VICTOR WILLIAM JIM,
Wet'suwet'en Interpreter,
Previously Sworn.

JOHN DAVID,
Witness called on behalf of
the Plaintiffs, previously
sworn, testifies as follows:

PROCEEDINGS COMMENCED AT 9:46 a.m. 19 DECEMBER 1985

EXAMINATION IN CHIEF BY MR. GRANT:

Q I wish to COnfirm you have been sworn to give evidence on this Commission and this is a continuation of the Commission (Interpreter speaks to Witness)

Q -- which was adjourned on October 19th 1985? Yes?

A Yes.

Q Now, I'd like to ask you a few questions about your territory, the territory of your House. Who decides who can use your House territory for hunting, fishing or trapping?

A When his father was alive he was the one that gave permission for other people to use the territory. Now that his father is gone it is Johnny himself who would give other people permission to use the territory. And those people that use the territory through our old system would give parts of the money or meat to whoever is the head of the territory, the same with the fishing spots.

Q Now, in this Case I'm referring to -- I'm referring to the Kilwoneets. Who says that -- who gives the permission for people to use the Kilwoneets territory?

A Okay, for the Kilwoneets territory at this time the head man for the territory is David Dennis and myself while I'm alive and we let other native people use the territory but not white people.

Q Does everybody in your House, in the House of Ginehklaiya have the right to fish at the Kilwoneets territory?

A Okay, um today person who is honest and trustworthy is able to use the territory with our permission. If a person is not trustworthy he is not allowed to go into the territory.

Q Can a person from another House in the Laksilyu tribe us the Kilwoneets territory and if so does he require permission?

A Yes, that happens. Other members of the Laksilyu houses

other members of the Laksilyu houses can use the territory with the permission of the -- with the Head Chief.

Q If they do, do they have to um give -- let us say they

take some furs off the territory. Do they have to pay the Ginehklaiya people for their use of the territory by giving some of those furs to them?

A Okay, the other House members from the Laksilyu clan when they go out hunting or trapping at a feast they would get up and distribute some of the meat or furs that they got from the Ginehklaiya territory and they would distribute these to the Ginehklaiya people.

Q Is that practice still done today?

A Yes, this is still happening today. The practice has never stopped. It will continue on as long as the people are here.

Q If a person who is not a Laksilyu wants to use the Kilwoneets territory of Ginehklaiya, would he ask permission?

A Yes, that can happen. And the way it works is the spouses of the Ginehklaiya Laksilyu people with the permission of the Chief can go and hunt in the territory then give parts of the money or the meat to the people from the Ginehklaiya

Q Do the Ginehklaiya Chiefs give the members of the House permission to use parts of the territory for hunting and fishing so that all members of the House have somewhere to hunt and fish?

A Okay, this is done sometimes when they are invited and not for the -- that isn't done for the white people.

Q Okay. Um let me rephrase my question, I think you may have misunderstood. If a person in your House was not given part of the territory to hunt and fish, how would they get their food? Maybe I should back up. Were there situations in which a member of the House was not -- was denied the right to use the territory?

A Okay. The Chiefs decide if a person is not trustworthy or honest they are sometimes denied access to the territory, ones that are trustworthy are given permission to hunt and trap in Kilwoneets territory.

Q Okay. Was there a name for those people who the Chiefs believe were not honest and who would deceive people?

A Okay, these people are called nanilate nee. Nanilate nee means people who sneak around.

Q And were those nanilate nee denied access to the territories?

A Yes.

Q Were they allowed into the feast hall?

A No, they don't.

Q Were the nanilate nee allowed to redeem themselves or to mend their ways by the Chiefs?

A Okay, the um nanilate nee sometimes if they hunt on someone else's territory without permission if they want to

mend their ways they are invited to the feast where they are spoken to by the High Chiefs where they sometimes kloxnayklus means straighten out and then are given permissiOn to hunt in the territOries.

Q Okay. when you say -- you said at the beginning of your answer when they go and hunt in someone else's territory, is this as an example of what makes a person a nanilate nee

A Yes.

Q This method Of SCOlding or of criticism by the Chiefs at the feast and the opportunity for the nanilate nee to correct themselves, is there a name for that ceremony?

A It's called sonanadeenlate li.
(Further response by Witness to Interpreter)

A Sonanadeenlate li, and that means to sit down properly.

Q Can you say that again just so the --

A Sonanadeenlate li.

Q Now, if the person doesn't correct himself, the nanilate nee, can his name be taken away from him, his feast name?

A Okay, their names are taken away and they are never allowed to attend a feast again.

Q Okay. Did Old Sam tell you about this process?

A Using the words of Old Sam, I also observed it at the feast that I attended and Mabel or Old Sam was the Head Chief of the Copper River area and now Mabel --
(Further response by Witness to Interpreter)

A -- Telkwa River, and one of Mabel's children's name -- he is one of the persons that holds territory in the Telkwa River area.

Q Old Sam Was? Sorry, I just --

THE INTERPRETER: No, Old Sam was the Head Chief for the Telkwa River area and now one of Mabel's children has rights to territory in the Telkwa River area.

Q Now, you say that you saw this process at a feast. Who -- who was involved? Can you recall who was involved and about how old you were when that feast occurred or if it was a funeral feast who had died? Okay, just go through the first part. Can you recall who was involved at that feast in the nanilate nee and the sonanadeenlate li?

A Okay, he was -- he was at a feast --
(Interpreter questions Witness further)

A Okay, the process that they use is that the nanilate nee is brought into the feast hall and he is spoken to by all of the Head Chiefs of the different clans and if he does not listen to the words of the Head Chiefs then his name is taken away and he is not allowed back into the feast hall.

Q Okay. Do you recall how old you were when you saw this

happen?
A Okay. I was about ten years old when I seen the -- seen this process. I have seen it here and in the Kitwancool area.
Q When you refer to here you're referring to here in Moricetown?
THE INTERPRETER: Here in Moricetown.
MR. GRANT: Just for you the Judge may read this anywhere so it's good to be clear where we're referring to for the record.
THE INTERPRETER: Okay.
MR. GRANT:
Q Now, in normal Cases Who does the Head Chief -- Who WOUld the Head Chief of your House allow to use your House territory? Would all members of the House usually be given the right to use the territory?
A Okay, the different members of the House or the clan are allowed to use the territory with the permission of the Head Chief and the person who is given permission to use the territory at a feast redistributes the meat or the money to members of the House and this is our own Indian law and it is not the white man's law.
Q WOuld the husbands or wives of members of the House be allowed to use the territory?
A Okay, the spouses -- spouses as well as the relatives who are honest and trustworthy are allowed to hunt in the Laksilyu territory.
Q Okay. Would the women, the children of the Ginehklaiya women be allowed to use the territory?
A Yes. The children are allowed.
Q Would the children of the men of the House of Ginehklaiya be allowed to use the territory?
THE INTERPRETER: Want to repeat that Peter?
MR. GRANT:
Q WOUld the Children Of the men be allowed to USe the Laksilyu territory, of the men of the Ginehklaiya House, I'm sorry?
A Okay, these -- the children of the men from Ginehklaiya are allowed to use the territory and they are called basalkanutzlee.
Q Does that -- does that mean something? What does that word mean? Okay, maybe you can ask Johnny --
(Interpreter speaks to Witness)
Q -- if this is just a special name for the -- okay, we'll just go off the record. We're going to go off the record for a moment. Before I go off the record I just want to confirm --
MR. McDONALD (Video Technician): We're off the record.

(OFF THE RECORD DISCUSSION)

MR. GRANT:
Q Okay, for the record I just asked for a break so that the -- the Witness has referred to Mabel Critch who is Kela, who is present, in his last answer. For the record Counsel for the Province objects to the Witness referring to another witness to determine the meaning of the word basalkanutzlee. I would just -- on that basis there was no discussion. I would ask you again if the word basal-kanutzlee can be explained by other words, if you can ask the Witness that. Just ask the Witness that.
A Okay, the men's children --
Q Just go ahead?
A Men's children, offspring are the ones who are called basalkelzut.
Q That was basalkanutzlee?
A Basalkelzut.
MR. GRANT: Okay. Can you explain to the Witness what I explained before as to why he could not speak with Mabel due to the objection?
(Interpreter speaks to Witness)
MR. GRANT: I just wanted him to understand what happened.
Q If SOmeone in Ginehklaiya's House is too old to hunt or fish, how would they get their food and who would provide it to them?
A Okay. If a member of the House is too old to hunt or fish a strong person would go out to hunt or fish for the elderly Chief and this person would give all the meat or the fish to the Chief and the elderly Chief -- and the elderly Chief can and does sometimes give half back to whoever has done the hunting for him.
Q Okay. Is this usually done by a person in the same clan or on the father's side, that is a different clan?
A It can be members of the same clan or a member from the father's side.
Q If it's a member from the father's side, is he repaid by the elder Chief or by the House of the Chief?
A Okay. The person who does the hunting or the fishing for the elderly Chief would bring all the fish or the meat to the Chief and he is -- the elderly Chief gives half or whatever amount he decides back to the person who has done the hunting for him. And even today this is happening with Mabel Critch always bringing me food, the salmon in the summer and same with my grandson Peter David.
Q Does your House hold any fishing sites at Moricetown?
A Okay. He said that each of the different clans or houses

had their own fishing spots and if someone wanted to use that fishing spot, he would ask the Head Chief of that clan or House before he is allowed to do any fishing in those particular spots and he said yes his House does have their own fishing spots.

Q Are your fishing spots in Moricetown Canyon or are they outside of the canyon itself?

A Yes, it is in the Moricetown Canyon and then he went to explain again that you ask permission first before you go fishing in those holes.

Q Okay. Do the people in your House have to ask the Chief for permission, that is the people of Ginehklaiya to use the fishing site?

A The members of the Ginehklaiya do have to ask the Head Chief of that House, Head Chief or Chiefs of that House and when they get their salmon they would give half or whatever amount to the Head Chief or Chiefs of Ginehklaiya.

Q Is the Ginehklaiya fishing sites on this side of the canyon or the other side of the canyon? I'm talking about -- when I say this side, I'm referring to the highway side, Highway 16 side of the Moricetown Canyon for the record.

A Okay. It was on both sides of the river and the smokehouse was on the highway side of the river.

Q Did you show Alfred Joseph the location of your fishing sites at Moricetown Canyon?

A Yes. I showed him -- showed him all the fishing holes of all the other clans as well.

Q And you showed him all the fishing holes in the Moricetown that's in the Moricetown Canyon?

A Yes, I showed him all the -- the whole area in the Moricetown Canyon and there were many people who came to ask for that information and I told them all that I knew.

Q Did you show Alfred Joseph the Wet'suwet'en fishing site and the location of those sites at Hagwilget Canyon?

A Yes, I did take Alfred to the Hagwilget Canyon. I showed him where all the platforms were, who they belonged to on both sides of the river and Alfred has all this information

Q Okay. Did Alfred to your -- did Alfred show you a map on which he put this information?

A Okay. Alfred did have a map and I told him where all the fishing sites were and he hasn't given me a copy of those maps.

Q Okay. Can you tell us which Chiefs, which Wet'suwet'en Chiefs owned fishing sites, fishing stations in the Hagwilget Canyon? Without telling us the location, just tell us which Chiefs held fishing sites at the Hagwilget Canyon?

