



PUBLIC INQUIRY RESPECTING GROUND SEARCH AND RESCUE FOR
LOST AND MISSING PERSONS

Transcript

Volume 5

Commissioner: Honourable Justice James Igloliorte

Thursday

9 September 2021

CLERK (Mulrooney): All rise.

This commission of inquiry is now open.

Commissioner James Igloliorte presiding.

Please be seated.

THE COMMISSIONER: Mr. Budden.

G. BUDDEN: Thank you, Mr. Commissioner.

As a first order of business, I'm pleased to advise the commission that Corporal Stephen Howlett has made it in. Corporal Howlett was the second member of the detachment at the time of the Burton Winters search and he is going to be part of the panel that will resume shortly.

Before we return to the federal panel, perhaps we can call it, I'm going to ask that Barry Andersen be called to speak, not to the Burton Winters search but to another search that is detailed at tab 075 or rather Exhibit 075 materials.

And just by way of a little bit of background, that was the search that took place in 2018, I believe.

B. ANDERSEN: '19, sorry, a typo.

G. BUDDEN: Yes, in 2019. And although it was a ground search and rescue operation, it was actually tasked by the federal government, as it was a search and rescue involving aviation; a plane that had crashed about 80 kilometres from Makkovik.

We are asking that this evidence be heard today, and it will be followed by brief commentary by search and rescue expert Richard Smith, as we believe it illustrates the response of the local search and rescue team and some other important aspects of ground search and rescue.

So if it pleases the commission, perhaps Barry Andersen can take the stand and speak to this search.

THE COMMISSIONER: Yes.

Yes, Barry, you can take the stand, figuratively. You can stay where you are seated closer to the microphone. I understand that we're going to need you to speak up a little bit, but if you're close to the microphone, the transcript can be best done that way.

Go ahead, Sir.

G. BUDDEN: Just before – sorry, Mr. Commissioner. Although we've already heard from you this week, and pretty much everybody in the room knows who you are and your role in the search and rescue community in Makkovik, perhaps you could very briefly just outline again your role as search and rescue coordinator and so forth.

B. ANDERSEN: Okay.

Thank you very much, Mr. Commissioner. And it's not the first time I've been told to speak up. My voice usually drops off after I'm speaking. Is this –?

CLERK: It's good.

B. ANDERSEN: This is good?

THE COMMISSIONER: Perfect.

B. ANDERSEN: Okay.

Yeah, so my role is ground search and rescue coordinator. I've been here officially since it was stood up with NLSARA in 2002 as the ground search and rescue coordinator. My role is to ensure that the searches are conducted in accordance with the policies and procedures that are set out by NLSARA and the province, the RCMP who are the jurisdictional police in our area.

Would that suffice, Mr. Budden?

G. BUDDEN: Yes, please. Yes, thank you.

B. ANDERSEN: Okay.

So as per the search and rescue mission that we were tasked on May 1, 2019, I'll just read from my report, which is on the – or my submission that's on the screen there: Tuesday, May 1, 2019 – it should be noted not '18, 2019 – was not the

typical spring day at Makkovik, Newfoundland and Labrador. Winds were strong from the north and it was snowing, wet snow, thick fog and low cloud cover. No scheduled air flights to the North Coast were moving with the extreme weather conditions.

At approximately 1230 hours on this day Errol Andersen, a member of the ground search and rescue team, called myself to advise they will need assistance in coordinating a GSAR mission regarding a downed aircraft in the Tisialuk area about 80 kilometres southeast of Makkovik as the crow flies. Makkovik RCMP were notified by the Joint Rescue Coordination Centre (JRCC) Halifax of a mayday call with two badly injured people on board. JRCC advised they were on scene but the weather was very bad, with zero visibility and very high winds. They asked if the Makkovik GSAR team would attempt a rescue, as they were in contact with one crew member.

Eight ground search and rescue team members were mustered, plus Constable Henry Broomfield, who is also a member of our community here; he's born and raised here in Makkovik. A quick briefing was held at the Makkovik fire hall.

All team members were aware of the possibility of sea ice breaking up at this time of year in the Tisialuk area due to the wind direction on this day. Perry Dyson, one of the team members, also had a cabin about 12 kilometres from the Tisialuk Hill – or the site. This would be an alternative place to wait out the weather or wait for the weather to improve, if needed.

The GPS waypoint for the location was loaded into the team's GPS units provided to the RCMP by JRCC. Snowmobiles were topped up with gas and rescue toboggan were loaded with required gear. The team then moved to the RCMP detachment for final gear check and SPOT unit activation and put in track mode. I then set up a shared link and sent same to JRCC and Harry Blackmore of NL Search and Rescue Association, NLSARA, so they could track the progress and location of the team, should they require more assistance.

Given the weather conditions, the team took equipment to prepare them for the possibility to stay overnight to wait out the weather. This

included food, tent, a wood-burning stove, along with the regular first aid equipment and extra gas for the snow machines.

THE COMMISSIONER: I'm just going to interrupt you for one second and ask Mr. Budden to record the exhibit number, please.

G. BUDDEN: Yes, this is Exhibit 075 and it's already up on the screen, I believe.

Thank you.

THE COMMISSIONER: You may continue.

B. ANDERSEN: Thank you.

As the team departed Makkovik, the visibility was very poor in snow and blowing snow. It was not long before the team went out of sight, in the snow, as they entered onto Makkovik Harbour.

The first challenge facing the team would be to safely cross Kill Man Neck, and treacherous high portage approximately 10 kilometres from Kill Man Pond to Big Bight back at sea level and approximately 1,300 feet at the highest point on the trail. To compound things, in the springtime, brooks are running, with the possibilities of water and slush to contend with. The team reported that, on times, all they could see was the machine in front of them on this portion of the rescue mission, due to blowing snow and fog/low cloud cover.

As the team reached sea level at Big Bight southeast of Makkovik, conditions became a bit easier, as they were out of the mountains and hills. On the sea ice they were driving blind, however. They could not distinguish the sea ice from the horizon. This phenomenon is known, locally, as blind driving. Difficult to tell if you are moving or not, as there are no references. The team drove, by GPS, only for about 55 kilometres in these conditions on the sea ice. All the while, making sure there were no pressure ridges in front of them or unsafe ice, given it was May in Labrador. The driving, wet snow by the high winds also made it cold for the team members.

As the team approached Tisialuk – which is south of Makkovik area waypoint – the conditions had not improved. At the bottom of

Tisialuk Bay, there is a large fuel cache held by the Department of National Defence, DND, that supports the LAB-5 North Warning site, NWS, on Tisialuk Hill, not far from the GPS coordinates given by JRCC.

Canadian Ranger Errol Andersen and several other team members are very familiar with the area due to doing numerous North Warning site inspections over the years. They were able to pick up the road – which was used to build the site in the 1980s – from the shore, through the woods, for a portion of the way up the hill. This was a relatively easy portion of the trip, as the road is wide and had lots of snow on it at that time of the year.

However, as the team moved up the hill, the treeline quickly disappears and there is nothing but barren land and lakes, with steep valleys, with high snowdrifts. The team had to be careful, to move slowly, as not to drive over a cliff or a steep snowdrift bank. After the team moved out of the treeline, the conditions were so bad that they could only see the snowmobile in front and not anything else. Many people have been injured and killed driving over such places in these conditions.

As the team moved closer to the waypoint, the terrain became very steep. The team then decided it was too dangerous to proceed any further by snowmobile and set a plan to walk up the steep mountainside towards a GPS waypoint. Team member Roy Martin was the member calling the directions and distance to the waypoint from GPS unit.

This was the most dangerous portion of the mission. The team members were sticking their toes into the snow and using their hands to pull themselves upward along the side of the mountain. They could not see what was above them or below, not knowing if a slip would lead them over a steep cliff into the rocks or trees below. This was made worse with extreme high winds and the air was thick with moisture. Each team member had to rely on the member in front of them, as they could not see the rear members, the visibility was so bad.

As Roy Martin counted down the distance in metres to the waypoint, the team was wondering if the waypoint was correct, as it seemed like a

long climb without any sign of anything at all. When the team located the aircraft, members down the hill, about 10 metres, could still not see it. As the rear team members reached the lead team with Roy, one of the members yelled there it is; not realizing the others had stopped, catching their breath after finally reaching the scene.

The team then assessed the scene, the best they could, before trying to open the aircraft doors to get the crew out. They could not risk losing the aircraft down the mountain with any wrong move, given how steep the mountainside was.

Once the team gained access to the cabin, they realized one of the crew was not responsive and one was relatively and surprisingly alert. The team extracted the crew member who was in a lot of pain and gave him warm clothes they had taken along with them to put on, the best he could. Once the other crew was determined to be deceased, the team extracted him from the aircraft and secured the body and slowly made their way back down the mountainside with the survivor and the body.

After reaching the snowmobiles, they could not get the survivor to lie down into the rescue toboggan due to the pain he was in. It was decided then that he would sit on one of the snowmobiles as the team would drive slowly back towards Makkovik, as there was no chance in the weather conditions for an airlift medevac from sea level at Tisialuk Bay. All the while, they were unsure if the survivor had broken ribs that could puncture his lungs, et cetera, on the way back. The journey back to Makkovik took about four hours due to concern for the survivor's conditions.

On the team arrived at Makkovik, the Makkovik clinic nurses took over the medical care of the survivor, Sam Rutherford, as we know then. He was alert but in a lot of pain. Could not lie down, or lay down; however, he was much more comfortable in the semi-sitting position in the hospital bed.

JRCC then advised that they would attempt a medevac from Makkovik via helicopter 103 Squadron. The helicopter – the weather was still very poor, with low ceiling and strong winds. The rescue helicopter crew had to fly 20 nautical

miles north out to sea from Makkovik to get underneath the low clouds and severe icing conditions. The helicopter landed at Makkovik at approximately 0400 hours on the morning of May 2, 2020 – I had 2020 there; sorry, it's 2019.

This GSAR mission garnered national news media attention across Canada, giving praise to the local ground search and rescue team for their bravery and traditional knowledge of the area of operation and using modern equipment such as GPS and satellite phone communications. There are – oh, sorry. There are pictures of the rescue scene.

G. BUDDEN: What does this picture show, Mr. Andersen?

B. ANDERSEN: This is a picture of the ground search and rescue team doing their final gear check at the RCMP office here in Makkovik. You can see the weather conditions, snow is quite thick. The flags are straightened out; I'm not sure you can see it from that picture.

Right there, you'll see one of the climbers pretty much looking down on top of him as they're coming up the hill.

This is the condition that they found the aircraft in and the team members are standing on the side of the hill, on the mountainside, working to extract the crew members.

This is a picture taken by Constable Henry Broomfield and RCMP pilot Wayne Winsor. It's the location of the aircraft crash accident site. To the left of the blue arrow is the North Warning site, I referred to as LAB-5. That's what DND refer to it as. So you can see the distance from sea level up.

G. BUDDEN: And this is taken from a fixed wing or a helicopter, obviously?

B. ANDERSEN: It's taken from the RCMP Twin Otter.

G. BUDDEN: Thank you.

B. ANDERSEN: Again, a picture of the ground search and rescue team members from Makkovik – I'll read their names out – that were on the hill that day: Errol Andersen, Perry

Dyson, Perry Voisey, Rex Voisey, Marvin Clark, Andy Edmunds, Robert Gear and Roy Martin, along with Constable Henry Broomfield from the RCMP detachment in Makkovik at the time.

This is a Google Earth image. The left – for the people in the back – the left pin is Makkovik. The trail they took is the lighter line all the way up to Tisialuk Bay and on up to the accident site. Again, this is a picture of the aircraft stuck into the side of the snow on the mountainside, with the LAB-5 site to the top of the picture or the top of the – very small aircraft.

Again, a picture of the steep snow or the steep hill with the snow cover and the little aircraft stuck into the snow on the side of the hill. This is a picture of the aircraft with the – one of the team members just to the right with – you can see the ice candles or the ice formed – had formed over the time that the aircraft was on the hill before we reached it. Again, on the wings as well. The wings were folded back. The front wings, the tail rudder and that, they were relatively intact.

I'll give you a bit of a background on Makkovik ground search and rescue team. The Makkovik ground search and rescue team was informally – stood up informally in 1994 by a group of volunteers in the community that answered the call for assistance for those overdue or in distress.

In 2002, the GSAR team formally stood up with the assistance of the Royal Canadian Mounted Police, RCMP, and the Newfoundland and Labrador Search and Rescue Association, NLSARA. Today, the Makkovik ground search and rescue team consists of 19 volunteers, with myself as the team coordinator, since 2002.

Over the years, the GSAR team has been involved in many incidents in which the outcomes were tragic but also many more outcomes of the lost or overdue persons were returned home by the team to their loved ones. Several of those incidents were high profile with media attention. One was the three hunters rescued by 103 Squadron as Makkovik GSAR team were on site in two small speedboats. *CBC Land and Sea* did an episode on that incident in 2010. The tragic incident of the young person

Burton Winters; tragic incident of a missing young person, Jake Basto. Later, his body was recovered in 2019.

Makkovik GSAR team members have also answered the call to assist Natuashish Innu in their efforts to locate two missing persons on two different occasions. Both of those incidents had tragic outcomes. Our team members were appreciated for their efforts in those incidents. All GSAR teams work together on the North Coast of Labrador, with Upper Lake Melville team as well, during the winter season when many travellers use the Trans-Labrador trail system by snowmobile.

Makkovik ground search and rescue team has acquired some equipment over the years with grants from NLSARA: tents, generators, communications VHF radios, ice rescue suits, PFDs, a laptop computer and software. The GSAR team also acquired funds in 2002 from the Makkovimiut Trust Incorporated, MTI, a volunteer organization set up to administer funds from the Voisey's Bay Impacts and Benefits Agreement, IBA, of the Labrador Inuit Land Claims Agreement, LILCA, here at Makkovik.

The GSAR team used those funds to initially purchase three Globalstar satellite phones for the use of the GSAR team in the field to communicate with much greater reliability to the command post back at Makkovik. Two of those satellite phones were used as a preventative measure for local hunters/travellers to sign out for free if they were going out on the land.

Later, the GSAR team acquired more funds from MTI and GSART acquired five SPOT units, two in-reach units and two more Globalstar satellite phones, plus the annual administration costs of each since this date. The annual administration costs, with bank fees, are in excess of \$8,000.

Makkovik ground search and rescue team do not do any fundraising, as there is already much competition in our small community for such funds. These phones and SPOT units have proven invaluable as a preventative measure. None of this would have been available without the assistance of MTI.

The Makkovik ground search and rescue team has not been able to avail of any brochures or

pamphlets from the federal government for small boat safety since that program was discontinued under the Harper government. I don't want to make it political, but that's just the way it happened. Any small boat safety initiatives now has to be purchased from Transport Canada. Thus, our GSAR team do not do any more promotions for small boat safety.

In the past when the program was available, Makkovik GSAR team would avail of life jackets, whistles, colouring books and throw ropes to give out as promotional and preventative items. Boating is a huge part of life in our region. The Canadian Coast Guard is now slowly stepping up to fill in the gaps for marine search and rescue by accepting smaller boats as auxiliary Coast Guard members.

Makkovik GSAR team continues to lobby for better VHF coverage on the North Coast of Labrador, given this new development. Without this coverage, a mayday call for help will be pointless, as it may not be heard from the many dead zones – for VHF that is – on the North Coast of Labrador.

Thank you.

G. BUDDEN: Thank you, Mr. Andersen.

I just have, perhaps, one or two questions. The first one is: The list of names you read out, I recognize all of them or all but one, perhaps, as men who also had been involved in the search seven years earlier – 7½ earlier for Burton Winters. Am I correct on that?

B. ANDERSEN: Yes, you're obviously right.

G. BUDDEN: I take from that there is a lot of continuity in the ground search and rescue team here in Makkovik.

B. ANDERSEN: Yes, we have a very low turnover rate, except for those who are getting older – I guess like we all, none of us are getting any younger. The ones who were there in the past, I think, have voluntarily stepped down and left it to the younger persons, like those names you see here. And we've actually had a few more younger people join up since the incident, as well, the tragedy with Burton.

G. BUDDEN: How is recruitment? Is the team renewing itself from the young people in the community?

B. ANDERSEN: Yes, we have picked up three more people. Yeah, so we're still up to 19 volunteers.

G. BUDDEN: Thank you.

I have no further questions; however, the other lawyers may have questions for you. And after your evidence is done, Mr. Richard Smith will have a brief commentary on this particular search, Mr. Commissioner.

P. RALPH: Good morning, Mr. Andersen, my name is Peter Ralph.

I have no questions for you; I just wanted to thank you for sharing that remarkable, heroic story with us.

Thank you very much.

B. ANDERSEN: Thank you.

T. WILLIAMS: I have no questions, Mr. Commissioner.

M. FREEMAN: Good morning, Mr. Andersen, Mark Freeman, with the federal government.

And I don't have any questions either but again I would echo – for what it's worth, I'm no expert, but it's certainly amazing, as always, to hear the great work that you do. So thank you.

B. ANDERSEN: Thank you, on behalf of the team.

G. BUDDEN: Shall we move on to Mr. Smith, Mr. Commissioner?

THE COMMISSIONER: So, Barry, you might have a low voice, but your actions speak very loudly, I think, is what people are saying. We thank you and your team.

This is not really related to this search, but a gentleman stopped me and he said: How come I was not allowed to go on the search or I was told by the police that I could not go? Stand down is kind of the term that they used. When does that

happen and why does that happen? And can you explain for the community, you know, how you make those decisions?

B. ANDERSEN: A SAR team member said that?

THE COMMISSIONER: It was a gentleman who would've been interested or tried to be interested. He might have been from Postville.

B. ANDERSEN: Okay, yeah.

We call on all of our – what we do is if there's a SAR mission reported to me, as a SAR coordinator, I will send out the message to all the team, either by Facebook or by email and by phone, to see who is available to respond. If we get enough people from the SAR team to respond, then we will use those people because they are the ones who will be covered under our insurance policy here, workmen's comp and the occupational health and safety issues.

THE COMMISSIONER: Thank you.

As well, Sir.

D. WILLIAMS: Yes, Mr. Commissioner. Sergeant Danny Williams.

So the way that works is our search and rescue teams are trained, they're equipped and they have insurance through the government. Essentially, in order for that to be enacted, they would need to be a member of the search and rescue team. That gives us the opportunity for search and rescue teams – we know the level of their training, their expertise. Also, we know if we're tasking them to be out in the community doing searches, out in the wilderness, if something were to happen to them, they would be insured. If any damages to their equipment, they'd be compensated for it.

So it's a scenario where you're looking after the best interests of the searchers. If something were to tragically happen in pursuit of that search, that they would be insured, but we do promote the ability to join those teams, to be covered by those things, to be trained and to be equipped to do the search and rescue operations.

So, in those cases, there are some abilities for volunteers to do some things around how to aid in a search, but certainly, as you would see in those photos there, especially in 2019 based on the terrains that we – as the RCMP would be tasking the search and rescue team to go out in, there is certainly a level of peril and danger that they would be in. So we want to make sure that we're aware of their level of training, abilities, their equipment and also that, should something tragically happen to them, that they would be covered under an insurance policy to compensate based on, you know, any negative outcomes or injuries or anything further and more tragic.

So, again, we encourage the community to join. As we've heard, sometimes those searches prompt other members of the community to join based on that, but we also want to make sure that there's an ability to have them insured, trained and equipped, should they respond to a search and rescue operation.

THE COMMISSIONER: Thank you.

Mr. Andersen, you've been to Natuashish to do searches. How about the Nunatsiavut communities – how do their level of co-operation in the community, the numbers, the kind of equipment they have, the training they have, compare with what you know about Makkovik?

B. ANDERSEN: (Inaudible) on the North Coast from Nain, Hopedale, Postville, Makkovik and Rigolet are (inaudible) of search and rescue teams. They do have some turnover in coordinators, but they do have pretty much the same or close to the same amount of equipment that we have.

I can't speak to what amount of training each team member in those communities might have, but we do work closely with Hopedale, Postville, Lake Melville – Rigolet is a bit further away and not so much on our route, like in the wintertime, but if there's a missing snowmobiler between Nain and Goose Bay, we all work together with the team from Hopedale, Postville and Upper Lake Melville to determine whether the person might be between Postville and North West, Postville and Hopedale, or Hopedale and Nain and so on.

THE COMMISSIONER: How about the IBA, impact and benefit funding, from Vale from the Voisey's Bay Mine? Do other Nunatsiavut communities have the opportunity to apply for what you did?

B. ANDERSEN: Yes, they do. And I think in Nain – Constable Henry Broomfield, he was trying to get that sort of thing started in Nain as we have here in Makkovik.

THE COMMISSIONER: I don't see any women listed on your list, young girls. Have you thought about the opportunity for women to work with the local ground search and rescue?

B. ANDERSEN: We accept females, whoever would like to join up with the team. We haven't had yet any female from the community to join with the actual team. But if we have an extended mission – I think, as you'll see, we had quite a few in Makkovik over the years. We get a lot of help from the Department of Health and Social Development here in Makkovik, whether it be for the mental health reasons, just supports. The lady, Ms. Bradley in the background, in the back of the – people like her would be able to help out as well.

So a lot of our Health department members are females and they help out a lot in the community. They have food cooked, warm – at the fire hall, they have things set up, water; help out in that way.

THE COMMISSIONER: So small boat safety certification went through a couple of changes you said. What are some of the drawbacks with trying to have a vessel certified here? What are some of the challenges people face in trying to get equipment certified?

B. ANDERSEN: That would be – you're talking then Coast Guard?

THE COMMISSIONER: I don't know what works. Whatever applies here.

B. ANDERSEN: Okay.

Over the years, we have been lobbying the Canadian Coast Guard for VHF, very high frequency radio beacon here on Monkey Hill, which is the hill right behind us, where all of the

communication towers are. It's quite high up. It's 2,200 feet, to my understanding and my knowledge. It would be great to have a repeater up there and would give us extended coverage for GPS – for VHF radio usage, as VHF is line of sight. Once you get down in amongst the hills here, it's very low. So, as I mentioned in my little report there, that Coast Guard is slowly coming forward – coming around. They have now accepted five auxiliary Coast Guard members here in the community.

There is a larger boat that they're going to station here in Makkovik, in co-operation of the Nunatsiavut Government and one in Nain. So we have those five trained operators who will be operating that boat. It's an aluminum – I don't know, Perry, you might – is it a 22-foot boat?

P. DYSON: Twenty-eight.

B. ANDERSEN: Twenty-eight foot boat. So it's larger vessel. It will have the rescue equipment on board as well. So that will help out our local – the local's auxiliary team, which you will see the same names as our ground search and rescue team as auxiliary Coast Guard members.

THE COMMISSIONER: So if you have a VHF transmitter on Monkey Hill, how much area would that cover, potentially assist the people with VHF radios?

B. ANDERSEN: From my background with the RCMP, the RCMP has a repeater on Monkey Hill as well. And at the Cape Harrison site where Todd Broomfield and the two others were stranded, we could communicate by radio – with the RCMP radios, as far as Cape Harrison, which is about 85 or 86 nautical miles, I think it is, as the crow flies from here. So it would give us greatly enhanced coverage.

THE COMMISSIONER: How about going north? Are there any similar type of repeaters, transmitters?

B. ANDERSEN: Yeah, I think there is one in Hopedale. Well, there is one in Hopedale on the point, very low down. It don't give very much coverage. We can't pick up a whole lot of coverage from here from that repeater. And there is one in Nain. I believe they put one last year in Saglek.

THE COMMISSIONER: All right. Gentlemen, please.

G. BUDDEN: Thank you.

Anything arising out of that, Counsel?

M. FREEMAN: Mark Freeman, representing the federal government.

So I just say we do have later stages of this inquiry where we are going to get into policy and bigger-picture questions and if there is some benefit to bringing somebody from the Canadian Coast Guard or DFO, I would be happy to look into that and I would imagine – I have been liaising with them all along. We didn't bring them to this particular round table, but I'd be happy to try to bring them to Memorial University to speak to some of the issues that we are talking about here today.

THE COMMISSIONER: That would work.

M. FREEMAN: Thank you.

G. BUDDEN: Thank you.

Thank you, Mr. Andersen.

If there are no further questions for Barry Andersen, I would ask that Richard Smith proceed with his commentary on this particular search – the one we heard about this morning.

B. ANDERSEN: Mr. Budden, could I make a comment from some comments that were made here yesterday to the commission –

THE COMMISSIONER: Yeah, go ahead.

B. ANDERSEN: – Mr. Commissioner?

Thank you.

I spoke with the lieutenant colonel yesterday after the break, and we spoke about the different types of aircraft that the lieutenant colonel mentioned in his testimony yesterday. He mentioned that the 103 Cormorant helicopter and the 444 helicopter, which is the Griffon – it was sort of misunderstood, I think, that those helicopters had the same capabilities as the chartered helicopters from Universal.

We just want to make it clear that those helicopters that the province has flied – VFR, which is visual flight readings, they don't have the capability to get above the clouds and that sort of thing.

Am I correct there, Lieutenant Colonel?

J. MARSHALL: Lieutenant Colonel Marshall.

Yes, you're correct. I'm unaware of the capabilities at Universal, but if they're VFR only, then we have more capability to fly within the cloud. But the point I made yesterday was there is no difference between Griffon and Cormorant when it comes to capability, and all aviation has to follow the aviation rules of Canada. So he would be following under the same rules, but we do have the ability to fly IFR and at night, which would be above what Universal would be able to fly.

B. ANDERSEN: Thank you, Mr. Commissioner.

G. BUDDEN: I should – just before Mr. Smith speaks, we will get into his credentials and experience at another stage of the inquiry. Just briefly for now, Mr. Smith has been retained by the commission to offer us advice and expert guidance with respect to search and rescue based on his approximately 40 years' experience as an RCMP officer and, later, as a consultant in the field of ground search and rescue and other forms of search and rescue.

So, obviously, Mr. Smith, if you wish to add to that, please do so, but that's just setting the stage for this comment.

R. SMITH: Mr. Commissioner.

Barry, Sir, I just wanted to say that, you know, Bravo Zulu, which means very well done. Outstanding job by you and your team, Sir. It's always interesting to – for some people that come from different areas to, you know, have a look at these cases, and I've been very fortunate to work with great men and women in many different fields over the years, in mountain rescue and task forces for urban SAR and hurricanes, tornadoes. And I can tell you right now that it's an outstanding job indeed.

The combination of high-tech resources and your local education, training and knowledge has proven that you do have (inaudible) and credibility of ground search and rescue team to bring that interoperability between the federal side of the house and also the local GSAR in the authority of the RCMP. And you use that local, traditional knowledge to go out there on the land and push the envelope, go beyond what is generally required of ground search and rescue. It's just, again, a really outstanding job.

It does take that local knowledge to really understand the lay of the land, and for those that have lived up in the Arctic and other places – we all know that. But you set your goals and objectives. You developed your strategies and your tactics to meet the mission requirements to assist the Department of National Defence and JRCC in meeting these mission goals and objectives, and nobody can take that away from you and you deserve a lot of credit and to be recognized nationally for this outstanding job. So thank you, Sir, and also your team.

B. ANDERSEN: Thank you on behalf of the team as well.

THE COMMISSIONER: Yeah, I think that those of us who know Richard Smith, it would be very wonderful for Labradorians to understand that him and his wife own and run a team of 14 dogs. They have 14 Siberian Huskies. They use them for their own purpose, but they use them all year around. So he understands small communities; he understands remote communities and travelling in the North as well.

M. FREEMAN: Mr. Commissioner, I think Sergeant Williams might have something to add there on this topic as well.

D. WILLIAMS: Yes, Sergeant Williams here.

I just wanted to note, I know we are speaking of the 2019 search. Certainly, we've all seen the quality of that and just how dangerous things are. The team is set to be formally recognized with a commanding officer's commendation within the next few weeks. Our acting commanding officer is set to come into the community with a formal recognition for that that had been put in for back at the time,

recognizing the wonderful job that they have done on that. So I just wanted to make note that certainly we recognize, from the federal and to RCMP, just how amazing that search was.

G. BUDDEN: Do counsel have any questions for Mr. Smith?

Okay, I gather that there are no such questions. So, unless the Commissioner has further comments or questions, we can close this phase of today's evidence and perhaps take a moment to help people to rearrange their seating and proceed to resume Mr. Freeman's presentation of the federal evidence.

CLERK: All rise.

THE COMMISSIONER: Ten minutes, please.

Recess

CLERK: All rise.

This commission of inquiry is now in session.

Please be seated.

G. BUDDEN: Mr. Commissioner, we're now ready to resume the federal panel, and Mr. Freeman, as previously was done, will be doing the direct evidence of the federal witnesses.

M. FREEMAN: Thank you, Mr. Commissioner, and thank you, Mr. Budden.

Again, for the record, it's Mark Freeman from the Department of Justice Canada and with is today we have the – we've been calling the federal panel of Lieutenant Colonel James Marshall, Sergeant Danny Williams, Corporal Stephen Howlett and Sergeant Kimball Vardy. In particular, this morning, we will be asking most of our questions of Sergeant Vardy and Corporal Howlett, going into the chronology of the search itself.

So good morning. Corporal Howlett, perhaps you can introduce yourself and tell us where you are now and where you were in 2012, Sir.

S. HOWLETT: Yes, Mr. Commissioner. My name is Corporal Stephen Howlett. I am

currently posted to the RCMP Mary's Harbour detachment in Southern Labrador.

At the time of this incident, I was a constable in Makkovik; at the time had been here for probably just over a year when this incident took place.

M. FREEMAN: Thank you.

And although, Sergeant Vardy, you introduced yourself yesterday, you can perhaps, just for the record and for everybody's purposes here today, you can tell us where you are now and where you were in 2012.

K. VARDY: Certainly.

Good day, Mr. Commissioner. My name is Sergeant Kimball Vardy. I am currently in Clarenville-Bonavista district as an operations NCO. I was here as NCO in charge of the detachment in 2012.

M. FREEMAN: Thank you, Sergeant Vardy.

And so in the records we'll sometimes see you referred to as Corporal Vardy, I believe, and Constable Howlett. Is that correct, gentlemen?

K. VARDY: That's correct.

M. FREEMAN: That was a number of years ago now, so we'll – I'll try to stick to Sergeant Vardy and Corporal Howlett as much as I can, but if I slip into the opposite titles I'm sure you won't be too upset with me.

K. VARDY: No worries.

M. FREEMAN: Thank you.

Okay, let's start at the outset of this incident on January 29, 2012. Where are you, Sergeant Vardy, at that time, precisely, in town?

K. VARDY: So on that evening we were at supper at a friend's house. After supper, we received a call, actually Rodney Jacque, the father of Burton, came to look for us, asking me if my stepdaughter, Hayley, had seen Burton. Burton didn't come home for supper.

M. FREEMAN: I just need to stop you, Sergeant Vardy, for a second to make sure that before we go too far, we have audio-wise okay. You almost got to eat the microphone, it seems like. And sometimes it gets really loud in here, of course, so you have to get close to it there.

Thank you.

K. VARDY: So Rodney had come to check to see if my stepdaughter, Hayley, had seen Burton. I left the residence I was and went home to see Hayley and asked her if she'd seen him. She indicated no. At that time, basically, I – it was more along the lines of helping a friend and helping a community member, basically, to search for their son or to look for him really. Because, at that point, we didn't think he had gone very far, he was just somewhere in the community with his friends or he just didn't go home at that point.

So we started to look and called for Constable Howlett – for Stephen – to give us a hand. We said we'd meet at the office now and we'll formulate how we're going to go and start looking for Burton at the time.

M. FREEMAN: Thank you.

I'm going to try and take you through in as much detail as I can. So I may – I don't want to interrupt you but I will try to break it down as much as I can and draw out any facts that we can as we go along. So what we'll do is we'll open up, Madam Clerk, if you may, please, Exhibit 017.

So Exhibit 017, and if you could, please, we'll scroll down to page 5. These are the notes of Constable Howlett, now Corporal Howlett, correct?

K. VARDY: That's correct.

M. FREEMAN: Okay and this is what's known as the RCMP PROS file, is that right?

K. VARDY: Yes, that's correct.

M. FREEMAN: So here we see a chronology that's been written by your colleague, Corporal Howlett.

K. VARDY: That's correct.

M. FREEMAN: Thank you.

I'm going to use this chronology as we go through – you also have entries in PROS of your own in the form of a supplementary occurrence report, is that right?

K. VARDY: Yes, that's correct.

M. FREEMAN: If you want to go there at any time, please let me know and we can jump to that chronology that's more from your – that you've typed from your perspective. So it's just a few pages down from there, we can get there very easily.

