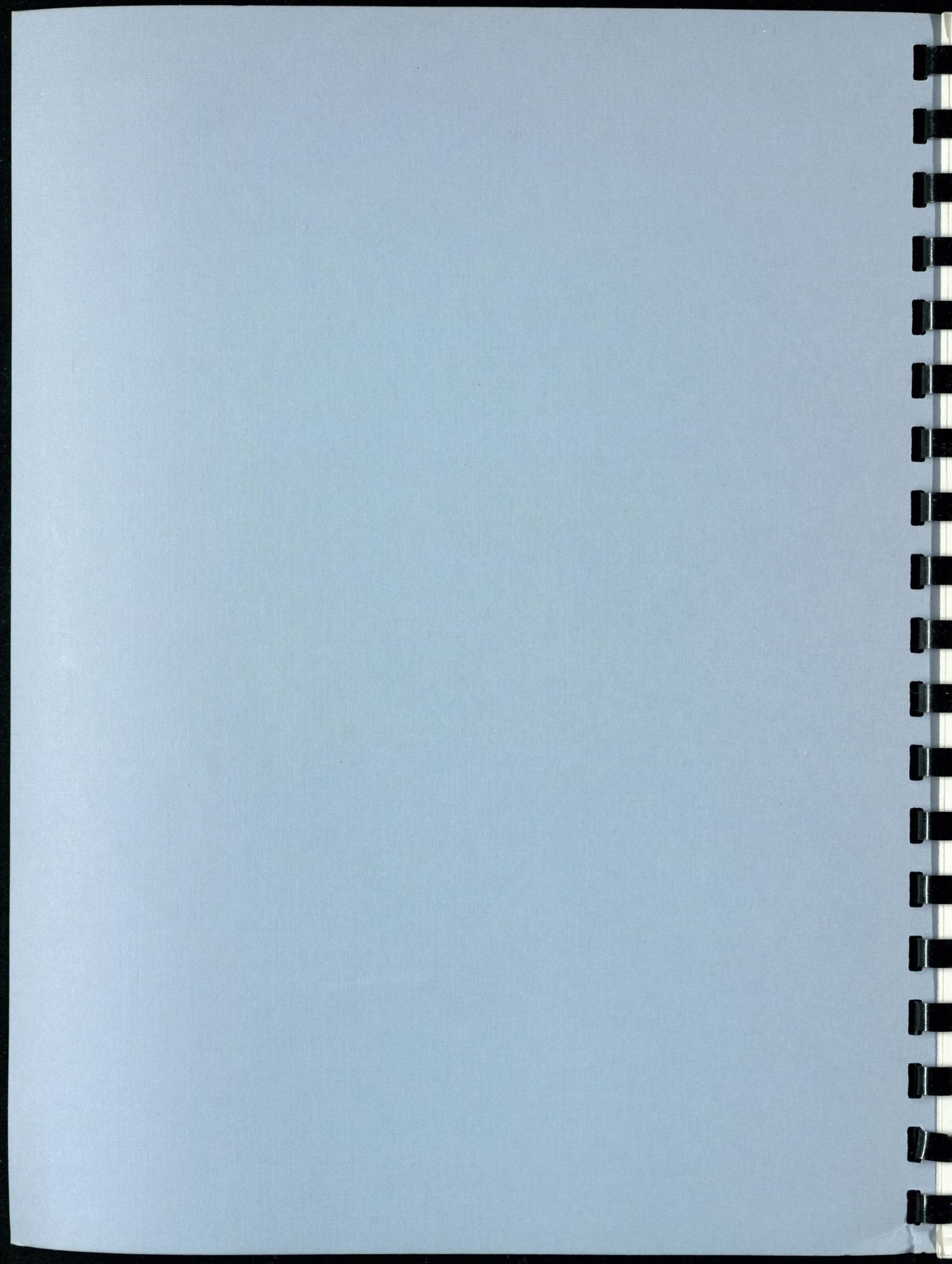


**Volume XII**  
**Pages 1100-1228**  
**Transcript Of Proceedings**  
**Alaska Native Review Commission**  
**International Overview**  
**March 15, 1984**  
**Anchorage, Alaska**

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VOLUME XII

PAGES 1100 - 1228

TRANSCRIPT OF PROCEEDINGS

ALASKA NATIVE REVIEW COMMISSION

INTERNATIONAL OVERVIEW

MARCH 15, 1984

ANCHORAGE, ALASKA

*Accu-Type Depositions, Inc.*

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3 Anchorage, March 13, 14, 15, 16, 1984  
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25 To provide a continuing Alaskan and United States National presence  
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5 Chairman,  
will also participate).
- 6 David Case  
7 Law Professor, Native Studies Program University of Alaska,  
Fairbanks (also Special Counsel to the ANRC).
- 8 Alfred Starr  
9 An Athabaskan elder who was involved as an early proponent  
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10 Native rights.
- 11 Charlie Edwardson, Jr.  
12 Early land claims activist in Alaska and a key figure in  
the movement for congressional action on Native claims.
- 13 Rosita Whorl  
Anthropologist and consultant to the Commission.
- 14 Chuck Smythe  
15 Anthropologist and consultant to the Commission.
- 16
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1 (MARCH 15, 1984)

2 (TAPE 41, SIDE A)

3 MR. BERGER: Well, let's resume  
4 the proceedings this morning. Let me begin by making an announce-  
5 ment to all of you to mark on your social calendar... the com-  
6 mission is having a reception at its offices here in Anchorage  
7 after the hearings adjourn this afternoon. So after we have  
8 ceased talking at one another this afternoon, we invite you  
9 all, members of the roundtable, the media and members of the  
10 public present... we invite you all to the commission's offices  
11 at 5:00 o'clock for refreshments, and we hope we can gather there  
12 and enjoy ourselves later on today.

13 I should also mention for the benefit of those of you  
14 who didn't arrive for the opening session on Tuesday afternoon,  
15 that these objects on the desk in front of me were presented to  
16 the commission by Maureen on behalf of the Pilbarra Land  
17 Council in Western Australia, and at the coffee break this  
18 morning, I'll ask Maureen to explain what they are and at the  
19 coffee break, I know some of you who didn't have a chance to  
20 see them would like to come up and examine them.

21 That brings us to the proceedings this morning and let me  
22 just give you one or two brief impressions of my own of yesterday's  
23 proceedings. I think we were all interested to hear what Shorty  
24 O'Neill and Stan Scrutton had to say about Australia. It is  
25 significant, it seems to me, that even though it is only in the  
last 15 years that the aboriginal people of that country have  
begun and pursued their struggle for land rights, it is interesting  
that they have already developed, at least in the Northern Terri-  
tory, new forms of land tenure by which Native people hold their  
land in trust for themselves. That is, on their own behalf... a  
form of holding land tenure that may well be useful to us in our  
deliberations here. Certainly it deserves to be examined.

I was struck by Alf Isak Keskitalo's account of the

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1 history of Sami land rights, that in the 18th century they had  
2 their own self-governing land use councils, the Siidas, and the  
3 are now seeking to reestablish some form of self-government for  
4 themselves and for the governance of their relations with the  
5 government of Norway, itself.

6 Dr. Robert Petersen indicated in one or two sentences  
7 why the Greenlandic Eskimo have achieved home rule. He said that  
8 Greenland is an island and its climate and its soil have not  
9 attracted large numbers of European immigrants and that has meant  
10 that the Eskimos still predominate and, thus, have achieved home  
11 rule on a nonethnic, institutional basis.

12 We last... Yesterday we heard lastly from Mark Gordon and  
13 I think all of us who have been working on this commission were  
14 interested in the very careful examination that the Inuit of  
15 Northern Quebec made of the Alaska Native Claims Settlement Act  
16 in their negotiations with the government of Canada, the govern-  
17 ment of Quebec and the James Bay hydro corporation. And I was  
18 struck by two things that he said about the corporate... the  
19 corporation that... the two corporations that the Inuit and the  
20 Cree have set up in Quebec, one, by the fact that they rejected  
21 the idea of a shareholding corporation and opted, instead, for  
22 perpetual membership corporation, and secondly, by the careful  
23 limitations they placed on the powers of investment given to the  
24 board of directors of each of those corporations.

25 Well, that brings us to where we adjourned yesterday  
and, Mark, I think we're still eager to hear from you and have  
you carry on with your presentation at the point where you left  
off.

MR. GORDON: Thank you, Mr.

Chairman.

Just to give you a quick rundown of, in general, what  
were the types of issues that were covered by the James Bay  
Northern Quebec Agreement, there was the provision protecting land

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1 and these... and also transferring land ownership to our community.  
2 As I said yesterday, the land is held by village corporations that  
3 ... that are run... membership.... as membership corporations,  
4 much like the Makivik Corp or the regional corporation is set  
5 up. There's also environ... Just on the land and allocations,  
6 there's about 243 square miles of land given to each village in  
7 ... in ownership.

MR. BERGER: How many villages?

MR. GORDON: Thirteen villages.

8 That was at the date of the signing of the agreement. Our villages  
9 have a habit of dividing like amoebas and forming new ones.  
10 Actually, that's a result of people moving back to their traditional  
11 areas and the population growth in our villages is very fast, so  
12 they... Once there seems to be quite a bit of pressure on the  
13 wildlife areas immediately around the villages, they divide up  
14 and one faction of the village will go back to their traditional  
15 areas.

16 Just to give you an indication of how fast our birth  
17 rate is, we've got... over half of our population is under the age  
18 of 12 years old.

19 There... On the lands, I mentioned yesterday that we  
20 were advised by the Alaska corporations that we shouldn't go for  
21 the checkerboard effect of land selections, and also, the lands...  
22 We had them... all the rights of lands held by the villages.

23 There was also another category of land that was set  
24 aside and that was simply referred to as category two lands, which  
25 is basically exclusive hunting areas. There's about 3,500 square  
miles in total for the whole region that have been set aside for  
exclusive hunting activities. That means only the Inuit can use  
these areas for hunting. On the question of the land selections,  
even though we opted for what seemed to be a better solution than  
what had been devised here, we found that there was a failing in  
it, as well. If there was any existing mineral interest or any

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1 mining interests in that area, we got blocked right out of it  
2 instead of what happened here. Through the checkerboard effect,  
3 at least you could have some pieces of land in already proven  
4 minerally-interesting areas. So we got... definitely set aside  
5 even though we tried to go for more contiguous pieces of land.

6 At the time, too, when we went into the negotiations,  
7 the Quebec government had adoped... just had adopted the environ-  
8 ment quality act in Quebec, but when we... At the time we were  
9 starting to negotiate, they only had one piece of... The legisla-  
10 tion was very general. It gave very good... goals. It laid out  
11 very good goals in the legislation but there was no regulation.  
12 The only regulation that was enforceable at the time was one  
13 concerning bottled water sold in the grocery stores. So the  
14 evolution of environmental protection and that had just started  
15 in Quebec, so when we negotiated the James Bay Agreement, we put  
16 in an environmental protection regime, which allows special  
17 committees to be set up and special hearing procedures for  
18 development projects.

19 The protection of subsistence rights was done by through  
20 the land provisions givin us exclusive areas and also setting up  
21 a special management board. Now, in the area of subsistence or  
22 hunting rights, even though we were given some specific provisions,  
23 what has really made the difference for us is that the government  
24 had never been able to enforce any of their regulations or any of  
25 their rules, despite the fact that there was many laws that had  
26 been made for the South and telescoped into the North, which were  
27 often quite irrelevant.

28 In that area, because we were also assessing the impacts  
29 of these projects, what happened was we started putting quite a  
30 bit of our money into setting up research and doing biological  
31 research work ourselves, setting up our own... research groups  
32 to study the impact and also to start assessing exactly what  
33 demands and what pressures we were putting on the wildlife resources

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1 ourselves and once we began to have this better --

2 (LOUD CONTINUAL NOISE INTERRUPTS)

3 MR. BERGER: Well, at least we  
4 haven't had an earthquake again.

5 (LAUGHTER)

6 MR. GORDON: What we did was,  
7 we began to get contracts from the government and doing the  
8 research work, such as doing biological studies on the whales,  
9 on the migratory birds in this area. And we had... We had quite  
10 a few run-ins with game regulations, things like the International  
11 Polar Bear Commission and things like that. We found that the  
12 government's regulations were often not based on true biological  
13 fact but just on bureaucratic administration of tags and things  
14 like this. They would issue a tag and then we're supposed to  
15 tag each polar bear skin that we caught, but the way that the  
16 village administration and that worked, most people didn't bother  
17 getting the tags and often the sale of polar bear skins were not  
18 through formal institutions but done on a one to one basis.  
19 Therefore, the requirements of tags never was really there.  
20 I'm just telling you about the polar bear case to give you an  
21 example of what we've done.

22 We then went into... tried to figure out exactly more...  
23 exactly what the kill statistics were of our people in our area  
24 and we found that they were quite different from what the govern-  
25 ment had thought they were, actually quite a bit higher. So  
26 we told the government that the basis for which they were putting  
27 up quotas for animals like the polar bear had no real scientific  
28 basis for the numbers they were throwing at us, and we recommended  
29 that all quotas be lifted until we could come up with the accurate  
30 statistics.

31 At that time, the Quebec government was forced to  
32 agree with us and then they went to the Canadian government and  
33 told the Canadian government that they had to concede that they

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1 could not put in quotas because they didn't have any scientific  
2 basis for doing so. The Canadian government then also agreed and  
3 went to the international commission on polar bears and made the  
4 same representation for our area.

5 About the same time, we then also adopted our own inter-  
6 nal rules, very simple rules such as closing the summer months  
7 for polar bear hunting and also not to kill cubs or bears with  
8 cubs. Since we put in these voluntary... because there's no  
9 enforcement... these regulations that we set up on our own, all  
10 of a sudden, the kill statistics stopped fluctuating and with  
11 no enforcement, no outside enforcement, all on a voluntary basis,  
12 ever since... that's a good six years ago, now... ever since that  
13 time, we've killed exactly 45 bears in all of Northern Quebec,  
14 which just happens to be ten more bears than what the quota that  
15 they were offering is.

16 Now, this is not... This hasn't been done strictly on  
17 the basis of our preferential rights or the rights that we have  
18 to the wildlife, but on... What has really made the difference is  
19 that we did our own research work and also tried to come up with  
20 our own regulations and tried to... when we came up with a  
21 problem such as the polar bear or, in another instance it was  
22 the beluga whales in one particular estuary, we worked out our  
23 own regulations that could be followed through voluntarily and  
24 much more easily. There was something much more effective than  
25 a government from the outside trying to enforce the rules and  
regulations on us.

But here, I think, it's because we've taken the interest  
and tried to follow the rules of the game that the government's  
used, tried to use scientific means to prove what we're trying to  
do, that has really made the difference and also established  
some credibility with the governments on trying to manage wild-  
life resources.

There's also general provisions talking about the

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1 regional government and I talked yesterday about some of the  
 2 failings of that. Then there was the social and economic  
 3 provisions. In this econom... The provisions of the James Bay  
 4 Agreement dealing with economic benefits and economic programs  
 5 have never really been implemented up to now. There was also  
 6 the provisions dealing specifically with the hydro project that  
 7 gave us some remedial works for the project and also, of course,  
 8 there was the monetary provision that dealt with the compensation  
 9 funds we would be receiving.

10 MR. BERGER: Could you just  
 11 pause for a minute and tell us what amount of money was involved  
 12 in the settlement?

13 MR. GORDON: It was... Okay,  
 14 there's... three amounts. There was approximately 90 million  
 15 dollars was supposed to be received by the Inuit of Northern  
 16 Quebec. The Crees were supposed to receive more. What happened  
 17 there was that there was three allotments of funds. There was  
 18 one that was based on past compensation before the James Bay  
 19 project. There was a certain amount of money set aside for that,  
 20 approximately one-third of the funds. Another third of the funds  
 21 was based on compensation for the James Bay project, itself, and  
 22 then... what happened in... We had an agreement in principle be-  
 23 fore we came with the final agreement and there was one more  
 24 lot of funds that was supposed to be based on royalties. And the  
 25 royalty provision that we had gained in the agreement in principle  
 had a life to it. It was only to last something like 25 years.  
 The government found out by the provisions that we had put in,  
 what we did effectively was to lock the government into its  
 existing taxation and royalty laws. Once they agreed with us on  
 a tied formula... on a formula, they were not going to be able  
 to change the taxation and their royalty laws that they had  
 established for mineral development. And they wanted to see if  
 we could come up with another arrangement after we had come to the



1 agreement in principle. So what we did was, we had an independent  
2 assessment done to see what would be the dollar value of keeping  
3 it a royalty provision as it was, and we found out that it would  
4 be, because of the rate of development in our area, it would be  
5 better for us to opt out for cash up front as opposed to a royalty  
6 provision that lasted 25 years. So we traded that off and got  
7 cash up front. That's one of the criticisms that have been often  
8 leveled at us by other Native groups, the fact that we didn't  
9 have a royalty provision. The royalty provision that we had  
10 gained had a very defined life to it so... and the cash value of  
11 it was going to be not as great as it sounds, so we opted it for  
12 the cash.

13 This... There's... On general, the economic provisions  
14 and even though that we received these funds from the governments  
15 and set up the regional corporation and started getting involved  
16 in ventures, different... We set up different subsidiaries, such  
17 as Air Inuit, Kigiak Construction, Sanak Maintenance, Imaqpiq  
18 Fisheries, and some of them had failed, some of them had made  
19 money, much like the situation here. Not all... Not all the  
20 investments were successful, but a good portion of them. Because  
21 of the investment restrictions that we had worked out, Makivik  
22 as a whole has always managed to keep its head just above the  
23 black... the red line, so we've always managed just to make  
24 money and we... our initial capital is still intact. We've lived  
25 off the interest up to now and been able to set up some ventures.

We've lost some money, like I said. In one venture we  
lost over six million dollars. But the economic impact to the  
communities and what it has meant to the people in the village  
level is not as much... I think much like here. The success or  
the tangible benefits to the individuals at the community level  
have not been visible enough or have not been tangible for the  
local people. Even though that we've been... made very... had  
some very successful businesses and been able to make money, the

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1 direct impact to the villages is not as great as it should be.  
2 Having all this money, setting up the corporation, allowed us to  
3 do... gave us a very good educational tool for ourselves. It  
4 taught us a great deal about how Western economies work, how  
5 Western societies, through their corporations, interact with  
6 each other. It gave us sort of the... our bid in the Western  
7 economy.

8 But on the ground, it has not had the impact that we had  
9 anticipated. The village economies are still basically very  
10 traditional economies and we still have a great deal of unemployment.  
11 Our unemployment is around... over 60 percent in all of our com-  
12 munities. It could go as high as 85 and 90 percent in some of our  
13 smaller communities. So the creation of jobs and having the  
14 positive impact of this cash directly to the villages has been  
15 very dismal, actually, and this has often created quite a bit  
16 of discontentment at the village level.

17 The economy that we are often tried... try to force...  
18 or, economic... When we talk about economic development, we  
19 always seem to hook onto the dollar, the Western scheme of  
20 economic development. The economies in our communities, if you  
21 take a look at them as traditional economies... Our villages are  
22 now... have the ability to feed themselves, no one's hungry. So  
23 in the traditional sense, our villages are probably as wealthy  
24 as they have ever been in terms of being able to bring in wildlife  
25 resources and to be able to feed themselves. The population is  
growing. We've been able to maintain this level of harvest and  
the wildlife populations have not had any major crashes in any  
of the species that we harvest. So, in that sense, the economy of  
our people is good in one sense, but in the Western sense it really  
hasn't made an impact in the villages.

I've been... We've been doing some studies ourselves and  
we are finding out that the... in terms of wage employment, the  
way incentives are given people to go work and subsidies that are

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1 given to the different people that come up to work, what we've been  
2 finding is that the local people have the hardest time getting  
3 the jobs, even though now we own and control our own institutions,  
4 because of the requirements by regulation of... for things like  
5 in the construction trade and trade union laws and things like  
6 that. We are still forced to hire more skilled labor from the  
7 South than from our own population. In fact, there are many  
8 regulations that force us to do so.

9 We had found in a recent study... because a local person  
10 who is hired is given a straight salary and no other subsidies,  
11 but white people are brought in from the South, are given perks  
12 all over the place. They're given a housing subsidy... In some  
13 institutions, even though they are Inuit and controlled and run  
14 now, like the hospital corporations, the schools and all that,  
15 they are given free housing. They are given a cargo allowance,  
16 which allows them to try and beat the high cost of transportation  
17 and be able to order food directly from the South. They're given  
18 an isolated post allowance over and above this. They are also  
19 given free holiday... paid holiday trips to the South with their  
20 families. When you total up all of this and calculate the tax-  
21 free benefits that they receive, two people working on the  
22 same job... one from that village and one imported from the South  
23 on exactly the same job with exactly the same qualifications,  
24 the person from... the imported laborer would earn up to 114  
25 percent more than the local person because of these hidden bene-  
fits and perks.

Now, this is not the situation just in Northern Quebec,  
as well. I think it's more widespread than most people realize.  
It's just that we've been able to come up with some more accurate  
statistics on this thing. There's many areas in the economic  
development that have failed and the jobs have not become more  
available to us even though we've received control over our  
institution. In the construction trade, we have people that have

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1 been working in carpentry for over 25 years. But because they  
2 cannot write the exams in French or English, they can't get  
3 qualification papers and must be... we are forced to pay them at  
4 labor rates. And you have to have certified people to hold the  
5 jobs to be able to have your project, to keep you bonding, as  
6 they would say, so that you could qualify as a construction company.  
7 These are some of the failings that we have found in trying to  
8 bring the economic impact directly to the people at the village  
9 level. There's been...

10 Right now, we're going through a major reassessment of  
11 exactly how we can make that better benefit. Having Makivik  
12 proven and giving us the credibility that shows the banks, the  
13 government, that the Inuit people can run Western-style institu-  
14 tions, financial institutions, and gave us a credibility and  
15 accountability that we couldn't have been able to prove other-  
16 wise. But on actual benefits to the people, I think is... The  
17 success there has been not as good as we would want it, and we're  
18 doing a major reassessment of exactly which way and how we could  
19 best do this now. Even though we've been able to have some  
20 very successful companies, we have not been able to bring that  
21 economic impact to the village level.

22 Some of the areas not covered by the James Bay Agree-  
23 ment and not included were also culture and language rights.  
24 The priority of Inuit subsistence over development rights was  
25 not adequately covered and there are some... There are also,  
even though we have areas such as hunting and fishing rights,  
there's still not enough adequate protections now that we've  
tried to put it to the test. So James Bay Agreement is quite  
lengthy and has provisions all through it. And it was also  
negotiated at the time with the major developers. At the nego-  
tiating table was Hydro-Quebec, James Bay Development Corporation,  
James Bay Energy Corporation, the James Bay Municipality, the  
Quebec government and the federal government. Now, we'll talk



1 about the feds in a minute, but these were the parties we had to  
2 negotiate our Native rights and try to establish our form of self-  
3 government. When you have that... that many developers at the  
4 table, it wasn't directly a negotiation with the government. We  
5 also had to satisfy the developers on every provision. So it made  
6 the negotiations very tough. In fact, the negotiations and the  
7 way the agreement came out, there was one provision that was  
8 really negotiated to death. It was only after we had signed the  
9 agreement that we found out there was one very long sentence in  
there that didn't have a verb. So it gives you an idea of how  
the negotiations went about.

10 The weight of the governments and the resources that  
they had available to them were very unequal. We had to negoti...  
11 At the time of the agreement in principle, we had a negotiating  
12 team of five people. The government had all its departments,  
13 had all these developers and they had all their lawyers, all the  
14 resources available to them. If one person got tired at the  
15 table, they could replace them with another hundred. They had  
16 thousands of these civil servants and technicrats available to  
17 them. We had five at the table and we had to negotiate round the  
18 clock with that five. So the type of negotiations... We didn't  
19 have the resources to be able to even adequately research what  
20 they were throwing at us.

21 After the agreement in principle, our resources improved  
22 somewhat. Now we had 20... about 20 people that we could use for  
23 our whole operation. They could still outnumber us 100 to one,  
24 a thousand to one if they wanted, so the negotiations were never  
25 done on an equal basis, far from it. In fact, if we held out  
too much, we were even blackmailed at times that our funding would  
be cut off for holding out and being too tough on some provisions.  
So the... the process we went through was very lopsided on  
government's side.

While the negotiations were going on, there was the cloud

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1 of a court case that hung over us all the time. What had happened  
2 was, now that the court case had gone into the court of appeal,  
3 we didn't think we had a very good chance of winning it in the  
4 court of appeals. We had won that... that aboriginal rights...  
5 We had established the principle that aboriginal rights, land  
6 claims and that, had to be settled. We then, at the time of the  
7 agreement in principle, we knew that the judgment was coming down  
8 very, very soon. So what we did, we signed an agreement in  
9 principle as quickly as we could, saying that regardless of  
10 what the... outcome of the court case, we will continue with the  
11 negotiations and go to the final... try to get to the final  
12 agreement. If we didn't get to the final agreement, then we  
13 would have went on to a higher court, but our chances, as we  
14 calculated them, were very poor in any event.

15 After we signed in the agreement in principle, one week  
16 later the judgment came down and it was against us. If we had  
17 followed the route of the courts and not negotiations, aboriginal  
18 rights, land claims, would have ended. We would have lost our  
19 case and we wouldn't have received anything at all. So there was  
20 quite a bit of duress on the people and quite a bit of pressure to  
21 make a negotiated settlement right away.

22 With all of this, one thing we tried to do was to have  
23 a provision that allowed the agreement to be amended and to be  
24 modernized. Now, from that we're now trying to go into the  
25 process of modernizing it and trying to bring it up to date.  
The regional government... We're trying to... We are now into  
the second stage of negotiation.

I would also like to say here that there was not 100  
percent agreement on the agreement. There was a faction that  
evolved called Inuit Tungavini Nunamini, which is... or, ITN.  
They became an opposition group to the agreement. They could  
not agree to it. They said that the provisions dealing with  
the regional government were far too weak, were not sufficient.



1 The land areas... The land protections were not good enough, and,  
2 particularly, the provision that deals with the extinguishment  
3 of rights. The evolution of land claims in Canada, one thing  
4 that had always come about was, if you signed an agreement with  
5 the government, they had to extinguish all other existing rights  
6 that you had.

