1 VANCOUVER, B.C.
2 January 11, 1989
3
4 THE REGISTRAR: Order in court. In the Supreme Court of British
5 Columbia, Vancouver this Wednesday, January 11,
6 1989. Calling the matter of Delgamuukw versus Her
7 Majesty the Queen at bar, my lord.
8 THE COURT: Mr. Rush.
9 MR. RUSH: I think my learned friends have a matter to raise
10 with you concerning scheduling.
11 THE COURT: Thank you.
12 MR. GOLDIE: My lord, this refers to the scheduling of the
13 witness Heather Harris to whom Mr. Macaulay alluded
14 in his submissions to your lordship Friday last. It
15 arises out of the late delivery of documents,
16 primarily the interview notes that Miss Harris made
17 of her interviews with a very large number of the
18 plaintiffs. I'm not going to go through the history
19 of this to any substantial extent, my lord. I just
20 note that Miss Harris was advised -- that we were
21 advised that Miss Harris would be a witness on
22 November 24th and on December 6th. I wrote to my
23 friend Mr. Rush with a copy to Mr. Grant asking for
24 production of all documents coming within the
25 categories defined by your lordship in your reasons
26 for judgment of November 10th. I said this category
27 includes, of course, her interview notes.
28 The delivery of the interview notes commenced
29 on January the 5th, or more accurately I should say
30 they were dispatched from Hazelton on January the
31 5th. We received our -- we received the documents
32 sent out on January the 5th on January 9th. At the
33 same time Mr. Grant asked us to address your
34 lordship either yesterday or today as to whether we
35 would require an adjournment by reason of the
36 delivery or the late delivery of these documents.
37 We have not yet received all of them, although from
38 Mr. Grant's communication the final batch left
39 Hazelton yesterday or the 9th. But as of the time I
40 left my office this morning we had not received
41 them. So my submission is based upon the documents
42 that we have received. The documents that we have
43 received on the 9th we have classified but not
44 examined. They are primarily interview notes with
45 informants together with information which Miss
46 Harris has collected from a number of places. There
47 are about 170 items consisting of several pages

each. I assume that what is to come will be of the same general category. From Mr. Grant's letter what is coming will constitute -- will include interview notes in respect of the genealogy of some 20 houses. I can assume from that that we have the interview notes with respect to the genealogy of the remainder.

There is no doubt so far as I am concerned that it would be quite impossible for us to analyze these notes, to relate them to her report, and to relate them to the genealogies of which we are informed we now have in total. That being so, I informed Mr. Grant last night and my friend Mr. Rush that I would be applying today -- that I would be informing them and your lordship that I would be applying for an adjournment of Miss Harris after she has given her evidence in chief on the 16th. I think it is important that Miss Harris give her evidence in chief because there is a question about her qualifications, and your lordship's rulings with respect to qualifications will determine the scope of the cross-examination.

It appears clear that a number of the charts have already been proven by prior witnesses and probably there is no doubt that Miss Harris can authenticate the rest which she has filed. It is not a very lengthy report, a report running to some 80 or 90 pages in which she expresses a number of opinions which it will be my submission she is not qualified to express. It will be my submission that the charts will speak for themselves and that her evidence should be limited to an explanation, if such explanations are required of the charts. So conformably then to my friend's request that I speak to it this morning, I am advising the court and my friends that I will be applying for an adjournment after Miss Harris has given her evidence in chief and she has been cross-examined with respect to her qualifications.

THE COURT: How long is it anticipated Miss Harris' evidence will take. Is it set for a week?

MR. GOLDIE: I think it was set for a week.

MR. RUSH: Yes.

MR. GOLDIE: Yes, that's correct. I am not sure what part of that week is intended to be taken up with the evidence in chief, but I do feel that it is important that we have a ruling from your lordship

on the scope of her evidence because it will be, as I say, my submission she is not entitled or qualified to speak to all of the matters referred to in her report.

THE COURT: How long do you say it would take you to get ready for a full cross-examination of Miss Harris?

MR. GOLDIE: Well, I am in some difficulty there because the balance of the documents have yet to arrive. But my guestimate at this time, making allowance for those, is that it would take something like two to three weeks.

THE COURT: All right. Thank you. Mr. Macaulay.

MR. MACAULAY: My lord, I had referred to this problem last Friday. The information I have deals with a number of pages rather than the number of items. We received in round figures 530 odd pages on Monday afternoon, another 560 yesterday afternoon. And as we understand it, there are 1,500 pages to come. They are mostly handwritten notes so they take a little longer to deal with, to study than perhaps the typewritten version would. They cover not only genealogical matters which in itself is quite a broad category, but it covers other matters as well, the territories in some cases, a bit of oral history, a bit of this and that. So it's going to be just the time in getting through that kind of volume involves a good deal more than just a week of hard work.

We agree with Mr. Goldies' proposal that the question of qualification be dealt with next week. It should be. That may shorten the examination in chief and cross-examination. We are in the difficult position of not knowing what's coming. Over half of the number of pages are yet to come. We haven't even had a look at them. But we have a timing problem. We are only sitting two weeks a month at the moment. It would be unfortunate if Miss Harris didn't take up some of the court's time next week when we are scheduled to sit and everybody has made the necessary arrangements for that.

The cross-examination, I suppose it could be started on January 30th, but as I understand it my friend Mr. Rush and Mr. Grant are engaged in something else. The next open date is March 13th which is a week that the court wasn't sitting. We are just speculating about what the next installment of documents will be. All we know is that there are

a lot of them. We can't be ready for cross-examination next week or the week after. I agree with Mr. Goldie it will take a couple of weeks to absorb all that. Those are my submissions.

THE COURT: Thank you. Mr. Rush.

MR. RUSH: My information comes of course directly from Mr. Grant. And I can advise your lordship that apparently the total number of pages involved runs to about 2,600 pages. The pages were sent from Mr. Grant's office on -- the first set on January 5th with expected delivery on the 6th. The second on the 9th with expected delivery the day after. And the last batch, the largest, was sent on January the 10th. Due to a number of reasons of flight cancellations and difficulties of even Mr. Grant who had expected to be in Vancouver and bring a pile of these down with him, he wasn't able to come. And for these reasons the documents weren't delivered in a more timely way. And that doesn't seem mean to say that had they all been delivered on the 5th they would have been timely, but certainly more timely than what we are faced with today.

I think that it is certainly the case, like my friends, Mr. Grant found himself with a daunting task of reviewing a vast number of documents that even he did not expect to have to -- expect the number or the detail of the examination as my friends have indicated. The documents consist of a large number of draft genealogies. They include a large number of handwritten notes on various sizes of paper. They deal with small charts, that is partial drafts of genealogies. They deal with extracts from the interrogatories and this gives you some idea of the content. In large part, the information in the notes is reflected in the genealogies.

Now, just with respect to the balance of the documents, I understand from my learned friends that they as yet don't have them. Mr. Grant advised me this morning that they had been sent and he expected them to be here today or yesterday, I believe, and certainly by today. In respect of the contents of those documents, they are much like the contents of the documents already delivered. Mr. Grant has advised me and I think advised my friends that in order to assist their dealing with the documents that the documents have been organized. The

1 documents delivered on the 9th and the 10th have
2 been organized by file and by reference to the chief
3 name. And I should think that that would assist to
4 some degree with my friends reviewing these
5 documents.
6 Having said that, I am not really in a
7 position to oppose my friends' application, that is
8 for an adjournment, despite the fact that I find it
9 quite regrettable in terms of our best efforts to
10 fix dates that we thought we could follow through
11 with. But it is estimated by Mr. Grant that the
12 direct evidence of Miss Harris would take about two
13 and a half days. And so allowing for a similar
14 period of time for cross-examination, and again this
15 is as I advised your lordship last Friday
16 assumptions made on plaintiffs' counsels part,
17 assuming that we would still be in a position to
18 complete her evidence in the course of the five day
19 period allowing perhaps for a short evening sitting
20 or perhaps an earlier morning sitting if the need
21 arose.
22 I do not consider in the circumstances that it
23 would be advisable to divide the examination of Miss
24 Harris. In first part if the examination took in
25 some part the same length as the examination on
26 qualifications with regard to Miss Albright we could
27 expect that it would take about half a day. And in
28 my submission, my lord, it would require Miss Harris
29 and Mr. Grant, both of whom are in Hazelton to come
30 to Vancouver for that and then to come back to
31 Vancouver for the continuation of the direct and for
32 the continuation of the cross. That involves a cost
33 factor and a break in the continuity of the
34 evidence. And in my submission, it is more
35 desirable to begin and end the evidence in one shot.
36 THE COURT: Well, it is more desirable, Mr. Rush, but really we
37 are at the point where we just can't allow the trial
38 to go on and on this way. Next week has to be used
39 up some way. If you can put another witness in
40 there, well it seems to me that is the answer. But
41 if you can't, then it seems to me we must use up as
42 much of the week as we can, and that includes
43 cross-examination as far as the defendants can go.
44 MR. RUSH: Well, I appreciate that, my lord. The proposal
45 that -- keeping in mind my friends' concerns, I
46 had -- I was going to make a proposal to your
47 lordship. We cannot plug another witness into next

1 week. We do not have counsel and we do not have a
2 witness available. I think it would be jumping the
3 gun in terms of preparation for my friends as well.
4 But the proposal that I was going to suggest to your
5 lordship, keeping in mind that the court's concern
6 to use scheduled time next week was this, that if we
7 started the direct on the Wednesday and proceeded
8 with the direct on the 18th, 19th and 20th and to go
9 as far as we can and to continue the
10 cross-examination on the 23rd and the 24th which
11 would move it into the first two days of the
12 following week.
13 Now that, admittedly, does not take into
14 account Mr. Goldie's and Mr. Macaulay's concern that
15 they need they say two to three weeks, and I
16 appreciate their concern there. Now, if that --
17 that would permit, in my submission, my friends a
18 further period of time almost amounting to a week,
19 really about a five day period to consider the
20 additional material. Now, if that is not
21 sufficient, if my friend's cannot concede with the
22 additional material that they could not carry on
23 with the cross-examination then the suggestion that
24 I was going to propose to your lordship is this,
25 that the whole of the matter be put over to the week
26 of February -- excuse me, January the 30th. Mr.
27 Grant and Miss Mandell and I believe Mr. Goldie will
28 be in the Court of Appeal on the Westar injunction
29 on the 30th and the 31st. The proposal I was going
30 to suggest would be to begin Miss Harris on the 1st
31 and to conduct the examination on the 1st, 2nd and
32 3rd with the cross-examination carrying over to the
33 6th and the 7th. Now, that would have the effect of
34 eating into two days of Mr. Kari's examination. Mr.
35 Grant advises me he has discussed this with Miss
36 Mandell and between the two of them they think that
37 with perhaps an additional evening sitting with Mr.
38 Kari the evidence of Mr. Kari would not take what
39 was thought to be the full extent of that week of
40 February the 6th.
41 So, in effect, the proposal that I am making
42 would move -- would take into account my friends'
43 need for further time and would take up three days
44 of a week which we had not scheduled and would take
45 two days of a week that we had. But taking into
46 account if an additional evening sitting were sat I
47 think we could finish both witnesses within an eight

1 day period.
2 THE COURT: I have to cancel a five day court if that is the
3 case, and I really don't think we should have to do
4 that, Mr. Rush.
5 MR. RUSH: I agree.
6 THE COURT: I think that these dates aren't all fresh in my
7 mind, but is it not better to go ahead next week and
8 do as much as we can next week and finish Miss
9 Harris even if she has to be a divided witness on
10 some down week rather than rearrange everyone's
11 schedule. I know there are great advantages, but I
12 don't think it is overwhelming that a witness be
13 completed on consecutive court days.
14 MR. RUSH: Well, I agree, there isn't any necessary reason for
15 that. The suggestion I am making really takes into
16 account the concern that counsel for the plaintiffs
17 expressed about the necessity for more than one trip
18 to Vancouver. That's what I guess is the major
19 concern.
20 THE COURT: Well, it doesn't seem to me in the scale of
21 importance to be sufficiently serious as a matter of
22 scale to disrupt a schedule and other schedules as
23 well.
24 MR. RUSH: Well, I point out to you that in the first option
25 that I addressed to your lordship that it is one
26 that would encroach on a week that would be a down
27 week.
28 THE COURT: Well, I think that's --
29 MR. RUSH: Except for your lordship.
30 THE COURT: That is the most desirable out of all of these
31 alternatives. We have some flexibility then if you
32 pick a time when it will cause the least
33 inconvenience. What it means now is that we are
34 going to get one week in this whole month. I just
35 don't think that's something that can be condoned.
36 MR. RUSH: Well, as I say, my lord, I think if my friends find
37 that the proposal of starting on the 18th and then
38 the 24th is one that would be acceptable, it could
39 accomodate all of the concerns that we've expressed.
40 And it perhaps may be the best of all the possible
41 options, but I would like to hear them on this.
42 THE COURT: All right. Mr. Goldie.
43 MR. GOLDIE: My lord, I am in the Supreme Court of Canada on the
44 week of the 23rd and I had intended leaving to -- I
45 think the appeal I am on starts on the 23rd and it
46 is set for three days. In my submission, we should
47 start on the 16th unless for some reason the present

