

Mackenzie Valley Pipeline Inquiry

Mr. Justice Thomas R. Berger, Commissioner



PRELIMINARY MATERIALS



Edited by: E.L. Knowles
I.G. Waddell

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TABLE OF CONTENTS

	<u>Page</u>
1. Introduction	1
2. 1970 Guidelines for Northern Pipelines	7
3. 1972 Expanded Guidelines for Northern Pipelines	10
4. Order-in-Council, P.C. 1974 - 641, appointing Mr. Justice Thomas R. Berger, 21 March, 1974.	27
5. Edited Proceedings at Preliminary Hearings:	
Vol. I April 22, 1974, Yellowknife, N.W.T.	29
Vol. II April 24, 1974, Inuvik, N.W.T.	51
Vol. III April 25, 1974, Whitehorse, N.W.T.	78
Vol. IV May 6, 1974, Ottawa, Ontario	88
Vol. V May 7, 1974, Ottawa, Ontario	117
Vol. VI May 8, 1974, Ottawa, Ontario	145
6. Preliminary Rulings I July 12, 1974 Mr. Justice Berger, Yellowknife, N.W.T.	156
7. Edited Proceedings at Preliminary Hearings:	
Vol. VII September 12, 1974, Yellowknife, N.W.T.	170
Vol. VIII September 13, 1974, Yellowknife, N.W.T.	203
8. Preliminary Rulings II Practice and Procedure, October 29, 1974. Mr. Justice Berger, Yellowknife, N.W.T. and Ottawa, Ontario	220
9. Speech of Mr. Justice Berger, Calgary, Alta., September 20, 1975.	230
10. Statement of Mr. Justice Berger, Yellowknife, N.W.T. October 22, 1975.	236
* * *	
Appendix 'A' List of names of groups and associations referred to in transcripts of Preliminary Hearings.	239
Appendix 'B' List of persons taking part, or referred to in Preliminary Hearings.	242

INTRODUCTORY NOTES

The Mackenzie Valley Pipeline Inquiry has received numerous requests from interested organizations, Government Departments, other Commissions and Inquiries and from individuals throughout Canada for information on the way the Inquiry was set up and how it operates. In many ways the Inquiry is unique in Canadian experience. This book of materials attempts to bring together most of the important documents relating to the terms of reference and background of the Inquiry.

Initial Canadian Government Guidelines for construction and operation of Northern pipelines were announced by the Ministers of the Department of Energy, Mines and Resources and Indian Affairs and Northern Development in the House of Commons in August 1970. After further research and investigation, the then Minister of Indian Affairs and Northern Development, the Honourable Jean Chretien, tabled in the House of Commons on June 28, 1972 the Government's Expanded Guidelines for Northern Pipelines. The Government's purpose in preparing these guidelines was to give guidance to industries engaged in research and planning in connection with Northern Pipelines and to afford the opportunity to northern residents, and all others concerned, to make observations on the proposed guidelines.

Subsequently, Canadian Arctic Gas Limited applied to the Minister of Indian Affairs and Northern Development under Section 19(f) of the Territorial Lands Act, R.S.C. 1970, for a right-of-way across Crown lands in the Yukon and the Northwest Territories, to build a pipeline to bring Canadian gas and Alaskan gas to markets in southern Canada and the United States. They also applied to the National Energy Board for a certificate of public convenience and necessity to construct and operate a pipeline.

By Order-in-Council dated March 21, 1974 the Government of Canada appointed Mr. Justice Thomas R. Berger of the Supreme Court of British Columbia to conduct an Inquiry into the social, environmental and economic impact of the proposed Mackenzie Valley natural gas pipeline. Under this Order-in-Council Mr. Justice Berger is to consider the social, environmental and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the Northwest Territories and he is to consider as well the measures which Canadian Arctic Gas Limited proposes to take to meet the specific social and environmental requirements of the Expanded Guidelines. Finally, Mr. Justice Berger is to report upon the terms and conditions that ought to be imposed in respect of any right-of-way that might be granted to Canadian Arctic Gas Limited.

On March 20, 1975, Foothills Pipe Lines Limited made an application to build a pipeline to bring Canadian gas to southern markets. On July 8, 1975 it was announced that the Honourable Judd Buchanan, the Minister of Indian Affairs and Northern Development referred the application by Foothills Pipe Lines Limited to the Inquiry so that the Inquiry could examine those areas where the impact of the Foothills project differed significantly from that of Arctic Gas.

Arctic Gas wants to build a \$7 billion, 48 inch pipeline to bring gas from the Alaskan and Canadian Arctic to markets in Canada and the United States. Foothills wants to build a \$4 billion, 42 inch pipeline to bring gas from the Mackenzie Delta to Canadian consumers.

The Government of Canada, after receiving the application of Arctic Gas, had set up a Pipeline Application Assessment Group, which consisted of the group of Government experts who were to make a primary assessment of the application. This Assessment Group, headed by Dr. J.G.Fyles, prepared a list of requests for Supplementary Information which was sent to Arctic Gas in July 1974, and in November 1974 the Pipeline Application Assessment Group issued a report entitled "Mackenzie Valley Pipeline Assessment", which is available from Information Canada.

Under the Order-in-Council of March 21, 1974 Mr. Justice Berger was to lay down the rules of practice and procedure for the Inquiry. In order to do so he held a series of Preliminary Hearings in April and May of 1974, in Yellowknife, Inuvik, Whitehorse and Ottawa to hear submissions from individuals and organizations regarding the way in which the Inquiry ought to be conducted. Those organizations with an obvious interest in the Inquiry like the Indian Brotherhood of the Northwest Territories or the Northwest Territories Chamber of Commerce were invited to make submissions. The Preliminary Hearings were advertised in the Media and the Inquiry received many submissions from Canadians residing both in the north and the south.

Edited transcripts of these Preliminary Hearings are included in this book of materials in order that the reader may see the contributions of parties such as Arctic Gas, Foothills, Native groups, environmental groups, the Municipalities, the Chamber of Commerce and numerous individuals who showed an interest in the Inquiry. These transcripts have been edited by Mr. Edward Knowles and myself since there was some repetition from hearing to hearing. These are not then official transcripts of the Inquiry. Official transcripts of the Inquiry are available through the Inquiry at our office in Yellowknife, Resources Building, Box 2817, Yellowknife, N.W.T., or in Ottawa at the office of the Inquiry Appraisal Team, in the Empire Building 124 O'Connor Street, (5th floor). They are also available through our official Court Reporters, Allwest Reporting Ltd., 210 - 4299 Canada Way, Burnaby 2. B.C., or by microfilm through Micromedia Ltd., Box 34, Station S., Toronto Ontario.

These materials include a list of individuals and organizations who appeared at the Preliminary Hearings.

Various issues of contention surfaced in the Preliminary Hearings, such as the timing of the Inquiry, funding of intervenors, access to government and industry information, location and type of hearings, the scope of the Pipeline Guidelines and the nature of the terms of reference and the Order-in-Council.

After hearing these views, Mr. Justice Berger issued Preliminary Rulings, Part I from Yellowknife, N.W.T. on July 12, 1974.

The highlights of the Preliminary Rulings I were as follows:

1. "The Inquiry should be thorough and complete" ruled Judge Berger. "It is to be completely open to the public and media. All witnesses will be subject to cross-examination. All studies and reports prepared by the Government of Canada Arctic Gas and any other intervenor which are relevant to the Inquiry must be made available to the Commission and the public. Those who prepared studies and reports must be available for cross-examination."
2. Mr. Justice Berger ruled that he intended to give all those persons and organizations with an interest in the proposal made by Arctic Gas a fair opportunity to be heard. "I will not diminish anyone's right to be heard, nor will I curtail this Inquiry so as to improve Arctic Gas's position in relation to the El Paso proposal in the United States." (El Paso Natural Gas Company has applied to the Federal Power Commission in the United States for permission to construct a pipeline to bring natural gas from Prudhoe Bay across Alaska to Valdez, to be liquified there and then tankered to California. Since Arctic Gas proposed to bring gas from Alaska to the lower 48 along the Mackenzie Valley route, it has to obtain permission from the F.P.C. to do so.)
3. With respect to native claims, Mr. Justice Berger ruled that native groups had the right to present their case to the Inquiry, and to argue that there should be no right-of-way granted to a pipeline company until their land claims have been settled. It is argued by Arctic Gas that a pipeline could be constructed without prejudice to a native land claims settlement.
4. Regarding the possible construction of an oil pipeline up the Mackenzie Valley, the Judge ruled: "I am also bound to consider the economic and social impact of the construction of an oil pipeline and to consider the combined effect of the construction of a gas pipeline and an oil pipeline in the corridor".
5. Commission hearings were to be held in two formats: Formal Hearings involve testimony and cross-examination of expert

witnesses from all parties. Community Hearings, more informal in nature, to allow the people who live in the various Mackenzie Delta, Mackenzie Valley and Yukon communities to inform the Commission of their views on the proposed pipeline.

6. The Inquiry will also consider the location and extent of the gas fields in the Mackenzie Delta, the likely extent of further gas exploration in the Delta and the Beaufort Sea and the likely location, design and construction of the gathering lines and the processing plants that will be needed to render the gas acceptable to the trunk pipeline, and the social, environmental and economic impact that the development of the gas fields and the construction of these lines will have in the Delta and elsewhere in the North.
7. In conclusion Mr. Justice Berger stated "It is a study whose magnitude is without precedent in the history of our country. I take no narrow view of my terms of reference. We have got to do it right. The pipeline, if it is built, will have a great impact on the future of northern development and shape of northern communities, and the way of life for northern people".

Further Preliminary Hearings

were held in September 1974 in Yellowknife, N.W.T., to deal with more detailed rules and procedures to be followed by the Inquiry, as presented by Commission Counsel. Again, an edited version of these hearings is included in this material. We hope that this will be of particular use to students of hearing procedure. These further Preliminary Hearings resulted in Preliminary Rulings Part II by Mr. Justice Berger, released in Yellowknife N.W.T., and Ottawa on October 29, 1974. These were detailed rules of procedure designed to ensure that the Inquiry is conducted with the fullest possible disclosure of all relevant evidence and with all those interested being accorded the right to state their case.

Preliminary Rulings Part II can be summarized as follows :

1. The Inquiry to have eleven major continuing participants - Arctic Gas, two major environmental groups, five major native groups, the N.W.T. Association of Municipalities, N.W.T. Chamber of Commerce, Foothills Pipe Lines Ltd., and Commission Counsel. The main obligations created by the rules will fall on these participants rather than individuals wishing to appear before the Commissioner.
2. The hearings to commence with an overview of the Mackenzie Valley. Thereafter, the formal hearings to be divided loosely into four phases - 1. the Engineering and Construction of the

proposed pipeline; 2. the Impact of the Pipeline and Mackenzie Corridor Development on the physical environment; 3. on the living environment; 4. and on the human environment. All witnesses to be subject to full cross-examination by the other participants.

3. Community Hearings to be held in each community in the Mackenzie Valley, the Mackenzie Delta and the Yukon likely to be affected by the construction of the Pipeline and by Corridor Development. A Committee was established in order to obtain maximum input from those communities as to the method of conducting the community hearings. The co-operation of the CBC was secured to broadcast summaries of the formal hearings, in English and six native languages, to the communities, to allow for a proper understanding of the project and to facilitate whatever responses people in the communities might wish to make to the Inquiry.
4. The formal hearings to be conducted at Yellowknife for the most part. Some evidence to be heard at Inuvik and Ottawa, with hearings also being held in major southern centres to ensure that all Canadians who wish to do so can express their views to the Commissioner.
5. The Native peoples have argued that no right-of-way should be granted until their claimed right to use and occupy lands in the north has been dealt with. Arctic Gas argues that the pipeline can be built without prejudice to native claims to use and occupy northern lands. These two positions make clear that evidence relating to current and traditional use and occupation of land in the Mackenzie Valley and Mackenzie Delta and the Yukon is vital to a complete Inquiry and thus the Commissioner required the native organizations to indicate the nature and extent of their land claims.
6. Commission Counsel will be responsible for obtaining testimony from such members of the public service of Canada as is necessary for the completeness of the Inquiry.
7. Each of the continuing participants to file with the Inquiry a synopsis of the evidence of its witnesses sufficiently in advance of their testimony to allow all other participants to properly prepare for it and to eliminate the element of surprise.
8. Similarly, the overriding public interest demands that the Inquiry guarantee the full production of all documents available to any participant which are relevant to the issues before the Inquiry. Each continuing participant therefore to be required to file with the Inquiry a list of all studies and

reports in its possession relating to the Inquiry. Commission Counsel to obtain from the Government of Canada a like list of Government studies and reports. Subject to any ruling of privilege which the Commissioner may make, the studies and reports listed in this way will be available to any participant requesting them. In keeping with the principle that the Inquiry be fair and complete, the Government of Canada through the Inquiry has provided funds to aid the participation and research of a number of interested parties including native groups, environmental groups, the Northwest Territories Chamber of Commerce and the Northwest Territories Association of Municipalities.

In order to prepare for the formal hearing of the Inquiry, Mr. Justice Berger visited Washington, D.C., to meet officials of the U.S. Department of the Interior and Federal Power Commission and staff members of the Senate Interior Committee to study the U.S. experience in the conduct and organization of the environmental impact studies under the National Environmental Policy Act of 1969. As well he travelled to Alaska to see the building of the Alyeska Oil Pipeline. Members of his staff have visited the Gas Ministry in the Soviet Union and visited pipeline routes there.

Commission Counsel is Ian G. Scott, Q.C., of Toronto. He is assisted by Stephen T. Goudge, Alick Ryder and Ian Roland also of Toronto. Professor Michael Jackson of Vancouver is Special Counsel in charge of Community Hearings. Miss P. A. Hutchinson of Vancouver is Secretary of the Inquiry.

The formal hearings of the Inquiry commenced in Yellowknife, N.W.T., on March 3, 1975.

Finally, as a further aid to understanding the procedure of the Inquiry, excerpts from a speech delivered in Calgary by Mr. Justice Berger on September 20, 1975 as well as his statement on public participation given at a Community Hearing in Yellowknife on October 22, 1975 are included.

I wish to thank Edward Knowles of Victoria B.C., and Kay Trent and Ruth Carriere of Yellowknife for their assistance with the preparation of this material.

Ian C. Waddell,
Special Counsel to Mr. Justice Berger
Yellowknife, N.W.T.

November 4, 1975.

GUIDELINES FOR NORTHERN PIPELINES

August 13, 1970

Department of Energy,
Mines and Resources.

Department of Indian Affairs
and Northern Development.

For Immediate Release.

OTTAWA.

Canadian government guidelines for construction and operation of northern oil and gas pipelines were announced jointly today by the Honourable J.J. Greene, Minister of Energy, Mines and Resources, and the Honourable Jean Chretien, Minister of Indian Affairs and Northern Development.

Knowledge of northern Canada's petroleum potential has been quickly expanding and major companies in the industry have publicly expressed interest in constructing pipelines. Some already have plans and research underway.

It is vital to Canadian economic growth and the protection of our northern environment that the Government of Canada's policies relating to this major economic development be made known now to the public and the industry, the Minister said. Government leadership in policy and direction of this potential major economic contribution will be maintained and, if required, new guidelines will be issued, they added.

The guidelines relate to pipelines tapping oil and gas resources north of the 60th degree of latitude in the Yukon Territory and the Northwest Territories and from Alaska. They establish requirements ranging from environmental protection, pollution control and Canadian ownership and participation to training and employment of residents of the north. Initially, only one trunk line each for oil and gas will be permitted in the north within a "corridor" to be established at a future date.

Mr. Greene and Mr. Chretien met in Ottawa today with the National Advisory Committee on Petroleum to discuss these requirements with its members and bring the guidelines to the attention of the oil and gas industry as a whole.

The new guidelines for northern pipelines are as follows :

1. The Ministers of Energy, Mines and Resources, and Indian Affairs and Northern Development will function as a point of contact between Government and industry, acting as a Steering Committee from which industry and prospective applicants will receive guidance and direction to those federal departments and agencies concerned with the particular aspects of northern pipelines
2. Initially, only one trunk oil pipeline and one trunk gas pipeline will be permitted to be constructed in the north within a "corridor" to be located and reserved following consultation with industry and other interested groups.
3. Each of these lines will provide either "common" carrier service at published tariffs or a "contract" carrier service at a negotiated price for all oil and gas which may be tendered thereto.
4. Pipelines in the north, like pipelines elsewhere which are within the jurisdiction of the Parliament of Canada, will be regulated in accordance with the National Energy Board Act, amended as may be appropriate.
5. Means by which Canadians will have a substantial opportunity for participating in the financing, engineering, construction, ownership and management of northern pipelines will form an important element in Canadian government consideration of proposals for such pipelines.
6. The National Energy Board will ensure that any applicant for a Certificate of Public Convenience and Necessity must document the research conducted and submit a comprehensive report assessing the expected effects of the project upon the environment. Any certificate issued will be strictly conditioned in respect of preservation of the ecology and environment, prevention of pollution, prevention of thermal and other erosion, freedom of navigation, and the protection of the rights of northern residents, according to standards issued by the Governor General in Council on the advice of the Department of Indian Affairs and Northern Development.
7. Any applicant must undertake to provide specific programs leading to employment of residents of the north both during the construction phase and for the operation of the pipeline. For this purpose, the pipeline company will provide for the necessary training of local residents in coordination with various government programs, including on-the-job training

projects. The provision of adequate housing and counselling services will also be a requirement.

The Federal Government will maintain a continuing review of proposals for the construction of northern pipelines and has underway a general review of foreign ownership and control. Further guidelines may be issued as a result of such reviews and would apply to all applications for such pipelines.

EXPANDED GUIDELINES

FOR

NORTHERN PIPELINES

**as tabled in the house of commons June 28, 1972
by the honourable Jean Chrétien**

FOREWARD

The Government is today making known its current views on expanded guidelines for the construction and operation of oil and gas pipelines in the Yukon Territory and the Northwest Territories. The proposed guidelines deal with the corridor concept, the environment, and social implications, and are a further elaboration of those announced in August 1970 by the Minister of Energy, Mines and Resources and the Minister of Indian Affairs and Northern Development.

The Government's purpose in expressing these latest views is to give further guidance to industries engaged in research and planning in connection with northern pipelines and to afford the opportunity to northern residents, and all others concerned to make observations on the guidelines proposed.

In particular, the Government is ready to sit down with the representatives of the native peoples involved, invite their views on the guidelines proposed, and reflect these views wherever possible.

It is the Government's intention, after making any such modifications, to bring these expanded guidelines into force on or about December 31, 1972.

PREAMBLE

Initial Canadian government guidelines for construction and operation of northern pipelines, were announced by the Ministers of the Departments of Energy, Mines and Resources and Indian Affairs and Northern Development in August 1970. At that time, it was stated that further guidelines might be issued. As a result of further studies, research and investigations that have been carried out since 1970, it appears timely to issue expanded guidelines as quickly as possible. Proposed new guidelines on the corridor concept, the environment, and social implications (item 2, 6 and 7 of the August 1970 guidelines) are set out hereunder. These guidelines are Government's current views on what should be included in the northern pipeline guidelines. The Government's purpose in expressing these latest views is to give further guidance to those engaged in research and planning in connection with northern pipelines and to afford the opportunity to northern residents and all others directly concerned to make observations on the proposed guidelines. In particular, the Government is ready to sit down with representatives of the native peoples involved, invite their views on the guidelines proposed, and reflect these views wherever possible. It is the Government's intention, after taking into consideration any observations that may be made, to bring these expanded guidelines into force on or about December 31, 1972. It should be emphasized that the guidelines may be further revised after that date should further pertinent and significant information become available.

Items 2, 6 and 7 of the August 1970 guidelines read as follows:

- "2. Initially, only one trunk oil pipeline and one trunk gas pipeline will be permitted to be constructed in the North within a "corridor" to be located and reserved following consultation with industry and other interested groups.
6. The National Energy Board will ensure that any applicant for a Certificate of Public Convenience and Necessity must document the research conducted and submit a comprehensive report assessing the expected effects of the project upon the environment. Any Certificate issued will be strictly conditioned in respect of preservation of the ecology and environment, prevention of pollution, prevention of thermal and other erosion, freedom of navigation, and the protection of the rights of northern residents, according to standards issued by the Governor General in Council on the advice of the Department of Indian Affairs and Northern Development.

7. Any applicant must undertake to provide specific programs leading to the employment of residents of the North both during the construction phase and for the operation of the pipeline. For this purpose, the pipeline company will provide for the necessary training of local residents in coordination with various government programs, including on-the-job training projects. The provision of adequate housing and counselling services will also be a requirement."

General

Public comments on the guidelines that follow are invited. Specific comments and suggestions are invited from both the general public and industry with respect to the concept and design of a transportation corridor that might include in the long run not only trunk pipelines, but also a highway, a railroad, electric power transmission lines, telecommunication facilities, etc. Comments and suggestions should be addressed to:

Director,
Environmental-Social Program,
Northern Pipelines,
Room 365D,
Centennial Tower,
400 Laurier Avenue West,
Ottawa, Ontario. K1A 0H4

These guidelines refer only to trunk pipeline systems over land and associated bodies of fresh water on the mainland north of 60° and do not apply to pipelines that may be proposed for the Arctic Islands and intervening marine areas. These guidelines apply to all aspects of oil or gas pipeline pre-construction, construction, operation and abandonment, including not only the actual right-of-way, but also all associated and ancillary facilities such as roads, docks and landing areas, storage areas, airstrips, pumping or compressor stations and communication and maintenance structures.

The term "Applicant" refers to the pipeline applicant, its agents, contractors and subcontractors.

The term "Native People" refers to Indian, Eskimo and Métis people in the Yukon Territory and the Northwest Territories.

In order to translate the intent of these guidelines into action, where this is appropriate, the Applicant will be required to enter into agreements containing covenants

that detail specific undertakings. Two general undertakings in each agreement or contract will be: that the Applicant shall be required to post a performance bond respecting the execution of the contractual undertakings, and the security deposit for the bond will be in the form of (a) a promissory note guaranteed by a chartered bank, payable to the Receiver General, or (b) a certified cheque drawn on a chartered bank payable to the Receiver General, or (c) bearer bonds issued or guaranteed by the Government of Canada, or (d) a combination of the securities mentioned in (a), (b) and (c); and that the Applicant shall cooperate with the monitoring service set up by the government to ensure contract compliance, and the cost of the monitoring service will be a charge to the operation.

These guidelines are not to be construed as substitutes for the requirements of applicable acts, ordinances or regulations.

PIPELINES "CORRIDOR" GUIDELINES

Introduction

The 1970 Guidelines made provision for the establishment of a "Corridor" to enclose trunk oil and gas pipelines. The following comments and proposals relate to the application and implementation of this corridor concept.

Purpose and Use of "Corridor" Concept

Control of pipeline routes is required to minimize environmental and social disturbance, to ensure maximum benefits to northern residents and communities, and to channel resource development in accordance with governmental priorities. In approaching the concept of a pipeline "corridor", the Government of Canada recognizes the need for flexibility in the choice of pipeline routing in consideration of resource and market locations, economics, engineering and construction requirements, and the severity and sensitivity of Arctic terrain conditions.

The concept of "one trunk oil pipeline and one trunk gas pipeline" with a "corridor" was enunciated with the intention of confining environmental and social disturbance resulting from trunk pipelines to a narrow zone, thus limiting insofar as possible the geographic area involved in these disturbances and leaving as much as possible of our northern lands in an undisturbed state. On the other hand, it is recognized that restriction of both

oil and gas pipeline construction activities to a narrow "corridor" would lead to increased intensity of land use and the possibility of unacceptable environmental and social disruption. The routing of oil and gas pipelines close to other transportation-communication systems (and the probability of subsequent development of such systems adjacent to pipelines) may add to problems of maintaining the environment. Even minor disturbances arising from adjacent developmental activities may reinforce one another to produce cumulative ecological disruptions. Moreover, local shortages of gravel or other granular materials may result from close spacing of construction projects. In addition, the differing terrain requirements of oil and gas pipelines may prevent adjacent routings under some circumstances. Thus, caution will be required in defining specific routes or "corridor" boundaries.

"Corridor for Trunk Pipelines in Yukon Territory and Mackenzie Valley Region"

Information is presented here concerning the general routing of pipeline "corridors" and applications for pipeline permits across the northern portion of the Yukon Territory and through the Mackenzie Valley region of the Northwest Territories, to carry oil and gas to southern markets from sources in this part of Canada and/or from the Alaska north slope. The present comments apply only to trunk pipelines in the area outlined above, and do not apply to pipelines or "corridors" that may be proposed for other parts of the Yukon Territory and the Northwest Territories.

1. The Government of Canada is prepared to receive and review applications* to construct one trunk oil pipeline and/or one trunk gas pipeline within the following broad "corridors":
 - i) Along the Mackenzie Valley region (in a broad sense) from the Arctic coast to the provincial boundary;
 - ii) Across the northern part of the Yukon Territory either adjacent to the Arctic coast or through the northern interior region from the boundary of Alaska to the general vicinity of Fort MacPherson, and thus to join the Mackenzie "corridor";

* Applications are to be filed with the National Energy Board for a Certificate of Public Convenience and Necessity, and with the Department of Indian Affairs and Northern Development, under the Territorial Lands Act, for tenure of land comprising the pipeline right-of-way.

2. To confine the environment (and social) disturbance arising from the pipelines and their construction to a limited area, trunk oil and gas pipelines within the corridors outlined in 1. above are to follow routes that are as close together as is consistent with the differing engineering constraints and environmental hazards of the two types of pipelines, but not so close together as to bring about undesirable environmental interaction between the two lines. The same principle is also to apply where the trunk pipeline route lies parallel and near to a present or proposed highway or other overland communication system.
3. In view of the influence of the first trunk pipeline in shaping the transportation corridor system and in moulding the environmental and social future of the region, any applicant to build a first trunk pipeline within any segment of the corridor system outlined in 1. above must provide with his application:
 - i) assessment of the suitability of the applicant's route for nearby routing of the other pipeline, in terms of the environmental-social and terrain-engineering consequences of the other pipeline and the combined effect of the two pipelines; (fully engineered proposals concerning the other pipeline are not necessarily required);
 - ii) assessment of the environmental-social impact of both pipelines on nearby settlements or nearby existing or proposed transportation systems; and
 - iii) comparison of the applicant's proposed route with alternative pipeline routes, in terms of environmental and social factors as well as technical and cost considerations; (fully engineered proposals concerning alternative routes are not necessarily required).
4. In relation to the pipeline corridors identified in 1. above, the Government will identify geographic areas of specific environmental and social concern or sensitivity, areas in which it will impose specific restrictions concerning route or pipeline activities, and possibly areas excluded from pipeline construction. These concerns and restrictions will pertain to fishing, hunting, and trapping areas, potential recreation areas, ecologically sensitive areas, hazardous terrain conditions, construction material sources, and other similar matters. Statements announcing the above will be released through the office of the Director, Environmental-Social Program, Northern Pipelines.

5. If and when an applicant has received governmental authorizations to construct and operate any trunk pipeline, it is contemplated that Land Management Zones under the Territorial Lands Act and/or Development Areas under the Area Development Ordinances would be established to encompass the pipeline route and the additional lands required for ancillary facilities such as roads, staging areas, gravel and borrow pits, construction camps, etc.

ENVIRONMENTAL GUIDELINES

Introduction

Guideline No. 6 of August 1970 required that any applicant "must document the research conducted and submit a comprehensive report assessing the expected effects of the project upon the environment". The amplification of this guideline presented below registers some current environmental concerns of government and is intended to indicate to potential applicants some of the major topics that should be included in such an environmental assessment. These concerns are registered in general terms but applicants are to respond in some detail in their environmental assessment with specific engineering design data and proposals that take into consideration the conditions encountered along their particular route. In responding to these concerns, applicants also are to provide documented evidence that they possess not only the necessary knowledge, but also the capability to carry out the specific proposals. As indicated in the 1970 guidelines, applicants will have available, and may be required to submit, all background data upon which the environmental assessment is based. However, the focus should be on specific responses to the concerns outlined below. In connection with these environmental concerns, government may impose restrictions or exclusions on pipeline activities in specific geographic areas that are environmentally sensitive, as outlined in Section 4 of the Pipeline "Corridor" Guidelines.

Guidelines: Some Current Environmental Concerns of Government

Any applicant for a Certificate of Public Convenience and Necessity and for right-of-way and other related land requirements, must submit a comprehensive assessment, based upon documented research, of the expected effects of the project upon environment. Any certificate issued will be strictly conditioned with respect to applicable statutes providing for the protection of

the environment and the following environmental concerns of government:

1. That a pipeline be constructed*, operated and abandoned in keeping with good engineering practice to ensure its safety and integrity, in the interests of good environmental management and the reduction of environmental damage;
2. That construction, operation and abandonment of a pipeline will be done so as to avoid or minimize adverse effects upon the surrounding terrain, including vegetation, and aesthetic damage to the landscape;
3. That rivers and other waterbodies will be approached and crossed, either overhead or underground, in a way that will minimize environmental disturbance to the waterbody itself, to its bed and banks, and to the adjacent land or vegetation during construction, operation, and abandonment of a pipeline;
4. That a pipeline will be constructed, operated and abandoned with a minimal disruption to river and lake regimes, water quality, and feeding, reproduction and migrating stages of fish and other aquatic organisms.
5. That a pipeline will be constructed, operated and abandoned with minimal interference to the lands and vegetation that serve as feeding, reproduction and migrating areas for mammals and wildfowl, and with maximum protection to rare or endangered species and their habitats;
6. That adequate provision be made for disposal of sewage, garbage and various gaseous, liquid and solid wastes and all toxic materials during construction, operation or abandonment phases of the project.
7. That adequate provision be made for preservation or salvage-excavation of archaeological and historical sites, and that minimal damage to such sites will result from pipeline activities.
8. That effective plans be developed to deal with oil leaks, oil spills, pipeline rupture, fire and other hazards to terrestrial, lake and marine habitats, that such plans be designed to minimize environmental disturbances caused by containment, clean-up or other operations and to bring about adequate restoration of the environment, that they be designed to deal with minor and major incidents, whether they are single-event or occur over a period of time and

* Where the words 'construction' or 'constructed' are used they are meant to include preconstruction activities of a pipeline project.

that they include contingency plans to cope with major hazards or critical situations.

9. That an effective plan be developed for implementation of specific environmental safeguards through an educational program for field personnel prior to and during construction and operation of the pipeline;
10. That an effective pipeline performance monitoring system of inspection and instrumentation be established to ensure operational performance in keeping with the above-stated environmental concerns.

Suggested Topics for Response to Environmental Concerns

Examples of the kinds of topics that could be included in an applicant's environmental assessment in response to these environmental concerns of government are presented below. The items are numbered to coincide with the arrangement of the ten environmental concerns in the foregoing section. The listing of topics is not complete and the material is not intended for use as a formal checklist.

It is suggested that specific proposals or information be presented regarding the following:

1. Safety and integrity of the pipeline (items applicable to this concern are incorporated in concerns 2 - 10 immediately below).
2. Terrain and vegetation
 - a) methods of handling potential problems in relation to earthquakes, landslides, avalanches, or terrain changes resulting from thawing of frozen ground;
 - b) methods of minimizing removal of vegetation and the organic mat in permafrost areas with high ice content;
 - c) methods of minimizing interference with the movement of quality of water on and in the ground with particular attention given to the expected boundary or limit of influence: where drainage disruptions are expected, the boundary of influence may be well beyond the actual area of construction;
 - d) methods of minimizing the loss of strength and volume of soil as a result of melting of ground ice, particularly if the ice occurs in segregated masses; if such melting

cannot be entirely prevented then there should be indications of how consequent instability and differential thaw-settlement is to be minimized;

- e) safeguards to be taken against potential dangers to a pipeline from differential vertical movement caused by uneven settlement from thawing of permafrost materials or from "growth" of permafrost; where soil collapse over ice masses and differential flotation and sinking over liquified soil could deform or rupture pipe, proposed safeguards should be identified;
- f) methods of maintaining slope stability in general;
- g) methods of construction and location of permafrost facilities in a way that will harmonize with their natural setting;
- h) removal and/or appropriate disposal, of debris created by construction activities and plans for buffer strips of natural vegetation between public roads and pipeline facilities;
- i) quantity and quality of aggregate or borrow materials required, details of the geographical distribution of the requirements and proposals as to sources of the required material, including proposed access routes from pit or quarry to point of use, and restoration of pits and quarries;
- j) plans to carry out assisted revegetation or alternative methods of providing and insulating cover on which natural revegetation can occur;

3. River and lake crossing

- a) for river or stream crossings to be installed beneath the watercourse, depth of maximum anticipated scour and depth of proposed placement of pipe, supported by bore-hole logs and other data indicating the scour depth;
- b) design of approaches to river crossings so as to maintain stability of valley walls and river banks and to minimize changes that could lead to slope failures; gullying and related disturbances;
- c) design of underground crossings of rivers and streams that could withstand the effects of run-off, bank erosion, meander cutoffs, lateral migration of stream channels, ice jams, and icings, the magnitudes of which should be

calculated according to reasonably expected extremes for a particular stream crossing area;

- d) design of approaches to and crossings of ponds or lakes, with particular reference to degradation or growth of ground ice, and shore or bank regression or collapse through thermokarst or other processes;

4. River and lake regimes

- a) methods for construction of stream and river crossings in a way that will minimize interference with fish passage or degradation of aquatic habitats through erosion and sedimentation;
- b) alternative fish passage structures in cases where the proposed project requires stream channel modification that would obstruct migrating fish;
- c) schedules of construction activities and evidence that the project contains the flexibility to allow pipeline, road, or other construction to cease for periods of time when important areas critical to fish, wildlife, or waterfowl are temporarily threatened;
- d) methods of minimizing the addition of sediment and introduction of oils and greases into water bodies as a result of preconstruction or construction activities, particularly in respect to access roads and ice-bridges;
- e) proposed location, volume, composition and disposal of pipeline test fluids;
- f) plans to restore fish and wildlife habitats that are damaged by pipeline activities;
- g) dates and proposed methods of construction within 300 feet of any water body frequented by fish;

5. Wildlife

- a) methods of minimizing the restriction of movement of wild animals such as caribou;
- b) methods of protection of wetland areas used as feeding, breeding, or staging areas by migratory waterfowl or as habitat for fur-bearers;
- c) methods of minimizing harassment and other impact upon wildlife populations from greatly increased human intrusions

and the operation of boats, ground vehicles, aircraft, and compressor or pumping stations;

- d) safeguards proposed and alternatives that were considered for the habitats of rare or endangered species;
- e) control of possession of firearms in construction camps and on construction operations;

6. Waste and toxic material

- a) methods of waste disposal to avoid health hazard to humans and animals as well as aesthetic pollution; information should be provided on use of water from streams, springs or lakes for domestic, camp or construction purposes and on location of camps and sewage disposal systems relative to local drainage patterns;
- b) how ice fog accumulation and air pollution will be minimized;
- c) the nature, transportation and use of any pesticides, herbicides, pipe coating materials, anti-corrosion materials, flushing agents, or other toxic substances, proposed for the project, and information on their expected persistence and mobility in surrounding ecological systems;

7. Archaeological sites

- a) archaeological surveys to identify prehistoric sites prior to and during construction phases of a pipeline project;
- b) procedures to promote recognition, reporting, and assessment of archaeological materials encountered in pipeline activities, including orientation of construction personnel;
- c) arrangements for preservation or salvage-excavation of sites judged to be of archaeological significance;

8. Contingency plans

- a) how the possible loss of oil or gas through pipeline leaks would be routinely detected and stopped quickly (the maximum potential undetected loss from the pipeline should be specified and evidence provided. This value is to be as low as is technologically feasible);

- b) how oil which has escaped into the terrestrial, lake or marine environment would be detected, how it would be disposed of and how the elements of the environment affected by the oil would be rehabilitated;
- c) methods to prevent burning of vegetation and proposals for a general contingency plan for fire prevention and suppression on the right-of-way, on the immediately surrounding land, and on lands involved in ancillary activities during preconstruction, construction, operation, and abandonment phases of the project;

9. Environmental briefings

how the applicant intends to carry out environmental briefings to ensure that personnel are fully aware of all environmental restrictions for each construction section and each construction and operational phase of the project, and the reasons for such restrictions;

10. Monitoring

- a) continuous surveillance and maintenance programs along the pipeline right-of-way;
- b) plans to monitor the environmental side effects during and after construction, including downstream sampling of sediment and potentially toxic materials.

SOCIAL GUIDELINES

Introduction

Guideline No. 6 of August 1970 reads in part as follows: "Any certificate issued will be strictly conditioned in respect of ... the protection of the rights of northern residents, ..." . Government recognizes the concerns of the Indian people of the Territories with regard to the construction and operation of northern pipelines. Government is prepared to discuss with the Indian people their land claims and Treaty rights whenever they express their willingness to meet on the matter, and any decisions made concerning northern pipelines will be without prejudice to Indian land claims and Treaty rights. Guideline No. 7 of August 1970 requires the applicant to undertake specific training programs, to employ residents of the north during the construction and operational phases of the pipeline, and to provide adequate housing and counselling service. The following social guidelines are an elaboration of those issued in 1970. They are consistent with Canada's policy on northern development. They give priority to a higher standard of living and equality of opportunity for northerners by means compatible with their own preferences and aspirations. In addition, they seek to minimize the adverse social and economic consequences associated with rapid large scale development, where these adverse affects can be predicted with some degree of certainty.

Guidelines:

1. The Applicant must undertake specific programs leading to the employment, at all occupational levels, of residents of the territories - and in particular native people, during the construction and operation of the pipeline. Such programs or projects shall include but not be limited to: advance information on all jobs in a manner that ensures that the information reaches potential workers; skills required for various occupations and anticipated duration of employment; upgrading and skill training; other forms of integrated training that include on-the-job work experience; and counselling for those unfamiliar with industrial jobs or wage style living. All training, orientation and counselling courses will be planned and carried out in co-operation with the various agencies of government responsible for these matters. The pipeline companies shall have particular responsibility for on-the-job work experience.
2. Priority placement in jobs shall be accorded native people of the territories in keeping with the tenor of Article 5 of the International Labour Organization Convention III, 1958, ratified by Canada, and the government's intent to increase employment opportunities for members of disadvantaged minority groups. During the consultation between government, unions and employers as outlined in the Convention, ways and means will be found to ensure access for these employees into the appropriate union locals and hiring halls where there is a requirement. In addition, in accordance with the principle of employment of local workers which is accepted by organized labour, the Applicant will employ labour from the locality where work is being executed to the extent it is available. The Applicant shall comply with the above Convention and employment principles, and co-operate with government's effort to operate an effective recruitment, placement and counselling service.
3. The collective agreements signed by the Applicant and organized labour shall not distinguish between residents of the Territories and others respecting special benefits and allowances, including housing for operational staff, and the nature of these benefits shall be in no way inferior for employees from the Territories. In addition, in situations where special measures are required to ensure the employment of native people as outlined in the International Labour Convention III, the Applicant shall negotiate special agreements related to the employment of native people, in consultation with the native people and government.

Related to the above matters but not restricted thereto is the requirement for the Applicant to set up special orientation and consultation machinery to familiarize its staff and employees with the culture and aspirations of native people and of territorial residents generally. Conversely, this orientation and consultation will acquaint employees from the territories with the pipeline industry and the work habits and life style of non-territorial employees. The orientation and consultation activity shall be planned and operated with the participation of native people, other northern residents, organized labour, the Applicant and the appropriate governmental agency that will co-ordinate and monitor the various functions performed.

4. Contracts and sub-contracts shall be so designed and publicized as to invite and encourage bids from native organizations, settlement councils and local contractors. In addition, the businesses and commercial organizations of the territories shall be invited and encouraged to supply goods and services required for the pipeline development and operation.
5. A substantial number of native people depend on trapping and hunting as a principal means of livelihood, and many derive a real satisfaction from being on the land and being master of a familiar environment. Therefore, the pipeline will be constructed, operated and abandoned with minimal interference to traditional trapping, hunting and fishing areas. In addition, where the pipeline construction is planned to be located in proximity to a settlement—particularly a native settlement or localized area subject to intensive use, then the location of construction camps, associated activities and the detailed siting of the pipeline will be decided by government after consultation with the Applicant, and the settlement council, or local government body, or the native organization.
6. Where the construction, operation or abandonment of a pipeline results in loss or damage to the undertakings or property of Territorial residents - and native people in particular - then the applicant shall deal promptly and equitably with all reasonable claims.
7. In order to ensure that the social and economic benefits outweigh the costs, the Applicant shall make a conscious effort to contribute to the social and economic development of the territories. This objective shall have particular relevance regarding; locating permanent infrastructure and maintenance facilities so that their presence will be to the benefit of communities; preserving scarce resources such as aggregate and forest products required by communities -both present and future demands; assuring residents reasonable access

to transportation and communication facilities associated with the pipeline system; making gas energy available to selected territorial communities at places and costs to be negotiated between the Applicant and the appropriate governmental agency; and the Applicant shall give prior consideration to the Territorial governments - concerning the disposal of all surplus facilities, equipment, or infrastructure, at a place to be negotiated between the Applicant and the respective government.

8. The pipeline construction activity shall be self-sufficient with respect to certain services such as sewer and water, power, roads, fire prevention, recreation services and emergency health services unless there is a prior agreement to the contrary. With respect to other public services that by their nature must remain under public control such as police protection, base hospitals and like services, there will be early consultation with the appropriate level of government to ensure adequate preparation and continuing liaison during the construction and operation phases to ensure maximum co-ordination and co-operation.

CANADA

PRIVY COUNCIL - CONSEIL PRIVE

P.C. 1974-641

21 March, 1974.

WHEREAS proposals have been made for the construction and operation of a natural gas pipeline, referred to as the Mackenzie Valley Pipeline, across Crown lands under the control, management and administration of the Minister of Indian Affairs and Northern Development within the Yukon Territory and the Northwest Territories in respect of which it is contemplated that authority might be sought, pursuant to paragraph 19(f) of the Territorial Lands Act, for the acquisition of a right-of-way;

AND WHEREAS it is desirable that any such right-of-way that might be granted be subject to such terms and conditions as are appropriate having regard to the regional, social, environmental and economic impact of the construction, operation and abandonment of the proposed pipeline;

THEREFORE, HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, on the recommendation of the Minister of Indian Affairs and Northern Development, is pleased hereby, pursuant to paragraph 19(h) of the Territorial Lands Act, to designate the Honourable Mr. Justice Thomas R. Berger (hereinafter referred to as Mr. Justice Berger), of the City of Vancouver in the Province of British Columbia, to inquiry into and report upon the terms and conditions that should be imposed in respect of any right-of-way that might be granted across Crown lands for the purposes of the proposed Mackenzie Valley Pipeline, having regard to

- (a) the social, environmental and economic impact regionally, of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the Northwest Territories, and
- (b) any proposals to meet the specific environmental and social concerns set out in the Expanded Guidelines for Northern Pipelines as tabled in the House of Commons on June 28, 1972 by the Minister.

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL
is further pleased hereby

1. to authorize Mr. Justice Berger
 - (a) to hold hearings pursuant to this Order in Territorial centres and in such other places and at such times as he may decide from time to time;
 - (b) for the purposes of the inquiry, to summon and bring before him any person whose attendance he considers necessary to the inquiry, examine such persons under oath, compel the production of documents and do all things necessary to provide a full and proper inquiry;
 - (c) to adopt such practices and procedures for all purposes of the inquiry as he from time to time deems expedient for the proper conduct thereof;
 - (d) subject to paragraph 2 hereunder, to engage the services of such accountants, engineers, technical advisers, or other experts, clerks, reporters and assistants as he deems necessary or advisable, and also the services of counsel to aid and assist him in the inquiry, at such rates of remuneration and reimbursement as may be approved by the Treasury Board; and
 - (e) to rent such space for offices and hearing rooms as he deems necessary or advisable at such rental rates as may be approved by the Treasury Board; and
2. to authorize the Minister of Indian Affairs and Northern Development to designate an officer of the Department of Indian Affairs and Northern Development to act as Secretary for the inquiry and to provide Mr. Justice Berger with such accountants, engineers, technical advisers, or other experts, clerks, reporters and assistants from the Public Service as may be requested by Mr. Justice Berger.

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL is further pleased hereby to direct Mr. Justice Berger to report to the Minister of Indian Affairs and Northern Development with all reasonable despatch and file with the Minister the papers and records of the inquiry as soon as may be reasonable after the conclusion thereof.

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, with the concurrence of the Minister of Justice, is further pleased hereby, pursuant to section 37 of the Judges Act, to authorize Mr. Justice Berger to act on the inquiry.

MACKENZIE VALLEY PIPELINE ENQUIRY

IN THE MATTER OF AN APPLICATION BY CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A RIGHT OF WAY THAT MIGHT BE GRANTED ACROSS CROWN LANDS WITHIN THE YUKON TERRITORY AND THE NORTHWEST TERRITORIES FOR THE PURPOSES OF THE PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION, OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE PROPOSED PIPELINE

(Before the Hon. Mr. Justice T.R. Berger, Chairman)

Yellowknife, N.W.T.

April 22, 1974.

PROCEEDINGS AT ENQUIRY.

THE CHAIRMAN : I should like to bring this gathering to order. I am Mr. Justice Thomas Berger and I have been appointed by the Government of Canada by order-in-council dated March 21, 1974 to conduct an enquiry into the social, environmental and economic impact of the proposed Mackenzie Valley natural gas pipeline.

Canadian Arctic Gas Limited has applied to the Minister of Indian Affairs and Northern Development under Section 19(f) of the Territorial Lands Act, R.S.C. 1970, c. T-6, for a right-of-way across Crown lands in the Yukon and the Northwest Territories. The enquiry I am to carry out is authorized by Section 19(h) of the Territorial Lands Act. I am to consider the social, environmental and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the Northwest Territories, and I am to consider as well the measures which Canadian Arctic Gas Limited proposes to take to meet the specific social and environmental requirements of the Expanded Guidelines for Northern Pipelines tabled in the House of Commons on June 28, 1972, and I am to report upon the terms and conditions that ought to be imposed in respect of any right-of-way that might be granted to Canadian Arctic Gas Limited.

This enquiry is unique in Canadian experience. I am anxious that the people of the north and all other Canadians with an interest in the work of the enquiry should have every opportunity to be heard, and that the enquiry itself should be thorough and complete. I am therefore

holding these preliminary hearings because I want to hear submissions regarding the way in which this enquiry ought to be conducted.

Let me repeat how anxious I am that every one who wishes to be heard should be given a fair opportunity to be heard. Under the order-in-council of March 21, 1974 I am to lay down the rules of practice and procedure for this enquiry. I do not wish to lay down any such rules until I have heard your views about the way in which this enquiry ought to be conducted. That is why I am here today.

I should also say that I am accompanied by Mr. Peter Meyers, the secretary to the enquiry; Mr. Waddell, who is special counsel for administrative matters for the enquiry, and Miss Hutchison and Professor Jackson of my staff. Dr. Fyles, Dr. Rennie and Mr. Weick of the Assessment Group, are all here, and a list of the personnel of the Government of Canada seconded to the Assessment Group is available to all interested parties.

MR. ERASMUS: My name is George Erasmus, and I'm a director of Community Development for the Indian Brotherhood. I'll be making a brief statement for the Indian Brotherhood of the Northwest Territories.

The Indian Brotherhood of the Northwest Territories is pleased to accept the invitation to appear before this enquiry. It has always been our position that on matters of such grave importance to the native people of the N.W.T. and to all Canadians the opportunity must exist for the fullest and most exhaustive enquiry. For that reason we welcome the fact that this is only a preliminary hearing to consider the way in which the actual enquiry should proceed. In our view, much remains to be done before the enquiry proper should proceed and we intend to offer specific recommendations in this regard.

The Indian Brotherhood believes it is essential at the outset to make as clear as we can our overall position on the granting of a right-of-way for the proposed pipeline. In that way, no one will be confused as to the desires of the Indian people in the Northwest Territories. We feel the best way we can present our position is through the views of our community elders, the source of our history and our continuing strength.

The old people have told us:
"This is our land,

This is our home.

From time immemorial our forefathers have lived in this land.
We have no memory of existence in any other lands.

Our history and allegiance is to this land and no other. Today we still live in this land that belonged to our forefathers, that still belongs to us, and that we will pass on to our children yet unborn. Our existence in this land pre-dates the coming of the European explorers and immigrant settlers. Our existence in this land pre-dates the establishment of colonial settlements and governments by Europeans. Our existence in this land pre-dates the Confederation of Canada in 1867.

Before the English and French came, we were here. Before the promoters and developers came seeking riches from the land, we were here. Much has changed and will continue to change, but not our presence and the basic rights that flow therefrom. Too often in the past we have been compelled to adjust to changes that were beyond our control. For decades there has been encroachment on our land without our permission and without compensation. Lands and resources have been illegally alienated and appropriated and our people have experienced serious disruption -- socially, economically and environmentally. Contemporary pressures are greater still -- and the potential for disruption is vast -- but now more and more of our people are saying. 'enough' ."

Thus the position of the Indian Brotherhood can simply be stated :

"There can be no massive developments like the proposed pipeline until a land settlement is made with the native people."

Relating specifically to the conduct of the hearings, the Indian Brotherhood makes the following comments :

The enquiry cannot be effective unless the views of the people directly affected by any proposed pipeline are sought and heard. This means, of course, the native people who live in the communities along the Mackenzie Valley.

The only effective way to reach these people is by going into all these communities and holding hearings in a way which the people are accustomed to. This calls for, in effect, community meetings where the people will be comfortable in stating their feelings and not formal, legalistic procedures.

The people in the communities must be prepared in advance for these hearings. This calls for funds to hold meetings with the people to have them aware of what the hearings are about and when they are to be held. To date that process has been frustrated. The Federal and Territorial Governments have repeatedly stated their opposition to general meetings of persons from a number of communities.

It will be necessary to employ field officers for the purpose of preparing the people and these field officers should be native people.

The field officers would work closely with the Assessment Group so as to have as much information as possible to relay to the communities. The hearings in the communities should be as informal as possible and use should be made of interpreting devices and translators and devices such as video tape and recordings to obtain the views of older persons who would not be able to attend the hearings. The field officers would be the persons who could most effectively obtain video tapes and recordings.

THE CHAIRMAN : Thank you,

Mr. Erasmus.

Would the representatives from the **Metis Association** of the Northwest Territories come forward and present their brief?

MR. SUTTON : Mr. Whitford of the Metis Association, has asked me to sit with him while he presents the brief.

MR. WHITFORD : The Metis and Non-Status Native Association of the Northwest Territories is pleased to present its views concerning the hearings which will be conducted on the right-of-way of the proposed Mackenzie Valley Gas Pipeline.

The Metis Association represents those people and other non-status natives who are not represented by the other native associations and who have not been granted the same legal rights as other native people in the Northwest Territories. However, on matters of common interest to all native people of the Northwest Territories, the Metis Association works closely with other major native associations in the N.W.T.

As descendants of the original inhabitants of this country, the Metis and Non-Status peoples of the N.W.T. retain unextinguished aboriginal rights in the land. The existence of these rights has been confirmed by recent Court decisions. These rights belong to all the descendants of the original peoples of the north and are unaffected by government attempts to divide the Indian and Eskimo nations by defining some as Treaty peoples, some as non-status, and some as Metis. We are one nation and this is our land.

The position of the Metis Association has been and continues to be, therefore, that we are opposed to any final resolution of the Mackenzie Valley Gas Pipeline application until native claims have been fully and fairly resolved. We must adopt this position in particular because our rights have been ignored for so long.

The Metis and Non-Status people are unique amongst the native community, insofar as their need to place their case before the Canadian people have been ignored by government on the basis of a definition imposed upon us which is illogical and unjust.

At the same time, our requests for information about this project have brought inadequate results. It has been virtually impossible for our people to get together to discuss their common interest in this matter and we have remained on the sidelines in an issue which vitally affects our lives and our land.

We would, therefore, make the following recommendations :

1. That monies be provided to the native organizations to hire field personnel, to hold meetings, to gather information and to help prepare the way for meaningful participation by all affected communities in the hearings.
2. That monies be provided to the native organizations sufficient to permit them to obtain technical assistance in assessing the mountain of material presented by the Arctic Gas in support of their application.
3. That monies be provided to undertake studies in those areas felt to be neglected in the view of the native community but essential to a proper evaluation of the proposed pipeline.
4. That following the completion of the foregoing, hearings should be held in every community affected by the pipeline and in accordance with the customs of the native people so as to encourage the widest possible participation. These community hearings should be held prior to the more formal events in the larger centres of Yellowknife and Inuvik.

THE CHAIRMAN : Thank you very much, Mr. Whitford.

MR. THOMPSON : I'd like to introduce myself. I'm Andrew Thompson, and I'm chairman of the Canadian Arctic Resources Committee.

With me this morning are Mr. Kitson Vincent, executive secretary of the Committee, and Mr. A. R. Lucas, who is chairman of the Legal Committee and who will be counsel for CARC in the hearings that will follow. In addition I'll introduce Mr. Douglas Pimlott, who is a resource person for the Committee for Original Peoples Entitlement, under the sponsorship of the Canadian Arctic Resources Committee, its program of Man in the North. Also with us is John Thompson, who is a field worker.

I am going to file with the Commission a document entitled :

"1973 : Summing Up."

It identifies the members of the Committee. It sets out the objectives of the Committee, and it identifies some of its research programs.

In our statement of objectives which adopted by the Committee, there are two matters that I would draw to your attention. One is that CARC supports the efforts of the native peoples in the north to gain a permanent settlement of their land claims, and believes that a fair and reasonable settlement should be achieved, at least an outlining commitment before any major northern developments are authorized.

We understand that the National Energy Board, in its review of the projects, will include among its items of interest environmental and economic matters, but it is our understanding after informal discussions that they will defer to this Committee the terms of the environmental impact particularly in the north; and from our point of view, this Commission will have the opportunity to assess these matters in a way that will not be available to the National Energy Board. This is our view. It's based on the fact that the Board's experience and its past record, is particularly in the technical assessments of such a project, in terms of the markets, the supply, the demand, the engineering feasibility of the particular pipeline. We feel that this hearing is the hearing with respect to environmental assessment and socio-economic assessment.

Also I think that it's becoming evident in the Alaska experience the building of the Alyaska Pipeline sort of almost carries piggy-back fashion the assumption that it would be environmentally suitable to build, along with the oil pipeline, a gas pipeline; and we simply use that as an example to show that it's not really an academic fancy that once you establish a corridor and put a pipeline in it, that once you have authorized one pipeline, it becomes presumptively the location of a second.

MR. LUCAS : Mr. Commissioner,
I have three points to make with regard to the subject of the procedure.

The first has already been touched upon by Dr. Thompson in his part of the presentation, and this relates to the place of hearing and in particular to the main or formal hearings as opposed to the hearings in the communities.

We feel that these hearings should - the formal part of the hearings should take place mostly in the north. That would appear to us to be most appropriate, but we are concerned, as I've mentioned, about the hearing moving too fast or to too many centres, particularly while technical or scientific evidence is being put in. It goes to the problem of having witnesses available and perhaps having to move them from point to point while the evidence is being put in as the hearing moves relatively quickly.

Secondly, we would simply like to pose the question of how the Commission proposes to exercise its subpoena powers, with regard particularly to two categories of expert witnesses who will appear for the applicant, and secondly experts that have been involved in studies for the Government of Canada; and with regard to the latter, for example, we feel that it will be essential for certain individual investigators who compiled the data upon which certain government reports on the subject of the pipeline corridor are based, should be available for cross-examination at the hearings.

DR. THOMPSON : Sir, this is Professor Graham Beekhust of the Department of Environmental Studies of York University at Toronto.

MR. BEEKHUST : Mr. Commissioner,
I am a member of the Faculty of Environmental Studies at York University.

For several years our faculty has been interested in environmental and social impact of northern development projects and a certain fund of knowledge has been established within this organization, and we've undertaken a number of projects including for example, a major submission to the Director of Environment & Social Program on the original pipeline guidelines.

Since the filing of the application within the faculty we've held a number of meetings with regard to our possible involvement in the hearings as professional and technical resource people serving the various public interest groups that have addressed you already this morning. Briefly, the faculty covers a very broad range of disciplines from ecology, biology, and engineering to sociology, political science and communications.

The question of inter-disciplinary assessment, as is well known to the applicant, is an extremely difficult one and we have been trying to sort this question out ourselves

in fact for some years now, with reasonable success. We have within the faculty about 12 to 14 academics, and a large number of graduate students who would be prepared to work as a professional and technical resource people to these public interest groups on the assessment of this application before this hearing.