7 Now, we tried to tie the provision directly with the  
8 land so that we were... the rights that were being extinguished  
9 were only the rights directly linked to land. We had to bite  
10 the bullet and take that provision in. We had no choice. It was  
11 either the project would go on as it is, we would not be able to  
12 realign or redefine how governmental services and in... would be  
13 carried out in our villages, we wouldn't have got these new  
14 monetary resources to be able to do some of the things that we've  
15 been able to accomplish. It was either that or stick out our  
16 necks and try to go for the ideological sovereignty that most  
17 people like to talk about.

18 So, faced with this decision, the group, the diss...  
19 what we call the dissident group, thought that we should hold  
20 out for more, we should not agree at this time. And then there  
21 was the other faction which wanted to go ahead because they  
22 wanted to grab what they can now and run with it, because the  
23 situation, if it was left as it was... It was going to become  
24 quickly unbearable. Social problems were really developing at an  
25 incredible rate in our villages. Racial problems, all of this,  
was coming through.

So we held a referendum or a vote in our villages. Of  
the people that voted, 95 percent were in agreement with the  
agreement. The dissidents... they did an interesting maneuvering  
here. They said that all those who don't vote will be considered  
dissidents, not necessarily ones that vote no. This way they  
could increase their numbers. I didn't vote because I thought  
I was too tied up with the negotiations and I shouldn't make the

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1 decisions. I had a prejudice. But I wasn't a dissident, either.

2 (LAUGHTER)

3 MR. GORDON: But despite the  
4 fact that you include all those people who abstained from voting,  
5 you would have still had a big majority, about... almost 70 percent  
6 of the people would have wanted the agreement.

7 And the dissent group and ourselves have been... The  
8 politics have evolved to a point where... basically, we've been  
9 leap-frogging over each other trying to get this new self-govern-  
10 ment. They hold out for more. We can't bring them in, we can't  
11 get an agreement with them, so we... We always try to get an  
12 agreement that would encompass all of us. But because of the  
13 dissidents and the politics that have evolved around that, we are  
14 now in a position to work with the Quebec government and try to  
15 go for more autonomy in the area of... self-government.

16 So we are now just beginning the process of negotiations  
17 for work on that.

18 The other areas that weren't covered in the James Bay  
19 Agreement were areas under federal jurisdiction, which meant the  
20 water and the islands off the shores of Quebec. There was also  
21 ... At the time of the agreement, we did what most Native groups  
22 have done. We did one thing wrong. We looked at it as a solution  
23 to every problem we ever had. And this is often, I have noticed,  
24 the approach that many groups have gone. We quickly found out  
25 that it doesn't encompass everything that we want to deal with.  
26 We also found out that it was impossible for certain things to  
27 be able to be covered by the agreement. We needed some consti-  
28 tutional amendements. I'll get into the constitutional discussions  
29 later with my comrades here from Canada.

30 But the... There was also... The agreement we had was to  
31 be carried out or put into force by legislation. Now, if it  
32 was strictly the legislature of the Quebec government, I would  
33 do it. Since they still have their sovereignty, they would have

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1 been able to change that agreement at any time. We couldn't get  
2 constitutional protection for what we had obtained, so we went  
3 for the next best thing. We had concurring legislation. Federal  
4 and provincial governments passed a law at the same time covering  
5 the same provisions, putting the agreement into force, the idea  
6 being that if we wanted to make an amendment or if one of the  
7 governments wanted to make an amendment, they would at least have  
8 to talk to the other government and try to convince them that the  
9 amendment was good. If they... That was to try to get protections  
10 that the agreement couldn't be changed unilaterally. And that  
11 ... That's the extent of protection that we could get at that  
12 time. There was no such thing as constitutionally protected  
13 treaties or anything like this. All there was, was the consti-  
14 tutional provisions that related to the trusteeship role that the  
15 federal government has. So that's the level of protection we  
16 tried to attain for our land claims agreement.

17 I think I'll stop here and after... We'll talk more about  
18 the constitutional activities later on with the other people here  
19 and from Canada, because that is another important step in the  
20 evolution of land rights and aboriginal rights.

21 Thank you.

22 MR. BERGER: Well, thank you  
23 very much, Mark Gordon.

24 Could I ask a couple of questions to start off with?  
25 You said that under the settlement, each village received so many  
square miles of land that's held in fee simple. Is it?

MR. GORDON: Yes.

MR. BERGER: And that was how  
much land for each village?

MR. GORDON: Two hundred and  
forty-three square miles.

MR. BERGER: And 13 villages?

MR. GORDON: Yes.

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1 MR. BERGER: And then you said  
2 that throughout the region there is an exclusive hunting... area  
3 of 3,500 square miles?

MR. GORDON: Yes.

4 MR. BERGER: That's for the 13  
5 villages in the region?

MR. GORDON: Yes.

6 MR. BERGER: And what about  
7 hunting rights over the remainder of the lands in the region?

8 MR. GORDON: Okay, on that we  
9 do have preferential rights. We are allowed to hunt year around.  
10 If regulations are supposed to be imposed on our people, there's  
11 a long process in which the regulations could be done.

12 First, they must look towards internal Native management  
13 controls. If these should fail, then you would go the route of  
14 regulations, and in the sense that you would have enforcement and  
15 the rules being legislated or the regulations being put down by  
16 government. But... before they get into that step, what they're  
17 supposed to try and do is see if there's some internal Native  
18 management controls. And that's supposed to be tested to see how  
19 effective it is on a given problem. And so far, even though the  
20 government is always wanting to put down regulations... They  
21 have this thing, they must have the rules written down, regardless  
22 how ineffective they are... We've been able to demonstrate that  
23 we can put our own internal system and now have to worry about  
24 the problems of enforcement because they've been able to do the  
25 on the ground effect that we had intended. So, so far, the need  
to go to the next step, to regulations, has never really come to  
being yet.

MR. BERGER: Is there... Is  
there a form of guaranteed income for hunters and trappers?

MR. GORDON: The Crees... This  
was one of the offers given by the Quebec government after we won



1 the court case. They quickly put out a proposal and one of the  
2 provisions was a guaranteed annual income.

3 The Crees opted for that provision and do have a guar-  
4 anteed annual income. The Inuit, however, rejected this. We  
5 thought that what it would do would be give great incentive for  
6 not working. What we opted for was a hunter support program, and  
7 in this program, instead of going out and giving everybody a  
8 guaranteed income, we thought that already in place were unemploy-  
9 ment insurance and welfare systems that were already in place  
10 were adequate. What we did with the funds was, we set it up in  
11 a program that is administered by the villages and we can make  
12 our own rules for it. But the general objective of the program  
13 is to be able to give assistance to people who are unable to hunt  
14 so that they can be able to receive... country foods, as we would  
15 call it, and also, the funds have been used for different things  
16 throughout the villages. In some instances, they've used it to be  
17 able to purchase... I don't know, safety equipment like life  
18 jackets or safety flares or things like that, or trail radios,  
19 long-range HF radios... and purchase these goods and sell them  
20 back to the villagers at a reduced rate.

21 To give you an example of how this has worked, in one  
22 village they bought life jackets for everybody... enough for  
23 everybody in the village, and then people could go to the local  
24 council and buy a life jacket. The person who is administering  
25 the program knows everybody in the village so he'd say, "Well,  
you're making a good income, you pay the full price." Another  
person will come in and he doesn't have a job. He'd say, "Okay,  
you get it free." They've also been used, in many villages, to  
buy wildlife resources like fish, caribou meat, pay people to go  
out, pay for their gas and pay them a small wage to go out and  
gather food and then make the food available for free to the  
village. So whoever needs that food can go and get it.

It's also been used in some villages to purchase

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1 communal property, which would be like a large fishing boat.  
2 Quite a few of our villages have gone and purchased 40 foot boats  
3 that they could use for communal harvesting activities.

4 If a particular resource is lacking in one area, they  
5 can also use these funds to pay for the transport cost and do a  
6 food exchange with another village. But these funds are all  
7 internally regulated. One thing we found was that muktuk is  
8 something that we like so much... We found that the villages, by  
9 using these funds, were putting a great deal of pressure on --

(TAPE 41, SIDE B)

10 MR. GORDON: -- the whales, so  
11 we made a rule that none of the villages can buy... or, could  
12 use these funds to purchase or subsidize anything to do with  
13 whaling, because it was putting too much pressure on the whale  
14 resources we had.

15 That's about the only overall condition that's been  
16 agreed by the villages, or has been needed to be agreed upon at  
17 this time.

18 MR. BERGER: And just before  
19 we have questions from others, I think Sam Silverstone mentioned  
20 this, but how many Inuit are in the region?

21 MR. GORDON: There's about 5,000  
22 Inuit in the region. As I said, the population is growing very,  
23 very quickly. Over half of that population is under the age of  
24 12. Now, if you start projecting this for the next ten years,  
25 the labor market is going to increase tremendously over the next  
few years. The availability of modern technology to wildlife  
activities and the... making kill rates and kill success on  
hunting activities is going to be increasing all the time. So  
the impact of the population growth is going to be tremendous,  
on the services, on the economy of the whole region. We're going  
to all of a sudden within ten years, less than ten years, we're  
going to have a labor pool which is already twice the size of what



1 we have now and the population growth doesn't seem to be slowing  
2 down at all. And we may be only about 5,000 now, but we're  
3 quickly out... we're going to quickly outgrow the resources we do  
4 have now and so looking forward, we see... we see some problems  
that are going to happen with this.

5 MR. BERGER: And the Crees, who  
6 made their settlement at the same time as you did, how many  
Crees are there... approximately?

7 MR. GORDON: About 7,000 Crees.

8 MR. BERGER: And what is the  
9 total, in square miles, of the region covered by the Inuit and  
the Crees... and by the settlement?

10 MR. GORDON: Okay, the total  
11 area... I can't give it to you in square miles... but I can give  
12 you an idea what size it is. It's... one-third of the province  
13 of Quebec. The area covered by the Inuit north of the 55th, which  
14 is roughly half this area, is about the same square mileage as  
the country of France.

15 MR. BERGER: Well, that gives  
16 us a pretty good idea. Just one last thing. What is the non-  
Native population in the Inuit region?

17 MR. GORDON: It varies from  
18 village to village. The larger centers would have a larger  
19 non-Native population, but in total, I think there's less than  
.1,000 in the entire region.

20 MR. BERGER: I see. And the  
21 regional government and the regional school board are... have  
22 certain guarantees under legislation but they are non-ethnic.  
Did I get that right?

23 MR. GORDON: Yes. To give you  
24 an example of how governments can control or take away whatever  
25 autonomy you may have on paper through money, in the area of  
education, although now this is under our own control, what the

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1 Quebec government has said is, okay, on paper we have rights to  
2 adopt whatever kind of curriculum we want. We were supposed to  
3 be able to include all these Native courses and things like this.  
4 But we've never been given enough funds to be able to develop our  
5 own Native curriculum. In fact, what we've had to do was to use  
6 some of the funds that is used to train our own teachers, to use  
7 some of those funds to do some of the curriculum development.  
8 So, on paper we have the right to create a Native curriculum, but  
9 they won't give us the funds to do it. So... But we're trying....  
10 We're slowly making progress in this area but what you get in  
11 an agreement such as this may not necessarily be what you'll end  
12 up with. You'll get it on paper. It depends... The financial  
13 resources are so critical to... to these questions. If you end  
14 up with a form of government that has to continually receive  
15 subsidies from the outside, the fiscal arrangements have to be  
16 worked out very carefully so that you don't end up in the problem  
17 that we did where they effectively control you by earmarking  
18 every dollar that comes into your region.

15 MR. BERGER: Well, thank you.

16 Now, questions? Rosita Worl? Chuck Smythe?

17 MR. SMYTHE: Well, I was very  
18 interested in some of the comments he made. Some of them echoed  
19 what we had heard a couple weeks ago, comments by Alaskans who  
20 had had some of the same experiences, particularly the problem  
21 with corporations not providing the economic benefit to the  
22 villages and also that the level of expectations of returns from  
23 corporations and other provisions of the act were much higher  
24 than, indeed, has turned out.

25 My first question has to do with that issue of the  
corporation and the level of employment and other benefits it  
has provided the villages, and that is, I wondered if, you know,  
what kinds of solutions are you considering, or if there is a  
solution to that?



1 MR. GORDON: Well... On here,  
2 I won't give you the party line, but I'll give you my own personal  
3 opinion on these.

4 I think the approach to economic development has been  
5 basically wrong in the sense that we've always tried to... when  
6 we try to do economic development, we try to do the Western version  
7 of economic development. The problem... If we want to do some  
8 real long-term and economic benefit for our communities, what  
9 we should be doing is developing and industrializing the tradition-  
10 al economy. Now, the problem here is that we run... right into  
11 the government regulations again.

12 The governments of Canada and Quebec have always viewed  
13 the wildlife resources as something toward recreational activities.  
14 They are willing to pay farmers not to grow wheat, but they won't  
15 pay us to stop hunting seals. You know, these types of arguments  
16 start coming out. If they looked at the wildlife resources in  
17 the same sense that they... as a food resource as opposed to a  
18 recreational activity, or something that you preserve for the  
19 sake of looking at or for the sake of preservation... If they  
20 looked at it more on the lines of the management that the put  
21 into the fisheries and into agriculture and put the same kind of  
22 priority and the same kind of funding for developing that re-  
23 source, I think this would make a better and a longer-term im-  
24 pact in our community as opposed to setting up... I don't know,  
25 another hamburger stand in one of our villages to compete with  
his neighbor and then both of them are failing businesses so  
we have to bring in more subsidies to keep these failing enter-  
prises going. This is often the case in many, many... tries  
that the government has put out. They would set up a small  
business and since they've got government money in it, they've  
got to keep it from failing so they keep putting in subsidies  
into it through various means, and this type of economic develop-  
ment creates a very artificial economy.

1           If you take a look at the example of what's developed  
2 in Greenland, not to say that everything is perfect in Greenland,  
3 but the... the level of modernization and industrialization of  
4 the traditional economy there is something to be envied. Once  
5 they set up... like the processing plants and... for handling  
6 the wildlife... the wild meats and things like this, you end up  
7 with the spinoff jobs that are more permanent, such as the..  
8 the spinoff jobs in the processing plants, in the retailing of  
9 these products and things like that. So that, I think, would be  
10 a more natural economy and should be the one that should be given  
11 more emphasis at this time as opposed to trying to transplant  
12 the Southern or Western economy to the North.

13                               MR. BERGER: Peter Ittinuar,  
14 did you have a question? And then Steve and then Dorik.

15                               MR. ITTINUAR: Thank you,  
16 Mr. Chairman.

17           I'd like to make an observation, first of all, as a  
18 Canadian Eskimo or Inuk. One thing that NQIA Makivik process  
19 did, was produce a high number of highly skilled Eskimo poli-  
20 ticians who have helped Eskimos in other parts of Canada. I  
21 don't think anyone in here would disagree with me that Mark is  
22 a pretty highly skilled person.

23           I'd like to make another observation, and that was  
24 the Kativik regional government was one of the two models in  
25 Canada which is supposed to be eventually a nonethnic or public  
government or government by majority through an election process.  
However, I used to note over the door of the Makivik offices in  
Fort Chimo, a sign saying an ethnic organization representing an  
ethnic community. I'd like Mark to reconcile those two views.

          And one more flippant, perhaps frivolous question.  
If you could do it all over again, would you do it, Mark?

                              MR. GORDON: On the first  
question, Makivik has become the ethnic entity that is set up...



1 One of the unique features of Makivik as well is that it has the  
2 legal responsibility to protect the Native rights of its membership.

3 MR. BERGER: That's the corpora-  
4 tion?

5 MR. GORDON: That's the corpora-  
6 tion. So it has this unique role attached to it. So that's why  
7 the corporation's always getting involved in politics. It's not  
8 strictly a business corporation. There's this one side of it  
9 that we've given the legal responsibility to act like a trustee  
10 for its members, and by its charter, it must protect the Native  
11 rights, especially the rights contained in the James Bay Agree-  
12 ment. But we've expanded that view to encompass all of our  
13 interests and rights.

14 The regional government the form or the governmental  
15 institution we've adopted to be able to deliver services and to  
16 do some of our regulatory activities in our region. What we  
17 tried to do was not to put all our eggs in one basket. So  
18 that's why you see that sign over the Makivik door.

19 The other question, whether I would do it all over again,  
20 yes, I certainly would but now we'd at least... If we did it  
21 again, we wouldn't be running full speed, trying to pick up the  
22 golden apples as we were running. You know, the other Native  
23 groups in Canada have now the luxury of time. They can actually  
24 study what they're getting into. We had to jump right into the  
25 water and then we found out how cold it was. This is --

MR. BERGER: You turned out to  
be a pretty good swimmer, I think.

MR. GORDON: But... The thing  
about the James Bay Agreement and the whole process was not the  
amounts that we received. The real prize, the real benefit of  
the whole thing was not the dollars, was not the land, was not  
necessarily the definition of the rights. The real prize in the  
whole thing was that it broke the barrier of apathy that was

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1 developing in our villages. It organized them as communities.  
2 It gave them a common issue to be able to deal with. It motivated  
3 the people to do things. Even when we disagreed, we then had a  
4 ... even when we're disagreeing, at least we're not apathetic  
5 about the situation. Before, it seemed so hopeless. The Native  
6 people had no jobs, they just... very beholdng to governments and  
7 things like this. Then after this... the whole process and  
8 despite what we received or didn't receive in the agreement, it  
9 mobilized the people to actively start participating in trying to  
10 change government policy, trying to deal with their own problems  
11 as opposed to waiting for the government to come along and solve  
12 them for them. So I've always maintained that this is the real  
13 prize in the whole thing. It wasn't the money, it wasn't the land.  
14 It was the motivation and the drive that it put into our own  
15 people.

16 MR. BERGER: Steve? Steve  
17 Iveson?

18 MR. IVESON: One of the comments  
19 you made this morning was that you were creating new communities,  
20 you were moving back out to more traditional areas. And as you  
21 mentioned yesterday, that goes against the recent flow of history.  
22 Government has been bringing people more and more into communities  
23 by pressure for schools or providing services. And at the same  
24 time, people, I imagine... I don't know in your situation but  
25 maybe there's a generation that got a bit used to living in those  
communities with their particular levels of services. So I  
wonder if you could talk a bit about the factors that have  
motivated people to move back out?

MR. GORDON: You see, the  
existing villages we're living in, with the exception of a  
very few... like Chimo. Chimo's been a trading post for well  
over 200 years. And there's a few villages that have had this  
long establishment. But for the most part, the villages as they

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1 are now today, were non-existent until the late '50s, early '60s.  
2 So what motivates them to move back? They're homesick. That's  
3 basically it. They want to go back to their traditional areas,  
4 the areas that they've... they're accustomed to. There's... Also,  
5 by people being forced into these villages... I mean, they weren't  
6 literally picked up and put there but the pressures were very  
7 tremendous for them to move into these centralized places. By  
8 this happening, it created a... the social atmosphere where in  
9 the village they actually operated as two villages inside one  
10 town because of the social structures, the traditional power  
11 structures and all of that were still... left them as distinct  
12 villages even though they were living in one town. So it's  
13 very natural for them to... to separate out and go back to their  
14 areas, and we haven't been in these villages so long that we've  
15 grown such a strong attachment to it.

16 The village of Leaf Bay was created just before the  
17 James Bay Agreement was signed and that split off from the people  
18 from Fort Chimo. The village of Akulivik was split off from  
19 the village of Kanginsuk... No, I'm sorry... Aupaluk came from  
20 Kanginsuk. POV split up and another village was formed called  
21 Akulivik. But these are people moving back to their traditional  
22 areas. It's not going out and establishing new villages, neces-  
23 sarily. It's just relocating old ones.

24 MR. IVESON: What kind of  
25 ... What kind of expectations did people have for the community  
they'll have, services, this kind of things, and what size are  
the new communities being set up or the old ones being re-  
established, and education... what's the impact on education?

MR. GORDON: The average size  
of our villages, generally, is around 300 people. The new  
villages that are being set up are usually about 150, 100 people,  
initially. This is... These are the numbers that would be  
establishing the villages. Now, in terms of services, the James



1 Bay Agreement states that if there's a village of over 50 people,  
2 then it can be erected as a municipality. Now, once it's a  
3 municipality, then the government is obliged to give it the whole  
4 ... whole run of services. We often go into quite lengthy nego-  
5 tiations trying to establish these villages. There's one village  
6 that was created... directly through the James Bay Agreement,  
7 and that was the people of Great Whale. They relocated about  
8 half their population to a new area... or, to an old area, I should  
9 say. Does that answer your question?

10 MR. IVESON: Yeah, so that...  
11 Well... Yeah, okay, that's fine. So schools would go into those  
12 communities, too. People would not see themselves, in their  
13 view, perhaps, sacrificing --

14 MR. GORDON: Yes. They would  
15 get the schools, they'd get the nursing station, they'd get  
16 the municipal services... All of that would go in with it. But,  
17 initially, they have to go through the rough times, as well,  
18 until they do... One thing they have to do is more or less demon-  
19 strate to the government that there are actually people moving  
20 there and it's usually the first 50 or so people that move have  
21 to live through pretty hard times for a few years and then,  
22 once they show that... demonstrate that they're serious, then  
23 the government will bring in the services.

24 MR. IVESON: So that this trend  
25 is an important asset in your idea about stressing the traditional  
economy and modernizing it and exploiting that instead of moving  
into the more Western economy?

MR. GORDON: It's a very natural  
evolution to our villages. You could try and... You could try  
to control it by regulation or by trying to put financial con-  
straints on the villages so that this wasn't possible, but I  
think it would occur in any event.

MR. BERGER: Shorty O'Neill?



1 MR. O'NEILL: I just wanted you  
2 to expand a bit on the education system that you're going on, and  
3 a bit more on the health. Probably what I'm...

4 I should explain, I suppose, what's happening over in  
5 our region and give you a bit of an idea what I'm talking about.  
6 In the past ten years, we've started to set up aboriginal-run  
7 and controlled schools back at the community level and, you know,  
8 we've never ever gotten any money to kick these things off and  
9 usually we maybe get some money from overseas or from the East  
10 of Australia, enough to pay maybe two teachers. What happens is  
11 that the community forms a committee, and it's usually the  
12 elders, the old people, because they've been the traditional  
13 teachers since the beginning of time, and the school is run  
14 probably more than 50 percent on traditional teachings because  
15 we believe that our children have a... as a first right, have  
16 the right to traditional education. And the elders do this for...  
17 because it's an obligation by them. They don't get paid for it.  
18 And sometimes we get to employ a couple of white school teachers  
19 who teach what we see as important in the European curriculum.  
20 Like, there's probably about 90 percent you can throw out the  
21 door because it doesn't apply to indigenous peoples. But we  
22 also realize that we need the tools to be able to live beside  
23 a foreign society that we're forced to live beside, and so we  
24 need these tools to deal with it. And the elders then decide  
25 what sort of... what comes out of the European curriculum and  
what's taught to our children. And usually... like Yippurinyea (Ph)  
in Alice Springs, which teaches about ten different languages as  
first languages. English becomes the 11th language. It's  
been operating for about five years up until November when we  
finally got it recognized by the new government in Australia and  
it's now being government funded. But it operated for over four  
and a half years on charity, and very little charity. And so even  
some of the white school teachers had to get half pay most of the

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1 time. With the...

2 And, you know, that's where I need you to go on a bit and  
3 I just can't understand why you don't have money to fix up a  
4 curriculum.

5 But the other thing, on the health situation also...  
6 you know, with health statistics that we've got, and we've probably  
7 got some of the worst in the world, we also believe it's pretty  
8 important to have good health because once we get our land back,  
9 we want some people alive to be able to live on it, eh? So health  
10 is also a pretty major thing within the movement and we now have  
11 38 health organizations throughout Australia, which isn't much  
12 when you look at the size of Australia and the number of aboriginal  
13 communities throughout the whole country. But these 38 are now  
14 funded by the federal government. The way we got them funded was,  
15 we got a little bit of money from wherever we could get it and set  
16 a health service up and then done a survey into the health sta-  
17 tistics around the place and blew it up wherever we could,  
18 utilized the media all over the country, utilized the international  
19 media, blew it up particularly in Europe, and started getting  
20 people to, you know, send donations from Europe over, and getting  
21 as many people as we could to embarrass the Australian government  
22 so that they would start to fund those health organizations. And  
23 as we got one funded, then we'd move into another one up and  
24 embarrass them all over again and continue on in that field.

19 And... Yeah, I'm just wondering... you know, why you  
20 can't put a curriculum up... because you haven't got any money,  
21 you know? We do it without money.

22 MR. GORDON: There has been  
23 quite a bit of... This is one of the two areas that the government  
24 had put in quite a bit of priority even before we went into the  
25 claims movement and all of this. So there... Despite the  
blunderings and all of this, there was a fair bit of money already  
being put into these things. But they had... We had no control

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1 over them. So what we were basically doing was taking over already  
2 existing programs and services. In the... See, the way we've  
3 set up our schools, we've... They have to be able to fall into  
4 the same criteria, all the schools throughout the province. They  
5 have to be able to... You have the same high school levels and  
6 all of this. So... And now we're... The way the education system  
7 has evolved is that we've took over basically the Western educa-  
8 tion system and then we're starting to interject our traditional  
9 stuff into it. Which seems to be, I think, the opposite of what  
10 your development has been. But... So there's not that much  
11 material written in Inuktatuk and the problem is that even though  
12 in Greenland they had books and everything written for the last  
13 couple hundred years, the only thing until very recent times that  
14 we could find written in Inuktatuk was the Bible. Other than  
15 that, there wasn't too much other reading material and... then in  
16 more recent times, it's been only political documents. So that's  
17 still not something that you could put into the schools.

18 So we've had to try and develop and try to get the  
19 written material for the schools, and that's slowly evolving but  
20 it's very slow because of the lack of funds directly to be able  
21 to do the research work, to go down to the museums and the uni-  
22 versities in the South that have gathered all the tapes about our  
23 traditions and all the... the traditional stories and the songs  
24 and all that are in all these libraries all over the South and,  
25 you know, we don't have any access to them. They're a thousand  
miles away.

So we need the funds in order to be able to develop our  
curriculums and to try and move this on further... and also to try  
and train more Native teachers, as well, because the teachers have  
to be certified as teachers in the sense of the same way that  
teachers are certified for the regular schools in the South.  
So this is the reason why we need the additional money to be able  
to do the curriculum development. We're putting it in. Even

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1 though that there is some traditional courses being put in now,  
2 they are also teaching the younger boys and that to go out hunting,  
3 to learn the basic skills of hunting and things like that. And  
4 this is a part of the school system now.

