

In the Matter Of:  
The Chippewas of Saugeen First Nation et al v.  
Attorney General of Canada et al.

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DAY 81 VOL 81  
February 06, 2020

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Toronto, ON M5K 1A2  
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1 Court File No. 94-CQ-50872CM  
2 ONTARIO  
3 SUPERIOR COURT OF JUSTICE

4 B E T W E E N:

5 THE CHIPPEWAS OF SAUGEEN FIRST NATION, and THE  
6 CHIPPEWAS OF NAWASH FIRST NATION  
7 Plaintiffs

8 - and -

9 THE ATTORNEY GENERAL OF CANADA,  
10 HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,  
11 THE CORPORATION OF THE COUNTY OF GREY, THE  
12 CORPORATION OF THE COUNTY OF BRUCE, THE CORPORATION  
13 OF THE MUNICIPALITY OF NORTHERN BRUCE PENINSULA,  
14 THE CORPORATION OF THE TOWN OF SOUTH BRUCE PENINSULA,  
15 THE CORPORATION OF THE TOWN OF SAUGEEN SHORES, and  
16 THE CORPORATION OF THE TOWNSHIP OF GEORGIAN BLUFFS  
17 Defendants

18 Court File No. 03-CV-261134CM1

19 A N D B E T W E E N:

20 CHIPPEWAS OF NAWASH UNCEDED FIRST NATION and  
21 SAUGEEN FIRST NATION

22 Plaintiffs

23 - and -

24 THE ATTORNEY GENERAL OF CANADA and HER MAJESTY THE  
25 QUEEN IN RIGHT OF ONTARIO

Defendants

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26 --- This is VOLUME 81/DAY 81 of the trial  
27 proceedings in the above-noted matter, being held at the Superior  
28 Court of Justice, Courtroom 5-1, 330 University  
29 Avenue, Toronto, Ontario, on the 6th day of  
30 February, 2020.

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32 B E F O R E: The Honourable Justice Wendy M.  
33 Matheson

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A P P E A R A N C E S:

Cathy Guirguis, Esq., for the Plaintiffs,  
& Krista Nerland, Esq., The Chippewas of  
Saugeen First Nation,  
and the Chippewas of  
Nawash First Nation.

Barry Ennis, Esq., for the Defendant,  
& Michael McCulloch The Attorney General &  
of Canada.

Richard Ogden, Esq., for the Defendant,  
& David Feliciant, Esq., Her Majesty the  
& Peter Lemmond, Esq., Queen in Right of  
& Jennifer Lepad, Esq., Ontario.  
& Julia McRandall, Esq.,

REPORTED BY: Deana Santedicola, RPR, CSR, CRR

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I N D E X

PAGES

WITNESS: RON GOULD

Examination In-Chief by

Ms. McRandall..... 10379 - 10424

Cross-Examination by Ms. Guirguis.... 10424 - 10470

Re-Examination by Ms. McRandall..... 10470 - 10471

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NO.	DESCRIPTION	PAGE/LINE NO.
4563:	Ontario Parks Southwest Zone Map.	10391:22
4564:	Vegetation Management Plan for Inverhuron Provincial Park.	10410:10
4565:	Document entitled "Bathing Beach Water Monitoring in Provincial Parks".	10420:5
4566:	Photo contained in Mr. Gould's will-say statement bearing the caption "Permitting only non-motorized boating reduces disturbance to wildlife in sensitive areas".	10443:21
4567:	Photograph taken at Hope Bay Provincial Park.	10447:13
4568:	Chapter 3 of the 2013 Annual Report from the Office of the Auditor General of Ontario, tabled at the Legislative Assembly on December 10, 2013.	10453:1

09:52:38 1 -- Upon commencing at 10:02 a.m.

10:01:14 2

10:02:48 3 THE COURT: Good morning, Counsel.

10:02:50 4 MS. McRANDALL: Good morning, Your  
10:02:51 5 Honour.

10:02:51 6 THE COURT: Please go ahead.

10:02:53 7 MS. McRANDALL: I would like to call  
10:02:54 8 Mr. Ron Gould as the next witness.

10:02:56 9 RONALD GOULD; AFFIRMED.

10:03:03 10 THE COURT: Sir, your counsel may have  
10:03:48 11 already told you this, but this is a big room, and  
10:03:51 12 everyone up to the gentleman in the back row needs  
10:03:54 13 to hear you clearly. That microphone will help.

10:03:58 14 THE WITNESS: Yes.

10:03:58 15 THE COURT: So you need to move close  
10:03:59 16 to it and keep your voice up. All right?

10:04:03 17 THE WITNESS: Thank you very much, Your  
10:04:04 18 Honour.

10:04:06 19 THE COURT: All right. Up. Please go  
10:04:07 20 ahead.

10:04:08 21 EXAMINATION IN-CHIEF BY MS. McRANDALL:

10:04:08 22 Q. Thank you, Your Honour.

10:04:09 23 Good morning, Mr. Gould.

10:04:10 24 A. Good morning.

10:04:10 25 Q. I am going to begin by asking you

1 a few questions to introduce you to the Court. You  
2 work at the Ministry of the Environment,  
3 Conservation and Parks?

4 A. Yes, that is correct.

5 Q. I may refer to that ministry by  
6 the acronym MECP during this examination. What is  
7 your job at MECP?

8 A. My current position at MECP is in  
9 the role of Protected Areas Specialist with Ontario  
10 Parks, which is a branch within that ministry. My  
11 position involves primarily biological duties in  
12 terms of monitoring inventory and assessment of  
13 ecological values within our provincial parks  
14 system, as well as resource management duties and  
15 some secondary enforcement duties as well, and  
16 stewardship and communication partnership building  
17 with user groups and stakeholders and other  
18 visitors that utilize the park system, review and  
19 coordination of projects under Ontario Parks'  
20 umbrella or management, as well as review and  
21 approval of research projects or third party  
22 projects, such as trail development.

23 Q. And when did you begin working in  
24 that role?

25 A. In that specific role, it was

1 early 2015.

2 Q. Did you work for Ontario Parks  
3 before then?

4 A. Yes, I did. I started working  
5 professionally with Ontario Parks in the fall of  
6 2012 in an acting role as the Zone Ecologist for  
7 the Southwest Zone, which encompasses most of  
8 Southwestern Ontario.

9 Q. Was Ontario Parks in a different  
10 ministry at that time?

11 A. Indeed, yes, it was. It was under  
12 the management of the Ministry of Natural Resources  
13 and Forestry, and it had been for many, many years,  
14 up until the recent transition to MECP.

15 Q. Could you summarize at a high  
16 level what Ontario Parks does?

17 A. Yes, Ontario Parks is responsible  
18 for a dual mandate, first and foremost the  
19 protection of ecological integrity and species and  
20 functions within our network of parks and protected  
21 areas in the Province of Ontario, and also  
22 protection and recognition and education for  
23 cultural values within the parks and protected  
24 areas framework as well, and also a follow-up  
25 mandate to afford access to the public for outdoor



1 recreational use, education, and research purposes.

2 Q. So you just mentioned research  
3 purposes. Who conducts that research?

4 A. Research is conducted by a variety  
5 of partners and stakeholders, often including our  
6 own programs as well.

7 I have professional research projects  
8 on the go at several provincial parks at any given  
9 time. Largely research is conducted by academic  
10 partners from individual students or university  
11 programs up to specialized wildlife studies on a  
12 national scale and also through our research and  
13 monitoring approval process that we coordinate  
14 through the ministry.

15 Q. What was your job before you  
16 joined Ontario Parks?

17 A. Prior to Ontario Parks, I was a  
18 Species at Risk Biologist with the Ministry of  
19 Natural Resources and Forestry out of the Aylmer  
20 District Office in the far southwest part of the  
21 province, and under that position, I was  
22 responsible for inventory, monitoring, and recovery  
23 planning for a variety of species at risk in the  
24 jurisdiction of the district, as well as review of  
25 a variety of projects internally and externally --

1 external developments is an example -- and  
2 coordinating population surveys in the context of  
3 providing updates for recovery strategies and  
4 government response to those.

5 Q. How long were you in that role?

6 A. Approximately 12 years, from 2000  
7 until 2012.

8 Q. What is your educational  
9 background?

10 A. I have an honours bachelor of  
11 science degree in biology from Trent University and  
12 a minor in environmental studies.

13 Q. What are your responsibilities as  
14 a Protected Area Specialist at Ontario Parks?

15 A. Predominantly my responsibility is  
16 to gather field-level information about species and  
17 ecological values within the Parks' framework and  
18 associated areas and transfer that information  
19 and the ecological functions of significance --  
20 information on those ecological functions of  
21 significance, excuse me, to other internal decision  
22 processes, as well as park users and stakeholders  
23 who we work with to reconcile the protection of  
24 ecological integrity and those natural values and  
25 functions to coincide with the recreational uses

1 and human activities that occur in the parks.

2 So essentially trying to balance the  
3 protection of the ecology and the cultural values  
4 with the parks, along with a level of recreational  
5 use, education, and research that is compliant with  
6 that dominant mandate of environmental protection.

7 Q. Does your work concern invasive  
8 species at all?

9 A. Yes, it does. Part of the larger  
10 resource management activities that I am directly  
11 involved in include monitoring and control of  
12 invasive species, particularly in provincial parks  
13 where we have a lot of human activities and  
14 recreational access, along trails, for example.  
15 The trails and shorelines can be a combination of  
16 anthropogenic and natural vectors or sources of  
17 invasive species, such as garlic mustard or wild  
18 chervil, or Phragmites also known as Common Reed,  
19 and it is through my work professionally with MECP  
20 that I monitor for those locations, identify them,  
21 map them, and prioritize control regimes up to and  
22 including use of herbicides as needed to control  
23 those populations before they impact natural  
24 values.

25 Q. In your current role, what are

10:10:33 1 your responsibilities specifically with respect to  
10:10:36 2 shorelines in provincial parks?

10:10:38 3 A. Yes, as part of my typical field  
10:10:42 4 evaluation of parks' values and park uses, I  
10:10:47 5 regularly access shorelines either from the water  
10:10:50 6 or from overland routes up to and including trails  
10:10:56 7 and off-trail environments to be able to conduct  
10:10:58 8 inventory and monitoring activities of specific  
10:11:01 9 values and functions along shorelines, including  
10:11:04 10 wildlife habitat use patterns of those shorelines  
10:11:07 11 and, as I said earlier, beneficial species or  
10:11:11 12 possibly invasive species that are colonizing those  
10:11:13 13 valuable habitat areas.

10:11:14 14 Q. I would like to turn now to  
10:11:22 15 clarifying some terminology. What are ecological  
10:11:26 16 values?

10:11:26 17 A. Ecological values under the  
10:11:30 18 provincial parks approach are any species,  
10:11:34 19 populations, or environmental functions associated  
10:11:37 20 with those living creatures or cultural values in  
10:11:43 21 that example, if you are speaking in the larger  
10:11:47 22 scope of environmental values, that occur in a  
10:11:52 23 natural functional state with minimal human  
10:11:56 24 disturbance or interaction, as they would occur and  
10:12:00 25 function naturally without a level of interference

1 from human activities.

2 Q. What is your understanding of the  
3 expression "species at risk"?

4 A. Species at risk generally means a  
5 species that are under some degree of threat of  
6 population declines or extinction. Species at risk  
7 in the Province of Ontario are defined by Ontario's  
8 Endangered Species Act, for example, into one of  
9 five species at risk categories, the first three of  
10 which being species that are still occupying  
11 somewhere in Ontario; starting with species of  
12 special concern, are sort of the initial species on  
13 the radar of the Species at Risk in Ontario List,  
14 followed by a category called threatened. A  
15 species could be deemed as threatened if it is a  
16 little bit more at risk for whatever reason,  
17 followed by a category called endangered, which is  
18 a little bit more at risk of extinction or  
19 extirpation from Ontario based on a variety of  
20 potential threats.

21 Those two categories that I mentioned  
22 most recently, threatened and endangered, have  
23 species and habitat protection under the Endangered  
24 Species Act, and the last two categories of the  
25 five I'll name quickly, extirpated or extinct,

10:13:23 1 extirpated meaning it is gone from the Province of  
10:13:25 2 Ontario but occurs in other jurisdictions around  
10:13:27 3 the world, and extinct means gone from the planet.

10:13:31 4 Q. What does it mean if a provincial  
10:13:32 5 park is said to be non-operating?

10:13:34 6 A. A non-operating type of provincial  
10:13:38 7 park tends to have less services offered for the  
10:13:41 8 visitor population, typically not actively used for  
10:13:46 9 camping or infrastructure supported day use, no  
10:13:52 10 pavilions or things of that nature, significant  
10:13:56 11 infrastructure.

10:13:57 12 They tend to have more passive uses  
10:14:02 13 such as hiking or nature enjoyment, just general  
10:14:06 14 access, and as a result of the general lack of  
10:14:09 15 supporting infrastructure, they don't collect  
10:14:13 16 service fees or access fees, such as day use fees  
10:14:17 17 or campground fees, that we see in operating type  
10:14:19 18 of parks.

10:14:20 19 Q. Do you access the shoreline in the  
10:14:24 20 parks you manage by water?

10:14:26 21 A. Yes, I do. Particularly along the  
10:14:29 22 peninsula, there is one park in particular called  
10:14:33 23 Lion's Head Provincial Nature Reserve. Due to the  
10:14:36 24 growing popularity of rock climbing access, and the  
10:14:39 25 associated ecological values that we are aware of

1 in that particular location, and the physical  
2 barrier that the cliffs provide, there are many  
3 areas of the nature reserve at that location that I  
4 need to access by canoe from shoreline locations  
5 that I can't personally access by repelling over  
6 the edge of the cliff to access those shoreline  
7 areas down at the ground level.

8 Q. About how many times a year would  
9 you say you access the shorelines in those parks?

10 A. Under our rock climbing review and  
11 ecological survey at that location, typically  
12 around five to six times a year. At other  
13 shoreline locations that are more accessible by  
14 overland travel, on foot notably, along the  
15 peninsula land specifically, I would say at least  
16 20 times a year that I access shoreline properties  
17 at a variety of other sites, including areas of  
18 Lion's Head as well. McKay's Harbour at Lion's  
19 Head is a low-lying area with a gradual slope that  
20 one could access on foot, and I do at that  
21 location. Most of the other sites have overland  
22 access opportunities, and I take advantage of that  
23 for most of our shoreline review.

