Smithers, B.C.
June 22, 1987

THE REGISTRAR: Order in court. In the Supreme Court of British Columbia, this 22nd day of June, 1987, Delgamuukw and others and Her Majesty the Queen.
THE COURT: Mr. Rush.
THE REGISTRAR: Witness, I remind you you are still under oath.

EXAMINATION_IN_CHIEF_CONTINUED_BY_MR._RUSH:

Q We were talking on Friday, Mr. Joseph, about your territory, and I wanted to ask you today if -- if you or another chief can sell your territory?
A No.
Q And is that true with other Wet'suwet'en chiefs?
A Yes.
Q They can't sell their territory?
A Yes.
Q Okay. And can use of the territory be given on a temporary basis?
A Yes.
Q Okay. And does it require the permission of the chief for that to have -- to occur?
A Yes.
Q Now, can a sub-chief be given authority over a part of the territory?
A Yes.
Q And how does that happen?
A They are given -- are told to look after certain parts of the territory. If there is a big territory, it's -- and then there's two or three valleys in it, each person is -- each chief is told to take care of different areas.
Q Okay. And do you know of an example of that?
A Yes, I think the one that is south of Houston between Kanoots and Madeek is one that the two chiefs share one territory.
Q And who are the two chiefs?
A Kanoots, Peter Alfred; and Madeek, the late George Naziel.

MR. RUSH: I think those names were given to you, my lord, on Friday.
THE COURT: I didn't get the -- I got Madeek, but the other I -- one I thought he said was --
MR. RUSH: No, he said Kanoots. That's 110.
THE COURT: Thank you.
Madam Registrar, I don't seem to have my list of

names that I thought I had collected the other day. Would you have a look?

THE REGISTRAR: I'll look for it. Would you like the exhibit?

THE COURT: No, no. I have that exhibit. Go ahead, Mr. Rush. I'll be all right.

MR. RUSH:

Q All right. Thank you. Now, Mr. Alfred -- Mr. Joseph, can you tell me whether there have been any changes in the boundary of your territory?

A No.

Q Did you see the map that was delivered with the answers to the interrogatories?

A Yes.

Q All right. And you filed interrogatory answers?

A Yes.

Q Okay. Now, are there differences between that map that was submitted with the interrogatories and what you have described as the boundary of the territory of Gisdaywa?

A Yes.

Q And could you just tell his lordship, if you can, where those changes are to the boundary of the territory?

A The first change is the -- on the map that I've seen, and I've talked it over with Andy George, and it's an area just about north-west of Morice River on the C'el tay toostaan Kwe.

Q And what river is that?

A That's Houston Tommy Creek.

Q Okay. And do you recall what the -- the map showed that was delivered with the interrogatories?

A It showed that in -- part of the boundary was running along the Houston Tommy Creek, and it should have followed the -- the valley at the height of land from north-west of Houston Tommy Creek, and the area that wasn't included was an area, a plateau, where there was no trapping done.

Q How was that area used?

A It was used as hunting territory.

Q And --

A It was --

Q Yes.

A There was no -- it was just -- there was no place for trapping in that area, plateau.

Q All right. And you said that you came by this change in discussion with Andrew George?

A Yes.
Q All right. Okay. And was there another change in the boundary map that you noticed?
A Yes. There's another one to the east where a mountain or a hill, we call it Ts ee Ggexw C'en --
Q That's 179, my lord.
A -- was too far west on interrogatory map and was supposed to be further to the east.
Q The actual place that the mountain -- that this mountain was located was farther west on the interrogatory map?
A Yes.
Q Okay.
A And it also showed that the boundary was running -- didn't include Tadek, Tadek Ben.
Q That's 189, my lord.
A And that was supposed to be included.

MR. RUSH: 189.

THE COURT: Thank you.

MR. RUSH:

Q I just missed your last answer, Mr. Joseph.
A That was supposed to be included, but it was -- the boundary was west of Tadek Ben, and it was supposed to include Tadek Ben.
Q And did you bring these changes to the attention of the map maker?
A Yes.
Q Okay. And was there another change in the --
A Yes, there was another change.
Q -- in the boundary of the interrogatory map?
A Yes, it's an area south-east of Biiwenii where the boundary followed Peter Alec Creek for a ways and then there is another mountain, a small hill, south of Peter Alec Creek, and it goes up to that mountain.
Q And do you know that -- do you know the name of that mountain?
A Wey iis t'an t'aak.
Q Okay. And you said it was south of Biiwenii?
A South-west of Biiwenii.
Q And did you -- is that Biiwenii Ben that you meant to say?
A Yes, Biiwenii Ben.
Q Yes. If you look on your map, my lord, you'll see that the area south-west of Biiwenii shows a mountain that is -- would you just repeat the name again?
A Wey iis t'an t'aak.

MR. RUSH: It's not on the list, my lord, but it --

THE COURT: Is it N-e-d-i-n-a-a-y?
MR. RUSH: It -- it is spelt W-e-y i-i-s --
THE COURT: Oh, all right.
MR. RUSH: t-'-a-n t-a-a-k.
THE COURT: I'm sorry. Can you show me where it is?
MR. RUSH: Yes. It's right virtually right at the bottom here. With the north -- here.
THE COURT: I think I've got mine upside-down.
MR. RUSH: Yes. The north side should be up on your right-hand side. And Biiwenii Ben --
THE COURT I've got Biiwenii Ben. I don't have any trouble with it.
MR. RUSH: All right. If you go slightly to the south and to the west, you'll see the mountain, which is called Wey iis t'an t'aak.
THE COURT: Yes.
MR. RUSH: And I believe that's what the witness has referred to.
THE COURT: All right.
MR. RUSH:

Q And how did you come to know about that change?
A Well, it --
Q -- Mr. Joseph?
A The boundary on the interrogatory showed that the land -- their line ran north from there, and it wasn't -- it was supposed to follow the creek.
Q And the creek at that point is which creek?
A Peter Alec Creek.
Q And what's the Wet'suwet'en name for that?
A I just forgot.

THE COURT: Maybe you could lead on that.
MR. RUSH:

Q I think it's T'azdlii Kwe.
A T'azdlii Kwe.
Q Yes. All right. Now, was there another change in the interrogatory map from what you've described as the territory of Gisdaywa?
A The -- that again is up in the north, the headwaters off Houston Tommy Creek, and there is a peak north of the water -- headwaters of Houston Tommy Creek, which is Seselii t'oogh, which wasn't included in the interrogatories.
Q Seselii t'oogh is 306, my lord.
And should it have been included?
A Yes.
Q And do you -- can you -- do you know why it wasn't included?

A Well, I guess -- I think the -- the map maker may have used it as a boundary, but the peak is owned by Gisdaywa.
Q I see. So the boundary should have gone to the peak?
A Yes, around the peak.
MR. RUSH: My lord, I think I was in error in saying it was 306. Seselii t'oogh was 185.
THE COURT: Thank you. 185. Thank you.
MR. RUSH:
Q And did you draw that to the attention of --
A Yes.
Q -- Mr. Marvin George?
A Yes.
Q And as a result of that was the boundary, to your knowledge, changed on a subsequent map?
A Yes.
MR. GOLDIE: Is my friend tendering those two maps as exhibits, my lord?
THE COURT: Well, one of them is in already.
MR. RUSH: One of them is for identification.
THE COURT: That's part of Exhibit 62.
MR. RUSH: Yes.
THE COURT: Are you tendering the other map?
MR. RUSH: No, I'm not.
THE COURT: All right. I expect your learned friend might.
MR. RUSH:
Q I suspect he will.
Now, Mr. Joseph, you indicated in your testimony that permission could be given to other Wet'suwet'en people to use the territory of a Wet'suwet'en chief, is that correct?
A Yes.
Q Are there situations in which the sons a chief use the chief's territory with the chief's permission?
A Yes.
Q And what in Wet'suwet'en is this referred to as? Is there a name that we have for this?
A Yes, it's Neg'edeld'es.
Q That's 192. And what does Neg'edeld'es mean?
A It's where the chief's family or sons use his territory.
Q All right. And is this a common occurrence among Wet'suwet'en people?
A Yes.
Q All right. And what is supposed to happen upon the passing on of the chief where the sons are using the

chief's territory?
A When the chief passes on, the -- the children that have used the territories move back to their own territories on the mother's side.
Q Can the children of the chief who has passed on be given permission to continue to use the territory?
A Yes.
Q All right. Now, are there situations that you know of where the children have continued to use the chief's territory after the father has passed on but without permission?
A Yes.
Q And do you know how these situations have arisen? Do you have knowledge of this, where that has occurred?
A Yes, it occurs when -- when you are using the Fishing and Wildlife Regulations.
Q And what is it about those regulations that has brought this situation into being, if you know?
A That's when the Fish and Wildlife people say that the territory has to go to the son, and that is against the Wet'suwet'en law.
Q Now, have you, Mr. Joseph, been present at which these situations, where the son remains on the territory, have been discussed among Wet'suwet'en chiefs and at Wet'suwet'en Feasts?
A Yes.
Q And can you say whether or not the Wet'suwet'en chiefs are addressing this issue?
A Yes.
Q And do you know how they are addressing it? What are they doing about this?
A When there is a meeting or a Feast and the -- the sons of a chief have been using the father's territory all their lives and then state at a Feast that they are going back to their mother's territory, and they announce it at a Feast or a meeting.
Q Have you been at Feasts or meetings where these announcements have been made?
A Yes.
Q And has this occurred in the last say five years?
A Yes.
Q What other ways are the Wet'suwet'en chiefs addressing this issue?
A They -- it's always brought up at the Feasts, where the -- where the Wet'suwet'en chiefs try to educate the younger people that the proper way to handle the ownership of a territory is to hand it down to the

mother's side, and that is -- the information is given at the Feast or any gathering.

Q And this is communicated in a public way?

A Yes.

MR. GOLDIE: Well, I wonder if my friend might simply ask how is it communicated, because "in a public way" leaves the question in a very unsatisfactory way.

MR. RUSH: I'm happy to do that.

MR. GOLDIE: Thank you.

MR. RUSH:

Q Could you tell his lordship how it is communicated at the Feasts and meeting that you've talked about?