5 So things are moving along but not to the extent that  
6 we would like them. Much like yourself, when we used to go to  
7 our... the schools when I went to school, we used to also be  
8 punished for speaking our own language in school and we were  
9 forbidden to speak Inuktatuk in the schools and so it was definitely  
10 not a part of our curriculum. We had to start from scratch,  
11 basically, in terms of trying to include our Native culture into  
12 the education system.

13 Now, in the area of health, here... The governments in  
14 Canada have put a good deal of emphasis on health services in  
15 the North. Even though they might not be as good as we would  
16 like them, they have improved tremendously over the last few  
17 years and we've now got the administrative control over the  
18 hospitals. But the other thing that also made a marked improve-  
19 ment on health services was the improvements in communication  
20 and transportation. We now... All of our villages have satellite  
21 hookups for telephones, for radio and for TV, and this is really  
22 help... The instant communications have really helped improve  
23 health services. Also, in the area of transportation, we own our  
24 own airline and we've been able to increase the frequency of  
25 ... of flights to our villages because the villages are so small,  
all you can really put into them is a small nursing station  
with central hospital... in the larger centers. So the question  
of transportation has also really made an improvement to that.  
Now that we own our own airlines, we equipped them better than  
the previous airlines used to have. Our villages don't have any  
real runways or any navigational aides on the ground, so we've  
taken the bother to invest in satellite... I mean, computer  
navigation systems into our aircraft. That means an additional

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1 35 thousand for each airplane, but this is supposed to be a  
2 secondary navigational system but we use it more like a primary  
3 system because there's no on the ground navigational aides.

4 But the improvement in air services has made health  
5 services really good because we can... If there's an emergency  
6 in one of our smaller villages, we can have them evacuated and  
7 sent to the South in a matter of hours as opposed to days, and  
8 this has really made the difference.

9 MR. BERGER: Rosita Worl, you  
10 had a question?

11 MRS. WORL: Thank you, Mr.  
12 Chairman.

13 I found your review very informative and certainly  
14 many parallels to Alaska. I might share with you a few obser-  
15 vations and then ask just one question.

16 In Alaska, where in the Native corporations, primarily  
17 the Native corporations, we have... the studies that have been  
18 done shows that we have the same problem, that the rate of  
19 Native participation is very low, even in those corporations  
20 that have a priority to hire shareholders or Native people, and  
21 really have an aggressive recruitment program, are lucky to have  
22 about a 20 percent Native participation. That's in corporations  
23 as employees as opposed to Native tribal service organizations,  
24 where you have a higher Native employment.

25 In one situation, we found the apparent discrimination  
that you note in the differences in benefits to the non-Native  
employees. In one instance here in Alaska, we found that teacher  
aides were getting benefits such as housing and the Native people  
living in the communities weren't, and so a discrimination suit  
was brought through the Human Rights. And before it was ever  
resolved, we noticed a mass hiring of Native teacher aides and  
given the same kind of benefits. I don't know if you want to  
go that route since you own most of the Native corporations.

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1           The second thing is, the studies... a number of studies  
2 that have been done on Alaska also have shown that where you have  
3 a modernization of traditional economies, there is a more rapid  
4 movement of Native people into those kinds of economies, such as  
5 in Southeast Alaska where you saw the Tlingit and Haida moving  
6 into the fishing industry. But they were not as eager to partici-  
7 pate in the timber industry.

8           There have also been some studies that have shown...  
9 some studies and some actual things that have occurred where  
10 there have been changes in the supply side of the economic system,  
11 and I think the most successful, probably, is the North Slope  
12 Borough. They were fortunate in having some sort of agreement  
13 with the unions where they did not unionize their contracting,  
14 construction carpenter jobs. But the most interesting thing that  
15 I found was that they changed their policies to really accommodate  
16 the subsistence economy. And, for example, there was a real  
17 flexible leave system for subsistence hunting.

18           The question that I have, it's something that we've  
19 noted here in Alaska and it's causing grave concern, is the  
20 ... the differential rate of change between male and female Native  
21 people. We have found that Native females are moving into wage  
22 economy at a much greater rate than Native males. We found that  
23 Native females are becoming educated, higher education, college  
24 education, at about three times the rate as Native males. And,  
25 you know, we don't think that this leads to a healthy society.  
And we're wondering... I mean, do you have... I mean, do you  
notice any of those same kind of trends?

          MR. GORDON: Okay, on your  
observation about discrepancy of what the Native people get and  
... for the same job as a... an imported person would, by looking  
at some of the statistics, we found... we're finding that the  
people who have the least ability to pay, the ones that are  
on marginal wage-earning jobs and things like that, have to carry



1 the highest costs. They pay a high... A person who has... I don't  
2 know, a job driving a truck in one of our villages, will pay more  
3 for his housing, more for his food... He'll pay for his own trips  
4 if he wants to travel elsewhere and things like this. He has to  
5 carry higher costs than a skilled person with a higher salary,  
6 and imported person with a higher salary and all of this. So  
7 the economy in the villages is quite upside down. The people who  
8 have the greatest resources and the greatest ability to pay, pay  
9 the least, which is weird. But this is the unfortunate evolution  
10 of how services have been evolving in the North, because the  
11 wage scales and the systems that were put in place were basically  
12 ... when the government used to bring in these men to hold the  
13 flag. And when we took over the system, unfortunately we con-  
14 tinued this type of thing and we have to try now, try to rationalize  
15 it or to make the subsidies spread over the entire population better  
16 as opposed to having it concentrating on those high wage earners.

17 On the question of Native women getting into the job  
18 market at a faster rate, I really can't say whether this is  
19 taking place but the thing is that in the... our operations we're  
20 finding... Just a quick observation on this area... We're finding  
21 the Native women in our area have been... On our training pro-  
22 grams and that, we find that we find more Native women are  
23 involved in areas of bookkeeping, finance and basic administration  
24 where the males tend to concentrate more on the management and the  
25 political roles. This is a difference I would see in our villages  
but the notion of equality has always been quite strong. In  
fact, right now the president of Makivik happens to be a woman at  
this time. I really haven't seen... the education or the... I  
know that the concentration and what they're going for is  
different, but I haven't... I can't say that there're more Native  
women getting higher education than males. I can't say that, but  
I do notice that there is a difference in what the types of work  
that they're going after.

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1 MR. BERGER: Could I just say  
2 that the next person on my list to ask a question is Dennis  
3 Patterson, and before becoming minister of aboriginal affairs,  
4 Dennis Patterson was minister of education in the Northwest  
5 Territories, and you might respond to Rosita Worl's question,  
6 if you're in a position to do so, Dennis, and then carry on with  
7 your question you have for Mark... that is, about men and women  
8 and levels of education and so on.

9 And then I have Steve Kakfwi and Doug Sanders and  
10 Bill Erasmus down. And what I was going to suggest was that  
11 we break in just a moment for a quick cup of coffee and that  
12 after that... after that we carry on with the questioning and  
13 that perhaps we might, by 11:30, try to move on to the next  
14 subject, which is the COPE settlement in the Mackenzie Delta  
15 and to ask Dwight Noseworthy, who is the chief negotiator for  
16 the Northwest Territory government, to tell us about that  
17 settlement, and then move on to the CYI settlement.

18 I think everybody wants to complete the sessions by  
19 late tomorrow afternoon and so I think I, as chairman, have to  
20 try and see if we can't keep moving, even though I'm forced to  
21 cut off the questioning of every single speaker so far.

22 Just before we take a break, I would like Maureen to  
23 tell us about these artifacts that she was good enough to bring  
24 from Australia and to present to the commission. And some of  
25 you haven't seen them and during the coffee break you might  
26 like to come forward and take a look at them.

27 Maureen, why don't you come and sit here now and tell  
28 everybody about these and then we'll take our break?

29 MS. KELLY: Stanley knows more  
30 about this than me but he's shy.

31 This is a flogging stick and it actually is used still  
32 in Australia. If you have a feud in Australia, especially with  
33 the tribal people, they usually pick up one of these, each person,

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1 and the first man down is out, of course. They each have a hit  
2 and the other one must not hit while the other person is hitting.  
3 They have to stand and take it. And the women even use this, but  
4 this is not a woman's flogging stick. It's used for the men only.  
5 And it's still used in our country back in Australia... and we're  
6 supposed to be civilized.

7 If you come up here later on, you can actually see this  
8 being used. It's called a spear thrower, and you can see down  
9 here where they actually put the spear in there and it gives it  
10 greater... throwing range, I guess. That's... They're being  
11 actually used. They usually use kangaroo hide, and that has got  
12 kangaroo sinews, actually, to bind it there. And, of course,  
13 when it dries, it sticks. And the same down here. That's got  
14 some sort of... What would that be, Stanley?

15 MR. SCRUTTON: Sugar bark wax.

16 MS. KELLY: Sugar?

17 MR. SCRUTTON: Bark wax.

18 MS. KELLY: Sugar bark wax,  
19 that is there. And that's... These are all hand carved.

20 This is a coolamin, but this is one used for food. I  
21 have a really beautiful little picture here of one made out of  
22 bark with an aboriginal child in it. It's a larger one, of  
23 course, and that's just made out of bark. This one would be  
24 used for gathering food. And it's called coolamin.

25 This is a digeriedoo. Stanley and Shorty both deny  
being able to play it. It's hollow up there and for somebody  
who's a gas bag, they can really go to down on this one.

(LAUGHTER)

MS. KELLY: All these carvings,  
of course, on the side mean something. I don't really know what  
because I haven't been told what they are. There are some things  
that women are not allowed to know, so I guess that's one of  
them.

1 MR. BERGER: We'll break five  
2 minutes for coffee, and please come and take a look at these.

(HEARING RECESSED)

(HEARING RESUMED)

(TAPE 42, SIDE A)

3  
4  
5 MR. BERGER: Well, let's take  
6 our seats.

(LONG PAUSE)

7 MR. BERGER: I think I should  
8 say that there are publications on the table near the door that  
9 you're welcome to pick up and they include a series of articles  
10 in northern perspectives. One is called "Native Rights in  
11 Norway," another is called, "Australia, Native Rights in Another  
12 Land," and another is called, "Greenland, Lessons of Self-Govern-  
13 ment and Development," and they are... Copies have been made and  
14 please take copies of each with you. They, of course, are not  
15 as up to date as the material that... the accounts that have been  
16 given today by those present, but you may find them useful.

17 Could I also say that Bill duBay, publisher of the  
18 "Arctic Slope Review"... "Arctic Policy Review," forgive me, is  
19 willing to arrange tomorrow at noon for any of you who wish to  
20 do so, a visit to look at the North Slope Borough's coastal  
21 mapping project. This is a very sophisticated, computerized  
22 mapping operation covering the whole of the Arctic Coast of  
23 Alaska, which falls, of course, within the North Slope Borough.  
24 And Bill is here, over here by the taco counter. And if you want  
25 to take advantage of Bill's offer, you might speak to him and  
let him know, and give him your name and he can arrange that  
during the lunch break tomorrow for those of you who would like  
to take a look at that.

So, we are now back with Mark Gordon and Dennis Patter-  
son has the floor.

MR. PATTERSON: Thank you, Mr.

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1 Chairman.

2 Just on trends as far as overemployment of aboriginal  
3 women, in response to your question of me, we don't see any  
4 discernible trends in the Northwest Territories in that direction.  
5 I do recognize that it's a source of social discord and may have  
6 influenced the trend towards mixed marriages because conflicts  
7 do arise between men and women when the women are able to get into  
8 the wage economy easier than their mates, but the dominant theme  
9 in the NWT, I would say, is unemployment at the community level  
10 and women are fairly well represented in education but not too  
11 well represented otherwise. So it's not... It hasn't emerged as  
12 a clear problem at this point yet.

13 And my question, if I may, is, I was really intrigued,  
14 since I am still involved in education, to see the small high  
15 schools policy that's developed in Alaska, where every community  
16 has a high school, or almost every community now has a high  
17 school, and to learn of the dramatic results it has apparently  
18 produced in increasing success and social happenings amongst  
19 the young Native Alaskans.

20 I was wondering... I know that Kativik school board had  
21 a quite a disastorous attempt to start a high school on Montreal.  
22 I wonder if Mr. Gordon would just tell me how you're making out  
23 in training people at the high school level and beyond in your  
24 area now and whether students have to leave communities yet still  
25 to go to high school?

MR. GORDON: In the area of  
education... Yes, we did have one disastorous attempt in trying  
to set up sort of like a boarding school in the city of Montreal.  
What's happening in most of our villages is that the... the  
school level usually goes up towards the high school level, and  
then after that, because there's a very few that would stay in  
school long enough to continue on through the high school level,  
what's usually the trend and has been for the last... since we

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1 started going to school, my generation included, was that once  
2 the students hit about 16, 17 years old and have the ability to  
3 enter the job market and that, they tend to leave the schools.  
4 Now, the reasons we used to leave was that we had to be away  
5 from home and usually this was the biggest factor in making people  
6 to leave school and to go back home, because we had to go to  
7 schools in the South and even though there was all the government  
8 programs and subsidies and that that enabled us to go to the...  
9 the higher education in the South, this is still basically the  
10 same practice being continued today. But there is now getting  
11 to be a better turnout of students staying in school longer now.  
12 That situation has improved slowly. Still again, here's the  
13 same problem. People have to leave once they reach a certain  
14 level. It varies from village to village. In the larger  
15 communities... I think Chimo is supposed to have its first two  
16 high school graduates this year. That's a village of 1,000 people  
17 and education in Chimo has been around a lot longer than other  
18 villages, up to about 25 years. So this is... This gives you an  
19 indication of the success rate of people passing through schools.

20 Now that we have control of our own education systems  
21 though, what's happening is that this... We're getting... The  
22 student population is growing so fast, we're getting larger  
23 facilities and all these old facilities, what we are hoping to do  
24 and we are working this jointly between Makivik Corporation, the  
25 Kativik School Board and the regional government, who all have  
training programs throughout... What we plan to do with these  
old facilities is try to use them as adult education centers or  
for... secondary level education centers throughout the areas,  
also to do some vocational training within the region. Right  
now, we still have to send most of our students out but the  
situation is changing over slowly so that we will have more people  
be able to complete their schooling in the North.

Because of the people dropping out early in school and

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1 entering early into the job market, what we've found is that we've  
2 had to put in quite a few training programs for these people to  
3 try and bring their education levels back up and to be able to be  
an effective part of the job market.

4 For instance, in Makivik, we have college level credit  
5 bookkeeping and financial management courses that we do internally,  
6 on the job training type arrangements. And these on the job type  
7 training arrangements seem to have a better success rate than  
8 somebody entering into a school and just learning for a few  
9 years because of the poor economic conditions in the communities.  
10 Everybody in the family who can make money should be out making  
11 money for the rest of the people and there's a lot of pressure for  
12 young people to go out and be useful to their family immediately,  
even though that we will say, "Stay in school so you can have a  
good job." But in reality the social pressures are that the per-  
son should be producing for his family.

13 So there is this pressure that is there. A lot of people  
14 would try to say, "No, we were encouraging our people to go to  
15 school." But in reality, in how the social milieu works in the  
16 village, these people are given a great deal of pressure to  
produce for their own families, to bring in some income.

17 One other thing, too, that... that discourages a lot  
18 of young people is that once they hit about 16 years old, they're  
19 supposed to have the ability to hunt and to carry out the full  
20 range of traditional activities. Being in school does not allow  
21 you to do that, and so it's always been... It's always been in  
22 conflict with the traditional activities, the skills you're supposed  
23 to have acquired as a Native person by this age. So the intro-  
24 duction of the traditional courses... the hunting courses and  
things like that into the schools have helped this somewhat but  
still falls short of what is really required of that person as a  
Native person, in terms of his standing in the village.

25 So these factors are... I don't know how we're going to

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1 resolve them but we're trying out best at it. I guess there's  
2 going to have to be still a few years of experimentation where  
3 we'll have some success and some failures, but that we have not  
quite resolved yet.

4 But there seems... There is starting to be... The group  
5 of people that have been dropping out of school have been coming  
6 back for training programs, on the job training programs, and  
7 some of them will take short-term courses in the South. And  
8 we're also establishing courses in the North for various skills  
9 and that's helping bring back these people and get them back into  
the educational system and would enable them to be able to enter  
the job market very effectively.

10 I hope that answers your question.

11 MR. PATTERSON: Thank you.

12 MR. BERGER: Steve Kakfwi?

13 MR. KAKFWI: The question I  
14 have is regard to the concern that all aboriginal people have  
for the environment and the management of the resources on it.

15 My question is, is there... in the agreement that you  
16 have, any measures taken to have participation in... in  
17 environmental protection of the Inuit and also for the management  
of game? And is it adequate? Now, you were making a point  
18 earlier that you felt that there was some money lacking for  
19 participation in research, and if there's some deficiencies in  
the present setup, what would you recommend if you had another  
20 go at it?

21 MR. GORDON: Okay. The...

22 Relating to the environmental protection, in terms of... protecting  
the environment in the light of developments taking place in our  
23 areas, there's an environment quality commission that is set  
up by the James Bay Agreement where there is... It's an indepen-  
24 dent board where you have Native representation, governmental  
25 representation in there, and this... this has all those... It



1 conducts... It can conduct public hearings. There is a whole  
2 list of developments that automatically must go through the com-  
3 mission and must have the hearings.

4 I have the honor of serving on this commission for a  
5 couple of years, and the assessments we've been doing up to now  
6 have not dealt with projects of developers coming in. A lot of  
7 the assessments that we've done so far through the enviroment  
8 quality commission have dealt with our villages directly, such as  
9 trying to determine a new waste disposal site. We had to turn  
10 down some of our villages' applications because they weren't  
11 environmentally sound. (LAUGHTER) So...

12 But the mechanisms are in place. This commission has  
13 authority and it gives us an opportunity, a forum to be able to  
14 clear the concerns that the people have and to try and come up  
15 with solutions.

16 The commission could say that a project cannot go ahead,  
17 regardless of whether it's a multi-billion dollar hydro project  
18 or now. They can say... They can disallow it, but their decision  
19 can be overturned by the minister of enviroment in Quebec. Now,  
20 I... I see, you know... This seems to be sort of contradictory  
21 to what we've been trying to establish, but at that point the  
22 minister would be hard pressed to show the reasons why he would  
23 overturn the decision of the commission, and he'd have to do it  
24 publicly. So we have that in our favor. If the commission, with  
25 the expertise in the commission and the witnesses that they are  
able to call to this, the minister would have to really demon-  
strate good, sound reasons for why they would want to overturn  
the decision of the commission. So it does have quite a bit of  
authority in terms of environmental protection.

Now, in terms of wildlife management or game management,  
what I've been saying is that there are some protections in here  
but regardless of the protections, what's really made the dif-  
ference is that we've spent our own money on it, and also did our

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1 own population counts and checking the health of the animals.  
2 We've been able to set up a system where the reporting of kills  
3 and catches have... We get annual reports of exactly what our  
4 villages are taking. We know how many fish they're catching a  
5 year. We know exactly how many birds are caught, how many eggs  
6 are gathered. All of this is now... We've put it in statistics  
7 and we've computerized the system. It gives us an incredible  
8 tool for our own internal management, but the credibility of  
9 these figures have been accepted by government now. They're the  
10 most accurate kill statistic figures that they can come across in  
11 any Native community right now, because... there's a very narrow  
12 margin of error because we're actually recording as the kills are  
13 being taken. And these are all done by our own people.

14 This is what's made the difference, is that we went and  
15 took our own initiative in this area and because we did this,  
16 now the governments are turning around and contracting our ser-  
17 vices to do the biological research work they need to do their  
18 own management decisions. We did the whale population counts for  
19 the federal government. We did our own eider duck study. We're  
20 trying to determine the sustainable yield for the char in various  
21 rivers in our area. This is what's made the difference. What-  
22 ever you might get in an agreement or whatever you will get in  
23 writing for hunting rights may protect you from the brunt of  
24 regulatory authorities, but to be actually involved in game  
25 management, you're going to have to take your own initiative,  
spend your own money and get moving on it and try to use the  
information that you have with... You see, the problem with a  
lot of wildlife research work, they've always been done by  
academics flying in from the South, do their own studies. They  
don't explain what they're doing and they go back South and  
come up with, "Surprise, surprise, here's some new regulations  
for you." See, now that we have this system set up, they have  
to at least explain to the village and we can translate the



1 scientific terminology to something that the people could under-  
2 stand, and we have the people and the manpower in place to be  
3 able to make this interaction work.

4 So, what I'm saying here is, you know, don't think that  
5 whatever agreement you get on hunting rights is going to solve  
6 your problems. You're going to have to do a lot of your own work.

7 MR. BERGER: Doug Sanders?

8 MR. KAKFWI: Just a moment.

9 MR. BERGER: Oh, sorry. Go  
10 ahead.

11 MR. KAKFWI: When you say you  
12 spent your own money on it, you're not talking about the money  
13 of the regional government, but Makivik Corporation, specifically?

14 MR. GORDON: Yes.

15 MR. KAKFWI: Okay, so --

16 MR. GORDON: And the regional  
17 government through... You see, we've used also some of the hunter  
18 sport program money to go into research, particularly when we  
19 needed research funds... And these are funds that are under our  
20 control that the government can't regulate directly because of  
21 the provisions in the agreement. But we've used some of those  
22 funds to study the sustainable yield in a couple of our rivers  
23 for char and we've also been entering into joint projects with  
24 the Quebec government trying to determine what kind of fisheries  
25 resources we could develop and trying to see what direction we  
should go in that area and doing some exploratory activities in  
trying to establish untapped resources in the ocean.

MR. KAKFWI: The reason I'm  
pursuing this question is because in the Northwest Territories  
of Canada, at least with the Dene Nation, we've been actively  
taking part in all types of public hearing processes. Every time  
there's a major project being initiated, we've participated at  
some time... some of these... taking part in hearings that we have

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1 no resources to take part in. And it's after making a commitment  
2 to take part that sometimes we find ourselves with... with no  
3 money, actually participating with no money. But having no  
4 choice but, because that's the... I guess, the interest of our  
5 membership of that we do this. And I guess the question was just  
6 trying to take a run at... trying to throw some light on whether  
7 or not government could be convinced, you know, that is a pre-  
8 rogative and a right of all aboriginal people, and that some  
9 participation, some resources should be established in the nego-  
10 tiations of the claims process to aboriginal groups to participate  
11 in environmental regimes, in hearings, and, as you say, to actually  
12 participate in research ourselves. That was the reason I was  
13 asking these questions, Mark.

11 MR. GORDON: Thank you.

12 MR. BERGER: I think that was  
13 an observation. Doug Sanders?

13 MR. SANDERS: Two questions.

14 Firstly, I understand at least as of a couple of years ago that  
15 the Cree regarded the income... guaranteed income program for  
16 hunters and trappers as one of the more successful aspects of  
17 their agreement. I wondered if the Inuit, in retrospect, thought  
18 it might have been a mistake not to have gone for that?

18 MR. GORDON: No, not at all.

19 I'm not saying that the hunter sport program that we opted for  
20 as opposed to the guaranteed income is perfect, but... it's  
21 been one of the most successful elements, as well, in our agree-  
22 ment but... because it's a direct subsidy to the more traditional  
23 activities. It's an introduction of cash into this that was  
24 badly needed. But I don't think we would have traded that off  
25 for a glorified welfare system, as we would refer to the Crees  
agree... what they agreed to.

25 MR. SANDERS: (LAUGHTER) A

second point. There has been quite a bit of discussion about



1 public versus nonpublic, and in the meetings leading up to the  
2 first ministers conference of last week, there was a tendency  
3 by some of the provincial governments involved in the process to  
4 use the Inuit choice of public government, quote, quote, as an  
5 argument for rejecting positions being put forward by other  
6 groups, and this has given rise to, I think, some controversies  
7 about what people mean and some confusion about what public  
8 government means, what ethnic government means, or whatever the  
9 alternatives are.

MR. GORDON: Well... Our...

10 We've never intended to... Because the approach we've taken,  
11 we've never intended to... for it to be used by the governments  
12 to contradict what the... the Indian groups are trying to get.  
13 And, unfortunately, the governments are turning around, using  
14 this. But, you see, the... The system which is adopted by most  
15 of the Indian groups has been that the land, self-government,  
16 these institutions have all been lumped into one. What we did  
17 was we separated out our notions of ownership as being... and  
18 our Native rights. We separated that out from the delivery of  
19 services and exercise of democratic rights and things like that.  
20 There are things that are attainable through existing mechanisms.  
21 What we did was, we didn't try to lump everything under one  
22 grand authority, which seems to be the tendency for the groups  
23 that are living in reserves further to the South of us, the  
24 Indian groups of Canada. There's a tendency that the ownership  
25 of land and government and all this are all linked into one.  
We've taken the approach of separating out the notion of land  
ownership and governmental control and separated out the two.

The municipal authorities can make regulations over  
our lands, but we are the owners of those lands and... Much  
like people in the city of Anchorage, there's individuals who  
own some land but the municipal authority has regulatory  
authority over and above that. Well, we've... we've left... We

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1 separated out the two and left the regulatory authority as a  
 2 separate entity, a different entity, and we opted for nonethnic  
 3 institutions in most of these public sector activities, such as  
 4 the education, the school boards... although there are some  
 5 particular guarantees that enable us to do our own curriculum  
 6 developments and things like this, and the small twists and  
 7 changes here and there to enable... to accommodate for us.

8 But on the notion of purely ethnic things, such as  
 9 land ownership, hunting rights, compensation for development and  
 10 that, we have another whole series of institutions which are  
 11 ethnic. I'm not saying that our choice is better, necessarily,  
 12 but it's the... It's the approach that we've adopted.

13 MR. SANDERS: On that, you  
 14 would agree that the use of the public form for the governmental  
 15 institutions as opposed to the land holding institutions is the  
 16 choice that you could only logically make in a situation as  
 17 the one you are in, in which you are a clear majority in the area?

18 MR. GORDON: Well, you see, in  
 19 our area with a population of only 5,000 and with the mineral  
 20 resources in that area, we could be out numbered tomorrow. But  
 21 we tried to put enough safeguards into the institutions that we  
 22 have established so that we couldn't just be overridden, okay?  
 23 We have the protections through out ethnic institutions and we've  
 24 got specific guarantees and rights put in that... side of the  
 25 equation. But we also, in the more public institutions, we've  
 also built in some safeguards into that... the right to use  
 your own language in those institutions. The way the regional  
 government is set up is that it's representation by village as  
 opposed to by population. One mining town would have two votes,  
 even though it had a population of 10,000.

