

1 WALTER BLACKWATER, Sworn:

2
3
4
5 MR. MACKENZIE: Mr. Blackwater, my name is Mackenzie, and I act
6 for the Provincial Government, and I would like to ask
7 you some questions today.

8 Before I ask Mr. Blackwater questions, I have three
9 preliminary matters that I want to bring to Mr.
10 Grant's attention on the record. I just wanted to
11 record, Mr. Grant, that we have requested from you
12 plaintiffs' document 5594, which is an audio tape of
13 Mr. Sterritt's interview with Walter Blackwater. And
14 I understand that the requests were made in December,
15 on July 8th, 1988 and on August 24, 1988. I
16 understand that your position is that that document is
17 privileged, and I just wanted to record our position
18 that if that material is being relied upon by Mr.
19 Sterritt in preparing his report and preparing for his
20 evidence, then it's our view that it cannot be
21 privileged.

22 MR. GRANT: Did you receive a response from Mr. Rush with
23 respect to this request?

24 MR. MACKENZIE: No, we haven't.

25 MR. GRANT: Okay. Well, I'll put on the record the situation
26 that occurred. I received your letter of August 24th,
27 which refers to this request of July 8th, 1988 and
28 also referred to other documents referred to in the
29 interrogatory of David Blackwater and William
30 Blackwater. By letter of August 26th, 1988 I
31 delivered a response relating to all of those other
32 requests, and I stated -- and I quote from my letter
33 to Mr. Plant:

34
35 "I apologize for the delay in responding to
36 your letter of May 16th, 1988 regarding the
37 interrogatory of David Blackwater and
38 William Blackwater.
39 I had understood that this matter was being
40 dealt with by one of the other lawyers."

41
42 Meaning one of the other lawyers of the plaintiff.

43
44 "And it was not until the most recent
45 letter of Thora Sigurdson of August 24th
46 that I realized that this matter had not
47 been dealt with subsequent to your letter

of June 8th."

I then go on to inform with respect to the documents 4
relating to the interrogatories.

I'll state for the record that with respect to
document 5594, upon receipt of the August 24th letter
I requested a copy of that audio tape so that could be
reviewed by myself once again, and determine whether
it is subject to a claim for privilege -- or review
the position of whether it's subject to a claim for
privilege. I determined at that time on August 24th
or 25th -- no, it would have been the 25th or the
26th. The letter was FAXed to me on the 24th -- that
that tape was in Vancouver at our library resource
centre in Vancouver. I then left instructions for
that tape to be forwarded directly to Mr. Rush's
office, for Mr. Rush or Mr. Adams to review it.

With respect to my letter of August 26th which I
FAXed Mr. Plant in response to Thora Sigurdson's
letter of August 24th, I received no other -- no
follow-up response until this morning. Although I
have been in these cross-examinations continuously
since Monday, I think that's August 29th with counsel
for the Province, including Mr. Mackenzie, Ms.
Sigurdson and Mr. Goldie at different times, none of
the counsel for the Province has referred again to the
audio tape 5594. I was therefore under the impression
until just this moment that the tape had been
delivered to Mr. Rush's office. Because of my
schedule on these cross-examinations, I have not had
an opportunity to speak with Mr. Rush about each and
every sundry matter arising in the case this week. I
had assumed that the tape had been delivered to his
office, that he or Mr. Adams had reviewed the tape and
that a copy of the tape had been delivered, that the
claim for privilege had been determined to be waived.
So I -- this takes me much by surprise.

I just want to say for the record that last night at
six o'clock or thereabouts when we finished Mr.
Morrison's cross-examination, we did discuss our
revised schedule. Counsel for the Province and Canada
indicated they needed this morning to prepare, if we
were going to do Walter Blackwater this afternoon, and
if I had been informed last night about this audio
tape, I would have been able, between last night and
now, two o'clock this afternoon, to contact Mr. Rush's
office and determine what had happened.

S. Morrison (for Plaintiffs)
Proceedings

1 So I understand from what you're saying -- I don't
2 have all the correspondence, but I am operating on the
3 assumption, from what you're saying, that on the basis
4 of the initial request, document 5594, privilege was
5 claimed. I understood from the August 24th letter
6 that this request is repeated, and that we respect
7 that repetition of the request and we were reviewing
8 that. It was not possible for me, after receipt of
9 the August 24th letter, to get my hands on the audio
10 tape to review it myself. I arranged for other
11 counsel to do it.

12 I was under no impression until right now that
13 that -- what I had anticipated had happened had not
14 occurred. I have not had a chance to review the
15 copies of correspondence to Mr. Rush's office, to the
16 Provincial defendants that have been delivered to my
17 office this week. I have been operating on the
18 assumption that that matter had been attended to.

19 So at this point I am not in a position to either
20 waive privilege or advise you. But I want all of this
21 set out on the record, because, you know, it would
22 make things -- I had -- I had all morning to contact
23 Mr. Rush if I had known that there was any problem
24 about this.

25 MR. MACKENZIE: Well, perhaps when we have a break you might be
26 kind enough to check with Vancouver, and maybe the
27 problem can be resolved that way.

28 MR. GRANT: Well, I just would like you to -- have you checked
29 with your office as to whether this matter has been
30 delivered as of today?

31 MR. MACKENZIE: I understand we have, yes.

32 The other point I wanted to raise you already
33 mentioned, and you did respond to our letter of May 16
34 relating to question 63 on the interrogatories of
35 David Blackwater and William Blackwater. And in your
36 letter of August 26th to which you referred, you
37 attached the letter dated January 1908. There is a
38 reference in the interrogatories, number 63, to feast
39 books, and you advised us that they cannot be located
40 and they are not available.

41 MR. GRANT: That's conjunctive "and". They are not available
42 because they cannot be located.

43 MR. MACKENZIE: Yes. I just confirm that that was interrogatory
44 number 63 and interrogatories of William Blackwater
45 and David Blackwater. I just have a copy of that
46 interrogatory relating to those two matters. I am
47 handing to Mr. Grant, and I am going to ask if he has

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1 any objections to me filing the affidavit of David
2 Blackwater with -- dated January 29, 1987 with
3 interrogatory 62 and 63, and interrogatory -- the
4 affidavit of William Blackwater dated February 15,
5 1987, the interrogatory 62 and 63.
6 MR. GRANT: As I indicated before we went on the record, to
7 avoid a whole bunch of time, delays and everything
8 else, I had indicated already during these
9 cross-examinations that I object to having these
10 cross-examinations being used to file exhibits which
11 are not being directed to the witness. Mr.
12 Blackwater -- as I indicated, Mr. Blackwater has been
13 attending while we have been going through this
14 discussion, has had to take time off of work, and we
15 are here to have his cross-examination completed. Of
16 course ultimately you will be able to rely on the
17 rules as to whether these documents, any other
18 documents can be filed as exhibits at the trial.
19 That's not what we are here for.
20 MR. MACKENZIE: Thank you.
21
22 CROSS EXAMINATION BY MR. MACKENZIE:
23
24 Q Mr. Blackwater, I am handing to you a photocopy of a
25 letter dated January, 1908.
26 MR. GRANT: I think it's January 7th.
27 MR. MACKENZIE:
28 Q January 7th, 1908. Is that a copy of a letter which
29 you have in your possession?
30 A Bill's got one copy like this.
31 Q Is that Bill Blackwater?
32 A Yes.
33 Q Is that your brother William Blackwater?
34 A Yes. Yes, that's my brother.
35 Q Now, William Blackwater answered some interrogatories
36 on February 15, 1987. Were you aware of that?
37 A He didn't tell me about it.
38 Q Does your chief -- you are chief in the House of
39 Niist, aren't you?
40 A Yes.
41 Q And does your House rely on this letter I have before
42 you as proof of your ownership of your territories?
43 MR. GRANT: Just a moment. Just don't translate that for a
44 second. Number 62. You asked if that letter is
45 relied on by his House as proof of ownership, but your
46 question 62, the question which David Blackwater was
47 asked, was does your House possess any documentary

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1 evidence of ownership of this territory. And I think
2 that given this witness may or may not have seen this,
3 that you should -- and the answer was that there are
4 documents, and this was a document of evidence of
5 ownership of the territory. I think you should frame
6 it up in that way, as you did with Mr. -- as did you
7 with David Blackwater.

8 MR. MACKENZIE:

9 Q Is this letter in front of you documentary evidence of
10 your House's ownership of your territory?

11 A Yes.

12 MR. MACKENZIE: I would request that that letter be marked as
13 the first exhibit. And I'll describe that letter.
14 It's a letter apparently from Mr. Loring, the Indian
15 Agent, to whom it may concern, dated January 7, 1908.

16
17 (EXHIBIT NO. 1 - LETTER DATED JANUARY 7,
18 1908 FROM MR. LORING - INDIAN AGENT)
19

20 MR. GRANT: I have no objection.

21 MR. MACKENZIE:

22 Q Did your House also have feast books which were
23 documentary evidence of ownership of your territory?

24 A No.

25 Q Your brother David Blackwater said that the House has
26 feast books which are documentary evidence of
27 ownership of the territory. Do you know whether David
28 has those books?

29 A What -- I don't know if David has this, but I think
30 you are talking about what my mother used to have.
31 Every time we would have a feast she would put this in
32 her trunk, or they call it An Luu Toost in our
33 language. She would put these things, and after my
34 mother died, then I never seen these any more. I
35 haven't seen them. I never asked anybody. Maybe they
36 are still around. I don't know. And it's not only
37 Niist that does that, it's the whole -- the different
38 Houses that keep these records. And these records in
39 our language are known as Hanii Hawal.

40 Q When did your mother die?

41 A It's about 15 years ago. I'm not sure. I forgotten
42 how long it was.

43 Q Do you know where the trunk is in which your mother
44 kept those feast books?

45 A It's still there. There is four trunks there that we
46 have never opened, and the only person that goes in
47 there once in awhile is my sister Charlotte, and she

1 never mentions anything to me.

2 Q Can you tell me where that trunk is, where those four
3 trunks are?

4 A In her own house in Kispiox.

5 Q Is Charlotte your sister?

6 A Yes, that's what he said, my sister Charlotte.

7 Q And what is Charlotte's name now?

8 A McCarthy.

9 Q You haven't seen the feast books since your mother
10 died, is that correct?

11 A No, I haven't.

12 Q Do you know if David has seen the feast books since
13 your mother died?

14 A No.

15 Q Do you know if William or Bill has seen the feast
16 books since your mother died?

17 A No.

18 Q Has Charlotte ever told you what are the contents of
19 the trunks?

20 A I don't know if she did or not, but she is the only
21 one that goes into that house.

22 Q Whose house is that?

23 A It's my mother's own house. It's empty now. There is
24 nobody living in there.

25 Q Did you see your mother put the feast books in the
26 trunks?

27 A Yes.

28 Q I think these are important documents for your
29 territories. I must ask you to search the trunks and
30 provide the feast books, if they are in there, to your
31 counsel.

32 MR. GRANT: He doesn't have to answer anything. That's not a
33 question. It's just a request to -- I will
34 investigate this.

35

36 (ADDITIONAL INFORMATION REQUESTED)

37

38 THE WITNESS: I will go ask my sister Charlotte about these
39 papers, and I will ask her to open the house, and we
40 will look for it. The only thing it contains, it
41 contains the expenses of the feast. That's what it
42 used to have on it. There was no mention of our
43 territory on those papers. It is just the expenses
44 that were spent during the feast, and no mention of
45 our territory.

46 MR. MACKENZIE:

47 Q Are those records kept in the Gitksan language or the

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1 English language?

2 MR. GRANT: Well, if they are numbers, it will be debatable. It
3 may be in either language. Numbers are in
4 international, unless one goes to the Far East.

5 MR. MACKENZIE:

6 Q Or in either language.

7 A English.

8 Q You spoke about asking your sister. Is there a reason
9 in your family why you cannot look in those trunks?

10 A One of the reasons for this is that when my mother
11 first passed on Charlotte was in charge of the
12 material things, the clothing and the things that were
13 left behind by my mother. She knew where everything
14 was, and she took these things out of the house to use
15 as payments in the Feast House, and she knows where
16 she took it from and where the other things are. I do
17 go in that House, but I don't touch anything in there.
18 It's up to Charlotte, because she was in charge of
19 that.

20 Q Why did your mother keep those feast books?

21 A The reason for this is they would -- they will keep
22 track of the expenses of each person throughout the
23 feasts, and they will know who is always working hard
24 and who is always giving in donations for expenses.

25 When it's time for a certain House to pick out
26 people for the Indian names -- this goes way back in
27 the ancient times. When it's time for a certain House
28 to pick out persons for -- to get a chief's name, then
29 what they do is they know whose always working in the
30 Feast House, who knows what is going on. They look
31 through these books and they see how much they have
32 worked, how many expense they have put out, and then
33 they will -- they have a meeting and they make up
34 their minds who is going to get the name.

35 In the ancient times they did not write anything
36 down. It has just been recently that they've done
37 this. In the very ancient times what they did was
38 they would -- the chiefs would talk and they would
39 just put all the -- pay the expenses. That's their --
40 and the chiefs would all have a meeting together.
41 They have certain seating places for different chiefs,
42 and nobody is supposed to touch these seating places
43 except that certain chief. And where Niist used to
44 sit was in the centre. That's where Niist used to sit
45 in. Now they use the tables today, and this is why
46 Niist is sitting at the end of the table. And Niist
47 sits at the end of the table on the right side past

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1 Baskyelaxhaa.
2 MR. GRANT: Just to clarify the record, that was on the right
3 side of Niist?
4 THE WITNESS: Uh-huh.
5 MR. MACKENZIE:
6 Q Who sits on Niist's left side?
7 MR. GRANT: Today?
8 MR. MACKENZIE:
9 Q Yes.
10 A Gaiyimlaxhaa. It was Charles Stevens before. It is
11 Wallace Johnson today.
12 Q And Baskyelaxhaa is your brother, William Blackwater?
13 A Yes.
14 Q Speaking about the feast books, when did your House
15 members start keeping those books?
16 A It's not too long ago. I think she started looking
17 after these books when my grandmother died.
18 Q What was your grandmother's name?
19 A Esther Stevens.
20 Q When did your grandmother die?
21 A That's a long time ago. That Niist building, I really
22 like it. If you go to Kispiox now, there is a big
23 building. As you go in there, there is a big building
24 on the hill there. That is her house, and it's
25 falling down now.
26 Q She died in the 1940's?
27 A Maybe. I don't know.
28 Q Did your grandmother Esther keep written feast books
29 as well?
30 A This is what I said before, that there was nothing
31 written down before.
32 Q So your mother was the first person to start writing
33 these things down?
34 A Yes, they started writing about that time.
35 Q In addition to this letter, are there any other
36 documents that -- which are evidence of ownership of
37 your territories?
38 MR. GRANT: Of the Niist territories?
39 MR. MACKENZIE:
40 Q Of the Niist territories.
41 A I'll name a white man that used to have this copy was
42 Tom Sampson, and I don't even know where it is today.
43 Q Does the House of Niist have any other documents?
44 A I told you that its just been recently that things
45 were written down. In the olden days what they used
46 to do is they used to tell everything in the Feast
47 House, and now that's what happened. They mention

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1 everything in the Feast House, and they didn't write
2 it down. It's just been recently that these things
3 are written down.
4 Q Thank you. And what -- why does Tom Sampson perhaps
5 have a copy of this letter?
6 A No, it's not -- it has nothing to do -- it's another
7 one that the Indian Department made out that Tom
8 Sampson had.
9 Q And who was Tom Sampson?
10 A Gibeumget from Kispiox.
11 Q And he was a member of the House of Niist?
12 THE INTERPRETER: Excuse me, I want to clear something up. I
13 have made a mistake.
14 MR. GRANT: Can you just go off the record.
15 THE INTERPRETER: I think I mentioned a --
16 MR. MACKENZIE: Well --
17 MR. GRANT: No. No, but I just want to -- I don't mind if she
18 repeats it on the record.
19 THE INTERPRETER: It's just to clarify I made a mistake. I said
20 white man named Thomas Sampson.
21 MR. MACKENZIE: Who made the mistake? You?
22 THE INTERPRETER: I did. And what he meant is the white man made
23 these papers and Tom Sampson had one. That's all I
24 wanted to clear up.
25
26 (OFF THE RECORD)
27
28 MR. MACKENZIE: Thank you, Alice -- Mrs. Sampson. That's the
29 reason why I asked those questions. So thanks for
30 mentioning that.
31 (OFF THE RECORD)
32 MR. MACKENZIE: That was actually one of the three items,
33 preliminary items that I had before I asked those
34 questions.
35 MR. GRANT: What, the last series of questions or the water?
36 MR. MACKENZIE: That's right. The third subject I wanted to
37 record is that on May 18, 1988 we delivered to the
38 counsel for the plaintiffs a Notice to Admit relating
39 to a proposed testimony of David Blackwater, and that
40 Notice to Admit had 60 documents attached to it, or
41 copies of 60 documents. I understand that the counsel
42 for the plaintiffs have declined to admit any of those
43 documents. On August 17 Ms. Sigurdson requested
44 reconsideration of that plaintiffs' response, and we
45 have had no response to date. I wonder if Mr. Grant
46 might have had an opportunity to consider that, and
47 whether any of those documents might now be admitted.

