JANUARY 22, 1988.
VANCOUVER, B.C.

THE REGISTRAR: In the Supreme Court of British Columbia, Friday, the 22nd day of January, calling the matter many of Delgamuukw against her Majesty The Queen, My Lord.
THE COURT: Thank you. Ms. Mandell.
MS. MANDELL: Thank you.

EXAMINATION IN CHIEF BY MS. MANDELL, Continued:

Q Mr. Alfred, we were in the middle of talking of fishing when we broke on -- broke yesterday, and I wanted to ask you whether or not at the feast where steelhead from Wah Tah K'eght's territory was distributed for Alec Tiljoe and your wife's grandmother, Annie Michelle, at those two feasts whether you received any pay back from the hosts for your contributing fish to those feasts?
A From Gil Tsayu host, yes.
Q Can you explain to the Court what is a pay back at a feast?
A I receive some money and some good.
Q And I also wanted to ask you, just with respect to some of the questions from yesterday which we didn't completely finish, when you were yourself fishing at Moricetown, when you were a younger man, whether any of your children would come down with you and fish at that site or help you at that site while you were fishing?
A Yes.
Q And which of your children would do that?
A Ricky came down with me and helped me pack, and so is Lester.
Q And those are two of your three sons?
A Two sons.
Q And your daughters, are their names Delores and Marjorie?
A Yes.
Q And do those children help in any way with respect to preparing of the fish which comes into your household?
A If I get some fish to the house, my wife would prepare for either do the canning or freezing. Daughters are helping mother.
Q Now, I had asked you just prior to our breaking whether or not there is any place, any lake within

your territory where trout are located?
A At Tedeltl'ets.
THE INTERPRETER: 372.
MS. MANDELL:
Q To your knowledge is there a fish trap on that lake?
A There is.
Q And while you have been chief, have you had occasion to protect that trap against its being removed from your territory?
A Yes.
Q Can you explain to the Court what happened and what you did?
A I don't know exactly the year, but there was some non-Indian came to me and asked me for permission to move the fence -- fish trap, the fence, from that area to some museum, and I told him no.
Q Okay. And why did you refuse to give your permission to have that fish trap removed?
A It belongs to the previous Wah Tah K'eght's mother. So Peter Bazil was looking after it all through his Wah Tah K'eght. That's why I said no.
THE COURT: It belonged to Peter Bazil's mother did you say?
THE WITNESS: Yes.
THE COURT: Thank you.
MS. MANDELL:
Q And did it also belong to Peter Bazil?
A Peter Bazil was the one looking after it. I don't think he used it. I don't know. It's beyond my time.
Q How do you know that Peter Bazil looked after it throughout his lifetime?
A My grandmother used to tell me about that story, and Peter Bazil himself told me, so it's my mother.
Q And do you have any idea what Peter Bazil did in order that he would look after that fish trap?
A He's trapping out there and he stops at the lake for camp overnight, and he put new branches under the tree and then piled it on top again, so it doesn't rot.
Q Since you've yourself been unable to fish salmon at Moricetown, has your family had enough fish throughout the winter?
A No.
Q You mentioned that your father -- I'm now not -- I'm moving into another area, and I want to have you answer questions about your in-law responsibilities and the relationship of you with your in-laws. You mentioned that your father would provide meat to Lucy Pius as part of his Wet'suwet'en obligation to his

wife's house. Do you recall telling us that?
A My dad used to go out to his territory to get some meat, beaver or moose, and they -- my grandmother just next door. They all use.
Q And do you know whether your father contributed meat from his territory to a Laksilyu clan feast?
A Yes.
Q Can you remember which feast this was?
A My grandmother.
Q And was his contribution announced at the feast?
A Yes.
Q And do you recall whether there was a pay back to him from the Laksilyu?
A I don't remember, but it's mentioned at the feast hall where the meat was come from.
Q And you mentioned yesterday that you provide fish from Wah Tah K'eght's territory to your wife's house?
A Yes.
Q Have you ever been asked by your wife's House or any of the members of it to get beaver for their feasts --
A My mother-in-law asked me to go to their territory and get some beaver for them for Alec Tiljoe's feast, and the next one was Annie Michelle's feast.
Q And did you get beaver for them?
A Yes.
Q And was that for the Tsayu feast?
A Yes.
Q Was it announced at the feast where the beaver was taken from?
A Yes.
Q Did you get a pay back at the feast for your help?
A Yes.
Q Have you ever contributed beaver or meat from Wah Tah K'eght's territory to Tsayu feast to help your in-laws in that way?
A Yes, I did.
Q Can you recall whose feast that was?
A I believe that was Annie Michelle's Headstone Feast.
Q And was it announced at the feast where the meat had come from?
A Yes.
Q And did you get a pay back for that contribution?
A Yes, I did.
Q Have you hunted with Buddy Williams on his territory?
A Yes.
Q Is Buddy -- was that by invitation by Buddy Williams?
A He called me two weeks before that. He made

arrangement. He wants me to go to, yes.
Q Would Buddy's invitation to you be part of the way that the in-law clans help one another?
A Yes.
Q Did you provide meat from Wah Tah K'eght's territory to your father's funeral feast?
A Yes.
Q And was that announced at the feast?
A Yes.
Q And do you plan to hunt for his Headstone Feast?
A Yes.
Q And in whose territory would you hunt for his Headstone Feast?
A I will do it on my Wah Tah K'eght territory -- the last time my brother or myself will have permission from Freddie Joseph and hunt on my Dad's territory for the last time.
Q All right. And why then would you seek Freddie Joseph's permission for this last time?
A Freddie Joseph, he took my Dad's name, Indian name.
Q I'm going to show to you a map which I'm going to ask you to identify, and I'll provide copies at this time both to the court and also to my friends.

MR. PLANT: Perhaps I could ask my friend to confirm what document this is on the plaintiff's list of documents.

MS. MANDELL: My Lord, this map was the base -- the base map of this was taken from a map which my friends gave to -- my friend, Mr. Plant, delivered to Mr. Rush on January the 8th. It's a map which was prepared by officials in the Provincial Ministry of Forests, depicting logging activity within the claims area of Wah Tah K'eght, and the map is twice the size. It's a map which is this large, and it was reduced by 50 percent to produce the base map.

As we understand it, the boundaries for the base map had been taken from Exhibit 102, which was Exhibit 5 at the Examination for Discovery of Neil Sterritt. This was a draft map showing the internal boundaries of the claims area.

You will probably recall there was a discussion about the map having been provided by the Province under circumstances which the plaintiffs weren't -- at that time prepared to have had that map disclosed. But in any event, the map was -- came into the possession of the Province and was introduced at the discovery of Neil Sterritt, and from our cartographer's best judgment, the map which the

Province delivered then to us is a map which was used as the base map for this drawing.

Now, the witness will explain how the various lines were put on the map and what they signify, and that will be the subject of his evidence now.

MR. PLANT: I should perhaps rise on one matter of clarification. The external boundaries on the base map which my friend has referred to are in fact taken from Trial Exhibit 5, which is the map produced by my friends, marked as an exhibit on the 20th of May, 1987, and my instructions are that the external boundary of the Wah Tah K'eght territory, as depicted on this base map, are the external boundaries of the Wah Tah K'eght area as depicted on Trial Exhibit 5.

MS. MANDELL: It's not our understanding, but I'm glad to have --

THE COURT: I'm not really sure what this means. I'm having difficulty following the history of these maps, but more seriously I'm trying to figure what the significance of all this is.

MS. MANDELL: I don't think that there is any. Unless my friend now has an objection, I propose that we proceed with the evidence.

THE COURT: This map is not a map of the internal boundaries of Wah Tah K'eght, is it?

MR. PLANT: My Lord, there is a black line -- black line in the upper right quadrant.

THE COURT: I can see all of that, but it's not the same, is it?

MR. PLANT: Excuse me?

THE COURT: It's not the same as Exhibit 84, for example.

MR. PLANT: Well, it may or may not be, My Lord. It doesn't purport to be. It purports to be the same as --

THE COURT: Exhibit 5.

MR. PLANT: -- Trial Exhibit 5.

THE COURT: I see. All right.