A In the past the -- it was always known who owned a territory, and people were just told that this territory belongs to this clan, but in -- ever since the -- the territory were passed down from father to son, it became apparent that we had to educate the younger people how the system worked. The people that -- that don't understand the system are people that have been out of the territory, young people that have been raised in different areas and then have come home and attended Feasts and found out that they were using territories that didn't belong to -- I mean, hadn't -- thought that it had inherited land that belonged to them, but found out that it belonged to another clan. So that is why now the -- the -- the elders and the chiefs are letting the younger people know about the territory and about our system at a Feast.

Q And are these -- are the questions of ownership of territory raised by the owning chiefs and described at the Feasts?

A Yes.

Q And other meetings?

A And the Feast, yes.

Q Now, Mr. Joseph, are you authorized as Gisdaywa to speak on behalf of your territory?

A Yes.

Q And you are authorized to speak at this court case for Gisdaywa's territory?

A Yes.

Q And have you been authorized by the other chiefs of your House?

A Yes.

Q Now, are you as authorized -- as the authorized chief, are you able then to give permission to other people to describe your House boundaries?

A Yes.
Q And have you done that?
A Yes.
Q And now, I'm going to ask you some questions about an area dealing with the crests of the House of Kaiyexweniits.
Q Were you told about the territories and history by your grandparents and parents and your aunts and uncles?
A Yes.
Q And was this -- were you told about the history of Gisdaywa?
A Yes.
Q Okay. And was Woos -- the former holder of the name Woos, did he also tell you about the history of your crest and your House?
A Yes.
Q And, as well, your grandfather Nahloochs?
A Yes.
Q And can you tell me if at the Feasts your -- the history of your crest and House, if these were announced at Feasts that you attended?
A Yes.
Q Now, the crest of Gisdaywa is the bow and arrow, is that right? Or perhaps I should say that one of the crests of Gisdaywa is the bow and arrow?
A It's the personal crest.
Q Okay. And when you say the personal crest, what do you mean?
A A personal crest is -- is the House chief's own crest, and the other members of the Kaiyexweniits all have their personal crests, and those crests could be changed at times, but the crest of the House or the clan can't be changed.
Q And the personal crest that cannot be changed is the one of the bow and arrow?
A No, the personal crest can be changed.
Q Oh, it can be?
A Yes.
Q All right. The personal crest of Gisdaywa is acted out at the Feast, is that right?
A Yes.
Q All right. And what is it called when that crest is acted out at a Feast?
A It is called Kun biit k'aayh.
Q That's 255.
And can you tell his lordship what is done when

that crest is acted out?
A It is -- happens at a Stone Raising Feast or a Pole Raising Feast, and the House chief or, in my case, Gisdaywa, I'd come into the -- into the Feast House announced by three different people and -- people from the father's clan, and when that is announced, I come in with my crest, and that's in our language Kungax, to show my Kungax. And when I come into the Feast hall, I have a robe, a bear-skin robe.
THE COURT: I'm sorry, rope or robe?
THE WITNESS: Robe. A bear-skin robe.
THE COURT: Thank you.
THE WITNESS: Or a button blanket with a bear mask. And I go and touch with the arrow that I have, and I touch each head chief in the House. And when I touch that head chief, oftentimes he'll act out his -- his Kungax at the same time and in some way. And as he does that, he gives me a present, and that is taken by the guides that are with me. And I go through all the three clans at the House that are in the Feast. That's called Kun biit k'aayh and showing your Kungax.
MR. RUSH:
Q That's 255, my lord.
Now, why is the Kungax performed at the Feast?
A That is to -- when you come and show -- after you've showed your Kungax, it is announced there why it's done, to display the -- your crest, to display the song that has been used, sung at the time, the history that -- the history of the song, when it was created and by whom it was created. And the land that -- the land of Gisdaywa is also announced, any history that goes along with it.
Q All right. Now, you've made mention of the term Kungax, and you've heard in this court case mention of the Gitksan word adaawk. Are there differences between the Wet'suwet'en Kungax and the Gitksan adaawk?
A Yes, there is a difference.
Q Can you tell his lordship what that is?
A The -- the Gitksan Kungax relates to migrations within the territory.
THE COURT: I'm sorry, this is --
MR. RUSH: The Gitksan Kungax he referred to.
THE COURT: I thought that's what --
MR. RUSH:
Q By that do you mean the Gitksan adaawk?
A Yes.

THE COURT: All right. Thank you.
THE WITNESS: And our Kungax is more -- more around the -- it's not migrations; it's just -- it tells about happening in the -- within the territory, how clans and crests were created, and how people defended their territory and their people.
Q Can you give an example of an event within the Wet'suwet'en territory that gave rise to Wet'suwet'en crests that is in the Kungax?
A There is one that was Kweese, the defence of his people was one of them.
MR. GOLDIE: Excuse my, my lord. I missed that word. Is the example going to be of the crest of Gisdaywa or was there --
MR. RUSH:
Q No, no. This is giving of one example of where a crest was created as a result of an occurrence within the territory of the Wet'suwet'en people, and the answer that he gave was in respect of Kweese, which is on the Plaintiff's list, number 38.
And you have knowledge of this, do you?
A Yes.
MR. GOLDIE: Excuse me. That's my concern, my lord. Can my friend establish how this witness has knowledge of a happening that doesn't relate to his House?
THE COURT: Oh, I think it does relate to his House, does it not?
MR. GOLDIE: I didn't understand that, my lord. That was the point of my question.
MR. RUSH:
Q How do you know about the Kungax of Kweese?
A It's -- that history of the raid or the war party that Kweese formed was by all clans, and that is where all the different clans got most of their crests because it involved every -- every clan. So when Kweese went on this raid, he, as a reward, gave each clan a crest for their participation.
Q Who is the present holder of the Kweese?
A Florence Hall.
Q And have you heard the telling of this history?
A Yes.
Q And where -- where have you heard the telling of this?
A It's been told at every gathering of the Wet'suwet'en by elders. I've heard that ever since -- I came out of residential school was the first -- was the time I heard it for the second or third time. I heard it when I was a child, but I wasn't too clear on it. But

I've heard it from different people and other persons like Johnny David, Kanoots. Peter Alfred have told it.

Q The performance of the Kungax of Gisdaywa that you've described, the -- is the history of the performance of that crest told at a Feast after or before the performance occurs or indeed during the performance?

A It happens after.

Q Okay. And does the telling of the history sometimes occur in the course of a song?

A Yes.

Q Now, in terms of the personal crest of the bow and arrow that you have referred to, can you tell the court what is the -- the history that goes with the performance of the Kungax that you have referred to?

A The -- the arrow you're talking about?

Q Yes.

A Yes.

Q Yes, the arrow crest.

A It's -- it's about a village where the -- the -- the whole population is wiped out by some -- by enemies that came in to raid the -- the territory, and there's only one girl that is spared or -- or she must have hid from them, and she's the only one that's left in the village. And when she came out of hiding or back to the village, she was -- started to cry, and her -- her teardrops turned into human eyes. And she picked up these human eyes and rubbed it on her bosom and out of that she became pregnant and had a boy. So she repeated the process and another boy was born. And the third time she done that she had a girl, and the girl turned out to be lame. And when the lame girl grew up, she became very smart.

And then they -- they had a visit -- visitor, and the visitor came and gave them presents. He gave them a small box, and in the small box was two arrows, and he gave one of those arrows to the -- one of the boys, and the other boy he gave another arrow. And when the -- and the other present to the girl was a shovel.

And the man told them that they were his children, and he said that whenever there was any problems or -- you can destroy anything with this arrow. So they hit -- and you have to -- when you hit this -- whatever you hit, you have to say that it has to burst. So they hit the mountain with it, and the mountain -- they said let the mountain burst, so the mountain burst.

So that -- it's the same thing with the girl. The girl's present was that -- when she got that shovel, the promise was made to the girl that all the girls, lame girls that were born would be smart.

And then the man built them a house, and that is how the -- the -- the two boys and the arrow protected the -- the -- the people as the village grew. They protected them from all the enemies by using this arrow that the man gave them. So that is the -- the history of the arrow of Gisdaywa.

Q And the village that you've made mention of, do you know the -- do you know that village?

A There is only one village that our people talk about, and that's Dizkle.

Q That's 273.

Where -- do you know where -- well, first of all I should ask you is -- Dizkle, is that a present village of the Wet'suwet'en?

A There is a village site.

Q And where -- where is that?

A That's around Mosquito Flats, which is --

Q Could you maybe just describe it in relation to Moricetown and Hagwilget?

A It's between Moricetown and Hagwilget, and there's a ranch there called Rainbow Ranch.

Q And are there Wet'suwet'en people living at that place today?

A No.

Q Are you able to say how old the village of Dizkle is?

A It is -- when our people describe Dizkle, it is -- they say it was here when they -- on earth -- as old as this earth is the way they describe it.

Q Now, I think in answer to a question of mine you said that sometimes the histories were told in the form of a song, is that correct?

A Yes.

Q And a song in Wet'suwet'en is Kun, is that right?

A Kun, yes.

Q That's K-u-n, my lord.

And can you just say to the court, Mr. Joseph, why the song is important, apart from the -- obviously because it tells a history? But is there some other reason a song to Wet'suwet'en people is important?