24 Q. And you mentioned some invasive  
25 species control before. Is any of that ever done

1 on the shorelines by water?

2 A. Yes. Notably at Gauley Bay, I  
3 recall treating an area of Phragmites or Common  
4 Reed by walking the direct shoreline area. The  
5 growth pattern of Phragmites is it is a very tall  
6 and dense species of reed that grows along  
7 shorelines or wetland areas, and it is very  
8 difficult to traverse through by walking.

9 And so a common practice for us in our  
10 control method is to get a small backpack spray  
11 piece of equipment and access the terrestrial area  
12 to spray the vegetation, the invasive species  
13 vegetation, by accessing from the shoreline side  
14 where it is easier to pass by.

15 Q. You mentioned earlier -- and I am  
16 paraphrasing here -- that Ontario Parks is  
17 responsible for balancing the protection of ecology  
18 with allowing recreational uses and education and  
19 research purposes in provincial parks. Can you  
20 give any examples of where you have balanced  
21 ecological protection and recreational use in parks  
22 on the Bruce Peninsula?

23 A. Certainly. Going back to Lion's  
24 Head Provincial Nature Reserve as an example  
25 location, we had an issue with the Bruce Trail



10:17:27 1 where it comes out at McKay's Harbour. There is a  
10:17:29 2 small overnight camp area that we have authorized  
10:17:31 3 for Bruce Trail hikers along that route, and with  
10:17:34 4 the rising water levels of Lake Huron and Georgian  
10:17:37 5 Bay, some sections of that trail were being  
10:17:39 6 regularly flooded by the increasing water levels.

10:17:42 7 As a result of that issue, I attended  
10:17:45 8 the site to conduct an ecological review adjacent  
10:17:50 9 to the flooded trail area to undertake surveys to  
10:17:53 10 give us a better idea of potential routes to  
10:17:57 11 re-route the foot path or the trail around the  
10:18:01 12 regularly flooded area that was being caused by the  
10:18:05 13 higher water level.

10:18:05 14 As part of that process, I was able to  
10:18:08 15 find a relatively low ecological value area through  
10:18:13 16 some younger white cedar thicket, where we were  
10:18:17 17 able to re-route that trail, and as part of that  
10:18:19 18 process, I also discovered a salamander breeding  
10:18:24 19 pond that I had no prior knowledge of because it  
10:18:27 20 was off the original trail footprint and hard to  
10:18:30 21 see from the historical trail viewpoint.

10:18:34 22 But as part of the assessment that we  
10:18:36 23 did for the potentially new footprint, I discovered  
10:18:38 24 this new pond, and we were very sure to re-route  
10:18:41 25 the new trail footprint away from that particular

10:18:44 1 ecological value feature that we had found during  
10:18:47 2 the review.

10:18:47 3 Q. Thank you. So I am now going to  
10:18:53 4 show you document SC1716. Do you recognize this  
10:19:00 5 document?

10:19:00 6 A. Yes, I do recognize it. It is  
10:19:03 7 produced from the GIS officer at the zone office  
10:19:08 8 which I work at in the London location.

10:19:13 9 MS. McRANDALL: Your Honour, may this  
10:19:14 10 be marked as the next exhibit.

10:19:16 11 THE REGISTRAR: Your Honour, the next  
10:19:17 12 number is 4563.

10:19:20 13 THE COURT: 45?

10:19:22 14 THE REGISTRAR: 63.

10:19:23 15 THE COURT: 63 or 53? 4553?

10:19:30 16 THE REGISTRAR: 4563.

10:19:33 17 THE COURT: Hmm.

10:19:35 18 THE REGISTRAR: We made a lot of  
10:19:36 19 exhibits.

10:19:37 20 THE COURT: We did, didn't we. All  
10:19:38 21 right. 4563. Thank you, Madam Registrar.

10:19:42 22 EXHIBIT NO. 4563: Ontario Parks  
10:19:44 23 Southwest Zone Map.

10:19:44 24 BY MS. McRANDALL:

10:19:46 25 Q. If we zoom in a bit on the Bruce

1 Peninsula, I would like to ask you some questions  
2 about Cabot Head Provincial Park. Now on this map,  
3 this map of the Southwest Zone, it depicts this  
4 park as on the northeastern tip of the Bruce  
5 Peninsula on the shores of Georgian Bay east of the  
6 Bruce Peninsula National Park. Is that location  
7 accurately depicted?

8 A. Yes, I believe it to be so.

9 Q. What is Ontario Parks  
10 classification for Cabot Head Provincial Park?

11 A. Cabot Head Provincial Park is  
12 classified as a nature reserve class park.

13 Q. And what does the nature reserve  
14 classification signify?

15 A. Typically it limits visitor  
16 activity to relatively passive uses such as hiking,  
17 cross-country skiing and general nature enjoyment.  
18 In the Cabot Head example, there are a variety of  
19 uses that are permitted within the nature reserve.  
20 Accessibility is limited, mostly to some shoreline  
21 areas, as well as the Wingfield Basin area, which  
22 also occurs at the northeast corner of the nature  
23 reserve. And the park, those uses I just described  
24 are permitted; hiking, nature enjoyment,  
25 cross-country skiing, snowshoeing.

10:21:12 1 There are also a few more active uses,  
10:21:15 2 such as swimming, sport fishing, general  
10:21:18 3 picnicking, are permitted there as well, as is  
10:21:21 4 scuba diving, typically which is restricted to the  
10:21:24 5 area around Wingfield Basin. I have personally not  
10:21:26 6 seen that activity occur at the site, but it is  
10:21:28 7 permitted under the interim management guidance  
10:21:32 8 that we have for the property.

10:21:33 9 Q. Is Cabot Head an operating park?

10:21:35 10 A. No, it is not, although it does  
10:21:38 11 have a small handful of cabins on the western edge  
10:21:42 12 of Wingfield Basin that are remnants of existing  
10:21:45 13 development when we acquired the property. Those  
10:21:49 14 cabins are not operated in an intensive way as in  
10:21:52 15 an operational park but are mostly leased to the  
10:21:57 16 Bruce Peninsula bird observatory group for  
10:22:00 17 conducting migratory bird research at that  
10:22:03 18 location.

10:22:03 19 Q. In that park, what are the major  
10:22:07 20 ecological values on the shoreline?

10:22:08 21 A. Major ecological values on the  
10:22:12 22 shoreline include species at risk habitats for  
10:22:16 23 Eastern Massasauga rattlesnake, as well as the  
10:22:22 24 Eastern Ribbonsnake. Blanding's turtle utilize the  
10:22:24 25 shoreline habitats as well for seasonal movements,

10:22:28 1 migration, and feeding.

10:22:30 2 The shorelines are close to two other  
10:22:37 3 species of note, being Peregrine Falcon nesting  
10:22:42 4 area, as well as an adjacent Bald Eagle nest. Both  
10:22:45 5 of those predatory bird species feed on birds and  
10:22:49 6 waterfowl that concentrate along the shorelines,  
10:22:52 7 and Bald Eagle specifically mostly on fish along  
10:22:55 8 the shoreline habitat, the Peregrine Falcon feeds  
10:23:00 9 mostly on other birds.

10:23:01 10 There are some seasonal concentrations  
10:23:03 11 of waterfowl along the shoreline area, especially  
10:23:08 12 along the area that we refer to as Shingle Beach,  
10:23:11 13 which is a geological deposit of dark-coloured  
10:23:17 14 sedimentary stone roughly 20 to 30 centimetres in  
10:23:21 15 diameter and relatively flat that is spilled out  
10:23:24 16 through a scarp collapse around the creek that  
10:23:29 17 comes out of Gilley's Lake, which is part of the  
10:23:32 18 nature reserve as well.

10:23:33 19 This deposition of stone has come down  
10:23:36 20 and overtop of the shoreline environment, and it  
10:23:39 21 has created an area of habitat for Massasauga  
10:23:44 22 rattlesnake, as well as habitat for foraging  
10:23:48 23 waterfowl and shorebirds.

10:23:51 24 Because of the interlocking nature of  
10:23:53 25 the stone, it provides an interesting system of

10:23:57 1 gaps and nooks that attract a lot of prey species,  
10:24:03 2 such as small minnows and crayfish, on which the  
10:24:07 3 diving ducks and other species of waterfowl rely,  
10:24:11 4 and I believe to some extent local water snakes,  
10:24:14 5 northern water snake population, as well as  
10:24:16 6 Blanding's turtle forage in some of those areas as  
10:24:19 7 well.

10:24:19 8 Q. You mentioned, I believe, birds  
10:24:25 9 and ducks, turtles, snake species along the  
10:24:29 10 shoreline. Are there any mammal species of note in  
10:24:32 11 Cabot Head Provincial Park?

10:24:32 12 A. There are certainly a very  
10:24:36 13 important population of black bear at Cabot Head,  
10:24:38 14 and the remoteness of much of the shoreline within  
10:24:41 15 the provincial nature reserve, particularly the  
10:24:43 16 area west of Wingfield Basin, which is not readily  
10:24:46 17 accessible by recreational or other users, is quite  
10:24:50 18 remote compared to most other sites in Southern  
10:24:55 19 Ontario, and as a result, we believe that it could  
10:24:58 20 be a significant foraging area for the local bear  
10:25:02 21 population along the North Shore.

10:25:04 22 Q. Does Ontario Parks take any action  
10:25:10 23 to try to protect ecological values in Cabot Head  
10:25:13 24 Provincial Park?

10:25:13 25 A. Yes. Certainly we have -- through

1 review of a recent trail proposal from the Bruce  
2 Trail Conservancy have learned a lot more about the  
3 ecological values and functions at Cabot Head  
4 through several years of work that I have been  
5 personally involved in, including species at risk  
6 habitat for Massasauga rattlesnake, Blanding's  
7 turtle, and also very important seasonal foraging  
8 habitat for black bear.

9 As a result of our review, I have also  
10 observed some problematic access that we were not  
11 previously aware of; namely, all-terrain vehicle  
12 use of an old abandoned logging route that goes  
13 through the heart of the nature reserve.

14 And we undertook activities to install  
15 new gates and prohibitive signage for all-terrain  
16 vehicle use, as well as legal protection signage  
17 under the Endangered Species Act to protect the  
18 species at risk habitats within a community called  
19 Alvar, which is a shallow limestone area that has a  
20 protected species called Houghton's Golden Rod in  
21 that particular area, as well as the habitat for  
22 the Massasauga rattlesnake that I spoke to  
23 earlier.

24 And that gating and signage has been  
25 very effective at alleviating the historical access

1 from the all-terrain vehicles.

2 Q. And you mentioned that some of the  
3 work you just undertook was as a result of a  
4 proposal from the Bruce Trail. Could you explain  
5 what the result of that was?

6 A. Yes, it has resulted in a  
7 multi-year information-gathering exercise for us,  
8 but essentially we have declined the proposal in  
9 partnership with Parks Canada, and I believe the  
10 Saugeen Ojibway Nation had some participants in the  
11 larger community as well as through Doran Ritchie  
12 and Jarmo Jalava provided some important input to  
13 that file review as well.

14 And notably, as the lead biologist for  
15 Ontario Parks, I provided a summary of ecological  
16 concerns pertaining to the potential impacts or  
17 probable impacts that that type of trail  
18 development through the heart of the nature reserve  
19 would result in, including the disturbance or  
20 displacement of many of the -- or much, excuse me,  
21 of the local black bear foraging habitat areas  
22 along the historical logging route.

23 Q. Does Ontario Parks take any action  
24 to protect the Shingle Beach that you mentioned  
25 earlier in particular?



1 A. Yes, that area is still open to  
2 general access, if the type of use is compliant.  
3 We have concerns about people removing the stones  
4 for obvious reasons, and that is a general  
5 prohibition at all provincial parks, the taking of  
6 material or wildlife, but in this particular case,  
7 because of the attractive nature of the stone, we  
8 have erected signage speaking to the prohibition  
9 directly at the location of Shingle Beach at both  
10 the north and south ends of the Shingle Beach  
11 deposit.

12 Q. I would like to ask you now some  
13 questions about Lion's Head Provincial Park, and it  
14 is also depicted on the map, which is, again,  
15 Exhibit 4563, and it depicts Lion's Head Provincial  
16 Park as on the eastern side of the Bruce Peninsula,  
17 on the western shores of Georgian Bay, northwest of  
18 the Chippewas of Nawash Reserve, and southeast of  
19 Cabot Head Provincial Park, which we were just  
20 speaking about. Is the location of Lion's Head  
21 accurately depicted here?

22 A. Yes, I believe so.

23 Q. What is Ontario Parks'  
24 classification for Lion's Head Provincial Park?

25 A. Lion's Head is another nature

1 reserve class park.

2 Q. And is it operating?

3 A. No, it is not.

4 Q. What are the major ecological  
5 values along the shoreline in Lion's Head  
6 Provincial Park?

7 A. The shoreline of Lion's Head is  
8 best described as an extension of rocks and  
9 boulders and crags that fall away from the large  
10 limestone cliffs around the shoreline area down to  
11 the water's edge. As a result, it has a similar  
12 ecology to that of the larger cliffs that occur  
13 vertically above the shoreline. It supports a  
14 variety of provincially rare and significant  
15 plants, including cliff-dwelling ferns that also  
16 reside on the boulders directly on the shoreline of  
17 Lion's Head as well. These include species like  
18 Wall-rue, Purple-stemmed Cliffbrake, Smooth  
19 Cliffbrake, as well as a series of nest cavities  
20 for Cliff Swallow, and a diversity of provincially  
21 significant snails that are very, very small and  
22 difficult to study. I will refer to them, as we  
23 commonly do in my work, as micro-snails, because  
24 they have small calcareous shells that average  
25 between 1 to 3 millimetres in diameter, and they

1 occupy a variety of the cliff and crevice  
2 environments as well.

3 Probably most notably along the cliffs  
4 are the population of Ancient Cedar trees. The  
5 oldest trees in Canada reside on the north side of  
6 Lion's Head as well, individual eastern white  
7 cedars that grow in the cliff environment in excess  
8 of 1,300 years old.

9 Q. Are there any amphibian species of  
10 note there?

11 A. Yes, along the eastern shore of  
12 Lion's Head at McKay's Harbour, as well as on the  
13 interior plateau forest, there is a species called  
14 spotted salamander, one of Ontario's common mole  
15 salamander species that I study on an annual basis.