1 witness is not finished. But we should start on the
2 16th and we should go as far as we can.
3 I emphasize that if your lordship accepts that
4 Miss Harris is not qualified to express all of her
5 opinions we are going to hopefully shorten up the
6 time that is required for her and that can then be
7 allotted at that time. But I feel we shouldn't
8 start on the 18th with the prospect of going into
9 the next week. If we start on the 16th or as soon
10 as Miss Albright is finished we will preserve some
11 continuity in the sense of this case.
12 THE COURT: Mr. Macaulay.
13 MR. MACAULAY: Well, we were going to start the
14 cross-examination so that the burden of this delay
15 in producing documents falls much more heavily on us
16 than anyone us. It is difficult to organize a
17 coherent cross-examination. The business of going
18 as far as you can and then coming at this later is
19 not a very effective way of cross-examining.
20 THE COURT: Well, I appreciate that, Mr. Macaulay, but that's --
21 those are the cards we've been dealt, aren't they?
22 MR. MACAULAY: Well, we may be dealt those -- if that's the way
23 it goes, we may be dealt those cards over and over
24 again.
25 THE COURT: Well, I don't want to get into a question of why we
26 are in this position. There is no profit in that.
27 I don't understand it, but that's where we are. And
28 if at the end of the cross-examination you or Miss
29 Koenigsberg as counsel say they can't even ask a
30 question, then I am in counsels' hands. But I don't
31 think we should be in that position. It seems to me
32 that there must be some part of the
33 cross-examination that can be undertaken. If we
34 have to interrupt the cross-examination then we have
35 to interrupt it, but we are not at that point yet.
36 I think that we have to then find time that won't
37 interfere with the balance of the schedule to
38 complete that cross-examination. That's a financial
39 burden we have to impose on the plaintiffs, but that
40 is partly their own doing. I am sure there are some
41 explanations.
42 I don't wish to get into finger pointing. I
43 have to keep this trial going and I haven't done a
44 very good job of that. I am now resolved that we
45 are going to sit when we have set to sit as far as
46 we possibly and humanly can. And for that reason,
47 it is my view that we must proceed with Miss Harris

1 next Monday and go as far as we can with her. And
2 if we don't finish her, we must finish her at a time
3 that we are not scheduled to sit.
4 MR. MACAULAY: Well, that brings up the question that timely
5 delivery of documents will become absolutely
6 essential and that the documents not be delivered --
7 1,500 pages not be delivered --
8 THE COURT: I don't understand why that should be at all, but I
9 see no point in pursuing it. I think we should
10 pursue if you wish subsequent problems. Are there
11 other witnesses in this category where volumes of
12 documents are expected and are not forthcoming? If
13 that's so then we can profitably talk about that.
14 MR. MACAULAY: That's what I'm talking about.
15 THE COURT: Yes. Which witnesses --
16 MR. MACAULAY: It is others. I seek correspondence flowing back
17 and forth on similar topics in regards to other
18 witnesses and this is what gives me considerable
19 concern. I suppose by working night and day we can
20 get something together for this cross-examination,
21 but there are other witnesses presently scheduled in
22 regard to a number of documents that are still not
23 being delivered.
24 THE COURT: Well, we still don't have another witness scheduled
25 until the 6th of February. Is there a problem with
26 the witness that is going to be heard on the 6th?
27 MR. MACAULAY: There is Kari.
28 MR. RUSH: Correspondence between Miss Mandell and I think Mr.
29 Willms and recent correspondence that I saw
30 indicated documents were being passed between the
31 two. Now, as far as I know there is no difficulty
32 there.
33 MR. WILLMS: I was supposed to get at the end of the month the
34 list of the correspondence and the -- if I can put
35 it this way, the documents which fall within the
36 purview of your lordship's ruling on privilege, the
37 ones that were not privileged. But I have not got
38 that list on Dr. Kari yet. I don't have anything on
39 Dr. Daly like that, that list. There are still many
40 documents I believe coming on Dr. Daly. And as I
41 understand it, Antonio Mills as well we've been
42 advised is the witness after Dr. Daly. Dr. Daly is
43 scheduled to start at the end of February and that's
44 going to be a three-week session with two weeks of
45 Dr. Daly and then one week of Antonio Mills. We
46 don't have those documents yet, but we know that.
47 But dealing with the next witness there is supposed

to be a list that talks about draft reports and letters to and from Mr. Overstall. I don't have that yet.

THE COURT: All right. Well, Mr. Rush has notice of your concern in that regard.

MR. MACAULAY: If there is no incentive to the plaintiffs -- I am not suggesting that they are planning this, I'm sure they are not. But if there is no real incentive, no real penalty at the end of the day except to the cross-examiner then we will be in this pickle again and again.

THE COURT: What are you suggesting, we rent a pair of stocks and put counsel in them?

MR. MACAULAY: I'm trying to broach this subject without pointing fingers or without threatening and so on.

THE COURT: What kind of sanction can there be?

MR. MACAULAY: Sitting ten hours a day.

THE COURT: Well, I am prepared to do that too if we have to. But even that isn't productive if the documents haven't been produced.

MR. GOLDIE: Well, exactly. Your lordship ought to know that this is not something which has just arisen in the past couple of weeks. The request for Miss Harris' interview notes was made back in the spring. And at that time we were told a claim of privilege was made with respect to them. Well, that didn't get cleared away until your lordship's ruling on November the 10th.

It really goes back to 1987 when we first got this report we asked for all the underlying data. The situation, I'm afraid, is simply that the organization at Hazelton has not been geared up in anticipation of providing what used to be called the working papers. They still seem to be having problems. I would have thought that the first thing that would have been done when a witness is notified to us that is going to be the next witness that the machines would have been put in hand to copy the request that was made which in my case was -- it was made December the 6th and prior to that in May of 1988.

There isn't any sanction that can be applied except to us which imposes upon us a task which inevitably reflects in extended time because it is truism that if you can't organize the cross-examination it just goes on. You exhaust documents as they come into your hands and that's no

good. So the plaintiffs should be aware that their witnesses are not going to be dealt with until we have documents produced in a timely fashion, and once that occurs it will have to be done on a rush basis. We can do that once we've got the documents, but not on the basis of having them delivered to us a few days before the cross-examination.

THE COURT: Well, I'm not persuaded that I should change my view. I think we should proceed with Miss Harris next Monday. I think we should go with her evidence as far as we can. And if counsel responsibly say, and indeed all of these matters have to be decided ultimately on the basis of professional responsibility, that we can't go on then we have to stop. We will have to find some other time that will not interfere with the schedule.

I don't think there is anything else that I can conclude or decide that would advance this case the way that it should be advanced. And for that reason, I will look forward to Miss Harris starting on Monday. All right. Thank you. We may proceed now. Anything else?

MR. RUSH: I know of nothing.

THE COURT: Yes, all right.

Sylvia Louise Albright, resumed:

THE REGISTRAR: I caution the witness you are still under oath.

THE WITNESS: Yes.

MR. RUSH: My lord, I made reference yesterday to an authority directed to the witness' attention to the paper by MacDonald and Inglis. I have a copy of that to be slipped into the back of your binder.

THE COURT: I'm sorry, which one?

MR. RUSH: The large three ring binder. That's a copy for the witness.

THE COURT: All right.

EXAMINATION IN CHIEF BY MR. RUSH:

Q Now, Miss Albright, yesterday I was directing your attention to the investigations which you had conducted in respect to the Temlaxhan locality. I would like you please if you will to refer to plate 12 which is the photograph. I would just ask you if you can identify plate 12 as a photograph of your study area in the Carnaby area?

A Yes, plate 12 shows the location of lithic scatter

1 located in the Carnaby area.
2 THE COURT: Is that a bear that I see in the corner?
3 THE WITNESS: No, it is a black dog.
4 THE COURT: Good size dog.
5 THE WITNESS: Yes, it was.
6 MR. RUSH:
7 Q Plate 13 you made mention of the findings which you
8 made at the north side of Chicago Creek. Is that a
9 photograph of the area where those findings were
10 made?
11 A Yes, it is.
12 THE COURT: I'm sorry, plate 13 is what?
13 MR. RUSH: It is a photograph of the north side of Chicago
14 Creek.
15 THE COURT: Thank you.
16 MR. RUSH:
17 Q And if you will look at plate 14, just tell us what
18 that shows?
19 A That shows a general view of the terrace on which
20 one of the sites that we recorded is located,
21 GhSc-85-D.
22 THE COURT: Which side of the river is this?
23 THE WITNESS: This is in study area on the northwest side of the
24 river. And it shows the edge of Mr. Simms' garden
25 where we found several obsidian pieces, flakes.
26 MR. RUSH:
27 Q All right. I want to ask you if during the course
28 of your investigations with respect to the Temlaxhan
29 study area, did you extend the area of study at some
30 point during the summer?
31 A Yes. Besides the four specific areas outlined in
32 the Temlaxhan area, given the limited site findings
33 in that area, we kept extending our survey out from
34 those four areas but north and south. So actually
35 the 85-A site, GhSw-85-A was found in the Carnaby
36 area to which we extended our survey.
37 Q So the Carnaby study area was part of the extended
38 survey?
39 A Yes. We had defined -- had defined the study area
40 from a little north of Hazelton to the Carnaby area
41 with these four high priority areas or most likely
42 areas. And so after examining the four high
43 priority areas we extended the survey south to
44 the -- close to Gitsegukla area north to a creek
45 opposite Hazelton and up into the Hagwilget Canyon
46 to cover the area around the confluence of the two
47 major rivers there.

Q And that would be the Skeena and the Bulkley?
A Yes.
Q Would you look please to figure 14. This has been entitled the Hagwilget Canyon Sites and reference has been made to the site at Hagwilget. There were other site areas shown on this map. Can you just refer to that map and identify those other site areas for his lordship where you conducted surveys in the canyon?
A Yes, a survey along the canyon besides the large lithic scatter that we noted there were four other smaller sites that we located. These are GhSv-85-B to the east of the big curve in the canyon so that's on the very right-hand side of the map. GhSv-85-C and D which are in the section of the canyon just upstream from the bridge. And another site GhSv-85-E to the west or south and west of the Hagwilget Bridge.
Q All right. And again the cross hatching in the oblong circles associated with those site reference numbers depicts the area where you did these investigations?
A Yes, these are the site locations that we located during survey.
Q Now, my lord, GhSv-85A was referred to by the witness when she dealt with figure 5 and the evidence that was given about the surface scatter at that time. Now, I want to refer you, Miss Albright, to the next figure which is figure 16. And this is under number GhSv-85-B. Does that figure depict in that graphic way the findings which you made at that particular site?
A Yes. This site shows a number of cultural features located on the north side of the Bulkley River. And again the features themselves are numbered.
Q And referring to figure 17, and this is the C designation of that site reference?
A Yes. This shows I believe it is 26 or more.
THE COURT: Which one is plate 17?
MR. RUSH: Plate 17 is GhSv-85-C.
THE WITNESS: Figure 17.
THE COURT: Thank you.
THE WITNESS: Yes, there was a large cluster of pit features interpreted as cache pits on a small terrace on the west bank of the Bulkley River. Again the feature -- pit features are numbered.
MR. RUSH:

Q And the double crossed words indicate a rock outcrop. Is that a cliff?
A That's a rock outcrop on the edge of the terrace closest to the river. The cluster of cache pits are located towards the base of a hill.
Q Right.
A So they are on a small terrace at the base of a hill back behind this rock outcrop.
Q Thank you. Figure 18, this refers to site GhSv-85-D and appears to refer to a cluster of depressions. Can you just describe that for us, please?
A Yes, this is again another group of pit features located on a major terrace level above the Bulkley River right at a major bend in the river.
Q Okay. Thank you. Now, there was an additional site GhSv-85-E, and there apparently is no figure for that; is that right?
A No, I have not prepared a map for this. It is described as well in the discussion of each site.
Q And that's at page 3-13?
A Yes.
Q Thank you. Now, in terms of the pit features and the cultural depressions which you found in the Hagwilget Canyon, your additional survey work there, what did you conclude from these findings?
A These are clusters of pits used for -- interpreted as being used for storage of dried food resources. They are located in a major fishing area along the Bulkley Canyon. This area is still fished today. It is likely that these cache pits are associated with fishing locations at various points along the canyon.
Q All right. Now, with respect to your investigations as a whole regarding the ancestral village of Temlaxhan, are your conclusions with regard to those investigations set out in the top two paragraphs on page 3-14?
A Yes.
Q Now, with regard to your findings on the Skeena River that is downstream from the Hagwilget Canyon, were you able to find evidence of a major village site of habitation?
A No. Within the general study area on the Skeena itself that we examined we did not find evidence of a major habitation, a major village site occupied in the past. The sites that we did find are indicative of activity and use of the area in the past. But

most of these sites reflect activities somewhat peripheral to what we would expect at a major village location. This section of the Skeena River, the terraces along the river in this area, are subject to flooding and very intense erosion from regular spring flooding of the river in the area. And so it is quite likely that there could have been evidence of previous occupation that has been eroded away or washed away that we could not find. We saw actively eroding banks. I also mentioned that the narrow terrace on the north side of Chicago Creek exhibited active erosion at the time we examined it.