(Interpreter speaks to Witness, no response by Witness)
Q Maybe you can go -- can you translate what he's given you thus far?
A Okay. Old Muldoe --
(Interpreter speaks further to Witness)
A Old Muldoe had a fishing spot across from Hagwilget. He probably had the best spot. He caught a lot of salmon and he would give it away to the people and the people that he gave it to themselves would sometimes repay him with -- repay him with money, he did not ask for it. And on this side Paul lawelxges.
Q What is that again?
A Paul lawelxges had a fishing spot.
(Further response by Witness to Interpreter)
A Okay. Alfred has all the information on who had fishing spots in the Hagwilget Canyon.
Q And that's Alfred Joseph?
THE INTERPRETER: Alfred Joseph.
Q Was Old Muldoe Gitksan Or Wet'suwet'en?
A Yes. he was Gitksan.
Q Do you know what his feast name was, his Chief's name?
A Tsaykya.
Q Was Paul lawelxges Gitksan or Wet'suwet'en?
A He was part Gitksan. Along with Old Muldoe they were the High Chiefs.
Q Okay. Do you know what his feast name was, Chief's name?
A Welxges was his feast name.
(Further response by Witness to Interpreter)
A Okay, Paul lawelxges used a belt that was from the Queen, that's what he used.
Q You mean he wore it?
THE INTERPRETER: He wore it.
(Further response by Witness to Interpreter)
A And he doesn't know who has that now.
(Further response by Witness to Interpreter)
A And Spoaks also had a belt and he doesn't know who has that.
Q Was Paul lawelxges' mother Gitksan or Wet'suwet'en?
A She was Gitksan.
(Further response by Witness to Interpreter)
A And the land at Mud Creek, across from Mud Creek all belonged to Paul lawelxges.
(Further response by Witness to Interpreter)
Q Is that Wet'suwet'en or Gitksan territory?
A It s Gitksan territory.
Q Okay, were there any Hagwilget or were there any Wet' suwet'en Chiefs who owned fishing sites at Tsaykya.

(Interpreter speaks to Witness, Witness responds no response by Interpreter)
Q Okay. What is he saying to you?
THE INTERPRETER: Okay, I was just clarifying whether Stephen Alexander was Wet'suwet'en.
A Some of the Wet'suwet'en Chiefs that had platforms or fishing holes were Stephen Alexander, Stephens Alexander, he was from the Morice Lake area and another one was Dzikens Williams who is the grandfather of Peter Williams who is still alive today.
Q Are those the two that he's given?
A He says that Alfred Joseph has all the information on who owned all the platforms.
Q Okay. Did Stephens Alexander have a Chief's name and if so what was it?
A Noostel.
(Interpreter speaks further to Witness)
Q For the record you're asking if Dzikens Williams has a feast name?
THE INTERPRETER: Yes.
A Okay. Stephens Alexander's feast name was Noostel and Dzikens was the name used, and that was his feast name.
Q Can you explain what Noostel means?
A Okay, Noostel when you translate it means wolverine.
Q Is that a Wet'suwet'en or Gitksan name?
A It's a Wet'suwet'en name.
Q Did you see any of these fishing platforms or -- being used in your lifetime?
THE INTERPRETER: At Hagwilget?
Q Yeah?
A Yes, I did see them. I also got fish from the platform.
Q Okay. How did the people -- can you just describe for us how the people fished at Tsaykya?
A They used to gaff, gaffed it.
Q Do you -- did people used to use baskets or weirs at Tsaykya?
A Okay. Old Muldoe had a fish basket they called it wee an we call it gonzay and then it was fairly long it had a box at the end and when it would fill up he would take it OUt and he would distribute it amongst the people and the people themselves would pay him with money or if they went trapping in the winter they would give him meat as payment for their fish. He did not ask for it, the people did it themselves.
Q Okay. When the people repaid Old Muldoe, did they do that at the feast or outside the feast hall?
A Okay. They would -- they would repay Old Muldoe with money

or meat at any time, whenever the people had the money or the meat. It wasn't done only at the feast.
Q When you were talking with Alfred Joseph, you showed him the locations of these platforms at the canyon?
A Okay, I showed him where the platforms were. His grandfathers showed him where the platforms were and Alfred knows all the information about the canyon at Hagwilget.
Q Okay, just -- you went to the canyon with Alfred Joseph, is that right?
A Yes, we did go there. We stood on the bridge and I pointed OUt the locations.
Q Are there some cases where you're -- a Wet'suwet'en Chief may transfer a territory to another Chief or to another person when that person has helped for example at a feast
A Okay. After a person spends a lot of money at the feast he is sometimes given a territory forever, it never goes back.
Q Okay, is that the answer?
THE INTERPRETER: Yeah.
Q Do you recall a situation of Tom Alex's Wife um doing this?
A He wants to know her name.
Q Okay. I understand that Tom Alex's wife was the older sister of Mrs. Long Charlie and she was from Babine?
A Older one, right?
Q Okay, I'm not certain.
A Okay, he says there were two sisters. He wants to know whether it was the older one or the younger one.
MR. GRANT: Okay, just go off the record for a moment please.

(OFF THE RECORD DISCUSSION)

MR. GRANT: We'll go back on the record.
(Witness speaks to Interpreter)
A Okay, he thinks he remembers Tom Alex's wife. It is the older sister of Long Charlie.
Q Um-hmm?
A She was a lady from Kilwoneets territory.
Q Now, I understand that she asked Halzbun for some money a a feast and -- and in return she -- I'm sorry that she, just let me get this staight here. I understand that Tsadzalh gave her permission to use his hunting territory for one year. Do you recall anything about that? Okay do you want to just --
ANTONIA MILLS (Writer): Tsadzalh.
MR. GRANT: Tsadzalh. Tsadzalh gave her permission to use his hunting territory for one year, gave Tom Alex'x wife that

Permission?
THE INTERPRETER: Tom Alex's wife asked?
MR. GRANT: Tsadzalh gave Tom Alex's wife permission to use his, that's Tsadzalh's hunting territory for one year. Ask him if he recalls the circumstances of that?
A He wants to know which territory?
Q It may have been Beaver Creek.
(Interpreter speaks to Witness, no response by Interpreter
MR. GRANT: Okay. If he doesn't, can't recall --
MR. MILNE: The Witness gave an answer, we don't have a translation.
MR. GRANT: Go ahead, what did he say?
THE INTERPRETER: He can't remember or he doesn't recall.
(Further response by Witness to Interpreter)
A Okay, Tom Alex's wife was Klatden or married to Klatden and they spent most of their time --
(Interpreter questions Witness further)
A -- Manson Creek. They spent most of their time at Manson Creek and when they got old is when they moved back to Hagwilget.
Q Was She -- Okay, go ahead?
(Witness responds further)
A Okay, while they were hunting Tom Alex's wife found gold and that Creek is now called Tom Creek.
(Further response by Witness to Interpreter)
A Tom Alex's wife was taking water from the creek and she saw something red and she dipped it and it was gold and she put it in a pail.
(Further response by Witness to Interpreter)
A And when Tom returned she showed him what was in the bucket and Tom knew that it was gold.
Q What did he do, What did they do with the gold?
A Okay, a camp was set up and gold was produced there.
Q Who -- did the Wet'suwet'en produce the gold or did the white men come in and take the gold?
A Okay, he was part -- he spoke some Sekanne.
Q Who, Tom?
A Tom did, he spoke some Sekanne and Tom himself had set up the line.
Q Um-hmm?
A And they worked it for two or three years and then they quit and he said that's how it was told.
Q Did this happen before you were born?
A It might have been the time when I was born, I can't remember. But I remember Tom's own wife telling me.
Q What was her -- was she Wet'suwet'en?
A She was -- she was a Wet'suwet'en woman from the Kilwoneets

territory.
Q And did she have a feast -- what was her Wet'suwet'en name?
A Hakasbaine is her feast name, Hakasbaine.
MR. MILNE: I think I should mention for the record at this point again something I had mentioned in the October sitting that we're dealing again with information that was told to the Witness and not information that he has of his own personal knowledge and therefore an objection may be made at Trial to the introduction of that kind of evidence as hearsay.
MR. GRANT: It's not necessary to translate that. Your objection's noted.
(Witness speaks to Interpreter)
A He thinks he's starting to remember that earlier question we were asking him about.
Q Okay, you -- your last answer has helped me with it, I'll come back to it. I'd like to finish what you've just talked about first. I'd like you to tell me what Tom -- what Tom did with the gold?
A When they worked the mine the gold was put into small boxes, they were sent away. And there was a white person whose name was Jack, he was helping Tom. And this white man named Jack received about five thousand and Tom received a lot of money and that's as far as I remember.
Q Okay. You said you remembered about Hakasbaine and Tsadzalh gave her permission to use his territory. Can you describe that to us, what happened?
A He's asking me if Hakasbaine used his territory.
(Further response by Witness to Interpreter)
A Okay. And he also wants to know where the territory was.
Q I cannot clarify the location of the territory but I understand that your father, Smogelgem, was involved in having it returned to Tsadzalh. Does that help you to remember?
A He said if you guys can give him an idea of where the land was he would probably remember.
Q Okay. Tell him we'll return to that after we -- at some other time, okay. I'll check that and see if I can help you with that.
A Okay, he thinks he's starting to remember when his father, Smogelgem, helped someone give the land back. And he remembers a court in Hagwilget, and it was in his father's house, Smogelgem's house where they had their court.
Q Was this a court of the Chiefs?
A Okay, he remembers it was the High Chiefs who were trying to settle the dispute on a trapline but he wants to know

where the territory was.
Q Okay, okay. Bear with me Johnny and I will -- I will ask you about that tomorrow. I will find out where it is and try and ask you about that tomorrow. I don't want you guessing and trying to guess what we're referring to, we need to help you.
A Okay, he remembers being there listening to them, all he wants to know is where the territory was, whether there's a lake or a mountain peak and describe the territory.
Q Okay, we understand.
A Okay, he's saying that he remembers them talking about it and he doesn't want to guess as to where the territory is.
Q That's correct, okay. I'd like to ask you about another area now, we'll return to that tomorrow.
(Interpreter speaks to Witness)
Q Okay. Did the Kilwoneetsweten people trade with the Nishga and Gitksan in their territory, in the Kilwoneetsweten territory?
A Okay, when there was -- in the Kilwoneets territory there used to be a lot of salmon. When the salmon started running people from Kitselas as well as the Skeena River area as well as the Babine Lake people would all converge into the Kilwoneets territory. There were so many fish there that they just used a stick to kill the salmon. They were prepared for winter and then everyone would in their -- go back to their own villages. They never disputed over who the salmon belonged to, the salmon was for everybody.
(Further response by Witness to Interpreter)
A There were no people from Fish -- Federal Fisheries Department, there was no one like that around. The Indian people themselves looked after the management of the salmon.
Q Did the Kilwoneetsweten people give -- did these people from the other areas ask the Kilwoneetsweten people for permission to come into their territory?
A Okay, people from the different areas did ask the Kilwoneets if they could fish there and they were given permission and when the people from the different areas had prepared their salmon for the winter they would all disperse back to their own villages and the same was done with the berries.
Q Okay. Did the Skeena River, the Babine and the other people that came to the Kilwoneetsweten territory, did they give gifts to the Kilwoneetsweten or pay them for using their territory? 1
A Okay. They did not give them gifts. They just took their salmon and left and nobody was paid for anything.