16 Q. Are there any risks to the  
17 salamanders along the shorelines in Lion's Head?

18 A. Yes. Similar to my response from  
19 earlier with the high water levels, we have  
20 observed some risks of increased lake flooding over  
21 the traditional shoreline into the salamander  
22 breeding pond which occurs immediately along the  
23 shoreline.

24 Salamander breeding does not occur  
25 successfully in breeding pools that contain fish.

1 Fish are a predator to the eggs and to the  
2 developing larvae of young salamanders, so the  
3 influx of lake water or Georgian Bay water into  
4 that particular breeding pond is of a concern.

5 It is something that I have been  
6 monitoring over the last couple of years and  
7 looking at potential concepts to try and create  
8 or -- create barriers either to impede the influx  
9 of lake water or perhaps create a new adjacent pond  
10 that is in an area that is less at risk of flooding  
11 but that local population will still be able to  
12 find and utilize.

13 Just off the shoreline, there is  
14 another breeding pond for the same species, spotted  
15 salamander. Through my research in recent years, I  
16 have found it is naturally draining into a crevice  
17 cave because of some underground erosion which  
18 happens frequently in some of the dynamic limestone  
19 areas of the escarpment. You'll see areas of what  
20 is called karst topography, so a lot of underlying  
21 voids in the limestone, and as a result, some of  
22 the surface water that drains into these breeding  
23 ponds may be temporary, if you will get an eroded  
24 basin that opens up, and I have found in one  
25 instance of one of the important breeding ponds in

1 the Tablelands the pond has started to drain into  
2 an underground cave.

3 So I have undertaken a project to at  
4 least temporarily bolster the water level with  
5 sandbags in an effort to retain the habitat  
6 functionality for that population until I can look  
7 at potential long-term resolutions.

8 Q. How does Ontario Parks monitor  
9 those ecological values along the shoreline?

10 A. We do monitoring primarily through  
11 infield or on-site observations and recording.  
12 That is part of our regular inventory process that  
13 we do internally.

14 We also rely on a fairly large suite of  
15 partners as well. Research, we discussed earlier  
16 through academic partners, is definitely an  
17 important tool that provides additional information  
18 to us in terms of inventory and research results  
19 and habitat management recommendations.

20 We also are a member of a couple of key  
21 organizations, including CASIOPA, which is an  
22 acronym for the Centre of Applied Science in  
23 Ontario's Protected Areas managed through  
24 Dr. Steven Murphy at the University of Waterloo,  
25 and we get quite a bit of new information through

1 that process as well.

2 We also rely heavily on citizen science  
3 and other reporting from local community groups or  
4 local naturalists who provide data through  
5 i-Naturalist computer applications, and the Natural  
6 Heritage Information Centre, which is a rare  
7 species information repository managed by the  
8 Ministry of Natural Resources and Forestry.

9 We also have an important partner with  
10 the Niagara Escarpment Commission, not just on the  
11 peninsula but other escarpment lands throughout  
12 Southern Ontario, who have field biologists that  
13 also go out to our parks and conduct regular  
14 research on forest and habitat values and report  
15 information and recommendations back to us.

16 Q. And for that monitoring, do you  
17 ever access the park -- the shoreline by water?

18 A. Outside of the specific Lion's  
19 Head cliff example, by water meaning by boat, not  
20 as frequently as we do through overland access  
21 patterns.

22 At other parks within our  
23 administrative zone, yes, we utilize water access  
24 very significantly, areas like Rondeau, Long Point  
25 Provincial Parks, for example, often times Pinery

1 Provincial Park. On the peninsula, much of the  
2 in-water access is focussed around Lion's Head.

3 Q. Is there public access to Lion's  
4 Head Provincial Park?

5 A. Yes, indeed, through the existing  
6 trail infrastructure maintained and managed by the  
7 Bruce Trail predominantly, and informally there is  
8 shoreline access for general recreational use as  
9 long as it complies with the larger ecological  
10 protection goals of the park.

11 Q. Are there activities, visitor  
12 activities, which are prohibited?

13 A. Yes, use of motorized vehicles,  
14 mountain biking, are prohibited, as well as  
15 campfires at Lion's Head for fear of uncontrolled  
16 fires, and a use that falls somewhat in the middle,  
17 it is recognized as an ongoing use but not  
18 necessarily prohibited, is rock climbing. It is a  
19 use that we do not promote, and we are working  
20 through a management exercise to try and reconcile  
21 if it can remain in the park, presumably at a  
22 reduced scale to become more compliant with  
23 environmental protection.

24 Q. And why is that?

25 A. Largely due to those ecological

10:37:29 1 functions, including the shoreline areas that I  
10:37:32 2 spoke to earlier, as well as the significance of  
10:37:37 3 the cliff ecology values, the Ancient Cedars, the  
10:37:42 4 rare ferns that I described, and Cliff Swallow  
10:37:47 5 habitat, and the smaller snail populations as well.  
10:37:50 6 The physical disturbance from the activity of rock  
10:37:53 7 climbing, scaling up and down the cliff face on a  
10:37:56 8 regular basis, has impacts to those species and  
10:37:59 9 related functions and values.

10:38:00 10 Q. And this rock climbing that  
10:38:14 11 occurs, how are these visitors accessing the cliffs  
10:38:18 12 or the boulders they are climbing on?

10:38:21 13 A. The rock climbing visitors  
10:38:22 14 specifically are accessing from a combination of  
10:38:26 15 cliff-top or rim access, hiking in through the  
10:38:29 16 Bruce Trail and repelling or top-roping by  
10:38:32 17 attaching ropes to white cedar trees along the edge  
10:38:36 18 of the cliff and repelling down to access  
10:38:38 19 individual routes.

10:38:39 20 And we are finding through our  
10:38:40 21 monitoring in more recent years there are a growing  
10:38:43 22 number of visitors accessing by kayak or canoe from  
10:38:48 23 the bay and landing on the North Shore of Lion's  
10:38:53 24 Head and accessing the shoreline, bouldering and  
10:38:57 25 rock-climbing areas along the major cliffs from



10:39:04 1 that location.

10:39:07 2 Q. Now, I would like to turn to Black  
10:39:10 3 Creek Provincial Park. So looking at the map  
10:39:12 4 again, which is Exhibit 4563, it depicts Black  
10:39:18 5 Creek Provincial Park as on the western side of the  
10:39:20 6 Bruce Peninsula, on the eastern shores of Lake  
10:39:22 7 Huron, northwest of Chippewas of Saugeen Nation, as  
10:39:29 8 it seems to be described on the map. Is the  
10:39:31 9 location of Black Creek Provincial Park accurately  
10:39:33 10 depicted there?

10:39:34 11 A. Yes.

10:39:34 12 Q. And what is the classification  
10:39:37 13 that Ontario Parks uses for Black Creek?

10:39:39 14 A. Black Creek is a natural  
10:39:41 15 environment class park.

10:39:42 16 Q. And what is your understanding of  
10:39:44 17 the natural environment classification?

10:39:46 18 A. Natural environment class parks  
10:39:49 19 retain the same protection needs as nature  
10:39:54 20 reserve-type parks, recognizing there are  
10:39:56 21 ecological values and significant functions that  
10:39:58 22 require protection, but also at least attempt to  
10:40:04 23 accommodate a wider array of recreational uses and  
10:40:07 24 public access.

10:40:07 25 Q. Is it an operating park?

1 A. No, it is not. It is operated --  
2 or I should use the term "maintained" through a  
3 partnership agreement with the Municipality of  
4 North Bruce, but by provincial park management  
5 definition, it is not an operating park. It has a  
6 very popular swimming beach and a small privy  
7 washroom structure on the site which gives the  
8 appearances of an operating park, but it is not, so  
9 we do not collect fees or manage those areas  
10 ourselves.

11 Q. In Black Creek Provincial Park,  
12 what are the major ecological values on the  
13 shoreline?

14 A. Along the shoreline, the major  
15 ecological values are more closely associated with  
16 the beach and dune community, the sand dune  
17 community. The areas support two known plant  
18 species at risk, namely Hill's Thistle and Dwarf  
19 Lake Iris, that have important populations in the  
20 park, and the beach is also known to be important  
21 turtle nesting habitat for the snapping turtle and  
22 midland painted turtle that regularly nest along  
23 the beach and in the sand dune environment from the  
24 Black Creek swamp wetland area.

25 And the shoreline area is also

10:41:40 1 important habitat for Massasauga rattlesnake, a  
10:41:42 2 species that I have been studying through a recent  
10:41:44 3 research project along the shoreline of Black  
10:41:49 4 Creek.

10:41:49 5 Q. Do any of those species access  
10:41:52 6 Lake Huron in that area?

10:41:52 7 A. Yes, the two turtle species would  
10:41:56 8 most notably. They swim down through the Black  
10:41:59 9 Creek Corridor, often the creek itself, down into  
10:42:02 10 Lake Huron and then turn in to access the beach and  
10:42:06 11 the associated shoreline dunes.

10:42:09 12 Q. So does Ontario Parks take any  
10:42:14 13 action to protect those species in Black Creek that  
10:42:17 14 you just mentioned?

10:42:17 15 A. Yes, we do. We have not erected  
10:42:21 16 interpretive or prohibitive signage yet, but that  
10:42:23 17 is something that we are currently looking into as  
10:42:25 18 part of our management planning activities for the  
10:42:29 19 site. I have spoken to users in recent years.  
10:42:33 20 Because of the higher water levels, the space  
10:42:38 21 allotment of the beach has been reduced. It has  
10:42:41 22 become a much more narrow beach as a result of the  
10:42:43 23 higher levels of Lake Huron, but it is also a very  
10:42:47 24 popular recreational destination for beach-goers  
10:42:49 25 and swimmers in the region. And as a result, the

10:42:53 1 population of park visitors on the beach is tending  
10:42:59 2 to get a little bit closer to the vegetated dunes  
10:43:05 3 than what they typically would be historically.

10:43:08 4 And so there have been a few instances  
10:43:10 5 that I can recall firsthand where I have spoken to  
10:43:12 6 people who are setting up picnicking areas, you  
10:43:16 7 know, blankets and supplies in and around the dune  
10:43:19 8 vegetation in or near areas where I have seen  
10:43:20 9 turtles nesting in the past, and I have had  
10:43:22 10 educational dialogues with those individuals to  
10:43:25 11 explain the value and function of the area and try  
10:43:26 12 to get them to set up a little bit closer to the  
10:43:32 13 dynamic beach and water's edge, even though it is a  
10:43:36 14 little bit more crowded maybe at that location.

10:43:38 15 Q. Thank you. I would like to turn  
10:43:44 16 now to Inverhuron Provincial Park. If we scroll  
10:43:48 17 down a bit on the screen, it is depicted on Exhibit  
10:43:54 18 4563 as southwest of the Bruce Peninsula on the  
10:43:59 19 eastern shores of Lake Huron, south of Southampton  
10:44:02 20 and Port Elgin.

10:44:03 21 A. Right.

10:44:04 22 Q. Is that location accurately  
10:44:05 23 depicted?

10:44:06 24 A. Yes, it is.

10:44:06 25 Q. I am now going to pull up another

1 document, SC1706. Do you recognize this document?

2 A. Yes, I do. It is the Vegetation  
3 Management Plan for Inverhuron Provincial Park,  
4 which is a secondary plan to the Park Management  
5 Plan.

6 MS. McRANDALL: Your Honour, may this  
7 be made the next exhibit.

8 THE REGISTRAR: Exhibit 4564,  
9 Inverhuron Vegetation Management Plan.

10 EXHIBIT NO. 4564: Vegetation  
11 Management Plan for Inverhuron  
12 Provincial Park.

13 BY MS. McRANDALL:

14 Q. And what is the classification by  
15 Ontario Parks of Inverhuron Provincial Park?

16 A. Inverhuron is a cultural heritage  
17 class park.

18 Q. And what is your understanding of  
19 that classification?

20 A. Again, they are not intended to  
21 detract or minimize the importance of ecological  
22 protection, but they are intended to highlight  
23 aspects of cultural heritage, whether they be, you  
24 know, anthropogenic or similar in nature.

25 Q. Is it an operating park?

10:45:26 1 A. Yes, it is.

10:45:27 2 Q. In Inverhuron Provincial Park,  
10:45:32 3 what are the major ecological values on the  
10:45:34 4 shoreline?

10:45:34 5 A. The shoreline is essentially split  
10:45:38 6 into two main habitat types, the first of which is  
10:45:42 7 an open sandy beach and dune area classified  
10:45:46 8 ecologically as sort of an open sea-rocket  
10:45:49 9 vegetated beach. The other sections are more  
10:45:52 10 limestone-dominated through flat limestone plates  
10:45:56 11 or round cobble beach-type environments.

10:46:03 12 Q. Are there any plant species of  
10:46:05 13 note along the shoreline there?

10:46:06 14 A. Yes, the shoreline beach and dune  
10:46:10 15 areas specifically support a threatened and  
10:46:12 16 legally-protected species called Pitcher's thistle,  
10:46:15 17 and the back dunes support that same species and a  
10:46:19 18 few other rare species, including American Beach  
10:46:22 19 Grass and a sand reed species.

10:46:25 20 Q. I am going to turn up now page 12  
10:46:33 21 of the Inverhuron Vegetation Management Plan, and I  
10:46:37 22 would like to show you figure 4, a bit zoomed in  
10:46:42 23 perhaps. So the area that you were just  
10:46:48 24 discussing, can you identify which areas you were  
10:46:50 25 discussing?

10:46:51 1 A. Yes. If you refer to the  
10:46:56 2 southerly end of the aerial photo map, you will see  
10:47:01 3 within the contiguous strip of shoreline identified  
10:47:05 4 as "A" on the map series with the yellow polygon,  
10:47:09 5 if you go south of there to a wider open area of  
10:47:17 6 sand beach just before a creek, just north of a  
10:47:20 7 creek with a large rectangular parking lot visible  
10:47:23 8 at that southerly location, that is the predominant  
10:47:28 9 sandy beach and dune environment that I spoke to  
10:47:30 10 earlier.

10:47:30 11 And most of the area of shoreline  
10:47:34 12 around the campground areas referenced as letter  
10:47:38 13 "D" on the map and north of there until the  
10:47:42 14 exclusion zone letter "E" is typically dominated by  
10:47:46 15 the limestone rock or cobblestone beach areas.

