May 18, 1988
Vancouver, B.C.

THE REGISTRAR: Order in court. In the Supreme Court of British Columbia, this Wednesday, May 18, 1988. Delgamuukw versus Her Majesty the Queen at bar, my lord. I caution both the witness and the interpreter. You're still under oath.

PETER MULDOE: Resumed

THE COURT: Mr. Rush.
MR. RUSH: My lord, yesterday I handed up a volume of photographs. I believe I passed up Volume 1 on a previous occasion.
THE COURT: Indeed you did.
MR. RUSH: And this is Volume 5.
THE COURT: Yes.
MR. RUSH: And I would like to ask that this be marked as an exhibit for identification.
THE COURT: Yes.
MR. RUSH: Please.
THE COURT: All right. This document, which is labelled -- or my copy is labelled "Gitksan Territory, Volume 5, Number 1 to 6", will be the next exhibit for identification.
MR. MACKENZIE: My lord, I really have no problem with that being marked as an exhibit for identification, but I think Mr. Rush will agree that Mr. Muldoe identified only a few photographs in the dozens and dozens of photographs in that album and so, strictly speaking, it's only those photographs that should be marked.
MR. RUSH: Well, I can tell your lordship that the rest of the photographs will be identified --
THE COURT: I see. All right.
MR. RUSH: -- and in due course, and it seems the more practical solution to mark the whole of the book with some of the photographs having been identified. I don't see any point in --
THE COURT: On that basis I see no difficulty, Mr. MacKenzie.
MR. MACKENZIE: No, my lord. I hope Mr. Rush will have the same approach when we mark exhibits for identification during our cross-examination.
THE COURT: All right. We'll see how we get along in that regard. What's the next exhibit number, please?
THE REGISTRAR: It will be 487 for identification.
THE COURT: Thank you.

1 (EXHIBIT 487 FOR IDENTIFICATION: Plaintiff's book of
2 photographs, Volume 5)
3 EXAMINATION IN CHIEF BY MR. RUSH CONTINUED:
4 Q Thank you. I'm going to ask you now, Mr. Muldoe, to
5 look at the map in front of you, and I'm going to ask
6 you to direct your attention to the territory that is
7 marked Luus on the map. This is found on page 7,
8 paragraph C. Mr. Muldoe, were you -- were you
9 instructed about this territory by Abel Tait?
10 A Yes.
11 Q And Albert Tait?
12 A Yes.
13 Q And Steve Morrison?
14 A Yes.
15 Q And were you told by them that this was a territory
16 owned by Luus?
17 A Yes.
18 Q And had you heard this territory described in the
19 feast hall?
20 A Yes.
21 Q I'd like you to refer to the map that's in front of
22 you, and I'd ask you if you would describe the
23 boundary starting at the point that appears just below
24 Larkworth Creek on the map.
25 A Yes.
26 Q Could you go ahead and describe the boundary from that
27 point?
28 A It starts just below the creek up the place -- by
29 Indian name they call that Xsan Hakw, and it goes up
30 southeasterly, and that goes up to Andex Aaws. That's
31 up to the top of the mountain there. It goes down to
32 the -- southeast again along the -- down along the --
33 down along down the Andex Aaws, and goes downwards
34 to -- up northerly. It goes down along -- along Lax
35 an Hakw, and it goes down to Dam Similoo, and when --
36 and from Dam Similoo, it goes down easterly and it
37 crosses a creek there, and goes from there to -- I
38 couldn't see it. How do you spell that?
39 THE INTERPRETER: Xsuwil wiltxwt.
40 THE WITNESS: Xsuwil wiltxwt. And it goes north again to --
41 towards height of the land. It goes along here to Xsu
42 wil loo yans, I think is what it is, and goes down to
43 the -- goes down alongside of the mountain, goes right
44 into the Xsan Luo Skeexs.
45 MR. RUSH:
46 Q Is that Tommy Jack Creek?
47 A Yeah. Tommy Jack Creek.

Q Okay. And where does it go from Xsan Luo Skeexs?
A It goes again about three or four miles, probably five miles. Then it turns westerly and goes into Gwin Wijix. That's from the height of land there. And it turns again and goes southerly and goes right into Sam sgan Djexit. It doesn't go right into Dam sgan Djexit. Then it turns again south, south for about three or four miles. Then from there down to -- down to the Skeena. On the south side of the Dam Sgan Djexit it goes west, and that's about one -- anywhere approximately one mile or a mile and a half above the Old Kuldo, the village of Old Kuldo, and it goes along the middle of the river and goes down by the New Kuldo and goes right back into Dam Sgan Djexit.

THE COURT: Mr. Rush, I think I know why these boundaries are colour coded. It's by clan, is it not?

MR. RUSH: Yes.

THE COURT: Is it the same colour coding that was on that map that I was given some time ago where the -- there were red, green and a blue codes for the -- all the territories?

MR. RUSH: There was a similar colour coding, but I don't believe they're all precisely the same shade of the colour.

THE COURT: That's right.

MR. RUSH: I think the fireweed is the red.

THE COURT: That's fine. Thank you. And Luus is Lax Seel?

MR. RUSH: Well, we'll ask the witness.

MR. RUSH:

Q What clan is Luus in? What clan is Luus in, Mr. Muldoe?
A Wolf clan.

THE COURT: I see. And green is?

MR. RUSH: Green is frog. Blue is wolf. My lord, Xsan Hakw, the creek that was referred to by the witness, is 1410.

THE COURT: Thank you.

MR. RUSH: And I think that -- well, reference was made to Lax an Hakw, 1136, Dam Similoo 1108, and Xsuwil wiltxwt, that's 1412, Xsu wil loo yans, 986.

THE SPELLER: It's 1121.

MR. RUSH: Yes. And 986. Gwin Wijix. Well, I'm sorry. It's not on the map, but was referred to by the witness.

THE SPELLER: Gwin Wijix is 1413.

MR. RUSH: Yes. Just excuse me. Referred to on the map as Tommy Jack Creek and referred to as the -- by the witness as Xsan Loo Skeexs is 1399. And then the

1 witness referred to Gwin Wijix, as pointed out is
2 1413. And then the witness referred to the Dam Sgan
3 Djexit, which has already been identified as a lake on
4 Wii Minosik territory, and is numbered 1485.
5 Mr. Muldoe, I just wanted to show you -- the
6 boundary here indicates a Dam Similoo, that it goes
7 around and -- around the north end of Dam Similoo?
8 A That's right.
9 Q In whose territory is Dam Similoo?
10 A Dam Similoo is -- belong to Waiget.
11 Q W-a-i-g-e-t. And, Mr. Muldoe, whose territory is
12 north of Gwin Wijix?
13 A North of Gwin Wijix, it belong to Tommy Jack, and the
14 name is Gwininitxw.
15 Q That's number 20 on your list. Does Solomon Jack hold
16 Gwininitxw today, Mr. Muldoe?
17 A Yes. Well, the former Gwininitxw passed on, and the
18 name is passed on to Neil Sterritt Senior, and he's
19 the one that hold the name of Gwininitxw today.
20 Q Mr. Muldoe --
21 A Yes.
22 Q -- Solomon Jack, does he have a name today?
23 A I mean -- yeah. Solomon Jack, that's right. I was
24 thinking about Neil Sterritt. Solomon Jack's the one
25 that holding that. Neil Sterritt Senior's holding
26 that name Wii gaak, that's right.
27 Q And Wii gaak, my lord, is 73. That's 73. And Solomon
28 Jack is number 20 beside Gwininitxw.
29 You made reference on the map to Lax an Hakw on --
30 on the easterly side of Luus' territory?
31 A Yes.
32 Q Who is the hereditary chief that has the territory
33 beyond Lax an Hakw?
34 A On the --
35 Q On the east side.
36 A On the east side. On the east side of the Sam Green
37 Creek there, part of it is -- it's owned by Miluulak,
38 and they call the creek by the name of Xsa Adeea. And
39 on the east -- east from that is on -- I don't recall
40 the name on that.
41 Q Okay. Now, it shows on the map south of Luus'
42 territory Wii elaast?
43 A Yes.
44 Q And does Wii elaast own that territory where it's
45 marked on the map?
46 A Yes.
47 Q And what's the name of that territory?

A The name of that territory is Giist, Shaxw Giist.
Q 1148. Have you travelled on Luus' territory?
A Yes.
Q Who have you travelled there with?
A I travel -- I travelled through there -- when I first went in there, I travelled with Luus, the former Luus.
Q And with other people?
A Yes. I travel in there with Delgamuukw.
Q Is that Albert Tait?
A Albert Tait, and Willy Tait, his brother.
Q Okay. Were -- were Albert and Willy Tait the sons of Abel Tait?
A Yes.
Q And with anybody else, Mr. Muldoe?
A No. Not on the -- not on that -- on that other territory.
Q Just talking about Luus' territory now.
A Yes.
Q And did you -- did you go hunting in this territory?
A Yes. I go out trapping with Luus up along the -- up along the Xsi Duutswit and right down to -- from Xsi Duutswit and Dam Similoo.
Q It shows Xsi Duutswit just about in the middle of the territory. Is that what you're referring to?
A Yes.
Q Xsi Duutswit has a number of references, 1411. Did you trap anywhere else with Abel or Bert or Willy Tait?
A Yes. We trapped -- we all gone along together with the same trapline, but after we get up so far in the Xsi Duutswit, I usually turn off towards Dam Similoo. That's another trapline that goes in there.
Q And it shows on the west side of Dam Similoo -- you just turn it on the side, Mr. Muldoe. Here it shows marten and fisher. Is that what was trapped in that area?
A Yes.
Q Okay. Did you do any hunting for moose or deer or goat or groundhog?
A Well, we do goat hunting up along the place you call Andax Aaws.
Q Now, it shows a little triangle at Xsi Duutswit. Was there a cabin located at that point?
A Yes. There was a cabin located at -- just above Xsi Duutswit. That's about the south side of Dam Sgan Djexit. It's about three miles from there at least, maybe four. There's a cabin. There's a cabin right

in there.
Q Okay. And is that cabin still standing?
A No. It's not any more. The forest fire went through this quite a few years ago, and that destroyed the whole thing, and it also -- it destroyed the trapline too.
Q Do you remember the year of that fire, Mr. Muldoe?
A I think it was more than -- more than 10 years ago. It's something like that, maybe 15. It's between 15 and 10.
Q Okay.
A I just don't recall.
Q Has there been any logging in Luus' territory that you know of?
A No.
Q Has there been any mining?
A No.
Q Is there any farming in the --
A No.
MR. RUSH: Are you aware of any plans by a logging company or a -- or the government to permit logging in this area?
MR. MACKENZIE: I object to that question, my lord.
MR. RUSH: Just a moment, Mr. Muldoe.
MR. MACKENZIE: Unless he's received personal advise about this, I object to that question, that general type of evidence.
THE COURT: Well, what is your objection, Mr. Mackenzie? On the basis of hearsay?
MR. MACKENZIE: Hearsay and also future plans are really irrelevant to this. What we're talking about -- sorry. In my submission, the witness is giving evidence about his knowledge and facts and things that have happened. What other people's plans are, this witness has no -- presumably no knowledge of and, secondly, it's, in my submission, irrelevant.
THE COURT: Aren't a person's plans as much a question of fact as the state of the subject? Hearsay evidence, as I try to define it, is to prove a fact by the repetition of an out of court statement. This might be hearsay if somebody came and said I hear that Muldoe's launched a park. But if on the other hand McMillan Bloedel posted a notice and having been granted a tree farm licence they were going to log or something and made a statement before some people, it seems to me if the witness had personal knowledge of that, it wouldn't be proving a -- a fact by an out of court statement. It would be proving directly what someone

said they were going to do, and I'm not sure that future plans -- I'm not sure this case is frozen as of the date of the writ, is it?

MR. RUSH: No. I don't think so.

MR. MACKENZIE: My lord, if this witness has personal knowledge of a statement made about plans, I don't think that's hearsay.

THE COURT: No. I think we're ad idem there. All right. I think we should find out what -- I think the line of question, Mr. Rush, may lead to hearsay; it may not. You may explore it.

MR. RUSH:

Q Thank you. Mr. Muldoe, do you know of plans by the government of British Columbia to permit logging in the area of Luus' territory?

A Well, at the time I was out there, I didn't know anything about whether they -- they planning to do any logging in there, but they been putting in the surveyor and they putting in the stakes all the way up along right up to the Old Kuldo there, but I don't know whether it was that proposal for the road or something like that.

Q Now, Mr. Muldoe, Gwin Wijix, what is the meaning of that in English?

A That's a caribou mountain.

Q Are you aware if there is caribou on Gwin Wijix?

A Yes, there is. I didn't hunt there, but Luus was hunting in there and they said they'd been getting some caribou in that.

Q Now, I'm going to ask you now about another territory, which you've identified belongs to Wii elaast.

A Yes.

MR. RUSH: And is the territory you called Giist -- reference is made in the affidavit at page 9, Giist, 1148 on the list of --

THE COURT: How is Giist spelled again?

MR. RUSH: G-i-i-s-t.

THE COURT: G-i-i-s-t. On page --

MR. RUSH: It's on page 9 of paragraph -- beginning paragraph 24.

THE COURT: Mr. Rush, could I just interrupt for a minute? What part of the affidavit deals with Luus' territory, please?

MR. RUSH: Luus' territory begins at paragraph 17 on page 7, and it -- we have divided the territories into really section or subsections and it's Subsection C.

THE COURT: Page?

MR. RUSH: 7, referred to as "Xsi Duutswit Territory".
THE COURT: I'm sorry. Oh, yes. Paragraph 17, page 7. It isn't described as Luus, is it?
MR. RUSH: Yes.
THE COURT: Is it?
MR. RUSH: It's described as "I have obtained permission from Luus", and it's identified as belonging to Luus.
THE COURT: But it's called Xsi Duutswit territory?
THE WITNESS: That's Luus.
THE COURT: Yes. Thank you.
MR. RUSH:
Q Now, I'm referring you now, Mr. Muldoe, to Giist.
A Yes.
Q And were you told about this territory by Abel Tait?
A Yes.
Q By Albert Tait?
A Yes.
Q Were you told about it by Steve Morrison?
A Yes.
Q And by Alice Williams?
A Yes.
Q And were you told about it by Nellie Williams?
A Yes.
Q Okay. Now, is Nellie Williams also known as Nellie Starr?
A Yes.
Q Now, Alice Williams, is she from the House of Wii elaast?
A Yes. The House from -- actually, the House from Luus and Wii elaast, they're the same.
Q They're the same, are they?
A They're the same clan as the wolf clan.
Q All right. Did they tell you that this territory was owned by Wii elaast?
A Yes.
Q And have you heard this territory described in the feast?
A Yes.
Q Have you travelled on this territory, Mr. Muldoe?
A Yes. I travelled on that territory.
Q Okay. And when you were on the territory, where were you going or what were you doing?
A We just went through this territory, went up the New Kuldo with Luus, and we went up to hunt goat.
Q Did you travel through the territory to get to Andax Aaws?
A Yes.