THE CHAIRMAN : Thank you.

DR. THOMPSON : To complete our submission, Mr. Commissioner, I should add that in addition to the York group that has just been identified, we have the assistance of Professor Fuller, University of Alberta, and through him the availability of graduate students; Ian McTaggart-Cowan is the dean of graduate studies at the University of British Columbia and is a member of the Committee and has in the past and will again offer us both professional review assistance and arrange availability of personnel; and finally on the socio-economic side of it, in addition again to the York faculty, is Professor Milton Moore, who is known all across Canada in terms of regional economics, having done extensive work for example in the Maritimes, He is available to us and has been a consultant to us in the past and will be again.

Now, I think what we're presenting to you is that we have a capability to undertake a review and to assist this Commission is this responsibility. As has been mentioned, we require funding, and one of the explicit matters we hoped would be addressed this morning would be whether or not there will be funding available through the Commission. The importance of this in the long run is clear; in the short run I would simply say that unless we can finalize our plans within the next three or four weeks, it will not be possible for us to effectively get under way an examination and review of the application this summer. In three or four weeks' time, as has been indicated, those in universities and those who are graduate students will no longer be available for employment.

THE CHAIRMAN : Mr. Goldie, do you wish to make a presentation now ?

MR. GOLDIE : Mr. Commissioner, I don't have a formal presentation but I could make some observations.

THE CHAIRMAN : Excuse me, there's a door creaking somewhere.

MR. GOLDIE : I thought it was a bit early for adverse comment.

(LAUGHTER)

Perhaps before I go on, Mr. Commissioner I should introduce myself. My name is Goldie, and I appear for the applicant. With me is Mr. Marshall of Calgary, and there are a number of officials and staff of the Canadian Arctic Gas Pipeline here. Mr. Brackett, who is an officer of the company; Mr. Heard and Mr. Henslaw have come from Calgary for the hearing, are here to be of assistance to the Commission at this point.

The exhibits which have been filed are, in the submission of the applicant, those which are necessary for the conduct of your enquiry. I don't want to get too far into the question of jurisdiction, but as Dr. Thompson very properly pointed out, the National Energy Board has got a very large task ahead of it in relation to marketing, financing and things of that order. The very large task that is ahead of you is as stated in your terms of reference and referred to by your opening, and the applicant's submission is that in the first instance it has placed before the hearing and the people who are affected by it, the material necessary to evaluate these proposals. The applicant, of course, is confident that this application is in the public interest.

The applicant is also, and a great deal of its evidence goes to this point, convinced that construction and operation of the pipeline will afford an unparalleled opportunity for the advancement of northern peoples.

We have a suggestion to make with respect to that, and very briefly it's this, that if you decide to hold informal hearings approximating the kind suggested by the Brotherhood and others, those should be got under way as soon as possible; they should be dealt with in the way in which you think best. At those hearings the applicant would not attempt to lead any evidence. Indeed if you'll examine the exhibits you will see that they are in a narrative form and are very much more elaborate than simply tables and statistical material. That was done so as to allow people before hand to read them and gain some insight into the reasons why certain conclusions are suggested.

After that has been done and after the Assessment Group's report is made, then the applicant would put forward in one place, I suggest, and it could be Yellowknife or what have you, one place for any further evidence. It would tender all of the experts who must prove the opinions which were stated in the exhibits, and it could reply to any evidence which had been put forward before.

There has been some reference made to the question of the native claims, and I should say that the applicant understands that active negotiations have not yet begun relative to the Northwest Territories.

My client is seeking rights with respect to the use of land and we're seeking it from whoever owns these lands; but that -- the resolution of that problem is really one that the applicant doesn't have much of a say in.

We do feel, however, that the application and the progressing forward of the pipeline project is not prejudicial to those claims, or resolution of those claims, and indeed may be beneficial. The rights to any party can be preserved, whatever the status of the land claims negotiations might be at the time you make your report and the government decides to act on it.

It is my client's hope that it would be allowed to proceed on the basis, because as I have stated, it is its submission and it believes that its submission is supported by the evidence, that the project is in the public interest both in the north and in the south.

I don't mean to suggest, I wouldn't want anybody to think that I am suggesting the native people should not have as complete a voice as they desire in these hearings. Obviously the matters within your terms of reference require it. I just didn't want to make any suggestion to the contrary.

I'm not sure what the -- how the gathering up of the staff for the Commission, how it is at, but it's obvious that it would be desirable, if I may say so, for it to avoid a duplication of work with respect to that being done by the Assessment Group. I don't mean to suggest that the Assessment Group is your staff, but on the other hand it would be unproductive if the work that it has been doing has to be duplicated by somebody else. Certainly the Assessment Group appears to have been working for a considerable period of time. They all appear to be highly qualified people, and I assume their report, although binding on no one, will be of assistance.

I have nothing further to add at this point, Mr. Chairman.

THE CHAIRMAN : Well, there may be others here who wish to make statements about this whole question of the best way to go about conducting this enquiry.

MRS. MACQUARRIE : May I come up there?

THE CHAIRMAN : Yes, please do.

MRS. MACQUARRIE : Mr. Commissioner, my name is Jo Macquarrie, and I'm executive director of the Mental Health/Northwest Territories, a division of the Canadian Mental Health Association. I will read this because I'm terribly nervous:

"We, the members of Mental Health/N.W.T., a division of the Canadian Mental Health Association, wish to inform you of our intention of presenting a brief to the Mackenzie Valley Pipeline Inquiry. We urge you to hold the hearings in as many settlements located along the route of the proposed pipeline as possible so that concerned residents may express their views. We also urge that the principal aspects of the application be made known as soon as possible to the people in their native languages through public information programs. The people must be well informed so that they can effectively make their wishes known. Native organizations are not always completely representative of the total population, and those not represented must be given a full opportunity to express their views. We believe that a firm condition, - and I want to emphasize this very strongly, - a firm condition to the

building of the proposed pipeline must be the development and provision of Mental Health Services and facilities within the borders of the Northwest Territories."

I would like to add that at present any residents of the Northwest Territories who are suffering from mental illness must be sent to southern points for treatment, and we feel that as residents of Canada they are entitled to these facilities closer to home.

THE CHAIRMAN : I thought that what we might do now, or at least after lunch if that's more convenient for all concerned, I thought what we might do is perhaps invite all of those who have already spoken to come to the front and maybe we could invite Dr. Fyles and Dr. Rennie and Mr. Weick to also come up and we could perhaps sit in a bit of a semi-circle here and the representatives of all the bodies concerned would have an opportunity of making further remarks on the basis of what's gone before.

Now it seems to me that might be better than taking turns coming up to the front again, and that's what I propose to do.

THE CHAIRMAN : Well, we'll come to order again, if everybody's here.

This afternoon maybe we could just go from left to right or right to left, whichever way you want. I thought it might be helpful if you wish, if I were to ask Dr. Fyles, who is sitting over here with Dr. Rennie and Mr. Weick, to outline the people in the Assessment Group, and to talk to you about what they are doing and what they intend to do, and then maybe we could carry on down the line from there. Would that be all right?

DR. FYLES : Yes, Mr. Commissioner. On my left is Mr. Ed. Weick, who is responsible for organizing the brief on socio-economic part of Assessment's activities.

On my right is Dr. Rennie, who is responsible for organizing the environmental part.

As many of you know, the pipeline application Assessment Group is a governmental group assigned to appraise and review the Canadian -Arctic Gas application in terms of the proposed project within the Northwest Territories and the Yukon. The Assessment is designed to be generally useful to the government agencies, both federal and territorial, that are concerned with the application. These principally are agencies of the Indian and Northern Affairs, Department of the Environment, Governments of the Northwest Territories, Yukon and the National Energy Board, and of course this Inquiry is included in the list.

The group will proceed independently in doing its task and findings will be released in a public report. These findings will not be binding on any group but various groups may choose to adapt them to meet their own interests and their own responsibilities.

The group operates under and reports to the Environmental-Social Committee of the Task Force on Northern Development. It is, however, separate from the environmental social research program which the Environmental-Social Committee also operates, and is not tied to the findings of that program but rather it would draw from all previous studies and presently available information. In conducting the assessment particular attention will be paid to the environmental and social concerns set out in the 1972 Guidelines for Northern Pipelines.

The group has been brought together to take advantage of the expertise residing within the government and to use the available to the government in a co-ordinated way. A core group has been seconded on a full-time basis and the members of that group are in the list we have distributed. These people are mainly from sources within Indian Northern Affairs, Department of the Environment, and Mining Resources, and the Territorial Government.

This group is to draw very substantially upon a number of additional scholarly people on a short-term basis as and when required from various sources within the government and perhaps from consultants picked up from elsewhere.

THE CHAIRMAN : Thank-you Dr. Fyles.

DR. THOMPSON : Thank you. I think Mr. Goldie mentioned the possibility that the members of the Assessment Group should in effect file their report as an exhibit in these proceedings, that they should be expert witnesses and subject to cross-examination on their report. Might we ask Mr. Fyles if that is --

THE CHAIRMAN : I think I can answer that, and say that that is under consideration.

DR. THOMPSON : I would like to comment on what was an implication, in I think Mr. Goldie's remark concerning the role of the Assessment Group, and that was the suggestion that there would be a duplication of effort. I think that there is some quire plain answers about this, and we're not suggesting that our group would undertake any empirical work. This is not field work that we're talking about, of the kind that has been so extensively under review by the applicant and by the government departments over the last four years. The Assessment Group plans to review the very extensive literature and the very many reports that are now available, and to gather together all that information and to assess the conclusions that are expressed in them and implicitly made in the way the materials was presented to you by the applicant.

Otherwise we're in the position where the only opinion -- and there are many, many areas of opinion, -- in assessing environmental and socio-economic data and that the only opinion before the Commission would be those of the applicant and

those of government. We think it's not the purpose of the public inquiry that it should be limited to having before it the opinions only within government and the applicant.

THE CHAIRMAN : Let me, just so I understand you, you're saying that Arctic Gas has undertaken field work. You're saying the Government of Canada has already undertaken field work. You say that CARC, if I may use that expression, will confine its work to analysis of what has already been collected and put forward. That's your point, is it ?

DR. THOMPSON : Yes that's right.

Now as a public interest group with limited funding, we have to husband our resources and quite frankly, until the application was presented we couldn't begin to estimate when our major concentrated effort would be undertaken and over what period of time it would have to extend, and these all have serious budget implications for us. So our point is that there's no way that we could begin the detailed kind of analysis that is necessary for us to make a presentation, there's no way we could have begun that six months ago. We cannot really begin to respond to the application until this period of time. It's in that sense that we're asking for a realistic period of time for preparing our position.

My point simply is that there have been all kinds of environmental reports, the literature's full of them. We think that the time is ripe now where there have been sufficient studies done that the whole matter can be brought forward and studied, in the terms of this Commission.

But the socio-economic side is new, and that's another reason why we need time to be able to respond. Even the framework of that kind of study is something that we're going to have to enquire about. The study is presented in terms of sort of two absolutes, a pipeline -- no pipeline.

I can only conclude in saying we really have to have that time if we're going to be able to make any adequate response to that particular subject.

Oh, one other matter, and I'm not sure I understood clearly Mr. Goldie's suggestion as to how the formal part might proceed. I think -- am I correct in assuming, if I can direct a question to Mr. Goldie. If I understood his comment on procedure, it seems to me that wouldn't be a very efficient way to go about it. It seems to me that if he put all of his case in in one long session, and then came back at a later time to do your cross-examining and what-not, you actually use up a lot of time in the way you have to continually refresh the Commission as to what the evidence in chief was all about. It would take a lot of convincing to convince me that the best way to do it is not to put panels of experts on quite clearly specific points, and go through examination and cross-examination. Thank you.

MR. BEEKHUST : Dr. Fyles said that

their conclusions would be possible for any other group, and I quote, "to adapt their findings". I am suggesting it's very very difficult because what they're doing is a question of interpretation to adapt their findings. Their findings would in fact be their interpretation of the application, and the interpretation that will be applied by the groups that addressed the enquiry this morning will, I think, follow a quite different perspective.

THE CHAIRMAN : I see. Mrs. Macquarrie do you wish to add anything at this time ?

MRS. MACQUARRIE : I'd like to wait.

THE CHAIRMAN : Miss Hunt?

MISS HUNT : I don't have a great deal to comment on this afternoon. We will be making a presentation at Inuvik.

THE CHAIRMAN : Yes. Well certainly I hope that they will be aired fully at Inuvik.

Mr. Raddi, do you wish to add anything further at this time?

MR. RADDI : No, thank you.

THE CHAIRMAN : Mr. Pimlott?

MR. PIMLOTT : No.

THE CHAIRMAN : Mr. Goldie ?

MR. GOLDIE : Thank you Mr. Chairman.

First, on the question of the duplication of effort as between CARC and the Assessment Group, that was not what I was directing my comment to. My concern has been dealt with by the observations Dr. Fyles has made. I was talking about the concern of the Assessment Group and your staff possibly duplicating effort in the field. Now, as I understand it, neither CARC nor the Assessment Group intend to do field work. They are going to take the field work that exists, which is in part the applicant's, part government reports and so on and so forth, and they're going to assess that in their own way and express their own opinions.

The question that Dr. Thompson raised was the procedure with respect to the applicant's witnesses. Again, I must apologize. If the suggestion was conveyed that there would be a group of expert witnesses who would sort of speak one after another, and cross-examination was to be deferred until the end; I did not intend that. Witnesses or panels of witnesses will be called to speak to specific points. I would assume that cross-examination would follow with respect to those points. I quite agree with Dr. Thompson that the idea of deferring cross-examination until the end might pose some difficulties.

THE CHAIRMAN : Mr. Sutton, do you

wish to go next ? Whatever you and your group wish to do, I'm lumping you in with the Brotherhood for the moment.

MR. DUTTON : Could I say something first on behalf of all the native people? This is in response to some of the things Mr. Goldie said this morning. His suggestion is, as I understood it, that community hearings which have been called informal hearings, should be held in the summertime and gotten over with, to be followed by one so-called formal hearing. Now the suggestion that we get from that is that Mr. Goldie is somehow or other reducing the importance of these community hearings to relative insignificance and the point of the native organizations is that community hearings are by and large the most important aspect of the hearings because they concern the participation of the very people who stand to be affected directly by this proposed project. So we think that due emphasis should be placed on the importance of these community hearings and that instead of calling them informal hearings we call them community hearings, but not hearings in a legalistic sense, that they be definitely structured in such a way to ensure the maximum participation of the people in the communities and that they be conducted in the presence of all parties interested in these hearings.

The primary purpose of these community hearings is to ensure an input into the hearings, maximum input of the people who stand to be affected.

Concerning the more formal hearings, the native organizations feel that there should be a number of these hearings and that they be held in at least three communities, larger communities, which would serve to ensure the regional emphasis on the hearings.

Reference was made this morning to the Great Bear Hydro project which is included in part of the application, that there is a very definite regional impact concerning a number of communities, and that the people from the communities be allowed to participate in these more formal hearings and that there also be one formal hearing in one of the native communities most directly affected. So as to expose the community to the broad range of the implications of this project, and that the hearings be conducted with a definite community emphasis. There was also a suggestion by Mr. Goldie that we are being modest when we said that we did not have the resources, we do not have the people to effectively participate in these hearings. The organizations are not being modest, they're being very candid; we simply do not have the resources to go through that material and to ensure that the organizations have an input, and at least we get some of that input to the community.

There was also expressed that a quick settlement of the land issue was desirable. The organizations would like to see the land issue settled as soon as possible, but by no means do they want a quick ill-prepared settlement imposed upon the people, they want the time to do effective research and prepare their claims, and currently resources are being expended on these different program areas which are defined by governments. One of those is research and we just cannot spare the people from these different program areas to

concentrate on the hearings. We need additional funds and additional people.

There was also a comment that the pipeline might be built without prejudice to the land claims, we do not see how it could be without prejudice to the land claims when we don't yet have a clear idea what the settlement will be, what form it will take. Moreover, the land claims in relation to the pipeline is viewed in a much larger context in the feelings of the organizations. The pipeline cannot come before a land settlement because it is only in the context of a land settlement that the people can protect themselves. It would be small comfort to the communities if the pipeline were built without prejudice to the land claims, and in the process the communities were devastated.

There is the further point that I do not see how the right-of-way could be granted without prejudice unless, as Mr. Commissioner, you pointed out this morning in your terms of reference that you were examining this question on the assumption that the lands were Crown lands, when in fact the position of the organizations is that the lands are not in fact Crown lands.

That is all, thank you.

MR. CHAIRMAN : Alright, could I ask you a question, Mr. Sutton ?

Mr. Erasmus, in his presentation on behalf of the Brotherhood this morning raised the question of community meetings or community hearings. Now, you just now suggested that they be described as community hearings. If I were to proceed in that way, given adequate preparation within the community, to enable the people within the communities to make known their views about the pipeline proposal, do you think, do the representatives of the Brotherhood with you think that the kind of meeting we're having here might be a suitable kind of meeting to hold, a suitable kind of community hearing to hold? You don't have to commit yourself in any way, and I'm not committing myself, I just want to know if I am getting the thrust of what you're saying ?

MR. ERASMUS : If I may be permitted to speak, I was going to speak on the community hearings. I think it all ties in with the suggestion of Inquiry Officers.

I think we were thinking that we would not recommend government enquiry officers and that as you stated earlier, that if there were to be field officers in any way involved in preparing people for these hearings, that they should be directly connected to native organizations. In relation to the community meetings, it is our experience that there are community meetings and there are community meetings. The extent of participation of community people to the extent that the more influential people get involved in community meetings depends directly on who calls the meeting. It depends directly on how much sort of community respect and trust these

persons have that get involved in the preparation for these kind of community meetings. That is why we are not recommending the idea of enquiry officers. I think it would be up to us, given the time that we need to prepare ourselves, given the time we need to interpret the information that has been supplied, given the time for us to look at alternatives to the pipeline, things like railroads or whatever. There's a lot of time needed for translation of these hearings into their native languages of the Indian nation. You may be amazed how much time will be needed to invent the kinds of words, composition for word like "gas", the definition between "gas" and "oil". A person might spend an extensive period of time just to define the different kinds of levels of petroleum.

But anyway, there's a need for a lot of time. Now if we were given this time, if we were allowed to play a significant role in organizing community meetings, I think that they would be very well worthwhile and they might run to something like this, but I think there would be a lot more native people there. I think it would be very important that representatives of the oil companies be there.

I think that it's significantly important that if possible the commissioner himself would be there rather than other people that would interpret to you later on the community needs.

Something that I don't even want to bring up is the fact that at such a meeting there will be an incredible demand for proper language translation and you might find the proceedings very very slow.

THE CHAIRMAN : Yes. Thank you, Mr. Erasmus. Is there anything else that any member of your group wishes to raise, Mr. Whitford?

MR. WHITFORD : Yes. Of course the position of the Metis Association has been and continues to be that we are opposed to any kind of resolution of the Mackenzie Valley gas pipeline application until native claims are fully and fairly resolved. We must adopt this position particularly because our rights have been ignored so long. The Metis and non-status people are unique amongst the native community insofar as their need to place their case before the community people has been ignored by government, on the basis of definition imposed upon us which is illogical and unjust. We have been excluded from consideration for support which is our right, and our efforts to document our claims, we have to rely wholly on the work accomplished by our brothers in the other native organizations.

The Metis Association has been organized two years ago and of course it's come a long way in the last two years; but the point is that we illustrate that we've never had the opportunity of being able to receive funding from the federal agencies to study the Metis movement as far as the claim issue is concerned. At this time I would bring this out that we honestly feel in the interests of equity, fairness, justice for all interested parties in the native land claims issue, it is essential that the native people, the Metis

be allowed to accept legal or other professional opinions to adequately research and prepare our settlement position.

THE CHAIRMAN : Thank you Mr. Whitford.

Well I wonder if we could come back to this side, Dr. Fyles, and if you could tell us whether Dr. Thompson is right in suggesting that the Assessment Group will not be doing any field work but will rather be confining itself to an analysis of the Arctic Gas application? Can you comment on that ?

DR. FYLES : Yes. It's correct that we don't anticipate undertaking new field studies, new field work, basically an analysis of the application in relationship to the various studies that have gone on and which are going on and which are available from one source or other. If, in the process of doing this, we come upon a point which we cannot resolve, then we will have to do something on a very rush basis to clear up the uncertainty. But it isn't part of our basic plan.

DR. THOMPSON : Mr. Commissioner, we're certainly convinced that the Assessment Group's role is important and will help us a great deal. We contemplate that we would use the reports which Dr. Fyles and his groups will be preparing.

Mr. Goldie raised the question of the sufficiency of their application, and I think that at this moment our position is that there will be respects in which, in our contention, they will not have adequately addressed issues in the application in the material filed. We think, particularly in the matter I mentioned, the question of the corridor and the first trunk pipeline, that there is a case where the application did not deal in the fashion the guidelines required. Whether that is what you call a legal objection or not, I don't know.

We also hope that the applicants will deal at a certain point with the request they made on page 11 of the application, to the Department of Indian and Northern Affairs, paragraph 16. We hope that at some early stage the applicant will make clear what they have in mind here because one reading of their request is that the Minister should in effect waive the requirements, if I could put it that way, of the land use reservation. This application at this hearing is as if it were an application blanketing and covering all of the particular land use operations that would be defined in the land use regulations, and that the issue of your report would be authorization to issue all necessary permits. We're not clear exactly what the applicant's position is. Similarly with respect to paragraph (c) under 16, page 12, there's a reference to use of water and there is, of course, the Northern Inland Water Act and it has certain statutory requirements respecting the issue of authorizations, and again our question is to know exactly what the applicant means in paragraph 16.

THE CHAIRMAN : Could I -- I think I should say at this point that Mr. Pimlott raised a question this morning, whether there had been a revision of the expanded guidelines. I understand that there has been no revision of the expanded guidelines.

MR. PIMLOTT : Page 11, para 4.

THE CHAIRMAN : Yes, oh yes, whether the government had identified geographic areas of specific environmental and social concern or sensitivity in which it would impose specific restrictions concerning route or pipeline activities and possibly areas excluded from pipeline construction. I understand that no such geographic areas have been identified in the sense in which that expression is used in the guidelines.

The other thing I wanted to say was that I have retained Mr. Waddell as special counsel for administrative matters, but I intend to retain hearings counsel, that is counsel to act as Commission counsel for purposes of examining and cross-examining witnesses, at the main hearings when we get to them.

I have retained Dr. Kellerhals of the University of Alberta, civil engineer, and he will be on the enquiry staff.

I've also retained Dr. Gordon Davies of Waterloo University, an ecologist who will be on the enquiry staff.

I have also retained Professor Michael Jackson, of U.B.C., a member of the law faculty who is on the enquiry staff.

I'm not going to say any more about what those people will be doing because I haven't entirely sorted that out in my own mind as yet. This being an open enquiry I wanted you to know that those people are available to me.

MRS. MACQUARRIE : Mr. Commissioner, I'd like to point out that the Mental Health/Northwest Territories is representative of the total population of the Northwest Territories. We don't divide along racial lines. We do recognize that various groups will have special problems because of culture and language difficulties, and even the interpretation of Mental Health; however, we all do have basic human responses to stress and change, and I don't think that these -- the mental health of the people have been taken into consideration by the applicant because studies of the effect of mental health on, you know, the pipeline on the mental health of the people either hasn't been gone into or if it is included in the socio-economic study that has been done by the Gas Arctic, these studies have not been made known to the public.

With the building of the pipeline

there will be a great influx of southerners to the north as well as the dislocation of native people from their settlements as they move off to the jobsites, and I really believe that before we go any further that the applicant or concerned people must certainly figure out what is the present state of mental health of the people to be affected and what services are we going to provide for them once the pipeline is built.

Our Association is a group of volunteers and I'm afraid we don't have salaried high-powered intellectuals to assist us, and I hope that the Canadian Government as well as the people concerned with building the pipeline will help us to adjust to the changes, perhaps through -- I hate to mention money -- but perhaps through the provision of funds so that -- or so that life skills programs can be developed to help the people understand what's happening to them, and our goal, the goal of our volunteer Association is to have some day a psychiatric team based in the Northwest Territories along with various psychiatric units that patients can be treated in, rather than being shipped out.

MR. GOLDIE : I'd like to clarify one point or a couple of points Mr. Sutton made. Certainly there is no intention on my part to suggest that the community hearings were intended to reduce the importance of those hearings. I was using the word "informal" in the procedural sense. From my examination of your terms of reference those hearings will be constituted a very important source of your conclusions with respect to the impact of the proposal.

THE CHAIRMAN : Did you say this morning, Mr. Goldie, that you felt that the formal hearings at which technical evidence would be called "technical" I take it means evidence of engineers and environmentalists and so on, do you suggest that those hearings should be held at Yellowknife ?

MR. GOLDIE : I used that as an example, Mr. Commissioner, again primarily for facilities. I wouldn't like to say there is a hard and fast position that we are taking. I would assume that a great part of the time of an expert witness will be in cross-examination and it would seem to me that there are very great benefits if that did take place in one place, and conversely there would be a considerable disadvantage of an expert was subject to cross-examination on the same issue in half-a-dozen places.

Mr. Sutton made reference to the Great Bear application. That is a hydro-electric project. That of course is not part of the application of Arctic Gas. I wouldn't want it to be thought that it was at this stage.

MISS NAHANNI : I would like to say something in regards to translation. In my experience without a translation a lot of the Government materials is absolutely useless to the people. They do not understand the English written version. I have had an opportunity to translate and so have a few other people. We find it extremely difficult and time consuming to adapt English

written material into our own language and dialect. There is the Dogrib, Slavey, the Inuit all the way down the Mackenzie Valley, in trying to translate the full meaning for the people. The people have very basic concerns and they have a lot of questions such as, who gives the leases to the people who are out there on the land doing drilling and moving around in helicopters and everything. They are concerned about the regulations, who draws up the regulations.

I heard someone mention the Inland Waters Act, and game laws; you know, all these things have to be translated within the concept of any future development and it takes time and money.

THE CHAIRMAN : You've said, Dr. Thompson, that you are asking that this Commission consider the matter of funding. I would suggest that if the Commission should consider that matter that you should prepare a statement before we go to Ottawa of the personnel that CARC feels is going to be necessary to enable it to do what it conceives to be its duty with respect to this inquiry, and in as much detail as you can possibly provide. I don't see how I can even consider it unless there is something very specific proposed. I think, Mr. Sutton, that I say the same thing to your group, that you should by the time we get to Ottawa have a statement ready for me that gives me some indication of the number of people that your group feel they need to do the job that they feel they must do in as much detail as possible.

MR. GOLDIE : Well sir, I'm not too clear on the point that Dr. Thompson made with respect to this additional material. It is the very firm submission of my client that the material which is yet to be submitted by the National Energy Board relates to the jurisdiction of that body, and if we are wrong, it is important that we know that very soon.

THE CHAIRMAN : Oh, the question whether it is proper consideration of regional impact necessitates consideration of essentially national impact. That answers your point, does it?

DR. THOMPSON : That is one point, sir, but it is not the only example. Now unless that material is presented before this Commission we are taking it on the undocumented statement of the applicant as to what the areas will be, where there has to be connecting pipelines and so on. There would be nothing more impacting on the regional economy of the Northwest Territories -- there is nothing in the material filed which deals with the long time financial interests of the Territory which is a most important matter.

Now we are not suggesting that this material isn't relevant to be presented to the National Energy Board. What we are saying is that this material is relevant to both applications at least in part.

I am only saying, sir, that since it is a preliminary hearing there would have to be some way of notifying other interested groups who we know will be there that this issue is to be argued and finalized.

THE CHAIRMAN : Yes, I see your point. Well, at any rate Mr. Goldie and you have since joined issue on this matter. I'll leave it up to you to decide, both of you to decide whether you wish to pursue it in Ottawa. I'm of course bound by the order-in-council of March 21, 1974, and the Pipeline Guidelines, but you will see that I am to consider, according to paragraph (a) on the second page of the order-in-council :

"social, environmental, and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and Northwest Territories, and (b) any proposals to meet the concerns set out in the guidelines."

I think that all of you might, in considering what falls within the scope of this enquiry, bear (a) and (b) in mind, as I know you have and I know you will.

MR. SUTTON : Mr. Commissioner, I don't know how this fits in in the light of what you have just said, but at the risk of repeating what I think Dr. Thompson said this morning, that the question of the Great Bear Hydro is a good example of the way the organizations interpret the scope of the inquiry in examining the terms and conditions of the right-of-way the enquiry would, on our interpretation, be almost bound to examine the question of the Great Bear Hydro even though it is not a part of the application, and if there are other things that could fall into the same range, such as their question of land settlement. We feel it would be a mistake to focus purely on the application when in the case of the Great Bear Hydro, as we understand it, as planned is an integral feature of the proposed pipeline.

The people in the communities affected have very strong feelings about the Great Bear Dam. It seems somehow illogical that the application should be considered in isolation of that. The people could not express their opinions on the dam and would have to wait for some future hearing to express their opinions on the dam.

THE CHAIRMAN : Thank you, Mr. Sutton. Well, does anyone else have anything further to say? I think then that I will adjourn the enquiry until we meet in Inuvik on Wednesday at 10 a.m. at the Family Hall.

(PROCEEDING ADJOURNED TO APRIL 24, 1974)

INUVIK, NORTHWEST TERRITORIES.

April 24, 1974.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER : I want to welcome you all to this preliminary hearing this morning.

I am Mr. Justice Thomas Berger and I have been appointed by the government of Canada by Order-in-Council to conduct an inquiry into the social, environmental and economic impact of the proposed Mackenzie Valley natural gas pipeline.

Let me say that this is an informal and preliminary hearing. Anyone who wishes to speak may do so. No one is giving evidence. I am not going to ask that anyone be sworn as a witness. I am simply asking that any one who wishes to speak should come forward and tell me their views on the way this Inquiry should be run.

The main Inquiry isn't underway yet. I will decide when it ought to get underway, when I have heard all of you and heard what you have to say about the way in which you feel this Inquiry should be held.

Now, I should say that I have with me, Mr. Peter Meyers the Secretary of the Inquiry, who is sitting to my right. Mr. Waddell, Mr. Ian Waddell, Special Counsel for Administrative Matters for the Inquiry to my left. Miss Hutchinson of my staff sitting at the table and Professor Jackson of my staff is seated over on my far left.

Now, when you are going to make your presentation at the outset, I think, I would like you to come to this center table and just sit there and speak, but if you would rather stay where you are, that is entirely up to you. This is informal and just stay wherever you feel most comfortable.

Well, Mr. Reesor, I think we will start with you.

MR. REESOR : Mr. Commissioner, the Northwest Territories Association of Municipalities is pleased to have the opportunity to present the Commission with the following brief statement relating to the timing, location and format to be followed at the main hearings in to the Canadian Arctic Gas application.

The Association is an organization made up of ten municipalities throughout the Northwest Territories,

eight of which lie in the Western portion of the Territories. Since approximately eighty percent of the population of the Mackenzie Valley region lives in municipalities, our organization and members have a tremendous stake in the outcome of the application hearings. The affairs of the municipalities of the Valley region are carried on by democratically elected councils. Being so broadly based, these councils are the most representative group from each of these communities. They are the decision makers and they are the ones who have the responsibility for providing basic services to the people.

It is in light of this great responsibility held by municipal councils that we are concerned about the gas pipeline application.

The 1972 Pipeline Guidelines state : "In order to ensure that the social and economic benefits outweigh the costs, the Applicant shall make a conscious effort to contribute to the social and economic development of the Territories".

In the application, however, we find volumes of material relating to every facet of environmental concern, with almost no attention being given to the possible impact of the pipeline on municipalities, and the ability of municipalities to provide the services demanded by their residents. The Canadian Arctic Gas report entitled "Regional Socio-Economic Impact Statement" slides around the topic without providing the information which municipal councils need to be able to prepare for any possible impact. Even by counting on special funding from senior levels of government to off-set rapid growth, councils require two to three years minimum lead time. Any attempt at absorbing radical changes in municipalities, through other sources of financing require an even longer lead-time for planning and preparation. To date there has been minimal consultation with municipalities and next to no information available from Canadian Arctic Gas.

We want to make it perfectly clear, however, that the Northwest Territories Association of Municipalities feels that a Mackenzie Valley Gas Pipeline could prove to be a great challenge and an opportunity for economic and political evolution in the N.W.T. But, without the information available, the opportunities may escape us, and without the resources required, we may not be able to rise to the challenge.

I would like to speak specifically now to those areas that are in the purview of this hearing.

First of all, timing. Our recommendation, in light of the above, as to when the hearings of the Inquiry should be held, will hinge on our ability to secure the required information from Canadian Arctic Gas and to make a proper appraisal. Although it may be ideal to speak of holding these hearings next year, we must more practically reduce this time horizon in light of the potential competition from an El Paso Gas application for an Alaskan route. In light of these conflicting requirements and the lack of expertise immediately available to the Association with which to carry out our

enquiry, we respectfully urge the Mackenzie Valley Pipeline Inquiry Commission to support our request for funding from the Federal Government so as to enable us to successfully expedite our study of the pipeline application to be ready for hearings in the late summer or fall of 1974.

As to place. In that individual municipalities will have no funds to travel to the hearings, and since municipal representatives will be able to give more meaningful input on their own home ground, we would recommend that the hearings be held in every municipality that will feel the effect of the construction of a gas pipeline. Specifically these municipalities are, Hay River, Rae-Edzo, Yellowknife, Fort Simpson, Aklavik, Fort Franklin, Inuvik, Tuk, and to a lesser extent Pine Point and Fort Smith.

As to format, the Association recommends that the hearings assume an informal nature. Such an approach in the North will yield a wealth of invaluable municipal views. It is important that they all be heard since these are the democratically elected people who will be responsible for any effects of the pipeline felt in their communities. A strictly courtroom approach will deter many participants.

Thank you.

THE COMMISSIONER : Thank you,
Mr. Reesor, thank you very much.

Now, Mr. Plum.

MR. PLUIM : I represent the Chamber of Commerce and upon a presentation of the submission that we have here I would like to make a few comments in regard to what we the people of Inuvik and the Northwest Territories feel in this region.

The people that are involved with the various companies and corporations here in this vicinity are feeling a pretty hard struggle against what is a basic part of the pipeline going through and waiting approval is costing private enterprise a lot of money and the impact that could be felt as a result of the thing not being accepted could be very dangerous to this community.

Many of the people that are involved in the structure of building this community have put out thousands and thousands of dollars, millions of dollars and upon the non-acceptance of this could mean that companies will have to terminate their operations in the North and this could therefore put a pretty heavy burden on the Government. The Government is receiving a fair proportion of money that is going to welfare in supporting this community. The pipeline could mean for this community a proper and enjoyable future. If anything results in delaying this you could look like Alaska looks today.

The Land Claims, we feel do not enter into this picture. Right now we are mainly concerned about what is the impact and the environmental and social feelings of this Commission.

As the Inquiry is to consider only the regional social, environmental and economic impact of the proposed pipeline in the Yukon Territory and the Northwest Territories, the subject matter of the submission considered by the Inquiry should be limited to the construction, operation, and abandonment of the proposed pipeline so that each important aspect will be effectively covered and valid recommendations may be made by the Inquiry. It does not appear that aspects such as the non-construction of the pipeline, delay of the pipeline construction, national considerations or international considerations are the prerogative of the Inquiry.

As the Mackenzie Valley Pipeline construction is a large and complex program that is sensitive to regulation, planning, organizing and financing difficulties, the activities of the Mackenzie Valley Pipeline Inquiry should be carried out within a definite limit that will coincide with other aspects of the pipeline decision. To this end a final submission date for the Mackenzie Valley Pipeline Inquiry is suggested prior to March 31st. 1975.

As many special interest organizations such as the Indian Brotherhood, Inuit Tapirisat, and COPE are receiving approximately one million dollars per year from the Federal Government to carry out research on the social, environmental and economic impact issues, it would be appropriate for the Inquiry to support the funding of responsible and representative organizations such as the Northwest Territories Association of Municipalities or the municipal councils along the Mackenzie Valley with comparable funding so that these organizations could effectively represent the non-special interest residents of the North.

THE COMMISSIONER : Thank you very much Mr. Plum.

I will now ask the Committee for Original Peoples' Entitlement to proceed.

Mr. Blake, if you wish to go ahead then.

MR. BLAKE : Thank you Mr. Berger.

Before giving our ideas on the practice and procedures which should be followed in the conduct of the hearing, I wish to make it clear what COPE's position is about land claims, and the building of pipelines. We consider that the land claims of native people must be settled before any work is done to prepare the right of way to build the pipeline or to build treatment facilities of any kind for oil or gas. In this position we agree with the Indian Brotherhood of the Northwest Territories, Inuit Tapirisat of Canada, and the Metis and Non-status Association of the

Northwest Territories. But when we have used these words before to say what we think about the land claims and the pipelines, some people have not understood exactly what we meant. It does not mean if the land claims are settled we will forget about what the pipeline could do to the settlements, to the people and to the animals. It just means that we are ready to talk about them. So to say it in a few words; our participation in the hearing which you will hold is based on the belief that land claims will be settled before any work of any kind starts. If the Government should approve any construction before a settlement is agreed on, I think that members of COPE will want our organization to join forces with the "Federation of Natives North of 60" in legal action to stop the building of the pipeline. It is our hope that even before you write your big report you will tell the Government how we think about this matter.

It is very important to the future relationship of white and native societies that the development and transport of energy and mineral resources North of 60 not be turned into a mockery of the original peoples.

We wish to give the following ideas about the hearing which you will conduct on the pipeline.

First of all the timing of hearings.

We believe that it will take at least a year for us to make adequate preparation for the hearings. In addition to the copies of the application made by Canadian Arctic Gas Limited to the Department of Indian Affairs and Northern Development and the National Energy Board, we received 20 books from the company on the environment, what will be done in building a pipeline, and how it will influence the lives of people. We also received six more large books of plans. During the last year we have also been given many reports on studies which were done by the Government and by the Environment Protection Board. It will take a lot of time to study these reports, find out what parts are important to the communities we represent, get the information to them and help them to understand what it means. After that they will also need time to think about what it means to them and what they want to say about the building of a pipeline. COPE must also do much work to prepare its own paper on the aspects of the pipeline which relate to the whole Mackenzie Delta-Beaufort Sea region.

While we are studying the reports I have referred to, we will also receive the report of the Assessment Group, which you mentioned in your letter. It will probably be late in 1974 before we can expect to have a copy of that report to study. Because of all these considerations COPE recommends that no hearings be held before the end of next spring's trapping season, that is approximately June 1975.

If a pipeline is constructed it will bring big changes to the way of life of the native people. Everything possible should be done to help the people to understand what a pipeline will mean to them and to their children and to help them adapt to the changes which will occur.

The conduct of the hearings, in which individuals can say what they think, listen to what their neighbours and other members of the community say, will be a very important part of the process through which the people can get ready for changes which are likely to come. This is also part of the reason why the preparation for the hearings should not be too rushed.

COPE also considers that it is very important that the informal hearings in the smaller communities should be held in advance of formal hearings at the larger administrative centres.

In summary, COPE recommend that the hearings be held in all communities which will be directly or indirectly affected by the building of pipelines. We recommend that the hearings in small settlements be of an informal nature. Finally, we recommend that the informal hearings be held in advance of the formal ones, which would be held in larger communities such as Yellowknife, Hay River or Inuvik.

Money needed to prepare for hearings. COPE has only three full-time staff members. These consist of the president, a field worker and a secretary. In addition, the Canadian Arctic Resource Committee is providing us with a resource worker who works for us, or for Settlement Councils or Trappers Associations, on matters related to resource management and the environment.

With this staff we have difficulty maintaining our programs on a day to day basis and we have virtually no potential to do the job which we should do before, during or immediately following the hearings which you will conduct in the course of your enquiry.

Because of the limited time available to prepare for the preliminary hearing, we have not been able to think out exactly what would be required. We think that this could be done by June 1st 1975.

COPE recommends that, because of the importance of developments associated with the pipeline to native people and because of the need for extra staff for a relatively short term, your enquiry should provide the money needed by native organizations :

- (i) to study the relevant documents and to prepare submissions for the hearings;
- (ii) to assist native people to understand what is involved in the application submitted by Canadian Arctic Gas Pipeline Ltd., in terms of their way of life (socio-economic impact) and in terms of the animals and land (environmental impact) on which their lives have always depended;

- (iii) to assist individuals and organizations (such as Band Councils, Trappers Associations and Settlement Councils) to understand the processes to develop the capability to prepare submissions and the confidence to present them at either formal or informal hearings;
- (iv) to allow selected representatives from the native communities to attend formal hearings in the larger settlements.

C.B.C., in its present monopolistic position in the north, has a responsibility to be informative and useful to a much broader extent than it presently is. The native language programs and their resource people must be a fuller part of the corporation and must also be available to disseminate information on a more complete basis. The C.B.C. must be pressured into making a fuller commitment to the people of the north, especially at this time when its responsibility to the people is greater than ever before.

In closing, I wish to express to you the pleasure with which our members viewed your appointment to conduct the enquiry on the right-of-way for the Mackenzie Valley Pipeline. It brought us hope that the enquiry will contribute to the solution of some of the problems which have developed so rapidly during this decade and which seem to be so difficult to resolve.

THE CHAIRMAN : Thank you.

Mr. Allan, do you wish to go now ?

MR. VICTOR ALLAN : You've heard what the brief was concerning our native organizations in the Territories here. Now I have no sort of anything written, but we sort of say things in the way we feel. I know a lot of private enterprises and big business people come into the Territories and they wonder why a native organization has got to be funded in order to do their research for themselves.

I think in this way we should really think that these people are going to have to be doing something for themselves, even though they're funded by the government, because if we don't create something like that to make people help themselves or make them learn to help themselves; we haven't created anything very constructive. In order to employ the person we took off the land, we haven't taught them any skills, and the only skills he knew was on the land, and still he has to educate his children to the system that comes out; so he's put in a very very bad position there, whether he likes it or not. So in that case I'm just saying this because to us northerners as a whole, looking at it from the government's point of view; we could get very good positions, we could be the people that are here to represent the government for the benefit of the people.

Now when we say about the north a lot of times, the Minister used to say that the participation in the

north, the first priorities are the northerners. Now when we say that, we haven't really carried it that far because we haven't got northern people that are educated to put them in positions that we dream about by being the talkers and the doers of the Territories and governing the Territories. A lot of times we get educated people in our own Territory in our country here and they find their own positions. I think that we've had a lot of researchers in the Territories also that could be done by our own people in the Territories.

When we have the whole picture of the north later on in the future years, if we don't prepare, we turn around and say, "Well, northern people are lazy, northern people sit around and do nothing, northern people tried everything else and we just couldn't do nothing with them". Now in that short period of time I don't blame the Education Department, you can't educate people in that short period of time, it takes years to take one environment to the other, one adaption to the other. You can't educate people overnight to know how to cope or something with the environment itself.

So on behalf of the native organizations in the Territories, and that's only one organization, I think a settlement of land claims would be beneficial to the people of the north because they were here before we are here, and I think they should be given a chance.

THE CHAIRMAN : Thank you very much sir. I understand that Colin Allan of the Metis Association.

MR. ALLAN : I'm chairman of the Trappers Association. I would like to say a few words to you people before I talk, and I'm going to talk in Eskimo, and I'm going to translate into English after, after I talk in Eskimo.

Well, I will tell you people just what I think, what I said just now in Eskimo I will translate a little bit. This pipeline is going to come up a year from now but the people in the north -- you see, a little bit of more people that go to job is mostly labor because most the native people are not graduated, and they go to school for a little while.

Then after a while I talk to them and I can't get any help, native people they can't get job you know unless it's labor, you see, and not many native people get office job, you see, and only people who graduated, that's the only people who get office job; and only job is a labourer and we get hired for labour. When we don't get hired, we have no job, you see, and just native people, and what I really think about land, I think native people, they can't buy from the store like white man, they can't afford it because they got no job and they have to live off the land, hunting, and you know, live off the land. That's the only place we can get food. They can't go to the store every day, to Hudson's Bay, they can't afford it.

That Oil company is doing now in shallow waters, where the shallow water is now we got lots of land claim; permanent right now, maybe five years from now boats can't come into

shallow water any more because they make all islands in the shallow water and cause whales trouble, and the whales can't come in any more to support the native people, and that's what I was saying in Eskimo just now, and I translate in English.

Maybe five years from now I see big machine riding in front of Fort Wells, shallow water boat, Eskimo say they can't hunt animals in deep water. In the deep water you can't hunt animals.

THE CHAIRMAN : Thank you very much, sir. I think the next person who wishes to say something is Mr. John Tetlich from Fort McPherson.

MR. TETLICH : Mr. Commissioner, first of all I would like to say I have this opportunity to sit and listen and talk, and I was asked to talk in Loucheaux, but since I see this waste of time. Before I go on, like you mentioned I was chief in Council, elected council, '60, and I served three terms of being the chief in ten years, and I was back in last two terms, by true acclamation, and three years of that ten years I was appointed with the Territory Council. In that three year it gave me a more and upgrading education from leaving school halfway through Grade 3, and in that three years with all I see and with all I've heard, it raised me a little higher to speak in public. But since us native people living in this country long before, many years before white man came, with all what our grandfathers told us what it was like, this is something really meaning lots to us, and since a lot of different activities came into the north, and the change that we see in our time is really educational.

Since 1926 is about the time I have a memory from, I have seen a lot of change. The living of the people in the country was great. How it was is not the same. I was brought up in the country and I lived in the country. I lived in Fort McPherson and I lived 50 miles south of McPherson on the Peel River, a little place called Rope River. I lived in the Yukon. Living there last 30-40 years with all the change I see, and the change that I see in the Mackenzie Delta is really something that we could say that it's not the same before the white man came.

The delta is so badly cut up that the amount of rat that come out of the delta I don't think we'll ever see that again, and if we do see it, we'll be glad and thankful that it came back.

The amount of game that was in the country are not the same, and trapping is not the same. The government said, "We're going to give the people better housing," and they gave the people better housing. This is something I was really opposed to. Instead of giving the houses to the people in the community, they should have given the people their houses out in the country where they could stay and carry on trapping.

I say this because I lived in the bush all the time, and all the people that used to live out there are not

there. Only thing they do, they go on a hunting trip from a community. So this is where the mistake is made.

Since a few years back, after the oil and gas activities taking place, we hear about different places, discovery on gas oil and this and that. Then we heard about the gas pipeline. The people that want to put the pipeline through are concerned with pipeline. So there the Indian and Eskimo this country say, "They're going to put that gas pipeline through," and then the people are concerned about their living. What's going to happen? Is it going to do good or is it going to do bad?

We have people here that just have a very short time of notice and just four days ago I was notified that I could be here; but if I was given a little more time I would have had something in writing that I could bring; that other people did bring. I didn't have the time so little I have to say about this concerning the pipeline the country and the game and this and that.

There's other things about Seismic I know. They been all over the country and there's a lot of places where they were tearing things around and it's now the Game Branch and the Forestry are taking care of this; but there's few places where we do know there is tanks, empty drums lying around, and there's all sorts of these things all over the country. So this is doing a lot of damage to our country because what we know was there before is not as plentiful as it used to be, and like I said, if I had the time I would have said more, but I didn't so -- Mr. Commissioner, it's very nice that we have you here today, and me having the opportunity to sit and talk to everyone.

THE CHAIRMAN : Thank you very much.

I'll call on Mr. Neil Pascal, the secretary for Fort McPherson now.

MR. PASCAL : I've just got a few points that I would like to mention, although it was mentioned in briefs submitted by COPE and also by various speakers this morning.

I believe that native people in the north are not ready for a development such as the pipeline, and there should be a paced development only after there is a land settlement which must be satisfactory to the native people in the Northwest Territories. A development such as a pipeline can harm the native people socially and economically. I do not think that the hiring of a large number of native people for approximately three years justify the building of the pipeline. We are facing a serious situation already, social impact. Communities such as Inuvik and Fort Simpson are examples of what we are to face.

It has taken Canadian Gas Arctic a number of years to gather information regarding a pipeline and in all fairness, I think that the various native organizations be given more time to look through that information available and to get the information to settlements who will be affected by the pipeline. To do this the native organizations must have funding. It seems that the government is willing to fund various exploration companies which bring

problems to the communities, and yet we have very limited funds to try and correct these problems. As a native person mentioned to me that the value of money has overcome the value of human life.

In closing, sir, I'd like to say I do not think native people should have to be forced to adjust to development; but development adjust to the native way of life. Thank you very much.

THE CHAIRMAN : Thank you, Mr. Pascal.

Now I'll call on Mr. Robert Andre.

MR. ANDRE : Mr. Commissioner, it seems that everyone is concerned and I myself am pretty concerned about the timing of these hearings. The time that concern individuals and groups have in order to prepare a proper presentation so that this is a sort of personal plea to you, Mr. Commissioner, that you consider seriously the following two points in your deliberations:

- (1) Due to the time factor for all concerned to obtain the necessary information and to prepare ourselves properly it will be strongly recommended that hearings of this sort do not start for one year.
- (2) Places to hold these hearings : I would not suggest but demand that these hearings be held in every community along the right-of-way of the proposed pipeline.

The reasons for this is that people in the communities will be affected directly or indirectly by the proposed gas pipeline and their views should be considered.

I hope you will take these seriously, Mr. Commissioner. Thank you.

THE CHAIRMAN : Thank you very much, I'll now call on Connie Hunt, who represents the Inuit Tapirisat of Canada ?

MISS HUNT : Thank you very much Mr. Commissioner.

I am speaking this morning on behalf of Inuit Tapirisat of Canada, and I should explain at the outset that the I.T.C. is a national organization which represents all the Inuit in Canada, not only the ones in the Northwest Territories, but also those who live in Quebec and Northern Labrador.

You have referred to the fact that this enquiry is unique in Canadian experience. In many respects it is unfortunate to say that the approach which you have stated is also unique, that is you are willing to listen to the views of the northern natives. Historically and at present most frequently the Inuit have only been on the receiving end of decisions and they have continually been denied access to decision-making processes and have been denied

participation in developments which are taking place upon the land where they have always used and they have always occupied. It is our sincere hope that this enquiry will set a new trend and one that will be followed in the future.

The I.T.C. welcomes this opportunity to respond to the guidelines which the government had formulated, and submitted a lengthy response to the pipeline guidelines in December of 1972. A great deal of time, energy, thought and resources were put into this response. A number of very serious objections were raised to the pipeline guidelines. To my knowledge, no response has ever been received from the government to this critique of the pipeline guidelines, and it is unfortunate to say that this seems only too typical of the approach which has been adopted by government, namely there are constant promises and statements made that native people will be consulted, and then this is the kind of response which is given when native people endeavor to respond. That is they are ignored, the policies which are stated in this case in the guidelines themselves are not put into practice.

You have a situation in the guidelines where a definition at the beginning includes -- defines native people as Indian, Eskimo and Metis, and yet the only place in the guidelines where there is reference to land claims and treaty rights refers only to Indian people. Possible it may be argued that this term "Indian people", because of the interpretation which has been placed on that term in the British North America Act in which it is interpreted to include both Indian and Eskimo, perhaps it could be said that in the guidelines then Indian land claims and treaty rights includes all native people.

However, because of the fact that the guidelines themselves define "native people" at the beginning, and then later on use a different term, "Indian people", I think the assumption can be drawn that the government intended in this way to exclude the land claims and land rights of Inuit people and this kind of approach is totally unacceptable to the I.T.C.

We feel that the land claims are included as a part of 1972 guidelines, and the arguments supporting this are in the fact that any introduction to the social guidelines, there is a reference to the 1970 guidelines where it has been stated that any certificate granted would be conditioned in respect to the protection of rights of northern natives.

The I.T.C. is amazed and astounded that the government would adopt this kind of tactic a definition of this nature, and in essence hereby tell the Inuit people that their land claims and their land rights are to be treated differently than those of the Indian people. This objection was specifically raised in the submission of the I.T.C. to the government concerning the 1972 guidelines, and to date there has been no response and no amendment to the guidelines.

The I.T.C. has continually requested a freeze on all development in the north until settlements of the Inuit land claims. The government has constantly refused this request

and has insisted that development must proceed. Our position simply is this, that no project like the pipeline must proceed until the Inuit have achieved a satisfactory settlement of their land claims.

Turning to the question of the time framework within which this enquiry should operate, I would like to say again that we fully support COPE's position on this question, namely that no hearings should commence until June of 1975, and there are a large number of reasons why it would be totally unacceptable for the hearings to commence before then. It is felt that the Commission cannot carry out a full and complete enquiry into these questions unless the hearings do not commence until June of 1975.

The people this morning have referred to, in some detail, the process whereby they wish to consult people in the settlements and to get their views to help them to understand the implications of the pipeline, to assess the material which has been prepared for several years by Gas Arctic and by the Canadian Government, and all these matters will take a great deal of time in light of the communication, transportation and cultural differences.

The documents, it has been suggested by Gas Arctic, are written in a narrative form so that they will be easily understood. They may be written in a narrative form, but it must be remembered that they are written in English, which is not the native tongue of most of the people of this region, most of the native people; they are written -- they are couched in ideas and concepts which though familiar to people who live in the south, are not familiar to people with a native background.

In terms of general principles in which the hearing should be conducted, the I.T.C. would submit that the hearings must be completely open with full access to all material which has been prepared by Gas Arctic, by the government, and eventually by the Assessment Group; and on the question of making resources available.

It has been stated this morning that the native organizations in the Northwest Territories have received funding of up to \$1 million, and if I did not misinterpret the speaker I believe the implication might be that the native organizations have received a lot of money. That may be the case, but I would like to point out, for example, the money which has been received to date by the I.T.C., one large portion of the funding which has been given to the I.T.C. was for the purposes of carrying out a land use and occupancy study for the entire Northwest Territories, and this is a massive imperial study which has never been undertaken anywhere else in Canada.

This particular study of the land use and occupancy study is something which is going to be of significance, not only to the Inuits but also to everyone in Canada. The fact of the matter is that although native organizations may have received what may appear to be a large amount of funding, these monies are being expended

on particular projects, many of which are very expensive and very time-consuming.

In closing I would just like to make a point that when the Canadian Government opened up the west in the late 1800's with the building of the C.P.R. Railway, which was a very massive project at that time, and in many respects is comparable to the proposed Mackenzie Valley Pipeline, at that time the Canadian Government paid very little heed to the concerns of native people about their lands and about their land rights.

We might ask ourselves what the result of that was, and the Riel Rebellion which took place in Saskatchewan in 1885 and 1886 were in many respects attributable to the treatment which had been meted out to the native people, and I think that we should realize the mistakes of the past and not make them again at the present.

THE CHAIRMAN : Thank you very much. You've raise the proper interpretation of the pipeline guidelines.

Do you wish to say something now?

You are certainly welcome to.

A VOICE : Mr. Commissioner, I would like to say a few words, and that is concerning the enquiry that's going to be held in the communities. Can you give us, 1975 start sometime, give us more time than that in the communities, because see, the people don't understand what the pipeline, the highway and exploration crews are -- the poor people, I'm talking about, the trappers and hunters. I might understand it or they might, everybody here, but the people that are living off the land, they don't understand a single thing even though there are people coming in there and having meetings. You know, they don't go to meetings, trappers - hunters don't go to meetings, they're living off their land, they got to think about next winter's stock feeding, next winter, you know, get ready preparing for the trapping.

Also I'd like to suggest one point, like I heard the Brotherhood is trying to get some funding. I think the people right in the communities, they should be the consulting team, the native people, not Brotherhood or Gemini North or people like that because they don't understand either. See, they come from Yellowknife they go into communities, they have meeting one day, fly out, write up their report, and that's it. That's what that 70 pound of material is, part of it. I think that native people even me, I'm getting tired of white people studying us; why don't we study ourselves and write up a good report, then we'll have some really good material, something that you don't have to have CARC to analyze. It's done right by the native people.

Another thing, I know a lot of people are afraid of the pipeline because you see, maybe 15-20 years ago exploration company started in the delta area and a lot of places they, you know, dam, they go across a creek, they plug that creek up and then

there's no fish or no fresh water when the flood comes there in the springtime, just that stale water is there, and rats and beavers die, fish, and they're afraid of the pipeline. You've got to do more study on it than just coming there and say, "Oh we got 70 pounds of material here, go ahead, go through with the pipeline". They don't understand it. Even the people that wrote that 70 pounds of material, they don't understand one single thing about the north. They're just trying to make it as a, you know, a trial thing, it works or it don't work, doesn't matter, go ahead with it, oil pipeline later on.