10:47:50 16 Q. And you mentioned earlier that  
10:47:54 17 Inverhuron Provincial Park is an operating park, so  
10:47:57 18 what kind of visitor activities are permitted in  
10:47:59 19 Inverhuron?

10:48:00 20 A. It has many of the same uses that  
10:48:02 21 we spoke to earlier with hiking and cross-country  
10:48:05 22 skiing, snowshoeing, and similar passive nature  
10:48:09 23 enjoyment uses, but as an operating park, it also  
10:48:12 24 provides campground, overnight camping activities  
10:48:15 25 as individual campsites, as well as group camping,

10:48:19 1 up towards the northern end of the park.

10:48:21 2 It also provides a very popular  
10:48:23 3 swimming beach and boat access at the south end,  
10:48:28 4 and so boating is a permitted use, as well as the  
10:48:33 5 swimming and sport fishing that occurs along the  
10:48:37 6 shoreline on a regular basis around both the beach  
10:48:39 7 and campground areas.

10:48:40 8 Q. Are there activities which are  
10:48:43 9 prohibited?

10:48:43 10 A. Yes, use of motorized vehicles  
10:48:47 11 would be a notable one, as well as, you know, the  
10:48:50 12 general prohibitions around disturbing vegetation  
10:48:53 13 or other Crown resources or taking of materials.

10:48:57 14 Q. And why are those prohibited?

10:49:01 15 A. Inverhuron is known to have both  
10:49:04 16 ecological and cultural artifact values, and as a  
10:49:08 17 result of Indigenous activities, pre-settlement,  
10:49:12 18 early settlement, as well as early European  
10:49:15 19 settlement patterns of the area, there is -- and  
10:49:18 20 remnant lime kiln, for example, that occurs within  
10:49:21 21 the park, as well as an active cemetery closer to  
10:49:24 22 the east side, and those types of historical uses  
10:49:27 23 and values, as well as the ecological functions and  
10:49:29 24 values, are regulated under our Provincial Parks  
10:49:37 25 and Conservation Reserves Act to ensure that users



10:49:39 1 that are looking for souvenirs or ecological or  
10:49:42 2 cultural artifacts do not remove those items from  
10:49:44 3 the park.

10:49:45 4 Q. Does Ontario Parks take any  
10:49:55 5 actions to try to protect those ecological values  
10:49:58 6 in Inverhuron Provincial Park that you mention?

10:50:01 7 A. Yes, we do. Specifically through  
10:50:03 8 our annual monitoring of the swimming beach use  
10:50:06 9 patterns, we erect temporary fencing, snow fencing,  
10:50:09 10 for example, boardwalks to consolidate and organize  
10:50:14 11 public access through the sensitive dune  
10:50:17 12 environment that is occupied by protected Pitcher's  
10:50:20 13 thistle and beach grass to be able to reduce or  
10:50:24 14 minimize the physical disturbance to those  
10:50:26 15 environments.

10:50:27 16 We also monitor dune grass development  
10:50:30 17 and in-fill areas as part of a restorative process  
10:50:35 18 where needed and where we have the capacity to be  
10:50:39 19 able to attend to natural and human-caused  
10:50:44 20 disturbances in sensitive dune areas.

10:50:46 21 We also have an issue just in off the  
10:50:49 22 shoreline with the connecting road from a nearby  
10:50:52 23 Inverhuron cottage community where there is an old  
10:50:56 24 trail access that has periodic use by all-terrain  
10:51:01 25 vehicles into a sensitive interior dune area that

1 we fence and sign for protection of that species.

2 Q. I am going to display the map of  
3 the Southwest Zone again, which is Exhibit 4563,  
4 and scroll up to the peninsula. So Hope Bay  
5 Provincial Park -- Hope Bay Forest Provincial Park,  
6 pardon me, is depicted here on the eastern side of  
7 the Bruce Peninsula, on the western shores of  
8 Georgian Bay, south of Lion's Head Provincial Park.  
9 Is that location accurately depicted?

10 A. Yes, that's correct.

11 Q. And what is the classification for  
12 Hope Bay Forest Provincial Park?

13 A. Hope Bay Forest is another nature  
14 reserve class park.

15 Q. Is it an operating park?

16 A. No, it is not.

17 Q. And in Hope Bay Forest Provincial  
18 Park, what are the major ecological values along  
19 the shoreline?

20 A. Similar to Lion's Head, there are  
21 a variety of cliff-related values at Hope Bay  
22 Forest, notably similar cedar trees, not as old as  
23 the Lion's Head examples, but some do grow along  
24 the cliff and talus areas of Hope Bay Forest.  
25 There is also cliff swallow nests that occur along

1 the cliff, in and around the bottom of the cliff.

2 That particular species utilizes both the cliff for  
3 its nesting cavity and the immediate shoreline area  
4 as important foraging habitat, both during  
5 migration and the nesting season.

6 There are also rare cliff ferns, Smooth  
7 Cliff Brake in particular and Wall-Rue, that I have  
8 observed along the shoreline cliffs at Hope Bay  
9 Forest, and the plateau lands offer larger areas of  
10 interior hardwood forest, including some species at  
11 risk up there, but more to the shoreline  
12 environment, the shoreline also supports two fairly  
13 large solution caves that are interesting  
14 geological features along the south edge of the  
15 park and that also provide habitat for a variety of  
16 bat species at that location as well.

17 Q. Does Ontario Parks take any steps  
18 to protect the plants that you mentioned in Hope  
19 Bay Forest on cliffs?

20 A. Yes, through prohibitive signage  
21 and communication with the regional rock climbing  
22 stakeholder groups, we have conducted two workshops  
23 with those individuals, with the stakeholders, in  
24 an organized fashion to communicate not just the  
25 ecological values, to educate them in terms of our

10:53:43 1 mandate to protect those and why the protection is  
10:53:47 2 important, but also to communicate to the user  
10:53:50 3 group that rock climbing is not a permitted use at  
10:53:56 4 Hope Bay Forest, and we have also erected  
10:53:58 5 prohibitive signage at both access points at the  
10:54:01 6 top of the cliffs and the bottom of the cliffs  
10:54:03 7 along the shoreline to help reduce the use of the  
10:54:06 8 site for rock climbing and caving and continue to  
10:54:11 9 educate people who show up to participate in those  
10:54:15 10 activities.

10:54:16 11 Q. And visitors who are accessing the  
10:54:21 12 cliffs in that way, are they -- do they ever access  
10:54:24 13 it by water?

10:54:25 14 A. By water directly, I am personally  
10:54:29 15 not certain in this particular case. I do know of  
10:54:34 16 some informal access trails that come up from the  
10:54:36 17 water's edge, so presumably they are either  
10:54:39 18 accessing by water or directly from the shoreline  
10:54:43 19 area east of the cottage road, the private road  
10:54:48 20 that occurs along the shoreline area.

10:54:50 21 Q. Thank you. Does Ontario Parks  
10:54:56 22 monitor water quality or bathing water quality at  
10:54:59 23 any of the parks you have given evidence about this  
10:55:01 24 morning?

10:55:02 25 A. Not currently. Historically, I am

10:55:05 1 generally aware that it was conducted at Black  
10:55:08 2 Creek because of the popularity of the sand beach.  
10:55:11 3 In more recent years, that water quality monitoring  
10:55:14 4 under our policy was conducted by the Bruce Grey  
10:55:20 5 Public Health Unit, and the results were forwarded  
10:55:25 6 to us, but they did the sampling themselves through  
10:55:27 7 their own technicians and forwarded us the  
10:55:29 8 information.

10:55:29 9 It is my understanding through recent  
10:55:31 10 communication with the Park Superintendent that, as  
10:55:34 11 of a few years ago, that health unit did not see  
10:55:38 12 ongoing monitoring as a significant priority at  
10:55:41 13 that location because of lack of historical issues  
10:55:45 14 around water quality at Black Creek, but certainly  
10:55:48 15 under our operating parks policy, we could  
10:55:52 16 presumably undertake more water quality monitoring  
10:55:54 17 and looking for those standards in the future if we  
10:55:58 18 foresee that it becomes an issue.

10:56:00 19 Q. Is that testing ever done at any  
10:56:06 20 of the other parks?

10:56:08 21 A. Oh, yes. Sorry, my mistake.  
10:56:10 22 Inverhuron and MacGregor Point are two operating  
10:56:14 23 parks that, yes, the water quality monitoring is  
10:56:18 24 done on a regular basis.

10:56:19 25 Specifically Inverhuron, which I have

1 discussed previously, the water quality -- water  
2 monitoring policy for provincial parks is utilized  
3 annually, and those water samples are taken weekly  
4 by policy in those near-shore areas in support of  
5 monitoring for particular bacterial issues along  
6 the swimming beach areas.

7 And we also undertake a minimum of one  
8 survey a year at the beginning of the active  
9 visitor season, typically no later than July 1st of  
10 any given year, for any signs of pollution or  
11 litter or other hazards that may be impairing water  
12 quality at that particular location.

13 Q. I am now going to pull up document  
14 SC1709, and Mr. Gould, do you recognize this  
15 document?

16 A. Yes, I do.

17 Q. Could you briefly describe what it  
18 is?

19 A. Yes, this is the supporting policy  
20 to our larger Water Monitoring and Provincial Parks  
21 Policy 9.04. This is the corresponding procedure,  
22 9.04.02, that speaks specifically to the water  
23 monitoring procedure and beach pollution survey  
24 methodologies to be conducted in these operating  
25 park environments.

10:57:47 1 MS. McRANDALL: Your Honour, may this  
10:57:49 2 be made the next exhibit.

10:57:50 3 THE REGISTRAR: Exhibit 4565, Bathing  
10:57:56 4 Beach Water Monitoring in Provincial Parks.

10:57:59 5 EXHIBIT NO. 4565: Document entitled  
10:57:55 6 "Bathing Beach Water Monitoring in  
10:57:57 7 Provincial Parks".

10:58:00 8 BY MS. McRANDALL:

10:58:02 9 Q. And what has Ontario Parks done in  
10:58:04 10 the event of bathing water quality falling below a  
10:58:09 11 provincial limit?

10:58:10 12 A. Yes, typically through  
10:58:11 13 notification by those Regional Health Units, we  
10:58:14 14 would close the beach for purposes of recreational  
10:58:20 15 use. In this instance, we would erect signage  
10:58:23 16 displaying the closure status and contact  
10:58:26 17 information for further questions, as well as any  
10:58:29 18 updates that are pertinent to the timing of the  
10:58:33 19 closure and potential re-open status once the  
10:58:37 20 monitoring shows that levels are reduced enough for  
10:58:40 21 the beach to be deemed as safe for use.

10:58:47 22 Q. Thank you. How important to your  
10:58:49 23 work is it that Ontario Parks is able to regulate  
10:58:52 24 the uses of these provincial parks?

10:58:54 25 A. In my opinion, it is extremely

10:58:55 1 important. Based on the biological and enforcement  
10:58:59 2 duties and experiences that I have had  
10:59:01 3 professionally, in all areas of the escarpment  
10:59:05 4 parks in the peninsula and surrounding areas, the  
10:59:09 5 combination of sensitive ecological values and  
10:59:14 6 long-standing and new recreational uses combine  
10:59:19 7 into a very challenging park management framework  
10:59:24 8 to try and balance those according to our mandates.

10:59:27 9 One thing that the regulation under the  
10:59:34 10 Provincial Parks and Conservation Reserves Act  
10:59:35 11 offers is a legal framework for us in our  
10:59:38 12 monitoring and enforcement duties to be able to  
10:59:41 13 track the values, track the uses, and be sure that  
10:59:45 14 those are complementary and don't result in damage  
10:59:49 15 to the environmental values or potential increases  
10:59:54 16 in hazards to user health and safety.

10:59:57 17 The regulation allows us as officers,  
11:00:02 18 including myself as a trained Park Warden, to apply  
11:00:05 19 a high degree of educational stewardship messaging  
11:00:08 20 to individual park users, groups of park users,  
11:00:11 21 whether they be formalized or not, and it puts us  
11:00:15 22 in a great position of leadership in the community  
11:00:19 23 to be able to utilize our role within a larger  
11:00:22 24 framework of stakeholders and other people of  
11:00:25 25 knowledge and concern to coordinate under our



11:00:29 1 legislation through the regulation, which is very  
11:00:33 2 favourable towards ecological monitoring and  
11:00:35 3 protection.

11:00:36 4 And it just gives us a lot of power to  
11:00:41 5 go out and discover the ecological functions that  
11:00:45 6 are there and potential challenges and issues, as  
11:00:50 7 well as to deal with it in a legal context where  
11:00:53 8 educational stewardship messaging is not as  
11:00:56 9 successful as we would like.

11:00:57 10 THE COURT: Ms. Guirguis?

11:01:01 11 MS. GUIRGUIS: Your Honour, sorry, I  
11:01:02 12 was slow to stand up, but as it went on, it became  
11:01:05 13 apparent that -- I don't think that necessarily my  
11:01:05 14 friend's question intended it, but there was  
11:01:08 15 a --

11:01:08 16 THE COURT: Sorry, I'm having trouble  
11:01:10 17 hearing you.

11:01:10 18 MS. GUIRGUIS: Oh, yes, of course. I  
11:01:10 19 don't think that my friend's --

11:01:10 20 THE COURT: Perhaps you could come over  
11:01:11 21 to the podium.

11:01:11 22 MS. GUIRGUIS: Sorry.

11:01:14 23 THE COURT: And Ms. McRandall can step  
11:01:17 24 aside.

11:01:18 25 MS. GUIRGUIS: Your Honour, I don't

1 think that my friend's question necessarily  
2 intended it, but I believe that it elicited some  
3 opinion from this witness who has not been  
4 qualified as an expert and, in addition, some  
5 interpretation of the law and regulations that  
6 apply to parks.

7 THE COURT: Counsel, I am going to make  
8 sure that I disregard any aspect of the answer that  
9 is afoul of either of those two legal rules. Thank  
10 you for standing.

11 MS. GUIRGUIS: Thank you, Your Honour.

12 THE COURT: Ms. McRandall, please go  
13 ahead.

14 BY MS. McRANDALL:

15 Q. Mr. Gould, I don't know if you had  
16 anything else to add to what you were speaking  
17 about.

18 A. Only that we work in a challenging  
19 environment with a concentration of ecological and  
20 environmental values and a growing popularity of  
21 visitor access being in Southern Ontario. Those  
22 two things can often overlap, but it takes a lot of  
23 work and a lot of persistence and study to make  
24 sure things work in a complementary way, and we  
25 maximize the enjoyment of Ontarians for these sites

1 but in a way that doesn't have detrimental impacts  
2 on the environmental functions on which they were  
3 identified for.