A Well, a song is important because it is -- it tells of the different events like -- and it tells of your Kungax, and it is also used spiritually. And when medicine men use a song, they always -- a name of a

small place is always added to it.
Q So --
A Every -- no matter what clan they are, they -- they always have this one name of one area that's included in the -- in medicine man song, and that -- it's a small hill on the north shore of Ootsa Lake. And when they sing that song, I've been told by elders that the name Ts'uu t'ai is always included in the -- in the medicine man's song.
Q Ts'uu t'ai?
A Ts'uu t'ai, yes.
MR. RUSH: I don't think that's a word we have, Mr. Mitchell. Could you help us with that, please?
THE TRANSLATOR: T-s-'-u-u t-'-a-i.
MR. RUSH: Thank you.
THE COURT: Is that the same name as the lake?
THE WITNESS: No, it's a hill on the north shore --
THE COURT: A hill on the north shore?
THE WITNESS: Yes.
THE COURT: Of?
THE WITNESS: Ootsa Lake.
THE COURT: What is the name of the lake?
THE WITNESS: Ootsa Lake.
MR. RUSH: Ootsa, O-o-t-s-a?
THE COURT: Yes. All right.
THE WITNESS: And it also -- they have different songs, like songs of -- for the medicine man, like I said, and the songs -- personal songs, and House -- the songs of the House, and the song of the clan, so it's always for different things. Then there is a song of the earth, and that is sung by people at certain times of the year, mostly in the springtime. And when people sing that song, it's to remind them and others of the past. They sort of relive their youth by singing that song.
And most -- oftentimes when a person does sing that song, it is maybe the last time they sang it. No one knows it, but it seem to be that after they sing that song, it's -- they -- they pass on. And sometimes the person can -- doesn't have to be really old. But I've seen -- seen the song done by an elder, who was crippled, and she used to be a strong lady, and she worked, she trapped, she done everything, but in her later years became crippled and she couldn't do anything, so she sang one of these songs. And I remember this very well. That's the song of the earth.
Q The song of the earth?

A Yes.
Q Is there also a mourning song?
A Well, it's sort of a mourning, yes.
Q All right. Is there a song that is -- that is sung as a song that's used to invite people to a Funeral Feast or a Headstone Feast?
A Yes.
Q And is that -- is that song called a San eel?
A San eel, yes.
Q And is that a song which is like a dirge or a mourning song?
A Yes.
Q It's also used for making peace.
Q It is used for making peace as well?
A Yes.

MR. RUSH: All right.
THE COURT: I didn't get the spelling of that word.
MR. RUSH: No. We have it, my lord. I think it was given to us earlier.
MR. GOLDIE: 275.
MR. RUSH: I'm sorry, 175?
MR. GOLDIE: 275.
THE COURT: It looks like it.
MR. RUSH: Yes. Thank you. That's it.
THE COURT: Thank you.
MR. RUSH:

Q Mr. Joseph, I understand that the San eel is sung when people are invited to a Feast and that at the same time a rattle is used at the invitation point?
A Yes.
Q Am I right about that?
And is the same song sung again at the Feast to which the people have been invited?
A Yes.
Q Are there some songs which are older than other songs that you know to be ancient songs and some that are newer songs?
A Yes.
Q And is there a way of telling in the words that are used whether the song is old or new?
A Yes.
Q All right. Are songs created -- are songs created more recently, for example?
A Yes.
Q And what's -- what would be a -- without giving an example necessarily, what would be a situation where a song would be created, let us say, in the last five

years?
A There is a song created for it to be the same as a pole raising or a stone raising to mark the occasion and for the chief to get their own songs.
Q Is it then right to say that a song will be used to commemorate a particular occasion?
A Yes.
Q And are these songs created today and used this way?
A Yes.
Q Are there occasions when other Wet'suwet'en people are hired to sing the songs?
A Yes.
Q Are there -- are there particular people who among the Wet'suwet'en are singers?
A Yes.
Q Okay. And Sylvester George in your House, is he one such person?
A Yes. He used to do most of the singing, but, like I've said before, his health isn't very good today.
Q Now, I -- if you will, I'd like you to make another comparison or contrast for me, Mr. Joseph. You mentioned the performance of the Kungax, and I think you called it Kun biit k'aayh, and I wonder if you can say whether this performance is similar to or different from the Gitksan Nox Nox?
A It is similar to it.
Q Okay. And does it -- does -- you've been to Gitksan Feasts, have you?
A Yes.
Q Have you been to many of them?
A Yes.
Q And you've seen Nox Nox performed?
A Yes.
Q The way in which the performance is acted out at a Wet'suwet'en Feast, does it serve a similar function in a Wet'suwet'en Feast as a Nox Nox, as a Gitksan Feast?
A Yes.
Q I want to ask you now about a different subject, but a related subject. And I made mention to you earlier about the poles of Gisdaywa, and I'm going to show you a photograph of the poles again and just ask you if you'd tell us what the crests are on those poles. If you'll look, Mr. Joseph, at tab 5 of Exhibit 62, taking the photograph there, you've identified this photograph for us and the poles in it. I want to direct your attention to the pole on the right. The

crest figure at the top of the pole is the crest of the bow and arrow, is that right?
A Yes.
Q And which direction is the figure facing and the arrow pointing?
A East.
Q Okay. And do you know why that is? Is there some significance in that?
A That was -- the song of Gisdaywa is -- involves the people of the east, and the -- it talks about people of the east, and that is something that happened between Wet'suwet'en and the people of Naskoteen.
Q Naskoteen?
A Yes.
Q I think that is spelt -- if I spell this, Mr. Joseph, will you tell me if I'm right? Is it N-a-s-k-o-t-e-e-n?
A Yes.

THE TRANSLATOR: 190.
MR. RUSH: It's 190. Thank you, Mr. Mitchell. Thank you.
THE COURT: Do you want to finish the question about the pole before we adjourn, Mr. Rush?
MR. RUSH: Yes. I'd like to.
THE COURT: Thank you.
MR. RUSH:

Q Now, Mr. Joseph, the next two figures on the pole, what are they?
A The two top ones are the bear cubs.
Q And are these crests of the Gitdumden Clan?
A Yes.
Q And they appear to be climbing or shimmying up the pole?
A Yes. There -- there again, the different chiefs of the Gitdumden Clan put up a Feast, and they have two cubs that are always around climbing the trees somewhere.
Q Okay. Now, the next crest I think you've identified as the black bear crest?
A Yes.
Q And you've told us about that crest already with reference to Gisdaywa's territory?
A Yes.
Q Can you tell us what the figure is on the bottom?
A The figure on the bottom is the -- the -- that names the pole. It's --
Q It names the pole?
A Yes.

Q And what is that figure?
A That's the man that -- with a pack.
Q And do they name the pole the pack pole or the pack man pole?
A Yes, yes.
Q And what is the -- is the pack man to be packing? What does he pack?
A It's -- you can't see the burl that's sitting inside the fence.
Q A burl?
A Yes, a burl. And in the original pole at Hagwilget there was a burl on the ground beside the pole, and it was carved thin. And whenever the Gitdumden Clan put on a Feast, they put that burl on the back of this man as he's packing, and when the Feast was over, they took the pack off him. And the name of the pole is Esghel. Esghel.

MR. RUSH: I think that's -- maybe Mr. Mitchell can help us with that.
THE INTERPRETER: 297.
MR. RUSH: 297
THE COURT: I'm sorry, I wasn't sure what you said the pack was on. Did you say bird?
THE WITNESS: A burl.
MR. RUSH:
Q A burl?
A A carved burl.
THE COURT: Oh, okay. I wasn't sure.
MR. RUSH:
Q Is that a Wet'suwet'en word?
A No.
THE COURT: We all know what a burl is, don't we?
MR. RUSH:
Q Mr. Joseph, is the pack man made mention of in a song that is a song of the Gitdumden?
A No.
Q Okay. Is it -- it is made mention of in the history?
A Yes.
Q All right. You say that the burl is not visible to our eye in this photograph?
A Yeah, it's inside the fence.
Q But you have seen it inside the fence, have you?
A Yes, yes.
Q All right. Mr. Joseph, I want to point out another photograph to you, photograph number 7, tabulation 7. If you'd just look at this for me, please. This is a photograph of another totem pole. Do you recognize

this?
A Yes.
Q What is this pole?
A It is the -- the Kaiyexweniits totem pole again, except that it has -- the man with a pack is there, but the two top figures are -- are ravens.
Q Right. Just before I ask you specifically about the crests, have you seen this pole standing in the location that's shown in the photograph?
A Yes.
Q And where -- can you describe the location? In a moment I'm going to show you a photograph of it, but can you describe the location for us?
A It is at Hagwilget Canyon.
Q All right. Is it below the present village of Hagwilget?
A Yes.
Q And can you say when it was that you saw this pole standing in this location such as it's depicted in the photograph?
A I -- it was standing -- still standing when I -- when I left for residential school in 1938.
Q And you indicate -- whose pole was this?
A That was the House of Kaiyexweniits, and this pole was Unloh''s pole, who was House of Kaiyexweniits?

THE COURT: Are we talking about the one in the left centre or the one in the extreme right or both?
MR. RUSH:
Q The one that's left centre, virtually. Yes, we're only talking of that. Kaiyexweniits is 114, my lord, and Unloh' is 101 on the list.

The figure at the bottom of the pole, Mr. Joseph, do you recognize that?
A Yes.
Q And is that the figure of the pack man?
A Yes.
Q All right. And was there a similar burl that related to the pole, this pole, as the one that related to the pole that you've shown us in the previous photograph?
A Yes.
Q Where was that located?
A This -- I didn't see that one. But --
Q You never saw that?
A No, I never saw the burl, but my grandmother said that it was supposed to be there but was burnt.
Q Okay. And the -- the figure at the top above the figure of the pack man is what?

A Ravens, two ravens.
Q Okay. And do you know what those two ravens relate to?
A I wasn't told of it, but my great grandmother's name was the Raven.
Q Do you know her Wet'suwet'en chief's name?
A All -- all that I know is that Deetsan.
Q Deetsan?
A Deetsan.
Q Yes, that's 102.
Mr. Joseph, is this pole located or shown located in this photograph, is that standing today?
A No.
Q And has this -- has -- this pole fell, I take it, and has -- what happened to it?
A It -- this was moved back up on top of the hill, and it fell over again, and -- and there was a rain that washed out just around where the log was laying, and the rain washed out a big ditch, and someone come along and just pushed the pole into this ditch that was washed, and it laid in there until the Public Works come along and widened the road and covered it up. So it's buried somewhere, parts of, in Hagwilget Village.
Q Now, I want to show you another photograph, if I may, which is at tab 6 of Exhibit 62, and I would ask you if you can identify what's in the photograph? There we are. Do you recognize the scene that's in this photograph --
A Yes.
Q -- Mr. Joseph?
And what -- where is this?
A It's at -- where the totem poles were standing at Hagwilget Canyon.
Q Is this including the pole that you've just made reference to?
A Yes.
Q The one in tab 7. Now, is the pole that you've identified as Unloh', that's 101, that pole, is it shown in this photograph?
A It's shown, but it's right in line with another pole. It would seem to be -- it looks like it's part of another pole, but it's right in line with the Biiwenii pole, which is the furthest down the river.
Q How many poles are shown, to your eye, in this photograph?
A There was four totem poles.