Q And then you hunted goat on Andax Aaws?
A Yes.
Q And in order to get to where you hunted goat, what's the terrain like there? What's it like in there?
A Where the goat is?
Q Well, when you travelled to where the goat was located?
A Yeah. We travelled through up along the creek there. They have a trapline up -- goes up along Giist. There's a little creek they call Giist, and it goes right up to the -- just about ahead of the Giist. Then we get into the Andax Aaws at the top of the mountain.
Q Now, your brother-in-law, you say, is Steve Morrison?
A Yes.
Q And has Steve hunted or trapped in this Giist territory?
A Well, there's a time I was out there with Steve Morrison. Steve Morrison was with me when we trapping on the -- on Wiigyet's territory, but Alice and Jane, his sister, they were trapping at the Giist at the time I was out there. But they have a cabin in there too also on the -- on the west side of the Giist, but that's on the -- Wiigyet's territory, but they just use that as a headquarter, because they can't cross the river all the time. And also they have a little cabin just across, just right across the place they call Milkst.
Q Milkst is -- that's the fishing site you described yesterday?
A Yes.
Q I want to direct you to -- it's very difficult to see on my map, but there's a little triangle.
A Little triangle, there, yes.
Q Is that the place that the members of Wii elaast's house had a cabin?
A Yes. That's where they had the cabin.
Q That appears to be on the -- is it the east side of the Skeena?
A It's on the east side of the Skeena.
Q Okay. And how close is it to Giist, the creek you mentioned?
A It's about a -- approximately about a mile from the mouth of that creek.
Q Was there any fishing done there? Was there any fishing done at the place where the cabin is?
A Right at the mouth of that Giist, there's a pretty

good size pond, and that's where they always fish in there for coho, Dolly Varden, and lake trout and all those kind of fish, and also a beaver into that -- bottom of that mountain there going into the Giist.
Q Is there a smokehouse located in that area?
A Well, it's -- it's sort of a little smokehouse in the same cabin where it's located there. Part of it they're living in there while they're trapping and also they use it as a little smokehouse also.
Q Now, you referred to Alice?
A Alice, yes.
Q Was that Alice Williams? Was that Alice Williams?
A Yes.
Q And you referred to Jane, one of the sisters, another of the sisters?
A Yes.
Q What's her last name?
A Starr.
Q Jane Starr?
A Yeah.
Q Was she related to Joe Starr?
A That's the wife of Joe.
Q The wife of Joe. Did you do any trapping in that territory?
A Well, I don't do any marten trapping there, but the time I was out there, and they asked me to set a few beaver trap for them, which I did. I did set some beaver trap for them late in the fall there, between November -- I set a few trap and then get a few beaver for them and I gave it to them whatever they have on. I didn't take any of it.
Q Who did you give the beaver to?
A I gave the beaver to Alice and Jane.
Q Was it Alice and Jane who asked you to trap that for them?
A Yes.
Q Is that smokehouse and that little cabin, is that still standing today; do you know?
A No.
Q Is there any logging on that territory?
A No.
Q Is there any mining or farming there?
A No.
Q And Wii elaast, who holds the name of Wii elaast today?
A Well, the former Wii elaast was Steve Morrison, but when he pass on, they pass that name on to Jimmy Angus

Junior, and he's the one that hold the name of Wii elaast. It's the wolf clan.
Q All right. I'm going to now ask you to refer to another territory, Mr. Muldoe, and I'm going to now ask you to refer to the territory that is marked Antgulilbix in the upper left-hand corner of the map.
A Oh, yeah. Just give me a moment.
MR. RUSH: Now, my lord, this territory is paragraph I, subparagraph I, and it is located at page 18, and it is described as Xsi Wis An Skit Territory, upper Kispiox River, and it begins at paragraph 59 of Mr. Muldoe's affidavit.
THE COURT: Thank you.
MR. RUSH:
Q Mr. Muldoe, I'm referring you now to the territory of Antgulilbix. I'm going to ask you if you were instructed about this territory by the former Tsibasaa, George Williams?
A Yes.
Q And by Albert Tait?
A Yes.
Q And Abel Tait?
A Yes.
Q And the former Wii Muglusxw, Jonathan Johnson?
A Yes.
Q And did they tell you that the territory was owned by Antgulilbix and Tsibasaa?
A Yes.
Q Okay. And have you heard this territory described at the feast hall? Have you heard this territory described at the feast hall?
A Yes.
Q I'm going to ask you to refer to the map and, if you will, to describe the territory. Now, do you want to begin by choosing a point on the map that you can describe the territory?
A Yeah. Do I begin?
Q Yes. Do you want to begin?
A Xsi mootixswit.
MR. RUSH: Xsi mootixswit, my lord, is 221. Yes. You start at Xsi mootixswit.
THE COURT: I'm sorry. I haven't found it.
THE WITNESS: Xsi mootixswit, and it goes southeasterly.
MR. RUSH: Excuse me just a moment, Mr. Muldoe.
THE COURT: I'm looking for that starting point.
MR. RUSH: Yes. If you look at the map, there is in quite small lettering at the bottom the words "Xsi mootixswit",

which on the --
THE COURT: On the overlay or on the map?
MR. RUSH: It's on -- well, the creek is a very short creek that is just on the underlay.
THE COURT: It's written on the overlay.
MR. RUSH: And it's written on the overlay. You see the two lakes there.
THE COURT: It's the southernmost point.
MR. RUSH: It's the southernmost point.
THE COURT: Yes. Thank you.
MR. RUSH: And Xsi mootixswit is described as a creek.
THE COURT: Yes. All right.
MR. RUSH:
Q All right. Beginning at Xsi mootixswit and the Kispiox, Mr. -- Mr. Muldoe, where does the boundary go from there?
A It goes -- Kispiox, it runs north. It goes about -- about three or four miles into the Kispiox east. Then it goes east again until all along the Xsu wii Loobit. That's Kispiox east. And it runs from Xsu wii Loobit and runs right up northwesterly to Dam Ansa Angwas.
Q That's 223. And then from Dam Ansa Angwas?
A From Dam Ansa Angwas it goes on the height of the land and right over all the along the top, and it goes right up to Andap Matx.
Q 101. And from Andap Matx?
A And it goes southeasterly from -- southwesterly. From there it goes all along to Wis an Skit, and it goes right -- it goes right down to -- right down to Dam Naa Lax Tsinaasit, Williams Lake. That's sort of a little curve there, and it goes in between the two lakes, and it's a waterfall also in there.
Q And after Williams Lake? It appears to go around Williams Lake?
A Yes.
Q All right. And then from Williams Lake where does it go?
A From the Dam Naa Lax Tsinaasit, it goes southeasterly and goes back to Xsi mootixswit again.
Q And when it goes from Williams Lake down to Xsi mootixswit, what feature does it have run along here on the west side?
A It's -- it runs southeasterly from the height of the land in there. Xsi mootixswit is up between the mountain there.
Q Okay. Now, Williams Lake, my lord, is -- there's no number reference that I could find, but it's spelled

on page 19, Dam Naa Lax Tsinaasit, and reference is made to Xsi Wis An Skit, and Xsi Wis An Skit is 103. That gives you the spelling for Wis An Skit, which is what the witness referred to. Wis An Skit is referred to at 214 as the mountain, ridge. And you referred to East Kispiox River and then you referred to Xsu Wii Loobit. Is that the same?

A East Kispiox is Xsu Wii Loobit, and the next Kispiox River is -- it's Wis An Skit.

Q Is that called the Upper Kispiox?

A That's the Upper Kispiox.

Q Xsu Wii Loobit is 222.

A Xsu Wii Loobit is Kispiox East and Upper Kispiox, Xsi Wis An Skit.

THE COURT: The other Kispiox -- there's Upper Kispiox and what's the other one?

MR. RUSH: East Kispiox, my lord. And if you can see, the Upper Kispiox is identified as Xsi -- or Xsi Wis An Skit and then above that Wis An Skit.

THE COURT: That's the headwaters of the Kispiox, is it?

MR. RUSH:

Q Yes, it is.

Mr. Muldoe, did you travel through this territory?

A Yes.

Q Who did you travel in this territory with?

A Well, when I first went up to the territory, I was -- I was asked to go along -- the former Tsibasaa was George Williams, and they asked me and Steve Morrison to go along with them and his wife also, and we went up there approximately in March, I think, February or March. I just don't recall the month.

Q Was there hunting or trapping done by you at that time?

A Yes. There was trapping. They showed us -- he showed us where the -- where to go for trapping.

Q Okay. What did you trap?

A We was trapping marten along there, marten, fisher, some other game.

Q You see where Wis An Skit is?

A Yes.

Q I just show you. Along here the word "marten" is written just below Wis An Skit. Is that where you trapped marten?

A Yes.

Q And you said yesterday that the territory of Delgamuukw at Gwinageese is to the west of Wis An Skit?

A Yes.
Q Did you trap other animals or hunt other animals on the territory?
A No. Not here. We was only trapping marten, and when the season was over, we go back to Kispiox.
Q Did you do any hunting there on another occasion? Did you hunt there after that year?
A No.
Q Okay. Now, I wanted to ask you, Mr. Muldoe, was there a cabin located on the territory?
A Yes. The cabin is located on the -- right along about a mile from the Kispiox River. It's right along the creek of Williams Lake there, Dam Naa Lax Tsinaasit.
Q Okay. Now, Williams Lake is shown just in the upper left-hand corner. The boundary goes around it. How far was it from Williams Lake?
A I believe it's about -- it's about a mile and a half or so, approximately mile and a half, between mile and a half and two miles.
Q Okay.
A It's just down below that waterfall.
Q Okay. That's the waterfall you referred to, is it?
A Yes.
Q The same one? Do you know whether or not that cabin is still standing there?
A I think there's no longer a cabin there, and they just use it as a campsite, like.
Q Okay. Is there -- is there a campsite or a cabin located closer to the Kispiox River where Xsi Mootixswit meets the Kispiox? Do you know if there was any structure or campsite located there?
A Well, that's -- well, they did have a cabin there, but it's no longer there anymore, but now they use it as just a campsite.
Q Okay. Now, when you -- Steven Morrison, this is the same Steven Morrison who was your brother-in-law?
A Yes.
Q Was he related to George Williams?
A George Williams is the foster son. George Williams is the son of Alice Williams.
Q Do you mean to say that Steve Morrison was the foster son of George?
A Yeah.
Q When you were out in the territory in that occasion, how did you travel? By what means did you travel?
A Well, when we leave Kispiox, we travel by the team horse and up to about first cabin. That's about 20

1 miles out from Kispiox. Then from there on we travel
2 on Toboggan. It was a dog team.
3 Q And how old was George then?
4 A He was about -- somewhere around -- over six or
5 something like that. I can't tell just exactly how
6 old he was.
7 THE COURT: I'm sorry. Did the witness say when this --
8 MR. RUSH: I'm going to ask him.
9 THE COURT: Thank you.
10 MR. RUSH:
11 Q And do you recall the year that you were there? Do
12 you remember the year?
13 A I believe -- I just don't recall the year, but it's
14 somewhere around -- after either '33 or '34. I just
15 don't recall the year. It's after 1930's anyways.
16 Q And, to your knowledge, was there any logging in that
17 territory?
18 A No.
19 Q Do you know if there was any mining in the territory?
20 A No.
21 Q Are there any -- is there any farming there?
22 A No.
23 MR. MACKENZIE: Well, my lord, I think the witness said he
24 hasn't been back since 1933, so --
25 THE COURT: I take it he was speaking as of the time he was
26 there.
27 MR. RUSH:
28 Q Mr. Muldoe, you -- you've been to Gwinageese? That's
29 to the west --
30 A Yes.
31 Q -- of this territory; is that right?
32 A Yes.
33 Q Is there any logging in Gwinageese near Wis An Skit?
34 A No.
35 Q Now, have you been to -- since you were there in 1933,
36 have you been to the Antgulilbix-Tsibasaa territory
37 since that time?
38 A Well, after that, a few years back, later I went back
39 there with -- go along with Abel Tait, Luus, and we
40 went back to -- to Delgamuukw's territory. They want
41 me to go back up there with them to do some beaver
42 hunting, and that's the last time I walked through
43 there.
44 Q You walked through?
45 A Yes.
46 Q Is that the Delgamuukw territory at Gwinageese?
47 A Yes.