4 Q. Thank you, Mr. Gould.

5 Your Honour, those are my questions.

6 THE COURT: Thank you. Is it you,  
7 Ms. Guirguis, then?

8 MS. GUIRGUIS: Yes, Your Honour.

9 THE COURT: Please go ahead.

10 CROSS-EXAMINATION BY MS. GUIRGUIS:

11 Q. Thank you, Your Honour.

12 Good morning, Mr. Gould.

13 A. Good morning.

14 Q. My name is Cathy Guirguis, and I  
15 am a lawyer with the Plaintiffs, and I am just  
16 going to be asking you some questions about what  
17 you have told us this morning.

18 A. All right. Thank you.

19 Q. So it was very helpful you  
20 clarified several terms for us, and I just want to  
21 confirm a few things, starting with the different  
22 classes or categories of provincial parks.

23 There is six different classifications  
24 set out in the Provincial Parks Act; is that  
25 correct?

11:03:58 1 A. I believe so, yes.

11:03:59 2 Q. Okay. And the ones you mentioned  
11:04:01 3 this morning were natural reserve class parks,  
11:04:05 4 cultural heritage, natural environment, and  
11:04:08 5 recreational; is that right?

11:04:10 6 A. I didn't speak to any recreation  
11:04:12 7 class parks specifically, but they do exist.

11:04:15 8 Q. Okay. Thank you. And there are  
11:04:17 9 different objectives that Ontario is trying to  
11:04:20 10 achieve with each one of these classifications?

11:04:23 11 A. Yes.

11:04:23 12 Q. So I want to ask you about  
11:04:29 13 recreational class parks. The objective of these  
11:04:32 14 parks is to provide --

11:04:33 15 THE COURT: Sorry, Counsel, I am so  
11:04:36 16 accustomed to struggling to hear, but you are a  
11:04:38 17 little close to the microphone. That I am sure  
11:04:42 18 will be let better, just that small change you  
11:04:45 19 made. Please go ahead.

11:04:47 20 BY MS. GUIRGUIS:

11:04:47 21 Q. Of course. Thank you, Your  
11:04:48 22 Honour.

11:04:48 23 So the recreational class parks, the  
11:04:51 24 objective is to allow for outdoor recreation  
11:04:55 25 opportunities in attractive natural surroundings;

1 is that right?

2 A. Yes, I agree that is a component  
3 of it.

4 Q. So one of the objectives is to  
5 promote public use of the parks?

6 A. That's correct.

7 Q. And you talked about this morning  
8 how Ontario's objectives for some of the other  
9 classes is more about protection?

10 A. Yes. The classification system  
11 tends to have a bit of a spectrum of protection and  
12 access involved in the classification series, yes.

13 Q. And that is the case for the  
14 natural reserve class parks?

15 A. Yes, they tend to be more on the  
16 protective side.

17 Q. Because they include significant  
18 elements of natural heritage and biodiversity;  
19 that's correct?

20 A. Yes.

21 Q. And the same goes for natural  
22 environment class parks that have important  
23 ecosystems and significant elements of Ontario's  
24 natural and cultural heritage?

25 A. Yes, I agree with that and would

11:05:52 1 also say recreational class parks can also contain  
11:05:57 2 a lot of those same values and functions.

11:05:59 3 Q. Okay. So we can assume that the  
11:06:04 4 designation of lands as a natural reserve park or a  
11:06:08 5 natural environment park means that there are  
11:06:11 6 important ecosystems and important natural heritage  
11:06:14 7 that are located on those lands?

11:06:15 8 A. Yes, I generally agree with that.

11:06:16 9 Q. And MECP, your ministry, is  
11:06:20 10 required to have management directions in place for  
11:06:22 11 each one of its parks?

11:06:25 12 A. Generally, yes.

11:06:26 13 Q. Okay. And the purpose of a  
11:06:28 14 management direction is to provide the policy and  
11:06:30 15 resource management framework of the park?

11:06:33 16 A. Yes.

11:06:33 17 Q. And that can be in the form of a  
11:06:36 18 statement or a plan; is that right?

11:06:38 19 A. Yes, that is my understanding.

11:06:40 20 Q. A statement is for simpler  
11:06:42 21 matters?

11:06:43 22 A. Simpler matters or as what I would  
11:06:47 23 define as placeholder management policy in lieu of  
11:06:51 24 future development of a more detailed management  
11:06:54 25 plan.

11:06:54 1 Q. So the plan is for more complex  
11:06:57 2 issues?

11:06:58 3 A. It can be certainly, yes.

11:07:00 4 Q. Okay. And you have already talked  
11:07:01 5 this morning about the difference between operating  
11:07:03 6 and non-operating parks. And I just wanted to pull  
11:07:10 7 up Exhibit 4563 and take a look at that.

11:07:16 8 So if we stay zoomed out for a moment,  
11:07:29 9 which we won't stay for long because I find it very  
11:07:32 10 difficult to read.

11:07:33 11 A. Uhm-hmm.

11:07:34 12 Q. But this is the entire Southwest  
11:07:36 13 Zone; correct?

11:07:37 14 A. Not that I can see on my screen,  
11:07:38 15 but yes, if you scroll down, yes.

11:07:40 16 Q. Oh, right. And you are the  
11:07:45 17 Protected Area Specialist for this entire zone?

11:07:47 18 A. In terms of a focus on  
11:07:51 19 non-operating parks and nature reserves, yes.

11:07:53 20 Q. Okay. Thank you. So if we zoom  
11:07:55 21 back in, and we go -- we look at the legend at the  
11:07:59 22 top left, it shows us non-operating parks are a  
11:08:09 23 lighter shade of green and operating parks are dark  
11:08:13 24 green?

11:08:14 25 A. Yes.

1 Q. I would like you to look at  
2 Exhibit P, which is a map that is right next to  
3 you.

4 A. Uhm-hmm.

5 Q. Over your left shoulder.

6 A. Yes.

7 Q. This is an illustration from the  
8 Plaintiffs' mapping out their claim area in this  
9 litigation which includes the Saugeen Bruce  
10 Peninsula. So from what we can see on Exhibit  
11 4563, most of the parks on the peninsula are  
12 non-operating parks; is that correct?

13 A. Yes.

14 Q. And I just want to confirm that  
15 from what I see on this Exhibit 4563 that there are  
16 five operating parks in the Plaintiffs' claim area,  
17 and I just want to confirm which ones they are. It  
18 is Sauble Falls Provincial Park, which is the  
19 northern most dark green dot on the west side of  
20 the base of the peninsula; is that correct?

21 A. Right.

22 Q. There is MacGregor Point  
23 Provincial Park, which is the green dot just south  
24 of the Huron shore; there is Inverhuron, which you  
25 were just talking about, Provincial Park?



11:09:28 1 A. Yes, uhm-hmm.

11:09:29 2 Q. And that is the third green dot on  
11:09:31 3 the Huron shore just south of MacGregor Point, and  
11:09:38 4 now if we look at -- I think if we have to zoom out  
11:09:41 5 a little bit --

11:09:46 6 A. Point Farms would be the next one  
11:09:48 7 down the shoreline. Sorry for my interruption.

11:09:50 8 Q. Point Farms Provincial Park near  
11:09:52 9 Goderich, so that is also south on the Huron shore,  
11:09:58 10 and on the other side of the territory -- or on the  
11:10:00 11 other side of the area, we have -- on the  
11:10:03 12 Southwestern shore of Georgian Bay, there is  
11:10:07 13 Craigleith Provincial Park; correct?

11:10:10 14 A. That's correct.

11:10:10 15 Q. So each of Inverhuron and Sauble  
11:10:13 16 Falls --

11:10:13 17 THE COURT: Sorry, I'm just going to  
11:10:14 18 interrupt you. Sorry, I thought the question  
11:10:16 19 was -- I may have lost track of your question,  
11:10:22 20 Counsel. Are you saying that Collingwood is in the  
11:10:26 21 claim area?

11:10:28 22 MS. GUIRGUIS: As it is depicted on  
11:10:31 23 Exhibit P.

11:10:34 24 THE COURT: Oh, Craigleith -- I'm just  
11:10:37 25 having a hard time with the map.

11:10:39 1 THE WITNESS: Craigleith is  
11:10:42 2 approximately here.

11:10:42 3 THE COURT: Have a seat. These are  
11:10:44 4 legal questions that we'll sort out. I was  
11:10:46 5 worrying about the question, and I now have  
11:10:49 6 Ms. McRandall on her feet, so --

11:10:51 7 MS. McRANDALL: Your Honour, I'm just  
11:10:53 8 unclear on what is meant by my friend by "the claim  
11:10:57 9 area". The map, Exhibit P, depicts the title claim  
11:11:01 10 area and then identifies locations as Treaty 72 and  
11:11:03 11 Treaty 45 1/2, and it just may be unclear, both for  
11:11:08 12 the record and for the witness, what exactly is  
11:11:10 13 meant by parks in the claim area.

11:11:13 14 THE COURT: Well, and indeed,  
11:11:14 15 Ms. McRandall has stated more clearly why I  
11:11:17 16 interrupted you, Counsel, because you have got many  
11:11:21 17 areas depicted on this map which perhaps it doesn't  
11:11:24 18 matter for the purposes of your question, but I was  
11:11:28 19 concerned about potential ambiguities.

11:11:31 20 I don't have any problem with you going  
11:11:34 21 through and showing the operating parks on Exhibit  
11:11:37 22 P, if that gets you where you are going. I was  
11:11:40 23 just a little concerned about the description of  
11:11:43 24 them.

11:11:44 25 So perhaps you could ask your question

11:11:47 1 about -- it only relates to Craigleith. It is up  
11:11:53 2 to you, Counsel, how you want to put it, but  
11:11:55 3 perhaps what you are trying to accomplish is  
11:11:57 4 completely separate from what had me a little bit  
11:12:00 5 confused.

11:12:02 6 MS. GUIRGUIS: Thank you, Your Honour,  
11:12:03 7 and I can certainly clarify what I meant.

11:12:07 8 Yes, I was asking about confirmation of  
11:12:10 9 the operating parks that we see on Exhibit 4563  
11:12:17 10 that are also on Exhibit P.

11:12:19 11 When I referenced the claim area, I am  
11:12:21 12 referring to the Aboriginal title claim area and  
11:12:24 13 the shorelines that we see around it that --

11:12:27 14 THE COURT: Yes. Well, I suspect that  
11:12:28 15 that characterization is not necessarily important  
11:12:32 16 to your question.

11:12:33 17 MS. GUIRGUIS: It is not.

11:12:34 18 THE COURT: And since that is where I  
11:12:36 19 got confused, maybe if you could just re-ask the  
11:12:39 20 question with respect to that last of your five  
11:12:41 21 operating parks, we can get past it.

11:12:44 22 BY MS. GUIRGUIS:

11:12:44 23 Q. Certainly. So, Mr. Gould, just to  
11:12:46 24 confirm, the five operating parks, we are on the  
11:12:50 25 last one in the Plaintiffs'. When I say "claim

11:12:54 1 area", I meant what we are looking at on Exhibit P.

11:12:58 2 A. Right.

11:12:58 3 Q. So can you confirm that on the  
11:13:01 4 Southwestern shore of Georgian Bay there is  
11:13:04 5 Craigleith Provincial Park, which would also --  
11:13:07 6 which is a park that falls within what we see on  
11:13:10 7 Exhibit P?

11:13:11 8 A. Yes, and I would add the  
11:13:14 9 possibility of Wasaga Beach Provincial Park, which  
11:13:17 10 is very near to the eastern boundary, as exhibited  
11:13:20 11 on the map in Exhibit P, but I don't know for sure  
11:13:23 12 based on that map reference.

11:13:25 13 Q. Okay. Thank you, sir. So each of  
11:13:29 14 Inverhuron and Sauble Falls Provincial Parks, they  
11:13:32 15 are both operating provincial parks?

11:13:34 16 A. Yes.

11:13:34 17 Q. They have a Superintendent and an  
11:13:37 18 Assistant Superintendent?

11:13:38 19 A. Sauble Falls is managed by an  
11:13:41 20 Assistant Superintendent out of the larger  
11:13:44 21 MacGregor Point cluster of parks, as is Inverhuron.

11:13:48 22 Q. Okay. And Point Farms also has an  
11:13:53 23 Assistant Superintendent?

11:13:53 24 A. That is my understanding, yes.

11:13:54 25 Q. Craigleith Provincial Park and

11:14:01 1 MacGregor Point Provincial Park each have a  
11:14:03 2 Superintendent, an Assistant Superintendent, and a  
11:14:06 3 Park Clerk; is that right?

11:14:08 4 A. Yes, and maybe for clarification,  
11:14:11 5 I will add the park Superintendent is common to a  
11:14:17 6 cluster of parks around a central or main park. So  
11:14:20 7 in the peninsula parks example, in the Lake Huron  
11:14:23 8 shoreline, the Superintendent working out of  
11:14:25 9 MacGregor Point is technically the Superintendent  
11:14:27 10 for all of those other cluster of parks which, if  
11:14:31 11 they are operating parks, also are co-managed by an  
11:14:36 12 Assistant Superintendent.

11:14:36 13 So in the Craigleith example, there is  
11:14:39 14 an Assistant Superintendent at the park, and it is  
11:14:44 15 overseen by the park Superintendent who operates  
11:14:46 16 out of Wasaga Beach.

11:14:47 17 Q. And each Superintendent, they are  
11:14:49 18 designated as a Park Warden; is that right?

11:14:52 19 A. That is my understanding, yes.

11:14:53 20 Q. Okay. And that means that these  
11:14:58 21 Superintendents are empowered as if they were  
11:15:01 22 Ontario Provincial Police officers to enforce laws  
11:15:04 23 within a provincial park?

11:15:05 24 A. Within the bounds of the  
11:15:07 25 Provincial Parks and Conservation Reserves Act and

1 other legislation that we enforce within the  
2 boundaries of the park, such as Liquor Licence Act,  
3 yes.

