UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DENNIS G. MARTIN, as Administrator of the Estate of HARRY EUGENE WALKER, Deceased, Plaintiff, vs. UNITED STATES OF AMERICA, Defendant.	Civil 72-3044-AAH

Yosemite National Park, California, Thursday, Nov. 1, 1973

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PURSUANT TO NOTICE TO TAKE DEPOSITION, the deposition of JAMES M. BRADY was taken before me, DURWARD E. HOPE, Notary Public, County of Merced, State of California, at Yosemite National Park on Thursday, November 1, 1973, commencing at the hour of 10:00 o'clock A.M.

APPEARANCES OF COUNSEL

FOR THE PLAINTIFF:

ZETTERBERG & ZETTERBERG
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FOR THE DEFENDANT:

WILLIAM B. SPIVAK, JR., ESQ.
United States Attorney
United States Courthouse
Los Angeles, California 90012

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JAMES M. BRADY,

having first been duly sworn by the Notary Public, testified as follows:

EXAMINATION

BY MR. ZETTERBERG:

Q. Would you state your name for the record?

A. James M. Brady.

Q. What is your position here at Yosemite?

A. Valley District Ranger.

Q. Of the Yosemite Valley, is that correct?

A. With the National Park Service, Protection or Ranger Division, Valley District Ranger.

Q. How old are you, Mr. Brady?

A. Thirty-four.

Q. Were you ever employed at Yellowstone Park?

A. Yes, sir.

Q. When?

A. From 1967 until September of 1972.

Q. And are you presently permanently detached from the Yellowstone Park now?

A. Yes, sir.

Q. Now Ranger Brady, your counsel, Mr. Spivak, is here. Has he told you the general nature of this proceeding?

A. Yes, sir.

Q. The reporter will take down my questions and your answers and transcribe them when we are through, and then you will have a chance to look over the transcription and make any

any corrections or changes, if any, that should be made. But, of course, at the time of trial we would have a right to comment on the question you have raised about the deposition or any changes that you have made.

Do you understand that?

A. Partially.

Q. What don't you understand?

A. Well, I am not sure exactly of, you know, intent or the impact on the term of "changes." You lost me there.

Q. You will have a chance to read this over when it's transcribed. You understand that?

A. Yes.

Q. And if there are errors in the transcription or any changes you think should be made in the transcription at the time, and if you make any changes at that time, then at the trial we would have the right to comment upon any changes that you made.

A. Fine.

Q. So let me know if you don't understand my questions. And if Mr. Spivak objects to my questions or has some interposition, hold off and let him make his objection at the time.

We are not trying to trick you or catch you, but we are trying to get at the facts in this particular case, and want you to understand what the question is.

All right?

A. Very good.

Q. Where were you employed on June 25, 1972?

A. On that date I was employed with the National Park

Service assigned to Yellowstone in charge of the Old Faithful Sub-District.

Q. How long had you been employed at Yellowstone at that time?

A. Approximately four and a half years.

Q. Is that continuously?

A. Yes, sir.

Q. Year in, year out?

A. Yes, sir.

Q. Had you been at that same Sub-District all that time?

A. No.

Q. Where were you first employed when you first came to Yellowstone?

A. I was assigned to Mammoth from initially during that 1967 and 19-- November of 1967 until March or April of 1970, when I was at that time reassigned to Old Faithful as a duty station.

Q. In other words, you were at the Park Headquarters until March or April of '70, is that correct?

A. Yes.

Q. What were your duties at the Park Headquarters?

A. I was the Mammoth Sub-District Ranger.

Q. Actually the Old Faithful Sub-District has more tourists in it, generally speaking, during the season than Mammoth does?

(Discussion held off the record.)

MR. ZETTERBERG: We had a slight interruption of the telephone ring there.

Q. Let's go back for just a moment. What is your educational background, Mr. Brady?

A. As far as highest grade completed?

Q. Yes.

A. 1962 I graduated from Humboldt State College with a Degree in Zoology and Botany, minor in P.E. and Forestry.

I have done some limited graduate work at the University of Montana.

Q. At Bozeman?

A. At Missoula.

Q. What was that in?

A. That was in Natural Resources Administration. I attended administrative leadership school there.

Q. Was your degree a Bachelor Degree in Science?

A. Yes, sir.

Q. Did you get your Master's Degree?

A. No, sir.

Q. Are you still studying for a Master's Degree?

A. No.

Q. When were you first employed by the National Park Service?

A. Full time or seasonally?

Q. Seasonally?

A. Seasonally?

Q. Yes.

A. 1961, June of 1961 as a Seasonal Ranger working at Crater Lake National Park in Oregon.

Q. When were you employed next?

A. In 1962 as a Seasonal Ranger at Yellowstone, stationed at Canyon Village.

Q. That was as a Ranger and not as a Ranger Naturalist?

A. Seasonal Ranger.

Q. All right. I understand there is a Division of Ranger Naturalists and a Division of Rangers, and you were in the Ranger Division?

A. Yes, sir.

Q. Then after 1962?

A. 1962, in September of 1962 I accepted a permanent position as a Park Ranger at the Petrified Forest National Park.

Q. How do you spell that?

A. P-e-t-r-i-f-i-e-d.

Q. Where's that?

A. It's near Holbrook, Arizona, between Holbrook and Gallop.

Q. How long were you there?

A. Approximately a year and a half.

Q. Then where did you serve?

A. Then I transferred to Lake Mead National Recreational Area near Las Vegas, spent approximately, oh, three, three and a quarter years at Lake Mead.

And then subsequently transferred to Yellowstone where I spent very close to five years. September of this last year, 1972, I transferred to Yosemite to my current position.

Q. How many Sub-Districts are there in Yellowstone?

A. Now?

Q. Yes.

MR. SPIVAK: I object as being immaterial, already answered by another witness.

THE WITNESS: Approximately ten.

MR. ZETTERBERG: Q. Ten Sub-Districts?

A. Approximately ten.

Q. Over you was a District Ranger, is that correct?

A. Over me?

Q. Yes. Your superior? Your immediate superior?

A. Yes.

Q. In 1972 when you were District Ranger of Old Faithful, what was the District Ranger -- strike that.

When you were Sub-District Ranger --

A. Yes, sir.

Q. -- was the District Ranger for the West District, is that correct?

A. That's correct.

Q. Who was he?

A. Lynn Williamson.

Q. Where were your headquarters?

A. My headquarters was located at Old Faithful at the Ranger Station.

Q. Where was Lynn Williamson located?

A. In 1972?

Q. Yes.

A. In 1972 his business office was located out of Madison Junction at the District Office.

Q. Was he the District Ranger at that time?

A. Yes.

Q. What's the farthest north point on your District that you could identify?

A. Physical feature you mean?

Q. Well, let me rephrase it.

Is Madison in your District?

A. No, sir. Along the road, the Old Faithful Sub-District extended north to a point within five miles of Madison Junction.

Q. That's south of --

A. South of Madison Junction and five miles or north of Old Faithful twelve miles.

MR. SPIVAK: May I ask just one thing?

MR. ZETTERBERG: Yes.

MR. SPIVAK: Are you using Madison Junction and Madison interchangeably?

THE WITNESS: Yes.

MR. ZETTERBERG: Q. How far in an easterly direction does the District go toward West Thumb?

A. Seven miles east of Old Faithful to Craig Pass, Craig Pass to the Ice Lake Junction.

Q. Then the District, the Sub-District south of you is what?

A. South of me --

Q. Sub-District extended on the --

A. Approximately -- I was looking for a geographical feature that you might be familiar with. Sub-District extended south to Grants Pass to an area approximately 10 or 12 miles south of Old Faithful.

Q. Was Shoshone Lake in your District? In your Sub-District?

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Yosemite National Park, California, Thursday, Nov. 1, 1973

DEPOSITION OF

JAMES H. BRADY

-oOo-

Reported by: Durward E. Hope, CSR
Official Reporter

RIGG, HOPE & SAUNDERS
OFFICIAL COURT REPORTERS
COUNTY COURTS BUILDING, MERCED, CALIFORNIA 95340
TELEPHONE 209-722-7411, EXT. 208

COPY

EXHIBITS IDENTIFIED

FOR THE PLAINTIFF: - Page

No. 1 - Guide to Upper Geyser Basin with map on reverse side ---------- 1

No. 2 - Letter dated 11-3-71 from Chief Park Ranger to District Rangers ---------- 2

No. 3 - Yellowstone National Park Back Country Management Plan, 1972 ---------- 78

No. 4 - Letter dated 6-15-72 from Edmund Bucknall to District Rangers re: Back Country use permits 78

No. 5 - Bear Management Policy ---------- 110

- - -

FOR THE DEFENDANT:

Exhibit "A" - Notice to Campers ---------- 121

Exhibit "B" - Hiker/backpacker Without Vehicles List ---- 138

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A. No, sir.

Q. What's the name of the Sub-District south of you?

A. South of that would be the South Entrance Sub-District.

Q. And is there a Bechler?

A. Bechler would -- Bechler Sub-District bounded or formed the boundary to the Old Faithful Sub-District and the southwest corner of the Park.

Q. And from Old Faithful, how far south to the Bechler Sub-District boundary?

A. Well, approximately 10 to 15 miles south of Old Faithful on the east-west line until it intersected with the Bechler Sub-District.

Q. Did your Sub-District go all the way to the west boundary of the Park at any point?

A. No, sir.

Q. In other words, your Sub-District is entirely enclosed within other Sub-Districts in the Park?

A. Yes, sir.

Q. At that time who was Ranger Williamson's superior?

A. Harold J. Estey.

Q. Chief Ranger Estey, would then his superior be Superintendent Anderson at that time?

A. Yes, although there are two Assistant Superintendents.

Q. Who were they at that time?

A. Vern Hennesey. In 1972?

Q. Yes. June.

A. June of 1972, and Robert C. Haraden.

Q. Now in your Sub-District, in addition to you as the

Sub-District Ranger, was there a Sub-District Naturalist?

A. In 1972?

Q. Yes.

A. Yes.

Q. Who was that?

A. Robert Woody.

Q. How do you spell that?

A. W-o-o-d-y.

Q. And was he located at Old Faithful also?

A. Yes, sir.

Q. Who was his superior?

A. John Stockert, S-t-o-c-k-e-r-t, District Naturalist.

Q. And then who was his superior at the Headquarters?

A. Bill Dunmyer, D-u-n-m-y-e-r, Chief Naturalist.

Q. They were located at the Mammoth Headquarters, is that correct?

A. Who?

Q. Dunmyer was located at the Mammoth Headquarters?

A. Yes, sir.

Q. Did you know a Glen F. Cole at that time?

A. There was a Glen Cole during my time in Yellowstone that worked as a Biologist in Mammoth. Yes, I did know him.

Q. Do you know what -- withdraw that.

Was it your understanding that he had administrative responsibilities, or was he doing studies and things of that sort, or did you know?

A. My understanding was that Mr. Cole was a Staff Advisor to the Superintendent.

Q. Right.

A. On matters of biology science.

Q. When did you first know him?

A. Mr. Cole?

Q. Yes.

A. Mr. Cole was in Yellowstone when I transferred there in 1967, and I became acquainted with him at that time.

Q. On or about June 25, 1972, how many Rangers were under you in your Sub-District?

A. On or about June 25, how many Rangers?

Q. Yes. Let's take the permanent Rangers first.

A. How many permanent Rangers?

Q. Yes.

A. That I directly supervised?

Q. Yes.

A. One, in 1972. It varies. I'm trying to recall exactly, because it varies. It varied from time to time.

Q. Who was that?

A. At that time it was Jerry Taws, T-a-w-s.

Q. Now at that time in June how many seasonal Rangers did you have under you?

A. I believe there were 10, approximately 10.

Q. Is that about the usual ration of permanent to seasonal?

A. Where?

Q. At Yellowstone and in your Sub-District at Old Faithful.

A. At that time?

Q. Yes.

A. Yes.

Q. Did you --

A. It varied though from year to year.

Q. By June 25, 1972, had you acquired your compliment for the summer of seasonal Rangers?

A. Nearly so, 90 per cent, perhaps.

Q. So you were in effect 90 per cent fully staffed at that time?

A. Possibly a little more, but there would be a question in my mind on one or two men. Possibly they were re-assigned earlier in the summer to Old Faithful.

Q. In addition to these Rangers that were under you, how many Naturalists were there in the summer of 1972, say June?

A. I couldn't tell you exactly how many Naturalists there were.

Q. Approximately?

A. Well, I'd say approximately,working in the Old Faithful Sub-District for Mr. Woody?

Q. Yes.

A. In June of 1972?

Q. Yes.

A. There were approximately a dozen seasonal Naturalists.

Q. They wore the same kind of uniforms that your people wore, didn't they?

A. Dress uniforms, you mean?

Q. What did they --

A. Dress uniforms?

Q. Like you are wearing today. That is your olive drab pants and your grey shirt.

A. Yes.

Q. So to a visitor they would be apparently indistinguishable?

A. Yes, sir.

Q. Do you recall the incident in which a visitor was killed by a grizzly bear on about June 25, 1972?

A. At Old Faithful?

Q. Yes.

A. Yes.

Q. When did you first learn about that, to your recollection?

A. Early in the morning, 1:00 or approximately 1:00 A.M., perhaps.

Q. How did you learn about it?

A. Radio message.

Q. From where?

A. From I believe Park Headquarters in Mammoth.

Q. You had a radio center at the Ranger Station there at Old Faithful, did you not?

A. Yes.

Q. And you had some volunteers called VIP's that manned that when needed?

A. On occasion, yes, sir.

MR. ZETTERBERG: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: On the record again.

Mr. Spivak has handed me a --

I show the reporter a document called "Guide to the Upper Geyser Basin" on it, which contains printed information on the backside and folds out in eight folds to a map of the Upper Geyser Basin.

On the other side it states "1/73" and it's the same or a print of the same map that's attached to the Yellowstone deposition purporting to be the map of the Upper Geyser Basin.

And I ask that that be marked for identification for this deposition.

(The "Guide to Upper Geyser Basin" with map on reverse side was marked as Plaintiff's Exhibit No. "1" to the deposition.)

Q. Mr. Brady, would you just examine that and see are you familiar with that particular map?

A. Yes, sir.

Q. It says "1/73" on it. Do you notice any differences -- I assume that's the date. Do you notice any differences on the map in showing things that would have been added or changed since June of '72?

A. Yes, sir, I do.

Q. What is that?

A. There are some bicycles shown on here that I don't recall being on the 1972 map.

Q. Those are those little figures in the center?

A. Yes.

Q. You might just circle those in red so we will know.

A. I presume those are circles.

Q. There was a map like this back in '72 that this would appear to be a later print of it, is that correct?

A. It appears that way to me, yes, sir.

MR. ZETTERBERG: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: Q. Also, would you say that there wasn't any trail shown past from the Daisy Geyser Basin down west of the Firehole River on the '72 map?

A. Is that a copy of the '72 map?

Q. Yes. This is a Xerox copy of the map Williamson used in his deposition.

A. Yes, sir.

Q. Which, as I recall, was as of '72.

MR. SPIVAK: I don't recall.

MR. ZETTERBERG: May the record show that there were no bicycles on our copy of the Williamson deposition.

Do you know anything -- is there anything else that you noticed?

A. Yes. This is in addition right here, I believe.

Q. You are pointing to an area right in the upper right-hand corner of the map where the service station or --

A. Yes, sir, these two black lines, which would indicate, I presume, a path. I don't recall that being there on the map.

MR. ZETTERBERG: May the record show that is exactly right on the Zerox copy of the Williamson deposition.

May the record show I am showing it to Mr. Spivak.

A. Additionally, the black lines here which --

Q. Would you make a red --

A. -- are improved trails and boardwalk, which the Legend indicates.

Q. You are making red circles in the upper right-hand corner of places that were not on the map that you remember in 1972?

A. I don't recall any of the black lines being lined in for parking lots on the former maps.

Q. Referring to the heavy black lines?

A. Right, these lines here (indicating).

MR. SPIVAK: Let's go ahead and put red circles on those, too.

MR. ZETTERBERG: That's right, yes.

MR. SPIVAK: You circled too much. Just supposed to be around the lines.

MR. ZETTERBERG: He made a large circle with a "Visitor Center" inside. I think we understand for the record, do we not? You are referring to the heavy marked lines in the areas bordering on one side, the east parking, and down around the Visitor Center?

A. Yes, sir. The black lines only is what I am referring to. I don't recall those being on the other map. This is new.

MR. SPIVAK: But the Visitor Center was still there?

THE WITNESS: That's correct.

MR. ZETTERBERG: Q. Do you know what those black lines indicate?

A. According to the Legend they include improved trails and boardwalk and bicycles permitted on trail is a heavy black line.

Q. Do you know whether the black lines indicated an improvement in the map or improvement in the area since 1972?

A. Since 1972?

Q. Yes.

A. No, I couldn't. I suspicion a little bit of both, but I really don't know for sure.

Q. When were you last there?

A. September of 1972.

Q. All right. Now does the Ranger Station show on here?

A. Yes, sir.

Q. And that's in the same location that it was back in '72, is it not?

A. Although I don't recall the Ranger Station being on the map in 1972.

Q. Would you point just a little arrow towards the Ranger Station and then put B-1 there.

A. B-1.

Q. That stands for Brady sub one. We may have some more.

OK. Now, in 1972 there were no campgrounds in the Old Faithful Sub-District, were there?

A. No, there were not any public campgrounds in the Old Faithful area in 1972.

Q. Do you know the last time --

A. Could I hold off just a second? I am looking at the rest of the map to see if there were any other changes.

Q. All right.

A. I just have a question on the Black Sand Basin, the black lines showing Black Sand Basin.

Q. That's on the lower right-hand corner.

A. And also a question over here (indicating). This somehow looks a little different to me. May be the same, but --

Q. That's in the Biscuit Basin area?

A. I see some marks on there that may not be significant.

Q. If there are any other significant changes as we go along, you can comment on them at that time. You just have the impression that the map has been changed somewhat since 1972?

A. Yes, sir.

Q. But the distances, the location of the river and all that are in the same position as they were then, are they not? As far as you can tell.

A. Very close.

Q. Now there was at one time a campground here at Old Faithful, was there not?

A. Yes, sir.

Q. Do you remember when that was last opened?

A. To my knowledge the campground at Old Faithful was last used by the public in 1968, subsequently closed and not open for traffic during 1969.

Q. Where was the campground area in '68 that was closed and was not opened in 1969?

A. On the map?

Q. Yes. Show its location if it's on the map.

A. The former campground at Old Faithful was located in the area of which is now called the East Parking Unit or Bay, somewhere in this general area. It extended beyond the East Parking Area.

Q. A southerly and easterly direction?

A. No, southerly and easterly from where -- it extended southerly and easterly from the East Parking Area?

Q. Yes.

A. In this case it extended in a northeasterly direction from the East Parking Area.

Q. Would you invite your attention that north is to the left as you face the map on here?

A. On this it would be easterly, somewhat southerly, but mostly easterly.

Q. Was it the area where it is on the map or is that to the right, or off the map?

A. I believe that a portion of the campground would be actually off the map if it were shown here.

Q. But the northwest portion of it would be where the so-called East Parking is, is that correct?

A. That's correct, yes, sir.

Q. And the northeast campground to Old Faithful in a northwesterly direction was at Madison, was it not, in June of 1972?

A. In a northwesterly direction in 1972?

Q. Yes.

A. Nearest public campground?

Q. Yes.

A. Yes.

Q. The nearest campground in an easterly direction was at Grants Village, was it not?

A. That's correct.

Q. And how far away from the campground was Madison?

A. Madison would be about 12 or 14 miles, as I recall, and Grants Village would be approximately 17 miles.

Q. You supervised the trapping of bear in the Old Faithful area in October of 1970; did you not?

A. Supervised the trapping of a bear?

Q. Yes.

A. In the Old Faithful area in October of 1970?

Q. 1970.

A. I am not sure what you mean by supervising.

MR. SPIVAK: I will object to the form of the question.

MR. ZETTERBERG: Let me refresh your recollection.

MR. SPIVAK: As leading.

MR. ZETTERBERG: That's right. I can lead him. I am taking him as an adverse witness.

Q. You recall, do you not, an episode where an abandoned camp was found in September of 1970 up the Firehole River?

MR. SPIVAK: I object to the form of the question as leading, and I do not accept the proposition that you may call him as an adverse witness.

MR. ZETTERBERG: All right.

MR. SPIVAK: Go ahead and answer it, please.

THE WITNESS: Would you restate the question?

MR. ZETTERBERG: Read it back to him.

(The question was read by the reporter.)

THE WITNESS: An abandoned campsite. I recall an incident of that nature, yes. I'm not sure exactly where you are referring to. Firehole River is fairly long throughout

the Sub-District.

MR.SPIVAK: Mr. Zetterberg, while you are looking through your papers, may I have a standing objection as to the form of the questions, because I take the position that you cannot examine him as an adverse witness. So if I could just have a standing objection I won't have to raise it each time.

MR. ZETTERBERG: No, you raise it when you want to raise it.

MR. SPIVAK: All right.

MR. ZETTERBERG: Q. All right. I show you, Mr. Brady --

Let me show Mr. Spivak first. This is Plaintiff's Exhibit No. "2" from the Schroeder deposition, Bear Card front and back.

MR. SPIVAK: Well, I object to your statements. You should show it to the witness and ask him if he can identify it as a Bear Card, or whatever.

MR. ZETTERBERG: My statement was to you, not to him.

Q. I ask you to examine that and see if that refreshes your recollection.

MR. SPIVAK: Off the record.

(Discussion held off the record.)

THE WITNESS: I recall this particular card in 1970.

MR. ZETTERBERG: Q. You have actually seen the card, original card before?

A. That's a copy, I presume, of the original card. Yes, sir.

Q. There is an initial down here in the corner. Do you know whose initial that is?

A. No, I don't. I thought perhaps it was mine, but I

don't believe it is. Although I suspect it refers to the person that logged the item in the record keeping system in this station. I'm not sure that would be in 1970.

Q. You think it might be what now?

A. I don't know.

Q. Do you recall actually having seen the original Bear Card though?

A. Yes, sir, I do.

Q. Did you prepare this Bear Card?

A. No, sir.

Q. Who did prepare it, if you know?

A. According to the record it was prepared by Jerry Herbster, H-e-r-b-s-t-e-r.

Q. Who is Jerry Herbster?

A. Jerry Herbster was -- in 1970?

Q. In 1970.

A. In 1970, was employed by the Park Service as a Seasonal Ranger and worker under my supervision at the Old Faithful Sub-District.

MR. ZETTERBERG: Now let me break into the questioning here for just a moment.

You stated for the record that you are objecting to two things. You are objecting to us calling him as an adverse witness, and you are objecting to the form of the question.

I will stipulate that you may have a running objection that he is not being called as an adverse witness. I mean, withdraw that.

You have an objection to him, his testimony being taken

as an adverse witness. If you want to, you don't have to repeat that all the time. If you object to the form of the question you should make that objection at the time because it may be helpful to him in answering the question to have any such objection raised on a specific question. I want to be sure he understands the question.

Do you understand?

So I do not accept a running objection as to the form of the question.

MR. SPIVAK: Well, you previously stated.

MR. ZETTERBERG: I just wanted this on the record if you feel you have to continually repeat the objection on the adverse witness thing. OK?

MR. SPIVAK: Yes.

MR. ZETTERBERG: Q. To refresh your recollection on this Firehole River episode, did you actually go out and look at the abandoned camp on Firehole River?

A. Yes, sir.

Q. Do you remember now what you found?

A. Exactly?

Q. Well, tell me the best you can recall what you found out there at the camp.

A. As I recall, the site was very close to the Firehole River. There was a tent located at the site. Some of the items inside the tent, which included a back-pack, frame back-pack, with a brown back-pack bag attached; a considerable amount of debris scattered at the campsite; and it seemed clear to me examining the campsite that an animal had

obviously been working at the site, or had visited the site.

Q. Did you at that time form -- withdraw that.

Do you recall about when it was that you went out there and inspected the campsite?

A. No, sir, I don't.

Q. Would it have been about the time this card which is dated 9-16-70?

A. It would have been before the campsite had been removed by us for storage. So it would have been, I would think very close to that time.

Q. Possibly a day before or something?

A. Possibly, yes.

Q. And this location says one half mile south of Firehole River Bridge. Is that bridge on the map that's in front of you? Geyser Basin.

A. No, sir.

Q. It's up a little bit to the southeast or upper right, is it not?

A. Yes, sir.

Q. And about how far is the campsite on a direct line from the Ranger Station at that time?

A. Oh, approximately a mile to a mile and a half. I'd say a little more than a mile, close to a mile and a quarter, mile and a half.

Q. How far is the, you know, what bridge is being referred to -- the Firehole River Bridge?

A. Yes, sir.

Q. That's the Firehole River on the map, is it not?

A. Yes, sir.

Q. How far is the Firehole River Bridge referred to here from, let's say, your Ranger Station?

A. Are you referring to the old Firehole River Bridge or the new Bridge?

Q. I am quoting from the Bear Card. It says, "New Firehole River Bridge." This is the point of measurement here.

A. New Firehole River Bridge?

Q. Yes, sir.

A. The distance from the Ranger Station to the New Firehole River Bridge would be close to a mile, perhaps a little more.