K. VARDY: Certainly.

M. FREEMAN: So I'm looking at the time of day there 1940. This is when Corporal Howlett would have become involved. Is that right?

K. VARDY: Yes, that's correct. So it was probably about 10, 15 minutes after I had checked to see if he had been with Hayley.

M. FREEMAN: And so what sort of information did Ms. Jacque give you right off the beginning of the incident? She wants to know if you can speak to Hayley. Did she say anything else, other details about what the situation is, why that is?

K. VARDY: I spoke with Rodney Jacque, initially.

M. FREEMAN: With Rodney – excuse me, I'm sorry. And so – and what did Rodney Jacque say to you, again, if you could get into the details of that a little bit, please?

K. VARDY: He had explained that Burton had dropped off his cousin at the grandmother's place, which is – which was right on the back of my house, and Burton had left on the snowmobile, but they didn't know where he was. He didn't show up at supper. They became concerned and they started to do a quick little search around, and then started checking with his friends. Hayley was one of his friends so they checked with her.

M. FREEMAN: So your daughter and Burton were friends here in the community?

K. VARDY: That's correct, yes.

M. FREEMAN: Okay.

And so from your perspective then, what happened next, Sergeant Vardy?

K. VARDY: So, at that point, we got Stephen involved. We started looking around and we said, well, we'll contact Barry, because the three of us work together, work pretty closely at the office. We contacted Barry, Barry Andersen. He came out to the office. At that point, we began to say, well, we're checking different buildings, different places around. We're going to go from there, call in some search and rescue personnel and start doing some quick, hasty searches because it was getting late and the weather was – was getting bad.

M. FREEMAN: And maybe you can elaborate on that quick, hasty searches. That word “hasty searches” sounds, from a layperson's perspective, almost like sloppy or something. What is hasty searches? Tell us a little bit about that.

K. VARDY: So a hasty search is a quick search of a high-probability area. So you're not doing a full, detailed search, but you're doing a quick search in high-probability areas to eliminate those areas.

M. FREEMAN: Okay, thank you.

So if we go to page – the same exhibit, page 17 – or sorry, excuse me, Exhibit 017, page 24, Madam Clerk, please. That's where we'll see Sergeant Vardy's notes start.

You can see that first block paragraph, it's about 1930 – in fact, 7:30 when this – again, some of these times are approximate; is that right?

K. VARDY: Yes, that's correct.

M. FREEMAN: It says: The member – of course that's you, in this case, the writer – received a call from Mike Bishop wondering if Hayley, member's stepdaughter, had seen Burton Winters. Do you see that?

K. VARDY: Yes, that's correct.

M. FREEMAN: Okay.

And so it was Mike Bishop who called originally. I'm just trying to get ...

K. VARDY: So, basically, Mike Bishop and Rodney were friends. They were actually having supper at the same time when Rodney was looking for Burton. So Mike Bishop, knowing my number as well, is also a friend, he called us and that's when we started to talk with – that when he spoke with Rodney and also Mike.

M. FREEMAN: Okay, thank you.

And so, you get that information that Burton hadn't been seen since about 1:30 p.m. that day.

K. VARDY: That's correct, yes. That was when he had dropped off his cousin at his grandmother's house.

M. FREEMAN: Around 1:30 on the afternoon of the 29th?

K. VARDY: The 29th.

M. FREEMAN: And it says here that you contacted your colleague, Constable Howlett, as you've already said, “and we began to check around town.”

K. VARDY: Yes, we were looking into other friends' houses, checking with friends, trying to assist Rodney and checking around town, basically, at that point. Then, as we started running out of options around town, we said, well, the weather is getting bad; maybe he had driven the Ski-Doo on some of the back paths around town or just outside of town. So we said, well, maybe we might want to call in some more assistance.

We spoke with Barry Andersen. Barry suggested calling some hasty searchers to get this done quicker – sooner than later, really.

M. FREEMAN: And it says here – and, again, still in this first paragraph of your PROS notes, you know, Facebook was checked and there was no update on Winters's profile.

K. VARDY: Yeah, so typically back then, there's no cellphone service here in the community, so a lot of the youth would be given access to their friends' families Internet service. So they would communicate with each other. So if the kids all came to my house, they would have access to my Internet service, they would have access to be able to text each other or go on Facebook and communicate with each other, other people in the community that have access to that service.

M. FREEMAN: So you're picking up the Wi-Fi from various buildings and houses around town –

K. VARDY: Yeah, that's correct.

M. FREEMAN: – sharing data.

K. VARDY: Yeah, and that's how they would communicate with each other through – a lot of times through Wi-Fi – through the Internet services of family members or places around town.

M. FREEMAN: Okay.

So tell me now – so what happens next? You're – you've got this information that Burton has been not seen since 1330 hours; you're starting to gather some evidence. And what evidence are you getting, and where is it leading you?

K. VARDY: So right now, at that point, in speaking with the family, Burton's not a youth to be doing a lot of going by himself. Him and his cousin, Willie, were very close. They spent a lot of time together. Burton wasn't a person to be going off on excursions, basically, by himself outside the community. So in speaking with the family, we're thinking, okay, he's got to be close. He's not too far away, so let's start close and really give the community a good search.

M. FREEMAN: And so – just to summarize, your understanding at this time – it's 7 p.m. on the 29th – is that Burton went to his grandmother's and had not – earlier in the afternoon but had not been seen since 1330 hours – 1:30 in the afternoon on the 29th.

K. VARDY: That's correct.

M. FREEMAN: And that he had dropped off his cousin, Willie Flowers –

K. VARDY: That's correct.

M. FREEMAN: – at Burton's grandmother's place.

K. VARDY: Yes.

M. FREEMAN: And he had left alone on snowmobile from that location but no direction is known.

K. VARDY: There was no direction of travel that we knew at that point in time. You're in a community of snowmobile tracks, so there are snowmobile tracks going everywhere, which one do you follow for one thing? So you start eliminating the highest areas of probability, checking with friends, see if he's been in communication with anybody, checking his Facebook, that type of stuff.

M. FREEMAN: It says: Member contacted Howlett. So you call Steve. How do you – you're having dinner at one house and Steve is having dinner at another. How are you guys communicating at that moment – at that time, do you remember?

K. VARDY: We would either call each other on the phone or through the radio, the RCMP radio.

M. FREEMAN: Okay, thanks.

And you say: Member contacted Howlett and we began to check around town. So perhaps this is a good time for Corporal Howlett to jump in a little bit and talk about how you began that check around town.

S. HOWLETT: Okay, Mr. Commissioner, it's Corporal Stephen Howlett.

Yeah, actually, just to clarify, Corporal Vardy and his family and my family were actually at the fishery officer's house for supper that evening.

M. FREEMAN: Excuse me, you were both there together?

S. HOWLETT: We were there together.

M. FREEMAN: So you wouldn't have needed to contact each other, exactly.

S. HOWLETT: That's correct.

M. FREEMAN: Thank you.

S. HOWLETT: We went home shortly after dinner that evening. By all accounts, it was a normal day in Makkovik. Certain things I can remember about that day, we maintain an outdoor rink – the community maintains an outdoor rink and we were doing that while we were posted here. And that particular day, I can remember clearing off the rink and we stopped because of the heavy snowfall at the time.

M. FREEMAN: Around what time of day was this, Corporal Howlett?

S. HOWLETT: Just going by memory, it was before supper, mid-afternoon, 2, 3 o'clock I believe.

M. FREEMAN: Okay.

S. HOWLETT: And that's strictly just going by memory.

So, yeah, we were at the fishery officer's house for supper, like I said, my family and Corporal Vardy's family. We returned home shortly after supper, and that's when Corporal Vardy contacted me at home and he advised that he had spoke to Rodney Jacque and Mike Bishop, and they had been looking to speak to Kimball's stepdaughter at the time. And they were looking to speak to her just to see if she had seen Burton that day. Hayley and Burton were friends and they were just trying to get some information on if she had seen him and where he could be.

So Kimball asked me, he's like – he basically said: You know, maybe we should be at the office and we'll help out; we can do some quick searches and we can check some places as well.

I'm just going to refer to my notes here and –

M. FREEMAN: So just for so everybody is looking at the same thing, you're going to page 5 of Exhibit 017 now, I think. Is that right, Corporal Howlett?

S. HOWLETT: That's right.

M. FREEMAN: Okay.

S. HOWLETT: Myself and Corporal Vardy, we spoke to Willie, which was Burton's cousin and best friend, at the time, and Corporal Vardy already alluded to this, we didn't gain much information. Willie was able to say that Burton had dropped him off at 1:30 in the afternoon but he didn't see him drive away from the house, so there was no direction of travel.

So, at that time, it was 7:40 in the afternoon and the snowmobile track would've been covered with snow or other tracks of other snowmobiles. So it's not a case where we can pick up the snowmobile track and follow it. That would've been covered with snowmobile tracks and snow.

After speaking to Willie, we attended the detachment, and we started to make some telephone calls just to get some information, to speak to some people and see if we can gain any further intelligence to assist us.

M. FREEMAN: So at this time it's still in the hour of 7:40, 7:30, 7:40, 7:45 in Makkovik time.

S. HOWLETT: Yeah, it's in that vicinity: 7:40, 7:45. As you can see documented on my general report, at 7:45, that's when I would've contacted Community Constable Andersen. And as Kimball alluded to, Barry worked with us as a community constable in the detachment at that time, so the local knowledge that Barry brings to us is impeccable. He's very informative; Barry has lived there all his life.

M. FREEMAN: So he's the Makkovik community constable and he's interacting with you and working with you as you go?

S. HOWLETT: Yes, that's correct.

And so we contacted Barry and he came to the detachment and, you know, I can remember in the office having a brief discussion of how to proceed now.

M. FREEMAN: And so before we move on from 1940, 7:40 p.m., you mentioned there was no direction of travel known, but I don't know if this was already mentioned. So it was reported

that Burton had been out with the Canadian Rangers early in the day, earlier on the 29th, and they had been around the Killman Pond area. Can you tell me a little about that?

S. HOWLETT: That's correct. We did gain information that Burton was a member of the Canadian Junior Rangers and they had an exercise at Killman Pond, which is, I guess you'd say, south of Makkovik. I can reference it on the map if you wish.

M. FREEMAN: Okay.

So we have Exhibit 169 behind you, which is the big map that's been provided by the commission of inquiry.

S. HOWLETT: Yeah.

M. FREEMAN: It may not be easy for everyone to see, but we can certainly do our best to all be able to see it.

There should be – there's a handout, as well, for people if they want to pick those up.

S. HOWLETT: So Killman Pond is – well, this is Makkovik here, Killman Pond is a little south – there's actually a little brook that runs into Makkovik and goes into Killman Pond and there is a snowmobile trail that leaves to town of Makkovik and goes to Killman Pond.

M. FREEMAN: And I really – one of the things I'd like you to do is – hopefully the Commissioner is able to follow along too, so don't stand for me, for sure. It's more for the family and the Commissioner. I know that's a difficult spot you're in, but if you can help to do that.

S. HOWLETT: Sure. I can turn this if you wish.

THE COMMISSIONER: That's fine. I can see it. Thank you.

S. HOWLETT: Okay, so it's – this pond that we're referring to, Killman Pond, it's relatively close to the community. I can't tell you how many kilometres. It's like a 10-minute ride on snowmobile. And the information we had received is that the Junior Rangers had the

exercise in this area on that weekend and earlier that day.

M. FREEMAN: So what's Burton doing at that event? Can you tell me a little about what you understand about that event and what he would've been doing in terms of activities and that?

S. HOWLETT: I'm not sure the exact activities that they were doing that day. I just know that him and the other Junior Rangers had been doing an activity in that area.

M. FREEMAN: And what's the general – what's your general idea of what the Rangers do, I guess?

S. HOWLETT: Yeah, so the Canadian Junior Rangers – and Barry is heavily involved in this as well – they teach kids survival skills: buildings fires, et cetera. They do some GPS work. And I don't know, Kimball – I know you had a kid involved with the Junior Rangers when you were here, I don't know if you want to add to that, but that's the general ...

M. FREEMAN: Yeah, I was going to say, use your mic.

K. VARDY: Yes, it's Sergeant Vardy, again.

That is correct. The Junior Rangers is – it's a junior portion of the Canadian Rangers and it's a youth program that they help kids do survival skills, you know, building shelters, building fires, GPS tracking, GPS movement, that thing. So it's a good program for the kids to learn those skills.

M. FREEMAN: Okay, thank you.

So if you could call up Exhibit 101, page 81, please, Madam Clerk.

This is another map, it's similar to the one that's been blown up at Exhibit 169, but it's another source of map in the file. One thing I just – you had mention, you weren't sure of distances so this map helps me from that perspective. You see that map there, Corporal Howlett?

S. HOWLETT: Yes, I do.

M. FREEMAN: Okay. And do you see that there's a grid on that map, a grid pattern?

S. HOWLETT: That's correct.

M. FREEMAN: And if you move up, Madam Clerk, please, we've got 10 kilometres per block there.

Is that – do you see the – there it is.

S. HOWLETT: That's correct. I see the horizontal line with 10 kilometres per block.

M. FREEMAN: Right. That just helped me a little bit to understand the scale of this. Does that seem accurate to you? I just want make sure that we don't go down the wrong path.

S. HOWLETT: Yeah, going from memory, it looks accurate to me.

M. FREEMAN: So each one of those blocks on that map is 10 kilometres across?

S. HOWLETT: Correct.

M. FREEMAN: Okay.

So what else do you see in that map? You can identify the town of Makkovik I would imagine.

S. HOWLETT: Yes.

M. FREEMAN: And you can – can you see Killman Pond on there as well or is it not – too far down?

S. HOWLETT: Yeah, it's pretty small. I can't really identify it on that grid.

M. FREEMAN: That's okay, thanks.

If anybody wants to get a sense of distances as opposed to times, because I know we talk in time travel mostly, distances travelled, this map at Exhibit 101, page 81, could be helpful to people, I guess is all I'm driving at here.

All right, thank you.

So you have this information as well about Killman Pond and the Rangers' activities earlier

on the day of the 29th. And we're again back at Exhibit 017, please, at page 5.

Thank you.

And so in the second entry that says 1940, you talk about Willie and his not being able to help you with a direction or a likely direction of travel at that time. And you mentioned some others areas here as well: Ranger Bight and Killman Pond. Is that right?

S. HOWLETT: That's correct.

M. FREEMAN: All right, so you're gathering more evidence, and where is this leading you and what's the next step in the investigation and in the search?

S. HOWLETT: Well, at that time, Corporal Vardy, actually had advised me that Mike Bishop and Burton's dad, Rodney, they were going to travel to Killman Pond to check that area just to see if there was any sign of Burton, if he had returned to the site of the exercise.

M. FREEMAN: Right. So – and the thinking on that is that he's at the Rangers on the morning of the 29th, and what's the thinking there?

S. HOWLETT: I guess there's a possibility he could return to that area. There's a good snowmobile trail that goes in there, too, that leaves town, so there's a possibility that he could've went in that direction.

M. FREEMAN: Okay, thank you.

And then you said – anything else you wanted to say about those early moments of the search? You know, you're having dinner together here in town and then Kimball contacts – excuse me – Sergeant Vardy contacts you and says what's happening. You start to gather some information and you – and the next thing you do is contact Community Constable Andersen.

S. HOWLETT: That's correct. And that was the initial stages of how – that's the framework, we'll say, of how the search started, I guess.

M. FREEMAN: And you – so back at 1940, you gather some information about the make and colour and model of the Ski-Doo. Is that right?

S. HOWLETT: That's correct.

So we went and we spoke to Burton's family to gather further information. And we just asked standard questions I'll call them, you know: the type of Ski-Doo he was on; clothing he may have been wearing; his experience on the snowmobile; mechanical issues of the snowmobile; his experience on the land. We tried to get an understanding of his mindset the last time he was seen. It seemed – you know, we asked questions about, like, is he in possession – could he be in possession of lighters, matches, that sort of thing. They're pretty standard questions.

M. FREEMAN: Lighters and matches, you're asking – I think I know why, but for – you want to know this because ...?

S. HOWLETT: Because if – you know, we always wonder if someone does get themselves into a situation, do they have the ability to start a fire. And these are, I guess, what I would call normal questions, procedural questions we would ask in this type of situation.

M. FREEMAN: Survival skills purposes.

S. HOWLETT: Yeah, his experience on a snowmobile, et cetera. Just standard questions.

M. FREEMAN: And one thing I don't want to gloss over – you mentioned it, but I want us to see what it – how it impacted what you were doing.

So Willie did advise that Winters does not usually go far on the snowmobile. This is 1940; it's the second box in your PROS entry there at page 4 – page 5, excuse me. So what does that piece of evidence do to what you're doing?

S. HOWLETT: And Kimball alluded to this in his earlier testimony. We're just trying to – the highest probable places, we call them, that we could be. And, for example, if we were given information that he goes to Killman Pond every day, well that would make us want to focus on Killman Pond. So we're just trying to get a general idea of where he may have gone.

M. FREEMAN: Okay.

So before we bring in Community Constable Andersen, that's the next step here, is there anything else, Sergeant Vardy or Corporal Howlett, you want to tell us about the very early evidence gathering and decision-making?

S. HOWLETT: It's Corporal Howlett here once again.

Just as I said, we spoke with the family, there was nothing there that jumped off the map, we'll say, at us. It seemed like a generally normal day for Burton at that time. There was nothing there that I can highlight that –

M. FREEMAN: Thank you.

So I'm looking at the entry, then, at 1945, 7:45 in Makkovik time. What's the, you know – I think I know, but what's the light like at that time of day in town? It's dark by that time, obviously, well dark.

S. HOWLETT: Yeah, it was well dark by that time.

M. FREEMAN: And how's the weather?

S. HOWLETT: It's snowing – heavily snowing at that time.

M. FREEMAN: And anything else you can tell me about the weather? Heavily snowing, what does that do to what you're doing?

S. HOWLETT: That day in general, even when it was daylight, there was a really low ceiling. A low ceiling, I guess, we'll call, is an aviation term. There was a lot of overcast and I can remember it was heavily snowing big, wet snowflakes. And it was like that that evening and then it got dark and the snow continued. It was still snowing – when we were gathering at the office, it was still snowing pretty heavy.

M. FREEMAN: Okay.

And so you contact Community Constable Andersen at the time. So now you have Sergeant Kimball Vardy, Corporal Stephen Howlett and you have your Makkovik Community Constable Barry Andersen involved.

S. HOWLETT: That's right.

M. FREEMAN: And then this is when this hasty – the phrase “hasty searches” comes up here, as you see the box at 1945 – were organized.

S. HOWLETT: That’s correct.

M. FREEMAN: So what did – my understanding is, essentially, Sergeant Vardy is in charge. He’s the detachment commander; is that right?

S. HOWLETT: That’s correct.

M. FREEMAN: And you are assisting him in the search.

S. HOWLETT: Yes, it’s a two-man detachment so he’s the detachment commander and I’m – I guess for all intents and purposes we’ll say I’m his right-hand man at the detachment.

M. FREEMAN: And you’re assisting him with the search. You’re listed as lead investigator on the PROS file.

S. HOWLETT: That’s right.

M. FREEMAN: That’s normal.

S. HOWLETT: Normal procedure, yes. One of us will – whoever takes the file will become the lead investigator, although two of us worked on it.

M. FREEMAN: Right.

And once this becomes a search and rescue, or a search under the RCMP policy, you have Community Constable Andersen who wears a lot of hats in town. He is the search manager from a NLSAR perspective, is that correct?

S. HOWLETT: That’s correct. Like you just said, I mean, Barry wears a lot of hats in town. At what times does he change his hat is a convoluted thing we’ll say.

M. FREEMAN: Sure.

S. HOWLETT: Because he’s responsible for so much, but Community Constable Barry Andersen was in charge of GSAR in Makkovik.

M. FREEMAN: And in terms of involvement in the field operation, Barry Andersen is out there the most, the furthest out away from the detachment. You were out in the field as well and then Kimball is more so in the office for the most part; is that fair?

S. HOWLETT: That’s correct.

M. FREEMAN: Do you agree with that, Sergeant Vardy?

K. VARDY: Yes, that’s correct.

M. FREEMAN: Okay, thank you.

So Community Constable Andersen, or Mr. Andersen, was contacted and several hasty searches of the area were organized. What can you tell us about that? So I’m at 1945.

S. HOWLETT: Okay, Corporal Howlett once again.

Constable Andersen, yeah, he started doing some hasty searches. Denley Jacque, as you can see in my documentation, was also present. They done a secondary patrol, we’ll call it, to Killman Pond and out through Ford’s Bight, and that’s the route that the Rangers had taken home earlier in that day. Community Constable Andersen would have been familiar with that route because he is part of the Canadian Rangers as well.

At that time, we had contacted some other members of the community. Whether they were involved in ground search and rescue, I can’t remember. I’m assuming they were. They started to also do some small hasty searches. At that time, Corporal Vardy would have been at the detachment to try and keep some kind of organization to the hasty searches. We needed to keep in account who’s gone where and what they’re searching at that time.

And as you can see in the documentation, as time goes later on in the evening, obviously, the hasty searches – the hasty search, they start to intensify to different places. And I can just read out some of the places, if you wish, that’s documented on my report in terms of where we searched.

M. FREEMAN: Sure. And they're there for everybody to see. And Barry – excuse me, Mr. Andersen has labelled the map with some of them; you don't need to get into finding them again for us. He did do some of that, but, yeah, there's no harm in you going through those and telling us about why these areas and what it was you were doing.

S. HOWLETT: So at 1945 you'll see right under my – the paragraph I had documented there, you'll see the places that were searched were: Makkovik Bay; Boats Cove; Marks Bight; Kaipokok Bay; Killman Pond; Monkey, which was in around the base of Monkey Hill; Sharp Hill; Big Island; Bens Cove. All cabins in Boats Cove were searched. So in Boats Cove, there are cabins in that cove and we had all those cabins searched just to see if anybody had been there that day. Ford's Bight, and we searched all the trails in and around the town of Makkovik. There are some small snowmobile trails that are close to town and run through town. We had all those searched. Ranger Bight Pond, airstrip, Hare Hill, Tilt Cove, Grassy Point, Point of the Bight, The Slant, Indian Head and the Moravian Woods.

M. FREEMAN: Okay, thank you.

And this whole entry is – starts at 1945. The next entry after that is 2346, so while this does ramp up very quickly, there's a lot that happens in this time frame.

S. HOWLETT: Yeah, that's probably alluded to the fact that I was out on some of these hasty searches. But that's when things were starting to move forward, we'll say.

M. FREEMAN: Once Mr. Andersen is activated, NLSARA is activated, is that – the RCMP are tasking now at this point to do the search, but the RCMP are in charge of it?

S. HOWLETT: Yes, that's correct. Now, the exact time that that changeover took place I wouldn't be able to comment on it.

Corporal Vardy, I don't know if you can comment on that.

K. VARDY: Corporal, or Sergeant Vardy. They promoted me.

At that point in time, it's pretty fluid. We're working together. All three of us are used to working together, and where does one person take off the hat and put on the next one is not really defined by a specific time frame-type thing. But, you know, at that point in time, we are getting further into a search. We're bringing in more resources, which are the hasty searchers. And Barry Andersen is being tasked, at that point in time, to say: We need to bring in some hasty searchers because we need to expand this into a bigger search than what we were doing in the beginning, right.

M. FREEMAN: Right.

And, I mean, we heard the list that Mr. Andersen read off and the list that Corporal Howlett just read off of places that were searched. It's not as if it was you and Corporal Howlett and Barry out doing this. This was once – at some point during this time entry here, a lot more people get activated.

K. VARDY: Yes, it's the three of us and plus Burton's dad and friends. And even so much at that point in time you're getting into some of the students are checking houses. And people in the community, it's a small community, and people start to know that we were looking for Burton and they're checking their own houses, they're checking their sheds, they're checking any place that Burton may be at that point in time.

M. FREEMAN: So what are you doing to get the word out at this point to the community?

K. VARDY: Well, it was put on – a message was put on Facebook, different people in the community were calling each other, we had searchers going house to house looking for – looking for the snowmobile, looking for different indications of where Burton may have gone.

M. FREEMAN: And so, I mean, again, for someone who is not a search and rescue person reads a bullet that says – a bullet point that says: "All Cabins in boats cove were searched," was one of the entries; "Makkovik - Whole community." That's a lot. There are a lot of people helping you. Is that right?

K. VARDY: Yes, that's correct.

And it alludes to the fact that we had spoken with the family earlier and Burton was a bit upset when he left home about his computer privileges being taken away, and that sort of leads to his frame of mind at the time. Basically, we had known that at one time previous to this he had his computer privileges taken away and he had gone and hid away in the school. So that's driving our search efforts to check all of these possibilities. So, you know, we searched the school, we searched the hotel; there was a light on in the hotel and we went and got the key to the hotel and we went and searched it.

In the community there's fire hydrants, and the fire hydrants all have a shelter with a heater inside. So we don't know if he's hiding in one of those shelters. So we're searching every one of those. We're searching houses, outbuildings, any place that might be possible that he might be hiding. Because, at this point in time, we don't have a direction of travel, we don't have any indication of where he might have gone. So we're knocking off all the high-probability areas that Burton would know about.

M. FREEMAN: Okay. Thank you.

And so we're into page 6 now of Corporal Howlett's notes here. We have gone through the list of the places that were searched extensively in a hasty search. It says "The Family was kept abreast of efforts from the Search Teams." Who was doing that?

S. HOWLETT: I think I went to the family's house that night. I think I actually went to a friend of the family's house and updated Natalie. And Rodney Jacque was at our detachment for some of this, he stayed in the command post, we'll call it. In our policy in the search and rescue structure, you'll see that we set up a command post where all telephone calls would go to that command post and that's where Kimball Vardy stayed for most of the search, we'll say. So Rodney – initially Rodney was at our detachment throughout that evening so he has been updated on what was taking place at that time.

And just to touch on what Corporal Vardy mentioned, I guess when this initially – when it came in, it didn't come in as, you know, your overdue snowmobiler, for example. It didn't

come in as John Doe left Hopedale, he's heading to Makkovik; he hasn't arrived yet. It didn't come in as that kind of call. It came in as, you know, Burton left his grandmother's at 1:30 and nobody has seen him. So we had to – given that information, we still had to eliminate places in town. And as Kimball spoke about, we done the high probable areas first.

M. FREEMAN: Before you go on, I wanted – the thing about the computer you mentioned there, and Burton having been up on his computer late the night before. There was no – I see here in the bullet – I am looking at this bulleted list here and I am looking up – one, two, three, four, five up from the bottom: "Burton did not appear upset." This didn't seem to be a motivating factor or anything like that.

S. HOWLETT: Yeah, Mr. Commissioner, it's Corporal Howlett.

We were made advised of that information, and you will see on my report, page 6 – Exhibit 017, page 6, you'll see a little note there that I documented. When we spoke to his parents, you know, we ask questions like was he upset or what was his frame of mind. And the information we did learn was that he had lost some computer privileges, but, as you'll see documented in my report, he didn't seem to be upset regarding that. I mean, you never really know but he didn't seem upset.

M. FREEMAN: Okay. But you did have a piece of information where maybe he would go to the school before to use the computers and to maybe hide at the school to do that.

S. HOWLETT: Exactly. When you learn that piece of information and you get an additional piece saying the last time his computer privileges were taken, he went to the school one time. So the obvious thing to do is you're going to go to the school, and we got the keys and we searched the school. I was actually one of the members who went to the school and we searched everything in the school, every lockers, upstairs, downstairs.

M. FREEMAN: You searched every locker in the school, all the computer areas and everything like that in the school?

S. HOWLETT: Yeah, we searched the whole school.

M. FREEMAN: Okay.

You can see this is a list of information you're gathering to help with your search, is that right?

S. HOWLETT: That's correct.

M. FREEMAN: And is there anything in particular there that you would like to highlight that was influencing your decision-making at that time? Or maybe all of it was. I don't know, you tell me.

S. HOWLETT: Yeah, I guess it's an ongoing thing; you're learning information as the night goes on. But it seemed like an ordinary day from what we had learned.

M. FREEMAN: What is the significance of "This is Burton's first year operating a snowmobile"? What that's – and he's not an experienced hunter on the land. What are you gathering this information?

S. HOWLETT: It's just important, I guess, to document that information. Again, it's standard questions that we ask. You know, someone experienced on the land would easily be able to make the track from Makkovik to Goose Bay because – so we got to try and – I guess we're exploring options of where he could have went.

M. FREEMAN: The second last bullet there where you're learning that "Burton does not usually go out on the ice, told to stay off it by his dad, Rodney JACQUE." Is that another piece of information you gather at that time? What's the significance of that for your search?

S. HOWLETT: It's just that – well, when you're doing the hasty searches, I guess, at the beginning of the search it just kind of directs where you're going to put your search assets and do your hasty searches, I guess, we'll call it.

M. FREEMAN: Mm-hmm.

S. HOWLETT: And yeah it's just another piece of information that we learned that night.

M. FREEMAN: All right.

You add again in the note below that while he had a small disagreement with his parents about the computer, he didn't appear to be that upset about that and it didn't seem to be much of a factor.

S. HOWLETT: That's correct at that time.

M. FREEMAN: Thank you.

Okay, so I think at this point, Sergeant Vardy, is there anything else you want to add about the searching and conditions on the evening of the 29th before we get into, you know, the 11 o'clock territory here? Because there is a big piece of time here that we're in – we're going from this one entry at this moment, we can go to your notes as well. But what can you tell us about this time period that maybe we've missed?

K. VARDY: There's not much that we've missed. Pretty much we're at that point in time where we're eliminating as much of the high probabilities in the community as possible. The search is starting to expand at that point. We're marking off areas on the map that we've already checked.

Now, it's getting to the point where I'm printing off RCMP policy for search and rescue and putting it on the file, and I'm going to start notifying my supervisors that this is going on. This is now becoming an incident and it's expanding into that role.

M. FREEMAN: And so what's – at this point, what's the evidence telling you about what might be going on? Where are you focusing your efforts?

K. VARDY: Well, we had learned that there's – in the area around Makkovik, to the north, is – wasn't very safe. The ice wasn't really formed all that great outside. So most of our efforts are trapped inside because we're eliminating that fact that Burton is not an experienced person on a snowmobile. He doesn't leave the community very often. He's not one to be going exploring places. He's not allowed to be on the ice.

So most of our efforts are being focused inland and to areas where Burton would know, which would be the place where his father gets wood, the place where they went for their Junior

Ranger outings. So we're eliminating all of those areas that we can think that is the highest probability at this point.

M. FREEMAN: So if go back to Exhibit 101 at the highlighted map. That's page 81, Madam Clerk. It's Exhibit 101 at page 81.

Tell me about that. What you're telling me now about areas, is that – what you're telling me, does that correspond to the yellow highlighted portion of that?

K. VARDY: Yeah, so basically as we task people of the search and rescue or the hasty searches to go out and check, what I was doing is I would have them come back and we would highlight on this map all the areas they had gone and they had checked. So we know that anything in yellow was – somebody had travelled there and that area has been checked. So it eliminates those areas from having to go back again and redo those areas.

M. FREEMAN: This map is having information added to it as the search is going on?

K. VARDY: Yes.

M. FREEMAN: Okay. Thank you.

So, at this point, I think, unless there's anything else you want to add – because we – as I said, we go through this big time portion of 7 p.m., 8 p.m., 9 p.m. We get to about 2200 hours. I'm looking at now, Sergeant Vardy, if I may, take you to Exhibit 017 at page 24. This is back to your notes again.

We've gone through the entries for 7 o'clock, and here at 2237 you contact a Scott Morrison of the situation. Can you tell us about that?

K. VARDY: Yes, Scott Morrison is the staff sergeant who was in Goose Bay at the time, so he would've been my direct contact for the district.

M. FREEMAN: And then at 2241 you are contacting Sergeant Lloyd Youden. And so tell us about that and how it works when it comes to search and rescue.

K. VARDY: So, at that point, we are still searching in around areas. We're thinking, at that point, that we're going to need some air support for first light. So I had contacted Sergeant Youden, who was the – my liaison person for St. John's who was in charge of operational support in headquarters. So I contacted him and basically updated him of the situation we were in, updated him that we were still searching the community and more than likely we would need air support for the morning.

M. FREEMAN: You weren't asking – so let's start with this. So Sergeant Youden, just to fit everyone together, is sitting in St. John's – he's sitting in the seat that, essentially, our Sergeant Williams is sitting in now. Is that right, Sergeant Williams?

