

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Monday, May 06, 2013 8:40 AM  
**To:** [REDACTED]  
**Subject:** FW: EXPLOSIVE ATTACKS IN ARUSHA CHURCH

Hi [REDACTED]

Further to my last e-mail on this, herewith a statement from TATO..

The latest in the village talk is that 3 people are now dead, 60 injured in hospital, some seriously....and several other unexploded devices were found concealed in various places at the scene.....Am not sure if the latter is true but according to my maid, who was there and sustained minor injuries, the former is true..day

Also, 6 people have been arrested so far the operation to catch the culprits is continuing..

The incident took place close to our offices, in our local village, about 1/4 of a mile from here..

Best,  
[REDACTED]

-----Original Message-----

**From:** Sirili Akko. [mailto:sirili@tatotz.org]  
**Sent:** Monday, May 06, 2013 9:54 AM  
**To:** undisclosed-recipients:  
**Subject:** EXPLOSIVE ATTACKS IN ARUSHA CHURCH

Dear Members,

With deep grief we are informing you that yesterday during inauguration of Olasiti new Catholic Parish, the explosive (not yet established on whether it was a bomb or not) hit the church. The Main Mass Celebrant was The Vatican Ambassador to Tanzania , Archbishop Francisco Montecillo Padilla flanked apart from other clergy, by Bishop Louis Lebulu head of Catholic Dioceses of Arusha.

One person died and several others injured, and are in various Hospitals in Arusha.

High level investigation is still ongoing,we will share any update from the Government as and when we receive it.

Kindly update your agencies wherever they are, that there is no threat to safety and security in Tanzania as this is an isolated incident. Tanzania is still a safe and peaceful country.

Kind regards

--  
Sirili Miontini Akko.  
Executive officer.

Tanzania Association of Tour Operators  
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<http://www.tatotz.org>  
P.O. BOX 6162 Arusha - Tanzania  
Fax: +255 27 2506430  
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Mob: +255 754 535 637

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, March 31, 2006 11:55 AM  
**To:** [REDACTED]  
**Subject:** FW: We Got It!

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

FYI  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, March 31, 2006 9:43 AM  
**To:** [REDACTED]  
**Subject:** We Got It!

Hi [REDACTED]

Well, the letter offering us the Loliondo Ranch for the bid price will be sent out on Monday! Nothing was heard from the other bidder after their initial question on terms of payment.

We will all be on the email on Monday & Tuesday to start discussing details, etc. Have a great weekend!

[REDACTED]

---

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, March 07, 2014 9:21 AM  
**To:** [REDACTED]  
**Subject:** Reuters: Tanzania opens up more grazing land to drought-hit herders

This has nothing to do with us directly... just an FYI about TZ government trying to proactively resolve further conflict between farmers and pastoralists.  
<http://www.trust.org/item/20140306141231-u0m4p>

Ali



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, September 23, 2010 7:51 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Soit Sambu school graduation

That is so wonderful...you are a mentor in so many people's eyes. Keep up the good work.

[REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** Thursday, September 23, 2010 6:51 AM  
**To:** [REDACTED]  
**Subject:** Soit Sambu school graduation

Dear all,

I have been invited by soit Sambu primary school committee to be a guest of honor at the 7 th grade graduation ceremony.

I am sure partly it's because of the teacher housing built at Sukenya or probably they will have some other request. I could not turn down the invitation so will have to attend.

[REDACTED] visited the school one time.


Thanks

[REDACTED]

**In The Matter Of:**

*In Re: Application of Loserian Minis, et al. v.*

---


  
*Vol. 1*

*June 17, 2014*

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*Jones Reporting Company  
Two Oliver Street, 8th Floor  
Boston, MA 02109*

**JonesReporting**  
COMPANY

  
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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF MASSACHUSETTS  
7  
8 -----  
9 IN RE: APPLICATION OF  
10 LOSERIAN MINIS, et al, FOR AN Case No.  
11 ORDER GRANTING LEAVE TO ISSUE 1:140-mc-91050-  
12 SUBPOENAS FOR THE TAKING OF DJC-LTS  
13 DISCOVERY PURSUANT TO 28  
14 U.S.C. s 1782  
15 -----  
16  
17  
18 DEPOSITION of [REDACTED]  
19 June 17, 2014  
20 1:18-5:00 p.m.  
21 Goulston & Storrs  
22 400 Atlantic Avenue  
23 Boston, Massachusetts  
24 Reporter: Cynthia F. Stutz, CSR

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1 APPEARANCES:  
2  
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19  
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21  
22  
23  
24

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23  
24 \* ALL EXHIBITS WERE RETURNED TO ATTORNEY KAUFMAN \*

## 1 PROCEEDINGS

2 Whereupon:

3 [REDACTED]  
 4 having been satisfactorily identified and duly sworn  
 5 by the Notary Public, was examined and testified as  
 6 follows:

## 7 DIRECT EXAMINATION

8 BY MR. KAUFMAN:

9 Q. So good afternoon. Thank you for coming.  
 10 My name is Jonathan Kaufman. Next to me to my left  
 11 are Marissa Vahlsing and Richard Herz. We are with  
 12 EarthRights International and we represent Loserian  
 13 Minis, Lotha Nyaru and Joseph Makko in the action  
 14 for discovery of documents that you have appeared  
 15 here today to respond to.

16 So would you please state your name  
 17 and address for the record?

18 A. [REDACTED]

19 [REDACTED]  
 20 Q. Have you ever been deposed before?

21 A. Yes.

22 Q. How many times?

23 A. Once.

24 Q. In what kinds of cases?

1 A. A legal case against, against -- It was a  
 2 legal case. What was it called? Yeah. What more  
 3 is there than a legal case?

4 Q. That's fine. And are you represented by  
 5 counsel today?

6 A. Yes.

7 Q. And that's Mr. Marx here?

8 A. Yes.

9 Q. I am going to ask you a series of  
 10 questions and you are to answer them as completely  
 11 and as accurately as you can. Do you understand  
 12 that?

13 A. I understand that.

14 Q. Do you understand that you have just taken  
 15 an oath to tell the truth?

16 A. I do.

17 Q. Is there any reason you can't testify  
 18 completely and accurately today?

19 A. No.

20 Q. Are you, for example, on any medications  
 21 that might impair your judgment?

22 A. No.

23 Q. So now I'll just give a few instructions.

24 If you don't hear a question, please tell me and I

1 will repeat it. If you don't understand a question,  
 2 please tell me and I'll try to rephrase it in a way  
 3 that's more understandable.

4 The court reporter is going to take  
 5 down everything that we say, so please answer my  
 6 questions audibly. And most importantly, that means  
 7 that nodding your head for a yes or shaking your  
 8 head for a no don't come through on the transcript.

9 A. Yeah.

10 Q. And um-hums and those sorts of things are  
 11 difficult to transcribe.

12 Only one of us can speak at a time.  
 13 So even if you can anticipate the rest of my  
 14 question, please let me finish asking it and then  
 15 you can answer and that way the transcript will be  
 16 clear.

17 If you need a break at any time,  
 18 just let me know and I'll try to find a convenient  
 19 stopping point, just not in the middle of a  
 20 question. We'll try to make sure that we take  
 21 breaks at regular intervals. So again, if a long  
 22 time has gone before a break, just let me know.

23 Do you understand that the testimony  
 24 you provide today may be used at trial in Tanzania?

1 A. Say that again?

2 Q. Do you understand that the testimony that  
 3 you provide today may be used in the trial in  
 4 Tanzania?

5 A. May be, yes.

6 Q. And do you understand the instructions  
 7 that I've just given?

8 A. I do.

9 Q. Do you have any questions at this time?

10 A. Nope.

11 Q. Okay. Mr. Marx and I have agreed that  
 12 this deposition will be a combined deposition where  
 13 you will both be speaking in your personal capacity  
 14 and in your representative capacity for  
 15 [REDACTED] Do you understand  
 16 that?

17 A. Yes.

18 Q. Because we've agreed that these are  
 19 combined, I will assume that when you answer a  
 20 question, you are speaking both on your personal  
 21 behalf and also in your representative capacity.  
 22 But if you only know something in your personal  
 23 capacity or if you're answering only as the  
 24 representative of the company, then you should tell

1 me. Do you understand that?  
 2 A. Yeah.  
 3 Q. I realize that it's not always easy to  
 4 draw lines.  
 5 A. No, you wear two hats.  
 6 Q. Over the course of this deposition today  
 7 and tomorrow both Marissa and I will be asking you  
 8 questions. When Marissa or I refer to Sukenya farm,  
 9 the land, the property or [REDACTED], we are talking  
 10 about the land on which your company currently  
 11 operates at [REDACTED].  
 12 Do you understand?  
 13 A. Yes.  
 14 MR. MARX: Objection as to form.  
 15 I'm not sure that her company, if you're referring  
 16 to [REDACTED] operates on that property. But  
 17 that's something we can explore.  
 18 MR. KAUFMAN: Okay.  
 19 Q. When Marissa or I refer to [REDACTED] then  
 20 we're referring to all of the [REDACTED] or  
 21 any of the [REDACTED] with operations related  
 22 to safaris and tours in [REDACTED] including, but not  
 23 limited to, [REDACTED].  
 24 [REDACTED] Do

1 you understand?  
 2 A. Well, that's a little bit confusing. You  
 3 will need to say that again.  
 4 Q. Sure.  
 5 A. I don't think that's correct.  
 6 Q. So when we refer to [REDACTED] generally, we  
 7 are referring -- Well, you know what? Let's put it  
 8 this way. When we say [REDACTED] we will be referring  
 9 to [REDACTED] and [REDACTED].  
 10 [REDACTED] Do you understand that?  
 11 A. Yes.  
 12 Q. Okay. When Marissa or I say [REDACTED]  
 13 [REDACTED] we're referring to [REDACTED]  
 14 [REDACTED] Incorporated.  
 15 A. Okay. Now you're talking about [REDACTED]  
 16 [REDACTED].  
 17 Q. We're talking about [REDACTED].  
 18 A. Say again, who is this what I'm supposed  
 19 to answer through?  
 20 Q. The reason why I'm going through this is  
 21 just so that we don't have to use the long form of  
 22 all of the companies. So this is actually meant to  
 23 make things easier. If it's not meant things  
 24 easier, then --

1 A. I'm afraid it's not making it easier. I  
 2 think you need to tell me who you're talking about  
 3 because -- Yeah, that's too hard. But tell me what  
 4 you were going to say. I don't understand where  
 5 you're going, so help me with that.  
 6 Q. I'm just suggesting that when we say  
 7 [REDACTED] we're referring to the  
 8 [REDACTED] which also  
 9 [REDACTED] which we understand to  
 10 be doing business as [REDACTED]. So [REDACTED] or  
 11 [REDACTED] we're referring to that company.  
 12 A. But you mentioned [REDACTED] before  
 13 that, which was another piece you were using. The  
 14 statement right before this one, you're using  
 15 [REDACTED] for something else.  
 16 Q. Okay. So let me explain. We would like  
 17 be to able to use a word that refers not just to the  
 18 [REDACTED] but to the  
 19 group of companies that you own or control that  
 20 operate --  
 21 A. But, Jonathan, why I'm confused about  
 22 this, how do you ask me something and it's true for  
 23 one company and not for the other and this one, but  
 24 not that one? You want me to say yes because maybe

1 it deals with one of them? So I think you will have  
 2 to ask me -- I don't know how it's going to work.  
 3 Q. Well, for example, if I were to say, Are  
 4 you the [REDACTED] then the answer that I  
 5 was going for would be if you were the director of  
 6 either [REDACTED]  
 7 [REDACTED] then you would say yes.  
 8 A. That's because that's the word [REDACTED].  
 9 Q. Yeah. There are questions for which it  
 10 will not necessarily matter which of those companies  
 11 we are talking about.  
 12 A. But if it matters, I think you're going to  
 13 have -- I want to do this right.  
 14 Q. Yeah, absolutely.  
 15 A. I don't want you to trap me somewhere, you  
 16 said that was [REDACTED] and then it will all get  
 17 mushed. I want you to be very clear with me what  
 18 you're asking, because I don't know that you  
 19 understand the companies and if you don't understand  
 20 the way I understand them, we can make a real dog's  
 21 dinner of this, so --  
 22 Q. Well, let's try and explore that in the  
 23 deposition, but I will make every effort to keep the  
 24 different companies separate.

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1 A. Okay. I think it will help and I  
2 understand that -- That's fine.  
3 Q. That's fair. So again, when we say [REDACTED]  
4 [REDACTED] we are referring to the  
5 [REDACTED]  
6 MR. MARX: I can't answer for you.  
7 THE WITNESS: I know.  
8 Q. Do you understand that? Does that make  
9 sense?  
10 A. When you use the word [REDACTED]  
11 you're referring to the [REDACTED]  
12 Q. Yes.  
13 A. Of [REDACTED] I understand now  
14 that when you say [REDACTED] that's who  
15 you're referring to.  
16 Q. Yes.  
17 A. Okay, good.  
18 Q. And when I say [REDACTED], I'm referring to the  
19 [REDACTED]  
20 A. Right, okay.  
21 Q. Okay. So now we'll begin some of the  
22 actual questions.  
23 A. Okay.  
24 Q. Were you asked to collect any documents in

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1 connection with the subpoenas in this legal action?  
2 A. Yes.  
3 Q. And did you do so?  
4 A. Yes.  
5 Q. How did you search for those documents?  
6 A. I searched, the first time I searched we  
7 looked at some hard files. And then for me, I  
8 looked at, on my computer I have a folder called  
9 [REDACTED] and that is the one I looked in.  
10 Q. Okay.  
11 A. That's how I began my search.  
12 Then later I continued my search,  
13 because my daughter told me that there was -- I told  
14 her that I didn't -- Seemingly, you guys weren't  
15 happy with what I found. I said, Oh, my God, how  
16 else would I find all this? And in the little  
17 search box I put in key words and used that to then  
18 find what was out there. I had no idea that's what  
19 you could do, but that's when I did then,  
20 subsequently. Thank goodness for younger daughters.  
21 Q. I play that same role myself.  
22 A. Yeah. So, that's how. So I used key  
23 words to then look that up.  
24 Q. Do you remember the key words that you

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1 used?  
2 A. I mean, there are a lot of them. Anything  
3 from cattle to grazing to key people's names to  
4 arrests, to abandonment, to children, to land use,  
5 land use change. Those are basic -- There were like  
6 twelve or fourteen of them that I used. But I  
7 looked through 1 through 17 to be very clear that I  
8 had really gone to get what you wanted.  
9 Q. Did you ask other people to search for  
10 documents?  
11 A. Yeah, sure.  
12 Q. Who did you ask?  
13 A. I spoke with [REDACTED] and I spoke with [REDACTED]  
14 I spoke with [REDACTED]. Those are employees --  
15 Two of those are employees [REDACTED] I  
16 asked -- Let me think of who else. That's basically  
17 the key people who really have anything to do with  
18 this, with [REDACTED]  
19 Q. And to be clear, when you say [REDACTED], you  
20 mean [REDACTED]  
21 A. [REDACTED]  
22 Q. And when you say [REDACTED] you mean [REDACTED]  
23 [REDACTED]  
24 A. Yes.

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1 Q. That's [REDACTED]  
2 A. Yes.  
3 Q. And so did you ask people to search both  
4 in Tanzania and in Massachusetts?  
5 A. I asked the two people from [REDACTED]  
6 [REDACTED] to search. So those are in [REDACTED]  
7 And then the other people were asked, and they're in  
8 Tanzania.  
9 Q. And you said you looked at paper files, is  
10 that right?  
11 A. Yes. Well, we sorted them for you. We  
12 gave them to you.  
13 Q. Right.  
14 A. Yeah.  
15 Q. And were those paper files both in  
16 [REDACTED]  
17 A. I -- They were in [REDACTED]  
18 Q. In addition to your e-mails and the paper  
19 files, did you search any other sources of  
20 documents?  
21 A. Paper files and e-mails, did I search any  
22 other -- Well, you suggested we look at Skype, but  
23 there's -- that -- I mean, Skype verbally. And I  
24 said, well, maybe there's something there. So does

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1 that count, Skype? What else is there? Don't make  
2 me guess.  
3 Q. I think you did produce some text  
4 messages.  
5 A. Yeah. Or those were from the phone.  
6 Right, text messages, yeah. I mean, yes, those.  
7 Q. So whose phones did you search on for text  
8 messages?  
9 A. Oh, another person, sorry. Another person  
10 I did talk to is [REDACTED] in our office and [REDACTED]  
11 phone, she was the one who gave me the text message  
12 from her phone.  
13 Q. Does [REDACTED] have a document  
14 retention policy?  
15 A. Not really. I mean, not really. It's a  
16 very broad, very broad piece. When our server was  
17 full, we were told to dump years and we did. So  
18 that's really our retention. Everybody -- We had  
19 all our people at [REDACTED] to do what they  
20 need to do. Our retention policy is different when  
21 our guests are potentially traveling with me, we  
22 keep everything from those guests, because we want  
23 to be able to talk with them when we speak with them  
24 on the phone.

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1 For our employees, otherwise, they  
2 are allowed to do what they need to do. And when  
3 the server gets full, they dump year after year and  
4 that's basically what they do.  
5 Q. So would you be aware if documents that  
6 would have been relevant to these requests had been  
7 dumped at certain points?  
8 A. Would I be aware that certain documents --  
9 No. I mean, no. Well, no.  
10 Q. Okay. What is your title at [REDACTED]  
11 [REDACTED]  
12 A. [REDACTED] and I am a  
13 director.  
14 Q. Do you also have a title or role [REDACTED]  
15 A. My role at [REDACTED] is as a director, as well.  
16 Q. As the director of [REDACTED] do you manage or  
17 supervise any of the work at [REDACTED]  
18 A. No.  
19 Q. Who does manage the work at [REDACTED]  
20 A. The work at [REDACTED] is managed by our project  
21 manager.  
22 Q. What is the relationship between [REDACTED]  
23 [REDACTED]  
24 A. [REDACTED]

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1 [REDACTED] The relationship is pretty distant. [REDACTED]  
2 [REDACTED] ls product to Tanzania. [REDACTED] manages  
3 property, of which our guests, some of our guests  
4 might visit. So between the two, there is not a lot  
5 between, directly between those two.  
6 Q. Would there be contracts signed between --  
7 A. Between [REDACTED] Between [REDACTED]  
8 [REDACTED] with -- No, I don't  
9 think so.  
10 Q. How many employers work for [REDACTED]  
11 [REDACTED]  
12 MR. MARX: I'm sorry, did you  
13 say employers?  
14 Q. How many employees?  
15 A. How many employees work for [REDACTED]  
16 Q. For [REDACTED]  
17 A. I think we're now about 22, 21, 22.  
18 Q. How many employees work for [REDACTED]  
19 A. Oh, my God. I don't know I would know  
20 that, but can I guess?  
21 MR. MARX: I would ask that you not  
22 guess.  
23 A. Okay. I'm not going to guess, because I  
24 literally would not -- I, like I said, the role

Page 20

1 between these two -- I'm a director, but the role  
2 between these two is quite distant. And I don't  
3 know. I actually could answer that wrong.  
4 Q. Do [REDACTED] employees ever supervise the work of  
5 [REDACTED] employees?  
6 A. Do [REDACTED] ever  
7 supervise -- Supervise, no.  
8 Q. Do [REDACTED] employees ever report directly to  
9 you?  
10 A. Report to me? Can you explain what  
11 report? It's really important, the definition, even  
12 in a business, report is an important word.  
13 Q. I agree. [REDACTED] employees ever directly  
14 provide you information about what is happening at  
15 [REDACTED]  
16 A. Yes.  
17 Q. [REDACTED] the employer of the general manager  
18 at [REDACTED] -- the project manager? Sorry.  
19 A. Does [REDACTED] employ the project manager? I'm  
20 not in charge of that relationship, so --  
21 Q. Do you know if [REDACTED] employs the project  
22 manager at [REDACTED]  
23 A. I don't know. I would want to tell you  
24 absolutely 100% yes if I knew, and because I don't



Page 21

1 know, I better not. I can't say.  
 2 Q. Do you believe that [REDACTED] employs the  
 3 project manager at [REDACTED]  
 4 A. Yeah, I believe that that's true.  
 5 Q. Do you know [REDACTED]  
 6 A. I know [REDACTED]  
 7 Q. Did he ever work for [REDACTED]  
 8 A. You're asking me that same question again.  
 9 Unfortunately, I know you're trying to go there,  
 10 but -- Yes. I mean, if the project manager is,  
 11 reports -- is a [REDACTED] employee, yes, that would be the  
 12 answer.  
 13 Q. When did he work in that capacity?  
 14 A. He's worked with us, if he worked in that  
 15 capacity under [REDACTED] as a project manager, he's worked  
 16 for us twice. And I don't know the dates. A while  
 17 back, then he left, and then he came back again.  
 18 Q. And is he currently the project manager?  
 19 A. He is currently the project manager.  
 20 Q. Do you know where [REDACTED] is from?  
 21 A. [REDACTED] is a Maasai. However, I  
 22 believe he lives in Arusha.  
 23 Q. Do you know [REDACTED]  
 24 A. I know [REDACTED]

Page 22

1 Q. Did he ever work as project manager at  
 2 [REDACTED]  
 3 A. No, oh, no, not that I know of.  
 4 Q. What was his position?  
 5 A. [REDACTED] that  
 6 works with [REDACTED]  
 7 Q. Who is his employer?  
 8 A. [REDACTED]  
 9 Q. And [REDACTED] is the  
 10 [REDACTED]  
 11 A. No.  
 12 Q. It is the Tanzanian company?  
 13 A. Correct.  
 14 Q. And what are his roles as a [REDACTED]  
 15 [REDACTED]  
 16 A. I'm not his supervisor. I don't look at  
 17 his job description, so I would not be good for me  
 18 to say what he does. You will get that information  
 19 from somebody else, but not from me. I mean, I'm  
 20 not his supervisor. Sorry.  
 21 Q. No, it's fine. And I do understand that  
 22 you are very concerned, you want to make sure that  
 23 you're always giving answers that comes from your  
 24 personal knowledge. I'm not trying to trap you, but

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1 there's no reason why you should trust me over the  
 2 advice of your attorney.  
 3 A. He didn't tell me not to trust you. I  
 4 just want to make sure I get it right for you.  
 5 Q. That's fine.  
 6 A. Because you're going somewhere and I can  
 7 help you get there.  
 8 Q. Honestly, at this point I'm just, I'm  
 9 trying to understand. A number of names come up a  
 10 lot.  
 11 A. Yeah.  
 12 Q. In the allegations and in the documents.  
 13 A. Yes.  
 14 Q. And I'm trying to understand who these  
 15 people are, who's responsible for their work.  
 16 A. How about our organization chart, does  
 17 that help you?  
 18 Q. Yes, it does.  
 19 A. Okay. I didn't work on that, so I  
 20 don't -- I know that you have one, but that's  
 21 another reason that I'm not as familiar.  
 22 Q. Who did prepare that organization chart?  
 23 A. I don't know. I think [REDACTED] did that. I  
 24 think Rick provided that to you.

Page 24

1 Q. Do you know the dates of [REDACTED]  
 2 employment with [REDACTED]  
 3 A. No, I don't.  
 4 Q. Approximately?  
 5 A. I don't. Sometime in late 2000 until now.  
 6 I don't know if it was 2009, 2010. I'm not his  
 7 supervisor.  
 8 Q. But he's currently with [REDACTED]  
 9 A. He is currently with us.  
 10 Q. Do you know [REDACTED]  
 11 A. [REDACTED]  
 12 Q. Was he ever employed -- Do you know, was  
 13 he ever employed by [REDACTED], to your knowledge?  
 14 A. Well, I think that what do you mean by  
 15 employed? Again, one of those words -- He's not an  
 16 [REDACTED]  
 17 Q. Let's ask it a different way.  
 18 A. Okay.  
 19 Q. What work has he done at [REDACTED]  
 20 A. He's been a [REDACTED] sometimes a story  
 21 teller. I think he tells some stories for [REDACTED]  
 22 He's a great translator is what he's done for us.  
 23 Q. When you say story teller, do you mean  
 24 telling the stories of the Maasai to guests?



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1 A. Yeah. He doesn't make up stories. Yeah.  
 2 Actually, he's the translator for the story teller.  
 3 So we have a story teller who tells Maasai tales and  
 4 he translates them for our guests.  
 5 Q. And to your knowledge, where does he come  
 6 from?  
 7 A. He comes from -- I'm going to get this  
 8 wrong. He comes from the Loliondo area. He's  
 9 Maasai.  
 10 Q. And do you know [REDACTED] Am I  
 11 saying that name right?  
 12 A. I know [REDACTED]  
 13 Q. How should I pronounce his last name?  
 14 A. I don't know. I never use his last name.  
 15 [REDACTED]  
 16 Q. What work does he do at [REDACTED]  
 17 A. He is was project manager.  
 18 Q. Was he project manager in between the  
 19 times that [REDACTED] was working there?  
 20 A. Yes. Just so know -- I mean, yes, he was.  
 21 Q. And where are you from?  
 22 A. Mars -- Don't put that down. I am from, I  
 23 am from [REDACTED] where I'm living.  
 24 Q. How long have you been working in Tanzania

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1 tourism?  
 2 A. Which hat am I wearing?  
 3 Q. You can answer either or both.  
 4 A. I have been working in Tanzania since  
 5 1979.  
 6 Q. And that is as [REDACTED] not as  
 7 [REDACTED]  
 8 A. That is as [REDACTED] yes.  
 9 Q. And how did you [REDACTED] begin  
 10 working in Tanzania?  
 11 A. I began by operating, I started a company  
 12 called [REDACTED] and we took people  
 13 to East Africa and that's how that began. Is that  
 14 your question?  
 15 Q. Yes.  
 16 A. Okay.  
 17 Q. And how did you come to found [REDACTED]  
 18 A. [REDACTED]  
 19 [REDACTED] was founded under a  
 20 different name, but had a name change in 1981. Did  
 21 you say how did I come to do that? I met [REDACTED]  
 22 [REDACTED] and together we founded [REDACTED]  
 23 [REDACTED] -- See, it's getting confusing.  
 24 Q. I agree. That why we're asking questions.

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1 A. I know.  
 2 Q. Would you describe yourself as being  
 3 familiar with Maasai culture?  
 4 A. Yes, relatively familiar after this many  
 5 years, yes.  
 6 Q. How did you come by that familiarity?  
 7 A. By working with them. Our guides are  
 8 Maasai. Our friends are Maasai. We work with them  
 9 side by side. My friends are Maasai and I care  
 10 deeply about them.  
 11 Q. Are you aware of a property in Tanzania  
 12 currently or previously referred to as Sukenya Farm?  
 13 A. I know of the property that is now called  
 14 [REDACTED] that some people called the Sukenya Farm  
 15 373. So I don't know if there's another Sukenya  
 16 Farm or not. Okay? You know, I don't know. If  
 17 that's what you're asking. But maybe there's  
 18 another Sukenya Farm.  
 19 Q. Okay. What, if any, is your relationship  
 20 to [REDACTED]  
 21 A. My relationship to a piece of land, a  
 22 nature refuge, my relationship to that is that --  
 23 How can I have a relationship with this piece of  
 24 land? I don't know. Do you mean from a business

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1 point of view or from a personal point of view?  
 2 Q. What is your understanding of your legal  
 3 relationship to [REDACTED]  
 4 A. Oh, my understanding about the legal  
 5 relationship is that this piece of land came up for  
 6 sale and people bid on it. We didn't win the bid.  
 7 We ended up -- A month later or so the land came  
 8 available again and we put our bid in. They  
 9 accepted our bid. And it was a titled deed that we  
 10 purchased, not from the Maasai, but from Tanzania  
 11 Breweries Limited, who had owned it for twenty years  
 12 before us.  
 13 Q. And how did you first learn about the  
 14 availability of [REDACTED]  
 15 A. I learned about it from [REDACTED]  
 16 Q. When you entered a bid for [REDACTED] what  
 17 was your understanding of the land rights that [REDACTED]  
 18 would receive if you won the bid?  
 19 A. What I remember -- This question is best  
 20 pushed elsewhere, but all I knew and still know is  
 21 that we bought a piece of land that had a titled  
 22 deed.  
 23 Q. So to be clear, your understanding was  
 24 that you were buying land, you were buying a piece

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1 of land?

2 A. We were buying a piece of titled land,

3 which is very, very important. It's not just buying

4 a piece of land. In Tanzania it's very different.

5 So we bought a titled piece of land. Can't be said

6 separately.

7 Q. Titled land?

8 A. Titled land.

9 Q. And I'm sorry. You said this question is

10 better pushed elsewhere, so what did you mean by

11 that?

12 A. I wasn't really part of that whole

13 purchasing piece or the whole negotiation that was

14 done. That was actually [REDACTED] who's handled that, so

15 I don't want to misrepresent -- He will know better

16 when you talk to him a lot better than I would. So

17 I'm giving you my, what I know, what I think I know.

18 Q. Thank you. Before you purchased [REDACTED]

19 did anyone visit the land on your behalf?

20 A. On behalf of one of my companies, on

21 behalf of [REDACTED], yes.

22 Q. Who did that?

23 A. [REDACTED] and a few other

24 people went up there. And our guides went up. I

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1 don't know if our guides saw it before or after we

2 purchased it. I think -- I don't remember this. I

3 just remember at the very initial stages that our

4 guides were also very keen -- I think you have the

5 e-mail that showed that our guides were very keen to

6 be a part of this endeavor.

7 Q. Sorry. Do you remember the names of any

8 of those guides?

9 A. I remember [REDACTED] being one of them. You

10 will see the e-mail has that on there. Maybe

11 [REDACTED] also, because he's Maasai.

12 Q. We came across an e-mail from somebody

13 named [REDACTED]. Was that another guide, as well?

14 A. Oh [REDACTED]. Actually, yeah [REDACTED] was our

15 [REDACTED] at one point and was also knew about

16 this land. And but I don't remember if he went up,

17 if [REDACTED] went with him or not. Remember, I'm in the

18 [REDACTED]

19 Q. Sorry. When you say our general manager?

20 A. The general manager [REDACTED]

21 [REDACTED]

22 Q. The Tanzanian company?

23 A. [REDACTED] was a general

24 manager at one point with us.

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1 Q. Did you receive any reports about the land

2 after those people went there prior to purchasing

3 the land?

4 A. Yeah, I think in that e-mail -- Somebody

5 wrote that e-mail where the guides were very, very

6 keen and liked it. Maasai were friendly and

7 welcoming. The land was beautiful. But this place,

8 this area here where [REDACTED] sits is so far away

9 from the national parks, far, far away, so to invest

10 and be out in the middle of nowhere, we wanted to

11 make sure that everybody was on board. And with our

12 relationship with the Maasai and their acceptance of

13 us being there, it was a winner.

14 Q. Sorry. So when you say you wanted to make

15 sure everybody was on board, you mean?

16 A. Our staff.

17 Q. Your staff?

18 A. And the Maasai there, who were very happy.

19 They were very pleased, welcomed us.

20 Q. So to be clear, when the people that you

21 have just mentioned went out to [REDACTED] they spoke

22 to local Maasai?

23 A. Well, I'm not privy to that, because I

24 wasn't there. I think [REDACTED] may have been on that

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1 trip, I don't know, or somebody else was on that --

2 I'm not really sure who was on that trip, but I'm

3 actually referring back to that e-mail that

4 clarified that for us and for you and for all of us

5 here.

6 Q. So your understanding is that you did get

7 a report in the e-mail that you're talking about?

8 A. Yeah. You can pull up the e-mail again,

9 but I believe from [REDACTED] was -- I remember the

10 header was talking about the fact that it was a

11 great place. The Maasai were accepting and that the

12 land was great. Wildlife could happen. So that's

13 what I remember.

14 Q. And just so there's some predictability

15 for you, we certainly will turn to the documents,

16 but I want to ask you some general questions first

17 --

18 A. Okay, sure.

19 Q. But then we'll move to the documents.

20 A. Okay.

21 Q. Did you make any inquiries into the

22 existence of any conflicting claims to [REDACTED]

23 before you bought it?

24 A. Say that question again.

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1 Q. Did you check whether there were any  
2 conflicting claims to [REDACTED] before you bought it?  
3 A. I wasn't the person who was responsible  
4 for buying the property. We worked with our lawyer  
5 and there were -- Nothing, I remember there was no  
6 conflict. There was no mention of conflict.  
7 Q. So if someone had done a check for  
8 conflicts, it would have been your lawyer, is that  
9 right?  
10 A. I don't know. Who does a check for  
11 conflicts? I don't know if it would have been my  
12 lawyer or if it would have been -- I don't know who  
13 would have done that. Most likely our lawyer told  
14 us it was a free and clear and titled, deeded piece  
15 of property.  
16 Q. Did you check whether any people were  
17 using the land before you bought it?  
18 A. I'm the wrong person to ask. I'm sorry.  
19 Q. Who would be the right person to ask?  
20 A. Probably [REDACTED] when you talk to him.  
21 Q. Did you ever hear anything about anyone  
22 other than Tanzania Breweries Limited using the land  
23 before you bought it?  
24 A. No. I mean, again, I'm third party to all

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1 of this, but that does not -- No, I don't remember  
2 personally ever hearing anything like that.  
3 Q. Now, you said you have been operating in  
4 Tanzania personally yourself since 1979, is that  
5 right?  
6 A. No. I had a relationship with Tanzania.  
7 I don't know if you asked me if I was operating.  
8 Operating means that you are literally running  
9 safaris on the ground. In 1979 I was using some  
10 other company to do that. I personally had been  
11 offering safaris since 1979 in Tanzania, in East  
12 Africa. So I don't believe I said I was operating.  
13 It's a very different word in the travel business.  
14 Q. Thank you for clarifying.  
15 And during all of that time have  
16 those safaris been in the Maasai area?  
17 A. You are asking a question that have they  
18 all been in Maasai area?  
19 Q. Let me rephrase the question.  
20 A. Yeah.  
21 Q. During that time have you always been  
22 involved with tours in the Maasai area?  
23 A. I would say most of the time.  
24 Q. The Maasai are traditionally pastoralists,

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1 is that right?  
2 A. Yes.  
3 Q. And how do the Maasai pastoralists  
4 traditionally make their living?  
5 A. You mean as in do they make money?  
6 Q. I'm sorry. How do they, what is their  
7 livelihood, traditionally?  
8 A. Their livelihood is as pastoralists who  
9 feed their children milk, who live -- They are  
10 actually not free -- they're not moving like they  
11 used to, as we used to use the word pastoralists.  
12 They're usually kind of somewhat more stationary.  
13 They cross borders, cross out of areas at certain  
14 times, but they are cattle dependent. But not all  
15 Maasai are cattle dependent. A lot of Maasai now  
16 are becoming agriculturalists. So they're changing.  
17 They've been changing for a long, long time. And we  
18 have Maasai who are actually on our staff, who make  
19 a living being guides. And there are many Maasai in  
20 Arusha running shops. So all Maasai aren't  
21 pastoralists.  
22 Q. The communities that surround [REDACTED]  
23 how would you describe the livelihoods of those  
24 communities that surround [REDACTED]

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1 A. Those are, those are pastoralists around  
2 [REDACTED] They are, I mean, yes.  
3 Q. And does that mean that those communities,  
4 the members of those communities move around over  
5 the course of the year?  
6 A. I am not there to witness where they're  
7 moving to and from, so I don't -- There seem to be  
8 very different -- I look at a large group that are  
9 up in Loliondo, up by the village of Loliondo are  
10 quite different than the ones that are in  
11 Ololosokwan, who depend on tourism. They don't move  
12 as much. Some of are moving -- I can't actually  
13 answer that, because I see them when the Maasai who  
14 are our friends are there, they are coming into  
15 camp. So they're not moving and changing, so I  
16 don't know.  
17 Q. Would you say that some of the families in  
18 the communities that are closest to [REDACTED] do move  
19 around with their cattle?  
20 A. They move their cattle around. I don't  
21 know if they're as sedentary as other groups, but  
22 they move their cattle oftentimes from place to  
23 place.  
24 Q. And how far are we talking about?

