In the Supreme Court of British Columbia

No. 0843
Smithers Registry

Smithers, B. C.
December 14, 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.

CROSS-EXAMINATION ON AFFIDAVIT
OF
ABEL SAMPSON

UNITED REPORTING

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OF
ABEL SAMPSON

P.R. Grant, Esq.	appearing for the Plaintiffs
J.M. Mackenzie, Esq.	appearing for Her Majesty the Queen in Right of the Province of British Columbia
M.W.W. Frey, Esq.	appearing for the Attorney General of Canada

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SMITHERS, B.C.
December 14, 1988

ABEL SAMPSON, a witness herein called on behalf of the Plaintiffs, having been duly sworn, testifies as follows:

S. HOWARD: Interpreter previously sworn

MR. GRANT: Before we proceed, I want to set out that I have delivered to you without a transmittal letter an eight page document entitled Maggie Louie's Funeral Book on Feast, a photocopy of that as well as a four-page document which is a record of the contributions made at the smoke feast for David Gunanoot, Nii Kyap. Neither of these feast books were in the possession of this witness, but they were in the possession of his sister who informed me that she was unable to locate any other feast book, although another -- there may be another feast book with respect to David Gunanoot's feast. It is not in her possession, nor is it in the possession of this witness.

I will send a confirmation letter to you in due course, but I had to get these -- I got these at the last moment, so I wanted to give you copies of them. I believe Mr. Sampson is being cross-examined with respect to his affidavit which is exhibit number --

MR. FREY: 600.

MR. GRANT: 600?

MR. FREY: That's right. Did you have anything more, Mr. Grant?

MR. GRANT: No.

CROSS-EXAMINATION BY MR. FREY:

Q Mr. Sampson, when were you born?

A August 2, 1934.

Q And where do you live?

A Right now?

Q Right now.

A Hazelton.

Q And did you live any place before you lived in Hazelton?

A Yes, at Bear Lake.

Q Bear Lake. And when did you move from Bear Lake to Hazelton?

A 1949.
MR. FREY: All right. And what do you do for a living?
MR. GRANT: Now?
MR. FREY:
Q Now?
A Millwright.
Q And how long have you been a millwright?
A 15 years I guess.
Q I guess you're including the apprenticeship period as well?
A Yes.
Q And have you worked as a millwright all those 15 years in Hazelton?
A Yes, in Hazelton.
Q And before you were a millwright, what did you do?
A I was at the sawmill ten years. I've been at the sawmill all my life.
Q Okay. And the first job you had was at the sawmill?
A Right.
Q All right. So before you became a millwright you worked for ten years at the sawmill, is that about right?
A Yeah, about that.
Q And which mill are you at now?
A Westar.
Q Now, you hold a chief's name and I am going to try and pronounce it. Is it Haimadimtxw?
A Haimadimtxw.
Q And when did you acquire that name?
A I don't remember the year, but it's been about five, six years now. Oh, it's longer than that. 1976 when I -- when the holder passed away, so it would be 1976.
Q All right. Now, your father was Arthur Sampson?
A Yes.
Q And he held a chief's name. I'll try and pronounce it again, Smaex?
A Smaex, yes.
Q And is that a chief's name in the house of Tsabux?
A Yes.
Q Is that pronunciation close?
A Yes.
Q And that's in the Wolf Clan?
A Mh'm.
Q And your mother was Mary Patrick?
A Yes.
Q And which house was she in?

A Nii Kyap.
Q Nii Kyap?
A Yes.
Q And that's Wolf Clan as well; is that right?
A Yes.
Q Now, is that acceptable under Gitksan law for two members of the Wolf Clan to be married to each other?
A I guess it's not, but they have to put up a feast when that happens.
Q So it's your understanding that when your mother and father were married that they put up a feast?
A Yes.
Q And was that feast specifically because they were both in the same clan?
A Yes.
MR. FREY: But am I correct in saying that the law generally is that two people in the same clan do not marry?
MR. GRANT: The Gitksan law?
MR. FREY:
Q The Gitksan law?
A Yeah.
Q Now, do you know the name of your father's father?
A My grandfather?
Q Yes, on your father's side?
A Luke Sampson.
Q And do you know who your father's mother was?
A My -- what's that? Alice.
Q Do you know what her maiden name was?
A Robinson.
Q And what house was she in?
A She is in Tsabux.
Q Now, what did your father do for a living?
A A little of everything I guess. Trapping most of his life. When we came here he started working in the sawmills.
Q And again that's 1949?
A Yeah.
Q Before you moved to -- before your family moved to Hazelton, did he ever work logging before that?
A No, it was all trapping up north at Bear Lake.
MR. FREY: Now, can you tell me the traditional village from which the house of Tsabux comes?
MR. GRANT: Can you clarify what you mean when you say "the traditional village"?
MR. FREY: Well, the way that it has been used in the interrogatories and the genealogies. The

traditional villages as I understand are Gitanmaax and Kitwanga and Gitsegukla and Kisgagaas and Kuldo and villages like that. I haven't named them all, but I am wondering if you know which of those villages the house of Tsabux is from.

MR. GRANT: I don't object to the question, I just want to be clear. From what you describe you are not talking about necessarily a village of origin that is an ancient village when you are saying your traditional village, and I am referring to Gitangasxw and those ancient villages?

MR. FREY: No, I'm not.

MR. GRANT: I just wanted to be clear on that. Maybe Madam Interpreter would like to repeat that question.

MR. FREY:

Q Well, I am wondering about the traditional village that the house of Tsabux comes from.

A Kisgagaas.

Q It's from Kisgagaas. And is Smaex a separate house from Tsabux?

A Smaex?

MR. GRANT: Smaex?

THE WITNESS: No.

MR. FREY:

Q They are in the same house?

A Yes.

MR. FREY: And another name Tsiiwas or Tsawas?

MR. GRANT: Tsiiwas.

THE WITNESS: Tsiiwas.

MR. FREY:

Q Tsiiwas. Is that a separate house from Tsabux or is it the same house?

A It's the same house.

Q Now, I've already named -- Tsiiwas and Tsabux are both chiefs?

A Yeah.

Q Now, are there any other chief's names in the house of Tsabux that you can tell me about, and I mean chief's names?

A There is To'ogwit. I don't know, but somebody using it. And you mentioned Tsiiwas already.

MR. FREY: Could I get that name?

THE INTERPRETER: I just put down T-O stop O-G-W-I-T, and I will look up the correct spelling after.

MR. FREY:

Q So that makes four. We have got To'ogwit, Smaex, Tsiiwas and Tsabux. Are there any others that you

1 can remember today?
2 A I'm afraid not.
3 Q All right. Now, today it is Wilmer Johnson who
4 holds the name Tsabux?
5 A Yeah.
6 Q And where does he reside? Where does he live?
7 A In Hazelton.
8 Q And do you know what his occupation is?
9 A He works at the -- in the reserve band office.
10 Q You don't happen to know what he does there?
11 A He's the planner.
12 Q Now, you know of the house of Gwoimt?
13 A Yes.
14 MR. FREY: Now, is there a relationship between the house of
15 Tsabux and the house of Gwoimt that you know about?
16 THE INTERPRETER: He can't remember who has the name Gwoimt.
17 MR. FREY:
18 Q I believe it is Kathleen Wale today.
19 A Yeah, they are in the same house.
20 Q Do you mean the same clan?
21 A Yeah, the same clan.
22 Q They are Wolf as well?
23 A Yeah.
24 Q Is there any other connection between those two
25 houses that you know about other than the fact that
26 they are in the same clan?
27 A What kind of -- what kind of a connection is it?
28 Q Well, I can tell you the reason that I am asking is
29 that the provincial government asked some questions
30 of Wilmer Johnson. And one of the questions is
31 number 10. I am simply reading now the answer that
32 Wilmer Johnson gave to one particular question. And
33 the question is:
34
35 "When did you become head of the house of
36 Tsabux?"
37
38 And the answer that he gave is:
39
40 "In 1958 or 1959 when I received the name
41 Tsabux."
42
43 And then he went on to say:
44
45 "I share the house with Gwoimt."
46
47 Now, do you know what he meant by that?