4 Q. So that would include laws that  
5 relate to conservation and protection of the parks?

6 A. Yes, under the Provincial Parks  
7 and Conservation Reserves Act.

8 Q. And in the summer months which  
9 are, I believe, the busier months with parks; is  
10 that right?

11 A. They can be, yes.

12 Q. Additional wardens can be  
13 appointed on contract to assist with enforcement  
14 activities?

15 A. Yes, that is commonly done.

16 Q. Appointment of additional wardens  
17 primarily happens in the operating parks?

18 A. Yes, but not always.

19 Q. But it doesn't often happen in the  
20 non-operating parks?

21 A. I don't know if I could qualify  
22 that with a specific answer. Maybe in the context  
23 of this case, we do have an additional seasonal  
24 warden that is solely responsible for the peninsula  
25 parks that comes on as a seasonal spring through

1 fall.

2 Q. So an additional, it is one warden  
3 that comes in through spring and fall?

4 A. Yes.

5 Q. And that is for all of the parks  
6 in the claim area which is exhibited on Exhibit P?

7 A. No, that would be specific to  
8 parks north of Sauble Falls on the peninsula. He  
9 works out of the Sauble Falls office, and he is  
10 additionally responsible for the monitoring and  
11 enforcement of the non-operating parks on the  
12 peninsula.

13 Q. Solely the non-operating parks or  
14 including the operating parks?

15 A. I believe solely the non-operating  
16 parks.

17 Q. Okay. Thank you. So I understand  
18 that there are nine non-operating parks on the  
19 peninsula; does that sound right?

20 A. Approximately, yes.

21 Q. And you have gone through a few of  
22 these with my friend this morning, and I just want  
23 to confirm that that includes Black Creek  
24 Provincial Park, Cabot Head, Hope Bay Forest?

25 A. Uhm-hmm.

1 Q. Smokey Head-White Bluff, Johnston  
2 Harbour-Pine Tree, Lion's Head, Little Cove,  
3 Bayview Escarpment, and Ira Lake; does that sound  
4 right?

5 A. Yes, that is my understanding, and  
6 with a qualifier that Little Cove and Johnston  
7 Harbour-Pine Tree are managed under agreement with  
8 Parks Canada.

9 Q. That was going to be my next  
10 question, so --

11 A. Yes. That is why they are not  
12 seen on this general map depiction.

13 Q. So we only have seven of those  
14 that we have just listed on Exhibit 4563. The two  
15 that are missing, you said Johnston Harbour-Pine  
16 Tree and Little Cove --

17 A. Yes.

18 Q. -- are managed by Parks Canada per  
19 a contract, but they are both still classified as  
20 natural reserve provincial parks; correct?

21 A. That is my understanding and  
22 managed under what is now the Bruce Peninsula  
23 National Park framework.

24 Q. Okay. So even though they are  
25 provincial parks, they are effectively managed by



11:18:17 1 another party?

11:18:18 2 A. Generally, yes.

11:18:19 3 Q. And they are protected in  
11:18:22 4 accordance with Ontario's objectives?

11:18:24 5 A. That is my understanding.

11:18:25 6 Q. You talked about -- this morning  
11:18:30 7 about nature reserve parks and natural environment.  
11:18:34 8 So eight out of nine of the non-operational parks  
11:18:37 9 on the peninsula are classified as nature reserve  
11:18:40 10 parks; is that right?

11:18:42 11 A. Generally, yes, that is my  
11:18:44 12 understanding.

11:18:44 13 Q. And one, Black Creek, is  
11:18:46 14 classified as natural environment?

11:18:48 15 A. Yes.

11:18:48 16 Q. And what we have discussed and  
11:18:59 17 what you have discussed this morning about the  
11:19:01 18 different classes, we can assume that all of the  
11:19:04 19 designated parks -- all of them are designated as  
11:19:09 20 parks, as natural reserve parks or natural  
11:19:11 21 environment because they have important ecosystems  
11:19:14 22 and natural heritage that needs protection, and  
11:19:16 23 that they would be home to various animals and  
11:19:18 24 plant species, including at-risk animal species and  
11:19:22 25 plant species; that's right?

11:19:24 1 A. Yes, that is quite often the case,  
11:19:25 2 as per the rationale for their acquisition and  
11:19:29 3 regulation. And just to clarify, the two parks  
11:19:33 4 labelled with black text, Gauley Bay-Greenough  
11:19:36 5 Harbour and McMaster Point, are proposed additions  
11:19:41 6 that are not yet regulated.

11:19:43 7 Q. So you would agree with me that  
11:19:49 8 this means that they are vulnerable, and that is  
11:19:50 9 why they are protected areas?

11:19:52 10 A. Yes, they certainly have values  
11:19:54 11 that are important.

11:19:55 12 Q. And you talked with my friend this  
11:19:58 13 morning about limits on visitor activity at these  
11:20:01 14 parks and specifically at Cabot Head, but that is a  
11:20:05 15 non-operating park, right?

11:20:07 16 A. That's correct.

11:20:07 17 Q. So there is no full-time staff  
11:20:10 18 on-site, right?

11:20:12 19 A. On an everyday basis, no, but it  
11:20:14 20 is subject to regular patrols by a Park Warden.

11:20:17 21 Q. But there is no Superintendent or  
11:20:20 22 Assistant Superintendent that is there full-time?

11:20:22 23 A. That is housed there as an office,  
11:20:24 24 no.

11:20:24 25 Q. No wardens or other enforcement

1 staff that are housed there as an office?

2 A. No.

3 Q. And there is no limits set by MECP  
4 on the number of visitors that can visit the  
5 non-operating parks, is there?

6 A. No, not to my understanding.

7 Q. And no one from MECP is on-site  
8 all the time at these non-operating parks ensuring  
9 visiting tourists do not disturb the important  
10 ecosystems and natural heritage?

11 A. Right, all the time. That would  
12 be correct, they are not there all the time.

13 Q. And so no one from MECP is on-site  
14 at the non-operational parks to ensure that the  
15 visitors are using the non-operational parks in a  
16 responsible way that minimizes the impact to these  
17 sensitive areas?

18 A. I wouldn't say that. We have  
19 regular monitoring and enforcement patrols, and  
20 typically the visitor activities leave evidence of  
21 their presence, and as a result -- or damage that  
22 may occur; for example, overnight camping or  
23 littering or things of that nature that we do not  
24 permit, and typically some observable evidence of  
25 approximate levels of visitation, areas of

1 visitation and, I will call it, non-compliant  
2 activities can be accounted for during regular  
3 monitoring of these areas.

4 Q. And when you say regular  
5 monitoring and enforcement patrols, not on a daily  
6 basis?

7 A. No, but typically at least weekly  
8 in these areas.

9 Q. At least weekly?

10 A. Yes.

11 Q. And you have said that when it is  
12 busy, your busy season, they do appoint one  
13 additional person?

14 A. That's correct, for the peninsula  
15 parks.

16 Q. For the peninsula that has to then  
17 do this monitoring and enforcement in nine  
18 non-operating parks?

19 A. That's correct.

20 Q. So I would like to open up SC1844.  
21 So, sir, this is the will-say that was provided in  
22 your litigation -- in this litigation by your  
23 counsel, and I just want to flip to page 3, and if  
24 we could scroll down, this is a photo -- a picture  
25 of a person in a kayak.

11:23:25 1 A. Uhm-hmm.

11:23:26 2 Q. And this picture, I understand,  
11:23:30 3 was taken in Lion's Head Provincial Park?

11:23:32 4 A. Yes, it was.

11:23:32 5 Q. And underneath it is provided as a  
11:23:40 6 picture to depict that there is only non-motorized  
11:23:44 7 boating in protected sensitive areas; is that  
11:23:46 8 right?

11:23:46 9 A. As a general theme, yes, but not  
11:23:49 10 specific to an individual site.

11:23:52 11 MS. GUIRGUIS: So, Your Honour, can I  
11:23:52 12 add this as the next exhibit.

11:23:57 13 THE REGISTRAR: Exhibit --

11:23:58 14 THE COURT: Just a minute, Madam  
11:24:00 15 Registrar.

11:24:03 16 MS. McRANDALL: I am just wondering why  
11:24:05 17 the will-say in its entirety would be added rather  
11:24:08 18 than just the picture.

11:24:09 19 THE COURT: Well, it is not clear to me  
11:24:10 20 that has been requested. So let's start with that  
11:24:13 21 question.

11:24:13 22 MS. GUIRGUIS: So, Your Honour, my  
11:24:14 23 friends added this picture actually on the system,  
11:24:17 24 but we realized this morning that it didn't have  
11:24:20 25 the heading underneath, "Permitting only

1 non-motorized boating reduces disturbance to  
2 wildlife in sensitive areas", so which is --  
3 provides context for the picture, which is why I  
4 brought up the will-say. But I'm happy to just add  
5 that picture with just the heading. The entire  
6 will-say is not needed.

7 THE COURT: Is there any objection to  
8 adding what will be a separate image provided later  
9 that includes the photograph and caption?

10 MS. McRANDALL: No objection to that,  
11 Your Honour.

12 THE COURT: All right. Madam  
13 Registrar?

14 THE REGISTRAR: Thank you. Exhibit  
15 4566.

16 THE COURT: 4566.

17 THE REGISTRAR: Yes.

18 THE COURT: And, Madam Registrar,  
19 Counsel will at a later point provide an image to  
20 go with that exhibit number.

21 EXHIBIT NO. 4566: Photo contained in  
22 Mr. Gould's will-say statement bearing  
23 the caption "Permitting only  
24 non-motorized boating reduces  
25 disturbance to wildlife in sensitive

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areas".

BY MS. GUIRGUIS:

Q. Thank you. So this picture was taken you said at Lion's Head Provincial Park?

A. That's correct, in June of 2011.

Q. Okay. So Lion's Head is one of the non-operating parks classified as a nature reserve, but when you talk about permitting only non-motorized boating, you are talking about in waters adjacent to all the shoreline parks around the peninsula; is that right?

A. Not necessarily.

Q. So it is just specific ones?

A. In areas that have specific sensitivities that could be impacted by motorized boating.

Q. Okay. But it would include several of the non-operational parks around the peninsula?

A. I would think so, yes, based on my ecological monitoring observations over the years.

Q. And you have confirmed already that, with respect to non-operational parks, MECP does not have permanent staff, full-time staff, there all the time?

11:26:12 1 A. Non-operational parks, that would  
11:26:15 2 be correct, yes.

11:26:16 3 Q. So MECP doesn't have permanent  
11:26:20 4 staff dedicated to monitoring any of the waters  
11:26:23 5 adjacent to these non-operational parks to ensure  
11:26:26 6 there is no motorized boating all the time?

11:26:28 7 A. If you mean permanent everyday  
11:26:31 8 monitoring, no.

11:26:33 9 Q. So in the absence of regular  
11:26:36 10 on-site staff, is it fair to say that MECP's  
11:26:39 11 strategies to prevent motorized boating are to put  
11:26:43 12 up signs?

11:26:44 13 A. Not necessarily. Every site has  
11:26:52 14 an individual context. Signage could be a tool  
11:26:57 15 that we utilize to educate boaters as to prohibited  
11:27:01 16 uses. Many of the non-operating sites still allow  
11:27:05 17 for boating in general, as a general use, and one  
11:27:09 18 of the things that we were looking at ecologically  
11:27:12 19 in our management plan update process is -- through  
11:27:15 20 a lot of the information I have gathered pertains  
11:27:19 21 to are there more sensitive areas, wherein the  
11:27:22 22 refinement or development of management plan  
11:27:26 23 updates, would we identify these areas in new  
11:27:29 24 management plans to exclude motorized boats.

11:27:32 25 Q. So if it is not signage, what



11:27:34 1 other means would you advertise to people that they  
11:27:37 2 can't use motorized boats?

11:27:39 3 A. It could be a combination of our  
11:27:41 4 regular patrols, other partners, signage in  
11:27:44 5 educational materials at local marinas and boat  
11:27:47 6 ramps along the bay at Lion's Head, for example, to  
11:27:51 7 be able to maximize the spread of that information.

11:27:53 8 Q. So local patrols, you said, maybe  
11:27:57 9 on a weekly basis, so signs that are posted and  
11:27:59 10 then pamphlets that are provided to marinas; is  
11:28:02 11 that fair?

11:28:02 12 A. Those would be ingredients of,  
11:28:05 13 yes. I can't provide an exhaustive list of all of  
11:28:08 14 the monitoring and enforcement that we would  
11:28:10 15 undertake, but those presumably would be on a list  
11:28:13 16 of things that we would do.

11:28:15 17 Q. But otherwise, trusting people to  
11:28:17 18 obey the rules?

11:28:18 19 A. Yeah, in remote natural areas,  
11:28:21 20 that is largely a burden that we rely on, is for  
11:28:26 21 users to do the right thing, and hence we try to  
11:28:32 22 educate them and provide them a degree of knowledge  
11:28:34 23 and information as to the values and functions,  
11:28:36 24 because in my professional experience is they are  
11:28:39 25 more apt to accept a change in behaviour or a

1 change in pattern of use if they understand there  
2 is a reason that we are asking them to no longer  
3 undertake a specific use or in a specific area.

4 Q. Thank you. So I would like to  
5 bring up SC1698. So this is a photograph, I  
6 understand, that was taken from Hope Bay Provincial  
7 Park?

8 A. Yes, that's correct.

9 MS. GUIRGUIS: And, Your Honour, I  
10 would like to add this as the next exhibit.

11 THE COURT: Madam Registrar?

12 THE REGISTRAR: Exhibit 4567.

13 EXHIBIT NO. 4567: Photograph taken at  
14 Hope Bay Provincial Park.

15 MS. GUIRGUIS: Your Honour, I see it is  
16 11:30. Perhaps we can pause here before I ask my  
17 next question, if you would like to take the  
18 morning break.

19 THE COURT: Yes, we can. What is your  
20 estimate, Counsel, as to how much longer you'll be?

21 MS. GUIRGUIS: At most, 15 to 20  
22 minutes.

23 THE COURT: We'll take 20 minutes at  
24 this time.

25 Now, sir, you are under

11:29:54 1 cross-examination, and to make a long story short,  
11:29:57 2 that means you can't discuss or do anything about  
11:29:59 3 your evidence over that 20-minute break.

11:30:02 4 THE WITNESS: Thank you.

11:30:02 5 THE COURT: All right.

11:30:03 6 -- RECESSED AT 11:30 A.M.

11:51:30 7 -- RESUMED AT 11:50 A.M.

11:51:30 8 THE COURT: Please go ahead.

11:51:32 9 BY MS. GUIRGUIS:

11:51:33 10 Q. Thank you, Your Honour.