That's all I have to say, thank you.

THE CHAIRMAN : Miss Carney, do you wish to make your statement ?

MISS CARNEY : Mr. Commissioner, I want to make it very clear that this letter that is being submitted by ourselves as northern operators and it is not on the initiative in any way of Canadian Arctic Gas, for whom we have done work. We clearly cannot appear as interveners in an application in which we have been so closely associated.

However, it is prompted by the many requests for research funds which was made at the Yellowknife meeting by southern interest groups, such as CARC, and we wish to bring to your attention the fact that these organizations do have other sources of funds in the south. However, funds in the north for research are very limited, not only for the native associations but for the municipalities who can't, in many cases, afford sewer and water systems or fire trucks, let alone research projects.

Our company is an economic research firm with headquarters in Yellowknife and has engaged in a number of research studies in the Northwest Territories and the Yukon. We have also served as socio-economic research consultants to Canadian Arctic Gas Study Limited. In view of the many requests for research funds by different groups at the hearing before the preliminary hearing in Yellowknife, on the application for a pipeline right-of-way, we would suggest that priority be given to requests for funds to finance meetings in communities on or adjacent to the proposed pipeline route. In our professional opinion, such meetings are essential if northern residents are to have any meaningful input into the main hearings and to take precedence at this stage over requests for funds from southern interest groups.

That's all. I hope Mr. Itsi agrees.

THE CHAIRMAN : Thank you. Does Mr. Goldie of Arctic Gas wish to say anything ? There are people here who were not at Yellowknife, you might feel free to repeat anything that you said there to clear up the points that were made by those who have spoken this morning, the timing and form of the hearings.

MR. GOLDIE : Well, I'd be glad to, Mr. Commissioner, if you thought it might be of any use. I think most of the people -- I shouldn't say most of the people -- a number of the people

who have spoken here were either present at Yellowknife or they spoke briefly at Yellowknife, and I wouldn't want to repeat everything that I said, but I did say that assessing the job ahead of you, I thought that a series of informal -- and I think we adopted the word "community meetings" -- would be appropriate this summer, and that a more formal meeting or hearing would be appropriate following the reception of the Assessment Group's report, and it would be those series of meetings or hearings of a more formal character at which the cross-examination of the technical and expert witnesses would take place.

I envisage, and I think I said that I would make a more formal, complete submission on this point in Ottawa, but I envisage the informal community hearings would provide you with a very substantial body of knowledge with respect to the question of impact, and that the more formal hearings after the receipt of the Assessment Group's report, would assist you in measuring the degree to which the proposals of the pipeline company met the expanded guidelines.

THE CHAIRMAN : I think that what we ought to do now is adjourn for lunch.

THE CHAIRMAN : This afternoon I will ask Mr. Harold Cook and Mr. Neil Collin and Mr. Thrasher and Dr. Pimlott of CARC to proceed. I will start with you, Mr. Cook. You will just state for the record who you are, where you come from.

MR. COOK: Well, I come from Fort Good Hope, and I work with the Indian Brotherhood as a researcher in the delta area. We're working on a land occupancy study.

On these studies I believe that the hearing should be conducted in the communities. Furthermore, I believe that native people, the traditional native people of this land are the best ecologists that you can ever have.

Here you can have a study far more valuable than what Canadian Gas Arctic is spending in biological and ecological studies.

The experience of the native people, I believe, should be used much more, the resources that they have. The oil companies concerned I believe, collaborate with other industrial companies to maintain their valuable pipeline for example Great Bear hydro power, wanting to supply electricity to the pipeline. I believe there should be better socio-economic studies done on the impact that will involve the native people.

I have written up a poem which I think is maybe typical, maybe sounds a little drastic but I don't -- well, it's the people we're concerned about and I have written it up, this poem here :

"Great White Father sends us presents from Ottawa,
 he wants pipeline and highway,
 But father comes with machines to steal path
 for pipeline before native people say 'Yes' or 'No'."

In closing I want the people here to ponder a question or thought,
 which is worse - physical or cultural genocide ?

That's all I have to say.

THE CHAIRMAN : Mr. Collin, do you
 wish to add anything to what Mr. Cook said ?

MR. COLLIN : Yeah. I was born in
 this country, I lived here all my life in Mackenzie Delta, and I
 worked and always with my own people, social people in the Mackenzie
 region, and I been travelling Aklavik and Fort McPherson, Arctic
 River and also here in Inuvik, and I talked to lots of native people
 all the time. What they wanted is they want study more on pipeline,
 and what they really want is they want to settle land, and then bring
 the pipeline. They also say, "This is our land."

That's all I got to say. Thank you.

THE CHAIRMAN : Thank you, Mr. Collin.
 Mr. Thrasher, do you wish to say something ? Come up here so the people
 can hear.

MR. THRASHER : The meetings that
 you're going to now, is that the only ones that you're going to now ?

THE CHAIRMAN : Well, I visited
 Tuktoyaktuk yesterday, and I'd like to go there again; but if you want
 to tell me now the places you think I should visit along the Arctic Coast,
 go right ahead because I'm here to listen and to find out what you people
 think about where I should go.

MR. THRASHER : Well, there's a lot of
 communities. Maybe if you could have a group that you could form that
 would go and spend at least, oh, three or four days, depending on the
 size of the communities, you know, explaining to them, because it's
 really hard to get some words across like for land claims. That's a hard
 thing to settle, I should imagine -- one of the first things.

I was talking to Chief of Aklavik and he
 told me one of the first things he wanted me to tell you is that before
 the pipeline goes through the valley, that part of the Mackenzie Valley
 especially where the caribou ranges are going by, the land will have to
 be settled first. He wants it that way. He's not the only one who is
 asking for that, many other natives are also, including the Eskimos want
 the land claim settled first, then the pipeline. That's very important
 to him.

Then there's something else you should
 also know. When the people come to the meetings to the communities, he
 explained to me that it's not going to be just formal "yes" and "no",
 there will be some people getting and complaints of how it might be in

the future for their children, how it is going to affect them, what kind of work they want to have for their children, and how they think the children should live, because since the last few years things have been changing quite a bit. Even we have had to go to school to try and understand people like you when you come into this country, so that I can understand. Somebody else will, too. There are some going to school. We know it's important to try and understand you.

THE CHAIRMAN : Yes, well thank you very much, Mr. Pimlott ?

MR. PIMLOTT : Mr. Commissioner, I am the resource worker that's been referred to this morning in COPE's brief. I am working in this part of the Arctic at the present time as a resource worker with COPE, and my services are provided by the Canadian Arctic Resources Committee, and I wanted to speak just very briefly about the Canadian Arctic Resources Committee and what I think the presence of the Committee and southern oriented interest groups might mean in terms of northern people, and particularly northern native people.

- The Canadian Arctic Resources Committee is certainly the first to recognize that when consideration of support for work which is done here, the native people's interest must come first. There is just no question about that.

The other side of the question is that sometimes things like that can be said and they don't always mean quite the same way that they sound. Sometimes it has been made clear to me in the months that I've been working here, that sometimes the native people feel that when white society is speaking about how they can be helped, sometimes the things that are being proposed are being proposed to divide them and cause them more problems than really cause them help. I think, in thinking about such things as the application of Canadian Arctic Gas, that this is part of the thing, one of the things that must come into consideration.

So I'm saying that in fairness to the review of the application, the interests of the native people in the north is particularly concerned but there are interests that reflect all of Canada and there is expertise and people who are capable of doing the work from many different parts of the country, and if their input was not available to the people of the north, consideration of the application could only be -- would only be incomplete.

On the other side of the question of the Northern Affairs the environmental aspects of the interests of the Committee. We have worked very hard to bring into perspective the need to protect the northern environment in the course of developing the north. In many cases it may be possible to have development and to protect the environment, but this has not been the habit of our society in the past. We've been inclined to seek development at any

cost, and the role or the attempted role of the Canadian Arctic Resources Committee is to try to bring focus on these questions so that the people of the north and the people of all of Canada can see what is possible in maintaining an environment and in bringing development of the north into a reasonable perspective, both with respect to time and with respect to interest of the native people.

Thank you.

THE CHAIRMAN : I understand that Mr. Holman, the Mayor is here and wishes to say something.

MR. HOLMAN : OK., thank you.

On behalf of the elected Council of the town of Inuvik, at the preliminary hearing of the Mackenzie Valley Pipeline Enquiry, I would like to table this brief for your consideration.

THE CHAIRMAN : Would you like to read it, sir?

MR. HOLMAN : If you wish.

1. The Town Council unanimously concurs with the proposals submitted by Inuvik & District Chamber of Commerce. Also,
2. Hearings should be held in settlements in the Valley, which is the area primarily affected by the development. We felt that having hearings at Yellowknife was similar to Toronto Council coming to Edmonton to discuss the extension of the Spadina Expressway.

(LAUGHTER)

3. Hearings by the National Energy Board and Department of Indian Affairs and Northern Development should be held without an unreasonable lapse of time between them, so the subject matter may be carried over from one to the other.
4. That verbatim reports be made available to all who wish copies within the next 36 hours of their presentation.

THE CHAIRMAN : Thank you very much. Now I'd like to ask Dr. Fyles, leading the Assessment Group, a group that is assessing Arctic Gas pipeline application, I'd like to ask Dr. Fyles to tell you about the group and the work he's undertaken.

DR. FYLES : Thank you, Mr. Commissioner.

The Pipeline Application Assessment Group of course is a governmental group which has been assigned to appraise

and review the Canadian Arctic Gas application, in terms of the socio-economic, environmental implications of the proposed project within the Northwest Territories and the Yukon. The assessment is designed to be generally useful to governmental agencies, both federal and territorial governments concerned with the application. These agencies presently lie within the Department of Indian and Northern Affairs, Department of the Environment, Northwest Territories and Yukon Territory Governments. Also it will be useful to the National Energy Board and to this enquiry.

The group will proceed independently in doing its task. Findings will be released in a public report. These findings will not be binding on any group or agency, but various groups may choose to use or to adapt these findings to meet their own interests and their own responsibilities. The group operates under and reports to the Environmental-Social Committee of the Task Force on Northern Development. It is, however, separate from the Environmental-Social Research program. It is not tied to the findings of that program, rather it would draw upon all previous studies and all presently available information.

In conducting the assessment particular attention will be paid to the environmental and social concerns set out in the 1972 Guidelines for Northern Pipelines.

The group has been brought together to take advantage of expertise residing within the government and use the available specialists in a co-ordinated way. A core group has been seconded on a full-time basis for various agencies such as Indian & Northern Affairs, Department of the Environment, Energy, Mines & Resources and the Territorial Governments. This core group will have access to a variety of additional specialists and is to draw upon them for short periods as and when required.

THE CHAIRMAN : Anything else you wish to raise at this time ? Does anyone from COPE wish to ask any questions of the Assessment Group ?

MR. PLIMLOTT : Yes, I am now speaking as part of my work as resource worker with COPE and we would appreciate having more understanding of the way the Assessment Group operates, just who the Assessment Group represents. Does it represent the Government of Canada? Does it represent the Department of Indian & Northern Affairs? To what extent does it directly represent the interests of the Department of the Environment and the Territorial Game Service ?

DR. FYLES : I'll try to respond to that. As I said in my statement, the Assessment Group is to do a job independently. Although the people on the Assessment Group have been seconded from several departments, to as large a degree as possible they are there as specialists working as a group rather than as representatives of their parent agency whose views are to be brought into the group. The basic exception in this regard are the two Territorial Governments who have a very special interest and the people from the Territorial Governments must wear two hats, that is they must take part in the assessment work of the group as individuals, and must also keep their ears and eyes on problems that are concerning the Territorial Government; but apart from that function the members of the Assessment Group are there to work as independent

specialists to help reach a consensus of opinion, an assessment of the application, as objectively as it can be done, and not specifically reflecting the point of view of any particular agency or government.

A VOICE : Mr. Touchard, I'd like to outline the fact that COPE feels that this is a matter of very great importance. Now Mr. Prescott is known to some members of the organization this role he has played it is obvious he is a respected member of the service. His field experience, however, does not lie very strongly in the region of the Delta-Beaufort Sea area. The Canadian Wildlife Service comprises many people who have done very intensive work on caribou, on waterfowl, and it is extremely important in the opinion of COPE that the resources of these people be freely and readily available to Mr. Prescott. If this is not done, COPE doesn't see how Mr. Prescott himself can do an adequate job of -- in assessing the validity of conclusions which may be drawn which related to these areas, where other people have a very long experience.

MR. PLUIM : It seems to me that the main topic that has come up this morning was the funding of various groups and organizations and more research, and I speak on behalf of the Chamber of Commerce in this respect. We feel, "Let's get on with the thing and put our money into helping the needy people, preparing them for when the pipeline comes". The more research we put into this, the more money it's going to cost us, and the more delay. The delay in the end is going to be so costly that we, the citizens of this country, aren't going to be able to afford it. Let's put our money to some practical use instead of funding this and funding that, and getting no direct results.

THE CHAIRMAN : Well, anything else anybody wishes to say ? Yes?

MISS HUNT : I have a couple of more points.

In the first place I would certainly take issue with his statement, "when the pipelines comes". I think it's clear that there should be no assumption that there's going to be a pipeline. One of the purposes of this enquiry is to investigate the impact.

I disagree with his suggestion that no further money should be spent on resources for research. I think that if we want to use the word "practical" as he has, that it's a very practical way to use money because how else can people properly consider the whole question of the pipeline unless they are given an opportunity to use resources, to do their research, to do their assessment of the pipeline? Without that there cannot be a full consideration of all the issues which concern people.

The second thing, just on the question of funding I believe you mentioned at least in your own mind the possibility that requests for funding should be put before you and I was just wondering if that is your firm position ? I would suggest that in view of the time given to this hearing that that's just too soon.

THE CHAIRMAN : Well I can't make any commitment at all about the question of funding, but it would assist me in considering that if any organization that is seeking funding will let me have by May 6th, in Ottawa, an outline at least of what it is that is sought. Do the best you can by May 6th. You have had some time to consider the personnel you might need, the studies you want to undertake and you may have some idea of the expense, I don't know. If you would consider those matters and be in a position to let me have them, at least a kind of outline by May 6th, then it helps me to consider the whole matter. That is what I said in Yellowknife, at least that is what I intended to say.

MR. REESOR : COPE shouldn't feel too badly about having three weeks to prepare, they got a letter. Unfortunately we didn't receive one. I noticed in the paper that these hearings were being held, so we are here.

THE CHAIRMAN : Can you tell us Mr. Goldie whether the further studies, the socio-economic study that you have mentioned, if it is going to be substantial ?

MR. GOLDIE: Mr. Commissioner, I am instructed that the socio-economic study to be released or -- is in the course of being printed, is the back-up material for Volume 14C of the application. It contains, as it were, the raw material from which this volume was taken. It is prepared by Gemini North and it will be a fairly substantial volume about the size of a couple of hundred pages, I would think.

MR. BLAKE : I would like to comment back on what was said by Colin Allen this morning concerning the trappers and the outlook of the trappers.

Now, as the natives of the Delta here we rely on the Delta -- he said before these seismic lines come through like, this morning Chief Tetlich from McPherson said so about the seismic lines. We got this in our minds that a lot of times even though we are wage earners we rely on the land for our livelihood at times when there is change in our life style.

When we go back to the land we rely on the land as a bank. We have work to draw the cheque out of the country -- like fur or muskrat or something like that. Also the land, out in the land it is also your deep freeze and the food is out there. When I talk about -- I am trying to keep this short, when we talk about food prices today. The prices of beef scares me sometimes. Some day, if we damage the environment of the northern people I am pretty sure that we can't afford to buy the beef to feed them. So we are going to have to, along the line, benefit these people along the line, where they will always have access to use their own food, country food in order to survive. I think it is very important.

THE CHAIRMAN : Does anybody on this side of the table wish to add anything?

MR. ALLEN : I would like to say a few words about this native rights in the north. The northern people live off the land they work the land for a living. The oil companies come in and want more land and more land. There is only a limited income to be got when he is trapping furs. Some of the time you have got nothing, see. The trapper works pretty hard all the time. Maybe three or four months and get a muskrat, and good muskrat trapping and the rest of the time during the summer he can't get a job. He has never been to school, he can't get a job. He is a trapper. The only income he has got is from trapping and the rest of the time he has no work coming. The land is destroyed by the white people. The white people get big money out of the land, that is what they do, out of that trappers' land. The poor trappers, he don't work for anybody it is only a little money he has made out of the land.

That is what I think.

MRS. STEWART : Mr. Commissioner, I have listened with a great deal of interest to the comments made here today and it seems to me that this has developed into a war of words. On the one hand we have people saying we must have our land claim settlement and at the same time more or less deterring any steps towards progress and development in the north.

On the other hand if you look at the future it seems that if we stop progress and development in the north we in fact destroy the economy of the north. The people from COPE, the Inuit Tapirisat and the Native Brotherhood have stated they would like self government. Without these resources in which through royalties, taxes etcetera, there is no way there will ever be self-government in an area which cannot support itself and without development of the natural resources there is no way you can accomplish that.

The statements have come out that big business and southerners coming into the north with the attitude that we do not think the native people are entitled to this funding. We do in fact think they are entitled to this funding, however, we are not seeing anything coming out of that funding. They have not, as yet, presented to the Government what their land claims are, what exactly they want and they have been collecting these fundings for number of years and they have nothing definite, no definite position from them on what they actually feel they want.

I don't think there is anyone in this room today that they can say that they do not want to see an effective, just and equitable settlement for the native northern people in the Northwest Territories. They feel it is their just right to do so. But it is not the government that is holding up the land claims issue, it is in fact the Indian organizations will not -- are not prepared to present their case at this time but must have additional funding to go on and on and on. I would surely like to know for how long the people must contribute to this funding? While we are investing our money in the north we are also investing our money into their funding programmes because it comes from us basically in taxes etcetera from the Federal Government.

We don't deny them the right to research

their claims, but how long is it going to take them to decide exactly what they do want.

MR. CHAIRMAN : Well I think that I can say that I found the views expressed here at Inuvik very helpful. I will bear all that has been said in mind in making my decision in due course about the way we are going to run this inquiry.

MR. THRASHER : There has been some comment on why the natives want government funding and also why the natives want to state their reasons. Mine and oil companies want power, they want oil, they want gas. We know that is what they want very much. In order to get that they have to go through the native lands and land claims, they have to first settle the land claims. You will hear someone say, you know, this year we will work for a hundred and fifty dollars, but they will get about ten in money. And maybe in the same year he is going to get another fifty wolves, or maybe his son will go out and get about a hundred mink. That is worth maybe fifty dollar each. Some years are very good, some years are bad. We depend upon the good years. During those bad years the stock, like your own livestock on the farm in the same way, depleting them in the same way. The same with the muskrat, some years the muskrats are good and sometimes they are no good. Say, for instance, if you say for just one good year in the whole Mackenzie Valley, in the whole Mackenzie Valley, say that this is at least a million muskrat, they are worth about five dollars each. Now that is what it is worth. That is the interest the native want to claim.

The caribou, I don't know how many thousands of caribou there is out there. Well we have to buy our foods from the stores. I remember when I first came to this country right here, I mean when I first started working in Inuvik, I used to get some food from around here, you know, like moose, rabbit, something like that. Especially moose, right here, right in this town, and now they are all gone. There was nothing once in this town when I first started. In fact you see our roads out there. Just about all the roads I built them. Now there is research, oil companies coming in, mineral inspectors coming in. More and more. Government is coming in, and us, we are being pushed out you know. That is what the natives think.

Now there some research coming in to any one of these aspects, something should be done, or money to be -- we need funding, you know, an organization like COPE, it has been on for how many years now, three and a half years, there is a Chairman or president, vice president and secretary and they haven't been fooling around, they have been working very hard. Long hours too. Flying hours travelling hours, office hours.

I sometimes even have to do work on my own time, spending my own money. And I am not the only one doing that too. I bet you some of the other guys as well.

Land here also, we know it takes a long time to grow once it has gone down. Years. Also noise pollution bothers animals we know that. Just a little drop of oil in one lake it will kill a bunch of flies and they will be dead when the fish come to take

them and that is it, the fish is gone too.

The reason why the natives want to save their interest is that they have made their living for a long time. The natives are the ones actually who worked and opened this town too. They worked and laboured before most of us here come. It was their land and still is.

Exploration is coming, it is coming, we know that.

The guys that are living in town now, the natives, still go out and hunt, get a few muskrats, and a few mink, some caribou meat, so as to save a little for themselves. The wages aren't too high either. Some of them are very poorly paid.

They know how much money the white people are spending. The natives knew how they made their living and there is sort of a transition of the old way there and the new way coming now. There are some still in the old way and want to stay in some way.

We will give a little, but the government will have to give a little too, or whatever company or whatever people who have interest in business will have to give too. Give a little.

I think that is about one of the ways that it is going to be worked out. For them to give a little and we will take a little. We have got lots of shares in this country. The natives have got lots of shares in this country.

The kind of furs, mink, foxes, all kinds of -- there is about four different kinds of foxes in this country. Polar bear, that is worth a lot of money too. Caribou hides is worth quite a bit. The meat is worth lots of money, the moose is worth lots of money. You take the mink, lynx and the wolverine is worth a lot of money and you get on top of that, lot of rabbits and muskrats. Muskrat meat is very good.

The fish in the country is worth lots of money. There is at least twenty species that I know that live in this country and breed. Some are getting less and less. I am sure the only way it goes is with more exploration. We are learning and we know what is a right of way, what is an easement. A right of way for some people to go through, like for instance, someone going through a farmers land. We know about that now, but not all of them, just a few know about that.

Funding will be important to us and so are the meetings. I have lived in this country a long time. I was born in this country. I know the people. I know the people that come from the south and I know what they do and I know the people that lives in this country how hard they have it at times and how easy it gets at times.

So I hope that what I said about the native interests I think is worth just as much as the interests of the south. I think so.

THE CHAIRMAN : Thank you very much Mr. Thrasher.

Now Mr. Goldie.

MR. GOLDIE : Mr. Chairman, this is a meeting for the purpose of endeavouring to assist you in determining procedures to be followed with respect to the main meeting and I sometimes think we have lost track of that objective a couple of times. I simply wanted to say that I hope it is obvious to everybody here that the pipeline company seeks to build this pipeline because it believes that both the north and the south of Canada is going to benefit. There is a need for more natural gas. There is a need for more jobs and a better standard of living while protecting the traditional standards that are found in the north. It is the pipeline company's belief and it has put forth the application on the basis that these objectives are all met.

MR. PIMLOTT : Mr. Commissioner, if I might, I would like to make one representation for COPE and a brief personal one.

With regard to procedures of the main hearing. At Yellowknife there was an intervention made by Andrew Thompson referring to the possible, or the need to include material relating to the potential socio-environmental impact of the hydro Great Bear River project. I believe at that time, Mr. Goldie suggested that since this was not a portion of the applicant's submission that this was perhaps not of direct concern. As far as the Delta and as far as COPE's region is concerned there is a matter which COPE would submit, and this is a point which Mrs. Cornoyea was leading up to, sir, when I think you cut her off by presuming that you knew entirely what she meant to say when she was referring to pipeline feeder lines. As we all know the pipeline is being planned to take advantage of the proven reserves of gas in the outer Delta and particularly those which are located on Richards Island, and also in the vicinity of Parson's Lake.

Well in the environmental statement, 14D and in section 410-5 where it refers to gas production and processing facilities. It seems very obvious to COPE that the applicant's submission should have included material which related directly to the -- not just to the main trunk of the pipeline itself, but to the feeder and processing facilities which will extend very widely through the Richard's Island area. This is a very important area to the trappers of Tuk. It is used by the trappers of Aklavik and even some from the Inuvik area sometimes trap on Richards Island. The applicant's submission, it is my understanding from the limited work that we have been able to do on it, that it does not really do more than to go to the end of the main trunk pipeline. The gas which comes in from the various places in the Delta will likely have to be treated for impurities such as, sulphur compounds, or partly even for the removal of water. If it is coming in, for instance, with a high water component that gas may even have to be kept at fairly high temperatures until it reaches the treatment facility to keep the water in a form which is not destructive of the transportation facility.

All of these things have potential socio-economic and environmental effects. They relate directly to the pipeline application. Since the application is based on the presumption of the availability of those supplies, the applicant must surely have been ready to make a submission which relates directly to this.

The personal statement which I wish to make, at your pleasure, is that these meetings have a very direct benefit for you and I think it is very very important that they not end on an entirely erroneous note, which was conveyed by the lady who spoke about what the government has done to provide money for native organizations to study their claims. As a southern white, a displaced southern white, I feel very strongly that a member of white society should not give such an erroneous concept. It may have been brought out at the hearings in Yellowknife, but it is not true that the Indian Brotherhood has received any money for the study of land claims. The Federal Government has been haggling about this question for a couple of years and no agreement, up to this point in time, for funds has been signed by the Federal Government. The Indian Brotherhood has not received one penny up until this time.

The I.T.C. has received money, is pursuing this work very actively, very aggressively trying to bring it to a conclusion. This is not the case with the Indian Brotherhood and it could not in any sense be said that the I.T.C. is in a position where it could negotiate if our society wishes to have those negotiations done on the basis of reasonable knowledge of present and past use of the land by native people. I think that we must put that on the record that such an impression should not be the final one that was left before this meeting.

Thank you.

THE CHAIRMAN : Well I think that we are getting into some of the very important questions that are going to arise at the main hearings. I think that I can say that whether you spoke last or second last or right at the beginning I have what was said by each organization and each individual in mind. I hope you will remember that.

I am going to declare the hearing adjourned until ten o'clock tomorrow in Whitehorse.

(PROCEEDING ADJOURNED TO APRIL 25th, 1974)

Whitehorse, Yukon Territories,

April 25, 1974.

THE COMMISSIONER : I am Mr. Justice Thomas Berger and I have been appointed by the government of Canada, by Order-in-Council dated March 21, 1974, to conduct an inquiry into the social, environmental and economic impact of the proposed Mackenzie Valley natural gas pipeline.

Today I want to hear the views of any of you who wish to put them forward regarding the way in which this Inquiry should be conducted. Our proceedings will be informal, please feel free to remain seated while you speak, or to stand, whatever makes you feel most comfortable. We won't be swearing anybody in or anything of that sort. This is just an informal discussion and I want everyone to feel free to say whatever is on his mind.

Mr. Lueck, would you like to introduce yourself and the other members of your party and carry on from there? Will that be satisfactory?

MR. LUECK : Certainly, Judge Berger. To my immediate left is Chief Elijah Smith, the head of the Yukon Native Brotherhood. To his left is Joe Jacquot, a Representative of the Yukon Association of Non-Status Indians. Directly to the left of Mr. Jacquot is Charley Abel, Chief of the Old Crow Indian band in the Yukon, and on the end is Johnny Johns, a member of the Council of the Yukon Indians, also a Representative of the Yukon Association of Non-Status Indians.

THE COMMISSIONER : Before we go on, if anyone at the back has difficulty hearing, there are seats in the front if you wish to come forward and sit a little closer to the front.

MR. LUECK : Would you be now prepared to hear the Brief of the Council for the Yukon Indians ?

COMMISSIONER BERGER : Yes, certainly.

MR. LUECK. : Chief Elijah Smith will now read it.

CHIEF ELIJAH SMITH : Honorable Berger, The Council for Yukon Indians is an organization which represents all Indian people in the Yukon Territory with their ancestral rights to the land. It has been specifically set up to negotiate with the Government of Canada for these rights.

The position of the Council for Yukon Indians is that there shall be no major developments in the Yukon Territory before the settlement is made with the aboriginal people concerned.

It is realized this preliminary hearing is not to consider the position but to set the ground rules for the hearings in the fall of 1974 so that all interested persons can be heard.

The Council for Yukon Indians proposes that :

1. That every community along the proposed pipeline route in particular the village of Old Crow, directly affected by the building of such a pipeline, must be visited by the Honourable Mr. Justice Berger in person, so that he will be able to hear the opinions of the people himself, and to see the village first-hand, which will be affected rather than to have the "Inquiry Officers" go to these villages as suggested in the letter of April 1, 1974.
2. Prior to the Honourable Mr. Justice Berger appearing at each of the communities involved such as Old Crow, it is absolutely essential that a team of Native people hold at least two meetings in each community prior to his arrival providing the necessary information to the local people so that they may be able to better understand and voice their opinions when he arrives. It is our opinion that if he proceeds to the villages without these preliminary preparations that he would get no response whatsoever except from the few white people that live in these areas.
3. At such time as the preparation work has been completed, only then, should the formal meeting be held in each community.
4. The Honourable Mr. Justice Berger should go to each one of the smaller communities before proceeding with the meetings at Yellowknife, Inuvik and Whitehorse in order that he may have a better understanding of the entire issue before hearing the formal presentation of interest groups.
5. The public hearings at Yellowknife, Inuvik and Whitehorse should be arranged in such a way that persons presenting briefs can be questioned by others present.
6. It is requested that the Honourable Mr. Justice Berger place on his staff two persons from the list recommended by the Council of Yukon Indians. One of these persons to work with the Assessment Team mentioned in his letter of April 1, 1974, so that the Council of Yukon Indians may be fully aware of what areas the assessment team is researching.

The other person to work locally out of the Inquiry Office at Yellowknife assisting in setting up the preliminary hearing and the community meetings between the Honourable Mr. Justice Berger and the villages.

By appointing two such members of the Council for Yukon Indians it may be possible to save considerable time and effort if our members are assured that the assessment team is researching the problems that the gas pipeline will create, environmentally and socially. The other member working with the Honourable Mr. Justice Berger may be able to assist him in conducting for more rewarding hearings in the communities than would otherwise be possible.

7. It will be necessary for the Council for Yukon Indians in association with the other Native organizations north of 60° to research the great bulk of supporting data filed with the application for a gas pipeline, to independently assess the environmental and social impact of such a pipeline, and to inform its members of the findings. The cost of such activities should be borne by the Government of Canada.

The Council for Yukon Indians is prepared to work with the Honourable Mr. Justice Berger to make this particular inquiry.

THE COMMISSIONER : Thank you very much.

ERIC NEILSEN : Mr. Chairman, there's just one observation that I have to make if these hearings are going to be meaningful at all. There is a vast wealth of information in departmental government files what I am sure will be most useful to those who wish to make meaningful submissions to this commission. It is my suggestion that perhaps the Commissioner should make representation to the Government of Canada for this information to be released to the general public, some of which is being withheld now, notwithstanding repeated requests for it in the House of Commons. It seems to me that no really 'in depth' inquiry can be made and no full understanding of what we're about unless this information is broken free and made available to mining interests, conservation interest, to native interest and to whoever else wishes to make presentations as to the ultimate deliberations of the Commission.

COMMISSIONER BERGER : Thank you,
Mr. Neilsen.

MR. VEALE : Mr. Justice Berger, my name's Ron Veale and I am appearing rather informally for the Yukon Resource Council. It's a local environmental group and I just have a few comments, no particular written report to submit. One of the initial concerns that we've had is the overwhelming quantity of data and our problem is that as a small organization and with a small number of people, we have great difficulty in even attempting to make any assessment of it. We support the suggestion that the Council of the Yukon Indians made, that there be some method of either having Resource people available to inform groups or to actually somehow, include them in the Assessment that the Commission's making so that they can be kept up to date.

The other aspect that concerns us is one of time. Our problem there is that we're concerned about the impact of the Assessment Group of yours and when their report will be made with reference to when your actual inquiries will be held at local village areas. We think that the Assessment Group should report first so that information will be available to us, to assist in our submission.

Thirdly, I can only endorse Eric Neilsen's position on the problem of material available. My understanding is that all the research that has been done, both by Gas Arctic and by the Government bodies is not presently publicly available. And if that is the case I think it should be.

Another issue that bothers us at the moment is the question of alternatives. And now I am speaking of the alternative of the railway. Our submission is that that particular alternative should be fully studied and assessed before the -- your inquiry determines whether or not the Gas Arctic application should be approved. I am not aware now of the position of the Government with respect to any inquiries they have set up in that regard. I think Mr. McDonald had set up some kind of research body to determine the viability of a railway, but I believe that should be fully canvassed long before the Commission actually sits down and has its Inquiry.

MICHAEL BRIAN : I must say it is very nice, if I may say so, to see you here and the reason that you are here. It shows an evidence obviously of trying to assess the true impact of this incredible undertaking before this goes through.

The only point that I wish to add to Ron's comments just now. There is a wealth of information available and it hasn't been tabled so far. Both by the Consortium, I understand, as well as by the Government.

There are also many Civil Servants and people attached to Government who have been involved in research, and we feel that certain pressures will be removed from them if you, sir, subpoenaed them to testify as witnesses during the course of the hearings. We feel that quite strongly.

COMMISSIONER BERGER : Perhaps I should read, Mr. Brannigan, a letter from your organization. It is a letter from the Whitehorse Chamber of Commerce, dated May 24, 1974 addressed to me in brief :

"Dear Sir: At this time, the Whitehorse Chamber of Commerce wishes only to state its intention of presenting a brief in regard to the proposed Mackenzie Valley Gas Pipeline as such times as hearings are held in the north.

It is our hope that the hearings will be held in the communities affected by the proposed pipeline and that these hearings be kept reasonably informal to enable all interested persons and organizations, to have input. Yours truly, Whitehorse Chamber of Commerce, John C. Gillis, President."

(ABOVE LETTER MARKED EXHIBIT No.15)

MR. CAMPBELL : My name's Campbell and I'm the Manager of the Yukon Chamber of Mines. I'll just read our short submission:

"The Yukon Chamber of Mines intends to make a submission to your Inquiry. If the hearings are held in Whitehorse, we plan to appear at them. Our brief will concern availability of natural gas to the people and industry of the Yukon." I have a copy of it here.

(ABOVE BRIEF MARKED EXHIBIT 16)

COMMISSIONER BERGER : Mr. Goldie, do you wish to say anything on behalf of Arctic Gas in connection with the matters that were raised ?

MR. GOLDIE : I think perhaps I should, Mr. Commissioner. There are a number of people present who are here for the first time and were not represented in either Yellowknife or Inuvik. And I think I should simply say that the pipeline company has filed its application and its supporting exhibits, which relate to engineering and environmental impact policies touching the social and economic factors in the north.

They speak for themselves. An observation was made a few minutes ago about a wealth of information yet to be released. I am not aware of a wealth of information to be released. There is one socio-economic back-up volume, which is in the course of being printed now, and there is an updating of some environmental material both of which will be available by June 1st. Apart from that there has been filed with the exhibits, a number of volumes of back-up material relating to the subjects. I am informed that this material is available in Whitehorse. A copy has been sent to the Territorial Government. I believe a copy was sent to the Council for Yukon Indians, and we plan to have a copy available at some public place.

My client believes that the project is in the public interest of all Canadians in terms of economic and other factors of a like nature and that it provides, or will provide, an unparalleled opportunity for economic advancement of the people of the north.

I should perhaps make one observation in view of a remark made by, I think it was Mr. Veale about alternatives. He suggested that such a study should take place before this Commission approve the pipeline. I think with respect, Mr. Commissioner, the approval of the pipeline as to its feasibility, is a matter for another hearing. The particular concern of your Commission is the terms or is to recommend terms and conditions which might be imposed upon this applicant with respect to a pipeline.

COMMISSIONER BERGER : Thank you, Mr. Goldie. Before we come back to offer all of you an opportunity to ask questions and to raise any other matters you wish to raise, I think I'll call on Dr. Fyles, the leader of the Assessment Group.

DR. FYLES. : Mr. Commissioner,
 There have been a number of comments this morning on the matter of information and on the question of the bulk of information that has to be reviewed and understood in the process of dealing with this Inquiry. The Government of Canada has been rather considerably concerned about this question and with the problem in mind, has convened this Assessment Group which I represent.

The Pipeline Application Assessment Group is a governmental group assigned to appraise and review the Canadian Arctic Gas application in terms of the socio-economic and environmental implications of the proposed project within the Northwest Territories and the Yukon Territory. The assessment is designed to be generally useful to those government agencies, both Federal and Territorial, that are concerned with the application. These principally are agencies of the Department of Indian and Northern Affairs, the Department of the Environment, the governments of the Northwest Territories and the Yukon.

In conducting the Assessment, particular attention will be paid to the environmental and social concerns set out in the 1972 Guidelines for Northern Pipelines. The Group has been brought together to take advantage of expertise residing within Government and to use the available specialists in a co-ordinated way. A Core Group has been seconded on a full-time basis from various agencies, chiefly with Indian and Northern Affairs, Department of the Environment, and Energy, Mines and Resources of the Territorial governments. This Core Group will have access to a variety of additional specialists, and is to draw upon them for short periods, as and when required.

The question of alternate modes of transportation has been raised. The Assessment Group's instructions are to deal with pipeline and not with other alternate systems.

I might comment on behalf of the Environmental-Social Research Program on the matter of release of information, that a very substantial body of information relating to research programs bearing upon the proposed pipeline system, has been released in the reports of the Environmental-Social Committee.

MICHAEL BRIAN : Mr. Commissioner.
 With respect to Dr. Fyles and his terms of reference which I appreciate, more particularly with what Mr. Goldie said, as far as the Yukon Resources Council and I think other environmental groups are concerned, it is paramount in our opinion that the proposed pipeline be not evaluated in isolation. This is probably the largest single under-taking of its kind ever undertaken. And it cannot be considered in isolation. There are too many other factors involved, the issues are too large. Therefore the question of alternatives must also be considered. We feel this very very strongly and I wish to emphasize it personally.

The other point I was going to make is that the Consortium have been making their studies for I think about five years, at the expense of almost fifty million dollars. If I may be blunt, they have a vested interest in the direction of their researches and now we're being asked, or it would appear, to come up with an assessment in

probably ten or fifteen percent of that time. And we do not have the expertise to properly assess it.

COMMISSIONER BERGER : Well, I don't know who's asked you to come up with an assessment in ten or fifteen percent of the time they had. I am here to see what you all have to say about how we should conduct this Inquiry and as I said earlier, I don't intend to lay down any kind of time table until I have heard from all of you, and from all of those who have been heard in the Northwest Territories, and who will be interested to be heard in Ottawa. Can you tell me what material, I appreciate that you may not know exactly what is in it, if it exists, but what sort of material is it that you say the Government of Canada has but has declined to release or Arctic Gas has that it has declined to release. Are you able to be specific?

MICHAEL BRIAN : With respect, Mr. Commissioner, I don't think I said the word declined. I said it has not been tabled yet, and I would hope, it is my understanding there are reports which have not been tabled, both government reports and reports from yourself, sir, that have not been tabled.

COMMISSIONER BERGER : You are directing your comments to Mr. Goldie?

MICHAEL BRIAN : And the Consortium. If there are any such reports which haven't been tabled, perhaps I should reword it, we would hope they would be tabled.

MR. NEILSEN : Perhaps I can Mr. Chairman. Mr. Goldie made reference to a phrase that I used with respect to the wealth of information. I used the phrase, "A vast wealth of information" and I wasn't referring to the applicant. I was referring to the Department of Government, for one example, that was mentioned and submitted by Dr. Fyles, the Department of Energy, Mines and Resources.

Now there are studies available, significantly directed to this very project which have not been made public. I am sure the mining industry, as well as the conservationists, would be very interested to see that information. I just wondered about it.

COMMISSIONER BERGER : This Inquiry, of course, has the power to summon, to bring before the Inquiry any person whose attendance I consider necessary to the Inquiry.

What I think we will do to make sure that nothing remains unearthed is to send to any of you who wish it, a list of the material that we know is available to the Inquiry now, emanating from departments of the Government. And if anyone who examines the list feels that anything has been omitted, they can let the Inquiry know and we will take what steps are necessary to get it. But I think you will have to leave that matter with the Inquiry for the time being, at least.

MR. VEALE : Sir, I was wondering. A specific reference that I am aware of is, there is a study called an Arctic Railway, Engineering and Feasibility Cost Study, prepared by M.O.T.

No.1, we have a great difficulty even knowing what is being prepared, much less what is being published and

that's the real heart of our concern. Eric Neilsen knows a lot more than we do because he's down in Ottawa, but our hope is that you would act as a vehicle to insure that all groups and all individuals concerned about the pipeline, would have access to all the information.

COMMISSIONER BERGER : I think that if the work of this Inquiry is to be effective, the Inquiry has to ensure all relevant material is considered and made available to the interested parties, including the organizations, the environmental organizations and Arctic Gas.

MR. LUECK : I have a question, Mr. Commissioner. It's in reference to your terms of reference which appear to presume that the pipeline will be constructed and therefore your Inquiry should proceed on that basis. I am wondering if you could more clearly define where you're starting from, what your starting point is? Is it that the pipeline will be constructed and you're simply looking at the social, environmental and economic impact on the region or is that economic impact to be broadened out to include all of Canada. What are you implicating? Is it possible for your recommendation to be that there should not be a pipeline at all as opposed to the conditions and terms that should be placed upon a pipeline.

COMMISSIONER BERGER : Well, I am bound by all the terms of reference which were passed by the Governor General in Council, and I think that I should repeat what I said in Yellowknife and Inuvik, that I am to consider social, environmental and economic impact of the proposed pipeline in the Yukon and the Northwest Territories. Now, in addition to that, I am to take into account the pipeline guidelines which I set, I believe, to you and the requirements they lay down regarding the construction of the gas pipeline. And to consider whether the material filed by Arctic Gas satisfies those requirements so that in a sense if you look at page 2 of the Order in Council, paragraph A on page 2 is, what I think, many would consider a fairly wide mandate to examine the social, environmental and economic impact of the proposed pipeline in the Yukon and Northwest Territories. And it seems to be included within that is B which is to consider the extent to which the proposal that Arctic Gas has made, meets the requirements laid down by pipeline guidelines. Now, I am then to say what terms and conditions should be imposed, if a right-of-way is to be granted. And then, of course, it becomes a matter for the Government of Canada to decide whether whatever terms and conditions are recommended be imposed on any right-of-way.

MR. LUECK : That clears up the first point that I was asking, Mr. Commissioner. It is then presumed that you are dealing from the point that the pipeline will be constructed and you have to place terms and conditions on it.

COMMISSIONER BERGER : I think I should interrupt you there. It is for the Government of Canada to decide, well, let me put it this way. It is for the Minister of Indian Affairs and Northern Development to decide whether he will grant a right-of-way. I have to report to him and make recommendations or propose to him on the social, economic and environmental impact of a pipeline here in the light of order-in-council and the guidelines. And then I have to recommend what terms and conditions should be imposed for the right-of-way to be granted.

Now, it is then for the Minister to decide what he is going to do and I think that's putting it as simply as I can. And I hope as carefully as I can.

MR. LUECK : May I ask one more question on this same issue then? Your terms of reference on Part A on the second page deal with the social, environmental and economic impact regionally. Now if an interest group were to deal with the economic impact for all of Canada and prove to you conclusively, if I may use the term, beyond a reasonable doubt that this pipeline was not economically sound for Canada but only for the United States, would you then be prepared to listen to that kind of a brief? Or is your term of reference dedicated to the regional impact only?

COMMISSIONER BERGER : Well, I think that Canadian Arctic Resources Committee are going to make a submission in Ottawa on May 6 that bears on the point that you raised. I think I can only say though that the Order-in-Council confines my Inquiry to the social, environmental and economic impact regionally of the pipeline proposal.

MR. NEILSEN : I have two questions, the answers to both of which will be very important to those who eventually will be submitting briefs and evidence to your own meetings.

The first question is, that has been raised by others before me, is whether you are going to hear submissions with respect to modes of transport other than pipeline, for instance the railroad. And the second question, which is similar to the first, is whether you are going to hear submissions falling outside of the strict description of the project as contained in the application of Arctic Gas.

COMMISSIONER BERGER : I'll consider both of these points, Mr. Neilsen. Thank you for raising them. I think the question of alternative modes of transporting the gas has not been raised in the other centres we've visited. And if anyone wishes to examine the Pipeline Guidelines and to make a submission in writing to me on that subject, I'll be grateful to receive it and examine it.

MR. LIVINGSTONE: Throughout the hearing or the proceedings this morning, there seems to be an over-riding opinion that nobody has brought out that the actual construction of the pipeline is going. Is this part of the terms of reference or is there a chance that we are actually trying to decide whether the pipeline shall be constructed, whether we are deciding the environmental design for the pipeline, or will part of it be that it's a go or no go situation that will be decided by the Commissioner?

COMMISSIONER BERGER : Well, this Inquiry is to recommend the terms and conditions that ought to be imposed if a right-of-way is to be granted to Arctic Gas. Now, I think that at the main hearings there will be submissions made about what terms and conditions ought to be imposed. Native organizations have already made it plain that they intend to urge that one of the terms that ought to be imposed relates to the settlement of aboriginal claims. The question of what terms and

conditions ought to be imposed, is one that will have to depend upon a consideration of all of the evidence, all of the submissions that are made. And then my report relating to the social, environmental and economic impact of the proposed pipeline recommending the terms and conditions to be imposed if a right-of-way is to be granted will go to the Minister and he will decide whether to grant a right-of-way. The Minister is the Minister of Indian Affairs and Northern Development. Now, the trouble is that it's quite understandable that everybody is looking ahead a little farther than I am, because I am anxious to maintain an open mind about all of these very profound questions that have been raised. And, as I say, I'm looking forward to coming here again when the procedure of the Inquiry is determined.

MR. BRIAN : I'm sorry.

COMMISSIONER BERGER : No, no don't be sorry, I'm here to listen to you. Well, if there's nothing further that anyone wishes to raise, I am going to declare the preliminary hearing here in Whitehorse adjourned until reconvened in Ottawa at 10 A.M. on May the 6th, in the Government's Conference Centre there.

I'll look forward to seeing as many as can be there at that time.

Thank you very much.

(PROCEEDINGS CONCLUDED)

OTTAWA, ONTARIO.

May 6th, 1974.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER : Can I have your attention and I will call our meeting to order this morning. I am going to read a statement that some of you have heard but many of you have not, that indicates the basis on which this inquiry is getting underway and the reason why I have convened these preliminary hearings in Yellowknife, Inuvik, and Whitehorse, and now in Ottawa.

I have been appointed by the Government of Canada by Order-in-Council dated March 21, 1974 to conduct an Inquiry into the social, environmental and economic impact of the proposed Mackenzie Valley Natural Gas Pipeline.

Canadian Arctic Gas Limited has applied to the Minister of Indian Affairs and Northern Development under Section 19(f) of the Territorial Lands Act for a right-of-way across Crown land in the Yukon and the Northwest Territories.

The Inquiry I am to carry out is authorized by the Act. I am to consider the social, environmental and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the Northwest Territories. I am to consider, as well, the measures which Canadian Arctic Gas Limited proposes to take to meet the specific social and environmental requirements of the expanded Guidelines for Northern Pipelines tabled in the House of Commons on June 28th, 1972. I am to report upon the terms and conditions that ought to be imposed in respect of any right-of-way that might be granted to Canadian Arctic Gas Ltd. This inquiry is unique in Canadian experience. I am anxious that the people of the North and all other Canadians with an interest in the work of the Inquiry should have every opportunity to be heard, and that the Inquiry itself should be thorough and complete.

I am therefore holding these preliminary hearings because I want to hear submissions regarding the way in which this Inquiry ought to be conducted. The headquarters of this Inquiry will be in the North, but the hearings will be held in the north and south.

I would like to hear your views today regarding the places where the main hearings should be held in the north and the south. I would like to know how long you expect the presentation of your evidence and your submissions at the main hearings will take. I would like to have your views regarding the form the

the hearings ought to take. And I would like to know if you feel I should make use of inquiry officers.

I have written a letter last month to Native organizations, environmental organizations, Arctic Gas and other interested parties inviting submissions at these preliminary hearings. As I said in that letter, an assessment group has been assembled within the Government of Canada. The group is headed by Doctor J. G. Fyles, Geological Survey of Canada, Environmental Engineering Co-ordinator. Dr. P.J.Rennie, Canadian Forestry Service Adviser Forest Soils, is head of the environmental section within the group. And Mr. E.E.Weick, Northern Programme Senior Economist is the head of the Socio-economic Section within the group.

The assessment group is reviewing the application and the materials filed by Canadian Arctic Gas Ltd. and will report on the extent to which the Arctic Gas application meets the environmental and social concerns set out in the expanded guidelines for northern pipelines. Its job will be to conduct an assessment of the application that has been filed by Canadian Arctic Gas Limited.

I intend to make the assessment group's assessment and report available to all interested parties in inquiry, but the group's assessment will not, of course, be binding in any way upon the Inquiry.

Now, this inquiry that I am conducting concerns the people of the North and the environment of the North. Let me repeat how anxious I am that everyone who wishes to be heard should be given a fair opportunity to be heard.

Under the Order-in-Council of March 21st, 1974, I am to lay down the rules of practice and procedure for this Inquiry. I do not wish to lay down any such rules until I have heard your views about the way in which this Inquiry ought to be conducted. That is why I am here today.

The way in which we will proceed today will be informal. There will be no sworn testimony, no one will give evidence in the usual sense. Those of you who have submissions, whether written or oral, you will have every opportunity of presenting them today and tomorrow, and if you will come forward when your turn comes and sit down at the front, at the table here, I would like you to do that. If you would rather stand at one of these microphones, that is perfectly all right with me. We have arranged the tables here at the front so that you will feel more comfortable if you would prefer to make your presentation seated.

I should say that the Secretary of the Inquiry, Mr. Meyers, is seated to my right. Mr. Waddell is seated to my left, Mr. Waddell is Special Counsel for Administrative Matters to the Inquiry. Miss Hutchinson, of the Inquiry Staff, is seated at the table with me as well. Professor Michael Jackson, Doctor Rolf Kellerhals, and Doctor Gordon Davies of the Inquiry Staff are here today as well.

We will start with Mr. Wah-Shee on behalf of the Federation of Natives North of 60°. Mr. Wah-Shee:

MR. WAH-SHEE : My name is James Wah-Shee. I am Chairman of the Federation of Natives North of 60°. I am President of the Northwest Territories Indian Brotherhood.

I am making this presentation on behalf of the Federation of Natives North of 60°.

As you are aware, sir, each of our member organizations has independently made presentation to you at earlier hearings held in Yellowknife, Inuvik and Whitehorse. We do not see the need to repeat these statements at this time, except to summarize the main points in common, these being (1) that there should be no major development of the nature of the pipeline prior to the settlement of the land claims of the native people.

I might add two additional points to the statement at this time. We wish to make it very clear to other Canadians that when we speak about our land claims, our main priority is our land. We may seek compensation for usage of our land by other people, but our main concern is the protection and recognition of our land ownership.

Secondly, there is for us in these hearings a very difficult contradiction because of the above position, that the land settlement must be achieved before we can consider a development such as the pipeline. It is clear to us that the legitimacy of these hearings is highly questionable insofar as you are to deal with the matters of a right-of-way over our lands. We have consistently opposed the notion that these are Crown lands as specifically referred to in the Privy Council Order initiating the inquiry.

Nevertheless, our experience teaches us that we cannot ignore these hearings, as our land rights have been ignored. We therefore seek to participate, subject to these reservations, and we welcome the opportunity provided to our people, an opportunity they have not had previously, to study and express their views on this momentous proposal.

(2) Hearings must be held by you personally in each community affected by the proposed pipeline.

(3) That sufficient time, one year at least, must be allowed to allow both the communities to be prepared for maximum participation and the native organizations to review and assess the documentation filed in support of the application for the right-of-way.

(4) That the native organizations must have financial support if they are to effectively participate in the hearings and adequately prepare the communities for the hearings.

We submit that your terms of reference give you the following authority :

- (1) That hearings cannot proceed if there is no documentation by the applicant before your inquiry on important matters

such as, but not limited to, the Corridor Concept including all pipelines, highways, railways, transmission lines, etcetera. Developments related to the pipeline which affect environmental and socio-economic questions, including the Great Bear River Hydro Project, feeder lines and treatment facilities. alternate routes for the right-of-way; alternate modes of transporting natural gas, the effects of national economic impact as it relates to the regional economic impact, etcetera.

- (2) The one condition which could be recommended by this Inquiry is that there should be no right-of-way granted until there is a land settlement acceptable to the native people.
- (3) That a further condition might be that no right-of-way should be granted if documentation filed and research conducted by the applicant is insufficient.
- (4) And that if this inquiry concludes that the proposed pipeline is not in the interests of the Canadians generally, and the native people in particular, that no right-of-way should be issued.

Furthermore, the meaning of the hearings themselves must be clearly explained and understood by our people. This will require assessment of the application's supporting material by expert consultants and native field workers, so as to draw out information specific to each community, information relevant to each region, and major questions of concern stemming from the likely impact of the proposed pipeline in both environmental and socio-economic terms.

This material, once summarized, will require translation, an arduous time-consuming process at best. Dissemination of the materials must involve not only full time field workers but the use of inter-community meetings, and also compulsory access time on the C.B.C. Northern Service, to allow radio-programming in the native languages informing the communities and explaining material related to the people.

Secondly, effective participation by our people will require sufficient time to account for our traditional ways of considering and determining our stand on crucial matters. The community process is the native communities' approach to important matters. These must be discussed by everyone while the Elders, who are the original community consultants, must be involved. Time must be allowed for the spread of information by word of mouth and small groups and family discussions. This is our way of handling matters of grave concern. Important decisions are not made at one sitting with the help of Roberts Rules of Order. Matters of such importance must be thought out thoroughly, properly evaluated and discussed at large with others before a consensus can be reached by all concerned.

And, sir, we have Chief George Kodakin from Fort Franklin who would like to make a statement in his own native

language which will be translated. Thank you.

CHIEF GEORGE KODAKIN :

(Interpreter - Addy Tobac)

Thank you very much. This is the first time that I have been to a place where the things that have been talked about is taking place and for me to see with my eyes how it is done. In our land we are poor and I am happy for the opportunity to talk about some of the problems we have.

On our land we have nets and guns that we make our living out of, meaning that these are what provide us with the meals.

Where I come from in Fort Franklin it is situated on the shores of the Great Bear Lake. At the present time the only way that we make a living in terms of hunting or fishing fishing is the foremost. We set our nets at the mouth of the river where the lake flows into the Great Bear River. We are poor. This is our only means where we gather our food and it is hard.

The Great Bear River that we talk about is the people's highway to travel back and forth to each other's community from Fort Franklin and Fort Norman. And out of this River also we do our fishing. The people are poor. There is very little employment. There is no wages. The people of Fort Franklin have said, "No" in one voice to the proposed dam.

And also, between Fort Franklin and the settlement of Fort Norman, both peoples say "No" to the dams.

And on the question of land in terms of the dams or pipelines, we say no to these things until you have settled the land claims, because the land is very important to us.

We had a meeting for four days in Fort Franklin concerning the dams and the talk of the pipelines, and at these meetings again the people still said "No", that before you have these major development, we want you to settle the land claims. And only until then would we consider talking about the pipeline or the dams.

You people, with your education and your good jobs, and your way of living down south, do not come up to our lands to see us the way we live in our settlements. You do not see that we are poor. It is very easy for you to decide on the issues that you talk about, because all you have with you is money. It is easy for you to fly to our land to do whatever you want to do with it in terms of exploration or seismic lines or even flying in to there with your planes and helicopters. And what we say about our land, how we feel about it, how we make our living out of it, is true, is honest. And that is what I am saying to you.

Even when you brought in your money at the beginning before there was white people, that money did not make us any richer or provide us with better living. If we were poor before money, we are poorer now with money, because we have no employment and no wages.

I am not educated but I am Chief. I live in Fort Franklin. I talk with my people. And without this education, we are native people. We know ourselves. We know what we know about the land and the animals. And we know each other in terms of being human with each other. So, what we say is not lies, is not dishonest, it is simply the truth of the way we live.

As to being in the position of being a Chief for Fort Franklin, there are also chiefs in other settlements along the Mackenzie River and in the Mackenzie District. But to be a chief and to be in settlement, you are also isolated from the other settlements.

And to talk about the major issues, such as the pipelines, the dams, the highways, the Chiefs need to interact, or to meet with each other in different places to discuss these issues, to come out with common recommendations, but also for the people to be allowed to meet in each other's communities to talk more and more about these issues. We have no money, no funds to take -- to provide these means of meetings with each other. So, even if we are concerned, we have no way of telling people or letting it be known, because nobody comes to ask us what we think.

The radio reception in Fort Franklin is very poor. As a matter of fact, it is almost nil. Feed lines from Yellowknife C.F.Y.K do not come into Fort Franklin, so even if there is news over the radio about these issues, we don't hear them in Fort Franklin and we are not kept informed. So, therefore, it is very important that you make it available for us to travel amongst each other.