1 MR. GRANT: Do you have the the Notice of Admit, and do you have
2 the August 17th letter?

3 MR. MACKENZIE: Just for Mr. Blackwater's benefit, I have asked
4 Mr. Grant a question, and he's considering that now,
5 and so that's what the procedure is.

6 MR. GRANT: Just to summarize the request so Mr. Blackwater
7 understands it. When it was considered that David
8 Blackwater, your brother, would be a witness, the
9 Province tendered 60 documents to us, and they are
10 asking whether or not we are prepared to admit those
11 documents now. It will just take me a moment to do
12 this.

13 (OFF THE RECORD)

14 MR. GRANT: This, I hope, doesn't continue on these
15 cross-examinations. As I said earlier, we agreed last
16 night to start at 1:00 o'clock, and it was delayed
17 because of the translator's time -- had commitments,
18 and we couldn't have another translator in 'til 1:30.
19 I was in my office all morning this morning. The
20 telephone is a miraculous piece of equipment that can
21 be used. If I had known that this was going to be one
22 of the preliminary matters, once again I could have
23 contacted Mr. Murray Adams or his office to whom the
24 August 17th, 1988 letter was directed, and determined
25 whether he had considered and re-reviewed the May 18th
26 Notice to Admit, in light of the request of Thora
27 Sigurdson.

28 I concede that a copy of this letter was delivered
29 to me. I have been involved in the preparation, as
30 per the schedule of 9 witnesses for this week. To
31 come in at 10 to 3, after an hour and-a-half, when Mr.
32 Blackwater has taken a day off, when everybody knew on
33 Monday morning that Mr. Blackwater was going ahead
34 this week, and that we have all been in the same room,
35 and to say at this stage of the game what is your
36 position on the Notice to Admit relating to 60
37 documents, I am sorry, I can't reply to that. Because
38 once again I was not given any notice in advance. And
39 if this is the way that counsel for the Province feels
40 is the best way to prosecute the case, with great
41 respect, I disagree -- for them to defend the case, it
42 is just crazy, because we are all trying to get
43 through these witnesses.

44 And last night -- if I even had been told there is
45 an August 17th letter from Thora on this May 18th
46 Notice to Admit, would you please let us know your
47 position now or in the morning or when we start in the

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1 afternoon, I could have had a chance to review it.
2 We have several counsel. I am up in the north doing
3 these and residing here. Mr. Adams is involved in
4 this and in other matters. Mr. Rush is involved in
5 this case and other matters, as is counsel for the
6 Province, all counsel for the Province other than, I
7 believe, Mr. Mackenzie, who I believe may be on this
8 case full time. And to sit and then to say, you know,
9 an hour into Mr. Blackwater's cross-examination, what
10 about this Notice to Admit and 60 documents, I think
11 is just absurd, I will say an absurd way to proceed.
12 Because I -- you know, I can't -- you know, I
13 suggest -- I strongly urge that a little bit of
14 conversation off the record, a little bit of a phone
15 call.
16 If this came as a surprise to Mr. Mackenzie last
17 night, he didn't realize he was going to deal with it,
18 I'm sure some time this morning it came to his
19 attention. I was in my office all morning this
20 morning. I could have made a few phone calls,
21 determined what the situation was. I could have spent
22 this morning looking at these documents, if Mr. Adams
23 hadn't already reviewed them once again and considered
24 our position.
25 So I haven't reviewed them. I have had no chance to
26 talk to other counsel about them, that August 17th
27 letter, and I have no response. And I think that -- I
28 urge counsel not to do this any more. It's an entire
29 waste of time. I just think -- I think once in awhile
30 a phone call or a conversation goes a long, long way.
31 MR. MACKENZIE: Well, that completes my preliminary matters.
32 MR. GRANT: I note for the record that that's -- we have been in
33 the examination now for about an hour.
34 MR. MACKENZIE: Yes, moving along very well. Thank you.
35 MR. GRANT: Good.
36 MR. MACKENZIE:
37 Q Now, Mr. Blackwater, I am placing before you a copy of
38 an affidavit dated May 13 or sworn May 13, 1988. Is
39 that your signature on page 17?
40 A Yes, it's my signature.
41 Q That affidavit has been marked as Exhibit 605 in these
42 proceedings. Was that affidavit read to you in the
43 Gitksan language?
44 MR. MACKENZIE: Just on the record, while the interpretation is
45 going on --
46 THE INTERPRETER: What are you saying? Are you trying to say --
47 MR. MACKENZIE: Just recording that there is a conversation --

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1 discussion between Mrs. Sampson and Mr. Blackwater
2 while it's being translated.
3 THE INTERPRETER: I am trying to pronounce what he is saying.
4 A This is a lake that -- there is a creek going the
5 other way and a creek going on this side. Neil is the
6 one that read this to me.
7 Q Did Neil -- is that Neil Sterritt?
8 A Yes, this is Neil.
9 Q And did Neil Sterritt read it to you in the English
10 language?
11 A He used some Gitksan.
12 Q Did he read it to you in Gitksan and in English?
13 A Yes.
14 Q Was the lawyer present when Neil read it to you?
15 A Yes, there was a lawyer there, but it wasn't him.
16 Q You are pointing to Mr. Peter Grant?
17 A Peter.
18 Q And on that occasion when did you sign your name?
19 Maybe he didn't understand the question.
20 THE INTERPRETER: He did understand it, but he said "I am not
21 too sure what date it was."
22 Q I mean on that day, when during the course of the
23 explanation did he sign his name.
24 A Yes, it was after -- it was that day when I signed my
25 name.
26 Q And was it -- you signed your name on that day, but
27 when during that meeting did you sign your name?
28 MR. GRANT: Well, in relation to what? I mean --
29 MR. MACKENZIE: In relation to the meeting with Mr. Sterritt and
30 the lawyer.
31 THE INTERPRETER: Could you say that again please.
32 MR. MACKENZIE: Yes.
33 MR. GRANT: Well -- maybe let him rephrase it.
34 MR. MACKENZIE:
35 Q You say that Neil read the document to you in English
36 and Gitksan. When did you sign the document?
37 A I -- we went over -- we went over this until I was --
38 it was quite clear to me. We kept going over 'til it
39 was quite clear to me, after it was clear to me. And
40 I signed this just before I went home, when everything
41 was clear to me.
42 Q Did Neil have a map there when he was explaining the
43 affidavit to you, to show you on the map?
44 A He had a map, but I never -- I don't even know
45 anything about a map, because I never went to school.
46 I never took schooling.
47 Q When you signed this affidavit you didn't refer to a

1 map at the time?
2 A What I told you, I don't understand the map. Even if
3 you showed me a map now, I won't understand it.
4 Q Do you have any maps at home?
5 MR. GRANT: Of what?
6 MR. MACKENZIE:
7 Q Do you have any maps at all at home?
8 A Even if -- why should I look after a map if I don't
9 understand it? Even if there is a map at home, it
10 would be no use for me.
11 Q Have you ever seen a map of your trapline?
12 MR. GRANT: Registered trapline?
13 MR. MACKENZIE:
14 Q Registered trapline.
15 A There probably is one around, but I don't really use
16 the map. I know where the place is. I know where the
17 lines are. But if you going to use a map, then I'll
18 show you if you want me to -- I'll show you where my
19 territory is, because I know where it is.
20 Q Can you show me where your territory is on a map?
21 A I can't read a map, but if I tell you the names you
22 could use the map yourself. I could tell you the
23 names and then you will know.
24 Q Do you know the English names of some of the creeks
25 and rivers in your territory?
26 A Yes, some of them.
27 Q When you refer to your territory, are you speaking
28 about the territory of the House of Niist?
29 MR. GRANT: Well, you referred to his territory.
30 MS. KOENIGSBERG: That means the same thing --
31 MR. GRANT: Just a moment, Ms. Koenigsberg. You are the one
32 that said "your territory". I think you should define
33 what you mean to him.
34 MR. MACKENZIE:
35 Q When I say your territory, do you understand that to
36 mean the territory of the House of Niist?
37 A Yes, I know that.
38 Q And how many territories does the House of Niist have?
39 A It is a very vast territory, and I know every place
40 and names of the territory, Niist territory. This is
41 one of the reasons I did not attend school. I am not
42 an educated man because I have spent most of my life
43 on this territory.
44 Q Does the House of Niist have more than one separate
45 territory?
46 A The territory I will be talking about is the territory
47 that's in here, on this paper here.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 MR. GRANT: Referring to Exhibit 605.

2 THE WITNESS: And this is the only territory that I know of, the
3 territory that I mention in here.

4 MR. MACKENZIE:

5 Q Referring to the affidavit?

6 A Niist territory.

7 MR. GRANT: Exhibit 605.

8 MR. MACKENZIE:

9 Q Does the House of Niist have territory at Xsi Luu Wit
10 Wiidit?

11 A Yes.

12 Q Does the House of Niist have territory at Maxhla An
13 Tsenden?

14 THE INTERPRETER: I don't think it's spelled right here. How do
15 you say it?

16 MR. STERRITT: Okay. Maxhla An Tsenden is what he says, and also
17 Dam Tsinihl Denden, Xsi Tsinihl Denden is also another
18 way.

19 THE WITNESS: I am going to explain it to you. Okay. This is
20 what he said. There is a lake, and down here on this
21 side there is a creek from the lake that goes into the
22 Skeena, and then on the other side of the lake there
23 is a creek that goes into the Nass River, and the
24 reason why they -- it's called Maxhla Nihl Tsenden is
25 because there is two creeks coming from both ends, and
26 Maxhla means over, and that's one going to the Skeena
27 and one going to the Nass, and that is why it's called
28 Maxhla Nihl Tsenden.

29 Q I understand. Mr. Sterritt and I have been there.
30 And can you translate that to Mr. Blackwater.

31 MR. GRANT: With Mr. Blackwater's brother.

32 MR. MACKENZIE: With David Blackwater.

33 THE INTERPRETER: And David.

34 MR. MACKENZIE:

35 Q Is that territory in the House of Niist?

36 A Yes, it belongs to Niist, but he gave the
37 responsibilities to Gibenumget to look after the
38 territory. Niist has a vast territory here, the two
39 that was mentioned. It's a vast area, but they are
40 different people that hold -- that are responsible for
41 different parts of the territory in the House of
42 Niist.

43 Q And who holds -- sorry.

44 A That territory belongs to our House, Niist House, and
45 if -- whatever you are asking me, if you want to -- if
46 you want to use a map, it's all right for you to use a
47 map, but for me I can't read what's on a map. But I

W. Blackwater (for Plaintiffs)
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1 just know the names of the creeks and the names of --
2 well, where the territory is. I could give you that
3 information.
4 Q Who has the name Gibeumget today?
5 A My younger brother Johnny.
6 Q Does Baskyelaxhaa have a separate House from the House
7 of Niist?
8 A Yes.
9 Q Does Baskyelaxhaa have separate territories from the
10 House of Niist?
11 MR. GRANT: From the territories of Niist?
12 MR. MACKENZIE: Yes.
13 THE WITNESS: Yes.
14 Q Is Maxhla Nihl Tsenden a territory of Baskyelaxhaa?
15 A I think it would be clear if I started telling what
16 happen before time -- before this, about the way
17 Baskyelaxha went, and there will be an understanding
18 if I start telling things that happened with
19 Baskyelaxhaa.
20 Q I would like to hear that, but could he answer that
21 question first before he tells me about Baskyelaxhaa.
22 A This is what he is saying. He would rather tell you
23 first and then answer that question.
24 Q Fine, thank you.
25 A Baskyelaxhaa has a vast territory. I'll start from
26 the Skeena.
27 Q Are you going to tell me the boundaries of
28 Baskyelaxhaa's territory?
29 A If you want to hear, I will tell you, but I was just
30 going to talk about the river.
31 Q Thank you. Yes, I would like to hear that.
32 A There is -- okay. There is a creek that comes from
33 the mountain Bagaiyt Xsiisigit. This creek is known
34 as Xsi Bagaiyt Xsiisigit.
35 MR. GRANT: Number 4 on page 15, paragraph 49 of Exhibit 605.
36 Go ahead Alice.
37 THE WITNESS: And there is another one that goes into the Xsi
38 Txemsem, which is the Nass River.
39 MR. GRANT: Number 2 under rivers and creeks, paragraph 49 on
40 page 15 of Exhibit 605.
41 THE INTERPRETER: The creek that goes down the Xsi Txemsem is
42 Xsi Galliixawit.
43 MR. GRANT: Number 6 under rivers and creeks, paragraph 49,
44 Exhibit 605.
45 MR. MACKENZIE: Yes. Tell him I know that one.
46 MR. GRANT: Let him continue.
47 MR. MACKENZIE: Well, I am telling him I understand what he is

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 saying, Mr. Grant.
2 MR. GRANT: I know what you are telling him. I would like him
3 to be able to finish his answer.
4 MR. MACKENZIE: I would like him to his answer also.
5 MR. GRANT: Just remain silent.
6 MR. MACKENZIE: Excuse me. It is my cross-examination.
7 * A This is Baskyelaxhaa holds this territory. Maxhla
8 Nihl Tsenden*, Baskyelaxhaa has -- this territory is
9 quite vast. I only mention the mountain and the
10 lakes -- the creeks there just to point out that it
11 belongs to Baskyelaxhaa, but it's a vast area. And
12 now I will go to Niist's territory. There is a
13 mountain there that belongs to Baskyelaxhaa also.
14 It's known as Luu Lax Loobit, which I forgot to
15 mention.
16 MR. GRANT: And that's on page seven of the affidavit,
17 paragraph 21, number 7 under rivers and creeks. Is he
18 referring to a mountain? That's a creek.
19 MR. MACKENZIE: That's right.
20 MR. GRANT: So for the purposes of spelling, I think it's all of
21 that reference he made, except for the "xsi" at the
22 beginning.
23 MR. MACKENZIE: Yes.
24 Q Where is Luu Lax Loobit?
25 A It's right close to Maxhla Nihl Tsenden.
26 Q When you are going to the Nass River, which side, the
27 right side or left side of the trail?
28 A There are a lot of trails there. There are a lot of
29 trails. There is one that is known at Xsi Luu
30 Duutswit. That goes up and then down to Maxhla Nihl
31 Tsenden. There are a lot of trails there in -- this
32 is why I said there were a lot of trails.
33 Q When you were standing at the lake at Maxhla Nihl
34 Tsenden facing the Nass, which side is the Luu Lax
35 Loobit on?
36 A It's on my right-hand side.
37 Q So that would be to the north of you, is that correct?
38 A Yes.
39 Q And then you would be facing the northwest to the Nass
40 River, is that correct?
41 A If you stand near that Maxhla Nihl Tsenden there, you
42 you can see that mountain, Luu Lax Loobit. It's a big
43 mountain. And the creek that runs down from there
44 goes towards the Nass.
45 Q And when you are standing there at Maxhla Nihl
46 Tsenden, you are standing in Baskyelaxhaa's territory?
47 A Yes.