Q. Did you form at that time, which I take it was around the 16th of September, 1970, did you form an opinion as to how long the camp had been abandoned when you were there?

MR. SPIVAK: I object to the question as calling for an opinion.

MR. ZETTERBERG: Q. Did you form an opinion as to how long it had been abandoned?

A. I can't recall specifically. I do recall that it looked like the camp had been there for some length of time, but I can't recall exactly how long I felt it might have been abandoned.

Q. Did you form an opinion as to what kind of an animal had been in the camp?

MR. SPIVAK: Same objection.

MR. ZETTERBERG: Q. Did you?

A. Yes, sir.

Q. I think your educational background which you set forth shows amply that you could form such an opinion.

What kind of animal was it, in your opinion?

A. Well, as I recall examining the contents of the camp and looking for signs of animals that might have visited, either tracks or scats, there was evidence that the camp had been visited by birds, by mice which would chew and eaten some of the food products that were left in there, and also the camp had been visited by a bear.

Q. And this is a Bear Card that you have just refreshed your recollection from, right?

A. Yes, sir. I am reasonably certain that the camp had been visited by a bear, by the nature of what I observed.

Q. Did you form any opinion as to whether it was a black bear or grizzly bear?

MR. SPIVAK: I object.

THE WITNESS: The answer to that is no.

MR. ZETTERBERG: Q. You did not form an opinion whether it was a black bear or grizzly bear?

A. No, sir.

Q. It might have been either, right?

A. Might have been. I believe the card is marked as unknown. The Bear Card is marked as unknown in relation to species of a bear involved.

Q. From that point I show you Bear Card. It's marked, is it not "unknown bear"?

A. Yes, sir.

Q. Is there anyplace on there where it's marked as the

species?

A. Well, unknown. As I am looking at this, there are three choices here.

Q. I see.

A. And the way the card would have been filled out, if we were unsure of the species we would have marked "unknown bear."

Q. Now let's go back to my questions about a month later, October of '70 -- withdraw that.

One of your duties as District Ranger was to take control actions on bears that were bothersome; is that not correct?

A. Sub-District Ranger.

Q. Yes.

A. Was to take control actions on bears that were --

Q. Yes.

A. -- bothersome?

Q. Yes.

A. Bothersome to whom?

Q. Bothersome to the public or to visitors.

A. Yes, sir.

Q. And in fact, you had instructions on that, had you not?

A. Yes, sir.

Q. Before June 25, 1970 -- withdraw that.

Who gave you the instructions?

A. Which instructions, sir?

Q. About control actions on bears.

A. About control actions on bears?

Q. Yes.

A. It's kind of a broad subject. I mean specifically?

Q. Yes. From the Park's headquarters.

A. Well, a number of people were involved.

Q. Did you have --

A. Giving instructions of control actions of bears involved several people.

Q. Did you, prior to September of 1972, had you ever taken part in control actions yourself of bear?

A. Personally?

Q. Yes.

A. Yes, sir.

Q. Of grizzlies. As a matter of fact, you had a trap on wheels, didn't you, like a great big sewer pipe located not far from your Ranger Station?

A. In 1970 at Old Faithful?

Q. Yes.

A. Yes, that's correct.

Q. You had more than one, or just one?

A. More than one.

Q. Would you tell how they worked?

A. How the traps worked?

Q. Yes.

A. How it's utilized or the mechanics of the trap itself?

Q. Yes.

A. Which?

Q. Well, how did the mechanics of the trap work?

A. It's a large culvert similar -- in fact, it is made

out of road culvert anywhere from, oh, four to six feet in diameter attached to a trailer frame on two wheels so it could be towed.

And there is a screened-in end that's unremovable, and the other end is screened-in with a lifting grate that can be raised or lowered inside the trap.

Q. Let me ask you about the ends. What kind of material are the ends made out of?

A. Well, it's heavy steel mesh. I'm not sure of what gauge or --

Q. Sort of a grating?

A. Well, similar to grating.

Q. But strong enough so that a grizzly bear which is strong could not break through, is that correct?

A. That's correct, yes, sir.

Q. Yes. OK.

A. OK. The open end was arranged in such a manner that there was a frame above the open end so that a door of heavy mesh or grating could be raised or lowered. And the trap was set on a track, and to trap a bear the gate would be raised. And inside of the trap was a trigger mechanism which is a single lever which there would be bait attached to it with a bucket or some other contrivance to hold bait. The idea being an animal would enter in the trap, grab ahold of the bait, activate the lever, which then released a rope which went forward to the front door, which subsequently/then dropped the door and presumably captured the animal.

Q. And the door was heavy enough so the bear couldn't

open it?

A. There was an automatic catch on the door so that it could not be lifted without some manual manipulation from the outside.

Q. Inside the trap was there any -- was there sheetmetal at the end or could the bear look out through the mesh?

A. The bear could look out through the mesh at either end, yes, sir.

Q. How long was the trap internally?

A. Six to eight feet. They varied a little. There were different sized bear traps available.

Q. Would the trap be kept on the trailer, is that correct?

A. Yes, sir. It was permanently affixed to the trailer.

Q. Was that kind of trap in operation when you first came to work in Old Faithful Sub-District?

A. Yes, sir.

Q. In fact, probably the same trap was there the whole time you were there, was it not?

A. No, that's not correct.

Q. Did you change traps?

A. Yes, sir.

Q. But essentially all the traps were of that sort, were they now?

A. They would vary to size as I mentioned, in regard to the culvert.

Q. But the design was all --

A. The design was essentially as I have described it.

Q. What was used for bait?

A. Varied on the nature of the trapping incident. But generally food scraps from the kitchen of the Old Faithful Lodge or the Old Faithful Inn. Usually meat scraps or something like spararib bones and so forth.

Q. Grizzly bears really preferred a little older type food, don't they? Something that has got a little odor to it or something?

A. Well, preferred is an interesting word, but --

MR. SPIVAK: Don't answer.

MR. ZETTERBERG: Q. I never could understand why they liked old meat rather than new meat.

A. I don't understand that either.

Q. How many controlled actions did you participate in while you were working at Old Faithful?

A. At Old Faithful?

Q. Yes. Just approximately.

MR. SPIVAK: You understand? I'm going to object to the question on the grounds that the words "controlled actions" needs definition, I think.

MR. ZETTERBERG: Q. Yes. What I meant by that, I think he is correct in his objection, because it could mean sending to a zoo or transplanting or killing. So what I am referring to here is how many trappings did you yourself actually witness or participate in?

A. Trappings?

Q. Yes.

A. Trappings of bear?

Q. Yes.

A. Bears alone?

Q. Grizzlies.

A. Grizzly bears only?

Q. Yes.

A. Trappings of grizzly bears only?

Q. In this kind of trap that you described.

A. In that kind of trap?

Q. Just approximately.

A. Perhaps 25.

Q. And normally what would start the process of trapping? I mean, when would you start using the trap?

A. You mean why would you?

Q. Yes.

A. Why would you set up a trap?

Q. Yes.

A. An example, by way of example --

MR. SPIVAK: I think we have about three questions pending. You asked one, he asked two. So maybe we should rephrase it. How do you want him to answer. It's a big subject. That's why I was trying to be clear. That's all.

MR. ZETTERBERG: Q. How first does it come to your attention that the trap should be set?

A. Usually the trap would be set in response to an incident or situation occurring with, in this case, a bear in an undeveloped area.

Q. If there was an incident involving a bear and you were located -- you were actually in the Sub-District, you

would be notified, would you not?

A. Yes.

Q. Or you would go and find out about it yourself by being in the Ranger Station, one or the other?

A. Yes, that's correct.

Q. And then would you personally supervise the use of the trap?

A. On occasions, yes, sir.

Q. Was there anyone there that had more experience than you during the period of four and a half years that you were there?

A. Throughout the Park?

Q. No, just say in your Old Faithful Sub-District?

A. Working in the Old Faithful Sub-District under my supervision?

Q. That had more experience than you during the period in the trapping of bears, either grizzly or black?

A. In the Old Faithful Sub-District only?

Q. Yes.

A. No, I would probably represent the most experienced in the Old Faithful area.

Q. Yes.

A. But that doesn't include the Madison area or the rest of the Park.

Q. Now do you recall an episode involving a grizzly bear being found in a garbage holding area on about October 14, 1970, and being trapped and transplanted up to Gibbon Meadows garbage holding area?

MR. SPIVAK: Let me object to the question as being compound.

MR. ZETTERBERG: Q. I described to you a general situation of a grizzly bear being trapped somewhere in the Old Faithful area near a garbage holding area being transplanted to Gibbon Meadows. Does that refresh your recollection?

A. Yes.

Q. Do you remember any such trapping?

A. In October of 1970 I recall that a grizzly bear was trapped in the Old Faithful developed area.

Q. Do you remember if you were there at the time?

A. Yes, sir.

Q. And do you recall the episode of the trapping?

A. Well, there were, as I recall, at least two episodes, trapping episodes or incidents during October of 1970 in Old Faithful area.

Q. How do you identify them?

A. They would be identified in a bear log that I maintained.

Q. You mean in your mind you remember two?

A. Yes, sir.

Q. What do you remember about the two?

A. You mean as to a specific location?

Q. Yes.

A. I recall that at least one of the bears was trapped in behind the camper cabins cafe area during that period.

Q. Is that on the map there?

A. I will look.

Q. Take a look and see.

A. Yes, it is.

Q. Would you mark that with a red X and then with a B-2 so we can tell about where that was.

A. OK.

Q. Put a little arrow toward that.

A. Your question?

Q. Now there was another? Do you remember another one?

A. Might I make a comment in relation to that?

Q. Yes.

A. OK. This is the restaurant unit that I was referring to in the Camper Cabins Cafe, but at the time the road location and so forth -- this was in 1970 --

Q. Yes.

A. -- we were addressing comments to, as I recall?

Q. Yes.

A. The road circuitory system was considerably different than is reflected here.

Q. Was there a cafe there at that time?

A. Yes, there was a cafe there.

Q. Was it in operation?

A. October of 1970?

Q. Yes.

A. Yes, sir, it was operating on a limited or partial operating basis, as I recall.

Q. Was there a garbage holding area behind that cafe?

A. Yes, sir.

Q. And do you recall the date of that? Is that the October 14 episode?

A. I recall they did trap a grizzly bear behind the Camper Cabins near October 10, 12th, 13th, 14th, somewhere in there.

Q. And was that the one that was the same bear that killed the Walker boy?

MR. SPIVAK: Well, that calls for an opinion.

MR. ZETTERBERG: Yes, it does. Was it the same?

MR. SPIVAK: To your personal knowledge.

THE WITNESS: Well, to my personal knowledge it was the same bear that was involved with the Walker incident.

MR. ZETTERBERG: Q. And at the time that the Walker boy was killed, the bear had a tag on his ear, 1792, is that correct?

A. Yes, I remember that.

Q. And did you place that tag on the bear's ear?

A. Yes.

Q. Back in October, 1970?

A. That's correct.

Q. Did the bear at that time when you tagged it have a Craig Head marker in its ear?

A. In October of 1970?

Q. Yes.

A. The answer to that is no.

Q. Did it have a hole in its ear for the Craig Head marker?

A. As I recall it did not have any sign of having been tagged before, as I recall. And the reason that I make that point is that we examined the bear's ear carefully affixing a

tag.

Q. As carefully -- withdraw that.

Do you recall whether you tranquilized this particular bear?

A. Yes.

Q. In 1970?

A. Yes, I did tranquilize this bear.

Q. Did you examine the bear's teeth when the bear was tranquilized?

A. That I don't recall. I don't recall.

Q. Did you examine the teeth of the bear that killed the Walker boy after you got the carcass back; did you not?

A. Yes.

Q. And was there anything remarkable about the bear's teeth at that time?

A. Which time?

Q. After the episode with the Walker boy?

A. After the episode with the Walker boy?

Q. Which was in June, 1972.

A. When I examined the teeth of the bear?

Q. Yes.

A. Was there anything unusual about the teeth? Is that what your question was?

Q. Yes. I said remarkable.

A. Remarkable?

Q. That's a phrase doctors use.

A. Remarkable. They were worn. The teeth were worn.

Q. Now you saw the same bear in 1970. Do you recall whether the teeth were different then?

A. No, I don't.

Q. You don't recall whether it had incisors or fangs at that time?

A. No, I thought about that, and I don't recall.

Q. Did you examine the camp carefully in September, 1970?

A. That was the abandoned camp carefully?

Q. Yes.

A. By the meaning "carefully," you are suggesting --

Q. You observed? You took time enough to observe the camp and as you testified to see that there had been birds and maybe mice there and there was a bear there?

A. Yes.

Q. You examined it fairly carefully, didn't you?

A. Well, carefully, although I was there with Jerry Herbster, who was in charge of that particular investigation. It was his responsibility to inventory and identify each of the items involved.

Q. What were you looking for?

A. I was looking for any sign of or identification leading to what I presumed to be an occupant, some person, that obviously set up the camp, and any clue as to who it might have been, and possibly who they were.

Q. Did you find any hair at the campsite?

A. No, sir.

Q. Did you ever see any hair purported to have come from the campsite?

A. That campsite?

Q. Yes.

A. No.

Q. Did you do any -- make any effort to find out the identity of the owner of the camp?

A. Oh, yes.

Q. Was the owner found?

A. No, sir, not to my knowledge.

Q. Did you ever identify who it was?

A. No, sir.

Q. In other words, there was no identifying name on anything?

A. Not a single item that we were able to determine. We pursued that vigorously.

Q. And to this date so far as you know no one has ever found out who that person was or what happened to him, is that correct?

A. To the best of my knowledge, yes, sir.

Q. And you say from your observation of the camp in 1970 that it had been abandoned a day, an hour, couple of days, a week, or how long?

A. I would say upward of a couple of days.

Q. There was still remains of the food around the camp, is that correct?

A. As I recall, yes.

Q. Do you remember any cans from canned food at all?

A. I seem to recall some canned food, yes, sir.

Q. Were any of the cans apparently bitten or anything of that sort?

A. Yes.

Q. Is that one of the things you based your opinion that a bear had been there?

A. Yes.

Q. What else did you base your opinion on?

A. Tracks.

Q. Bear tracks?

A. Bear tracks and scat, as I recall.

Q. Was there any sign of a fight or anything of that kind?

A. A fight?

Q. Yes. A struggle?

A. A struggle between --

Q. The bear and any human.

A. As I recall, the tent was in considerable disarray, that it had been ripped or torn, and presumably by a bear. And the pack was reasonably intact; however, the foodstuffs on the ground were scattered. I couldn't link any direct association with a struggle, or struggle between the bear and the occupant. There was no evidence to support that, but it did clearly look to me in my view that a bear had visited the camp and gone through the tent and worked over the foodstuffs.

Q. Now from your background, you were quite aware that grizzly bear tracks show much longer claws than black bear tracks?

A. Yes.

Q. Did you look to see whether it was a black bear or grizzly bear?

A. Yes, sir.

Q. Did you come to even a tentative conclusion as to

whether it was a black bear or grizzly bear?

A. No, sir. It's where the card was marked.

Q. You mentioned another bear episode in October other than the trapping behind the cafe. What was that one?

A. As I recall there was another bear trap in that area during October of 1970.

Q. And that would show on the records, though, if this had happened, would it not?

A. Yes, sir.

Q. In the bear log? That would have been during the month of October?

A. Yes, sir.

Q. Was that a grizzly or black bear that you remember?

A. As I recall it was a grizzly bear, yes.

Q. You do sometimes trap black bears with this same trap?

A. Oh, yes, sir, very common.

Q. Do you recall whether the other trapping was before or after the one that you put on the map there?

A. As I recall it was before.

Q. And do you know what happened to the first bear?

A. The first bear would have been released somewhere, as I recall, in October.

Q. Do you know what happened to the second bear?

A. Second bear was released, transplanted.

Q. Now do you recall where the first bear was transplanted?

A. The first bear was transplanted, as I recall, to Nesperce Creek.

Q. Where was what I will say the Walker boy bear, I think

it's 1792, where was that transplanted to?

A. That bear was released in, as I recall, in Gibbon Meadow.

Q. Gibbon Meadow is north of Madison Junction by a mile or so, isn't it?

A. Several miles north.

Q. Three or four?

A. Well, about that.

Q. That's outside of the District?

A. Yes, sir, outside of my Sub-District.

Q. Sub-District, within the District.

You couldn't -- at that time you couldn't move a bear outside of your Sub-District without Ranger Williamson's permission, could you?

A. That's correct.

Q. And you got his permission to transplant it to Gibbon Meadow?

A. Yes, sir.

Q. And you couldn't move it into any other area of the Park without the permission of the Park Service outside of your District?

A. That's correct.

Q. Who made the decision as to where the bear would be transplanted to?

A. This particular bear?

Q. Yes.

A. 1792?

Q. Yes.

A. In October of 1970?

Q. Yes.

A. I am not positive, thinking back.

Q. In other words, do you phone in to Mammoth and say, "Hey, we have a bear here, grizzly bear. We want to transplant it. Where shall we take it?"

A. Yes, that would be the general procedure.

Q. In other words, it would not be your decision as to where the bear would be transplanted?

A. No, that was out of context of a personal decision.

Q. That would be something for the Naturalists to do?

A. No, not whatsoever.

Q. Who would make that decision?

A. That decision would be handled principally by the Resource Management Specialist.

Q. Who was that?

A. Ted Bucknall.

Q. I see.

A. In conjunction with advice from the District Ranger or District Rangers involved and myself.

Q. And Gibbon Meadow is at the maximum 18 miles north of the Old Faithful Visitor's Center?

A. Yes, I think so.

Q. And it's -- withdraw that.

Where was the Rabbit Creek Dump?

A. Where was the Rabbit Creek Dump? When it was in operation the Rabbit Creek Dump was located approximately three miles north of Old Faithful.

Q. Was it up the Nesperce Creek?

A. No, not at all. It was -- looking for a geographical feature that you could identify --

MR. SPIVAK: Well, you have answered the question.

MR. ZETTERBERG: Q. It would be to the east of the road to Madison, wouldn't it?

A. Yes, that's right.

Q. Uphill?

A. On the eastern side of the road to Madison and Old Faithful.

Q. To your recollection was the Rabbit Creek Dump working at that time?

MR. SPIVAK: At what time?

MR. ZETTERBERG: Q. 1970.

A. No, sir, it was not.

Q. The Trout Creek Dump was working?

A. The Trout Creek Dump I believe was in operation in 1970, as I recall, yes, sir.

Q. They closed Rabbit Creek Dump at the end of '69 season, didn't they?

MR. SPIVAK: Objection as leading. Just ask him when was it closed.

MR. ZETTERBERG: Mr. Spivak, I am cross-examining him as an adverse witness, and I may lead him.

Q. It was closed at the end of the 1969 season, was it not?

MR. SPIVAK: Object. Same objection. But go ahead and answer.

THE WITNESS: The Rabbit Creek Dump was closed?

MR. ZETTERBERG: Yes. The question is, the Rabbit Creek Dump was closed at the end of the 1969 season?

A. To my knowledge that is correct.

Q. In any of the three seasons, "70, '71, or '72, was there an unusual number of deer and elk present in the area immediately surrounding and including the Old Faithful Upper Geyser Basin?

A. Upper Geyser Basin?

Q. Yes.

A. Only the Upper Geyser Basin?

Q. Yes.

A. An unusual number, you mean?

Q. Yes.

A. Meaning increased numbers, perhaps. Is that what you mean?

Q. Yes.

A. Of deer or elk?

Q. Yes.

A. In 1970, '71 and '72? Anytime during the year?

Q. Yes.

A. I don't think so, as I recall.

Q. Did you yourself personally notice or were you aware about any increase in the number of grizzly bear incidents in the Old Faithful area after the closing of the Rabbit Creek Dump?

A. Grizzly bear incidents?

MR. SPIVAK: Yes, I was going to ask you to define

"incidents."

MR. ZETTERBERG: Q. That means by incident, I mean contact or observations? Let's just say contacts in one way or another between humans and grizzly bears in your Sub-District.

A. Between humans and grizzly bears?

MR. SPIVAK: Again I'm not clear. Are you including sightings which might be a contact, or are you referring to an injury which is a physical contact. I think the question is still not clear.

MR. ZETTERBERG: Q. I am not including binocular type sighting. I mean presence of grizzly bears that were reported in the area of the developed or in the area of Upper Geyser Basin.

A. The question was did I notice an increase?

Q. Yes.

A. In what year, sir?

Q. That would be in 19 -- anytime after the closing of the Rabbit Creek Dump.

A. In 1970 in the Old Faithful developed area there was an observable increase in the number of bears seen in the Old Faithful area.

Q. You are talking about grizzly bears now? I am not talking about black bears.

A. No, I am referring here in that statement to grizzly bears, yes, sir.

Q. Now do you know when all of the open garbage dumps in the Park were closed by?

A. What year?

Q. Let me rephrase that. At what time or in what year were there no open garbage dumps still operating in Yellowstone Park?

A. Well, I'd have to take that answer by sections and see. Maybe this would be helpful.

Q. Right.

A. To my knowledge, of course, the Rabbit Creek Dump was closed in 1969, and as I recall the Trout Creek Dump area was closed in 1970. It did not open in 1971,as I recall.

And, of course, there possibly are some other dumps that I am not -- I don't see on a regular basis.

MR. SPIVAK: If you can't answer a question and you don't know, then state that.

THE WITNESS: I don't.

MR. ZETTERBERG: OK. But is it not true that the last dump closed in the Park was the Trout Creek Dump?

A. I couldn't say for sure.

Q. You don't now recall?

A. Several factors come into that really.

Q. There was a dump at the West Yellowstone Entrance, actually outside the Park.

A. That's correct.

Q. But it was very near the Park?

A. That's right.

Q. Do you know when that was closed? That was later, was it not?

A. I believe that -- I'm not sure. I can't say for sure.

Q. Did you notice any increase in grizzly bears after --

in the area of Upper Geyser Basin, sighting or seeing them around at any of the times that you were working in the Park after both the Trout Creek Dump and the Rabbit Creek Dump were closed? You have already answered it about the Rabbit Creek Dump in 1970. Now I'm going to 1971 and '72.

A. 1971 and '72?

Q. Yes.

A. Did I notice an increase or increasing number?

Q. Yes.

A. Of grizzly bears in the Old Faithful area?

Q. Yes.

MR. SPIVAK: Increase over what?

MR. ZETTERBERG: Q. Over the time when the dumps were operating.

A. Well, possibly, not linking it into the dump directly, but I mean I could give you my observations in 1971.

Q. Yes.

A. And in 1971 there was a definite reduction in the number of sightings of grizzly bears in the Old Faithful area, a very severe reduction over 1970.

And then continuing in 1972, there was an even larger decrease proportionately. That is to suggest, to restate that in 1971 and 1972 there were less bears observed in the developed area than in 1970.

Q. We are talking about grizzly bears, not black bears?

A. Yes, sir. I am talking about grizzly bears.

Q. Do you have in your mind the number of control actions that took place in your Sub-District in 1968?

A. In 1968?

Q. Yes. By control actions you understand what I mean? I mean to the zoo, being killed or transplanted.

A. OK.

MR. SPIVAK: I would prefer in your questioning if you would leave out the term "control actions." Sort of a term of art with Glen Cole. So if you want facts, you know, did this, this, or this happen, why don't you phrase it in that way, if you would.

MR. ZETTERBERG: Q. I am asking for control actions because it is a phrase of art.

MR. SPIVAK: I'm going to instruct you not to answer the question asking how many control actions, but answer any questions that call for facts that you observed.

THE WITNESS: I want to be helpful.

MR. ZETTERBERG: Q. Yes. You understand what I mean by "control action"?

A. Would you explain to me again from your point of view? I mean, I have a different view.

MR. SPIVAK: I have already instructed you not to answer a question using the term "control actions." So you don't need to explain.

THE WITNESS: OK.

MR. SPIVAK: OK?

MR. ZETTERBERG: Q. Did a number of trappings increase during the year 1970, '71 and '72 over the years prior to that time in the Old Faithful Sub-District? I'm referring to trappings of grizzly bears.

A. Well, couple of things there. First of all, I was assigned to Old Faithful in 1970, in the spring of 1970, I believe March or April, and I would not have, you know, actual personal recall as to the total number of trappings of grizzly bears in the Old Faithful District in 1967 and '68, although I have general knowledge of that and it can be researched. I don't have specific knowledge of it but I can, of course, address my comments from '70 on.

Q. OK. What are your comments on that?

A. Would you restate the question, please?

Q. I do know you weren't located in the District before 1970, but do you know whether the number of trappings increased after 1970 for the years '70, '71, '72, over the prior period?

A. OK. To my knowledge the trappings slightly increased in 1970 over the years immediately previous. That would be 1968 and 1969. And then again in 1971 and '72 they decreased below the level of trappings that occurred in the Old Faithful District during 1967 and 1968 and '9 and '70.

Q. Are you aware of a grizzly bear management program that was instituted in 1970?

A. By the National Park Service in Yellowstone?

Q. Yes.

A. Yes, sir.

Q. Did you have any meetings, you as a Sub-District Ranger, explaining to you the management program?

A. Yes, sir.

Q. When?

A. When? By date, you mean?

Q. Yes, approximately.

A. During 1970?

Q. Yes.

A. I don't recall the exact month, but I would suggest that over the winter of 1970, winter of '69 and spring of '70.

Q. And who gave you the instructions on the program or the advice, whichever it was?

A. The bear management program was discussed at length with all the Sub-District Rangers in the Park by the Resource Management people and the Biologists' staff in the Park.

