Vancouver, B. C.
September 6, 1989.

THE REGISTRAR: In the Supreme Court of British Columbia, this 6th day of September, 1989. In the matter of Delgamuukw versus Her Majesty the Queen, my lord.
May I remind you, sir, you are still under oath?
THE WITNESS: Yes.
THE REGISTRAR: Would you state your full name, please?
A James Douglas Steventon.
THE COURT: Yes, Mr. Grant, whenever you're ready.
MR. GRANT: Yes. Before commencing, my lord, I received a -- just before court this morning, Ms. Sigurdson delivered to me copies from the general correspondence files of these documents, and I will want to -- I understand that there is duplication from some of the previous exhibits. I will obviously want time to look at these before I complete this cross. But I think there will be a way of doing that without wasting court time. It may require the witness to stand down and come back tomorrow morning.
The second point is this morning I was delivered a letter, again by Ms. Sigurdson, listing six documents for which privilege is claimed, and the privilege is with respect to communications between the defendant or its agents and the defendant's professional -- communications between the defendant's professional legal advisors, made for the purposes of litigation. And it refers to six letters.
To the extent that this witness, and -- four of the six relate to this witness or the other witness, one, it's -- it is to the superior of this witness. To the extent that this witness has given evidence relating to Exhibit 24-A and 24-B, and this correspondence may relate to the creation of that. My friends may be under a misunderstanding that any correspondence relating to the litigation is, per se, privileged. There is only six pieces of correspondence. I would ask my friends to produce them for your lordship for a ruling, because if they do relate to 24-A there may be something further that I would like to examine on.
THE COURT: Are the documents conveniently available?
MR. WILLMS: My lord, the copies are here in court. I don't understand, yesterday I said -- I suggested that if it didn't relate to 24-A it was irrelevant. I never suggested that if it didn't relate to 24-A it was privileged. And these are, we say, privileged

correspondence back and forth. 24-A is prepared long before this series takes place, but the documents are here.

THE COURT: I gather what your friend is saying in part is that the privilege, by operation of law, may be waived by the witness giving the evidence that he gave yesterday.

MR. GRANT: That's correct. And one of the letters is pre, certainly pre my understanding of 24-A. But I may be wrong.

THE COURT: Well, the documents wouldn't be privileged unless they were written for the purpose of obtaining or communicating legal advice.

MR. WILLMS: It's the work product, my lord. It's -- for example, you sit down for the very first time and interview a lay witness to determine what a lay witness may have to say. Notes are made, for example, of what the witness says. The witness is asked to look at those and, later on, for completely different reasons, for example, then experts who are paid witnesses, for completely different reasons, portions of the evidence is not led and it's not where someone is offering an opinion to the court, it's just for one reason or another the evidence is not led. That's one item. Another item is that we need documents, for example, to cross-examine Mr. Brodie, the documents are in Smithers. A letter goes up saying "We need documents that fit this category. Can you find them?" Or "are there any?" It's that type of correspondence which is, as we submit, and we suggested in our claim, it's privileged. It's part of the work product of the preparation, legal strategy, trial strategy in the case.

THE COURT: Yes. Well, is there any objection to my looking at them to see if they are produceable?

MR. WILLMS: I don't have any objection to that, my lord. If this is what's going to happen from now on with every lay witness, this is going to take a long time. But there is no difficulty. I have them here, my lord.

THE COURT: What is your view, Mr. Grant, that I should look at them now or at some later time?

MR. GRANT: Well, I would like -- I am prepared to cross-examine without you looking at them immediately. And if my friend could provide them to you, and you have dealt with this matter in the past, and there is not that many, and I think it's -- as I say, I think that I may -- I am going to need time to look at what was

just delivered to me as well. But that, as I say, I can proceed with my cross.

Just as a simplification point, my lord, I have not got it in court, but I expect to have this morning, to use Mr. Willms' model, an empty binder, and that would be useful to put in the documents, some of which I tendered yesterday and the others under tabs, and I would just reserve the next exhibit number for the binder, then I will be setting -- I would be proceeding with some of these documents and we could put them as tab numbers within the binder.

THE COURT: I don't think you put any documents in in cross-examination yet, have you?

MR. GRANT: I haven't, because I had this in mind. I think as a matter of convenience, the February 19th, '85 Gitksan and Wet'suwet'en blanket trapline proposal, which is already an exhibit, could be remarked, just for convenience.

THE COURT: Is that Exhibit 631? Or 633-A, rather? One of them?

MR. GRANT: Just a moment. It was Exhibit 631, that's right. So I am not sure what the next exhibit number is.

THE REGISTRAR: It's 1121.

THE COURT: Yes.

MR. GRANT: So maybe the binder could be 1121 and that could be Exhibit 1121, bracket 1, Exhibit 1121, tab 1.

(EXHIBIT 1121-1: BLANKET TRAPLINE PROPOSAL DATED FEBRUARY 19, 1985)

THE COURT: And tab 1 is what?

MR. GRANT: The February 19th, 1985, blanket trapline proposal.

THE COURT: All right. It's already an exhibit?

MR. GRANT: Yes, it's already Exhibit 631.

THE COURT: Thank you. That will be 1121-1.

MR. GRANT: I think the reporter handed me back the one the witness was looking at yesterday. And the July 11th, '85, letter, which was Exhibit 633-A, could be Exhibit 1121-2.

THE COURT: What is 1121-2, what is it again?

MR. GRANT: July 11th, 1985 letter from Mr. Sterritt to Mr. Steventon.

(EXHIBIT 1121-2: LETTER DATED JULY 11, 1985 - STERRITT TO STEVENTON)

THE REGISTRAR: Could you provide me with tab 1?

MR. GRANT: At the break I will give you that tab 1.
THE REGISTRAR: All right.
MR. WILLMS: My lord, my friend also referred to an extract from the Praxl file to the witness and I wonder if he is going to mark that too?
MR. GRANT: Yes. I think that would be appropriate. I have got copies of that. And that could be tab, Exhibit 1121.
THE COURT: Tab 3?
MR. GRANT: Tab 3.

(EXHIBIT 1121-3: EXTRACT FROM PRAXL FILE)

JAMES DOUGLAS STEVENTON, Resumed:

CROSS-EXAMINATION BY MR. GRANT: (Continued)

MR. GRANT:

Q Mr. Steventon, I want to understand something quite clearly that you, I believe you explained yesterday. If I can refer you to Schedule "A" to the Notice to Admit, the first volume of these three volume binders. That was an exhibit number, I believe, 1120?

THE REGISTRAR: Yes.

MR. GRANT: Exhibit 1120, volume 1. Could you put that in front of the witness?

Q And if you could just turn, I think we have used -- my friend used tab 3 and it will suffice for what we -- just turn to tab 3.

A Yes.

Q This is the document you had identified and there is others in here interspersed?

A That's correct.

Q Now, tab 3 has a four page -- it's five pages, but it has a four page list with your signature on the bottom?

A That's correct.

Q Now, if I understand your evidence correctly, what you had to work with was this list; is that right?

A That's correct.

Q And you were given the list by Mr. Willms or Mr. Mackenzie, and you went into your files to see if the documents in this list were in your files?

A Well, the -- this represented a file folder by this title, the file number the trapline number --

Q Because you had the trapline file number, 604-T010, you only had to go to one file, and I said files, I

understand what you're saying?
A That's correct.
Q So you went to one file, in this indicate, 604-T010, and what you did, you went and looked at this list to see if documents matching this description were in the file; is that right?
A Their staff had made up this list and I compared that list to the contents of that file, yes.
Q You never went to photo reproduction of documents given to you by Mr. Mackenzie, you never went to the black binders of documents?
A No, I didn't.
Q You don't know whether this list reflects that black binder or not?
A No, I don't.
Q And you don't know whether the documents in the black binder that match this description -- whether the documents in the blank binder are the same as the documents in your file?
A No, I don't.
Q For example, remember yesterday I showed you the Praxl document which have you found was illegible?
A Yes.
Q You don't know whether the document is better in the black binder or whether you have a better copy in your file?
A No, I don't know.
Q If you just look over to the last page of that, you see page five, this is a certification of Mr. Marshall of April 26th of '88th, application for registration dated April 30th, '74, if you could just put tab 3 -- Exhibit 1121-3 to the witness. That's right in there.
You, I understand this is Mr. Marshall and this is where I didn't see it on your list yesterday and I didn't understand but I see now that is Mr. Marshall's certification at the end of this tab. But you could not determine, let's say, that you dealt with an application for registration such as this one of your certifications that you were looking at?
A Yes.
Q The copy in your file may have been legible or may have been not legible or any other number of things?
A Yes.
Q But all you would do is from this description you could tell that this was an application for registration of a trapline dated August 30th, '74 and that's all you can tell from that description?

A That's correct in this case, yes.
Q For example, the metes and bounds or geographical description of the traplines in your files could be different from the one referred to here, you wouldn't know?
A To this particular one you handed me?
Q No, from the one listed.
A Well, I don't think I quite understand the question.
Q Well, let's go back -- let's turn back a page, put aside 1121-3. Go to the first page. Number two.
A Yes.
Q Blue copy of application for registration of a trapline dated December 8, 1979, right?
A Yes.
Q So what you're saying is that you know in your file there is a blue copy of such a document?
A Yes.
Q You made no comparison of the geographical description of that document or whether it had a geographical description or not?
A That's correct.
Q So, for example, in that case, in none of these applications could you tell us whether or not the applications had legal descriptions or didn't have -- I am sorry, when I say legal, I mean metes and bounds descriptions. You understand that?
A Yes.
Q You can't say that?
A Not without referring back to the file, right.
Q And you never made notations of those when you --
A No, I didn't.
Q So what you basically did was do a quick run-through of this, see, okay there is a blue copy of that date and you checked it off?
A That's correct.
Q Fair enough. While I am on this topic, can you go to tab 66 in this big red or -- Exhibit 1120.

THE COURT: Is that volume one?
MR. GRANT: Yes, it is, my lord.
THE COURT: All right.
MR. GRANT:

Q Now, this, if I recall correctly, is another one that you have signed at the back, right on page ten?
A Yes, that's correct.
Q 152 entries?
A Yes.
Q Well, number two, it's a handwritten note from Moses

David dated October 19th, 1980, that wasn't a document prepared by a government official, was it?
A No, that would have been written by Moses David.
Q And you don't know what that document says or whether it has anything --
A No, I don't.
Q Whether it has anything to do with your business?
A It would have had to do with traplines to be in that file. I don't know the specific contents of that letter.
Q Did you read each of the handwritten notes that you found in the files as matching this list, did you read them to be sure they did relate to traplines?
A No, it did not.
Q Number eight, handwritten note by Diane, re Moses David, you don't know who Diane is do you, or do you?
A In this case I do, it's one of our secretaries.
Q You don't know whether that was some business note made by her, you don't know what it had to do with it at all, do you?
A No, I don't.
Q Who is Mr. Guay, G-U-A-Y, for the record, I am referring to number 15 on your list?
A I believe he was a conservation officer in Prince George at that time.
Q Number 32, you have indicated a correction there, it's a photocopy of a handwritten note, not a handwritten note, it's a photocopy, right?
A Yes.
Q Now that -- you have no knowledge of whether that was some business, something -- some business record or who authored it, do you?
A No, not without referring back to it, no.
Q Before I go any further, just so that I understand, Mr. Steventon, did you check to determine whether or not these lists covered every document in your file?
A Yes.
Q Or these are lists of documents in the files?
A Correct.
Q Are they a list of every document in these files?
A Yes, they are. If there was something missing I would have indicated it on the list prior to signing.
Q Okay. Do you recall if on any of them there were things missing?
A I don't recall for certainty but there were very few, if any.
Q Look at number 33 on that list, a crime report re

Moses David dated November 8, '77?
A Yes.
Q That wasn't a business record of your office, was it?
A Yes, I actually recall that document was a crime report on a case of trapping on someone else's trapline.
Q I understand what you're saying it is, and I know what it is too, but I am saying it wasn't -- do you remember if it was generated from your office?
A As I recall -- I don't recall, no.
Q You don't know?
A No.
Q Well, let me say this, it's not the practice to keep in your trapline files, crime reports as a matter of course, is it?
A Not as a matter of course.
Q You don't usually do that?
A Not usually.
Q And 35 and 36 you can't recall who authored those and you didn't make reference to an author for either of those?
A That's correct.
Q Number 52, this isn't part of your usual business records and trapline files, is it, a photocopy of a report entitled A Brief History of Game Administration in B. C.? You don't keep those in your traplines files, do you?
A You wouldn't find those in most trapline files.
Q Number 81, there is a typewritten letter from Johnny David dated April 4th, '75 and, once again, this wouldn't be a document generated by your ministry, obviously, it's not a document created by a government official?
A No.
Q And it's not a document created by a trapper as required under the regulations, is it?
A As required under the regulations?
Q Hm-hmm, or --
A I don't know the contents of that letter. It must have been written to us.
Q Trappers file annual returns, right?
A Not any more. They used to.
Q Yes. Fair enough. And when did that stop?
A I believe that stopped with the '82, or in that -- around that time.
Q Around those amendments?
A Yes.