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1 A. You know, I don't know. I don't go out  
2 and see what they're doing. I mean, granted, you're  
3 saying you have known Maasai all your life, but I  
4 don't know in this area how far they move their  
5 cattle. Remember, we're on the border of Kenya. I  
6 don't know if they go across the border of Kenya  
7 with their cattle. It's hard for me to know where  
8 they're going with their cattle.  
9 Q. So from your time with [REDACTED] you're  
10 not familiar with their grazing patterns?  
11 A. Not with their grazing patterns as to  
12 where they're going. I don't know where they're  
13 taking their cattle. I don't know where they're  
14 taking their cattle. Not only that -- Yeah, how  
15 would I know? No, I don't know that.  
16 Q. Has anyone ever told you?  
17 A. Nope.  
18 Q. Are there Maasai communities on all sides  
19 of [REDACTED] To ask in a more specific way, if I  
20 were to say, north, south, east and west, are there  
21 communities within, are there Maasai communities  
22 within thirty miles in each direction?  
23 A. Thirty miles in each direction, Maasai.  
24 Well, there are also Sonjo. So I don't know which

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1 ones are Sonjo and which ones are Maasai.  
2 Q. Are there communities, local communities  
3 within thirty miles of each direction?  
4 A. Yeah.  
5 MR. MARX: Meaning of either group  
6 of people?  
7 MR. KAUFMAN: Yeah, of either.  
8 A. Just communities you're asking. I mean,  
9 there's a village. There's a city. There's a city  
10 by us. Not that close, but so there's a community  
11 right there that's within thirty miles. So that  
12 answers the question right there.  
13 Q. And are there cattle grazing in the areas  
14 surrounding [REDACTED] all year round?  
15 A. Are they there all year round?  
16 Q. What I'm trying to get at is whether the  
17 cattle grazing around [REDACTED] is seasonal or if it  
18 is --  
19 A. I think cattle grazing is seasonal any  
20 how. You know, if there's no grass, the cattle  
21 aren't there. If there's no water, they take their  
22 cattle to grass and water. They're always moving in  
23 terms of what's best for their cattle.  
24 Q. In a typical year are there cattle grazing

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1 in the area around [REDACTED] in dry season?  
2 A. I don't -- I can't answer that. I  
3 don't -- Are there cattle around [REDACTED] in the dry  
4 season? If there are grasses for some reason,  
5 perhaps there are, or they would take them further  
6 away.  
7 Q. What are the approximate dates of dry  
8 season and rainy season in the Enashiva area?  
9 A. [REDACTED]  
10 Q. Yeah.  
11 A. I'm going to give it to you for Tanzania,  
12 because I think it's generally the same thing,  
13 northern Tanzania. So we have our big rains in  
14 April and May and then we start drying up until  
15 November. We have short rains and then short rains  
16 continue on to the heavy, basically, until the heavy  
17 rains in April, May. Our dry season is kind of what  
18 you and I consider our summertime, October.  
19 Including September, October.  
20 Q. When [REDACTED] to your  
21 knowledge were there any existing structures on the  
22 land?  
23 A. Yes.  
24 Q. What structures were there?

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1 A. There were TBL structures where the TBL  
2 staff was living that was on the land.  
3 Q. And were there any other human made, any  
4 other things built by humans?  
5 A. Other things built by humans? From what I  
6 hear there were some old thorny fences that were on  
7 the land at some point. But otherwise, I'm looking  
8 around, no, that I know of.  
9 Q. When was the first time that you visited  
10 [REDACTED]  
11 A. That's a great question. I don't know. I  
12 really don't know. I don't even know when the thing  
13 closed. So I think that's -- Tell me. 2006?  
14 Shortly after. Maybe within six months.  
15 Q. Who told you about there being old thorny  
16 fences at [REDACTED]  
17 A. The first time I heard that there were old  
18 thorny fences at [REDACTED] was when -- I don't know  
19 if it was [REDACTED] contacted us to say that  
20 the regional commissioner had flown up to see,  
21 because somebody in the neighborhood, Maanda, was  
22 telling everybody that we were burning down homes on  
23 our land that belonged to Maasai. He flew up,  
24 pissed as a rat, that she had done this, because it

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1 was not. It was thorny brushes and he looked at  
 2 that. And then he wrote to me -- He wrote to us,  
 3 actually, cc'd to me, about this happening. And  
 4 that was the first time I even knew they were on the  
 5 property. You wouldn't, you probably wouldn't be  
 6 able to tell what they were if you saw them, you and  
 7 I. They're not like, they're not that obvious. And  
 8 so that's the first time I heard they were even  
 9 there.  
 10 Q. So when you say they're not that obvious?  
 11 A. I mean, in other words, if you were  
 12 driving across the land, you might not notice that  
 13 there were thorny brush lying there that needed to  
 14 be burned.  
 15 Q. You mean that it would not be obvious?  
 16 A. Yes.  
 17 Q. That they had been put there on purpose by  
 18 people?  
 19 A. I don't know if they were put there on  
 20 purpose. At one point they may have been put there  
 21 on purpose, but I'm just saying that they were  
 22 really hard to understand. And when he arrived he  
 23 was not happy that suddenly the word was out that  
 24 made him actually leave his business, fly up there

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1 and see that these were just thorn bushes.  
 2 Q. This was [REDACTED]  
 3 A. I don't know if it was [REDACTED]. You have to  
 4 ask that when you have a chance. I don't actually  
 5 remember. I just remember the e-mail coming. And  
 6 it may have been [REDACTED] when he first was with us.  
 7 I think he was there when that all happened. So  
 8 that was the first -- You asked how did I first find  
 9 out about it. That was how I first found out about  
 10 it was through that altercation.  
 11 Q. And was [REDACTED] burning those thorny  
 12 obstacles?  
 13 A. Yes, I hear that they did. Not [REDACTED]  
 14 [REDACTED]. You weren't trying to trick me, right? You  
 15 just made a mistake.  
 16 Q. Do I look like I'm trying to trick you?  
 17 A. Just making sure.  
 18 Q. From your experience when those sorts of  
 19 things are burned, how long is there a trace, how  
 20 long can you see that?  
 21 A. I've never -- I have no idea. Where did  
 22 you get that one from? I have no idea, honestly. I  
 23 do not know.  
 24 Q. How would you describe the state of the

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1 land when [REDACTED] acquired it?  
 2 A. It's a long time ago. The state of the  
 3 land? I don't know. I just remember it being quite  
 4 dry, hilly. There were wildlife, some wildlife on  
 5 the property, very little bit, but there were a few.  
 6 That's all I remember. I honestly don't remember  
 7 very much.  
 8 Q. So at the time the area was not very rich  
 9 in wildlife?  
 10 A. No, not as rich as it is now, I mean,  
 11 comparatively speaking, but it had wildlife on  
 12 there, some.  
 13 Q. Did you have a sense that the land was  
 14 degraded in some way?  
 15 A. I wouldn't be the right person to ask  
 16 about that. I wouldn't, I wouldn't have known. I  
 17 really wouldn't have known. You know [REDACTED] and  
 18 [REDACTED] and people like that who are  
 19 out in the bush a lot more would know that.  
 20 Remember, I'm at home trying to get people to go  
 21 safari and counting heads and putting bums in seats.  
 22 I am not thinking about how long the grass is at  
 23 [REDACTED]  
 24 Q. And taking care of your children?

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1 A. And taking care of my children.  
 2 Q. How old are your children?  
 3 A. Now they're 27 and 25 and pregnant. So  
 4 look out. Be nice to me.  
 5 Q. Will this be your first grandchild?  
 6 A. It is.  
 7 Q. Congratulations.  
 8 A. Thank you.  
 9 Q. So you said the area wasn't as rich in  
 10 wildlife then as it is now. To your understanding,  
 11 what has changed since then?  
 12 A. I wish I knew more about wildlife  
 13 behavior, but the wildebeest -- I'm not sure -- The  
 14 wildebeest kind of come and go anyhow. And the  
 15 giraffe have multiplied, so there's more because  
 16 there are more animals that are now having babies  
 17 and staying there. It's become kind of a place for  
 18 them to be and to stay. So I don't know whether  
 19 it's just from increased population due to making  
 20 and having more and more, or whether it has to do  
 21 with the fact that the grass is better now, richer  
 22 for them and better for them.  
 23 Q. Did you have a sense of why the grass was  
 24 not as rich when you bought it?



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1 A. Are you trying to find out if there were  
2 cattle on the property?  
3 Q. I'm trying to find out -- I mean, I asked  
4 you if the land as degraded and you don't really  
5 know.  
6 A. I don't know what degraded really kind of  
7 means to all of us, but all I know is -- And I  
8 wouldn't be somebody to say if it was degraded or it  
9 wasn't degraded. I'm not the right person to ask  
10 about that. So I could guess why there are more,  
11 but I don't know.  
12 Q. Did you have a sense that a lot of cattle  
13 had been grazing on that property before you bought  
14 it?  
15 A. It would like to say yes or no, but I'm,  
16 I'm, I'm really sorry, Jonathan. I'm really not the  
17 right person to know the reasoning for all of this.  
18 I am really a very people -- I'm a people person, so  
19 when I go into a village, that's kind of what I do.  
20 I really don't know enough about wildlife behavior  
21 and biomass and how much they eat and who can eat  
22 and what they can eat and whether giraffes or  
23 wildebeest eat more of this or whatever. That's  
24 something that's much harder for me to understand.

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1 But [REDACTED] might be able to help you with that, for  
2 sure.  
3 Q. But I'm just asking, and to the extent  
4 that you understand it, did you have a sense that  
5 the land was overgrazed when you bought it?  
6 A. I wouldn't have known.  
7 Q. Are there water sources on the land?  
8 A. Okay. What's a water source? Help me  
9 with that, because that's a real sticky thing, as  
10 you and I know. What to you is a water source? So  
11 you and I are on the same page.  
12 Q. Are there natural bodies of water on the  
13 land?  
14 A. There is a spring and there is a catchment  
15 that is called a pololet, but it's not like a  
16 raging, running river. And the spring is only there  
17 occasionally. So that's it.  
18 Q. What's the name of the spring?  
19 A. I can't -- I'd love to make it up, but it  
20 has a name and I can't remember it. Engagavenia --  
21 did you get that? I don't know that. I'm sorry.  
22 You have really got the wrong person going first.  
23 Q. And the river, the pololet or the  
24 catchment, as you said, when is there water in the

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1 pololet?  
2 A. There's water in there during rainy season  
3 when there's water everywhere. In other words, it  
4 doesn't hold water where other people don't have  
5 water.  
6 Q. After the rains stop does it hold water  
7 for a time?  
8 A. I don't think so, but clarify that with  
9 [REDACTED]. It's not, it's not a place where  
10 anything is going to come to drink except for during  
11 the time where there's water everywhere.  
12 Q. When you acquired the land were there any  
13 bore holes on the land?  
14 A. No.  
15 Q. When you acquired the land were there any  
16 cattle dips on the land?  
17 A. I think no.  
18 Q. Since [REDACTED] acquired the land, to your  
19 knowledge has, have any members of the surrounding  
20 communities built structures on the land itself?  
21 A. Since what happened?  
22 Q. Since [REDACTED] bought it.  
23 A. Has anybody built structures? No. Not  
24 that I know of. Not to my knowledge. Do you know

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1 something I don't know?  
2 Q. I mostly know what's in the documents that  
3 you have given us.  
4 A. Okay. Yeah, no.  
5 Q. According to your knowledge, do people  
6 from the surrounding communities bring their cattle  
7 to graze on the land?  
8 A. Yes.  
9 Q. And do you know if they were doing that  
10 before [REDACTED] bought it?  
11 A. I've asked that. I don't know the answer  
12 to that. I don't know if they were or they were  
13 not. I was never there to see that. Again, I think  
14 [REDACTED] might be able to help you a lot more with this,  
15 but I don't know.  
16 Q. When did you first hear about members of  
17 the local surrounding communities bringing their  
18 cattle to graze on the land?  
19 A. Well, first time I was there, I met with a  
20 lot of Maasai elders, because we wanted to let them  
21 know what we were thinking about for the future and  
22 to clue them in on that. And they wanted to talk to  
23 us about bringing some of their cattle onto the  
24 land. And we wanted to explain -- So that was my

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1 first time to kind of realize that they wanted to  
2 bring some of their cattle on the land. But when we  
3 explained what we were trying to do and how that  
4 would benefit them, that group of elders we didn't  
5 hear from again. And they've, you know, they've  
6 been very respectful. So that was the first time  
7 that I heard about people wanting to put cattle,  
8 have cattle on the property.  
9 Q. And was that first time that you visited?  
10 A. That was the first time I visited, yeah,  
11 and talked to the elders.  
12 Q. When you said that group of elders, how  
13 would you identify them?  
14 A. I don't remember who all of these guys  
15 were. There was one from Mondorosi, from Sukenya  
16 somebody from Ololosokwan I think was even there.  
17 Because remember, Sukenya Village was not a village  
18 at that time. So there were a group of maybe six of  
19 these elders that came to sit with us.  
20 Q. And they were asking permission  
21 specifically for the cattle, to bring some cattle to  
22 graze?  
23 A. Just to bring into certain areas.  
24 Q. And were they also asking permission to

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1 bring their cattle onto the land for water, as well?  
2 A. I don't know that. Maybe. I mean, you  
3 know, I don't know.  
4 Q. And do members of the surrounding  
5 communities bring their cattle onto the land to use  
6 the water?  
7 A. Let me just repeat. There is not water on  
8 our land when there's water elsewhere. So if they,  
9 if they are coming to bring their cattle for water,  
10 they're coming to give us trouble, because there is  
11 no water on our land when there's no water anywhere  
12 else. There's water on our land when there's water  
13 everywhere.  
14 So if they're saying, the few of  
15 them that say, Oh, we need to bring our cattle here  
16 for water, that is not why they're bringing their  
17 cattle there. There is no water. Or if there's  
18 water, they would get it somewhere else.  
19 Q. But just to ask the question as, I mean,  
20 you could answer it yes or no. Do people from the  
21 surrounding communities bring cattle onto the land  
22 to drink water?  
23 A. I'm not going to answer that yes or no,  
24 because do they bring the cattle on for water? No,

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1 because there's no water there if they're bringing  
2 their cattle on.  
3 Q. You did say that there are times when  
4 there is water on the land.  
5 A. And they bring their cattle on.  
6 Q. I feel that this is a pretty simple  
7 question.  
8 A. I don't think it's simple at all.  
9 Q. Well, I recognize that there are a lot of  
10 issues with water on the land, but my question is  
11 just do people --  
12 A. There are not a lot of issues with water  
13 on the land. Remember, there's either water there  
14 and there's water everywhere else.  
15 Q. My question is just do people bring their  
16 cattle onto the land to drink water?  
17 MR. MARX: Objection as to form.  
18 She's also already answered.  
19 A. They don't drink the water. There  
20 isn't -- My point is they'd like to get on the land  
21 to bring their cattle, for whatever reason, as a  
22 harassment. Do they get to a water source? I don't  
23 think they're there for water. So no, they don't  
24 come for water.

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1 Q. Okay, thank you. Was there ever a time --  
2 You did say that there are members of the local  
3 communities do come to bring their cattle to graze.  
4 A. They also would like to bring their cattle  
5 to graze, if they get permission.  
6 Q. So was there ever a time, in your  
7 knowledge, when the members of the local community  
8 were not bringing their cattle to graze on the land?  
9 A. I think the problem here has to deal with  
10 what you're calling the local community. And this  
11 is where I think EarthRights and Minority Rights and  
12 all of you maybe have missed the mark. And that is,  
13 the community is of many different clans. So there  
14 is a particular group of people who harass us and  
15 who you're zoning in on.  
16 The rest of our friends, until  
17 recently, have been very, very honorable. They know  
18 what we're doing. They're part of the plan. And if  
19 they needed to bring their cattle on, then they come  
20 on. If it's drought, they definitely bring, and if  
21 you need to come on during a drought situation, of  
22 course, you come on. But the rest of them have been  
23 very honorable.  
24 So now ask me the question again.

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1 Q. I'm not asking you about, at this point  
2 I'm not asking about whether they need permission,  
3 whether they ask for permission first or not. I'm  
4 just asking if -- I'm trying to get a sense of  
5 whether this has changed over time with the number  
6 of cattle that come onto the land have changed over  
7 time?  
8 A. It has changed over time. And it depends  
9 on what the political movement is by PWC and our  
10 adversaries as to what they want to accomplish. So  
11 sometimes we'll have three or four thousand heads of  
12 cattle on the property by one particular group with  
13 the same brand, or similar brands, brandings, and  
14 then the rest there will be none, because the rest  
15 of the community is quite honorable.  
16 So it has changed. It used to be  
17 little and then it got, it grew. And then it went  
18 away and it grew and it went away and of course, it  
19 keeps changing depending on, you know, the flavor.  
20 Q. So there are other times when there are,  
21 as far as you know, there are no cattle on the land?  
22 A. Sure. I mean, this is -- Can I just say,  
23 that's a pretty broad statement. I mean, generally,  
24 no. Is there one cow that's down there in the far

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1 left-hand corner that's, you know -- I have no idea,  
2 but because the boundaries are -- So I don't know if  
3 there's one or two or three or four. But the  
4 question you're asking is sometimes our property is  
5 flooded with cattle. And it may not be in a  
6 drought. It may not be at any time, it's just  
7 flooded, for whatever reason. So yes, it's changed,  
8 unfortunately.  
9 Q. So does [REDACTED] have a policy on how and when  
10 cattle can come to graze on their land?  
11 A. Yes. You have a copy of that.  
12 Q. When was that policy written?  
13 A. The policy is always being written,  
14 written and rewritten, written and rewritten. I  
15 think it started in about 2006 and 2007 and it's  
16 kind of a live document. It's probably even more  
17 recently we've added things to it. But anyhow, that  
18 probably started way at the very beginning. And a  
19 lot of that --  
20 We had a grazing committee. We had  
21 Maasai and ourselves working on how we can best make  
22 this work for the Maasai. We had a very wonderful  
23 grazing committee, beautiful group of people that  
24 say you come in, you don't come in, you do this, you

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1 do that. They decided. So that kind of was the  
2 beginning of our grazing policy that was set forth  
3 by that grazing committee at that time. And then as  
4 you will notice, we just kept on adding and thinking  
5 and trying to work with the neighbors how this was  
6 going to work with them.  
7 Q. And so do you remember when the grazing  
8 committee was first created?  
9 A. Yeah. It was right after we started. It  
10 was probably within a year of when we were there.  
11 2007, 2008, because, remember, we didn't go str -- I  
12 mean, I'd say it was 2007, end of 2007, but I'm  
13 somewhat guessing.  
14 Q. You started to say you didn't go straight?  
15 A. I didn't go -- I wasn't the first person  
16 to go off into the land, so I can't remember. And  
17 that grazing committee was the second time I was  
18 there. So I would say that may have been 2007, 2008  
19 when the grazing committee kind of was formed. We  
20 may have it in those documents. But they were  
21 great. I just want you to know, that they were  
22 really into it and they were great people.  
23 Q. And the grazing committee's function was  
24 to?

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1 A. Help us, help us decide how this was going  
2 to work, how was it going to be that we could make,  
3 give them what they needed, if we could, allow  
4 tourism to come, allow the community to benefit.  
5 How are we going to do this? And their thing was  
6 first, you know for them, was let's think about how  
7 we're going to do this with their cattle. So they  
8 were saying, We believe we'll keep the cattle off  
9 until we see how it works with wildlife. And so  
10 they would come on. We would have them come on  
11 occasionally. You will see [REDACTED] talking about  
12 this. They'll be on, they'll be off, but then --  
13 Q. They, meaning?  
14 A. The locals, the particular neighbors, who  
15 would then move their cattle on. So they were very  
16 respectful, because they wanted to see if wildlife  
17 would come back onto this property. And they've  
18 been watching and they're seeing that that's  
19 happening. And so that's what was that grazing  
20 committee was set up for initially.  
21 Q. So just so that I'm clear, because I'm not  
22 sure that I entirely understand. The grazing  
23 committee was set up to decide with the local  
24 communities to keep cattle off the land to allow



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1 wildlife to come on?

2 A. Or on, or on. We weren't really sure what  
3 that would look like in terms of how many cattle,  
4 how few cattle. And so they kind of regulated.  
5 They actually were the people that were regulating  
6 what was happening with the cattle at the very  
7 beginning.

8 And what was interesting about what  
9 you're asking me, and I think it's just coming even  
10 clearer to me, was that they weren't there just to  
11 say we want the cattle to be across this property  
12 and everything else. That's actually not what they  
13 were doing. They were just trying to help us work  
14 out how many cattle could we kind of keep along the  
15 edge of the property and still have wildlife  
16 continue so we could go forward with this plan.  
17 They were part of it.

18 Q. And so if, to your understanding, they  
19 would work with their own groups to, if someone  
20 wanted to bring cattle, they would --

21 A. They'd ask first, though. That would  
22 always -- That was part of the thing. And [REDACTED] will  
23 correct me tomorrow, because again, I'm second hand  
24 to a lot of this. But I remember this basically as

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1 being that they also wanted to, they wanted to make  
2 sure that we were asked, or [REDACTED] whoever was the  
3 project manager at the time, who could bring their  
4 cattle on or whether they wouldn't bring their  
5 cattle on. It also depended on how many. Most of  
6 the time there weren't, they tried to keep the  
7 cattle off for a lot of the time.

8 Q. And when that grazing committee was in  
9 effect was that one of the times when there were  
10 generally fewer cattle on the land?

11 A. Fewer, that's true. There was. There  
12 were fewer.

13 Q. And when did the grazing committee end?

14 A. Well, I knew you were going to ask me that  
15 and I don't know when the grazing committee ended.  
16 And I can't remember why the grazing committee  
17 ended. [REDACTED] maybe will remember this better than I  
18 did, but I'm not sure -- I forget what happened.

19 Q. And who was on the grazing committee?

20 A. I don't know. I can see them, but I don't  
21 know their names. I can see these older, they're  
22 elder, elderly guys who we met quite a few times.  
23 Again, we're going to Tanzania twice a year, so we  
24 would see them twice a year and I don't remember who

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1 they all were.

2 Q. And was it kind of representative?

3 A. Of all clans, yes, yes, absolutely.

4 That's the only way this can ever work if all clans  
5 weren't part of this.

6 Q. And do you know how those representatives  
7 were chosen?

8 A. They chose them. They chose them and  
9 there was an elderly guy, who I can't remember his  
10 name, who kind of was the head honcho. And I think  
11 he rounded these up, but they were basically from  
12 the various communities.

13 Q. If people from the surrounding cattle --  
14 Sorry. If people from the surrounding communities  
15 bring their cattle onto the farm without first  
16 seeking permission, what does [REDACTED] do?

17 A. [REDACTED] the scouts would go talk to them and  
18 ask them to leave, which usually happened, always.  
19 I mean, not always, but a lot. Then they would turn  
20 around. Some of them weren't really clear about  
21 where the borders were. Everything in Maasai can be  
22 quite porous, as you'd imagine. There's no border  
23 between Tanzania and Kenya. So we would just go,  
24 the guides would go and ask them to leave and they

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1 would leave. But they would come in and eat as much  
2 grass as they could until they got caught and then  
3 they would leave.

4 Q. I think you have already addressed this to  
5 a certain extent, but does the general policy on  
6 grazing change during droughts?

7 A. Yeah.

8 Q. And what's the change policy during  
9 drought?

10 A. We, we're still -- This is always in flux,  
11 and I'll say that in all honesty, but the thing here  
12 is that we've been listening to a person up in  
13 Kenya, David Western talk about how to have grass  
14 banks so that -- The most important thing is that  
15 Maasai and their cattle don't die. I mean, that's  
16 all we care about is our community. The wildlife  
17 will disappear and they'll come back again. But so  
18 during a drought, we invite them to come on. And  
19 you've see the videos where the Maasai are thanking  
20 us for letting them use the land doing during a  
21 drought.

22 And we're in the middle of a drought  
23 right now. The problem is there's no grass  
24 anywhere. And so as we talked to David Western

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1 about this, our problem was if there's a drought,  
2 there's not going to be grass anywhere. Maasai are  
3 probably going to have to move probably twenty,  
4 thirty, forty miles away. They might have to go up  
5 to Kenya. People talk about they'll go to OBC,  
6 whatever. It's not easy to find grass when there's  
7 a drought and it's unfortunate.

8 So we've decided to solve that by  
9 putting in a bore hole. Not on our property, but  
10 next to our property, because we thought, well, if  
11 there's going to be a drought, at least we'll have  
12 water for their cattle. And you know what happened.  
13 Q. Sorry?

14 A. And you know what happened to that bore  
15 hole.

16 Q. What did happen to that bore hole?

17 A. It was ruined by our adversaries.

18 Q. Ruined how?

19 A. Pardon me?

20 Q. Ruined how?

21 A. We built, for \$30,000 we put in the bore  
22 hole. We had to put in the pump and before we could  
23 put in the pump, they threw stones down it and  
24 ruined the whole thing. To this day they don't have

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1 water because of that. So that was a water source  
2 which would have been a great water source for all  
3 the Maasai in that area.

4 What we had said to them was that,  
5 Okay, guys. This was the people of Sukenya. You  
6 didn't really protect this water hole very well, so  
7 if we're ever going to do this again, then you have  
8 got to come up with a plan to protect this water  
9 hole. And they've come up with a plan of how this  
10 would happen in the future. So that was  
11 unfortunate.

12 Q. I'm just going to ask a few more questions  
13 and then I think maybe we'll take a short break.

14 A. Okay.

15 Q. And then we can go through some of the  
16 documents.

17 A. Okay.

18 Q. To your understanding what are the legally  
19 authorized uses of the land that [REDACTED] sits on?

20 A. It's a combination of agriculture and  
21 tourism.

22 Q. What do you mean by it's a combination of  
23 agriculture and tourism?

24 A. I think that if you wanted to do

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1 agriculture on that land, you would be allowed to do  
2 that. If you wanted to do tourism on that land, we  
3 have permission to do tourism on that land.

4 Q. Do you know what the original authorized  
5 use of that land was when you purchased it?

6 A. Well, it would have been from the brewery,  
7 so it probably would have been agriculture or  
8 farming, farming.

9 Q. And to your knowledge what steps have you  
10 taken to obtain authorization to use the land for  
11 tourism?

12 A. Every step perfectly.

13 Q. Do you know what those steps are?

14 A. No, because they're really -- No. I'd  
15 have to be a lawyer. No.

16 Q. So did you engage legal counsel to take --

17 A. Yeah.

18 Q. The land through that process?

19 A. Yeah.

20 Q. And so --

21 A. It's a legal, legal steps that have to be  
22 taken.

23 Q. To your knowledge has [REDACTED] obtained all the  
24 necessary authorizations to use tourism on the land?

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1 A. Yes.

2 Q. All right. Those are the questions that I  
3 have without documents, so would you like to take a  
4 short break now?

5 A. Sure. That would be great.

6 MR. KAUFMAN: Okay, so I guess we're  
7 off the record.

8 (Brief recess.)

9 MR. KAUFMAN: I would like to show  
10 you a document that I will ask the court reporter to  
11 label as Exhibit W-1.

12 (Exhibit W-1 marked for  
13 identification.)

14 (Document handed to the witness.)

15 Q. Is this a copy of the final version of the  
16 lease between Tanzania Breweries Limited and [REDACTED]?

17 A. I don't know.

18 Q. Have you ever seen it before?

19 A. Probably in paperwork we handed over to  
20 you, it was one of the documents, but otherwise, no.

21 Q. Did you negotiate with Tanzania Breweries  
22 Limited about the terms of the lease?

23 MR. MARX: When you say you, do you  
24 mean [REDACTED] personally, or [REDACTED]?

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1 Q. Well, let's say you in terms of either you  
2 or in your personal capacity or in your capacity of  
3 representing [REDACTED]  
4 A. Okay. Ask me the question about again.  
5 Q. Did you negotiate over the terms of this  
6 lease?  
7 A. I don't know. I don't know.  
8 Q. Do you know if [REDACTED] negotiated the terms of  
9 this lease?  
10 A. Why does that say lease? Because I don't  
11 know what this is I'm looking at. Maybe you could  
12 explain what I'm looking at.  
13 Q. Well, I have to ask you, and if you don't  
14 know what it is, then --  
15 A. So you will continue then.  
16 Q. We'll move on.  
17 A. Okay, let's continue then. No.  
18 Q. Okay, let's move on. All right.  
19 MR. KAUFMAN: I'm going to ask the  
20 court reporter to label this document as W-2?  
21 (Exhibit W-2 marked for  
22 identification.)  
23 (Document handed to the witness.)  
24 Q. Is this Tanzania Brewery Limited's

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1 certificate of occupancy for the land?  
2 A. It says that.  
3 Q. Have you ever seen it before?  
4 A. I saw it in a pile of papers, if we sent  
5 this to you. Did we send this to you?  
6 Q. Yes.  
7 A. Okay. That would have been my, otherwise,  
8 no.  
9 Q. Have you ever read it before?  
10 A. No.  
11 Q. Let's take a look at the second page. So  
12 on the back of the first page --  
13 A. Yeah.  
14 Q. And Paragraph Number 5 it says, The  
15 occupier shall not assign the right within  
16 three years of the date hereof without the prior  
17 approval of the Commissioner for Lands. And on the  
18 front page this is labeled May 2004.  
19 When did you, when did [REDACTED] buy  
20 Enashiva?  
21 A. I don't know the exact date.  
22 Q. What year?  
23 A. Somewhere in 2006? 2005, 2006? I don't  
24 know.

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1 Q. Do you know if, did you ever, do you know  
2 if Tanzania Brewery Limited got the prior approval  
3 of the commissioner of lands to assign the right of  
4 the land to [REDACTED] before they showed sold it to you?  
5 A. My guess would be whatever legal things  
6 needed to be done were done.  
7 Q. But you never, you don't have any  
8 knowledge of that?  
9 A. Yeah, no. I'm not part of that. Sorry.  
10 Q. Okay. No problem.  
11 MR. KAUFMAN: So I'd like to ask the  
12 court reporter to label this document as W-3?  
13 (Exhibit W-3 marked for  
14 identification.)  
15 (Document handed to the witness.)  
16 Q. Is this the organizational chart that we  
17 were discussing earlier?  
18 A. It looks like that.  
19 Q. And you said that [REDACTED] prepared this  
20 document, you think?  
21 A. Yes.  
22 Q. Have you read it before?  
23 A. Yeah, yeah, I think I did. Sorry to be so  
24 wishy-washy, but yes. I just want to make sure it's

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1 the same one.  
2 Q. Absolutely.  
3 A. Okay.  
4 Q. And would you agree that the information  
5 on this accurately represents the ownership and  
6 descriptions of the [REDACTED]  
7 A. Yes, pretty good.  
8 Q. According to Exhibit 3, who owns TCL?  
9 A. [REDACTED] is owned by, as it mentioned here,  
10 it's owned by our [REDACTED]  
11 [REDACTED] and [REDACTED]  
12 Q. Who are [REDACTED]  
13 A. It's a limited company that holds 51% of  
14 the shares of the trust.  
15 Q. In trust for whom?  
16 A. That is, we're the beneficiaries, but that  
17 is to be decided.  
18 Q. Can you explain the arrangement, to the  
19 extent that you understand it?  
20 A. Yeah. The arrangement is that we have  
21 always, as you will see in everything we've done,  
22 had the important and a very important idea that the  
23 community in which we are working should have  
24 involvement in what we do. Like the grazing

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1 committee, that they would be involved in that,  
2 share in the benefits. And so this land, part of  
3 this land was put into trust that we would hope at  
4 some point in time to pass over to our, to the  
5 community, once this whole thing is over and the  
6 court case is finished. That is our goal. That's  
7 always been our goal. You will see it from the very  
8 beginning when we started talking about this.  
9 Q. So just to make sure that I understand it  
10 clearly, at the moment the [REDACTED] holds the shares  
11 in trust for you and [REDACTED] as beneficiaries,  
12 but the plan is once all hostilities are sorted out  
13 and once the arrangements are sorted out, to  
14 transfer that beneficiary arrangement?  
15 A. Well, I know you guys went up to Loliondo,  
16 which is actually great, because I think you will  
17 understand this. The plan, the forever plan of all  
18 of this was that we would buy this piece of  
19 property. We would bring the wildlife on, bring  
20 tourists there. And they would give gifts to,  
21 donate money to [REDACTED]. And  
22 there would be this symbiotic relationship. The  
23 most important thing is we can't do this forever.  
24 We don't plan on doing this forever. We are just

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1 the kind of the trustees, the stake holders at the  
2 moment.  
3 We really would like the Maasai to  
4 learn how to take over this land, take care of this  
5 land, protect the wildlife, keep the poachers off,  
6 be careful of their cattle and how much grass  
7 they're eating, because that is a natural resource  
8 that the Maasai should actually have benefit to and  
9 be able to use that.  
10 We bought this land. It's titled  
11 land. It's our land to do what we felt. And we  
12 feel that's what it's all about. So in preparation  
13 of that, we have put this land in trust. But it  
14 can't be passed over. If you know anything about  
15 sustainability, you can't just pass over a piece of  
16 land to Maasai or anybody, anybody in Tanzania. It  
17 has a project. It has goals. We have to get there.  
18 And we have to get this court case passed so that we  
19 can move forward. But that has always been, and  
20 we've been very clear about that all along.  
21 So we are not land grabbers. Sorry.  
22 I thought I'd mention that at the end of my  
23 statement.  
24 Q. So who, who will decide the disposition of

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1 those shares when the time comes?  
2 A. That's a really great question. I think  
3 for us, that will become clear. You know, perhaps  
4 it will be the three communities or four communities  
5 around us, that they will appoint a member to  
6 actually to do this. We had initially come up with  
7 some ideas and they included all of these community  
8 members and they include women, because women need  
9 to have a voice, as well.  
10 So I don't know who they will be,  
11 but they will be community members and they will  
12 probably also be a member of a conservation,  
13 conservation group, as well. And that's in  
14 question. Maybe it will be [REDACTED]. Maybe it  
15 will be [REDACTED]. Maybe it will be [REDACTED].  
16 But as this plays out, we wanted to  
17 set that aside so we that could easily already have  
18 taken that part of our land and make sure that it's  
19 going in the right direction.  
20 Q. But just so I'm clear, your understanding  
21 is that when that time comes, you will be able to  
22 pass it on, you will be able to make the decision to  
23 pass it to the --  
24 A. To some, to a group of community members

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1 who will actually be in charge of this, in charge of  
2 this land. However, they will have bylaws.  
3 Everything will be in place so they can't -- I mean,  
4 this land is in trust for the refuge. And we do  
5 trust that the Maasai, our Maasai friends will  
6 continue what we've been doing.  
7 MR. KAUFMAN: I'd like to ask the  
8 court reporter to label this as Exhibit W-4.  
9 (Exhibit W-4 marked for  
10 identification.)  
11 (Document handed to the witness.)  
12 A. Oh, 2005.  
13 Q. When it all began, right?  
14 A. Yeah. I couldn't remember that date was,  
15 but it was the end of 2005.  
16 Q. Is this the e-mail exchange that you and I  
17 were discussing where some folks who visited the  
18 land prior to your purchase reported to you?  
19 A. Yeah.  
20 Q. Who is [REDACTED]  
21 A. [REDACTED] He owns  
22 [REDACTED]  
23 Q. That's [REDACTED]  
24 And was he the one who first alerted

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1 you that there was this land that was available?  
 2 A. I think so. I believe so.  
 3 Q. He knew that you were interested in --  
 4 A. No, we weren't interested. No. He just  
 5 mentioned it to us. No. We weren't looking. We  
 6 weren't out searching. So he mentioned it to us.  
 7 Q. And it gave you the idea that you could do  
 8 something along the lines of what you described?  
 9 A. Yeah, I think it was a possibility for us,  
 10 yeah, to do what we were thinking.  
 11 Q. So [REDACTED] went to the land to check  
 12 it out for you?  
 13 A. Remember, this is where I lose a little  
 14 bit of when [REDACTED] and [REDACTED] all  
 15 kind of did their thing. I don't know. You don't  
 16 count on me for that.  
 17 Q. It would be [REDACTED] was more involved in  
 18 arranging this?  
 19 A. All of this.  
 20 Q. Did you talk to [REDACTED] about their  
 21 visit beyond what you see in this e-mail?  
 22 A. Me? I don't think so. I don't remember.  
 23 I mean, I don't know. I talk to [REDACTED] all the time.  
 24 And [REDACTED] I use his properties. So you know, were

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1 we talking about -- I don't know. Ask me more,  
 2 because where are you trying to go?  
 3 Q. I'm just trying to understand if you heard  
 4 more about this visit than is in this e-mail?  
 5 A. That's all I know. I'm lucky I have that.  
 6 Q. That's fine. We can move on.  
 7 A. Okay.  
 8 MR. KAUFMAN: I'd like to ask the  
 9 court reporter to label this as W-5.  
 10 (Exhibit W-5 marked for  
 11 identification.)  
 12 (Document handed to the witness.)  
 13 Q. Is this an e-mail that [REDACTED] forwarded to  
 14 you from [REDACTED] about the land?  
 15 A. This is actually not about the land. This  
 16 is about [REDACTED] coming on to be the manager, I  
 17 believe, the project manager.  
 18 Q. Project manager for [REDACTED]  
 19 A. Yeah. I think this is him saying, Yes, I  
 20 am all fired up to get started.  
 21 Q. In there e-mail he says, I'm anxious that  
 22 there is no gap between the brewery stating that the  
 23 farm has been sold and us being in place. I've  
 24 learned from having taken over a few different farms

