



PROPERTY OF
LAND CLAIMS SECRETARIAT



T-1628-78

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

* * * * *

Heard before The Honourable Mr. Justice
P.M. Mahoney, at 330 University Avenue,
8th Floor, Toronto, Ontario,
June 4th-8th, 1979 inclusive.

* * * * *

APPEARANCES:

A.E. GOLDEN, Esq. for the Plaintiffs
D. ESTRIN, Esq.

L.P. CHAMBERS, Esq. for the Minister of
D.T. SGAYIAS, Esq. Indian Affairs and
Northern Development

MS. PRICE for Essex Minerals
Company Ltd.

W.C. GRAHAM, Q.C., Esq. for Pan Ocean Oil
Limited, Cominco Ltd.,
and Western Mines Ltd.

T.G. HEINTZMAN, Esq. for Urangesellschaft
MS. MARVYN K. KOENIGSBERG Canada Ltd. and
Noranda Exploration
Co. Ltd.

VOLUME XIII

Tuesday, June 5, 1979

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--- UPON COMMENCING AT 9.30 JUNE 5, 1979

MR. SGAYIAS: My Lord, before calling the first witness for the Crown -- as it might be convenient -- there were a number of documents which were subject of a Notice to Admit Document, which my friend has kindly admitted without formal proof by original, by proof of copies, and I would request that these documents be marked as exhibits at this time.

THE COURT: Yes. The last Defendant exhibit we had was D-1.

MR. CHAMBERS: D-2, My Lord.

THE COURT: Is there a D-2 some place?

MR. CHAMBERS: Oh, yes.

THE COURT: The Registrar doesn't think so. It is not on my list.

MR. GRAHAM: There is a map of Baker Lake, on page 2 of the list, I think about the seventh document down.

THE REGISTRAR: D-1.

THE COURT: That is D-1.

MR. CHAMBERS: I am sorry. I am in error there. I intended to put in the original, but I didn't.

MR. SGAYIAS: The first exhibit will be a book entitled "Crown Documents Volume I" and with a further title "Land Use Permits" which contains copies of approximately 26 land use permits and related documents.

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D-2.

THE COURT: All right. Exhibit

EXHIBIT D-2: Crown's documents
Volume I, Land Use
Permits

MR. SGAYIAS: The next volume is entitled "Crown Documents, Volume II", again subtitled "Land Use Permits" and contains a further 25 land use permits and related documents.

THE COURT: D-3, Volume II of land use permits.

EXHIBIT D-3: Crown's documents
Volume II, Land
Use Permits

MR. SGAYIAS: The next volume is entitled "Crown's Documents, Volume III" and subtitled "Mineral Leases". It contains approximately 16 or 17 photocopies of mining leases, though the document is entitled "Mineral Leases".

EXHIBIT D-4: Crown's documents
Volume III, Mineral
Leases

MR. SGAYIAS: The fourth volume which I have is entitled "Crown's Documents, Volume IV", not unexpectedly, subtitled "Surface Leases and Notification of Grants". It contains photocopies of 12 leases and six notifications.

EXHIBIT D-5: Crown's documents,
Volume IV, Surface
Leases and
Notifications of
Grants

MR. SGAYIAS: Next I have six certificates of search by the Registrar of the Northwest Territories Land Registration District

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dealing with certificates of title registered in that district: 8862; 9188; 8314; 9592; 5521 and 5933, and I request that these documents -- since they will probably be referred to together -- be entered as one exhibit.

EXHIBIT D-6: Six certificates of search re Baker Lake by Registrar of NWT Land Registration District.

MR. SGAYIAS: And, finally, among the admitted documents, I have photocopies of the Charter of the Hudson's Bay Company dated May 2, 1670. The photocopy is taken from a publication of the Hudson's Bay Company. I understand that the original charter is in a hermetically sealed vault here in Toronto. This copy has been compared by the officers of the Hudson's Bay Company, and I believe my friend has no objection to this copy being produced at this time.

THE COURT: Is there some confusion here?

MR. SGAYIAS: I have extra copies.

THE COURT: Is there some objection to this?

MR. GOLDEN: No, I just had to recall it, My Lord.

EXHIBIT D-7: Photocopy of Royal Charter to the Hudson's Bay Company, May 2, 1670.

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MR. SGAYIAS: I would like to call Mr. Robert Hornal, please.

ROBERT HORNAL, YELLOWKNIFE, N.W.T.: Sworn

EXAMINATION IN CHIEF

5 THE REGISTRAR: Would you state your name, your complete address and your occupation?

10 THE WITNESS: My name is Robert Hornal, Box 1655, Yellowknife. My job is Director of the Northwest Territories Region of the Northern Affairs Program of the Department of Indian Affairs and Northern Development.

BY MR. SGAYIAS:

15 Q. Mr. Hornal, I understand that you are employed in the Department of Indian Affairs and Northern Development.

A. That's correct.

20 Q. And that your present position is Director of Northwest Territories Region, Northern Affairs Program?

A. That is correct.

Q. And that you have held that position since February of 1976?

A. That's correct.

25 Q. And that you are located at Yellowknife for the purposes of carrying out your duties.

A. Yes.

Q. Can you describe the nature

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of your responsibilities as Director of Northwest Territories Region?

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A. I am responsible for the administration of laws and regulations concerning the non-renewable resources, that is the oil and mineral resources of the north; and the renewable resources, that is water, forests and land legislation.

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Q. And do those responsibilities include the administration of portions of the Territorial Lands Act and the regulations made thereunder?

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A. They do.

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Q. And what is the geographical extent of your responsibilities?

A. Siniliquak to Alert.

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Q. I understand your education is as a geologist.

A. Correct.

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Q. Between 1963 and 1970 you were employed as a geophysicist doing geophysical surveys and interpreting the results thereof in northern Canada.

A. That is essentially correct.

Q. When did you join the Department of Indian Affairs and Northern Development?

A. In June of 1970.

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Q. And what was your position at that time?

A. I was hired as resident

Hornal, in ch.
(Sgayias)

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geologist.

Q. And just generally, what were your duties?

A. My duties were to -- if I may use the word -- spy on the mining companies to see what they were doing in the Northwest Territories, to keep track of their activities so that I could advise the government as to the progress of their exploration.

At the same time, I was asked to keep the mining companies informed of government steps to regulate their exploration and government aids to exploration.

Q. And until when did you hold that position of resident geologist?

A. I believe August of 1975.

Q. And what position did you undertake in August of 1975?

A. I became the Assistant Regional Director for non-renewable resources for the Northern Affairs program in Yellowknife.

Q. Did you hold that position until you were appointed to your present position of Director for the Region?

A. That's correct.

MR. SGAYIAS: Mr. Registrar, could I have Exhibits D-2 and D-3, please?

My Lord, I do have extra copies of the documents which have been marked as Exhibits D-2, 3, 4 and 5 for the convenience of the court, if

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Your Lordship wishes to refer to them during the testimony.

BY MR. SGAYIAS:

Q. Mr. Hornal, I refer you to Exhibits D-2 and D-3. Can you generally describe this material?

A. This material would appear to be some 50 or 51 land use permits. With each permit is included the letter that went to the applicant at the time the permit was issued.

Q. Perhaps we could refer to a particular tab -- tab A in Volume I of Exhibit D-2.

A. That particular permit to Cominco Limited, numbered N75C172, includes -- that particular tab includes a letter to the company to which the land use permit itself was attached. This letter brings to the attention of the company special conditions within the permit as well as operating procedures we wished the company to observe that may not be spelled out within the permit.

Q. And the second page under that tab? The third page, I should say.

A. Is the permit itself. Forming part of that permit are the fourth, fifth, sixth and seventh pages which are entitled "Operating Conditions for the Permit" which include conditions governing erosion control and surface disturbance, pollution prevention, stream crossing, wildlife, the disposal of wet and dry garbage and special

Hornal, in ch.
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conditions as are necessary for that particular permit.

Following the conditions of the permit we find a letter -- copy of a letter, a form letter, that is sent to members of the Land Use Advisory Committee advising them that we have received an application for a permit and asking that they review this application and make known their comments by a particular date.

This letter, or a letter very much like this, is also sent to native associations, depending on the particular native association that would be chosen as a result of the location of the permit, and is also sent to our District Manager nearest the location of the work. He, in turn, forwards the application to community interest groups, asking for their input.

Q. And the following pages?

A. The following pages of this particular tab consist of the application, which is on one page, and the accompanying documents which amplify the application and usually include maps showing the location of the work to be done.

Q. And to what geographic area do the documents -- the land-use permits in Exhibits D-2 and D-3 -- relate?

A. I believe they all relate to the area established at the examination for discovery for the purposes of that discovery which

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is 62-30 north to 66 degrees north, and 92 degrees west to 101 degrees west.

Q. Perhaps, Mr. Hornal, I could refer you to what has been marked Exhibit P-23. Are you familiar with this document?

A. Yes, I am.

Q. Are you familiar with this copy of the document?

A. Yes.

Q. And there appears to be a green outline on the document, roughly in the shape of a rectangle. Do you know how that green outline came to be on Exhibit P-23?

A. Yes, I believe I put that outline on there.

Q. And what does that outline represent?

A. The area within which these land-use permits apply.

MR. SGAYIAS: Mr. Registrar, could I have Exhibit P-87, please?

BY MR. SGAYIAS:

Q. Mr. Hornal, I show you an exhibit which has been marked Exhibit P-87 in these proceedings and which is entitled "Land Use Baker Lake Area", a map. Are you familiar with this document?

A. Yes, I am.

Q. What does it show?

Hornal, in ch.
(Sgayias)

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A. It shows the land use permits issued from November 1975 to January 30, 1979 within the area marked on green -- outlined in green -- on the map on the blackboard. It also attempts to explain the numbering system for these permits.

Q. Mr. Hornal, perhaps you could assist us: are there any land-use permits which are found in Exhibits D-2 and D-3 which are not shown on Exhibit P-87?

A. Yes, there are. As I said, this Exhibit P-87 includes all the land-use permits up until January 30, 1979. Exhibit D-3 contains a number of land-use permits that have been issued since January 30, 1979.

Q. Mr. Hornal, by whom are the land use-permits, which are the subject matter of Exhibits D-2 and D-3, issued?

A. They are issued by the engineer, as described in the Territorial Land Use Regulations, in our office. He is also called the Regional Manager of Land Resources.

Q. And does he have any staff?

A. Yes, he has a staff of 20, not all associated with land-use matters, though.

Q. Approximately how many persons would be associated with the issuance of land-use permits?

A. Ten or eleven.

Q. Mr. Hornal, are there any

Hornal, in ch.
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persons involved in the enforcement of the land-use permits?

A. Yes, there are.

Q. Dealing with the Baker Lake area, could you describe who might be involved with the enforcement?

A. Yes, my region is broken down into six districts. One of those districts is headquartered at Rankin Inlet, where I have a District Manager and Assistant District Manager, both of which are land-use inspectors under the Territorial Land Use Regulations.

We have had, in addition to this staff, temporary staff assigned to Baker Lake in the years 1975, '76 and '77. Sorry. '76, '77 and '78 for the summer months when most of these land-use activities take place. I --

Q. Where -- I am sorry, go ahead.

A. We have had one, and in 1978, two land use inspectors stationed out of Baker Lake. We have now a permanent employee based in Baker Lake.

Q. And just generally what is the nature of their duties as land-use inspectors?

A. They are required to solicit comments from the communities and to make recommendations as to the permit conditions that should be attached to the land-use permit when issued.

Hornal, in ch.
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Once the permit is issued, companies are required to report to these land-use inspectors -- to our District Manager -- before they begin operations in a region, and then our land-use inspectors attempt to visit the camp during the operation, perhaps once every four to six weeks, to make certain that these conditions are being followed. We then -- the land-use inspectors must then give final clearance to the site before the land-use permit can be closed.

Q. Mr. Hornal, if I could refer you to Exhibit D-4, which is entitled "Crown Documents, Volume III", can you generally describe the documents found in Exhibit D-4?

A. These are all mining leases. Tab A and tab B include something called a quartz mining lease which is a predecessor of the mining lease that is found in the other tabs. This lease grants the holder, the lessee, exclusive right to search for and develop minerals within the meaning of the Canada Mining Regulations within the area described in the lease.

Q. And can you tell the court generally the geographic location of the mining leases -- the ones shown at tab A and tab B?

A. Tab A and tab B are two leases to the Canadian Nickel Company Limited for land in the Ferguson Lake area.

Q. And the leases found at the

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other tabs, to what general area do they relate?

A. Tabs D to O, inclusive, represent leases held by the Tontine Mining Limited, and all apply to land within a very few miles of Rankin Inlet.

Tabs P, Q and R are leases to Giant Yellowknife Mines Limited. In two cases -- I believe P and Q -- these leases are for land north of Whale Cove.

Correction. I believe that refers to P and R. And the lease under tab Q refers to land around Spy Lake, which is the very southern portion of the area defined by the co-ordinates I gave earlier.

Q. Mr. Hornal, could you describe the administration by which these leases come to be issued?

A. Under the Canada Mining Regulations, a holder of a mineral claim, if he does the appropriate assessment work on that claim, may hold his mineral claim for as long as ten years. At the end of ten years, provided an appropriate quantity of work has been done of an appropriate sort, the claim may be surveyed and taken to lease for a period of 21 years.

The administration of these claims and the surveys is done through the offices of the Mining Recorders who are situated in Yellowknife. They prepare the documentation for a lease, which is then sent to Ottawa, where the lease

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is prepared and signed.

Q. Mr. Hornal, I am showing you what has been marked Exhibit P-5, entitled "Crown's Documents, Volume IV", surface leases and notification of grants. I direct your attention, first, to the table of contents and to the list entitled "Surface Leases". Can you tell the court to what geographic location these leases relate?

A. I believe they all relate, with the exception of Tab H, to the area of the settlement of Baker Lake.

Tab H is a lease to Siniktarvik Limited, and it applies to ground in the vicinity of Ferguson Lake.

Q. Mr. Hornal, could you describe the administration by which these leases come to be issued?

A. These leases allow the holder the surface rights to the land described therein. Within the settlement boundaries of Baker Lake it is now the custom for an applicant for surface lease to apply to either the Hamlet or the Government of the Northwest Territories or to our District Manager. After the application is made, it is discussed. It is a matter of discussion between the Hamlet and the Government of the Northwest Territories as to whether the lease should be issued and what terms and conditions should be placed on that lease.

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Hornal, in ch.
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They prepare a document, a lease document, which is then passed to my Regional Manager of Land Resources, who reviews it as to form and content, and then it is signed in our offices.

Q. Mr. Hornal, I refer you to the notifications which are listed in the table of contents of Exhibit P-5. Can you tell the court to what geographic locations, generally, those notifications relate?

A. Those notifications all relate to land within the settlement of Baker Lake.

Q. And could you tell the court the administration by which those notifications come to be issued?

A. If somebody wishes to purchase land within the settlement boundary, a similar system is used as for the surface lease. And if there is agreement that the land should be purchased between the Government of the Northwest Territories and the Hamlet, the document is again forwarded to my Regional Manager of Land Resources, who reviews it, and the documents pertaining to the notification are forwarded to my Regional Manager of Land Resources, who reviews them and sends them on to the Lands Division in Ottawa, where the actual notification is prepared and submitted to the Registrar.

Q. To whom do you refer by the words "the Registrar"?

Hornal, in ch.
(Sgayias)

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A. To the Registrar of the Northwest Territories Land Registration District.

Q. And the other persons to which you referred, are they officers in the Department of Indian Affairs and Northern Development?

A. With the exception of the employees of the Hamlet of Baker Lake and the Government of the Northwest Territories, yes.

Q. Mr. Hornal, I refer you to what has been marked Exhibit P-78, which appears to be a list of prospecting permits. There are a number of the numbers of the prospecting permits which are circled. Could you tell the court to what geographic area those circled permits relate?

A. They relate to the general Baker Lake area as defined previously by the outline on the map and the co-ordinates I gave.

Q. How can one find the precise location of a particular prospecting permit, say, on page 2, prospecting permit number 48?

A. The prospecting permits on this list are all identified by National Topographic Series number, prospecting permit number 48 refers to the area defined by the number 55K10, which can be located on a map such as you see on the board here, Your Lordship.

Q. Referring to what has been marked as Exhibit P-23.

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will lead you to the square on the map which represents the area on the ground that has been granted under this prospecting permit.

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Q. Mr. Hornal, I show you what has been marked as Exhibit P-71, and Exhibit P-72. To what areas do the prospecting permits indicated on P-71 by circling in blue relate?

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A. They relate to the same area -- the general Baker Lake area as defined by the outline on P-23.

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Q. Mr. Hornal, could you describe the administration by which the prospecting permits come to be issued?

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A. Currently, prospecting permits are issued once a year by the Director of the Northern Non-Renewable Resource Branch in Ottawa. Applications for prospecting permits are made during October and November of each year. The applications are reviewed by the department during the month of December, and before January 1 of the next year, a list is published indicating which prospecting permits have been issued.

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Q. And the officer to which you referred -- I believe the Director of the Northern Non-Renewable Resources Branch -- is he an officer of the Department of Indian Affairs and Northern Development?

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A. He is.

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Q. Does he have any staff

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involved in the issuance of prospecting permits?

A. He does.

Q. Mr. Hornal, is there something else called a prospecting licence?

A. Yes. Any individual or company wishing to prospect for minerals in the Northwest Territories or to hold mineral claims within the Northwest Territories must obtain a prospecting licence.

Q. Is there any administration for the issuance of those licences?

A. Yes, the licences are all issued by the offices of the mining recorders or by the offices of our District Managers scattered throughout the territory.

Q. And the mining recorders and the District Managers are officers of the Ministry of Indian Affairs and Northern Development?

A. They are.

Q. Mr. Hornal, I show you what has been marked as Exhibit P-88. Can you describe this document -- or pages of document?

A. These pages purport to represent the claim groups that have been staked on a particular 1 to 250,000 scale map area. They are prepared from the information supplied to the draftsmen by my department by the mining recorder, and are meant to be a guide to the general public and the mineral industry as to the claims in good

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standing within that map area.

Q. And to what point in time does the Exhibit P-88 relate in terms of claims being in good standing?

A. I would suspect that it was up to date. The last date I see on these lists is November of 1978, so I would suggest that it was an up-to-date -- it was up to date as of that time.

Q. Mr. Hornal, could you describe the administration by which mineral claims come to be registered?

A. Yes, they are registered under the Canada Mining Regulations. An application to record is sent by the staker or his agent to the mining recorder for the district in which the claim has been staked. The application is reviewed by the mining recorder and his staff. Occasionally the staking of the claim is checked in the field by a claims inspector, and if everything is found to be in order, the claim is then recorded by the mining recorder for that district.

Q. Mr. Hornal, I show you what has been marked as Exhibit P-73 and which is a map. Can you describe what is shown by this map?

A. I believe the base of this map is similar to the IDS map 14. It has on it an outline of the Baker Lake Study Area and the spring migration routes, calving areas, post-calving areas, major crossing areas critical to caribou. It

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has, in addition, the outline of the prospecting permits and mineral claims in good standing within this area as of January 12, 1979.

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Q. Mr. Hornal, I show you what has been marked as Exhibit P-83. Can you identify this document?

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A. This document was prepared by our Keewatin District geologist to indicate to the communities in the Keewatin area, the area in which mineral exploration activity might be taking place during the summer of 1979. It has on it outlines of some prospecting permits and some of the major claim groups in the area, but in no way does it claim to be as complete as the map previously described.

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Q. That would be Exhibit P-73.

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A. That's correct. The value of this map is to show the general locations of diamond drilling, government and industry campsites, as suggested by the information we had on hand as of the date of this map. This one is dated the 15th of April, 1979.

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Q. Mr. Hornal, if I could refer you to what has been marked as Exhibit P-6, and which is entitled "Caribou Protection 1979" -- are you familiar with this document? You may wish to take a closer look at it.

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be prepared?

A. Yes, this document is a result of the IDS study, further studies commissioned by our department, by the NWT Wildlife Branch, consultation with members of the Wildlife Branch with Canadian Wildlife Service and staff, my department, as well as some consultation with the representatives of the members of the settlement councils and Hunters and Trappers Association in the Keewatin. It purports to show how we will deal with the protection of caribou during 1979 outside the Baker Lake study area.

Q. And how is this map used by your department?

A. The map shows areas A, B and crossing areas. Specific regulations governing A and B form part of the land-use permits granted in this area in 1979, and this map is attached to all land use-permit applications that are issued by our department.

Q. And you referred then to regulations. What do you mean by regulations?

A. Correction. Conditions. Land use conditions. Permit conditions which are attached to the permit.

Q. There are on this map areas marked A and B. Could you describe what area is meant to show?

A. Area A is meant to portray the area most often used by caribou for calving and

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post-calving activities: The lower area A refers to the area used by the Kaminuriak herd. The upper area A refers to the area used by the Beverly herd. Area B is the area that is occasionally used by these herds for calving or post-calving activity. This is as we have been able to distinguish as a result of wildlife observations over the past 20 years.

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Q. Are there any particular terms applied in land-use permits with respect to area 'A'?

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A. There are.

Q. Could you tell the court generally what those are?

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A. Within area A all operations are to cease by May 15 of 1979 and cannot commence again before July 30 -- July 30 or July 31. I am sorry. I would have to check one of the permits. July 31, I think.

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Actually, it might be easier to refer to the conditions described for area A and area B in the exact conditions attached to the permit.

Q. You are referring to --

A. To tab O.

Q. Of Exhibit D-3?

A. Yes.

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Q. And to the fifth page from the tab.

A. And under the title

"Caribou Protection Area 'A'" the following conditions

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apply:

The Permittee shall not conduct any activity between May 15 and July 31 within the Caribou Protection Area "A" depicted on the map certified by the Engineer as the Caribou Protection Map 1979 annexed to this Land Use Permit.

That would be that map there, or a copy thereof.

On cessation of activities on or before May 15, the Permittee will either:

- remove all personnel and equipment; or
- consolidate all equipment and facilities at an approved location or locations and remove all personnel from the zone who are not required for the maintenance and protection of the camp facilities and equipment.

We go on to say:

The Permittee may commence or resume activities prior to July 31 within those parts of Area "A" released by the

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Land Use Inspector for the reason that caribou cows are not expected to use those parts for calving or post-calving.

We go on to describe caribou protection area "B".