Q All right. Let me take you from left to right, if I may. The one that's on the sort of centre left you see in a darker shade of black?
A Yes.
Q And then there is one to the right of that, which appears closer to the foreground?
A Yes.
Q And then there is one that appears slightly to the left of the one that's just been identified?
A Yes.
Q And then is there a further pole at the back which appears to be in line with the one --
A Yes.
Q -- that's to the right?
A Yes.
Q Now, the pole that you've identified as being the pole of Kaiyexweniits is which of those poles?
A It's the one to the right of the -- it's -- it's right in line with the -- the last pole.

MR. RUSH: All right. Would you take my red pen and just put an X at the base of the pole?

THE COURT: It marks the base of the pole of 101 or the base of the pole which covers it or both?

MR. RUSH: It's the base of the pole that the witness has identified in tabulation 7.

THE COURT: All right.

MR. RUSH: Thank you.

THE COURT: May I see it, please?

MR. RUSH: Yes.

THE COURT: Yes. Thank you.

MR. RUSH:

Q Mr. Joseph, what is depicted in this photograph, have you seen the dwellings or the structures together with the poles as is shown in this photograph?
A I just remember two, two buildings there. The rest weren't -- I didn't see the rest.
Q Which two did you -- did you see?
A The one that's right at the back of the Kaiyexweniits pole.
Q There are two -- two structures in virtually the centre foreground of the photograph. Are those the two buildings that you saw?
A Yes.
Q Does one of those buildings belong to the House of Kaiyexweniits?
A The one that's at the back of the -- the Kaiyexweniits pole.

Q Okay. One of the buildings, the one, let us say, to the fore and the right, appears to have more roofing on it than the other one, which is closer to the foreground and to the left. Is that the building that you refer to as Kaiyexweniits?
A Yes.
MR. RUSH: All right. I'm just going to ask you to put a K on that, if you don't mind.
THE COURT: On the roof.
MR. RUSH:
Q Yes, on the roof. Thank you. Mr. Joseph, am I correct from what you've said to us that the structures back against the cliff in the photograph were not there when you observed this point, this --
A No.
Q All right. And there appear to be structures up in the top left-hand corner at the top of a cliff on the opposite side of a river there?
A Yes.
Q And what -- did you see those structures there when you observed this scene?
A There was one there that I remember.
Q All right. And do you know whose structure that was?
A The person that used it was Frank Clarke.
Q Okay. And the river that is -- is this the Bulkley?
A Yes.
Q The water that's flowing through the two sides of the cliff here, is that known as the Hagwilget Canyon?
A Yes.
Q And do you know a Gitksan chief by the name of Spookw?
A Yes.
Q Do you -- to your knowledge, did Spookw have a dwelling on the cliff on the opposite side of Hagwilget?
A Yes.
Q That's 61 on the Plaintiff's list, my lord.
And to your knowledge, was the Gitksan Chief Spookw, was he related to members of the House of Kaiyexweniits?
A My grandmother always referred to him as -- as her uncle.
Q Do you know of any other relationship apart from that?
A No.
MR. RUSH: All right. My lord, I've gone a little bit farther. It might be convenient to --
THE COURT: Yes. All right.
MR. RUSH: -- adjourn.

THE COURT: We'll adjourn. I think now we'll adjourn until two o'clock.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED PURSUANT TO THE LUNCHEON ADJOURNMENT)

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

_____
Leanna Lynn
Official Reporter
United Reporting Service Ltd.

(PROCEEDINGS RESUMED PURSUANT TO LUNCHEON ADJOURNMENT)

ALBERT JOSEPH, resumed:

THE REGISTRAR: Witness, I remind you you are still under oath.
THE COURT: Mr. Rush.

EXAMINATION IN CHIEF BY MR. RUSH, Continued:

Q Mr. Joseph, you have a blanket of your own?
A Yes.
Q And there is a crest on your blanket?
A Yes.
Q And what's -- what is that crest?
A Bear.
Q A bear?
A Yes.
Q I have been referring you to a number of poles of the House of Kaiyexweniits. Did you see the pole of your Uncle Thomas George raised?
A Yes.
Q Do you remember about what year that was?
A About 1969, I believe.
Q All right. And have you seen other poles raised, other Wet'suwet'en poles raised?
A I've seen Donald Grady pole raised at Hagwilget.
Q What year was that?
A 1944.
Q Okay.

THE COURT: 1944?

A Yes.

THE COURT: Thank you.

MR. RUSH:

Q And have you seen other poles raised?
A I have seen David Dennis Sats'aan raise a pole.
Q His name was Sats'aan?
A Yes.

MR. RUSH: 195, my lord.

Q And do you remember -- if I showed you a photograph, would you know the pole?
A Yes.
Q Okay. Just let me -- I am sorry. Take this book. What House was or clan was David Dennis in?
A He was Gilseyhu.
Q And do you remember the year in which that pole was raised?
A 1948.
Q And did you attend that pole raising?
A Yes.

Q And did you attend that with your uncle? Do you know if your Uncle Thomas George was also at that pole raising?
A Yes.
Q He was?
A Yes.
Q All right. Now, can there been a pole raised today among the Wet'suwet'en?
A Yes.
Q And what would be the circumstances in which a pole would be raised?
A It would be to commemorate a pole to past House chief or another chief in the same House like your grandmother.
Q All right. And did you participate this year in witnessing a first cut of a pole?
A Yes.
Q Whose pole was that, do you recall?
A It was Hanamuxw.
Q Okay. And were you there as a witness?
A Yes.
Q And I think you said you attend Gitksan Feasts?
A Yes.
Q Hanamuxw is 33, yes. All right. Mr. Joseph, I am going to ask you some questions about another area of your knowledge and that pertains to your responsibilities as a chief. And earlier you told us, that is last Thursday you told us something about your responsibilities as a House chief, and I want to ask you specifically at a Feast what your responsibilities are in respect of, first, your father's side?
A The father's clan are always the main participants in the House chief's Feast or the House chief's family. So you have to be -- make sure that if it's in your -- the chief's own Feast, that his father's clan are -- are the people that are hired to do certain tasks.
Q Does the father's side have a name in Wet'suwet'en?
A Yes.
Q And what is that?
A It would be -- by chief would be either Haba ts'el tset or Haba ts'el tset.
Q That's 198, my lord. Say it again for me, Haba ts'el tset?
A Haba ts'el tset.
Q Haba ts'el tset?
A Yes.
Q And are there responsibilities of the chief to the

mother's side? We have talked about the father's side. Are there responsibilities for the mother's side?
A The responsibility on the mother's side would be on the -- your uncles who are we say -- on our mother's uncle we say we say Be ze yuu.
Q Be ze yuu?
A Yes.
Q Is that the description of the mother's side?
A Yes.
Q I think that's 199. And what do you have to do to ensure that those responsibilities are carried out?
A You have to remind the younger generation, like usually it is done by like the grandparents, but today you have to -- you have to do -- see that the job is done right and it is -- seem to be -- you have to be more alert today than in the past, because the younger people today don't -- are not lectured as much as in the past. There is too many distractions for the young people today. So they have to be taught by example at a Feast.
Q Do you do that?
A Yes.
Q And I take it there are proper ways of doing things and there are improper ways?
A Yes.
Q And do you point out the proper ways of doing things?
A Yes.
Q All right. Now, can you tell -- tell us, Mr. Joseph, why it is important to follow the right ways of doing things at the Feast?
A Because you may cause embarrassment to a chief or to yourself, and if you do make -- someone makes a mistake, you are dealt with right at the Feast by the guests.
Q Now, are there -- are there steps that you take with regard to the contributions that are made at a Feast?
A Yes.
Q Do you do certain things to make sure that the proper contributions are made?
A Yes.
Q What do you do?
A You make sure that of the people that have work are dealt with first and the -- not only the House chief is watching, all the aunts and the grand -- the mothers all keep -- watch the younger people when they are serving. And those young people can't rush. They

have to be careful that they look at the person that they are serving, so that they don't miss.

Q Is this where your House and clan are hosting the Feast?

A Yes.

Q And so you make sure that the people that are the guests are properly treated at the Feast?

A Yes.

Q Is that -- and what is the consequence if, for example, someone is missed at a Feast?

A When you miss a person at a Feast, that person right away will tell their chief that they have been passed over by someone. Maybe that person was distracted for a minute and just didn't give this person anything and then pass over him and served the next person. So when that happens, this person would notify an elder and that is when the guests of that clan have a collection. And when that collection is finished, they announce to the host and to the witnesses at the House what happened. So they are -- so the person that was missed has wiped out the shame of being passed by.

Q Does this -- does this occurrence in a Feast have anything to do with the respect or the law of respect?

A Yes.

Q Can you tell us how?

A The law of respect we are always told is a word that Wet'suwet'en use and that you have to accept anything that is given to you any -- at any place, even if it's a private visit, you have to accept anything that is given to you and that -- the word they use for that is Wa gghus k'tsel eh.

Q Now, this word, my lord, is not on your list, and Mr. Mitchell, I think, will help us with that?

THE TRANSLATOR: W-a g-g-h-u-s k-'-t-s-e-l e-h, underlined.

MR. RUSH:

Q Now, is that the Wet'suwet'en word to accept an offered gift?

A Yes.

Q And why is it important to accept that gift among the Wet'suwet'en?

A Because they don't want to hurt another person's feelings, so they have to accept anything that's given to them.

Q Okay. At a Feast, is a gift offered as payment for anything?