Q. You mean Cole?

A. Yes, sir, Mr. Cole; Mr. Bucknall principally.

Q. Did you have actually a meeting when the District Rangers and other permanent Rangers were present?

A. Yes, sir.

Q. Did you have more than one such meeting?

A. Yes, sir.

Q. Did you have a meeting in 1971?

A. In 1971?

Q. Yes.

A. Dealing with?

Q. With the bear management.

A. Undoubtedly. The reason I say that is that traditionally during the spring of every year in Yellowstone we had a Ranger Conference Meeting, and that was a meeting of all Rangers in the Park. That lasted anywhere from one to two weeks, and at that time there is areas of responsibility or of change in emphasis or direction, skills, training, were

identified and discussed in that period. There was a set time for that. That went on every year, and I would suggest that to the best of my knowledge every year that I was in Yellowstone at the spring Ranger Conference bears were a subject that were discussed.

Q. Did you have a meeting -- withdraw that.

You are talking about a meeting now of the permanent Rangers?

A. That's correct, yes, sir.

Q. Did you also have a meeting with the temporary Rangers in the Park and they came in the summertime?

A. With respect --

Q. Discussing the bear management program?

A. Did I conduct a meeting for the seasonal Rangers that worked for me at Old Faithful? Is that your question?

Q. Yes.

A. The answer to that is yes.

Q. And did you have any of the Naturalists present to describe the bear management program at that time, or did you do the description?

A. The word "Naturalist" threw me just a minute. Did I have any Naturalists present to describe?

MR. ZETTERBERG: Would you repeat the question. I am not clear on that.

(Record read by the reporter.)

THE WITNESS: OK. We are talking now about 1970?

MR. ZETTERBERG: Q. Any year. '70, '71 or '72. In fact, all of them, the seasonal Rangers are coming.

A. The thing I didn't understand was the words "Naturalists present" to describe because the Naturalists were not, you know, that linked in the management of bears in the area involved, but did you mean somebody else perhaps?

Q. Yes. In other words, did the Park Headquarters send someone down to talk with your seasonal Rangers or did you do it yourself?

A. Both. Frequent meetings were held with that subject in mind.

Q. And in 1969 was there any camping in the Old Faithful area, either in automobiles or just tent camping?

A. Large tents, small tents?

Q. Yes, any camping.

A. In the Old Faithful area in 1969?

Q. Yes.

A. Were there any automobile camping or tent camping?

MR. ZETTERBERG: Would you re-read the question to him.

A. I'm sorry because it's a complex question.

Q. It's simple. Re-read it to him.

(Record read by the reporter.)

THE WITNESS: You mean by the area, sir, developed area?

Q. I mean --

A. I am used to thinking of total area, total Sub-District, two hundred and some odd acres, so it's confusing for me when you say "the area."

Q. You just tell me what you mean.

MR. SPIVAK: Well, you tell him what you are asking him for. He has a problem and it's legitimate, I think.

MR. ZETTERBERG: Q. You can answer the question, in your whole Sub-District, was there any camping?

A. Yes, sir, that's correct.

Q. Where?

A. Camping in 1969?

Q. Yes.

A. The campground, the public auto campground had been removed from Old Faithful. There was no camping permitted in the developed area. Camping was permitted by permit in the back country or other areas of the Old Faithful Sub-District.

Q. There was no hard-wall vehicle camping permitted in the Old Faithful Sub-District in 1969?

A. OK. 1969 I was not at Old Faithful. I mean, I was assigned to Mammoth, so you are asking --

Q. If you know.

A. If I know, is that correct?

Q. Yes.

A. There were no authorized areas that people were permitted to camp in hard-side vehicles in the Old Faithful area during 1969, to the best of my knowledge.

Q. Now referring to, Counsel, to Glen Cole's paper, Glen Cole's paper dated January 31, 1973, which has since been published, Research Report No. 6, at Page 5, he outlines one of the items in the bear management procedure is all employees such as seasonal Rangers to assist in regulating campground use and necessary bear control.

Now did you have more Rangers assigned to you, seasonal and permanent, in 1970 for this purpose than had been assigned

to that District before?

MR. SPIVAK: I will object to the question, in attempting to use someone else's paper to impeach or examine the witness.

MR. ZETTERBERG: Q. You may answer.

MR. SPIVAK: The first part of the question is just a statement by Counsel.

MR. ZETTERBERG: That's part of the question.

THE WITNESS: It was just for words of wisdom.

MR. ZETTERBERG: You may answer, if you know.

MR. SPIVAK: Do you understand the pending question?

THE WITNESS: I believe so. I will rephrase it, if that's all right.

The question, as I understand, was during 1970 were any additional Rangers, seasonal or permanent, assigned to the Old Faithful Sub-District for the express purpose of assisting in bear management activities?

MR. ZETTERBERG: Q. And bear control, right.

A. And bear control.

Q. Yes, that's correct.

A. That's correct. The answer to that is yes.

Q. How many?

A. How many?

Q. Yes.

A. All right. On the full-time or part-time basis?

Q. Well, just during the summer season.

A. The answer is yes because additional personnel were made available to the Sub-District on a standby or as-needed basis from other units in the Park.

That is to suggest specifically that in Mammoth, for example, the biologists' office and their staff and the Resource Management people were available and on call to provide assistance for any management actions that we cared to pursue relating to bears. They were very helpful in this regard.

Q. They were sort of like a fire department? They would come if you needed help? You could call for it, couldn't you?

A. That's correct, yes, sir. In addition to that, the District Ranger would make additional persons available on an as-needed basis, should the incident demand.

Q. And so what then in your District did you actually do to try and keep the bears away from the District? Grizzly bears, I am referring to.

A. Keep the bears away from the District?

Q. Yes. And bear control.

A. We didn't try to keep the bears away from the District.

Q. What did you envisage your job in this bear control program that was commenced in 1970?

A. In 1970?

Q. In 1970, '71 and '72.

A. Well, my responsibilities were twofold, and in a sense that I was required to, of course, provide for the safety of the visitors insofar as it was possible in the Old Faithful area. And I was also responsible to identify bears that frequented the area or were observed in the area and take any necessary management actions on the interaction between the two. Bears and people in developed areas.

Q. What do you mean by necessary management action?

What does that mean?

A. Necessary management action might be, referring now the question back to the bear management plan, the intent, the purpose and the objectives as stated there. And the necessary management action might be an action that where a grizzly bear was observed in the area and an action would be to remove the grizzly bear from the developed area and transplant it to an area where it might successfully be reestablished away from the immediate proximity of people.

Q. But you knew that 18 miles isn't far enough to re-establish a bear, didn't you?

MR. SPIVAK: Objection as leading.

MR. ZETTERBERG: Q. I am asking you if you knew that? Eighteen miles is not far enough to reestablish a bear.

A. The question is did I know?

Q. Yes.

A. No, I didn't know that.

Q. Well, you have had training at Humboldt State and Montana, University of Montana on that?

A. Yes.

Q. On how far you have to transplant bears, had you not?

A. No, that's not true, sir, because training at Montana or Humboldt State now wasn't directly related to the management actions of bears. As far as natural history training relating to the animal involved, yes, that's correct.

Q. You were aware in June of 1972 that the grizzly bears have a homing instinct, were you not?

A. Yes, that's true.

Q. You were aware of that back in 1970, were you not?

A. Yes, sir.

MR. SPIVAK: Objection as leading. Give me a chance to object.

MR. ZETTERBERG: Q. Did Glen Cole, the Naturalist, ever instruct you on how far bears should be taken away?

A. Yes, we discussed that.

Q. Do you remember what he said?

A. Yes.

Q. What did he say?

A. Well, it's in the perspective of locating the site that's acceptable for a transplant. There are several factors to be considered.

Q. Right.

A. Distance away is one of several factors.

Q. But did he ever discuss how far bears should be removed on the transplant from the place where they were trapped?

A. No, not in that perspective.

Q. I'm referring to any time at all that you had any conversations or heard any presentation or statement by Glen Cole, did he ever make that clear?

A. Well, frequently we discussed the distance involved in transplants as a factor in determining a transplant site, acceptable transplant site, but it was not the only factor. It was a factor.

Q. Did he ever say or tell you that you had to take a bear at least 50 miles away and even then there was some danger

it would home and come back?

MR. SPIVAK: Objection as leading.

MR. ZETTERBERG: Q. You can answer that.

A. It's a difficult question because he didn't to my knowledge ever state it was a flat distance as the absolute minimum that was required to effect a successful transplant.

Distances were discussed, certainly. Obviously, I mean it's a very important element.

Q. Do you remember any statements he made and about when they were made about distances?

A. In the context of --

Q. How far a bear should be -- a grizzly bear should be removed so that it wouldn't return to the place where it was being trapped?

A. Well, I do remember some statements relating to the distances involved on a transplant, very definitely.

Q. Statements by whom?

A. Discussions between Mr. Bucknall and Mr. Cole and myself in regards to -- and Mr. Williamson, the District Ranger.

Q. Can you tell us when they were and what they were?

A. When would be answered in terms of in our general meetings that I identified earlier. And in addition to that when could further be identified by discussions that ensued after each management action.

If a transplant was a necessary part of that management action, then a discussion generally ensued with me as the precipitator between Mr. Cole and Mr. Bucknall and Mr. Williamson in regards to each particular management action.

Each particular one was evaluated on its own merits.

Now as to what was discussed would relate to specifically the kind of animal that was involved, whether it was a black bear or grizzly bear, the previous history of the bear, whether it had been trapped or transplanted before and factors like that would be discussed in light of where to possibly transplant the animal that we are dealing with.

Q. Do you remember any discussion with reference to the bear 1792 back in October of 1970 of this sort and with whom?

A. I can't remember exactly with whom, but I do remember although it would have been with one of the people previously identified, that is to suggest Williamson, Cole or Bucknall.

But I do remember discussing a reasonable site to transplant the bear taken behind the Camper Cabins. I do definitely remember that.

As I recall, the Gibbon Meadow area was selected for a number of reasons, I am sure.

Q. Those include things like what?

A. Factors for coming up with the release site of Gibbon Meadows?

Q. Yes.

A. As I recall, one of the main factors was the fact that this particular bear, 1792, had no identifiable previous contact with us, certainly with me at Old Faithful. I would suggest it was not tagged. We had not identified it as being in previous management action up to this time.

So it was not a returning bear, if you will.

Q. You stress the word, emphasize the word in your answer,

"identifiable." Why do you stress that?

A. Identifiable?

Q. Yes.

A. Well, because it would suggest that there were possibly bears that were involved in management actions that never precipitated a transplant or a release of any type, possibly trapping one or were observed in a campground.

It's only reasonable to assume that if the bear had really been involved in something with regard to property damage or injury or, you know, something related to that, it would have been identified by the Park Service and established, at least during the time I was there at Yellowstone.

Q. An exception to that would be the bear that laid waste to the Firehole River Camp a month earlier, would that not be?

A. That's a good example, yes.

Q. In that regard, that's an unidentified bear?

A. Unidentified in a sense which one was responsible or ones.

Q. Can you now remember whether when you had trapped 1792 in the middle of October of 1970 it entered your mind that it might be the same bear that had laid waste to a camp a mile or a mile and a half upstream nearby?

A. It never entered my mind.

Q. Did you ever discuss that at all with Mr. Williamson or with Cole or with anyone?

A. In reference to this particular bear, sir?

Q. Yes.

A. 1792?

Q. Yes.

A. No, I don't believe so.

Q. But you knew there had been a bear there in September?

MR. SPIVAK: Just a minute.

MR. ZETTERBERG: You made up your mind there had been a bear there, right?

A. Yes.

Q. And you didn't know whether it was a black bear or a grizzly, right?

A. That's correct.

Q. And it might have been a grizzly?

A. Right, might have been, yes.

Q. And then a month later a bear is found in the holding area or behind the cafe?

A. Yes.

Q. And you trapped it?

A. Yes. One reason that that didn't come particularly to mind to me was that, you know, a week or ten days earlier we had trapped another bear at Old Faithful. I mean, I couldn't, you know, attach an action to this particular bear.

Q. So it might have been either one of those two bears, right?

A. Well, it's a --

MR. SPIVAK: That calls for speculation.

MR. ZETTERBERG: Q. It could have been, couldn't it?

A. Well, there is no way you could say whether it was one or two bears. I couldn't say if it was or was not. I have no

personal knowledge or evidence to support it either way.

Q. If there is a trapping of another bear in October prior to the trapping of 1792, you would have a record of it in a Bear Card, and there would be a record on the Bear Card, would there not?

A. Yes, that's right.

Q. And those are either in the Ranger Sub-Station or in Bucknall's possession?

A. Yes.

MR. ZETTERBERG: Mr. Spivak, will you check and find out whether there was any bear trappings for me from Mr. Bucknall and report that?

MR. SPIVAK: Off the record.

(Discussion held off the record and subsequently a lunch recess was taken.)

-oOo-

AFTERNOON SESSION

MR. ZETTERBERG: May the record show that this is after lunch, and during the lunch hour, Ranger Brady, at our mutual request, telephoned for Mr. Bucknall, B-u-c-k-n-a-l-l, at Yellowstone Park to check on the bear log and Bear Cards for October, 1970, but that no one was present.

Is that correct? Except a secretary.

A. Correct.

Q. And how do you want to leave that?

MR. SPIVAK: What was the specific information that you want?

MR. ZETTERBERG: The specific information would be whether there were any Bear Cards on the grizzly trappings in the -- by Mr. Brady in the Old Faithful area between September 16, 1970 and during the month of October, 1970, other than bear number 1792.

MR. SPIVAK: Now what's the testimony so far? That he recalls or that you recall trapping another bear?

THE WITNESS: Yes.

MR. SPIVAK: You don't know the date or how?

MR. ZETTERBERG: His testimony was, I believe, that it was in October before 1792 was trapped.

THE WITNESS: Yes.

MR. ZETTERBERG: But my thought was we could check. It might have been clear back -- might have been during the relevant period of September or it might possibly have occurred after this one.

As I recall, it was before 1792.

MR. SPIVAK: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: May it be stipulated after discussion off the record that at this point the reporter will leave a blank space of five lines, five or six lines, and the witness will attempt to find out what information he can find out from Mr. Bucknall and we will write it in in longhand at this point in the deposition regarding the question of the other bear or bears, if any, during the period we have just specified be trapped at the Old Faithful area.

Going on from there. Does this meet with your approval?

Mr. Brady, this should refresh your recollection as to this other bear, and so if you write in the information we would consider this to be a part of your testimony.

THE WITNESS: Fine.

MR. ZETTERBERG: All right.

MR. SPIVAK: Yes.

MR. ZETTERBERG: Q. All right, going on from there. I don't believe I asked you how many extra Rangers, if any, seasonal or regularly, you had in June, 1972, to assist in your bear management program.

A. I think you asked, but in 1970. In 1972?

Q. Yes.

A. I don't recall any full-time people being assigned to Old Faithful for bear management.

Q. But the -- shall I call it the team, or the available people out of the Headquarters were still available for your bear control?

A. In 1972?

Q. In 1972, were they not?

A. Yes, sir.

Q. Did you actually use them during the years '70, '71 and '72?

A. Yes, sir.

Q. Would you always call them in when you had a bear for trapping?

A. Call them in, or call them?

Q. Call them to come down?

A. No.

Q. Actually the bear management program also included what has been called sanitizing the campgrounds, did it not?

A. Yes, sir.

Q. Now I know you have testified that there were no campgrounds in your District, but do you know what sanitizing the campgrounds meant?

A. Well, it was a term that generally referred to the exclusion of artificial food sources in the campgrounds on the part of visitors that were occupying the site.

Q. And wasn't there some kind of an extra secure garbage

can made available in campgrounds throughout the Park that would be bear proof?

A. Yes, sir.

Q. I have in my hand here a Xerox copy of four pages of Plaintiff's Exhibit No. "1" to the Schroeder deposition, entitled, "Hiker/Backpacker Without Vehicles."

It contains a list of names, home state, entrance, bear and camping info.

I hand it to your attorney and ask you to look at this and see if you have seen that before, the original of that?

A. Correct, yes, I have seen this.

Q. Now do you remember the occasion for this list?

A. The occasion?

Q. Yes.

A. What do you mean by occasion?

Q. Does that remind you of why this list was drawn up?

A. Why the list was drawn up?

Q. Or let's withdraw that.

Do you know why that list was drawn up?

A. Yes.

Q. Whose idea was it?

A. I believe it was largely mine.

Q. And that list was commenced after the Walker boy's death, was it not?

MR. SPIVAK: I object to the form of the question as leading.

THE WITNESS: That particular list right there or --

MR. ZETTERBERG: Q. The process of making this list.

A. I'm not positive about that, whether it was before or afterwards. I have some question in my mind about that, whether it was before or after.

Q. Would you examine that and see if there are any dates on there? There are some dates on there. If there are any dates on there that pre-date the Walker boy's death, which as I recall was on the 25th of June, 1972.

A. Well, the first date I see is July, or 7-25, which I presume would be July 25. That's the first date I see on the second pages. I don't see any dates on the first page. And the dates continue down through 9-8 of the last entry of the last page. I don't see the dates on the first page.

Q. I think in the record we have some other testimony as to when this began, but I ask you to think carefully and remember to answer your question carefully because this is under oath.

A. Oh, yes.

Q. As a matter of fact, this process of stopping hitch-hikers, backpackers that were without vehicles and asking them if they had bear information was commenced after and because of the Walker boy's death in your Sub-District; is that not correct?

A. No, I couldn't say that that's totally correct. Honestly to the best of my recollection I am not certain that that commenced afterwards. I recognize the date as 7-25. I suggest that's a very strong possibility.

Q. Again to refresh your recollection, your attorney has earlier objected to the use of this list because it

occurred after the Walker boy's death.

A. No, sir.

Q. And --

A. Well, you know, if you have other information I would be happy to listen to it, but so far --

Q. You were aware that there were large numbers of back-packers and campers in the Old Faithful area in June, 1972, before the Walker boy's death, were you not?

A. Yes.

Q. And you were aware, were you not, that they slept out in the Old Faithful area alongside the road and trees and so on?

MR. SPIVAK: Objection, leading.

THE WITNESS: I'm not sure exactly what you are looking for. The question was, was I aware that there were back-packers that were sleeping in the Old Faithful area during June of 1972?

Q. Yes.

A. Well, my answer to that is yes, there were back-packers that were sleeping illegally in closed areas, in the Old Faithful area in June of 1972.

Q. You were aware of that before June 25, 1972, were you not?

A. Yes, sir.

Q. In fact, wasn't there a change in the regulations regarding hitchhiking about this time? Park regulations regarding hitchhiking.

A. Are you referring to the Code of Federal Regulations,

the statute in reference to hitchhikers?

Q. Park regulations in reference to hitchhiking.

A. You don't mean Park policy, but Code of Federal Regulations?

Q. No, Park policy.

A. There is a difference, obviously.

Q. I mean at this time was there not a change being processed in the administration of Yellowstone Park to make it easier for hitchhikers to be able to hitchhike without objection by the Park authorities?

A. I am not sure what you mean by a change exactly, but I could, you know, identify the condition that was prevelant at that time.

Q. Were there any regulations against hitchhiking in the Park as of June 25, 1972?

A. To my knowledge the only thing against hitchhiking statutorally was a section of the Code of Federal Regulations on hitchhiking itself. That generally wasn't vigorously informed.

Q. Who was in charge of law enforcement of hitchhiking at the Park in 1972?

A. In charge of law enforcement?

Q. Yes. Was that Jerry Phillips at that time?

A. In 1972 Jerry Phillips was the law enforcement officer for the Park Service at Mammoth.

Q. In general, all throughout the Park there were lots of hitchhikers and back-packers, were there not?

A. You use hitchhiking and back-packing interchangeably?

That's what you meant?

Q. Yes, that is the back-packers who were without vehicles.

A. Back-packers without vehicles were common in Yellowstone throughout the summer season, yes.

Q. And you were aware that when the sun went down they didn't all go to Grants Village in one direction or to Madison the other direction to spend the night, were you not?

A. They did not all --

Q. They did not all leave Old Faithful and go 13 or 14 miles in a northwesterly direction or 17 or 18 miles in an easterly direction to spend the night?

MR. SPIVAK: Objection, leading.

THE WITNESS: The question is?

MR. ZETTERBERG: Q. You were aware that they were staying in your District without having any accomodations other than the blue sky overhead?

MR. SPIVAK: Objection. Also it's argumentative.

MR. ZETTERBERG: Q. Were you not alert to the possibility that on occasions that did occur?

A. Yes.

Q. Well as a matter of fact hadn't you heard all the time and you knew?

A. Yes, every day.

MR. SPIVAK: Object to the form of the question.

THE WITNESS: During the summer, you mean?

MR. ZETTERBERG: Q. Yes. A. During the summer months that was common that hitchhikers were walking through the area or back-packers traveled through the area. We contacted

a good number of them during the summer.

Q. Did you ever see a large overlay map in the Ranger Station with back country campsites marked on it?

A. The Old Faithful Ranger Station?

Q. Yes.

A. Yes.

Q. That was there while you were the Sub-District Ranger, was it not?

A. That's correct.

Q. In fact, it was initiated, was it not, while you were there?

A. That's correct.

Q. Do you recall when that was initiated?

A. We are talking about the map in the Ranger Station, in front of the Ranger Station, or in the foyer or lobby?

Q. I'm referring to a map in the northwest room of your Ranger Station. The map was approximately 3½ x 3½ of Yellowstone Park. And it had a plastic transparent overlay?

A. Yes.

Q. And it had many back country campsites that had been assigned in Yellowstone Park on the overlay?

A. Yes.

Q. Apparently it was a system of keeping a record of assigning of camps?

A. OK. And the question was, when was that developed?

Q. You recall what I am referring to?

A. Yes, I recall that map.

Q. In fact, you may have been one of the ones that

program?

A. That's right.

Q. That's the one where there was a clearance with Mammoth, with headquarters in Mammoth, eventually worked out; a clearance system so that you could theoretically keep track of the population of humans in any given campsite throughout the Park? Is that not correct?

MR. SPIVAK: Do you understand the question?

THE WITNESS: The question, as I recall, was do I recognize or remember the map?

MR. SPIVAK: Well, that was my point. The line of questioning dealt with the map and overlay.

MR. ZETTERBERG: Yes.

MR. SPIVAK: Now you have also brought up the question of reporting to Mammoth?

MR. ZETTERBERG: Yes, that is right. I am watching his eyes, and when I can tell he doesn't understand I rephrase the question. I think he understands.

MR. SPIVAK: I want the record to be clear.

MR. ZETTERBERG: Q. I will rephrase the question. At sometime about 1972, summertime, there was instituted, was there not, a system of central clearance on back country campsites for use permits; is that correct?

A. That procedure I believe was implemented parkwide in 1972.

Q. Was what?

A. Implemented parkwide in 1972. There are two things there we are discussing, as I read them.

Q. Did you ever see a letter dated November 3, 1971, from the Chief Park Ranger to the District Rangers regarding back country management?

Do you recall seeing such a letter?

MR. SPIVAK: Counsel, would you show the letter to the witness?

MR. ZETTERBERG: Q. Do you recall seeing such a letter?

A. Well, if you would show me. Probably several.

Q. I am asking you now if you recall seeing one.

A. Well --

MR. SPIVAK: A letter?

THE WITNESS: We received quite a bit of correspondence from the Chief.

MR. ZETTERBERG: Pardon me, Counsel. I am asking him a question. Would you kindly refrain from answering for him. Many times now you have been answering for him when he understands the question perfectly well, and he is getting the answer. If you have an objection to make, make your objection. But I hope you will not interfere with my questioning too much because he understands what we are talking about.

Q. Now I am asking him first if he remembers such a letter. If he does not, I can refresh his recollection.

A. I am not sure of what specific letter you are talking about. We received quite a bit of correspondence.

Q. I'm referring to a letter furnished me by Counsel in answer to our Interrogatories, which is from the Chief Park Ranger, dated November 3, 1971. It's not addressed to the District Sub-Ranger, but that's why I'm asking you if you have

seen that letter?

A. Yes, I have seen this, definitely.

Q. We are on Page 2 of the letter:

"The identification of site locations on the ground and on maps --"

I am showing this to Mr. Spivak while I am reading it --

"--can in some instances be done very soon. In this case 'very soon' means by July 1, 1972."

My question is, were these instituted by July 1st, 1972, or did they come later in 1972, these procedures?

A. Can I look at the first five steps that he is talking about so I can answer your question?

Q. Yes, go ahead.

MR. SPIVAK: Is this question directed to his Sub-District?

MR. ZETTERBERG: Q. Yes.

A. The first five --

MR. SPIVAK: Did you hear that?

THE WITNESS: In reference to Old Faithful is what you are talking about, right?

MR. SPIVAK: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: Q. Well, on the record again.

You are reading that letter dated -- what was it? November, '71?