D. WILLIAMS: Yes, Sergeant Williams here.

That's correct.

M. FREEMAN: And so, Sergeant Vardy, if you need – if you want air support, your call is to Sergeant Youden and then Sergeant Youden can or cannot call FES-NL. Is that right?

K. VARDY: Sergeant Vardy.

Yes, that is correct.

M. FREEMAN: Thanks.

So, Sergeant Vardy, you talked to Sergeant Youden at 2241; you're not asking for air support at that time. Is that right?

K. VARDY: At that time, the weather here – you wouldn't be able to see – we couldn't see across the harbour. Most of the snowmobiles that were going out couldn't see – could barely see the tail lights of the vehicle ahead of them. Visibility was very poor, heavy snowfall and a very low ceiling at that point in time.

So in our beliefs and in our experience is that a helicopter wasn't getting in that night, so we were trying to get this situated so that we could have a helicopter for first thing in the morning, and we were still continuing to search. Our belief at the time and our evidence at the time was still that he's close by. We were holding

onto that, that he was close by and he wasn't straying outside the community or too far outside the community.

M. FREEMAN: So it was the weather and the evidence at that time when you spoke to Sergeant Youden that led you to ask for the helicopter in the – to say we're going to want a helicopter in the a.m., the morning of the 30th.

K. VARDY: That's correct.

M. FREEMAN: Okay. Thank you.

And so we've – the hasty search and everything we can possibly do in terms of talking to people and searching the yellow areas in the dark has been done. Is that right?

K. VARDY: For the most part, we're still searching. It's not a stopping thing at 11 – at 10:41 we're not –

M. FREEMAN: You're still searching.

K. VARDY: We're still searching.

M. FREEMAN: You're still filling in those areas.

K. VARDY: We're still filling in those areas.

M. FREEMAN: Okay.

So at 2346 – so I'm still at the same page here – 2346 would be 11:46 p.m. –

K. VARDY: That's right.

M. FREEMAN: – Makkovik time on the 29th. Tell us about what happens then. This is a new piece of information that's gathered that you did not have back at 7 o'clock at night.

K. VARDY: So basically at that point in time, two of our local hunters came in. They advised us that they had seen a track, or a possible track, that was going across Makkovik Harbour, the entrance to Makkovik, heading towards the open area outside of Makkovik, which was what they call a Shina. It's the edge of the ice.

M. FREEMAN: And so the entry here says: Ryan Pottle attended the detachment advising

that he had seen a narrow track on the ice heading from Makkovik out the bay toward the Shina – this is at 2346 – the edge of the ice. Pottle advised that he had seen the track around 2 p.m. that day.

I'm reading from your notes that are up there on the screen. They're probably – maybe too small to see for you, but you do have the paper copy there, Sergeant Vardy, if you need it.

K. VARDY: Yes, that's correct.

M. FREEMAN: Thank you.

So they saw a track at 2 p.m., but they were out hunting that afternoon out near this crack in the ice?

K. VARDY: That's correct, yes.

M. FREEMAN: And so from your perspective, do you – you don't call Youden back at that moment, so you can tell me about your thinking here. This piece of information doesn't change the water on the beans, so to speak, in your decision-making process.

K. VARDY: Well, at that point, it's a track. You're in a community of tracks. There's tracks everywhere. You know, who's to say this is a track belonging to Burton as opposed to a track belonging to Stephen Howlett or anybody else? That's hunting, hunters are going and coming here every day, going to different places along the land or on the ocean, on the ice. So it is a track and it's something that we need to explore.

So, at that point, we send some searchers down there with floater suits and that because the ice is very thin, and they go down and check this track to see how far it's going. They followed the track out, and these people that went were experienced people on the ice. And the sea ice, as Barry alluded to yesterday, is very flexible and it moves underneath your feet. And in a stormy night, a dark, stormy night with the wind blowing and the ice moving underneath your feet and you're not quite sure where the edge of the ice is, it can be very unsettling. They got as far as they felt they were safe to do and they had to turn back.

M. FREEMAN: You pursued this lead though, as you said you sent searchers to try to check that track.

K. VARDY: Yes, that's correct.

M. FREEMAN: With floater suits and geared up to search in those conditions.

K. VARDY: Yes. And at that point you're looking at, you know, there's been a lot of snow so to follow that track is a challenge in itself, when you're after getting, you know, three, four, five centimetres of snow, or even inches of snow, at that point. It was heavy snowfall.

M. FREEMAN: So all of the evidence from your perspective, at that point, you know, didn't lead to a change in your decision-making process. The weather is there, you have the information about Burton not going out on the ice, generally, on his Ski-Doo, et cetera, and you're putting that together with the track, like other things you're thinking about at this time, your decision-making process. Anything else you want to add?

K. VARDY: Basically, you know, I'm in the office so I'm relying on the information that I'm given from Barry as the search commander and also the searchers that are coming back continuously at the office and they're relaying all of this information. So the information we were given was that the crack had gone across from Strawberry Point over to Ikey's Point, which is right across the whole harbour, the entrance to the harbour, and that crack was open all day. There was no indication by the hunters, they said – they indicated that they had seen the crack that day and it was open all day, at no point was it closed.

So knowing that Burton was on a smaller machine, which was only a 300cc Tundra. Knowing the capabilities of those type of machines, it wouldn't be able to travel across water. You know, you need a lot of torque and a lot of speed to get a machine to travel across water for any specific distance. If he built up enough speed on that machine it probably might travel four or five feet, five or six feet or something, but it wouldn't be able to continue across an open water span of about 60 feet.

So in our mind, the bottom edge, the southern edge of that crack is the extent of how far we're going to be able to search, because it's impossible for him to get beyond that southern edge. So our concentrated efforts are south of that crack and inland. So if that track is going north, at any point does he veer to go to the east and come back into Ford's Bight or back in along the land? So we're still concentrating in those areas.

M. FREEMAN: And how far are your searchers able to follow that track that night in those conditions?

K. VARDY: I just recall that they said they followed it as far as they could. I don't remember exactly how far it was at that point.

M. FREEMAN: I think I read 2½ kilometres, but I'd want to double-check that, so I don't know if that sounds right to you.

K. VARDY: Yeah, that would not – 2½ kilometres wouldn't even bring him out to the Ford's Bight Point, basically.

M. FREEMAN: Okay.

So you did speak – you had been speaking to Sergeant Youden at 2241, this is now 2346, but back at 2241 Sergeant Youden did agree to seek air support at first light.

K. VARDY: That's correct.

M. FREEMAN: And he would seek that air support by a phone call to FES-NL, F-E-S-N-L, Fire and Emergency Services – maybe this isn't your department to that one.

K. VARDY: Yeah, like, basically, I made my call to him and then it's up to his responsibility to make a decision whether he's call FES-NL. But, at that point, he indicated that he would call the authorities to have a helicopter in the air the next morning.

M. FREEMAN: In the event Burton was not found that evening, he would get the air support the following day.

K. VARDY: Yes, that's correct. And we would've updated him if he was found.

M. FREEMAN: Okay.

All right, so let's go, if we may, back to page 5 of this document, Madam Clerk, please.

Corporal Howlett, do you have any other – anything else you want to add to what Sergeant Vardy has just been telling us about the situation and the thinking, the thought process that you're going through, please?

S. HOWLETT: Corporal Stephen Howlett.

The only other thing I would touch on, the weather continued throughout the night. I can remember at one point being out on the ice right in the bay with Constable Andersen and it was difficult. I didn't want Barry to go too far ahead; it was difficult to see his tail light that night. Like I said, low ceiling, heavy snow. And that seemed like it continued throughout the night.

M. FREEMAN: And on page 6 of your notes at page 17 [sp. Exhibit 017], the bottom entry on that page there, 2346.

S. HOWLETT: Correct.

M. FREEMAN: This is the same information that Sergeant Vardy just gave us. Is there anything there that we've missed, that we've failed to cover here?

S. HOWLETT: No, other than 2346, actually, it's Corporal Vardy – I was out of the office and Corporal Vardy called me on the radio to say that he had learned that information and asked me to return to the office. At the time – that was the time that we learned that particular piece of information.

M. FREEMAN: Okay, thank you.

And so then the next entry in your notes, Corporal Howlett, is 1 a.m. Back to the detachment; the search teams were briefed.

S. HOWLETT: Yeah, at 1 a.m. most of the teams returned to the command post, we'll call it now, I guess, the detachment. We had a debriefing about what was searched that night. The weather was still bad, heavy snow. We talked about the track that was leading out the harbour, on the ice and it's the track that

Kimball was just – Corporal Vardy was just referring to.

So we made a plan to have a limited amount of snowmobiles to chase the track, just to further investigate it. They were equipped with floater suits and rope, and they also had portable radios that had direct contact with the detachment.

M. FREEMAN: They chased the track toward the open water, I see, there at 0145 mark. Those searchers go with floater suit and rope and radios, as you just said, and it takes them about 45 minutes it looks like.

S. HOWLETT: Correct. At 1:45 a.m., they had returned; both searchers had chased the track to the open water. The track was leading out toward bad ice. It was dangerous, especially for a search at night. And, as Kimball already spoke about, I know the two gentlemen that went out on the ice. You know, they're very familiar with the ice and – that track, if they could of – they chased it as far as they could, there is no one else that could have chased the track that night.

M. FREEMAN: All right. And then, at 2:30 a.m., it's the last entry for the date of – let's say for the 29th. By this time we're actually into the 30th, but here we are on the night of the 29th, into the early morning on the 30th. At 2:30, the search ended for the night.

S. HOWLETT: So that's correct. At 0230, that's when the ground search ended for the night. We made a plan to meet back at the detachment at 7 a.m. to continue with the search. We updated the family and, as you can see there, we sent an advanced message. That's just, we'll say, a briefing note to our supervisors and to get them up to speed on what's been done to date.

You'll also see on my documentation there, Corporal Vardy had been in contact with Sergeant Youden attempting to arrange a helicopter for first light. That's the telephone call Kimball had made earlier in the evening that he was referring to.

M. FREEMAN: You're just getting this information at 2:30 in the morning and putting it in your notes and –

S. HOWLETT: Yeah, I think I had known about it, but I put that documentation in there to say that contact had been made.

M. FREEMAN: So referencing that earlier call.

S. HOWLETT: Yes.

And after – you can see, just below that, that paragraph, you’ll see the weather was still flurries and snow squalls.

M. FREEMAN: What’s the significance of that: flurries and snow squalls?

S. HOWLETT: It just talks about the weather and how it continued the whole night, and it was still that way when we completed the search that night.

M. FREEMAN: And so you think it was the flurries and snow squalls you mentioned before were – it was making it hard for you to see Barry – Mr. Andersen’s tail light of his Ski-Doo ahead of you. Is that what you were saying?

S. HOWLETT: Yes, absolutely.

At one point, me and Constable Andersen were out in the – right in the harbour in the town there and Barry had been going ahead of me, I was trying to follow him and there was times it was hard to see Barry and it was the wind and the thick, thick snow that was falling that night.

M. FREEMAN: Mm-hmm.

So that’s the end of the 29th from a notes perspective from where I’m sitting. The working theories at that time, where are you at thinking-wise about where this investigation is going at that time, the search is going at that time?

S. HOWLETT: Corporal Stephen Howlett.

So at this time, I’ll say we’re into the search now. Ground search and rescue had been activated. We have our command post. We’ve sent our advance message to our supervisors. And Corporal Vardy had reached out to Sergeant Youden at that point in relation to air support for the next day. A plan was made with all the ground search to meet back at the office for 7 a.m. and we would continue the search.

THE COMMISSIONER: So can I interrupt at this stage?

Our health workers have been out with the family for a while, so we should check to see how they’re doing. Also, I want the lawyers to get together and see if they should begin cross-examination based on a day being done rather than go through the entire testimony and lose some of the impact of immediacy. And then I’ll be asking Harry his opinion of how things, as a SAR leader here, fits out with what he would expect a good search to do for the first day.

So can we take a 10-minute break to settle all that out? You guys talk and we’ll see how the family is doing and then we’ll come back in 10 minutes.

CLERK: All rise.

Recess

CLERK: All rise.

This commission of inquiry is now in session.

Please be seated.

THE COMMISSIONER: Mr. Budden, please.

G. BUDDEN: Yes, Commissioner, we have spoken amongst ourselves, counsel have, and it is our preference that we not do an examination at this time, but rather we carry on and, in all likelihood, do it at the end when the evidence is concluded.

THE COMMISSIONER: That’s fine.

Thank you very much.

M. FREEMAN: Thank you, inquiry counsel and Mr. Commissioner.

Mark Freeman, again, Department of Justice.

Sergeant Vardy, I want to move – go back a little ways. We were about to move off of the date of the 29th, but I want to go back to your phone call with Sergeant Youden.

There’s been some, I would say, misunderstanding about the – how you were

feeling about air support at that time. So you were calling Sergeant Youden to ask for air support the next morning. Is that right?

K. VARDY: Sergeant Vardy.

Yes, that's correct. I made the call to Sergeant Youden informing him of the situation we had. I requested him make the call that night and – so we could have an aircraft in the air at first light, which would cut down on the amount of time that they would have to travel, get ready type thing, so that we would have maximized a vessel or an aircraft in the air for the next day.

M. FREEMAN: This is your take on where – you thought maybe getting the aircraft told that they'd be called for first light would be helpful?

K. VARDY: Yeah, in my view, I felt that if the call was made that night, preparations could be made for an aircraft to be ready to take off from Goose Bay or wherever at first light so that they could be in Makkovik faster than if you wait until first light, and then they got to get preparation; they got to get in the air, fuel, whatever. It's burning daylight hours.

M. FREEMAN: So the weather and, more importantly, the evidence at the time wasn't leading you to ask Sergeant Youden for air support the night of the 29th?

K. VARDY: No, the night of the 29th, we were still searching the high-probability areas in the community. The weather was flat. We couldn't see on the ground; I couldn't imagine an aircraft in the air to be able to see anything.

M. FREEMAN: And the evidence at the time of where you would want to be searching?

K. VARDY: The evidence at the time would be south of the crack from Strawberry, inland.

M. FREEMAN: You and Sergeant Youden do have something of a disagreement, I'll say. Is that fair?

K. VARDY: Yes, that's fair.

M. FREEMAN: And Sergeant Youden is saying: I will get – I will seek the air support at first light on the 30th. And you want him to tell

them that night to get ready for first light. Is that – that's the difference?

K. VARDY: Yes, well, basically – he said, basically, when he would go in in the morning. So he starts work at 8 o'clock in the morning or whatever time he starts working, he said he would make the phone call then. I sort of felt that he should call that night, as it would cut down on the time. So his 8 o'clock is 7:30 our time up here, so it's just starting to get a little daylight then. Daylight is starting to come about 7 or 8 o'clock.

By the time he makes the call, gets the approval, gets the aircraft in the air, you're looking at probably 10 or 11 o'clock before the aircraft actually gets here, because it's going to be an hour's travel from Goose Bay.

M. FREEMAN: That's your thinking that night that you're telling Sergeant Youden?

K. VARDY: Yes, that's right. But we're discussing this on the phone. We're discussing that we're still doing the search, we're still looking in the high-probability areas and the weather is down.

M. FREEMAN: And so Sergeant Youden says: I'll seek that air support at first light.

K. VARDY: That's correct.

M. FREEMAN: Okay.

And so I'm going to turn over to Sergeant Williams, if I may.

So do you see any delay there? Like, tell me about that thinking. This is Sergeant Youden or someone in that seat's decision to make and you're speaking for that position today.

D. WILLIAMS: No.

M. FREEMAN: Do you call the night of and say: Hey, get ready; we're coming to call you in the morning? Or how does that all work? Can you explain for the commission, please?

D. WILLIAMS: Sergeant Williams here.

So, essentially, the call would be received from the detachment for a search and rescue. As we're aware, Corporal Vardy, at the time, had called to discuss the search itself with Sergeant Youden. Oftentimes, being in that office you deal with multiple search and rescue, where it's on a provincial basis. You know, some detachments may not have a search and rescue for a number of months, whereas in that position, you do deal with search and rescue very frequently because you're looking at files and reviewing files for search and rescue on a daily or as often as they come up in the province.

So that discussion – trying to speak for Sergeant Youden, that discussion happens. He's determining, of all the things that Corporal Vardy at the time had mentioned, weather conditions, where they are currently in the progress of their search. Corporal Vardy's request is for aircraft to be ready for the next morning. His – based on what he's saying, he's requesting that the contact be made in the evening, whereas Sergeant Youden decides that I'll contact them earlier tomorrow morning. The request from Corporal Vardy is not for that air resource at that moment, it is for the following morning.

Speaking on behalf of Sergeant Youden, he makes the decision to wait for the following morning. But it's my understanding that he makes that call very early in the morning to FES-NL for that air support, so I guess that was his decision at the time.

But those resources, I know from my experience, can be readied fairly quickly. It's a contact to Fire and Emergency Services, FES-NL, to make the contact to the provincial contract and, at that time, it was Universal Helicopters. So, from my view and standpoint, the call that night wouldn't have made the aircraft go, you know, any more quickly in the morning.

And some other considerations to make as well is, you know, how would that affect the pilot's flight time? If we called Fire and Emergency Services, Fire and Emergency Services called the pilot for Universal to try to activate that resource; does that then start a clock for them into their flight day? So that's just another consideration.

Also, the discussion on the weather; so from Sergeant Youden's chair, at that point, his view is that he could properly and equally rouse that resource the following morning, before first light, to be ready for first light, versus calling when the initial contact had been made – I believe it was around 2230. I'm not sure on the report there, but I believe around that time.

So I guess his assessment of the situation is it wouldn't necessarily make a difference in the response time of the air asset, based on what Corporal Vardy had said; we want it for tomorrow at first light, not necessarily to search right now at this point in our investigation of the search.

M. FREEMAN: So Sergeant Youden's decision to call in the morning as opposed to the night before the assets were wanted, would it have caused any delay in the response, from your perspective?

D. WILLIAMS: Not from my perspective. That would be more based on the time he had determined to call in the morning. I'm not sure if there's a report there reflecting the time that Sergeant Youden had called FES-NL for that resource, but my understanding is first light here in Labrador that day was around 8 o'clock a.m.

M. FREEMAN: Okay. And so Sergeant Youden's notes are Exhibit 101, page 36 – 35, excuse me. And this is a worksheet that belongs to Sergeant Youden is my understanding. Is that correct, Sergeant Williams?

D. WILLIAMS: Yes, it is.

M. FREEMAN: So down below, the next page is page 36; you'd see a call at 6:50 a.m. with – does it say contacted or Corporal Vardy? It's handwritten, so it's not as easy to read but calls at home, OCC at home. Are you able to see that?

D. WILLIAMS: Yes, so my understanding, based on that document, is that there was contact between Sergeant Vardy – sorry, Corporal Vardy, at the time, and Sergeant Youden. I guess just to assess the current situation, if anything had changed throughout the night, to receive an update.

M. FREEMAN: And you see at 8 a.m. it says contacting Air Service ...

D. WILLIAMS: Yeah, that's correct. So that's when he would have, from what I'm seeing, contacted FES-NL to discuss the matter and request the air support from – based on the previous page, Paul Peddle's name was underlined. He's a worker with Fire and Emergency Services NL – FES-NL. So it would have been 0800, based on what I'm seeing there, that Sergeant Youden would have made that contact with FES-NL to request the air support.

P. RALPH: I'm sorry, that's 8 o'clock he's contacting FES-NL, because that doesn't look like what that's saying.

D. WILLIAMS: It says Air Services – contacting Air Services.

M. FREEMAN: The next – the last sentence –

P. RALPH: I think this is RCMP aircraft he's talking about.

M. FREEMAN: There's a paragraph underneath there as well, sorry another line underneath that paragraph, it's still under the entry of 8 a.m. Call made to ...

D. WILLIAMS: Yes. Call made to FES to request –

M. FREEMAN: Helicopter.

D. WILLIAMS: – helicopter. Yeah. So it's under the same entry there. So that's when he's calling – that, of course, would have been 7:30 Labrador time.

M. FREEMAN: I'm sorry, so what's above that entry?

D. WILLIAMS: Contacting Air Service – I can't see it very well from here.

CLERK: You can get up.

D. WILLIAMS: I will do my best to decipher what's here.

M. FREEMAN: It looks like it's in relation to the Twin Otter.

D. WILLIAMS: Contacted Air Services requesting Twin Otter – it says Twin Otter.

M. FREEMAN: Is it Herbert Hynes or something – somebody Hynes?

G. BUDDEN: It appears to be.

D. WILLIAMS: (Inaudible) Hynes.

P. RALPH: Is that the RCMP Twin Otter?

M. FREEMAN: It is, yeah.

D. WILLIAMS: Yeah, so it looks – it appears to me like he's making an inquiry of what the Twin Otter is currently doing for Air Services.

M. FREEMAN: And it ends with: weather down at this time.

D. WILLIAMS: Weather down at this time. Travel to Postville with a passenger and then, right after that, it says calling the FIS – or Fire and Emergency Services, FES, to request helicopter. So it appears that request was made right after the call had been made to RCMP Air Services.

M. FREEMAN: Thank you, Sergeant Williams.

Just to take a step back for a moment. We looked at a weather entry last night – or, sorry, yesterday, we looked at weather entry from the night of the 29th and Lieutenant Colonel Marshall has told us that it's very unlikely that the helicopter could get below the clouds on the evening of the 29th. Is that correct, Lieutenant Colonel Marshall?

J. MARSHALL: Lieutenant Colonel Marshall.

Yes, that's correct.

P. RALPH: I am sorry, can I interrupt, Mark, I'm – Mr. Freeman?

M. FREEMAN: Yes.

P. RALPH: I understand Sergeant Youden has written notes elsewhere and – I think it's Exhibit 018 – in that he indicates 8:45 he contacted Fred Hollett. That's at Exhibit 018, page 81.

M. FREEMAN: Is this the same, I mean that entry is ...

P. RALPH: So basically, those are typed – seemed to be typed version of the same notes.

M. FREEMAN: I'm looking at Exhibit 101, page 36.

P. RALPH: Exhibit 018, page 81.

M. FREEMAN: But I'm seeing at 8:45 in the location that you're mentioning, I think, as well.

P. RALPH: No, I'm sorry. I'm talking about there's a typed – so Exhibit 018, it might be in your – in that one as well but at Exhibit 018, page 81. Scroll down; it says 8:45, Sergeant Youden contacted Fred Hollett.

D. WILLIAMS: I guess based on those notes, it is 8:45. But on the other document, I believe there is a notation made. It's possible with the time in the morning – oftentimes with FES-NL it's an on call before normal business hours. It's possible the call had been made and then the call had been made back to Sergeant Youden, but I can't –

P. RALPH: Right.

D. WILLIAMS: I'm not Sergeant Youden so I can't ...

M. FREEMAN: I see Sergeant Youden's note there as well about contact to Fred Hollett of Fire and Emergency Services. And I think the handwritten note confirms that that's correct.

So, anyway, we have those two references for the record. I don't know, Peter, is that – anything else?

D. WILLIAMS: Yes, so essentially, from that, the contact was made in the morning to make that request from Fire and Emergency Services-NL for the air support. That would follow our normal policies and procedures at the time. The request would have been through Sergeant Youden's office to request the air support. And then it would be, at that time, Sergeant Youden's contact further to FES-NL to make the request.

M. FREEMAN: And so I was speaking there with Lieutenant Colonel Marshall – I'm talking about the 29th now, the evening of the 29th. And we read about the weather yesterday; we went through the weather entry. And your conclusion was that the likelihood of an air support being able to get into Makkovik on the night of the 29th was unlikely?

J. MARSHALL: That's correct.

M. FREEMAN: And similarly for the morning of the 30th?

J. MARSHALL: Also correct.

M. FREEMAN: And that's where we are now, the 30th. So the air support has been called for on the morning of the 30th; however, the weather is preventing it from coming, regardless of weather, it's called at 8 a.m. or 8:30 a.m. or 8:45 a.m. that morning; nothing is flying.

J. MARSHALL: That's correct.

M. FREEMAN: Okay.

One other piece of follow-up from the earlier evidence – thank you, Lieutenant Colonel Marshall. So one another piece of follow-up from the evidence Sergeant Vardy was – from this morning was in regards to the information about the crack in the ice. The hunters coming in on the night of 29th around 11 p.m. Is that right?

K. VARDY: They come to the office after 11 p.m., yes.

M. FREEMAN: After 11 p.m. And they report to you that they see a track in Makkovik – outside of Makkovik on the snow, on the ice.

K. VARDY: Yeah, they reported they were hunting during the day. They came back that afternoon or that evening, probably around suppertime. They remember seeing this track, but they also mentioned that this open water prevented them from going out the bay. So it was open water, the crack was from one side to the other side, from Cape Strawberry all the way to Ikey's Point. So that's what prevented them from travelling in that area. And they mentioned then that it was open water all the day.

M. FREEMAN: So I didn't see that reference in the PROS entry. I mentioned that to you during break and I mentioned it to Stephen Howlett as well, Corporal Howlett. Is that your recollection of what the hunter said as well about that crack and the nature of it that it was open all day as Sergeant Vardy said?

S. HOWLETT: Corporal Stephen Howlett.

Yes, that's correct. The information we had received and what we believed is that that crack from Strawberry Head into Ikey's Point, it didn't get bigger and it didn't get smaller, it stayed consistently the same throughout the day.

M. FREEMAN: Okay.

So that, I think, covers the day of the 29th for my purposes so I'm prepared to move on then to the day of the 30th. I'm going by – did you get any sleep that night, the night of the 29th at all?

S. HOWLETT: So late in the night on the 29th at approximately 3:30 or we updated the family, we discussed options. So I'd say probably we actually shut down the office, myself and Stephen and Barry, probably around going for 4 o'clock in the morning. So our plan then was to be at the office for 0700. So there was very little sleep that night.

M. FREEMAN: And so we're back into Exhibit 017, please at page 8, Madam Clerk. Sorry, I caught you when you were standing up there. Exhibit 017 at page 8, please.

Technically, it's page 7, excuse me, if you want to move up a page please.

So it's just at the bottom of that page where Corporal Howlett's notes pick up. Is that right, Constable and now Corporal Howlett?

S. HOWLETT: Yes, that's correct.

M. FREEMAN: Okay, thank you.

So why don't you pick up for us the – it's first light, it's the morning of the 30th. Burton was not located overnight. Arrangements have been made through Sergeant Youden to seek air support from the province, and that's his

department, that's his job to deal with. What are you doing on the morning of the 30th?

S. HOWLETT: Corporal Stephen Howlett.

So on the morning of the 30th – as you can see by the notation – we started at the detachment at 0700 hours, which is 7 a.m. I can't remember if it was daylight then or it was just getting daylight that time of the year. I actually got on the go that morning probably an hour before that around 6 a.m., just trying to get fuel and some issues to prepare for the day. And I can remember when I got up that day it was – that morning, it was still – the weather seemed like it was consistent with what it had been the night before: very low ceilings and still heavy snow at that time.

Myself and Corporal Vardy, at the time, and Community Constable Andersen and members from the GSAR, the ground search and rescue, we met at 7 a.m. at the detachment. Corporal Vardy then would've been making contact – or after 7 a.m., but in that morning, he would've been making contact with Fire and Emergency Services. And I have in my notation as well: Corporal Vardy had contacted RCMP Air Services to pass along any information.

RCMP Air Services, that's our hangar in Goose Bay that services the North Coast of Labrador. We are equipped with one Twin Otter, two pilots, and it's – oftentimes, we pass along the information to them if they're in the area or if they're flying. Certainly, those guys have been flying the North Coast now for years and years, coming into all these communities, and I just wanted to make them aware in case they were flying that day, or to see if they were planning on flying.

And Corporal Vardy could probably speak to the exact conversation that was had with the RCMP Air Services. I don't know if he'll want to chime in here.

K. VARDY: So, basically, at that time, it was more or less along the discussion of if they're coming north to drop down to an altitude that would be – they would be able to see a clear view of the ground and search along the route, or whichever they're taking, and if there's any chance they could actually possibly come to the

Makkovik area and do some assistance in some flyovers in certain areas. At that point in time, the weather was down and they were on weather hold.

M. FREEMAN: And that was what we saw in Sergeant Youden's notes there a minute ago about – did you notice that as well, the request to the Air Services and the comment about the weather being down?

K. VARDY: Yes, that's right.

M. FREEMAN: Thank you.

So this is an area that we haven't talk about much yet, but it's this, what I'll call aircraft of opportunity. I think it's one phase that's used in the search and rescue world. So not only can you call Sergeant Youden, who can then call FES-NL, who can then call Universal or JRCC – all of that can happen – but also your expertise and your knowledge comes into this at this point in 2012 with respect to other possibilities of ways that you can help your search – assist your search. Is that right?

S. HOWLETT: Yes, that's correct. And being on the Coast of Labrador, it's a small area, everybody knows each other. So, basically, what you do is you reach out to anybody and everybody to assist. It's a simple call to Provincial Airlines, or Air Labrador at the time, basically to – if you're driving – if you're flying in the area, the same thing: keep an eye out. Because those pilots are flying this area all the time, they notice things and they're quite willing to assist and help us keep an eye out for anybody who is lost or needs assistance.

M. FREEMAN: Right, so when it comes to checking on that aircraft of opportunity – the RCMP aircraft that morning – you're thinking – because of your knowledge, I'm going to just check-in now with RCMP Air Services to see if they can get down here and do a turn, do a spin around and see if they can see anything at all.

S. HOWLETT: Yeah, and that's a common thing that we would do, basically we contact them so that they would come in the area and spend some time just doing some flyovers in the area to assist with the search.

M. FREEMAN: And, in addition, it seems like, Corporal Howlett, you're making some phone calls there. I'm at the top of page 8 of your notes now. This is Exhibit 017, page 8, I'm following through your chronology. And it says: "Writer contacted Provincial Air lines..." so it says – on the end of page 7, "Cpl VARDY contact RCMP Air Services to pass along information." And he told us what that meant. Now that we have you – the writer, you – contacting PAL and some other things go on here, tell us about that.

S. HOWLETT: Corporal Stephen Howlett.

Yeah, so at around that same time in the morning, I had contacted Provincial Airlines and I passed along the information in relation to the incident that was ongoing in Makkovik. I spoke to someone in their dispatch – we gave the information to Provincial Airlines, at the time, and Air Labrador. Their flights were currently on weather hold due to heavy flurries in Makkovik. I can't comment on if they were flying further up the coast at that time; it's not in my documentation. I just know they were on weather hold for Makkovik.

And the purpose of calling them – it relates back to our policy and it's considered an aircraft of opportunity. I guess the most important thing to note is these pilots fly this route every day and they – some of them have done it for 30 years. And we just want to pass along the information, just so they know what we're dealing with.

And it's important, if they seen a snowmobile track or they seen a person or a snowmobile somewhere where it's not supposed to be, because they fly the route every day, they know the ordinary places where people go; they know the routes to Goose Bay and between each community, so it's important to pass that along, that information to them as well.

M. FREEMAN: Okay, thank you.

Sergeant Williams, I was wondering if maybe you could weigh in on this aircraft of opportunity issue. Because it does seem a little different than the RCMP – that is Sergeant Vardy calls Sergeant Youden, Sergeant Youden calls FES-NL, FES-NL calls Universal and JRCC for air support. There's this other piece of air assistance that is there. And maybe talk about

that and anything you want to say about how that all works.

D. WILLIAMS: It's Sergeant Williams again here.

So, essentially, it's just how Sergeant Vardy and Corporal Howlett explained, you know, being in Labrador, especially, as opposed to the Island, there is obviously travel required between communities by air, by majority. So being aware of the resources, the airlines, the companies that come in and fly in the areas, it's just something able be leveraged out of a request, if they happen to be in the area.

That's not to say that these crafts are commandeered and they are forced to focus on in an searching in the area, but they are in those areas and able to be an extra set of eyes. As both members have mentioned also, being familiar with the area, if they had seen something maybe out of the ordinary, that's something that could connect them to come to a conclusion and say I did notice something in this area, and it would be further evidence to lead and assist a search maybe and point things in an additional direction.

So it is common to be aware of the air resources in the area, certainly the RCMP air resources that we're aware of here in Labrador that do fly every day. It's common to assess those things to say is there anything currently up there, maybe they were able to get in the air from a different route or a different location at the time. Maybe they've seen something, and to leverage as best possible those assets that are in the air, for both information and to keep an eye out just in case they might have seen something.