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1 now that a vacuum is not good.  
 2 Did you understand what he was  
 3 referring to when he was worried about a vacuum?  
 4 A. No. I think [REDACTED] will be able to help you  
 5 with that a little bit more, because, no, I  
 6 wouldn't. Sorry, I don't know.  
 7 Q. So [REDACTED] does say in the e-mail to you, He  
 8 does raise a good point about vacuum as we take  
 9 over.  
 10 Did you have a discussion with [REDACTED]  
 11 about that?  
 12 A. I don't even know what this -- Let me,  
 13 just bear with me for just a second.  
 14 Q. Yeah, take a minute to look and review the  
 15 document.  
 16 A. Well, wait. This is where -- I believe  
 17 what they're talking about is you don't want to  
 18 leave a piece of land unattended. You got Tanzania  
 19 Breweries in there and we need to move in and come  
 20 in with our camps or come in with our staff. I  
 21 think that's the vacuum that we're looking at here.  
 22 But I'll let [REDACTED] confirm that, because I'm just  
 23 cc'd or forwarded on this one.  
 24 MR. KAUFMAN: I'd ask the court

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1 reporter to label this document as W-6.  
 2 (Exhibit W-6 marked for  
 3 identification.)  
 4 (Document handed to the witness.)  
 5 Q. Is this document a declaration that  
 6 [REDACTED] submitted in the [REDACTED]  
 7 libel litigation?  
 8 A. Yes, looks like it, yes.  
 9 Q. Have you seen it before? Have you seen  
 10 Exhibit 6?  
 11 A. Yes, I've seen it. I haven't read it  
 12 thoroughly. I've seen it.  
 13 Q. On the fourth page of W-6?  
 14 A. Is that 414? Which number at the bottom,  
 15 by your thumb?  
 16 Q. Yeah. Actually, let's look at the page  
 17 that's marked [REDACTED]  
 18 A. 412, okay.  
 19 Q. [REDACTED] writes that there were  
 20 temporary/seasonal -- Okay, I'm sorry.  
 21 Are you aware of the 2007 meeting  
 22 that [REDACTED] talks about at the bottom of  
 23 [REDACTED] 412?  
 24 A. Oh, yeah. This is what I'm telling you



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1 about.  
2 Q. So who was at that meeting again?  
3 A. I don't remember. I was saying I don't,  
4 wasn't sure who was there, but it looks like  
5 [REDACTED] was there. Remember, before I said I  
6 wasn't sure whether it was [REDACTED] or whether it was  
7 [REDACTED] but it looks like [REDACTED] was there.  
8 Q. And he says a local government official  
9 came to investigate?  
10 A. Yeah. This was --  
11 Q. Do you know who the local government  
12 official was?  
13 A. Yeah, I think it was the regional  
14 commissioner. I think it was the regional  
15 commissioner.  
16 Q. And when he mentions the ronjo that he  
17 says is a Maasai word for an abandoned cattle  
18 enclosure, is that the thorn bushes that you were  
19 talking about?  
20 A. Yes, I believe that's correct.  
21 Q. And it's your understanding that those  
22 thorn bushes were not in use at the time?  
23 A. That's my understanding.  
24 Q. How, how do you know that they were not in

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1 use any more?  
2 A. I was told that. I wasn't there. I was  
3 told that.  
4 Q. By [REDACTED]  
5 A. I was told that by many people, because  
6 Maanda made such a big deal of this that we had to  
7 get to the bottom of this and that's what I was  
8 told.  
9 MR. KAUFMAN: I'm going to ask the  
10 court reporter to mark the next document as W-7.  
11 (Exhibit W-7 marked for  
12 identification.)  
13 Q. Is this a document that was prepared from  
14 [REDACTED] responses to the allegations against  
15 [REDACTED] that was used in preparing that declaration  
16 that we've just shown you?  
17 A. I don't know if this is what was used. I  
18 can't answer. I don't know.  
19 Q. So --  
20 A. I don't know how the process worked.  
21 Q. So this was attached to an e-mail that you  
22 produced --  
23 A. Yeah.  
24 Q. Together with that declaration. And so

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1 let's take a look at the fourth page, the back of  
2 the second page.  
3 A. Oh, back of the second page, okay.  
4 Q. Yeah, sorry. It's double sided.  
5 A. Yeah.  
6 Q. At the bottom here, take a second to read  
7 that?  
8 A. This one, the whole second?  
9 Q. The large paragraph, yeah.  
10 A. Okay.  
11 MR. MARX: I'm sorry. Where on the  
12 page?  
13 THE WITNESS: He wants me to read  
14 this piece here, starting with, I was working --  
15 Q. I was working with [REDACTED] exactly.  
16 A. Took me a long time, but I'm done.  
17 THE WITNESS: How are you?  
18 MR. MARX: I'm good.  
19 Q. So [REDACTED] describes the structures that  
20 were burned as temporary seasonal enclosures. As  
21 far as you know, is that an accurate description?  
22 A. When they're being used, they would be  
23 temporary seasonal structures. When they're not  
24 being used, they would be abandoned ronjos or

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1 whatever. They would be abandoned structures, thorn  
2 bushes.  
3 Q. Is that what ronjo, is it ronjo, is that  
4 what you're saying?  
5 A. I don't know, ronjo, rojo.  
6 Q. If they're Spanish in style.  
7 Do you know how [REDACTED] would have  
8 known that they were abandoned?  
9 A. [REDACTED] lives in Sukenya. On my  
10 imagination -- I don't know how he would know. I  
11 mean, Maasai would know. If they're all over the  
12 place, if they're not structures that are in use,  
13 you would have to have an entrance and it would be  
14 round. It would be perfect. I mean he would know  
15 if it's abandoned. He's a Maasai, taking cattle  
16 places.  
17 Q. I hope you understand and it may be that  
18 you don't have direct knowledge, but what would be  
19 the difference between a structure like this and a  
20 permanent structure? How would you, if you were  
21 looking at that, how would you know the difference?  
22 A. A permanent structure would be something  
23 that is much more organized and an abandoned one is  
24 not organized at all. It's falling apart. It's a

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1 wreck.  
2 Q. And do you know if the Maasai come back to  
3 their seasonal temporarily structures?  
4 A. No. They put them up all over the places.  
5 As they move their cattle, they just put them up  
6 that day, that night to hold them. And the seasonal  
7 ones I don't know, because that means they're going  
8 much further away from where they are. Is that what  
9 you're asking?  
10 Q. Yeah, I'm -- There's no special trick to  
11 the question. I'm just trying to understand how --  
12 A. He would know. I mean, he would know if  
13 they were in use or not. He's been very clear here  
14 that they were not -- that they were abandoned.  
15 Q. Did you have any conversations with the  
16 regional commissioner about his findings after that  
17 meeting?  
18 A. I spoke with the regional commissioner in  
19 Arusha where he did a press release and invited the  
20 press in to clear our name of this ridiculousness  
21 and I met him then and he did a very big speech for  
22 everybody about how he had gone up there and exactly  
23 what we've talked about.  
24 [REDACTED] was there. He had it on his

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1 flip phone -- not flip phone, I-flip? Flip video?  
2 Do you remember those little flip videos? You guys  
3 don't remember that. Anyhow, there's a little flip  
4 video that you can use. And so he took a picture of  
5 that. I don't have that. I wish I did.  
6 Q. Did he tell you how he did his  
7 investigation?  
8 A. No. The question is was [REDACTED] there?  
9 [REDACTED] will be able to tell us more of that tomorrow,  
10 whether [REDACTED] was there. That's how he would have  
11 done his investigation or how the RC did it.  
12 Q. No, how the RC did it.  
13 A. The RC flew up. He went to the property.  
14 He went and said, You have got to be kidding. This  
15 is not a Maasai home and he was very mad.  
16 Q. He went to see?  
17 A. He went onto the property.  
18 Q. And to see the structures that --  
19 A. Yeah.  
20 Q. That were said to have been burned?  
21 A. Yes, that's what I have heard.  
22 MR. KAUFMAN: I'd like to ask the  
23 court reporter to label this as W-8.  
24 (Exhibit W-8 marked for

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1 identification.)  
2 (Document handed to the witness.)  
3 Q. Is Exhibit W-8 an e-mail from you to Dr.  
4 Carrell?  
5 A. No, her name is Carrell.  
6 Q. Carrell.  
7 A. Her last name is Dammann, right? Her last  
8 name is Dammann.  
9 Q. The name makes it hard to, but I see --  
10 A. So no, it's not. It's to Carrell, to Dr.  
11 Dammann.  
12 Q. To Dr. Dammann?  
13 A. We're calling her Carrell.  
14 Q. Who is Carrell?  
15 A. Carrell is a friend of Maanda's and  
16 somebody who has supported Maanda who wanted to talk  
17 to me and lived in Portland, I believe. It was  
18 during when [REDACTED] got graduated. We  
19 met to go over, with her husband, to talk about what  
20 was happening, how we might try to make this all  
21 work between all of us. That's how all of this --  
22 That's who she is.  
23 Q. At the bottom of the first page and the  
24 top of the second page you talk about, you speculate

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1 that possibly, although you did a title search the  
2 way Americans do, you possibly should have done a  
3 clan search or community search. What did you mean  
4 when you talked about that?  
5 A. Well, Carrell was suggesting that, she was  
6 suggesting that we didn't know what we got ourselves  
7 into. And so I said, How would you figure that out?  
8 She said when you go and buy into a neighborhood,  
9 then you have an idea. You go through [REDACTED]  
10 you kind of get an idea of who's in the  
11 neighborhood. I said, Oh, you're suggesting that  
12 perhaps we should have done a clan search or  
13 community search and figured it out. That was all.  
14 Q. I mean, do you feel that way? Do you feel  
15 that you could have somehow learned more about the  
16 clans and their dynamics before getting involved in  
17 Enashiva?  
18 A. I'm sure I could have learned more. I'm  
19 sure I could have learned more. Everybody could  
20 learn more if you just learn more.  
21 Q. Do you feel that you did make an attempt  
22 to learn about the different clans and dynamics  
23 before you bought the land?  
24 A. I wasn't the person who was really on the

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1 ground, but if you take our history and look at our  
2 friends that are Maasai from all different clans,  
3 there would have been no reason for me to really  
4 have thought that this was going to be anything  
5 different than my thirty some odd years already in  
6 Tanzania with Maasai. There would be no reason to  
7 have thought that.

8 And to this day, without Maanda, I  
9 believe that the clan issues, this whole thing would  
10 not be as it is today. So I don't think I would  
11 have needed to do that.

12 I realize there are clan issues  
13 everywhere. You know, there are Sonjo. Look at  
14 what's happening with the Sonjo and the Maasai right  
15 now in our backyard in Loliondo. So it's the same  
16 thing that's happening today. It's all Maasai  
17 culture.

18 So I could have learned more. What  
19 would I have learned? I probably would have learned  
20 that this was some different, disparate groups of  
21 people powered by Purko in particular, but I would  
22 have still believed in my own that way that our  
23 model was a good model.

24 MR. MARX: Is this a convenient time

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1 to take a short, two, three minute break?

2 MR. KAUFMAN: Sure. Let's go off  
3 the record for five minutes.

4 (Brief recess.)

5 Q. So just before break you mentioned that if  
6 you had done more clan searching or whatever you  
7 want to call it, likely the only thing you would  
8 have discovered was what you discovered, which is  
9 that what you discovered eventually was that the  
10 Maasai, there are clan issues and things are complex  
11 there, and but that in the end, really, the only  
12 problem is with the Purko clan. So can you tell us  
13 a little bit about the troubles with the Purko clan  
14 around [REDACTED]

15 A. Well, actually, it's not -- I mean, it's  
16 not -- Yeah, sure. I'm just wondering how much you  
17 know. When, a long time ago when this was all one  
18 big village, what was the Soitsambu village, there  
19 were three subvillages. And the land that [REDACTED]  
20 sits on at the moment belonged to the Sukenya, the  
21 Loita, Loita, Laitayok? [REDACTED] not allowed to tell  
22 me which one they are. Remind me. Anyhow, it's  
23 [REDACTED] ang.

24 Q: One second. I just want to spell those

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1 names for Cynthia. Loita is L-o-i-t-a and Laitayok  
2 is L-a-i-t-a-y-o-k.

3 A. So anyhow, this land is actually, this  
4 land actually belonged to them. And this land, when  
5 this land ended up with Tanzania Breweries, it was  
6 the Purko who made that decision. This is what we  
7 hear, so I'll just tell you what we hear. So it was  
8 Purko who made the decision for this land, that  
9 belonged to the people of Sukenya, to go to Tanzania  
10 Breweries. Not their land, but the people of  
11 Sukenya.

12 So I think what I'm saying here is  
13 that the Sukenya people, the people of Mondorosi,  
14 when we first came along, and some of the Purko,  
15 were very supportive. And then it basically was  
16 Maanda, and I don't even know if it was the Purko  
17 people as much as I could say it was Maanda, for  
18 some reason, and I still don't know to this day why  
19 she decided that she would begin to demonize us. I  
20 know it feels like we demonize her, but she decided  
21 to demonize us and say we were doing terrible  
22 things.

23 And I went to see her. I think you  
24 know the story. I went to see her on my second trip

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1 to [REDACTED] because I bring women's groups to  
2 Tanzania -- And let me just back up.

3 The first thing that happened with  
4 the elders when we met with them when we told them  
5 about this model, was that they wanted schools for  
6 their children and they wanted empowerment for their  
7 women. That gave me a great opportunity to go and  
8 meet what I heard was the powerful woman in the  
9 community, Maanda, and I went to her house and she  
10 wasn't there. But I wanted to tell her that we were  
11 coming her way. We would bring women who would be  
12 very supportive of what she was doing and we could  
13 together work on empowering women if that's what the  
14 women wanted. And her retort was what you have seen  
15 in the e-mail back, was that you don't own this  
16 land. It doesn't belong to you. Leave us alone and  
17 all those other things.

18 So that was what -- That's a piece  
19 of the thing that I didn't know that Maanda was  
20 going to head up a hate campaign against us. That's  
21 what I didn't know. And I'm not sure if I would  
22 have known that even if I had -- When I met  
23 everything everybody there and I met the elders, I  
24 felt that we were moving in a really nice direction.



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1 So that's truly --  
 2 Q. And at this point do you feel that the  
 3 Purko clan at large has hostility towards Enashiva?  
 4 A. The only -- I don't know if I want to  
 5 generalize like that, because it may not be just the  
 6 Purko. It could be just, basically, Maanda and some  
 7 of the people that have cows that she can bring onto  
 8 our property or her young lawyers that come onto our  
 9 property illegally. So I don't know if it's only  
 10 Purko or if it's, you know -- I don't know. This is  
 11 what I'm told.  
 12 Q. And but the lawsuit in Tanzania is on  
 13 behalf of three separate communities, Mondorosi,  
 14 Soitsambu and Sukenya against --  
 15 A. Yes.  
 16 Q. [REDACTED] and others.  
 17 A. Uh-hum.  
 18 Q. So that doesn't sound like a small group.  
 19 A. It's a small group. It's a small group.  
 20 Q. Can you explain?  
 21 A. Yeah. You would not, you would not see  
 22 very many Sukenyan people that are against us in any  
 23 way. Loserian had made a decision, for whatever  
 24 reason, which I will not say here, but whatever

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1 reason, to sign this court case. I would say under  
 2 duress, but that's okay.  
 3 You know what? Maybe it's good for  
 4 it all to be settled and everybody will figure out  
 5 who this land really belongs to, because we have a  
 6 titled deed piece of land. We have a title. We  
 7 have bought a titled piece of land with good  
 8 intentions.  
 9 And do I think the rest of the  
 10 community is against us? No. When were you guys  
 11 last there? You haven't been there to find out  
 12 whether they're really against us. I know you're  
 13 probably talking to a few of the leaders, a few  
 14 people, a few of the lawyers. I don't feel that way  
 15 or I wouldn't be there.  
 16 Q. Why did you say that Loserian may have  
 17 signed under duress?  
 18 A. Because we were told by Loserian himself  
 19 and I don't know, you know, who to believe. I was  
 20 told by the women that know him that were there  
 21 that, you know, we have women who are part of  
 22 council who were there. But Loserian's moved  
 23 forward and he's continued to do whatever he needs  
 24 to be. Perhaps he signed this. I don't know. I

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1 didn't really see whether he signed or his attorney  
 2 or whoever signed this, the injunction or whoever  
 3 signed this thing here now to have you guys come  
 4 here and do what you're doing. I don't know if he  
 5 signed it or not. In the end, it should actually be  
 6 finalized. We should just say, let's get this thing  
 7 moved forward. EarthRights, Minority Rights groups  
 8 and all of us should work together to try and figure  
 9 out how we can move forward.  
 10 Q. So I'm really just trying to understand  
 11 what you think is really happening there. And I  
 12 know that you don't, you know, everything, a lot is  
 13 hearsay.  
 14 A. Yeah.  
 15 Q. But I'm trying to understand what you  
 16 think is actually happening to cause Loserian --  
 17 A. I think that I very much appreciate a  
 18 chance, Jonathan, to answer that, because this is me  
 19 and this is what I think.  
 20 There was a movement, when we were  
 21 first on this property and we were working together  
 22 with the elders. We were putting up a teacher  
 23 houses, we were putting up a bore hole. We started  
 24 to see some things that a few people were very

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1 upset, came and ruined the bore hole, brought a lot  
 2 of cattle on the property, and that was, that we now  
 3 know was Maanda giving -- I can't even say that for  
 4 sure -- Maanda giving directives that that was  
 5 happening.  
 6 What I do know is that as African  
 7 Initiatives and a lot of people got wind of horrific  
 8 things that we had maybe done, the bankroll did get  
 9 a lot larger for PWC. And we see it every year. We  
 10 know that Minority Rights Group -- I don't know if  
 11 EarthRights does this or not, I haven't looked at  
 12 who's supporting. We see people supporting that  
 13 went, it's now \$717,000 that PWC brings in. There's  
 14 got to be a reason for keeping the conflict going  
 15 and there's got to be a reason why -- Show me  
 16 anywhere here where there's harassment, where  
 17 there's murder, where there's these terrible things  
 18 that all of you are saying about us, where is it?  
 19 Why are we not in jail? Why would the communities  
 20 allow us to stay?  
 21 There's a lot of conflict and people  
 22 make money off conflict, a lot of money. And I  
 23 think that's really why it's happening. And I don't  
 24 think it's about the land. I think it's about the

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1 conflict.  
2 Q. So to be clear, again, you think that PWC  
3 is using the conflict to raise money?  
4 A. I think that's one of their agendas, along  
5 with a lot of other groups.  
6 Q. What other groups?  
7 A. UCRT, Minority Rights Group, African  
8 Initiatives, perhaps EarthRights, perhaps Cultural  
9 Survival. People believe this. People believe we  
10 have done these things. And I can't believe we're  
11 sitting here -- You guys, if I asked do you think  
12 that we did these things, Jonathan, do you think  
13 that we did these things?  
14 Q. I'm not going to answer the question. But  
15 please do understand that the reason why I'm asking  
16 you these questions today is to really understand as  
17 best I can and as best we can about what the truth  
18 is here.  
19 A. Well, the truth is, I can tell you. We  
20 would -- My life is in Tanzania. Why would we hurt  
21 anybody? Why wouldn't the community, as Robert  
22 Aswani said who does artwork in Tanzania and he read  
23 the Boston Globe article. He said, What? What do  
24 people think about us? Are we foolish Tanzanians,

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1 we would keep you in our community if you were doing  
2 these terrible things? Why do people think so  
3 little of us as Tanzanians? They don't even do  
4 lawlessness like this in Somalia. Why would they  
5 think that we would allow a lawless group of  
6 Americans to come to our country and do this? And I  
7 think that's --  
8 The point is we haven't done any of  
9 it. Loserian is on record after record after record  
10 that I have given to you saying we did not do these  
11 things. He has talked to Focus on Tanzania and  
12 Communities. The DC and all their people just  
13 recently said, They did not do these things. So why  
14 would you believe anything else?  
15 Q. Can we get back to why -- What did  
16 Loserian tell you about being under duress?  
17 A. Loserian mentioned that he did not want to  
18 actually do the court case, but that the elders, the  
19 Maasai elders suggested that he do that, that he do  
20 the court case. But it wasn't the court case that  
21 they were suggesting. They thought that Loserian  
22 was signing something to come to agreement with  
23 Thomson Safaris. And he ended up signing whatever  
24 he signed.

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1 Q. How do you know that the elders thought  
2 that they were proposing that --  
3 A. This is, well, you know, there's no  
4 written, as you know, in Tanzania, Maasai, there's  
5 no written anything. So this is all oral. And I  
6 mean, that's -- You don't know. I don't know. You  
7 don't know. I don't know. So that's what I'm  
8 hearing and that's what I'm reporting to you. I'm  
9 hoping to help you put the puzzle together a little  
10 bit better, sincerely, because I think that you may  
11 not have the truth. And I have no reason to not  
12 tell you the truth. No reason.  
13 Q. You seem to feel that, from what I'm  
14 hearing from you, is that Maanda has the ability to  
15 exert a fair amount of power. Where does that come  
16 from? Why is Maanda, why do you believe that Maanda  
17 is able to mobilize this?  
18 A. Why is she able to mobilize this? She has  
19 a lot of power and power works very well with  
20 people. And I think that they believe that this  
21 very small piece of land -- although to you and I  
22 and all of us, our houses are not on 12,000 acres,  
23 but this is a peanut, a little, teeny piece of  
24 Loliondo.

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1 I think that they have rallied  
2 around the fact that perhaps this land will come  
3 back to them. I'm not even sure that -- That's what  
4 I think. And why does Maanda think that? She told  
5 me in a meeting, the only meeting that we had  
6 together was that she was sorry that this had taken  
7 off and other people, young lawyers and other people  
8 were jumping on the band wagon and they were moving  
9 this thing along and she didn't have control of it  
10 any more. So that was, whether it's true or not, I  
11 don't know whether she still has control of it. I  
12 don't know.  
13 I think what's most important is  
14 that we move forward, get this taken care of, the  
15 court case taken care of, and move on.  
16 Q. Let's move back to some of these  
17 documents, then, so that we can understand them.  
18 MR. KAUFMAN: I'd like to ask the  
19 court reporter to label this as W-9.  
20 (Exhibit W-9 marked for  
21 identification.)  
22 (Document handed to the witness.)  
23 Q. Is this an e-mail from Daniel Yamat to  
24 Rick, with you copied?

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1 A. Yes.  
 2 Q. Have you read this e-mail before?  
 3 A. Yes, I've read it, but I might have to  
 4 read it again, but go ahead.  
 5 Q. In the e-mail [REDACTED] talks about a  
 6 meeting with villagers, as well as some government  
 7 members and Loserian Minis. And he comes out of it  
 8 suggesting that, We should only allow locals to  
 9 bring cattle for water to come in and straight back  
 10 and that for grazing, they would only discuss it  
 11 during a severe drought.  
 12 Did you agree with that suggestion?  
 13 A. I wouldn't be the person to agree with  
 14 that. I'm cc'd on this. It would not, it would not  
 15 be me.  
 16 Q. Would it have been [REDACTED]  
 17 A. It probably would have been [REDACTED] yeah.  
 18 Q. Was that of the policy of TCL, to your  
 19 knowledge, that people would able come on for water  
 20 and not for grazing except in drought?  
 21 A. The -- As we worked with the grazing  
 22 committee and as we worked with our neighbors, the  
 23 grazing policy was pretty standard, but we added  
 24 drought times, this time, what happens if this

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1 happens, what happens if that happens. So I don't  
 2 really know. I mean, this is 2008. This is at the  
 3 very beginning.  
 4 We're having a conversation here  
 5 about grazing and water and what we should do and  
 6 what works. I mean, I think that's wonderful.  
 7 That's how it all happens.  
 8 Q. And what I'm trying to understand is,  
 9 again, how access changed over time. And I'm trying  
 10 to understand if that was ever actually a policy at  
 11 [REDACTED] that --  
 12 A. In one of the iterations of the grazing  
 13 policy. I don't know, because what's interesting to  
 14 me as I read this is, and [REDACTED] will have to actually  
 15 speak to this, is that, like I said to you before,  
 16 to bring cattle or on for water, there's a line to  
 17 bring them on for water, which would mean that he's  
 18 bringing on cattle that don't want to walk as far  
 19 for water, so -- And then he doesn't want them to  
 20 stay very long.  
 21 So I don't really know. I don't  
 22 really know what this is. But [REDACTED] will be able to  
 23 shed light on that, because we were always having  
 24 these discussions. How do we do this?

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1 Q. It certainly sounds like over the years  
 2 you had that discussion many times.  
 3 A. Yeah, we did. You didn't want to talk  
 4 about the district police officer saying that it's  
 5 against the law to go onto somebody else's property.  
 6 Q. I think the decision was that we'll talk  
 7 about some of the sort of interactions with police  
 8 officers tomorrow.  
 9 A. Okay.  
 10 Q. Or you will talk about them in course.  
 11 MR. KAUFMAN: I'd like to ask the  
 12 court reporter to label this document as W-10?  
 13 (Exhibit W-10 marked for  
 14 identification.)  
 15 (Document handed to the witness.)  
 16 Q. Is this an e-mail from [REDACTED] to you  
 17 and [REDACTED] and to [REDACTED] again about [REDACTED]  
 18 A. Yes.  
 19 Q. Have you read this e-mail?  
 20 A. Yes. I don't remember it, but I've  
 21 probably read through this.  
 22 Q. At the top of the e-mail, again, sorry, in  
 23 the second paragraph he says, I know the main agenda  
 24 will be water, but in reality it is grazing. We

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1 have allowed them in the past to access some water  
 2 holes which don't give them any room for grazing.  
 3 Now I am sure they are focusing on the water holes  
 4 which are far inside that will give them access to  
 5 grazing, too.  
 6 Do you know which water holes he's  
 7 talking about?  
 8 A. Nope. But [REDACTED] will be able to help you  
 9 with that. You know, as far as I know, we've got  
 10 the pololet and the spring. What might happen --  
 11 You should ask [REDACTED] tomorrow, because I think it  
 12 will become clearer as to -- So there's a lot of  
 13 water on the property. If there's water because  
 14 there are holes because it rained. The question  
 15 would be do you let the Maasai onto those watering  
 16 holes when there's water elsewhere. And I think  
 17 that's what you're reading here.  
 18 This isn't like this is the only  
 19 place that has water in the world. The question is  
 20 should we bring the cows on and let them eat the  
 21 grass on the way to getting the water. But [REDACTED]  
 22 will be able to clarify that bitter.  
 23 Q. I do want to pick up on one thing that you  
 24 mentioned --

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1 A. Sure.  
2 Q. -- a couple of, one or two questions ago,  
3 that some in some ways another one of the questions  
4 was that the cattle would not want to go as -- they  
5 wouldn't want to make their cattle go as far for  
6 water. So was that an issue? Were those things  
7 that you talked about, whether there was a problem  
8 with making cattle go further to get to water by not  
9 allowing them to certain places?  
10 A. You know, that's a great question. I'm  
11 not privy to that. That's a little bit deeper. I'm  
12 kind of here where you and I are reading, but it's a  
13 good question. Again, I'd have [REDACTED] answer that.  
14 Sorry to keep saying that, because as you will see  
15 most of this I'm cc'd on, but I'm really not making  
16 the decisions. And I think [REDACTED] will probably talk  
17 to you about the fact that the Maasai travel a lot,  
18 as we talked about today, to get to what they need  
19 as they move around. So he can answer that.  
20 MR. KAUFMAN: I would like to ask  
21 the court reporter to label this as W-11.  
22 (Exhibit W-11 marked for  
23 identification.)  
24 (Document handed to the witness.)

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1 Q. Is this an e-mail from [REDACTED] to [REDACTED]  
2 and to you, again, about --  
3 A. I don't know what it's about.  
4 Q. About [REDACTED]  
5 A. Something about [REDACTED] yeah.  
6 Q. Have you read this e-mail before?  
7 A. I read -- I looked at it, read through it.  
8 Don't remember too much of it.  
9 Q. The third page of this document, it's  
10 double-sided, so the front of the second paper  
11 there's a section called Grazing Problem.  
12 A. Oh. That's not what you have got on the  
13 top of yours. This one?  
14 Q. Yeah.  
15 A. Okay, got it. Okay.  
16 Q. [REDACTED] says that the committee is  
17 asking permission to, for permission to graze  
18 cattle.  
19 MR. MARX: I'm sorry, which  
20 paragraph are you on?  
21 MR. KAUFMAN: It says --  
22 MR. MARX: The first paragraph under  
23 Grazing Problem?  
24 MR. KAUFMAN: Yes. The last full

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1 sentence in the first paragraph.  
2 Q. The committee is also insisting that we  
3 should allow people to graze.  
4 A. Let me see the date. This is October, dry  
5 season. Okay.  
6 Q. So would that have been the grazing  
7 committee that he's talking about?  
8 A. Can I read it? Let me just read through  
9 this. Oh. That would be the grazing committee  
10 talking about the cattle from Kenya.  
11 Q. Yeah. [REDACTED] says that most of the  
12 cattle that would come in were from Kenya at that  
13 time. How could they be identified as being from  
14 Kenya?  
15 A. These guys know their branding. They  
16 would, they know who, what -- They totally know what  
17 cow belongs to whom.  
18 Q. That's because cattle are wealth for these  
19 guys.  
20 A. I know. They know it all.  
21 Q. [REDACTED] says, It is a bad coincidence  
22 because it's a bad time of the year for them and  
23 this is the time that we have clients who want to  
24 see wildlife, too.

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1 A. Yeah, this is October. This is dry  
2 season. So not only do we have Kenyan cattle trying  
3 to come through. The committee is feeling the  
4 pressure to have them come on during dry season.  
5 And he's suggesting, as we're talking about the  
6 problem, that this is unfortunate. This is going to  
7 be really difficult. I totally get that, because it  
8 would be really hard at that time.  
9 Q. Because this is also high tourist time?  
10 A. Actually, it's not high tourist time, but  
11 they had clients there. So, you know, he's toying  
12 with the idea, what do we do? It's dry season, not  
13 drought season, but it's dry season. Should we let  
14 them come on? We've got this Kenyan pressure that's  
15 coming down, as well. And we've got wageni who are  
16 there to see the wildlife. If the cattle come in,  
17 the wildlife disappear, we're up a creek. So he's  
18 trying to figure all of this out is what I'm seeing  
19 here and that's it.  
20 Q. I know you said that you're not a  
21 specialist in the science of it.  
22 A. Yeah.  
23 Q. But to your understanding there is some  
24 balance at which cattle and wildlife can coexist?

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1 A. No, I don't know that. Jonathan, I think  
2 that's -- You see later on in e-mails that I have  
3 sent, we have been talking about doing a biomass  
4 study. We have gone to Kenya. We have talked to  
5 [REDACTED] We have done a lot of research to  
6 figure out how much, what does this land hold? What  
7 can it hold? So that when the land is finally, the  
8 court case is over and hopefully it comes our way,  
9 then we can say, yes, we can balance cattle with  
10 these amount of grazers. We can do -- But we are  
11 not there. It's not that easy to do that.  
12 And all of these e-mails, other  
13 ones -- This is 2008. You will see us talking  
14 about, how will we figure this out? Because  
15 everybody, like you and everybody else says, Oh,  
16 cattle and wildlife can live together happily ever  
17 after. We're not sure that's true, because as we  
18 saw that 3,000 come onto our property and totally  
19 destroy the land, we lost our wildlife. We had very  
20 little wildlife on the land. So we could see that  
21 that wasn't going to work.  
22 Q. Do you know how the pressure was resolved  
23 at this time?  
24 A. I would -- I don't know. I don't know the

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1 answer to that.  
2 Q. In the third paragraph on that page.  
3 A. Yeah.  
4 Q. You might want to take time to read it.  
5 A. Yeah.  
6 Q. It's discussing an incident where someone  
7 built his boma just outside the property boundary.  
8 A. Yeah, I see that. I don't remember this  
9 very well. I kind of remember them talking about  
10 it. Go ahead.  
11 Q. Why was it a problem for someone from the  
12 surrounding communities to build a boma just outside  
13 the property boundary?  
14 A. Because it's pretty hard to control your  
15 cattle. I mean, it would be just be that much more  
16 difficult to control the cattle in that area.  
17 Q. So [REDACTED] says, The committee decided  
18 that we report to the village administration to come  
19 to push him away, as he has no reason whatsoever to  
20 do so.  
21 Do you remember that resolution?  
22 A. No. I have no idea.  
23 Q. So do you --  
24 A. I don't remember that. I don't remember

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1 it being an altercation or anything. No.  
2 Q. Do you know if that person --  
3 A. It's still there or not?  
4 Q. Moved his boma?  
5 A. No, I don't know. Sorry about that.  
6 Q. Are you aware of other times when people  
7 from the surrounding communities built bomas very  
8 close to the property boundary?  
9 A. Not from the surrounding communities, no.  
10 Q. But from other places?  
11 A. There was a Kenyan who was, had  
12 unfortunately had part of his boma, his engagi on  
13 the property and that had nothing to do with  
14 anything from us. Engagi, e-n-g-a-g-i. And the  
15 government asked him as a Kenyan to please move on.  
16 And we weren't even part of all this. That's the  
17 only one I know about.  
18 The only thing I know about in terms  
19 of people on the, that are -- Your question was did  
20 I know about people putting their bomas on, engagis  
21 on our property.  
22 Q. I asked close to the property.  
23 A. Close to the property, yeah. He was right  
24 up on the edge, but unfortunately, he was partly in

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1 there. But that wasn't the issue. The issue was he  
2 was a Kenyan and the government asked him to go  
3 home.  
4 Q. What's an engagi?  
5 A. Engagi is actually what you call a boma,  
6 that people mistakenly call a boma.  
7 MR. KAUFMAN: I'd like to ask the  
8 court reporter to label this as W-12.  
9 (Exhibit W-12 marked for  
10 identification.)  
11 (Document handed to the witness.)  
12 Q. Is this an exchange from 2009 between you  
13 and [REDACTED] and [REDACTED] about matters at [REDACTED]  
14 A. Yes.  
15 Q. Look at the second page, so the back of  
16 the first page for you.  
17 A. Yeah, is that -- Wait. June 2009. Okay.  
18 Q. At the top of the page [REDACTED] is  
19 talking about meeting with the new DC. He told the  
20 DC that we only have one seasonal natural spring in  
21 the area and we have never restricted anyone from  
22 using it.  
23 To your knowledge is that true?  
24 A. I don't know. Seasonal natural spring is



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1 the operating word here, so I don't know. When the  
2 spring is in use, when there's water in that spring,  
3 my recollection would be there's water everywhere.  
4 We have had people come in and use the natural  
5 spring at the very beginning and probably even now,  
6 but I don't really know how often that happens.  
7 Q. And the natural spring we're talking to is  
8 not the pololet?  
9 A. No, it's that other one.  
10 Q. Whose name you couldn't remember?  
11 A. Right.  
12 Q. So you're not sure if that's true, whether  
13 people have ever been restricted from using it?  
14 A. If there's no water in the spring, I would  
15 imagine people would be restricted from using it.  
16 Q. If there's no water in the spring?  
17 A. Yeah.  
18 Q. But if there is water in the spring?  
19 A. I would imagine that occasionally we would  
20 allow them to come and use that. For whatever  
21 reason, I don't know. [REDACTED] regulates that.  
22 MR. KAUFMAN: I'd like to ask the  
23 court reporter to label this document as W-13?  
24 (Exhibit W-13 marked for

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1 identification.)  
2 (Document handed to the witness.)  
3 Q. Is W-13 an e-mail chain between you,  
4 [REDACTED] again about matters at [REDACTED]  
5 A. Looks like it, yes.  
6 Q. Have you read it before?  
7 A. Yes. I think it's a duplicate. Yes. I  
8 think you maybe gave me two. Do you have one?  
9 MR. MARX: I have one. It's four  
10 pages.  
11 THE WITNESS: I've got one that's  
12 eight pages. I think I've got yours.  
13 MR. KAUFMAN: I gave you an extra  
14 one.  
15 A. Okay, good.  
16 Q. This doesn't actually seem to be the one  
17 that I wanted to talk to you about.  
18 A. Okay.  
19 Q. We'll move so. I'll get back to those  
20 questions when I can get it sorted.  
21 MR. KAUFMAN: I'd like to ask the  
22 court reporter to label this document as W-14.  
23 (Exhibit W-14 marked for  
24 identification.)

