Vancouver, B.C.
February 8, 1988

THE REGISTRAR: Order in court. In the Supreme Court of British Columbia, Monday, the 8th day of February, 1988, calling Delgamuukw versus Her Majesty the Queen at bar, my lord.
THE COURT: Ms. Mandell.
MS. MANDELL: Thank you.
THE REGISTRAR: I caution you, Mr. Mitchell and Mr. Jim, you're both still under oath.
THE COURT: Okay, Mr. Mackenzie.
MR. MACKENZIE: My lord, last week the question of argument on the -- what has been called the alternative claim or the pleadings was raised, and just speaking now about scheduling the argument, I have discussed this briefly with my friend, Mr. Rush, and he suggested a time this week, and I wish to have the opportunity to confirm that Mr. Goldie and Mr. Plant will all be available on that date, and I propose that we could discuss it, subject to your lordship's convenience, this afternoon at two o'clock, the scheduling.
THE COURT: Yes.
MR. RUSH: Yes.
THE COURT: Certainly. Thank you. All right, Ms. Mandell.
MS. MANDELL: Thank you. My lord, before I launch into more evidence, I wish to advise your lordship and my friends that over the week-end we were able to secure some photographs of the territory, which in our view will be helpful when the witness begins into the evidence of today describing both the boundaries and the places. None of these photographs have been disclosed to my friends, and if they feel that there's prejudice to them, we can lead the evidence another day. However, in the event that we proceed, what we've done is to organize the photographs in cellophane, and they could be, in the order which they are distributed to each of you, placed in the exhibit book beginning the first photograph at tab 23, and then where the tabs and the photographs go beyond 31 we've provided additional tabs for the --
THE COURT: Yes.
MS. MANDELL: -- photographs. So perhaps we could do that now.
THE COURT: All right. Your friends haven't seen these at all?
MS. MANDELL: No.
THE COURT: All right.
MS. MANDELL: No.

MR. MACKENZIE: Thank you, my lord. I'd like to accept my friend's invitation or suggestion to give us an opportunity to review these before they're used in evidence, and perhaps tomorrow morning would be -- today would be an appropriate time for us to review them.

MS. MANDELL: My lord, I might advise that in our view the photographs would be most helpful if they were incorporated into the evidence of today because it's in -- it's within the course of today's evidence that the boundaries will be described and the place names noted. And perhaps in order that we might carry on in that continuity, if my friends wish to reserve an objection with respect to their admissibility, that they could be marked for identification and then led into the evidence in the course of the evidence taking today, and then if my friends have objections, it could be argued tomorrow.

THE COURT: Well, again, there's merit on both sides. But, Mr. Mackenzie, what is there to argue about with a photograph, except whether it is indeed what the witness says it is?

MR. MACKENZIE: Well, I agree.

THE COURT: The witness says this is a picture of a lake in a certain -- at a certain location in territory claimed by the Plaintiff X. Then the only question that arises from that surely is whether it is indeed a photograph of that location, and that's a matter that you can challenge the witness on in cross-examination, which you won't get to until tomorrow, when you've had a chance to look at them and have particular instructions on them. Is there any serious objection in practical terms to what Mrs. Mandell --

MR. MACKENZIE: I was responding to Miss Mandell's invitation to wait for their use until --

THE COURT: She was hoping you wouldn't accept that invitation I think. I think we'll proceed as Ms. Mandell suggests. I'm not looking at all into the question of why they weren't produced before this time because no one's asked me to. It would have been better if they had been. There are no doubt reasons for that. Thank you. Now, these are going to go in as exhibit -- as tabs --

MS. MANDELL: Beginning at tabs --

THE COURT: -- 23?

MS. MANDELL: That's right. Beginning at tab 23.

THE COURT: Yes. Oh, I'm sorry. No, these are all tabbed

already. At least my set is.
THE REGISTRAR: They start at 32, my lord.
THE COURT: Yes, all right. So we'll put them at tab 32, etcetera.
THE REGISTRAR: The first bunch here, my lord, these ones go 23, 24.
THE COURT: Oh, I see. All right. All right. Well, I have now been told that there's another set in addition to the ones that were handed to me first, and they are going to be inserted as tabs 23 to 31, are they?
MS. MANDELL: That's right. That's the first -- the first batch.
THE COURT: All right. Can I have them, please, Madam Registrar, and I'll put them in my book?
Do I understand then that the first picture in the collection, in the first tab I was given, will be tab 23?
MS. MANDELL: 23, that's right.
THE COURT: All right.
MS. MANDELL: My lord, my friends have identified correctly that there then will be no 30 or 31.
THE COURT: All right. That may be. That won't trouble us too much, will it?
This certainly seems easy. I hope everybody is doing it the same way I am.
MS. MANDELL: I have the same hope.
THE COURT: I have an uneasy feeling that something hasn't come out right because I now have three empty tabs.
MS. MANDELL: You have three empty --
THE COURT: Yes. That means that I -- when the clock strikes 13, everything that goes before it becomes suspect.
THE REGISTRAR: Perhaps on the break --
THE COURT: Miss Mandell, let me give you my book, and you might compare it with yours. We might as well all be on the same sequence.
Ms. Mandell, where is the territory that we're talking about and who is the Plaintiff that claims the territory?
MS. MANDELL: The Plaintiff who claims the territory is Lucy Williams, formerly Lucy Holland. And, my lord, by way of reference, if you can -- if you can -- with the aid of the little map you have, the territory is south of Houston.
THE COURT: Yes. Actually, it's almost due south of Forestdale, isn't it? Well, south and a little bit west of --
MS. MANDELL: South-east of Houston.
THE COURT: South-west of Forestdale and south-east of Houston.

1 MS. MANDELL: Yes.
2 THE COURT: And what is the name of the Plaintiff?
3 MS. MANDELL: The Plaintiff is Namox.
4 THE COURT: And --
5 MS. MANDELL: N-a-m-o-x.
6 THE COURT: Is that Lucy Namox?
7 MS. MANDELL: Lucy -- no, it's Lucy -- Lucy Williams is her --
8 is her name.
9 THE COURT: Yes. And Namox is the name of the Plaintiff, is it?
10 MS. MANDELL: That's right. And Dan Michell is also speaking
11 for Namox in this action.
12 THE COURT: And can counsel agree on the mileage, approximately,
13 from Forestdale to Houston?
14 MS. MANDELL:
15 Q I think the witness will know that.
16 A From the lake?
17 THE COURT: I think this map -- I think that Houston is just off
18 this map.
19 MS. MANDELL: That's right.
20 THE COURT: I'm just wondering --
21 MS. MANDELL: Just on the corner of the -- the north corner.
22 THE COURT: Because I see the Bulkley River here. I take it it
23 would be the Bulkley River. And by the look of this
24 map, I gather that this territory doesn't border on
25 the territory of Chief Joseph?
26 MS. MANDELL: Gisdaywa. No, not exactly.
27 THE COURT: Not roughly. It's a little further east.
28 MS. MANDELL: The bordering territory to the west is Kanoots'
29 territory.
30 THE COURT: I see. So this property would be not far but
31 slightly north and slightly east of Gisdaywa?
32 MS. MANDELL: Yes.
33 THE COURT: Yes. All right. Thank you.
34 Thank you, Mr. Rush.
35 MS. MANDELL:
36 Q Thank you. Mr. Mitchell, on Friday you were naming
37 for the Court some of those Wet'suwet'en hunters and
38 trappers who today are skilled hunters and trappers
39 and -- and ones whom you had identified. Did the list
40 of people who you gave us, are those people primarily
41 those that live today in the Moricetown area?
42 A Yes, yes. And I forgot some of the names last week,
43 and I want to tell you some more names.
44 Q If you would then, please.
45 A There Warner William, good trapper and hunter. There
46 Lucy William, good trapper and hunter, retired. Bill
47 Naziel, good trapper and hunter.

THE COURT: I didn't get the first name.
THE WITNESS: Billy Naziel. Jimmy Naziel, William Naziel, Paddy Naziel, and Mrs. Jeannie Naziel, retired. And that's just from Moricetown. That's all I remember.
MS. MANDELL:
Q I just wanted to ask you about two brothers who might be included in this list. Frank Naziel? Is that --
A Frank, yes. Yes.
Q And Matthias Naziel?
A Matthias, that's right.
Q And these are people that you've identified from the Moricetown area?
A Yes.
Q And do all those people who you identified both Friday and also today, do they hunt and trap within the Wet'suwet'en territory?
A They trap their own territory.
Q Okay. And are there others who are skilled hunters and trappers who trap within the Wet'suwet'en territory who today live primarily in Hagwilget?
A At Hagwilget there will be a lot of trappers.
Q And none of the people who you've mentioned are those that today primarily live in Hagwilget?
A Okay. They -- all the ones I've mentioned all live in Moricetown. If you want, I can mention some of the people from Hagwilget who are skilled hunters and trappers.
Q If you know some of them, that would be -- that would be good, if you could mention those people.
A From Hagwilget, Charles Austin and his wife.
THE COURT: Austin?
THE WITNESS: Austin.
THE COURT: A-u-s-t-i-n?
THE WITNESS: Yeah.
THE COURT: Thank you.
MS. MANDELL:
Q And that's his wife Margaret?
A Margaret, yeah. Willie Sebastain, Alfred Joseph, Alfred Wilson, Joe George and his wife. His wife's name Rosie. Dora Kenni, Alfred Wilson, Sylvester George, Pete William.
Q These are the people that you could recall at this time?
A Right now. There's lots of them.
Q Are there from your -- from your memory, are there many more or some more -- perhaps we should start it this way: Are there more Wet'suwet'en hunters and

trappers who you can't recall at this time from Hagwilget?

A Yeah, there's lots more. I couldn't remember them all.

Q Okay. And for those that you have remembered, do those people hunt and trap within the Wet'suwet'en territories?

A Yes, their own territories.

Q And in addition to the hunters and trappers whom you've already identified, are there other Wet'suwet'en hunters and trappers who are from the Ootsa Lake area who also hunt and trap within the Wet'suwet'en territories?

A Yes.

Q And are there others from the Grassy Plains area who also hunt and trap on Wet'suwet'en territory?

A Yes.

Q And from the Francois Lake area?

A Yes.

Q And from the Burns Lake area?

A Yes.

Q And from the Broman Lake area?

A Yes.

Q And from the Decker Lake area?

A Yes.

Q I wonder whether the witness could be given Exhibit 164 and have that exhibit placed in front of him.

This is an exhibit which was put into evidence describing Wah Tah K'eght's territory. Can you -- do you recognize the area which is represented by this map? There's K'aaz Kwe and there's --

A That's Wah Tah K'eght territory, yeah.

Q Yes.

A Yes.

Q All right. You told us yesterday about a trail which you had taken with Dick Naziel in your travels to Woos's territory. Can you identify where that trial is?

A Well, the trail comes right from Moricetown real close to northern boundary of Wah Tah K'eght territory. There's a creek called K'aaz Kwe not too far from it. It goes right up to -- goes right up to Nee biil dilyee.

Q Is this line -- I know that your finger is pointing above this line marked number 2, but could you identify whether the line which is marked number 2 roughly follows the route of the trail which you took?

A This line number 2, it's -- it's probably is -- that's -- that's that boundary, yeah, Duck Wing Lake.
Q And you identified -- I'm sorry -- you identified for us three places along the trail on Friday, and I was wondering whether you could assist us in -- in locating those places. The first was a place which I'll have to describe for you with the English. It's a place where you described where if a log was knocked, there would be an echo at that spot.
A Okay. Just before it -- this -- a log would echo, there's one spot that's called G'etsa'lis. It's right in this logged area.
Q Okay. And you're pointing to the area where there's a shield?
A Yeah, it says logged out.
Q Logged out area. Okay. And you also identified for us a campsite where there's pegs in the ground still?
A All right. Now we get to this -- where we pound this big dead tree for an echo. That's -- that's a main trail -- right on main trail.
Q All right. That -- you're pointing now to an area at the top of the slash area just before the number 2?
A Yes.
Q This area which we had earlier described as a shield, is there any feature in that area or were you just using that to orient yourself?
A Okay. This G'etsa'lis, that's a big flat rock, red rock. You'll see bowls in there, two or three bowls sitting there, just off this trail here.
Q And what do those bowls tell you?
A Well, that's a landmark. Every time you go by there you pee in there. That's why you call it G'etsa'lis.
Q And the place with the echo is just above the place where there's the clear cutting; is that correct?
A Yeah.
Q And can you identify the campsite that you were speaking about?
A It's not too far from this echo, about ten minutes walk. There big meadow there. That's the main campsite for -- for hunters, and that's where they drive in the peg in the middle and tie up the horses.
Q And are the pegs of the ancestors still in the ground there?
A Still there.
Q Okay. And then you mentioned as well a place where there was a bird that you turned around. Where is that place located?