Q Do you remember what year that was?
A I don't recall what year it was, but it was in there.
Q Sometime after 1933?
A Yes.
Q Okay. Do you remember flying up there? Did you ever fly in there?
A That's 15 years ago, 15 years ago or more.
Q Okay. Do you remember how you got in? Was it fixed wing or helicopter?
A It was a small plane.
Q Okay. Did you ever go in by helicopter?
A No. I went in -- we went up there with a helicopter. I forgot what year that was, whether it was '63. I don't recall the year it was.
Q Who did you go up with?
A I went up with Neil.
Q Neil Sterritt Junior?
A Neil Sterritt Senior and Albert Tait.
Q Was that Neil Sterritt Senior or Junior?
A Junior.
Q When you were there with Neil Sterritt Junior on that occasion, did you see any logging in the area?
A Not around Gwinageese.
Q I'm now speaking about Antgulilbix' territory.
A There was no logging in there at the time.
Q Did you see any evidence of any mining?
A No.
Q Okay. And did you see any evidence of any farming?
A No.
Q Mr. Muldoe, when you were with Neil Sterritt Junior on that occasion, you said you were with Albert Tait, were you?
A Yes.
Q And that's the late Albert Tait?
A Yes.
Q He held Delgamuukw at that time?
A Delgamuukw, yes.
Q Do you recall being with anyone else besides the late Albert Tait and Neil Sterritt Junior?
A I just don't remember.
Q Okay.
A Could be somebody else with us too, but I don't remember.
Q All right. Thank you. Mr. Muldoe, I'm going to ask you now about another territory. I'm going to direct Mr. Muldoe's attention to the Geel territory, which is located to the southeast of Antgulilbix. And this is

1 found at Subparagraph O of the affidavit. And it's at
2 page 29. And this is referred to in the affidavit as
3 Lax Didax. And that's at 223. I'd like to refer you
4 now, Mr. Muldoe, to the territory that is marked Geel,
5 to the south of Antgulilbix' territory. Do you see it
6 there?
7 A Yes.
8 Q And that territory is described as Lax Didax. What
9 does that mean?
10 A Lax Didax? You said Lax Didax?
11 Q Yes. I think I did.
12 A Is a place -- the name of the place, Lax Didax, is
13 where there is a lot of lakes in there. It's all
14 lake.
15 Q And is that the territory owned by Geel?
16 A Yes.
17 Q Who is -- who holds the name of Geel today?
18 A Walter Harris.
19 Q Now, in your affidavit, Mr. Muldoe, you indicate that
20 you were instructed about the territory by Silas
21 Johnson?
22 A Yes.
23 Q And he was the former Geel?
24 A Yes.
25 Q And by George Williams?
26 A Yes.
27 Q A former Tsibasaa? And by Albert Tait?
28 A Yes.
29 Q And by Abel Tait?
30 A Yes.
31 Q And by Jonathan Johnson?
32 A Yes.
33 Q And did they tell you that this territory was owned by
34 Geel? Did they tell you this territory was owned by
35 Geel?
36 A Yes.
37 Q And have you heard this territory described in the
38 feast hall?
39 A Yes.
40 Q Now, I'm going to ask you to look at the map and
41 perhaps pick a starting point, perhaps where you
42 started before, Xsi Mootixswit and Kispiox River. And
43 I wonder if you could, for his lordship, describe how
44 the boundary of this territory runs.
45 A We start from Xsi Mootixswit again. It's the same
46 boundary as Antgulilbix. It goes up to -- down to
47 Kispiox and goes up along the Kispiox east to Xsu Wii

Loobit, and goes northeasterly to -- right up to Dam Ansa Angwas. Then from Dam Ansa Angwas it goes on the height of the land and goes along the Sganisim Lax Didax.

Q Sganisim Lax Didax, my lord, is 1476.

A And from Sganisim Lax Didax it goes up southeasterly and it gets to the -- goes all the way down along there and right down to -- right down to Dam An Huus.

Q Okay. Now, from Sganisim Lax Didax down to Dam An Huus?

A Yes.

Q What is it that it follows along there from Sganisim Lax Didax to Dam An Huus? What is it that it follows? What's the geographic feature that it runs down when it comes from Lax Didax?

A It's -- I just don't recall that.

Q What does it look like?

A Well, this runs along the -- southerly along from Sganisim Lax Didax and goes into -- into -- pretty close to the headwater of the Xsi Wii T'in, goes northeasterly from there and runs all the way down from there down to -- to Dam An Huus.

Q You see the -- do you see the Nangeese River? It's on the map underneath here. Is there a mountain range or a height of land up to the west of that?

A Well, there's the height of land all along there and goes right down to the river.

Q Is that what the boundary follows along?

A Yes.

Q Now, what happens when it gets to Dam An Huus?

A Dam An Huus. It crosses a river to Kispiox River, and it goes southeasterly. It's there until it hit the height of the land of Xsi Dam An Huus. You said southeasterly?

A Yeah.

Q Is that southeasterly when it moves?

A Southwesterly.

Q Okay.

A Yeah.

Q And then it -- it goes to Lax --

A Lax An Simptxw.

Q And that's 1478. And then where does it go from there?

A It goes from Lax An Simptxw all along Lax An Simptxw and it goes back towards Dam An Dagan. That's Williams Lake. And it goes between Dam An Dagan and Dam Matsiigogat.

Q Dam Matsiigogat?
A Swan Lake.
Q Okay. And the Min Dagan?
A Min Dagan. Between Min Dagan -- it goes between Min Dagan, and that includes Dam Gwin Hax Galaaxsit. That's Club Lake. You can hardly see it.
Q Dam Gwin Hax Galaaxsit is 1471. Is Dam Gwin Hax Galaaxsit in the Geel territory?
A Yes.
Q Okay. And then where does it go from there?
A And from Dam Gwin Hax Galaaxsit it goes back into Xsi Mootixswit again.
Q Okay. Now, Mr. Muldoe, Min Dagan that you've referred to, you called it Williams Lake?
A Yes.
Q Underneath on the map -- that's under the map -- it refers to it as Stevens Lake?
A Oh, Stevens Lake.
Q Is it Stevens Lake or Williams Lake?
A Stevens Lake. I'm sorry.
THE COURT: Show me Stevens Lake, please.
THE WITNESS: Stevens Lake right in there, Dam Min Dagan.
MR. RUSH:
Q Do you -- do you remember the English name for Dam An Huus? Do you know the English name for Dam An Huus?
A Dam An Huus.
MR. RUSH: There doesn't seem to be a name on the map that --
THE COURT: Well, I don't think anybody will mind if you suggest it to him, Mr. Rush.
THE WITNESS: It doesn't look like it has a name on it. The next lake is the Otter Lake.
MR. RUSH:
Q That's the lake on the other side, is it?
A Yes.
Q Do you know Dam An Huus as Footsore Lake?
A Yes.
Q All right. Now, Mr. Muldoe, have you -- have you travelled through this territory?
A Yes. I only travelled through the territory.
Q Okay. When -- do you remember when you did that?
A It's the same time, the first time I travelled through this when I went up there with George Williams.
Q And --
A Tsibasaa.
Q Did you go up there again? You said you were up there again with Albert Tait?
A I went up there with Abel Tait.

Q I'm sorry. Abel Tait?
A Yes. Right up to Gwinageese. We just travelled through there and walking all along the trail there.
THE COURT: Mr. Rush, as best I was able to follow it, you have only dealt with the northern of the two territories on Exhibit 46.
MR. RUSH:
Q Mr. Muldoe, do you recall if there are -- if there were any cabins on the --
A Yes.
Q -- on this territory? Can you tell me where they're located, cabins or campsites?
A Well, It's a cabin. I believe at the time I was up there, they have a cabin that is located -- it's between the Kispiox River and alongside of that Dam Min Dagan Creek.
Q There's a little black triangle that appears to be located just to the west of the Kispiox River, and to the east of a creek that comes out of Min Dagan, Dam Dam Min Dagan, is that the camp you're referring to?
A Yes.
Q Was there more than one cabin located there?
A Well, at the time I first -- first time I went up, there was more than one cabin, maybe two cabins up there, two or three cabins. I just don't remember.
THE COURT: Is it convenient to adjourn, Mr. Rush?
MR. RUSH: Yes.
THE COURT: Thank you.
THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED)

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

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(PROCEEDINGS RESUMED PURSUANT TO SHORT RECESS)

THE COURT: Mr. Mackenzie.
MR. MACKENZIE: My lord, I'm raising a matter that I just mentioned to my friend before the break. For sometime we have been seeking certain documents on the plaintiff's list of documents relating to this witness, or apparently relating to this witness, and these are audio and video tapes that appear, and we have been writing about this since December, as I understand -- December, as I understand it. And I've asked my friend again to do his best to get these tapes to us. My lord, I require these materials before the commencement of my cross-examination, or before the completion of my cross-examination.
MR. RUSH: Mr. Mackenzie was reviewing tapes in Hazelton, I think, about three weeks ago, was it?
MR. MACKENZIE: Yes, that's right.
MR. RUSH: And at that time made a number of requests for audio tapes. And I cannot be certain that -- I believe some of these tapes were among the request. And I also believe that, correct me if I'm wrong, but these other tapes were not then sought and were available in Hazelton at that time. I don't -- I -- I cannot say with certainty that all of them were, but I do know that the audio tape requests were made available. At least I was advised they were available by the library there. I will certainly do my best to try and determine where these tapes are, and if they're in Vancouver to be sure that my friend gets them as soon as he can get them. If he had told me at the beginning of the week I think I would have -- I hopefully would have been able to muster these tapes. The problem again is tapes being in two places, and they're -- basically they are stored in Hazelton.
THE COURT: Well, am I right in believing you're going to be into tomorrow with this witness, in chief at least?
MR. RUSH: Yes.
THE COURT: So the cross-examination is not going to finish this week anyway.
MR. RUSH: I wouldn't think it would, no.
THE COURT: No. So Mr. Mackenzie might have the weekend or sometime early next week to review these materials if they can be made available in a timely way.
MR. RUSH: I think so. I hope to be able to have them available before -- well, before the end of the week.
THE COURT: While we're diverted, what do counsel think about

Friday? I've been relieved of my duties on Friday morning at the call and admission ceremony. Another judge's son is being called and he wants to preside. I couldn't say no to such a request. The County Court judges are having their annual meeting on Friday and I should attend for part of that time. I can sit part of Friday morning. I'm still not available for Friday afternoon. I'll leave it to counsel to decide if they want to sit any part of Friday morning.

MR. RUSH: Yes. I do know that some of the -- I believe some of the people who are in support -- supporting me in and assisting me have made plans to return to Hazelton for the long weekend.

THE COURT: All right.

MR. RUSH: And I'm not sure whether or not those plans include leaving Friday afternoon or the morning, but I'll certainly check.

THE COURT: I'm in counsel's hands for Friday morning. I cannot sit Friday afternoon.

MR. RUSH: Yes. Thank you.

THE COURT: All right.

PETER MULDOE, Resumed:

EXAMINATION IN CHIEF BY MR. RUSH CONTINUED:

Q Now, Mr. Muldoe, I was asking you about Geel's territory at around Stevens Lake. That is called Lax Didax?

A Yeah.

Q And I wonder if you can tell me if there's hunting and trapping that goes on around that area?

A Well, Geel and their family, they do the trapping in there.

Q Okay. What do they trap?

A They trap marten, fisher, beaver, and all those things.

Q You'll see the word beaver that's on the map between --

A That's beaver all the way, and in all those lakes in there. Dam Min Dagan and Club Lake, and all the way to Kispiox. And all across the Kispiox River is beaver too.

Q Now, the cabin that you've referred to, that's located at the point where that black triangle is located?

A Yeah.

Q Is that cabin still standing today?

A Yes.

Q And I think you indicated that there was a campsite farther down the Kispiox in the Geel territory. Is there -- is there a campsite close to Dam An Huus? Do you know of one located there, Mr. Muldoe?
A No. It's headquarter right at that -- at Dam Min Dagan, Stevens Lake. Headquarter Dam Min Dagan. From there on they go on all different direction.
Q All right. Now, was any member of your family recently at Min Dagan? Any member of your -- family member of yours --
A Yeah.
Q Were they in at Min Dagan? Did they go to Stevens Lake?
A Yes. There is one of my sons been gone through there.
Q Which son was that?
A Lloyd. Lloyd Muldoe.
Q What was he doing there?
A Well, they had a few -- about six teenagers. They taking them through there. What people of the Kispiox and teachers want them to go in there, and he supposed to take them and supervise them and reopen the trail in different territories, and they were going through there.
Q Okay. Is there any logging on the territory of Geel at Lax Didax?
A Not right now.
Q And is there any mining that you know of, mining activity on that territory?
A No.
Q Do you know of any farming on that territory?
A No.
Q Now, in those lakes that are on the territory of Geel, Mr. Muldoe, is there fishing in those lakes?
A Yes. Good fishing in just about every lake. Along the Kispiox River too.
Q Are any of those lakes spawning lakes?
A Yes.
Q Do you recall which of those lakes is a spawning lake?
A It's a spawning ground all the way from along the Kispiox River along there, and it goes right into Stevens Lake.
Q Is there fresh water fishing as well?
A Yes.
Q What fresh water fish are taken?
A It's mostly sockeye and steelhead and trout, and all them that goes right up there. Coho. And I believe there is spring salmon up there too now after they

1 blast one of the canyon down along the Kispiox River
2 too.
3 Q Now, Mr. Muldoe, can you -- just pointing out the area
4 that is between the two Geel territories along
5 Nangeese River.
6 A Yeah.
7 Q Who does that belong to?
8 A That belong to the Kitwancool.
9 Q Okay. And west of Lax An Simptxw here, do you know
10 who that territory belongs to?
11 A It belong to Kitwancool territory.
12 THE COURT: I'm sorry. What was the second one, Mr. Rush?
13 MR. RUSH: That's the Lax An Simptxw. And you'll see it at the
14 southwesterly diagonal line. You'll see it at that
15 point. It's just the southwesterly point of the
16 territory.
17 A It's right along there, 'cause all the river creek
18 runs this way, and the all the rest goes along the
19 Kitwancool.
20 THE COURT: Okay.
21 MR. RUSH:
22 Q All right. I'm going to ask you now, Mr. Muldoe,
23 about the other Geel territory that's located at
24 subparagraph N of the affidavit, and it is there
25 referred to on page 27 beginning at paragraph 87 as
26 Luu Andilgan territory.
27 Now, Mr. Muldoe, I'm referring you to the second
28 Geel territory that is to the east of the one that
29 you've just described, and to the east of the
30 Kitwancool territory that you have identified. Were
31 you instructed about this territory by Silas Johnson?
32 A Just a minute. I think we have more to talk about on
33 that first Geel territory yet.
34 Q All right.
35 A If you don't mind.
36 Q All right. Go ahead.
37 A On that territory there anywhere from along the
38 Kispiox River and runs right up to -- to Antgulilbix
39 up to Kispiox east and upper Kispiox and right into
40 Williams Lake, that's all spawning ground along there
41 for all species of lake salmon and coho, sockeye, and
42 other fish that goes right up there. It's a real good
43 spawning ground up there. And so is right around --
44 right around Stevens Lake there. And they started --
45 the forestry start pushing the road on the east side
46 of the Kispiox River, and they just about come right
47 across from Stevens Lake there, and they go that far.