A Sometimes it is just -- it is a payment and at times

it would be a gift from the chief.
Q At a Feast when it's offered as a payment, what is it payment for?
A It is for any -- any services that's done by a clan, but there is an exception where you can't do that within your own clan.
Q Okay. Now, I understand that the House of Kaiyexweniits would support other Gitdumden Houses by helping to make contributions at their Feasts, is that right?
A Yes.
Q So Kaiyexweniits would if Woos, the chief of Cassyex, were to hold a Feast, your House and your chiefs would help with contributions?
A Yes.
Q And would that be contributions of money and of food and of material?
A Yes.
Q Now, we've heard mention of a word in Gitksan which is called, I believe, Hawal. Is the same word used among the Wet'suwet'en?
A Yes.
Q That's -- I believe it's -- well, my spelling is H-a-w-a-l. Now, at a Feast such as this where another Gitdumden House is sponsoring or hosting the Feast, do members of your House also assist in the distributions which occur at the Feast?
A Yes.
Q Okay. And those distributions are to the other witnessing chiefs, is that correct?
A Yes.
Q Okay. Now, I understand that there are occasions in which members of your House also have to help other members of the father's side at a Feast?
A Yes.
Q And this is called in -- I'll explain the terms -- or maybe you should explain the terms, Haircut and Andumenuk, is that right?
A Yes.
Q Okay. Now, we've heard in the case some explanation of the term Haircut and Andumenuk, and is it -- does the Wet'suwet'en use the words in the same way as the Gitksan do in relation to their participation at a Feast?
A Yes.
Q Now, in Wet'suwet'en, in the language, is there a word for contribution, the contribution that is made, for

example, during a Haircut contribution?
A Yes.
Q Now, what's that?
A Ah y'eah.
Q Pardon me?
A Ah y'eah.
Q Ah y'eah?
A Yes.
Q That's 201. Now, in respect of these contributions, Mr. Joseph, what do you do, what role do you play as the chief regarding the Haircut and the Andumenuk?
A They are kept -- they go into the main pot, but they are announced why the contribution is made.
Q And do you ensure that that announcement occurs?
A Yes.
Q Now, do you have any other responsibilities that you discharge at the Wet'suwet'en Feast that you haven't mentioned already?
A You have to make sure that the guests are seated in their proper place, proper clans. And there is a stranger that comes in that you have never seen before, you have to ask him to identify his name and his clan. And if he's of your clan, you just let him know that it's -- he's welcome there as a brother. And if he's from the -- another clan, he is also seated with the other clans, and he is or she's also accepted by that clan as a relative.
Q And you play a part in ensuring the seating occurs properly?
A Yes. Yes.
Q All right. You made mention of your responsibility at a Feast to be sure that no one is overlooked, and I understand that there is a Wet'suwet'en term if someone is overlooked at a Feast?
A Yes.
Q And do you recall what that is?
A Tuts hah teez nik.
Q That's 205, my lord. And you also indicated a moment ago that there was a collection that occurred if indeed someone was overlooked as a way of wiping out the shame or restoring the respect to the person overlooked?
A Yes.
Q And is there a term in Wet'suwet'en for that in terms of an apology to that person?
A It's K'aa nee yat'lii.
Q Again. Please?

A K'aa nee yat'lii.
Q Okay. Is there a term used in Wet'suwet'en for restoring the respect of a chief.
THE COURT: I am sorry, Mr. Rush, but I doubt if the reporter got the first word.
MR. RUSH: No.
THE COURT: If we don't get it now, it's going to be hard to find.
MR. RUSH: Mr. Mitchell, maybe you could just help us with that, please?
THE TRANSLATOR: K-'-a-a n-e-e y-a-t-'-l-i-i.
MR. RUSH: Thank you.
Q Now, what I was asking again, Mr. Joseph, if you can -- if you know if there is a term used in Wet'suwet'en whereby the respect of a chief is restored as a result of the collection that is made in a situation where that chief has been missed at a Feast?
A It's just the same.
Q Is that term?
A Yes.
Q Okay. Fine. And do you know of examples where that has happened in recent feasts of the Wet'suwet'en?
A Not recently. I have seen it happen with my aunt, Mrs. Mary George around 1969, I believe.
Q All right. Now, when transactions are witnessed at a Feast which take place in the presence of those guests at a Feast, is there a term used in Wet'suwet'en for public witnessing?
A Yes.
Q And what's that?
A Denii Biits.
MR. RUSH: And that's a word that's not on the list, my lord, and I think maybe Mr. Mitchell can help us with that.
THE TRANSLATOR: D-e-n-i-i B-i-i-t-s.
MR. RUSH:
Q And what literally does that mean, Mr. Joseph?
A It means the presence or in the midst of an assembly.
Q All right. I am going to ask you about choosing a chief. And I take it there are certain considerations that are looked at when a chief or a successor to a chief's name is chosen. All right. And I understand that one of the considerations is how a person carries himself or herself?
A Yes.
Q And how a person might conduct themselves in public, is that correct?

A Yes.
Q All right. And I understand that also the choice of a chief depends on whether or not that person is a good worker?
A Yes. That's --.
Q Okay. And what is meant among the Wet'suwet'en people when you look at determining whether somebody is a good worker?
A Well, good worker is supposed to be alert at all times and ready to give assistance to someone in need and one that takes leadership and advice and always participating in Feasts and a person that's -- or they always emphasize an early riser. And whenever you are offered a job, that they don't look at this as just -- just the job itself. They say the person that is offering you a job is offering you money and that's the way they look at it. Money or some -- something that will -- that you will use in the future. And that you try and do more without being asked when you're given that task.
Q Does being a good worker also mean being able to provide the House with material goods from your work?
A Yes.
Q Are there leadership qualities that are looked for in new chiefs?
A Yes.
Q And do some of those include the quality of self-direction or self-control?
A Yes.
Q And in terms of hunting or trapping, are there qualities of a chief which are looked to as being desirable qualities?
A Yes.
Q What might be an example for the court that you would look to?
A The hunter always prepares himself for hunts, and they are instructed to create your own luck by preparation. They are told to have of respect, and they have to prepare themselves, that when they go out in the wilderness that they have to be pure. And they are told that when they do go out in the wilderness that they have no -- no other thoughts but of the hunt. And they have to be careful, analyse every move they make. And there were two things that my aunt always told me, and they may -- I may have been told that earlier, but I forgotten, is that they said never take a shortcut and don't travel at night, is what I was

told. That's the travelling out in the territory.
Q Some of the things that you have talked about, are these qualities which are being looked at for the successor to the name of Madeek? You told us, I think, earlier on Thursday or Friday that Russell Tiljoe was a possible successor to the name of Madeek?
A Yes.
Q Are these the types of qualities that the Gitdumden chiefs would consider?
A For Russell, who has been living at Houston for most of his adult life, he is -- seems to be out of sight to the chiefs, but they know -- they know that he is a steady worker. He's been working for maybe the same company over all these years. But yet when there is a Feast on, he comes and makes his contribution; his children come, make their contribution to their clan. So even though they don't see Russell, they knew that the qualities that were needed were there. He was using it in a different way, yet it was visible to the chiefs.
Q Now, you would be consulted, would you, as the head of Kaiyexweniits in the decision to choose, for example, Russell as the successor to Madeek?
A Yes.
Q And would Kanoots of your House or of your clan, rather, be also participating in that?
A Yes.
Q And would Woos also participate?
A Yes.
Q All right.
A Even if I am consulted, their elders in Kaiyexweniits would also be consulted in another House.
Q So there is consultation between clans as well --
A Yes.
Q -- as within the clan?
A Yes.
Q Now, can you just tell the court how does the consultation process work? Maybe starting by saying some of the types of decisions. We have talked about consulting for the successor to the name. Are there other types of decisions in which you consult with other chiefs in your clan or in your House?
A Yes. I think all -- all the names that are to be passed on are always -- there is consultation going on within the House, but if there is a major decision to be made, all the Gitdumden clan would get together and have a meeting and so would the other clans.

Q What would be an example of a major decision?
A It would be the court case that we are in today.
Q Okay. And what about other decisions, for example a decision as to who would be hired to look after the obligations of a funeral Feast?
A Yes. That is made by the family or House and --
Q When would a decision -- when would decisions like that be carried out?
A That if a person dies and they have a smoke Feast where it is announced that certain part -- certain families would be -- would be given the responsibility of burying a person.
Q And is there consultation about decisions concerning the raising and carving of a pole?
A Yes.
Q And what about concerning the choice of a crest that were placed on a pole?
A Yes. That would be --.
Q And do members of your House or clan consult concerning songs that would be sung at a Feast?
A No. That is each person have their own songs. They do use it any time they want.
Q I see. And what about the making of a new song, does that depend on a consulted decision or is that a personal decision?
A That's the person's.
Q Okay. And are there decisions where there are -- consultation occurs concerning the management of a chief's territory?
A Yes.
Q And what about matters of conservation on the territory?
A Yes. There is different -- a difference in the animals that are in each territory. Some territories are further -- further out into the headwaters and some territories are closer to the main big valleys where they are lower down. So you have to -- they have to trap each area different -- differently.
Q And those are -- the priority of where you trap would be a decision made internally in a House?
A Yes.
Q Can you just give his lordship an idea of how a decision would be made, let us say a decision concerning the qualities of a succeeding chief. Does this happen informally or is there a formal structure to it?
A What --

Q Just wondering how you would make a decision such as if you and Kanoots and let us say Woos were to consider the qualities of, for example, Russell Tiljoe?
A Yes.
Q How do you do that?
A They -- like Kanoots, who isn't well today, calls us to his place, myself, Woos and other witnesses, and tells us what he wants done, so we have to carry out those wishes of whatever he wants done. We have to take it to a Feast and announce it there. If it's concerning territory, names, and we have -- if it's not our Feast, we have to ask the host's permission to do that. Because of his health, he wants the announcement made as soon as possible. So we all understand that when the announcement is going to be made and it is important, we are given the floor to make this announcement.
Q Now, in this case Kanoots is the leading chief of the House where Madeek is still the head chief?
A Yes.
Q Yes. Does Kanoots -- in this example, would Kanoots discuss this choice with you?
A Yes.
Q And his decisions with you?
A Yes.
Q I've asked you about the role that the chiefs play and I've previously distinguished between the chiefs and the sub-chiefs. Are there roles for the sub-chiefs at the Feast or within the House? What do they do?
A The sub-chiefs are usually -- it could be your younger brother and it could be an older brother or an uncle who is older than you, and they are still -- still the advisors. So you have to -- one has to consult with -- they are your family. So you can't -- a House chief cannot offend the other chiefs within that House. So you have to consult with them.
Q And that occurs in your House?
A Yes.
Q Now, I am going to ask you about another subject concerning the fishery. I will first ask you if Gisdaywa and your House owns a fishing site or more than one fishing site?
A Yes.
Q Where are these fishing sites owned?
A Moricetown canyon.
Q How many fishing sites does Gisdaywa and the House of