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1 (Document handed to the witness.)  
2 Q. Is this an e-mail chain between you and  
3 [REDACTED] and others talking about a cattle  
4 grazing incident at Enashiva?  
5 A. Yeah.  
6 Q. Looking at the very bottom, the first  
7 e-mail at the bottom of the chain?  
8 A. This is 2010.  
9 Q. This is 2010. You are asking [REDACTED] and  
10 [REDACTED] what the situation is for patrolling the  
11 area. I take it this means on the far side of the  
12 pololet river?  
13 A. On the opposite side, yeah.  
14 Q. And that's on the opposite side from the  
15 camp, from the safari camp or the base camp?  
16 A. It's on the other side of the pololet,  
17 yeah, away from, away from the camp.  
18 Q. And you are saying that we've been letting  
19 cattle onto the other side, since we can't get rid  
20 of them when there's water in the river. What was  
21 the situation there?  
22 A. This is [REDACTED] telling us this.  
23 Q. You are asking him.  
24 A. Oh, I'm asking him at the bottom here.

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1 I'm asking him. That's my confusion is asking them  
2 to clarify this, because they're talking about there  
3 were hundreds of cattle near the pololet. That's up  
4 top, when it says on Friday, July 23rd. There were  
5 hundreds of cattle near the pololet. There's not  
6 water in the river bed. So I'm saying, What's going  
7 on here? And we can't cross it? There's no water  
8 in the river and we can't cross it? We can't get  
9 rid of them? We can't cross the river if there's no  
10 water. I'm asking what the policy is and how this  
11 all happens and you, like me, I do not have the  
12 answer.  
13 Because these things get themselves  
14 sorted out. I mean, I hope you're seeing a theme  
15 here, that we're trying to figure out -- This is  
16 land that's titled, deeded land. We're trying to  
17 work this out somehow. And [REDACTED] is always trying  
18 to figure this out. And I'm, and I'm calling them  
19 out. I'm saying, Look, I don't understand what's  
20 going on, what's happening here. And I promise you,  
21 I do not know what happened. And it's just one of  
22 the, as you have been reading, one of the many  
23 things that's happened.  
24 Q. So at this point you're not sure what the

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1 answers to those questions were?  
 2 A. I don't think -- I think I just stirred it  
 3 up to ask them, because this goes up 28th,  
 4 July 28th, July 28th at 12:54. They come back at  
 5 1:14. He's answering this. This is going upward.  
 6 Q. But he doesn't appear to actually answer  
 7 it?  
 8 A. No, he doesn't appear to totally answering  
 9 it. He is just telling me that they are not  
 10 accompanied by anyone. The herder escorts them in  
 11 and then leaves them, which happens quite often. So  
 12 I'm asking them what's going on. And that's just  
 13 one of the many. So I don't have the answer.  
 14 Q. So you don't know if it was the case that  
 15 when the river was running, they weren't --  
 16 A. No, because -- No, I don't. Sorry.  
 17 Q. And you never, as far as you can remember,  
 18 you never got that answer offline?  
 19 A. Yeah, you know, in July, maybe I'm headed  
 20 there. So we talk about it when I'm there. I don't  
 21 have it -- I'm sorry. Because it's funny, he didn't  
 22 answer it up here.  
 23 MR. MARX: I'm sorry. I need to ask  
 24 for another quick break.

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1 MR. KAUFMAN: Sure, no problem.  
 2 (Brief recess.)  
 3 MR. KAUFMAN: I would like for the  
 4 court reporter to label this document as W-15?  
 5 (Exhibit W-15 marked for  
 6 identification.)  
 7 (Document handed to the witness.)  
 8 A. Rosie.  
 9 Q. So is this a correspondence that you had  
 10 with Rosie where you forwarded and discussed your  
 11 conversation with Maanda?  
 12 A. Yes.  
 13 Q. So this correspondence discusses an  
 14 incident where Maanda contacted you and asked to  
 15 bring cattle on to get water at the pololet river.  
 16 And you, I believe, responded that there wasn't any  
 17 water in the pololet river?  
 18 A. Yes.  
 19 Q. And how did you know that there was any  
 20 water in the pololet river at the time?  
 21 A. Well, I was asked -- asked. I said to  
 22 everybody, What do you think? I mean, it's August  
 23 and they need water and there's water in the  
 24 pololet, which didn't make sense to me, why wouldn't

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1 we? So we decided -- So we then had our  
 2 conversation and I went back and forth and said,  
 3 [REDACTED] said there's no water in the pololet. I  
 4 think we did this one by phone. I can't remember.  
 5 It might be. It might not be. It's August.  
 6 There's no water in the pololet. I said, Look,  
 7 let's hire or call in the district or whatever we  
 8 had to do, call in the district water board and  
 9 everybody gathers around and we take pictures if  
 10 there's water in the pololet. And you see what  
 11 happened. She didn't show up, she didn't come and  
 12 there was no water in the pololet. That's the  
 13 harassment I've been getting, we've been getting  
 14 forever and ever and ever.  
 15 Q. And so in this case the district water  
 16 officer came?  
 17 A. This fellow whose name -- I think it's in  
 18 here. I actually tried to find this for you guys.  
 19 Wait. It's over here on the back. His name is in  
 20 here, I think. I tried to find this for you so I  
 21 could show it to you, but he came. I'm just trying  
 22 to see where this is. I don't see his name here,  
 23 but his name is in one of the pieces that I've given  
 24 to you, because I was curious as to how I could get

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1 a copy of that for you.  
 2 There's the name of the spring,  
 3 e-l-o-t-i-m. I'm on Page 4.  
 4 Q. Where are you?  
 5 A. Just in case we want to use that again.  
 6 Q. Elotim?  
 7 A. Yeah. These will roll off of [REDACTED]  
 8 tongue, but not me.  
 9 Q. So mid-August is dry season?  
 10 A. Yeah, it is dry season.  
 11 Q. When does dry season start again?  
 12 A. Rains are April and maybe May, so it  
 13 starts drying up after that. So by August,  
 14 September. And you get another set of rains in  
 15 November. So by August, September, we're looking  
 16 pretty dry.  
 17 Q. And July also would be pretty dry?  
 18 A. I would say that July, I would think July  
 19 is pretty dry. It depends on what the rains were  
 20 like that year. Sorry. I mean, yes, I would have  
 21 thought that.  
 22 Q. And at the top of Page 4, you say --  
 23 A. Four, one, two, three, four.  
 24 Q. The one that's actually labeled 4?

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1 A. The one that's actually labeled 4. Roger  
2 that.  
3 Q. So at the top of Page 4 you said that you  
4 heard that it rained over the past weekend?  
5 A. Yes. Now, wait. This is in July. Yeah.  
6 There's like, yeah, there's like a small gift from  
7 God. It rained.  
8 Q. But even after a rain in July, there would  
9 not have been water in the pololet?  
10 A. Okay. After a rain in July -- Because  
11 that was in August -- She was asking me --  
12 Q. At the end of July.  
13 A. I think she was asking me at the end of  
14 July. So I wrote back to [REDACTED] and I'm trying to  
15 see if it's here to say, Is there water in the  
16 pololet. And he wrote back and said no. So there  
17 was no water in the pololet.  
18 Now, those rains would probably not  
19 cause a lot of water to be there. And the second  
20 thing would be, which is a question that we all  
21 would have sitting at the table, if there's water  
22 in the pololet, there's water everywhere. There's  
23 water encatchments when it rains. Why do you have  
24 to come across our property to go to the pololet,

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1 unless you're harassing me? Seriously. There's  
2 water everywhere if it just rained. Or there's no  
3 water anywhere and there's no water in the pololet.  
4 Q. The pololet, does it cross the property?  
5 A. No. No. I don't know. It's at the end  
6 of our, it's at the end of our property, toward the  
7 end of our property before it goes up a hill.  
8 Q. What I mean is there parts of the pololet  
9 outside of your property?  
10 A. Yes.  
11 Q. And is the section of the pololet in the  
12 property a long section?  
13 A. I can't answer this. You're going to  
14 catch me. I'm really sorry. Ask [REDACTED] Save that  
15 to ask [REDACTED]  
16 Q. In the end did you decide to allow  
17 Maanda's request to have cattle grazed?  
18 A. No, because she was harassing me again,  
19 us. There was no water in the pololet. Why come  
20 across the property with 500 cattle? You know, I  
21 wrote back to her. I mean, I thought, wow, good  
22 that we're starting the conversation again, but it  
23 made no sense that she wanted to do that. In the  
24 end, you know, so -- It didn't happen. And there

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1 was no water in the pololet.  
2 Q. At that time would there have been water  
3 in elotim spring?  
4 A. I don't know. Good question. I don't  
5 know. I wish [REDACTED] was here. He could answer all  
6 of this. I don't know. [REDACTED] will know. He'll have  
7 a better idea.  
8 Wait. Could I -- I offered -- I  
9 forgot to mention to you this as my addendum to what  
10 I just said. I offered to have the well fixed so  
11 they could get water. And you saw what she said.  
12 No, we don't want your help on that. We just want  
13 to get water at the pololet. We actually offered to  
14 actually get that well fixed, because that didn't  
15 exist. And I'm just bringing that, I want that on  
16 record, that we offered to get water to all her  
17 cattle and she refused it. Think about that. Why  
18 would you do that? So, sorry. I'm done now.  
19 MR. KAUFMAN: I'd like to ask the  
20 court reporter to label this document as W-16.  
21 (Exhibit W-16 marked for  
22 identification.)  
23 Q. Is this an e-mail chain between you,  
24 [REDACTED] and [REDACTED] and others?

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1 A. And [REDACTED] yeah.  
2 Q. The name [REDACTED]  
3 In the second paragraph of this  
4 e-mail on the first page you say, I also understand  
5 that our no grazing policy has been difficult for  
6 them to swallow.  
7 What do you mean when you say no  
8 grazing policy?  
9 A. Remember, the grazing policy, the no  
10 grazing policy is you didn't automatically have the  
11 right to come on the property to graze. You have to  
12 ask. If it's a drought, you have to ask and we'll  
13 help you or do whatever we can at the time or assess  
14 what we can do, but no grazing means that you  
15 automatically don't have the right to bring your  
16 cattle onto the property.  
17 Q. So no grazing policy means no grazing  
18 policy?  
19 A. No. There's a grazing policy that has no  
20 grazing unless you ask. So it doesn't really mean  
21 no grazing all the time. I think I've been clear  
22 that if there's a drought, things are different.  
23 We're being so liberal, we even say,  
24 So we may need to actually help find someone to help



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1 them advocate for themselves.  
 2 **MR. KAUFMAN:** I'd like to ask the  
 3 court reporter to label this document as W-17?  
 4 (Exhibit W-17 marked for  
 5 identification.)  
 6 (Document handed to the witness.)  
 7 Q. Is this an e-mail from you to [REDACTED] and  
 8 others sharing your draft e-mail to Noni  
 9 Verbiscar-Brown?  
 10 A. Yeah. Could you remind me who that is?  
 11 Q. Verbiscar is V-e-r-b-i-s-c-a-r. You can  
 12 take a moment to refresh your memory.  
 13 A. She is -- Yeah, this is from what I  
 14 remember -- Oh. Okay. I still can't place Noni for  
 15 some reason, but go ahead.  
 16 Q. So you don't actually remember this?  
 17 A. I remember this, but this is out of  
 18 context for me at the moment. This is October and  
 19 August. And I think I gave this to you and I have  
 20 to think. August. So she came to me in August,  
 21 asking me how this would all work and this is my  
 22 retort. Okay.  
 23 Q. In the draft that you start just below  
 24 your signature on the first page, you say in the

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1 first paragraph that you worked with a conflict  
 2 resolution specialist, only to have them agree that  
 3 the conflict about who owns this piece of land was  
 4 actually not a conflict.  
 5 Who was the conflict resolution  
 6 specialist?  
 7 A. I don't -- In August or whenever this is  
 8 happening -- In October of 2008. I believe at that  
 9 point in time I'm working with Eamon Brehmony.  
 10 Q. Can you spell that?  
 11 A. He's in one of these, but E-a-m-o-n, last  
 12 name B-r-e-h-m-o-n-y. That's close enough.  
 13 Q. Can you tell us about how you worked with  
 14 Eamon on conflict resolution?  
 15 A. Sure. I met with Eamon. I met with  
 16 Eamon. [REDACTED] who was our [REDACTED] thought  
 17 that Eamon might be able to help us. He knew Maanda  
 18 very well. I think he supported or taught her at  
 19 school, knew her from Ireland, knew Brian  
 20 MacCormiac, knew a lot of people that were kind of  
 21 in the [REDACTED] area, not happy with those two  
 22 people or three people in particular who weren't  
 23 happy with us having this piece of land. So we  
 24 wanted to speak with Eamon. And Eamon said, You

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1 need to go up there and meet with the elders and  
 2 talk to them and get them on board and just explain  
 3 what your model is, what you're trying to do here.  
 4 And so, but he said that your conflict is not the  
 5 land. The conflict already exists, because it's  
 6 these three groups of Maasai who are having a  
 7 hard -- they're in conflict. So that's what he's,  
 8 that's what I believe he's saying that I was  
 9 repeating here, that the land was not -- The land  
 10 and the ownership of the land maybe would be the  
 11 pivotal point, but the problem and the conflict was  
 12 more about the clan conflict.  
 13 Q. And when you wrote again -- You know what?  
 14 Actually, I think we can move on.  
 15 A. Okay.  
 16 **MR. KAUFMAN:** I'd ask the court  
 17 reporter to label this document as W-18.  
 18 (Exhibit W-18 marked for  
 19 identification.)  
 20 (Document handed to the witness.)  
 21 Q. Is this an e-mail to you from [REDACTED]  
 22 [REDACTED] talking about the carrying capacity study  
 23 that we discussed earlier?  
 24 A. Let me just see. I'm just seeing if

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1 that's what this is about. What's the, what's the  
 2 subject? Draft Invitation to the ECHO East African  
 3 Symposium on Best Practices in Pastoral Areas.  
 4 Yeah. Looks like this is basically about carrying  
 5 capacities. This is the thing we were talking about  
 6 before. Yeah, yeah.  
 7 Q. At the bottom of the first page he writes,  
 8 See attached pictures, one of the whole farm and one  
 9 showing the northeast corner where we have bomas and  
 10 farms inside [REDACTED]  
 11 So in your understanding is he  
 12 saying that at this point people actually had built  
 13 structures inside [REDACTED]  
 14 A. Good question. Good sleuthing. No. We  
 15 found out that there are, there's a boma inside our  
 16 property that we didn't know about. And there is  
 17 one, but it's not -- So it's not been built. All  
 18 the questions you have asked me. It's been there  
 19 all along. We just didn't know that our land went  
 20 to the far corner where this place is.  
 21 Q. Do you know who lives in those bomas?  
 22 A. I'm trying to give you a name, but the  
 23 family of a fellow who ended up in the hospital.  
 24 I'm sorry, I can't remember his name [REDACTED] will be

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1 able to tell you very quickly tomorrow.  
 2 Q. Was that the man who was shot?  
 3 A. Somewhere, yeah. Not on our property, but  
 4 somewhere.  
 5 Q. Lesingo Ole Nanyoy?  
 6 A. Nanyoy's family. I think that's who that  
 7 is. Reconfirm with [REDACTED] tomorrow, if you would,  
 8 please.  
 9 Q. Was this e-mail, to your knowledge, the  
 10 first that you had heard that there was actually a  
 11 boma inside [REDACTED] property?  
 12 A. Oh, I don't know. What is the date? Oh,  
 13 my God. January 2014? No. I don't remember when  
 14 that survey happened. And this would be January of  
 15 this year? There was talk about this, and I don't  
 16 know when this survey was done. I don't know when  
 17 that survey was done. So I might have known that.  
 18 This was the survey, the boma survey that he had  
 19 done, because this is talking about the South  
 20 African that was going to help us with this carrying  
 21 capacity. I don't know that this is the first time  
 22 I knew that, Jonathan. I may have known before  
 23 that, but he's mentioning it here.  
 24 Q. You mention --

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1 A. He's trying to do a boma survey of  
 2 everything outside around the property and he's  
 3 mentioning that there's one inside that corner of  
 4 our property.  
 5 Q. To your knowledge, how was it discovered  
 6 that there actually were bomas inside?  
 7 A. Well, [REDACTED] will be able to tell you, but  
 8 the, some district surveyor was on the property,  
 9 because the place hasn't been totally -- all of the  
 10 land, the village land hasn't been surveyed and they  
 11 were looking at our property for, I'm not sure what  
 12 reason. And we, what I heard the story was that  
 13 somebody said, well, you know, it ends here. And  
 14 the guy said, It doesn't end here. It goes to there  
 15 and it goes here and that boma is on your property.  
 16 We said, No, I don't think so. He said, It is.  
 17 Q. Do you think that happened maybe last  
 18 year, or?  
 19 A. I don't know, but [REDACTED] will know for you  
 20 for tomorrow.  
 21 Q. And how did you react to the discovery  
 22 that there was someone living on the property?  
 23 A. Well, probably the same way all of you,  
 24 all of us would. It's great and yet it's

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1 unfortunate, because what do you do? What do you  
 2 not do? How do we make this work? Blah, blah. It  
 3 stirs up a lot of issues. You can leave them. You  
 4 can ask them to leave. You can either -- There's  
 5 many different things that you can do when you have  
 6 got a problem. It's a problem, you know, just  
 7 because they're on our property and we don't want to  
 8 displace them. It wouldn't be one of the things I  
 9 would choose, but so anyhow, that's where we are.  
 10 Q. So what's happened so far with that?  
 11 A. Nothing, nothing at all.  
 12 Q. Has anyone informed him?  
 13 A. I don't know. That's a really good  
 14 question. I don't know. You know, I don't know.  
 15 Q. But to your knowledge, this is the only  
 16 situation in which you have discovered that there  
 17 were people living on the land?  
 18 A. Yeah. I told you about the Kenyan one.  
 19 That was ages ago, back in 2007. The government  
 20 asked them to move home. Yes. Why? Do you think  
 21 there are more? What do you know that I don't know?  
 22 Q. What do you know that I don't know?  
 23 A. I don't -- That's all I know.  
 24 MR. KAUFMAN: I'd like to ask the

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1 court reporter to label this document as W-19.  
 2 (Exhibit W-19 marked for  
 3 identification.)  
 4 (Document handed to the witness.)  
 5 Q. Is this document, is W-19 a spreadsheet  
 6 that was prepared with [REDACTED] responses to  
 7 the allegations against [REDACTED]?  
 8 A. Yes.  
 9 Q. On the first page on the first cell on the  
 10 far right under [REDACTED] response he writes, On the  
 11 other hand, there are about eight bomas within the  
 12 farm boundaries to date on the northern part which  
 13 have never been asked by [REDACTED] to move out of the  
 14 farm. This includes Maanda Ngoitiko's family boma  
 15 (now two bomas), Ole Nanyoi (now four bomas), Ole  
 16 Naimodu (now one boma), and Meitaya (now one boma).  
 17 Have you ever heard before that  
 18 Maanda, Ole Naimodu and Meitaya, in addition to Ole  
 19 Nanyoi have bomas on the property?  
 20 A. I think you're making a mistake that  
 21 everybody makes. And I think you and I just made it  
 22 a minute ago. A boma is a home. An engagi is how  
 23 he's using this. This is one -- A boma is, as you  
 24 know, the whole surround. Inside that are the

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1 eight pieces to this. So it's Nanyoi's family who's  
2 related to, I think Maanda's family. They're  
3 together. So when I answered this, it's this  
4 settlement that exists on the far corner, not eight  
5 different settlements.

6 Q. Were you aware that Maanda has homes and  
7 that Ole Naimodu and Meitaya have homes on the  
8 property?

9 A. They are telling me here, but I'm not sure  
10 that I know what that really means. It includes  
11 Maanda Ngoitiko's family. I don't know. That  
12 doesn't mean Maanda's there. Her family. I don't  
13 know what -- Family is defined as a very large --  
14 It's like your brother's sisters wife's husband's  
15 son. I mean, that's all your family. So if you're  
16 asking, I know there's a settlement, an engagi/boma  
17 over on that area. I don't know who's inside all of  
18 that. I heard it was Nanyoi's family. That's all I  
19 know.

20 MR. MARX: I'm sorry, and I also  
21 want to object to the question, although belatedly,  
22 because you used the word "home". Apparently it's  
23 synonymous with boma and I'm not sure that that is  
24 the intention of this paragraph.

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1 A. Well, I think, yeah. I think we're all  
2 trying to figure out what does boma mean. It's a  
3 boma if used in the sense of a settlement with many  
4 different little homes in it is what is on the far  
5 side. I did not know who's in it. I don't really  
6 care who's in it.

7 Q. But just so I understand it, because we  
8 are all trying to understand it, you would read this  
9 to mean that there's one engagi, enclosure?

10 A. One enclosure with a big fence around it  
11 with a lot of little homes inside. That's how I  
12 read it.

13 Q. And the word boma would refer to each of  
14 the different residences?

15 A. Yes. And it's so interesting that that is  
16 what [REDACTED] is using, who's Maasai. So he's  
17 probably thinking as an American, I call them bomas.  
18 Like you call them bomas. Like everyone said we  
19 burned bomas and they really meant fenced  
20 structures. We really should not use that word. A  
21 lot of bomas in there.

22 MR. KAUFMAN: I'd like to ask the  
23 court reporter to label this document as W-20.  
24 (Exhibit W-20 marked for

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1 identification.)

2 (Document handed to the witness.)

3 Q. Is this a letter to the directors of [REDACTED]  
4 from the Acting Director of Wildlife?

5 A. Yes.

6 Q. Granting permission to use the farm for  
7 tourism?

8 A. Yes.

9 Q. What do you understand this letter to  
10 mean?

11 A. That we can use the land for tourism  
12 purposes.

13 Q. Is it your understanding that once you  
14 received this letter, the land had all of the  
15 permits and authorizations needed to use it for  
16 tourism?

17 A. This letter allowed us to use the land for  
18 tourism. So could you ask me that again?

19 Q. I'm wondering if you believe that there  
20 were any further steps that needed to be taken in  
21 order to be able to use the land for tourism?

22 A. Yes. We would like to have, and that we  
23 are continuing -- There's a pending piece that we'd  
24 like to have, which is a land use change. But this

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1 allows us to use the land.

2 Q. Help me understand how that works.

3 A. I can't. That's it. That's truly what it  
4 does. The process, which was finalized, got stopped  
5 by our adversaries along the way. And so we have  
6 this as our, we are able to use it because of this.

7 Q. Well, what do you understand the further  
8 step would accomplish?

9 A. Nothing different. Nothing different,  
10 except for when you have a land use change, it tells  
11 you on there specifically -- I don't know if you  
12 have seen these in Tanzania, but it specifically  
13 tells you what you can put on this property, what  
14 you're requesting to put on the property, what you  
15 can do with it. Blah, blah. Gives you a lot more  
16 information. This is just generally for tourism  
17 purposes, which we have very little impact on this  
18 land in terms of tourism use.

19 You look at the Ngorongoro, up at  
20 the rim of Ngorongoro crater. And Ngorongoro Crater  
21 Lodge wants to build something. Or you look at the  
22 Four Seasons Belila out in the Serengeti. You know,  
23 you have got a lot of things that you have got to  
24 ask for. That's the difference.

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1 Q. So why continue to pursue the final, that  
2 final step of the land change?  
3 A. Well, it would give us the full amount of  
4 things that we can do with that piece of land. Not  
5 that we're probably going to do very much more, but  
6 it would allow us to do A, B, C, D, E, F. I mean,  
7 there's a very long list of things when you use  
8 something for tourism through a land use change can.  
9 So we would do that.  
10 Q. And without that final piece are there  
11 things that you can not do because you do not have  
12 that final piece?  
13 A. I would say we could not build a gigantic  
14 hotel. We wouldn't want to do that anyhow, but that  
15 would be an example of what you wouldn't do. You  
16 wouldn't be able to do with just a letter. This  
17 letter is just to use it for tourism purposes, but  
18 not like to build a gigantic hotel or three hotels  
19 or ten hotels up there.  
20 Q. So earlier I believe you told me that the  
21 permitted uses of the land are agriculture and  
22 tourism. And the permitted use for agriculture  
23 comes from that land use permit, is that right?  
24 A. Uh-hum, yes, yes. Although, to tell you

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1 the truth, I don't know, because I'm not part of the  
2 legal piece of this, whether that land use is, goes  
3 from TBL to us or not. So that you'd have to ask  
4 [REDACTED] You know, in other words, I'm making an  
5 assumption that we have a land use for agriculture  
6 because TBL had it for farming and therefore, we  
7 have it. I actually don't know if that's true or  
8 not.  
9 Q. So is it your understanding that this is  
10 kind of like an exception to that land use  
11 designation?  
12 A. I don't know if is an exception. I think  
13 it's an addition. That's what I don't know.  
14 Q. But if you complete that final step that  
15 you were mentioning of actually getting a land use  
16 change, then rather than being an addition, it would  
17 just switch over to tourism?  
18 A. That's how it works.  
19 Q. And you said that you have been stopped by  
20 your adversaries. Can you explain how that  
21 happened?  
22 A. Well, we got all the permissions along the  
23 way and the court case -- The government felt that  
24 it didn't want to do the land use change because

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1 there was a court case. So it would be, it was  
2 great -- And a lot of things got lost along the way.  
3 So anyhow, we are still in the process.  
4 Q. You know I have to ask you for more  
5 details.  
6 A. What got lost along the way? Our title  
7 got lost along the way. You see that we have more  
8 than one title, because somebody, interestingly  
9 enough, lost the title. And every time we went down  
10 to Dar Es Salaam, they would say, Well, you have got  
11 a court case pending and every time there's a court  
12 case, we're just going to hold off for that land use  
13 change. So our adversaries are suing us and four  
14 others for this, to figure out if this titled deeded  
15 piece of property is real or not, or legal or not,  
16 which kept us from getting the land use change.  
17 Q. So there were actually people in the land  
18 office that you would visit who would tell you  
19 that --  
20 A. Yeah, we would visit them.  
21 Q. That the lawsuit was --  
22 A. It's always different. It depends on who  
23 you talk to. But you have to push along. There's a  
24 way that you have to get your land use change done.

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1 So I guess my point being that somebody would say  
2 it's okay and somebody would say no, that's not  
3 okay. And that's Tanzania. We realize that's how  
4 things don't get done in Tanzania.  
5 Q. So at this point is it your expectation  
6 that that will not complete until the lawsuit is  
7 over?  
8 A. Don't know. That's the thing. It keeps  
9 changing.  
10 Q. Well, I think I'm finished for the moment.  
11 I'd like to take a break for a second so that I can  
12 see if I can find the e-mail that I thought I was  
13 showing you earlier.  
14 A. That one before? Sure.  
15 Q. But assuming that that's not here, then  
16 I'm finished for today.  
17 A. Okay.  
18 Q. We could break and come back tomorrow or  
19 we could continue with some of the things that  
20 Marissa was going to talk to you about.  
21 THE WITNESS: What's the time?  
22 MR. MARX: It's 5:00 o'clock.  
23 MR. KAUFMAN: Is it 5:00? Okay.  
24 MR. MARX: Well, how are we in terms

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1 of trying to wrap up tomorrow? I mean, are we still  
2 on target to do that?

3 [REDACTED] It's 5:00 o'clock and,  
4 you know, did you hope to finish by 5:00?

5 MR. KAUFMAN: Today our agreement  
6 was that we would go from 1:00 to 5:00.

7 [REDACTED] Wow, so that's pretty  
8 amazing then.

9 MR. MARX: I don't want to speak on  
10 behalf of my clients and I don't want to stay any  
11 longer than necessary, but my personal priority, and  
12 I think maybe yours, as well, is just to try to make  
13 sure that we wrap up tomorrow. So I'm just saying  
14 I'm willing to spend a few more minutes here today.

15 [REDACTED] What time do we start  
16 tomorrow?

17 MR. KAUFMAN: Let's go off the  
18 record.

19 (Whereupon, at 5:00 o'clock p.m.,  
20 the deposition was suspended.)  
21  
22  
23  
24

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## C E R T I F I C A T E

2 I, [REDACTED] do hereby  
3 certify under the pains and penalties of perjury  
4 that I have read the foregoing transcript of my  
5 testimony given on June 17, 2014, and I further  
6 certify that said transcript is a true and accurate  
7 record of said testimony (with the exception of the  
8 following corrections listed below):

9 Page Line Correction/Reason

10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_

16 Dated at \_\_\_\_\_, this \_\_\_\_\_  
17 day of \_\_\_\_\_, 2014.  
18  
19  
20  
21  
22  
23  
24

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## C E R T I F I C A T E

1 COMMONWEALTH OF MASSACHUSETTS

2 COUNTY OF SUFFOLK

3 I, CYNTHIA F. STUTZ, Certified Shorthand  
4 Reporter and Notary Public duly commissioned and  
5 qualified in and for the Commonwealth of  
6 Massachusetts, do hereby certify:  
7

8 That the witness whose testimony is  
9 hereinbefore set forth, was duly sworn by me and  
10 that such testimony is a true and accurate record of  
11 my stenotype notes taken in the foregoing matter, to  
12 the best of my knowledge, skill and ability.

13 I further certify that I am neither  
14 attorney nor counsel for, nor related to or employed  
15 by any of the parties to the action in which this  
16 deposition is taken; and further that I am not a  
17 relative or employee of any attorney or counsel  
18 employed by the parties hereto or financially  
19 interested in the action.

20 IN WITNESS WHEREOF, I have hereunto set  
21 my hand this 25th day of June, 2014.  
22

23 CYNTHIA F. STUTZ, Notary Public  
24 My Notary expires August 1, 2019



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**In The Matter Of:**

*In Re: Application of Loserian Minis, et al. v.*


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DISTRICT OF MASSACHUSETTS

IN RE: APPLICATION OF

LOSERIAN MINIS, et al, FOR AN Case No.  
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ALSO PRESENT: [REDACTED]

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\* All exhibits were returned to Attorney Kaufman \*

## 1 PROCEEDINGS

2 Whereupon:

3 [REDACTED]  
 4 having been satisfactorily identified and duly sworn  
 5 by the Notary Public, was examined and testified as  
 6 follows:

## 7 DIRECT EXAMINATION

8 BY MR. KAUFMAN:

9 Q. Hello [REDACTED] You heard my name,  
 10 but I'll just state it for the record my name is  
 11 Jonathan Kaufman. To my left is Marissa Vahlsing  
 12 and Richard Herz and we are attorneys with  
 13 EarthRights International and we are representing  
 14 the applicants, Loserian Minis, Lotha Nyaru and  
 15 Joseph Makko in the application for discovery that  
 16 you are sitting here today working with us on.

17 Would you please state your name and  
 18 address for the record?

19 A. [REDACTED]

20 [REDACTED]  
 21 Q. Have you ever been deposed before?

22 A. Yes.

23 Q. How many times?

24 A. Once.

1 Q. In what kind of case?

2 A. It was nothing like this. It was really a  
 3 minor thing and it was to do with a disgruntled  
 4 passenger in the early eighties.

5 Q. Are you represented by counsel today?

6 A. Yes.

7 Q. And that's Mr. Marx sitting next to you?

8 A. Yes.

9 Q. I'm going to ask you a series of questions  
 10 and you are to answer them as completely and  
 11 accurately as you can. Do you understand that?

12 A. Yeah.

13 Q. Do you understand that you have just taken  
 14 an oath to take the truth?

15 A. Yes.

16 Q. Is there any reason you can't testify  
 17 completely and accurately today?

18 A. No.

19 Q. Are you taking any medication that might  
 20 impair your judgment or your ability to answer?

21 A. No.

22 Q. If you don't hear a question, please tell  
 23 me and I'll repeat it. If you don't understand a  
 24 question, please tell me and I'll try to rephrase it

1 in a way that makes it more understandable.

2 The court reporter is going to take  
 3 down everything we say, so please answer my  
 4 questions audibly. Nodding your head or shaking  
 5 your head or uh-hum do not come through on  
 6 transcripts, so please say yes or no in those sorts  
 7 of situations.

8 Only one of us can speak at a time,  
 9 so we should try not to speak over each other. Even  
 10 if you can anticipate the rest of my question, let  
 11 me finish and then you can speak. I will let you  
 12 finish even if I can anticipate the rest of your  
 13 answer so the transcript will be clear.

14 If you need a break, please let me  
 15 know and we'll try to find a convenient stopping  
 16 point that's not in the middle of a question. And  
 17 we'll also try to make sure that we'll take regular  
 18 breaks.

19 Do you understand that the testimony  
 20 that you provide today may be used at trial in  
 21 Tanzania?

22 A. Yes.

23 Q. Do you understand the rules that we've  
 24 just gone over?

1 A. Yes.

2 Q. Do you have any questions?

3 A. No.

4 Q. I'm going to be asking you some questions  
 5 and then at a certain point I'll turn over to  
 6 Marissa to ask you questions. When Marissa or I say  
 7 the land or the property of [REDACTED] we will be  
 8 referring to the land where the [REDACTED]

9 [REDACTED] Do you understand?

10 A. Yes.

11 Q. When Marissa or I refer to [REDACTED]  
 12 [REDACTED] we will be referring to the [REDACTED]  
 13 [REDACTED] that is also [REDACTED] Do  
 14 you understand?

15 A. Yeah.

16 Q. And when we say [REDACTED] we'll be referring to  
 17 [REDACTED] Do you understand?

18 A. Yes.

19 MR. MARX: If I can interject, I  
 20 don't want to testify on behalf of [REDACTED] but  
 21 I believe that there are various times during her  
 22 testimony when [REDACTED] was asked about [REDACTED]  
 23 and I think, and because the context was the  
 24 Tanzania operations, I think [REDACTED] understood that to

1 mean [REDACTED] the Tanzanian company and  
2 I think she was talking about their operations. So  
3 I think --

4 **THE WITNESS:** So that's what he's  
5 referring to.

6 **MR. MARX:** Yeah, that's why I'm  
7 bringing it up. I think it would be helpful, maybe,  
8 to try to clarify that, you know, on a  
9 question-by-question basis. I don't mean to make  
10 the questions more difficult than they have to be.  
11 I'm just saying I don't think when he hears you ask  
12 questions about [REDACTED] he'll understand  
13 that to mean the [REDACTED] entity.

14 **MR. KAUFMAN:** Let's try to be  
15 precise about it. I think there may be times when I  
16 or Marissa are not certain or we may use the wrong  
17 one, and so let's just try and make sure that if you  
18 respond, you're responding with what you understand  
19 me to say so that we can be, so that we can be clear  
20 about it.

21 And after this deposition is  
22 finished there will be an opportunity for both sides  
23 to correct the record in any way. So if it seems as  
24 if there's been any mistakes or any ambiguity, that

1 will be an opportunity to do that.  
2 **A. Okay. So do you want to rephrase or**  
3 **restate these terms and what they refer to?**  
4 **Q. Well, let's forget about what I said about**  
5 **when I say [REDACTED]. We'll try and be very**  
6 **clear which company we're talking about and we'll**  
7 **refer to the [REDACTED] or the [REDACTED]**  
8 **[REDACTED]**

9 (Brief recess.)