Q. And generally what does Caribou Protection Area "B" mean?

A. Caribou Protection Area "B" means that if the land-use inspector, on the advice of a biologist, believes that the cows or calves will be moving into area "B", he can cause a camp in that area to close down and to be evacuated according to a previously defined evacuation plan which has been submitted by the company.

Q. Exhibit P-23, the Caribou Protection Map, also refers to caribou crossings which are, I believe, shown as hatched areas on the map. What do those hatched areas purport to describe?

A. They purport to describe in general the area of caribou crossings identified in the IDS Study on Map 14 through the facilities of the Canadian Wildlife Service for areas outside of the Baker Lake area, and I believe that in two cases, as a result of consultation with the people of the Keewatin.

Q. And is the entire hatched area a crossing?

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A. No. If you examine the map closely, you will see that much of the hatched area covers the land as well as the river. But, within three miles of the river portion of the hatched area no activity can take place.

This is not meant to represent exactly the area protected by this regulation.

THE COURT: Mr. Sgayias, I think you referred to that map as P-23 inadvertently a few moments ago. It is P-6 that we have been talking about so that the record will indicate you changed maps.

MR. SGAYIAS: Yes, when I first referred to the Caribou Protection Map.

BY MR. SGAYIAS:

Q. Mr. Hornal, are you familiar with the Baker Lake Study area?

A. Yes.

Q. And does the Caribou Protection Map, Exhibit P-6, deal with areas outside the study area?

A. Yes, it does.

Q. Mr. Hornal, do you know how the Baker Lake Study area came into existence?

A. Yes. The Baker Lake Study area is a result of the map submitted by the Inuit Tapirisat to my minister in June of 1975 when they first presented the freeze proposal to my minister when their first suggestion of a land freeze in this

Hornal, in ch.
(Sgayias)

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area was turned down by the minister, but the map associated with that freeze was kept. In October of 1976, when Baker Lake again approached my minister concerning a land freeze, they showed to him a map in Baker Lake on which they outlined much the same areas as they had previously. When in March of 1977 the minister was prepared to grant one year's suspension of work obligations or a one year moratorium on further land use permit issuance, he took the map -- or the department took the map supplied to us in 1975 and attempted to outline the areas of concern to the people of Baker Lake by a series of straight lines so it could be more easily described in an Order-in-Council.

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Q. Mr. Hornal, I refer you to Exhibit D-1. Without making reference to the markings shown on it in black and red, are you generally familiar with a map of that scale and type?

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Q. And would it be possible for you, if I read out the Order-in-Council, to draw on Exhibit D-1 the boundaries of the Baker Lake Study area?

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A. Yes.

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Q. Perhaps using a green pen, My Lord, I will refer to an Order-in-Council which is Order-in-Council P1977-1153, dated the 28th of April, 1977, which is registered as SI/7794.

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That Order-in-Council, just by way

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of explanation, speaks of certain land being withdrawn as described in the schedule.

The schedule states:

In the Northwest Territories, in the District of Keewatin, all that tract of land being more particularly described as follows: ...

Mr. Hornal, perhaps you can follow my description and mark on the map.

... commencing at a point on the right bank of the Dubawnt River at approximately latitude 63 degrees, 50 minutes, 30 seconds and longitude 100 degrees. Thence, due south to latitude 63 degrees, 30 minutes. Due east to longitude 97 degrees, 30 minutes. South to latitude 62 degrees, 45 minutes. East to longitude 95 degrees. North to latitude 63 degrees. East to longitude 94 degrees. North to latitude 64 degrees. East to longitude 92 degrees, 30 minutes. North to latitude 64 degrees, 30 minutes. West to longitude 95 degrees. North

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to latitude 65 degrees. West to longitude 97 degrees. North to latitude 65 degrees, 30 minutes. West to longitude 99 degrees, 30 minutes. South to latitude 64 degrees, 45 minutes. West to longitude 100 degrees, 30 minutes.

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South to latitude 64 degrees and east to longitude 100 degrees.

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A. There has to be another line.

Q. And then due south to the point of commencement. Thank you.

MR. SGAYIAS: Those are all my questions, My Lord.

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THE COURT: I suppose we will start with the mining companies and then Mr. Golden cross-examines immediately before re-examination.

MR. GOLDEN: I suppose that would be the best way to deal with it, My Lord.

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THE COURT: Before we start cross-examining, perhaps we will have the recess.

--- Short Recess

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--- Upon Resuming

CROSS-EXAMINATION

BY MR. GRAHAM:

Q. Mr. Hornal, among your responsibilities for laws and regulations within the Northwest Territories, are you also responsible for the administration of the Northern Inland Waters Act and regulations thereunder?

A. I am.

Q. Am I correct that in assuming or stating that there are environmental protection considerations that come into the policy of the issuance of permits under that Act as well?

A. Yes, the purpose of the Northern Inland Waters Act is to protect from pollution the waters of the north -- the inland waters of the north.

Q. And persons doing work in or around the waters would require permits to be issued under that Act as well?

A. They require either permits or licences.

Q. And would you describe the land-use permits which are issued by your department and which are contained in various exhibits -- D-2 and D-3? Could you reiterate to whom those land-use permits are circulated within the government for their consideration and comments -- the application for such a permit?

Hornal, cr.ex.
(Graham)

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A. The application is circulated to a member of the Canadian Wildlife Service, a member of the Environmental Protection Service, a member of the Department of Fisheries, a member of the -- actually, I believe two members of the Government of the Northwest Territories -- one representing the wildlife group and the other the game group and the other representing the economic development and local government groups, and within my department they are circulated to my specialists in water and to my District Manager of the district to which the application would apply.

Q. Are you familiar with situations where permits having been circulated through this process and particularly the Canadian Wildlife Service and the wildlife authorities of the Northwest Territories have had conditions attached to them for the protection of wildlife other than caribou?

A. Oh yes.

Q. Can you, just for the help of His Lordship, cite us an example? Does any one come to mind, say, in relation to falcons or anything like that?

A. Yes, I was thinking of the falcon example. Some years ago mining companies were moving into areas known to be the nesting ground of the peregrine falcon -- mining and oil companies both -- and with the co-operation of the Canadian Wildlife

Hornal, cr.ex.
(Graham)

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Service our land use officials developed regulations which prohibited the companies from operating too close to the falcon nesting sites and attempted to prevent the companies from over-flying these nesting sites at low altitudes.

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Q. These were actually built in as conditions to the permits, were they?

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A. The land operations in the vicinity of the falcon nesting sites were built in as conditions of the permit. The over-flight and the problems of over-flight were stipulated, I believe, in the covering letter.

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Q. You have told us that the application for permits are sent to various groups of people. Do you know whether they are sent by the District Manager to the Hunters and Trappers Associations in various areas of concern?

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A. It has been our policy that the community council will tell us to whom they wish these applications sent, and many of the community councils have directed us to send them to the Hunters and Trappers either instead of themselves or in addition to themselves.

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Q. And do you receive these comments from those groups prior to issuing the permits?

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A. Yes. We often solicit their comments by telephone because we are operating sometimes within the deadlines prescribed in the regulations. We attempt to seek their comments on

Hornal, cr.ex.
(Graham)

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environmental matters.

Q. The regulations refer to Class A and Class B permits, is that correct?

A. That's correct.

Q. Am I right in stating that Class A permits have more stringent conditions attached to them than Class B? Would that be a way of sort of generalizing the difference between the two?

A. No, I would rather generalize the difference between the two as being a difference in scale. Class A permits represent a larger operation than a Class B permits in most circumstances. The same conditions may apply to both permits. It is just that the Class A is usually a bigger operation.

Q. The permits that you refer to in Volumes I and II -- D-2 and D-3 -- would that be a mixture of Class A and Class B?

A. Within the District of Keewatin it has been our policy to upgrade all Class B permits to Class A to allow time for consultation. We must issue Class B permits within 10 days of receipt, and we are allowed 42 days to issue a Class A permit.

Q. Has that policy of issuing only Class A permits only with respect to the Keewatin been followed since what time, to your recollection?

A. I think since we started issuing permits back in the fall of '75 and spring of '76.

Hornal, cr.ex.
(Graham)

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Q. Is that still the policy of the department?

A. It is still the policy of the department.

Q. Insofar as your instructions are to the land-use inspectors or other officials under your control?

A. That's correct.

Q. As I understand it, the land use permits you have selected and put before us in Exhibits D-2 and D-3 relate to the area shown in green on Exhibit P-23, is that correct?

A. That's correct.

Q. And you have shown that you are familiar with the co-ordinates of the Baker Lake Study area which arose out of the Order in Council and shown on various maps that are in evidence, including Exhibit P-53. Can you tell the court, please, how the co-ordinates which you have shown on Exhibit P-23 were selected by you? How did you come to know that this area shown on P-23 was the area for which you wished to provide relevant land-use permits?

A. Well, during the Examination for Discovery we were asked to describe events that took place within the larger area covered by IDS Map 14 which is a --

Q. Exhibit P-53, before you?

A. Exhibit P-53.

Hornal, cr.ex.
(Graham)

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Q. When you say "the larger area",
what do you mean by that?

A. We began by attempting to
identify operations that took place within the area
covered by this map or described by this map. But,
this map is -- the boundaries of this map do not lie
naturally along latitude and longitude lines. It is
viewed from true north. So, for the convenience of
our answers, we attempted to identify the latitudes
and longitude lines that best marked the edges of
this particular map.

Q. Of Exhibit P-53.

A. Yes.

Q. Would it be right to say, then,
that the co-ordinates shown on Exhibit P-23 relate
generally to the four corners on Exhibit P-23 --
sort of squared off to relate to the north-south
latitudes and longitudes?

A. That's correct.

THE COURT: Exhibit P-53.

MR. GRAHAM: I am sorry, My Lord.
This is P-53, the Baker Lake Study area map.

THE COURT: P-23 is the one with
the green markings. The green box on P-23 are the
outer edges, roughly, of P-53.

THE WITNESS: Yes.

BY MR. GRAHAM:

Q. And that arose out of questions
asked of you on Discovery with respect to mineral

Hornal, cr.ex.
(Graham)

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activities, is that correct, in this larger area?

A. I believe it probably was mineral activities. I would have to check the transcript to determine the exact questions involved. But, certainly, mineral activities were part of it.

Q. You stated that you required an inspection of campsites which were constructed or erected under a land-use permit -- before a clearance was issued with respect to the permit. Can you explain to the court a little more fully exactly what you mean by that?

A. Well, the permittee, as part of the conditions of occupying the site, is required by the regulations to clean up the site before the end of the permit -- which can last any time. The permit can be granted for any time up to a length of two years.

At the end of the period of occupancy by the permittee, he submits to us a map showing the area used and makes a statement as to the fact that he has cleaned up the camp to his satisfaction.

Before the permit is closed in our office, we return to the site to check that indeed he has done what he has said he has done, that the campsite is returned to its natural condition and that everything has been removed from the site.

At that point and at that point only do we close the file and remove his obligation

Hornal, cr.ex.
(Graham)

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for further work in that area.

Q. What is the inspection process you spoke of? How does that work?

A. We like to inspect -- to make our final inspections in the summer, as much as possible. When the snow is gone, things are much more evident at that time that have been left behind and so what is involved is a visit to the site, an over-flight of the surrounding area, perhaps, if they have had trails or something like that, and a report is submitted by the Land Use Inspector to the Land Use Administrator in Yellowknife before the file is finally closed.

Q. Do you have an employee in the Inspection Branch in Baker Lake itself?

A. We have, as I say, two employees -- oh, in Baker Lake. We have a land-use inspector trainee in Baker Lake at this time.

Q. What is the name of that person?

A. Joan Scottie.

Q. And where are the other two inspectors located, then?

A. The other two inspectors are located in Rankin Inlet for the winter season.

Q. Are you familiar with a process which is known as the environmental assessment review process, or shortened to EARP?

A. Yes.

Q. And can you describe to the court

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(Graham)

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what that process is?

A. In general terms, Your Lordship, this process is a method the government has adopted to make certain that projects requiring government financing or government assistance or taking place on Crown lands are subjected to an intensive study of the impact on the environment of such a project should that project be allowed to go ahead.

The process is administered by a group that reports to the Minister of the Environment.

Q. Does it come partly under your responsibility as well -- your present function?

A. As a department who is often the first to learn of major development activity or major projects, we have a responsibility to assess each individual project for its potential environmental damage and to report this to an environmental screening committee of the Department of the Environment who, in turn, identifies projects of major significance -- environmental significance -- which are referred to our panel. Our department itself has the right to refer a major project directly to EARP without going through the screening process.

Q. Bringing it closer to home, in the event of a mine, for example, being constructed around the Baker Lake area or the Keewatin, would such a project fall within the purview of this review which you have just described?

A. It would certainly have to be

Hornal, cr.ex.
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and environmental assessment. Whether it would reach the Environmental Assessment Review office would depend on how well it was judged the legislation now in place could prevent any environmental problem.

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Q. And as far as the Crown's ability to ensure that any environmental problems would be properly dealt with, how would the Crown be able to compel or require environmental protections are maintained by any person whose project would be reviewed?

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A. A project such as a mine would require a surface lease which would be granted by our department and during discussions as to the terms of this surface lease, environmental matters concerning the land would be looked at in some detail. And any project operating in the north of the scale of an operating mine requires a water licence, which has an independent board to investigate the terms and conditions that should be applied in the case of a water licence and, as an ultimate means of controlling a development such as a mine, the mine must have an export permit under the Canada Mining Regulations to ship its concentrate outside the Northwest Territories and that permit must be granted by the Governor in Council which would not be done unless the government was certain that the environmental consequences would not be severe.

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MR. GRAHAM: Thank you very much.

THE COURT: Mr. Heintzman?

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MR. HEINTZMAN: I have no questions.

CROSS-EXAMINATION

BY MR. GOLDEN:

Q. I hardly know where to begin.

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Perhaps, if I may take you to the background, I understand that you have been closely acquainted with the Baker Lake situation, if I may call it that, since 1974.

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A. Yes.

Q. And you would, therefore, be aware of the complaints made in 1974 by various bodies in Baker Lake, including its citizens and organized bodies such as Hamlet Councils, Hunters and Trappers Associations, directed at the cessation

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of mining activities in the Baker Lake area. That is so, is it not? There were loud protests in 1974?

A. I would have preferred to have termed the protests of 1974 a concern about control of mining activities rather than a cessation thereof.

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Q. Was it not true that the people of Baker Lake thought that the mining activity would be detrimental to the caribou and to their hunting of the caribou?

A. Yes.

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Q. And they sought some measure of government control in an effort to stop the activity, is that not so?

A. Not as I recollect it. It was more, at that time, to control the activity than to stop it, as expressed to me.

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Q. In effect, the regulations would do no more than control the activities, but is it not true that they saw it as a way of stopping the activities?

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A. I think they may have because -- but that impression I got after the regulations came into effect or later than 1974, not in 1974.

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Q. Yes, I think in retrospect it is easier to see that the communities really wanted the activities stopped and saw the regulations as a better way of doing it.

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A. I think that -- well, as I say, that was not the impression I had in 1974 of the way things were, as I recall it.

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Q. It is an impression that you gained later on?

A. Yes.

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Q. And, indeed, the regulations came into effect in March of 1977, is that right?

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A. No, the Keewatin was placed under a land management zone which required permits to be issued in -- I believe it was October of 1975. That was the first step towards further regulation of the industry.

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Q. I'm sorry. You are right. It was actually November of 1975.

A. Yes, I think that is correct.

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Q. And there were new regulations replacing the old regulations which had already covered the Keewatin, and they took effect in March

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of 1977.

A. That is correct.

Q. And it is the new regulations to which we now refer when we talk about A and B permits and the conditions that are attached to them and so on.

A. That is correct.

Q. In the meantime, in 1975, the regulations came in and it was quite obvious that it did not stop the mining activity, did it?

A. No, it did not.

Q. And in 1976 -- well, I am sorry. Following that, in 1975, when it became obvious, did the community itself not ask for some kind of a freeze on mining activities?

A. That is correct.

Q. And was that request made repeatedly until such time as a freeze was finally ordered?

A. Certainly I heard of that request from time to time from '75 through '77.

Q. And, in fact, we now know that a freeze was imposed for one year, during which time the study was authorized.

A. I prefer the word "moratorium; but, all right, freeze.

Q. I think it would probably be more accurate to call it a moratorium, but everybody seems to refer to it as a freeze.

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MR. GRAHAM: It may be the climate up there.

MR. GOLDEN: Even at that, when the community was advised that mining activity would commence again in the spring of 1978, was it not apparent that the community felt that the freeze would have been continued or I should say, should have been continued?

A. Very obviously.

Q. In all of this, is there not in your mind -- or, I should say, is it not apparent to you that there is a real frustration on the part of the people of Baker Lake towards this mining activity and their attempts to have it stopped?

A. I would agree that I think that the people in Baker Lake have a feeling of frustration. I am not certain whether it is against the mining activity, the government or whom, but there is indeed this frustration.

Q. When the land use regulations were imposed in the Keewatin in 1975 and up to the present time, am I correct in my own review of the records that no land-use permits for mining exploration activity have been refused in that entire period?

A. I would have to review my records. I am aware of certain operations that were not even started. Now, whether they got as far as applying for a land-use permit and then withdrew it --

Hornal, cr.ex.
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I would have to review the records. Certainly, some land-use operations in the Keewatin have not proceeded as a result of having to obtain a land-use permit.

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Q. They themselves determined that they could not comply and did not proceed with their application?

A. That's correct.

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Q. But, in fact, your department has not seen fit to refuse any. I am not saying they should have, necessarily, but they did not.

A. No, I cannot think of a case where we have refused outright in the Keewatin.

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Q. In addition to that, I understand that in issuing a prospecting permit, you may in effect permit activity which does not require a land use permit; is that so?

A. That's correct.

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If I may just expand a bit on that: activity is allowed without having a prospecting permit. The same activity would be allowed without having the prospecting permit or having the prospecting permit.

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Q. What is the net effect, then, of having the prospecting permit?

A. It just means that you and you alone will be allowed to conduct that activity over that piece of ground. Correction. You and you alone have the mineral rights to that piece of ground.

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Other people may come and look at that ground, too, if

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they wish, but --

Q. It won't do them any good.

A. Not for a while.

Q. Those prospecting permits, when they are applied for and received, have the effect of encouraging activity on them because they are automatically relinquished each year, are they not? I should put it another way. They are reduced in size automatically by a kind of a process of automatic shrinkage.

A. That was the case for prospecting permits issued prior to November of 1977. Prospecting permits issued in 1978 and 1979 remain the same size, which is a quarter of the size of permits issued prior to that time, for the three years which they operate -- which they exist.

A work requirement is required under the prospecting permit, but this work requirement can be deferred until the third year by the submission of bonds or appropriate securities to cover the value of that work in the previous two years.

Q. It gives a company with a substantial investment in the area some protection so that they do not find themselves having done exploratory work and then having to compete with somebody else in a kind of staking rush, is that it?

A. That is partially it. I look at the prospecting permit as being a means by which the company will acquire a fairly large piece of

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ground for initial investigation in a high-cost area so that they can mount an appropriate program to see which areas they wish to retain of that larger area.

Q. And just to go to the next step, those areas then become -- if they wish to retain them -- mining claims, and they are registered with a recorder in Yellowknife and you described some of that process to us.

A. That's correct.

Q. And those mining claims also require that a certain amount of work be done, is that not so?

A. Yes.

Q. So that we can safely predict, looking at the prospecting permits and the mining claims, some work in the period for which they are valid.

A. In the case of claims that arise out of a prospecting permit, there is provision that -- or there was provision -- that extra work done on the prospecting permit could be applied to the claims. So it is not necessary that the claim -- that extra work be done on the claims that result in prospecting permits.

Q. But it is likely?

A. It is probable, yes.

Q. They are not likely to stake a claim and then ignore it.

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A. Not at this time. Certainly, there have been a number of claims staked in the Northwest Territories which, after one period of work, have been ignored for upwards of ten years.

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Q. In the year since this action was commenced and the interlocutory injunction was obtained -- from looking at comparative maps, it occurred to me -- and I ask if you share this

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impression -- that there was a very high amount of staking done in the last 12 months; is that so?

A. That's true.

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Q. In fact, quite a bit more than had been staked all through the previous periods back to 1969.

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A. Well --

Q. Can you compare it, then, to '69?

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A. I would say that perhaps as much, but I would have to look at the figures before I would want to give an absolute answer.

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Q. Just to allow for the vagaries of what is obviously an unexpected question, we can say safely that nearly as much staking has been done in the last 12 months as has been done in the prior seven or eight years.

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A. Yes, I believe that to be true.

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Q. During the last year your regulations and the conditions you imposed were, to say the least, as careful and detailed as you could

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possibly make them.

A. Yes.

Q. In spite of that, the mining companies seem to have had no difficulty in establishing their claims.

A. That is correct. The regulations I believe you refer to are the Canada Mining Regulations which are designed to facilitate the staking of claims and the Land Use Regulations which are designed to protect the environment.

Q. In dealing with this problem of frustration, you obviously would like to have as much consultation with the community as you possibly could in activities that might upset the community. I refer particularly to activities covered by land use permits; is that not so?

A. Yes.

Q. Is there any machinery for consultation before issuing prospecting permits?

A. No.

Q. Do you consult before issuing prospecting permits: that is, do you consult the community involved?

A. No. Prospecting permit applications are confidential.

Q. I see. That creates a special problem, does it, in terms of the community being advised of these things?

A. It does.

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Q. In its report, the IDS personnel -- Interdisciplinary Systems -- commented on the limitations in the consultation process. I am going to read a few paragraphs to you and ask you if you find yourself in agreement with them.

I am reading from page 249 of the report entitled "Local Review of Industrial Land-Use".

Skipping the first paragraph which just expresses the concern of the communities that we have been talking about.

The second paragraph states:

In some instances, community comments on land-use applications are returned to DIAND in Yellowknife too late to affect permit issuance or influence operating conditions attached to permits. In other cases Yellowknife receives no input at all from the communities involved.

There are several reasons for these situations. Community responses to land-use permit applications are often tardy or absent because time limitations for processing applications may not always be understood by local councils,

Hornal, cr.ex.
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and time limitations are, in many cases, too short for effective response.

Is that an accurate observation?

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A. The fact that time limitations are too short for effective response?

Q. Yes.

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A. That was certainly felt to be the case prior to the new regulations introduced in March of 1977 where we extended the time limitation by 12 days.

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Q. What is the time limitation when you send a copy of a land-use permit application to Baker Lake, for example? Would you like to refer to one, perhaps?