Q So there may be pre-1982 returns of trappers that are documents that they required, were required to file, they may be located in some of these files, do you agree with that?
A That's correct.
Q Other than those returns of trappers and other than applications for registration of traplines signed by trappers, there are no other documents to your knowledge that trappers were required or obligated to produce to your ministry?
A That's correct.
Q That would be fair to say, eh?
A Hm-hmm.
Q Remember yesterday I showed you the letter of -- I think it's Exhibit 1121, tab 2, the letter of Mr. Sterritt of July 11th, '85, expressing concern over the implementation of the A.T.N. system?
A Yes.
Q If I remember your evidence correctly, you indicated that this -- that you passed this on to your superior, it was beyond your responsibility or your authority?
A That's correct.
Q Now, what is -- that was in 1985, and I take it it's the same scope of authority you have had from '84 to the present; is that right? It hasn't changed, your job hasn't changed?
A That's correct.
Q By the way, did you replace somebody?
A No, my position was a new position in 1984.
Q And it was a new position because of the implementing of the A.T.N. system; is that correct?
A That may have been part of it, but it was a general increase in staffing for the region.
Q What other duties did you have besides the trapline administration?
A I do a wide range of duties regarding advising on hunting regulations, trapping regulations, conducting wildlife inventories.
Q Stop at those, if you can. Mr. Van Drimmelen was also involved in those tasks, was he not?
A Yes.
Q He was a wildlife biologist in place at the same time you were, wasn't he?
A He was my immediate supervisor.
Q Has he been replaced?
A Yes, he has.
Q Who is your supervisor now, immediate supervisor?

A Allan Edie, E-D-I-E.
Q Well, what percentage of your work was relating to trapline administration in the 1984-1985 period? 1984-1986 period, let's say,
A I would say roughly 50 percent.
Q What about today?
A It would be close to the same. Maybe somewhat less, 30 to 35 percent.
Q Okay. Relating to trapline administration, and if we look at the -- I interrupted you, you were saying what other tasks you do, trapline administration, you deal with wildlife inventory, advising on hunting regulations, what else?
A Devising wildlife habitat enhancement programmes, dealing with public groups.
Q Sorry, devising them?
A Yes. Dealing with public groups on wildlife. Quite a wide variety.
Q What do you mean, like, what kinds of public groups?
A For instance, hunting clubs, guide outfitters, general public.
Q Do you administer the guide outfitting aspects of your region as well?
A Not directly, no.
Q Who is in charge of that?
A That would be, well primarily Allan Edie, I gather the ultimate authority is with the regional manager.
Q When you received Mr. Sterritt's letter of July 11, '85, you passed it on because it was beyond the scope of your authority?
A Yes.
Q What is the scope of your authority relating to traplines? You agree that letter relates to traplines?
A Yes. Essentially my authority is to conduct the day-to-day administration according to the normal policies and procedures. In this case this was something that was obviously outside the normal scope of our policy and procedures so I had to refer it.
Q And if I understand correctly -- so at this time, in 1985, above you was Mr. Van Drimmelen?
A Yes.
Q And above him ultimately was Mr. Willett at that time?
A Yes.
Q And below you was Mr. Marshall?
A Correct.
Q What about circumstances where Indian people asked

that their traplines be registered but not in what we consider the normal descent pattern, when I say we, I mean non-natives, consider the normal descent pattern, that is, on a patrilineal basis, was that beyond your scope of authority?

A No. The present procedures or policies say that -- are you speaking like in the instance of a deceased trapper?

Q Yes.

A Yes. The present policies allow most extended family relations to be eligible, such as cousins, uncles, nephews, et cetera. The only time we had any difficulty, we have had difficulty with that is with, in cases of conflicting applications. So if there was no conflicting application, we would have no problem with registering it to a nephew or some other extended relative.

Q Were you aware of a policy change in 1981 with respect to that?

A That would have been, 1981 would have been prior to our current policy or procedure.

Q Do you know Mr. Akerman?

A Yes, I do.

Q Who is he?

A In 1981, he would have been the regional conservation officer in Smithers.

Q And would he have been in charge of trapline administration?

A Yes, at that time it was still under the administration of the conservation officer service.

Q Why was that change made? You indicated that it went from the conservation officer's administration to the regional office, in other words the trapline registration in a way became more centralized, you would agree with me?

A In a way, yes.

Q That is --

MR. WILLMS: My lord, I take my friend's question as what's his understanding. I don't object to that. But obviously the policy of the government wasn't set by this witness. He can certainly ask what his understanding of it was, of the change was.

MR. GRANT:

Q Well, let me go back a bit. As part of your functions when you took over, were you trained as to what the policies were with respect to trapline administration?

A Yes, through my supervisor.

Q Mr. Van Drimmelen?
A When I first started that would have been in Fort St. John and then when I came --
Q Who was that your administrator there, supervisor?
A My supervisor there was Fred Harper.
Q And -- but you also became familiar with the previous policies relating to traplines in order for you to carry on your own functions; is that right?
A I did not spend a lot of time reviewing the past policies, no.
Q In four years of trapline administration for the Skeena region, you have become familiar with the history of the policy of trapline administration, haven't you?
A I have some feeling for it, yes.
Q And you would agree with me that you were aware that there was a policy within the Skeena region that allowed for an effort to protect and keep Indian traplines in Indian hands?
A I am not sure in that was a regional policy or not. It wasn't clear to me.
Q Have you reviewed any of the documents -- in the preparation of the A.T.N. system, have you reviewed any of the historical documents with respect to the registration of the -- of specific trapline files?
A Yes, we did. I did.
Q And you have looked at correspondence that was in those files, that is, earlier historical correspondence?
A Some of it, yes.
Q And did you not get a sense that there was -- you are aware that the Department of Indian Affairs was actively involved in the administration of traplines within the Skeena region in earlier days?
A Yes, a lot of the older registrations were signed by the Indian agent at that time on behalf of somebody, yes.
Q And you wouldn't be surprised if I told you that the --
MR. WILLMS: I object to that, my lord. Whether the witness is surprised or not is neither here nor there. If my friend has a proper question he can ask a proper question.
MR. GRANT: Wait until I finish.
Q You know that the Indian agent actively worked with the game department to protect and keep traplines held by Indians in Indian hands, you are aware of that?

A I have seen some correspondence to that effect, yes, old files.
Q Yes. How do you decide when you get a letter such as Mr. Sterritt's of July 11th, '85, Exhibit 1121-2, how do you decide whether it's within or beyond your scope of authority?
A Well, that's a judgment. In that case he was questioning the entire policy and procedure, so it was quite clear.
Q Is there any written statements of the policy as to your -- the scope of your authority?
A No, other than my job description includes such administrative duties.
Q Does your -- and your job description is reduced to writing and that's the basis upon which you do your work?
A That and with the advice and direction of my superiors and the policy procedure manual.
Q I would just like to touch on briefly this correspondence files, I will come back to them, you agree with me that these general miscellaneous correspondence files, which your counsel has now produced, include files relating to different topic areas?
A Well, they generally refer to trapping but many topics within trapping.
Q Well, let me give you an example, and as I haven't had a chance to look at these in detail, the document delivered this morning, one body of it is labelled "Native Indian Traplines"?
A Yes.
Q Another is "Inquiries, 1987"?
A Yes.
Q Another us "Trapping, 1987"?
A Yes.
Q And that's separate from Inquiries, 1987?
A Yes, those files are somewhat overlapping in -- the lines of division between those files are somewhat blurred.
Q There is another file, "Trapline Registrations, 1987", volume one?
A Yes.
Q Then it goes to -- then there is a file policy?
A Yes.
Q And then they have Trapline Registration, 1988, Trapping, 1985. Now, just to be clear on that, trapline registration file and trapping files are two

separate components that you try to keep separate; is that right?
A Yes. But those -- there is a lot of overlap in content between those files.
Q Right, I understand that. There is one, Cabin Registration, that's a separate file category?
A Yes.
Q And Native Indian Traplines, 1988, that's a separate category?
A Yes.
Q Inquiries, 1984. So, what I am saying, you agree that these general miscellaneous correspondence files re trapping, which is the generic grouping, are categorized in different groups?
A Yes, they are.
Q Now, do you know where the policies would be filed previous to 1983?
A No, not that -- I would have to look in our files.
Q But they would be filed somewhere?
A They may be archived.
Q When you say archived, what are you referring to?
A Well, some old files have been sent either to the ministry headquarters in Victoria for storage, older files that we felt we didn't need in the office or some of the very old ones are in the provincial archives.
Q I am talking about, let's say, 1982, they wouldn't be archived that recently, would they?
A I am not sure. There was around that time, previous files were sent or files previous to that time were sent to Victoria for keeping at headquarters.
Q When?
A There were some sent down approximately a year ago, a general file housekeeping done in our ministry office.
Q So these are in the ministry -- some of these files may be in the ministry office in Victoria?
A That's quite possible.
Q Where would you keep the inquiries before 1983?
A They would have been in some file.
Q And the native Indian traplines would have been in some file?
A If there was a heading of that at that time.
Q Right. But when you reviewed the files with the listing provided to you by Mr. Willms' office, you didn't find all -- you didn't find all correspondence in -- correspondence in all files such as the tab 66 that I referred you to, did you?

A I am not sure I understand you.
Q Well, what I am saying is that you're not satisfied that all of the correspondence relating to traplines is contained in those files that you reviewed for the listing of Mr. Willms?
A The ones I reviewed were the trapline specific files or for the specific traplines, not the general correspondence.
Q Right. And I understand you have made, at Mr. Willms' request, you were making inquiries as to location of other files, correspondence files?
A He hasn't made that request yet.

MR. WILLMS: The witness was under cross-examination.

MR. GRANT: I thought you talked to him before he started his cross.

Q What's the status of the A.T.N. system in other regions?
A The system is in place province-wide.
Q Well, is it completed?
A The applying of numbers is completed, the revision on to base maps, I don't think that has been fully completed province-wide.
Q It would be fair to say that the Skeena region was the first one to complete the mapping?
A I believe -- well, some of the sub regions of Omineca/Peace were first. It was around the same time.
Q Have you received correspondence relating to logging impacts on registered traplines since you have been administering traplines?
A Yes, we have. Or I have.
Q And would you agree with me that there is concern expressed by trappers about the impact of logging on their traplines in your region?
A No.

MR. WILLMS: I object, my lord. That's hearsay. Unless my friend wants to point to a document that he is tendering as evidence, that's hearsay.

THE COURT: Well, unless it goes to the state of mind of the witness. But I don't know -- I should add, if that is a relevant consideration. Is the state of mind of the witness relevant, Mr. Grant, on this issue? Or the state of his knowledge?

MR. GRANT: Basically this question was introducing him into the area, my lord, and the state of mind of the witness is certainly collateral.

Q When you received such inquiries or correspondence

relating to concerns about logging on traplines, did you take any steps?
A Specifically? Like for a particular piece of correspondence?
Q Well, what was your practice, what did you do?
A Our practice -- well, it would be to give some sort of response to the trapper, and in some -- quite a few cases we referred his -- if it was a specific complaint we would refer to the Ministry of Forests, and what we refer to the habitation protective staff that deal with the logging plans. But our ability to solve those problems is limited. We don't have responsibility for logging.
Q It's -- in other words, I take it that your experience while you have been in is that your department could not stop logging in a particular area because it was adversely impacting trapping?
A That's correct.
Q And in no case have you been able to do that, stop logging since you have been in there?
A That's correct.
Q And is there any written policy with respect to that?
A With respect to --
Q How to deal with complaints concerning logging and the impact of logging on traplines?
A No, there is no written policy, no.
Q Has there been any change in the policy of how to deal with that from your department since you have been in place, '84 to now?
A Well, the only policy is that we try to make available to Ministry of Forests the trapline maps and a list of registered holders so that they or the forests licensees, can at least advise the trapper of any imminent logging activity.
Q Right. But, in fact, I take it then, having done that, that's really the limit of what you do, they send a letter, if the trapper writes to you and say they are going to log, there is nothing you do because there is nothing you can do?
A Well, we try, in a lot of cases we try to support the trappers in that but there is not a lot concrete we can do, no.
Q What do you mean, what do you do when you try to support them, what do you do to support the trapper?
A Well, we try to impress upon the logging interests the potential impacts that they can have on fur bearers and try to advise them on ways that they can reduce

that impact.
Q You indicated that as a result of the -- of your delivery of the 1985 letter on the A.T.N. system that trappers -- I believe there were two disputes, one where you went into the field up by Iskut, do you remember that, yesterday you were talking about this?
A Two disputes in total?
Q That's what I am going to come to. There were two disputes you went out in the field on, one there and one up in Terrace as I recall?
A Correct.
Q There were several other disputes, were there?
A There were other disputes, yes.
Q What how did you -- what did you do when you received disputes relating to your maps?
A We would research the particular boundary in question on the C. O. working maps and also go into the files in terms of metes and bounds or other maps that might exist in files and would attempt to get that background and then meet with the trappers involved and hopefully come up with a resolution that way. If not, we generally would refer it to our regional manager.
Q Are you familiar with a trapline that was formally named under the head of Edward Wesley & Company? Does it ring any bell?
A The name Wesley rings a bell.
Q Herb Wesley rings a bell?
A Herb Wesley rings a bell, yes.
Q Does that document, and I am not asking if you remember you have seen this exact document, because I am not going to ask you to exhaust your memory on it, but it looks familiar to you?
A Yes.

MR GRANT: This could be the next tab and it would be the Edward Wesley & Company application for registration of a trapline dated April 5th, 1955.

(EXHIBIT 1121-4: EDWARD WESLEY APPLICATION FOR TRAPLINE REGISTRATION DATED APRIL 5, 1955)

MR. GRANT:
Q Now, I am going to show you another document, do you recognize this document? Maybe you could -- do you recognize this document?
A It would appear to be an excerpt from one of the C. O. working maps.