Q Did they feast at the Kilwoneetsweten territory when the other people were there?
A Okay, they did feed themselves and when these people returned to their villages they would tell stories about who helped them get their salmon or the berries and then they were distributed to other people from the other villages.
Q And was this fishing in the Kilwoneets territory by all these people, this occurred in the summer time?
A Yes, in the summer.
Q And the Use of the berry grounds, did that occur in the late summer as well?
A The berries were done the same time. All the salmon and the berries were dried and they were taken back to their villages where they would gather the people and the fish and the berries would be distributed and the people would be told the fish and the berries came from certain areas such as Kilwoneets.
Q Okay. Did the Kilwoneets people return to Moricetown in the winter?
A Okay, they would -- the Kilwoneets people after the fishing season would return here in Moricetown and at this time of the year which means now in December --
Q Meaning in December?
A In December they would move to Hagwilget.
(Further response by Witness to Interpreter)
A Okay, Mabel owns territory in Telkwa, Telkwa River area. Okay, the same thing would happen, all her wild game or whatever they took from her area would be taken to Hagwilget and distributed amongst the people. And she is the only one left now from -- she's the only one left now that holds territory in the Telkwa River area.
Q And that's Kela's territory?
A Yes.
MR. GRANT: Okay. We're going to take a few minutes break so there can be a new film put in the camera.

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RECONVENED)

MR. GRANT:
Q I've been referring to Maxlaxlex's territory and the Ginehklaiya territory. When I refer to those that is the Kilwoneetsweten area, the same as the Kilwoneetsweten territory around McDonnell Lake and Dennis Lake, is that right?
A Yes.
Q Okay, which is the territory you described earlier in these

Commission hearings?
A Yes.
Q Yes, okay we're only asking that again because of the length of time and Counsel's, the Province's lawyer wanted to clarify the area we were talking about?
(Interpreter speaks to Witness)
Q Now, since the break and just before we started again, you indicated you remember this territory that Hakasbaine used from Tsadzalh. Can you -- do you remember that now, and do you want to explain what happened?
A Okay, there was -- he remembers the incident with Hakasbaine. There was a person named Klayslahtl he was from Cheslatta and the area he's going to tell us about is around Ootsa Lake.
(Further response by Witness to Interpreter)
A Okay, Hakasbaine's father had given Klayslahtl a box of berries which had some oolican grease mixed with it. He had given it to him because there was starvation.
(Further response by Witness to Interpreter)
A Okay, and Klayslahtl told Hakasbaine you can use my territory for one year for giving me the berries and the grease.
(Further response by Witness to Interpreter)
A Okay, and Hakasbaine's sister Jeannies Kyo means big Jenny they made trouble with each other and Klayslahtl came into the House of Smogelgem which is Johnny's father.
(Further response by Witness to Interpreter)
A And then they talked about the land in question and Smogelgem helped Klayslahtl get his territory back.
(Further response by Witness to Interpreter)
A After Klayslahtl died Jeannies Kyo had registered the line in her name and now he doesn't know who has that territory registered.
(Further response by Witness to Interpreter)
A And that's as much as he can remember.
Q Okay. Do you recall which House and what tribe Hakasbaine belonged to?
A Okay, both Hakasbaine and her sister Jeannies Kyo were Laksilyu and both were from Ginehklaiya.
Q What about Klayslahtl, which House and which tribe?
A Klayslahtl was from Cheslatta. I can't remember which House or clan he came from.
Q Was Klayslahtl Witso --
THE INTERPRETER: Klayslahtl.
Q Was Klayslahtl Wet'suwet'en?
A Klayslahtl was not a Wet'suwet'en and Hakasbaine's father was also from the same area and that's where the problems

started.
Q And Klayslahtl is a Nutsenee?
A Yes, they were Nutsenee.
Q And the Nutsenee are the tribe to the east of the Wet'suwet'-en, is that right?
A Yes, they do live east of us.
(Further response by Witness to Interpreter)
A And that's as far as I remember and I wanted to talk about it and I've told you now.
Q Okay. This happened -- you remember When they came to your father's House?
A Yes, I remember.
Q Okay?
A He remembers the process they went through. Klayslahtl come into the House with Smogelgem and when it was okay with him they invited the ladies in. They talked about it and the ladies lost and Klayslahtl got his territory back.
Q Was Smogelgem the only Chief that mediated that dispute or were other Wet'suwet'en Chiefs involved as well?
A There were other hereditary Chiefs involved and since Smogelgem was the Head Chief at that time the other hereditary Chiefs told him that the land should go back to Klayslahtl and that's what happened.
Q Do you know who the other hereditary Chiefs were that were involved when they told that to Smogelgem?
A Chief Kal.
(Further response by Witness to Interpreter)
A Okay, he remembers two other hereditary Chiefs that were there. There was Chief Kal, he was the second leading Chief and also Francis Lake John, and the others he can't remember.
Q Okay. Was Chief Kal was that his feast name, Kal?
A Yes. That was his feast name and he was the second leading Chief.
Q After Smogelgem?
THE INTERPRETER: After Smogelgem.
Q And What -- what House and tribe did he belong to?
A He was from the Ginehklaiya.
(Interpreter speaks further to Witness)
A Laksilyu. He was from the Laksilyu.
Q Okay. And Francis Lake John, did he have a Chief's name and what tribe and House was he from?
(Interpreter speaks to Witness) A. Kosteeget, Gilserhyu.
MR. GRANT: Okay, the first thing he said was, just for the record.was Kosteeget was his Chief's name?
THE INTERPRETER: Kosteeget was his Chief's name.
MR. GRANT: Yes?

THE INTERPRETER: And he was Gilserhyu.
MR. GRANT: That was his tribe or clan.
THE INTERPRETER: That was his tribe Or Clan.
(Interpreter speaks further to Witness>
A And he was from Ya'tsowitan which means Thin House.
MR. GRANT: Okay, and that was his House?
THE INTERPRETER: That was his House.
(Interpreter speaks to Antonia Mills)
MR. GRANT:
Q Did the Kilwoneetsweten people trade with the Gitksan people at any time of the year?
A They did no trading but they were in close contact with the Gitksan people who had a village near Carnaby called Tsi'tse'gut. Big John was the Chief there.
(Further response by Witness to Interpreter)
A Okay, Big John was Laksamshu.
Q And he Was a Gitksan Chief?
A Yes.
Q Did the people of your House trade with the Gitksan or the Nishga at Hagwilget or at Moricetown at other times of the year?
THE INTERPRETER: I'm just trying to find a better word for trade
MR. GRANT: Okay.
(Interpreter speaks to unidentified party)
THE INTERPRETER: That's what I've been saying.
MR. GRANT: What is the Gitksan?
THE INTERPRETER: Ketneeayelgee is trade.
MR. GRANT: Okay, and there is a problem understanding what he's referring to?
THE INTERPRETER: And he said they haven't been trading but the would invite each other to the village where they would feed each other.
MR. GRANT:
Q Okay. Do you know if the Wet'suwet'en ever went to Mission Flats near Hazelton to trade with the Nishga or the Gitksan?
A He wants to know what they traded.
Q Okay. That's what I'm asking -- I'm asking you if they traded for things that the Gitksan had or if they traded for oolican grease with the Nishga?
A Okay, they did trade seaweed and oolican grease for the different animals that the Wet'suwet'en had such as marten or goat, goat meat and this is what they traded for.
Q Okay. Now, what other tribes did they trade with? For example, who did they trade with for oolican grease?
A Okay, the people from the Nass. They would trade with the people from Moricetown as well as from Hagwilget and Babine.

Okay, and what did -- what did the Wet'suwet'en people give the Nishga in exchange for the oolican grease in other words, what was it traded for?

A Okay, the -- our people would trade furs from the marten and beaver as well as other animals.

Q Did youtrade for seaweed from the coastal tribes and if s which tribes?

A Okay, the swinak or seaweed that was traded with the coast Indians and the xha or the oolican grease was traded with the people from the Nass River area.

Q And What did you give to the people from the coast in exchange for the seaweed?

A Okay, the -- in the old days we, as I said before we traded marten and other animal furs for the seaweed and nowadays it is money.

Q Okay. Did the Wet'suwet'en people go to the coast and up to the Nass to trade or did the coastal people and the Nishga come here to your territory?

A Okay, they -- the people from the outside would bring it in.

Q Okay, and did you give -- trade fish, smoked fish or other fiSh products with these people or did the Wet'suwet'en mainly provide meat and furs to the Nishga and coastal people?

A No, they did not trade, trade dried salmon or fish.

Q Okay, did you -- did the Gitksan and Wet'suwet'en trade, and if so what did the Gitksan give to the Wet'suwet'en?

A Okay, they did trade with the Gitksan people and it was for basically the same items as the coastal people and it was the same, same things they traded for.

Q Okay. Do you -- you know the Village of Kisgegas which was a Gitksan village on the Babine River?

A yes, I remember the village. My father had taken me there for three winters.

Q Did the Wet'suwet'en people provide moose or caribou hide to the Kisgegas people to your knowledge?

A Okay. What little moose hides there were all came from the North. They were sold to the Hudson Bay Company and native people would buy the moose hides and that was what they used at the feasts because at that time there were hardly any moose in this territory.

Q Okay. What furs other than moose did the Wet'suwet'en a Gitksan use at the feasts in the old days?

A Okay, the meat was used at the feast.When the Hudson Bay Company became established people would buy the Hudson Bay blankets and this is what was distributed amongst the people. And he also mentioned that the datnee was used.

Datnee is ground hog.
Q Okay. Did the Wet'suwet'en provide ground hog to the Gitksan? Did they trade with the Gitksan and give them ground hog furs?
A Okay, the furs of the ground hog was given by the Wet'-suwet'en to the Gitnay or the Gitksan people and the ground hog fur made good blankets.
Q What did the Gitksan people give in exchange for these ground hog furs, to the Wet'suwet'en?
A Okay, they would trade different furs. As well blankets were exchanged for the furs.
Q When you went to Kisgegas with your father, did your father trade with the Chiefs at Kisgegas then?
A Okay, the people of Kisgegas would invite the Wet'suwet'en people and all the Wet'suwet'en would go up there. There would be a feast, they would be given blankets and other things. And about two years later the Wet'suwet'en would invite the Kisgegas people and they would be given blanket and other materials to repay them.
Q Okay. Did you attend any of the feasts that your father went to at Kisgegas?
A Yes, I did go with him. He had his regalia on and I would sit between his legs and look between the -- between his regalia.
Q Okay. Do you recall how old you were about then?
A About nine years old.
(Further response by Witness to Interpreter)
A And I heard all their words.
(Further response by Witness to Interpreter)
A And he would listen to each of the Chiefs getting up to speak, and Johnny would ask his father what they were saying and his father then would tell Johnny what was being said. And that is how he is telling us this information.
Q Did -- do you remember any of -- the names of any of the Chiefs that put on those feasts that you attended?
A No, he can't remember their names.
(Further response by Witness to Interpreter)
A But he knows that they were hereditary Chiefs that would get up to speak, there was always three of them.
Q Were those feasts -- do you remember why they were holding those feasts? Were they because somebody had died, or was there some special or was there a pole raising or was it something else?
A Yes, the -- some of the feasts he attended were for, were for a person who had died people from that House would come in to invite the people.
Q Where were you -- was your father in Moricetown or on his

territory when he was invited to these feasts?
A Okay. The -- the people from Kisgegas would come to Hagwilget where they would spend three days inviting all the people and it was when most of the people were back in Hagwilget that people would come to invite them.
Q Okay. Was this usually in the winter months then?
A Yes. It was during the winter months, not in the summer.
Q Okay?
A This was usually after the Christmas season when the river and lakes were frozen over.
Q Okay. And how did you travel to Kisgegas with your father
A Okay, it was by a dog team with toboggans and his father had eight dogs and most of the people would go along with him.
Q Okay. I wanted to ask you something about the medicine that you used in the old days?
A Dicanyu.
Q Do you recall -- do you recall an old person from Kispiox who became very sick when he went into an area where there was a lot of devil's club and he was brought back to the Wet'suwet'en territory and was cured with cedar bark or disklas? The word was given to me.
THE INTERPRETER: I remember that word the last time but I'm having the same problem. You were the one that told us --
MR. GRANT: Off the record for a moment.