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A. From the date the application is received in our office in Yellowknife, we have 42 days -- we attempt to operate within a 42-day-time frame until we have the application issued or the permit issued or rejected to the applicant.

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Q. Yes.

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A. And, even with modern means of communication, I think we are doing a better job of getting the data to the community quicker, but there are still problems in that communication system.

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Q. You mail the applications to the community. You could lose a week just doing that.

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A. That's true.

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Q. Each way?

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A. Yes. Well, we attempt -- if we have not got a mailed response, we attempt to check with the community before -- at the end of the 42 days -- we issue the permit -- by telephone.

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Q. A fairly high proportion of these land use permits have been directed to the Baker Lake area, so can we assume that Baker Lake has received a fairly high proportion of the land use permit applications for the Keewatin?

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A. That's true.

Q. And their response is, to say the least, not always positive?

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A. No.

Q. Has that deterred the government in any way from granting the permits?

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A. We are unable to deal under the territorial land-use permits with some of the more political responses we have from some of the communities, and we are looking for the response. What we are seeking from the communities are responses associated with appropriate operating conditions; for example, times that people can operate and times they should not operate and information they may have about the conditions of camps and so on and so forth. Those sort of conditions we attempt to respond to as often as we receive them.

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Q. Is it safe to say that you

consider a response which is predicated on the total undesirability of mining exploration activity in that

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area as not being appropriate?

A. As being something that is outside of the territorial land-use regulations to deal with.

Q. Yes. You do understand the nature of the objections that are being made, do you not?

A. I think I do, yes.

Q. And am I safe in putting it to you that those objections -- they have been described generally as being predicated on land claims, so may I just put a little more definition on that so we may discuss it more intelligently: the Inuit in the region desire some control over this kind of development activity before they will permit it to proceed.

A. I think that is one of their wishes, yes.

Q. And what their concerns are -- and they have been adequately expressed here and you have heard a lot of the evidence, I know -- are the ability to hunt caribou and maintain a traditional way of life.

A. Yes, I think that is true.

Q. And it is for those kinds of purposes that they object. I should say it is for those kinds of reasons that they object to the mining activity going on at times when the land-use permits are put forward.

Hornal, cr.ex.
(Golden)

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A. Yes.

Q. That was expressed, actually, by IDS in its report at page 250 -- I think probably fairly by the second part of the paragraph. I will just read it.

Local concerns forwarded to Yellowknife within specified time limits rarely result in denial of a permit and may not even be expressed in the operating conditions attached to a land-use permit because government officials apparently feel that the concerns expressed do not represent real problems, or because there is no appropriate control available to deal with the concerns.

I refer you to the second part of that reason; isn't that the case?

A. It is certainly the case in matters beyond the scope of the territorial land use regulations. I think many of the concerns are also dealt with by the first comment, too.

Q. Yes. Well, the territorial land-use regulations are designed to further the policy of the department, which is not only to deal with native peoples in this country, but to promote development of the north including, among that

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development, mining development.

A. No. The territorial land-use regulations are designed to protect the environment of the north.

Q. The environment of the north, as you are very much aware, I am sure, does not just include protecting the caribou, but would also include protecting the Inuit.

A. I firmly believe it is -- I will state it as departmental policy. I firmly believe that the advancement of Inuit culture is one of the aims of the department, as well as the protection of the environment. I see them as two separate things, not necessarily inter-related in the territorial land-use regulations.

Q. No, as I understand it, and I may be forgiven for quoting general discussion I have had with your officers, it seems territorial land-use regulations for environment really do not go as far as the Inuit themselves, but deal simply with the more traditional of environmental concerns such as water, animals and so on.

A. Yes, I think that is land.

Q. Land and its flora and fauna.

A. Yes.

Q. And there is no statute, is there, to protect Inuit hunting?

A. That is common -- there are ---

MR. CHAMBERS: My Lord, I should say

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(Golden)

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that this is a question of law, surely.

THE COURT: He might ask him if he is aware of any.

BY MR. GOLDEN:

Q. Are we correct in saying that we are not aware?

Mr. Hornal is a man who I do not want to engage in a hard-line, hard-nosed cross-examination, if I can.

THE COURT: I think he could stand it.

MR. GOLDEN: I think so, too, but I do not think it is in the tenor of the relationship.

BY MR. GOLDEN:

Q. Putting it another way, we know of no statutory scheme or statute that protects Inuit hunting, where an Inuit hunter could quote a section of a statute and say, "I am entitled to go out on this land and look at caribou and hunt them," and so on. There is nothing like that.

A. There are certainly sections under the Territorial Game Ordinance designed to benefit Inuit.

Q. We have seen that Game Ordinance. They are not placed under the same restrictions as some other hunters are.

A. That is correct.

Q. That is the extent of it, to your knowledge?

A. Offhand.

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Q. I won't go any further into it than that. You are a geologist?

A. I used to be.

Q. Have you been in the field in the last number of years in the Keewatin?

A. Yes, as a visitor.

Q. Yes, of course. Have you had occasion to observe the staking of grids by the mining companies as they explore for minerals?

A. I have had occasion to observe staked grids.

Q. I show you a length of ribbon -- a rather fluorescent-pinkish colour. Do you recognize that ribbon?

A. Yes.

Q. What is it used for?

A. It is used for a number of things. I am most familiar with it used as a marker along claim boundaries in the woods or on stakes -- on particular stakes and grids in the barrens.

Q. Yes, because it is awfully hard to see the stakes without this thing flapping in the breeze.

A. It helps if you have a piece of that on the stake.

Q. Is this more or less standard issue -- what I am holding up?

A. It comes in rolls and is easily obtainable, yes.

Hornal, cr.ex.
(Golden)

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Q. Is the colour an accurate colour?

A. That is one of two or three popular colours.

Q. What are the others?

A. Yellow -- and a reddish colour.

Q. And, of course, they do flap in the wind, don't they?

A. Yes.

MR. GOLDEN: My Lord, may I have this ribbon marked as an exhibit?

EXHIBIT NO. P-90: Ribbon

THE COURT: Perhaps we should find out how tall these stakes are and a few other details such as that to get a better idea how this flaps.

BY MR. GOLDEN:

Q. Can you give us some idea what the stakes appear like coming out of the ground: how high they are, what they are made of?

A. Well, they most often are laths, two to three feet high, or perhaps a piece of one-by-two of about that height. Sometimes the ribbon is placed in a stone cairn, a foot or more above the ground, built a foot or more above the ground.

Q. Most often it is wooden stakes?

A. Probably.

Q. I suppose it is sometimes necessary to mark a stake with more than one ribbon on occasion to delineate a different kind of stake?

A. It may be.

Hornal, cr.ex.
(Golden)

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Q. The territory that we are dealing with, even in the land-use area, has been said to be some 70,000 square kilometres, and the area under your regulation is considerably larger than that, even centering on Baker Lake. Is that so? The first question need not be answered. What I am really concerned with is the area that you deal with out of Baker Lake -- even larger than the 70,000 square kilometres.

A. The area my staff deals with out of Baker Lake concentrates its activity or has concentrated its activity within the Baker Lake Study area for the past few years. But from time to time it does operate outside of that study area.

I have instructed my Baker Lake staff to concern themselves particularly with that area and the people in Rankin get around to the bottom and try to cover the area on the other side like Dubawnt Lake and the area to the south.

Q. In fact, if I may just use the overlay for a moment, I am referring now to Exhibit P-9. This is a depiction of a map you have already described in which the proposed activity was depicted as of April 15, 1979, subject to the qualifications you gave to that map. It seems to be a depiction of the areas we are concerned with. I gather the mining claims may require some work, but you would expect the bulk of the activity to be in the area of the prospecting permits, is that right?

Hornal, cr.ex.
(Golden)

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A. No, that is not what I said.
I would expect that the work at this point to be -- well, the largest project in the area proposed is so much larger than anything else proposed, and it is on claim, and indeed most of the work will be done on claims this year.

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Q. On claims?

A. Yes.

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Q. And these prospecting permits, they are fairly new, too, aren't they? As far as the number of prospecting permits, there seems to be a substantial increase over the last year.

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A. I believe there is evidence given earlier that in fact we have issued new prospecting permits as of January '79 within this area. Some of these prospecting permits -- I believe these two in the bottom here -- are suspect. I think they have been replaced by perhaps a few claims. But, in general, that's it.

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Q. Your people are going to have their hands full, I gather, watching all the camps in the area to the northwest and certainly the area to the immediate northwest where the claims are and just down along to the southwest, as I have indicated on the map, of Baker Lake, and a series of rather older claims, I understand, many on the Kazan River and south of Christopher Island and along the north shore of Thirty Mile Lake. You are going to be pretty busy.

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A. Well, I wouldn't want them sitting around doing nothing.

I agree there will be some 15 to 20 camps that will require inspection. That is not a lot as compared to certain other areas of the territory.

Q. These are only camps, of course

THE COURT: Do those overlays have numbers on them? Again, just for the record.

MR. GOLDEN: No. This one is entitled "Properties Held by Companies". That is the best identification I can give it. It is page 2 of the overlay, numbering them from the bottom up.

BY MR. GOLDEN:

Q. In addition, of course, you are only policing the land-use permit sites; is that so? You are not bothering with the ones that are sub-land-use permits? I don't mean --

A. Well, in the course of our inspection trips, we manage to cover many of those that we know about and find out about many that we don't know about at the smaller camps which we visit and get co-operation from the companies in cleaning them up, too.

Q. It is a voluntary matter, of course.

A. Not entirely. Under the regulations you may not have to have a land-use permit

Hornal, cr.ex.
(Golden)

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but, if you cache fuel, you must notify us and you must remove the drums.

Q. Are there operations which would require or would permit the use of an aircraft without a land-use permit?

A. Yes.

Q. Certainly, from what we have heard, every camp that has a land-use permit is going to have at least one, if not more, aircraft, and that has been the case for the last number of years; there have been a number of aircraft attached to these camps. Would it be fair to say that those aircraft would normally be expected to be engaged -- on a daily basis as long as weather permitted -- in flying in the vicinity of their camps dropping prospecting crews off and so on?

A. I think that would be fair to say.

Q. They are also used to sling loads, moving drills and moving heavy equipment that is too heavy to carry by hand?

A. That's true.

Q. In fact, it is probably the most feasible means of travel in that area; is that not so? Helicopters in particular?

A. It depends, of course, what you want to do. If you are mapping or prospecting, nothing beats foot travel.

Q. Nothing beats it. But, once you

Hornal, cr.ex.
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get to the point -- I'm sorry. Mapping.

A. Yes.

Q. I am talking about mineral activity -- mineral exploration activity. There is a heavy use of helicopters and even fixed-wing aircraft.

A. There is. There is a use. Certainly they are used. Not heavy compared to oil and gas activity or forest fire activity or a number of other activities helicopters are used for. But certainly I would not deny there are a number of helicopters in that area, and they are used extensively.

Q. And, of course, unless there is a land-use inspector or an Inuit hunter who observes and reports some, shall we say, abuse of the environmental concern -- whether it is low flying or buzzing or even perhaps something that may be authorized such as grid flying, it is going to be very hard to find out if anyone is breaking those regulations or failing to meet those environmental concerns.

A. Yes, it is.

Q. So is it not fair to say -- and I think I have heard you quoted as saying this -- that policing this area is virtually -- well, almost impossible?

A. Policing the aircraft movement is almost impossible.

Q. Yes. It is not that difficult, I understand, to determine whether garbage is properly

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Hornal, cr.ex.
(Golden)

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buried or not, and that sort of thing.

A. I think you understand, Mr. Golden, that aircraft movements are not controlled by the land-use permits. We put recommendations in the land-use permit, and we have from time to time suggested conditions. But they cannot legally be conditions.

But you are correct in saying that if that was a matter of law, it would be a very difficult thing to police.

Q. There have been problems, have there not, with respect to companies not cleaning up their sites and leaving them, even though they were requested to do so, and you have subsequently found yourself frustrated in efforts to clean sites up and get sites cleaned up. Do you recall any such incidents? I may remind you of one. Do you recall any?

A. There are a number of frustrations in our job, Mr. Golden.

Q. I may only be describing the minimal ones.

A. Prior to the introduction of land-use regulations in 1971, a number of campsites throughout the north were left in less than perfect condition, and we have had problems in finding methods to improve these sites.

In many cases we have had a great deal of co-operation from the companies over the

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course of years, but it has not been one of their priorities.

Q. I guess that once they have moved a crew out and moved all of their lighter things out, it is probably difficult to go back in and start a clean-up operation, isn't it?

A. That is often the case.

Q. Are you familiar with the area called James Point, just on the north shore of Baker Lake, adjacent to an island known as Christopher Island?

A. Yes, I am familiar with that area. I am not familiar with the actual name James Point. You are talking of this area north of Christopher Island. Yes, I am familiar with that.

Q. That was the site of the camp which was closed in 1972 or 1973, is it not?

A. I think some time in that time period.

Q. And has there been continuous complaints made concerning the condition of that camp up to and including the present time?

A. There have been -- I would have to check the records, but I think I can say that there have been complaints about that campsite. I am not certain that I have heard of any recent complaints, as I believe the company voluntarily came back in there in 1977 or '78 and took steps to clean up much of the debris that was left there.

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Q. I am advised that we have a sunken caterpillar tractor at the edge of the lake, oil drums, boxes of drill samples and this sort of thing still lying around that campsite.

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A. As of what date?

Q. Well, as of 1978.

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A. I'm not certain, and I would not want to say that. But I think I would suspect that much of that had been removed by the end of the summer of 1978.

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Q. You are familiar with the problem.

A. I am familiar with the problem, and I am familiar with the attempts the company has made to clean up the site.

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Q. We have heard some evidence from one of the witnesses in Baker Lake concerning a similar problem down the Kazan River.

A. Yes.

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Q. Are you familiar with that problem as well?

A. Yes.

Q. He told us about oil drums and a drill that had not been removed.

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A. Again, I am not -- I had thought that that problem had been resolved to the satisfaction of the people of Baker Lake. I am aware that the last portion of the clean-up in that particular site had not been done until the winter of '78-'79. I

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believe they mentioned oil drums floating along the shore of the river.

Q. Washed up.

A. Washed up along the shore.

THE COURT: Propane tanks.

THE WITNESS: And drums, I believe -- propane tubes. I could not confirm that we have solved that problem yet. I think the campsite itself has been worked on for two years now, and the last sled load of materials, I believe, came out this winter.

BY MR. GOLDEN:

Q. Really, to be fair about it, as you move back into the hinterlands into these areas of activity, I would think it would take an extremely vigilant and much larger force than would be almost practical to ensure that there would be no debris left behind these camps at all.

A. We have an extremely vigilant and much larger force than you would think when you consider the hunters and trappers of Baker Lake which helped us in this matter.

Q. I think that they will be glad to hear they are being given some credit for that. But, I think their concerns are somewhat different.

A. I recognize that. But their concerns with this sort of matter are also our concerns, and we have used their data to effect clean-ups.

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Hornal, cr.ex.
(Golden)

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Q. Of course. Last year there was an injunction in place, and I note that you have attached a copy -- and I would have expected you to -- to each land-use permit to ensure that it would be complied with, and indeed you even referred to it in your annual report. Is it safe to say that the existence of the injunction assisted you somewhat in laying out the conditions under which the companies could operate in the last year?

A. As I recall the injunction, it contained terms and conditions very similar to those that the department had decided to put in place prior to the issuance of the injunction as a result of the IDS study, until we had further reviewed the matter.

Q. And did you, in fact, find that the fact that an injunction had been issued made your job administratively somewhat easier: you did not have to persuade people as to the importance of abiding by these regulations as much as you might have otherwise. I keep calling them regulations. They are conditions.

A. They are conditions under the permit. It may have helped in a minor degree, although many of the operators in the north are very cognisant of the fact that they must present a good image to us and to the people of the north.

Q. I note that in the conditions that are being attached in this year's permits there seems to be even a higher degree of control or at least more explicit conditions are being put forward

Hornal, cr.ex.
(Golden)

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for the current year than were in effect last year. We will read them for ourselves but is that a fair way to summarize it -- you have gone a little further this year?

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A. The conditions we have attached this year are applicable, of course, outside the injunction area. The same conditions are applicable by the injunction for the Baker Lake Study area that were in place last year. We have attempted greater control of the activity to give us greater control over mining activities or land-use activities in this area until we are certain as to what the caribou are going to do, but have attempted to give us the flexibility that, after we are convinced the caribou are moving to the west, north, or south, that we can re-open areas when they have passed. So they are both more stringent and more flexible, if you wish.

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Q. And it is still the same in terms of the amount of control by the Inuit: there is still no area or element of control by the Inuit of Baker Lake in your conditions? It has not changed characteristics?

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A. The conditions are controlled by the -- the enforcement of the conditions are controlled by our land-use inspector, as before.

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The proposal concerning the conditions was placed before the Inuit of Baker Lake and the other Keewatin communities and discussed, and some of the recommendations they made were indeed

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implemented in the Caribou Protection Map.

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Q. You are aware, of course, that the conditions that were proposed by the government were rejected by the people of the Keewatin at a meeting in Rankin Inlet which you attended.

A. No, I did not attend it.

Q. I am sorry.

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A. But I am aware of the counter-proposals put forward by the people of the Keewatin at that time.

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Q. Now, it is safe to say, is it not that this year, with all the conditions and the injunction and so on, there will be as much, if not more, mining exploration activity than there was in the area last year?

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A. That is hard to judge. In terms of dollars spent, because of the one large project, one large milling project at this one site proposed, the amount of money spent in the area will be as much or more than it was last year. I know of some firms who have chosen not to work in the Baker Lake Study area as a result of the injunction and the terms and conditions we have imposed.

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I would think that it would be equal to, yes; but I do not know how much this one project may influence it.

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Q. Aside from dollars spent, we can expect something, you said, in the nature of what? Fifteen camps?

1957

Hornal, cr.ex.
(Golden)

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A. I think it shows on the exhibit submitted -- 83, I believe, and 81.

Q. I am not so much concerned about the measurements that interest the bankers as I am by the activity that influence caribou. In that respect it is going to be about the same as last year, if not even higher.

A. I would agree with that.

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Q. Isn't the determining factor in all of this activity not anything we are here talking about, but really the availability of minerals in that area -- the mining companies' interest?

A. The determining factor as to the amount of mineral activity is, of course, very much a matter of how the companies visualize the area in terms of its mineral potential, yes.

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MR. GOLDEN: Thank you very much, Mr. Hornal. No further questions.

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THE COURT: Mr. Sgayas, have you any re-examination?

MR. HEINTZMAN: My Lord, I wonder if I might have permission to ask a question in re-examination, something following what Mr. Golden brings up in relationship to mining activity to the land, and I would like to ask a question arising out of that.

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THE COURT: On the understanding, of course, that Mr. Golden may ask more questions arising out of that.

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Hornal, cr.ex.
(Golden)

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MR. GOLDEN: Rather than restrict us, I think we should, perhaps, declare as early as possible when a witness gives evidence, whether one of my friends from the mining companies considers himself in the same interest as the party deposing the witness.

If that is the case, then I would cross-examine and they would examine in chief, not cross-examine, and then they would re-examine.

MR. HEINTZMAN: No question about it. I am not suggesting I have a right to cross-examine. There was nothing I wanted to ask about in chief. But my friend has brought something out, so I want to ask about it in reply.

THE COURT: I do not think we can say that the interests of all the defendants are necessarily identical.

MR. GOLDEN: I did not propose that at the start of the case.

THE COURT: I understand Mr. Heintzman is proposing to ask questions in re-examination rather than cross-examination of the witness.

I suppose this is inevitable when we have so many people.

RE-EXAMINATION

BY MR. HEINTZMAN:

Q. Mr. Hornal, Mr. Golden asked you about the condition of camps that have been

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occupied by mining companies. Can you tell me if Inuit who are out on the land, using the land, are required to obtain a permit?

A. No, they are not.

Q. And do you have any difficulties with respect to the conditions of camps left by Inuits?

MR. GOLDEN: I do not see how that arises one iota from my cross-examination.

THE COURT: I don't either, but it is a very interesting question. No, I really don't see how that arises.

MR. HEINTZMAN: My Lord, the impression that my friend is seeking to leave is that there are these camps that the mining companies have left, and I think that we have to have the matter put in perspective.

THE COURT: Is the abuse of the land by the Inuit an issue in this action?

MR. HEINTZMAN: No, but --

THE COURT: Certainly it is an interesting point in argument, perhaps.

MR. HEINTZMAN: To the extent it is suggested what the mining companies are doing is something that is affecting the land, you have to put that in perspective as to what other use is being made of the land.

THE COURT: All right. We'll think about that. You go ahead.

Hornal, re-ex
(Heintzman)

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BY MR. HEINTZMAN:

Q. Can you answer that question,
Mr. Hornal?

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A. I am trying to recall if I personally have seen Inuit camps in the Baker Lake area. I can't recall having examined one at close range on the ground, Mr. Heintzman, and so I am really not prepared to give an opinion on camps in that particular area.

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Q. Well, you have testified with respect to the camps of mining companies that you have not personally seen, I take it; have you?

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A. I have personally visited two mining company camps that I believe we discussed in some detail.

Q. The ones you were asked about by Mr. Golden.

A. Yes.

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Q. Can you assist us from your position as to whether the conditions of Inuit camps is a concern to your department?

A. Inuit camps, as you have said, do not come under our regulations. But I have had my officers report poorly about the conditions of some of the Inuit camps as well as the mining company camps.

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MR. HEINTZMAN: Thank you.

THE COURT: Did you find any oil drums or bulldozers?

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THE WITNESS: They found oil drums.

1961

Hornal,

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THE COURT: Oil drums. That sort of thing.

THE WITNESS: I can believe that they might find bulldozers in a couple of cases.

THE COURT: Are they missing one or two?

THE WITNESS: No, the Inuit have bought them from mining companies and use them at the camp occasionally.

THE COURT: Do you want to follow this up in any way, Mr. Golden?

MR. GOLDEN: I don't think so, My Lord. I don't think it is going to matter very much.

THE COURT: Mr. Sgayias?

RE-EXAMINATION

BY MR. SGAYIAS:

Q. Mr. Hornal, I believe it was put to you by Mr. Golden as part of one of his questions that prospecting permits become mining claims. How does that come about?

A. Under the Canada Mining Regulations that were in effect prior to November 1977, each year that the mining company held a prospecting permit it could stake an increasing number of claims -- up to the third year, when it dropped its permit, it could hold 450 mineral claims, which is roughly 20,000 acres out of the original 140,000 to 180,000 acres granted under the permit.

