

Submissions by Mr. Grant
re Scheduling of Trial

Vancouver B.C.

September 16, 1988.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE REGISTRAR: In the Supreme Court of British Columbia,
Friday, September 16, 1988, calling Delgamuukw versus
Her Majesty the Queen at bar, my lord.

NEIL STERRITT, resumed:

MR. GRANT: My lord, Mr. Rush will be here imminently.

THE COURT: Yes.

MR. GRANT: But there was a matter I wished to speak to which you had left in the hands of counsel I believe on Monday and it flowed out of the question of trial organization, trial scheduling for the fall. And I believe that the matters related to the expert witnesses for the fall was generally followed on Monday, but the remaining matter which you threw back in the hands of counsel was the question of cross-examination of witnesses. And you suggested that you would have no difficulty in speaking to the matter later this week. And I would like to take this opportunity to address that further and I would just like because it's very important from the plaintiffs' position, I think from all counsel's position, that we have this clarified what the scheduling will be. The proposal as you may recall of the plaintiffs on Monday, which I confirmed by letter to the defendants thereafter, was that after the completion of Mr. Daly's evidence, which we have estimated at two weeks, that there would be a one week adjournment and then commencing on November 29 we would have the cross-examination take place outside of court. At that time the defendants of course were not certain about the Wet'suwet'en witnesses. They have since advised us that they wished to cross-examine all Wet'suwet'en witnesses. So there is a total of I believe 34 witnesses left to be cross-examined. Now, under my proposal we had proposed this would continue outside of the courtroom until December 22 and to be very clear we would do -- we could do, although we could not tandem Gitksan alone or Wet'suwet'en alone, we could tandem both grounds along the same time that we would save sometime. Now, the Province responded by proposing that we do five witnesses next week, five

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1 Gitksan witnesses next week. And I --
2 MR. GOLDIE: Those were the five that weren't completed, my
3 lord.
4 THE COURT: Yes. All right.
5 MR. GRANT: I don't believe the five were specified, but that's
6 what my understanding was as well in further
7 discussions.
8 THE COURT: And that would be contemporaneously with the
9 continuation of the trial.
10 MR. GRANT: Yes.
11 THE COURT: Yes.
12 MR. GRANT: Well, my lord, Mr. Sterritt has been present through
13 the cross-examination of the Gitksan witnesses. He
14 was essential to assist counsel, and I advised him of
15 this and we could not proceed with these
16 cross-examinations while Mr. Sterritt was on the stand
17 of the Gitksan witnesses. Now, at that time when that
18 proposal came back from the Province they had not yet
19 responded on the Wet'suwet'en witnesses. Also we do
20 need some lead time in terms of gathering these
21 witnesses and of course the preparation of the other
22 witnesses. Now, the defendants -- since then with
23 respect to the expert witnesses, the defendants, at
24 least the Provincial defendant, has corresponded with
25 us and although there seems to be some agreement as to
26 the interpretation of the court decision requiring
27 production of documents an expert may have in his
28 possession, that they may not have to be disclosed
29 until he's on the stand. They have pointed out that
30 they don't want to require adjournments for
31 cross-examination. So part of our preparation of
32 expert witnesses is going to have to be to review not
33 only the documents upon which we anticipate would have
34 to be disclosed but anything. So the problem is is
35 that we would -- we are investigating that with each
36 of the witnesses we have proposed ahead of time as
37 requested by the defendants. Now, the problem is
38 quite simply, my lord, that we cannot -- we cannot see
39 how we can tandem the cross-examinations with the
40 trial on the schedule that we have proposed and we
41 don't want -- we have operated on the basis of that
42 schedule since Monday in terms of organizing the
43 witnesses. Now -- but the Federal counsel had asked
44 whether there was any room for any variation and one
45 of the proposals that we make as a response is that it
46 may well be possible, subject of course to your
47 lordship's scheduling and commitments, it may well be

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1 possible to have a trial some time after the
2 completion of Mr. Daly's evidence in Smithers for
3 cross-examination of some witnesses while other
4 witnesses are cross-examined out of court. Mr. Goldie
5 on Monday said that in light of the cross-examination
6 he proposed that some witnesses would be examined
7 either before a commissioner in court. And this would
8 be one possibility because if there was some problems
9 seen by any counsel in the commissions going on
10 outside of court, the court would be present. And
11 this -- we are amenable -- we propose that as some
12 form of compromise. I suspect that the presence of
13 the court may shorten some of the cross-examination
14 and I think it certainly would alleviate some of the
15 problems. But if that is not -- if the court finds
16 that that's not possible that you cannot -- could not
17 attend in the north, and as I indicated to the
18 defendants it's a burden that -- it's a very, very
19 difficult financial burden for us to commute 34
20 witnesses to Vancouver and we do not wish to do that.

21 THE COURT: You mean for cross-examination.

22 MR. GRANT: For cross-examination.

23 THE COURT: All right.

24 MR. GRANT: Yes. These witnesses. And that would be an option
25 that we would propose that may be a compromise that
26 may solve the concerns. The other option which I have
27 alluded to on Monday, and we have received these
28 transcripts now, is that either -- well, probably
29 not -- next week Mr. Sterritt I think will be under
30 cross-examination, maybe after his cross-examination
31 or at the very beginning, first day in October, we
32 could -- we could argue before your lordship all of
33 the cross-examinations that have taken place thus far,
34 the objections and the problems. And I think it would
35 be quite appropriate as a reasonable way to resolve
36 these disputes that the court could give guidelines in
37 the guise of the rulings on what's admissible on the
38 redirect that the defendants have objected to or
39 what's not admissible -- what's improper questioning
40 on cross-examination which were objected to and with
41 that guideline I believe that all counsel can be able
42 to proceed without the presence of the court. I am
43 concerned about the proposal raised by the defendants
44 of a commissioner solely for this reason. It brings
45 in an additional party and as Mr. Macaulay said, we
46 don't have the cumbersomeness now of individual
47 notices and all of the logistics. It brings an

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1 additional priority in terms of scheduling and all of
2 those problems and needless to say it would add to
3 expense.
4 So in summary, my lord, I would -- now that we
5 know that there is going to be cross-examination of
6 all the Wet'suwet'en witnesses, I reinforce the
7 proposal that the cross-examination -- that there be
8 general guidance from the court that cross-examination
9 proceed commencing the week of November 29. I must
10 say as well that the Federal -- in the week off in
11 November, I think it's November 1st, the first week in
12 November, the Federal -- there is a commission of an
13 elderly Indian agent that the Federal defendants have
14 raised, so it's not like nothing is happening in the
15 off weeks. That's being proceeded with at that time.
16 THE COURT: Let me have again the tentative discussion we had
17 the other day. September 19 is next week.
18 MR. GRANT: Yes.
19 THE COURT: And the week after that will be September 26. And
20 we will be sitting here.
21 MR. GRANT: For a part or all of that week. Depending on the
22 cross-examination of course of Mr. Sterritt, but we --
23 in my rough scheduling, I had proposed -- I was
24 operating on the basis that this cross-examination
25 would take place on -- would be completed next week.
26 Just -- and that after him would be Mr. Gottesfeld who
27 would take one or two days and Mr. Rolf Matthews who
28 would take one day. And that would complete the --
29 THE COURT: Week of the 26th?
30 MR. GRANT: That would complete this sitting of the September
31 sitting.
32 THE COURT: And we have the week of October 3, is it?
33 MR. GRANT: October -- yes, October 3 is an off week.
34 THE COURT: October 3, yes.
35 MR. GRANT: The court would not be sitting.
36 THE COURT: All right.
37 MR. GRANT: And counsel requires that week in terms of the
38 preparation, because the October sitting we are
39 endeavoring now to have four expert witnesses and some
40 of them will be longer, that is longer than these Mr.
41 Gottesfeld and Mr. Matthews and counsel needs that
42 time to prepare those witnesses. They will, of
43 course, be split.
44 THE COURT: So you have October 10, 17 and 24?
45 MR. GRANT: Yes. I think the 10th is Thanksgiving so start on
46 the 11th.
47 THE COURT: Yes.