Q Right. Now I am going to show you another one. Keep that other map there as well. And I am sorry, you will need Exhibit 1121-4, the application. Now can you put both those maps beside each other. First of all, let us identify them. The third one, would you agree, the cover, there is a letter with it and that's similar to the letter that's already been marked, I think it's 1119 or 1120. That's your letter that you sent out in the summer of '85 to different trappers?
A Yes.
Q You sent such a letter to Herbert Wesley, didn't you?
A I would presume so, yes.
Q He was a registered trapper at that time, you remember his name?
A I have talked to Herbert Wesley as recently as a month ago, so I know him.
Q You know him?
A Yes.

MR. GRANT: Now, I would ask that the 1121-5 be the extract from the C. O. working map, that's the one that has Edward Wesley & Co. and Herbert Wesley on it?

A Correct.

(EXHIBIT 1121-5: EXTRACT FROM C.O. WORKING MAP - HERBERT WESLEY AND EDWARD WESLEY & CO.)

MR. GRANT: And 1121-6 be the map -- your letter together with the A.T.N. map, if I may call it, the A.T.N. map?

A Yes.

(EXHIBIT 1121-6: LETTER AND A.T.N. MAP)

Q And that would be a reproduction from the mylar; is that correct?
A It appears to be, yes.
Q Now, can you take a look at -- on the Exhibit 1121-6, the A.T.N. map, you see under the larger 609-TO39, you see Gitseguekla Lake?
A Yes.
Q There is a little lake beside that, can you read that?
A Taltzen Lake.
Q And would it be right to say that from this map that Taltzen Lake would be included in the 609-T039 registration?
A Yes, it would appear that the boundary falls along the east shore of the lake.
Q Right. And if you look at the C. O. working map, this would be the map that preceded the mylar map, right?
A Correct.

Q Would you agree with me that Taltzen Lake is excluded?
A Well, the maps that they drew then as you see has a double line so that lake is right on -- in the middle of that double line between that trapline and the other.
Q Okay. But there is a very black line on the west side of Taltzen Lake there, you would agree with me there?
A Yes, it cuts through the west end of the lake.
Q I mean, as a relative novice in this area, it looks to me that Taltzen Lake is excluded there, am I wrong? Would you agree that somebody who didn't know about the complexity of your mapping or the C. O.'s mapping would assume that Taltzen Lake is excluded?
A He could presume that, it's sort of in that in between position between the traplines.

THE COURT: I am sorry, it looks like it's included in, part of it's included in the copy I have, in the A.T.N. map.

MR. GRANT: Well, there is a creek that goes down below it, you see the circle to the right of the line?

THE COURT: No, I don't see a circle to the right of the line.

A I believe part of the lake, the very east or, sorry, west end of the Taltzen Lake would appear to be underneath the dark black line.

THE COURT: Where is north on this map?

A North would be -- as you would read the writing.

MR. GRANT: My lord, I see, now I see what you're looking at. You're looking at the A.T.N. map with the numbers on it, and that's quite correct, it appears on that map and the witness agrees that Taltzen Lake is included on that map. But if you look at the C. O. working map, it appears that it is excluded.

THE COURT: Yes.

MR. GRANT: I just realized the one you were looking at. I could see why you said what --

THE COURT: It's a very small lake I gather, is it?

A Yes, your lordship, it is.

MR. GRANT:

Q Do you know what the trapping conditions are at that time at Taltzen Lake?
A I am familiar with the lake and the surroundings, yes.
Q Now, have you done a comparison of the C. O. working maps and the matching of those maps to the mylars that were produced from them?
A Not every one, no.
Q There can be these kinds of disparities between the two, there may well be several; is that right?
A This is an example of one of the practical

difficulties of the mapping. And this is one of the reasons why there are some minor interpretive things with these boundaries and why I sent them out to the trappers.

Q You would agree with me that lakes and shores of lakes are important in certain cases for trappers?

A Quite a few of them are, yes.

Q Because they are good trapping areas?

A They quite often are, yes.

Q So the inclusion or exclusion of the shores of a lake may in some cases be quite important for a trapper?

A It could be, yes.

Q I am showing you a map labelled 93 L NE-SE, so I think that we could interpret that as 93 L, east side?

A Yes.

Q And this, I understand, is what you would call a C. O. or conservation officer working map?

A Correct.

Q You have seen this before?

A I believe so -- yes, I have.

Q This is one of the documents that's in your custody?

A Yes.

Q And would this have been a document that was maintained in the Smithers office in the C. O. days?

A Yes, it would be.

Q Now, I am going to show you a photo reproduction of the mylar kindly provided by Mr. Willms, and this you would agree, covers the same area?

A Yes, it does.

Q Okay. Now, I would like to show you -- and as I understand the process, before we go any further, the mylars were taken from the C. O. working maps; is that right?

A Yes, with, as I said, with feedback from trappers, and cross-referenced to metes and bounds.

Q But the feedback from trappers was post summer of '85, the feedback was as a result of your letter?

A Mostly, yes.

Q But at the time you delivered your letters, you had done mylars, hadn't you?

A Yes, that's correct.

Q Because like with Mr. Wesley's letter, you sent a copy of a map with every one which was your mylar?

A That's correct.

Q But you didn't send a copy of the C. O. working map with them?

A That's correct.

Q And if you had, as we find with Mr. Wesley's there, is that there may have been, as you say, minor discrepencies? In other words, they weren't exactly the same, you agree with me about that?
A Yes, like in that instance you indicated there is that double line which makes it ambiguous, although the metes and bounds did match that trapline description.
Q With respect to that lake?
A Yes.
Q Well, let's look at your C. O. working map and you look up here -- now, my lord, I am using the originals of these because the pencil didn't come through in many cases on the print of the C. O. working maps. You see a line, again you see with this thick red line, two red lines, south of Lagopus Mountain, W. A. Fletcher, old res, R-E-S, check mark, do you see that?
A Yes.
Q Now, you see just below that there is this -- there is a space with a single line on this, I would say on the southern side of Fletcher's trapline, there is a single line and then there is a line straight across. There is a gap there that doesn't refer to anybody, you would agree with that?
A I would agree, yes.
Q Now, when we look at your mylar, that gap appears to be incorporated into what becomes 608-T017?
A Yes, that's correct.
Q Now, do you know or have any idea what the scale of these two would be?
A The size of the area?
Q What size that area would be in the C. O. working map?
A These maps are two miles to the inch so that's approximately three miles by three quarters of a mile, roughly.
Q So, there is a change, another change like we find with Wesley's trapline here, where an area seems to be incorporated into what was on the C. O. map described as Clara Baptiste & Company?
A Yes.
Q And I say Clara Baptiste & Company because it's written new, and John Baptiste & Company is crossed off?
A Yes.
Q And it's new, Clara Baptiste & Company, 17-2-84.
Now, if you look to, again, on the working map, Fulton River, coming out of Fulton Lake I would presume?

A Yes.
Q And on the C. O. working map you see a George Willie there, with a little notch in there, right?
A Yes.
Q And you would agree with me when you look at the mylar, 608-T084, that's expanded, that area is larger?
A Yes.
Q These are the same base maps that we are looking at?
A Yes.
Q When you see something larger on the mylar it's actually a greater area, because you have got the same area that you are working as a base?
A That's correct.
Q Now, when you look at the -- just going down here, on the C. O. working map, take this out of your way for a moment, you see southeast of Gilmore Lake on the working map as Marcel Rondeau, do you see that?
A Yes.
Q And then you see again on the -- would you agree with me, and then there is a Fontaine there as well?
A Yes.
Q And then you see on the mylar, 609-T002, that both of those are encompassed within one, it appears?
A Yes, if my memory serves me correctly, those were amalgamated on application of those trappers.
Q Do you recall when?
A In the last, I don't recall exactly, in the last few years. I believe the one marked as Rondeau was transferred to another Fontaine and the two Fontaines amalgamated them, I believe. I am not positive on that.
Q Now once again, the area of Tom Seymour, do you see that on the map, on the C. O. working map, Tom Seymour and Co., old region, check?
A Yes.
Q By the way, what do those checks mean, they are all in pencil on the working maps?
A I am not sure what the checkmark refers to.
Q You didn't put them on?
A I did not, no.
Q And they weren't put on under your direction?
A Not on my direction. Mr. Marshall might have put them there, it may have been the C.O. prior.
Q Now you see when you look up towards Alwyn Lake and then moving west, you would agree with me that the Tom Seymour & Company trapline has changed, it goes further north of Lars Lake on the mylar?

A It's -- again, you are in the middle of that double line.
Q And that double line is about half a mile wide I gather, is it, or quarter mile?
A It would be less than that, perhaps a quarter mile.
Q So, you don't agree that that boundary was changed?
A Not substantially. When we redrafted the maps, we were using single lines and also, as I believe was pointed out in the letter of 1985, if it were -- if there was a zone like that, a band rather than a line, we went to the height of land.
Q These descriptions -- for a trapper, these -- it's not even -- you would agree with me it's not that easy when you take samples of these, takes even you sometime to see whether or not the old map description matches the mylar; is that right?
A Yes.
Q And you would agree with me that if we examine throughout the C. O. maps and compare them to the mylars there would be these kinds of changes, not necessarily on every trapline, but there would be these kinds of changes throughout the maps?
A You would find those kinds of things, yes.
Q And you didn't report any specific changes that you made to the trappers, except by sending them a copy of the mylar?
A In general, yes, unless we had one that we were in great confusion about. There are a few cases that we did write specifically to trappers.
Q Do you recall who those cases were?
A No.
Q Are they reflected in your correspondence files?
A They would probably be, I would expect them to be in the individual trapper file.

THE COURT: Shall we adjourn?
MR. GRANT: It may be a convenient time, my lord.
(PROCEEDINGS ADJOURNED FOR SHORT RECESS)

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

Wilf Roy
Official Reporter

(PROCEEDINGS RECOMMENCED AFTER BRIEF ADJOURNMENT)

THE REGISTRAR: Order in court.
THE COURT: Mr. Grant, do you have any more of these instances where there may be some discrepancy between the conservation officers' maps and the mylars?
MR. GRANT: I am not going to lead them in evidence, if that's what you are leading to. I just wanted to exemplify the point, that's all.
THE COURT: All right. Because I am in some doubt, and I would -- if you are going to pursue the witness about it much further, I would want to know where it's leading. If it's going to be a matter you are going to bring up in argument, we can talk about it then.
MR. GRANT: Certainly. That's all I wanted to -- I would like to have marked the -- because they are not conveniently put in the book, and I do have the -- I've got a document book binder for Your Lordship now.
THE COURT: All right. Yes. All right. Well, they've all been marked as exhibits already, have they not?
MR. GRANT: The specific documents have been marked as exhibits that go into that binder and with the dash number. I would just ask that the next exhibit be the photo reproduction of the mylar of 93 L East. And that would be a separate exhibit number.
THE COURT: Yes. Just a moment. It's a photo of mylar, 93 L East?
MR. GRANT: Yes.
THE COURT: All right. That will be 1121-5?
THE REGISTRAR: No.
MR. GRANT: I would ask it be 1122, My Lord. I don't have five copies of it, and my friends --
THE COURT: All right. 1122.

(EXHIBIT NO. 1122 - PHOTO REPRODUCTION OF THE MYLAR 93L NESE)

MR. GRANT: And that was the mylar I referred the witness to.
Q The photo reproduction, that was the one you were just examining?
A Yes.
MR. GRANT: And 1123 would be the C.O. working map for 93 L East.
THE COURT: For what number?
MR. GRANT: Exhibit 1123.

(EXHIBIT 1123 - C.O. WORKING MAP 93L NESE)

THE COURT: That's the C.O. working map for 93 L East?
MR. GRANT: Yes. And, My Lord, it's labelled 93 L NESE. So northeast and southeast. That's how it's labelled.
THE COURT: Not L East, it's NESE instead of --
MR. GRANT: 93 L NESE.
THE COURT: Yes. All right. Thank you.
MR. WILLMS: Now, My Lord, I would just at that point -- I haven't talked to the witness about the map to the extent that it may still be used for some reason, the day-to-day administration. I may seek leave to have it withdrawn and brought back, if it's ever necessary.
THE COURT: Yes. You can speak to that if you find it necessary.
MR. GRANT: Yes.
Q This Exhibit 1123 that I have tendered, this is the one you were referring to just before the break?
A That's right.
Q Which is the parallel conservation officer working map for Exhibit 1122?
A That's correct.
THE REGISTRAR: That's 1123?
MR. GRANT: Yes.
THE REGISTRAR: Did you say 93 L NESE?
MR. GRANT: Yes.
THE REGISTRAR: Thank you.
MR. WILLMS: Perhaps, My Lord, just before my friend continues, we talked about the privileged documents, and I neglected to hand it up. Perhaps I can do it now, so I don't forget to do it later. The list of privileged documents and the copies.
THE COURT: Thank you.
MR. GRANT:
Q Mr. Steventon, you were describing that in the implementation of the A.T.N. system, if you -- if a dispute arose and you could not resolve it through discussions with the trapper or trappers, that you would ultimately refer to the regional manager?
A Yes.
Q Now, do you recall -- and I don't -- do you have any idea how many persons reacted negatively to the A.T.N. system?
A I couldn't give you a number. It was certainly a small proportion of the total traplines.
Q Okay. Did you keep any records of that?
A Yes, generally in the -- yes, in the trapline files.
Q Okay. And if any member of the public wanted to find

out who was disputing about traplines, would you give them those files?
A No, I don't believe that would be -- I would refer that to the regional manager. That's not normal information we just hand out to the public.
Q Right. And similarly letters such as Mr. David's letter in that file that you referred to, you wouldn't normally give that to any member of the public?
A Which letter is that?
Q Remember the one in 1975 that you referred to in your certificate from his file?
A The -- the item that is indicated is a letter from Moses David.
Q From Johnny David?
A From Johnny David, most likely not.
Q And the crime report you wouldn't give to any member of the public?
A No.
Q Now, if you had to take these disputes to refer them to the regional manager, would you just give him the file, or would you meet with him and discuss it with him?
A No, usually he would have myself and/or Rick Marshall research the issue from the trappers in the files, provide him with a summary as much as we could of what the -- of the facts of the issue.
Q And make recommendations?
A And in some cases, yes. Some cases we didn't do that, and some cases we just gave him the facts. We didn't have a recommendation to make. Some cases we did.
Q And would you be present at any meetings between him and the trappers?
A Usually I was, yes.
Q Yes. Now, I would like to just be clear about the impact of the new system, and I am talking about the post-1982 A.T.N. system.
A Yes.
Q And not only -- I am not just referring to the number, although that's a component.
A Okay.
Q This was -- you say this was a -- you may not have said this, so I'll ask you. Would it be fair to say that it's a reorganization of the trapline administration system?
A Yes, it was a change in the mechanics of how we administered it, yes.
Q Right. But it was a little bit more than that, wasn't

it? Because the requirements changed as well.
A Requirement for -- I'm not sure.
Q The obligation and responsibilities of the trapper changed as well?
A Yes, in the sense they were no longer required to make an annual report to us.
Q Okay. But -- let me just refer you to something which may make this easier for you.