W. Blackwater (for Plaintiffs)
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- 1 Q Do you know the English name for Maxhla Nihl Tsenden?
2 A Canyon Lake. And below that is the Canyon Creek.
3 Q The Canyon Creek flows into the Skeena River?
4 A Yes. No, he understood what you said.
5 MR. GRANT: He understood Skeena River when you said that.
6 MR. MACKENZIE:
7 Q I wanted to ask you a couple of questions about your
8 personal history, Mr. Blackwater. Can you tell me
9 what your employment has been over the years?
10 A I have been working in Rupert for about 36 years.
11 Q Are you still working there?
12 A No, it's closed now.
13 Q What work were you doing there in Rupert?
14 A Retort man. I don't know how we say it in our
15 language, but I'm the one in charge of cooking the
16 fish.
17 Q Who were you working for down there in Rupert?
18 A Cassiar Cannery. Its been closed for a few years now
19 and the houses are all down. 1983. Its been closed
20 since 1983.
21 Q Did you have -- what did you do before you started
22 working at Cassiar Canneries?
23 A I was trapping on the territory. We were -- I was
24 trapping on the territory we are talking about now.
25 That's where I was.
26 Q What have you been doing since 1983?
27 A I haven't been working, but I've -- its been a year
28 now since I started working for our village in
29 Kispiox.
30 Q And do you live in Kispiox now?
31 A Yes, I have got a house there.
32 Q How long have you lived in your house in Kispiox?
33 A I haven't been -- its been there for a number of
34 years, but I haven't been living there, because, as I
35 told you, I was working down Rupert all these years,
36 and it's only been since 1984 that I've moved back
37 there.
38 Q When was -- did you -- do you own any property outside
39 the reserve?
40 A No.
41 Q When you lived in Prince Rupert did you get up, back
42 up to Kispiox each year?
43 A I used to do that when my mother was still alive, but
44 after she passed on, then I would just make it -- I
45 would go home once a year.
46 Q Now, when did you first go out on the territories of
47 the House of Niist?

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 A When my mother was still alive what I used to do is I
2 used to come home, and then I would go onto the
3 territory of Niist.

4 Q And did you go to the territory northwest of the Nass
5 River?

6 A Yes, I was there.

7 Q When did you first go on that -- sorry, that
8 territory, the Xsi Luu WitWiidit territory?

9 A Well, I said that when I came from the -- I just told
10 you when I went there, and this territory belongs to
11 Niist, and that's where I went.

12 Q When was the first time that you went over to that
13 territory?

14 THE INTERPRETER: Excuse me, what do you mean the first time?
15 Do you mean --

16 Q In his life.

17 THE INTERPRETER: In his life, or do you mean after --

18 Q In his life.

19 A Okay. I'm not going to take any short cuts here. I
20 will tell you that I was born on this territory at Dam
21 Duutsxwhl Ax, and this is where I grew up at.

22 Q And is the English name for that place Damdochax?

23 THE INTERPRETER: What is it?

24 Q Is the English name for that Damdochax,
25 D-a-m-d-o-c-h-a-x?

26 THE INTERPRETER: D-a-m-d-o-c-h-a-x.

27 A It's Blackwater. This is -- this is a lake they call
28 Dax. That's why it's called Dam Duutsxwhl Ax, the
29 lake of the Blackwater. And I'll go back to the
30 question that you asked me about when I was first on
31 the territory. I was -- when I was old enough -- this
32 is where I was born, at Dam Duutsxwhl Ax, that's where
33 I grew up, and when I was old enough my grandfather
34 would take me to Xsi Luu Witwiidit.

35 MR. MACKENZIE: Could we have a break for the Reporter.

36

37 (PROCEEDINGS ADJOURNED)

38 (PROCEEDINGS RECONVENED)

39

40 MR. GRANT: Before you proceed, Madam Interpreter told me
41 something at the break that I told her to tell you on
42 the record. Could you please explain what you said to
43 me.

44 THE INTERPRETER: It was pointed out to me that I did make a
45 mistake on my translation about the mountain known as
46 Luu Lax Loobit. The boundary goes on top of the
47 mountain. One side belongs to Gibeumget, Niist's

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 House, and the other side belongs to Baskyelaxhaa.
2 That's how the boundaries go.
3 MR. GRANT: She indicated to me that -- she said it was
4 indicated to me. Ms. Sampson advised me that Mr.
5 Blackwater told her this in Gitksan of his own accord
6 at the break, so --
7 THE INTERPRETER: And coming from him. The only reason why I
8 pointed it out, so it be clear to you.
9 MR. GRANT: Yes. What she said to me was he said "I pointed out
10 Luu Lax Loobit so it would be clear to the other
11 lawyer what I was talking about", presumably because
12 you had been asking where things were.
13 MR. MACKENZIE:
14 Q So Baskyelaxhaa is on the south side of Luu Lax
15 Loobit?
16 A If you're standing like this facing the Nass and you
17 see the Maxhla Nihl Tsenden, then it's on your
18 right-hand side.
19 Q Yes. The boundary goes through Luu Lax Loobit.
20 A This is where their line, the boundary line goes on
21 top of those mountains.
22 Q And Gibeumget is on the north side of the mountains?
23 A Yes, it's Maxhla Nihl Tsenden Ando'o and Maxhla Nihl
24 Tsenden An Gii'i belongs to Gibeumget.
25 Q And Baskyelaxhaa is on the south side of the Luu Lax
26 Loobit?
27 A Yes.
28 Q You grew up at Blackwater Lake?
29 A Yes, that's where I was born and that's where I was
30 raised.
31 Q How long did you live at Blackwater Lake?
32 A I don't really know when I left there, but I remember
33 when we moved to Kispiox there wasn't very many houses
34 there. The houses were scarce back then. We were
35 almost living in the woods like.
36 Q Can you recall, was that before you were 15?
37 A I was born November 12, 1923, and I think it was 1956
38 that I lived in Kispiox.
39 MR. GRANT: Madam Interpreter, did he say 1956 he lived in
40 Kispiox or he moved to Kispiox?
41 THE WITNESS: Yes, we moved to Kispiox in 1956, and we kept
42 returning back to the territory.
43 MR. MACKENZIE:
44 Q And your father was Moses Stevens -- no, I'm sorry.
45 That's wrong. What was your father's name?
46 A His chief name was Wii Minosik and his English name
47 was Jimmy Blackwater.

1 Q And did Moses Stevens live there in those days when
2 you were living there at Blackwater Lake?
3 A They do come for a visit once in awhile, but they
4 actually lived at Galaanhl Giist with my grandmother.
5 Q Where is Galaanhl Giist?
6 MR. GRANT: Number 1 under paragraph 42 of Exhibit 605 under
7 lakes.
8 THE INTERPRETER: What page Peter?
9 MR. GRANT: Page 12. I'm just giving -- of course I am not
10 answering your question. I am just giving the name
11 that he referred to.
12 MR. MACKENZIE:
13 Q I wonder if I could rephrase my question. Galaanhl
14 Giist is Slamgeesh, right, in English?
15 MR. GRANT: I think Slamgeesh is a variation of the Gitksan
16 name.
17 THE WITNESS: Yes.
18 MR. MACKENZIE:
19 Q Moses Stevens' chief's name was Dawamuuk?
20 A Yes.
21 Q And Dawamuuk was your grandfather?
22 A Yes.
23 Q And Dawamuuk owned that territory at Slamgeesh?
24 A No.
25 Q Who owned the territory at Slamgeesh?
26 MR. GRANT: That's Galaanhl Giist, the lake.
27 MR. MACKENZIE: Yes, Slamgeesh, the lake.
28 THE INTERPRETER: He said that was Solomon Jack's territory, but
29 he forgot his chief's name.
30 MR. MACKENZIE:
31 Q Was Solomon Jack alive in those days when Moses
32 Stevens lived at Slamgeesh Lake?
33 THE INTERPRETER: What was -- I can't -- the question -- I mean,
34 it's so funny, because if he wasn't alive then, why is
35 he alive today?
36 MR. MACKENZIE: I don't know that he's alive today.
37 THE INTERPRETER: Okay. Could you put that question again.
38 MR. MACKENZIE: I will rephrase it.
39 Q Is Solomon Jack alive today?
40 A Yes.
41 Q And who owned the territory when Moses Stevens lived
42 at Slamgeesh Lake?
43 A I'll tell you a little bit about this territory. It
44 actually is not Moses Stevens. It belonged to go
45 Gwinin Nitxw.
46 MR. GRANT: The witness finished his answer?
47 THE INTERPRETER: Yes.

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1 MR. MACKENZIE:
2 Q And Gwinin Nitxw is Wolf Clan?
3 A Yes.
4 Q Gwinin Nitxw is Kisgegas Wolf Clan?
5 A Yes. This is where I come from too.
6 Q Dawamuuk is Fireweed Clan?
7 A Yes.
8 Q Well, why was Moses Steven living at Slamgeesh Lake?
9 A Okay. I'll try to make it clear to you what went on
10 on this territory here. To begin with it all started
11 with my grandmother who is known as Esther Stevens.
12 Asgii is her Gitksan name. Esther and Gwinin Nitxw
13 were just like sisters back then, and she took Esther
14 and her husband to be caretakers of this territory as
15 long as they want to be, and this is what happened.
16 Esther stayed there 'til -- as long as she could, and
17 when she passed on, that territory was given back to
18 Gwinin Nitxw. And the reason why I am telling you is
19 because I want it made clear, real clear to you what
20 that -- that this happened and this is why that land
21 was returned back to Gwinin Nitxw, because it was his
22 to begin with or hers to begin with.
23 Q Did Charles Stevens -- I'm sorry, rephrase that
24 question. Was Charles Stevens, Moses Stevens' son?
25 MR. GRANT: Moses and Esthers?
26 MR. MACKENZIE:
27 Q Moses and Esther's son?
28 A Yes, that's my uncle.
29 Q And Charles Stevens name was Gaiyimlaxhaa?
30 THE INTERPRETER: Gaiyimlaxhaa, is that what you said?
31 Q Gaiyimlaxhaa.
32 A Yes.
33 Q Did Charles Stevens own the territory after Esther
34 passed away?
35 A Yes, that he just went there for a visit two or three
36 times after his mother died, and that was it, and he
37 didn't go back there again.
38 MR. GRANT: I'm not sure if the witness understood your
39 question.
40 MR. MACKENZIE:
41 Q Did Charles Stevens claim ownership of the Slamgeesh
42 territory?
43 A No, he didn't claim that.
44 Q Well, in your affidavit you refer to seven
45 territories. Which is the territory that you know the
46 best of all?
47 MR. GRANT: Well, just a moment. He may know them all equally.

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- 1 That implies that there is a gradation of knowledge,
2 and I think it's an unfair question, because it is
3 based on an assumption that is therefore impossible to
4 answer --
- 5 MR. MACKENZIE: I'll rephrase the question.
- 6 Q Of these territories in the affidavit is there one
7 with which you are more familiar than the others?
- 8 A I want to ask you which territory do you want to ask
9 me about. Go ahead and ask me. If you want to ask me
10 about Xsi Luu Witwiidid or Luu Silgim Baad Xsitxemsem,
11 then just tell me which one you want to ask me about.
12 This is all -- these two are Niist's territory, but
13 it's all broken up between our House members.
- 14 Q In your affidavit you speak about territories of the
15 House of Niist?
- 16 A Yes.
- 17 Q You speak about the House of Wii Minosik, Blackwater
18 territory?
- 19 A Yes.
- 20 Q You speak of Kliiyem lax haa, Miin Lax Muhl territory?
21 It's page 8.
- 22 MR. GRANT: Page 8.
- 23 THE WITNESS: This is also with Luu Legax Baad Xsi Txemsem in
24 this territory.
- 25 Q And you speak about Luus, Xsi Lax Uu Andoo, page 10.
- 26 * A Yes, this is Luus territory. And *Gii is Gwinin Nitxw 27
from Luus's on the other side. There is -- the creeks
28 are -- have the same name. One is Xsi Lax Uu and the
29 other one is Xsi Lax Uu Andoo.
- 30 Q And you speak about Galaanhl Giist territory. That's
31 Gwinin Nitxw?
- 32 A Gwinin Nitxw.
- 33 Q And you speak about, on page 14, Angodjus,
34 Baskyelaxhaa territory?
- 35 A Yes.
- 36 Q And finally on page 16 you speak about Xsi Miin Anhl
37 Gii, Geel territory?
- 38 A Are you talking about the Galaanhl Xsan of Geel's?
- 39 Q I am speaking about -- do you know the river Xsi Miin
40 Anhl Gii?
- 41 THE INTERPRETER: Is that how you say it?
- 42 MR. STERRITT: Xsi Miin Anhl Gii.
- 43 THE INTERPRETER: Oh. Well, it's the way it is spelled here.
- 44 THE WITNESS: He is -- he is asking if you -- are you asking me
45 to describe the territory of Geel?
- 46 MR. MACKENZIE:
- 47 Q No, I just want to see -- to draw his attention to the

1 fact that that's one of the territories in the
2 affidavit.

3 A Yes.

4 Q Now, of those seven territories, is there one with
5 which you are most familiar?

6 A I don't really know what this question is all about.
7 If you put this forward, and if you ask me on any of
8 these territories, I will tell you about them. I will
9 tell you about Luu Silgim Baad and Maxhla Biluust
10 Maawxw or any of the territories you can ask me about.

11 Q The reason I was asking you that is I want to
12 concentrate on one territory, and I want to get to one
13 that you felt the best -- most familiar with, if there
14 was one.

15 MR. GRANT: I think his answer earlier was that it's up to you
16 to decide which one you want to go after. He will
17 take any one you want. I think that's what he
18 implied, because he wondered which you were after --
19 which one you were talking about.

20 MR. MACKENZIE: Would you mind translating that. I think you
21 are right.

22 A I know what you are trying to get at now. The place I
23 am very familiar with is where I was born and where I
24 was brought up. That's Dam Duutsxahl Axs. This does
25 not belong to us. It belongs to Wii Minosik, who was
26 my grandfather. And the thing is that these
27 territories have been there for centuries and
28 centuries. It was not just created just because of
29 the sake of registered traplines. They were there for
30 centuries, and they -- they used this for survival.
31 Our people needed these lands for survival, and this
32 is what they used it for. It's just been recently
33 that when the white people came they start
34 establishing -- establishing registered traplines, but
35 these lands have been passed on from generation to
36 generation. And this is what I want to make clear.

37 MR. MACKENZIE: Thank you. I think we have to adjourn at this
38 point.

39

40 (PROCEEDINGS ADJOURNED)

41 (PROCEEDINGS RECOMMENCED SEPTEMBER 2, 1988)

42

43 MR. MACKENZIE: Mr. Grant, I take it you haven't had an
44 opportunity to check about the Sterritt/Blackwater
45 interview on tape or the Notice to Admit?