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1 MR. GRANT: So on the 11th will be Mr. Chilton, Rod Chilton, one
2 day. The 12th will be Hatler, David Hatler, one to
3 two days. Then following that would be Cybil
4 Haeussler, H-a-e-u-s-s-l-e-r, two days. And of course
5 this is -- we are just estimating the
6 cross-examination about this. And then will be Sylvia
7 Albright who would be four days, archeology -- an
8 archeologist, my lord. And then would be Jim Kari who
9 would be three to four days. Now --
10 THE COURT: All right. That's that three weeks.
11 MR. GRANT: That's that three weeks.
12 THE COURT: Yes.
13 MR. GRANT: And then we -- the other witness I had mentioned in
14 that three week period was Dr. Rigsby, and the Federal
15 defendant has stated their position they don't require
16 him for cross-examination. The Province has put a
17 proposal to us that we are working through now and it
18 appears that from the Province's response that we
19 might be able to avoid calling him. They want some
20 variation.
21 THE COURT: And then what did you propose the week of the 29th?
22 MR. GRANT: The week of October 29 will be an off week.
23 THE COURT: Off week, yes.
24 MR. GRANT: And the -- one of the large -- probably one of the
25 largest expert witnesses, except of course for Mr.
26 Sterritt, would be Richard Daly. We anticipate his
27 evidence will take two weeks.
28 THE COURT: And you start that on the --
29 MR. GRANT: 7th of November.
30 THE COURT: Mr. Daly. Yes. November 7 and 14.
31 MR. GRANT: And he would be completed on the 18th, and of course
32 there may be some excess time there.
33 THE COURT: Yes.
34 MR. GRANT: Going into the following week and we -- of course we
35 want to complete him. And then if I can just -- and
36 then what we would go to is the one week off. And the
37 reason we would need that one week off is we would
38 prepare a number of things. The defendants -- the
39 Provincial defendant in one of their correspondence
40 said they hoped they would be able to do more than
41 five witnesses in a week. So that the ones that were
42 already scheduled there would have to be some review
43 with them of course, plus we would want -- we are
44 proposing tandem witnesses. So let's say if there
45 were six or seven a week, that would be up to 14
46 witnesses we would be preparing. So we need that one
47 week in any event to be -- preparation of witnesses.

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1 Then commencing on the 29th we would go through the
2 week.
3 THE COURT: I am sorry, the 29th --
4 MR. GRANT: Of November.
5 THE COURT: Well, I am sorry. I thought you were going to be
6 the weeks of the 7th, 14th, and 21st of November for
7 Daly?
8 MR. GRANT: No.
9 THE COURT: Or --
10 MR. GRANT: Well, we are estimating two weeks for him.
11 THE COURT: All right. So you think the week of the --
12 MR. GRANT: We would take the week of the 22nd off and then we
13 would --
14 THE COURT: 21st I think. All right.
15 MR. GRANT: And then we would commence November -- I am sorry, I
16 said 29th. It should be 28th.
17 THE COURT: Yes, all right. Yes.
18 MR. GRANT: I see that's the Monday.
19 THE COURT: 28th you will be starting the cross-examination.
20 MR. GRANT: We would start the cross-examinations and we propose
21 going from November 28 right through to December 22 or
22 so long as that time as we need it. And the proposal
23 that I am making that may alleviate some of the
24 concerns is that for, say, the week of the 29th and
25 the week of the 6th as an example, that the court
26 would sit in Smithers for cross-examinations.
27 THE COURT: Which week?
28 MR. GRANT: The week of the 29th of November and the week of the
29 6th of December and we would cross-examine witnesses
30 in court in Smithers but we would also
31 cross-examine -- we are prepared also to keep the
32 tandem system going then and cross-examine witnesses
33 right outside court, then if there is a problem in the
34 morning it could be dealt with or these five questions
35 which should be objected to or whatever. And we may
36 not complete in that two week period, but I am relying
37 on what Mr. Goldie said and also my own confidence
38 that if the court made some rulings that we would have
39 a sense of it and that we could complete the others in
40 the absence of the court so that counsel would
41 continue through the week of the 13th to completion.
42
43 Now, on Monday, I had suggested that if necessary
44 we would go into the week of January 3rd to the 6th.
45 Now, I would -- as far as plaintiffs' counsel is
46 concerned of course we don't have control of the
47 cross-examinations, I would hope we could complete

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1 these before Christmas because we would like to have
2 the week of January 3rd as trial time here to complete
3 witnesses. But if necessary we could tandem that one
4 week.
5 THE COURT: Well, I should say at the very beginning that I have
6 a problem with my required attendance at a meeting of
7 the Canadian Judicial Council sometime in the last
8 week of November and the first week in December. The
9 date hasn't been fixed, but that is something that has
10 arisen quite recently and I am going to have to be in
11 the East for one or two days around then. I am not
12 sure when it will be.
13 MR. GRANT: Around the week of the 28th?
14 THE COURT: They are talking about Grey Cup weekend in Ottawa
15 where the game is played and there is considerable
16 resistance to going down about that time. I share
17 that resistance. I attended a Grey Cup game in Ottawa
18 one time and I nearly perished in the cold and I don't
19 propose to do it again.
20 MR. GRANT: Well, consider life insurance if you are going to go
21 to the Grey Cup in Ottawa.
22 THE COURT: I think we are trying to move the meeting to the
23 week after which will be the first week in December.
24 MR. GRANT: That kind of flexibility I think as far as
25 plaintiffs' counsel is no concern, but I would
26 encourage that we would commence -- we could still use
27 the week of the 29th outside of court for
28 cross-examinations. And so that we would have a
29 combination of some in court and some outside of court
30 and this is an effort to try to speak to the concerns
31 raised by both defendants at different times through
32 the course of this week. But we would like to sort of
33 rally our resources, human and otherwise, to getting
34 these to the schedule and that's why I re-raised the
35 matter this morning with your lordship. And I --
36 thank you. Those are all my submissions.
37 THE COURT: Mr. Goldie?
38 MR. GOLDIE: Well, my lord, there had been ten witnesses
39 scheduled for the last week in August. We got through
40 five and our proposal had been to examine the other
41 five because we assumed they were, to use my friend's
42 word, prepared. We were informed that Mr. Sterritt is
43 essential to the cross-examination of the Gitksan
44 witnesses. I don't recall from my personal
45 observation that he participated, but I -- that's my
46 friend's position. Where some progress has been made
47 is that we have provided my friend with the nature of

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1 the objections that we have to some of the experts'
2 evidence and their addressing that. The real issue as
3 I see it comes down to the question of the
4 cross-examination of the remaining Gitksan witnesses
5 and the Wet'suwet'en witnesses who have sworn
6 affidavits. I, of course, did not at any time suggest
7 that 34 witnesses had to be brought to Vancouver. We
8 anticipated that all or a number could be heard in
9 Smithers, but if they are and if your lordship is
10 unable to accede to my friend's suggestion with
11 respect to the week of the 28th of November and the
12 week of the 6th of December, we will apply for a
13 commissioner. I don't anticipate that that will have
14 any impact on scheduling at all.

15 THE COURT: Let me understand you. Are you suggesting, Mr.
16 Grant, that subject to this extrinsic problem that I
17 mentioned that we hear witnesses in -- witnesses for
18 those two weeks while cross-examinations are going on
19 at the same time?

20 MR. GRANT: There would be cross-examination of witnesses in
21 court in Smithers.

22 THE COURT: Oh, in court.

23 MR. GRANT: In court in Smithers.

24 THE COURT: Yes.

25 MR. GRANT: That would be the purpose of it. We are not
26 proposing that you go up to Smithers for expert
27 witness evidence.

28 THE COURT: Yes. All right.

29 MR. GRANT: But would be cross-examination of witnesses in court
30 and cross-examination of other witnesses out of court.
31 For example, some Gitksan and Wet'suwet'en at the same
32 time.

33 THE COURT: Yes.

34 MR. GRANT: That's what we propose.

35 THE COURT: All right. Well, I speak subject to correction, but
36 I think the Grey Cup game is the 3rd -- I am sorry, it
37 would be the 4th, the Sunday, and the meeting was to
38 be on the 3rd and I think that's going to be moved to
39 the 6th. And if that's right then it's not a problem.
40 And if it would break this log jam I would be disposed
41 to go to Smithers and do what's being suggested.