A Yes, they are in the same house.
Q You mean clan?
A Yes.
Q It's just that I'm not too sure what Wilmer means here. It is your understanding that when Wilmer says:

"I share the house with Gwoimt"

what he is referring to is the fact that both Gwoimt and Tsabux are both Wolf Clan?
A Yes.
MR. FREY: So a person who is a member of the house of Gwoimt is not a member of the house of Tsabux, they are separate?
THE INTERPRETER: I'll explain to him.
THE WITNESS: Yeah, they share the same house and they are the same clan.
MR. FREY: All right. Was --
MR. GRANT: You haven't, and you are not obligated to, but maybe to be clear as to who you are talking to -- you haven't asked this witness as to which house he is in. There may be an implication from the series of questions that may not be correct.
MR. FREY:
Q You are in the house of Nii Kyap; is that correct?
A Yes.
Q You are not in the house of Tsabux?
A Yes.
Q Again it is the same clan, but a different house?
A Yeah.
Q Now, have you ever heard that at some time in the past the house of Gwoimt and the house of Tsabux were the same house or were connected?
A Yes, I have heard they were in the same house.
Q And do you know when that changed? Do you know when they became separate chiefs?
A No, I do not.
MR. FREY: Now, we just went over this, you are in the house of Nii Kyap. Can you tell me the names of the chiefs in the house of Nii Kyap?
MR. GRANT: Other than Nii Kyap?
MR. FREY:
Q Other than Nii Kyap and other than Haimadimtxw or -- say that one again so I get it right?
A Which one?
Q Haimadimtxw?

1 A Haimadimtxw.
2 Q Other than those two names, do you know any other
3 names that are chief's names in that house?
4 A There is Nii Kyap, O'yee, Haimadimtxw. Do you have
5 that?
6 Q No, that's one I'm familiar with now.
7 A I can't remember them.
8 Q All right. Now, the affidavit that you swore, I
9 believe you have a copy here. Now, I take it from
10 your affidavit that your description of the Red
11 Creek territory is based on what you were told by
12 your father?
13 A Yes.
14 Q And your father was Arthur Sampson?
15 A Yes.
16 Q Now, when did your father pass away?
17 A 1981.
18 Q '81. Now, how many times did you go to the Red
19 Creek territory with your father?
20 A I only went there in my -- when I was still pretty
21 young in my teens.
22 Q And --
23 A And what's on the map is correct as far as I can
24 remember.
25 Q All right. So in terms of going there with your
26 father, you just went there once?
27 A Well, I went there quite a few times before I came
28 here starting at the age of about 13 when I start --
29 started going out with him.
30 Q At age 13. And how old were you when you moved to
31 Hazelton?
32 A About 15 I think.
33 Q And after you moved to Hazelton, did you go out to
34 the Red Creek territory with him?
35 A No.
36 Q And I know this is a long time ago, but before you
37 moved to Hazelton can you remember how many times
38 you went up to the Red Creek territory with your
39 father?
40 A About three times.
41 Q All right. Now, between when you moved to Hazelton
42 and when your father passed away in 1981, did you go
43 up to the Red Creek territory during that period?
44 A No.
45 Q And since 1981 when your father passed away, how
46 many times have you been back?
47 A Never.

1 Q All right.
2 A Never went there.
3 Q So the last time you were there was when you were 14
4 or 15 years old?
5 A Yeah.
6 Q Now, there is another statement in the answers that
7 Tsabux gave to the questions asked by the provincial
8 government. Mr. Grant, that's number 73. And I'll
9 just read the -- well, the question deals with the
10 provincial government was asking Tsabux about the
11 use of the territory. And in question number 73 the
12 answer that Tsabux gave was that:
13
14 "Art Sampson was the last to use our
15 territory. This was in the late 1950's."
16
17 Do you agree with that statement?
18 A Yeah.
19 MR. GRANT: You are asking Art Sampson being his father?
20 MR. FREY: Oh, yes.
21 MR. GRANT: If it was his father who did that?
22 MR. FREY:
23 Q Well, what I'm asking is to your knowledge -- I will
24 read this statement again, all right? The statement
25 is:
26
27 "Art Sampson was the last to use our
28 territory. This was in the late 1950's."
29
30 A Yes.
31 Q And to the best of your knowledge is that statement
32 correct?
33 A Yeah.
34 Q Now, you mentioned that your father passed away in
35 1981, and I'm wondering who -- after his death who
36 took the name Smaex?
37 A Don Milton.
38 Q And do you know when Don Milton took that name?
39 A Right at the feast after my father died, the same
40 year, '76 -- I mean '81.
41 Q '81?
42 A Yeah.
43 Q To your understanding, he got it in 1971 the same
44 year?
45 A Yeah.
46 Q Now, you received your name in 1976 I believe is
47 what you said. Was there a feast when you received

your name?
A Yes.
Q And where was that feast?
A In Hazelton, Gitanmaax.
Q Now, can you remember how much you personally contributed to get your name?
A Approximately $1,500 to $2,000.
Q $1,500 to $2,000?
A Yeah. And the Wolf Clan had to put in for me too for my house. They all put in so it would come -- it was over 10,000 altogether.
Q Now, of the 1,500 to 10 -- sorry, 1,500 to 2,000 that you put in, was that just cash or was that cash and goods?
A Cash and goods.
Q Now, Haimadimtxw Peter Wilson held that name before you?
A Yes.
Q And do you know who held the name before Peter Wilson?
A I don't remember his name really.
Q Do you know approximately when Peter Wilson received the name Haimadimtxw?
A No, I don't.
Q Was it before your time?
A Way before my time.
Q All right. Now, did you know Jacob Mowatt or Moat?
A Yes.
MR. FREY: And do you know whose house he was in?
MR. GRANT: How do you spell the last name?
MR. FREY: M-O-W-A-T-T. I would say Mowatt.
MR. GRANT: Mowatt.
THE WITNESS: He is in Tsabux.
MR. FREY: And do you know -- can you recall when he passed away?
MR. GRANT: Are you asking him to give you the date or if he can remember what happened?
MR. FREY:
Q Well, your best recollection.
A I would say about four or five years ago.
Q All right. And were you at his funeral feast?
A Yes. The feast? No, I wasn't at the feast.
MR. FREY: Now, my understanding -- and you may not know this because you weren't there, but my understanding is that it was a feast put on by both the house of Tsabux and the house of Gwoimt. Had you ever heard that?

1 MR. GRANT: Well, that question --
2 MR. FREY:
3 Q I'm just asking. He wasn't there, so I just wanted
4 to see if he was aware of it.
5 A No.
6 MR. GRANT: It would require a hearsay answer.
7 THE WITNESS: I didn't hear about it.
8 MR. FREY: All right. Now, I want to ask you just a couple of
9 questions about the territory that you've described
10 in your affidavit. Now, do you read maps?
11
12 (NO AUDIBLE RESPONSE)
13
14 MR. FREY: And there is a particular part of the territory that
15 I want to ask you about. Perhaps we can just go off
16 the record here for a moment, please.
17
18 (DISCUSSION OFF THE RECORD)
19
20 MR. FREY:
21 Q Now, there is a stretch of Bear River just north of
22 where Bear River meets Bear Lake. Do you know where
23 I'm talking about? Do you know the north end of
24 Bear Lake?
25 A Yes.
26 Q And that's where it meets Bear River?
27 A The river that runs out of Bear Lake?
28 Q Yes.
29 A Runs into Xsu Wii Ax.
30 Q It runs into the Sustut?
31 A Yes.
32 MR. FREY: And what I am referring to is Xsu Wii Ax. I'm
33 probably not doing that well. Mrs. Howard, I
34 understand that that's --
35 THE INTERPRETER: Xsu Wii Ax.
36 MR. FREY:
37 Q That's the river I'm talking about.
38 A Yes, that runs from Bear Lake.
39 Q And it runs into the Sustut?
40 A Yes.
41 MR. GRANT: Just if you're going to use the Gitksan names, I
42 think you should just in each occasion allow Miss
43 Howard to say the word because some of them --
44 MR. FREY: I'm not doing well at this.
45 MR. GRANT: Some of them are close and the witness may think it
46 is another word.
47 MR. FREY: Madam Reporter, do you have that spelling?