46 MR. GRANT: I've contacted counsel on both -- on both on the
47 tape matter, and I was unable to reach co-counsel to

1 get the final answer on that. I was unable to reach
2 the counsel who is involved with the response to the
3 May 18th or -- or the August -- was it the August 17th
4 letter, Thora Sigurdson, which of course referred to
5 all our Notices to Admit, not just -- referred to all
6 of the others. So the reconsideration, I gather that
7 was requested, dealt with all of them. All of those
8 specifically referred to that.

9 Q Mr. Blackwater, did you have an opportunity to check
10 the trunks in Charlotte's house?

11 A Mother's house, when I came back yesterday, Charlotte
12 wasn't home.

13 Q You told us yesterday that you are employed with the
14 Kispiox Band. Could you tell us, please, the nature
15 of your employment?

16 MR. GRANT: Now?

17 MR. MACKENZIE:

18 Q Now please.

19 A I help the people that are excavating where the new
20 houses are going to be built and also excavation for
21 the septic tanks.

22 Q You told us that your father Jimmy Blackwater was Wii
23 Minosik?

24 A Yes, right.

25 Q And the Blackwater Lake territory was Wii Minosik
26 territory?

27 A Yes.

28 Q And today Wii Minosik is Robert Stevens?

29 A Yes.

30 Q And today Robert Stevens claims the Blackwater
31 territory?

32 A Yes.

33 Q Why is Robert Stevens not speaking today about his
34 territory?

35 MR. GRANT: Just a moment. Why is he -- Robert Stevens may be
36 speaking about his territory. I know what you are
37 asking, but I think you should frame it a little
38 differently.

39 MR. MACKENZIE:

40 Q I'll rephrase my question. Why did Robert Stevens ask
41 you to speak about the Blackwater territory?

42 MR. GRANT: In the affidavit?

43 MR. MACKENZIE: In the affidavit.

44 A He knows that I have knowledge about this territory
45 where I was brought up, and my grandfather did take
46 him there and show them the boundaries. He is
47 familiar with the boundaries, but he doesn't know the

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1 names of places, also the mountains. And he also goes
2 there once in awhile.
3 Q Does Robert Stevens trap on that territory today?
4 A Yes, he does -- he went there with David.
5 Q Your brother David Blackwater?
6 A Yes.
7 Q When did he go there with David?
8 A I am not too sure how long it is. I think it's about
9 two years since him and David went there.
10 Q Do you know when Robert Stevens went there before that
11 visit?
12 A The way it is with our people, he was always with
13 my -- with my father before the death of my father,
14 because my father was pointing out things to him on
15 the territory. And this is what they usually do,
16 because they know their time is near. And he was
17 trying to show Robert where -- what was on the
18 territory, and from this time he always goes with
19 David.
20 Q Wii Minosik is Frog Clan, Kisgegas?
21 A Yes.
22 Q And you are Wolf Clan, Kisgegas?
23 A Yes.
24 Q And you know the rivers and the lakes and the
25 mountains and the Blackwater territory?
26 A Yes.
27 Q And who told you about the boundaries of Blackwater
28 territory?
29 A My father.
30 Q Do you know the boundaries of the Slamgeesh territory?
31 A Yes, I know.
32 Q Who told you the boundaries of this Slamgeesh
33 territory?
34 A My grandfather.
35 Q Xsan Six Moohl is in the Blackwater territory?
36 MR. GRANT: Do you have a -- just a reference on the --
37 MR. MACKENZIE: Page seven, rivers, number 9.
38 MR. GRANT: Referring to Exhibit 605.
39 THE INTERPRETER: What was the question given please?
40 MR. MACKENZIE:
41 Q Is in the Blackwater territory.
42 A It is -- there is the lake here, and here is where my
43 parent's house was, cabins were, and behind that
44 about -- from the lake to the -- to this Xsan Six
45 Moohl is about one mile, and it goes the other way.
46 It goes down this way.
47 MR. GRANT: And the witness was indicating that it goes --

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 pointed to the lake and the closest to him, and then
2 at the far end of the lake from him where his parent's
3 cabin was, and then he indicated that the creek goes
4 off to the right. Just for the record, the witness
5 was describing it using his hands.

6 MR. MACKENZIE:

7 Q Xsan Six Moohl flows into Damdochax Creek?

8 THE INTERPRETER: What was it?

9 Q That's number 4 on page 7 under rivers and creeks.

10 A Yes.

11 Q Yes. So Xsan Six Mohl is in the Blackwater territory?

12 A Yes.

13 MR. GRANT: When you say Blackwater territory, you are referring
14 to the territory that he says as belonging to Wii
15 Minosik? Same territory?

16 MR. MACKENZIE: Yes.

17 Q And Xsu Gwasak is in the Slamgeesh territory? That's
18 page 13, rivers and creek, number 3.

19 THE INTERPRETER: What number is it please?

20 MR. MACKENZIE: Number 3 under rivers and creeks.

21 THE INTERPRETER: Could you --

22 MR. MACKENZIE:

23 Q Xsu Gwasak is in the Slamgeesh territory?

24 A Yes.

25 Q Xsu Wil Skaiyip is in the Slamgeesh territory? That's
26 page seven.

27 MR. GRANT: Just a moment.

28 MR. MACKENZIE: Page seven, rivers and creeks, number 10.

29 A This is -- I'll tell you about this. Where Xsu Wil
30 Skaiyip is, is where the boundary is. This is the
31 boundary for Dam Duutsxwhl Ax and Galaanhl Giist.

32 Q And the boundary runs between Xsan Six Moohl and Xsu
33 Wil Skaiyip?

34 A No, it's different.

35 Q Where is the boundary?

36 A It goes on top of the mountains. It comes from Miin
37 Anhl Gii and it goes along the tops of the mountains
38 and it goes to Gelt Sagat. It goes to the Maxhla An
39 Muuxs, and then it goes down to Gelt Sagat. Then goes
40 down to Xsu Wil Skaiyip, and then it goes up, and then
41 there is another mountain there that's known as An
42 Damhl. This side belongs to Luus and on the other
43 side is Gwinin Nitxw.

44 MR. MACKENZIE: I think we better stop now for a moment.

45 MR. GRANT: Just for the record, he indicated on the right side
46 and the left side.

47

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 (OFF THE RECORD)

2

3 MR. MACKENZIE: We just had a discussion about Mr. Blackwater's
4 description of the boundary and Mrs. Sampson's
5 interpretation. I think we all agree now. I am going
6 to ask for confirmation that -- Mr. Blackwater, can
7 you confirm that the boundary goes -- that you said
8 that the boundary goes from Geel Sagat down to Wil
9 Skaiyip?

10 * A Yes, the -- there is a creek running down from Geel
11 Sagat down to Wil Skaiyip. I want this to be very
12 clear. If I was standing at Dam Duutsxwhl Ax -- if I
13 was standing at Wil Skaiyip, the boundary would be on
14 my right hand. If I'm standing at Wil Skaiyip, then I
15 will be facing Dam Duutsxwhl Ax, and I'm talking about
16 the boundary on my right side.

17 Q Yes. I think we understand that. Very good. Okay.

18 MR. GRANT: Off the record.

19 (OFF THE RECORD)

20 A I want this to be very clear to everyone here. The
21 territory that we are talking about, if you do not
22 understand what I am saying, you can ask me any time
23 what I am saying. And I know this territory quite
24 well, and I want to make it really clear to everybody
25 that's here. So if you don't understand me, you can
26 ask me again.

27 MR. MACKENZIE:

28 Q Is Gelt Sagat south of Xsu Wil Skaiyip?

29 MR. GRANT: What was the first word you said?

30 MR. MACKENZIE: Gelt Sagat.

31 A The Xsu Wil Skaiyip flows into the Skeena, and there
32 is another -- it's sort of like the creeks are sort of
33 like this. The other one flows into the Nass.

34 MR. GRANT: How did you --

35 THE INTERPRETER: He says it's almost like this. The creeks are
36 situated something like this.

37 MR. GRANT: He is indicating with the hands the height of land.

38 MR. MACKENZIE:

39 Q Either a height of land or a coming towards or almost
40 towards each other. I want to go and clarify this.

41 A These creeks come from flow -- the headwaters start at
42 Gelt Sagat.

43 Q Yes.

44 MR. GRANT: The reason I said the height of land was because the
45 way he was explaining was -- appeared that one went
46 down on one side towards the Nass, the other went down
47 towards the Skeena, which presumes a water shed height

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 of land. That's why I said --
2 MR. MACKENZIE: Very good. Yes.
3 Q And so Xsu Wil Skaiyip flows downhill to the Skeena
4 River, correct?
5 A Yes. The territory has -- it has -- it is round -- it
6 is close -- the creek goes down from -- comes from
7 Gelt Sagat, it goes towards the Xsi Txemsem.
8 Q The Nass River?
9 A The Nass. And there is -- there is a swampy place
10 where it's almost like a lake, but it's not a real
11 lake. This is where the -- where another creek comes
12 from, and then it goes down to Dam Silgwit.
13 MR. GRANT: When I -- I just want to clarify, because my
14 comment -- when I said, of course, height of land, I
15 only meant it was a water shed. I didn't mean it was
16 a steep peak or anything like that. I was trying to
17 explain what the witness and interpreter were
18 describing as creeks going in two different directions
19 from close to each other.
20 A Okay. This creek that I just finished talking about,
21 Xsu Wil Skaiyip, this is the one that comes from the
22 Gelt Sagat Mountain, but the other one --
23 THE INTERPRETER: That other one that goes down to the Skeena.
24 MR. MACKENZIE:
25 Q Xsan Six Moohl.
26 A This creek that flows from the swamp like area, goes
27 to Dam Silgwit.
28 MR. GRANT: Number 2 on page 12.
29 A And there is another lake about two miles from Dam
30 Silgwit. Dam Galaanhl Giist is the name of this lake.
31 MR. MACKENZIE:
32 Q Yes, I understand. So, as you're saying, Xsu Wil
33 Skaiyip flows down to Dam Silgwit and to Slamgeesh to
34 the Skeena, correct?
35 A Yes.
36 THE INTERPRETER: What was the other question?
37 Q The Slamgeesh to Skeena.
38 MR. GRANT: Slamgeesh River or Slamgeesh Lake?
39 MR. MACKENZIE:
40 Q Lake -- river.
41 A Yes.
42 Q Xsan Six Moohl flows to Damdochax Lake, Damdochax
43 Creek, Nass?
44 A I'll try to make it a little clearer. We'll just
45 mention the waters of the -- this territory, and then
46 I'll take it down to the Nass River.
47 MR. GRANT: Before -- just for clarification, you say the waters

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 of this territory. Can you ask him which territory he
2 is referring to.

3 THE WITNESS: The one that goes towards Damdochax.

4 MR. MACKENZIE:

5 Q Well, I would like to hear about the other lakes and
6 creeks, but could you tell him I understand what he is
7 talking about, and I wonder if he could just answer my
8 question about Xsan Six Moohl going to Damdochax to
9 the Nass, if that's what it does.

10 A Okay. I'll tell you about Xsan Six Moohl. There is
11 the lake -- there is this lake known as Dam Duutsxwhl
12 Ax, and this is where Xsan Six Moohl flows from, and
13 it flows from there and then gets to another creek
14 that meets another creek. Let's start from the
15 mountain. I really want to make it clear --

16 MR. GRANT: Let's get the answer on the record what he said.

17 MR. MACKENZIE:

18 Q As soon as Alice finishes, yes. I think she has
19 finished.

20 MR. GRANT: Did you?

21 THE INTERPRETER: Yes, I finish.

22 MR. GRANT: But I think he is trying to answer your question,
23 and he is saying I will answer your question in this
24 way. And I think he is entitled to answer it that
25 way, which he is trying to answer your question.

26 MR. MACKENZIE:

27 Q Before he answers my question, could you ask him where
28 does the water from --

29 MR. GRANT: Just a second. With respect, Mr. Mackenzie, I think
30 he is entitled to answer your question before you go
31 to your next question.

32 MR. MACKENZIE: I don't want to get into any more arguments with
33 you, Peter, so --

34 MR. GRANT: I just want him to answer the question. That's all
35 I want him to do.

36 MR. MACKENZIE: I was just going to say that we were in
37 disagreement for the whole week, but I am trying to be
38 reasonable, and I will go along with you. So go ahead
39 with that please.

40 MR. GRANT: I don't think we have been in disagreement all week.

41 THE WITNESS: There is a mountain called Maxhla An Muuxs.

42 There are two Xsan Six Moohl. One goes to the Dam
43 Duutsxuhl Ax and the other flows into the Xsan --
44 Skeena. It's almost the same as the way the Xsu Wil
45 Skaiyip is. The creeks -- there are 2 creeks there,
46 and this is almost the same as that. It comes from
47 the Maxhla An Muuxs. The Xsan Six Moohl goes down,

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 flows down, and it flows into the Dam Duutsxwhl Ax.
2 A There is another creek that flows into the -- to the
3 Dam Duutsxwhl Ax, and it's known as Xsi Luu Am Maldit.
4 That -- and this one flows into the Nass River.
5 MR. GRANT: Is he finished his answer?
6 A Yes.
7 (OFF THE RECORD)
8 MR. MACKENZIE: We had a discussion about one of -- what
9 happened as a result of one of my questions which was
10 inelegantly phrased. I think we have now looked at
11 the maps, and I think counsel have agreed that the
12 creek we have been speaking about, Xsan Six Moohl,
13 does flow into Dam Duutsxwhl Ax Creek and into the
14 Nass River, and I was mistaken in suggesting that it
15 might flow into Damdochax Lake.
16 MR. GRANT: As a result of that question, I think we got into a
17 detailed answer. All counsel have looked at the map
18 and agree that that creek, Xsan Six Moohl, flows into
19 Damdochax River.
20 MS. KOENIGSBERG: Creek.
21 MR. GRANT: Damdochax Creek. Sorry, I should never have
22 restated it.
23 MR. MACKENZIE:
24 Q Mrs. Sampson, could you tell Mr. Blackwater -- all my
25 questions are simply to find out where the boundary is
26 in that area between -- when you are standing on the
27 boundary --
28 MR. GRANT: Of which territory?
29 MR. MACKENZIE: Of Slamgeesh, Damdochax, the creeks on one side
30 flow to the Nass and the creeks on the other side flow
31 to the Skeena.
32 THE INTERPRETER: Could you mention the creeks again.
33 Q The creeks on one side flow to the Nass, the creeks on
34 the other side flow to the Skeena.
35 A Are you going back to Wil Skaiyip now?
36 Q Xsu Wil Skaiyip.
37 A Xsu Wil Skaiyip.
38 MR. GRANT: Just a moment. Before you ask him that, could I
39 clarify, when you say -- going back to Xsu Wil
40 Skaiyip. You were going back to the boundary between
41 these two territories?
42 MR. MACKENZIE: Yes, in that area.
43 MR. GRANT: In the area where -- my understanding is that you
44 were going back to Wil Skaiyip.
45 MR. MACKENZIE: Xsu Wil Skaiyip. Wil Skaiyip is down at the
46 bottom. Xsu Wil Skaiyip is the creek that flows down
47 into Dam Silgwit Lake. Let's not get into this. You

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 are not translating that --

2 THE INTERPRETER: No.

3 A Yes, this is the Xsu Wil Skaiyip is the boundary.

4 Q Oh, yes. So on one side of the boundary all the
5 creeks go to the Nass and the other side of the
6 boundary all the creeks go to the Skeena?