42 MR. GOLDIE: Well, that would be of course the solution that
43 would meet all the --

44 THE COURT: Yes.

45 MR. GOLDIE: -- requirements.

46 THE COURT: All right. Well, I think that we should adjourn
47 this discussion until the morning break, if that's

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In chief by Mr. Rush

1 convenient, and I will make some inquiries then and we
2 will resume -- we can we resume this discussion after
3 the morning break.
4 THE COURT: All right.
5 MR. GRANT: Thank you, my lord.
6 THE COURT: All right. Can we proceed then with Mr. Sterritt.
7 You remember that you are still under oath Mr.
8 Sterritt. Yes, Mr. Rush.
9 MR. RUSH: Now, my lord, I had asked yesterday to have Volume 2
10 of the document book placed before Mr. Sterritt. I
11 think it's still here.
12 THE COURT: Yes.
13 MR. RUSH: Yes. I am going to ask him to refer to that volume.
14
15 EXAMINATION IN CHIEF BY MR. RUSH (Cont'd):
16 Q Mr. Sterritt, would you please look at tab 62.
17 A Yes.
18 Q And do you recognize the people in the photograph?
19 A Yes, I do.
20 Q And who are the people in the photograph, please?
21 A The person kneeling and pounding a nail with an axe is
22 my father Wii gaak, W-i-i space g-a-a-k. Neil B.
23 Sterritt.
24 Q And the people behind him?
25 A Yes. The young fellow on the left is my -- on the
26 left of the picture is Richard Sterritt, my brother.
27 Q Yes.
28 A And on the right is a second cousin of mine, Ross
29 Macrae.
30 Q Okay. Where was this picture taken?
31 A It's a bridge at Shegunia, S-h-e-g-u-n-i-a. That's
32 the name that's on the topographic map. It's about
33 ten miles from Hazelton.
34 Q Were you present when this photograph was taken?
35 A Yes, I was.
36 Q And what's your father doing?
37 A He's -- we are on our way to go hunting and he's
38 putting some planking on the bridge so that we can
39 cross it.
40 MR. RUSH: May that be an exhibit, my lord.
41 THE REGISTRAR: Tab 62.
42 MR. RUSH: Tab 62, the next exhibit.
43 THE REGISTRAR: 62 of Volume 2.
44 MR. RUSH: Yes.
45 THE REGISTRAR: Thank you.
46 THE COURT: 694.
47 THE REGISTRAR: It will be 695. 694 is tab 72, my lord.

N. Sterritt (for Plaintiffs)
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1 THE COURT: Is it. Oh, I am sorry, all right. I didn't mark
2 that. All right. This will be 695.

3
4 (EXHIBIT 695: Tab 62 of Volume 2)
5

6 MR. RUSH:

7 Q Would you look at tab 63, please.

8 A Yes.

9 Q And do you recognize this photograph?

10 A Yes, I do.

11 Q What is it of?

12 A It's -- in the foreground are the grave houses at
13 Kiskagas.

14 THE COURT: I am sorry, the --

15 A Grave houses at Kiskagas, K-i-s-g-a-g-a-s. And it's a
16 view looking west towards Lax an hak, L-a-x space a-n
17 space h-a-k, and that is Shelfridge.

18 MR. RUSH:

19 Q Is this on the north side of the Babine?

20 A Yes, it is.

21 Q And can you say when it was this photograph was taken,
22 if you know?

23 A This was in 1985.

24 Q And the grave houses that you are referring to, are
25 those the structures that are depicted in this
26 photograph?

27 A Yes. There is one, two, three, four that are obvious
28 there.

29 Q All right. Okay. And were you present when this
30 photograph was taken?

31 A Yes, I was.

32 MR. RUSH: May this be the next exhibit, please.

33 THE COURT: Yes.

34 THE REGISTRAR: 696.

35

36 (EXHIBIT 696: Tab 63 of Volume 2)

37 MR. RUSH:

38 Q Now, would you please turn to tab 64?

39 A Yes.

40 Q And can you identify the individual that's shown in
41 this photograph?

42 A Yes. That is Joshua McLean. It's M-c-L-e-a-n. And
43 his name is O Yee, O space Y-e-e, and he's from the
44 house of Nii kyap. This is --

45 Q You talked -- I am sorry. Yesterday you talked about
46 a Joshua McLean that had a cabin or a dwelling at
47 Kiskagas. Is that the same person?

N. Sterritt (for Plaintiffs)
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1 A Yes. And also --
2 Q Excuse me. Just a minute.
3 THE COURT: I am sorry. Sorry, Mr. Rush.
4 A And also I identified a -- two fellows on a Skidoo on
5 the ice of a lake.
6 MR. RUSH:
7 Q Is that at tab 72? Just flip back to tab 72 which is
8 Exhibit 694.
9 A Yes. The lower -- the lower picture.
10 Q Yes.
11 A It's taken in almost exactly the same spot and that's
12 the ice of the lake in front of the -- over the lake
13 in front of the two fellows on the Skidoo at tab 72
14 and one of them is Joshua McLean. Here it's the same
15 lake in the summertime.
16 Q This is at tab 64?
17 A Yes.
18 Q All right.
19 A And that's Joshua McLean there.
20 Q And can you identify any of the features in the
21 background of the photograph at tab 64?
22 A Yes. The mountain in the background is Daahl an
23 makhl. That's D-a-a --
24 THE COURT: I am sorry?
25 A D-a-a-h-l space a-n space m-a-k-h-l.
26 MR. RUSH:
27 Q All right. Thank you.
28 A And this is all part of the same trip where my father
29 was putting the bridging, the decking on a bridge, and
30 the picture at Kisgagas and this picture we are all
31 going on the same trip to go goat hunting and this
32 territory here is the territory of Miluulak that we
33 are on.
34 MR. RUSH: May that be the next exhibit, please.
35 THE COURT: Yes. 69 --
36 THE REGISTRAR: 7.
37
38 (EXHIBIT 697: Tab 64 of Volume 2)
39
40 MR. RUSH:
41 Q Please turn to tab 65?
42 A Yes.
43 Q Do you recognize what's depicted in that photograph?
44 A Yes, I do.
45 Q Is this part of the same trip?
46 A Yes, it is. We're right next to the cabin that I
47 referred to in tab 72 or that is in the picture in tab

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1 72 in the top picture. That's Exhibit 694. And we
2 are putting the packs on the horse. My father and
3 myself; I have a red hat on on the right and my father
4 is in the blue hat right in front -- right beside me.
5 On the left-hand side is Joshua McLean with his back
6 to the camera and Jonah Green from the house of Wii
7 gaak is looking across the horse.

8 THE COURT: I am sorry, his last name?

9 A Green.

10 THE COURT: Oh, Green?

11 A Jonah Green.

12 MR. RUSH:

13 Q He'd be on the opposite side of the horse from you?

14 A Yes.

15 Q All right. Where was this photograph taken again?

16 A It's right at the cabin that was built by Robert
17 Jackson and my father.

18 Q I think -- is that the same cabin that you made
19 reference to when you identified a cabin at tab 72,
20 the upper photograph?

21 A Yes.

22 Q And is this during the same trip? This is when you
23 referred to the same trip earlier, was this photograph
24 taken during that goat hunting trip?

25 A Yes, it is.

26 MR. RUSH: May that be the next exhibit, please.

27 THE REGISTRAR: 698.

28

29 (EXHIBIT 698: Tab 65 of Volume 2)

30

31 MR. RUSH:

32 Q Would you please refer to the next photograph.

33 A Yes. Tab 66?

34 Q Yes.

35 A Uh-huh.

36 Q Now, what does that show?

37 A We're heading up with the horses going up to the
38 mountain in the distance to hunt mountain goats. We
39 are about halfway between the cabin and the mountain
40 at this point, and I am on the saddle horse in the
41 lead with the red cap. And it's hard to see, but the
42 pack horse -- we have a couple of pack horses and some
43 of the people are walking.