1 And they haven't logged there yet, but they propose to
2 log there. And also not too far from on the west side
3 of Kispiox River and they go and log right up past
4 Nangeese. And they have -- I believe you might see it
5 on the map just where the road is, and they getting
6 pretty close. And they were supposed to extend the
7 road and going into Swan Lake, but somewhere, some way
8 or another nobody want them to go in there.
9 Q Who didn't want them to go in there?
10 A All the chiefs get together and they protest. They
11 don't want no -- no logging to be done into the
12 Williams Lake, because they been destroying a lot of
13 different places where the fish been spawning, and one
14 of the best spawning grounds is up there.
15 Q Were you one of those chiefs?
16 A Yes, I was one of them.
17 Q And as a result of that did the forestry continue to
18 build the road or did they stop?
19 A They stopped.
20 Q Do you remember when that was? When that occurred?
21 What year?
22 A I think it was about three, four years back. I just
23 don't recall when -- what year when they stopped them.
24 THE COURT: Tell me what the name of the large lake is just west
25 of Geel's northern territory, Dam Matsiigogat, what's
26 the English name of that lake? Do you know?
27 MR. RUSH:
28 Q His lordship is asking you the name of this lake in
29 English, the big one.
30 A Oh, the big one is Swan Lake.
31 THE COURT: Swan Lake?
32 A Yeah.
33 THE COURT: Thank you. Yes.
34 MR. RUSH:
35 Q And can I ask you about the Geel Territory at Luu
36 Andilgan?
37 A Yes.
38 Q Thank you. And I was about to ask you if you were --
39 if you were instructed about this territory by Silas
40 Johnson?
41 A Yes.
42 Q He's the former Geel?
43 A Yes.
44 Q And by Jonathan Johnson, Wii Muglusxw?
45 A Yeah.
46 Q And by Chris Harris?
47 A Yes.

Q And was he the former Luus?
A He was the former Luus.
Q And by Abel Tate?
A Yeah.
Q And by Fritz Harris?
A Yes.
Q Did Fritz holds the name of Wii Alax?
A Yes. Who?
Q Fritz Harris.
A Fritz Harris?
Q Yes.
A Yes.
Q All right. And by Albert Tate?
A Yes.
Q And did they tell you that this territory belonged to Geel?
A Yeah.
Q And has it been described in the feast hall?
A Well, in --
Q Mr. Muldoe, was this territory described in the feast hall?
A Yes.
Q All right. Now, I want to ask you, if you will, to describe the boundary of the territory. And I'd ask you if you could start at a convenient point. I'm going to ask you to identify a place where there is a star on the territory. Do you see that?
A Yes. That's on the Kispiox River.
Q On the Kispiox River. And what is that point where that star is located?
A That's Sgan Aawsit.
Q Sgan Aawsit?
A Yes.
Q That's 1368. And what's located at Sgan Aawsit on the Kispiox? What is there?
A It's Kispiox River is there.
Q Yes. But what does Sgan Aawsit mean?
A It's sand bar.

THE COURT: Excuse me?
MR. RUSH: Sand bar.
THE COURT: Is that star on the red border line?
MR. RUSH: Yes.
THE COURT: Yes. All right.
MR. RUSH:

Q Now, beginning at Sgan Aawsit, Mr. Muldoe, can you just describe the boundary of Geel's territory that's there?

A Yes. It runs -- from Sgan Aawsit it runs northerly along there, along there Xsi Wii Loobit, and runs all the way up to Dam Tsim Ax.
Q Yes. And when it gets to Dam Tsim Ax --
A And it's ahead of Xsi gwit Tselasgwit, Deep Canoe, and from there it runs on height of land, it runs all along north and then cuts along to Sganisim Lax Didax, and it runs all the way down southerly all along on north side of Xsu wii'din, and it goes right back to north of Xsu wii'din.
Q Xsu wii'din is 1468.
A Down right into Kispiox.
Q Mr. Muldoe, is it the height of land from Dam Tsim Ax?
A It's height of land all the way up along to Sganisim Lax Didax.
Q And south from Sganisim Lax Didax?
A Yes.
Q And is it the height of land to Kispiox?
A It goes down to Kispiox River.
Q What happens when you reach the Kispiox River?
A It crosses the river at Kispiox River and it runs sort of southwesterly, or westerly anyway into Dam Kelk.
Q The boundary shows it going around Dam Kelk?
A Goes around on the outside of Dam Kelk.
Q And then where does it run?
A From the Dam Kelk it goes along the -- goes along the -- I can't remember the name of that.
Q Okay. What does it run along?
A It runs along the ridge there.
Q Okay. And then when it gets to the --
A It gets -- runs along the ridge and runs into the very top end of Xsi luu Andilgan.
Q That's 241. And then when it gets to the top end of Xsi luu Andilgan where does it go?
A It runs easterly, and it goes north again along down to Xsi gwit Tselasgwit.
Q And where does it -- where does it go back to?
A And it goes back right into Sgan Aawsit again.
MR. RUSH: Okay. Xsi gwit Tselasgwit, my lord, is 1369.
Q Now, Luu Andilgan, Mr. Muldoe, what does that mean in English?
A Luu Andilgan is a place where it's mostly a lot of beaver lodge in there. A lot of beaver dams what's mean Luu Andilgan. I don't know if I put it right. It's something like that anyway.
Q Have you hunted in this territory?
A I don't trap there, but I hunt moose along there.

Q Okay. Where did you hunt moose?
A All the way up along the Kispiox River.
Q All right.
A On both side of the river.
Q And did you have the permission of Geel to hunt moose there?
A Everybody is hunting there whenever the season is open. So I was on traps and Chris too, so I hunt on theirs as well as they do on mine.
Q Have you hunted goat on the territory of Geel?
A It's just above where we -- it's on top end. It's close to where -- it's on the place where goat are.
Q It shows goat just to the west of Dam Tsim Ax. Is that a goat hunting area?
A Yeah, that's along the Gwiiyeehl area.
Q It shows goat and Gwiiyeehl. It also shows goat over here?
A A little bit.
Q Is that right?
A Yes.
Q The map also shows that along Xsu wii'din there are the words beaver?
A Yes. That's beaver all around across from Xsu wii'din and all the lake in there. It's all beavers in there.
Q Okay. Now, you haven't trapped beaver in there yourself you say, but do you know other people who have?
A I believe Jack family trap in there like Jasper Jack. Jasper Jack was in there last winter.
Q Last winter?
A Yes.
MR. MACKENZIE: Well, that's hearsay anything Jasper Jack does in there last winter.
THE COURT: Yes, that sounds like hearsay
MR. RUSH:
Q How do you know Jasper was in there?
A He is retired working in the mill and then he went up there.
Q Yeah. How do you know? How do you know he was there?
A He told me --
Q Okay. All right.
A -- He was in there because my next door neighbour.
Q Okay.
THE COURT: That proves it.
MR. RUSH: That proves it's hearsay, yes.
Q All right. I want to ask you about the southern part of Geel's territory. You mentioned Xsi luu Andilgan?

A Yeah.
Q Is there any hunting or trapping in that area?
A Well, they trap along there.
Q There shows beaver in that area?
A Yes. They trap beaver or marten all in that area within there. It's a lot of small lake in that beaver land.
Q You'll note on the map there is a triangle --
A M'hm.
Q -- That's northwest of Sgan Aawsit. Do you know -- see the small triangle there?
A Yes.
Q I just show you the small triangle located there. Yes?
A Yes.
Q What was located at that site?
A It is a cabin. Geel have a cabin in there.
Q Is that cabin standing today, do you know?
A No.
Q Do you know whether or not there's any cabin?
A Well, Geel camps there.
Q You mentioned the small lakes. Is there fishing in those lakes?
A Well, there's fishing in those lakes right at mouth of Sweetin River along Kispiox. All good fishing along there.
Q Okay. And what's fished for there?
A Anything like spring salmon along the Kispiox River, and coho, steelhead.
Q Okay.
A Trout.
Q To your knowledge, Mr. Muldoe, is there -- has there been logging in the territory of Geel?
A Yes.
Q Can you identify what part of that territory there has been logging?
A Like in the south they be part of this territory. It's just below the road. They have a road right from Sgan Aawsit and across right -- right few miles up from there. It's all logged up right up to the mountain. It's clean cut.
Q And what mountain were you referring to?
A It's going towards that Pope Mountain. Not Pope Mountain. Lip A'Heetxwit. That's Baldy.
Q Baldy Mountain?
A Yeah.
Q And is Baldy located --

A Baldy Mountain is located right at Gwiiyeehl territory.
Q That's Gwiiyeehl territory?
A Yes.
Q Just north of Wii muglusxw?
A Yes.
Q And pretty well logged off all the way along. And they start going up along the Sweetin River, right?
A I believe they're right up to the head of it.
Q Okay. The Sweetin River, that's the Sweetin River on the underlay?
A Yeah.
Q And do you know if the logging has reached Sganisim Lax Didax? How far up --
A The logging is also going right into this -- into this Nangeese and all the way along up along Kispiox River. On both sides it's all cleaned off. And all along the Nangeese. And it's almost pretty close to -- it's Nangeese Lake up there.
Q All right.
A It's all cleared off. All cut up.
Q Is there any mining on the territory that you know of?
A No.
Q Okay. Is there any farming? Do you know if there's any farming?
A No. It's --
Q Now, Mr. Muldoe, I'm going to ask you about another of the territories, and that is the Wii muglusxw's territory that you've just referred to.
A Yeah.
Q And that territory is located -- it's subparagraph H2.
THE COURT: A2?
MR. RUSH: H, my lord. There are two H's, and the second of the two H's is found at 16. If you'll just mark that H2. The first of the two H's is at 14, and if you'll mark that H1. And H2 is Sgan Sna'at territory, and it begins at paragraph 52.
Q I'll ask you now, Mr. Muldoe, about Wii muglusxw territory.
A Yes.
Q And I ask if you were instructed about this territory by Robert Wilson?
A Yes.
Q Was he the former Wii muglusxw?
A Yes.
Q And you were also instructed about it by Jonathan Johnson?

A Yeah.
Q Did Jonathan also hold the name of Wii muglusxw?
A Yes.
Q And by Albert Tate?
A Yeah.
Q And Fritz Harris?
A Yes.
Q By Moses Morrison?
A Yeah.
Q And by Abel Tate?
A Yes.
Q And Silas Johnson?
A Yes.
Q Okay. Now, Mr. Muldoe, who presently holds the name of Wii muglusxw?
A Now?
Q Today.
A Yes. Arthur Wilson.
MR. RUSH: Wii muglusxw is 78 on the plaintiff's list, my lord.
THE COURT: Thank you.
MR. RUSH:
Q And, Mr. Muldoe, you've heard this territory described in the feast hall?
A Yes.
Q And you understand that it is owned by Wii muglusxw?
A Yes.
Q Now, I want to ask you again to describe this territory, if you will, for us. Now, if you refer to the map, and I'd ask you to look at the map again, and if you would describe how this territory boundary runs. Where would you start again, Mr. Muldoe?
A Well, you can start in Sgan Aawsit.
Q All right. That's the place where the star is located?
A Yes.
Q All right.
A And the Kispiox River.
Q Yes. That's on the --
A That's on the east side of the Kispiox River.
Q Yes. Go ahead from that point.
A From that point it runs up to Xsi tga Loobit and right up on the height of land right up to Dam Tsim Ax, just on the outside of Dam Tsim Ax.
Q And when it gets to Dam Tsim Ax --
A Gets to Dam Tsim Ax goes south, and it goes along the Xsi Tsim Anhl Gii.
Q That's 1441. It's not on the map. And when -- after

Xsi Tsim Anhl Gii where does it go?
A It goes along Wisen Sgan Maiytid.
Q And what is that feature -- what is Wisen Sgan Maiytid?
A It's along the edge of the mountain timberline. Along there Wisen Sgan Maiytid. How it gets its name is a lot of huckleberries along there.
Q Is it sometimes called Uuxs An Maiytid?
A Same thing, Uuxs An Maiytid.
Q That's 1443. And then after it leaves Uuxs An Maiytid where does the boundary run after that?
A It runs down along the -- I believe it's Xsu wii Si'din. I believe it's Corral Creek.
Q Yes. And --
A And it runs down into the Kispiox River.
Q Okay. Does Corral Creek, it shows a --
A Right alongside it.
Q It shows a sharp turn to the west there. Does the creek turn like that?
A Yeah.
Q All right. And it goes over to the Kispiox, does it?
A And then it runs into highways up along Kispiox, and goes around the point. That's the Kispiox River and back into Sgan Aawsit.
MR. RUSH: Mr. Muldoe referred to Xsi tga Loobit, 1439, and Sgan Aawsit, of course, is 1468. Sgan Sna'at is 1442.
Q Now, you referred to Corral Creek, the creek that takes the sharp bend?
A Yeah.
Q What's the Gitksan name for that?
A Xsu wii Si'din.
Q Okay. Now, is this -- this territory referred to as Sgan Sna'at -- is this territory referred to as Sgan Sna'at?
A Yeah.
Q And what is Sgan Sna'at?
A Well, the meaning of Sgan Sna'at it's thorn bush by another --
THE COURT: I'm sorry. What kind of a bush?
A Thorn.
THE COURT: Thorn bush?
A Thorn bush. They call it another name, but I always call it thorn bush, because a lot of thorn bush in that area so they name the place on that.
MR. RUSH:
Q Okay. Is there a lake by that name?
A Yes. It's a lake in there.

Q Okay. And there is a lake on the -- under -- on the base map called -- it looks to be called Sgan Sna'at Creek. Is there a lake at the head of that? Do you see that?
A Yes, that's a lake. You can see -- I don't know if you can see the lake in there. Oh, yeah, right there you can see the lake, but it's right under this mark here. Called Dam Sgan Sna'at. The Sgan Sna'at run into the Kispiox River.
Q Okay. Is that called Xsi Sgan Sna'at?
A Yeah.
Q That's 1438. Is there a creek on the territory called Xsu wii Si'din?
A Yes.
Q And do you know the English name of that?
A That's Corral Creek.
Q What is it?
A Corral Creek.
THE COURT: Sorry.
MR. RUSH: Corral Creek.
THE COURT: Okay. Don't you have a Corral Creek down around Moricetown? It's Corya Creek.
MR. RUSH: Corya.
THE COURT: Yes. Thank you.
MR. RUSH:
Q Now, I want to ask you if there's a cabin located on the territory of Wii muglusxw. It appears to be on the bend of the Kispiox there. Do you see that?
A Yeah. It's right on top of the hill there. It's about quarter of a mile in Kispiox River. Road goes through there and it's right alongside of it.
Q Okay. Now, is there -- is there any hunting and trapping that's carried on in this territory?
A Well, the only people who traps there is who owns the place.
Q Do you know where the trapping is?
A They go up towards -- towards the Dam Tsim Ax there. That's where they all trap. And all around this area here.
Q Okay. And is there hunting along the Kispiox?
A Yes.
Q Have you hunted in there yourself? Have you hunted there?
A I just go along there hunting sometimes.
Q Is there hunting along Xsu wii Si'din?
A Yes.
Q Okay. What's hunted for there, Mr. Muldoe?