Our land is not plentiful in terms of the animals that we once used to kill and the fish we used to fish at one time. At present it takes at least two days to have our nets set in the water. In the winter-time the ice is usually at least four feet deep. And if you have your nets set for two days, you are lucky if you catch two fish. And even if you go hunting, sometimes you can go hunting for three days and you don't get any moose. We are not lying when we say we are poor. We are not lying when we say that we need money. But we take it very hard that you have the money to go into our land and carry on with your oil and mineral exploration activities. And if you are to be fair to us, us people living in the settlements, then you must listen to us and you must take all the things that we say for what it is.

With all this exploration or all these activities going on, it has depleted the animal life on the land, even to go out for fur. Sometimes we go trapping a hundred miles, two hundred miles, and we might go for two months' duration, and you don't even catch ten mink or marten or beaver or whatever, because with all these activities, it has depleted a lot of the animal life that used to be around Fort Franklin. We have the Game Department and the Fisheries Department, but with the studies they are carrying out, even they are responsible for the depletion of the animal life around us.

When these major developments or oil activities or all the activities taken on which brings you wealth, it makes us poorer.. Take for example the seismic lines that are going through on

the land in the North. It has greatly depleted the animal life around our land. There is no more ptarmigan, grouse rabbits, and wherever they built their seismic lines and go across lakes, they often dynamite and that kills a lot of animal life, especially beaver, fish. And they also dynamite the lands and sometimes the holes are between eight inches to two feet wide and several feet down. Rabbits and other small animals go down into the holes and they never come out. They die. Other animals, for example, foxes beavers, scent these animals in the holes and go in after them for prey, but they too, never come out and die there. I am not lying when I say this, because I have seen it with my own eyes.

In the summertime when there is no snow covering the seismic lines, there is a form of yellowish substance that comes out from these holes and the animals feed on it. They, too, dies. And the peoples are against it and object.

And we are poorer on our land than we have even been before.

Perhaps as we were honest people from the very first time that they brought in the Treaty money, and perhaps because we were honest about what we were, and that we did not know the value of money, and you knew that maybe we didn't know the value of money, you have your way of cheating us out of our rights and out of our lands, and out of our way of making a living. I repeat that what I say to you is all true, and what the people say are all true.

And, also, with the introduction of alcohol, that is one major problem in the community, and also in all the other communities. It affects the lives of all the people in the communities, and there are many problems stemming from this one thing alone.

And in education, they have taken our children away to schools to educate them, but they forget to remember that we are their people and we are their parents, and they do not teach them or allow in their education some time to include some of the things that are important in the native life.

Some of the things stem from -- or some of the problems that stem from alcohol in the north, we find that a lot of people freeze to death by it. A lot of people drown by it. There is family breakdowns. If a couple were happily married before, now they often fight. And for me, personally, (he speaks as the Chief) I don't think that it is good for the brain. It is better if people die naturally, but it is not good for us if we see our people dying simply because of alcohol.

This is all I have to say. These are some of the problems that I wanted to bring to your attention. There are many problems, but I think some of the ones that I mentioned are the most important ones. And you, being what you are with your position, and with your means of travelling, which is easier than mine, I think it would be fair to say, that if you came to see me in my home in my settlement once a week to see how I live, then it is only fair then that you

have a right to talk about my land and my people and the issues that concern my land and the people. And I don't speak only for myself, but I speak for the rest of the Chiefs and for the rest of the settlements, and the native peoples in these settlements.

Thank you very much.

THE COMMISSIONER : Thank you,
Chief.

Mr. Manuel .

MR. MANUEL : I am here today representing the National Indian Brotherhood, as the President of the National Indian Brotherhood. We are a federation of provincial and territorial organizations. We represent registered Indian people from the Maritimes down to British Columbia, the Yukon and the Northwest Territories. We represent 260,000 Indians. I am here to go on record as supporting the Indian people of the Northwest Territories and the Yukon Territory.

First of all, I would like to point out that we have a written presentation, so I will not elaborate on it too much. I will just present it to you.

The reason that we have supported the Yukon and the Northwest Territories Indian Brotherhood is because we, in the southern parts of Canada, don't want the sorry experience that we have had over the past hundred years repeat itself in the north.

I think our Indian people in the south, your worship, experienced the promises of Parliamentarians, the promises of Treaties, in which they were not kept. I think gradually a way of life was eroded, a way of life was legislated out of existence. I think that is a very serious and deep concern with our people.

The Government of Canada lays claim to the ownership and jurisdiction of the lands in the territories owned by prior occupation and usage by the Indian people and Inuit.

Let the Government of Canada put forward proof and irrefutable evidence that it, and not the Indian people and Inuit, does in fact own the land and the rights and sovereignty over the land.

We submit that there is no base in historical fact, legal surrender, or moral law that gives the right to the Government of Canada the rule and sovereignty over the land in question.

We submit that the basic, fundamental, and prior question that must be settled and determined, is not whether there should or should not be a pipeline, but "Who rightfully owns the land?"

Does the Government of Canada in fact own the land; or do the Indians and Inuit own the land ?

Aboriginal right of ownership has been significantly recognized in the past by the European Canadians in their laws. The special place of Indians is reflected in the Treaty of Utrecht, the Royal Proclamation of 1763, the British North America Act of 1867, the Manitoba Act of 1870, the Terms of Union of British Columbia in 1871, the British North America Act of 1930, the Treaties and the Indian Act.

Canada's treatment of its Indians and Inuit indigenous population has been one long shameful and sordid episode to the present day. At the root of this shameful story is the White man's covetousness of the Indians' and Inuit's lands, and the riches they contain.

The greater shame and sordidness is that once having acquired legally or illegally, the ownership of the land, the white man then relegates the Indian and Inuit to the fringes of their own society so that Indian and Inuit today are reduced to poverty-stricken outcasts in their own land.

The provisions under the "Social Guidelines" of the "Expanded Guidelines for Northern Pipelines" only further reflects the usual prevailing White man's views that the Indian and Inuit can only be 'trained and prepared' for the most base and most menial of jobs.

Both the Order-in-Council appointing Mr. Justice Berger to conduct the Inquiry and the "Expanded Guidelines for Northern Pipelines" is based fully on the assumption by the Government of Canada that the pipeline in the Mackenzie Valley District will proceed at any rate and at any cost.

It does not indicate the Inquiry might conclude and could determine such a pipeline MUST NOT PROCEED on the basis that the social, environmental and economic aspects of such a pipeline have serious, negative, undesirable and deteriorious impact and effects in the Territories.

MR. TEMPLETON : My name is Carson Templeton. I am Chairman of the Environment Protection Board which is a non-constituted board. It doesn't have a charter and it has no authority. It was formed in 1970 and the members are Doctor Bliss, Doctor Britton, Mr. Don Craik, Mr. Eric Gourdeau, Mr. Ian McTaggart-Cowan, Doctor Stan Thomson, Doctor Norman Wilimovsky.

The Board was organized to see if a group of engineers and scientists experienced in northern matters could influence a large project in -- to actually achieve environment protection as separate from just recommending.

We felt that to achieve environment protection, the sequence of the tasks that we should perform were first, to recommend to, in this case the pipeline company, methods which could be incorporated into the designs to achieve the Board's goal of environment protection. And, second, to prepare an environmental impact assessment which is what this hearing is about. And, third, to monitor the work, if the project goes ahead. And, fourth, to make a post-construction evaluation so that future scientists and people can see how well the

predictions were.

This Board is now preparing the environmental impact assessment and respectfully requests that it be considered as an intervenor at the hearing and it does not present one side or the other, in our opinion. We will leave that to be discussed later.

You asked, I believe, sir, how long we wished to take. I think we will be guided by how much time you give us. Our impact assessment will be four volumes, of which one is an Atlas, and the main volume of our opinion will be perhaps 90 pages.

MR. MOSQUIN : Our interest in these preliminary hearings stems largely from our concern for the north. The north is an integral part of Canada and what happens to the natural environment and the wildlife in that part of Canada is of fundamental importance to every Canadian wherever he or she may live.

There are about 350 conservation and para-conservation groups in Canada. We know that perhaps half of the conservation groups would agree to have the Canadian Nature Federation speak for them at the Inquiry.

The Canadian Nature Federation feels that alternatives to the pipeline should be fully aired at the Inquiry. We know, for example, that both the Canadian Institute for Guided Group Transport and more recently the Federal Department of Transport have conducted detailed studies. We would like to be able to examine these carefully and comment upon them at the Inquiry.

As for procedures to be followed at the Inquiry itself, we believe that the full meaning of the pipeline to Canada will become evident only if cross-examination of industry experts and other experts is built right into the hearing process. There is nothing more exasperating to the general public or the media than when two experts contradict each other. It is impossible to know which expert to believe. Cross-examination is essential.

It has been our experience that advocates of major development projects show little or no evidence of caring about the losses to natural values. Yet these values are part of the wealth of the land. They are especially important to the Native people. They cannot be spoken for on a financial shoestring. The extractive interests can be well funded, with well paid experts and lots of help but the public interest groups such as ours, cannot fairly be expected to make a case for natural and environmental values unless a mechanism for supporting them collectively is available. Support and tangible incentives are essential for those people and institutions that are endeavouring to see that natural values are spoken for before decisions to change or lose these values are made.

Thank you.

THE COMMISSIONER: Thank you very much, Mr. Mosquin.

I will ask Mr. Gibson of the Working Group on Canadian Energy Policy to step forward.

MR. GIBSON : The Workgroup operates under the auspices of the Faculty of Environmental Studies at York University. Over the past year its members have been engaged in studies relating to the Canadian Arctic Gas Pipeline Limited proposal to construct a natural gas pipeline down the Mackenzie Valley before 1980.

The Workgroup believes that the primary issue to be addressed is whether or not the Mackenzie pipeline is needed at this time. We believe that the questions regarding the extent and severity of social, environmental and economic damage are logically secondary.

We have, therefore, attempted to develop an answer to the question of the need for natural gas provided through a Mackenzie pipeline by

- (a) examining projections of Canadian demand for natural gas,
- (b) surveying existing marketable conventional reserves of natural gas in Canada, likely additions to these reserves, and possible increases in production rates, and
- (c) studying the feasibility of incremental additions of coal gasification facilities to meet whatever supply shortfalls may arise.

Canadian Arctic Gas Study Limited officials have argued that the Mackenzie pipeline is needed because, according to their projections, there will be a 1% shortfall of natural gas supply relative to demand in 1979, rising to a 15% shortfall by 1987. We have examined this contention and have in light of our studies concluded that the consortium's demand projection is unreasonably high and that its supply projection is unreasonably low. We have further concluded that the coal gasification alternative for meeting any supply shortfall within the next decade is at least worthy of further study and consideration.

We would therefore argue that the primary claim that the Mackenzie Valley pipeline is needed to meet Canadian demand is, at very least, in doubt.

MR. WADDELL reads into the record the following submissions made by mail :

- 1) The Northwest Territories Association of Municipalities, Mr. D.B. Reesor;
- 2) The Indian Association of Alberta, Mr. Robert Young.

THE COMMISSIONER : Well, those two letters will be marked as exhibits.

I think we will call on Mr. Osler of Pollution Probe to come forward now.

MR. OSLER : Thank you, Mr. Commissioner. My name is Sandford Osler from Pollution Probe at the University of Toronto. I am afraid I don't have a formal submission in writing now, but I do have some notes though that I will try and follow so that I will not wander too much.

In 1970 the Energy and Resources team of Pollution Probe was founded in recognition of the paramount importance of energy matters in society, and in anticipation of some of the present problems in the energy field which are now before us.

In 1972 the Energy Team began to devote increasing attention to the question of the Mackenzie Valley Gas Pipeline. In many ways this enormous project was seen by us to symbolize how not to manage and utilize Canada's non-renewable resources. In 1972 we prepared our background statement on the Arctic, which I will file, if you wish, with the Inquiry, which outlined the inadequacies of the Federal Government's northern policies, particularly with respect to Native peoples and the environment.

Also in that year we wrote and released our special report on the Mackenzie Highway which detailed the totally inadequate attention that had been paid by the Federal Government to the environmental considerations in planning for and constructing the Mackenzie Highway.

Subsequent to these reports we have prepared a series of information packets on the pipeline and have served as an information base to many of the Citizens groups concerned about the pipeline.

We are very concerned about the strong statements of support that have been made recently and in the past by some of our most senior Federal Cabinet Ministers, including the Prime Minister, in support of the Mackenzie Pipeline before the National Energy Board hearings have been held and before the Mackenzie Valley Pipeline application was even filed. If the National Energy Board says "No" to the Mackenzie Pipeline proposal, there is no way under the present Act that the Cabinet can reverse that decision and say that the Mackenzie Pipeline will in fact be built. Thus the strong support by Cabinet Ministers, in our mind at least, tend to make it more difficult for the Energy Board to reject the application.

Another point is with respect to deficiency statements by the National Energy Board. There is often discussions between an applicant and the Board as to problems with the first draft, if you will, of the application, and the discussions are not made public. The public only sees the final application.

And lastly, there is the question of the standing, which is a legal term implying the right of any particular group to appear before a Board. There is no guarantee at present within the Act that a public interest group will have the right to appear, and when we have tried often in the past, we have been challenged by particular applicants.

So, Mr. Chairman, while I don't want to dwell on that in detail, the major points in that were that the

decision making process at the National level leaves a great deal to be desired, and unless there are major changes in this particular form of the National Energy Board, its fairness and objectiveness will not be assured.

With respect to the information that should be made available for these hearings and this Inquiry, we all are very much aware that the applicant in this case has treated us with a great deal of information. Much of this is raw data, that has not been put together in a coherent whole by and large. There is little in the way of interpretative material, and the conclusions and recommendations on the material that has been filed are generally rather weak, particularly on the impact assessment side. And I am sure that we can take for granted that much of the material has been carefully edited.

We also know that much of the material is missing, that much of the research that was done has not been made public and that information is generally the information which was not very favourable to the application. For example, we know that Professor Larry Stuecki did a fairly extensive report, over a hundred pages long, on the Social Impact of the Pipeline, and I could see no evidence of the studies that Professor Stuecki had done being included in the application.

Secondly, we also know that Gemini North has done a great deal of research and statistical work on this aspect, and the information that appears on the sociological impact of the pipeline can only be described as pathetic in quantity because much of the background material does not seem to be present in the material that has been filed to date.

These are just some examples but we will want to be able to, and you will want to be able to, I am sure, call some of the consultants that have been involved in preparing the application, and to get some more information and some of their ideas first-hand. Similarly, the Federal Government has done a great deal of research on this matter, not all their material is yet public, but when they have finished their studies, I am sure we should be able to call their witnesses for further clarification as well.

I mentioned the low quantity and quality of the social impact work. The question of the abandonment of the pipeline, I believe, is mentioned in about six lines. I think there is a great weakness on the assessment of the facilities that might also go along in a Corridor such as a highway and other pipelines which, of course, are required to be assessed by a gas pipeline applicant according to the Expanded Guidelines. I think the Government has failed in some areas to do its homework because I haven't noticed it declaring many sensitive areas, which it is intended to do in the Guidelines.

My last point would be the problems as we have heard expressed this morning, and that you have heard in the North, with respect to getting effective community involvement in this proposal. It takes a great deal of time for the northern groups and communities to absorb this material and to understand it in a way in which they can really have a feel for it, we have been told. It takes time to set up the research and field offices, as have been proposed, and we would

submit that the request by the groups in the north for a hearing delayed until at least the spring and possibly the summer of 1975 is quite a reasonable request. This will enable the groups and the people in the North to communicate the information to northern residents on the pipeline and to assure that there will be adequate and representative feed-back on the proposal. I think that much of the information that has been filed by the applicant will have to be tested in the northern communities as well, and this will give us an opportunity to see what the reaction will be here.

Thank you very much.

THE COMMISSIONER : Thank you, Mr. Osler. There were some documents you offered to file as exhibits.

Mr. Osler has handed me Pollution Probe's Background Statement on the Arctic, March 28th 1972, Revised April 12th, 1972. That will be marked as an Exhibit. And Mr. Osler has handed me Special Arctic Report #2 of the Mackenzie Valley Highway by Pollution Probe at the University of Toronto, October 19th, 1972. That will be filed as an Exhibit.

Dr. Fyles.

DOCTOR FYLES : Mr. Commissioner I would like to say a few words about the Pipeline Application Assessment Group to amplify what has been provided in your introductory statement, and, of course, we are quite prepared to answer any questions to elaborate the relatively small statement I will make.

The Pipeline Application Assessment Group has been set up in response to concerns that the Canadian Arctic Gas application is large and complex and that only a small number of specialists are knowledgeable about the area and the subject. Now, this is a governmental group assigned to review and appraise the Canadian Arctic Gas application in terms of its socio-economic and environmental implications within the Northwest Territories and the Yukon Territory.

The Group will proceed independently in doing its task. Its findings will be released in a public report. These findings will not be binding on any group or agency, but various groups may choose to use or adapt the findings to meet their own interests and responsibilities.

The Group operates under the Inter-Departmental Task Force and Northern Oil Development through its Environmental Social Committee.

In conducting the assessment particular attention will be paid to the environmental and social concerns set out in the 1972 Guidelines for Northern Pipelines. The Group has been brought together to take advantage of expertise residing within Government and to use available specialists in a co-ordinated way. A Corps Group has been seconded on a full-time basis from various agencies, chiefly within the Department of Indian and Northern Affairs, the Department of Environment, Department of Energy, Mines and Resources, and the two Territorial Governments.

THE COMMISSIONER : Thank you,
 Doctor Fyles.

There is one other matter. When the preliminary hearings were being held in Yellowknife and in Inuvik and in Whitehorse, the Canadian Arctic Resources Committee and Arctic Gas both indicated that they intended at these preliminary hearings in Ottawa to make further submissions on the question of the scope of this inquiry and the interpretation of the terms of reference in the Order-in-Council and in the Pipeline Guidelines, and I intend to call upon them after we have heard the remainder of the submissions from those groups and persons that I have named.

If you have anything further to say on that subject, I will give you an opportunity to do so after I have heard from Canadian Arctic Resources Committee and Arctic Gas. Well, I think we will adjourn then until 2:15 p.m.

I will call our meeting to order this afternoon, and I think that we will start off with the submission by Spec., the Canadian Scientific Pollution & Environmental Control Society of Vancouver, B.C. Their submission has been made in writing but they have asked that it be read and I will ask Mr. Waddell to read it now.

MR. WADDELL : "Dear Mr. Berger : This letter contains SPEC's recommendations and comments regarding the practice and procedures concerning the Mackenzie Valley Pipeline Inquiry. Due to the distance between British Columbia and the cities in which the preliminary public hearings are being held, we are unable to appear in person.

The decision on the fate of the proposed pipeline will be the most important for Canada since the decision was made to build the Canadian Pacific Railroad. Involved are questions which will have a tremendous effect on the future of Canada. The questions are :

1. The conservation of finite energy resources
2. the foreign ownership of Canadian natural resources and natural resource companies
3. the maintenance of healthy ecosystems
4. the settlement of native peoples land claims

The decision cannot be made by government and industry alone. Their input can only reflect certain self-interests which are inadequate for a decision-making of this magnitude.

We find the largest obstacle to a fair and objective hearing is the cost of intervention to the public and its representative groups. Full intervention can cost hundreds of thousands of dollars in legal fees, expert witness fees, travel and accommodations, and research expenses. For one side in the Inquiry to have the funding and the other to not will result in an unfair and an

ineffective hearing.

We recommend an Inquiry Board be established. The Board will be responsible for making decisions as a result of the information brought to light by the Inquiry.

The Guidelines must be expanded to include the following :

All development aspects related to exploration, extraction, processing and transportation of the natural gas. This includes such things as seismic exploration, wildcat drilling, processing plants, feeder and collector pipelines, and power generation for pipeline compressor and refrigerator units (if the power is other than the natural gas itself).

The Mackenzie Valley pipeline must be considered in its entirety. To consider the trunk line alone is illogical and incomplete, for it will be the entire project which will have a land use impact on the North.

Pipeline construction and operation will be directly responsible for drawing people and secondary industries to northern communities such as Inuvik, Aklavik and Tuktoyaktuk. While the pipeline construction project will hire and house approximately 7500 work personnel in specially designed and specially regulated work camps, it will also draw twice again as many people - be they children and wives, work personnel for secondary support and service industries or tourists - to the established communities.

We see at least four problems which must be considered by this Inquiry :

1. Social impact on Native peoples
2. Water pollution from sewage, solid and chemical waste. disposal
3. Air pollution from automobile exhausts and oil-fired thermal electric generating plant air emissions
4. Wildlife depletion from over hunting and over fishing.

We support the Native peoples request that a land settlement precede any work on the proposed pipeline project.

This concludes our presentation. We commend you and the Department for opening consideration of Inquiry practice and procedure to public input.

If this presentation reaches your department in time for the Ottawa preliminary hearing, we request it be read aloud at the hearing."

Signed: "Environmentally Yours,
'Gary Gallon' -- That is G A L L O N. Chairman, Energy Committee.
SPEC Federation."

THE COMMISSIONER : Mr. Page,
for the Committee for an Independent Canada.

MR. PAGE : Mr. Commissioner, the Committee for an Independent Canada appreciates greatly this opportunity to express some of our wishes and some of our hopes.

The Mackenzie Valley Pipeline proceedings will be crucial to the whole future development of Canada, not only because of the immense significance of this project, but because it will define the decision making process for a whole series of massive projects to follow such as Polar Gas. These hearings, along with those of the National Energy Board, must be seen as two parts of the same process; hence my comments today will not be confined exclusively to your own hearings.

We in the Committee for an Independent Canada believe that in order for the hearings to be held in a proper atmosphere, there should be a public statement from the Government that there will be no construction work begun prior to a full settlement of the land claims of Canada's Native peoples. This point should be very clear to all Canadians who in the last few weeks may have watched the CBC series "The National Dream", because 90 years ago the Macdonald Government pushed ahead with settlement and the building of the CPR before settling the legitimate claims and grievances of the Indian and Metis population. The result was rebellion by a people driven to it by a government more concerned with commercial development than with basic human rights. The circumstances are different by the type of development is the same. Today, as in the days of Sir John, a government wishes to press ahead without a full settlement with the Native peoples so directly involved.

In addition, the position of the present Mr. MacDonald assumes that it is only a matter of the size of the cash settlement to be worked out.

In the consideration of the Pipeline proposal there are three sources of information on this project.

First, is Canadian Arctic Gas who after \$68 million and five years of work have produced their case in the most favourable light possible. The reports of outside consultants included in the application have already been doctored and abridged to conform to the general arguments of Canadian Arctic Gas.

Secondly, in terms of public information, is the role of Government studies. Thus far, millions from the public treasury have been expended on research into the project but virtually nothing has been released. For instance, a key government report produced by a high level inter-departmental task force on the economic effects of a proposed arctic pipeline was never officially released. It is a curious coincidence that that report pointed out the damage to the Canadian economy such a project could do. Our worries in this direction are in no way relieved by the Assessment Group which the government has appointed. This group will no doubt screen and censor all government documents coming through to your Inquiry, and their criticisms of the project may be confined to narrowly technical details.

They could easily become a means of whitewash or cover up rather than a means of exposing the weaknesses of the proposed pipeline.

It is refreshing, however, to see that some Ministers in the present government have recognized the anti-democratic nature of this situation. In September 1969, in a speech to the Canadian Bar Association, the then Minister of Justice, Mr. John Turner, spoke about the necessity of public access to government information. And I quote :

"Government secrecy is something legitimated as the state's right to privacy, but it may well be a denial of the public right to know. If individual privacy is a foundation of democracy, the citizen's right to know is fundamental to any participatory democracy. The public cannot be expected to dialogue meaningfully - still less decide - if it is refused the very information which would make such a dialogue and decision making possible."

End of quote.

The current policy for withholding documents (announced the 15th of March 1973) defines 16 categories, and these categories are so broad and loosely defined, almost anything can be kept secret. Under these present restrictions there is no possible way that the public can know, understand, or to use Mr. Turner's phrase, "dialogue meaningfully" on the Mackenzie Valley Pipeline proposal.

Now, because the government has been unable to act thus far as honest broker on this issue, a number of public interest groups such as the CIC, Pollution Probe from Toronto, Canadian Arctic Resources Committee, have stepped in to attempt to fill the void. Challenging corporate planners before government regulatory bodies is usually a prohibitively expensive operation, and it might be useful to outline the difficulties we are facing in preparing our intervention before the N.E.B.

- (1) With exorbitant legal costs for counsel for the full hearings, the travelling costs of all our expert witnesses, and the research costs, we would have to raise about \$160,000 all told.
- (2) The restrictive terms of reference under which the NEB hearings operate could exclude evidence vital to a full consideration of the pipeline proposals.

From the above it is evident that only the public interest groups can provide the other side which in theory is essential for Adversary hearings such as the NEB. However, unless there is public funding and a change in the NEB guidelines, there is a very real threat the whole process will be a farce and a rubber stamp for corporate planning of the multi-nationals.

MR. WOODFORD : Mr. Commissioner, my name is Jim Woodford. I am a writer. I should say I have somewhat of a conflict of interests here because I do write things on the Mackenzie Valley Pipeline in the North, and possibly I might make some

money out of the outcome of the hearings.

I would like to suggest, sir, that these hearings should be delayed for a minimum of two years, and I suggest there are two basic reasons to support this: one is the land claims by the Native peoples, and also the environmental research deficiencies.

Now, I would like as a white southern Anglo-Saxon agnostic to support the claims of the people of the North. I don't want to go into the long quote I have in my brief, but suffice to say that much of what has been done to these citizens in the past was initiated in days of less knowledge and concern for civil and minority rights. I don't think there is any excuse for repeat of this in the 1970's.

Now, even the applicant, through the Environment Protection Board (sponsored and funded by Canadian Arctic Gas Study (Pipeline) Limited), admits that it will be some years before there is adequate material to assess the effects of the pipeline on the northern environment.

No hard evidence has been produced to this time, by either the applicant or the Government of Canada to show that this project is vital to the energy needs of Canadians. What is evident, however, is that when the Alyeska Trans Alaska Pipeline is completed from Prudhoe Bay to Valdez, and oil production commences, there will be a substantial volume of gas which must be marketed, since the State of Alaska prohibits the flaring of natural gas.

The volume of gas produced, when the oil pipeline is operating, at full capacity, is estimated at about 2 billion cubic feet per day. This is about half the volume required to fill a 48-inch pipeline, the size suggested if the project is to be economically viable. Thus the plan is to combine equal volumes of Prudhoe Bay gas and Mackenzie Delta gas. Now, to my knowledge, no Canadian company has signed contracts to buy Mackenzie Delta gas. I would suggest, sir, the Inquiry should investigate this important aspect concerning the timing of the proposed pipeline, for at the present time it appears that the rush to obtain permission to construct it is for American rather than Canadian concerns.

THE COMMISSIONER : Mr. Lowe of the Canadian Environmental Law Association.

MR. LOWE : Mr. Commissioner, my name is John Lowe. I am a staff member with the Environmental Law Association in Toronto. I am working presently on an Environmental Impact Study Group and I have been working there for a year. I am not a lawyer.

The Canadian Environmental Law Association is a National non-profit organization of citizens, scientists and lawyers dedicated to enforcement of present environmental laws and to maximizing public participation in environmental planning.

The Association was founded in 1970, along with the Canadian Environmental Law Research Foundation.

The Canadian Environmental Law Association believes that adequate funding for intervening environmental groups appearing at the Inquiry must be assured if a truly representative case in assertion of environmental interests is to be maintained.

Impecunious environmental groups, while capable of mustering considerable voluntary aid, cannot hope to digest and rebut effectively the amount of data made available through environmental assessment without an adequate research staff and effective legal counsel at the hearing itself. A corporate or government entity which can spend several million dollars for environmental research has an overwhelming advantage in expertise available when defending their environmental assessment before a hearing Tribunal, for instance.

There are a number of formulas for funding which might be employed of which we would suggest four.

A percentage of the total cost of the assessment would be made available to intervening environmental groups and divided at the Commissioner's discretion according to manpower employed, expected expenses for expert testimony, for research and the hearing itself.

This could be done in such a way as to promote as much co-ordination as possible between the intervening groups.

The second method might be to make available a percentage of the proponent's assessment cost and estimated hearing cost and divide it among the intervening groups.

The third one was a percentage of the total capital cost of the project which may be 1% or 2%, or which ever might be deemed appropriate for an adequate assessment, for an adequate independent assessment and hearing cost for interested parties which may appear.

A fourth method might be the appointment of a co-ordinating environmental group to co-ordinate the total environmental assessment.

Funds for intervening environmental groups should be made available through the project proponent or the Federal department primarily responsible for overseeing the project, i.e., in this case the Department of Indian and Northern Affairs.

Funds supplied through the Federal department should be recoverable from the project proponent. Intervening groups should have at least 90-days prior to the commencement - 90 days - should have the funds at least 90 days prior to the commencement of the hearings.

On page 13 of the application, we see, and I quote :

"Through the creation of greater opportunities for employment, resultant increases in personal incomes and the development or improvement of such infra-structure as community recreation, communications, transportation, medical and service facilities, the applicant's project will enhance the continuous development of the socio-economic framework of the relevant communities for the peoples of the North."

This kind of statement should be available for scrutiny and examination at the hearing.

Terms of reference which do not allow consideration of whether the right-of-way should be granted at all cannot be said to be adequate. CEL feels that the mandate to determine whether the right of way should be granted is within the Inquiry's terms of reference and that to do less would again indicate that environmental and social values are not being given the same pre-eminent importance that economic factors enjoy.

The June 1972 Pipeline Guidelines have never been scrutinized in any public forum. Some groups may take serious issue with the adequacy of the Guidelines in determining whether environmental values are being protected within their scope. Since environmental impact statements were prepared in accordance with the terms of the Guidelines, deficiencies in the format will often be reflecting errors in the Guidelines themselves. Weaknesses in emphasis in the Guidelines will again be so reflected in the impact statements.

A standard delimiting the amount of environmental deterioration allowed must be articulated to determine whether a projected pipeline may or may not be built. It must be assumed that there is a limit to environmental degradation which cannot be exceeded, that there is a point beyond which environmental deterioration should not be countenanced.

I would draw your attention to page 14, of the application, in which the applicant states :

"The applicant submits that its project is in the Canadian public interest as it will enable Canadian Arctic Gas to be brought to market more economically and at an earlier date than would otherwise be possible."

I again would submit that the intervening groups should be allowed to question these assumptions made in that application.

An Inquiry that precludes consideration of transportation methods other than the pipeline can be

said to have closed off options which have never been given the public scrutiny deserved. Other modes of transport have been projected for the Mackenzie Valley area, and it is reasonable to expect that these modes of transport should be examined in relation to the pipeline proposal.

Besides the primary environmental impact caused by the pipeline construction, the secondary impacts engendered by the pipeline's presence must be investigated. These include the growth inducing or accumulative impacts initiated by a major project.

The growth inducing impact for a project may best be exemplified by the construction of a highway which, in later years, becomes a focus for strip development along its length.

In the Mackenzie Valley instance, we have already seen the proposal for a hydro-electric development on the Great Bear River to supply pipeline pumping stations, a direct secondary impact to the pipeline proposal.

The growth inducing aspect of the pipeline's construction could have significantly greater consequences for the environment of the Northwest Territories than the building of the pipeline itself. The determination of this impact should be one of the major areas of inquiry in assessing the need for the pipeline right-of-way.

MR. COMMISSIONER : I will now ask Mr. Selbie of the Federation of Ontario Naturalists to make the submission on behalf of his organization.

MR. SELBIE : Thank you, your honour.

The proposal before you is concerned with the immediate extraction of Delta gas, with the export of that gas, and most especially with the construction of a transportation system in the Mackenzie Valley which is designed exclusively for that particular commodity.

It is the first major application of this kind for Arctic Canada, but we may reasonably expect that it will not be the last. We still live in a world of rapidly diminishing resources, and rapidly rising population and percapita consumption. Even if the Government of Canada, and the Governments of other nations, are sufficiently wise to bring about a stable and sustainable society, several decades will be required to do so. In the transition, critical shortages of many resources will occur. There is already ample evidence that deposits of some of those resources occur in northern Canada, and that the mining and petroleum industries will wish to extract them.

Our first recommendation, therefore, is that this proposal be at all times considered in the context of other proposals that may appear; oil from the Delta, gas from the islands, minerals from the Yukon or elsewhere. However difficult it may be to

predict the nature and scope of such future development, it is quite unrealistic to suppose that this is the only major northern transportation proposal that Canada will ever entertain.

It is obvious, but often forgotten that the only reason for extracting any Canadian resource, or for developing any Canadian industry, is to improve the quality of Canadian life. Developments are worthwhile only if they contribute to the unity, strength and independence of our country; to the creation of communities that are healthy, varied secure and stimulating; to the creation of challenging, long-lasting and, in every sense, rewarding jobs and investment opportunities for Canadians; and to safeguarding our environment, including the vast natural areas so important in our culture and heritage.

THE COMMISSIONER : Before we turn to the further submissions that Arctic Gas or Canadian Arctic Resources Committee may wish to make, I want to give anyone here today, who hasn't had an opportunity to be heard, a chance to speak up now if there is anything you wish to say that it would be appropriate for you to say now.

There have been a number of suggestions here that this Inquiry should review the adequacy of the Pipeline Guidelines. If you look at the order-in-council, you will see that I am to inquiry into and report upon the terms and conditions that should be imposed in respect of any right-of-way that might be granted for the purposes of the pipeline, and that in making that inquiry, and in considering what recommendations I ought to make in my report to the Minister, I am to take into account the two matters that appear in paragraphs (a) and (b) at the top of page 2, and the first of those is described in these words :

"the social, environmental and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the Northwest Territories."

Now, then the second paragraph (b) deals with the Pipeline Guidelines.

Now, it is something that I draw to your attention because it may well be that paragraph (a), which appears to have been drafted in a way that is obviously very wide in its scope, allows this Inquiry to go beyond the Pipeline Guidelines, and to consider the social, environmental and economic impact in the North of the pipeline proposal, you may well want to consider, and any further submissions you have to make, whether (b), which relates to the Pipeline Guidelines is simply designed to provide a focus for that Inquiry.

You see, if you look at the Pipeline Guidelines, they set out a number of environmental and social concerns but you may want to consider whether taking this order-in-council as a whole there may be other social and environmental considerations not set

out in the Pipeline Guidelines which it was intended this Inquiry should look into and report upon.

I only draw that to your attention because I have heard a great deal today, and I am grateful to have had the opportunity to hear it, about the Pipeline Guidelines, but I ask you to come back to the order-in-council in making any further submissions and to give me your views as to that matter.

There is a submission that has been received from Mr. Butters, Tom Butters, Member for the Western Arctic for the Council of the Northwest Territories, and I am going to ask Mr. Waddell to read that into the record now.

MR. WADDELL : Here is his Brief, dated "Inuvik, Northwest Territories, 3rd of May, 1974".

"While PC.1974-641 authorizes hearings not only in 'territorial centres' but also 'in such other places' as deemed necessary by the Commissioner, it is of prime importance that the Inquiry Committee visit all of the communities along the proposed pipeline route that will be directly affected by the development. Such communities are those lying along the Mackenzie River.

Although Fort Franklin lies 60 miles east of the proposed line, that community could be more affected by the proposed development than Mackenzie River communities owing to the plans for massive hydro power development on the Bear River and attendant proposed changes in the level of Great Bear Lake.

Yellowknife, being the Capital of the Territories, naturally would require special consideration and a much different type of hearing arrangement and procedure than that carried out in the smaller N.W.T. municipalities, settlements and outposts.

The Canadian Broadcasting Corporation has failed lamentably to inform the northern resident regarding the socio-cultural, political and economic changes occurring in the Territories, and especially in high development flux areas such as the Mackenzie District of the N.W.T. Although everyone is aware the quality of life in the Territories is undergoing continuing and rapid change, minimal objective and informational material has been communicated by the CBC relating to the cause and effect relationships underlying such changes providing for residents a number of options through which they can best adapt and be ready to take advantage of opportunities resulting from the heightened development climate.

One cannot blame the CBC management wholly or solely for this omission for they must compete with other senior officials of Federal Government Departments and agencies and justify their specific requirements and priorities for their share of the public dollar.

CBC planners have been extremely successful in the last ten years in acquiring funds to improve communications systems in the North. Radio and television systems have been developed far beyond the most optimistic expectations of persons residing in the Territories in 1964. While still much improvement remains, the CBC has given us the ways to communicate instantaneously and meaningfully to the vast majority of the people of this hollow land.

What we have not been given is the means to carry out that communication. The Council of the Northwest Territories has repeatedly, session after session, asked the CBC to develop a programme initiation capacity and production capability in the Territories. This has not been done. CBC management has protested that high costs and lack of trained staff militate against such a communication development programme at this time. Meanwhile, the winds of change blow unabated through northern communities and the people of the North remain ignorant of the implications of such change and opportunities that it brings.

CBC management's protestations regarding the setting up of programme development and transmission facilities in the Territories ring even more false in view of the recent two and one-half hour long colour television programme on the Northwest Territories "Inukshuk" which included two 'live' television broadcasts originating in the North with signals transmitted via the Anik satellite. The two live, colour television broadcasts originated from two widely separated points; one, being the Anglican church at Frobisher Bay and another the 'Sub-Igloo' structure anchored beneath the sea ice near Resolute Bay. Obviously, live television broadcasting from the North to the North is technically possible.

My recommendation is therefore that the Inquiry Commission be given every co-operation and offered every facility of the Canadian Broadcasting Corporation to ensure that the fullest communication can occur in the Territories regarding the proposed CAGSL project, pro and con, and that every viewpoint, opinion and position be given an equal opportunity to present that position, in English, French, Cree, Dogrib, Slavey Kutchin and the Western Eskimo dialect, with translations. Preferably this communication should be carried out on both radio and television systems developed by the CBC in the North.

I believe that all residents of the N.W.T. and particularly of the Mackenzie District recognize that a Mackenzie Valley gas pipeline will increase the rate of change presently being experienced in northern communities. Therefore, understandably, residents of the Territories will seek to have regulations imposed upon the project both during construction and throughout the operation phase which will not only seek to provide for immediate and future benefit of residents of the Territories but also to ensure that any change that takes place will be at a rate compatible with the life styles and aspirations of nearby communities.

I suggest the answer of the people of the North to the CAGSL application is 'Yes, we support the concept conditionally and those conditions when implemented must enhance and improve the quality of life enjoyed by the people of the Northwest Territories.'

I suggest that the field headquarters of the Inquiry when it is established in the North not be set up in either Yellowknife or Whitehorse. I suggest that consideration be given for establishing the Inquiry's territorial headquarters at either Hay River or Inuvik.

And that is the Brief, Mr.

Commissioner.

THE COMMISSIONER : Well, Mr. Law, you are here, you might tell me who you represent and then go ahead and let us hear what you have to say.

MR. LAW : I am here at the invitation of CARC and at the invitation of some other groups as well. I belong to the Canadian Institute of Guided Ground Transport at Queen's University. I am the Executive Director. I am really presenting some points relative to one of the alternatives that have been raised.

U.S.Environmental Impact Regulations call for a thorough consideration of alternative means of achieving the proposed ends, in this case, transporting oil and gas.

Canadian Guidelines for Pipeline construction in the North are somewhat less demanding. They do confine routes to a narrow corridor. They do insist that only one oil pipeline and one gas pipeline, etcetera, can be considered, and in passing they mention highways and railroads and tele-communications, but the magnitude of their impact is really only hinted at.

Since part of the proposed pipeline passes through Alaska, the alternatives are mentioned in the CAGSL report, but the most significant alternative, namely the railroad, is dismissed with just a few paragraphs, and from a Canadian point of view I think that just isn't good enough.

My organization became involved in a study of the transportation of Arctic oil in the Spring of 1971 and we added gas in 1972.

I should emphasize that any figures I might give today are related to these initial studies, and they don't relate to the much more detailed studies which have been conducted since that time by Canadian National and Canadian Pacific on behalf of the Canadian Government.

We concluded that any large scale petroleum development in the North will have very profound consequences not only on the North, but on the whole of Canada, and for very many years to come, if not forever.

The magnitude of the Prudhoe Bay development alone is enormous. They talk about 10 to 30 billion barrels of oil. They talk about 25 to 125 trillion cubic feet or more of gas. They talk about 5 to 20 billions of dollars capital investment, depending on who you are talking to, and that means some-

thing like 60 to 500 billion dollars of sales which are enormous sums.

We calculated that a railroad using unit trains of tank cars, more or less permanently connected, could move from one to twelve or more million barrels of oil per day, that is to say, about one-half to six times what a 48-inch pipeline could carry, and we could carry it more cheaply than the pipelines could, and at apparently less environmental costs.

In addition, there were substantial secondary benefits from a railroad. No one has yet found out how to roll cabbages or potatoes out of the back end of a pipeline, but a railroad can move a vast array of goods and people in both directions.

Now, included in these other goods is natural gas. Liquified natural gas can be moved in special tank cars of a type which are already in use, nothing new, at a cost which is apparently only very slightly greater than by pipeline, if only gas is moved, and less than pipeline if oil or other products are also moved. None of these take into account secondary effects. In other words, one railroad could move the products of a gas pipeline, of an oil pipeline, and various other things on the one railroad.

And the secondary effects of a railroad are so significant that they have to be carefully considered.

Now, a pipeline involves a substantial capital expenditure at the beginning of the construction period. There are no returns until everything is complete and you start to move gas or oil or whatever. Therefore, the construction time is kept as short as possible. We have got to start getting the money back. Very large numbers of skilled workers would be used over a two to four year period, they tell us. At the end of this time a very few, very highly skilled persons, some three hundred to six hundred, depending on who you talk to again, would then operate the system and at a maximum achievable capacity. Once the construction is over, everybody goes home except these few guys who run it.

Now, a railroad doesn't have such high expenditures at the beginning. It can start operations both to build itself and to move goods and people, if necessary, as soon as you have some track and some locomotives and some cars. The pace can be as slow or as fast as seems to be desirable overall.

The range of skills that is required to build a railroad is much broader and less specialized than to build a pipeline. Jobs should be available at all levels for all Northerners who want them in fact. When the railroad moves to the operating stage, many jobs are available there, four thousand to seven thousand or so, depending on what is moving and on the size of the railroad. Some construction workers would certainly remain as operating personnel, in fact, as many as wished to remain obviously. There are probably more jobs than people.

If they chose to do so, some of the existing settlements in this transportation Corridor could become permanent links on such a rail system. Furthermore, the railroad could serve as a link between the communities making a highway unnecessary.

Professor North and Mr. Cairns and various other people have said, "No, we don't need Arctic oil and gas at this time. We may well need it later." The U.S. needs it both now and later, and what they need, they usually get.

Construction of a pipeline big enough to be economic requires a high through-put from the earliest possible moment in order to pay. Since we don't need the oil or gas yet, it is going to be sold, mainly to the United States. Indeed, it is reported that much of the yet undiscovered Mackenzie Delta gas has already been sold, or anyway contracted to the United States, and at very modest prices at that.

When we finally need this gas, most of it will already be gone, and if we are able to buy our own gas at all, it is going to be at a very high price.

It has been suggested, mainly by the oil companies, that any delay in the development of Arctic oil and gas supplies will be exceedingly costly to the United States, and by implication, to everyone else. One billion dollars per year has been offered as the cost of delay.

We have made, and we have published without any refutation whatsoever, some calculations which show that delay of from one to perhaps as much as six or seven years was profitable to the United States at the rate of from 250 million to over one billion dollars. Now, I didn't say profitable to the oil companies, I said profitable to the United States. The oil companies may very well lose money on it.

This rate of profit was based on 3 to 6% inflation in cost per year. When we made these projections in 1972 we were told that oil which was then \$2.80 a barrel would probably not rise above \$5.00 a barrel before 1985 or maybe even before the end of the century. I believe the 1974 world price is about \$10.50 a barrel.

We haven't mentioned the question of removal of a pipeline after use, and in fact it doesn't seem to be mentioned in any of the papers, although it is mentioned in the Guidelines, but removal of a pipeline can be very nearly as costly as its construction in the first place, and if the pipeline is not removed or otherwise neutralized, the consequences can be very serious.

I think this is a question which has to be examined very carefully indeed. Whatever action is taken, it is going to be semi-pre-emptive. I mean by that, that the first action is going to set the stage for a very long time to come. If we make a mistake at stage one, it will probably be impossible to turn back.

Now, although I head a railroad institute, I am not saying that a railroad should be built to move Arctic gas or Arctic oil or Arctic anything else. What I do say is that all the reasonable alternatives should be considered, and considered very carefully, having in mind the long term good of Canada. I do think that a railroad has so many special potential advantages, secondary and primary, that it should be considered in this new version of the national dream.

Thank you very much.

THE COMMISSIONER : Thank you very much.

MR. LAW : I have some light bedside reading to add to your pile.

THE COMMISSIONER : I think that -- I think that since, Mr. Law, there is an argument that relates to the question of whether I can consider alternate modes of transporting Arctic gas down -- up the Mackenzie Valley; I think for the time being I will decline your invitation to read this material. I think that I really should decide that before we get into the merits of a railway which I take it your material does relate to. But anyway, thank you very much for your submission.

I think that we will hand these over to Miss Hutchinson and have her hold them as an exhibit for identification.

I am not going to explain what that means.

So, we will adjourn until 10:00 o'clock tomorrow morning.

OTTAWA, Ontario,

May 7th, 1974.

THE COMMISSIONER : Well, we will come to order.

The two submissions that are to be made this morning, those that intend to make them have asked that they be allowed to make them after these questions that Mr. Goldie and Mr. Lucas intend to argue have been discussed, so we will start off with this -- with Mr. Goldie and then Mr. Lucas, and then anybody else who wants to make a submission on these procedural questions that it was announced late yesterday afternoon would be argued today.

So, Mr. Goldie.

MR. GOLDIE : Thank you, Mr. Commissioner.

I have arranged my argument under the following heads :

First : the scope of the order-in-council, or what has been from time to time referred to as the terms of reference of the Inquiry,

Second : the use of the Expanded Guidelines for Northern Pipelines, as tabled in the House of Commons on June 28th, 1972, and,

Finally : procedures suggested for the purposes of this Inquiry.

First, the scope of the terms of the order-in-council or the terms of reference. In one form or another, Mr. Commissioner, it has been suggested that you should consider :

- (1) The National Economic Impact of the applicant's proposal.
- (2) Land claims of Native peoples.
- (3) Environmental and socio-economic impact of producer activities, including gas fields.
- (4) Alternate means of transporting gas.
- (5) A hydro-electric scheme on the Great Bear Lake.
- (6) Whether the applicant should be given permission to construct the pipeline.

- (7) Transportation of supplies
- (8) The form of order or recommendation.

With respect to all these, the applicant submits that provisions of order-in-council P.C. 1974-641 are clear and provide you with a guide that can be followed. It will be my submission that these provisions are not to be regarded as narrow or broad. In my submission they are drawn so as to allow for a reasonable division of labour between you and the National Energy Board, and I will develop this in greater detail.

The terms of reference provided by the order-in-council, in my submission, have been carefully drawn, and I say that from simply a reading of them in terms of what has to be done. The objects, which the draughtsman appears to have had in mind, are two-fold:

First, to bring your report within the scope of the Minister's jurisdiction. And I have dealt with that.

Second, to avoid overlapping the work and jurisdiction of the National Energy Board. And I wish to expand on that a bit.

We must bear in mind that ultimately it is the Governor-in-Council who will decide whether the project will go ahead, and if so, upon what terms. And this is what we would expect in a democratic society. Namely, that final responsibility for a matter such as this rests upon the party commanding the support of Parliament.

The Governor-in-Council will decide on whether the project will proceed on a recommendation of the National Energy Board, acting upon an application for a Certificate of Public Convenience and Necessity.

In acting upon that application, the National Energy Board will, as I have indicated, consider every topic that I first listed, except that of the Great Bear hydro project.

On the other hand, in determining the terms and conditions on northern lands, to be imposed on the use of northern lands, the Governor-in-Council will act upon the recommendation of the Minister.

The Minister has asked you, Mr. Commissioner, to take evidence and report to him on those subjects which are relevant to those terms and conditions. The two streams of recommendations come together at this point, namely, the Governor-in-Council, and I submit that the draughtsman had that very clearly in mind. It would be a very wasteful duplication to have recommendations coming forward from these two sources which dealt with, in part, at least, the same subject. Such a result should not be sought for, in my submissions, but should be avoided.

As I mentioned a few minutes ago, we do not produce the gas we are going to carry. We do not own it, and we will not sell it. We will expect that the producers will carry the burden of answering questions on the supply end. We will expect those who buy and sell the gas will deal with other matters relating to the disposition of gas.

On the question of Land Claims, it is the applicant's understanding that the Canadian Government has stated that it is prepared to sit down with the Native peoples, when they are ready, and that any decision relating to a pipeline will not affect the Native claims or rights. We understand that negotiations have begun with some groups. The applicant will deal with anybody found to have or to be granted interest in lands. And the position of the applicant is very simply put.

It hopes that all Native organizations and governments -- and government, will commence negotiations. It hopes that an equitable settlement will be reached, but the applicant believes that what it proposes will be beneficial regionally and nationally, and that the relatively small use of land for its buried pipeline will not inhibit other land uses.

In my submission, it does not infringe the rights of Native peoples in the land comprising the right-of-way to determine what terms should be imposed on the applicant's use or proposed use so long as the compensation for that use is paid to them if it is determined they have rights.

However, what is important now, that is to say, in this procedural preliminary, is that, in my submission, the question of Native claims is not included in the terms of the order-in-council and should not be included in these proceedings.

With specific reference to the Environmental and Socio-Economic Impact of Producer Activities, these are the subject matter of different regulations and will be the subject matter of applications by the producers.

It is my submission, Mr. Chairman, that the conditions to be imposed on the applicant's use of land subject to the jurisdiction of the Minister for its trunk pipeline is a question entirely separate from the gathering and processing activities of the producers.

It was suggested that alternate modes of transportation should be examined in the course of this Inquiry. We heard evidence yesterday on one alternative means of transportation, and I assume that Mr. Law will come before the National Energy Board so that he may be cross-examined on some of the things that he stated.

I say this, that the Energy Board will be required to determine whether the Canadian public interest is served by the applicant's proposal and in so doing, it will examine all alternative methods of transporting natural gas. The exhibits prepared by the applicant before the applications were filed provides for this.

In my submission it is clearly outside this order-in-council to suggest that one term of an easement to be granted the applicant for a pipeline should be that it transport gas by rail.

The question of the Great Bear hydro project falls outside the order-in-council, in my submission, for much the same reason. What is being considered is the "proposed pipeline". The applicant's proposed pipeline is not in any way concerned with this hydro project, since the applicant intends to run its compressors, chilling machinery and generators with natural gas.

THE COMMISSIONER : Mr. Goldie, you have dealt with the question whether alternate means of transporting the gas fall within the scope of this Inquiry. You haven't mentioned consideration of alternative pipeline routes. Is there any issue as to that?

MR. GOLDIE : No. No. Mr. Chairman. We anticipate that you will wish to consider that question in the North.

THE COMMISSIONER : Well, no one raised this question of alternate routes and it does appear to be covered expressly by the Guidelines at the top of page 11. Now, you have no doubt examined that and that is why you didn't discuss it, but I thought I would raise that so there would be no misunderstanding about it if anyone does say that it doesn't fall within the terms of reference of this Inquiry.

MR. GOLDIE : Well, I -- for whatever benefit, or for whatever comfort it is, I say it does, and we will assume that we will be required to lead evidence on that point.

Mr. Commissioner, if I may return to the question of whether it is a subject matter of this Inquiry to decide whether the pipeline application should proceed, I have already indicated, in my submission with respect to the complementary jurisdiction of the Energy Board and your Inquiry, that that question is ultimately one for the Governor-in-Council acting upon a recommendation of the Energy Board.

The next heading that I noted on the question of the scope of the terms of the order-in-council was one raised by Mr. Sutton, namely, the transportation of supplies.

I agree that the transportation of supplies within the Northwest and Yukon Territories falls within the scope of this Inquiry, insofar as that consideration leads you to recommendations with respect to terms and conditions on the land tenure grant.

Now, Mr. Commissioner, this brings me now to the consideration of the use of the Expanded Guidelines.

The Guidelines, of course, have no statutory basis. They appear to be a statement of Government policy.

Now, it is apparent, in my submission, that the recommendations of this Inquiry, and in particular paragraph (b) of the Order-in-Council, or those under paragraph (b), will form a basis for the Minister's determination of what covenants will be required of the applicant before it is permitted to use land in the North.

These Guidelines are not the equivalent of licencing requirements which if complied with would entitle the applicant as a matter of right to licence. The Government of Canada has reserved to itself complete flexibility in respect of these Guidelines, and a good example of that is found in the discussion of the Corridor concept on pages 7 and 8 of the Expanded Guidelines.

It is apparent, in my submission, from the discussion on those pages, that the Corridor concept is not one that can be applied generally, but is to be selectively examined in the light of particular circumstances.

The thrust of Guideline No. 3 is the assessment of the suitability of the applicant's route or nearby routing of other pipelines. Now, that implies that the routing of another pipeline is known. I think you will find, or I think it is acknowledged, that the oil route pipeline could not be finally determined until the characteristics of the crude oil to be transported were more definitely known, and I don't think that any further work has been done on that since the report that I have mentioned, ("Arctic Oil Pipeline Feasibility Study 1972").

In any event, the applicant submits that it has filed evidence which allows for an assessment of suitability of its route in terms of Guideline 3.

THE COMMISSIONER : Excuse me for interrupting you again but this -- were these Guidelines initially framed at a time when it was thought that the oil found at Prudhoe Bay might be brought down -- up the Mackenzie Valley to the United States and not across the Alaskan Peninsula to Valdez. Has that got anything to do with this? Have the Americans actually decided anything yet? Do we know?

MR. GOLDIE : May I answer that first in terms of the 1970 Guidelines.

The statement made at that time was, and I quote :

"The Guidelines related to pipelines tapping oil and gas resources of the 60th degree of Latitude in the Yukon Territory and the Northwest Territories. They established requirements ranging from environmental

protection, pollution control and Canadian ownership and participation to training and employment of residents of the North."

A more direct answer to your question, so far as I am aware, in 1972, when the Guidelines were issued, there had been no clear resolution of the direction that Alaskan Oil would taken, but there has now.

THE COMMISSIONER : Has there been an Act of Congress?

MR. GOLDIE : I am instructed, Mr. Commissioner, that there has been an Act of Congress enacted with respect to the Trans-Alaska Pipeline and the construction will begin this summer. I am further instructed that the study that is referred to certainly contemplated the transportation of Alaskan crude oil, that is to say, the study that is referred to in the applicant's exhibit.

I have a note that you made reference to Guideline or Item No. 6 on page 29. The reference to Native peoples I take is by way of emphasis to underline the fact that they are included within the larger class described as territorial residents. It does not set them apart or confer upon their claims under this category or this item a special status. The compensation is in respect of loss suffered by any resident in connection with his undertaking, which, of course, may include something that has no property relationship, or property which is a word that is self-explanatory.

The Guideline, in my submission, does not require you to identify anticipated loss. The requirement for compensation under this Guideline arises when loss results, that is to say, follows from construction or operation or abandonment.

Finally, Mr. Chairman, I wish to deal with some matters which come under the heading of Procedure to be Used in the Course of the Inquiry.

A number of parties here have requested a delay, some of up to one year and one for an indefinite delay. This is a very serious question. I submit that delay would prejudice, not just the applicant, but the people of Canada generally and I wish to sub-divide my submission to you under two heads.

Now, on the first, the position the applicant takes is that there are large reserves of natural gas in the Mackenzie Delta and these will be needed to secure and re-inforce Canada's energy needs within a few years.

It is going to be costly to transport gas over the large distances involved. It is in the public interest of consumers of gas in Canada that the transportation costs of this gas be kept as low as possible. In the applicant's submission, this can be best achieved if this Canadian line transports Alaskan gas to

the United States. The applicant proposes to build a line where up to 50% of the cost of transportation will be borne by the American user of American gas and where economies of scale can be achieved.

The applicant intends to submit evidence to the National Energy Board in proof of its contention that the cheapest means of transporting Canadian gas to Canadians is to build a large, in this case, 48-inch pipeline. Now, this is a very big line. Half of the capacity in that line will be taken up by Alaskan gas being transported to the United States. If the line is built to carry Canadian gas alone, it would be very much smaller, but the reduction in cost is not in proportion. You still must dig a ditch in the wintertime. You still must transport men and materials to remote areas. About the only clearly identifiable reduction would come from the reduction in steel tonnage.