(OFF THE RECORD DISCUSSION)

MR. GRANT: Go back on the record. Do you have my question? You've lost it?
THE INTERPRETER: If he remembers the man from Kispiox who --
MR. GRANT: Do you want the question read back?
THE INTERPRETER: Yeah, please.
(Court Reporter reads last question back to Interpreter)
(Interpreter speaks to Witness)
A He remembers a story. Alusinuk was his name. That was when the devil first got him.
(Further response by Witness to Interpreter)
A Okay, this man he's talking about we all know where the bridge is in Kispiox where it crosses the river. He had one upriver from the bridge, he had gone up another trail and he had come to this large devil's club, it was quite large. And he had chopped it down and once that --
(Further response by Witness to Interpreter)
A Then the big devil's club had fallen to the ground and he was working on the limbs when he had fallen on the big plant.

Q He fell onto the plant?
THE INTERPRETER: He fell on top of the big plant.
Q Okay?
(Further response by Witness to Interpreter)
A And people had found him at this place and he was brought back to his house and he couldn't breathe very well and they don't know how many days he had been laying there.
(Further response by Witness to Interpreter)
A When he was brought back to the house he was laying down. A song was sung with a drum. And slowly, he slowly woke up and came normal again.
(Further response by Witness to Interpreter)
A And it was the people who are called the diyenee, medicine man in the English language. There were many of them there and they were the ones that had sang these songs and did the drumming who woke him up.
(Further response by Witness to Interpreter)
A And the song that they sung he can't sing it but it was the song this sick person was singing himself, that's what they were singing as he woke up.
(Further response by Witness to Interpreter)
A And he Said the story is very long but I can't tell it all
Q Okay. Did this happen -- where did this happen that he fell on the devil's club?
THE INTERPRETER: He told you all that.
Q Okay. He described the territory?
THE INTERPRETER: Yes, it Was above the bridge, above the present day Kispiox bridge.
MR. GRANT: Oh, Okay. I'm sorry.
(Witness responds further to Interpreter)
A And this man that was cured this man who made the disklas and that is what the people from here as well as along the Skeena use today.
Q The disklas is the cedar bark headdress?
A Yes, and that's cedar bark headdress and he painted red from s'wah' is what they used to colour it.
Q Did the people, the medicine men when they cured this man, did they also use spiritual -- did they rely on a spiritual cure as well as the physical medicines they were giving him? That is did they invoke some, did they -- for example did they pray for him in a traditional way?
(Interpreter speaks to Witness, Witness sings song)
A Okay, that song he sung, that is the kind of song they would sing as the medicine man does his physical thing with his hands on the body and that is how he was cured and he did not do any spiritual prayers for the sick person.
Q Okay. Did this happen before you were born, this particular

incident or did it happen after you were alive?
A This was -- this was before I was born.
Q Okay, and who described what happened to you, who told you what happened?
A Old Bill and Old Satsan, he was the person that told me this and he also got the song. And I was -- I was a -- I was a big person when Old Bill or Old Satsan had died.
Q And what House and what clan was Old Satsan in?
A Okay, he was Gilserhyu.
(Further response by Witness to Interpreter)
A Which is Birchhouse.
Q And that was Wet'suwet'en?
A Yes, Wet'suwet'en.
Q You referred to the man who was cured as Alusinuk. Was he Gitksan or Wet'suwet'en?
A He was Gitksan.
Q Do you know what clan he belonged to and what House?
A No, he doesn't.
Q Okay. I'd like to return for a few moments to the fishing sites at Moricetown. Is it correct that each Chief had his own specific fishing sites at Moricetown Canyon?
A Yes, it's true that each hereditary Chief had their own fishing spots and when they die the name is passed on. The person who takes the name gets the fishing spot.
Q Okay. In the old days was there one Chief who caught a lot of the fish in the Moricetown Canyon?
A His uncle -- okay, his uncle whose name was Wah Tah Kwets was the person who was the best fisherman in the Moricetown Canyon.
Q And did he -- how did he fish?
A Okay, he had a fish basket and it is on the highway side of the river where the fish ladder is now situated.
Q Okay. Was his fishing site destroyed by the fish ladder?
A Yes.
Q Was there a name for his fishing site?
A Okay, there are names for the fishing spots and he can't remember the proper name for it but the area you're asking me about was called --
(Interpreter questions the Witness further)
A Gonzayeegutz. Gonzayeegutz means place where the fish basket is. There was a long -- there was a pole which would raise the -- raise the fish basket then a gaff would be used to take the salmon out and he would, Wah Tah Kwets would distribute the salmon amongst the people.
(Further response by Witness to Interpreter)
A He would give a lot of the salmon to people who were going to go out trapping and when these trappers would return they

Would give him some of their furs as, as repayment for the salmon he had given them.
Q Okay. Earlier today you described that the Ginehklaiya fishing site was on this side of the canyon. And was this a site that was used by Hag Wil Negh and by yourself Maxlaxlex?
A Yes.
(Further response by Witness to Interpreter)
A There were many smokehouses in the canyon area. Hag Wil Negh had a smokehouse. Wah Tah Kwets had a smokehouse,and Wah Tah Keght had a smokehouse where the salmon was dried. Q Okay. And what was the name of Hag Wil Negh's fishing site in Moricetown Canyon?
A He can't remember.
Q Okay. Was Smogelgem's fishing site on the other side of the canyon, from the highway?
A Okay, that was on the other side of the river where Hag Wil Negh and Smogelgem used it as one company --
(Further response by Witness to Interpreter)
A -- Hag Wil Negh's father. And it was at a place where it is called gilloo kluk means where the fish jump up.
(Further response by Witness to Interpreter)
A And below that was Mooseskin Johnny's. And there is three different areas I can't remember their names. And there's one, one area the name is not, it's a vulgar name was a fishing area.
Q It's all right if you say whatever names they are?
A Tsantat'lay was the name of that fishing area he was talking about and that, that means shit falling in the water. And that was the name of the area.
Q Do you remember when the Government of Canada put in these fish ladders at the canyon?
He remembers when they were doing it, but he can't remember the exact year when the fish ladders were built.
Q Okay. Did you or the other Chiefs to your knowledge consent to them putting those fish ladders in there?
A Okay. The Chiefs had not given their consent to the Department of Fisheries to put in the fish ladders. Louie Tommy as the Head Chief had spoken against the fish ladder and when they first started building the fish ladders police came with their guns, they were on top of the hill and to this day they don't know who had signed the paper for the Government to go ahead to start building the fish ladders.
Q Was Louie Tommy Wah Tah Kwets?
A Yes. #e was Wah Tah Kwets as well as Chief.
(Further response by Witness to Interpreter)
A And we never did find out who signed his name to get the

fish ladders built.
Q Did Government officials come and speak with Wah Tah Kwets or withyourself or the other Head Chiefs before they built the can -- or built the ladders?
A They did not talk to them.
Q Thank you.
(Further response by Witness to Interpreter)
A The people from here would ask Fisheries -- the Fishery people who gave them permission to start building and the Fishery people just told our people they didn't know.
Q Okay. You said earlier that Wah Tah Kwets' fishing site was destroyed by this fish ladder. Were other Chief's fishing sites destroyed by these fish ladders?
A That was the only area that was destroyed.
(Further response by Witness to Interpreter)
A And on the other side where the area that is known as fish jumping.
Q That's Smogelgem's site?
A Smogelgem.
Q OKay, was Smogelgem or Wah Tah Kwets ever compensated for , the loss of their fishing -- the destruction of their fishing sites to your knowledge?
A They never received anything at all.
Q Okay. Do you know -- sorry?
A There was people that were supposedly looking after fish, Fisheries Department people. They didn't -- they didn't Care about what we said to them or they didn't care for our Indian people.
(Further response by Witness to Interpreter)
A And the Department of Fisheries people had said that a carload of salmon or truckload of salmon would be brought from the coast which would be distributed to the people in Moricetown and to this day we haven't even seen a half a can of salmon.
Q Did -- When the ladder was put in did it destroy -- can you tell me how it destroyed the fishing sites of Wah Tah Kwets and Smogelgem?
A Okay. The area where they fish it was blown with dynamite so the cement would be poured. So their fishing area was destroyed by removing some of the rock.
Q Did the fish Used to rest in these spots where you fished from?
A Yes. It was the place where the salmon rested. It was like a home for the salmon, and now the ladders have been put in-very few people are able to get salmon from those areas.
(Interpreter speaks further to witness)

THE INTERPRETER: Okay, he's asking if you're going to quit because I noticed he was getting tired, I asked him.
Q Um-hmm. Okay, I'd like to stop -- I'd like to just finis this area. If I can ask you just one or two questions more then I'll stop, is that all right?
(Interpreter speaks to Witness)
Q Just to finish this area?
A He asked me if that was it, that was it period. I told him we were going to continue tomorrow and he said what's going on.
Q Prior to Louie Tommy, Wah Tah Kwets providing fish for the people, did his uncle or the previous Wah Tah Kwets do the same thing?
A Yes, the previous Wah Tah Kwets had done the same.
Q The final question for today Johnny is did you see the smokehouses on the banks of the Moricetown Canyon?
A Yes, I saw them and I was in them.
Q Okay. Maybe we'll try to get a picture to show you those, maybe you can tell him that, tomorrow.
THE INTERPRETER: Maybe tomorrow?
MR. GRANT: Um-hmm.
A Okay.
MR. GRANT: I want to thank you for all the time you've put in today and we'll meet again, adjourn to tomorrow. What time do you want us to start tomorrow?

(OFF THE RECORD DISCUSSION)

(PROCEEDINGS ADJOURNED AT 1:10 p.m. UNTIL DECEMBER 20th 1985)

DECEMBER 20, 1985
(PROCEEDINGS RECONVENED AT 9:50 a.m.)