10 **Q. Were you asked to collect any documents in**  
11 **connections with the subpoenas in this legal action?**

12 **A. Yes.**

13 **Q. Did you collect documents?**

14 **A. I did, yes.**

15 **Q. How did you search for them?**

16 **A. I went through my e-mails, through my**  
17 **paper files and collected a whole lot of stuff and**  
18 **went out to Tanzania while [REDACTED] continued searching.**  
19 **And then when I came back we sat shoulder to**  
20 **shoulder in front of my computer, searching again,**  
21 **using search terms, looking for e-mails and so on**  
22 **and providing those documents.**

23 **Q. And do you remember the search terms that**  
24 **you used?**

1 **A. Yeah, I mean, the same as that [REDACTED] ad**  
2 **mentioned. Grazing, [REDACTED] these words that seem**  
3 **to matter.**

4 **Q. Do you ask other people to search for**  
5 **documents?**

6 **A. Yes, in Tanzania [REDACTED] and [REDACTED]**  
7 **[REDACTED]**

8 **Q. And did you sit with them while they**  
9 **searched?**

10 **A. No.**

11 **Q. And did they send you or give you**  
12 **documents?**

13 **A. Yes, yes.**

14 **Q. Did you also search paper files in**  
15 **Tanzania?**

16 **A. Yes. I did not in Tanzania. In my office**  
17 **in Boston.**

18 **Q. Did you search any other sources of**  
19 **documents?**

20 **A. Sorry. What do you mean by other sources?**

21 **Q. Did you search your own text messages?**

22 **A. Text messages? What's a text message?**

23 **You mean like an [REDACTED]**

24 **Q. A phone SMS.**

1 **A. I never use MS, SMS.**

2 **Q. Did you use other forms of written**  
3 **communication with Tanzania?**

4 **A. No.**

5 **Q. Have you in the past deleted e-mails that**  
6 **may have been responsive to the subpoenas?**

7 **A. Well, you know, the request was to go back**  
8 **as far as 2005 and you know, I don't have a lot of**  
9 **stuff that's very old, because, yes, they were**  
10 **deleted. Our IT people would be on our heads**  
11 **looking for space and we had to do that, but you**  
12 **know, I kept, I kept a paper, I kept paper files of**  
13 **important things that were sent to me. I would just**  
14 **print them and then delete, you know, what wasn't**  
15 **relevant any more. So I had, I had what I thought**  
16 **was a pretty nice paper file collection.**

17 **Q. What is your title at [REDACTED] the**  
18 **[REDACTED] entity?**

19 **A. Director.**

20 **Q. And --**

21 **A. You're talking about [REDACTED] now?**

22 **Q. Yes.**

23 **A. Yes, director.**

24 **Q. What is your role at [REDACTED]**

1 A. I really don't have a role in that office.  
 2 I'm 50% owner of the business, but I don't -- My  
 3 roles don't really -- That's the sales and marketing  
 4 side of [REDACTED] so I'm not involved in  
 5 that.  
 6 Q. So maybe instead of me going through each  
 7 of the individual companies, can I just ask you as a  
 8 general matter, what is your role in the [REDACTED]  
 9 [REDACTED] that we've talked about?  
 10 A. The hat I mostly wear is [REDACTED] of  
 11 [REDACTED] for [REDACTED]  
 12 Q. That's the [REDACTED]  
 13 A. Yes.  
 14 Q. And as [REDACTED]  
 15 [REDACTED] what do you do?  
 16 A. I suppose the short answer is supervise  
 17 [REDACTED]  
 18 Q. [REDACTED] reports directly to you?  
 19 A. Yes.  
 20 Q. Does the project manager at [REDACTED] also  
 21 report to you?  
 22 A. [REDACTED] is his first person, but, yes. I  
 23 mean, work together, but [REDACTED]  
 24 Q. Would it be fair to say that often you

1 would be receiving communications directly from the  
 2 project manager at [REDACTED]  
 3 A. I don't know about often, but, yeah, I  
 4 mean, we do communicate, yes.  
 5 Q. Do you also have a role for [REDACTED]  
 6 A. Well, I'm [REDACTED]  
 7 Q. In your understanding does [REDACTED] own  
 8 [REDACTED]  
 9 A. [REDACTED] is the owner, yes.  
 10 Q. And how did [REDACTED] come to own [REDACTED]  
 11 A. It purchased the property from the prior  
 12 owner, which was Tanzania Breweries Limited.  
 13 Q. Was there a competitive bidding process  
 14 for that purchase?  
 15 A. Yeah. It was advertized and, you know, I  
 16 don't know the exact numbers, but it was pretty  
 17 common knowledge in the community that a lot of  
 18 people were interested in that property that TBL was  
 19 selling.  
 20 Q. Was that advertisement the first that you  
 21 had heard about the property?  
 22 A. I think someone told me that it had been  
 23 advertized. So I mean, if you're saying did I first  
 24 know about it by reading about it in the newspaper,

1 it didn't happen like that. I think it just became  
 2 talk in the community.  
 3 Q. But you didn't know about it before the  
 4 advertisement, is that right?  
 5 A. No, no.  
 6 Q. Who told you?  
 7 A. Well, [REDACTED] comes to mind, but I'm  
 8 not sure he was the very first. You know, it was a  
 9 bit of a buzz. And then [REDACTED] and I talked, because  
 10 he had bought another property that the breweries  
 11 had sold. So, you know, he had some firsthand  
 12 information about that and so I suppose the first  
 13 time I had any real understanding was talking to  
 14 [REDACTED] but I knew about it before that.  
 15 Q. Before you put in a bid for [REDACTED] did  
 16 anyone visit [REDACTED] on your behalf?  
 17 A. Yes.  
 18 Q. Who was that?  
 19 A. Well, I sent a team of our guides to go  
 20 and have a look and to answer a series of questions  
 21 that, you know, came to mind. I had ideas about  
 22 what it could be like and what we could do with it,  
 23 but I sent them up there to take a look and to give  
 24 me some feedback on their findings.

1 Q. What questions did you ask them to answer  
 2 for you?  
 3 A. Well, actually, I think I've submitted,  
 4 it's one of the pieces of paper I gave you included  
 5 that e-mail. But, you know, we were interested in  
 6 -- A lot of what we do involves community and, you  
 7 know, we're really we really sell wildlife safaris  
 8 and that's what people come to us for, but the thing  
 9 that's really powerful to people is not necessarily  
 10 the animals, it's the people, from the guest's point  
 11 of view. So they come home and they're really  
 12 excited about their trip, but if you talk to them it  
 13 soon becomes apparent that it was about the people.  
 14 So, you know, we knew that and we understood that.  
 15 And at the sales point it's not easy to sell that to  
 16 somebody, because they're going for the wildlife and  
 17 they want to see the zebras and elephants and  
 18 everything. So we have to tuck in these things in a  
 19 way that doesn't make them think that they're losing  
 20 a half a day off their safari, you know, watching  
 21 wildlife. But anyway, we knew that this was really  
 22 important, so we started thinking about community  
 23 and tucking these aspects in.  
 24 So this piece of land was large

<p style="text-align: right;">Page 17</p> <p>1 enough that we felt it's probably got some decent 2 wildlife or could have some decent wildlife and had 3 community all around. And so this became, like, 4 wow, this is something that we could really create 5 as a great project, in addition to other offerings 6 to people. 7 So I wanted to know about what kind 8 of wildlife was there and, you know, how apparent 9 that was and the community, you know, who was around 10 and what was going on. I was kind of familiar with 11 the area, because I, you know, back in the day when 12 I was in the field I used to guide and I'd pass 13 through Loliondo. So I had a sense of the area and 14 what would be like. 15 So I sent a team there to figure 16 this stuff out. And, you know, if we're going to 17 put a camp there, how far away is water? Where do 18 we have to get fuel from? There's an air strip at 19 Wasso servicing is Wasso Hospital. How far away is 20 that? Can that be used for bringing in tourists and 21 all of these things that I'm thinking about with my 22 tour operator hat on. How could we operate in that 23 area? Because it's a remote rural part of Tanzania. 24 It's difficult.</p>	<p style="text-align: right;">Page 19</p> <p>1 were people saying that they did use that land? 2 A. I suppose the first court case. 3 Q. So before -- The first court case was 4 filed in something like 2010, is that right? 5 A. You know, I think that might be right, 6 something like that. 7 Q. And prior to that time you never heard 8 anyone saying that they used that land? 9 A. Yeah, I suppose there was some lead up to 10 that. And there was a really early court case that 11 I learned about before we bought the property way 12 back in the eighties and I think that was more about 13 ownership or, you know, TBL not really being the 14 owner or something. But anyway, that was settled 15 and that was years away, years ago. And so that 16 actually felt good that they had gone to court and 17 had that outcome. So does that answer your 18 question? 19 Q. Well, so that I'm completely clear on it, 20 knowing that there had been a court case and it had 21 been settled, that TBL's title -- 22 A. Yeah. 23 Q. -- was valid, that you knew that before 24 you put in the bid?</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. And when those guides returned did they 2 give a full report to you? 3 A. Yeah. 4 Q. Was that report just by e-mail or did you 5 also speak to them? 6 A. No, I spoke to them also, yeah, and I 7 visited myself. 8 Q. Also before you put in a bid? 9 A. Yeah. 10 Q. When you went to the farm what kinds of 11 investigation did you do at that time? 12 A. Drove around, sort of got a feel for the 13 place, visited the TBL staff and looked at their 14 buildings and stuff that they had there. Spent some 15 time in Wasso, a nearby town. Talked to people, you 16 know, things like that. 17 Q. Did you or the guides that you sent 18 previously ask any questions about whether or not 19 any of the members of a certain community had any 20 use for the land or were using the land at the time? 21 A. Well, no. I mean, not really in that 22 sense. I mean, it was TBL property. You know, it 23 wasn't a huge thought in my mind. 24 Q. At what point did you learn that there</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yeah. 2 Q. And that was some comfort to you -- 3 A. Yeah. 4 Q. As to the solidity of the land? 5 A. Yes, yes. 6 MR. MARX: Just wait for him to 7 finish asking the question before you answer. 8 THE WITNESS: Sorry, sorry. 9 Q. Did you ever hear anything about a 10 controversy over the amount of land that TBL 11 legitimately owned? 12 A. Yes. 13 Q. When did you hear about that? 14 A. Well, that was after the purchase. You 15 know, and it was about how this was 10,000 acres and 16 suddenly now it's got to 12,000 and, you know, 17 you're moving the boundaries and all this kind of 18 talk. 19 Q. When did you hear that? 20 A. I can't give you a date. Early on. Early 21 on. I mean, so it would have been after 2006, you 22 know. I'm not really sure the date. 23 Q. Did you make any inquiries to find out 24 what the truth of that controversy was?</p>



Page 21

1 A. You bet, yeah.  
 2 Q. What did you learn?  
 3 A. Well, you know, this is not an uncommon  
 4 problem, it turns out to be. And what happens is  
 5 that, you know, especially properties that, you  
 6 know, were from those days, those early eighties, I  
 7 mean, people would say, Oh, yeah, you know. You  
 8 want 10,000 acres? We can give it to you to that  
 9 far hill and to that big tree there and across to  
 10 that rock. And, you know, surveyors didn't actually  
 11 go there and actually measure it, but everyone  
 12 agreed that this is the land, this is the area and  
 13 they would write down a number. And years later, as  
 14 things became surveyed and became more legitimate  
 15 and stuff, surveyors would go there and instead of  
 16 8,000, the people had 6,000 or, you know, another  
 17 number other than they all assumed. And, you know,  
 18 that's what happened here. And, you know, it's  
 19 really hard to eyeball an exact number without  
 20 getting a surveyor there and measuring it. So this  
 21 is not uncommon to have this happen.  
 22 Q. So your understanding is that the map  
 23 didn't change. The amount of land that TBL actually  
 24 had in its possession actually never changed?

Page 22

1 A. Correct.  
 2 Q. It was merely an accurate measurement of  
 3 that land that was taken?  
 4 A. Correct, yes.  
 5 MR. KAUFMAN: I'd like to mark this  
 6 as T-1.  
 7 (Exhibit T-1 marked for  
 8 identification.)  
 9 (Document handed to the witness.)  
 10 Q. Is this a true and correct copy of the  
 11 lease that signed over the rights of [REDACTED] from  
 12 TBL to [REDACTED]  
 13 A. I believe so.  
 14 MR. MARX: I object as to the form,  
 15 but he answered.  
 16 THE WITNESS: So what were you going  
 17 to say?  
 18 MR. MARX: I wasn't objecting to you  
 19 offering an answer. I think he characterized this  
 20 lease in a way that I disagree with and that's all I  
 21 was trying to put on the record.  
 22 Q. What's your understanding of this  
 23 document?  
 24 A. Well, it's what it says, that, you know,

Page 23

1 we're agreeing to lease this land and this is the  
 2 amount paid and these four points here.  
 3 Q. And why is it a lease?  
 4 A. Well, most land in Tanzania is leased  
 5 and nobody has ownership of land. It's all, it's  
 6 always a form of lease. You know, there's a term  
 7 involved. When I say a term, a period of time. So  
 8 you can never own it forever.  
 9 Q. In your understanding did TBL retain any  
 10 rights to the land after this lease was signed?  
 11 A. Any rights? No, I don't believe so.  
 12 Q. Did [REDACTED] negotiate with TBL over the terms  
 13 of this lease?  
 14 A. Did who?  
 15 Q. Did [REDACTED] negotiate with TBL over the terms  
 16 of this lease?  
 17 A. No, no, no. The process was a bidding  
 18 process, so, you know, everyone made an offer and  
 19 then, I don't know, at some point they all got  
 20 together and TBL opened all the offers and chose who  
 21 they wanted to work with. So there's no room for  
 22 negotiation.  
 23 Q. Your understanding is that once the bid  
 24 was accepted, that the terms of the lease or sale or

Page 24

1 whatever this is were set?  
 2 A. I guess, yeah.  
 3 Q. What I'm trying to understand about this  
 4 document is that in a lease situation, normally you  
 5 have the person who's leasing out the land, which we  
 6 call the lessor, and then you have the person who's  
 7 receiving the lease, which is the lessee. And here  
 8 the first paragraph reads that TBL is leasing the  
 9 land to [REDACTED]  
 10 A. Uh-hum, right.  
 11 Q. Not transferring it.  
 12 A. Right, yeah.  
 13 Q. So I'm trying to understand what that  
 14 means.  
 15 A. Are you asking why was there later a  
 16 transfer?  
 17 Q. I'm asking you to help me understand the,  
 18 how the transaction worked, to your understanding.  
 19 A. Yeah. If you're asking why didn't it just  
 20 be an immediate transfer, I am sure about that. I  
 21 don't know how -- Our lawyers talked to their  
 22 lawyers, you know. I'm not exactly sure.  
 23 Q. In Paragraph 3 where it says, Subject to  
 24 payment of a token sum as consideration, Tanzania

1 Breweries, so on. Do you know what the payment of a  
 2 token sum as consideration refers to?  
 3 A. That has something to do with the  
 4 transfer. Subject to -- Well, it talks about the  
 5 right of transfer of the right of occupancy  
 6 registered under the above reference from Tanzania  
 7 Breweries. So it's saying subject to payment of a  
 8 token sum as consideration, Tanzania Breweries will  
 9 without qualification, pre-condition or  
 10 equivocation, grant to Tanzania a transfer. So it's  
 11 pretty clear what that is about.  
 12 Q. What do you understand it to mean?  
 13 A. Well, it says that if a token sum, a token  
 14 payment is paid, Tanzania Breweries will transfer  
 15 the right of occupancy. I'm not sure what else it  
 16 could mean.  
 17 Q. So do you know if [REDACTED] said that token sum?  
 18 A. Yes, it did.  
 19 Q. Do you know what the token sum was?  
 20 A. It's in the paperwork there somewhere.  
 21 It's a very small amount.  
 22 Q. A token?  
 23 A. A token sum, yes.  
 24 Q. Thank you.

1 A. Mind you, you know, you also have to  
 2 remember that it was also paid \$1,200,000, you know.  
 3 Q. And that amount was the lease amount?  
 4 A. Well, you know, I guess, I guess. But,  
 5 you know, and once the transfer was done, I suppose  
 6 it then became the purchase price, didn't it?  
 7 Q. I'm asking you that.  
 8 A. Yeah. I mean, that's how I'm kind of  
 9 reading this. Our lawyers talk to their lawyers.  
 10 MR. KAUFMAN: I'd like to label this  
 11 document as T-2.  
 12 (Exhibit T-2 marked for  
 13 identification.)  
 14 (Document handed to the witness.)  
 15 Q. Have you seen T-2 before?  
 16 A. Is this T-2?  
 17 Q. Yes, this is T-2.  
 18 A. Yes. This is the certificate of  
 19 occupancy, or part of it.  
 20 Q. Who held this certificate of occupancy?  
 21 A. Tanzania Breweries Limited.  
 22 Q. Do you agree that it says at the top, the  
 23 date is the 24th of May 2004?  
 24 A. Yes.

1 Q. Let's look at the second page, which is  
 2 the back of your first page.  
 3 A. Yeah, it's true I do see 2004, but I also  
 4 see stamp duty and revenue with a date of 1999,  
 5 original revenue received. There's two stamps in  
 6 fact with 1999 dates on them, which I'm not sure  
 7 what they refer to. But that is -- I don't know. I  
 8 don't know why that would be so when the other  
 9 date's 2004. But in any event -- And what was your  
 10 next question?  
 11 Q. Let's look at Paragraph 5 on the second  
 12 page where it says, The occupier, which I take to be  
 13 Tanzania Breweries Limited, shall not assign the  
 14 right within three years of the date hereof.  
 15 Do you know if TBL received the  
 16 prior approval of the Commissioner of Lands to  
 17 transfer the right of occupancy to [REDACTED]  
 18 A. I think, I think, by the fact that --  
 19 Well, there's a Commissioner of Lands signature  
 20 right here on this page, whatever page that is. But  
 21 you know, and this is not the complete document, by  
 22 the way. There are lots of pages missing from this.  
 23 And in the other pages you will find that [REDACTED]  
 24 stamped in there as the lease and as the transfer.

1 So for all of that to happen and, you know, it seems  
 2 like every official in the country of Tanzania has  
 3 reviewed these documents, including courts, and  
 4 everyone deems it legal and accurate. So, yes, I  
 5 would say that, you know, everything was properly  
 6 done.  
 7 Q. Just to be clear on the question, do you  
 8 know if TBL got a prior approval from the  
 9 Commissioner of Lands?  
 10 A. All I can say is they must have.  
 11 Q. Okay.  
 12 MR. KAUFMAN: The binders get  
 13 somewhat sloppier the second day.  
 14 If you could label this as T-3?  
 15 (Exhibit T-3 marked for  
 16 identification.)  
 17 (Document handed to the witness.)  
 18 Q. Is this an e-mail chain where you  
 19 forwarded to [REDACTED] the report from [REDACTED] about  
 20 his trip to [REDACTED]  
 21 A. Sure looks like it, yes. Yeah, this is  
 22 about my questions. Right, that we were talking  
 23 about earlier.  
 24 Q. Right. Who is [REDACTED]

1 A. [REDACTED]  
 2 to a [REDACTED] lives in Tanzania, and during this  
 3 time was [REDACTED]  
 4 Q. You said that, did you say that you asked  
 5 [REDACTED] to learn about the surrounding  
 6 communities and opportunities for including  
 7 community visits in the experience of tourists at  
 8 [REDACTED] just earlier when we were speaking?  
 9 A. Yeah. I mean, I was talking about how  
 10 community was important to us, because we know how  
 11 important it is to our guests. So, I mean, part of  
 12 my, you know, request for information from the  
 13 guides would be to find out if the area was friendly  
 14 and, you know, could we do tourism there and what  
 15 was it like with tourism.  
 16 Q. I think that in the, in the e-mail that  
 17 you forwarded, so starting at the bottom of the  
 18 first page, the slightly lighter text was your  
 19 original questions to [REDACTED]  
 20 A. Oh, the area is Maasailand, is that what  
 21 you mean?  
 22 Q. I'm actually just talking about just in  
 23 general for the moment, that there's dark black  
 24 text --

1 MR. MARX: Yeah. Are you able to  
 2 distinguish?  
 3 A. I'm not sure.  
 4 Q. So as I understand it, it's hard to see,  
 5 but these are slightly lighter font, can you see  
 6 that? It's kind of a slightly lighter gray. I'm  
 7 just trying to distinguish what was your original --  
 8 MR. MARX: What he's suggesting is  
 9 that these three paragraphs, for example, are in  
 10 slightly lighter text than this and this.  
 11 THE WITNESS: Yeah, okay. I suppose  
 12 I can give you that. Yes, okay, okay, I see it.  
 13 And it's more prominent on the second page, yeah,  
 14 okay.  
 15 Q. So my understanding is that these  
 16 slightly, what's slightly lighter, as hard as that  
 17 is to see, was your original questions to [REDACTED]  
 18 A. Yes, yes.  
 19 Q. And then his responses are the darker  
 20 text?  
 21 A. Yes.  
 22 Q. On my computer these are black and blue.  
 23 A. Okay, okay.  
 24 Q. But it didn't come out in the copy. So I

1 understand you asked him, you said, The area is  
 2 Maasailand so there's a good chances of cultural  
 3 visits, etc., with the people. Are the people  
 4 friendly to tourism and will they welcome wageni to  
 5 their bomas. Perhaps they have had problems and  
 6 don't like tourism.  
 7 [REDACTED] responds: They're friendly.  
 8 [REDACTED] spoke to some guys who were night watchmen at  
 9 the camp. They were nice and we can work out  
 10 cultural tourism stuff.  
 11 Did you learn more from [REDACTED] at this  
 12 time than just those three sentences about the  
 13 locals?  
 14 A. Yeah, before I went and spent \$1.2  
 15 million, yeah, I kind of tried to figure out as much  
 16 as I could, yes.  
 17 Q. So what did you learn?  
 18 A. That people were very receptive. In fact,  
 19 it was like amazingly receptive. Well, you guys  
 20 know, because you have been to Ololosokwan, but  
 21 Ololosokwan is right up against the Serengeti  
 22 National Park. And all of the tour operators go to  
 23 Ololosokwan village for tourism there. They put up  
 24 camps there. They operate tourism there and they do

1 walks in Ololosokwan and they go into the park every  
 2 day and come back to their camp.  
 3 Well, Sukenya is an hour and a half  
 4 from Kleins Camp, so no tour operator has ever been  
 5 interested in doing tourism. So what people were  
 6 telling me was, You mean you're going to come and do  
 7 tourism here? You got to be kidding me. We've been  
 8 so jealous of those guys at Ololosokwan, you know,  
 9 and no one has ever come here. And they were, like,  
 10 welcoming us with open arms. It was really, like,  
 11 fantastic.  
 12 Q. And who did you talk to?  
 13 A. You're going back a long way. Old, older,  
 14 older village guys, like -- I don't want to say  
 15 names, but -- I mean, some names that might come to  
 16 mind are [REDACTED] (phon.), older guys in the village  
 17 who had some respect and understanding. Let's say  
 18 from old Mzee from Soitsambu, actually.  
 19 Q. Just to jump in, Mzee is M-z-e-e.  
 20 A. I'm sorry. I should just -- Older man is  
 21 fine. And I really think as much as we can, and  
 22 I'll try my best is to stick to English words rather  
 23 than Swahili and Maa, because it's too confusing to  
 24 everyone.

1 You know, I think, you know, I think  
2 women. I mean, I don't know, just people. I don't  
3 know exactly who, but I was -- I mean, that  
4 statement I made to you about how, you know, Oh,  
5 we've been jealous of those guys and blah, blah. It  
6 just was a powerful thing to hear and really  
7 encouraged me.

8 Q. Did you go to several different of the  
9 settlements around the property at that time?

10 A. Well, I think rather than go to all around  
11 the place, because I wasn't that familiar yet with  
12 all these places, but somehow we called a meeting  
13 and I think [REDACTED] might have helped with that.  
14 And so we sort of had a group of elders and, you  
15 know, chatted to them, talked to them.

16 Q. [REDACTED] had experience in the area, so  
17 he was able to call a meeting?

18 A. [REDACTED] is a guy who had bought a  
19 prior property from Breweries -- not in the area,  
20 but, you know, and he was our, yeah, he -- I went  
21 with him to look at the property the first time, you  
22 know, and have a look around and investigate it  
23 personally so I could have a look at it. So he kind  
24 of toured me around.

1 MR. KAUFMAN: I'd like to label this  
2 T-4?

3 (Exhibit T-4 marked for  
4 identification.)

5 (Document handed to the witness.)

6 Q. We talked about this e-mail with [REDACTED]  
7 yesterday, but to confirm, is this an e-mail that  
8 you forwarded to [REDACTED] from [REDACTED]

9 A. Yeah.

10 Q. In the e-mail to [REDACTED] you agreed that  
11 [REDACTED] raised a good point about a concern about a  
12 vacuum once TBL announced they were selling the  
13 farm. What exactly was that concern about a vacuum?

14 A. Well, I think not just in Tanzania, but  
15 anywhere I think a piece of land of this size, you  
16 want to have a presence. You wouldn't want to just  
17 leave it without anyone there. TBL staff were there  
18 and, you know, I think I was a little concerned or  
19 maybe [REDACTED] was concerned, but we were all concerned  
20 about, you know, figuring out a way to have a  
21 presence there once we took over the property.

22 Q. What --

23 A. So the vacuum was about there being nobody  
24 there.

1 Q. What might happen if there wasn't anyone  
2 there during the transition?

3 A. Well, I think that, you know, people -- I  
4 mean, there was a poaching issue there. People  
5 could come and start making charcoal. I mean, you  
6 know, it's just those -- I mean, we were concerned.  
7 It just wouldn't be a good idea.

8 Q. In the way things actually turned out did  
9 TBL actually have personnel on the property up until  
10 the time they sold it?

11 A. It became a problem, because TBL wouldn't  
12 settle with them, so they had staff hanging out  
13 waiting for settlement. And they didn't want to  
14 leave until they got their last pay. And one of the  
15 first jobs we wanted to do was take down all the old  
16 farm buildings and stuff, relocate the housing to  
17 another area, because it was way out in the middle  
18 of a plain in the middle of nowhere. So it was an  
19 eyesore for us. So we wanted to relocate to a hill  
20 that was better. And so we couldn't do that until  
21 they moved.

22 Q. When [REDACTED] reported to you about his trip,  
23 did he mention having seen any Maasai people on the  
24 land grazing or using it for any purpose?

1 A. I don't recall. I don't recall him  
2 particularly stating that.

3 Q. And when you went did you see anyone  
4 grazing or being on the land for any purpose who  
5 wasn't a TBL worker?

6 A. No. I mean, I hesitate to say did I see a  
7 cow, you know. Generally, no. The place was, you  
8 know, vacant land with no herd of cattle. Like I  
9 said, I'm not going to say I didn't see a cow. All  
10 Maasailand, I was driving all over the place. So to  
11 all intent and purposes, it seemed to be what TBL  
12 was selling us.

13 Q. You don't have any particular memory of  
14 seeing people or cows or anything like that?

15 A. Large herd, no, I don't.

16 Q. Did you see or notice on the land any  
17 structures that --

18 A. Yes.

19 Q. That had been built by anyone other than  
20 TBL?

21 A. Oh, didn't notice, no.

22 Q. We talked yesterday about some ronjo, some  
23 thorn bush fences. Did you see anything like that?

24 A. Not that I recall. I say that just



1 because later, they were obviously there. But, you  
2 know, it really wasn't what I was looking for and  
3 they're not a prominent thing on the landscape. So  
4 I wasn't even looking for such a thing. I, you  
5 know, and I know that there's been a huge lot of  
6 talk about us burning Maasai houses, but that did  
7 not happen. And there was a lot of talk yesterday  
8 with Judi about, you know, how did you know they  
9 were old and questions like that. And it's really  
10 easy to know.

11 Q. How can you tell? I honestly have no  
12 idea.

13 A. Okay, okay. If you want. You know, these  
14 things, these temporary cattle enclosures are made  
15 by, you know, cutting off acacia branches and piling  
16 them in a circle and, you know, with a few for the  
17 gate, kind of thing. And so if cattle are in there  
18 using it, you know, the dung on the ground is fresh.  
19 They need maintenance, because they don't last very  
20 long, so, you know, here and there you will find a  
21 fresh branch poked in. If you come across an old,  
22 disused one, it's like night and day. You know,  
23 there's holes everywhere in the fences. There's  
24 grass growing, you know, in among the dung and

1 everything. The gate area is not even, you know,  
2 like not right by the gate to quickly close it for  
3 access. It's just clearly worn out and disused kind  
4 of look, you know. Clearly not in use. You know,  
5 put a herd of cattle in there, grass is not going to  
6 be growing in there. It's just very obvious between  
7 when you see a fresh one and a disused one.

8 Q. When you first saw the land was it, did  
9 you have the sense that it was degraded in any way?

10 A. It didn't have the wildlife on it that I  
11 was hoping for. And it turned out, I think, the  
12 main issue with that was poaching. Oh, my God.  
13 There were, the place was poached to within an inch  
14 of its life, you know. And shortly after we bought  
15 it, people came and shot like 20 Thompson gazelle  
16 and took them away in a pick-up. And it turned out  
17 that locals, if they wanted, like from Loliondo, if  
18 they wanted to have a party, they would just go  
19 there and get bush meat. And even like, not, like,  
20 hunters from, you know, international hunting, but  
21 people with a hunting license. They would go to  
22 Loliondo, pick up a license or whatever they needed  
23 and go there and hunt an area. It was kind of a  
24 place to go. So it took as little while to restrict

1 that and stop that from happening. And even with  
2 our best efforts, still, you know, that time we lost  
3 the 20 Thompson's. So later, once we controlled it  
4 and people became aware that they couldn't go there  
5 any more, you know, it really made a real difference  
6 and wildlife became quite habituated and comfortable  
7 there. And the place has completely turned around.

8 Q. Was it your understanding that TBL was not  
9 making strong efforts to control the perimeters of  
10 the property?

11 A. You know, I think they probably did their  
12 best, but they weren't really, you know, patrolling  
13 on a regular basis, I think. And, you know, those  
14 people were coming and hunting there. So, you know,  
15 who knows what was really going on? You know. It's  
16 anybody's guess. Maybe they got a gazelle  
17 themselves for the pot. Who knows what was going  
18 on?

19 Q. And were the grasses in good shape on the  
20 land when you got there?

21 A. Yeah, not bad.

22 Q. Did it seem as if it had been overgrazed  
23 at some point?

24 A. No, no, no.

1 Q. There was no sense of overgrazing?

2 A. No. Parts of Loliondo, oh, my God, it's  
3 serious erosion. It's really overgrazed, awful and  
4 this was nothing like that.

5 Q. What water sources are there on the land?

6 A. Oh, boy.

7 Q. Just in your own words, not what other  
8 people say.

9 A. I know, yeah. Well, its water sources are  
10 seasonal. Very, very limited water sources.

11 There's no permanent water. At best there are  
12 things that people call springs. I wouldn't even  
13 give them the title of a spring. I would call them  
14 a seep, at best.

15 The pololet river, the way people  
16 talk about it, it sounds like the [REDACTED] that  
17 flows through [REDACTED]. You know, it's just a natural  
18 drainage area. It's the beginning of a major river  
19 way downstream, but in this area there's not enough  
20 tributaries and things entering that to create good  
21 flowing water year round or even, you know, for  
22 months at a time.

23 When it rains that gorge can --

24 Well, I shouldn't even call it a gorge. That water



1 course can fill to a point where you can't, you  
2 wouldn't dare drive in your vehicle across it. It's  
3 a raging torrent. So you wait a couple of hours and  
4 the thing completely drains and becomes dry and then  
5 you can proceed. So, you know, that's what I'm  
6 talking about. So all that now water has gone  
7 downstream somewhere, off the property. The river  
8 does cross a small portion of the property. And  
9 those are the water sources. You know. So they're  
10 there during certain times of the year.

11 Q. Is the seep usable for cattle, for  
12 example?

13 A. Well, yeah. I mean, the seep can fill  
14 pools, and yes, it is usable, but in, even -- Well,  
15 there's two seeps and one of them completely dries  
16 up in the dry season. I'm not sure about the other  
17 one. I think it may dry up, too. I'm not sure, but  
18 it produces very little in the dry season.

19 Q. What are the names of the ones that we're  
20 talking about?

21 A. One is oltimi (phon.) and the other one is  
22 -- I don't know the name of it, but it's not --  
23 Oltimi is the most prominent one and it's been  
24 protected. The Maasai people have put thorn brush

1 around it to protect those ponds that I mentioned,  
2 to try to prevent wildlife getting in there and  
3 drinking. So even in, you know, like, when the  
4 other sources are gone, that water, there might  
5 still be a chance to have water there. The other  
6 one -- I don't know its name, but it's like the end  
7 of a granite gorge and water can seep down through  
8 that gorge for some time into the dry season, but  
9 then that, too, dries up.

10 Q. Just so I kind of have a picture here, the  
11 oltimi?

12 A. Yeah.

13 Q. The oltimi, because it's protected, it can  
14 last as a moderate water source into the dry season?

15 A. Yeah, for a part, yeah.

16 Q. How far into the dry season?

17 A. It depends on the year. This year, for  
18 instance, was very strange. There was no April, May  
19 rains. [REDACTED] was in [REDACTED] in March and the last  
20 rains they had was March. Typically, April, May was  
21 long rains and it didn't get a thing. And I was  
22 there in June and, you know, it was like it was  
23 October. And so there's serious problems. And  
24 already people are moving cattle out of the area to

1 Ndoland (phon.) in Ngorongoro, because they can see  
2 what's coming. It's going to be pretty serious, by  
3 the look of it.

4 So, you know, I suppose to answer  
5 your question, in a year like this, you know,  
6 there's not going to be any water there. That gorge  
7 I was telling you about, has no water now.

8 Q. And in a more typical year?

9 A. Well, with April, May rains and stuff, I  
10 mean, at our base we have huge storage tanks for  
11 roof water collection, 10,000 liter tanks. Normally  
12 they're full. They're dry. So that water would  
13 normally last the crew into, I don't know, July or  
14 perhaps, I don't know, maybe August depending if it  
15 was a good year or not.

16 Q. So are you talking about the tanks or the  
17 oltimi?

18 A. The tanks. And I would think it would be  
19 similar for the spring or the seep.

20 Q. So I understand again how the pololet  
21 works, when it rains, when it rains heavily, a  
22 torrent goes through there and passes and is it  
23 then -- I'm trying to understand. During the rainy  
24 season is there water in there constantly or is it

1 really just for a few hours after it rains each  
2 time?

3 A. It's really just for a few hours after it  
4 rains each time. And I really would like talk us to  
5 talk more and clarify this, so it's certain, because  
6 there's been so much talk about this pololet river  
7 and I think the impression in people's mind is that  
8 it's a flowing river year round, and you know, we  
9 want to go there for water. And I just want to make  
10 it very clear that it's not at all like this picture  
11 that's being painted.

12 Q. How long is the stretch of the pololet  
13 river that's actually in the property?

14 A. Oh, I would say -- I mean, I'm guessing,  
15 but maybe three kilometers.

16 Q. After those rains pass are there pools in  
17 that catchment area that remain?

18 A. There, there are a couple of places that  
19 have, you know, depressions and things and water can  
20 collect after the torrent has gone. They don't last  
21 long, but, yeah, it's possible.

22 Q. Would those provide a water source even  
23 into the dry season?

24 A. A bit on a good year.

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1 Q. In a good year, as in a bit, as in like a  
 2 month, or?  
 3 A. Yeah, yeah, perhaps. You know, they're  
 4 not enormous areas. You know, maybe perhaps not  
 5 even the size of this room, you know. Quite small.  
 6 Q. And that area, after the rains stop, it's  
 7 not being replenished?  
 8 A. Exactly. It's evaporating and wildlife  
 9 are drinking it and it's mud before you know it.  
 10 And they're not really deep, either.  
 11 Q. According to your knowledge have members  
 12 of the surrounding communities ever built structures  
 13 on the lands since [REDACTED] acquired it?  
 14 A. No.  
 15 Q. When did you first start learning or  
 16 hearing about members of the surrounding communities  
 17 bringing cattle onto the land?  
 18 A. It's really hard to have actual dates, but  
 19 I think it's, you know, it was -- I don't know,  
 20 maybe 2008 or something. I mean, I don't know. A  
 21 couple of years after we started doing -- Might have  
 22 even been a bit later. I'm trying to think, because  
 23 we didn't put our first camp and start the tourism  
 24 operation there for a couple of years, because, you

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1 know, we needed to organize walking trails and, you  
 2 know, driving routes and figure out, you know, how  
 3 long it takes to do trails and what to use for  
 4 tourism and to find a place for a camp and, you  
 5 know, stop the poaching and give the wildlife a  
 6 chance to come back. So, you know, it took a couple  
 7 of years in preparation to get ready. So I think it  
 8 was probably once we started doing some tourism that  
 9 this came about. Or it could have even been -- It's  
 10 so difficult to think back, but, you know, perhaps  
 11 when [REDACTED] did its first  
 12 project, right around that time or something.  
 13 Q. Which would have been around what?  
 14 A. That would be more like 2009 or '10,  
 15 perhaps. I'm not sure.  
 16 Q. And in those early years when you were  
 17 first getting things set up?  
 18 A. Yeah, seemed great.  
 19 Q. As far as you knew, no sign of people  
 20 bringing in their cattle to graze?  
 21 A. Yeah, yeah, yeah, no, it seemed really  
 22 great. And I'd go there and camp, not in an  
 23 elaborate camp like we have now, but small pup tents  
 24 and sleeping bags and we would move around the

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1 property to try to find a great spot for a camp, for  
 2 the main, you know, tourist camp and had meetings  
 3 with community people on the property, talking to  
 4 them about our plans and what we were going to do.  
 5 It felt good.  
 6 Q. And to be clear, my question about people  
 7 bringing their cattle onto the land to graze, I'm  
 8 not talking specifically about the problem grazing,  
 9 confrontational grazing.  
 10 A. Oh.  
 11 Q. I'm just talking about whether there were  
 12 times that you knew of people with cattle on the  
 13 land?  
 14 A. Um, I think it would be ridiculous for me  
 15 to say that that never happened, you know. I'm sure  
 16 that people, like they do now, they graze around the  
 17 periphery and so on. But there was no huge drama.  
 18 There was no big problem. I mean, you know what  
 19 we're talking about now is thousands of head of  
 20 cattle, you know. I mean, that is, that was  
 21 definitely not happening.  
 22 Q. In your policies, I think you make a very  
 23 clear distinction between the dramatic cattle  
 24 grazing that you perceived and what might be maybe

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1 more occasional, or as you say, around the  
 2 periphery. So I'm trying to understand about that  
 3 second kind at this point. So it sounds like what  
 4 you're saying to me is your assumption to me is it  
 5 was happening, but it wasn't something that you  
 6 particularly noticed, is that right?  
 7 A. Well, you know, you try to be small scale  
 8 and you try to be good neighbors. And you're not --  
 9 I mean, what we're talking about now is really  
 10 aggressive stuff, is bringing huge herds and drive  
 11 them right into the camp with tourists there and,  
 12 you know, blocking roads with cattle so vehicles  
 13 can't move. Just clearly, you know, egregious stuff  
 14 and deliberate. We're not talking about some guy  
 15 and a few cows, you know, on a periphery grazing,  
 16 you know.  
 17 Q. At that time would you have been surprised  
 18 to see a herd of cows in the property, as opposed to  
 19 the periphery?  
 20 A. Yeah, I think so, yeah.  
 21 Q. But around the edges it would have been  
 22 kind of normal?  
 23 A. Well, you know, I don't want to give the  
 24 impression that this is big time and all that.