A From here about couple hours walk be right that area. We call it Ts'edi sdee. That's -- our -- our ancestors go through -- they go through the mountain from there, hey.
Q Okay. My lord, the witness is pointing to --
A Main.
Q -- a place virtually at the boundary along the dotted line?
A Real close to this line.
THE COURT: Nee beet diiyii?
MS. MANDELL:
Q Yes. As the red line intercepts with the green line. You mentioned when you were there that you took the bird and placed it on a spruce bough; is that correct?
A Yes, the time we were going up there with my father-in-law, Dick Naziel, he broke the spruce bough, a bunch of spruce bough. And there's another rock, big rock, below that. Put it on that big rock and then sat that bird on there facing where we were going.
Q Okay.
A He said it would bring good luck.
Q Okay.
A Or something like that.
Q And have you yourself ever, when you've passed that area, placed that bird on a spruce bough?
A Few times when we went out to Dick Naziel's territory for beaver trapping I did that.
Q Okay. I'd now like to ask you some questions about Namox's territory. Do you have a right to harvest from and to be on Namox's territory?
A Yes.
Q And how did you get the right which you have to be there?
A My father, he trapping the upper part of Namox territory. That's an eastern part.
Q And what was your father's chief's name?
A Misaloos.
Q Was your father then from the House of Namox?
A Yes.
Q And what gives you the right to be on Namox's territory today?
A My father raised me there. We went through that territory since I was a boy.
Q Was it ever announced at the feast that you would continue to have rights to use Namox's territory after

your father passed on?
A While I was trapping with my father, Namox mentioned that at the feast hall.
Q And did he at the same time mention that your brother Billy would have rights to use that territory too?
A Yes.
Q For how long have you -- have you been going to Namox's territory to harvest the resources there?
A As far back as I can remember. Since I was a kid.
Q And do you still today go to Namox's territory?
A Yes.
Q Do you know the boundaries of Namox's territory?
A Yes.
Q How did you -- how did you learn them?
A Through my father, Misaloos.
Q When your father was teaching you the boundaries, did he take you to most of the places which he was speaking about?
A Sometimes we go to -- when we marten trapping, he always pointing at which hills, to name the hills. He -- not only once he tell me that. Sometimes if he walking ahead of me and I'd catch up to him and, "I forget that hill," I tell him, he'd mention it back to me. That's how I know all the hills and name of the creeks. There's just one creek I couldn't remember.
Q Okay. Do you know the boundary of Namox's territory by reference to maps?
A Yes.
Q And is that the way that you remember the boundaries of Namox's territory, is by maps?
A No, I don't remember the boundaries of Namox by a map. The map that I have is in my head. My ancestors didn't need maps. They had the boundaries memorized in their heads.
Q Are you passing your knowledge of the boundaries and the landmarks of Namox's territory on to any of the younger people today?
A Yes.
Q And who are you -- who are you passing this information to?
A Dan Naziel, Victor Jim.
Q Why are you passing the boundaries -- the names of the boundaries and the place marks to Victor Jim?
A Because he took my father's name.
Q That's Misaloos?
A Misaloos.
MS. MANDELL: Misaloos.

THE COURT: Can I have a spelling for that, please?
THE TRANSLATOR: It's 519.
THE COURT: Thank you.
MS. MANDELL:
Q All right. I'd like to show to you -- I'd like to show to you a sketch map, which was identified on Friday, simply passed up to counsel, although I think, Madam Registrar, you have a copy. I wonder if that could be put to the witness.
Just put it this way. That's north. I'd like you to take a look at that map, and I'd like to ask you have you seen this map before?
A Yes.
Q Did you go around the boundary line of Namox's territory while Richard Overstall drew the boundary lines on this map?
A Yes.
Q Did you approve of the lines as Richard Overstall drew them on the map as representing the boundaries of Namox's territory?
A Yes.
Q To your knowledge, is this sketch map a reasonably accurate one of the boundaries of Namox's territory?
A Yes, this is right.
Q And there are some Wet'suwet'en names that are placed along the boundary. Did you tell Richard Overstall where to place those names of the mountains and the ridges which are on the boundary mark, those Wet'suwet'en place names?
A Yeah, I know the Richard and -- you want me to start here?
Q Not yet. I just wanted to know if you identified to Richard --
A Yes.
Q -- where to place these --
A Yes.
Q -- Wet'suwet'en names. And do those names placed on the map represent to the best of your ability where those places are to be found along the Namox's boundary?
A Yes, yes.
Q Okay. Looking at the map, I wonder if you could identify whether there's a place along the boundary where Alfred Namox defined the boundary against someone who had placed traps over that Namox's line?
A It's in south -- south-east of boundary, a creek named Niss Tsee diizdlee Kwe.

MS. MANDELL: My lord, for your reference, that's just almost at the intersection of the creek which is marked in English "Allin Creek" underneath it.
THE COURT: Yes.
MS. MANDELL:
Q Yes. Could you tell us that story?
A Apparently that next-door neighbour trapper set six trap into Namox territory, and Namox found those, and they took it all out and set the traps right -- right on the boundary, on that creek, Niss Tsee diizdlee Kwe. And they placed one jack pine, blaze it well enough so you can write on it. He carved the words in it telling that other guy this is the boundary. That's in Indian way, not in English.
Q Have you seen that tree with the blaze on it?
A Yes, me and my wife were there, and I was there a few times myself.
Q And who told you this story?
A My father. We were -- I was there with my father the time he told me.
Q According to what your father told you, did Namox have any further problems with his neighbour in terms of trespass?
A Ever since, no.
THE COURT: Do you know when this was?
THE WITNESS: It was before my father's time. It could be my -- in Namox, Alfred Namox time.
MS. MANDELL:
Q This is in the lifetime of Alfred Namox?
A Yes.
THE COURT: Thank you.
MS. MANDELL: I'm going to ask that that map be marked as an exhibit.
THE COURT: Yes.
THE REGISTRAR: Exhibit 184, my lord.
THE COURT: Thank you.

(EXHIBIT 184 - MAP SKETCHED BY RICHARD OVERSTALL - BOUNDARIES OF NAMOX TERRITORY)

MS. MANDELL: Also, in the binder at tab 1 there is an affidavit of -- a territorial affidavit, and I wonder if that too now could be put to the witness.
THE COURT: It's not a matter of criticism, Ms. Mandell, but whoever put this book together put the holes through both the plastic cover and the document, and I can't get it out without taking it all apart.

1 MS. MANDELL: Sorry.
2 THE COURT: It's the kind of plastic folders they are. The ones
3 you had before were --
4 MS. MANDELL: Were better.
5 THE COURT: -- such that you could remove the document without
6 taking it apart.
7 MS. MANDELL:
8 Q I'm showing to you an affidavit which was sworn the
9 8th day of January, and I'm going to ask you whether
10 or not on page 9 of the affidavit you can identify if
11 that's your signature?
12 A Yes.
13 MS. MANDELL: I'd ask that the affidavit be marked as an
14 exhibit.
15 THE REGISTRAR: January 8th, '88. Thank you. That will be 185,
16 my lord.
17 THE COURT: Thank you.
18
19 (EXHIBIT 185 - AFFIDAVIT OF ALFRED MITCHELL SWORN
20 JANUARY 8, 1988)
21
22 MS. MANDELL:
23 Q Now, I'm going to be asking you questions both with
24 respect to the affidavit and the map, so perhaps both
25 documents can remain here. Beginning first with the
26 affidavit, if you could turn to page 2 of the
27 affidavit and if you could look at paragraph 3, you
28 say that you've obtained permission from Namox (Dan
29 Michell), a plaintiff in this action, to describe and
30 speak in respect of the Namox territory. Did you also
31 obtain permission from Lucy Williams to speak in
32 respect of the territory and the boundaries?
33 A Yes.
34 MS. MANDELL: And what is Dan Michell's chief's name. Dan
35 Michell's chief's name?
36 THE INTERPRETER: He said, "I know, but it's just" --
37 MS. MANDELL:
38 Q Is it Wi gidumst'sol? Wi gidumst'sol?
39 A Yes, yes.
40 Q Do you need some water?
41 A No, I'm all right.
42 Q You say in the same paragraph that the territory is
43 located south-east of Houston, and then it says in the
44 affidavit 32 miles south-east of Moricetown. Is that
45 the correct mileage?
46 A Well, this one here, it's -- it's 32 miles from
47 Houston, not -- not from Moricetown.

1 Q And how long is the territory -- what is the distance
2 between the territory and Moricetown?
3 A Approximately 107.
4 Q All right. So would you then correct the affidavit by
5 substituting 32 with 107 miles --
6 A Yes.
7 Q -- to get the total distance?
8 A Yes.
9 MS. KOENIGSBERG: Excuse me, I just wonder, if I can try and
10 follow what we're doing here, are we now going through
11 some changes to the affidavit?
12 MS. MANDELL: That is a change to the affidavit.
13 MS. KOENIGSBERG: And you mentioned Lucy Williams?
14 MS. MANDELL: That's right.
15 MS. KOENIGSBERG: And is Dan Michell's name not Namox, as it
16 is -- it is indicating, which I assumed it was from
17 the affidavit, and are we to make that change?
18 MS. MANDELL: That's right.
19 THE COURT: Dan Michell is not Lucy Williams?
20 MS. MANDELL: That's correct.
21 THE COURT: I'm sorry, Dan Michell is not Namox?
22 MS. MANDELL: Not yet.
23 THE COURT: Lucy Williams is Namox. Is 107 miles right either?
24 MS. MANDELL: I think it's close.
25 THE COURT: Because my recollection is it's about 60 miles from
26 Smithers to Houston, and Moricetown is only 25, if
27 that far, from Smithers.
28 MS. MANDELL:
29 Q The judge is wondering whether or not it's less than
30 107 miles to the territory from Moricetown.
31 A Cross-country, sure, it's way less than 107 miles. On
32 the roads, yeah, approximately. I'm not too accurate
33 on that.
34 Q Yes. So if you followed the roads, it's 107 miles?
35 A Yes. Just --
36 MS. MANDELL: I think it's whether you're going in by snowshoe
37 or roads or as the bird flies.
38 THE COURT: I don't think it's 107 miles, but I don't think it
39 matters either.
40 MS. MANDELL:
41 Q Okay. Now, I'd like to take you around the boundary
42 of the territory, and you'll probably now both need
43 the affidavit and the map. The first -- and I'm going
44 to need some help in pronouncing the words. If I
45 could just maybe place this so Victor can see it too
46 and I can get some assistance in pronouncing the
47 names. In paragraph 5 of the affidavit you start at

this place.
A Tsee Delk'en.
Q And you draw the boundary line in a generally westerly direction along the height of land south of two lakes that you identify in your affidavit, and perhaps we could have some assistance in pronouncing those.
A Neel dzii Teezdlii Ben.
Q And this one?
A Tsee Leegh Taas'aay.
Q All right. Could you identify where those lakes are on this sketch map?
A Tsee Leegh Taaw'aay, that's this little lake here.
THE COURT: They're blacked in on the sketch, are they?
MS. MANDELL:
Q That's right. They're the two black beaver lakes that are marked in on the sketch.
A It's not too far. There's a height of land just west of this little lake.
Q And then the boundary moves across a creek, this creek here, Biil K'e Kwe?
A Biil K'e Kwe.
Q All right. Could you identify where is that creek?
A Biil K'e Kwe, right there. That's a creek just past Tloogh Teel Ben here.
MS. MANDELL: My lord, the witness is identifying a creek which flows from one of the lakes and hits the boundary mark just below the English words "3,000," just slightly south to that.
THE COURT: All right.
MS. MANDELL:
Q And then you say that the boundary runs in a northwesterly direction to this hill?
A Tsee Deek Woot'ai.
Q Could you identify what landmark would you find between those two boundary points of Tsee Delk'en and Tsee Deek Woot'ai?
A Between Tsee Delk'en and Tsee Deek Woot'ai there's this height of ground all the way --
Q Okay. Good.
A -- up to this.
Q All right. I'd like to ask that the photograph be placed before the witness, and if -- it's at tab 37.
Can you identify the photograph represented in tab 37?
A Yes. This one is clear cut area. That's what we call Tsee Delk'en. Right-hand corner. Right-hand side.
Q And that's the boundary mark --

A Yes.
Q -- that you've identified as the starting point of your description?
A That's the boundary mark.
MS. MANDELL: I wonder if that could be marked then as an exhibit.
THE COURT: Tab 37?
MS. MANDELL: Yes.
THE COURT: Yes.
THE REGISTRAR: 186, my lord.
THE COURT: Thank you.