M. FREEMAN: Okay, thank you.

And perhaps we will revisit this at the policy stage, but this is an area that you and I've talked about previously where, you know, handling an aircraft of opportunity and whose job it is or whose checklist it might be to do that part of this is might be something that you would want to talk about, if not today, then later on during this inquiry.

D. WILLIAMS: (Inaudible.)

M. FREEMAN: Okay, thank you.

So you weren't able to get any assistance due to the weather, it seems, from RCMP Air Services or Provincial Airlines or Air Labrador; is that correct, Corporal Howlett?

S. HOWLETT: Yes, that's correct.

M. FREEMAN: And the phone calls to FES-NL is being handled by your – Sergeant Youden in St. John's at that point?

S. HOWLETT: Yes, that's correct.

THE COMMISSIONER: If I could just interrupt you for a second. Does somebody have a point to make?

Okay, Barry, you can approach the – yeah, the microphone.

B. ANDERSEN: Mr. Commissioner, I'd just like – it's on?

M. FREEMAN: It's on, yeah.

B. ANDERSEN: Okay. I'll just give you an example of the constable, or Corporal Howlett is mentioning about the civilian aircraft that we called Provincial Airlines, at the time, Air Lab.

I recall one incidence when Captain Kevin Hann of Air Labrador was flying from Makkovik to Hopedale on up the coast. He reported back to his – I guess their command centre in Goose Bay that he flew over a snowmobile on the ice with a person walking about two miles away. So that's the kind of co-operation we get from the civilian aircraft.

So we were able to send out a hasty search to go over to pick up the guy. Saved him (inaudible).

M. FREEMAN: This is a different search, but another aircraft of opportunity that you've used. Is that ...?

B. ANDERSEN: Yes, it's years before – Hann – I'm just giving an example of how the local pilots who fly the North Coast, they don't fly 10,000 feet.

M. FREEMAN: Right.

B. ANDERSEN: They fly quite low 5 or 6,000 feet, but anyway ...

M. FREEMAN: You'd agree with Corporal Howlett that the pilot would recognize things that were out of place based on their experience?

B. ANDERSEN: Yes. That's why I was giving that as an example.

M. FREEMAN: Yes, that's great. Thank you very much.

B. ANDERSEN: He's still around; he's still flying.

M. FREEMAN: Okay, great. Thank you, Mr. Andersen.

My apologies, I'm very slow to get going here on the morning of the 30th with the chronology, but that's where we are. And we've looked into aircraft of opportunity. We're still in Exhibit 017 of your notes, at page 7 into page 8. Those are Corporal Howlett's notes.

The third paragraph of page 8: "Search Teams deployed in all areas that were searched last night, daytime search to eliminate areas," et cetera, et cetera. Can you tell me about that, please?

S. HOWLETT: Corporal Stephen Howlett.

Yeah, the third paragraph down, it just alludes to we had to go back and re-search the areas that we searched the night before, mainly attributed to we searched at night and in the dark and in a – in heavy snow flurries, we'll guess, or snowstorm, whatever you want to refer to it as – bad weather. So we wanted to go back and ensure those areas were searched again to see if we may have missed anything due to the bad weather or night cover.

And also at that time the Postville ground search and rescue team were deployed to search the area between Postville and Makkovik; that would be the Kaipokok Bay area. There's a groomed trail that leaves from Makkovik and goes to Postville and they were going to focus on that area.

M. FREEMAN: Okay, thank you.

And so what happens next?

S. HOWLETT: 10 a.m. – you can see my documentation: "Weather had lifted slightly" I think what I'm referring to is the ceiling, the cloud cover. At this point, it came to our attention that there was a Woodward helicopter, it was on the coast for unrelated matters and I believe it was in Postville at the time. They offered assistance in the search.

Now, how that information about that helicopter came to light or how they were able to reach out and offer assistance, I'm not aware of. I don't know if you can touch on that, Sergeant Vardy.

K. VARDY: Sergeant Vardy.

I'm believing at the time Rodney Jacque was working with the company at the gas station here – the local gas station here. And, of course, it is a small community and a small area, so the word is getting around now that, you know, Rodney Jacque is looking for his son. And Postville has been alerted as well. We got people at Postville who are looking as well.

So, I guess, someone must have brought it to the attention of the pilot there or the company that this was going on and they offered their assistance.

M. FREEMAN: Thank you.

So carrying on with the chronology from your notes and from your memories, gentlemen, it's 10 a.m., the weather – as you said, the weather had lifted slightly and there's a Woodward's helicopter that has come to your attention, on the coast for unrelated matters at 10 o'clock. And then at 10:40, the Woodward helicopter is on scene. So where does that helicopter come from, is your understanding?

S. HOWLETT: Corporal Stephen Howlett.

The Woodward's helicopter came from Postville, was my understanding. They would've arrived in Makkovik at 10:40 a.m. Community Constable Andersen, Errol Andersen and Perry Dyson – both Errol and Perry Dyson are members of the ground search and rescue team here. They got in Woodward's helicopter and they were airborne.

At that time – this is not documented in my notes. However, at that time, I can remember being on the step of the Makkovik detachment and I can remember hearing the chopper almost like you should see it but you couldn't because it was still snowing. They were – I guess they were heading out – well, they were going out then to start their grid search.

M. FREEMAN: I'm going to stop you for one second, Corporal Howlett.

So, Lieutenant Colonel Marshall, we touched on this a little bit yesterday. What can you tell us about the Woodward helicopter's ability to get up at 10 o'clock coming from Postville versus some of the alternatives that might have been available, be it Universal, JRCC, et cetera?

J. MARSHALL: Based on the weather, I can only speculate how we would have flown without actually talking to the pilot. But in my opinion, what he probably did was took off from Postville and remained under the cloud bank and was able to make it to Makkovik without actually going into cloud. I don't believe he would have been legal or safe to fly in the clouds in that area.

M. FREEMAN: Okay, thank you.

THE COMMISSIONER: It was a female pilot, wasn't it?

G. BUDDEN: Yes, that's right.

J. MARSHALL: My apologies.

M. FREEMAN: That may have been me who led you astray there; apologies on my part as well.

At 12 a.m. – excuse me, 10:40 the helicopter's on scene. Does the Woodward's helicopter provide any valuable information when it comes to developing the search?

S. HOWLETT: Corporal Stephen Howlett.

Not that I can recall.

K. VARDY: Sergeant Vardy.

Basically, what happens is they started the search to go out and check the crack area, the area where the open ice was, where the crack was. And they were doing a grid search back and forth to see if there were any indications of tracks around that.

I do understand, at the time, they did run into some mechanical difficulties. They had to put the helicopter – the helicopter down out by Strawberry, Cape Strawberry.

M. FREEMAN: Was everyone on Woodward's okay, to your knowledge, in that – I'll won't say emergency, but in that incident with – putting down on Cape Strawberry?

K. VARDY: Yes, it safely landed on Strawberry Head.

M. FREEMAN: Okay.

G. BUDDEN: Just for the record, the pilot's name, I believe, was Christa. And I cannot recall her surname. Mr. Andersen would know.

UNIDENTIFIED MALE SPEAKER: Drover.

M. FREEMAN: Drover, I believe, my friend is telling me.

G. BUDDEN: Glover.

UNIDENTIFIED MALE SPEAKER: Glover.

G. BUDDEN: Christa Glover.

Thank you.

M. FREEMAN: And do you have any knowledge of how long they searched before they put down, before they went down with a chip light issue?

K. VARDY: In my recollection, it's approximately about an hour.

M. FREEMAN: All right. And so they ended up putting down on Cape Strawberry. They hadn't given you any information about the – that would help the search for Burton, at that point. They weren't about to get any good, valuable information that morning from the air.

K. VARDY: Not that I can recall, no.

M. FREEMAN: Okay. Thank you.

So what's the next – what's the next important part of the search from your perspective on the morning of the 31st? What happens next?

S. HOWLETT: Corporal Stephen Howlett.

And I am sorry, Mr. Freeman, I misunderstood your question when I diverted that to Kimball there, but now I know what you're asking.

M. FREEMAN: That's okay, carry on. That's why it's nice to have a panel, you guys can share and supplement each other.

S. HOWLETT: At 10:40 a.m. – or sorry, at 12 o'clock, my next documentation is, we have a Universal chopper in Makkovik. And we put three members from ground search and rescue on that chopper at that time; they go on the choppers as spotters.

M. FREEMAN: So the weather has lifted sufficiently at noon on the 31st for air support to be available?

S. HOWLETT: Yeah, from my memory that day the weather had improved but still not ideal, not great.

M. FREEMAN: All right.

And so when it comes to air support on – I know we didn't have any on the 29th due to weather and other things, and we didn't have any on the morning first thing on the 31st, due to weather and other things, but in the hypothetical world – I know it's dangerous to do this, but in the hypothetical world where you had air support on the night of the 29th, where would you have sent it? That's for Sergeant Vardy, really.

K. VARDY: Sergeant Vardy here.

Based on the information and the evidence we were presented at the time, we would have sent the helicopter, basically, from south of the crack inland to search areas of highest probabilities.

M. FREEMAN: And similarly on the morning of the 30th, if the air support had come at 6 a.m.

or 7 a.m. and the weather had been better, where would you have sent that air support first?

K. VARDY: We still would have concentrated on the same area. Basically, because that area wasn't covered off, so it would have been important to be able to fully cover off that area to make sure that we could really scratch it off from the map to say that there was nothing there.

M. FREEMAN: Okay.

So we're now back to noon on the 31st. The Universal chopper is in Makkovik and Corporal Howlett tells me that they put people on this aircraft to get up in the air and get a bird's-eye view, if you will, in the weather as it was.

12:20, Corporal Howlett, if you would pick up from me, what happens next. It's important, obviously.

S. HOWLETT: Corporal Stephen Howlett.

At 12:20 p.m. – it's documented in my notes: "Confirmed sighting of snowmobile tracks from Cst ANDERSEN, snowmobile track heading toward open water," which would have been the crack. And, Mr. Freeman, there is a photograph of that track.

M. FREEMAN: Okay. And would you like to see that? I can certainly easily pull it up for you.

So this would be Exhibit 018, page 83, please, Madam Clerk.

CLERK: There's only 40 pages in Exhibit 018.

P. RALPH: Are you sure?

CLERK: (Inaudible.)

P. RALPH: Because I've got – that's 017, I think, isn't it?

M. FREEMAN: Oh, Exhibit 018, I'm sorry.

CLERK: Oh, I'm sorry.

M. FREEMAN: That's okay.

CLERK: Page?

M. FREEMAN: Eighty-three. That's where the photo log starts, Exhibit 018.

Eighty-three is where the photos start. And if we go through those one by one, Corporal, where do you – where would you like me to stop here? We're starting at – the photos actually start at 89, Madam Clerk, if you would, please.

And so we can skip to – are we seeing something? Is this the area that we're looking – Corporal Howlett, can you tell me if this is where you want to be? Or would you like to see a photo log, perhaps, or –?

THE COMMISSIONER: Ninety-five, maybe. Page 95.

S. HOWLETT: Corporal Stephen Howlett.

If you see there image 9326 down in the bottom right-hand corner, it's the photo that's being displayed on the projector right now.

M. FREEMAN: Page 89, I think, is the one.

S. HOWLETT: So that's the snowmobile track that was observed going in towards that crack into the open water. I know it's hard to tell it's a snowmobile track as you look at it now, but if you note, you can see footprints to the left and footprints to the right, and that middle strip where you don't see a footprint would be where the snowmobile track was.

M. FREEMAN: Whose prints are those, then?

S. HOWLETT: They would be from ground search and rescue. And they obviously marked the – you can see on the right there's a harpoon, and that's just where the track was marked. They didn't walk on the track because they wanted a camera to get a photo of it.

M. FREEMAN: Okay.

P. RALPH: I'm sorry, can I interject there.

So the – were you – did you see that on the scene or are you just noticing that from the photograph?

S. HOWLETT: I'm just talking about it now from the photograph.

P. RALPH: Okay.

M. FREEMAN: So you're looking at 89. If we go to page 90, Madam Clerk, please. The same picture, similar picture.

S. HOWLETT: That's the same picture; that's correct.

M. FREEMAN: Or similar, and then –

S. HOWLETT: Similar picture, sorry.

M. FREEMAN: That's okay. And then 91, on the next page, is the next picture.

S. HOWLETT: That's a similar picture.

M. FREEMAN: And 92 as well?

S. HOWLETT: That's correct; it's a similar picture. And if you just scroll up – sorry, opposite way – you'll see there's a member of the ground search and rescue there stood by it. So that was the track.

M. FREEMAN: I'm just going to show one more, Corporal Howlett.

Could you zoom out a little bit and maybe rotate that photo for us, Madam Clerk? So if you could just zoom out a few clicks here, please, and maybe rotate that photo three times. No matter which way I choose, I always go the wrong way. There we are.

So that's – again, that's a member of the ground search and rescue team with a marker and that's the snowmobile track there.

S. HOWLETT: That's correct.

M. FREEMAN: And 94 is the next page, if you can click to the next page again – I know there's not – it's very hard to see anything, but my point is – hopefully will become clear in a second. So it's another photo, the same photo there.

S. HOWLETT: That's correct.

M. FREEMAN: Or the same area anyway.

S. HOWLETT: Yeah. And just to clarify, I know when you look at these photos, to anybody

else it looks hard to identify a track in those pictures. And some of that is attributed to what we were working with in terms of what part of the track was left. I guess the best way to explain it, it wasn't a perfect snowmobile track, the snow had drifted in it and we actually – when we got a photograph of that track, we went back to the detachment and we put it up on the computer and we had to manipulate the light on the computer to, kind of, identify that it was a track.

M. FREEMAN: Okay. And that was your conclusion after you got a look at it on the computer; is that what you're saying?

S. HOWLETT: In my personal opinion, when we clarified it, it looked more so like a track. When I seen the initial picture, I was unsure but when we went back to the detachment and we manipulated the light, you could see that it was a track that had been covered in.

M. FREEMAN: So what does this development mean for the search?

S. HOWLETT: At that time, it's a track that – we still didn't know whose track it was, but, at this time, we're starting to eliminate other places in town and other areas. So now we got this track that, you know, we did take the picture back and, you know, we were pretty sure when we manipulated the lighting that it was a track. So we were kind of focusing on that track and where it went.

M. FREEMAN: So I want to go back to Exhibit 017, which is the PROS file, those notes that we've been following the chronology in, please. I'm at page 8.

We're into 10 a.m., 10:40 a.m., 12 noon, the Universal helicopter shows up; there's a sighting of a track. Is this your recollection? Mr. Andersen cites this – sees the snowmobile track from the air first. Is that right?

S. HOWLETT: I'm not sure if Community Constable Andersen noticed it from the air or – because the chopper he was in landed on Strawberry.

M. FREEMAN: Right.

S. HOWLETT: And I don't know if he noticed it from the top of the hill on Strawberry or from the air, I'm not sure.

All I can confirm is that he confirmed the snowmobile track at 12:20, looked to be heading toward the open water and he requested a camera on scene because it was still snowing and we wanted to get a photograph of what was left to the track.

M. FREEMAN: And requesting the camera on the scene –

P. RALPH: Parson me.

Mr. Andersen is here, does he want to indicate where he was when he say that?

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

P. RALPH: Go ahead. Do you want to –?

B. ANDERSEN: Oh, (inaudible).

P. RALPH: No, that's fine.

M. FREEMAN: It's okay with me, yeah.

K. VARDY: Sergeant Vardy here.

Mark, is it possible we can actually get Barry to come and sit with us at the table, because he's an intricate part of the team we had and the search team that we had working on that incident and he can answer some of these questions. He was on the ground (inaudible) –

M. FREEMAN: Well, let's (inaudible) –

P. RALPH: Yeah, because I think as well – because I think Barry testified – indicated yesterday that – I think it was his conversation with the GSAR members in Postville that led to the ...

B. ANDERSEN: I'll (inaudible).

P. RALPH: Yeah, okay.

B. ANDERSEN: Thank you, Mr. Commissioner.

P. RALPH: I'm sorry, Barry. Are you suggesting that he sit down with you at the panel?

M. FREEMAN: I think we can talk about that part of this over the lunch break perhaps.

P. RALPH: Yeah.

M. FREEMAN: If that's okay with everybody else.

THE COMMISSIONER: All right.

So you can finish off what you want to say there, and then we'll have a break for lunch.

Mr. Andersen, go ahead.

B. ANDERSEN: Thank you.

The photographs that you see there is photographs that I took. There wasn't – Perry Voisey and his son Andy were out at the ice. I didn't see those helicopter – or those tracks from the helicopter. It was – you couldn't see nothing. Everything was just white. The ice was just white from the helicopter.

And when we landed at Strawberry Head, Mr. Commissioner, that's when the other snowmobilers came out to see what we were doing on the ground. They came by about a half an hour later. I think they were at Ford's Bight.

Some of them got out onto the ice, to the ice edge and walked around. Mr. Perry Voisey, one of our ground search team members, who was very, very experienced on the ice, was adamant that he seen snowmobile tracks when the snow – when the cloud conditions lightened up a bit. And that's why you will see all the footprints all around – or if there was any tracks they would have been destroyed by looking around, but they managed to agree that one spot was a snowmobile track so they put – (inaudible) where the harpoon, Mr. Howlett had mentioned, near to stop anyone else from walking nearby, so that's when we got the camera. I took a picture and we used Photoshop to enhance the lighting to confirm, to see raw tracks and the Ski-Doo track in the ...

M. FREEMAN: So, Mr. Andersen, it says here: Mr. Andersen called requesting a camera on scene. Is the camera you're requesting to come on scene, the one that took these pictures?

B. ANDERSEN: Yes.

M. FREEMAN: Okay, thank you.

THE COMMISSIONER: I think this is a natural time for a break; we'll have a break until 1:30.

CLERK: All rise.

THE COMMISSIONER: Thank you.

Recess

CLERK: All rise.

This commission of inquiry is now in session.

Please be seated.

THE COMMISSIONER: Go ahead, Sir.

M. FREEMAN: Thank you, Mr. Commissioner.

So before we left for the lunch break, I believe we were into the morning of the 30th. And we were in Exhibit 017 and we were around page 8, I believe.

And we had looked at some photos as well of the track that had been located on the morning of the 30th. And you were – RCMP were taking some photos of that track and trying to determine exactly what it was and maybe pick it up from there. The Universal chopper is already engaged at this point, I believe, or around noon or thereafter on the 30th.

S. HOWLETT: Corporal Stephen Howlett.

Yeah, at 12:20, Barry Andersen confirmed the sighting of a snowmobile track and it was heading toward open water. Prior to our break, Barry explained how that track came to light, who observed it. At 12:25, Constable Andersen called requesting a camera on scene. The purpose and importance of the camera is he wanted to get a photograph of the track before

the snow filled it in. So he wanted to get a picture of the track before the snow filled it in, and that's why I spoke about bringing that picture back to the camera – or back to the office, sorry, and enhancing the lighting to confirm that, yes, it was a snowmobile track.

M. FREEMAN: So it's 1 o'clock on the 30th and you get the cameras and you take a look and you found the snowmobile track going where?

S. HOWLETT: So, at 1 p.m., I had been picked up by the helicopter and brought a camera out to Barry Andersen. And Barry was actually the one who took the picture of the track and it was headed towards that big crack in the open water. One of the search teams that were on scene at that crack, they went back to Makkovik to get a boat to put into the crack to search the water in the crack.

M. FREEMAN: Okay.

And so, why don't we call up a photo of that? Madam Clerk, if we might go back to Exhibit 101. And page – oh, excuse me, I got the wrong exhibit. It is Exhibit 018.

THE COMMISSIONER: 018, that's right.

M. FREEMAN: 018, 83 – page 83, please, we are starting there. And perhaps we can take a look at page 96, please. So, Corporal Howlett, can you tell me what you're seeing in this photo, please.

S. HOWLETT: So that photo is, you'll notice down in the right-hand corner it is captioned Image 9333. The photo was taken by Barry Andersen on January 30th. It shows a crack in the ice; the crack had partially froze and light flurries had covered the ice. You can see – that's going from Strawberry right across to Ikey's Point.

In the top of the picture, you can get a good view of the crack and the open water but, as it came to the south, you can see like there was a thin layer of ice over the water and the snow had fell on that ice. You can see right where the crack starts and continues across the bay.

P. RALPH: Sorry, can you go up that picture and show us (inaudible)?

M. FREEMAN: Perhaps while Corporal Howlett is moving up there, I see that our search manager for NLSARA, Barry Andersen, is back.

Mr. Andersen, if you want to take a seat up there and supplement some of the answers, from your perspective, that would be helpful to the commission, I think, if everyone is okay with that.

G. BUDDEN: Yes.

M. FREEMAN: Mr. Commissioner, if that's appropriate.

Thank you.

S. HOWLETT: So, yeah, you can see this is what they call Ikey's Point. You can see the crack stretching right across the harbour. This is all water. And as it comes in here, you can see that there's a little dusting of snow over the thin layer of ice.

Constable Andersen would have took this photograph.

THE COMMISSIONER: Can I stop you for a second and ask you to point it out on that topo map as well, and which direction are we looking?

S. HOWLETT: So that picture would've been taken from this area here and it's looking across the bay that way.

G. BUDDEN: Just, if I may, is the camera still able to pick that up? Ma'am, is the camera able to follow what he – thank you.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

S. HOWLETT: Oh, sorry, yeah.

UNIDENTIFIED MALE SPEAKER: Open water (inaudible).

S. HOWLETT: Sorry about that.

The picture was taken from Strawberry Head and this is the crack. It stretches across to Ikey's Point.

T. WILLIAMS: It goes from point to point?

S. HOWLETT: Yes, it stretches right across the bay.

M. FREEMAN: Madam Clerk, can we just take a look at Exhibit 101, page 81, please?

And this is a different version just up on the screen; it may be a little brighter or, perhaps, helpful.

Can you, Corporal Howlett, just show us on there where this crack is as well? So again this is midday on the 30th and – perhaps Sergeant Vardy should show us, if necessary.

K. VARDY: Sergeant Kimball Vardy.

So looking at the map here, which is highlighted, so this is the crack that goes across from Ikey's Point to Strawberry. So, basically, what we're looking at is this would be the crack, this dark area that we uncovered in here. Our search pattern was below that crack.

M. FREEMAN: So on the morning of the 30th, you discovered a snowmobile track that goes north into that –

K. VARDY: The snowmobile track was actually proceeding northeast along this route. It ends at this – from what we seen, it ended at this – the beginning of this crack.

M. FREEMAN: So you have a snowmobile track that leads into the crack and there's no apparent track on the other side, the north side of the crack or the north – you know, I'm saying north and south; the top of the crack, the other side – there's nothing on the other side in terms of a track that you can pick up.

K. VARDY: So, at that point, we put – I put a boat in the water and it searched the area as much as it could looking for any sign of a debris or any sign of a (inaudible) track on the other side.

M. FREEMAN: So what does this crack do to the nature of your search at the time? Where are you still searching? Now that you have this crack, what are you doing?

K. VARDY: So if this track is coming here, we're concentrating our efforts south of this or to the east of it. So if there's any possible way that anybody walked out, they would've walked this way. They couldn't walk across the open water to the outside of it.

M. FREEMAN: Okay.

And – but at the same time, are you putting all your eggs in one basket and thinking: Well, just this snowmobile track now, we're going to focus on this and forget all the – everything below us and behind us. What other options are there, if any?

K. VARDY: No, this is a track that we had to eliminate. We still haven't confirmed that this is actually the track that was belonging to Burton Winters, so we're eliminating that. So we're still concentrating in this area along here and back in through the interior as well.

M. FREEMAN: And this into midday on the 30th. Is that right?

K. VARDY: That's correct, yes.

M. FREEMAN: Okay. Thank you.

So if we go to Exhibit 018, page 83, again, Madam Clerk, please.

So we're going to go to page 101, please. And I think you'll need to rotate it again for us, unfortunately. Thank you.

Okay, so is this the same crack that we just talked about that runs from east to west from Strawberry Point, is it, to the other side? Can you tell me what I'm looking at?

K. VARDY: Sergeant Vardy here.

Yes, that is the same crack. We see in the picture we have the searchers on the south side of the crack and just into in the darkness there you can see the boat that was doing its manoeuvring around in the water looking for an exit track.

M. FREEMAN: And I understand the NLSARA search manager, our friend Mr. Andersen, is standing out there at this at this point, or are you, Mr. Andersen?

B. ANDERSEN: No, I'm not. I'm in the helicopter.

M. FREEMAN: Oh, you're in a helicopter taking the photo; is that correct?

B. ANDERSEN: Yes.

M. FREEMAN: Thank you.

So how did the – to your knowledge, Sergeant Vardy, how did the boat get out there?

K. VARDY: Searchers brought the boat out from the community here; they dragged it out on the ice with their snowmobile and pushed it in the water.

M. FREEMAN: Right. And I don't – it is not for me to editorialize this photo, but you know, can you tell us anything about what you're seeing here. What do you think of this? I'm uninitiated in this to a certain extent, but it looks dangerous to me. What is going on here?

K. VARDY: Well, it's certainly dangerous because, as Mr. Andersen alluded to the other day, that some of the searchers were going through certain open areas, open cracks in the ice because it was covered over with snow. So you have an ice surface that's not solid. There's cracks, there's open area and it's covered with white snow, so you can't really tell where you're walking or – and what's ice or what's water, really, until it is actually broken.

M. FREEMAN: Okay.

And so, is the right-hand side of this – I know I'm garbling the directions a little bit, but I'm thinking that there's south of the crack and there's north of the crack, if you know what I mean, but the searchers are standing on the south side of it.

K. VARDY: That's correct, yes. We can't get beyond the crack because the ice beyond the crack is not safe to travel for foot or anybody, really.

M. FREEMAN: You can't get around to the east side, the right-hand side, I'll say, of the crack because it's too rugged for a snowmobile on Cape Strawberry?

K. VARDY: Yes, that's right.

M. FREEMAN: And you're not seeing any footprints going that way at this time?

K. VARDY: No. So we searched along the east side to see if there was any – if someone had gone into the water could they have possibly walked out because, obviously, the snowmobile would go to the bottom, and there was no tracks leading out of the water area.

M. FREEMAN: Okay. Thank you.

If we go back to Exhibit 017, Madam Clerk, please.

Is there anything else you'd like to add, Corporal Howlett, about this stage of the search at this time?

CLERK: Page 8.

M. FREEMAN: Yes, so it's Exhibit 017, excuse me, and it would be page ...

S. HOWLETT: No, at my last notation on that page at 1 o'clock, I arrived in a helicopter at that time and I turned the camera over to Barry Andersen. There was a search team en route back to Makkovik to get a boat to explore that crack further. When I left to go on the helicopter, we done another hasty search and then we went back into Makkovik.

M. FREEMAN: So you were searching – when you say you did another hasty search, you mean you are still searching within that yellow highlighted area we looked at a while ago?

S. HOWLETT: Yeah, it's not a hasty search, but it was a grid search in the chopper at that time.

M. FREEMAN: Okay.

S. HOWLETT: Places we searched when we took off from Cape – or from Strawberry Head, where the helicopter had landed – we searched – we flew over the crack and we flew out past the crack, so out to sea, like further on from the crack. I can't comment on how far we went out over the crack, but we were – we couldn't see

anything on the ice. We couldn't see no snowmobile tracks, no footprints.

And out there, the ice kind of changes a little bit. The ice is a lot rougher, like, there's ridges of ice; it's higher. And you will really get a good look at that in the – later on, when we get into the next day, you can see a picture of the snowmobile when we recovered it. When you see a picture of the snowmobile, you can see the kind of – you can see how the ice was around the snowmobile. It's three to four feet high in places. It's very rigid.

M. FREEMAN: Thank you.

Yeah, and we will certainly get to – when we get to the 31st, we'll certainly get into those photos. I appreciate what you're saying.

So as of midday on the 31st, it's – Universal chopper is in Makkovik. It's noon. You can see, if you move up just a little bit, Madam Clerk, on that document. Just up towards this way, thank you, and up to noon. So up –

CLERK: Oh, sorry.

M. FREEMAN: That's okay.

So it's noon, "Universal chopper in Makkovik." So what time does the Universal chopper start searching?

S. HOWLETT: Corporal Stephen Howlett.

I don't have that time documented in my notes.

M. FREEMAN: I see a 12:30 here.

S. HOWLETT: Okay. Okay, yeah, Universal chopper was in Makkovik. That started searching at 12 o'clock. And we spoke about this prior to our break. Dean, Roy and Robert were in that chopper. They're all on ground search and rescue and they were in the chopper as spotters.

M. FREEMAN: So, Sergeant Vardy, as of noon on the 31st of January, did you feel you had sufficient air support for this search?

K. VARDY: Sergeant Vardy.

At that time, we had an aircraft in the air that was sufficing for our search needs at the time.

UNIDENTIFIED MALE SPEAKER:
(Inaudible) the 31st?

M. FREEMAN: The 30th.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

M. FREEMAN: The 30th.

UNIDENTIFIED MALE SPEAKER: Yeah. You said the 31st.

M. FREEMAN: Oh, excuse me. Thank you, the 30th.

K. VARDY: The date we are talking about is the (inaudible) –

P. RALPH: Yeah, it was noon on the 30 but you did say the 31st (inaudible).

T. WILLIAMS: Yeah, I think so, thank you.

P. RALPH: Yeah, no sweat.

M. FREEMAN: Thank you, Tom. I appreciate that.

Noon on the 30th. All right, so what happens next? I see your notations here the Universal helicopter is in the air. You feel you have sufficient air support, as you just said, Sergeant Vardy, at noon on the 31st – on the 30th. I am going to do that every time now. Writer on scene, I see, here at 1; they get in the boat. Does the boat give us any more information? Does that search of that open water provide any more information of use?

K. VARDY: Well, it's relevant to the fact that there's no debris found in the water. There's no exit tracks on the other side that we could see. So it gives us – leads us to an indication that there's a possibility that the snowmobile had entered the water and is now resting at the bottom of the water.

M. FREEMAN: Okay, thank you.

And so, we're moving on to page 9 of this document and we're getting into 1505, so 3:05. It's still daylight at that time in Makkovik, presumably, January 30th; is that right?

K. VARDY: Yes, that's correct.

M. FREEMAN: And it says right above that, it seems, Corporal Howlett, you updated the family again at that point.

S. HOWLETT: Corporal Stephen Howlett.

Yes, that's correct.

M. FREEMAN: Is there anything from that conversation that you need to add at this time?

S. HOWLETT: Not that I can recall. We basically went over, you know, the track and the open water but nothing that I can recall now that stands out.

M. FREEMAN: And we see in that entry it just describes the crack and the nature of the weather at the time. You can see that 1505 entry, 3:05 on the 30th, area photographed by Community Constable Andersen; area outside open water extremely dangerous; heavy flurries in area. Do you see that?

S. HOWLETT: Yeah, that's correct. The search team were on scene with a boat. They were currently checking the open water for any debris or confirmation. They cannot locate snowmobile track on other side of the open water. Open water was approximately 60 foot wide, and the area was photographed by Barry Andersen. And the area outside the open water was extremely dangerous and there was still heavy flurries out there at the time.

M. FREEMAN: What is the Universal helicopter doing while the boat is in the water and we're searching for debris? I'm not sure who's best placed to answer that one, perhaps Sergeant Vardy or Corporal, if you want to. What is the Universal helicopter doing while the searchers that we just saw standing on the edge of the ice like that – I assume this photo is being taken from the helicopter for starters.

K. VARDY: Yes, Sergeant Vardy.

I think we could get to Barry Andersen, because he was in the helicopter at the time and they were continuing to search, take photographs of the area and also search in the area around Ford's Bight and that area just in case there was a possibility that a person had left by foot from that crack area.

M. FREEMAN: Okay.

Mr. Andersen, would you like to talk to us about that a little bit? What is the Universal helicopter doing? It's up in the air. The weather is good enough for it to be up in the air. You're taking photos of the area. And maybe you could just – I know you've had a chance to do this already once, but fill us in again just to supplement the answers of my clients, please.

B. ANDERSEN: Okay.

We flew around the scene there in the photograph. If you could put the photograph back up again, Madam Clerk, that would be great.

M. FREEMAN: That's 101.

B. ANDERSEN: So we just basically flew around the immediate search area where the guys are standing on the ice. The extremely dark area is pretty much just slob and water. You'll see with the same distance from the pretty much open water area where the boat made its last track, there's another grey area until it comes to a little more white area. That's pretty much the slob and water.

I'm not sure if you guys with the commission can see that clearly or if you want me to point it out.