MR. PLANT: In approximate terms. And when I provided a copy of this logging map to my friends, that was the advice that I gave them at the time.

THE COURT: All right. But the external or rather the internal boundaries, if I can call it that, shown on this map, you say, Mr. Plant, came from Trial Exhibit 5?

MR. PLANT: Those are my instructions -- the Ministry of Forests personnel who created the base map, that is to say, all the black lines on this map were using Trial Exhibit 5 as the guide.

THE COURT: All right. And you say, Miss Mandell, on -- I'm sorry.

MS. MANDELL: We were advised that the external boundaries depicted in this map I have just produced were taken from Exhibit 5 in Neil Sterritt's affidavit, which have become 102 of the trial.
MR. PLANT: I'm sorry, by whom were you advised that? Because if that was my advice to you, then obviously what I said was incorrect. My recollection at the moment was I said that -- when I sent this to my friends, I said that it was taken from Exhibit 5, Trial Exhibit 5. If the advice which my friend is referring to is the advice that she has received from her experts, then that, of course, is a conclusion which her experts are drawing from their review of the map.
THE COURT: Well, you say --
MR. PLANT: Which may be a correct conclusion. It may be, My Lord -- not to be cute about this -- that the boundary of the Wah Tah K'eght territory, as shown on Exhibit 102, may be the same as that shown on Trial Exhibit 5. I haven't done a careful comparison of those two boundaries.
THE COURT: You say, Mr. Plant, that this particular map, apart from the external boundaries, was prepared for the purpose of showing logging in Wah Tah K'eght's claimed territory, do you?
MR. PLANT: As depicted on Trial Exhibit 5.
THE COURT: Yes, right. And from that, Miss Mandell, you have or your cartographers or others have added something to do with hunting, I gather?
MS. MANDELL: That's right.
THE COURT: All right.
MS. MANDELL: I'll lead the evidence as to what the lines are --
THE COURT: All right. Thank you.
MS. MANDELL: I just wanted, though, for the record, to clarify that our advice is that the boundaries are the ones as I have told the Court, that is coming from Exhibit 102. And I know that it may or may not matter --
MR. PLANT: The Ministry of Forests personnel have never seen Exhibit 102, but I am placed in the timorous position of suggesting to the Court -- to my friends that it might have been of some assistance if I had been provided with the coloured depictions on this map sometime prior to five minutes ago.
MS. MANDELL: It's going to be the evidence of this witness, and we can get on with it at this point --
MR. MACAULAY: My Lord, I don't make objection this time, but I want the plaintiff to know that I will object another time for a map being put in this late in the day. The

rules provide for 7 days notice of a map or plan. We didn't see any of this, whatever work they have done on this, nor, of course, have we seen any of the markings. We have seen none of it 'til a minute ago.

MS. MANDELL: Well, My Lord, I might advise, Mr. Henry Alfred could have put the markings on on the stand, and we hoped to facilitate that. It's not that my friends have been taken aback by the map. It wasn't provided -- it was provided by them.

MR. MACAULAY: That's no answer. I will object another time. I am not objecting this time, so the trial can go forward. The next time I will object on behalf of my client and stand on our right to have maps, drawings, diagrams and so on in the time that the rules provide.

THE COURT: All right. Thank you.

MS. MANDELL:

Q Okay. Mr. Alfred, do you recognize the map that's in front of you?

A Yes.

Q And you have seen that map before?

A Yes.

Q Did you describe where the hunting, trapping, fishing and berry picking places were on your territory to me with the map in front of you?

A Yes.

Q And did myself and Richard Overstall put coloured markings on the places which you described in my presence?

A Yes.

Q And did you approve of the markings as they were placed on the map by us?

A Yes.

Q I would like to ask you some questions about what the various markings mean. You've indicated with a double line -- a black and a moss green line which follows K'aaz Kwe, there is a line there that you have made, actually two lines. Could you explain to the court what that line represents?

MR. PLANT: I may have misheard the evidence. I thought that it was Miss Mandell and Mr. Overstall who made the lines, and that's not what Miss Mandell has suggested by the last question.

MS. MANDELL: My Lord, the process that was described was that the actual coloured pencils were in the hands of myself and Mr. Overstall. Mr. Alfred oversaw the placing of the lines on the map and approved them where they were. The lines were then placed.

THE COURT: All right. The question is, what does this double line mean starting along K'aaz Kwe? Can you tell us that, Mr. Alfred?
THE WITNESS: We'll start here at the -- on the river, follow the river up the stream to K'aaz Kwe, and the boundary line follows K'aaz Kwe to K'aaz Kwe nuk (?) right up to Nee biil dil yee.
THE COURT: And what is that line?
THE WITNESS: Boundary line of Wah Tah K'eght territory.
MS. MANDELL:
Q And is that your northern boundary?
A That's north --
MR. MACAULAY: That's something new, I think. That's the reason these maps should be provided beforehand, so we'll have some -- that is brand new. That is nothing -- this has nothing to do with logging and hunting. This is boundaries. It's a brand new line, never heard of it before.
THE COURT: Part of the burden the plaintiff has assumed in this case, for reasons which aren't entirely clear to me, is to establish these internal boundaries. Now, this evidence of internal boundaries that you are hearing now, as you say for the first time, may be favourable to you or may be unfavourable, but it's still evidence, is it not?
MR. MACAULAY: It's not a question of whether it's favourable to one party or not favourable to another party. We can't even follow the evidence when these things are dropped on us on a thirty second notice. I just happened to notice that because I have been looking at their other map.
THE COURT: Well, I take it then, Mr. Macaulay, your objection is to the production of this map at this time?
MR. MACAULAY: Yes. I thought, when I looked at it a few minutes ago, that it looked -- although it was a rather rough boundary -- that it conformed in a general way to what I understood to be Wah Tah K'eght's territory.
THE COURT: Well, it's a startling different boundary that is being described, but it seems to me that your objection has to either go to the production of the map and the use of it at this time or not. A moment ago you weren't objecting. Are you now objecting?
MR. MACAULAY: No. Only because the evidence is going to be -- this witness will be back and giving evidence in a week's time. That's the reason. But I am making the point that this is the reason. It isn't -- we have --

at a certain point we have to follow the ordinary rules, and I am making a point to Your Lordship that that kind of thing is the reason. I don't know what else --

THE COURT: Well, I can understand your surprise and your uneasiness about being faced with evidence that seems to be at variance with what you expected, but if you're not objecting to the evidence being led at this time, then it seems to me that we should proceed.

MR. MACAULAY: I'm uneasy is a good word. It's Mr. Overstall -- is that the name, Overstall?

THE COURT: Yes.

MR. MACAULAY: Was drawing the line, not the witness, which makes it all the more awkward.

THE COURT: Mr. Overstall or Ms. Mandell drew it where Mr. Alfred told them to draw it. It's the same thing, I think --

MR. PLANT: I am going to rise, if I might, My Lord, to amplify Mr. Macaulay's concern. Your Lordship may recall that I spent sometime examining Mrs. Alfred on the question of location of boundaries.

THE COURT: Yes.

MR. PLANT: And I conducted that examination through the benefit of a map which did not have the location on it -- very many of the places that are described in the affidavit, and conducted much of that cross-examination entirely into the dark as to the location of the places that the witness was testifying about, especially in relation to the names of certain mountain peaks. Now, very conveniently, after the conclusion of that cross-examination, my friends are kind enough to provide us with a map that does show the names of some places which are on the affidavit. So for the first time I am enlightened as to where on the earth the place Nee biil dil yee is.

I certainly -- I hasten to point out that in the affidavit the place with that name was described as a peak at the head of K'aaz Kwe. On my reading of the topographical maps, given the description of that nature, that allowed for many square miles of places that could be described, conceivably, as the head of K'aaz Kwe. I have not had an opportunity at this point to check the other places that are now labelled on this map as being, presumably, places on the boundary of the territory of Wah Tah K'eght. It makes the case impossible to conduct, from my perspective, and placed in a position of having to try and cross

examine a witness on an affidavit who doesn't read and doesn't read maps, to find out where certain places are, and then the next day to be provided with a map that shows -- after the witness has been excused, to be provided with a map which shows somebody else's idea of where all these places are is a very difficult problem for me.

