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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  
28th - 31st, and June 1st, 1979,  
inclusive.

\* \* \*

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Ms. Marvyn K. Koenigsberg for Urangesellschaft  
Canada Ltd. and Noranda  
Exploration Company Ltd.

VOLUME XI

Friday, June 1, 1979

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---Upon Resuming at 9:30 a.m., June 1st, 1979

THE COURT: Mr. Estrin?

MR. ESTRIN: Good morning, My Lord. I apologize for the delay. Dr. Freeman, will you take the stand, please.

THE COURT: Yes. We have that exhibit to put in.

MR. GOLDEN: My Lord, we had them xeroxed last night and we've had a page added and the exhibit numbers I believe

--

THE COURT: P-22A and B.

I understand that page 92, 93, 94, 105, 106, 107 and 108 and 114 are to go in.

MR. GOLDEN: Which is 92 and 93? May I check that again?

THE COURT: Is there something on 94 you want in?

MR. GOLDEN: I recall that. One fourteen has been reversed. I will have to prevail on the Registry again, My Lord. It would have been simpler just to put the book in.

THE COURT: It's beginning to look that way. I think we might get some disagreement on that.

MR. GOLDEN: There will be no examination on it, unless my friends wish

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M. Freeman, cr-ex  
(Cosman)

to cross-examine on it.

THE COURT: Of course.

MR. GOLDEN: May I close  
my examination subject to putting these documents  
in and doing it at the first convenient recess?

THE COURT: We understand  
what pages are to be included in the exhibit.  
For purposes of cross-examination, they can  
use the book.

MR. GOLDEN: Thank you,  
My Lord. I have no further questions of the  
witness.

THE COURT: Mr. Cosman?

---MILTON FREEMAN, recalled

CROSS-EXAMINATION

BY MR. COSMAN:

Q. Thank you, My Lord.

Dr. Freeman, I would just like to explore with you  
a little of your personal academic background.  
You have your bachelor of science in zoology  
from the University of England in 1958?

A. That's correct.

Q. And you did your Ph.D.  
in physiological ecology in the Zoology Department  
at McGill University?

A. Yes.

Q. You did that between  
1958 and '61 and then completed that in 1965?

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in addition to what you have stated in your Affidavit, stating now that you looked at historical documents as well? Is there anything else that you looked at?

A. No. Essentially we were concerned with obtaining information from all relevant sources. That required looking at the published literature, unpublished literature that were appropriate and calling on people with expertise in these other fields.

Q. You indicated at the outset of your examination that you yourself are not an archaeologist?

A. That's quite correct, yes.

Q. In that respect, if there are any conclusions in the study that are of an archaeological nature, these cannot be your own conclusions, these would be based on the conclusions of archaeologists?

A. Indeed, yes.

Q. The conclusion in paragraph six of your Affidavit: this study establishes that Inuit have been in occupancy of the area of Chesterfield Inlet, east of Baker Lake, since 1255 A.D. plus or minus 90 years.

This would be a conclusion



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1478.

M. Freeman, cr-ex  
(Cosman)

of an archaeological nature; would it not?

A. Indeed, yes.

Q. I understand that the relevant portions of the study dealing with the Baker Lake area are those portions that will be photostated and which my friend has referred to in his examination in chief?

A. The material which is being submitted or photostated relates to the historic period -- the very recent period because it is based entirely on the recall of living people in Baker Lake area as regards their own land use during their own lifetime. I believe that would take us back around the time of 1916 at the earliest.

Q. Yes.

A. There is nothing of an archaeological nature.

Q. I understand that Mr. Tony Wellend is the author of those pages that have been put into evidence. I understand that was his evidence in chief, Is that correct?

A. That's correct, yes.

Q. I understand that the conclusions or the writing in those pages, that article is based upon interviews which were done with living Inuit?

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M. Freeman, cr-ex  
(Cosman)

A. That's correct, yes.

Q. Did Mr. Wellend do those interviews himself or was he reporting on interviews done by other people as well?

A. Yes, he had field assistance.

Q. Mr. Wellend has no archaeological education, to your knowledge?

A. As far as I know, no. It is irrelevant to his task.

Q. I'm going to refer to page 92 of the article that has been put into evidence, Mr. Wellend's article.

THE COURT: I wonder if I could have a copy of volume two until such time we get a copy?

MR. GOLDEN: I was about to. I did not want to interrupt my friend. The pages were just inter-leafed badly on my copy and that is what led to the confusion. I now have a copy.

THE COURT: You are satisfied this is the right one?

MR. GOLDEN: It was as I walked into the court room, but unfortunately the one page, page 114, appeared right after the first two and I thought we missed it.

THE COURT: This is Exhibit

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1480.

M. Freeman, cr-ex  
(Cosman)

22A and 22B.

EXHIBIT NO. P-22A: Pages 92 to 94, 105 to 108, and 114 of volume one: Land Use and Occupancy from Inuit Land Use and Occupancy Task Project.

EXHIBIT NO. P-22B: Volume three: Land Use Atlas from Inuit Land Use and Occupancy Project.

THE WITNESS: Could I have a copy of what you will be reading?

BY MR. COSMAN:

Q. At the top of that page Mr. Wellend writes just under the heading of North Northwest Keewatin District, Period Two, 1916 to 1956. He says that the Inuit living in this area have very little contact with whites until the early 1900s. During the whaling people these people acquired trade goods from their neighbours living in the Chesterfield Inlet area. A few of the inland people visited the coast and only a few white travellers passed through the region. Then he goes on to deal with the establishment of the post.

As far as that first paragraph is concerned, those would be conclusions that Mr. Wellend, in his own right, would not

M. Freeman, cr-ex  
(Cosman)

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have the qualifications to make; is that not fair?

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A. That's quite correct.

I should point out these are editorial inserts and, therefore, in a different typeset -- italicized.

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At the beginning of each section we needed to have a lead in section, and these would be things that we have obtained from the literature, from general knowledge, and are not part of the testimony of the people in Baker Lake itself.

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They might well be, but, in fact, these were editorial inserts put in after Mr. Wellend

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completed his report.

Q. Do you know who the author is of that first paragraph?

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A. In fact, it's Dr.

Allan Cooke, who is our editor -- editorial assistant to me. I approved of these statements.

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However, he was responsible for the historical background.

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Q. What is Dr. Cooke's academic background?

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A. Dr. Cooke is on the faculty -- well, he's at McGill University, the centre for northern study and research. He is probably the leading historian of the Arctic in Canada - perhaps in the world. He was a former editor of the Polar Record which I

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suppose is the leading Arctic-Antarctic Journal -- that's when he was at Cambridge University in England. He's the editor of a number of bibliographies which were taken to be definitive works on the history of exploration, on the history of Inuit white contact in the Canadian Arctic.

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Q. I see. This editorial comment is his comment and not that of the author?

A. Yes, that's quite correct.

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Q. In paragraph fifteen of your Affidavit, and paragraph sixteen of your Affidavit, you refer to an estimate of the annual caribou harvest for the Baker Lake area as being four thousand one hundred per year.

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In paragraph sixteen you assume that to be accurate to come to a conclusion that you do. Do you assume that figure to be accurate in putting forward the proposition you do in paragraph sixteen as to the healthy dependence on caribou of the Inuit in Baker Lake?

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A. Well, perhaps I should explain how the background to this paragraph fifteen and sixteen was.

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Part of the evidence that I was asked to comment on at the previous hearing was the IDS Study of Baker Lake and that figure

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of forty-one hundred caribou per year was an estimate -- that was contained in that study. I was asked at that time whether I thought it was reasonable study, a reasonable estimate, whether the methodology was sound. On the evidence available at that time -- in other words, just reading that study which was the only evidence I had -- I was quite prepared to agree that it was a reasonable estimate, that the methodology was sound and, therefore, the conclusions in paragraph sixteen are quite a reasonable situation.

However, there are some things that trouble me about it. The most obvious thing is, first of all, it is the largest estimate by far that we have for Baker Lake government. I was aware of this at the time. However, clearly there is a year to year variation in the caribou kill. This figure referred to a particular year. I would not want to generalize something around four thousand caribou are taken each year because clearly the figures show a great deal of annual variation. So --

Q. I'm sorry. Go ahead.

A. Secondly, it was in the context of just asking about the IDS study. If other information had been available, clearly I might have qualified, and I would have had other

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1484.

M. Freeman, cr-ex  
(Cosman)

evidence in which to weigh up this as against  
some other study. At the time that was the  
best I could do.

Q. If that figure had,  
in fact, in your view, been improbable, you  
would have not have relied upon it in making  
the propositions based upon it. Is that correct?

A. I think it is possible  
to have a harvest of forty-one hundred caribou.  
I understand now there are certain shortcomings  
in their methodology. I have not had a chance  
since hearing about those to relook at the IDS  
Study in question. I would just place a  
question mark against that figure at this time.

Q. In doing the Inuit  
Land Use and Occupancy Study, I take it you  
would have become familiar with the other  
communities that are extended throughout the  
Keewatin?

A. Yes.

Q. Are you familiar with the  
community of Chesterfield Inlet?

A. Yes.

Q. Do you know what the  
population of that community is?

A. I could only hazard  
a guess at around 200, 250, perhaps. I'm not  
sure. I am not sure if that is a good guess.

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1485.

M. Freeman, cr-ex  
(Cosman)

Q. Is that an educated  
guess or just --

A. I was last in Chesterfield  
Inlet in December, 1974, and that would have been  
a reasonable guesstimate at that time. I need  
something a little more up-to-date.

Q. What would be the  
population at Rankin Inlet?

A. Possibly 800 Inuit at  
this time. Again, I don't have any accurate  
information on that.

Q. What was it at the  
time you did the report?

A. I would say probably  
a little bit less; 700 or 650.

Q. In the preparation of your  
report did you consider what the population  
would have been in 1958?

A. In which community?

Q. In Rankin Inlet?

A. 1958 there was a  
mine in Rankin Inlet and the Inuit -- which  
had opened in 1956 -- the Inuit were beginning  
to move into that community, plus relocations  
from various areas in the Barren Grounds --  
Garry Lake, Ennadai Lake, places like this.  
It was probably considerably smaller, maybe  
two hundred Inuit at that time. I am only



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1486.

M. Freeman, cr-ex  
(Cosman)

guessing.

Q. If you don't know,

I do not want you to say, but as the editor of  
this study, I just want to have your -- you  
can refer to your notes if you wish.

THE COURT: We do know

at least for Baker Lake there is a population  
figure given in the material that I have.  
Perhaps if he looks at volume two he might  
refresh his memory on some of these other things.

MR. GOLDEN: Volume one.

My friends objected --

THE COURT: Volume one,

I'm sorry.

MR. GOLDEN: My friends  
objected to anything else going in and now they  
are cross-examining on other areas. I think  
we should decide what we want to know about  
in this case. If we want to know about other  
areas then perhaps we should put it in.

THE COURT: If Mr. Cosman  
wants to know only about population, it's  
a tenuous --

MR. GOLDEN: If my friend  
wants to pursue the line of questioning perhaps  
we can have the material before us.

MR. COSMAN: My Lord, I  
am clearly examining this man's knowledge of

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1487.

M. Freeman, cr-ex  
(Cosman)

these populations alone and that alone of the various communities that are in the Keewatin. That is the only point to which my cross-examination is directed to.

THE COURT: If you are interested in accurate rather than guess figures for a date maybe you are happy to let him look to refresh his memory.

MR. COSMAN: Yes, I am, My Lord. To the extent that any of the material you have to assist you as to what the population figures historically and now and were in respect of those communities, if you wish to refer to your notes, please do so.

THE WITNESS: Well, I do notice in these notes a figure of 860 was given for Baker Lake in 1974. Clearly that is as good an estimate as we can obtain. The population figures in these communities are very difficult to ascertain because people move between communities quite regularly.

BY MR. COSMAN:

Q. Do you know what the population is now of Eskimo Point? Did I ask you that question?

A. You have not asked that question. I don't really have any information on that at this time. I should perhaps mention

M. Freeman, cr-ex  
(Cosman)

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in the last two years there has been a considerable growth at Rankin Inlet because the government has moved regional services to that community. I assume that's caused a shift of the regional population, and some people might have moved to that community in response to various incentives, whatever.

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Q. Do you know what the population is now of Whale Cove?

A. No, I am afraid I have no information on Whale Cove.

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Q. Do you know what the population of Whale Cove or Eskimo Point would have been in 1974?

MR. GOLDEN: Perhaps he can refer to the study.

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MR. COSMAN: Yes, I already indicated that he could, Mr. Golden.

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THE WITNESS: Well, maybe I can refer. It says here in 1974 that the population of Eskimo Point was 681. For Whale Cove the population in 1974 was 243. Rankin Inlet, the population in 1974 was 645. Chesterfield Inlet, the population was 294 in 1974.

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BY MR. COSMAN:

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Q. Do you have any knowledge as to what the population of those communities are now, having regard to your notes and the

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1489.

M. Freeman, cr-ex  
(Cosman)

report?

A. No. I am afraid I

have no up-to-date information on these communities.

Q. Do you have any knowledge

as to the growth in those populations prior to  
1974?

A. Well, the Inuit

population in general is a fast growing  
population, so clearly we would expect in  
addition to movement between the communities  
that we would expect a fairly healthy growth in  
absolute size of the whole regional population.

MR. COSMAN: Thank you

very much.

THE COURT: Ms. Koenigsberg?

CROSS-EXAMINATION

BY MS. KOENIGSBERG:

Q. Dr. Freeman, looking  
again at Exhibit 22A, page 105.

A. Yes.

Q. There is an italicized  
portion beginning the section describing the  
central Keewatin?

A. Yes.

Q. On the second paragraph  
on the right-hand side of the page there are  
some things written there that would seem to  
me are of an archaeological nature. Can you

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1490.

M. Freeman, cr-ex  
(Koenigsberg)

tell me who authored this section?

A. What is of archaeological nature?

Q. The Inuit seem always to have inhabited this area, etc. Beginning with that.

A. Yes.

Q. Can you tell me first who authored this particular section?

A. Yes. This would have been authored, almost certainly, by either Dr. Cooke or myself, however, I take full responsibility for it. At the time this was written in 1974 that was certainly -- there would not have been an archaeologist who would have disputed that.

Q. That is your opinion?

A. Oh yes. This is also the opinion of the archaeologists- in fact, Dr. McGhee and Dr. Harp who worked on the study with us.

Q. Are there any other archaeologists who you say in 1974 who would have this view?

A. This was a conventional wisdom at that time. Dr. Noble as well, who is an authority on the Chipewyan or the -- I cannot say that word -- Talttheilei, was also

M. Freeman, cr-ex  
(Koenigsberg)

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working on this study. We had, for archaeological purposes, the best available archaeologists in North America working on this study. We had an international panel of reviewers that extended to Europe as well as to okay their findings. I think I can say quite confidently this was the best archaeological evidence available.

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Q. In 1974?

A. Yes.

Q. You are directing

your comments, are you not, that that was the

best -- in your view -- the archaeological

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knowledge in 1974 for the Baker Lake area?

A. Undoubtedly, yes.

Q. I take it from the

tenor of your remarks that since 1974 there have

been other opinions offered?

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A. Well, I listened to

quite a discussion the other day and I assume

some new writers are suggesting a re-examination

of the evidence.

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being Dr. McGhee?

Q. And some old ones

being Dr. McGhee?

A. Pardon me?

Q. And some old ones

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A. Some old?

Q. You had referred to

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Dr. McGhee as being one of the people that held this view. I was simply saying that in addition to the new writers that you acknowledged re-examining this area, I'm suggesting that it also would appear that Dr. McGhee is re-examining that?

A. I think it is fair to say that any scholar who is faced with new evidence will subject his own views to a critical re-examination. I think that is the nature of scholarly.

Q. Now, are you familiar with a study done by J. K. Stager, the Polar Gas entitled Baker Lake, Northwest Territories, A Background of Social and Economic Development?

A. I am aware of the study. I have glanced at it briefly some time ago, yes.

Q. I wonder if I can put some population statistics to you and ask you if you know of them.

I am referring to table 2.2 of page 43 of that study.

A. Yes.

Q. In it are population statistics for the years 1961 to 1975. Are you familiar with that information?

A. My only familiarity is

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1494.

M. Freeman, cr-ex  
(Koenigsberg)

A. Yes, it's fair to say that.

Q. Would the statistics indicate with regard to wage employment, sewing, carving -- the hunter and trapper activity -- be consistent with your knowledge of that community?

A. Well, I mean I can hazard an opinion but I'm afraid it's not a very informed opinion insofar as I have not independently tried to make these sort of conclusions myself.

I think in relation to these types of tables -- which I am quite familiar with -- the problem is that you are forcing people, to some extent, to categorize behaviour which is very variable. For instance, about half my time is spent on wage employment. It depends on the span of time you are talking about. Is it over the last six months or over the last year? It may well be that half one's time is spent doing this or that, or in some other proportion. In any given year an individual may suddenly change their whole occupational strategy and become full-time print makers or full-time hunters. People exercise these types of choices for a variety of reasons and by stopping the thing at a moment in time and asking people



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1495.

M. Freeman, cr-ex  
(Koenigsberg)

to give these categories which, of course, is a southern type of categorization, it's quite inappropriate. You end up with these spurious figures which indicate percentages which are absolutely meaningless. I realize it's done for a particular purpose.

Q. In your investigations with regard to the community of Baker Lake, would it be your understanding that very few people in Baker Lake, at least as of 1975 or in 1975, were full-time hunters and trappers, as is indicated by this table?

A. Well, I think you would have to define for me what you mean by a full-time hunter and trapper because it could run from spending the majority of one's time or getting most of one's income or it could be using one hundred percent of one's time -- you could apply very stringent criteria to these things. I would not know what you meant unless you define those terms.

Q. Would you agree with me when one goes about coming up with a table like this, one asks the people involved?

A. Well --

Q. If I read to you --

MR. GOLDEN: Perhaps we ought not to try to quote Dr. Stager unless he

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1496.

M. Freeman, cr-ex  
(Koenigsberg)

is going to be here.

THE COURT: I was going to suggest it would be at least advisable to identify table and number in case the report ever does get into evidence.

MS. KOENIGSBERG: I'm sorry, My Lord. You are looking at the activity and proportion of time table, and the table is 2.8, page 258.

THE COURT: Now, as far as questioning is concerned, I suppose one can ask if the witness agrees with this or that, but that is about as far as it goes. He has indicated to you generally his only knowledge of these matters is from what he has read in that report. He knows no independent knowledge.

MS. KOENIGSBERG: I would just like to explore, not too in depth, but a little bit on the basis of objection to this kind of data.

Dr. Stager has indicated in his report, the common form of obtaining this kind of information that the questionnaire method was used to canvass all of the households in Baker Lake and a number of people reported in response to questions such as, did you work full-time. Would that be common, in your experience, of this kind of research?

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THE WITNESS: Unfortunately, I have to say, yes, it is very bad research. As Mr. Justice Thomas Berger's report and conclusions show, most of that type of information, which is gathered by sociologists, is quite irrelevant to trying to discuss employment situation and the dependencies, economic and social, so on, of certain types of occupational strategies. It is irrelevant. But, it's still carried on because it happens to be the technique which sociologists and economic geographers and other people might use. It doesn't question assumptions. They have to be questioned. When they are, the method is found to be quite specious, as Justice Berger, in fact, concluded.

BY MS. KOENIGSBERG:

Q. Would it be, in your opinion, that the questionnaire method or any method of asking an interviewee a question to elicit data with regard to whether they work full-time, whether they work part-time, what kind of work they do this year? Could we extend that to asking them about any other ways in which they spend their time? If you are asking them southern questions, would that same criticism pertain?

A. I think the problem is when you are asked questions in a particular

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1499. M. Freeman, cr-ex  
(Koenigsberg)

Q. Are you familiar then with the work of Dr. Vallee in the Southern Keewatin?

A. Yes, I am familiar with that one.

Q. In particular, it is a study called Kabloona of Eskimo in the Southern Keewatin?

A. Yes. I am somewhat familiar with that past reading of it.

Q. Would you consider him to be an authority in the area?

A. Dr. Vallee's work was done in the period around 1960. At that time he was certainly one of the leading Canadian anthropologists working in the Arctic.

Q. I am referring you to table number five on page 14 of that study.

A. Yes.

Q. A table which lists causes of death, the Baker Lake region, 1949 to 1958. Are you familiar with that table?

A. Yes. I am looking at it.

Q. Were you familiar with it before I showed it to you?

A. Insofar as I have read Dr. Vallee's report -- nearer to the time that it

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1501.

M. Freeman, cr-ex  
(Koenigsberg)

the Baker Lake region, was very high as compared to southern statistics?

A. Yes, I think you could say that.

Q. And that starvation was a very real problem among the Inuit between at least 1949 and 1958, if not before?

A. Well, I am sorry to say that I cannot answer that with the same certainty as the other questions. There were certain cases of hardship, food shortages. I do not believe that is disputable. However, people who live a hunting and gathering way of life, such as the Inuit and many other people, are used to not having a full stomach all the time. They are used to eking out on frugal resources. I think one can go into a camp and see people who have no food on hand and haven't eaten -- they may tell you they have not eaten for the past three or four days -- and you could draw the conclusion, and it would be reasonable according to our criteria, that these people are starving. However, I think that is an ethnocentric type of conclusion. It is a question of whether the people themselves have designated themselves as starving and whether they are doing this for reasons -- whatever the reasons are -- I mean, this is a very difficult

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thing. You are asking people to categorize their particular behaviour. It is not a clear cut thing. Where do you draw the line of not being hungry and not having the food and a state of starvation where, in fact, that is just a prolongation of the earlier condition. It's not a clear cut type of thing.

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Q. Yes.

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A. I would not wish to deny there were not cases of starvation on the Barren Grounds where people died for lack of food. I am just saying that the use of it by the RCMP or the commissioners or by any other agency from another culture would necessarily result in their own categorization, and that condition is being one of starvation. I would have to question that.

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Q. In particular, including death recorded as a result of starvation, not just looking at people and asking them how long has it been since you have eaten or receive information that they have not eaten in four, five days -- that is if there is a death?

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A. Well, you see again, the questionnaire is that you have a group of people, some of whom will be suffering from tuberculosis, perhaps influenza, pneumonia -- there are a number of conditions -- and within that

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1503.

M. Freeman, cr-ex  
(Koenigsberg)

camp there are people short of food there and there will be differential mortality. Some people will die sooner than others. To say that a person died of one thing, starvation, rather than the interaction which is, as we know, the death in most cases -- you have to look at that person's age, the constitution in terms of what they've gone through before, if they have gone through a bout of tuberculosis, only have one lung left, then, you would expect them to be severely debilitated at the outset of the additional stress.

I do not think the lay people -- I'm not even sure medical people given the particular paradigm that medical science works on -- could necessarily with a high degree of accuracy assign cause of death in this stressful situation being due to one cause. That is my main point.

