# In the Supreme Court of British Columbia

No. 0843
Smithers Registry

Smithers, B. C.
November 30, 1988

BETWEEN:

DELGAMUUKW, also know as KEN MULDOE, suing on his own behalf and on behalf of all other members of the HOUSE OF DELGAMUUKW, and others,

Plaintiffs;

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA and THE ATTORNEY-GENERAL FOR CANADA,

Defendants.

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CROSS-EXAMINATION ON AFFIDAVIT
OF
MARY MOORE

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|---|---|
| M.D. ADAMS, Esq. | Appearing for the Plaintiffs |
| MS. L. RUSSELL | Appearing for the Defendant Attorney-General for Canada |
| MS. T.A. SIGURDSON | Appearing for the Defendant Province of British Columbia |

1 VANCOUVER, B.C.
2 November 30, 1988
3
4 MARY MOORE, a witness called on behalf of the
5 Plaintiffs, having been duly sworn, testifies
6 as follows
7
8 SADIE HOWARD, Interpreter: Previously sworn
9
10 MS. SIGURDSON: Mrs. Moore, my name is Thora Sigurdson, I'm the
11 lawyer for the Province. I would like to ask you a
12 few questions.
13 MR. ADAMS: Just before you start, maybe we should introduce
14 ourselves on the record. Murray Adams for the
15 Plaintiffs.
16 MS. RUSSELL: My name is Loryl Russell. I'm acting for the
17 Attorney General of Canda.
18 MR. ADAMS: Secondly, Miss Moore is able to speak both Gitksan
19 and English. Gitksan is her first language, and she
20 will be testifying in Gitksan and Sadie Howard is here
21 to interpret for her and has been previously sworn as
22 an interpreter in these proceedings, and Miss Howard
23 will serve as a word speller too.
24 MS. SIGURDSON:
25 Q Mrs. Moore, you have sworn an affidavit in these
26 proceedings describing a territory claimed by
27 Luutkudziiwas. I'm showing you an affidavit that has
28 been marked Exhibit 593 at trial and ask if that is
29 your signature?
30 A Yes. That's my signature.
31 Q When you signed the affidavit was it read to you?
32 A Yes.
33 Q In English or in Gitksan?
34 A In English.
35 Q And was any part of it translated, or was it all in
36 English?
37 A No.
38 MS. SIGURDSON: So your understanding of English is such that
39 you can understand everything in that affidavit
40 without requiring translation?
41 THE TRANSLATOR: Well, she began saying that Neil did parts of
42 it in Gitksan, but they didn't really have
43 interpreter.
44 MS. SIGURDSON:
45 Q So Neil John Sterritt read part of it to you in
46 Gitksan?
47 A No. She just read the thing to me, Neil can't speak.

1 Q What did Neil read to you from the affidavit?
2 A You mean before I signed it?
3 Q Yes.
4 A The one that I was supposed to sign about Ben being
5 the head chief of our house and that he is holding
6 the -- our lands.
7 Q Anything else?
8 A That's it. He told me to sign it after.
9 Q What year were you born, please?
10 A 1924.
11 Q And did you go to school?
12 A Yes.
13 Q Where was that, please?
14 A Hazelton Day School in Edmonton.
15 Q When did you live in Edmonton?
16 A I was about seven, I went two years.
17 Q You were married to Steven Moore?
18 A Yes.
19 Q And he was a member of the House of Wii Kaax?
20 A Yes.
21 Q You have ten children?
22 A Yes.
23 Q When was your oldest child born?
24 A 1946.
25 Q And when was your youngest child born?
26 A I forgotten. How old is George now? George was the
27 last one -- oh, Sonia, 25 years now.
28 Q And that was Norman Moore, your son --
29 A Yes.
30 Q -- who helped you with that answer? You live in
31 Gitanmaax?
32 A Yes, yes.
33 Q On the reserve?
34 A On the reserve.
35 Q Aside from the time you lived in Edmonton, have you
36 lived anywhere else?
37 A No. We go down to Port Edward and go -- stay in the
38 cannery -- I mean work in the canneries, we stay there
39 during the winter when we -- one year, but I forgot
40 the year when we were there.
41 Q Was it many years?
42 A Yes. It was about three years.
43 Q Did your husband work at the coast more years than
44 three?
45 A Yes. He fished and he worked in the canneries.
46 Q Do you know how long he worked at the coast?
47 A I can't say, but he worked about half of the time and

then he did logging too.
Q Where did your husband log?
A Fort Hansen.
Q I'm not sure where that is; could you just tell me where that is?
A In Hazelton.
Q And where did he cut trees?
A Just at any pole camp that he goes to.
Q On whose territory did he log?
A I remember he logged for Ben Woods while he did poles, and Charlie Sterritt and Solomon Marsden.
Q Do you know how many years your husband logged?
A He started ever since he was 15 years old.
Q You hold the name Sek'm Luu?
A Yes.
Q Is that a hereditary chief's name?
A Yes.
Q Or a high chief's name?
A Hereditary chief.
Q Are you one of the people who because of the name you have can speak for Luutkudziiwas?
A Yes.
Q Is your name the same as Luu Ska? I understand as Luu Ska you would sit beside Luutkudziiwas at a feast, is that correct?
A No.
Q Who sits beside Luutkudziiwas at a feast?
A My son, Lester.
Q What name does he hold?
A Xsimwitsin.
Q All right. And who sits beside Xsimwitsin?
A Luutkudziiwas.
Q Let me make sure I have this straight. Luutkudziiwas sits in the middle of the table, is that correct?
A Just about in the middle.
Q And beside Luutkudziiwas sits Xsimwitsin?
A Yes.
Q And beside Xsimwitsin on the other side of Xsimwitsin sits?
A Wii Kaax.
Q And who holds that name?
A Vera -- Vera Wale.
Q And who sits next to Vera Wale?
A 'Noola.
Q And who holds the name 'Noola today?
A He does, Norman.
Q Your son, Norman Moore?