(EXHIBIT 186 - PHOTOGRAPH FOUND AT TAB 37)

MS. MANDELL:
Q And while we're here, perhaps you could also identify then tab 36?
A That's just about that clear cut area. That's the same part as Tsee Delk'en going south, southerly direction.
Q Okay.
A There's a ridge all the way down to -- pretty close to Niss Tsee Diizdlee Kwe.
MS. MANDELL: So, my lord, the description identifies that the picture shows the landmark Tsee Delk'en and then is moving eastward towards the outer -- towards the outer boundary of the territory. This is actually -- the picture is actually going in a different direction than we're moving around the boundary.
THE COURT: All right.
MS. MANDELL: If that could also then be marked as an exhibit.
THE COURT: Yes.
THE REGISTRAR: Exhibit 186 -- 187, my lord.
THE COURT: Tab?
THE REGISTRAR: Tab 36.

(EXHIBIT 187 - PHOTOGRAPH FOUND AT TAB 36)

MS. MANDELL:
Q All right. We then identify in the affidavit that the boundary runs west for about two miles and then north and crosses Neenlii Kwe at Neenlii Wek'ut; is that correct?
A Yes.
Q And if I could also have the photograph put to the witness which is found at tab 39? Can you identify the photograph?

A Yes, that's Neenlii Wek'ut first of all from up above.
Q And is that -- is that Neenlii Wek'ut as you've marked it on the boundary of your sketch map?
A Yes.
Q I notice that there are two men in the picture. I see yourself. Can you identify the second gentleman?
A Alfred Joseph.
Q Is there anything to notice about the placement of where the two of were you standing?
A Oh, Alfred Joseph, he's standing on his own territory. I'm standing on Namox territory.
Q All right. And Alfred Joseph is Gitdumden?
A Gitdumden.
Q Okay. So the boundary between Gitdumden and Namox's territory runs pretty much between where the two of you were standing?
A Yeah, that's our boundary right on the ground.
THE COURT: What is this location, please?
MS. MANDELL:
Q This is the -- the falls.
A North, north-west.
MS. MANDELL: It's just above the -- it's called -- it's Neenlii Wek'ut on the sketch map.
THE COURT: I don't think it's marked on the sketch map, is it?
MS. MANDELL: Yes, it's just -- my lord, it's on the overlay parallel to Sam Goosley Lake along the boundary.
THE COURT: Oh, way up there.
MS. MANDELL: Yes, we're following the boundary north now.
THE COURT: Yes. All right. Okay.
MS. MANDELL:
Q Between these two points -- if you could pronounce the words. I'm not going to try.
A Neenlii Wek'ut and Tsee Deek Woot'ai.
Q Between those two points what is the landmark or the feature that the boundary follows?
A Okay. The creeks that are flowing into Namox's territory, and the creeks on the other side flow into Madeek's territory, so the creeks that flow in opposite directions signifies the boundary between Madeek and Namox.
MS. MZNDELL: Okay. I wonder if then we could have the photograph marked as the exhibit.
THE REGISTRAR: Exhibit 188, tab 39.

(EXHIBIT 188 - PHOTOGRAPH FOUND AT TAB 39)

THE COURT: I'm sorry, that's number?

THE REGISTRAR: 188, my lord, tab 39.
MS. MANDELL: All right. You then identify in the affidavit that the boundary continues in a northerly direction along a height of land west of Klo Creek, and that is marked on the -- under the English version of the map, to a height of land east of Bob Creek, and that too is marked, my lord. It's the top point of the northern boundary before the boundary makes a dip.
THE COURT: Yes, I see it. Thank you.
MS. MANDELL:
Q And then in an easterly direction to the height of land east of --
A Tsee Delk'en.
Q Which is Dungate Creek, my lord.
And is that part of the -- what landmark does that part of the boundary represent? From here to here?
A All the way here to this point is all height of land.
MS. MANDELL: That's to Bob Creek, my lord.
THE COURT: Yes.
THE WITNESS: And comes back down this way. Right through here, that's where that mining road is. There's a creek runs back down this way. Runs south -- or west, hey.
MS. MANDELL:
Q Um hum.
A And another creek runs into our territory. That's a boundary. Here and here.
Q Thank you.
A It's all a height of land up to this point.
Q All right.
A All the way up to there.
MS. MANDELL: My lord, the witness has identified that the height of land runs to approximately the numbers 5062 on the sketch map.
THE COURT: Thank you.
MS. MANDELL: On the underside.
THE COURT: Thank you.
MS. MANDELL:
Q All right. Now, you say in the affidavit that here the boundary runs in a generally northerly direction along the height of land east of -- it's Dungate Creek?
A Tsee Delk'en.
Q To Wenelbee C'es?
A Wenelbee C'es.
Q And then the height of land west of?
A Dliiyh hem ben.
Q Which is a lake?

A Dliiyh hem ben.
Q And then runs in an easterly direction to the height of land north of --
A Dliiyh hem ben.
Q -- the lake to C'eetadek?
A C'eetadek.
Q Now, is that northern description as you've set it out in the affidavit, is that represented on this map?
A Okay. The map that Marvin George had done initially, there was a slight mistake in the area where Dliiyh hem ben is. He had it above Dliiyh hem ben when in fact it should be below.
Q Perhaps we could first identify where Dliiyh hem ben is?
A It's just outside of our boundary.
Q All right.
A Northern side of our boundary.
MS. MANDELL: My lord, you'll notice that there is approximately midpoint between 5062 and the -- and that ridge which tracks the northern part of the boundary at the top, there's a lake where there is a large -- a fairly large lake drawn and a smaller lake beside it. It's two small shapes, one substantially smaller than the other in the corner.
THE COURT: Yes.
MS. MANDELL: That's the lake which has been identified as Dliiyh hem ben, and the witness has identified that that lake is outside of the boundary and ought not to be included in it.
THE COURT: Okay. It's difficult to tell whether these lines are lakes or contours.
MS. MANDELL: Yes, it is.
THE COURT: Perhaps I can be shown where the lake is because I'm not certain I know.
THE WITNESS: It's this one.
THE COURT: That's a lake?
THE WITNESS: That's the lake.
THE COURT: Yes. All right. Thank you.
MS. MANDELL:
Q This is the lake?
A Yeah, that's the lake, this one.
Q Oh, I see. Okay.
A This one here.
MR. MACKENZIE: Right there?
THE WITNESS: Yeah.
MS. MANDELL: Perhaps we could mark the lake by indicating with a letter "A" on the base map underneath the overlay

where that lake is.
THE COURT: I just blacked it in like the other ones.
MS. MANDELL:
Q Does it blacken? Is it this one?
A Yeah, that's the one.
THE COURT: And you say that lake should be outside your boundary?
THE WITNESS: Yes.
MS. MANDELL: That's right.
THE COURT: And is so shown.
MS. MANDELL: It is. Although in the affidavit -- the leaps and bounds of the affidavit include the lake in the --
THE COURT: Oh, I see.
MS. MANDELL:
Q -- boundary.
When you swore the affidavit, did you believe that that lake was included within the boundary?
A When I first saw that map Marvin got, and I doubted it. My father tell me this -- the boundary was in the -- outside -- that lake was outside of that boundary.
Q When you swore the affidavit, this one here, did you believe that the affidavit was true?
A I believe the affidavit to be true when I signed it, even though I was having second thoughts about including Dliiyh hem ben in our territory. Apparently many people had told Marvin George that Dliiyh hem ben was within our territory. When I signed it, I believed then it was true.
Q And since -- sorry, go ahead.
A And later on I went to double-check this with Pat and John Namox and asked them if in fact Dliiyh hem ben was outside our territory, and they confirmed what my father had said.
Q And would, in your opinion, Pat and John Namox know whether or not that lake was inside or outside the territory?
A Pat and John Namox, they're son of late Alfred Namox. They know this very well.
Q Okay. All right. We then -- I wonder if you could identify for us what the landmark is then between what is on the map we can identify as 5062, the -- the tip of the northern boundary, to the next point which you identify, which is?
A C'e yis C'es.
Q What is the landmark that runs across that northern ridge?

A Between 5062 is all the way to this hill here all height of land.
Q Okay.
A The creek starts from the height of land, goes in our territory, the other ones go down the other way.
Q All right. So all the creeks run south into your territory --
A Yes.
Q -- from the height of land?
A That's the height of land.
Q All right.
A Just north-west of the C'e yis C'es there is another little hill there. That's our northern boundary.

MS. MANDELL: Okay. I'd like to show you some pictures.

THE COURT: I think if you're going to show pictures we'll take the adjournment first, please.

MS. MANDELL: Okay.

THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AT 11:00 A.M.)

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

_____

Leanna Smith
Official Reporter
United Reporting Service Ltd.

(PRESUMED PURSUANT TO MORNING RECESS)

THE COURT: Ms. Mandell.
EXAMINATION IN CHIEF BY MS. MANDELL:
Q I would like to first ask you do you know whose territory that it would be that the lake Dliiyh hem ben would be located?
A Laskilyu.
Q Now, if the witness could be shown tab 40. Can you identify where this -- whether or not this picture identifies any of the boundary marks of the territory?
A Our boundary would be right here, that's the northern side. That will be right here, this one here.
MS. MANDELL: My lord, the witness is pointing to the mountain on the far right-hand corner of the picture and identifies it as the uttermost northern peak before the boundary then starts to move in a southeasterly direction.
THE COURT: So this picture is taken from near this somewhere in the interior of the territory?
MS. MANDELL: That's correct.
THE COURT: Looking north?
MS. MANDELL: That's correct.
Q Is that right?
A This picture was taken right along the highway, mining road.
Q Facing north?
A This picture is facing north.
MS. MANDELL: I wonder if that then could be marked as an exhibit.
THE COURT: Yes.
THE REGISTRAR: Exhibit 189, tab 40.

(EXHIBIT 189: Tab 40, Photograph)

MS. MANDELL:
Q And if I could also turn to the picture placed at tab 41. And I wonder if you could identify that.
A This is in the same area where I took the picture, but now it is going a little further south on this. Right middle of between that peak point there Tsee Zuul Ts'ak Ben they call it. Right in the middle of that that is our boundary. It goes right down south of Dliiyh hem ben. It is this one here.
THE COURT: Is the boundary the notch to the east of that flattop mountain or the next notch to the east.
MS. MANDELL: The boundary is in the ridge identified in the picture which is just to the right of the large trees entering the skyline about a third of the way into the

1 picture to the right-hand corner, within that ridge.
2 The boundary has been identified as the center mold of
3 that. There seems to be three humps. It is the
4 center hump of those three humps. And the witness
5 identified that the boundary then follows the ridge
6 and he was pointing to the west from that hump.
7 THE COURT: On the right-hand side of the picture?
8 MS. MANDELL: That's right.
9 THE COURT: Yes.
10 MS. MANDELL: I would ask then that that picture be marked as
11 the next exhibit.
12 THE COURT: Yes.
13 THE REGISTRAR: 190, tab 41.
14
15 (EXHIBIT 190: Tab 41, Photograph)
16 MS. MANDELL:
17 Q And the lake that we were speaking about, if it were
18 shown on the picture where would it be located?
19 A Tan deet taa begh goes right -- this is our trail
20 right through here, the middle all the way. The
21 middle all the way to this lake is our trail it goes
22 down.
23 THE COURT: Where does he say that lake was, please?
24 A Tan deet taa begh is right in the middle -- how do
25 we talk about this?
26 THE COURT: Are we talking about Dliiyh hem ben?
27 A Our trail goes right by Dliiyh hem ben.
28 MS. MANDELL:
29 Q And could you identify where Dliiyh hem ben would be
30 if you were to try and locate it with respect to the
31 picture?
32 A Dliiyh hem ben would be right about here from this
33 picture.
34 MS. MANDELL: The witness is indicating to the left of the
35 picture along the --
36 THE COURT: On the skyline to the left?
37 MS. MANDELL: On the skyline to the left. Okay. Could you then
38 identify which exhibit number now is tab 40.
39 THE REGISTRAR: Tab 40 is Exhibit 189.
40 MS. MANDELL: And tab 41?
41 THE REGISTRAR: Tab 41 is Exhibit 190.
42 MS. MANDELL:
43 Q I will just take that from you. We then identify on
44 the -- you then identify in the affidavit that your
45 boundary runs from this location --
46 A That's C'e yis C'ez.
47 Q Down to --

A C'enexw Dzel Ts'aay.
Q Could you identify what landmarks follow the boundary between those two points?
A Between C'e yis C'ez and C'enexw Dzel Ts'aay there is a ridge right up to C'enexw Dzel Ts'aay.
Q And then the boundary is identified as running from that landmark in a southeasterly direction to Foxy Creek?
A Yes, from C'eyiis K'ez there is a valley goes down into the Foxy Creek.
Q And then in a southerly direction along the west bank of Foxy Creek for about three miles. And then through a place which you've identified in your affidavit as a pond named C'el T'aat Wec'oo.
A C'el T'aat Wec'oo, that's where this one is.
MS. MANDELL: And, my lord, for the record the witness is pointing to a creek which is between Foxy Creek and Allin Creek identified on the map on the eastern boundary. It is a fork marked in darker ink.
THE COURT: Yes.
MS. MANDELL:
Q And then to the head of Allin Creek the boundary is then identified; is that correct?
A Yes.
Q I wonder then if the witness can be shown -- I am going to be showing the witness the photograph found at tab 23. And I am wondering whether you could identify that photograph for the court.
A C'e yis C'ez is right here, that's this one here.
MS. MANDELL: My lord, C'e yis C'ez which is marked on the sketch map the witness has identified as the peak in the top right-hand corner of the ridge.
THE COURT: The ridge at the top right is what?
MS. MANDELL: C'e yis C'ez is on the sketch map. It is the northern part of the boundary as the boundary is now heading southeast. I would ask that that photograph be marked as the next exhibit.
THE COURT: I am sorry, but with no criticism to your pronounciation I can't relate to the spelling.
MS. MANDELL: It is C-apostrophe-e y-i-i-s K-apostrophe-e-z.
THE REGISTRAR: That will be Exhibit 191, tab 23.