Now, I think, My Lord, that in fact this document, which is quite thick, there may be two copies of the attachments photocopied on it. I think I have taken it from one. That's why -- now, first of all you know who Frank Guillon is?

A Yes, I do.
Q And this letter is dated March 14th, '84, conservation officer, New Hazelton. And at that time he was the conservation officer in New Hazelton; is that right?
A That's right, yes.
Q Now, in this letter -- My Lord, to my recollection, and I could not locate the exhibit number, this letter has been marked as an exhibit in the examination of Mr. Sterritt, but there were no attachments with it, and I believe either Mr. Goldie -- I can't recall which side tendered the letter, but I think Mr. Goldie asked that the attachments be referred to -- now, what I would like to ask you -- you see his letter, March 14, '84.

"Attached for your information are three new policies of the Ministry of Environement".

Do you see that?

A Yes.
Q Now, would you just confirm for me that those policies that are attached, the first one is one of three, page one -- it's three pages, "Management of Traplines on Crown Land and Private Property", dated January 25th, 1984 is the date effective by D.J. Robertson, that that was one of the new policies implemented around that time.
A Yes, that's correct, or the new manual anyway.
Q Yes. And then if you go to the fourth page over you see "Granting Trapline Privileges" dated February 7th, 1984.
A Granting trapping privileges.
Q I'm sorry, yes. You have that?
A Yes.

Q And that's a ten page document?
A That's correct.
Q Now --
THE COURT: Three pages are only attached.
MR. GRANT: I see that.
THE WITNESS: Not all ten pages are there.
MR. GRANT: I see that. I see. This may explain it, My Lord.
Q Let's go -- I think we'll come back to that as we go through. There is three pages attached to that. And that -- again you would agree with me that that procedure manual granting trapping privileges was a new one implemented in February of 1984?
A That's correct, yes.
Q It would have been one of the ones -- if Mr. Guillon was referring to new policies relating to trapping in March of '84, this is one of the ones he would have been referring to?
A Yes.
Q Then you see the next one is "Cancellation of Trapping Privileges on Crown Land for Inactivity" dated January 25th, 1984, one of three pages?
A Yes.
Q And that again was one of the new policies that was implemented?
A Yes.
Q Okay. And then you see "Management of Furbearers", five pages, and this is dated January 25th, 1984, and this is again one of the new policies implemented at that time?
A Yes.
THE COURT: Only four pages.
MR. GRANT: Yes, I see that, My Lord.
THE COURT: All right.
MR. GRANT:
Q But that procedure manual, that would be again one of the new policies, I think you have said?
A Correct.
Q Now, if you go on after that, I think you have again the granting trapping privileges, the ten page memo, and you have eight of those pages. But again you have confirmed that that is one of the policies that would have been dealt with?
A Yes.
Q You see after that a different type of form. It looks like a copy of one of these. "Management of Traplines on Crown Land and Private Property", and it's dated November 28th, '83. And earlier -- these appear to be

all dated November of '83. And would they be different policies, or are they -- are you familiar with why they would have those?

A There are some dated '84 as well at the end.

Q Yes. January 4th, '84.

A Those would appear to be the actual policy statements from which the procedures are derived.

Q So those would be the policy statement, and then it was put into the policy manual, which was the earlier form?

A Procedure manual. Separate policy manual and procedure manual.

Q Does the policy manual, does it refer to trapping as well?

A Yes, it does, as indicated on these forms.

Q I see. Okay. So what you're saying is that these -- these secondary forms are -- would come out of the policy manual?

A These last ones you referred to appear to be from the policy manual.

MR. GRANT: Okay. I would ask that this document be marked as the next exhibit and attachments, My Lord.

THE REGISTRAR: 1121-7.

(EXHBIT NO. 1121-7 - LETTER DATED MARCH 14, 1984 WITH ATTACHED POLICIES RE TRAPLINES)

THE COURT: Yes. All right.

MR. GRANT: Thank you.

Q Now, what I would like to -- you have already referred to one change. Trappers did not have to file annual returns. This was one change as a result of the 1984 changes and the adoption of the A.T.N. system, right?

A Yes.

Q Of course that had nothing to do with remapping, the fact of no requirements for returns? It didn't have anything to do with that, did it?

A Sorry, I don't see your connection there.

Q Well, in other words, the fact that trappers didn't have to make returns had nothing to do with the new mapping of the trapping grounds?

A Not with the mapping, no.

Q Okay. But trappers, all trappers -- let me ask you this. Prior to 1982 is it correct to say that Indian people were not required to file returns?

A I am actually not sure on that.

Q Okay.

THE COURT: Well, this item, "Cancellation of Trapping Privilege in Crown Land", certainly suggests there has got to be some reporting.
MR. GRANT: This is post-1984, My Lord. This is the new policy.
THE COURT: Yes. But it suggests --
MR. GRANT: Which one, cancellation?
THE COURT: "Cancellation of Trapping Privileges on the Crown Lands for Inactivity".
MR. GRANT: Yes. And I am going to come to that.
THE COURT: All right. I'll leave it 'til you get to it.
MR. GRANT: I'm sorry, My Lord.

Q This was one of the other factors, wasn't it, which was a use it or lose it policy that was implemented at this time? That is, if you did not use your trapline for one year and take $200 worth of game off it, or show that you made an effort to do so, you would lose it?
A From '84?
Q Yes.
A That's correct.
Q And prior to that there was not a use it or lose it requirement?
A I am not sure.
Q You have no knowledge of the policy beforehand relating to this?
A Well, I have only seen references in the files to cancellations of traplines for non-use. I have seen some of those. But I am not sure what the policies as such were prior to that.
Q But in terms of the disputes and the issues that were raised with you by trappers, wasn't this one of the big issues that was raised, that if they left their trapline, let it lie for two years, they could lose it? Wasn't that an issue that was raised with you?
A In conjunction with the procedures today, yes.
Q Right. But didn't you understand that that was a change?
A No.
Q You were unaware -- you don't know what the policy was beforehand?
A I don't know what the official policy was on use of traplines prior.
Q Okay. But at least in post-'84 you agree with me that the regulations required this?
A That was in the regulations, yes.
Q And it wasn't beforehand to your knowledge?
A I don't know what the regulations said prior to the

new Wildlife Act. I haven't looked at them.
Q You never looked at them? You never referred to the use it or lose it policy before 1984?
A No, I haven't.
Q Wasn't that raised with you by Indian trappers as a concern they had?
A It was -- the use provision was raised as a concern today, but it was not raised as a concern from some prior time.
Q Well, wasn't it raised as a concern -- wasn't it raised with you that this was a concern of Indian trappers, because they were -- because it was a change?
A I don't recall it being an issue in terms of a change. Some trappers raised it with me as an issue -- just as an issue.
Q And you never investigated whether it was a change?
A No, I didn't.
Q Okay. But there is another requirement, another impact of the A.T.N. system, and that was that all trappers had to have an A.T.N., right, assigned trapper number?
A That's the form of identification of the trapline, yes.
Q But they all had to have that number to sell their furs?
A That's correct, yes.
Q And that's a change?
A Yes, that's correct.
Q They didn't have to do that before?
A They had to -- not the assigned trapper number as such. They had to identify themselves when they sold fur.
Q But the purpose of the assigned trapper number to fur buyers was so you can determine if a trapper with a particular number is actually getting furs, right? It rationalizes your system?
A That's correct, it allows us to monitor harvest on a geographical basis rather than a provincial basis.
Q And you were not aware that before this change, one of the concerns expressed and one of the concerns -- I'm sorry. I won't phrase the question that way. Before that change your department could not monitor returns on a geographic basis? You would agree with that?
A Not nearly as effectively.
Q Right. And one reason it could not be monitored was because Indian people were not required to file

returns before this change, Indian trappers?
A I'm actually not sure on the requirement. You know, if you look through the files, there are some returns, there are some that are not. So I'm not sure whether it was a requirement or not.
Q There was also a requirement of the -- of registering cabins on traplines, which was a new policy?
A That was a change of administrative procedure, in that prior all cabins had to be licensed through or somehow permitted through the Ministry of Crown lands. There was a change to -- in the processing of those applications to go through our Ministry to Crown lands, rather than directly to Crown lands, and that was 1985 actually.
Q Okay. And that was opposed by Indians within your region, to your knowledge, wasn't it?
A By some. I don't recall an official -- any kind of official opposition to that from an organization as such.
Q You don't recall any official opposition by the Gitksan and Wet'suwet'en chiefs?
A I don't recall.
Q Okay.
A I know some individuals objected, yes.
Q Was Michael Whatly the regional manager of the Fish and Wildlife branch in 1983?
A I believe -- I actually wasn't there at that time, but I believe he was acting for a short period.
Q You know him?
A I know him, yes.
Q And he was -- was he a biologist?
A He was a Regional Fisheries Biologist.
Q I have got a letter I would like to show you, dated August 22nd, 1983, and the top is cut off. This is a letter to the Gitanmaax Band, and it appears to be signed by Mr. Whatly, W-h-a-t-l-y, the Regional Manager of the Skeena Region, copy to Rick -- R. Marshall. And this would be a letter coming from your department?
A Yes.
Q Now, in this letter Mr. Whatly states on page 2, and this is a letter to the band, and he describes the A.T.N. system. He states in the second paragraph -- I'm sorry, at page 1. I should start there.

"At the present time the compilation of fur-trader returns is the only method available

to allow us to obtain fur harvest statistics on a province-wide basis. That information is not useful in detecting local furbearer population changes and does not assist us in promoting the use of traplines. It is our opinion that existing populations of furbearers are sufficient to maintain an annual commercial production many times greater than the present level. It is our intentoin, therefore, to promote trapping activities in the Skeena region.

A significant portion of the traplines in the Skeena Region are or were trapped by natives. Because natives are not required to annually re-register their traplines, information pertaining to who is presently trapping what area is extremely poor. In many instances traplines have been passed from one person to the another without records being kept. Trapline boundaries are very inaccurate."

Now, I would like to stop there. When you came into the Skeena region to administer the traplines, would that statement in that last paragraph be consistent with what you found, that is the last paragraph?

A When I came in '84, of course the new policies were in effect, so --

Q I am talking about the last paragraph, the state of the trapline registration system.

A For the most part, particularly in terms of updating the current holders of the traplines.

Q Okay. But also the trapline boundaries, you would agree with that statement, were very inaccurate at that time?

A I'm not sure of the context of that statement there. If it's in the context of the metes and bounds, that could have -- I would agree with that, the metes and bounds are very difficult to understand.

Q And the metes and bounds was the system in place until you did the mylar system?

A Well, in conjunction with those working maps that represented visual image of where the traplines were.

Q The working maps were an effort to visualize what the metes and bounds said?

A That's correct, yes.

Q But the metes and bounds, I think you said yesterday, was the legal -- was what you went to as the --
A Yes, that was the fall back, yes.
Q Wasn't it the --
A That was the official registration.
Q Official registration?
A Yes.
Q Now, then he goes on to describe the system on page 2. And that first paragraph is a fair summary of what you in fact became involved in doing?
A Yes, that's correct.

MR. GRANT: I would ask that that be marked as the next exhibit in the document book.

THE COURT: 1121-8.

(EXHIBIT NO. 1121-8 - LETTER DATED AUGUST 22, 1983 TO GITNAMAAX BAND RE TRAPLINES)

MR. WILLMS: My Lord, perhaps my friend could identify, just for the record, the handwriting on it.

MR. GRANT: Yes. I would ask the Court to -- this is a letter that was sent to the Gitanmaax Band.

Q The handwriting on the bottom, you don't recognize that handwriting, do you?
A No, I don't.

MR. GRANT: That handwriting is a -- is written by a staff -- a former staff person at the Gitanmaax Band, My Lord, and I ask you to disregard it.

THE COURT: Thank you.

MR. GRANT: Just who the letter was sent to, that's all.

Q When were you first contacted about providing maps of the registered traplines for the purpose of this litigation?
A The first contact. I believe that would be the phone call from Dr. Bandy, as I would recall.
Q And when did you say that was?
A That was in January of '86, I believe it was.
Q Okay. The mapping was not completed, I think at that time, if I remember your evidence rightly.
A The mapping -- we had done the mapping. We were in the process of asking for input back from the trappers at that stage. They weren't official yet.
Q Okay.
A In the legal and the --
Q And prior to that time you had no knowledge that these maps would be required?
A That's correct.