1 THE REPORTER: Yes.
2 MR. FREY:
3 Q Now, the land is on the north bank of what I will
4 call Bear River which is Xsi Tax. The land that's
5 on the north bank and running back from the north
6 bank, is that within the Red Creek territory of
7 Tsabux or more accurately it would be northeast?
8 A Going up to --
9 MR. GRANT: Is it -- if you are going downstream, which side?
10 MR. FREY:
11 Q If you are going downstream and you are looking
12 downstream it would be on the right?
13 A On the right side.
14 Q So it is the land that goes up to the Connelly
15 Range?
16 A Yes, that's part of the land.
17 Q That's part of the territory?
18 A Yeah.
19 MR. FREY: All right. And there is another creek that the
20 spelling in the affidavit is S-A-B-A-N-A, new word,
21 G-E-E. And, Mrs. Howard, if you could pronounce
22 that name?
23 THE INTERPRETER: Sabana Gee.
24 MR. FREY:
25 Q Now, you know the creek that I am talking about?
26 A Mh'm.
27 Q Now, the land that's again if we were looking
28 downstream on that creek the land on the left would
29 be on the southeast -- excuse me, the southwest
30 bank, all right?
31 A Yeah.
32 Q Is that land on the left bank as you are looking
33 downstream? Is that land within the Red Creek
34 territory?
35 A You are going downstream?
36 MR. FREY: You are looking downstream.
37 MR. GRANT: Going down Sabana Gee.
38 THE WITNESS: Going down Sabana Gee. Left, right?
39 MR. FREY:
40 Q The land on your left?
41 A Yeah, that's part of our land too.
42 Q All right. Now, those two -- I've asked you about
43 two creeks, and they bound a piece of land on the
44 south. It is bounded by Xsi Tax, and on the north
45 it is bounded by Sabana Gee.
46 A Yes, I know what you mean.
47 Q So you know the part of territory that I am talking

about. So your evidence is that that land is all part of the territory of Tsabux?
A Mh'm.
MR. FREY: So if someone said that that was Miluulak's territory they would be wrong?
MR. GRANT: Miluulak.
MR. FREY:
Q Miluulak's territory, that would be wrong to say that?
A Yeah.
Q And Miluulak is in the Frog Clan; is that correct?
A Yes.
Q Now, do you know who held the name Smaex before your father did?
A Alec Brown.
Q And do you know who Alec Brown's wife was?
A Her Indian name is Guu helangit. I think her name is Martha Brown.
MR. FREY: Can I get that spelling, Mrs. Howard?
THE INTERPRETER: G-U-U, H-E-L-A-N-G-I-T. I'll check it after.
MR. FREY:
Q Now, was that Martha Brown, was she ever known as Martha Gwoim?
A I never heard that.
Q You were never aware of her being called that?
A No.
Q And the Martha Brown who held the name Guu helangit, do you know what clan she was in?
A I would say that would be Frog.
Q Now, I am going to move on to another area. You've told me that the person who held the name Haimadimtxw before you was Peter Wilson?
A Mh'm.
Q And the information that I have is that the person who held the name before him was called Peter Haimadimtxw. Had you ever heard that?
A Yeah.
Q Does that sound right?
A Yeah, I think that is -- I'm not quite sure. He was his father.
Q It was Peter Wilson's father?
A Yeah.
Q But you're not certain if it was Peter Haimadimtxw if that was his name?
A No.
MR. GRANT: You're not certain?
MR. FREY: If Peter Haimadimtxw was his name.

1 MR. GRANT: Was his name?
2 MR. FREY: Was the name of the gentleman who held the name of
3 Haimadimtxw prior to Wilson?
4 THE INTERPRETER: He thinks it was Peter Wilson's father, but
5 he's not certain.
6 MR. GRANT: Can we go off the record a moment.
7
8 (DISCUSSION OFF THE RECORD)
9
10 MR. FREY:
11 Q I should clarify that. I take it that number one
12 you're not certain if the previous Haimadimtxw was
13 Peter Wilson's father. You are not certain about
14 that?
15 A No, I don't know.
16 Q Now, are you aware that Peter Wilson had a trapline
17 registered at the -- I'm going to use the English
18 name the Kluatantan River?
19 A Say it again?
20 Q Kluatantan. Kluatantan, have you ever heard of that
21 river?
22 A Yeah, I've heard, but I've never been there. It is
23 way up the Skeena Rier.
24 MR. FREY: Had you ever heard that --
25 MR. GRANT: I think you asked if the previous Haimadimtxw held a
26 registered trapline; is that right?
27 MR. FREY: That's right.
28 MR. GRANT: Are you talking about Peter Wilson?
29 MR. FREY:
30 Q I'm wondering if you ever heard that Peter Wilson
31 had a trapline registered up in the Kluatantan
32 River. Had you ever heard that before?
33 A Yeah, he has a trapline up there, up north
34 somewhere.
35 Q And it's my understanding that that trapline also
36 included, and I may not get this pronunciation
37 right, Kluayaz Lake. That's again the name off the
38 English map. Kluayaz Lake, have you ever heard of
39 that name?
40 A No.
41 Q What about Jenkins Creek? Have you ever heard of
42 Jenkins Creek?
43 A No.
44 Q The area that was registered to Peter Wilson up at
45 the Kluatantan River, that's the area I'm asking
46 about.
47 A Mh'm.

1 Q Now, had you ever heard that the previous
2 Haimadimtxw also had that same registered trapline
3 before Peter Wilson had it? Had anyone ever told
4 you that?
5 A Yes, I have heard about it.
6 Q Now, have you ever heard that Peter Wilson wanted to
7 transfer the registration of that trapline on the
8 Kluatantan River, that he wanted to transfer the
9 registration to his sons?
10 A Yeah.
11 Q You heard about that?
12 A Yeah.
13 Q And did you object to that transfer?
14 A No, I didn't because I didn't -- they didn't come to
15 see me about it.
16 Q Were you aware that the --
17 A Yes. Excuse me --
18 Q Sorry, go ahead.
19 A His son -- one of his sons came up and told me,
20 asked me about it. I told him it had to be -- it
21 had to stay on the Haimadimtxw's name territory and
22 the territory belongs to Haimadimtxw. You can't go
23 into there.
24 Q And do you remember which one of the sons it was
25 that came up and asked you?
26 A Joe.
27 Q Joe Wilson?
28 A Yeah.
29 Q And how long ago was that, that discussion that you
30 had with him?
31 A I just told him last year.
32 Q All right.
33 A I didn't hear anymore about it.
34 Q And is that -- is that the first time that you had
35 ever heard that Peter Wilson's sons were trying to
36 get that trapline registration or had you ever heard
37 about it before then?
38 A Well, I knew they were after it.
39 Q And just so I have this right, when you spoke with
40 Joe Wilson last year --
41 A Mh'm.
42 Q -- you said to him that's Haimadimtxw's territory?
43 A Yeah.
44 Q And I'm Haimadimtxw, and I am not going to let you
45 register there?
46 A I told him he can go there as long as he comes and
47 sees me first.