7 A Yes.

8 Q I am finished with this, but if you want to make some
9 other comments.

10 MR. GRANT: I think he is giving more.

11 A Is it clear to you what I am telling you?

12 Q Yes.

13 MR. GRANT: We will only know at the end of the day, Mr.
14 Blackwater, whether it's clear to Mr. Mackenzie. I'm
15 not sure if he wants it to be clear.

16 MR. MACKENZIE:

17 Q Do you know where the sixth cabin is?

18 A Yes, I know.

19 Q That's in Damdochax territory?

20 A Yes, it's near the Nass -- the Nass River is the
21 boundary of the -- of this territory, Dam Duutsxwhl
22 Ax. You mentioned the sixth cabin. This is where --
23 the mountain is situated behind that cabin known as
24 Loop Guu Hanak.

25 MR. GRANT: Number 2 under mountains under paragraph 21, Exhibit
26 605.

27 MR. MACKENZIE:

28 Q And which -- when you are going along the trail to
29 sixth cabin toward the Nass, when do you leave
30 Damdochax territory?

31 A It's not very clear what you are asking me.

32 Q Which -- the boundary of Damdochax territory is on the
33 Nass River?

34 A It goes -- it reaches the Nass and it doesn't go far
35 right along.

36 Q It doesn't cross --

37 A Oh, it doesn't cross the Nass.

38 Q Which side of the Nass River does the boundary run
39 along?

40 A This has been going on for centuries about the rivers.
41 It goes right to the centre of the river. This is how
42 far the boundary goes, right to the centre, and
43 somebody that owns the other side does the same thing.
44 He claims to the centre of that river.

45 Q The boundary between Damdochax territory and Xsi Luu
46 Witwiidid territory runs along the centre of the Nass
47 River?

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 A The Duutsxwhl Ax boundary goes up to the Loop Guu
2 Hanak, then it goes down to the -- through the trail
3 that you mentioned. It goes down there and then it
4 goes towards the Xsi Txemsem, and from there on it
5 goes through the Xsi Txemsem, then it goes up and then
6 it reaches the Maxhla Biluust Maawxw.

7 Q Does the boundary go on the other side of the Nass
8 River on the side opposite Damdochax?

9 MR. GRANT: You say the boundary?

10 THE WITNESS: No, it doesn't go across.

11 MR. MACKENZIE:

12 Q Is any part of the boundary on the Damdochax side of
13 the river between Xsi Luu Witwiidid and Damdochax?

14 * A The -- it's quite long, the Xsi Luu Witwiidid, and
15 it's situated on the other side of the Nass River, and
16 this is where the -- the water runs, Xsi Luu Witwiidid
17 runs from. Okay. The Damdochax boundary starts from
18 *Loop Guu Hanak going up, and then it goes down to the
19 Nass River. The creek flows into the creek from the
20 Dam Duutsxwhl Ax flows into the Nass.

21 We'll start at An Damhl. There is a range of
22 mountains -- there is a creek coming from those
23 mountains, but we are talking about the boundary of
24 Dam Duutsxwhl Ax, and it goes on top of the mountains,
25 the range of mountains. This is the where the
26 boundary of Dam Duutsxwhl Ax, is where the mountain --
27 the range of mountains are, and Luus owns the other
28 side, and this is the boundary between Luus and the
29 Dam Duutsxwhl Ax, the creek goes into Xsi Txemsem, the
30 Nass.

31 THE INTERPRETER: It's so hard for me, I just can't -- I don't
32 know. I'm getting all mixed up here.

33 MR. GRANT: That's your comment?

34 THE INTERPRETER: Yes, that's my comment.

35 *THE WITNESS: It goes back -- the creek goes back to -- it goes
36 to the Xsi Txemsem. It flows into the Xsi Txemsem,
37 and the boundary keeps on along the *Nass. *We are
38 going up now. We come to -- we come to this creek
39 that comes from Xsi Txemsem.

40 MR. MACKENZIE:

41 Q It comes from Damdochax?

42 A Comes from Dam Duutsxwhl Ax. There is a sort of a
43 hill like feature and it goes right up to the
44 mountains. And this mountain is known as Loop Guu
45 Hanak. It goes to Loop Guu Hanak and then it reaches
46 Dim Geiss Hanii Jok, and then we'll go back to the
47 mountain known as Sganis' Gwiik.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 Q Yes. I understand.

2 A And this is where we get back to Xsi Miin Anhl Gii.

3

4 (OFF THE RECORD)

5

6 Q I have here a note that was made by Neil Sterritt
7 about a conversation with Walter Blackwater in May,
8 1983.

9 A Yes.

10 Q Do you recall discussing the territories with Neil in
11 May, 1983?

12 A Yes, I remember.

13 Q Neil has written down here that Walter doesn't know if
14 Wii Minosik crosses the Nass.

15 MR. GRANT: Just a second. He says under -- this is a data
16 sheet. He says -- the note is -- it says:

17

18 "Don't know if Wii Minosik crosses the Nass."

19

20 Doesn't say Walter does not know --

21 MR. MACKENZIE:

22 Q I'll rephrase the question. The note says:

23

24 "Don't know if Wii Minosik crosses the
25 Nass."

26

27 A No, it doesn't cross it.

28 Q At that meeting in 1983 did Walter know that Wii
29 Minosik boundary doesn't cross the Nass?

30 A Yes, I knew before.

31 Q You have -- you have known for many years that Wii
32 Minosik boundary does not cross the Nass?

33 A I have told you before that I was born and brought up
34 there, and I have never seen my father going across to
35 the Nass River. And he would just go to the -- to one
36 side and never cross the Nass.

37 Q This notation from Mr. Sterritt's field books is dated
38 May 22, 1983, and it's page 3-138, and our -- I think
39 we have numbered the pages in those. There is the
40 volume number and 138 is the page number.

41 MR. GRANT: Just to correct it, this appears to be a topographic
42 survey data sheet as it's titled.

43 MR. MACKENZIE: Yes.

44 MR. GRANT: I think it's incorrect to refer to it as Neil
45 Sterritt's field books, because those were other
46 documents which you also have.

47 MR. MACKENZIE: Yes, that's true. So it's Neil Sterritt's

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 topographic data sheets.

2 MR. GRANT: The only other point is there is no indication there
3 whether it was a meeting or, for example, a telephone
4 conversation. You referred to it as a meeting, and it
5 may or may not have been a meeting. I don't know.

6 But I think you should just refer to -- you should
7 refer to in his conversation or something --

8 MR. MACKENZIE: Yes, the topographic data sheets simply records
9 Walter Blackwater as an informant.

10 Q I have a map which was -- I have a map of Wii Minosik
11 territory identified by Robert Stevens in 1986. Can
12 you tell him that please. This is part two of three
13 parts which shows the Damdochax territory.

14 MR. GRANT: For the record, this was a map attached to an
15 interrogatory, and it's referred to as a draft copy.

16 MR. MACKENZIE: Yes, that's right.

17 Q This Robert Stevens' map says that Wii Minosik
18 boundary crosses the Nass River. Do you agree with
19 that?

20 A No, I don't agree. Yes.

21 Q Robert Stevens' map says --

22 MR. GRANT: The interpreter then said yes. I think the answer
23 is no, I don't agree, for the record.

24 MR. MACKENZIE:

25 Q Robert Stevens' maps says Dawamuuk claims Slamgeesh
26 territory. Do you agree with that?

27 MR. GRANT: Just a moment. I want you to translate this before
28 he answers. This map is referred to as showing as a
29 draft map showing boundaries of Wii Minosik territory.

30 The references to other names outside of that
31 territory is not part of the evidence of Robert
32 Stevens. All he refers to is the boundaries of his
33 territory in his interrogatories. So whatever the map
34 says about outside the territory may or may not be
35 adopted by Robert Stevens as part of his evidence.

36 MR. MACKENZIE: Do you want that translated?

37 MR. GRANT: Yes. Can you explain that these names outside the
38 boundary are not necessarily what Robert Stevens says,
39 as he only refers to this map as showing the
40 boundaries of his territory.

41 THE WITNESS: Yes, but this one is not right. It's way
42 different.

43 MR. MACKENZIE:

44 Q Robert Stevens' map says Dawamuuk claims Slamgeesh.
45 Do you agree with that?

46 MR. GRANT: Just a moment. I think you should say -- I have no
47 objection to you asking him if Dawamuuk claims

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1 Slamgeesh. I disagree with the phraseology of the
2 question that Robert Stevens' map says Dawamuuk claims
3 Slamgeesh. The intent of these draft maps was to
4 provide approximate boundaries to the defendants at
5 the time of the filing of interrogatories. The
6 references to names on the borders was neither asked
7 in the interrogatories, and any gratuitous notations
8 to that effect are not the evidence -- necessarily the
9 evidence of the witness. So I would ask that if you
10 wanted to ask what Dawamuuk's claims is, I have no
11 objection, but I don't think that you should say
12 Robert Stevens or Robert Stevens' map says that -- the
13 naming there. There is no indication as to what that
14 naming refers to.

15 MR. MACKENZIE:

16 Q The map produced by Robert Stevens says Dawamuuk
17 claims Slamgeesh. Do you agree with that?

18 MR. GRANT: Does not say that Dawamuuk claims Slamgeesh. I
19 object to the question as worded. It has the name
20 Dawamuuk in the area of Slamgeesh. That's all it
21 says, nothing more.

22 MR. MACKENZIE:

23 Q The map produced by Robert Stevens has the name
24 Dawamuuk in the Slamgeesh area.

25 A No.

26 Q Do you agree that Dawamuuk claims Slamgeesh area?

27 A No.

28 Q The map produced by Robert Stevens has the boundary
29 running from Sagat north of Xsu Wil Skaiyip. Do you
30 agree with that?

31 MR. GRANT: The boundary between?

32 MR. MACKENZIE: The boundary between Slamgeesh and Damdochax.
33 It's the boundary between Damdochax and Slamgeesh. It
34 runs north of Xsu Wil Skaiyip. This is the boundary
35 here.

36 (OFF THE RECORD)

37 MR. MACKENZIE:

38 Q The question is the map produced by Robert Stevens
39 says the boundary between Damdochax and Slamgeesh runs
40 north of Xsu Wil Skaiyip.

41 * A The boundary of that territory is the *Wil Skaiyip.

42 Q The map produced by Robert Stevens shows Xsi Lax Uu in
43 Luus territory.

44 MR. GRANT: Just a moment. I object to the question. Again the
45 name Luus is in that area. There is no evidence from
46 Robert Stevens as to who owns these external
47 boundaries. All there was was a map showing his

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 territory. The other naming on that map was not part
2 of the evidence of Robert Stevens. It's not attested
3 to in his interrogatory. He just refers to it as the
4 boundary of his territory. I object to any questions
5 framed in the way suggesting that Robert Stevens says
6 Luus -- or Robert Stevens' map says Luus or any of
7 these other people own another territory. That's not
8 what his answer says.

9 MR. MACKENZIE:

10 Q I'll rephrase the question. Robert Stevens' map shows
11 a boundary between Damdochax and Luus territory.

12 MR. GRANT: With respect, the same objection applies. You can
13 say it shows a boundary between Damdochax and the
14 territory of Xsi Lax Uu Ando'o.

15 MS. KOENIGSBERG: Just so I understand, why would it make any
16 difference if Robert Stevens didn't attest where Xsi
17 Lax Uu Ando'o is, if you say that Robert Stevens' maps
18 shows a boundary between Xsi Lax Uu Ando'o and
19 Damdochax rather than Luus. Those both are names
20 outside the boundary that's being described.

21 MR. GRANT: The distinction is quite simply this, that in order
22 for a question to be asked about where this black line
23 is, I don't think there is anything wrong with
24 referring to it in relation to a geographic place name
25 that is on the map, either within or outside that
26 connects to where the map is. What I am saying is
27 that in this draft copy there may have been other
28 names of other chiefs put around. That was not part
29 of the question, and it is not part of the answer.
30 Because those were the only copies available at that
31 time, and in order to expedite answering the
32 interrogatory, those copies were delivered, but none
33 of the interrogatory witnesses attested to these
34 people on these boundaries, unlike Mr. Blackwater and
35 the other territorial affidavit witnesses who have
36 attested in their affidavits to who is outside their
37 boundaries. They have sworn to that, but Robert
38 Stevens never did. All Robert Stevens and the other
39 interrogatory witnesses did was attest to where
40 this -- where their boundaries -- where their
41 approximate boundaries were, by reference to a draft
42 copy of the map. And these other names, I object to
43 the questions saying that those interrogatory
44 witnesses attested that Luus or any of these other
45 outside people were there.

46 MR. MACKENZIE: That wasn't the question, but I will rephrase
47 it.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 MR. GRANT: Because that's misleading to the witness and that's
2 incorrect.

3 MR. MACKENZIE:

4 Q This map to which we have been referring shows that
5 Shilahou is in Luus territory.

6 MR. GRANT: Objection on the same basis.

7 MR. MACKENZIE: Your objection is noted. Translate the question
8 please.

9 MR. GRANT: No -- it's misleading. It's misleading, Mr.
10 Mackenzie.

11 MR. MACKENZIE: It's not misleading. The map shows what I just
12 said.

13 MR. GRANT: Well, you are pacing back and forth at high speed,
14 but what I am saying to you is that I have just
15 explained two or three times that this map must be
16 read in conjunction with the answer of the witness.
17 What that name refers to outside -- there is no
18 evidence whatsoever as to what that name refers to
19 outside the boundary. All this map is evidence of is
20 that Robert Stevens says that these are the
21 approximate boundaries of his territory, and he refers
22 to a draft map. That's all he says. He does not talk
23 about who the neighbours are.

24 So if you want to ask if these people are outside or
25 if they own that territory, I have got no objection to
26 that, but I object to you framing the question such a
27 way to say that Robert Stevens through his map says
28 that those people own that territory, because that's
29 not the evidence. It's, misleading to the witness.
30 You can ask -- I got no objection to you asking if
31 Luus owns this or Niist owns this or anything else.
32 That, of course, is totally proper and it would solve
33 your problem. You would get your answer.

34 MR. MACKENZIE:

35 Q On this map Shilahou runs into a territory with Luus's
36 name. Do you agree with that?

37 A There are two Xsi Lax Uu, and which are you talking
38 about, Xsi Lax Uu or the one that goes into the
39 Skeena?

40 Q Skeena.

41 MR. GRANT: I don't think so. From the way this map looks, it
42 looks like Xsi Lax Uu Ando'o, and it appears on the
43 draft map that you have -- okay, you are referring to
44 Xsi Lax Uu.