VICTOR WILLIAM JIM, Wet'suwet'en interpreter, previously sworn, testifies as follows:

JOHN DAVID, Witness called on behalf of the Plaintiffs, previously sworn testifies as follows:

PROCEEDINGS COMMENCED AT 9:50 a.m. 20 DECEMBER 1985

MR. GRANT:

Q This is a continuation of the Examination adjourned yesterday and you the Interpreter are still under oath and the Witness is still under oath and he understands that, is that right?
(Interpreter speaks to Witness)

EXAMINATION IN CHIEF BY MR. GRANT CONTINUING:
Q Yesterday we were talking about the fishing sites at Hagwilget and I have some photographs here and I would like to show them to you and if you could recognize any of those fishing sites that you could tell us whose they are
A He asked me where the -- if these were the fishing spots. And he was saying he's having difficulty seeing the photographs.
MR. GRANT: Okay. Oh, he has some difficulty seeing them?
THE INTERPRETER: Yes.
MR. GRANT: Okay.
Q If you cannot recognize any of the pictures or you have a hard time seeing, don't worry just say so and we won't worry about it. Okay? The first one for the record is negative -- National Museum of Canada negative number 34615. Do you recognize the fishing site that is in that photograph?
A It's Hagwilget.
Q This is at Hagwilget?
(Interpreter speaks to Witness, Witness responds, no English response)
Q Okay, if you have any -- if he can't see it that's all right.
(Interpreter speaks further to Witness)
Q Okay, I'll show --
(Witness responds, no English response)
MR. MILNE: I think we better have a translation.
A Okay, what he's described is that there were --
MR. GRANT: Turn it so we can see.
A He's describing that there were three fishing spots or fishing holes on this side.
MR. GRANT: You're indicating the bottom of the picture for the record.
THE INTERPRETER: The bottom of the picture. And three more across the river, there was six total. And he's saying that he's having a lot of difficulty seeing the pictures clearly.
MR. GRANT: Um-hmm. Did he indicate whose sites were across the river that is at the upper part, the far side of the river from the photograph?
THE INTERPRETER: The first site he indicated Was Paul Lawelxges,

then John Nabistes and William Dzikens on the other side.
Q Okay, and that's going from the right to the left of the picture on the far side of the river?
THE INTERPRETER: Yes.
MR. GRANT: Could that picture be marked as an exhibit please, Exhibit number 3.

EXHIBIT 3 - Photograph National Museum of Canada negative number 34615

MR. GRANT: While that picture is being marked I'd like to show could the Witness look at the next picture, I'm sorry could the Witness look at the next picture which is National Museum of Canada negative number 34612. Just go off the record for a moment please.

(OFF THE RECORD DISCUSSION)

MR. GRANT:
Q Okay, I'm showing you a picture which is numbered 34612. I would like you to -- which appears to show in the picture some, one or more fishing sites. Can you -- do you recognize those fishing sites in that picture and do you recognize what the picture is of?
A He says he can't see the photographs too well.
Q Okay. Okay, if you can give me that one back.
A He just recognizes the poles there going across.
MR. GRANT: He indicated the lower part of the picture --
THE INTERPRETER: Yes.
MR. GRANT: -- for the record.
A He said if he could see the picture clearly he would recognize it right away.
MR. GRANT:
Q Is it his eyesight that is the problem?
A Yeah, it's his eyesight.
MR. MILNE: Would a magnifying glass help?
(Witness responds further to Interpreter)
MR. MILNE: What did the Witness say?
TEE INTERPRETER: He asked me if it was the Skeena River. I told him it was the Bulkley.
MR. GRANT:
Q Okay, Um it may be apparently because of the light shining on these pictures that makes it hard which is difficult because um, if you look at these, these are glossy picture We maybe should not -- I'm just wondering if we should show him these pictures with the lights off.
MR. McDONALD (Video Technician): Could I have the picture and

see how much glare he's getting, hold it in front of him. No, there's a little glare but not a lot.
(Witness responds further to Interpreter)
A He's still asking me where it is.
MR. GRANT:
Q Okay, is that still, is that still causing you some trouble with the light off?
(Witness responds further to Interpreter)
MR. MILNE: What did the Witness say?
THE INTERPRETER: He asked me if it was the Bulkley River and I told him that it was.
MR. MILNE: I think the Witness should give the evidence and not the Interpreter as to what's in the photograph.
MR. GRANT: Well, okay for the -- for the record I mean I'm putting, I'm putting the Witness -- I am putting to the Witness some photographs. There are numerous photographs that are quite old of different locations. These pictures could be taken anywhere in Canada or Northern British Columbia. I think that there's nothing wrong with me attesting to the Witness, subject to the fact that we would have to prove it later, that these photographs are photographs of Hagwilget Canyon. This Witness wants some form of direction as to where the photographs are of so that he knows what we're talking about and I don't see that there is any reason to object to that so long as we, at a later time, establish that these pictures are actually of a particular canyon.
MR. MILNE: As long as you establish later where the photographs were taken and where they are from, then fine I don't have any objection to that. But the issue is where these photographs were as well as what sites that may show in the photographs. So if the Interpreter is giving answers to the Witness as to where it is, then certainly that is not evidence as to where those photographs were taken from.
MR. GRANT: Okay. I'm going to ask you another question --
MR. MILNE: I think you could preface your remarks by saying, if this was in Hagwilget Canyon then are these the sites that you recognize.
MR. GRANT: That's what I was going to do. I'm going to --
MR. MILNE: But I certainly object to the photographs being tendered as evidence that they are photographs of Hagwilget Canyon. You'll have to prove that later. These will be marked for identification, not as exhibits.
MR. GRANT: They'll be marked as exhibits and they can be dealt with later as --
MR. MILNE: They'll be marked as exhibits for identification no as exhibits at the trial.

MR. GRANT:
Q I understand that these photographs are at Hagwilget Canyon. Can you -- if you were told that these were photographs of Hagwilget Canyon, would that assist you in recognizing whose fishing sites they are?
A He still can't see it.
Q Okay, you can give me that photograph back. I'm showing you another photograph which is from the Defendant's own archives, catalogue number 28541 negative number B-705. On the face of the photograph is written Indian Salmon Trap Hazelton B. C. Did you ever see a salmon trap such as is in that photograph?
A He said he's seen one in Hagwilget and he referred to it yesterday. They called it wee. Wee.
Q Um-hmm, go on? Who owned that trap in Hagwilget you saw that was like the one in the photograph?
A Old Muldoe.
(Further response by Witness to Interpreter)
A He's describing the photograph saying that salmon get in the other end --
Q pick it up so you can show it to us.
A He's describing the photograph. The salmon would come in from the top end and into the basket at the bottom and they would be gaffed out by the people to get the salmon OUt.
MR. GRANT: Okay. Could that photograph be marked as Exhibit number 4 please?
MR. MILNE: That photograph is being tendered for what purpose, simply to show that is a salmon trap that was being used or that that is like a salmon trap that was being used?
MR . GRANT : It was -- I'm asking -- I asked him -- we will, we will demonstrate where that photograph was taken in due course.
MR. MILNE: Well, but the purpose of the photograph, you said have you seen this have you seen traps like this in Hagwilget.
MR. GRANT: Okay. I want to mark it as an exhibit and we will proceed from there.
MR. MILNE: Well, just a minute. I'm taking some objection to it being marked as an exhibit right now. I think we should clarify for what purpose it is being entered as an exhibit Is it simply to show that he has seen salmon traps like that in Hagwilget? If that is what is being marked as an exhibit then fine. But it shows nothing further than that at this point.
MR. GRANT: Well, it can -- it only connects to his evidence. He's referred to this photograph in giving a description

and therefore I want it marked as an exhibit because it's part oF the record.

MR. MILNE: But it's an exhibit that is simply showing a salmon trap. And it could be a salmon trap that was made anywhere and placed anywhere.

MR. GRANT: Theoretically one might say that. Mark it as Exhibit number 4 please.

MR. MILNE: Now, the salmon trap photo then is being marked as an exhibit for identification?

MR. GRANT: It's being marked as Exhibit number 4.

MR. MILNE: For what purpose is it --

MR. GRANT: And you can reserve your right to object to its admissibility at Trial. And I think that your objection's noted.

MR. MILNE: Now, from the Defendant's point of view, this photograph is being submitted, for the record, simply to show that it appears to be a salmon trap which appears to be like the ones that the Defendant or Witness rather has seen in Hagwilget and nothing further.

MR. GRANT: Mark it as an exhibit please.

EXHIBIT 4 - Photograph entitled Indian Salmon Trap Hazelton B. C., catalogue number 28541, negative number B-705

(OFF THE RECORD DISCUSSION)

MR. GRANT: Go back on the record. Just for the record I note that the exhibit stamp does have the standard exhibit stamp the reporter has for identification. These are exhibits proper on the Commission Evidence and Counsel for the Province has taken a position as to the purpose for which Exhibit number 4 will be used. I'd like to refer the Witness back to Exhibit number 4 now.

Q Do you recognize that photograph, do you recognize that particular trap as one you saw?

A He said it looked -- he's looked at the photographs and he says he recognizes all the features of these. He recognizes all the features of the fish trap and he says that he used to take the salmon out of the basket that is on the end.

Q Okay. I think you -- I believe you said that that trap was like Old Muldoe's trap, is that right?

A He said yes.

Q Can you tell us if that was Old Muldoe's trap, that picture was actually his trap?

A He says it is his and Old Muldoe had built it himself.

Q Okay. Was that the only trap like that in the Hagwilget Canyon?
A Yes.
MR. MILNE: For the record, I've never seen any of these photographs before and you presumably will be providing copies to Counsel for the Province well in advance of any trial.
MR. GRANT: For the record some of these, including Exhibit number 4, are actually extracted from the Province so the Province already has possession of them.
MR. MILNE: There are a great many photographs in the possession of the Province and you will hopefully provide copies of the ones that you are tendering as exhibits at Trial, well in advance of Trial, is that correct?
MR. GRANT: Yes. Hopefully some of them will come out in our -- in the -- in our disclosure, the Defendant's disclosure of documents as well so that there may be other photographs of which we are not yet aware. For the record as I recall, the list of documents provided by the Defendant to date, that is to December 20th of '85, does not disclose any photographs in their possession, although clearly these are photographs in their possession.
MR. GRANT:
Q I WOUld like to Show you another photograph --
MR. MILNE: As I recall, Exhibit number 4 was a photograph that was created by the Defendant, and it's in the Defendant's archives, so it's clearly in their possession and not in the Province's. In fact I think I will also --
MR. GRANT: The Defendant is -- the Defendant is the Province.
MR. MILNE: Oh, I'm sorry you're correct.
MR. GRANT: So it is in the Defendant's possession.
MR. MILNE: Quite right, quite right.

EXAMINATION IN CHIEF BY MR. GRANT CONTINUING:
Q Okay. I'd like to show you another photograph that is in the Defendant's possession. Catalogue -- Province of British Columbia Provincial Archives catalogue number 18992 negative number A-6843. The cataloguing indicates that this was a photograph taken at Hazelton. And on the basis that this is a photograph at the Hagwilget Canyon, can you recognize any fishing sites in that photograph? (Interpreter speaks to Witness)
MR. MILNE: Again for the record, I reserve the right to object. This is asking the Witness to speculate. In the event it is at Hagwilget Canyon, the Witness shouldn't be asked to speculate. He should simply be asked if that is a photograph of Hagwilget Canyon. I simply state that for the record.