Q All right. Thank you. Now, with regard to the five archaeological sites which you identified in the Hagwilget Canyon, are your opinions with regard to those set out in the two -- the second two paragraphs on page 3-15? That is paragraphs 2 and 3 on paragraph 3-15 -- on page 3-15? And I direct --

A Yes.

Q -- your attention to the paragraph:

> "Five archaeological sites were located during 1985 investigations in Hagwilget Canyon area, in addition to two previously recorded fishing sites."

That paragraph and the next one summarize your opinion?

A Yes, those two paragraphs summarize my opinion on the findings there.

Q Now, the next village which you studied and reported on in your opinion was the village of Gitangasx, and that's spelled G-I-T-A-N-G-A-S-X. Did you conduct a similar review of the ethnographic literature with regard to this ancestral village site?

A Yes, we did.

Q And in the appendix there is under appendix B-3 a listing of the ethnographic literature with reference to Gitangasx. Is that a survey of the literature that you read?

A Yes, from my review of the literature these are references that were located that mention a settlement or a village of Gitangasx.

Q All right.

A And some references to locations.

Q And did you also make reference to Barbeau in terms of your survey of the ethnographic literature?

A Yes, I did.
Q And the account of your survey of that literature is set out in your opinion on pages 3-15 to 3-16?
A Yes.
Q And you did field investigations at Gitangasx; is that right?
A Yes, in the study area defined for Gitangasx we carried out a brief investigation in the area. Approximately two and a half days. It was an area in which we went to by helicopter. It is quite an isolated area on the upper Skeena River.
MR. RUSH: All right. If you will turn, please, to figure 19 described as the Gitangasx study area. Unfortunately it is somewhat out of sequence, my lord. Instead of one would expect going forward you just go back about four pages from page --
THE COURT: Four pages from where?
MR. RUSH: Actually two pages from before page 3-14.
THE COURT: Yes.
MR. RUSH:
Q And figure 19, does that map the approximate place of where it was that you did your study?
A Yes.
Q And the inset, the hatching sites that are referenced as HbSv-85-A, B and C, are those the areas of study?
A Yes, these are three site areas located that we recorded within the general study area referred to.
Q Okay. And if you look please now to figure 20. This appears to be a more specific mapping of the study area HbSv-85-A?
A Yes.
Q Now, what did you do here, Miss Albright?
A On this plate we do have an illustration of this flat. It is a clear -- it's a clearing in a generally forested environment covered with meadow type of vegetation. And we set out a grid across the length of the flat and did a number of tests to determine whether there were stratified deposits or in an attempt to inform ourselves of buried deposits at the site.
Q All right. And I want to direct your attention to plates 15 and 16. These are photographs in the same volume. I just ask you if those photocopies of the photographs --
A Yes, plate 15 shows an aerial view of the flat that we examined which has been referred to as Gapgasx

flat. And plate 16 shows a closer view of the meadow type of vegetation which is on this flat.

Q All right. Thank you. If you will just return to figure 20. Having done your tests along the grid lines which you had established, what did you find?

A We found -- below the surface we found two very fine lenses about one centimetre. They were very thin lenses of carbon staining which ran across the flat, consistently across the flat. These lenses within lenses, they are very fine, indicated burning of meadow type of vegetation.

THE COURT: I'm sorry?

THE WITNESS: Burning of this meadow type of vegetation.

THE COURT: How thin did you say this lense was?

THE WITNESS: Most of them were about a centimetre thick, very fine.

MR. RUSH:

Q How deep were they from the surface?

A 10 and 40 -- 15 and 45 centimetres below the surface on the average.

THE COURT: Between 15 and 45?

THE WITNESS: Yes, one at 15.

THE COURT: Two lenses?

THE WITNESS: Yes, two lenses, one at about 15 and one at about 45. And of course these varied across the flat, but within that range across the flat.

MR. RUSH:

Q And what did that indicate to you, the depth of the lenses and the fact that it varied across the flat?

A Well, these lenses suggested to me that there had been periodic burning of the vegetation as has been described in the literature for maintenance of root gathering areas.

Q All right.

A The name of the flat itself Gapgasx refers to gasx is a Gitksan name for wild rice which is a chocolate -- it is also referred to as a chocolate lily that has a variety of small bulblets as its root base or bulb base. And these were used -- described in ethnographic literature as being used as a root plant in the diet.

Q Okay. Now, I just direct your attention to figure 21. This is a mapping of the B side of Gitangasx.

A Yes, this is a group of eight pit features that were located to the east of Gapgasx flat along the edge of the terrace on the north side of the Skeena River. We also located another group of cache pits

immediately opposite on the south side of the Skeena River.

Q And is that shown on figure 22?

A Yes, they are.

Q Now, with regard to your conclusions from your investigations at the Gitangasx study area site, are those conclusions set out at page 3-17?

A Yes, they are.

Q And you indicate in part in the second to last line:

> "The two groups of cache pits located in the study area indicate that resource harvesting was being conducted in this part of the Skeena and that dried foods were being stored for winter use."

A Yes.

Q And that conclusion derives from your finding of --

A Of the two groups of cache pits. They had used those facilities as for storing foods.

THE COURT: Why do you say two groups of cache pits?

THE WITNESS: Yes, one on the north side of the river and one on the south side of the river.

MR. RUSH: Your lordship can see that by figure 14 where Miss Albright has mapped the two virtually across from each other.

THE COURT: Yes.

MR. RUSH:

Q I would ask you now if you will, please, to turn to page 3-18 and you also conducted investigations and study area at the village of Kisgagas; is that correct?

A Yes, I did.

Q And did you similarly refer to ethnographic literature that referred to Kisgagas and other village sites in the locality of Kisgagas?

A Yes, I did.

Q And is that literature set out in appendix B-4?

A Yes.

Q And that is on page B-13 and 14. Now, did you also make reference to previous archaeological work which had been conducted in the area?

A Yes, I did. George MacDonald and his crew during the season of 1966 also made a reconnaissance in the Kisgagas area. They recorded -- at that time they recorded four archaeological sites in the Kisgagas area.

Q All right. Now, will you please turn to figure 23 which makes reference to the Kisgagas study area? Does this depict the place where you conducted your investigations?
A Yes, this is a map of the Kisgagas area that we had a brief look at and extends from the confluence of the Babine with the Skeena up river and some distance above Kisgagas Village.
Q All right. And the irregular shaped boundary that is in the middle of the figure it's marked Kisgagas Reserve. Is that your understanding of the place of the reserve in relation to the Babine River?
A Yes, it is.
Q Now, you've -- the black triangles with site reference numbers beside them, did these show the place where the archaeological sites were recorded to have been found?
A Yes.
Q Now, there are apparently Gitksan names which are -- start on certain segments of the river system. And I take -- I direct you first to the one that's indicated as Sak Sa'din, S-A-K, new word, S-A, apostrophe, D-I-N, you see that?
A Yes.
Q Now, there are other similar names running both upstream and downstream from that. Where did these names come from?
A These are names mentioned in the literature that we consulted in Barbeau field notes, specific village sites within the Kisgagas area. So these villages are noted in the ethnographic references and in the appendix B.
Q All right. Now, the place where you conducted your investigations, does that show as the cross hatching and designated under the number 85-A?
A After a general look within the study area, the larger study area itself, we recorded another large site area. We recorded another archaeological site upstream at 85-A, upstream from Kisgagas Village on the north side of the Babine.
Q And did you map that point?
A Yes, we spent a good part of a day mapping 233 cache pits in this area or pit features.
Q I'll just ask you to turn, please, to figure 24 which is just after 3-19.
A Yes.
Q And does this portray the cache and house pit sites

which you found during the course of your investigations?
A Yes.
Q You apparently numbered the cache pits?
A Yes. They are numbered in the process of recording and mapping with distances and compass bearing. So the numbers are plotted, although they are small. They are difficult to see, but I think there was once a fold-out map.
Q Yes, the two squares in the upper left-hand corner numbered 1 and 2, what are those?
A Yes, those represent the house -- two house depressions or large cultural depressions located on a terrace above the concentration of cache pit features.
MR. RUSH: What was the size of the area where you found the cache pit features?
THE COURT: Well, there is a scale, isn't there?
MR. RUSH: Yes.
THE COURT: So small I can hardly read it, but it is 60 metres, is it?
MR. RUSH: It looks to be 60 metres.
THE COURT: It is about 60 by 60, no more than that.
MR. RUSH: The cluster is about 60 by 60.
THE COURT: I think it is a little more than 60 by 60.
THE WITNESS: The whole site area was more than -- I believe it was more than 500 metres in length, the terrace that we recorded the pit features on.
MR. RUSH:
Q It looks to be about more than 60, as many as 100 metres deep.
A Oh, the terrace?
Q Yes.
A Yes, about 150 metres deep, the terrace or width of the terrace. And then the house features are on the next bench or terraces slope from the river.
Q Now, did you do a particular test of the floor of one of the house pits?
A Yes. The floor of house pit 1 we opened up four one by one meter units, so an area of two metres by two metres.
Q I just would direct you now to plates 18 and 19. These are photographs. Plate 18, what does that show?
A Plate 18 shows the area ribboned off that we examined, did a brief examination below surface. And it shows members of my crew working in the area.

The vegetation behind -- as we clear the undergrowth away from the area in the middle of the pit feature, the vegetation in the background is again along the side of the house depression. And plate 19 again shows the area of excavation and where we discovered concentrated patch of ash, firecracked rock and flecks of charcoal in this area.

Q And what did that finding indicate to you?

A It suggested to me that this was maybe a hearth feature, part of a hearth feature within the floor. But given the defined nature of the path that it represented cultural activity in the floor of the house.

THE COURT: Am I looking at plate 19 the dark area, is that darkened soil material or is that shade from trees behind?

THE WITNESS: Some of it is in shadow. There was a densely forested area that we were working in. It was as if we fell into these house depressions. Some of that is shadow and the lighter patches about where the trowell is, the trowell handle.

THE COURT: Yes.

THE WITNESS: Are the ash patches of the hearth area.

MR. RUSH:

Q And were you able to determine the age of the pits -- of the pit site that is shown in plates 18 and 19?

A Our examination of this site was limited. We did not recover samples, charcoal samples, suitable for dating. One indication of -- or indications of possible age there was no historic debris or debris items indicative of use of this site at a post contact times. And next to -- close to the units in the middle of the house feature itself was a very large tree growing in it.

THE COURT: Growing in one of the house depressions?

THE WITNESS: In one of the house depressions, yes.

MR. RUSH: And what was your estimate of the age of the tree?

MR. WILLMS: I object, my lord. We can all cut down trees and count the rings, but we have already had an expert give evidence about how old the trees are in this area and that expert says 70 years. Unless this witness has got some expertise in looking at a tree and telling how old it is without cutting it down and counting the rings, and my friend hasn't lead any of that, I object to an estimate of how old a Sitka Spruce in an area that's an average of about

70 years old by another witness.
THE COURT: Well, that may be right. A witness could tell me how high the trees was.
MR. RUSH: Yes, I intend to lead it this way.
THE COURT: Yes.
MR. RUSH:
Q This tree was located inside the house pit?
A Yes, in the middle of the house pit itself.
Q Can you tell me what the width of the tree was at the base?
A At the base it was close to three metres.
THE COURT: Diameter?
THE WITNESS: No, not three metres. I say two and a half to three feet.
MR. RUSH:
Q And what would you estimate the height of this tree to be?
A At least 100 feet high.
Q And were you able to determine the kind of tree that it was? Did you know the tree?
A It was a Sitka Spruce.
Q And in terms of the depression itself, can you just describe the nature of the depression, how deep it was?
A Yes, it was over a metre deep and eight to ten metres in width, indicative of a large house structure at this area.
Q Were there other similar sized trees in the environment? Similar in size to the one that was in the pit?
A Yes, the area was heavily forested. It's not an area that had been -- that indicates that it had been logged.
Q And you indicated that you didn't find any evidence of -- I think you described it as post contact artifacts?
A That's right.
Q What did you mean by that?
A Well, in the most recent village of Kisgagas itself there is a variety of recent or circa early 1900's debris.
Q Such as?
A Metal pots or enamel metal pots, glass from bottles or jars or dishes, chinaware, scraps of metal pieces.
Q All right. Was any of this such debris found in the area of the house pit?