1 Like I said, I think it would be silly for me to say  
2 there was never a cow on the property, you know.  
3 But it was small time and it was not an issue and no  
4 one was being really aggressive about it or -- It  
5 felt whatever I did see and whatever was happening  
6 felt neighborly and, you know what, this is fine  
7 kind of feeling.

8 Q. And at what point did [REDACTED] adopt a policy  
9 on grazing?

10 A. Well, I suppose when we first started  
11 having problems, when it became apparent that we had  
12 to do something, so that would have been, you know,  
13 around this time period we're trying to tie down.

14 Q. This time period somewhere between 2008  
15 and 2010?

16 A. 2009, 2010, yeah, in there somewhere, I  
17 suppose. You know, and at first it was probably  
18 just a verbal thing, you know. And then eventually  
19 I'm like, okay, let's write it down and let's make  
20 this, you know. It just sort of grew out of the  
21 need because of the change that was coming about.

22 Q. Let's take a look at a document to get  
23 down to this, because I think it would be useful to  
24 try to see if we can figure out anything about the

1 dates.

2 MR. KAUFMAN: I'd like to introduce  
3 any as T-5?

4 (Exhibit T-5 marked for  
5 identification.)

6 (Document handed to the witness.)

7 Q. Is this TCL's grazing policy as of May  
8 2013?

9 A. Yeah, looks like it, yeah.

10 Q. At the top here it says, Effective 2006.

11 A. Yeah.

12 Q. What do you think of that?

13 A. Well, I suppose when [REDACTED] wrote this that,  
14 you know, he wanted to make it effective back then,  
15 to back then.

16 Q. So it may have just kind of been an  
17 assumption since [REDACTED] has been here?

18 A. I, like I say, we talked about it. I  
19 mean, initially this wasn't written. This is, guys,  
20 this is what we have to do and make sure you don't,  
21 you know, escalate these issues. Be friendly and so  
22 on. And I suppose when it came down time for [REDACTED]  
23 to actually put this in writing, then, you know,  
24 just dated it like that. I don't -- I can't speak

1 for [REDACTED] but that would make sense in my mind.

2 Q. But from your point of view, there's no  
3 reason to take this to assume that there was an  
4 issue in 2006?

5 A. Right, no.

6 Q. Do you know when this was first put in  
7 writing, when a version of it was first put in  
8 writing?

9 A. No, I'm sorry.

10 MR. KAUFMAN: Let's label this as  
11 T-6.

12 (Exhibit T-6 marked for  
13 identification.)

14 (Document handed to the witness.)

15 Q. Is this an e-mail from Daniel to you from  
16 February 2008 talking about Enashiva issues?

17 A. Yeah. It's pretty old. I'll take a  
18 moment to read it to catch up on --

19 Q. Sure, take your time.

20 A. Okay. It's a little confusing, but okay.

21 Ask me some questions.

22 Q. Do you know what incident they're talking  
23 about in the first --

24 A. The women?

1 Q. Yeah, the women who went to Loliondo?

2 A. That's the confusing part about me. On  
3 one hand it's about cattle and water access and so  
4 on. And then there's this bit about the women,  
5 which doesn't tie, because women don't usually get  
6 involved with cattle and livestock issues.

7 Q. But there is that part in the third  
8 paragraph that says, it's against the law to go on  
9 someone else's property.

10 A. Yeah, yeah. So it seemed like they got  
11 together and went on the property to talk about  
12 cattle and water, which doesn't quite gel for me.  
13 So I think there's a couple of issues here that I  
14 don't, that the way [REDACTED] written it, they're  
15 supposed to be separate, but the way it's written it  
16 doesn't quite make sense to me, knowing Maasai and,  
17 you know, tasks that women and men have.

18 Q. By which you mean that women are not  
19 usually keeping the cattle?

20 A. Correct.

21 Q. This was in February, so this would have  
22 been during the rainy season.

23 A. Correct.

24 Q. Is that right?

1 A. Yes.  
 2 Q. So whoever their side is, they're saying  
 3 they want to bring in cattle to drink water?  
 4 A. Correct. That's what he's saying here,  
 5 yeah.  
 6 Q. And [REDACTED] is suggesting that they should  
 7 be allowed to bring in cattle for water, but then  
 8 leave?  
 9 A. Well, he's saying, yeah.  
 10 Q. During the rainy season.  
 11 A. I mean, he's a Maasai. He's a smart guy.  
 12 You know, it's rainy season. They want to come on  
 13 the property for water? I don't think so. They  
 14 want to, you know -- There's another reason and it's  
 15 probably for grazing. And the excuse is, well,  
 16 let's find the water that's the furthest from  
 17 where I am now and we'll take the longest to get  
 18 there and our cattle can have a nice lunch on the  
 19 way. I think that's kind of what [REDACTED] is getting  
 20 to the bottom of here.  
 21 Q. So at least at this point in February 2008  
 22 there was at least talk about locals wanting to  
 23 bring their cattle onto the land?  
 24 A. Yeah, but then [REDACTED] goes on to say, you

1 know -- I also don't talk to safari guests about  
 2 cattle problem on the property. And actually, it is  
 3 not a big problem, as it was only caused by one boma  
 4 in the whole neighborhood and we have solved that in  
 5 yesterday's meeting.  
 6 So, you know, maybe this is, like,  
 7 in the beginning, beginning of this or something.  
 8 You know, he's saying it's not really a big problem,  
 9 but obviously, these women came here. I'm not even  
 10 clear they came with cattle, but they came to  
 11 demand, you know, water. Well, it doesn't make,  
 12 really doesn't make sense.  
 13 Q. Okay. I'm just trying to pin down --  
 14 A. Yeah, I know, but what is happening here  
 15 is kind of strange and why women would be gathered  
 16 up to come and demand such a thing -- That would be  
 17 a man's task. You know, he has his suspicions,  
 18 which he mentions here about why this happened. It  
 19 isn't an unusual occurrence.  
 20 MR. KAUFMAN: I'd like to have this  
 21 labeled as T-7.  
 22 (Exhibit T-7 marked for  
 23 identification.)  
 24 (Document handed to the witness.)

1 Q. I think the only relevant part of this  
 2 document is the first page, but if you want to look  
 3 through it, feel free.  
 4 A. Okay.  
 5 Q. Is this another e-mail from [REDACTED] to you,  
 6 this time from May 2008 about various [REDACTED]  
 7 issues?  
 8 A. Yes.  
 9 Q. At the top here he says he had a short  
 10 meeting with elders from Irmasilig, Maanda's area  
 11 and another sub village, as well. They want to  
 12 bring their cattle to the water holes in the  
 13 korongo, k-o-r-o-n-g-o. First of all, what's a  
 14 korongo?  
 15 A. It's a gully.  
 16 Q. Would this have been referring to the  
 17 pololet or would this have been something else?  
 18 A. Yeah, I mean, it could have been. Wait a  
 19 minute. Asking to bring their cattle to the water  
 20 holes in the korongo you cross going to the kopjes.  
 21 Yeah, I would say that probably was the pololet.  
 22 Q. And in the next paragraph he sets, I know  
 23 the main agenda will be water, but in reality it is  
 24 grazing. We have allowed them in the past to access

1 some water holes which don't give them any room for  
 2 grazing.  
 3 So, [REDACTED] I take this to mean that  
 4 [REDACTED] is saying that at this point at least in  
 5 May 2008 there is some history of allowing cattle to  
 6 come onto the land to use the water, again, being  
 7 careful about the grazing issue. Do you --  
 8 A. Yeah, I mean, I think we have tried to be  
 9 good neighbors with people. And you know, in  
 10 drought times we'll let them come on. We sort of  
 11 think of [REDACTED] sort of a grass bank. And you  
 12 know, if things get really desperate, they can  
 13 utilize that. And I think the water is a bit the  
 14 same.  
 15 But you know, people just need to  
 16 ask. We need to understand who's on the property,  
 17 why they're there so that we, we have an  
 18 understanding of that. Otherwise, people will be  
 19 all over it willy-nilly, you know.  
 20 So I think this is about that,  
 21 although it's May. I would have thought there'd be  
 22 water, you know, wouldn't have to come on,  
 23 necessarily, for water. But anyway, that was his  
 24 decision, so --

1 **MR. KAUFMAN:** I'd like to label this  
 2 as T-8?  
 3 (Exhibit T-8 marked for  
 4 identification.)  
 5 (Document handed to the witness.)  
 6 **Q.** There's a lot of stuff here, but I'm  
 7 hoping to focus on the bottom of the second page  
 8 talking about the committee. Obviously, a lot of  
 9 contentious stuff in this e-mail, but that's not the  
 10 point of these questions.  
 11 **A.** So bottom of the second page.  
 12 **Q.** Bottom of the second page, top of the  
 13 third.  
 14 **A.** In addition, you formed a committee?  
 15 **Q.** Is this an e-mail chain between you and  
 16 [REDACTED] and eventually [REDACTED] as well, talking about a  
 17 security allegation and also about the grazing  
 18 committee?  
 19 **A.** I'm sorry, can you ask that question?  
 20 **Q.** Yeah, sure. Well, starting from the top,  
 21 is this an e-mail chain between you, [REDACTED] and [REDACTED]  
 22 talking about [REDACTED]  
 23 **A.** Yeah, I guess it looks like that way,  
 24 yeah.

1 **Q.** And the earliest e-mail in the chain,  
 2 which is the last one, you are asking [REDACTED] about  
 3 the formation of a committee. What is this  
 4 committee?  
 5 **A.** Well, if I'm not mistaken, this was  
 6 requested by the DC to try and create some  
 7 stability. So, you know, does that answer your  
 8 question?  
 9 **Q.** So you asked [REDACTED] you formed a  
 10 committee.  
 11 **A.** Yeah.  
 12 **Q.** Please give me the name of the committee  
 13 and what its task is?  
 14 **A.** Yeah.  
 15 **Q.** And his response was that it would manage  
 16 the conflict between the community and the company,  
 17 act as a liaison, and if the community needs a  
 18 grazing area, it would be a channel for those  
 19 requests. Is that right?  
 20 **A.** Yeah. I think the idea was that the  
 21 community, these people, these leaders or this  
 22 committee that's formed from the community would  
 23 help with some of these decisions rather than it all  
 24 landing on [REDACTED] head or -- That's it.

1 **Q.** So again, I really just kind of trying to  
 2 establish the time line of how this, how the various  
 3 issues between the company and people who were in  
 4 conflict with the company developed. So it seems as  
 5 if at this point, at least, grazing was on the  
 6 agenda?  
 7 **A.** Well, this reminds me that Nanyoi was,  
 8 must have been shot, you know, prior to this,  
 9 because it talks about how his father joined the  
 10 committee. So if I had to have guessed, I would  
 11 have guessed Nanyoi, that incident happened after  
 12 this, but apparently not. So that helps me, too.  
 13 So --  
 14 **Q.** Again, for the moment, just again focusing  
 15 on the grazing issues, was this committee, among  
 16 other things, concerned by requests by community  
 17 members to use part of the land for grazing?  
 18 **A.** Sorry. Could you state that again?  
 19 **Q.** Was this committee, among other things,  
 20 dealing with requests to use [REDACTED] for grazing?  
 21 **A.** I think so, yes.  
 22 **Q.** Okay, thank you. At this point how would  
 23 you describe the policy at [REDACTED] on grazing?  
 24 What was the policy for local community members to

1 use the land for grazing?  
 2 **A.** They --  
 3 **MR. MARX:** I'm sorry. First, you're  
 4 speaking in the present tense and in the past tense.  
 5 So are you talking about the current policy?  
 6 **MR. KAUFMAN:** At that time.  
 7 **A.** Before anyone could come on the property  
 8 they would seek permission.  
 9 **Q.** And typically, under what circumstances  
 10 would permission be granted?  
 11 **A.** If the need was seen as necessary, I  
 12 suppose is the best answer. You know, so if they  
 13 came with a legitimate need that made sense and, you  
 14 know, [REDACTED] would agree to that. And maybe he  
 15 would limit them in some way or they would discuss,  
 16 you know, what the full visit was all about and  
 17 where they could go. Maybe he would assign one of  
 18 his scouts to go with them or something, you know,  
 19 but that would be all discussed, you know, should  
 20 the need be there.  
 21 **Q.** So there was not like -- Was there a  
 22 general policy on rainy season versus dry season?  
 23 **A.** Well, it's a crazy thing, you know, people  
 24 would come to us wanting to take their cattle on the



1 property during the rainy season and they wanted to  
2 go there for water. So you know, it's like, well,  
3 is that a legitimate reason? It doesn't make sense.  
4 And you're coming from where? Why would you want to  
5 walk all your cattle that far where you have water  
6 where you are? So when people come to us with those  
7 things, it feels like it's just harassing us, you  
8 know, trying to prove a point or something is going  
9 on. There's some agenda.

10 Q. So I understand the pretextual issue, the  
11 feeling that there were times when people were  
12 asking to come onto the land either for grazing or  
13 for water and [REDACTED] judgment was this was  
14 really a pretext, because in fact there was land --  
15 there was grass and water elsewhere. But in a  
16 situation like that, would [REDACTED] say no?

17 A. In a situation like the one I --

18 Q. A situation where he believed it was a  
19 pretext.

20 A. Yes.

21 Q. So if someone came in and said I'd like to  
22 bring my cattle on to use a water source and [REDACTED]  
23 [REDACTED] looked around and felt there was plenty of  
24 water elsewhere, there was plenty of grass

1 elsewhere, he would say no?

2 A. Yeah, that's correct, yeah.

3 Q. Were there other times when [REDACTED]  
4 would say no?

5 A. Well, I mean, I can just sit and dream up  
6 a situation, but any situation where it seemed the  
7 request seemed to not make sense, I would expect him  
8 to say, I'm sorry, no, we have to say no.

9 Q. If they wanted to use water when there was  
10 no water, for example?

11 A. Well, no, yeah. Like I said, earlier we  
12 try to be good neighbors and people in dire need,  
13 gosh, you know, we've trucked tons of grain to the  
14 area when there was a drought. You know, we help  
15 people. We're in the community, you know, doing  
16 community tourism. We're there to help people. And  
17 we take them to hospital when they're sick and  
18 stuff. And, you know, so the only way we're going  
19 to have a hope of doing community tourism where our  
20 guests are feeling welcomed and happy is by being  
21 good neighbors.

22 MR. KAUFMAN: Can we have this  
23 marked T-8?

24 MR. MARX: We're up to 9.

1 MR. KAUFMAN: T-9.

2 (Exhibit T-9 marked for  
3 identification.)

4 (Document handed to the witness.)

5 Q. I'm just going to focus at the top above  
6 Wildlife. Is the second e-mail in this chain, the  
7 one that starts just around the quarter page of the  
8 first page, is this an e-mail from [REDACTED] you and  
9 [REDACTED] about [REDACTED]

10 A. Yes, it's titled, subject is [REDACTED]  
11 Report.

12 Q. Thanks for the confirmation.

13 A. Okay.

14 Q. Up at the top here [REDACTED] talking about  
15 a celebration that, a New Year's celebration with  
16 people from the surrounding communities in which  
17 they talked about how they benefited from the grass  
18 at [REDACTED] during the drought. Can you tell me a  
19 little bit about that drought, what happened?

20 A. Yeah, there was a -- I think it must have  
21 been in 2009, so I suppose I'm guessing a bit, but I  
22 would assume August, September, October time was  
23 probably when it was really bad and, you know, it  
24 was one of those times when cattle, livestock were

1 dying all over Loliondo and that was the time that  
2 we trucked in the maize into Wasso to help people.  
3 So I know it says here we're speaking of a grass  
4 bank, so do you --

5 Q. Actually, I wanted to kind of understand a  
6 little bit. I think yesterday, actually, [REDACTED]  
7 mentioned that one of the issues with the drought,  
8 of course, is that you want to be able to give an  
9 opportunity for surrounding community members to  
10 graze, but of course, the drought hits [REDACTED] as  
11 well. So during that time was there grass at  
12 [REDACTED] for people to come and use?

13 A. Well, I think we have a video of a guy  
14 thanking us for helping him out during that time,  
15 you know. I think what he was implying was that,  
16 you know, having [REDACTED] as a resource during those  
17 bad times really helped.

18 Q. So the answer is yes, there was at least  
19 some grass at [REDACTED] during the drought that  
20 people could use?

21 A. Yeah.

22 Q. So why does [REDACTED] put in parentheses  
23 after people were thanking him, he says, (though we  
24 never allowed them). What does that refer to?

1 A. Yeah, that's a kind of unfortunate, I  
2 suppose, way to write things. I think what he might  
3 be saying is that he might have turned a blind eye.  
4 Q. People maybe didn't ask for permission the  
5 way they were supposed to, so they may have just  
6 come on?  
7 A. You know, that's the way I'm reading it,  
8 yeah. He was being a good neighbor. You know, and  
9 even though he goes on to say that those people said  
10 that they would help protect [REDACTED] from people  
11 who bring cattle from far away to come and graze  
12 there. And, you know, just because -- That was a  
13 particularly bad time and people in Kenya were hard  
14 hit, too. So the way that they solved their problem  
15 was just drive their herds over the border and came  
16 into Loliondo, floods and floods right into the OBC,  
17 Arab hunting block. And you can imagine how that  
18 happens is, No, you can't come here. I've got all  
19 my cattle. Things are bad enough. Go that way,  
20 pointing to OBC or, you know -- And that place must  
21 have been a haven for them, because no one was  
22 allowed to go there. It was an Arab hunting block  
23 and those Kenyans were just pouring in with their  
24 cattle. You know, I mean, and that, I suppose the

1 OBC hunting block became a grass bank for them.  
2 They were definitely steered there by Tanzanians,  
3 because the Tanzanians didn't want them coming  
4 eating what little grass they have.  
5 Q. In their normal range land?  
6 A. Yeah. I don't know why they didn't find  
7 [REDACTED] but if they had, I'm not sure we could  
8 have done too much about it.  
9 Q. Are you familiar with the discovery  
10 recently take there were actually bomas inside the  
11 boundaries at [REDACTED]  
12 A. Yeah.  
13 Q. How did that happen?  
14 A. That happened -- A government official  
15 told us. We thought we had the boundary lines all  
16 figured out and he corrected us. We've never  
17 actually, actually gone and had an official survey.  
18 I mean, we thought we knew and he told us otherwise.  
19 And I suppose it would be prudent to find out once  
20 and for all, you know, if he was even correct, but  
21 he seemed pretty, pretty knowledgeable.  
22 Q. What's your extent -- What is your  
23 understanding of the extent of that occupation in  
24 that corner of the farm?

1 A. I'm not sure I understand what you mean.  
2 Q. Yesterday [REDACTED] said, for example,  
3 that [REDACTED] felt that she thought that there was one  
4 large enclosure with a number of different bomas in  
5 it. Is that right?  
6 A. Yeah. It's a settlement with a number of  
7 houses in the settlement.  
8 Q. How big would that settlement be, roughly?  
9 A. Like square feet or something or? It's,  
10 you know, if I can use -- Well, it's a Maasai -- I  
11 hate to use the word boma, because it's just such a  
12 funny term in this setting, but you know, it's a  
13 thorn brush enclosure and you go through the  
14 entrance and, you know, the guy's first wife is on  
15 one side and the second wife is the other side and  
16 it's laid out and, you know, it's one of those. And  
17 it probably has, I don't know, I don't know, half a  
18 dozen, seven houses or something. I'm not really  
19 sure.  
20 Q. Typically, just knowing what you know  
21 about the Maasai, would it be an extended family, a  
22 single extended family or a single set of relations  
23 inside one enclosure?  
24 A. Yeah, I would think it would be.

1 Q. And again, just trying to understand the  
2 extent, this is something, would this be a mile  
3 across or would it be a hundred feet across or less?  
4 A. Oh, yeah. You know, it's, I mean,  
5 it's thirty, forty feet or something across.  
6 Q. With a number of small huts?  
7 A. Yeah, houses around, yeah. I mean, you  
8 know when I say houses, I'm talking about really  
9 traditional Maasai dwelling, you know, mud dung roof  
10 house. You know, this is a very rural, you know,  
11 remote community. And these Maasai are living --  
12 It's really hard to find Maasai live a traditional  
13 way of life like they do in this area. Not that  
14 many do that any more, but, you know, it's that kind  
15 of thing.  
16 MR. KAUFMAN: I'd like to label this  
17 T-10.  
18 (Exhibit T-10 marked for  
19 identification.)  
20 (Document handed to the witness.)  
21 Q. These are maps that were attached to an  
22 e-mail from [REDACTED] Do you recognize them?  
23 A. Not sure that I do.  
24 Q. You don't remember seeing these before?

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1 A. I see it's got a date of 2011 on it and it  
 2 kind of indicates that there are one, two, three,  
 3 three bomas -- Is that our property line? Looks  
 4 like it.  
 5 Q. Is that polygon in T-10, is that more or  
 6 less the shape of [REDACTED]  
 7 A. Yeah, it is, yeah.  
 8 Q. I see a label that seems to suggest that  
 9 the [REDACTED] is kind of right there in the  
 10 middle. Would that be right?  
 11 A. No. The camp is way down here on the  
 12 left-hand edge. See where it says Camp?  
 13 Q. The icon?  
 14 A. Wait a minute. No, that -- Sorry. That  
 15 is, where it says Camp with that little house thing,  
 16 that's the, that's [REDACTED] and his team's spot. Then  
 17 above that is something, there's an S and it says  
 18 [REDACTED] right?  
 19 Q. Yeah.  
 20 A. So I think, I think right by the P there's  
 21 another sign. There's an another little triangle  
 22 there. I think that's the [REDACTED]. So this,  
 23 this map doesn't make sense. There are no bomas  
 24 over here in this area.

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1 MR. MARX: Which, just so the  
 2 record's clear, could you describe what areas you're  
 3 talking about?  
 4 A. See where it says Luguru, to the right of  
 5 that there's one, two, three bomas listed there.  
 6 That doesn't make any sense to me at all. That's a  
 7 huge hillside along there.  
 8 Q. And the lone boma labeled that's a bit  
 9 above that, would that be the one that was  
 10 discovered?  
 11 A. I don't think so. That seems to be too  
 12 far inside the boundary. Where did you get this?  
 13 Q. You produced it.  
 14 A. Oh, I gave it to you. Oh, my goodness.  
 15 Hmm. Well, um, I agree that it says 2011. I agree  
 16 that it looks like the shape of the land and I can  
 17 see [REDACTED] and [REDACTED]. But the  
 18 placement of these bomas doesn't make sense to me.  
 19 Q. So from your understanding, this does not  
 20 represent any actual reality on the ground at  
 21 [REDACTED]  
 22 A. Yeah.  
 23 Q. Any time that you know of?  
 24 A. These two, these two bomas on the

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1 right-hand side, the ones opposite Luguru, they  
 2 don't make any sense to me at all. The one above it  
 3 all by itself there, if that was further north and  
 4 close to the line, I would think that could be the  
 5 Nanyoi thing that we've been talking about.  
 6 Now, I don't know how these were  
 7 placed, how this is, what -- how people plotted  
 8 this, but I don't think this is accurate. And there  
 9 certainly were not these two bomas on the land in  
 10 2011, or even to this day. There's only one area  
 11 and that's in that northeast part. That really  
 12 isn't depicted well here.  
 13 Q. Could you show me, and we'll try and  
 14 describe it for the record, where, in your  
 15 understanding, that boma that was discovered  
 16 recently is?  
 17 A. Okay. If you see Mawe Tatu at the top of  
 18 the page, there's like a corner of the property  
 19 there. If you follow that line down and to the  
 20 right, the corner there, and then to the left of  
 21 that is the little boma all by itself, right? So I  
 22 think that that little boma should be up the page  
 23 and a bit to the left, close to the boundary line is  
 24 where I would put it.

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1 Q. So just to be clear for the record, the  
 2 boma that is listed as being off by itself in the  
 3 upper right portion of the property, if you move  
 4 that icon up and to the left close to the boundary  
 5 line, somewhere along that edge of the property,  
 6 that would be where it is?  
 7 A. Yeah. In my mind, that's kind of where  
 8 it's placed, yeah.  
 9 Q. When --  
 10 A. And like I said, you know, this whole  
 11 thing is just, you know, came about when this  
 12 official told us, you know -- And I mean, I don't  
 13 know if it's a moot point or not. It hasn't even  
 14 been proven. It hasn't been surveyed. This is just  
 15 his understanding of where he thought the beacon  
 16 was, the beacons were and where we thought they  
 17 were.  
 18 Q. Maybe could you explain that to us,  
 19 because we haven't heard how that happened. So when  
 20 did this official come to you?  
 21 A. You know, when the villages all changed,  
 22 people, a team came to resurvey the villages, which  
 23 kind of went nowhere. There was kind of an uproar,  
 24 because people were, you know, I don't know, angling

1 for where their property lines should be and so on.  
 2 And it became, you know, a bit crazy. So the team  
 3 ended up pulling out and going back to Dar Es  
 4 Salaam. But during that process these surveyors  
 5 were on the property and, you know, they pointed  
 6 this out.  
 7 Q. When was that, more or less?  
 8 A. Oh, gosh. Well, it was after the, after  
 9 Sukenya became a village in its own right and it was  
 10 a long time after we were expecting those village  
 11 boundaries to be marked, you know, for a long, long  
 12 time. So maybe a year later -- I don't, I'm not  
 13 really sure on the dates, I'm sorry. But well after  
 14 the village, Sukenya village became its own village  
 15 the team came to do the survey. And whenever that  
 16 was is when this was figured out.  
 17 Q. Do you think it was last year or would it  
 18 have been earlier than that? Just trying to  
 19 triangulate.  
 20 A. Yeah, yeah. I'm really not sure.  
 21 Q. After you found out that that boma might  
 22 actually be inside the property lines, did anyone  
 23 from [REDACTED] go to talk to the owner?  
 24 A. No, no. I about had a heart attack. I

1 mean, you know. And on top of it all, it's Nanyoi's  
 2 boma, of all people. You know, it's like, give me a  
 3 break. So what do we do about this now?  
 4 And by the way, if you go there -- I  
 5 mean, I used to think thank God this is not on our  
 6 property, because it's like a bomb's gone off. It's  
 7 erosion, horrific erosion, overgrazing down to bare  
 8 earth that the water has washed into -- You know,  
 9 it's just one of the worst cases of, you know,  
 10 erosion and bad management of land that you could  
 11 find. You know, it's what people talk about. And  
 12 that whole area is like been bombed. It's just --  
 13 And now there's a potential that it  
 14 even could be part of the farm. I mean, that's  
 15 pretty awful.  
 16 So there are a lot of issues going  
 17 on here and, man, we've got enough things going on  
 18 without going knocking on his door saying, Hey, this  
 19 is what we hear is going on. Maybe you don't have a  
 20 farm. I mean, I really am not sure what we're going  
 21 to do about this.  
 22 Q. But so it's your sense that he's been  
 23 there a while. It was only --  
 24 A. Yes, yeah.

1 Q. It was just the recent discovery was --  
 2 A. Yeah.  
 3 Q. That it might actually be on your side of  
 4 the line?  
 5 MR. MARX: Just, you nodded, but you  
 6 didn't give an affirmative answer.  
 7 A. Yes, yes, I agree with that.  
 8 (Discussion off the record.)  
 9 Q. Was there something else that you wanted  
 10 to say about it?  
 11 MR. MARX: I have no objection if  
 12 you want to --  
 13 A. You know, while you were looking up the  
 14 next thing, you were just looking at these and you  
 15 know, this is an enlargement of this.  
 16 Q. Right.  
 17 A. And you know, this one here on the  
 18 boundary line is obviously this one here, but then  
 19 there are these two and there are not two here. And  
 20 the distance from here to here just doesn't look  
 21 right. So it's all a bit off, you know. So I think  
 22 it's just, you know, I don't think this is an  
 23 accurate drawing of where these things are located.  
 24 MR. MARX: Just so the record is

1 clear on that point, [REDACTED] was comparing the  
 2 two pages of T-10.  
 3 Q. Maybe something that would be useful and  
 4 that we could put into the record of this deposition  
 5 is would you like to kind of freehand a map of what  
 6 you think it actually, how it actually did work,  
 7 just so that it's clear on the record where you're  
 8 saying you think things are, or?  
 9 A. The trouble is, I think, you know, it's  
 10 not going to being accurate yet again, is it?  
 11 MR. HERZ: It might be easier just  
 12 to draw it on the exhibit.  
 13 Q. Yeah, if you wanted to make put an X.  
 14 A. Yeah, but it's still an inaccuracy. It's  
 15 my best guess.  
 16 Q. I think we've described it well enough.  
 17 A. Yeah, okay.  
 18 Q. If we're reading this, we can know what  
 19 your best estimate is.  
 20 A. Sure, yeah.  
 21 MR. KAUFMAN: That's all the  
 22 questions that I have about the land issues. So  
 23 maybe now would be a good time to take a break and  
 24 in ten minutes we can come back and Marissa can ask

1 you some questions and hopefully we'll be out of  
 2 here in a timely way.  
 3 (Brief recess.)  
 4 **CROSS EXAMINATION**  
 5 **BY MS. VAHLSING:**  
 6 Q. Good afternoon, [REDACTED]. My name is  
 7 Marissa Vahlsing and I will be asking you the  
 8 remainder of the questions for the afternoon in this  
 9 deposition. I just wanted to pick up on a few  
 10 topics that came up at the end of Jonathan's  
 11 questions to you.  
 12 And returning to the discussion  
 13 about the map and the existence of this additional  
 14 settlement that you have only recently discovered  
 15 was perhaps within the property lines, I just wanted  
 16 to ask when did you first become aware that that  
 17 settlement was where it is? I should say, rather,  
 18 that it existed, not that it was on the property.  
 19 A. I think, I think it was always there.  
 20 Q. Do you remember when you first learned  
 21 that it existed?  
 22 A. I suppose in the early days of taking over  
 23 the property. I mean, if you want a date from me, I  
 24 can't give you that, but early on.

1 Q. So would it be correct to say that you  
 2 were aware it existed before you were aware that it  
 3 might potentially be within the property boundaries?  
 4 A. Yes.  
 5 Q. And that would be a few to several years  
 6 before you learned that it could perhaps be within  
 7 the property boundaries?  
 8 A. Yes.  
 9 Q. Okay. Do you know if the individuals that  
 10 live in that settlement are accustomed to grazing  
 11 their cattle in the environs of the settlement,  
 12 which is to say on the outskirts of the settlement?  
 13 A. They wouldn't be doing that. There's no  
 14 grazing to be had.  
 15 Q. Do you know where they take the cattle to  
 16 graze?  
 17 A. Well, north of them would be available  
 18 grazing and, you know, those plains extend all the  
 19 way to the Kenyan border. So my assumption would be  
 20 somewhere in that area.  
 21 Q. You say that there's no grazing to be had.  
 22 Just so I'm sure I understand correctly, is that  
 23 because it's been overgrazed?  
 24 A. Well, the immediate area around their

1 house, their houses, they have some maize that they  
 2 plant there periodically and it's a small area  
 3 that's completely environmentally damaged. There's  
 4 no available grass to be had. So if they wanted to  
 5 take livestock for grazing, they would have to go  
 6 north, you know, into that area I described.  
 7 Q. What would happen if they came southwest?  
 8 A. Well, because of where their dwellings are  
 9 against the boundary of the property, they would  
 10 have to come onto the farm.  
 11 Q. Have you seen that happen?  
 12 A. Personally, no.  
 13 Q. Has it been reported to you that those  
 14 individuals' cows have come onto the property?  
 15 A. I don't get individual reports, you know,  
 16 about who has done what and where they're from.  
 17 Q. Okay.  
 18 A. So I can't really answer that.  
 19 Q. Okay. This might be a difficult question  
 20 to answer, but if you can, I'd like you to try. How  
 21 often would you say that cattle are brought from  
 22 outside the property onto the property to graze? Is  
 23 this something that happens every day, every week,  
 24 every month? With what consistency?

1 A. I suppose in any given week there would be  
 2 some form of number of cattle on the property to  
 3 some degree. You know, our scouts are, one of the  
 4 daily tasks are to do foot patrols and to, you know,  
 5 control neighbors and grazing. So, yeah.  
 6 Q. Do the scouts patrol for anything other  
 7 than grazers?  
 8 A. Yes.  
 9 Q. What else do they patrol for?  
 10 A. Well, they're always on their lookout for  
 11 potential poachers, who surprisingly will come with  
 12 a vehicle. Generally, they just don't know. Wood  
 13 cutters. They might hear them chopping stuff. Not  
 14 so much charcoal makers, because we find them  
 15 cutting the stuff before they -- You know, it's an  
 16 elaborate process before they get into making  
 17 charcoal, but they can often be the reason people  
 18 cut wood. And there, you know, as they drive around  
 19 the property, they're looking for, you know,  
 20 branches and growth encroaching onto trails and  
 21 walking trails and things. So they might, you know,  
 22 lop them back and just keep them open. They're  
 23 doing wildlife counts and various activities.  
 24 They're scouts in the field.



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1 Q. Just because you mentioned wood chopping,  
 2 I'm wondering do you have any knowledge about an  
 3 alleged incident in which a man named Mr. Meitaya  
 4 was arrested on the property for having cut down  
 5 wood?  
 6 A. Yes.  
 7 Q. Can you tell me what you know about that  
 8 incident?  
 9 A. He was discovered with, you know, a  
 10 surprisingly large amount of cut wood. And I don't  
 11 think he had a whole lot to say about it. And I  
 12 believe he was taken to court.  
 13 Q. Do you know what kind of wood he cut?  
 14 A. No. I've seen photographs, but I'm not  
 15 sure of the name of the trees or whatever, if that's  
 16 what you're asking.  
 17 Q. I guess I'm also wondering why he cut the  
 18 wood, if you happen to know. Is it for personal  
 19 use?  
 20 A. I don't know. I mean, I don't know why he  
 21 cut the wood.  
 22 Q. When did you first --  
 23 A. It was a lot. It wasn't, you know, just a  
 24 couple of pieces.

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1 Q. Have you ever spoken to Mr. Meitaya?  
 2 A. No.  
 3 Q. Do you know if Mr. Meitaya happens to live  
 4 in the settlement in the northeastern corner that we  
 5 just discussed?  
 6 A. I think I've learned that he does.  
 7 Q. Do you know where on the property he was  
 8 found cutting the wood?  
 9 A. No, I don't.  
 10 Q. Okay. Do you know what charges, if any,  
 11 were brought against Mr. Meitaya after he was found  
 12 cutting wood?  
 13 A. I'd have to review -- There are some  
 14 documents about this. I'd have to review them to  
 15 refresh myself.  
 16 Q. I unfortunately don't have the charge  
 17 sheet for him, so I would show it to you if I did to  
 18 remind you. Do you have any information about what  
 19 happened when he was found chopping the wood and the  
 20 calling of the police? Do you know who called the  
 21 police, if anyone?  
 22 A. No. I think I'd have to review some  
 23 paperwork about that to refresh myself.  
 24 Q. I just wanted to return to the issue of

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1 grazing for a second. And would you agree with me  
 2 that we could use the term confrontational grazing  
 3 to describe grazing that isn't accidental or, you  
 4 know, with permission?  
 5 A. Yeah, I would say that's a fair term.  
 6 Q. Okay. I'm wondering could you tell me  
 7 what [REDACTED] policy is when somebody comes  
 8 onto the land to graze and they don't have  
 9 permission and yet they don't use violence, what  
 10 happens?  
 11 A. Well, you know, that happens, you know,  
 12 reasonably frequently. People just choose to, you  
 13 know, dream up some excuse and everything from, Oh,  
 14 I got lost, I don't realize, or fell asleep and my,  
 15 you know, livestock wandered over there and, you  
 16 know. So the scouts are dealing with this by saying  
 17 to them nicely, Hey, you know, you're inside the  
 18 farm boundaries. Can you, you know, move your  
 19 livestock, you know, off the farm? And generally,  
 20 they're fine and they'll apologize and offer some  
 21 excuse. And you know, which is often a bit equal  
 22 to, well, the dog ate my homework kind of thing.  
 23 You know, they're very weak excuses, but they're  
 24 just accepted as, okay, well, try not to do it next

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1 time and off they go. And I think they feel the  
 2 owners of the cattle feel like, you know, maybe this  
 3 is -- Who knows. So it works, it goes like that.  
 4 Q. Have you ever heard of an incident in  
 5 which a herder came onto the property to graze and  
 6 didn't use violence, but was still arrested?  
 7 A. I think before the police would be called  
 8 there would have to be some confrontational event  
 9 happen. I cannot imagine someone being arrested by  
 10 the police for, you know, just entering the  
 11 property. I think it would have to have escalated  
 12 into something.  
 13 Q. I'll try to get your help with something,  
 14 then, that [REDACTED] said you might know about. One  
 15 second. So this is was introduced as an exhibit  
 16 before, but let's give you extra copies. This was  
 17 marked as W-23 and I would like to mark it as T-11.  
 18 (Exhibit T-11 marked for  
 19 identification.)  
 20 (Document handed to the witness.)  
 21 Q. Have you seen this document before [REDACTED]  
 22 [REDACTED]  
 23 A. Yeah, I have.  
 24 Q. Can you tell me what it is?