The other thing, too, is that the... through the  
 governmental authorities, what we could do is, instead of having  
 villages established for a specific development, what we could do



1 is class those things as work camps. In that way, they don't  
2 have any direct authority or no direct involvement in the govern-  
3 mental institutions of the region.

4 See... When we went into this, we didn't try to build  
5 an ice wall... the ice wall to protect so much. What we did was,  
6 we went in with an aggressive attitude. What do we need to be  
7 able to succeed in this society? What do we need to be able to  
8 succeed in the province of Quebec? And we tried to take the  
9 same approach into the constitutional discussion. It's not...  
10 The safeguards and that, we are obviously going for that, but  
11 for the most part, we try to take the more aggressive view.  
12 What do we need to be able to take care of ourselves? We don't  
13 want to be taken care of. And we try to translate that into all  
14 the other areas that we deal with. You see, we're not asking  
15 for historic apology. We don't want anybody to feel sorry for us.  
16 All we want is the means to be able to survive.

17 MR. SANDERS: In this process,  
18 you stated that practical approach which lead to your conclusions.  
19 Was there any discussion about how concepts of traditional  
20 sovereignty would be linked to these new institutions, or was  
21 that simply not the concern?

22 MR. GORDON: We... We won't  
23 even use the word sovereignty. That's an English word and you  
24 guys can attach whatever importance you want to it. What we  
25 wanted to do is do it by accomplishments, by actions, as opposed  
to grand theories. You know, you have some groups that are  
screaming that they have sovereignty but you turn around, they...  
You know, sovereignty, you have to be able to pay for it, too.  
I don't know. We simplified the theories of sovereignty to very  
simple things, like who has the biggest gun, and also how  
sovereignty's actually worked for us... It's not the fact that  
we had big guns but that our climate was just something that  
nobody else wanted.

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1 MR. SANDERS: Thanks.

2 MR. BERGER: All right, I  
3 think that we'll... let Bill Erasmus...

4 MR. ERASMUS: I'm concerned  
5 with your... your strategy when you first began to negotiate.  
6 Since 1973, Canadian policy has suggested that when you're dealing  
7 with comprehensive claims, that you have to prove a traditional  
8 land use or traditional land base. And you earlier mentioned a  
9 large area of about a third of Quebec included into the agreement.  
10 And I'm curious as to how you arrived at that large area?

11 MR. GORDON: Well, if you  
12 start talking about traditional areas, you know, how far back  
13 do you go? If we went back and we went to traditional... If  
14 you took the measure of when the first white man came, we, by  
15 rights, should have been able to make a claim down as far as  
16 Quebec city because the Inuit occupied area roughly the north  
17 55th, down the Labrador Coast and around the bend... the north  
18 shore of the St. Lawrence. Now, after the white man came, he  
19 armed the Indians around Quebec city and drove us back up the  
20 Labrador Coast. Now, how far back do you go to claim the  
21 traditional areas? There's always been this constant struggle  
22 between the Native societies, themselves. We've been at war  
23 with other Native groups longer than the white man. We never  
24 fought the white man, but we fought more with the other Native  
25 groups. And this is historic reality.

But on the notion of what is... you know, when, where...  
Where do you cut it off? Do you start 6,000 years ago? Do  
you start 100-years ago? It's a very, very relative term, and  
arbitrary in my view. Basically, it's what areas you are  
occupying and using now that's really the real measure. When  
you talk about traditional areas, the traditional areas that  
are recognized and the ones that are being... on the basis in  
which negotiations are being done, are actually present occupations,



1 not traditional. Traditional occupations have fluctuated back  
2 and forth as far back as you go.

3 MR. ERASMUS: Yeah, I... I'm  
4 asking because there's a situation coming up... well, it's been  
5 developing over the years, and that's exactly what it is, it's  
6 traditional versus contemporary. I live in Alberta now. Does  
7 that mean that that's considered my traditional area? So,  
8 you know, it's... It's a complex question.

9 I guess I should have added to it, and when you did  
10 begin to negotiate, did you have to provide specific evidence?  
11 I know some of the Inuit groups provided their Inuit land use  
12 study. I'm not aware if you were a part of that or... and to add,  
13 how did the government respond? Were they... you know... Did  
14 they throw it out the door or...

15 MR. GORDON: No. You see,  
16 convincing the governments... What convinced the government wasn't  
17 the study showing where we are and things like that. What  
18 convinced the government was the court case. The question of  
19 traditional areas is more of an internal argument between Native  
20 groups than with government. It's trying to determine those  
21 boundaries between this group of Natives and that group of Natives.  
22 I realize that it's often used as a criteria to try and establish  
23 a claim, and usually you have to try and prove to the govern-  
24 ment that you've traditionally occupied these areas... that...  
25 But, that's... The question for us, in any way... anyway, has  
been more trying to sort out the areas of interest between our-  
selves and the Crees, ourselves and the Naskapis. It's been  
more... That traditional area argument has been more internal  
amongst the Natives than it has been with the governments.

MR. ERASMUS: Okay. A further  
question... Dealing with your corporations, I understand...  
correct me if I'm wrong... that you have, in your region, some  
corporations... or, you had corporations prior to the settlement.

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1 I'm interested as to... what has resulted since the  
2 establishment of your corporations? In other words, is there a  
3 measure of competition between the cooperatives and the corpora-  
4 tions? And if so, how you're dealing with it?

MR. GORDON: That... Okay.

5 We didn't have corporations. What we had before was cooperatives  
6 and... one of our villages, George River, has the oldest Inuk  
7 cooperative, Inuit cooperative in Canada. And these are very  
8 strong institutions. Now, strong in the sense that they have  
9 a lot of political backing and a long-established standing within  
10 our own Native community. Initially, there was a very strong  
11 competition between the two. The co-op federation, in fact,  
12 went so far as to fund the dissident group to be able to fight  
13 against us. We also went into competition over some of the  
14 business ventures, as well, with them. But what we found was  
15 that we would be funding a land holding corporation to set up...  
16 I don't know, a small snack bar, and the co-op would already have  
17 one set up and they would start competing and then there wasn't  
18 enough revenue in the whole village to be able to sustain two  
19 of them so they would both go broke. And after a few of these  
20 fiascos, we started coming together and saying, "Okay, let's cut  
21 out the unnecessary competition between the two of us." And,  
22 in fact, because the cooperatives have... and the art market  
23 has crashed quite badly in Canada... especially for the Inuit  
24 cooperative movement which derived a large part of their income  
25 through the art market. They've been having very, very tough  
time econmically in recent years and, in fact, what's happening  
now is that Makivik funds are being used to guarantee loans for  
the cooperatives and to direct loans, as well, to the cooperatives.  
And one village cooperative we lent some money to couldn't make  
its payments. So instead of calling the loan on them, what we  
did was we accepted carvings instead of payment. (LAUGHTER)

MR. ERASMUS: Okay, my last

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1 question. It's dealing with... with what you called the dissident  
2 group. I thought I heard you... I thought I heard you say that  
3 because of their dissident nature or their opposition, you have  
4 been able to succeed more in your political aspirations with  
the Quebec government. Is that correct?

5 MR. GORDON: Yes. It's worked  
6 out in a funny way. It's been also... been used against us in  
7 many respects. You know, when we want to go for something, they  
8 say, "Well, you don't have a concensus." For some reason, you  
9 know, all the high democratic principles that are adopted by our  
10 governments, provincial and federal governments, when it comes to  
11 Native concensus, it has to be 100 percent. That's pretty strong  
12 measure for democracy. But despite this fact, what in effect  
13 has happened, it's been able to preserve the more radical view and  
14 give a credibility so that we've always been able to say, "Well,  
15 look, if you don't agree with us, you sure as hell aren't going  
16 to agree with them."

14 (LAUGHTER)

15 MR. GORDON: So, in that sense,  
16 we've been able to leap-frog over each other to make political  
17 gain.

18 But I would like to make one observation. No matter  
19 what kind of a settlement you come up with, there'll always be  
20 somebody saying, "That's not enough." So I wouldn't be surprised,  
21 once you get into any claims settlement anywhere else, you're  
22 going to end up with a dissident group. It may not take the form  
23 that ours did.

24 MR. BERGER: Sam Silverstone,  
25 you wanted to add something to what Mark said?

26 MR. SILVERSTONE: Yes. I...  
27 Is the mike on? I had some additional comments. Steve Kakfwi  
28 asked some questions with respect to the environmental regime  
29 and the degree of participation. The environmental regime... Inuit

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1 put a lot of resources into... into getting some provisions in the  
2 agreement dealing with environment and, as a supplement to what  
3 Mark said, at that time, there was no environmental policy in  
4 Quebec, or, the policy was that there was no policy. There was  
5 no comprehensive energy policy in Quebec. So we weren't just  
6 fighting... We weren't just... As they already had in Ontario,  
7 an environment assessment act. We weren't just getting amend-  
8 ments to an existing act. We were fighting... a very intransigent  
9 government. We were fight... We had to educate the government as  
10 to what was going on in other jurisdictions to justify our case  
11 for a proper impact assessment procedure for Northern Quebec,  
12 because the existing impact assessment procedure under the  
13 Environment Quality Act of Quebec, 1972, was inadequate. And as  
14 Mark said, the act required regulations to have force and the  
15 only regulations they had adopted were with respect to bottled  
16 water that sold in the supermarket. So we were starting, really,  
17 from ground zero.

18 In terms of the energy policy, we were facing off  
19 against the energy developers. Now they sure as hell didn't want  
20 any policy and they didn't want any environmental provisions,  
21 and as a matter of fact, when we sat down with the environment  
22 Quebec people to negotiate, the developers were at the table and  
23 basically they dictated the provisions. And when environment  
24 tried to assert their jurisdictions, energy had private meetings  
25 with them and said, "Hey, listen, this is what you're going to  
say and this is what you're going to agree to." But irrespective  
of that, we came up with a regime because we put a lot of  
our resources into it. We came up with a decision-making body,  
whereas the Cree came up with a recommendatory body. We came  
up with a body that had the power to make a decision, a go  
with respect to a project, to give a green light, to give a red  
light, and in exceptional circumstances, as Mark said, the  
lieutenant governor can exempt a project or the minister can



1 overturn a decision but it has to be... It's subject to publicity  
2 and he has to give good reasons for doing so.

3 The other element about the environment regime, you've  
4 got... You have to look at the agreement as a whole. Though we  
5 may have a good impact assessment process, it has to be balanced  
6 with some of the other areas such as the right to develop was  
7 recognized in the agreement, even though this was a Native land  
8 claims settlement... throughout the settlement appears this right  
9 of the government to develop the territory. And that's tied to  
10 the comments I made at the beginnings of the hearings this  
11 week, that the statement of principles is very important.

12 If it's a Native land claims settlement, then that should  
13 be the thrust of the principles that guide interpretation of it,  
14 and what's happened to our agreement is, there's Native land  
15 claims principles mixed with government development principles.  
16 And so when you go to interpret that, which takes precedence?

17 The other supplementary point that Bill Erasmus...  
18 This is just another point with respect to a question Bill Erasmus  
19 put. There's no doubt that a solid land use study would have  
20 assisted us in negotiating. As Mark pointed out, it's been  
21 used... our language data has been used more to determine how  
22 the Naskapis use our area, how the Crees share certain hunting,  
23 fishing areas, and that opens up a whole other question as to  
24 once we'd settled our claims with Canada and Quebec, then the  
25 Naskapis negotiated their claims and carved out of our area,  
the government set it up so that the Naskapis were facing off  
against Inuit and Cree to get their claims, rather than it... So  
it looked like we were refusing their claims rather than the  
government. But in fact, the government had set that up.

But there's no doubt, had we had a well-documented land  
use study such as the Labrador Inuit prepared with the telltale  
title, "Our Footprints Are Everywhere," it would have assisted  
us in just getting our own position together. But there wasn't

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1 that time for preparation or finances for preparation.

2 MR. GORDON: There's one  
3 general observation I wanted to include in my observation I'd  
4 like to make now.

5 Now that we have these notions of ownership, of land  
6 and things like that worked out in our claims settlement, we're  
7 starting to find that there's some gaping holes in terms of how  
8 we can resolve our... internally the question of land ownership.  
9 And... You see, the lands are held collectively through a corpora-  
10 tion. Now... There's some interesting questions that are in-  
11 evitably going to arise. If you have a piece of property, the  
12 land is owned by the community and the community decides if it's  
13 in the community benefit to take... to take over somebody's  
14 trapping lodge and... because it's their land, and develop a  
15 tourist industry or something around that area. What rights  
16 does that individual have for compensation from his own village?

17 These types of questions are slowly starting to come  
18 up and there is nothing to deal with them. It would make a very  
19 interesting court case but I would hope that we didn't have to  
20 go that far. We are starting to find out that there's going to  
21 be areas of disputes in the notion of collective rights of the  
22 Native people and the individual rights. I'll go into this  
23 further when we talk a bit more about the constitutional issue.  
24 We've... We went quite far in trying to preserve certain notions  
25 of collective rights, and in doing so, we forgot the individual  
26 protections required by the individuals within our collectivities.  
27 And just one observation about the whole constitutional discussion,  
28 everybody's screaming about collective rights but our societies  
29 have the same capacity of doing injustice to individuals. So  
30 you need some kind of general protections for the individuals  
31 within our notions of collective rights. It's all good and well  
32 to fight really hard for collective rights and collective owner-  
33 ship and all this, but don't do it at the price of individuals



1 because the Native... I know that we're... we work on good  
2 principles, as concensus and all of this, but there is the  
3 real possibility of individuals being unjustly served by their  
4 community. And these mechanisims are lacking in our agreement  
5 and I have not yet seen any agreement that proposes any kind of  
6 individual protections in terms of what rights and what pro-  
7 perties are held communally. The individual area is lacking in  
8 all claims and I'm... So far, luckily, this has been more of a  
9 theoretical question but the possibility of it coming to a --

(TAPE 42, SIDE B)

10 MR. GORDON: -- loggerhead is  
11 ... any minute this may happen that we're going to run into this  
12 conflict and then this will have to be resolved one way or the  
13 other. We're starting to think about how we might be able to do  
14 it.

15 One of the ways is to have general, constitutionalized  
16 provisions that would insure protection of the individuals  
17 within those collectivities, but that's not yet evolved. The  
18 discussions have not yet evolved. It's... We've had to start  
19 seeing the potential for that problem after the experience of  
20 having a claims settlement. The groups that have not had a  
21 claims settlement have not yet had to even think about this.

22 MR. BERGER: Well, I think we  
23 have time for Peter Ittinuar and Chuck Smythe to ask questions  
24 and then we'll adjourn for lunch. And after lunch we'll hear  
25 from the COPE and... hear about the COPE and CYI settlements.

MR. ITTINUAR: Mr. Chairman,  
I will forego my question. It had to... It was in relation to  
the dissident group within the whole agreement in Northern  
Quebec. I had wanted to ask Mark to elaborate on how they  
addressed the issue because it surprised all of us when it arose  
and when it was formalized in the form of an association to  
oppose the whole agreement. I believe that there... they had used

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1 the clause dealing with extinguishment in the James Bay Agreement,  
2 Northern Quebec agreement, to become discontent, if you will,  
3 as well as other more practical reasons. But Mark doesn't have  
4 to answer this now. I wanted to raise it because it is an  
5 interesting phenomena, I think, which we realize we will have to  
6 deal with in all settlements from here on, as well as our own,  
7 and we'll deal with it when we come to our presentation. But  
8 perhaps Mark may or may not want to elaborate.

9 MR. BERGER: Mark?

10 MR. GORDON: Well, I've probably  
11 exhausted the issue, but... We've... It is exhausting issue...  
12 But the... We're still... Even though we've now worked out a  
13 political compromise so that we could start working together and  
14 working on the notion of self-government and things like that,  
15 jointly, we... we have not been able to resolve the abolition of  
16 either one of the groups, you know, because the issue of extinguish-  
17 ment is still outstanding. In fact, for the people that are on  
18 the side of the agreement... don't want the ITN to disappear  
19 because we are not happy with the extinguishment provision,  
20 either. But we... We felt that we had to make that commitment  
21 to be able to have the resources to be able to do what we did in  
22 all those other institutions, to take over the control of our  
23 villages and things like that because at the time of the agree-  
24 ment, there were governmental agents coming in and they actually  
25 ran the village. They decided who got the jobs, who got the  
welfare... everything... who got the houses. We had no authority  
at all over our lives and we thought, well, accepting the extinguish-  
ment provision and with the cloud of the court judgment about to  
come down on us, we decided we'll bite the bullet and accept the  
extinguishment provision at this time. And we've been working  
ever since, doing legal research documentation and trying to find  
an alternative to extinguishment. And the door had never... was  
slammed quite hard at the time we signed the agreement, but



1 when the constitutional discussions began again, the whole  
2 question of extinguishment was opened up again. So we're being  
3 hopeful that something could be resolved through that avenue of  
discussions.

4 MR. BERGER: In Alaska, under  
5 the claims act in 1971, aboriginal title was extinguished by  
6 Congress, by act of Congress.

Chuck Smythe, and then we'll go to lunch.

7 MR. SMYTHE: My question has to  
8 do with the relationship that has resulted between the Inuit and  
9 the provincial government. I know you've touched on this at  
10 different points in your presentation, but there is a parallel  
in Alaska and I'd like to have you discuss it again.

11 As with ANCSA in Alaska, the James Bay Agreement seems  
12 to have reoriented the relationship the Native people have with  
13 both the federal and the provincial government. In your view, is  
14 it true that the province was given major responsibility and has  
the province properly lived up to these new responsibilities?

15 MR. GORDON: Yeah... Our re-  
16 lation with Quebec is a real love-hate relationship for sure.  
17 We've... The politics in the province, itself, have added a  
18 completely different dimension to our whole claims movement.  
19 We've had to deal with such things as the province wanting to  
20 separate from the rest of the country... The politics have...  
21 are quite fiery in Quebec compared to the other areas of Canada.  
22 There's always this... And also, the relationship between the  
23 Quebec government and the federal government, which is a constant  
24 battle between the two of them. We are often caught in the middle  
25 of this fight. For instance, since they have to make joint... they  
have to make agreements on the funding for, let's say, airstrips,  
the landing strips in our communities, that took seven years to  
resolve. And they had a commitment in the agreement that they  
would, right away, go into improving the transportation facilities,

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1 and runways being a major part of that, that was going to be  
2 the top priority. And they were supposed to get right into it.  
3 And that means seven years later we finally got them to agree on  
4 it.

5           There's... We're constantly running into problems with  
6 this federal provincial relations and we get caught in it. The  
7 Quebec government, even though the federal funds are being made  
8 available, they always make sure that it's channeled through  
9 them so that there's a little fleur de lis on the check when it  
10 comes to us as opposed to a maple leaf. They just... Quite an  
11 amusing arrangement but the... We often have to pay the price of  
12 this discontentment between the province and the federal government.

13           Now, with our relations directly with the federal... I  
14 mean the provincial government, because we've had to stand and  
15 fight their major policies of recent, such as the language bill,  
16 bill 101, we did a peaceful demonstration and they sent up a whole  
17 contingent of riot police up to our community. Nothing really  
18 came of it, no big confrontation really came of it, but it made  
19 interesting press.

20           Because of these types of stands we've made politically,  
21 we've often had to pay the price when it comes time to negotiate  
22 for municipal service budgets and things like this. They're  
23 very reluctant to give... If you sting them in one place, they  
24 remember it and so it's... But relations in general, the Quebec  
25 government has been fairly progressive, despite all of its  
failings. The Quebec government is... one of the promises that  
have gone right into the whole claims settlement business... In  
fact, the Inuit in Labrador are having a very hard time trying  
to get a claims negotiation off the ground in Labrador. The  
Quebec government has turned around and offered to try and settle  
their outstanding claims within the Quebec Territory. So Quebec  
is very progressive in certain ways but... the political stand  
that they often take towards the rest of the country is usually



1 the exact... exactly the same stand we're taking to them and we  
2 end up exactly in the same kind of fight. We're fighting for our  
3 own language and we're fighting for our own culture and we  
4 wouldn't mind separating from them, too, every once in awhile.

(LAUGHTER)

5 MR. BERGER: One, Chuck, and  
6 then one last question from Walter Parker.

7 MR. SMYTHE: In the operation  
8 of your corporation, do you come under federal or provincial  
9 law?

10 MR. GORDON: Well... It's  
11 provincially... It's created by provincial legislation but we  
12 can operate... That... has never really been a problem at all.  
13 We could invest our money anywhere in the world we would like.  
14 You know, it's... The legislation which created Makivik is tied  
15 directly to the provisions in the agreement so they can't turn  
16 around and change it, and so there is that degree of... of pro-  
17 tection we already have. So whether it's under the provincial  
18 corporate laws or federal, you know... whether we have a provincial  
19 charter or a federal charter is really irrelevant because of the  
20 way the corporation is set up. The regulations... We have to  
21 follow the same regulations, basically, as everybody else.

22 Incidentally, Makivik, itself, is declared as a nonprofit  
23 organization. We manage to make a fair bit of money but we are  
24 classed as a nonprofit organization for tax purposes. But all of  
25 our subsidiaries are taxable, so it makes that... That's another  
dimension that I forgot to include.

MR. BERGER: But it is a  
corporation established under the laws of the province of Quebec,  
is that right, Mr. Silverstone?

MR. SILVERSTONE: Right.

MR. BERGER: Walter Parker,  
you have a question?

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1 MR. PARKER: Yes, just as a  
2 quick add on to the chairman. As the chairman accurately pointed  
3 out, Congress extinguished title to land... aboriginal title to  
4 land in Alaska but it did not extinguish aboriginal... all abor-  
5 iginal rights, more specifically aboriginal rights to the living  
6 resources. Congress later, in the Alaska Lands Act, admitted those  
7 aboriginal rights to living resources to have priority when they  
8 gave subsistence priority, which the state later ratified. Now,  
9 all of this has not been reduced in any pragmatic sense of giving  
10 real aboriginal rights in living resources, but I think it's an  
11 important point to remember within the Alaskan context.

12 And I enjoyed Mark Gordon's exposition of how it's  
13 being handled in Northern Quebec tremendously because there's a  
14 lot of insights there that can be put to use here.

15 MR. BERGER: Rosita?

16 MRS. WORL: Mr. Chairman... I  
17 do have loud voice. I just wanted to point out that we do have  
18 a case in court, federal court, right now where the Inuit or  
19 Inupiaq are claiming aboriginal title to three to 65 miles offshore.

20 MR. GORDON: Just to add to that,  
21 the James Bay Agreement only settled areas that were under  
22 provincial jurisdiction and the extinguishment only relates to  
23 our interest and our rights to land. As a part of the James  
24 Bay Agreement, there's also federal undertakings which came in  
25 a separate document, and in there, there's a commitment to nego-  
tiate our offshore rights, as well. And we've been at an impasse  
for a few years now on the issue but we've agreed to start up  
talks again fairly recently. So we're trying to get that off the  
ground, as well, to try and determine the extent of our rights  
to the offshore, it's resources and also to the islands. The  
islands are under Northwest Territories, but most of these  
islands are exclusively used by Quebecers. So it brings... It  
brings into quite amusing situations, as well.



1 To illustrate how it works on the ground, we've had  
2 RCMP come down from the one of the Northwest Territory villages  
3 and telling the people in the village, "You can't shoot the bear  
4 when it's on that island right in front of your village," the  
5 polar bear, because it will be a Northwest Territory bear and  
6 it goes under their quota system. "However," they said, "if you  
7 chase it onto the mainland, you can shoot it." So one of the  
8 older people stood up at the meeting and said, "Well, look. You  
9 can chase that bear anywhere and when you tell me to fire, I'll  
10 shoot it."

(LAUGHTER)

11 MR. BERGER: Well, one last  
12 observation. Walter Parker made the point that subsistence was  
13 given priority by the 1980 Alaska Lands Act. There's an interest-  
14 ing wrinkle in what was done under the James Bay Agreement. That  
15 is that, over certain areas lying beyond the lands given in fee  
16 to the villages, there is exclusive Native rights to the living  
17 resources and then a preference in public lands lying even farther  
18 beyond those.

19 Well, it gives us a lot to think about and, Mark, I  
20 think everybody's very grateful to you for answering all these  
21 questions. And this afternoon, we will hear about COPE and CYI  
22 and tomorrow morning we'll see if we can make sure we get  
23 everything in. Tomorrow morning we'll discuss Nunavut and the  
24 ITC land claims and then tomorrow afternoon, Steve, understand  
25 that the Dene and the Metis have already figured out the order  
of their presentation. And I think we'll --

MR. GORDON: Just one more  
point, if I may, we've brought back... We brought here with us a  
series of background documents that we're going to give to the  
commission and we only brought a couple copies of each. And we  
would hope somehow that you'll work out a way so that if anybody  
has any further questions, we've got our... the briefs that we've

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1 submitted to the parliaments of Quebec and of Canada on issues  
2 ranging from hunting rights right up to constitutional rights,  
3 the whole area and we've got 15 documents here. So if anybody  
4 has any further questions and want more detailed information, we  
5 hope that those 15 documents will serve to answer those ques-  
6 tions after we're even gone. And I hope that you will find a way  
7 to make it available, because we could only bring a few copies of  
8 it.

9 MR. BERGER: Well, thank you,  
10 Mark. Thank you very much.

11 We'll adjourn until 1:30.

12 (HEARING RECESSED)

13 (HEARING RESUMED)

14 MR. BERGER: Just before we  
15 begin, I said earlier that we had held a village meeting in  
16 Tununak. That's a small Yupik village on the Bering Seacoast.  
17 We held that meeting last month and Mike Albert, the president  
18 of the IRA council at that village, was sent by his village at  
19 these meetings and I invited him to ask a question yesterday  
20 morning, you may recall, and he has given me a statement he wants  
21 read into the record.

22 It's by Mike Albert, president, Native village of  
23 Tununak. He is also president for the United Villages of Nelson  
24 Island. That's an island on the Bering Seacoast that has about  
25 five Yupik villages.

"Too many Native people in the region of Calista  
Corporation are not owners of any land through land allotments.  
People that were born before 1971 are decreasing all the time  
and with no," the emphasis is on no... "and with no new share-  
holders rising, the number is reducing all the time. We all  
wonder when 1991 comes, how many landowners will be standing  
that are able to fight for their lands. This is, no doubt, the  
target made out by the few people responsible for ANCSA of 1971



1 as if looking for the weakness points.