(EXHIBIT 191: Tab 23, Photograph)

MS. MANDELL:
Q And I am showing you now tab 24. And I would ask if you could identify that photograph.
A That's still shown from this area C'e yis C'ez,

that's from here called C'enexw Dzel Ts'aay this one here.

Q We are going to need that spelling.

A C'enexw Dzel Ts'aayis on this map is shown from here.

THE TRANSLATOR: 552.

MS. MANDELL: That's 552.

Q And the witness has identified that the ridge in the picture is approximately from this location --

A C'e yis C'ez.

Q Towards?

A C'enexw Dzel Ts'aay.

Q Both names identified on the sketch map.

A And our boundaries in Indian way we call it N Tsexw nu yin' aniila'. So oldtimers they teach us N Tsexw nu yin' aniila' and that's how we call our boundaries in our language.

MS. MANDELL: Maybe we could have that translated.

THE INTERPRETER: N Tsexw nu yin' aniila' is the Wet'suwet'en word for boundary.

MS. MANDELL: I am turning now to tab 20 -- has that picture been marked as an exhibit?

THE REGISTRAR: No.

MS. MANDELL: Could it be, please.

THE REGISTRAR: Exhibit 192, tab 24.

(EXHIBIT 192: Tab 24, Photograph)

MS. MANDELL:

Q I'm turning now to tab 25. And I am going to ask you whether you can identify the picture here.

A We are still on the same ridge C'enexw Dzel Ts'aay going towards C'enexw Dzel Ts'aay here. It is called C'enexw Dzel Ts'aay right from C'e yis C'ez, that's our boundary.

MS. MANDELL: My lord, do you need a spelling?

THE COURT: Is the boundary the skyline or the ridge --

A The skyline.

THE COURT: Not the ridge in the middle of the picture?

MS. MANDELL: No.

THE COURT: And one other thing, it looks like a word C-apostrophe-e-n-e-x-w and then below that there is D-s-apostrophe-e-e-y. Now, what is the word written on the sketch to the right of it? It looks like D-e-e? Do you see what I mean, Ms. Mandell?

MS. MANDELL: It is a syllable that rolls through hardly audible, but the whole word is spelled with the three --

THE COURT: It is a three-word name?
MS. MANDELL: It is a three-word name.
THE COURT: The second word is D-e-e.
MS. MANDELL: My lord, it is spelled at 995.
THE TRANSLATOR: 552.
THE COURT: 552?
THE TRANSLATOR: Yes.
THE COURT: All right. Thank you.
MS. MANDELL: I would ask that that photograph be marked as the next exhibit.
THE REGISTRAR: 193, tab 25.

(EXHIBIT 193: Tab 25, Photograph)

MS. MANDELL:
Q And lastly on this point, I would ask you to turn to tab 26. And I would ask whether or not you could identify that picture.
A This whole ridge here is what we call C'enexw Dzel Ts'aay right up to this point here where it drops into the valley. That is C'enexw Dzel Ts'aay.
Q And is that a boundary point?
A That is an boundary point right up to this one here, C'enexw Dzel Ts'aay.
MS. MANDELL: I would ask that that photograph be marked as the next exhibit.
THE COURT: Yes.
THE REGISTRAR: Exhibit 194, tab 26.

(EXHIBIT 194: Tab 26, Photograph)

MS. MANDELL:
Q Now, if you were to join all the photographs together from tab 23 to tab 26, would you be able to identify that full ridge along the boundary the southeasterly boundary?
A Yes.
THE COURT: Northeasterly boundary?
MS. MANDELL:
Q It depends which way you are going. Would you be able to do that?
A Yes.
THE COURT: And the place where the ridge drops down to the valley in the left of that photograph, would that be Foxy Creek?
A That's going down into Foxy Creek.
THE COURT: Thank you.

MS. MANDELL:

Q You then identify your boundary. We've brought the boundary point to Allin Creek and then you say that the boundary follows the west bank of Allin Creek to a point which is opposite Neenlii Kwe so it is directly opposite there, at this point here the very southerly most part of the territory. What landmark is located at the southerly boundary?

A Right at this point here is a hill.

Q And then the boundary runs in a westerly direction along the height of land south of Neenlii Kwe to the starting point at Tsee Delk'en?

A Yes, it is all on that ridge.

Q And what landmark is it that features along the ridge between those two points?

A Between these two points is all height of land.

Q Now, if you could keep the affidavit before you. I would like to ask you some more questions about it. Turning now to page 3 of the affidavit under "Lakes", would it now be your evidence that the first lake Dliiyh hem ben ought to be deleted from the affidavit as not being a lake within your territory?

A This is not a lake in our territory, no.

Q So your evidence is that this should be deleted. And under "Hills" this fourth hill identified in the list, is that a hill which you would identify today as being a hill within your territory?

A Wenelbee C'es, that is outside our territory.

Q I would ask then that that hill be deleted. And on the next page, page 4 under "Ridge" there is a ridge identified.

A Tsee dee duk'.

Q Would your evidence be that that ought to be --

A That is outside of our territory.

MS. MANDELL: For the record, my lord, I have taken a red pen and stroked those three names from the affidavit which has been marked as an Exhibit 185, tab 1.

THE COURT: Yes.

MS. MANDELL: Still now looking at the affidavit. On page 4 of the affidavit under "Areas" on the list beginning on page 3, you've indicated at the top of the list an area which perhaps you can help me to pronounce.

THE INTERPRETER: D'ele' dezdiit'aay.

MS. MANDELL:

Q My question to you is whether or not you know any stories as to whether or not the ancestors of Namox used that area for any particular purpose.

A D'ele' dezdiit'aay, that's northeast from Sam Goosley where the cabin is located.
THE COURT: Sorry, northeast of where?
A From Sam Goosley where this old cabin, Namox's cabin located. D'ele' dezdiit'aay will be right here.
MS. MANDELL: My lord, I am going to indicate it with the letter B as the witness has indicated it on the lower base map. It is approximately not quite midway up the trail between the two portions of the territory up north from Sam Goosley. There is a dotted line which is indicating a trail and this area is approximately mid point.
THE COURT: You've marked it with --
MS. MANDELL: A "B" on this exhibit map.
THE COURT: Perhaps you can show me where you have marked. Yes, thank you.
MS. MANDELL:
Q Do you know what Namox's ancestors would use that point for?
A Even way before Namox's generation they used that for their sports, young bucks, you know. It is quite a ways down to the lake D'ele' dezdiit'aay. You know, you peel off a young pine or balsam. It has a bark, hey. That would be around June month when the sap is running. When it is peeled off they use that as a mirror. And when the sun hits it they will see it down below here by that lake. As soon as they see that then they put a fish to cook in the open fire.
Q The people at the lake?
A At the lake then the young buck can start running down the hill.
THE COURT: I am sorry, did you say put a fish?
A Yes.
THE COURT: What do they do with the fish?
A They cooking it.
THE COURT: Oh, start cooking it.
A If that fish is not cooked yet, fully cooked yet, he is a good runner. He is the best. But if it is overcooked it is no good. That's how they -- you know, that's how the sports was.
MS. MANDELL:
Q So that place is a signal place on the trail?
A Yeah, D'ele' dezdiit'aay is a signal place on the trail.
Q And this is for the runners that are going down to Sam Goosley; is that right?
A Yes.

Q And the fish is being cooked at Sam Goosley?
A At Sam Goosley.
Q Who told you that story?
A My grandfather and my father. Not only them was telling the stories, our grandmothers. Sometimes we sit around the fire. And then that's not only told just once, it is a lot of times.
Q Have you ever been to that place?
A Oh, yeah, I walked through there.
Q On page 3 of the affidavit there is another area which you've identified. And it is the third hill mentioned in your list and perhaps that could be pronounced.
A Beg'ut wedz'iih Celts'ay.
Q Can you identify where that is?
A It is around right this area here.
MS. MANDELL: My lord, I am going to mark that with a C on the under map. It is approximately in the area where the 28 can be found along the midsection of the Namox territory if you follow the trail north from Sam Goosley.
THE COURT: 28, yes.
MS. MANDELL: I have marked the C just beside it to the right.
Q And I would also show you the photograph at tab 33 of the exhibit book. Can you identify the landmark in the photograph?
A Yes.
Q What is it?
A Okay, we are on that mining road here. That will be looking north from where I'm standing there is a little mountain peak, that's what we call Beg'ut wedz'iih Celts'ay.
MS. MANDELL: It is the peak, my lord, it is virtually in the center of the photograph.
THE COURT: Yes.
MS. MANDELL: It is a small peak which is partially covered by a tree.
THE COURT: Yes, I see.
MS. MANDELL: I would ask that that photograph be marked as the next exhibit.
THE REGISTRAR: Exhibit 195, tab 33.

(EXHIBIT 195: Tab 33, Photograph)

MS. MANDELL:
Q Do you know how that hill got the name that it now holds in Wet'suwet'en?
A Just below the peak there is a meadow. This is

where the caribou would have their young and that is how that place got its name.

MS. MANDELL: Now, under "Areas" also on page 3 of the affidavit the second area which we've identified -- has that picture been marked as an exhibit?

THE REGISTRAR: Tab 33, yes.

MS. MANDELL:

Q The second area we have identified is an area called C'ass 'an.

A C'ass 'an.

Q I wonder if you could locate it for us on the area map.

A C'ass 'an is right there.

MS. MANDELL: My lord, I am going to mark it with a D on the map.

THE COURT: Yes, thank you. There is an F marked there already or very close to it.

MS. MANDELL: Yes, it is across the trail from the --

Q And I would also ask that you be shown the picture at tab 28. And I wonder if you could identify the photograph.

A Yes. Okay, from where I am standing there it is straight up -- there is C'ass 'an right there, the hill there.

MS. MANDELL: My lord, the witness is pointing to a hill straight north of his head.

THE COURT: The highest point on the skyline?

MS. MANDELL: Yes.

A It is straight south from my head.

MS. MANDELL:

Q I think it is north of your head. I am going the wrong way?

A That's where we are standing there.

Q The witness is indicating that he is standing north of C'ass 'an and the camera is pointing south, so C'ass 'an would be the highest point in any event in the middle of the skyline?

A Yes.

MS. MANDELL: I wonder if that photograph could be marked as the next exhibit.

THE COURT: Yes.

THE REGISTRAR: 196, tab 28.

(EXHIBIT 196: Tab 28, Photograph)

MS. MANDELL:

Q What story is told about C'ass 'an?

A I've been told a story about that C'ass 'an a few times. They've been telling me lots about it. There is two brothers that were mauled by a grizzly bear and it crippled one pretty bad. I don't know what year though. Anyway, the grizzly bear got away. That's where it went under that den. And the sister of these two brothers -- I am going to explain it in my own language. The sister of the person who got mauled got angry at the grizzly bear. And what she did was she put steaks at the entrance where the bear had gone into the den. She left a hole just large enough for the bear to get through. What the sister had done was she put an object like a knife at the tip of a piece of wood and stuck one end in the ground and aimed it at where the bear would come out. And when the bear came out it got the bear in the heart and killed him. And since that time that place has always been called C'ass 'an. And our people -- our ancestors know that every year there is a grizzly in that den.

Q Do you understand that that to this day that grizzlies can be found in that den over the wintertime?

A Before the road went near that area there was always bears in that den. But since the road went through I'm not too sure whether the bears still go near that place. At one time Late George Michell and I in 1952 had set up camp a little ways from there. And the grizzly smelled our smoke from our campfire and he growled. And when we got home I asked my dad what it was and he told me that it was a grizzly bear.

THE COURT: Is that the road that shows in Exhibit 196? Is that the mining road of which you spoke or is that something different?

A Yes.

MS. MANDELL: You can see it.

A There is a road right below that right now.

THE COURT: I am a little uneasy about something. If this picture is looking south towards the point that has been marked D on the map and that height of land is the highest point is point D, is that lake on the other side, the lake shown on the sketch, is it on the other side of that point of land?

A Okay, that lake would be out here. That lake that is this one here. It will be out this way.

MS. MANDELL: My lord, the witness is indicating the lake would be off the picture to the left.