I am going to take the same position as Mr. Macaulay. I am not going to object to this map at this time, but I want my position and my concern on the record.

MS. MANDELL: My Lord, if I could just add to the discussion. On December 17th my friends were provided with the territorial affidavit of Madeline Alfred, and in that territorial affidavit, on the question of boundary, the following is the description of the boundary as she describes it. It's found at paragraph 5 on page 2.

THE COURT: Just a moment please.

MS. MANDELL: This is Exhibit 120.

THE COURT: Just a moment please.

MS. MANDELL: Tab 2 of the boundary.

THE COURT: Yes. Yes.

MS. MANDELL: You will see the -- 5 lines from the bottom of the paragraph:

"A peak at the head of K'aaz Kwe."

And then the English name of K'aaz Kwe. This is the name -- the spelling as it's taken from the government maps, which you might recall my friend opposed that those English names were put in. But in any event, it's there and --

MR. PLANT: Miss Mandell, with the greatest of respect, that's not the position I ever took on placing the English names in the affidavit.

THE COURT: I haven't heard that objection.

MR. PLANT: That is a gross characterization of my position or any position.

THE COURT: We are in enough trouble now without exaggeration. I have never heard it suggested that there is any objection of the use of English names that I have heard of.

MS. MANDELL: I might have misunderstood a discussion which was there.

"A peak at the head of K'aaz Kwe."

With the English named spelling of the word.

> "The boundary then follows the south bank of K'aaz Kwe to its mouth at Wedzen Kwe (Bulkley River)"

Which is what is now shown in the map.

> "Where it crosses to the west bank of Wedzen Kwe, which it follows to the starting point at the mouth of Sde Kep."

Which is Porphry Creek.

Now, My Lord, there is the description of the northern boundary of the territory, which my friend, had he plotted on a map, could have easily have identified himself a month ago or several weeks ago.

MR. PLANT: Unfortunately my maps don't have Nee Biil dil yee on them, which makes it a little hard to plot them on a map.

MS. MANDELL: If my friend may let me finish what I have to say. K'aaz Kwe is clearly identified as the northern boundary by Madeline Alfred, and my friend has had this information for quite some time.

I might also mention that the interrogatory map, the one that has been used by my friend, was marked "draft", and there's been no suggestion by the plaintiff that that will be the evidence, the final evidence presented with respect to the boundaries -- presenting the evidence of the boundary.

My friend had plenty of notice of K'aaz Kwe being a boundary, and if he's confused, he could write to us or plot it on a map according to his own direction, but it's certainly not now a surprise to him that K'aaz Kwe's the northern boundary. This in fact was further evidence which Miss Madeline Alfred gave on the stand.

MR. PLANT: I am not suggesting that there was any confusion about K'aaz Kwe, My Lord. It's these places: Nee biil dil yee, Haneec'et gehw and Ts'edeed K'ai, Caas Weniige'tet T'ay or whatever they are on this map that cause me a little bit of a problem.

MR. MACAULAY: May I say something about that? I was entitled to rely on Exhibit 5 as the boundary of this house -- that's the plaintiff's exhibit -- when, for instance, the overlay for that miniature map was drawn, Exhibit

5 was used. And why shouldn't it be? It was their boundary. My friend, Miss Mandell, is suggesting that having been provided with Exhibit 5 and earlier being provided with Exhibit 84 over, you know, these last two years, that we should have -- I should have been alerted to the fact that there was an entirely different boundary described in words, which is very difficult to follow, very difficult.

Our cartographer could, I suppose, if we had twigged, if we had some reason to check that written description, we might have discovered that. I can't think of any situation that illustrates better the necessity for deliveries, at least in accordance with the rules of maps, that are going to change everything.

THE COURT: Well, there is no doubt that it would have been helpful. I don't know when this map that's just been tendered was prepared, and that -- and nor --

MR. MACAULAY: Obviously knew about this change in boundary weeks ago, because the affidavit was delivered weeks ago, but there was no altered map.

THE COURT: No. It's a question of comparing leaps and bounds with descriptions.

MR. MACAULAY: It's pretty difficult to do.

THE COURT: With lines on a map.

MR. MACAULAY: Especially when one is hurled into a false sense of security, I suppose, by Exhibit 5. Well, there it is. We know where the boundaries are, and we prepared the cross-examination of any given member of a given house in relation to that, and no use in asking a man from Wah Tah K'eght about Woos' territory and so on.

THE COURT: I suppose, Ms. Mandell, that the substantial reduction in the claimed territory on behalf of the plaintiff, Wah Tah K'eght, results in an increased claim somewhere else, does it?

MS. MANDELL: Well, that's -- in one --

THE COURT: Where does this northern no man's land come to rest?

MS. MANDELL: Well, two chiefs, Woos and Caspit, will be the ones which will be dealing with the areas further.

THE COURT: So their boundaries are changed also?

MS. MANDELL: I might advise and remind the court, Exhibit 5 was tendered for identification only, and the witness, Alfred Joseph, has already looked at Exhibit 5 and made changes with respect to his boundary, which he then tenders as his evidence, and --

THE COURT: Will counsel remind which is the exhibit, or if it is an exhibit that is attached to the Statement of

Claim.
MR. PLANT: That map only shows the external boundaries, My Lord.
THE COURT: All right. So that doesn't affect this.
Well, I don't know that I can be of much assistance to counsel. I understand the position of both parties. I can understand why the defendants are uneasy. As I said a moment ago, a plan being produced at this time, and I think that the concern has some increased force because of the fact that Madeline Alfred was put forward as a major witness and cross-examined on the same territory before the map was produced, but I don't really think at the end of the day this is going to be the turning point in the case. I think we have to carry on and do the best we can. The defence is going to have a week to prepare for the cross-examination of this witness in any event.
MR. MACAULAY: Not just this witness, My Lord, the last witness, different questions would have been asked of the last witness. The last witness referred to Exhibit 84 in chief.
THE COURT: The only way I can deal with that, Mr. Macaulay, is to permit an application for further cross-examination of Madeline Alfred, if at the end of the day that seems to be something that fairness requires. I'm not in a position to say at the moment whether that argument could be made, nor should I anticipate what your friends' response will be, but I think that that is the only thing I can say now, is that if it turns out that there must be further cross-examination of Madeline Alfred, then sobeit, but I'm not able to predict that result at this time.
MR. MACAULAY: There is another thing. There is a no man's land now. We don't know whose territory that northern area is, but is the next witness after -- next witness after this going to deal with that, or who is going to deal with that?
MR. PLANT: We've made the usual late night effort to try and follow the affidavit of the next witness that's coming along after Mr. Alfred, and with topographical maps and the descriptions that are contained in that affidavit. It appears that the next witness that my friends have indicated that they intend to call is Mr. Alfred Mitchell, will be offering by way of affidavit evidence concerning the territory, or at least much of the territory that's in the area that appears to have

been blocked off so-to-speak.

THE COURT: All right. As I said, I have yet to understand the need for the evidence on internal boundaries, but I'm hoping that will come clear to me at some point.

MR. MACAULAY: I can't speak to the need for it, but I'm sure my friends, the plaintiffs, have carefully thought that out. But at least we -- if we know what the internal boundaries are, and I thought until today I did, then we could confine the cross-examination to those -- within those boundaries, rather than go all over the map.

THE COURT: Yes. Well, as I say, it seems to me that I have raised this before, that the plaintiffs have taken on the burden to prove the internal boundaries. If they think that's something they have to do or ought to do -- and I am going to leave that with them -- I think that the argument that I have just heard, or discussion, perhaps, is a more accurate description, does point out the need for the timely -- early and timely disclosure of any changes in what has been put forward. I agree and recognize that Exhibit 84 was put forward with a stamped "draft copy" in large lettering, but nevertheless it was delivered with particulars -- with interrogatories, rather, and I think the defendants were entitled to assume that was going to be the evidence, until they are advised otherwise.

So I'll confine myself to that for the moment and suggest we proceed.

MS. MANDELL: My Lord, I appreciate your comments. If I could just, though, ask for clarification with respect to this. The reason why the affidavit rule of 14 days was given, I thought, was to give our friends the kind of advance notice with respect to boundaries that they may need, and that's what we did. And I just wanted to say that clearly, because it seems to us that we had given the notice which was required from the court's directions on this point.