UNIDENTIFIED MALE SPEAKER:
(Inaudible.)

B. ANDERSEN: So from here to there, this is dark, pretty much water – just water. But if you can tell from here to there, it's a little bit lighter than what you see in here. This would've been probably how wide the water was the day before up to the Shina. You can see that from Makkovik. The day the guys were coming (inaudible). So from here to here, you can see it's not as dark as it is, but this is how wide it

would've been in that area to get to the other side.

So we flew around pretty much this area here for five or 10 minutes just trying to come up with any debris, any sign of track or (inaudible).

M. FREEMAN: Okay, thank you, Mr. Andersen. I appreciate that.

So the Universal helicopter is providing air support at this time, Sergeant Vardy; is that right?

K. VARDY: Yes, that's correct.

M. FREEMAN: Okay.

It's getting later now and the sun is going to start coming down, so it's – the next entry that I see here, unless you have anything else to say about the crack and the track and the lack of debris and the moves that you made from that information, anything else there before we start to move on to the next step?

K. VARDY: From that point basically, we need to basically eliminate this track as a possibility. So we decided to bring in a underwater camera which is from the dive team on the island. I served with the dive team for 11 years, so I'm quite familiar with the equipment. So I made a contact to our NCO to get this dive camera brought in – the underwater camera brought into Makkovik. So arrangements were in the process of being made for that. They had to bring the camera to the local airport, a flight brought it to Goose Bay and then it was going to be brought into Makkovik via RCMP plane the following day.

So, up to that point, we were still searching, looking for any type of evidence whatsoever that we could go and find a direction of travel for where Burton had gone. The only thing right now we had at this point is the track and we're in the process of trying to eliminate that track as whether it is Burton's track or whether it's not Burton's track.

M. FREEMAN: Okay. And the next entry here is basically 5:03, search called off for the night. I assume that's due to what ...?

K. VARDY: So it's dark at this point. It's dangerous out around that crack for people to be walking or driving a snowmobile in that area and, basically, we've exhausted everything for that day that we could do. So the helicopter it's on its way back to Goose Bay probably by around 3:30ish, 4 o'clock before darkness, and we go back to the office the and, at that point, basically we're evaluating what our next steps are.

M. FREEMAN: So what are your theories or what were your working theories at that time – it's 5 p.m. on the 30th, the sun is going down, the crack is where it is and you're going to call the search off for the night. What are the theories about where Burton could be at this point?

K. VARDY: So at this point we're – like you say, we are trying to eliminate this crack so we're thinking that, in our thought process, is that the snowmobile is under the water. We're looking for any type of debris or any type of an exit area for Burton or someone to walk away from this hole.

So we're looking for those footprints and we're preparing for the next day really is what it is. So, at that point, we go and get an ice auger, basically, is what it is, and we just drill holes in the edge of the ice so that we can actually prepare for the arrival of the camera.

M. FREEMAN: You do some of that on the 30th?

K. VARDY: I'm not sure; I think it might have been the next day.

M. FREEMAN: Might be later, but that's okay. Thanks.

Okay. And so, you're not looking for nighttime air support at that point.

K. VARDY: No, the weather is still not good at that point. Basically, we've exhausted everything we could think of inland where we could be looking. Based on the information we're receiving from the size of that open water the day before, the tracks leading into the open water, no exit; we're thinking, in our mind, that this might be where the final results may end up.

M. FREEMAN: So why not theorize that he's on the other side of the crack. Maybe that's obvious, but explain it just in plain language, please. Why not theorize that Burton is somehow on the other side of this crack now. Tell me about that thought process.

K. VARDY: So the information we received is that the open water was about 60, 70 feet wide. There is no possible way that a snowmobile, a 300 Tundra, would travel 60 feet over open water to get to the other side.

M. FREEMAN: And you're not aware of any time when that open water was closed?

K. VARDY: We're not aware of any time that open water was closed. Based on our information that we received from people in the community, the hunters that had come back, that open water was there all day.

M. FREEMAN: And, Mr. Andersen, is that your recollection as well, or were you not in the – privy to the hunter conversation? Can you tell me about your knowledge of this, when this crack was open and when this crack is closed?

B. ANDERSEN: Sure. Saturday, the 28th of January, we had our Junior Canadian Rangers Sea-Can at the same location where the fire hall is –

G. BUDDEN: Sorry to stop you, Mr. Andersen. We figure that may not be being picked up. Is your mic on? Okay. Is the audio picking that up? It is? Okay. Sorry. Sorry to interrupt you.

B. ANDERSEN: Thank you.

On that Saturday before Burton went missing –

M. FREEMAN: The 28th?

B. ANDERSEN: The 28th, we mustered with the Junior Rangers at the Sea-Can, at the same location where the present fire hall is right now (inaudible) to the airport. So we have a pretty good view going of the harbour and of the sea, and we can clearly see the ocean Shina from that area at the time that person that stopped itself –

M. FREEMAN: Mm-hmm.

B. ANDERSEN: And I was thinking to myself, my goodness, what a winter seal hunting. I haven't been out there seal hunting yet; I was with the Junior Rangers that weekend but ...

M. FREEMAN: So that crack was open on the 28th, I guess, is what you're saying, from your perspective.

B. ANDERSEN: Yes, (inaudible).

M. FREEMAN: Planning to do a seal hunt in the crack.

B. ANDERSEN: We could have.

M. FREEMAN: It may be that the hunters who were to the west of the crack were doing that very thing; I'm not sure on that but –

B. ANDERSEN: No, it was too dangerous for them at the time, but we seen the Shina out there and we see the edge of the ice and got excited and wait for it to freeze over (inaudible).

M. FREEMAN: On the 28th, you mean?

B. ANDERSEN: No. Traditionally, that would be (inaudible). Do you understand what I'm saying? When you see the ice forming out there on the edge of the ice, if we wait a few days until it freezes up solid enough so that the hunters can get to the edge and (inaudible). But, at that time, nobody was out there, no hunters, nobody.

M. FREEMAN: So you couldn't even hunt near it on the 28th?

B. ANDERSEN: No.

M. FREEMAN: Okay. All right, thank you.

So anything else you want to add about the 30th, Sergeant Vardy or Corporal Howlett, and the search being called off for the night? When I say called off for the night, you're not searching the crack anymore, but do we all – what happens at 5 o'clock with everybody who's looking for Burton?

K. VARDY: So at that point, the searchers are returning back to the community and we're making, you know, plans, we're making calls

and (inaudible) the plan is to bring a camera in to try to get the camera in to Makkovik to eliminate this track.

M. FREEMAN: Okay.

So what happens next, then, on the 30th, if anything, from your perspective, gentleman?

S. HOWLETT: Yeah, Corporal Stephen Howlett here. I'm just going to go by my notes, documentation.

At 4:39, the search teams on site started to return back to Makkovik. It would've been getting dark the that time of the year. The area was too dangerous to search at night. We were making plans to return back at first light with a boat. And Corporal Vardy, at that time, would've been arranging for an underwater camera. And you'll see my next documentation at 5:03 was when the search was called off for the night and we had a plan to meet at the detachment again for first light.

So during this day on the 30th, you can see the area that we searched that day and I'll just read through, it's documented in my notes. The areas that were searched that day was: Makkovik Bay; Boats Cove; Marks Bight; Kaipokok Bay; Killman Pond; Monkey; Sharp Hill; Big Island; Bens Cove; all cabins in Boats Cove were searched; Ford's Bight; Makkovik, the whole community; Ranger Bight Pond; the airstrip; Hare Hill; Tilt Cove; Grassy Point; Point of the Bight; the Slant; Indian Head; and the Moravian Woods.

No snowmobile or debris had been located for that date, on that date.

M. FREEMAN: Okay, and we're carrying on to page 10, then.

It says that Burton's computer was taken to have some analysis done. Is that right?

S. HOWLETT: Yes, that's correct.

And the initial thought on that was we were trying to see if there was anything on his computer that would assist the investigation, and things like – you know, we wanted to see if he searched, you know, routes to Goose Bay, routes

to Postville. We just wanted to see if – how his mindset might have been prior to him leaving the house when he had been on the Internet. So we seized that computer and had it sent to tech crime in St. John's.

M. FREEMAN: And Burton's parents were, of course, fully co-operative in this, and ultimately nothing of use was found on that computer in regards to his disappearance.

S. HOWLETT: Yes, that's correct.

When tech crime gets involved in investigations, oftentimes we have to get a warrant for that stuff. But they did sign a consent, signed by the parents, that would allow us to do that search. And what we were looking for is just, like, anything that he had searched, like exact – like routes to Goose Bay, route to Postville, just stuff like that, to see if it could shed any light into our investigation.

M. FREEMAN: To help you with your – the direction of your search, if you will?

S. HOWLETT: Yes, that's correct.

M. FREEMAN: And – but nothing of value was found in that way?

S. HOWLETT: Yeah, the search was completed by tech crime and there was nothing of any value to assist the investigation.

M. FREEMAN: Okay.

The evening of the 30th passes. I don't imagine you – anybody would've slept much that night. Is that fair to say?

S. HOWLETT: Yeah, that's quite fair to say.

M. FREEMAN: And anything else you want to add from, you know, dark – the fall of dark on the 30th into the 31st? Or we can move on until the search resumes on the morning of the 31st.

S. HOWLETT: Not from my end that I can recall, other than, you know, the weather continued to be questionable. I know the helicopter is on scene, but the weather was still very questionable and there was still flurries, maybe not in the town, but, like, there was

flurries – you could see flurries at different directions you looked.

M. FREEMAN: Mm-hmm.

S. HOWLETT: It's – the weather is kind of tricky here. Like, it could be snowing in Makkovik and 10 kilometres north, it may not be snowing.

M. FREEMAN: I understand.

And so if we were go back to the map again, just before we move on to the next calendar day. So that's 101 at page 81, Madam Clerk, please.

So the size, the length, I guess, of the crack, this map shows us that each of these squares is 10 kilometres across, which I'm assuming is correct. Is that – if you scroll up, you'll see that. Is that right?

K. VARDY: Yes, that's correct. It's Corporal Vardy here – or Sergeant Vardy. That's correct, and basically that would be about five kilometres across there.

M. FREEMAN: Across the crack, you mean – the crack is five kilometres based off the scale that you're seeing?

K. VARDY: Yes, that's correct.

M. FREEMAN: Okay. I'm just trying to give sense for everybody of the (inaudible). The scale of what we're saying we're looking at it, at this crack, and looking for a snowmobile we are looking at something that's – you just estimated to be – how long from west to east – I'll use those directions which are very rough but ...

K. VARDY: I would guesstimate approximately five kilometres.

M. FREEMAN: And, you know, the track that goes into it, as of the night of the 30th, no indication anything is coming out of it.

K. VARDY: That's correct.

And there's no possible way to go to the right of the crack to go around it, because it ends into the rough terrain of Strawberry.

M. FREEMAN: Okay.

All right. So, as we said, we don't – I wouldn't imagine there's much sleep to be had the night of the 30th. We wake up on the morning of the 31st. What happens next?

S. HOWLETT: Corporal Stephen Howlett.

So we're into the morning of January 31st now. At 8 a.m. search groups met at the detachment, along with members. At that time, the arrangements had been made for the underwater camera. The search of the water concentrated around the snowmobile track. The expected time of the camera was 3 p.m. in the afternoon. We again – we redeployed search teams to eliminate areas on the land. Search teams were sent to Adlavik Bay, Sharp Hill, Big Bight and Monkey.

We obtained the following information for a Tundra snowmobile. It was the 34-inch skis, 42½ outside to outside, and a 16-inch track. Basically what we were trying to do there is get the measurements of that exact model of snowmobile that Burton was driving and compare them to the track that we had observed going towards the crack.

At this time, we had search teams on the ground and they were checking in hourly.

M. FREEMAN: So did this lead you to think it was more likely or less likely Burton's track by that point?

S. HOWLETT: I mean, as time continues in the search and you eliminate other areas I guess, you know, it's fair to say that the track was getting more credibility as time went on.

M. FREEMAN: Okay.

Mr. Commissioner, I want to go in through the chronology, but I'd like to maybe just switch over to the photo exhibit again for a moment, please.

I wonder if we might just have a moment, if I might concur with my friend, Mr. Williams, before I go through the next part of the chronology. Just five minutes; I wouldn't want to delay us any longer than that.

THE COMMISSIONER: Five minutes.

CLERK: All rise.

THE COMMISSIONER: Thank you.

Recess

CLERK: All rise.

UNIDENTIFIED MALE SPEAKER: Not ready. (Inaudible).

CLERK: This inquiry is now in session.

UNIDENTIFIED MALE SPEAKER: The radio's not on.

CLERK: The radio's not on due to Hansard.

THE COMMISSIONER: (Inaudible). No need to worry about that.

Sit down, please. We're fine.

CLERK: Please be seated.

THE COMMISSIONER: Okay, gentlemen, where were we?

M. FREEMAN: So we are at Exhibit 017, page 11, Madam Clerk, but we're going to scroll down to have the lunchtime – it'd be the top of this page, please. The 12 block at the top. Thank you. And you can ignore the paragraph above for the moment.

So you've got Burton's computer by this point. Is that correct, gentlemen?

S. HOWLETT: Corporal Stephen Howlett.

Yes, that's correct.

M. FREEMAN: And you followed up any leads you can through his social – through Burton's social media as well, or you've investigated possibilities of any information you can gather from social media. Is that correct?

S. HOWLETT: Yes, that's correct.

M. FREEMAN: Okay.

And all the paths to all of the towns and villages nearby have been checked and rechecked already by this time as well. Is that correct?

S. HOWLETT: That's correct.

M. FREEMAN: Including paths to Postville and to Goose Bay, is that correct?

S. HOWLETT: Yeah.

And we didn't mention that on the 30th, when the Universal chopper was in Makkovik and had to return to Goose Bay – they don't fly in the dark so they had to return back to Goose Bay – on his way back, he just didn't fly back; he flew back the groomed trail to Goose Bay and Makkovik.

M. FREEMAN: Okay.

And so it's midday and you've followed up that possibility that the – you know, that possibility that he's gone to Postville or Hopedale or Makkovik or – excuse me, or Goose, et cetera. Is that right?

S. HOWLETT: Yes, that's correct.

M. FREEMAN: Okay.

“Search Teams returned back to Makkovik, no sign.” That's noon on the 31st.

S. HOWLETT: That's correct.

M. FREEMAN: And you're keeping the family up to date?

S. HOWLETT: Yes.

M. FREEMAN: Anything else, Sergeant Vardy, that you could add at this time on this topic?

K. VARDY: So right now, the only thing – Sergeant Vardy, by the way. It's – the only thing we haven't really eliminated at this point is the track. And that's where we're sort of concentrating a lot of efforts there, to eliminate this track or follow it to its – what was going on with that track.

M. FREEMAN: Okay.

Is – do you have Universal on scene at this point?

K. VARDY: And that’s what date?

M. FREEMAN: On the 31st.

K. VARDY: On the 31st, we’re still searching in the area. We had guys still looking just in case, and we’re having the police plane coming in to bring in the underwater camera.

M. FREEMAN: So this is when you talk about the holes. So at 1 p.m. on the 31st, you’re sending – “Teams sent out to open water to start drilling holes with augers” Do you see that?

K. VARDY: Yes, that’s correct.

M. FREEMAN: You were telling me about this a moment ago as a diver.

K. VARDY: Yeah, so in order to use the underwater camera it has to be put down through the surface, from the surface down. So basically, what we do is we have holes drilled in a pattern along the ice edge to make sure we cover off as much of the bottom as possible with the camera.

M. FREEMAN: So you’re preparing for the camera to arrive and tell me about what I’m seeing here. It says: Corporal Vardy and Constable Andersen will bring same – the camera that is – to the scene while the writer and three search members will do fly by in Pilatus to try to locate any debris. So tell me about – what does that all mean, please?

K. VARDY: So the aircraft arrives. So what had happened is the typical RCMP aircraft here is a Twin Otter. A Twin Otter has a larger wing capacity, the ability to fly slower with flaps that – and it’s great for the coast. The RCMP in New Brunswick, we have a Pilatus. The Pilatus is a lot faster aircraft. It’s a single-engine aircraft and travels a lot faster than the Twin Otter and doesn’t have the same wingspan or flap capacity for slow flying.

So what had happened is that aircraft, the Twin Otter was gone for maintenance. We actually requested to have this brought back up and Air Services brought the Pilatus back to Goose Bay

for this purpose. To bring the aircraft up and also to bring up the camera.

So that day when the Pilatus came in, I requested that the pilots who had the searchers on the aircraft fly out over the hole to see if there was any debris that we had missed or anything that we had missed around the hole, any type of debris or any type of sign of anything that might have been in the area.

M. FREEMAN: So the Pilatus is here delivering the camera and why not say (inaudible) –?

K. VARDY: It’s an aircraft of opportunity.

M. FREEMAN: An aircraft of opportunity. So who goes on the Pilatus?

K. VARDY: So we had Randy – no, who was it at the time? So Randy Edmunds, Errol Andersen, Travis Dyson and Constable Howlett.

M. FREEMAN: And they’re flying around the area of the crack that we’ve looked at previously on the map; is that correct?

K. VARDY: Yes, and I can let Constable Howlett allude to that because he was on the aircraft at that time.

M. FREEMAN: Thank you, sure.

S. HOWLETT: It’s Corporal Stephen Howlett. I’ll jump in here.

So, yeah, when the Pilatus landed in Makkovik, the underwater camera was turned over to Corporal Vardy at the time and Barry Andersen. Myself, Randy Edmunds, Errol Andersen and Travis Dyson, we boarded the Pilatus to fly over the crack and search the area. We left Makkovik shortly afterwards and we flew out over the crack and because the Pilatus is a fixed wing, it has to take a wide circle to turn around to come back in over the crack.

M. FREEMAN: And maybe this is obvious to everybody, but for the public’s purposes and that, you say a fixed wing, that’s just – it’s an airplane.

S. HOWLETT: It’s an airplane.

M. FREEMAN: It's not a helicopter.

S. HOWLETT: That's correct. It's not a helicopter that can, you know, suspend in one place, it's –

M. FREEMAN: It can't hover.

S. HOWLETT: Yeah. And it's certainly not a Twin Otter either. It doesn't have the capability to slow down – to my knowledge with aircraft. I've been on Twin Otters and I was on the Pilatus that day and it was – you're going – you're moving pretty fast.

So we –

M. FREEMAN: It's 3:45 p.m. Makkovik time and you're up in the Pilatus. Is it starting to get dark at that point? Or not quite, I guess.

S. HOWLETT: Yeah, I guess, it's starting to get dark. It was still light enough that if there was something in the crack, we probably would've seen it.

M. FREEMAN: Okay. And so the camera gets delivered and it's put to work, I assume.

S. HOWLETT: Yeah, it was turned over to Corporal Vardy, at the time, and Barry and they were going to bring it –

M. FREEMAN: And the Pilatus –

S. HOWLETT: – well, they went back to the office. And I'll get in – in a few seconds, I'll get into how I know.

M. FREEMAN: Sure.

S. HOWLETT: I guess you guys brought the camera back to the office to get it ready.

M. FREEMAN: To get the camera ready.

S. HOWLETT: Yeah.

M. FREEMAN: And you go up in the Pilatus at 3:54, so almost 4 p.m. on the 31st.

S. HOWLETT: Roughly.

M. FREEMAN: Okay.

S. HOWLETT: It was almost 10 years ago, and from my memory the weather was good that evening. It seemed good that evening, in my recollection.

M. FREEMAN: Okay.

And so tell me what happens next.

S. HOWLETT: I can remember when we flew out over the crack, we went by it pretty fast and we continued out the bay. As I said, that type of aircraft needs to take – it has to take a wide berth to turn around and come back in again.

M. FREEMAN: So on the map that's behind Sergeant Vardy here, if you would, are you able to approximate the flight of that Pilatus? And I mean, the flight, of course, that you were on after the camera was already delivered.

S. HOWLETT: Okay. I just want to make sure you can see me. I'll have to turn this a little bit.

THE COMMISSIONER: That's fine.

Thank you.

S. HOWLETT: I'm going to say, you know, this is the crack going across from Strawberry Head to Ikey's Point. We wanted to come out – we were going to zigzag this – fly across it, that was the intention. When we left the Makkovik airstrip, to my memory, we came out this way.

M. FREEMAN: Are you focusing on the right side of the crack more, why again? Because of the tracks?

S. HOWLETT: Because of the snowmobile track.

M. FREEMAN: Okay.

S. HOWLETT: And I was sat on the right side of the aircraft. All the windows were –

M. FREEMAN: Okay.

S. HOWLETT: The lids on the windows were open so we could see out all the windows.

M. FREEMAN: Okay. And so, the Pilatus is flying over the crack; are you trying to look down into it from that plane?

S. HOWLETT: Yes. And we've got myself and a few other spotters from ground search and rescue on that flight as well. And I'm going to say – this is from my memory – probably, I'm going to say, 2½ kilometres going out – coming out this way, so coming out, straddling the land like. I can remember when we flew over the snowmobile and I noticed that it was a snowmobile, we were almost gone past it and it is like it caught my eye to the right looking back at it. That's when I confirmed it was the snowmobile.

M. FREEMAN: So do you – you may not be able to say but if the Twin Otter had been the airplane that you had been on, would it have been a different situation that day?

S. HOWLETT: And it's hard to answer the question because I guess we'll never know, but I suspect that a Twin Otter may have took a sharper turn because it doesn't need to take as big berth to come around to come back in again, but the Pilatus does.

M. FREEMAN: This is something of – I wouldn't say a fluke but, certainly, it has to do with the speed of that plane, that's why it is way out there.

S. HOWLETT: Yes.

M. FREEMAN: You're not grid searching out there with a Pilatus.

S. HOWLETT: No, it was we were going out to make that turn to come back in again.

M. FREEMAN: And look at the crack again, and you see the Ski-Doo on the ice?

S. HOWLETT: Yeah, I was the first person on the aircraft – I can't speak for the pilots. It is a fast aircraft. You know, it is a tough task for them, too.

M. FREEMAN: Okay.

S. HOWLETT: But I know, in the back, that I was the first one to see the snowmobile.

M. FREEMAN: Okay.

And, I mean, what does that mean for the search at that point? What is this – what's going through your head and in terms of an investigator, a searcher at this point?

S. HOWLETT: Well, it's confirmation of the snowmobile and it's a confirmed starting point, too as well, I guess. You know, I confirmed that it was the snowmobile. We passed it fast, obviously, because we were in that aircraft and – but I could tell that the gas can had been removed from the back. It didn't look to me that it blew off the Ski-Doo. To me, it was probably five to six feet behind the snowmobile, which, you know, it looked to me like it would have been physically placed there. It was in an upright position. And had it blown off, I guess, you would – it might have been upside; it would be closer to the Ski-Doo. But when I flew over the Ski-Doo and I seen it, I was of the opinion that that gas tank was removed and personally placed.

M. FREEMAN: Okay.

Sorry, go ahead.

S. HOWLETT: Yeah, so we when we found the Ski-Doo, I had my portable radio on me and I called Corporal Vardy at the time, who was at the detachment, and I notified him of our observations. We did make – in that timespan, we did make – we circled over a few times. And at this point, due to the speed and, I guess, me not knowing all the landmarks, I wasn't quite clear on where we were to. Randy Edmunds was in the aircraft at the time and he was able to use local knowledge to, not pinpoint, but get a good idea of where that snowmobile was.

M. FREEMAN: He knew what was Strawberry after being spun around in the air, kind of from his local knowledge.

S. HOWLETT: Yes. And he relayed that information back to – well, I relayed that information back to Corporal Vardy.

M. FREEMAN: Okay. Thank you, Corporal Howlett, you can probably sit down, unless you have other things you want to tell us on that moment.

I'll just go back to Mr. Andersen for a moment. Mr. Andersen, can you tell us about the ice to the north side of that crack again? So we're out there – there is a snowmobile out there quite a ways now, but to the north of the crack, what's the nature of that ice? It almost looks – do you want to see the photo? Would that help?

B. ANDERSEN: Sure, you can put it up for the commission.

M. FREEMAN: Okay, so it's 101, please.

B. ANDERSEN: 101?

M. FREEMAN: Oh, no, it's not. It's 018, sorry. Eighteen and 83 to start.

B. ANDERSEN: Okay, that's good enough. That photograph is good there.

M. FREEMAN: Thank you. So –

B. ANDERSEN: So the ice you see that the searchers are standing on, and the snowmobile – the two snowmobiles that you see – I believe that is two snowmobiles – that's static ice. It's frozen to the shore, basically, and that's why it's not rough. But all the ice to the outside is just ice pans pushed together and held together by the snow and the slob. It looks like it's the same ice as the searchers are standing on, but it's basically all ice pans, similar to maybe the size of that arena out there, and larger and smaller, and some of them are the size of this table that we are sitting to here. And that's all ice that could be there one day and gone the next, due to the Labrador Current that I know flows southward on pans at about six knots – nautical miles an hour.

M. FREEMAN: Okay. Thank you.

Can you move to page 104, Madam Clerk, please?

CLERK: The Exhibit 104?

M. FREEMAN: I'm sorry, no, it's page 104 –

CLERK: Oh, sorry.

M. FREEMAN: – of this exhibit. I may have said that wrong. Page 104 of this exhibit.

The photo log is there, Mr. Andersen, but are you able to say what that is off the top of your head? I can check the list.

B. ANDERSEN: That's a photograph that I took after we left Makkovik. We were flying out over – we were generally over top of – or nearly over top of Ford's Bight Point. In the distance, you can Cape Strawberry, Strawberry Island and Strawberry Head.

M. FREEMAN: What aircraft were you on at that time?

B. ANDERSEN: Universal Helicopters. That was taken on February 1, that nice Sunday.

M. FREEMAN: Okay.

And so, Corporal Howlett, I'll just move on from that photo for a moment and I got myself turned around, but I want to go back to you, Corporal Howlett, if I may. So you see the Ski-Doo and we're back to your notes at Exhibit 017. Would you just carry on and tell me what happens next in terms of this new piece of information and what it means for your search?

S. HOWLETT: So at 1554, I believe, it's the approximate time that I had noticed the snowmobile. I relayed the information to Corporal Vardy at the time who was back at the detachment. The detachment and the search members on the ground were advised of the new information. The ice around the snowmobile appeared to be very unsafe. There was lots of cracks between the pans. The machine was approximately – or located approximately 400 yards offshore in the rough ice. At that time, during our passes, I didn't observe anything around the – anything else around the snowmobile.

At 4:15, we returned back to Makkovik. At that time, the search teams on the ground were now heading toward the land adjacent to the snowmobile. So, from the time we located the snowmobile, I provided Corporal Vardy with the information of the location of the snowmobile. There were things that happened back at the command post then that I wasn't aware of, because we were still in the air and Corporal Vardy would be able to fill in what calls took place next.

M. FREEMAN: Okay, thank you.

S. HOWLETT: Because my notes kind of jump to 5:15 where JRCC become involved, but there was obviously telephone calls made to get them involved.

M. FREEMAN: Oh, right, yes. So you're up in the Pilatus, you radio back to Sergeant Vardy and perhaps he can take over from there for a little while.

K. VARDY: Sergeant Vardy.

Yeah, as soon as I received information from Corporal Howlett of the location of the snowmobile, I made an immediate call to Fire and Emergency Services for assistance from the JRCC.

M. FREEMAN: So you would have called Sergeant Youden again, or would you have called FES-NL directly?

K. VARDY: I called in through FES-NL directly, at that point. I had a contact number for them. I believe I called them directly because I know I spoke with (inaudible).

P. RALPH: Paul Peddle – Mr. Peddle.

K. VARDY: Paul Peddle, okay.

And I know – I remember speaking to him directly and it might have gone through Sergeant Youden at the time, but I do remember speaking to Paul Peddle directly and we requested air support services. I was advised that the 444 Squadron in Goose Bay was completing their maintenance and would be dispatched to the scene.

M. FREEMAN: Okay. So the finding of the Ski-Doo has changed this situation.

K. VARDY: Yes, it has really changed the dynamics of the search. Now we have a point of search. Now we're really concentrating on whether or not there is actually tracks leading from the Ski-Doo or some sort of indication that Burton may have made it to shore.

M. FREEMAN: Okay. Thank you.

So what is the response from FES-NL?

K. VARDY: So I was notified that 444 Squadron out of Goose were finishing up their maintenance and they were going to be heading directly to the scene to give us a hand with the search. As it was dark by this time – or getting dark at this time and we would definitely need their capabilities to continue searching.

M. FREEMAN: So as we learned yesterday, Universal Helicopters doesn't do night flights.

K. VARDY: That's correct.

M. FREEMAN: And so if you're going to have air support for the night of the 31st, it's going to have to be something else.

K. VARDY: Definitely going to have to be something else.

M. FREEMAN: And so you ask FES-NL to ask JRCC for – or you say to FES-NL give me something that can operate at night.

K. VARDY: Yes.

M. FREEMAN: And they do what they do, and we'll hear from Mr. Peddle and others later on that topic. But ultimately, what happens next? You – do you end up then talking with JRCC as well, soon thereafter? I'm down in your notes now, Sergeant Vardy, because, as Corporal Howlett points out, his do jump over this issue a little because of where he is. Page 28 of this – page 17; page 28 is your notes again, I think. Can you see them?

K. VARDY: That's correct.

M. FREEMAN: So if you want to use that as a guide, we'll go through the rest of this day on the 31st. And what happens next?

K. VARDY: So, at that point, basically, we have searchers notified of what we have found. We're having them – we're tasking them to head to the outer shore at Strawberry and heading out towards Nipper Cove. If anybody had come ashore at that point, that would be the area of locating someone. They're unable to locate any sign at that point in time along the shore and had

difficulty in the terrain due to the ice and the cliffs and the onset of the darkness, right?

M. FREEMAN: So you provide some information to JRCC, do you? Do you provide them with – like, they can't just – you can't just say search for me; you got to help them to know where and what to look for. Is that fair?

K. VARDY: Yeah, so basically at 1829 hours, so 6:30 in the evening I was speaking with Captain MacDonald and that's when we started to relay information back and forth as to the coordinates of the snowmobile.

M. FREEMAN: That's the controller we talked about yesterday in the SAR incident log, the controller?

K. VARDY: Yes, it is.

M. FREEMAN: Okay. And so, you talk – and this is normal. Once JRCC is involved, is it normal – and either you, Sergeant Vardy, or Lieutenant Colonel Marshall, can say this part and we maybe have already covered it, but it's normal to cut out the middle man at this point and you can talk directly to the controller or even the pilots, is that ...?

K. VARDY: Yes, so he's contacted me directly because I'm the one with direct information. We're not going to go through a bunch of steps to get that information to him. So he wants to speak with me directly so he can get the most accurate information without going through a leapfrog process, I guess.

M. FREEMAN: So what does the controller want to know? What is it that the controller wants to help the pilot with?

K. VARDY: So basically, he wants to know where the snowmobile is located. So he wants exact coordinates and he wants to know what are we requesting as a search area or a type of search that he'd, too, do in the area.

M. FREEMAN: And so, what were you able to provide the controller to help him with this snowmobile and what was going to happen?

K. VARDY: So we provided him with coordinates. Basically, we provided him with an

area that we would like to have searched, basically, as a grid search, and we also provided him with information about the snowmobile, about the clothing that Burton was wearing, who Burton was, that type of stuff.

M. FREEMAN: So between Mr. Andersen and the searchers and Corporal Howlett and yourself and any number of other people, you now have coordinates of the snowmobile and JRCC has those coordinates on the – let's say after supper into the evening of the 31st.

K. VARDY: Yes, that's correct.

M. FREEMAN: And they send – ultimately, we heard the details of how it was dispatched yesterday, but they send a Griffon helicopter. Is that right?

You're not – maybe not your department. We covered this yesterday, so I'll leave it at that. But they sent air support when you asked –

K. VARDY: Yes, that's correct.

M. FREEMAN: – on the 31st.

K. VARDY: Yes. Yeah.

M. FREEMAN: And they picked up the snowmobile – they – not say picked up, but they found the – they located the snowmobile from that helicopter.

K. VARDY: Yeah. They found the snowmobile and they also found tracks leading from the snowmobile approximately 100 or 150 feet from the snowmobile, heading towards the land.

M. FREEMAN: And were they able to follow those tracks in any – for any particular length?

K. VARDY: No, they lost track of it after a certain period of time and they couldn't pick it up with night vision.

M. FREEMAN: I'm still at the same page of your notes there, and you may be following along as I'm talking and asking you questions, but looks like the time of day, then, was 2316, so 1116 hours.