1 Q He can go and use the territory?
2 A Yeah.
3 Q But the actual registration has to stay in your
4 name?
5 A Yes, under Haimadimtxw.
6 Q Under Haimadimtxw's name?
7 A Yeah.
8 Q Or someone in Haimadimtxw's family?
9 A Yeah.
10 Q Now, were you aware that three or four years ago
11 that the Gitanmaax Band Council objected to the
12 transfer of the trapline to Joe Wilson and his
13 brothers? Had you ever heard about that?
14 A No, I'm not aware of that.
15 Q All right. Had you ever heard that the Gitanmaax
16 Band Council had taken the position that you were
17 Haimadimtxw and that therefore because it was
18 Haimadimtxw's traditional territory you should get
19 the trapline registration and not Joe Wilson and his
20 brothers. Had you ever heard of the Band Council
21 taking that position or discussing that?
22 A Well, we always -- we have to go by the tradition.
23 MR. FREY: Oh, I understand that. What I'm --
24 MR. GRANT: Just a minute. I think he may not be finished
25 answering.
26 THE WITNESS: For generations that's the way it has always been.
27 We have to go by the name to stay -- the territory
28 stays on the name.
29 MR. FREY:
30 Q All right. And it's your position that the
31 territory where that Kluatantan -- the Kluatantan
32 River area where that trapline is registered, it's
33 your position that that's the traditional territory
34 of Haimadimtxw?
35 A Yes.
36 Q You're the traditional owner of that territory?
37 A Yes.
38 Q And I guess what -- I'm going to show you a letter
39 that is a letter from the Gitanmaax Band Council.
40 The only reason I am showing you this letter is I
41 simply want to find out if you are aware -- it is a
42 letter written in 1983, and it is about this line.
43 Actually perhaps, Mr. Grant, what would be best is
44 if the witness could read the letter and if it was
45 necessary we could have any part translated into
46 Gitksan. I would say it is from document number
47 4560. It is the trapline file. Have you had a

1 chance to read that letter?
2 A Mh'm.
3 Q Now, you'll see that this letter is way back in
4 1983. My question to you is were you aware that
5 back then, back five years ago, that the Gitanmaax
6 Band Council was taking that position on your
7 behalf?
8 A I don't remember. I remember getting a letter like
9 this, but I don't remember.
10 Q I guess what I am getting at is Joe Wilson came and
11 talked to you last year?
12 A Yeah.
13 Q Or within the last year or two?
14 A Yeah.
15 Q And you mentioned previously that no one had come
16 and asked you about this problem before?
17 A Mh'm.
18 Q And what I'm getting at is back in 1983 did anyone
19 from the Band Council or on behalf of the Band
20 Council come and talk to you about this?
21 A I got a letter like this. It's about his sons
22 and --
23 Q Well, there might be another letter. Well, I only
24 have -- well, there are two other letters right
25 about the same time which might be the letter that
26 you've got. I will simply ask if you recognize
27 either of these as the letter that you received.
28 Now, just for the record the first letter that was
29 put to the witness is a letter from the Gitanmaax
30 Band Council re Steve Robinson dated June 24, 1983.
31 It is addressed to the Gitksan Carrier Tribal
32 Council to the attention of Neil Sterritt. Do you
33 recall receiving that specific letter?
34 A Yeah, I think I did get a letter like this.
35 Q All right. Can you recall if it was this letter or
36 could it have been another letter?
37 A I think I got two letters and one like this.
38 MR. FREY: There is two other letters. I don't believe that
39 you would have got either of these letters, but just
40 in case it turns out that these were one of the
41 other two letters, I'm showing to the witness
42 firstly a letter on the Ministry of Environment
43 letterhead dated May 9, 1983. It's from Frank
44 Guillon, District Conservation Officer. It is to
45 the attention of Indian Affairs to the attention of
46 Bob McLure. Now, have you ever seen that letter
47 before? Mrs. Howard, you should make it clear to

1 the witness that it is not addressed to him, and it
2 has not been circulated to him.
3 THE INTERPRETER: That's what I just said.
4 MR. FREY:
5 Q So it may be very well that you have never seen that
6 letter before?
7 A No.
8 Q And the next letter is on the Gitksan Carrier Tribal
9 Council letterhead, and it is dated November 24,
10 1983. It is addressed to Neil Sterritt. It is not
11 addressed to you and it has never been circulated.
12 Have you ever seen this letter before?
13 A No, I haven't seen this.
14 Q So of the three letters that you do recall seeing or
15 the only one you recall seeing is the June 24, 1983
16 letter. And when you say you received it, you
17 remember receiving it in the mail?
18 A Yes.
19 Q Now, I know this is a long time ago, but before you
20 got this letter had anyone ever talked to you about
21 Joe Wilson and his brothers wanting this trapline?
22 Had anyone ever talked to you before you got this
23 letter or is this the first you heard of it?
24 A Yeah, it's the first I heard of it.
25 Q All right. And you don't recall anyone from either
26 the Tribal Council or the Gitanmaax Band office
27 contacting you about this before you got this letter
28 in the mail?
29 A No.
30 Q All right. Now, it's your position that the
31 trapline or the area covered by the trapline
32 registration at Kluatantan River is part of the
33 traditional territories of Haimadimtxw; is that
34 correct?
35 A Mh'm.
36 Q So does that mean they are also part of the
37 traditional territories of the house of Nii Kyap?
38 A Yes.
39 MR. FREY: Now, are you aware that today these lands are no
40 longer claimed in this lawsuit? And when I say
41 "these lands", I'm referring to the area up at
42 Kluatantan River. Are you aware that today these
43 lands are no longer claimed in this action?
44 MR. GRANT: Well, just a moment. I want to be clear. You've
45 been talking here about a registered trapline. I
46 want to be sure that the entirety of the lands in
47 that registered trapline are not included or that

1 it's made clear to the witness which part of lands
2 in the registered traplines are not included.
3 MR. FREY: Well, my understanding, Mr. Grant --
4 MR. GRANT: And the simplest way is with the overlays, the
5 famous Macaulay overlays.
6 MR. FREY: I will come back and ask that question after the
7 break, that would be the easiest way to do it.
8 MR. GRANT: I just think it should be clear to the witness as to
9 what lands.
10 MR. FREY:
11 Q All right. Now, your father Art Sampson, he had a
12 trapline registered on the Red Creek territory?
13 A Mh'm.
14 Q And have you ever heard that your father had a
15 dispute with Bob Patrick regarding that trapline?
16 A No.
17 Q Never heard of that before?
18 A No.
19 Q Did you know a David Abraham?
20 A David Abraham. They are not talking about David
21 Patrick, are they?
22 Q The name I have is David Abraham, and I think it is
23 a different person. Have you ever heard of a person
24 called David Abraham?
25 A No.
26 Q Do you know of a person called Peter Abraham?
27 A Yeah.
28 Q And is he from Takla Lake?
29 A Yeah.
30 Q He is not a Gitksan person?
31 A He lives in Burns Lake now.
32 Q All right. But to your knowledge is he a Gitksan
33 person, and I am talking about Peter Abraham now?
34 A Well, he is from Bear Lake. He would be in with the
35 Babine band now.
36 Q All right. Do you know if he is a member of a
37 Gitksan house?
38 A No.
39 Q I mean it is your understanding he is a Babine
40 person?
41 A Yeah.
42 MR. GRANT: Well --
43 MR. FREY:
44 Q Now, were you aware that Peter Abraham had a
45 trapline registered across that part of the
46 territory I was asking you before, and the part that
47 I'm referring to is the part that is between Sabana