THE COURT: Well, you are quite right. Mr. Plant agrees with you that he was able to determine that north boundary from a careful reading of the descriptions, but that doesn't tell him what to do with the rest of the case. Again, the cleaning lady wasn't going to pick that vast territory up and carry it away. Something has to go somewhere, and that hasn't been made apparent yet, I gather, or has it? I'm looking forward to the next chapter of this mystery. Go ahead, Ms. Mandell.

MS. MANDELL: Mr. Alfred, you had in your earlier answer, long before this discussion, mentioned two Wet'suwet'en words on the northern boundary, and we would like to try and get the spelling of the -- both of them.
Mr. Mitchell, could you direct the question, then, to Mr. Alfred as to the word which you would like the pronounciation for?
THE INTERPRETER: You asked a question before everybody started jumping up and down here. One of them was Wed'zen Kwe and the other word started with an S.
MR. PLANT: Was it something that Miss Mandell said? She was reading from the -- S-d-e C-e-p (sic) Creek.
MS. MANDELL:
Q You indicated that K'aaz Kwe is the northern boundary of your territory. Who told you that that boundary was your northern boundary?
A My grandmother, Peter Bazil, also my mother.
Q And you will notice that around the map there are a number of Wet'suwet'en place names which are identified with black letters. Are those the place names which Peter Bazil indicated to you when you went out with him on the territory in 1963?
A Yes.
Q I wonder if you could start at the northern boundary and identify the place which Peter Bazil showed to you. Perhaps we can begin at this corner.
A Nee biil dil yee. North corner --
THE COURT: I'm sorry?
THE WITNESS: -- of the boundary.
THE INTERPRETER: It's 367.
MS. MANDELL:
Q And then moving --
THE COURT: That's not on the map, is it?
MS. MANDELL: Yes, it is, My Lord. It's in the north corner just above the red line which is marked number 2.
THE COURT: Oh, I'm sorry, I was looking at the other north corner. Nee biil dil yee. Yes. Thank you.
MS. MANDELL:
Q We just mentioned K'aaz Kwe?
A Yes.
Q And?
A Wed'zen Kwe.
Q Could we have a spelling of that?
THE INTERPRETER: It's number 150.
MS. MANDELL:
Q And do you know the name of this creek?
A Porphry Creek.

Q And this is the creek on the north part of the boundary between the Bulkley Valley and the area immediately to the corner of the blue mark line, "goats".

THE INTERPRETER: 509.

MS. MANDELL:

Q And then coming down the west side of your territory, you have a name marked on the map beside the word "goats"?

A Caas Weniige'tet T'ay.

Q And then continuing along the west side, I would like to draw to your attention -- there is a lake called Kitsegukla Lake down the west side of the territory, and there is another little lake on the other side of that line. Do you know the name of that little lake?

A I think my grandmother calls it Tal tzen.

MS. MANDELL: Could we have the spelling for that, Mr. Mitchell.

THE INTERPRETER: T-a-l, underline, t-z-e-n.

THE COURT: Sorry. Start again please.

THE INTERPRETER: T-a-l, underline, t-z-e-n.

THE COURT: Thank you.

MS. MANDELL:

Q Do you know of the area between Kitsegukla Lake and Tal tzen?

A Teeteet.

THE INTERPRETER: 373.

MS. MANDELL:

Q And then following the boundary around the corner and into the south side of your territory you have identified another place here. Which is that place?

A Ts'edeed K'ai.

THE INTERPRETER: T-s'e-d-e-e-d, K'-a-i.

MS. MANDELL:

Q Slightly different than the spelling on the map, but it's the same place. And this is the name that Peter Bazil identified to you?

A Yes.

Q And then your boundary continues along the south side following a creek which has been marked Driftwood Creek. Is that your understanding of where the boundary goes?

A Yes.

Q And can you recall who advised you of the boundary, being Driftwood Creek on the south side of your territory?

A Peter Bazil.

Q Okay. And then you -- your boundary rounds the corner

on the east side that -- you have identified a landmark there just behind the word "goats".

A Haneec'et gehw.

THE INTERPRETER: 242.

MS. MANDELL:

Q And was that also identified to you by Peter Bazil?

A Yes.

Q Could you advise the court whether you would judge that you know all of the Wet'suwet'en place names and boundary points within your territory at this time?

A Not all of them.

Q And are you still learning place names and boundary points?

A Yes.

Q And who are you learning from?

A My mother's only one left now, so I guess my mother.

Q All right. Now, there are a number of places marked in blue on the map where you've indicated that those places have goats or have got the word "goats" indicated on the map. The areas there indicated by the blue shapes with the word "goats" inside, what are those areas intended to show?

A That's where we go to goat hunt on the mountain.

Q Okay. And is it your understanding that those places are good goat hunting areas?

A Yes.

Q Okay. Since you have taken the name Wah Tah K'eght, have you yourself gone goat hunting at all in those locations?

A Yes.

Q What season of the year is goat hunting?

A In the fall, late fall.

Q Would you -- can you say whether you go goat hunting every year, or is it something that you do more periodically than that?

A Not every year. Maybe every second year I would say.

Q All right. Is there anyone else from your House who also, to your knowledge, goes goat hunting regularly in the territory or has since you have become chief?

A Cecil.

Q That's your brother Cecil. Looking at the area, goat hunting area below Porphry Creek, can you advise whether there have been others from either your own clan or another clan who have hunted with you in that area?

A That would be on the west end?

Q That's right. It's this area here.

A Yes.
Q And who have hunted there with you?
A Dan Michelle.
THE COURT: Porphry Creek isn't marked on this map, is it?
MS. MANDELL: It's the very top line, My Lord, on the north boundary between Highway 16 and the western boundary. It's the bar right across the top.
THE COURT: It's not shown as a creek, I gather.
MS. MANDELL: No, it's --
THE COURT: What is this broken line between the north boundary and Bolder Creek, a solid and then a dot and then solid and a dot?
MS. MANDELL: I don't know.
THE COURT: All right.
MR. PLANT: It may be some representation of some governmental administrative district.
THE COURT: All right. But the northwest boundary is along Porphry Creek, is it?
MS. MANDELL: That's correct.
THE COURT: All right. Thank you.
MS. MANDELL:
Q We were describing the fact that Dan Michelle had hunted goats with you in the area just below Porphry, and I was asking, then, was anybody else with you or do you know of other people who hunted with you in that area?
A There was Dan, Cecil and my youngest boy, Lester.
Q All right. And yourself, were you there?
A And myself.
Q And do you recall whether -- Dan Michelle is Tsayu, is that correct?
A Yes.
Q And do you recall whether you invited Dan or whether he sought your permission to hunt with you at that time?
A I invited him to come.
Q And can you recall whether the -- first of all, did you catch any goats at that time?
A Yes.
Q Can you recall how many?
A Dan had one, Cecil had one and myself three.
Q All right. And would you have been able to have caught more goats on that occasion?
A Before we left from the timber lineup to the mountain we had -- we said just three, that's all we are going to get.
Q And then what happened when you were up there?

A We run into a big herd of goat, and Dan was down below, and he told us to go around that mountain and get up on top, and we did. And we waited, and Dan chased them up to us. And he said, "Either one of you hear shot three times, quit there. No more." And we did, we got three.
Q Okay. And why did you limit yourself, then, to three goats at the time?
A There is four people went up there and that's good pack going back home. We want to leave some for next year.
Q And can you advise whether the goats from that particular hunting trip, did any of them end up at a feast?
A Yes.
Q Whose feast was that? Do you recall?
A My mother dried it, and it was distributed at my older brother's feast.
Q And was that Andrew's?
A Yes.
Q And do you recall if there was an announcement at the feast that the goats had come from Wah Tah K'eght's territory?
A Yes.
Q Was there a pay back to Dan Michelle at that feast for his hunting?
A Yes, we did.
Q I wonder, then, if you could turn to the goat hunting area marked in the south end of your territory. My Lord, it's by Hudson's Bay Mountain.

THE COURT: Yes.