Hornal, re-ex
(Sgayias)

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In the new Canada Mining Regulations there is still provision for the company to stake claims, I believe, when it drops its permit. I can't recall the number of those claims without consulting the regulations.

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Q. Does the entire area of a prospecting permit necessarily become the subject of mining claims?

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A. Again, I can recall the regulations prior to '77, no. As I said before, maybe a little over 15 per cent might end up as mining claims. In the regulations in effect since November '77 I would have to consult those to find out the percentage of area, but I do not think it is the entire area.

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Q. In response to a question from Mr. Golden, I believe you said that consultation with respect to the issuance of prospecting permits was not possible because applications for prospecting permits are confidential. Why are such applications held confidential?

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A. Well, the matter of acquiring mineral tenure is still a very competitive business within the industry. If it were known that some company planned to acquire prospecting permits within a particular area, another company could move in and lay claim to that area or stake claims in that area prior to the issuance of the prospecting permit which would negate the value of the prospecting permit

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1963

Hornal, re-ex
(Sgayias)

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to the applicant; therefore, the department does not discuss who applies for what areas at any time.

Q. In response to another question by Mr. Graham, I believe you stated that you felt you were unable to deal with the more political responses of the Baker Lake community to land-use applications. What are you describing as the more political responses?

A. Matters dealing with policy in the department that require total change of emphasis in the policy of the department that are beyond the scope of the territorial land-use regulations. Things that suggest that there be a freeze in developmental activity in a particular area is something that cannot be done under the territorial land-use regulations but, instead, would have to be done at the ministerial level, under the Territorial Lands Act in consultation with other government ministers.

Q. Mr. Hornal, when you were referring to the markers used to mark claims and grids with respect to which Mr. Golden referred to Exhibit P-90, a length of ribbon, I am not sure if you stated this, but what height above the ground would these markers be, in your experience?

A. Usually at the top of the stake, until they fall to the bottom. About two to three feet.

Q. And that would be the length of

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the -- what would be the length of the ribbon attached?

A. Four to five inches, maybe.

Three inches.

Q. How is that ribbon attached to

the -- I think what you described earlier as a lath.

A. In my experience, the ones I have put on have only been knotted -- tied with a little knot and torn. There may be other methods.

Q. And if these markers are being used to mark claims, what distance apart would they be found?

A. Every 1,500 feet.

Q. And if they were being used to mark grids?

A. It depends on the ingenuity of the individual who is laying out the grid. It can be every thousand feet, if that is what he wishes to have clearly identified. It depends on the topography.

If you have sedge willows, you may mark every stake because it is hard to see the stakes among the sedge willows. If it is clear tundra, you may only require one 500, or every thousand feet apart, or put one on each post, depending on how close these posts are. There may be posts not marked with a flag between the posts that are marked with a flag.

Q. In your experience, Mr. Hornal, do these ribbons stay attached to the posts? For how long would they stay attached to the posts?

A. The life expectancy is usually

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the summer season. During the winter they fade and are probably blown or torn off. But often they don't last even that long.

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Q. Mr. Golden referred to a camp on Christopher Island. Can you tell the court whether that camp was established before or after the Keewatin became part of the land management zone?

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A. I believe it was on the north shore -- opposite Christopher Island -- he was referring to. And it was established before the territorial land-use regulations came into effect.

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Q. Before the regulations came into effect, or before the land management zone was established?

A. Before the regulations came into effect.

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Q. The camp referred to by Mr. Golden on the Kazan River, was that camp established before or after inclusion of the Keewatin in the land management zone?

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A. That site, or the area close to that site, has had a camp there before -- I think in 1970-1969, which would be before the territorial land-use regulations came into effect, and the particular camp which Mr. Golden referred to was established on that site after the Keewatin became a territorial land management zone.

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MR. SGAYIAS: Thank you. Those are all my questions.

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THE COURT: I have just one question I would like to clear up.

In Exhibits D-2 and D-3, with all of these land-use permits, we have a letter, at least in most of them, with a typed heading, "Land-Use Advisory Committee Member". Can you tell me what the Land-Use Advisory Committee is?

THE WITNESS: I am sorry, sir. That is the committee which advises the engineer as to the terms and conditions that he should apply to the land-use permit, and it includes the members of the government from the Canadian Wildlife Service, the Government of the Northwest Territories, the Department of Fisheries, our land specialist, our water specialist, sometimes an industry representative as well as ex-officio -- of course, our District Manager and his input from the community.

THE COURT: Thank you.

MR. GOLDEN: I don't propose to engage in any further examination of the witness.

I have heard my friend re-examine and elicit some answers. I assume he is content to be bound by the examinations for discovery that have already been read in in respect to the distances with regard to the flags. I do not think he knew what answer he would get when he asked the question specifically.

I intend to treat him as being bound by that, regardless of these answers.

Hornal,

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THE COURT: Yes, if that part of his Discovery was read in and is any different.

Thank you, Mr. Hornal.

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Would you prefer to recess now and resume at 1.30, Mr. Sgayias?

MR. SGAYIAS: It might be preferable rather than breaking in the middle of the examination.

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THE COURT: All right. We will make it a quarter to two.

LUNCHEON ADJOURNMENT

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--- Upon resuming after recess

MR. SGAYIAS: I call Mr.

Clarence James Dent.

CLARENCE JAMES DENT, YELLOWKNIFE, N.W.T., Sworn
EXAMINATION IN CHIEF

THE REGISTRAR: State your name, your complete address and your occupation.

THE WITNESS: My name is Clarence James Dent. I am a Superintendent in the Royal Canadian Mounted Police, officer in charge of the Criminal Investigation Branch, Yellowknife, Northwest Territories.

May I just say something before starting?

THE COURT: I don't know.

THE WITNESS: About three days ago -- I don't know if it is the Toronto environment or not -- my throat picked up something here bordering on laryngitis, so I will try to speak clearly and loudly, but please bear with me.

BY MR. SGAYIAS:

Q. Superintendent Dent, I understand that you are a member of the Royal Canadian Mounted Police and presently hold the rank of Superintendent.

A. That's right.

Q. Your present position is the officer in charge of the Criminal Investigation Branch for G Division of the Police?

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1969

Dent, in ch.
(Sgayias)

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A. That's right, sir.

Q. And I understand that G
Division includes the entire Northwest Territories.

A. That's right.

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Q. And how long have you been
a member of the Royal Canadian Mounted Police?

A. Just over 32 years.

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Q. And I understand at one or
two points in your career you have been posted to
Baker Lake.

A. Yes, I was.

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Q. During what period of time
were you in Baker Lake?

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A. I was there on two occasions:
from the fall of 1953 to the summer of '56; and I
returned to Baker Lake in the summer of 1958 until
the summer of 1960. A total of five years.

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Q. What was your rank at that
time?

A. I arrived there first as a
constable; the next year I was promoted to corporal
and for the rest of my service there as a N.C.O.
i/c Baker Lake Detachment.

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Q. And I understand N.C.O.
is?

A. Non-commissioned officer.

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Q. And what geographic area
were you concerned with as the officer in charge of
the Baker Lake Detachment?

Dent, in ch
(Sgayias)

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A. If I could borrow that --

Q. I understand you prepared a map. I show you a map. Can you describe what this is?

A. I just hold the map up of the Keewatin and Mackenzie boundary, and this is the area known as the E2 District and comprises the Baker Lake Detachment area which was my area of responsibility.

MR. SGAYIAS: Perhaps, My Lord, this map could be marked as the next exhibit.

EXHIBIT NO. D-8: Map showing area of responsibility of Superintendent Dent

BY MR. SGAYIAS:

Q. Superintendent, could you describe the nature of your duties during your tours at Baker Lake?

A. Very basically, I guess, preservation of law and order and protection of the people there -- their wellbeing. And amongst our various responsibilities were the issuance of welfare, registering of vital statistics, taking census, looking after the issuance of family allowance, acting as postmaster, undertaker, acting as a lay dispenser for the National Health and Welfare in providing medical service, maintained a dog team, maintained our buildings and last, but not least, investigated crime because initially it was very minimal.

1971

Dent, in ch.
(Sgayias)

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Q. During the course of your tours of Baker Lake Detachment, did you have occasion to go out beyond the settlement area and into the other areas which you have described as District E2?

A. Yes, on many occasions travelling by dog team, by canoe, by peterhead boat and by aircraft.

Q. And what were the purposes of those travels?

A. Primarily to check upon native welfare.

Q. Superintendent, could you describe the settlement of Baker Lake as you found it upon your arrival in, I believe you said 1953?

A. Arriving in the lake, as the boat dropped anchor, looking north and starting at the left or extreme west end of the lake, there was the geological station, two buildings over there, with a staff of three. Coming back towards the settlement, the next building was the Anglican Church and the Eskimo Catechist, the Hudson's Bay Company buildings, the Catholic Church, the Detachment, our warehouse, two buildings for special constables, our dog food shed was down at the shore. To the east of that was the radio station, and I think there was a staff of about seven there.

The total population of the community was between 40 and 50. There were 17 white people there -- three women of which my wife was one --

Dent, in ch
(Sgayias)

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Q. And the remainder of the people not white were Inuit?

A. On the Post, yes. I think all but one were the families working for the various establishments there.

Q. Superintendent, do you recall the population of the E2 District -- not just the settlement, but the entire E2 District at the time of your arrival?

A. Slightly over 400, I believe.

Q. Could you describe the settlement of Baker Lake and its population at your departure from Baker Lake in, I believe you said summer or fall of 1960?

A. The settlement had grown considerably in that time. Can I start at the left side of the settlement and come back again, at the extreme west?

Q. As you wish.

A. The weather station and their personnel had moved over next to the radio station, so there was nobody living on the west side of the lake. Leaving the Anglican mission, the Hudson's Bay Company had expanded considerably. They built a new store. There was a married man in there with an increased staff. The Department of Northern Affairs had moved in there with -- I couldn't begin to count the buildings, but a dozen or 15, including schools, living accommodations, warehouse and things

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like that. There was the mission, our detachment then had a second man. It was a two-regular-member, two-special-constable Detachment. There was a nursing station there. The Department of Transport weather had, I think it was five married families, and the radio station had also increased, bringing with them additional married accommodations, a new power house, a great big garage and all other kinds of other buildings. The native population had multiplied I don't know how many times in terms of presence within the community. Again I am going by recollection here, but I would think the population of the community was between 150 and 200.

Q. And how did this growth in the Inuit population of the settlement come about?

A. I think there was a very definite trend or transition from living on the land to living at the settlement.

Q. Are you aware of any reasons why people moved into the settlement?

A. There were many. I think the prime reason people were moving on to the settlement was because of year-after-year extreme hardship on the land, destitution combined with a new philosophy or change in administrative practices whereby accommodation was now being built for Eskimo families; with the introduction of education, administration became a greater requirement for work -- and salaried natives; the presence of the

Dent, in ch
(Sgayias)

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nursing station, the presence of schools, easier access to medical work, education, the amenities that were now present within the community.

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Q. Were you personally involved in the movement of any of the people from the land and into the settlement?

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A. Yes, on many, many occasions.

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How can I best explain this? There were many, at least dozens of occasions where we either went out by dog team and found conditions so severe that we encouraged and provided either the dog team travel or, if we went up by aircraft, and conditions in the camp were so desperate where the people had not had

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food for days, where the people themselves were so thin that their bones were showing, and the dogs you could count every rib without touching it.

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Where conditions were really severe, I did everything possible to encourage these people to either come into the settlement or let us assist them by moving them from one location to another location where possibly fishing or hunting may be better and doing everything we possibly could to assist them in doing that.

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Q. Superintendent, the court has heard in earlier testimony of the movement of Inuit from the Garry Lake district to Rankin Inlet. Do you have any knowledge as to how that came about?

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A. Yes, I do. The destitution and starvation that received such notoriety up in the

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Garry Lake area occurred in the winter of 1957-spring of 1958, prior to my return. So my direct knowledge is primarily hearsay and that which I read in reports which were at the Detachment.

I was involved, however, in discussions with some northern service officers from Churchill in explaining to the Garry Lake Eskimo, who had come down to and were now in either the settlement of Baker Lake or in the Kazan River or north shore, that the mine was in operation at Rankin Inlet and they were talking also about other employment there -- I think a fish plant was in the making and that there would be opportunities there of waged employment and accommodations for any of those people that chose to participate in this program which Northern Affairs called the Keewatin Rehabilitation Program.

And from those interviews I know that some people were anxious to participate and in fact did. There were others from the Garry Lake area who said, basically, "Thanks, but no thanks", and they did not.

In addition, I think it was primarily geared to accommodate these people that relocated from the Garry Lake-Back River area down to the settlement, although there was no restriction on others within the community who thought they may wish to participate. And I know that some of the Baker Lake Eskimos chose to go to Rankin Inlet, and

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they did go.

Q. And to your knowledge were any persons forced to go to Rankin Inlet?

A. Absolutely not. What may have been misconstrued as forcing is, as a result of the conditions that existed the day or days that they left in that everyone who went had the opportunity of saying, "Yes, I would like to go and I would like to try it. If I don't like it, can I come back?" or, conversely, that they could say, "No," they did not want to go.

But because we did not know exactly what day the R.C.M.P. aircraft or commercial aircraft or R.C.A.F. may have been coming up to assist with the relocating of the people, all we could say to them was, you know, "If you stay close to your camp, we will be down within maybe two weeks' time or three weeks' time. When you hear the airplane, if you could get ready quick, because we are probably not going to have too much time." So, at the last moment, there was a lot of rushing around, even to the point that some of their gear was left behind. The fact that this gear was left behind was sort of a rushed departure, but it was not because they were forced to go. They were in agreement to go. I know some of the days that when they were going it was so bitterly cold -- 40, 50, 60 below with a 30 or 40-mile-an-hour wind, and it was cool. So the people did not want to dilly-dally too much. And, yes,

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unfortunately, there was a hurried departure of some of these people from the land on to the aircraft and down to Rankin Inlet.

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Q. I believe that when you were describing the settlement of Baker Lake in the later period you mentioned school building or buildings. Do you know when the school at Baker Lake came to be built?

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A. Yes, the initial school was built during my two-year's absence there from between '56 and '58. When I went back some school buildings were already there. I know the school complex was enlarged upon later, so it was sort of built in phases, but definitely there were two or three or four buildings and two teachers at Baker Lake -- Lolita White or something when I went back in '58.

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Q. During your second tour of duty when you went back to Baker Lake, do you know how the school came to acquire pupils?

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A. Yes. I think the first students to be accommodated were the children of those that were on the post, living with their parents, in many cases waged employees of the various white establishments. Relatives of these people, who were living on the land, would come in and say to somebody living there, "Look, would you mind looking after my youngster while he goes to school?" That type of arrangement was made. Sometimes when they had no

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relatives, actual relatives, living on the post, the Northern Affairs northern service officers would try and make arrangements, wherever there was space within these houses, to put youngsters in, and I think they paid the household \$1 or \$1.50 a day, or something like that, to accommodate and look after these children.

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There were also cases where

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people came in, and they nearly always, coming in from the land, come to the Detachment and engaged in discussion on a very broad spectrum of things. I can recollect on one incident in particular where a man by the name of E-2-342 Pootoomeaklook, for whom I had great respect as being one of the better hunters and providers in the area, came into my office and said, "Here's my son. I want him to go to school."

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Knowing very well that all the

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houses were packed, you know, beyond what they really should be, I tried to say, "Look, there just is nowhere. He cannot be accommodated now but, hopefully next year more houses will be built at the settlement, and he can be accommodated and take part in the school process."

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"I want my son to go to school."

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And he was pretty adamant. And this sort of increased my admiration for Pootoomeaklook, who lived a very primitive life and had this perspective of the value of schooling.

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Q. Superintendent, you

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mentioned that in 1953, when you arrived at Baker Lake, the settlement was about 50 people, and that the population of the E-2 district was about 400. Where were the majority of the people of the E-2 district living when you arrived in 1953?

A. Pretty well scattered to the four winds. They were pockmarked all around the E-2 district, living a very nomadic life in groups of ones, twos or threes in terms of families living very close together.

Q. And were you able to observe anything as to the movements of the camp?

A. I know very well that trying to locate them sometimes became an almost impossible task -- like looking for a needle in a haystack -- because where they were on one visit, you would go back and they were not there the next time. They could very easily have moved five miles, ten miles or farther from where they were.

Trying to locate camps became a very serious concern on occasion.

Q. Were you ever involved in the movement of camps from place to place?

A. Frequently.

Q. Under what circumstances?

A. Well, I sort of mentioned those that came into the settlement and later took part in the Keewatin Rehabilitation Program.

There were times when we visited

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camps or, in fact, when Eskimos came to the post and we were asked if we could help them move from one location to another. "Why"? "Because our dogs are too weak to move." And we usually had an exceptionally good dog team, and we had not an over-abundance, but an abundance of dog food and on occasions we had frequently fed dog teams or two or three dogs that were pretty scrawny when they came in off the land. We provided them with dog food from our supplies so that they could get back to the camp. Frequently they would buy too much, either by trading or through family allowance -- far in excess of what their sleigh could carry -- so we would -- you know, I would ask one of my specials to hook up a police dog team and assist this particular individual with moving back to the land or from one location to another location where they hoped fishing would be more attractive than where they were or maybe where someone else had reported they had seen caribou.

In addition to that, we frequently moved people from one area to another, at their request, by aircraft, because the caribou was gone from there and the dog team was too weak and couldn't move over to another location, so we indulged in that kind of movement as well, and assistance to these people.

Q. And during your time at Baker Lake, did you make any observations as to the availability of caribou?

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A. Yes, we did. One of our chores there internally was to submit quarterly, semi-annual or annual reports. One of these reports was captioned "Eskimo Conditions Generally". The instruction necessitating the submission of this report was twofold in that the commanding officer of G Division wanted to get an overview -- a very broad perspective -- of just how Eskimo conditions across the north had developed during the preceding 12-month period and also to provide the Director of Northern Affairs with a copy of this report so that both levels of administrative or policing responsibilities would have this overview of Eskimo conditions.

So, in compiling data from one end of the year to the other for inclusion in this annual report on "Eskimo Conditions Generally", the information elicited for Eskimos who visited the post, from people that we encountered on the land, from inquiries conducted by my special constable, from information that came to us from the priest, the missionary, the Hudson's Bay Company, we were able to get what I think was a pretty accurate handle on what was going on in each camp.

From these inquiries -- particularly after freeze-up and the first time that people would come into the camp or that we could start travelling -- you know, you checked on health, welfare, morale, but uppermost was, "How many caribou

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cache have you got?"

Depending upon what the reply might have been, we sort of developed a comfortable feeling that this family or this camp had sufficient to subsidize them over the Christmas period or on into the spring or, hopefully, right through the winter months, in which case they were not a personal concern. And I frequently became very concerned about the welfare of some of these people, knowing that their caribou caches were exhausted or almost exhausted or that other people would go in and deplete an already limited supply.

So, on occasion, you would go into the camps and the people looked fat, healthy and happy, and their clothing was absolutely beautiful. On other occasions you would go in and it would be a different ballpark. The dogs, instead of being nice and fat when they had lots of caribou caches, were so skinny that it was pathetic. There were times when the people were very, very thin and not quite so ready to smile as when they had their bellies full and this nice clothing.

Caribou was really the dictator of how well off a particular camp was. If they had lots of caribou, then their dogs were highly mobile and they could do a lot of travelling. So it was pretty well hand in hand, that if they had a successful hunt, their dogs were well fed, the opportunity of trapping was enhanced.

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Q. Your observations as to caching and the people being in good condition and other times in a different condition, is that peculiar to any particular area?

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A. No, it would be beyond me to give you anything with a degree of accuracy from memory. My reports could zero in very specifically. But if you were to start at the settlement and go in sort of an anti-clockwise motion around the community, our fall travels after freeze-up, by dog team, the inquiries we conducted or camp visitations by aircraft, would give us a very good picture by camp as to who had been successful with their summer-fall hunt and who had not been.

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Q. You mentioned poor conditions in the Garry Lake area. Were there any other areas that suffered poor conditions?

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A. I am sorry. I sort of started on a trend there, and I did not finish it.

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As you start going around, it was not consistent that the Eskimos were healthy, happy and had lots of food in any one particular area. But, in some years, the Back River Eskimo had had a very successful hunt; the Shultz Lake-Aberdeen Lake Eskimo had not; the Mallory Lake-Dubawnt Lake people may have; the Kazan River people some years had a terrifically successful hunt and other years they were hauling their sleighs in themselves because they had no dogs.

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The next year or a couple of years later, possibly the Kazan River was blessed with successful hunts. Maybe elsewhere they were not. But it was really not consistent in any one area.

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Q. And what action, if any, did you take with respect to poor conditions of Eskimos?

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A. It was always a very emotional concern and something we handled in a number of ways: by, as I mentioned a moment ago, assisting these people in movement from one area to another where, hopefully, the country's produce would greet them more favourably.

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We could also take them supplies of food from their family allowance accounts at the post. In some cases these were very substantial. When I say "substantial", I mean hundreds or up to one or two thousand credit in the book. We maintained these ledgers for them.

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We would expend those monies on their behalf and take the food to their camp. Welfare -- straight welfare issues may have become necessary and, in which case, that was done.

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My personal philosophy was to do whatever was possible to encourage these people to remain on the land by providing them with fish nets, cod lines, sinkers, nets, ammunition, rifles, boats or in whatever way we could to encourage them to remain living on the land until such time as there

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was possibly something at the community that could offer them some reasonable way of life.

Q. During your tenure at Baker Lake, was any mineral exploration activity being carried on within the E-2 district?

A. The only point I recollect was the camp at Ferguson Lake run by Inco. I visited that camp with the Inco aircraft down there. Activity was very minimal. There was a bare skeleton staff there, so I concluded that activity was very low.

Other than that, I think I only saw one prospector in the area during my five years of tenure at Baker Lake.

Q. During your tenure at Baker Lake, did you have any occasion to make a personal observation of the reaction of caribou to the presence of humans?

A. My personal observations -- there are probably many. But the one I recollect with greatest significance was when we were travelling by canoe down the Kazan River area. We had beached the canoe, having seen caribou on a hillside, and I walked up to the hill and I had never seen a sight like that before in my life. So many caribou. And I very quickly counted off: "One. Five. There's five. There's ten. There is ten. There is a hundred. If that is a hundred, that is two hundred. That is two. That's four. Five hundred. There's a thousand.