THE COURT: Thank you.
MS. MANDELL:
Q Under "Hills" in your affidavit at page 3 you've identified as the second hill this place. Can you prounounce that for us, please?
A C'oo an yis.
Q C'oo an yis. Can you identify where that would be on the sketch map?
A C'oo an yis is right approximately there.
MS. MANDELL: My lord, I am going to indicate that place with an E.
THE COURT: Thank you.
MS. MANDELL:
Q And if the witness could be shown tab 38. Could you identify the photograph.
A Yes. From the road there is an opening right across here, that's what we call C'oo an yis.
Q Is this the area which is clear cut above the tree line?
A No, it is just cleared. There is no clear cut.
Q Just a cleared area?
A A cleared area and poplars as well. All poplars.
MS. MANDELL: My lord, the witness has indicated it looks like a bald spot on the mountain on the upper portion of the hill.
THE COURT: On the left-hand side?
MS. MANDELL: That's right.
THE COURT: That's --
MS. MANDELL: C'oo an yis. I would ask that that be marked as the next exhibit.
THE COURT: Yes.
THE REGISTRAR: 197, tab 38.

(EXHIBIT 197: Tab 38, Photograph)

MS. MANDELL:
Q Do you know why that hill has the name that it does?
A Early spring when there's grass growing on that site they watch for bear, grizzly bear.
Q And who told you that this is the hill where they watch for bear in the spring?
A My father Misaloos.
Q And have you ever been to that place?
A Just below that there is Buck Creek, Neel dzii kwe which have beaver along there. I have seen that place. I know where it is.
MS. MANDELL: We will just get the spelling of the beaver place.

THE TRANSLATOR: 500.
THE COURT: 500?
THE TRANSLATOR: Yes.
MS. MANDELL:
Q On page 4 of the affidavit there is a mountain peak which you've identified the second of the third mountain peaks. Could you pronounce that name for us?
A L diits La yis.
THE COURT: What is that first letter, please?
MS. MANDELL: I think it is meant to be a barred L.
THE COURT: Thank you.
A L diits La yis.
MS. MANDELL:
Q Could you identify where that mountain peak is on the sketch map?
A It is right there.
MS. MANDELL: My lord, I am indicating that with the letter F. There is already a black F -- with a red F.
Q And I would also ask the witness to be shown tab 29. Can you identify what's in the photograph?
A Yes. From where we are standing here it is straight west side, that is L diits La yis. This hill here.
THE COURT: Which hill, please?
MS. MANDELL: The hill is really moving off the photograph to the right as the slope is rising.
THE COURT: Thank you.
MS. MANDELL: Could I have that photograph marked as the next exhibit, please.
THE COURT: Yes.
THE REGISTRAR: 198, tab 29.

(EXHIBIT 198: Tab 29, Photograph)

MS. MANDELL:
Q And I am also showing to you the photograph at tab 32. And I would ask you if you could identify that photograph.
A Okay. That's L diits La yis on the highest point this whole works. This hill here is L diits La yis.
Q The hole hill shown in the photograph is the ridge that we are talking about?
A Yes.
MS. MANDELL: It is a front shot of it. Could I have that tab 32 marked as the next exhibit.
THE COURT: Yes.
THE REGISTRAR: 199, tab 38.

(EXHIBIT 199: Tab 38, Photograph)

MS. MANDELL:

Q What is significant about this ridge within the territory? What do the Wet'suwet'en use that ridge for?

A It is just that there is a creek that runs from this Tsee zuul ts'ak Ben and another creek runs from north. And where the creeks meets that's what we call L diits dlii. And this little hill that stands just above that L diits La yis that's what we call L diits dlii. There is a lot of blue grouse in that area.

Q And have you been to that area?

A I was there.

Q Also in the affidavit under "Mountains" the third mountain which you identified. Perhaps you can pronounce it for us.

A Nee'del.

Q Can you identify where that would be on the sketch map?

A Nee'del on that highest point there.

MS. MANDELL: My lord, I am going to mark it with a red G.

THE COURT: That's just above that number 5330?

MS. MANDELL: That's right, it is just below it.

THE COURT: Thank you.

MS. MANDELL:

Q And if the witness could be shown the photograph at tab 34. Can you identify the photograph?

A There we are standing right on the road here, mining road. Right there is that Nee'del, that's a peak here.

Q And is that the snow-covered peak right in the middle of the picture?

A Yes.

MS. MANDELL: Could that photograph be marked as the next exhibits.

THE COURT: Yes.

THE REGISTRAR: 200, tab 34.

(EXHIBIT 200: Tab 34, Photograph)

MS. MANDELL:

Q And could you explain why that peak is significant within Namox's territory?

A That would be the main landmark for both sides. Upper side is our Misaloos territory, Misaloos trapline, trapping territory. West side of this peak

Albert Namox, they trap marten in that area. East side of that peak Misaloos trap marten in that area.

MS. MANDELL: Do you need the spelling of Misaloos?

THE COURT: I have it somewhere.

THE TRANSLATOR: 519.

THE COURT: 519. Is this a convenient time?

MS. MANDELL: This is a very good time.

THE COURT: Thank you, I will adjourn until 2 o'clock.

THE REGISTRAR: Order in court, we will adjourn.

(PROCEEDINGS ADJOURNED PURSUANT TO LUNCHEON ADJOURNMENT)

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.

_____

LISA REID, OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RECONVENED AT 2:00 P.M.)

THE REGISTRAR: Order in court. Calling Delgamuukw versus Her Majesty the Queen to the bar, my lord.
THE COURT: Thank you.
MR. RUSH: My lord, on the question of the timing of the discussion on the question of jurisdiction and consequences of alienation which you raised last Tuesday, I've discussed it with my learned friend, Mr. Macaulay, and it seems that Friday morning would be a convenient time to -- to pursue that.
THE COURT: All right.
MR. RUSH: If that's convenient to the Court.
THE COURT: Yes.
MR. MACKENZIE: That is correct, my lord.
THE COURT: Does that include the question of the pleadings that has been mentioned?
MR. RUSH: The pleadings so far as it pertained to the issues raised on that day, yes, yes.
THE COURT: Because I didn't really understand precisely what you meant when you said the question of alienation, the consequence of alienation.
MR. RUSH: So far as it pertained to the evidence being led at the time. I think there was an objection on relevance taken by Mr. Plant.
THE COURT: Oh, yes. All right.
MR. RUSH: And your lordship may recall that discussion --
THE COURT: Yes.
MR. RUSH: -- on Tuesday.
THE COURT: What about the other question that I've been raising from time to time, that is, the question of what might be described as the alternate claim or alternative claims to the Statement of Claim as to whether the

1 Statement of Claim includes anything less than full
2 ownership and jurisdiction?
3 MR. RUSH: Well, that was not part and parcel of that
4 discussion.
5 THE COURT: Well --
6 MR. RUSH: And it might -- it might be useful to have at least a
7 preliminary -- a further preliminary discussion of
8 that, but we were --
9 THE COURT: All right.
10 MR. RUSH: We were trying to hone in on these two particular
11 issues --
12 THE COURT: All right.
13 MR. RUSH: -- and I don't think we'd be prepared to deal with it
14 in its final terms on Friday. But I think that it is
15 also part of the discussion, that other discussion.
16 THE COURT: That's right. I'm happy to accommodate you
17 gentlemen and have it on Friday morning, if that's
18 convenient, or at any other time that is suitable.
19 May I inquire whether counsel have a view about Friday
20 afternoon? I'm aware of the plane schedules. On the
21 other hand, except for occasional matters that arise,
22 I'm content to sit on Friday afternoon as well. Do
23 counsel have a view what they'd like to do about that?
24 MR. RUSH: I think the only time at which Friday afternoon is
25 one which we would like your lordship to consider not
26 sitting is when the three week -- or the break period
27 commences. I think last week was an unusual situation
28 in the sense that --
29 THE COURT: Well, I had --
30 MR. RUSH: -- there had been the death in the family, Mr.
31 Alfred.
32 THE COURT: All right. Well, we'll be sitting this coming
33 Friday afternoon then.
34 MR. RUSH: Yes, yes.
35 THE COURT: Okay. All right.
36 MR. MACKENZIE: Yes, my lord. With respect to that last point,
37 we're in the Court's hands, of course, on Friday
38 afternoon. I agree with Mr. Rush's comments with
39 respect to the arguments to be raised at this -- on
40 the occasion, my lord. It was our understanding -- my
41 understanding that the alternative claim issue, as
42 your lordship has characterized it, would be one of
43 the issues argued at that time. That was our
44 understanding, so could we have that cleared if my
45 learned friend --
46 THE COURT: Mr. Rush has indicated to me he'd be happy to talk
47 about it, but he's not sure he wants to have the

matter finally argued on Friday, if I understand you right, Mr. Rush.

MR. RUSH: Yes, that's right. And I think it would assist the Plaintiffs to have the discussion on Friday. We will be advancing a particular position vis-a-vis the issues raised by your lordship, and I think that I do see a relationship between the question of alternative claims and those issues which you raised, and I think that so far as our taking a final position on that, or at least advising your lordship of the position of the Plaintiffs on the alternative claim, that I -- I think it would be helpful for that discussion to occur on Friday, and I don't say that we won't be addressing some of that during the course of the conversation or discussion.

THE COURT: Well, we'll start addressing it on Friday morning and see where it takes us. But, Miss Koenigsberg, Mr. Macaulay is quite interested in this question of the consequences of alienation, with particular reference to the railroad and the C.N.R. right of way. Is Friday convenient for you or Mr. Macaulay?

MS. KOENIGSBERG: Yes, it is convenient for either or both of us. And I did just want to clarify that the issues that we were going to canvass or that I had understood were going to be canvassed from reading the transcript and talking to Mr. Macaulay involved whether the federal government and its jurisdiction in the areas in which it has jurisdiction, railroads, air space, and that sort of thing, were covered by the pleadings and I --

THE COURT: Well, I took Mr. Rush to be saying yes, that is going to be discussed on Friday.

MS. KOENIGSBERG: Okay.

THE COURT: All right. Thank you.

MR. MACKENZIE: My lord, if I may, I have two points arising out of this morning I'd like to raise before your lordship, and first it deals with the photographs that my learned friend provided to me this morning. Now, your lordship has indicated that we'll carry on with the cross-examination tomorrow -- I'm sorry -- we'll carry on with the examination tomorrow and we have this evening to look over the photographs and take instructions. Well, my lord, if I could just bring to your lordship's attention that these photographs appear to have been taken in spring of either last year or the year before. They are clearly relevant to this witness's testimony in that they show specific

points along the boundaries of the territory for which this witness has provided an affidavit. We received Mr. Alfred Mitchell's summary of evidence on January 6 of this year, over one month ago. Now, my lord, if -- I'm not criticizing my friends in the sense of their production, except to say that if we had these photographs over a month ago or earlier than today, it would have been possible for us to take instructions up north where the people are who know this territory, as my friends are well aware. And if you look at the territory, you'll see certain features, logged areas and forest fires and roads, that are very difficult to take instructions upon down here.

So, my lord, my submission now is that if my friends have further witnesses who will be speaking about territorial boundaries, in my submission they should be making inquiries with those witnesses, depending on where these photographs came from, to see whether similar cache or treasure-trove of photographs relating to specific boundary points of territories which will be discussed in the forthcoming evidence is in existence, and I would ask that they make those available to us well in advance of the witness's testimony. And, my lord, this is a continuing exchange of document problem, but we are attempting to disclose the documents that we find as soon as they come to our attention. And my final submission is that these are highly relevant. I find it difficult to understand why they would not have been disclosed before today.

THE COURT: Well, it certainly would have been convenient, I'm sure, but I don't know what else I can say. Counsel may have just decided to use them. Some of the best decisions are made at the last minute. I think your friends should accept your invitation to make an early disclosure of these kind of documents if they plan to be used, and I'm sure your friends will do that and make those kind of decisions. I don't feel, Mr. Mackenzie, with respect, you being too badly prejudiced. You have lots of times between now and then in the trial to challenge the description of these photographs, and if proper grounds are shown, well then, the witness can even be called back for further cross-examination, although I think that won't be needed.