45 THE WITNESS: The one that goes towards the Nass River belongs
46 to Luus.

47 Q Shilahou --

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 MR. GRANT: Well --
2 THE WITNESS: There is a mountain like this. One goes to the
3 Nass and the other one goes to Galaanhl Giist. It
4 goes to -- it goes into Galaanhl Giist and then it
5 goes into the Skeena.
6 * Q That *Galaanhl Giist into Luus territory?
7 * A Okay. I said this before, that the Xsi Lax Uu Ando'o
8 that goes into the Nass belongs to Luus, and there is
9 a mountain ridge. The Xsi Lax Uu is Gwinin Nitxw. It
10 comes there -- their boundary is that mountain ridge
11 there.
12 MR. GRANT: Madam Interpreter, just because you are referring to
13 Xsi Lax Uu and Xsi Lax Uu Ando'o, can you just
14 translate what does Ando'o mean?
15 THE INTERPRETER: Ando'o is on the other side.
16 MR. MACKENZIE: I appreciate that you can ask questions during
17 the cross-examination --
18 MR. GRANT: I am asking Madam Interpreter, not the witness.
19 MR. MACKENZIE: Well, you can ask in redirect if you want.
20 MR. GRANT: I wanted to clarify that because the witness says
21 there are two Xsi Lax Uu.
22 MR. MACKENZIE:
23 Q Do you know the creek, Xsi Luu Maseexit?
24 THE INTERPRETER: Is that the way you say it, Xsi Luu Maseexit,
25 or Xsi Luu Maseexit?
26 A Now, which territory are you talking about? Are you
27 talking about Xsi Galaanhl Giist or Dam Duutsxwhl Ax?
28 Q Talking about Xsi Luu Maseexit that flows into the
29 Skeena River.
30 A I don't know that.
31 (OFF THE RECORD)
32 Q This map shows Muut as having a territory -- sorry.
33 On this map the name Muut appears on a territory next
34 to -- north of Damdochax. Do you agree that Muut has
35 territory with a boundary on Damdochax?
36 A Are you talking about towards the Skeena?
37 Q Yes.
38 A I don't know about Muut's territory towards the
39 Skeena, but I know that -- I know the territory about
40 Maxhla Biluust Maawxs territory. I know about the
41 territory known as Tsaphl Hasiiyeeks.
42 Q Does Muut have a territory with a border on Damdochax
43 territory?
44 A No.
45 Q On this map Kliiyem lax ha, Miin Lax Mihl boundary
46 goes along the Nass River. Do you agree with that?
47 A Yes, it does go along the Nass, and then where the --

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 where the -- there is another creek that comes
2 together. This is how far it goes to Maxhla Biluust
3 Maawxs. I'll tell you about this Miin Lax Muhl. The
4 creek known as Maxhla Biluust Maawxs drains into the
5 Nass River. We go along the Xsi Txemsem. The -- you
6 don't go very far and then you come to the boundary of
7 the Tsetsawit people. We come to a swampy place, and
8 this is where there is a pole standing there which me
9 and my uncle Sam Hope came upon. And on this post
10 there is a writing. We don't know what it says, but
11 it looks like Chinese writing. And this is the
12 boundary of the Stikine people.

13 Q So --

14 MR. GRANT: Is the witness finished the answer?

15 THE WITNESS: This is how far where the -- this is how far
16 Kliiyem lax haa -- Kliiyem lax haa goes, and then it
17 goes up to -- then it goes to Dim Geiss Hanii Jok.

18 Q Does Kliiyem lax haa's boundary cross the Nass River?

19 * A Okay. It goes along the Skeena -- along the Nass and
20 then it gets to Maxhla Biluust Maawxs. And then it
21 goes to *Dim Geiss Hanii Jok and it goes to the
22 boundary of -- it comes to the boundary of Wii
23 Minosik, which I told you before. I am not going to
24 go through that again.

25 Q Thank you very much.

26 MR. GRANT: Unless you wanted it.

27 MR. MACKENZIE: I wish to file that map with Wii Minosik
28 affidavit and interrogatory 59C as an exhibit.

29 MR. GRANT: I just want to note for the record that I -- since
30 you have been referring to that map, I guess it makes
31 sense to mark it as an exhibit, but I just want to
32 note for the record that that was one of three, I
33 believe, maps. I don't think the other two should be
34 marked as exhibits now, although they could be
35 ultimately if you want to tie them, because I assume
36 you are not going to be asking this witness questions
37 on it. So that map is the second of three maps which
38 are part of the answer to Wii Minosik, and you are
39 going to file together with that the answer --

40 MR. MACKENZIE: Yes. I think this is already an exhibit, that
41 is the affidavit and 59C, but this map has not been
42 exhibited yet because it wasn't dealt with.

43 MR. GRANT: Why don't you -- let's be consistent. File the
44 affidavit and that 59C and that one map as the next
45 exhibit in this proceeding, and it's not going to hurt
46 anybody if -- it's one of three maps is all it is.

47 MR. MACKENZIE: Showing the Damdochax territory.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 MR. GRANT: There were three territories shown in answer.

2
3 (EXHIBIT 2 - MAP WITH WII MINOSIK AFFIDAVIT
4 DATED AUGUST 7, 1986 AND INTERROGATORY 59C)

5
6 (OFF THE RECORD)

7
8 MR. MACKENZIE: That affidavit we marked as Exhibit 2, the
9 affidavit dated August 7, 1986.

10 MR. GRANT: And the answer to 59C together with one of the three
11 maps is marked as Exhibit 2. And the typewritten part
12 of that map -- the typewritten part on the bottom of
13 that map "this is schedule B" is added by provincial
14 defendants.

15 MR. MACKENZIE: Yes. And I also would like to file the Robert
16 Stevens' affidavit dated January 29, 1987, and
17 interrogatory in answer to 59C attached to that
18 affidavit.

19 MR. GRANT: I would propose rather than doing that, I agree that
20 the answer to 59C of that affidavit of January 29th,
21 1987 says, in answer to the same question as you
22 already filed as Exhibit 2:

23
24 "See maps which were attached to schedule B to
25 my affidavit of August 7, 1986."

26
27 And that's the answer to that question. It refers
28 to the same maps. Rather than filing it as an
29 exhibit, I concur that that's the answer on the
30 record.

31 MR. MACKENZIE: I would like to have the affidavit also, January
32 29, 1987, filed.

33 MR. GRANT: For the purposes of paragraph 5?

34 MR. MACKENZIE: Yes.

35 MR. GRANT: Once again, I agree that paragraph 5 of the January
36 29, 1987 affidavit says:

37
38 "Schedule B which is referred to in Exhibit
39 A, being the answers to the interrogatories,
40 has already been delivered, is not included in
41 this affidavit."

42
43 And if you want to file it, of course ultimately at
44 trial you can, but I presume you are not going to ask
45 the witness questions on it, and that should solve
46 your immediate --

47 MR. MACKENZIE: We've referred to the affidavit of Robert

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 Stevens dated January 29, 1987, and Mr. Grant is
2 saying it also contains an interrogatory to answer 59C
3 referring to the map that has been filed here as an
4 Exhibit 2.

5
6 (OFF THE RECORD)

7
8 MR. MACKENZIE:

9 Q I have here a map, draft copy produced by Solomon
10 Jack, August, 1986. Solomon Jack is Gwinin Nitxw?

11 A Yes.

12 Q Solomon Jack gave you permission to speak about the
13 Slamgeesh territory?

14 A Yes.

15 Q In your affidavit you say Solomon Jack -- paragraph
16 38 -- you say Solomon Jack claims the Slamgeesh
17 territory.

18 MR. GRANT: It's claimed by the House of Gwinin Nitxw.

19 THE WITNESS: I'm not too sure about what you asking me. Are
20 you -- did you want to know something about the Niist
21 territory, or are you now moving to Solomon Jack's
22 territory? I might be wrong here, but I don't quite
23 understand if you want to know about Niist territory
24 or the Solomon Jack territory.

25 Q Solomon Jack, Gwinin Nitxw, claims the Slamgeesh
26 territory?

27 A Yes, this is.

28 MR. GRANT: When I interjected, it was only to refer to -- to
29 correct the word of your question, which is that
30 paragraph 38 says it is claimed by the House of Gwinin
31 Nitxw. I would appreciate -- at least not change the
32 wording. And if you're asking him that's what he
33 says --

34 MR. MACKENZIE:

35 Q On this map produced by Solomon Jack the name Dawamuuk
36 appears on the Slamgeesh territory. Do you agree with
37 that?

38 A No.

39 Q This is -- this map is Exhibit 420 in the trial.

40 MR. GRANT: And Mr. -- Chief Gwinin Nitxw in his answer in
41 reference to this map stated:

42
43 "See map which is attached as schedule B. It
44 sets out the approximate boundaries of my
45 territory."

46
47 I note that for the record.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

- 1 MR. MACKENZIE: Yes. And it says draft copy.
2 MR. GRANT: And the map itself is a draft copy. And he says
3 nothing more about who is on the external boundaries
4 of the territory, and of course I would appreciate
5 your endeavoring to rephrase your questions and not
6 suggest that he is saying that those -- the same
7 position as with respect to Robert Stevens; in other
8 words, that he only says that is the approximate
9 boundaries of my territory and says nothing more about
10 the map.
11 MR. MACKENZIE:
12 Q In 1986 we asked Solomon Jack what are the boundaries
13 of his House's territory.
14 THE INTERPRETER: Could you rephrase it again please.
15 MR. MACKENZIE:
16 Q In 1986 we asked Solomon Jack what are the boundaries
17 of his House's territory.
18 A Yes.
19 Q Solomon Jack did not claim the Slamgeesh territory in
20 answer to that question. Do you agree with that?
21 MR. GRANT: What do you agree with? I mean, you made a
22 statement Solomon Jack didn't claim the Slamgeesh
23 territory. I mean, he hasn't --
24 MR. MACKENZIE:
25 Q Do you say that Solomon Geesh now does claim the
26 Slamgeesh territory?
27 MR. GRANT: Could we have a spelling for that first word.
28 MS. KOENIGSBERG: You said Solomon Geesh.
29 MR. MACKENZIE:
30 Q Do you say that Solomon Jack now does claim the
31 Slamgeesh territory?
32 A Yes, that's Solomon's.
33 Q Solomon Jack's map shows the boundary -- does the
34 boundary of the Slamgeesh territory go along Xsa'an
35 Gas?
36 A It's known as Gitangas. It's close to that.
37 Q Does the boundary of Slamgeesh go along Xsi Gisa Genx?
38 A Yes. I'm not too sure about Xsi Gisa Genx. Is that
39 the one that does go into the Skeena?
40 Q Yes.
41 A Which are you talking about? There is a creek at Xsi
42 Galaanhl Giist. Are you talking about one that goes
43 up, the creek that goes up to -- are you talking about
44 one that goes to Gitangas? Are you talking about the
45 one that goes to Gitangas, and are you talking about
46 Gitangas now?
47 Q That's difficult to say.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1

2 (OFF THE RECORD)

3

4 MR. MACKENZIE: I know where Gitangas is, but that's not where
5 it says on that map. That's why I have a little
6 difficulty with it.

7 MR. GRANT: They weren't marked draft maps for nothing.

8 MR. MACKENZIE: Yes. Well, just get on with this. I will go
9 onto a new subject.

10

11 (OFF THE RECORD)

12

13 Q Do you know a creek whose English name is Gitangas
14 Creek?

15 MR. GRANT: That's a hard question.

16 THE INTERPRETER: He said it was in English Gitangas, and he
17 asked me what the English name was, and then I said
18 you said Gitangas as in English, which is in our
19 language. He doesn't know.

20 MR. GRANT: Gitangas is in Gitksan.

21 MR. MACKENZIE:

22 Q Do you know a creek with the name Gitangas?

23 A No.

24 Q Do you know the mountain Maxhla Lax Uut?

25 MR. GRANT: Referring to number 7 under mountain on page 13 of
26 Exhibit 605.

27 THE WITNESS: Are you talking about where is the Skeena now?

28 MR. MACKENZIE:

29 Q Yes.

30 A No, I don't recall this name.

31

32 (PROCEEDINGS ADJOURNED)

33 (PROCEEDINGS RECONVENED)

34

35 MR. MACKENZIE: Okay. I am going to record, as I discussed
36 with Mr. Grant, my intention to file certain
37 interrogatories relating to the territories or to the
38 general area, and discussed in Mr. Blackwater's
39 affidavit, Exhibit 605. I will be filing the
40 interrogatory of Luus, Jeffery Harris, with
41 interrogatory 59C, and one of the two maps attached to
42 that interrogatory showing the -- relating to the Xsi
43 Lax Uu Ando'o territory.

44 MR. GRANT: Which affidavit --

45 MR. MACKENZIE: And I'll file the affidavit.

46 MR. GRANT: If you want, you can say the first or the second of
47 the two.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 MR. MACKENZIE: I will be filing both affidavits, the first and
2 second affidavit.

3 MR. GRANT: And 59C did you say?

4 MR. MACKENZIE: Yes.

5 MR. GRANT: Okay.

6 MR. MACKENZIE: I will be filing the affidavit of William
7 Blackwater, Baskyelaxhaa, dated February 15, 1987, and
8 interrogatory 59C, and the map, schedule C, attached
9 to the interrogatories. I will be filing
10 interrogatory of Niist, David Blackwater. David
11 Blackwater's affidavit dated January 29, 1987 and
12 interrogatory 59C.

13 MR. GRANT: There is no map attached.

14 MR. MACKENZIE: No map. I will be filing the interrogatory of
15 Kliiyem lax haa, Martha Brown, consisting of an
16 affidavit dated January 27, 1987, interrogatory 59C,
17 and the map which is schedule C to the
18 interrogatories. Okay.

19

20 (OFF THE RECORD)

21

22 MR. GRANT: In order to expedite matters, Mr. Mackenzie wished
23 to record the interrogatories that he intends to file.
24 I understand that he's not intending to question Mr.
25 Blackwater with respect to those interrogatories, and
26 of course I haven't had a chance to review each of
27 them and the answer, and I will reserve the right
28 to -- reserve the right to either object to filing
29 them as exhibits at trial for any reasons that may
30 become apparent in the future, or to bring to the
31 attention of the court any co-relating matters --
32 questions that should be part of it. In other words,
33 I haven't reviewed them, but this is basically the
34 notice of intention of Mr. Mackenzie to file, and I
35 just didn't want the record to show that I have
36 consented to the filing of those until this time that
37 I have reviewed them, and I reserve that right to
38 object when they are tendered at trial.

39 MR. MACKENZIE:

40 Q Okay. I am placing before you a photocopy -- oh, here
41 it is here. Placing before you a document entitled
42 application for registration of a trapline dated June
43 4, 1951 with what appears to be your signature on it.
44 That is Provincial document AGBC -- Provincial
45 document 3293. A copy was delivered to the plaintiffs
46 with May 18, 1988 Notice of Admit.

47 MR. GRANT: 3293 just this document, or is it just one file or

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 is it a whole series of files?

2 MR. MACKENZIE: It deals with one trapline. There were several
3 documents in there.

4 MR. GRANT: So it's one trapline file?

5 MR. MACKENZIE: Yes. I have a copy of that.

6 THE WITNESS: Yes, that's my signature.

7 MR. MACKENZIE: Have that marked as an exhibit please.

8

9 (EXHIBIT THREE FOR IDENTIFICATION -

10 APPLICATION FOR REGISTRATION OF TRAPLINE DATED

11 JUNE 4, 1951)

12

13 Q I am placing before you a document entitled return of
14 registered trapline holder dated May 20, 1953 with
15 what appears to be your signature. And that's from
16 Provincial document 3293.