44 Q And is that -- where is that in relation to the cabin
45 that you've been talking about?

46 A It would be almost directly north of the cabin. The
47 depression or the valley just below the trees to the

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1 right, you can see there is a valley there, that's at
2 the head of the creek called Xsi Gwitselasgwit, X-s-i
3 space G-w-i-t-x-e-l-a-s-g-w-i-t, Xsi Gwitselasgwit.
4 And it's on the topographic map as Shenismike Creek,
5 S-h-e-n-i-s-m-i-k-e. And the mountains in the
6 background are part of Daahl an makhl. That's
7 D-a-a-h-l space a-n space m-a-k-h-l.
8 MR. RUSH: All right. Thank you. May that be the next exhibit,
9 please.
10 THE COURT: 699.
11
12 (EXHIBIT 699: Tab 66 of Volume 2)
13
14 MR. GOLDIE: I wonder if my friend could tell us who the
15 photographer was at these various photographs.
16 MR. RUSH:
17 Q Do you know who took the photographs?
18 A Yes.
19 Q Is it a different -- are there different people who
20 took the photographs?
21 A Yes. It's my father's camera and different people at
22 different times are taking these photographs.
23 Q Did you take some of these photographs?
24 A No, I didn't.
25 Q Did your father to your knowledge?
26 A My father took some. I am not sure which ones he
27 took. But sometimes Richard, my brother took some, he
28 did, and he was probably taking this one because I am
29 up ahead on the horse and I don't see him in the
30 picture.
31 Q All right.
32 A And this was all in 1985.
33 Q Now, would you please look at 67, tab 67, please?
34 A Yes.
35 Q Can you identify what's depicted in this photograph?
36 A Yes. This is once again the lake right in front of
37 the cabin, and it's a view north to Daahl an makhl,
38 D-a-a-h-l --
39 Q Which feature is Daahl an makhl?
40 A Well, I will finish spelling that: a-n space
41 m-a-k-h-l. All of the distant mountains that you see
42 on both sides is what is called Daahl an makhl.
43 Q Is that the same lake that's shown in tab 64 that you
44 identified?
45 A Yes, it is.
46 Q Exhibit 6 -- excuse me. Exhibit 697?
47 A Yes, it is.

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In chief by Mr. Rush

1 MR. RUSH: Thank you. Can that be the next the exhibit, my
2 lord.

3 THE COURT: Yes. 700.

4 THE REGISTRAR: 700.

5

6

(EXHIBIT 700: Tab 67 of Volume 2)

7

8 A The place where we are on the horses in that last
9 picture at tab 66 is you can see where the timber line
10 ends and there is a kind of a bald ridge in the centre
11 of the picture and it comes down to the right. We're
12 just over on the edge of that down in the trees and
13 that's -- that valley is the Xsi Gwitselasguit valley
14 that flows down into the Babine River.

15 MR. RUSH:

16 Q Are you referring us back to 66, tab 66 or are you now
17 directing our attention to 67 in that photograph?

18 A I am directing your attention to the photograph at tab
19 67.

20 Q Yes.

21 A As to where we were when the picture was taken at tab
22 66.

23 Q I see. And -- all right. I was a little confused on
24 that. So maybe you can just show again where it was
25 that you were photographed in 66 or 67, tab 67?

26 A Well, there is the meadows and the timber on the
27 opposite -- on the other side of the lake and directly
28 above the timber, the forest, there is a tan hill,
29 kind of a bald hill, and then there are the mountains
30 in the distance. Well, the bald hill in the
31 foreground comes down to where -- and meets the trees.

32 Q Yes.

33 A And we were right down along the edge of where the --
34 below where the bald hill meets the trees when we took
35 the picture at picture 66.

36 Q Thank you. All right. Now, if you'll look to tab 68,
37 please.

38 A Yes.

39 Q Where was this photograph taken?

40 A If we can refer back to tab 67.

41 Q Yes.

42 A And referring to the bald hill again.

43 Q Yes.

44 A When you come from the -- where the bald hill meets
45 the trees and go left along that bald hill to the
46 first peak, it then runs all the way out of picture to
47 the left. But the first peak that comes up off the

N. Sterritt (for Plaintiffs)
In chief by Mr. Rush

1 bald hill in the middle of the picture we were
2 directly below there, the mountain goat was shot about
3 halfway down that mountain, and then afterwards we
4 went down, further down to where this photograph is.
5 And that is once again at the very head of Xsi
6 Gwitselasgwit at the source of Xsi Gwitselasgwit,
7 X-s-i space G-w-i-t-s-e-l-a-s-g-w-i-t.

8 MR. GOLDIE: That's Shenismike Creek?

9 A Yes, it is. And the peak in the photograph are --

10 MR. RUSH:

11 Q Just a moment. Just before we get to that. All
12 right. Go ahead.

13 A From the left Joshua McLean. Behind him and I Jona
14 Green and then myself in the middle and my father to
15 the right.

16 Q Okay. Who shot the goat?

17 A Joshua.

18 MR. RUSH: Could that be marked the next exhibit, please.

19 THE REGISTRAR: 701.

20 THE COURT: 701.

21

22 (EXHIBIT 701: Tab 68 of Volume 2)

23

24 MR. RUSH:

25 Q That's all in the same trip, is it?

26 A Yes, it is.

27 Q Do you recall who took that one?

28 A In this case I believe it was Richard. All right.

29 Q All right. Thank you, Mr. Sterritt. I'd like you
30 now, please, to turn to --

31 THE COURT: Before you leave that picture, I am having a little
32 difficulty. I know what a mountain goat looks like
33 and I see one facing me lying on it's side. What is
34 the white area below the nose of that poor creature?
35 Is that another mountain goat or is it snow?

36 A It's snow.

37 THE COURT: All right. Thank you.

38 MR. RUSH:

39 Q Just on that count, Mr. Sterritt, this goat, what
40 would be your estimate of the weight or size of this
41 be?

42 A This goat would weigh -- it's what we call Wii
43 andjowasx. It's spelled W-i-i space
44 a-n-d-j-o-w-a-s-x. Which is a very large billy goat.
45 And the reason that we call it that is because on the
46 rump the hide is as much as a half an inch thick and
47 the reason for that is because the goat slides down --

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- 1 will slide down very steep spots on its rump and the
2 hide gets very, very thick and covered with heavy fur.
3 And so it makes excellent moccasins; andjowasx means
4 moccasins. So this is what we -- that's what we call
5 it. That goat would weigh in the neighbourhood of 325
6 to 350 pounds. It's a large goat.
- 7 Q The area where you were hunting, is that an area where
8 you have hunted on previous occasions to the one that
9 you were on in this occasion?
- 10 A Yes, it is.
- 11 Q And is that an area where it is known by you and
12 others as a goat hunting area?
- 13 A Yes.
- 14 Q All right. Thank you. Now, Mr. Sterritt, if you
15 would turn, please, to tab 69?
- 16 A Yes.
- 17 Q And at tab 69 is an affidavit by Neil J. Sterritt that
18 was sworn on June 15, 1988 and I just ask you to turn
19 to page eleven.
- 20 MR. GOLDIE: My lord, I am raising an objection to this, the
21 reception of this affidavit.
- 22 MR. RUSH: The affidavit has already been tendered as an exhibit
23 for identification. It's Exhibit 613 for
24 identification.
- 25 Q And perhaps just before we proceed to the objection
26 I'll ask Mr. Sterritt if that's his signature on page
27 eleven?
- 28 A Yes, it is.
- 29 MR. RUSH: Do you want to --
- 30 THE COURT: On what basis is it sought to be admitted, Mr. Rush?
- 31 MR. RUSH: Well, this is being admitted on the basis of the
32 affidavits in the similar basis as the previous
33 affidavits, namely a chief who is a hereditary chief
34 who has knowledge of the territories, there are three
35 territories that are described in this affidavit and
36 he has knowledge as a hereditary chief about those
37 three territories. And this affidavit like the others
38 is being tendered for the proof of the territory, two
39 territories of Nii kyap and one territory of Miluulak.
- 40 THE COURT: So in your submission it's what we have been calling
41 a territorial affidavit.
- 42 MR. RUSH: That's correct.
- 43 THE COURT: Mr. Goldie?
- 44 MR. GOLDIE: My lord, my objection -- my objection is with
45 respect to that part of the affidavit which purports
46 to be based upon information given him by Mr. David
47 Gunanoot. I foreshadowed my objection to your

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1 lordship when the witness began giving evidence of
2 conversations with Mr. Gunanoot and I said that at
3 that time that in my submission the affidavit could
4 not be received to contradict prior sworn evidence and
5 I was referring to Mr. Gunanoot's commission evidence.
6 We got into a discussion of maps and my friend Mr.
7 Rush was quite right when he said that the map which
8 shows the reduction on Thutade Lake boundaries was not
9 available for use or to us, I should say, when Mr.
10 David Gunanoot was first examined on commission. In
11 fact we had no map of his territory at that time. I
12 had confused the date of his examination on commission
13 which was in May, 1986 with his cross-examination by
14 Canada in October of 1987. So I want to clear up that
15 question right away. I would ask your lordship to
16 note the chronology. It is of some importance. The
17 writ, of course, was issued in October of 1984. The
18 interrogatories and Mr. Gunanoot was one of those
19 original plaintiffs who received an interrogatory.
20 The interrogatories were issued beginning of November
21 of 1985 and going into the early -- early part of
22 1986. Mr. Gunanoot was examined on commission because
23 of the precarious nature of his health on the 27th and
24 28th of February and the 1st of March.

