COURT: I think it is fair in that sense, that he did profess some knowledge of the land claims. I suppose it is proper to inquire how he has it. We will not go very far into this.

MR. CHAMBERS: Very well.

BY MR. ESTRIN:

Q. I do not want to go into the substance whatsoever. I want to ask you -- can you tell us, again, briefly what was the land claims committee that has been referred to and has participated in certain of these meetings?

A. The land claims committee is a committee of the ITC, who pass on information to the community about what ITC is doing about the land claims negotiations. The committee in turn passes information on to ITC about community concerns regarding land claims.

Q. Were you a member of the land claims committee?

A. No.

Q. Does your present job, which you said comes under some aspect of ITC, have anything at all to do with land claims?

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943. D. Simailak, re-ex
(Estrin)

A. No.

Q. Mr. Heintzman, you

will recall, wanted you to agree with one particular figure out of that very bulky IDS Study, in which you stated in an Affidavit a year or so ago that the study was generally accurate. I would like to ask you: do you know whether or not that specific estimate of forty-one hundred is accurate?

A. I can't say I do.

Q. You were asked about

a herd of caribou at the south end of Parker Lake. I will not ask you anything about the herd of caribou, but I want to ask you how far is it to the south end of Parker Lake -- perhaps more helpful, how long it takes one to get there by skidoo?

A. I have never been

down to the south end of Parker Lake so I don't know that. I have been to the north end of Parker Lake, but that was during the very early spring, at which time the snow is still quite hard so it was very easy travelling. If I remember correctly, it used to take us about four, five hours, again, depending on which route you are taking.

Q. Mr. Chambers,

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944. D. Simailak, re-ex (Estrin)

representing the government, asked you about the representations made to the Minister, particularly Mr. Chretien and, particularly, whether the demands, as he put it, of bringing in of the land use regulations regime to the Baker Lake area was satisfied. You said, "Yes, that happened." Now, the question that arises from that is, did the bringing in of the land use regime seem to deal with the problems which the Hamlet of Baker Lake were concerned about?

A. No.

Q. Why not?

A. Because land use permits were still being issued by the regional engineer -- he did not want to use his powers outlined in the land use regulations to infer the issuance of permits. The community felt that because of the size of the area around Baker Lake it was very hard to enforce the land use regulations effectively.

Q. Mr. Chambers also

put to you that when the land use regulation regime was brought to apply it to the Baker Lake area, that the government would show the Council these land use applications -- accordingly they could consult. Is that the consultation that

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945. D. Simailak, re-ex
(Estrin)

your council had in mind when it asked for the
government to consult, when it met with Mr.
Chretien in 1974 about land use?

A. No, that is not
what the community had in mind. The Council
and the community at that time thought that
the Minister or his officials would respect
the wishes of the community and make his
decisions to show that respect.

MR. ESTRIN: Thank you.
I have no further questions.

THE COURT: That, of course,
meant that no permits would be issued until
the land claims were settled?

THE WITNESS: That's
correct.

THE COURT: That's fine.
Thank you. I guess that's all. You probably
would like to get away?

THE WITNESS: I do.

THE COURT: We will take
our mid-afternoon break.

MR. GOLDEN: Perhaps
before we do, it may be longer than we might
have anticipated. We have had a combination
of personal difficulties with witnesses and
change of travel plans which dries out this
afternoon in terms of evidence. I do not know

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whether it is a consulation or not, because one of the difficulties is of a personal nature that make it impossible for one of our witnesses to attend. The mixture of that blessing, is, of course, we might be somewhat shorter than the trial would otherwise have been. I am not in a position to accurately estimate now, but I think probably it is reasonable to expect that we will finish our case on Thursday. I regretfully have to ask for an adjournment until tomorrow morning because all the witnesses are in transit at the moment. The one witness that was to be here could not be.

THE COURT: You can't usefully fill in the time by reading in an Examination for Discovery or anything like that? You are not ready to do that?

MR. GOLDEN: We are not quite prepared. We have been working very hard to do that.

THE COURT: Well, not much we can do about it. We will recess now until 9:30 tomorrow morning.

MR. HEINTZMAN: My Lord, may I have permission to have the Exhibits which were filed this morning, the ones with the lines around them -- I can't remember the

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number.

THE COURT: P-11, the

two bundles?

MR. HEINTZMAN: Yes, and P-2, so that we can have a look at them tonight, if that is satisfactory?

THE COURT: Unless there is some objection from any one else, I certainly have no objection. We seem to have two bundles. I think perhaps -- since there can only be one tag, perhaps P-11A and B can be attached just so one does not go astray. I don't know whether there is any lying reason into the division of the two bundles.

MR. GOLDEN: Easier to carry.

THE COURT: But at least they'll be tagged. Recess now until 9:30 tomorrow morning.

---COURT ADJOURNED TO
May 30th, 1979, at
9:30 a.m.

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VOL VIII

HAMLET OF BAKER LAKE
ET AL & MINISTER OF IAND
ET AL

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In the Federal Court of Ca
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