Q. Could you agree with me if one or a population were suffering from a variety of other physical ailments, whether it be tuberculosis, influenza or whatever, and deprivation of food for three, four, five, six days, that that could result in a more likely death?

A. Oh yes. I would have to agree with you.

MS. KOENIGSBERG: Thank you.

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1504.

M. Freeman, re-ex  
(Golden)

Those are all of my questions.

THE COURT: Thank you.

Mr. Chambers?

MR. CHAMBERS: No cross-

examination, My Lord.

THE COURT: Mr. Golden,

any re-examination?

MR. GOLDEN: Yes.

RE-EXAMINATION

BY MR. GOLDEN:

Q. Dr. Freeman, you were referred to Mr. Vallee's book called Kabloona and Eskimo. Perhaps in fairness I should refer you to the paragraph just immediately preceding table 5 and read it to you to see whether or not it fairly represents some of the concerns that you had expressed.

The paragraph reads:

"As we have already noted the death rate among the Baker Lake Eskimos is very high compared to the total Canadian death rate."

This is written, as I understand it, in 19 -- this is the 2nd edition. His research was done in 1959 and 60. I gather it was written shortly thereafter?

A. Sixty-one.

Q. "... in order to predict



1505.

M. Freeman, re-ex  
(Golden)

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what is likely to happen to the death rate we must be able to specify at least roughly the causes of death at present and in the immediate past. Table 5 presents a picture of the proportions of causes of death in several categories. It should be stressed that because most of these deaths were not professionally diagnosed, the classification is not as valid as we would like it to be and thus the figures presented are not as reliable as we would like them to be."

A. Yes.

Q. I gather you and Dr. Vallee were thinking much the same thing about those figures?

A. Yes, except I went one stage further and suggested to try and categorize any given death in terms of one cause when you have these interaction stresses, is itself a rather meaningless or academic sort of exercise and leads to judgments which are variable according to the observer -- the diagnoser.

Q. You also mention in the work that was done, preparatory to the publication of the study -- that's the study to which you

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referred -- you were asked certain questions about the historical references at the beginning, and particularly, counsel for the Urangesellschaft.

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The statement of Inuit seem always to inhabit the area, are you aware of a reported study by Dr. McGhee which is contained in the volume --

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we have not tendered volume two -- dealing with the various historical phases of Inuit occupation of Arctic lands?

A. In volume two of this?

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Q. Yes.

A. Yes. Oh yes.

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Q. Without dealing with

the recent historical phase, that is the Hudson Bay Company settlement at Baker Lake, for example, which is mentioned in the next paragraph, was Dr. McGhee able to place any dates on what was -- I think it's referred to as the Thule culture or --

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MR. GRAHAM: I object, My

Lord.

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MS. KOENIGSBERG: I object.

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THE COURT: We have a problem

because the question was really opened up in cross-examination.

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MS. KOENIGSBERG: With respect, My Lord, if I may, I explored merely the sources -- the authors of this piece and

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1507.

M. Freeman, re-ex  
(Golden)

simply asked the questions with regard to who were the people who were in the background for this. I certainly didn't go into what their views were, what exactly was relied --

THE COURT: You tried to get him to agree with some views or disagree with some; did you not?

MS. KOENIGSBERG: I don't think I asked that question. I believe in response to something which Dr. Freeman said when he referred to new people examining the area that really I facetiously put to him if Dr. McGhee might not have been one of the old ones --

THE COURT: Facetiously or not, it was asked though. That is the problem.

MS. KOENIGSBERG: Only if he was an old one as opposed to a new one.

MR. GRAHAM: My Lord, I also object on that basis because it is one thing to have asked who those people were. It is another thing for my friend to bring in the evidence and ask what this man's understanding is of what Dr. McGhee did. If he wants Dr. McGhee, I am sure he will have him. That, by the way, is our objection to the whole of the exhibit which has gone in on those grounds.

THE COURT: The objection to the whole exhibit is there. I appreciate that.

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1508. M. Freeman, re-ex  
(Golden)

BY MR. GOLDEN:

Q. I am not trying to get  
the exhibit in. Perhaps I can do it in a more  
general way. May I do that and try?

THE COURT: Yes.

BY MR. GOLDEN:

Q. Dr. Freeman, as editor  
and the person scientifically responsible for  
this study, did you examine and study the  
archaeological materials put before you by the  
various specialists that you retained?

A. The specialists  
produced a report. There was no -- I examined  
their report. In fact, I was present when they  
compiled their report and the workshop that led  
up to that.

Q. I was about to ask you  
that. Also, was there a gathering of  
these specialists at a place in time in which  
they spent some time discussing the archaeological  
significance of the evidence that was available  
to them?

A. Yes. There was a  
workshop which convened on a Friday evening  
and finished its work on Sunday afternoon  
following. The report was produced during that  
period -- or the draft of a report was produced  
in that time.

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1509. M. Freeman, re-ex  
(Golden)

Q. Just for the sake of completeness, the participants in that workshop insofar as it related to the archaeological -- it was an archaeological workshop?

A. That's correct.

Q. Do you recall who the participants were?

A. Yes. The three archaeologists assembled were: Dr. McGhee was one; Dr. Noble -- William Noble was the second; Dr. Maxwell from Michigan was the third. That was the fastest way to get the work done. Their report was then submitted to a panel of four independent assessors. Dr. Harp was one of these. Dr. Henry Collins, who is an archaeologist emeritus at the Smithsonian Institution and Dean of Arctic Archaeologists, was the second. Dr. William Taylor, the Director of National Museum of Man and I suppose the Dean of Canadian Arctic Archaeologists, was the third. Count Canut of Denmark, the High Arctic specialist with many years experience, was the fourth independent assessor -- referee, if you like, of the study. They all, with a few minor corrections which their own knowledge allowed them to make, were then submitted to the original three and were incorporated as appropriate and so on. This includes things

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happened at the meeting, but his opinion of what the archaeologists thought is not worth very much.

MR. GOLDEN: I really don't--

MR. GRAHAM: That is the way we get all these reports in this case, My Lord. We have something three pages long and suddenly we find we are into a study with 17 people there.

THE COURT: I don't think the areas in italics in the exhibit, in view of Dr. Freeman's testimony as to how they were prepared, that's not evidence either.

MR. GRAHAM: Exactly.

MR. GOLDEN: I wasn't aware it would not be. Perhaps we should deal with that because I will have some observations of that perhaps after we finish with the witness because there is a problem.

THE COURT: We have a lot of archaeological evidence from Dr. Harp.

BY MR. GOLDEN:

Q. I would like to ask you this, Dr. Freeman: as editor and person responsible for this report, in your opinion, are you satisfied with the fact there is scientific background for the statement that is made, that was referred to in cross-examination?

A. Well, clearly --

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1512. M. Freeman, re-ex  
(Golden)

MR. GRAHAM: The same  
objection.

THE COURT: I mean, I  
suppose Dr. Freeman was satisfied with the  
competence of the people he retained to do  
the work in various areas, and to that extent,  
he must have been satisfied with what they did.  
That's again about all he can say.

MS. KOENIGSBERG: I must  
object. I do not think it's proper re-examination.  
We have had from this witness evidence that he  
had lots of archaeological help in regard to  
this.

THE COURT: I will have to  
look at the transcript honestly at this point.  
I do know the subject area was open. I can't  
interfere with re-examination merely, but I am  
not at all satisfied that the evidence is of  
any value, or if it is evidence.

BY MR. GOLDEN:

Q. On the basis, My Lord,  
it's appropriate re-examination, and subject to  
Your Lordship's views as to the weight of that  
evidence, perhaps we can simply complete the  
record with it and Your Lordship can attach  
the weight it deems necessary.

Dr. Freeman, who wrote  
the italicized portions, just to get that clear?

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1519.

THE COURT: I would like to have a copy to follow along. I will make my copy available to the reporter to assist her in any way. You do not have to worry about Mr. Estrin going too fast or too slow.

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In view of all of the confusion, is it better if we take a break now?

MR. ESTRIN: Yes.

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THE COURT: We will take a ten minute recess now.

---Short Recess

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--- upon resuming after the recess

THE COURT: Mr. Estrin?

MR. ESTRIN: Thank you, my

Lord. Mr. Sgayias has produced this map which is entitled Mineral Claim Sheet Index Map, Yukon, Northwest Territories and is simply a key to the location of numbered mineral interests in the Northwest Territories. Without giving any particular information, it is simply a key to geographical areas by number. I think we are all agreed it should be marked as an exhibit for the assistance of the Court.

THE COURT: Exhibit P-23.

EXHIBIT NO. P-23: Map: Mineral Claim Sheet: Index Map: Yukon and Northwest Territories.

MR. ESTRIN: For your

assistance, my Lord, I have obtained a Court copy of the first set of examinations that I will be reading from. I will first read from the examination of discovery of the Defendant Urangesellschaft Canada Ltd. I am reading from Volume 1, Question 4 on page 4 beginning part way down.

"Q. Now, what is your title, please?

A. Project geologist, Baker Lake Area.

Q. And what are your responsibilities with the Baker Lake Area?

A. We have an extensive exploration program which has been divided into three or four sub

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projects, each has a project manager and I'm responsible for supervising the three or four sub projects.

Q. And what are those sub projects?

A. Aberdeen Lake is one, Sand Hills is the second, Lone Gull is the third. These names refer to different geographical areas within the Baker Lake Area."

My Lord, perhaps I should just go back to include a question that tells us who the person giving the answers in this case is.

The name of the person being discovered is Christopher Marmont:

"Q. And you work for Urangesellschaft?

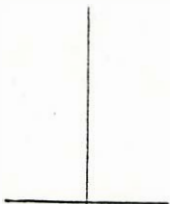
A. Yes."

Turning to Question 40, page 13:

"Q. Mr. Marmont, could you tell me generally the objects for which Urangesellschaft was incorporated? In other words, is it primarily a mineral exploration company?

A. Yes, it is. Specifically it was formed to locate deposits of uranium which it could then exploit and basically to secure a source of uranium for the Federal Government of Germany.

Q. For the Federal Government of



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Germany?

A. Basically, Germany has very few reserves of uranium, so, it conducts explorations world-wide.

Q. And Urangesellschaft is a subsidiary of a German company, is it not?

A. It is.

Q. Metallgesellschaft?

A. Yes.

Q. Does Metallgesellschaft carry on business in Canada or does it carry on business in Canada through Urangesellschaft?

A. It carries on business independently from Urangesellschaft.

Q. So, it does carry on business in Canada?

A. Yes.

Q. Is it also involved in the mineral exploration business?

A. It is involved in general mineral exploration exclusive of uranium.

Q. Does it carry on exploration activity in the Baker Lake area?

A. Indirectly. In 1974, Metallgesellschaft acquired eleven prospecting permits on behalf of Urangesellschaft and Urangesellschaft operated explorations on those permits,

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and I think this was prior to the incorporation of Urangesellschaft."

Further down that page, page 48, line 30, Mr. Timberg states:

"Just for the record, I think we should indicate the Baker Lake area we are talking-- Baker Lake area we are talking about is bounded by the area sixty-two degrees - thirty minutes north to sixty-six degrees north and ninety-two degrees west to one hundred and one degrees west."

Then we go to Question 50:

"Q. When did Urangesellschaft begin its exploration activity in the Baker Lake area, the extended Baker Lake area?

A. 1974.

Q. Now, was this exploration activity carried on by Urangesellschaft or its parent?

A. It was carried on by Urangesellschaft.

Q. And in 1974, what was the extent of the exploration activity carried on?"

My Lord, at this time I would like to file Exhibit 1A to that discovery which was a map entitled Urangesellschaft Canada Ltd., Land Holdings Effective April 1st, 1974.

THE COURT: Exhibit 1A to the

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discovery is filed as Exhibit P-24.

EXHIBIT NO. P-24: Map:  
Urangesellschaft: K-1  
Land Holdings:  
Effective April 1, 1974

MR. ESTRIN: Turning to  
Question 55. This refers to the exhibit.

"Q. Would you describe them for the  
benefit of the record?

A. These are eleven prospecting  
permits situated between latitude  
64° north and 65° - 30 seconds north  
extending from longitude 97° west  
to 98° - 13 minutes west."

Then turning to Question 58:

"Q. What type of exploration activity  
was carried on under the prospecting  
permits in that area you have just  
pointed out to me?

A. The exploration took three forms,  
firstly, there was geological  
recognizance.

Q. Perhaps you could explain that  
for me, please.

A. Geological recognizance took the  
form of using a helicopter to get  
around this large area very quickly  
and dropping off geologists at  
specific sites of interest and  
picking him up after traversing  
certain broader areas.

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Q. You mentioned there were other types of activities carried on?  
 A. Geochemical sampling.  
 Q. What is geochemical sampling?  
 A. Lakes were sampled, perhaps on the density of one lake per two and a half square miles, this involves a helicopter settling on a lake and personnel dropping a dredge, collecting a grab sample of settlement from the lake bottom and a water sample from the lake. These are then analyzed in the field for their random content or left in a commercial laboratory for uranium and base metal content, and on this basis you end up with a series of results, some of which have higher concentrations of uranium, some of which have low, and you then have a basic for..."

I believe that should be basis for.

"... for doing more detailed work in the area for uranium values.

Q. Was-- how are airborne geophysical surveys conducted?

A. This again involved a helicopter flying a grid pattern, a series of parallel lines usually one-third to one-quarter mile space in-between

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lines, the helicopter would fly at fifty miles an hour at an altitude of one hundred to a hundred and fifty feet above ground level and would record the radioactivity of the ground which it traversed.

Q. You've mentioned three types of activities, were there any other types of activities carried on or does that complete what was done in '74?

A. That is basically it for 1974.

Q. When these activities were carried on, did you set up any camps within the area covered by your prospecting permits?

A. Yes. Three camps were utilized through the season successively, the first was in permit 327, in the Sand Hills area. This was subsequently moved to permit 324 at Schultz Lake and finally to Sissons Lake, permit area 318.

Q. And you've mentioned a helicopter, where was the helicopter based? Would the helicopter be based at the camp?

A. Yes.

Q. Did the helicopter fly between the camp and Baker Lake or was it solely at the camp? In other words, how were

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the people in the camp provisioned?

A. I can't answer you directly on that. I wasn't present. I believe that the helicopter made periodic flights between Baker Lake and the camps, and I would expect that the camps were supplied by fixed-wing aircrafts."

Subsequently we have been advised, my Lord, by the solicitors for this Defendant that there were no fixed-wing aircraft involved, only helicopters.

"Q. Operating out of Baker Lake?

A. I'm not sure."

Turning to page 19, Question

69:

"Q. Mr. Marmont, what subsequently has happened to these eleven prospecting permits that were issued in 1974?

A. As a result of the recognizance programme in 1974, portions of four permits only were retained. The remaining seven were relinquished entirely. The four which were retained in part were 318, 319, 320 and 327.

Q. Were they retained because they showed the most promising potential?

A. That's correct.



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Q. What has subsequently happened to them, those four that were retained?

A. Urangesellschaft still maintains those four areas in the form of mineral claims and is currently conducting detailed evaluation of prospects in each of those four areas.

Q. Proceeding next to 1975, where were your activities in 1975 located?

A. A certain amount of work was continued on the four permits we've just mentioned. In addition, six new prospecting permits were acquired, this time under the name of Urangesellschaft."

At this point I would like to file Exhibit 1B to that examination, a map entitled Urangesellschaft Canada Ltd., Holdings Effective April 1st, 1975.

THE COURT: P-25.

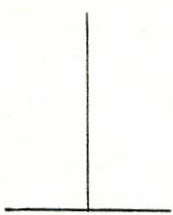
EXHIBIT NO. P-25: Map:  
Urangesellschaft: Land  
Holdings: Effective  
April 1st, 1975.

MR. ESTRIN: Question 74:

"Q. And you were telling us about the activities carried on in 1975.

MRS. KOENIGSBERG: With respect to the six new permits.

THE DEPONENT: Yes. The six new permits were treated in exactly the same way as were the eleven permits



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the previous year, in other words, recognizance, geochemical, airborne geophysical and geophysical work.

BY MR. TIMBERG:

Q. And once again, did you use aircrafts?

A. Yes. Helicopters were used to conduct the airborne geophysical surveys, the geochemical lake sampling surveys and to move personnel in.

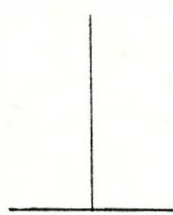
Q. With respect to the airborne geophysical surveys, could you tell me what the grid patterns and the altitudes of flight were as you did previously?

A. Selected grids were flown in some of the areas, lines-- spacing between flight lines a quarter of a mile, flight altitude one hundred to a hundred and fifty feet and air speed-- ground speed, sorry, approximately fifty miles per hour.

Q. And in what areas of these permits 352 to 357 inclusive were these airborne surveys carried on, were they carried on over all permits or only selected permits?

A. I have another map here which I think shows....

--- Discussion off the record



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MRS. KOENIGSBERG: Over which permit areas you are referring to did you fly the grids in question?

THE DEPONENT: Airborne geophysical grids were flown over portions of prospecting permits 352, 253..."

Where it says 253, my Lord, that should be 353.

"... 354, 356 and 357.

BY MR. TIMBERG:

Q. Now, with respect to those permits you obtained in 1975, did you use any base camps?

A. Yes.

Q. And where would they be located?

A. I think that we used only one base camp and that was on the island in Sissons Lake in permit 318.

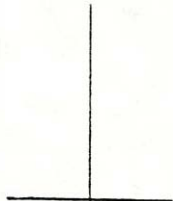
Q. And was this camp manned year-round-- I'm sorry, I don't mean year-round, for the summer months?

A. Yes, I think it was mobilized in late June and pulled out in early September.

Q. How many men would be at the camp at any one time?

A. I think the maximum size of the crew in 1975 was in the order of twelve people.

Q. And was the camp provisioned from Baker Lake?



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A. Yes.

Q. By air? Fixed-wing aircraft?

A. I'm not sure about fixed-wing, certainly by helicopter.

Q. At this time, 1975, were any of your survey work carried out by walking over the land covered by your prospecting permits or was everything carried out by aircraft?

A. No, there was a fair amount conducted by walking over the ground.

Q. And which prospecting permits would that walk-over relate to?

A. Primarily permits 318, 319 and 320. And 353.

Q. And what type of activities were carried out, you know, walk-over?

A. Mainly prospecting, that is, using a scintillometer to detect changes in radiation levels and observing changes in rock types. In two permits, that is, 318 and 320, small grids were constructed in the area and more systematic ground surveys went on.

Q. Does that cover the extent of your activities in 1975?

A. No, we also did some recognizance in areas, in open ground, which is ground which is not covered by any prospecting permits or claims."

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Now, Question 90:

"Q. Mr. Marmont, with respect to these permits that were issued in 1975, what subsequently happened to them?

A. Permit number 352 was relinquished entirely at the end of 1975. Portions of the remaining five were retained.

Q. And what is their subsequent state now, are they still in existence or have they been turned into claims?

A. All of the permits have expired and all of them contain some mineral claims.

Q. Turning next to 1976, did you obtain any further permits in 1976 for this extended Baker Lake area?

A. Yes. We obtained five new prospecting permits.

Q. (document handed)

A. Yes. Only four of those permits known as 375 through 378 are within the study area, the fourth lies just outside, I'm afraid. 374 through 376 are not marked on this map.

Q. They are not marked on Exhibit 1C but perhaps you could point out approximately where they are located."

Then we come to Map 1C. I would ask that that exhibit, 1C to this examination, be marked as the next exhibit. It is a map entitled

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Urangesellschaft Canada Ltd., Holdings, Effective  
April 1st, 1976.

THE COURT: P-26.

EXHIBIT NO. P-26: Map:  
Urangesellschaft: Land  
Holdings: Effective  
April 1st, 1976.

MR. ESTRIN: Question 95:

"Q. You've indicated on Exhibit 1C  
where prospecting permits 374, 375 and  
376 are located and the map already  
indicates prospecting permits 377,  
378. Could you please advise me as  
to what activities were carried on  
in these areas covered by prospecting  
permits in 1976, as you have done for  
'74 and '75?

A. In 1976, in these five new permits  
only, recognizance geochemistry and  
recognizance geology were conducted  
essentially in the same manner in  
which I have described for the previous  
two years. No airborne surveys--  
airborne geophysical surveys were  
conducted on these five permits.

Q. Did you have base camps as before?

A. Yes, we had a base camp on the  
island in Sissons Lake.

Q. As in 1975?

A. Yes."

Now, Question 100:

"With respect to prospecting permits

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in the Baker Lake area that were issued in '74 and in '75 that were still in existence in 1976, what activity was carried on on those permits? Did any permits to a claim in 1976?

A. At the end of 1976 we located mineral claims in 318, 320 and 327 because those three permits were due to expire in the beginning of the following year.

Q. Where in those permits are the claims located?

A. I can show you on this next one.

Q. So, this is Exhibit 1D."

I would ask Exhibit 1D to this examination be marked as the next exhibit, my Lord. It is a map entitled Urangesellschaft Canada Ltd., Holdings, Effective April 1st, 1977.

THE COURT: P-27.

EXHIBIT NO. P-27: Map:  
 Urangesellschaft: Land  
 Holdings: Effective  
 April 1st, 1977.

MR. ESTRIN: Question 103:

"Q. Exhibit 1D shows your land holdings in the Baker Lake area for the year 1977. Could you point out the claims for me with respect to those permits that I was just talking about?

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A. Mineral claims SSL 1 to 128 in permit 318, SCH 1 to 136 in permit 320 and SH 1 to 130 in permit 327.

Q. And those were the only claims that came into being at the end of 1976?

A. That's correct."

Now, Question 106:

"Q. Mr. Marmont, perhaps I can ask you to indicate on Exhibit 1D where prospecting permits 455 and 456 are located.

A. These were referred to by Urangesellschaft as Ferguson Lake programme.

Q. Now, dealing only with those two prospecting permits, what activities--  
MRS. KOENIGSBERG: Just for the record,

I think we had better indicate what Mr. Marmont put on the map that wasn't there before at this discovery, okay?  
Mr. Marmont has indicated two numbers, 456 and 455 at the bottom of Exhibit 1D.

BY MR. TIMBERG:

Q. Mr. Marmont, dealing only with those two permits, what activities did Urangesellschaft carry on in 1977?

A. I'm not fully familiar with that programme but I believe that activity was very restricted there and was



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geologically oriented and I think a few people working out of a camp at Yathkyed Lake simply spent a few days examining the geology of the area.

Q. Now, Mr. Marmont, with respect to your other holdings in the Baker Lake area, other than prospecting permits 455 and 456, what activities were carried on in 1977?

MRS. KOENIGSBERG: Are you referring to the other permits from the other years?

MR. TIMBERG: Exactly.

THE DEPONENT: In 1977 we conducted detailed ground evaluation on mineral claims SSL 1 to 128, SCH 1 to 136.

BY MR. TIMBERG:

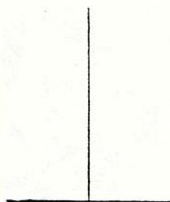
Q. Continue.