17 MR. GRANT: And what is your question? Is that his signature?

18 MR. MACKENZIE:

19 Q Yes.

20 A Yes, it's mine.

21 MR. MACKENZIE: Mark that as being the next exhibit please.

22

23 (EXHIBIT NO. FOUR - RETURN OF REGISTERED

24 TRAPLINE HOLDER DATED MAY 20, 1953)

25

26 Q That is -- you have a registered trapline?

27 A Yes.

28 Q Part of that registered trapline is in the Damdochax
29 territory?

30 A No.

31 Q Part of your registered trapline is in the Gwinin
32 Nixtw, Slamgeesh area?

33 A No.

34 Q Part of your registered trapline is in the
35 Baskyelaxhaa territory?

36 MR. GRANT: The territory described in the --

37 MR. MACKENZIE: Baskyelaxhaa territory described in his
38 territory.

39 THE INTERPRETER: Excuse me, I said Kliiyem lax haa.

40 MR. GRANT: The Baskyelaxhaa territory described in his
41 affidavit.

42 THE WITNESS: No. He has his own territory.

43 MR. MACKENZIE:

44 Q Your registered trapline runs from the Skeena River to
45 the Nass River?

46 A Yes.

47 Q The Slamgeesh River is the boundary of your registered

- 1 trapline?
2 A No.
3 Q The Skeena River is a boundary of your registered
4 trapline?
5 A Could you make it clear to me which territory you are
6 referring to now, so it would be quite clear to what
7 you are talking about?
8 Q I am speaking about your registered trapline.
9 A It's past Dam Duutsxwhl. This is where my registered
10 trapline is.
11 Q And your registered trapline goes along the Skeena
12 River?
13 A No.
14 Q Your registered trapline goes down to the third cabin?
15 A No.
16 Q Your registered trapline goes to the fourth cabin?
17 A No. It's different.
18 Q Part of your registered trapline is in the Damdochax
19 territory?
20 A No.
21 Q Do you trap in the Damdochax territory?
22 A I was born there and I did trap there when my father
23 was still alive.
24 Q Have you trapped in the Damdochax territory since your
25 father passed away?
26 A No.
27 Q Did the Department of Indian Affairs buy the
28 registered trapline for you?
29 MR. GRANT: Which one?
30 MR. MACKENZIE: That we have been speaking about.
31 MR. GRANT: Would you mind then saying did they buy the
32 registered trapline -- okay, put it on the record.
33 MR. MACKENZIE:
34 Q Did the Department of Indian Affairs buy the
35 registered trapline for you?
36 MR. GRANT: It's referred to in Exhibit 3.
37 THE WITNESS: Okay. It's -- the reason why this was registered
38 was because there was white people fighting over this
39 area, which -- this is not my territory, but I
40 registered it because I didn't want any of the white
41 people to be fighting over this territory. And I
42 don't hardly go over there.
43 MR. MACKENZIE:
44 Q I'm showing you a letter dated February 9, 1979, a
45 copy of that letter with what appears to be your
46 signature on it. Is that your signature?
47 MR. GRANT: I think the witness -- I think that the interpreter

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 should have an opportunity to translate the letter to
2 the witness, so he knows what it says before he
3 answers. Just so he knows what the letter is, in
4 terms of knowing whether that's the letter that he
5 signed.

6 THE WITNESS: This letter I tried to explain before when I was
7 asked about that trapline. This letter was only to
8 protect that territory which was going to be destroyed
9 by the white people, and I did not want to see this.
10 And this is -- I told the Indian Department, and this
11 is why they bought this place. And it doesn't belong
12 to me. It still -- the place I registered is right
13 under the telegraph lines that are there. That's
14 straight through. That's the place I registered. And
15 it goes to the Luu Saiyeems Laawxs, it goes as far as
16 there, Luu Saiyeems Laawxs, and then it goes towards
17 Luus territory.

18 Q Is that your signature on the letter?

19 A Yes.

20 MR. GRANT: I don't object to marking this as an exhibit, given
21 that he has described it.

22 THE WITNESS: It also goes -- it goes as far as to sixth cabin.
23 I just want to protect this area, and this is the
24 reason why it's registered. I have never gone there
25 ever since.

26 MR. MACKENZIE: Exhibit 5.

27

28 (EXHIBIT NO. 5 - LETTER DATED FEBRUARY 9, 1979)

29

30 Q Just go on the record to say that I handed to Mr.
31 Grant, David Blackwater's trapline registration dated
32 July 18, 1984. And I put that before the witness and
33 I ask Mr. Blackwater, is that David Blackwater's
34 signature?

35 A No.

36 Q Does David Blackwater have a registered trapline?

37 A Are you talking -- are you asking about me or about
38 Niist, David?

39 Q David. I am asking about David Blackwater, Niist.

40 A Yes, David is responsible for Niist territory.

41 Q Does David Blackwater have a registered trapline?

42 A Not when he didn't have the name Niist. It was after
43 he had the name Niist that it was passed onto --

44 Q Does David Blackwater have a registered trapline now?

45 A Yes.

46 Q Is that David Blackwater's signature on that document?

47 A I don't know whether it's his signature or not.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

- 1 Q Okay. Does William Blackwater have a registered
2 trapline?
3 A He is responsible for the territory of Baskyelaxhaa.
4 Q Does William Blackwater have a registered trapline
5 now?
6 A Maybe he does. I don't know.
7 Q Is David Blackwater's registered trapline -- does
8 David Blackwater's registered trapline have the same
9 boundaries as Niist's territory?
10 MR. GRANT: There is two Niist territories in his affidavit.
11 MR. MACKENZIE:
12 Q Xsi Luu Witwiidid.
13 THE INTERPRETER: Could you phrase that question again.
14 Q Does David Blackwater's registered trapline have the
15 same boundaries as the Niist territory, Xsi Luu
16 Witwiidid?
17 A Xsi Luu Witwiidid is a vast area, and Gibeumget has
18 territory -- he's responsible for part of the
19 territory there, but Xsi Luu Witwiidid is a vast area,
20 and I'll just mention the creeks and the rivers that
21 are there. I told you about this -- these -- about
22 the territory yesterday.
23 Q Could you tell him I'm asking about the registered
24 trapline.
25 THE INTERPRETER: I think he misunderstood my question. He is
26 explaining how the features are of the --
27 MR. GRANT: Well, can you put on the record what he just said.
28 THE WITNESS: I finished describing Maxhla Nihl Tsenden. I
29 finished that. The Maxhla Nihl Tsenden Ando'o, the
30 creek, comes this way, and it goes into the Nass
31 River, and on the other side is the -- is another
32 creek, Xsi Luu Witwiidid. It's almost across each
33 other. And then the Xsi Luu Witwiidid goes from the
34 swamp like place, it goes to Luu Silgim Baad
35 Xsitxemsem. It goes along the Luu Silgim Baad
36 Xsitxemsem, and I am just talking about the waters
37 * now. It -- after this it goes back to Luu Silgim Baad
38 Xsitxemsem*. It goes -- it goes and passes seven,
39 eight and nine cabins. It passes -- you will see
40 where the boundary of the Telegraph Creek is. I
41 really want to make this clear to all of you. I've
42 explained it before. It passes seven, eight and nine
43 and then it passes the cabins and it passes the ninth
44 cabin, and then it reaches another creek. It goes
45 to -- it reaches the place known as Xsitxemsem Ando'o.
46 Q Sto'ot Xsitxemsem?
47 A Yes.

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 MR. GRANT: Just be clear -- just clarify that. You said
2 Xsitzemsem Ando'o --
3 THE INTERPRETER: River known as or creek whatever it is.
4 MR. GRANT: Known as Sto'ot Xsitzemsem or Xsitzemsem?
5 THE INTERPRETER: Still the same no matter how you say it.
6 THE WITNESS: What I want to make clear is that it passes the
7 ninth cabin and then it reaches the boundary of the
8 Telegraph Creek boundary. On the Sto'ot Xsitzemsem
9 there is the boundary for the Stikine people. We are
10 turning back to ninth cabin from Sto'ot Xsitzemsem.
11 There is -- the boundary goes up like this, and the
12 reason for that is what -- I'll tell you what my
13 grandmother told me.
14 What happened is one of the relatives were sent to
15 go hunting on that area, and one of the Stikine people
16 murdered this person. They went and confronted the
17 Stikine people why did they kill him. I gave him the
18 permission to go hunting on my territory. And when
19 they were confronted, they made a compensation, which
20 is known as Xsiisxw. That's why the boundary is out
21 like this, because of the -- it didn't belong to us to
22 begin with, but because of the murder it was a payment
23 from the Stikine people. Do you know what I am
24 talking about?
25 Q Yes. Thank you very much. Does David Blackwater trap
26 at ninth cabin?
27 A Yes, he traps there. It's parts of the Xsiluu
28 Witwiidid, and then it goes to Luu Silgim Baad.
29 Q Does David Blackwater trap at eighth cabin?
30 A Yes.
31 Q Does David Blackwater trap at seventh cabin?
32 A Yes, probably. It's not that far from eighth. I
33 mentioned Luu Silgim Baad Xsitzemsem, this is all
34 Niist territory.
35 Q Do you --
36 A And it goes right to that place where they had the
37 Xsiisxw house I talking to you about.
38 Q In your mind is there any difference between the
39 registered trapline and Niist's territory boundaries?
40 MR. GRANT: Well, you mean are the boundaries -- I don't think
41 the question can -- I don't think the question is
42 objectionable, but all it does is -- there is no
43 evidence that Mr. Blackwater has seen any description
44 or could even read a description of a registered
45 trapline on a piece of paper. So I think that when
46 you say in his mind, it's where as far as he in his
47 opinion it's the same. It's his understanding is the

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 same.

2 MR. MACKENZIE:

3 Q Without telling me the boundaries -- don't tell me the
4 boundaries. Don't tell me the boundaries. Do you
5 know the boundaries of David Blackwater's registered
6 traplines? He can say yes or no.

7 A I know what you are talking about now.

8 Q Yes, he knows.

9 THE INTERPRETER: I'll ask him this way. You said -- but I just
10 put it altogether.

11 MR. MACKENZIE: What are you asking him Ali?

12 THE INTERPRETER: What you're saying is Niist's territory, not --
13 you said don't tell me the boundary of David -- well,
14 Niist is David Blackwater. I know the registered
15 trapline, uh-huh, but I think he is just putting them
16 two together.

17 MR. MACKENZIE: Yes, he is. That's why we are going around and
18 around.

19 MR. GRANT: You have only gone around twice.

20 MR. MACKENZIE: I am going around.

21 MR. GRANT: Once. But I think that -- but just for the record,
22 so it's clear that Mrs. Sampson in the -- in her
23 translation of that question stated registered
24 trapline to him, and I think we all heard that, so it
25 wasn't that she asked for the territory. But now she
26 is explaining when she gets his answer that she
27 understands his answer. He is referring to the
28 territory of Niist and of course Niist is David
29 Blackwater. You are asking for a registered trapline
30 and he is referring to the territory of Niist, but in
31 her translation of her question she did refer to
32 registered trapline.

33 MR. MACKENZIE:

34 Q Yes. Now, here is -- could you see whether he can
35 answer this question yes or no, please, subject to Mr.
36 Grant's concerns. I just want a yes or no to this
37 question. Do you know the creek known as Xsi Maxhla
38 Biluust Maawxs?

39 A Yes, I seen it.

40 Q Thank you.

41 MR. GRANT: Leave well enough alone.

42 THE INTERPRETER: He is saying "Are they going to listen to us
43 now?"

44 MR. GRANT: You can record there is laughter all around the
45 table.

46 MR. MACKENZIE: I just have one more question.

47 Q Could you ask him if possibly whether he could answer

W. Blackwater (for Plaintiffs)
Cross Exam by Mr. Mackenzie

1 this question yes or no. Does David Blackwater trap
2 north of Xsi Maxhla Biluust Maawxs?

3 A Yes.

4 Q Thank you very much.

5 MR. GRANT: I think he understood that you were here to ask the
6 questions to determine whether he really knew these
7 boundaries, and that's why he went on. When you were
8 asking questions to be sure he knew that he -- what he
9 was talking about.

10 MR. MACKENZIE: You don't mind if I could -- could I say
11 something off the record to compliment him? Or I'll
12 say it on the record. You do appear to know the
13 boundaries very well. Thank you very much for giving
14 me all that detail.

15

16 CROSS-EXAMINATION BY MS. KOENIGSBERG:

17

18 Q Mr. Blackwater, while we are on the subject of the
19 story that your grandmother told you about the
20 compensation for the murder, I would like to ask you
21 just a couple of questions about that story.

22 A Okay.

23 Q When you were telling Mr. Mackenzie that story, you
24 said that your grandmother told you that a relative of
25 yours went hunting. Can you explain to me
26 approximately where the relative went hunting when the
27 Stikine person murdered him?

28 MR. GRANT: So where he was when he was killed?

29 MS. KOENIGSBERG: Yes.

30 A Okay. You see where the boundary goes up like this,
31 and I mentioned ninth cabin. Well, it's close about
32 there where it was inside the territory. And after
33 they've murdered him, this -- it was close to ninth
34 cabin. After they have murdered him they gave him
35 that piece of land that goes up for compensation, and
36 they also have a name with that compensation, gave a
37 name with the compensation.

38 Q What was the name?

39 A Gas Aguun. This is the name that the Stikine people
40 gave to Niist House, and this is the only reason why
41 this House has that name -- this is the only reason
42 why Niist House has this name Gas Aguun, because it
43 was given with the compensation of the land.

44 Q Yes. You have mentioned that it was near ninth cabin,
45 but can you tell me what the boundaries of the area
46 that was given in compensation are?

47 A That's the only way I could explain to you, that it

1 goes around like this from that territory. It's a
2 piece that goes around sticking out.
3 MR. GRANT: Indicating a bulge of the territory.
4 MR. MACKENZIE:
5 Q Have you ever been to the area that you are
6 describing?
7 A I went with Peter Shanoss there when he was still
8 alive. And this is the name that they -- that was
9 given to Peter Shanoss, Gas Aguun, and with that piece
10 of territory also given to him.
11 Q Have you ever attended a meeting with Tahltan people
12 where this story was told?
13 A It's -- yes, they did, but I -- it's too -- it's a
14 long, long time ago. I wasn't even born at that time
15 when they did have.
16 Q Okay.
17 A They did have -- have a meeting.
18 Q As far as you have been told is there was a meeting a
19 long time ago before you were born?
20 A Yes, they just told me this, but we didn't call it a
21 meeting, we called it a little Liligit, which is a
22 feast.
23 Q And that was when the compensation was paid, is that
24 correct?
25 A Yes, that's correct.
26 Q And in your lifetime you have never attended a meeting
27 where that same story or his story was recounted or
28 retold?
29 A No, but it's clear to them what happened.
30 Q How do you know that it is clear to them what
31 happened?
32 A My grandmother told me that they had a feast to pass
33 this over.
34 Q Okay. I want to talk now about the Niist genealogy,
35 the members of the House of Niist. I want to refer
36 you to interrogatories answered by David Blackwater,
37 Niist, about the members of the House of Niist. In
38 the interrogatory addressed to David Blackwater he was
39 asked to identify the hereditary chiefs -- I won't go
40 on. It's question 32. In the course of answering a
41 question about hereditary chiefs, David Blackwater
42 listed the chiefs in the House of Niist, and I would
43 like to read those to you.
44 A Okay.
45 Q The chiefs named by David Blackwater as being chief in
46 the House of Niist are yourself, Walter Blackwater,
47 John Blackwater, Billy Blackwater, Charlotte McCarthy.