A. November 3, 1971, back country map. The question was?

Q. That's the letter you said that you had seen?

A. Yes, I have seen the letter. Memorandum is what it is.

Q. Right.

A. The question was, if I understood right, had five of the six steps as identified here on Page 2 been implemented in the Old Faithful Sub-District before July 1st, 1972?

Q. Yes. You were checking what the five steps were?

A. Yes, sir.

Q. What were those five steps?

A. Do you want me to read them to you?

Q. Yes. I am going to ask the reporter to mark this particular letter.

All right, then. OK. Will the reporter mark this particular letter, and it's from my file that you furnished me on the Interrogatories.

MR. SPIVAK: You already have another copy?

MR. ZETTERBERG: I don't.

MR. SPIVAK: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: Let's take it out of there, then, Jim -- I mean, Mr. Brady.

Now, Mr. Reporter, we're referring to a three-page letter. There is attached three-page letter, November 3, 1971, from the Chief Park Ranger to the District Rangers, containing on our copy here, on the bottom, handwritten No. 18. It's on the United States Department of Interior National Park Service stationery. That's at Mr. Spivak's request.

This has been named Plaintiff's No. "2" to the Brady deposition.

(The letter, dated November 3, 1971, was marked as Plaintiff's No. "2" to the deposition.)

Q. Now I have in front of me a thing called "Yellowstone National Park Back Country Management Action Plan, 1972." It consists of three pages. Have you see that before?

A. I'm reasonably certain I probably have.

Q. It's not on any particular stationery. It's not signed by anybody. The only identification is the fact that you gave it to me in answer to one of the Interrogatories.

A. Is this part of something else or --

Q. That's what I was wondering.

MR. SPIVAK: Well, again, let's mark these. And you're going to show him? You're going to use them?

MR. ZETTERBERG: Let's hold it.

Q. Do you remember when the so-called back country plan was actually in fact put in operation in 1972? I believe you testified it was in 1972 that it was put in operation.

A. Well now, with reference --

MR. SPIVAK: I am sorry. Would you read back the preceding answer to this question? Just the one prior to this question?

MR. ZETTERBERG: You mean to the preceding?

MR. SPIVAK: The answer to the preceding question.

MR. ZETTERBERG: Q. OK. Mr. Spivak, if you withdraw your last request for a check back on answers, then we will just, at your request, have marked as Plaintiff's No. "3" a three-page typewritten "Yellowstone National Park Back Country Management Action Plan, 1972," which has a number 19 at the bottom of Page 1, as Plaintiff's No. "3" and we will mark as Plaintiff's No. "4" the letter of June 15, 1972, from

Edmund J. Bucknall to District Rangers re: Back Country Use Permits, so the record will be clear.

(The Back Country Management Action Plan and the letter dated June 15, 1972, were marked as Plaintiff's Nos. "3" and "4", respectively.)

MR. ZETTERBERG: OK. Now there is no question pending. Yes, there is --

MR. SPIVAK: There was, but why don't you withdraw it and just rephrase it?

MR. ZETTERBERG: Q. Well, you testified, I believe, there was a back country record-keeping plan of keeping track of back country campsites during October of 1972. Are you able to pinpoint when in 1972?

MR. SPIVAK: And again, this is for the Old Faithful Sub-District

MR. ZETTERBERG: Yes.

A. Well, for the Old Faithful Sub-District, in response to the documents that you showed me?

MR. SPIVAK: Excuse me. You have been shown three documents, I think.

MR. ZETTERBERG: He hasn't seen these.

MR. SPIVAK: Then you are referring to Plaintiff's Exhibit No. "2", the letter dated November 3; is that correct?

THE WITNESS: That's correct.

MR. ZETTERBERG: Plaintiff's Exhibit No. "2".

A. In respect to that back country management and steps identified, five of the six steps identified were implemented in the Old Faithful Sub-District early in 1972. Most of them

had been implemented in 1971.

MR. ZETTERBERG: Q. When you say early 1972, how early?

A. Spring. May, June.

Q. Do you know when the central recording of back country permits was inaugurated?

A. I'm not sure when that actually began, what date.

Q. Would it have been started by July 1st, 1972?

A. Oh, yes. Yes, I am sure it would have been by then.

Q. Because referring to Plaintiff's No. "4" --

A. Yes.

Q. -- the letter says, "Central recording of back country use began this month," which is June 15, 1972, "on a trial basis and some bugs are showing up that need to be eliminated."

That's from Mr. Bucknall?

A. Yes.

Q. To the District Rangers. So that would imply that it started sometime during June and the letter of 1971 indicates that there was a target date of July 1?

A. Yes.

Q. Now can you remember when you in the Old Faithful Sub-District Ranger Station actually started keeping track of the back country use permits over the whole of the Park?

MR. SPIVAK: Just a minute.

THE WITNESS: I don't --

MR. SPIVAK: I mean, you can -- I'm sorry. Off the record.

(Discussion held off the record.)

MR. SPIVAK: OK. Go ahead.

THE WITNESS: I can't talk about all of the Parks, but in relation to the Old Faithful Sub-District we began keeping track of back country use permits when I arrived in 1970. And that was further emphasized again in 1971 and 1972. Actually began keeping track when I arrived there.

MR. ZETTERBERG: Q. My question was, referring to that map with the overlay, is of the whole of the Park?

A. Yes.

Q. My first question is, I saw it in 1973. Was it up at any time during the time when you were the Sub-District Ranger?

A. Yes.

Q. And do you know when it was first put up?

A. OK. To answer that question you have to disect the map somewhat in sequential areas. That is to suggest first Old Faithful. The map was first up, I believe, in 1971 with sites identified at Old Faithful indicated on the map.

Secondly, at a later date additional sites throughout the Park were subsequently identified and attached to the map.

Q. So you are saying that the Old Faithful District was the leader in that field; is that correct?

A. That's correst, yes, sir. In 1971.

Q. As a matter of fact, you had a reputation while you were at Old Faithful, did you not, as being very hard on "brown bears"?

A. Pardon?

Q. Did you not?

A. If you will define "brown bears" maybe I will be more able to answer it.

Q. That's what I am asking you, if you had that reputation, then we will have to figure out what it means.

There is information in some of the files and records that we have seen that you had a reputation for keeping brown bears off the roads and bear bums, maybe it should be the other way around, and in your sector.

A. OK.

Q. Would you say that?

A. If you are referring to the removal of black bears that persisted in begging or soliciting along the side of the road, I did actively pursue a program to remove and transplant the black bears off the road.

Q. That is really referring to perhaps what we call bear bums or road bums rather than referring to grizzly bears so much?

A. All right.

Q. Yes what?

A. Yes, as I described it, I was actively involved in the program.

MR. SPIVAK: Now just a minute. The question was?

MR. ZETTERBERG: Did it refer to grizzly bears or --

A. Well --

MR. SPIVAK: Well, you answered.

MR. ZETTERBERG: Q. In other words, let me rephrase it. Your reputation then you are saying was primarily with respect to black bears?

A. I would not address any comment with regard to my reputation, but I could answer the question in regard to what I

did about black bears. How is that?

Q. Well, I think you have answered it. Did you do anything about bear jams? Did you have a program for trying to keep bear jams from occurring in your District?

A. Yes.

Q. Was your District better on such a program than other districts, relatively speaking?

A. That's a difficult question to answer, very relative.

Q. OK. What is a six-pack bear?

A. A six-pack bear?

Q. Yes.

A. Six-pack bear, I don't know.

Q. There was a reference in the Lake Bear Log to six-pack bears.

A. Six-pack bears. I don't know. Sounds like it might have been humans. OK.

A. The Lake Bear Log did you say?

Q. Yes. That's capital L-a-k-e.

Did you have instructions to remove Craig Head Bear Tags?

A. No, sir.

Q. Did you remove any Craig Head Bear Tags from any grizzly bears?

A. No.

Q. Did you see any Craig Head Bear Tags on any grizzly bears while you were at Old Faithful?

A. Yes.

Q. And did you see any on bears that you trapped?

A. Yes.

Q. But you did not remove them then?

A. That's correct. I did not.

Q. Did you see any instructions to the District Rangers, Sub-District Rangers to remove Craig Head Bear Tags?

A. No.

Q. You examined the bear that killed the Walker boy?

A. Yes.

Q. And did you examine to see whether his ear had any marks of any prior bear tags or bear marks?

A. Yes.

Q. And did it?

A. Not to my knowledge.

Q. Did you actually look at his ears and see if there was a hole or anything on it?

A. And examine the bear's --

Q. Yes.

A. -- ears externally?

Q. Yes.

A. For evidence of previous tags?

Q. Yes.

A. Yes, I did. I didn't see any evidence of previous tags.

Q. What is a Craig Head Tag? Is it just a piece of cloth or leather or something through the ear?

A. As I recall, one Craig Head Tag involved an ear tag with different colored pieces of plastic, as I recall, or combinations thereof.

Q. There is reference in Mr. Bucknall's letter there to

something with reference to back country permits that was going to go in effect by July 1st, 1972. Was there anything that you recall, regardless of what had been your practice before, that specifically went into effect from the Headquarters by July 1st, 1971?

A. In reference to that memorandum?

Q. Yes.

A. As I recall the area to be implemented that subsequently was done related to the central communications or the Com Center at Mammoth. And as I recall the area under consideration was calling in and identifying sites that visitors had requested, and calling those into the Communication Center for their record keeping and all to check if that site was absolutely vacant or free.

I think that system originally was implemented during 1972, as I recall, earlier during the summer.

Q. And now at the present time there is a system of making reservations for camping site at Yellowstone Park, is there not?

A. You mean during 1973?

Q. For 1974.

A. I am not sure of what -- I am not current exactly with what they are doing now.

MR. SPIVAK: Fine.

MR. ZETTERBERG: Q. In October of 1972, were there cabins located near where bear 1792 was trapped?

A. Near?

Q. Yes.

A. Yes, sir, near.

Q. Do they show on Plaintiff's No. "1" of this exhibit?

A. No, sir, they don't.

Q. Where would they be? Where were they?

A. I could show you on the map, if you like.

Q. Yes. Mark with a little square where the area was, if you would. Are we talking about a fairly large area in regards to cabins? Oh, all right. Mark the general external area of the camp.

A. About like that (indicating).

Q. And would you mark right in there "Cabins" in your handwriting?

Now are those cabins still there, to your recollection?

MR. SPIVAK: If you know.

THE WITNESS: Well, I presume that some are still there.

MR. SPIVAK: Well, don't presume.

MR. ZETTERBERG: Q. Were they being used in 1970 for rental, for visitors to stay in?

A. In 1970?

Q. '70.

A. 1970? Yes, during 1970 there were cabins for rent in this area that would be occupied by Park visitors, that's correct.

Q. So then you're saying that bear 1792 was trapped in an area bounded on the north by the cafe, studio, post office, store complex, and on the south by the cabins that were located?

A. Yes, sir.

Q. And that he was actually -- pardon me.

It's a she. She was actually then in the high human use area when she was trapped?

A. Yes.

Q. Do you recall whether you trapped her at night or daytime?

A. I recall that it was either very late at night or very early in the morning.

Q. And do you recall why you were told to -- I mean on what notice you were called to trap her? Did some people, some visitors come and say, "Hey, there's a bear here," or did someone at the cafe say, "There's a bear back here," or what?

A. Well, as I recall, during that period of October a bear or bears had been observed in that area behind the camper cabins near where we dispose of refuse.

Q. I see.

A. And based on that information we set a trap in that area to pick up and subsequently identify whatever bear or bears might have been working in that area.

Q. That might have been several days earlier?

A. Sir?

Q. That might have been several days ahead of actual trapping when you had the report?

A. Oh, yes, sir.

Q. Did you reset the trap every night or just leave it there all the time?

A. The trap was set pretty much from daylight to dark

hours. It was sprung after that and not set during daylight hours.

Q. I see.

A. So it would be reset on a nightly basis as needed.

Q. And did you testify to where you thought the other bear had been trapped? I forgot.

A. To my recollection another bear that we discussed earlier was trapped in the same general area.

Q. The word "garbage holding area" has been used. That doesn't mean anything to me. Does that mean anything to you?

A. Yes.

Q. What does that mean?

A. It's the area of which the garbage and refuse from the kitchen of the Camper Cabins was subsequently loaded into a garbage truck. There was a dock or back porch situation. The garbage was stored inside and then was taken outside to the loading dock and then subsequently loaded and hauled away.

Q. Was it in some kind of a container? Container or containers?

A. Yes.

Q. What? Just cans or was there a regular specialized container for that?

A. During 1970?

Q. Yes.

A. During 1970 it consisted of a series of garbage cans, portable type, with a lid, that were kept inside the back of the kitchen area, which was not accessible, of course, to the back door. And then at the time of pickup they were set out

and subsequently loaded in the area we are talking about as the loading dock where this occurred.

Q. So normally they would bring it out just at the time of loading, is that correct?

A. That is correct.

Q. Now going to the Walker episode itself, I believe you said you learned about it sometime after 1:00 o'clock in the morning of June 25, 1972?

A. As I recall, yes.

Q. What time did you get out near Castle Geyser?

A. Exactly?

Q. Just approximately.

A. I would say it's probably within 15 or 20 minutes after I was notified. Approximately 1:30. Between 1:30 and 2:00 o'clock.

Q. Were you sleeping there at the Ranger Station or did you have your own home there?

A. I had my own home.

Q. Right near the Ranger Station?

A. It's by vehicle, it's about two miles away.

Q. I see. So they had to call you and get you down there?

A. I was not home at the time. I was out in the area.

Q. All right. You have a radio communication unit?

A. Yes.

Q. So how did you first hear of it? Through your radio?

A. Through radio communcation, yes.

Q. Now tell us what actually happened? Perhaps you can

shorten the narrative in terms of your eyes as you saw the attempt to rescue the boy and later the attempt to catch the bear.

Were you really in charge of the party or parties that were to try and find the boy who was up in the woods; is that correct?

A. That is correst. Yes, sir.

Q. And let's take the period from the time you learned of it until the time the boy was found. What did you observe? Not what was reported to you. What you yourself observed and did.

A. In great detail or just generally or --

Q. Just in general.

A. In general? Generally, after the incident was reported to me I checked with the Ranger that was initially contacted, who was later identified as Mr. Bradbury, and I visited with this Ranger, Mr. Reardon, to get some details on what had occurred.

And it was my general understanding at the time that the two young men had been some distance up in the hills in the Beauty or Chromatic Pool area, as I recall.

And they were returning to a campsite and subsequently encountered a bear which knocked one of them down. And the other, being Mr. Bradbury, left the area, crossed the Geyser Basin and came into the Old Faithful area then and reported the incident.

Q. This is what Bradbury told you?

A. Yes.

Q. OK.

A. And that's very rough, you know, but a general idea.

Q. What did you do, actually?

A. What I did was to form a group of people, Rangers, to begin to immediately search the area where he indicated that his companion, Mr. Walker, was left and needed some help.

So we began and organized a search team with lights and so forth, searching the immediate area that he indicated to us Mr. Walker was located in.

This went, as I recall, an hour or so searching the area unsuccessfully in locating Mr. Walker.

Q. But the first hour you were really basically at the first rise out of the Thermal Area?

A. As I recall we covered quite a bit of ground in that first hour, not in any particular grided fashion, being dark and not having a direct specific area to go to at that time.

Q. Bradbury did not go with you?

A. Not the first time, no. He was being treated by the nurse at that time.

Q. You didn't contact the bear?

A. We did not, is that your question?

Q. Or did you?

A. We did not.

Q. You didn't find the camp the first search?

A. No, sir, we did not.

Q. Then what did you do? Come back down near Giant Geyser or Castle Geyser?

A. I regrouped down at the base of the Geyser Basin or

near the Boardwalk area, and I had Mr. Bradbury brought out to the site at that time because the nurse indicated that he was probably well enough to be able to assist us in a more specific location.

Q. This was right below the Forest Entry toward the camp, as I understand it?

A. That's correct, yes. And stable ground, dry ground.

Q. At what time of morning are we talking about now?

A. I am not positive, exactly.

Q. Still dark?

A. Oh, still dark, definitely. Yes, I couldn't tell you exactly what time. And with Mr. Bradbury's assistance at that time, by that time we had also expanded the search group to include, I think it was, seven or eight people as I recall.

Then we began a more systematic search of the area with Mr. Bradbury's assistance as to where to begin and continued that until the campsite -- Mr. Walker was subsequently located, as I recall, around 5:30 in the morning, just before light.

Q. You actually had circled around behind east of the campsite for awhile, did you not? Northeast?

A. Yes, we were trying to -- we covered quite a bit of ground adjacent to the campsite. Probably several hundred yards in virtually every direction.

Q. Was it light by the time you found the body?

A. First light, dawn.

Q. And you hadn't contacted the bear at that time?

A. No.

Q. And how many search groups were there?

A. There were two principal search groups in radio contact.

Q. You were in charge of one of them yourself personally?

A. I was in charge of both of them, but with one group.

Q. Who was the leader in the other group?

A. As I reall, Mr. Williamson was in the other group, Lynn Williamson.

Q. My understanding is that he deferred to you, being in your Sub-District, being the leader of the search party?

A. Yes, that's true.

Q. And you have seen the pictures of the boy's body, have you not?

A. Yes.

Q. Do they correctly show, to your recollection, how the boy was when you found him?

A. Yes.

Q. How long did you stay about the campsite area?

A. Probably in the neighborhood of two and a half, three hours.

Q. By the time you left the sun was already up, was it not?

A. Yes, definitely.

Q. Did you move the body of the boy?

A. Did I personally move the body? No.

Q. Did you know when the boy was removed?

A. Timewise?

Q. Yes.

A. No, I can't recall exactly when it was.

Q. Of course, we don't have pictures here, but I believe all the pictures were taken before his body had been moved?

A. Oh, yes.

Q. Have you seen some diagrams done by a man named Wynnblat, showing measurements and where the parts of the flashlight were found and all that?

A. Yes, I did.

Q. Did you assist him in any of those measurements?

A. I assisted him in perhaps by instruction.

Q. Actually he came up -- he was not part of your searching party, was he?

A. No.

Q. He came up later?

A. Yes.

Q. Were you there when he was up there?

A. Yes, I was there during the entire incident.

Q. You didn't take any of the pictures yourself?

A. No, sir.

Q. When did you first contact the bear itself?

A. The bear?

Q. Yes.

A. The bear that was subsequently linked into the episode?

Q. Yes.

A. The following morning.

Q. That's the morning of the 26th of June?

A. The morning of the 26th, as I recall.

Q. Did you set the trap for the bear?

A. I assisted Douglas Houston at MEARGHAR.

Q. And was the bear trapped? Where was the bear trapped with reference to the camp?

A. In reference to the camp it would have been at an area very short distance away from where the scene was originally located. Slightly to the north. Perhaps 15 feet, 10 or 15 feet, as I recall.

Q. In other words you caught the bear when the bear was apparently returning back to the camp?

A. Yes.

Q. And you didn't use this kind of a sewer pipe or culvert pipe trap? What kind of trap did you use?

A. We used a snare device.

Q. Describe it, briefly how it works.

A. It's a restraining device that can be set on the ground and covered over or concealed. And essentially operates off the principal of a large spring that we trigger in the middle, surrounded by a wire loop so that if an animal going after small pieces of bait starts grabbing and puts his arm down through the wire circle or loop grabbing the bait, it is set off by the trigger which throws the spring which tightens the loop on the leg or the arm or whatever it is and subsequently restrains it at that point.

Q. Did you kill the bear?

A. No.

Q. Were you present when the bear was shot?

A. Yes.

Q. Who shot the bear?

A. Ken Reardon.

Q. What did he use? An explosive bullet of some sort?

A. I recall he used a .300 H & H Magnum.

Q. Then the bear was carried out to the Thermal area, is that correct?

A. Yes, sir.

Q. And then moved by helicopter?

A. Correct.

Q. Was it removed directly to the Bozeman Laboratory, as far as you know?

A. I'm not sure. I don't recall.

Q. But at some point there you examined the bear to some extent?

A. Oh, yes.

Q. Was that after he was shot in the trap or after he was brought out?

A. Well, while the bear was in the snare. I didn't examine it on personal contact basis at this point, but visually some distance back I could look at it.

Q. Were you able to recognize that bear as the one you had seen back in 1970, just from seeing the bear?

A. In this particular case, no. I was not able to say that I, you know, was able to have previously known of the bear. That includes a number of bears.

Q. Just one more thing on the teeth. Was there a difference of the bear's teeth on July 26th, 1972, that you recall from back in 1970 when you had tagged the same bear?

A. Well, as I stated earlier, I don't recall in 1970 actually examining the teeth through personal recollection accurately recalling examining the teeth in 1970.

The bear that I examined in 1972, 1792, as I stated earlier, the teeth were worn down a little bit.

Q. Now, are you able to say whether you had ever seen that same bear other than on the occasions that you have testified to?

A. The question is, am I able to identify or recognize this bear as viewed on other occasions?

Q. Yes.

A. No, sir, I can't say that I had seen it before.

Q. Is it possible that you might have seen it on other occasions?

A. It's possible, sure.

Q. Is it possible that it might have been involved in any other control action other than the two that you have described?

A. I don't think so. Not in my area for sure. Most likely not anywhere else in the Park also.

Q. Now can you tell us after we have gone through this testimony who you think initiated the transplant of this bear to the particular meadows that it was taken to back in 1970?

Do you think it was initiated by you or by some District Station or at Mammoth Headquarters?

A. Well, the incident was precipitated by the trapping of the bear. The location or inquiry in regards to where to

transplant was initiated by myself.

In other words, I have a bear, now what's the next step.

Q. Yes.

A. As to where to transplant. Does that answer your question?

Q. Well, you spoke rather rapidly. Let me be sure we got it.

Who do you think initiated the idea of Gibbon Meadow for this particular bear?

A. I would suspect, I can't say for certain who did. I couldn't say exactly it was any one person.

Q. From the matter of usual procedure there, where is it most likely initiated from?

A. The usual procedure in a general sense, the Resource Management Specialist, Ted Bucknall; the District Ranger, Lynn Williamson; and myself would have been the three most likely people to collaborate and come up with a suitable transplant site.

Q. Would Glen Cole have any in-put on that?

A. It's very possible. It might be he did on occasion.

Q. Did you have any special instructions given you by your superiors or given you by the biologists at anytime after June, 1970, with respect to how to treat the public as it related to the grizzly bear program resulting from the closing of the dumps?

A. OK. Could you rephrase that for me again?

Q. All right. Did any group from Headquarters or any of your superiors come to you and say, "Look, we are going to

close the dumps. The bears are going to be leaving the dumps. So we have to do certain procedures or do anything special because of this"?

A. Your question is?

Q. The question is, did you have any special instructions given you from Headquarters or from your superiors with reference to this closing of the dumps program?

A. Yes, the answer to that is yes.

Q. And what and when and by whom?

A. Well, that's a lot. That's a lot. What and when and by whom is a lot.

Q. Yes.

A. Well, in reverse order, by whom would have been by Bucknall, Cole, other biologists such as Doug Houston, other people that were involved in the giving of instructions or with dialogue on bear management control.

The first contact I had was the Chief Ranger, the District Ranger. And from that group of people.

When, in the second element of the question, would be frequently. I couldn't, you know, describe any particular date or time, but on numerous occasions throughout the year we had dialogue which sometimes precipitated instructions. You know, it was a two-way thing.

I hate to be so general. I mean, honestly, that's the best I could do.

Q. And what was the nature of it?

A. And the last element, the nature of the thing. In regards to -- we were addressing special instructions in

relation to the bear management policy from 1970, is that correct?

Q. Yes.

A. And in reference to that context with special instructions would have been along the line of procedures for trapping or transplanting, safety procedures, procedures for handling drugged bears. These procedures for using drugs.

Q. These are relating to your handling, the Ranger handling of bears, how they treat bears, the effect? As you described it, the effect of drugs on bears?

A. Yes.

Q. So what I am especially interested in is how you dealt with the public with reference to this program.

A. Well, in reference to the public things that I was personally involved with or had knowledge with or both?

Q. No, that you had instructions as to how to deal with the public with reference to this garbage dump closing program and its effect on grizzly bears.

A. Well, one major earlier discussion in dealing with the public related to concession orientation talks that we gave at Old Faithful, and the staff that I had there, including myself, gave programs to employees principally of the concessions of Old Faithful in regard to a number of topics, not the least of importance was the bear management program coming out at that time.

Q. Was that optional or required of the employees?

A. That was required of the employees to attend. That was one example where you discussed the bear management program

in the perspective of they would be contacting park visitors, so forth, explaining the program.

Q. There is this list of back-packer/hikers that we have referred to earlier in the deposition,that didn't come to you from some outside source, did it?

A. Not to my knowledge.

Q. No one told you to do that?

A. No, sir. I don't believe so.

Q. Did either Lynn Williamson, L-y-n-n, Williamson or anyone else, any of the parties from Mammoth, tell you to go out and warn hitchhikers or back-packers of the bear problem or give them literature?

A. In relation to any time during the time I was in Yellowstone, or just in particular Old Faithful?

Q. At any time did anyone tell you to do this?

A. I think in a general way the suggestion was certainly identified that to explore all possible avenues of communications with Park visitors. And that was considered to be an open subject and anyone that had ideas in regards to better ways to operate or changing ways to operate that, you know, it was generally an open subject. It wasn't a stimulus and response thing exactly.