11:51:34 11 Mr. Gould, we left off at looking at  
11:51:36 12 this picture that was just added as Exhibit 4567 of  
11:51:43 13 prohibitive signage on the Hope Bay shoreline and  
11:51:50 14 Hope Bay Forest Provincial Park being a  
11:51:51 15 non-operating nature reserve class park; correct?

11:51:55 16 A. That's correct.

11:51:55 17 Q. So again, there is no MECP  
11:51:58 18 full-time staff on-site at Hope Bay Forest  
11:52:02 19 Provincial Park?

11:52:02 20 A. That's correct.

11:52:03 21 Q. Who could, for example, ticket  
11:52:08 22 someone found to be scaling this sensitive  
11:52:10 23 shoreline?

11:52:11 24 A. Unless they were found during one  
11:52:20 25 of the regular patrols.

1 Q. So in the absence of the regular  
2 patrol and beyond the ground enforcement, MECP  
3 again relies on the sign that is depicted in this  
4 picture and on the goodwill of people using the  
5 park to follow the rules?

6 A. Yes.

7 Q. So you mentioned earlier this  
8 morning you have worked with the Saugeen Ojibway  
9 Nation over your years working with the Ontario  
10 government, right?

11 A. Yes, a bit.

12 Q. So you are familiar with their  
13 Environment Office?

14 A. Generally, yes.

15 Q. And have representatives or staff  
16 from the Saugeen Ojibway Nation expressed to you  
17 the concern that they have about the well-being of  
18 the shoreline in Hope Bay Forest Provincial Park?

19 A. Specifically at that location, no.

20 Q. What about in other areas shown on  
21 Exhibit P as their claim area?

22 A. Notably, the most recent file  
23 would be a trail review project at Cabot Head  
24 Provincial Nature Reserve.

25 Q. And have they -- I would like to

1 ask you a few more questions about that in a  
2 moment, but in general, in expressing concerns  
3 about the well-being of the shoreline, have they  
4 also expressed concerns about the well-being of  
5 species that you have mentioned that are found  
6 along those shorelines?

7 A. Directly to me personally, no, but  
8 I have heard through our organization that they  
9 have expressed a concern with black bear population  
10 conservation on the peninsula.

11 Q. And other species as well?

12 A. There is an example of a project,  
13 a campground redevelopment project, at Inverhuron  
14 Provincial Park that the Assistant Superintendent  
15 worked directly with the Environment Office, is my  
16 understanding, to bring in some Indigenous  
17 expertise to help review the project and to collect  
18 some harvestable plant species of interest prior to  
19 the project being undertaken.

20 Q. Based on your experience with  
21 working with the Saugeen Ojibway Nation at its  
22 Environment Office, would you agree with me that  
23 the SON Environment Office staff are capable of  
24 posting a sign like we see in this picture at the  
25 Hope Bay Forest Provincial Park?

11:54:32 1 THE COURT: Just a moment.

11:54:33 2 Ms. McRandall?

11:54:34 3 MS. McRANDALL: Your Honour, that is a  
11:54:35 4 hypothetical question that this witness is not --  
11:54:39 5 can't be asked to answer what someone else may or  
11:54:43 6 could be able to do.

11:54:44 7 THE COURT: Well, Ms. McRandall, maybe  
11:54:51 8 sometimes that would be a problem because it might  
11:54:53 9 be hard to understand what would be involved, but  
11:54:58 10 it seems to me this is within the realm of ordinary  
11:55:02 11 experience, you know, so I am not going to allow  
11:55:09 12 your objection.

11:55:13 13 Do you want to repeat your question,  
11:55:15 14 Counsel?

11:55:16 15 BY MS. GUIRGUIS:

11:55:16 16 Q. Thank you, Your Honour.

11:55:17 17 Based on your experience working with  
11:55:18 18 the Saugeen Ojibway Nation and its Environment  
11:55:21 19 Office, would you agree with me that the SON  
11:55:23 20 environment staff are capable of posting a sign  
11:55:26 21 like the one that we see in this picture at Hope  
11:55:31 22 Bay Forest Provincial Park?

11:55:31 23 A. Yes, I would generally agree that  
11:55:32 24 they are capable of posting a sign, but I would  
11:55:35 25 qualify the context of the location of the sign is

11:55:37 1 the result of work that we have undertaken as part  
11:55:40 2 of our monitoring program, and the sign is directly  
11:55:43 3 there to protect environmental values that we found  
11:55:48 4 in the area of the sign, and that is why it is  
11:55:50 5 located at that particular spot.

11:55:52 6 Q. But you would agree with me  
11:55:54 7 that -- so the SON environment staff have provided  
11:55:57 8 input into research and monitoring regarding risks  
11:56:00 9 to species along the shoreline?

11:56:02 10 A. I myself don't have a great degree  
11:56:06 11 of personal knowledge of the frequency or type of  
11:56:10 12 that information, but it is my general  
11:56:12 13 understanding it does occur.

11:56:13 14 Q. Thank you. So I would like to  
11:56:17 15 shift gears and open SC1736. So this is an excerpt  
11:56:29 16 of the 2013 Annual Report from the Office of the  
11:56:34 17 Auditor General of Ontario which was tabled at the  
11:56:39 18 Legislative Assembly on December 10th, 2013, and  
11:56:43 19 this is Chapter 3 of the report regarding  
11:56:46 20 provincial parks.

11:56:48 21 Your Honour, I would like to mark this  
11:56:50 22 as the next exhibit.

11:56:51 23 THE COURT: Madam Registrar.

11:56:55 24 THE REGISTRAR: Exhibit 4568, 2013  
11:57:00 25 Ontario Auditor General's Report.

11:57:02 1 EXHIBIT NO. 4568: Chapter 3 of the  
11:56:30 2 2013 Annual Report from the Office of  
11:56:34 3 the Auditor General of Ontario, tabled  
11:56:38 4 at the Legislative Assembly on December  
11:56:40 5 10, 2013.

11:57:05 6 THE COURT: Chapter 3.

11:57:06 7 THE REGISTRAR: Sorry, Chapter 3.

11:57:09 8 BY MS. GUIRGUIS:

11:57:09 9 Q. So this is a report from 2013,  
11:57:13 10 which is the most recent audit of the operations of  
11:57:15 11 parks from the Auditor General, and I wanted to  
11:57:21 12 turn to a few pages and then ask you to read some  
11:57:23 13 highlighted portions, and then I'll ask you a few  
11:57:25 14 questions.

11:57:26 15 A. Okay.

11:57:26 16 Q. So if we could turn to page 204,  
11:57:31 17 which is page 6 of the PDF, there is a green  
11:57:35 18 portion there. If you can have a read, and you can  
11:57:37 19 let us know when you want us to scroll.

11:57:39 20 A. Sure.

11:57:40 21 THE COURT: Counsel, I think for the  
11:57:41 22 record you need to indicate, as some of your  
11:57:44 23 colleagues have done, where on the page the excerpt  
11:57:46 24 is and with what words it begins and so forth.

11:57:50 25 BY MS. GUIRGUIS:



11:57:51 1 Q. Absolutely, Your Honour. So it is  
11:57:52 2 on the right-hand side of the page, and it starts  
11:57:55 3 off with the words, "Activities such as hunting and  
11:57:58 4 fishing are regulated in provincial parks [...]",  
11:58:06 5 and it is the rest of that paragraph that is  
11:58:08 6 highlighted in green.

11:58:10 7 A. [Witness reviews document.]

11:58:15 8 Yes:

11:58:16 9 "Activities such as hunting and  
11:58:18 10 fishing are regulated [...]"

11:58:20 11 THE COURT: Sir, you are not required  
11:58:22 12 to read it out loud.

11:58:22 13 THE WITNESS: Oh, sorry.

11:58:23 14 THE COURT: Counsel is inviting you to  
11:58:24 15 read it and let her know when you get to the bottom  
11:58:27 16 of the screen so that you can see the balance of  
11:58:29 17 the paragraph.

11:58:30 18 THE WITNESS: Sorry. Thanks. My  
11:58:31 19 misunderstanding.

11:58:32 20 THE COURT: That is all right. And  
11:58:34 21 wait for the question when you are done.

11:58:35 22 THE WITNESS: Yes.

11:58:37 23 [Witness reviews document.]

11:58:53 24 Scroll down, please.

11:59:00 25 [Witness reviews document.]

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Okay.

BY MS. GUIRGUIS:

Q. Thank you. So in this excerpt, the Auditor General was saying that there is little to no enforcement in the non-operating parks, and the same was true for significant portions of the operating parks as well. And the Auditor General is saying that this is, in 2013, the results of resource constraints?

So this audit that the Auditor General did in 2013, it included all of Ontario's provincial parks, so it would have included the parks that we have been discussing today that are located in the claim area that is exhibited in Exhibit P?

A. Yes, presumably it would.

Q. And I just want to turn to page 210 of the document, which is page 12 of the PDF, and again, sir, if you could read the portion that is highlighted on the right-hand side of the document starting with "Based on our discussions with park staff and our analysis of enforcement activities [...]", and you can let me know when you are done.

A. [Witness reviews document.]

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12:02:00 24  
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Scroll down, please.

[Witness reviews document.]

Yes, I am done. Thank you.

Q. Thank you. So it is fair to say that what this passage tells us is that even in operating parks most of the enforcement happens where there is known to be heavy traffic?

A. Relatively speaking, yes.

Q. So when we were talking earlier about regular patrols on a weekly basis or in busy months, is it fair to say that those regular patrols will target heavy traffic areas of parks?

A. Not always. Depending on the nature of the officer, and the park in question, and the location of the values in question, many of the monitoring and enforcement patrols can be strategically targeted to significant or sensitive areas, even if they are, say, off-trail in terms of their location, context, or outside of a heavily-trafficked area.

Q. But all of that will depend on whether there is enough enforcement resources?

A. Presumably, yes.

Q. And what these excerpts that you have reviewed are telling us is that there is a

12:02:06 1 lack of enforcement resources?

12:02:07 2 A. I would possibly agree on the  
12:02:13 3 provincial park scale, but also with knowledge that  
12:02:16 4 many of the parks, especially in the northern  
12:02:19 5 two-thirds of the province, are exceptionally large  
12:02:22 6 with little roads or other access points, and the  
12:02:28 7 parks in my particular area tend to be smaller,  
12:02:31 8 more fragmented, easier to access, and relatively  
12:02:36 9 easier to monitor and enforce compared to a lot of  
12:02:39 10 the larger-sized statistics that are going into  
12:02:42 11 this review.

12:02:43 12 Q. Okay. So let's turn to page 208  
12:02:47 13 and 209 of this document, pages 10 and 11 of the  
12:02:52 14 PDF. If we scroll to the bottom, I again, sir,  
12:03:00 15 have another highlighted portion on the right-hand  
12:03:03 16 side. If you could take a look at that. It starts  
12:03:08 17 with "The Ministry's 2011 survey of park planners  
12:03:11 18 [...]", and if you could read to the end of the  
12:03:13 19 highlighted portion on the next page and then let  
12:03:15 20 me know when you are done.

12:03:17 21 A. Uhm-hmm.

12:03:17 22 [Witness reviews document.]

12:03:31 23 Please scroll down.

12:03:35 24 [Witness reviews document.]

12:03:36 25 Yes, I'm good.

12:03:56 1 Q. Thank you. So here the Auditor  
12:03:59 2 General is saying that there is a lack of baseline  
12:04:02 3 scientific data for provincial parks, and the  
12:04:05 4 Auditor General is pointing to the limited amount  
12:04:07 5 of staff available for conducting research  
12:04:09 6 monitoring activities and says that there may be  
12:04:14 7 one ecologist responsible for 20 to 50 parks.

12:04:19 8 So you are a Protected Area Specialist  
12:04:21 9 for the Southwest Park Zone team?

12:04:26 10 A. Yes.

12:04:26 11 Q. And if we can bring up Exhibit  
12:04:30 12 4563 again, there we go, and if we can zoom out, a  
12:04:58 13 bit more. Thank you. So your team is responsible  
12:05:03 14 for all the parks from the tip of Windsor to  
12:05:06 15 Tobermory, running along the peninsula to just past  
12:05:10 16 Meaford on Georgian Bay and running south to around  
12:05:14 17 Toronto?

12:05:14 18 A. Yes, including our larger zone  
12:05:16 19 team based out of the zone office in London, as  
12:05:19 20 well as individual parks teams at those locations.

12:05:20 21 Q. Okay. And it says here -- if we  
12:05:28 22 scroll down on this exhibit, there is a list here.  
12:05:36 23 If we can zoom in and scroll down to the bottom  
12:05:40 24 right-hand corner, it gives us a total amount of  
12:05:45 25 parks, and it says there is -- if you could scroll

12:05:51 1 in a little more. It says there is a total of 53  
12:05:55 2 parks and conservation reserves in the Southwest  
12:06:00 3 Zone?

12:06:00 4 A. Yes, on this particular list.

12:06:01 5 Q. Is there more on a different list?

12:06:03 6 A. There are a series of lands that  
12:06:06 7 were acquired historically for park purposes that  
12:06:10 8 are being considered for park regulation but are  
12:06:14 9 not far enough along in a process to be considered  
12:06:18 10 under park management at this time.

12:06:20 11 Q. So you have at least 53 parks and  
12:06:23 12 conservation reserves in your zone?

12:06:25 13 A. That's right.

12:06:26 14 Q. Okay. And in your role as  
12:06:30 15 Protected Area Specialist, you are involved in  
12:06:32 16 monitoring species at risk in all of these parks  
12:06:35 17 and reserves in this zone?

12:06:37 18 A. No, I am -- sorry, could you  
12:06:40 19 repeat the question? I just want to be sure I'm  
12:06:42 20 not misunderstanding.

12:06:43 21 Q. Sure. I might have misstated it.  
12:06:46 22 In your role as Protected Area Specialist, you are  
12:06:48 23 involved in collecting, monitoring information  
12:06:51 24 about species at risk in Ontario in all of these  
12:06:56 25 parks and reserves in this zone?

12:06:57 1 A. Not all of these parks, typically  
12:06:59 2 just the non-operating parks.

12:07:00 3 Q. The non-operating parks.

12:07:01 4 A. Yes, and nature reserve class  
12:07:03 5 parks.

12:07:03 6 Q. Okay. And on your team, there is  
12:07:06 7 one ecologist and two assistant ecologists?