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Down one hill. Up the other hill." It amounted to terms of thousands of caribou. These animals would just trot enough to sort of walk by me. We would walk slowly amongst them so as not to startle them to see how close I could get, I guess, to get some pictures. Also seen throughout this herd, some distance away, a number of wolves following along with the herd. They too -- there seemed to be a pocket of 30 or 40 feet of clearance. They moved along very nicely with the herd.

Q. Did you have any other observations at other times?

A. There was one year that for three or four days in a stretch that caribou were passing right through the settlement between my Detachment house and my special constable's summer house on the hill. They just mingled throughout the whole settlement for three or four days on one occasion.

And many times, just travelling by canoe or travelling by aircraft, I observed herds of varying sizes.

Q. Superintendent Dent, you referred earlier in your testimony to a report on Eskimo Conditions. I show you a manilla folder with some papers in it. Can you identify that?

A. Yes. I cannot say for sure that it is the actual file. The reports I can identify.

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Q. You cannot identify --

A. The cover.

Q. The cover. I see.

A. But in the Detachment of Baker Lake, when I went there in the fall of 1953, I had 15 hours indoctrination with my predecessor while we were unloading supplies and he was going down the lake. I went into the office and thought I had better look around to see what is required of me. In the filing cabinet were these quarterly, semi-annual and annual reports we had to put in. There was one marked "Eskimo Conditions". I read the file and read the instructions and learned what had to be done.

Q. What had to be done with these reports? I think you may have mentioned part of it before.

A. It was a matter of an annual submission the 31st of December each year of Eskimo Conditions Generally throughout the area, and the instructions going along with the submission of this report was to include any circumstances of exceptional interest that had happened or just generally the condition of health of the natives, the welfare, the condition of dogs, the condition of clothing, the morale, the inter-relationships of marriage, the proportions of births and deaths -- males and females. All these were incorporated in the instructions which were formatted into these reports.

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Prior to my arriving there, there were a couple that had been submitted by Corporal Carey, who was there in 1951, Corporal McRae, who was there in 1952. It contains the three reports I submitted from 1953 to '56. I was out for two years. During my absence Corporal Wilson, who was in there, his two reports are in here. I was back from 1958 to '60. My two reports are here. After my departure I know Corporal Deer, who went in, submitted the next two reports.

I know all of the individuals who were involved both preceding me, during my two year absence, and Corporal Deer who was there behind me. They followed successfully in this annual return.

Q. Are there any documents in that file in addition to what you have described as the annual return?

A. Yes, there are minimal exchange of correspondence from the Director of Northern Affairs acknowledging receipt of the reports, thanking us for them, and incidental exchanges and also the odd comment in return from the commanding officer of G Division. There are also two detailed reports covering the transition of the primarily Garry Lake-Back River Eskimo to Rankin Inlet on this Keewatin Rehabilitation Project.

Q. Who prepared those two reports?

A. I did.

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Q. If you look at the pages in this document, there are red numbers in red circles in the left hand lower corner of each document. How did those marks come to be on the documents; do you know?

A. I put them on.

After consultation with you -- or possibly I am just getting a little ahead of myself here.

I guess about a month or so ago I started getting a number of calls from people I didn't even know, asking what I knew or what I remembered about the Baker Lake area. I have unlimited memories of Baker Lake in my five-year stay there -- very fond memories. To zero in with any degree of accuracy about what happened over 20 or 25 years, I had to say, "Look, I may be just a little shaky. But, wait a minute, possibly at Baker Lake those records that were put in during my five-year stint there -- maybe they are still in existence." They shouldn't have been because our system of file destruction says that these are to be destroyed every three or five years. But I learned why they were not destroyed later.

After making inquiries of our Detachment commander at Baker Lake to see if there was something there, he sent this over to me, and I was as surprised as anyone to know that these records were still in existence. So, after speaking

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with you and being advised that I would be called here and that these records would possibly be tendered before the court, I thought, for ease of use between counsel and His Lordship here, that if I numbered every page and somebody wanted to refer to it, that you could do so and all be on the same wave length and possibly it would be a little easier.

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I did make some copies and gave this to you.

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Q. So I take it then that you placed the numbers on these reports recently.

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A. I did.

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Q. There are also on various pages yellow highlighting. Do you know how that yellow highlighting came to be placed on the documents?

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A. Yes, I do. When my commanding officer was apprised of the existence of these reports, and that I may be called here to Toronto, he wanted to read the file. He did so. And as he was going through them, he realized that there were many people other than Corporal C.J. Dent that were identified in these reports -- other government departments, specific individuals that were mentioned -- and he was highlighting in his mind "not just the Mounted Police. There may be other people who could contribute something." So this is his highlighting of other agencies that were involved with the welfare and the administration of the Eskimo people.

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Q. What information generally were these annual reports to contain?

A. Wellbeing, primarily, of the Eskimo people in the E-2 District.

Q. You said that you were doing this for your commanding officer. Was it under his direction?

A. Yes.

Q. At his direction?

A. Yes.

MR. SGAYIAS: My Lord, I would request that the "Report of Eskimo Conditions" found in the file produced by Corporal Deer be entered as an exhibit.

THE COURT: That will be

Exhibit D-9.

EXHIBIT NO. D-9: File containing 14 reports of various R.C.M.P. officers re "Eskimo Conditions"

THE COURT: There are other things in the file, I take it?

MR. SGAYIAS: Yes, there are other things in the file, My Lord, and I do not wish to rely upon them. My friend may make whatever use he wishes of them.

I am just seeking to put into evidence the reports. I can identify those by page number, perhaps, with assistance of the witness so that the record is clear.

Dent, in ch
(Sgayias)

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BY MR. SGAYIAS:

Q. Superintendent, perhaps you could begin by going through the file and just indicate by the page numbers which you have placed on the pages which pages are reports and for what year and by whom they were prepared so it is clear on the record.

MR. GOLDEN: If I understand correctly, if my friend is not tendering the others, perhaps he could separate them.

THE COURT: I was kind of wondering, having found these things so fortuitously, would you rather put in photocopies of the pages that are pertinent as an exhibit? Perhaps the original file is of some interest to someone else.

MR. SGAYIAS: If that could be done, My Lord, it would be satisfactory to me to photocopy the pages which are actual reports and leave out the pages which are incidental correspondence.

THE COURT: Perhaps we can identify those pages now so that this photocopying can be done at leisure.

MR. GOLDEN: My understanding was that my friend would tender the documents prepared by Superintendent Dent -- that is the reports that were done by him. Or, am I not clear on that?

MR. SGAYIAS: I seek to tender the reports prepared by the other persons mentioned as records made in the ordinary course of business

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(Sgayias)

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pursuant to a duty.

MR. GOLDEN: The balance is just a few incidental pages of no consequence in any event.

I thought my friend was separating out the reports prepared by this witness.

THE COURT: There may be, for all we know, some editorial comment by the Superintendent or Commissioner on what sort of a job the guy was doing up there.

THE WITNESS: That is there.

MR. GOLDEN: Apart from the reports themselves, I have examined them --

THE COURT: I take it Mr. Sgayias is quite willing to have the whole thing go in, if that is what you want. But he intends only to use the reports themselves.

MR. GOLDEN: I misunderstood. I thought he was referring only to the reports this witness has prepared. If not, there is no point.

BY MR. SGAYIAS:

Q. Superintendent Dent, just so we can have the reports identified for the record -- and I realize this is going to be in reverse chronological order -- but, beginning at the top of the file, would you identify the page number, the author and the time period to which each report refers?

A. Report dated February 16, 1962

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Dent, in ch
(Sgayias)

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caption:

Conditions Amongst Eskimos
Generally -- Annual Report --
For Year Ending December 31st.,
1961

encompasses page 8, 9, 10, 11, 12, 13, 14, 15.

Q. Who was the author of
that first report?

A. Corporal Deer. There is
another report dated January 17, 1962, same caption,
for the year ending December 31, 1961, pages 17, 18,
19, 20, 21 and 22, authored also by Corporal B.A. Deer.

Q. On page 22 there appears
to be a signature. Are you familiar with the
signature of Corporal Deer?

A. Yes, I am. He was my
subdivision staff sergeant when I was the officer
commanding of Inuvik subdivision, and I processed
his reports daily for two years, and that sure looks
like it.

Q. Please continue.

A. The next report is dated
January 27, 1961, covering the period 1960-61, page
31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43,
44, 45, and that report is concluded on page 46 and
also submitted by Corporal B.A. Deer.

The next report, the first one
in this sequence that was submitted by myself, is
dated January 11, 1960, covering the period ending
December 31, 1959, commencing on page 51, 52, 53, 54,

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Dent, in ch
(Sgayias)

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and concluding on page 55 with what I recognize as my own signature on the bottom of it.

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The next report is dated March 1, 1959. The caption changes here to the "Keewatin Rehabilitation Project, Rankin Inlet, N.W.T. (Assistance to Department of Northern Affairs and National Resources), pages 59 and 60, with my signature on the bottom of it as having authored the report.

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The next report is dated February 2, 1959, captioned "Destitute Relief and Issue of Family Allowance to Garry Lake Eskimos, N.W.T." pages 61, 62, 63, 64, 65, again with my signature at the bottom of it.

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The next report is dated January 5, 1959, captioned "Conditions Amongst Eskimos - Generally for the period ending December 31, 1958", pages 67, 68, 69, and concluding on page 70 with my signature.

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January 28, 1958, same caption, ending December 31, 1957, pages 71, 72, 73, 74, 75 with the witness of Corporal V.D.R. Wilson affixed at the bottom of that page.

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The next report is January 30, 1957, for the period ending December 31, 1956, pages 76, 77, with the name and signature of Corporal Wilson, being the author.

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The next report is dated January 2, 1956, for the period ending December 31, 1955, pages 78, 79, 80, 81, with my own signature on

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(Sgayias)

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the bottom of page 81.

The next report is January 5, 1955, covering the period ending December 31, 1954, pages 82, 83, 84, with my signature at the bottom of that page of that report.

January 18, 1954, same caption, period ending December 31, 1953, pages 85 and 86, with my signature at the bottom.

The next report is January 2, 1953, covering the period ending December 31, 1952, pages 87 and 88 were authored by Constable McRae.

And the final report in this annual report file is dated January 3, 1952, covering the period up to December 31, 1951. It was a one-page report, numbered 89, with the signature at the bottom of Acting Corporal W.L. Carey.

Q. Thank you.

MR. SGAYIAS: Has that been made an exhibit?

THE COURT: Well, you were going to make photocopies of the pertinent pages. I am quite prepared, of course, to have the whole file.

MR. SGAYIAS: I think it would be best to have the whole file. I just checked my own photocopies and there is some difficulty in making good photocopies from the tissue paper and carbons.

BY MR. SGAYIAS:

Q. Superintendent Dent, if I

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(Sgayias)

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may take you back to the school at Baker Lake and how it acquired pupils. Did you make any observations as to the condition of children coming to the Baker Lake school to be pupiled -- their physical condition?

A. You mean those that came in off the land?

Q. Yes.

A. My recollection, going back that far is just too vague. But I know one of the first things that happened when they did arrive at the post is that most often they were completely outfitted with new clothing. Beyond that, I couldn't comment.

Q. As I understand it, you were responsible for law and order. Was education compulsory -- school attendance compulsory while you were in Baker Lake?

A. Not to my knowledge, no.

Q. Were any children, to your knowledge, forced to come in from the land to attend school?

A. Not to my knowledge. They were not.

Q. Were you involved in the movement of children to the community?

A. I am hesitating here for a reason. If I could explain --

There were times when we were

Dent, in ch
(Sgayias)

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out by canoe -- my special constable. And I get the feeling that they may have brought children in. It may be that there were aircraft there. If it was the police plane and it was time for school to start, then the police plane would have been made available to bring children in. If my memory serves me correctly, Northern Affairs chartered aircraft to do this.

And, you know, you said -- maybe I didn't make it clear enough -- about forcing children to come to school. I think there was a genuine encouragement for the children to come to school when there were facilities in which they could be accommodated. I have the feeling that more often during the stages where the schooling system was being set up that there were far more children turned away than they wanted to see turned away. But, later on, as there were more houses and more opportunities, then more children came and were encouraged to do so both by Northern Affairs and in some cases there were Eskimo parents pretty insistent that they wanted their children to go to school.

But, forcing -- I am absolutely unaware of any such occurrence taking place.

Q. At the time that you departed from Baker Lake, sometime in 1960, were there any persons living on the land in the Garry Lake area?

Dent, in ch
(Sgayias)

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A. They had all been removed. They had all come either to Baker Lake -- Kazan River or in fact had gone to Rankin Inlet on this Keewatin Rehabilitation Program.

Q. Were you involved in the movement of persons from Garry Lake area into the settlement of Baker Lake?

A. No, I think that was done primarily in the spring of 1958, prior to my going out. If I may check that report of 1959, I would know for sure.

I am having a little chronological difficulty here because I know that I flew into the Back River area with an R.C.A.F. Norseman, or a single-engine Otter aircraft because we had heard Eskimos up there were destitute, and I remember the circumstances extremely well because it was my first day. I just don't remember the year. There were 14 Eskimos living in this one camp. There were three or four adults and the rest were all children. They had five dogs. All they had had to eat for the last three or four days was one fish they had caught, and there was absolutely no other food in that camp. Nothing.

We put all these people into that one airplane because we knew a very bad weather front was coming in. Within 24 hours a severe storm was expected to hit. It was so cold, the pilot wouldn't stop the motor. We secured everybody in the

Dent, in ch
(Sgayias)

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airplane and I got in behind the co-pilot. We got up to about 500 feet and blew the main oil seal, and I thought that was the end of the ball game.

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We crash landed there. Luckily there was an air force DC-3 at Cambridge Bay that we were able to establish communications with that night and it came the next morning and flew us all down to Baker Lake.

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So, yes, I was involved in that evacuation, if I could just remember the year. But I am quite certain that it was not the spring of 1959.

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If I might refer to the report on page 51, dated January 11, 1960, paragraph 3,

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about halfway down, the sentence starts "None of the E-2 district Eskimos are camped on the Back River, or in the Garry Lake areas, although during 1959 a request was made by one of the area's most respected Eskimos, Angoshealo, who requested assistance in moving he and his large family to Garry Lake."

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So, yes, I think I was safe in saying that there was no evacuations in the 1959 period in Garry Lake or the Back River into Baker Lake.

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MR. SGAYIAS: Thank you, Superintendent. Those are all my questions.

CROSS-EXAMINATION

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BY MR. COSMAN:

Q. Superintendent, we heard

Dent, cr.ex.
(Cosman)

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an anthropologist testify that in a hunting society it is not abnormal for the hunters to go without eating for several days. How severe was the starvation that you experienced or that you saw during your tenure at Baker Lake?

A. Without appearing to be overly sympathetic, because I have great admiration for the Eskimo people, and I admired them for what they could do and the way they could live in the environment they did, when I couldn't, so I don't think I was particularly over-sympathetic. Maybe empathy, yes.

But I saw conditions that really saddened me, and I was very concerned over the survival of small groups of families when we went in. This was based on personal, physical observation of these people on occasions being so thin that it was almost pathetic, and dogs so scrawny that they could not possibly haul a load.

Yes, I would say that is kind of destitute.

Q. Do you have experience with illness and death arising from starvation?

A. Yes, I do. I mentioned earlier that one of our prime responsibilities during the first three years of my stay at Baker Lake was lay dispensary work for the Eskimos. I have seen cases where patients had temperatures over 104 and I had them on the floor

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Dent, cr.ex.
(Cosman)

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of my carpenter's shop where I was trying to find enough flesh on the upper outer quadrant of the buttocks to give them an injection of penicillin, they were so thin.

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There are cases where we have brought or natives were brought in from the land to the post where conditions were so severe that I called for immediate aircraft evacuation to the hospital in Churchill knowing that these patients ended up in the sanitarium at Clearwater, Manitoba.

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There were occasions when we were able to resolve some of their illnesses at Baker Lake after periods of two, or three, or ten or twelve or fourteen days and they returned to the land.

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There were cases too severe for me to handle, and I was genuinely concerned and, as good luck would have it, on a couple of occasions there were wives of D.O.T. people who were registered nurses, and they came and rendered invaluable assistance and comfort.

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Q. And have you had an opportunity to review the records that have been marked as an exhibit prior to this trial?

A. Pardon?

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Q. The annual records. Have you had an opportunity to review those?

A. Yes.

Q. Do those records contain instances of death caused by starvation?

A. Yes, they do.

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Dent, cr.ex.
(Cosman)

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Q. Was starvation a regular occurrence in the period of your tenure at Baker Lake?

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A. We were the Registrar of Vital Statistics, and I signed all the birth certificates and death certificates. Those death certificates that were signed -- to reach a conclusion as myself as a layman could to put cause of death on those certificates was frequently not easy and not done lightly. I had to question myself, on occasions, "What do I really put? Is it starvation? Is it tuberculosis? Is it influenza? Is it pneumonia?"

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But the way we tried to make it as accurately as we could under the circumstances was all the peripheral information that we could gather to reach a conclusion on occasions when we could examine the body, which was not always possible, and satisfy ourselves that there were no external signs of violence. You could see a very palid colour or you could see an extremely thin torso.

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You tried as best you could to reach a conclusion, but before I would put down a starvation conclusion, there had to be a lot of other supportive observations or information.

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Q. As a matter of course, did you make inquiries as to the availability of food to a person whose death occurred in your jurisdiction?

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A. Yes, usually we knew.

Dent, cr.ex.
(Cosman)

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MR. COSMAN: Thank you very
much.

CROSS-EXAMINATION

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BY MS. KOENIGSBERG: Superintendent
Dent, did Dr. Vallee come to Baker Lake, during the
time you were there, to do some research?

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A. Strange as it may seem, I
can tell you the day exactly. I have a diary here.
As a matter of fact, we maintained a daily diary
all the time I was in the north. But the only one
I could find is 1959 and '60, and there were two
days in here where, yes, I had discussions with
Dr. Vallee at Baker Lake.

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Q. And are you familiar with
the report "Kabloona and Eskimo in the Central
Keewatin" by Dr. Vallee?

A. I read that book.

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Q. And did you assist him in
some respects with regard to the collection of
census figures and other data which appeared in his
report?

A. Yes, I spent literally
days with Dr. Vallee.

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Q. I would just like to show
you a table. It is table 5 on page 14 of that
report, and ask you if you are familiar with that
table.

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A. I cannot say that I am
familiar with the table, but those types of statistics

Dent, cr.ex.
(Koenigsberg)

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incorporated here are the type of research that Dr. Vallee and I did together by going through all the death certificates.

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Q. Right. It says at the bottom, source: death certificates. And this table is for causes of death, Baker Lake region, 1949 to 1958. Would some of the death certificates which would be relied on with regard to that table be death certificates which you had signed?

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A. Yes, they sure would have been between 1953-56 and part of 1958.

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If I could comment here on the starvation aspect of it.

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Q. I will leave that in front of you.

A. I mentioned my own observations as best one could determine would indicate what you would put on the death certificate.

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When I went back into Baker Lake in 1958 and read the reports of what had transpired in Garry Lake during the spring of 1958, there were 15 deaths documented as being caused by starvation as a result of an inquest and a decision of the jury. So I would accept those as being fairly authentic versus the type of documentation -- the conclusions I reached.

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Q. I think you told us, with respect to a question which my friend asked you, what observations you would have made before you would have put starvation as the cause of death.

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Dent, cr.ex.
(Koenigsberg)

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A. I am sorry. Would you repeat the question, please?

Q. I was just saying, to make the answer more complete, that you already said, in response to my friend, what observations you would have made --

A. Yes.

Q. -- before you would have put down starvation.

A. Yes.

Q. I was interested in the number of deaths due to tuberculosis. How is it, if you were signing the death certificate, you would have come to that conclusion?

A. Well, there may be some degree of accuracy in the information that is here when it says death by tuberculosis because, again, these reports -- and if you would like me to take the time to find out specifically, I could -- but there were reports in here in these annual Eskimo Condition reports -- and I think it goes back to 1953 when the first ever TB X-ray was conducted at Baker Lake. There was a supply ship that came in with doctor and nurses and an X-ray machine. We took Eskimos back and forth from the land to this boat, and they were X-rayed. These natives then returned on the land.

During the next spring we started getting the results of these X-rays, and the number of these people that had to be evacuated

Dent, cr.ex.
(Koenigsberg)

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because of active tuberculosis or tuberculosis that showed presence on X-rays but in fact had been arrested, so some of those people that were evacuated because of a positive identification on the TB plate were sent back later because it was not in fact active.

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Some of these people came into the post or we saw in camps had a palour, a thinness, a coughing, a retching, brought up phlegm and blood. Again, this combination of factors caused me to believe that they had tuberculosis. And some of these people in fact died at Baker Lake, so I could quite conceivably have put on the death certificate "tuberculosis (pneumonia)" or something like that.

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There are some facts and figures in here about the numbers of cases of TB that were identified, and I think it was 1953-54 and possibly into '55. I think it was in 1954 that they came in with an aircraft and with a portable unit and they set the portable X-ray machine up in the Hudson's Bay Company and, aided by two small aircraft, we went out in all directions to pick up the Eskimos that in fact had not been X-rayed before, took them in, had X-rays, returned them back to the land.

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As a result of this X-ray, again, there were additional positive cases of tuberculosis identified, and I think the certificates are in here, and they, too, were evacuated to the sanitarium.

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Dent, cr.ex.
(Koenigsberg)

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Q. And when you were referring to "in here", you were referring not to Dr. Vallee's report, but to the annual reports of the R.C.M.P.?

A. That's right.

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Q. One last question. Number 69 of your reports, paragraph number six makes reference to people from Fisheries who came up and conducted a survey of fishing in the Shultz Lake area. They were quite successful. It goes on about passing information about how to fish or fishing to the Eskimos located in the area. Were any programs instituted, that you know of, by the R.C.M.P. or by yourself with regard to helping the Inuit to utilize the fishing?

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A. There was one program attempted during my second presence at Baker Lake, and I understand there was another one after I left.

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Excuse me. A number of factors caused its lack of complete success that they had hoped to realize. But it was conducted over the Kikahtavyuk River, just off the southern shore of Baker Lake, and it was a very bad spring, the ice was prolonged. There were a number of factors -- wind, rain. It was just a lousy spring and they really were not able to put the effort, but they did catch, I think, between eight and nine thousand fish.