Q. What I am trying to find out is, did anyone tell you to go out and tell these people that there was a bear program which involved danger to the public because of the dumps being closed? Did anyone tell you to go out and advertise this in any way?

A. Well, I'm not sure that I fully understand the

question,but I have a general grasp of what you are getting at there. But I don't feel that I fully understand. Would you re-word it a different way?

Q. All right.

A. There are several things involved there.

Q. The closing of the garbage dumps involved a change in how grizzly bears fed?

A. Yes.

Q. And a danger to the public?

A. No.

Q. No what?

A. Not necessarily.

Q. You are saying that it did not necessarily involve danger to the public, is that what you are saying?

A. That's exactly what I am saying.

Q. And so?

A. In other words, that's conjecture.

Q. If it was conjecture, then you didn't get instructions to tell you to go out and tell the public it was a danger to the public, as I understand?

A. Instructions to go out and tell the public it was a danger?

Q. That there was a danger, a special danger to the public because of the closing of the dumps?

A. Well, see, it's sort of like, you know, looking at a particular item and it has two or three parts. Here we are talking about one. It's difficult to define one without identifying a couple of the other parts.

Q. I am asking you now if anyone told you to go out and tell the public that there was a special danger to the public because of the closing of the garbage dumps involving grizzly bears?

A. I don't think in those specific terms that I can answer that as yes.

Q. And you have given me your opinion now that it didn't necessarily involve a danger to the public?

A. The key word is that it did not necessarily involve.

Q. Yes.

A. Yes, sir.

Q. That's as I understand, is your present opinion and view?

A. That would need to be explored or amplified, I think, if you were to understand it fully.

Q. Was that ever explored or amplified by biologist Glen Cole with you?

A. On many occasions.

Q. Did he tell you that it was not a danger?

A. No, I don't think that he would have used those words, "it was not a danger," no, he didn't say that. He would suggest to me that, you know, there is a possibility.

Q. You knew that the grizzly bears had been feeding at the dumps, right?

A. Yes.

Q. And you knew when the dumps were closed they weren't going to be able to feed there anymore, right?

A. Well, I would presume as much, yes. They would not

be feeding at the dumps.

Q. You knew and you knew they were going to feed somewhere, right?

A. I would presume as much, yes.

Q. Would you say that this bear was an old bear, the bear that killed Walker?

A. According to my information from the autopsy, the bear was fairly old, yes, sir.

Q. Is it your opinion that bears that are old, or was it your opinion that back in June of 1972 that bears that were old were by virtue of their age more or less dangerous than bears that were not old? I am talking about grizzly bears.

A. Yes. I don't entertain a solid opinion on a correlation of danger to the public in relation to grizzly bear age. No, I don't have any strong feelings in that regard associated with age. No, sir, I don't.

Q. That is both now and then you don't have a strong view on that?

A. No, because I have observed bears of differing ages, from young adults, sows, cubs, older bears. I have seen different kinds of actions, reactions, from all of them. So I don't have a strong feeling or a correlation between the age element to the danger to the public. No, I don't.

Q. Do you have a correlation between whether their teeth have been worn off and broken as you testified, was this bear more or less dangerous than a bear that was with a set of good teeth?

MR. SPIVAK: That calls for an opinion. And I don't think

think this witness is qualified to answer.

MR. ZETTERBERG: Q. You can answer it, though, because I think this is more important for him to answer this than for Cole to answer it.

MR. SPIVAK: You ought to establish the foundation for him to give his opinion.

MR. ZETTERBERG: Q. What would you say is more -- do you have an opinion as to whether a bear with broken or worn-out teeth is more or less dangerous -- expected to be more or less dangerous than a bear with a perfectly good set of teeth?

A. I don't have a strong opinion either way, really. Otherwise I am hoping for supporting evidence one way or the other. Let's put it that way.

Q. Back in June of 1972, did anyone give you supporting evidence on those two subjects; age-dangerous relationship and tooth-dangerous relationship?

A. Oh, I think, you know, to be very clear here now, because it's important to me to give you the best possible answer. When we start talking about factual things that I can relate to, it's easy for me if I can recall to go back now. You are entering the area of supposition or inference. And if that's the context of which we are discussing it and you want my opinion, that's fine.

Q. Mr. Brady, you were the Sub-District Ranger in the Old Faithful Sub-District?

A. That's right.

Q. And you had the lives of bears and the lives of humans in some respect under your control. You have established

by your testimony that you probably had a reputation for working and being careful on this?

A. Yes.

Q. I am talking now about two elements that are extremely important with reference to visitor safety and whether bears are dangerous or not.

I am asking you whether you had been given knowledge by the people in the Park who could give you knowledge as of June, 1972, as to these elements; namely, number one, whether a bear that had old worn out teeth was more or less dangerous.

And the second question is whether a bear that was old -- this bear happens to be 20 years of age -- was more or less dangerous in the situation and environment that existed in June 25, 1972?

A. Well, specifically, I would say that I was not given knowledge or information that would lead me to believe that an older bear with worn out teeth would necessarily be "any more dangerous" than other bears, specifically.

Q. Had you yourself ever gone into the back country?

A. In Yellowstone?

Q. Yes.

A. Yes.

Q. Had you been back to Shoshone Lake?

A. Yes.

Q. Was that lake north -- there's a trail going to a lake northeast of the Old Faithful area.

A. Mallard Lake?

Q. Yes, Mallard Lake. Had you been back there?

A. Yes, sir.

Q. Had you inspected any of the campsites back there?

A. Yes, sir.

Q. Is a good campsite one that has the equipment and fire facilities and all that, or is it one that is more like the wilderness in the back country?

A. By whose opinion?

Q. By yours.

A. A good campsite for Old Faithful at Mallard Lake, for example?

Q. Mallard Lake or Shoshone Lake, either one, yes.

A. In respect to that your question was?

Q. Is the campsite better if it has a little fireplace arrangement there or fire circle and an obvious place for bedding, or is it better when it's more wild and --

A. From my point of view?

Q. Yes.

A. It's better in that particular area if it were identifiable both as to location and type of firing facilities that's provided.

Q. Why do you say that?

A. Principally for the reason of people going to use it being able to find it and comply with the kind of use that's represented or reflected by the particular site.

That is to suggest the type of firing or number of firings, so forth.

Q. And in June of 1972, is it your understanding that as far as a grizzly bear is concerned it's more dangerous for a

person to be in the back country or to be in the area near the Old Faithful campgrounds, if you are like sleeping out or camping out?

A. Well, near the Old Faithful campgrounds? There aren't any, so --

Q. I mean, I'm asking you if it's more dangerous in your opinion to be camped within say half mile of the Old Faithful campground or back at one of the campsites?

A. You mean within half a mile of the Old Faithful area? You said Old Faithful campground.

Q. Old Faithful area.

A. As opposed to your camping out in the back country further distance away?

Q. Yes.

A. I would as a matter of opinion feel that it would be less desirable to sleep within the immediate proximity of Old Faithful than it would be some distance away from it.

Q. Why is that?

A. Mostly because of not having established sites or control factors immediately around the Old Faithful area. Otherwise, what I am trying to say is there were no designated campsites within a half mile of Old Faithful.

Q. Yes.

A. From the developed area I am talking about the District, but within a half mile peripherery, radius, buffer zone, fringe area of Old Faithful, there were no campsites established. And people that would be staying in that particular zone wouldn't necessarily be under any control of

the Park Service or District by virtue of going to an established place to camp or put your refuse and have water available and egress and access out, and so forth.

So I think it's probably safe or more controllable, you know, some distance away.

Q. You didn't have any park entrances in your Sub-District, did you?

A. That's correct. We did not.

Q. So there were no places where people had to stop and give them literature then?

A. No, not entrance stations.

Q. OK. Let me see those exhibits just for a second. Let me be sure I have everything.

I show you Plaintiff's No. "4", that's an exhibit which is this June 15, 1972 letter in the book now. The initial says Chief Park Ranger. Is that Mr. Estey's signature, to your recollection?

A. That looks like Mr. Estey's initials.

Q. Had you ever seen this letter before?

A. Can I take a look at it?

Q. Yes.

A. I'm pretty sure that I have seen this before.

Q. In the normal process of circulating letters of this sort, would such letter come to your Ranger Station in the official line of mail?

A. Yes.

Q. Even though it's addressed to Williamson?

A. Yes. It's the District Ranger's responsibility to

channel this information down through the units identified here.

Q. Is there anything on here that indicates whether it may filter down to your Ranger Station. I couldn't find anything.

A. No, I tried to read the last paragraph here. I would tend to think by the last sentence which is, "Permanent recording for all Sub-Districts will begin July 1st." And the date of the mrmorandum being June 15th. We received it previous to July 1st.

Q. In other words, the things mentioned in this letter would normally expect to be in operation at least by July 1st?

A. I don't think it says that exactly.

Q. I am asking you. I'm trying to construct from the context, you see?

A. I see.

Q. It would appear that Mr. Bucknall expects this to filter down to all different Sub-Districts at least by July 1st?

A. I would think that is logical.

Q. Were you able to fix any dates upon the issuance and circulation to your office of Plaintiff's No. "3", which is the three-page Back Country Management Action Plan?

A. No, I couldn't. It says 1972, but --

Q. Let me refresh your recollection and ours, too, perhaps. I will show you an additional document which is entitled "Bear Management Policy," and in the upper right-hand corner it says, "Chapter 1, Section 1, Page 21," and it's 1, 2, 3, 4, 5 pages, and it contains the date 9-72.

MR. SPIVAK: At this point may the reporter mark these documents?

MR. ZETTERBERG: Yes. At Mr. Spivak's request, that will be marked as Plaintiff's Exhibit No. "5".

(The "Bear Management Policy" document was marked as Plaintiff's Exhibit No. "5".)

MR. ZETTERBERG: Q. Did you see that? Would that date there, 9-72, have any particular significance to you as an issue date, a circulation date, or what is that?

A. I wouldn't say.

Q. Did you ever see that before 9-72?

A. I have to look at it a little more carefully.

Q. If you can. I couldn't get any help out of it myself. Maybe you could construct something from that.

MR. SPIVAK: Hold the record for a second.

(Discussion held off the record.)

MR. SPIVAK: Back on the record then.

MR. ZETTERBERG: Q. May the record show that Ranger Brady has brought down to Mr. Spivak -- he has in his hand a document in Answer to Interrogatory No. 27 entitled "Bear Management Policy," which bears a date in the lower left corner of Page 2 there of of 3-71. The document P 5 is taken from some documents forwarded from Vernon Hennesey under date of April 10, 1973, which contained Bear Management Policy. The date 9-72. The 9-72 document which came from Mr. Hennesey was forwarded to our office ahead of the actual signed Interrogatories and the actual signed Interrogatories were the 3-71, apparently, as I understand it, Mr. Spivak, contains

the actual bear management document that was in effect in June, 1972, rather than the P 5 which is attached here.

MR. SPIVAK: Yes, that is my understanding.

MR. ZETTERBERG: And whatever differences, if any there are, between the two will appear when and if we compare the two documents.

MR. SPIVAK: Off the record.

(Discussion held off the record.)

MR. SPIVAK: Correct. And the 3-71 revision is identified as Exhibit "11" to the Government Answers to Interrogatories filed September 22, 1973, correct?

MR. ZETTERBERG: Right. I think. OK.

Q. Do you know how many beds were available in June, 1972 for people to stay overnight at Old Faithful, approximately?

A. I can't remember exactly. I am sure there were at least a thousand, possibly a little more.

Q. That would be at the Inn and theLodge?

A. Camper Cabins.

Q. Were they still in operation at that time?

A. Yes, sir.

Q. What's the name of that place they use in the winter, sometimes in the winter?

A. At Old Faithful?

Q. Yes.

A. The only facility to my knowledge open in the winter-time is the Snow Lodge, which is a sur name of Camper Cabins during the winter months. Although the cabins themselves are't used, it's the actual physical restaurant and building

and cabins aren't used in the wintertime or weren't.

Q. You don't know roughly how many people were actually in the Old Faithful area on the 24th of June, 1972?

A. No, I don't recall specifically.

MR. ZETTERBERG: I don't think I have any other questions now, Mr. Spivak. Do you have any questions or shall we go on to Mr. Connelly?

EXAMINATION

BY MR. SPIVAK:

Q. Mr. Brady, prior to the summer of 1972 were back country use permits required? Wait a minute.

MR. ZETTERBERG: I would object to that as calling for a legal conclusion. I wouldn't object to asking him if they were issued.

MR. SPIVAK: Q. Mr. Brady, are you familiar with this 36 CFR, Section 2.5, a copy of which appears to be attached as an Exhibit "16" to the Defendant's Answers to Interrogatories filed in September 24?

A. Yes.

Q. Did you enforce this particular regulation?

MR. ZETTERBERG: Let me see if I can find where that is.

MR. SPIVAK: Q. Did you enforce this regulation at all times since the time say you were appointed as Old Faithful Sub-District Ranger?

A. Sub-District Ranger at Old Faithful?

Q. Yes.

A. Enforce all the regulations?

Q. 2.5?

A. 2.5?

Q. In other words, was that in effect there at the time you became Sub-District Ranger?

A. Both secions of it.

Q. Well, 2.5, at least, say?

A. 2.5 relating to --

Q. To the requirement that camping and the use of trailers or other camping or other camper units as provided only at designated locations, et cetera.

A. Yes, we enforced that at Old Faithful.

Q. When did you come to Old Faithful again?

A. I believe I was assigned to the Old Faithful Sub-District during March or April of 1970.

Q. In April?

A. March or April, one or the other, in 1970.

Q. Now at this time were back country campsites designated, or when did that program begin?

A. The year 1970 were there designated back country campsites at Old Faithful?

Q. Within the Old Faithful Sub-District.

A. There were some at that time, although not nearly as many as were established the following year.

Q. So then I take it that there were some designated back country campsites and you added to the number during the period of time that you were there?

A. Yes, that's correct.

Q. Now were these identified on the ground, on maps, or

on both as of June 25, 1972?

A. Were back country campsites identified both on the map and on the ground at the actual site?

Q. Or either.

A. By June, 1972?

Q. Let me rephrase the question.

As of June, 1972, were the back country campsites designated on the ground, identified on the ground?

A. Yes, in the Old Faithful area, the area in our principal or my principal control or responsibility.

Q. Now I again direct your attention to the geographic area of the Old Faithful Sub-District and as of June 24, 1972, was there a map at the Old Faithful Ranger Station showing the back country sites?

A. Yes, that's correct.

Q. So if a person came in in June of 1972, you would have been in a position to direct them to a back country campsite, assuming one was available?

A. You mean if a visitor came into the Old Faithful Ranger Station?

Q. Yes.

A. Inquiring as to where to stay overnight in the back country?

Q. Yes.

A. Yes, we would have been able to direct them to a site.

Q. Now in Plaintiff's Exhibit No. "2", which is a letter from Mr. Estey, the Chief Park Ranger, dated November 3, Counsel read a statement stating the identification of site locations

on the ground and on maps can in some instances be done very soon. In this case "very soon" means by July 1, 1972?

A. Yes, I recall that. The question is?

Q. What I want to clarify is that at least as to the Old Faithful Sub-District you were well ahead of this July, 1972 deadline?

A. Yes, very definitely. We had precipitated some of the stipulations indicated there the previous year in almost a pilot program at Old Faithful with regard to marking the back country campsites. And so it was easy for us to meet the deadline in that particular case.

Most of our campsites were marked during 1971 and we established others during the summer of 1972.

Q. Now then, aside from these "Designated Back Country Campsites," was that your terminology?

A. Designated Back Country Campsites, I don't know if it's my terminology but I understand what you mean by it.

Q. That already has a fire circle? Would that be part of it?

A. A designated site would mostly normally have a fire circle, possibly two fire circles, and in an established place to spend the night or sleep as opposed to a place to cook and so forth marked, identified on the ground, with an orange marker or tag.

Q. From a management standpoint, was it easy for you to control back country use if people used these designated campsites?

A. Yes, that was the intent. That's one of the objects

in the establishing back country campsites. One of the objectives is the management took of identifying how many people used them and all the considerations that are related to them.

Q. And I take it that when you would establish these sites you would consider their safety from the standpoint of grizzly bears coming through the area?

A. Well, yes, that would be a consideration. A consideration insofar as that was determinable.

Q. Now did you also issue these back country use permits to people to camp elsewhere in the back country? Would you on occasion do this?

MR. ZETTERBERG: Excuse me. Do you understand the question?

MR. SPIVAK: You don't understand?

MR. ZETTERBERG: I don't understand the word elsewhere.

MR. SPIVAK: Q. Aside from the designated back country campsites which we have just discussed, would you frequently or sometimes issue a permit to permit someone to camp elsewhere in the back country?

A. In the Old Faithful area or other parts of the Park?

Q. Well, let's stick to the Old Faithful area Sub-District?

A. In relation to issuing a back country use permit for a Park visitor to stay overnight in other than a designated campsite in Old Faithful area, occasionally or very seldom we would issue a permit on a special request for an individual who perhaps wanted to travel a trail along or an extended trip that perhaps would be traveling through the entire Park. And if it was in the best interest of this trip and reasonably safe place to stay consistent with the back country management,

we might issue a permit to stay in a non designated area. This would be on a very specific case with, you know, aforementioned ingredients identified and discussed.

I can recall a couple of occasions where permits were issued toward the west boundary of the Park for people who were on long trips and wanted to stay. We didn't have an established site in that area, but that would be the exception rather than the rule. It was not common.

On the other hand, if the sites were completely full at Old Faithful, then the Sub-District's -- there are 16 major trails in Old Faithful, as I recall. If the established sites were all occupied we would refer the individual to another Sub-District or another portion of the Park as far as camping was concerned.

Q. To go to a designated campground or campsite in some other Sub-District?

A. Right. That didn't happen too often.

Q. Now when the individuals come into your Ranger Station to ask for a back country camping permit, and let's assume he didn't want to go to a designated campsite, would you try to check his camping ability and experience before you issued the permit?

A. This is an individual who did not want to go to a designated campsite?

Q. Yes.

A. We didn't issue any permits other than the exception previously identified to the people who stay in other than designated campsite areas, particularly during the period of

1971, '72.

I don't know how to answer your question, but in respect to the individual ability to camp, we would assess that depending upon the time of year. The common thing we got into was that during the late spring when there could still be snow and we have people who come into the station probably not equipped to travel across snow by the nature of wearing footwear or whatever. And we might recommend alternative sites, perhaps other places in the Park where they might be more comfortable.

That was a common practice, to look at the individual and evaluate, kind of help him plan his trip a little bit in regard to what he wanted to do and see what you had to work with.

Q. You are aware of where the Walker-Bradbury campsite was located?

A. Yes, sir.

Q. If they would have come into the Ranger Station and asked you for a permit to camp in that particular area, that particular spot, would you have given it to them?

MR. ZETTERBERG: I would object to the question, but go ahead and answer it.

THE WITNESS: I mean this is after the fact and --

MR. SPIVAK: Q. I am asking you to turn time back to June of 1972, and tell me if someone would have come into the Ranger Station and asked to camp overnight in this spot that we know as the Walker-Bradbury campsite, would you have issued a permit to camp there?

A. There were no designated campsites in that area, so

we would not have issued a permit to camp in that particular zone.

We received considerable requests on occasion to camp at different spots throughout the area just a short distance off the road. And we didn't encourage nor authorize anyone to stay in those spots.

Q. From a safety standpoint and from your vantage point as a Sub-District Ranger, would it be easier for you to protect Park visitors if they were camping in designated campgrounds and in designated back country campsites?

A. It would be easier for me?

Q. From an administrative and safety standpoint.

A. To protect the party?

Q. To protect Park visitors?

A. By protection, you mean --

Q. To patrol, to rescue, you know, your various functions?

A. From that point of view, yes, because we utilize a system of foot patrols who very definitely follow the established campsite routes.

Now that is, we patrol regularly traveled trails on scheduled intervals throughout the summer season.

MR. ZETTERBERG: Excuse me. Would you read the question, Mr. Reporter, and then read his answer?

(Record read by the reporter.)

MR. SPIVAK: Q. Where there were established campgrounds, roadside campgrounds or near the roads, as opposed to back country campsites, what type of patrols would you have there in the Park, generally?

A. In the Park generally?

Q. Because you didn't have any in your Sub-District.

A. Well, in the Park generally, most foot and vehicle patrols were utilized in effect throughout the summer season in each of the campgrounds throughout the entire Park, to each of the back country campgrounds that were accessible by automobile on a regular basis.

Q. Would you be watching out for, one, bears around these campgrounds?

A. By "watching out," do you mean alert for the presence of?

Q. Surely.

A. Oh, yes, definitely.

Q. And, secondly, bad camping habits? Would you be watching for that type of thing?

A. What do you mean by "bad camping habits"?

Q. Well, I'm thinking of someone leaving a lot of food out in a manner that was undesirable.

A. Well, that would be an item of some concern for the patrolman at the campground, yes. That would be one of the reasons, definitely.

Q. Did you use on occasion loud speakers within a campground to warn people?

A. You mean throughout the Park?

Q. No. Well, in campgrounds throughout the Park?

A. Yes. Well, during the year I was at Mammoth, that was a common procedure in 1968 and '69. We utilized a -- or I did, that procedure, and I think it was a common procedure

throughout the Park in every campground. Not too much. Just emergency messages for lost children and so forth.

Q. Did you have warning material up in the campground?

A. Posted in the campground? Warning for what?

Q. Well, for example, I ask the reporter to mark a Notice to Campers as an exhibit as Defendant's "A".

(The Notice to Campers was marked as Defendant's Exhibit "A" for identification.)

MR. SPIVAK: Did you see that, Counsel? It's attached to the --

MR. ZETTERBERG: Yes.

THE WITNESS: Yes, I have seen that. That was commonly posted in the campgrounds and bulletin boards.

MR. SPIVAK: Q. And was this Exhibit "A" utilized during the summer or say June of 1972?

A. In the Park or at Old Faithful or both?

Q. Both.

A. To my knowledge it was utilized throughout the Park and in all of the main developed areas such as Old Faithful.

Q. Would it have also been available at the Old Faithful Ranger Station?

A. Oh, yes. That's where the public handouts or handouts are available for public dissemination.

Q. Mr. Brady, when you were discussing the transplant in October, 1970, to Gibbon Meadows, you mentioned that there were several factors you consider or would take into consideration. But you only discussed one or two. Would you please tell us what all the factors are that would go into the

determination of where the bear was to be transplanted to?

A. Well, I don't recall which factor I mentioned exactly, but some of the things that are considered to locate a transplant site are the background or known history of the animal that's involved. That is to suggest whether it's being transplanted for the first time, or perhaps whether it's been transplanted on other occasions.

Additionally, other factors I do remember discussing distances involved, as I recall, and --

Q. Discussing in your deposition?

A. Yes, discussing in the deposition distances that were involved.

Q. You have discussed those two factors. Now are there any other factors?

A. Distances were not a hard and fast rule, to my knowledge, the way I operated anyway. In regards to the locating a site for a transplant the most important factor would be the nature of the individual bear. Would it be known or possibly identifiable. And whether it's been trapped or transplanted before in other management action.

And then secondly the time of the year in relation to available natural foods was the major factor or consideration.

Another factor that entered into location of transplant sites were such things as other bears transplanted in that particular area. And in what time frame. Whether there had been two or three other bears dropped off in that particular zone recently or sometime past.

Past history of the particular zone or geographical area

would be considered as far as it being recognized as a good grizzly habitat in the event we are talking about grizzly bear.

And there were other factors such as weather and time of year and so forth. For example, flying with a helicopter or certain weather conditions. Those that are feasible.

When you put all these things together, generally, you know, a transplant site was picked based on the evaluation of all those things.

On any one time the factor may become more important than the other.

As I indicated that was a collaborative effort generally between Resource Management, the District Ranger and myself regarding bears in the Old Faithful area.

Q. Now in considering all these factors, the availability of food in what you might call the donee area -- is that a new term -- isn't the purpose behind all this to cause the bear to take up permanent residence in the new area?

A. That's kind of a generalization, but I think it's generally true.

Q. Maybe you would prefer to phrase it in some other manner and sort of throw my question back at me in your own words.

A. Well, I'd paraphrase it by suggesting that the primary intent would be to transplant or locate the animal involved, in this case a grizzly bear, in an environment that it stood the opportunity, a good opportunity, to become unlinked from our food sources and take up the natural foods that were available in the area.

When I say the area, it might not be necessarily restricted to the immediate physical site of the transplant, but the adjoining topography which might involve several areas or a mountain range or whatever.

So the intent was to put it into a place where it would come unlinked -- in other words, they eat daily as defined earlier, so we are looking for an opportunity to find the most promising location that this particular animal might adapt to the local conditions, and those being considerable different than what is found in a developed area.

Q. Well, in October of 1970, did you either individually or in collaboration with others make a determination that Gibbon Meadows was a good transplant site?

A. Well, I am reasonably certain that it would have been collaboration or upon consulting other identified people in regards to the picking the site because it wasn't something that I did arbitrarily, and required that I consult at least with the District Ranger. And I can't recall, you know, of the specific conversation at that time, but that was the general procedure that was utilized in all of our transplants.