1 Gee and Xsi Tax.
2 A Mh'm.
3 Q So I'm asking you about the same part of the
4 territory that we discussed before.
5 A Mh'm.
6 Q And my question is are you aware that Peter Abraham
7 has a trapline registered on that part?
8 A Their trapline starts way, way up to Sustut River
9 past -- way past Tsim Gehl Loop.
10 THE INTERPRETER: Tsim Gehl Loop, it is on the affidavit.
11 MR. GRANT: Maybe the witness can finish his answer.
12 MR. FREY:
13 Q Finish your answer.
14 A Yeah, their trapline is way up the Sustut River.
15 Q All right.
16 A Up above us.
17 MR. FREY: Well, my understanding is that it is quite a large
18 trapline. And the information that I have is that
19 it comes down and includes that southeastern part of
20 the territory that we were discussing before. And
21 my question is have you ever heard that their
22 territory covered -- excuse me, have you ever heard
23 that their trapline included that part of the Red
24 Creek territory?
25 MR. GRANT: The registered trapline?
26 MR. FREY:
27 Q Yes, the registered trapline.
28 A This part here?
29 Q That's right.
30 A Yeah, it includes that.
31 Q Now, what right does Peter Abraham have to register
32 a trapline there?
33 A I don't know.
34 Q Did Peter Abraham -- are you aware that Peter
35 Abraham ever asked your father for permission to
36 trap there?
37 A No.
38 Q Do you know if Peter Abraham ever asked Wilmer
39 Johnson for permission to trap there?
40 A No.
41 MR. FREY: Perhaps this would be a convenient time to take the
42 break. And perhaps we could mark this letter
43 Exhibit 1.
44
45 (EXHIBIT 1: Letter dated June 24, 1983 on Gitanmaax
46 Band Council Letterhead)
47

(BRIEF ADJOURNMENT)

MR. FREY:
Q All right. Before we took the break I had been asking you a couple of questions about a Haimadimtxw territory up at Kluatantan River, do you remember that?
A Yes.
Q If I understand you have never had an opportunity to go up to that territory yet?
A No.
Q So you wouldn't know the precise boundaries of the territory?
A No, I wouldn't.
Q But it's your understanding that it is in the area of the Kluatantan River; is that right?
A Yeah.
Q Now, talking about that territory generally as being in the area of the Kluatantan River, were you aware that that area is not being claimed in this action?
A No, I wasn't aware of that.
MR. FREY: All right. Now, Mr. Grant this afternoon when he arrived gave me a photocopy of what appears to be a feast book for Maggie Louie. Firstly, can you tell me who Maggie Louie is?
MR. GRANT: Was.
MR. FREY:
Q Was, excuse me.
A There is so many of them, I don't -- that's the sister of my grandmother.
Q All right.
A Elsie Patrick, my grandmother.
Q All right. And was Maggie Louie in the house of Nii Kyap?
A Yes.
Q All right. And when was her funeral feast?
A I don't remember.
Q Was it in the last ten years?
A I think it is more than that.
Q Okay. Were you at that funeral feast, the Maggie Louie funeral feast?
A I think I was.
MR. FREY: Do you know if Maggie Louie had a name, a chief's name?
MR. GRANT: That's two questions.
MR. FREY: I was clarifying.
MR. GRANT: So the question is did she have a chief's name?

1 MR. FREY:
2 Q Did she have a chiefly name in the house of Nii
3 Kyap?
4 A No, I don't remember her name.
5 Q I understand that you may not be able to remember
6 the particular name that she had, but do you know if
7 she did have a chief's name?
8 A Yes, she did.
9 Q She did. All right. And was that chief's name
10 transferred to another person at this funeral feast?
11 A I don't think so.
12 MR. FREY: All right. Do you know -- and now I appreciate you
13 don't know what Maggie Louie's chief name was, but
14 do you know who has that name?
15 MR. GRANT: How can he answer that?
16 MR. FREY: It could we well be that he doesn't know the
17 specific Gitksan name, but he knows who her
18 successor was.
19 MR. GRANT: All right.
20 THE WITNESS: No, I don't.
21 MR. FREY:
22 Q Do you know if Wilmer Johnson has ever been up to
23 the Red Creek territory?
24 A No, he hasn't.
25 Q Now, in some of the material that I've read there
26 was a story about certain battles or a war between
27 the Kisgagaas people and the Fort Graham people who
28 I believe are called Ts'ets'aut. Have you ever
29 heard that story?
30 A Yes.
31 Q Now, my understanding is that it was a war over a
32 certain territory; is that right?
33 A Mh'm.
34 Q And I may not have this right, but I also understand
35 that the territory included the Ingenika River; is
36 that right?
37 A Yeah.
38 Q That's the area that they were fighting over?
39 A Mh'm.
40 Q And I understand that the dispute was over who had
41 the right to trap groundhogs in that area; is that
42 correct?
43 A Yeah.
44 Q Now, do you know when that war or this dispute took
45 place?
46 A No, I don't. It's way back, too far back.
47 Q All right. Well --

1 A But I heard of it.
2 Q Is it your understanding that it was say in the
3 1800's or was it many hundreds of years ago?
4 A I would say in the 1800's.
5 Q All right. In the version of the story that you've
6 heard, did the Indians have rifles?
7 A I don't think so.
8 Q Now, my understanding is that at one point in this
9 struggle that the Fort Graham people attacked and
10 killed a number of Kisgagaas people; is that
11 correct?
12 A Yes.
13 Q And I also understand that it is part of the story
14 that a young Kisgagaas girl was taken prisoner by
15 the Fort Graham people?
16 A Yes.
17 Q And that she later escaped and went back to the
18 Kisgagaas people. What happens from that point on?
19 Can you tell me the story from that point on?
20 A No, I can't.
21 MR. FREY: Well, then, my -- well, let's put it this way. I've
22 heard two versions and neither of them may be right,
23 but one version --
24 MR. GRANT: They both may be right because the war may have gone
25 on for hundreds of years ago.
26 MR. FREY:
27 Q That could be. But one version that I have heard is
28 that the Kisgagaas people got together an armed
29 force and that they went --
30 A Oh, from then on you mean?
31 MR. FREY: And when I mean from then on, what I am interested
32 in is the end of the story. Maybe we can go back
33 and cover this. The end of the story after the
34 young Kisgagaas girl escaped from the Fort Graham
35 people and went back to the Kisgagaas people, do you
36 know what happens after that?
37 MR. GRANT: Maybe Miss Howard can translate the question?
38 THE WITNESS: They went back and avenged the Kisgagaas people.
39 MR. FREY:
40 Q So they went back and attacked and killed the Fort
41 Graham people?
42 A Yes.
43 Q And as a result of their defeating the Fort Graham
44 people, did the Kisgagaas people acquire ownership
45 of the Ingenika River territory?
46 A Yes, they took back what they owned.
47 Q All right. And did they also get back the right to

trap groundhogs there?
A Yes.
Q All right. Now, do you know who that territory belongs to today? And I'm talking about the Ingenika territory that they were fighting about?
A I forgot the name now.
Q Well, perhaps my question could be more specific. Do you know what Indian nation or Indian group -- in your opinion, what Indian nation or Indian group owns that Ingenika territory today?
A Gitksan.
Q And I take it Mrs. Howard's question as translated: Is it owned by Gitksan, is it owned by Ts'ets'aut or is it owned by another person. Is that how she put the question to you?
A Yes.
Q And you say that it is owned by the Gitksan?
A Yes.
Q Do you know which chief owns that territory, which Gitksan chief?
A No.
MR. FREY: Those are all the questions that I have. Thank you. Mr. Mackenzie will probably have some questions for you.