1 A Yes.
2 Q And beside your son Norman, who sits -- you're not
3 quite finished with that yet, but I think Sarah is
4 supposed to be sitting there, Sii bilaatw. What is
5 Sarah's last name, please?
6 A Marshall.
7 Q All right. Who holds the name Luutkudziiwas today?
8 A Ben McKenzie. I keep on getting mixed up with
9 Xsimwitsin and Luutkudziiwas. It's Luutkudziiwas
10 that's the head chief now.
11 Q All right. It used to be that it was Xsimwitsin was
12 the head chief, was it not?
13 A Yes, yes. He was, but then Joshua became ill, you
14 know, Luutkudziiwas --
15 MS. SIGURDSON: How long has Ben McKenzie been the acting head
16 chief?
17 MR. ADAMS: I don't think she said that he was the acting head
18 chief, she said he had the name Luutkudziiwas and he
19 was the head chief.
20 MS. SIGURDSON:
21 Q That's right, the head chief used to be Xsimwitsin?
22 A Yes.
23 Q But since Joshua Campbell became ill Ben McKenzie
24 became the head of the house?
25 A Yes. He spoke for us.
26 Q Yes. How long has Ben been acting or speaking for the
27 house?
28 A Quite a few years.
29 Q And Ben himself is quite ill now, I understand?
30 A Yes.
31 Q How long has he been ill?
32 A I don't know about Ben, I don't know how long now.
33 Q You say in your affidavit that you obtained permission
34 from Ben McKenzie to describe the territories of
35 Luutkudziiwas?
36 A Yes.
37 Q When did you do that, please?
38 A About a year now.
39 Q So that would have been last -- around last Christmas
40 time; is that about right?
41 A About a year last June.
42 Q So that would be June 1987. Did you speak to Ben in
43 person? Did you go to visit Ben to talk to him about
44 this?
45 A No. He just sent the papers and I signed it.
46 Q Which papers did he send you?
47 A That's the one when I was -- he was saying that I had

1 permission to speak for him, you know, about the land.
2 Q Was it a typed letter or document?
3 A Yes.
4 MS. SIGURDSON: Mr. Adams, perhaps you could assist me, is there
5 a listed document she's referring to?
6 MR. ADAMS: I have no idea.
7 MS. SIGURDSON:
8 Q Do you still have this letter?
9 A No.
10 Q Who did you give it to?
11 A I think Neil still has it.
12 Q And that's Neil Sterritt, Jr.?
13 A Yes.
14 MS. SIGURDSON: Well, Mr. Adams, perhaps you could canvass the
15 issue with Mr. Sterritt and see if that can be
16 produced.
17 MR. ADAMS: I will inquire.
18 MS. SIGURDSON:
19 Q Could you tell me what this -- was it a letter?
20 A Yes. Just a short letter that says -- that I was to
21 speak of the land for him.
22 Q And for him, that's Ben McKenzie?
23 A Luu skeexs and our land across there, across the river
24 there.
25 Q You were supposed to speak about the territory at
26 Hazelton Creek and about the territory at Suskwa?
27 A Yes. I know about Suskwa, but Arthur felt he knew
28 more about Suskwa than I did, so that's the reason why
29 they took him to do that.
30 Q But in this letter Mr. Mackenzie suggested that you
31 describe the territory at Suskwa as well?
32 A Yes.
33 Q Do you recall who signed the letter? Was it signed by
34 Mr. Sterritt?
35 A No. I didn't even look, I just signed it when they
36 asked me to sign it.
37 Q When did you last see Ben Mackenzie?
38 A On his birthday, a year now.
39 Q Did you talk to him about the territory at Hazelton
40 creek?
41 A No. He wasn't feeling good yet already at that time
42 when we attended his birthday.
43 Q And he doesn't know much about the Hazelton Creek
44 territory, I understand, is that correct?
45 A Yes.
46 Q He was rarely there?
47 A Um-hum.

1 Q Have you talked to other people about the territory at
2 Hazelton creek?
3 A No.
4 Q Have you talked to Steve Robinson?
5 A Not really.
6 Q When you say "not really", have you talked to Steve
7 Robinson about the territory?
8 A I phoned him at one time, and then he said he was
9 going to -- I guess he was talking to Neil about it,
10 you know, because he knows more about all the lands,
11 and that's all, I don't know what he did after that.
12 Q Have you talked to anybody else about the territory of
13 Luutkudziiwas at Hazelton Creek?
14 A I was practically raised in Cedar Creek because of
15 summer and my grandparents took me over there, so I
16 always talked with Lii ghle hlam, my other
17 grandmother. In Indian we called them grandmother.
18 Q Could you tell me her English name?
19 A Martha Brown.
20 Q Is that Martha Alice Brown?
21 A I don't know, I just know her by Martha Brown.
22 Q And could you tell me her Indian name again?
23 A Lii ghle hlam.
24 MS. SIGURDSON: Perhaps I could have the spelling of that?
25 THE INTERPRETER: She had the name at that time before Vera,
26 it's the same name as Vera, L-I-I space G-H-L-E space
27 H-L-A-M.
28 MS. SIGURDSON:
29 Q Thank you. Before we talk about your territory at
30 Hazelton Creek, you say you also know about the
31 territory of Luutkudziiwas on the Suskwa River?
32 A Yes.
33 Q Is that territory often called the Madii Lii
34 territory?
35 A Yes.
36 Q And you spoke to Neil Sterritt about the territory at
37 Madii Lii as well as the Hazelton Creek territory?
38 A Yes.
39 Q All right. Have you ever held the name, and the
40 spelling I have is P-A-A space L-A-S-T, Paa Last?
41 A Spaa'laast, supposed to be.
42 THE TRANSLATOR: S-P-A-A' L-A-A-S-T.
43 MS. SIGURDSON:
44 Q Thank you. I asked because in a paper dated March
45 1987 Neil Sterritt, Jr. mentioned that you gave him
46 information about the territory in the Suskwa River?
47 A That's my nax nox name.