So I am sure some dialogue ensued which Gibbon Meadows was picked as a transplant site. I do remember a couple of factors that entered into this particular bear transplant, however, the Gibbon Meadows one had reference to the time of year, and that is to suggest Gibbon Meadows in the late fall, October, was considered by the Resource Management people to be a reasonably good transplant area for occasional bear whereas it would not have been acceptable during the summer

months. But here we are talking about I believe the middle of October.

The second factor that influences the decision on this bear was that we had no previous record of it having been trapped or handled before. And so it was the first time, and those two factors are about the only two things I really recall from this particular bear as far as selecting a transplant.

Q. You don't recall considering say whether there was a good food source around Gibbon Meadows so that the bear would have a favorable chance of making its life in this area? Do you have a present recollection, or if not would it have been your practice?

A. It would have been the practice, but I don't have a specific recollection in reference to this particular incident. That was, you know, consideration that I precipitated, but I would suggest that it was a consideration that someone discussed as a general practice particularly for fall transplants, previous to hibernation, you know, which can come fairly early in Yellowstone.

Otherwise, winter sometimes will be set upon by the middle of November.

Q. Concerning this apparently abandoned campsite that Counsel asked you about, did you see any evidence of any type indicating that a bear had attacked a human around this campsite?

A. In the vicinity of the campsite?

Q. You came upon or someone reported to you and you went out to an abandoned campsite. You say there were debris

scattered at the campsite and you said that you felt an animal had been in the campsite.

A. Yes.

Q. Now I am asking you whether there was any evidence that a bear had attacked a human here? Was there any blood, any bones, any kind of markings on the ground that would show that the bear had dragged a human somewhere? Was there anything of this type?

A. In that particular area, as I recall, we conducted an intensive land grid search probably as I recall approximately at least within extending out to a half mile from campsite on both sides of the river, as I recall. And we found no evidence of a bear-human confrontation, either at the campsite or in that subsequent search that we pursued very intensively. None whatsoever.

Q. Now you testified that in 1970 there was an observable increase in the number of bears over 1968, 1969 in the Old Faithful area?

A. Yes. Grizzly bears.

Q. Grizzly bears. And then in 1971 there was a reduction?

A. Reduction in the amount of bears that were observed in the area?

Q. Yes.

A. Yes, definitely, and continually.

Q. And again in 1972 there was continued reduction?

A. Yes. I don't remember the exact figures, but with the relationship as I recall went something in the neighborhood of 25 to 30 management actions in the Old Faithful area during

1970. I believe two management control or management control actions in the Old Faithful area during 1971. And as I recall there was only one management action with grizzly bear in the Old Faithful Sub-District during 1972.

And from my point of view with regard to --

MR. ZETTERBERG: At this point would you explain what you mean by management actions?

MR. SPIVAK: Q. Go ahead.

A. What I was referring to there would be trapping, immobilizing, and subsequently destroying or transplanting grizzly bear.

So any action that -- management action would be classified as any of those, trapping or immobilizing, for the subsequent transplant or so forth.

As I recall in 1970, in there somewhere in the neighborhood of 25 and 30. That's not exact. It's an approximation, but I do distinctly remember that in 1971 there were two or less management actions that we initiated over the Old Faithful Sub-District. And in 1971 reduction to one, and that's quite a reduction in management actions over that three-year period. Very significant reduction in my mind.

Q. And would the number of the sightings parallel this? Increased number in 1970 and a reduction in 1971 and a further reduction in 1972?

A. They would parallel with scope and intent, but not in number, because sightings, for example, in 1970 where there was obviously more sightings than 25 and subsequently there were probably more sightings than two or three in 1971, but there was

a parallel reduction in the number of sightings in the developed area along with a coincided reduction in the number of management actions as well.

MR. ZETTERBERG: Mark this place right there, Mr. Reporter.

MR. SPIVAK: Q. By 1972, more specifically June, 1972, do you feel that the number of grizzly bears in the area was now back to the, say, 1968-69 population?

A. I have some feelings about that, but I don't have a comprehensive knowledge because I can't speak as knowledgeably about the years of 1968 and '69 at Old Faithful, those being the years I was located at Mammoth, although during that period I spent some time working at Old Faithful on detached duty dealing with both bears and other matters.

So it's hard for me to compare that back to '68 and '69, although I suggest that as I recollect this is just a generalization that in 1972 there were fewer bears observed and fewer management actions than that Sub-District had entertained in ten years, as I recall. And this is on a general recollection of studying the monthly reports and the other data that I inherited when I took over the job as Sub-District Ranger, a subject that I would be interested in.

And I pursued that, and that's a general recollection.

So my feeling was that in 1972 the management effort that had been initiated in 1970 was successful in the objective of reducing the confrontations between grizzlies and humans in the developed area. At least insofar as Old Faithful was concerned. And I feel very strongly about that.

Q. Did you conscientiously discharge your duties as

Sub-District Ranger, particularly as regards bear management?

A. Conscientiously discharge my duties? Would you elaborate on that just a little bit more, maybe?

Q. Did you carefully do what the District Ranger or Sub-District Ranger was required to do while you were acting in that capacity at Old Faithful?

A. Well, to the utmost of my abilities. I feel very strongly that the bear management program that we initiated at Old Faithful in 1970 was a priority item in terms of the Sub-District operation.

And I addressed my energies and interests and those of the people which I supervised in that direction and toward that end assiduously.

Q. Conscientiously?

A. Conscientiously also.

Q. Earlier in the deposition you were shown a list entitled "Hikers/Backpackers Without Vehicles," and there was some discussion as to when the keeping of the list commenced?

A. Yes.

Q. Now aside from when someone started to formally write this down, had it not been the practice prior to whenever this list was started, and I guess we don't know, had it been the practice of the Rangers on patrol to have bear and camping information with them and to give it out, if they felt it advisable?

A. Well, as a general practice that literature was carried by patrolmen in the different patrol vehicles that were utilized at Old Faithful, which includes motorcycles as well as

a horse.

MR. ZETTERBERG: Excuse me. When you say literature, clarification at this point. Could you say what literature you are referring to?

MR. SPIVAK: I am referring to the right-hand column that just says, "Bear and Camping Info."

MR. ZETTERBERG: That's what I am asking. What literature is he referring to.

THE WITNESS: Oh, OK, fine.

MR. ZETTERBERG: In other words, what literature actually was carried referred to in the right-hand column of what Mr. Spivak has in his hand as "Bear and Camping Info."

THE WITNESS: Specifically, as I can recall, things like the Park brochure, the little mini folders.

MR. ZETTERBERG: What?

THE WITNESS: Sir?

MR. ZETTERBERG: What Park brochure?

THE WITNESS: The Yellowstone Park brochure.

MR. ZETTERBERG: Which one?

THE WITNESS: The general Park brochure that's issued to visitors upon coming in the entrance, a map of the Park and the descriptive information on things to see and do, so forth. And the Park facilities that are available. The general brochure. Mini folder, I think it's called, perhaps.

MR. SPIVAK: Q. And that has information about camping and --

MR. ZETTERBERG: Wait a minute. Wait a minute. Let him complete. He is not through with his answer. I think we

should identify what he is referring to.

MR. SPIVAK: Do you want to mark this?

MR. ZETTERBERG: I don't think we are through. He has used the words saying that and you are using the words literature was given. I think at this point we should know what literature was given. I don't think he was through. Maybe he was through.

MR. SPIVAK: Well, maybe you should have waited. I am examining on this.

MR. ZETTERBERG: I am referring to the list of names.

MR. SPIVAK: Do you want to lose this?

MR. ZETTERBERG: I don't want to lose that. That's with the shorter deposition, the only one I have.

Off the record.

(Discussion off the record.)

MR. ZETTERBERG: On the record.

My point now is I don't think he was through answering the question identifying what literature. If he is through, fine. Then go ahead.

He mentioned a Park brochure issued at the gate and a map called the mini folder.

MR. SPIVAK: OK. Now before you interrupted, you hadn't finished my question, but go ahead.

A. All right.

Q. Continue with identifying the literature that was carried in the patrol cars that was given.

A. That's where we are at, Gentlemen?

MR. ZETTERBERG: You remember he was asking you about

something that was given to people sometimes. What literature are you talking about?

THE WITNESS: I believe I was identifying the literature that was carried in the patrol cars or vehicles for dissemination to the public upon request.

MR. ZETTERBERG: The question was specifically what was on this document here. There is a list of names in the right-hand column that says --

MR. SPIVAK: This document here doesn't make a good record.

MR. ZETTERBERG: -- which says, "Bear and Camper Info," which is Plaintiff's -- which is Exhibit No. "1" of the Schroeder deposition.

THE WITNESS: Yes.

MR. ZETTERBERG: Which you have examined a list of names and the "Bear and Camper Info" that he was asking you about.

MR. SPIVAK: Which is also Williamson "14".

MR. ZETTERBERG: Well, go ahead.

Apparently there was no other literature given.

THE WITNESS: I don't -- I'm sorry, but, you know, I am somehow lost in the shuffle in regards to what --

MR. SPIVAK: Q. Let me pick up the questioning and then you can examine when I am finished.

We have before us a list which has a number "14" and a W in the upper right-hand corner which to me indicates it was Exhibit "14" to Williamson's deposition, and Counsel was earlier examining you about this list.

A. Yes.

Q. And when you started keeping this list.

A. Yes. I recall that.

Q. And I think the answer you finally gave was you don't know for sure?

A. In reference to when we started keeping the list?

Q. Just when you started keeping the list.

A. No, I don't. As I recall the question related to exactly what date in 1972 we began, and as I looked at it there is a 7-25, and the first page doesn't have any date on it.

I don't recall if we really started that, I mean exactly.

Q. My question was, aside from the keeping of a list, you know, running down the name of the person, their home state, where they entered from?

A. Yes.

Q. Had it previously been a practice to carry the same type of literature which you have now identified?

A. I identified some of it.

Q. Some of it, and in the documents referred to as "Bear and Camping Info," had it been the previous practice to carry this information in the patrol cars and with the patrolmen?

MR. ZETTERBERG: Previous to what, Mr. Spivak?

MR. SPIVAK: Q. Previous to the commencement of keeping a list on paper. I think there are two different subjects. I am trying to distinguish between the two.

A. The answer to that is yes, we did carry handout information relating to bear and camping information for the Park visitors in all patrol units that we had as a standard operative procedure.

Q. Was it the objective of the Park as of June, 1972, to try to reach the visitors with this type of information which is for simplicity called "Bear and Camping Information"?

MR. ZETTERBERG: This kind of question I object to. It has nothing to do with the evidence of this case. He is not competent to answer that question, but you may go ahead and ask him if you want.

MR. SPIVAK: Q. Let me rephrase it then.

As a member of the Yellowstone Park staff acting in the capacity of the Old Faithful Sub-District Ranger in June of 1972, was it one of your objectives to contact the visitors and furnish them with bear and camping information?

MR. ZETTERBERG: I object to this, of course, as being grossly leading by a friendly witness. This is an example of how he can put words in your mouth, but --

THE WITNESS: Is the air cleared to make an answer to the response?

MR. SPIVAK: Yes.

MR. ZETTERBERG: It's objectionable and will not be in evidence, if I have anything to say about it.

THE WITNESS: Well, for several reasons. The answer to your question would be yes, as a standard procedure we carried information describing Park programs and activities, places to stay and camp in all of the patrol units available at the Station and we made an aggressive effort to contact people and provide the opportunity to know things to do and what to see and how to do them.

That's a general statement. It's been around for a

number of years.

There is one area here that I don't know if I can ask for an off-the-record comment, but it might be helpful.

Q. OK.

A. Is that possible.

MR. ZETTERBERG: OK.

MR. SPIVAK: Yes.

(Discussion held off the record.)

MR. ZETTERBERG: Well, go ahead and say what he was saying. We have previous testimony to the same effect.

MR. SPIVAK: I know we did. What is it?

THE WITNESS: See, the road patrolmen recorded the stuff and someone in the office put it on this list.

MR. SPIVAK: Q. Well, is that what you are saying?

A. Only in part. See, I don't know exactly what you have discussed before or whatever.

Q. You had something you were going to say?

A. Yes. In respect to --

Q. Go ahead. Just a second. Do you want this on the record or not?

MR. ZETTERBERG: We might as well go ahead. We are going to have a copy attached.

THE WITNESS: In respect to that hiker/backpacker list that was shown here as an exhibit, that list to my knowledge -- I am not sure of the exact date that it was started, I'm sorry -- but I just can't honestly say I can remember the exact date, but I do know that it was started in the summer of 1972, and it might have been May, it might have been June, it might have

been July. I am not sure.

But the point that I would like to make that might be helpful is that to my knowledge that particular list was maintained in the Old Faithful Ranger Station at the front desk adjacent to the radio and visitation log by the young ladies, the receptionists, that worked there. And as visitors, backpackers or hikers would come into the Station, the young ladies that work up there would inquire of the people as to whether they had received generally camping or bear warning information.

7 And I remember precipitating the record keeping of that particular list because I was curious to know how many of the visitors that came in -- backpackers that came into the Station largely for back country use permits, how many of them if they had hitchhiked in the Park had been contacted by either, or read a sign, or stopped by a Station or Visitor Center and got some basic information that I thought was important to their visit. And so I had the girls in the Station keep this list with that in mind. Now, supplemental to that, or additionally, the road patrolman that worked in the Old Faithful area worked on a 24-hour patrol basis and maintained entries on their patrol logs of contact they made by people hitchhiking or traveling on the road or traveling through the area. And they would ask the people, you know, "Have you received a general Park map?" the ones that we carried in our patrol cars, and this went on for particularly during 1971 and perhaps more accelerated during 1972.

I think I was curious on just a small profile or a study to see how many people had actually received this type of information. I think it was important that they received it.

I was curious to know how we were doing. So the road patrolmen made entries on their logs, their patrol logs. The ladies in the station made entries on this list right here we have examined today.

So perhaps, you see, we have two different documents that we are talking about of the same thing.

I don't know if this was helpful or not, but it seemed to be confusing to me the way we were discussing it.

MR. SPIVAK: Q. When you said this went on in 1971, what were you referring to?

A. What I was referring to is that particularly -- gee, I go back further than that, but particularly in 1970, and 1971, '72, three summers that I was appointed to Old Faithful Sub-District we made a top effort, priority basis, to contact people that were traveling in the area particularly on foot that might be looking for a place to stay. And this is in conjunction with the stated objectives in the bear management program that we have discussed here earlier today.

It talked about the effort that should be made to notify the public and in regards to what was going on in the area, where you camp, where you stay, the problems that are associated with their safety. And we talked about that earlier today, but I don't think they really became clear.

MR. ZETTERBERG: All of this answer is all self-serving, ex post facto and is not admissible in evidence.

THE WITNESS: I don't -- nothing personal, but as a matter of business I volunteered that to be helpful in perspective of what we are doing, which, of course, I am very

much aware of, you know, you understand.

MR. SPIVAK: Do I have to ask him the question again?

MR. ZETTERBERG: No, I mean my objection --

MR. SPIVAK: I know this was a narrative. You know this came in as narrative.

MR. ZETTERBERG: All this is self-serving, you see, and will not be admissible.

MR. SPIVAK: Well, the Defendant is under oath.

MR. ZETTERBERG: It may be under oath but it's not relevant and material because it's all ex post facto, self-serving statements by him which is not evidence, you see. It shall not be evidence.

MR. SPIVAK: I don't follow that.

MR. ZETTERBERG: You don't have to.

MR. SPIVAK: Hold the record.

(Discussion held off the record.)

MR. SPIVAK: Would you please, would you please mark the hiker/backpacker without vehicles list as Defendant's "B".

(The list was marked as Defendant's Exhibit "B" for identification.)

MR. SPIVAK: Q. Now, Mr. Brady, there has been considerable testimony now concerning the list identified or the document identified as Defendant's Exhibit "B".

MR. ZETTERBERG: That's mine, and this is the exhibit to be attached. This is my copy which I don't want to lose. This is the exhibit -- this is the copy of the copy. It's hard to tell.

MR. SPIVAK: Both are the same, aren't they?

MR. ZETTERBERG: This is cut off here.

MR. SPIVAK: So you want the best one in evidence.

MR. ZETTERBERG: No, I want the best one which is my copy because it's the only one I have. You are making a copy of my copy, see. Do you have a Xerox?

THE WITNESS: Right.

MR. SPIVAK: What are you trying to say? You want the exhibit back?

MR. ZETTERBERG: This is not on the record.

(Discussion held off the record.)

MR. ZETTERBERG: May the record show that a copy that I brought here is complete off to the right-hand side and the substitute Zerox copy of my copy is cut off on the edge, and I will submit a copy that I brought here as an exhibit and I will conform my Xerox copy afterwards.

MR. SPIVAK: Q. Again, Mr. Brady, there has been discussion about Defendant's Exhibit "B". Now am I correct that you don't know the date that the keeping of Exhibit "B" commenced?

A. That's correct. I don't know at this time. I suspicioned, however, that it might well be determinable with a little more research in the Old Faithful Ranger Station.

Q. Now my question is separate and aside from when this list in the form of Exhibit "B" was maintained, did you and the Rangers under you in June of 1972 make an effort while on patrol to contact hiker/backpackers and people -- strike and people. Did you make an effort to contact hitchhikers and back-packers and give them bear and camping information?

A. Yes.

MR. ZETTERBERG: May the record show that I object. I am reserving my objection as to content until the time of trial.

MR. SPIVAK: Content of what?

MR. ZETTERBERG: The content of your question. In other words, the substance of your question until the time of trial. I object to the form of this question because you are asking him for hearsay. You are asking him for his conclusion. If you think you can clear that up now it might save you the evidence at the time of trial.

The objection I am making is it's a conclusion. Did he instutute any procedures to acquire anything of that kind. Were they followed out?

MR. SPIVAK: Q. Mr. Brady, are you familiar with the practices of the Rangers that were assigned to the Old Faithful District, Old Faithful Sub-District in 1972?

A. Familiar with the practices of Rangers?

Q. Yes.

A. In relation to on-the-job activity?

Q. Yes.

A. Well, yes.

Q. Did you give them instructions?

A. Daily.

Q. Did they report back to you?

A. Frequently.

Q. Now in 1971 and '72, did you instruct the Rangers under you to contact park visitors?

A. Contact park visitors in relation to what?

Q. To giving them camping or bear warning material or

both.

Q. And what were your instructions?

A. Well, that was the topic we discussed, procedural training programs, the year I was at Old Faithful. And we got in it quite extensively starting the summer of 1970, and throughout '70, '71, '72, the summers.

Q. Now these are conferences that you preside over and are attended?

A. Staff that worked for me at Old Faithful, that is correct. They were instructed by me during the summers identified to seek out and contact hitchhikers, campers or travelers on foot to be that what it may, and to question them as to where they were going to spend the night and where they were going to camp and provide any service they could to them at that time for the personal contact because that was a priority effort in the management of the District in terms of employment of manpower. It can be so identified from records. It's nothing new.

Q. And did you have feedback from your Rangers under you that they were in fact doing this?

A. On a daily basis.

Q. Would this include verbal warnings and furnishing of information verbally as well as any written materials that might have been furnished?

MR. ZETTERBERG: See, this is what we mean by leading the witness.

THE WITNESS: Yes. The documents referred to, I mean the situation addressed to here can be identified by patrol logs

filled out by the seasonal Ranger personnel at Old Faithful during the summers identified, both as to written and verbal contacts to Park visitors.

MR. SPIVAK: Q. In your testimony you referred to orientation talks?

A. Yes.

Q. Were these to Park employees?

A. Yes. Well, in the Old Faithful area.

Q. Did you personally give these talks or give any of them?

A. Yes, I personally gave a great number of the talks or a part of the program. Sometimes an orientation program would last 45 minutes to an hour. I might give 15 or 20 minutes of the presentation of an hour program.

Q. When you gave these talks, in your mind what was the purpose for or purposes of giving these talks?

A. The major or central theme was simply to provide the employee and principally the concession employees who attended the programs the opportunity to know what the Park Service expected of them in regard to their dealings with Park visitors while working in the Old Faithful area.

And secondly, what they might expect from the National Park Service employees such as Rangers in the area. And in regard to helping them have a more successful and enjoyable summer. And that was the basic theme of all of it.

The secondary theme centered around the concept of Yellowstone being a different environment for many of the employees that came from urban background or areas. And those

two basic themes were identified in about a 45-minute or an hour presentation to various subjects.

Q. Did you tell the employees about the -- say the camping regulation that was referred to earlier as I think 36 CFR 2.5?

A. Yes, I recall 2.5 referred to camping in designated areas.

Q. Would you have covered that subject?

A. Absolutely, on a priority basis.

Q. Did these orientation talks tie in in any way to your program of contacting Park visitors?

A. Yes.

Q. And how would that be?

A. Well, as I tried to identify an objective to the program, one of the objectives was to provide the Park employee that information which we knew they would be in a position to pass on to Park visitors by virtue of their contact on the job: maids, mailmen, front desk people and so forth. And so the information that we provided in the orientation programs and the reading literature that we passed out served the purpose of providing them the opportunity to know how to answer particular questions that the Park visitors would raise on occasion.

As I say, that was one of the most important aspects of the orientation program in the area of Old Faithful.

Q. Did you have bear warning material on bulletin boards?

A. In the Old Faithful area?

Q. Well, in the lobby of Old Faithful, in or on bulletin

boards in the vicinity?

A. Bear warning information?

Q. Yes.

A. Just like the grizzly country handout, and so forth?

Q. Or the larger signs like "Do not feed bears" or whatever.

A. As I recall in Old Faithful?

Q. Or what do you recall in the Old Faithful area at the transportation desk?

A. At the transportation desk the Park map or brochure and the "In Grizzly Country" handout was generally available at the transportation desk or front counter. In addition to that I recall a Park map and the intended dialogue with it was posted on the bulletin board by the manager's office and near the registration desk.

They are generally referred to the people working at the desk.

Q. Are there bulletin boards outside?

A. Outside Old Faithful?

Q. Well, let's take a look at Plaintiff's Exhibit "1". If someone were going from the area of say Castle Geyser to the lobby of the Inn, would they come across any bulletin boards that would have bear warning posters or material?

A. Not on the route that is shown there in terms of the paved path. However, as I recall, at the lower service station identified here this information was also posted in the window of the door and was available at the Hamilton Store area, but not outside. It would have been inside the store.

Q. Posted in the store?

A. Yes, inside the store in both the employee and visitor area in the store and we talked about the Inn, and I can't think of anything else down through this area that was posted formally.

MR. ZETTERBERG: By this area you are referring to --

MR. SPIVAK: Q. Down towards Castle Geyser to the Upper Geyser Basin to the north and northwest of the Old Faithful Inn locale as I saw your mark there?

A. Yes, that's correct.

Q. How about around the Visitors Center?

A. Well, in the mall adjacent to the Visitors Center there were several displays and occasionally those displays, they would periodically be changed, and the displays on occasion would have information relating to camping and bears and so forth that varied from time to time.

(The deposition of James Brady was interrupted to take another witness.)

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EXAMINATION (Resumed)

BY MR. SPIVAK:

Q. Mr. Brady, do you recall in about September of 1970 finding a blanket that had a tuft of hair on it?

A. I don't recall that I found a blanket, but I do recall the incident.

Q. Was this the same summer that you discovered the abandoned campsite?

A. Yes.

Q. And this blanket was somewhere in the general vicinity, but not hear the campsite? Is that correct, or do you recall where that blanket was located?

A. I recall where it was located and it was some distance away from the abandoned campsite. I was trying to recall approximately how far that was. Probably in the neighborhood of about three-quarters of a mile; half mile, three-quarters of a mile, somewhere in that neighborhood approximately.

Q. Did you have this tuft of hair sent in to the FBI laboratory?

A. Yes.

Q. And did you receive a report back?

A. Yes.

Q. And what did the report say?

MR. ZETTERBERG: Just a moment. Do you have a copy of the report. As voir dire I would like to ask, do you have a copy of the report here?

THE WITNESS: Do I personally, sir have a copy of it?

MR. ZETTERBERG: Yes.

THE WITNESS: Right here, no.

MR. ZETTERBERG: Does Mr. Spivak have it here?

MR. SPIVAK: No.

MR. ZETTERBERG: OK.

MR. SPIVAK: He doesn't have it.

Q. What did the report say?

A. Well, the analytic report from the FBI lab?

Q. Right.

A. It indicated as I recall that it was non human hair.

MR. SPIVAK: I would like to talk to my witness for a couple of minutes.

MR. ZETTERBERG: Do you want us to step out, or what?

MR. SPIVAK: Either way.

(Discussion held out of the presence of Mr. Zetterberg and the reporter.)

MR. SPIVAK: No further questions at this time.

FURTHER EXAMINATION

BY MR. ZETTERBERG:

Q. Just who manned the Visitors Center at the Old Faithful, or was it a manned place?

A. During what time of year?

Q. June 25, 1972.

A. That was manned by a staff of seasonal Naturalists under the direction of Bob Woody, the Sub-District Naturalist at that time.

Q. Is it a room or what is the Visitors Center?

A. In 1972?

Q. Yes.

A. It changed.

Q. That's right. They built a new one?

A. That's correct. In 1972 the new Visitors Center was essentially a large single-room building open to the public for information and displays and included an auditorium where programs were given.