A. And SH 1 to 130.

Q. What detailed ground-- what did detailed ground evaluation involve?

A. In all three cases grids were constructed on the ground and systematic surveys, radioactivity, magnetics-- electromagnetics, soil geochemical and induced polarization. And in the case of mineral claims SSL 1 to 128, a small diamond drilling programme was commenced.

Q. Was this the only claim or the



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only claim over which drilling was carried out?

A. Yes.

Q. And was this the first time in your involvement in the Baker Lake area that drilling was carried out?

A. Yes,

Q. Did the work involving these claims, were aircrafts involved?

A. Yes. At Schultz Lake and at Sissons Lake aircrafts were used to transport personnel from camp to the site of work and helicopters were used to move the diamond drill between set-ups.

Q. How many times did you use the drill? In other words, how many holes did you drill?

A. We drilled six holes, so, we had to move the drill six times.

Q. And how long does it take to drill a hole?

A. That depends on a number of things but this particular drill programme lasted over five or six weeks.

Q. Is the drilling programme noisy?

MRS. KOENIGSBERG: Don't answer that question. Do you want to be a little more precise?

BY MR. TIMBERG:

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Q. Is the drilling programme noisy to the extent that the people who are operating the drill, the diamond drill, were forced to wear ear protectors?

A. Some diamond drillers I believe do, but I think most don't wear any protectors.

Q. Do you have any idea how far away you could be from the drill that is being operated and still hear it?

A. Subsequent, in 1978, we had two camps situated, one at drill site and one two and a half miles away, and occasionally when the wind, when there was a light breeze in the right direction, at night you could hear the drill, but that was very rarely.

Q. Mr. Marmont, with respect to areas over which you still held prospecting permits in 1977, were any activities carried out over those areas?

A. Yes, I think we conducted some activity on all the remaining permits. Do you want me to be specific about this?

A. I would appreciate it, yes.

A. In permit-- I will go through it numerically. Permit 353, we constructed a grid over a portion of

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the area and conducted detailed mapping, scintillometer and soil sampling surveys. For the purpose of that we occupied a small fly camp on the Thelon River.

Q. By "fly camp", you mean a camp where planes could fly supplies in and out?

A. No, this camp was supported by a helicopter from our base camp and we just had three or four people staying there. By "fly camp" I mean small, readily portable camp.

Q. And the camp would be operated under land use permit?

A. Yes.

Q. Continue.

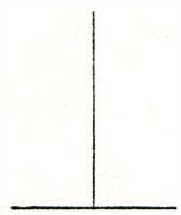
A. Permit 354, we conducted detailed ground prospecting and also constructed a small grid in the southeast portion of 354 and on that grid we conducted electromagnetic surveys and soil, geochemical.

Q. What power..."

My Lord, I think that should be what are electromagnetic surveys.

"... electromagnetic surveys and the other surveys you mentioned, is it radiological?

A. Radiometric surveys.



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Q. Could you describe those briefly?

A. Radiometric surveys simply uses a scintillometer, which is a sensitive form of Geiger counter and just measures the regular activity at any particular point.

Q. Is it carried out using aircrafts?

A. No, a scintillometer is about the size of the tape recorder here, it is hand-held and has a little meter and you just have a guy walking along reading the meter every twenty-five feet or so.

Q. And the other survey you mentioned?

A. Electromagnetic surveys take two forms, one known as the EM-16, again is a small hand-held instrument and it measures the electromagnetic properties of the ground. In the case of the EM-16, it uses electromagnetic waves which are beamed from submarine stations in Seattle or Maine, and such electromagnetic waves are disturbed in the presence of conductive ground material such as sulfide or ore bodies, that sort of thing.

Q. Before we continue, I note from Exhibit 1D that with respect to certain of the prospecting permits,

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for example, prospecting permit 354, you have indicated on Exhibit 1D that Urangesellschaft only holds certain portions of the original prospecting permit?

A. Yes. Under the Canada Mining Regulations, at the end of the first year tenure of a prospecting permit, at least twenty-five percent of that permit must be released and it becomes open ground. By the end of the second year, at least an additional twenty-five percent must be released.

Q. So, if I understand the process correctly, you obtain prospecting permits for a wide area and as you investigate the prospecting permits you narrow down contents to the area you are interested in.

A. That's correct.

Q. Please continue with the other prospecting permits, please.

A. In permit 355, we also conducted detailed ground prospecting as we did in permit 354. That was all we did there. In permits 355-- I'm sorry, 356 and 357, we did some lake geochemical sampling using the helicopter at a density of one sample per square kilometer and a limited



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amount of ground prospecting. In 377 and 378, we did limited airborne geophysical surveys, that's all.

Q. And for the airborne geophysical surveys, what was the grid pattern and the altitude at which the aircraft flew?

A. In permit 377, the grid lines were one quarter miles between flight lines, flight altitude approximately one hundred feet and flight lines were oriented north-south. And in permit 378, I think flight lines were oriented north-west, south-east and the line spacing was one mile in this case, this was a recognizance sort of survey, just to see how the airborne system worked in that area.

Q. And the areas used for these air lines surveys were based where?

A. They were based at a camp at Schultz Lake, which is immediately southwest of mineral claim SSL 1 to 128.

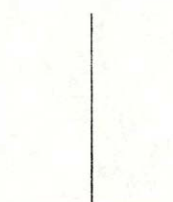
Q. Did you have any other base camp?

A. In '77, no.

Q. How many men were involved in that base camp at any one time?

A. I think we reached thirty-five or so.

Q. Would thirty-five men be in the



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base camp and additional men be in the field or would the total be thirty-five?

A. We may have had two or three people in addition at the time we reached thirty-five. The actual number of people at the camp at one time varies from day to day. At the end of the season we maintained a camp at Schultz Lake in addition to the one at mineral claim SSL 1 to 128 where we were doing the drilling, so, in August the drill camp would have contained perhaps fifteen people where the camp at Schultz Lake was down to about twenty.

Q. I note that you have another map showing land holdings of Urangesellschaft in 1977. What is the difference between this map and the map that we have been looking at, Exhibit 1D?

A. Exhibit 1D shows the land holdings as of April the 1st, which follows the time when portions of prospecting permits have to be relinquished. This one is dated May the 10th.

MRS. KOENIGSBERG: This one is referring to 1E."

I would ask that Exhibit 1E to



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this examination be marked as the next exhibit. It is a map entitled Urangesellschaft Canada Ltd., Land Holdings, Effective May 10th, 1977.

THE COURT: P-28.

EXHIBIT NO. P-28: Map:  
Urangesellschaft: Land Holdings: Effective May 10th, 1977.

MR. ESTRIN: Continuing on that page, on the bottom of page 31:

"THE DEPONENT: And in the period between April 1st and May the 10th, we located additional mineral claims, these are IT 1 to 591, which were adjacent to the SCH claim, and L 1 to 620, which are adjacent to the SSL claims.

BY MR. TIMBERG:

Q. Did these additional claims that were staked arise from a prospecting permit?

A. No, they were located on ground which was open.

Q. I understand, then, that you went ahead and staked the claims without first getting a prospecting permit?

A. Right, yes."

Now, Question 141:

"Q. In 1977, what work was carried out on the extended claim area?

A. The extended claim area was subject to detailed geological

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mapping, detailed airborne geophysical surveys and detailed drainage geochemical surveys.

Q. That last survey, what type of survey was that?

A. I specified as drainage as opposed to lakes, and all we are doing is sampling additional surface run-off features where lakes do not exist.

Q. And how often were aircrafts involved in these surveys on these extended claim areas?

A. Aircrafts would have been supplying-- sorry, would have been transporting people into their site of work on a daily basis.

Q. The aircraft would be a helicopter?

A. Yes.

MRS. KOENIGSBERG: What do you mean by "daily basis", do you mean every day or when they went?

THE DEPONENT: Yes, our camps--

BY MR. TIMBERG:

Q. The camps we have previously mentioned for 1977?

A. Yes. Our camps are several miles from the work area and it expedites the work to use a helicopter to get them there. The helicopters were

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obviously involved in conducting the geophysical and geochemical surveys."

Then turning the page, my Lord,

to Question 148:

"Q. Mr. Marmont, you have another map for your land holdings in 1977. What does this one show that is different from the other one?

A. At the end of 1977 Urangesellschaft located mineral claims in prospecting permits 353, 354 and 356 because it was expected that those permits would expire at the beginning of 1978, so, it was simply a good time to locate them while we were still in the field."

At this time, my Lord, I ask that Exhibit 1F to the discovery be marked as an exhibit in this trial. It is a map entitled Urangesellschaft Canada Ltd., Land Holdings, Effective October 3rd, 1977.

THE COURT: P-29.

EXHIBIT NO. P-29: Map: Urangesellschaft: Land Holdings: Effective October 3rd, 1977.

MR. ESTRIN: Turning the page, my Lord, at the bottom of page 35, Question 153:

"Q. Just generally a couple of questions about 1978. In 1978, can you give me a general idea as to whether your number of claims increased or decreased?

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A. Our number of claims increased significantly in 1978.

Q. And what about the prospecting permits, did they increase as well, did you have more prospecting permits in 1978?

A. Yes, we did."

Turning the page, my Lord, to

Question 159:

"Q. Now, turning to 1979, has Urangesellschaft applied for any land use permits for 1979 in the Baker Lake area?

A. Yes.

Q. And have land use permits been issued?

A. Yes.

Q. What areas of the Baker Lake area do those land use permits relate to?

A. We have several land use permits within the extended Baker Lake area covering different internal projects, and what we have done, though, is include under one land use permit all holdings which lie within the study area. Outside of the study area we have I think three of the land use permits."

Then turning the page, my

Lord, Question 164:

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"Q. Now, I understand that for 1979 with respect to your claims west of Yathkyed Lake you intend to carry on exploration activities between the months of June and August of this year?

A. Yes, I think that's correct.

Q. Do you have any indication as to the size of the crew that will be carrying on the activities and the type of work they will be carrying on?

A. That project is not--

MRS. KOENIGSBERG: Again I caution you, if you don't know the answer, don't guess, and we can try to obtain the accurate information and provide it. If you do know, go ahead.

THE DEPONENT: I can give it in ballpark term.

MRS. KOENIGSBERG: Are you happy with ballpark terms?

MR. TIMBERG: I think so, yes.

MRS. KOENIGSBERG: Go ahead.

THE DEPONENT: I think we are going to have a crew there of approximately seventeen people and they are going to be conducting essentially ground based and grid surveys.

BY MR. TIMBERG:

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Q. Will you be carrying out any exploration activity on your prospecting permits north of Nowleye Lake?

A. Yes.

Q. And again, do you have an indication as to the size of the crew and the type of activity that will be carried out?

A. Again, this is approximate, it is not under my supervision. I think the party there is about ten people and the type of work I'm not familiar with."

Then further down the page,

Question 171:

"Q. Yes, the west boundary is at 101° west. Mr. Marmont, I understand from looking at the map that was made an exhibit at the examination for discovery of the Government, that your activity that is to be carried out in the Mosquito Lake area is outside the area I ~~previously~~ indicated, so, I don't need an answer to my question.

I further understand that you will be carrying on activity in 1979 on your permits south and east of Mallery Lake? Are you familiar with

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that activity and is that in the extended Baker Lake area?

A. Yes, it is. Again, I'm not supervising that programme. It is the same party that is working at Nowleye, so, there will be ten people working there. The nature of the programme I'm not familiar with.

Q. Could you check for me, please, because my information is that there will be extensive activity this summer on those permits. By extensive activity I mean there be airborne, geophysical surveys, recognizance geophysical surveys, ground geophysical surveys, ground geochemical surveys, geological surveys and prospecting.

A. I'm sure all of those are current."

Further down the page,

Question 173:

"Q. Mr. Marmont, I also understand that you will be carrying on very extensive activity on your claims west of Baker Lake and south of Schultz Lake, are you familiar with that activity proposed for the summer of 1979?

A. Yes, I am.

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Q. Are you or could you give me some indication as to the number of men that will be involved in this activity and approximately where the activity will take place?

A. Yes. These are the two camps which I mentioned for the 1978 activity.

Q. So, if I understand correctly, the same camps in 1978 will be used in 1979?

A. That's correct.

Q. And these are the camps at Schultz Lake and Sissons Lake?

A. No, I'm sorry, the camp at Schultz Lake is inaccurate, that site has been cleared up. The two camps, I mentioned one at the drill camp and one two and one half miles south of this, I think I only mentioned it in respect of the noise question.

Q. You did, that's right. So, there will be two camps.

Approximately how many men will be involved in this exploration activity?

A. At the drill camp we expect in the region of thirty people and the exploration camp thirty to



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thirty-five. The exploration camp is two and a half miles south of the drill camp.

Q. During what months will these camps be occupied?

A. We expect to mobilize in late May. We have to vacate the camps for the month of July.

Q. This is because of the interlocutory injunction that is in effect?

A. That's correct. And we will continue probably, hopefully into October.

Q. You mentioned that there will be a drill camp, do you have any indication as to how many drill rigs that will be utilized?

A. There will be four drill rigs prior to July and three after.

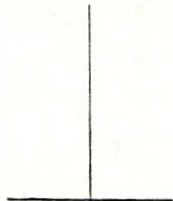
Q. Could you tell me specifically what claims or what group of claims the drill rigs will be used on?

A. Yes, that's the SSL-- that would be it."

Now, turning the page,

Question 184:

"Q. Do you have any idea at the moment what type of surveys in addition to drilling will be carried out in this particular area we are



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talking about, west of Baker Lake and south of Schultz Lake?

A. We will be doing, will be constructing a number of grids in different parts of that area, we're talking by the way of approximately six hundred square miles here, perhaps ten or twelve grids where we will be doing detailed geological mapping, scintillometer surveys, soil sampling surveys. We will also be doing airborne geophysical surveys, and in parts of that area we will be doing detailed drainage geochemical sampling.

Q. For 1979 as compared to 1978, do you have more claims staked in the Baker Lake area?

A. Yes."

Turning the page to Question

187:

"Q. The area we have been talking about, south of Schultz Lake, and west of Baker Lake, have any permits been staked in that area since the end of 1978?

A. Yes. I think nine mineral claims in that specific area."

Now, Question 189:

"Q. Fine, thank you. Turning to

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another area of your proposed activity for 1979, I also understand you will be exploring on the claims and permits near Marjorie Lake, are you familiar with that and is that in the Baker Lake extended area?

A. Yes.

Q. When do you expect that the work will be carried out in that area?

A. We're not allowed to work in that area between May 15th and July 31st, so, we plan to start August the 1st.

Q. And at this time, do you have any idea what the size of the crew will be?

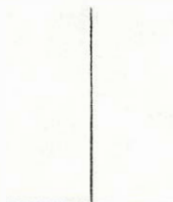
A. Fifteen to twenty people.

Q. What type of work will they carry out?

A. There'll be one diamond drill rig during August. We also will be doing detailed prospecting, probably some airborne geophysical surveys, detailed geochemical drainage sampling.

Q. Do you have any idea where or if a base camp will be located in that area for this activity?

A. Yes, we have a base camp or we will have a base camp located



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immediately south of the A - B mineral claim group.

Q. What is the A - B mineral claim group?

A. That is simply mineral claims that were located at the end of 1977 over part of one of our prospecting permits.

Q. Will you be carrying out any-- oh, by the way, before I leave that, the work dealing with the Marjorie Lake area, where will your aircraft be based for your airborne surveys?

A. We haven't finalized our plans. I would expect that the airborne survey-- aircraft will be based at Pointer Lake or Aberdeen Lake-- sorry, that's Marjorie, or Sand Hills Lake, which we haven't yet discussed according to where it is conducting the surveys it will camp at the nearest point.

Q. I also understand they will be carrying on exploration activity east of While Hills Lake and north and east of Tehek Lake?

A. That's right.

Q. When will that activity be carried out?

A. That crew will probably be mobilized in late May or early June

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and remain there until late July.

Q. And how many men will be involved?

A. Approximately a dozen.

Q. And they will set up a base camp in the area?

A. Yes. I think it is about twenty miles north of Tehek Lake.

Q. And what type of activity will they carry out as part of their exploration activity?

A. They'll carry out detailed ground based grid surveys, possibly some airborne geophysical surveys, possibly some drainage geochemical surveys and geological mapping.

Q. Now, finally, will any work be carried out in the summer of 1979 on your permits and claims east of Sand Hills Lake?"

Now, turning to Volume 2, page 53. I am referring to Exhibits 1G and 1H of this examination and ask that these be made as exhibits in this trial. The first one, Exhibit 1G, is entitled Urangesellschaft Canada Ltd., Project UG Land Holdings in Baker Lake, Land Freeze and Extended Inuit Claim Areas, July 1st, 1978.

THE COURT: P-30.

EXHIBIT NO. P-30: Map:  
 Urangesellschaft: Land  
 Holdings: July 1st,  
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MR. ESTRIN: The next one, Exhibit 1H to this discovery is the same heading except the date has been changed to Land Holdings, November 1st, 1978.

THE COURT: P-31.

EXHIBIT NO. P-31: Map: Urangesellschaft: Land Holdings: November 1st, 1978.

MR. ESTRIN: Question 214 on page 53:

"Q. Could you explain these maps, please?

A. The major difference in UG's land holdings for 1978 is the addition of a large track of ground south of Schultz Lake and the acquisition of eleven new prospecting permits between twenty and fifty miles north of Baker Lake.

Q. Okay. And what period of time does this map, Exhibit 1G, cover?

A. The map is dated July the 1st, this is the date shortly after these mineral claims at Schultz Lake were recorded.

Q. And in 1978, what type of exploration activity did you carry out on your holdings shown in Exhibit 1G?

A. We can start up in the northwest corner, in the Sand Hills area we

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conducted no exploration work during  
 1978 but we did have a caribou  
 monitoring party composed of one  
 biologist from Baker Lake just sitting  
 there from mid June to late August  
 observing caribou and doing other  
 studies on the flora of the area.

In the northeast area, on the  
 eleven newly acquired permits work  
 was essentially recognizance and in  
 the southern four permits work was  
 basically ground work, prospecting  
 and geological mapping. The same  
 thing applied--"

Then Mrs. Koenigsberg makes a  
 rather lengthy statement at this point about the area  
 which she claims relevant to this action. I don't  
 think I need to read it in. I brought it to my  
 Lord's attention. I am sure we will be hearing that  
 again.

THE COURT: If Mrs. Koenigsberg  
 feels it should go in she will read it in if it is  
 necessary to clarify.

MRS. KOENIGSBERG: I understand  
 earlier on at Baker Lake--

THE COURT: Pardon me?

MRS. KOENIGSBERG: I understand  
 earlier on in the trial, when I wasn't in Baker Lake,  
 this document was advanced. I think we can take it  
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THE COURT: I don't know what it says. I have not read ahead.

MR. ESTRIN: The deponent then continues around line 27 on page 54:

"Our programme here is somewhat, I don't know if this should go on record or not. Our programme is quite extensive and I have prepared some tables which itemize all the various types of surveys we did."

Then we have Mrs. Koenigsberg:

"At this time, then, we will undertake to produce for you, in a typed form, the material which Mr. Marmont has prepared covering the years, '74 to '79 being the proposed work for all of the claims held by UG in the Baker Lake Study Area."

My Lord, at this time I am going to file the document provided by this Defendant pursuant to that statement. It's entitled Urangesellschaft Canada Ltd., Summary of Exploration Activity. There are a number of sheets. The first one is 1974; the second is 1975; the third page is 1976; the fourth page is a continuation. There is one for 1977. The next page is a continuation of that. Then there is a page for 1978. The next page is a continuation of that. There is one entitled Provisional Proposal Summary of Exploration Activities 1979. It consists of three pages. All of these are



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typed together in one document. I ask that that be made the next exhibit.

THE COURT: P-32.

EXHIBIT NO. P-32: Report: Urangesellschaft: Summary of Exploration Activities: 1974 to 1979.

MR. ESTRIN: The next number I refer you to, my Lord, is Question 217:

"Q. Now, Mr. Marmont, could you tell me the approximate cost to UG of this exploration activity since 1974, can you give me a ballpark figure?

MRS. KOENIGSBERG: Do you want that by year?

MR. TIMBERG: If you have that by year, yes.

MRS. KOENIGSBERG: Do you?

THE DEPONENT: Roughly. It is probably easier. The first year and the second year--

BY MR. TIMBERG:

Q. This would be 1974 and 1975?

A. Yes. Each of those years we expended something in the region of a quarter of a million dollars. In 1976, I think we were around about \$300,000.00. '77, approximately \$1,000,000, and in '78, about one and a quarter.

Q. And if your plans for 1979 go

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ahead as you indicated last week,  
what do you propose to spend for  
1979, do you have any idea?

A. Approximately three million.

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Q. Does Urangesellschaft have any  
plans to establish a mine in the  
Baker Lake area in the near future?"

Turning to Question 236, page

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"Q. Is further work planned for 1979  
with respect to caribou monitoring or  
further environmental studies?

A. Yes. We plan basic caribou  
monitoring associated with flora

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studies in the three locations we  
used last year, and in addition, at  
Marjorie Lake. Also, there will be  
an extensive environmental study

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commenced at Pointer Lake, which is  
immediately south and down drainage  
from our drill site, and that will  
involve extensive study or intensive

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study of the water system and any  
of the animal life in the area which  
might be affected by diamond drilling  
or subsequent development.

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Q. Has UG ever been advised by  
people in the Baker Lake area that  
UG's exploration activities

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constituted harassment or interference

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with caribou?

A. I'm sorry, were we advised by whom?

Q. By people in Baker Lake.

A. Yes, I'm sure people in Baker Lake have told us on occasion that low-flying aircrafts have shown a problem to caribou.

Q. Have you ever had formal meetings between yourself and the Hamlet of Baker Lake or the Baker Lake Hunters and Trappers Association?

A. Yes, we had several such meetings during 1978 in particular, but I think there was an earlier meeting, I think in 1974, but in-between the local communication wasn't very high."

Then turning the page to page

66 to Question 260:

"Q. Has it ever been impossible to completely clear up a camp at the end of a year with result that oil drums and other equipment have been left on the land throughout the winter?

A. Yes, that's happened probably every year. This is because in most cases to plan to re-occupy sites the following year and much, if there are empty fuel drums left over at the end of the season, rather than have

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a few flights going in to one way and just carry out empty drums, we can use the mobilization flights at the beginning of the following year and back load the drums.

Q. At your camps, where do you store the fuel drums in location to where the camp is located?

A. Usually very close to the camp, perhaps a hundred yards from the camp.

Q. Do you have any equipment at the camp which you use to transport or pull these fuel drums around?

A. The drums are either physically rolled or swung by helicopters depending on the amount of distance we have to move them."

That is my conclusion of reading this discovery, my Lord.

THE COURT: Perhaps you would like to give your voice a rest for a few minutes. We will take a five minute recess here.

--- short recess

THE COURT: Mr. Estrin?