MS. MANDELL: My lord, I just might advise that the photographs came into my possession on Friday, and if they had

1 come any earlier, I would have notified my friend of
2 that.
3 MR. MACKENZIE: All right.
4 THE COURT: Well, I think your friend's point is they've been in
5 the possession of your clients for some time, and that
6 probably --
7 MS. MANDELL: Had we --
8 THE COURT: -- takes it a little further than your personal
9 possession.
10 MS. MANDELL: Had we known that then, we would have been able to
11 distribute them. We became aware of them last week.
12 THE COURT: The role of the counsel is policeman of his clients'
13 affairs in connection with production of documents.
14 MS. MANDELL: It's hard.
15 THE COURT: It is a never-ending problem.
16 MS. MANDELL: Well, I appreciate the problems all the way
17 around, and I'm sorry if there's inconvenience caused
18 by this.
19 THE COURT: All right.
20 MR. MACKENZIE: I had one more point, my lord, if I could.
21 THE COURT: Yes.
22 MR. MACKENZIE: My lord, I'm not certain whether your lordship
23 has been aware of this, and I raise it to record it
24 and to confirm your lordship's awareness. This
25 relates to Mr. Victor Jim, who's the interpreter for
26 Mr. Alfred Mitchell's evidence. Now, the evidence
27 this morning, my lord, is that Mr. Victor Jim has the
28 chief's name Misaloos. That is the chief's name that
29 Alfred Mitchell's father formerly had.
30 THE COURT: Yes, I remember that.
31 MR. MACKENZIE: And Mr. Jim is a member of the Tsayu clan, who
32 also, according to Mr. Mitchell's summery of evidence
33 and other evidence in this trial, is one of the
34 people, one of the principal people who trap and
35 harvest the resources in this Namox territory about
36 which this testimony is being given. And so, my lord,
37 of course we've had a submission made before about
38 interpreters. I make this comment simply to record it
39 and confirm your lordship's understanding of that
40 status of Mr. Jim.
41 THE COURT: All right. Well, I've been aware of that since the
42 evidence was given, but it doesn't change insofar as
43 this evidence is concerned the decision that I made
44 previously with respect to Mr. Holland.
45 MR. RUSH: Well, I should just say that we expected Mr. Holland
46 to return today. He had been involved in the funeral
47 arrangements of the members of the family that -- of

the member of the family that had passed on, and we expected him back on yesterday's flight, but he was unable to return, and we hope he's back today. I think everyone here understood that Mr. Jim's role was that of assisting the Court in the unfortunate absence of Mr. Holland. And we would certainly -- we had intended and wanted to proceed on the basis of Mr. Holland's interpretation, and we're grateful of the Court for allowing Mr. Jim to proceed, but Mr. Jim is, we say, qualified, and I think he's exhibited a high degree of competence in assisting the Court today.

THE COURT: All right. Thank you. Ms. Mandell.

MS. MANDELL: Thank you. I'm going to ask again for your assistance in the pronunciation of the name. Prior to lunch we were talking about this mountain.

THE COURT: What is this, Ms. Mandell?

MS. MANDELL:

Q This is the third mountain in the list of mountains listed in affidavit, page 4, my lord.

A Nee'del. Nee'del.

MS. MANDELL: Nee'del.

THE COURT: Just a moment, please. I seem to have misplaced -- oh, here it is. The third in the list of mountains.

MS. MANDELL: This was the mountain which --

THE COURT: Yes.

MS. MANDELL:

Q -- you described as the boundary peak between the territories within which the people trap marten, is that correct, Nee'del?

A Right between these two boundaries.

Q Okay.

A Nee'del, that's a little mountain.

Q Now, I'm going to, for the sake of convenience, be talking about the Namox territory this way: I'm going to talk about the area in the upper range as the north part of the territory and the area around Sam Goosley as the south part of the territory. Is that all right?

A Yes.

Q Okay. And is Nee'del a boundary peak between the north and the south part of the Namox territory?

A Yes.

Q What portion of the Namox territory was used by Alfred Namox in his lifetime to harvest marten, the north or the south?

A It would be south, south-west from Nee'del.

Q Okay. And during the lifetime of Alfred Namox did

your father -- did your father harvest in the north part of the territory?
A Northern part, yes. Trapped there all his life.
Q Okay. And did you and your brother Billy trap in the northern part of the territory with your father?
A I walked through this northern part with my father since I was a boy.
Q Okay. And is there an old Wet'suwet'en trail which connects the north and the south part of the Namox territory?
A It's this trail here. That's --
Q Okay. My lord, the witness is indicating the dotted line that the -- between approximately number 4 and 5 on the territory?
A Neel dzii teezdlii through that number five when they call it Tsee zuul ts'ak.
MS. MANDELL: Maybe we can get numbers.
THE TRANSLATOR: Neel dzii teezdlii is 542.
THE COURT: I'm sorry, five?
THE TRANSLATOR: 542.
THE COURT: And then what is 542, please?
MS. MANDELL:
Q This is the lake which is --
A Neel dzii teezdlii, that's it.
THE COURT: Number five?
THE TRANSLATOR: 542.
MS. MANDELL:
Q Where is Neel dzii teezdlii?
A Neel dzii teezdlii.
Q Is that Sam Goosley Lake?
A Sam Goosley Lake.
THE TRANSLATOR: And Tsee zuul ts'ak is 556.
MS. MANDELL:
Q And is that the lake that's coloured in in black and there's a letter "F" just below it?
A Yeah, that's Tsee zuul ts'ak.
THE COURT: I'm sorry, what number is that?
THE TRANSLATOR: That's the same one, 556.
MS. MANDELL:
Q Have you used that trail to go between the north and south part of the Namox territory in your lifetime?
A Me and my dad use that in spring when we were trapping beaver.
Q Okay.
A We would go -- go between this when we go visit Namox or Alec Tiljoe, the late Alec Tiljoe.
Q Have you maintained that trail in any way?

A We always keep it open.
Q What do you do to keep that trail open?
A Any wind fall, cut them off. You just keep it open so that easier to walk. It's always been used every year. Not -- after they got that road in, we never use it much, but we walked in from up above once. Now you got through -- mine road up through Nee'del, and there's another road goes right down into Sam Goosley Lake. Now you can drive around it. That road goes right through here.
Q Okay.
A Now there's a road all the way around our territory. So just when we were hunting, we go hunt around here. Sometimes set few traps for marten.
MS. MANDELL: Okay. Let's first get the name.
THE TRANSLATOR: 570. Nee'del.
THE WITNESS: That's this one here. That's Nee'del.
MS. MANDELL:
Q And you say that now the trail is used as a hunting trail or for the trapping of marten?
A Yeah.
Q Okay. Within the Namox territory does the internal allocation of areas to hunt marten continue today where some Wet'suwet'en will harvest marten on the north side of the territory and others on the south side?
A Okay. The area that's marked "D" in red on your map is where my brother, Billy Mitchell, first started trapping for marten. And then when Dan Michell had to come down here to Vancouver for the court case, Billy Mitchell went from the area marked "D" down to Sam Goosley, where the present cabin site is, and he's brought Billy from the area marked "D" down to where the new cabin site is. And that is where they saw Mr. Mackenzie.
Q That's a fairly current description of the use of Namox's territory. Do you know then why -- why did Dan -- do you know why Dan Michell directed your brother to the southern part of the territory in the last while to trap marten there?
A Well, Billy been trapping right through here for marten all the time. Dan moved him down here. This wasn't trapped for couple years.
Q Okay. The witness indicated that Billy had been trapping on the northern part of the territory and Dan Michell directed that he come to the south because it hadn't been trapped for many years.

Now, you indicated that the trail crossed the territory, and you've pointed out to us where the trail began at Sam Goosley and crossed the territory to the northern lake. Did the trail then continue throughout the territory or outside of it?

A Okay. That trail from Sam Goosley main trail. Goes to this Tsee zuul ts'ak Ben. Main trail continues on down into that Foxy Creek, Foxy Creek down to Maxim Lake.

Q Okay.

A And there's a trail goes right out to Decker Lake. That's the main trail.

Q And did Namox's ancestors, to your knowledge, make that trail?

A Yes.

Q You say that the trail led to Decker Lake; is that your understanding?

A It goes right up to Decker Lake. They call that -- there's one mountain they call Boo Mountain. It comes out just around Palling area, not right -- not right in Decker Lake.

MS. MANDELL: Boo Mountain, that's B-o-o?

THE COURT: Decker Lake is at Burns Lake, is it not?

THE WITNESS: Yeah, just next to Burns Lake.

THE COURT: Just north or east of -- or west, rather, of Burns Lake?

THE WITNESS: It's just a little north of Burns Lake.

THE COURT: Okay.

MS. MANDELL:

Q Who told you about this trail and about where it leads to?

A My father and Emma.

Q And that's Emma Michell?

A Yes.

Q Do you know what Namox's ancestors were doing when they followed the trail to Decker Lake and back into Namox's territory?

A Namox Uncle Boo, he own the territory in Palling area, trapping territory. That's the one lake Don Walter registered.

Q And so what was the Wet'suwet'en trail then used for, to your knowledge?

A Okay. Alfred Namox Uncle Boo had territory near Decker Lake, and it was easier for them to go through there than go around. And my other grandmother, Emma, said that another reason they might have used it was to get off the train there to go down into Sam Goosley

because at that time there were no roads in there.
Q And where would the train let the people off?
A Closest would be Palling station. That would be closest to Maxim Lake.
THE COURT: What's that station, please?
MS. MANDELL: Palling.
THE TRANSLATOR: P-a-l-l-i-n-g.
MS. MANDELL:
Q P-a-l-l-i-n-g. It's not Wet'suwet'en, is it? Is that your --
A Palling around here someplace.
MS. MANDELL: The witness is pointing to a place near Duncan Lake Indian Reserve.
THE COURT: I see Maxim Lake there.
MS. MANDELL: The witness is pointing to a place between Broman Lake and the Duncan Lake Indian Reserve number 12 in the top right corner.
THE COURT: Well, that's where Highway 16 is.
THE WITNESS: Highway 16.
THE COURT: Is that where the railroad is?
THE WITNESS: It would be right around there.
THE COURT: I see the road now.
MS. MANDELL:
Q It's just off the map. He's pointing to a place just where the highway is leaving the map.
A It's off the map.
THE COURT: Yes.
THE WITNESS: C.N.R. goes right through there.
THE COURT: That's surely the line there on the south side of Duncan Lake.
MS. MANDELL:
Q Looks like it, doesn't it?
A It says Burns Lake here.
Q The --
A But it's -- that's not where Burns Lake is.
Q It's up?
A Oh, Bulkley Lake.
MS. MANDELL: My lord, I think it's at some interception point off the map just at the right corner there.
THE COURT: Yes. Well, is it north of Forestdale or south of Foresdale or -- I'm sorry -- Forestdale?
THE WITNESS: It's south of Forestdale.
THE COURT: South of Forestdale?
THE WITNESS: Yes.
MS. MANDELL:
Q Now, on the north side of the territory, did your father have a cabin there?

A My father had a cabin right by Tsee zuul ts'ak. He had a cabin there that burnt when the big forest fires went through.

MS. MANDELL: Let's first get the number of the lake again until we become familiar with it.

THE TRANSLATOR: 556.

THE COURT: 556?

THE TRANSLATOR: Yes.

MS. MANDELL:

Q And you'll see that there's a little circle with the number five --

A Five.

Q -- within it. Is that the approximate location where your father had the cabin?

A Yes.

Q I wonder if the witness could be shown the exhibit book, the pictures, and if tab 26, which is Exhibit 194, can be put to him.

Can you identify from that picture approximately, -- first of all, whether the picture shows us approximately where your father's cabin had been located?

A Okay. It's -- you see that burnt area here, it goes down towards our cabin. Our cabin burnt with this area here, this -- that whole burnt area. It's approximately here, just about end of this mountain here.

Q Okay. My lord, the witness is pointing to the --

A Okay. We see it down this way right there.

Q If you'll follow the ridge along the skyline, the -- there's a place at the --

A Point.

Q -- point of the ridge where it begins to dip into the valley. That top area, if you can see closely, has been burned.

THE COURT: Yes.

MS. MANDELL:

Q And the witness has identified that at the lower portion of the burn is the approximate location of his father's cabin.

Do you recall when the fire occurred in that territory?

A 1958 a big fire went through there.

Q Okay. And was -- do you know who built the cabin that your father stayed at?

A It was my father and Namox.

Q And that's Albert -- Alfred Namox?

A Alfred Namox.
Q And was the cabin rebuilt after the fire?
A No.
Q Can you identify on the sketch map if you or your family stayed overnight after the cabin was burnt where would you stay, and I'm speaking now of the - within the northern part of the territory? Northern part, not the south.
A Oh. Right now that -- if we were trapping here -- my brother Billy is trapping here. He's staying in Houston.
Q Um hum
A Of course this road's open all year round --
Q Okay.
A -- by mining company. They drive in from Houston, trap here. If we were going to stay here, we'd stay in this new cabin and drive up around in there, so we didn't have to build another cabin.
Q Okay. I'm going to identify the new cabin later in the evidence, my lord. If you were -- do you or your brother Billy ever camp out now on the northern part of the territory?
A Oh, yes.
Q And where is the place where you would camp out?
A We would -- if we were hunting now, once we stayed here in the creek.
Q Okay.
A But mostly -- mostly we drive down into this new cabin.
Q Okay. My lord, the creek which the witness identified that they camp out when they're hunting I'm going to mark with a "G."
A Right there.
MS. MANDELL: A red "G."
THE COURT: We have a "G."
MS. MANDELL: We've got a "G." This should be an "H."
THE COURT: Where is it?
MS. MANDELL: It's right here.
THE COURT: Yes. Just a little bit to the right. Thank you.
MS. MANDELL:
Q Okay. Could the witness be shown tab 4, please? Can you identify this photograph?
A Yes, this photograph is -- picture is taken from the north end of the lake shooting up to south-east. That cleared area up above there, that's a mining site, Equity Mine.
Q And which lake is this?