A Well, it's mostly moose and deer along there, but it's also the hunting beaver all along that Kispiox River, and all around this creeks and the lake, and some beaver dams around there. It doesn't show on the map.
Q Okay. That little cabin that you've pointed out, is that cabin still standing there?
A Yes.
Q Yeah. And is there -- has there been logging in this territory?
A Yes. It's cleaned off. The logging starts all the way from -- from the south boundary, and it all goes right up to Xsu wii Si'din all along the -- all along to the Sgan Sna'at, and it always goes up towards Gwiiyeehl's territory. And all that place is just pretty well cleared up. All the way around Dam Tsim Ax is cleaned out, hardly anywhere to trap there.
Q How about farther north near Dam Sgan Sna'at?
A Yeah. Didn't go that far, but getting pretty close to it. Down lower side of Gwiiyeehl territory.
Q Northern Gwiiyeehl territory, is it?
A Yeah.
Q All right. Now, I'm going to refer you now to Gwiiyeehl's territory, if I may. My lord, this is paragraph --
A The small one?
Q Yes, the small one. I'll just refer it to you when I identify it in the affidavit at subparagraph M. This is known as Lip A'Heetxwit. Paragraph 80 at page 25.
You've identified Baldy Mountain there, Mr. Muldoe?
A Yeah.
Q And how do you pronounce Baldy Mountain in Gitksan?
A In Gitksan, Lip A'Heetxwit.
Q Thank you. And you were instructed about this territory by Walter Skulsh?
A Yeah.
Q Was Walter the former Gwiiyeehl?
A Yes.
Q And also by Chris Harris?
A Yes.
Q And Abel Tate?
A Yes.
Q And Albert Tate?
A Yes.
Q And Fritz Harris?
A Yes.
Q And were you told that this Gwiiyeehl territory, that

that belonged to the Chief Gwiiyeehl?
A Yes.
Q And have you heard it described of in the feast?
A Yes.
Q Now, it shows in this -- on the map that there is goat located at the north boundary of Gwiiyeehl territory?
A M'hm.
Q Have you hunted in there?
A Yes.
Q And did you get any goat when you were in there?
A Yes, we got few goat in there.
Q Is there other hunting that can be done in this territory?
A Well, it's mostly for -- all this in the small area mostly for goat and ground hog. It's very top of the mountain there.
Q Okay. And Baldy Mountain, is that a steep mountain or is it fairly flat or a round mountain?
A It's quite a high mountain. It's quite a high mountain that's kind of look like a bald mountain. It's clear top on it.
Q Okay. And is there a part of that mountain that is fairly steep?
A Yes.
Q And have you been to that part which is steep?
A Yeah.
Q What did you see there when you were there?
A Well, I just don't remember the area I went in. I was asked by the former Gwiiyeehl -- actually he's my relative too, and he was Gisgaast clan. And he asked us to go up there with him. And me, myself, and Chris Harris, Fritz Harris and Henry Brown and himself. Henry Brown, he's -- Henry Brown is Gwiiyeehl's uncle son I think he was.
Q All right.
A If I recall it right. Went in there to hunt there, and we went to the place they call Luu Hlabit. It's sort of mountain basin in there. And the creek runs out from there.
Q Now, if you just pause while we get the spelling for that.
THE SPELLER: It's 1459.
MR. RUSH: 1459.
THE COURT: I'm sorry. What is 1459?
THE SPELLER: Luu Hlabit.
THE COURT: Oh, thank you.

MR. RUSH:
Q Now, did you -- what did you see at Luu Hlabit?
A Well, we went down to the bottom of that where we shot the goat. We get right down to the creek, but they're coming out of there pretty steep.
Q Yes.
A It's pretty steep, and it's only one way he can come out of those places, the place they call An Lax Leeyim Huupxwit. And that's the place where during the early days I believe some of the people that hunts there they dig a place into the mountain, oh, about eight or ten inches apart that's goes up to about a hundred yards up on the side of the mountain. That's mostly grass mountain along there. No rock. They dig those in so you can make a step as you go up there.
Q Did you see this?
A Yes, I've seen that place.
Q Did you go up there?
A Yes.
Q How steep was it?
A If you ask me it must be pretty close to 90 degrees. Pretty steep. I say if you stand up three feet away from it you'll be falling back. When you're going up that hill there with your pack on your face is no longer about ten or 12 inch from the mountain from the ground. And also you got to crawl on -- you got be pretty well prepared to get out of there. You got to be crawling on your hands and feet too as well. It's very steep. Almost like that. Like when you standing you can't -- you just about standing like that, and make it really hard to step into all this little dugouts. If you make any false move in there you down to the bottom of the mountain again, so that's why they named that place An Lax Leeyim Huupxwit. As far Indian call it forehead right next to the earth.
Q Your forehead is called?
A Pardon?
Q Your forehead is called Huupxw?
A Yeah, your forehead is called Huupxw.
MR. RUSH: Could we have a spelling for that?
THE SPELLER: It's 1464, or did you just want Huupxw?
MR. RUSH: No, I don't think so.
THE COURT: What is 1464 then?
THE SPELLER: An Lax Leeyim Huupxwit.
THE COURT: All right.
MR. RUSH:
Q Could you tell, Mr. Muldoe, by looking at these steps

how old they were?
A Well, that's all little steps that been there for good many thousand years ago. They not made by the old former people. They're still there. And even some of the Kitwancool people they mention the place too, and they figure that they're belong to Kitwancool. And Albert told them that the place is belong Gwiiyeehl. That's how they found out. Kitwancool people figured they owned the place, but they were wrong.
Q When you said Albert what Albert did you mean?
A Luus. Gitludahl.
Q Delgamuukw?
A Delgamuukw, yeah. You ask that question not very long, about a couple of years ago in the feast, and all Luus said belong to them.
Q After Albert told them it belonged to Gwiiyeehl did the Kitwancool people accept that?
A Oh, yes. They said they never knew it before.
Q Well, Mr. Muldoe, it might be too high up there for logging, but I think I should ask you, is there any logging up there?
A Well, they get pretty close there. Within a mile. You can see might be about couple of hundred yards right at the top of the mountain. They cut the roads right up there. I went up there with my pick-up four by four and not too far up. They will be right up to the timberline.
Q Okay.
THE COURT: Is this convenient to adjourn, Mr. Rush?
MR. RUSH: Yes.
THE COURT: Two o'clock. Please.
THE REGISTRAR: Order in court. Court will adjourn until two.

(PROCEEDINGS ADJOURNED)

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

Peri McHale, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO A LUNCH ADJOURNMENT)

THE REGISTRAR: Order in court.
THE COURT: Mr. Rush.
MR. RUSH:
Q Thank you. I'm now going to ask you to turn to the Gitludahl territory at Twin Lakes at Naa Dax De'et. That's at page 2, Subparagraph A, beginning at paragraph 3.
Now, Mr. Muldoe, were you instructed about this territory by Moses Morrison?
A Yes.
Q Former Gitludahl?
A Yes.
Q And by Fritz Harris?
A Yes.
Q And Albert Tait?
A Yes.
Q And by Abel Tait?
A Yes.
Q And did they tell you this territory was owned by Gitludahl?
A Yes.
Q And has this territory been mentioned and described in the feast?
A Yes.
Q And Naa Dax De'et territory, you told us already, is Twin Lakes?
A Yes.
Q And, Mr. Muldoe, if you'd please look at the map that you have in front of you, I just ask you if you would describe the boundary at Gitludahl's territory at Naa Dax De'et for us. And if you'd just like to begin at a point that's convenient for you.
A Yeah.
Q Which point would that be?
A Well, we can start right at the mouth of Naa Dax De'et.
Q At the mouth of Naa Dax De'et?
A Yeah. And go east.
Q All right. And you go east. Go ahead.
A We'll begin at the mouth of Naa Dax De'et. It's where it runs into Kispiox River. It's just below -- below Naa Dax De'et. When it runs up, it runs up east approximately about a mile. Then it runs along Wisen Gelt.
Q What does it run along after that?
A Wisan Gelt -- Wisan Skinist, pardon me.
Q Wisan Skinist?

A Yeah. Wisan Skinist.
Q Okay. That's 1377. Yes. Go ahead. And then?
A Then it -- then it runs along Wisan Skinist, and it goes right up to Corral Creek and goes up, goes up along the middle of the Kispiox River on the east side, and goes right around to the point and goes up again, and it get into the Sgan Aawsit.
Q Sgan Aawsit. That's the star on the --
A That's the sandbar area.
Q That is 1368. And then from Sgan Aawsit?
A And it goes up. It goes in the southerly to Xsi Gwi Tselasgwit.
Q That's 1369.
A And it goes up towards -- southerly along there.
Q Along Xsi Gwi Tselasgwit?
A Xsi Gwi Tselasgwit. And down again to Xsu wil Galitx Am Mal and then to Kispiox and back to Xsu wil Galitx Am Mal.
Q Xsu wil Galitx Am Mal?
A Yeah.
Q That's a stream, is it?
A That's a stream where the creek runs down.
Q You're pointing at the southern portion of the boundary?
A Yes.
Q All right. And that's 1373. Thank you. Now, I think you've told us about your hunting and trapping already on Gitludahl's territory, but can you tell me, is the territory divided into various areas or do you just trap wherever the best trapping and hunting is located?
A Yeah. I trap on both sides; usually trap on both sides of the river.
Q Of the Kispiox?
A On the Kispiox, west and east.
Q Okay. Now, I think you also identified for his lordship, or you made reference to your cabins, and I -- I want you to just identify for me if the cabin, that is the one you've referred to at Xsi Naa Dax De'et, is located -- you see that vaguely in the boundary line, that small black triangle. Is that approximately the place where that cabin's located?
A Yes, it is.
Q Okay. And I'll ask you, if you will, to -- to look at the more northerly portion of the Gitludahl territory. There's also another black triangle there?
A Yeah.

Q Do you see that?
A Yeah.
Q What's located at that point?
A It's -- the cabin is located in there right just above -- just above the lake. They call it Galii Anlagit.
Q That lake is called -- what did you call it?
A Galii Anlagit. In other words, they name that lake Little Fish Lake.
MR. RUSH: Galii Anlagit is 1364.
THE COURT: Thank you.
MR. RUSH:
Q Now, it also shows on this map, Mr. Muldoe, that above Galii Anlagit you see the words "deer" located there. Is there deer hunting there?
A Yes.
Q Been hunting deer in there yourself?
A Oh, yeah.
Q And although it's hard to pick out, I -- do you see in the map below the -- on the easterly side of the boundary there would appear to be two little lakes --
A Yeah.
Q -- just above the cabin. Are those the Twin Lakes?
A Yes. That's the one they call Naa Dax De'et.
THE COURT: I'm sorry, Mr. Rush. Which cabin?
MR. RUSH: Naa Dax De'et, the one at the southerly point in the territory. There are two little lakes above that. Those are Naa Dax De'et.
THE COURT: Thank you.
MR. RUSH:
Q Now, Mr. Muldoe, I think you have already testified that there's been extensive logging on your territory. There's been logging on your territory?
A Yes.
Q At Gitludahl's territory?
A Yes.
Q Okay. And has there been logging around your cabin in the southerly portion of your territory?
A Yes. They log right around my cabin.
Q Okay. I'd like to refer the witness to Tab 18. My lord, I've passed up three additional photographs which are at Tab 18, and I'd like -- they're in the -- they're in the document book. If we could just insert that.
Now, Mr. Muldoe, is that your cabin that's depicted in the first of the three photographs at Tab 18?

A Yes.
Q And is that the cabin that you've identified on the map as being at Naa Dax De'et?
A Yes.
Q That's the small black triangle --
A Triangle, yes.
Q -- at the southern end of the territory? All right. Now, I'd just like you to look at this photograph, the second of the two photographs. Where is that photograph in relation to the first one?
A The first one and the second one -- I think the second one, it's up on the -- it's up on the east side.
Q Is that the east side of it?
A I think it is on the east side of it, yeah.
MR. RUSH: Okay.
THE COURT: Mr. Rush, I seem to have four photographs under Tab 18, or is it three?
MR. RUSH: You must have got an extra one, my lord. There should be only three.
THE COURT: There is three. I'm sorry. Yes. So you're looking at the second one now.
MR. RUSH: We're looking at the second one.
THE COURT: Yes. Thank you.
MR. RUSH: And I just want to ask you to look at the third photograph.
THE COURT: I'm sorry. I haven't got a note of what the second one is, please.
MR. RUSH:
Q All right. Now, Mr. Muldoe, if I take the first photograph, photograph of your cabin, what's the relationship of photograph number -- the first one and the second one? Which -- how does the first one fit to the second one?
A I think the second one is out towards Kispiox River, I think.
Q It's towards the Kispiox River?
A Yeah.
THE COURT: Nearby, is it? Nearby?
THE WITNESS: Yes. It's all in the same section.
THE COURT: Yes. All right.
MR. RUSH:
Q Okay. And what about the third photograph? Where is that in relationship to the cabin?
A I think this -- I -- let's have a look at the other one.
Q Okay. I'll put all three of them in front of you.
A I think that's the way it goes, like that. Is it? I

1 think there's a space in between them.
2 Q There's a space between the --
3 A Yes.
4 Q Now, my lord, Mr. Muldoe is holding the third
5 photograph in sequence slightly off from touching the
6 photograph with the cabin in it and has indicated that
7 there is a -- there's a space between the two. But if
8 you look at them, you can see a -- what appears to be
9 a hill or a mountain. Now -- and would that be on
10 the --
11 A Yeah. There is the middle part of it there and there
12 is some on the northerly side of it, okay, towards
13 Twin Lake, because a little creek runs along there
14 just behind this timber here.
15 Q Pointing to the timber in the third of the three
16 photographs.
17 A Yeah. And this one here is on the left-hand side of
18 the -- that's southerly side of the cabin.
19 THE COURT: So all three are taken nearby each other?
20 MR. RUSH:
21 Q How close are these photographs taken to each other?
22 A Well, it's all in one piece there.
23 THE COURT: All right.
24 THE WITNESS: This is all the swamp along here and there's a
25 hill in there.
26 MR. RUSH: He's pointing to the photograph which was the second
27 in line, my lord, and indicating that there's a swamp
28 where the --
29 THE COURT: In the dark area.
30 MR. RUSH: Yes. The dark area.
31 THE COURT: Or is that a landing? I wonder if the dark area is
32 a logging landing.
33 MR. RUSH:
34 Q Here. What is it? Can you identify what that is?
35 A Yeah. It's some waste log land in there. It's sort
36 of a -- kind of a little rock cliff, and then all this
37 part here is the swamp along there.
38 Q He's pointing to what appears to be the brush that's
39 moving in.
40 A Yeah. And this is quite steep hill in there.
41 Q Pointing to the hill at the back.
42 A Little rock cliff in there.
43 Q All right. So do these three photographs form a
44 sequence or are they joining together?
45 A Yes.
46 Q Okay. Except for I think you mentioned there was a
47 space between the third one and the cabin here?