(Witness responds)
A He's having problems seeing this picture clearly.
MR. GRANT: Okay. The final photograph is again from the Defendant's Provincial Museum Archives, negative numbers PN13465 and it shOWS a man doing something with respect to a fish. Do you recognize where that photograph was taken and do you recognize the man in the photograph?
A He's asking where this photograph --
Q Okay, do you recognize the location of that photograph yourself?
A He says he can't see too clearly.
(Further response by Witness to Interpreter)
A He said if he could see the pictures clearly he would identify who those fishing spots belonged to.
Q Okay.
A He's asking if it's wood.
Q He's asking if what?
THE INTERPRETER: If this is a piece of wood that's coming down.
Q Just a second, what is he asking?
THE INTERPRETER: He's asking if this is a piece of wood coming down.
Q Okay.
(Witness responds further to Interpreter, no English response)
MR. MILNE: Now, I hope you're not going to give evidence as to what that is or what it is not Mr. Grant.
MR. GRANT: You should wait until I ask a Question before you object.
Q I understand that this is at Hagwilget.
MR. MILNE: Objection for the record.
MR. GRANT: Your objection's noted.
Q On the assumption that this is at Hagwilget, do you recognize -- if you were told that this was at Hagwilget, do you recognize -- does that help you to recognize anything in the picture?
MR. MILNE: Objection. You're asking the Witness to speculate, for the record.
MR. GRANT:
Q Go ahead, ask the question?
A He's having trouble identifying --
(Further response by Witness to Interpreter)
A Okay, he's saying -- he's saying if it's a photograph of a platform across the river that would be the spot of Peter John.
Q Okay, when he's referring to across the river he means on the Hazelton side of the Hagwilget Canyon?
A Yes, he's saying on the Hazelton side and that side was

used by the Gitksan.
Q And Peter John was Gitksan?
THE INTERPRETER: Peter John was Gitksan.
MR. GRANT: Okay, if you could mark that as Exhibit 5, please, sub the objections my friend has already noted.

EXHIBIT 5 - Photograph, British Columbia Provincial Museum negative number PN13465

(OFF THE RECORD DISCUSSION)

MR. GRANT:
Q Do you recognize the person in the photograph?
A He just -- he just sees the white of the shirt in the photograph.
Q Okay, fair enough. Did you see platforms like that at Hagwilget Canyon yourself, referring to Exhibit 5?
A He said yes I -- I played on them as well as fishing off of them.
Q Okay.
A He said I used to gaff salmon off the platforms.
Q I'd like to refer you to Moricetown and I'm showing you a picture numbered 88705 from the Provincial Archives in the custody of the Defendant, negative number E8399 and I'd like you to tell me if you can recognize the buildings in that picture?
A He said it's a picture of Kya Wiget which is Moricetown.
MR. GRANT: Okay. For the record, did you translate to him my-- that I was referring to Moricetown before he gave that answer?
THE INTERPRETER: No, I didn't.
Okay, go ahead?
THE INTERPRETER: And then he said this used to be called Kya Wiget.
MR. MILNE: Just a minute. Just a minute, your question was I'm now referring you to Moricetown. Did you translate that to the Witness?
THE INTERPRETER: No, I didn't.
MR. MILNE: Why not, that was part of his question?
MR. GRANT: Well, don't -- you're not questioning -- you have no right to question the Interpreter. I'm asking for the record if the Witness --
MR. MILNE: I'm clarifying a previous question and you said did you translate. The Witness has been sworn to translate everything.
MR. GRANT: He did not translate that, that wasn't part of my question.

Q Can you go on with the description please?
MR. MILNE: If it wasn't part of your question, why did you mak the statement? You said I am now referring you to Morice town. I object to that procedure Mr. Grant. I think the photographs can be put to the Witness without any coaching as to what they are or where they are from.
MR. GRANT: I agree with you. I have two piles of photographs. I have numerous photographs for the record Mr. Milne. I was speaking possibly out of turn myself because I was referring to a second pile of photographs. That -- when I noted how short the question was of the Interpreter, I wanted to clarify whether the Interpreter had referred to Moricetown. The Interpreter has answered me that he did not refer to Moricetown when he asked the question. Because he asked a brief question and my question was longer I wanted to know whether he had referred to Moricetown.
MR. MILNE: Well, it raises the issue of what you wish the translator to translate. If he's going to translate portions of what may or may not be questions, then it concerns me. It concerns me a great deal the accuracy of the translation. I think that in the future we should make sure that the question in total is being translated to the Witness.
MR. GRANT: Your objections are not being translated, my comment are not being translated and I'm referring to the fact the that was a comment. I'm not asking him to translate that. Now, the Witness was going on describing the photograph. First of all, I'd like to have that photograph marked as Exhibit number 6 before the Witness explains it.

EXHIBIT 6 - Photograph, Provincial Archives of British Columbia catalogue number 88705, negative number E-8399

(OFF THE RECORD DISCUSSION)

EXAMINATION IN CHIEF BY MR. GRANT CONTINUING:
Q I'm Showing you Exhibit number 6 which you have in front of you. I'd like you to tell me what that is and if you recognize any of the buildings?
A He says that's a photograph of Moricetown and he recognize that there -- there are smokehouses.
Q Okay, can you recognize who the owners of those smokehouse would be, like which smokehouses they are?
MR. MILNE: What was the answer?
A He's identified one as being Alfred Namox and he's straining to have a good look at the photograph and he's saying he's having difficulty seeing it clearly.

MR. GRANT: And, okay. In relation --
A He's identified two of the smokehouses.
Q You're starting -- is this the lower line?
THE INTERPRETER: This is the lower line of the two rows of buildings.
Q Starting from the left-hand side?
THE INTERPRETER: Yes.
Q COUld you tell us which ones are --
THE INTERPRETER: The first one on the left has been identified as Alfred Namox's.
Q Yes?
THE INTERPRETER: And the smaller one beside Alfred Namox's is Old Dennis' and he couldn't -- Old Dennis and then he had trouble seeing the photograph clearly.
Q Did you see the smokehouses in your lifetime?
A Yes, I've been through all the smokehouses.
Q And these Ones you're referring to, were they on this side of the canyon, of Moricetown Canyon or on the other side?
A On this side of the highway.
Q On this side of the canyon?
A And he's saying that the smokehouses were directly below where the present day handicraft store is.
Q Okay, and for the record the handicraft store is on the southwest side of the Bulkley Canyon at Moricetown and also known as Highway 16 side of the canyon. Now, also for the record, in light of the exchange we had, I wish to confirm that Mr. Milne indicated off the record that he was not challenging the credibility of the Interpreter but only the question of what was being interpreted.
MR. MILNE: Mr. Grant, I think it most inappropriate to put our off the record comments on the record.
MR. GRANT: I want that on the record.
MR. MILNE: I strictly object to that, strenuously.
MR. GRANT:
Q Okay. I'm showing you another photograph --
MR. MILNE: There is not much purpose going off the record if those comments appear on the record, Mr. Grant.
MR. GRANT: They can stay on the record then.
Q I'm showing you another photograph. Do you recognize where that is? I'm sorry, Just a moment. It is Public Archives of Canada PA21434 for the record.
A He's indicated that photograph is of Moricetown.
MR. GRANT: Okay. Can we mark that as an exhibit please, Exhibit 7. You can just tell him that she's marking it.

EXHIBIT 7 - Photograph, Public Archives of Canada number PA21434

MR. GRANT: just go off the record.
MR. MILNE: I think we should stay on the record, Mr. Grant.
MR. GRANT: Stay on the record.
Q Do you recognize the structure at the bottom of Exhibit 7 and the buildings that are beyond it?
A He said that's the bridge and that's one of the few things he can see clearly in the pic -- in the photograph.
Q Okay, and what does that -- did that bridge cross?
A He said it crossed the canyon.
Q Was it at the same location as the present bridge that crosses Moricetown Canyon?
A Yes, the same place.
(Further response by Witness to Interpreter)
A And this bridge in this photograph was taken apart when the new one was built.
Q Do you know who built the bridge in the photograph?
A It was the white people who built the bridge, the Government. The people who built the bridge are probably all dead.
Q Okay?
A And he remembers -- he remembers an Al Banister who used to haul logs with the wagon team.
Q Did -- can you recognize -- oh, I'm sorry. Before -- do you -- do you know if there was a bridge there before, across the canyon before the bridge in the picture?
A He remembers before this bridge --
Q Referring to the bridge in the picture for the record.
A -- the bridge in the photograph there was, excuse me, there was another bridge that was built by the Indians themselves.
Q Okay. Do you recognize any of the buildings behind that bridge in Exhibit 7?
A He can't see the buildings too clearly.
Q Okay?
A He can't see the houses.
Q Okay?
A He doesn't want to make a mistake and give the wrong names to the houses and it could be used against us.
Q Okay. Let me ask you this, were there smokehouses on the far side of the Moricetown Canyon, that is to say on the side opposite the side that the highway now goes, in the old days?
A Yes, there were three smokehouses on the other side of the river. One person identified as Mooseskin Johnny.
Q Um-hmm?
A He said if I could see the photographs clearly I could identify the people that belonged there.

Q That's all right Johnny we'll just -- you're doing a very good job. We'll just do it as we can. I'm showing you another photograph --
MR. MILNE: Now, is that supposed to be translated, that question?
MR. GRANT: Yes, you can translate that. It's not a question.
(Interpreter speaks to Witness)
Q The -- the Other -- the next photograph is Public Archive of Canada PA82992. Do you recognize anything in this photograph?
A He recognizes it's a photograph of the old bridge that th Indians themselves had built and the word he uses for the -- he was pointing this out when he said that this is what they used to call wa'tso'tee.
Q That you're indicating -- just for the record you're indicating a wooden or what appears to be a log or wooden structure that sort of arches out over the center of the picture?
THE INTERPRETER: Yes.
MR. GRANT: Okay. Can that picture be marked as Exhibit number 8 please?

EXHIBIT 8 - Photograph, Public Archives of Canada number PA82992

(Further response by Witness to Interpreter)
A And he's also said that he remembers when the bridge was being built.
MR. GRANT:
Q Okay. Now, where was that bridge located, Exhibit 8?
THE INTERPRETER: He's trying to --
Q What was his answer to the question where the bridge was located?
THE INTERPRETER: It was located in Moricetown.
Q Yes?
A And from the photograph -- from the bridge he was trying to gauge whether this was a smokehouse or not.
Q And he's -- you're referring and pointing, for the record, to a picture which is in about the center mid ground --
A Yes.
Q -- on the right off the bridge structure?
A He said that if that is a smokehouse, then that belonged to Wah Tah Kwets.
(Further response by Witness to Interpreter)
Q You said you remember when that bridge was built. Do you recall how old you were when it was built?
A About ten or twelve, ten to twelve years old. He said I was strong.

Q I'm going to show you another photograph again in the possession of the Defendant from the Provincial Archives catalogue number 30393, negative number B-1717 and I would ask you if you can recognize that photograph as to where it was -- where that photograph was taken?
A Then he was asking me if that was Kya Wiget, Kya Wiget. He said two names for Moricetown: Kya Wiget and Morice-town.
Q Okay. Ask him if he can recognize where it is, does he know where it is?
A He's asking me if that's a house and I answered no. He asked me if that was a picture of a person and I said it was.
Q Okay, let me show you the photograph. I'm going to try to assist you because it seems it's hard for you to see. It appears in the background of this photograph that there is a structure that looks like a bridge. Can you see that structure and does that help you to determine where the photograph was taken?
A He recognizes that it's a bridge.
Q It's a bridge where?
A Moricetown.
MR. GRANT: Okay. Mark that as Exhibit 9 please. And before -- just for the record, on the back of that is labelled that it is located at Moricetown. Throughout these questions I've asked up to this point, I've not referred the Witness or the Interpreter to the label on the back nor have I made reference to the location. If that could be marked as Exhibit 9.