Now, the effect of this on the cost of gas to users in Eastern Canada or the market areas of Canada, is so obvious that I won't enlarge upon that.

Now, the second point, public interest in the North. The applicant intends to prove, and it will be adducing evidence before you in proof of this contention, that the construction and operation of the pipeline will provide a unique opportunity for the people of the North to better their environment and their conditions, but at the least cost to the environment and in a manner that will cause the least disruption to traditional ways of life.

Most people think of the construction of a pipeline as the major period of job opportunity. Of course, there will be many job opportunities during the construction of this line. But in addition, after the line is constructed, the people of the North will be offered the opportunity of permanent employment that will provide for many a transition from a land based occupation to a wage earning economy, but it will be their choice.

The presence of a buried line will not interfere with the trapping, hunting and fishing which are the traditional pursuits of the Native peoples.

What was said by the Chief of the Community at Fort Franklin illustrates this submission. The applicant has shaped its policies so as not to interfere with traditional pursuits. But when he said there were no wages and no employment at Fort Franklin, he underlined the lack of choice for Native peoples, and it is the provision of this choice which supports the applicant in its submission on this point, that is to say, the question of public interest to the peoples of the North.

Now, Mr. Commissioner, I want to bring those propositions into focus in respect of this question of delay.

Delay in commencing the substantive task of this Inquiry may imperil or even kill this project. The result would, in my submission, be the loss of the national benefits I have outlined and a long delay in the regional benefits. And this is for a reason which is beyond the control of the applicant.

In Inuvik the submission of the Northwest Territories Association of Municipalities spoke of the potential competition from an El Paso application for an Alaskan route.

Now, this competition is not potential. It is there. El Paso, which is the largest single -- the largest natural gas pipeline company in the United States, has now formally stated it will file applications to take Alaska gas west from Prudhoe Bay to the Coast, to liquify it, and to transport it by tanker to a California port for distribution in the United States.

The Governor of Alaska has stated he supports this proposal, and no one should underestimate the ability of El Paso to carry out what it proposes.

The applicant believes that its proposal is better for the United States, that is to say that it can stand comparison with the El Paso proposition on the basis of merit alone and demonstrate that it is superior. It believes that it can make available to the United States Alaskan gas at a lesser transportation cost and at points of delivery which are more suited to the needs of that country.

Should the El Paso proposal be accepted by the United States, it would remove Alaska gas from the Canadian line. Not only would this increase the cost of transporting Canadian gas to Canadian markets, but would also delay the construction of the Canadian line despite Canada's need for that gas.

I want to stress at this point that the applicant is not asking for any shortcuts and it is not asking for any favours. What it is asking for, is the opportunity to display its proposal and to have that proposal subjected to a full, fair and impartial examination on the merits, and it seeks the cooperation of everybody who has appeared at these hearings in the belief that that is indeed what they want, that is to say, an examination on the merits.

It has been known for years that the applicant would be filing an application. And I say, with all respect, that no one is being taken by surprise here who has paid any attention to what has been going on since 1970 when the first Guideline was issued. Substantial published work prepared by both Government and private sources has been available to the serious researcher well prior to this application.

Now, yesterday, we had a submission by Doctor Page who said that they had been studying this matter for two years, and he felt sufficiently confident of the results of that study to say that the reports of the applicant had been doctored or abridged.

Now, if this is so, he is able -- he has demonstrated a knowledge which would allow a devastating cross-examination. If it is not so, and I -- my instructions are to the contrary -- my instructions are that it is not so, then of course that statement should not have been made.

But, what I am getting at, Mr. Commissioner, is that throughout -- and I referred to this at Yellowknife -- throughout the submissions of the people who have indicated they intend to appear, it is a very well documented or apparently well documented understanding of the nature of the proposal.

It was suggested that the peoples of the North, especially the Native peoples, are ignorant of the pipeline proposal and that a lengthy period of communication or education is needed before these community hearings could begin.

I am instructed that the Department of Indian Affairs and Northern Development conducted between August 1972 and March 1974, an extensive programme of education about the proposed pipeline of Canadian Arctic Gas.

I am further instructed that the termination of this programme was at the request of the Native Peoples Organization.

The programme, according to my instruction, involved essentially four full-time administrative employees, plus eleven full time positions in the various communities of the pipeline area. These workers were almost all Native people trained for the tasks and often chosen by local Native leaders. They were employed for the sole purpose of informing the residents about the proposed pipeline and later on the Mackenzie Highway.

In addition, the applicant has had a full-time Northern information officer for over two years whose sole function has been to import information to the Northern people.

Gemini North Limited of Yellowknife, one of the socio-economic consultants to Arctic Gas, has made informational tours and other trips to the North over the past five years.

Additionally, Arctic Gas Environmentalists have worked out of Northern communities for the past four summers, often living in communities as a base of operations with consequent contact with local peoples.

The applicant has distributed literature, films, and film strips in northern communities over the past several years, and is sending copies of its applications and supporting materials to each settlement council and band council in the northern areas which will accept it.

Mr. Commissioner, just before the break you asked me some questions with respect to the procedures in the United States.

My instructions are that the filings which have been made in the United States by the sister company, Alaska Arctic Gas, were made to the Federal Power Commission and to the Department of the Interior. Very roughly speaking, those two agencies or

bodies have the same jurisdiction or parallel jurisdiction to the National Energy Board and the Minister of Indian Affairs and Northern Development.

The two agencies, that is to say, the Federal Power Commission and the Department of the Interior have agreed on a joint environment impact assessment under the National Environmental Protection Act, and that is now in the course of preparation.

There are no requirements for hearings on the part of the Department of the Interior, and Alaskan Gas has been informed that if there are any hearings, they will be short. In other words, the full development of the Environmental and Socio-Economic matters will take place before the Federal Power Commission.

The Alaskan Gas Company expects the Federal Power Commission proceedings to commence sometime in the Fall on a competitive basis, that is to say, El Paso and Alaskan Gas. The FPC has issued its notice of intervention and the date for registration of intervenors has closed.

Does that assist you?

THE COMMISSIONER : Yes.

MR. GOLDIE : Mr. Commissioner, I will be very short in concluding my submission this morning.

THE COMMISSIONER : Well, before you do, there is one other thing. I have been advised perhaps wrongly, that under the National Environmental Assessment Act, I think it is the same Act that you spoke of, that the United States authorities are bound by Statute to take into account the environmental impact on Canada.

I was curious, because it occurred to me that if there were American studies about the Canadian environment underway, it would be useful to know about them and to see if they could be obtained.

I only throw that out because perhaps the other parties at this inquiry conceivably might have some knowledge of that subject. Am I right in my assumption about the U.S. legislation ?

MR. GOLDIE : My instructions are that you are. The copies of the applicant's exhibits here will be filed in the United States. So far as it presently known, it is not contemplated that independent studies would be made for the purpose of determining the impact on the Canadian environment, by the U.S. Government that is.

THE COMMISSIONER : Yes, thank you.

MR. GOLDIE : Mr. Commissioner, just before the break I had said that there were some disadvantages involved in the adoption of informal procedures. These appear to be justified in the view of the applicant because the peoples of the North should be accommodated in their desire to inform you of all the matters that concern them. But, at this time, in my submission, the requests for delays that you have heard are a different propositions.

They are, if I may put it this way, based upon apprehension rather than a showing of actual prejudice. The processes which have been suggested to you are in themselves part of the preparation for the more formal hearings which would take place in the Fall if the kind of timetable which the applicant has suggested was adopted.

It is the applicant's submission, Mr. Commissioner, based upon the propositions that have been put to you this morning, that to accede to a general claim for a delay on the basis of the reasons that you have heard so far, would provide no one with a demonstrated benefit, and might work indeed irreparable harm on those who are most concerned.

What I am concerned about is this general proposition that these proceedings shouldn't even begin for a year. It is that which, in my submission, could well prove to have such undesirable results in relation to the whole scheme of the applicant.

Mr. Chairman, finally I should say that the -- repeat what I said at Yellowknife, that the formal hearings should consist of the evidence of the Assessment Group; the evidence in chief of the applicant, which might consist of no more than formal proof of the exhibits, followed by cross-examination of the experts and panel of experts in the usual way; the evidence of intervenors and cross-examination and reply and argument.

The applicant makes no submission with respect to the request for funding, except to submit that such requests, whether granted or not, should not be allowed to delay the hearings.

That concludes my submission,
Mr. Commissioner.

THE COMMISSIONER : I should say, before we go any farther, that in the course of the hearings, I have read some of the written submissions received by the Inquiry.

Now, I think I should say that there have been many letters received by the Inquiry from citizens all over Canada expressing their views about the merits of the pipeline proposal. I didn't have those read because I felt these preliminary hearings should be confined, as far as possible, to questions of procedure. All of those letters are part of the record of this Inquiry, and they are all, so far as I am concerned, public documents and anyone who wants to look at them may, but I didn't have them read

because they really didn't relate to the question of holding the hearings and all of these matters that have been discussed today.

MR. GOLDIE : Mr. Commissioner, I am somewhat concerned over the question of these letters.

I understood you to say that a number of these letters dealt with the merits of the proposal, and that they became part of the record. I am not clear whether by that you mean that they will be treated as an exhibit and thus should be -- the proposals put forward in them should be considered by the applicant, or whether they are, as it were, in a state of suspended animation, and if the writers don't turn up to put forward their views at the hearings on the merits, that they have some other different status.

THE COMMISSIONER : Well, let me put it this way. They are on the file in the possession of the Secretary. Anyone who wishes to look at them, may. The Secretary has passed some of them on to me that related to questions of procedure and they have been read. Some of them are a mixture of procedure and substantive matters which won't come as a surprise to anyone here, and I have looked at those. But I think that the procedure that we will follow is that these letters, and any others that are received relating to the merits, should be made, when we get past the procedural stage, should be made part of the record of the Inquiry so that these people who have expressed their views, can be assured that their views have been taken into account, but they haven't been marked as exhibits at this stage.

MR. GOLDIE : No.

THE COMMISSIONER : Except those that were read and were marked.

MR. MERCREDI : Mr. Commissioner, I represent the Small Businessmen and the Employed Natives of the Fort Simpson region. I regret that I was unable to present this intervention at the hearings held in the Northwest Territories. We are not funded by the Federal Government and attendance at hearings is expensive.

Mr. Commissioner, I will come to the point. I believe the Canadian Government must make an honest and just settlement to the Natives north of the 60th Parallel with regards to the Land Settlement issue. That, I am sure, Mr. Commissioner, is what everyone wants.

You have heard from ecologists, environmentalists, social groups, including the Native organizations all asking the same thing. "We need at least two more years of research," and on the other hand, asking for support from the Government to give them time and money.

That, Mr. Commissioner, in modern day terms is called a "National Rip-Off".

The Native Organization, Mr. Commissioner,

have annually been funded, both by the Federal and Territorial Governments.

For the past two years the pipeline issue has provided a welcome bandwagon to many southern organizations. You will recall many instances of these "Save the North Organizations" in the course of the hearings.

Mr. Commissioner, these same type organizations have caused a great deal of dissention between the Native and the White societies in the smaller communities in the Mackenzie and Liard areas. We have had such an influx of researchers in the Territories these past two years that I would not be surprised if someone had been funded by the Government to research the researchers.

I find it very odd that no one has grasped the social impact studies that have been made on other native communities in Northern Ontario that once was affected by industry and the departure of industry. A person would think that some of these studies would be of some assistance to the organizations to better understand what happened when industry first operated in their locale.

There has never been any mention since I have been here of the Pointed Mountain Pipeline which is in existence today and pumps gas into British Columbia, or any mention of the Canol Road which was built in 1943, where also a pipeline and road were built. It has been 31 years since the construction of that road and I have had the privilege of walking on that same road which still stands in perfect condition.

I recommend that if there is to be further research programmes in the Northwest Territories, that these funds be administered by the individual settlements, which will be affected by the proposed pipeline. That the respective Chiefs and Band Councils of these settlements sit with the Settlement Chairman and Council to iron out the separatism between the two societies.

Further, I feel that you should go into the communities and hear what the Chiefs and Band Councils have to say. You will hear the true feelings of the people. What is heard in the South is not always the same because of the communication difficulties.

Mr. Commissioner, it is about time that we should start working together for the benefit of all Canadians.

Thank you.

THE COMMISSIONER: Thank you, Mr. Mercredi. Your submission will be marked as an exhibit, and will form part of the record of the Inquiry.

I wonder when we break off at noon, if you would speak to Mr. Weick, who is an Economist with the Assessment Group, and tell him about the social impact studies that you referred to in Northern Ontario.

Now, Mr. Belcourt.

MR. BELCOURT: Mr. Commissioner, first let me open my brief remarks by congratulating you on your efforts to ensure that the Native people have an opportunity to give you their views in this preliminary stage of your Inquiry. Many of us know of your background and of the special interest you have always shown in the Native People of Canada. We are confident that you will continue to deal with us with fairness and integrity, as well as give full consideration to all interested groups.

The Native Council of Canada, representing as it does, some 500,000 Canadians of Native ancestry, supports the proposals you have already received from these other Native organizations and most important, supports the principle that these Native people have the right, not only to speak out, but also to be listened to. It is not enough for the Native people to have a voice if that voice is not heard.

I believe that the crux of this whole issue is to be found in the diametrically opposed concepts, your society, on the one hand, and the Native people on the other, hold in regard to land ownership. The issue at these hearings focuses on the Mackenzie Valley Pipeline, but the principle that we espouse is at the root of the current confrontation between you and us in James Bay, over the Churchill River development in Manitoba, and in the land dispute in British Columbia.

We don't pretend to own the land in the sense of private possession, giving us the right to exclusive use, to build fences, and to put up "No Trespassing" signs. We do not believe now and we never have believed that we hold "title in fee simple". In consequence, we don't feel that we have the right to do whatever we want with the lands we occupy now and that our ancestors have occupied in the past. Your society might believe in that kind of system. We don't.

We do believe, however, that as prior occupants, who inherited the land from our great-great-grandfathers, that we have the right to use it and pass on those rights to our great-great-grandchildren. We see ourselves merely as the guardians of the territory which we hold in trust for the generations that will follow.

We believe we have special rights to the use of this land which you do not. We also believe we have a special duty to protect it from all those whose sense of the past and whose commitment to the future is not nearly as great as ours.

We cannot sell the land or any part of it to you because we do not "own" it. In the interests of economic and human development for our generation and for the next, we are prepared to look at any offer that may be made to compensate us for the

restrictions that will be placed on us in the wake of essential development of the land and its resources.

We are prepared to be totally reasonable in any joint negotiations. We are not, however, prepared for any price to allow your society to do the kind of things to our part of Canada that you have done elsewhere.

You are not going to turn the Mackenzie River into an open sewer. You are not going to turn our fresh water into Lakes Erie and Superior. You are not going to poison our air as you have done in Trail, Flin Flon and Sudbury.

Having said that, I wish now, on behalf of the Native Council of Canada, to make some suggestions to you about these hearings.

1. We believe that you should not be stampeded into an early conclusion of this phase of the Inquiry.
2. We think that adequate funding should be arranged for Native groups and Environmental groups.
3. We ask you, Mr. Commissioner, to use your office to bring about direct access on the part of our groups to information already in the hands of government and industry that has a direct bearing on their plans and our lives.
4. We believe our people should have the opportunity at these hearings to question civil servants and other experts.
5. We recommend that much more work be done by the government and by industry on the social and economic impact of the proposed pipeline.
6. We believe that your hearings should be taken to all settlements in the Mackenzie Basin and to Old Crow, Yukon.

MR. LUCAS : I will be making a submission on behalf of the Canadian Arctic Resources Committee and it will supplement the submission that the Canadian Arctic Resources Committee has already made at the Yellowknife Hearing.

CARC's submission is that the scope of the Inquiry under the order-in-council and the Expanded Pipeline Guidelines extends to the development and recommendation of right-of-way terms and conditions for any Mackenzie Valley pipeline that may be proposed by any applicant.

We are suggesting then that the terms of reference, as set out in the order-in-council and the Expanded Pipeline Guidelines, should not be limited to the specific terms of the Canadian Arctic Gas application.

Nowhere in the order-in-council is specific reference made to this particular application, that is the application by Canadian Arctic Gas. Therefore, it is CARC's submission that under the order-in-council, the scope of the Commission's Inquiry is not limited to the terms of the particular application by Arctic Gas.

The Commission, we would submit, must consider appropriate terms and conditions for any right-of-way granted, having regard, if necessary, to matters that are not strictly raised by the Canadian Arctic Gas application.

The point to be emphasized (re: Expanded Guidelines) is that paragraphs (a) and (b) should simply be regarded as guidelines for the Commission in its general task of enquiring into terms and conditions that might be appropriate to any right-of-way granted.

Paragraph (b) incorporates the 1972 Expanded Guidelines. It does not, we would submit, limit or in any way define restrictively the matters referred to in para. (a).

Paragraph (a) is wider in scope, we would suggest, than paragraph (b).

(a) is the general paragraph and (b) is simply intended for greater certainty to ensure that the specific environmental and social concerns set out in the Expanded Pipeline Guidelines are considered by the Commission.

Mr. Goldie, in putting forward his interpretation of the order-in-council and the Expanded Guidelines placed great emphasis on the term "regionally" as it appears in paragraph (a) of the order-in-council, and our submission is that he is quite right in suggesting that significance should be attached to the term "regional", and that the Commission is concerned with "regional impacts of a proposed pipeline", as opposed to "national impacts".

However, we would also submit that it is impossible to draw a rigid distinction between regional and national concerns, and regional and national impacts.

I will proceed to Section 2 which deals with additional matter that we submit must be filed by the applicant before this Commission.

Now, this material, as I indicated yesterday, is described in Schedule 1 to the applicant's application to the National Energy Board. There are six documents involved and I will go through them in order.

With regard then to Gas Supply Under Contract, our submission is that this material is relevant to the social and economic impact regionally of the construction and, we would emphasize, operation within paragraph (a) of the order-in-council of a proposed pipeline.

And this material is relevant particularly in terms of regional impact, because it will disclose, or is likely to disclose, details of the quality of natural gas produced in northern fields and prices to be charged for the natural gas.

Now, my second point is related to the first, and I will not dwell on it.

What we are talking about here is items in the cost of transportation of the gas that will be reflected in payments to Canadians in general but residents of the Territories in particular. And this is simply another element of the economic rent, other elements in terms of recapture, being royalties and taxes. And we would suggest that this information is relevant to determining transportation costs and therefore getting at the size of this segment of recapture of economic rent, you see.

THE COMMISSIONER : Yes, I follow you.

MR. LUCAS : Item 3 is the document entitled "Market Projections". and this is Section 2 in the Schedule.

Now, our submission is that the data likely to be found in this document are particularly significant for the assessment of environmental impact of the proposed pipeline.

Market projections are necessary to estimate the period of time over which the proposed pipeline will be operated, and consequently to obtain some indication as to when and how often looping of the line may be required, for example, and when and how often, to take another example, additional compressor stations must be constructed. And these activities quite clearly, we would suggest, are likely to have significant environmental impact regionally and are matters therefore clearly within the scope of paragraph (a) of the order-in-council.

Item 4 is Section 4, Gas Supply Areas.

Now, this section is likely to contain material on location, size, etcetera, of gathering lines, through which gas will be delivered to the proposed pipeline from producing fields. Fields in the Mackenzie Delta, especially in the Tuktoyaktuk area, and activity in the Beaufort Sea is located in what may be among the most environmentally sensitive areas in the Territories. And consequently, it is our submission that information as to gathering lines are necessary to fully assess the environmental impact of the line proposed by the applicant, and to ensure that the gathering lines are best located environmentally as well as in relation to the supply, that is, as well as in relation to the fields.

Item 5 is Section 10 "Cost of Facilities."

Now, information in this section is required to determine how much of facilities cost is likely to occur as purchases of local goods and services along the proposed pipeline route and in the territories generally, and this is quite obviously an important factor in the assessment regionally of social and economic impact, and consequently is a matter within the terms of Clause (a) of the order-in-council.

Item 6 is Section 14 (b) entitled "Impact of the Applicant's Proposal on the Canadian Economy."

And here we come to the point that was made earlier, namely, that a rigid distinction cannot be drawn between considerations of national economy, and considerations related to the regional economy.

So, to sum up to this point, CARC would submit, for the reasons given, that those six documents are necessary for the Inquiry to be conducted by this Commission and the applicant ought to produce them for consideration by the Commission and they should be made available to all parties to these hearings.

Now, section 3 deals with several matters related to the scope of the Inquiry.

The first matter is alternative systems of transportation for the natural gas.

Now, the applicant's position on this, as it was first stated at the Whitehorse hearing, and as it was re-stated here by Mr. Goldie, is that this part of the application is properly within the jurisdiction of the National Energy Board.

CARC submits that, first of all, this is simply illogical. Corridor implications are involved, and Corridor -- and the consequence regional, social, environmental and economic considerations of alternative modes of transportation are of major importance in the Territories, and that the Commission ought to undertake a full consideration of the impacts of alternative systems of transportation, including alternative pipeline routes.

We would also submit that consideration of alternative modes of transportation is implicit in the Corridor concept itself, as established in Guidelines 1 and 2 on pages 9 and 10, and that it is also implicit in the terms of paragraph (a) of the order-in-council.

What we are saying is that it is not possible to sensibly assess, for example, social impact of a proposed pipeline and its accompanying road without adopting as a basis for comparison alternative scenarios that are implicit in alternative modes of transportation that would, for example, not involve a highway, a railway, for example, and to consider the social impact

of the proposed pipeline on a particular community in terms of what the situation is likely to be if a pipeline were not constructed, but if some other alternative method were used to transport the gas resources to Southern market.

We are submitting that the applicant must provide sufficient evidence in order to provide a basis for comparison of these alternative modes of transportation with the pipeline mode that is the subject of the application.

THE COMMISSIONER : Let me interrupt you for a moment.

I see your point, and it may be that it is sound, but in the final analysis, as you yourself said, I am to make recommendations upon the terms and conditions that should be imposed in respect of any right-of-way that might be granted for the purposes of the proposed Mackenzie Valley Pipeline.

Now, you say that I should undertake an examination of the economic social and environmental impact of a railway, for example, as compared to a natural gas pipeline up the Mackenzie Valley, and that that examination will yield something that will be useful to me in recommending terms and conditions in respect of the right-of-way to be granted for a pipeline, whether it is this pipeline or any pipeline.

Now, that is really the proposition, isn't it ?

MR. LUCAS : Yes. In establishing your terms and conditions, you are essentially going to be establishing standards, standards related to environmental matters, standards related to social matters, related to economic considerations, and it might be extremely helpful, and indeed extremely relevant, for example, to be aware of the level of environmental degradation that is likely to accompany a railway mode of transportation, for example, in order to be in a position to determine at what level for example, your environmental standards on a pipeline ought to be set, otherwise you are more or less shooting in the dark, we would suggest. It is in that way that this material could be used, and is indeed relevant to the Inquiry of this Commission.

Our second point relates to Guideline No. 3 of the Expanded Guidelines, that is found on page 10, and this is the common Corridor concept.

The applicant's submission essentially is that a requirement to provide a full assessment of environmental and social impacts of an oil line within the common Corridor is unreasonable, and yet, we would submit, that assessment is precisely what Guideline No. 3 requires.

What we are submitting then is, that Guideline No. 3 requires that the applicant submit a much fuller assessment than is found in Subdivision 1.8 of Section 14(e) of Social, Environmental and Economic Impact Regionally of a Gas

Pipeline -- or of an Oil Pipeline, rather within the common Corridor.

This is clearly required, we would submit, by Guideline No. 3. We would suggest, however, that what is required is not a full and complete application documented right down to engineering considerations for an oil pipeline, but rather simply sufficient evidence to allow the Commission to fully and adequately assess the impact of an oil pipeline within the Corridor in social, economic and environmental terms.

In addition, Clause (b) of the order-in-council uses the term "proposals" to meet the social and environmental concerns set out in the Guidelines. And we emphasize the term "proposals". Therefore, it is our submission that parties to these proceedings may submit proposals for areas to be set aside under this guideline, and that these proposals should be considered by the Commission, not in terms of setting aside those areas, but in terms of establishing the terms and conditions to be attached to any right-of-way granted.

THE COMMISSIONER : You say that the expression "proposals" includes proposals coming from within the Government?

MR. LUCAS: It includes proposals coming from within the Government, and it appears that proposals are there and we would submit that it is necessary to get at those proposals in some way, and we would also submit that it is open to parties to the hearings to file additional proposals, and to have those considered.

THE COMMISSIONER : Yes I see.

MR. LUCAS : The fourth point concerns the proposed Great Bear Lake hydro-electric development.

On the basis of the newspaper reports that we have read regarding this proposed development, our understanding is that the proposed pipeline is an essential precondition for this proposed hydro-electric project, and that unless the pipeline is built, the hydro-electric development is not likely to proceed at this time. Our submission with respect to the proposed Great Bear Lake Hydro development is that it is in effect a potential regional impact, that is, in itself it is a potential regional impact of the pipeline proposal, and with obvious social, environmental and economic implications, especially in the Fort Franklin area, for example, and therefore relevant to the concerns expressed by the Chief at the hearings yesterday.

We would also point out that the Guidelines on page 4, at the top of the page, in outlining the application of the Guidelines, refer to "Associated and ancillary facilities such as roads, docks, landing areas, storage areas, air strips, pumping or compressor stations", etcetera. And we would suggest that the hydro proposal could be regarded as an associated or ancillary facility within the terms of this part of the Guidelines.

THE COMMISSIONER : Well, so far all that we know about the proposed Great Bear hydro project is what Doctor Thompson read from the newspaper at the Yellowknife hearing. So far as this Inquiry is concerned, that is all that has been said. There has been nothing else put before me.

MR. LUCAS : This project is apparently a government proposal and it may not be unfair to assume that studies of one sort or another either exist now or are in the process of preparation by Government, and that this material could be made available to the Commission, if available.

Point No. 5, to carry on, concerns branch lines and gathering lines, and these are the connecting lines that will link the fields with the trunk pipeline and the supply lines to Richards Island and Parsons Lake that are the subject of the gas application as such. Under this point I will also deal with the gas fields themselves on the basis that the fields and the gathering lines should be regarded as an integral unit.

Now, as far as the gathering lines are concerned, these will be reasonably substantial pipelines, by any standard, feeding into the 48-inch trunk-line, and in fact it is likely that they will be comparable in size to some existing major pipelines in southern Canada.

These branch lines are an integral part of the pipeline system proposed by the applicant. The gas comes from the fields and it is supplied to the trunk-line by the gathering system.

And yet, no material whatever has been filed on this subject, either before this Inquiry, as my earlier point indicated, and even in the National Energy Board application this material does not appear, and Mr. Goldie says that this is for the producers and they will be making their own applications.

We say that may be so, but for the purpose of this Inquiry, and the objective of this Commission in developing appropriate terms and conditions for a right-of-way, nevertheless the location and size of these lines, and of these gas fields, is likely to have significant regional, social, environmental and economic effects within the terms, we would submit of Clause (a) of the order-in-council. And this is consistent with the interpretation that has been suggested for the order-in-council, namely, that the Inquiry under it should not be confined to the details of the particular application by Arctic Gas.

The sixth and final point concerns terms and conditions to be imposed in respect of the right-of-way.

First of all, the interpretation that has been suggested for the order-in-council and the Guidelines, namely, that the terms of reference of the Commission are not limited to the terms of Canadian Arctic Gas Pipeline application. The

consequence is that the sort of recommendation that is most appropriate for this Commission to make is a set of terms and conditions that incorporate social, environmental and economic standards that could be applied to any pipeline proposal.

The second point here is that the recommendation made should not simply be limited to terms and conditions to be imposed in the right-of-way agreement, but should consider, and indeed, should relate also to criteria and methodology for monitoring the implementation of the terms and conditions recommended for the right-of-way agreement.

That this is a serious concern is illustrated by the fact that in the case of the Alyeska Pipeline, a private consultant has been engaged to develop criteria and to supervise implementation of the orders made by the relevant regulatory agencies in the United States with respect to that line.

It was thought necessary in that case to engage a private consultant, that is, apart from the industry, the applicant constructing the pipeline, and the regulatory agencies themselves to supervise the implementation of the regulatory orders.

And our submission is that this aspect should be addressed by the Commission in its ultimate recommendations.

Now, one final point with regard to the subject of delay that was raised by Mr. Goldie.

The applicant says that delay in these hearings and consequent delay in any recommendations to be made by this Commission would prejudice the applicant and would prejudice the people of Canada. And he referred to such things as the public interest, Canadian energy needs, the need for low cost gas.

These questions of energy needs, public interest, these are unknown questions, and yet Mr. Goldie suggests that these are reasons why delay would prejudice the applicant. These are the very matters to be determined by this Commission and by the regulatory process of the National Energy Board.

He also says that the pipeline is in the national interest and therefore delay would prejudice the people of Canada. And yet he has said today that national concerns are not to be entertained by this Commission, even it would appear in terms of considering regional economic, social and environmental impacts. And that sounds rather contradictory, in our view.

The second point under delay relates to a proposition that was advanced first by Doctor Thompson on CARC's behalf in Yellowknife. And this is the need, the essential need, for independent third party review of the environmental, social and economic components of the Gas Arctic application, and in particular, of the material filed in support. Otherwise, as Doctor Thompson properly pointed out at Yellowknife, the only assessment and review would be conducted by Government through the Assessment Group and by industry through the applicant's own material filed in support of his application.

We have suggested that this third party review is essential for the success of a Commission of this kind, in inquiring into this matter and determining appropriate terms and conditions to be attached to the right-of-way agreement.

THE COMMISSIONER : Thank you very much, Professor Lucas.

I am advised there is another submission that Mr. Gunn wishes to make on behalf of his firm Perlex, and I am advised as well that Mr. Gibson, who appeared yesterday for the Working Group on Energy from York University wishes to say something further to supplement that submission.

I am also willing, naturally, to hear Miss Hunt and Mr. Sutton and Mr. Lueck on these questions that have been discussed by Mr. Goldie and Professor Lucas, and I am, of course anxious to give Mr. Goldie an opportunity to reply. I don't know whether we can do all of that this afternoon, in fairness to everybody, and I am inclined to think that we should adjourn until tomorrow, unless there is -- yes ?

MISS HUNT : We don't have a particularly lengthy submission and we are quite prepared to proceed now.

THE COMMISSIONER : We will let you proceed now, then Miss Hunt, and just see how far we get. We can go for a while longer. I just don't want to treat this very important matter as something that can be wound up in the late afternoon when people are beginning to get a little tired and may feel that they are rushed and not given a full opportunity to speak. But if you wish to go ahead now, Miss Hunt, certainly please do.

MISS HUNT : Mr. Commissioner, the remarks that I will be making are on behalf of the Federation of Natives North of 60, and in addition, there may be a few remarks to be made by Mr. Sutton and by Mr. Lueck.

In the first place we would like to say that we object rather strenuously to the use of the word "delay" in the applicant's submission this morning.

Throughout these hearings all the submissions by the Native organizations have dealt rather completely with the question of timing of the hearings.

However, the question of timing of the hearings has not been dealt with with the intention that we seek delay for the sake of delay. What we seek instead is meaningful participation by the people who are going to be affected the most by the proposed gas pipeline.

It is our contention that there would, in fact, be prejudice to the Native peoples if the hearings were allowed to proceed outside of the proper time frame, which we have suggested.

It was suggested by the applicant that many groups have sophisticated knowledge of the pipeline application. We submit that this is not the case, certainly not the case in relation to Native peoples and to Native organizations generally.

Secondly, the applicant dealt at some length with the suggestion that the proposed haste, or their proposed timetable for these hearings was justified because of public benefit.

It was suggested that the employment opportunities for Native people are in the public interest and will provide public benefit.

Now, this is simply their statement and is something that may very well be questioned. In fact, there are many things that have come up before you already that would suggest evidence to the contrary. For example, there is reference to the submission of the Chief from Fort Franklin, and it was suggested by the applicant that he made the statement that he wanted -- that the people there wanted jobs.

We would suggest that the intention of his statement has been misinterpreted and misunderstood. In fact, what he said is that his choice as to life style is being destroyed and has been destroyed already because of development that has taken place.

And we would suggest that there is not necessarily an assumption that people want jobs but rather what he was saying is that people do want a choice, but they are already losing this choice, the choice of their traditional pursuits because of development activities.

Another example of this possibly being an erroneous assumption is the fact that the applicant has suggested the selection of the pipeline route will provide minimal damage to traditional pursuits. Again this assumes the outcome of your hearing.

There are many arguments against that contention. For example, nobody except the people, the Native people, know exactly at this time what is the extent of their traditional use of the land. The applicant doesn't have that information. It has never been documented. It is for that precise reason that the Federal Government is currently funding studies for a Native organization so that the land use and occupancy material can be fully documented.

There was a reference made to various information projects, both by -- that have been undertaken by the applicant, and by the Department of Indian Affairs in the past several month. It was suggested that this information has been sufficient to inform people as to the pipeline, and that accordingly they should be ready to talk about it.

There are a number of points that we feel should be made specifically about the Department's information project.

In the first place, this project was not requested by the Native organizations. It was done on the initiative of the Government itself. And although the organizations participated in this project, they did so on the express commitment from the Government that the project and its work would not be used in the way which the applicant has attempted to use it. In other words, to say you already have all the facts.

Another matter in relation to the Department's information project is the simple fact that it was designed to deal only with extremely elementary matters. It dealt with questions such as "What is a Pipeline?" "What is Natural Gas?".

The project did not have information before it on the very many other details which were the subject of further studies. And accordingly we are saying that any information which has been received to date has been extremely basic, because material was not available, and we are now asking to have an opportunity to disseminate that information for discussion, comment, evaluation and assessment by the Native people in the communities.

It was said, that there has been a study done of Caribou and that nobody else is going to go out and do another study of this.

Well, the fact of the matter is that although there has been a study done on Caribou, it was done in a very short period of time and the people are aware of the fact that, for example, Caribou herds are noted for their tendency to migrate, to change their migration patterns from time to time.

The point is this, that the results of that particular Caribou study, when it is communicated to hunters in the communities, it may be that in their experience, in their lifetime of experience as hunters, that they will see serious flaws in the conclusions of that kind of study. And this is the type of thing that we are -- we feel is essential to a full and adequate hearing about this pipeline.

There was also a suggestion that the question of feeder lines and treatment facilities such as those that may be used to bring natural gas from Richardson's Island should not be the subject of this Inquiry's concern but should only go before the National Energy Board. We see a very fundamental problem with this process, and that is as follows :

In that particular example the community of Tuktoyaktuk is going to be very definitely affected by the possibility of these feeder lines and treatment facilities.

If that question is left only to the National Energy Board, there really isn't any possibility that the socio-

economic concerns of the people of that community can be evaluated.

THE COMMISSIONER : Miss Hunt,
may I interrupt you for a minute.

MISS HUNT : Yes.

THE COMMISSIONER : You are dealing with, as everyone else has, some very important questions regarding the course of this Inquiry, the conduct of this Inquiry, the shape of this Inquiry, the timing of this Inquiry. I think that if we are going to do this thing right, we should start now. I am simply saying that I don't really want to sit here for another hour or two and try to absorb your contentions when I am really anxious to hear them and take them into account, but I have heard Mr. Goldie and Professor Lucas and they both, as you have done, spoke in a most helpful fashion but everybody is entitled to be heard, and that means that the Commissioner should be fresh enough to take into account everything that they say.

What I would like to do is to suggest one or two things to all of you, and then to ask you to come back tomorrow morning and to continue this argument and to deal with some of these questions.

And of course, if that is all right with you, I would let you lead off tomorrow unless there is some urgent reason why all of this has to be wrapped up tonight.

MISS HUNT : No, there is no urgent reason. I have about one more point to make, but I will certainly leave it to your discretion.

THE COMMISSIONER : Okay.

MISS HUNT ; Certainly, if you would prefer me to finish tomorrow, that is fine.

THE COMMISSIONER : Well, look, let me just throw out some thoughts that I would like you all to just consider, and you don't have to come back here and deal with them tomorrow at all.

Mr. Goldie when he spoke in Yellowknife, said that the community hearings ought to precede the formal hearings. As far as I am concerned, the community hearings and the so-called formal hearings are both very important. And that is the position he took again today.

Now, it seems to me you all might consider the formal hearings beginning before the community hearings, and then continuing after the community hearings have ended.

I say that because of a number of considerations, and one of those is what we call in law Discovery, which

has been dealt with again and again, that is, the allegations that have been made here that Arctic Gas is withholding material, that the Government is withholding material, and it may well be that someone will allege that the Native organizations are withholding material, or that CARC is withholding material.

First of all, if Commission Counsel were to, at the outset of the formal hearings, were to call Government people as witnesses, scientists, anthropologists, to discuss the work the Government has done -- I am not talking about the Assessment Group now, I am talking about the general studies of the Mackenzie Valley and the Delta that have been going on for some time, if Commission Counsel were to call those Government people as witnesses, not for the purposes of getting into the merits of the pipeline proposals, but simply to provide an overview, to start the hearings off, that would mean that counsel for Arctic Gas, counsel for the Native organizations, and counsel for the environmental organizations would have an opportunity of finding out in cross-examination what reports there may be. I, as the presiding officer at the Inquiry, would have an opportunity of determining whether those reports ought to be produced.

Then, it may be after that Arctic Gas could be asked to bring its evidence in a very general way to indicate the scope of its studies in the area, for the same purpose, to enable counsel for the other parties to elicit any information, any reports, any material that was used in preparing reports, that would be useful to the Inquiry.

Now, the same procedure could be followed by the Native organizations, who might then be asked to proceed with their evidence in that general fashion, not to deal at all with the merits of this pipeline proposal but to enable the Inquiry to determine if there was material available that ought to be disclosed to all concerned. And, of course, the same procedure would apply to Canadian Arctic Resources Committee and any other environmental group that was represented.

Now, that would enable us, at least, to achieve a kind of Discovery which seems to be uppermost in the minds of everyone. There isn't an hour passes at this Inquiry that someone doesn't get up and say that there is a document, if only we could find out where it is and get it, that would cast a lot of light on this whole situation.

We know that in the Valley and in the Delta there have been many Government and industry people who have been examining the environment, examining the habits of the fish and the animals, who have filed lengthy reports on all of these subject.

Now, the point has been made, and appears to me to be one that is well made, that people who live in these communities, Native people and others, know something about these things. All wisdom and all knowledge isn't locked up in the heads of the experts employed by the Government and the industry. It may be that we can achieve some means, if we begin the formal hearings

before the community hearings, of disclosing that -- those contentions in a way that enables the Native organizations and others to go back to the communities and to prepare the people there to give their side of those contentions, those expert opinions regarding the environment and the related considerations.

Now, as far as I am concerned, when we get to the Report of the Assessment Group, the members of the Assessment Group should be available to be cross-examined. Whether that -- it seems to me, though, that should come after the evidence on the merits by Arctic Gas. I am now getting into what I conceive to be a second phase of the formal hearings, and whether that would occur before or after the community hearings is a matter I would like to hear you on, but when we get into the actual specific contentions of the parties, it seems to me we should hear from the experts for Arctic Gas. They should be cross-examined. We should hear from the Assessment Group. They should be cross-examined. And so forth. That procedure would apply to all parties.

Now, I only throw that out because I would like you all to think about it and if you wish to, to offer some views on it tomorrow. And I am not talking about a timetable. Let me make that clear. I am talking about the order in which these events would occur, leaving to one side for the moment the question when they would occur.

So, I think that we will adjourn now until 10:00 o'clock tomorrow morning.

Ottawa, Ontario.

May 8, 1974.

THE COMMISSIONER : We will come to order this morning, and first of all, before we return to the questions of procedure that were raised yesterday by Mr. Goldie and Professor Lucas and Miss Hunt, I will ask Mr. Gunn of Perlex International to speak. He wishes to make a submission on behalf of his firm. Then I will ask Mr. Gibson, who spoke on Monday on behalf of the Working Group on Energy, to speak, because he has indicated that his group wishes to add something to what they said earlier.

So Mr. Gunn, you may go ahead now if you wish.

MR. GUNN : Thank you, Mr. Commissioner. My name is Mr. Gunn, Tom Gunn, from Perlex International Chemicals Limited here in Ottawa, headquarters, which is a Canadian letters patent company, and I represent the Board of Directors as a Director and in the position of Chief Scientist of that corporation.

I would like to now just briefly address the situation of why Perlex International Chemicals is represented, not being an environmental group, not representing the native situation and not representing the applicant.

Perlex International Chemicals is a relatively new undertaking in Canada, originally founded by a group of people, scientists and managers worldwide, who for the past six years have formed an organization that will deal with the impact or the design of equipment, materials, applications, manufacturing, to fit environmental, social and economic problems, design the technology or the end product, the manufactured product, around the problems inherent in the environment.

A facility is about to be constructed hopefully ground will be broken this fall, of the first such development facility in the world which addresses itself to all materials and all applications, which is a rather large undertaking. Specifically Perlex represents the natural resource of product innovator, one which has been overlooked in Canada, or underestimated for quite some time. Product innovators and their innovations either sell themselves or their products elsewhere because they cannot innovate under the system that exists here at the moment, and we submit that the product innovator knows no nationality and knows no walk of life and that Canada is just as rich in this as everyone else.

We exist to organize this particular resource and because of the impact of the pipeline application, potential

impact, this resource is one we felt has not been addressed by any of the decision making organizations involved in producing terms of reference for this Inquiry.

The problem as we see it and the basic motivation here and what makes it relevant, makes us relevant, makes new technology relevant to this hearing is that security is involved and we ask that this Inquiry give very serious consideration to the aspect -- to this aspect that in this area, the technological area, there are trade secrets, patents, proprietary information of private individuals, corporations, private and public federal government and National Defence. A great deal of information, we believe, is applicable, as previously outlined, but unfortunately it has some problems involved in its disclosure, publicly or to outside sources, third parties.

We are very concerned about this point and we would like to take it one step further in our concern and that is on the Securities Act, that any information, data, details, such as being studied, and gathered and being presented and testified on, not regarding to materials and technology but information which, in any way, could affect the security or the way of life of the people of the country if disclosed to third parties, is indeed by the National Securities Act, defined as top secret information, which could present some interesting problems.

We submit that some testimony during the course of this Inquiry, should be handled and regarded and preserved in light of the security question and in view of outside parties, namely governments, corporations or individuals not directly involved in the Inquiry or the aspects of this Inquiry, that that information not be available under some technique. It is for this reason that we have made no written submission at this time in support or in evidence of existing technology that has addressed itself to corridor or pipeline questions.

We submit that such technological addressing by other Canadian organizations has occurred but we do not feel until this question is resolved, this testimony can be put in written form for everyone. We further submit that the calling of expert testimony from such corporations, individuals, government or military on technical merit aspects, both regionally and nationally, that some means be made that that testimony not necessarily be heard by the general public or outside parties, that a corporation not be put in that position.

We submit that due to this technology of which we are involved in, a 48-inch pipeline, as was stated, costs not that much more than one half the size to carry Canadian gas with a much greater economic potential if it could carry the greater quantity using American gas. We also submit that it works the other way and that our project has involved a manufactured technology corridor which includes and encompasses not just the gas but oil, cannister pipeline shipping, everything from mail to grain, in the same corridors of pipe, pulpwood, power lines and so on, all in one system of materials which we submit, until otherwise proven differently, would in fact cost no more than just the pipeline itself, and provides a possible solution

to the problem as an applicant, having to completely research every possible mode of transport of anything.

This system was designed around the need for what was being transported totally rather than just as a pipeline for a specific application. It is this type of technology that we would like to see represented. So we submit that the pressure considerations of whatever El Paso wishes to do with Arctic Alaskan gas, oil or whatever, in fact can be shown, we believe, to be economically, socially and environmentally irrelevant due to existing technology now available in Canada.

I hope our comments have had some bearing on this hearing and your scope in terms of reference, and we thank you very much for the opportunity to be heard. On behalf of the Board of Directors I am instructed to pledge our support whether academic questions or whether technical regarding the impact, both politically and socially.

THE COMMISSIONER : Thank you very much, Mr. Gunn.

Mr. Gibson, I understood that you wished on behalf of your group to make some further supplementary remarks, is that so ?

MR. GIBSON : Yes.

I have only a very brief thing to say and I have also been asked by Mr. Sandford Osler of Pollution Probe to read some comments that he wished to make yesterday and was unable to be here today to make. It is also extremely brief.

In the main body of our submission we argue that the Mackenzie Valley Pipeline Inquiry can reasonably follow one of two approaches, either to interpret the terms of reference broadly and consider all the relevant issues, or to interpret them narrowly and postpone the hearings until the National Energy Board has made its decision.

We realize that there are legal problems involved with the interpretation question, and we do not address these. Rather we argue that in the interest of justice being done, in the interest of the wisest decision being made, it would be better for the Inquiry to operate under the broadest possible interpretation of its terms of reference.

We make this argument on the grounds that it is not reasonable to assume, as Mr. Goldie apparently does, that all the issues raised by the application will receive a full fair and impartial hearing before the National Energy Board. We realize that this is a serious accusation. It is not made, nor do we expect it will be taken lightly.

Some of the points supporting this contention have been brought up already and I won't go over them again. In this appendix we make five specific arguments, First, we note that National Energy Board members and staff have made a signifi-

cant contribution to the policy making process which has led to the publicly announced position of support by the federal cabinet regarding the pipeline project.

Secondly, the Minister of Energy, Mines and Resources is apparently reluctant to fund intervenors before the National Energy Board, leaving the possibility that the National Energy Board hearings will be largely one sided.

Third, the Board has shown little concern for social and environmental costs in the past and has no expertise in these areas. Furthermore the Board is legally able and may well be inclined to ignore these issues.

Fourth, the Board's procedures and practices will likely result in various restrictions on access to relevant documents and other sources of information.

Fifth, and finally, the fact that the Board's decision is final only in the case that it refuses the application, combined with the fact that such a refusal would alienate the Board from industry which it must regulate, provides the Board with considerable incentive to approve the application. We are, in sum, not confident that the NEB hearings will in fact be full, fair and impartial, and such is argued in the appendix which I would like to submit.

I will, I suppose, be impersonating Mr. Osler now. When the word 'I' is used, it means him.

Pollution Probe has two points to make. First in my submission on Monday I made some comments on the National Energy Board and the inadequacies of its procedures intending only to provide some background points. However, since Mr. Goldie has seen fit to argue that the Mackenzie Valley Pipeline Inquiry should not cover material which will be discussed before the National Energy Board, I think the points about the inadequacies of the NEB become very important.

The NEB is characteristically inaccessible and its hearings do not encourage effective public participation. We have suggested changes which would increase the accessibility of the Board but there has been no indication that any such changes will be forthcoming. Thus the NEB remains an inappropriate forum for trying to get a real feel of the regional impact of the proposed project or its alternatives.

Presumably the present Inquiry was set up in recognition of this fact. It does not follow that because the NEB will consider certain issues, these issues should not be discussed by this Inquiry. The NEB and the Inquiry will be listening to different constituencies for different purposes.

The inquiry should therefore hear all matters relating to the regional impact, whether heard by the NEB or not. The Inquiry certainly should not assume that the issued touching on regional effects will be adequately covered by the NEB.

THE COMMISSIONER : Thank you very much, Mr. Gibson.

Well Miss Hunt, I think we are back to you now, if you would like to carry on from the point that you had reached when we broke off yesterday.

MISS HUNT : Yes, Mr. Commissioner, I will do my best to carry on from there I left off.

We would suggest that you are authorized to consider those things we have mentioned because of paragraph (a) of the Order-in-Council which we would suggest is broadly worded as it authorizes you to assess social, environmental and regional impact.

There are two specific examples which I touched on yesterday. One is the question of feeder lines and and treatment facilities as it affects the community of Tuk. It has been suggested that this is a question that should properly be before the National Energy Board, and as I suggested yesterday, in that case there would be no possibility for the input of the community on that, or for an examination of the socio-economic affects of that. Again because of the fact that native people will view this in a total context, we feel that it is important, essential in fact, that those questions be considered before you.

The other example is the question of the Great Bear Hydro project. It has been suggested by the applicant that the Governor-in-Council would ultimately decide that question. There is a bit of a problem here because in connection with the newspaper quotations which have been directed to your attention by Dr. Thompson, it is clear that the federal government has said that the Great Bear project is considered to be part of the concept of the Mackenzie Valley Pipeline.

We would suggest therefore that in view of the fact that the government will ultimately decide this question, whether the applicant likes it or not, it has, in effect, become part of their application because of the position of the government.

The Department of Indian Affairs has stated that its first priority in the north is the people of the north, and accordingly it is our submission that in interpreting your terms of reference you must pay heed to the terms of reference in the environmental and social and economic questions as they are seen by the people in the communities.

THE COMMISSIONER : Thank you very much.

wished to deal with --

Was there anyone else who

make one short statement.

MR. LUECK : I wanted to

The one proposition that I wanted to put forward at this point in rather a rebuttal to a number of things that have been said by all of the solicitors for the different organizations and the other representatives, is in reference to your scope of terms of reference and the 1972 Pipeline Guidelines.

I think lawyers have a habit of torturing words and trying to make them say things that they don't say, and with all due respect to my learned friends, I don't think it is possible for your present Guidelines and your Order-in-Council directions to say some of the things that we would like it to say. The obvious answer is not that you should try to torture these words and make them mean something they don't mean on the face of it, but if, after you have looked at all of our propositions and you agree that the terms of reference are not correct, the obvious thing to do is to go back to the Minister and back to the Cabinet and say, change my Order-in-Council to this, and draft out what you want and what you think is correct, following, I hope, our suggestions. That way it is going to be very clear to everybody.

I wanted to put that on the record. I am sure you had thought about it already, but I wanted it recorded that this should be done. I think it is the obvious thing to do, and rather than us going around and around trying to say that these things mean what they in fact don't mean by Webster's Dictionary, I would suggest that the other alternative be followed.

Thank you.

Mr. Lueck.

THE COMMISSIONER : Thank you

MISS TOBAC : It is not very formal but I will just talk about some of the things. Listening to Arctic Gas or CAGSL, or what they call themselves yesterday, and saying that they have been visiting settlements talking to people. I have seen examples of some of their visits, because living up north and having lived in Fort Good Hope for two years, it is interesting and very important to note that they always had their Twin Otter handy.

If they came to a settlement they sent word ahead that they were going to meet with the settlement council and it didn't matter if all of the council members were in town, as long as they say that they have spoken to the people, if they have spoken to the settlement council.

Also they referred to Gemini North carrying out some of its studies for them, and I have seen some of their meetings, or attended some of their meetings with some of the peoples and it is just that sometimes people like that have too many

things on their side when they come into a settlement. They have their planes, they have got bread. We don't.

At the same time I am slightly perturbed at Mr. Goldie for having to use Chief Kodakin's name to support some of his statements that he refers to in saying something about that the pipeline would be good because it would provide some modes of wages. I think what the Chief said has been misinterpreted by quite a few people in this room.

He meant to say that you don't know our way of living in a settlement, and I understand what he meant, and I do because I have lived in Fort Good Hope for two years myself now.

The Chief is worried, of course, about the hydro electric dams on Bear River because Fort Franklin just happens to be sitting right on the shore of Great Bear Lake and Fort Franklin just happens to be sitting on the flat land and the land just tapers right into the river, and there is an engineering report that says there is a natural fluctuating level of three feet and that if they raise the level it will come up to 2.3 feet. That is enough to flood Fort Franklin.

Of course, CAGSL or who ever is going to build a pipeline, is going to feel confident, mainly of course, again, because they have got bread on their side and we have no red penny to match up their dollar for dollar. Everything has been done on their side. We have been used over and over and over again. We haven't got our own information documented as to why we don't want a pipeline, why we don't want highways, why we don't want dams. Maybe we are not saying that we don't believe in these things, probably that is what we are saying too, but at the same time if they said that they spent years collecting this data, well they have used us to collect some of that data and to document it. And we haven't had funds, especially in the communities. We haven't got people coming into communities saying exactly why do you feel the way you do, and if we tell them it is not documented or it is not told, or the news media is not there to catch the feeling when the people are talking about these things.

In a settlement like Fort Good Hope with a population of 440, incidentally Fort Franklin has a population of 410, we have meetings to go to too, sometimes two, three meetings a day. I mean you think you are worse off here. It is just as bad up there too, because of the many things that are happening, the accelerated pace of development. Different government officials come in and say we have to have a meeting on this. The settlement council has to have a meeting on this. School board advisor, what you have got, we have got it too.

But the things we don't have, access to communications, we don't have bread to do our own thing sometimes.

If it bears anything to what the people of Franklin think about the dams, these are some of their statements. Who is the government building new houses for? they are destroying their own structures. Look at the money that the taxpayers give to build all these buildings. Are the white people so unconcerned that they will allow the flood, but worse to see their own money washed away. Look at our kids they are busy educating by their millions of dollars. Now they turn around to even make the kids lives miserable. If it is to be this way, why do they bother to try to help us. The government always say they are here to help us. That is a lie.

The government think that they own the land. They are always after the people to get their way. Now they are really after us to kill us. The Bear River is the people's highway. We use it to travel between Fort Franklin and Fort Norman in the summertime. Plane fares are too high these days.

There are a lot of things I think I wanted to talk to you or say to you but I think that I have just brought out the discrepancies, disparities between having bread and carrying out all you can do, and on the one side you have got brains and everything else, and your own people have it but we don't have bread to match up dollar for dollar for how we are being used or to document our own.

We are not consulted in the form that we should be consulted. The meetings are not carried out in a way that people could respond. There is discrepancies as to just being logical about many things. And if you are going to be fair to us in the communities especially the settlements, then we must see you, the people must see you, and know what you are supposed to do.

THE COMMISSIONER: Thank you very much, Miss Tobac.

Well, Mr. Goldie, you can carry on now if you wish.

MR. GOLDIE : I think the main point that Mr. Lucas addressed to you was based on the proposition that the Order-in-Council related to any pipeline or any proposal, and from that, there followed in his submission the fact that a number of other considerations which might be part of some other proposal properly should be examined by you.

I don't want to belabour this proposition, but if we turn once again to the Order-in-Council, we find in paragraph one these words, "Whereas proposals have been made for the construction and operation of a natural gas pipeline, referred to as the Mackenzie Valley Pipeline," we are talking about one pipeline.

Then in paragraph two, we are talking about a right-of-way, "Whereas it is desirable that any such right-of-way, that is to say the right-of-way for the Mackenzie Valley Pipeline referred to in paragraph one, it is appropriate to consider the terms and conditions with respect to various matters.

Now paragraph three is, in my submission, very clear. You are "to inquire into and report upon the terms and conditions that should be imposed in respect of any right-of-way that might be granted across Crown lands for the purpose of the proposed Mackenzie Valley Pipeline." That is what we are to look at, and with respect, that is what the Order-in-Council requests your assistance for.

In sub-para (a) the reference is to "the proposed pipeline", that is this particular line that is in front of you, or the application in respect of this line that is in front of you now.

Paragraph (b) states, "any proposals to meet the specific environmental and social concerns." Now these proposals are those put forward by the applicant, that is to say the person who wants to build the pipeline. I don't agree that the word proposals in (b) has the same meaning as Mr. Lucas suggested, namely that it means that anybody might make proposals.

With respect, I think Mr. Lucas has confused the role of the people who own and sell this gas with the applicant which transports it. I mentioned yesterday that in order to conform to one of the original guidelines, this application is that of a contract carrier. That is to say, it transports the gas for a fee.

If I can put it in very simple terms, you don't tax a railroad company by reference to the profits made by its shippers, and this is exactly what we are talking about here.

We are a shipper of gas and the profits or the economic rent derived by the producer is no measure of what compensation should be paid for the use of Crown lands.

Miss Hunt suggested that I had stated that the producers would be making applications to the National Energy Board. That is not my understanding. The producers, with respect to gathering lines, with respect to the gas processing plant, will be making an application to the Minister of Indian Affairs and Northern Development.

They make that application under different regulations and in part, under another Act, but it is to the same person as this application is made to. Now what procedure the Minister will follow with respect to those applications is his business, if I may put it that way, but I didn't -- if I suggested that the applications in respect of the gathering lines would be made to the National Energy Board, I am sorry for that confusion.

THE COMMISSIONER : Does anyone else have anything that he wishes to say before we adjourn, Mr. Lucas?