1 Q Is that a name you still hold?
2 A Yes.
3 Q In his paper Mr. Sterritt writes a description of the
4 territory at Luutkudziiwas, and I would like to talk
5 to you about it, because he says Paa laast, and that's
6 supposed to be Spaa' Laast?
7 A Yes.
8 MR. ADAMS: Sorry, where are you?
9 MS. SIGURDSON:
10 Q The last page of the extract half-way down the last
11 paragraph. Excuse me, I'll start that again. Mr.
12 Sterritt writes:
13
14 "Paa last (Mary Moore), Wii Baawax (Percy Sterritt),
15 Spookw (Steve Robinson), and Gwi Jenxsim Simoogit
16 (Phillip Turner) have also informed me about this
17 territory."
18
19 And I pause to say he's talking about the Madii Lii
20 territory there?
21 A Um-hum.
22 Q
23 "These Chiefs and other Gitksan people further
24 informed me and confirmed the evidence which I had
25 received from Luutkudziiwas."
26
27 And you did talk to Mr. Sterritt about the territory
28 of Madii Lii, is that correct?
29 A Yes.
30 Q Yes. What I would like to do is read out the
31 description in Mr. Sterritt's paper territory of Madii
32 Lii and ask you if you agree with it. Would it be
33 helpful if I gave you the copy and you can read it
34 while I read it for the court reporter. It starts
35 here, I'll mark it. I have marked on this copy the
36 extract, and I will perhaps borrow this and read it
37 out while you're reading it as well. And the
38 description from Mr. Sterritt's paper reads as
39 follows:
40
41 "Point of commencement is at the confluence
42 of Xsuwii Luu Hlabit (Fifteen Mile Creek) and Xsas
43 Goo (Suskwa River). From this point the line
44 runs east along Xsas Goo about twenty miles to the
45 height of land at Suskwa Pass. At Suskwa
46 Pass the line runs north along the height
47 of land about three miles to Tsaa Kee As (French

1 Peak), and then west along the height of land about
2 eight miles to Hahla Gyoot (Thoen Mountain).
3 From Hahla Gyoot the line runs north to cross Xsa
4 Hahla Gyoot'm Ando'o (Nichyeskwa Creek) at a point
5 about twelve and a half miles from its
6 confluence with Xsu Gwin Lingiinsxw (Babine River).
7 From Xsa Hahla Gyoot'm Ando'o the line continues
8 about four miles north, then about three miles
9 north-west, then south-west about nine miles
10 along the height of land at the source of the
11 tributaries of Xsa Hahla Gtyoot'm Ando'o to the
12 height of land north of the source of Xsuwii
13 Luu Gesxwit (Natlan Creek)."
14
15 A Um-hum.
16 Q And Mr. Sterritt concludes:
17
18 "From this point the line runs west about two and a
19 half miles along the height of land, then south and
20 west about 14 miles to the head-waters of Xsuwii
21 Luu Hlabit, then down Xsuwii Luu Hlabit to point
22 of commencement."
23
24 And that's the end of the description in Mr.
25 Sterritt's paper. Do you agree with that description?
26 A Yes.
27 Q This description and the description in your affidavit
28 describe the territory in what is called a metes and
29 bounds description, a line around the territory. When
30 you think about your territory, is that how you think
31 about your territory?
32 A Yes.
33 Q Is it not the case that you would think of the lakes
34 or the creek or the mountain in the territory?
35 A I used to know the territory by going there.
36 Q Yes?
37 A That's by looking at the papers it's kind of different
38 for me, but when I go in -- when we used to go there
39 when the trail was still there, that's how I
40 remembered it, and we used to pass all those little
41 creeks that were there.
42 Q Yes. Mr. Sterritt talked about a mental map. In your
43 mental map would it not be that you would think about
44 going down a creek and looking at a mountain rather
45 than looking at a line going around that doesn't refer
46 to those or may not refer to those creeks? Perhaps I
47 should rephrase that, I know that was an awkward

1 question. Well, no I'll not -- about your affidavit,
2 I would like you to help me understand, if you can,
3 how the affidavit came into being. Was the affidavit
4 brought to you to be signed?
5 A Yes. It was brought to me.
6 Q And who brought it, please?
7 A Neil.
8 Q Anyone else?
9 A And a lawyer.
10 Q Miss Mildrum -- oh, pardon me, Gordon Sebastian?
11 A Gordon Sebastian.
12 Q And you have said that no translator came; Miss Howard
13 did not attend?
14 A No. I was just there by myself. My son, Rod, was
15 there, my oldest son.
16 Q Richard Overstall, do you know Richard --
17 A Richard?
18 Q Overstall?
19 A No.
20 Q Um-hum. Steve Robinson did not come with you or come
21 with Mr. Sterritt when they brought the affidavit?
22 A No.
23 THE TRANSLATOR: She wanted to know the name you mentioned,
24 Richard Overstall?
25 A I don't know him.
26 MS. SIGURDSON:
27 Q And did Glen Williams come?
28 A To our place?
29 Q Yes, with Mr. Sterritt?
30 A No.
31 Q Art Ridsdale?
32 A No.
33 Q Ben Mackenzie?
34 A No.
35 Q So only Neil Sterritt?
36 A Neil and --
37 Q And the lawyer?
38 A Yes.
39 Q Did they bring a map with them?
40 A No.
41 Q They gave you the affidavit and asked you to read it?
42 A Yes.
43 Q And did you read the whole thing?
44 A Yes. It's just one sheet of paper like that.
45 Q Well, this affidavit is four pages long. Did you mean
46 four pages?
47 A Um-hum.

1 Q Well --
2 A This is how Neil described this for me, this here, but
3 the other one that I told you about is just a short
4 one, you know, where it tells about -- and I have
5 permission to speak for band.
6 Q I see. So Neil Sterritt and the lawyer brought this
7 four-page affidavit for signature?
8 A Yes.
9 Q I would like to ask you about some of the places in
10 your affidavit. I'll first ask, however, do different
11 houses of the Gitksan have different names for creeks
12 for the same creek, is that possible?
13 A Just the same.
14 Q So all Gitksan houses will call a creek by one name?
15 A Yes.
16 Q What is the name of the creek on the northern boundary
17 of your territory just west of the Skeena? There's a
18 creek, but I'm not --
19 A Xsi amhl lo'op.
20 Q Is that the name for Burdick Creek?
21 A Stoney Creek.
22 Q From my understanding Stoney Creek was on the southern
23 side of your territory on the other end of your
24 territory towards the north towards Kispiox. What is
25 the boundary at that end of your territory?
26 A They call the creek Xsi moolaa.
27 Q Have you ever heard it called Sika doak, and the
28 spelling I have is --
29 A Yes. I've heard that.
30 Q Is that the same creek?
31 A Because it's right in the back.
32 Q But those two names refer to the same?
33 A Yeah. But it's called Xsi moolaa.
34 MS. SIGURDSON: Could I have the spelling for that, please?
35 THE TRANSLATOR: X-S-I space M-O-O-L-A-A.
36 MS. RUSSELL: Could I have the other spelling, please?
37 THE TRANSLATOR: Sika doak, S-I-K-A space D-O-A-K. It's also
38 the same as Glen Vowell.
39 MS. RUSSELL: Thank you.
40 MS. SIGURDSON:
41 Q And the creek we've been talking about Sika Doak or
42 Xsi moolaa, do you know if the English name is Alipakh
43 Creek?
44 A I just know it by the Indian name.
45 Q Who owns Xsi moolaa itself?
46 A That's about a boundary.
47 Q Do you know the creek or do you just go to the creek?