K. VARDY: Yeah.

M. FREEMAN: The –

K. VARDY: (Inaudible.)

M. FREEMAN: Sorry, it was actually earlier than that. It was – the snowmobile was spotted at 2123: Members received confirmation from the controller that the snowmobile had been spotted and they were conducting a grid search.

K. VARDY: Yeah. So at 2100 hours, they had located the snowmobile; 444 Squadron was on scene and conducting searches in the area of the located snowmobile.

2123 hours: Received confirmation from Captain MacDonald that the snowmobile had been spotted and they were conducting a grid search in that area.

And at 2203 hours, I met with the Squadron aircraft as it returned to Makkovik to refuel. They had nothing to add at that point but advised they were continuing the search.

At 2316 hours, they advised through JRCC that an Aurora aircraft was en route from St. Anthony with FLIR capabilities to search for heat sources. They were inquiring at that point in time whether or not we had searchers in the area because that would – they would pick up those searchers as heat sources.

M. FREEMAN: And so perhaps you can just tell me about your understanding of FLIR. When you hear that on the night of the 31st, what does that mean to you?

K. VARDY: So basically what that means is that they're going to search the area in a search-grid pattern looking for any heat source to see if – once they identify a heat source, then we can check it out to whether or not it would be – have been Burton or someone else.

M. FREEMAN: So the night of the 31st, after the Ski-Doo is found and the request is made to help us search in the dark, you get a JRCC, a CAF, a Canadian Armed Forces helicopter and a Canadian Armed Forces Aurora at that time?

K. VARDY: That's correct, yes.

M. FREEMAN: And the helicopter, I'd say it was a Griffon; we learned yesterday, the Griffon helicopter finds a track but can't follow it for much of a distance. I see it here at 1:15 in the morning you're told the track went for 100 to 150 feet then disappeared.

K. VARDY: Yes, that's correct. At that point, they were pretty much done for the night. Their flying hours had been exceeded and they had to travel back to Goose Bay.

M. FREEMAN: And the Aurora searched for heat – I'll say heat signatures or heat sources with their special technology that you've described. The Aurora, though, didn't find anything in terms of using at that time.

K. VARDY: No, that's correct.

M. FREEMAN: Okay.

And so you then speak to Paul Peddle again at FES.

K. VARDY: Yeah, so at that point we're saying, okay, well, we know we still need the air support for the morning, first light. So, basically, at that point, we requested a Universal helicopter to attend at first light so we can continue the search.

M. FREEMAN: Okay, thank you.

Anything you want to add Corporal Howlett at this point?

S. HOWLETT: No, Sergeant Vardy pretty much summed it up what took place after the snowmobile had been located. As he alluded to, we spoke to the crew when they came back to Makkovik for fuel, and you can see it's documented in my report on page 13. I spoke to the pilot at that time, they had found –

M. FREEMAN: Sorry, Corporal, will you tell me what page you're on, the red numbering there.

S. HOWLETT: I'm sorry. It's Exhibit 017 and it's page 13 in the top right-hand corner.

M. FREEMAN: Thank you.

S. HOWLETT: As I said, JRCC had returned back to Makkovik for fuel. I spoke to the pilot. He had located a footprint leaving the snowmobile, headed back toward the shore. It was followed about 150 feet and then the tracks disappeared.

JRCC advised then the Aurora was on route back to Goose Bay.

THE COMMISSIONER: Can I ask in large part if the Aurora could land here on Makkovik strip?

S. HOWLETT: Corporal Stephen Howlett.

I'm not – the Aurora didn't land and I'm not sure if it could land; if it has the capabilities to land here. I don't know if –

M. FREEMAN: Your friend Lieutenant Colonel Marshall might be able to help us.

J. MARSHALL: No, the Aurora would not be able to land here. It's too short, too narrow. In the winter, we probably wouldn't dig into the ground, but in the spring or summer, we definitely would.

THE COMMISSIONER: Thank you.

M. FREEMAN: So the air search proceeds into the 1 a.m., 2 a.m. territory of the night of the night of – I'll call it the night of the 31st and you're picking up with Universal Helicopters first thing on the morning of the 1st. Is that right?

S. HOWLETT: Corporal Stephen Howlett.

Yes, if you go and refer back to page 13 you'll see the helicopter from Goose Bay was arranged the following day, there was an advanced message forwarded and the search – we planned for the search to commence again at first light.

THE COMMISSIONER: Sorry to interrupt.

Page 13 that you referred to, there's a line there that says, "JRCC returned back to Makkovik for fuel." I don't understand what aircraft we're talking about there.

S. HOWLETT: Corporal Stephen Howlett.

Sorry, Commissioner, that was the helicopter that landed in Makkovik to refuel.

THE COMMISSIONER: Okay.

S. HOWLETT: And the Aurora – as my friend here just mentioned, he couldn't land at the airstrip.

THE COMMISSIONER: Okay.

M. FREEMAN: So it's the helicopter that refuels and it is the helicopter that finds the track.

THE COMMISSIONER: Yeah, I'm just confused about the JRCC reference.

M. FREEMAN: Oh, excuse me.

The helicopter in question is a JRCC helicopter, Mr. Commissioner, so this is the Griffon helicopter.

THE COMMISSIONER: Ah, okay.

M. FREEMAN: So on the evening of the 31st we have two JRCC assets that are deployed –

THE COMMISSIONER: Yes, I recall reading that.

Thank you.

M. FREEMAN: – because they're flying in the dark.

So the next thing that happens is that we pick up the next morning with – back to Universal Helicopters again because now it's light, the morning of the 1st.

S. HOWLETT: Yes, that's correct.

M. FREEMAN: All right.

So perhaps just continue to walk us through the chronology. It is now the morning of the 1st, you've locate a Ski-Doo and maybe a track that JRCC has mentioned the night before. What happens next?

S. HOWLETT: On February 1st, at 8 a.m. search and rescue – ground search and rescue

and members mustered at the detachment. A team of 12 members from ground search and rescue were deployed to search the shoreline adjacent to where the snowmobile was located. So as you know on the previous day they had left that area because it got too dangerous. So they returned on the 1st when it got daylight again.

At 8:50, the search team – ground search and rescue teams deployed en route to that area.

At 10:15 a.m., the helicopter from Universal arrived in Makkovik. Barry Andersen, Errol Andersen and Randy Edmunds got in that helicopter.

M. FREEMAN: How was the weather at that point?

S. HOWLETT: The weather was good that day. The weather was clear that day, the – I believe the sun was out and it was bright and Barry Andersen actually has some photos that he had taken when he went up in that chopper.

M. FREEMAN: So that would be Exhibit 018, page 83, Madam Clerk, please.

K. VARDY: It's Sergeant Vardy here.

Page 105, 106, 107 are all photographs that were taken from the aircraft by Barry Andersen. You can clearly see the nice blue sky and the clear conditions.

M. FREEMAN: What page is – what's the red page there just so we have everybody on the same page, if you have that?

K. VARDY: Exhibit 018, pages 106, 107, 104, 105, any of those in that area.

M. FREEMAN: Thank you, Sergeant Vardy.

So 109 is Burton's Ski-Doo, is that correct?

K. VARDY: That's correct.

M. FREEMAN: You can see the nature of the ice there. I don't know if our friend, Mr. Andersen, wants to add anything about the nature of the ice at that point there. If you wish.

B. ANDERSEN: Thank you, Mr. Commissioner.

The snowmobile you can see there on the ice is pointing in the same direction as the helicopter. We're looking at the rear of the snowmobile, looking at the seat and directly to the right, into the bottom of the photograph you'll see another dark spot there, that's the gas can that Constable Howlett, at the time, had seen as well as the snowmobile from the air.

THE COMMISSIONER: So you're looking south to Nipper Cove Point right there are you?

B. ANDERSEN: Yeah, we're looking pretty much to Nipper Cove as well, just to the right of Nipper Cove Point but you're pretty much right on there, Mr. Commissioner.

THE COMMISSIONER: Thank you.

B. ANDERSEN: The ice conditions are pressurized ridges. Pressurized ridges are formed when the winds and the tides squish the ice together, for lack of a better term, creating ridges that are pushed upwards and downwards and also pushes the ice pans one on top of the other to make it the clear ice on times.

So that's what you see there, it's jagged, rugged, there's no particular form to the ice pans that you see there; not like you would see forming first in the fall. In between the ice pans there are all snowdrifts. If you probably stepped out you'd probably be in the (inaudible). So ...

M. FREEMAN: Thank you.

THE COMMISSIONER: May I ask a question?

B. ANDERSEN: Sure.

THE COMMISSIONER: So looking at that, would you, as a snowmobiler, likely go into that area during the day or would that be the kind of event that would find you trapped in the nighttime? What's your feeling on that?

B. ANDERSEN: Yeah. No, because of the ice conditions at the time on the water on the inside, to the south part – to the south of us there, I would not have been out there, myself,

personally, or anyone else who has any experience. But later on, when the ice do freeze out around Cape Strawberry, which it's not that common in the last 15 or 20 years due to, I guess, the continuing climate change effects in Northern Labrador. But later on in March time of the year, we would hunt seals on the ice in those kind of conditions, but not with the open water between the ice pans. It would be more or less frozen together by then.

THE COMMISSIONER: So my question is more if you were in broad daylight and you saw that in front of you and you were out there on a snowmobile, would you try to go there during the day through that kind of condition?

B. ANDERSEN: Oh, sorry, I misunderstood your question, Your Honour.

No, that's not the path of least resistance I would take. Somebody who was probably in a whiteout condition or very inexperienced at the time, we don't – we will never know if he was in a snowdrift storm or snowing so thick that he couldn't see know where he was going. But normally, we would not go into that sort of a pressure ridge area.

THE COMMISSIONER: Were you able to see if there were any options to go left, right in the middle of the day from that area, or was it all the same?

B. ANDERSEN: Are you talking generally or specific?

THE COMMISSIONER: On that picture, on that day, when you looked at it, did he have any choice of going to a better route if he went left or a better route if he went right or was he – was – that was the only route he could do?

B. ANDERSEN: Yes, with the pressure ridges in that immediate area, and if you look on that picture, just to the front of that, you'll see a white open sort of an area. Put your mouse up a little farther. This area around right here is an open area. In my experience, that is just ice smashed together in little small clumps and held together with snow. So if he would have driven in that area, he probably would have sunk – for lack of a better term.

So (inaudible) ice conditions from here to the shore at Nipper Cove Point, Your Honour, was pretty much like we see here and, out to the right, it was a little bit smoother but more open water – I think there was a slide there that showed a bit of open water in one of those pictures.

M. FREEMAN: So if you would pull up Exhibit 018 – no, excuse me, I'll say that again: Exhibit 101, page 81, please.

K. VARDY: No, it is Exhibit – sorry, it is Sergeant Vardy – it is Exhibit 018, page 107. It will give you a good indication of what the ice was outside.

B. ANDERSEN: Okay. So right there is Strawberry Head. Right there would have been across where the open water would have been and, on this day, you can see the open water forming just through probably the wind patterns right there, there and the snowmobile being there. So you can see how dangerous that would have been for anyone to be out there. He had no option of going this this way. If he did, he might have been in the water. Coming back this way, he would have been in the water. And as you can see the pressure ridges, the smooth areas in between these ridges are the ice pans. All the areas in here, that looks a bit deceiving but those ridges are, as you can see from the close-up photograph, quite large. We can see water in all the cracks leading to shore.

M. FREEMAN: Thank you, Mr. Andersen.

THE COMMISSIONER: So day or night, that would have been a very difficult place to try and navigate?

B. ANDERSEN: Yes, Your Honour, very difficult.

M. FREEMAN: Thank you. Yes, and if you want to sit back down Mr. Andersen (inaudible).

At this point, what you're trying to do, I understand, is to pick up the track or any track away from that Ski-Doo; is that right?

B. ANDERSEN: Are you referring to me now when in this position here?

M. FREEMAN: Well, you're in this position on the Universal helicopter on February 1.

B. ANDERSEN: Yeah. We flew over the area a bit higher up to get the photographs we have here so we can get a documented picture of the conditions at the time. From there, we flew right down to the next – to the picture we just had previously of the snowmobile quite close up.

M. FREEMAN: And are you able to locate a – you can't get out there. You're in the helicopter at the moment; you can't get to the Ski-Doo.

B. ANDERSEN: No, we wouldn't land there. The pilots – it was too thin ice in the pan – ice pan areas. There should be – I'm not sure if there's a one closer-up shot of that.

Yeah, we got down as close as we could there to the – and the other photographs or the other – we circled right around the helicopter – we circled the helicopter right around the Ski-Doo at that altitude, pretty much going sideways; like me on the left-hand side, the pilot being on the right-hand side in a helicopter as opposed to what you would see in an aircraft, in a fixed wing. But we sort of crabbed around the area immediately there to see if we could see any sign of Burton around those pressure ridges.

We didn't see anything so we moved farther inland towards the shore there towards Nipper Cove Point. If you're looking directly at Nipper Cove Point there from the Ski-Doo, the gas can – if you line those up and you go right ashore, the first point of land you're going to hit is Nipper Cove Point. Your Honour, I can show you that on this topo map that we have here.

THE COMMISSIONER: Well, we got that. We're all – that's fine.

B. ANDERSEN: Okay, good.

Yeah. So we then proceeded to crabbing sideways, sort of, with the helicopter. The wind was blowing from the west that day, Your Honour, as well, which was a blessing, which blew some of the snow away, so it was able to pick up some tracks. So we – just over the top of those first two ridges we have there, there was a couple of footprints that we found and were able

to follow, I think. I'm not sure if we have those photographs.

M. FREEMAN: Did you see them from the helicopter?

B. ANDERSEN: Yes.

M. FREEMAN: Okay. Now just wait a moment there before we go any further with the photos, Madam Clerk, please. You pick up a track and you – are you attempting to follow it from the helicopter at that point?

B. ANDERSEN: Yes, we are.

M. FREEMAN: Okay.

And tell me about how easy or difficult that is.

B. ANDERSEN: It's quite difficult, Mr. Commissioner, to see a footprint from aloft. But at that altitude, we were able to determine that the footprints we did see were human footprints and not anything else.

K. VARDY: Exhibit 018, photograph 114.

B. ANDERSEN: Yeah, so on this – in this photograph you'll see a picture of a relatively smooth area pretty close to the shore where the ice is much more tumbled up or pushed together – and just slide it up so you'll see the footprints. I'm not sure if anyone can see that well.

So we'll have Corporal Vardy attend the slide.

And you'll see the footprints there, just follow them up across. They're very difficult to see, but that's footprints. We got down low enough to actually see that there was human footprints leading towards the shore. We did find those footprints, believe it or not, on the ice that you see in front of you, and it pretty much went right ashore there over all that pile of rough ice and small – very small ice pans.

So it went right to the shoreline there, right to Nipper Cove Point – and do you want me to continue?

M. FREEMAN: That's okay, I think. We've heard your evidence yesterday of you following that track, and we have it dotted on the map in

Exhibit 169, so – but thank you again for helping us understand it with the photos and with some information from the RCMP. So I appreciate that, Mr. Andersen, thank you.

B. ANDERSEN: Okay. Thank you.

M. FREEMAN: So, Sergeant Vardy, on the morning of the 1st, where we are now, do you feel like you have sufficient air support to be conducting the search?

K. VARDY: Sergeant Vardy here.

Yes, we do have air support at the time. At this point, we are following the tracks. I am hearing back from Constable Andersen that they are following the tracks, although it is a bit difficult at times, but they are proceeding with following the tracks.

M. FREEMAN: Okay, thank you.

And so if we go back to 101 – Exhibit 101, page 81, Madam Clerk. And I know we have a map that's also 169, so I don't mean to cause confusion.

But perhaps, Sergeant Vardy, is there anything else now – the track is picked up and Mr. Andersen follows it, and ultimately Burton is discovered out near – in the direction of Ironbound Islands. Is that correct?

K. VARDY: Yes, they're following tracks down towards Big Bight. We did send searchers down in the area just in case, to keep an eye out just to see if anything had turned up there. But the tracks led offshore after Foxy rocks and head offshore towards Ironbound Islands, yes.

M. FREEMAN: And so Burton's body is located with open ice to the south of him on this map, and I don't know if that is marked on our 169, but maybe you can show us on this map. The track that Mr. Andersen so skillfully followed and where the – poor Burton's body was located, Sir.

K. VARDY: So the snowmobile was located in this area in here off Cape Strawberry. The tracks led around inside here, across, down south to Foxy rocks and then out along the edge of the ice, out to his final resting spot right here.

M. FREEMAN: Is there anything of significance out that direction that you can tell us about?

K. VARDY: The only thing we could think of any significance is one of the islands, and I'm thinking it is probably this one here on the map, it is hard to tell, but there is a red beacon on that island and I don't know if Burton had seen that red beacon and was headed to that direction thinking it was some sort of a direction home or – I don't know.

M. FREEMAN: Anything, just something to follow. What's that point of that beacon?

K. VARDY: That beacon is the – I guess for marine traffic in the summertime.

M. FREEMAN: Okay.

THE COMMISSIONER: This is wintertime, was it operating?

P. RALPH: It's a lighthouse.

K. VARDY: It's operating, yes.

P. RALPH: Is that a lighthouse? I thought it was an unmanned lighthouse.

M. FREEMAN: Mr. Andersen is going to explain to us.

B. ANDERSEN: Yes, that is an unmanned lighthouse. It's a nav. aid that's solar panel operated, battery operated, so a lot of them will blink all winter long. No different than the one at the dock in Makkovik that is blinking all winter long.

M. FREEMAN: Okay. Thank you very much.

I intend to stop studying the chronology of this case there for the purposes of yourselves, unless there is anything you wish to add in terms of the chronology at this time, Sergeant Vardy or Corporal Howlett?

S. HOWLETT: Corporal Stephen Howlett.

Nothing further for me.

M. FREEMAN: Okay. Thank you.

Mr. Commissioner, Mr. Budden, we're in your hands in terms of the federal panel being available to answer any questions anybody may have. And maybe perhaps Mr. Andersen, if he is so kind, could stick around as the search manager for NLSARA and help us answer questions, because obviously his local knowledge is quite important.

G. BUDDEN: I would imagine that all counsel will have some questions. I'm not sure whether you plan to take a further break or whether you wish to continue, Mr. Commissioner.

THE COMMISSIONER: Yeah. Well, let's just take a 10-minute break and come back and allow counsel to ask questions.

Ten minutes, please.

CLERK: All rise.

THE COMMISSIONER: Thank you.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Okay, Mr. Budden, go ahead.

T. WILLIAMS: Thank you, Mr. Commissioner.

THE COMMISSIONER: Thank you.

T. WILLIAMS: So I have some general questions, some probably specific to some individuals – oh, I'm sorry; some individuals may be better posed to answer them than others. So I guess between the group we'll figure out who's best to address it.

Perhaps I will start with Sergeant Vardy. And what I'd like to try to do is get a sense for when a call comes in, the chain that it goes through in terms of when you get – and we can use the, you know, Winters's case, maybe, as an example. So – and I know you've taken me through it, but maybe we could list – for example, so you get a call from the Winters's family to say that their

son has not come home and there's concern that he might be missing.

So you're very next call, I think, in this instance, would it be to Mr. Andersen saying, look, we need to – we got a call, we – I know you do some investigations. I'm not suggesting that you didn't do those things in the interim, but – so in terms of starting to put the search effort together, if it can't be located between yourself and, you know, Corporal Howlett right away, you say, okay, we have to go to the next step. Would that then lead to the ground – the community ground search and rescue?

K. VARDY: That was my next call, yes. So, basically, you get the basic information about the incident. You see if whether or not a ground search is warranted, then you make the call to your local ground search to request someone to come out. That's the way it was at that point in time. I'm not exactly sure what the procedure is now, to tell you the truth.

D. WILLIAMS: Sergeant Danny Williams here.

So on, I'll say, a typical search and rescue matter, the initial call will come in either directly to the detachment or to our dispatch centre. The communication is then made with the police officers, the members working at that particular detachment to make a report. Conversation then happens. The member will call the complainant, the person making that complaint, and it's really based on information, at that time, whether or not ground search and rescue is engaged.

There are occasions where it's very clear, initially; someone had been out in the woods hunting and has not returned since. That's a direct call to ground search and rescue because, at that moment, based on information received, it's reasonable to believe that, you know, they're most likely in the wilderness still hunting. Maybe some checks are made first, some surface-level checks, but certainly through the questioning of the complainant, the person making that complaint, ground search and rescue is likely engaged at an earlier stage just based on the information received at that time.

Then, on some occasions, it's less apparent; it's more of what would we consider a request to

locate. So with many plausible options, nothing specifically pointing to someone being lost or overdue, just a call out of concern, say, similar to this case that someone had not returned home and likely could be anywhere, not necessarily specifically in the woods but could be in the community.

Often we get calls that someone is travelling from one community to another, whether that be by car or maybe someone is walking somewhere. So there are times where ground search and rescue, based on the information you receive, initially, can be engaged or it makes sense to engage them right away because it's apparent that they're most likely lost or overdue. Whereas, similar to this case, as the matter unfolds and more information is received and areas are ruled out, then ground search and rescue would be engaged then.

T. WILLIAMS: Okay.

So and that's what happened here, obviously – and did your community searches and things. And, in the interest of time, I'm going to try to skip through it a little quickly so that – I don't want to consume all the time.

So once you're satisfied that you can't find Burton in the community, or the individual in the community, and you think you need to take it then to the next step, so, then, as the local commanding officer, who do you then call next to say we need to – we need more resources? Where would your next call be?

K. VARDY: So my next call, if I was going to request any resources outside of this area –

T. WILLIAMS: Yeah.

K. VARDY: – would've been to Goose Bay.

T. WILLIAMS: And that would be to whom?

K. VARDY: And that would have been Staff Sergeant (inaudible).

T. WILLIAMS: Staff sergeant?

K. VARDY: Yes.

T. WILLIAMS: Okay. And that would've been who in this instance?

K. VARDY: In that instance, it would've been Scott Morrison.

T. WILLIAMS: Okay.

And then what does Mr. Morrison then do with that information?

K. VARDY: So he reports to the inspector in Goose Bay who is the district commander, and whatever resources we're requesting, he would forward that request on up the chain.

T. WILLIAMS: So the district commander in Goose Bay, and that would've been whom at this particular time?

K. VARDY: Pat Cahill – Inspector Pat Cahill.

T. WILLIAMS: Okay.

And then following the chain of Mr. Cahill that says okay, yeah, we need more resources, where does he go?

K. VARDY: So, at that point, Pat Cahill, I'm thinking would've went to the CROPS officer, I'm thinking. If not, it would've been to Corner Brook.

D. WILLIAMS: So Sergeant Danny Williams here.

So they can make the decision if it's a fairly straightforward situation wherein, you know, our ground lead us to believe that someone is missing.

T. WILLIAMS: Yep.

D. WILLIAMS: That approval can be granted at the staff sergeant level. Certainly, the communication continues on up the chain for situational awareness and to keep everyone aware. But that determination decision can be made by the staff sergeant to say this really seems like a scenario where ground search and rescue would apply; feel free, Corporal Vardy, to contact your local ground search and rescue; make contact with them and discuss how you're going to deploy them.

T. WILLIAMS: Okay.

So whether it's the DND going to be called in or whether it's EMO – who makes the call to go to outside resources? Let's say you need aircraft coverage, whether it be provincial or federal, at what level – we got it going to Goose Bay, Scott Morrison, then Pat Cahill. Would Pat Cahill say okay, you have authority to – or would – Pat Cahill would make the call himself? Or would he say no, Corporal Vardy, you're empowered to call?

D. WILLIAMS: That, I guess, it's based on Corporal Vardy's information, as he's the source at that time. But, essentially, if Kimball is contacting Pat Cahill and saying I think we need air resources here –

T. WILLIAMS: Yep.

D. WILLIAMS: – it's not a hesitation. Okay, based on your – you know, you've been given that – obviously you achieved at the level of the corporal rank, you're a trained investigator, if you're telling me you need an aircraft, feel free to contact them.

T. WILLIAMS: Okay. And so, would then you contact EMO or would Mr. Cahill contact?

K. VARDY: So, at that point, I would contact Danny's office now in St. John's, which would be support services.

T. WILLIAMS: And then they would make the call to whomever needs to go?

D. WILLIAMS: Yes.

T. WILLIAMS: The reason I wanted to go through all of this is just to see whether or not – I mean, as the phrase goes in the legal profession: Time is of the essence. And so I just – I wondered this as to whether or not there is any way to speed up – and I don't mean just fast-track, but you know, we're saying the call comes in, goes to the detachment, the detachment then possibly go to ground search and rescue, but then it goes to Goose Bay to, you know, staff sergeant and then it goes through the district commander and then it goes to support services and then it goes out.

And I mean in terms of looking at improving the process going forward, do you think there is any

ways or, you know, to short-circuit that so that, you know, if Kimball Vardy is saying look, there is evidence here on the ground that, you know – and I am being hypothetical here – that one of the (inaudible) community members saw him heading out the harbour, we need to get an aircraft up, that we could do that – that he could have the authority to make that kind of a call?

D. WILLIAMS: Sergeant Williams here.

Sergeant Vardy, in this case, your contact with Sergeant Youden, was that contact with Staff Sergeant Morrison made to discuss that course, or did you make that call on your own abilities to Sergeant Youden at the time?

K. VARDY: At this time, I made the call directly to Sergeant Youden at this point in time.

D. WILLIAMS: So –

T. WILLIAMS: And that would have been – he would have been where in the line of the chain. Staff sergeant, would he be – we were saying Scott Morrison – where would Sergeant Youden have fallen?

D. WILLIAMS: Sergeant Williams here.

So yes, it is in our policy to make those reporting procedures but, in this case, as you had alluded to, there was that urgency in that moment. So, in this case, Sergeant Vardy actually contacted directly to Sergeant Youden to make that request. So the system essentially – I guess your term – was a little short-circuited to put him directly in contact with Sergeant Youden on that evening.

T. WILLIAMS: And where does Sergeant Youden fall in the flow chart now? Is that support services (inaudible)?

D. WILLIAMS: That would be – yes, that would be me to make that direct call.

T. WILLIAMS: All right.

So it is permissible to allow local, you know, RCMP detachment to make that call directly to somebody –?

D. WILLIAMS: It is possible and we would consider this a more urgent situation, especially given the factors. So in this case, you know, Sergeant Vardy, although it is not in the policy itself for him to call directly, he did see that urgency to consult with Sergeant Youden – at least to speak to him and get those resources arranged. So, in essence, to short-circuit that to make sure that that message was put forward.

There are some occasions on some searches, in my experience, where it is less urgent and if the opportunity is there to follow that policy to the T, of course, we're going to follow it if there's time, if it's weather conditions, the conditions of the person, those sorts of things. With things being, I'll say, ideal, aside from the fact that the person is overdue or lost, where you have a little more time to be able to make those calls, follow the policy to the T.

But, certainly, Sergeant Vardy, in this case, you know, made the correct decision in calling directly. In that conversation as well, there's consultation in relation to search and rescue. That's not to say that, you know, they weren't competent in their capabilities, their abilities and what their plans were, but out of the office that's formerly Sergeant Youden was in and the one that I occupy myself now, we do have the advantage of dealing with the majority of search and rescue files throughout the course of the year. So there might be some input shared there as well in the course of conversation between Sergeant Vardy and then Sergeant Youden to say: How are things going? Are there any additional resources we need to talk about? And is there anything right now that maybe we can add to this search and rescue to benefit it, to further it?

T. WILLIAMS: Okay, thank you.

I wanted to try to get a bit of a sense, and I know this is going to be guesstimates and Mr. Andersen is probably the best experienced to talk to this and it's of interest to the family as well, is all evidence seems to indicate that the last time Burton was seen was 1:30 when he dropped off his friend at his grandmother's. And given I've been fortunate now to go around Makkovik – Makkovik is a relatively small community. So I guess we can only presume that, you know, had he decided he was going to

(inaudible) and then, of course, it was not noted that he was not around until shortly after supper.

I'm trying to get a time frame that – again, this is hypothetical and presumptuous. But if we can only presume that he headed out Makkovik Harbour shortly after the last time he was seen, given the fact that he wasn't seen, can you give me any sense of knowing where – and again, I'm making presumptions here. Is that, you know, we're presuming that he stayed on his machine until he couldn't, because his machine was stuck. It's not like that was on soft ice – smooth ice and he just got off and walked.

So if he left Makkovik between 1:30 and 2 – if we make that guesstimate. Now, I know we're all guessing. And we know where his machine was ultimately found up off Strawberry Point. Knowing the ice conditions, as you saw them on the 29th and the night of the 29th and the 30th when you were out and your team were out, any rough ideas how long you would think it would have taken him, given his level of experience or inexperience of being a snowmobiler, ice conditions, all the factors that you can see (inaudible) – how long do you think it might take him to have gotten to where you found that machine a couple of days later?

B. ANDERSEN: Yeah, thank you again, Mr. Williams, Mr. Commissioner.

In my opinion, with the type of machine, the 300-cc Tundra snowmobile, with the ice conditions from Makkovik Harbour to the Shina, or to the ice edge, on that day, without any obstructions in front of you, the ice – obviously, he stayed up on the surface of the ice – and if he went in a straight direction, point A to point B out of Makkovik Bay to that last known sighting as we – as seen of the snowmobile tracks, in my estimation, that would've taken anywhere from 20 to 25 minutes.

T. WILLIAMS: Is that right? That short a period of time?

B. ANDERSEN: Yes.

T. WILLIAMS: Okay.

B. ANDERSEN: But there were (inaudible) –

T. WILLIAMS: And, again, that's a presumption (inaudible)?

B. ANDERSEN: And getting over to where the Ski-Doo was –

T. WILLIAMS: Oh, I'm sorry, not to – I was just (inaudible) – not to where the crack in the water was; where the machine was found.

B. ANDERSEN: Okay.

Yeah, and after you left the static ice or the landfast ice, where we presumed that he had gone into the water, from there, I can only estimate that distance-wise, it's probably 2½, 3 kilometres from the ice edge there. So if you were travelling 25 or 30 kilometres an hour, I'd give him five or 10 minutes.

T. WILLIAMS: Okay.

So we're still talking – generally speaking, if we go into this as the route that he could take, if he was to go directly to where the machine was found –

B. ANDERSEN: Yeah.

T. WILLIAMS: – it would be within inside an hour.

B. ANDERSEN: Oh, way less than an hour, yeah. If the ice conditions were perfect, on a nice day, personally I could be there in 15 minutes.

T. WILLIAMS: Okay, thank you.

Okay, and maybe this question is best for you, Mr. Andersen, as well. Because – and correct me if I was wrong in anything I heard earlier, but the ice conditions where that crack first – the crack is – where – what we describe as the crack, the open water, that had been evident to people on the 28th. Did you say hunters had seen that on the 28th?

B. ANDERSEN: Yes, that's – the sea swells had been such that it was – the sea swells had – the sea state, I should say, was such that the ice couldn't freeze because of the moving (inaudible) for pretty much the whole month of January.

T. WILLIAMS: Yeah.

B. ANDERSEN: So prior to this week, the week prior the ice was pretty much just in the harbour area –

T. WILLIAMS: Okay.

B. ANDERSEN: – everything else was all open water from that out. So that's what we were dealing with. No snowmobilers were going past Point of the Bight or Ford's Bight Point the end of January.

T. WILLIAMS: So then we know that it was still open water when your search teams first headed out, did their initial grid search on the 29th –

B. ANDERSEN: Yeah.

T. WILLIAMS: – they came to the edge of that water.

B. ANDERSEN: Well, we didn't get that far out. We got as far as (inaudible) cove on the map.

T. WILLIAMS: Okay.

But, well, if jump ahead, then we know the next morning following the track, the crack water was still (inaudible) –

B. ANDERSEN: Yeah.

T. WILLIAMS: And we know that obviously he got beyond that.

B. ANDERSEN: Yes.

T. WILLIAMS: And, again, just to try to put the puzzle together. So within that hour, as a coincidence, that ice had to come together, because I trust there's no other physical way that that snowmobile could've got to where it was without that crack because you described the crack goes from one side of the bay to the other. Correct?