MR. LUCAS : Yes, Mr. Commissioner. The Canadian Arctic Resources Committee, for the record, wishes to inform the Commission as to negotiations that have taken place among the various environmental groups that will be appearing at the main hearings and most of the native organizations interested, and the subject of the discussions

was the need, as was mentioned earlier in CARC's submission, for an independent third party review and assessment of the applicant's application and particularly of the environmental aspects of the application.

Following these discussions it has been agreed that the Canadian Arctic Resources Committee, through its scientific and legal resources and its contacts with most of the native organizations concerned with the pipeline, should play a co-ordinating role in the establishment of a group to provide scientific and technical support, both to the environmental groups and to the native organizations. This would assist these groups in assessing pipeline impacts in the context of the Commission hearings.

The environmental groups are also agreed that notwithstanding the possible special interests of each of these groups, the most effective use of any available funding could be achieved through a pooling of scientific and technical expertise, and so to this end it was agreed among all of these native and environmental organizations to support, first of all, the establishment of an umbrella assessment group to carry out studies of the application as required by both native and environmental organizations. Secondly, to support an application to this Commission for funding the work of this assessment group prior to and during the course of the Commission hearings.

In this regard I should mention specifically that the native organizations will be making separate application for funding, and an effort has been made to minimize any overlap that might occur.

THE COMMISSIONER : The interests of all of these environmental organizations, are related specially to environmental considerations, but I take it from what you have said that the native organizations will continue to represent the special native interests that have been discussed throughout the preliminary hearings and any umbrella organization that is established by the groups that you have referred to will not purport to represent those native interests. Have I got this right ?

MR. LUCAS : Well, the material umbrella assessment group will not purport to represent the native interests in any way, but the environmental analysis and assessment done by the umbrella group will be available to the native groups and in fact that will be their primary source of information as to environmental as opposed to social impacts of the proposed pipeline.

THE COMMISSIONER : Thank you, is there anything that anyone else wishes to say ? Chief Smith ?

CHIEF SMITH ; Thank you, Mr. Commissioner. I would like to get a few things here clarified.

First, it will be if the pipeline was granted, permission was granted to build this pipeline, the manpower that is going to be used. As you know, the Indian people

have no technical people at all to take part in this, and I see that within a few years that this pipeline is going to be built and we have no time to educate our people, and yet I understand that the oil company says that they are going to have people that have been trained for this. Now, which is only four or five would be trained, no doubt.

What I am worried about is there is going to contractors coming in bringing their own people, and I have seen this happen before with different contracts that have been held up through the Yukon, that they bring in their own people and half of our work force in the Yukon lie still. I would like to put this down on the record, that the people in the Yukon should be hired, same as in the Northwest Territories.

One more thing is that I have listened to all the technical -- you know you lost me way hell gone back the day before yesterday when you first started. But anyway, putting two things together, I fully supported the lady that made this comment about people not being informed about when the experts are coming into these villages. This has happened in the north quite often.

We had oil companies going up into Old Crow and they kept on doing it until I got all the Ministers that are on the negotiating team to go up there and see for themselves why the people don't want any exploration going on at Old Crow. From that time they withdrew their permits from the oil company.

So there is going to be a lot of debate. The pipeline is no value to the Indian people at all, but the land means an awful lot to them, because I, myself, have lived and made my living ever since I was twelve years old, off the land in that country, and I know what it means to me, and I am speaking for people of my age.

So now I would like to thank you for giving me this opportunity to speak. Thank you very much.

THE COMMISSIONER : Thank you sir. Is there anyone else who would like to say anything ?

Well I want to thank all of you who have participated in these preliminary hearings at Yellowknife, Inuvik, Whitehorse and Ottawa, and to say how grateful I am for the thoughtful and helpful submissions that have been made by all concerned.

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PRELIMINARY RULINGS

by the Honourable Mr. Justice T. R. Berger

Yellowknife, N.W.T.

July 12 1974.

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PRELIMINARY RULINGS

by the Honourable Mr. Justice T. R. Berger

I was appointed by the Government of Canada by Order-in-Council dated March 21st, 1974, to conduct an inquiry into the social, environmental and economic impact of the proposed Mackenzie Valley natural gas pipeline.

Canadian Arctic Gas Pipeline Limited has applied to the Minister of Indian Affairs and Northern Development under Section 19(f) of the Territorial Lands Act, R.S.C. 1970, c.T-6, for a right of way across Crown lands in the Yukon and the North West Territories. They propose to build a pipeline up the Mackenzie Valley to bring natural gas from Prudhoe Bay in Alaska and from the Mackenzie Delta to markets in Canada and the United States. The Inquiry I am to carry out is authorized by Parliament under Section 19(h) of the Territorial Lands Act. I am to consider the social, environmental and economic impact regionally of the construction, operation and subsequent abandonment of the proposed pipeline in the Yukon and the North West Territories, and I am to consider as well the measures which Arctic Gas proposes to take to meet the specific social and environmental requirements of the Expanded Guidelines for Northern Pipelines tabled in the House of Commons on June 28th, 1972, and I am to report upon the terms and conditions that ought to be imposed in respect of any right of way that might be granted to Arctic Gas. It will be for the Government of Canada, on the recommendation of the Minister of Indian Affairs and Northern Development to decide whether to grant a right of way to Arctic Gas. It will be for the National Energy Board to determine whether or not to recommend the granting of a Certificate of Public Convenience and Necessity, and for the Government to decide, if such a recommendation is made by the National Energy Board, whether a Certificate should be granted.

Because this Inquiry is unique in Canadian experience, and because of my anxiety that the people of the North and all other Canadians with an interest in the work of the Inquiry should have every opportunity to be heard, and that the Inquiry itself should be thorough and complete, I held preliminary hearings in April and May in Yellowknife, Inuvik, Whitehorse and Ottawa, to hear submissions on the way the Inquiry ought to be conducted. I have decided to outline my views now on the procedure that we will follow in the Inquiry, and to indicate my views on the questions that were raised relating to the scope of the Inquiry.

I. THE TIMETABLE FOR THE INQUIRY

A. THE EL PASO PROPOSAL

Arctic Gas argued that this Inquiry should be expedited because the El Paso Natural Gas Company intends to apply to the Federal Power Commission in the United States for permission to construct a pipeline to bring natural gas from Prudhoe Bay across Alaska to Valdez, to be liquefied there and then tankered to California. El Paso has already intervened before the Federal Power Commission, where Arctic Gas's sister company, Alaska Arctic Gas Pipeline Limited, has applied for permission to build a natural gas pipeline from Prudhoe Bay to the Yukon border. El Paso intends to oppose Alaska Arctic Gas's application in those proceedings (El Paso has not so far sought to intervene in this Inquiry). It was said that if El Paso's proposal were to be approved by the U.S. authorities, then the economic viability of Arctic Gas's proposal to build a gas pipeline up the Mackenzie Valley intended to bring gas from Prudhoe Bay and the Mackenzie Delta to the U.S. and Canadian markets, would be jeopardized. So, it was urged, it is essential that this Inquiry be expedited.

My mandate is to conduct a fair and a thorough Inquiry. That must come first. I intend to give all those persons and organizations with an interest in the proposal made by Arctic Gas a fair opportunity to be heard. I will not diminish anyone's right to be heard, nor will I curtail this Inquiry so as to improve Arctic Gas's position in relation to the El Paso proposals in the United States.

But there will not be any undue delay. At the Preliminary Hearings all interested parties offered their cooperation to the Inquiry, and indicated their desire to work with the Inquiry. I intend to hold them to that.

B. THE NATIONAL ENERGY BOARD

Some of the native organizations and some of the environmental organizations argued that this Inquiry should not proceed until the National Energy Board has completed its hearings. This is urged upon the ground that if the National Energy Board were to refuse to grant a Certificate of Public Convenience and Necessity, this Inquiry would be unnecessary.

But if it can be said that this Inquiry should wait upon the outcome of the National Energy Board Hearings, it could equally be said that the National Energy Board should wait upon the outcome of this Inquiry, since the terms and conditions that are laid down by the Minister as the result of this Inquiry may alter the basis upon which Arctic Gas seeks a Certificate of Public Convenience and Necessity. How can the National Energy Board decide whether to grant a Certificate of Public Convenience and Necessity, and how can Arctic Gas be expected to proceed with its request for such, without knowing the terms and conditions under which Arctic Gas is entitled to the right-of-way (assuming the Minister decides to grant a right-of-way at all) which it must obtain if it is to go ahead with the pipeline? A recitation of these arguments reveals that the relationship between this Inquiry and the National Energy Board cannot be comprehensively defined at this stage. I do not think it has been shown that this Inquiry ought to wait until the National Energy Board has completed its hearings and made a recommendation to the Government, and the Government has acted upon it one way or the other, before getting under way.

In any event this Inquiry is not just about a gas pipeline; it relates to the whole future of the North. I am bound to examine the social, economic and environmental impact of the construction of a gas pipeline in the North. But the Pipeline Guidelines do not stop there. They require that the impact of the pipeline should be considered in the context of the development of a Mackenzie Valley transportation corridor.

The influence of a gas pipeline in the development of a Mackenzie Valley transportation corridor and in moulding the social, economic and environmental future of the North will be enormous. The Pipeline Guidelines contemplate the development of a corridor up the Mackenzie Valley to enable the bringing of oil and gas to southern markets. This Inquiry has been established to ensure that the gas pipeline proposal is not considered in isolation. The Mackenzie River has been a transportation system for centuries, first for the native people, then for the white people. The Mackenzie Highway is

already under construction, and already reaches beyond the junction of the Liard and the Mackenzie at Fort Simpson. The Pipeline Guidelines envisage that, if a gas pipeline is built, an oil pipeline may follow, and that the corridor may eventually include a railroad, hydro-electric transmission lines, and telecommunications facilities. It would be a mistake to dismember the corridor envisaged by the Pipeline Guidelines, and to consider the gas pipeline in isolation.

It is for that reason that I think this Inquiry should not wait upon the outcome of the proceedings before the National Energy Board. This Inquiry, covering the social, environmental and economic impact of the pipeline proposal against the background of the corridor concept, ought to proceed. The Order-in-Council does not impose any restriction upon the commencement of this Inquiry, and I do not think I should impose one.

II. HEARINGS

I intend to visit the communities in the Mackenzie Valley, the Delta and the Yukon, likely to be affected by the construction of the pipeline. I intend to do this before the hearings begin. I intend to travel by myself. My visit will be designed to enable me to get to know the people and the way they live, and not to obtain evidence about the impact of the pipeline or their views on the pipeline; that will come later, at the hearings.

A. FORMAL HEARINGS

I think the formal hearings should begin with an overview of the Mackenzie Valley, the Delta, and the area across the northern Yukon where the pipeline is to go. Commission Counsel will bring forward this evidence through witnesses called by him for the purpose. The overview evidence would include such matters as the history, culture and economy of the Northern peoples, the geography and geological history of the Mackenzie Valley, the Delta and the Yukon; the climate; the geotechnical aspects of northern construction; terrain types, including permafrost; and resources, renewable and non-renewable.

After that the Inquiry will hear the evidence of Arctic Gas. Arctic Gas suggested at the preliminary hearings that it would simply offer formal proof of the material filed in support of its right-of-way application, and then offer its witnesses for cross-examination. That will not be good

enough. I expect Arctic Gas to call as witnesses the people who prepared the material and who carried out the field work on which it is based. I expect Arctic Gas's witnesses to be examined in chief in the usual way, to delineate, explain and discuss the material filed, before cross-examination. I should also say that I expect Commission Counsel to examine in chief each of the members of the Assessment Group assembled by the Government of Canada with a view to a complete canvass of all relevant evidence that each of them has to give. The members of the Assessment Group, like the witnesses for Arctic Gas, will be subject to cross-examination. The same procedure will apply to witnesses called by any of the parties at the formal hearings.

B. COMMUNITY HEARINGS

I intend to hold hearings in each of the communities in the Mackenzie Valley, the Delta and the Yukon that are likely to be affected by the pipeline, to allow the people living in those communities to tell me their views about the proposed pipeline.

The native organizations have said that the formal hearings, at which evidence is to be called relating to the social, environmental and economic impact of the proposed line, should not take place until the community hearings have been completed. I think it would be a mistake to try to impose a rigid framework like that on the scheduling of the community hearings. The purpose of the hearings in the communities is to offer the people living there an opportunity to state in their own languages and in their own way their views about the gas pipeline and the development that it will inevitably bring in its wake.

If the community hearings are going to offer the native people the opportunity they deserve to consider the proposal made by Arctic Gas, the report of the Assessment Group, and the other evidence to be given at the formal hearings, and then to state their case, they ought not to be held before the formal hearings. Instead I think the community hearings ought to be held concurrently with the formal hearings. By that I mean that the Inquiry should break off the formal hearings from time to time to hold hearings in the communities, to ensure that the native people in the communities have an opportunity to answer whatever may be said by the witnesses called at the formal hearings about the social, environmental and economic issues relating to their communities. It seems to me that the people living in the communities will not have the means

of knowing the full extent of the material gathered by Arctic Gas, or the means to study it, or to know its specific application to each community, unless the community hearings proceed concurrently with the formal hearings.

At the community hearings I also want to give the native people an opportunity to tell the Inquiry about the impact seismic lines and other kinds of industrial activity have had on the land, on wildlife and the environment, and their own opinions of the likely effect of the construction of the pipeline on the land, the wildlife and the environment. I am anxious that the native people should bring their whole experience before the Inquiry. I do not think they will get that chance if we hold the community hearings first and then go on to the formal hearings.

At the same time I want to make it plain that I do not intend to hold any community hearings until the people living in the communities have had the opportunity of informing and preparing themselves for them. I want to say also that I expect that native persons will be called as witnesses from time to time at the formal hearings. The native people should not be confined to the community hearings for the purpose of presenting their case.

It is my conviction that the formal hearings and the community hearings should be regarded as equally important parts of the same process, and not as two separate processes.

III. PRACTICE AND PROCEDURE

I do not intend to lay down a comprehensive set of formal rules of practice and procedure. But I do want to deal with some of the issues that arose at the preliminary hearings.

A. INTERVENORS

All of the persons and organizations that made submissions at the preliminary hearings will have the right to intervene and to participate in the Inquiry. They will be notified when hearings are scheduled, and will be given an opportunity to present their submissions at the time and place most convenient to them.

As regards any other persons or organizations wishing to intervene in order to participate on a continuing basis in the hearings or merely to make a submission, advertisements will be placed in the newspapers throughout Canada, and announcements made over radio and television in the North, to notify any persons or organizations wishing to make submissions of the dates and places when they may do so, and prescribing the times within which their submissions, if in writing, should be sent to the Inquiry.

I expect that Arctic Gas, the native organizations, and the environmental organizations will participate in the formal hearings and the community hearings on a continuing basis. But that does not limit the right of any other intervenor to participate on a continuing basis. Every effort will be made by Commission Counsel to work out a timetable for the hearings in consultation with and with the cooperation of the intervenors.

B. REQUESTS BY THE ASSESSMENT GROUP FOR SUPPLEMENTARY INFORMATION AND MATERIAL

The Assessment Group will prepare, for the purposes of the Inquiry, requests to Arctic Gas for supplementary information and material relating to matters which the Pipeline Guidelines require Arctic Gas to include in its application for a right-of-way and which, in the view of the Assessment Group, have not been dealt with at all in the application, and information and material relating to matters where the Assessment Group is of the view that the application, though it deals with matters required by the Guidelines, does not in all respects come to grips with the requirements laid down by the Guidelines.

These requests will come to the Inquiry. Arctic Gas and the intervenors will be advised by the Inquiry of any request made by the Assessment Group for supplementary information and material, and the same procedure will be followed as regards the answers made by Arctic Gas to such requests. The requests and the answers will be made available to the public.

C. THE ASSESSMENT GROUP'S REPORT

The report or reports of the Assessment Group containing the Group's analysis of the material filed by Arctic Gas in support of its Application, will be filed with the Inquiry and copies will be made available to the intervenors and the public.

D. DISCOVERY

Commission Counsel will, in consultation with counsel for the intervenors, develop procedures for discovery of all studies and reports in the possession of the government of Canada as well as Arctic Gas and the intervenors. Such material must of course be relevant to the Inquiry.

As I have said, I expect that at the hearings Arctic Gas, the native organizations and the environmental organizations will be represented throughout. All of them should be prepared to call witnesses early on to discuss in a general way the studies they have carried out and the reports they have prepared, on matters relating to the Inquiry. Commission Counsel will call appropriate witnesses from the public service for the same purpose. On cross-examination it should be possible to obtain complete discovery. Of course any objections to the production of any studies or reports will be considered by the Inquiry.

E. SUBPOENAS

As the Inquiry proceeds, should it be necessary, I will exercise my power of subpoena. For the time being I do not intend to lay down any strict rules governing the exercise of that power.

IV. SCOPE OF THE INQUIRY

A number of arguments arose at the preliminary hearings regarding the scope of my terms of reference.

Let me say at once that the scope of this Inquiry is defined by the Order-in-Council and by the Pipeline Guidelines. Both the Order-in-Council and the Pipeline Guidelines are cast in broadly worded language. They say I am to conduct a social, economic and environmental impact study. It is a study whose magnitude is without precedent in the history of our country. I take no narrow view of my terms of reference.

I am going to indicate my views on the questions raised at the preliminary hearings regarding the scope of the Inquiry. But I am not in any way seeking here to delineate the whole configuration of the Inquiry; rather I am simply trying to settle some of the questions that were clearly present in many minds regarding the scope of the Inquiry.

A. NATIVE CLAIMS

The principal submission of the Native organizations is that no pipeline development should proceed until the land claims of the Native peoples have been settled. All of the Native organizations that appeared at the preliminary hearings took the position that one of the terms and conditions that this Inquiry ought to recommend to the Minister of Indian Affairs and Northern Development is that there should be no right of way granted to Arctic Gas until the Native land claims in the Yukon and the North West Territories have been settled.

It was suggested by Arctic Gas that the native people ought not to be allowed to advance such an argument in this Inquiry, on the ground it would not fall within my terms of reference to recommend the imposition of such a term or condition. The Order-in-Council says that I am "to inquire into and report upon the terms and conditions that should be imposed in respect of any right of way that might be granted across Crown lands for the purposes of the proposed Mackenzie Valley pipeline..." It is said that this Inquiry is limited by these words to the consideration of terms and conditions to be performed or carried out by Arctic Gas.

It is true that the Pipeline Guidelines contemplate that the terms and conditions that the Minister decides to impose upon the granting of a right-of-way shall be included in a signed agreement to be made between the Crown and Arctic Gas. But the Order-in-Council doesn't confine this Inquiry to a review of the Pipeline Guidelines and of the measures which Arctic Gas is prepared to take in order to meet them. The Order-in-Council requires that the Inquiry consider the social, economic and environmental impact of the construction of a pipeline in the North. That takes the Inquiry beyond the Pipeline Guidelines, and requires a consideration of what the native organizations say ought to be a condition precedent, to be imposed by the Government, as a matter of policy, quite apart from whatever provisions the Government may require of Arctic Gas or any other company wishing to build a pipeline in a signed agreement for a right-of-way.

I am not saying whether the natives' position is well-founded or not. But it is one which they are entitled to urge upon this Inquiry. In fact, it seems to me that it provides an essential focus for the natives' case regarding the impact of the pipeline on their communities and their way of life. Indeed, I would go further. The case Arctic Gas intends to make is that the pipeline can be built

without prejudice to the settlement of native land claims. The position taken by the natives offers a focus for the consideration of those terms and conditions - not only those which emerge from the Pipeline Guidelines, but also any others which Arctic Gas is ready to propose - which may enable the pipeline to be built without prejudice to native claims.

Notwithstanding the language of the Introduction to the Social Guidelines (in the Pipeline Guidelines) which appears to make some distinction between the Indian people and the Inuit and the Metis for purposes of settlement of their claims, I take the view that so far as this Inquiry is concerned there should be no distinction between the position of the Native peoples. All of them are entitled to urge at this Inquiry that there should be no right of way granted until their claims have been settled.

B. THE CORRIDOR CONCEPT

It has been argued by the Canadian Arctic Resources Committee that my terms of reference include any gas pipeline proposed by any applicant, and that this Inquiry should not be limited to the proposal that has been made by Arctic Gas. Arctic Gas, on the other hand, has argued that this Inquiry should be limited to an examination of the particular proposal to build a natural gas pipeline that Arctic Gas has made in its application to the Minister for a right of way under the Territorial Lands Act.

I do not think that this really gets me very far in ascertaining the limits of the scope of my terms of reference, because the Pipeline Guidelines clearly require an examination of Arctic Gas's proposed pipeline and the route it is to follow in the light of the corridor concept described in the Guidelines. The Pipeline Guidelines relate to the development of a Mackenzie Valley transportation corridor, and not simply to the construction of a gas pipeline.

In any event, the Pipeline Guidelines specifically require a comparison of the proposed pipeline route with alternative pipeline routes. In view of this I do not think there is really any difference between an Inquiry into the impact of the pipeline proposed by Arctic Gas and an examination generally of the impact of the construction of a gas pipeline up the Mackenzie Valley. The purpose of the corridor, according to the Pipeline Guidelines, is to minimize social and environmental disturbance. It is in that connection that a comparison of the proposed pipeline route with alternate pipeline routes is relevant to this Inquiry.

I am also bound to consider the economic and social impact of the construction of an oil pipeline and to consider the combined effect of the construction of a gas pipeline and an oil pipeline in the corridor.

However, I am not prepared to consider the merits of alternate modes of transportation of the gas, except to the extent that an examination of the advantages and disadvantages of other forms of transportation will be of assistance in determining what terms and conditions ought to be imposed if a right of way is granted. For example, a comparison of the extent of environmental degradation that may accompany other modes of transporting the gas may be useful for the purpose of establishing what environmental standards ought to be laid down for the construction of a natural gas pipeline; or a comparison of the opportunities for Northern employment that other modes of transportation may offer may be useful for the purpose of determining what terms and conditions ought to be imposed on Arctic Gas or any other pipeline company, in order to generate Northern employment, if that is desirable. But such evidence must be relevant to the purposes of the Inquiry.

C. SUPPLIES AND EQUIPMENT

The purchase of and transportation of supplies and equipment and material for the proposed gas pipeline clearly falls within the terms of reference of this Inquiry.

D. GATHERING LINES AND GAS FIELDS

Even though Arctic Gas has applied only for a right-of-way for the purpose of constructing a trunk pipeline, I regard it as essential to this Inquiry that I should consider evidence regarding the gas fields in the Delta and the gathering lines to be built in the Delta.

I realize that Arctic Gas will be a common carrier, and not a producer, and that the gathering lines will be built by the producers, and not by Arctic Gas. But these lines are so obviously a part of the pipeline system that any consideration of the impact of the trunk line entails a consideration of the impact of the gathering lines.

But I am not saying that Arctic Gas must bear the burden of adducing this evidence. And I do not know whether the producers will intervene. So it will be the responsibility of Commission Counsel to obtain evidence, pursuant to subpoena if necessary, to enable this Inquiry to consider the location and extent of the gas fields in the Delta, the likely extent of further gas exploration in the Delta, and

the Beaufort Sea, the likely location, design and construction of the gathering lines, and the processing plants that will be needed to render the gas acceptable to the trunk pipeline, and the social, environmental and economic impact that the development of the gas fields and the construction of these lines will have in the Delta and elsewhere in the North.

E. PRODUCER REVENUES AND TAXATION

It was urged by Canadian Arctic Resources Committee that I should consider the revenue to the producers that would be generated by the construction of the proposed gas pipeline.

It was said that I should allow evidence to establish the propriety of imposing a term or condition on the construction of the gas pipeline that would require a part of the revenue from the production of gas in the Delta to be dedicated to the improvement of social services in the North. This is the same thing as saying that I ought to conduct an investigation into the income and profits likely to accrue to the producers by the development of the gas fields in the Mackenzie Delta and then make a determination regarding what would be a fair return to the public from the exploitation of the resource.

That lies beyond my terms of reference. The level of royalties and taxes to be imposed upon the gas producers in the Mackenzie Delta is a matter to be decided by Parliament. That is the place to go with arguments about the adequacy of the return to the Crown from the extraction of the gas.

F. ECONOMIC IMPACT

I do not intend to conduct an examination of the impact of a gas pipeline on the economy of Canada. I am, however, prepared to consider evidence which reveals the particular impact of a gas pipeline on the economy of the North.

It is impossible wholly to disentangle economic consequences from social and environmental consequences. For example, evidence regarding the quantity and quality of the gas in the Delta and the state of natural gas markets, will be of importance for the purpose of determining the life of the pipeline, and such things as the extent to which looping will occur and the number of compressor stations that will be

needed. These relate to economic impact of the pipeline, but they relate as well to the social and environmental impact of the pipeline on the North.

But there will be evidence which relates essentially to economic impact. It must, however, be evidence designed to reveal the economic impact on the North. I am prepared to hear evidence of the effect of the gas pipeline on the rate of inflation, capital markets, the foreign exchange rate and other national economic indicators, to enable this Inquiry to ascertain the effect of the gas pipeline on the economy of the North. But such evidence will be allowed only for that purpose.

It was urged that it is impossible to segregate the impact upon the national economy from the impact upon the economy of the North. But the Order-in-Council provides that I am to have regard to the economic impact regionally of the gas pipeline proposal. I think that fixes the limits of the Inquiry. Whatever impact the construction of a gas pipeline may have on Canada's economy, I do not think that the Order-in-Council allows me to explore it. My mandate is to consider the regional economic impact of the pipeline proposals. That means that I am to consider the economic impact especial to the North, and not the economic impact on the nation as a whole.

G. GREAT BEAR HYDRO PROJECT

The Canadian Arctic Resources Committee said that a study had been made by the Northern Canada Power Commission regarding the feasibility of building three dams on the Great Bear River for the purpose of providing hydro-electric power for the pumping stations on the pipeline. According to the evidence, these proposals proceeded on the basis that such hydro power would be produced more cheaply than the natural gas, and that the hydro power could therefore be used to pump the gas, with a consequent saving of natural gas in the operation of the pipeline. Given a customer whose energy requirements would be of such a magnitude, it would be feasible to proceed with the project, and to generate hydro-electric power for Arctic Gas and customers throughout the North.

Such proposals, as outlined to me, were sketchy and incomplete. However, if such a development were to occur, the impact it would have on Fort Franklin, not to mention the whole of the Mackenzie Valley, is obvious. It would constitute in my view an "associated and ancillary facility" within the meaning of the Pipeline Guidelines, and

would clearly fall within this Inquiry. In any event, if it were built for the purpose of providing hydro-electric power to Arctic Gas, it would be necessary to consider its social, environmental and economic impact. It is obvious that it might be urged upon the Inquiry that a term or condition of the right-of-way would be that electricity generated by the project should be used to pump the gas, in order to conserve gas in the operation of the line, and to make possible the electrification of the Mackenzie Valley.

Should evidence come before me which indicates that such a project will be seriously considered if a right of way is granted and a Certificate of Public Convenience and Necessity follows, then I will hear evidence regarding the social, economic and environmental impact of the project.

These will be the limits of the Inquiry in the disputed areas. In concluding what they ought to be I have been guided by the conviction that this Inquiry must be fair and it must be complete. We have got to do it right. The pipeline, if it is built, will have a great impact on the future of Northern development and the shape of Northern communities, and the way of life for Northern peoples. Not simply because a pipeline is to be built, but because of all that it will bring in its wake. To limit the Inquiry to an examination of Arctic Gas's proposal merely, without considering the background against which that proposal is made, without considering the corridor concept indicated by the Pipeline Guidelines, would be to nullify the basis on which this Inquiry was established.

Thomas R. Berger

YELLOWKNIFE, N.W.T.

September 12th, 1974.

P R O C E E D I N G S

THE COMMISSIONER : Ladies and Gentlemen, I want to say at the outset that I propose this morning to give an opportunity to Mr. Scott, Commission Counsel, to outline his proposals regarding the timetable for the hearing and the way in which the hearing ought to proceed.

I should say that my list indicates that Mr. Scott is here as Commission Counsel and with him are Mr. Goudge and Mr. Roland. We will then call on the representatives of the other intervenors and other parties present and I will just run through the list.

Mr. Anthony and Mr. Lucas for Canadian Arctic Resources Committee. Mr. Cumming and Mr. Bailey for the Committee for Original Peoples' Entitlement and the Inuit Tapirisat of Canada.

For Canadian Arctic Gas, Mr. Goldie, Mr. Marshall, and Mr. Carter. Representing the Indian Brotherhood of the Northwest Territories and the Metis Association of the Northwest Territories, Mr. Sutton. Mr. David Reesor appears for the Northwest Territories Association of Municipalities and Mr. Gibbs for Foothills Pipelines Ltd. Mr. Lueck appears for the Council of Yukon Indians.

Now, that is not to say that these people will have a monopoly on the floor today. It is merely to say that I want to hear from all of them about Mr. Scott's proposals and anyone else will be given an opportunity to say anything that he wishes about Mr. Scott's proposals as we proceed.

In addition the Inquiry has received a number of written submissions that will be read later on today.

I should say before calling on Mr. Scott that I handed down my Preliminary Ruling in this Inquiry on July 12th. The requests for supplementary information that were prepared by the Pipeline Application Assessment Group established by the Government of Canada, those requests for supplementary information were prepared for the Inquiry and distributed by the Inquiry, those were sent out in July.

As I said I would in my preliminary ruling, I undertook an informal visit to the Mackenzie Valley and the Mackenzie Delta and the Northern Yukon. I sought through Mr. Waddell to advise all those concerned, the intervenors as well as Arctic Gas about my travels and Mr. Waddell has prepared a complete itinerary that is available to anyone who wishes to know where the Commissioner has been all summer.

I can't imagine anyone really being anxious to know that, but in keeping with the principle of openness in this Inquiry, that is available to anyone who wishes to have it. In fact I will ask Miss Hutchinson, who is acting as Secretary to the Inquiry, to have it marked as an exhibit so it will be on record.

I propose that a copy of the transcript, a copy of all exhibits, and all material filed should be available to any member of the public at the headquarters of the Inquiry here in Yellowknife. The Inquiry Headquarters are the old Resources Building on 51st Avenue and the Inquiry documents and all of the exhibits and all material filed by any intervenor will be available there during ordinary office hours to any member of the public who wishes to examine them, and assistance will be provided in supplying copies within reasonable limits. It is proposed also to have all the material available to any member of the public who wishes to examine them at the Inquiry Branch Office in Ottawa.

I should also say, that as Commissioner, I undertook in late June to visit Washington, D.C., and I sent a letter through Mr. Waddell to Arctic Gas and all the intervenors about that trip and that will also be marked as an exhibit and anyone wanting to know about it can look at that letter.

There is another matter I think I should raise at the outset and that is during the course of my travels to the cities and towns, villages and hamlets, settlements, and any other communities that don't fall within that list, I was concerned about the evidence to be given in this Inquiry being made available in some fashion or other to the people living in the Mackenzie Valley Delta and in Old Crow, as well as around the perimeter of Great Slave Lake, and I wrote to the President of the C.B.C., Mr. Picard, and I asked if he would co-operate with the Inquiry in broadcasting summaries of the evidence given at the hearing, and as a result of that, the President of the C.B.C. has sent Mr. Cowan, the Director of the C.B.C. Northern Service, to Yellowknife and the full co-operation of the C.B.C. has been promised, and I have asked Michael Jackson of the Inquiry Staff, who is acting as co-ordinator of the Community Hearings, to hold a meeting tonight at the Inquiry offices at 8:00 o'clock with representatives of all parties and with others to discuss the best way in which to take advantage of the offer of co-operation extended by C.B.C. I think it will be useful to hold a meeting of that kind rather than try to sort it all out here this morning.

I think I should also say that the Advisory Group employed by the Inquiry and the Inquiry staff, will be working under the direction of Mr. Scott as Commission Counsel, and I think it is important to assure the parties that their views regarding the issue that will be in dispute in this hearing will not be available to me as Commissioner. They will be employed essentially to assist Commission Counsel in his work as the hearing proceeds.

The members of the Advisory Group have from time to time accompanied me in my travels throughout the North during the summer but that has been essentially to give me an understanding, sometimes a very necessary thing in understanding the machinery, the flora and fauna I am looking for.

I think I should say no member of the Advisory Group, no member of the Inquiry Staff has sought at any time to express a view to me about the merits of any of the issues that we expect will be coming before this Inquiry. I don't expect any of them will have an opportunity nor would any of them desire to do so during the future course of the Inquiry.

Having said these things, I will ask Mr. Scott to open the proceedings.

MR. SCOTT : I was appointed, as you know, sir, as your counsel late in June and as a consequence I was not able to participate in the hearings which had taken place in the various communities of the North and Ottawa before that. We have, however, carefully read the transcript of those hearings and carefully reviewed the oral and written submissions that were made in order to become aware of the views of the people of the north and the interested parties as to the way in which this Inquiry should best be conducted.

In aid of the understanding of the aspirations of some of the parties, we also convened an informal meeting in Ottawa involving a number of persons who we think will be continuing parties at this Inquiry from start to finish. The purpose of that meeting was merely to allow me to assess their views as to the way in which the Inquiry work should proceed. It was not intended and that meeting did not of course produce any determination in my mind, or of course in the Commission's mind, as to the form of inquiry hearing in the future should take. It was informative and to that extent for me extremely useful.

I think I owe it to the citizens of the North and to the other participants to outline briefly first the functions that Commission Counsel and my associates propose to assume for ourselves.

We first of all intend to take an active role in the proceedings. We do not see it as desirable or proper that we should simply become the floor managers of the Inquiry exercise in which others participate. We propose therefore to take an active role

in line with the Commissioner's ruling in his preliminary reasons, that is that it is essential that all evidence and all relevant material that bears on the issue should be before him.

Only, sir, in that way in our judgement will it be possible for a reasonable and fair estimation to be made by him. So our interest in this Inquiry, our primary interest is to assure by whatever means are necessary that the inquiry is a full one and a fair one. In order to do that we intend to cross-examine witnesses, in due course, to ask questions of persons who want to be heard and want to say things to the Commissioner. We propose to develop evidence if it be appropriate in certain areas and we propose to lead it before the Commission at the appropriate time and submit to the cross-examination or the questioning of other participants or citizens in the North and to do that we are developing, and are in the course of developing, a staff to advise us, and to assist us as the evidence develops and to assist us in preparing whatever evidence of our own we think it appropriate to lead before the Commission.

As I say, that Staff is in the course of being developed and a major component of it is effective now, - the advisors that the Commissioner appointed to advise him at an earlier stage, shortly after his appointment.

Effective now I think it may be said without any doubt that those advisors are part of the Commission Counsel Staff and will assist us and be under our direction as the work of the inquiry proceeds.

Now, in outlining and developing that active role of Commission Counsel, I think it desirable to make two points about it. The first is that in pursuing that role we propose to be independent of the Commissioner, you sir, yourself. We will develop the role that we think it appropriate to develop. We will develop the evidence that we think is required to be put before you. We will develop the cross-examination that we think it appropriate to have as the witnesses or participants come forward to give evidence or say their piece, and I am sure that everybody here will understand clearly that we alone are responsible for the evidence we lead, the questions that we ask, the submissions that we make. They will be our questions and I trust they will not be misunderstood by anybody that they are in any sense, sir, your questions. It will be our evidence, it will not be your evidence, and in my respectful view it will have no additional consequence or weight because it is developed from the office of Commission Counsel.

So the first point I want to emphasize is in pursuing its role we see ourselves as independent of the Commissioner. The second thing, it goes without saying is that we see ourselves independent of any of the participants in the proceedings. We are prepared to ask questions of all of them as they give evidence or make

their point, and I trust it will not be concluded that because we press hard there or press hard there that in any sense we are taking sides in a line with any participant or the view of any citizen or group.

Our function as we see it is to do these things with a single objective, the objective being to get all the evidence that is relevant before the Commissioner in the most effective and efficient way. That is how we see our role as the inquiry develops.

I think I should tell you two other things that will be significant, I think, in the consideration of what we are going to undertake, the way in which the inquiry work should proceed. The first has to do with the Assessment Group and its report. As you know the Government of Canada appointed an independent group, I think largely if not entirely experts within the Civil Service to assess the application submitted by Arctic Gas. The point of the assessment was that in due course a report would be produced and that report would be forwarded to the Inquiry and the Inquiry, thinking of your ruling, sir, undertook when it was received to circulate it to the participants or indeed any other person who wants to see it.

Now, as promised the Assessment Group has forwarded to the Inquiry a request for supplementary information, as I think it is called, and sometime ago the Inquiry staff forwarded that request to Arctic Gas. I have provided copies of the request to the various intervenors.

I am advised by the applicant Arctic Gas that their responses to that request for supplementary information are being prepared and the best judgement, as I understand it, is that those replies will be completed towards the end of September and at that stage, as I understand the matter, they will be forwarded to the Inquiry which will in turn deliver them to the Assessment Group and copies will again, I think, as before be available at least for inspection at the Inquiry Offices in Yellowknife.

I am advised by the Assessment Group that it anticipates that its report on the application will be available to the inquiry towards the end of October.

The third thing I think it is significant to say is that, as directed by you, sir, the Commission Counsel staff is in the course of preparing a list of government reports and studies that may be relevant to the Inquiry's work or touch in some way on the Inquiry field of interest. As I say, we are in the course of preparing that list and we anticipate it will be available to the participants or interested persons by the end of September or early October.

We hope that we will have about the same time the reports and studies that are listed available for inspection in the Inquiry's office, and we propose that when the list is in the parties hands, in the participants' hands, the appropriate course will be for you to invite the Commission Counsel to obtain a copy of any report or study shown

on the list, and following upon such a request, we will request the Government to release it.

Now, I think it is reasonably apparent that this inquiry work will take a substantial period of time. It is also I think reasonably apparent that there are five or six or seven participants or organizations, including the applicant, that will be a continuing presence and will continually and regularly participate in the taking of evidence and the securing of submissions from beginning to end.

There will also be, I hope, many citizens and other organizations that will participate from time to time as matters that touch their particular interest are raised or developed before the Commission, and in addition there will be many other people who are anxious in an informal way at those hearings to give the Commissioner their views about matters before him. What we are confronted with is the fact that there will be six or seven major participants, and I say major in the sense they will be continually and actively engaged before the Commission from the commencement of its work until the end, and it was for the purpose of organizing the role of these continuing participants that it was thought that some basic and relatively simple rules should be developed.

The purpose of these rules is not to confuse. It is not to create a barbed wire of technicalities through which people may have difficulty proceeding. The purpose of the rule really is to ensure again that the Commission's work can be done expeditiously and so it can be fairly and fully unfolded and the rules have no other objectives, the rules I propose have no other objectives and if they are criticized on the account that they are not full or fair and do not provide for a full or fair inquiry, that criticism is a meaningful and significant one and should be considered.

I think it should therefore be said that in our submission, sir, these rules should not in the first place have any application at the proposed community hearings. They are in that setting unnecessary.

The second thing that should be said is that these rules should have no application, should not bind these citizens or organizations who wish to make their submissions known to the Commissioner from time to time but who will not be actively engaged day by day in the work of the inquiry.

Having said that, I hope it can be seen that what is intended is to develop a framework in which the major participants in the interests of fairness will conduct themselves a certain way, and it will be understood by all that there is nothing intended by the proposed rules that I will submit, to inhibit any person from coming forward and asking a question or making a point or making an argument. This is not the intention of these proposals.

It will be my third point that any rules that are developed for the reception of evidence for the conduct of

the active participants must be flexible. There will be occasions in which it is within the discretion of the Commissioner to direct that deviations may take place from those rules and in my respectful view sir, that is a desirable characteristic of any set of rules. There will be an occasion in which, again in the interests of a full inquiry and a fair inquiry, the rules have to be abrogated or weighed.

Having said that, let me turn to the few rules in my respectful submission should apply as we begin the work of the Inquiry.

Again I emphasize we are talking about the formal hearings of the inquiry and not the community hearings to which these rules would not apply and we are talking about the rules that will apply to the parties as I understand that term and not to the citizens participations which we hope will be continuous and active throughout the course of our work.

The first proposal I make is that the formal hearings of the Commission should be held in the Northwest Territories. I do not think it follows from that that they must all be at Yellowknife. It may be from time to time it will be the direction of the Commissioner that formal hearings be held in other communities to the north in addition to Yellowknife.

The second submission I make is related to participants and we propose a very simple definition that any person shall be deemed to be a participant to this hearing if he appears at one of the formal hearings including the preliminary hearing and gives his name and address as a person appearing to the Commission or he advises the Commissioner in writing that he wants to appear and we propose that special counsel, Mr. Waddell, should maintain a list of the persons who have indicated an active interest or desire to heard by the Inquiry.

The third submission relates to applications and I think I should say that there may be, as we go along, a number of kinds of applications that are made to the Commissioner, first of all some citizens or some participants may wish to subpoena a witness. The Commissioner has certain subpoena powers. Some citizens or participants may wish to obtain a copy of a document that is in the possession of somebody else but which relates to the Inquiry. The Commissioner has certain powers with respect to that but before he can exercise his power he must be asked to do so. And our third submission is that any application for relief of that type or for other assistance made by the participants shall be made upon reasonable notice to Commission Counsel and to anybody else who is going to be directly affected. So if "X" wants to get a document from "Y", to choose a simple example, "X" will write the Commissioner saying I want you to make an order for the production of that document and I have sent a copy of this request to Mr. Scott and to the person who has the document and then in due course under that resume the Commissioner will decide whether it is appropriate the document should be ordered produced or not.

The fourth submission relates to the production of documents themselves. I think it goes without saying that the production of documents is a significant matter to all participants if the inquiry is going to be a full and fair one. It may be that many of the participants will have documents within their possession, of various types, that relate to the matters that are in issue before the inquiry.

Without reading the proposal in full, what we propose is simply this, that any person, including Commission Counsel, may request a person or organization appearing here to make up a list of the reports or studies or other documents that it has and that list will be filed with the special counsel Mr. Waddell and I anticipate in due course that those requests will be made to the major participants in the inquiry, including the applicant, and that in due course if this rule is adopted each of those persons so requested would be required to file with Mr. Waddell a list of the reports and studies that they have in their possession.

Now, the proposed rule calls for a list of reports, studies, or other documents. The scope of the proposed rule is a difficult one because obviously there will be at the one hand reports of a formal nature that should clearly be produced and on the other hand there will be correspondence which may have no particular significance but which for the purpose of listing might impose a burden on a party which would be extremely onerous.

So, what is really contemplated is that the list should encompass a list of reports, studies or other documents of that kind within the possession or power of the participant which relates to the matters before the Commission.

Now, once that list has been requested and has been filed with the special counsel, it will be available for inspection by anybody who has indicated a desire to participate in this inquiry and when I say anybody, the recommendation means anybody, not the major participants, any citizen who has indicated his interest and intention to appear at the inquiry. When he looks at the list, he may request the person filing the list to produce for his inspection a copy, the original or a copy of the document listed. If the request to inspect the documents is refused an application can be made to the Commissioner upon notice to us and he will decide whether the request is an appropriate one or not.

The next substantial recommendation has to do with discovery of witnesses and again before reading this I want to emphasize it is intended to provide an orderly way for the major participants to call their witnesses and to receive in advance some warning of what the other major participants' witnesses are going to say. It is not intended to be applicable to citizens or organizations who wish merely to make their views known to the Commissioner at occasional appearances during the hearing of the inquiry. So it really in my view causes no difficulty or imposes no obligations on someone who simply wishes to participate

sporadically in the work of the inquiry or have his submissions heard by the Commissioner on an occasional basis.

The rule requires that every participant shall before giving evidence himself or calling witnesses on his behalf file with the Special Counsel, Mr. Waddell, at least two weeks before giving evidence or calling such evidence a full synopsis of that evidence together with a list of any reports, studies or other documents to which that witness may refer or upon which he may rely.

I think you can see, if you accept the qualification that I have imposed, that it does not apply to the individual participant. That the purpose of that rule is so that as Arctic Gas calls its evidence the interested parties who are participating regularly will have some forewarning of the nature of the evidence that is to be called and will be prepared when it is called to listen to it with the assistance of whatever experts they may have at their very side and be prepared then and there, if possible, to cross-examine about it. It is also designed to work the other way so that when counsel for the Commission calls a witness, we will be obliged to allow the inquiry to know, some two weeks before, who we intend to call and roughly by synopsis what he is going to say so that the other parties again will have an opportunity to have their experts by their side to be in a position to listen to that witness's testimony intelligently, and be in a position to cross-examine effectively.

Submission six relates to the order and content of the hearing. Before reading this submission I think it is significant to say that there are probably two ways in which an inquiry of this length and magnitude could be conducted. The first would be to invite the applicant, Arctic Gas, to tender all its evidence on all matters in issue in any sequence it selected or chose.

Following the tender of that evidence and the questioning about it by other parties then the other parties would have a chance to call their evidence. That is the usual process that would be followed in an inquiry I think of normal dimensions. An inquiry of this dimension it seems to me requires another mode of receiving evidence.

A second mode, and we therefore propose to you, sir, that the formal hearings of the inquiry should be divided into sections, each section dealing with a particular aspect of the matters that are before the inquiry with a view to allowing any section of parties who wish to call evidence or wish to make submissions to make their submissions within that section of that topic.

We hope by adopting this scheme there will be some economy of time and what is more important the witnesses from all sides, from all parties, who give evidence on any given aspect of the matter will be heard in sequence and together rather than being spread out over a period of months.

This, I think, will make the exercise a more meaningful one, from your point of view, sir, and a more meaningful one from the point of view of the interested public because when we are talking about the impact on wildlife, for example, it will be possible for the public and the Commissioner to hear evidence from all the experts and the evidence of all the citizens on that issue at once, at one time, rather than spread out at various points throughout the hearing, and that, hopefully, will make the exercise more meaningful and will make judgement of the issues easier.

Now, before the formal hearings per se commence, you have directed, sir, that an overview hearing should be conducted and you have laid down in your preliminary ruling the subject areas that are contemplated by the overview hearings and we are in the course of developing evidence for this overview hearing.

As we see it, the overview hearings provide a kind of background to the formal hearings at which the nature of the problem that will be dealt with in the inquiry proper will be made clear and they will hopefully provide a backdrop against which the disputed evidence or disputed submissions can be heard.

Now, it is our proposal that this evidence, the overview evidence, which will be largely the evidence of experts together with the evidence of some native and white people who live in the North, will be prepared by Commission Counsel and we propose to consult with other persons and other participants who indicate their desire to be consulted about the nature of this overview evidence.

The overview evidence in our judgement will probably take about one week to complete.

When the overview hearings commence, it is our proposal that the witnesses will be called and examined by Commission Counsel. It is also our proposal, because this evidence is to provide merely a backdrop, that there will be no cross-examination of the witnesses called at the overview hearings but we undertake upon the reasonable request to any participant to recall any overview witness for cross-examination at a subsequent stage, at the subsequent relevant stage of the proceedings.

When the overview evidence is completed we hope that the Commissioner and the interested citizens of the North will have a backdrop against which to assess the difficult and complex issues that are before the Inquiry and we would then propose that the Inquiry should launch immediately into the formal hearing.

We propose that the formal hearing should be divided basically into four sections. The first section has to do with the engineering of the pipeline and will include such matters as the size of the pipeline, the location and timing of the construction, the composition and deployment of construction crews, the construction of compressor stations and other like matters and it is anticipated that at that

stage the applicant and other interested parties will call whatever evidence they have, make any submissions they want, ask any questions they want that relate to that matter, to engineering the pipeline so by that stage the Commissioner, sir, and the citizens who are interested in the work of the inquiry will have seen the backdrop, the situation -- the tableau in the North as it is now, and will have seen what it is proposed that is to be put into this land. The pipeline will be described in detail, no doubt, and questions will be asked by all participants and citizens about it, and that will be the first phase of the formal hearings.

Having had the backdrop and having introduced the pipeline by that evidence, we would then propose to move on to the second stage of the formal hearings which will be evidence relating to the effect of the pipeline on the physical environment and would include such matters as the effect on permafrost, river crossings, slope stability, gravel, and other borrow locations and like matter.

The third stage we propose is evidence relating to the effect of the pipeline on the living environment to include such matters as the effect on plant and animal life within the area.

The fourth section and perhaps for all of us the most important in the last analysis, the effect of the pipeline on the human environment to include such matters as social and economic impact, of the construction of the pipeline, its use and ultimate abandonment, the social and economic impact of the pipeline impact on living and non-living environment.

Now, it has been said that leaving the effect of the pipeline on human environment to stage four would somehow render it less important or demean its significance before the Inquiry. That, of course, is not the intention at all and I do not think that if this scheme were adopted that would be the result.

All matters are independent, but I think it can be said that there is a sequence and this scheme whereby the formal inquiry is divided into four sections is designed to take account of that sequence. Nothing happens until the pipeline is set into the land. It has an effect on the physical environment. The pipeline and the effects on the physical environment have an accumulative effect on the living environment, the animal environment, the plant environment and thirdly the pipeline, the effect on the physical environment, the effect on the plant and animal environment all have an accumulative effect on the human environment and that is the theory on which these four sections are proposed.

Now, I can see it will not be a simple matter to divide the inquiry into four sections of that type. There will be cases in which there will be substantial overlap. There will be cases in which people who should have turned up for section one turned up on section two and want to be heard and there will be other difficulties about applying the division.

I think the attempt to achieve the division is a worthwhile one because it will make the effort a co-ordinated one and a meaningful one, not only for you but for the community as a whole.

In the second place, the difficulties that will exist can be taken care of if we approach the matter with complete flexibility. If we recognize that it will be necessary from time to time to go back to hear what other people have said at an earlier stage or to bring them forward again to be asked further questions, and if we approach the matter with that kind of flexibility there is no reason why this kind of division in subject areas cannot be effective and useful.

Now, Mr. Commissioner, the next point relates to community hearings. Professor Jackson has been appointed the Co-ordinator of Community Hearings and he will be making submissions to the Inquiry as to the way in which these community hearings should in fact be conducted.

It seems to me that it is unlikely that they will begin until the formal hearings are well under way so that when the community hearings take place the members of each community will with the assistance of newspapers and actual participation here and perhaps the C.B.C. have some real awareness of what has been said already about the pipeline by the various participants.

Professor Jackson and our staff will in due course be convening a committee of all persons who are interested in determining the appropriate format for the community hearings and that format way well differ from community to community.

Now, the next matter is the commencement date. The first thing I have observed is that we will formally commence if my submission with respect to the rules are adopted with the overview hearing which will take approximately one week to be followed immediately by the first of the four sections of evidence, the engineering evidence.

Those who have read the draft submissions that I have submitted to the Commission will see that I have proposed a starting date of October 15th. That starting date was selected by me as an appropriate one on the assumption it would be possible for the responses of Arctic Gas to be available to the Assessment Group earlier in time and that it would be possible for the Assessment Group to make its reports by September 21st. As I indicated earlier, that advice is now, of course, will not be available until towards the end of October. I therefore propose, Mr. Commissioner, that the overview hearings should commence at Yellowknife, the commencement in the third week of November, to be followed immediately by the first week of formal hearings. I think I owe it to the Commission and to the participants to indicate clearly why I have selected a date that may not be well received by some of the participants. You have said, sir, in your preliminary ruling and I think at this stage it needs hardly to be emphasized that the hearing must allow full participation and a component of

full preparation is adequate preparation time and I know that a number of the intervenors are concerned about the adequacy of the preparation time so that they can effectively participate and present their case. That is an important consideration. On the other hand, as you have pointed out also in your ruling, there should be no untoward or unnecessary delay because the effect of delay may have important consequences for some of the participants. The problem that confronts the Commission in my respectful submission is selecting a date for commencement which will do justice to the legitimate interests of all the participants including the applicant and it is only after careful consideration that I have selected that particular date.

I do not hesitate to select it for an additional reason because it seems to me that those intervenors who are concerned about preparation time may, if the division of the evidence that I have proposed is accepted, find that the matters that particularly concern them, such as the impact on animal or human environment are dealt with in the subsequent stages of the Inquiry and would not, even selecting this date, be normally reached until I think well into the new year and so that it is possible that the overview could commence on November 18th, 1974, the engineering evidence could follow, the second section, impact on the non-living environment could follow and it would not be for some months until we are into the social economic question which are, if I understand correctly, the primary concern of some of the participants. And that scheme of things will therefore or should therefore allow a more extensive preparation time for those participants than would exist if it was thought that the starting date was November 18th, 1974, applied with respect to all issues.

Mr. Commissioner those are the submissions that I make to you.

THE COMMISSIONER : I wonder if I could ask you Mr. Gibbs if you wish to say anything about Mr. Scott's proposals now or do you wish to simply reserve what you have to say until later on.

MR. GIBBS : I am ready to speak. My comments are really technical, not having to do with the scope of this Inquiry.

THE COMMISSIONER : Excuse me, I wonder -- I have a note that you represent Foothills Pipelines Ltd.

MR. GIBBS : Yes, sir.

THE COMMISSIONER : Could you allay our curiosity by telling us a little bit about what Foothills Pipelines is ?

MR. GIBBS : Foothills Pipelines Limited, sir, is a subsidiary of Alberta Gas Trunk Line Ltd. It will not be solely an Alberta Gas Trunk Line Ltd. subsidiary for very long because other companies will acquire an equity position in it.

Foothills Pipelines Ltd., sir, is the sponsor of what has been called the Maple Leaf Project as an alternative to the project of Canadian Arctic Gas study, Canadian Arctic Gas Pipeline Ltd.

The Maple Leaf proposal is that the pipeline be built from the Mackenzie Delta-Beaufort Sea area down into Alberta and then connecting into existing systems, that it will be wholly Canadian owned, and wholly Canadian operated, and carry Canadian gas to the Canadian market.

If it is appropriate and desirable in due course that line could be extended to Alaska and looped to carry larger volumes but not at any time losing its Canadian identity either as to operation or ownership.

There is this Fall a hearing by the National Energy Board into the supply and requirement for gas in Canada. Foothills Pipeline will be filing a submission at that hearing. Part of the submission will be a volume giving much more detail of the Maple Leaf Project. It certainly will not be in as much detail as a pipeline application would be. It will be more of a Reader's Digest condensed version.

As soon as that filing has taken place then the task force working on it will be augmented and will commence working towards the preparation of a pipeline application which we hope to file by June of next year with the Department of Indian Affairs and Northern Development and with the National Energy Board.

I perhaps should say those items to be dealt with in the formal hearings, all that evidence will apply almost equally, almost without variation to the Maple Leaf Project as it does to Canadian Arctic Gas because the route would be the same, the impact on the environment, physical, living and human would be the same and the differences really lie in matters of engineering, sizing and matters of that nature.

I mentioned sir, that I had some really technical comments and the first one is under the heading Production of Documents and it is on page 2 of Mr. Scott's proposal.

I wonder, sir, if I might ask what is proposed with respect to documents in the possession of third parties? Now, for example, in your preliminary ruling I believe or in the Pipeline Guideline there is reference to the effect of the gas gathering system. I understand, sir, that there is a design for such a system but it is designed for persons not registered here and yet of significance to the hearing, and perhaps something should be provided for those type of documents in the possession of third parties.

Also under that heading "Production of Documents, Item 1" Mr. Scott suggests a participant, at the

request of a participant or Commission Counsel a participant file a list of reports. Might I suggest, sir, that perhaps that should be made mandatory, that each permanent participant at least file that list and that he file it in sufficient copies so that the other permanent participants can have copies. I can foresee otherwise the Commission Counsel's office is going to be inundated with people asking for copies and the machinery is going to get quite strained.

The next point, sir, I wish to raise is under the heading on page 3, "Discovery of Witnesses" where he suggests that the summary of evidence be filed at least two weeks before it is given. I presume, sir, there would be some latitude there because as Commission Counsel knows there may well be matters arise suddenly through one witness's evidence which would lead another participant to conclude that he should lead some rebuttal evidence and not physically have these two weeks within which to file.

On page 4, Mr. Scott suggests no cross-examination of witnesses called on the overview hearings and says he is prepared reasonably to recall them. In my submission, sir, there should be cross-examination allowed because even though that evidence is classified as background evidence, it is nonetheless evidence and I suggest you, sir, will become much more sensible if the cross-examination is conducted when the evidence is given than later when the continuity is broken. Those are all the points I have.

THE COMMISSIONER : Thank you.

Mr. Scott, do you wish to respond now or do you wish to wait until everyone has had a chance ?

MR. SCOTT : What do we do about third parties, that is persons who are not participating and who do not appear but who may have documents or reports that some of the parties think are relevant or significant ?