MR. ESTRIN: My Lord, I have given the Registrar another copy of the next examination for discovery which I propose to read, from the Defendant of Western Mines Limited.

THE COURT: Yes.

MR. ESTRIN: It is the

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examination of Mr. Bruce Kenneth McKnight. Beginning with Question 3:

"Q. Mr. McKnight, which corporation do you work for?

A. Western Mines Limited.

Q. And what is your present position?

A. Manager of Corporate Planning and Development.

Q. And how long have you been in that position?

A. Since December the 1st, 1978.

Q. And were you employed with the company before that?

A. Yes I was.

Q. And what was your position?

A. Manager of Exploration, Eastern Canada."

Then turning to page 4,

Question 15:

"Q. Could you tell me just generally what the objects of the corporation are, like what is its business?

A. Its business is the mining of minerals for new mineral deposits, or investigation of acquisition opportunities in the mineral business, in other words, it's a metal mining company.

Q. Now, Mr. McKnight, for the purpose of this Examination for

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Discovery, we are concerned with what we call the Extended Baker Lake Area, that is an area bounded by Latitude 62 30 North and 66 North and Longitude 92 West and 101 West, that would include everything that you see on this IOS Map 14."

Then Mr. Cosman stated his position that the examination should be confined to the area of the Order-in-Council.

Now, we turn to page 7,

Question 17:

"Q. Mr. McKnight, does Western Mines carry on exploration activity in the Baker Lake Area?

A. Yes."

MR. COSMAN: My Lord, I rise at this point, although my friend has not read into the record the discussion on that very point, it has some bearing on what follows, because Question 17 is the question put to Mr. McKnight about Western Mines carrying on exploration activity in the Baker Lake area. The answer is, yes.

For the record, the previous examination made it clear that the Baker Lake area, for purposes of questions and answers, would be the Baker Lake area as particularized in the Order-in-Council, i.e. the study area on map 14. Throughout the examination where answers are given in respect of the Baker Lake area it's given in respect to the

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area which is particularized as that area defined by the Order-in-Council. I just wanted to give it to you in the event you were left with the impression it was a larger area.

MR. ESTRIN: My Lord, it clearly appears that the witness-- this goes to argument-- unless the transcript makes it clear that the witness himself is referring to a particular area, I think, my Lord will have to decide what area is being referred to. As far as I am concerned, there was no agreement, unless it's expressed on the record. If it is, I would be happy to refer to it as to whether the witness was indeed restricting himself to the area that Mr. Cosman would like him to have restricted himself to.

THE COURT: Well, the first paragraph of Mr. Cosman's remarks is for purposes of the discovery indicating that "For purposes of the Examinations for Discovery, it is our position that the Baker Lake Area is that area defined as the Baker Lake Study Area on Map 14 of the I.D.S. Study..." Unless there is something else in there, I would have to rather assume-- unless the witness made it clear otherwise-- that that's what he was referring to.

MR. ESTRIN: Well--

THE COURT: As you indicate, perhaps that is a matter for argument. Let's get in evidence what is necessary.

MR. COSMAN: My Lord, it might be clarified very quickly. Mr. Timberg, although

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he is not gowned, was Counsel on those examinations. He can advise Mr. Estrin on that fact that all answers were restricted to the Baker Lake area. When we continued, it was always on the basis it was the Order-in-Council for Baker Lake.

MR. ESTRIN: One moment, my Lord.

My Lord, I am advised by Mr. Timberg that it was the intention-- it is clear I think in the record of all of the discoveries-- it was our intention to seek answers with regard to the wide area. The objection was always made subsequent to the first discovery of Urangesellschaft. I am advised it was understood I think from and after the second volume of Urangesellschaft discovery in regard to the discovery of the other mining company Defendants that they would only answer and their answers were restricted to the Order-in-Council area.

THE COURT: Okay.

MR. ESTRIN: Despite--

MRS. KOENIGSBERG: My Lord, I--

THE COURT: You did roam off the map once or twice.

MRS. KOENIGSBERG: There is no question. However, my friend read it. I did not think it would be relevant because I did not think my friend would be taking this position. However, in the beginning of the discoveries in the first volume I made it clear to Mr. Timberg-- as I am sure he will attest-- that for the purposes of the discovery



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we would go-- I had understood they would be seeking an amendment to the Statement of Claim, and because I thought they would be seeking it and receive it, we would do the discovery on the basis that they would do that. Subsequently, they advised me they weren't and then I made the speech not read to you.

THE COURT: Perhaps, again, when the opportunity arises you could read that portion from the transcript into the record.

MRS. KOENIGSBERG: Thank you, my Lord.

THE COURT: Go ahead, Mr. Estrin.

MR. ESTRIN: I will just say one more word on this, if I may. Although I said it was understood that the mining company deponents were then restricting themselves, it was, nevertheless, always made clear on the record at these discoveries. I think there is no dispute that we sought answers for a wider area.

Turning to page 7, Question 17 I think I have already read that. I will start again at Question 17:

"Q. Mr. McKnight, does Western Mines carry on exploration activity in the Baker Lake Area?

A. Yes.

Q. And what particular mineral are you searching for in the Baker Lake Area?

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A. Primarily uranium.

Q. Any other minerals?

A. No. In the course of our uranium exploration, if we encountered other minerals of value, we would naturally take note of them or stake the land that it was on as closed, but were not primarily looking for other minerals in that area.

Q. Are you searching for uranium elsewhere in the world?

A. Yes we are."

Then turning to Question 22:

"Q. When did exploration activity commence on behalf of Western Mines in the Baker Lake Area?

A. In 1976.

Q. Did Western Mines carry on exploration activities before 1976 through a subsidiary company or through a partnership or joint venture with any other corporation?

A. Not in the Baker Lake Area but-- well, I can amplify that answer a little bit. When Western Mines took over the exploration activities of Brascan's Resources Ltd. with respect to uranium exploration in the Baker Lake Area. Now, prior to 1976 there had been no physical work

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on the ground although office investigations of maps and other published data were undertaken during that period, but there was no physical work on the ground prior to 1976.

Q. Was this work prior to 1976 the work you refer to being done in the office would have been carried on by Brascan and not Western Mines?

A. That's correct.

Q. In 1976 where in the Baker Lake Area was exploration activity carried on on behalf of Western Mines?

A. I can probably define it best in terms of N.T.S. map sheet numbers,"

If I may stop there, my Lord, N.T.S.-- I'm sure my Lord is familiar with-- for the sake of the record it is the National Topographic System-- numbering system which, in fact, contains, on the key map-- it has been made Exhibit 23, I believe.

"A. I can probably define it best in terms of N.T.S. map sheet numbers, principally 66H5; 66H6; 66G1. I can indicate on this map, if you like--"

Then Mr. McKnight produced a map which is marked as Exhibit 1 to the discovery, which I would ask to be made as an exhibit here. This is entitled Western Mines Limited, Project Area and Mineral Holdings of Northern Keewatin District,

Northwest Territories.

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THE COURT: Exhibit P-33.

EXHIBIT NO. P-33: Map:  
Western Mines Limited:  
Project Area and  
Mineral Holdings,  
Northern Keewatin  
District, N.W.T.

MR. ESTRIN: Question 28:

"Q. Mr. McKnight, what is the date of this map, approximately?

A. It's approximately February 1979.

Q. Could you indicate or point out to me with respect to this map which areas you carried out exploration activity on in 1976, the first year you began exploration activity in the Baker Lake Area?

A. Yes I could. In 1976 it was chiefly these three sheets, that's 66H6, 66H5,"

There is an error there, my Lord, and it should be 66G1, not 66U1.

"... that's about 80 percent of our total work. The remainder of the work was spread over this entire area through here.

(DISCUSSION OFF THE RECORD)

MR. TIMBERG:

Q. Mr. McKnight, will you mark on Exhibit 1 where you carried out the exploration activity in 1976, please?

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A. Yes, I'll do that right now.

MR. TIMBERG: Fine, thank you.

Q. And over that area you've indicated, what type of exploration activity did you carry out, for instance, what type of surveys did you carry out, did you do drilling, blasting?

A. The type of surveys we did were geological mapping and prospecting and sampling of rock and boulders, sampling of soils and lake and stream waters and lake and stream sediments, and the prospecting with scintillometers. That was essentially it for 1976, there were no drilling or blasting.

Q. The type of work you have indicated to me, is that work that carried out through ground activity primarily?

A. Yes, the work is all ground work, although transport to and from the activities where we carried out the work was by aircraft or by canoe or by-- on foot.

Q. Now, during your ground exploration activity in '76, did you use any base camps anywhere in the area?

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A. Yes we did.

Q. Where would those base camps have been located?

A. The base camp is roughly on the border between 66H5 and H6, I can show it more precisely on my other map here, or mark it on that map, if you like.

Q. You just mark it just generally, I don't need to know exactly where it is.

A. Okay, it's generally in this area here.

Q. Okay; you've indicated the location of the base camp by, it's like a rectangle."

My Lord, the rectangle here appears in the upper right portion of the heavy black enclosed area.

THE COURT: The numeral 767?

MR. ESTRIN: Yes. Then the question continues:

"Were there any other base camps in that area in '76?

A. Nothing that we would define as base camps. There were other camps within the area, but they were small, what we call fly camps, relatively small camps occupied by a few people for a short period of time.

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Q. This first camp we refer to, the one you indicated on the Exhibit 1, was that camp operated under a Land Use Permit?

A. Yes it was."

Further down that page, Question

39:

"Q. Now, with respect to that base camp, how many men would be in that camp at any one time?

A. The number in that base camp varied from about eight to sixteen persons, not men, there were a number of women there as well, and the average, I would say, would be eleven or twelve.

Q. And during what months was the camp occupied?

A. Approximately July the 15th to August 23rd, 1976.

Q. Now, you indicated previously that aircraft were involved to a minor extent. Could you explain the involvement in a bit more detail, please?

A. Yes. We had a helicopter based there in that base camp full time which we were working there, plus we had fixed wing support for moving in and out of the camp and fly camps on

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a regular basis once or twice a week, I don't recall the exact timetable on those flights.

Q. And the fixed wing aircraft, where would they have been based?

A. A variety of bases. I believe principally Yellowknife in 1976.

Q. Would a fixed wing aircraft have been based in Baker Lake?

A. No.

Q. Would the aircraft have made flights between the base camp and Baker Lake?

A. Yes.

Q. Would you have the frequency of the flight?

A. I think, I'm going to have to guess now because I don't know, but I--

Q. Just a ball park figure.

A. I would guess during the 1976 program we might have made six flights between Baker Lake and the base camp, principally for demobilizing our personnel from the field into Baker Lake. We did not use Baker Lake as a supply or staging area. We demobilized to Baker Lake in 1976.

Q. Now, you indicated that you had a helicopter based at the camp full time.



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A. Yes.

Q. What was the helicopter used for?

A. The helicopter was used for transporting the geological and geochemical survey parties from the base camp out to their work sites each day and back again at night.

Q. So would it be fair to say that the helicopter was used practically every day then?

A. Yes."

Then turning to page 14,

Question 56:

"Q. You indicated to me a short time ago that you had a number of other smaller camps within the area you carried out your exploration activity over. Would you happen to know approximately where those smaller camps were, or did they change from day to day?

A. Yes, I'll have to refer to my other map to locate these smaller camps. It will take me a second to find that.

The other smaller camp was located northeast of the base camp shown on that Exhibit 1. I would say approximately five miles northeast of that base camp. It's shown right here on this other map.

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Q. Mr. McKnight, could you indicate or mark on Exhibit 1 with the letter, by the number "6" approximately where these other camps were located in 1976?

A. Yes I can. I'll just check with the other map to make sure I have it right. Is it all right in pencil like that?

Q. Fine.

A. Okay."

My Lord, you have already referred to the number 767. Number 6 is the one that he's referring to.

Now, continuing with Question 60:

"Q. When you were talking about your exploration activity, did you carry out any ground reconnaissance work in the sense you have men walking grid lines over the area you explored?

A. Yes, that is essentially what geological mapping and prospecting is. It's a routine systematic walking of the terrain looking for outcrops or mineral occurrences of any interest.

Q. And was that type of activity carried on over the full extent of the area you have outlined on Map 1, or was it only carried out over portions of that area?

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A. That type of activity was only carried out over portions of the area.

Q. Which portions would it have been carried out over?

A. The northeastern portions, that is N.T.S. 66G1, 66H5 and 66H6.

Q. So that would be the area on Exhibit 1 covered by Brascan prospecting Permits 425, 426 and 427?

A. That is correct."

My Lord, the copies are not easily readable, but the word Brascan permit does appear in two places relatively clearly. I am advised that the third Brascan location is where the number 767 is obliterating the word perhaps.

THE COURT: Okay.

MR. ESTRIN:

"Q. So that would be the area on Exhibit 1 covered by Brascan prospecting Permits 426, 426 and 427?

A. That is correct.

Q. And when your men walked over these areas, what was the spacing between the walk lines, approximately?

A. Approximately one half mile.

Q. Do you have the amount of money you expended in 1976 on exploration activity?

A. Yes, I don't have the exact amount, but I can approximately, I can tell

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you approximately-- approximately \$250,000.00. If you want a-- you know, a specific detailed answer on that, we can obtain that from our files."

Now, my Lord, turning to page 16, Question 68:

"Q. Now, turning then to 1977, in 1977 did you obtain any prospecting permits or stake any claims in the Baker Lake area?

A. Yes we did.

Q. Could you indicate to me which prospecting permits or which claims were staked?

A. I'm going to have to check my records to get the exact dates and times for those. I believe in the pile of documents here that there are lists of the prospecting permits and claims and the date of issue or granting.

Yes, Prospecting Permit 466 was granted on April the 1st, 1977; and some of the claims, I believe, were also staked in 1977 but those dates are not recorded on here and I don't recall which ones, but I can check that if you wish.

Q. Dealing first with the Prospecting Permit number 466--

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A. Yes.

Q. -- is that Permit number shown on Exhibit 1?

A. Yes it is. I think you can just make it out there, right there, 466."

It is towards the left portion of that heavily blacked-in area, my Lord.

Question 72:

"Q. What type of exploration activity did you carry out in '77 over the land covered by that prospecting permit?

A. You mean covered by Prospecting Permit 466 or the remainder of the area, or do you mean both?

Q. Both.

A. The same sort of thing as 1976, reconnaissance, geological and geochemical surveys.

Q. Did you carry out exploration activities on lands in the Baker Lake area other than lands covered by Prospecting Permit 466?

A. Yes we did.

Q. Would that over those lands as well be indicated by this line you've drawn on Exhibit 1?

A. Yes, they would with the exception that we went outside of that blue line up into these areas

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here--

MR. COSMAN: Well, this is outside the Baker Lake Area, so that to the extent that the--

A. Yes, I suppose that's right."

THE COURT: Is the heavy line the line in blue that we are now talking about?

MR. COSMAN: Yes, it is, my Lord.

THE COURT: Thank you.

MR. ESTRIN:

"MR. COSMAN: -- exploration was within the Baker Lake Area, it was within the area lined in blue?

A. Yes, well, Prospecting Permit 466 is outside the Baker Lake Area.

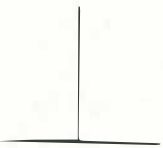
MR. COSMAN: It covers lands outside the area?

A. Most of 466 is outside the Baker Lake Area because that's the boundary right there. 466 is that one there, you see.

MR. COSMAN: So, would you restrict your answers to the-- oh, was it entirely outside of it"

(DISCUSSION OFF RECORD)

MR. COSMAN: Mr. McKnight has just indicated that 466, Prospecting Permit 466 covers an area outside of the area delineated as the Baker



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Lake Study Area on Map 14. In that respect and for that reason, we will not be answering questions in respect of that prospecting permit and exploration conducted under that permit in any area outside of the Baker Lake Area.

MR. TIMBERG:

Q. Mr. McKnight, what exploration activity was carried on other than on Prospecting Permit 466 in the Baker Lake Area?

A. In 1977?

Q. In 1977?

A. Reconnaissance prospecting--

Q. I mean, where was it carried on?

A. It was carried on on all area indicated by the blue line up to the boundary of the Baker Lake Study Area here."

THE COURT: There is a little line there and I take it is an outline of the Baker Lake Study Area?

MR. ESTRIN: Yes, my Lord. That would appear to be correct.

"Q. And I believe you've indicated that the activity you carried on in 1977 was similar to the activity you carried on in 1976?

A. That is correct, except we had

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less aircraft support for that activity. It was more by the use of smaller parties in a larger number of camps and more surface access using canoes and inflatable boats and so forth.

Q. In 1977 did you locate a base camp anywhere in the area?

A. No we didn't.

Q. Did you operate a number of smaller camps?

A. Yes we did.

Q. Were these smaller camps operated under provisions of Land Use Permits?

A. No they weren't.

Q. Could you indicate or mark on the map, or Exhibit 1 with a number 7 the approximate location of the smaller camps?

MR. COSMAN: Mr. McKnight, you should only mark those camps which are inside the Baker Lake Study Area.

A. Yes, I understand. I'll just refer to my other map so I can locate them accurately.

(DISCUSSION OFF RECORD)

MR. TIMBERG:

Q. Now, Mr. McKnight, with respect to 1977 again--

A. Yes.



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Q. -- were any helicopters based at any of these camps?

A. We had a helicopter in the area moving from camp to camp for a period of approximately three weeks.

Q. And what three week period are we talking about?

A. July 15th to August the 8th.

Q. And what would this helicopter be used for?

A. It was used for taking geological parties out from their respective camps to their work areas and back to their respective camps in the evening, and in moving camps from one location to another on a fairly regular basis.

Q. And would the helicopter as well be used to provision these camps?

A. It may have been used on occasion but the chief means of provisioning was by a fixed wing aircraft.

Q. And where would the fixed wing aircraft have been based?

A. In La Ronge, Saskatchewan.

Q. Would that fixed wing aircraft have made flights into or out of the Hamlet of Baker Lake?

A. Yes.

Q. Approximately how often?

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A. Approximately once a week."

Now, going to Question 95.

My Lord, I will not refer to Question 95. Turning to Question 99:

"Q. Now, turning then to 1978, did you carry out exploration activity in 1978 in the Baker Lake Area?

A. Yes we did.

Q. Now, on Exhibit 1, there are a number of prospecting permits marked, Prospecting Permit 468 and 537 to 542 inclusive. Were these Permits obtained in 1978?

A. Yes, Permit number 538 was issued in 1978; Permit number 537, 540 and 539 were issued in 1978; Permits number 541 and 542 were issued in 1978, and those one, two, three, four, five, six that I just mentioned.

MR. TIMBERG: Could we have this chart listing your permits and claims marked as the next exhibit then, it would be an accurate record of what you have.

MR. COSMAN: Well, perhaps we should establish first that that--

A. This contains--

MR. COSMAN: -- perhaps Mr. McKnight can verify that it is an accurate record of the claims and permits.

A. Well, this contains claims and

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permits outside of the Baker Lake Area--

MR. COSMAN: As well as inside it?

A. As well as inside it.

MR. COSMAN: I have no objection to having it marked on the understanding that the only area of relevance for purposes of this action is the area were in--

MR. TIMBERG: Is the area inside.

MR. COSMAN: Yes, that's correct."

We are now referring to what was marked as Exhibit 3 for discovery, which is one piece of paper headed Dubawnt Property. I would ask that that be marked as the next exhibit.

THE COURT: P-34.

EXHIBIT NO. P-34: Report: Dubawnt Property.

MR. ESTRIN: Question 101:

"Q. As well in 1978 did Western Mines stake any claims in the area?

A. Yes we did.

Q. And where were those claims staked?

A. They were staked in N.T.S. sheet 66G2, in the area outlined in blue. 66G2 is that one there.

Q. So you're referring to the claims on Exhibit 1 North of your Prospecting Permits 541 and 542?



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A. Yes, some of those claims, not all of those claims, in fact the ones referred to as the W.G.E. Claims."

Now, Question 105:

"Q. Now, in 1978, what type of exploration activity was carried on?

A. It consisted of ground prospecting, mapping and geochemical surveys similar to those carried out in 1976, and 1907, 67, ..."

That should read, my Lord, 1977 not 1907.

"... however in addition to that it included an airborne geophysical survey.

Q. And this airborne survey, over what lands was the survey flown?

A. It was over essentially the northeastern one-half of the area outlined in blue, in other words, this area right here, about here, and here.

Q. Thank you. So, you've indicated the area on Exhibit 1 which are marked by the Brascan Permits 425, 426 and 427, and your claims north of your permit 541 and 542?

A. Yes, there was limited extension of the survey into the claims area. It was essentially the three Brascan permits that were mapped or surveyed

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by that survey.

Q. And what type of aircraft was used to fly this airborne survey?

A. I'm not certain of the aircraft type, I believe it was a DC-3.

Q. And at what altitude would this aircraft have flown?

A. Approximately 500 feet.

Q. And would you happen to know the grid spacing between the flight lines?

A. Yes, approximately one-quarter mile.

Q. And where was this aircraft based?

A. It was based at Baker Lake.

Q. And how often was it used to fly this airborne survey?

A. How do you mean how often, do you mean the number of flights per day that were made out of Baker Lake--

Q. Yes.

A. -- or the number of days per year?

Q. Well, first, the number of flights per day out of Baker Lake?

A. Oh, I would say that the number of flights per day ranged between one and three flights per day, probably averaged something like two flights per day. The duration of the survey was approximately one week.

Q. Do you happen to know which week?

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A. I don't know the exact dates on that but it was approximately August the 10th to the 17th, or roughly in that period of time.

Q. Now, were any other airborne surveys flown in 1978?

A. Not for us within the Baker Lake Area.

Q. In 1978 did you establish any base camp in the area?

A. Yes we did.

Q. And these camps would be operated under Land Use Permit?

A. Yes.

Q. Could you tell me where those camps were located?

A. Yes, the camp was located outside of the Baker Lake Area, it just suddenly--

MR. COSMAN: Outside the Baker Lake Area isn't relevant to this matter and I don't want you to answer that question."

Further down the page at

Question 122:

"Q. Were aircraft used in any way to provision or supply any crews you may have had carrying out the ground work you previously mentioned in 1978?

A. Yes.



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Q. And where would those aircraft have been based?

A. They were based in La Ronge, Saskatchewan.

Q. Were any based in the Hamlet of Baker Lake?

A. Some of the aircraft were in Baker Lake and spent a day or overnight in Baker Lake, but were not based there for any longer than a day or so, just turning around.

Q. How often would this happen, that the aircraft would come into Baker Lake?

A. I would say once or twice a week during the period of our work there.

Q. And what was the period of your work?

A. August the 1st to the 26th.

Q. In that period, how many men or people were involved in your exploration activity in the Baker Lake Area?

A. Well, it's a split answer because the exploration was partly in the Baker Lake Area and partly out of the Baker Lake Area, a total number of men we had on both areas was six to eight, I would say less than half of that number of men were applied to

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within the Baker Lake Area during 1978, so I would say two or three men at the most."