A No, along the -- on the terrace where we located the house pit and also the area where we mapped the pit features there was no -- what is referred to as historic debris, articles used with materials since European contact.

THE COURT: Can we take the adjournment, Mr. Rush.

MR. RUSH: All right.

THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings herein to the best of my skill and ability.

_____
LISA FRANKO, OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
THE REGISTRAR: Order in court.
THE COURT: Mr. Rush.
MR. RUSH:
Q Ms. Albright, from your evaluation of the house pits that you found at the Kisgegas study area and in terms of the other observations that you made about historical artifacts, can you make an estimate of the age of the house pit that -- or the house pits which you found in the study area?
A Yes. I -- the house depressions appeared to be at least older than point of contact, so I'd say the house pit is older than 150 years or so. It's possible that the house depression could be thousands of years old, but I have no actual evidence but a range, any range in precontact time.
Q Okay. Now, if you leave aside what your estimate was about the age of the house pits based on the age of the Sitka spruce tree, your estimate then of the age of the house pits is about 150 years; is that right?
A At least, yes. At least that.
Q Now, what -- what do you conclude from the findings of the presence of the number of cache pits, the cluster of the cache pits and the house depressions which you found at the study area in Kisgegas?
A Well, this is -- this is a very large cluster of cache pit features and the largest that I know of in -- that has been recorded in the Gitksan area, the Skeena area, that has been investigated. It indicates -- it indicates intense utilization of local riverain resources, fish resources in the area, other -- as well as perhaps other resources, but given its location, intense use of the local resources --
THE COURT: You mean a lot of people?
THE WITNESS: Yes. By a sizeable group of people living in the area and also living in a permanent settlement there with winter occupation since food stuffs were stored for winter, predominantly for winter use. So it does indicate that a population -- a large population centre in the area in precontact times.
MR. RUSH:
Q All right. I'd like to refer you to your opinion with regard to the investigations of the study area Kisgegas. It's found at the bottom of page 3 - 19 over to 3 - 20. And that is your opinion with regard to your investigations at the site, I take

it, subject to the amendment that you would make regarding the age of the house depressions as being 150 years old?
A Yes. Precontact.
MR. RUSH: Now, I would like to ask you in particular about your opinion regarding a comparable group of cache pits recorded in the -- on the Skeena is in Kitselas Canyon area where occupation for over 5,000 years has been documented. And can you just for his lordship describe the type of house pit, the number and, if any, the cluster of the house pits at the Kitselas Canyon?
THE COURT: I'm sorry. The cluster of house depressions or cache pits?
MR. RUSH:
Q Cache pits. Excuse me.
A In the Kitselas Canyon area there are again -- several hundred cache pits have been recorded by Coupland and discussed by Coupland in his -- in connection with his work at the Paul Mason site. And this Kitselas Canyon was also an area -- a large population centre. And given the nature of the canyon setting there, then deposits have been preserved in that canyon which exhibit occupation over the last 5,000 years. The Kitselas Canyon that I looked at has a comparable environmental context for occupation.
Q Thank you. Now, I want to ask you about Dizkle. That's D-i-z-k-l-e. And you did certain investigations of a study area associated with that ancestral village?
A Yes.
Q And did you again gather ethnographic information which led you to determine an area of study?
A Yes, we did.
Q Okay. And I just direct your attention again to the appendices, and in particular to the ethnographic references found at Appendix B - 5. Are those the references that you relied upon?
A Yes.
Q And there is a discussion of those references at page 3 - 20 of your opinion?
A Yes. That's correct.
Q And there were also certain archaeological investigations which you did in respect to the Dizkle ancestral village, is that so?
A Yes. Based on our -- yes. We examined what previous

archaeological sites had been recorded in the area. Based on our reading of the relevant ethnographic references to the Dizkle area, we defined an area for investigation for survey south of the confluence of the Suskwa and Bulkley River and the Mosquito Flats area.

Q Is this shown in Figure 25?

A Yes, it is.

Q All right. And the priority area where you conducted your investigations, is that shown in the cross-hatched area shown on Figure 25?

A Yes.

Q And could you describe the type of investigations that you did in this study area?

A We carried out foot survey through -- throughout the -- the hatched area, examined a number of exposed river banks.

THE COURT: You're talking about the part on the south side of the river?

THE WITNESS: Yes. The south side of the river.

THE COURT: There's one small area on the far side of the river on the side of the bridge.

THE WITNESS: Yes. We examined that area as well, and that's on -- on Hagwilget Reserve Number 27. I think most of that falls, so we examined most of that area. There were some areas on the -- on the east side that were very difficult to -- to get access to in that several of those creeks are -- have been flooded by beaver habitation and are quite swampy at present. So some of those areas were difficult to examine.

MR. RUSH:

Q And what did -- what were your conclusions from the investigations which you conducted of that area?

A From our investigation of this area, we did not record any prehistoric -- evidence of prehistoric -- of a major prehistoric settlement in this area or prehistoric settlement as such.

Q Now, with regard to the study area itself, did -- did you draw any conclusions about the study area as a result of its relationship to the investigations and findings you made at Moricetown and the investigations and findings you made at Hagwilget?

A This -- this -- this part of the -- this part of the Bulkley River is an area of more recent settlement and occupation, and there's been considerable activity in this area from both agricultural

activity and building of the road. And so although the area has been quite badly disturbed and we did not find any evidence during our investigation, I think it does not rule out the fact that there may still be evidence that we haven't located. And given the nature of -- given the evidence that we have found at -- in the two canyon areas both downstream and upstream of this area that indicate occupation during the last five to six thousand years, I believe it is quite likely that there could have been settlements in this area at some point during that time frame.

MR. RUSH: All right. Thank you.

Now, may I now direct your attention, please, to chapter 4. And this is entitled "Evidence of Historic Settlement Patterns".

MR. WILLMS: My lord, I just want to rise here. I understand that the evidence of this witness is being heard subject to the objection and further argument, and the ground that I raised earlier was primarily that the witness was transgressing on your lordship's function in this corroboration theory. Chapters 4 and 5 go even further and move into counsel's function, and there will be an objection made to all of that as argument disguised as opinion. And I just refer your lordship to your earlier cases. I just want it understood that that is also a ground of objection which we would like to maintain through the balance of this report.

THE COURT: All right. I'm going to hear the end of it subject to objection.

MR. RUSH:

Q Dealing with chapter 4, Ms. Albright, having done the field investigations which you did in the summer of 1985, did you then draw certain comparisons with the material that you gathered together, that is the ethnographic material and the archaeological material, with the field investigations that you did?

A Yes. The field investigations themselves were carried out in 1985 and then the following year, 1986, then considerable amount of time was spent becoming familiar with -- with the literature and studying and interpreting, evaluating the data that we had gathered.

Q Now, with regard to the archaeological sites, did you -- what was done with regard to the references

to the archaeological sites in the area?
A The -- all of the archaeological sites that had been recorded up to and including our own field work, all of these sites were plotted on 1 to 250,000 topographic map series and -- and the listing of -- of those numbered sites have been -- is included in Appendix C and along with a list of those sites and a brief reference to their location.
Q Now, the summary, as you've indicated, is in Appendix C of appendices, and you indicated that you as well plotted these sites on 1 to 250,000 scale maps, is that so?
A Yes. We have reduced -- reduced Xeroxes of the original maps have been included in the Appendix C.
MR. RUSH: Now, I -- I want to show you a number of original maps and just ask if you wouldn't mind looking at these and confirming for me that these are the originals of the copies that are contained here. Essentially these are the reduced size ones, 1 to 250 sheets.
MR. WILLMS: My lord, the problem that I've got is this is the first time I knew that there were these kind of maps around. I assumed that these are the maps, the photocopies that we received. We never received any copies of these with the markings on them except for what was contained in the appendix, which is in some cases unreadable, and now apparently the witness is going to be led through these. I don't know whether my friend intends to mark them or not, but in my submission he should lead the witness through the documents that are part of the report that was disclosed and is before your lordship and not drag in documents which have never been forwarded to any other party.
THE COURT: Where are the equivalent plans in the appendix?
THE WITNESS: Towards the end of Appendix C.
MR. WILLMS: Just to finish off on that, my lord, my friend earlier, Mr. Macaulay -- and there was discussions by my colleague, Mr. Goldie, about sanctions. And one sanction that your lordship can make is that the plaintiffs are stuck with putting in the evidence that they've disclosed and that my friend can't pull things out of his back pocket and show them to me and then put them to a witness when he hasn't had the courtesy of forwarding a copy of it to me ahead of time. Now, in my view whether or not this would be of assistance to the witness' evidence, in order

to avoid me asking for an adjournment so that I can consider these large scale maps and what they mean, my friend should do the best he can with what he's got and with what he's disclosed.

MR. RUSH: Well, my lord, I think the answer is simply in the fact that these are photo reproductions of original copies. There's one set of originals. What was disclosed was a photocopy, a photo reduced copy of the original. It's not as though I'm pulling anything out of a back pocket. I think that's a total mischaracterization. What I have is the originals. What's there is the same as the original. It's a photocopy that's reduced. Unfortunately, it had to be reduced to that extent in order to fit into the back of the report. But there's nothing -- there's no new information that's contained on this which -- sure, it's difficult to read, but you can read it. You can figure out what the numbers refer to. And what I'm doing is simply giving you the originals, and I think you should have the originals.

THE COURT: We've seen all these maps before, have we not?

MR. RUSH: Oh, yes.

THE COURT: Not the marked ones.

MR. RUSH: These are standard N.T.S. maps produced by the Province of British Columbia. And what -- what is done, and you can see from the photocopies, is that numbers are attached to certain of the places. And the witness has already said that those numbers represent the archaeological sites of previous archaeological work done in the region.

THE COURT: Are these numbers reflected in the text of the appendix?

MR. RUSH: Yes. All of these numbers are reflected in sequence throughout the appendix from 1 to 234, I believe it is -- 239. So you look at a number, my lord, and then you cross-refer the number placed on the map to the same number in the listing of archaeological --

THE COURT: Let's take a number at random.

MR. RUSH: All right.

THE COURT: Take the first map. My tired old eyes don't even permit me to read the numbers.

MR. RUSH: If you look up in the upper left-hand corner, you'll see Morice Forest. You'll see the number above Morice.

THE COURT: 130.

MR. RUSH: If you look at 130 in the list. And it gives a

number. It gives a place. And it gives the description of a circular cultural depressions (cache pits).

THE COURT: Yes.

MR. RUSH: So -- and then the text that leads into the listing indicates the various individuals who conducted the sites and made the -- conducted the investigations at the sites and made the recordings which were kept at the provincial heritage conservation.

THE COURT: Where would the reference in the text be to site 130? How would one find that?

THE WITNESS: In the reference to 130 in the appendix.

THE COURT: Yes. I found 130 in the appendix. That's easy to find.

THE WITNESS: In the --

THE COURT: It's on page 35.

THE WITNESS: In the opinion there's a general discussion of the distribution of those sites. So many of the numbers are noted in the opinion.

THE COURT: Let's look at the discussion for circular cultural depressions at Morice Lake. Where do I find that?

MR. RUSH: Well, I think it would be under the name of the archaeologist who did the work at that place. And I direct the witness' attention to the archaeological overview done in 1979, which is on page 9, which makes reference to results of Burley's 1975 Morice Lake survey. The sites by the reference number, my lord, are maintained at the Heritage Conservation Branch, and the evidence has been that the researcher, Linda Burnard-Hogarth, did research under a Ms. Sylvia Albright's direction to obtain these conservation site references from that source. And she's attested to the reliability of the information that's gathered from that -- from the conservation branch, and what was done was give numbers to the sites and then to identify the sites on a map.