25 THE COURT: Of '8 -- '86.

26 MR. GOLDIE: Of '86, and then on the 13th and 14th of May of
27 1986. Then when Canada or the Federal -- the Attorney
28 General of Canada exercised the right to cross-examine
29 commission witnesses whose commission evidence had
30 been given before they were joined, he was
31 cross-examined on October 7 of 1987. The next date I
32 ask your lordship to note is that Exhibit 102, which
33 my friend calls the coded map, came into our
34 possession in February of 1987. It was listed by the
35 Province in its supplementary list of documents dated
36 February 24, 1987 at number 1324 an undated map, as
37 indeed on its face it is undated.

38 THE COURT: Whose map was it?

39 MR. GOLDIE: Well, it appears -- well, it's been identified as a
40 map prepared by Mr. Marvin George.

41 THE COURT: Oh, all right.

42 MR. GOLDIE: And it came into our possession because apparently
43 one of the plaintiffs came into the fish and wildlife
44 office in Smithers at some time unknown to us and left
45 this map. And we found it in the fish and wildlife
46 office up there.

47 THE COURT: And you listed it when?

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- 1 MR. GOLDIE: February of 1987, almost immediately after it came
2 into our possession.
3 THE COURT: Yes.
4 MR. GOLDIE: But it's never been listed by the plaintiffs.
5 THE COURT: Should I look at that?
6 MR. GOLDIE: Oh, it's an exhibit, my lord.
7 THE COURT: Yes, but --
8 MR. GOLDIE: Exhibit 102.
9 THE COURT: When you say "coded" --
10 MR. GOLDIE: Well, that's because the -- on the right-hand side
11 there is a legend which identifies the territories.
12 THE COURT: Oh, yes.
13 MR. GOLDIE: By house, clan and village.
14 THE COURT: Yes. All right.
15 MR. GOLDIE: And the original of that document indicates that it
16 was intended to be a coloured map.
17 THE COURT: Yes.
18 MR. GOLDIE: But the plaintiffs have advised us that there is no
19 coloured version.
20 THE COURT: And this relates to the territory of Nii kyap, does
21 it?
22 MR. GOLDIE: It has on it, my lord, the territory of Nii kyap
23 and it's identified --
24 THE COURT: It might be the biggest map in the case, is it?
25 MR. GOLDIE: -- identified as number 27 on the upper right-hand
26 corner and your lordship will see a very large
27 territory.
28 THE COURT: 27?
29 MR. GOLDIE: Yes. 27.
30 THE COURT: I think it's 1A5 I think.
31 MR. GOLDIE: I am sorry, I have given you another coding.
32 THE COURT: Looks like 1A5.
33 MR. GOLDIE: It is.
34 THE COURT: Yes, all right.
35 MR. GOLDIE: 1A5. Now, that is not identified -- 1A5 does not
36 identify that territory as Nii kyap.
37 THE COURT: I see.
38 MR. GOLDIE: Nii kyap's territory is 1E7. And your lordship
39 will see if you slide down the eastern boundary that
40 there is a 1E7 which identifies territory which at
41 that time was assumed to be the territory of Nii kyap.
42 THE COURT: Yes.
43 MR. GOLDIE: However, I repeat that that map was not available
44 to us when Mr. Gunanoot was examined on commission and
45 indeed we had no map which indicated the house
46 territories. Now, the next --
47 THE COURT: Well, yes, except that it was --

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1 MR. GOLDIE: It was of course available when Canada examined.

2 THE COURT: Yes. Yes. All right.

3 MR. GOLDIE: In 1987.

4 THE COURT: Yes. Thank you.

5 MR. GOLDIE: October. The next date is the February 18, 1987
6 when Mr. Gunanoot's interrogatory response was sworn.

7 There is no map exhibited to that response. And I
8 will indicate to your lordship the nature of the text

9 of the interrogatory which was appended to Mr.

10 Gunanoot's affidavit. The next dates -- next dates

11 are February and March of 1987 in which -- during

12 which time Mr. Sterritt was examined for discovery and

13 that was the first disclosure of some of notes -- of

14 his notes and Mr. Sterritt on his examination has

15 denied the validity of Exhibit 102.

16 THE COURT: He denied --

17 MR. GOLDIE: He said it wasn't a valid document in respect of
18 the internal boundaries. And my next date is the date

19 when Exhibit 5 was introduced which was a map showing

20 internal boundaries produced by the plaintiff and was

21 the first map showing internal boundaries which the

22 plaintiffs acknowledged.

23 THE COURT: And what date was it made?

24 MR. GOLDIE: And that map is dated May 2, my lord, and it was
25 marked Exhibit 5 for identification on May 20.

26 THE COURT: But you hadn't seen it before that?

27 MR. GOLDIE: No. No.

28 THE COURT: Until it was introduced in court?

29 MR. GOLDIE: Until it was introduced in court.

30 THE COURT: It was only completed a couple of days before the
31 trial started?

32 MR. GOLDIE: That is correct.

33 THE COURT: All right.

34 MR. GOLDIE: But my point is that that was the document which so
35 far as the defendants were concerned was the first

36 which was stated by them to contain the internal

37 boundaries. Now, at the same time of course the

38 statement of claim was amended - when I say the same

39 time I am talking about May of 1987 - was amended and

40 we understood it was amended to conform to the meets

41 and bounds description of what was contained in the

42 summary of Mr. Sterritt's expert opinion and that was

43 dated March 9, but the amendment or the map resulting

44 from that amendment was dated May of 1987. And as I

45 have mentioned Mr. Gunanoot was examined by Canada on

46 October 7, 1987 and he died not long after that time.

47

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1 Now, my submission is first that Mr. Gunanoot gave
2 evidence which can be construed as referring to the
3 territory and the boundaries of the territory and I
4 say it can be construed as consistent with the map
5 that was filed by the plaintiffs which excludes the
6 territory up near Thutade Lake. Now, your lordship
7 can see the -- on the overlay map in front of you on
8 the upper right-hand corner there is a large territory
9 which at one time was included and then it was
10 excluded and now through Mr. Sterritt it is sought to
11 include it again. And Mr. Sterritt was -- stated that
12 it was excluded for some reason which I don't recall,
13 and he now seeks to reintroduce it by reference to Mr.
14 Gunanoot.

15
16 Now, the evidence which Mr. Gunanoot gave on
17 commission with respect to his territories, and I am
18 now referring to his -- the evidence given in March --
19 in February, March and May of 1986, and I refer to
20 Volume 1 at page 24. And I am going to read from line
21 17 to line 9 on page 25. And Mr. Rush -- this is his
22 examination in chief and Mr. Rush is conducting the
23 examination:

24
25 "Q Now, I want to ask you about Nii kyap's
26 territory?
27 A Territory?
28 Q Yes. Where is Nii kyap's territory located?
29 A It's kind of far, ten mile on the other side
30 of Kisgagas.
31 Q The other side of Kisgagas?
32 A Yes.
33 Q What's it called?
34 A Canyon Creek."

35
36 Now, that's been identified for your lordship.

37
38 "Q Can you tell me, is there an Indian name or
39 a Gitksan name for Canyon Creek?"

40
41 And the witness gave that answer and Mr. Rush repeated
42 it and the witness confirmed that.