Turning the page to Question

5 R E P O R T I N G 130:

"Q. Now, you've indicated that in 1978 a number of claims were staked in the Baker Lake Area. When were these claims staked in 1978?

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A. They were staked, once again I don't know the exact dates but it was approximately late April or early May 1978 immediately after the land freeze was lifted by the Government.

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Q. Were any claims staked towards the end of 1978?

A. Not to my recollection although we did acquire some, not by staking, towards the end of 1978.

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Q. You mean towards the end of 1978 you acquired through purchase or other means other claims in the Baker Lake Area?

A. Mm-hmm."

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I take that to be in the affirmative.

MR. COSMAN: Yes, that is

correct.

MR. ESTRIN: Question 133:

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"Q. Where would those claims be



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located, are they shown on Exhibit 1?

A. Yes they are. They're in N.T.S. 66G2, or immediately North of Permit 541.

Q. So, you've indicated the claims immediately north of your Prospecting Permit 541?

A. That's correct."

My Lord, those claims are indicated on Exhibit 1 to the discovery.

Turning the page to page 30 at Question 145. I will withdraw that. Turning to page 31 at the bottom at Question 151:

"Q. Now, Mr. McKnight, into 1979. To date have you obtained any prospecting permits or staked any claims in 1979?

A. Yes we have."

My Lord, the date of the discovery, for the sake of the record, is May 3rd, 1979.

Question 152:

"Q. Do you have the numbers of prospecting permits that you may have obtained? Are they shown on or listed on Exhibit 3?

A. No. We have staked a number of claims in the last few weeks, that is during the month of April 1979, the applications to record those claims have not been processed, so we

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don't have our files up to date on that, but it's approximately 25 or 30,000 acres have been staked during 1979.

Q. Where would these claims be located with reference to Exhibit 1?

A. They're on map sheet 66G2, essentially filling in the-- a lot of these blank areas between the claims that we previously held.

Q. Are any claims being staked outside the area you just indicated?

A. Not to my knowledge.

Q. Have you obtained any prospecting permits in 1979?

A. No we haven't.

Q. Have you, or will you be making application for prospecting permits in 1979?

A. It's possible, but I don't know. There's not much land left for application.

Q. Now, what exploration activity are you proposing be undertaken, if any, in 1979?

A. We're proposing to carry out detailed, or more detailed geological mapping that we started three years ago. We're proposing to carry out more detailed and comprehensive



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geochemical surveys, and we're proposing to complete the airborne geophysical survey which we started last year and completed over roughly one-half of that area that we've been working in. The second half of that program will be completed in 1979.

Q. And the areas you've just been referring to are the areas covered by your claims and the three Brascan Prospecting Permits?

A. No, most of that area was surveyed. In the previous geophysical survey in 1978, the--

Q. So now we're down into the rest of your holdings?

A. That is correct, we intend to survey the rest of our holdings in 1979."

At the bottom of the page at

Question 162:

"Q. Mr. McKnight, with respect to the airborne survey that you've indicated you would be carrying out in 1979, approximately when would this survey commence?

A. We hope to commence the survey during the first week in August 1979.

Q. And what type of aircraft would be used?

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A. I don't know, it's probably either a DC-3 or a Canso.

Q. Would the aircraft fly at a similar altitude and a similar grid spacing as in the previous airborne survey in 1978?

A. Yes it would.

Q. Do you have any idea where that aircraft would be based?

A. Yes, in Baker Lake."

Turning the page, my Lord, to

Question 171:

"Q. Mr. McKnight, -- or did Western Mines commence bringing in any supplies in the Baker Lake Area early in 1979 in preparation for its summer exploration season you've just described to me?

A. Yes.

Q. And when would those supplies have been brought in?

A. I don't know the exact dates, however--

Q. Approximately.

A. I think in the documents here the dates are actually referred to, so if you find the right document, I can probably tell the answer to that question, in particular that Telex by Mr. Nuttar. Yes, well, Western

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177:

Mines and a number of other mining companies had made arrangements with Pacific Western Airlines to airlift supplies to Baker Lake on about January 25th, 1979. We had made arrangements to have another aircraft available at Baker Lake to transfer those supplies into our work areas where we did have Land Use Permits in place at that time. However, the Pacific Western aircraft arrived prematurely without our knowledge and the fuel was unloaded at the Baker Lake Area without our knowledge, and we had to take steps to have our Land Use Permit amended to provide for the temporary fuel storage at Baker Lake Airport."

Turning the page to Question

"Q. Mr. McKnight, were these supplies that were brought into Baker Lake subsequently transported out of Baker Lake?

A. Yes, to the best of my knowledge.

Q. Where would they have been transported to, to where your activity would take place in the summer?

A. Yes, to our Land Use Permit areas."

Then going to Question 184:

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"Q. Have you carried out any studies whatsoever towards developing a mine or a mill?

MR. COSMAN: In the Baker Lake Area.

MR. TIMBERG:

Q. In the Baker Lake Area?

A. No, unless you're meaning a conceptual or hypothetical studies.

Q. Mr. McKnight, could you explain what you meant by "conceptual studies"?

A. I mean essentially hypothetical studies, saying to ourselves, what if a deposit of the type and quality we are looking for were discovered in the Baker Lake Area, would it be economical, and I-- without being specific about areas or sites, we think generally that uranium deposits of the type that we are seeking should be economically viable in that economic environment."

My Lord, if I may just have a moment.

THE COURT: Yes.

MR. ESTRIN: My Lord, there are some questions I would further like to refer to. Dealing in particular with Question 66-- it's really page 15 at Question 65:

"Q. Do you have the amount of money you expended in 1976 on exploration



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activity?

A. Yes, I don't have the exact amount, but I can approximately, I can tell you approximately-- approximately \$250,000.00. If you want a-- you know, a specific detailed answer on that, we can obtain that from our files."

Turning to Question 95:

"Q. Now, what was the approximate cost of this exploration activity in 1977?

A. It was approximately \$550,000.00, I believe. Once again this is just my guess, I don't have my financial records with me."

Question 145:

"Q. In 1978 what was your expenditure on your exploration activity?

A. Approximately 400 or \$450,000.00, I believe."

Then Question 180:

"Q. Okay; do you have an estimate as to the amount of, or the expenditure that will take place for your 1979 exploration activity?

A. I expect somewhat more than last year, probably six or seven hundred thousand dollars, but I really don't have any definite numbers on that

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because my current responsibilities are away from that area, so that I'm not familiar with the details of those programs now.

Q. Well, if that figure is inaccurate, could you so advise me?

A. Yes."

That is the conclusion to that particular Defendant's discovery this morning.

THE COURT: Rather than start another one, Mr. Estrin, we should recess for lunch. We will recess until two o'clock.

--- luncheon adjournment

THE COURT: Mr. Estrin?

MR. ESTRIN: My Lord, with your permission, my associate Mr. Timberg will continue with the reading in of the discoveries.

THE COURT: Okay. I understand. Go ahead, Mr. Timberg.

MR. TIMBERG: My Lord, the next examination for discovery I will be reading in will be the examination for discovery of Essex Minerals Company. I have a clean copy of the transcript.

My Lord, this was the examination for discovery of a Jerome Frank Machamer. Referring to page 4 of the transcript beginning at Question 2:

"Q. And I wonder if you could tell me the correct corporate name, there



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were some--

A. It is Essex Minerals Company.

Q. There is no "Limited"?

A. That's correct.

Q. And that is incorporated in New Jersey?

A. Incorporated in the State of New Jersey.

Q. And when was that?

A. November the 2nd, 1898."

MR. COSMAN: Excuse me, my Lord, Counsel for Essex Minerals not being here, I wonder if my friend would not mind by referring to the numbers to these questions so I can at least advise Counsel for Essex as to what areas of the examination were read in.

THE COURT: You are the agent in this case?

MR. COSMAN: Yes.

THE COURT: That is Question 2 to 5 inclusive.

MR. TIMBERG: Continuing with Question 6:

"Q. It has been around for awhile. What would be your present position with Essex Minerals?

A. I'm the Manager of Explorations for Canada."

Question 7:

"Q. And what would your responsibilities

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be in that position, briefly?

A. I guess I'm responsible for the planning and execution of the mineral exploration activities in Canada."

Question 8:

"Q. And how long have you been with Essex Minerals?

A. I've been with Essex Minerals Company properly speaking since January 1st, 1976. Essex Minerals Company is a subsidiary of the United States Steel Corporation and I was an employee of United States Steel Corporation for a period prior to that."

Question 10:

"Q. Perhaps you could tell me when Essex Minerals began exploration activity in the Baker Lake area. What year?

A. In 1976."

Turning over the page, my Lord, to Question 17:

"Q. Do you happen to have a map that would indicate what activity the company has undertaken in the Baker Lake Area for each year since 1976?

A. We have a map that shows our activities in the Baker Lake area, yes."

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Question 18:

"Q. I am not sure if I have a copy of that one or not.

A. Well, this is an in-house map, it is a matter of public record."

Question 19:

"Q. This would show just the mining activities of Essex?

A. They show our mineral claims, yes."

My Lord, I have a copy of Exhibit 1 to the examination for discovery of Mr. Machamer. I ask this be made as the next exhibit.

THE COURT: This will be P-35.

EXHIBIT NO. P-35: Map: Essex Minerals Company: Mining Claim Groups: May 23rd, 1978.

MR. TIMBERG: My Lord, just for the record, that exhibit indicates the mineral activity of Essex Minerals in the Baker Lake area.

Continuing with Question 20:

"Q. So, this map shows your current permits, is that it?

A. We hold mining claims and it shows the claims. They're not all current because some of them will have expired and have not been renewed."

Question 21:

"Q. And when was this map made?

A. Oh, May 23rd, '78."

Question 22:



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"Q. So, that was accurate at that date, I guess?

A. Yes, um-hum, um-hum."

Question 23:

"Q. Do you have anything that would tell me what activities the company undertook in 1976 or in 1977?

A. In 1976, we flew airborne survey and staked some claims."

Question 24:

"Q. Whereabouts would the airborne survey would have been flown?

A. The general areas shown in the map, and we staked some claims as a result of the information accumulated during the airborne survey."

Question 25:

"Q. So, you would fly over that area?

A. Fly in a regular pattern, yes. In 1977-- I'm trying to think now-- when the whole case come to pass-- okay. Yes, in 1977 there was some very, very limited prospecting in the area, limited prospecting within the definition of the manual regulations, one or two people. And in 1978, we carried out more extensive investigation in the claims."

Question 26:

"Q. Getting back to 1976 for a minute,

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this airborne survey, would that have covered the whole extent of this map?

A. No."

Question 27:

"Q. What part would that have covered, then?

A. I can't honestly describe it to you accurately here. I would have to go back and look in records and stuff like that to give you a prescribed description. It was this general area north of Schultz Lake. Schultz Lake is a relatively large lake, it is substantially larger than what is proportioned here."

Question 28:

"Q. Yes?

A. It was generally the area north of Schultz Lake."

Question 29:

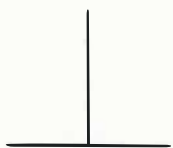
"Q. So, it would have subsequently covered all the areas where you subsequently staked claims?

A. Yes."

Question 30:

"Q. Do you have any idea of the spacing of the grid that was flown or the height or anything?

A. I would have to go back and look at the specifications, survey



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specifications, I can't answer that now, no."

My Lord, subsequent to the examination for discovery we were provided by Mr. Thompson, Counsel for Essex Minerals, the answer to Question 30. In a letter, and it was dated May 10, Mr. Thompson indicated that the specifications on the airborne survey carried out in 1976 called for a line spacing of one-eighth of a mile and ground clearance of one hundred and fifty feet minimum and three hundred feet maximum.

Continuing with Question 32:

"Q. You mentioned there was some other activity in 1976 aside from this airborne survey, what was that?  
A. Claims were staked."

Question 33:

"Q. Do you know whereabouts those claims were staked in that year?  
A. The ones shown on this map were staked in 1976."

Question 34:

"Q. Do you know which ones?  
A. We have a list of claims to show which were staked in 1976 and '77 and which were staked in 1978."

At this time, my Lord, I would like to enter Exhibit 2 in the examination for discovery which is a listing of claims staked and renewed in 1976 and '77, '78 by Essex Minerals Company.



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THE COURT: P-36.

EXHIBIT NO. P-36: Claim  
Summary - Claims Renewed  
from 1976 to 1978.  
Schultz Lake/Essex  
Minerals Company.

MR. TIMBERG: Over the page,  
my Lord, to Question 38:

"Q. In 1977, then, you said there was  
limited prospecting in the area, I  
think one or two people.

A. Um-hum."

Question 39:

"Q. Were there any airborne surveys  
flown that year?

A. No. No, exploration activity was  
prohibited by the court-- by the  
Order in Council, rather, not by the  
court."

Question 40:

"Q. So, what were these one or two  
people doing, then?

A. They were working within the land  
use regulations."

Question 41:

"Q. I see.

A. They were basically walking over  
the ground."

Question 42:

"Q. Right. Were there any aircraft  
at all in flying these people, moving  
them in and out of the area?



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A. Yes, there were occasional flights."

Question 43:

"Q. So, in 1978, then you said there was more extensive investigation; could you describe for me in some detail what that involved?

A. It basically involved geophysical and geological mapping of areas under claim."

Question 44:

"Q. And is this done through the use of airborne surveys?

A. No."

Question 45:

"Q. Would this be ground crew surveys?

A. Yes."

Question 46:

"Q. Do you have any idea of the extent of that kind of an operation, how many people would be involved, for how long?

A. There were somewhere between ten and fifteen people involved and they were there for a portion of the month of June and for most of the month of August."

Question 47:

"Q. Not in July?

A. No."

Question 48:





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"Q. And aside from that mapping, were there any stakes claimed or claims staked, rather?

A. Yes, there were claims staked in 1978."

Question 50:

"Q. These are the ones that were renewed.

A. There claims which were staked in 1976 which were renewed in 1978, okay? There were claims which were staked in 1978.

MR. THOMPSON: That doesn't say that, though.

THE DEPONENT: Why don't we just strike that. (document handed)."

Question 51:

"Q. I see. So, page 2 of Exhibit 2 has not been amended so that the title reads, "Claim Summary - 1978 Staking", okay.

I don't recall if I asked, were there claims staked in 1977-- no, there weren't.

A. No."

Question 52:

"Q. So that these would be all the claims your company has, then, in the Baker Lake area?

A. Yes."

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Question 53:

"Q. At the present time.

A. Yes."

My Lord, if I can turn next

to Question 70 on page 15 of the transcript. Question 70:

"Q. Would you be able to tell me whereabouts camps were located and generally the extent of those camps in each of the years you were in the Baker Lake area?

A. Um-hum."

Question 71:

"Q. Perhaps you could start in 1976.

A. Didn't have a camp in 1976."

Question 72:

"Q. 1977?

A. 1977, we had a camp on the east side of what we call Rumble Lake, that is an informal name. Do you want the latitude, longitude?"

Question 73:

"Q. Yes, if you have it.

A. I will have to work it out. You can't get it with sufficient accuracy on this map."

Question 74:

"Q. Is that Rumble Lake?

A. That is what we call it."

Question 75:

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"Q. There is no name on the map?

A. No."

Question 76:

"Q. Perhaps you could dig that up."

Subsequently, my Lord, we were provided by Mr. Thompson with answers to the questions raised by Question 76 at the discovery. Mr. Thompson indicated that the approximate location of the 1977 camp was latitude 64 degrees, 53 minutes north, longitude 97 degrees, 56 minutes west. In 1977, the activities consisted of prospecting on the ground. This work was carried out by two men from about July 3 to August 10th, and a third man was present for about ten days, probably from about August 1 to August 10.

Question 77:

"Q. Was that the only camp you had in 1977?

A. Yes."

Subsequent to the examination for discovery Mr. Thompson advised us that Essex Minerals had learned they had a second camp in the Schultz Lake area in the summer of 1977. The second camp was located at latitude 64 degrees, 57 minutes north, and longitude 97 degrees, 48 minutes west. He also advised that two camps were used because of the difficulty in overland travel.

Continuing with Question 78:

"Q. How large would that have been?

A. There were two people there."

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Question 79:

"Q. For what period of time?

A. Less than a hundred man days.

Actually, they were there for about, oh, I'm going to estimate, ten to fifteen days."

Question 80:

"Q. Each, so, about twenty to thirty man days?

A. Something in that region. I emphasize that is an estimate."

Question 81:

"Q. Right.

A. To the best of my recollection at this time."

Question 82:

"Q. And I take it they would have been flown in and out by aircraft?

A. Yes."

Question 83:

"Q. Would they have been serviced at any time inbetween by aircraft?

A. I would presume so, I can't tell you exactly when an aircraft went in and when it went out, and so forth. But yes, I was there, so, sometime inbetween there there was one flight."

Turning over to page 17,

Question 87:

"Q. Right. Would the flights in and

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out of this camp use the lake?

A. Yes."

Question 89:

"Q. Okay. What generally, then, were those two people doing there?

A. Basically, they were prospecting."

Question 90:

"Q. How would they go about doing that?

A. Walk around and see what they can see."

Question 91:

"Q. Would there be any equipment involved?

A. No."

Question 92:

"Q. Just hand-held stuff?

A. No, they would walk around and they would look at the rocks and they would occasionally break rocks and so forth and any equipment which would have been used would have been hand-held equipment, scintillometer or something of that sort, but nothing in the sense of any track equipment, vehicles, nothing in the way of a drill or mechanized equipment of any sort."

Question 93:

"Q. Okay. And in 1978, then, do you know where camps were located?

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A. Yes, the camp was on the west side of Rumble Lake, and I have a note to give you-- camp location is described in the land use permit, I think."

My Lord, subsequently

Mr. Thompson advised us the location of that camp was latitude 64 degrees, 54 minutes north, longitude 97 degrees, 58 minutes west.

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Continuing with Question 94:

"Q. Would that camp have been the same size as the previous year?

A. No, no, it would have been larger."

Question 95:

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"Q. Do you know what size that is?

A. I told you it was ten to fifteen people."

Question 96:

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"Q. For what period of time?

A. They were there for a portion of the month of June and for most of the month of August."

Question 97:

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"Q. Oh, right, I'm sorry, you already indicated that. And what activities were those?

A. They were basically carrying out the same kinds of activities. I answered that for you earlier, in that it was basically geophysical and

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geological mapping. And the difference between that and prospecting is that they are doing it in just a little more regular and systematic manner. They would have been walking over the ground; there were, once again, no trenching, no drilling, no vehicles of any sort, no mechanical equipment involved."

Question 98:

"Q. So, basically the people that were involved in that mapping were all located in that camp?

A. Yes."

Question 99:

"Q. I see. Perhaps, then, we could get into what is proposed for 1979 by Essex in this area, if you could tell me generally what activities are intended and in what locations, where camps might be located and so on.

A. The basic camp will be at the same place."

Question 101:

"Q. And what would the size of that be?

A. It will be essentially the same. The activities that we will carry on in 1979 would be basically the same as

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those carried out in '78, plus we plan to do some diamond drilling in 1979."

Question 102:

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"Q. Um-hum.

A. I don't know if I should say diamond drilling, but drill testing of favourable areas for mineral deposits."

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Turning over to page 21, my

Lord, Question 106:

"Q. Are there any proposed activities which would involve aircrafts for 1979?

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A. Inevitably aircrafts are involved to service the camp, it requires aircrafts to get the people and supplies in and out, and aircraft will be used in placing people from the bas camp to the place where they will be carrying out their daily activities and so forth."

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"Q. Will there be an aircraft based at the camp?

A. Yes."

Question 108:

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"Q. Just one?

A. There will be a helicopter there and whether there will be a fixed-wing



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aircraft there on a regular basis, I don't know."

Question 109:

"Q. And would you know how often flights would come in to bring supplies and so forth?

A. That would vary depending upon the circumstances. When the camp is moving in, flights will be frequent, there might be three or four flights a day to move all the people and supplies and materials in."

Question 110:

"Q. And out, I suppose?

A. That's right. Once the camp is established, I would judge that service flights might be perhaps one every three days. Actually, as I think about it, major supplies will come into the hamlet of Baker Lake and be picked up in Baker Lake by helicopter and flown on to the camp, and that is about ninety miles or something of that sort."

Question 111:

"Q. That will be using the camp's helicopter?

A. Yes. So, there will be flights most every day. The frequency of daily flights will vary from day to

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day."

Question 112:

"Q. Okay. Is it considered essential by Essex Minerals that this activity that is proposed for 1979 be carried out this year?

MR. THOMPSON: Yes. It is our position."

Question 113:

"Q. I wondered if you could explain for the purposes of the record what that position is based on.

MR. THOMPSON: The company considers it essential to pursue its legitimate business objective at the time it suits the company's economic convenience. The company is in the business to make profit and to develop resources in accordance to the law of the land and it's not in the interest of the shareholders to delay ventures which may ultimately prove to be profitable for the company."

That, my Lord, is all I wish to read in.

THE COURT: I think you better read 114 to complete that.

MR. TIMBERG: Question 114:

"Q. Do you adopt your counsel's answer on that question, Mr. Machamer?

A. Yes, I adopt that with one

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extension, that we consider the activity to be of benefit for the company and its shareholders and also to be of general benefit to the public also."

Question 115:

"Q. Um-hum.

A. And the dollar interest is not exclusively the shareholders'."

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THE COURT: It was only to have Mr. Thompson's answer adopted by the witness that I was interested in having in. The rest of it I don't care.

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MR. TIMBERG: My Lord, I will stop after 114.

THE COURT: Is that all for this?

MR. TIMBERG: That is all for Essex Minerals.

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The next examination for discovery I propose to read in is the examination of Noranda Exploration Company Limited. My Lord, this was the examination for discovery of Clarence Maxwell Logan of Noranda Exploration.

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Commencing with Question 4:

"Q. And what is your present position with Noranda?

A. Manager of Canadian exploration.

Q. And how long have you been in that position?

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A. Effective September 1st, 1978.

Q. And before that were you with Noranda?

A. Yes, I was.

Q. What was your position then?

A. Manager Central Division, Noranda Exploration Company Limited.

Q. And what part of Canada did the Central Division encompass?

A. It encompassed Manitoba, Saskatchewan, Alberta, the Northwest Territories extending from the west coast of Hudson Bay through to the McKenzie Valley, and of course north into the Arctic Islands.

Q. And how long were you in that position?

A. I moved to Winnipeg, established the Central Division office in 1974.

Q. Prior to that date I worked from Thunder Bay and was also charged with the responsibilities for our operations in the Arctic and Manitoba and Saskatchewan. However, the position as Manager, Central Division was only effective on, in 1974.

Q. Would you happen to know the jurisdiction of incorporation of Noranda?

A. Yes.

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Q. What is it?

A. Quebec.

Q. Could you briefly tell me what is the objects of the corporation, that is, what business does it carry on in Canada?

A. We're a resource oriented company. All phases of mineral exploration, mine, milling, fabricating, sales.

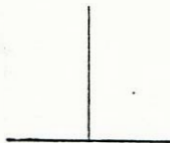
Q. What is the relationship of Noranda Exploration to Noranda Mines?