THE COURT: Well, Mr. Willms, I sympathize with your problem, but surely when your people, your advisers, looked at this map, there are -- I'm looking at the first one, the Whitesail Lake area, which includes Morice Lake or the lower reaches of it, and site 130. They recognized that this was a reduced copy of a standard government of Canada topographical map, did they not?

MR. WILLMS: Well, my lord, we, and myself in particular, recognized what this is and what it discloses and

the size of the numbers on it and read what we could read, and whether or not somebody reduced it before they put the numbers on it, I don't know. This is the first time that I knew that this is a photocopy of a whole thing that's been reduced. For all I knew before I got this, all of the additions were put on it after it was photo reduced. So I'm expecting to meet whatever I can read on this. I'm not expecting to meet whatever I can now read on the real thing, which I never got.

MR. RUSH: Is my friend saying that he can't read the numbers? Is that the problem?

THE COURT: I think that's part of it.

MR. WILLMS: That's part of it.

MR. RUSH: Well --

MR. WILLMS: I can see now from the real thing that there are numbers where there are no numbers on what I got. And this does not purport, as I understood it when I got it, to be a listing and a mapping of all of the archaeological sites, all of the numbered in the area. And when you read the review in the report, the report itself merely highlights various site numbers and general locations for those site numbers. It doesn't go through and say here's a -- here's what's at -- and I'm not talking about the appendix right now. I'm talking about the report itself.

THE COURT: But you had the appendix all along with the report.

MR. WILLMS: I've had the appendix all along with all the various numbers in the appendix.

MR. RUSH: Well, perhaps, my lord, it wasn't an obvious thing that these were photo reduced, but in the report it says, and I'm quoting: "The location of archaeological sites recorded by these surveys have been plotted by Burnard-Hogarth on 1 to 250,000 scale N.T.S. maps of the region, which are found on Appendix C".

Now, an immediate look at this photocopy would lead you to the conclusion that that could not be at that size a 1 to 250,000 scale unless it had been -- unless it had been photo reproduced.

THE COURT: This is still 1 to 250,000.

MR. RUSH: Oh, yes, but a reduced size at 1 to 250.

THE COURT: Yes. Well, what do you say about your friend Mr. Willms' comment a moment ago that there are numbers on your large ones that don't appear on the small ones? Do you mean, Mr. Willms, they don't --

they're not discernible on the small ones and are on the large ones or are you saying there are additions to the large ones?

MR. WILLMS: I believe they're just not discernible. I don't think that there are additions.

MR. RUSH: Well, I don't know what he's referring to in specifics. I have to know that. And if my friend wants to review the original that I have here that has been photo reduced, then he's welcome to do it to confirm the two, but I would like these to be placed before your lordship, because I think it is -- I can see that it is easier to read a larger scale map. If I had been able to have copies produced at that size, I would have reproduced them for my friends.

THE COURT: Well, I think, Mr. Willms -- I'm sorry. Mr. Macaulay?

MR. MACAULAY: I have no submission.

MR. WILLMS: I just want to say, my lord, to accommodate my friend, if he had large scale maps for us to follow along with him right now so that we wouldn't be in the dark while he's in the light, then fine. You know, I'll do the best I can. But he brings one copy of everything, which means that it's practically impossible in some instances to follow what's going on unless we all work from the same document.

THE COURT: Well, I'm again sympathetic with the difficulty, but I don't think it's sufficient -- any such ground has been shown either to disallow the evidence or to shut down the trial. I think that you might be assisted, Mr. Willms, by having leave to take the maps away overnight or lunch hour to familiarize yourself with them. I think that -- that sufficient notice has been given that compels me to press on. I think that's what we must do.

MR. RUSH:

Q Ms. Albright, if I may just refer you, please, to the appendix.

A Yes.

Q And Appendix C in particular. And just for clarification again, would you please indicate the index to the archaeological sites recorded within Gitksan-Wet'suwet'en territories that appears at page 19 and begins and goes through, I believe, to page 49? Would you just summarize again how it was that this list was created?

A Yes. This list indicates the -- the various sites that have previously been recorded in the -- in the area of study. They are plotted on the topographic maps and rather than use the Borden designation on the map, which is a fairly lengthy number, when there are clusters of sites together, it was more convenient to number them sequentially 1 to 239. So the site 1 to 239 refers to a noted location on the map. The -- the second column refers to the Borden designation, site designation number for that site as recorded in the Heritage Conservation Branch files and its approximate area and the map sheet that that site is on.

Q So that the site number 1 to 239 refers to a Borden locational reference?

A Yes.

Q In accordance with the Borden system that you have referred to earlier in your testimony?

A Yes.

Q All right. And then you said that those numbers were plotted on the 1 to 250,000 scale map?

A Yes. The sequential numbering system.

Q Now, if you just look at the photo reductions of the maps which appear following the listing, can you just confirm for me that the numbers which appear in the list preceding it are numbers which were placed on the 1 to 250 N.T.S. scale maps which -- and the map sheets which there follow the list?

A Yes. I have -- I have reviewed in detail the description that's presented in this appendix and the plotting of them. The -- for example, on this Smithers sheet --

Q That's the sheet that's the fourth one in; is that right?

A Smithers map sheet, yes. There are a cluster of sites located on the Bulkley River, the confluence of the Telkwa with the -- in the Telkwa area on the Bulkley, numbers 80 to approximately 96. The numbers in the listing refer to Tyhee Lake, which is just north of the river and close to Telkwa. The others refer to sites located on the Bulkley River in the area of Telkwa.

Q All right. Now, the -- if you'll just turn to the next page, the Hazelton map sheet.

A Yes.

Q And if you'll refer to Kisgegas, do you see the village of Kisgegas? It's in the upper left --

upper left-hand quadrant of the map sheet.
A Yes. The -- just above the -- at the confluence of the Babine with the Skeena, the Kisgegas area, there are several sites which we have just discussed earlier.
Q And those refer to the sites that you plotted, I think, on a more specific figure than when you were dealing with the ancestral village of Kisgegas?
A Kisgegas, yes.
Q Now, were the sites that you found and designated, are they on this map?
A Yes. They have been plotted as well. They have been given a sequential number and the designation that I gave them during the -- during the field investigation.
Q All right. Thank you. Now, there are -- there are some eight map sheets there?
A Yes. That's right.
Q All right. Okay. Thank you. Now, in the opinion, if I may refer you back to that, would you please direct your attention to 4 - 1 to 4 - 3?
A Yes.
Q And here you outline some of the limitations that are involved in the archaeological data; is that correct?
A Yes.
Q Okay. And that -- does that pertain to the archaeological data that is summarized and listed in your Appendix C?
A Yes, it is.
Q Okay. Now, I direct your attention to page 4 - 4. And you indicate in paragraph 3 under the heading at 4.2, and I'm quoting: "It is possible to correlate these clusters". And by that do you mean clusters -- which clusters do you mean?
A In areas where -- where there is a cluster of site locations which have been observed and recorded and given a site designation.
THE COURT: I don't know if you mean by that cluster a pit cache or a cluster of pit caches and house depressions and other things.
THE WITNESS: Yes. A grouping of sites. So they may represent different types of activities.
MR. RUSH:
Q So you don't just mean a cluster of cache pits. You mean a cluster of --
A Of sites.

Q -- of archaeological sites?
A Yes.
Q And you say: "It is possible to correlate these clusters of sites with named village sites or summer fishing camps which are still occupied and used by the Gitksan or documented in the oral histories and ethnographic record as having been used by the Gitksan in the past".
A Yes. In plotting the distribution of archaeological sites on the topographic maps and looking at the land use patterns and settlement patterns as described in the ethnographic literature and looking at areas which are -- or patterns which are still in existence today in terms of use of the landscape and use of resources and location of settlements, there is a correlation between the distribution of sites and places which are now being used or have been used in the past as recorded in the ethnographic counts.
Q All right. Now, you draw that correlation on pages 4 - 4 through to 4 - 6, is that so?
A Yes. With respect to -- with respect to the Gitksan area, and that correlation in the Wet'suwet'en area is -- follows that.
Q And that follows it from 4 - 8 through to 4 - 9?
A Yes.
MR. RUSH: Okay. Now, if you'll just turn to 4, please.
THE COURT: 4 - 4?
MR. RUSH:
Q 4 - 4, yes. And to look at the bottom of the page where you make reference to sites 206 and 210. Now, those sites refer, do they, to archaeological sites?
A Yes.
Q And what do they correlate to according to your review of the ethnographic literature and to your understanding of the pattern of settlements?
A Sites number 206 and 210 were site areas located by myself during the summer of 1985, which contained house pit remains as well as a large cluster of cache pits, and which appear to correlate with accounts of occupation of a village site of Gitankaat in that area.
MR. RUSH: All right. And similarly at the top of page 4 - 5.
THE COURT: I'm sorry. Can you give me one second. When you say Gitankaat, are you referring to the same as Gitangasx?
THE WITNESS: No. Gitankaat, in the area of Doreen on the --

THE COURT: All right.
THE WITNESS: -- on the Skeena.
MR. RUSH:
Q And this is graphically shown at Figure 6 and was discussed earlier by the witness in her testimony of the investigations which she made at the -- I think it was between the Fiddler Creek and the Lorne Creek area?
A Yes.
THE COURT: I just want to make sure we weren't using different spellings for the same thing. Thank you.
MR. RUSH:
Q Now, just referring to site 14, which appears in the paragraph 1 on page 45. And can you -- site 14 is again an archaeological site reference?
A Yes. It is an archaeological site that has been recorded to -- on the east bank of the Skeena, a little to the north of the Gitankaat study area, and has -- includes buried deposits up to two feet thick and indicative of long term repeated use of a site referred to as Kwatsalix.
Q That's K-w-a-t-s-a-l-i-x.
A Yes.
Q And that you indicate in paragraph 1 on 4 - 5 is referred to in the map of Poudrier and Gauvreau?
A Yes. That site is identified on -- on their map of 1891, and it was also -- has also been referred to by -- by Dawson during his exploration of the Skeena in 1879. So that would be in his publication of 1891.
Q With respect to the name and place of Kwatsalix, do you assume -- do you make an assumption about the information gathered and reported by Dawson, Poudrier and Gauvreau?
A Yes. Yes. I've -- yes. I've taken -- their description and site placement of that named camp was accurate.
Q Okay. Now, in terms of site number 27, which is at paragraph 2 on 4 - 5, this contains, you say, archaeological remains, which you describe at a site known as Gitlusek, G-i-t-l-u-s-e-k?
A Yes.
Q And the source of this information, you say, is Barbeau (1929)?
A Yes. Barbeau refers to a -- a village site by the name of Gitlusek at this location in his discussion of Wistis and Wi Hlengwa.

Q Okay.
A And archaeological evidence there includes house depressions as well as stratified and buried cultural deposits, which is indicative of again long-term occupation at -- at that site.
Q Now, I just direct you to the next paragraph. You identify a site number 29 at the mouth of Wilson Creek. And that again is an archaeological site, is it?
A Yes, it is. 29 refers to an archaeological site.
Q And then you also identify a site numbered 195 across from Wilson Creek?
A Yes.
Q And you indicate that that -- that place is recorded as a camp called Minh am gookst?
A Yes.
Q And you indicate that the site across the river is at a present camp known as Anaxwoowax. I'll just spell those.
A Go ahead.
Q The first is M-i-n-h-new word-a-m-new word-g-o-o-k-s-t, and secondly A-n-a-x-w-o-o-w-a-x.
A Yes. Those archaeological remains have been found at the locations which are used -- are used today as fishing areas or fishing camps.
Q And now the source of the information of the name, is that set out in the paragraphs which there follow on 4 - 5 beginning -- well, following the Wilson Creek reference in the middle of the page? I'm just asking you with respect to the Gitksan references. Do you set out the source of the information throughout the following paragraphs and, of course, the site references which you've indicated by site number?
A Yes. I continue to discuss -- to point out specific archaeological sites or clusters of sites in areas which have been identified as -- as either contemporary village camps, fishing camps along the Skeena and Kispiox Rivers or described by some of those -- for example, on the Skeena I've referred to the archaeological site investigated by George MacDonald at the -- at the Gitwangak Fortress and mentioned his -- his use of the ethnographic sources to interpret the history of occupation of that site.
THE COURT: Is it convenient to adjourn, Mr. Rush?
MR. RUSH: All right.
THE COURT: Thank you.

THE REGISTRAR: Order in court. This court will adjourn until two.

(PROCEEDINGS ADJOURNED)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings transcribed to the best of my skill and ability.

_____
Kathie Tanaka, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO AN ADJOURNMENT)

THE REGISTRAR: Order in court.

THE COURT: Mr. Rush.