2 As the leader for the very small group, I would like to  
3 ask each and every Native village in Alaska to work on the  
4 issue of getting our own land back as before without any re-

5 Well... We said that this afternoon we would hear, first  
6 of all, from Dwight Noseworthy to talk about the recent settlement  
7 made by the Inuvialuit of the Mackenzie Delta. Their organization  
8 is known as COPE, Committee for Original Peoples' Entitlement  
9 with the government of Canada.

10 So, Mr. Noseworthy?

11 MR. NOSEWORTHY: Thank you very  
12 much, Mr. Chairman.

13 I should start by explaining the current status of that  
14 agreement. It was initialled by negotiators for government and  
15 the Native group just before Christmas and the decision was taken  
16 by both parties that it would remain a confidential document until  
17 it was disposed of by the federal cabinet, and it is now in the  
18 cabinet system and under consideration. We're hoping that a  
19 decision will be made very shortly.

20 So, at this point in time, not even the Inuvialuit  
21 beneficiaries are aware of its contents and, as I said, it is a  
22 confidential document. So I'm somewhat restricted in what I can  
23 say. But what I will propose is that I will discuss some of the  
24 prominent features of the agreement in principle and, as it's  
25 understood, that the negotiations were based on that agreement  
... you know, it can be concluded that some of the features of the  
final agreement are similar to what was in the agreement in  
principle. And there are a few things that I can speak to that  
we discussed in our own legislature when the minister was making  
a statement last month.

The territorial government has considered the agreement  
and has endorsed it.

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1 As the chairman said, the organization in the Western  
2 Arctic, COPE, the Committee for Original Peoples' Entitlement,  
3 represents the Inuvialuit, estimated to be between 2,500 and 3,000  
4 beneficiaries. This particular claim is what we call in Canada a  
5 comprehensive claim. There are two types of land claims nego-  
6 tiations. One, specific claims, is meant to address outstanding  
7 matters with respect to treaties that government has already  
8 entered into. And this would deal with issues such as land  
9 entitlements that were not granted as promised, or situations  
10 where land was taken away. Where no agreement or no treaty  
11 exists between Canada and Native people, the negotiations... or,  
12 these types of claims are called comprehensive claims. This agree-  
13 ment is a comprehensive claim agreement, one of three in the  
14 Northwest Territories. It's the first settlement that has been  
15 arrived at since the James Bay Agreement.

13 I should point out that it... The negotiations were two-  
14 party negotiations between Canada and the Inuvialuit. The  
15 Territorial government, who I represented, participated as part  
16 of the Canada team. We are not full self... a full responsible  
17 government in that we don't own the land and resources and we  
18 do have some legal responsibilities under various acts. So we  
19 participate under the... under the federal team.

18 I should tell you that the Northwest Territories assembly  
19 from which we get our mandate, is comprised of 24 members, 17 of  
20 whom are Native people, and our mandate in the negotiations is  
21 to play a supportive and cooperative role with Native groups and  
22 to search for areas of commonality.

22 The Inuvialuit, initially, were part of the Inuit  
23 parasat (ph) and in the mid 1970s, for a number of reasons,  
24 specifically because of pressure from potential massive oil and  
25 gas development, submitted their own proposal. So negotiations  
have been going on now since 1975, off and on. An agreement in  
principle was arrived at in 1978 and intensive negotiations toward



1 the final settlement did not begin until late 1982, primarily  
2 because of a couple of changes in federal government and some  
3 other reasons.

4 The... In the COPE agreement, an area was, based on  
5 their traditional land use and occupancy work, was defined on  
6 the map. In the Northwest Territories, it's called Western  
7 Arctic Region. In the Yukon, we call it the North Slope. Both  
8 of those areas together combine what is now referred to as the  
9 Inuvialuit settlement region. This area... I'm not sure of the  
10 exact size, but it is in excess of 100,000 square miles. This  
11 is the area within which COPE's land rights... were recognized  
12 and within which the benefits would be... would pertain to.

13 The compensation elements of the agreement... and now  
14 I'm speaking to the agreement in principle... address land,  
15 money, economic benefits, harvesting rights, management structures  
16 and a social development fund. In land, in the agreement, in  
17 principle, they were granted 37,000 square miles. And that would  
18 translate to about 24 million acres. This land is of two types,  
19 one, 5,000 square miles, primarily in blocks of 700 square miles  
20 around each Inuvialuit community. The Inuvialuit receive fee  
21 simple ownership of both surface and subsurface. And the  
22 other 32,000 square miles primarily in large contiguous blocks,  
23 they acquired surface title only. The land ownership is subject  
24 to certain conditions. It can only be expropriated by order in  
25 council or by federal cabinet approval, and there are... There  
are provisions for things such as public roads right of way,  
acquiring sites for national parks, and the ownership also in-  
cludes ownership of sand and gravel, which is a very important  
resource in the Western Arctic region.

I should maybe stop here and tell you a bit about the  
context of the Western Arctic region. It is an area where  
tremendous oil and gas development potential exists and... you  
know, that was certainly a factor that people were aware of in

1 negotiating the agreement. There's a monetary element to the  
2 claim, as well. Forty-five million dollars in 1978 dollars, paid  
3 out over a period of 16 years, and there are also provisions  
4 for loans against the outstanding amounts. And it is envisaged  
5 that the assets, the money and land assets, will be managed and  
6 owned by corporate structures. I don't think I can say too much  
7 about them at this point in time, but certainly a corporate  
8 structure based on accountability and business efficiency and  
9 to take advantages of Canadian tax law was proposed by COPE.

10 And I should tell you that here, as far as the govern-  
11 ment was concerned, as long as the structures proposed had a  
12 good system of accountability built in, it was pretty well left  
13 to the discretion of COPE how they wanted to organize themselves  
14 in terms of the corporate structure.

15 MR. BERGER: Excuse me, are  
16 the corporations what we've been calling shareholders' corpora-  
17 tions, or are they membership corporations, under the agreement  
18 in principle?

19 MR. NOSEWORTHY: They will be  
20 shareholder corporations.

21 There is also a package of economic benefits, one that  
22 ... Well, I told you earlier that the document is confidential  
23 and it is officially confidential, though I think just about  
24 everybody in Canada who is interested has a copy, including  
25 the CVC and Toronto "Globe and Mail"... and pretty well everyone  
in Yellowknife.

(LAUGHTER)

MR. NOSEWORTHY: One of the  
features of the agreement that caused quite a bit of controversy  
after it became leaked was an element of the economic benefits  
package dealing with the ten percent preference. The Inuvialuit  
were granted a ten percent preference in reference to the lowest  
bid or the lowest competitive price for all federal government



1 procurement and contracts in the Western Arctic region.

2 In addition to the direct economic benefits that I  
3 just referred to, there was also a system of participation agree-  
4 ments. Now, as I said, the Inuvialuit were granted 32,000 square  
5 miles in the agreement in principle of surface ownership. The  
6 crown still retains the subsurface and the normal practice in  
7 Canada is to pay a certain amount of money to come onto private  
8 land to exercise your subsurface rights. And as one of the  
9 goals of the agreement is to provide the Inuvialuit with a strong  
10 and enduring economic base, it was felt that if there was going  
11 to be substantial development, then they had to have a means to  
12 participate. So a system of participation agreements was devised,  
13 and which means that a developer would have the right to come  
14 onto Inuvialuit land but the terms and conditions would have to  
15 be broad and they could not be satisfied by money, alone, and it  
16 could include things such as equity participation, on the job  
17 training, business opportunities for Inuvialuit businessmen and  
18 that sort of thing. There's also some royalty provisions with  
19 respect to a number of mineral leases.

20 Within the Inuvialuit settlement region, there was  
21 also a provision for a range of harvesting rights. And this  
22 included exclusive right to harvest polar bear, musk ox and  
23 fur bearers, and the preferential right to harvest all other  
24 specie of wildlife, including caribou and fish.

19 MR. BERGER: That's over the  
20 37,000 square miles?

21 MR. NOSEWORTHY: No. That's  
22 over the whole Inuvialuit settlement region.

23 MR. BERGER: The whole 100,000  
24 square miles?

25 MR. NOSEWORTHY: That's right.  
That's correct.

In addition to the harvesting rights, there was also a

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1 system to provide for wildlife compensation in the event that,  
2 through development activities, the wildlife harvesting prac-  
3 tices were disrupted.

4 There are a series of management structures dealing with  
5 wildlife management and also in the area of environmental impact  
6 review and assessment. Now, that is a new feature of the agree-  
7 ment, the details of which have not been disclosed yet.

8 For the most part, the management structures are...  
9 designed so that membership is 50 percent Inuvialuit, 50 percent  
10 government, with a neutral chairman acceptable to both parties.  
11 And they are primarily advisory in nature.

12 Another feature of the compensation was a 7.5 million  
13 dollar social development fund. This was... The conditions are  
14 very broad. Basically, as long as it's a nonprofit-type of  
15 activity, the Inuvialuit were free to spend that 7.5 million  
16 dollars on any activity that could, you know, be included within  
17 a broad definition of social development matters. This would  
18 include things like public housing, education, health, welfare,  
19 language, culture, recreation, whatever.

20 There's a couple of features that... There's one  
21 specific feature that is interesting and that is that it... and  
22 this is new in the final agreement... that it provides for a  
23 central arbitration board comprised of 50 percent Inu... Well,  
24 depending on the matter under consideration, but it could  
25 include representatives from industry, government and Inuvialuit,  
and its purpose is to interpret or to decide on problems of  
interpretation of the agreement. And also, there are a number  
of areas where it plays adjudication-type roles. For instance,  
should a participation agreement not be successfully concluded  
bilaterally, this arbitration board could impose a settlement.

In the matter of land, the... there are some situations  
where the communities are surrounded by Inuvialuit land, although  
the community sites are not owned by the Inuvialiut. They are



1 still either public lands or privately held, whatever the case  
2 might be. But the community sites were fairly small and we  
3 included a provision whereby, if land is required for a public  
4 governmental purpose, it... it can be done outside of the formal  
5 expropriation procedures. The arbitration board would decide  
6 the terms and conditions, again, in the event that a bilateral  
7 agreement could not be arrived at.

8 And there are no public services, as such, included in  
9 the agreement and there is provision to insure that the Inuvialuit  
10 will continue to be eligible for all programs and benefits as  
11 Inuit and as Native people and as Canadians. There are no  
12 political structures beyond the management boards which I referred  
13 to a little earlier.

14 I don't know if there's much more I can say, Mr.  
15 Chairman.

16 MR. BERGER: Well, thank  
17 you very much.

18 You said 100,000 square miles, and they received 37,000  
19 square miles, 5,000 square miles in the vicinity of village  
20 sites in fee simple, surface rights to 32,000 square miles, and  
21 exclusive hunting rights in regard to some species and preferen-  
22 tial rights to all others over the whole 100,000 square miles, and  
23 45 million dollars in 1978 --

24 MR. NOSEWORTHY: Dollars.

25 MR. BERGER: -- dollars, over  
16 years, and a social development fund of 7.5 million dollars.

Just before any other questions, might I just ask you  
to clarify the business of corporations? You said the land is  
to be held by corporations. Can you... without breaching any  
confidence... can you tell us whether there is to be one corpora-  
tion or a regional corporation and village corporations, or is  
it...

MR. NOSEWORTHY: What is

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1 envisaged would be one corporation that would hold... manage the  
2 assets.

3 MR. BERGER: The money and the  
4 land?

5 MR. NOSEWORTHY: That's correct.

6 MR. BERGER: And would shares  
7 be issued to the Inuvialuit, shares that might then be sold or  
8 transferred in some other way to either Native or non-Native  
9 persons?

10 MR. NOSEWORTHY: Each eligible  
11 Inuvialuit and his heirs will be shareholders. The land can only  
12 be sold to an Inuvialuit individual or corporation, or back to  
13 the federal government. It can never be sold on the open market.

14 MR. BERGER: Well, perhaps  
15 there's a misunderstanding in terminology. You heard Mark Gordon  
16 describe the arrangements by which the Inuit corporations in  
17 Northern Quebec are held, and you've also heard evidence about  
18 how Alaskan corporations are held. Into which category, if either,  
19 does the corporation to be established under the Western Arctic  
20 settlement fall?

21 MR. NOSEWORTHY: I think it's  
22 unique, Mr. Chairman. It is not envisaged that there will be  
23 community corporations holding assets, but one single corporation  
24 that would hold all of the voting shares in a couple of corpora-  
25 tions or some corporations that would have specific purposes.

MR. BERGER: Yes. Sam Silver-  
stone?

MR. SILVERSTONE: This is a  
little bit like playing front page challenge. We're trying to  
find out the nature of the settlement and you can't give us that  
much information. But I understand that. In terms of your  
compensation money, because this is something we didn't get into  
too much... You're taking it in 1978 dollars, which to me suggests



1 that you... and you're taking it over 16 years. Do you have  
2 provisions for inflation or interest over that period?

3 MR. NOSEWORTHY: Yeah, that's  
4 correct. The total payout will come to about... Well, it will  
5 be 152 million dollars. Interest is compounded at eight percent  
6 semiannually.

7 MR. SILVERSTONE: That interest  
8 is your inflation factor?

9 MR. NOSEWORTHY: That's correct.

10 MR. SILVERSTONE: And are your  
11 payments front end loaded over that 16 year period, or are they  
12 equal payments? In other words; do you get more up front and  
13 less as the years go by?

14 MR. NOSEWORTHY: They're pretty  
15 well spread out. There's some heavy payments in the first few  
16 years and some heavy payments in the last few years.

17 MR. SILVERSTONE: Okay. I might  
18 point out that in the James Bay Agreement there's no provision  
19 for inflation and there's no provision for interest over the 20  
20 year payout period.

21 MR. BERGER: Is anybody able  
22 to... Just before we pass on, perhaps we could clarify this  
23 business of the corporate structure in Alaska. The fact that  
24 shares in 1991 held by Alaska Natives become transferable is a  
25 matter of great concern because it would mean that outside...  
that is, non-Native interests, could buy shares and thus acquire  
control of the corporations that hold the land. Is that possible  
under the Western Arctic agreement?

MR. NOSEWORTHY: No, no. Only  
... persons eligible as beneficiaries in the claim can be  
shareholders in the corporation... and their descendants.

MR. BERGER: Well, do their  
descendants... Do their children become shareholders automatically?

1 MR. NOSEWORTHY: Yes.

2 MR. BERGER: So that... Is there  
3 any distinction between the participation by the Native people  
4 as members of the corporation... Is there any distinction between  
5 the Western Arctic setup and the James Bay setup? I appreciate  
6 there's only one corporation.

7 MR. NOSEWORTHY: There are a lot  
8 of similarities but I think the big difference will be that assets  
9 will be held by and managed by one corporation. You know, all  
10 of the land and all of the money will be handled by the one  
11 corporation.

12 MR. BERGER: I follow that.

13 MR. NOSEWORTHY: The community  
14 corporations will have no... will not have assets granted to  
15 them under the claim. That would be an internal matter as to how  
16 they decided to manage themselves.

17 MR. BERGER: I see. Alf Isak  
18 Keskitalo?

19 MR. KESKITALO: I may possibly  
20 give a little background before I pose the question.

21 The issue of subsurface rights to mineral or possibly  
22 also to petroleum deposits has become of increasing interest the  
23 discussion on Sami land rights, especially after the positive  
24 detection of natural gas in the continental shelf in the Arctic  
25 Basin outside Norway and also as a result of several earlier iron  
26 ore developments that have not resulted in any form of agreement  
27 for compensation to the local Sami population. And in connection  
28 with the development of the petroleum issue, the Sami Institute  
29 has been working on a pilot project on several aspects, including  
30 an inventory of models, especially those we are talking about  
31 today, and also the COPE agreement. And one of our researchers  
32 has done a summary of this in a paper for our institute.

33 I'd just like to pose a question in connection to this



1 summary to see whether he has got it right or I have understood it  
2 correctly. You said that there is made a distinction between areas  
3 in the COPE agreement relating to subsurface rights, that there  
4 are areas around six local villages of 1,813 square kilometers  
5 plus an area of 2,072 square kilometers on Cape Bathurst that  
6 includes subsurface rights. And then there have been selected  
7 more than 26,000 square kilometers and an additional area of  
8 56,000 square kilometers which will include surface land rights.  
9 My interest in this is, what is the background for distinguishing  
10 that there has been obtained a subsurface right in a localized  
11 area around the villages and not in a more extensive area. Or  
12 has there been done any subsurface inventory or research as a  
13 base for this?

14 Yes, thank you.

(TAPE 43, SIDE A)

15 MR. NOSEWORTHY: One of the main  
16 justifications given for selecting or including subsurface into  
17 community selection was that the communities would have a great  
18 say in potential development that would occur in and around them  
19 ... you know, that would have... that would have significant  
20 impact. But they were not specifically chosen, officially anyway,  
21 because of the potential nonrenewable resource that they might  
22 contain.

23 MR. BERGER: Did you want to  
24 follow that up, Alf Isak?

25 MR. KESKITALO: Is there any  
indication that the issue of subsurface rights might be extended  
into more extensive areas within the agreement? Or is there any  
clause that extinguishes the discussion on subsurface rights in  
total?

MR. NOSEWORTHY: No. The  
balance between surface and subsurface is essentially maintained  
in the final agreement and no provision is included for changing  
that in the future.

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1 MR. BERGER: Sand and gravel  
2 are, you say, classified as surface rights?

3 MR. NOSEWORTHY: That's correct.

4 MR. BERGER: Chuck Smythe?

5 MR. SMYTHE: I had a couple  
6 of questions for clarification. You mentioned that descendents  
7 will receive shares automatically. What happens upon the death  
8 of a shareholder to his share?

9 MR. NOSEWORTHY: He ceases to  
10 become a shareholder and no... There are no benefits to his heirs.

11 MR. SMYTHE: Do they go back to  
12 the corporation?

13 MR. NOSEWORTHY: That's correct.

14 MR. SMYTHE: A two-part ques-  
15 tion relating to land. Is land from somewhere going to be  
16 transferred to individuals at all, and in what form are they  
17 transferred to the community?

18 MR. NOSEWORTHY: It is proposed  
19 that the land would be transferred in fee simple to one holding  
20 corporation and the corporation can then manage that land in  
21 accordance with the conditions that it cannot be sold to a non-  
22 Inuvialuit corporation or individual. Inuvialuit individuals  
23 or private companies would be able to purchase land if the  
24 Inuvialuit decided that they wanted to sell land, but that indi-  
25 vidual or corporation would then not be able to resell it to  
a non-Inuvialuit corporation or individual.

MR. BERGER: Bill Erasmus?

MR. ERASMUS: The land that  
... that is able to be transferred to an individual Inuvialuit...  
Is there a restriction on the amount of land that can be bought  
or transferred in that way, or is... are you revealing too much  
to be able to...

MR. NOSEWORTHY: No. The only



1 condition as... which is that I stated previously, it will be up  
2 to the... to the Inuvialuit regional corporation to determine  
3 ... you know, how it managed the land and certainly no restric-  
4 tions on how much can be sold.

5 MR. ERASMUS: So it's left  
6 open-ended so that in the future, for example, individual Inuvial-  
7 uits want to purchase large chunks of land... which may total  
8 all of the Inuvialuit lands, it's, in fact, possible for indi-  
9 viduals to to that?

10 MR. NOSEWORTHY: It would be  
11 theoretically possible under the agreement, yes.

12 MR. ERASMUS: And if that does,  
13 in fact, happen, what generally... What are the procedures that  
14 they have to live up to? Are they seen as individual corporations  
15 or... do... are they still under the same regime? Do you under-  
16 stand what I mean?

17 MR. NOSEWORTHY: No, I'm not  
18 sure I do.

19 MR. ERASMUS. Well, okay... I'm  
20 an individual Inuvialuit. I buy land. Are the rules governing  
21 my ownership the same as a collective of Inuvialuit?

22 MR. NOSEWORTHY: Well, that  
23 would have to be determined by the Inuvialuit regional corporation.  
24 The agreement does not address that.

25 MR. ERASMUS: Okay.

MR. BERGER: Can you tell me  
how the board of directors of the corporation is elected... to  
be elected?

MR. NOSEWORTHY: The board of  
directors of the corporations will be comprised of representatives  
from each community who will be elected by the beneficiaries at  
large. Now, the procedures for election have not been laid down.

MR. BERGER: Bill Erasmus?

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1 MR. ERASMUS: One further  
2 question. For the benefit of our other participants and observers  
3 from the other countries, would you elaborate on the overlapping  
4 lands question so that they're informed as to the peculiar or  
particular situation that the Inuvialuits are involved in?

5 MR. NOSEWORTHY: Yes, that's  
6 a good point. Yes, that's correct. The area that has been  
7 defined as the Inuvialuit settlement region is also an area that  
8 has been traditionally used and occupied by other Native groups.  
9 In the Yukon, with those people represented by the Council of  
10 Yukon Indians, and in some areas by those people represented by  
11 Dene-Metis, in the southern part of the Western Arctic region,  
12 we call it, which is the Mackenzie River Delta area, in the  
13 Northwest Territories, there's extensive overlap with those  
14 people represented by the Dene-Metis and there is also some  
15 overlap with the Inuit in the East. This has been a troublesome  
16 problem for some time.

17 The government's position was essentially that it should  
18 be solved by the Native groups and a number of attempts have been  
19 made over the last four or five years with varying degrees of  
20 success. The negotiations proceeded on the assumption that, as  
21 far as the government and COPE were concerned at the table, that  
22 we would do certain things that would not complicate the overlap  
23 problem but that it had to be resolved in another forum. The  
24 minister of Indian affairs appointed a fact-finder to investigate  
25 into the material regarding overlap. He produced a report but  
at the same time as the negotiations were nearing conclusion,  
intensive discussions between the Inuvialuit and some of the  
other groups, particularly the Dene-Metis in the Northwest  
Territories, occurred and some... several weeks ago, about a month  
and a half ago, a memorandum of agreement between the Dene-Metis  
and COPE was arrived at, and just recently an agreement was  
concluded with the Council of Yukon Indians. The matter between

1 COPE and the TFN, the Inuit to the East, is still outstanding but  
2 I understand that they're working toward an agreement.

3 MR. BERGER: Can you tell me  
4 whether the lands in question are limited to onshore lands, or  
5 does the agreement extend offshore... to include waters of the  
6 Beaufort Sea or any of the Arctic islands?

7 MR. NOSEWORTHY: No. Ownership  
8 of land is only that which is onshore. The agreement would...  
9 would be effective on the offshore in areas such as wildlife  
10 management, fisheries management, environmental impact review  
11 type issues. Yeah... and on the islands.

12 MR. BERGER: The --

13 MR. NOSEWORTHY: But the land  
14 is on the... Land ownership is on the mainland and the Victoria  
15 Island and... I think that's Victoria Island.

16 MR. BERGER: Does the... Yes.  
17 The area concerned includes land on the mainland and Victoria  
18 Island?

19 MR. NOSEWORTHY: That's correct,  
20 and Banks Island, as well.

21 MR. BERGER: And Banks Island.  
22 What about this question of extinguishment? Does the agreement  
23 provide that the Inuit title to any land is extinguished, or...  
24 In other words, you said the area is 100,000 square miles. They  
25 receive 5,000 square miles in fee simple and a total of 37,000  
square miles either surface or... well, to 37,000 square miles  
they have surface rights, presumably in fee simple. What about  
the remainder? Is there a provision that says they are to be  
taken to have surrendered their aboriginal title to the remainder  
of the land?

MR. NOSEWORTHY: Yes. This is  
an area that was subject to some initial controversy when the  
agreement was first signed. The agreement is called a land rights

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1 and on the government's side, the position was that the... the  
2 benefits that COPE acquired as a result of their interests in the  
3 land should be... should be final. And as a result, a situation  
4 should not be allowed to exist where future generations of  
5 Inuvialuit could come back to the government and make the same...  
6 or, make a claim based on the same land. And, at the same time,  
7 there is a process underway in Canada called a first minister's  
8 process, looking at the broader question of aboriginal rights.

9 Now, on the government's side the situation was that  
10 they did not want future generations of Inuvialuit to be able to  
11 make a claim against the government based on land use and  
12 occupancy. And on Inuvialuits' side, that was fine but on the  
13 other... but at the same time, they did not want a situation to  
14 occur whereby they would not be eligible for any type of  
15 aboriginal right in the future that might be granted to Canadian  
16 Native people, generally. For example, if it was determined that  
17 Native people had a right to guaranteed representation in parlia-  
18 ment, then they did not want to be excluded from this right by  
19 virtue of their claim. So it was put to lawyers to work out  
20 wording that would accomplish both of those understandings, and  
21 that's basically been the way it's been addressed. Their  
22 aboriginal right to land in the Western Arctic region has been  
23 extinguished and there's a qualifier that this does not deny them  
24 their status as aboriginal people nor disqualify them from any  
25 benefits that they might be entitled to as aboriginal people  
that may come from the constitutional process.

MR. BERGER: You said that...  
the region is 100,000 square miles, that they received surface and  
subsurface rights to 5,000 square miles in the vicinity of village  
sites and that they received surface rights to 37,000 square miles  
altogether, and that, over the balance of the 100,000 square miles  
... in fact, throughout the 100,000 square miles, they have  
exclusive rights to certain species and preferential rights to all



1 other species throughout the 100,000 square miles.

2 You may have referred to this but I was making a note  
3 and may have missed it. What about management? Do they have  
4 any... Is there any provision that says that they are to partici-  
pate in the management of those wildlife resources?

5 MR. NOSEWORTHY: Yeah... I  
6 should say before hand that their harvesting rights will be  
7 subject to the overlapping agreements with other Native groups.  
8 Their exclusive right to harvest does not exclude the Dene-Metis  
9 from harvesting. And... Yeah, there are management structures  
10 negotiated that will provide the Inuvialuit with the opportunity  
11 to participate in wildlife management decision-making. These  
12 are joint structures, as I said earlier, comprised of 50 percent  
Inuvialuit and 50 percent government, a chairman suitable to  
both groups.

13 MR. BERGER: And is the... I've  
14 forgotten now, but is wildlife under the jurisdiction of the  
Territorial government?

15 MR. NOSEWORTHY: Terrestrial  
16 wildlife is under the jurisdiction of the Territorial government.  
17 Fisheries is under the jurisdiction of Fisheries and Oceans and  
migratory --

18 MR. BERGER: Which is federal?

19 MR. NOSEWORTHY: Yes. And  
20 migratory game birds are under the jurisdiction of the federal  
Department of the Environment.