EXHIBIT 9 - Photograph, Provincial Archives of British Columbia catalogue number 30393 negative number B-1717

MR. GRANT:
Q Now, in Exhibit number 9 it appears that there is some structure near the river. Do you recognize that structure The question may not be clear. I'm referring to what looks like vertical poles hanging up and down and a round object which is in about the mid ground of the photograph. The poles appear to go into the water. Do you recognize that structure?
A He's asking me if it's a fish basket.
Q Okay. I take it you're having a hard time seeing what is in the--picture?
A Yes.
(Further response by Witness to Interpreter)

A He -- he said where you see the poles that are standing up right t*at is the location where Louie Tommy had his fish trap.
Q Okay. When we were talking about Exhibit 8 you said this was a bridge that you saw built at Moricetown. Was there a bridge across Moricetown Canyon before the bridge that you saw built?
A Okay, prior to the photo -- prior to the bridge in this photograph, he remembers that there were just trees that were fallen across the canyon and people would cross on foot.
(Further response by Witness to Interpreter)
A Okay, the places that I have seen and spoken about I have not made it up. I've been there, I've seen them.
Q I'm showing you another photograph which is again in the custody of the Defendant's Provincial Archives catalogue number 15534, negative number A-6063. For the record this photograph appears a bit dark but it appears to be of water but -- can you recognize where that picture was taken and if you cannot see you can just tell us?
A He's asking me -- he's asking me what this is.
Q Okay?
A He's asking if it's a bridge.
Q Okay, I -- if you cannot recognize the picture you can just tell us?
A He said I can see the outline of the poles.
Q He's indicating the -- what appears to be poles going across the center of the picture, from the center to the right-hand side?
A And if I could see more clearly I could tell you exactly where it is.
Q Okay. For the record the card or the label on this indicates that it is a picture at Moricetown. So if -- if this is a picture at Moricetown, if I tell you this is a picture of Moricetown Canyon does that help you to identify the items in the picture?
MR. MILNE: Same Objection again Mr. Grant for the record.
MR. GRANT: Um-hmm.
(Interpreter speaks to Witness)
MR. GRANT: Okay, just -- can you translate what he said?
A He's thinking that that's the area where -- where when the water rises they put a bridge across so people can walk back and forth.
Q Across from where to where?
THE INTERPRETER: From one rock to another.
Q And why would people cross over?
THE INTERPRETER: Because of the high water.

Q No, no. Okay, where would people be going to?
A Oh, he's saying that you would cross the bridge to go fishing.
Q Okay, I'd like to have that marked as the next exhibit and I note the objection of the Crown.

EXHIBIT 10 - Photograph, Provincial Archives Of British Columbia catalogue number 15534 negative number A-6063

EXAMINATION IN CHIEF BY MR. GRANT CONTINUING:
Q Now, you've described that those, what appear to be poles crossing the center of the exhibit you believe are a bride for high water. What side of the canyon was that bridge on, the highway side or the far side?
(Interpreter speaks to Witness)
MR. MILNE: This is again assuming that it's in Moricetown I take it?
A He's indicated it's on the side of the highway.
MR. GRANT:
Q Okay. And whose fishing site did that bridge go to that you were talking about?
A Okay, the area where the foot bridge went to belonged to Louie Tommy.
(Interpreter speaks to Witness)
A Old Bill, Bilna.
Q What Was that last --
A Old Bill who is also known as Bilna or Madeek.
MR. GRANT: For the record, in Exhibit 10 there are pictures in the dark of a couple of people. But given the Witness's difficulty in seeing the detail of the photograph, I'm not going to put those questions to him about those persons.
Q I'm going to show you another photograph. Now this -- the copy that I have is labelled Provincial Archives, again in the custody of the Defendants, number 88690-E-8384. Unlike the other photographs, this photograph has been mounted on cardboard with the label on the left-hand side. I have covered over the label so that neither the Interpreter nor the Witness will be able to refer to the label at this time. I'm showing it to my friend so he is satisfied that I have done that.
MR. MILNE: Fine.
MR. GRANT:
Q And I WOUld ask if you can recognize the building or buildings in that picture and if so where they were?
A He said that it's a smokehouse in Moricetown.
Q Yes?

THE INTERPRETER: He's indicating a road --
Q Along the bottom of the photograph?
THE INTERPRETER: -- along the bottom of the photograph.
(Further response by Witness to Interpreter)
A Okay, he's recognized that this is a smokehouse in Moricetown. He said that's a road and this is a place where your dried salmon would be stored and in Wet'suwet'en it's referred to as tsa kan.
Q Okay, for the record the larger building on the right is the one he indicated as the smokehouse?
THE INTERPRETER: Yes.
Q The smaller building that appears to be on stilts he indicated was a place where you dried salmon?
THE INTERPRETER: Yes.
Q And he indicated something on -- going from the right, the bottom right-hand corner up towards the middle ground towards the building in the background on the far left-hand side as a road?
THE INTERPRETER: Yes.
MR. GRANT: Okay. If that could be marked as an exhibit.

EXHIBIT 11 - Photograph, Provincial Archives number 88690-E-8384

MR. GRANT: I'd like you to -- I'm just going to hold up the photograph which is now marked as Exhibit 11 to show on the record for the video that it's covered over as I indicated, in case it's not clear in the wording.
Q I'd like to ask you, just to clarify, the building on stilts is that where the salmon is dried or where dried salmon is stored?
THE INTERPRETER: He said that's where dried salmon was stored.
Q Okay, that's the answer the Witness gave?
THE INTERPRETER: That's the aNswer the Witness gave.
Q All right, thank you. Do you know whose smokehouse that was?
A Okay, he's indicated that this is Wah Tah Keght's smokehouse and the building behind belongs to -- what did he say?
MR. GRANT: For the record the building you're referring to as Wah Tah Keght's smokehouse is the large building in the right foreground of Exhibit 11. Okay, go ahead, and then he gave an answer as to whose building it was behind?
THE INTERPRETER: Yeah.
(Interpreter speaks to Witness)
A Okay. The -- the smokehOuse in the photograph belonged to Wah Tai Keght and he said there was another one behind this

one which belonged to Wah Tah Kwets and then he said that this is where the dried salmon was stored.
Q Okay, and so you're indicating that the larger building in the foreground was Wah Tah --
THE INTERPRETER: Wah Tah Keght's.
MR. GRANT:
Q Wah Tah Keght for the record and that the -- that behind that there was another smokehouse that belonged to Wah Tah Kwets?
THE INTERPRETER: Yeah.
MR. GRANT:
Q Which may or may not be the one that's visible from behind, he doesn't know?
Do you want me to keep this covered as it is?
MR. MILNE: I think we should.
MR. GRANT: What I'll do is I've used a clip as I may end up stapling it. We're referring just to the covering we've put on the exhibit. Now, for the record any copies that are made probably won't be mounted in that way.
Q Do you recall speaking to a woman named Ruth Murdoch who was an archeology student about the location of smoke-houses in Moricetown?
A Yes, I took her down there.
Q Okay. And you pointed out where the smokehouses had been in the earlier days at Moricetown Canyon?
A Yes. And she had written down all their names.
Q I see. The names of the owners?
THE INTERPRETER: The names of the owners.
Q Okay. I'd like to ask you about your father's territory now for a few moments. Can you describe where Smogelgem's territory is and describe for example a starting point of a mountain cr a lake along the border of Smogelgem's ter-ritory?
A He's asking if it's the North Bulkley area.
Q Yes, I'm referring to the North Bulkley area?
I'd like to just go off the record for a moment and ask my friend something, a question.

(OFF THE RECORD DISCUSSION)

(PROCEEDINGS ADJOURNED AT 11:15 a.m.)

(PROCEEDINGS RECONVENED AT 11:30 a.m.)

MR. GRANT: Just for the record it's now 11:30. We took a bit longer break because the Witness wanted to have a bit of a rest and Counsel and everybody else agreed that that was

reasonable and we're going to try to proceed on for a little longer today. Now, before the break I asked you to describe your father's territory. Now, you indicated in an earlier examination that you hunted -- that you trapped with your father on Smogelgem's territory in the North Bulkley, is that right?

A Yes.

Q Now, I Understand from your evidence earlier that your father's territory was around the North Bulkley and this is near Perow which is on Highway 16, is that right?

A Yes.

Q Okay. Now, there's a mountain known as China Nose Mountain. What is the name of that mountain in Wet'suwet'en?

A Okay, the Indian name, the Wet'suwet'en name for China Nose is tsez zul, tsez zul.

Q Is that mountain on the boundary of your father's, of Smogelgem's hunting territory?

A Okay. The China Nose Mountain is the corner marker for his territory.

Q And would that be the south-east corner of his boundary, approximately?

THE INTERPRETER: South-east.

Q WOUld it be On the Smithers Or the Burns Lake side Of his boundary?

A It's on the Burns Lake side, east side.

Q Okay, and is it on the -- the -- okay. Now, can you describe other points on your father's territory which are that eastern boundary? Where would the boundary go from tsez zul if you were describing the eastern side? (Interpreter speaks to Witness, Witness responds, no English response)

Q Do you want to translate that answer before we go further?

A Okay. From -- I've just done a rough sketch. Okay, China Nose is located here and then it runs in this direction.

Q Okay. That -- are we talking about running north?

THE INTERPRETER: Running north. Or --

Q Okay, runs north from China Nose.

THE INTERPRETER: He mentioned north.

Q Okay, runs north from China Nose?

THE INTERPRETER: And then down to Wilson Lake.

Q And is that going west or east?

A It's in south side.

Q Wilson Lake is on the south side?

THE INTERPRETER: South of China Nose and then it goes back up to China Nose.

Q Okay. Now, whose territory is on the east side of Smogelgem's?

A Okay, on the Babine side of the territory the person who owns that territory is Kas baine.
(Further response by Witness to Interpreter)
A Okay, and the road passes through Perow on Highway 16 and then according to this the north end would belong to Mabel Sam Critch.
Q All right. Okay, now -- just a second now. Babine -- is Babine Lake and the Babine people to the north of Smogelgem's territory?
A Okay, it would be opposite the side of the Babine, the direction that goes to Babine.
Q The direction of what that goes to Babine, the road?
THE INTERPRETER: The territory. That belongs to Mabel Sam Critch.
Q Would Mabel Sam's territory be on the Burns Lake side of Smogelgem's territory or on the Babine Lake side of the territory?
A On the side of Burns Lake.
Q Okay. Now, and I understand that just to be clear Kas baine's territory is on the Babine -- towards the Babine from Smogelgem's territory, on the Babine side of Smogelgem's territory?
A Yes.
Q Okay. Do you know who holds that name now?
A He says it is somebody like myself who holds that name and he can't remember.
Q Okay. If he cannot -- if you cannot remember that's all right, don't worry.
(Interpreter speaks to Witness)
Q I don't want you to guess. Now, whose territory is on the Smithers side of Smogelgem's territory?
Okay, he's trying to -- he knows she's somehow related to Mary Joseph of Smithers but he can't remember the name.
Q Okay. Do you know Mary Joseph's name, feast name?
A Okay, he -- he remembers the daughter's name which is Skokumwaha.
Q Okay. Now, do you know who holds the territory to the south of Smogelgem's territory?
A Okay, to the -- above the area Where he had mentioned Mary Joseph's name that territory belongs to Namox and that is where a mine is situated which had belonged to one of my grandfathers.
Q Do you know the name of that? Oh, I'm sorry was that mine a mine that the Indian people ran or that the white people ran?
A It is fun by the white people and the mine is situated within the territory of Namox.