MS. MANDELL:

Q Can you recall whether you have been in that area with anybody other than -- with anybody else to hunt goats either from the Laksilyu clan or from another clan?
A I went with Alfred Michelle.
Q All right. Now, Alfred Michelle is not from the Laksilyu clan?
A Tsayu.
Q And did he come by your invitation, or did he seek your permission?
A Yes, my permission.
Q Permission, okay. And if you could then turn to the goat area at the east end of your territory. Can you recall whether in recent years you've been in that part of your territory hunting goats with anybody either from your clan or from another clan?

A Victor, Chester.
Q Just a minute. Victor Jim?
A Victor Jim.
Q And Chester Williams?
A Chester Williams.
Q Victor Jim, he's from Tsayu clan?
A That's right.
Q And Chester Williams, is that Buddy Williams' son?
A That's right.
Q And were those two people there either by your invitation or with your permission?
A Yes, I asked him to come with me.
Q And do you know -- first of all were there any goats caught on that occasion?
A Yes, we got two.
Q And do you know whether the goats which were caught on that occasion were used at a feast?
A Yes.
Q Whose feast was that?
A My father's.
Q That's your father's funeral feast. Was it announced at the feast where the goat meat had come from?
A Yes.
Q And was there a pay back either to Victor or to Chester or to both at that time?
A To Victor, yes, yes.
Q All right. Can you recall -- perhaps I can ask it this way. When you catch goat and you are not with anybody, if you're just alone catching goats, what do you then do with the meat and with the skin?
A The meat, like I said before, I stopped at my mother's and distribute it from there on.
Q Okay. And is there any use made of the goats' skin?
A Sometimes use it for floor rug, but nothing else.
Q Okay.

MS. MANDELL: My Lord, this may be an appropriate time for the break. I am going to move into a new area.

THE REGISTRAR: Order in court. This court stands adjourned briefly.

(PROCEEDINGS ADJOURNED FOR A SHORT RECESS)

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

LORI OXLEY
OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RECONVENED AT 11:30 a.m.)

THE REGISTRAR: Order in court
THE COURT: Ms. Mandell.
MS. MANDELL:

Q Thank you.
Mr. Alfred, since you've taken the name Wah Tah K'eght, have you hunted moose on your territory?
A Yes.
Q And what season of the year is it that you go to hunt moose?
A In the fall.
Q And have you hunted moose every year, to your recollection?
A Yes.
Q Now, I'm going to ask you to turn to the map that's now in front of you, and to look at the area which we've marked in purple which says "good moose hunting before logging". Do you see the area I'm referring to?
A Yes.
Q When you received the name Wah Tah K'eght and when you first began to hunt moose on the territory, would you hunt moose in that area?
A Yes.
Q And can you describe for the court what -- what was the moose habitat like there?
A Before the logging?
Q Yes.
A Before the logging, moose hunting was good, really good.
Q Did you hunt over the whole area which was shown in the -- which is shown in the map which has itself -- has been indicated "good moose hunting before logging", did you hunt over that whole area?
A Yes.
Q Were there any salt licks in that area?
A Yes, there is couple, couple places.
Q Okay. Now, you've indicated to the right of that area towards your southern boundary, words which say "still good moose hunting"?
A Yes.
Q Can you explain to the court first of all whether you hunt moose in that area today?
A Yes.
Q And are there any moose left to be hunted in the area which you earlier indicated had been good moose

hunting before logging?
A Before logging was good, but after logging there is no more sign of moose anymore.
Q Okay. Before you received the name Wah Tah K'eght, had you hunted moose in that territory?
A Yes.
Q And who would you hunt moose with?
A Andrew.
Q Your brother Andrew?
A Andrew, late Andrew.
Q Um-hmm?
A Cecil and Adam Brown.
Q All right. This was before you received Wah Tah K'eght or after?
A When I took that -- Andrew was before, but after I took the name, Cecil, Adam Brown was out with me.
Q Right. And when you hunt moose today, how do you access the moose?
A If I get a moose I will stop at my mother's place and that -- then we will distribute it from there.
Q I meant to ask you how do you get into your territory to get to the moose, what access do you use?
A Oh, sorry. Now, today?
Q Today, yeah?
A Today I can drive back on a logging road little ways and then I walk from there.
Q All right. And can you indicate on the map approximately where you would stop on the road and then walk in?
A On which, good area or before logging?
Q No, now?
A Now?
Q Yes?
A There is Meed Creek there.
Q Um-hmm?
A You follow that road a little ways back to this last and then you walk over.
MS. MANDELL: All right. My Lord, for the record, Mr. Alfred has indicated that there is a road approximately which follows Meed Creek.
THE COURT: Yes, I see that.
MS. MANDELL: And mentioned the area -- there is three irregular shaped -- shapes in the middle of what is marked as line four which is the slash area, and then he indicates that he walks from there south.
THE COURT: What does the red broken line mean?
MS. MANDELL: That will be later identified as one of the

trapping lines.
THE COURT: Right, right
MS. MANDELL:
Q Before the time when the moose were -- had moved more towards the southern part of your territory, how did you -- and before the logging, how did you access the moose then?
MR. PLANT: My Lord, there is no evidence that the moose moved south. I mean the question is --
MS. MANDELL: All right, I'll change the question.
THE COURT: All right.
MS. MANDELL:
Q When moose were in your territory in the area which you've indicated was good moose hunting before logging, how did you access the moose at that time?
A Before the logging?
Q Yes?
A I walk from Whums C'oo Wenii back along the creek and up on the hill.
MS. MANDELL: All right. My Lord, perhaps we can get first the Wet'suwet'en spelling for Whums C'oo Wenii.
THE TRANSLATOR: Five hundred and seventeen.
MS. MANDELL:
Q And My Lord, for the record, I believe that that's along the line which is marked number three; is that correct?
A That's correct.
Q Okay. And the creek that you are referring to is the one which on the map is marked Gramophone Creek?
A That's right.
Q Okay. And can you advise approximately at what time or what year you first noticed that the moose were no longer occupying the same territory which you had been hunting them in earlier?
A I always go hunt in the fall, in the fall times.
Q All right. And what year, or approximately at what time did you notice that the moose were no longer in this area, the area which was marked "good moose hunting before logging"?
A The early '60's or early '70's.
Q All right. Sometime in that ten year period?
A In that ten year period, yes.
Q All right. And could you indicate whether or not you today hunt moose throughout the whole of the area which has been marked by you "still good moose hunting"?
A Yes.

Q And would you -- would you today be able to hunt moose as far south as the Telkwa High Road?
A When I hunt moose I don't go on the Telkwa High Road, I don't go beyond Meed Creek, but I always go back in there but you can come around like that to east.
Q All right?
A Up on the hill.
Q All right, okay. So you hunt on the --
A So I don't go this way on the high road.
Q You are pointing you don't go south on the high road, instead you go --
A There is no trespassing along here, I don't want to go through the fields of the farmers so I go up above and come down.

MS. MANDELL: All right. So for the record, My Lord, the indication is that the area which is used is along the -- it's in the interior part of the territory, approximately parallel to the number which is marked four.

THE COURT: Yes.

MS. MANDELL: Within the area which has been marked "still good moose hunting".

MR. PLANT: And in fact, that place where "still good moose hunting" is printed is where the witness was moving his finger, and when the witness was talking about the field and the no trespassing, he was moving his finger in the area of Twin Creek, now close to the Bulkley and the creek below that.

MS. MANDELL:

Q Can you indicate how far east you would go to hunt moose today?
A From Moricetown you are talking about?
Q Well the area which you are now describing to us we've got an arrow which is pointing east -- actually, it's pointing south-east and I'm just wondering how far to the south-east boundary do you actually go?
A I don't go too far after I get up on the hill across the creek, I don't go too far there. Sometimes I get one here at the creek.
Q Would you go as far as the line which is marked number six?
A I don't go that far, no, not yet.
Q Okay. And how far east would you go to do your hunting today?
A You mean from the slash?
Q Yes, the area which you now -- now are hunting in, how far east would you go?