43
44 "Q Is that on the Babine River? Does that join
45 the Babine River?
46 A Yes, left side going up.
47 Q How far down the river -- or going up the

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1 river is Nii kyap's territory?
2 A Right about the creek which is -- "

3
4 Canyon Creek.

5
6 "Q As you go along the Babine River how far
7 does Nii kyap's territory go?

8 A Gee, I don't know that. Quite a way up.

9 Q Can you tell me how many miles?

10 A Yes, right on top of the -- it's right at
11 the -- some kind of timber line, right on
12 top, goes down to what they call -- "

13
14 Gitksan name,

15
16 " -- the little creek goes down that way.

17 Q What is that little creek called again?"

18
19 And the answer was given.

20
21 "Q Do you know an area that is called the big
22 slide area?

23 A Big slide?

24 Q Yes.

25 A That was right across and down below.

26 Q Does Nii kyap's territory go as far as the
27 big slide?

28 A That's a little ways above that.

29 Q What do they call Nii kyap's territory?

30 What's the name for it? In Gitksan?

31 A That was what they call it,"

32
33 And he repeats the name for Canyon Creek.

34
35 "Q I see."

36
37 And then there was some further discussion, but I
38 think that's about it. And then at page 58 lines 11
39 to 35:

40
41 "Q David, you told us this morning I think
42 about the Stikine people and about a battle
43 with the Stikines?

44 A Yes.

45 Q Now, this was a battle that Nii kyap had
46 with the Stikines?

47 A Yes.

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1 Q Do you want to tell us about that battle?
2 A Oh yes. The reason why they start -- that
3 battle started, the Stikine used to come
4 around to the head of the Skeena, and around
5 to Thutade --
6 Q Thutade.
7 A -- and they still keep on moving in, and
8 when somebody going out from Kispigag, they
9 disappeared. They killed them up there. So
10 ones from Galdo'o, they get killed up there
11 too, up the head of the Thomson River. They
12 still doing that.
13 Finally, the old man get mad about it
14 and was being talking to the rest of the
15 people that good fighters, to get after them
16 and take it over, what they're going to do.
17 That's why they started. They went up there
18 after they get that -- I can't remember all
19 the names -- I know one man from Kispiox.
20 He's the meanest man of the whole bunch.
21 That was Gutgwinuxs.
22 Q Gutgwinuxs?
23 A Yes. Big owl."
24
25 I put that in because there is a reference to Thutade
26 at that point. And page 63 line 17 to 33:
27 Question -- And this is about the fracas with the
28 Stikines.
29
30 "Q No, was there a peace? A peace settlement?
31 No war between --
32 A No.
33 Q Was that the end of the wars between
34 Stikine --
35 A Yes, that's why they're giving all those
36 hides, and things like that. When they got
37 those painted pole like that, and there's
38 the other one, that means there will be --
39 over there on that side, and there's the
40 line right there, and there's Hazelton, and
41 Kispiox on that -- on this side. No more
42 war.
43 Q Where was the place where the skins were
44 left?
45 A I don't know. There's only one place. They
46 didn't even tell me which place it was. One
47 place supposed to be that's from the head of

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1 the Stikine River and the Skeena. Maybe
2 that's what it is. Lake Thutade that goes
3 from Kisgagas. That's the time they didn't
4 come back to Kisgagas after the war."
5

6 And then page 66 line 26 to 39:
7

8 "Q Now, David, I just wanted to ask you about
9 the territory around the big meadow. I
10 think the name of that and -- "
11

12 Then the Indian name. Answer, he repeated the Gitksan
13 name.
14

15 "Q Is that territory today in the house of
16 Nii kyap?
17

18 A That's right.
19

20 Q That belongs to the house, does it?
21

22 A Yes.
23

24 Q We also talked yesterday about the territory
25 that we called -- or you called -- "
26

27 And then there is the Gitksan name, the witness
28 repeats that and says:
29

30 " -- yes, that was.
31

32 Q Now, is that also the territory that belongs
33 to the house of Nii kyap?
34

35 A That's the regular place, yes."
36

37 Now, the reference I should add, my lord, to the word
38 "yesterday" was obviously a reference to a
39 conversation between counsel and the witness prior to
40 the examination because I am reading from the first
41 day of the examination. Now, I have been unable to
42 find any other references to Thutade with the possible
43 exception in Volume 2 at page 127. And that's at line
44 23 to line 60 page 128:
45

46 "Q David, I want to ask you now about the
47 territory of another one of your relatives,
48 Peter Haimadim.
49

50 A Haimadim.
51

52 Q Where was his hunting territory?
53

54 A They call it....I remember that....I
55 remember but I still forget it again.
56 Klagooohla.
57

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1 Q Again?

2 A Klagooohla."

3

4 Then there was an off-the-record discussion and the
5 witness went on:

6

7 " Maybe that's main thing there. Around there
8 Klagooohla, it's hardly nothing around there.
9 It's nothing but purple mostly what they got
10 around there. It's only once in awhile you
11 can see those jack pines up there.

12 MR. RUSH: Say the -- "

13

14 Then the witness intervened:

15

16 " That's why they call it Klagooohla. That's
17 Stikine words. It's given to, what's the
18 time, when that was given to my uncle,
19 Peter."

20

21 And then an off-the-record discussion.

22

23 "Q Where is Klagooohla? Where is it located?

24 A Located?

25 Q Where's it near?

26 A That was quite a way. There's Thutade and
27 there's Klagooohla way up. That's what they
28 call that lake there.

29 Q It's close to Thutade though?

30 A Yes. Close to Klagooohla.

31 Q Now, did Peter Haimadim have any other
32 territory?

33 A No. That's only one."

34

35 Then I want to refer to the interrogatory, my lord,
36 and this was an interrogatory which was verified by
37 Mr. Gunanoot by an affidavit sworn the 18th of
38 February, 1987, almost a year after he gave his
39 evidence on commission. Question 59C:

40

41 " What are the boundaries of your house's
42 territory?

43 A Nii kyap's territory is in the area of Bear
44 Lake. His territory is on the south end of
45 Bear Lake and including territories to the
46 northeast and northwest of Bear Lake Nii
47 kyap has fishing sites at Xsi Gwitselasgwit

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1 which I think is the Indian name for Canyon
2 Creek."
3

4 And that's the complete answer on his interrogatory.

5 THE COURT: Well, where is Bear Lake, Mr. -- it's on the eastern
6 boundary, but how far north and south can you say?

7 MR. GOLDIE: Bear Lake --

8 THE COURT: This is so small.

9 A Right there.

10 THE COURT: Right there. Oh, yes.

11 MR. GOLDIE: There is a territory claimed by Nii kyap which
12 comprises virtually the whole of Bear Lake and
13 extending down into the Driftwood River area.

14 THE COURT: But that's not Canyon Creek.

15 MR. GOLDIE: Canyon Creek is off the Babine.

16 THE COURT: Off to the west, yes. Yes.

17 MR. GOLDIE: And he said he had fishing sites at that point.

18 THE COURT: Yes.

19 MR. GOLDIE: Then he was examined by Mrs. Russell on October 7,
20 1987 and I -- there was no -- there was no examination
21 in chief relating to territory or cross-examination on
22 territory.