MR. RUSH: My lord, I rise with considerable trepidation to raise another matter on the question of notes. An issue has arisen brought to my attention by my learned friends that disclosed in the material that we had sent to them some time ago there did not appear to be any notes pertaining to other test sites other than the one at Moricetown. There were considerable notes disclosed vis-a-vis Moricetown. I myself had thought that all of the notes had been disclosed when the Moricetown batch had been disclosed.

It turns out that that assumption was wrong and that there are some other notes dealing with the surface scatter at Hagwilget and at the site in -- at the other test sites along the Skeena. These notes are in Miss Albright's possession at her home. I've told my friends that I will get them for them. They should have had them and I will try to get them for them. The difficulty is that Miss Albright's home is in Lytton and she is the only one that can really find the notes at her home. She lives there by herself.

What I had proposed to my friends is this, and I make the same proposal to your lordship that we adjourn after the direct examination of Miss Albright which I think will conclude between 3:00 and 3:30. Miss Albright has indicated that she'll drive to Lytton and drive back this evening with

those notes or early tomorrow morning with those notes and that I will provide the copies of them to my learned friends. They find that acceptable, I believe. And we not sit this evening, but rather than sitting this evening we sit tomorrow evening.

THE COURT: I thought we were going to sit both.

MR. RUSH: Well, I didn't assume that, but if your lordship --

THE COURT: I didn't assume it, I feared it.

MR. RUSH: Well, I wasn't struck by the same fear. But your lordship having been struck that way --

THE COURT: You're not as old as I am, Mr. Rush.

MR. RUSH: Then it makes my proposal more palatable to you that we move tonight's sitting to tomorrow. I think my learned friends agree that we sit on the same time frame, that is to say from 4:30 to 6:30 another two-hour sitting tomorrow. I am most mindful of your lordship's comments that we get the material to my friends and get the cross-examination going and completed in time set. And it is for that reason that I propose this way of dealing with it. I believe my learned friends are agreeable to the proposal. If your lordship is then I suggest we move in that direction.

THE COURT: Yes. Well, that is a reasonable arrangement. I think I should give notice, however, that if necessary we will sit on Saturday to finish.

MR. RUSH: Yes.

THE COURT: We have to start finishing something.

MR. RUSH: Yes, I agree.

THE COURT: All right. I say Saturday because it will not be -- I will not be able to sit on Friday. Friday night. Although I could sit an extra hour on Friday if necessary.

MR. RUSH: Yes.

THE COURT: All right.

EXAMINATION IN CHIEF BY MR. RUSH:

Q Now, Miss Albright, just turning your attention, please, back to chapter four. And, in particular, I direct your attention to the survey of the archaeological sites and the names of places within the Gitksan area. I don't intend to canvass all of what you have covered in your report from 4-5 to 4-7, but it is in the pages of 4-4 through to 4-7 where you draw the correlation between the archaeological sites as you listed them and the names of village sites and locations and fishing

1 site locations in the report, is that so?
2 A Yes.
3 Q I want to ask you the information which you obtained
4 concerning the Gitksan and the Wet'suwet'en names
5 and places, where did that information derive from?
6 A The names of places, villages or fishing sites along
7 the river were obtained from a number of different
8 sources. Some of them have been drawn from
9 ethnographic literature that was reviewed which is
10 already noted in various parts of the report and the
11 appendices. I have referred to Barbeau notes and
12 his 1929 publication.
13 Q Yes.
14 A Totem Poles of the Gitksan. I have also used as
15 mentioned this morning sources such as the Poudrier
16 and Gavreau map and site noted by Dawson and his
17 explanation of the river. I have also some sites
18 along the Kispiox River with Gitksan names of
19 fishing camps were noted by Richards on site forms
20 for archaeological sites that he recorded along the
21 Kispiox River.
22 Q Is he an archaeologist?
23 A Yes, he is.
24 Q And reference is made to his -- sites in the report;
25 is that right?
26 A Yes.
27 Q That's at the bottom of page 4-6?
28 A 4-6, yes. Richards carried out surveys along the
29 Kispiox River in the vicinity of Kispiox Village and
30 recorded a number of archaeological sites. And also
31 recorded the Gitksan names for fishing sites at
32 those -- at the same locations.
33 Q Yes.
34 A So that is mentioned. Some of the other names along
35 the river were provided to me by Marvin George.
36 Q Did this deal with the names as well as the sites?
37 A Yes, named locations along the river.
38 Q Now, with regard to the information which you
39 obtained from the various sources, did you make an
40 assumption about their accuracy in doing the
41 correlation?
42 A Yes, I assumed these to be accurate site names and
43 descriptions.
44 Q Now, I ask you to refer please to page 4-7. And in
45 particular, the last paragraph where you state:
46
47 "In summary, most of the archaeological sites

recorded along the Skeena River in Gitksan territories correspond to named fishing camps and village sites. The distribution of archaeological recorded to date in Gitksan territories is consistent with the pattern of land use and settlement documented in the ethnographic literature for more recent periods."

And then further down in that paragraph, and I'm quoting:

"The clustering of archaeological sites in the vicinity of major fish camps and villages which are still being used and occupied today suggests that these have been significant village locations and fishing areas for centuries if not millenia."

Now, are those your opinions with regard to the correlations that you drew?

A Yes, that is true.

Q Now, did you do a similar analysis in respect of the archaeological sites in the claim area of the Wet'suwet'en hereditary chiefs?

A Yes.

Q And did you follow a similar pattern of correlating archaeological sites with ethnographic literature and ethnographic information?

A Yes.

Q Okay. And I would just ask you, if you will, to look at pages 4-8 and 4-9. Do you there set out the correlations which you drew?

A Yes, that is right.

Q And in respect of the information that you obtained from the ethnographic sources, did you make assumptions as to their accuracy in drawing the correlations that you did?

A Yes.

Q And would you look at 4-9, please. And I would ask you if you look at the fourth paragraph and ask you if the fourth paragraph -- excuse me, the fourth and fifth paragraph on page 4-9. Does that set out your opinion with regard to the distribution of archaeological sites in the Wet'suwet'en land claim area?

A Yes, it is.

THE COURT: I'm sorry, but I'm not sure that I have a grasp of the significance, if any, of an archaeological site. Is an archaeological site where you find anything of archaeological value? For example, if you find a cluster of cache pits, is that an archaeological site?
THE WITNESS: Yes, it is.
THE COURT: And if you just find one of them is that a site?
THE WITNESS: One might record one, but generally cache pits are found in groups or in clusters.
THE COURT: But looking at page 4-9.
THE WITNESS: Yes.
THE COURT: You've got sites mentioned in the first line of the second, fourth, fifth, sixth paragraphs.
THE WITNESS: Yes.
THE COURT: Does that mean merely that it is a location of archaeological finding?
THE WITNESS: Yes, it is.
THE COURT: Fine.
THE WITNESS: It is a location or area where archaeological evidence in a variety of forms have been found.
THE COURT: And when you're talking about Kisgagas or -- I'm sorry, was it Kisgagas or Gitangasx where you found clusters of pits in one location and on the next terrace you found a house depression, that would be an archaeological site, is it?
THE WITNESS: Yes, it is.
THE COURT: All right. Thank you.
MR. RUSH:
Q The pits, the house pits together with the cache pits, the total would be the archaeological site; is that correct?
A Yes, I have included that as one site.
Q I just ask you to refer to page 4-10. I would ask you if contained on 4-10 are the opinions which you drew in respect of both the Gitksan and Wet'suwet'en correlations of archaeological sites to the ethnographic locations and sites?
A Yes, it is.
Q All right. My lord, just on page 4-11 I'm going to ask you if you'll disregard the last paragraph on page 4-11. I don't intend to rely on that. I will not direct the witness' attention to it.
Now, I direct your attention, Miss Albright, to chapter five of your opinion. And can you state for his lordship the objective of the analysis which is contained in chapter five?

A Yes, chapter five includes a summary of aspects of the evidence which was recovered through the studies that I carried out, evidence discussed in terms of a number of different topics. It also discusses this evidence in comparison to archaeological research which has been done within the northwest region in order to understand the evidence found in the Hagwilget and the Moricetown Canyon areas, the middle Skeena drainage, in the larger regional context in order to interpret its significance.

Q That is to place the evidence of your research and analysis in the context of a regional understanding, is that so?

A Yes.

Q Now, you deal with certain subject areas. The first is with respect to the evolultion of land-owning house groups. And I would just like to direct your attention to 5-1. And in respect of the regional context within which the research that you did is placed, what is the importance of salmon production in the storage of surplus supplies?

A Well, several archaeologists working in the northwest have considered that the intensification of salmon production and storage of salmon are important aspects that are related to the development of a complex social organization, complex cultures that we see along the northwest area in the ethnographic record at the time of a European contact. So there is an interest by archaeologists in understanding the evolution and development of northwest coast culture and social organization and what aspects -- what aspects of that cultural development are visible in the archaeological record.

Q And is the emergence of land-owning house groups one aspect of the development of that culture?

A Yes, it is.

Q And is there -- in what way does the salmon production -- the intensification of salmon production and the surplus of supplies bear on the question, if it does, of the land-owning house groups?

A The intensification of salmon production and storage of large quantities of dried salmon resources for winter use or later use for purposes of trade indicate -- is an indication of very sophisticated technology. For that intensification process,

gathering large quantities of a particular resource and processing it for later use implies more sophisticated technology for catching the salmon. For processing salmon in terms of drying requiring drying racks and smokehouses. It also involves organization of people to be able to carry out those activities in that salmon resources are not an abundant resource. They are very restricted in time and place. People need to be organized to be at places where salmon are caught in large numbers and to be able to process that resource within a short period of time at specific locations where that resource is available. So you see, there is the organization of people.

Q All right. Now you, in your opinion, make reference to a number of authors and their published works. I would just like to refer you first to a reference that you make to Schalk 1977. This appears in the large three ring binder, my lord, at tab 21. If you have that binder in front of you, Miss Albright, I will ask you to have a look at it, please. Now, can you just explain Mr. Schalk, who was he?

A He is an anthropologist and archaeologist. He is working at the University of New Mexico under Louis Binford who is also an eminent archaeologist.

Q And this is his papers on The Structure of an Anadromous Fish Resource?

A Yes, he examines a number of variables that are related to the distribution and availability of salmon resources and the manner and the organization for capturing and processing of salmon resources and how that also affects the social organization and other aspects of cultural behaviour.

Q May I direct your attention first, please, to page 231 and the subheading "Implementation of a Storage Strategy". And in terms of the observations which you made concerning this archaeological reference, can you direct us to what you relied upon for the observations that are contained within your opinion?

A Yes, under "Implementation of a Storage Strategy" starting midway down through that section, Schalk points out that: In several respects, the implementation of a storage strategy that is for storing of abundant food resources that storage strategies do represent an evolutionary threshold. And he is referring in terms of the distribution of population in terms of population density, the

1 degree of sedentism in specific locations to
2 indicate the settlement at a permanent village
3 locations.
4 Q Okay.
5 A So there is an influence on settlement systems in
6 terms of where people would build permanent
7 winter -- permanent settlements or winter villages
8 within a given area, a given territory.
9 Q All right. And he makes --
10 A He also talks about the technological evolutions
11 that were necessary for salmon intensification and
12 such storage, as well as implications for
13 re-organization or changes in social systems in
14 terms -- in other words, how people organization
15 themselves to carry out subsistence activities, how
16 they would live together, interact together.
17 Q All right.
18 A So he discusses a number of different points on 231,
19 232, 233.
20 Q Just on 232, I would like to draw your attention to
21 the second full paragraph beginning:
22
23 "This implies a fourth sort of change."
24
25 He discusses:
26
27 "Technological innovations necessary to
28 extract quantities of fish in less
29 spatially constricted areas and in shorter
30 periods of time."
31
32 Was this and the other observations he makes of the
33 factors that you took into account in your
34 observations here?
35 A Yes.
36 Q And were they pertinent to --
37 A Yes, his discussion is I believe quite relevant for
38 interpreting the significance of evidence in the
39 area where I carried out research. Particularily
40 the technology used for capturing fish whether it be
41 weirs or traps. The storage facilities such as
42 storage pits or the -- also technology or facilities
43 that are important for processing of large
44 quantities of food for storage such as drying racks,
45 smokehouses, boxes and baskets he lists here.
46 Q All right. Thank you. Now, I would just ask you if
47 you will, please, to turn to page 235. I would ask

you to -- if you took into account at page 235 at the bottom what Mr. Schalk has to say observing the example of the Tlingit?