B. ANDERSEN: Yes, that's correct. And the rising and the falling of the water, the movement of the tides don't stop just because it's wintertime or summertime – they never stop. So

even though in the winter you'll see the ice rise up and low tide happens just the same as it's happening now. So during falling water, the water moves out of the bay. So in the fall, you'll see ice pans moving out of the bay and in the springtime, you'll see the same thing. A rising tide you'll see the ice not static. The moving ice or the rough ice will come back in to the low edge (inaudible). And I can only assume that was the event that led Burton to be able to –

T. WILLIAMS: So I guess we're making – and, again, I know I'm not holding – this is all assumptions here. If it's only roughly an hour from where the snowmobile was found and it's 15, 20 minutes from where that crack is, or not even that, then the water would've – that area would've closed in sometime in mid-afternoon or early afternoon.

B. ANDERSEN: Yes, depending on the tides. I haven't looked at the tide chart to see what the tides were doing that day, and if the timings are right then we can only assume that the conditions were such that the ice was touching in. But I know for a fact on the 28th I could see blue water from the Sea-Can at –

T. WILLIAMS: Okay.

And with the changing tides, the way they do, and the opening and closing of water, whether it be here or other areas, is there – was there any rationale as to why not to expand the search beyond that in the early days, for example, the 30th? And while I know that the water was there when you guys got out there the morning of the 30th, but given the nature, as you said, of how everything moves around so quickly – and clearly, in this case, it closed up at some point that allowed him to get past it – any reason as to why we say, well, you know, when we get the helicopter we won't do a bigger grid search?

B. ANDERSEN: Yes, we had no evidence that anybody – and, logically speaking, for myself personally, the ice conditions on the outside, what you seen there, was white but, in reality, it was just small ice pans and large ice pans pushed together with snow in between. So it wouldn't make any sense for me to ask you to go out and walk around on that ice and look for any footprints or anyone else, any of my SAR teams. I would be just putting (inaudible) –

T. WILLIAMS: Okay, and I appreciate that. But then that's where I'm just moving to next. We are chronologically following the next course, so that, obviously, your teams couldn't go out past there, so it necessitated helicopter search.

B. ANDERSEN: Yes.

T. WILLIAMS: Okay.

And then when the helicopters come in, the pictures that we've had here – and again, I'm referencing Exhibit P-018. If we can go back to some of the pictures of the crack and around probably if we start – let me see where I want to go. Yeah, let's start with this picture, if I find the number here.

G. BUDDEN: 103 perhaps or (inaudible).

T. WILLIAMS: I'm sorry; it's Exhibit 018, page 98. Do we have that one there? So, that picture – excuse me, I am going to look at the screen because mine is sideways. That is taken east, looking west across the crack; is that correct?

B. ANDERSEN: No, this was taken from Strawberry Head and it was looking to the northwest.

T. WILLIAMS: To the northwest, okay.

B. ANDERSEN: It's looking towards Cape Makkovik.

T. WILLIAMS: How far away would we be to the very edge of that crack, as we see it on the picture?

B. ANDERSEN: From the photograph?

T. WILLIAMS: Yes.

B. ANDERSEN: Probably 400 metres.

T. WILLIAMS: Okay.

And then we know that the crack goes five kilometres, I think, was the evidence earlier. The crack was five kilometres wide, correct?

B. ANDERSEN: No, long that is.

T. WILLIAMS: Long, I'm sorry. Yes, oh, I said wide. Yeah, long. The reason I'm saying that is if we look at – these are pictures were taken from the Universal helicopter; is that correct?

B. ANDERSEN: That's taken from the ground. I was standing on Strawberry Head at the time.

T. WILLIAMS: Okay, so this one was taken on the ground of Strawberry hill – Head.

B. ANDERSEN: When it lightened up – it's very unfortunate that I didn't take pictures of the snow squalls.

T. WILLIAMS: Okay – and that's where I'm headed, okay? Because when I look at picture 101 on the same exhibit, that's taken from the chopper, obviously, correct?

B. ANDERSEN: That one is, yeah.

T. WILLIAMS: Yeah. And that's five kilometres wide, so when you – and you can see in the horizon. Now, I know this is a moment in time.

B. ANDERSEN: Yes.

T. WILLIAMS: But at this moment in time, there's pretty good visibility, is there not? I mean, when I say pretty good, I know the ceiling is low, but, I mean, it appears that there's kilometres of visibility.

B. ANDERSEN: Yes, you can see across probably to Cape Makkovik to the northwest. But looking back to the right-hand side of that helicopter, looking towards Strawberry Island, we couldn't see Strawberry Island in the snow squalls.

T. WILLIAMS: Okay.

B. ANDERSEN: So that's why we couldn't – the pilot would never go over to that side.

T. WILLIAMS: Okay.

B. ANDERSEN: I'm not sure – on the map there, we're pretty much almost directly over top of Strawberry Head in that photograph. Pretty close to Strawberry Head from that (inaudible).

T. WILLIAMS: And you headed out in the helicopter around 12, correct? I think we had a notation there that they – Universal, you boarded the Universal around 12. One of the notations –

B. ANDERSEN: We brought the camera out and we got some pictures and then I got back aboard the helicopter, yes.

P. RALPH: I think that's – he was out earlier on the Woodward that morning, right?

T. WILLIAMS: Yeah, no, I'm talking about the Universal. I knew the Woodward had been out. The Woodward –

P. RALPH: Right. (Inaudible) taken on the Universal. He – the camera came out on the Universal.

B. ANDERSEN: Yes, I didn't have the camera with me when I was on the Woodward's chopper.

T. WILLIAMS: So the amount of time that the search happened in the – was conducted – in the Woodward was very short, I think you said.

B. ANDERSEN: Yes.

T. WILLIAMS: Ten, 15 minutes or something before you run into some issues?

B. ANDERSEN: No, we were in the air probably an hour.

T. WILLIAMS: Okay.

B. ANDERSEN: We did the grid search and we went back out to Strawberry – or to Jackos Island and we did the – as you probably – in my testimony I believe that I circled the – Mr. Dyson was aboard at the time, and we did the shoreline of Jackos Island, just across the top of Jackos Island a few times to see if there was any track there. And then shortly after that, we decided we would come back in and that's when we had the engine trouble. So –

P. RALPH: So that's with Woodward's helicopter. Is that right?

B. ANDERSEN: That was Woodward's helicopter that had the engine trouble. It was a Bell 407.

After the Universal helicopter came out later on that day, Constable Howlett at the time, delivered the camera to somebody on Strawberry Head, and then they delivered it to myself and Perry on the ice. But he came – (inaudible) came ashore after we got – after it lightened up like you see here in this moment in time – similar to this moment – we would take a photograph of those tracks that – it was presented as evidence, and then –

T. WILLIAMS: So how long –?

B. ANDERSEN: We could see snowstorms or the snow squalls coming and going, and the cloud cover would come down and go up.

T. WILLIAMS: Okay.

B. ANDERSEN: (Inaudible.)

T. WILLIAMS: So how long was the Universal helicopter up in the air? Because they brought the part out for the Woodward one, right?

B. ANDERSEN: No, they – no parts were brought out.

T. WILLIAMS: Oh, I thought they – did they – who brought the mechanic up?

B. ANDERSEN: Yeah, the – I'm not sure if the mechanic came on the Woodward's or the FES helicopter came out that day. I know that the engine was – when all was said and done, the engine was toast.

T. WILLIAMS: Okay, well, I'll put the Woodward's to one side. So how long was the Universal helicopter doing its grid search in this area?

B. ANDERSEN: Right off the top of my head, Sir, I wouldn't be able to tell you but maybe an hour or an hour and a half at the most.

K. VARDY: Sergeant Vardy here.

I think it was from around 12 to close on 3 o'clock, 3:30 before it left to go back.

T. WILLIAMS: Okay. And during those 1½ hours, the weather conditions, I mean did they have to touch down anywhere because they couldn't fly or could they fly consistently – obviously, a change in visibility, but could they fly consistently for those 2½ hours?

B. ANDERSEN: They were pretty much flying consistently inside the ice of Ford's Bight and around the area here that you see in front of us on this exhibit, but I can say for certain, with all certainty, that to the east of Strawberry Head we couldn't see Dunns Island. We couldn't see Strawberry Island. We couldn't even see where the Ski-Doo was located in the snow squalls over there. For some reason or other, the weather was (inaudible).

T. WILLIAMS: So the weather over Strawberry Head area was more severe than it was in the area where the crack was?

B. ANDERSEN: Yeah, the visibility was pretty much zero.

S. HOWLETT: Corporal Steven Howlett here.

When you get talking about weather here, in my experience, it's kind of convoluted because it changes all the time. This is just as an example. When we were flying in last night, the pilot said, you know, I going to have to drop you off in Postville and you're going to have to come up by boat. We're not going to get into Makkovik.

And by the time we got to Makkovik, a window opened where we could land and he just happened to be here when that window opened and he got me in.

T. WILLIAMS: Okay.

S. HOWLETT: Yeah, it was just to explain how the weather – I mean, the weather changes and, you know, that day, just to touch on what Barry was saying, that day when I went out on the chopper, I can confirm that too as well; there was still – it was still snowing out to, we'll say, the south, out toward Cape Strawberry. Out towards where the Ski-Doo would have been located two days later, it was still snowing pretty heavy out there.

T. WILLIAMS: Okay, and is the practice – and I'm not sure who I should best direct this question to. Is the practice to have resources – you know, if you know there's somebody on, you know, in this case on the ice. If you know somebody was definitely on the ice, is it the practice to have resources as close as possible so that you can resume a search if you get a break in the weather? Maybe – I don't know who would be best to be able to answer that question.

K. VARDY: I don't understand the question – Sergeant Vardy here.

T. WILLIAMS: Some of this discussion I guess comes out of yesterday with my questions to Lieutenant Colonel Marshall is that knowing the weather conditions and how they fluctuate, you know, we got a boy on the ice, is it better – and, you know, we may need the best equipment in terms of heat seeking because it's the winter conditions. Is there ever an occasion where you bring resources closest to the incident, to the closest area to the incident? In this case, I know some of it could not land in Makkovik. But, you know, are there times that you would say, okay, we know we got – if you got a boat that went down, you know, and the weather is bad and you can't get out there, would you bring resources to Happy Valley or do you leave them in Gander, in terms of DND resources?

B. ANDERSEN: Sir, maybe I can shed a bit of light there. I know that – and the major may be able to shed some light on this as well.

I know for a fact that when I was with the RCMP the Twin Otter would never land here in the wintertime for any length of time due to snow settling on the wings or – and the same thing with the helicopters. If they're going to be in Makkovik overnight, they'd much rather have – be in a hangar due to the fact that snow might accumulate inside the engine cowling.

T. WILLIAMS: And that's what I'm getting at. Maybe the lieutenant colonel is best to address it.

What I'm leaning at, you know, if we accept that the weather conditions weren't good enough to fly in, I mean, I guess the question comes and the question that is obvious: Should we have resources available as close as we can get them

so when the opportunity arises that we can get out there we can go and it won't take four hours to come from Gander, for example?

J. MARSHALL: No, I completely understand what you're saying, but we also did have resources there. The Griffon was under maintenance but it could have been fixed early. Universal was located in Goose Bay. So that morning Universal declined to go because of weather. We declined to go because weather. When the weather picked up, Universal would've been able to go and there was no need to have a Cormorant there because there were already rotary wing sources in Goose Bay.

If your proposal is that we would send a Cormorant up to Goose Bay in preparation for a break in the weather, well that would also apply to the Universal helicopter or to the Griffon once it became serviceable.

T. WILLIAMS: And in circumstances where climate is a factor, in that, you know, again, if you had – whether it be a boy, a man or a woman on ice conditions and you require nighttime services, it's not either Universal or DND, is it?

J. MARSHALL: No, that is definitely DND.

T. WILLIAMS: So, again, I leap back to if you could have resources while – like you said, Universal could do that in the daytime. And let's say conditions were great. But what about the availability of having the Griffon or the Cormorant available in the nighttime as was done two days subsequent? You know, they came up for nighttime flights.

J. MARSHALL: Right, but in this instance, if you had sent a Cormorant from Gander to Goose Bay in preparation for a night flight you would have started his crew day – the crew's crew day, of which you only have 15 hours. So by the time the night would arrive, they wouldn't have had any time to actually do anything.

T. WILLIAMS: Okay. And that leads to a question – it was a question the family directly had. And I understand 100 per cent; you can't have crew – for safety reasons – fly beyond 15 hours. Are there ever circumstances that arise whereby you need to double up crews? So if you

say you have people on the ice – you have, you know, if you have eight people that had abandoned the ship and who were on the ice. You got a crew coming in from, you know, Gander that are going to time out. Do you ever double up on crews so that we can keep the search going and somebody doesn't time out?

J. MARSHALL: So to apply that example to the situation, then that would have been an option. You are correct.

What we could have done with enough planning – because the second crews may have not been available, so I can't really comment if that option was available at the time. But, in general terms, for a search such as this, the daytime crew could have brought the nighttime crew to Goose Bay, send them to a hotel so that they can get 12 hours of rest because, as soon as they come into work to be passengers, their crew day has also started but you can reset that crew day by sending them to bed for 12 hours.

So in that scenario, yes, we could have brought a second crew, put them to bed while the first crew was waiting for the weather to break and the second crew could have done a night search. If – again, I don't know if all of that was possible but your scenario does work and we do do that sometimes.

T. WILLIAMS: And – my questions was is there circumstances where that happens and what dictates whether you double the crew. You know, who makes – who says, okay, we're going to need to double crew on this one? Let's, you know, bring in an extra crew here.

J. MARSHALL: That would be the OIC from JRCC with consultation with the squadron, the search and rescue region commander, which would have been Admiral Gardam at the time. All of that would have been coordinated. Usually when we do something like this, it's what we would consider a major search, when something is going to last multiple days. So then, that is something that would have been available in a major search.

T. WILLIAMS: Okay.

And the last question – this is a question that the family asked me to ask, is that obviously one of

the frustrating parts of this was the lack of availability of resources because of maintenance, it's – while I know some were unscheduled maintenance but they were of the understanding that, you know, all these resources are typically maintained on regular schedules. You know, it just seems like there was the Bermuda Triangle here when things weren't available.

What are the schedules for maintenance and how that, you know, that other resources weren't available here?

J. MARSHALL: Are you referring to – which particular aircraft are you referring to?

T. WILLIAMS: That – well, I mean I think the Griffon was down and the Hercules were both down, right?

J. MARSHALL: Both Hercules were down in Greenwood. We would have one Hercules normally serviceable, ready for a search and rescue.

P. RALPH: Ms. Bradley, is it – should we take a break?

THE COMMISSIONER: Okay.

CLERK: All rise.

THE COMMISSIONER: Let's go with 15 minutes, please.

Thank you.

Recess

CLERK: All rise.

Please be seated.

THE COMMISSIONER: Thank you.

Go ahead, Sir.

T. WILLIAMS: Thank you, Mr. Commissioner.

I'm just about to conclude, I'm conscious of time, but I thank the Commissioner for allowing a small break, and I've been asked by the family

to state that the reason for the break was that – it's not the nature of the questions that are being asked; it's the nature of the responses that are being – that had been received in terms of their sense that they felt more could have been done by DND. I've been asked to say that. And that's the upsetting part for the family. Today, they asked that I say that on the public record that this is – it's hard. We know this process is hard, but that's some of the issues.

So the last question I'm going to have is, again – and we just – we were touching on it, Lieutenant Colonel. At the time, the two Hercules were down and the Griffon was out of – would have been (inaudible) service, had to be maintenance and I guess the frustration is that available resources weren't there while, you know, obviously, things go through maintenance. They would be of the understanding that there would be a regular maintenance schedule on these kind of assets, that you would think that there would be availability of these type of resources at all times and that – you know, and to the unfortunate – at the time that their family needed it, these resources weren't there had they been able to be deployed.

Can you address that in terms of maintenance scheduling and assets being down and out of service?

J. MARSHALL: Yes, I'll address first the Griffon, because that's – the easy answer is that we didn't know it was unserviceable until the call, until they started it up that morning. So up until they first warmed up the helicopter it was serviceable, and that's when they noticed the fuel. It's just unavoidable that this happens with airplanes, especially in the wintertime. Once the oil starts to warm up, then that's when (inaudible). There's no way to really predict that and it's unavoidable and, of course, unfortunate.

With respect to the Hercules, when I was commanding officer of that squadron, 413 Squadron, we had approximately a 96 to 97 per cent serviceability rate for at least one Hercules, at any give time. When we didn't, on those small percentages that we didn't, that's when we (inaudible) SAR. So, unfortunately, that's what happened on this day, is that both Hercules were unserviceable.

I don't know the nature of problems with them, but these Hercules were built in the '60s with 40,000 to 50,000 hours on them. They are old. They have since been replaced. We're not yet – we don't yet have the new airplanes in our fleet ready to do search and rescue, but we're in the process of it. So we do have new airplanes that have been purchased recently.

T. WILLIAMS: Okay, thank you.

I'll just provide you with an opportunity now – this will probably be the last time that the family will have an opportunity to hear from – because we're moving on to other (inaudible), is there anything that you'd like to say to the family that you haven't?

J. MARSHALL: Of course.

So one thing I've learned in the past three days is how tight this community is and how much Burton's death affected this community. And what I've learned over these days too is what a strong young man Burton was and you should be very proud of him.

And, of course, in any circumstance you want to offer the resources available (inaudible) and we didn't at that time. And in retrospect, of course, sitting here talking to you, I wish we did. But none of the decisions made at the time were outside of policy.

Of course, if I was there in retrospect we would have sent everything. If it was mine – one of my children missing, I would want 10 helicopters. I'm sorry that didn't happen.

T. WILLIAMS: Thank you.

That's all my questions, Mr. Commissioner.

THE COMMISSIONER: Thank you.

We'll continue on through then.

P. RALPH: Corporal Vardy, I'll ask you a few questions about the province's role, FES-NL's role in the search. And I understand the first night of the search for Burton was January 29th and I understand, I think it was about 20 to 11 you called Sergeant Lloyd Youden at the

division. I don't know if you recall that but it's in your notes. Do you recall that phone call?

K. VARDY: Yes, I do.

P. RALPH: And you talked about this earlier, I guess you had a discussion, you wanted him to make arrangements right away to have a helicopter and he advised you he was going to wait until morning to make those arrangements. That's how that conversation went.

K. VARDY: Yes, I explained to him the process we were going through, what we had done up to this point and that we were still searching but we were looking to have air support for first light.

P. RALPH: So it's pretty clear that there was no call to FES-NL Sunday night. The first call to FES-NL was Monday morning.

K. VARDY: From my understanding, yes.

P. RALPH: And I understand there was some confusion about this. There were stories in the press that suggested that perhaps we were called that first night and we didn't respond to the request. I guess that's clearly not the case.

K. VARDY: No, the first call was made to Sergeant Youden. His first call to FES-NL would have been the next morning.

P. RALPH: (Inaudible) discussion that you had with JRCC, which I think is probably the reason there was some confusion, and it's Exhibit 050, page 5. This discussion about the – the transcript said it was February 1st but actually it was January 31st at night – it's described as February 1st but it's February 1st Zulu time, I believe. So, in fact, this is a call that took place on the Tuesday evening. And I understand this discussion here, I think the Aurora – the 412 is en route from Goose Bay and JRCC, I think, is advising why don't you get – make arrangements with EMO to make sure there is a helicopter first thing on the 1st – in the morning of the 1st and – are you reading that transcript right now?

K. VARDY: Yes, I am.

P. RALPH: In fact, as I understand it, early on the 1st, I think it's at 1:15, your notes indicate

that you got a call from Paul Peddle and that he, in fact, had made arrangements for a helicopter to go on February 1st. Is that your recollection?

K. VARDY: Yes, that's correct.

P. RALPH: So this – in this discussion you're having with K. MacDonald – I understand it's with JRCC, MacDonald said, "I think EMO should try to make some arrangements tonight so they're not caught off guard in the morning." And you say, "And you know what, they won't even do it. I tried to do that there the last – the first time and they won't do it. They said, oh no, call us back in the morning, call us back in the morning ..."

And (inaudible) because there is an article and all that on CBC; there's an article attached to an article, which, again, I think the name of the article is – just – sorry, it's not working for me now. But, basically, the article – the gist of the article is the suggestion that DND is questioning the role of emergency measures organization of the province in that (inaudible).

And I – I'm going to ask you to explain what you're commenting on here. Are you suggesting that EMO didn't – or FES-NL or the province, didn't do anything that first night? Would that ...?

K. VARDY: So my comment here is to the fact that I had contacted Sergeant Youden and he was adamant that he wasn't going to call that first night – it would have been the next morning.

P. RALPH: Right.

K. VARDY: Based on the evidence and based on the information that I was giving him, so he was going to call in the morning.

P. RALPH: Okay. So in this paragraph there you're not referring to the province, you're referring to Sergeant Lloyd Youden?

K. VARDY: Yes.

P. RALPH: Is that right?

Now, the – as I understand it, the next morning, again, you are – I'm not sure if you – did you get

in touch with Sergeant Youden first thing Monday morning, the 30th of January?

K. VARDY: Yes, approximately – just before 7 o'clock in the morning.

P. RALPH: And then – and eventually, I guess, you learn from Sergeant Youden that FES-NL can't send a helicopter because it's – the helicopter – Universal is on weather hold and the JRCC had advised you that they won't send up any air support. Did you run that through Sergeant Youden?

K. VARDY: Yes.

P. RALPH: And as I understand it, what happens eventually, of course, you – the helicopter comes from Postville, the Woodward helicopter. And as I understand it – so once you sort of realize the helicopter can be in the air, you then call Sergeant Youden back to say: You know, can you get FES-NL on the go now because it looks like helicopters can fly?

K. VARDY: That's correct, yes.

P. RALPH: Is that right?

K. VARDY: That's right.

P. RALPH: And I think – look at your notes – I think it's Exhibit 017, page 26. I guess we can start at 9:02. Do you see that?

K. VARDY: Yes.

P. RALPH: So "Member" – that's – you were talking about yourself then, right? You were "advised by Sgt. YOU DEN that the Universal Helicopter tasked to travel to Makkovik to assist with the search was on weather hold."

So Universal, again, would be the helicopter that the province would provide and that's through FES-NL. Is that correct?

K. VARDY: Yes, that's correct.

P. RALPH: So, at that point, the call has gone in from FES-NL trying to get Universal to come up here to help, and they said: We can't fly.

K. VARDY: That's correct.

P. RALPH: Is that right?

And at 10 o'clock, I guess you learn the helicopter from Woodward was in Postville, heading to Makkovik. And at 10:05, I guess you called Youden back at that point.

K. VARDY: Yes, that's right.

P. RALPH: And said: B'y, you know, can you call FES-NL back? Woodward is in the air. Perhaps you can call them back and see if you can get Universal in the air. Is that fair to say?

K. VARDY: That's fair, yes.

P. RALPH: And then at 10:34, there's a notation there. There's a note and it's: "Received a call from Universal Helicopters, Brian, who advised he was enroute and gave an ETA of 1200hrs."

K. VARDY: Yes.

P. RALPH: So at that point – so at 10:30, the province has arranged to have a helicopter leave Goose Bay to come to Makkovik.

K. VARDY: Yes.

P. RALPH: Is that right?

I guess maybe it's an opportunity now to address this with Sergeant Danny Williams and also Lieutenant Colonel Marshall. You know, so in that situation here now, where you've got an asset that's being provided by the province, how does this play into the role that day that JRCC could play in this search, at that time? Is it possible for you to address that?

D. WILLIAMS: Sergeant Danny Williams here.

Our call to FES-NL at that time is just to make a request for air support. I can speak for today's standards. Our call is to say we need the air support; it's not necessarily to dictate what air support we need. Just simply that we need air support. Then it's the job of FES-NL to make that contact and arrange that air support or, as we've seen, contact back advising that air support cannot be provided at that time.

So, essentially, when that contact is made, I'm sure they have their processes on who to call first. For additional calls, there is some conversation that happens between my office, we'll say, and FES-NL, but, ultimately, it's FES-NL that makes that call and fulfills that request simply for the air support.

P. RALPH: Right. My point is that on that morning on the 30th at 10:34 there is an asset – there's helicopters flying in Makkovik. And I guess at the point, you know, what is the role of the JRCC, potentially, in a situation where you do have a helicopter that's being supplied provincially? If we make a request at that point with the JRCC – yes, we'll send another helicopter? How does that work?

J. MARSHALL: Lieutenant Colonel Marshall.

Once the province has an air resource going to a search then JRCC or the air force would not be required for that search and that call wouldn't have happened. It was exactly what happened in this case on that morning because once the Universal helicopter was on scene then the subsequent call to JRCC didn't happen because we weren't required.

We are required when the province does not have any resources or whatever company they've contracted can't do the search for whatever reason and that's usually at night or in icy conditions, which are (inaudible).

P. RALPH: I'm not sure if your protocols address this, but let's assume for a second that when a call went into JRCC to send, we'll say, the 412 from Goose Bay and, you know, they're making arrangements to go, and in the meantime Universal realizes that I think we'll also participate in the search.

You know, does the protocol address that situation? What would normally happen when those things – when there's two, a federal and provincial asset available to a search?

J. MARSHALL: In this incident that didn't happen because the Griffon wasn't yet tasked, but assuming – and in the scenario that the Griffon would have been tasked – actively tasked for that mission, they will – if they're conducting that mission and then a Universal

helicopter becomes available, I would guess that we would keep that Griffon on scene because it's already there conducting a search.

So when we looked at some other searches, we might have multiple fixed-wing resources, especially when you're talking about searches in the North. So you're going to have multiple fixed-wing resources doing searches and we'd only pull them back when the crew day was an issue, it was needed for another task or they were going to run out of gas.

P. RALPH: Right. But as you mentioned earlier, in this instance, there was a helicopter that was coming from Goose Bay that was a provincial asset and so – and, you know, you wouldn't expect to get another call from the province, you wouldn't expect they'd be calling JRCC asking you for a helicopter that day.

J. MARSHALL: That's correct.

P. RALPH: And so, as I understand it, Mr. Andersen, you got on the helicopter – the Woodward helicopter at 10:40 and you would have done a grid search south of where the open ice was?

B. ANDERSEN: Yes, on the way back. On the way back to Makkovik, yeah.

P. RALPH: Right. Until, I guess, the helicopter had problems and you landed on Strawberry Head.

B. ANDERSEN: Yeah, after beginning a search up Jackos Island. (Inaudible.)

P. RALPH: Right.

And so constable – Corporal Howlett, so the Universal helicopter gets in and, you know, I guess at that point – at a certain point Mr. Barry Andersen asks you to bring up a camera.

S. HOWLETT: Yes, that's –

P. RALPH: Is that correct?

S. HOWLETT: That's correct.

P. RALPH: And so after you got in Universal were you – you were the first ones to get on that helicopter from Makkovik?

S. HOWLETT: Ah ...

P. RALPH: Or were there other people that had gone before? I guess what I am asking is, did that helicopter make a trip before you got on it?

S. HOWLETT: I think the Universal helicopter was – it was airborne with three spotters in it, when the camera was requested it came back to bring the camera out and landed on Strawberry Head next to the chopper that had put down (inaudible).

P. RALPH: Sorry, just one second.

Perhaps we can go to Exhibit 018, page 144.

Do you have that in front of you, Corporal Howlett? Exhibit 018. (Inaudible) you can look at it (inaudible).

S. HOWLETT: Okay.

P. RALPH: And this is at January 30 and it's at 12 o'clock: "Dean, Roy, Robert – airport 2nd chopper." I think that has to be Universal?

S. HOWLETT: The second chopper was – yeah, the second chopper would've been Universal. That's correct.

P. RALPH: And then it says – do you know whose notes these are?

Maybe Sergeant Vardy can recognize it.

K. VARDY: This is a notepad. Basically (inaudible) there was so much activity on the go I put a notepad by each phone in each office and what happened is that I advised anybody who's in the office to write down and give me a phone call if you need me at that point in time.

So if you look at 1100 hours, 1053 hours, just above there, that's my writing, that's my notes, (inaudible) –

P. RALPH: That's your handwriting?

K. VARDY: That's my handwriting.

P. RALPH: Yes, okay.

K. VARDY: So below that it's someone else at this point in time. I wouldn't be able to tell you who (inaudible) –

P. RALPH: So you wouldn't be able – you don't know who wrote the 12 o'clock entry?

K. VARDY: No.

P. RALPH: At 1211 it says: "Bottom Fords Bite, across to Monkey, over to Ranger bite pond. Grid search."

Can either, Mr. Andersen, or Corporal Howlett or Corporal Vardy, any idea who would've directed that grid search?

K. VARDY: So, at this point, basically, we had people on the ground up by the ice, they're just trying to confirm whether or not this is actually a track. Previous to the actual camera taking the picture, bringing the picture back to the detachment, we weren't fully 100 per cent convinced it was a track.

P. RALPH: Right.

K. VARDY: So we were –

P. RALPH: I thought that they – I think this would've been before you received that phone call, I thought. Because I thought you received a call from Barry Andersen at 1220, is that right?

K. VARDY: At 1225, "Barry called for a camera." So they're out there looking at this track and I'm trying to figure it out. So we have an air asset in the air. So, basically, we're searching all the places that we didn't get a chance to search the night before with the aircraft.

P. RALPH: Right.

K. VARDY: So we're making sure we're covering over all that stuff.

P. RALPH: Right.

So there's a grid search that's done and it's from 1211, I guess. It doesn't take very long. It's basically – at a certain point the helicopter –

maybe Corporal Howlett can help with this. Because I understand that helicopter goes back, I guess, and picks you up and you take the camera.

S. HOWLETT: To grab the camera to bring it back out to Strawberry Head for Barry.

P. RALPH: Right.

S. HOWLETT: Yeah.

P. RALPH: And so the helicopter comes out and I guess – so, Mr. Andersen, you take pictures on the water.

B. ANDERSEN: Yes.

P. RALPH: And then you get in the helicopter and you take pictures from the helicopter?

B. ANDERSEN: Yeah, from there they dropped me back, because I was (inaudible) with the original crew –

P. RALPH: In – on Woodward’s helicopter?

B. ANDERSEN: Yeah.

P. RALPH: Yes.

B. ANDERSEN: So we brought back the camera and uploaded the pictures back on to a laptop to try and ascertain whether (inaudible) the software that comes with the computer, trying to (inaudible) more about the –

P. RALPH: Right.

B. ANDERSEN: – whether or not the (inaudible).

P. RALPH: So you took the pictures from the helicopter. And then did you come back in in the helicopter?

B. ANDERSEN: No, not as far as (inaudible) that day.

P. RALPH: And can you recall where the helicopter went after it left Strawberry Head?

B. ANDERSEN: We went straight back to Makkovik with the camera.

P. RALPH: Oh, I’m sorry, but you weren’t aboard the helicopter or you were aboard the helicopter?

B. ANDERSEN: I took him out the camera and walked it on to the ice with Perry Dyson, who is here in the room. From there, we had the opportunity to (inaudible) the cloud cover now that it was nice enough, take the picture (inaudible) on the ice of the actual snowmobile track, and from there we proceeded back to shore with the helicopter and on back to Makkovik, to the best of my recollection.

P. RALPH: On board the helicopter?

B. ANDERSEN: Yes, to (inaudible) those pictures. It was a (inaudible), whether those tracks were real or not.

P. RALPH: No, fair enough.

And can you recall if there were any sort of searches using that helicopter by the afternoon?

B. ANDERSEN: Not – from what I understand, we went through Ranger Bight, Killman Pond area, Ford’s Bight, but the other searchers aboard, I’m not sure – Kimball might have been the one who directed that.

K. VARDY: Sorry, I was just reading some (inaudible) –

P. RALPH: That’s okay, no.

I guess the question was – and we’re not certain about this, but it appears, though, Mr. Andersen, I think, took pictures on the ice, came back up in the helicopter, perhaps took some pictures from the helicopter and then came back to Makkovik, I guess, to look at the pictures on the computer. And I was just curious were there any searches – air searches – after the helicopter kind of came back from Strawberry Head.

K. VARDY: Yes, the searches continued in the area that we already had searched. So, basically, from pretty much Cape Strawberry in at the grid search back and forth, trying to cover off as much area as we could.

P. RALPH: Right. Any idea when those searches would have been concluded?

K. VARDY: From my understanding, I think the helicopter finished up around 3 or 3:30. That would have given it just enough time to get back to Goose Bay prior to (inaudible).

P. RALPH: So after the Universal – I guess at some point they said we got to go back to Goose Bay because, I mean, at dark, we can't fly at dark. There were no requests at that point to the province to get other assets in the air for a search that night? Is that correct?

K. VARDY: No, at that point we were looking at getting an underwater camera in to – basically to cross off those tracks whether or not it was actually a snowmobile under the water or not, to eliminate those tracks.