In my respectful submission the way to deal with that problem is by the exercise in appropriate cases of the Commissioner's subpoena power, to simply subpoena the third party or the stranger and ask him in the witness box to produce whatever report or document is required.

Mr. Gibbs next refers to discovery of witnesses and requests latitude to deal with particular cases when it is not possible for reasons of time to give two weeks' notice. That is an underlying assumption that I made in advancing the submission in the first place and it is clearly in my judgement within the Commissioner's power in a discretionary way to permit that kind of latitude to exist in appropriate cases.

The third matter relates to cross-examination with respect to the overview evidence and Mr. Gibbs has expressed concern that there should be cross-examination and I wish merely to emphasize that there will be cross-examination of any overview witness and that the only reservation we have is to the time at which that cross-examination will take place. In our respectful submission it will not be possible to conduct an orderly, efficient and meaningful overview hearing

if the cross-examination of overview witnesses takes place immediately following the principle, the giving of their evidence, but that is not to say there can be no cross-examination. It is merely to say that any parties who wish to cross-examine overview witnesses will be given an opportunity to do so when the portion of the Inquiry in which his evidence relates is conducted so I think it can be said that we all agree that there must be scope for cross-examination. The reservation in the recommendation is simply one of time.

THE COMMISSIONER : Well,
Mr. Goldie, you said you were in my hands so would you proceed.

MR. GOLDIE : I don't understand the relation of the overview to the Assessment Group's request for additional information and I am at a loss to understand why the overview couldn't commence on the date it was suggested, however, it might be convenient to have the overview immediately preceding the commencement of the evidence from Arctic Gas and if that is the view of others who are here, I have no objection to it.

I note in passing that Mr. Gibbs' concern about cross-examination of the overview is certainly one that concerns us. I was assured by Mr. Scott that we would have an opportunity of considering that evidence and if a request was required to be made, to be consulted with respect to it. I now make that request. The assurance that I have from Mr. Scott was that in his opinion that evidence wouldn't be of a controversial nature. Certainly if it was I agree with Mr. Gibbs. I am prepared to work with Mr. Scott to endeavour to ensure it is of a character which would provide a backdrop and which would not require cross-examination for clarification or because of any contentious position that the witness took.

The conduct of the hearing -- I am in substantial agreement with the proposal made by Mr. Scott in Item 6. I do not undertake to organize the case in precisely the terms he suggests and one of the reasons that I wouldn't do so is that when one talks about the design of the line, one really has to talk about the physical impact on the environment of that line. I am talking about such things as perma-frost. Geotechnical considerations are as much a part of the engineering and we would propose leading that evidence as part of that first phase but the design, the engineering, the location, construction and abandonment would all be part of the first phase and I stress and this is to underline the fact I am in agreement with Mr. Scott in this that we will not be dealing with the social and environmental and economic impact at that time.

The evidence in that first phase will really relate to the nuts and bolts of the pipeline, the engineering problems associated with putting the pipeline in the ground as we see it, and I think this is how Mr. Scott sees it, and the evidence in chief of those witnesses, the cross-examination evidence of any other witnesses called in this phase would be a necessary background for the witnesses who will follow and will deal with the social, environmental and economic impact.

I certainly agree it would be desirable and in fact we will undertake to file in advance of commencement of each phase, a list of witnesses and the order in which counsel propose to deal with the various subjects and a brief summary of the main part of the testimony of each witness.

Mr. Scott referred to the community hearings. We are in agreement with the proposal that he has made to convene a committee of interested participants to determine the appropriate format for each community hearing. Mr. Carter of the Northwest Territories Bar is associated with Mr. Marshall and me as counsel for the applicant Arctic Gas. He will represent Arctic Gas on the Committee and indeed has already had some discussion with Mr. Jackson.

As we presently see it, each community must be treated separately and I think all I can say at this time we may wish to call witnesses in each community dealing specifically with that community. We may wish to answer evidence given there or questions raised, and I think it would be of assistance in that respect if participants in the formal hearings endeavoured to advise in advance what evidence they intend to introduce at the community hearing.

I have already stated earlier, Mr. Commissioner, that participants who call witnesses at the formal hearings should not recall these witnesses at the community hearings except to give evidence dealing specifically with that community. That is a consideration that remains to be worked out.

(Here follows legal argument about subpoena power and privilege - See Transcript pp. 569 - 584)

Now, that brings me, to the discovery procedures which in my submission we should follow. What I suggest is first a step by step development which fits the needs of this proceeding, by "needs of the proceedings", I speak with particular reference to Mr. Scott's suggestion of a phase submission. Instead of providing one list as suggested by Mr. Scott, I suggest that when the list of witnesses given for a particular phase, that it should be accompanied by a list of documents referring to that witness which would contain all those documents and references referred to or used by or which the witness believes touches the subject matter of his evidence.

Now, no question of privilege would be raised unless in the submission or in the view of the parties providing the list some special question of confidence, some breach of confidence should be raised in which case it would be a matter for you or by agreement of counsel as to a procedure which would safeguard that confidence without inhibiting the Inquiry to deal with it. Now, this would relieve counsel from the task of examining each and every document to see whether it falls within the category of privilege. At the same time it would answer the function of discovery which should provide some fore-knowledge of what a witness is going to say before he steps on the stand.

We are going to be dealing with expert witnesses mostly, and I think, in my submission, that the greatest assistance and the procedure which would be most valuable is to provide some indication of what that witness is going to be relying on in respect of the opinions that he expresses.

Now, in addition, and I speak only for my client, I am not speaking about the general proposition at large although I see no reason why it should not apply to everybody, Arctic Gas would, as it is already doing, endeavour to respond to requests for additional information coming from or through Commission Counsel. I think any such request should be funnelled through him. Of course, it may not be possible to comply in total with such requests but we would respond and we would say why we can't comply in total if that was the case.

Furthermore, nothing that I have suggested would inhibit any party through Commission Counsel from making a request for specific documents.

If I understand Mr. Scott correctly he said he would, Commission Staff would endeavour to have here in Yellowknife a copy of documents that he obtained. I would certainly support that and indeed I would suggest that there be a central reference library of all documents related to or are referred to in lists that parties would provide of the evidence that a witness is going to give and the documents that he will be relying on. I don't think we have to do that with respect to all the public literature which is voluminous, except in special cases, but certainly where an expert intends to rely upon unpublished material or believes that material to be relevant to his evidence, then that would be made available for examination.

I said that we have to develop this as we go along. I mentioned in the Northern Power case there never was an affidavit or list of documents. I was one of counsel in that case and it would have been literally impossible to have provided an affidavit of documents. I don't say literally impossible, it would have impeded the progress of the trial to an undue degree. Experienced trial counsel on both sides recognize that compliance with the marginal rule was out of the question and document requests went back and forth between the two sides and they ranged from requests for a specific document that then applied to another reference or to requests for documents within a certain file. Most of those requests were processed without any problem, both sides knew the rules they were to apply. That trial involved the construction of an underground powerhouse for a Crown board who, of course, felt they were acting in the public interest. The cost of that powerhouse was something in excess of 120 million dollars and the trial took over 400 trial days. It would have taken much longer unless the parties were able to arrive at some modification of the conventional procedure for discovery of documents.

You, Mr. Commissioner, are well aware of the criticism that has been made of the ordinary trial processes, the techniques as an expeditious means of settling complex technical issues. The criticism, I think, centres around the epithetic nature of the trial process. It is a one track procedure in which each step follows the other. Many commentators have felt there should be necessary reform incorporating

a multi-step process in which a number of problem solving procedures occur independently rather than epithotically.

I say, with great respect, to ask my client to produce a list of the conventional kind before any evidence is heard is to ask what was dismissed as impossible in the Northern Power case, and furthermore, with great respect, is unimaginative, it does not adapt the necessities of the day, the requirements of the proceedings before you.

THE COMMISSIONER : Mr. Lucas or
Mr. Anthony ?

MR. ANTHONY : Mr. Commissioner, if I may be permitted to start and Mr. Lucas, who you are familiar with and who has appeared before, also has a presentation to make on behalf of CARC.

We would like to make a few comments with respect to both procedures outlined by Commission Counsel and the format and then Mr. Lucas will deal with the issue of the timing of the hearing.

With respect to the procedure, our general view is that the decisions made now with respect to procedure to be followed are vital and crucial in the hearing in that the form adopted will reveal both the attitude of the Inquiry and the opportunity for real effective participation which will be of real assistance to the Commission. Our general position is that we are in agreement with the type of procedure suggested by the Commission Counsel and we are, of course, in full agreement with his basic principle that the procedure must be such as to ensure a fair and full enquiry.

Dealing with the question of production of documents, I think it is essential too, we recognize that with respect to the synopsis, it is quite limited in the sense that it is to be prepared two weeks before the witness is presented and also because obviously it is necessary it be made in a flexible way, and because also, of course, there is no verbal discovery of witnesses, again a very important distinction in the situation we have here and the situation we have in the traditional adversary context of a lawsuit, that there is therefore a very different role to be played in this question of production of documents.

Now, obviously Mr. Goldie made mention of the point that in the Northern Power Commission case, for example, they could not produce an affidavit of documents and recognized that sort of problem and said there was the same situation here. Of course, there are different situations in that circumstance in the sense that that was an ongoing operation involved which is not quite the same situation as here, but in any event we are prepared to give such a list if possible that can be completed and presented without the necessity of a formal affidavit. The principle that we wish to apply is the principle of full and voluntary disclosure of all documents that are relevant to the Inquiry.

I think we can proceed on that basis because of the fact that we are not in an adversarial process. There is not another side who has an onus to prove its case.

I think in addition to the procedures generally outlined by Mr. Scott, that there should be some procedure established for appeal to the Commission in the situation where the participants themselves cannot agree on whether or not a document should or should not be produced to the hearing. I think that in such a case, that the party claiming privilege, plus any party objecting, plus the Commission Counsel would appear before the Commission and argue the question of whether or not the document should or should not be privileged. I would think that the right of subpoena which is retained by the Commissioner, would be sufficient to ensure that all documents deemed relative were in fact presented to the Inquiry.

MR. LUCAS : I can begin by saying quite plainly that the Canadian Arctic Resources Committee does not find the proposal of Commission Counsel regarding the commencement of the hearing acceptable. With regard to the overview hearing, that is the timing of the overview hearing, we have no strong view, however we recognize that it is logical in view of the fact that its function is to lay groundwork for the main hearing and introduce the issues. In that light it is logical that the overview hearing ought to shortly precede the formal proceedings. Again we have no strong feelings on the timing of the overview hearing.

In making the submission of Canadian Arctic Resources Committee with respect to timing, it is necessary unfortunately to recount a little history and in particular to explain the genesis, nature and function of this thing known as the Northern Assessment Group, and I should explain immediately that I am not referring to the Government Assessment Group that Mr. Scott referred to this morning.

The Northern Assessment Group originated in discussions in Ottawa following the preliminary hearings that were held there in the early part of May. At that time it was agreed, following a meeting by the major environmental intervenors, at that stage, as well as the major Native groups, that a scientific assessment and review group should be established under the direction of the Canadian Arctic Resources Committee, to conduct a detailed technical review of the Arctic Gas application, particularly related to environmental considerations and to make the resulting review data available to these various member groups, and briefly these were on the environmental side, Pollution Probe, the Canadian Nature Federation, the Federation of Ontario Naturalists, The Canadian Environmental Law Association, SPEC, Canadian Scientific Pollution and Environmental Control Society, Vancouver, and The Canadian Arctic Resources Committee.

The major Native groups involved in those meetings were the Committee for the Original Peoples' Entitlement, The Indian Brotherhood of the Northwest Territories, The Metis Association of the Northwest Territories, The Council of the Yukon Indians, and at that time formal presentation of the idea of a Northern Assessment

Group was made to the Commission and a request for funding for this purpose was made at that time.

In addition, it was recognized that the scientific and technical review of the Northern Assessment Group must be co-ordinated with the socio-economic study and review of the applicant's supporting documents that would be undertaken by the Native groups.

Now, the result of all this was that the application for funding was pursued and ultimately the Department of Indian and Northern Affairs made funds available to the Commission for the purpose of funding such an environmental review.

Finally, I should make it clear that the Canadian Arctic Resources Committee and Northern Assessment Group are two completely different things. The party in this Inquiry is the Canadian Arctic Resources Committee, the Northern Assessment Group is not and will not be a party to this Inquiry. It is merely a resource agency, a source of information to the groups that I have mentioned.

However, it can't simply orbit on its own, it has to be run and administered by someone, and the organization that has taken that on is the Canadian Arctic Resources Committee, and as a result CARC will undertake, and for CARC Mr. Anthony and I will undertake to provide any legal needs that the Assessment Group may require in the course of the Inquiry. I am thinking, for example, any obligation to file list of documents or produce documents. We will undertake to see that is done on behalf of the Northern Assessment Group, emphasizing however that the Northern Assessment Group is not a party formally to this Inquiry.

Now, the funds for undertaking this review became available to the Northern Assessment Group on or about September 1st. The study team has been established under the direction of Doctor John Spence and a team of principal investigators has been engaged. A number of tasks have been outlined and I won't go into them right now in any detail. However, it is possible at this time to provide some indication of how long these tasks will take.

First of all, the various tasks are under direction of different principal investigators and they involve different kinds of review, and different extent of investigation beyond the Arctic Gas application itself, and as a result the time necessary to complete the various tasks will differ somewhat.

Just to take a couple of examples, the basic task being undertaken by the Northern Assessment Group is a complete analysis of the specific environmental effect of the Trunk Gas Pipeline and gas gathering lines. The principal investigator for that study has advised the Canadian Arctic Resources Committee that that study will be completed on or about the 31st of January, and that is a minimum period required to complete that review.

Another important task that has been undertaken by the Assessment Group is a review of the impact of ancillary facilities and operations pertaining to the pipeline. The principal investigator for that task advises CARC that the time required for that study will make the report available at approximately the end of February 1975.

So taking those two examples, it would appear that the basic technical review that has been undertaken by the Northern Assessment Group will be completed between January 31st and the end of February 1975.

Now, there are several limiting factors that might cause this work to take a little longer. I will just indicate a couple. First of all, the sequential nature of the tasks that are being undertaken. Some of the review related to ancillary facilities, for example, depend on the review of the environmental impact of the Trunk Pipeline itself and really cannot get fully underway until the review of the pipeline impact is at least well underway. That is one of the problems.

Another is the fact that many of these review tasks simply cannot be completed until there have been full discovery of documents, both in the possession of Canadian Arctic Gas and in the possession of other parties, and perhaps in the possession of Government departments.

Documents also that will be disclosed as a result of Commission Counsel's efforts in persuading Government departments and agencies to open their doors and files, and also the Arctic Gas response to the Government Assessment Group's request for supplementary information. All of these methods of disclosure are going to result in additional documentary information that will have to be reviewed by the investigators who are responsible for these Northern Assessment Group tasks, to the extent that this takes time, the review tasks are going to take that much more time.

I would like to emphasize and I can't emphasize too strongly, the hazard of commencing the technical hearing prior to the Environmental Groups and Native Groups being fully prepared on all aspects, including environmental and social. Without completion of the environmental and social parts of the review and the native feedback on both of those subjects, there is really going to be no adequate basis for cross-examination at the early stages with a view to establishing a foundation for environmental and social evidence at later stages.

Mr. Gibbs has indicated that AGTL will be submitting more information on its pipeline proposal to the National Energy Board, Gas Requirement Enquiry. Now, my understanding is that that Inquiry has not been scheduled yet, but it is likely to be held in the late Fall. However, Mr. Gibbs indicated, even at that time, it would be fair to only present, I think he did say a Readers Digest version of the application, and that they would continue working to prepare an application for submission to the Department of Indian and Northern Affairs and the National Energy Board in June of 1975.

We would suggest that the AGTL information is rather pertinent information and in fact it is information that is most pertinent to the first phase of the hearing that has been suggested by Commission Counsel, namely, to the engineering phase.

THE COMMISSIONER : Mr. Lucas, it occurred to me, maybe we shouldn't have allowed Mr. Gibbs to escape so easily so he could remain for this discussion, but it occurred to me that in view of the fact Alberta Gas apparently proposes a 42-inch line on which there are, as I understand, some differences between the design of the line they propose and the design of the line that Arctic Gas proposes, that Alberta Gas might very well take a very leading part in the first phase. Mr. Gibbs said whenever you are ready, he is ready, I think that's what he said.

MR. LUCAS : With respect, sir, what I was getting at was the fact that Alberta Gas Trunk would be producing technical data, engineering data that is highly relevant, I would suggest, to the purposes of this Inquiry.

THE COMMISSIONER : Excuse me, you mean if Alberta Gas were to be subject to the discovery procedure and be a participant, I think it is obvious by any definition Alberta Gas intends to be a major participant, it would produce another wealth of information that would require time to be digested.

MR. LUCAS : That is precisely what I am suggesting, and whether Mr. Gibbs wants to pursue his role in the Inquiry diligently or not is beside the point.

THE COMMISSIONER : Mr. Sutton, do you wish to go next?

MR. SUTTON : I have a number of comments to make on the procedural questions that were raised. I also intend to comment on the timing of the hearing, the format of the formal hearing, and I also intend to add some comments on the role and format for the community hearings.

I would agree with Mr. Anthony that the purpose of this Inquiry is to have a fair hearing of the matters relevant to the Inquiry. I would agree that it is again a unique process and I have some questions as to whether or not the Commission can subpoena documents or witnesses. Surely this must be possible if the Commissioner is to give a fair hearing. Further on the question of production of documents, as I understand Mr. Goldie, he objects to produce this list, that it would create an onerous task on the part of counsel for Gas Arctic because it would require him to go through all the documents to determine whether or not a privilege could be attached against any document.

My suggestion as a compromise would be it should not be necessary that privilege be claimed in any

listing of documents, that all that would be required would be that the documents should be listed. Privilege need only be raised at such time as any participant requested production of the documents.

I now wish to make comments on the role and the format of the community hearings. I am representing the Indian Brotherhood and the Metis Association of the Northwest Territories and consistently we have put forward the position that the community hearings are a most important aspect of this Inquiry. We are, therefore, somewhat unhappy to see the community hearings have been isolated from the consideration of this particular hearing today, and we have some comment to make with regard to the community hearings.

We note that on page 5 of your preliminary ruling, that community hearings were to be heard concurrently with the formal hearing, and after some considerable thought on this, we would like to endorse that position for the reasons that the community would tend to be offended and perhaps disillusioned if the formal hearings were allowed to proceed well in advance of their participation, when it is in fact the Native people in the community at large who are going to experience any adverse effects of the proposed project.

We would also say that the community hearings would appear anti-climatic and substantially reduced in importance if they were to be left well in the latter part of the Inquiry.

So we would say the community hearings, while they are important for providing a vehicle for the input of the Native people into this Inquiry, and while they should be concurrent with the formal hearing, we would also suggest the Native people must have an opportunity to have an input into the formal hearing, especially as it would relate to the response of the Native people to the technical evidence which would likely be adduced in the formal hearing which goes again to emphasize that the hearings should be concurrent.

We feel that the hearings should happen, as indeed your preliminary reasons suggest, when the communities are ready for it and in accordance with a format that is acceptable to the community. Therefore, we respond to the suggestions that a committee of participants be formed to deal with the format of the community hearings with some misgivings in that while we recognize the value of ongoing communications between the participants, we would hate to see the Committee pre-empt the role of the communities in deciding when they are ready and in what form the hearing should happen.

We would also feel that in light of the concern or unique procedures that have to be developed for the communities, that we would suggest that what is required is a device for getting the evidence that is presented at the formal hearings into the communities and into the community hearings in a way that would not involve an impact itself on the community hearing. In other words, we wouldn't want to see an army of witnesses and counsel drive into the communities. The process we feel in each community should vary from community to community subject always to the wishes of each community,

and in the communities where the Native people are not a clear majority, then their right to a fair hearing should be protected either by a separate hearing for the Native people, or a specially allocated period of time during the hearing, subject again to the wishes of the people in the community.

Community hearings should be held in all communities affected, if that community wishes to have one. We note that according to the Gemini North studies, 23 communities were surveyed, and Gas Arctic itself lists in Publication 14C, 26 communities. We also feel that there should be an allowance for a hearing in any Native community in the Mackenzie District if they wish to have it.

We have one comment arising from perhaps what Mr. Goldie and Mr. Scott were stating of the special rules to be attached to any participant. We would urge the Commission to take into account cultural considerations and particularly cross-examination should be restrained. If any suggestion that the credibility of a witness, a Native witness is being challenged by vigorous cross-examination, would be regarded as highly insulting and would tend to alienate Native witnesses.

MR. LUCAS : I have a couple of points to make, to point out that if it is intended that the communities in the Mackenzie Valley, the joint community councils composed of members of the Band Council and the Metis Locals to be established in those communities to deal with, amongst other things, and perhaps most important for the time being, the question of the community hearings in the Inquiry.

Another point we wish to make is that consideration should be given to asking the assistance of the Territorial Government in closing down the liquor outlets on days that the hearing progress if this is requested by the communities in question.

Another thing, too, we feel should be kept in mind, since the community informal hearings should be concurrent, it may be possible and is necessary to have a second hearing in a given community if the initial hearing is well on in the initial stages of the Inquiry.

It would take time to prepare the communities for the community hearings and an awful lot of work has to be done in that area. We cannot see how the formal hearings can proceed until such time as the communities are ready for their own community hearings.

The four phase approach, as suggested by Mr. Scott, while we see its advantages, we have some misgivings. You simply cannot isolate the engineering and geo-technical considerations from the environmental and socio-impact considerations. Strictly from our point of view, the socio-impact considerations, the question of routing, location of construction camps, the location of staging facilities, and things like this have enormous relevance to the question of socio-impact.

MR. LUECK : The General Procedure Rules, Mr. Commissioner, as suggested by Commission Counsel appear reasonable in my opinion except for the timing. The argument put forward by Mr. Goldie for the discovery of documents proposal is not practical and cannot be accepted. I think primarily on the basis that if I understood Mr. Goldie properly, he said he would be prepared to put forward a list of documents at the time notice is given as to the witnesses in the different phases, and if he can put forward a list of documents at that time, surely he can make them now and bring the entire list at the very beginning. And I cannot understand his reasoning of presenting a list piecemeal.

The presenting of the list I submit, would expedite the hearing because the intervenors feel that there are certain documents that they would like and if they get their hands on them, it might speed things up. I understand it is the objective of the applicant to expedite matters so it will probably help that way.

I would give notice to Mr. Jackson if there is going to be a committee set up to deal with the community hearings format, I would be prepared to participate. At the same time I heard what Mr. Sutton had to say and I believe that his comments are very relevant in that the community hearings should be geared to the wishes of the community itself as to how it should be set up to a great extent and possibly it would be necessary to deal with different communities in different ways.

It is the view of the counsel for the Yukon Indians that it is absolutely necessary that the transcript be given to each of the Native participants, and I would hope that that matter has been resolved.

THE COMMISSIONER : I think that transcripts will be available to the major participants so far as those organizations are concerned which have been funded by the Government of Canada, or by the Inquiry, will be available. I think we are in a position to undertake to supply them so that in considering your own budgetary situation I think you can take it for granted that you will have a transcript.

MR. LUECK : We are concerned generally with the entire pipeline construction, of course, but particularly with that section proposed to be placed in the Yukon, and for practical purposes the Council for Yukon Indians have agreed to join with the Northwest Territories Group to do research on the socio-economic impact on Native communities of the proposed pipeline and also to take the scientific reports of the Northern Assessment Group and relate them to the Native community, Old Crow in particular, and then to prepare the position of the Council of Yukon Indians on these matters and therefore my client is completely bound to the time limits as you have heard today, of the time when the Northern Assessment Group has completed its report, and when the Northwest Territories Native groups will complete in conjunction with the C.Y.I. and will have a representative involved with that group on the socio and economic impact.

THE COMMISSIONER : Thank you. I would like to say something about the community hearings.

As you know I have been to, I think, most of the communities. Professor Jackson has spent the whole summer in two or three of the communities and it was felt that so far as those communities are concerned with the Native people, it was important they should be prepared in every way for the hearing to take place in their own community. And I think all of the major participants understand that the Native organization will be very deeply involved in the preparation of the community hearings but at the same time to be fair to all concerned, I think that the major participants should all have and all be kept in touch with the thinking that is going into the development of the community hearings and that is why I asked Mr. Jackson to act as co-ordinator.

That is not intended in any way to impose some cast-iron form of format upon the community hearings. It is simply to make sure that the Inquiry and Commission Counsel, the Canadian Arctic Resources Committee, Arctic Gas, Alberta Gas Trunk, all have some idea of what is going on in connection with the planning of the community hearings.

I should say that I fully expect that the Northwest Territorial Association of Municipalities will be a participant in the Inquiry and represented by Counsel and it seems to me that the municipalities should be represented on Mr. Jackson's committee too.

I think Mr. Reesor for the Northwest Territories Association of Municipalities has a very short contribution to make.

MR. REESOR : Thank you very much. I would like to submit a very brief statement in the form of a letter, a copy of which was given out :

"On April 24, 1974, the Northwest Territories Assoc. of Municipalities had the privilege of making its views known to the Mackenzie Valley Pipeline Inquiry in Inuvik. A further submission by letter dated May 1st, 1974, was entered in the record of the Inquiry hearing held in Ottawa on May 6, 1974. These statements reviewed the recommendations of the Association regarding timing, location and format to be followed at the main hearings in the Canadian Arctic Gas Pipeline application. In light of previous submissions, we are pleased to take the opportunity to comment on the proposals of Mr. Ian Scott, Q.C. Commission Counsel."

On the subject of location, Number one, we are in complete agreement that the hearings should be held in the Northwest Territories; and the second point on that, we support the view held by the Honourable Mr. Justice Berger in the Preliminary Rulings of July 12th that hearings should be held in each of the communities likely to be affected by the pipeline.

This, as I understand it, will be discussed further and the rulings will come down as to the scheduling and the particular communities that are visited.

On timing, as indicated in our previous briefs, we are in favour of an early start in the hearings. I think the reasons for this have been tossed around in the past and as a result we support the specific dates suggested by Mr. Scott in his proposal, and still support the new date.

Finally, in general terms, the format we are in agreement with the mixture of formal procedures at formal hearings and a more informal format at community hearings. This will obviously encourage the greatest participation of the democratically elected people at the local level, the Municipal Councillors because it is they who will ultimately be held responsible for the effects of the construction or non-construction of the pipeline in their community.

Over all, then, we are generally in favour of Mr. Scott's proposals. Since our major emphasis will be on the effect of the pipeline on the human environment, particularly in that category of socio and economic impact, which in line with his proposals has been shown as a fourth area of concern and probably will not be dealt with until the summertime or maybe even the fall of next year.

We feel, as well as timing, that his format pretty well meets with our objectives in this area.

The definition of municipalities under the Municipal Ordinance is hamlets, villages, towns and cities and it does not include settlements so there are some ten municipalities in the Valley or the Mackenzie District Area.

THE COMMISSIONER : I should say that Mr. Reesor appeared at the hearing that I held in Yellowknife and Inuvik back in April. He appeared on behalf of the Association of Municipalities then, and he requested funding on behalf of the Association. All of the groups that had requested funding were asked to put budgetary proposals together and the Association of Municipalities was in the process of doing so and I should say, in the course of my travels this summer, I met officers of the Association, the Mayor of Yellowknife and Mr. Robertson, the Mayor of Inuvik, and they expressed the view very much interested in the Inquiry and I urged them to put their proposals together, and I should say to you, to all of you, as I have said to them, I met them with Mr. Waddell last night, that the Inquiry will give sympathetic consideration to providing funds to the Association to enable it to grapple during the course of the Inquiry with those aspects of the pipeline development that relate to the problems of the Municipalities of the Northwest Territories.

May I just repeat that the budgetary proposals that were submitted by the other organizations for funding, were in fact placed before the Inquiry back in May and have since been approved either by this Inquiry or by the Treasury Board of the Government of Canada. That procedure was one which will still have to be followed in the case of the budgetary proposals of the Association of Municipalities, but I do look forward to the Association being represented in Phase IV of the hearing.

MR. CUMMING : I appear on behalf of the Committee for Original Peoples' Entitlement and the Inuit Tapirisat of Canada, Mr. Commissioner, and with me is Mr. Bailey. I might say that Mr. Bailey has just recently been appointed as counsel with respect to the hearing and he will be the person conducting for the most part from here on it.

I might say also for the benefit of the audience that might not know, COPE and ITC are complimentary Eskimo Inuit organizations representing the Inuit interests in the Northwest Territories and the Western Arctic specifically.

Now, on the question of production of documents, the rule procedure here refers to participants but the Government of Canada is not a participant, but I believe I am correct in understanding from Mr. Scott's explanation that he would be requiring of the Government of Canada exactly what he requires of the other participants as set forth in the formal ruling, but the procedure may be different. In other words, any document that the Government of Canada has, which has been prepared in connection with the possibility of a pipeline is relevant in that consideration. A list would be made and we would have access to it subject to objections claimed as privilege by the Government and so forth.

MR. SCOTT : Mr. Commissioner, it might be helpful just to respond to that. The Government of Canada is, of course, a third party of the type that has been referred to earlier this morning. They cannot be bound by and have not submitted to any proposed rules.

As I said this morning, what we propose to do, what Commission Counsel proposes to do, is to prepare a list of documents initially which are in the possession or power of the Government of Canada. We will prepare that list and we will circulate it to the parties or participants, to use that definition, and then, assuming a participant requires inspection of one of those documents, he will make his request of the third party, the Government of Canada, either directly or perhaps more likely through Commission Counsel. The requests, will no doubt, in the vast majority of cases, be granted. If the request is not granted, then the procedures that are utilized relate entirely, I think, to the scope of the subpoena power.

I have no doubt that will be a reasonably satisfactory procedure. We will just have to, if it is accepted by the Commission, we will have to carry forward and test it on

a case by case basis. I have no doubt generally speaking it will assure full production.

MR. CUMMING : As to the second group from whom documents may be required, non-participants, non-government, I would emphasize we feel strongly the availability of production from those parties such as Mackenzie Valley Pipelines Ltd., the gathering lines parties and so on, that that is essential to developing a comprehensive evaluation of the application.

(Mr. Cumming then dealt at length with the subpoena power of the Commission. pp 646 and following)

There is a very good article on Administrative Evidence by Keith Turner, 1966, 4 Alberta Law Review 1973 which deals with Administrative Evidence. I think generally at different points emphasizes relaxed rules in respect of public inquiries giving evidence.

THE COMMISSIONER: Could I just ask you, Mr. Templeton, Mr. Goldie described the Environmental Protection Board as an intervenor, and I think certainly everyone is most anxious to have the Board participate to the fullest extent.

Has the Board anticipated intervening in the sense of obtaining counsel to bring forward the evidence contained in the report, or had the Board thought that they would wait until one of the multitude of parties we have put together would call upon you.

MR. TEMPLETON : Mr. Chairman, Mr. Commissioner, I hate to answer that in the present company because in truth we thought we would try to get along without counsel, but we are keeping our options open and at the moment we do not have counsel.

THE COMMISSIONER : Thank you. It may be that you may well decide the best way to proceed is to proceed without counsel.

MR. CUMMING : Now, going to the goal of the Commission in your preliminary ruling, the whole nature of this, that paramount public interest, is that there be meaningful Native people participation. We are not going to go into history and talk about mistakes of the past. Obviously, historically there is not involvement. This is the first time and the first time in connection with anything of significance and there has probably never been something more significant than this proposed mammoth project, so it is essential there be true opportunity, fairness and a respect for the people potentially most drastically affected that they really can't have effective participation.

Without going over the ground today, I would also like to stress that at this point in time, the people who have been in the business of pipelines, so to speak, the applicant

has taken three years to prepare. The Government, since the application was filed in March, and setting up their Assessment Group, will take some seven months to make an evaluation. The Commission, which was set up, I believe, about March, that you could really say is coming to a consummation, being set up about this point in time, which is six months, so it is completely understandable that the Native organizations, who necessarily in that process, get set up at the latest point in time, need a reasonable period to get onstream.

The dilemma is this, we need time to prepare and participate effectively, and that means a pause, and that is difficult when other groups are ready, when large staffs are there and funds committed and people are ready to proceed. So it is a dilemma, but if, as everyone has said, the people ultimately and truly, the most important element, and if you accept our point, that we can only participate effectively with a reasonable time after disclosure of all the documents, before commencement of the formal hearings, then I think that ruling as to the commencement date has to accord with that necessarily reasonable period of time we would respectfully submit.

Alright, now let us talk about from a detailed standpoint our time schedule and why we submit the time is necessary. And notwithstanding that funding is just coming, the date and schedules we would like to talk about is June 15, 1975. I stress the point that we consider that we are compromising, but we consider the other interests in connection with this Inquiry, but we think that the minimum reasonable time to meet our interests and assuming, when I say that, that the documentation will be disclosed in accordance with the date that you referred to.

Assuming then that about January 1st which is not even a three month period, that the Northern Assessment Group advises us is the minimum period to give us its synthesis and appraisal of the application. Assuming we get it about then, we scheduled a further month to digest their report, prepare the translation, have workshop training of community workers, and then about February 1st the next phase, going to the communities and getting their involvement, bringing the knowledge to them, discussing the issues, responding to questions, trying to develop a concensus, identifying expert witnesses on points that the issue in the formal hearing will take place. We have six communities, Aklavik, Inuvik, Tuktoyaktuk, Sachs Harbour, Paulatuk, Holman Island. We have three or four resource workers and I believe about as many community workers, six community workers.

The first point is that the traditional way and the only meaningful way of Native persons communication is a small group, a one to one relationship, and I imagine that your experience in your summer travels has evidenced that as well, so that the work of the resource workers and the community workers in discussing with the community has to be conducted with small groups, families, the traditional type of structure, and remember we are talking about a mammoth project. We have to get a fairly good understanding at the community level. The terminology is completely foreign, not only is there another language, Eskimo and dialect, at least one dialect in respect of that, but just the language in English is foreign to me and I am sure it

is foreign to many people in this room. How do you explain to people most of whom have never seen an elevator? How do you use a word that indicates a concept of what an elevator is ?

If you think that is difficult, how do you communicate the concept from the label, what a pumping station is, things like that. There is nothing to compare it with. There is no existing information base. There is no communication. I am not being in any way critical, I am just saying that is where we are starting at, so time is required.

A third point is that people who have been involved in this submission emphasize this, that time is necessary to convince the people that this is a hearing in which they truly can participate meaningfully. For whatever reasons, there is a certain cynicism, I don't mean about the Commission, but a pervasive cynicism of the Native people in respect to the North and northern development and in many ways they consider they are near defeat. They don't believe in a great deal, and they do not have a great deal of confidence, and the work of these people of our organization in the communities, this part of it is simply to take the time to convince them that they can influence the hearing, they can participate meaningfully and to encourage them to do so.

Another point is that the only way we can determine the witnesses for the formal and community hearings are to be in respect of specific questions to the work of the community level in this period of time.

A further point to remember is that these people, of course, cannot and should not stop what they are doing simply for this development dialogue. Their experience to some extent is the traditional way of life, hunting and trapping, that takes them away from the community for a fair period of time, apart from those who are in wage economy positions.

It is essential that the developing knowledge and feeling of the communities, so far as possible, can be tied together, reconciled, a consensus developed, the community councils in those communities fully involved, so that their existing responsibilities they don't see as being compromised, so that internal differences can be resolved and a consensus developed and so on, and that takes a great deal of time.

All in all, we estimate four months, and we are talking now about the period February 1st to May 30th inclusive. Subsequent to that time, it is necessary, of course, that counsel see expert resource people, tie everything together and organize the evidence from the communities for the formal hearing.

In any event, at that time, due to a natural phenomena, that is the break-up, it is just impossible to bring people into or bring them out of some communities some of the time during the period May 1st to June 15th.

So, Mr. Commissioner, that is how

we arrive at that date of June 15th. I am trying to be fair and I want to emphasize that we have given a great deal of thought to that.

Thank you very much.

THE COMMISSIONER : Before we adjourn I would just like to mention, Mr. Goldie, you referred to a statement Mr. Waddell issued during the summer, simply for the benefit of people seeking funding, and the suggestion was made that the Inquiry was prepared to fund only those participants who were opposed to the pipeline. I do not think Mr. Waddell's statement says that, but in any event, the Inquiry is not concerned about the position that any organization takes with respect to the construction of the proposed pipeline. I should think that others, until we have heard the evidence, would not necessarily have adopted the position of support or opposition to the pipeline. The point that the Inquiry sought to make for the benefit of those seeking funds was simply because funds were provided to one party does not necessarily mean that they will automatically be provided to another, which sees itself as an adversary to the group that was in fact the beneficiary of funding. The Inquiry has been concerned that funding should not be provided to any organization or group merely to duplicate work already carried out by the Government of Canada or Arctic Gas, by universities or by industry or by anyone else. And I think that in the statement that you referred to, Mr. Goldie, the point was made the Inquiry should not consider public funds to be made available to anyone, demonstrating the case for construction of the pipeline, that was intended to ensure that everyone understood that the Inquiry wasn't going to provide funds to anyone who was solely duplicating work already carried out by Arctic Gas.

I think there should have been another sentence added that would have read something to this effect, that the Inquiry does not consider public funds should be made available to anyone who is merely seeking to demonstrate the case in opposition to construction of the pipeline and I am really not concerned about the position adopted by any group before this Inquiry in connection with the matter of funding.

The only concern of the Inquiry there is, is there an interest the organization has that is seeking funding that ought to be presented. If that interest is properly represented, that is my object, and I hope in funding these interests will have assistance to obtain a fair and complete Inquiry.

YELLOWKNIFE, N.W.T.

September 13, 1974.

MR. WADDELL : There are a number of submissions that came in by letter or telegram and I will read them.

The first one is from Mrs. June Ebelher, Chairman of the Village of Fort Simpson :

"Re Pipeline Hearings : The Fort Simpson Village Council feels that the community hearings should be scheduled without further delay. We invite Mr. Justice Thomas Berger to hold a hearing in Fort Simpson."

A second telegram is from Peter Petrasuk, Chairman, City of Calgary, Gas & Power Committee, City Hall :

"The Mackenzie Valley Pipeline is vital to all Canadians because of the imminent shortage of gas. You are setting the schedule and procedures for the Mackenzie Valley Pipeline Enquiry. Our concern is that the schedule should be fair to all, but should not create undue delay. The procedures adopted should be such as to establish terms and conditions for the right-of-way permit and avoid delay and duplication of the Natural Energy Board process."

There is a telex from Paul Kaiser, the Mayor of the Town of Fort Smith, N.W.T. :

"This is to confirm that the Town of Fort Smith intends to submit a brief to the Pipeline Inquiry, I would also urge at this time that the hearings proceed as quickly as possible because I feel that this is the fairest way to deal with all concerned."

There is a letter from F.N.Adlem, General Manager, Service North Limited, and then Service North Limited, Post Office Box 31, Norman Wells, N.W.T. dated September 7, 1974, addressed to the Inquiry :

"Dear Sir "

As a growing northern company, Service North Limited would like to see the Arctic Gas

Pipeline hearing take place as soon as possible.

Respectfully yours,"

Another letter dated September 9, 1974, to the Inquiry from Norwell Developments Ltd., Box 67, Norman Wells, N.T.W. :

"We have been informed that you are to hold a procedural hearing in Yellowknife on September 12, 1974 and that the purpose of this hearing will be to set the dates for both your formal and your community hearings. We understand that Gas Arctic wishes to present their evidence immediately before you begin touring the communities, and that there is also strong opposition to your proposal to begin hearing evidence without delay.

Norwell Developments Ltd. definitely feels that there should be no delay in the commencement of your enquiry, and that you should begin the public discussion immediately. We think that the motives of those groups which seek to delay the official opening of the enquiry are suspect. We take the position that now is the time to begin hearing evidence. The public discussion which your enquiry will generate will be of incalculable value to the people, not only of the Northwest Territories, but of Canada as a whole, and of the United States. Let us begin.

We look forward to attending the meetings you will hold in Norman Wells, and hope that our participation in them as citizens and as business men will be worthwhile.

Many thanks.

Very truly yours,
'Leo Hardy'

Norwell Developments Ltd.

There is one from Robert E. Bowes, the manager of Northward Airlines "A" Division, Norman Wells, dated September 7, 1974 :

"Realizing the impact a large project such as this one will have on our lives, our community and our company, it is imperative that it should be approved, we make extensive plans for the future. With this in mind, I sincerely urge you to hold any hearings on this matter as soon and as quickly as possible."

There is one here from the Fort Simpson Chamber of Commerce, and it reads:

"In regard to the hearings pertaining to the scheduling of applications for the building of

a gas pipeline down the Mackenzie Valley, we submit the following comment for your consideration.

The advantage of the Mackenzie Valley Gas Pipeline would seem to be of such vast importance to all northerners that we would urge that hearings be held at the earliest possible date.

There is certain to be a time lapse between the hearings and the actual start of construction, and it could be years before gas starts flowing in the pipe.

Coupled with numerous benefits of the construction of the line, there will be a tremendous advantage to villages, perhaps towns by then, to having natural gas available for heating and the generation of power. Could we request that your hearing bring out the question of northern communities being permitted to tap the main gas line for local use?

We think that unless we get on with it, there could be a line built by the Americans alone which might have the result of rendering a Mackenzie Gas Pipeline uneconomical, and we would be left holding a chunk of wet moss in a pasture of supplication facing the south.

We very sincerely feel that the vast majority of northern people, including the natives, would welcome an early start of construction of the Mackenzie Valley Pipeline."

That is signed, "W.M.Casavant, President, and George Turner, Vice-President."

A telegram dated September 11th from E. W. King, President Elect, Edmonton Chamber of Commerce:

"The Edmonton Chamber of Commerce urges that the scheduling of the hearings with respect to the construction of the Mackenzie Valley Gas Pipeline be arranged in such a manner that the proceedings may take place with a minimum of delay. Because of the benefits that would accrue to Canada by the construction of the Mackenzie Valley Gas Pipeline, we urge the Federal Government to expedite its timely development."

I have a somewhat longer brief from Tom Butters, Member for the Western Arctic, Council of the Northwest Territories, and it is headed "

"Comments by T.Butters on the Submission proposed by Commission Counsel regarding procedural hearings of the Commission.

1. Venue for formal hearings.

I agree that the site of the Mackenzie Valley Pipeline enquiry hearings should, generally speaking, be held in the north. However, since four western provinces have a direct interest in the project, I suggest that arrangements be made for hearings to be held in the capitals of British Columbia, Alberta, Saskatchewan and Manitoba and also in Ottawa.

Such hearings should meet the criteria contained in the Preliminary Hearings of the Honourable Mr. Justice T. R. Berger of July 12, 1974, which advised that

'I will not diminish anyone's right to be heard ..
but there will not be any undue delay'

2. Participants

I agree on the definition provided by Commission Counsel of 'participant'.

3. Applications.

I agree with the statement on applications with the proviso that such applications do not become the mechanism whereby undue delays may be visited on the enquiry procedure.

4. Production of documents.

I appreciate the necessity for the production of documents pertinent to the terms of reference of the enquiry, however I foresee that some participants lacking financial or administrative resources may not have in their 'possession or power' the relevant material. I suggest the list referred to in 4.1 should be enlarged to include such documentation that the participant knows to exist, but which for afore-mentioned reasons he is not able to attain and possess.

5. Discovery of witnesses.

I suggest that the word 'full' appearing at the end of the fourth line be deleted and the word 'synopsis' be used to indicate the Commission's wishes in this regard. As a synopsis is a summary, dispensing with needless details or formalities, a 'full synopsis' would, it follows, be the whole of the evidence to be presented.

6. Order and content of the hearings.

1.) Overview Hearings.

The overview hearings, as I understand their purpose, will 'include such matters as the history, culture and economy of the northern peoples, the geography and geological history of the Mackenzie Valley the Delta and the Yukon; the climate; the geo-technical aspects of northern construction; terrain types; including perma-frost and resources, renewable and non-renewable.'

2.) Formal Hearings.

The manner in which 6-2 (1) is set out leaves much to be desired. While probably the section is legalistically commendable, it would seem to relegate to a minor position and priority human concern and interest of northern peoples. It appears to reflect the Commission's obeisance to southern environmentalist groups and organizations rather than the real concerns and aspirations of northern peoples. The draft repeats the emphasis appearing in the Pipeline Guidelines developed by the Federal Government which received so much criticism from northern residents. It is regrettable that the Mackenzie Valley Pipeline Enquiry could not see fit to put people first, or at least to emphasize that the main responsibility of the Commission is to ensure that should the project be approved, it would in inception and conception benefit the people of the Northwest Territories and improve the quality of life enjoyed by them.

I would have hoped that Section 2.3 would have included the advice that the special counsel would not only accept responsibility for advising, 'the public generally of the relevant subject area to be addressed at the particular hearing,' but would also communicate, or arrange to have communicated the gist of the representations made during the hearings relative to both hearings conducted in the Territory and in other Canadian jurisdictions.

3.) Community Hearings.

I suggest, as I have on past occasions, that the success of the community hearings be directly related to the amount of enquiry material reaching the smaller communities and the manner and context in which it is communicated.

7. Commencement data.

In Section 1 of the Commission counsel's draft proposal, the enquiry reserves the right 'to conduct hearings in Southern Canadian communities for the purpose of allowing residents of those communities to make their submissions,' but concludes that the site of the formal hearings should 'generally speaking, be in the north'. I suggest there is some advantage in tentatively scheduling those formal hearings that may be conducted in other jurisdictions, and furthermore, suggest there is some advantage in holding such hearings prior to the formal hearings conducted in the Territories. The advantage in such an arrangement is in the main twofold in that -

- (a) northerners would gain some prior indication of the position of southern Canadians regarding the C.A.G.S.L. project, and
- (b) publicity attendant on such hearings would inform and enlighten northern residents relative to the ramifications and implications of the Mackenzie Valley Natural Gas Pipeline proposal.

Secondly it will be much easier for northern participants to provide rebuttal or balance to the arguments of southern Canadian interests if such arguments and positions are made known to the enquiry prior to the holding of the formal hearings in the Territories.

8. Order of Examination.

The leading paragraph in this section, and I quote, is most disturbing :

'At the formal hearings, as a general rule, Arctic Gas will lead its evidence first, followed by various counsel for and the native peoples, various counsels for and the environmental groups, and Commission counsel. Counsel for/or Arctic Gas will be entitled to reply.'

The statement is disturbing because it ignores the existence of a large body of opinion in the Northwest Territories which supports the pipeline project, conditionally. This situation, I indicated to you in my submission of May 3, 1974, on the occasion of your Preliminary Hearing. In view of a statement in Section 8, I assume that the representation made by myself initially has been overlooked by Commission counsel. I repeat my comments of May 3, 1974, hereunder :

'Individuals or organizations making either oral or written submissions to the Mackenzie Valley Pipeline Enquiry Commission will undoubtedly have considered at some length the question "Do I (we) support or oppose the Natural Gas Pipeline construction project ?"

I suggest that the answer to this question by the majority of N.W.T. residents or resident organizations will be "Yes, conditionally".

I believe that all residents of the Northwest Territories, and particularly of the Mackenzie District, recognize that the Mackenzie Valley Gas Pipeline will increase the rate of change presently being experienced in northern communities. Therefore, understandably, residents of the Territories will seek to have regulations imposed upon the project both during construction and throughout the operation phase, which will not only seek to provide for immediate and future benefit of residents of the Territories, but also to ensure that any change that takes place will be at a rate compatible with the life-styles and aspirations of nearby communities.

With that determination uppermost, it is necessary that residents of the north have available to them research and advisory agencies services which would assist them to realize the greatest possible return, individually and collectively, from the pipeline development program. If such advice, information and regulatory authority is not made available to the people of the Territories through their democratically elected institutions, municipal and territorial, prior to the time the agreement is concluded between the Federal Government and the Canadian Arctic Pipeline Company, the people of the north will have been sold short. Required are funds and professional advice to northern peoples so that they may participate in, relate to, and assist in arriving at decisions regarding their present and future condition.

I suggest the answer of the people of the north to the C.A.G.S.L. application is "Yes, we support the concept conditionally and those conditions when implemented, must enhance and improve the quality of life

enjoyed by the people of the Northwest Territories".

Relative to the foregoing remarks, I have approached the Honourable Jean Chretien and subsequently the Honourable Mr. Justice T. Berger for financial assistance to examine and develop the conditions for the project which will provide most benefits to the people of the Northwest Territories socially, economically and politically.

Mr. Chretien, in replying to my request for financial assistance, indicated to me that such application should be made to Commissioner T. R. Berger. On August 17, 1974, I wrote to Justice Berger requesting funds to research the conditions which I believe members of my constituency would approve an application to construct a natural gas pipeline through the Mackenzie Valley. Although I have not yet received a reply from Justice Berger regarding my request, I suggest that there is a large group of residents in the N.W.T. who would wish to participate in the Mackenzie Valley Pipeline Enquiry, but who are unable to do so because they lack the financing either available to or provided to other interested organizations or groups for study and research."

There is a submission from the Inuvik and District Chamber of Commerce to the procedural hearing of the Mackenzie Valley Pipeline Enquiry.

"The Inuvik & District Chamber of Commerce submits that :

1. The commission counsel's procedural proposals do not fully consider the residents of the north in the formal hearings as the effect of pipeline construction on the people and human environment will be heard last, after several other subjects such as engineering, physical environment, and the natural environment. As the enquiry's prime concern is reputed to be for the residents of the north, people should be given a more prominent consideration in the hearings.
2. The Commission Counsel's procedural proposals do not acknowledge or allow for the presence of responsible municipal and Territorial Governments in the north as in the order of examination it states that :

'Arctic Gas will lead its evidence first, followed by the various counsel for and the native peoples, various counsel for and the environmental groups, and Commission counsel', with no consideration for other responsible northern organizations such as the Mackenzie Valley Community Councils, the Northwest Territory Council, the Northwest Territorial Government, the Northwest Territorial Association of Municipalities, or the Northwest Territory Chambers of Commerce. A much wider range of northern participants must be structured into the hearing procedures for the enquiry to be effective and of benefit to the north.

3. The procedural proposals give a suitable starting date in October, but have no completion date for the hearings, or decisions of the enquiry. Time is of the essence for the initiation of the Mackenzie Valley Gas Pipeline as there are several competing alternatives such as the El Paso-Alaskan proposal and the Alberta Tar Sands Developments, which could delay Mackenzie Valley Gas Pipeline construction for five to twenty years, should a decision not be arrived at within a reasonable time. The Inuvik & District Chamber of Commerce believes that the delay of an enquiry decision beyond the end of March, 1975 will eliminate the possibilities of the Mackenzie Valley Pipeline construction and overall northern progress for at least ten years. A completion date by the end of March, 1975 is requested.
4. Although the Inuvik & District Chamber of Commerce and others have formally requested that enquiry funds be provided to responsible northern groups such as the N.W.T. Assoc. of Municipalities and no funds were provided, it is noted in the July 31st issue of the "News of the North" that the enquiry gave a \$200,000 grant to the Northern Assessment Group (N.A.G.) As the function and composition of this group is completely unknown to the Inuvik community and is presumably made up of outside interests, the Inuvik & District Chamber of Commerce again formally requests that some comparable funding be made available to responsible groups in the north who have asked for funds but have been denied.

While the enquiry has said, in effect, that only groups in open opposition to the Mackenzie Gas Pipeline proposal will be funded, the Inuvik & District Chamber of Commerce takes strong exception to this policy as it negates the democratic process and leaves the enquiry without representation from an apparent majority of northern residents who, through their elected representatives, have indicated support for the Mackenzie Gas Pipeline with qualifications.

The Inuvik & District Chamber of Commerce requests that balanced hearings be facilitated through the structured participation of responsible groups such as the N.W.T. Council, the N.W.T. Association of Municipalities, and the Community Councils from the Mackenzie Valley."

There is another brief, a letter really, from Mr. and Mrs. William Smith of Old Crow. I read it, Mr. Commissioner. It is in the nature of really a submission to the main enquiry on land claims, and I would propose to have the enquiry type it up and file it on the record.

THE COMMISSIONER: Yes, it deals

with the merits. It can be read at the formal hearings, or at the community hearing in Old Crow. These people live in Old Crow. You can write a letter to them and explain why it wasn't read today.

All of the letters that Mr. Waddell read will be marked as exhibits in the order in which they were read.

Before we pass on, let me deal with the last submission from the Inuvik & District Chamber of Commerce. I think it important at least to attempt to run these sort of allegations to earth, so that they don't keep going around without being answered.

The Inuvik & District Chamber of Commerce have made requests for funding of the Minister and of the Inquiry, but they have not at any time reduced their request to any form that would enable them to be considered. It should be pointed out that the Association of Municipalities has, at the Commission's request undertaken to prepare a detailed project relating to the matters that they wish to pursue, studies that they want to undertake, the things that they need money for and the way in which they intend to spend it.

I think it should be understood that this enquiry really cannot just hand out public funds to people who think that they should get public funds.

The enquiry is really not prepared to consider such funding unless they are accompanied by detailed statements of the concern of the organizations involved, the needs they have, the programs they intend to undertake, and as well, to establish a system of accountability for the expenditure of funds. That is something that not only the enquiry insists upon but the Treasury Board of the Federal Government insists upon, and no funds have been provided except pursuant to applications that have undergone this process.

It should be understood that it really isn't enough to write a letter to the enquiry and say "I want some money because you gave some money to somebody else, you should give me some money".

The other problem with such organizations such as the Inuvik Chamber of Commerce is that the enquiry has submissions from the Territorial Chamber of Commerce, which are under consideration, and I may say sympathetic consideration, and Mr. Waddell has in fact conferred with Mr. Sigler, the president of the Northwest Territories Chamber of Commerce, with a view to assisting the Chamber; but from the enquiry point of view I think it should be understood that the enquiry very much prefers to deal with an organization that represents the whole of the Mackenzie District, and not to try to deal with requests from every chamber in every community along the Mackenzie River, and in the Mackenzie Delta.

I think it is also important to make this point that in the submission of the Inuvik & District Chamber

Chamber of Commerce relating to participation by northern groups, reference is made to the Northwest Territorial Council. Well, it is for the Council of the Northwest Territories to determine the extent to which it wishes to participate, if at all. That is not for me. That is for the Council but I may say in my travels I have had an opportunity of meeting Mr. Butters, Mr. Sibbetsen, and Mr. Searle, also members of the Council, and I have expressed the view to all of them that the enquiry would be happy to hear from them about their views relating to the issue before the enquiry, but it should be understood that it is not for me to tell the Council of the Northwest Territories what to do.

Incidentally, Community

Councils, from every community that I visited, I have called upon the Mayor or the Chairman of the Settlement -- assuming I could find him at home -- and have indicated that the inquiry is most anxious to hear from the selected representatives in each community, from Yellowknife, Hay River, Fort Smith and all the communities on Great Slave Lake, along the Mackenzie Valley and in the Delta such as Old Crow, and I may say that I have been courteously received by all these people.

In my travels in each community

I have also called on the band chief and indicated my view that I am most anxious that the Band Council should express their views about the issues coming before this enquiry at the community hearings.

I think I can understand these

sort of things getting started, but I think it is important to try to run them to the ground and put them to rest at an appropriate time.

The native organizations argue

that they should be entitled to say to this enquiry, "No pipeline should be built until our land claims have been settled".

Now that is an argument that I

have said they are entitled to pursue in this enquiry. But it seems to me that if Arctic Gas, Alberta Gas Trunk are to be able to meet that argument, there should be evidence adduced by the native organizations regarding the nature and extent of their land claim. The native organizations have undertaken land use studies. It seems to me that consideration should be given to presenting those land use studies at the formal hearings, so that Arctic Gas and Alberta Gas Trunk can then see what they are up against so that they can indicate the measures they are prepared to take to ensure that, as Mr. Goldie claims at the outset, the pipeline can be built without prejudice to native claims.

It seems to me at the Community

hearings, in each community we would be able to proceed in this way. First of all, if the C.B.C. in co-operation with the parties, has broadcast on a regular basis in English, and in all of the native languages a useful summary of what has been said at the formal hearings, then the people living in each of the communities will have a basis of some idea about the submissions that have been made about their own communities. If we can video the formal hearings, and provide translation, there will have been an opportunity in all of the communities, including those which do not have radios, to see exactly what the experts (if such they are) have said at the formal hearings, and when we get to the community

hearings, we can hear not only from the elected counsellors whether they be a member of the Municipal Council or the Band Council or trappers and hunters and fishermen, all others in the community interested in these matters.