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To my knowledge, that was the first instance where this harvesting of fish has been

Dent, cr.ex.
(Koenigsberg)

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successfully or semi-successfully engaged in by these inland Eskimo. But these two Fishery officers -- and they had a successful survey -- but one of them drowned coming down the Thelon River, so it was a heck of a summer.

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They just fished for a matter of a few days and had literally hundreds of fish cached.

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It was my own observation, substantiated and supported by Corporal Deer and the northern service officers which were in there at the time, that maybe there was another resource there that was not being utilized the way it could and should be.

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And, in fact, to maintain our dog team, we set up fishnets over the Kikahtavyuk River every spring. We used to put in 15 to 20 fishnets and tended them 24 hours a day for four to six weeks at breakup time and we used to catch ten or twelve thousand fish, hang the meat up to dry, and use that for dog food during the winter months along with walrus and seal that we were able to get on some hunts.

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Q. Was this kind of extensive fishing engaged in -- by your observations -- by the Inuit in the area?

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A. No, it was not.

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Q. Was it subsequently do you

Dent, cr.ex.
(Koenigsberg)

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A. I don't know what has happened in the last 18 years there, really. But I just do not think, to my knowledge, it has been pursued to any degree of vigour.

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MS. KOENIGSBERG: Thank you. Those are all my questions.

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THE COURT: Perhaps, Mr. Golden, we should take our ten-minute break.

--- Short Recess

--- Upon Resuming

CLARENCE DENT, Recalled

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CROSS-EXAMINATION

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BY MR. GOLDEN:

Q. Superintendent Dent, during your stay in Baker Lake, you must have observed the religious nature of the community.

A. Yes.

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Q. Is it true that virtually all the Inuit who either lived in Baker Lake or lived in the areas under your jurisdiction were observably religious?

A. Very devout.

Q. Very devout. And -- pardon?

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A. I was just going to say the proportion, I think, of the 400 and some people, there was about 90 per cent Anglican and 10 per cent Catholic. It may or may not mean anything to you, but they sort of made an arrangement between the two

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Dent, cr.ex.
(Golden)

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churches that the R.C.'s stay out at the Chesterfield Inlet area and the Anglicans come inland.

Q. You are talking about the missionaries now, not the Inuit.

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A. I am talking about the Inuit. There was an agreement between the churches and that is basically the way it started. They started to branch out a bit.

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I could go on about the devoutness. My special constables, when I travelled with them, they carried a Bible in a little duffle pouch. Before they would start in the morning and before going to bed at night they read from scripture. So they were very devout.

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Q. I understand that in the camps that you visited -- and I am sure you visited many -- no work would be done on Sunday?

A. Yes, pretty well it.

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Q. No caribou hunting, no skinning of animals, no trapping?

A. They recognized the Sabbath, yes.

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Q. And we noticed in Baker Lake, and I am sure you observed this as well, the use of alcohol in a community like Baker Lake and indeed, of course, the camps surrounding it, was, to say the least, minimal.

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A. Yes.

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Q. And, in fact, I go further

Dent, cr.ex.
(Golden)

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and say it was frowned upon by the people of the community.

A. I can only assume that is the case.

Q. And you mentioned in your evidence in chief that crime was not a problem.

A. No, it was not.

Q. In fact, there was very little experience, either going back to the period when you were resident there or, indeed, up to the present -- very little experience with anything that might be termed serious crime in the Baker Lake area.

A. No serious crimes.

Q. It is within your jurisdiction now?

A. That's right.

Q. Are you aware of the potential effect on the crime rate of an influx -- and I am not suggesting we are all carriers of crime -- but an influx of southern white influence?

A. The influence that affects these people the greatest is brought about by the presence of alcohol which, in some cases, is related to the influx of white people, not necessarily in conjunction with each other; but alcohol is by far the prompter of crime and disorder -- social disorder.

Q. Would you agree with me, as a law enforcement officer, that you and your force

Dent, cr.ex.
(Golden)

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would have to be increasingly vigilant in the event that the area developed as a mining resource centre or mining centre?

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A. Yes, it could affect policing. There are some mining communities where policing is really not a problem. There are other mining communities where there can be very much a problem.

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There are examples in the north right now. At Pine Point, for example, a delightful community to live in, and they have a few hundred miners there now. I don't know how many.

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Q. You mentioned the Rehabilitation Project. That was at Rankin Inlet, was it not?

A. Yes.

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Q. And you are familiar with the difficulties encountered in Rankin Inlet in terms of law enforcement?

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A. Well, at that time I do not think there were any problems in that it was a relatively new industry there. It was just starting up. I don't think initially it was a problem. I think problems came in subsequent years after my departure.

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In my knowledge of the area, up to and including 1960, Rankin was not recognized as a problem.

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Q. Following that it became

Dent, cr.ex.
(Golden)

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a rather notorious --

A. I understand it was a different ball park later on.

Q. We won't get into that. It is outside of your specific knowledge.

A. Yes, it would be.

Q. If one had not read all of your reports and knew what we all, I think, have come to know about the area, listening to the examination in chief today and cross-examinations, we would get a picture of absolute destitution, starvation and disease in the area. I don't think you meant to convey that, did you, sir?

A. It may be that came out. But I also said it was sort of a comparison situation. Because on occasions you could go into some of those camps and it was heartwarming. It was delightful to see these people well filled out, their clothing top quality, the dogs in good condition. So it was a comparative thing. If I over-conveyed one impression, I really didn't mean to.

Q. I thought that perhaps my colleagues may have led you into that without you necessarily wanting to. That is why I put the question the way I did. Can I assume that where there was trouble -- if I may put it that way -- in the form of disease or serious problems of starvation, that it would be the subject of your action at the time and your report later on?

Dent, cr.ex.
(Golden)

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A. You used the term starvation versus destitution or something less than starvation.

Q. No, I included it. You were either concerned that an Inuit family might starve or might not have sufficient means to carry them through the winter. That would become a matter of concern to you.

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A. Uppermost concern.

Q. Surely. Then you would go out and do whatever you had to do to solve that problem.

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A. That's right, sir.

Q. And you would report on that?

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A. Yes.

Q. Somewhat like the newspapers, it is not necessary to give as much attention to the ordinary and commonplace, is it? Things that did not draw on your particular concerns of the 400 people living in your area, I gather from your reports, in any particular year, more than 300 of them would be quite happy, well-fed and content.

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A. I would hesitate putting a figure on it until you sort of break it down area by area. It was sort of an evolving thing: some years real good, some years not so good; some years in between. It just did not seem to be with any consistency with one area more so or less so than another.

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Dent, cr.ex.
(Golden)

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Q. In almost any given year there would be an area of plenty and an area of hardship?

A. Yes.

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Q. And the next year the area that was hard the year before would be good, and some other area would be hard?

A. It could develop that way.

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Not necessarily so, but basically that was the concept. Some years -- maybe successive years it was good; maybe successive years it would have been, you know, almost a disaster as a result of failing to acquire caribou caches.

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Q. How many caribou would there be in a cache?

A. It would depend on what the hunter did as the caribou fell. If they were in close proximity to one another, he would haul carcasses together. There may be one, there may be

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more than one.

Q. You have referred to caches as some number. I wanted to make sure that we were talking about the same thing. A cache may include more than one caribou?

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A. Yes. A cache being a carcass of caribou.

Q. Oh, a "cache" being a

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A. It could be one. It could

Dent, cr.ex.
(Golden)

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be more than one.

Q. Up to how many in a cache?

What would be the maximum? We know what the minimum would be.

A. From one, two -- I have seen four and five and I have seen up to maybe eight or ten. There may be more. I don't know. I haven't seen them. I mean caches of greater numbers than that.

I have some pictures of a cache of caribou with one horn sticking up. There are other times you would see carcasses there that were not cached. What we encouraged the Eskimo to do, and what most of them did, when they shot a caribou during the summer or fall, would be to cover it over with rocks so the predatory animals couldn't come and feast on some of these caribou.

Q. They must have learned that before the R.C.M.P. arrived.

A. Yes, true. But sometimes they didn't always do it. So we encouraged them to do it. A lot of the caribou were wasted through this unprotected means.

Q. In times of what I might call plenty, in terms of the Inuit -- not necessarily in our terms as we are all well-fed, we are comfortable that way -- were the Inuit in a position, normally, to carry on their own survival? I am exempting now the Garry Lake tragedy which we discussed

Dent, cr.ex.
(Golden)

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and which will be discussed again. But, normally, would the Inuit design their own life to take into account times of hardship and times of plenty?

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A It was their way of life, yes.

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Q. And, in fact, it was particularly hard, I gather, for whites who came into the community to learn to live with that rather harsh reality: that the Inuit lived a nomadic, hunting existence.

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A. Yes, harder for some than others. Yes.

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Q. In fact, many times you would want to reach out and help people who were obviously very hungry.

A. Yes.

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Q. And I think we all would, but it was understandable that whites living in the north would want to do that. And even Inuit, I suppose, if they were in a position to help each other, would want to do that.

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A. And did.

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Q. In fact, it was part of their life, was it not, to share among themselves?

A. It was.

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Q. And, also, you have already told us, to move from one area to another if times were tough in one area?

A. Frequently.

Dent, cr.ex.
(Golden)

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Q. From time to time you found it necessary to move Inuit families -- you were talking of some of this in your reports -- from one area where there were no caribou to an area where hunting would be better.

A. Hunting and/or fishing, hopefully.

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Q. And you made available to them either the facilities of your dog team or, more often, probably your aircraft.

A. Yes.

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Q. And that -- especially the aircraft -- was a source of assistance that until you, that is the R.C.M.P., arrived, was not available.

A. I cannot say that is completely true because there were other aircraft in the north, for whatever purposes, that stopped at isolated communities and I know assisted camps. It was just not our aircraft or just Northern Affairs planes, but frequently aircraft in on other purposes -- Canadian Wildlife Services.

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Q. What I am really getting at is that the Inuit are a resourceful people and you are not surprised that they would take advantage of any resource available to them to help them, say, move from one location to another.

A. Not at all.

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Q. In fact, I gather you did not even discourage that, but actually agreed to it

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Dent, cr.ex.
(Golden)

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and helped in that way.

A. Yes.

Q. You have indicated you did not encourage the people to come and live in the settlement of Baker Lake because there was nothing for them there.

A. That's right.

Q. There were occasions, you have indicated, and I am being somewhat general now, but it is contained in your reports, when some people in Garry Lake had to be moved to prevent their starvation because some had already died. That was documented. Can I assume that when you moved those people that you did not move them into the settlement of Baker Lake, but you moved them, rather, into the area around Baker Lake?

A. That movement took place prior to my going back to Baker Lake in the summer of 1958, and I think it was the movement following the starvation that spring that happened probably before my arrival in mid-summer.

Q. Can I just go to the report covering the year 1958, which starts at page 67? It is paragraph 2. It says:

GARRY LAKE: Following the serious condition which struck this district last spring, it was deemed in the best interests of the remaining

Dent, cr.ex.
(Golden)

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natives, that they be moved
down to Baker Lake.

Are we referring now to the same incident?

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A. Yes, we are. I am with
you, I think.

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Q.
Nine families were brought here
and they were given relief
assistance. Later in the
summer most of these people
moved to the Kazan River
area. Two hunters in
particular were fortunate
and able to cache almost
100 caribou caches. The
other families obtained only
a very few which resulted
in an accumulation of
Eskimo to drain upon the
resources of the more
fortunate hunters.

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Then you go on describing what happened as a result
of that and there was some discussion at the end of
that paragraph leading to the relocation of the
Keewatin Rehabilitation Project which we now know
is the Rankin Inlet site.

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Do I take it, then, that this
was -- was this the most severe case that you are
aware of in the area -- the Garry Lake incident?

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Dent, cr.ex.
(Golden)

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A. Yes.

Q. It is certainly the one talked about all the time.

A. It gained an awful lot of publicity at the time.

Q. In fact, it got so much publicity at the time that it caused you some real concern, didn't it?

A. I am sorry. I don't quite understand.

Q. Do you recall when an R.C.A.F. Dakota was dispatched to assist in the evacuation to Rankin Inlet?

A. That was from Baker Lake, not Back River.

Q. Yes, that's right.

A. Yes.

Q. What had happened was that there were a few Back River people who were going to go to Rankin Inlet.

A. Yes.

Q. Among others who had been encouraged to do so from the Baker Lake area generally.

A. Encouraged to do so or they themselves wanted to participate in the program.

Q. They didn't get sent the directives from the government. I suppose somebody had to tell them about it.

A. Yes, and some of them decided

Dent, cr.ex.
(Golden)

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to go who were not amongst those Garry Lake Eskimos.

Q. I understand. I think we are talking about the same thing. What I am concerned about is that there were some people who were going to go to Rankin Inlet.

A. Yes.

Q. This is found at page 62. It starts at page 61, but I am concerned with paragraph 6 on page 62 of your memorandum. It gives some idea of the --

A. Oh, yes. All right.

Q. It gives some idea of the problem. You were on the scene and very familiar with what had gone on and what was happening at the time.

A. Yes.

Q. And somebody dispatched a Dakota aircraft to Baker Lake to take the people to Rankin Inlet. These people, as you said, included a number of people who had never been to Garry Lake or Back River.

A. Yes, that's right.

Q. But among them were a few of the people who had decided to go to Rankin Inlet.

A. From Garry Lake, yes.

Q. And there was some discussion in your memorandum about scheduling the arrival of the aircraft and how many seats would be

Dent, cr.ex.
(Golden)

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needed and this sort of thing. And in paragraph 6, the middle of the page, you say:

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The writer was quite startled to hear the Winnipeg CBC news to the effect that an R.C.A.F. Dakota had been dispatched to transport 70 starving Eskimos from Baker Lake to Rankin Inlet.

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A. Which was a misinterpretation, a distortion, by the press. They picked up something that happened a year before, and all of a sudden they heard an aircraft was going in and starvation was involved and they bulked it all together. It really was not the case.

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Q. You go on to say, if I may, in the next sentence:

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There were not 70 Eskimos considered for Rankin, and there were no starving Eskimos known to this Detachment. The following message was prepared and sent to the O.C. "G" Division...

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which you then quote -- dealing with the schedule and so on of the aircraft.

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A. At this particular time.

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Q. I guess you get a

misconception in the south, do you not, of things that

Dent, cr.ex.
(Golden)

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are happening in the north. Starving Eskimos becomes a big --

A. If you had listened to the news the year before, it was very prominent and very true.

Q. Yes, some people had starved in Garry Lake.

A. It was discussed very openly on the floor of the House of Commons.

Q. I wonder how many times they had been rescued over the news broadcasts over the years that intervened.

A. Yes.

Q. That being so, the general impression, of course, is what you describe. But, in fact, there were occasions when you had to provide welfare through your family allowance food to Inuit who were having a difficult time on the land. That happened on occasion, did it not?

A. Frequently, yes.

Q. By and large, it is safe to say that the Inuit hunters that lived in the camps with their families were able to survive on the land as they had for many years before.

A. Yes.

Q. Now, when the Inuit did have -- on those occasions they did have to come into Baker Lake because they were brought in on the R.C.M.P. plane either for reasons of health or for

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relief purposes, which I gather you documented, each time it happened, in your report?

A. Not each instance was documented in this annual report on Conditions - General. Some things were dealt with specifically as they occurred on a relief file, and it was just a one-shot deal and finished. So, unless it became sort of a regional thing that I thought sufficiently important to incorporate in the generalization in the annual report, then it would not have been put on.

Q. On those occasions, though, at the time that you were there -- indeed, from the reports and it seems the practice was followed even after you left -- when a family came in, they were encouraged to go back out on the land.

A. That was my philosophy, my encouragement. I did that. When it was necessary. Not always was it necessary. Many times they came in and they were just as anxious to leave that settlement and get back to the land as quickly as could be. But there were some occasions when a little prompting was necessary, too, because the dogs were getting weak and there was really no chance for them to fish or hunt caribou or trap on the post and sometimes it took a lever to say, "Hey, fella, time to start heading back out."

Q. I gather it was your opinion and that of your colleagues -- I note no difference in the reports on that. You talk about not

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encouraging them to loiter in the settlement and others, following your report, say the same thing in the years you weren't there. This seems to be a topic of concern.

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A. On occasion it took

encouragement to go.

Q. But it was your policy and

philosophy that it would be better for them to be on the land?

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A. Yes, on the conditions that

existed at that time.

Q. I should like to come to

that because that is an important distinction. We

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can assume, therefore, that even if a particular

group, say, someone -- well, I am sorry. I should

stop myself again. As I understand it, the people

from Back River were not encouraged to go all the

way to Back River. They were encouraged to settle

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closer to the community so that if they needed

assistance again, it would be made more readily

available to them.

A. Encouraged or by their

choice. I would think primarily the latter. It

may be because of a number of things. Possibly their

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dogs were not strong enough to get them too far

away or because we were pretty confident there was

no caribou up there or just for many reasons. Possibly

one of the wives was pregnant. "If you can stay a

little closer, stay closer." It may be that there

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were small children, whereby regular supplementing of their diet could be done easily if they were within two or three days' dog team travel versus a week or ten days of dog team travel.

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So, just to say, you know, encouraged to stay close to the settlement, there would be reasons, you know, surrounding that encouragement which they would probably see and choose to do on their own initiative.

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Q. Yes, but it was suggested by you and the Northern Service Officer, was it not?

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A. I could well have said that to them. "Look, you know, if you are not too far away, we will be able to keep in touch and if you need anything, just send word down. We'll come up."

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Q. We are told that with respect to Back River that is really what happened. The people were specifically advised that if they went all the way back to Back River, that help may not be able to be made available to them.

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A. I don't know if that was the case. By this time we had an R.C.M.P. aircraft at Churchill at our beck and call, so to speak, depending on storms and other priorities. But it was generally available for camp visitations -- which was done on an increasingly more regular basis in the latter days of '60, '61 and '62.

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Q. The employment picture in Baker Lake never really got much better than working

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for the M.O.T. or the M.O.T. personnel, as was described in your reports, or working for the municipality, when it later came into existence. There never was an employment base in Baker Lake, outside of government and local government.

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A. Hudson's Bay Company, furs, you know.

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Q. I am not talking about trapping. I am talking about wage employment.

A. No, there was not.

Q. To this day, I gather, that is the case.

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A. I understand they have a co-op going there and they do some handicraft work -- sewing up garments and things like that -- to subsidize themselves.

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Q. Can we then go to the question of the in-gathering at Baker Lake. Do you recall, after the school opened, when you returned, finding Inuit families camped on the ice and snow houses and camped on the hills behind town in snow houses -- in the summer time, in tents?

A. I recall it very vividly.

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Q. And do you recall that they were there because they wanted to be near to their children who were attending school?

A. That is one possibility.

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Q. Was it not your understanding that is why they had come?

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A. That is why the children came -- to go to school. About the adults being there, you know, there would be probably many reasons why they wanted to stay. Being near to their children would be one. There were other families who brought their children down and left them there and were very anxious to return to the land.

Q. And would come back to pick up their children later on?

A. Yes.

Q. And eventually those families also moved into the town, didn't they?

A. That seemed to be the inevitable evolution that was taking place.

Q. And that inevitable evolution was inspired, I suggest, by the fact that as the school opened and expanded, a number of children were brought in from the camps -- I am not suggesting anything more than that -- and the parents had a natural desire to be with their children.

A. That is natural. Yes, I agree with that.

Q. I noted -- I am having trouble locating it -- that at one point you or one of your colleagues remarked on the remarkably close family ties of the Inuit.

A. That could well have been me. I believe that.

Q. Did you, yourself, participate

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in the process of bringing children into the school -- personally, that is?

A. I recollect aircraft doing that. It could well be that I was on some of the flights. I really don't remember specifically making a trip to round up children and bring them in. It could have happened.

Q. When it first became necessary -- we all know that there is nothing in an Inuit camp that suggests automatically that one would go to school; that has to be learned from somewhere. Someone in the government presumably, introduced the topic to the Inuit living in the camps. That would be, I presume, a Northern Service Officer; wouldn't it?

A. Yes.

Q. These Northern Service Officers would go out to the camps by aircraft?

A. Yes.

Q. And he would, presumably, be accompanied by an interpreter.

A. Yes, probably. I am sure he would be.

Q. And they would explain or give some detail to the families of why it was important that the children attend at school.

A. I can't say. I wasn't there. I can only assume this was done.

Q. Did you know Mr. Michael Amerook at that time?

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A. The name Amerook is familiar. And it seems to me he worked for the nursing station later on. He had an eye that was a little out of order?

Q. Yes.

A. I don't remember him well, but I know who you mean, I think.

Q. Were you aware that he served as an interpreter for the Northern Service Officers?

A. I know that he was -- I think he was at the nursing station first or, certainly, he was there as an interpreter. One of the better ones, I believe.

Q. So all you really know about the children coming to school is that they apparently showed up at Baker Lake. Your knowledge is limited to when you saw them.

A. I was asked before if I was aware or had seen any such instances of this rendering apart of mother and child. And I said no, I am not. I am not aware of it from my own observations or even from hearsay. I am not aware of that happening.

Q. You, I gather, acquired a few words of Inuktutuk?

A. Yes, I would hate to try to converse with any degree of accuracy.

Q. Even then, I gather, it is

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a very difficult language and you really didn't speak it without an interpreter, but you had acquired some in your years of experience.

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A. Yes, I acquired a working knowledge of the language, reaching a point where I could issue anything that was in the Hudson's Bay Company store that was an entitlement on Family Allowance and take basic complaints from these people, travel with them and get along reasonably well.

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Like the Hudson's Bay clerks, the missionaries, the Hudson's Bay Company managers, they were pretty well forced to have quite a high degree of fluency. I never reached that. So when it became necessary to elicit very serious facts -- when it was really important -- I had to call an interpreter and did. If my own special constables were not available, then I would go to the missionary or the Hudson's Bay Company manager to say, "Hey, you know, would you please ask and find out just exactly what they are telling me. Am I on the same wave length?"

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Q. You have expressed -- and I am asking you this for a reason because I want to establish that you must have got to know a number of Inuit fairly well.

A. Yes.

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Q. And you have expressed a great admiration for the qualities that enabled them to live on the land, to survive.

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A. Yes.

Q. As you come to know them -- and we have been told this from the anthropologist who you had quoted to you -- the Inuit do not generally like to confront another person. Is that a fair statement of their social behaviour or some of their social behaviour?