Kaiyexweniits own at Moricetown?
A Two.
Q And can you tell -- do these sites have names?
A Yes.
Q And can you tell us the names of the two sites?
A There is a bridge at Moricetown, and the first site is from upriver from the Moricetown bridge is called Nii' nee ts'ol t'ah.
MR. RUSH: Now, Mr. Mitchell, can you help us with that, please?
THE TRANSLATOR: N-i-i-' n-e-e-s-' -- no. It's '-o-l t-'-a-h.
MR. RUSH: Thank you.
Q Is that the first site that you come to?
A Upriver, yes.
Q Yes now --
A From the bridge.
Q If we could just perhaps site this on the -- from the Moricetown side, are these sites on the side of the canyon that is closest to Moricetown or farther away?
A It will be farther away.
Q That's the north side?
A North side.
Q Yes. And then the bridge cuts across the river?
A Yes.
Q And the site, when you say it's upstream, you mean as you are crossing the bridge from the Moricetown side, it would be on the right?
A Yes.
Q Okay. And what's the second site?
A Second site would be further upstream and that one is Wa'azdiizaas.
MR. RUSH: That's 208, my lord.
THE COURT: Thank you.
MR. RUSH:
Q And that -- that has a meaning in English of "where your hip bone wears out"?
A Yes.
Q And this site is -- can you say where it's located physically on the ground? Is there something that you know about it that would identify it as yours?
A The first one that I mentioned was -- is -- sounds like it's water -- water splashing against the logs.
Q Is that the literal translation of the word?
A Yes.
Q And is that located at a particular point or ledge or rock of some kind?
A Yes. It's sort of a -- it's a narrow little -- or

sort of an inlet like where it's -- a little -- it's the widest part of that part of the canyon.
Q It's the widest part?
A Widest part, yes.
Q And is that the widest part on the right side of the bridge?
A Yes.
Q As you cross from Moricetown?
A Yes.
Q All right. And what about the other site, where is that located?
A That one is just -- I think our first site is the third site from the bridge and the last one is the fifth site.
Q All right. And is that fifth site from the bridge on the north side, is that a site that is at a particular point in the river? Is there something special about that point?
A Yes. That's the -- it's a ledge where I think you just -- you have to -- where you use your hips to -- it's a narrow place where you just have to -- you are always rubbing your hip against the rock and that's why the name is.
Q Okay. Now, I take it there are other Wet'suwet'en fishing sites along the river --
A Yes.
Q -- on both sides? Okay. And do members of your House use these fishing sites?
A Yes.
Q And do members of your clan use these fishing sites?
A Yes.
Q And can you tell us who among those people use as those sites? And perhaps before I ask you that, is this a gaff site?
A Yes.
Q Or a net site?
A A gaff site.
Q And there is mostly gaff fishing at Moricetown canyon, is there not?
A Yes.
Q At least on the right side of the bridge?
A Yes.
Q All right. And I had just asked you where -- or excuse me, which of the members of your House or clan were using those sites?
A The most use in quite a bit is Woos.
Q That would be Woos, being Roy Morris?

A Roy Morris. Yes.
Q 82, my lord. Yes. Go ahead.
A And Kanoots, his family, use it quite often.
Q Kanoots, is that Peter Alfred?
A Peter Alfred.
Q And he's not well, now?
A No.
Q And he hasn't used it recently?
A Yes.
Q But members of his family?
A His family, yes.
Q Yes. All right. And are you given any of the catch that's obtained from the sites?
A Yes.
Q Would that be from whom?
A From Woos.
Q Okay.
A He gives either fresh or smoked fish for me from the site.
Q So you wouldn't be talking about canned or other --
A No.
Q -- ways?
A No. Smoke.
Q All right. And would your -- would your sons be entitled to fish there?
A Yes.
Q How many boys do you have?
A Two.
Q Now, there has been blasting of rocks in the Moricetown canyon?
A Yes.
Q Has your site -- have your sites been affected by the blasting?
A The one upriver is one close to the blast.
Q Has it -- has it been affected -- or in what way has it been affected?
A Sometimes when you are gaffing you have to stay close to the walls of the canyon to -- for -- one is for safety. If you catch a fish close to the canyon walls, it's -- you will have more control over the fish that you get if it's a spring salmon. But if there is blasting and rocks falling to the area where you are gaffing, they are big rocks, they can't -- they can't drift down the river. So --
Q By "they," you mean the fish?
A The fish -- no. The rocks -- if -- the smaller rocks, they move away, but if it's boulders, they stay there.

Q I see.
A So if you are gaffing and you have to gaff out further, which is when you are gaffing fish for the spring, you are warned, you are always warned never fish -- never gaff or fish too far out, because fish can pull you in if you are gaffing out further out. If you're gaffing fish straight down, you are pulling straight up, so it's safer. But people, some of the people that have used it since the blast say that there is rocks straight down. So that it's -- you have to -- it's dangerous to catch -- to gaff there.
Q To your knowledge have other of the fishing sites at the Moricetown canyon been damaged as a result of the blasting?
A Yes. Fishing sites that they use have fish ladders in them and they can't -- they can't gaff in those areas any more.
Q All right. Now, have there been restrictions imposed on fishing by you, your House members and your clan members while fishing at Moricetown?
A There is a restriction imposed by the D.I.A. where I am a member of the Hagwilget band, and I am not registered in the Moricetown band, but it doesn't affect me as a hereditary chief. We don't -- in the Feast hall we are still considered as one village, so some younger people may think that I am from Hagwilget and I am not allowed there, going by D.I.A. and the Fishery laws. But according to our clan system, the name Gisdaywa and the ownership of fishing site is still in Moricetown.
Q Are there restrictions from the Department of Fisheries and Ocean?
A Yes.
Q And that is in respect of their --
A Permits.
Q Permits?
A Yes.
Q Okay.
THE COURT: Are those called food permits?
A Fishing permits.
THE COURT: They are called fishing permits?
A Yes.
THE COURT: Are they the kind of fishing permits that anyone can buy or are they a fishing kind?
A They have a permit that they give to all the band members.
MR. RUSH:

Q Do you have such a permit?
A No.
Q Does Gisdaywa have a fishing site at Hagwilget?
A No.
Q Perhaps I should ask, does Gisdaywa own a fishing site at Hagwilget canyon?
A No.
Q Now, there is -- there at least was fishing in the Hagwilget canyon, is that correct?
A Oh, could I answer that first question again. My Gisdaywa did put up a platform on the west bank and used it, but it was a -- it wasn't -- he didn't get too many fish, but he had his platform there on the west bank.
Q Okay. What about the east bank, were there any fishing sites owned by Gisdaywa on the east bank?
A No.
Q All right. But there was fishing done in the Hagwilget canyon?
A Yes.
Q Okay. And there are Wet'suwet'en fishing sites in the Hagwilget canyon?
A Yes.
Q Okay. And where was it that -- I should ask did Gisdaywa and the House of Kaiyexweniits fish in the Hagwilget canyon?
A For spring and sockeye, we -- the House Kaiyexweniits, used our grandfather's fishing site, who was Goohlaht.
Q Goohlaht?
A Goohlaht.
MR. RUSH: That's 12 on the plaintiff's list.
Q Did that fishing site belong to Goohlaht?
A Yes.
Q And how long ago was it that the fishing site there was used by member of your House or by Gisdaywa?
A Up until 1959.
Q And did Gisdaywa have -- and the members of your House have permission to use Goohlaht's site?
A Yes.
Q And there were other fishing sites at Hagwilget canyon?
A Yes.
Q And they were net sites?
A Net sites, yes.
Q And there were gaff sites?
A Gaff sites.
Q And if I were facing west, let us say, at the

Hagwilget bridge, where would the net sites be in relation to where I am standing?
A It would be to your left.
Q Okay. And were there gaff sites below the bridge?
A Yes.
Q And do you know some of the other Wet'suwet'en chiefs who owned with their Houses the gaff sites and the net sites at Hagwilget canyon?
A As far as I remember, there was only two platforms that were put up every year and that was Goohlaht's site and then to his left further downstream and Smogelgem.
Q Mr. Joseph, you have referred to platforms. Can you just tell us, did you ever see one of these platforms?
A Yes.
Q What do you mean when you are referring to a platform?
A It's a platform that they use in canyons, and they used to be at Moricetown, too, is a platform that they erect at the fishing site when the water is high in the spring. For spring salmon fishing and sockeye fishing, where you stand and it's about two feet by 12 feet and it's all -- there is no nails in it. It's all tied, rope, because it has to be lowered as the water goes down or raised as water comes up again, so these platforms were there. Gaff sites.
Q And these were used by the Wet'suwet'en fisherpeople?
A Yes.
Q Now, you have pointed out a House on one of the -- in the canyon which belonged to the House of Kaiyexweniits?
A Yes.
Q And was this a House that was used by your House members for purposes related to the fishing?
A Yes.
Q What did you use it for?
A For frying fish.
Q Did it act as a smokehouse?
A Yes.
Q And then the fish were packed up to the village up above on the ledge?
A Yes.
Q Okay. Now, do you know the canyon fishing sites? You have been down there?
A Yes.
Q And seen fishermen?
A Yes.
Q Fisher people there. All right.

THE COURT: Perhaps, Mr. Rush, we should take the afternoon adjournment now.
MR. RUSH: Very well.

(PROCEEDINGS ADJOURNED PURSUANT TO AFTERNOON BREAK)

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

Laara Yardley,
Official Reporter,
United Reporting Service Ltd.