21 MR. BERGER: So, is this joint  
22 wildlife management board restricted to management of those...  
23 to the terrestrial wildlife under Territorial jurisdiction?

24 MR. NOSEWORTHY: No. It will  
include migratory birds but it excludes fish. There's a special  
board for fisheries, a fisheries joint management board.

25 MR. BERGER: Oh, I see.

1 MR. NOSEWORTHY: And that's  
2 Inuvialuit and Department of Fisheries.

3 MR. BERGER: Which is federal?

4 MR. NOSEWORTHY: Which is  
5 federal.

6 MR. BERGER: Rosita Worl and  
7 then Bill Erasmus and then Rick Hardy.

8 MRS. WORL: Yes. I think, Mr.  
9 Chairman, you were trying to ask that question about offshore  
10 rights... Is that included in the extinguishment of land,  
11 aboriginal title to offshore rights? As I recall, the Inuit  
12 in that area... I guess there's offshore ice that's present  
13 throughout a lot of the year and as I recall there is extensive  
14 hunting on the shore ice as well as sea mammal hunting, for  
15 whales and seals and other things like that. Is that included  
16 in that extinguishment or was that considered or...

17 MR. NOSEWORTHY: Well, they...  
18 The right to harvest means the right to harvest anywhere within  
19 the Western Arctic region or the Inuvialuit settlement region  
20 and the extinguishment would not address the question of harvesting,  
21 if that's what you're asking me.

22 MRS. WORL: You wouldn't consider  
23 it as land, in the same respect as land... aboriginal land  
24 holdings, use and occupancy of the sea ice environment or the  
25 ... just the sea environment.

MR. NOSEWORTHY: Well, the  
boundaries of the settlement region include sea ice and offshore  
areas and the benefits would only be... harvesting benefits and  
certain management rights.

MRS. WORL: Okay. I guess  
they wouldn't have any subsurface rights out there, then.

MR. BERGER: Just before we  
leave that, you listed the species to which the Inuvialuit have



1 exclusive rights and do they include sea mammals or do any of the  
2 species include sea mammals, and does the preferential right  
3 extend... do the exclusive and preferential rights extend off-  
shore? I guess that's what I'm driving at.

4 MR. NOSEWORTHY: Yes, that's  
5 correct. Preferential right would include fish and sea mammals.

6 MR. BERGER: Does the exclusive  
right extend offshore?

7 MR. NOSEWORTHY: No.

8 MR. BERGER: And what were the  
9 species to which they have exclusive rights?

10 MR. NOSEWORTHY: Polar bear,  
11 musk ox and fur bearers, and there's a list of fur bearers, but  
it includes things like muskrat, foxes...

12 MR. BERGER: Rick Hardy... Bill  
Erasmus and Rick Hardy.

13 MR. ERASMUS: Can you outline the  
14 ideas of self-government that are either written into the agree-  
15 ment or that the Inuvialuit have suggested over the years? I know  
16 there's a notion of the WARM regional... the Western Arctic  
Regional Municipality.

17 MR. NOSEWORTHY: Yes, that's  
18 correct. In the agreement in principle there was a section in  
19 which Canada acknowledged the need for more Inuvialuit involve-  
20 ment in institutions of government and they were... they have  
21 been pursuing the development of a Western Arctic Regional  
22 Municipality over the past few years as their main political  
23 objective at this point. However, that's been done outside of  
24 the land claims negotiations forum and it is... There's an  
initiative underway now, and has been for some time, between the  
Committee for Original Peoples Entitlement and Territorial govern-  
ment.

25 MR. ERASMUS: So the notion of

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1 developing ethnic or... ethnic institutions that reflect the  
2 needs of the Inuvialuit are not necessarily written into the  
3 agreement?

4 MR. NOSEWORTHY: That's correct.

5 MR. BERGER: Rick Hardy?

6 MR. HARDY: Thank you, Mr.  
7 Chairman. Mr. Noseworthy, I realize we're dealing with a con-  
8 fidential document here, but I am told that there is a provision  
9 for the Inuvialuit to have ownership of the beds of lakes and  
10 rivers, and I was wondering if you could confirm that? And if,  
11 indeed, that is the case, what is the significance of that pro-  
12 vision? Why was it negotiated that way?

13 MR. NOSEWORTHY: Yeah, you're  
14 correct in what you were told. They do own the beds of water  
15 bodies within their lands. And the only reason for it, really,  
16 was one of technical convenience. The ratio of land to water  
17 is so high that it was just felt to be administratively... just  
18 not viable to exclude them.

19 MR. BERGER: You mean the ratio  
20 of water to land?

21 MR. NOSEWORTHY: Yeah, there are  
22 so many lakes and water bodies in the area of the land selected  
23 that it was felt that it... and there was no particular reason  
24 why the... The water remains with the crown, and there was no  
25 particular reason, in our estimation, why the beds of the lakes  
or water bodies should be excluded.

MR. HARDY: Well, is it the  
case then that the bodies of the lakes and rivers... is that  
included in the total amount of fee simple lands that they  
received?

MR. NOSEWORTHY: Yes, that's  
correct.

MR. BERGER: Steve Iveson?



1 MR. IVESON: I may have missed  
2 this, but was there any type of affirmative action program built  
3 in dealing with the job training and employment? And did they  
4 apply... If so, do they apply to the entire region, including  
5 offshore?

6 MR. NOSEWORTHY: Well... not  
7 directly. The participation agreements were meant to be a  
8 tool that the Inuvialuit could use to force job training or to  
9 take advantage of development and get job training opportunities  
10 that might exist. But the... The main affirmative action measure  
11 was the ten percent preference.

12 MR. IVESON: So that's just on  
13 land they own, so it's onshore... Beaufort Sea... There's no  
14 advantages vis a vis employment in the Beaufort Sea then?

15 MR. NOSEWORTHY: No.

16 MR. BERGER: Any other questions?  
17 Chuck Smythe?

18 MR. SMYTHE: You kind of  
19 answered this, but maybe I'll put this open to the table. In  
20 ANCSA, there's a restriction on navigability in that all navigable  
21 rivers and streams were not conveyed. And I wonder if in...  
22 either in the James Bay Agreement or in this agreement, if  
23 there's any such restriction? I understand you said that all  
24 lakes and rivers... the water belongs to the crown. Is that  
25 common practice in Canada or are these things arranged at  
differently in each of these agreements?

MR. NOSEWORTHY: Well, the  
only other agreement we have is the James Bay Agreement and I'm  
not sure what the arrangement there is.

MR. BERGER: Well, I think  
that we're grateful to Mr. Noseworthy for answering all of our  
questions about the agreement between the Inuvialuit of the  
Mackenzie Delta and the Beaufort Sea and the government of Canada.

1 And he managed to inform us fully without breaching any confi-  
2 dence. The...

3 Perhaps we could turn now to Mike Smith and Glenn  
4 Grady and you could tell us about the agreement recently entered  
5 into between the Council of Yukon Indians and the government of  
6 Canada?

6 Mike Smith?

7 MR. SMITH: Thank you very  
8 much, Judge Berger. I'm pleased to be here to share with you  
9 the Yukon land claims experience and I certainly appreciate  
10 listening to all the other groups, as well as to you and all  
11 the members who are here, their experiences in dealing with  
12 government and with each other in terms of trying to settle  
13 their land claims or whatever they're doing to protect their  
14 lifestyle, their culture and their way of life.

15 I'm going to talk briefly on the CYI organization, give  
16 you a brief update on the land claims, go into some of the  
17 history and also finish off with dealing with very specific  
18 elements of the claims settlement package.

19 The Council for Yukon Indians is an organization of  
20 all Yukon Indian people. In other words, we're one organization  
21 in the Yukon Territory. We represent some 6,000 Native people,  
22 includes both the status, non-status and any Inuit people who  
23 happen to be living in the southern communities. In other words,  
24 we represent everybody. We make no distinction, as the govern-  
25 ment people do, on whether or not you're status or non-status.  
Our communities are organized in terms of, while they are legally  
under the Indian Act as Indian bands, we are bands that have  
opened up their membership to include all the indigenous people  
of their areas. In other words, we... On the one hand, the  
lawyers from the South keep telling us you can't do that because  
it's against the law but we still manage to organize on those  
basis and all our programs. While there's some restrictions on



1 our programs, we have tried to provide the same basic service to  
2 all the people who live in our communities.

3 My friend here has mentioned that COPE has signed an  
4 agreement. COPE's agreement is a final agreement and it's one  
5 which has caused us some concerns. However, those areas of  
6 concern apparently have been worked out yesterday and we are  
7 pleased that we have made an agreement with COPE and it's subject  
8 to the other parties agreeing to it at this time.

9 The land claims, itself, in the Yukon is agreement in  
10 principle. In other words, it's not a final agreement and it's  
11 an agreement that has been signed subject to a number of conditions  
12 that have been made very clearly to the government people. In  
13 other words, we've signed an initial agreement more or less  
14 settling 13 years of negotiations on the dealing with the... all  
15 the outstanding issues that we have with government in terms of  
16 our land, our languages, our culture, education, the whole ambit  
17 of Yukon Indian way of life. And it's an agreement that was  
18 signed just recently, an agreement which we still have a lot of  
19 doubts about in view of the recent statement by the prime minister  
20 of Canada on aboriginal rights and the recognition of self-  
21 government institutions being entrenched in the Canadian consti-  
22 tution. This has certainly influenced and is going to influence  
23 our claims settlement. After all, we're still at the agreement  
24 in principle stage and we still have a long ways to go in terms  
25 of negotiating towards a final agreement.

When we signed our... and agreed, we... in January of  
this year to conditionally surrender our aboriginal rights, there  
were a number of conditions we made very clear. One was that  
the question of subsurface interests. In other words, to the  
lands that we have selected and the lands that have been set  
aside as Indian lands, those lands we claim and we still maintain  
that we'll own the subsurface to all those lands in spite of  
government's insistence that there's no way that they're

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1 prepared at this time to grant us subsurface. We made it a  
2 condition of our surrender that all those subsurface interests  
3 will have to be owned by the Indian people.

4 Secondly, we made it very clear that we're opposed to  
5 the extinguishment of our aboriginal rights and the government  
6 has made an undertaking to the Indian people of the Yukon,  
7 through the negotiators, that they will review their policy on  
8 the extinguishment of aboriginal rights and will submit that to  
9 cabinet and cabinet will make a determination whether or not  
10 this 100 years of extinguishing Indian title should be revised  
11 in terms of... of settling land claims without having to extin-  
12 guish whatever aboriginal title rights you may have. And that's  
13 one of the conditions of our signing.

14 The great difficulty that caused us to finally make the  
15 decision to sign was that COPE was also being negotiated at the  
16 same time and government signed an agreement with COPE and COPE...  
17 one of the stipulations was that they extinguish their aboriginal  
18 rights to all the lands in their territory and this was used as  
19 a precedent to force Yukon people to also agree to... initially  
20 agree to extinguish whatever rights we may have in the Yukon  
21 Territory in exchange for a settlement of our land claims.

22 At this time, we've all more or less... All the parties  
23 are going back to their principles. The government of Canada  
24 will present their package to cabinet and cabinet will review it  
25 and determine whether or not they agree with this as being the  
settlement offer. We are going back to our communities. We have  
some 15 communities but 12 bands who will be deciding whether or  
not this is acceptable. We have agreed that ten of the 12 bands  
must agree before this package can be accepted. Currently, two  
communities or bands have voted and have voted in favor of  
accepting the package. We have some ten bands yet still out-  
standing and are reviewing the package, and there's still con-  
siderable debate going on in the communities as to whether or not



1 the claims package is acceptable to the people.

2           Going back into the history, I think the Yukon land  
3 claims started before COPE. It followed the James Bay settle...  
4 after the James Bay Agreement and it also was after... after  
5 the Alaska. We started in 1973 with the government of Canada  
6 where they agreed to negotiate with the Indian people to settle  
7 the outstanding claims in the Yukon Territory. We made a pre-  
8 sentation to the prime minister of Canada at that time and  
9 following the Inishka (ph) case, government changed their position  
10 and decided to deal with the Indian people in terms of reaching  
11 some sort of a settlement. I think they were greatly influenced  
12 by the Inishka case and also by the settlement in Alaska. They  
13 looked at the Alaska settlement and are more or less using the  
14 Alaska as a model to settle the outstanding claims in the Yukon  
15 Territory.

16           We've made a number of trips to Alaska. We've talked...  
17 We know a lot of people. We have a lot of relatives who live  
18 in Alaska, who live in the Northern Yukon, who live towards the  
19 South in the Panhandle. We have a lot of... We know a lot of  
20 the leaders who were the principals in negotiating whatever...  
21 the claims settlement in Alaska, so we did have intimate knowledge  
22 of what was going on in Alaska and were able to have the benefit  
23 of their advice in determining... and in setting up our land  
24 claims proposal.

25           We have, in the Yukon, come to agreements in principle  
before and these agreements have failed for one reason or another.  
Back in 1975, there was a government offer of 50 million dollars  
and 1,200 square miles of land and some other... elements of  
the offer were made. This was rejected by the Indian people at  
that time. The leadership at that time decided that this wasn't  
clearly... wasn't sufficient in terms of settling our land  
claims. For one thing, they left out the non-status people and  
the offer was made to the 12 registered Indian bands in the

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1 territory, and the non-status people were totally ignored at the  
2 time and this was the principal reason behind the rejection of  
the offer in 1975.

3           Again in 1976 and in '78, we again came close to agree-  
4 ments. However, for various reasons... either there was a  
5 federal election or change in government, a change of government,  
6 these various land claims negotiations failed. The recent set  
7 of negotiations started in 1980 with the appointment of Dennis  
8 O'Connor as the chief federal negotiator representing the governor  
9 of Canada and back in 1980. After following three and a half  
10 years of negotiations, we've managed to sign some 68 sub-agreements,  
11 covering everything from eligibility to local government taxation,  
12 to financial package, fishing, hunting, trapping rights... and  
13 it's one of the most comprehensive agreements in principle arrived  
14 at in the modern era. In other words, while it is agreement in  
15 principle, it is very close to final agreement. In other words,  
16 it won't take us five years to reach the final agreement. In the  
17 event that our people authorize us to go ahead then they'll give  
18 us the full mandate to work towards the final agreement.

19           I will now go into the specifics of the claim. The  
20 first agreement that was reached between the parties was to deter-  
21 mine who was eligible for Yukon land claims. To date, we have  
22 some 6,000 people who have enrolled in our land claims and our  
23 criteria is very simple. You have to be Yukon Indian and you  
24 have to be a descendant of one of the Yukon Indian people who  
25 lived between the years 1900 and 1941. Nineteen hundred, that's  
to cut off all the people who apparently passed through the  
Yukon on the way down to southern states or wherever, and the 1941  
was the year before the opening of the Yukon through the building  
of the Alaska Highway. In other words, this group of people  
was the charter group. If you're one of the descendants of the  
group of people living at that time, you're eligible for the  
Yukon land claims. It doesn't matter whether you're status or



1 non-status. As long as you can trace your ancestry to a Yukon  
2 Indian living at that time, you're eligible for the Yukon land  
3 claims.

4 MR. BERGER: Just stopping you  
5 there, Mike. In Alaska, you had to have one grandparent of  
6 Native blood. Is there any such requirement in the Yukon?

7 MR. SMITH: Well, you have to  
8 have either... Yes, one of the grandparents... You have to trace  
9 your ancestry back to one of your grandparents living at the time.  
10 In other words, the charter group is going... There is going to be  
11 a charter group. If you can prove you're a descendant from one  
12 of the charter members, a person living in the Yukon, Yukon  
13 Indian blood, Indian ancestry, between the years January of 1900  
14 to January of 1941, then you can... Then you are eligible for  
15 Yukon claim, regardless of whether you're living in Alaska,  
16 Norway, Greenland. If you can claim your ancestry back to the  
17 Yukon, you're eligible for the Yukon claim.

18 MR. BERGER: You said there are  
19 6,000 people expected to be enrolled in this claim in the Yukon?

20 MR. SMITH: There's 6,000  
21 registered at this time.

22 MR. BERGER: What is the total  
23 population of the Yukon?

24 MR. SMITH: The total population  
25 of the Yukon is approximately 24,000 and we have about one-  
quarter of the population at this time.

The second element of the claim deals with the hunting  
rights. In the Yukon, the law presently provides that if you're  
a status Indian, you have the right to hunt year around for food.  
However, if you're non-status, you have to obey the general laws  
of application. In other words, you can only hunt during the  
hunting season. You have to have your licenses and tags for  
moose, caribou or whatever, whereas in the status Indians, you can

1 hunt year around for food on all unoccupied crown land. And just  
2 recently we won a court case stating very clearly that status  
3 Indian people do have the right to hunt in game sanctuaries. In  
4 other words, in the territory we have various game sanctuaries  
5 set up to protect game, and in a decision of last year, the  
6 supreme court of Canada held that the Yukon... if you're a status  
7 Indian, you have the right to hunt for game. There's only one  
8 stipulation to that. Government can still prevent you hunting  
9 by declaring that the game is being endangered. In other words,  
10 as being endangered of being extinct. In other words, at that  
11 time there were a lot of caribou in the park and there was no  
12 danger to the caribou by Indian people hunting in the park. So  
13 we won that case. We were really fortunate in that one. But  
14 our hunting agreement provides that the status Indian people would  
15 give up their hunting rights to hunt year around for food in  
16 exchange for a management board. In other words, we will set up  
17 a management board and this will have total management of all game  
18 in the Yukon Territory and the Indian people who are Yukon  
19 beneficiaries would have one-half participation in that board.  
20 In other words, while we would be giving up our year around hunt-  
21 ing, we would be part of the total overall game management for  
22 the Yukon Territory. In other words, the principle behind this  
23 is conservation. We... Right now in the South we're finding that  
24 a lot of the moose are being killed off. A lot of the caribou  
25 are being shot and there's a danger now to the herds in the  
South so we agreed to set up a quota system. In other words,  
they'll determine the yearly harvest of moose and caribou and  
one-half of that moose and caribou would be granted to the Native  
people and one-half to non-Native people.

One of the selling points of it is that, while right  
now we have no control over white hunters, we have no control  
over big game outfitting, under the game board we'd have a say  
in that management of... Say, for example, over big game hunting.



1 In other words, we can set quotas for big game hunters, and that's  
2 one of the big plusses of this agreement.

3 In fishing, they recognized and will entrench our right  
4 to subsistence fishing as a priority and it will be done on the  
5 basis, also, of the current fishing of the Yukon Indian people.  
6 For example, there are two rivers that come into the Yukon,  
7 the Yukon River and the Tachichini (ph) River from the southwest  
8 during the... this is the two salmon runs, and we agreed that  
9 the current fishing levels will be maintained forever. In other  
10 words, if we catch, for example, in the Tachichini, we catch  
11 something like 90 percent of the fish that come up this river,  
12 this quota would be protected forever for Native food fishery.  
13 And in... on the Yukon River, we haven't yet got the figures in.  
14 But we estimate 25 to 50 percent of the take there is Native  
15 food fishery and that would be protected forever.

16 And dealing with trapping, this is one of the most  
17 contentious areas. As a Native organization, we've always had  
18 a lot of problems in trapping. And in our agreement, they have  
19 agreed that 70 percent of the land mass in Yukon Territory would  
20 be reserved forever for Native trapping. In other words, while  
21 this is managed by the... presently under the game laws, managed  
22 by the Territorial government, the Territorial government has  
23 agreed to transfer management of 70 percent of the Yukon trapping  
24 over to the Yukon bands. In other words, following land claims  
25 settlement, each band would have total control over the trapping  
within their areas, and 70 percent of the Yukon land areas would  
be set aside as trapping forever. I don't know what benefit  
that this is going to be because apparently right now there's  
a great deal of public opinion and pressure against trapping and  
we're finding that it... especially in Europe. There's this...  
tremendous lobby against trapping. We're now setting up a lobby  
to... to fight this and while we have a good trapping agreement,  
I don't know how good it's going to be in the end.

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1 MR. BERGER: You're saying  
2 there may not be a market?

3 MR. SMITH: There may not be a  
4 market, that's right.

5 But trapping also includes a lot of things, not merely  
6 the right to trap game. But you have the right to set up cabins,  
7 trapping cabins. You have the right to extra game, you have the  
8 right to... to live off the land and it provides a way of life  
9 to the Indian people.

10 Another major element of our claim deals with local  
11 government. Under local government, we agreed to three forms  
12 of... three structures, one which we call common... the common  
13 govern... common services. In dealing with a community, a village  
14 where you have both Indian and white people living in the villages,  
15 we have agreed to have set up one common system of government to  
16 deal with the government services of providing roads, providing  
17 a water system, fire protection, all those type of common  
18 services will be set up under a local village or... or town  
19 government which would be incorporated under the Territorial...  
20 the existing Territorial laws.

21 In addition, we have agreed to set up band governments.  
22 Band governments would have the responsibility to... exclusive  
23 responsibility, for example, in management of trapping areas,  
24 management of the hunting and game regulations on Indian land,  
25 would be responsible for all the things that we term traditional,  
in terms of culture, all those things that we consider unique  
as Indian people. The band governments would have exclusive  
authority.

And, lastly, we agreed to set up a central Indian  
authority. This would be incorporated under the settlement  
legislation. It wouldn't be responsible for things of general  
nature. In other words, for example, for appointment to  
Territorial game board, this central Indian authority would make



1 all the appointments for the Native nominees for that board. It  
2 would have that type of responsibility.

3 MR. BERGER: How would the  
4 central Indian authority be chosen?

5 MR. SMITH: We haven't... We  
6 agreed to the concept of central Indian authority but we haven't  
7 yet done the studies to... in consulting the Native people in  
8 the communities or the bands on how this is to be set up. But  
9 while it would be a central Indian authority, a lot of its  
10 authority would more or less be that which is given to it by  
11 the villages. In other words, the bands would be the main land  
12 owners. In other words, all the land that's been selected would  
13 be held by the Indian bands and... and this authority, while it  
14 will be worked on... We've got a study underway now to suggest  
15 to us how this should be set up. We haven't agreed to the  
16 details of how it would be set up in terms of how it would choose  
17 its members and how it would be governed.

18 The next element of our claim is dealing with land.  
19 Under lands, we have three different categories of land. We  
20 have lands for community purposes, we have rural lands and we  
21 have site specifics. Community lands are those lands within  
22 existing communities. In other words, we have these 15 communi-  
23 ties in the Yukon Territory and a lot of the lands right now are  
24 held by the commissioner under the Territorial government, but  
25 we've been permitted and they've agreed to transfer some of their  
lands to the bands.

And the second category is the rural lands. These are  
large blocks of land surrounding the communities. For example,  
the lands in the South, the communities in the South... There  
are five communities in the South that have agreed to a land  
quantum of .86 square miles per person, and roughly works out  
to about approximately 500 square miles for the southern bands  
and each band would hold approximately 500 square miles of land.

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1 In the North, they're a little more generous. They've agreed to  
2 1.1 and it works out roughly to between six and 700 square miles  
3 of land. In the far North, dealing with the lands in the Old  
4 Crow area, they've agreed to eight square miles per person. In  
5 other words, in Old Crow... the community would own some 3,000  
6 square miles of land whereas in the South you'd own approximately  
7 three to 500 square miles of land. These lands would be held in  
8 fee simple. They would be held by the band corporation and only  
9 the improvements on the land would be taxed. In other words, if  
10 you built a house, only the value of the house would be subject to  
11 taxation whereas raw land would not be subject to taxation.

12 And the other element of these lands is that, while  
13 the lands would be available for sale to anybody, the lands  
14 cannot be subject to seizure for nonpayment of taxes.

(TAPE 43, SIDE B)

15 MR. SMITH: The site specifics  
16 ... We have a lot of cabins, we have a lot of fishing sites, we  
17 have grave... Indian graves and a lot of historical areas which  
18 have been very important to the Indian people and the government  
19 and the parties have agreed to set aside two to six hectares of  
20 land. In other words, to protect those areas, those fishing  
21 sites, the grave sites, the trapping cabins... and all those  
22 historical areas we have identified. And we have a lot of those.  
23 We have something like 70 sites per community. For example,  
24 Whitehorse would have their community lands, approximately 400  
25 square miles of rural lands. In addition to that, 70 or so  
site specific areas which would be held and owned by the band  
outright.

MR. BERGER: You mentioned  
the measurement by hectares. Can you convert that for us? We're  
in the United States, you know.

MR. SMITH: Yeah. The hectare  
is about 2.47 acres.



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MR. BERGER: Thank you.

MR. SMITH: The last element of our claim deals with money compensation. Government has agreed to pay 183 million dollars in 1980 dollars over a period of 20 years and it works out to 620 million dollars, beginning in the year 1986. This money would be held in the trust corporation and the trust corporation would have total control over the monies. We have... This would be set up under the existing laws. However, we've written in a number of things. For example, it would be tax free for ten years and it would... won't... the investments... In other words, the investments won't be tied to what is now existing. We'd have a broader say in terms of how we could invest the money, as long as the money is used for Indian purposes. And this is quite broad. It's not limited to charitable or education and we do have a lot of leeway in how the monies can be spent. And it won't be captured by the tax laws. We would have the break for ten years and after ten years, it would be subject to the normal taxation. However, government says that in ten years they believe this fund would be, in terms, 1.2 billion dollars. And they said if we were to get it for 20 years, it would be... The trust corporation would become too powerful and would have a great monopoly in the Yukon Territory in terms of the economic life of the Yukon. So while they... they sympathize with us, they can see the advantages in 20 years that the Indian people will be one of the greatest land holders and also one of the greatest... through the trust corporation, become very powerful in terms of the economic life in the Yukon Territory.

MR. BERGER: I have the feeling I've heard this before.

(LAUGHTER)

MR. BERGER: Could you tell us how the trust corporation would be held? Who owns the trust

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1 corporation? How do they own it?

2 MR. SMITH: The trust corpora-  
3 tion would be established under existing laws and right now we  
4 believe the 12 bands would each have a share in the trust corpora-  
5 tion and it would be managed centrally with subsidiaries. In  
6 other words, each band would have the right to set up a trust  
7 corporation to transfer funds from the central trust to their  
8 own trust, the band trust corporation. In other words, we have,  
9 right now, a study underway to determine how the details can be  
10 worked out to provide for more community control and less central  
11 control. In other words, the benefits should flow into communi-  
12 ties and not be held at the central level. There's strong  
13 pressures, especially from the financial houses, to hold the  
14 money centrally and to keep it invested. However, we've agreed  
15 that the money should go into communities and the communities  
16 should have a greater say in how the investment dollars are  
17 spent, how it should be kept and managed.