A One time we crossed the creek up here somewhere and we walked along the ridge here.
Q Okay?
A And back.
Q The witness is indicating the ridge which is approximately along the words "still good" in this area, My Lord, on the map.
I would like to get a clear idea as to where you would go before the logging was in place in your territory. Could you advise how far -- how far north towards K'aaz Kwe would you go to do your moose hunting before the logging was there?
A I don't go too far back on the trail here.
Q Okay.
A Up here around this area here.
MS. MANDELL: All right. For the record, My Lord, the witness is indicating a place between line two -- line marked two and three on the map.
MR. PLANT: In the area of the first approximately vertical slashed red line, south-east of Duckwing Lake.
THE COURT: Yes.
MS. MANDELL:
Q And how far -- how far east would you travel or did you travel to do your moose hunting before the logging?
A Sometimes I go way back in here, other times I don't go back to Decen Tsooltlis, not that far.
THE TRANSLATOR: Three hundred and ninety-three.
MS. MANDELL: For the record, My Lord, the witness indicated that he would go as far east as approximately where the slash shapes no longer -- to the east of the boundary of the slash shapes, but not as far as the placement on the map of the numbers two and three.
MR. PLANT: What do you mean by slashes?
THE COURT: You mean logged areas.
MS. MANDELL: Logged areas.
THE COURT: Yes.
MS. MANDELL:
Q And prior to the logging, could you advise how far -- how far south you would normally -- or would you go to do your moose hunting?
A Before slash?
Q Before slash?
A Before slash there was lots of moose in there, since you walk back in there little ways you get moose, you know I don't go even east or west.
Q All right. So for the record, My Lord, the witness

has indicated that the hunting would take place primarily between the lines marked two and three.

MR. PLANT: Again in the approximate area of where that first vertical red dotted line or dashed line is.

MS. MANDELL:

Q Have you hunted on Wah Tah K'eght's territory with people from other Wet'suwet'en clans than the Laksilyu?

A Yes.

Q Who have you gone into the territory to hunt with?

A For to hunt moose, I usually take Adam Brown out.

Q Um-hmm?

A And Victor Jim.

Q All right. And from the Laksilyu clan, can you advise who you hunt moose with or who you have hunted moose with in the past?

A Cecil. Andrew was still living when we used to go hunt together.

Q Did you ever hunt with Sylvester Williams?

A Yes, I did.

Q And is he from -- is he from your clan?

A From my clan, yes.

Q And did you ever hunt with Alfred Mitchell?

A Yes.

Q Okay. Are there others -- other hunters either from your clan or from another clan who have recently sought your permission to hunt moose in the territory but where you didn't go along?

A When my dad passed away, George Holland came to me and asked me to go with them, with my permission, to go and get some moose for that feast.

Q Um-hmm?

A George, and I recall just his last name, Bazil, one Bazil boy.

Q Is that Roger Bazil?

A Yes.

Q And are those two men in your house?

A Yes.

Q And was -- was there moose caught from Wah Tah K'eght's territory, in that territory that was announced at the feast?

A Yes.

Q And whose feast was that?

A My dad.

Q That's his funeral feast?

A Funeral feast.

Q Would it be in your mind correct under Wet'suwet'en

law that George Holland and Roger Bazil would have had to have asked for your permission to hunt moose on Wah Tah K'eght's territory?

A They came from the same house, they don't have to, but George did come to me, asked me.

Q Is your evidence from yesterday the same as it applies to moose, that when you catch a moose you give it to your mother to prepare for the meat and for the hides?

A Yes.

Q Do you know how the hides are used?

A The hide my mother prepared and she can use it -- or she makes gloves, jacket and moccasins.

Q And has your mother provided clothing, gloves or jackets or moccasins to you and your family made from moose from Wah Tah K'eght's territory?

A Can I get to my interpreter?

Q Sure.

A Yes.

Q What has she made for your family from the hides?

A One time she give me house slipper out of moose, moose skin.

Q And has she provided clothing for the children as well?

A Yes. For small child like little moccasin.

Q Okay. When -- when you were hunting for moose in the area which you've indicated was good moose hunting before logging, did you at that time also see deer tracks and hunt for deer there at the same place?

A Yes.

Q Do you hunt for deer on Wah Tah K'eght's territory?

A Yes.

Q And what is the season where you go out for the deer?

A In the fall.

Q And had you caught deer in the area where you had indicated that moose had been caught before the logging?

A Yes.

Q Now you've indicated beside a red line which has been marked on this map as five, that there is good deer hunting. Before I ask you about that area, though, I would like you to tell us whether or not there is still deer or deer tracks to be found in the area which had been previously good moose hunting before the logging. Are there deer or deer tracks there today?

A At the logging area are you talking about?

Q Yes?

A No tracks, nothing there. Few times I went to hunt, I didn't see no tracks, no deer tracks or moose.
Q Okay. Now you have, as I've drawn to your attention, indicated that there is deer hunting by the line which was marked as five. Do you see that place on the map.
Q Yes.
MR. PLANT: And I ask my friend to rephrase her question to take account of the fact that someone else drew the -- you know, made the marks on the map. I don't want there to be any ambiguity on the record about that.
MS. MANDELL:
Q The place which is marked on the map "deer hunting", did you indicate to myself and Mr. Overstall that that was the place where there was deer hunting on the territory?
A I showed to you where it was.
Q All right. And is that the place marked in purple "deer hunting" where you showed to us that -- that there was deer hunting on the territory?
A Yes.
Q Could you -- is that the only place today which you know of where there is good deer hunting on the territory?
A Yes.
Q And who, to your knowledge, hunts deer there today?
A Cecil was the only one knows where it is.
Q All right. Do you hunt for deer as regularly as you hunt for moose?
A Yes. Anything comes first, deer or moose, I get a chance.
Q When you go hunting for deer or moose, do you get a permit from the Provincial Government?
A Not if I know, no.
THE COURT: I'm sorry I didn't hear the answer.
MS. MANDELL: He said, "Not if I know, no".
THE COURT: That's what I thought he said.
MS. MANDELL:
Q I think he meant -- is the answer yes or no?
A No.
Q No.
THE COURT: Okay.
MS. MANDELL:
Q Did you mean not as far as you can remember; is that what you meant?
A That's right.
Q Do you know whether or not either moose or deer meat from Wah Tah K'eght's territory is used at the feast?

A Yes.
THE COURT: Haven't we had that about ten or eleven times, Ms. Mandell?
MS. MANDELL: Deer?
THE COURT: Oh, deer, sorry. I thought the same answer and same consideration applied, but you are quite right, deer specifically hasn't been mentioned.
A Yes.
MS. MANDELL:
Q Okay. Now, I'm going to turn -- I'm going to turn your attention now to some four pink circles which can be found in the map along the Bulkley River where the map indicates in pink letters and with a pink circle that there are berries or the word berries are found on the map. Can you see where I'm talking about?
A Yes.
Q All right. I'm going to ask you -- I see that the word berries appears -- the word itself appears just twice. Do -- are there berries found on Wah Tah K'eght's territory contained roughly within the area of all four circles in pink? Are there berries within these four pink circles to be found on Wah Tah K'eght's territory?
A Yes.
Q Okay. If I could direct your attention first to the area which is east of the Bulkley River to the circle there, approximately -- or quite close to the boundary line of K'aaz Kwe, can you advise first of all whether or not you've ever been to that berry patch?
A Yes. Since I was small child.
Q Okay. And what kind of berries are there there?
A Huckleberries.
Q Okay. And is that --
A That ridge, it's called We't il xoos.
THE TRANSLATOR: Three hundred and ninety-four.
MS. MANDELL:
Q Is that the same berry patch which you identified that you went to with your grandmother?
A With my grandmother, yes.
Q Okay. I might ask whether it's common for the men to gather berries at Wah Tah K'eght's territory or is that an activity which the women generally take on?
A The women does. The men are guiding.
Q The men are guiding?
A From the dangerous animals.
Q Okay. And is it an activity, too, that the children are --

A The children are, yes.
Q Okay.
A I remember I was small picking berries too.
Q Okay. There is a berry patch which you've indicated to the west of the Bulkley River just behind Moricetown. What kind of berries are found there?
A That's also huckleberries.
Q Okay.
A And the ridge called Bek'et degii Tsoyiin.
THE TRANSLATOR: Two hundred and twenty-four.
MS. MANDELL:
Q And have you been there to pick berries yourself?
A When I was small, yes.
Q Okay. And there is a location further south on the Bulkley River on the east side of the river just at the foot of the red line which you've indicated with the number two. Could you advise what kind of berries can be found in that location?
A Blueberries. It's down on the river bank.
Q Okay. And have you personally been there for blueberries?
A Yes.
Q Yes. And then across the Bulkley River on the west side of your territory there is a fourth circle, and I wonder if you could advise what kind of berries are found there?
A That also is down by the river bank, it's the blueberries.
Q Blueberries. And have you been there yourself to pick the blueberries?
A When I was small, yes.
Q Okay. Do you know whether or not we've indicated on this map all of the places in Wah Tah K'eght's territory where there could be berry picking?
A I'll talk to my interpreter.
THE INTERPRETER: Can you ask the question again, please.
MS. MANDELL:
Q Do you know whether or not for sure we've indicated on this map all of the places on Wah Tah K'eght's territory where there could be berry picking?
A At the moment these ones that I marked on the map were the only ones that I can remember at this time.
Q Do you as chief Wah Tah K'eght, give your permission for ladies from Moricetown to pick berries around -- around Moricetown and on your territory?
A Around Moricetown mother goes out picking berries now. Is that now we are talking about or years ago?