A Yes, at the bottom of the page he refers to an important factor concerning processing of resources. One could have abundant resources in the environment, but if one doesn't have the technology and the organization for processing that resource for later use then it is still left as part of the environment. Resources to be useful need to be processed appropriately in order to use them at a later time or for a variety of purposes so that a storage strategy is very significant. And he also indicates at the top of page 236 that it has been recognized that storage strategies in terms of the facilities that are involved are not just simple techniques. It is quite a specific technology that is developed at this point. So in terms of processing resources on page 236, he also refers under 5 to efficient demployment of a labour force or the people involved in carrying out the activities in order to be able to process the salmon resources within a short period of time that they are available and under conditions that are suitable for preservation.

Q Yes. Now, can you comment, Miss Albright, the confidence with which within the archaeological community Dr. or Mr. Schalk's views as expressed in this paper are accepted or taken?

A These -- his discussion is I think respected by a number of -- by most archaeologists working in this area since he does focus his discussion on the northwest region. It has been widely quoted and discussed by other archaeologists working in the northwest region such as Fladmark has made reference to his work. And Burley working in the mouth of the Fraser River has also referred to Schalk.

Q And you site Fladmark at the bottom of 5-1 and Burley as well?

A Yes, I do.

Q I want to --

A Again the work of these archaeologists are also concerned with discussing the evidence that is available in the archaeological record for intensification of salmon production and the rise of complex social systems in the northwest area.

Q Now, I just refer you now, Miss Albright, to page

5-2 of your opinion. In the second paragraph you refer to R. Carlson at 1979 and later on in the same paragraph to C. Carlson. I just draw your lordship's attention to the fact that the two Carlson articles, one is Roy Carlson is at tab 22 at page 214, page 220. And the C. Carlson, unrelated, is at tab 22 at page 183, 188 and 187.

A Yes, they are related.

Q They are related?

A Yes, Cathy Carlson is the daughter of Roy Carlson.

Q I see.

A The family is following in the same discipline.

THE COURT: And Roy Carlson was what tab?

MR. RUSH: Tab 22 at page 214 and page 220.

THE COURT: Okay.

MR. RUSH:

Q Now, I want to refer you, Miss Albright, to the third paragraph where you state:

> "At Prince Rupert Harbour there is evidence of salmon fishing from the earliest occupation at 5,000 B.P. up to the present. By 3,000 B.P. salmon becomes the dominant fish species present in the faunal assemblages recovered."

And then you site Ames 1986. And you go on to say:

> "By 3,500 B.P. there is evidence of an increase in population, larger house structures, and trade in obsidian, amber and dentalia. These observed features are interpreted as an increase in social complexity."

And you give MacDonald and Inglis as a reference. Did you rely on the published work of MacDonald and Inglis referenced there at 1982?

A Yes, I did.

Q This is the reference that I handed up to your lordship this morning. It's at tab 39, new tab 39. If you will just turn to that in the book. Now, if you'll refer please to tab 39, and in particular page 45. Now, is it there that you find the passage that you rely upon for the observations which you make in your opinion?

A Yes. In the discussion by MacDonald and Inglis under Period II at Prince Rupert Harbour at 1,500

B.C. to A.D. 500 which can also be discussed in terms of 3,500 to 1,500 approximately B.P., before present. They discuss elaboration of ground stone industry, trade in obsidian, amber and dentalia.

Q And I direct you as well --

A And that discussion continues on page 52 where they refer to larger house structures and also briefly notes some of the physical anthropology analysis or analysis of the human remains found at sites in the Prince Rupert Harbour that indicates group hostility or warfare taking place during this time period.

Q All right. That's at the top of page 52, is it?

A Yes.

Q Okay.

A And then the reference to -- the reference to salmon remains at Prince Rupert Harbour I believe is a little bit further on. Yes, on page 56 of the paper there is a note to the faunal samples retrieved from Prince Rupert excavations. They have retrieved a very large faunal collection there due to the preservation in the shell midden sites. The variety of species that were identified including fish remains indicates there is a basic continuity in the use of faunal resources based on hunting of birds, land and sea mammals, fishing and shellfish gathering indicating that those activities were present throughout the sequence.

Q I would like you -- if you will set that reference aside, but keep the book in front of you, I would like to now refer you to the next chapter which is entitled Warfare and Trade on 5-3.

A The next section on the next page?

Q Yes, that's right.

A 5-3?

Q Yes. And you make reference in this section to a published work by MacDonald at 1979 and you give page reference number 11. Is that also found in another reference which is contained within the three ring binder which you have in front of you?

A Yes. And the 1979 paper refers to his work at the Kitwanga Fort site, but he is referring here in a brief summary of that paper to evidence found at Prince Rupert Harbour. That is described in the paper that we were just looking at here so some of those -- some of those items are noted in the paper we just looked at.

Q That's the MacDonald and Inglis paper?

A Yes.
Q And that pertains to the points you made about hostilities, evidence of hostilities?
A Yes. And he also in the table of artifact classes and types he notes those, some of these -- a number of these items.
Q All right. I would like to direct you to MacDonald's work at tab 19 which is entitled The Epic of Nekt, N-E-K-T. If you will just please turn to tab 19.
A Yes. This is also a summary of work carried out at the Kitwanga Fort site. And in terms of his archaeological investigations at the Fort site and his review of the oral histories of some of the houses, particularily the individual referred to as Nekt and looking at the oral histories of this individual.
Q All right.
A And with reference to warfare and trade.
Q You make reference to dawdzep in the opinion, that's D-A-W-D-Z-E-P. What does that refer to, please?
A Dawdzep is a Gitksan term for a fortress or a fortified site. There are three well known dawdzep or fortress sites in the Gitksan territories and he presents them. These are on a map in this paper on page 66 of this paper.
Q Yes.
A He notes that the large star, referring to the Kitwanga Fort site at which he carried out excavations and also refers to another fortress, a fortified site in the Skeena River just above Kispiox called the Kispiox Fort on this paper.
Q Yes.
A And there is also one at Kisgagas in the Kisgagas study area or Kisgagas locality.
Q There is also a map on the first or cover page of this article which shows the fort or the dawdzep at Kitwanga?
A Yes.
Q And is the subject matter of this particular paper the dawdzep at Kitwanga?
A Yes, he refers to his work at the Kitwanga dawdzep.
Q All right. And just so far as your own observations go on page 5-3, I would ask you if you would refer to page 79 of Dr. MacDonald's article to the bottom of the page where he is summarizing his argument. I would ask you if you took into account the

1 observations that Dr. MacDonald makes at this
2 juncture of his paper?
3 A Yes. He refers to the Kitwanga Fort as being part
4 of a much larger framework of inter-tribal trade as
5 well as warfare which dates back as early as the
6 first millenia B.C. or that would be 3,000 years.
7 Q All right. If I may just take you back to the map
8 that's found at page 66.
9 A Yes.
10 Q Can you help us understand what the dotted lines are
11 on this map?
12 A The dotted lines on this map refer to trade routes
13 that MacDonald has plotted in the region.
14 Q Okay.
15 A So these are trade and travel routes connecting
16 various villages within the region that have been
17 used extensively for trading of various materials.
18 Q Now, you also note in your opinion that:
19
20 "Obsidian was a particularily valuable stone
21 material used to make knife blades and spear
22 and arrow points."
23
24 You state that:
25
26 "Seventeen pieces of obsidian found at the
27 Kitwanga dawdzep have been fingerprinted
28 through x-ray fluorescence to obsidian sources
29 on Mt. Edziza."
30
31 A Yes.
32 Q Then you give MacDonald sources there and I wonder
33 if there is also --
34 A Yes, on page 74 of this article he notes the
35 analysis of obsidian from the site which was carried
36 out by Dr. Nelson, Earl Nelson at Simon Fraser
37 University before he had -- I guess at the time that
38 he was still training students to carry out the
39 technique. And the obsidian from the dawdzep was
40 sourced to the Mt. Edziza area. There now have been
41 identified eight different flows or different
42 sources in the Edziza area, but they are within
43 close proximity on the mountain.
44 Q All right. Now, just turning to the bottom of the
45 page, you say:
46
47 "There is also evidence of trade in native

copper during early times. Seven copper beads were found with a cremation burial eroding out of a steep bank below site area Gg St 3 at Kya wiget."

And you give Turnbull 1966 as a reference. I would just like to ask you, if you will, to turn to that at tab 3. And if you will turn to the second page, I would ask you if this is the source of information upon which you are relying for that statement?

A Yes. In his notes under test pit 3 at Gg St 3 he notes a burial. And in the slope below the second terrace a pocket of burned bones. In other words, there was eroding out of the bank burned bones. This would have been a cremation burial. And seven tubular copper beeds were found with the burial remains.

THE COURT: What page is this on, please?

MR. RUSH: This should be the third page in sequence in that tab.

THE COURT: Tab 3?

MR. RUSH: Tab 3. There is the cover page and then the page entitled Moricetown. And then the third page. The reference is right in the middle of the page, my lord, just before he does the carbon samples.

THE COURT: I have it. Thank you.

MR. RUSH:

Q Now, Miss Albright, you also refer to another work paper of MacDonald and Shaeffer 1980. I direct your attention now to tab 16 which is an extract of a paper of MacDonald and Shaeffer entitled "Kitwanga Fort National Historic Site Project".

A Yes, this is a description of materials from the Kitwanga Fort site. This description of this paper is still in draft form. I obtained this from The National Museum Archaeological Survey.

Q I direct you to the page which is marked 46 and to the heading "Closed Copper Tubes". Do you see that?

A Yes. The middle of the page, "Closed Copper Tubes".

Q Yes. Can you point to the paragraph here that you rely on?

A Yes, apparently there were two groups of copper tinklers found at the dawdzep. One type is believed to have been made from materials obtained after contact. And the second group of tinklers were made from a native copper which had been manufactured according to cold hammer chipping on the top of page

47.
Q What are tinklers?
A Tinklers are like little bells or the sheets of copper were rolled into a tubular type of bead, sometimes they were conical in shape. They were attached to dance aprons or articles of dress worn by individuals during ceremonials. And while individuals danced these items would tinkle together as they -- as the person moved during dance.
THE COURT: Has anyone attempted to establish the age of that fort?
THE WITNESS: MacDonald dated it as occupied prior to contact and during historic times. So the pre-contact materials were not dated at that site. So an undetermined period of time prior to contact which he estimates at 1790 and then through the historic period at 1840 people moved from the dawdzep down the creek to establish -- to Kitwanga Village that we know of today.
THE COURT: Thank you.
MR. RUSH: Now, dealing with your section on regional cultural history, here you set out --
THE COURT: You are not nearly finished, are you?
MR. RUSH: No, I'm not nearly finished, but I'm three pages away from being finished. I'm pretty close.
THE COURT: Madam Reporter, are you being replaced in a minute?
THE REPORTER: I could keep going.
THE COURT: Well, you let us know when you want to be relieved, Madam reporter.
THE REPORTER: I will.
MR. RUSH:
Q At the top of the page on 5-4, Miss Albright, you make reference to the traditions in western North America in early post-glacial times. Then you set out the traditions by the distinctive tool type. You give the tool types as being stemmed point tradition, the fluted point tradition, the cobble tool or protowestern tradition and the microblade tradition. You site Carlson 1983a and 1983b for that?
A Yes.
Q And it is in those two sources that you find this delineation of the technological traditions, is that so?
A Yes, in both of these publications he outlines these four early basal cultural traditions that were in the northwest region in early post-glacial times, so

1 going back to 11 to 12 thousand years ago. He
2 describes their location and the distinctive
3 technology of those cultural traditions.
4 Q All right. Those two sources are at tab 26 at page
5 75 and tab 25 of page 15. Miss Albright, I would
6 like to draw your attention to the second paragraph
7 now where you state:
8
9 "The earliest evidence of occupation along
10 the northwest coast has been dated to
11 10,000 B.P. at the north end of the Queen
12 Charlotte Islands."
13
14 Now, I would just like you to comment on that
15 particular statement.
16 A Yes, I was writing some of this during the summer of
17 1986 or in 1986 and there was a note in the Midden
18 so this is just a brief note in the Midden written
19 by Bernick, the editor of the Midden which is a
20 local B.C. newsletter or periodical used by
21 archaeologists which referred to work analysis of
22 materials by Nick Gessler stating an early date of
23 10,000. And that has since been revised by Gessler.
24 Q All right.
25 A He presented a paper at the spring meetings this
26 year retracting that date and acknowledging the work
27 of Fladmark on the Charlottes as still being the
28 earliest dated.
29 Q And what is that date of Fladmark?
30 A It refers to approximately 7,500 years ago on the
31 Charlottes.
32 Q All right.
33 A For the appearance of microblade tradition there.
34 Q You then indicate in the next sentence that:
35
36 "Microblade technology makes its appearance
37 about 9,000 years ago on the north and
38 central coast with trade or movement of
39 obsidian from Mt. Edziza to the coast
40 during the period 9,000 to 5,000 years
41 ago."
42
43 And you site Ackerman and Carlson?
44 A Yes.
45 Q And I would just like to refer you to the figure
46 which is at figure 26. And you indicate that this
47 is from Carlson 1983 page 23?