Q Had you been contacted prior to that time with -- about the existence of this litigation?
A No, I don't recall any contact prior to that.
Q Thank you. Or informed by your superior about it?
A No, I don't believe so.
Q Okay. Do you remember -- do you know the name David -- do you remember David Blackwater?
A I recall the name. I believe he is one of the trappers.
Q Do you remember the circumstances surrounding the transfer of a trapline of Charlie Sampson to David Blackwater?
A I don't remember the particulars, no.
Q Do you recall that Mr. Marshall was involved in that?
A I believe he was, yes.
Q Okay. Without reviewing all the correspondence, you don't remember anything about him?
A No, I don't recall the circumstances.
Q Were you involved in the decision relating to it, to the transfer?
A I don't recall specifically, other than perhaps -- I believe Rick Marshall, I think, was handling -- getting together the information on that. I may have conferred with him on it. I don't recall.
Q You do recall Charlie Sampson's name?
A The name rings a bell, yes.
Q And he had a relative, Perry Sampson, to whom Fish and Wildlife wanted that trapline transferred to? Does that help refresh your memory?
A I'm sorry, I don't recall the circumstances.
Q Okay. The decision with respect to the transfer of that trapline to David Blackwater, did you participate in that decision?
A I likely could have. I don't specifically recall.
Q Well, it's my understanding that what -- and just to refresh your memory, if this helps you, that Perry Sampson was the son of Charles Sampson, and that your department wanted to pass the trapline to the son. The band council resolution was sent -- or there was correspondence to you, to your department, to you or Mr. Marshall relating to this, and saying that it should be passed to David Blackwater.
A I recall in general terms something to that effect, although I would say we don't want to transfer a trapline to anybody that wouldn't have been -- there would have been an application from somebody for a trapline.

Q When a person dies?
A Uh-huh.
Q Then you want to get a successor on the line?
A Correct, yes.
Q And any successor, as far as you are concerned, as long as the line isn't left vacant, would do?
A As long as that person qualifies.
Q By qualifying, meaning the right age and citizen and those kinds of requirements?
A That's correct.
Q Right.

THE COURT: Mr. Grant, sorry to interrupt, but I am having trouble understanding what this is all about. Surely I am not here to determine the rights and wrongs of trapline disputes.

MR. GRANT: No.

THE COURT: That doesn't seem to me to be the issue. As I see it, the Province is adducing evidence of a trapline management system for the purpose, I suppose, of showing how jurisdiction has been exercised or -- and reducing it to its most simplistic terms, perhaps, in support of a plea of extinguishment, something of that order. How does the operation of that system in relation to individual cases advance or detract from that issue? Or is there some issue that I haven't yet attached to or associated with this part of the case?

MR. GRANT: Well, it may well be the Province is relying on what you're saying. There are also, of course, pleadings with respect to acquiescence. And the issue that I am illiciting through this witness relates to the maintenance of -- by the Gitksan and Wet'suwet'en of their system, and their efforts to maintain that through the dealings with this department relating to traplines here, of course, specifically.

THE COURT: Well, I must say I am trying to follow the evidence, but I don't recall, at least in your cross-examination to date, anything that would advance or detract from whatever position your evidence has shown regarding the maintenance of the Indian system, and how this department dealt with individual cases seems to me to be beside the point. Perhaps I am looking at it in an overly technical way or overly simplistic way.

MR. GRANT: The difficulty I have with it, My Lord, is that the individual cases are reflected in these 20 volumes of paper that the defendants are tendering through this witness, which includes much more than what you have now become accustomed to as -- and what we have

admitted as business records, that is applications and renewals. It deals with -- as the example --

THE COURT: All it shows is there is a system in place. It may not be a very good one. It may be a perfect one. Your clients may or may not think much of it, but what -- how does it advance anything to know about these individual cases?

MR. GRANT: If my friends are only tendering these 20 volumes to show that there is a system in place, then I -- then that may well be the case, but I suspect more, and maybe I'm wrong on that, but I suspect that my friends will go to specific -- they want these documents tendered, My Lord. They clearly want all of this material tendered, and have gone to great lengths to do so, and I understand that they want to do that to rely on the written documents that are there, and at that point --

THE COURT: I think they want to show that the Indians participated in the operation of the system. It's not a system that is not operational. I think that's what they are putting all these documents in for. But it seems to me that you would have to show that the system isn't operational, that these are not genuine documents and that sort of thing. But to show that -- how a particular dispute was resolved, as I have said, I find at the moment unhelpful. I am not going to stop you, Mr. Grant. You are well into it, and I am certainly prepared to allow you to proceed. I just think that I should alert you the concern I have in finding a reason for what we are doing.

MR. GRANT: Yes. Well, My Lord, the question is that -- with respect to this system, is the view from which one approaches this system. And I think you have heard lots of evidence from the Gitksan-Wet'suwet'en as to what they understood was going on. There's been evidence given on commission by Mr. Boyes as to what he was trying to do, and this is now the Provincial -- the voice of the Provincial Game Branch through Mr. Steventon as to what they were trying to do.

THE COURT: Well --

MR. GRANT: Not -- but what they understood was going on. I shouldn't say what they were trying to do. What they understood was happening.

THE COURT: I am not sure I care what they understood was happening. What I am hearing is simply that they had a system, and they made these changes, and this was their policy, and presumably the documents would show

that it was an operating system which succeeded a previously operating system. As I say, all I am raising is this concern I have about these individual pieces. But you go ahead, and it may be that you think that this is what you ought to do anyway, or you may over the course of this go well -- decide that there is not much point pursuing too many of these instances.

MR. GRANT: I am certainly not going to canvass -- I had some specific examples, but -- trying to approach the merit of this issue.

THE COURT: Thank you.

MR. GRANT:

Q Was there a -- was the policy pre the A.T.N. system, including -- did it include the use of company traplines? You know what I mean by company traplines?

A Yes. There were earlier company traplines, yes.

Q And there were -- I would suggest to you that a vast majority of the Indian traplines were company traplines.

A There were a lot of them that were, yes.

Q And the vast majority of traplines within your region, before the A.T.N. system, were Indian traplines?

A Still are, yes.

Q I was going to come to that. And they still are?

A Yes.

Q And the company traplines -- in your transference over of the system into the A.T.N. system, have you tried to cut back on the utilization of company traplines?

A Really the company thing doesn't relate to the assigned trapper number as such. It relates to the wording of the 1982 Wildlife Act. It says a trapline has to be registered to persons rather than -- does not allow, to my understanding, the registration of a trapline to an organization "company".

Q But the trapline could be registered -- have you, when you dealt with the succession of traplines, tried to get it focused on one person rather than a group of people as part of your --

A No, we have -- we have made many registrations to multiple persons.

Q And you understand why company traplines were -- are of significance to Indian people? You have maintained that for a reason, right?

A Yes.

Q Its been advocated -- I mean, people have requested it that way to you?

A Yes, that's correct.
Q Now, I would like to refer you to exhibit -- and I'll provide another copy. It's Exhibit 993-45. Maybe this could be marked as the next tab.

THE COURT: 1129-9.

(EXHIBIT NO. 1129-9 - LETTER DATED DECEMBER 10, 1981 RE TRANSFER OF TRAPLINES)

MR. GRANT: And it was also Exhibit 993-45. It would be 1121-9.
Q Have you seen this document before? I appreciate it occurred before your time.
A I don't recognize it.
Q Have you had a moment to read it?
A I may have seen it, but I am not sure.
Q Okay. Now, from your review and your knowledge of the files, do you know that prior -- that the files indicate that the policy was not to transfer traplines to -- Indian traplines to non-Indians?
A I am not aware if there was a policy, other than what you have placed in front of me here.
Q When you say policy, I mean what actually happened. I am not talking about necessarily a written piece of paper with policy on top of it.
A I am not familiar with what went on in '81 in Skeena.
Q Okay. Were you aware that in January of '81 the Skeena -- after January of '81 this policy was implemented, that an Indian could transfer to a non-Indian?
A I am not aware if there was a change of policy at that time or not.
Q Okay. In the files you would agree with me that in certain cases where succession occurs there are band council resolutions? Do you know what I mean by band council resolutions?
A I have seen such, yes.
Q And when an Indian person dies, do you request the band, which that person is a member, to send you a band council resolution to confirm the successor?
A No, we haven't asked for a band council resolution. We have on several occasions written to bands or tribal councils asking for their advice or assistance in determining the succession.
Q Okay. And the band council resolutions that are in the files are indicative -- are generally referred to so and so is a successor to so and so relating to traplines?

A I have seen some of those, yes. That's the nature of them, yes.
Q That's the nature of the band council resolutions that you found in the files?
A Yes.
Q So they are guidance to you?
A Yes.
Q Or to whoever it was, the predecessor?
A Yes.
Q And you continue to correspond with band councils and tribal councils to seek their advice as to who the successor should be?
A Yes.
Q And that's part of how you -- of your management of the traplines? That is one of the procedures you do when you are dealing with an Indian trapline?
A Yes.

MR. GRANT: Just a moment, My Lord.

Q I am showing you a letter dated July 9th, 1985 from Mr. J.H.C. Walker to Mr. Ralph Michell. Mr. Walker was the director of the Wildlife Branch at that time; is that right?
A Yes, he still is.
Q And in Victoria?
A Correct.
Q And a copy of this letter was sent to your superior, Mr. Willett. And this is a letter, and just so that you know, it's a letter in response to Exhibit 1121-1, the February 19th, '85 trapline proposal?
A Correct.
Q And you have seen this letter before?
A Yes, I have.

MR. GRANT: Okay. That could be marked as the next exhibit.
THE COURT: Yes. 1121-10?
THE REGISTRAR: Yes, My Lord.

(EXHIBIT NO. 1121-10 - LETTER DATED JULY 9, 1985 TO MICHELL FROM WALKER RE BLANKET TRAPLINE PROPOSAL)

Q This letter -- as far as your knowledge is concerned, this letter ended the blanket trapline discussions; is that right? This was the last stage of it?
A To my knowledge.
Q Now, if you look at the last page, the last paragraph Mr. Walker states:

"Thank you for submitting your proposal. I regret that legislative limitations prevent implementation of your blanket trapline concept at this time. However, regional staff are prepared to meet with you to explore other options for improved trapline management."

MR. GRANT: My Lord, of course it goes without saying that tendering this as an exhibit is not an acknowledgement that the conclusions there are true, but it's the statement of what --

THE COURT: This is already in somewhere, isn't it?

MR. GRANT: I think it's already in, yes, if I remember rightly. It's in Mr. Sterritt's --

Q Now, did you -- you would have been part of the regional staff that's being referred to there, right?

A Correct.

Q Did you meet with Mr. Michell to explore other options for improved -- an improved trapline management after this letter?

A I did speak with Ralph Michell, but I don't recall whether it was after we see this letter or prior. I did speak to him on this topic.

Q Okay. Did you explore other options, either with Mr. Michell or with the Tribal Council after this letter?

A I believe.

Q For improved trapline management?

A Yes, I believe I did.

Q What other options were you looking at?

A The other options were, for instance, the -- under the current provisions at the time it was possible, for instance, for one registered trapper to grant permission to some other trappers as an assistant. So I suggested that might be one way that they could, in effect, manage their traplines cooperatively, without one blanket trapline. And I also suggested, if they had adjoining traplines, they may wish to make a proposal to adjust boundaries, if they preferred different boundaries, and we could entertain that.

Q There is provisions and there were provisions to amalgamate traplines --

A Yes.

Q -- by boundaries? Okay. So -- adjoining traplines -- could have been put into one trapline. There is no difficulty with that?

A Well, there is no legal difficulty, to my knowledge.

Q Yes. In fact you gave me an example on the map?
A That's correct.
Q Of the Fontaine where that happened around this same period of time?
A That's correct, yes.
Q I had already referred you to Tab 66 of your book. You don't have to go back to it. That related to the Johnny David trapline. And you were familiar with the -- you have reviewed that file?
A Yes.
Q You certified those documents were in that file that are listed there?
A Correct.
Q You would agree with me that it's one of the larger, not necessarily the largest or the only one that size, but it is an exceptionally large file?
A That's correct.
Q And you were aware that there was a -- you saw the crime report, and you were aware that there was an appeal on a trapline boundary previous to your time?
A Correct.
Q Relating to that trapline?
A Correct.
Q And that related between Mr. David and Mr. Baggerman, B-a-g-g-e-r-m-a-n; is that right?
A I believe that was the other trapper, yes.
Q That's -- and -- did you discuss that with your -- the circumstances surrounding that boundary at the time that you had it put on the A.T.N. system?
A No, I don't believe we did. We took the boundary as was a consequence from that, I suppose, was an existing boundary.
Q Did you discuss the circumstances around that dispute with Mr. Cox?
A No, I didn't.
Q You said that you had -- you know Mr. Cox now?
A Yes.
Q You met him. Do you know him socially?
A I just know him casually.
Q But you have talked with him?
A I have met him.
Q Okay. These documents that you refer to in your certifications, they -- those files that you have reviewed for those are not generally open to the public, are they?
A No.

THE COURT: What do you think, Mr. Grant?

MR. GRANT: I think that we could stop now, My Lord.
THE COURT: Yes, all right. 2:00 o'clock please.
THE REGISTRAR: Order in court. Court stands adjourned until 2:00 o'clock.