W. Blackwater (for Plaintiffs)
Cross Exam by Ms. Koenigsberg

1 And if we stop there, those are yourself and some of
2 your brothers and sisters, is that correct?
3 A Yes.
4 MR. GRANT: Before you proceed, I want to note for the record
5 that in listing the members of the House of Niist,
6 which is one of the other answers, David Blackwater
7 does not refer to Billy Blackwater as a member of his
8 House.
9 MS. KOENIGSBERG: Okay. I am going to discuss that indirectly
10 at least.
11 MR. GRANT: Sure.
12 MS. KOENIGSBERG:
13 Q Are each of the brothers and sisters that we have just
14 referred to a chief in the House of Niist to your
15 knowledge?
16 A Everyone in Niist's House, and Billy was in Niist's
17 House. And until he took the name Baskyelaxhaa --
18 before he took the name Baskyelaxhaa they had a
19 meeting, the House of Baskyelaxhaa and the House of
20 Niist, and this was when the decision was made that
21 Billy will hold the name Baskyelaxhaa. But it's still
22 quite a close family.
23 Q Yes. The next person listed as chief in the House of
24 Niist is Ambrose Stewart senior.
25 A Yes, he's the one that holds the name Gas Aguun.
26 Q And then Wallace Johnson is next?
27 A Yes, Gaiyimlaxhaa is his name.
28 Q And he is a member of the House of Niist?
29 A Yes.
30 Q And the next is Jessie Green?
31 A No.
32 Q Jessie Green is not a chief in the House of Niist?
33 A No.
34 Q And not a member of the House of Niist?
35 A No.
36 Q What about Murphy Green?
37 A No.
38 Q Not a chief and not a member in the House of Niist, is
39 that correct?
40 A There may be chiefs, but from a different House.
41 Q What about Barlow?
42 A No.
43 Q My confusion is that the names that I just read to
44 you, Jessie Green, Murphy Green and Barlow Green, are
45 mentioned by David Blackwater as being chiefs in the
46 House of Niist, but their names do not appear on the
47 genealogy which was delivered recently, but dated

W. Blackwater (for Plaintiffs)
Cross Exam by Ms. Koenigsberg

1 January 20th, 1988. And as I understand your
2 evidence, they are neither chiefs in the House of
3 Niist nor members of the House of Niist, am I correct?
4 MR. GRANT: Are you asking a question out of that?
5 MS. KOENIGSBERG: I just said was I correct.
6 A Yes, that's right, they are in a different House.
7 Q Do you know what House they are in?
8 A I remember there is two chiefs in this House that --
9 Axmoogasxw's House, and another chief which I can't
10 recall right now. This is where Jessie Green belonged
11 or are members of.
12 Q Does he mean Jessie Murphy and Barlow or --
13 A Yes.
14 Q And you have told me that Wallace Johnson is a chief
15 in the House of Niist, but I don't see Wallace Johnson
16 on the genealogy of Niist. Should Wallace Johnson be
17 on the genealogy of Niist?
18 A Wallace Johnson was adopted from Niist House to begin
19 with. He was brought up by Mark Johnson and his wife,
20 and after Mark Johnson and his wife passed on, then he
21 was taken back into Niist House, which he is holding
22 my uncle's name today.
23 Q And so can you tell me by name the persons to whom
24 Wallace Johnson is related in the House of Niist?
25 A I take him as a brother today because he's the one
26 that is holding my uncle's name. His name is
27 Gaiyimlaxhaa. He is holding the name Gaiyimlaxhaa
28 today.
29 Q Can you not recall at this time who his mother was?
30 MR. GRANT: His natural mother?
31 MR. MACKENZIE: If she was in the House of Niist, yes.
32 THE WITNESS: No, I don't know. His mother died a long time
33 ago.
34 MR. GRANT: Okay. I want to just put on the record that I
35 didn't want to do it until you finished your
36 questioning on that area, but this affidavit of David
37 Blackwater, the interrogatory answer is dated January
38 29th, 1987. It was referred to on Monday during the
39 cross-examination of Neil B. Sterritt, and I believe
40 it was even filed as an exhibit. That he
41 supplements -- he filed a later affidavit, that is
42 Neil Sterritt senior did, in which he referred to the
43 members of his House, correcting his earlier list of
44 members, and included in the members of his House by
45 the May, 1987 affidavit were the three persons, Jessie
46 Green, Murphy Green and Barlow Green, as well as
47 others.

W. Blackwater (for Plaintiffs)
Cross Exam by Ms. Koenigsberg

1 I want to say that it will probably -- I want to say
2 for the record that any failure to file a similar
3 supplementary affidavit of David Blackwater at that
4 time amending his House members to delete not only
5 those three people but the other Greens that are
6 referred to on his Schedule A, the other people, was
7 through inadvertence of counsel, and obviously that
8 would have clarified an area that you have raised
9 questions on. But I will say for the record that it
10 is my understanding, and that there is no dispute or
11 question about it from the information I have, that
12 those members, the Greens and other members that are
13 referred to on Schedule A of the Niist House members
14 and are later referred to in the correcting affidavit
15 of Wii Gaak of Neil Sterritt senior, they should have
16 been deleted.

17 Those are my instructions from both sides, and I
18 wanted you to have your opportunity to ask the
19 questions, of course, but the failure to file the
20 correcting affidavit of David Blackwater was through
21 inadvertence. We thought we had corrected the matter
22 by filing the corrected affidavit of Wii Gaak. But
23 there is not to be any intention that those people
24 were included in both Houses. There was some error at
25 the time. And those comments don't apply to Wallace
26 Johnson, and both Mr. Sterritt and Mr. Blackwater has
27 explained the history of Mr. Johnson.

28 MS. KOENGISBERG:

29 Q I would now like to ask you some questions about an
30 area in which you have already given some evidence of
31 your employment history and your life growing up in
32 Damdochax area. You will excuse my pronunciation.
33 You have told us you were born in 1923, and that you
34 were born and grew up in the area of Blackwater Lake,
35 correct?

36 A Yes.

37 Q You also told us that you worked in Prince Rupert for
38 about 36 years ending in 1984, is that correct?

39 A Yes, it's right. It's a seasonal job. I would finish
40 there within about three months, then I would go back
41 with my father to the Blackwater area.

42 Q Okay. I want to ask you about that, but I'm going to
43 try and clarify the time period so that we don't get
44 mixed up. My arithmetic puts you starting your time
45 of going to Prince Rupert in about 1948, shortly after
46 the war, is that correct?

47 A Yes, I think so.

W. Blackwater (for Plaintiffs)
Cross Exam by Ms. Koenigsberg

- 1 Q And you mentioned that during the time that you worked
2 in Prince Rupert you came back to Kispiox regularly
3 until your mother died, is that correct?
4 MR. GRANT: He just said that he came back to the territory.
5 MS. KOENIGSBERG: Okay. Peter, if I may, I would like to leave
6 it at Kispiox. That's what he said before, and I am
7 certainly going to explore. I think we can reconcile
8 the whole thing.
9 A Yes.
10 Q And when you came back -- when you said that you came
11 back to Kispiox, you also said that you went while
12 your father was alive, you still went back and trapped
13 with your father?
14 A Yes.
15 Q Okay. And did you always trap during that period of
16 time? And I understand your father died in 1966, is
17 that correct?
18 A Yes.
19 Q Okay. So between 1948, approximately, and 1966, when
20 you went back after finishing the round in -- at the
21 coast, did you go back and trap with your father in
22 the area of Blackwater Lake?
23 THE INTERPRETER: Would you say that again please.
24 Q Between 1948 and 1966, when you came back and went
25 trapping with your father, was it in the area of
26 Blackwater Lake?
27 A Yes.
28 Q Did you trap in any other area in those years?
29 MR. GRANT: With his father or with anybody?
30 MS. KOENIGSBERG:
31 Q With anybody.
32 A Like I said before, that Niist has vast area and this
33 area is broken up -- the territory is broken up so a
34 person is responsible for a certain part, and I went
35 with different people on this territory, including
36 Peter Shanoss, who I mentioned. This is -- I'm
37 talking now about our own family, our close family
38 that I am talking about now.
39 Q All right. And you say that Niist is a vast
40 territory, as indeed it is. Was it -- was your
41 trapping confined to within the territorial boundaries
42 that you have described of Niist?
43 MR. GRANT: When his father was alive?
44 MS. KOENIGSBERG:
45 Q Yes.
46 A When my father was still alive -- I told you before
47 where I was brought up and where I was born. This is

W. Blackwater (for Plaintiffs)
Cross Exam by Ms. Koenigsberg

1 a place that I -- where I was brought up until I was
2 grown, I was quite grown up, able to work when -- this
3 how long I stayed there, and this territory is --
4 belonged to a family. Like Niist has his own
5 territory that belongs to our family, and this one
6 belongs to another family.

7 Q Yes. You've talked about staying in the area of
8 Damdochax or Blackwater Lake until you were almost
9 grown. Do you mean about the age of 15 when you went
10 to Prince Rupert for part of the year?

11 MR. GRANT: Just a second. 25 according to my calculation.

12 MS. KOENIGSBERG: You are right. Yes. Thank you.

13 A Yes.

14 Q And you lived in the Blackwater Lake area with your
15 entire family until you were about 25, or as many
16 members of your family as were alive?

17 A Yes.

18 Q And why at approximately the age of 25 did you leave
19 that area to go to the coast to fish during part of
20 the year?

21 THE INTERPRETER: I am asking what -- I don't understand one
22 Indian word, and he is going to explain to me. I am
23 trying to clarify what he is saying by Gantsitsox.

24 A Okay. The reason why I went there is that I went
25 there for survival to work for myself, to be
26 independent.

27 MR. GRANT: What does that word mean that you were asking?

28 THE INTERPRETER: Uh-huh. Living. You know, living.

29 MS. KOENIGSBERG:

30 Q You have also said that after 1974, after your mother
31 died, you came back to the Kispiox area less often, is
32 that correct?

33 A Yes, that's right.

34 Q And why was that?

35 A I was feeling quite bad because of the death of my
36 mother, and I had made up my mind that I wasn't going
37 to come back altogether, but this is the reason I came
38 back once in awhile. And I feel bad because I am
39 thinking of it now.

40 MS. KOENIGSBERG: Those are all the questions that I have.
41 Thank you very much, Mr. Blackwater.

42

43 EXAMINATION BY MR. GRANT:

44

45 Q Mr. Blackwater, you were asked about whether -- you
46 were asked about the letter of 1908, I believe it's
47 Exhibit 1, and the feast books, and you said an answer

W. Blackwater (for Plaintiffs)
Exam by Mr. Grant

1 that has just been recently that things have been
2 written down. In the old days was everything told in
3 the Feast House? Are the territories still described
4 in the Feast House today?
5 MR. MACKENZIE: I object to that question. I request Mr. Grant
6 to instruct the witness not to answer the question.
7 MR. GRANT: Your objection is noted. Go ahead.
8 MR. MACKENZIE: And before Mrs. Sampson answers, I would like to
9 record right now that when I object the question gets
10 answered, when Mr. Grant objects the witness answers
11 the question -- I'm sorry, when I object the witness
12 answers the question --
13 MR. GRANT: Mr. Mackenzie. Let Mrs. Sampson relate -- can you
14 translate the answer.
15 THE WITNESS: It's just been recently that these things have been
16 written down, and if you go to feasts towards Skeena
17 Crossing there, what they do is they don't really
18 write anything down, they just show the items that are
19 brought in, and they mention how much is brought in
20 and who brought it in and this is how it was done.
21 Q Okay.
22 A This is what -- this is what they did in the ancient
23 times, they just call out the items that are brought
24 in, and it wasn't written down back then. It's just
25 recently that these things are written down.
26 Q You were asked by Mr. Mackenzie if Baskyelaxhaa's
27 territory was south of Luu Lax Loobit. How close to
28 Luu Lax Loobit is Baskyelaxhaa's territory?
29 MR. MACKENZIE: I object to that question.
30 MR. GRANT: Your objection is noted.
31 MR. MACKENZIE: And I request Mr. Grant to instruct the witness
32 not to answer.
33 MR. GRANT: The objection is noted.
34 MR. MACKENZIE: I would like to record right now that when I
35 object the question gets answered, when Mr. Grant
36 objects the witness doesn't answer the question.
37 MR. GRANT: I think it's -- I think that the practise we have
38 developed all week is that your objection is noted,
39 and the reason why I interjected was it was totally
40 unfair what you did the last time. When the witness
41 gave an answer in Gitksan, it's unfair to the
42 interpreter for you to interject between the Gitksan
43 answer and her translation.
44 MR. MACKENZIE: My comment was when you object to my questions,
45 Mr. Grant.
46 MR. GRANT: Okay. If you want to catch the plane, I think your
47 objection is noted and we should just get on it.

W. Blackwater (for Plaintiffs)
Exam by Mr. Grant

1 MR. MACKENZIE: When you object to my question, you prevent the
2 witness from answering my question, rather than just
3 having your objection noted. When I object to the
4 question, you allow the witness to go ahead.

5 MR. GRANT: Well, it's a question of redirect, whether I am
6 entitled to ask the question on redirect, and that's a
7 question that ultimately has to be decided by the
8 judge. The reason I objected to your questions is
9 because -- where I had said to the witness not to
10 answer, is where you have mistakenly restated his
11 evidence. And I think then it's improper to put to
12 the witness something that was not said.

13 Now, if we can go on. Maybe, Madam Reporter, you
14 can read back my question.

15

16 (QUESTION READ BACK BY REPORTER)

17

18 A Which part are you talking about? Do I have to go
19 back to Maxhla Nihl Tsenden?

20 Q No. I will try the question again. How far from Luu
21 Lax Loobit is Baskyelaxhaa's territory? If you can
22 just --

23 MR. MACKENZIE: I object to the question.

24 MR. GRANT: It's noted.

25 A Okay. This is what I'll tell you. There is this --
26 there is a lot of places known as Luu Lax Loobit which
27 describes the territories, and Luu Lax Loobit is not
28 close to Baskyelaxhaa's territory.

29 Q Okay. You were asked by Mr. Mackenzie about a
30 discussion you had in May, 1983 with Mr. Sterritt, and
31 you were asked some questions that are referred to in
32 a topographic data sheet of Mr. Sterritt's. Did
33 you -- after May, 1983 did you go on the Wii Minosik
34 territory with Mr. Sterritt?

35 MR. MACKENZIE: I object to the question.

36 THE WITNESS: Do you mean recently?

37 MR. GRANT:

38 Q Yes, in the last five years since May, 1983.

39 MR. MACKENZIE: I object to the question.

40 THE WITNESS: Yes, we went there.

41 MR. GRANT:

42 Q Okay. Did you show him these boundaries?

43 MR. MACKENZIE: I object to the question?

44 THE WITNESS: Yes, I showed him.

45 MR. GRANT:

46 Q Okay. You were asked about where your brother David
47 Blackwater traps. You were asked if he trapped at

W. Blackwater (for Plaintiffs)
Exam by Mr. Grant

1 sixth cabin, and Mr. Mackenzie went on with a few
2 other questions. If David is travelling north from
3 the direction of Luu Silgim Baad Txemsem towards Xsi
4 Maxhla Biluust Maawxs, does he cross Xsi Maxhla
5 Biluust Maawxs when he crosses?

6 MR. MACKENZIE: I object to the question.

7 *THE WITNESS: Okay. I have answered this already so many times
8 for where the Niist territory starts from. Niist
9 territory starts just above Xsi Galliixawit. It goes
10 along the Xsi Luu Witwiidit, it goes to Luu Silgim
11 Baad Xsitxemsem. It goes over where the place known
12 as Maxhal Dox Hla Genx Wii Gwiik. It goes to the Xsi
13 Maxhla Biluust Maawxs, and then it follows that. And
14 then it goes right to the boundary where the -- of the
15 Stikine people. I finish the territory please now.
16 That's not only -- I am just taking a short cut with
17 Niist territory, since you asked me about it. It's
18 just a short cut. Just explaining.

19 Q I understand that. Does David Blackwater when he
20 traps, trap on the other side of Xsi Maxhla Biluust
21 Maawxs? I am asking him when he traps. I am not
22 asking you about the boundaries.

23 MR. MACKENZIE: I object to that question. In fact I object
24 very strongly to that question.

25 THE WITNESS: It doesn't go past Maxhla Biluust Maawxs. There
26 is the range of mountains -- the mountain tops.
27 That's where -- just a little past Xsi Maxhla Biluust
28 Maawxs, and that's the boundary of the Stikine people.

29 MR. GRANT: I have no further questions on redirect. Thank you,
30 Mr. Blackwater.

31
32
33 (PROCEEDINGS CONCLUDED)

34
35 I HEREBY CERTIFY THE FOREGOING TO
36 BE A TRUE AND ACCURATE TRANSCRIPT
37 OF THE PROCEEDINGS HEREIN TO THE
38 BEST OF MY SKILL AND ABILITY.

39
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