A Yes.
Q All right.
A In this figure Carlson is summarizing much of the evidence that has been recorded by various researchers in the northwest, and has plotted evidence indicating distribution of obsidian from Mt. Edziza'a sources just south of this middle Stikine both north into the Yukon and to the northwest coast and down as far as Namu on the central coast. So the reference to obsidian at Namu Carlson has recovered that and reported on that himself. At Namu he also seized obsidian from the Anaheim sources and he draws an approximate circle to indicate distribution of Anaheim sources. And then there were also materials from Oregon sources, obsidian sources being traded up as far north as Namu. So there are three major sources. The distribution of trade of that material shown on this map for the period 4,000 to 6,000 years ago there is evidence retrieved since that time that would alter this map now and make some of those distribution areas the circles would fill out a bit more and make them somewhat larger.
Q In terms of your own findings of obsidian at the Moricetown excavation, and for the moment assuming that the obsidian is sourceed to Edziza and Anaheim, how would the source appear on this map today?
A Well, the circle, the northern circle including distribution of obsidian from Mt. Edziza then would fill out to -- would be brought further to the lower right or further southeast to include more of the Skeena drainage. And then the circle referring to the distribution of obsidian from Anaheim sources would then be also drawn further north to include the -- to include the Bulkly.
Q All right.
A So there would be more overlap in those two circles of distribution.
Q Where it shows the central B.C. sources of obsidian on Carlson's map, that refers to the Anaheim source, does it?
A Yes, it does.
Q And it shows three squares there referring to three quarry sites, I take it. Are they all Anaheim sources or are they different?
A They are referred to as sources in the Anaheim area. Yes, they are grouped together as Anaheim sources

which would be numbered as different sources.
THE COURT: I don't see the Edziza quarry on this map.
THE WITNESS: It is a little square to the south -- on the south side of the Stikine.
MR. RUSH: It is right in the middle of the oblong circle. In fact, it is at the apex of the circle.
THE COURT: Oh, way up there. I see. All right.
MR. RUSH: Now, the Carlson 1979 article, my lord, is found at tab 27 entitled Indian Art Traditions of the Northwest Coast. It is page 24. Unfortunately the map is not paginated, but it comes just before 24 where there are a number of artifacts shown on that page.
THE COURT: On that map "site" means a location where obsidian was found, is it?
THE WITNESS: Yes. "Site" refers to places where obsidian artifacts were found.
THE COURT: Yes.
MR. RUSH:
Q Now, I just direct you to the top of page 5- 5. And there you state in the first paragraph, the first partial paragraph:

> "Although Fladmark feels that bearers of both early cultures migrated south along the coast during very early post glacial time, he states that 'all or most of the fundamental technological and economic basis of Northwest Coast culture may always have been present, from the very first occupation of the region'."

And that is sited as Fladmark 1982. That is the reference that you took that quote from, is it?
A Yes, it is.
Q And that is at tab 28, my lord. And the page is page 132 in the first paragraph and not 136. Now, I want to ask you about microblade technologies. You make reference to microblade technologies in the second paragraph on page 5-5. You indicate here that:

> "Microblade technologies were also well established in the southern Yukon and far northern British Columbia between 7,000 and 4,000 years ago."

1 I would like to ask you what the significance is of
2 microblade technologies in terms of your comments in
3 this paragraph?
4 A Microblade technology is one that has been
5 documented throughout Alaska and the Yukon, the
6 northwest coast and down through the central
7 interior of British Columbia. There are a number of
8 researchers which have documented the evidence of
9 the appearance of microblades at different locations
10 and the dating of that. And there is a progression
11 in terms of the spread of the microblade tradition
12 in post-glacial times from the Bering Straight south
13 into the coast and interior of British Columbia. So
14 we can see a progression in terms of geographical
15 location and time period as this technology moved or
16 spread further east and further south. And I've
17 made note here of it being established in the
18 southern Yukon and northern British Columbia, a
19 cultural area immediately to the north of the area
20 that I've been working in. It's distribution or
21 temporal distribution in that area between 4,000 and
22 7,000 years ago based on the work of Fladmark in the
23 Edziza area and workmen in the southern Yukon.
24 Q Now, in terms of your investigations at the
25 Moricetown excavation, did you find any evidence of
26 microblade technology?
27 A Yes, in the Skeena drainage we also have recovered
28 microblades from Hagwilget Canyon which are --
29 appear to be present in that early period of
30 occupation which Ames has described as early zone or
31 zone A before 3,500 years ago. Gary Coupland has
32 found microblade technology at Kitselas Canyon which
33 he has found in deposits which he refers to as the
34 bornite phase of occupation dated between 5,000
35 years ago and 4,300 years ago which is also an
36 earlier period.
37 Q Now, did you find any evidence of microblades during
38 the investigation -- the excavations in Moricetown
39 in the summer of '85?
40 A The 10 metre area along the trench that we excavated
41 we did not recover any microblades.
42 Q Okay.
43 A At that time. Although in reviewing the work of
44 Turnbull and several test units conducted by
45 Turnbull in examining level material that was sent
46 to us we did find several examples indicating a
47 microblade production at Moricetown. I have done

1 additional work myself in '87 in which I retrieved
2 microblades as well.
3 MR. WILLMS: My lord, I object. This 1987 work is not disclosed
4 in the report. There is no documentation that shall
5 been disclosed. There is no anything that has been
6 disclosed about further work that this witness has
7 done that she is giving evidence about and where she
8 got it. It is completely inadmissible under the
9 60-day rule. It is inadmissible, no documents have
10 been produced and I object.
11 MR. RUSH: Well, there are no documents, my lord, on this
12 subject. The witness did an examination of certain
13 materials in the summer of 1987. I had not intended
14 to direct the witness' attention to any of it, save
15 and except that she recovered certain artifacts
16 which I was going to lead her to. There has been no
17 documentation or analysis or write-up or anything.
18 This all comes after the preparation and
19 distribution of her opinion.
20 THE COURT: Well, I think she could say that she found a
21 microblade at such and such a location in 1987. But
22 without notice, she would hardly be allowed to give
23 opinion evidence about it.
24 MR. RUSH: I intend to ask her very little more than that.
25 THE COURT: All right.
26 MR. RUSH: And that's precisely the area of the examination. I
27 do have the microblades or I believe the witness has
28 the microblades, I'm not sure, but I intended to
29 direct the witness to those if she has them.
30 THE COURT: All right.
31 MR. RUSH:
32 Q Now, you indicated, Miss Albright, that you
33 recovered some physical remains in the summer of
34 1987, is that so?
35 A Yes, I did. I have not written up that work, but I
36 do have in my possession artifacts retrieved from
37 that work including several microblades from
38 deposits excavated. It was at Moricetown on the
39 north side of the Bulkley River at the same -- at
40 terrace level that was the same elevation and
41 opposite the river from the area that we did work in
42 in 1985. And during that look at the deposits on
43 the north bank of the canyon revealed the same kind
44 of strategy involved. I recovered the microblades
45 in a context that was comparable to strata that I
46 had previously looked at.
47 Q Did you do any excavations yourself?

A Yes.
Q All right. So these were recovered at Moricetown in the summer of '87; is that right?
A Yes.
MR. RUSH: All right. I want to ask you now about your statement at the --
THE COURT: Mr. Rush, I think we will adjourn for a moment.
MR. RUSH: I have very few further questions.
THE COURT: Well, we will just take long enough for the reporter to change.
MR. RUSH: Thank you.
THE REGISTRAR: Order in court. Court will recess.
(PROCEEDINGS ADJOURNED)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings herein to the best of my skill and ability.

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LISA FRANKO, OFFICIAL REPORTER
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(PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
THE REGISTRAR: Order in court.
MR. RUSH:
Q Now, Ms. Albright, I'm just referring to the third full paragraph on page 5 - 5. You say:

"On the basis of archaeological investigations on the Coast and Queen Charlotte Islands as well as the oral histories recorded in the ethnographic literature, MacDonald proposes an area Co-tradition spanning a period of at least 3,000 years on the coast involving Tlingit, Haida, Coast Tsimshian."

And you cite MacDonald, 1969 at 244. Do you rely upon that -- that statement and observation by Dr. MacDonald?
A Yes, I do.
MR. RUSH: All right. And that is found, my lord, at Tab 2. Reference is the reference of Dr. MacDonald's --
THE COURT: Tab 2?
MR. RUSH:
Q Yes. Now, I wish as well -- I neglected to refer you to a further reference on page 5 - 3, Ms. Albright.
A Excuse me. With respect to that Tab 2, I believe we only have two pages included in that. I have the -- my original copy of that article in the witness room with page 244 in the article.
Q Yes. 249. It's at page 244 then, is it?
A Yes.
Q All right. And it's on that page that you draw the reference, is it?
A Yes.
MR. RUSH: All right. I will direct -- I'll get a copy of that from you and I'll provide your lordship with a copy.
THE COURT: Thank you.
MR. RUSH:
Q Thank you. Ms. Albright, I want to refer you back to page 5 - 3, please, to the second full paragraph where you state:

"A large cache of stone clubs has been found at Hagwilget Canyon. They are similar in form to clubs found at sites in the Prince Rupert Harbour and at Kitselas, dated to more than 2,000 years ago. According to

Duff (1981) the superior carving on the clubs from Hagwilget suggests that they may have been a prototype for the carved stone clubs found on the coast. Duff has also recorded oral accounts which relate the use of stone clubs to occupation of Temlaxam."

And then you go on to indicate that:

"Stone clubs have also been reported from other sites along the Skeena and from a site at the confluence of the Bulkley and Telkwa Rivers."

I would like to refer you to Tab 34 in the document book, which is an article by Wilson Duff. I'd ask you if this is the article that you make reference to at this point in your opinion?

A Yes, I do. This article illustrates the clubs which were recovered from Hagwilget Canyon, both the cache and few items recovered at -- separately. And he discusses -- describes these clubs in some detail and -- and then also draws his conclusions concerning the clubs at -- from the Hagwilget area or the Upper Skeena area and those from the Metlakatla area on the coast on page 103.

Q Just before you go to 103, are the clubs that are there described clubs that Dr. MacDonald --

A These are clubs --

MR. RUSH: Excuse me. That Dr. Duff found?

THE COURT: Did he find them or did Dr. Newcombe find them?

THE WITNESS: They were in the possession of Dr. Newcombe at the provincial museum, and this was a cache of clubs. They had documentation at the national museum and these are clubs that Wilson Duff examined and has described in this paper.

THE COURT: He found Dr. Newcombe's cache.

MR. RUSH:

Q All right. Now, you were going to direct us to page 103?

A Yes. It's on page 103 that -- that Wilson Duff outlined some of his conclusions about the clubs. And it's through his analysis of the -- of the style of the clubs and the quality of the craftsmanship in carving of the clubs that he felt that the clubs from the Hagwilget cache or from the Upper Skeena

were prototypes of -- for ones on the coast. And Dr. MacDonald has found stone clubs in archaeological context in the Prince Rupert area that have been dated to more than 2,000 years.

Q All right. Thank you. Now, just referring you now to page 5 - 6. Is your opinion with regard to the cultural patterns of the Gitksan and Wet'suwet'en people as they relate to a regional context as you've described in chapter 5 set out in the first paragraph under Section 5.4, conclusions?

A Yes. My conclusions concerning the archaeological evidence is set out at 5 - 4.

MR. RUSH: All right. With regard to the last paragraph, my lord, again I do not intend to refer the witness to that nor do I intend to ask the Court to consider the statement contained there.

Now, that completes the examination of Ms. Albright and subject to your lordship's direction, I'd like to leave the examination open until I've had a chance to review these notes till tomorrow morning. I expect, however, that there will be no further questions. If there are any, it will be one or two. So with that, I'd ask your lordship to adjourn to tomorrow morning at ten.

THE COURT: Yes. All right. Ten o'clock. Thank you.

THE REGISTRAR: Order in court. Court is adjourned until 10:00 a.m.

(PROCEEDINGS ADJOURNED UNTIL JANUARY 12, 1989 at 10:00 A.M.)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings transcribed to the best of my skill and ability.

Kathie Tanaka, Official Reporter
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