A. We're a wholly owned subsidiary of Noranda Mines."

Then turning the page, my Lord, to Question 18 at the bottom of the next page.

"Q. Mr. Logan, what minerals is Noranda Exploration searching for in the Baker Lake area?

A. As you probably know, and perhaps I didn't make clear in the original statement, Noranda is a resource oriented company, we explore for and produce base metals, such as copper, lead, zinc, silver, gold. We're also in the potash business as well as other industrial minerals. The Baker Lake district lies within the Canadian shield. The geological environment there is suitable for deposition of various types of base



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metals as well as uranium. Our activities here are primarily in search of uranium, copper, lead, zinc deposits.

Q. When did exploration activity commence on behalf of Noranda Exploration in the Baker Lake area?

A. I'd like to explain that our activities in this area have really not begun in a very extensive manner at this time at all. We did carry out approximately two weeks of recognizance prospecting in an area south and west of Baker Lake in August of 1978.

Q. Could you pinpoint that area a little more accurately by making reference to a lake or a river?

A. Yes. The areas in which we carried out recognizance prospecting would have been in an area slightly north and west of Pitz Lake and east of Princess Mary Lake. And to a lesser extent in an area south of Baker Lake extending from the southeast corner of Baker Lake at South Channel and extending in a southwesterly direction some three to five miles towards Bisset Lake.

Q. Is it, or I take it, then, that

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before 1978 Noranda carried on no exploration activity in the area?

A. To my knowledge and during the period of time that I have been associated with Noranda's activities in the Arctic I don't think they have. That is, within the area as explained and which we are referring to by my lawyer.

MRS. KOENIGSBERG: The Baker Lake study area.

BY MR. TIMBERG:

Q. In 1978, the year that you began your exploration activity, did you obtain any prospecting permits or stake any claims in the Baker Lake area?

A. Yes, we did. Also in 1978, in August, we acquired three separate claim blocks or groups of claims in the Baker Lake district.

Q. Okay. Dealing first with prospecting permits, did you obtain any prospecting permits in 1978?

A. We did not obtain any prospecting permits.

Q. As for the claims you mentioned, where were those claims staked? Could you indicate by reference to map 14 of the IDS study or do you have

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maps with you indicating their locations?

A. I do have a map."

At this time, my Lord, I would like to enter three maps which were subsequently provided to us by Counsel for Noranda indicating the locations of the Noranda claim blocks. The claim blocks are outlined in red on these maps.

THE COURT: All one exhibit or are they different years? It's only for convenience for future reference. Are they to be marked as three separate exhibits or shall they go in as one?

MR. TIMBERG: I don't think, my Lord, there is any need to mark them as three separate exhibits. Perhaps simply mark them as A, B and C.

THE COURT: Well, we may as well mark them all different then.

MR. TIMBERG: They are mineral claim sheets which are updated from time to time. They are all indicated-- two and three have been updated to March 30th, 1979, and one has been updated to April 24th, 1979.

THE COURT: We better be safe than sorry. Make them P-37, 38 and 39.

EXHIBIT NO. P-37: Mineral Claim Sheet; Aberdeen Lake.

EXHIBIT NO. P-38: Mineral Claim Sheet; Schultz Lake.



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EXHIBIT NO. P-39: Mineral  
 Claim Sheet: MacQuord  
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MR. TIMBERG: Turning the page,  
 my Lord, to Question 25:

"Q. When were those claims staked in  
 1978?

A. That data was filed with you, I  
 think, with our Affidavit and the  
 specific dates--

Q. I don't need the specific dates,  
 just ballpark figure.

A. It would have been August, and  
 I think the bulk of it would have been  
 staked during the last two weeks in  
 August. I stand to be corrected on  
 that.

MRS. KOENIGSBERG: And then again I  
 think the accurate information should  
 be in the Affidavit of John Ivany filed."

My Lord, that reference leads  
 to the Affidavit of Mr. Ivany filed on the motion to  
 enter the mining companies as Defendants in this  
 action.

THE COURT: Well, if you want  
 it in you better find it.

MR. TIMBERG: I have it here,  
 my Lord. I was going to attempt to enter it but I have  
 some difficulty because it wasn't identified on the  
 examination for discovery. It wasn't entered at the  
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MRS. KOENIGSBERG: My Lord, I have no problem with my friend entering that limited amount of information with regard to the claims.

THE COURT: It's an exhibit from the Ivany Affidavit. It's Exhibit P-40.

EXHIBIT NO. P-40: List of Mineral Claims in Good Standing as of April 1st, 1979 by Noranda Exploration Company Limited.

MR. TIMBERG: Starting with Question 27:

"Q. In 1978, what type of exploration activity did you carry out?

A. The only exploration activity undertaken by Noranda in 1978 in the areas being discussed here would have been a two-man prospecting party which was put in the field during the latter part of August for a period of up to two weeks.

Q. Would these two-men parties have established--

A. It was one two-man party.

Q. Would this one two-man party have operated from a base camp or would they simply have moved from location to location?

A. They would have moved from location to location.

Q. And was an aircraft involved in

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any way in their work?

A. Yes.

Q. In what respect?

A. In putting the people in the field or that two-man crew in the field. In servicing the two-man crew and retrieving the crew from the field.

Q. And where was that aircraft based?

A. The aircraft was based at a location approximately a hundred and fifty to a hundred and sixty miles south-west of Baker Lake.

Q. Did that aircraft make trips to Baker Lake or was it always based one hundred and fifty miles south?

A. We operated a base one hundred and fifty miles south of Baker Lake, and to my knowledge, he wouldn't have gone to Baker Lake other than perhaps for fuel on occasion, or needed supplies.

Q. Okay. This two-man party on the ground, would they have carried, had with them any equipment or machinery in the sense of a small caterpillar tractor?

A. No, they did not.

Q. Were they operating under a land use permit?

A. They were not, they did not



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constitute a land use.

Q. In 1978, could you tell me what the approximate cost of your exploration activity was in the Baker Lake area?

A. Again, referring to the study area and excluding mineral acquisition costs, it would be my estimate, I would estimate that the expenditure on purely prospecting and geological evaluation would not exceed fifteen to twenty thousand dollars.

Q. And turning to 1979, do you intend to carry out exploration activity this year in the Baker Lake area?

A. Yes, we do.

Q. And what type of activity do you hope to carry out?

A. We have proposed a program to cover our mineral dispositions, which would involve an airborne geophysical survey, geological mapping and geological prospecting. Geochemistry and ground geophysics.

Q. Would this activity you have just mentioned be carried out over all three of your claim holdings you previously referred to?

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A. Yes. I would like to stress that this really is a recognizance program and the objective of the program would be to gain as much information on a broad area as possible within our claim holdings.

Q. Do you intend to establish base camps anywhere in the Baker Lake area for 1979?

MRS. KOENIGSBERG: I would just like to say for the purposes of the answer we are speaking of the Baker Lake study area.

THE DEPONENT: Yes, that's my understanding. It's likely that we would establish camps in or on our claim areas."

Moving to the bottom of the page, Question 44:

"Q. With respect to the airborne survey you mentioned, where would the aircraft that would carry out that survey be based?

A. We don't do our own airborne flying, we contract our airborne geophysics. We would engage a contractor to do that. I wouldn't have that information.

Q. Have you engaged a contractor at the moment?

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A. We have been negotiating with several contractors. At this time I'm not sure that we do have one committed.

Q. Would you have any indication as to the height the aircraft would fly and grid patterns or grid spacings that would be used regardless of who carries out the airborne survey for you?

MRS. KOENIGSBERG: I think that at this time the information is conjectural but we will provide for you our expectations with that qualification.

THE DEPONENT: Okay. As pointed out it would depend on the contractor who would have been successful in getting the contract as to what type of equipment is to be used. If we should go with contractor "A", that aircraft would probably fly at an altitude of say four to five hundred feet above the surface. If we were to go with contractor "B", that aircraft may fly at a lower elevation."

Subsequent to the examination for discovery, my Lord, we were advised by the solicitors for Noranda that an airborne geophysical contract has been let and intended that the airborne

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survey be completed over the mineral disposition area during June, 1979.

Over the page to Question 50:

"Q. Yes, 1979.

A. We would anticipate approximately eight to twelve people involved in the project.

Q. What would be the approximate cost of your exploration activity in '79, assuming that you can carry out what you intend to carry out at this time?

A. Provided we're able to follow through with the program as proposed, then we would anticipate an expenditure in 1979 in the order of three hundred thousand dollars.

Q. In 1979, have you applied for any prospecting permits or staked any further claims above and beyond what you obtained in 1978?

A. Perhaps I can qualify that by saying we applied for a permit but that permit was not granted. Now, I've forgotten whether it was late '78 or early '79, I believe it was late '78, so, I think the answer to your question is no, with that one condition that we did apply for a permit but if the expiration date for permits was December 31st the answer

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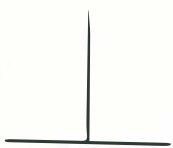
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is no, but if it is the 15th of January, then the answer is yes.

Q. That permit you applied for that was not granted, was that in the Baker Lake area?

A. Yes, it was."

Turning to page 19, my Lord,

Question 74:

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"Q. With respect to your camps that you will be setting up this year, does Noranda have any memos or documents or notes which it hands out to its crew telling them what they can or can't do at a land-use camp and what they must do at the end of the season to clean up the camp?

A. We make copies of the official Land Use Regulations available to our staff.

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Q. Do you do anything more than that?

A. Encourage them to adhere to Land Use Regulations."

My Lord, that is all I wish to read in from the examination of Mr. Logan.

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Now I wish to read from the examination for discovery of James Fraser Cowie on behalf of Pan Ocean Oil Ltd. My Lord, I would like to commence reading with Question 4:

"Q. And what is your present position?

A. President.

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Q. And how long have you been President of Pan Ocean?

A. Since 1975.

Q. And before that, were you with Pan Ocean?

A. Yes.

Q. And what was your position before that?

A. Vice-President.

Q. And how long have you been with Pan Ocean overall?

A. Seven years.

Q. Would you happen to know the jurisdiction in which Pan Ocean is incorporated?

A. Alberta.

Q. And when was it incorporated?

A. February 4th, 1974.

Q. And you indicated that this was an amalgamation--

A. Just a moment.

MR. COSMAN: One moment.

THE DEPONENT: The original incorporation of Pan Ocean Oil Ltd. was July 5th, 1971.

MR. COSMAN: I think we can even go back further than that to December 3rd, 1970, where it was incorporated as United Bata Resources (Canada) Ltd., there was a change of name on

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July 5th, 1971, to Pan Ocean Oil Ltd., and on February 4th, 1974, by amalgamation, Pan Ocean Oil Alberta Ltd. became Pan Ocean Oil Ltd. It was an amalgamation of those two companies.

BY MR. TIMBERG:

Q. And it is presently Pan Ocean Oil Ltd.?

A. Yes.

Q. Could you tell generally the business of the company?

A. Oil, and gas, and mineral exploration, production and development."

Turning to Question 15:

"Q. Does Pan Ocean carry on mineral exploration activity in the Baker Lake area?

A. It has in the past and then it had an arrangement with Cominco where they carried on exploration for two years. It is intending to have exploration in the area in the future.

Q. What minerals were and are being sought?

A. Primarily uranium, but as in any mineral exploration programme, we would be looking for any and all of them.

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Q. Is Pan Ocean seeking uranium elsewhere other than the Baker Lake area?

MR. COSMAN: Don't answer that question, it is not relevant to this law suit.

BY MR. TIMBERG:

Q. When did Pan Ocean commence exploration activity in the Baker Lake area? I imagine this would be through one of the predecessor companies you indicated earlier.

A. Through its predecessor company the original exploration was commenced in 1968.

Q. 1968. And in the year, 1968, where was the exploration activity carried on in the Baker Lake area?

A. The initial work was in a survey flown, the yellow, I believe. All the yellow outlined areas."

My Lord, at this time I have Exhibit 1 to the examination for discovery of Mr. Cowie which I would like to be made as the next exhibit. It is a map of the Baker Lake area indicating the areas over which an airborne survey or airborne surveys have been carried out from 1968 to 1978 either by Pan Ocean Oil or one of the predecessor companies.

THE COURT: Exhibit P-41.

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EXHIBIT NO. P-41: Map: Areas Covered Airborne Surveys: Pan Ocean Oil Ltd. and predecessor companies 1968 to 1978 inclusive.

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MR. TIMBERG: Question 21:

"Q. And on Exhibit 1 you've indicated that the area marked off in yellow would be the area in which Pan Ocean or one of its predecessor companies carried out an airborne survey? Is that correct?

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A. Yes.

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MR. COSMAN: To make things simple and expeditious, the map that has been marked as Exhibit 1 contains a schedule which sets out the different colours, by different colours the areas of surveying for the years 1968 through to 1978, and it may not be necessary to go through each of those different colours, but yellow represents 1968, green 1969, et caetera, as shown on that exhibit.

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BY MR. TIMBERG:

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Q. Perhaps, you've also produced to us a second map outlining generally the locations-- would these be base camps, Mr. Cowie?

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A. Right.

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Q. Base camps in the Baker Lake area from 1968 through to--

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A. I don't believe the ground work started in 1968, the first ground work was in '69."

My Lord, this is the second exhibit, and again it's a map of Baker Lake area. It indicates the locations of the camps that were operated by Pan Ocean Oil and such items as the time the camp was operated, number of men involved and the type of work that was done and whether or not aircraft were based at those camps.

THE COURT: P-42.

EXHIBIT NO. P-42: Map: Baker Lake Area: Location of camps of Pan Ocean Oil Ltd.

MR. TIMBERG: Question 25:

"Q. Now, in 1968, Mr. Cowie, you indicated you carried out an airborne survey over certain lands in the Baker Lake area. Did you carry out any other type of exploration activity in 1968?

A. I don't believe the ground work started until 1969.

Q. Now, with respect to the airborne survey, could you tell me what height the aircraft flew?"

My Lord, subsequently we were advised by Mr. Cosman that the correct altitude at which the airborne survey was flown was one hundred and fifty feet, not the five hundred feet given in the answer to Question 26.

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THE COURT: Thank you.

MR. TIMBERG: Question 27:

"Q. And would you be able to give me an estimate as to the grid spacing between the flight lines?

A. The initial survey was fairly wide, which most probably would have been a quarter mile. Some of the later surveys could have been at narrower spacing.

Q. And the aircraft that was used, would have been a helicopter or a fixed-wing aircraft?

A. This would have been a fixed-wing aircraft.

Q. Where would that aircraft have been based?

A. I'm sure for this survey-- these surveys, they were based out of Baker Lake.

MR. COSMAN: That was out of Baker Lake?

THE DEPONENT: I'm sure--

MR. COSMAN: Other than Baker Lake or?

THE DEPONENT: In, from the Baker Lake area.

MR. COSMAN: I see.

BY MR. TIMBERG:

Q. And for what period of time was the airborne survey carried out, can

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you pin it down to a certain number of weeks or a certain month?

A. No, I'm afraid I can't."

Subsequently we have been advised, my Lord, by Mr. Cosman that airborne surveys were conducted in the months of June and July, 1969, and in those same two months in any other year where Pan Ocean has conducted airborne surveys as indicated on the exhibit.

Question 33:

"Q. Mr. Cowie, on Exhibit 1 the area or areas that you've indicated the airborne survey was flown in 1968, do I read this map as indicating that the airborne survey was flown over the entire area that is blocked off by the yellow line?

A. That is correct."

Turning to Question 36:

"Q. So, the airborne survey would have been flown over lands over which you did not hold prospecting permits or claims?

A. That's right.

Q. Turning then to 1969, Exhibit 1 indicates that an airborne survey was flown on behalf of Pan Ocean in that year and the area over which the survey was flown is indicated by the green line. Now, for that

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airborne survey, could you tell me at what height the aircraft flew at that time?

A. Again, it would be between 400 and 500 feet."

My Lord, the previous answer the correction applies.

Question 38:

"Q. And what would be the grid spacing?

A. Grid spacing, I'm not absolutely positive, would be in the eighth of a mile range.

Q. Was the aircraft a fixed-wing aircraft or a helicopter?

A. Fixed-wing aircraft.

Q. Where was it based?

A. Again, in Baker Lake.

Q. And would you have any idea as to what time of the year the survey was flown?

A. No."

Question 42:

"Q. And in 1969, did you carry out any other type of exploration activity in the Baker Lake area?

A. Yes, we had a twelve men party in the Christopher Island area.

Q. That is indicated on Exhibit 2.

A. And a ten men party in the Upper



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Kazan Falls area.

Q. And on Exhibit 2 where you've indicated where the activity was carried on and you've indicated the type of activity that was carried on, is the only activity that was carried on indicated on the map?

A. Yes.

Q. Now, in 1969, it's indicated that at Christopher Island diamond drilling was done. Would you have any recollection as to how many holes were drilled?

A. No."

Question 49:

"Q. With respect to the camp at Christopher Island, at what time of the year was that camp occupied?

A. Specific dates are most probably available, but I would estimate that it was late May to the late August period."

Over to page 13, Question 51:

"Q. And with respect to the camp at Upper Kazan Falls?

A. It would be the same time.

Q. In 1969, did Pan Ocean obtain any prospecting permits or stake any claims in the Baker Lake area?

A. It staked claims."

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My Lord, we were subsequently advised by Mr. Cosman that in the Kazan River area all the camps were occupied between June 1st and the end of August for each year which Pan Ocean was active in that area.

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MR. COSMAN: My Lord, that was in response to the undertaking at Question 50 that if our records indicated otherwise we will advise you. Mr. Cowie indicated specific dates are most probably available. He estimated it was late May to the late August period. We stated specifically the time periods for that.

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THE COURT: Yes.

MR. TIMBERG: Continuing with Question 57 on page 15:

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"Q. On Exhibit 2, Mr. Cowie, if I could direct your attention to the area in the Upper Kazan Falls area, in that area it's indicated prospecting permit 347 and also within prospecting permit number 347 there is an irregularly shaped line and inside that line it has got numbers 10 - 23. What do numbers 10 - 23 refer to?

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A. Permit number 347?

Q. Yes.

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A. The numbers within would refer to the claims staked within the permit area, and this permit in effect

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actually lapsed April 1st of this year.

MR. COSMAN: From the document that has been marked as Exhibit 3, you will see on page 3 of that document, at the bottom of that page, a reference to permit 347 which indicates that that permit lapsed as of April 1st, 1979, no claims staked. As to the numbers within, numbers 10 - 23 marked within the box which appears to be the extent of the area of permit 347, we will have to undertake to advise you as to what those numbers represent.

BY MR. TIMBERG:

Q. And I notice that these numbers appear throughout Exhibits 1 and 2, on the maps, within other boxes, and perhaps you could let me know as well what they mean because I can't seem to co-ordinate those numbers with the numbers on Exhibit 3."

Question 60:

"Q. In 1969, Mr. Cowie, at your camps in the Baker Lake area, was any blasting carried out?

A. It's possible some blasting could have been carried out. I do not know for sure. Is it listed as

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that?"

My Lord, we were subsequently advised by Mr. Cosman that at both the Kazan Falls and the Christopher Island location limited blasting was carried out in 1969, but no other year was blasting undertaken by Pan Oil.

Continuing with Question 64:

"Q. For 1969.

A. And that was all.

MR. COSMAN: Perhaps to shorten this examination, we have prepared beyond the call of duty a map which indicates the activity carried out in each of the years from 1968 onward and in each of the areas in which such activity was carried out, and that activity is marked in appropriate boxes on the map which has been identified as Exhibit 2 to this examination.

BY MR. TIMBERG:

Q. And exhibit 2 would indicate work that was carried out, whether or not a base camp was established?

A. This would be our entire work that has been carried out in the Baker Lake area, identified there.

Q. In 1969, how were these camps provisioned? Were they supplied by aircraft?

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A. By fixed-wing aircraft.

Q. Where would those aircrafts operate out of?

A. In '69 they would have operated out of Baker Lake.

Q. How often would they have made the flight from Baker Lake to the camp?

A. On the average of once every two weeks.

Q. Was a helicopter ever used to ferry men from the camp to locations on the ground where they would carry out their activity?

A. Yes.

Q. Where would the helicopter have been based, at the camp?

A. The helicopters were at the camp.

Q. Would they have been used every day?

A. Weather permitting, yes.

Q. Would those helicopters have flown between the camp and Baker Lake?

A. They would not normally have done so. They could have in an emergency or something like that, but they would not normally.

Q. Now, Mr. Cowie, Exhibit 2 indicates that in 1970 you carried out mineral exploration activity in



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the Lower Kazan Falls area and in the James Point area. Approximately what time of year would these camps have been occupied?

A. They would have been occupied from late May to late August.

Q. There is no indication on Exhibit 1 that an airborne survey was carried out, so, I assume you did not carry out an airborne survey in 1970?

A. That's correct.

Q. In 1970, did you have helicopters located at these camps?

A. Yes.

Q. And that is indicated on Exhibit 2.

A. On Exhibit 2.

Q. And were these camps also provisioned by aircraft from Baker Lake?

A. Yes.

Q. And how often would these aircrafts make the trip from Baker Lake to the camps?

A. On the average of every two weeks."

My Lord, turning next to page

21, beginning at Question 84:

"Q. Turning to 1971, Exhibit 1 indicates that an airborne survey was flown in that year. The airborne survey was flown over two separate

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areas in the Baker Lake area. Can you tell me what height the aircraft flew that year?

A. This would be above 500 feet, this was magnetic survey, radiomagnetic."

Again, my Lord, that should be one hundred and fifty.

Question 85:

"Q. What would be the grid spacing on this survey?

A. A quarter mile.

Q. And was the aircraft fixed-wing aircraft?

A. Fixed wing.

Q. Where was it based?

A. Baker Lake.

Q. Could you tell at what time of the year the survey was flown, and if you don't know, tell me at a later date?

A. I'll tell you later.

THE DEPONENT: That's a general question that will have to be answered for all the airborne surveys.

MR. TIMBERG: All right, I won't repeat that question each time."

My Lord, I previously indicated that Mr. Cosman has advised us the surveys were conducted in the months of June and July of each year in which an airborne survey was carried out.

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Question 89:

"Q. Exhibit 2 indicates that you had established in 1971 camps in the Lower Kazan Falls area and in the James Point area. Where were these camps supplied from?

A. Baker Lake.

Q. By aircraft?

A. By fixed-wing aircraft.

Q. How often did the aircraft fly between camps from Baker Lake?

A. On the average of once every two weeks.

Q. And this year, again, were there helicopters based at the camps?

A. Yes.

Q. What were helicopters used for?

A. To transport the prospecting crews. There was no drilling, so, it would be strictly moving of personnel."

Then going to the next page,

Question 95:

"Q. Other than helicopters, were there any other types of equipment on the land in the sense of all-terrain vehicles, caterpillar?"