(PROCEEDINGS RECONVENED PURSUANT TO AFTERNOON ADJOURNMENT)

THE REGISTRAR: Order in court.
THE COURT: Mr. Rush.
MR. RUSH:

Q Thank you.
Mr. Joseph, you've described net sites and gaffing sites in the Hagwilget Canyon. Were there other kinds of fishing sites in that canyon?
A There used to be weir, weir sites.
Q Okay. Were there traps in there as well?
A Yes.
Q Did you -- did you ever see these yourself?
A I've seen one start -- at the mouth of the canyon there was a shed for it.
Q All right. Mr. Joseph, I want to show you a photograph which is tabulation 11. Now this is, I think, quite an old photograph, but do you recognize the place of the photograph?
A Yes.
Q Do you recognize the person?
A Yes.
Q Who is that?
A Thomas George.
Q That's -- that's the former Gisdaywa as a young man?
A Yes.
Q All right. And the place where he is apparently fishing, where is that located in the Hagwilget Canyon, if it is?
A It's at the mouth of the Hagwilget Canyon.
Q Okay. Is this right in the canyon itself or is it a little farther?
A A little farther downstream.
Q All right. Again, if I'm standing on the bridge facing west over Hagwilget Bridge, where would this -- this place be?
A It would be to your left.
Q Okay. And would it be -- how far down the river would it be?
A It's right at the mouth of the canyon.
Q All right. And what kind of fishing can you say is being done here, if you know?
A It's a net site.
Q All right. Do you know the owner of that net site?
A It's Smogelgem.
Q Okay. And is this -- is this a shallow point in the river or is it deep at this point?

A It's pretty deep.
Q Okay. Now I want to ask you some other questions about fishing. Do people fish in the Hagwilget Canyon now, the Wet'suwet'en people fish there?
A The only fishing that's happened today is hook and line, rod and reel.
Q Do any of the Hagwilget people do that kind of fishing there?
A Not too many.
Q Are there any -- to your knowledge, are there any fishing by the Gitksan in the Hagwilget Canyon?
A No.
Q All right. Why is it -- this was a place of fishing at one time, was it?
A Yes.
Q And what's changed there?
A There was a rock or a boulder in the middle of the river, and that created falls and --

MS. KOENIGSBERG: Excuse me, My Lord. I just wonder if we can lay the groundwork so that we know here -- now hearing hearsay or if it's going to be personal knowledge of this witness.

THE COURT: I'm sure he would be happy to do that.

MR. RUSH:

Q Can you tell us -- you are going to talk about the blasting of the Hagwilget rock, aren't you?
A Yes.
Q All right. And were you around when this rock was blasted?
A Yes.
Q And were you present during the time that the preparations were made for the blasting of the rock?
A Yes.
Q You lived in Hagwilget at the time?
A Yes.
Q Okay. And I take it that you've had something to do with the concerns about the Hagwilget rock since it's been blasted?
A Yes.
Q And I take it -- well tell me, did you attend any meetings of the people at Hagwilget regarding the blasting of the rock?
A Yes.
Q Can you just tell us, Mr. Joseph, about the rock and the rocks as they were placed in the canyon, what -- where were they located if you can say and what was the -- why was where they were placed, a place that

affected the fishing?
A There was a slide at Hagwilget Canyon some time back and that created falls, and the fish didn't get up for awhile. But the people moved some of the rocks for the fish to get through, and so --
Q And did the fish -- did the fish get through?
A Yes.
Q Okay.
A There was falls there which was about ten foot drop but it wasn't straight down, it was on an angle, and the fish coming upriver used to stop for awhile below the falls. And if you were fishing there at that time you could see -- see the fish jumping out of the water, spring salmon, sockeye. And after laying there for -- it seemed to be -- seemed to be training to go up the falls, and they would stick close to the walls where you can catch them with the gaff, but we were catching a lot of fish at that time.
Q In the early '50's, how plentiful were the fish?
A They were plentiful, enough -- enough fish there for -- for everybody. And in the '30's as I remember it, I used to fish there out on the lower part of the canyon and the adult stayed in the canyon to gaff, and there was tourists coming through that used to come down there and fish, and there used to be the -- the white working people that lived around there used to come into the canyon and fish with a hook and line and they got enough fish. They -- they had quite a load when they went home. They did that every day. So the people -- the white people that lived in the surrounding areas benefit from that canyon. They -- they put up their fish for the winter same way we did, but they -- they fished Jackspring.
Q All right.
A In the spring.
Q Now, Mr. Joseph, what -- what happened in the early '50's that led to the blasting of the rock?
A In the early '50's there were engineers came into the canyon and they started putting markers, steel -- steel pins and they were painting different areas all the way up the canyon. So they -- we -- no one knew why they were doing that, and towards the end of the '50's, '58, '59, they started having -- calling people of Hagwilget together and started having meetings with them -- with us.
Q Did you go to some of these meetings?
A Yes.

Q Okay. And what did you understand the reason for their presence in the canyon?
A Department of Fisheries said that the fishing -- the spawning was in a decline in the Bulkley and that the Hagwilget Canyon was the cause of it, and that they were going to remove the obstruction in the canyon.
Q And what did they consider the -- what did you understand them to think the obstruction was?
A They said that the fish weren't getting to the spawn -- some of the fish weren't getting to the spawning grounds.
Q What was the -- what did they think the obstruction in the canyon was?
A The rock that's in the middle of the canyon.
Q Okay. And what did you understand the people at these meetings that you attended, what did they respond?
A They were asked for permission to -- to blast the rock out, and the chairman of the meetings was the D.I.A. superintendent himself.
Q And his --
A And his name was Bailey, W. Bailey I think it was.
THE COURT: Bailey?
A Bailey.
THE COURT: Thank you.
A And he said that the fishery boys were here to help us, that they were going to make the fish -- fishing better for the Hagwilget people. But the Wet'suwet'en didn't believe that, they said the fish were getting -- getting upstream by themselves, that they didn't need anyone help get up, and they objected to every -- every time there was a meeting they said no to whatever the --
MR. RUSH:
Q Was --
A -- the chairman wanted done.
Q Did you -- did you sign a petition with other Wet'suwet'en chiefs and people at Hagwilget opposing the blasting of the rock?
A Yes.
Q Have you looked for the petition?
A Yes.
Q Have you been able to find it?
A No.
Q And I take it that the rock was eventually blasted, was it?
A Yes.
Q Do you remember when that rock was blasted?

A It was on the -- some time around '59.
Q And do you know -- was there just one rock blasted or was there more than one?
A There was supposed to be only one rock blasted.
Q How many were blasted?
A Seven or eight.
Q And where were the other rocks? You've indicated -- I think you've described one as being in the river, in the middle of the river?
A In the middle.
Q Yeah?
A There was quite a few boulders and they were further downstream, and some were about 200 feet downstream and they were also blasted out.
THE COURT: Can you tell me when this slide was that you mentioned that put the rocks in the river? When was that?
A Some of the people said it was around 1820.
THE COURT: Oh, before your time?
A Before my time, yes.
THE COURT: I see, thank you.
MR. RUSH:
Q As a result of the blasting, Mr. Joseph, what's been the impact on the fishing, that is, as a result of the blasting of those rocks?
A Well the impact of the blasting of the rock is that from that day -- after the rock was blasted out, after that it was no more fish taken out of the Hagwilget Canyon. We used to get about four or 500 fish a day from both sides of the canyon, but after the rock was taken out you were being lucky to get one or two fish in a day. But for gaffing it was nothing, dip netting there was nothing.
Q What was the -- what was the effect on the -- why couldn't you net fish?
A The water was too fast for net and too slow for gaffing. There was no more white water, you need white water to gaff, and the rock that was there created that white water.
Q Okay. I want to show you a photograph and see if you can tell us. Mr. Joseph, I'm showing you a photograph of a scene which appears to be Hagwilget Canyon. Can you identify what this scene depicts?
A It's all the rocks, the big rock. The main rock I was talking about is midstream further up and the smaller rocks downstream and on the west side of it.
Q All right, I'm going to come to that in just a second.

This shows the -- does this show the Hagwilget Canyon?
A Yes.
Q And is this the Hagwilget Canyon from the -- what side of the bridge?
A It's the south side of the bridge.
Q All right. And you've identified some houses at the canyon level --
A Yes.
Q -- in an earlier photograph. Do you see those houses in this photograph?
A Yes.
Q And you also identified a pole, a totem-pole?
A Yes.
Q Can you see that in the photograph as well?
A Yes.
Q And can you judge from this photograph what time of year it might have been when this photograph was taken?
A It's in the fall.
Q And how can you show that?
A The water level is right downwards where it's low there.
Q And can you tell anything about the age of the photograph by, for example, looking at the bridge that's there?
A The new bridge that's in now was put in 1931, so this is prior to 1931.

MR. RUSH: All right. I wonder if you can show that to His Lordship.

THE COURT: Thank you.

MR. RUSH:

Q Now, I'm submitting this photograph to the witness for the purpose of identifying to the best of his knowledge the place where this rock was located. Can you see -- you've seen where the Hagwilget rock was prior to the blasting?
A Yes.
Q Are you able to determine from this photograph, where the rock is located?
A Yes.
Q All right. Do you want to just put an "R" on what you say the rock was that was blasted? You can write it on this ledge here if you like, Mr. Joseph. All right. I wonder if you would just hand that up to His Lordship, please.

THE COURT: Thank you. Yes, thank you.

MR. RUSH: Thank you. Mr. Joseph --

MR. GOLDIE: Is that marked?
MR. RUSH:
Q Not yet, no.
You indicated there was other rocks which were blasted at the same time. Where were those other rocks located? Perhaps you can't identify in specifics on the photograph, but can you say where in relation to the rock that you did pinpoint with an "R" --
A Yes.
Q -- where they are located?
A They are around the big rock -- the one downstream --
Q Maybe just indicate whether they are on the left or the right of the photograph?
A This one and that.
Q All right. I wonder if you just hold that up to His Lordship and show the other rocks that were taken out?
A Further downstream.
THE COURT: Yes.
A And the smaller ones around the big rock.
THE COURT: One close to the big rock and another one further downstream the other side?
A Yes. And be some other rocks too, you can't see them, they are out of sight.
THE COURT: Further upstream?
A No. To the right of the --
THE COURT: I see. Behind the --
A Yeah.
THE COURT: -- the little promontory there. Yes, I see, thank you.
MR. RUSH:
Q Now Mr. Joseph, there appears to be a white colouration or shading in front of the rock that you've marked with an "R". Is that the white water that you've referred to?
A Yes.
Q Is that the place where the fishing occurred?
A It occurred all the way from there down -- all down, oh, about a hundred feet or hundred and fifty feet down from there is all white water.
Q Yes, all right. And after that rock was taken out, did you yourself go down there to try and fish?
A Yes.
Q I take it it was the time when the fish were running?
A Yes.
Q And what was the -- did you have any success at all?
A No.