12:07:08 8 A. Currently, yes, as well as myself  
12:07:13 9 and the natural heritage education leaders or  
12:07:16 10 discovery program biologists at the park level.

12:07:19 11 Q. At the park level?

12:07:20 12 A. Yes.

12:07:20 13 Q. But on the Southwest Zone team,  
12:07:23 14 there is supposed to be one biologist, but that  
12:07:25 15 role is vacant?

12:07:26 16 A. It is currently filled in an  
12:07:29 17 acting role.

12:07:30 18 Q. Okay. So the situation on your  
12:07:33 19 team, one ecologist and two assistant ecologists,  
12:07:39 20 it is very similar to the situation that the  
12:07:42 21 Auditor General was describing as being typical in  
12:07:44 22 2013; isn't that correct?

12:07:46 23 A. In terms of zone level staffing, I  
12:07:51 24 would say it is comparable, but also qualifying we  
12:07:56 25 have a degree of support from other ministry

12:07:59 1 partners and external conservation partners.

12:08:02 2 Q. But it is correct that you have  
12:08:04 3 one ecologist that is responsible for 53 parks in  
12:08:07 4 your zone?

12:08:08 5 A. A main Zone Ecologist, yes.

12:08:11 6 Q. Thank you. You talked about the  
12:08:20 7 monitoring and the information collection that you  
12:08:22 8 do, but you are limited by the resources and  
12:08:24 9 staffing that you have, the amount of monitoring  
12:08:30 10 that you can do?

12:08:30 11 A. Yes. I am only one person in my  
12:08:32 12 particular position, of course.

12:08:33 13 Q. You would do more if you could?

12:08:35 14 A. If there were more of us,  
12:08:36 15 presumably yes.

12:08:37 16 Q. And we have talked about the work  
12:08:42 17 that you have done with the Saugeen Ojibway Nation  
12:08:45 18 Environment Office in the course of your work or  
12:08:48 19 that your colleagues have done?

12:08:49 20 A. Uhm-hmm.

12:08:51 21 Q. So you are aware that they have a  
12:08:53 22 number of staff dedicated to protecting the land,  
12:08:55 23 animals, and waters in the claim area in Exhibit P?

12:08:58 24 A. Yes, that is my understanding.

12:08:59 25 Q. And you are aware that they



1 regularly engage traditional knowledge-holders,  
2 biologists, and other specialists to assist them in  
3 those efforts?

4 A. Yes, I have heard something about  
5 those efforts.

6 Q. And have you heard from staff at  
7 the Environment Office that expressed the idea that  
8 they would like more monitoring of species at risk  
9 and information collection about species at risk?

10 A. Directly to me personally, no, but  
11 it makes sense that that is a common area of  
12 interest between myself and the Environment Office,  
13 yes.

14 Q. Okay. So is it fair to say that  
15 from your experience with the Saugeen Ojibway  
16 Nation that they have been a good partner in  
17 respect of monitoring the research efforts in the  
18 provincial parks located in their claim area?

19 A. For projects and activities that I  
20 am directly aware of, yes.

21 Q. So let me ask you a little bit  
22 about that. I want to start by asking you about  
23 black bears, which you discussed this morning. So  
24 black bears on the peninsula, they are isolated  
25 from bears elsewhere in Ontario?

1 A. Generally, yes, because of the  
2 disjunct nature of the peninsula population.

3 Q. So that means that they don't  
4 interbreed with bears elsewhere in Ontario?

5 A. My personal technical knowledge, I  
6 won't say definitively no because there are bear  
7 populations in the southern Georgian Bay shoreline  
8 areas as well that are very near to the peninsula  
9 population.

10 Q. But are you aware that there is a  
11 population of black bear on the peninsula that are  
12 recognized as being genetically distinct?

13 A. Yes, I am.

14 Q. And this population has been  
15 described as being vulnerable to extirpation, so  
16 that means a population at risk of extinction?

17 A. That's correct.

18 Q. So staff and representatives at  
19 the Saugeen Ojibway Nation have expressed to you  
20 the deep cultural significance of black bears as a  
21 clan species?

22 A. Yes. Not directly to me, but in  
23 broader discussions that I have been privy to at  
24 regional meetings.

25 Q. And expressed that there is a need

1 for measures to protect the population on the  
2 peninsula?

3 A. Generally speaking, yes.

4 Q. But black bear is not classified  
5 as a species at risk in Ontario; is that right?

6 A. As a species, no, it is not.

7 Q. So there is nothing formally that  
8 you know about in Ontario's existing plans or  
9 policies to protect black bears on the peninsula?

10 A. Not to my knowledge, other than  
11 the general fish and wildlife population management  
12 that the Ministry of Natural Resources and Forestry  
13 undertakes of the species.

14 Q. Are you aware that SON in Ontario  
15 are in the process of jointly developing a black  
16 bear management plan to help protect the black bear  
17 from further decline on the peninsula?

18 A. Specifically knowledgeable, no.

19 Q. So let me ask you about what you  
20 were talking about earlier with the Bruce Trail.

21 A. Uhm-hmm.

22 Q. You mentioned the trail in  
23 relation to Lion's Head and then also with respect  
24 to Cabot Head; correct?

25 A. In terms of Bruce Trail?

12:12:22 1 Q. Yes.

12:12:22 2 A. Yes.

12:12:23 3 Q. That's right. And the Bruce

12:12:27 4 Trail -- so this is a 900-kilometre hiking trail

12:12:29 5 that runs along the Niagara Escarpment near Niagara

12:12:34 6 Falls all the way up to Tobermory; correct?

12:12:36 7 A. That's correct.

12:12:37 8 Q. And it is run by Bruce Trail

12:12:41 9 Conservancy, which is a not-for-profit

12:12:43 10 organization?

12:12:43 11 A. Yes.

12:12:43 12 Q. And you mentioned that the Bruce

12:12:47 13 Trail Conservancy has expressed to MECP its wish to

12:12:52 14 move the Bruce Trail to a different location in

12:12:55 15 Cabot Head Provincial Park, to re-route it?

12:12:57 16 A. I wouldn't define it as

12:13:01 17 re-routing. It has always been part of what they

12:13:04 18 refer to as their optimum route for the Bruce Trail

12:13:08 19 as a trail location concept, and they have

12:13:10 20 requested in recent years for authorization to

12:13:13 21 develop that area of trail within Cabot Head.

12:13:15 22 Q. Okay. So it is their optimum

12:13:19 23 route, but it would be moving it from where it is

12:13:21 24 currently located; is that right?

12:13:22 25 A. Not necessarily moving, but

1 creating a new main branch of the trail at that  
2 location.

3 Q. Okay.

4 A. Not necessarily moving it from  
5 another property.

6 Q. So creating a new branch of the  
7 trail, and they want to move it -- or they want to  
8 create that new branch of the trail you have said  
9 into a forest regeneration area where black bears  
10 forage for food?

11 A. Yes, and I can get into more  
12 technical specifics if you would like, but through  
13 my work, the area around what we locally call the  
14 old logging track has regenerated into a very  
15 important spring foraging area for black bears,  
16 notably because of the broken stone from historical  
17 logging activities and equipment. The black bear  
18 population has discovered that and routinely flip  
19 over the stones to consume the ant populations  
20 underneath, and it is a very important source of  
21 spring protein for the local population.

22 Q. You mentioned that it is MECP's  
23 position and decision that the new trail should not  
24 be built?

25 A. That is the Zone Review's position

12:14:32 1 at this point, yes. I cannot speak to if it is a  
12:14:35 2 broader ministry position.

12:14:36 3 Q. So no decision has been made yet;  
12:14:39 4 is that what you mean?

12:14:39 5 A. Formally, not to my knowledge, but  
12:14:41 6 we locally out of our regional review have  
12:14:46 7 essentially declined the development.

12:14:50 8 Q. And you mentioned that you are  
12:14:51 9 working with Mr. Doran Ritchie at the SON  
12:14:55 10 Environment Office in respect of this matter?

12:14:57 11 A. Yes, he is part of the review  
12:15:00 12 committee in conjunction with ourselves and Parks  
12:15:02 13 Canada.

12:15:02 14 Q. And SON has agreed with and  
12:15:04 15 expressed the view that you have just talked about  
12:15:06 16 that the new trail should not be built?

12:15:08 17 A. That is my understanding through  
12:15:10 18 conversation with Doran Ritchie.

12:15:12 19 Q. Now, is it fair to say that given  
12:15:13 20 your experience, that SON has been a good partner  
12:15:17 21 in working alongside MECP to protect this part of  
12:15:21 22 Cabot Head Provincial Park?

12:15:21 23 A. From that project review, yes, I  
12:15:26 24 would agree with that.

12:15:26 25 Q. So, sir, you have talked today

12:15:30 1 about MECP's obligations and responsibilities with  
12:15:33 2 respect to shoreline parks, and we have also talked  
12:15:36 3 about MECP working with and partnering with SON in  
12:15:40 4 particular. Would you agree with me on that basis,  
12:15:44 5 Mr. Gould, that based on your experience, working  
12:15:46 6 with and partnering with SON has not impaired  
12:15:49 7 MECP's ability to fulfil its obligations and  
12:15:53 8 responsibilities in respect of management of  
12:15:55 9 shoreline parks?

12:15:56 10 A. I would agree with that.

12:15:57 11 Q. And, sir, on Exhibit P, on this  
12:16:03 12 map, are you aware -- prior to this trial, are you  
12:16:08 13 aware of SON's assertion of rights and traditional  
12:16:11 14 ownership on areas on Exhibit P?

12:16:13 15 A. In a very general sense, yes, but  
12:16:18 16 not in a detailed perspective or context on which  
12:16:22 17 the map provides.

12:16:23 18 Q. In your experience, sir, has the  
12:16:26 19 Saugeen Ojibway Nation ever interfered with your  
12:16:29 20 access to the water or shorelines or prevented  
12:16:32 21 you --

12:16:33 22 A. To my --

12:16:33 23 Q. Sorry, or prevented you from  
12:16:35 24 carrying out your responsibilities and obligations  
12:16:37 25 in respect of shoreline parks?

12:16:39 1 A. To my knowledge, no, they have  
12:16:41 2 not.

12:16:42 3 Q. You were asked several questions  
12:16:45 4 by my friend this morning about whether MECP has  
12:16:48 5 had to take action to protect species, bears,  
12:16:51 6 turtles, et cetera, and you answered yes?

12:16:53 7 A. Uhm-hmm.

12:16:54 8 Q. Sir, in your experience, has SON  
12:16:58 9 ever opposed the protection of those species?

12:17:00 10 A. Not to my knowledge.

12:17:00 11 Q. You also mentioned ecological and  
12:17:09 12 cultural values, and in specific, you mentioned  
12:17:12 13 Indigenous cultural artifacts in Inverhuron?

12:17:15 14 A. Uhm-hmm.

12:17:16 15 Q. Has SON ever opposed or the  
12:17:19 16 Saugeen Ojibway Nation ever opposed protection of  
12:17:21 17 those values or those artifacts?

12:17:23 18 A. Not to my knowledge, and I am  
12:17:25 19 aware of at least two workshops that I have heard  
12:17:28 20 of with SON Environmental Office members working  
12:17:32 21 directly with Inverhuron parks staff to review and  
12:17:35 22 re-catalog some of the artifacts to improve the  
12:17:38 23 education and awareness of the park.

12:17:40 24 Q. And in the context of those  
12:17:52 25 workshops, sir, are you aware of the Saugeen



1 Ojibway Nation doing an archaeological inventory in  
2 Inverhuron and sharing that information with MECP?

3 A. Very generally aware, yes.

4 Q. Okay. Thank you very much,  
5 Mr. Gould, those are my questions.

6 A. Thank you.

7 THE COURT: Ms. McRandall?

8 RE-EXAMINATION BY MS. McRANDALL:

9 Q. Mr. Gould, my friend asked you  
10 about Sauble Falls Provincial Park, specifically in  
11 the claim area as depicted in Exhibit P. For  
12 clarification, can you describe the location of  
13 Sauble Falls Provincial Park?

14 A. Yes. Sauble Falls Provincial Park  
15 is located along the eastern shore of Lake Huron,  
16 several kilometres north of the town or village of  
17 Southampton, inland to the Lake Huron shoreline  
18 along both north and south banks of the Sauble  
19 River at the area of Sauble Falls.

20 Q. Thank you. My friend also asked  
21 if the additional person appointed during the busy  
22 season does monitoring and enforcement in nine  
23 non-operating parks on the peninsula. Could you  
24 clarify if this person is responsible for the  
25 federally-managed parks on the peninsula?

12:19:40 1 A. No, that person is not responsible  
12:19:42 2 for the federally-managed sites.

12:19:47 3 Q. Thank you.

12:19:48 4 Those are my questions, Your Honour.

12:19:49 5 THE COURT: Thank you very much, sir.  
12:19:57 6 That concludes your testimony. You can step down.

12:19:59 7 THE WITNESS: Thank you.

12:20:00 8 THE COURT: Ms. McRandall, I understand  
12:20:03 9 that we don't have a further witness for today.

12:20:10 10 MS. McRANDALL: Yes, Your Honour.

12:20:10 11 THE COURT: So we will adjourn today,  
12:20:12 12 and I have communicated with counsel about several  
12:20:16 13 matters that I hope you are busily working on  
12:20:20 14 offline that we will be discussing in due course.

12:20:25 15 MS. McRANDALL: Yes, Your Honour.

12:20:26 16 THE COURT: Is there anything else  
12:20:27 17 anyone wishes to raise before we adjourn?

12:20:29 18 No?

12:20:30 19 All right.

20  
21 -- Adjourned at 12:22 p.m.

1 REPORTER'S CERTIFICATE


2  
3  
4 I, DEANA SANTEDICOLA, RPR, CRR,  
5 CSR, Certified Shorthand Reporter, certify:

6 That the foregoing proceedings were  
7 taken before me at the time and place therein set  
8 forth, at which time the witness was put under oath  
9 by me;

10 That the testimony of the witness  
11 and all objections made at the time of the  
12 examination were recorded stenographically by me  
13 and were thereafter transcribed;

14 That the foregoing is a true and  
15 correct transcript of my shorthand notes so taken.

16  
17  
18 Dated this 11th day of February, 2020.

19  
20  
21  
22 

23 NEESONS, A VERITEXT COMPANY

24 PER: DEANA SANTEDICOLA, RPR, CRR, CSR

25

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