Q Now, we are talking about now?
A Now. My mother goes out picking berries. If there is somebody else wants to go then they get permission from my mother and they go with her.
Q Okay. And are berries which are taken from your territory by others, are those berries announced at feasts if they -- if the berries are taken to the feasts?
A Yes.
Q And are berries from Wah Tah K'eght's territory taken to feasts?
A As far as I know, yes.
Q And had -- when berries from Wah Tah K'eght's territory are announced at feasts, can you recall whether you get paid back when that's announced there?
A At one feast I remember my mother got paid back for picking berries on our territory. Is Mary Jim.
Q And what clan is Mary Jim from?
A Mary Jim is Tsayu.
Q And can you recall how your mother was paid back?
A She got house slippers, moccasin, moose-skin slippers, and there was money involved too.
Q Okay. Can you explain why it would be that your mother would give permission for berry picking and would be paid back for berries from Wah Tah K'eght's territory?
A I am -- I'll talk to my interpreter. When mother gives permission to people -- to other people picking berries on Wah Tah K'eght's territory, when the other people are of a different clan like Tsayu, and then they -- they identify the -- the territory where the berries come from by recognizing their appreciation in the feast hall.
Q Okay. And does your mother have your permission to take care of the berries in your territory in this way?
A We always have meeting amongst own family like -- and it's just like permission, yes.
Q Okay. I would like now for you to turn to the map again, and you'll notice that on the map we can see in green areas which have been marked and the words "beaver" are beside various of the rivers and lakes which are marked. Can you see the green marks which are on that?
A Yes.
Q And did you indicate to myself and Richard Overstall to put the green marks on the map where they are?

A Yes.
Q And what did -- what do those marks mean?
A These green marks means that's where I caught or trapped beavers.
Q Okay. Since -- since you've taken the name Wah Tah K'eght, have you trapped beaver on Wah Tah K'eght's territory?
A Since I've become Wah Tah K'eght?
Q Yes?
A Yes.
Q And have you trapped in all of the locations which are indicated on the map?
A You mean all at once?
Q Not all at once, no.
A No, no.
Q Have you been to each one of those places --
A No.
Q -- to trap?
A No. I rotate them.
Q Okay. And have you been to all of the areas which are marked at one time or another?
A Yes.
Q Do you trap beaver since you've been Wah Tah K'eght, have you trapped beaver every year?
A Yes. If I -- if I'm not around my mother.
Q Right?
A And she'll know where I've been trapped before and then she can go take it to another place.
Q All right. In terms of your trapping of beaver, you personally, have you personally gone on the territory every year to trap beaver since you've taken the name Wah Tah K'eght?
A Yes.
Q Okay. What season do you trap beaver?
A Late fall or early spring.
Q Okay. You mentioned that your mother also traps beaver. Is there any other person from your house who uses Wah Tah K'eght's territory to trap beaver or has since you've been chief?
A There is Cecil and probably Irene go with mother.
Q Okay. And Irene is your sister?
A That's right.
Q Now does your sister Helen go to trap beaver to your knowledge?
A Yes.
Q Okay. Do you know whether when your sister Irene and Helen and your mother go to trap beaver, do they take

the children with them as well, that's Helen's children or Irene's children?
A Yes, they do take the children, yes.
Q Okay. You mentioned earlier that there was meetings that your family had when you were talking about berries. Do -- does your house have meetings to talk about the beaver hunting in your territory?
A Yes.
Q And what kind of information is discussed at those meetings regarding the beaver?
A Like I would tell my mother if I go one place where's beaver, I would get -- if I get two or three big ones then I get the smaller one, then I quit there, because all small one behind it. I leave it for two or three years. I go somewhere else to get it.
Q And do other members of your house report to these meetings about where they catch -- trap beaver and the amounts that they trap?
A Yes. We always get together and we know where it comes from.
Q You were talking just a minute ago about not staying in an area if you're trapping small beaver. Can you explain to the court why you move your traps when small beaver are caught in them?
A When the small beavers be increased over couple of years or get bigger they'll have young ones.
Q What size of beaver are you trying to catch?
A Would be large ones.
Q And when you set the traps, is there anything that you do to try and ensure that you'll catch the large beaver?
A First two, three you catch is all big ones, but you might get another big one but there will be little one catch, like so long, you might as well take it off because you might get the small one again.
Q You indicated a beaver about three feet is when you would think that that beaver was too small to continue to catch there?
A Yes. To about two or three feet. Yeah, two feet.
Q Is there any -- is there any way that you can tell how many beaver are in a beaver house before you set your traps?
A You can tell by the dam or the house, beaver house. If it's just say about four feet off the water and there is only two in there, they'll have young ones.
Q Would you set your trap at the entrance of a beaver house that's four feet high?

A I set trap on the dam.
Q Um-hmm. Do you -- have you been taught how many beaver to take from a house?
A Yes.
Q Who taught you?
A From quite a few people. Specially my Uncle Peter Bazil, but I learned it from Alfred Mitchell, he knows the most, he knows a lot about beavers.
Q And what's the general law that you follow in terms of how many beaver you'll take from a dam?
A I'll talk to --
THE INTERPRETER: Would you ask the question again?
MS. MANDELL:
Q What's the practice that you follow in terms of how many beaver you'll take from a dam?
A When we trap for beaver we generally try to take big ones and if -- we try leave the little ones so they will grow up and then we -- when they grow up they will produce other smaller ones for future use. So when we -- after we take the bigger beaver, we leave the younger ones behind for future -- for future use.
Q If there is a beaver house which may have ten beaver in it, how many beaver would you think would be proper to trap from that house?
A He get -- if there is a beaver in one house with ten, the most you catch four and then the rest is small.
Q Okay. Has there been a Laksilyu feast recently which you can recall where beaver meat from Wah Tah K'eght's territory was announced at that feast?
A The last one that has been announced was at my Dad's funeral feast.
Q All right. Has there been a Laksilyu feast recently?
A Before my Dad's feast was Ester Holland.
Q And was that --
A His chief name is Xax.
Q And that's a headstone feast?
A Headstone feast.
Q And approximately how long ago was that feast?
A About a year, year and a half, not exact.
Q Since you've taken the name Wah Tah K'eght, can you recall whether there's been any Laksilyu feast hosted by your clan where beaver meat from Wah Tah K'eght's territory has not been announced?
A To all the Laksilyus feast, if we got beaver meat distributed it's always mentioned where it came from.
Q All right. And did you have beaver meat from Wah Tah K'eght's territory to provide to each of those

Laksilyu feasts?
A Yes. My mother will have it all the time.
Q All right. Approximately how many beaver would you estimate that you personally would trap each year?
A Sometimes we'll get about ten, no more.
Q No more than ten?
A No more than ten.
Q Okay.
A Some years, not every year.
Q And when -- what would be the -- to your best recollection, the lowest number of beaver which you would -- which you had trapped in a year?
A To my knowledge, some years be nothing but there is very few years I got three, four. But Cecil got some too, it's six, seven.
Q Okay. When you trapped the beaver, what then is done with the beaver pelt?
A My mother do all the skinning and prepare with the meat drying. She is the one doing the stretching, dried the skin and I'll sell to fur buyer.
Q And when you receive the money from the fur buyer, how do you distribute the money?
A I give mother percentage for what she do, I pay her for what she -- if she is skinning beaver for me, do stretching and drying, I'll pay her for it.
Q Okay. When beaver meat is distributed at the feast, how exactly is it distributed, how is it packaged to be distributed? I don't know if that's the right word.
A The way my mother prepared it for the feast, she will have it maybe one -- one little square slice in little package and distribute it throughout.
Q And do you know whether or not the big chiefs at the feast receive the same amount or the same parts of the beaver as do the other guests?
A The chief will get a little more, yes.
Q I would like to direct your attention to the map, and I wanted to ask you about the places which we've marked in green. The first one is behind -- on the east side of the Bulkley -- east of Moricetown there is two small lakes which have been circled in green. You've indicated that you've trapped beaver there?
A Yes.
Q Do you trap on both of those lakes?
A Yes.
Q And is the beaver trapping considered by you to be good beaver there?