My Lord, I was advised by Mr. Cosman this morning that he has just been informed that the 1969, a contractor of Pan Ocean, had a



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caterpillar tractor on the land.

MR. COSMAN: Just a slight clarification of that point, my Lord. Although it is true that Pan Ocean has never had any other vehicles in the Baker Lake area in response to that question, I was informed that a contractor in the early 70s had a caterpillar tractor at one point on the land.

MR. TIMBERG: My Lord, perhaps to clarify the record, I could read in the answer that Pan Ocean gave to Question 95 to indicate that they themselves did not have equipment on the land. Their answer is:

"A. I think we can answer that question for all other years, we have never had any other vehicles in the Baker Lake area to date."

Question 96:

"Q. The camps in 1971, when were they occupied from?

A. Late May till late August.

Q. Turning to 1972, Exhibit 2 indicates that in that year there was only one camp and that camp was in the Lower Kazan Falls area. When would that camp have been occupied in 1972?

A. I think as far as occupation is concerned, you can say they are always occupied late May to late August."

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Question 98:

"Q. In 1972, did you have a helicopter at the Lower Kazan Falls camp?

A. This really isn't that specific but I would say yes, we must have at least one helicopter and possibly two that are listed."

My Lord, we have subsequently been advised by Mr. Cosman that there were, in fact, two helicopters at the Lower Kazan Falls camp in 1972.

Continuing with Question 99:

"Q. And I suppose that, once again, this camp was provisioned from Baker Lake.

A. Yes. As it was only a ten men camp, the frequency would likely have been less than once every two weeks. Certainly no more.

Q. There is no indication on either Exhibit 1 or Exhibit 2 that exploration activity was carried out in the Baker Lake area in 1973. Was any activity carried out anywhere?

A. There was no activity carried out during 1973.

Q. In 1974, Exhibit 1 indicates that a radiometric and a magnetic survey was carried out over the area indicated in brown on Exhibit 1.

At what height would the aircraft

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have flown for these two surveys?

A. Between 400 and 500 feet."

The correct answer there should be one hundred and fifty feet.

Question 102:

"Q. For both surveys?

A. For both surveys. They were flown at once, the same aircraft.

Q. Was this a fixed-wing aircraft?

A. Fixed-wing aircraft at a quarter mile spacing.

Q. Where did this aircraft operate out of?

A. Baker Lake.

Q. Exhibit 2 indicates that in 1974 you operated a camp at the Lower Kazan Falls area. Is there any difference in 1974 as to how this camp was provisioned?

A. No.

Q. Turning, then, to 1975, Exhibit 2 indicates that you established a camp in the Kazan Falls area.

A. Those were the camps that I believe you have already examined Cominco on, these were actually Cominco camps, '75 and '76."

MR. COSMAN: My Lord, that's the Kazan River area rather than the Kazan Falls area.

MR. TIMBERG: I'm sorry, My

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Lord, in the next examination for discovery we will be reading in the examination of Cominco.

Question 107:

"Q. So, the camps indicated on Exhibit 2 for 1975 and 1976 in the Kazan River area are Cominco camps?

A. Yes.

MR. COSMAN: Just to keep the record accurate on this point, Mr. Cowie can verify whether what I say is correct or not, but as I understand it, in 1975 and 1976, there was no activity carried on by Pan Ocean Oil Ltd. in the Kazan River area.

THE DEPONENT: That's correct.

MR. COSMAN: And that the extent to which there is indication on this Exhibit number 2 as to activity carried on, one must really go to Cominco and what evidence was given by Cominco as to where their activity was to be accurate.

MR. TIMBERG: Yes, and we have already examined Cominco extensively about that activity that year.

THE DEPONENT: The reason we have shown it on this map is that the lands were still owned and held in the name of Pan Ocean."

Question 108:

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"Q. Mr. Cowie, you indicated that the Kazan River camp shown on Exhibit 2 for years 1975 and 1976 were occupied by Cominco. On Exhibit 1, you've indicated that a number of surveys, airborne surveys were flown in 1976. Were these flown by Cominco as well or were these Pan Ocean surveys?

A. There isn't one, it's not in that area.

Q. So, this survey flown in 1976 would be outside the area?

MR. COSMAN: If there was a survey which is outside this area, which is not relevant to this law suit--

MR. TIMBERG: It is a matter of opinion, whether or not it is relevant.

MR. COSMAN: We have stated our position. The point is, there was no survey in the Baker Lake area as defined and as particularized in the Fresh as Amended Statement of Claim.

THE DEPONENT: The same applies to the '78 survey.

BY MR. TIMBERG:

Q. So, the airborne survey flown in 1978 is also outside the area, geographic area the Order-in-Council referred to in the Statement of Claim?

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A. Yes.

Q. In 1977, Exhibit 2 indicates that there's a camp located in the Martell Lake area, just north of Bisset Lake. Was that a Pan Ocean camp?

A. That was a Pan Ocean camp that was there for about three weeks in the middle part of July. A small camp.

Q. Was that camp operated under the provisions of a land use permit?

A. Yes, I believe it was, but we might have to check that."

If I might have a moment, my Lord.

THE COURT: Yes.

MR. TIMBERG: My Lord, I am just looking for some exhibits from the discovery of Pan Ocean which I believe my friend Mr. Cosman provided me with a short time ago.

Continuing, my Lord, with Question 116 on the bottom of page 27 of the transcript:

"Q. You've prepared for me a sheet indicating the cost incurred in the Baker Lake area by Pan Ocean, Cominco and other companies."

My Lord, at this time I would like to enter a document which is entered as Exhibit 6 at that discovery. This document is a document indicating the cost incurred for mineral exploration in the Baker Lake area by Pan Ocean, Cominco and a

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number of other companies involved in that type of agreement.

THE COURT: Exhibit P-43.

EXHIBIT NO. P-43: Costs Incurred for Mineral Exploration in Baker Lake area by Pan Ocean Oil Ltd.: April 1st, 1968 to December 31st, 1978.

MR. TIMBERG: Question 117:

"Q. In Exhibit 6, Mr. Cowie, what do you mean by the column entitled, "others"?"

A. It would be our partners who are shown on the listing of claims, Petrobec, Lochiel and Dynamic Mining.

Q. At the bottom of Exhibit 6 there's a phrase in brackets, the phrase reads, "Does not include", and then there are three initials.

A. That's another exploration area that's outside the area covered by or referred to as the Baker Lake area.

Q. In 1979, does Pan Ocean propose to carry on exploration activities in the Baker Lake area?

A. Yes.

Q. In what part of the area does it propose to carry on such activity?

MR. COSMAN: You will have to realize, of course, Pan Ocean has to work within the limitations of the

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interlocutory injunction granted in this matter; so, it will be in the area as permitted by the injunction.

THE DEPONENT: And it will be northwest of Bisset Lake.

BY MR. TIMBERG:

Q. That would be in the area in Exhibit 2 identified by the numbers 8 and 9?

A. Yes, that's correct.

Q. And what time of the year does Pan Ocean propose to carry on this exploration activity in that area?

A. From the 1st of August to as late in the year as we can work.

Q. And what type of activity do you propose to carry on?

A. Drilling.

Q. Any other type of activity?

A. No.

Q. How many men do you expect to have involved?

A. Between six and eight.

Q. And will a base camp be established?

A. Yes. At Martell Lake.

Q. Would it be the Martell Lake base camp or would it be a new base camp for 1979?



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A. No, it's close to the original, the 1977 Martell camp. Not in exactly the same area, in an area that was picked by the Land Use people.

Q. Have you applied for a Land Use Permit for that camp?

A. Yes, we did.

Q. And have you obtained such a permit?

A. Yes,"

My Lord, turning the page to

Question 135:

"Q. What will be the approximate cost of the exploration activity for 1979?

A. Approximately \$350,000.00"

Continuing down the page with

Question 138:

"Q. Has Pan Ocean applied for any mineral or surface leases in the Baker Lake area?

A. No.

Q. Do you anticipate applying for such leases this year or next year?

A. We canticipate applying for them but it will be next year.

Q. You do.

A. Possibly late this year.

Q. Have you made application to

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A. No.

Q. What specific area would the mineral lease application cover?

A. Primarily in the areas in which we are drilling this year.

Q. That is northwest of Bisset Lake?

A. Yes. And those are the claims which would expire in October of 1980 unless leases are applied for."

Continuing with Question 145:

"Q. Have you given any consideration as to whether it would be economically feasible to develop a mine in the Baker Lake area?

A. Yes, we have given thought to that, otherwise, we wouldn't be looking for uranium"

Turning to page 37 of the transcript, Question 174:

"Q. Turning to your exploration activity in general, what does Pan Ocean do with the waste that is generated from their camps? Waste could be sewage waste, contaminated water from drilling or empty fuel drums. What is done with that waste?

A. Empty fuel drums are all removed, taken back to the supplier.

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Q. How soon would they be removed after they have been emptied?

A. In the recent years, they are removed the same year. In past years, they have been onr or two years they have waited to be picked up.

Q. So, they would be on the land over the winter, then?

A. There has been cases where they have been. As far as solid waste is concerned, any garbage food or that type is burnt and buried. The human wastes are controlled and buried in a pit. The water is retained in ponds and evaporates."

Finally, my Lord, turning to

Question 180:

"Q. Where would the fuel drums be stored at the camp in location to the camp itself?

A. Quite close, within a hundred yards.

Q. And how would the fuel drums be moved around the camp?

A. By helicopter.

Q. Do you have any memos or documents that you pass out to your crews who will be occupying the camps to indicate to them what

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they should do to maintain the camps  
in a satisfactory condition?

A. No, it is all done verbally by  
the camp managers."

My Lord, there is one matter  
that remains from this examination for discovery. If  
you will refer back to page 13 of the transcript and  
in the vicinity of Question 52 I would just like to  
refer to that page to enter a document that was made  
Exhibit number three to the examination of Mr. Cowie,  
being a document listing the mining claims of Pan  
Ocean in the Baker Lake area.

THE COURT: Okay. Is that the  
end of the Pan Ocean Oil examination?

MR. TIMBERG: Yes.

EXHIBIT NO. P-44: Mining  
Claims: Pan Ocean Oil  
Ltd. in Baker Lake  
area: April 5, 1979.

THE COURT: We will take a  
break. Before we do that I better get on the record  
my concern, that can be transmitted to Mr. Golden  
who's working hard some place-- but this is Friday  
afternoon. This lady has come from Winnipeg. I think  
I can assume there is not a chance that whatever it  
is she has to tell us can possibly be told by five  
o'clock. I have a car picking me up at quarter after  
five and an airplane to catch at seven. If I am in  
for any unpleasant surprises I would like to know  
about it right now rather than at five. Perhaps we

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will recess for ten minutes. If there is any news at all I would like to know.

MR. ESTRIN: We had that in

mind, my Lord.

--- short recess

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---Upon Resuming after Recess

THE COURT: Mr. Golden?

MR. GOLDEN: My Lord, may

I interrupt in dealing with the transcript to  
deal with another matter?

THE COURT: You certainly  
may.

MR. GOLDEN: I was wondering  
why Mr. Estrin is so pleased. I guess everybody  
is.

THE COURT: Excuse me a  
moment, Mr. Golden. Exhibit 3 to the Examination  
for Discovery of Mr. Cowie, that's Exhibit P-44.

MR. GOLDEN: I shall like  
to take care of one housekeeping matter first.  
It is only that I keep forgetting. We will not  
be calling Dr. Robert Williamson as a witness in chief  
we have filed an affidavit on his behalf. I  
would ask that affidavit be withdrawn.

THE COURT: Yes. I'm not  
sure whether that should go off the court file  
since it has been filed, but certainly it is not  
part of the record.

MR. GOLDEN: I would not  
think it would form any evidence. Since the  
others do, it might be --

THE COURT: I think it  
should actually be returned rather than stay on  
the file, to avoid any chance of future confusion.

1662.

A. Smith, ex in chf  
(Golden)

MR. GOLDEN: Thank you.

THE COURT: Similarly,

the extra one that was filed some time ago that we have not thought about for several days. The Registrar can return both of those. I take it they were both filed by Mr. Golden's office.

MR. GOLDEN: Yes. My Lord, I would like to call as my next witness Mrs. Shirley Ann Smith.

SHIRLEY ANN SMITH, WINNIPEG, MANITOBA: SWORN

THE COURT REGISTRAR: Will you state your name, complete address and your occupation?

THE WITNESS: Shirley Ann Smith, 473 Brock Street, Winnipeg. I am an Archivist with the Hudson Bay Company, the Archives.

EXAMINATION IN CHIEF

BY MR. GOLDEN:

Q. Thank you for coming, Mrs. Smith, especially on this short notice.

In your capacity, Mrs. Smith, as an Archivist for the Hudson Bay Company, do you have in your custody and possession journals and records kept by that company and made by its employees during the various business endeavours over the years?

A. Yes, I do.

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A. Smith, ex in chf  
(Golden)

Q. Among those archives or documents, have you been able to locate for us -- I will refer you to two journals. Firstly, I refer you to the journal of a gentleman named Christopher of a voyage to the north which commenced on the 13th of July, 1762?

A. Yes, I have that document in my possession.

Q. Now, at this point, if I may stop to indicate to the court what we have already discussed, and that is we will not ask you, with the court's permission, to give up possession of these documents. I will ask you in a moment to read from some of them. Then I should ask you if you would be so kind as to assist us by facilitating their being photographed, not photocopied, by the Ontario Archivist -- you will have them in your possession -- but then we will be filing the photographs of the pages in addition to some written transcripts that you've already prepared. Will that be satisfactory?

A. Surely.

Q. Mrs. Smith, I have asked you to locate -- I understand that journal is the journal of one voyage?

A. Yes, that's correct.



1664.

A. Smith, ex in chf  
(Golden)

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Q. I have asked you to locate the entries commencing on the 6th of August. Have you done so?

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A. Yes. The 6th of August, 1762.

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Q. My Lord, perhaps I should explain at this time: we have not had an opportunity to type completely all of the entries that Mrs. Smith is going to be reading from. Particularly, we have not typed the entries for the 6th and 7th of August. However, we have started with the 8th of August. I am hoping that the Ontario Archivist will have the photographs back for us not too late in the next week. Even though our case may be closed, I would ask for Your Lordship's leave to file photographs. I will provide my friends with copies of the actual book. Their legibility is another question. We have typed off what we can. I would like to have read into the record everything we rely upon. I think the Archivist will be able to give us a fairly clear photograph. Even at that, they are very painstaking in their reading. What we have done is we have prepared -- and I have distributed them to my friends-- typed copies of the entries from the 8th of August through to the 12th. We have also in a subsequent journal, which will

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A. Smith, ex in chf  
(Golden)

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be referred to in a few moments, typed off entries from the 12th and 13th of August. Mrs. Smith will be reading from those. She has personally supervised the typing. In fact, she dictated them to our typist. To save her eyesight I would ask she be allowed to read from her own transcripts as opposed to reading from the actual journals.

THE COURT: Unless there is any objection, it is fine with me.

MR. GRAHAM: My Lord, I wonder if I could make a few observations. We are in this problem and it is Friday afternoon, this woman has come from Winnipeg and will presumably be released after identifying these documents.

I would, therefore, like to address my remarks to Your Lordship in respect of the receivability of the evidence in light of that fact and see if we can work out something. I presume my friend, who is a learned counsel and has experience in court, knows well the rules of evidence. If he intends to prove these documents and have them admissible before Your Lordship, I am sure he will be conforming to the requirements that these are journals that were made in the normal course of business, under a duty to be made, in which he will be demonstrating

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A. Smith, ex in chf  
(Golden)

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the duty was there for them to be made, within  
the rules -- and I will cite Your Lordship  
Wigmore evidence in that respect in a few  
moments.

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THE COURT: The Canada  
Evidence Act covers it rather well.

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MR. GRAHAM: If they do not  
fall within the category of such documents, then,  
if they are to be cited as general history then  
they fall within the course of general histories  
of notorious facts which are indisputable, again,  
within the terms as set out by Wigmore. That is what  
I would point out as my first observation in  
terms of the receivability of these journals.

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The second observation I  
have is I am somewhat troubled because this is  
the first time I have ever seen excerpts from  
these journals, which my friend just handed me  
now during the break. It is the first time we  
have even known the names of the persons whose journals  
are now put before Your Lordship. We are told  
told excerpts are to be put in. I would presume  
we will have an opportunity to examine the  
journals to see what else we might want to put  
in. I have actually made arrangements for a  
professor from the University of Toronto to  
come down and aid me in this task. He has yet to  
appear in court. I certainly don't consider  
myself qualified to deal with that.

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A. Smith, ex in chf  
(Golden)

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I would like to know perhaps what other journals may be around at the same time in the Archivist's possession. All of those matters I hope to deal with. Therefore, I suggest to Your Lordship, for Mrs. Smith's convenience, that these journals go in in this manner, subject to these reservations, with the explicit understanding in order to enable her to get away to Winnipeg and not retain her here while we argue about the legal admissibility of the documents.

THE COURT: That is fine.

However, I think Mrs. Smith's evidence may establish this does satisfy the requirement of the Canada Evidence Act as far as corporate records are concerned.

MR. GOLDEN: Yes.

THE COURT: That will probably clean that up.

MR. GOLDEN: Thank you, My Lord.

Mrs. Smith, as Archivist, I understand you have also held the position of Historian in the Hudson Bay Company?

THE WITNESS: Yes, I have.

BY MR. GOLDEN:

Q. In both capacities, are you aware of the requirements of your company with respect to the keeping of records and journals,

1668.

A. Smith, ex in chf  
(Golden)V  
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of not only voyages, but other transactions that take place with the officers and employees of your company?

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A. Yes, I am. We have a great many different documents in our archives dating from 1671 right up to the 1970s. There are various journals, various account books, bundles of correspondence. I think they weigh one hundred and twenty tons.

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Q. Were gentlemen such as William Christopher and Moses Norton required by the Company to keep records of their travels and business transactions?

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A. Yes. They were to keep a daily journal when they were at the post and also a journal of all their explorations. They were to be sent home, home being London.

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Q. And was that done?

A. Yes, most of them, barring upset canoes, fires and so on.

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Q. I understand also there was a point in time which the archives were -- the journals were taken from London to your present place of work in Winnipeg?

A. Yes. We transferred the archives from London to Winnipeg in the fall of 1974.

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Q. Did you have any role in

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A. Smith, ex in chf  
(Golden)

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A. When I was appointed Archivist in October, 1973, and I was posted to London to oversee the transfer of the archives, which I did, and as I said previously, they were transferred to the Provincial Archives of Manitoba in the fall of 74, one year later.

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Q. With respect to the two journals which you have before you -- first of all, with respect to the journal of William Christopher commencing on the 13th of July, 1762, was that journal required to be kept by the Hudson Bay Company in the ordinary course of his business?

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A. Yes. I would certainly say that it was kept in the ordinary course of their business because they were going northward looking for trade. Consequently, they would want to keep a journal of who they saw, what they traded and other details of the country.

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Q. There is another journal before you, the journal of one Moses Norton on the same voyage. Was that similarly kept for the same purpose?

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A. Yes. It was customary for the master of a vessel and the first mate or the two IC to also keep a journal. In other words, there were two kept.

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1670.

A. Smith, ex in chf  
(Golden)

are you satisfied these journals were authentic?  
And, in fact, they are actually ink copy original  
journals?

A. Yes, they are. For  
one thing, the writing and the terminology belonged  
to the period. It's handmade paper, vellum  
covered. I can assure you you could not find  
that in 1979.

Q. I wasn't thinking of  
that. Are these the original entries made on  
the original paper, rather than a copy kept by  
the company?

A. Oh no. These -- no,  
these are the journals kept by the men themselves  
and sent to London.

Q. These are the very same  
books?

A. Yes.

Q. I will deal with them  
one at a time. With respect to William Christopher,  
there has been a typed copy which I understand  
you have before you as well, comprising some  
four pages showing entries commencing on the 8th  
of August, ending on the 12th of August. How  
were those prepared?

A. Those typed copies were  
typed from the original document.

Q. How did that happen?

A. Smith, ex in chf  
(Golden)

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Can you describe the process by which that took place?

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A. Well, I arrived in Toronto in this building at approximately 11:30. Your secretary -- I think she's your secretary -- typed them while I read from the document.

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Q. Did you examine the typed copy with her?

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A. Yes, I did. However, there might be the odd typing error. We were greatly rushed. As far as I know, it's as accurate as possible in the time allowed us.

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Q. There are some peculiarities in spelling?

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A. Yes, there most assuredly is. It's phonetic spelling, signs spelled s-i-n-e-s, instead of s-i-g-n-s, for example.

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Q. With respect to the transcript of the two passages from the diary of Moses Norton, is that again similarly made?

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A. Yes, it is.

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Q. My Lord, I would ask the books themselves not be made as exhibits, but that the two sets of transcripts I would like them to be made as exhibits. In addition, I should like exhibit numbers assigned to them -- I will arrange for the photographic reproduction of the



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two journals in their entirety and have them filed as two separate exhibits, just as soon as the Ontario Archivist can return them to us.

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THE COURT: I think apropos of Mr. Graham's comments we are going-- certainly we will let them in on that basis now. I think we should go as far as warning Mrs. Smith--

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there is a possibility you may be asked back here next week with other information. I hope you don't mind travelling. I think we will have to leave it very wide open. These are not, of course, documents that had to be disclosed, because they were not documents in the possession of the parties earlier. Obviously, we have to leave the Defendants with the opportunity to comment, discuss, amplify, etc., if that is their choice.

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MR. GRAHAM: On that point,

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My Lord, I would just draw my friend's and Your Lordship's attention to what is provided in Sopinka and Lederman on "The Law of Evidence in Civil Cases", referring to the Canada Evidence Act, and I presume

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they are being tendered as business records, and as such the authors point out under both acts-- the

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Ontario Act and the Canada Act-- that notice is a condition precedent to admissibility. Under section 37 of the Canada Evidence Act such notice, however, may be dispensed with by an order of the court. The notice provided for is seven days notice of the intention to

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A. Smith, ex in chf  
(Golden)

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do so, and the opposite party has the right to inspection of the record within five days thereafter.

Now, the purpose of that notice was exactly, of course, to enable us to see what was in these journals and know what other journals there were. To find out at two, three, four o'clock on Friday afternoon-- we are getting an explorer in this area, which is highly contentious, suddenly dumped on our heads. Now, on that condition I would ask Your Lordship to point out-- if Your Lordship is to allow this evidence in-- there is no doubt you have discretion-- that it be on the condition that my friend, if required, bring back the Archivist with whatever other archives we deem or require to complete the case, because he can't just quite do it this way.

THE COURT: Within the bounds of some discretion.

MR. GRAHAM: Of course.

THE COURT: I'm not sure how many hundreds or how many tons we will consider in such a request. But, this is right.