A Yes.
Q All right. Now, Mr. Muldoe, does this show the logging, the extent of the logging that has occurred around your cabin?
A Yes.
Q Okay. And prior to the logging were there -- was there timber up to your cabin?
A Yes. There used to be heavy timber all way around there and all the way down to the river, but now they log it to right down to the river and below that and all the way above that right up to Twin Lake and beyond Twin Lake and right up to the top end of the boundary.
THE COURT: When was it logged?
THE WITNESS: At the Corral Creek.
THE COURT: When was it logged? When?
THE WITNESS: It's done a few years ago. The year before last, that's when they really clean around the cabin there.
THE COURT: Thank you.
MR. RUSH: All right. I'm going to ask that these photographs be marked, and I want to be sure that we have the right sequence. I've been referring to the first photograph in sequence as the cabin photograph.
THE COURT: Yes.
MR. RUSH: If that can be marked. I'd suggest that they be marked as one exhibit, A, B and C.
THE COURT: Yes. All right.
THE REGISTRAR: 488.
THE COURT: All right. That will be 488. The one with the dark area in the middle or landing, 488B, and the third one in Tab 18 will be 488C.
MR. RUSH: And that's the third one being the one with the -- the trees that are --
THE COURT: Yes.
MR. RUSH: Thank you.
(EXHIBIT 488A: Photograph)
(EXHIBIT 488B: Photograph)
(EXHIBIT 488C: Photograph)
MR. RUSH:
Q Now, Mr. Muldoe, has it -- have you been notified by the government there's going to be more logging on your territory?
A Well, not before they start logging, but lately they did.
MR. RUSH: Okay. I'm going to ask you to look at Tab 7. There's a letter there addressed to you from a Mr. Andre Germaine dated April the 11th, 1988. And he

advised that:

> "We've revised the proposed sale dates for the disposal of the timber sale licences within your trapline area. This notification cancels and replaces the previous trapline referral notice sent to you dated December 15th, 1987."

And then he advised that there are new sale dates of June 10th and 21st, 1988. Did you receive a copy of this letter?

THE COURT: Just a moment, please, Mr. Rush.

MS. KOENIGSBERG: I just wondered -- it appeared to me that this document -- and there's, I believe, another letter. It has not been listed by the plaintiffs, and I don't take any objection to them going in at this point, as my friend is going to put them in, but, in fact, I note that not one document that is in this entire book, with the exception of the genealogy and the -- the genealogies and the affidavit, were listed or was notice given before my friend started in with the witness, and it would be helpful if we did have a little advance notice or if these documents were listed. We certainly -- we certainly understand our friend's problems and hope he'll extend the courtesy to us.

THE COURT: This letter doesn't -- isn't evidence against you anyway.

MS. KOENIGSBERG: No, it's not. But you never know until you -- in fact, I can't honestly say that. I take it back.

THE COURT: Mr. Mackenzie?

MR. MACKENZIE: My lord, as your lordship commented or may have implied, this letter is evidence -- it is evidence against the Provincial Crown and, as Ms. Koenigsberg has mentioned, it's not been listed, and we were not given notice. On the other hand, it was from the province.

THE COURT: It was only written April 11th of this year.

MR. MACKENZIE: On the other hand, it was written by the province from a provincial government office and --

THE COURT: So you have notice of it. You know all about it.

MR. MACKENZIE: Yes. But it's -- what I'm saying is that I'm supporting the comments that Miss Koenigsberg made initially that -- of course, I had no notice of it, that this was going to be used, or the opportunity -- we'll have the opportunity now, of course, to seek

instructions on it, but until this week we had none. And so again that maxim that your lordship referred to, tit for tat, I'm not going to object to this, but I hope that maxim will be followed when we get to cross-examination.

THE COURT: The transcript will show, Mr. Mackenzie, you're not objecting and what you have said has now been noted. Mr. Rush?

MR. RUSH: Can that be marked as an exhibit?

THE COURT: Yes.

THE REGISTRAR: 489.

(EXHIBIT 489: Letter dated April 11, 1988)

MR. RUSH:

Q You wrote a reply to the -- Mr. Germaine, did you, Mr. Muldoe?

A Yes.

Q I'd just like to refer you to the letter of May the 10th, 1988. Is this the letter that you sent to Mr. Germaine?

A Yes.

Q And in this letter you say in the concluding paragraph:

> "You have no jurisdiction to establish licences or to grant sale dates of the harvest of timber in my trapping and hunting territory or elsewhere in the claim area. You do not have my permission to proceed with the harvest of this timber. I oppose your taking any steps to dispose of the timber. You should not proceed with the purported sale on the dates of June 10th and 21st, 1988."

Have you received any reply from Mr. Germaine?

A No. I haven't received any reply yet.

MR. RUSH: We'll look forward to his reply. May that be the next exhibit?

THE REGISTRAR: Is that the same tab?

MR. RUSH: It's at Tab 18.

THE COURT: 490.

THE REGISTRAR: 490.

(EXHIBIT 490: Letter dated May 10, 1988)

MR. RUSH:

Q Now, Mr. Muldoe, just before we leave the document book, at the moment I'd like to refer you back to the cabin here, photograph of the cabin at Tab 18, which

is the first of the three. I notice that there are no windows in the cabin. Do you know what happened to those windows?
A Somebody stole the windows out of it.
Q Now, are there any salmon spawning areas on Gitludahl's territory?
A Well, most of the places pointed all the way along the Skeena, but there's other places they have trout, Dam Naa daat, and Naa daat is --
Q There's trout in Naa daat, is there?
A Yeah.
Q Naa daat, my lord, is number 3. Excuse me. Not number 3. It's 1365. Have you fished the fresh water fish on the territory?
A Oh, yeah.
Q Just a moment ago you said there was fishing along the Skeena. Did you mean to say the Skeena?
A Kispiox.
Q And you also referred to a geographic point called Wisan Skinist?
A Yes.
Q What does that mean when translated to English?
A It's Jack Pine Hill.
THE COURT: I'm sorry?
THE WITNESS: Jack Pine Hill. Jack Pine Ridge, rather.
MR. RUSH: All right. Thank you, Mr. Muldoe. I'm going to --
THE COURT: Can I have a number for Wisan Skinist?
THE SPELLER: 1377.
MR. RUSH: Thank you. Now, Mr. Muldoe, I'm just going to move the photograph booklet -- or the document book away and ask you to return to the map.
Now, my lord, I'm going to refer the witness to the Delgamuukw territory now. That is to the east of Gitludahl's territory, and this is to be found at Subparagraph 11 of the affidavit, and that is at 22, beginning at the bottom of the page, 73. And this is referred to as the Xsu Willi Wakw territory, or that's at 1456 on the list, or Ironsides Creek.
THE COURT: What's the number again?
MR. RUSH:
Q It's 1456.
Now, Mr. Muldoe, I'm going to refer you now to the Delgamuukw territory, and I want to ask you, before I ask you to go around the boundary, if you were instructed about the boundary by Albert Tait, the former Delgamuukw?
A Yes.

Q And by Fritz Harris?
A Yes.
Q And by Johnny Johnson?
A Yes.
Q And did Johnny Johnson formally hold the name Delgamuukw too?
A Yes.
Q And by Abel Tait?
A Yes.
Q And Jonathan Johnson?
A Yeah.
Q And by Moses Morrison?
A Yes.
Q And did they tell you that this territory was owned by Delgamuukw?
A Well, it's been owned by Delgamuukw ever since way before the -- there's about four different Delgamuukw, and way beyond that's been way back for many thousand years ago. Nobody knows when it begins, but it's still there.
Q All right. And has this territory been talked about and described in the feast hall?
A Yes.
Q And I think you've already said that the present holder of the name of Delgamuukw is your son, Ken Muldoe?
A Yes.
Q May I refer you to the map, Mr. Muldoe? And I'd like to ask you, if you will, to describe the Delgamuukw territory. And where would you like to start the description?
A We can start at Xsi Duutswit.
Q Xsi Duutswit, my lord, is the -- is that a creek, Mr. Muldoe? Is that a creek?
A Yes. There's a creek.
THE COURT: That's at the southeast centre of the territory?
MR. RUSH:
Q Yes. That's correct. Now, if you start at Xsi Duutswit, where does the boundary go from Xsi Duutswit?
A It runs -- from Xsi Duutswit, it runs sort of north -- northeast.
Q Yes?
A And it goes up around Dam Xsi Duutswit.
Q That's 1445. Yes. And after Dam Xsi Duutswit?
A It goes along Xsi Duutswit and it goes right to -- it crosses -- it crosses -- we call it Cullon Creek.

1 It's Xsi git gat Gaitin by the name of Indian.
2 Q That's 1388, my lord. And after it crosses Xsi git
3 gat Gaitin?
4 A And it goes right up along the Xsan eekw after you
5 leave the Xsi git gat Gaitin.
6 Q Xsan eekw is 1448.
7 A And it goes from there and it -- it goes towards the
8 Carrigan Creek and then to the point where you turn
9 again and going north, and you go to -- to Pope
10 Mountain. Lax gwa T'so'o. Gwa T'so'o, we call it.
11 MR. RUSH: Gwa T'so'o? Yes. And from Gwa T'so'o?
12 THE COURT: I'm sorry. Is that G-apostrophe-h-o-g-l?
13 MR. RUSH:
14 Q No, my lord. Gwa T'so'o is on the map. It's referred
15 to as Lax gwa T'so'o, and just underneath it is --
16 A Pope mountain is also right underneath it.
17 MR. RUSH: Do you see that, my lord?
18 THE COURT: I can't find it. I'm not sure I know -- are you
19 talking about the very northern region of that
20 territory?
21 MR. RUSH:
22 Q No. He's -- he's on the easterly point, most easterly
23 point.
24 A Northeasterly point.
25 THE COURT: Oh, I see it. I'm sorry.
26 MR. RUSH:
27 Q Now, from Gwa T'so'o, where does the boundary run from
28 there?
29 A It runs northwesterly through there, and it runs all
30 the way there, and it goes slightly to the west again
31 right down to Wil gidii sitax.
32 Q Okay. And between Gwa T'so'o and Wil gidii sitax,
33 what does it run along there?
34 A It's -- it runs -- it's on the height of the ridge in
35 there.
36 Q And then from the westerly part of Wil gidii sitax
37 where does it go?
38 A It runs along the west side of the Cullon Creek, the
39 west side of the Cullon Creek. That's the Indian call
40 Xsi git gat Gaitin, and also it runs along the east
41 side of the Staax k'aa'yit, and that runs right up
42 to -- right up to Xsu wil Daxyan, Deep Canoe.
43 Q That's at the most northerly point?
44 A Northwesterly.
45 Q And Xsi git gat Gaitin, my lord, is 1388. And we
46 previously referred to Xsu wil Daxyan. Now, when
47 it -- when the boundary reaches the northeasterly

point at Xsu wil Daxyan, what's the direction of the boundary then?
A It runs sort of southwesterly right into Xsi Luu Hlabit, Xsi Luu Hlabit.
Q 1459. And when it goes to Xsi Luu Hlabit, where does it go?
A It goes to Xsi Luu Hlabit, and it goes on the east side of Xsi Luu Hlabit and right down to Kispiox River.
Q Okay. And is there -- from Xsi Luu Hlabit, what's the point between Xsi Luu Hlabit and the Kispiox? What's in between there?
A It comes from Xsi Luu Hlabit all the way down alongside, and it goes all the way along the Xsi Wisen Skinist.
Q Okay. All right. You then --
A It's on the west -- east side of Naa dax de'et. That's the east side of --
A Xsi Wisen Skinist?
Q And what happens when it gets to Xsi Naa dax de'et?
A It goes right up just above the Ironside Creek, and it's pretty close to -- it joins right with Gitludahl's boundary and it crosses from there.
Q All right.
A And it crosses Kispiox River again, and it crosses over the creek, what they call the Xsu wil Galitxw am mal.
Q All right. That's 1458. And then where does it go?
A And it goes kind of southwesterly for some -- say about four miles. Then it turns northwesterly again and goes right around -- right around behind that Luu Andilgan, right in there.
Q Okay. Now, when it gets to Luu Andilgan, what happens to it?
A It goes -- it goes to the southeasterly, right to -- on the bottom part of Wii Lax habasxw.
Q And what's Wii Lax habasxw?
A Wii Lax habasxw is a mountain.
Q And does the -- what does the line follow at that point along from the -- from where it turns at Xsu wil Galitxw am mal down to Wii Lax habasxw? What's there?
A It goes right to Wii Lax habasxw. It goes -- it goes -- part of it goes on to Wisen Gelt, along there, and into Wii Lax habasxw, part of it along there.
Q Is that the height of land?
A That's the height of land all the way down there.
Q And from Wii Lax habasxw?