CROSS-EXAMINATION BY MR. MACKENZIE:
Q Mr. Sampson, you speak about the territory at Red Creek in your affidavit, correct? Yes?
A Yes.
Q And the last time that you were up there was when you were about 14 years old, about 1948?
A Mh'm.
Q Did you -- in those days were you living at Fort Connelly?
A Oh, yeah. That's in Bear Lake.
Q Yes. Did you have a village?
A Yeah.
Q Was that the Bear Lake Band?
A Yes.
Q And where was your village located?
A Right at the lake.
Q At the north end of Bear Lake?
A Yes, at Bear Lake.
Q Xsi Tax?
A Yes.
Q And why did you move to Hazelton in 1949?
A The only reason how we can stay up there is from

1 trapping. The trapping got so poor that they had a
2 store up there, and pretty soon you can't afford to
3 get the airplane in to pay for stuff and we had to
4 move into town.
5 Q Who ran the store up there?
6 A It's a guy by the name of Carl.
7 Q Did some people also go down to Takla Landing?
8 A Not while I was there. From Bear Lake?
9 Q Yes.
10 A Yes, some went to Burns Lake.
11 MR. MACKENZIE: Do you know if anybody stayed there?
12 MR. GRANT: Where?
13 MR. MACKENZIE:
14 Q At Bear Lake.
15 A Yeah, there was two or three families stayed behind.
16 Q Are they still there?
17 A One family, yeah.
18 Q Who would that be?
19 A Patricks.
20 Q Is that Bob Patrick?
21 A Bob Patrick and the Abrahams, I believe.
22 Q Peter Abraham?
23 A Mh'm.
24 Q And up until the time that you were 14, did you stay
25 in the village or what did you do during those years
26 personally?
27 A During the --
28 Q Up to the years that you left, before you left?
29 A I would go out trapping, fishing. Fishing and
30 trapping.
31 Q What did you do before you started going out on the
32 trapline?
33 A What do you mean?
34 MR. MACKENZIE: How did you pass your time?
35 MR. GRANT: Before he went on the trapline?
36 MR. MACKENZIE:
37 Q Yes.
38 A Well, all we do is fishing and trapping. There was
39 no jobs there.
40 MR. MACKENZIE: Is it fair to say that the Department of Indian
41 Affairs moved the members of the Bear Lake Band
42 to -- away from Bear Lake to assist with medical
43 care and education and jobs?
44 MR. GRANT: I would object. First of all there is a combination
45 here that the Department of Indian Affairs moved
46 them, something which we have not made a foundation.
47 And, secondly, that the motivation of the

1 department -- I don't know how this is going to
2 determine that, although I think you may get to it.
3 MR. MACKENZIE:
4 Q Do you know if there was an official move by the
5 people?
6 A No, I don't know.
7 Q You were pretty young then?
8 A Yes.
9 Q And you say the first time you went out with your
10 father was when you were 13?
11 A Yeah.
12 Q And where did you go at that time trapping with your
13 father?
14 A Up the Xsu Wii Ax, the Sustut River.
15 Q And how did you get there?
16 A Snowshoes.
17 Q Do you have an idea generally of the route that you
18 might have taken?
19 A No, we just went through the valleys and mountains.
20 Q Did you go along the Xsi Tax Valley?
21 A Yes, up the right.
22 Q And when you got to Xsu Wii Ax, did you then go
23 right? Do you remember?
24 A We went down to Bear River and went up the Sustut
25 River.
26 Q And then where did you go, which direction?
27 A We trapped right up the river.
28 Q Upstream?
29 A Yeah.
30 Q How far upstream would you go? Would you have an
31 idea of that?
32 A Oh, about 20 miles I guess.
33 Q Who was the next territory over?
34 A Up above the river?
35 Q Yes.
36 A The Abrahams.
37 Q Were the Abrahams on the north side of the river or
38 the south side of the river, the Xsu Wii Ax?
39 A I've never been through this.
40 MR. GRANT: I think in fairness given the witness in the
41 affidavit says that not all directions are given by
42 him, I think if you are trying to pinpoint that you
43 should make some reference as to facing downstream
44 and which river.
45 MR. MACKENZIE:
46 Q If you are on Xsu Wii Ax facing upstream, are the
47 Abrahams on the right bank or the left bank?

A I don't know really.
Q Where was your father's territory on the right bank or the left bank facing upstream?
A The left.
Q Did you ever go as far as the Sustut Lake?
A No. I've been through there.
Q Did you?
A Yeah.
Q When was that?
A Gee, I don't remember, but I went through there.
Q Would it be after you moved to Hazelton?
A No.
Q While you were still young?
A Yeah.
Q Well, you are still young now, but before you left Bear Lake?
A Yeah.
Q Can you recall who you went with?
A My dad.
Q Do you know who owned Sustut Lake then?
A It was supposed to be my grandfather's, Bob Patrick.
Q Where did --
A That's where we went to --
Q Oh, yes. Sorry to interrupt you. You went to --
A The head of the Sustut.
Q Where did Bob Patrick come from?
A From Bear Lake.
Q Was he born there?
A I think so.
Q Did Bob Patrick own any other territory up there?
A Well, I don't know how far his line went to.
Q Did you ever go -- sorry?
A About this land Bob Patrick or my grandfather, I am not sure if it is Bob Patrick's or my grandmother's. I am not too sure of that.
Q Who is your grandmother?
A Elsie Patrick.
Q Oh, yes. Did you ever go to the lake Dam Giist?
A Yes, that's just miles from Bear Lake, a couple miles.
Q Do you know who owned that lake?
A That's --
MR. GRANT: You are talking about which house or are you talking about -- I just want you to be clear because there is registered traplines.
MR. MACKENZIE:
Q I'm sorry, which person owned it?

A It is part of our trapline.
Q Dam Giist?
A Yeah, the creek.
Q Did you ever trap there?
A No.
Q Do you know if your father ever trapped there?
A Part ways. Part of it. Actually, our line starts just below the lake. We actually live on there all the time.
Q Dam Giist?
A Yeah, part of the land on Bear River -- part of Bear River our line runs down the river there too.
Q So if one were to say that Peter Abraham owned Dam Giist that would be wrong?
A Yes.
Q Did you know Thomas Abraham?
A Yes.
Q Is he related to Peter Abraham?
A He is uncle.
Q If someone were to say Thomas Abraham owned Dam Giist he would be wrong?
A Yes.
Q Did you ever go to the lake Dam Luu Gidii Sitax?
A Oh, yeah, that's our trail to -- that's a trail to our trapline. That's where the line runs up there.
Q Where would that be? Is that up the Bear River from --
A Yeah.
Q -- your village?
A Right.
Q If you are going up -- if you are going down the Bear River, isn't it?
A Yeah.
Q If you are going down the Bear River, which side of the Bear River is it?
A The Xsi Tax?
Q Yeah, Xsi Tax.
A Going down would be the right side.
Q Did you know Paul Jack?
A Yes.
Q His name was Saa po'liyaa?
A Yes.
THE INTERPRETER: Is that a Gitksan name?
MR. MACKENZIE: Yes, apparently.
MR. GRANT: Will you say it again?
THE INTERPRETER: Saa po'liyaa.
MR. MACKENZIE:

Q And where did he live?
A Now?
Q When you knew him?
A He used to live in Hazelton.
Q Did he ever live out there at Bear Lake?
A Saa po'liyaa?
Q Yes.
A He lived there in the same year too in '49.
Q Did he have a cabin at Dam Luu Gidii Sitax?
A Yes, that's where they fish.
Q And a smokehouse?
A Yeah.
Q I guess everyone fished along the Bear River there?
A Yeah, there was about four places all the way down the river there right down -- we were the last one close to Wil Naa Guuk.
Q Is that getting down towards Xsu Wii Ax?
A Yes.
MR. MACKENZIE: Do you know who was the next person over downstream from -- downstream on the Xsu Wii Ax who had the trapline.
MR. GRANT: The registered trapline?
MR. MACKENZIE:
Q Or the territory downstream from your father's territory?
A I think it was Wii Kaax.
Q When you are facing downstream, which side is that on?
A I don't know.
MR. GRANT: Facing downstream on which?
MR. MACKENZIE:
Q On Xsu Wii Ax?
A I don't really know the boundaries.
Q Do you recall meeting -- do you recall having a meeting with Neil Sterritt in December 1982?
A About?
Q To talk about the territory?
A I don't remember.
MR. MACKENZIE: Do you recall telling Neil Sterritt that your dad's trapline started at where the Bear River flows into Xsu Wii Ax and went 20 or 30 miles upstream on Xsu Wii Ax?
MR. GRANT: His dad's hunting grounds?
MR. MACKENZIE:
Q Your dad's hunting ground, sorry?
A Yes.
MR. MACKENZIE: Mark that as the next exhibit. I'm going to

1 describe it. This will be Exhibit 1 on this
2 cross-examination.
3 MR. GRANT: Exhibit 2.
4 MR. MACKENZIE: I beg your pardon, Exhibit 2. It is a
5 topographic survey data sheet recorded by Neil
6 Sterritt and the date is December 20, 1982. The
7 informant is Abel Sampson.
8
9 (EXHIBIT 2: Topographic Survey Data Sheet dated
10 December 20, 1982)
11
12 THE WITNESS: I don't remember, but it didn't seem that long.
13 MR. MACKENZIE:
14 Q Did you ever get a chance to go over to Xsu Wii Lax
15 Amaawx?
16 A Have a chance to what?
17 Q Did you ever have a chance to go over to that creek?
18 A No.
19 Q Did you ever know the English name for that?
20 A The English name?
21 Q Yes?
22 A Well, the way that I remember is Xsu Wii Lax
23 Amaawx -- I can't explain in English.
24 MR. MACKENZIE: Well, go right ahead and --
25 THE INTERPRETER: The name he knows is Xsu Wii Lax Amaawx.
26 MR. MACKENZIE:
27 Q That's the name that you heard?
28 A Yes.
29 Q It is number one under special features Xsu Wii Lax
30 Amaawx. Can you describe what that feature is that
31 you just mentioned? Is it a mountain or a river or
32 a stream or something?
33 A It is a big valley, meadow and creek. The way I can
34 figure it out -- the closest way I can explain what
35 it means by that is it is the valley of the winds,
36 hey. It is always blowing and it's cold.
37 Q Did your dad tell you that?
38 A Yeah.
39 Q Did you hear it from someone else?
40 A Yeah, I heard it from -- that's what they said. It
41 is always blowing, just blowing and cold. It is a
42 wide open field.
43 Q Who would have mentioned that to you?
44 A What do you mean?
45 MR. MACKENZIE: Can you recall who you might have heard that
46 from?
47 MR. GRANT: He just said.

1 THE WITNESS: From my father.
2 MR. MACKENZIE:
3 Q Anyone else, can you recall?
4 A And my mother.
5 MR. MACKENZIE: Do you recall your father telling you that that
6 was in Wii Kaax's territory?
7 MR. GRANT: What Xsu Wii Lax Amaawx?
8 MR. MR. MACKENZIE:
9 Q Yes?
10 A Yeah.
11 Q Now, Mr. Sampson, you said that you are a member of
12 Nii Kyap; is that correct? You are a member of the
13 house of Nii Kyap?
14 A Yes.
15 Q As a member of the house, do you have the right to
16 use Nii Kyap's territories?
17 A I would have to ask permission.
18 Q Who would you ask for permission?
19 A Nii Kyap.
20 Q And who would that be?
21 A Jerry Gunanoot.
22 MR. MACKENZIE: And can you say as a member of the house of Nii
23 Kyap you would have a claim to compensation for
24 other people using those territories?
25 MR. GRANT: What other people?
26 MR. MACKENZIE: White people, alienations, that's what I am
27 talking about. Let me rephrase the question. In
28 this lawsuit, among other things, the Gitksan people
29 are claiming compensation for alienations and damage
30 to their territories. And my question was as a
31 member of the house of Nii Kyap would you share in
32 the compensation awarded for Nii Kyap's territories?
33 MR. GRANT: Well, just a moment. I think what you are asking is
34 ultimately a question of law as you framed it, and I
35 would object to it. It is not up to this witness or
36 anyone to interpret questions of law as to what he
37 is entitled to as the outcome of his lawsuit. There
38 may be a question in this lawsuit you can ask, but I
39 object to that question.
40 MR. MACKENZIE: Okay. I am going to try and reframe the
41 question because I think as you say we have asked
42 questions along these lines successfully. As a
43 member of the house of Nii Kyap, do you claim an
44 interest in the Nii Kyap territories?
45 MR. GRANT: In this lawsuit?
46 MR. MACKENZIE: In this lawsuit?
47 MR. GRANT: Maybe that question can be translated.

1 THE WITNESS: Yes.
2 MR. MACKENZIE:
3 Q As a member of the house of Nii Kyap, do you know
4 the location of the Nii Kyap territories?
5 A Not really.
6 Q Can you say whether you know the location of any of
7 the Nii Kyap territories?
8 A No. I haven't been through there.
9 Q Okay. Can you say who in the house of Nii Kyap
10 might know about the Nii Kyap territories?
11 A I would say Jerry Gunanoot.
12 Q Let me ask you this then. It is fair to say that
13 talking about Tsabux territories now Wilmer Johnson
14 says that your father Art Sampson was the last
15 person to use the Red Creek territory, right?
16 A Mh'm.
17 Q So it's the people who are trapping on the
18 territories who really have the knowledge of the
19 territories?
20 A Yeah.
21 MR. MACKENZIE: Now --
22 MR. GRANT: That question that you just asked?
23 MR. MACKENZIE: Yes.
24 MR. GRANT: I presume and you may want to clarify it, but what
25 you are asking is you just focused on his father.
26 MR. MACKENZIE: Yes.
27 MR. GRANT: And I assume you were asking that question with
28 respect to Tsabux territory?
29 MR. MACKENZIE: Yes, that's correct.
30 MR. GRANT: And I assume it is with regard to the Tsabux
31 territory who trapped there?
32 MR. MACKENZIE:
33 Q That's a good point.
34 Would you say the same about the Nii Kyap
35 territory, the people who are trapping there would
36 know it best?
37 A Yeah, it is Jerry Gunanoot.
38 MR. MACKENZIE: Your chief's name you've told us is Haimadimtxw.
39 Is that a chief's name in Nii Kyap?
40 MR. GRANT: The house?
41 MR. MACKENZIE:
42 Q Yes.
43 A As far as I know, yes.
44 Q When you were at Bear Lake, did you know William
45 Charlie?
46 A Yes.
47 Q And where does he live now?

A Burns Lake.
Q Did you know where his traplines are?
A No.
Q When you were at Bear Lake did you know William French?
A I heard of him, but I never seen him.
Q Did you know Mary French?
A I heard -- well, I never seen them. I heard the name.
Q You told us you knew Paul Jack?
A Yeah.
MR. MACKENZIE: Where was his trapline?
MR. GRANT: Registered?
MR. MACKENZIE:
Q I'm sorry. Do you know where Paul Jack's house territory is?
A That will be in Nii Kyap's.
Q Do you know where his registered trapline was?
A It's the head end of the lake, somewhere in there. I haven't been through there.
Q Bear Lake?
A I never went through there at the head end.
Q Did you ever know of Jimmy Johnny?
A No.
Q Or Moisa Johnny?
A No.
Q Did you know Johnny Teegee?
A I heard of him.
Q Did you know Charlotte West?
A No.
Q Dominic West?
A I have heard of them too.
Q Did Dominic West live at Bear Lake?
A I think he was living in Fort Graham.
MR. FREY: Sorry, I missed it. Where?
MR. GRANT: Fort Graham.
MR. MACKENZIE:
Q Do you know where his trapline was?
A No.
Q I would just like to ask you a couple of questions about your affidavit. You signed this affidavit which is Exhibit 600 on May 13, 1988?
A Mh'm.
Q Yes. And where did you sign it? In which location did you sign it?
A In Hazelton.
Q Where in Hazelton did you sign the affidavit?