Q. If you went in there at like 2:00 o'clock in the afternoon, would there be someone sitting at the desk there?

A. Yes, they had several people and had several desks in operation at that time, as I recall, and had sort of a long counter arrangement that had two or three people working at one time. And they also had an outside window contact station that without going into the building you could go up to the outside window.

Q. And what did it do as compared with the Ranger Station?

8x 8

A. I am sorry. What did it do?

Q. What functions were performed there at the Visitors Center as compared with the Ranger Station?

A. The Visitors Center was a primary public contact station for Park information and interpretative programs, some of which were given right in the Visitors Center. It was a central starting spot for many of the walks and talks that were conducted in the Old Faithful area.

People would be instructed on brochures and so forth to report to the Visitors Center, form together as a group and to begin a program.

The Ranger Station principally operated discharging duties

of the protection division. That is a station for the reporting of emergencies and accidents and accident reports and so forth. And along with that including back country use permits, fire permits, so forth.

Q. Would it be fair to say that the biggest single question asked at the Visitor Center other than where is the rest room is what time will Old Faithful erupt?

A. It would be fair to say that, and also would be fairly accurate.

Q. If a person wanted a back country permit, they would get that at the Visitor Center, would they?

A. In 1972?

Q. Yes.

A. No, they would be directed to the Ranger Station.

Q. Why do you say in 1972? Do you get it there now? Since the new one.

A. I am not sure of it now, but in 19-- let me think. In 1970 considerable construction in the Old Faithful area, the Ranger Station, the Visitor Center, were operating out of the same building for a time, particularly in 1969.

And so there was multiplicity of duties performed by both Rangers and Naturalists because they were in the same physical location.

Some of those duties after the construction of separate facilities, Visitor Center and Ranger Station, would then be performed separately. So it depends on the year that you are talking about.

In 1972 back country camping permits were issued out of

the Ranger Station for that district.

Q. At that time was that a drive-up visitor center. Could you drive up and ask questions from the car there?

A. At the Visitor Center?

Q. Yes.

A. No, sir, you couldn't. You had to walk to get to the Visitor Center.

Q. When we were there this April there was an elaborate, apparently new, parking setup of new asphalt and so on.

Has that been -- which may be partly reflected in the Plaintiff's No. "1"?

A. Yes, sir, it is.

Q. Some of those roads hadn't been built up back in '72, is that correct?

A. No, virtually all the roads shown on the map here now had been constructed and were in operation in June of '72.

Q. Were there substantial parking areas back in '72 for automobile parking near Old Faithful?

A. Yes, sir.

Q. Sometimes the trucks with cab-over campers parked there overnight?

A. In the parking area in the Old Faithful area?

Q. Yes.

A. Yes.

Q. That was really against rules, wasn't it, for them to actually park there and stay overnight in their campers?

A. That is correct. Yes, sir.

Q. Did you enforce those rules, or did you let them park

there?

A. We enforced those rules.

Q. In what way?

A. We ran our 24-hour patrol in the Old Faithful area and part of the duties of the evening patrol, before it got dark, was to contact people that were parked in roadside turn-outs or parking lots and talk to them in regards to where they planned to spend the night and suggest to them that they find a campground or legitimate camping area.

Q. Which was quite a distance in either direction?

A. That's correct, yes.

Q. Did you ever give tickets to people who did stay overnight?

A. On occasion.

Q. But you could come and park your camper there and stay in the Old Faithful Inn overnight?

A. Yes, that's true.

Q. So you really maybe didn't know whether they were in the camper or not?

A. Well --

Q. You tried to check that out, did you?

A. We tried to check that out.

Q. Is it a fair statement to say that the central recording system of the back country sites was so that you wouldn't have people going into sites and find that they were already being used?

A. That would be one objective of the central dispatch system, yes.

Q. Who actually established the back country sites? You or Mammoth central office?

A. In the Old Faithful area that was one of my responsibilities under the direction of the District Ranger, with his approval as to the location of the actual physical site.

Q. Yes.

A. Yes.

Q. Listening to you describe the patrol, or mention the patrols that you referred to, I wonder, and I ask you now, did you try to get campsites that were sort of grouped together so you could keep general track of them better, or did you try to disburse them in the back country as you assigned them?

A. In relation to Old Faithful?

Q. Yes.

A. It varied throughout the Park a little bit, but --

Q. These ones that you were establishing in the Old Faithful area?

A. Most of the sites that we established in the back country of Old Faithful were some distance apart from one another. They were usually individual sites that would many times depend on the locale. Two or three parties perhaps at one site. In certain places just perhaps one party.

Q. That's really not true with respect to Lake Shoshone, is it? Didn't you have maybe 30 or 40 campsites at Lake Shoshone?

A. 30 or 40 campsites? You mean group campsites as opposed to individual campsites?

Q. Campsites.

A. Shoshone, of course, wasn't in my area of jurisdiction.

Q. I see.

A. But there were group campsites designated in Shoshone Lake area.

Q. I probably misled you on the group thing. I wasn't referring to group campsites. I was referring to having campsites grouped together.

A. Individual campsites grouped together?

Q. Yes.

A. That was fairly common in certain areas on Lake Shoshone, as I recall, yes.

Q. That other lake that was northeast of Old Faithful --

A. Mallard Lake?

Q. Yes.

A. As I recall, Mallard Lake there were, I believe, two or three established site areas. Three, I believe, up there.

Q. Right. Was that ever filled?

A. Completely filled, you mean?

Q. Yes.

A. Oh, yes.

Q. So you had occasion to turn people back that might have wanted to go up there?

A. Mallard Lake?

Q. Yes.

A. Yes, it would be true.

Q. Did you notice in the four and a half years that you worked at Yellowstone Park the increase in the back country use by campers?

A. Year around or just in the summertime?

Q. Summertime.

A. Summertime. I would say that I noticed a slight increase in back country use, yes. Particularly in the Old Faithful area.

Q. And in your view looking back to the establishment of back country campsites in the Old Faithful area, is the better site one that has been longer established and has been in effect used a lot or is the better site one that is new and in a more wilderness area?

A. It's a difficult question to answer because I am not sure exactly what you mean by "better."

From my point of view?

Q. From your point of view.

A. From an administrative point of view?

Q. Right.

A. I wouldn't have any major distinction to make there over a new site as opposed to an old one unless there was an old site that was deteriorated or needed to be closed.

Q. You mentioned the established sites in your testimony from Mr. Spivak, it was easier for your patrol to keep track of them?

A. Well, yes.

Q. So from a management standpoint it would be fair to say that to have them in the back country but grouped more together would be better?

A. Not necessarily, no.

Q. Why not?

A. Because of the distances that were involved.

For example, as I recall on the longest trail in the Old Faithful Sub-District that we objectively patrolled, I believe, was a distance of 16 miles to Summit Lake, and which there was a campsite at Summit Lake, which as I recall was at the periphery of the Sub-District boundary.

And the Summit Lake trip -- 16 miles is a long day, but comfortable in and out for a man on horseback, for example, to patrol it.

Most of the trails were generally much shorter than that, probably five or six or seven miles and fairly easy to patrol on foot or horseback.

Q. If you have people asking for sites in the back country, did you generally assign them to a site that had been more used or one that had been less used?

A. Well, that wasn't the precipitating factor initially. Initially the consideration would be where the person is going. Is it an overnight stay; that they're going in and coming out the next day, or are they en route to another portion of the Park. And so that was the major concern, if they are on a trip and a lot of people would begin a trip at Old Faithful, let's say, in the Shoshone Lake area and perhaps come out at the South Entrance or perhaps at Bechler. And so that was the major concern. It wasn't so much as whether the site was new or old.

Q. What was the major consideration?

A. Well, major consideration would be their itinerary.

Q. Itinerary?

A. Trying to complement their itinerary with a reasonable place to stay overnight. The only time that in the context of the old site would come into discussion as relating to use would be that certain sites that were heavily used, we would try to, by establishing some care and capacity for the site, that is to suggest what number of people can stay consistent with the environment. We would sometimes rotate that.

Q. Were there things like trash places, things like that, in the back country sites?

A. Places for storage of trash in the back country?

Q. Yes.

A. No, we didn't maintain any of those. In fact, instructions were to the contrary.

Q. Were these all patrolled on horseback?

A. Horseback and foot.

Q. Were guns ever carried on horseback?

A. Were guns ever carried on horseback by Park Rangers on duty on active patrol?

Q. Yes.

A. Yes.

Q. Were they always carried?

A. Not always, no.

Q. Were guns ever carried by persons patrolling, by a Park Ranger patrolling on foot?

A. Yes.

Q. Always?

A. I wouldn't say always, but I would say commonly, yes. In the Old Faithful area, in the area in the time that I worked

there.

Q. What kind of guns?

A. Usually would be handguns, revolvers.

Q. Was this on your initiative or on the initiative of Park headquarters?

A. Well, I would say that would be in response to directives from the Chief Ranger's Office in regards to our responsibilities while patrolling the back country as Rangers.

Q. Did you ever have trouble with fire in the Yellowstone area with forest fires?

A. Forest fires?

Q. Yes.

A. In the Old Faithful area particularly or --

Q. Anywhere to your knowledge in the Park?

A. What do you mean by trouble?

Q. Did you ever have forest fires?

A. Yes.

Q. During the summertime?

A. Yes.

Q. How often did you have forest fires?

A. I wouldn't be in a good position to answer.

Q. Maybe at least one fire per summer in Yellowstone Park or more than that?

A. Forest fire?

Q. Yes.

A. Oh, I would think there would be in the neighborhood of commonly at least a dozen every season.

Q. Would they come in the early summer, late summer,

generally?

A. Generally late summer.

Q. Did you have a rainy season up there in the summertime?

A. Yes.

Q. When was the rainy season?

A. It varied a little from year to year. But generally the rainy season would be in June, early June.

Q. Did you ever close areas because of fire hazards for back country use? Did you to your knowledge?

A. Did I personally ever close the area?

Q. Well, were areas ever closed by the Park?

A. Because of fire hazards?

Q. Yes.

A. Restricting access by backpackers and so forth is what you have in mind?

Q. Yes, so that you wouldn't issue permits?

A. Yes, I'm fairly certain that has occurred. I haven't personally done that in my experience there. I have other places all right.

Q. When you were on duty you did not typically carry a gun, did you?

A. You mean wear one on my person or have immediate access to one?

Q. Carry one.

A. Carry it on my person? Is that what you mean?

Q. Did you carry a gun with you when you went --

A. Well, you mean carry, like carrying a satchel or suitcase or as opposed to wearing on my person? What do you

mean?

Q. I think it speaks for itself.

A. Well, there is a difference.

Q. What's the difference?

A. Well, commonly I would have a gun or a revolver available to me in my suitcase or briefcase or my pack, but I would not commonly wear one on my person.

Q. Do you have one in your car usually?

A. Yes.

Q. Did all of the people on law enforcement patrol have guns?

A. Available to them?

Q. Yes, with them, that they carry with them?

A. Carry with them as I described before, either in a satchel or a briefcase?

Q. Yes.

A. Or in a vehicle?

Q. Yes, like police do?

A. Yes.

Q. Was there a doctrine at Yellowstone Park as to whether a bear was either sent to a zoo or disposed of as opposed from being transplanted?

A. Was there a doctrine?

Q. Yes.

A. Is that what you said? Was there a doctrine as to whether a bear --

Q. Wait just a minute. Rather than have you repeat the question that I give you, if you don't understand -- if you

want it read, why don't you just tell us and we will just have the reporter read it.

MR. SPIVAK: That's fine, but if you don't understand the question, make that known.

Off the record.

(Discussion held off the record.)

MR. SPIVAK: I don't know what was meant by doctrine. A custom, a directive? I don't understand the question.

MR. ZETTERBERG: I will rephrase it. Were there times when bears were killed because they were dangerous? You knew they were dangerous?

A. Dangerous to humans?

Q. Right.

A. Yes.

Q. And what was required in your mind by the Park before a bear was killed other than as an immediate threat or oftentimes you will read about a bear attacking a Ranger or attacking --

A. Yes.

Q. What I mean --

A. OK. Beyond that, if we had trapped or drugged a bear, and this particular bear by way of example had been trapped or immobilized and subsequently identified by an ear tag on previous occasions and had demonstrated some aggressive behavior either before or during its capture or drugging, or it possessed some injury or wound that maybe precipitated some abnormal behavior, those often were criteria that were used in disposing of the grizzly bears.

Q. And sometimes a bear was sent to a zoo if there was

any zoo that would accept the bear, is that correct?

A. That's correct, yes, sir.

Q. Who made the determination initially as to what would happen to a bear?

A. I would if the bear management action occurred in the Old Faithful area, I would probably initiate the request that, you know, I would be seeking some advice for assistance regarding the disposition of this particular bear as identified earlier that was standard procedure. And I would check with the Resource Management people or the biologists and again with the District Ranger to arrive at a decision, just which way to take the action.

Q. Did you treat a bear differently that had been captured twice from one that had been captured once?

A. Usually, yes.

Q. And in what way?

A. Several ways. Probably that factor as identified earlier would be a major point in regards to a transplant location.

Q. But you have already transplanted a bear once and he returns, and would you transplant him again or would you try to send him to a zoo or perhaps if he had aggressive tendencies to execute him?

A. It's possible that any of those three alternatives might be utilized. It's hard to come up with an actual rule of the thumb because it depends exactly on the conditions surrounding the capture of that particular bear and the nature of the bear insofar as it was known, any past history.

But I would suggest that there were bears that were transplanted, oh, perhaps a couple of times, as I recall, from Old Faithful that were shipped off to zoos, the idea being probably it wouldn't be a successful transplant to instigate another one.

Q. Given a capture of a bear like 1792, what would be the largest single factor in your mind in initiating an action as to what would happen to that bear?

And I am referring to its capture back in October of 1970.

A. The largest single factor affecting the transplant?

Q. In your view. In your opinion.

A. Of 1792 would have been the fact that the bear wasn't previously identified as being involved in a management action by virtue of the fact it did not have a tag.

So otherwise, to my knowledge at that time, it's the first contact that we had with this bear as opposed to perhaps other bears as we discussed earlier that had been transplanted once or twice. It is a major factor. There are several.

Q. Were there some written instructions on this first training policy? Was that something that was just in your mind?

A. I believe there were some written instructions in the form of directives from the Chief Ranger's Office in regards to that.

Q. In other words, you felt that this was not something that you had made up out of your mind? It was something that you thought you were carrying out the policy of the Park in using that as a major factor?

A. Most decidedly. See that relates back to conferences or meetings particularly from major conversation where these things like this were discussed intensively.

Q. So you felt that action was consistent from what you learned at conferences that you described earlier?

A. Yes.

Q. Mr. Cole in his report of January 31, 1973, referred to control actions, and you referred to management actions. As you sit there now do you feel there is any distinction, or do they both mean the same thing?

MR. SPIVAK: Well, I object until you establish that he knows what Mr. Cole is talking about.

MR. ZETTERBERG: Q. In other words, I am asking you in your mind, do you see any distinction between the two?

A. Well, as Mr. Cole would have used the term in his discussion with me, the words could be used interchangeably, I would suggest.

Q. Did you ever notice slash marks on the tree up at the campsite? In one of the reports there is some reference to some slash marks on the tree, on a tree by the tent?

A. Yes, it seems like I do recall. I do recall something in that regard, presumably made by a bear.

Q. That was what I was trying to find out, because we have all read about bears making slash marks on trees to tell other bears that they are the biggest ones around, if they come back and find the slash marks higher up. It's even been said that bears get logs and roll them up and stand on the logs.

A. Well --

Q. You don't remember anything about that?

A. About other bears rolling logs up?

Q. No, about the slash marks on the tree?

A. I recall something in that regard, but I am not sure. I'd have to review the material.

Q. I would just check my notes here.

Then as I understand it, if the bear had a second transplant, that bear was in for trouble? I mean he was shipped out or sent to a zoo or something happened to him, generally speaking, and that you would start with the presumption he would have to be booted out?

A. Well, to clarify that perhaps in my mind, if we had transplanted a bear twice and it was recaptured or drugged the third time?

Q. Yes.

A. Then I would certainly initiate a different line of thought relating to subsequent location than with a bear picked up for the first time, yes.

Q. You mentioned you transplant them twice. Let's be sure we understand each other.

What if you transplant one and then recapture. Let's take then recapture and then ready for transplant again?

A. For the second time?

Q. The second time.

A. Yes.

Q. That bear gets different kind of treatment, does he not, under the 1972 doctrine?

A. That would be as I tried to indicate earlier a factor in determining the more acceptable release site based upon the personal examination of the incident at the time, including the bear. The past history of the bear, so forth.

Q. You mentioned that you thought it could be determined when Defendant's "B" was initiated by reference to something at the Old Faithful Ranger Station. What did you have in mind?

A. Well, what I had in mind there would be examining the monthly reports, the patrol logs, the Station log itself, and you know, perhaps being able to come up with an accurate date as to when that was initiated.

MR. ZETTERBERG: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: On the record.

Q. I'm looking over Defendant's Exhibit "B". It looks to me like about half the names are typed, pardon me, not typed, but are printed and not written. And they are printed in different handwriting, so that it would appear that it was -- that people were not signing this but that some staff was writing their name down. Is that your understanding?

A. That would be my understanding, yes, sir.

Q. OK. I think I'm about through here.

We had a lot of testimony regarding your impressions of the success or non success, mostly about your feelings of success in whatever bear management program was being carried out while you were at the Old Faithful Sub-District.

But is it not so that the evaluation of that -- you haven't

made a study for that evaluation, have you? That's just an impression. Have you made any study?

I notice you are making a long pause.

A. Well --

Q. Have you made a study?

A. Couple things come to mind.

Q. Yes.

A. Would you read the question again?

(Record read by the reporter.)

THE WITNESS: Well, I am trying to handle the word "study" in context with my normal work responsibilities and I have not made any particular research effort affiliated with an academic institution, but I would suggest in discharging my everyday duties at Old Faithful that very clearly it was incumbent upon me to have strong sense of feeling one way or the other as to the success or failure of that program because it was an integral part of the Old Faithful district in the nature of the incident on the paper associated with including bear logs and et cetera.

Q. It's not a study perhaps in the sense that you were explaining.

What you are saying is that you feel now that you were doing a good job under the directions given you; is that correct?

A. I very strongly feel I was doing a good job in that regard to implement the new bear management program, yes.

Q. What I am trying to do is to distinguish between your evaluation of yourself and your evaluation of an ecological

program being initiated from Washington, D.C. and passed down through Mammoth Headquarters.

A. Yes, I understand.

Q. I mean, you haven't made a biological study of Yellowstone Park under the impact of the program of the closing of the dumps and all that, have you?

A. No, I have not.

Q. That would be something that the experts should be consulted on, is that correct?

A. Well, absolutely.

Q. Whoever they may be.

A. Well, I would -- I don't know whether you want to include this on the record, but it would be helpful to you.

The context that I would try to express of the success of the bear management program would be mostly in the sense of the success of the program.

And, secondly, as to whether I was able to contribute to that or not. I feel very strongly, and I would take a secondary role in that regard.

MR. ZETTERBERG: I have no further questions.

FURTHER EXAMINATION

BY MR. SPIVAK:

Q. Can I see your demand brochure? Do you want to attach that exhibit? Do you have a picture in here of the stop sign that you took?

Here's what I want to ask. Do you recall the North Entrance in the summer. This picture is taken in the winter and

the sign says "Slow."

A. Yes.

Q. Do you recall what the sign said in the summer going into the Park? I presume that's what we are looking at here?

A. Right.

Q. You may not remember it?

A. I remember it expressly, exactly and precisely, and unquestionably the terms. That sign was never up in the summertime to my knowledge.

MR. ZETTERBERG: What sign?

MR. SPIVAK: Q. What did it say in the summer?

A. It says "Stop."

You know I managed that unit for two years. I was directly responsible for the entrance station.

Q. Mr. Brady, a moment ago we were looking at a photograph of the North Entrance as one comes into the Park, and the photograph was taken during the wintertime?

A. Yes, sir.

Q. And the sign says "Slow." Now I would like to know what the sign says in the summertime, the sign near the North Entrance Station.

A. The sign in the summertime would be "Stop" replacing the "Slow" sign, indicating that all people entering the Park at that particular spot were required to stop.

Visitors, employees alike.

Q. Is there a reason for that, that during the wintertime the entrance station isn't manned?

A. Well, I am not sure of the date. When did you take

that photograph?

Q. Around Easter time in the spring.

A. In the spring?

Q. Roads were not open yet?

A. From my recollection that sign would only be in effect when the station was not manned.

Q. The "Slow" sign?

A. Yes, the station was generally manned at least eight hours a day on a year-round basis, manpower permitted. Twenty-four hours a day in the summertime.

Q. But in the summer time it said "Stop"?

A. Yes.

Q. As opposed to "Slow." OK.

MR. ZETTERBERG: Off the record.

(Discussion held off the record.)

MR. ZETTERBERG: Are we all through now?

I had one other quick question. Are you listening?

MR. SPIVAK: Yes.

FURTHER EXAMINATION

BY MR. ZETTERBERG:

Q. You mentioned various times when certain presentations were made to employees, when Mr. Spivak was cross-examining you, the employees you were referring to were employees of the National Park Service or other employees that worked there?

A. Principally concession employees, although we gave programs also to other National Park Service employees.

Q. Was this on an organized basis or on a voluntary

basis?

A. Organized.

Q. And was it mandatory?

A. Let me say that the concession managers of each particular unit required that their employees attend.

Q. How often were these sessions held?

A. As I recall, in 1972 we gave in the neighborhood of 12 to 15 of these sessions of approximately an hour in duration during the middle of June, I suspect probably the end of June, somewhere in that neighborhood.

Q. So they were mandatory for the employees?

A. Well, it was mandatory for the employees to attend.

Q. You say that these were held in the middle of end of June. Do you recall of your own knowledge at the present time whether or not such a session had been held for employees as of June 25, 1972?

A. Yes, I recall very specifically that several of those sessions had been held.

Q. All right, you answered it. They had been held. My question is, do you recall if they had been held before June, in this case it would be in 1972?

A. I wouldn't be absolutely positive. It would be easy to check on that, however, to determine whether they were held. Records were kept in that regard.

MR. ZETTERBERG: I have no further questions.

May it be stipulated this may be signed before a notary public or before the U.S. Magistrate?

MR. SPIVAK: Very good.

MR. ZETTERBERG: How's that?

MR. SPIVAK: So stipulated.

Witness's Signature

STATE OF CALIFORNIA,)
: ss
COUNTY OF MERCED.)

I, DURWARD E. HOPE, a Notary Public in and for the County of Merced, State of California, do hereby certify;

That I am a licensed Certified Shorthand Reporter, duly qualified and certified as such by the State of California;

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

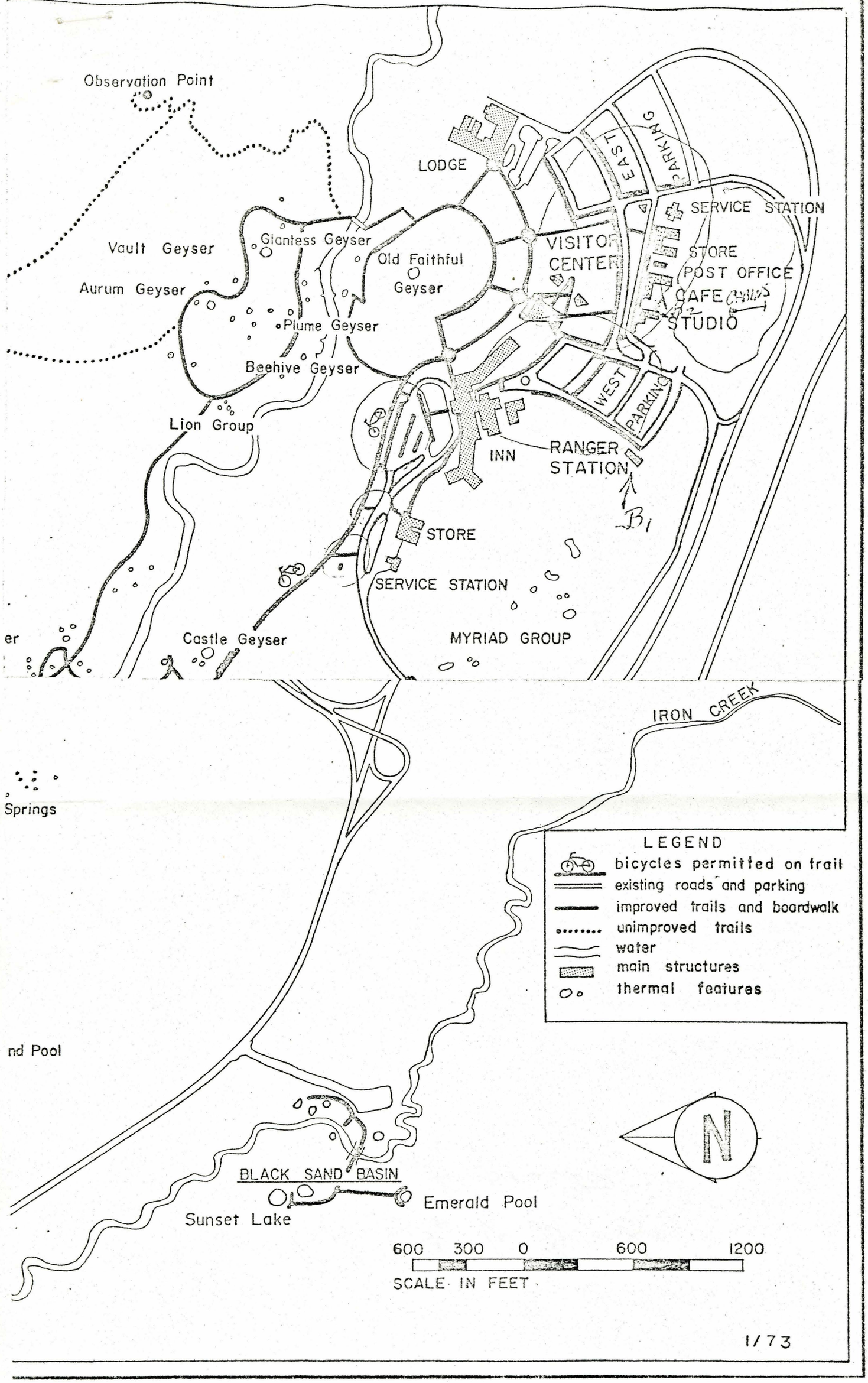
That the said deposition was by me recorded stenographically at the time and place first therein mentioned; and the foregoing pages constitute a full, true, complete, and correct record of the testimony given by the said witness;

That I am a disinterested person, not being in any way interested in the outcome of said action, nor connected with nor related to any of the parties in said action, or to their respective counsel, in any manner whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this 30th day of November, 19 73.

s/ Durward E. Hope CSR

Notary Public
In and for the County of Merced,
State of California.