1 A We go by the creek.
2 Q Who was your neighbour on the north on the other side
3 of Xsi moolaa?
4 A Antgulilibix.
5 Q Does Antgulilibix own the creek?
6 A No, I don't think so. It's just a boundary. Ours is
7 on this side of the creek, west and east for her.
8 Q Um-hum. Do you know of a place called An lix taa?
9 A An lix taa? Isn't that across from Xsi gwin ha'uums?
10 Q I have to ask you that.
11 A I think it is.
12 Q And who owns that, please?
13 A Ax to'o and Haa'k'atw.
14 Q Could I have the spelling for those last two names,
15 please. While we're getting spellings, those two
16 people are members of the House of Luutkudziiwas?
17 A Yes.
18 Q That is an island in the middle of the Skeena River?
19 A Not too far from Kispiox Bridge right across from Xsi
20 gwin ha'uums.
21 Q That's Hazelton Creek?
22 A Um-hum.
23 Q Yes. Is Vic Mowatt using La Lix ta'a?
24 A Yes. He's using it.
25 Q And he's Woosimlaxha?
26 A Um-hum.
27 Q He's not supposed to be using it, is that right?
28 A No. He's Amnigwotxw, that's why he's doing it, he's
29 doing it from his father's side, but --
30 Q You've told us that the neighbour to the north of the
31 Luutkudziiwas territory is Antgulilibix?
32 A Yes.
33 Q In your affidavit you say that Kitsegukla chiefs own
34 territory in the west and south of your territory?
35 A Yes.
36 Q Which chiefs, please?
37 A Gaxsbgabaxs.
38 Q And who is the head chief of that house?
39 A Moses Jones is one of them.
40 Q Excuse me, is your son giving you assistance?
41 A Yes.
42 MS. SIGURDSON: Thank you.
43 MR. ADAMS: Just give your answer.
44 THE TRANSLATOR: She can't remember.
45 A I know it's Moses Jones.
46 MS. SIGURDSON:
47 Q Thank you. Did Haakasxw -- and the spelling I have is

1 H-A-A-K-A-X-W -- ever have territory there?
2 A Who?
3 Q Haakasxw?
4 A I don't know. Doesn't sound like the one I know.
5 Q The English name I have is Larry Wright. Did Larry
6 Wright have territory to the south or west of yours?
7 A He must have. I only know about Gaxsbgabaxw and
8 another guy, Moses Jones. I've forgotten his other
9 name.
10 Q You also say that the Kitwancool chiefs own
11 territories on the west and south of the Hazelton
12 Creek territory. Which chiefs are those, please?
13 A In Kitwancool?
14 Q Yes?
15 A I don't know them, I don't know those people from
16 Kitwancool.
17 Q In your affidavit you say in paragraph 6:
18
19 "Chiefs from Kitwancool and Kitsegukla own
20 territories on the west and south border of this
21 territory."
22
23 You don't know if Kitwancool chiefs are on the border
24 of your territory?
25 A Yes. On the other side of the mountain.
26 Q On the other side of the mountain?
27 A It's their territory, but I don't know the names.
28 Q Do they border on your territory, do you share a
29 common border?
30 A Yes.
31 MS. SIGURDSON: The map that has been marked at trial that was
32 apparently prepared with input from Mr. Sterritt and
33 Mr. George, Marvin George, does not show a Kitwancool
34 territory to the south or west of yours. There is
35 another intervening territory, and that is of
36 Gaxsbgabaxs.
37 MR. ADAMS: Do you have that name to put in front of her?
38 MS. SIGURDSON:
39 Q No, I don't. You're saying that there should be a
40 territory of Kitwancool bordering on yours?
41 A On the other side of the mountain.
42 Q Which mountain is that, please?
43 A That's where our land is, the back of the mountain
44 where ours is.
45 Q All right.
46 A That's where Kitwancool is.
47 Q You will have to give me some help. Do you know the

1 name of the mountain Kitwancool is on the back of?
2 A An damahl.
3 Q That was your son that gave you that name?
4 A No. I forgotten the name of the --
5 Q Yes. Norman helped you?
6 A Yes.
7 Q Perhaps, Mrs. Howard, you can give me the spelling of
8 that name?
9 A An damahl is right on the top of the mountain.
10 MS. SIGURDSON: Just one moment, please.
11 THE TRANSLATOR: A-n space D-a-m-a-h-l.
12 MS. SIGURDSON:
13 Q I'm sorry, Mrs. Moore, I didn't hear part of your
14 answer. Kitwancool is --
15 A An damahl is right on top of the mountain that we own.
16 I understand that Kitwancool owns the other side of
17 the mountain.
18 Q Do you know which chief of the Kitwancool owns that?
19 A No. I don't know them.
20 Q And who told you that the Kitwancool owned the other
21 side?
22 A Because I know we don't own that. I know that the
23 Kitwancool own it, but I don't know their names.
24 Q Do you read maps, Mrs. Moore?
25 A Hardly.
26 Q Perhaps you can help me. Is An damahl west of Glen
27 Vowell?
28 A Yes.
29 MS. SIGURDSON: Is it south of a creek called Xsi
30 wilgalibaxs(?), that is the territory claimed by
31 Antgulilibix.
32 MR. ADAMS: Give me that name to --
33 MS. SIGURDSON:
34 Q Well, Mrs. Moore, perhaps you can look at this. You
35 say you can barely read maps, but you might be able to
36 understand some of this or help me with some of this.
37 On the right-hand side of the map there is -- there is
38 Sigadikh, S-I-G-A-D-I-K-H, and here we have Xsi gwin
39 ha'uums, that's Hazelton Creek?
40 A Yes.
41 MS. SIGURDSON: And right here on the map it's north of the
42 border drawn of Luutkudziiwas, it looks like there's a
43 mountain called Andamhlxw. Is that the mountain that
44 you refer to?
45 THE TRANSLATOR: Which way is this map?
46 MS. SIGURDSON:
47 Q North is as the arrow goes. It's Hazelton here from