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1 A. Yeah. It's this case of five people being  
 2 charged for or arrested and charged. And, you know,  
 3 I mean, I understand why you pulled this, because it  
 4 took the charges that they unlawfully did enter and  
 5 graze cattle in the said area.  
 6 Q. Do you read Swahili?  
 7 A. No.  
 8 Q. Hoping you might be able to help me read  
 9 the second half of the document.  
 10 A. No.  
 11 Q. That's okay. Yeah, so that's exactly why  
 12 I am showing this to you. I'm wondering if you know  
 13 of anything special about this case that would have  
 14 precipitated charges?  
 15 A. No. I don't know anything special. And  
 16 again, you know, we have people, you know, our  
 17 scouts are telling people to move their cattle, you  
 18 know -- It does not make sense that someone would go  
 19 to all the trouble of calling the police and having  
 20 these five arrested for what it says here on this  
 21 paperwork, you know. There must have been something  
 22 else going on that enabled it to escalate this  
 23 degree.  
 24 You know, generally speaking, if

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1 someone, if a situation escalates, it's not  
 2 automatic call the police. You know, it's call the  
 3 chairman of their village, you know. Try to get him  
 4 to intervene, have him talk to them. It's, you  
 5 know, it's, we try to work this stuff out, you know.  
 6 The last resource is to call the police. And the  
 7 police are only called when the situation is  
 8 escalating and people are feeling like they're being  
 9 threatened or something of that nature.  
 10 Q. This might seem like an unusual question,  
 11 but have you ever heard of anyone paying the police  
 12 for the service to come onto the land and deal with  
 13 a situation, confrontation with herders?  
 14 A. You mean --  
 15 Q. Anyone at [REDACTED]  
 16 A. You mean paying them to come to the farm  
 17 to deal with the problem?  
 18 Q. Uh-hum.  
 19 A. No, it's not necessary to pay them to do  
 20 that.  
 21 Q. And you haven't heard of anyone paying  
 22 them?  
 23 A. No.  
 24 Q. When was the first time that you saw this

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1 charge sheet?  
 2 A. I don't know. I have no idea.  
 3 Q. Do you know if you took any steps after  
 4 seeing this charge sheet to investigate the  
 5 incident?  
 6 A. When you say investigate, no, I didn't do  
 7 any investigation. I'm sure it was a topic of  
 8 conversation at the time, but I didn't deeply probe  
 9 it.  
 10 Q. Did you talk to your staff to try to find  
 11 out what had happened?  
 12 A. Whenever these things happen, and there's  
 13 been a few, you know, I, you know, I'm made aware of  
 14 them and discuss it and --  
 15 Q. Do you know if police who are called to  
 16 come to the land to assist with an issue of  
 17 confrontational grazing follow [REDACTED] policy  
 18 for, you know, deciding whether or not to make an  
 19 arrest or whether to call the chairman first? Do  
 20 they follow, take any directives from [REDACTED]  
 21 about how to handle the situation? Or once they  
 22 come in, is it however the police choose to deal  
 23 with the situation?  
 24 A. If a situation escalated where it was felt

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1 that the police were required, then when they  
 2 arrive, it's over to them.  
 3 Q. Okay. Now, I hope you will be able to  
 4 help me with this, because I was told you would have  
 5 more knowledge. Could you tell me more about which  
 6 weapons, if any, Maasai warriors carry on them and  
 7 what they are called?  
 8 A. Sure.  
 9 Q. Okay.  
 10 A. So I think we need a bit of background,  
 11 because, you know, I don't want you to think of  
 12 Maasai as these, you know, people living in these  
 13 rural areas and that Maasai are one of the 120  
 14 different ethnic groups that make up the country.  
 15 Some of them are politicians, you know. Some of  
 16 them are lawyers, you know. I mean, they're all  
 17 walks of life. But what makes the Maasai unique is  
 18 that there's a small group of them that still live  
 19 in the real traditional way. And this part of  
 20 Loliondo being a rural, remote community is one of  
 21 those areas where you can find Maasai still living  
 22 like this. And when I say like this, it means, you  
 23 know, they live in a earthen floor house. They  
 24 don't have running water, electric light. You know,

1 they live in the most primitive way.  
 2 So these things that they wear, you  
 3 know, I think they're more like tools. So, you  
 4 know, depending on where you stand in the community,  
 5 whether you're an elder or junior or child or  
 6 whatever, you know, it depends on what you might  
 7 wear. But I suppose most people might think ever a  
 8 Maasai warrior in all his regalia and his braided  
 9 hair and everything, and so that person would wear a  
 10 belt with a knife, a long bladed knife on it that  
 11 they're all identical. Every Maasai you come across  
 12 will have one of these. It's not like a different  
 13 brand or different shape. They're all the same  
 14 color, even. And the belt is often beaded in some  
 15 special way. He will also carry a spear, if he's,  
 16 you know, walking a long distance across some, you  
 17 know, more wilderness area or an area he's not  
 18 familiar with. But more often than not they will  
 19 have this stick we've been calling with the knob on  
 20 the top, which is a throwing stick, and I suppose  
 21 also traditionally used in close quarter combat,  
 22 but, you know, really isn't used in that manner  
 23 these days. A lot of this is tradition. And they  
 24 would then carry a very long, straight stick, which,

1 you know, would probably reach from me to you for  
 2 directing cattle and things. And even another  
 3 shorter stick, straight stick, similar kind of  
 4 thing. And they're often carried just bundled in  
 5 the hand or stuck, the rungu might be stuck in the  
 6 belt along with the knife. And that's kind of it,  
 7 really.

8 Once in a while, depending where  
 9 they live, they might have a bow and arrows, but  
 10 that's not really seen that often. So those are the  
 11 things. And you know, I guess in those rural areas  
 12 and you're out grazing your cattle and whatever,  
 13 it's very handy to have these things. If you want  
 14 to make a cattle enclosure, you need your knife to  
 15 chop off some limbs off an acacia tree. I mean,  
 16 like our scouts, for instance, walking the walking  
 17 trails, they might chop off a thing that needs  
 18 trimming, you know. It's just a tool for them.  
 19 That's mostly what it's for.

20 Q. So they carry a lot of accessories?

21 A. Well, they carry those simple items, yeah.

22 Q. Would it be accurate to say that the  
 23 Maasai scouts that [REDACTED] employ  
 24 carry very similar tools or accessories to the

1 Maasai warriors outside of the property?

2 A. Exactly, apart from the spear. There's no  
 3 reason for them to be toting around a spear.

4 Q. For who, sorry?

5 A. For the scouts on [REDACTED]

6 Q. So the scouts traditionally don't have a  
 7 spear?

8 A. Not, not while they're on duty on the  
 9 farm. I mean, perhaps they do at home, but, you  
 10 know, on duty on the farm they have no need for that  
 11 and typically they wouldn't carry one.

12 Q. Do the Maasai from outside of the property  
 13 who come onto the property traditionally carry a  
 14 spear, do you know?

15 A. Generally not. Depends where they're  
 16 going, what they're doing. I've come across a  
 17 couple of Maasai just walking across the farm, you  
 18 know, heading somewhere and when stopped and  
 19 questioned, oh, we're on our way to, you know, so  
 20 and so and we're coming from there. And you know,  
 21 so they're, you know, they're on a long walk and so  
 22 they would have spears.

23 Q. Does [REDACTED] have a policy with  
 24 respect to individuals crossing the land without

1 cattle, so, like these guys, for example, right of  
 2 way?

3 A. They too should ask permission, but they  
 4 were strangers. They didn't really understand  
 5 anything was going on. They weren't from that area.  
 6 They were just knew where they were going and were  
 7 crossing this area.

8 Q. If someone who doesn't --

9 A. You know, so everyone ideally should seek  
 10 permission to enter the property, just so we are  
 11 aware of them being there and understand why they're  
 12 there.

13 Q. And what happens when your scouts  
 14 encounter someone on the property who doesn't have  
 15 cattle, but just is crossing and doesn't have  
 16 permission? Do you know what happens in that  
 17 circumstances?

18 A. We question them, ask them what they're  
 19 doing there, understand why they're there and  
 20 perhaps allow them to carry on or perhaps even drive  
 21 them, you know, to where they're going off the  
 22 property or something.

23 Q. Is it common for children to cross the  
 24 land to go to school?

1 A. This is a huge issue that you read about  
 2 on the Internet a lot.  
 3 Q. Tell me what you --  
 4 A. It doesn't happen that often, because, you  
 5 know -- I mean, you just got to read it on the  
 6 Internet and you just got to wonder how can a kid  
 7 walk that far in a day? I mean, it's just nonsense.  
 8 And you know, once in a while we will find children  
 9 walking across the farm and going to school and we  
 10 will in fact give them a ride. But this business  
 11 of, oh, we don't allow children to cross and now  
 12 they have to walk 16 kilometers each way to go to  
 13 school, you know, it's just absurd. No kid is going  
 14 to do that every day.  
 15 Q. So what do you believe is happening,  
 16 what's the truth?  
 17 A. Well, the truth is that, I mean, those  
 18 statements are nonsense.  
 19 Q. Just for the record, can you say which  
 20 statements are nonsense?  
 21 A. That kids are walking 16 kilometers a day  
 22 each way to get to school, because we're not, you  
 23 know, we're not, we're restricting them somehow.  
 24 That's nonsense.

1 Q. So in fact, there is a policy to allow  
 2 them to cross, or is there no policy?  
 3 A. There's really no policy about children  
 4 crossing. If we see them, we in fact pick them up  
 5 and give them a ride when, once in a while when it  
 6 might happen.  
 7 Q. Okay. I hesitate to ask you to draw a  
 8 map, but maybe we can just do this out loud. Do you  
 9 have any knowledge of where the schools that the  
 10 children in the surrounding communities would attend  
 11 are located with respect to the property?  
 12 A. Well, there's the Sukenya school, which  
 13 I'm very familiar with, and there's a school at  
 14 Mondorosi, which I'm very familiar with. Those  
 15 would be the only two that come to mind as a  
 16 potential.  
 17 Q. Are there any schools -- Sorry. Are  
 18 those, both of those schools on the same side of the  
 19 property or are they on opposite sides of the  
 20 property?  
 21 A. Opposite sides.  
 22 Q. Okay. Do you know of any communities that  
 23 would require attending school across the property,  
 24 the other side of the property, let's say, a

1 community that doesn't have its own school?  
 2 A. Not really. I mean, I've heard people  
 3 talk about this matter, but I don't really, I don't  
 4 really know names of areas or so on.  
 5 Q. So I want to return to our discussion on  
 6 Mr. Lesingo and see if you have some additional  
 7 information about what happened in April 2008. Have  
 8 you ever met Lesingo Ole Nanyoi?  
 9 A. I don't believe so.  
 10 Q. You don't believe so. Are you aware of  
 11 the allegation that he was shot in the jaw in 2008  
 12 on the property?  
 13 A. Yes.  
 14 Q. When did you first hear of the allegation?  
 15 A. Shortly after it happened, I believe. It  
 16 was by phone call.  
 17 Q. Who called you?  
 18 A. What was the date again, 2008?  
 19 Q. April 2008, I believe, but --  
 20 A. Yeah. I'm not sure. The more I think  
 21 about it, I'm not sure how I heard about it. I  
 22 think the impulse was to say a phone call, but I'm  
 23 not really sure.  
 24 Q. What do you believe happened that day?

1 A. Well, I can tell you what didn't happen.  
 2 Q. Okay.  
 3 A. There's no way he could have been shot on  
 4 that farm. You know, from what I understand, there  
 5 was a lot of people there. There would have been a  
 6 ton of witnesses. You know, his injury was quite  
 7 extensive and I think that people would have been  
 8 there to assist him, to help him. People would have  
 9 been aware that this had happened to him.  
 10 And you know, the police were there  
 11 with automatic police weapons. You know, he was  
 12 lucky he didn't lose his head if he got shot by one  
 13 of their weapons. How could it have just resulted  
 14 in that wound to his jaw? It doesn't make sense to  
 15 me.  
 16 But the main thing that bothers me  
 17 is, you know, people would have known. They  
 18 would -- There were people there. And then the  
 19 really weird thing is that instead of him crying out  
 20 for help immediately, he somehow gets himself to a  
 21 clinic in Kenya. Now, I don't understand that, for  
 22 a start, and why he didn't just ask for help and  
 23 people would have taken him immediately to Wasso  
 24 Hospital, which was, in my way of thinking, the



1 closest place to go.  
 2 Instead, he goes to this clinic in  
 3 Kenya. They refuse him because of this system that  
 4 they have in Kenya and Tanzania where you have --  
 5 You know, I don't think it's just a police -- It's  
 6 not just an assumed gun shot wound or some grievous  
 7 injury. I think if there's any concern on the  
 8 hospital side that this is something that police  
 9 should know about, they force people, even when  
 10 they're badly injured, to go and get some special  
 11 form. I think it's called a PF-5. It's something  
 12 -- I don't recall the exact number, but it's talked  
 13 about by using this code. And if you don't have  
 14 this, the clinic will refuse you care. And this is  
 15 what happened to him.

16 So then he makes his way to Wasso  
 17 and I don't know if he's refused care at the Wasso  
 18 Hospital. He finally goes and gets the thing from  
 19 the Tanzania police and then is treated.

20 I know that his injury was severe  
 21 enough that they flew him to Dar Es Salaam for  
 22 treatment. So this guy was badly wounded and, you  
 23 know, none of these things make sense about how he  
 24 went, he had to get himself treated. And what I

1 think has happened is, like, you know, the history  
 2 of all of this is we're responsible for  
 3 miscarriages, we're responsible for vehicle crashes,  
 4 we're responsible, you name it that happens in the  
 5 community, it's our fault. And I think this is just  
 6 here's somebody who's got hurt. Let's use him and  
 7 make it [REDACTED] fault. To me, that's what it was  
 8 all about, because the whole thing was such a  
 9 mystery. And I actually thought by now, you know,  
 10 the guy might have spoken. And you know what it's  
 11 like after a few years, people start talking and it  
 12 comes out, but it's really been kept tight and  
 13 nothing has really come out.

14 So I'm not sure how much more I can  
 15 say about the man, but those are my feelings.

16 Q. Did any of your staff go to speak to  
 17 Nanyoi to find out the truth of what happened?

18 A. I think [REDACTED] may have. I hesitate when  
 19 I say [REDACTED] but I think someone did try to chat  
 20 with him. Or maybe it wasn't one of our staff.  
 21 Maybe it was someone else in the community, one of  
 22 the chairmen or something.

23 Q. And I hope this doesn't require drawing a  
 24 map either, but do you know where on the property

1 the confrontation that was going on happened?

2 A. No, I don't know exactly the spot, no.

3 Q. How far is Wasso Hospital from the  
 4 property?

5 A. It's like twenty kilometers.

6 Q. Is that to the east?

7 A. Yes.

8 Q. Okay. And the Kenyan hospital that you  
 9 mentioned, do you agree that it would be north?

10 A. Yeah, it would be north. And you know, I  
 11 mean, either way -- I mean, I think there's a better  
 12 chance of getting to Wasso Hospital with the roads  
 13 and everything. To go north to the Kenyan clinic,  
 14 there's no roads. You would be walking in  
 15 wilderness the whole way. Chances of a vehicle  
 16 helping you, zero to nil. I mean, if it was me, I'd  
 17 be heading for the main road and hoping for a lift.

18 Q. I'm just going to pull up a document here  
 19 to give us some more information about the incident.

20 MS. VAHLSING: Could you please mark  
 21 this as T-12?

22 (Exhibit T-12 marked for  
 23 identification.)

24 (Document handed to the witness.)

1 Q. So just to direct you to the most relevant  
 2 part of this document for our discussion, it would  
 3 be Page 2, which is perhaps on the back side of the  
 4 first page. Have you seen this document before?

5 A. Yeah.

6 Q. Is this an e-mail from [REDACTED] to yourself  
 7 and [REDACTED]?

8 A. Yes.

9 Q. I'm just trying to understand what a few  
 10 mentions in this e-mail mean, so we'll start in the  
 11 first paragraph. It reads or [REDACTED] writes, rather,  
 12 There's a lot of info. here about the court case  
 13 that will be sent directly to Maanda and her  
 14 lawyers. I think you need to be more careful about  
 15 what we reveal. Perhaps stick more to the Kenyan  
 16 story.

17 Was this in relation to Nanyoi, as  
 18 well, or just in relation to the court case, that  
 19 statement?

20 A. I think it's to do with the court case.

21 Q. Okay. And then the remainder of the  
 22 letter continues on --

23 A. Concerning Nanyoi.

24 Q. Concerning Nanyoi, okay.



1 The second paragraph says, I have  
2 also recently reviewed a letter written by the  
3 officer commander in district, which he wrote in  
4 August of 2010 to the RC's office and PM's office.

5 Did you ever see a copy of that  
6 letter?

7 A. I don't think I have, no.

8 Q. Further down the page there are some  
9 points that are made about the confrontation and the  
10 injuries to Nanyoi and it says the confrontation  
11 with the warriors happened after 4:00 p.m. and  
12 Nanyoi did not report to the police office in  
13 Loliondo until 7:00 p.m. He claimed to have first  
14 walked all the way to Postmoru, Kenya, to which it  
15 takes an hour to drive from Soitsambu and would take  
16 up to three hours to walk from Enashiva or a nearby  
17 village. Is Postmoru a location of a hospital in  
18 Kenya, to your knowledge?

19 A. That's where the clinic was.

20 Q. That's where the clinic was, okay. And  
21 then further down it says, The warriors were armed  
22 and threatening [REDACTED] and the police, if I  
23 recall correctly what he said.

24 Do you know how the warriors were

1 threatening [REDACTED] and police?

2 A. I think it escalated even to the point of  
3 even shooting arrows, yeah. It got pretty bad and  
4 there were a lot of them.

5 Q. A lot of arrows or a lot of warriors?

6 A. No, a lot of warriors.

7 Q. Do you know why they had come onto the  
8 land that day?

9 A. That's a good question, isn't it? No, I  
10 don't know. I don't know. I don't know what  
11 prompted this whole thing.

12 Q. And then it says, The police only fired  
13 warning shots in the air when they came to the  
14 scene.

15 Do you believe that to be true?

16 A. That's what I've heard over and over from  
17 everybody, that they fired into the air.

18 Q. Okay. And who did you hear that from over  
19 and over again, that they fired shots into the air?

20 A. Scouts, you know, that work on the farm,  
21 you know. It was what people said happened.

22 Q. Were those scouts there that day?

23 A. Yeah.

24 Q. Do you believe that Nanyoi was hit by one

1 of those shots?

2 A. No.

3 Q. That were fired in the air?

4 A. No.

5 Q. Why not?

6 A. Well, because if he was, people would have  
7 tried to help him. He would have been, you know,  
8 seriously injured. I mean, this is a submachine  
9 gun, you know. It would have killed him, I think.  
10 But in any event, to have such an atrocious injury,  
11 people would know. People, like, there was a bunch  
12 of people there, not just the warriors, but also  
13 scouts and policemen and people around and he would  
14 have, he would have called for help. He would have  
15 been -- People would have tried to help him. I  
16 mean, I just can't imagine that, you know, it  
17 wouldn't have been like that.

18 Q. Do you think it was a gunshot that wounded  
19 him?

20 A. Well, I don't think it was an SMG bullet,  
21 that's for sure.

22 Q. Small machine gun.

23 A. But, you know, I don't know what he was up  
24 to and where he was. I mean, maybe he was over -- A

1 lot of these Maasai living in this area, they go to  
2 Kenya, you know, to sell livestock or, I don't know.  
3 Buy stuff in the markets there or what. I, I mean,  
4 who knows what he was up to in Kenya? I don't know.  
5 And, you know, made his way home and eventually got  
6 home to Loliondo and got to the hospital and  
7 treatment. That sort of makes sense to me. And the  
8 reason that he went first to that Kenyan dispensary  
9 or clinic was because he was probably in the area  
10 somewhere in Kenya. That makes much more sense to  
11 me than this story that he was shot by the police on  
12 the farm. That just does not add up.

13 Q. Have you heard other explanations for his  
14 injury, for example, that he was shot by an arrow?

15 A. No, I haven't. And I doubt very much an  
16 arrow could have -- I mean, unless he was machete'd  
17 or something like that. From the photographs I've  
18 seen, you know, it must have been perhaps a machete  
19 or some sort of vicious attack in that regard, you  
20 know.

21 Q. Have you heard about the possibility that  
22 he was mauled by a lion? Has that --

23 A. I never, I don't recall reading that and  
24 I -- I mean, if he was mauled by a lion, he

1 certainly wasn't on the farm. I can tell you that.  
 2 Q. Why do you say that?  
 3 A. Well, I've never, ever in all our years  
 4 seen or even heard a lion. And it's the middle of  
 5 Maasailand. A lion would have to be out to lunch  
 6 to, you know, want to go there. It wouldn't last  
 7 long if it did. So that doesn't make sense either.  
 8 Q. Have any of your staff reported to you  
 9 seeing lion tracks on the property?  
 10 A. They have, maybe once, one occasion there  
 11 was thought, but I'm not sure whether there was  
 12 definite, whether it was a leopard or not, but it  
 13 was some kind of cat track.  
 14 That's the nice thing about this  
 15 area, you know. We can walk with our guests. There  
 16 aren't buffalo there. There are no lion there.  
 17 It's really pleasant and safe walking, because we  
 18 don't have to worry about some of these things.  
 19 Q. Is the buffalo the most dangerous animal  
 20 for guests?  
 21 A. Well, I don't know about for guests, but,  
 22 you know, in the hunting fraternity, yes, I would  
 23 say so. But as far as Tanzania citizens,  
 24 hippopotamus is probably more dangerous.

1 Q. Just one last document to finish up this  
 2 conversation about Mr. Nanyoi. Let's see.  
 3 MS. VAHLSING: Would you please mark  
 4 this as T-13?  
 5 (Exhibit T-13 marked for  
 6 identification.)  
 7 (Document handed to the witness.)  
 8 Q. Have you seen this document before?  
 9 A. I'm sure I have. I don't really recall it  
 10 vividly, but I understand it's a Dar Es Salaam  
 11 hospital.  
 12 Q. Can we agree that the admission date from  
 13 Mr. Nanyoi was April 20th, 2008? It says admitting  
 14 date here?  
 15 A. Oh, yeah.  
 16 Q. And the discharge date was June 10th,  
 17 2008?  
 18 A. Correct, yeah.  
 19 Q. Am I correct to read the dates that way in  
 20 Tanzania, with the date -- with the day first and  
 21 then the month?  
 22 A. Yup, that's right.  
 23 Q. And the year, okay. Just to direct your  
 24 attention to the handwritten portion on the bottom

1 of the page, which are the notes from the examining  
 2 physician, if I -- Let me see if I can read this  
 3 correctly. The above named patient admitted  
 4 following traumatic injury of the chin due to gun  
 5 shot which led to upper mandibular fracture.  
 6 When was the first time you saw this  
 7 document?  
 8 A. I don't know. I'm, I'm -- I don't know.  
 9 I'm assuming I've seen it just because, you know,  
 10 this was a major thing that happened and was  
 11 connected to us. So I don't -- I'm not sure.  
 12 Q. You said connected to us. What did you  
 13 mean by that?  
 14 A. Yeah, well, the allegations that this  
 15 happened on the farm.  
 16 Q. Okay. Do you know how [REDACTED] or  
 17 yourself came to possess this document?  
 18 A. No. Maybe we printed it off the Internet.  
 19 Q. Do you know if hospital records are  
 20 generally available in the Internet in Tanzania?  
 21 A. Well, no, no, no. It would have been  
 22 someone else posting it and us finding it and  
 23 printing it up. I mean, there's even a receipt  
 24 here.

1 Q. Maybe you can tell me more about what you  
 2 believe to, what you believe is going on in this  
 3 document. For example, we see on the first page the  
 4 discharge form from the hospital. On the second  
 5 page we see a receipt from a hospital. We see a  
 6 statement by [REDACTED] and then on the third page we  
 7 see what appear to be blood tests. Can you tell me  
 8 what you understand to be taking place in this  
 9 document?  
 10 A. Well, I'm wondering if [REDACTED] statement  
 11 was there because -- I'm just wondering if we have  
 12 this because of the thing in California, the Weebly  
 13 thing. I wonder if this has something to do with  
 14 this. We had to do all sorts of testimonies and  
 15 things regarding that. I really am not sure what is  
 16 going on here.  
 17 Q. Do you remember asking [REDACTED] to prepare a  
 18 statement?  
 19 A. The only thing that makes sense to me is  
 20 that this might have something to do write the  
 21 Weebly thing in California and was a document we  
 22 had, so we provided it to you as part of things we  
 23 came across. Because we, for that we had to get  
 24 statements and things. And I mean, you raise a good

1 point, how we even have this paperwork. I would --  
 2 I don't know.  
 3 Q. Do you know if you have any other hospital  
 4 records for anyone who was an alleged victim of  
 5 violence on the property?  
 6 A. I would be surprised. I don't think so.  
 7 Q. Okay. Do you know if anyone has been, any  
 8 of your staff have ever undertaken to retrieve  
 9 hospital records?  
 10 A. No.  
 11 Q. Okay. There is one other hospital record  
 12 that I discussed this morning with [REDACTED]  
 13 Let me see if you know anything about how that was  
 14 acquired. So this was -- Let me find it. We  
 15 introduced this this morning as W-28.  
 16 MS. VAHLSING: Could I please mark  
 17 this as T-14?  
 18 (Exhibit T-14 marked for  
 19 identification.)  
 20 (Document handed to the witness.)  
 21 A. Oh, yeah. This is what you showed [REDACTED]  
 22 earlier, right?  
 23 Q. Yes.  
 24 A. I thought this was pretty weird, actually,

1 for starters, in English, which I thought was  
 2 unusual. And I wondered if it was printed off the  
 3 Internet, you know, off of, you know, a [REDACTED]  
 4 site or PWC site or, I don't know, someone's site.  
 5 They might have posted it, because of -- I don't  
 6 know -- to help with their story. I'm not sure how,  
 7 where this came from.  
 8 Q. You don't remember asking anyone to --  
 9 A. No.  
 10 Q. Obtain this?  
 11 A. No, I do not.  
 12 Q. Okay.  
 13 A. And it would really have no value to me.  
 14 Q. Okay. You say you thought it was weird.  
 15 Can you tell me why else you thought it was weird,  
 16 or?  
 17 A. No. I just think, immediate thought was,  
 18 Oh, it's written in English. How strange.  
 19 Q. Now, the other exhibit I just showed you  
 20 which was Mr. Nanyoi's hospital discharge statement,  
 21 which was marked as T-13.  
 22 A. Yeah.  
 23 Q. That was also written in English?  
 24 A. Yeah, but it's in Dar Es Salaam at the Aga

1 Khan Hospital. I think it's a little bit different  
 2 to Wasso.  
 3 Q. Do you know if the doctors at Wasso speak  
 4 English?  
 5 A. I've only ever met a Dutch guy there sort  
 6 of who was in charge, but I mean, mostly it's  
 7 staffed by Tanzanians.  
 8 Q. Have you ever been treated at Wasso  
 9 Hospital?  
 10 A. No, I haven't.  
 11 Q. It's a good thing.  
 12 A. It's a good thing.  
 13 Q. That's a good thing. Okay. Why do you  
 14 say you believe this is printed from the Internet?  
 15 A. Well, just because, well, I wonder how the  
 16 heck, where it came from. You know, it doesn't -- I  
 17 don't know. It doesn't make sense to me.  
 18 Q. So to your knowledge, none of your staff  
 19 have ever requested hospital records for these two  
 20 individuals?  
 21 A. To my knowledge, no. And I can't -- If  
 22 they did, I can't imagine why they would. It  
 23 wouldn't make -- Why would that be valuable? It  
 24 just doesn't, doesn't add up to me.

1 Q. Okay. Do you know if, after the alleged  
 2 incident with Mr. Nanyoi took place, if any [REDACTED]  
 3 or [REDACTED] reached out to his family?  
 4 A. Who are we talking about now Nanyoi, the  
 5 jaw?  
 6 Q. We're still on Nanyoi.  
 7 A. I don't think so, not to my knowledge.  
 8 You know -- No.  
 9 Q. Do you know the elder Nanyoi?  
 10 A. Well, I only know him because he was part  
 11 of a committee that we put together. And that  
 12 surprised me that he, of all people, would want to  
 13 join this committee. But that actually made me feel  
 14 quite good, you know. I felt like that was a real  
 15 positive thing. And if he felt that his son had  
 16 actually, if he felt that we had something to do  
 17 with his son being injured on our farm, then there's  
 18 no way he would ever want to be involved with us.  
 19 So that kind of helped me with the whole affair.  
 20 And I felt that was, for us, a positive thing, but I  
 21 don't know the man personally.  
 22 Q. When you said he was a part of a  
 23 committee?  
 24 A. Yes.

1 Q. Is that the grazing committee?  
 2 A. I'm not sure if it was the grazing  
 3 committee or -- You know, there's been many attempts  
 4 to put together groups of people to help and help  
 5 process some of these things so that they don't  
 6 escalate, but it was one of these committees.  
 7 Q. Do you know if [REDACTED] has ever  
 8 provided any assistance to Mr. Nanyoi's family since  
 9 the incident?  
 10 A. Not to my knowledge.  
 11 Q. Okay. One moment while I look for a  
 12 document, if that's okay.  
 13 MS. VAHLSING: Would you please mark  
 14 this as T-15?  
 15 (Exhibit T-15 marked for  
 16 identification.)  
 17 (Document handed to the witness.)  
 18 Q. Are you ready?  
 19 A. Uh-hum.  
 20 Q. Have you seen this document before?  
 21 A. Vaguely.  
 22 Q. Would you agree that it's a copy of an  
 23 e-mail exchange between you and [REDACTED]?  
 24 A. Yeah. Well, there's a number of people

1 involved, but --  
 2 Q. Okay. So who else is involved?  
 3 A. Well, it says the first one is from [REDACTED]  
 4 [REDACTED] and then the string is from [REDACTED]  
 5 and [REDACTED] cc'd to [REDACTED]. So one, two,  
 6 three, four of us, five of us.  
 7 Q. I'd like to focus on the top e-mail, the  
 8 exchange between yourself and [REDACTED].  
 9 A. Yeah.  
 10 Q. It reads, beginning of the second  
 11 sentence, I would recommend that we do not pay the  
 12 family directly, because it will be seen as  
 13 admitting of guilt. I would give it to a group of  
 14 elders and ask them if they want to give it to the  
 15 family. It will promote us as community members,  
 16 not as some company just there to help with hospital  
 17 bills, etc.  
 18 Do you know if you ever followed  
 19 [REDACTED] advice in this e-mail?  
 20 A. I would hope I didn't. I mean, I would  
 21 hope I did not give anything.  
 22 Q. Did you give anything?  
 23 A. I sincerely hope not.  
 24 Q. Do you know if anyone at [REDACTED]

1 gave anything?  
 2 A. You know, I don't really know, but I would  
 3 hope we didn't.  
 4 Q. Okay. Later in the e-mail there is a  
 5 mention of some different committees and I want to  
 6 see if you can help me understand what the different  
 7 committees are that have been formed over time in  
 8 collaboration with the villagers.  
 9 A. You know, just to go back a little bit,  
 10 this family is asking if the company can give  
 11 something. It's kind of like a request. Some of  
 12 these requests can be very odd.  
 13 One request that comes to mind, I'll  
 14 never forget, is someone from a nearby village whose  
 15 wife became ill. And he was giving us at that time  
 16 a lot of grief. And I was there at the farm and he  
 17 came to me and asked me if I could take his sick  
 18 wife to hospital. This guy was giving us so much  
 19 trouble, you know. And I said, Why don't you -- And  
 20 he's really close with Maanda. I said, Why don't  
 21 you ask Maanda to take your wife to the hospital?  
 22 Oh, no, she would charge me 200,000 shillings. You  
 23 know, it's, like, ridiculous. And here's this guy  
 24 who's been causing all this grief to me and then he

1 comes to me for help. And, you know, I don't know  
 2 who -- This guy here is Nanyoi is pretending he got  
 3 shot on the farm for whatever benefits him in his  
 4 own, you know, agenda and making trouble for us, and  
 5 then his family wants money from us. You know, it's  
 6 one of those weird situations that you often find in  
 7 these remote rural communities. People somehow -- I  
 8 don't know. Their values are really wacky. And  
 9 that, you know, so I just, you know, I hope that we  
 10 didn't give any money for this.  
 11 Q. Do you know if any other alleged victims  
 12 of alleged violence have ever asked [REDACTED]  
 13 or [REDACTED] for payments, either as compensation or to  
 14 assist with hospital bills, for example?  
 15 A. You know, nothing that comes to mind.  
 16 Q. Would it be correct to say that to your  
 17 knowledge neither [REDACTED] has ever  
 18 paid compensation to an alleged victim of violence  
 19 on the property?  
 20 A. Yeah, I think that would be fair to say,  
 21 yeah.  
 22 Q. Can I ask you to explain to me what the  
 23 security committee is, if you know what it is?  
 24 A. Is there reference to that here?



1 Q. Well, there's reference to some committees  
2 and I can show you a document where there's a  
3 reference to a security committee, but I'm trying to  
4 get a sort of a diagram or a mental diagram of the  
5 different committees that have formed. It sounds in  
6 this document from the second page like this is the  
7 formation of the grazing committee.  
8 A. This is about the ten people committee who  
9 will be dealing with people bringing cattle to graze  
10 on the farm. That's the one?  
11 Q. Yes.  
12 A. Yeah.  
13 Q. Is that committee still operative?  
14 A. I -- No. All of these attempts to try to  
15 do this become unglued. And I think, you know, I  
16 truly think that a lot of this has been pushed by  
17 the DC and even the police commander and stuff, but  
18 and I think that when these are formed, I think the  
19 people truly want it to work and want to get behind  
20 it, but they're real busy. They all have livestock  
21 to contend with and things are going on in their  
22 lives and to pull them all together and to get them  
23 in one place at one time is really difficult and to  
24 have -- It becomes a real big chore for them and

1 half of them will turn up and it starts off really  
2 great and it goes well and then it just sort of  
3 fizzles out and quite quickly, too. It's quite  
4 disappointing.  
5 Q. Did the members of the grazing committee  
6 mentioned in this document ever receive any sort of  
7 per diem or compensation for the participation on  
8 the committee?  
9 A. No, no. It's not a paid position.  
10 Q. It's not a paid position?  
11 A. No. Which, you know, may be part of the  
12 problem. But you start paying people and then that  
13 becomes another issue.  
14 Q. All right. Do you know anything about the  
15 existence of a security committee?  
16 A. No.  
17 Q. You don't know, okay.  
18 A. If we had a security committee for a  
19 while, it's not in action any more.  
20 Q. Okay. To your knowledge does [REDACTED]  
21 [REDACTED] have a written policy on security on  
22 the farm or security protocol?  
23 A. I think, you know, we have something about  
24 emergencies and how to conduct ourselves, but I

1 don't -- I mean, as far as it being specific to the  
2 farm, I think it's more, I can speak on more general  
3 terms for the company.  
4 Q. Okay. I'm going to show you a document  
5 that I think might help.  
6 A. Okay.  
7 MS. VAHLSING: Could you please mark  
8 this as T-16?  
9 (Exhibit T-16 marked for  
10 identification.)  
11 (Document handed to the witness.)  
12 Q. Have you seen this document before?  
13 A. Yeah. This is what I was thinking of,  
14 yeah.  
15 Q. Can you tell me what it is?  
16 A. Yeah. It's the way that we want staff to  
17 perform themselves and, you know, rules for them to  
18 follow as they go about their daily duties.  
19 Q. I see on the back that there's a space for  
20 a signature and a date. Is this document signed by  
21 all the staff to whom it applies?  
22 A. Yeah, this is -- I mean, I think even  
23 annually we renew contracts with staff and they have  
24 to sign various documents and this would be one of

1 them.  
2 Q. Just to go through the various companies,  
3 would [REDACTED] sign this? It  
4 says [REDACTED] on the top.  
5 A. Yes, it would.  
6 Q. Would [REDACTED] sign this?  
7 A. [REDACTED] employs the scouts  
8 at [REDACTED] if that's what you're implying.  
9 Q. So in that sense, the [REDACTED] would  
10 also sign this?  
11 A. Would sign this, yes.  
12 Q. And on Page 5 under Health and Safety in  
13 Section 16, four bullet points down there's a  
14 reference in a parentheses other policies that are  
15 operative at [REDACTED] and one is called  
16 Emergency and Security Procedures. Does that policy  
17 exist or was that an example of something that could  
18 exist?  
19 A. Well, we certainly have something I've  
20 read about snake bite stuff. I'm not sure.  
21 Q. You're not sure. The first policy  
22 mentioned there in the parentheses is the Code of  
23 Conduct Drivers and Guides.  
24 A. Yeah.