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

_____
LORI OXLEY
OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED AT 2:00 O'CLOCK P.M.)

THE COURT: Mr. Grant?
MR. GRANT: Firstly, I have a letter from Mr. Rush to the court clerk and copies have been delivered to my friend, requesting the reduction of Exhibit 1111, I think it is, the Moricetown tribe. This was the photograph put to Mr. Shelford you may recall.
THE COURT: Yes.
MR. GRANT: Now, affixed to the back of the enlarged photograph, and I -- the evidence is clear, affixed to the -- is this listing of names. It was glued on the back. It was reproduced as well. I wish to tender it all. My friends, I believe, may have some concern, but as far as I am concerned, it was part of the document. I don't believe that I put it to the witness and I am not saying it carries any weight. I mean, in terms of that -- if it hadn't been reproduced, it would have been part of the same document, that's all. I am in your lordship's hands regarding that. But madam registrar wanted to get the exhibit and there is no disagreement about the photograph. My friends have received copies. And my friend is getting ready to read the excerpt. I concur that I didn't put these names on the back to the witness, there was no discussion, there is not need to --
THE COURT: I am almost guessing, but did he not say something about his personal knowledge of these people, either that he thought he recognized some of them or that he didn't know any of them or something like that? What did he say?
MR. GRANT: That's right. I myself read some of these names and asked him if he knew these people were so and so. He didn't know them.
THE COURT: He didn't know them?
MR. GRANT: No, he didn't know who they were.
MR. WILLMS: And if I can help my friend, because this has already been dealt with, exactly what should happen, your lordship said that a photographic reduction could be put in for the purpose of the regalia, which is just the photograph. But there was no mention by my friend at the time of a list of names or tendering a list of names. However, he did ask Mr. Shelford whether or not he recognized the individuals and Mr. Shelford said he did not. It's my submission, my lord, that you have already ruled on this. My friend is entitled to put in the photograph reduction for the

purpose of indicating the regalia. He is not entitled to put in the list of names.

THE COURT: It doesn't seem to me, Mr. Grant, that it can have any evidentiary value, unless you can bring it to within some category, not much point --

MR. GRANT: Earlier, what I had done done is said, do you know the person on the extreme right as Jimmy Michell. This list, which was glued to the back, is what I was referring to. In any event, I am not here -- I am not really pressing the point --

THE COURT: If you have read the names out, the names are already in the record. So I don't think this needs to go in.

MR. GRANT: That's fine. Then the photograph I have for madam registrar.

THE REGISTRAR: It was reserved for identification, my lord.

THE COURT: It will now be that number.

THE REGISTRAR: 1111.

(EXHIBIT 1111: PHOTOCOPY OF PHOTOGRAPH MORICETOWN TRIBE IN REGALIA - 1937)

MR. GRANT: And it is an Exhibit proper.

THE COURT: For the purposes described.

MR. GRANT:

Q I am referring you to a document entitled Application for Registration of a Trapline, Johnny David & Company, and it's two pages, and under remarks it's "December 2nd, 1931, C. D. Muirhead, recording officer." Now, have you seen that document before?

A I believe I have.

Q Or a copy of it?

A I believe I have, yes.

Q In fact, this is one of the documents that you certified was in your files? Do you recall that?

A I don't recall specifically certifying this particular document, no.

Q Now, when you look at that, you see that on the first page and on the second page of that document -- my lord, I don't have other copies of this at this time, but I will arrange to make copies for the next exhibit in the document book.

You see on the first page on the top of the second page there is a metes and bounds description?

A Yes.

Q Have you reviewed that metes and bounds description?

A I may have reviewed it earlier in the course of our

business.
Q You don't remember? I want to be fair to you --
A I don't recall for sure if I reviewed this particular description.
Q Okay. From your examination of that description now, could you plot that description?
A I could try, without actually doing it, I probably could, but without doing it it's hard to say for sure.
Q Okay. Well, take a look at the description. I am just asking you from your examination of the document itself.
A This one looks fairly straightforward and it makes reference to a lot of lot numbers which are generally easy to find on the map.
Q When you say this one is fairly straightforward, you may well be able to plot this description, but those that do not have so many lot references would be much harder to plot?
A Some descriptions are more difficult, yes.
Q And I take it that some of the descriptions were not possible to plot from the metes and bounds description from what you described yesterday?
A There are some like that, yes.
Q Okay. Were you aware that in the Johnny David file, that is, file 66, the one that you certified, there -- do you recall seeing a map which had overlays with different versions of trapline registrations on it?
A I do not specifically recall that, no.
Q Do you remember seeing this map, or a copy of it?
A I believe I have seen this map before but I couldn't say for sure whether it was in the file at the time that I did the certification.
Q Well, assuming that those straight lines on this map are metes and bounds of trapline registrations, okay, you see the straight lines going -- one going up northeast of McKillikan Creek and up and across the the other going down by lot 332 and then down towards Bob Creek, you see that?
A Yes, I do.
Q Do you see that this -- that between those straight lines there is a gap, that is, there is no line between them, or is that line following the dotted line the southern boundary or do you know?
A It would appear to follow this dotted line here on the map.
MR. WILLMS: For the record, my lord, the bottom of the document contains the stamp, "Exhibit 5, Regina versus Moses

David, 19 September, 1977."
MR. GRANT: That's right. And it's in -- it's a map in tab 66.
Q The mylars that you have brought down, and your counsel has provided to me, you would agree that those mylars do not match Exhibit 24-A?
A This exhibit here?
Q Yes.
A For the most part, they do. There have been some amendments to those maps since the creation of the exhibit.
Q So they don't match because there have been amendments?
A In their entirety, no, I guess.
Q Who did you say drew the mylars, was it Mr. Marshall?
A Primarily Mr. Marshall, yes.
Q You weren't involved in drawing the mylars at all?
A I did not actually draw the mylars.
Q Would you agree with me that the registration of traplines is -- has been, from your experience, that is, registration of Indian traplines, okay?
A Yes.
Q Has been a confusing process?
A In some senses, yes.
Q And I believe I asked you this morning about the comments made by your predecessor or by your -- your predecessor, Mr. Whatly, or your superior's predecessor, about the state of those traplines in 1983?
A Yes.
Q And you found the same situation when you were there?
A I am not sure which situation --
Q You found that trapline boundaries were confused when you were there?
A We had some confused trapline boundaries, we had some confused registrations, as to deceased registrations and that sort of thing.
Q You had people that were deceased and nobody else registered, you had boundaries that weren't clear, that's the sort of problems you had to face?
A We had some of those kinds of problems, yes.
Q Have you heard of a Kitselas tribal line?
A I believe I have heard reference to, I believe I was the Kitselas.
Q Tribal line?
A Yes. Yes, I believe I have.
Q And what is that?
A I believe there is a reference to a multiple

registration trapline in the Kitselas area.
Q For the people of the Kitselas Tribe?
A Yes.
Q It's referred to on your own C. O. working maps?
A Yes.

MR. GRANT: My lord, I -- yes, my friends have provided me and maybe -- I don't know if they provided madam registrar with the exhibit, the Bandy cross-examination of February 11, 1988. And that would be exhibit --

THE REGISTRAR: 1114-A.

MR. GRANT: -- 1114-A. And I believe there is a copy.

MR. WILLMS: A copy for your lordship, we have written in red pen in the upper right corner on Exhibit 1114-A.

THE COURT: Thank you.

MR. GRANT: My lord, on page one, the third line from the bottom, there is a transposition of "yours" and I am not certain about that. It was on the copy of the provincial defendant. It's not on my copy and I can't really answer to that, although I think it's clear from the rest of it that that was a correction. On page 2, question 8, the answer halfway down, you see I and E?

THE COURT: Yes. What does that mean, I and E, what does that mean?

MR. GRANT: I am not sure what that means. I don't know.

Q Do you know what I and E means, in reference to the Fish and Wildlife?
A That refers to Information and Education section.
Q So that should be there. And page 11, the third line from the bottom, I am not certain about that one. Mr. Crane conducted this cross-examination and I haven't reviewed this corrected one with him.

I would just like to refer you, you have that in front of you -- you don't have to read it right now, just a couple of places I would like to refer you to. Page 15, question 58:

"Q The certificate says that the map shows the status of traplines on or about January of 1986, that again I take it is something you were told rather than something you have personal knowledge of?
A That's correct.
Q And again the person who would have told that to you is the person who is referred to in your statement of procedures, either Rick Marshall

or Doug Steventon."

Q Did you tell Mr. Bandy that?
A I would have in that telephone conversation regarding the mylar maps.
Q In other words, you were the one that communicated with Mr. Bandy or did both you and Mr. Marshall communicate with him?
A I am not sure if Mr. Marshall communicated with him as well.
Q Fair enough. Would it be correct to say that just as the mylars we have today, that is the ones you brought down with you, are different than Exhibit 24-A, because there have been amendments and modifications? You have alread explained that.
A Yes.
Q So that 24-A would be different than the traplines as of October 28th, '84 or as of October 22nd, '84, around the time when you started your work with Fish and Wildlife in Smithers?
A They should be, essentially, I believe they would be the same because the mylars were meant to reflect the status at that time.
Q Except for amalgamations which we discussed this morning, such as the Fontaine one?
A I don't recall the date of the Fontaine one but possible.
Q Except for that little gap south of the Fletcher line that was put in to the Baptiste line, except for all these modifications that we have talked about --
A That modification like in terms of the -- some of those areas, that was in the process of transcribing the maps and using the metes and bounds, we were trying to reflect the status of the maps at that time or, sorry, the traplines at that time.
Q If somebody applied to amalgamate their trapline between '84 and '86, that change would be reflected on 24-A, would it, because it's as of January of '86?
A If there were, I don't know if there were any transfers in that time without checking.
Q But you have no reason to say there were not?
A I don't know.
Q You don't know. So you don't know whether 24-A reflects the status of registered traplines in October of '84 or not, you can't say? You do know it reflects it in '86?
A I know they reflect it at the time they were made.

Q Around January of '86?
A They with were made between '83 and '86.
Q And there were no changes in that period of time?
A I can't state definitively.
Q Right. And you live in Smithers, Mr. Steventon?
A That's correct.
Q And you have lived there since you took up your employment in October of '84?
A That's correct.
Q And you have heard of this land claims action of the Gitksan and Wet'suwet'en before you were called to give evidence, obviously?
A Yes, I have.
Q You heard of it before you received Mr. Sterritt's letter in response to your 1985 series of letters?
A Yes, I had.
Q And you, I -- would it be fair to say you heard about it soon after you moved to Smithers?
A Yes, I couldn't say for sure when I first heard of it, but --
Q You heard of it when -- soon after you arrived and took up your new position though?
A Yes, soon after the litigation was begun, yes.
Q Okay. And did you hear of it through your employment or through the media?
A I really don't recall where I first heard it. Could very well have been the media.

MR. GRANT: Now, my lord, I, as I indicated to you, I have not had an opportunity to review this correspondence that was delivered to me this morning. My friends have indicated that Mr. Marshall is present and available and I have no doubt -- well, I will insure to review that correspondence this evening, and I may have further questions of this witness out of that correspondence. Now, of course, it appears now that from this witness, that there is other correspondence, although he doesn't know where it is. That matter my friends are investigating. That is, the pre-19 --

MR. WILLMS: I disagree, my lord, that is not what the evidence is that there is correspondence. I wish my friend wouldn't say that.

MR. GRANT: My recollection of the evidence this morning is that this witness did say that there were files previous to 1983, but he doesn't know where they are or whether they are categorized in the same way or a different way. It would encompass, for example, policy and these other matters. My friends are investigating

that. I would ask, my lord, that we proceed -- well, I understood that the direction yesterday -- my friend has indicated to me just now that he is not looking for it. This morning he told me out of court -- I understood what he said was that he was making those inquiries.

MR. WILLMS: My lord, if I can clarify my friend's thinking here, or try to, yesterday my friend made the point that the miscellaneous files started in 1983, that's the file that we have disclosed to him. And he said that the first document that he saw on that disclosure was dated sometime in 1983. I told my friend that, to my understanding, from what we have been told, that there were no pre-1983 miscellaneous fur trapping files, trapping files, but that we would try to see if there were pre-1983 miscellaneous files. And I did tell my friend that and we will look, and if there are any, we will let him have them. The second point that my friend just raised is the speculation that my friend made this morning with respect to this witness about some other files, which the witness quite properly agreed maybe there are some files that I haven't seen. Now, under that category, we are not looking for maybe there are some files which the witness hasn't seen. So I hope that helps my friend.

THE COURT: Well, on either basis, you may turn something up?

MR. WILLMS: Well, we may turn something up and if we do, we will be pleased to give it to my friend.

MR. GRANT: Well --

THE COURT: What do you want to do, Mr. Grant, do you want to stand the witness down?

MR. GRANT: I want to stand the witness down so that I can review these files.

THE COURT: And your friends can proceed with Mr. Marshall?

MR. GRANT: Yes. My friends can proceed with Mr. Marshall today, and I would be in a position to ask any further questions tomorrow morning or after the direct of Mr. Marshall or after the cross tomorrow.

THE COURT: What do you say, Mr. Willms?

MR. WILLMS: Well, my lord, as my friend said earlier today, the documents that we gave him this morning contained a lot of duplicates that he has already soon. There is very little new in there. And if my friend only needs maybe half an hour, which is all it would take to read them -- I thought he might do it over the lunch hour. But to keep the witness overnight again -- right now, the two people who are in charge of the section up

there are both down here. I am not saying that there is nobody running the shop but both Mr. Marshall and Mr. Steventon, who are in this section, are down here.

THE COURT: Can you conveniently complete Mr. Marshall in two days, Thursday and Friday?

MR. WILLMS: My lord, we may be able to complete the direct evidence of Mr. Marshall in half a day. I don't know how long the cross will be.

THE COURT: So there should be no difficulty in completing the whole of his evidence in two days?

MR. WILLMS: None whatsoever.

THE COURT: Do you think there is any advantage, Mr. Grant, in adjourning now and you taking whatever time you need to look at the documents and even if we have to stay a little late this afternoon to finish the witness?