Skeena to Glen Vowell. And if this doesn't make sense to you, please tell me?
A Yes. You've shown me where Xsi gwin ha'uums is -- oh, right here, and where is Andamhlxw on here?
Q Well, it's marked at this place right here, which is north of the boundary marked for Luutkudziiwas?
A Um-hum.
MR. ADAMS: No. You're asking her where the mountain is, then you're showing her where the mountain is.
MS. SIGURDSON:
Q I'm asking Mrs. Moore is where it's marked on this map if it's in accordance with her understanding?
A I don't know where Antgulilibix is in place. There isn't that -- where Andamhlxw, you're asking about, I don't even know Andamhlxw.
Q You know there's a mountain called An damahl, but you're not sure where it is on this map?
A No. I don't know where it is.
Q Do you know other than the map?
A I know that ours is An damahl on top of our mountain?
THE TRANSLATOR: There is Andamahl and An diimaul.
MS. SIGURDSON: I see, all right.
MR. ADAMS: I just wonder if you could put on the record what map you were showing her.
MS. SIGURDSON:
Q Yes. Thank you, I forgot. I was showing Mrs. Moore the map that was provided with the interrogatories response of Arthur Ridsdale. It is the map showing the western territory of Luutkudziiwas. Were you aware that Arthur Ridsdale answered some questions, which we call interrogatories, on behalf of Ben Mackenzie because Ben was quite sick?
A Yes.
MS. SIGURDSON: One of the questions that was asked was question 80:

"What is your personal knowledge of:
Sub (b) instances of the exercise of such governance by the members and their ancestors prior to the commencement of this action."

And the answer -- I would like to read you the answer that Mr. Ridsdale gave on behalf of Mr. Mackenzie. He says:

"There was a feast held when Mary Moore's mother died seven or eight years ago. There was also

1 a headstone feast six or seven years ago. There
2 was the making of a map. All the chiefs were
3 present and Steven Robinson stayed in the territory
4 that went with the name. We also removed nets from
5 fishing sites if we do not know who they belong
6 to."
7
8 Also, in response to question 87, and that question
9 was:
10
11 "What is your personal knowledge of:
12 (a) the boundaries protected and maintained
13 by the members of your house and their
14 ancestors."
15
16 Mr. Ridsdale replied in part that there was a making
17 of a map at your mother's feast.
18 MR. ADAMS: Well, no, it doesn't say that. It says:
19
20 "When Mary Moore's mother died there was a making
21 of a map."
22
23 MS. SIGURDSON:
24 Q Pardon me, yes, you're absolutely right. I should
25 read that question -- sentence out for clarity. The
26 answer was -- first sentence of the answer was:
27
28 "When Mary Moore's mother died there was a making
29 of a map which identified the territory."
30
31 Were you asked if there was such a map recently?
32 A I think Neil has all the maps.
33 MS. SIGURDSON: Well, I don't want to suggest anything wrong, so
34 what I would like to do is read Mr. Grant's letter in
35 response to Mr. Plant's, who asked for the map. Mr.
36 Grant says:
37
38 "In response to your letter of August 24th, 1988, I
39 wish to confirm I have investigated the existence
40 of the 'map' referred to in the Luutkudziiwas
41 interrogatory questions 80(B) and 87.
42 Apparently, from my investigation there was
43 no physical piece of paper which was presented at
44 the feast. I have inquired of both Mr. Ridsdale
45 and Mary Moore who was present at the feast with
46 respect to whether any map was present there.
47 Furthermore, it is my understanding that no such

1 map exists to the knowledge of any of the persons
2 who I have inquired with respect to this matter."
3
4 MR. ADAMS: What's the date of the letter you're reading from,
5 please?
6 MS. SIGURDSON: This is Mr. Grant's letter of August 26th, 1988.
7 MR. ADAMS: Well, if you're going to challenge the voracity of
8 what Mr. Grant writes in letters between counsel, I
9 think you can take that up with Mr. Grant and before
10 the Chief Justice rather than asking this witness.
11 MS. SIGURDSON: No. I'm trying to do just the opposite of that.
12 I didn't want Mrs. Moore to think this hadn't been
13 asked, and I wanted her to understand her counsel's
14 response.
15 MR. ADAMS: So you're not asking a question based on that
16 letter?
17 MS. SIGURDSON:
18 Q I understand Mr. Grant talked to you about a map and
19 you advised him that there was no such map?
20 A We don't use maps when we -- when we bury our people.
21 The witnesses are there to see what we do in the
22 feasts.
23 Q Um-hum?
24 A And that's how come the lands come to us after we put
25 up a feast.
26 Q Mrs. Moore, do you know Thomas Brown?
27 A No.
28 Q The information I have is that he was a husband of
29 Alice Brown, also known as Alice Martha Brown. Do you
30 know Alice Martha Brown?
31 A I think I know it was Rosie Pierre's mother.
32 Q Yes. Alice Brown held the name Doo goo gais, and the
33 spelling I have is D-O-O G-O-O G-A-I-S?
34 A Um-hum.
35 Q And what house is that a name of?
36 A Doo Goo Gais? I think it is Doo Goo Gais.
37 Q Doo Goo Gais has a separate house?
38 A I don't know about their house.
39 Q Is it correct to say that Doo Goo Gais is a name of
40 the House of Wii' muglusxw?
41 A Oh, must be the House of Wii' muglusxw, I don't know.
42 All I know, she's Doo Goo Gais.
43 Q Do you know that she's a member of the wolf clan?
44 A Yes.
45 Q I was informed that Thomas Brown was a member of the
46 owl clan. Do you know the owl clan?
47 A No.