1 Q. Are you familiar with that policy?  
 2 A. Yeah.  
 3 Q. Okay. I want to show it to you again,  
 4 just so that we're all on the same page. It was  
 5 submitted earlier as an exhibit, but I will show it  
 6 again.  
 7 MS. VAHLSING: This is [REDACTED],  
 8 Brendan.  
 9 MR. MARX: Okay. And we're going to  
 10 remark it?  
 11 MS. VAHLSING: Yeah, we'll remark  
 12 it.  
 13 Could we mark this as T-17, please?  
 14 (Exhibit T-17 marked for  
 15 identification.)  
 16 (Document handed to the witness.)  
 17 MR. MARX: Is there any particular  
 18 section in this document that you want him to focus  
 19 on?  
 20 MS. VAHLSING: Yeah. I want to give  
 21 him a chance to sort of read it.  
 22 Q. Have you seen this document before?  
 23 A. Yeah.  
 24 Q. What is this document?

1 A. It's titled the Code of Conduct Drivers  
 2 and Guides.  
 3 Q. Okay. I'm wondering, I also see here a  
 4 space for signatures and the position of the  
 5 employee, presumably, to sign. To your knowledge  
 6 who would be asked to sign this document?  
 7 A. Well, I think it's more, it's more  
 8 relevant to field staff than it is for the office  
 9 staff. I mean, this general code of conduct and  
 10 ethics is for everybody and this is more for field  
 11 staff. So the office staff wouldn't be required to  
 12 acknowledge this.  
 13 Q. Just so I'm clear, for field staff, that  
 14 would include scouts, guides on [REDACTED]  
 15 A. I mean, my gut says yes, that would make  
 16 sense.  
 17 Q. Okay. Is there a difference between a  
 18 scout and a guide?  
 19 A. Yeah.  
 20 Q. What's the difference?  
 21 A. A guide is a knowledgeable person who  
 22 leads and is responsible for a group of guests as  
 23 they go about their daily activities, you know,  
 24 wildlife viewing in various ways, be it walking or

1 driving in a vehicle or perhaps a short lecture or  
 2 something of that nature. And a scout, the only  
 3 place that we have scouts is at [REDACTED] and their  
 4 duties are more of a basic nature. You know,  
 5 keeping an eye on [REDACTED] and all that's required  
 6 there to operate tourism on the land. So they're  
 7 the ones who, if we need a new walking trail of  
 8 45 minutes, you know, they can locate and suggest  
 9 places and we can decide and then they'll make sure  
 10 that path is clear and so on. They would do  
 11 wildlife counts. They work with [REDACTED] the  
 12 [REDACTED]. So they're not really, you know,  
 13 they're not one-on-one with the guests like a guide  
 14 would be.  
 15 Q. Would it be fair to say that [REDACTED]  
 16 supervises the scouts?  
 17 A. Yes.  
 18 Q. And do you supervise [REDACTED]  
 19 A. [REDACTED]  
 20 Q. [REDACTED] Do you supervise [REDACTED]  
 21 A. Yes.  
 22 Q. So that's the chain of authority?  
 23 A. Right.  
 24 Q. As you understand it. Have you heard the

1 term [REDACTED] guards used in the past?  
 2 A. On the Internet?  
 3 Q. Anywhere.  
 4 A. Yeah, people talk about that on the  
 5 Internet. They would love us to have armed [REDACTED]  
 6 [REDACTED] that's for sure, but we don't.  
 7 Q. [REDACTED] has no guards?  
 8 A. No.  
 9 Q. When you hear this term on the Internet,  
 10 do you believe that guards are being mistaken for  
 11 something else?  
 12 A. They're trying to pretend that our scouts  
 13 are guards.  
 14 Q. What do your scouts wear?  
 15 A. They wear, like, a simple green uniform.  
 16 Q. Does it have a [REDACTED] on it?  
 17 A. No. I think it says [REDACTED] actually.  
 18 Q. It says [REDACTED] And just so I  
 19 understand, so I'm clear, the scouts only carry the  
 20 traditional Maasai weapons, if any, that we  
 21 discussed earlier?  
 22 A. Correct.  
 23 Q. Have you ever heard of a scout carrying a  
 24 gun?

1 A. No.  
 2 Q. Have you ever heard of a ranger carrying a  
 3 gun?  
 4 A. A ranger? Describe or define ranger.  
 5 Q. So maybe we'll establish that we're using  
 6 the same words here that make sense to you, because  
 7 some might make sense to [REDACTED]  
 8 A. Yeah.  
 9 Q. To your knowledge does [REDACTED]  
 10 employ or contract individuals to provide security  
 11 on the farm?  
 12 A. Yes.  
 13 Q. Who are those individuals?  
 14 A. We source security from two places, either  
 15 the wildlife department or the police department.  
 16 Q. Can you explain the difference between the  
 17 two to me?  
 18 A. Yeah. Wildlife department is, well, the  
 19 wildlife Division, I suppose is more the proper term  
 20 is a huge division that falls under the Ministry of  
 21 Natural Resources and Tourism. And I suppose one of  
 22 its main tasks is to control the hunting that  
 23 happens in Tanzania, the whole hunting fraternity.  
 24 But you can find wildlife department offices in most

1 regions of the country.  
 2 Q. Let's start with --  
 3 A. And there's one in Loliondo.  
 4 Q. Let's start with the wildlife department  
 5 first, just so I don't confuse the issue. Does  
 6 [REDACTED] have a contract with the wildlife  
 7 department with the provision of security on the  
 8 property?  
 9 A. No. I mean, it sounds like you're asking  
 10 to me a formal written contract, no.  
 11 Q. There's no formal written contract?  
 12 A. No.  
 13 Q. There's an informal arrangement?  
 14 A. Yeah. I mean, informal in the sense that,  
 15 I just want to let you know that tomorrow we've got  
 16 some guests coming to the camp. We need a couple of  
 17 your wildlife department guys to come to the camp  
 18 and give us security, and that's that.  
 19 Q. Okay. Are they paid a standard fee for  
 20 that service?  
 21 A. Yeah. When they perform duties outside of  
 22 their station, we have to pay them, I believe it's  
 23 10,000 shillings a day, for that.  
 24 Q. Does someone in particular on your staff

1 organize the arrangement or procure the --  
 2 A. That would be [REDACTED]  
 3 Q. [REDACTED] would do that?  
 4 A. Yeah.  
 5 Q. And who actually pays that fee? Is that  
 6 the company?  
 7 A. That would be [REDACTED]  
 8 Q. But in the name of [REDACTED]  
 9 A. Yes, yeah.  
 10 Q. Is that listed as an expense?  
 11 A. Yes.  
 12 Q. In the company records. These wildlife  
 13 division guards, is it fair to call them that?  
 14 A. Well, wildlife division, what do they  
 15 have? What do they call their people? I mean,  
 16 they're not guards, because wildlife division  
 17 doesn't provide, you know -- They're not guards, I  
 18 mean.  
 19 Q. Are they rangers?  
 20 A. Yeah, I think rangers is more of a better  
 21 term, because these are people that have all kinds  
 22 of duties and would be involved -- If we found some  
 23 people poaching, for instance, the wildlife  
 24 department would be seriously on that and would send

1 the same officers to, you know, to investigate that  
 2 situation. So I think rangers is probably a better  
 3 term.  
 4 Q. Do these wildlife division rangers carry  
 5 firearms?  
 6 A. They do, yes.  
 7 Q. Do you know what kind of firearms?  
 8 A. Not exactly, no, but they could be a rifle,  
 9 or even an automatic weapon.  
 10 Q. Have you ever heard of one of these  
 11 wildlife division rangers using their weapon on the  
 12 property?  
 13 A. No.  
 14 Q. Do you know if these wildlife division  
 15 rangers would sign the code of conduct?  
 16 A. No, they wouldn't.  
 17 Q. They would not. Would they be bound by  
 18 its terms in any way?  
 19 A. They're going to perform their duties to  
 20 what their boss wants, you know, and you know, I  
 21 don't know. Depends on what we wanted and what we  
 22 asked them to -- Like, we might say to them, please  
 23 don't sit around the fire. This is guest seating.  
 24 Can you, you know, take a walk, you know, around the

1 back of the property and just, you know, do your  
 2 security work? And they would go, Okay. You know.  
 3 So in that sense, we can control them, I suppose.  
 4 But they're really there working for the wildlife  
 5 department performing this duty they've been  
 6 assigned to.  
 7 Q. Do you know what type of any uniform or  
 8 dress they would wear when they come on to the  
 9 property?  
 10 A. Well, the wildlife department is generally  
 11 a uniform, wildlife department uniform, which is,  
 12 again, a simple uniform.  
 13 Q. Do they come with their own vehicles or  
 14 does [REDACTED] provide them with transportation?  
 15 A. Almost always we have to go and get them.  
 16 Q. Do they ever subsequently use the vehicles  
 17 on the property, or is it mostly on foot?  
 18 A. Yeah, mostly -- Well, they're at the camp.  
 19 You know, they're at the camp, so they really don't  
 20 have anywhere to go. They're just patrolling around  
 21 the camp itself.  
 22 Q. So then here in this Page 1 of the exhibit  
 23 I just showed you, which is the Code of Conduct for  
 24 Drivers and Guides, where it discusses walking in

1 wildlife areas and it says in Section 2, Only guides  
 2 approved by the company may carry a firearm while  
 3 walking.  
 4 Who are those guides?  
 5 A. We actually don't have any who are  
 6 approved to carry firearms.  
 7 Q. So if -- I have to make sure I have this  
 8 right. The only people who carry firearms come in  
 9 from the outside?  
 10 A. Right. So far we've mentioned the  
 11 wildlife department, yeah.  
 12 Q. Who you said is not subject to this code  
 13 of conduct?  
 14 A. Right. I think it would be really  
 15 difficult to have them --  
 16 Q. So does this code of conduct apply to  
 17 anyone who actually carries a firearm?  
 18 A. Are you talking about this bit, about  
 19 guides approved by the company?  
 20 Q. Yeah.  
 21 A. Well, our guys, just to be specific, are  
 22 our safari leaders, the leaders of the safaris,  
 23 they're our guides and none of them are approved to  
 24 carry firearms. And the company has no firearms to

1 issue to them.  
 2 Q. Have any guides ever been approved to  
 3 carry firearms?  
 4 A. No.  
 5 Q. Okay.  
 6 A. And again, you're talking about company  
 7 employees, company guides.  
 8 Q. Yes.  
 9 A. Yes. No one has, is allowed or is issued  
 10 with a firearm to carry.  
 11 Q. Okay. That makes more sense. So the  
 12 wildlife division rangers, just one more question  
 13 about them. Have you ever heard of any of them  
 14 being called to assist in an incident of  
 15 confrontation on the property?  
 16 A. No. That wouldn't happen. If there was  
 17 an incident of confrontation, we would call the  
 18 police.  
 19 Q. Okay. So then let's actually turn to the  
 20 police.  
 21 A. Okay.  
 22 Q. You mentioned earlier that that was a  
 23 second possibility --  
 24 A. Yes.

1 Q. For security provision on the property.  
 2 Can you tell me about that?  
 3 A. Yes. What happens is, you know, depending  
 4 on the time of year. If the hunting is happening --  
 5 It's a seasonal thing. Sometimes the wildlife  
 6 department is busy or for whatever reason, their  
 7 staff are on duties and they can't provide them to  
 8 us tomorrow when our group comes, so in that case we  
 9 resort to the police department. So we go to the  
 10 police and we request, you know, a couple of  
 11 officers to come and provide their security. So we  
 12 work the two, the two providers, depending on who's  
 13 available.  
 14 Q. Who from [REDACTED] would go  
 15 to the police to make that arrangement?  
 16 A. That would be [REDACTED]  
 17 Q. That would be [REDACTED] And who would he  
 18 talk to at the police?  
 19 A. I would think the commander in charge of  
 20 his team.  
 21 Q. Do you know if that's in Loliondo or  
 22 Wasso?  
 23 A. It's in Loliondo.  
 24 Q. It's in Loliondo. And for how long has

1 [REDACTED] been using the police to provide  
 2 security services on the property?  
 3 A. Hmm. You know, it's really hard. I'm not  
 4 exactly sure. Sorry.  
 5 Q. Do you know who first decided to use  
 6 police on the property to provide security?  
 7 A. Well, I think it might have been after a  
 8 discussion with the DC or the police commander, one  
 9 of those kind of meetings they might have brought up  
 10 the topic and asked us to do something.  
 11 Q. Who would have asked you to do something?  
 12 A. Maybe the DC.  
 13 Q. Do you mean that the DC would have  
 14 recommended that you use the police?  
 15 A. Yeah, that kind of thing, yeah, suggested  
 16 to us that we do this.  
 17 Q. Do you know if other safari providers  
 18 around Tanzania use the police to provide security  
 19 on their property?  
 20 A. It happened in Robanda, another village in  
 21 the western part of Tanzania -- of the Serengeti.  
 22 They had some issues there and I think the police  
 23 were used there for a while. You know, I'm sure it  
 24 happens from time to time.

1 Q. Does [REDACTED] have a formal  
 2 written agreement with the police?  
 3 A. No.  
 4 Q. For the provision of security?  
 5 A. No. It's the same as the wildlife  
 6 division.  
 7 Q. Is it still a line item expense?  
 8 A. Yes.  
 9 Q. Standard fee?  
 10 A. Yeah, yeah, yeah.  
 11 Q. And who makes those payments? Is it  
 12 [REDACTED] or [REDACTED]  
 13 A. [REDACTED] yeah.  
 14 Q. Okay. Do you know if the police carry a  
 15 firearm?  
 16 A. Yes, they do.  
 17 Q. What type of firearm?  
 18 A. I don't know exactly, but it's an  
 19 automatic looking thing.  
 20 Q. Have you ever heard of the police using a  
 21 firearm on the property?  
 22 A. Well, the only incidents when that  
 23 happened was the Nanyoi affair.  
 24 Q. You haven't heard of any other time?

1 A. Nope.  
 2 Q. In the Nanyoi, what we will call the  
 3 Nanyoi affair, do you know if those police that  
 4 arrived at the scene came from, were dispatched from  
 5 an external police station or unit or were they  
 6 already present on the property providing security?  
 7 A. Oh, no, I don't believe they were on the  
 8 property providing security. I think they came in  
 9 because of this escalation on the property. I don't  
 10 think it had anything to do with -- They came in  
 11 from somewhere.  
 12 Q. And just to ask the same question I asked  
 13 you about the wildlife division, what uniform, if  
 14 any, do the police wear on the property?  
 15 A. That's a good question. When they come  
 16 and they're on duty for us, they're actually are in  
 17 civvies, but --  
 18 Q. By civvies, do you mean plain clothes?  
 19 A. Right, civilian clothes. And when they  
 20 come, you know, when we call them, they're on duty  
 21 at the police station or wherever they are, so they  
 22 have police uniform. But when they come and do the  
 23 -- I don't know what do you call it when they're  
 24 sent by their boss to come and do this duty away

1 from their station. They always come in civvies.  
 2 And in fact, that helped us just the  
 3 other day, because some people came and they  
 4 harassed one of our scouts and it escalated. The  
 5 other one ran off and told the police, who were  
 6 actually at the camp. And they came over to see  
 7 what was going on and the guy started harassing the  
 8 police, because I don't think they recognized who  
 9 they were in fact the police. And then the police  
 10 arrested them on the spot. Nabbed them just like  
 11 that.  
 12 Q. Are you saying the word harassed there?  
 13 A. Yes, they were harassing our scout and  
 14 when it escalated, the other guy ran off to get the  
 15 police and the harassers didn't realize this was the  
 16 police coming towards them because they were in  
 17 civvies.  
 18 Q. When you say harassed, can you tell me  
 19 more about what you mean?  
 20 A. Yeah. They were really threatening our  
 21 staff.  
 22 Q. With weapons, or?  
 23 A. I'd have to review the e-mail for the real  
 24 detail on that, but it escalated to the point where

1 the staff members, they were getting really worried  
 2 and concerned to the point where they felt like they  
 3 needed help. And they knew the police were over  
 4 there at the camp, so they went and got them.  
 5 Q. And in a situation like that, who would  
 6 write an e-mail to you describing the incident?  
 7 A. That was, I think it was [REDACTED]  
 8 Q. Okay. The police that are paid to come on  
 9 to the property to provide security, are they  
 10 provided with vehicles?  
 11 A. No.  
 12 Q. They use their own vehicles?  
 13 A. Well, they're stationed at the camp. They  
 14 don't need a vehicle.  
 15 Q. Okay. Are they given transportation to  
 16 come and go to the camp?  
 17 A. Oh. Mostly we have to go and get them.  
 18 You know, they have really limited access to  
 19 vehicles and they're busy using them or they're  
 20 broken down or it's a real headache. And if we need  
 21 their help they're willing to give us help, but they  
 22 say, you know, you have to come and get us. Or if  
 23 we're fortunate enough that there's a car in the  
 24 area somewhere or maybe it's returning from

1 Soitsambu or who knows, maybe it's nearby, and they  
 2 can come. But invariably it's that situation that  
 3 I'm describing. It's a real drag. We have to, you  
 4 know, get in our own car and go there. And they're  
 5 willing to help us and whatever and do their duty,  
 6 but the problem is how do we get to the site.  
 7 Q. Are the police that are paid to come onto  
 8 the property to provide security subject to the code  
 9 of conduct that we have before us?  
 10 A. No, we can't. They would never sign that.  
 11 They're doing their duty, you know, as police  
 12 officers. They're not going to, you know. They act  
 13 as police. They're not, they're not going to sign  
 14 this thing.  
 15 Q. Does [REDACTED] provide them  
 16 with any guidelines on unapproved or unapproved  
 17 behavior or actions?  
 18 A. Yeah, the camp manager, you know, and  
 19 [REDACTED] I mean, over time I, I think they know the  
 20 routine and they know that they shouldn't be  
 21 strutting about in front of the guests and all this  
 22 sort of thing. They tend to stay back at the camp.  
 23 And at night mainly they're out doing their patrols,  
 24 you know, wandering around the perimeter of the camp

1 and stuff. So they don't really -- They know  
 2 they're not there for guest contact and to chat with  
 3 the guests and so on, so --  
 4 Q. When they're doing their patrols what are  
 5 they patrolling for?  
 6 A. I don't know. Just keeping the area safe,  
 7 you know. They're just, it's just prudent, I think,  
 8 to have some sort of security.  
 9 Even when we're in the national  
 10 parks. You know, the Serengeti National Park,  
 11 Tarengeti, we're not free to put up a camp. They  
 12 assign a park ranger to the camp. You know, we're  
 13 in a wilderness area --  
 14 It's surprising, you know. As much  
 15 as we talk to guests, you know, it's a wonderful  
 16 sunset. I've just had a glass of wine and, Honey,  
 17 they start going off for a stroll. You know, you  
 18 have to run after them and remind them where they  
 19 are. You're in a wilderness area and you just can't  
 20 do that. So for all kinds of reasons, I suppose.  
 21 Q. What would you name, if any, as the main  
 22 threats that you have to protect against with the  
 23 use of security?  
 24 A. You know, the reality is there really

1 aren't too many threats. So if you ask me what have  
 2 the wildlife division or what have the police done  
 3 to save our guests or prevent them from injuring  
 4 themselves, I don't think I could come up with much  
 5 of a list. So even in the national parks, nothing  
 6 much goes on. It's not like people are gored by  
 7 buffalo left and right and all this. You know, it's  
 8 pretty calm. But I think it's just kind of protocol  
 9 somehow, you know. And I think it's prudent to  
 10 offer security when you have got guests in a  
 11 wilderness camp.  
 12 Q. I heard mention earlier of poachers. Do  
 13 the poachers come from -- Where do the poachers come  
 14 from, if you know?  
 15 A. Well, generally, it's sort of town people.  
 16 They come in a vehicle. They'll have a permit, you  
 17 know, and they'll be, they could even be from  
 18 Arusha. And you know, residents are allowed to go  
 19 out and shoot if they have a permit.  
 20 So you can go and procure a permit  
 21 and go and shoot. And so Loliondo is an area with  
 22 wildlife and it's not a national park. So if they  
 23 get a permit, they can go there and hunt.  
 24 And people might find themselves on



1 the property just because a friend told them  
2 something years ago, or who knows. So it can happen  
3 like that. And they're not, those people aren't  
4 even actually poachers. You know. What they are, I  
5 suppose, is trespassers. And what we tell them, I'm  
6 sorry. This is private property. You can't hunt  
7 here. And usually it's, Oh, I'm sorry, and they go  
8 off.

9 But at the same time, we have had,  
10 you know, honest to God poachers come and shoot with  
11 an arrow or whatever, animals on the farm.

12 Q. Do you know where those poachers are from?

13 A. No. Sometimes we just find the dead  
14 animal and we don't ever see the people. They might  
15 have ran off. Other times we have actually caught  
16 them. We've got, perhaps, photographs of them with  
17 zebra and so on. But, you know, as to where they're  
18 originally from and come from, I don't know about  
19 that.

20 Q. Do you know if the company's ever pressed  
21 charges against the poachers when they found them?

22 A. No. We tend not to do that. You know,  
23 the wildlife department will take care of that.  
24 It's generally a wildlife division matter rather

1 than the police. So the wildlife department,  
2 they're the ones who will take those people away, if  
3 they've been caught, and prosecute them.

4 Q. So would it be fair to say you call the  
5 wildlife department?

6 A. Yeah.

7 Q. Rather than the police?

8 A. Yeah.

9 Q. Okay. When the police provide security on  
10 the property in the way we've just been discussing  
11 did, they have any approved uses for their weapons?

12 A. I don't know. You'd have to talk to the  
13 police, I suppose. I -- You know, they're there  
14 acting as acting policemen. So whatever duties they  
15 carry out, whatever their -- I'm not, I don't really  
16 understand what they're allowed to do and not  
17 allowed to do.

18 Q. And you don't, or [REDACTED] doesn't  
19 impose any additional guidelines on them about when  
20 they're approved or not approved to use their  
21 weapons?

22 A. I'm not -- They're the police. We have no  
23 control over the police.

24 Q. Okay. Have you ever had any problems with

1 the police acting in a way that was not agreeable to  
2 the company?

3 A. Not appropriate?

4 Q. Yeah.

5 A. You know, I think that I would say no, but  
6 if, you know, perhaps an officer might want to sit  
7 by the fire and, you know, hang out in a guest area  
8 when he really shouldn't be and, no, he shouldn't be  
9 there. But no, apart from that sort of thing, I  
10 think they act as professionals and do the job.

11 Q. Okay. Great. So I just want to finish up  
12 with a few questions to fill in some gaps, if that's  
13 okay.

14 MR. MARX: Would it be convenient to  
15 take a break?

16 MS. VAHLSING: Take a short break,  
17 yes.

18 MR. MARX: While we're still on the  
19 record also, there was a lot of discussion, there  
20 has been a lot of discussion again about [REDACTED]  
21 [REDACTED] and I believe from the context of your  
22 questioning and the answers that we're talking about  
23 [REDACTED] And I just want to try to  
24 clarify that issue, if we could, for the record.

1 MS. VAHLSING: Sure.

2 Q. [REDACTED] when you were responding in  
3 the affirmative to [REDACTED] taking some  
4 action over the past hour or so, did you intend to  
5 mean [REDACTED] the Tanzania company?

6 A. Yes, I did.

7 Q. Was there any moment when you meant to  
8 refer to the [REDACTED]  
9 [REDACTED]

10 A. I don't believe so. I think we were  
11 discussing the Tanzanian company.

12 Q. Okay. I agree. So that's clear for the  
13 record.

14 MR. MARX: Okay. Thank you for  
15 clarifying.

16 MS. VAHLSING: Okay. So very quick  
17 break. Off the record.  
18 (Brief recess.)

19 Q. Thank you for your patience, [REDACTED]  
20 This shouldn't take long. It's really only a few  
21 questions.

22 Can you explain to me when [REDACTED]  
23 [REDACTED] came on and when he left and who was there in  
24 the meantime, and he came back? Could you tell me

1 more about that?

2 A. Yeah. Gosh. I mean, it's hard for me to

3 think of exact dates with [REDACTED]. It goes back a

4 long way. He came on pretty early. So I would say

5 2007 or early 2008. I don't know. Something like

6 that. And then he was with us for a number of

7 years. And he got lured away by Frankfurt

8 Zoological Society and he went off and worked with

9 them for -- not so long. I think perhaps a year or

10 a year and a half. I doubt if it was two years.

11 And then he had a hankering to come back.

12 And [REDACTED] who was, who took over

13 from him, he had an NGO or something like that going

14 in Arusha and he felt he could balance the boat.

15 And it ended up really not working out. And he was

16 away from his family a lot and so when he started to

17 want to exit, [REDACTED] was thinking about coming back.

18 [REDACTED] always had a passion for [REDACTED] and really,

19 you know, like, enjoys the situation there. So now

20 he's back with us. I'm sorry I can't give you exact

21 dates, but that's the general story.

22 Q. Okay. And were the policies of [REDACTED]

23 [REDACTED] policies any different when [REDACTED]

24 was there versus when [REDACTED] was there or have the

1 policies been similar?

2 A. Well, you know, we're always tweaking

3 these things and playing with them and tidying them

4 up and, you know, just over time. So I think

5 generally speaking, I mean, they're similar, but I'm

6 sure they're a little different, you know, just

7 through time.

8 Q. That would include the grazing policy, for

9 example?

10 A. Yeah. I mean, that's depending upon what

11 committee and what advice and so on, that can be a

12 bit of a moving target, by yeah.

13 Q. Has [REDACTED] Tanzania ever

14 dismissed staff or let them go, fired?

15 A. [REDACTED] Tanzania, yes.

16 Q. Can you explain the circumstances for

17 those dismissals?

18 A. Well, you know, we've been there since

19 1981. I mean, there's been many instances.

20 Q. Okay. Let's narrow it to [REDACTED] those

21 staff working [REDACTED]

22 A. Oh, okay. Well, I remember we had a

23 driver in the very early days who started to drink

24 and we actually had to let him go. And you want to

1 know about ones we let go?

2 Q. Yes.

3 A. He's really the only one that comes to

4 mind. There was someone else I can think of, but we

5 didn't let him go. He left of his own accord.

6 Q. Would it be fair to say that, in general,

7 you trust your staff?

8 A. Yeah, I think they're a good, dedicated

9 bunch. They're good to work with. They are excited

10 about the project. They see the benefits. I think

11 they do a nice job, yeah.

12 Q. Would you agree that you're in fairly

13 consistent communication with the staff about what's

14 going on on the ground?

15 A. Well, I would say that [REDACTED] and [REDACTED] are

16 more so than me. I'm, you know, a few layers

17 removed. [REDACTED] is there on a day-to-day basis. So

18 naturally, you know, he's connected at the hip.

19 And, you know, and [REDACTED] -- I mean, [REDACTED]

20 see each other fairly frequently.

21 Q. I'm going to turn to one last document,

22 which actually has already been introduced, so we

23 can actually just go back to T-8 and I'll tell you

24 which document this is. It has a Bates number 871

1 to 872 -- Or actually, it doesn't have a Bates

2 number, because it's the supplemental production.

3 (Document handed to the witness.)

4 A. Oh. Didn't we look at this earlier.

5 Q. Yes, we did look at this earlier.

6 A. Oh. Here it is.

7 Q. The first line is, Good questions and

8 great answers.

9 MR. MARX: Actually, that's not it.

10 Okay. Look at this.

11 Q. Do you agree that this is an e-mail that

12 you say saw earlier, an exchange between you and

13 Judi with others on the exchange further down? Make

14 sure we're looking at the same document.

15 A. At first glance, I thought it was, and now

16 it seems similar.

17 Q. It looks like this. You already have my

18 copies, but it looks like this.

19 A. I don't believe --

20 MR. MARX: Well, it must be in this

21 pile.

22 Q. Jonathan actually handed it to you

23 earlier.

24 A. Oh, it's in that pile. No wonder I was

1 confused.  
 2 (Document handed to the witness.)  
 3 A. Yes. So this is the one that I talked  
 4 with Jonathan about, yes.  
 5 Q. Okay. So on the second sentence on the  
 6 first page [REDACTED] writes, My concern for [REDACTED] is  
 7 burn out, so this is another reason that we need to  
 8 get this sorted out.  
 9 Can you tell me what you know about  
 10 any concern that [REDACTED] or anyone else at [REDACTED] might  
 11 have had about [REDACTED] burning out?  
 12 A. Well, I can understand [REDACTED] burning out,  
 13 but not [REDACTED] in that same sentence. It could have  
 14 been just [REDACTED] worried about something. I'm not  
 15 sure to tell you about that. [REDACTED] was our, one of  
 16 our general managers and she, I think, had some  
 17 difficulties and there was some concern about her  
 18 burning out. But for [REDACTED] no. I think he was  
 19 just really drawn by Frankfurt Zoological. You  
 20 know, it was a pretty nice job and big organization  
 21 and I think that -- I mean, if I was in his boots, I  
 22 probably would have done the same thing.  
 23 Q. Can I direct you to the second e-mail on  
 24 the first page, which is from you to [REDACTED] and [REDACTED]

1 where you write: Hi all. Last week I thought that  
 2 I would ask [REDACTED] a series of pointed questions so  
 3 that we are all 100% clear on recent events. Here  
 4 are his answers.  
 5 A. Yeah.  
 6 Q. Do you see that paragraph?  
 7 A. Yeah.  
 8 Q. Could you tell me why you thought it was  
 9 necessary to ask [REDACTED] a series of pointed  
 10 questions?  
 11 A. Well, when was this? June 20, 2008. You  
 12 know, I think there was probably a big event  
 13 happened and a lot of questions being asked on the  
 14 Internet or something, so I was just wanting to get  
 15 clear on some stuff. I think I saw it as my job to  
 16 get to the bottom of, you know, some of these  
 17 allegations and ask some pointed questions and just  
 18 put it out there in the open.  
 19 Q. I'm interested in the use of the phrase  
 20 "pointed questions", so I just want to ask --  
 21 A. Yeah.  
 22 Q. Have you ever doubted [REDACTED] veracity in  
 23 the past?  
 24 A. Never, never. And I had no -- To me it

1 was like, I know what the answer is going to be, but  
 2 I have to ask.  
 3 Q. To your knowledge has [REDACTED] ever lied to  
 4 you?  
 5 A. No.  
 6 Q. Has --  
 7 A. He's really solid.  
 8 Q. Has [REDACTED]  
 9 A. No, no. I mean, they have no reason to,  
 10 really. Well, put it this way. I've never caught  
 11 them out. I mean, I think they're really so solid  
 12 guys, both of them. And [REDACTED] is, he's really  
 13 committed to this thing.  
 14 You go for a walk with him around  
 15 the community especially, like, on a market day or  
 16 something, you can't even move. You can't walk  
 17 anywhere because people come up to him and say hi  
 18 and all the rest. I mean, he's, he's really, you  
 19 know, well known and accepted member of the  
 20 community there.  
 21 Q. Do you know if he has any hostilities or  
 22 conflict with any members of the community at all?  
 23 A. Well, you know, yes, I'm sure there's a  
 24 small fringe element of people that would think ill

1 of him, but they have their own agenda. You know.  
 2 Generally speaking I think he's, you could easily  
 3 learn that he's a welcome member of the community.  
 4 MS. VAHLSING: Okay. That ends  
 5 actually all of my questions for you, but I wanted  
 6 to discuss something now together with everyone  
 7 while we're on the record to see if we could come to  
 8 some kind of agreement about an issue.  
 9 So I did not have the chance to ask  
 10 [REDACTED] about the hospital records for Mr.  
 11 Nanyoi. I was under the impression that [REDACTED] would  
 12 have more knowledge about where they came from, but  
 13 then [REDACTED] has said that he doesn't know how they  
 14 ended up in your files.  
 15 So I don't know, Brendan, what you  
 16 --  
 17 MR. HERZ: I think [REDACTED] also said  
 18 that for other hospital records, that [REDACTED] would be  
 19 the guy that knew.  
 20 MS. VAHLSING: Would know, yeah.  
 21 But it's also our understanding that as the 30(b)(6)  
 22 deponent, that [REDACTED] should have studied to find out  
 23 where those came from. So we don't want to have  
 24 [REDACTED] go back on record unless you thought

1 that that was a possibility just for a moment, or we  
2 could ask, if further investigation is needed to  
3 understand how those records came into the hands of  
4 the company, you can follow up by e-mail.

5 **MR. MARX:** I have two things to say.  
6 First, in terms of her 30(b)(6) responsibilities,  
7 remember she was a 30(b)(6) witness for the  
8 designated respondent, who is [REDACTED]  
9 Inc., which is the [REDACTED] company. And I  
10 don't know that she, in that capacity, would really  
11 have knowledge of those medical records. But having  
12 said that, I don't --

13 Let me discuss the issue with her  
14 separately before making any statements on her  
15 behalf.

16 **MS. VAHLSING:** Sure, of course. I  
17 just wanted to note that, because when the documents  
18 were produced to us, there was no distinction  
19 between whether they were produced by the  
20 individuals or the company. We're not sure who to  
21 ask.

22 **MR. KAUFMAN:** Or also if they came  
23 from Tanzania.

24 **MS. VAHLSING:** Yeah. We don't know

1 who the proper person to ask is about the origin of  
2 these files. And we just want to know who to ask so  
3 we don't waste anyone's time. Or if no one knows  
4 that, perhaps some further investigation is done and  
5 an answer can be provided by e-mail, if it is in  
6 fact in the company's files.

7 **MR. MARX:** Okay. So just to be  
8 clear, you just want more information about the  
9 source of the medical records that are part of the  
10 production?

11 **MS. VAHLSING:** [REDACTED] had  
12 mentioned it is possible that they were downloaded  
13 from the Internet, but he wasn't sure. So we  
14 just --

15 **MR. MARX:** So let me discuss it with  
16 them off the record.  
17 (Brief recess.)

18 **MR. MARX:** On the record. Counsel  
19 just had a discussion off the record where we agreed  
20 to try to resolve the issue that was just discussed  
21 by the respondents trying to find out where these  
22 medical records that were discussed came from or how  
23 they came into the possession of one of the [REDACTED]  
24 companies. And once we get that information,

1 assuming that we have information on that, we will  
2 work with opposing counsel in some appropriate way  
3 for delivering that information, whether it's by  
4 e-mail or declaration or some other means.

5 **MR. KAUFMAN:** That's acceptable to  
6 us.

7 **MS. VAHLSING:** Okay, thank you. I  
8 think that that concludes the deposition of [REDACTED]  
9 [REDACTED]

10 **MR. MARX:** And just while we're  
11 still on the record, I just want again to confirm  
12 that we are reserving all of our rights with respect  
13 to this deposition testimony as to relevancy and  
14 admissibility.

15 **MS. VAHLSING:** We also would like to  
16 thank Cynthia on the record.  
17 (Whereupon, at 5:07 o'clock p.m.,  
18 the deposition was concluded.)  
19  
20  
21  
22  
23  
24

# C E R T I F I C A T E

2 I, [REDACTED] do hereby certify  
3 under the pains and penalties of perjury that I have  
4 read the foregoing transcript of my testimony given  
5 on June 18, 2014, and I further certify that said  
6 transcript is a true and accurate record of said  
7 testimony (with the exception of the following  
8 corrections listed below):

9 Page Line Correction/Reason

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16 Dated at \_\_\_\_\_, this \_\_\_\_\_  
17 day of \_\_\_\_\_, 2014.

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