A At the Gitanmaax office.
Q Oh, at the Gitanmaax Band Council office?
A No. Yeah.
Q Yes?
A Yeah.
Q On the reserve?
A Yeah.
Q Yes. And did you have a meeting with anyone before that day that you signed the affidavit to discuss it?
A Yeah.
Q Who did you meet with?
A Neil.
Q Is that Neil Sterritt?
A Yeah.
Q Can you tell me when you met with Neil Sterritt?
A No, I don't -- I don't recall.
Q Can you tell me whether it was the same year?
A Yeah, same year.
Q And can you tell me where you met with Neil?
A In his office.
Q And is that in the Tribal Council office?
A Yeah.
Q And did you -- what did you discuss with Neil during that meeting?
A Well, he -- he showed me what my dad had -- what he had shown him, and just asked me if it was correct. I remember that everything was correct.
Q Yes. Because Neil had met with your dad?
A Yes.
Q Several times?
A Yes.
Q And Neil showed you the notes that he had made?
A Yes.
Q Yes. And what happened after that meeting, if anything?
A Nothing.
MR. MACKENZIE: And is the next event that related to this someone giving you the affidavit? After you met with Neil Sterritt immediately you got the affidavit to sign it?
MR. GRANT: You mean at the other meeting?
MR. MACKENZIE:
Q Yes, let me rephrase the question. You had the meeting with Neil?
A Mh'm.
Q And sometime later you went to the Band Council

office and signed the affidavit?
A Yes.
Q And at the Band Council office there was a lawyer there?
A I don't know.
Q Was there someone there when you signed your name?
A Oh, yeah. I don't remember who.
Q It doesn't matter. Was it a lawyer?
A Yeah.
Q And without telling me what he said, I take it you went in and signed the affidavit?
A Mh'm.
Q Did you read over the affidavit?
A Yes.
Q Was the affidavit -- any part of the affidavit translated to you?
A No, I understood it quite well.

MR. MACKENZIE: Thank you very much. I have no further questions.

RE-EXAMINATION BY MR. GRANT:

Q Is Wilmer Johnson related to Kathleen Wale?
A Yes.
Q How are they related?
A I'm not too sure.
Q You know they are related?
A Yeah.
Q When you travelled into the Red Creek territory with your father, what time of year did you usually travel up there with your father?
A In the early fall right up until February.
Q So you would stay there for several months on the territory?
A Yeah, about a month at that time and come back home.
Q Okay. So you would go back and forth?
A Yes.
Q And you did that first when you were about 13?
A Mh'm.
Q And then you did it the subsequent year when you were 14?
A Yeah.
Q Did you do it the year that you were 15?
A No.
Q So you would go up for -- in each year how many times would you go up on the territory between the fall and February?
A We actually go out there all year-round really.

Q Mh'm.
A In the summer we go up the mountain to hunt groundhog and goats, caribou.
Q So between the time you were 13 and the time that you left Bear Lake, did you spend more time on the territory in those years on the Red Creek territory? Did you spend more time each year on the territory or at the village of Bear Lake?
A Well, the village of Bear Lake is -- well, we are down from the river actually. Actually I was on our territory all the time staying right on there all year-round.
Q Did you know Peter Wilson, the former Haimadimtxw?
A Yes.
Q Did Peter Wilson ever talk to you about this territory up at Kluatantan River? Did he ever talk to you about why he was there?
A A little bit. I heard a little bit of it how he got it.
Q What did you hear as to how he got it?
A His uncle went up trapping up the Skeena and the Stikine people came down and his uncle got murdered there, killed. He went back up that way to avenge the death of his uncle.
Q Mh'm.
A But for some reason they didn't want to fight and in return they gave him that part of -- in return they gave him part of that territory, that's how he got ahold of it.
Q And when you say they gave him that territory, was that Gitksan or Stikine that gave him the territory?
A The Stikine gave it to him.
Q Do you know when that murder of his uncle occurred in relation -- put it this way, was it in Peter's lifetime or before Peter was born?
A Before Peter was born.
Q Did you know the name of his uncle who got killed? Do you remember that?
A No.
Q If you can't remember that's okay.
A No.
Q Now, Mr. Frey asked you about Peter Abraham and he asked if he was a Babine person and you said yes.
A Now, yeah.
Q Okay. Now, when you say a Babine person, what do you mean? I mean Mr. Frey used that term, but what did you mean by that reference to Babine person?

A He is in a different band.
Q That means he is a member of the Babine band?
A Yeah.
Q Do you know if he is a Gitksan person, that is he is a member of a Gitksan house or if he is a Carrier person or a Sekani or a Ts'ets'aut? Maybe Miss Howard can translate that.
A Yeah, I know what he means.
Q Okay.
A I'm not too sure if I can explain it. I think his father was from Hazelton and his mother was a Ts'ets'aut, so I don't really know.
Q Do you know his father's name? Do you remember that?
A Michelle Abraham.
Q Do you remember his mother's name?
A No, I don't.
Q You were asked about Peter Abraham's registered trapline and if he ever asked your father to trap on your father's -- well, I am unclear whether it was territory or trapline, but let me ask you this. To your knowledge, did Peter Abraham ever trap on the Tsabux territory at the Red Creek territory?
A No.
Q You were asked by Mr. Frey about the war, the wars between the Ts'ets'aut and the Gitksan with respect to Ingenika. You asked -- Mr. Frey asked you if they -- which nation ended up with the Ingenika territory and you said with reference to the Kisgagaas people they took back what they had owned. Prior to the wars between the Ts'ets'aut and the Gitksan, whose territory was it around Ingenika from the territory that you've been taught? Was it Gitksan or was it Ts'ets'aut?
A It was Gitksan.
Q Did your father's house own part of Dam Giist or all of Dam Giist or none of Dam Giist?
A All of it.
Q You were asked by Mr. Mackenzie about fishing on the Bear River and you said there were four places on the Bear River where there were fishing sites, you remember that?
A Mh'm.
Q Were each of those places owned by different chiefs or were they all owned by one -- by the same chief?
A It was more like just family.
Q Can you explain what you mean by that by giving an

example? For example, the site you used, who would use it? Who else would use it?

A The whole family.

Q Okay. By family here are you referring to the house of Tsabux or to your mom and dad and just the children or the other relatives of the house of Tsabux? I just want to be clear what you mean.

A The whole house, yeah.

THE INTERPRETER: The whole house.

MR. GRANT:

Q Now, Mackenzie asked you about if you were -- I think it was on Xsu Wii Ax if you were facing downstream and you said who had the territory facing downstream and you said Wii Kaax. And then he asked you about what side it was on, and you said: I don't know the boundaries. When you say you don't know the boundaries, are you talking about the boundaries of Wii Kaax's territory or all of the boundaries that you don't know?

A All of Wii Kaax.

Q All of Wii Kaax?

A Yeah.

Q You were asked about Xsu Wii Lax Amaawx, and you described what it was. Was that Xsu Wii Lax Amaawx, was that partly on Tsabux's territory? Is it partly on the Red Creek territory?

A Yes, it is down the creek.

Q And whose territory was next to it?

A Wii Kaax.

MR. GRANT: Thank you very much, Mr. Sampson.

(PROCEEDINGS CONCLUDED)

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

Lisa Franko

LISA FRANKO, OFFICIAL REPORTER
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