MR. GRANT: Well, my lord if my friend -- well, I can do that, if that's what you wish, but my friends -- what they did was this morning at two minutes to ten --

THE COURT: I have been hearing this since the start of the trial. I can't --

MR. GRANT: They are mixed. I don't know which of the documents that I have got today or how many of them are ones that I have already received.

THE COURT: How big a pile of documents is it?

MR. GRANT: I'd say an inch.

THE COURT: Well, with your speed reading, Mr. Grant, why don't we take half an hour or three quarters of an hour, whatever you need, and get the witness finished with. If it can save a witness from being kept overnight, I think we should do that, if we are not going to jeopardize our overall schedule. So let's adjourn and I will be ready to proceed when you are, Mr. Grant.

(PROCEEDINGS ADJOURNED FOR SHORT RECESS)

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

Wilf Roy
Official Reporter

(PROCEEDINGS RECOMMENCED AFTER A BRIEF RECESS)

THE REGISTRAR: Order in court.
THE COURT: All right. Mr. Grant.
MR. GRANT: Thank you.

Q Mr. Steventon, did you recall whether or not you saw a transcript of the hearing regarding the Johnny David trapline in your files? That was on January 26th, 1982.
A I don't recall for certain if I saw the transcript.
Q Did you ever review what Les Cox described about that, the history of that trapline?
A The Johnny -- that's the Johnny David trapline?
Q Yes.
A I have reviewed the file, the Johnny David trapline, yes.
Q Have you reviewed what Les Cox has said about that trapline?
A I don't specifically recall what Les Cox said about the trapline.
Q When you say whether you reviewed -- do you recall reviewing a transcript of Les Cox's description of the trapline -- the history of the -- that trapline and his trapping policies in general?
A I could have, but I don't specifically recall that document.
Q Fair enough. Do you remember being at a meeting on July 24th, 1987 at Lake Babine at Granisle?
A I did not attend that meeting.
Q You were listed as attending, but you didn't attend the meeting?
A I didn't actually attend.
Q I am showing you a letter dated August 19th, '88 to District Conservation Officers from J.D. Steventon. Is that a memorandum from yourself?
A Yes, it is.
Q And this was in your file relating to trapping in 1987?
A I assume that's correct, the date of the letter.
Q Well, the letter is actually 1988, but it was encompassed within those documents. In any event, I asked you this morning about status Indians, and your last paragraph of this letter you state:

"Status Indians do not require a licence."

Now, what are you referring to there? Which

licence are you referring to?
A A trapping licence, annual trapping licence.
Q Now, the point of this memo was about trapping licence issuance and the requirement to have the A.T.N. on the trapping licence, instructing District Conservation Officers in that procedure; is that right?
A That's correct.
Q But of course status Indians did not need a licence, so they didn't need a reference to an A.T.N.?
A Well --
Q For that purpose.
A They don't require a licence.
Q I mean, in other words, what you describe earlier doesn't apply to status Indians, in terms of the licensing requirement?
A Well, in terms of when selling fur to a fur buyer they have to refer to their trapline number.
Q And that's where you say:

> "They must be authorized to trap, i.e., hold a registered line or have permission of the registered trapper, and they need an A.T.N. to sell furs. We can issue an A.T.N. card from this office in lieu of a licence."

That's -- I am quoting from it. That's what your statement and your policy was and is?
A Yes.
Q And the A.T.N. card was something you evolved so that Indians would have an A.T.N. number for the sale of their furs?
A Well, we had enquiries from different people as to what the A.T.N. would be. Sometimes we simply gave them over the phone, or if they -- that was something we could give them so they could keep a reference to their A.T.N.
Q Okay. I am referring you to a letter dated February 2nd, 1987 to the Gitksan-Wet'suwet'en Tribal Council with your signature. Do you recognize this -- the signature on this letter?
A Yes, I do. That's myself.
Q That's your signature?
A Yes, it is.
Q And this relates to concerns of Mr. Delbert Turner, Mrs. Fanny Williams and others relating to the Josiah Bright and Company trapline, saying it was incorrectly assigned in 1986 to Mr. Bruce Jackson of Hazelton?

A Yes, that's the topic of the letter.
Q And do you remember dealing with this trapline around that time?
A Yes, I do.
Q And the final sentence of the letter -- you don't address this to the attention of anyone, but you say:

> "If you can shed any further light on the inheritance of the line, it would be helpful in my examination of the problem."

Has that been your practise since you have been administering traplines, that when these kinds of issues arise relating to inheritance of traplines, you would go to a group such as the Tribal Council or bands or Indian people that you could contact for information to assist you in resolution of those inheritance questions?
A Yes, it has been.
Q January 19th, '87, a file note. And this file note is copied to yourself, as well as Mr. Walker and Mr. Willett. Do you recognize that?
A Yes.
Q January 26th of '87. It appears -- it's only in initials, but P.J.B., would that be Mr. Bandy, or was that someone from your office?
A There was no P.J.B. in our office. I believe it would be Peter Bandy.
Q Now, in the last paragraph in the bottom he said:

> "I asked Doug if it is possible to identify changes in traplines."

Now, here he is referring to map 24A.

> "Between the date of issuance of the writ, October 23rd, '84 and the period when the maps were provided for copying, June or July of '86, he responded that he could provide this information but only by review of each and every file."

Now, does that assist you in remembering the only way you could determine whether this map, the June, July, '86 map, matched the '84 trapline, would be a review of every file?
A I believe, as I stated before, there was a possibility

there could have been some changes to registrations or whatever.
Q And you --
A Prior to 1986.
Q Between '84 and '86?
A Yes.
Q And what you advise Mr. Bandy was the only way you could tell that would be to review all of your trapline files, each file to check for changes, right?
A Yes, to be certain, that's correct.
Q And then he goes on to say that he didn't ask you to do this at this time. And of course you haven't done that?
A That's correct.
Q And that's why, of course, you don't know the extent of the difference?
A That's correct.
Q I would like to show you a letter of January 12th, '87. And that's your signature on the bottom of that letter?
A Yes, it is.
Q Addressed to Northwest Trappers' Association?
A Yes, it is.
Q And -- but attached to that is -- it looks like a c.c. to the Carrier-Sekani Tribal Council, North Coast District Council, Haida Tribal Council, Nishga Tribal Council, Tahltan Tribal Council and Gitksan-Wet'suwet'en Tribal Council?
A Can I take a closer look at that please.
Q Uh-huh.
A What's your question on this?
Q Well, my question to you was, was it is c.c.ed on the next page to the Tribal Council which I have just named?
A Yes. Not a 100 percent sure it was sent to them, because it doesn't actually specifically say c.c. on there.
Q There is no room on the bottom for it. That's what I -- well, that's why I am asking you, because if you think that it's --
A It could very well have gone to them. I don't recall for sure.
Q And then there is a c.c. to a large number of bands?
A Uh-huh.
Q Starting with Hartley Bay and including Gitanmaax, Gitwangak, Kitwanga, Glen Vowel, Hagwilget, Kispiox, Kitsegukla, Kitwancool, Moricetown, right?

A Yes.
Q This is how this was presented to me. It's part of this file, and I assume from reading it that it was copied to those.
A I believe it was. The only thing that confused me about it is there is no specific c.c. on there.
Q It seems to have an "X" or something.

MR. WILLMS: If I can help my friend, that's a usual computer designation for plunking in a new addressee, running the same body of a letter off and just replacing the addressee with all of the people that are listed. That may be why the witness can't say it's a c.c. They may have got a real letter.

THE WITNESS: That's quite possible, yes.

MR. GRANT:

Q Do you recognize this kind of listing from your office, that this happens when you send letters to different people?
A That's an address file on the word processor.
Q Right. Can you say that that -- this letter here was sent to these other tribal councils and bands?
A I believe it was, but I can't say for certainty.
Q Okay. What you state in this letter is that this letter -- I'm sorry. There is only one copy right now, but -- that another -- you talk about:

> "The main point of importance is that the conversion of the metes and bounds descriptions to official working maps is now nearly complete. These maps will form the basis for dealing with traplines."

And then you go on in the next paragraph.

> "Another important point is the annual use requirement. Fur returns of the last few years indicate little use of many traplines, some of which may be registered to members of your group. We need to encourage a reasonable level of use of traplines if the benefits of the resources are to be gained for the region."

And then you -- you are not certain if this January 12th, '87 letter went out to the Tribal Council's organizations, including the Gitksan and Wet'suwet'en?

A I believe it did.

Q It's my understanding that it did, and that's what that second page is, as my friend indicates.
Maybe the next number -- I only have one copy. The next number in that document book could be reserved, and I will arrange for copies tomorrow, My Lord, the January 12th, 1987 letter.

THE COURT: Yes, that's number 11, January 12th, '87.
MR. GRANT: Yes. It would be what number.
THE COURT: 11.
MR. GRANT: 1121-11.

(EXHIBIT NO. 1121-11 - LETTER DATED JANUARY 12, 1987 TO NORTHWEST TRAPPERS ASSOCIATION FROM J.D. STEVENTON)

MR. GRANT: And I'll arrange for copies of it tomorrow.

Q Referring to a memorandum dated July 2nd, 1985 re handling of trapline disputes, to Skeena Wildlife staff, signed by Doug over your name. That's a memorandum that you sent out; is that right?
A That's correct.
Q At the end -- you describe how to handle trapline disputes, and at the end of it you say:

"Maintain a separate dispute file for each case being received. Pass these along to either myself or Rick for completion to maintain consistency."

Did you maintain separate dispute files for each case being received?
A Yes, until the dispute was resolved.
Q And then where did the documents for that file go?
A To the individual trapline file.
Q So, for example, this is in July, let us say hypothetically in August of 1985 there is a dispute, and it was then relating to one of the traplines that you ultimately certified the file, and then that dispute was resolved. What you're saying is the contents of that dispute would now be in that file?
A Yes, they should be in the file, yes.
Q That is an individual trapline file?
A That's correct.
Q But it would relate to two traplines. Would you put one in each file?
A Most likely. I can't say that would be in every case.
Q So you do not have separate dispute files relating to

traplines within the Gitksan territory that are open today?
A No, we don't.
Q Okay. I am referring you to a memorandum dated January 20th, 1988 from yourself "Re Fur Trapped on Indian Reserves" to the District Conservation Officers. That's your signature?
A Yes, it is.
Q Okay. Now, in this case you are dealing with the issue of the application of A.T.N.'s to furs that were caught on reserve?
A That's correct.
Q Okay. And of course you were not -- are you suggesting that you had -- that you had authority over the registration of licence trapping on reserve, but only what was to be done with the fur after it was caught?
A That's correct.
Q And once again you had to deal with it now under the new system by giving A.T.N.'s to the person who trapped the fur?
A That's correct.
Q And you resolved that by saying it would be treated as though it came from private land?
A That's correct.
Q So, for example, if a person owns a piece of private land or an Indian person lives on reserve, they trap fur, they can do so, of course, without a licence; is that what you're saying?
A The -- a person with private land would require a licence. An Indian living on reserve would not require a licence.
Q So it couldn't be dealt with the same, could it, because the person on the private land -- the non-Indian on private land would require the licence.
A By the same -- I am referring there just to the mechanics of determining what number to apply to that fur. Just the mechanics, so we didn't have overlapping numbers.
Q Let us say a person catches fur on the Gitanmaax reserve.
A Okay.
Q You know where Gitanmaax is located?
A Okay.
Q What are you saying? Did they get a separate number, or did they get the same number as somebody else?
A No, that would be a separate number, so as not to be

confused with some other fur coming from some other total area.

Q It wouldn't be the same number as the person with the trapline off the reserve that is closest to them?

A No, it wouldn't be.

Q I am referring you from the same file to a letter of February 17th, 1988, to Mr. Reynold Samuel Williams by Mr. Marshall. Now, that's a letter from Mr. Marshall to Mr. Williams? You recognize Mr. Marshall's signature?

A Yes. Yes, I do.

Q And he states here:

> "At the present time the trapline is registered in Mr. Skulsh's name only and the boundaries may be in error. I would be very interested in obtaining more up-to-date information so that our files and maps are more correct."

My question to you was that a -- in other words, is this problem about the boundaries an ongoing problem post-completion of the mylars, or is this a unique situation?

A No, that is not a unique situation. We still have problems cropping up or disputes as to boundary.

Q Referring you to a letter dated December 13th, '85, addressed to the Ministry of Environment from Mrs. Pat Simon, Head of Reserves & Trust of Indians Affairs of Northern Canada. Do you recognize that letter as being one that you have seen?

A I believe I have seen this one, yes.

Q And you had made enquiries around this same period of time to the Department of Indian affairs relating to Indian traplines. This is around the time that you are rationalizing or implementing the A.T.N. system?

A That's correct.

Q And she states at the end that:

> "The Tribal Council is handling all inquiries regarding traplines in this area."

And you have subsequently acted on that and dealt through the Tribal Council on these matters, rather than the Department of Indian Affairs?

A Yes, we have, for the most part, yes.

Q Okay. I would ask that that number 12, I think of Exhibit 1121, be reserved for that, and that's the

December 13th letter from Mrs. Pat Simon to the Ministry of Environment.

THE COURT: The date again please?

MR. GRANT: December 13th, 1985, My Lord.

THE COURT: Thank you.

MR. GRANT: I will arrange copies tomorrow.

THE REGISTRAR: 1121-12.

(EXHIBIT NO. 1121-12 - LETTER DATED DECEMBER 13, 1985 TO MINISTRY OF ENVIRONMENT FROM PAT SIMONS RE TRAPLINE BOUNDARIES)

Q I would just like to refer you to a document entitled "Trapping Administration in British Columbia", dated December, 1981, contained in your policy file. You're familiar with this document, aren't you?