A. Are you sort of posing the idea that they are shy?

Q. Not so much that, but if you put a proposition to an Inuit person that he did not agree with, he would not confront you, but divert the topic.

A. Yes, and posing questions to them -- you wouldn't do it just one way, you would sort of go around the back door again to make sure that you were trying to, you know, get not the answer you wanted, but a truthful answer.

I certainly do not mean to imply by that that these people were not truthful. They were truthful almost to a fault, if that is possible.

Q. We have observed that.

A. They really were. You know, I just wanted to be very sure of the answers that I was getting; they were not being said to please me, but were effectual in accordance with what we were trying to determine.

Q. Was there, in fact, a great deal in the Inuit style of communication that was

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designed to be pleasing? Would you be told things, and that was a concern of yours, that would be designed to please you?

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A. That aspect was there, yes. Very definitely. Very easy to work with, very co-operative, very willing. Yet, at the same time, there were times when they said, "No, no. Wait a minute". But, generally, it was a pleasure to work among these people.

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Q. You were seen, I gather, as a person in authority by the Inuit, were you not?

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A. Yes, by physical size, if nothing else.

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Q. And by your office?

A. My position, yes.

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Q. And there were other persons who may not have been in the same position but were also seen as having some sort of authority -- the Hudson's Bay manager, the missionaries and so on -- and the Northern Service Officer, I gather, would be regarded much the same way -- as a person in authority to be respected.

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A. I would think that feeling prevailed, yes.

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Q. And if it were suggested to an Inuit, for example, by yourself -- and I am not suggesting you did this -- but to use an example, that it would be better if your child came to school or something might happen if he didn't come, they

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would take that at face value; wouldn't they?

A. Probably a fair observation of that statement.

Q. You mentioned that there were points beyond which they would not go. I gather that one of them is that you could not separate an Inuit from hunting and fishing. Is that so? You might tell him to do a lot of things or not do a lot of things, but it was very hard, for example, to stop their traditional hunting practices.

A. I very seldom had to tell them to do anything. Through discussion, consultation, suggestion. I just don't think I got to a position where I had to sort of use an authoritarian approach and say, "Hey, do this. Don't do that."

The same thing would prevail with the students going to school. My recollection is -- and I wasn't involved with the school when it was set up because that happened during my period out -- is that these natives came in and, "Look, there is just not enough room to accommodate you at the school here. So, you know, you are going to have to hold off."

I mentioned one case where Pootoomeaklook, I think it was, got very insistent. My recollection is that if they did not want their children to go to school, that they wouldn't go. Further recollection is that there were some young males that didn't go to school, that stayed on the

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land, that stayed with their fathers. My recollection is that all children did not go to school at that time. Some of them did stay on the land. Their fathers wanted to teach them the Eskimo skills or maybe they needed them on the land. But not all of them went to school, so there must have been this choice at some level.

Q. But there was by and far a large majority that did go to school. Eventually that school got larger and the facilities in the community made it possible.

A. I think this happened. Each summer they made so many houses. DAINND did. I don't know what criteria they established even to sort of set a priority as to who would get the houses. I know they were working on this.

Q. In those houses there would be children housed from the camps, as you told us, before the parents moved in.

A. Yes.

Q. Can you recall when a law was passed, I think it was by the -- I don't know if it was the federal government or the Northwest Territories government at that time -- prohibiting the feeding of caribou to dogs?

A. I don't know whether the Northwest Territories game ordinance was established in 1934 or how far back it was, but I know there was a section in the game ordinance that prohibited the

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feeding of game animals to dogs. It was a violation of the game ordinance.

Q. It was your unhappy task to try to enforce that, was it?

A. I did not.

Q. You did not?

A. No, I did not.

Q. Was it a matter of policy that you did not?

A. No, it was not a matter of policy. It was a matter of necessity that it not be enforced. And I think throughout the north it was a matter of discretion that it was not enforced.

In these reports you will note that Corporal Deer commented on this aspect.

Q. Thank you. I was trying to find out whether it was you or him.

A. It was Corporal Deer. And he pointed out that it was a violation. I think the commanding officer of "G" Division being fully aware of it, as he had been for many, many years -- a very knowledgeable northerner -- came back and said, "Yes, but discretion must be exercised."

The department was aware of it, too. Had you not done this, the Eskimos would not be mobile at all. This was inland barren-land Eskimo. Without caribou to feed their dogs, they just couldn't have moved or certainly would have been very restricted in their movement.

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Q. We had an estimate that it would require something like 200 caribou per annum for a hunter to feed himself and his small family and his dogs over the course of one year. Does that jibe with your recollection?

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A. My ballpark figure would say that is probably about twice as much as is necessary. But, yes, a great quantity of caribou would have been necessary. A hundred.

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If we went into a camp, for example, and there was a hunter and his wife and two children in there, and they had 100 caribou, I went away with a very comfortable feeling that they would survive very well through the winter months and we would see them the next spring and they would still be healthy and well filled out, happy, and have a good -- probably a successful winter of trapping, as well.

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Q. Actually, even a figure of 100 caribou per family, when the families were well fed there would also be game that would be shot throughout the winter as well as just in the fall; is that right?

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A. Yes.

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Q. The fall was fur hunting season.

A. Yes.

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Q. But we understand that caribou were taken virtually all year round.

A. There were some winters that

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caribou were harvested throughout the winter months. But there were some winters where you could travel for days and days and days and never see a sign of caribou or a hoof print.

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If you did come across animals, they may be just in twos or threes. But there were years when throughout the winter months caribou were terribly scarce.

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Q. The two incidents you described were very impressive -- the large numbers of caribou that came by. Were those times that caribou were on migration?

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A. If my memory serves me right, one was in the fall because there was a little snow passing through. One down in the Kazan River. We were by canoe so it had to be July-August.

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Q. And there are river crossings for the caribou on the Kazan River area, are there not?

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A. Yes, on the Kazan and up the Thelon River. There was a rather interesting observation made one year. The Hudson's Bay Company manager got a hold of me and he said, "Dent, you have to get up there and get those Shultz Lake Eskimo. They are shooting the caribou while they are swimming across the river."

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I said, "Oh, what caused you to believe that?"

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He said, "I went over. There

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was the body of one of them that washed up on the sand bar."

So he was convinced that these animals were in fact shot. So I and my special constable got in a canoe and we were going up the river and we saw some bodies floating down. I suddenly noticed a seagull sitting on a carcass of one of these caribou floating down the river.

"Gee, that is kind of strange."

So we went over, hauled the caribou ashore. Then I learned what had happened. The caribou had drowned coming down the river, bloated and here is a seagull -- on the skin at that time -- pecking away at it, and it just looked like a bullet hole. So we cut into this animal and the others and found that there was no shattered bone. There was no blood. In fact, this is what happened. There were 25 or 30 that we found floating down the river that had drowned.

Q. In fact, if the Inuit were hunting caribou, they would shoot them as they came out of the crossing, is that right?

A. I wasn't there when they were doing their hunting at crossings.

Q. I see. I was going to ask you about that. Have you not observed the Inuit hunting, at all?

A. Yes, I have been with them when they have shot caribou both during the winter months and during the summer time, but not in

Dent, cr.ex.
(Golden)

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quantities at a crossing. These were isolated instances, travelling with my special constable, travelling by canoe, and he went inland to cache some caribou for him and his family, or travelling with them in the winter time we shot caribou to give to Eskimos we knew would be in need.

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Q. Going back a bit, the dogs used, those are husky dogs, are they?

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A. Yes.

Q. Do they become excited when they see caribou?

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A. Very much so.

Q. Do they start barking?

A. They go like hell.

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Q. Do they bark?

A. Huskies really don't bark.

They sort of howl. You know, they take off with great speed.

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Q. And they go towards the

caribou?

A. They will follow them.

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Q. It is almost impossible to control them at that point.

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A. It becomes increasingly difficult.

Q. What they want to do is chase the caribou.

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A. Yes.

Q. What happens to the hunter

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at that point? What does he do to successfully hunt?
Are the dogs not going to chase the caribou away,
scare them?

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A. Ours didn't. As a matter
of fact, I was absolutely amazed at how the special
constable could sit on that sleigh and shoot these
while they were still in motion. Other times he
stopped the sleigh and went down on one knee, then
shot when he got close enough. But it was not a
matter of running them until they became exhausted,
falling and killing them.

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Q. No. We are told the meat
doesn't taste good when that happens.

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A. I don't know.

Q. Back to that, just for a
moment. I suppose the Inuit themselves would know
how to best utilize the terrain and the winds and
so on to escape detection to get as close as they
could get to get a good shot off at the caribou.

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A. That is their life. They
are masters at it. Most of them.

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Q. One of the things you, I
gather, admire: their ability to live with the land.

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A. Many times.

Q. So when an Inuit is on a
dog sled or some other conveyance, he uses his own
knowledge, I gather, to hunt successfully.

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A. Are you referring to the
skidoos, too? You know --

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(Golden)

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Q. I was just asking about noisy dog sleds. We know a skidoo makes noise.

A. When I was there, skidoos were non-existent. I only heard latterly some of the things that happened. I haven't seen them.

Q. Depending on whose estimate you take, hunters seem to have been able to hunt with skidoos, too. That wouldn't surprise you; would it?

A. Not at all.

Q. While you lived there, you observed annual migrations of the caribou. By annual I mean you more or less could predict when they would come by every year?

A. No, I would not go so far as to predict that.

Q. I am going to refer you to an area in a moment. Would you like to qualify it by area?

A. Yes, I might be able to do that, particularly if I got into the reports here. What I was going to say was that as transient aircraft came into the settlement, for whatever purpose -- they used to bring in the first-class mail if they came in from Churchill. So we met these aircraft, took the mail and talked to the pilots.

Whatever pilot happened to come into the settlement, we usually had conversation with him. And one of the things we were asking about

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was, "Have you seen a caribou migration? Where are the herds?"

If they had seen it, they would tell us. And just as sure as could be, the Eskimos would then come to us and say, "Did the pilot of that plane tell you where the caribou are?"

And they came to know this. It was part of the passage of knowledge to the Eskimo as to the caribou's presence.

Q. I am not suggesting that they always exactly followed the same trail, but apparently, they came from the south to the north on an annual basis.

A. Yes.

Q. Was it fairly predictable that they would cross -- that there would be caribou crossing in the late spring in the Kazan River area? By late spring I mean June.

A. If you go into these reports, there would not have been those times of destitution if you could, with any degree of predictability say the caribou are going to cross at that point.

The fact that some of these people were destitute and had no caribou caches indicates that they erred in their predictability and the caribou did not always cross at one point or another.

Q. We will come to that in a

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moment. They may have erred. But, in fact, at some point along these areas the caribou would come.

A. There are recognized paths, if they are utilized.

Q. I see. It is the hunter's ability to predict that that determines his success. Was there caribou crossings on the Thelon River?

A. I feel up at Shultz Lake more than along the Thelon, although down at the mouth of the Thelon there may have been some crossing there. But there are two or three sets of rapids on the Thelon, and the water is moving pretty fast.

Q. In Shultz Lake, were there special crossings between Shultz and Aberdeen?

A. Yes, known crossings.

Q. What about on the east end of Baker Lake around Christopher Island?

A. Caribou had utilized that, too, yes.

Q. And the hunters, I gather, would wait for them at those and other places that we had described for us?

A. They had their preferred areas to hunt and, hopefully, they would have been blessed with success, which was not always the case.

Q. There are other reasons why a hunter family might not be successful during the course of a year other than the caribou didn't come to the usual crossing places. If the head of the

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(Golden)

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family, the hunter, had contracted tuberculosis, as you mentioned, would that not hurt the hunting opportunities for the family?

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A. If you mean, if he was out in the hospital?

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Q. Yes, if he had been removed under this program that you have told us about, as so many were, and was taken away and had to be rehabilitated. As I understand from your report, it was a major disease.

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A. What the hunter would do, knowing that he was going out to the hospital, is he would try to make arrangements for his wife and family to move in with a relative. If that relative was successful on his hunt then, you know, excellent. The family was well looked after. If, by chance, he wasn't, we certainly took particular note of this to ensure that that family that had been left behind suffered no undue hardship because the hunter, the provider, the husband, was in the hospital.

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Q. I gather that one of the causes of you having to engage in some kind of helpful effort -- let me put it that way -- was the absence of heads of families because of tuberculosis.

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A. Yes. The statistics -- some of them are in here. Not all of them.

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Q. That is so, though, is it, just in general?

A. Yes.

Dent, cr.ex.
(Golden)

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Q. Then, in addition to that, when the family came to camp around the Baker Lake area to be with their children, did that reduce their available range for hunting purposes?

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A. If the reason that they were at the settlement was to be near their children, and if they were not on the land and if they did not have a successful caribou hunt, then they would not have any dog food to feed their dogs and it would definitely restrict their range. They may have a trap line as far as their legs could then carry them, which would be a very restricted trap line.

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Q. There were families camped around Baker Lake with dog teams.

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A. If they had caches on the land, they may leave the wife and the remaining children there and he could still hunt and trap at a pretty good rate.

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Q. But that would reduce, would it not, his range of hunting activity that, for example, a hunter from Kazan, whose child had come to Baker Lake to live, and who had then camped up here to join the children, would find it much more difficult to get to his traditional hunting grounds than he would if he had stayed at the Kazan?

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A. Certainly.

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Q. And that would have required the consumption of more dog food for the transport back and forth?

Dent, cr.ex.
(Golden)

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A. Well, he was still going to have to feed his dogs. But he has to feed them more if he uses them.

Q. Right. He also has to get further to hunt.

A. Possibly.

Q. Well, it would not surprise you, then, that as the family became more and more acclimatized to living around the Baker Lake area, they became less and less able to use all the land resources that were available to them.

A. Or less and less inclined.

Q. Well, there was nothing else for them to live on, was there?

A. Welfare handouts.

Q. And that was all?

A. That would be about it because there was very limited opportunity for any wage income.

Q. It was exactly that kind of development that you were trying to prevent when you kept those people out on the land, isn't that right?

A. When we encouraged them to stay on the land, yes.

Q. Just to prevent that sort of welfare dependency from developing.

A. That was my belief, my philosophy, yes.

Dent, cr.ex.
(Golden)

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MR. GOLDEN: Thank you very much, sir. No further questions.

THE COURT: Mr. Sgayias, do you have re-examination?

MR. SGAYIAS: Just a couple of questions, My Lord.

RE-EXAMINATION

BY MR. SGAYIAS:

Q. Superintendent Dent, you referred to being out hunting with your special constable. Were those persons white or Inuit?

A. Eskimo.

Q. And you referred to on occasion it was necessary to encourage people to leave the post. Was that necessary in the time period before the school was established?

A. Yes. During my first three years at Baker Lake.

Q. You said the Inuit were living in camps on the land. What was their range for the purposes of hunting and moving about?

A. The range in terms of travel -- because when you fly over the barren land, it looks flat, but, in reality, it is not. When you are travelling by dog team, if you could travel 30 to 40 miles a day, that is a pretty good day.

The range of hunting and trapping is resolved by need and the availability of dog food and the initiative of the individual. If,

Dent, re-ex.
(Sgayias)

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you know -- I am not too sure I am aware of what you are getting at here. They have a range depending on capability and desire to travel.

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Q. You mentioned, in answer to a question from Mr. Golden, that one of the restrictions on range were dogs that were not well fed. What was your observation as to dogs in camps on the land? Were they always well fed? What were your observations?

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A. On some occasions, in some areas, in certain years the dogs were very well fed. They were fat. They were healthy.

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We used to inoculate between 500 and 1,000 dogs for rabies each year, so I had a very good opportunity of seeing and feeling how fat and well cared for these dogs were. I got to know most of them personally. I have many scars to prove it.

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There were occasions when the animals were in excellent shape. There were occasions when I saw them dead on the dog team, so thin, right on the chain, you know, that they had frozen to death and they were thin. Obviously had not been fed. Obviously, had no food. I have seen them both ways.

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Q. Did you make any observations as to the range of hunting of the Inuit who did not have dogs?

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A. They could and did walk

Dent, re-ex
(Sgayias)

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miles -- miles. Twenty, thirty, forty, fifty miles searching out caribou. They had a terrific range depending on, you know, there is an awful lot of water up there that has to be crossed and traversed, so geographic conditions restrict to some degree. But some hunters covered many miles in search of caribou.

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Q. In your second tour of duty at Baker Lake, did the Inuit living in the settlement maintain dog teams?

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A. I think they maintained dogs, but there became a less and less utilization of the dog team to travel any distances. Many of them put fishnets out in Baker Lake to try and catch a few fish to feed their dogs. And the fishing in Baker Lake wasn't very good. I have day-to-day records over the years here that point out exactly what fish were caught.

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But, when the Eskimos were living at Baker Lake, unless they were successful with a close-in caribou hunt, they just did not have the food to feed the dogs. So, if they maintained a team there, it was very few dogs. And then they would use them when they could. But it would be restricted usage just because of the lack of food.

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MR. SGAYIAS: Those are all my questions. Thank you, Superintendent Dent.

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THE COURT: Thank you, Superintendent Dent.

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Mr. Chambers?

MR. CHAMBERS: My Lord, I call
as my next witness Mr. Frank Miller.

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MR. GOLDEN: My Lord, I have
advised my friend -- actually, I advised Mr. Sgayias.
I hope he advised Mr. Chambers that I have some
concerns about the relevancy of portions of Mr.
Miller's evidence, and I should like to address an
objection on the grounds of relevancy, and it will
take a few moments. It is a bit of argument.

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The affidavit, My Lord, of Mr.
Miller deals with two separate topics. The first is,
if I may just summarize it, an allegation of Inuit
overhunting, and it is summarized best in paragraph
7. Indeed, all the prior facts that lead up to that
are summarized in paragraph 7.

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There has been, in the Statement
of Claim, an allegation which is found in paragraph
25 which says:

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The continuation of mining
exploration and similar land-
use activities in the Baker
Lake Area and the operation
of mines, or either of them,
will cause irreparable
damage to the Plaintiffs by
reason of the consequent
substantial reduction of
wildlife harvest available
to them.

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The Attorney General's pleading admits paragraphs 19 and 22. This is in paragraph 6 of the Statement of Defence.

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Paragraph 19 deals with an allegation of aboriginal title. There is a legal allegation there. It may be that is a reference to a re-numbered paragraph, which would be paragraph 18. They pleaded before we re-numbered the paragraphs in the Fresh as Amended Statement of Claim.

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I am not quite certain. I think my friend can address that argument better than I, but I assume that they were addressing the argument of harm to wildlife. Paragraph 22, similarly, is impossible to trace in that respect. I have checked the numbers immediately adjacent, and they do not seem to jibe either. But I do find an allegation of harm to wildlife -- we say, "substantial reduction of wildlife harvest available to them."

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That is dealt with by my friends as follows. He ... admits paragraphs 19 and 22 of the amended Statement of Claim, save and except the allegations that the activities referred to therein either have caused harm to wildlife or are going to be harmful to wildlife relied upon by the individual Plaintiffs for their sustenance, and he says in any event that these allegations are irrelevant and do not give rise to the relief claimed.

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I see no other denial of wildlife harvest or denial of our allegation that it

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has been impaired in the Statements of Defence. I have examined the mining companies' Statements of Defence and they simply deny or do not admit those allegations, depending on which ones we deal with.

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Nowhere is it pleaded that the Inuit have conducted themselves in any way so as to reduce the wildlife harvest themselves; furthermore, the allegation which is made in the affidavit -- the allegation of fact -- does not even rest there, but goes on to say that Inuit generally -- and we are not talking about the plaintiffs, but we are talking about Inuit generally -- overhunt the herd; therefore, the logical inference being that we cause harm -- "we" the plaintiffs. Certainly they are not making allegations to affect anyone else in this action. We are the only ones who could be affected by it -- cause harm to this herd.

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My first point is that the allegation is not pleaded either directly or indirectly. A mere denial of our statement that the conduct of the mining companies in exploring for minerals reduces the availability of wildlife harvest to us and traversing that does not give rise to any factual allegation so specific and, in effect, so definite as to say we overhunt the caribou herd. It is not merely a matter of defence to our allegation. It goes further.

Furthermore, we do not allege a reduction in the actual size of the herd. In fact,

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that is very much in question in our minds and we would not only not make that allegation but contest any evidence that is called to deal with that question and we should be doing so if that becomes necessary. The difficulty we have then is that we are being forced to debate an issue thrown in by way of evidence, not having been pleaded, which is, if I may say so, with respect, a bit of a red herring.

Legally, my friend is probably quite right in one respect. We felt we had to show some damage in order to succeed in this action. It is quite clear that this is not an interlocutory injunction at this point, and we certainly do not have to show irreparable damage in the same sense that we would then. We did not, having regard to the state of the law, wish to take the risk of not showing any damage to our interest, because there is a law that says that even if you have a clear right, inconsequential damage will be compensated in other ways. I will not argue the law on that now. I am simply pointing out that there was a reason why we would allege damage.

However, my friend says that it is irrelevant, in his Statement of Defence, and I am inclined to agree that a reduction of the herd -- that is the actual size of the herd -- is irrelevant. I hesitate in a public forum such as this to make a statement which might be misconstrued as suggesting that we are callous or indifferent about the size of the herd. But, assuming that we do have the right to

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hunt, free of interference from mining exploration, then the question of the practices of the Inuit generally or even of the plaintiffs -- even if it was brought home to the plaintiffs, which it has not been -- would create a very real difficulty in terms of relevancy because we would not be in a position to say that we are entitled to hunt, but we are not entitled to overhunt. It is not an issue in this case.

The game conservation question -- the question of whether or not the herd can stand the hunting that is going on or not is a different question entirely. It is appropriate for another forum at another time. It is not part, in my submission, any part of this case.

I have examined the rules with respect to pleading. I do not think I have to, in this court, raise them specifically but rule 409 deals specifically with the requirement of a party pleading shall plead specifically any matter or any fact showing -- I am sorry.

A party shall plead specifically any matter (for example, performance, release, a statute of limitation, prescription, fraud or any fact showing illegality) (a) that he alleges makes a claim or

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defence of the opposite party not maintainable; (b) that, if not specifically pleaded, might take the opposite party by surprise; or (c) that raises issues of fact not arising out of the preceding pleading. That is clearly the case

here.

In addition, rule 404 -- I am sorry, I have the wrong rule. I think that rule covers it, in any event. I had another note, rule 404, but that was clearly irrelevant.

In summary, My Lord. I am sorry. The other rule is rule 482 itself with respect to expert evidence. The requirement of that rule is that before the

... evidence in chief of an expert witness shall be received at the trial ... in respect of any issue --

This is sub (1)(a) the requirement of ...