Q Do you know the name of that mine?
A I -- I don't know the name of the mine.
Q Is this mine still operating?
A Yes, it is still operating.
Q Is this a mine that is near Sam Goosley Lake?
A Yes, it is near Sam Goosley Lake and that territory belong to Namox.
Q Is Namox the Chief's -- is that the feast name or is that the name and if it isn't, what is his feast name?
A Yes, that is the feast name.
Q Okay, who holds that name right now?
A Okay, the person who holds Namox is the wife of Sylvester William who lives in Two Mile.
Q That's Two Mile near Hazelton?
A (In English) Two Mile.
Q Oh, Two Mile in Moricetown?
THE INTERPRETER: Two Mile in Moricetown.
MR. GRANT: Okay. We'll take just a few moments, we'll go off the record so that the tape can be changed.

(PROCEEDINGS ADJOURNED AT 11:45 a.m.)

(PROCEEDINGS RECONVENED AT 11:54 a.m.)

EXAMINATION IN CHIEF BY MR. GRANT CONTINUING:
Q Did you travel throughout Smogelgem's territory with your father?
A Yes. I travelled with him when I was small.
Q Do you recall taking Richard Overstall out to see that territory and show him the landmarks of Smogelgem's territory before a trap line case that was heard in Smithers?
A Yes.
Q And did you see a map that he -- did he show you a map that he made of those, of the boundaries of that territory yes, I saw it.
Q After your father died who took over Smogelgem's territory
A Okay, he had told me that I look after the territory and stayed there most of the time.
Q Did you take care of it as a yinanlay or caretaker?
A Okay, I looked after it and it became mine.
Q Okay. Is -- is -- is there such a concept in Wet'suwet'en society of a caretaker of the land?
A Okay, the children of the Chief are entitled to the land and they end up looking after it and people from the -- other people from the clan with permission are able to hunt on the territory, hunt and trap on the territory.
Q Okay. Did somebody become Smogelgem right after your

father died?
A Yes. His brother whose name was McKenzie became Smogelgem.
Q Was that your father's brother?
A Yes. He was the older brother of my father.
Q Okay. Did you help your Uncle McKenzie pay for the feast for your father's death?
A Yes, I did pay for my father's burial. I had hunted and trapped and the money we got from the furs I gave to my father and my father put it aside and he said that was what would be used to pay for his expenses and he said no you're talking, now I'm talking.
Q And is this one of the reasons why you became the care-taker of your father's territory?
A The gravestones that are on his grave I had ordered them.
(Further response by Witness to Interpreter)
A Mr. Loring the Indian agent helped me with the inscriptions on the headstone. He helped me order the headstone.
(Further response by Witness to Interpreter)
A And no one else had helped me. The expenses were paid just from my money.
(Further response by Witness to Interpreter)
A Okay. Since no one had helped me to pay for the expenses the land became mine according to the -- to our old laws.
(Further response by Witness to Interpreter)
A And all McKenzie did was speak for me. It did not cost him anything, he was much too old.
Q Was McKenzie sick at that time?
A He was not sick, he was just too old and he didn't know how to handle money.
Q Okay, about how old was he?
A It was a long time ago, I can't remember his age.
Q Okay?
A When my father had died they had figured his age out at the age of forty-five years in 1908.
Q Who was forty-five years, your father or McKenzie?
A My father at age forty-five.
Q I see. Did he die of an illness, of a flu or a disease?
A Yes. He had a sickness and that's what he died from.
Q Okay. And when did he die?
A He died in 1908.
Q Okay. So you were just a child when he died?
A Yes. I was a young man, I was strong, I worked with horses and that's when the territory was given to me.
Q Okay. And how long did McKenzie hold the name Smogelgem?
A He didn't keep it very long because of his old age.
Q And who took the name after him?
A Abraham Nikal received the name.

Q Was that at McKenzie's death?
A Yes, after he died.
(Further response by Witness to Interpreter)
A And people had said that he should take the name and that's why it was given to him.
Q Okay. And how long did Abraham Nikal hold the name?
A He kept it for some time, about ten years.
Q Okay, and who received the name next?
A Okay. After Abraham's death there was some dispute as to who should take the name and Leonard George finally took the name.
Q Did Mary George, Leonard George's mother ever hold the name Smogelgem?
A She did not have the name. It was her son Leonard George.
Q Did Leonard George get the name at Abraham Nikal's death?
A Yes, after he died.
Q Okay, and do you recall when Abraham Nikal died?
A I know when he died but I can't remember the exact date and he had a house just across from this house.
Q Did Abraham die in Moricetown and is he buried in Moricetown?
A Okay, he died at the Hazelton Hospital and he's buried at the Moricetown cemetery.
Q And did your father -- is your father buried at Moricetown?
A No, he's buried in Hagwilget.
Q Okay. Okay, now I just want to be clear. You said that Leonard George took Smogelgem after Abraham Nikal died. Was it at the time of Abraham Nikal's funeral feast, that is immediately after his death?
A He did not take the name immediately after the death of Smogelgem. It was sometime after.
Q Do you recall approximately how many years later?
A Can't remember. One or two years.
Q While you were taking care of the land after McKenzie got Smogelgem's name, did he come on the land, that is did McKenzie come on the land?
A Yes, he was on the land. I was with him, I showed him where the territory was and I also trapped for him.
Q Did you take care of McKenzie and provide him with food?
A Yes, I did look after him. I provided food for him as well as looked after the horses that he had.
Q Did Thomas and Mary George help McKenzie when he had a feast -- when he had feasts as Smogelgem?
A Yes, they did help McKenzie at the feasts but not as much as I helped him because he was my father's brother.
Q Is there a name for that relationship between you and the people -- your father's relations --

(Interpreter speaks to Witness)
Q -- in Wet'suwet'en?
A He said that he described the relationship that he had with his father's brother and he's finding it difficult now.
Q Okay, he -- to remember the word do you mean? Is there a name for that relationship, not just between he and McKenzie but between a Wet'suwet'en person and his father's side?
A I think I'm having difficulties --
Q Okay?
A - trying to Word it properly,what you're saying,what you're asking
Q Okay, I'd like to ask you Johnny are you getting tired now? I can see that you're having -- you seem to be having a harder time answering the questions. Are you getting a bit too tired to answer more questions now?
A Okay, he wants to finish this section.
Q Okay, good. That's a good idea. Now, when your Uncle McKenzie died did Thomas George come and talk to you about -- and help you and did you help put up money for McKenzie's feast?
A Okay, when McKenzie died one of Thomas George's relatives came to me by car and told me about the death. Then I also got in the car and went.
Q Um-hmm. where did McKenzie die and where was he buried?
A He is buried next to my father in Hagwilget.
(Further response by Witness to Interpreter)
A And he died right in Hagwilget.
Q Who -- how was Thomas George or Mary George related to your father and McKenzie?
A Mary's George was my father's second sister.
Q Was Mary your father's second sister or your father's second sister's daughter?
THE INTERPRETER: Say that again?
Q I just want to be clear. Was Mary George your father's second sister or your father's second sister's daughter?
A Okay, Mary George's mother was my father's sister.
A Okay, before my father died he had told me to look after the territory since you are the only one that has helped me in looking after me.
Q Okay. Did he announce that at a feast?
A He did not announce it at a feast. He had told me in front of Mabel Sam Critch's mother.
Q Did McKenzie know that's what your father wanted?
A Yes, he knew and their words are the same.

Q Okay. an other words McKenzie agreed with your father?
MR. MILNE: Um -- um --
MR. GRANT:
Q Did McKenzie agree with your father?
MR. MILNE: Objection. How can this Witness know whether McKenzie agreed with or not with his father?
MR. GRANT: If he doesn't know -- if he doesn't know the answer he can say he doesn't know.
MR. MILNE: Objection just made for the record.
THE INTERPRETER: Can you repeat the question please?
(Court reporter reads back last question)
(Interpreter repeats question to Witness)
A Yes. Yes, it Was okay with McKenzie and his father or my father in his words were like one and he agreed to it because I had helped him a lot while he was living.
MR. GRANT:
Q Okay. Just to clarify, you -- he -- do you know -- did he tell you that he agreed with this at some stage?
A Yes.
(Further response by Witness to Interpreter)
A Okay, he agreed and told me before he died that I want you to look after the territory.
MR. MILNE: That's an objection again to that, it's hearsay for the record.
MR. GRANT:
Q Did this happen at the time -- when you say he told me before he died, was this near the time of his death or a long time before?
A He told me -- he told me before, before he died he was getting old and he was dying so I stayed with him and that is when he told me.
Q Okay. Did Abraham Nikal agree with you being the caretaker--
(Interpreter speaks to Witness)
Q -- of Smogelgem's territory?
A Yes, he knew and he also trapped on the land.
Q Okay, and he agreed, did he agree?
A Yes, it was okay with him. Since I was living right he agreed that this arrangement should continue.
Q Okay. This concept of taking care of the land for another Chief, do you know of other examples where Wet'suwet'en people have been the caretakers of the land for another Chief?
A Yes, There are many examples.
Q I'd like -- do you know of a situation at Morice Lake where there was a caretaker or yinanlay?
A He wants to know who?
Q I'm referring to a situation with Jimmy Antoine and Frank

Jimmy?
A Okay, Jimmy Antoine's father had some land near Burns Lake and when Jimmy Antoine had died Frank Jimmy was the caretaker for Jimmy Antoine's father's land.
Q And what was the relation of Frank Jimmy to Jimmy Antoine?
A Jimmy -- Jimmy Antoine was Frank Jimmy's father.
Q Okay. Is this the Frank Jimmy who is alive today and lives in Smithers?
A Yes, he lives in Smithers.
Q Is he still considered the caretaker of that land or has someone else taken it over?
A Yes, he is still looking after the land, it hasn't been handed over to anyone else.
Q Does Leonard George and his family have the right to -- can they go and hunt on Smogelgem's territory now, on the territory that you're caretaker of?
A Okay. When my son was alive he had -- he did trapping on the territory.
Q Who's he?
A Moses David.
Q Okay?
A Okay, half of the money he got from the furs he had given that to me and Peter David would do the same.
MR. GRANT: Okay. Okay, how are you felling now, because we are finished that area and I'm prepared to go into another area if you want or if you are too tired we can adjourn.
A Okay, he's tired now.
MR. GRANT: Okay. Just for the record, before we go off the record, I asked that question at the end because I observed him, some of the -- I observed some -- that he was tired and another person indicated to me that maybe he was getting tired by the way his answers were coming, was slower. So we'll adjourn it over to the 27th or the 29th of January for continuation.

(PROCEEDINGS ADJOURNED AT 12:32 p.m. UNTIL JANUARY 1986)

I hereby certify the foregoing is a true and accurate transcript of the proceedings herein, to the best of my skill and ability:

Linda Malinowski
Official Court Reporter