1 Q Is the owl a crest of the House of Woosimlaxha?
2 A Yes.
3 Q You have never heard of Thomas Brown being a member of
4 the House of Woosimlaxha?
5 A No.
6 Q Are you aware that Thomas Brown registered a trapline
7 around Bell Lake?
8 A I heard about it.
9 Q And he registered that line in about 1930?
10 A Yes.
11 Q And he held that line until he died in about 1950 or
12 1951?
13 A I don't know what exactly when he died, but then --
14 but I knew he was on land, he was making poles.
15 Q Were you aware that Thomas Brown left the Bell Lake
16 trapline to his wife Alice Brown, Doo Goo Gais?
17 A No.
18 Q Have you seen Alice Brown on the territory?
19 A No.
20 Q And you say Alice Brown's daughter is Rosie Pierre?
21 A No.
22 MR. ADAMS: Sorry. Is the territory you're referring to the
23 same as the territory in your affidavit; is that what
24 you mean by territory?
25 MS. SIGURDSON:
26 Q Yes. Are stories about the Bell Lake area part of the
27 history of your house?
28 A No. You mean where we're at? Yes.
29 Q Have you heard of a legend or a story about the
30 hunting ground at Bell Lake being given to the owl
31 tribe?
32 A No.
33 Q For four generations in piece?
34 A No.
35 Q So if that is part of the history of the House of
36 Luutkudziiwas, it's a history that you don't know
37 about?
38 A No. I've never heard about it, my grandmother never
39 told me about that.
40 MS. SIGURDSON: Can we go off the record for a moment, Mr.
41 Adams?
42 MR. ADAMS: Sure.
43
44 (OFF THE RECORD DISCUSSION)
45 (SHORT BREAK TAKEN)
46
47 MS. SIGURDSON: Mrs. Moore, those are my questions for now.

What I would like to do at this point is tender as an exhibit for identification in this cross-examination the Public Archives of Canada file about the trapline of Thomas H. Brown. It is the Attorney General of Canada's document number 10856, and I am proposing to tender it for identification at this point and obtain a certificate from the Public Archives, and I understand Mr. Adams has a comment he would like to make.

MR. ADAMS: Just for the record, the witness hasn't been shown any of the documents in this file, hasn't identified any of the documents in this file. She has answered certain questions with respect to some of the people whose names appear in it, but with that caution I have no objection to it being marked as an exhibit for identification only in this cross-examination. And I take it it would be Exhibit 1 to travel with the transcript of this examination, is the way we've been doing this.

MS. SIGURDSON: Yes.

EXHIBIT 1 FOR IDENTIFICATION - Public Archives of Canada file pertaining to the trapline of Thomas H. Brown

MS. SIGURDSON: Mrs. Moore, those are all the questions I have. I believe Miss Russell, from Canada, has a few.

CROSS-EXAMINATION BY MS. RUSSELL:

Q Mrs. Moore, I'm a lawyer for the federal government, and I have a few questions for you. I don't think they will be very long.

A Okay.

Q Mrs. Moore, you've told us about the territory of Luutkudziiwas, which is located immediately west of Gitanmaax; that's correct, isn't it?

A Yes.

Q And this is fairly close to the town of Hazelton?

A Yes.

Q Is it an area that is used by all of the people of Gitanmaax?

A It's an area that we use, it's our hunting ground and trapline.

Q Yes. And are there good berry patches in that area?

A Yes.

Q And --

A Cranberry patch.

1 Q A cranberry patch?
2 A Yes.
3 Q And do the people of Gitanmaax go there to pick
4 cranberries?
5 A My mother takes her friends there.
6 Q Your mother takes her friends there?
7 A My grandmother. I call her mother because she raised
8 me.
9 Q I see. And do all the people from Gitanmaax go there
10 to pick their cranberries?
11 A Not unless my mother takes them there.
12 Q I see, okay. And you're the daughter of Thomas
13 Wright, are you not?
14 A Yes.
15 Q And his name was Guuhadak?
16 A Guuhadak.
17 Q And did he hold that name?
18 A Yes.
19 MS. RUSSELL: And did he take the name in a feast?
20 MR. ADAMS: Sorry, just -- is there something significant about
21 the term "hold" as opposed to some other version? I
22 think you should make that clear because it may not
23 be --
24 MS. RUSSELL: Well, Mr. Adams, you can do that in redirect. I
25 think I'm entitled to run my cross-examination.
26 MR. ADAMS: I'm not trying to run your cross-examination, I'm
27 trying to make sure your question is understood.
28 MS. RUSSELL:
29 Q All right, thank you. Did he hold that name,
30 Guuhadak?
31 A Yes.
32 Q He did? And did he take that name in a feast?
33 A Yes.
34 Q And he died in August of '88, didn't he?
35 A Yes.
36 Q Was there a feast for him at that time?
37 A There was a feast.
38 Q And who has taken the name Guuhadak today?
39 A They're still holding it, it's still on hold, Steve
40 Robinson put the feast up.
41 Q I see. And was Guuhadak's territory described in that
42 feast, Mrs. Moore?
43 A Not yet.
44 Q In the feast that Steve Robinson put up?
45 A Yeah.
46 Q The Guuhadak territory was not described?
47 A Not yet. I guess when the -- when somebody else takes

1 the name, that's the time they will do that.
2 Q And is that the way Gitksan feasts usually go; if the
3 name is not passed they don't describe the territory
4 in the feast?
5 A The reason why is that whoever takes the name is going
6 to be holding the territories.
7 Q What was the kind of feast that was held for your
8 father?
9 A It was a funeral feast.
10 Q I see. Can you tell me, Mrs. Moore, what kind of
11 foods did you serve at your father's funeral feast?
12 A I was a guest there.
13 Q All right. What kind of foods did the clan who put up
14 the feast --
15 A They made some soup, which we call Indian soup.
16 Q What did it contain?
17 A They put in meat, cut up meat, and beef, I mean, they
18 cut the beef up, and they put carrots and turnips and
19 all the works, macaroni, very good.
20 Q And what other foods did they serve?
21 A They served fried bread, baking powder and they fry
22 it, or yeast, they fry that.
23 Q Um-hum?
24 A And they -- they pass around a box of biscuits for
25 each person, and bread, loaf of bread. If there's
26 more bread, they get more for each person, and
27 berries.
28 Q And berries?
29 A Um-hum. And way back they get their own berries, like
30 huckleberries and blueberries.
31 Q And you said "way back". Do you mean a long time ago
32 when you went to feasts?
33 A Yes, um-hum.
34 Q But did they serve berries at your father's?
35 A Yes, they do. They use huckleberries, you know, when
36 they pick, but they mix it up with store berries like
37 pears and peaches. They mix it all up and then they
38 serve it.
39 Q Have you ever gone hunting on the territory that you
40 described in your affidavit?
41 A Yes.
42 Q And when did you go hunting last on that territory?
43 A Just only about a month ago.
44 Q A month ago? And what did you hunt for?
45 A Moose. We missed it.
46 Q Before you went hunting a month ago, when was the time
47 before that that you last went hunting?