A From Wii Lax habasxw down to Xsi duutswit. It heads the Kispiox River and turns mile, mile and a half, and then get into Xsi duutswit again.
Q Now, it shows on the map that there's a geographic point called Wisen Gelt. And does Wisen Gelt -- what is Wisen Gelt?
A It's -- it's along the ridge.
Q Is it a length of -- is it a ridge of some length?
A Yes. It's a ridge. It's a sort of a ridge of mountain all the way up through there.
Q All right. And the boundary cuts across that, does it?
A Yes.
Q Okay. And over to the Kispiox on the --
A Xsi duutswit again.
Q All right. I want to show you on the map, Mr. Muldoe, there are some triangles if you look to the northwesterly from where you started at Xsi duutswit?
A Yes.
Q From there you note that there's a black triangle. Can you identify what --
A Yes.
Q What is that?
A It's a cabin.
Q Okay. And there's -- it's beside a lake, is it?
A Yes. It's just right below the lake.
Q Is that -- is that on a -- is that on a river there or is that a road?
A That's a road.
Q I see. All right. Now, do you recall the name of that lake where that cabin is located?
A It's the lake. It's Elizabeth Lake, but it's farther up above that. It's not too far from the Ironside Creek, Xsi Willi Wakw.
MR. RUSH: That's 1456.
THE COURT: The creek.
MR. RUSH: Yes. Ironside Creek. Your lordship can see that in English -- it's not named in Gitksan -- running just to the left of the -- of Delgamuukw's name. It's printed on the --
THE COURT: Oh, yes.
MR. RUSH:
Q Now, Mr. Muldoe, is that -- is that cabin standing today?
A Yes.
Q Okay. There's also on the map another triangle, an open triangle, which is just south of the one that

you've referred to?
A Yeah.
Q And is -- was that a place of the cabin site?
A It appears to be a cabin there, but it's not there anymore.
Q Okay. That appears to be on the Kispiox River?
A Right close to Kispiox River.
Q Okay. Now, you also indicated that -- or at least on the map it is indicated that there's marten and fisher?
A Yes.
Q Do you see where those words are located?
A Yeah.
Q And it appears to be located between Corral Creek and Ironside Creek or Xsi Willi Wakw. Now, have you hunted in that area?
A Yes. I hunted along this area.
Q Have you hunted up Corral Creek?
A Well, I -- just around this lake here where you see just down below the cabin, I usually go in there and hunt beaver or something like that, or hunt moose.
Q And I just direct your attention over to the lower portion of the Delgamuukw territory to the west of the Kispiox River. There appears to be another blackened lake. Do you see this lake here?
A Yes.
Q What lake is that?
A That's Mitten Lake, and the Indian name is Dam Gwindilgii.
Q 1454. Now, Mr. Muldoe, is there any hunting at the northern end of the territory by Xsu wil Daxyan? You notice on the map there's the short word -- short form for groundhog. I ask you if there's groundhog hunting up here at the north end. Have you hunted up there?
A Yes. I was up there.
Q Okay. And what about on the -- you see where it says moose there?
A Oh, yes.
Q Okay. That's on Wiigyet's territory. But have you hunted down on the --
A It's all the way along Cullon Creek here. There's good moose hunting all the way along Cullon Creek and all the way up along this area here, right up along Mitten Lake, and in here they call it Elizabeth Lake where the cabin is located above that.
Q I think you told us that the boundary is just west of Cullon Creek?

A Yeah. West of Cullon Creek.
Q Okay. And what's the feature that is there that runs -- what's the feature that's up west of Cullon Creek that the boundary runs along?
A This one here. They call it An wilf Gakkl right along there. It's east of An Wilf Gakkl where this boundary runs along there, and it runs all the way down to Xsi Willi Wakw.
Q And that's 1461, the feature that's on there. Now, Mr. Muldoe, I want to refer you to a star that is located on the southwesterly portion of the -- the Delgamuukw territory.
A Oh, yes.
Q You see here?
A Yeah.
Q Have you been into that part of Delgamuukw's territory?
A Yes. I seen sometime. I don't recall the year. Somewhere in '33 or '34.
Q Okay. And were you hunting in there?
A Went up there trapping.
Q Okay. What were you trapping for?
A I was trapping marten or fisher, whatever I can get.
Q And when you were in that territory, can you tell -- can you tell his lordship what you saw where that star is located?
A Something you want to know. It's -- it's a former Delgamuukw is the one that asked us to go with him, because he is an old man, probably 70 years of age. And me and Silas Johnson went up along there, and they take us along. We go right up along that -- from the west side going up, and the mountain. When we get up to the top of the mountain, it's a meadow in there. Say it's about couple hundred yards wide. And it's approximately, oh, a mile long or something like that.
Q What did you see there?
A Well, when we get up there, we seen some of the small trees was standing in there all the way across, and they just -- it kind of draws our attention. We ask him what was that for. It runs into a straight across -- meadow in a straight line. And all the trees been set in there for a good many years, they said. And they says in the early days, they said they use that -- they use that small trees, about eight feet high, some are six, and between those -- between those trees they probably stand them up. And they're green trees, but they all turning white at the time we

1 went up there. But it's still standing there yet.
2 Between those blockhead they'll have a space of about
3 three feet in, and that's where they set the caribou
4 snares in the early days, and that's what they used
5 that for.
6 Q And how many of these little trees were standing when
7 you saw?
8 A There's quite a few, quite a few. Some of them might
9 be fallen, but the rest of them all standing there.
10 Q Can you see the shape of where the trap was?
11 A Yeah.
12 Q How many openings were there?
13 A Well, I didn't go near it, but we were only asking.
14 There would be quite a few openings along there, for
15 about 100 yards anyway. That's where the early days
16 people get the caribou. Whenever they spot a caribou
17 and where there's lot of caribou, there's no other way
18 or anything, because those animals are fast. They may
19 have bow and arrow. They all gather together and make
20 the place like that and start chasing them, surround
21 them and chase them into it. And that's how the early
22 days people get caribou and the meat, whatever they
23 need.
24 Q That area where the caribou snare is located, you've
25 written -- or it has been written Wisen Gelt along
26 through several of the territories. Was that on Wisen
27 Gelt?
28 A Yes. That's from the top part of Wisen Gelt where it
29 was located, just above Wisen Gelt. Well, it's part
30 of Wisen Gelt right along there.
31 Q Okay. Now, you also made mention of the mountain Wii
32 Lax Habasxw?
33 A Yes.
34 Q And you said that there was a -- that it was a height
35 of land that ran from the headwaters of Xsi luu an
36 dilgan to Wii lax Habasxw?
37 A Yes.
38 Q Who has the territory to the west of that area?
39 A On the west of all the territory --
40 Q The west of that height of land?
41 A The west of Xsi luu wisen gan and the west of
42 Delgamuukw and the west of this Gwiyeehl, that all
43 belong to Kitwancool territory.
44 Q Now, you're familiar with Mitten Lake, are you?
45 A Yes.
46 Q Okay. And I think you told us that Mitten Lake is
47 called Dam Gwin dilgii?

A Dam Gwin dilgii, yes.
Q Is there a small stream that runs out of --
A Yes.
Q -- of Dam Gwin dilgii?
A Yes.
Q Now, is there a stream that runs out of that lake?
A Yes.
Q And I'd just like you to -- you've referred us to the black-coloured lake on the west side of the Kispiox and the Delgamuukw territory. Now, it appears from the map, the base map, that the outflow stream from that lake runs in a northwesterly direction towards the Kispiox River. Can you say whether that depiction on this map is correct?
A I think that that map is wrong.
Q Okay.
A Because the creek from the -- from the Mitten Lake, it runs southeasterly, then runs into the Kispiox.
Q Okay.
A Not northeast.
Q Okay.
A It doesn't run against the Kispiox. It runs straight southeasterly from there.
Q All right. Around Mitten Lake or Dam Gwin dilgii has there been logging there?
A Yes. They logged on both sides of it. They logged from way down below Dam Gwin dilgii on the south side, and they logged all the way around that lake and right up to -- to my territory, right up, joined with Gitludahl's territory. It's all clean logs right up there, and now they start going up along that Xsu wil galitxw am mal, and that's going to go all the way up.
Q Xsu wil galitxw am mal, my lord.
A That's westerly side from Kispiox River.
MR. RUSH: Yes. I just wanted to make sure we have the --
THE SPELLER: It's 1458.
MR. RUSH:
Q Thank you. Now, is there -- is there fishing at those lakes around --
A Yes.
Q That you've been referring to?
A Mostly trout.
Q Trout?
A Yes.
Q Okay. Are there any salmon spawning streams or spawning lakes in Delgamuukw's territory?
A Well, they're mostly in the Kispiox, I think.

Q In the Kispiox River?
A Yeah.
THE COURT: Is it convenient to take the adjournment, Mr. Rush?
MR. RUSH: Yes. Thank you.
THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED)

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

Kathie Tanaka, Official Reporter
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(PROCEEDINGS RESUMED PURSUANT TO SHORT RECESS)

THE COURT: Mr. Rush.
MR. RUSH: Thank you. I'm now going to refer Mr. Muldoe to the Delgamuukw territory located in the southern portion of the map, including the Village of Kispiox, and it's referred to in the affidavit as Sax Ge'en. It's at page -- it's subparagraph P, my lord, and it's located at 31, paragraph 101.

Q Just referring you to Delgamuukw's territory at Sax Ge'en, Mr. Muldoe.
A Yes.
Q And just before I refer you to the map, were you instructed about this territory by Albert Tate?
A Yes.
Q And by Abel Tate?
A Yes.
Q And George Williams, the former Tsibasaa?
A Yes.
Q And Jonathan Johnson?
A Yes.
Q And were you told that this territory belonged to Delgamuukw?
A Yes.
Q And have you heard this territory described in the feast hall?
A Yes.
Q Now, if you'll just refer to the map. I'd like you to describe the territory perhaps beginning at the southern portion.
A This one on here on the southern portion?
Q Yes. Perhaps you can start at the southern part of the territory at the junction of the Kispiox and Skeena Rivers. Can you describe the territory for us there?
A Yes.
Q Go ahead.
A This begins at junction of the Kispiox and Skeena River on west side of the Skeena River, and it runs all the way up along the Skeena River on the one side and it reaches right up to just down below Wall on the southeast side of the Wall territory. Then from there it runs westerly, and it runs all the way to -- to -- it runs westerly from there behind Sax Ge'en and Lip didaat and it goes -- it's about a mile or two mile from Kispiox it turns and it goes down to the place they call Xsu wil Geltskan.
Q That's 1482.

A Yeah. It's just a little small stream there. And from Xsu wil Geltskan it goes all the way down on the west side of the Kispiox River and down to the junction.
Q Okay. Now, you referred to Lip didaat. That's 1423. And Lip didaat, where is it in relation to Sax Ge'en?
A Sax Ge'en, that's upper part of Sax Ge'en. Sax Ge'en is higher mountain, and it kind of slopes down and it sets a low apart. That's why they call it Lip didaat. It's same part as Sax Ge'en except a little lower. Actually it's west end of Sax Ge'en.
Q Thank you. Sax Ge'en is 1483.
The place that you've referred to as Xsu wil Geltskan.
A Yes.
Q You said that's a small creek?
A Yes.
Q Now, is there a -- is there an adaawk that you know of that relates --
A Yes.
Q To Ye'el or Gitludahl?
A Yes.
Q What do you know about that place?
A Actually the place -- actually the place they call Xsu wil Geltskan just a little tree comes out from a little stream and it runs into Kispiox River, about 60 or 80 feet to the Kispiox River, and you asking about what's been going on there, is that --
Q Yes. What happened there? Is it part of your adaawk?
A Well, in early days -- in early days before the -- they named that place Xsu wil Geltskan there is three brothers going out on the mountain to hunt goat and to hunt ground hog. And late in the fall when they start coming back into the village, and that's where Ye'el meet these three brothers, and he's packing his son with him, and of course they all under the pack and they're having rest. And when Ye'el meet them and Ye'el ask the three brothers to give his son some meat, or something like that, but the three -- the three brothers they said, We're not working that hard just for your son. And Ye'el, he's a cranky man. He's a tough guy. He always carries a little club with him no longer than about 12 inch long. And that's all what these three men were saying, clubbed them all and threw them into that creek. It's a creek wasn't deep enough to bury any person. And later that fall everybody begin to -- well, of course, they

all -- when you go out somewhere you always tell someone that stays home says how long you going to be out and how long you going to be home again. Well, that's what happened with these three brothers, and the rest of the family begin to talk about it. And whenever Ye'el hear that oh, they said they might have crossed over and that's why maybe they drifted away and drifted into the river. They might be in Geltskan. The world -- old world of Geltskan we don't use any more. This means three people. It meant three. That meant three people. In other you say wil Geltskan three. Nowadays we call Gwi la'al three, but that is the language they used way back in good many -- maybe few thousand years back.

Q And is that how that little creek came to have its name?

A That's how everybody wondering where that creek is. They never heard the name of the creek before and that's why they find these three brothers laying in there, in that little pond there, and that's how it's got its name Xsu wil Geltskan. Is that what you want?

Q Yes. Thank you. Now, Mr. Muldoe, the Village of Kispiox is located in the territory of Delgamuukw?

A Yes.

Q In the territory -- are there a number of farms as well in this territory?

A Well, on the upper part of the Kispiox they all farmers in there.

Q Okay. Is there any hunting or trapping in the territory to speak of?

A No, not now. The former -- the former Wa'a, can't remember first name, he used to trap there before. Some of the Delgamuukw's family trap there before any white people come in. After that mostly all farmers taking up and clear everything all out.

Q Wa'a is W-A-'-A. Are there berry sites located on the territory? Berry sites?

A Yes, berry patch. But used to have a berry patch right say about three miles below, four miles below. Wall about four, five miles from the berries. It's all along that area used for berry patch and blueberry patch.

Q Okay. People still get their blueberries there today?

A Some there, but not that much. Mostly inside of the farmer's fence. And part of that territory where they have that berry patch is somewhere around An Axbiisxw where we going through as fishing site.