A I have seen that before, yes.

Q You have read it?

A Yes.

Q This policy manual, "Trapping Administration in British Columbia", was a pre -- was a predecessor to the implementation of the A.T.N. system?

A I would have to look on the date.

Q The date is December, '81.

A Yes, it would be just -- that would be just before. I believe that was a summary done of the history, I believe.

Q And -- well, there is a brief history, but then the current status was also described.

Now, it states here -- it describes that:

> "Registered traplines are granted to an individual and are generally renewed annually in favour of the original trapper. At present each registered trapline is recorded with a 'metes and bounds' description."

Metes and bounds is in quotes.

> "This procedure is time consuming and subject to errors as all traplines are re-registered annually."

You would agree that that's an accurate description of the problem with the metes and bounds system?

A Well, metes and bounds are difficult to follow in some

cases.

Q And also it's subject to errors as all traplines are re-registered annually?

A I wasn't involved with the annual re-registration of traplines at that time.

Q No, but you had to deal with -- you had to deal with the results of that system, didn't you?

A That's true, yes.

Q And that was your experience, what you are still facing in terms of the problems?

A Yes, sir, there are some problems with differing metes and bounds.

Q There is a memorandum relating to trapline use issue from yourself to Mr. Edie, E-d-i-e, dated June 15th, '89. I just want to read this to you. It says -- you remember this memorandum?

A Yes, I do.

Q Okay. It says:

> "Re: Trapline Use Issue
> With the discussion currently ongoing about the trapline use provisions and procedures related to natives, I have assembled a few hard statistics to illustrate the magnitude of the 'problem'."

What is the discussion that you are referring to there?

A Well, the Ministry was trying to determine how we could handle the question of non-use of traplines, how to best approach it administratively.

Q Of non-use of native traplines?

A Yes. As to whether to go to the tribal councils or bands and ask them to try to update those idle traplines.

Q Mr. Steventon, there is a memorandum dated May 6, 1985 from yourself to District C.O.'s re trapline registrations and assigned trapper numbers. And it's a two-page memorandum signed by yourself. You agree?

A That's correct.

Q And you state -- you talk about trapline registrations, and then you say -- you describe the process of:

> "Shortly we will begin sending draft maps to registered trappers ..."

And you go on to explain it, and you enclose a copy of your draft letter which has been marked as an exhibit. And then you say:

> "As a further means of correcting the records, please check with trappers as they come in for licenses to update full name, address, partners, etc. and indicate such on the listing."

Then you say:

> "I expect a lot of this, particularly who holds certain native lines, will take some time further to resolve. We will just have to keep picking away at it."

That was your conclusion at that time, from your review of the files and the state of affairs in -- between 1984 and May, 1985 when you were involved; is that right?

A Yes, with the -- not having -- since the Indian trappers don't have to come in for an annual licence -- annual trapping licence, dates got out of -- addresses became out of date, and some of the trapline registrations were very old.

Q Yes. And that's what you are still picking away at?

A That's correct.

MR. GRANT: Okay. My Lord, except for -- I don't know -- mean to press you, except for those correspondence, I am not sure --

THE COURT: No, I haven't. I didn't take them with me, as a matter of fact. I will certainly look at them overnight, and we can -- I'll give you an answer first thing in the morning.

MR. GRANT: That would be fine.

MR. WILLMS: I have some short re-examination.

THE COURT: All right. Yes. Thank you.

RE-EXAMINATION BY MR. WILLMS:

Q Could Exhibit 1121 be put before Mr. Steventon please. Could you turn to Tab 3. And this was the document that my friend put to you and described as coming out of the last page of exhibit -- or what we have reserved as 995-41A. And I have a copy of the whole book for Your Lordship, but I only have one other

book.
THE COURT: That's all right.
MR. WILLMS: I can hand it up to Your Lordship.
THE COURT: All right.
MR. WILLMS:
Q If you just look, you will see at Tab 3, as my friend indicated to you yesterday, the last page in the tab, if you can compare Exhibit 1121 tab dash 3, you can see that the page is the same?
A Yes, it is.
Q Now, I am just going to flip back for you to earlier pages at the -- and, My Lord, I just flipped back two earlier pages in the big black book.
THE COURT: Yes, all right.
MR. WILLMS: I am in Tab 3 at the very end.
THE COURT: Yes.
MR. WILLMS: And the document that my friend put to the witness is the last page with writing on it in the big black book at Tab 3.
Q I am now showing you, and you can identify that the document that I am showing you is the -- the white copy of the application for registration of a trapline for Kurt Praxl.
A Yes, it is.
Q Now, if you turn three pages back in 995-41A, can you compare the front page of the original application with the third photocopied page back from the end of Tab 3? Can you confirm that it appears to be a photocopy of that front page of the application?
MR. GRANT: Well --
THE WITNESS: Yes, it would appear to be a photocopy of that application.
MR. WILLMS:
Q Now, turning in 995-41A, Tab 3 to the next page. Can you turn over the original white copy of the application for registration of trapline and confirm that the next photocopied page appears to be the back of the original registration?
A Yes, it does.
Q Okay. Now, turning to the last page, and the page that my friend put to you and marked as Exhibit 1121-3, you will see that there appears to be an onion skin paper taped on the original application.
A Yes, there is.
Q And can you confirm to me that when you flip the onion skin up, that the tab that my friend put to you and marked as Exhibit 1121-3 appears to be a photocopy of

the original registration with the onion skin up?
A It could very well be, yes.
Q All right. Could Exhibit 1120, volume 1 -- you may have it in front of you. It's the first volume of Schedule A, Notice to Admit. My friend referred you to a number of documents in the list at Tab 66.
A Yes.
Q All right. And asked you about how they -- or why they were in the file. And once again, My Lord, I have for Your Lordship so that you can follow along --
THE COURT: Thank you.
MR. WILLMS: Twelve pages in, My Lord, from the beginning.
THE COURT: Which tab?
MR. WILLMS: At Tab 66.
THE COURT: Twelve pages in?
MR. WILLMS: Twelve pages in.
Q And if you turn at the same time, Mr. Steventon, in Exhibit 1120-66 to the description of item 81, you will see my friend asked you about 81, the photocopy of a typewritten letter from Johnny David dated April 4th, 1975?
A Yes.
Q And you see that at the tab?
A Yes, I do.
Q And you recall my friend asked you about whether you knew how that got into the file?
A Yes, he did.
Q All right. Now, My Lord, if you just turn seven more pages, My Lord, there is a letter from Mr. Grant, dated February 18th, 1980. And, Mr. Steventon, you will see that that is a letter that you have numbered 54, letter to Dave Spalding from Peter Grant?
A Yes.
Q And I am just directing you to the third page of that letter from Mr. Grant. And you see the reference is the dispute of the Johnny David trapline. You see that?
A Yes, I do.
Q And on the third page -- the third to the last -- fourth to the last paragraph you see Mr. Grant says:

"I am enclosing a letter of Johnny David's, signed April 4th, 1975 with his mark."

Does that help you in determining how that got into that file?
A Well, that obviously would have been relating to that

trapline, the file --
Q From Mr. Grant --
MR. GRANT: Wait a minute. The witness has answered. Don't lead.
MR. WILLMS:
Q You will see Mr. Grant also enclosed with that letter a list of the documents that he was enclosing?
A Yes.
Q And item number 9 on that list is the April 4th, 1985 letter of Johnny David?
A Yes.
Q And my friend also, he didn't mark it, but you recall he put to you a map with some straight lines on it with an exhibit mark in the lower right-hand corner as an exhibit from the trial of Johnny David?
A Yes --
MR. GRANT: No, that's incorrect, My Lord.
MR. WILLMS: Moses David.
Q And you will see that item ten, Mr. Grant has sent you Exhibit 5 from the trial of Regina and David?
A Yes.
Q Does that assist you in determining how it got into this file?
A Well, presumably all those items accompanied Mr. Grant's letter at that time.
Q Could you turn in Exhibit 1121, my friend's binder, to Tab 5. And you will recall that my friend put to you the suggestion that the Tab 5 was a photocopy of the working map?
A Yes.
Q Now, I am showing you the working map covering the area set out at Tab 5. And you will see for part of the area, at least down near Taltzen Lake, if you could compare the top of the map and especially the area around Taltzen Lake. You can compare the two maps. And in particular could you just describe where the red lines on the original working map go in relation to Taltzen Lake?
A There is two red lines. One which cuts through approximately the centre of the lake, and the other line which comes up near the east end of the lake, and then it goes off to the boundary to the adjacent trapline.
Q All right. And is there anything in Exhibit 1121-5 -- are there any lines on that exhibit which are not on the working map?
A There is a dark black line on the exhibit that is not

on the working map.
Q Thank you. Now, if you could just turn now to Tab 6, which my friend -- the letter, and my friend suggested the copy of the mylar. And I am showing you a blueprint of the mylar. And if you could look in the same area, that is at the north end of the blueprint of the mylar to the trapline 0609T039, and look at the same time to the map attached to the document at Tab 6. Is there a line on the document attached at Tab 6 that is not on the mylar, or a copy of the mylar?
A There is a dark, thick dark black line on the exhibit that is not on this paper copy of the mylar.
Q Finally my friend referred you to a memo of June 15th, and he read you -- it's a memo from yourself to Mr. Chamberlain, and I read to you the first paragraph. Can you confirm that the document that I just put before you is the document that he read to you from?
A Yes, it is.
Q Can that be the next exhibit, My Lord.

MR. GRANT: I object, My Lord. There is other material in that document that is not -- I did not put to the witness. The only issue I raised with the witness is what discussion it was he referred to, and I would submit that it's improper for my friend to try to put his own document in this way, which refers to other information that was gathered by this witness, and he had the opportunity to lead it on direct.

THE COURT: How long a document is it?

MR. WILLMS: That's it, My Lord. It's one page. There are two more paragraphs. I suppose I could read it to the witness.

MR. GRANT: I would object as well if he read it. It's not related to the issue. The issue was the discussion. It wasn't --

THE COURT: Mr. Willms, do you agree that the matter that was put to the witness in cross-examination is all contained within one paragraph?

MR. WILLMS: I don't agree with that. I agree that the extract that was read to the witness is in one paragraph, but my friend put the discussion and the problem and kept referring to the problem to the witness. The balance of the memo describes the problem, and so "problem" is undescribed as Mr. Steventon described it at the time, without the balance of the memo going in. So that the first paragraph does not say what the problem is.

THE COURT: I think, with respect, that this issue can only properly be argued in -- with the assistance of a

transcript, in order to know precisely what it was that was put to the witness in cross-examination.

MR. WILLMS: I am content.

THE COURT: The witness --

MR. WILLMS: I am content to do that at some convenient time tomorrow, My Lord.

THE COURT: Yes, I am much happier to have the argument based upon what was actually put to the witness in cross-examination.

THE COURT: All right. Now, is the witness needed tomorrow then, or does that --

MR. GRANT: My only problem is some of that correspondence directed to you were related --

THE COURT: I am going to release the witness, if he wants to go. It wouldn't be the end of the world if he has to come back. It may be that if I decide that these documents are not privileged, that the evidence that will result from that can be the subject of an agreement or a letter. And if that can't be done, then, of course, we will just have to come back.

MR. GRANT: There is one other outstanding matter which I -- with respect to my friend's suggestion. My understanding of the witness's evidence on cross-examination was that there were -- there was correspondence relating to policy, there was correspondence relating to enquiries, there was this correspondence. His problem was not such correspondence did not exist, and he made it clear it was not, and these registered trapline files, the question was the trapline files -- he says the pre-1983 policies, documents were filed. He said they may be archived. I asked him what he meant by archived. He said they may be sent to ministerial headquarters in Victoria, and around that time he said there was a clearing out, that was about a year ago up to 1982. Well, if they are in the ministerial files in Victoria, I have no greater access than I do if they were into the ministerial files in Smithers. And my friend said well, I made some hypothesis. I asked -- I understood your ruling yesterday, My Lord, to deal with all documents that were non-archival in the legal sense. If they are in the P.A.B.C., of course I have access to them, and that's not a problem, but I do not believe, from the research we've gathered, that documents as recent as 1982 are in the P.A.B.C. Those documents certainly exist.

I find it extraordinary that all of a sudden there

is correspondence relating to policy in all of these things that no such correspondence existed. It may not be in the files under that name. I understand that. But I ask my friend to make the enquiries to produce those documents.

THE COURT: Are you familiar with that, Mr. Willms?

MR. WILLMS: My Lord, I don't understand what the request is.

THE COURT: The problem is that these files started in 1983, and the question is what went -- what was done with the same kind of subject matter before these files were started. They are obviously in some different filing sequence.

MR. WILLMS: My Lord, as I understand it with respect to the traplines, they went into the files. Now, I don't know what happened in 1983, and if there are any trapping documents pre-1983 which have been sent elsewhere. I will try to locate them. It is my understanding that we disclosed everything that we have been able to find. I'll certainly make enquiries in Victoria about whether there were 1983 trapping documents from Smithers sent there.

THE COURT: Pre-1983.

MR. WILLMS: Pre-1983.

THE COURT: Well, I think --

MR. WILLMS: That are not in the public archives.

THE COURT: I think that's as far as Mr. Grant expects you to go. All right. Resume then until ten o'clock tomorrow morning.

THE REGISTRAR: Order in court. Court stands adjourned until ten o'clock tomorrow.

(PROCEEDINGS ADJOURNED AT 4:05 P.M.)

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

_____

LORI OXLEY
OFFICIAL REPORTER
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