Observation Point
LODGE
EAST PARKING
SERVICE STATION
VISITOR CENTER
STORE
POST OFFICE
CAFE
STUDIO
Vault Geyser
Giantess Geyser
Old Faithful Geyser
Aurum Geyser
Plume Geyser
Beehive Geyser
Lion Group
WEST PARKING
INN
RANGER STATION
STORE
SERVICE STATION
MYRIAD GROUP
Castle Geyser
IRON CREEK
Springs
nd Pool
BLACK SAND BASIN
Emerald Pool
Sunset Lake
LEGEND
bicycles permitted on trail
existing roads and parking
improved trails and boardwalk
unimproved trails
water
main structures
thermal features
N
600 300 0 600 1200
SCALE IN FEET
1/73

Exhibits to Brady's Deposition

Page Exhibit No. 1 page 1
(Backcountry Logs)

D.AB

Hikers / Backpacker Without Vehicles

NAME	HOME STATE	ENTRANCE	BEAR & CAMPING INFO
Mike Rogers	Binghamton, N.Y.	West	Given it here at O.F.R.S.
Carlos Romero	Ashland, Oregon	South	Read it in hitch-host's car
Chris Lind	Ashland Oregon	South	Read it in hitch-host's car
Judith Keller	San Francisca, Cal.	West	Was given it at gate
Mike Moore	Seattle, Wash.	North	Came in afoot; given it at gate
Bob Boyer	Dorchester, Mass	South	No. Gave it to him here
Robt. Bellan	Daley Cty, Calif	West	Read it in hitch-host's car
James Raphael	Kenmore, N.Y.	South	Hitchhiking didn't get it. Gave it here at OFI
Jim Weigend	Kenmore, N.Y.	South	Here at O.F.R.S.
Boyce, Chas	Casper, Wyo.	South	At the gate
Todd, Tony	Casper, Wyo.	South	At the gate
Mark Casey	Albuquerque, NM	South	Given it here
Wayne Steger	La Mesa, Cal.	South	At the gate
Paul Baker	Royal Oak, Mich	NE	Read it in host's car
Tom Boyer	Berkley, Mich	NE	Read it in host's car
John Strauser	Millersburg, Penn	East	Given it at gate
Jeff Kraft	Kantagh, NY	Niagara Falls	Given it here
Harvey Goldstein	Brooklyn, NY	Niagara Falls	Given it here
Joe Seiser	Milwk, Wisc.	South	Got it here.
Mike Frankling	Sweden (Stockholm)	South	Got it here.
Mike Brandt	in Chicago, Ill	~~East~~ South	Got it at gate
Ron Napolitano	Ron. Napolitano	South	Got it at gate.

Backpacker same Cars

Name	Home town	Entrance	Bears & Camping Info.
Kitty Coley	Middletown, Conn.	East 7/25	Read in hosts car
Liz Hermon	Middletown, Conn.	East 25	Read in host cars.
Terry Henrie	Delta, Colo.	North 7/25	Got it here.
Tom Gerrard	Houston, Texas	Northeast	Read it in hosts car
Ken McCoy	Kansas City, K	Northeast	Read it in hosts car.
Jeff Flohr	Fairfield, Cal.	Mammoth	Got it a Norris R.S
Gina Van Hess	Fairfield, Cal	Mamoth 7/25	Got it at Norris
Lee Corner	Fortuna, Cal.	West	Got it at W. Entrance
Fred Elms	Fortuna, Cal.	West	Same
Colin Gregor	"	"	"
Lex Corner	"	"	"
Mike Lund	WHALAN, Minn	East	Read it in hosts car.
Bruce Lane	Santa Cruz.	West	Read it here.
Jim White	Lansing, Ill.	West 7/30	At the gate
John Huget	Lansing, Ill Cal.	West 7/30	At the gate
Leon Jackson	Huntington Bch	West G.	Got it at the gate
John Hanson	Huntington, Beach	West G.	Got at the gate.
Steve Townsend	Anchorage, Alaska	North	" " " "
Traub Hubert	Santa Barbara, Cal.	West	Read it here.
Kemp's Greg	Minneapolis, Minn.	North	Got it from West
Helmut Luz	Munich, Germany	East	Read it in hosts car.

Back Packers without Cars

Name	Hometown	Gate	Date	Bear & Camping Info
Herban, Bob	Long Island, NY	South	7/5/72	At the gate - spent "In Grizzly Country" here
Savage, Mike	Whitestone, NY	South	8/5	
Gary Jespersen	Hidden Hills, Cal.	South	8/7	Read it at G.V.V.C.
Mark Ortman	Detroit, Mich	South	8/7	Read it here.
Chris Richards	Gros Point, Mich	South	8/7	Got it here.
Jeff Shotland	Great Neck, NY	North	8/7	Got it here.
Anita Marie	San Jose, Calif	South	8/2	
Allan Grant	San Jose, Calif	South	8/2	
Bob Heiker	Bay Village, Ohio	East	8/5	Got it at the gate
Mike Joyce	" "	East	8/8	"
Louis Forth	Jasper, NY	East	8-9	Got it in host's car
Matt. Harris	"	East	8-9	"
Jim Rundgren	Champaign, Ill	South	8/11	Got it here
Gordon Yumbe	Minn, Minn.	East	8/11	Read it in hosts car.
Dave Russell	Milwaukee, Wisc	West	8/12	Got at gate - walked in
Tom McNott	Houston, Texas	South	8/12	Read it in hosts car
Jay Arienes	Billingham, Wash.	North	8-13	"
Wayne Olsen	"	"	"	"
Holly Yasui	Boulder, Colo	South	8-15	Got at gate
Leo Lins	Yorkstown, Mass	North	8-16	"
Louis Lins	Brookline, Mass.	"	"	"

Backpacker's Guide
Page 2

NAME	HOMETOWN	GATE	DATE	FEED + PLANNING ITEM
Lee Ferguson	Livingston, NJ	South	8-18	Already read it
Mike Eveleday	Boise, Idaho	South	8-18	Came in on tour bus; got it here.
Melissa Nussbaum	Brooklyn, N.Y.	North	8-21	Read it in hosts car.
Pete Decker	Kingston, Penn.	South	8-21	Got it at GWC
Steve Kaplowitz	Queens, NY	"	"	"
Laura Lockett	Garden Grove, Cal.	West	8-20	Got it here
Sharon Smith	Joliet, Ill.	NE	8-20	Got it here
Peaky Blum	Oswego, Ill.	NE	8-20	"
Rick Rumsey	Metuchen, NJ.	West	8/26	Walked in, got at gate
~~Dwight~~ Henry	Hinsdale, Ill.	East	8-28	Got it at gate
Bob Gazdeck	Garfield Hts, Ohio	"	"	"
Mike Alexander	Baltimore	West	8-29	Got it here.
Paul Fouts	Oakland, Cal.	West	9/8	Read it in bus.
Richard Baerg	Glasgow, Mon.	North	9/8	Got it here.

YELL 455 (2/72)

NOTICE TO CAMPERS

During the 1971 season, the last open garbage dump operated by the Park Service was closed and replaced by a fenced, sanitary landfill. All garbage cans in the park have been equipped with bear-proof tops. The only unnatural foods now available to bears are those the visitor leaves unprotected. For this reason, the following regulation has been placed in effect:

"ALL FOOD OR SIMILAR ORGANIC MATERIAL MUST BE KEPT COMPLETELY SEALED IN A VEHICLE OR CAMPING UNIT THAT IS CONSTRUCTED OF SOLID, NON-PLIABLE MATERIAL, OR MUST BE SUSPENDED AT LEAST 10 FEET ABOVE THE GROUND AND 4 FEET HORIZONTALLY FROM ANY POST OR TREE TRUNK. THIS RESTRICTION DOES NOT APPLY TO FOOD THAT IS BEING EATEN OR IS BEING PREPARED FOR EATING."

In addition, because most bear-inflicted injuries in campgrounds have been received by those in tents or sleeping bags, certain campgrounds may be restricted to solid-sided trailers or recreation vehicles. Those will be posted both at the park and campground entrances. These restrictions will be temporary, and may be relaxed when dispersal of bear concentrations indicates they are returning to more natural foraging habits. The bear management program is directed toward this end, and has reached a level where unnatural foods may be made completely unattainable to bears. This may result initially in unusual dispersion of bear populations and bears may be investigating any unprotected food supplies, so campers should use extreme caution with food storage in all park campgrounds, especially during evening and night hours.

NATIONAL PARK SERVICE

P#3

YELLOWSTONE NATIONAL PARK
BACKCOUNTRY MANAGEMENT ACTION PLAN 1972

This plan identifies those specific objectives scheduled to be implemented at the beginning of the summer use season in management of the Yellowstone backcountry and also the continuing goals which reflect the long-range management effort.

Immediate procedures are:

1. Continue to restrict use at Shoshone Lake to designated campsites based on carrying capacity.

2. Establish carrying capacities and restrict camping to designated sites at Heart Lake.

3. Establish carrying capacities and restrict camping to designated campsites on the Southeast arm of Yellowstone Lake.

4. Identify and designate campsites, and centrally maintain current records to be utilized in the issuance of backcountry use permits for the following locations:

   (a) Lower Yellowstone River - Upstream from Gardiner, Montana, beginning at Knowles Falls on up.

   (b) Fawn Pass Trail - From Gardner's Hole to Fawn Pass.

   (c) Lamar River Trail - Upstream from Cache Creek to Cold Creek.

   (d) Sportsman Lake Trail via Mol Heron Creek.

   (e) Slough Creek Trail.

   (f) Cache Creek Trail.

   (g) Fan Creek Trail - Mouth of Fan Creek upstream to eventually connect with the Specimen Creek Trail to Sportsman Lake. Also Fan Creek Trail to Fawn Pass.

   (h) Bechler Canyon Trail - Upstream as far as Douglas Knob.

   (i) High Lake - Crescent Lake loop

   (j) Yellowstone River Trail - From 10-mile post along east side of Yellowstone Lake and up the Yellowstone River to Monument Creek.

(k) Old Faithful-Shoshone Lake Trail - From Lone Star Geyser to Shoshone Creek.

(l) Gallatin River Trail - Upstream to Big Horn Pass.

(m) Specimen Creek Trail - Up North Fork and up East Fork to junction of High Lake Trail.

(n) Monument Creek Trail - From Howell Creek to Eagle Pass.

5. Prohibit the grazing or keeping of pack and saddle stock within 1/4 mile of Three Rivers Campsite.

6. Complete clean-up and remove debris via helicopter from the following sites:

(a) Upper Miller Creek Cabin.
(b) Little Buffalo Elk Trap.
(c) Cold Creek Cabin.

7. Install pit toilets at the following locations:

(a) Delacy Creek backcountry campsite.
(b) Elk Tongue Cabin.
(c) Beaver Creek backcountry campsite.
(d) Plateau Creek campsite.

8. Prohibit spring stock use in the Heart Lake area until such time that the trails and meadows will no longer be damaged by the combination of stock and runoff.

Additional objectives, which must be reached as soon as possible, are:

1. Designate on maps and identify on the ground those sites which may be used for backcountry camping and the type of access that may be used at each site (foot, horse, boat).

2. Designate on the ground the identification of a particular site so that precise directional instructions can be furnished to the prospective camper, and so the camper can find the proper site when he gets to the general locality.

3. Arbitrarily determine a maximum capacity for a particular site and/or sites and stay within that capacity until reliable study information adjusts that capacity either upward or downward.

4. Develop procedures for the issuance of Backcountry Use and Fire Permits which will enable the issuing Ranger to know how many persons at any given time will be occupying a particular backcountry campsite.

5. Continue to discourage native bears from becoming dependent on park garbage by disposing of the garbage by other means than open pit dumps.

6. Eliminate as quickly as possible any buildup of garbage in a backcountry campsite to avoid attracting bears.

7. Assign sufficient personnel to the activity of backcountry management which will enable us to monitor, regulate, and enforce the backcountry management requirements.

United States Department of the Interior

NATIONAL PARK SERVICE

Yellowstone National Park, Wyoming 82190

IN REPLY REFER TO:

L34

November 3, 1971

Memorandum

To: District Rangers Nuss, Scott, Williamson.
Staff Specialists Bucknall, Protto, Sellers

From: Chief Park Ranger

Subject: Back-Country Management

For the past several years we have recognized and discussed the increasing number of visitors utilizing the back-country portions of this park. We have developed and implemented certain policies and procedures for managing stock use and for managing water-oriented use (Yellowstone, Heart, and Shoshone Lakes), but the number of foot travelers has not created much concern. I thought we might have three to five more years to gradually implement for foot travelers many of the same back-country management procedures that we presently employ for stock parties. Not so. This past summer and fall has demonstrated that we must, as quickly as possible, proceed with our contemplated back-country management planning and procedures.

We must in several specific areas immediately, and parkwide eventually, perform the following:

1. Identify on the ground and on maps those sites which we wish to be utilized for back-country camping.

2. Identify and designate the type of access use that may be enjoyed at a particular site (foot, horse, boat).

3. Designate on the ground the identification of a particular site so that precise directional instructions can be furnished to the prospective camper, and so the camper can find the proper site when he gets to the general locality.

4. Arbitrarily determine a maximum capacity for a particular site and/or sites and stay within that capacity until reliable study information adjusts that capacity either upward or downward.

5. Develop procedures for the issuance of Back-Country Use and Fire Permits which will enable the issuing Ranger to know how many persons at any given time will be occupying a particular back-country campsite.

6. Assign sufficient personnel to the activity of back-country management which will enable us to monitor, regulate, and enforce the back-country management requirements.

It is within our present capabilities to perform the first five of the six steps mentioned above. The identification of site locations on the ground and on maps can, in some instances, be done very soon. In this case "very soon" means by July 1, 1972. In other instances it will be necessary to do some on-site inspections before proceeding. In either event let's get on with it. Step No. 6, mentioned above, is not immediately solvable, but somehow we'll find a way to get on top of this problem.

Field inspections this fall and reports from other people would lead me to place by priority listing the following trails or locations to receive immediate back-country campsite management attention:

1. Lower Yellowstone River - Upstream from Gardiner, Montana, to Cottonwood Creek.

2. Fawn Pass Trail - From Swan Lake Flats to Fawn Pass.

3. Lamar River Trail - Upstream from Soda Butte Creek to Cold Creek.

4. Sportsman Lake Trail via Mol Heron Creek.

5. Fan Creek Trail - Mouth of Fan Creek upstream to eventually connect with the Specimen Creek Trail to Sportsman Lake. Also Fan Creek Trail to Fawn Pass.

6. Bechler Canyon Trail - Upstream as far as Three Rivers Junction.

7. Heart Lake Trail - From Heart Lake Trailhead toward Heart Lake for a distance of about three miles.

8. Yellowstone River Trail - From 10-mile post along east side of Yellowstone Lake and up the Yellowstone River to Monument Creek.

9. Old Faithful-Shoshone Lake Trail - From Lone Star Geyser to Shoshone Creek.

10. Gallatin River Trail - Upstream to Big Horn Pass.

11. Specimen Creek Trail - Up North Fork and up East Fork to junction of High Lake Trail.

12. Monument Creek Trail - From Howell Creek to Eagle Pass.

The priority listing of the above trails is unimportant, and I do not presume to know all of the back-country locations which show evidence of heavy, and generally unauthorized, camping use. In fact you might have two or three other locations in mind that would surpass adversely any of the locations mentioned above. The important thing is for us to set up our management priority based on the greatest need in your district, and then take steps to correct these abuses.

Please discuss your back-country use management situation with Resources Management Specialist Bucknall. Coordination of a parkwide system of back-country site identification (name, number, letter, and/or combinations of all), and development of a parkwide register for the tallying of Back-Country Use and Fire Permit issuances (through the Central Communications Center) will be Mr. Bucknall's responsibility. Additionally, if you desire, we can schedule meetings or discussions to include inter-sub-district and district personnel for the consideration of particular mutual interest use problems. Please advise me of your desire.

Harold J. Estey

Harold J. Estey

United States Department of the Interior

NATIONAL PARK SERVICE

Yellowstone National Park, Wyoming 82190

IN REPLY REFER TO:
A90

June 15, 1972

#4

Memorandum

To: District Rangers Buss, Scott, Williamson
Through: Chief Park Ranger W. E. Gill

From: Resources Management Specialist

Subject: Back-country Use Permits

Central recording of back-country use began this month on a trial basis, and some bugs are showing up that need to be eliminated.

1) Overnight use permits shall be issued only for a previously designated site, or for a designated management area. If you wish to issue permits for locations other than designated sites, the portion of the Sub-District in which this use is permitted should be outlined on the map as a management area, with a letter designation only, but with limits established the same as for an individual site.

New sites may be added to a management area if desired, simply by notifying the Communications Center of the site number, name, location, and limits.

2) When permit information is called in, sites should be identified by number. Names are helpful in locating the site on a map, but cards are filed by site numbers, and in normal recording, are located much faster if numbers are used.

3) Vehicle information previously being called in is no longer required. It should be kept for Sub-District use, however.

4) Be certain that anyone issuing permits is familiar with the recording system and is adhering to it.

Permanent recording for all Sub-Districts will begin July 1. If you are having any problems with this operation, please call them to the attention of Mr. Gill or myself as soon as possible.

Edmund J. Bucknall

Edmund J. Bucknall

#20

Bear Management Policy

I. Objectives

Preserve and maintain natural populations of bears as part of the park's native fauna and provide for safety of park visitors.

II. Education and Enforcement

Objective is an informed public, with appreciation of the esthetic value of bears, and an awareness that exposing bears to unnatural food sources may lead to the bear's destruction.

A. An active information program will be directed at both visitors and employees to inform them of policies and goals of bear management, and the reasons for these.

B. Review bear warning literature annually for pertinence to objectives. Incinerate all old literature.

C. The dispensing of warning literature pertinent to entrances, campgrounds and to back-country campers will be the responsibility of the District Ranger, delegated to those in direct contact with the public.

D. Direct warning signs may be used at entrances, campgrounds and (portable) at bear jam areas.

E. Bear feeding regulations will be strictly enforced. Bear feeding cases should be expedited wherever possible.

III. Reduction of Unnatural Visitor-Bear Contacts

A. Campgrounds, other high concentration use areas and incinerators will be bear-proofed to prevent bear from becoming habitual users of artificial foods.

B. Garbage pickup will be carefully scheduled to prevent overflow of cans.

C. Campground opening and closing dates will be manipulated to provide for human safety, and use areas where problem is extreme will be closed by posting. Other campgrounds may be restricted at times to trailer and pickup camper use only.

Staff Park Ranger
(Resources Management)
9/72

Bear Management Policy

D. Leaving food unprotected overnight in campgrounds is prohibited - See Special Regulations 7.13 (g) (3).

E. Concentrated but tactful efforts directed at breaking up bear jams will continue (primarily through the use of mobile public address systems and the handout of bear warning reminders).

F. Experiments with roadside bear deterrents and repellants will continue.

G. Garbage dumps and incinerator sites are closed. Entry by anyone is permitted only by authorization of the District Ranger. Violators will be cited.

H. Human use of areas known to have heavy grizzly bear concentrations (such as Hayden Valley-Mary Mountain area) will be strongly discouraged. Any area may be closed by the Superintendent for the purposes of human safety.

I. Rotation of back-country campsites will be judiciously utilized to prevent the degree of concentrated use that may result in a garbage or odor buildup attractive to bears.

J. Back-country campsites and/or trails being frequented by bears will be closed to public use until the bear is no longer an apparent hazard. Through travel by large (four people or more) parties or by parties on horseback may be permitted at the District Ranger's discretion. Camping will not be resumed until the site has been inspected and all identifiable attractants removed or neutralized.

K. Back-country permittees will be given plastic bags and the "pack-in-pack-out" policy will be stressed.

III. Control of Problem Bears

A. Thorough training in trapping techniques and use of firearms will be mandatory before employees are allowed to handle bears.

Staff Park Ranger
(Resources Management)
9/72

Bear Management Policy

Use of immobilizing drugs will be restricted to those qualified through additional specialized training. Drug Qualification Standards are documented, and enforcement of same will be the responsibility of the District Ranger.

B. Dangerous road sections will be given priority for roadside bear removal efforts.

C. Bear-proofing of campgrounds and other high use areas will be followed up with trapping programs to remove offending bears from these areas. Traps will not be baited or set in any area unless an offending bear is known to be present.

D. No bear will be captured for transplanting or destroyed in a backcountry area unless it has become unnaturally agressive, or other alternative methods of providing for human safety cannot be employed.

E. Necessity for trapping, trapping hours, and procedure will be determined by the District Ranger. No experimental trapping or immobilizing will be permitted without his knowledge and approval.

F. Experimental methods of fencing, repelling, trapping, or immobilizing bears will not be used until pilot projects have proven their effectiveness.

G. Trapped bears will not be released outside the sub-district in which they were trapped without the District Ranger's approval. They will not be released outside the district without the Chief Park Ranger's approval. Bears will not be released outside the park except with the concurrence and cooperation of the Fish and Game Department in the receiving state.

Bear Management Policy

H. All grizzlies being transplanted will be tagged with eartags in the following manner:

1970 - Lower left ear
1971 - Upper left ear
1972 - Lower right ear
1973 - Upper right ear

No other marks or tags will be permitted without the approval of the Superintendent.

I. No bear is to be destroyed or moved for exhibiting its natural behavior--such as the defense of natural food sources or its young.

J. Except in emergency situations involving human safety, the decision to destroy a bear will be made by the District Ranger. This authority has been delegated by the Superintendent.

K. Bears being removed from the system may, with the approval of the Superintendent, be donated to public zoos or given to any requesting state for re-establishment of populations. If there are no requests for live specimens, or it is impractical at the time to fill the request, the bear may be dispatched and the carcass either processed as a scientific specimen or returned to the ecosystem.

L. Any grizzly bear killed in the park will be reported by phone as soon as possible to the Superintendent's Office. The carcass of any bear, black or grizzly, that is killed shall be immediately sent to the Bozeman Laboratory for processing as a scientific specimen and for rabies tests if necessary.

V. Statistics and Monitoring

A. The bear incident report (YELL 371, Revised 3/13/69) will be used to report all incidents involving bears and people and/or their property. Including vehicle accidents, management actions may be reported by telephone to the Resources Management Office.

Bear Management Policy

B. All grizzly bear sightings will be logged daily in the station log and phoned daily to the Biologist's Office. Dead bears will be reported on YELL 371.

C. Each sub-district having management problems concerning bears will maintain a log in which will be entered all incidents of injury or damage due to bear, all management information regarding bear movements, activities and identifying characteristics that may aid the management program. Bear logs or station logs are confidential and are not to be released outside the service without permission of the Superintendent.

L. Any grizzly bear killed in the park will be reported by phone as soon as possible to the Superintendent's Office. The carcass of any bear, black or grizzly, that is killed [illegible] processing as a scientific specimen and the rabies test if necessary.

Staff Park Ranger
(Resources Management)
9/72

December 1, 1976

Mr. Stephen I. Zetterberg
Zetterberg and Zetterberg,
Attorneys-at-Law
319 Harvard Avenue
Claremont, California 91711

Dear Steve:

I have just returned from a month East and after catching up on back work and correspondence, I hope to again pick up my work on the grizzly bear book. Before leaving for the East, I sent you a rough draft of what will possibly be the last two chapters. I would greatly appreciate your comments on the contents of these chapters, and would particularly appreciate any errors you might be able to point out, or statements that you feel might be difficult to support.

I hope that things are going well with the appeal on the Walker case. Perhaps the change of administration in Washington may bring about new attitudes in regard to situations where the citizen vs. the bureaucracies.

I hope that you had a nice Thanksgiving, and that you will have a very Merry Christmas. I'll keep in touch.

Sincerely,

Frank Craighead

FCC:rm