A Every season we go every so often, we keep trying.
Q Yes. And when you say "every season", do you mean you've gone every year that you can remember?
A Yes.
Q All right. And who goes with you, Mrs. Moore?
A My sons.
Q All of your sons?
A My husband used to go with me.
Q I see. And do you still trap in the area of Luutkudziiwas?
A Yes.
Q You do? And what do you trap for?
A Marten and fisher.
Q I see. And did you go trapping last year?
A Yes.
Q And the year before that?
A Yes.
Q And the year before that?
A Um-hum.
Q And when you went with your sons?
A Yes.
Q And did you fish in the area of Luutkudziiwas?
A Yes, I did.
Q Sorry. Where did you fish?
A At Xsi gwin ha'uums.
Q When did you go fishing last?
A Last summer.
Q And before that when did you go fishing?
A Every year before that.
Q Every year?
A Yes.
Q Every year since you you were a child?
A Yes. I grew up at Xsi gwin ha'uums. I remember my mother took me there when I was very small, and way back when I could remember that's when I was there.
Q And when you've told me about feasts, Mrs. Moore, do all of your children attend the feasts too?
A Yes.
Q And was your father's feast the last feast you went to?
A We put up our own feast when my uncle died, Joshua Campbell, that's Xsimwitsin.
Q When did Mr. Campbell die?
A In March.
Q In March of 1988?
A About the 28th of March.
Q So was your father's feast, or Mr. Campbell's feast

the last feast you went to?
A Yes -- well, I've been going to feasts, like we were just at -- Wii Elaast's feast.
Q And when was that?
A About two weeks ago. That was the last one I went to.
Q Do you ever hunt or trap on any territories other than Luutkudziiwas' territory?
A No.
Q Did your husband trap on Luutkudziiwas' or hunt or trap on Luutkudziiwas' territory?
A Yes.
Q And did he ask permission to do that?
A Yes.
Q And of whom did he ask that permission?
A My mother.
Q And your mother's name was?
A Helen.
Q Helen? Your mother's English name was Helen Danes Wright, wasn't it?
A Yes.
Q What was her Indian name?
A And Spaa' Laast is her other name.
Q Spaa' Laast?
A Yes.
Q And that's your nax nox name, isn't it?
A Yes, and Sek'm Luu.
Q And Sek'm Luu?
A Sek'm Luu.
Q And you took your mother's name, Sek'm Luu, didn't you?
A Yes.
Q Did you take her name at a feast?
A Yes.
Q And did you make a contribution at that feast so that you could take her name?
A I was the one that put the feast up.
Q Yes. And did you pay money to take that name at the feast?
A Yes.
Q Do you remember how much you paid to take that name?
A I put in a thousand dollars, and then a lot of material besides it.
Q Thank you. Can you tell me what the crest of your husband is?
A Frog.
Q And do you know the adaawk of your house?
A Yes.

Q Can you tell me just by maybe giving me a summary of an adawk of your house, just give me a description of what the story is about. You don't have to tell me the whole adaawk, can you tell me what the adaawk are of your house?
A It's the one of -- it is the -- is the mountain goats that took the people of T'am lax amit. That's where we were before.
Q And are there other adaawk of your house?
A Yes.
Q Can you give me another example?
A Another one when Luu T'asxw was taken as a prisoner from here and the people that took her was the coast people, like Haida people, Kitimat.
Q And are there any others that you recall at this time?
A The reason why we have that blind frog is because a lady was sitting -- an elderly lady was sitting down, our tribe, and then a flying frog came and landed on her hand and she went like that, and she went eech, eech, you know, she went like that and tried to throw that flying frog off her hand. That's the reason why we have flying frog for our crest.
Q Just a couple of more questions, Mrs. Moore. Have you ever been employed, Mrs. Moore, outside your home?
A I worked at the hospital.
Q And what hospital was that?
A Wrinch Memorial Hospital.
Q And what period of time was it you worked at the hospital?
A On and off ever since I was young.
Q And --
A And then I just kept on and then -- I don't know how long I worked there, just on and off.
Q Let me see, would it be fair to summarize that to say that from the time you were say 18 you worked there on and off?
A Yes.
Q Until -- are you still working there on and off now?
A No.
Q You've finished working there when, ten years ago?
A Yeah. About ten years ago.
MS. RUSSELL: Those are all the questions I have for you, Mrs. Moore. Thank you.
A Thank you.

<u>RE-EXAMINATION IN CHIEF BY MR. ADAMS:</u>
Q Mrs. Moore, I just have a few questions for you that

1 come out of the questions you've been asked this
2 morning. Miss Sigurdson for the Province asked you
3 fairly early on this morning about the places you
4 lived and whether you had lived anywhere else besides
5 Gitanmaax, and you talked about going to Port Edward
6 and working in the canneries. What I wanted to ask
7 you is besides Gitanmaax and Port Edward, is there
8 anywhere else during your life that you've spent a
9 whole summer or a whole winter?
10 A The pole camps. Before the children went to school we
11 were mostly at pole camps, that's where we lived.
12 Q And have you spent a whole season on the territory
13 that's described in your affidavit?
14 A Yes.
15 Q When would that have been?
16 A During the summer we stay at Xsi gwin ha'uums and
17 doing our fishing there, putting up our fish. During
18 the winter we trap on our trapline, and that's where
19 we get our game.
20 Q Are you able to say how many summers you spent on that
21 territory?
22 A Every summer.
23 Q From when to when?
24 A From early spring, about May, until October.
25 Q Also in answer to a question from Miss Sigurdson you
26 say you know of a Suskwa territory but Arthur knew
27 more about the Suskwa. Who was the Arthur you were
28 referring to?
29 A Arthur Ridsdale.
30 MR. ADAMS: Miss Sigurdson put in front of you part of Neil John
31 Sterritt's expert report in this litigation, and you
32 remember that was a boundary description of the Suskwa
33 territory and she's asking you about the information
34 that you provided to Neil Sterritt that may or may not
35 have gone into that description, and my question is
36 simply can you recall the nature of the information
37 that you provided Neil Sterritt about that Suskwa
38 territory?
39 MS. SIGURDSON: Well, I object because I don't think I asked the
40 question as you put it to her. I read the description
41 of Mr. Sterritt and asked if she agreed to it, and she
42 did.
43 MR. ADAMS: You also asked her if she had provided information
44 to him, and I'm asking what kind of information.
45 MS. SIGURDSON: All right. I didn't see that as being connected
46 to Mr. Sterritt's opinion as in the way you were
47 relating it. I withdraw the objection.