A That's Sam Goosley, Neel dzii Teez dlii.
Q And have you been to that lake?
A Lots of times.
MS. MANDELL: Okay. I'd ask that that photograph be marked as the next Exhibit.
THE REGISTRAR: 201, tab 4.

(EXHIBIT 201 - PHOTOGRAPH FOUND AT TAB 4)

MS. MANDELL:
Q I'd ask that the witness be shown tab 2.
Can you identify the cabin which is shown in that picture?
A Yes, this picture here, that's right in the north end of the Sam Goosley Lake. Alfred Namox's cabin.
Q Do you know who built that cabin?
A Alfred Namox.
Q And do you have knowledge as to when it was built?
A In the 30's, early 30's.
Q Okay. And do you know all the people who have lived in that cabin?
A Whole family Alfred Namox. Pat Namox, Joe Namox, Sarah Tait.
Q Is that Sarah Layton today?
A Yes. Hazel. We used to live there too. We stayed with them.
Q What's Hazel's last name?
A Hazel -- Hazel Joseph, married name.
Q And when you say you stayed with them, who from your family would stay with them there?
A My father. My late aunt, Mary Tom. Me, I was crazy that time. I was -- I was eleven years old that time. And I had to just remember those.
Q Your brother Billy?
A Billy. Well, I don't know. We was raised around there. They packed us around in this area when we was babies.
Q I might have asked you too quickly. Sarah Tait, is she the same person as Sarah Layton are or they two different people?
A Different.
THE COURT: Well, is this cabin the new cabin shown at number 3 on the sketch?
MS. MANDELL: No. We'll get to that.
THE COURT: Oh.
MS. MANDELL:
Q If you could look at the sketch map again, is this

cabin identified where there's a number 4?
A Yes.
MS. MANDELL: I'd ask that that cabin be marked or that picture be marked as the next exhibit?
THE COURT: Yes. 202.
THE REGISTRAR: 202, tab 2.

(EXHIBIT 202 - PHOTOGRAPH FOUND AT TAB 2)

MS. MANDELL:
Q And if the witness could be shown tab 9.
Is this the same cabin as the one which we've just been talking about shown on the sketch map at place -- at number 4?
A Yes.
Q Is that what the cabin looks like today?
A Yes, that's what it look like now.
MS. MANDELL: I'd ask that that be marked as the next exhibit.
THE REGISTRAR: 203, tab 9.

(EXHIBIT 203 - PHOTOGRAPH FOUND AT TAB 9)

MS. MANDELL:
Q Could the witness be shown now, please, tab 3?
Can you identify the structure shown in this photograph?
A This whole building here, it's right behind that picture which we seen a little while ago.
Q It's behind the cabin that we've just shown before the other two pictures?
A Yes.
Q And what is this structure?
A They use as smokehouse.
Q And do you know who built it?
A Namox.
Q That's Alfred Namox?
A Alfred Namox, yeah.
Q And do you know whether it was built at the same time that the cabin which we had formerly identified had been built?
A Probably been built way before that other cabin was built.
Q So it's built at an earlier time than the other cabin?
A Yes.
Q Do you know when the smokehouse was built?
A I wasn't around that time. That was way before this other new cabin was built.

Q Do you know -- do you have any knowledge whether any of Namox's ancestors lived in the smokehouse?
A Before Alfred Namox must be uncles. Whoever are their ancestors, they lived in this territory, even way before Alfred Namox lived around here.
Q On the sketch map can you show us where the smokehouse is located?
A It's this number 4 here.
MS. MANDELL: My lord, the witness is pointing to the number 4. I think it's just immediately behind --
THE COURT: That's what he said.
MS. MANDELL: -- the cabins. Could that photograph be marked then as the next exhibit?
THE COURT: Yes.
THE REGISTRAR: 204, tab 3.

(EXHIBIT 204 - PHOTOGRAPH FOUND AT TAB 3)

MS. MANDELL:
Q Could the witness be shown now, please, tab 7? Can you identify first the people who are shown in the photograph?
A That's me there with the camera, and Don Ryan.
Q And the two of you are standing by the remains of a structure. What structure was standing once on that spot?
A This rotted down sweat house. That's a sweat house.
Q Do you know who built that sweat house?
A Alfred Namox and my dad.
Q Could you describe what -- whether or not there's significance to the fact that there's two, perhaps three rocks visible right at the base of the logs as they're lying on the ground?
A Oh, you got that smokehouse or sweat house -- sweat house built approximately three feet. It's a U frame. And you got dirt right up on top of it. This rock, pile of rock down there, it's a lot of it. Piled just in front of the smokehouse. I keep saying smokehouse. Sweat house. They heat this rock, and they got basin of water inside with them. When they throw this rock -- hot rock into a basin, that's where they get their steam, and that's their hospital. If they get a flu, they use that. One occasion my father told me he had pneumonia. He pret' near died over it. He use this. Within a week he was cured. My grandfather and my father told me that even they get broken leg, they get cured right there. They heal them. That's what

this is for. That's their hospital.
Q Do you know whether or not Namox's ancestors had sweat houses, other sweat houses in the Namox territory?
A Always have it here. There's a village just -- they had a little village just below this where that footprint is at.
Q I'm going to -- I'm going to come to that in a minute, so I won't ask you about that now.
A They have smokehouse -- sweat house there too.
Q I wonder if you could take the sketch map now and show us where this sweat house is located on the map?
A It's right by the 4. Same place.
MS. MANDELL: All right. I'm asking then that that be marked as the next exhibit.
THE COURT: Yes.
THE REGISTRAR: 205, tab 7.

(EXHIBIT 205 - PHOTOGRAPH FOUND AT TAB 7)

MS. MANDELL:
Q You've mentioned that the sweat house was, the way you put it, the hospital for your ancestors. If -- did your father or others before him use medicines taken from the territory to heal?
A Oh, if they cut their self, they use balsam. I don't know what -- the sap from the balsam is squeezed from the -- from the bark, and that is what is applied to a wound if you cut yourself. When I was younger, I did cut myself, and that's what my father used.
Q And is the sap from the balsam bark found on Namox's territory?
A Yes.
Q Did your father or others of your ancestors use spruce gums for medicine healing?
A Oh, yes.
Q And what would the spruce gums be used for?
A Okay. Spruce gum. If you get sores or boils on your hands or somewhere in your body, the spruce gum is applied to the boil, and that's what that is used for. And sometimes we chew it as gum.
Q Okay. And can you find spruce gum on Namox's territory?
A Yes, lots.
Q Is the red willow bark used in combination with certain saps used as a medicine?
A Okay. The red willow and Sus mii' Cun -- I forgot the English name for it -- and another plant are mixed

together. And the late Camilia Wilson, one time my ears got sores on them, and they wouldn't go away, and Camilia mixed the three plants and used it for a week, and the sores went away.

MS. MANDELL: Maybe we should first get the spelling.

THE TRANSLATOR: Sus mii' Cun, S-u-s M-i-i-' C-u-n.

MS. MANDELL: Do you know the translation for that?

THE INTERPRETER: Not the English translation.

MS. MANDELL:

Q Is the red willow found on Namox's territory?

A Yes.

Q Is the Sus mii' Cun?

A Yes.

Q Do you and did Namox's ancestors also use bear grease as a form of medicine?

A Yes.

Q And what would the bear grease be used for?

A I never use, but they told me they used for some arthritis, things like that, pain in the joints.

Q And when you said they told you --

A I use on my hair. Good hair tonic. That's why my hair is black. That's what you should use.

Q That's what I should use. Do you think I'm going grey?

Who told you that the bear grease is used for arthritis and pain in the joints?

A My grandfather's father. My father told.

Q And are there bear in Namox's territory which have been used to prepare bear grease?

A Lots.

Q I wonder if now tab 5 can be put to the witness. Perhaps -- I'm sorry. Perhaps we could start with tab 6.

Can you identify what it is that's shown in these -- in this picture?

A This here picture is a footprint facing east.

Q And if you could take a look at the sketch map, can you identify where the footprints are located?

A It's right near Sam Goosley Lake.

Q Okay.

A It's not too far from this cabin, about 4 or 500 feet from this cabin.

MS. MANDELL: The witness is pointing four or five feet north of the number 4 number placed on the sketch map.

THE COURT: Okay.

MS. MANDELL:

Q According to the Wet'suwet'en, how long have these

1 footprints been there?
2 A It's been there according to -- my grandfather and my
3 father keep telling us kids this footprint been there
4 for long time, way before -- even before Alfred Namox.
5 It's been used for generation to generation.
6 Q Now, you say that the footprints have been used for
7 generation to generation. How have Namox and his
8 ancestors used the footprints?
9 A That's in month of June they use this footprints to
10 tell them when to leave that area going back to
11 Moricetown or Hagwilget. If they stand in this
12 footprint facing east, where the sun rises -- there's
13 a certain place where the sun rises. As soon as it
14 hits that peak, that's the time the family moves out
15 going back to Moricetown. That's their calendar.
16 Q And who told you this story about the footprints?
17 A My father, my grandfather, our grandmothers.
18 Q Do you ever clean the footprints?
19 A Yes.
20 MS. MANDELL: I'd ask that that photograph be marked as the next
21 exhibit.
22 THE COURT: Yes, 206.
23 THE REGISTRAR: 206, tab 6.
24
25 (EXHIBIT 206 - PHOTOGRAPH FOUND AT TAB 6)
26
27 THE COURT: All right. Should we take the afternoon
28 adjournment?
29 MS. MANDELL: Sure.
30 THE REGISTRAR: Order in court. Court is recessed.
31
32 (PROCEEDINGS ADJOURNED AT 3:00 P.M.)
33
34 I hereby certify the foregoing to be
35 a true and accurate transcript of the
36 proceedings herein to the best of my
37 skill and ability.
38
39
40 _____
41 Leanna Smith
42 Official Reporter
43 United Reporting Service Ltd.
44
45 (PROCEEDINGS RESUMED PURSUANT TO AFTERNOON RECESS)
46 THE COURT: Ms. Mandell.
47 EXAMINATION IN CHIEF BY MS. MANDELL:

Q Thank you. Could the witness be shown tab 5. I don't know if you can identify the legs and the feet in this photograph, can you?
A Yeah, that's the same footprint. A guy standing in -- I don't know which one it is.
MS. MANDELL: I would ask that that be marked as the next exhibit.
THE COURT: Yes, 207.
THE REGISTRAR: 207, tab 5.

(EXHIBIT 207: Tab 5, Photograph)

MS. MANDELL:
Q Now, according to information which you had, did Namox and his ancestors have a village in earlier days around the area which is where the footprints are located?
A Yes, they have a little village there.
Q And who told you that?
A My father and Namox.
Q And were there also sweathouses or a sweathouse in among that village site?
A Yes.
Q You indicated that the Wet'suwet'en people would use the footprints to -- as their calendar to know when to move out of the territory in the spring. Do you know where Namox's ancestors would go to in September with other Wet'suwet'en who were then coming from their territories into Moricetown?
A As soon as ready to leave here, to leave this area, they go north. They go to Houston. There was no trails in them days, just foot trails. They use pack dogs in earlier days. There were no horses in them days. They would all gather at Aldermere. That's just behind that present Telkwa.
THE COURT: I'm sorry, where?
A Aldermere.
MS. MANDELL: Aldermere.
THE COURT: Thank you.
A That's where everybody from different trapping territory they gather there, they wait for each other. Within a week they all gather there, even from Ootsa Lake, Oonis to d'en, that's Morice River area.
Q Nanika, Caspit, all the trappers from different trapping territory, they all gather in Aldermere. They wait there for each other. After everybody gathers then they move down to Hagwilget or

Moricetown, whichever way they are going.
Q Did the people gather at Aldermere as you've described within the lifetime of your father?
A Yes.
Q And who told you about this gathering?
A My father.
Q Could the witness be shown tab 8, please. Can you identify the picture, please?
A Yes. This picture is taken -- that's that new building we put in this territory, trapping cabin. It's southeast of Sam Goosley, approximately one mile.
Q I am going to ask you to turn to the sketch and ask you to identify where the new cabin is on the map.
A Where this number 3 is there is two cabins. There is one old one.
MS. MANDELL: The witness has identified number 3 as placed on the sketch map.
THE COURT: Yes.
MS. MANDELL:
Q Do you know when that cabin was built there?
A 1984.
Q And do you know who has stayed in that cabin?
A Stayed in there?
Q Yes.
A I stay in there, Dan Michell's wife, Dan Michell's nephew, his children, Peter Jim and his wife. Sylvester William and his wife, the late Sylvester William. Right now Billy my brother is using it now for trapping marten.
Q You mentioned Dan Michell's nephews. Can you identify who those people are?
A They are Gloria who is one of Dan's sisters. And all of the children of the other sisters of Dan, they go there for recreation purposes. They enjoy going out there. When they do go out there that's where they stay.
MS. MANDELL: Could that photograph be marked as the next exhibit.
THE COURT: Yes.
THE REGISTRAR: 208, tab 8.