14 MR. BERGER: Is it... Mr.  
15 Parker says, is it a shareholder corporation or a membership  
16 corporation. You say the bands... the 15... the 12 bands will  
17 hold the shares?

17 MR. SMITH: Yes, the 12 bands  
18 will hold the shares in the corporation.

19 MR. BERGER: The 12 bands are  
20 band councils elected by the Indians comprising each band under  
21 the Indian Act of Canada?

21 MR. SMITH: Ye... Well, it's  
22 not going to be under the Indian Act. That's one of the other  
23 things --

23 MR. BERGER: All right.

24 MR. SMITH: -- is that,  
25 following the settlement in the Yukon Territory, we're going to  
preempt the Indian Act. In other words, the Indian Act won't



1 apply in the territory. It would become inoperative. It would  
2 still be the law of the land but it won't be operative in the  
3 Yukon Territory. The bands would be incorporated under the settle-  
4 ment act and the membership opened up to all the beneficiaries  
5 who are registered with that band. And the people who are  
6 registered with the bands would then elect, through their...  
7 whatever means... in other words, their traditional means...  
8 would elect their leadership and the leadership would then be  
9 the trustees and hold the shares for the members of each of the  
10 bands.

MR. BERGER: I see. Mr. Parker?

MR. PARKER: The band corpora-  
10 tions would not be open to entry every by... through sale of  
11 stock or any means?

MR. SMITH: Well, that's true.  
12 The... It's very clear that whatever shares of stock that are held  
13 will always be held by the Indian bands forever. The bands have  
14 the say as to who can become their own members. In other words,  
15 under our land claims agreement, the provision is that, if a  
16 person is accepted as a member of the community, that person can  
17 be deemed a beneficiary by that band. In other words, bands  
18 have full control over their membership and they can determine  
19 who can become a member of their bands. But once they're a member  
20 then they have full entitlement to the whole Yukon land claims.  
21 But unless you're a member, you have no say whatsoever.

MR. BERGER: Sheldon Katchatag,  
22 do you have a question?

MR. KATCHATAG: One of the  
23 problems that we have here in Alaska is the fact that all  
24 children born after December 18, 1971, are not included in the  
25 settlement. You mentioned the fact that... this is an agreement  
with the bands. Now, is there a cutoff date on descendants, or  
will the descendants always be part of the bands and therefore

1 sharing in on the settlement?

2 MR. SMITH: Yes. With respect  
3 to that, we dealt with that question at length and it was  
4 finally agreed by the chiefs that it should be an open enrollment.  
5 In other words, the enrollment would last forever and as long as  
6 you can trace your ancestry back to one of the charter groups,  
7 there is no cutoff date for enrollment. In other words, if  
8 you're born and a descendant Yukon Indian, you'll always be  
9 eligible for the claims then and there's no... We've not said...  
10 Even, we've not set a limit as to you have to be one-quarter  
11 Indian blood. That hasn't been agreed to. As long as you can  
12 claim an enth degree descendant to Yukon Indian, you're eligible  
13 for full membership of the claim.

14 MR. BERGER: Shorty O'Neill  
15 and Steve Iveson have questions, but just before we allow them  
16 to put their questions... I'm not sure you'd completed what you  
17 intended to say, Mr. Smith. Had you?

18 MR. SMITH: No, not quite.

19 MR. BERGER: Go ahead, then.

20 MR. SMITH: We've... The  
21 eligibility is still wide open. In other words, the enrollment  
22 would last. There would be a registry kept and as children are  
23 born, they will be enrolled.

24 MR. BERGER: All right, where  
25 were we? Shorty O'Neill?

MR. O'NEILL: In the beginning  
of your presentation, you talked about the COPE agreement. I'm  
not sure what COPE is, but you said it had a bad effect and then  
you went on to say that the Alaskan agreement and the other  
agreements in Canada had some effect but didn't say what type of  
effect. So if you'd answer that first, then I have another  
question.

MR. SMITH: Yes, we... There are



1 three parties to this negotiation in the Yukon. There's the  
2 federal government, the territorial government and the Indian  
3 people, and in dealing with the government we've always had to  
4 argue against precedent set by other claims. In other words,  
5 in dealing with land, they looked at Alaska, we looked at COPE,  
6 we looked at the James Bay Agreement and we looked at the treaty-  
7 making process in the South. In the South, when they sign  
8 treaties, I believe it was one square mile per family of five.  
9 And James Bay was a little more generous. I guess they got one  
10 square mile per family of four or something like that. And  
11 COPE was the most generous claim. They got over 14 square miles  
12 per person. We argued that COPE, while it's used as a precedent  
13 in terms of extinguishment of rights, that should be followed,  
14 too, in terms of granting of land. But you multiply 6,000 times  
15 14, you get some 80,000 square miles of land. In other words,  
16 approximately one-half of the Yukon would have to be transferred  
17 to the Indian people and this wasn't... So we had a very strong  
18 argument against us. While we were only one-quarter of the  
19 population, using the COPE formula we'd be granted one-half the  
20 Yukon Territory. So we argued.

21 But in terms of dealing with COPE and Alaska, government  
22 used that as models in terms of... really strongly in terms of  
23 dealing with what is meant by aboriginal rights. In other  
24 words, they said aboriginal rights do not include subsurface  
25 resources. Aboriginal rights doesn't include that. Aboriginal  
rights deals mainly with hunting and fishing and living off the  
land. So... But we argued. We argued that these shouldn't be  
held as precedents. And they've been used, you know, used by  
government in terms of dealing with the various elements of the  
claim. They always refer back to, "Well, in Alaska... there's  
no hunting and fishing rights, you know. There's no subsistence  
rights there." Or in fishing or in trapping. Those type of  
things have always been used to argue against us and I'm sure when

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1 the Yukon claim is settled, the Dene people will be arguing against  
2 the Yukon claim.

3 MR. O'NEILL: So it, in fact,  
4 did have some bad effects on the agreement, or the discussions  
5 towards the agreement? You're saying that, eh?

6 MR. SMITH: There's some bad  
7 effects of previous agreements.

8 MR. O'NEILL: Yeah. The other  
9 thing that really concerns me is the amounts of money in these  
10 agreements... and the less land, you know. It seemed to be a whole  
11 heap of money and not enough land because, in reality, we own the  
12 lot, you know? We didn't immigrate to this... You guys didn't  
13 immigrate to this country. I didn't immigrate to Australia.  
14 We own those countries by heritage, coming from the beginning of  
15 time. And these great lots of money... and what we've found with  
16 the mining royalty equivalence in Australia, is that you either  
17 end up with a couple of aboriginals who have a... not a lot of  
18 money but some heavy money for a little bit, or you end up with  
19 a whole lot of aboriginal people who have a little bit of money  
20 for a little bit. But in a short time, what you find is there's  
21 a whole lot of rich lawyers, there's a whole lot of rich used  
22 car dealers, there's a whole lot of rich publicans and there's  
23 a whole lot of damn broke aboriginal people. And, you know, I'm  
24 just wondering how you see the effects of that money and less  
25 land?

MR. SMITH: Well, we're quite...  
You know, in going back to the experience in James Bay, we're  
quite... We're looking at that, too. We've run into similar  
experience in terms of how to get the benefits back to the people  
and not benefit just simply a select group of people. For  
example, now we... just dealing in one area and dealing with  
housing, we're finding that our agreements aren't... while they're  
providing good houses to people, the employment doesn't go to our



1 people because of the requirements that you have to have trades  
2 people who can give a seal of approval to terms of... For example,  
3 you have to have a certified electrician, a certified carpenter,  
4 a certified plumber and all these people. In other words, instead  
5 of having Indian people build their own houses, we have to hire  
6 other people to build those houses. So we're finding that  
7 experience and we're trying to figure out how to overcome that.  
8 And perhaps it's not too late for us to write in guarantees in  
9 terms of economics.

10 I know in COPE, they've got a ten percent preference.  
11 In the Yukon, we've looked at that but it's not appropriate.  
12 We're going to have to sign some type of agreement on the economic  
13 opportunities that stem from the land claims, giving the Indian  
14 people of the Yukon Territory a preference... in spite of all those  
15 laws of general application which stipulate that you have to  
16 have certified and well qualified people.

17 MR. BERGER: You said that, on  
18 the basis of the COPE formula used in the Western Arctic, you  
19 would have wound up with half the land in the Yukon. You are  
20 25 percent of the population and under the agreement, you wind  
21 up with 25 percent of the land?

22 MR. SMITH: No, we don't end  
23 up with 25 percent of the land. We have... They've agreed that  
24 8,000 square miles of land in the Yukon Territory would be  
25 transferred to Indian people. That's less than five percent of  
the total land mass of the territory.

MR. BERGER: Steve Iveson and  
then Rosita Worl?

MR. IVESON: You made a passing  
remark earlier that the Indian land could be sold to anyone.  
Do you want to enlarge upon that a little bit?

MR. SMITH: Under our agreement,  
the lands would be held in fee simple by the band corporations.

1 And there's no stipulation as to whether or not you can alienate  
2 that land. There's no restrictions on alienation. In other  
3 words, each band would be full owners of their land and would have  
4 the full right to sell, if they desired to sell their lands or if  
5 they want to keep it forever. In other words, there's no restric-  
6 tions on that. The bands would have full management of their lands  
7 and they have the right to sell to individual members of their  
8 bands or to sell to the general public at large.

9 MR. BERGER: Shorty O'Neill?

10 MR. O'NEILL: I'm amazed,  
11 completely. Our experience in the... not in Australia but in  
12 the South Pacific, particularly with the Maori situation through  
13 the treaty of Wytangi (ph) when 95 percent of the country was  
14 supposed to be handed to them and the land was saleable but it  
15 was put in the hands of the chiefs. What's happened over the  
16 years, that was about 140 odd years ago that that treaty was  
17 signed and 95 percent of the country was handed over to the Maori  
18 people... What's happened since then, there's been a lot of  
19 imports of alcohol and a lot of drunk chiefs around and a whole  
20 lot of land went down the creek, and I think they're on something  
21 like three percent of the total country at the present time. So  
22 something like 92 percent of their country has been sold out,  
23 mainly through alcohol but many other things also. And I'm  
24 amazed that people are still accepting the right to sell their  
25 land in land claims settlements. In the past, wherever that's  
happened, we always find that the indigenous people are the ones  
that get ripped off.

MR. SMITH: Perhaps I could  
respond to you. Right now in the Yukon Territory, there's some  
207,000 square miles of land and approximately 300,000 square  
miles of that land is owned by the territorial government. The  
balance is held by the crown in right of Canada. But under the  
land claims agreement, there's also... We've got a land use



1 planning agreement which states that we'll sit on a board that  
2 will... approximately 25 percent participation in that, and we  
3 deal with the land as land is being granted... We'll deal with  
4 the total land planning for the Yukon Territory, and as land is  
5 being granted and released to the public, each of the bands would  
6 have the full right to participate in the buying land. In other  
7 words, we're not restricted to the 8,000 square miles of land.  
8 We'll have the full right and the full benefits as Yukon citizens.  
9 In other words, we're trying to write in something that's very...  
10 that's happening in Alaska, as land is being made available to  
11 the public where resident Alaskans or pioneer Alaskans have  
12 certain benefits to first choice to buy land. That's more or  
13 less going to be the policy... We're trying to argue that that  
14 should be the policy in the Yukon Territory. As indigenous  
15 people who've lived there over 30,000 years, we've built up enough  
16 preference that, as land is being made available, we'll have a  
17 pot of money to start acquiring more land for the territory...  
18 for the Indian people. We're not going to be in the business of  
19 selling land. I think we're going to be in the business of buying  
20 land.

16 MR. O'NEILL: I'd hope not. I  
17 hope it works that way.

18 MR. BERGER: Rosita Worl?

19 MRS. WORL: I was telling Mike  
20 that I probably could trace some of my ancestry to that area.

21 MR. BERGER: Six thousand and  
22 one enrollees.

(LAUGHTER)

23 MRS. WORL: I understand from  
24 your discussion that you have done away with the status and non-  
25 status distinction between Indian people. But for the record  
and for Alaskans, would you elaborate on those differences and  
how one moves from one to the other?

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1 MR. SMITH: In Canada, we have  
2 ... we have, they say, three groups of people. We have the Inuit  
3 people, we have the Indian people and we have the Metis people.  
4 There is an act passed under the constitution, or the BNA Act,  
5 which recognizes Indian people. It provides for the management  
6 of Indian people and Indian land. And under that act, it... it  
7 sets up band structures. In other words, Indian bands. And  
8 if you're a member of a band, you become a registered Indian.  
9 And there was a census taken and people were registered. It  
10 happened in 1948 when they came up to the Yukon Territory,  
11 started registering Indian people as members of bands and  
12 become... in other words, under the federal government, federal  
13 responsibility. During the period of time, a lot of people,  
14 for one reason or another, decided to become enfranchised. In  
15 other words, back in the early days, Indians weren't allowed to  
16 do a number of things. You couldn't vote, you couldn't go to  
17 public schools, weren't allowed to buy alcohol and you weren't  
18 allowed to participate with the general public. In other words,  
19 you were restricted in terms of your rights. And as a result,  
20 a lot of people, either through the... made a decision to go  
21 in business or to go in public schools, decided to become full  
22 citizens of Canada and gave up their so-called Indian status, and  
23 as a result, we have a generation or two of non-status people...  
24 in other words, who are Indian people or whose parents, you  
25 know, for one reason or another, gave up their status and became  
enfranchised, we called it. And by becoming enfranchised, they  
gave up certain things, as their hunting rights. They gave up  
their right to be a member of the tribe. They gave up their  
right to... to all the other benefits that are so-called... that  
have been granted Indian people. And as a result, we have two  
groups of people in Yukon Territory. We have the status Indians,  
who are approximately 3,000 to 4,000 members, and we have the  
non-status people, a little over 2,000 who are non-status. And



1 over the years, the non-status people have not enjoyed any rights  
2 as Indian people while they have all the... They've more or less  
3 lived like Indian people. They have all the disadvantages...  
4 live with all the disadvantages without the benefits. And...  
5 And after we... The bands in the territory decided to amalgamate.  
6 In other words, they opened up their membership. There are a  
7 couple of bands yet who haven't yet amalgamated. In other words,  
8 they're still wondering about it. But for the most part in the  
9 Yukon Territory, all the bands have opened up their membership  
10 and treat each other equally in spite of the laws of the land,  
11 in spite of the Indian act, the government agents. They've  
12 decided that we're one people, we have full rights of Indian  
13 people and we should share equally with your brothers and your  
14 sisters. And that was one of the hallmarks of the Yukon Indian  
15 people is that we did away... While the distinction exists in  
16 law between status and non-status people, in terms of dealing with  
17 ourselves, we treat each other as equals.

14 MRS. WORL: Can you tell me,  
15 was that movement to... to non-status always voluntary, or could  
16 it happen that through marriage to a non-Native person that you  
17 would lose your status? And then, once you were a non-status,  
18 was that irreversible, or do you go back to being a status?

18 MR. SMITH: Yes, that's the  
19 other way in which you can lose your status as an Indian person,  
20 is through marriage to a non-Indian. In other words, an Indian  
21 woman who married a non-Indian or a non-status person, you lost  
22 your status as an Indian person, whereas a non-status woman or  
23 a white woman or a non-Indian woman marries an Indian man, they  
24 acquire Indian status. So... That's been a great issue in  
25 Canada and it's one in which the governments have wrestled with  
this for a long time and I think they say that they will change  
the laws, but they still haven't done it. In other words, they've  
promised every year to introduce legislation to do away with that

1 discrimination that you can lose your status by marriage, and  
2 they've promised but they haven't yet delivered.

3 MR. BERGER: Yes. Maureen  
4 Kelly?

5 MS. KELLY: What I'd like to  
6 ask you then, what about the children? You're saying that a  
7 woman loses her status if she marries a white man. What about  
8 the children of that union if they wanted to be a Native of your  
9 country, they can't be?

10 MR. SMITH: The children of a  
11 mixed marriage... in other words, of an Indian woman and a non-  
12 Indian person, would acquire a non-status. They would be non-  
13 status.

14 MS. KELLY: So they don't have  
15 an identity, even though they have Indian blood in them?

16 MR. SMITH: Well, they're not  
17 recognized.

18 MS. KELLY: Oh, sh...

19 (LAUGHTER)

20 MR. BERGER: Sheldon? Sheldon  
21 Katchatag?

22 MR. KATCHATAG: Yes. I have  
23 three or four questions which are interrelated.

24 First of all, in your negotiation, do the communities  
25 or the bands have the right to select or authorize you to nego-  
tiate on their behalf?

MR. SMITH: Yes. The negotia-  
tions... Right now we have a chief negotiator who works under  
the direct authority of the 12 chiefs. In other words, each  
community has a chief and the chiefs sit on the board. The  
negotiators report directly and receive all their instructions  
from the chiefs.

MR. KATCHATAG: Okay. As far as



1 the settlement, is it subject to the consent or the approval of  
2 the bands, or is it just related to the chiefs?

3 MR. SMITH: The settlement  
4 would be subject to the approval by the band membership. Each  
5 band has its own method of approving or disapproving the land  
6 claims package. In one community, for the approval process, the  
7 band had a general meeting of the members and they held up their  
8 hands and voted in favor. In another community, they had a vote  
9 by secret ballot and the voting lasted a complete week where  
10 each member of the band 16 years and older enrolled in that  
11 community had the right to vote either in favor or against the  
12 agreement. And under our ratification process, we require ten  
13 bands to vote in favor. In other words, each of the bands would  
14 look at the land claims package and if only nine bands voted in  
15 favor and three bands voted against, the whole package would be  
16 treated as being rejected.

17 MR. KATCHATAG: As far as input  
18 from band members other than the chief, is there any mechanism  
19 provided to where your everyday Indian in the village would have  
20 any say or input into the negotiations on concerns or items which  
21 he would like to be inserted into the settlement?

22 MR. SMITH: In the actual  
23 negotiations, that doesn't really happen. However, the negotia-  
24 tors have been required to go to the communities and report and  
25 give updates on the land claims negotiations, and this is open  
to the general band membership and each member of the community,  
if they're interested in land claims, can attend the meeting,  
ask questions, express their concerns. And if the concern is  
generally felt by all the members of the community... in other  
words, the majority feel that the decision with respect to, say,  
on hunting is wrong, then the negotiators have to go back and make  
changes.

MR. KATCHATAG: In that same

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1 regard, are your subagreements also subject to either chief or  
2 band member input?

3 MR. SMITH: Yes, all our agree-  
4 ments we've... before they're actually signed, there's full  
5 consultation with the chiefs and mainly dealing with the chiefs  
6 in terms of negotiations. The... Sometimes it goes back to the  
7 communities. In other words, if the issue is important enough  
8 and affects the individual person, then there's reporting back  
9 to the band. But whereas the concept is pretty straight forward  
10 in terms of... in terms, say, for land... in other words, land  
11 quantum... then we mainly deal with the 12 chiefs.

12 MR. KATCHATAG: What part did  
13 the Alaska Native Claims Settlement Act have in regard to each  
14 band or community making sure that they have an official delegate  
15 from their band to enter into negotiations? One of the problems  
16 which I have heard concerning ANCSA is the fact that it was not  
17 negotiated by official representatives of the tribal government.  
18 Now, did this have any bearing on the process which you went  
19 through with your communities or bands?

20 MR. SMITH: I really don't know,  
21 you see. That's one of my regrets, is I wasn't here when the  
22 Alaskan people made their presentation on the Alaska claims  
23 settlement. But in the Yukon Territory, there's always been an  
24 element of local control, and one of the... The communities are  
25 very jealous of their authority and every time we make presenta-  
26 tions or talk about terms of central Indian government or the  
27 trust foundation, one of the points that is always made very  
28 clear to the negotiators and to the Indian leadership is that  
29 the communities have to remain... in full control of whatever is  
30 happening and the benefits must flow to the communities.

31 For example, our CYI... the executives, the leadership,  
32 are elected by general population. In other words, each Yukon  
33 Indian registered with the Council for Yukon Indians and are 16



1 years and over, you have the right to vote or to run for office.  
2 And every two years the leadership has to go to the general public  
3 and each member of the community has the full right to vote in  
4 any election.

5 MR. KATCHATAG: In that regard,  
6 what... what guidance do you take from your chief and do the  
7 elders of your village have any bearing on the overall outcome?

8 MR. SMITH: Yes. The chiefs  
9 have a great deal of authority over the council. They have the  
10 full management and full authority of the total organization. In  
11 other words, they're the governing body. The elders are involved.  
12 We have... We're gradually getting the elders to attend meetings.  
13 We've written in, too, that one of the executive members should  
14 be an elder, that the elders would sit on the board with the  
15 chiefs, the elders would be involved in the band governments and  
16 we've written into and entrenched in our organization, the full  
17 involvement of elders, not only advisory, but also full voting  
18 authorities.

19 MR. KATCHATAG: And what say  
20 do the communities or bands have in the final form of the settle-  
21 ment? In other words, if, in fact, the Yukon Territories and  
22 the Canadian government decided that the settlement will go, not  
23 to the tribal government, but to provincial-chartered corporations,  
24 would that be subject to the approval of the tribal or band  
25 government?

MR. SMITH: Yes, it is, and  
the bands do still have full authority in that. In the event  
that this agreement in principle is not acceptable, they would  
throw it out.

(PAUSE)

MR. BERGER: Sorry. Shorty  
O'Neill and then Steve...

MR. O'NEILL: Sheldon asked my

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1 question that I was going to ask.

2 MR. BERGER: Okay. Steve  
3 Iveson and then Steve Kakfwi.

4 MR. IVESON: I have a question  
5 to the floor, but maybe to Doug Sanders. Maybe he could answer  
6 it, here. As I understand it, it's the Indian Act which determines  
7 that women lose their status by marrying a non-Native person, or  
8 a non-registered person and then their offspring, as well. And  
9 that also, the constitution... a new clause in the constitution  
10 will come into effect in the near future which will cause that  
11 section of the Indian Act to be inoperative. And that applies,  
12 I presume, only to women who marry after that comes into place,  
13 is that correct? And their children?

14 Also, there was a special committee of the House of  
15 Commons that produced a report that talked of amending the Indian  
16 Act to let women and their first generation children back on, to  
17 get their status back, although perhaps not automatically get  
18 back into the bands. Do you have any information as to what the  
19 government is actually intending to do in this regard?

20 MR. BERGER: Professor Sanders  
21 is one of Canada's leading authorities on this question of status  
22 and non-status Indians. And it's of interest because of the  
23 division here in Alaska between the generation that holds shares  
24 and the next generation that does not hold shares may portend  
25 some consequences that we've lived through in Canada. But this  
is a... This is something you don't need, believe me.

(LAUGHTER)

MR. SANDERS: I will be very  
brief. The membership system historically was developed after  
the reserve system was developed and was designed to regulate  
who could reside on reserves and who could not. It used the  
male as the head of the family to give the same status to all  
members of the nuclear family. It didn't tie into Indian



1 traditional kinship. It related most closely to European patterns  
2 of kinship. It's been a very intense subject of political con-  
3 troversy in Canada for about 15 years. There is controversy at  
4 this point whether constitutional amendments in '82 and '83 have  
5 finally prohibited that sexual discrimination. The federal  
6 government announced in a speech from the throne, the last speech  
7 from the throne, that they would introduce legislation. Munroe  
8 has said that will be done before summer, and last week the prime  
9 minister distributed a two-page statement giving some detail.  
10 There's still some fuzziness about retroactivity.

11 One of the fundamental problems, however, has been that  
12 most of the Indian organizations have been demanding their own  
13 control over the determination of membership, and so there have  
14 been two separate agendas which haven't interacted with each other  
15 very successfully because most of the federal proposals, including  
16 that of the committee that you referred to, have built into them  
17 a kind of assumption that you will still have a national system  
18 determining who is a status Indian and who is not, where the  
19 organizations are saying that is a fundamental error. One of  
20 the basic rights recognized in the United States, at least, in  
21 the Lower 48, has been the right of the tribes to determine their  
22 own membership, and the governm... That's only, at this point,  
23 an agenda item in terms of discussions in Canada. There's really  
24 been no advancement to recognizing that as a right of tribal  
25 groupings.

MR. BERGER: Steve Iveson?

MR. IVESON: So that if the  
retroactive clause to change the Indian Act does not go ahead and  
if it were found that the present constitution will have effect  
on equality... will effectively cause equality to occur, that  
will then be from now on, is that correct?

MR. SANDERS: It would be from  
... from '82, from the amendment of '82 that that would be in

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1 effect. That would not produce any retroactive... retroactivity  
2 going before 1982. It could be done by the federal government  
3 by legislative change and they are proposing that people who have  
4 lost status, you know, people who had status and one point and  
5 lost it and are still alive, those people would be eligible.  
6 Therefore, you could not get status if you never had it but your  
7 mother did at one point. So there's... That's the major limitation  
8 that the federal government has talked about when they have been  
9 positive on retroactivity issues.

8 MR. BERGER: Steve Kakfwi?

9 MR. KAKFWI: Yeah. I have...

10 one question, I think. It has to do with a couple of points that  
11 Mark Gordon made this morning. One, that when he and the other  
12 Inuit leaders in Northern Quebec delivered to the people a package,  
13 there was created a dissident group. In your case, the question  
14 is, is there potential of the same thing happening, in that,  
15 will there or is there possibly now a possibility that a number  
16 of the communities may not accept the package as it is, and  
17 if so, what are the possibilities of going back to the table to  
18 negotiate on their behalf?

19 And the second point is... The second question related  
20 to that is, the package as it is now, does that have the support,  
21 the personal support, of the CYI leadership involved in negotia-  
22 tions? And when it becomes time for ratification, are you all  
23 going to personally endorse the package, or are you going to step  
24 back and say, "Well, it's the peoples' choice," and not vote on it?

25 MR. SMITH: Yes... In dealing  
with... First of all, first dealing with, you say, a dissident  
group, there's no question in our mind there's a great deal of...  
a great many people in the Yukon Territory who've reviewed the  
claims agreement and who also think in terms of the question of  
extinguishment of aboriginal rights who are strongly opposed to  
that. You know, I don't know what percentage of the Northern



1 Quebec Inuit who are opposed to the claims package there. How-  
2 ever, in the Yukon, the dissident groups are... I think have a  
3 lot of sway, would have a lot of sway in the overall... the  
4 overall question of ratification because the way our ratification  
5 is written, there has to be an overwhelming support for the pack-  
6 age for it to be approved. In other words, ten of the 12 com-  
7 munities have to vote in favor.