MR. ADAMS:

Q Do you understand the question?

A Yes. In that I told Neil.

Q What kind of information did you give him about the Suskwa territory, is my question?

A Oh, it was my grandmother's and my grandfather's territory, Tom Campbell and Lucy Muldoe, they own the territory.

Q Is that what you told Mr. Sterritt?

A Yeah. And they had the same mother and the same father, the two of them, Lucy Muldoe and Tom Campbell. My mother -- my grandmother's name used to be -- maiden name was Campbell, and I told her that -- him that when Tom died, and he had these two names, Luutkudziiwas and Xsimwitsin, and then mother -- I call her mother, my grandmother, Lucy Muldoe, got Ben Mackenzie and let him use the other name, and Joshua, my uncle, the other name, Xsimwitsin, and Ben, Luutkudziiwas. And on top of that she offered Ben to go on the land of Suskwa and do his trapping and hunting there to support his wife and his children, and then when Ben passes on and it's finished for the children too. That was said at the feast, at Tom Campbell's feast.

Q Miss Russell asked you a question a few minutes ago about Thomas Wright and she asked you whether he held the name Guuhadak, and maybe this question could be translated because I want to make it clear in Gitksan terms what question I'm asking. Was Thomas Wright Guuhadak in his own right or was he looking after that name for someone else, and maybe, Miss Howard, you can translate that in Gitksan?

A It was his name -- it was his name, and if you want to know -- do you want to know whose name it was before, it was Beal Muldoe, my grandfather's name, and then when he died it was passed onto Thomas Wright, my father.

Q Miss. Russell was asking you about the funeral feast for your father, Thomas Wright, and she asked you what you served there and you said that you were a guest there, and my question is who hosted that feast?

A Steven Robinson and Wii K̲aax. Steven is Spookw, and it was Neil Sterritt, Wii K̲aax, the one that was here just a while ago.

Q That's Neil Sterritt, Sr.?

A Mm-hmm.

Q And what clan are they from?

1 A Lax Gibuu.
2 Q What clan did your father belong to?
3 A Wolf.
4 Q Miss Russell was asking you about who you hunted and
5 trapped with -- no, I'm sorry -- yes, she was, and you
6 said that your husband hunted and trapped on
7 Luutkudziiwas' territory, and she asked if your
8 husband had permission to do that and you said yes, he
9 did, and she said from whom, and you said he asked
10 permission from my mother. And then you named Helen
11 Danes Wright?
12 A Yes.
13 Q My question is was the permission from your natural
14 mother or from your grandmother, who you have said you
15 sometimes call your mother?
16 A While she was living it was my grandmother, then after
17 she died and then my mother was the one that gave
18 permission to -- to my husband to trap.
19 Q So do I have it right that it was first Lucy Muldoe
20 and then Helen Danes Wright?
21 A Yes. The reason why I call my grandmother mother is
22 because she raised me, she raised me and Earnest
23 Muldoe together. We were babies when she took us, our
24 grandmother, so that's the reason why we were named
25 Muldoe.
26 MR. ADAMS: And finally, Miss Russell asked you some questions
27 about examples of the adaawk of your House of
28 Luutkudziiwas. And my question is -- let me go one at
29 a time through the ones you mentioned. You talked
30 about the adaawk concerning the mountain goats at T'am
31 lax amit, and I just wanted to know, do you have any
32 way of telling us how old that story is?
33 MS. RUSSELL: Mr. Adams, that does not come out of my question,
34 it does not arise out of the examination. I asked her
35 about the story, she told me that, the age of the
36 story was not raised at all.
37 MR. ADAMS:
38 Q Well, let me ask another question. Could you tell us
39 how you and from whom you heard that story?
40 A My grandmother.
41 Q And that's Lucy Muldoe?
42 A Yes.
43 Q Did she tell you where she heard that story?
44 A From her grandmother.
45 Q And who was that?
46 A 'Noola. 'Noola was the first chief when they were
47 still in T'am lax amit.

1 Q And your grandmother's grandmother was 'Noola?
2 A Yes.
3 MR. ADAMS: Is that the same person as the 'Noola who was the
4 first chief of T'am lax amit?
5 MS. RUSSELL: She's given that evidence, Mr. Adams, and it
6 doesn't arise in any event.
7 MR. ADAMS: I'm sorry, it does follow from my question and it's
8 not clear to me, and I would be surprised if it's
9 clear to anyone else, the evidence throughout the case
10 that different biological people hold names down
11 through history, and it isn't at all clear whether
12 Lucy Muldoe's grandmother was the chief referred to at
13 T'am lax amit or whether some earlier holder of that
14 name is referred to, and I think I'm entitled to
15 clarify that for the assistance of the court if no one
16 else.
17 MS. RUSSELL: All right, in that case, certainly, but she did say
18 Lucy Muldoe. Let's just carry on. Go ahead, Mr.
19 Adams.
20 MR. ADAMS:
21 Q Do you understand what I'm asking?
22 A Yes.
23 Q I want to know whether Lucy Muldoe's grandmother, who
24 you say was 'Noola --
25 A Yes.
26 Q Whether she was the person you say was the first chief
27 at T'am lax amit or whether some earlier holder of the
28 name 'Noola?
29 A Earlier on, my grandmother's ancestors. It went down
30 to my grandmother's mother too, and then to her, and
31 then way back.
32 Q The next adaawk that you referred to concerned a woman
33 taken prisoner from here you said by the coast people?
34 A Yes.
35 Q Who did you hear that story from?
36 A My grandmother.
37 Q Also Lucy Muldoe?
38 A Yes.
39 Q And did she tell you who she heard that story from?
40 A From her grandparents.
41 Q And to save some time, is that the way you heard about
42 all the adaawk that you told Miss Russell about this
43 morning?
44 A Yes. She told me everything.
45 MR. ADAMS: Those are all my questions. Thank you.
46 MS. RUSSELL: Thank you.
47 MR. ADAMS: Thank you, Mrs. Moore.

(PROCEEDINGS CONCLUDED)

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

Graham D. Parker
Official Reporter
United Reporting Service