Q You referred to that as a fishing site?
A Yeah.
Q You live in the Village of Kispiox, Mr. Muldoe?
A Yes.
Q The former Gitludahl, Moses Morrison, did he live there?
A Yes.
Q And before Moses Morrison I think the holder of the name of Gitludahl was Alexander Gitludahl?
A Yes.
Q Did he live there?
A Yes, he lived there.
Q So far as you know has Gitludahl always lived at the Village of Kispiox after he came from T'amlaxa'mit?
A Well, they lived in -- well, before the adaawk was went through three or four other guys Gitludahl. Before that keep on passing on to. If one pass on next one pick up the name and keeps on going like that for good many generations.
Q And I think you -- you've indicated that Gitludahl's pole is located at Kispiox?
A Yes.
Q Now, Mr. Muldoe, do you remember when it was that -- that electrical power --
A Yes.
Q Do you remember when that was first introduced to Kispiox village?
A I don't remember just exactly the dates when it comes in there, but it's in late fifties anyway. Somewhere around '55 or '56. Something like that.
Q Okay.
A Might be before.
Q And did you and other villagers at Kispiox --
A M'hm.
Q Did you participate, did you do something to bring the power to Kispiox?
A Well, I think someone asked if they can put the power in to Kispiox to the B.C. Hydro. I think they have the power on all -- all other places like in Hazelton and Glen Vowell, but Kispiox didn't have any power so they asked if they willing to put the power in there, but they said it's going to cost too much. But when -- but then what they want us to do is ask, say if we can cut the poles and supply all the poles they to put up the wires and they will stand up the poles. And so I believe the people of Kispiox have a meeting on that. And they have a lot of poles right across

from the reserve right on the reserve so they all agreed to cut the poles because the B.C. Hydro said they going to give them all the lower rate on that. Something like that. So they all cut the poles. And I had my Cat in there, and I had my loader in there, and I had my truck and a trailer to haul these poles after it's cut because we have quite a few boys cutting the poles from the village there. And also Gwiiyeehl had a truck.

Q And did you cut and skid those poles?

A Yes. I was there pretty near whole summer. I forgot how many poles were cut. I believe we cut over 600. Six or 700, or something like that.

Q Did you take them along to where they were going to be erected?

A Yes. They hauled them along and they dropped them off where they were going to be erected. That's all the way from Kispiox Village and all the way into Hazelton.

Q Okay.

A And that's including Glen Vowell. Glen Vowell supposed to cut some. They didn't have power. They didn't have equipment so we do it all.

Q And then the wires were strung, were they?

A Yes.

Q And you said that you were supposed to get a reduction in your power rate?

A Yeah.

Q Did that happen?

A Yeah -- no.

Q It didn't happen?

A No.

Q And when you referred to the boys that helped you out were those people from the Village of Kispiox?

A Yes. All those boys that was cutting this pole they all doing the work for nothing. They weren't paid. And so me too I wasn't even paid for using my Cat and using my John Deere for skidding. And they using my truck for hauling. None of us were paid in there.

MR. RUSH: All right. I'm going to ask you now, Mr. Muldoe, about the territory which is located to the north of Delgamuukw's territory at Sax Ge'en. That's the territory of Kliiyem lax haa. And that, my lord, is located in the affidavit at subparagraph F and referred to as Xsan Seegit territory. And it's at page 12 and paragraph 38.

THE COURT: Thank you.

MR. RUSH: Xsan Seegit is 1421 on the list.
Q Referring you now, Mr. Muldoe, to the territory of Kliiyem lax haa north of Delgamuukw's territory. I want to ask you if you were instructed about this territory by Abel Tate?
A Yeah.
Q And Albert Tate?
A Yes.
Q And Moses Morrison?
A Yes.
Q Fritz Harris?
A Fritz Harris.
Q And Jonathan Johnson?
A Yes.
Q And did they tell you that this territory was owned by Kliiyem lax haa?
A Yes.
Q And have you heard this territory spoken of and described in the feast hall?
A Yes.
Q The present holder of the name of Kliiyem lax haa is Eva Sampson?
A Yes.
Q The former holder of the name of Kliiyem lax haa -- who was the holder before Eva?
A Martha Brown.
Q And did she recently pass on?
A Yes.
Q Now, I'd like you to, if you will, refer to the map. And I'd like you to describe the territory, if you will, and just ask you perhaps to start at the southern end of the territory. And there is a star there which I'm going to ask you about in a moment, but Ankya Ge'en, do you want to start and describe the boundary from that point?
A Yes.
Q Yes. Go ahead, Mr. Muldoe.
A You start at Ankya Ge'en, that's where you want to start, on the southern part of the Kispiox River.
Q Yes.
A Well, on the southern part of the Kispiox River it's start from Ankya Ge'en. That's Seventeen Mile Bridge they call it now. It's just above rodeo ground. And it goes right behind Lip didaat, and goes behind Sax Ge'en also. And it's about -- approximately about two miles to the Skeena it turns northwesterly along the Spagaiyt axs and goes all the away along up -- up six

or seven miles then heads to turn northeasterly into the Skeena, and which is a mud bank, mud banks in -- that's a big slide in there called mud bank. Then it runs up along the Skeena on the west side of the Skeena for about four miles. Then it turns -- turns and goes northwesterly, and it goes right in behind Xsan Seegit. That's Murder Creek.

Q That's 1417. Excuse me 1421.

A And it turns at off the top end of the head of Xsan Seegit and it runs down along the height of land to An Giihla.

Q Is An Giihla on the Kispiox?

A On the Kispiox. That's where the river bend is. And it goes down and along the west bank of the Kispiox and all the way from An Giihla and all the way on the west side back of the Kispiox bank and right down to Ankya Ge'en. You can see the little mark, it's black mark, it's small mark between the Kispiox and it's two different parts of territory there; one on the east and one on the west.

Q Okay. Should there be -- should there be the blue boundary line running down to Ankya Ge'en?

A Yes.

Q This one here. Now, Ankya Ge'en is Seventeen Mile Bridge?

A Yes.

Q At that point what does Ankya Ge'en mean in English?

A Well, it's a place where -- it's a place where the -- they fish during the winter and early fall when there is ice over, and how if they get nothing else, no fish roe, anything like that, use for bait, well, they usually chew up the salmon and the dried fish then they put into the -- into the water and when all sinker gone down and all the fish and trout, everything and anything, that's when you hook them out. That's -- you chew the thing and blow it into the river.

Q That's what Ankya Ge'en means?

A That's Ankya Ge'en.

Q Now, you've shown on the map, Mr. Muldoe, on the east side of the Skeena River just northeast of Ankya Ge'en a place marked for deer. Is there deer hunting in there?

A Well, up along there it's all good hunting for moose or deer, and also some beaver in there.

Q Okay. Have you hunted in there yourself?

A No. I hunt moose along there, but not very much. Got

a lot of other place to go.
Q Okay. Looks as though there are farms in there.
A Those are all farms in there. You can see all this little square places with all marks, they all farmers.
Q To your knowledge is there any trapping in there? Any trapping in there?
A No. It's pretty near all logged off.
Q Okay.
THE COURT: Those farmers are all nice people up there, aren't they?
A Oh, yeah. Some of them are. We didn't have any trouble with them.
And asking about logging, it's all logging all the way behind Lip didaat and all the way Spagaiyt axs, and all the road that runs behind Kispiox and runs right into that mud bank, and the road still going beyond that. You can see the road marked. And it's all logged off all the way in there. All the way up and on both sides of the river. Wherever is farmer -- outside of the farms is all logged off. All along as far back is all logged off.
MR. RUSH:
Q I just wanted to ask you, Mr. Muldoe, on the east -- on the east side of the Skeena across from Kliiyem lax haa's territory who is the Gitksan hereditary chief that has that territory?
A Upper part belongs to Gwoimt.
Q G-W-O-I-M-T?
A And just down on the lower side of Gwoimt is Geel. And Geel and Gutginuxw.
THE COURT: I'm sorry. I didn't follow that, Mr. Rush. I'm sorry.
MR. RUSH: I think it was Gwoimt at the upper point. What he was pointing to was just about where Kliiyem lax haa's territory moves from the point on the Skeena River northwest and east putting his hand up and down there.
THE COURT: Oh, I see.
MR. RUSH: And then below that he said Geel, and below that Gutginuxw.
THE COURT: You're talking about the territory now that's outside the boundaries of this map?
MR. RUSH: Yes. I asked him who are the chiefs that are on the east side of the Skeena.
THE COURT: Fine. Thank you.
MR. RUSH: And Gutginuxw, my lord, is 14 on the plaintiff's list.
Q And below Gutginuxw -- below Gutginuxw on the east

1 side of the Skeena --
2 A Yes.
3 Q -- Who's -- do you know the hereditary chief who's on
4 that side?
5 A How far down?
6 Q Well, close to the village.
7 A Close to the village across from Xsi gwin ya'a?
8 Q Yes.
9 A It's Gitludahl's home. It's Gitludahl and
10 Woosimlaxha.
11 Q Woosimlaxha?
12 A Yes.
13 Q And Woosimlaxha is --
14 THE SPELLER: 83.
15 MR. RUSH: Thank you.
16 Q Now, I wanted to ask you as well, Mr. Muldoe, if you
17 look to the west side of Delgamuukw's territory where
18 Ankya Ge'en -- just south and west of Ankya Ge'en
19 who's the hereditary chief? Do you know the
20 hereditary chiefs in that area who are outside the
21 boundaries that you have been describing?
22 A Outside that? Well, there just in the top part here
23 is little piece they would be between Gwiiyeehl's and
24 Kliiyem lax haa's. There's a little piece there, sort
25 of a little triangle like very small piece, that's
26 Yagosip.
27 MR. RUSH: My lord, that is the piece bounded by Gwiiyeehl and
28 Kliiyem lax haa.
29 Q I was referring to below that.
30 A Down below?
31 Q Yes.
32 A And down below that it's belongs to Ma'uus, I think.
33 Q And is that to the west of Ankya Ge'en?
34 A Yes.
35 Q All right. And then do you know the chief below
36 Ma'uus?
37 A Yeah. And below Ma'uus is go right up towards Guup Sa
38 it's Amagyet.
39 THE COURT: I didn't get the last one.
40 MR. RUSH: Amagyet. I believe it's spelled --
41 A Amagyet means a good man.
42 MR. RUSH: Okay. I believe -- could you help us with that.
43 THE SPELLER: A-M-A-G-Y-E-T.
44 THE COURT: Thank you.
45 MR. RUSH:
46 Q Mr. Muldoe, I'd like to now refer you to the territory
47 of Kliiyem lax haa on the west side of the Kispiox

River.
A Yeah.
MR. RUSH: And that, my lord, is at what I called H1, and that's at page 14, paragraph 45, and it's there referred to as Tsihl Hlii 'din, McCully Creek, or 1430 on the list.
Q Mr. Muldoe, I'd like to ask you if you were instructed about this Kliiyem lax haa territory by Albert Tate, former Delgamuukw?
A M'hm.
Q And by Fritz Harris?
A Yes.
Q And Abel Tate?
A Yes.
Q By Chris Harris?
A Yes.
Q And Jonathan Johnson?
A Yes.
Q And, Mr. Muldoe, did they tell you that this territory was the territory of Kliiyem lax haa?
A Yes.
Q And have you heard this described in the feast, this territory?
A Yes.
Q Okay. I'd like you to refer then to the --
A The way they described this in the -- the way they described this in the feast like when if a former -- former Kliiyem lax haa passed on well they pass onto the next one. Then from there on they described as the next Kliiyem lax haa going to be responsible for all this territory, and that's how it goes. Everyone not just -- don't just pass it on.
Q Now, I wonder if you could describe the boundary of this Kliiyem lax haa territory perhaps beginning at Ankya Ge'en?
A Yeah.
Q It starts from Ankya Ge'en and you go westerly, northwest, and then you kind -- you have it going towards McCully Creek a ways, then it turns and goes south, southwesterly right up to Guup Sa.
Q That's 1432.
A Then from Guup Sa it goes kind of southwesterly again and go to Wil Gwil. That's Kispiox Mountain.
Q That's 1434.
A And it turns from there and it goes sort of northwesterly to approximately about four or five mile. Then it turns again and that goes all the way

1 up on the northwest and it goes right up on the hydro
2 line. It goes to Wii Laa Habasxw.
3 Q Okay. And then when it gets to Wii Laa Habasxw?
4 A When it gets to Wii Laa Habasxw you go east and you
5 cross the Xwi Ts'hl Hlii'din, and that's one part of
6 the McCully Creek. And then you go down to about six
7 or eight miles, approximately six miles, and it's --
8 and it turns off right at the Wisen Gelt. Goes down
9 to Wisen Gelt until you get about half mile to McCully
10 Creek, Tsihl Hlii'din, and then you go all the way
11 down to the Kispiox River to the place they call Wil
12 Naa Statxw.
13 Q What does that mean in English?
14 A It's a place -- oh, they might have seen a lot of big
15 weeds and what they call statxws.
16 Q That's 1435.
17 A Yeah.
18 Q Okay. And from Wil Naa Statxw?
19 A From Wil Naa Statxw you go all the way down, and on
20 the west bank of the Kispiox River and you back into
21 Ankya Ge'en again.
22 Q Okay.
23 A That's two territory, but it's only divided.
24 Q Okay. You've made mention of Tsihl Hlii'din. That's
25 1430, my lord. And --
26 A Tsihl Hlii'din, McCully Creek.
27 Q And Wii Laa Habasxw has been referred to. It's 1098.
28 Now, it shows -- it shows Wisan Gelt there. And
29 the boundary crosses Wisan Gelt, is that right?
30 A Yes.
31 Q And Wisan Gelt, of course, is 1436.
32 Now, Mr. Muldoe, has there been -- have you been
33 trapping or hunting in that territory?
34 A No, not -- not that I know of. I've been around on
35 the top part of it.
36 Q Okay.
37 A And I --
38 Q When you mean the top part what part do you mean?
39 A I've been on the top part of this. And I come close
40 to it anyway in -- when I was with Delgamuukw, and
41 also me and some of the other boys, I don't remember
42 what they called, we went up Wii Laa Habasxw up along
43 this ridge.
44 Q You're pointing to the ridge that's north of Wil Gwil?
45 A Yeah. We hunt goat in there, but we only get one.
46 And that's quite a long time ago. That's only hunting
47 I do in there.

Q Okay. Is that hunting between Guup Sa and Wil Gwil it's got ground hog in there, but you hunted goat?
A Yeah. Ground hog is further up.
Q You're pointing -- when you said ground hog you pointed to where it said ground hog on --
A Yeah, top part of it there.
Q All right. And you said that you had been to the upper part of the territory?
A Yeah.
Q What part was that?
A That's closer along the Delgamuukw's territory.
Q You're pointing over here to the westerly part?
A Where Wii Laa Habasxw --
Q Where Wii Laa Habasxw is?
A Yeah.

THE COURT: What do you think, Mr. Rush, is this a convenient place to adjourn?

MR. RUSH: Yes. Thank you.

THE COURT: All right. Thank you.

THE REGISTRAR: Order in court. Court will adjourn until 10:00 a.m. tomorrow morning.

(PROCEEDINGS ADJOURNED)

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

Peri McHale, Official Reporter
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