8 Say, for example, right now we know very clearly that at  
9 least three bands are opposed to the land claims for various  
10 reasons. One is that they disagree with the extinguishment.  
11 Secondly, they don't agree with the land quantum and that question  
12 is... it's outstanding. There are two communities yet who have  
13 not come to the table and negotiated their land selection or  
14 land quantum. And so we do have a lot of problems in terms of  
15 trying to provide a claims package that has everyone's blessing.  
16 And in our view, the test of this claims package is very high.  
17 You know... Ten of the 12 communities, and right now our guess is  
18 we don't have it.

19 With respect to where the CYI leadership stands in this  
20 ... the settlement offer, we'll know very shortly where they stand  
21 because we have elections coming up in approximately two months and  
22 there's no doubt that this claims offer would be a central issue  
23 and the whole question of extinguishment and where people stand  
24 will come out. In other words, all the people who are running  
25 for the leadership will have to... will have to make a stand  
because the community people will demand it. On the basis of that,  
I think it's going to be a very clear question to the people of  
the Yukon Territory where they stand and it's... it's a very  
good process.

MR. BERGER: The... It would be  
hard to say what is the most important feature of the Yukon  
agreement in principle. Although it may not be the most important  
feature from the Canadian point of view, the most innovative may

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1 well be the opening up of enrollment eligibility to non-status as  
2 well as status people. For Alaska, the most innovative feature  
3 of your agreement in principle might well be the provisions re-  
4 lating to the use of fish and wildlife, the joint management  
5 establishment of quotas and allocation of... of a percentage of  
6 the quota in perpetuity to the Indian people. That is a very  
7 interesting development.

8 MR. BERGER: Bill Erasmus and  
9 Rick Hardy, you had questions I think?

10 (TAPE 44, SIDE A)

11 MR. BERGER: Rick Hardy?

12 MR. HARDY: I'm just wondering  
13 if it would be impolite of me to go ahead of the other people  
14 but Mike had mentioned that there were three problem areas and  
15 I only heard him refer to two of them. I was wondering what the  
16 third one was?

17 MR. SMITH: The third problem  
18 area is we requested an advance of ten million dollars on the  
19 ratification of the agreement. In other words, they provided that  
20 sum to COPE when they signed the agreement in principle and  
21 they were... and they permitted COPE a lot of leeway in terms of  
22 getting involved in the economic development in the North, they  
23 bought into a lot of businesses, they managed to buy a lot of  
24 expertise and gave them a lot of say and influence in what's  
25 happening in the North country.

We also see those type of advantages happening if,  
say, for example, that government agrees to advance us ten million  
dollars where we can set up development funds and start getting  
involved in what is happening in the Yukon Territory. We see  
that as a very important lever and that's one of the conditions  
we made when we signed the agreement.

MR. BERGER: Rosita Worl and...

MRS. WORL: Alaskans are really

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1 anxious to learn from you all. I gather that there doesn't seem  
2 to be any kind of need to rush into an immediate settlement?  
3 There seems to be a difference between what happened with COPE  
4 in terms of, I gather, development in the Arctic and then what  
5 is maybe not happening in your area. I mean, do you feel like  
6 you have a lot of time to resolve this?

6 MR. SMITH: I don't know whether  
7 we have a lot of time, but the time pressures are different.  
8 On the one hand, there's a great deal of pressure on us to settle.  
9 In other words, they say that there's going to be an election,  
10 "You've lost your prime minister who's in favor of Indian interest,  
11 protecting Indian rights, seeing the entrenchment of Indian  
12 political institutions in constitution. The general opinion of  
13 the public may shift away from looking at land claims agreement  
14 as a mode for dealing with Native peoples and resolving their  
15 grievances," and all these things are being thrown at us and  
16 saying, "You have to settle now if you really want a settlement."

17 There are a group of us who think that that's true and  
18 there's a group of us who disagree with it, but for the most  
19 part I think that we do still have time. We're only at the agree-  
20 ment in principle stage and... generally, the people in the com-  
21 munities say, "Well, we'll make time." In other words, we're not  
22 going to follow governments' timetable... we still have a lot of  
23 concerns on the agreement. We still feel we need more time to  
24 review, and they're taking time. In other words, the bands  
25 haven't set a timetable on when they're going to ratify.

26 The minister said, "You should ratify in February."  
27 The band says, "Well, February what year?"

28 MRS. WORL: There's no imminent  
29 economic development project hanging over you?

30 MR. SMITH: At one time, going  
31 back to the question whether there's pressure to settle... One  
32 time there was a talk of pipeline being built through the Yukon

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1 Territory. It's the result of a person going up the Mackenzie  
2 Valley and talking to the communities and they decided that there  
3 was too much opposition in the Mackenzie. Maybe the Yukon would  
4 be a favorable route. And there was some pressure on us at that  
5 time. However, that pressure is not there now and there's no  
6 real pressure on the Yukon people to settle right away.

6 MR. BERGER: Sheldon Katchatag  
7 and then Bill Erasmus.

7 MR. KATCHATAG: Yes. You men-  
8 tioned the fact that, to approve the settlement, that ten of the  
9 12 bands must agree. Now, my question focuses on those two  
10 bands which might not agree. Now, what recourse do they have if,  
11 in fact, ten of the bands approve it? Are they bound by the  
12 agreement or can they negotiate their own?

12 MR. SMITH: Well, our general  
13 thinking there is that, in the event that two bands... say two  
14 bands vote against the agreement, they have the option of joining  
15 the claims settlement or they can... they can stay out of it. In  
16 other words, they can still go on the status quo. In other words,  
17 remain bands under the Indian Act, subject to all of the rights  
18 and privileges they would enjoy under the Indian Act and what  
19 other things they would acquire through the so-called self-  
20 government process that is happening now in the Canadian consti-  
21 tution. In other words, they can take their chances with that.

21 But the other thing, too, is the bands that do agree  
22 still have the full opportunity to participate in the constitutional  
23 development. In other words, we have written into our agreement  
24 a clause stating very clearly that any other benefits, rights,  
25 privileges that are acquired under the Canadian constitution would  
be.. you know, the Yukon Indian people, by signing the agreement,  
would not prejudice their participation for what rights that they  
may receive under the Canadian constitution.

MR. KATCHATAG: Right, so this

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1 is... This settlement, even if ten of 12 approve, is not a blanket  
2 settlement which would be applicable to all 12?

3 MR. SMITH: No, it's not going  
4 to be a blanket settlement.

5 MR. KATCHATAG: Okay. One last  
6 question that I have is more or less... I would like to commend  
7 you for, number one, for operating on Indian time and not being  
8 hurried in your settlement, as I'm sure you all know, that the  
9 ANCSA settlement was rushed. And I would also like to commend you  
10 and your leadership for looking out for the rights and also the  
11 input from your... not only your village and your village people,  
12 but also from your chiefs.

13 Thank you.

14 MR. SMITH: Thank you very much.  
15 We've been very notorious in terms of following timetables. We've  
16 missed a lot of timetables.

17 (LAUGHTER)

18 MR. BERGER: Could I just ask a  
19 question that you brought up at the beginning of your presentation  
20 and you didn't return to it. I gather that... that since the agree-  
21 ment in principle was signed, the government of Canada has pro-  
22 posed enlarged rights of Native self-government under the  
23 constitution and you are concerned that, even if the agreement in  
24 principle goes through, you should have the right to take advan-  
25 tage of any new rights of self-government that are agreed to under  
the constitution. Was that what you were getting at?

MR. SMITH: Yes, I was. The  
recent statements made by the prime minister at the meetings in  
Ottawa on the entrenchment of self-government institutions in the  
Canadian constitutions have really thrown a ringer into our  
negotiations. In the Yukon experience, we've agreed to something  
... the concept of one government. In other words, having one  
government for the Indian people and for the non-Indian people in

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1 Yukon Territory. In other words, providing one system of govern-  
2 ment with written-in guarantees for Indian participation and  
3 Indian rights and culture and languages. In other words, we'll  
4 have all these protections, but we'd be part of the total govern-  
5 ment for the Yukon Territory. The stand that was... The state-  
6 ment made by the prime minister was in direct opposition to the  
7 statement made by his negotiator at the table. In other words,  
8 while on the one hand, the public... they cast themselves in the  
9 light of being strong advocates of the Indian self-determination,  
10 but in dealing with Indian groups on a face to face basis, that  
11 offer is not on the table. In other words, the question of  
12 having our self-government, Indian-type institutions was not  
13 there at the negotiating table and it's caused our leadership,  
14 and especially our chief negotiator, to reflect on the whole of  
15 the Yukon claim and to weigh it in terms of looking down the road,  
16 seeing whether or not those promises made by the prime minister  
17 are real promises or merely statements.

14 MR. BERGER: Under your agree-  
15 ment, you have land and you have certain extended rights to  
16 fish and game throughout the whole of the Yukon Territory. You  
17 said that the agreement doesn't deal with self-government but  
18 that it does contain guarantees for your language and your culture.  
19 Did I... Is that what you said? And if that's what you said,  
20 what are those guarantees?

21 MR. SMITH: In our claims settle-  
22 ment, those 8,000 square miles of land would be exclusive hunting,  
23 exclusive fishing, exclusive land holding or living ownership,  
24 total management, but over the total Yukon Territory, we'll still  
25 maintain our hunting rights. In other words, we'll have acquired  
... in other words, one-half of the game and one-half of... one-  
quarter of the land planning regime. In other words, over the  
total of the territory, there's going to be a land planning  
commission and would do the land planning for the total Yukon



1 Territory and we'd have guaranteed participation.

2 In the Southern Yukon, in other words, below the 60th  
3 parallel... 66th parallel, we'd have one-quarter participation,  
4 and above the Northern... dealing with COPE, we'd share one-half  
5 of the planning with COPE in the North. But those are the type  
6 of guarantees that have been written into our agreements.

6 MR. BERGER: And you don't have  
7 one Indian language only in the Yukon, is that right?

7 MR. SMITH: We have some five  
8 languages.

9 MR. BERGER: There was a question  
10 over here? Bill Erasmus.

10 MR. ERASMUS: Thank you. The  
11 first question is more of a clarification. I heard you mention  
12 the nonrenewables... You talked about, I think it was ownership,  
13 as a condition in extinguishing aboriginal rights. You talked  
14 about percent... certain area of subsurface rights that you have  
15 ownership to. I didn't get the exact amount. Was that the total  
16 area of the Yukon or the five percent lands that the Yukon Indians  
17 are... ended up negotiating?

16 MR. SMITH: Yes. First of all,  
17 let me go into the issue a little more in detail so that you have  
18 a clear understanding of what agreement we signed.

19 In dealing with resources, we have always made it a very  
20 important part of our negotiations that we should participate not  
21 only in the ownership of the resources of the subsurface on the  
22 lands that we do hold, but we also made it very clear that we  
23 should share in royalties over the total resources in the Yukon  
24 Territory. And in dealing with the governments of Canada and  
25 governments of Yukon Territory, since this is a territory and not  
a province, government made it very clear to us that we're not  
dealing with the issue of provincehood in the Yukon. Once you  
deal with resources, you're talking in terms of constitutional

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1 development for the Yukon. And that forum... After the settlement  
2 of the Yukon land claims, we're going to go to another forum and  
3 it's going to be the constitutional development of the Yukon  
Territory.

4 While on the one hand they've argued that all our rights  
5 should be limited to the land claims, we have not agreed to that.  
6 In other words, following this land claims settlement, we'll change  
7 our clothes and go back to the table and start arguing for  
8 constitutional guarantees for the Indian people and the overall  
9 development of self-government in the Yukon. In other words,  
10 when Yukon becomes a province, one of the parties to that agree-  
11 ment will be the Indian people of the territory. And we've  
12 written into our general provisions that we would be participating  
13 fully in the... While we won't have a veto, because they don't  
14 grant vetoes to anybody, not even to the territorial government,  
15 on constitutional development in the Yukon, we would be a party  
16 to those discussions. And under... When we're discussing province-  
hood for the Yukon, we're talking about the transfer of land and  
resources to the Yukon, and that's when we'll write in the royalty  
provisions. In other words, royalties would be the... for all of  
the Yukon Territory.

17 But in dealing with our land claims, for those 8,000  
18 square miles of land that we've selected, we've made it very clear  
that we have full ownership of the subsurface.

19 MR. ERASMUS: Okay, so did you  
20 write into your agreement that... I'm just a little bit confused.  
21 Did you write into the agreement that when it is time to... to  
22 negotiate the question of provincehood, that you would be a  
23 separate party? Did I understand that? Or are you saying that as  
a rhetorical statement?

24 MR. SMITH: Well, they don't say  
25 we're full partners in that but we'd be a very important part of  
the overall discussions on the constitutional development of the



1 Yukon. In other words, if the Indian people decide against province  
2 hood, I think we'd have a lot of say and influence whether or not  
3 Yukon would be granted provincehood.

4 MR. ERASMUS: Okay. The next  
5 question then is dealing with your agreement. You mentioned that  
6 you didn't think it would take long to have the final agreement  
7 settled. You mentioned that you didn't think it would take five  
8 years and I'm just thinking in my own mind, in light of the up-  
9 coming election, federal elections, and the clear possibility that  
10 another government may step in which may not... may and may not  
11 recognize your agreement in principle, what... what the Council  
12 of Yukon Indian's thoughts are on that because, as you may recall,  
13 the COPE people signed theirs in '78 and a certain Mr. Clark got  
14 in and they didn't recognize the agreement in principle. Or,  
15 at least, they were not terribly anxious to have it signed as a  
16 formal document, as a final agreement. So I'd like your thoughts  
17 on that.

18 MR. SMITH: Yes. There's no  
19 question in our minds now that... that this... those things do  
20 ... do appear on the horizon. In other words, we know we're on  
21 a different schedule now. We're dealing with a government that  
22 is planning an election. We're dealing with cabinet ministers  
23 who have the last thing on their mind dealing with Yukon land  
24 claims. They're all running for the leadership of liberal parties  
25 and we realize now we're on an election timetable and everything  
else is more or less on hold. And we believe, while it does  
present us a problem in terms of getting an immediate settlement,  
it doesn't really affect us that much because we... right now,  
our people are saying we need more time anyway. So it will be a  
new ball game following the election. We know that. We've gone  
... We've come this far before but it's never discouraged us from  
starting over again. We've been here about three times before and  
because of change of governments, change of ministers or change of

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1 negotiators, that we've had to start over again. But I think we  
2 covered a lot of ground in the last three years and there's a  
3 certain momentum in terms of the overall agreement in principle  
4 which would be very hard to argue against in the event that the  
5 Indian people have accepted it... in other words, give the full  
6 authority to go ahead. I think that will carry with it a lot of  
7 momentum.

8 MR. ERASMUS: Okay, the final  
9 question I'd like to ask then... As you're probably aware, the  
10 question of time is a big factor in minds of all Canadians and  
11 many times developments occur affecting the North in the best  
12 interests of all Canadians. And... on more than one occasion,  
13 the possibility that... the federal government may legislate a  
14 claim has come up. In other words, we may take 20 years to  
15 settle but because the Canadian government wants to settle it now,  
16 they may force the government of the day to legislate a settlement.  
17 How is that influenced, or what are your... what's your thinking  
18 along that line?

19 MR. SMITH: Yes. You've alluded  
20 to a very... a real fact of life here, is that the Yukon public  
21 is very much in favor of seeing a settlement of the land claim as  
22 soon as possible because of the cer... influence it has had over  
23 the territory. Right now there's a... sort of a land freeze. In  
24 other words, there are no lands being allocated. Everything is  
25 held subject to the settlement of the land claim and there's a  
26 general public feeling in the territory they want to see the  
27 settlement as soon as possible and they have exerted that pressure,  
28 not only on us, but on the territorial government.

29 See, the territorial government has a great deal of  
30 say in the settlement of land claims and they've walked away  
31 from the table a couple of times, once for six months and recently,  
32 they went away for about ten days. But because of the public  
33 pressure... in other words, because of the great pressure on them,

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1 they had to go back to the table because the Yukon public made it  
2 very clear they want to see the land claims settled. And that's  
3 a real factor, too, in dealing with this land claim. We measure  
4 that. It's an important factor but not the determining factor.

4 MR. BERGER: Steve Iveson?

5 MR. IVESON: Yes. My under-  
6 standing of the concept of aboriginal self-government is that it's  
7 a general principle to be defined, perhaps, or, hopefully, on a  
8 regional basis and that it doesn't automatically mean separate  
9 development and exclusive jurisdiction... that it can, in fact,  
10 mean recognized and guaranteed power and participation in govern-  
11 ment and some say over the structures that might exist and things  
12 like that. Is that the kind of understanding you have? Is that  
13 the approach you see yourself taking when you sit down to nego-  
14 tiate constitutional development after your claims are settled?

15 MR. SMITH: That's a pretty  
16 difficult question. In terms of dealing with the constitution...  
17 do you mean the constitutional development of the Yukon Territory  
18 or do you mean the current constitutional development as it's  
19 now happening with the first minister meeting?

20 MR. IVESON: Well, I'll be  
21 optimistic and assume that eventually there will be some form of  
22 recognition for the aboriginal right to self-government. And,  
23 therefore, I'm saying that I believe that that's possible to  
24 negotiate still in a public government system, to build-in  
25 certain principles, structures, practices that say aboriginal  
self-government means this in the Yukon or the NWT in a public  
government system.. and proceed from there. That's the basis upon  
which negotiations would take place.

MR. SMITH: Yes, that is a real  
important factor in our discussions right now. As I mentioned  
earlier, we're going to have to review our land claims... in  
other words, the package we have, look at it in terms of the...

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1 how local government is set up, what provisions there are for  
 2 Indian band governments. In other words, how will it work with  
 3 the constitution because we have written into our agreement a  
 4 general provision stating very clearly anything that the other  
 5 Indian people or Metis people are granted in the constitution,  
 6 that would be available to the Yukon Indian people. I don't know  
 7 how the mechanics will work in terms of it being implemented in  
 8 the territory once we've entrenched the whole concept of local  
 9 governments and including all people of the territory, in other  
 10 words all people who live in the villages, both the non-Indians  
 11 and the Indian people.

12 MR. BERGER: Sheldon Katchatag?

13 MR. KATCHATAG: Yes. One of  
 14 the things which was absent from not only our Statehood Act  
 15 but also our Native claims settlement act was the United Nations'  
 16 charter provision regarding decolonization. I would like to know  
 17 what role, if any, the U.N. charter provisions on decolonization  
 18 will play in your determination of your political rights, should  
 19 Yukon Territories become a problem.

20 MR. SMITH: Well, I really don't  
 21 know the answer to that question. We haven't had any... any  
 22 role or whatever in dealing with the United Nations or their  
 23 declarations on human rights or their... recognition of indigenous  
 24 rights to self-government. We haven't dealt with that.

25 MR. KATCHATAG: Yeah... I would  
 just like to make it known for everybody that's in the process of  
 negotiations that the United Nations charter has provisions re-  
 garding decolonization in that... the rights and political aspira-  
 tions of separate and distinct indigenous populations of these  
 colonies must be protected and encouraged. Now, as far as Alaska  
 is concerned, the United Nations was not informed that there were  
 Natives up here in Alaska who are separate and distinct from the  
 general population of the United States so as a result, the United



1 States basically had to ask permission of the United Nations to  
2 make Alaska the 49th state. And yet, they are charter signatories  
3 to the U.N. charter, so I would caution or at least urge you to  
4 study that particular provision in regard to the protection of  
5 your political rights and aspirations. If you people desire to  
6 be independent, then the government of Canada, as a signatory to  
7 the U.N. charter, must not only protect that right and aspiration  
8 to independence, but they must also encourage it. So I would  
9 urge you to research that very thoroughly.

10 Thank you.

11 MR. BERGER: That... That obser-  
12 vation returns us, in a sense, to the themes struck by Doug  
13 Sanders when he opened the discussion on Tuesday afternoon.

14 Are there any other questions for Mike Smith or Glenn  
15 Grady about the Yukon settlement?

16 Well, I think that... that we want to thank you, Mike  
17 Smith and Glenn Grady, for a most complete analysis of the Yukon  
18 settlement, the most intriguing settlement and... ah... right...  
19 and so, my thanks to you.

20 Just one thing that I wanted to get clarified as this  
21 ... this flow of information went by me... You have the right,  
22 under the agreement, to take one-half the caribou and moose  
23 throughout the Yukon Territory. Did I get that right?

24 MR. SMITH: Under our agreement,  
25 we have... for the moose, we have the right to one-half the moose.  
26 For the caribou, the woodland caribou, we have one-half, for the  
27 woodland caribou... in other words, not the Porcupine caribou  
28 herd. The Porcupine caribou herd goes through Alaska, NWT, and  
29 we've signed... or negotiating with the government of NWT, where  
30 the Dene people, Fort McPhearson, the Clavic (ph) and COPE.  
31 In other words, we're entering into an agreement with them for  
32 the management and harvesting rights for the Porcupine caribou  
33 herd. That will be treated separately.

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1           However, but for the moose and caribou in the South,  
2 we have one-half of the annual harvest.

3                       MR. BERGER: The barren ground  
4 caribou are outside the settlement agreement?

5                       MR. SMITH: Exactly. And there  
6 is written into that, you know, a basic subsistence... in other  
7 words, if the harvest falls to a certain level, then only the  
8 Indian people would have the right to harvest game. In other  
9 words, for moose, if it falls to 600 moose, then only Indian  
10 people have the exclusive right to harvest game at that time.

11                      MR. BERGER: And your agreement  
12 relating to the fishery gives you the right to maintain your  
13 current percentage of... of the catch in perpetuity on each --

14                      MR. SMITH: Each of the river --

15                      MR. BERGER: -- fishery.

16                      MR. SMITH: -- and lake systems.

17 Yes.

18                      MR. BERGER: Right. Walter  
19 Parker?

20                      MR. PARKER: In the Alaska Lands  
21 Act, the secretary of Interior and the secretary of State were  
22 told by the Congress to pursue the Porcupine caribou treaty with  
23 the government of Canada. Unfortunately, this has been somewhat  
24 sandbagged, primarily by the state of Alaska who views it as a  
25 federal intrusion into wildlife management, not a view I share,  
by the way. We had hoped, those of us who were initially involved  
in pursuing that particular treaty, that it would stand as a  
landmark in incorporating indigenous people on both sides of  
the border, in the governing organization and, indeed, in getting  
enough indigenous people on that governing board to secure a  
reasonable level of control. And since there has been no treaty,  
of course it's still an open opportunity to proceed if the  
political forces can ever be reoriented to make it happen. But



1 I just wanted to bring that up as a part of the overall future  
2 of the Porcupine herd.

3 MR. BERGER: With which we are  
4 all concerned.

5 Well, just three announcements, then, before we break.  
6 First of all, and this invitation is extended, as I say, not only  
7 to the panel but to the media and members of the public. There  
8 is, at 5:00 o'clock this afternoon, a reception at the commission's  
9 office at 429 D Street in the Loussac-Sogn Building. At 5:00  
10 o'clock this afternoon there will be a reception and refreshments  
11 will be served.

12 Bill duBay, who is organizing the visit to the North  
13 Slope Borough's computer mapping project of the Arctic Coastline  
14 tomorrow wants those who have not signed up to see him before you  
15 go this afternoon. It will be at lunch time tomorrow. It will  
16 be about an hour long visit and a bag lunch and transportation  
17 will be provided. So if you haven't signed up and you want to go,  
18 would you speak to Bill, who's right over here to my left.

19 It's been suggested that tomorrow, at 9:00 a.m., we  
20 should hear from the Dene Nation and the Metis. Bill Erasmus,  
21 Rick Hardy, Steve Iveson and Steve Kakfwi have divided this up  
22 and they will simply organize it and present it to us and then  
23 we can question the four of them. Then we will go on to the  
24 Nunavut constitutional forum and after that, and I think it will  
25 go smoothly, after that I would like to return to Australia,  
figuratively speaking, because some of us have further questions  
we'd like to put to Shorty and Stan and we'd like to hear from  
Maureen Kelly about Western Australia.

And then a closing word, I hope, will be forthcoming  
from Alf Isak Keskitalo, of Norway, and Robert Petersen, of  
Greenland.

But I think it's been a good day, again, and I thank  
you all and I'll see you at the commission offices and then we

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1 will reconvene here at 9:00 o'clock tomorrow morning.

(HEARING ADJOURNED)

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C E R T I F I C A T E

1 UNITED STATES OF AMERICA )  
2 ) ss.  
3 STATE OF ALASKA )

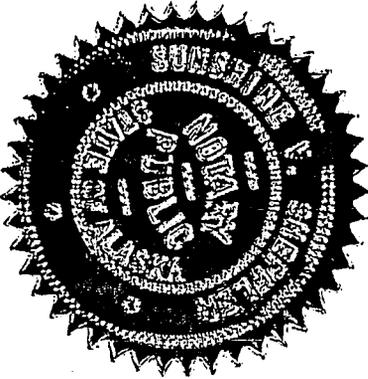
4 I, Sunshine V. Sheffler, Notary Public in and for  
5 the state of Alaska, residing in Anchorage, Alaska, and Certified  
6 Electronic Court Reporter for Accu-Type Depositions, do hereby  
7 certify:

8 That the annexed and foregoing pages numbered 1100  
9 through 1228 contain a full, true, correct and verbatim transcript  
10 of the proceedings in the matter of the Alaska Native Review  
11 Commission, Overview Roundtable Discussions, as transcribed  
12 by me to the best of my knowledge and ability from cassette  
13 tapes provided by the Alaska Native Review Commission.

14 That the original transcript has been retained by  
15 me for the purpose of filing the same with Don Gamble,  
16 Coordinator, Alaska Native Review Commission, 429 "D" Street,  
17 Suite 304, Anchorage, Alaska, as required by law.

18 I am not a relative, or employee, or attorney, or  
19 counsel to any of the parties, nor am I financially interested  
20 in this proceeding.

21 IN WITNESS WHEREOF, I have hereunto set my hand and  
22 affixed my seal this 17th day of April, 1984.



*Sunshine V. Sheffler*  
SUNSHINE V. SHEFFLER  
NOTARY PUBLIC IN AND FOR ALASKA  
MY COMMISSION EXPIRES 8/06/84

Accu-Type Depositions, Inc.

550 West Seventh, Suite 205  
Anchorage, Alaska 99501  
(907) 276-0544



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