Q Do the Wet'suwet'en people either living at Hagwilget or Moricetown, do they fish in the Hagwilget Canyon now?
A No.
MR. RUSH: Okay. I'm going to ask this to be marked as an exhibit, please.
THE COURT: Yes. What number is that, Madam Registrar?
THE REGISTRAR: Sixty-four.
THE COURT: Thank you.

(EXHIBIT 64 - Photograph)

MR. RUSH:
Q Was the fishing at the Hagwilget Canyon considered a value -- a valued fishery by the Wet'suwet'en people?
A Yes.
Q Did any department of the Federal government offer to give the Hagwilget people, or in fact provide the Hagwilget people with anything as a result of the blasting of the fishery?
A No.
Q Did you get something from the Department of Fisheries some years later?
A Yes.
Q What was given to you and when?
A Quite a few years later there was a meeting in Vancouver and the Department of Fishery officials were there and the fishing issue was raised and --
Q Mr. Joseph, were you at this meeting?
A No, no.
Q Okay. You know about the meeting?
A I know about the meeting, I was there just after that.
Q Okay.
A And Margaret Austin --
MS. KOENIGSBERG: I'm sorry, I don't know how this witness can tell us what happened at the meeting if he wasn't there.
MR. RUSH: That's fair enough.
THE COURT: It's not going to be asked.
MR. RUSH:
Q No. Mr. Joseph, I want to know as a result of the meeting -- you say Margaret Austin was there?
A Yes.
Q As a result of the meeting, what --
A Well we --
Q -- what happened?
A Few days later I was at a meeting with the same people

and I brought the fishing issue up again, and they told me that this has already been dealt with. They said, "One or two of your band members were at a meeting some days earlier," and said, "we are dealing with it already." So I just didn't say anymore to that. That was the first time we -- we got some fish, canned fish from the Department of Fisheries.

Q When did you get it, do you remember?
A I don't remember the date.
Q Okay. Do you remember how many years later after the blasting of the rock which you said, I think, occurre in '58 or '59?
A Must be 20 years.
Q Okay. So you got some canned fish from the Departmen of Fisheries?
A Yes.
Q Where did they leave it?
A They shipped it up to -- in a truck.
Q And did you get anything else later on? Did that happen again?
A Yes. I think it was the next year that they said tha they were going to send in some fresh fish, but when those fish arrived at Hagwilget they were -- none of our people could use it.
Q Why not?
A Because they were all green and all different colours and didn't look like salmon to our people. They were fish that were in the spawning channel, late in the fall.
Q And after that second year, did you receive any fish from the Department of Fisheries?
A I think we got another shipment of fish after that.
Q Do you remember when?
A No. We have the dates in our office.
Q Okay. Do you, Mr. Joseph, accept any of this fish as compensation for the loss of your fishery?
A No, not after 20 years.
Q And do you claim the rights to the fishery? Do the Wet'suwet'en people claim fishing rights to that fishery?
A Yes.
Q And today, Mr. Joseph, you indicated that you receive fish from Woos, I think?
A Yes.
Q And is this -- is this the way that you receive your fish today?
A Yes.

Q How do the -- how, if you know, do the other Wet'suwet'en people who relied upon the fishery in the Hagwilget Canyon, how do they receive their fish today?

A They mostly trade for the fish, and some have relatives that they can get fish from. And sometimes we set nets in the canyon but it's just not enough to -- it's more work going up and down that hill, and you have to get poles and buy the nets, and like I said, it's -- the -- you just -- it's pretty hard for our people to get fish. But that's not the only -- you ask me for an impact, but there is other things that we've -- we can't -- our people can't do anymore. The younger people -- that canyon was used by people that were blind before blasting. People as young as five or six years old could go down there and fish. It was the first place for a young person to go on your own to make your living. But when -- and the oldest person -- I've seen blind people go out and get gaff poles in the spring, come back home and make their gaff, go down there. They knew all the trails, they knew all the footing in the canyons, and they were -- they gaffed. They catch a fish and put up their own -- they got somebody to -- if they caught their own fish they got somebody to dry it for them, but they -- they had to do all those things. Those elders in the 30's never got pension, there was no family allowances. They -- the -- our people for the first 50 years of the century never did get pension. They were blind people too, like I said, that had to look out for themselves, and the housing on the reserve was done by our own people. So when that fishing was out, there is no young people on our reserve that know how to -- how to put up fish, split the fish, the timing, the wood that's needed, all that is gone. So it's not just the loss of the fish that affects us, it's -- it's a way of life that's gone. And the people that was supposed to protect us, pushed that, and I'm talking about the Federal government, the D.I.A., they were instrumental in that rock being blasted out of there. They paid for the blasting of that rock, and we are still paying today for the blasting of that rock.

Q You talked about the way of life. How important is the fish today to the Wet'suwet'en?

A It's very important. If that rock was still there today, we get three or four fish out of there with --

it's still -- we are still right -- it's still the rock -- the Fisheries admitted after the rock was taken out that they were wrong, that the fish -- the spawning was still on the decline in the Bulkley, and some of the people said that the fish that went through the canyon there went through too early. By the time they reach the spawning grounds they were too early and they were too fat by the time they hit the spawning grounds. So that the removal of that rock really -- well, whose fault was it? It wasn't our fault. When we asked the Department of Fisheries about that years later, they ask us, "What do you want us to do? You want us to put the rock back? We'll do it." That's what some of the engineers said. But the D.I.A. and the Federal government they silent on that.

Q There was smokehouses in the canyon floor that you pointed out to us?

A Yes.

Q And I take it that smoking and the use of fish was an important part of the diet of Wet'suwet'en people?

A Yes.

Q Is that -- is that so now?

A Yes.

Q And do you -- do you use the fish both for food purposes and for other purposes? Do you exchange the fish in the feast, for example, or trade it?

A Yes. They -- our people traded fish.

Q Mr. Joseph, before the rock was blasted, what -- what kind of -- what numbers of fish were taken from the Hagwilget Canyon, how many fish did people take out of there, your best estimate? Perhaps even you could say how much your House took out of there?

THE COURT: He told me, Mr. Rush, he used to get four to 500 fish per day.

MR. RUSH: Yes. And there was another answer which I thought he made mention of three to four fish.

THE COURT: That was after the rock.

MR. RUSH:

Q Okay. That's what you --

A Yes.

Q All right. The other question that I had was that you mentioned that the -- one of the people or perhaps more than one of the people of the Hagwilget Village was blind and yet could negotiate the route down to the -- to the fishery?

A Yes.

Q Was that a difficult route?

A It was. But they knew the trails and they -- I remember they would go right into the canyon with a cane and a gaff pole.
Q Because of their familiarity with it?
A Yes.
Q With the --
A I remember the -- how I know the persons who are blind is one of them went out to get a gaff pole and he lost his knife out there, so he came home without his knife but he hired a bunch of us kids to go out and look for his knife the next day. And we found it for him, and we had to go right back to where he cut his gaff pole.
Q Are there smokehouses in Moricetown today?
A Yes.
Q Okay. Are there any smokehouses in Hagwilget?
A Yes.
Q Are there very many?
A No.
Q Okay. Were there more smokehouses in Hagwilget prior to the blasting of the rock?
A Yes.
Q People used to smoke their fish --
A Yes.
Q -- at that time?
A Yes.
Q Okay.
A Every House had a -- every family had a smokehouse.
Q And you mentioned that there was a place where -- today where there could be some netting, net fishing. Did you say that in -- on the Bulkley, around Hagwilget?
A No. That's not in the canyon.
Q Okay, that's what I -- I wanted to determine if there were any net or gaff sites that were useable by the Wet'suwet'en people in the canyon today?
A No. Because there is -- the Fishery came back after the blasting of the rock and tried to find a net site but they didn't find a site right in the canyon.
Q And the Wet'suwet'en people tried to find a net site, did they?
A Yes.
Q And a gaff site?
A Gaff sites too.
MR. RUSH: All right. My Lord, I intend to pause there and continue my examination tomorrow. Mr. Grant -- I pause now before the hour because Mr. Grant indicated there was a matter that he wanted to deal with so I

was going to just pass it over to him for a moment.
THE COURT: Yes, all right.
MR. GRANT: Yes, My Lord. The only matter I wish to deal with was rather minor at this stage. It was -- I indicated when Gyolugyet, Mary McKenzie, gave evidence that -- regarding seating at different Feasts that I would arrange for charts to update or to reflect more accurately her evidence in the charts that are at Exhibits 2-4, 2-5 and 2-6, and these were seating charts at different Feasts. I provided copies of the proposed seating charts to my learned friends, and I'm not certain if they have any concerns with respect to them. But if not I wanted to tender those in and I propose to mark each of them as under Exhibit 2 and as Exhibit 2 with those references. If they have any concerns, I -- I think it's more appropriate that we could deal with them outside of court if they have any problems, but I haven't heard any concerns.
THE COURT: All right. Is there any problem, Mr. Goldie?
MR. GOLDIE: I haven't seen the document in question, and I can advise Your Lordship tomorrow morning of it.
THE COURT: All right.
MR. MACAULAY: I'm in the same position.
THE COURT: All right. You can speak to the same matter again tomorrow morning if you like.
MR. GRANT: Yes, My Lord.
THE COURT: Could I just say that I have received a request and inquiry for a copy of my draft reasons on hearsay from other counsel on other cases, and I gather, like all other matters, legal word travels rapidly. I have -- I have advised my office that anyone who wants it is free to have a copy of it, but it is not to be published or anything of that kind. And I would appreciate when we have our legal argument, whenever it is, if counsel could also at that time deal with the question of whether I should treat those reasons as being final or whether counsel would like to make some further submissions that may lead me or persuade me to change them. If it is convenient, I would like to hear from counsel about that some time at their convenience.
All right, we'll adjourn then until ten o'clock tomorrow morning.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AT 4:00 p.m.)

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.

Toni Kerekes,
O.R., R.P.R.
United Reporting Service Ltd.