A Yes.
Q Okay.
THE COURT: That's Duckwing Lake, is it?
MS. MANDELL: That's right.
THE COURT: The larger one?
MS. MANDELL: And the lake immediately to the west of it.
THE COURT: Yes.
MS. MANDELL:
Q And there is -- there is also beaver which you have indicated throughout the Bulkley River; is that correct?
A That's right.
Q And is the beaver plentiful in that river?
A Yes.
Q And I notice that to the east of the Bulkley there is a creek. Is that a creek which begins at Meed, the place marked Meed Creek and extends north up the parallel to the Bulkley River, a small line marked in green. Is that a creek that you've just indicated?
A Yes.
Q And there is beaver in that creek as well?
A Yes.
Q And would you consider that the beaver were plentiful in that creek?
A There is about four dams, beaver dam. Right in the middle of it there is one great big dam and it's look like a lake, so you -- so my -- there is lots, lots of beaver in there.
Q Okay. And in the east boundary of your territory towards the -- in really the beginning in the lake which is inside the goat hunting area and extending down that river, there is also a green line indicated. Is there beaver in that part of the territory which is plentiful in your estimation?
A In Tedeltl'ets, yes.
MS. MANDELL: That's the name of the lake, Two Bridge Lake.
THE COURT: Yes, that's 372.
MS. MANDELL:
Q When you trap for beaver up in that end of your territory, how do you access the beaver, where do you come in from?
A Right now last -- well not now. Few years ago when we -- we were going in there with Victor and Chester, we followed the C'ede'i Kwe.
THE COURT: Is that Driftwood Creek?
MS. MANDELL:
Q Yes.

A And we go back in here somewhere and then there is a trail or so -- so we follow it and we went into -- there is a two mountain comes in like that, kind of in the valley. We got into a wrong valley, that's where we got goat, so we just turned back and didn't get to the lake.
Q Okay. That's the last time that you went?
A (WITNESS NODS HEAD IN RESPONSE)
Q Would you walk or hike then from the -- from Driftwood Creek north to the place where there is beaver to the lake?
A Yes. We go north, that's right, we walked in.
THE COURT: From the park. You can drive to the park at least.
MS. MANDELL:
Q Do you drive to the park?
A To past, we passed the park.
Q Passed the park by car?
A Yes.
Q Yes. And then you hike in from there?
A Hike from there.
MS. MANDELL: All right.
THE COURT: Is this a convenient time to adjourn, Ms. Mandell?
MS. MANDELL: This is perfect.
THE COURT: Should this be marked?
MS. MANDELL: Sure.
THE REGISTRAR: Exhibit 164.
THE COURT: All right.

(EXHIBIT 164 - Map)

THE COURT: All right. Mr. Rush, I think I am waiting to hear from you about some correspondence regarding the official reporters.
MR. RUSH: Yes. I was able to get one piece of correspondence, I know there is another. Mr. Grant said he would fax it down.
THE COURT: I would like to deal with that matter but I shouldn't do so until I have the material you mentioned.
MR. RUSH: Yes.
THE COURT: If that could be sent to me at some time, that would be convenient.
All right, I don't have in mind any other housekeeping items at this time.
MR. PLANT: Well, My Lord, since you asked, there is one outstanding matter that I don't think has been mentioned before. Some time ago I made a request that

Heather Harris answer some questions pursuant to Rule 28, and my friends and I are corresponding about problems that are being experienced in my taking deadlines for answering those questions. And the way things stand at the moment, there is a chance that we may -- I may have to bring on an application in the week after we commence.

THE COURT: Yes.

MR. PLANT: But that situation seems to change day by day and if the answers come in next week then that will be the end of that, presumably.

THE COURT: All right. Well you can bring that up as may be advised and as may be convenient. Mr. Macaulay?

MR. MACAULAY: My Lord, when there was a discussion that's what it was about, exhibit -- what's now Exhibit 164, I may have misstated the effect of the rule regarding maps and plans. That rule provides that except -- except with the leave of the court and all, that these would be disclosed seven days before the trial commences.

THE COURT: Yes.

MR. MACAULAY: Of course that rule is difficult to apply in a case like this.

THE COURT: Yes.

MR. MACAULAY: Impossible to provide in a case like this, perhaps. I don't object to these maps per se, in fact it's -- it's much easier to follow the evidence.

THE COURT: Indeed.

MR. MACAULAY: As was the case with the last witness at least. It's the timely delivery of copies that I'm addressing, and in this case Your Lordship will have to make rulings on practical matters like that as we go along, and I suggest that that be addressed during the week of February first that counsel, if they have submissions to make, do make them. I'm going to propose that they -- a 14-day rule which was found convenient for other cases be applied to these. I'm pretty sure -- I can't say exactly when this map was drawn up, but I'm pretty sure it was a couple of weeks ago.

THE COURT: Your friends don't agree with you, Mr. Macaulay. Well I can't stress anymore than you have, Mr. Macaulay, the convenience of early delivery, and I'm sure your friends have received that message from the discussion we have had this morning. I think they are alive to the fact that you are annoyed with them and I'm sure they don't want you to be annoyed with them.

MR. MACAULAY: It's not a question of being annoyed with them.

I don't believe my friends care much whether I'm annoyed at them or not.

THE COURT: I'm sure they don't.

MR. MACAULAY: But I'm going to propose after the adjournment that the 14-day rule, since it's appropriate for the territorial affidavits and genealogies, be applied to this one too. There is an interesting question arising whether Exhibit 5 for Identification is still an exhibit for identification. The basis on which exhibits are marked for identification is that the party delivering them intends at some later stage of the trial to prove them.

THE COURT: Who tendered Exhibit 5?

MR. MACAULAY: The plaintiffs. That doesn't seem to be their -- the intention now. I wonder whether or not Exhibit 5 should remain on the roster.

MR. RUSH: Maybe we should take it back, maybe my friend would prefer that.

THE COURT: Well I think Mr. Macaulay is doing no more than giving notice he proposes to seek a less flexible rule when we resume than perhaps has been followed in the past, and I'll be glad to hear you at that time, Mr. Macaulay.

All right. Do counsel plan to take their documents away? There is storage conveniently available? I'm not sure, but it may well be that this courtroom will have to be used during the adjournment. The court's exhibits, if we need to, will be taken into one of the jury retirement areas, but counsel are planning to take all their material away with them, are they?

MR. RUSH: Yes.

MR. PLANT: Well I'm not sure that we were actively planning it but I'm happy to meet the convenience of the court.

THE COURT: It might be the safer course if you do.

MR. MACAULAY: Perhaps my friend Mr. Rush could let us know what the plaintiff's position is regarding this small matter.

THE COURT: I was planning to take that up with them a week from Monday.

MR. RUSH: My Lord, I feel I am on notice as to how important this map is to Mr. Macaulay.

THE COURT: Yes.

MR. RUSH: And I'll certainly try to see if our map maker can advise us about that.

THE COURT: All right, we will adjourn then. I wish you a pleasant week off, I am sure you'll find something to

keep yourselves occupied with.

(PROCEEDINGS ADJOURNED AT 12:35 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.