MR. GRAHAM: We don't need

THE COURT: Obviously we have to be fair. That is the whole name of the game here. It means we have to leave it open. It is unfortunate it is Friday afternoon. On the

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other hand, perhaps it is fortunate because there is no prospect of this case ending until some time in August, anyway. We do have a little time to play with in that respect.

MR. GOLDEN: I need not

elaborate. I intend to be as fair as I can.

I can assure my friends we've been working very hard to research the problem. We only had extracts yesterday from the journals at all. Unfortunately, they were not in sufficient condition that we could put them in as copies. Therefore, we had to prevail upon Mrs. Smith to come here on a late phone call yesterday. So, my friend is not in a much better position than we are.

THE COURT: The extracts from

the Christopher journal can go in as Exhibit P-45. The ones from Norton as Exhibit P-46.

EXHIBIT NO. P-45: Typewritten transcript from journal of William Christopher of August 8th, 9th, 10th, 11th and 12th of 1762.

EXHIBIT NO. P-46: Typewritten transcript from journal of Moses Norton of August 12 and 13th, 1762.

THE COURT: We will receive photocopies at a later date. Are we going to read

A. Smith, ex in chf  
(Golden)

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into the record the other two days that are not typed?

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MR. GOLDEN: Yes, My Lord.

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Q. Mrs. Smith, would you be kind enough to turn to the Christopher journal, commencing at the entry on August 6th. This one was not reproduced on the transcript. I would be grateful to you if you could read to us the entry of August 6th, followed by the entry of August 7th.

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A. Thank you. Shall I continue from the typed copy for August 8th?

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Q. Yes. I ask, My Lord,

that Mrs. Smith read in the balance -- I had offered her these transcripts rather than the laborious task of reading from the originals. Please go ahead. Would you like to sit down?

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THE COURT: You can sit down, if you wish.

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THE WITNESS: I would really prefer to stand.

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THE COURT: Go ahead.

THE WITNESS: The title of the journal is, "Churchill, a Journal of the Most Remarkable Transactions and Occurrences on board the Sloop Churchill, a Voyage to the Northern Country commencing the 13th July, 1762 and ending 26th of August, 1762 by William Christopher."

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It is the Hudson's Bay Company archives, citation  
B.42/a/57.

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BY MR. GOLDEN:

Q. Just before you commence  
reading where I asked you to, there is at the  
beginning of the journal, as I understand it,  
a log showing the persons who were on the voyage  
-- it's an entry. If I may just turn to that  
as well.

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A. Yes.

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Q. It is a list of the  
sloop crew. Can you read the first two names?

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A. Yes.

Q. I don't think the rest  
of the names will mean much to us. Would you  
then read the last entry?

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A. Okay. The first two  
names are Mr. Moses Norton and W. Christopher.  
The last two names are Gibbert and Atkin --  
with the two northern Indian.

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Q. Thank you.

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A. The entry for August 6th,  
the heading of the page is "Remarks in the Grant  
River, 1762."

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"These 24 hours, for the first two  
parts, have had small breezes and  
variable. The two last parts, fresh  
breezes and variable with rain. At

W-17

1677.

A. Smith, ex in chf  
(Golden)

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half an hour past three p.m. saw  
a smoke, upon which we weigh'd  
according to agreement.

At half past 6 p.m., Mr. Norton came  
alongside, who had been four, five  
leags up and from a high land. Could  
see six or seven leags further to the  
northward. Likewise, saw many deer,  
two of which they killed and brought  
onboard.

At 8 p.m. anchored in fresh water,  
say in seventh fathom.

At 4 a.m. wave with a small breeze.  
At the southwest the cutter ahead,  
towing and sometimes sounding. Sounds  
from 20 to 7 fathom.

At 8 seeing a ridge ahead, anchored  
until cutter went to sound about it.  
At 11, Mr. Norton made the signal  
for water. Accordingly, weigh'd and  
worked towards grass point and with  
regular soundings for one-half, three-  
to seven fathoms.

At noon grass point bore northwest by  
north --

pardon me,

-- by west six miles. The river is  
extended to four, five leags over with

1678.

A. Smith, ex in chf  
(Golden)V  
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island on the north side, likewise the land more regular and the greatest part covered with grass, our Indians still unacquainted with ye river.

August 7th:

The first part of this 24 hours, fresh breezes in the northwest quarters with rain. In the middle and latter parts, stiff gales at northeast by north and cloudy.

At 7 p.m. anchored in 7 fathom. Good ground. Grass point bearing east by east one mile.

At half past 5 a.m., weigh'd with the wind at northeast by north and steered northward with the cutter ahead sounding at ten. Whole point bore south by east four miles. The furtherest land in sight bearing northwest nine or ten leags. No land in sight to the northwest. Tried the tide but found not setting any way and the river or lake extended to 10 leags over.

The water entirely fresh, which proves it to be a lake, which we called Baker's in honour of Sir William Baker and his brother, Richard Baker Esq. On the south side of this lake there is

W-19

1679.

A. Smith ex in chf  
(Golden)

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a remarkably high hill which we call  
Pitt's Promontouy in honour of secretary  
Pitt Sound from 7 to 14 fathoms.

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At 12, Pitt's Promontouy bore west,  
9 or 10 leags in the northwest --  
in the northern most land in sight,  
northwest by north, 9 or 10 leags.

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It being cloudy at noon, could not  
get an observation the northwest  
point of the Narrows, which is the  
entry of the above lake from the river  
mouth, north by north, by true chart,  
distance 170 miles or thereabouts."

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Q. Thank you. You might  
wish to refer to the typed transcript, although  
you did very well.

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A. This is August the 8th,  
fo. 17d.

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"These 24 hours for the two first  
Parts fresh breezes in the NW quarter  
and Cloudy. The two latter Parts Small  
Airs and Calm with clear wear. Working  
up the Lake Sounding from 14 to 35 Fm  
and over to the North Side no ground  
with 40 Fm of line at 1/2 am hour past  
6 P. M. Anchor'd in 10 Fm Dist: from  
the N.Shore 1/4 of a Me Hope Point  
bearing SbE 4 or 5 Leags and the

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W-20

1680.

A. Smith, ex in chf  
(Golden)

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Wtdermost Land in sight bearing NW6W7  
Leags at being Calm Continued at Anchor,  
a little before noon went on Shore,  
Obserd our first Latitude by Alton  
64°//27 by Hadley 64°//21 by the  
Theadilete 64°//20 N and Var: 25 W.terly.  
in this Lake there is a manner of Tide  
any way Nither have the Water Ebb'd or  
Flow'd since last Night we brought up.  
The land on this Side of the Lake is  
much the same as below have seen many  
Willows but no sign of any wood.  
August the 9th:  
These 24 hours for the first Part Small  
Breezes and Varble in the NW Quarter,  
the Middle Parts Strong Gales and  
Varble with much rain, the latter part  
Moderate Breezes at NbE and Cloudy.  
At one P.M Weigh'd and Sail'd up the  
Lake Sounding from 15 to 32 Fm. at 7 P.M  
anchor'd under Despair Island in 7  
Fm water, upon this Island we went to  
take View, but could not see any opening  
all round to the Westward, but Seamly  
a firm Land, but being determined to  
leave no room for Doubt hereafter, at  
6 A.M Mr. Norton went from a long side  
in order to search the NW Part of the

A. Smith, ex in chf  
(Golden)

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northwest part of the Lake and I  
Weigh'd Anchor and Sail'd Soward, but  
at 9 falling into 8 fathoms water and  
many low ridges within and above us  
(one word not legible) and run for  
Despair Island under the So Side of  
Which we brought up in 6 Fm good ground.  
our Latitude Obserd 64<sup>o</sup>//23 N  
Aug. the 10th  
These 24 hours fresh Breezes between  
the N and W with Cloudy wear the People  
on board Employ'd filling of water and  
romageing the Hold for fire wood.  
Towards Night being a little Hazy fir'd  
two Guns in case the Boat should be  
coming on board. at 7 in the Morning  
saw the Cutter Standing Towards the Sloop,  
and at 9 came a long side, but to our  
no Small Mortification had found no  
opening, only a Small Revulet runing 6 or  
6 Ms inland then Terminated in falls and  
ridges with 2 or 3 foot water. at 1/2  
an hour Past 9 Weigh'd Anchor and run  
over to the So Shore at the same time the  
Cutter put from along side in order to  
search in shore -- at 12 Pitts Promontouy  
bore SE 2 or 3 Leags Sd from 4 to 7 Fm  
Aug. the 11th:

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W-22

1682.

A. Smith, ex in chf  
(Golden)

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These 24 hours wind as yesterday with  
 Cloudy wea<sup>r</sup> and some Drops of rain, --  
 Sailing a long the So Side of the Lake  
 Towards Hope Pt the Cutter close in  
 Shore. at 5 P.M the Strivewell came a  
 long side, and at 7 falling into 2 and 3  
 Fms thought Prudent to stand off,  
 Accordingly at 1/2 an hour past 7 Anchor'd  
 under three low Islands where we Continued  
 tell 5 in the Morning at Which time  
 Weigh'd and Sail'd down a long the So  
 Shore and the Strivewell put from a  
 long side and stood over to the N.Shore  
 in order to Examine the Coast from  
 Joack Pt round Towards the Narrows & c  
 at noon Hope Pt bore NWbW 7 Ms the Cutter  
 out of Sight --

Aug. the 12th:

These 24 hours moderate Breezes in the  
 NW Quarter with rain and fair wea<sup>r</sup>.  
 Alternatively. at 3 P.M anchor'd about  
 2 Miles a bove the Narrows the Place  
 appoint'd to meet the Strivewell at.  
 our fresh Provisions being Exspend'd  
 went on Shore to hunt with the two  
 Northern Indians. at 9 return'd on  
 board with 2 Dear and saw 2 or 300 more.  
 The Land on this So Side of the Lake is

A. Smith, ex in chf  
(Golden)

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regular and entirely cover'd with grass  
and as fine a Country no man would  
wish to see not to have any Woods. at  
8 in the morning Mr. Norton came a  
long side, haveing found no opening,  
only a small Branch runing SE.  
Which I've some reason to think  
Communicates with the River below  
Cross Pt. in the above Branch they  
saw 2 Tents of Esquemays from Which they  
learnt by making of signs & c that this  
fo.19  
Lake had no outlet to the W. ward,  
only the small Rivulet that Mr Norton  
was in the other day, all which we know  
to be true. but what we get from them  
is only groping in ye Dark, here we  
want an Interpreter Wch would be of  
great Service in the Discovering of  
these Northern Rivers, Which our  
Northern Indians is Ignorant of  
Towards the Sea. I lat'ly hear'd of  
an Esquemay being at York Fort who  
attains her Language, and as fluent  
as ever Which if true, might be of  
Infinite Concequence Towards the said  
Discovery & c"

Q. Just before we go to  
the next transcript, does the journal indicate

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1684.

A. Smith, ex in chf  
(Golden)

what the Strivewell and Cutter is?

A. Pardon me?

Q. Does the journal  
indicate what the Strivewell is?

A. Well, you know, from  
reading the journal, it is the name -- that is  
the name of the sloop.

Q. We can have a look at  
it.

A. Is that not the name  
of the vessel that was there?

Q. Just as a method of  
explaining what transpired, the first page  
indicates the name of the sloop?

A. As the Churchill, yes,  
and the Strivewell was a smaller -- was it not  
a smaller vessel that was used -- that was used  
as well?

Q. Yes. Perhaps what we  
best do is that when we get the actual photocopy  
we will be able to see the entries concerning  
both. There was another name mentioned and I  
wanted to clear that up.

THE COURT: Is it your  
intention, Mr. Golden, to have the entire journal  
photographed, not just these excerpts?

MR. GOLDEN: Yes, My Lord.  
That will give my friends an opportunity to study

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1685.

A. Smith, ex in chf  
(Golden)

them in their entirety. I should also indicate -- it may be a good time to do it -- that I personally would not have any objection at all to my friends dealing with any part of them without any further necessity of evidence. In fact, to the contrary. I have no objection to the diary of Samuel Hearne going in on that kind of basis. This is as much or as little a document of history as that is.

THE COURT: Can I ask Mrs. Smith a question? Are these journals you have here of Christopher and Norton for this entire voyage?

THE WITNESS: Yes. They are from the time they leave Churchill northward until they return.

THE COURT: Thank you.

BY MR. GOLDEN:

Q. If you can just turn to the transcript of the journal of Moses Norton commencing with the entry on the 12th of August. Perhaps you can use the transcript. It's on the 12th of August, 1762 and on the 13th of August, 1762?

A. I can't read the entire title off the front page because it is so worn, but it is a Churchill River Journal off the transactions in the Sloop Churchill on a northward

A. Smith, ex in chf  
(Golden)

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voyage. It is kept by Moses Norton. It is described so. It is the Hudson's Bay Archives number B 42A 58. At the top of the page it's remarks, etc., in Baker Lake. It's August ye 12th, 1762.

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"These 24 hours had ye wind ye same as yesterday with Cloudy Wear & Some Drops of Rain, at 3 PM. ye Sloop Anchor'd about 2 Miles above ye Narrows, where we are to meet, fresh Provisions being Short ye sent 2 Indns to hunt soon returnd, with 2 Dear, one in ye Cutter Sail'd a long ye North Shore among Broken Islands at 4 PM. we Come into an outlet about 1/2 of a mile wide with an Ebb tide runing Near 2 Knots to ye SEt ward in which we went & here we see 2 tents of Esquemays. I was glad of this opportunity thinking to Learn Somthing from them Concerning this River & Lake, but they gave us no more encouragement then what we had all ready seen in ye Lake, we Chaulked out ye River & Lake & made sines we wanted a Large River & woods & c. But they Chaulked out that Little Rivilet with ye falls in which we was at up which they go to their winter

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1687.

A. Smith, ex in chf  
(Golden)

Quarters & they made sines there was  
no other River here but that & that ye  
woods was a great way up, this is all  
we could Learn from them they had  
nothing to Trade but a great Quantity  
of Stinking Bufalows ..."

Here I might add what they  
mean is musk-ox.

Q. You have inserted the  
word musk-ox?

A. Yes.

"... (Muskox) flesh, wch was not fitt  
for us, we left them & went Down this  
Branch 5 or 6 miles to ye Course of it  
found it Still to Incline to WSE we  
rowed back again & being Dark at 11 PM.  
anchor'd ye Cutter & kept it for ye  
night. at 4 AM. got under way in  
order to Joyn ye Sloop at 8 AM. got on  
board, this Branch we was in it Lays  
NNE from ye Narrows about 3 Leags. we  
had good Soundings all ye way Down ye  
North Shore from 20 to 30 Fm.

Augst ye 13th 1762 fo. 17d

The first part of this 24 hours strong  
gales at NW with Rain, no Stiring with  
ye Strivewell ye Weather being so bad,  
ye middle part more Moderate, at 6 AM.



1688.

A. Smith, ex in chf  
(Golden)

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being most Calm went from along Side in order to trace ye Branch we was in yesterday having appointed to meet at Cross point, at 8 AM enter'd the Branch finding ye Esquamays Still here Consisting of 2 men 2 Women & 7 Children we give them Trifling present at which they were well pleased & Seemed to be very Sorry when we Left them, at 10 AM. put up out tent to refresh our selves it Blowing a Stiff Gale at SE<sup>2</sup>(sic) with much hail, Rain & Snow this Branch is much ye same as ye Narrows at Noon Still Blowing Strong."

Q. Just a word of explanation, in the square brackets, the SIC is inserted to indicate that the 2 is unexplained. It's what appears in the text. I thought it best -- that is my entry, I might add -- with the witness's assistance -- I just couldn't explain it and felt it not wise to leave it unexplained. Thank you very much, Mrs. Smith.

MR. GRAHAM: If I may help it's obviously southeast by east.

MR. GOLDEN: I did not understand it.

MR. GRAHAM: It's southeast by east. It is an additional east.

A. Smith, cr-ex  
(Graham)

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THE COURT: I don't think very much else turns on that point.

MR. GOLDEN: Thank you very much. My friends may have a few questions.

THE COURT: Mr. Graham, any questions?

MR. GRAHAM: Just a few. Thank you, My Lord.

CROSS-EXAMINATION

BY MR. GRAHAM:

Q. I wonder if I can just look at the journal with you for a moment, Mrs. Smith. This is Christopher's journal we are looking at at the moment. He was master of the sloop?

A. Yes.

Q. He was master of the ship?

A. Yes.

Q. You told us that it was his duty to report to the company as to certain observations he would make on his voyage?

A. Yes. I don't have the documentation with me, but I know that the men were issued instructions that they had to keep a daily journal. It was even laid down what it was they were to put in the journal -- you know, how the men were employed, what Indians they saw, what they traded, what the weather was like, so on.

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1690.

A. Smith, cr-ex  
(Graham)

Of course, men being men, some of the journals are very good, others not so good.

5 Q. Would that also apply to women?

A. Absolutely.

Q. Would we be able to obtain a copy of those instructions?

10 A. Yes. I must confess, though, that they may be for an earlier -- you see, they will be for an earlier period, perhaps -- you know, they'll not be for 1762 because they would have been laid down earlier.

15 Q. Right. I notice in this particular journal, for example, there is a reference -- I am looking at Mr. Christopher's journal of the 8th of August -- there is a reference to "the land on this Side of the Lake is much the same as below have seen many Willows but no sign of any wood." Is that the type of thing they would be required to put in under the regulations, as you know them?

20 A. Well, when they were on a voyage like that, you see, they would be called upon to describe the country.

Q. I notice that you changed buffalo to musk-ox?

25 A. Yes. I perhaps should not have done so, except I know from my years

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1691.

A. Smith, cr-ex  
(Graham)

with the Hudson's Bay Company that during the eighteenth century when the men were travelling in the north, when they saw musk-ox, they referred to them as buffalo, as indeed did Kelsey in 1691, if you are familiar with that rhyme. He's talking about -- he used the term buffalo and it's **really** musk-ox.

Q. I suppose there are several examples actually in the journals where they might have used terminology which we know today]to be inaccurate whether ~~describing~~ animals, or some people they might have met that they--

A. I would not say there are several. I know of -- they always call a ptarmigan a partridge and always called caribou a deer, which -- that was just a cultural part of their culture. They had not seen ptarmigan so they called them partridge. I would not say there were a lot of entries. No. There are just a few that I know that are based on culture.

Q. That would depend on the experience of the person making the journal as to whether he knew those animals by their local name or those people by their local names or not?

A. Well, even I think beyond the eighteenth century with people coming out from Scotland, who had never seen a ptarmigan,

A. Smith, cr-ex  
(Graham)

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they would call them partridge until someone  
clued them in.

Q. And that would apply  
presumably to tribes and people as well?

A. Well, I don't know --  
I don't think that would refer necessarily to  
tribes of people. The men knew, for instance,  
when Chipewyans came down to Churchill or  
York -- York Factory, they knew they were Indians  
from the north -- you know, from the northward.  
Of course, they had not as yet travelled that  
far north, so they did not know the precise place,  
perhaps, but --

Q. But, again, this would  
depend upon the local knowledge of the observer  
in each case, where he comes from, how long he  
had been in the area, what his local knowledge  
was?

A. Well, it would depend  
on more than that. It would depend on how long  
he had been at the post, who had trained him.  
I cannot give you a precise answer to that because  
it is a very wide question. It is going to  
vary from post to post and from time to time.

Q. From observer to observer?

A. Possibly.

MR. GRAHAM: Thank you very  
much.

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1693.

A. Smith, re-ex  
(Golden)

MS. KOENIGSBERG: No questions.

MR. CHAMBERS: No questions.

THE COURT: Any re-examination?

MR. GOLDEN: Yes.

RE-EXAMINATION

BY MR. GOLDEN:

A. Mrs. Smith, Mr. Norton,  
whose journal it is we are referring to, do you  
know anything of his history?

A. I haven't made --

MR. GOLDEN: It pertains to  
the line of questioning my friend dealt with.

THE COURT: Okay. We will  
see.

MR. GOLDEN: I can deal with  
the question more directly.

MR. GRAHAM: She's the  
Archivist.

MR. GOLDEN: A person with  
Mr. Norton's background and training, would he  
know the difference between Eskimo and Indian?

MR. GRAHAM: Excuse me, My  
Lord. I object to that.

MR. GOLDEN: The whole line  
of questioning was --

THE COURT: That's what I  
thought you were getting at, Mr. Graham.

MR. GRAHAM: I asked the

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witness whether or not, as an Archivist, she was aware of errors made with respect to the record which she pointed out in this case do. I did not ask the Archivist whether she was qualified as an Archivist and a Historian to give us the history of Mr. Norton and his background. If my friend wants to re-examine, I consider that's perhaps examination in chief and then I could have cross-examined on it.

THE COURT: I really thought you were tending to cast some doubt on the observations-- that the journals referred to really Eskimo.

MR. GRAHAM: If my friend can establish Mrs. Smith would know that from her training, I suppose he's entitled to do that.

BY MR. GOLDEN:

Q. From your observations of the journals, were the people who wrote the journals in a position to make that kind of a difference?

A. I cannot speak for William Christopher because I do not know too much about his background.

I know a bit more about Moses Norton because I know that he was the son of Richard Norton and an Indian lady. He was brought up -- that is the terminology we use --

1695.

A. Smith, re-ex  
(Golden)

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he was brought up in the country and trained under his father. His father made journeys inland. I certainly think for his period, Moses Norton probably knew more about the country and his people than any other HBC person. Now, I am talking about the Churchill and northward area. I'm not talking about the bottom of the bay, for instance.

MR. GOLDEN: Thank you very much, Mrs. Smith. No further questions.

THE COURT: Thank you very much, Mrs. Smith. I hope it will not be necessary to ask you to come back. I warn you it might be.

THE WITNESS: Thank you very much.

MR. GOLDEN: Just for the record, I might point out, having read the diary of Samuel Hearne, all the factual material concerning Mr. Norton is contained in that volume. It was Mr. Norton who sent Samuel Hearne out.

THE COURT: You may be fortunate to have that contained in the two chapters of evidence.

MR. GOLDEN: I'm not sure.

There were some aspects of the journal that dealt with that question. My Lord, it is now 4:35.



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1696.

THE COURT: Correct.

MR. GOLDEN: If Your Lordship is disposed, we can go back to the discoveries or --

THE COURT: I think it has been a long day. I cannot imagine a most pleasant way to finish the week with twenty more minutes left. I would think we would recess now. As far as I am concerned, 9:30 Monday morning, unless there is any objection on anyone's part to that hour.

MR. CHAMBERS: I have no objection.

I merely rise before the court rises to clear up a matter that arose in the course of my cross-examination of a witness yesterday in connection with Exhibit D-1.

Your Lordship will recall this was a matter that was -- a copy of a map that was attached to the submission by the Baker Lake Council to the Minister of Indian Affairs.

THE COURT: Oh yes.

MR. CHAMBERS: I said two things: it's Exhibit P-16, the submissions for the Minister, and the map attached to it -- or a copy of the map attached to it was made Exhibit D-1. Now, as stated at the outset, unfortunately the original map had been lost. Well, this was an

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