... that issue has been defined by the pleadings or by agreement of the parties filed under Rule 485;

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It has clearly not been defined by the pleadings and there has been no agreement by the parties. So we are dealing here with what might appear to my friends or have the appearance of being a similar or related issue, and it may very well be related. But the question is, is it relevant to the issues in this action? My respectful submission is that it is not.

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While we get into questions that are somewhat obliquely relevant, such as the question of what the living conditions were like in Baker Lake area before and after the settlement -- because of the likelihood that they may become important in someone's mind in argument, and certainly they won't be terribly important in mine -- no objection is taken to them. But, when it comes to the specific question of the size of the herd or the cause of reduction of that herd, it does not really add anything to either side's position in the case.

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In short, it would not matter -- and I say this again with the greatest caveat put on it, that I do not wish to be taken as being callous about the Inuit hunting of caribou -- it would not matter-- if the Inuit had the right to hunt free of interference -- one bit whether they hunted every last caribou down or they had in the past hunted every last caribou down.

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With those observations in mind, My Lord, the state of the pleadings and the

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requirement that the specific facts be pleaded, I ask Your Lordship not to consider any evidence which relates to the overhunting issue. I make these remarks mindful of the fact that the other expert, Mr. Banfield, also made some allegations to the same effect.

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Both of these allegations contain other factual material which we do not quarrel with. They deal with questions of harassment, or what might be harassment. I do not quarrel with that. They deal with the question of the effects of mineral exploration activity on the caribou. I do not quarrel with the relevancy of that.

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THE COURT: I do not know whether I should deprive your learned friends of the opportunity to comment on the irony that they may see in this objection that I certainly see in this objection. Having received the evidence of Dr. Usher, which I might say was objected to, certainly by Mr. Graham and perhaps by others on similar grounds, I do not see how I can consider your objection well taken.

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I think I indicated to Dr. Harp that his pitch for the archeological trade was not the first public relations pitch I have heard made in the course of this action. I do not intend to deprive anybody at this late stage of the proceedings of getting, perhaps, a point of view

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across, even though it may not be strictly material to the facts upon which this legal case will ultimately be decided upon.

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So your objection is not accepted.

FRANK LAWRENCE MILLER, EDMONTON, ALBERTA, Sworn
EXAMINATION IN CHIEF

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THE REGISTRAR: Please give your full name, complete address and your occupation.

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THE WITNESS: My name is Frank Lawrence Miller; I live at 143-19, 106B Avenue, Edmonton, Alberta; I am employed as a research

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scientist in wildlife biology by the Canadian Wildlife Service, Department of the Environment.

BY MR. CHAMBERS:

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Q. Mr. Miller, I show you Appendix 1 of your statement that was attached to your certificate in respect to your testimony. It has your curriculum vitae, a recitation of your education, and your experience.

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You are 44 years of age, and you were born in Windsor, Connecticut, U.S.A.

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A. Yes, that's right.

Q. I shall skip the other information including your service in the forces. I assume the United States Marine Corps. I will go on with your education. I note that you are a graduate of the University of Miami, Florida. Is

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that correct?

A. No, that is not correct.

Q. I am sorry.

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A. I am a graduate of the University of Connecticut and also Oregon State University.

Q. There are other universities that you studied at?

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A. Yes, several others.

Q. But the degree you got was at the University of Connecticut. This was a Bachelor's degree, was it?

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A. Yes, Bachelor's with a major in wildlife management.

Q. And then the degree you obtained from Oregon State University was a Master of Science degree?

A. Yes.

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Q. Same field?

A. Yes, with major in wildlife management.

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Q. Can you explain to the court what you mean by "wildlife management"?

A. My Lord, wildlife management basically is the conservation of wild, free-ranging animals and conservation in this sense includes both the wise utilization of and the proper protection of the species under consideration. Probably one of the simplest ways to explain wildlife management is

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to compare it to the science of animal husbandry. We are mainly concerned with the maintenance of populations and levels that allow sustained annual yield of the resource, either for food and/or sport or pleasure. And, also, at the same time, in maintaining populations at levels that are compatible with the quality and quantity of habitats and ranges that are available to the species under consideration.

Academic preparation for the profession requires an in-depth study of natural sciences and detailed studies of the principles of wildlife management and population dynamics.

Q. Which particular disciplines of natural sciences or branches of natural sciences were you referring to?

A. It includes a cross-section of virtually all natural sciences. You would be heavy in the zoological-botanical courses, then you would get into different animal husbandry type programs, and geology, astronomy -- virtually every aspect or discipline of natural science.

Q. I note, sir, you were the recipient of various awards and scholarships. May I take it that these were awards to you because of your scholarship in the field?

A. Yes, they are basically awards for scholastic achievement.

Q. I will skip the references of various people which are cited next and will

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proceed directly to your employment record. Between 1961 and 1963 you were employed by the Connecticut State Board of Fisheries and Game in the various wildlife management practices such as thinning, trimming, grading, seeding, use of herbicides, mapping, et cetera. Was this in your student days?

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A. Yes, it was.

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Q. And from April of 1963 to December of 1963 you were employed by the Oregon State Game Commission drugging, marking and releasing black-tailed deer within an experimental enclosure in preparation for MS research. What is MS research?

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A. A thesis program that I carried out on the relationship of black-tailed deer to their environmental factors.

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Q. And from January 1964 to December 1964 you were employed by the Oregon State Game Commission in a systematic periodic observation of deer within the Cedar Creek study enclosure. Over 1,400 hours of observation resulted in 6,746 sightings of marked deer. All deer were identified as individuals.

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What was this study designed to do?

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A. This is the work for the thesis that I referred to. It was basically a direct observation of the animals within a square mile enclosure over a period of year, and the social structure of the herd within the enclosure and the

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movements and feeding habits of the animals were related to the plant distribution and types of plants present in the enclosure and the weather that prevailed for that year and so forth.

Q. I see. From July 1 to November 30, 1965, you were employed by the New York State Department of Conservation cover-typing the Vinegar Hill deer yard in the northern Catskill Mountains, designing and testing remote automatic marking devices for deer, and planning a study to investigate the movements of deer on the Vinegar Hill wintering area.

Could you explain broadly what this study was designed to accomplish?

A. Cover-typing the deer yard is essentially just a mapping process recording the types and quantities of vegetation available, the topography of the terrain within the deer yard. This is just to get an understanding of the requirements of deer during their wintering period.

Q. Then from December 1, 1965 to June, 1975 you were employed by the Canadian Wildlife Service, Eastern Region, Arctic Division, Ottawa, Ontario. You were investigating and developing methods of age and sex determinations for barren-ground caribou. Six months annually in varying periods of two to eight weeks spent in remote field areas in northern Manitoba and the District of Keewatin, N.W.T., during 1966, 1967 and 1968, and

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you participated in collecting 1,000 barren-ground caribou for detailed examinations from April 1966 to July 1968. You captured and marked caribou on water crossings at Little Duck Lake, Manitoba, during August, 1966 and 1967. You flew several hundred hours in various small fixed-wing aircraft and helicopters, searching for and surveying caribou.

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What were these studies designed to accomplish, sir?

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A. In 1965, the Northwest Territories --which was known then as Game Management Service, I believe, approached the Canadian Wildlife Service and requested that we do an in-depth study of barren-ground caribou. The Kaminuriak population was chosen because it was a heavily used population and so it solved two problems by working on it, in a sense, because we learned a great deal more about caribou and we were able to at least attempt to better evaluate the hunting pressures that were on the population.

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The study was undoubtedly the largest undertaken in Canada in caribou work. It involved four full-time biologists that were concerned with different aspects of the biology of the caribou. The project continued over a three-year period with a couple of years' subsequent write-up.

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Q. And from August, 1967 to April, 1969 and August, 1969 to October, 1969, you were acting Supervisor of Research, Mammals, Eastern

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Region, Canadian Wildlife Service -- also in Ottawa?

A. Yes, this is during the same time period this study was going on. I inherited the extra duties.

Q. In this capacity you supervised and co-ordinated the activities of Eastern Regional mammalogists and their technicians -- field programs, scientific writing, project organization, et cetera. You synthesized annual budgets for mammal investigations.

A. Yes.

Q. From August, 1967 to April, 1969 you were project leader, Manitoba/Keewatin Barren-ground Caribou Study M4-1-2. This study team consisted of four research biologists, two technicians, and from three to five field assistants during the 13 field periods. Data obtained during the study are reproductive and physical conditions, movements and numbers, behavioural, population dynamics and use of vegetation and habitat.

Does this refer to the Kaminuriak herd, as well, sir?

A. Yes, this is the study -- these all relate.

Q. May, 1969 to April, 1970, you were working on the completion of the report for 1966-68 study "Sex and Age Composition and Segregation of the Kaminuriak Barren-ground Caribou Population". You were designing and planning barren-ground caribou

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calf mortality study, is that correct?

A. Yes, that is correct.

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the Kaminuriak herd?

A. Yes, sir.

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Q. In May, 1970 to August, 1970
you were project leader, Caribou Mortality Study.

The study team consisted of one veterinarian, two
biologists, two technicians and two field assistants.

The data obtained during this study are from the
calving and post-calving area of the Kaminuriak
population of barren-ground caribou, District of
Keewatin, N.W.T.

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A. Yes.

Q. From September, 1970 to
January, 1972 you were engaged in a major effort
compiling, analyzing, and evaluating the data on
barren-ground caribou collected between 1966-1970
and presenting it in manuscript form.

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A. Yes.

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Q. A certain amount of time
was devoted to additional outside services and
functions: January, March, 1971 and 1972, and
February, 1973 you conducted aerial surveys for
the Parks and Grounds Division of the National
Capital Commission to determine the number and
distribution of white-tailed deer wintering within
the Gatineau Park, Quebec.

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A. Yes, that's correct.

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Q. And you advised on supplement feeding procedures for deer wintering within the Gatineau Park; and you initiated an investigation of the escarpment area along the southern boundary of the Gatineau Park to evaluate the feasibility of developing a system of observation huts for viewing white-tailed deer.

A. Yes, that is correct.

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Q. In February, 1972 to March, 1975 you were project leader, Peary caribou/muskoxen study Western Queen Elizabeth Islands, Northwest Territories.

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Would you explain to the court, first, what is meant by "Peary" caribou and where the Western Queen Elizabeth Islands are? If I show you a map -- I believe Exhibit I-8 -- can you tell the court, first, where the Queen Elizabeth Islands are and then what Peary caribou are?

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A. My Lord, the Queen Elizabeth Islands are the islands north of Viscount Melville Sound and Barrow Strait. The Western Queen Elizabeth Islands are taken to mean the islands -- Cornwallis, westward, across Bathurst, Melville, Prince Patrick; includes the northern islands of Borden, Brock and Mackenzie King, Elles Ringnes, Amund Ringnes and the small satellite islands of those larger islands.

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Peary caribou is a sub-species of the genus caribou that occupies these northern

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islands of Canada. It is uniquely Canadian in that it is found only in the Canadian high Arctic and on Greenland.

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In general, it is considered a smaller form than the barren-ground animal. It tends to be whiter in winter and generally occurs in smaller groups which probably mainly relates to the overall population size being much larger -- I mean much smaller, excuse me, than barren-ground caribou.

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Q. Do these Peary caribou exhibit similar characteristics and behaviour patterns as the barren-ground caribou?

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A. Yes. Behaviourally, we have not detected any difference in their patterns. The only consideration is that since they do not occur in large post-calving aggregations of several thousand, we cannot make direct comparison there, but they do occur in post-calving aggregations of much smaller sizes.

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Q. You are describing your activities there in the Western Queen Elizabeth Islands. Your study team consisted of one research scientist, one research biologist, one veterinarian pathologist in 1972 only, and one or two field assistants, depending on the phase of work.

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Aerial surveys of Western Queen Elizabeth Islands in March, April, May and August of 1972 and March, April, July and August of 1973, and March, April, July and August, 1974.

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Is that right?

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A. Yes.

Q. This consisted of overflying
in fixed-wing aircraft and helicopters herds of
Peary caribou. I am paraphrasing.

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A. We would overfly the islands
and record what was below.

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Q. In July and August, 1973,
you live-captured 26 muskoxen with immobilizing drugs
and equipped each one with a radio transmitter for
subsequent radio tracking. In April, 1973 and
1974 you did aerial-dye-spray marking Peary caribou
for inter-island movement study.

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A. That is correct.

Q. In April, 1973 you were
designing and testing techniques -- of what, sir?

A. I am sorry. You will have
to direct me to the place.

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Q. You say that in April, 1973
you were designing and testing techniques.

A. That is correct; for the
dye-spraying operation. The first session was just
a test session so we could work out the techniques
used the next spring.

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Q. In April to June, 1975,
you were compiling data from the Peary caribou/
muskoxen study and in June, 1975 you transferred
due to Canadian Wildlife Service reorganization to
CWS Edmonton, Alberta, where you continued write-ups
of 1972-1974 Peary caribou and muskoxen work; is
that right?

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A. Yes.
Q. And in July, 1975 to the present, you have been employed with the Canadian Wildlife Service, Western and Northern Regions, Edmonton, Alberta; is that correct?

A. Yes.

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Q. And you also engaged in compiling data from Peary caribou/muskoxen study and planning a study of helicopter harassment of Peary caribou and muskoxen.

A. Yes.

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Q. You were also project leader and, as such, you were responsible for responses of Peary caribou and muskoxen to helicopter harassment study, Prince of Wales Island, N.W.T., is that right?

A. Yes.

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Q. Would you indicate on the map where Prince of Wales Island is?

A. Prince of Wales Island is in the central Canadian archipelago, just south of Barrow Strait. The only settlement reference point is Resolute Bay on Cornwallis Island.

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Q. As such, your study team consisted of one research scientist and one research biologist and one field biologist in 1976 and one research scientist and one research biologist and six field biologists in 1977.

A. Yes.

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Q. And there were a few periods in June and July of 1976 and June through August, 1977,

Miller, in ch
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and in total some 8,607 response samples were
obtained, and this is in the field; is it?

A. Yes.

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Q. During 1,100 helicopter
harassment overflights -- 4,358 from Peary caribou
during 751 overflights and 4,249 from muskoxen during
351 overflights.

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April to May, 1976 and 1977
you were engaged in the preparation for field seasons
and manuscript and report writing; and in August, 1976
to March, 1977 and September, 1977 to March, 1978
you compiled data and wrote reports.

A. Yes.

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Q. And in April, 1978 to
March, 1979 you were project leader on Inter-Island
movements of Peary caribou study, is that correct?

A. Yes.

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Q. And your study team
consisted of one research scientist and one research
biologist. The period between May to July in these
years were spent in the field, again?

A. Yes.

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Q. And in August 1978 to March
1979, you were compiling data, report and manuscript
writing.

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From March 1979 to the present
you have been project leader, relation of springtime
ground fast ice accumulation at the snow-covered
ground surface interface to Peary caribou ecology

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Prince of Wales/Somerset Islands area, Northwest Territories.

Can you explain what is meant by this?

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A. In the high Arctic you have a rather unique situation where, when the snow begins to melt in the spring of the year, the water percolates down through the snow cover. When it makes contact with the surface of the ground, it refreezes because the ground is at a much-lower-than-freezing temperature. It is about minus 17 degrees Celsius.

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This causes an accumulation of ice that is ground fast at the layer, so it compresses any low-growing vegetation as it builds up, and it makes that vegetation unavailable to caribou for anywhere from several days to several weeks, depending on the fastness or slowness of spring breakup periods.

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This occurs usually during the month of June, and Peary caribou tend to calve during the last part of June -- usually the third week of June. This causes a situation where, when they are in need of a high-energy plane, they are entering a very restricted period in the sense of forage availability or could be in some years. This is why we are interested in studying this phenomena.

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Q. Am I right to say, sir, that you spent the bulk of your time in the last 15 years or so in the study of caribou?

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A. Yes.

Q. Am I also correct in saying that you spent a lot of your time in the field?

A. Yes.

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Q. As a result of your work, did you then write or co-author many articles concerning the caribou?

A. Yes.

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Q. And their behaviour?

A. Yes, behaviour. All the aspects of caribou biology.

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Q. They are listed -- I could spend another three hours doing that -- in the chronological listing of publications, 1965 to 1978.

A. Yes.

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Q. Many of them have to do with your observations and conclusions concerning barren-ground and Peary caribou.

A. Yes.

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Q. In fact, am I right that you would really describe yourself as a student of caribou behaviour?

A. I don't know if I would do that in public, but, yes.

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MR. CHAMBERS: In a scientific way, of course.

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My Lord, at this point I submit to the court that Mr. Miller is sufficiently qualified an expert to give testimony of the type that he has described and also in respect of other

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(Chambers)

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matters that have arisen as a result of the evidence that has been adduced of other witnesses and will become clear as things go on.

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THE COURT: We'll have to take those other matters as we reach them.

MR. CHAMBERS: Yes, My Lord.

THE COURT: That is fine.

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Unless you have something else in mind of a housekeeping nature to clean up, this is the time of day to adjourn.

We will get into Mr. Miller's evidence tomorrow.

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MR. CHAMBERS: May I just say as a matter of housekeeping that perhaps we could take Mr. Miller's statement as having been read.

THE COURT: All right. Mr.

Miller's statement taken as read.

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Statement of Proposed Evidence by Frank L. Miller

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1. I am a wildlife biologist employed by the Canadian Wildlife Service at Edmonton. My qualifications and experience are as set forth in Appendix I to this Statement.

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2. During 1966 to 1968 and 1970, I conducted field research on Kaminuriak population (herd) of barren-ground caribou and as a result of that research authored or co-authored the publications listed in Appendix I at numbers 5, 10, 14, 15, 16, 17, 19, 22, 24, 25, 26, 29, 30, 31, 32, 35, 40, 41, and 45 and the unpublished reports listed at number 1 and 2.

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3. I am presently familiar with the published scientific literature concerning the Kaminuriak herd of barren-ground caribou and concerning barren-ground caribou in general.

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4. The Kaminuriak herd is one of the two caribou herds which frequent the area near Baker Lake, N.W.T. and are harvested by the residents of that community as well as by residents of Eskimo Point, Chesterfield Inlet, Rankin Inlet, Whale Cove, N.W.T. and northern Manitoba.

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5. The estimates of the size of the Kaminuriak herd over the period 1948 to 1977 have shown a decline in the size of the herd. Those estimates are as follows:

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1948	(Banfield)	120,000
1955	(Loughrey)	149,000
1968	(Parker)	63,173
1974	(NWT Wildlife Service)	49,749
1976	(NWT Wildlife Service)	43,925
1977	(NWT Wildlife Service)	44,095

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6. The causes of death of the Kaminuriak herd caribou have been and are:

1. harvesting by hunters
2. predation by wolves
3. other causes, eg. accidents, disease, starvation

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7. In my opinion, on the information now available, over-harvesting of caribou by native hunters is the cause for the decline in the size of the Kaminuriak herd. In the absence of hunting, the size of the herd should have increased rather than decreased during the period 1968 to 1977.

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8. During the period 1966 to 1977, the average rate of annual recruitment of calves to the Kaminuriak

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herd is estimated to be 10%. This means that the number of new animals added to the herd each year is on the average 10% of the existing number of animals in the herd.

9. During the period 1966 to 1977, the average annual mortality of the Kaminuriak caribou from causes other than harvesting is estimated to be 7.2%. That means that the number of caribou dying of causes other than hunting each year is on the average 7.2% of the existing number of the animals in the herd. Given this average mortality from natural causes, any average rate of harvest of greater than 2.8% will result in a decline in the size of the herd.

10. During the period 1968 to 1977, the average number of caribou reported killed by hunters was 3,031. That constituted an estimated average annual harvest ranging from 4.8 to 6.9% of the total number of animals in the herd. During the latter part of that period, between 1974 and 1977, the average number of caribou reported killed by hunters was 3,720 animals or 8.4% of the total number of animals in the herd in 1977.

11. In my view, this reported kill does not accurately reflect the number of animals actually killed. This is due to incomplete reporting, eg. not all hunters making reports, not accounting for wounded animals and other animals left on the land. At least 20% of the actual kill is unreported. The reported kill should be increased by 25% in order to reflect the actual kill. thus, during the period 1968 to 1977, the average number of caribou actually killed was 3,789,

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constituting an average annual rate of harvest ranging from 6 to 8.6% of the total number of animals in the herd. Similarly, between 1974 to 1977, the average number of caribou actually killed was about 4,650 or 10.5% of the total number of animals in the herd in 1977.

12. Throughout the period 1968 to 1977, the annual rate of harvest has exceeded 2.8% and has indeed approached the annual rate of recruitment. I am of the view that over-harvesting by native hunters has caused the decline in the size of the Kaminuriak herd.

13. As well, I have studied the effects of human activity on caribou, including the effect of aircraft. In this regard, I authored or co-authored the publications listed in Appendix I at numbers 46, 47, and 48 and the unpublished reports listed at 6, 7, and 8.

14. In my opinion, mineral exploration activities on the ranges of the Kaminuriak herd have not caused the decline in the size of that herd. I have no reason to believe that any significant number of caribou have been affected by such activities.

Frank L. Miller
May 1, 1979.

THE COURT: One other housekeeping matter arising out of Mr. Golden's objection, there is a possibility that you may wish to file a Fresh as Amended Statement of Defence sometime between now and argument just catching up on the cross-references between your Statement of Defence and the Fresh as Amended Statement of Claim.

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MR. CHAMBERS: On the pleadings,
My Lord, I don't think that it is necessary but we
will certainly give this matter some consideration.

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THE COURT: Take a look at it.
If there is some confusion arising out of the
re-numbering of the Statement of Claim, perhaps it
would be well to clean it up at this stage rather
than to perpetuate it.

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MR. GOLDEN: I am grateful that
my remarks had some effect, My Lord.

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I have filed with Your
Lordship a supplementary -- it is called Supplementary
Legislation, and it contains some Orders in Council
and some claim loss. This was just left with the
court. This was just left with the court the same
way as the others. They are statutory.

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THE COURT. All right. We will
adjourn until 9.30.

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to Wednesday, June 6, 1979
at 9.30 a.m.

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C IAND Fed Ham 1979 v.13
In the Federal Court of Ca
00064-2262 02-0011720

HAMLET OF BAKER LAKE
ET AL & MINISTER OF IAND

C IAND Fed Ham 1979 v.13
In the Federal Court of Ca
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