(EXHIBIT 208: Tab 8, Photograph)

MS. MANDELL: And now could tab 18 be shown to the witness. My lord, you are handicapped by having only a photocopy.
THE COURT: That's all right, it is quite a clear photograph.
MS. MANDELL:

Q You will see that in the upper right-hand or the mid right-hand corner of the picture there is the outline of a corner of a cabin. Can you identify what it is that I am pointing to in that picture?

A That is an old cabin. A logging outfit left this cabin and my Aunt Emma write them a letter saying that she wanted to -- she needed that cabin, you know. Of course there is a road right through there now. That's why she wanted that cabin, my Aunt Emma. And that's when they gave her the use. The forestries they burn up the cabin, whole logging cabins, but this one they save it for her to use it.

Q And does your Aunt Emma Michell use that cabin now?

A Not now, but she used to use it lots. I stayed in that cabin too.

Q And the picture that we are looking at, is this the same cabin as we've just looked at, the new one that has been built and where you located that it was at number 3 of the sketch?

A Yes.

Q And is the old cabin that we've just talked about in the picture the second triangle marked at number 3 that's filled in in dark?

A Yes.

Q You say that your Aunt Emma and yourself have stayed in that cabin. Have there been others, to your knowledge, who have also used that cabin?

A Okay. When my Aunt Emma was staying there and they were trapping for beaver Russell Lewis and his family also stayed there with them. One time we went up there, Russell Lewis had trapped himself in one of the traps and there was some difficulty that he got the trap out.

Q How long ago was it that Emma was staying in that cabin?

A That would be in the seventies.

MS. MANDELL: I would ask then that that be marked as the next exhibit.

THE COURT: Thank you.

THE REGISTRAR: That will be Exhibit 209, tab 18.

(EXHIBIT 209: Tab 18, Photograph)

MS. MANDELL:

Q On the sketch map there is a number 2 which is beside a triangle in the southern side of the territory. Can you see where that is?

A That's a cabin that Alec Tiljoe built and it burned

down.
Q Do you know approximately when that cabin burned down?
A That would be in the fifties.
Q And after that cabin -- after that cabin burned down, was it ever rebuilt?
A No.
Q Do you know who stayed in that cabin while it was still in use?
A Alec Tiljoe himself, his wife and his son Russell. And I don't know who the rest is.
Q After that cabin burned down do you know where Alec Tiljoe stayed on the territory?
A After this cabin was burned Alec Tiljoe, he stayed down in here. There is an old farmhouse we called Tloogh Tee Teet at the time. That is an old farmhouse.
Q I am going to mark with an I where you have identified the old farmhouse.
A That farmhouse we stayed there too lots of times. My Aunt Emma and her husband Pat Namox, we stayed there lots of times beaver trapping.
Q And you've also identified or at least I am going to show you a place on the sketch map where there is a number 1 located in the northern part of the territory. Was there ever a cabin at that location?
A Southern part.
Q Sorry, the southern part?
A Yes, there is an old cabin that Gabriel Louie must have built that in the thirties.
Q And do you know who stayed at that cabin when Gabriel Louie was staying in it?
A My father trapped with him and he stayed with him. In 1952 it was still standing there, that cabin when I stayed there.
Q Okay.
A We stayed there.
THE COURT: I'm sorry, I didn't get the name of the gentlemen who --
MS. MANDELL: Gabriel Louie.
THE COURT: Thank you.
MS. MANDELL:
Q Do you know by what right Gabriel Louie had to be on Namox's territory?
A Gabriel Louie was married to my mother's sister. And Gabriel Louie trapped with my father. Also with my other Uncle Pete Muldoe. And it was my father who

1 invited Gabriel Louie.
2 Q I am going to ask you to turn to the sketch map
3 again and identify if there is any place on Namox's
4 territory where you have regularly camped on the
5 territory but where there is no cabin standing.
6 A Okay. We start from there Tsee zuul ts'ak Ben. We
7 start from Tsee zuul ts'ak Ben. We start at this line
8 to this cabin. Anyway, we camp right here right by
9 Foxy Creek.
10 Q All right.
11 A We build a lean-to both sides, fire in the middle.
12 Q Is that on the right-hand side of your trail or the
13 left-hand side?
14 A It is right on the trail.
15 Q I am going to mark that location with a "J".
16 A We call that 'Al ben yex.
17 THE COURT: Is that where the dotted line for the trail crosses
18 Foxy Creek?
19 MS. MANDELL: Yes.
20 THE TRANSLATOR: 440.
21 THE COURT: 440?
22 THE TRANSLATOR: Yes.
23 MS. MANDELL: My lord, that's where the dotted line intercepts
24 with Foxy Creek.
25 Q When you were trapping and hunting on Namox's
26 territory and when Alfred Namox was then Namox, do you
27 recall when you ever made payments to Alfred Namox in
28 recognition of your use of the territory?
29 A Yes.
30 Q And what would be the form of payment which you
31 would make to him?
32 A When me and my father was trapping the northern part
33 of this territory here that's when we offered Namox
34 $50. That was in the fourties. Another time I shot a
35 big bear and I sent it to him from Houston to
36 Moricetown on a train. On a train ride I think.
37 Q I just pictured the bear sitting in a train going
38 from Houston to Moricetown. I would like to leave the
39 cabins now at Namox's territory. I am going to come
40 back to Namox's territory, but for the time being I
41 would like to take you back to Moricetown and take you
42 through the seasonal round which the people -- that
43 the Wet'suwet'en live and lived. You had earlier
44 mentioned that the people would come off of their
45 territories in the springtime and would arrive in
46 Moricetown at that time, is that your evidence?
47 A Yes.

Q And is it true, then, that they spent the summertime in Moricetown?
A Yes.
Q And some would spend the summertime in Hagwilget?
A Yes.
Q As a boy, do you recall yourself moving from Namox's territory to Moricetown in the summertime or the late spring?
A Yes.
Q And how would you and your family get from the territory to Moricetown?
A In my time?
Q Yes, in your time?
A In my time I travelled from Houston to Moricetown by train that time in '42.
Q And how did you get from your territory to Houston?
A Pack, snowshoes, pack dog.
Q And did your father fish in Moricetown during the summertime?
A Yes.
Q And did you fish in the summertime at Moricetown as a younger person?
A Lots of times.
Q Do you recall which fishing site you -- first of all which fishing site your father would use, whose fishing site?
A Ooyuk'een, that's Namox's fishing site. And Kweese's fishing site. My computer is pretty slow.
THE COURT: I didn't get the second name.
MS. MANDELL: Kweese, K-w-e-e-s-e.
THE COURT: K-w-e-e-s-e?
MS. MANDELL: Yes, we will give you the numbers. Kweese is 146. And we are just waiting for the Wet'suwet'en name of Namox's fishing site?
THE TRANSLATOR: Ooyuk'een?
A Yes, Ooyuk'een.
THE TRANSLATOR: 502.
MS. MANDELL:
Q 502. Did both you and your father fish at both of those sites?
A Yes.
Q During the time when you were younger, where would the -- where did you and your family stay when you came to Moricetown to fish?
A When we got to Moricetown we stayed at the site where the present-day firehall is.
Q And was there a smokehouse there then at that site?

A We use Namox's smokehouse by the river.
Q And is the Namox smokehouse still standing at that location?
A Not now, no.
Q And do you know approximately when it was -- when it stopped being there?
A In the fifties it still standing, in the early sixties.
Q And again during the time when you were a boy, do you recall where the fish were stored once they were caught and preserved?
A They build a stand about eight foot from the ground. That's where they store the smoked fish, smoked bears. Any smoked meat that's the storage for the winter.
Q And can you estimate approximately what time or how old you were or during what time period those stands were no longer used for the storage of fish?
A In my teens they were still using it. Later in the fifties that's when the white man invented the freezer, that's the time now we can store fresh fish.
Q Do you know how your ancestors made fire before the match was introduced?
A They used a sharp, pointed stick, you know, the friction of that stick. They use cedar bark. They fluff it up just like -- you know, as soon as they see the smoking there they blow on that and pretty soon you will have a fire.
Q And who told you this story?
A My father, grandfather, grandmother.
Q When you were younger did you see fishing with a weir and a trap at Moricetown?
A Yes, I fish -- yes, I did.
Q And did you ever help in the fishing when the fishing was being done with a weir or a trap?
A When I first trapped C'on ts'ee they call it. We taught how to C'on ts'ee. When I was a kid I know. I used to help them pack fish up to their smokehouse. All us kids help whoever. We just don't help our ancestors -- I mean our clan. We got a lot of fish in our clan then other kids from other places always help with ours.
Q And at the time when there was both a weir and a trap used at Moricetown, do you recall seeing still men or women gaffing fish there?
A The area known as Ts'ak'u k'et is the place where the women did most of their gaffing. And in that area there were no spring salmon. There were Coho, your

Sockeye and your Steelhead.
MS. MANDELL: Can we have that name?
THE TRANSLATOR: 503.
MS. MANDELL: 503.
Q Do you recall approximately at what time the weir and the trap were no longer used in Moricetown Canyon?
A In the fourties Louie Tommy was forbidden to use his fish trap and it was outlawed. I don't remember the exact year.
Q And after the fish trap and the weir were no longer used in the canyon, did you and others gaff fish there then?
A That's the only way we could use was gaff.
Q I wonder if you could describe for us once the fish were gaffed in that period of time what happened to them? Where were they put?
A In my younger days my father they would trap on this -- not on this one. On Namox's fishing site Ooyuk'een. We would pack it ashore. We would circle rocks just to put the fish in there. And the women would come down and they would start cleaning them. After it's clean then we work -- they called G'e g'uh say about seven or eight feet long. We put the fish in both end of that G'e g'uh and we would pack it up to the smokehouse. Then Tse kun we call it, we put it on that to dry overnight, that is inside a smokehouse. After it is dry overnight the next day -- it is not only one woman that is doing it, they are helping each other. And they got an A-frame. They lay the fish on there and then they cut it down to pretty thin which all depends on -- if it was bigger salmon they cut part of that meat off. Because if it is too thick it won't dry that fast so they cut it off. Spring salmon they are cut off that's what they are called, it is called C'e yee bee'. That's what you guys like, that's from the spring salmon. They hang it over a pole and say about two inch in diameter then they hang it up after it is all cut. Like they leave it like that for about two, three days until it is over half dry. Then the younger boys or girls they hang it up on the roof and they use C'el tay. C'el tay that's Alder bark rope string to tie it together. That's what they use to hang it up with. And after that thing is tied up on the roof they keep rotating it. After that thing is dry they took it in Tse kun, that's the storage place I was talking about. And then put another batch up there. There is not only

one family that is using it. Namox's family, Emma's family.

Q That's Emma Michell?

A Yeah, Emma Michell.

Q Does the same process still go on today to dry the salmon?

A Not now, not very many. Just very few smokehouses in the area now.

Q And where have the majority of the smokehouses been moved to?

A They move their smokehouses closer to their homes now.

Q And for those people that are smoking either down by the river or by their homes, do the Wet'suwet'en still smoke their meat, smoke the fish to dry it?

A Yes.

MS. MANDELL: Perhaps we can pause and pick up some of the Wet'suwet'en names that were identified in the last answer.

THE TRANSLATOR: G'e g'uh, G-apostrophe-e g-apostrophe-u-h.

THE COURT: U-h?

THE TRANSLATOR: U-h. And the storage building Tse kun, T-s-e k-u-n. C'e yee bee', C-apostrophe --

THE COURT: I'm sorry, can you start again.

THE TRANSLATOR: C-apostrophe-e y-e-e b-apostrophe-apostrophe-e-e. C'el tay, Alder bark, C-apostrophe-e-l t-a-y.

THE COURT: T-a-y?

THE TRANSLATOR: Yes.

THE COURT: Aparently I am needed downstairs. Is this a convenient time?

MS. MANDELL: Yes. My lord, I would just seek the court's permission to adjourn tomorrow at 12 o'clock noon. We are prepared to start early.

THE COURT: I can't unfortunately, I am booked for appointments at both 9 and 9:30. But you can resume at 2 o'clock?

MS. MANDELL: Yes.

THE COURT: There is no objection to that, Mr. MacKenzie?

MR. MACKENZIE: No, my lord.

THE COURT: All right. You can count on that, 10 o'clock, thank you.

THE REGISTRAR: Order in court, court will adjourn.

(PROCEEDINGS ADJOURNED TO February 9 at 10 o'clock)

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.

_____

LISA REID
OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.