P. RALPH: (Inaudible) look at Exhibit 023. Scroll down to the bottom here.

Corporal Vardy this is an email that comes from an official with FES-NL. I think what's happening is the official for the province is forwarding, within the provincial government, an email that came from you.

Exhibit 023, do you see that?

K. VARDY: Yes.

P. RALPH: Is this an advanced message? Is that what this is?

K. VARDY: It's an updated message, yes.

P. RALPH: I think earlier it's one of the responsibilities you had was advanced messages. Is that right?

K. VARDY: So, basically, I advanced messages to notify my superiors what's going on. It's an advanced message of what's happening. Basically, from there you would send out updates to that (inaudible) with the information. This was a further update.

P. RALPH: And you indicated here that –

D. WILLIAMS: Sorry, Sergeant Williams. Just a question.

Would this be an updated media release?

P. RALPH: It could be.

D. WILLIAMS: It's got 30 on the bottom and I'm just noticing that's commonplace to have the 30 on the bottom.

P. RALPH: Okay.

D. WILLIAMS: And there also seems to be a message to the public concerning being safe around the ice. We often promote the safety aspect in our messages.

P. RALPH: Fair enough.

D. WILLIAMS: And so perhaps, if Sergeant Vardy can have a look, potentially, that's a media release.

P. RALPH: Yes, I think you're right.

UNIDENTIFIED MALE SPEAKER: It was sent to both actually. It was sent as a media release to telecoms and also to –

P. RALPH: We're both right.

So then, that message says: The air search has been completed. So, again, that evening there's no request for further search in the air.

K. VARDY: Yeah, it was dark at that point and they were (inaudible) –

P. RALPH: Right, but you were at the – if it was dark and you needed searching done, you could've come back to FES-NL and said: Can you contact the JRCC and ask for a search that night? But that didn't happen, is that right?

K. VARDY: That's correct. Certainly, at that point, we had pretty much searched any area that we could avail of or think of at the time, and we were concentrating on those tracks and trying to eliminate those track that were –

P. RALPH: Right.

K. VARDY: – leading to the water.

P. RALPH: Right.

And, as I understand it, there was, I guess, no further requests for assistance from the province

in terms of air support until the following afternoon, and that would've occur after you spotted the snowmobile – or Corporal Howlett spotted the snowmobile from the RCMP plane.

K. VARDY: Yeah, so once he spotted the snowmobile he radioed back to me and advised that the snowmobile was spotted and I made an immediate call for air support.

P. RALPH: And as I understand it – and perhaps (inaudible) take you through this.

Again, Exhibit 018, page 82.

K. VARDY: Okay.

P. RALPH: And at 1705, it's reported that Sergeant Youden placed a call to FES-NL requesting air support, and it says: "... since Cpl. Vardy had reported that a snowmobile had been located outside the area initially believed to be the entry point. Mr. Paul Peddle returned my call and confirmed that he would make a request to DND for further assistance."

So, as I understand it, that night Mr. Peddle called the JRCC and that is why we have a Griffon and an Aurora came to assist in the search that evening. That's by virtue of the calls that Mr. Peddle made to JRCC. And, Lieutenant Colonel Marshall, you are nodding your head there. Do you want to address that?

J. MARSHALL: Yes. Upon the second call to JRCC, they responded with a Griffon and also an Aurora. I just want to note that to have both resources tasked for that mission would have been abnormal, normally we would just send one resource. The Aurora was on a separate mission at the time, that we had permission from the air force to cancel that mission in order to do that search and that is not a normal situation.

P. RALPH: Correct. And I appreciate that, I guess my point is that those air assets or those aircraft were sent, I guess, in part because – well, largely or – because Mr. Peddle called JRCC and asked you to send out aircraft.

J. MARSHALL: Absolutely.

P. RALPH: And, I guess, so that email – I guess, when the Griffon was on the way you had

a discussion then with the JRCC and they suggested to you that it was going to be a nice day tomorrow and the province could probably get its assets in the air. And you get Mr. Peddle to arrange to have a helicopter available for the next morning. Is that your recollection of what happened?

J. MARSHALL: Yes.

P. RALPH: And I understand – I think we went through this one earlier, at, I think, 1:15 early February 1st, Mr. Peddle advised you that he had arranged for a helicopter to come and that is the Universal helicopter. Is that right?

J. MARSHALL: Yes, (inaudible).

P. RALPH: That is the helicopter that ultimately came and, I guess, picked up Mr. Andersen and Mr. Evans and that was used when they found Burton. Is that correct?

J. MARSHALL: Yes.

P. RALPH: Just a – to have sort of a (inaudible) discussion, anyone can talk and answer this question – they are maybe (inaudible) questions, but it's interesting in this instance to me that, you know, there are two assumptions that were made about the ice. One, the Ski-Doo couldn't have passed over that open ice the night of the 29th. If that's – (inaudible) Mr. Andersen, that's what the assumption that I think – that was a fair assumption to make?

B. ANDERSEN: Yes, given the inexperience of Burton and the width of the open water –

THE COMMISSIONER: Sorry, repeat that again a little bit louder.

B. ANDERSEN: (Inaudible.) Yes, given the inexperience of Burton Winters, at the time, that I know and the width of the open water at the ice edge, it was a logical thing, at the time, to assume that (inaudible) across that open water (inaudible).

P. RALPH: And I guess the other assumption would be that the ice passed it was so bad there's no way that he could've driven the Ski-Doo past it.

B. ANDERSEN: No and every hunter, every person you talked within Makkovik, (inaudible) tell you don't go out past the islands, past the (inaudible) of land, past the (inaudible).

P. RALPH: But it appears as though that's how he got out there.

B. ANDERSEN: Yes, but to this day I am unable to explain to you how he got there.

P. RALPH: Right. But is it fair to say there as well that there's no other way that he couldn't have gotten the Ski-Doo out there except, you know, in some way that that ice must not have been the way it was when he passed over it.

B. ANDERSEN: Absolutely. In fact, we (inaudible) static ice (inaudible) ice at the perfect time and the perfect conditions (inaudible) crack or any open water anywhere at that time; it's easy to (inaudible).

P. RALPH: But initially – because there were, I guess, including yourself and Mr. Dyson and other people throughout (inaudible) there would be no one else around perhaps in the world that would understand how the ice operates around Makkovik better than the gentlemen that were out there, would that be fair to say?

B. ANDERSEN: Yes.

P. RALPH: But I guess what you assumed was the case was not correct.

B. ANDERSEN: (Inaudible.)

P. RALPH: And what's interesting as well is it seems to me that it kind of – that incorrect assumption which maybe perfectly reasonable conclusion to come to, then shaped even the air support or where the searches were done from the air.

B. ANDERSEN: To a certain extent, yes.

P. RALPH: And basically the air searches were done kind of south of the open ice.

B. ANDERSEN: Yes.

P. RALPH: I don't have any further questions, unless Corporal Vardy or Sergeant Vardy, sorry, (inaudible) questions.

G. BUDDEN: I'm going to swing my chair around just so I can make some eye contact as I ask.

THE COMMISSIONER: Thank you.

G. BUDDEN: Good day, gentlemen.

I have probably about 15 questions at that, and perhaps we can start, Madam Clerk, by bringing up Exhibit 032.

If we scroll down, a little ways down, we see under "Quantity" the entry, I believe, "4.8 Flying Hours January 30, 2021." And this is the Universal – the invoice for Universal Helicopters for that search done on the 30th. We'll hear more about this tomorrow, I suspect. And that does include flying back and forth from Goose Bay to Makkovik.

Does that basically square with your sense of things, particularly Corporal Vardy, that the helicopter would have been here searching for that period of time, less travelling back and forth to Goose Bay?

K. VARDY: I'm assuming yes, that seems to be correct. He was here in the area for two to three hours, probably.

G. BUDDEN: Sure.

And would it have been you who provided the coordinates for the grid searches for this one and also for the Woodward one?

K. VARDY: I'm not sure about the Woodward one, but we did sort of keep the – this aircraft, the Universal aircraft, in the area of highest probability.

G. BUDDEN: Sure.

And would you be able to point out to us on the map, I guess, basically, the coordinates that you would've worked within? Because as I understand the grid search – and you would understand it more than I would, I suspect, but

you basically give a perimeter of within which to search. Am I correct on that?

K. VARDY: Yes, that's correct.

G. BUDDEN: Okay.

And would you be able to identify for us – I realize this is a number of years. And I don't think, by the way, that any sort of perimeter is identified explicitly in the documents, but if you're able to tell us now, I'd appreciate that.

K. VARDY: So, basically, – it's hard to show you. Basically, what we're looking at is south of the crack and in over-the-land areas, Strawberry Head and south, as our main concertation areas. And that was the highest probability of any survival – a person could survive inside, basically, because open water outside, he wouldn't be able to continue, of course.

G. BUDDEN: Okay.

And you're obviously working within certain limitations of time. You only had the helicopter for so many hours. You only had so many hours of daylight. So is it fair to say that you were forced – or not forced, I guess. As in any life situation, you had to prioritize based on, I guess, an assessment of likely probability.

K. VARDY: Yes, of course.

Basically, what it is, you know, like you said, due to the time constraints, we're checking off areas that the night before was stormy, never really – the searchers weren't really confident in a perfectly good search. So we went over a lot of those areas of highest probability just to make sure those areas are covered off and the snowmobile wasn't turned over, or stopped, or stuck or something in those areas.

G. BUDDEN: Okay, thank you.

Even if – and, again, this is a hypothetical, but perhaps not as much of a reach. If, say, rather than the Universal helicopter that day, the Griffon or the Cormorant had arrived at roughly the same time, noon or slightly later on the 30th of January, would you have directed them to do a different search, or would it have been

essentially the same search within the same grid coordinates?

K. VARDY: It would've been the same search because our evidence didn't lead to any other – anything else other than what we were looking at, at the time.

G. BUDDEN: So is that – being more specific, you would not have directed them to search beyond the open water, north of the open water?

K. VARDY: No, I wouldn't have.

G. BUDDEN: Okay.

Did anybody at the time suggest that that should be done, that there should be an air search above the open water? Anyone at all?

K. VARDY: Not to my recollection.

G. BUDDEN: Okay. And you're fairly confident in that?

K. VARDY: Yes, Sir.

G. BUDDEN: Thank you.

I'll ask the same question. If anybody else on the panel has information of the contrary, perhaps they can tell us now. So what I'm asking: If anybody on the panel was aware of anybody asking that a search take place beyond the open water could you, please, say so now? And if nobody says nothing I'll assume that none of you have any contrary information.

Are you looking for the mic, Mr. Andersen?

Barry Andersen.

B. ANDERSEN: (Inaudible) my initial commentary as well. (Inaudible) nobody has come to me to (inaudible), as far as I recall, to search out beyond the open water with the helicopter or by boat.

G. BUDDEN: Okay, thank you.

That's a complete answer to my question. I appreciate it.

Taking a slightly different line of questioning, and I realize that the three of you, officers Howlett and Vardy and Mr. Barry Andersen, I understand you essentially worked somewhat collaboratively on this search. Would that be fair to say?

Okay, and you're all –

K. VARDY: Yes, that's correct.

G. BUDDEN: Yeah, you're all nodding in the affirmative.

So I'll ask this for – this question of Corporal Vardy, but if the others of you wish to contribute to the discussion, I certainly don't object to that.

So, just by way of background, we know from the evidence that you and Officer Youden spoke at some point past 10 p.m. on the night of the 29th, the night that Burton first went missing. And at that time, you had asked for a helicopter at first light and you had some discussion over whether the call should have been made at that point but there's no disagreement that the helicopter should only be brought in at first light, and then you signed off with Officer Youden.

About an hour after that, if I understand my facts correctly, the two hunters came in and advised you of seeing that track that led out of the bay heading north. Did you, at that point, consider calling Officer Youden back and saying: Look, it's an hour later – I know it's only an hour later but we've heard something new? Was that – would that thought enter your mind? I understand that no action was taken, but did you consider making a call that night?

K. VARDY: That night it was a very stormy night. In my opinion, there's no aircraft going to be in the sky. We couldn't even see each other on the ground, let alone have an aircraft in the sky, at that point in time. It would've been too risky to bring anything in. So, at that point, basically, it's a track, there's no confirmation whether it's a track of Burton's or a track of any other person in the community. So no, at that point in time, we did not consider another aircraft.

G. BUDDEN: Okay.

And I'll say that, obviously, there's quite a bit of evidence supporting your evidence that it was quite stormy that night so I take no issues with that.

And I should have said at the very beginning, one of the purposes of this inquiry is to learn, to set policy going forward so some of my questions are – may seem to be critical of actions that were taking place at night but they're really more designed to figure out how we might go forward.

So, with that in mind, I guess I would ask you, you're obviously on the ground, you're a knowledgeable and experienced officer; however, you aren't a helicopter pilot or involved in the assignment of helicopter flights or making those decisions. So, therefore, I ask would it perhaps not been better to have made the call and said: Look, it's very stormy here; however, we perhaps do need a helicopter as soon as possible. Had that thought entered your mind or in retrospect might that be a valid consideration going forward?

K. VARDY: It certainly could have been a valued consideration now and looking back on it, certainly. At that point in time, we were still searching buildings in the community and so it was – we're still eliminating possibilities of that. That track was a simple track; it could be anybody in the community. Given the weather, given everything, all the factors, it didn't enter to us to consider at that point in time.

I know, since then – and I did a search there a little while ago in Placentia, and as soon as the darkness came, we ordered – we asked for a helicopter; we got two. So, you know, it's – we actually had a Cougar and the JRCC was in the air at the same time. So it's possible that if it occurs now, but at that point in time, it wasn't a consideration that night.

G. BUDDEN: Okay. Thank you.

The – we heard some significant detail about such a thorough search that did take place, including going to the school, searching lockers, going into outbuildings, all that. We've heard all that activity, and very important activity. I guess, the thing that does occur to me, that while a person can be almost anywhere, hiding in

almost in any space, a snowmobile is a different matter. It's a fairly bulky thing that you're not just going to pick up and walk off with. So I understand that, the mystery, I guess, that Burton could be in Makkovik or could be nearby, but the snowmobile wasn't anywhere to be seen either, was it?

K. VARDY: No, based on the snowmobile – we weren't sure if the snowmobile had gotten stuck, if he had left it somewhere, so, you know, we were just eliminating all the options.

G. BUDDEN: Sure.

The search, you all were out there searching – and it's not a very nice night – until almost 3 and at it again at 7 –

M. FREEMAN: I think – sorry, counsel – Corporal Howlett is trying to get to get near (inaudible).

G. BUDDEN: Oh, I'm sorry. Go ahead.

S. HOWLETT: Sorry, it's Corporal Stephen Howlett.

And just to touch on the last question that Corporal – or Sergeant Vardy, sorry, just answered. I know – you know, you look at Makkovik, that it looks like a small town. But taking into consideration the weather and how horrible it was that night, a snowmobile could be in town and we may – you may overlook it.

G. BUDDEN: Okay.

S. HOWLETT: It could happen. It was really, really stormy.

G. BUDDEN: Okay, that's helpful. Thank you.

S. HOWLETT: Yeah. I just wanted to get that in there.

G. BUDDEN: Sure.

The – as I just said a moment ago, you were all searching very, very hard until quite late, I think almost until 3 o'clock in the morning, including some very dangerous searches out on the open ice, and you're at it again at 7. And I understand

that neither of you three individuals probably slept in between.

However, I guess my question is: Was it considered, perhaps, it might be a good idea to have some sort of skeleton search taking place during those hours of the dead of the night, even a much-reduced team, in case some information came to light at between 3 and 7, given the urgency of the matter and the weather, his age and those factors?

B. ANDERSEN: Thank you, Mr. Budden.

And I think I could state that we did have some volunteers – searchers on the team and on the (inaudible) woods on the hill – I'm not sure if you can see it right in front of you – until late that night watching for snowmobile lights to see if any movement of snowmobiles was going around the community that night. So to say that we supposedly gave up for the night would be not so correct. But that's what we did, that's (inaudible) that night.

G. BUDDEN: Okay.

So even if the search was officially stood down, or whatever terminology one might say, at 3 o'clock, there were still people right through the night keeping a lookout. Am I understanding you correctly?

B. ANDERSEN: Yeah. Whether they were directed or not, I think there were still people out around on the hill (inaudible) called The Slant.

G. BUDDEN: Okay, thank you.

I didn't get that sense from the documents, so that's – I appreciate that.

Mr. Williams, do you have something to add?

Officer Williams, sorry.

D. WILLIAMS: Yes, Sergeant Williams.

I guess, Mr. Budden, there are a couple of factors that also play in there as well. So we touched on earlier about the actual search and rescue team and being on team and signed up for the insurance policy, the training, those sorts of things. With the size of the official team here in

Makkovik, coupled with, I guess, the better probability when light is a factor and you're able to do that for those hours, the extent of searching possible, not by anyone who is on the team, it's fairly limited, in that we can't just send out community members out on the ice and actively task them to do (inaudible) late in the evening, because if God forbid something were to happen while they're out there, someone else get hurt, someone else get lost, we wouldn't have any idea of their level of training or ability and also (inaudible) no insurance for them for that.

So, I guess, that coupled with the fact that first light was coming soon and probabilities go up much more when first light comes and when you search in the light. In those circumstances, it likely wouldn't make sense to have a skeleton crew of non-search and rescue teams searching. So concentrating those resources for first light would likely be the best solution.

G. BUDDEN: Sure. And I would assume that having – in a community this size there are obviously some limits on the number of people you can dispatch at any hour of the day or night. So that I presume that the human resources available would have to be utilized in a – the most effective manner possible. Is that what you're saying?

D. WILLIAMS: Essentially, yes here – the trained and then there's ground search, NLSARA team resources, certainly.

G. BUDDEN: Okay.

The – this is for Officers Howlett and Vardy who are actually here in Makkovik at the time. We've heard some information about the training and so forth of the search and rescue team, and we have – considerable policies have been disclosed to us. I guess I am asking you more as individuals, at this time, what was guiding your search? You are obviously relying on Mr. Andersen but other than that what, I guess, what – excuse me – combination of training or intuition or policy was the determining, say – informing why you were doing a grid like you were; why you were doing other things like you were doing?

K. VARDY: Sergeant Vardy here.

So basically, the first thing I did was I printed off policy – RCMP policy and I put it right on the file and I checked off the things as I was doing those down through, so that I didn't want to miss anything. Besides that – previous to that, I had been a – involved with the search and rescue in Nain. I had been involved with the search and rescue in Baie Verte. I had been involved with SAR scenes with search and rescue exercises. So I did have some experience with being involved with search and rescue.

And also as an investigator, what you do is the evidence comes in and you're dictated by what evidence is brought in, and that is what sort of leads you in your search. So by relying on Barry as a search commander and his experience and the search and rescue people here in the community who have got great experience with the land here and the area around here, by relying on Rodney Jacque and his description of his child and basically – and us knowing Burton and his abilities, all those factors played into the decision-making at the time.

G. BUDDEN: Okay, thank you.

Realizing you're, again, working – by my calculation – at least 20 hours a day for these three or four days and quite that was documented but did you – some of your decision-making, like around the grid, is not documented as such. Was there a formal directive or anything within that policy to guide an officer in this case as to how to document a search plan?

K. VARDY: No, there isn't a formal directive for that.

G. BUDDEN: Okay, thank you.

The – I'm almost done here now. The – perhaps, Madam Clerk, we can call up Exhibit 017, page 17. And my purpose here, Officers, is to – this is some days after the search formally ended, on the 7th of February. Members of the search team – none of whom, unfortunately, were present yesterday to testify – went out and retrieved the snowmobile and from, reviewing that, it would appear that even knowing where it was – I think at one point they said that they were within 50 yards of the snowmobile before they actually saw it.

Are we there at the right place? Yeah, there we go, yes.

Do you have anything to add to that, or is that consistent with your understanding that even knowing where it was it was still hard to find on the ground?

S. HOWLETT: Yeah, I actually – the documentation you’re referring to is a statement that I had taken days after the search. I guess I should start by saying that given where the snowmobile was, it wasn’t safe to task anybody to go out and retrieve the snowmobile.

G. BUDDEN: Understood.

S. HOWLETT: Having said all that, locals took it upon themselves to return the snowmobile. And I took a statement from one of those guys who went and located the snowmobile and found it. You can just see in my documentation he just – some of the key notes that he said in the statement. Basically, the snowmobile was hard to find; they didn’t notice it until they were 50 yards away. These are experienced people on the land who knew where the snowmobile was. The ice was four-feet high in places. The key was turned off. The kill switch was turned off. There was about one-quarter tank of gas in the machine.

The machine was stuck; in fact, it took three men to lift it out. There were some footprints around the machine, almost as if Winters was walking around the machine looking to get ashore. There was a small crack in the windshield. One of the screws was loose in the windshield. After seven to eight attempts, they were able to start the machine. The gas can was, in fact, 10 feet behind the snowmobile. The gas can was full. This is the gas can –

G. BUDDEN: I understand.

S. HOWLETT: Okay.

They note the snowmobile track was out further and it was coming back in to shore, so it looked like he had gone out and he was coming back – to them. They advised that there was no way to get the machine out of the ice on your own. It was hard to find, given the ice conditions in that area. They drove the snowmobile back to the

RCMP detachment. And they didn’t note anything else (inaudible) –

G. BUDDEN: Okay, thank you.

That gives me what I wanted. The essence of it was that there’s no possible way that young man could’ve got that snowmobile out that night on his own and that it was even hard to find – even if searchers had been out there, it would’ve been hard to find –

S. HOWLETT: Yeah, absolutely.

G. BUDDEN: – from the ground.

S. HOWLETT: And it also speaks to the ice conditions in terms of how high the ice peaks were around the snowmobile. And, essentially, that’s why when we flew out over in the plane – and I noted this in my earlier testimony – we were almost passed it when I seen it – when I caught it over my right shoulder. And, again, it just speaks to the volume of the ice conditions where the snowmobile was lodged to.

G. BUDDEN: Thank you.

The – we’ve seen pictures – I won’t call them up here now, but we’ve seen pictures of how the ice looked and had descriptions, particularly from Barry Andersen, as to, I guess, the topography of the ice, how rough it was and so forth. And where it was sort of an assumption, I guess, that as it was seen on the 31st or the 1st was perhaps how it would’ve been when Burton was out there on the 29th and 30th, is there any reason to believe there would’ve been significant changes, that the ice as it’s seen in those pictures would’ve been different than it was when he would’ve been out there? Other than the lead. We’ve already discussed the lead.

Mr. Andersen, do you wish to speak to that?

B. ANDERSEN: Yes. Thank you, Mr. Commissioner.

In my opinion, if the ice was any different in any more significant way, then we might not have ever seen the snowmobile. It might have just drifted away south with the currents. So the ice must have been half-frozen together or there was not enough wind to move the ice offshore, or the

tides weren't strong enough to move the ice offshore. And so I would say, yes, the conditions of the ice we see in those pictures were pretty close to what Burton Winters experienced that day or that night.

G. BUDDEN: Thank you.

I only have two more questions. The first one is sort of a housekeeping one I overlooked yesterday for Officer Marshall: Are you surprised that the FLIR did not pick up the snowmobile at least on the night search of January 31st, early morning February 1st?

J. MARSHALL: No, I'm not surprised at all, because there wouldn't have been any heat coming from that snowmobile. It picks up the heat signature.

G. BUDDEN: Yes, but even after it being exposed to what sun there was all day, the FLIR wouldn't pick up that slight discrepancy?

J. MARSHALL: We're going outside of my realm of expertise, but I would say no. But I can certainly ask the Aurora squadron if they think they could pick up, but I would say no.

G. BUDDEN: Okay.

The next question being my final one, and it's really for the officers on the scene, but if Officer Williams or Barry Andersen or yourself, Lieutenant Colonel Marshall, wish to answer it, I don't object to that.

I guess it's this: Can you, Officers Howlett and Vardy in particular, are there any, I guess, deficiencies of resources or training or anything else that you feel that, if otherwise, might have led to an outcome of Burton having been rescued?

D. WILLIAMS: Sergeant Williams here.

You know, I'm sure that that's a question that the members involved have likely in some format asked themselves most days since that – even speaking to them about the matter. I can say that yourselves – the provincial government themselves have enlisted Mr. Smith's expertise on this – not fully sure of that role, but potentially to review the file and to understand

what had gone on. I'm sure even from a Newfoundland and Labrador SAR perspective, Mr. Blackmore has likely been privy to the disclosure from their expertise.

So speaking from a search and rescue perspective, we certainly have people that we would consider experts here that might be able to provide their input and their point of view on that. We can only speak from an RCMP standpoint. Certainly, there are always ways to improve, no matter what it is, even if major faults can't be found in a file. You know, from an RCMP perspective, I know that likely things have changed in the policy and it's certainly something that we will likely get into during the policy portion of this.

But certainly from a search and rescue standpoint – I can speak for myself – probably best left with Mr. Blackmore or the gentlemen down there lined up from the province to speak to the search and rescue operations themselves as they are the experts in that field. I'm not speaking for the other members who were present, but just from my position.

G. BUDDEN: Okay, that's your position. Perhaps just a moment – Mr. Andersen, you wish to answer? Thank you

B. ANDERSEN: Yeah, as Sergeant Williams had mentioned, I think we've all went through too many different scenarios that – what we could have done, what we may have done after we had all the pieces of the puzzle in front of us over the last 9½ years.

But to – I guess to have to – you asked a question about the FLIR, the forward-looking infrared imager. Since that incident – Mr. Blackmore could probably speak to how they came about, but they were in the works before this incident, correct? I don't know. But we do have – we did have FLIR capability here with our local GSAR team as well. Now, we do have an infrared, for lack of a better term, but the media calls it a camera. But for those of us who trained with the infrared imager, it's an imager. It doesn't take pictures like a regular camera.

So it do pick up signatures and contrasts of heat. So you throw – on the ice, let's say, for instance, the ice is all the same temperature when you put

your infrared imager out there and you take a snowball and you throw it on to the ice and it appears. It appears as a heat source, because when you scrunch the snow together all you're doing is creating heat that creates the snowball. So you will see contrast on the ice from that snowball even though it's the same – similar temperature. The temperature has risen because you squished it together. I hope that's a description that you can understand for the Commissioner.

G. BUDDEN: Thank you.

Do you wish to answer or are you content?

S. HOWLETT: Corporal Stephen Howlett here.

No, your question is a difficult one to ask. I mean, you look at this search, it is a four-day search on paper, but it has been 10 years for me now the search has been going on. And, I mean, I can't think of anything, but I assure you I ask my – I ask that question to myself every day of my career.

G. BUDDEN: Thank you.

K. VARDY: We can second-guess everything we did. We can look back now with a hindsight of 20/20 and come up with different results. At the time, you look at the evidence you're given. You pour your heart and soul into something. This is not just a simple I'm looking for someone I don't know; myself and Steve came to this community. We poured our heart and soul into the community. Burton was a member of the community. He was at my house with my stepdaughter and I'd give anything to go back. To know what we know today, I'd give anything to go back, but we can't (inaudible).

G. BUDDEN: Thank you. I have no further questions.

THE COMMISSIONER: Thank you very much.

I have a couple questions.

So, Mr. Andersen, looking out that window towards that hill there to the east, how high is that hill? And just to give us a sense of where

the helicopter could fly, how high up were you able to fly on the first day?

B. ANDERSEN: So straight across the harbour to the east from here you will see Astronaut Hill, locally known as. Don't ask me why. But it has an inukshuk on top straight across the way right there, straight up the middle. That hill is 660 feet. We were underneath that hill. Pretty much what you seen yesterday, about 400 feet, the cloud cover was.

THE COMMISSIONER: Thank you.

Corporal Vardy, you don't have to answer this question and you did say how much you would like things to have changed, but you want to tell us the impact that this loss of Burton has had on you personally or professionally? Anything you want to say?

K. VARDY: It's difficult. I know the family. The family – I consider the family to be friends. I consider Makkovik probably one of my favourite places to have worked in my career, and it's been 31 years. I can honestly say that I do suffer from PTSD. I've had many incidents in my career where I've had to deal with issues and deal with the circumstances and this inquiry is a trigger for me and it does bring back a lot of negative memories and it's played a major part in my life.

THE COMMISSIONER: Corporal.

S. HOWLETT: Corporal Stephen Howlett.

Yeah, I share the same opinion as Kimball, obviously. It's tough. It's a struggle every day and, you know, during the time of that search, it seemed like for us that everything backfired, whether it be weather, maintenance on choppers or choppers breaking down. It seemed to us that everything worked against us. We tried our best. And it's tough and we still live with it obviously. And, you know, there's still a lot of questions in relation to what happened that we'll never know the answer to in terms of how Burton got out there, how he got past the crack, and I struggle with those questions all the time. And I guess we'll never find the answers to those questions.

THE COMMISSIONER: Thank you very much.

I do want to mention that we owe a great debt of gratitude to Louise for the support she has offered, because any kind of pain any one of us feel is miniscule in what the family has had to go through. So, Louise, we really appreciate what you've done and what you will continue to do in your role, so I thank you so much.

Can you give us an idea of what we're doing tomorrow, Mr. Budden, what's happening tomorrow?

G. BUDDEN: Yes, we've – I believe, unless there's any redirect from my friend.

M. FREEMAN: No, thank you.

G. BUDDEN: Okay, or anybody else.

We've concluded with the federal panel and tomorrow we will have the provincial government witnesses. That would be Mitchell Rumbolt, who is here – Officer Rumbolt – and Paul Peddle, who'll be coming in by telephone because health issues make it impossible for him to be here in person because he cannot fly. So we will start whenever you direct us to start and I wouldn't think that would take more than half a day.

P. RALPH: Sure. It shouldn't be very long. I mean, I'm not sure at this point what questions they would have for Mr. Peddle, but –

G. BUDDEN: Yes.

P. RALPH: – maybe we can talk about that amongst ourselves before we leave this evening.

G. BUDDEN: Yes.

P. RALPH: But – yeah. Because I can tell you, too, as well, that Mr. Peddle is operating mostly from documents.

G. BUDDEN: Yes.

P. RALPH: He doesn't have a great memory of – but anyway, we can talk about that.

G. BUDDEN: So that's our plan for tomorrow whenever you wish us to begin.

THE COMMISSIONER: Yeah, there was one technical question I had of the gentleman who received the first information with Mr. Peddle and that was the – it appeared to be a mix-up between giving latitude and longitude coordinates versus grid coordinates. Is that how it first started off in your mind? Is that why he had to go back and get other numbers? Anyone?

J. MARSHALL: Yes, the coordinates we were giving were in –

THE COMMISSIONER: UTM?

B. ANDERSEN: Yeah, I'm sorry, Mr. Commissioner. Being a Canadian Ranger, I operate my GPS with – my coordinate system as the Military Grid Reference System, MGRS. So I didn't switch my GPS over at the time to lat. and long., but any operator at JRCC, I think, worth a grain of salt would have been able to convert those military grid reference numbers over to lat. and long. pretty quickly. I think the lieutenant colonel probably could confirm that but ...

P. RALPH: I think that was the issue with Mr. Peddle, that he wasn't – he didn't know – when he was given the coordinates, he didn't know what type of measurement they were using, but I understand they subsequently – the call went into Corporal Vardy and he was able to figure that out for JRCC.

K. VARDY: Yes, we got the correct –

J. MARSHALL: Excuse me. Lieutenant Colonel Marshal.

Lat. and longs can be given two ways. One is by decimal point, so one to 10. The other one is through minutes, so zero to 60. So we just wanted to – I think what happened in the confusion on the transcripts, we just wanted to confirm which style the lat. and longs were given to us so that we were accurate, because if not, it could have been an inaccurate position. So we just wanted to confirm which one we were working on to make sure that we got the right position.

THE COMMISSIONER: And were you requesting the reference point for the community or for where the incident may have occurred?

J. MARSHALL: It was the location of the snowmobile.

P. RALPH: The Ski-Doo, I think.

J. MARSHALL: Yeah.

P. RALPH: The Ski-Doo.

THE COMMISSIONER: Thank you very much everyone.

These have been a couple of trying days and I appreciate your respect for each other and I appreciate the co-operation that has gone on here and will continue tomorrow. I think we'll clue it up here, head on to Nain for Monday and Tuesday, myself and Mr. Budden and Ms. Mulrooney, to hear from the searchers there. And then it is off to Corner Brook, Grand Falls and St. John's in the next few weeks.

But we will continue tomorrow morning, 9 a.m.

CLERK: All rise.

This commission of inquiry is concluded for the day.