23 THE COURT: Any territory or this particular territory?

24 MR. GOLDIE: Any territory.

25 THE COURT: All right.

26 MR. GOLDIE: I think I stand corrected in that.

27 MR. RUSH: Yes.

28 MR. GOLDIE: So in the result we have his evidence on his
29 interrogatory which in my submission in the
30 plaintiffs' terms excludes Thutade Lake. We have his
31 evidence on his commission which places a territory of
32 one of his kinsmen near Thutade Lake, but not on
33 Thutade Lake. Now, in the trial Exhibit 5 the Thutade
34 Lake territory is completely removed. In my
35 submission the plaintiffs had ample opportunity at the
36 time Mr. Gunanoot was cross-examined by or tendered
37 for cross-examination in October of 1987 to put to Mr.
38 Gunanoot what Mr. Sterritt now says he was told by Mr.
39 Gunanoot, and in my submission they had that
40 opportunity to bring out this, the boundaries. They
41 did not. Your lordship is aware that Mr. Sterritt
42 purports to be no more than the conduit of the
43 information given him. And I --

44 THE COURT: Does Mr. Sterritt in his affidavit say when he
45 received this information?

46 MR. GOLDIE: His affidavit does not, but the death of Mr.
47 Gunanoot followed I think less than a month after his

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1 examination, his cross-examination. And while I can't
2 say for certain, I have made a quick -- a quick
3 examination of the documents that we were provided
4 in -- at the beginning of Mr. Sterritt's
5 cross-examination and on the 14th of September and I
6 cannot find any note which follows the date of the
7 examination of October 5 by Mrs. Russell, any note
8 prior to Mr. Gunanoot's death. So in my submission
9 the plaintiffs cannot now lead through a witness the
10 evidence of a person who is dead when they had every
11 opportunity to do so, and that evidence purports, I
12 say contradicts the evidence he gave under oath, both
13 in his examination -- not his examination for
14 discovery, but his interrogatory and by implication
15 his evidence when under commission when he was asked
16 with particular reference to his territory.
17 THE COURT: All right. Thank you. May I just confirm that the
18 dates that are being suggested for Smithers, Mr.
19 Grant, are they the week of November 21 to 28?
20 MR. GRANT: No. The week of November 28.
21 THE COURT: Yes.
22 MR. GRANT: And that week following I think it's December 3 but
23 I understand you were not available, but alternatively
24 it could be the week of November 28.
25 THE COURT: No. The week of November 28 is the last week of the
26 month. The next week is December -- is the 5th.
27 MR. GRANT: The week of November -- the week of November 28, my
28 lord, the week of November -- of December 5, the week
29 of December 12, those or two of those three weeks is
30 what I would propose.
31 THE COURT: Yes. Because I said, I think that meeting in Ottawa
32 is maybe in the week of the 5th of December sometime.
33 So -- but you say two weeks -- two of the three weeks
34 perhaps.
35 MR. GRANT: Yes, and I propose those two weeks in a row, but you
36 understand that the middle week is not --
37 THE COURT: I have to go and find that out. The weeks we are
38 talking about now are November --
39 MR. GRANT: November 28, December 5, December 12.
40 THE COURT: December 12. Yes. All right. I will take the
41 morning adjournment.
42

(PROCEEDINGS ADJOURNED PURSUANT TO MORNING BREAK)

43
44
45
46
47

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

Laara Yardley,
Official Reporter,
United Reporting Service Ltd.

(PROCEEDINGS RECONVENED PURSUANT TO THE MORNING BREAK)

N. Sterritt (for Plaintiffs)
In chief by Mr. Rush
Sworn June 15, 1988

1

2 THE REGISTRAR: Order in court.

3 THE COURT: Well, Mr. Grant, there is a delegation of Russian
4 judges circulating through Ottawa today, and business
5 seems to be at a standstill. I can't find anyone that
6 can give me any information at all, so we'll have to
7 adjourn this discussion further until Monday morning.

8 MR. GRANT: I hope you will advise us if you are going to make a
9 return visit as an exchange programme.

10 THE COURT: Not this time.

11 MR. GOLDIE: My lord, may I add to my submission?

12 THE COURT: Yes.

13 MR. GOLDIE: Miss Sigurdson tells me that she has found in the
14 notes supplied to us on September 14th a record of Mr.
15 Sterritt having seen Mr. Gunanoot on October the 5th,
16 1987. The examination took place on October 7th,
17 1987. There is nothing which indicates that the
18 witness, Mr. Sterritt, saw Mr. Gunanoot after the
19 examination on October 7th. Now, my submission is
20 that the exception to the hearsay rule, which has
21 permitted territorial affidavits in, cannot operate
22 when those affidavits seek to speak to matters either
23 which have been spoken to the witness on commission or
24 which purport to in any way deal with matters which
25 could have been raised when the witness was available
26 to give his evidence under oath himself. If this
27 matter was known on October the 5th, 1987, it was the
28 duty of counsel to lead that evidence on October the
29 7th.

30 Now, your lordship ought to know that I take this
31 position with respect to all of part A of Mr.
32 Sterritt's affidavit because the sole informant of the
33 Tutadi Lake territory is Mr. Gunanoot, the late Mr.
34 Gunanoot. With respect to B and C, he speaks to other
35 territories, but in respect of both he relies upon the
36 evidence of Mr. Gunanoot, and I -- in part he makes
37 reference to other informants, but it is impossible on
38 the basis of the affidavit to sort out whether the
39 affidavit would have been the same if Mr. Gunanoot was
40 not relied upon as an informant, so I say that B and C
41 are also affected to the same extent as I have
42 submitted with respect to A.

43 THE COURT: All right. Well, I don't think I need to hear you
44 now, Mr. Rush, because I have decided to hear the
45 evidence subject to the objection. It may be as a
46 matter of law what you say, Mr. Goldie, is
47 unanswerable, but I haven't heard Mr. Rush on that,

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1 and for that reason I put it in the broadest
2 hypothetical sense. It seems to me that at the end of
3 the day it may be a matter of law or it may be a
4 matter of weight. If it becomes a matter of weight,
5 well then, it won't be possible to rule on that
6 question until -- well, I suppose you could. It would
7 be better to know what other evidence there is. I
8 think I should hear the evidence because this case is
9 obviously going to go ahead and be reviewed at other
10 places, and I think the evidence should be heard even
11 if I conclude later that as a matter of law it's not
12 admissible, and for that reason I don't think I need
13 to hear Mr. Rush now. I will want to hear full
14 argument on this question when we come to the argument
15 stage of the trial.
16 MR. GOLDIE: Your lordship will appreciate that I have addressed
17 no argument on weight?
18 THE COURT: Oh, yes, I understand that.
19 MR. GOLDIE: I have done that because consistently with the
20 position that we will take on weight of all of these
21 territorial affidavits.
22 THE COURT: Yes.
23 MR. GOLDIE: My submission was entirely as a matter of law.
24 THE COURT: I think the evidence should be in the record, and I
25 am going to allow it to be adduced subject to the
26 objection. Mr. Grant. I'm sorry, Mr. Rush.
27 MR. RUSH: Perhaps it's superfluous to say so, my lord, but I
28 think the record should show that I do have a
29 submission to make in respect of that, and I will make
30 that in due course when the time arises, both on the
31 question of law and on the question of weight.
32 THE COURT: Thank you.
33 MR. RUSH:
34 Q Mr. Sterritt, just before I take you to the affidavit
35 which you have identified, I wonder if you would
36 please step off the witness stand and review map 9A.
37 I want you to show on 9A where firstly -- well, the
38 territories of Nii Kyap?
39 A All of the territories?
40 Q Yes, that are shown on map 9A.
41 A Kiskagas is right here in almost the centre of this
42 map. Directly below and south-east of Kiskagas is a
43 territory of Nii Kyap.
44 THE COURT: Sorry, that's south and east?
45 THE WITNESS: Yes.
46 MR. RUSH:
47 Q Where is that territory in relation to the Babine

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1 River?
2 A This line that you see running right into Kisgagas is
3 the -- is the Babine River, follows the Babine River.
4 Q All right.
5 A Now, this territory is spoken to by Joshua McLean from
6 the House of Nii Kyap.
7 Q That's the gentleman that you identified in the
8 photograph as having the name of O Yee?
9 A That's right. And on the north side there is the
10 creek that I was referring to earlier in the
11 photographs. Canyon Creek is the term that Mr. Goldie
12 used. It's Xsi Gwitselasgwit, X-s-i space
13 G-w-i-t-s-e-l-a-s-g-w-i-t. It's on the map as
14 Shenismike Creek. And the affidavit on the north side
15 is an affidavit of Robert Jackson Sr., and in there he
16 refers to the fishing area of the House of Nii Kyap on
17 that creek.
18 THE COURT: I'm sorry, I can't find the one at Kisgagas. Where
19 is it again, please? You said right at Kisgagas.
20 THE WITNESS: Well, pardon me, it's about -- on this map here
21 it's about an inch and a half south-east on the north
22 side of the Babine River.
23 THE COURT: On the north side of the Babine?
24 THE WITNESS: Yes, north side of the Babine River.
25 MR. RUSH:
26 Q Now --
27 A Right here.
28 Q That's the fishing site you're pointing to now?
29 A There is no territory of Nii Kyap shown here. It's
30 referred to by Robert Jackson in his affidavit.
31 MR. RUSH: As a fishing site?
32 THE COURT: As a fishing site?
33 THE WITNESS: As a fishing site of Nii Kyap and the area around
34 it.
35 THE COURT: All right. So the Nii Kyap territories are this one
36 on the south side of the Babine?
37 THE WITNESS: Yes.
38 THE COURT: Where is Canyon Creek?
39 THE WITNESS: That's it right here.
40 THE COURT: That's Canyon Creek. All right. Yes.
41 THE WITNESS: The second territory of Nii Kyap is -- actually
42 the -- Bear Lake is the dividing line. There is a
43 territory on the west side of Bear Lake, territory on
44 the east side of Bear Lake, and there is a territory
45 north-east of Bear Lake at Thutade. There is a
46 further territory of Nii Kyap along the Dutu, D-u-t-i,
47 River, and the river Kla Goohla, which Mr. Goldie

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1 referred to, K-l-a space G-o-o-h-l-a, is under this
2 line.