Another question -- suppose that you have experts called by Arctic Gas to say that caribou will cross a pipeline right-of-way. Suppose you have experts called by C.A.R.C. or by the Environmental Protection Board who say caribou will not cross a pipeline right-of-way. I have chosen that, as it appears to me almost a trade example of the kind of dispute one hears throughout the north. The people in the communities will have heard what these experts, whether from the south or north or east or the west, have said, and then the people in the communities who live there and who presumably have seen caribou crossing seismic trails or declining to cross them, or going half-way and turning back, whatever the case might be, can tell us what their experience has been.

Presumably we will hear evidence from Miss Carney and her staff about the Gemini North Report. Summaries of what she and her staff have said will be broadcast, video tapes will be provided and when we go to the communities, presumably the native organizations will call evidence that they dispute what is said in the Gemini North Report and will call people in the community to say what their own knowledge of the matter is, what their experience has been, and let me repeat this, whether we hold a community hearing in Yellowknife or in Kakisa Lake, I hope that we will hear not only from the elected counsellors, municipal or members of the Native Council, but from anybody else that has something to say about this.

Now I have asked Professor Jackson to act as co-ordinator of the native hearings because in fairness to everybody else, it seems to me that when we are dealing with predominantly native communities, dealing with community hearings in those place, the native organizations should indicate to the Committee what their views are and how to do about holding community hearings in each place.

In fairness to all other participants, they should be advised and there will be some means for them to discuss these things with representatives of all parties, so it is not necessary for all parties to come before me and argue about it all the time, and in larger centres such as Yellowknife or Hay River, I would suspect that the Association of Municipalities -- speaking now of those communities with predominantly white populations -- would come to the Co-ordinating Committee on the community hearings and give some indication how they think the community hearings should proceed there; and then everybody else, including representatives of the native organizations, could participate in the discussions about the hearings in those communities, and of course it is Mr. Sutton's suggestion where there is both native and white populations, that considerations be given to two hearings. That is something I would like the Committee to consider, and I would like all the participants in the Committee to think about that, and I would expect that Committee to make a recommendation to me about how we ought to handle those community hearings.

It is obvious to me that nothing like the community hearings we are proposing to undertake have been held in this country before, and I want that Committee representing all parties to give it some serious and some hard thought.

I also wanted to ask some questions about the matter of discovery, and the matter of the Commission's subpoena power, and to ask counsel their views on the matter. Before we go on to that, I understand Mrs. McQuarrie of the Mental Health Association is here.

MRS. MCQUARRIE : Perhaps you are not all familiar with mental health in the Northwest Territories, but we are a division of the Canadian Mental Health Association which is a volunteer organization concerned with mental health. Now we represent, believe it or not, a cross-section of the residents from all walks of life in the Northwest Territories. We have all come together because of our concern for the lack of mental health facilities and services in the Northwest Territories. We believe that very little attention has been given to determining the psychological impact and industrialization on native and non-native people in isolated communities.

Polarization is occurring in the north, and tensions are rising. I believe that problems will certainly increase with the influx of workers from the south. the dislocation of the native people as they move to the jobsite.

Now the Association has made a request to the Commission to at least consider the possibility of researching what has been done in the field of psychology in the Northwest Territories so that we can make provision now for the fall-out which occurs or may occur when the line is built. Now we are a non-partisan group, I would like to say at the outset, we are only concerned with the mental health of the people.

Our Association would like to suggest that in your debating you go slowly in order to give the people a chance to adapt to the rapid changes that are occurring not only in the Mackenzie area of the Northwest Territories, but industrialization is taking place throughout the north and people who have not been exposed to the southern influence and many natives in the higher Arctic communities presumably may have the greatest difficulty keeping up to the technology as you from the south are having in your own lives in dealing with rapid changes in industrialization and technology.

I would like to emphasize at the same time, in many of the communities there is no provision for marital counsellors; youth counselling, anything to do with the human needs is so minimal now. I do hope that in your deliberations you will at least consider the mental health of the people because the people themselves will either have to work on the line or certainly will have to live with it.

(Mr. Goldie and Mr. Cumming discuss argument on Indian land claims pp.704 to 714)

MR. GOLDIE : My client has accumulated a very substantial amount of information with respect to land use and the approach has been that whether the land use, for let us say, trapping purposes is a matter of right by the people who make use of it, or whether it is over Crown land by licence is really immaterial. The approach my client is endeavouring to take is to disturb that as little as possible regardless of the proprietary definition of the person, whether it is a proprietary interest or the use of it.

I propose -- I am oversimplifying this -- but I propose that is certainly one of the reasons, I have said if our proposal could be considered without prejudice to the proprietary interest of the person who is presently making use of that trapline or that land for resource purposes.

Now, with respect to a claim for land in gross then the position is made again, we take measures to disturb that land and its use for whatever purpose, whether established now or later or foreseeable as possible and if we do disturb it and compensation is payable, then the payment of that compensation awaits the determination of the claim for that land in gross.

It seems to us -- my client -- in its approach to this question that it would be not only presumptuous but unproductive for it to become involved in the determination of the question of rights.

THE COMMISSIONER : Could I interrupt you, Mr. Goldie I think that the native land claims are essentially based on traditional use and occupation, so that to a great extent, I suppose it would be said there is no real distinction between what you call land use and claims for land, so to speak, in gross.

My concern is that to be fair to all parties that there should be some basis for dealing with the argument that there should be no pipeline development until the land claims are settled. It is not for me to determine the validity of the land claims. I am bound by the statements that have been made by the Prime Minister and by the Minister of Indian Affairs and Northern Development regarding land claims, that is the statements made in the last year or two, and their willingness expressed to negotiate a settlement with the native people of the Northwest Territories and the Yukon.

MR. CUMMING : Let me put forth my thoughts at this time.

I see our problem as, knowing what evidence we have to bring forward before the Commission, so that we can be sure you have the premises to act upon, howsoever you may act upon in making your recommendation and at the same time, of course, all others, Gas Arctic in particular. Now in enabling you to have those premises, I look upon them somewhat in the fashion of Mr. Goldie, two

dimensions, land ownership in the sense of real property proprietary right as being one question, and the second question being land use.

At the same time, I appreciate your point there is not a neat distinction between the two. Let me talk about the second category first because that certainly, I think what you are getting at there is people out there who use the land in the way you have described, and they may or may not be affected by the pipeline and other things that go with it, and that is pertinent to the enquiry and the conditions that might be attached as a term to the recommendations you might make.

Now the land use and occupancy study in particular, together with whatever other reports might be prepared and the viva voce evidence would be pertinent to that question. I might say that that land use and occupancy study in the strict sense is owned by an incorporated researcher under contract, I believe, jointly to the Government of Canada and the Inuit Tapirisat of Canada so I can't state what their position might be, but I would certainly recommend that they produce the report.

THE COMMISSIONER : Let me say that I don't have their statement before me, but the Prime Minister has made a statement on aboriginal rights, and the Minister of Indian Affairs and Northern Affairs made a fairly comprehensive statement, in any case, a willingness of the Federal Government to negotiate a settlement of the land claims of the native people here in the north. In light of that, it is not for me to say whether the claims are valid or not. Their nature and extent and the ultimate settlement is a matter between the native people and the Government of Canada, but in the meantime, having regard to the argument the native people wish to put forward in this enquiry, they are bound, it seems to me, to indicate the extent of their current use of the land and water, that part of the area being examined by the enquiry, and in addition to indicate the extent, the nature and extent of their claim in a general way because it may well be -- I don't really know -- it may well be that their claims extend beyond current use. I put it that way because there may be traditional uses they will rely upon that are not being observed today.

There is one other written submission that has just arrived.

MR. WADDELL : This is from the Northwest Territories Chamber of Commerce, and it is a letter signed by Murray Sigler :

"Dear Sir : Unfortunately, our organization will be unable to have personal representation at the hearings in Yellowknife on September 12, 1974, as our semi-annual meeting at Hay River is scheduled for the same date.

In connection with the scheduling of the hearings however, we would submit as follows on behalf of the business community in the north :

1. The hearings should proceed as soon as possible. Whether or not the pipeline is ever built, there is growing uncertainty in the business community, the more the decision-making process itself is prolonged. At the moment, for example, small contractors are up in the air, so to speak, with their planning for the next 5-10 year period. Once a decision is made, one way or the other, stability in planning could once again be restored. While some delay is not only inevitable, but desirable, in order to assure all groups fair representation at the hearings, inordinate delays will be clearly prejudicial to the entire business community in the Mackenzie District, and hence to our over-all economy.
2. Hearings should be held in all Mackenzie District communities of substantial size. In addition to a general brief to be presented in Yellowknife by the N.W.T. Chamber of Commerce, member Chambers in Inuvik, Fort Simpson, Hay River, Fort Smith, and Yellowknife will wish to make individual submissions covering the special concerns of their local business communities.

I hope the above approach will be followed by the enquiry, in the best interests of all northerners. "

THE COMMISSIONER : There is, in some of these telegrams and letters which Mr. Waddell has read, one might infer that the people who sent them are under the impression if I were to complete my enquiry, make appropriate recommendation, and if the Government of Canada were to then grant a right-of-way, that there would be people out digging a trench in the Mackenzie Valley the next day.

The whole regulatory procedure is a complicated one. I have to hold an enquiry. I have to make recommendations to the Minister, and he and his colleagues have to decide to accept them or not, whatever they may be. Only then would a right-of-way be granted. You have to go to the National Energy Board to obtain a certificate of public convenience and necessity. This is an international pipeline, you have to obtain a right-of-way from the Secretary of the Interior from the United States, and your pipeline has to be approved by the Federal Power Commission of the United States.

The Energy Board might not be ready to consider the applications anyway until after gas supply hearings and in any event, Arctic Gas has not completed its filing with the National Energy Board, so that the Energy Board, it would appear, is not likely to get under way for some time to come.

In the United States, under the National Environmental Protection Act a study group has been established jointly by the Secretary of the Interior and the Federal Power Commission which consists of 90 scientists and has a budget of 4½ million dollars,

and they are apparently preparing environmental impact statements under the U.S. Legislation of 1969, and they are considering apparently, the proposed Arctic Gas Mackenzie Valley Line, and they are considering the El Paso proposal, and they are considering as well the possibility of gas coming from the Arctic Islands.

I should say that one of the reasons I went to Washington was to arrange an exchange of information between the enquiry staff and that joint study group established in Washington where the Washington group is looking at things, such as perma-frost, in the Alaska section of your proposed line, an exchange of information with the inquiry staff and the assessment group, and through the enquiry staff and the assessment group everybody else participating in this enquiry should be arranged; but that study group seems to me to be analogous to Dr. Fyle's study group. That study group isn't going to be submitting even its draft statement until some time next year, and after that, apparently (and I don't pretend to be an authority on this), after that you have to go before the Federal Power Commission; it would hold hearings before an administrative judge, and then you would have to hold hearings before the full Commission. There are a lot of hurdles to get over.

MR. GOLDIE : Well I think it might be helpful if I could comment. Firstly, the N.E.B. surplus hearings that are going to be held this fall will involve a consideration of Canadian market requirements, anticipated sources of supply, and the present means of determining whether there is a surplus for export purposes. The indications are -- and I say "indications" -- from the material that has already been filed with the Board for those hearings that I think will take place in October, the indications are that the Canadian market requirements will probably show a need for Delta gas much sooner than even Arctic Gas was proposing some time ago.

Phase 2 of the filing of Arctic Gas will be made towards the end of this month, or sometime towards the end of October. They will reflect the fact that changes may have to be made in the design and they will reflect the fact there is probably, with some other imponderables which may dictate some alterations, but that is a very common feature in a pipeline application.

I would anticipate that the surplus hearing would be completed by the end of the year, and that the Arctic Gas hearing will be scheduled for sometime in the late spring.

Of course, I would also anticipate that there will be an order consolidating the Foothills application, and that they would either file or be in intervention, and their filing would come along in due course.

I don't think I have ever suggested that this proceeding is on the critical path with respect to the regulatory approval. I think I said, and I may have been misunderstood in Ottawa on this, with respect, Mr. Commissioner, your ruling suggests I didn't make myself too clear. I said that this was the first of the regulatory proceedings in Canada. It was being watched with a consider-

able degree of interest. I did not ask that this proceeding be expedited, but I did say unreasonable delay would adversely affect Arctic Gas by reason of giving El Paso some substance to the argument that it is currently making, that the regulatory proceedings in Canada will in fact take far longer than in the United States.

The proceedings in the United States are much as you have described them. I know of no requirement that the Federal Power Commission await the environmental impact statement before commencing its proceedings. With respect, you correctly used the word "draft" statement because the provision of that law is that the draft statement is circulated for comment in a very formal way, and those comments become part of the final statement.

As I say, I know of no requirement that the F.P.C. await the full development of that procedure before scheduling its hearing, and as you are probably aware, there are some procedures which allow time to be shortened.

You, with respect, Mr. Commissioner, correctly saw that it was necessary for us to know the terms and conditions that you recommend, and which indeed the Government of Canada may or may not accept, before we complete our submission to the National Energy Board. You outlined that in your ruling, so that if there is any order of priority, I say with respect yours comes first and that has been the basis upon which I have urged that we commence our substance work here.

MR. SCOTT : (Sums up his proposals and deals in detail with production of documents and subpoena powers, pp. 739 to 758)

PROCEEDINGS ADJOURNED.

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Mr. Justice Thomas R. Berger

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PRELIMINARY RULINGS (II)

by the Honourable Mr. Justice T. R. Berger

PRACTICE AND PROCEDURE

Yellowknife, N.W.T.
Ottawa, Ontario.

October 29, 1974.

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PRELIMINARY RULINGS (II)

by the Honourable Mr. Justice T. R. Berger

PRACTICE AND PROCEDURE

Mr. Scott, Commission Counsel, has presented certain proposals regarding practice and procedure. I held further preliminary hearings at Yellowknife on September 12th and 13th, 1974 to consider representations regarding these proposals by counsel for Arctic Gas, counsel for the other participants who appeared, as well as by Commission Counsel. I also considered the submissions made in writing by other participants.

I said in my Preliminary Rulings of July 12th, 1974, that I wanted this Inquiry to be fair and complete. I have had that consideration uppermost in mind in deciding upon these issues of practice and procedure. The Rulings I am handing down today are intended to bring about full disclosure of all the evidence, and to give to all concerned the fullest opportunity to present their case.

As soon as the Inquiry has received the report of the Assessment Group assembled by the Government of Canada to analyze the material filed by Arctic Gas in support of its application for a right-of-way, I will set a date for the commencement of the Formal Hearings of the Inquiry.

I. APPLICATION OF THE RULES:

A. Definition of Participant

Any person shall be deemed a participant if he appears at any Formal Hearing of the Inquiry (including Preliminary Hearings) and gives his name and address to the Inquiry, or if he advises the Inquiry in writing of his intention to appear. Special Counsel shall maintain a list of participants which shall be available for inspection by any person at the offices of the Inquiry in Yellowknife and in Ottawa.

B. These rules shall apply only to the following participants in the Inquiry:

Canadian Arctic Gas Pipeline Limited

Foothills Pipe Lines Ltd.

Canadian Arctic Resources Committee*

Environment Protection Board

Indian Brotherhood of the North West Territories

Metis Association of the North West Territories

Inuit Tapirisat of Canada

Committee for Original Peoples' Entitlement

Yukon Native Brotherhood

North West Territories Association of Municipalities

Commission Counsel

*Mr. Anthony and Mr. Lucas, counsel for Canadian Arctic Resources Committee, have advised the Inquiry that the Northern Assessment Group, established by Canadian Arctic Resources Committee, the Canadian Nature Federation, the Federation of Ontario Naturalists, Pollution Probe, and the Canadian Environmental Law Association, for purposes of this Inquiry, will comply with any Rules of this Inquiry applicable to Canadian Arctic Resources Committee.

C. These Rules will not apply to any other participants at the Formal Hearings.

D. These Rules will not apply to the Community Hearings.

II. OVERVIEW HEARINGS

Witnesses called at the Overview Hearings will not be cross-examined during the Overview Hearings, unless it is essential to a fair hearing. In any event, all overview witnesses will be subject to recall for further examination and for cross-examination at the Formal Hearings.

III. FORMAL HEARINGS

A. Division of Formal Hearings:

The Formal Hearings will be divided into four phases.

Phase 1. Engineering and Construction of the Proposed Pipeline

This phase of the hearings will include such matters as the size of the pipeline, its location, the timing of construction, the composition and deployment of construction crews, the construction of compressor stations, etc.

Phase 2. The Impact of a Pipeline and Mackenzie Corridor Development on the Physical Environment:

This phase of the hearings will include the impact on the land, the air and the water, and will cover such things as the effect on permafrost, river crossings, slope stability, gravel and other borrow locations, etc.

Phase 3. The Impact of a Pipeline and Mackenzie Corridor Development on the Living Environment:

This phase of the hearings will include the impact on plant and animal life, including wildlife, mammals and fishes.

Phase 4. The Impact of a Pipeline and Mackenzie Corridor Development on the Human Environment:

This phase of the hearings will include social and economic impact.

This division is for purposes of convenience only. The four phases will not necessarily encompass all of the evidence that will be brought forward at the Formal Hearings.

Commission Counsel will therefore invite the participants to consult with him from time to time with a view to determining whether there should be any further division of the hearings within each phase. In any event, it will be open to any participant to call evidence out of order when that is appropriate.

Special Counsel will provide to each participant Notice of Hearing with respect to each of the four phases of the Formal Hearings and will advise the public generally of the matters to be considered at each phase of the Formal Hearings.

B. Calling Evidence and Examination of Witnesses

At the Formal Hearings, as a general rule, Arctic Gas will lead its evidence first, followed by the other participants and Commission Counsel. Arctic Gas will be entitled to call evidence in rebuttal. From time to time other participants will lead off; when they do they will have the right to call evidence in rebuttal after the evidence for the other participants has been heard; in any event the rights of all concerned to bring forward all their evidence on every issue will be preserved.

With respect to witnesses, counsel for any participant calling a witness will examine him in chief, the witness will then be cross-examined by Counsel for each of the other participants and by Commission Counsel. Counsel for the participant calling the witness will be entitled to re-examine.

Commission Counsel will have the responsibility of calling the evidence of the members of the Assessment Group assembled by the Government of Canada, with a view to a complete canvass of all relevant evidence that the Group has to give. The Group will be subject to cross-examination.

Commission Counsel will also be responsible for calling the evidence of members of the public service of Canada not included in the Assessment Group, whose evidence is regarded as necessary to the completeness of the Inquiry.

It will also be the responsibility of Commission Counsel to obtain evidence, pursuant to subpoena if necessary, to enable the Inquiry to consider the location and extent of the gas fields in the Mackenzie Delta, and the likely extent of further oil and gas exploration in the Delta, and the Beaufort Sea, the likely location, design and construction of the gathering lines there, and the processing plants that will be needed to render the gas acceptable to the trunk pipeline, and the social, environmental and economic impact that the development

of the gas fields and the construction of these lines will have in the Delta and elsewhere in the North.

All of the witnesses giving this evidence will be subject to cross-examination, and Commission Counsel will be entitled to re-examine each of them.

Evidence can be introduced through individual witnesses or panels of witnesses.

C. Place of Formal Hearings

Yellowknife will be the main centre for the Formal Hearings. At the same time I am anxious that as much as possible of the evidence relating to oil and gas activity in the Mackenzie Delta and the Beaufort Sea and relating to the impact of such activity should be heard at Inuvik.

It may be appropriate for some of the evidence at the Formal Hearings to be heard in Ottawa. In any event, it will be necessary in due course to hold hearings in major southern centres to enable Canadians who cannot appear in the North to express their views.

IV. COMMUNITY HEARINGS

Community Hearings will be held in each community in the Mackenzie Valley, the Mackenzie Delta and the Yukon likely to be affected by the construction of a pipeline and by corridor development. I have appointed Professor Michael Jackson of the Inquiry staff to act as Co-ordinator of the Community Hearings. He has established a committee which consists of counsel representing the participants chiefly concerned with the organizing of the Community Hearings.

With regard to those communities which have primarily a native population, I expect that the native organizations will bring proposals to Professor Jackson's committee as to the way in which the hearings in those communities ought to be conducted. These proposals should be considered by the committee, and the committee's recommendations referred to me.

In the same way, with regard to those communities which have primarily a white population, I expect that the North West Territories Association of Municipalities will come forward with proposals regarding the conduct of those hearings and that they will be considered by Professor Jackson's committee and the recommendations of the committee referred to me.

If the Committee does not reach agreement on any matter, I will consider the recommendations of each of its members. In any event, I will be prepared to consider the views of any participant regarding the conduct of the Community Hearings.

The Inquiry is arranging with the Canadian Broadcasting Corporation for summaries of the evidence given at the Formal Hearings to be broadcast to Northern communities likely to be affected by the construction of a pipeline and the development of a Mackenzie Valley Transportation Corridor. The broadcasts will be on a regular basis, and will consist of summaries of the evidence given at the Formal Hearings. I expect that these broadcasts will be in English and in the native languages, so that the people in the communities will know what has been said at the Formal Hearings and will be able to respond to it when the Inquiry reaches the communities.

I should make it plain that I intend at the Community Hearings to give every one who wishes to express his point of view, whether it is one widely held in the community or not, an opportunity to be heard.

V.

EVIDENCE RELATING TO NATIVE CLAIMS

I said, when I handed down my Preliminary Rulings on July 12th, that it would be open to the native peoples in this Inquiry to argue that no right of way should be granted for a pipeline until their land claims were settled.

Native claims are based on traditional use and occupation. Evidence relating to current use and occupation will obviously include such things as the location of trap lines, fishing camps and hunting grounds, berry picking areas and so on. I want to hear from the trappers, hunters and fishermen and others in the native communities not only about their present use of the land, and the extent of their reliance upon it, but also their views on the likely efficacy of any measures proposed by Arctic Gas to build a pipeline without damaging these native interests; by that I mean that I want to hear the evidence they have to give, and the representations they wish to make, regarding likely interference with trap lines, obstruction of streams, spoliation of hunting grounds and so on.

It seems to me that in order to be fair to Arctic Gas, such evidence should be laid before the Inquiry, so that Arctic Gas will be in a position to indicate what terms and conditions they are prepared to submit to, what safeguards they are prepared to adopt, and what measures they are prepared to

take, in support of their contention that a pipeline can be built without impairing the native people's current use and occupation of the land.

Now such evidence would be of the first importance to this Inquiry even if the issue of native land claims had never been raised. That brings me to the problem of how to deal fairly with the contention of the native organizations that no pipeline should be built until their land claims have been settled. Their claims are based on traditional use and occupation and, according to Professor Cumming, senior counsel for the Inuit Tapirisat of Canada and the Committee for Original Peoples' Entitlement, they include not only lands which are subject to current use and occupation, but extend to lands they do not use and occupy today. Mr. Sutton, counsel for the Indian Brotherhood of the North West Territories and the Metis Association of the North West Territories, took the same position. So did Mr. Lueck, counsel for the Yukon Native Brotherhood.

How then can this Inquiry come to grips with a contention that no pipeline should be built until native land claims are settled, when those land claims relate to ancestral lands which the native people no longer use or occupy?

It is not for this Inquiry to decide the legitimate extent of native land claims in the North. But the native organizations have said to this Inquiry that no pipeline should be built until their land claims have been settled. Those who want to build the pipeline are entitled to an opportunity to meet this by showing that the pipeline can be built without prejudice to native land claims.

I think, therefore, that the native organizations should indicate the nature and extent of their land claims. Given that their view is that any settlement ought to acknowledge that the native people have certain rights that they should be entitled to assert in respect of the lands they claim, there should be some indication of the nature of the rights they assert and of their extent. (The land use studies being carried out by the native organizations relate, as I understand it, not only to land which is the subject of current use and occupation, but also land which, though the native people no longer use or occupy it, they used to. These studies should be of real assistance to the Inquiry. Some of these studies are complete. Some are not yet complete. But, even where they are not complete, the work done so far may well be helpful). The Inquiry will then be in a position to indicate to the Minister what measures ought to be taken to ensure that the native peoples, in their negotiations with the Government, do not find themselves at any disadvantage owing to the building of the pipeline, and, looking to the consummation of negotiations, what measures ought to be taken to ensure that whatever the extent of the native interest that may ultimately be recognized

by any settlement, it will not be diminished by the construction of the pipeline in the meantime.

It should, of course, be remembered that it will be for the Government of Canada and the native peoples to negotiate a settlement of the native claims in the North. It is only the Government of Canada and the native peoples of the North that are parties to the negotiations to settle native land claims. Nothing said at this Inquiry can bind either side. Any delineation of native claims before the Inquiry will be for the purpose merely of ensuring that the Inquiry can fairly consider the principal contention of the native organizations regarding the construction of the pipeline and the answer that those who propose to build the pipeline have to make to that contention.

VI. DISCOVERY

A. Discovery of Witnesses

Every participant shall before giving evidence himself or calling witnesses on his behalf file with Special Counsel at least two weeks before giving evidence or calling such evidence, a synopsis of the evidence of the witness intended to be called, together with a list of any reports, studies or other documents to which that witness may refer or upon which he may rely.

This Rule was suggested by Commission Counsel to expedite the hearings. It will sometimes be difficult to comply with. If any participant cannot comply with the Rule that will not necessarily preclude the calling of the witness in question, at the time the witness is presented to the Inquiry, but it may mean the witness will have to be recalled later on for cross-examination.

B. Production of Studies and Reports

All of the participants, except Arctic Gas, expressed their willingness to provide a list of all studies and reports in their possession or power relating to the Inquiry, including those for which privilege might be claimed.

Mr. Goldie, counsel for Arctic Gas, was not prepared to go along with this. Instead, he suggested that, as each of the witnesses for Arctic Gas is called, there should simply be provided a list of all studies and reports which that witness relies upon, or which touch upon his testimony. It was said that this would be sufficient, and that it would be impracticable for Arctic Gas to provide a list of all its studies and reports before the Formal Hearings begin.

In my judgment there is a paramount public interest in the fullest disclosure of all the facts, which requires that a list of all studies and reports in the possession or power of Arctic Gas relating to the Inquiry should be supplied to the Inquiry. It was not suggested that this would be impossible, it was simply urged that it would be difficult for Arctic Gas to comply with such a direction.

It would not be satisfactory for Arctic Gas merely to provide a list of studies and reports to accompany the testimony of each witness. If we were to proceed in that way, we would only get the material in a piecemeal fashion. If we do not require a complete list, there can be no guarantee that there will be full disclosure of all studies and reports prepared by Arctic Gas relating to the Inquiry. It would be open to Arctic Gas to decide for itself which witnesses it ought to call and thus avoid the necessity of disclosing the existence of a study or a report which might be damaging to its case but which would be useful to the Inquiry. That will be avoided if a complete list is supplied.

I therefore direct that all of the participants to whom these Rules apply, including Arctic Gas, must provide a list of all studies and reports in their possession or power relating to this Inquiry. These lists should be filed with the Inquiry by November 30th, 1974, and copies provided to all of the participants to whom these Rules apply. If they are ready earlier they should be filed as soon as they are ready and distributed to the other participants; in fact, each participant may well decide to circulate a list of all studies and reports in its possession relating to Phase I of the Inquiry, without waiting until its list is ready covering all phases of the Inquiry. I appreciate that by November 30th, 1974, some of the participants will not have completed all the studies and reports they intend to prepare. They should file a list nevertheless, and add to it as they go along. Commission Counsel will be responsible for providing a list of all studies and reports of the Government of Canada.

When the lists have been provided, it will be open to the other participants to demand that any study or report on any list should be produced. If any participant wishes to raise a claim of privilege as the basis for an objection to production at that stage, the Inquiry will of course consider it then. It should be remembered that under Section 19(f) of the Territorial Lands Act, R.S.C. 1970, c.T-6, any one appointed to conduct an inquiry has the power:

"for the purposes of the inquiry, to summon and bring before him any person whose attendance he considers necessary to the inquiry, examine such persons under oath, compel the production of documents and do all things necessary to provide a full and proper inquiry."

These powers have been conferred on this Inquiry by the Order-in-Council of March 21st, 1974.

In addition, any participant may in the meantime request of any other participant a copy of any study or report whether or not it appears on the list filed by the participant of whom it is requested, and whether or not such a list has already been filed.

VII. APPLICATIONS TO THE INQUIRY

Any applications made by participants to the Inquiry for subpoenas or any relief whatever shall be made upon reasonable notice to the Inquiry and Commission Counsel as well as any participant directly affected by the application and any other participant that the Inquiry decides should be given notice of the application. If the hearings are in progress the application can be made to the Inquiry at the hearing on the day when it is returnable.

VIII. CHANGES IN THESE RULES

The Inquiry retains the power to add to, alter or modify these Rules, or to require that any participant not already bound by them should comply with them in whole or in part, as well as the power to exempt any participant from complying with them in whole or in part.

IX. INSPECTION BY THE PUBLIC

Copies of the material filed by any participant, or other person or organization, including lists of studies and reports, the transcript of the hearings, and copies of the exhibits, will be on file during office hours, and available for inspection by the public, at the Inquiry offices at Yellowknife and at Ottawa.

Mr. R. Berger

SPEECH BY THE HONOURABLE MR. JUSTICE THOMAS BERGER
TO THE SOUTHERN ALBERTA INSTITUTE OF TECHNOLOGY,
AT THE 1975 GRADUATION EXERCISES,
SOUTHERN ALBERTA JUBILEE AUDITORIUM CALGARY,
SEPTEMBER 20, 1975.

I am taking the liberty of telling you about the Mackenzie Valley Pipeline Inquiry, because as concerned Canadians you may well have begun to understand that what occurs in the North may be of great importance to the future of our country; it may even tell us something about what kind of a people we are.

We are embarked on a consideration of the future of a great river valley and its people. Two pipeline companies, Arctic Gas and Foothills Pipe Lines, are competing for the right to build a gas pipeline to bring natural gas from the Arctic Ocean to southern Canada and the United States. The Government of Canada has established the Inquiry to see what the social, economic and environmental consequences will be if the pipeline goes ahead.

We all know that Canada and the United States have a great appetite for oil and gas. That is why the Government of Canada is considering this gas pipeline. But, before they decide what to do, they want to know what the impact will be on Canada's North.

We have been told that this pipeline project is the greatest project, in terms of capital expenditure, ever undertaken by private enterprise anywhere. We have been told by Mr. Horte, the President of Arctic Gas, that if the pipeline is built it is likely that it will be looped, i.e. that construction of a second gas pipeline will be started within five years after completion of the first pipeline.

We have been told by Mr. Blair, the President of Foothills Pipe Lines, that if a gas pipeline is built it will result in enhanced oil and gas exploration activity all along the route of the pipeline throughout the Mackenzie Valley and the Mackenzie Delta.

We have also been told that the companies that have found gas in the Mackenzie Delta want to build an oil pipeline to bring oil from the Mackenzie Delta along the Mackenzie Valley route to southern Canada by 1983.

The Government of Canada has laid it down in the Pipeline Guidelines tabled in the House of Commons on June 28, 1972 that I am not just to look at this gas pipeline project. They want me to consider a gas pipeline in the context of a Mackenzie Valley Transportation Corridor. They want me to consider what the impact will be if the gas pipeline is built and then an oil pipeline. A transportation corridor might eventually include a railroad and hydro-electric transmission lines. The Government has said, let's take a look at this now. What will the impact of a gas pipeline be in all its ramifications? They have made it plain that they do not want to decide whether a Mackenzie Valley pipeline should be built until my Inquiry has filed its report and made its recommendations to the Government.

It is vital then that we take a hard look now at this pipeline and what its consequences will be, for once the first shovelful of earth has been dug, once the first length of pipe has been laid, it will be too late.

We are faced with conducting an Inquiry relating to a proposal to build a pipeline, costlier than any in history (including the Alyeska pipeline) across our Northern Territories, across land where four races of people live, speaking seven languages; a pipeline to be built through the permafrost, along the route of Canada's mightiest river (and one of the world's last great unpolluted rivers). We are asked to see what can be done to protect the people, the environment and the economy.

Let me say something about the way in which we are conducting the Inquiry and some of the issues facing us.

We are, of course, holding hearings. This is a public Inquiry, and you can't have a public inquiry unless you give everybody a chance to have their say. And we want to give the ordinary Northerner of every race his day in court. At the same time we want to make sure we hear from the experts from the South. To do this we decided to hold two different types of hearings.

We are holding formal hearings in Yellowknife. There we are considering the evidence of the experts: the scientists, the engineers, the biologists, the anthropologists, the economists - the people who have made it the work of their lifetime to study northern conditions and northern peoples.

At these formal hearings in Yellowknife all the parties are represented by lawyers. The two pipeline companies, the native organizations, the environmental groups, the Northwest Territories Association of Municipalities and the Northwest Territories Chamber of Commerce. All of them are being given a chance to question and challenge the things which the experts say.

At the same time, in order to hear the ordinary Northerner, we are holding community hearings. We are going out to the communities, taking the Inquiry to each of the cities and towns,

settlements and villages in the Mackenzie Valley and the Mackenzie Delta and the Northern Yukon to listen to what the people who live there have to say. They have spent a lifetime there, they know the country. Their knowledge is just as useful, and their opinions just as important as the knowledge and opinions of the experts.

When you are consulting local people, the consultation should not be perfunctory; it is essential really to listen to them. But when you have such a vast area, when you have people of four races, speaking seven languages, how do you enable them to participate? How do you keep them informed?

We have sought to make this an Inquiry without walls. We have sought to use technology to make this Inquiry truly a public Inquiry, to extend the walls of the hearing room to encompass the entire valley.

The CBC's Northern Service has provided a crew of broadcasters who broadcast to the North each evening regarding the day's testimony at the Inquiry. They broadcast in English and six native languages, on radio and television.

The broadcasts mean that when we go into the communities people understand something of what has been said by the experts at the formal hearings, and by people in the communities we have already visited.

The broadcasters are of course quite independent of the Inquiry.

No one can expect people to understand all the intricacies of the pipeline proposal and its consequences, but so far as they can be given some understanding of the proposal and what it will mean to them, we are attempting to do so.

I have wanted the people in the communities to feel that they can come forward and tell me what their life and their experience leads them to believe the impact of the pipeline will be. I don't want them to worry about lawyers asking them questions or tripping them up.

We have tried in this way to have the best of the experience of both worlds, the world of everyday where most witnesses spend their lives, and the world of the professionals, the specialists, and the academics.

Now if you are going to let people in the communities have their say, then they have got to let you know what is in their minds, even if it is unpleasant and untidy. There is no point in travelling to each city and town, each settlement and village, if people do not tell you what's going on in their heads.

When people do speak their minds, they may say some hard things about the government, the pipeline companies, the oil and gas industry, and about each other. But it is better to know how

they really feel and to know what they really think, than to encourage them to suppress all differences, and to pretend there are no divisions. If we don't know what is really in their minds, what their attitudes are toward industrial development, we have no way of knowing what the impact of a pipeline and a transportation corridor will be on the peoples of the North.

Sometimes governments decide whether a great project should proceed, in consultation only with industry. The evidence, that is, the studies and reports developed in connection with the mounting of the project, are not usually made public, nor examined in public.

Here it is different. The Government of Canada has established this Inquiry, and has funded the Inquiry to enable it to do its job, in public, and has given it the power to issue subpoenas to get the evidence it needs.

It is necessary, if the Inquiry is to be fair and complete, that all interests should be represented.

The pipeline companies say that the impact of the pipeline will on the whole be beneficial to the North. That may or may not be the whole story. So funds have been provided to the native organizations, environmental groups, the Northwest Territories Association of Municipalities and the Northwest Territories Chamber of Commerce to enable them to participate in the hearings on an equal footing (so far as that is possible) with the pipeline companies, to support, to challenge, or to seek to modify the project.

Let me illustrate the rationale for this by referring to the environment.

It is true that Arctic Gas and Foothills have carried out extensive environmental studies, which have cost a great deal of money. But these companies, and the oil and gas industry which supports them, have an interest here, and they will not take it amiss if I say that I do not want to rely upon them to represent the environment. They say they can build this pipeline without unacceptable damage to the Northern environment. But we should not take their word for it, because they have an interest in seeing that the pipeline is built.

So we have provided funds to a consortium of environmental groups, to enable them to carry out their own research, so that they can participate in the Inquiry as advocates on behalf of the environment.

It is in the clash of these divergent interests through examination and cross-examination at the formal hearings, that we are most likely to arrive at the truth.

The Government of Canada has not funded interventions by environmental organizations or other groups of concerned citizens coming before commissions and inquiries in the past.

That may be because we have not had an Inquiry like this in the past. The Mackenzie Valley Pipeline Inquiry is unique in Canadian experience.

The usefulness of the funding that has been provided has been amply demonstrated. All concerned have shown an awareness of the magnitude of our task. The Inquiry has had the cooperation of these organizations, as well as the cooperation of the pipeline companies, Arctic Gas and Foothills Pipe Lines.

The funds supplied to the intervenors, while substantial, should be considered in the light of the cost of the project itself, and of the funds already expended by Arctic and Foothills in assembling their own evidence.

I think the cost of the Inquiry and the funds provided to the intervenors so far amounts to approximately 1/10,000 of the estimated cost of the project.

All that I can do is to report on the impact the pipeline in all its ramifications will have on the North, and to recommend the terms and conditions under which it should be built, if it is to be built. It will be for the Government of Canada, on the advice of the National Energy Board, to decide whether they will allow the pipeline to go ahead.

But the vital thing is that the social, economic, and environmental interests of Northern peoples are to be thrown onto the scales. It is not only the interest of the south in obtaining energy from the frontier that is to be considered.

An Inquiry like this provides us with an opportunity to stop and think about where we are going and how we are going to get there. And people in the North have been thinking.

We are fond of thinking of the North as our last frontier. It is natural for us to think of developing the North, of subduing the land, populating it with people from southern Canada, and extracting its resources to fuel Canada's industry and heat our homes. Our whole inclination is to think in terms of expanding our industrial machine to the limit of our country's frontiers.

But the native people are saying to us: why do you say the North is your last frontier? Why should you develop it? They feel it is their homeland, that they should determine what is to happen there.

They say: We have lived here for thousands of years. We are the majority. What right have you to tell us what the future must hold for us? What right have you to exploit the resources of the land where we live?

It is a question being asked of the white race all over the world. And it is being asked of us by native peoples here in our own country.

That is not to say that whites and natives in the North stand opposed as monolithic entities. Some white people in the North and in southern Canada are questioning our right to consume a disproportionate share of the world's resources, and about the rate at which we are consuming our own energy and resources here in Canada, and are concerned that we may be imposing a colonial pattern of development on our own Northland.

At the same time some native people have come to regard the industrialization of the North as inevitable. They say it has already begun, that it is irreversible. They urge their fellow natives to become a part of the world of wages and industry and to seek the benefits it has to offer them.

Yet the question persists. Should the character of the North be determined by the South ?

The question is one that can be answered by saying the Government of Canada is sovereign, that effective power resides in Ottawa to dispose of the North as it wills. But the Government of Canada has not been satisfied with making that answer alone. They have established this Inquiry and have made it plain that they want the views, attitudes and opinions of Northern peoples to be fully explored.

The issue is a profound one, going beyond the ideological conflicts that have occupied the world for so long, conflicts over who was going to run the industrial machine, and who was going to get the benefits. Now we are being asked, how much energy does it take to run the industrial machine, where does the energy come from, where is the machine going, and what happens to those who live in the path of the machine? The Government has said to the Inquiry: Tell us what measures will protect them, their environment and their economy.

So it is not only the views and opinions of those of us who live in southern Canada that should be considered. The views and opinions of Northern peoples are just as important.

We Canadians think of ourselves as a Northern people. Maybe we have at last begun to realize we have something to learn from the races of people who have managed to live for centuries in the North, people who never did seek to change the environment; but rather to live in harmony with it. Maybe we have begun to realize we have something to learn from those who have gone North from southern Canada to make the North their home. And maybe it is time the metropolis listened to the voices on the frontier, time the metropolis realized it has something to learn from Old Crow and Hay River.

F.R.Scott once described the North as
 "An arena Large as Europe Silent Waiting the contest"

It is our responsibility to see that the North and its peoples are not the losers in that contest.

STATEMENT OF JUSTICE BERGER
AT YELLOWKNIFE COMMUNITY HEARING,
OCTOBER 22nd, 1975

THE COMMISSIONER : Well, I think then I'll express my thanks to all of you who came tonight and to all of you who spoke.

There is a kind of conventional wisdom that says that this kind of decision should only be made by the people in the government and in the industry. They, it is said, know all the facts, they have the knowledge, they have the background, and they also make the decisions. Ordinary people have nothing worthwhile to contribute to this kind of decision.

The meeting tonight, like all of the meetings we have had in every community we've visited, shows that the conventional wisdom is wrong. I have found the contribution that each one of you has made helpful and it acquires added weight by the fact that you live here, you know the north, and you are concerned about the north.

I think that's important. I think that it is a way of making the democratic system work in our country. The Government of Canada will decide whether there is going to be a pipeline. That is the way it must be, they have been elected to govern Canada. All that I can do is report to the Government of Canada and tell them what the impact will be on the north if the pipeline is built, and recommend the ways and means by which the north and its peoples should be protected, their interests should be safeguarded if the pipeline goes ahead.

I have been anxious that people should feel free to speak at these meetings, and if you have to speak in public, you have to speak in front of your neighbours, that is in a sense the test of your conviction. It's no good muttering to yourself in the coffee shop about what is being said at these hearings. If you've got something to say, this is the place to come and to say it.

Your views will be taken into account. I should say that I am not a northerner, and I have come up here seeking to learn, and I have found that I can learn from each one of you, and that's why I'm grateful for the contribution that all of you have made tonight.

Some of you have said that you're cynics. I don't think you really are. I don't think you would have come tonight if you were as cynical as you claim you are. Some of you have said, "Well, this thing's inevitable. What we're saying tonight doesn't mean a thing."

Well, you did decide to come. You did decide to say something, and those of you who decided not to say anything, and wanted to hear what others were saying, and there's a certain force in that exercise itself. Let me put it this way, we have never before in our country had an Inquiry before large-scale frontier development was undertaken. There was no Inquiry before the James Bay project was undertaken; I simply cite the most recent instance where large-scale development was undertaken, an instance well-known to all of us.

So we are undertaking an Inquiry that is unique in Canadian experience and really unique in the experience of any industrialized country of the west. So in this vast territory where we have people of four races speaking seven languages, this hearing is one of the few hearings we've had where the proceedings have taken place in only one language, and we are trying to make this Inquiry meaningful to the people up here of all races, trying to enable all of them to participate.

It is an Inquiry that has cost money because we have wanted to take the Inquiry into each community. You can't sit in Ottawa or even in Yellowknife and know what people are really thinking. To know what is really going on in their heads you have to go into each community and let them tell you, and that means in some communities we've stayed a day, two days, three days, four days, five days, until people had had a chance to get it off their chests. You have to find out what people's attitudes really are towards the pipeline towards industrial development. Unless you know that, how can you make any kind of decision, how can you make any kind of plans?

Well, this has cost money, and all I can say is that it should be kept in perspective because I think that the cost of the Inquiry so far amounts to about 1/10,000 of the cost of the project itself, and it may be that in Canada we have decided that we are willing to spend that kind of money to ensure that people who live in the north have a chance to have their day in Court.

The Government of Canada has said that it has no commitment to build this pipeline. The Minister of Energy then Mr. McDonald, said in the House of Commons that no decision would be made until the report of this Inquiry had been received and until the report of the National Energy Board had been received. That is the assumption on which I am proceeding.

The Inquiry has been sitting now for something over six months. We will be sitting well into the New Year. The National Energy Board is beginning its hearings in Ottawa on Monday. I will be saying to the government, "If you build this, this is what is going to happen, this is what I recommend you ought to do to make sure these don't happen," if they are bad, "or make sure they do happen," if they are good.

The National Energy Board on the other hand will say to the government when it has completed its hearings, "This is how much gas there is in the Mackenzie Delta, this is how much we can export, so you ought to go ahead and build this thing," or the Chairman of the National Energy Board has said this, he has said that they may recommend that there be a pipeline built, they may recommend that no pipeline be built. At any rate, the Government of Canada at the end of this whole process will have my report saying, "This is what is going to happen in the north if you build this". They will have a report from the National Energy Board that says, "Having regard to the supply of gas in the Arctic, the gas requirements of Southern Canada, our export commitments, this is what we ought to do." And then the government will have to decide. They were elected to decide, and decide they must in a democracy. You and I are here to make sure that they listen to the north before they decide.

So thank you very much for coming, and the Inquiry is adjourned until 10 o'clock tomorrow at the Explorer Hotel.

Appendix 'A' -

List of the names of groups and associations referred to in the transcripts, as at the time of the Preliminary Hearings.

CARC - Canadian Arctic Resources Committee

A national public interest group concerned with the environmental and other aspects of the northern development. President is Andrew Thompson of Vancouver, Secretary Kitson Vincent of Ottawa.

Canadian Environmental Law Association

A national, non-profit organization of citizens, scientists and lawyers dedicated to enforcement of present environmental laws and to maximize public participation in environmental planning. It was founded 1970 along with the Canadian Environmental Law Research Foundation with headquarters in Toronto.

Canadian Nature Federation

A national conservation organization which grew out of the Canadian Audubon Soc. in 1971. Approx. 11,000 members at time of the Preliminary Hearings.

CIC - Committee for an Independent Canada

A national organization concerned with economic impact on Canada of the proposed gas pipeline.

COPE - Committee for Original Peoples' Entitlement.

A regional affiliate of ITC working with Inuit who live in the communities in the Delta region.

Council for Yukon Indians

Organization representing all Indian people in the Yukon Terr. with ancestral right to the land, specifically set up to negotiate with the Government of Canada on land claims.

Environment Protection Board

A group of engineers and scientists experienced in northern matters which was formed in 1970 with an interest in achieving environment protection. The Board prepared an impact assessment of the proposed pipeline. It is headed by Carson Templeton of Winnipeg.

Federation of Natives North of 60°

Group of native organizations in the region affected by proposed pipeline; Council of Yukon Indians, Inuit Tapirisat of Canada, Committee for Original Peoples' Entitlement, Metis & Non-Status Native Assoc. of the N.W.T., and Indian Brotherhood of the N.W.T.

Federation of Ontario Naturalists

A conservation organization headquarters in Toronto. An affiliate of the Canadian Nature Federation.

Foothills Pipe Line Ltd.

Sponsor of the "Maple Leaf Project" as an alternative to the project of Canadian Arctic Gas Pipeline Limited. They propose to bring Mackenzie Delta gas to southern Canadian markets, by means of a 42" pipeline.

Gemini North

A socio-economic consultant firm based in Yellowknife, and headed by Pat Carney.

Indian Association of Alberta

An association of Indian people in Alberta.

Indian Brotherhood of the Northwest Territories

The organization of the Treaty Indian people in the Northwest Territories.

ITC - Inuit Tapirisat of Canada

An organization of Canadian Inuit (Eskimo) with headquarters in Ottawa, representing all Inuit in Canada.

Metis and Non-Status Native Association of the N.W.T.

An association representing Metis people and other non-status natives not represented by the Indian Brotherhood of the N.W.T.

National Indian Brotherhood

A federation of provincial and territorial Indian organizations representing 260,000 status and treaty Indian people. George Manuel, President.

Native Council of Canada

A national organization representing Metis and non-status Indian people, representing 500,000 people. Gloria George, President.

NAG - Northern Assessment Group

A scientific assessment and review group (established under the direction of Canadian Arctic Resources Committee) which conducted a detailed technical review of the Arctic Gas application, particularly where related to environmental considerations, and made the resulting review data available to various member groups, mainly on the environmental side, including Pollution Probe, Canadian Nature Federation, Federation of Ontario Naturalists, Canadian Environmental Law Assoc., SPEC and the Canadian Arctic Resources Committee. The Department of Indian Affairs and Northern Development made funds available to the Commission which in turn funded this environmental review.

Northwest Territories Chamber of Commerce

An association of businessmen for the Northwest Territories.

Northwest Territories Association of Municipalities

An organization of ten Municipal Councils throughout the Northwest Territories, eight of which lie in the western portion of the Territories.

Perlex International Chemicals Ltd.,

A group of scientists and managers concerned with the relationship and impact of technology on the environment and the possibilities for innovative approaches.

Pipeline Application Assessment Group

A group of experts assembled by the Government of Canada to make a primary assessment of the application of Canadian Arctic Gas Pipeline Limited. This application was filed on March 21, 1974 with the Minister of Indian Affairs & Northern Development and with the National Energy Board. This assessment by the Government was designed to be generally useful to the government departments and agencies concerned with the application, to the hearings of the National Energy Board, to the interested public, and to a public inquiry then being established to inquire into and report upon the terms and conditions that should be imposed in respect of any right-of-way that may be granted across Crown lands for the purpose of the proposed Mackenzie Valley Pipeline. That Inquiry turned out to be the Berger Inquiry. The Pipeline Application Assessment Group has nineteen fulltime staff members and was headed by Dr. John Fyles. The socio-economic team within the group was headed by E.R.Weick, and the environmental team by Dr. P.J.Rennie. There were an additional seven people contributing to the group from various government departments, the Government of the Northwest Territories, the Government of the Yukon Territory, and outside consultants.

The Government's Pipeline Application Assessment Group prepared a list of Requests for Supplementary Information which was sent to the Applicant in July 1974 by the Mackenzie Valley Pipeline Inquiry. In November 1974 this group issued a report entitled "Mackenzie Valley Pipeline Assessment" - Environmental and Socio-economic Effects of the proposed Canadian Arctic Gas Pipeline on the Northwest Territories and the Yukon. A report was issued under the authority of the Minister of Indian Affairs and Northern Development and is available from Information Canada.

Pollution Probe

Formed in 1969 as an official project of the Department of Sociology at the University of Toronto to improve environmental quality in Canada. In 1970 Pollution Probe founded an energy and resources team in anticipation of growing problems in the energy field, and has prepared a series of reports and information packets on the pipeline.

SPEC - Canadian Scientific Pollution Environmental Control Society,
of Vancouver, British Columbia.

Workgroup on Canadian Energy Policy

A group from the Faculty of Environmental Studies, York University, Toronto.

Yukon Resource Council

A local environmental group in Whitehorse.

Appendix 'B'

List of persons taking part, or referred to, in the transcripts.
Their positions are as of the time of the Preliminary Hearings :

- Charley Abel - Chief of Old Crown Indian Band in the Yukon.
- F.N.Adlem - General Manager Service North Ltd. Normal Wells, N.W.T.
- Colin Allen - Spoke in Inuvik on behalf of the Trappers Assoc., Chairman.
- Victor Allen - member of the Committee for Original Peoples' Entitlement.
- Robert Andrew - Development Officer with the Territorial Government.
- Russell Anthony - Counsel for Canadian Arctic Resources Committee
- Graham Beakhust - A member of the faculty of Environmental Studies
at York University, Toronto.
- A.E.Belcourt - Former President of the Native Council of Canada.
- Philip Blake - A member of COPE who read, in Inuvik, the submission of
Sam Raddi, President of the Committee for Original Peoples' Entitlement.
- Michael Brian - Member of the Yukon Resource Council.
- Don Brannigan - Whitehorse Chamber of Commerce.
- Tom Butters - The member for western Arctic on the Council of the North-
west Territories and a resident of Inuvik.
- Mr. Campbell - Manager of the Yukon Chamber of Mines.
- Ms. Pat Carney - Gemini North.
- W.M.Casavant - President of the Fort Simpson Chamber of Commerce.
- Neil Collin - Resident of Mackenzie Delta, working for the Indian
Brotherhood in that area.
- Nellie Cournoyea - A member of COPE and resident of Inuvik.
- Douglas Craig - Director of the Yukon Conservation Society, and environ-
mental group in Whitehorse,
- Hon. Jean Chretien - Minister of Indian Affairs and Northern Development.
- Peter Cumming - Professor of Law at Osgoode Hall Law School in Toronto
and Counsel for the Inuit Tapirisat of Canada.
- Tagak Curley - President of the Inuit Tapirisat of Canada.
- Dr. Gordon Davies - An ecologist from Waterloo University on the Inquiry Staff.
- Mrs. June Ebelher - Chairwoman of the Village of Fort Simpson.
- George Erasmus - Director of Community Development for the Indian
Brotherhood of the Northwest Territories.
- R.J.Gibbs, Q.C. - Counsel for Foothills Pipe Lines Limited.
- Robert Gibson - member of the workgroup on Canadian Energy Policy.

Michael Goldie, Q.C. - Counsel for Canadian Arctic Gas Pipeline Ltd.
Stephen Goudge - Assistant Commission Counsel.
Tom Gunn - Director & Chief Scientist for Perlex International
Chemicals Ltd., an Ottawa based company.
Leo Hardy - Norwell Development Limited, Norman Wells, N.W.T.
Mr. Hazelton - Appeared in Whitehorse.
Mr. Holman - Mayor, Town of Inuvik.
Connie Hunt - A lawyer representing ITC.
P. A. Hutchinson - Judge Berger's secretary from Vancouver.
Prof. Michael Jackson - From the Faculty of Law, University of British
Columbia. Special Counsel to Justice Berger for Community Hearings.
Joe Jacquot - President of the Yukon Association of Non-status Indians.
Johnny Johns - Member of the Council of Yukon Indians.
P. W. Kaiser - Mayor, Town of Fort Smith, N.W.T.
Dr. Rolf Kellerhals - Civil Engineer from the University of Alberta
on the Inquiry staff.
E. W. King - Edmonton Chamber of Commerce.
George Kodakin - Chief of Fort Franklin, N.W.T.
Harold Cook - from Fort Good Hope, worked with the Indian Brotherhood as
researcher in the Delta area on the Land Occupancy Study.
Dr. Cecil Law - Director of the Canadian Institute of Guided Ground
Transportation (Queens University)
Mr. Livingstone - Appeared in Whitehorse.
John Lowe - Staff member of the Canadian Environmental Law Association.
A.R.Lucas - Counsel for the Canadian Arctic Resources Committee.
Al Lueck - Whitehorse lawyer representing Council of Yukon Indians.
Ms.J.MacQuarrie - Exec.Director of the Mental Health Assoc. of the N.W.T.
a volunteer division of the Canadian Mental Health Association.
George Manuel - President of the National Indian Brotherhood.
Joe Mercredi - A native businessman from Fort Simpson.
Peter Meyers - Secretary to the Inquiry.
Theodore Mosquin - Exec.Director of the Canadian Nature Federation.
Phoebe Nahanni - Director of Land Claims Research, Indian Brotherhood
of the Northwest Territories.
Eric Neilsen - Conservative M.P. representing the Yukon.
Sandford Osler - A representative from Pollution Probe.
Robert Page - Representative of the Committee for an Independent Canada,
who appeared in Ottawa.
Neil Pascal - Settlement Secretary for Fort McPherson.
Peter Petrasuk - Chairman, City of Calgary Gas and Power Committee.
Douglas Pimlott - Resource person for COPE under sponsorship of
Canadian Arctic Resources Committee.

Al Plum - Vice President of Inuvik Chamber of Commerce.

Sam Raddi - An Inuit from the Delta region who is head of COPE

David Reesor - Exec. Director of the Northwest Territories Association of Municipalities.

Ian G. Scott, Q.C. - Commission Counsel.

Mr. Selbie - Representative of the Federation of Ontario Naturalists.

Murray Sigler - President of the Northwest Territories Chamber of Commerce.

Elijah Smith - President of the Yukon Council of Indians, and President of Yukon Native Brotherhood.

Mrs. Stewart - Appeared at Inuvik.

Gerald Sutton - A lawyer for the Indian Brotherhood of the N.W.T.

Carson Templeton - Chairman of the Environment Protection Board.

John Tetlich - Former Chief of Fort McPherson.

Andrew Thompson - Chairman, Canadian Arctic Resources Committee.

Mr. Thrasher - Appeared at Inuvik.

Ms. A. Tobac - Resident of Fort Good Hope.

John Thompson - Field worker for CARC

George Turner - Vice President of the Fort Simpson Chamber of Commerce.

Ron Veale - Whitehorse resident who appeared for the Yukon Resource Council.

Kitson Vincent - Exec. Secretary of the Canadian Arctic Resources Committee.

Ian G. Waddell - A Vancouver lawyer, Special Counsel to Mr. Justice Berger for administrative matters.

James Wah-Shee - President, Indian Brotherhood of the Northwest Territories who made a presentation in Ottawa on behalf of the Federation of Natives North of 60°.

Richard Whitford - Leader of the Metis and Non-status Native Association of the Northwest Territories.

Jim Woodford - Writer.