3 MR. RUSH:

4 Q In what territory marked on 9A?

5 A The territory of Nii Kyap.

6 Q Just point that out to his lordship again.

7 THE COURT: Yes.

8 A Now, without getting into it, that is a description of
9 two territories of Nii Kyap. It encompasses two
10 subdivisions, Muut on one side and Haimadim on the
11 other.

12 Q Are those members of the House of Nii Kyap?

13 A Yes, they are.

14 Q When you're referring to that, do you mean that area
15 that you've just pointed out, as where a portion of
16 the boundary is, is over the Dutu River as shown on
17 that map?

18 A Yes. Muut is spelled M-u-u-t, and Haimadim --
19 maybe -- I don't know if there is a spelling. I would
20 spell it H-a-i-m-a-d-i-m. It will be confused with
21 Peter Himadim, who is spelt H-i-m-a-d-i-m as a
22 surname.

23 Q All right. If you will refer now to the tab 69 in
24 your document book, Volume 2. You have identified the
25 affidavit at that tab as being yours?

26 A Yes.

27 Q And Mr. Sterritt, I want to refer you to page number 2
28 and the boundary of the territory described as Tutadi,
29 T-u-t-a-d-i?

30 A Yes.

31 Q Now, the Tutadi territory that you're speaking of in
32 the affidavit, is that -- is that the area you
33 identified in the upper right-hand corner of map 9A as
34 the Tutadi Territory of Nii Kyap?

35 A Yes.

36 MR. RUSH: Okay. Now, in respect of the description that is
37 provided at paragraph 5, what can you say about the
38 description that's set out there?

39 MR. GOLDIE: Well, is this necessary? The purpose of these
40 affidavits is to remove the necessity of evidence in
41 chief.

42 MR. RUSH: Yes, there is a reason for doing this, my lord, and
43 I'm going to direct the witness to this.

44 THE COURT: All right.

45 MR. RUSH:

46 Q Mr. Sterritt, what can you say about the description
47 that's set out at paragraph 5, page 2 of the

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1 affidavit, under section A, Tutadi Territory?
2 A The description is basically correct but incomplete in
3 one area
4 Q All right.
5 A And it is not a description that -- while it describes
6 a territory, it is not a description that Marvin
7 George could have followed to do a proper mapping, and
8 in that area it would be -- if you'll look on page 3,
9 at the very bottom sentence, the word -- the two words
10 Niven River.
11 Q Yes.
12 A And at Niven River it should be inserted that the
13 boundary continues along the height of land east of
14 the Niven River and along Mount Forrest --
15 THE COURT: Along?
16 THE WITNESS: Mount Forrest, F-o-r-r-e-s-t. -- to cross the
17 Attichika, that's A-t-t-i-c-h-i-k-a, Creek
18 approximately one and a half miles from its outlet
19 into Tutadi Lake, and, as I recall -- and then to
20 continue back to the point of commencement at the
21 north-east end of Tutadi Lake.
22 MR. RUSH:
23 Q Now, Mr. Sterritt, if you'll just go to map 9A. In
24 terms of the area that you've just described, is that
25 map -- does that map correctly show the description of
26 the territory with the amendment that you have just
27 given?
28 A Yes, it does.
29 Q And where is the area that you're referring to?
30 A The Attichika Creek flows in very close to the
31 north-east end of Tutadi Lake, right in this area.
32 Q All right. And the area that you've just given more
33 specific detail about, where is that?
34 A The Niven River is this one, and it flows generally
35 north into Tutadi Lake. And so we're referring from
36 here to the height of land east of Niven River and
37 along Mount Forrest to cross the Attichika River in
38 this area and then back to the point of commencement.
39 Q And you've just been running your hand along the
40 boundary of that territory on the east side?
41 A Yes.
42 Q All right. Thank you. Now, would you please turn to
43 page 5 of the affidavit --
44 A Yes.
45 Q -- to a territory described as Xsi Luu Maa Seeksit and
46 in brackets Malloch Creek? That's X-s-i space L-u-u
47 space M-a-a space S-e-e-k-s-i-t. And Malloch is spelt

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- 1 M-a-l-l-o-c-h Creek. Now, that territory is described
2 at page 6, paragraph 12 of your affidavit --
- 3 A Yes.
- 4 Q -- is that right?
- 5 A Yes.
- 6 Q Now, what can you say about the description that is
7 given there?
- 8 A The description is generally correct, except that I
9 did this description in Vancouver without -- well, all
10 three of these descriptions, actually, in Vancouver
11 without benefit of notes or material, and it touches
12 on all of the right places, but I've -- I've given
13 some directions like north or east or west, and down
14 the river instead of up -- or down a creek instead of
15 up a creek.
- 16 Q Yes.
- 17 A And so it contains some errors there. This -- when I
18 did it in Vancouver, I did not have the benefit of
19 Marvin George doing the -- accurately following it to
20 turn it back to me, and it became -- it ended up in
21 affidavit form prior to me going on the stand, and so
22 there are some corrections on this that should be
23 made.
- 24 Q All right. Are you able to direct us to the
25 corrections on the affidavit, or is it easier for you
26 to refer to the map 9A?
- 27 A Well, map 9A is the correct description, and there is
28 one inclusion in the affidavit where the boundary
29 actually runs along the east side, at least the --
30 along the east side of Ax Gyekw, that's A-x G-y-e-k-w,
31 whereas in the affidavit it says it runs along the
32 height of land between Ax Gyekw, that's A-x space
33 G-y-e-k-w, and Xsi Luu Maa Seeksit, which is X-s-i
34 space L-u-u space --
- 35 THE COURT: I'm sorry, what do you say the change should be? It
36 says here the boundary runs south along the height of
37 land.
- 38 THE WITNESS: It should say it runs south along the -- the east
39 bank of Chettleburg Creek is what's on the map, Ax
40 Gyekw, A-x space G-y-e-k-w, and it's written
41 C-h-e-t-t-l-e-b-u-r-g, Chettleburg Creek on the map.
- 42 MR. RUSH:
- 43 Q It's in the fourth line down. It should be here the
44 boundary runs south along the east bank and strike out
45 height of land between. Is that right, Mr. Sterritt?
- 46 A Yes. And you should strike out Xsi Luu Maa Seeksit
47 and Malloch Creek, which is in brackets M-a-l-l-o-c-h.

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1 Q Yes.

2 A Now, continuing on --

3 THE COURT: I'm sorry, do you leave Maxhla saa --

4 THE WITNESS: Giiblax, yes.

5 THE COURT: Do you leave that in?

6 THE WITNESS: Yes.

7 THE COURT: So it's along the east bank of Chettleburg Creek to
8 that creek?

9 THE WITNESS: Yes.

10 THE COURT: Or that peak?

11 THE WITNESS: That peak, yes.

12 THE COURT: All right. Thank you.

13 THE WITNESS: That's spelt M-a-x-h-l-a space S-a-a space
14 G-i-i-b-l-a-x.

15 Now, here we come on to page 7, and it's correct
16 until we get to, and I'll read it, "Here the boundary
17 runs west down the centre line of Tzanhy Creek."
18 That's spelt T-z-a -- I think it should be h-n-y. And
19 it runs up -- it should run up the centre line.

20 MR. RUSH:

21 Q So the change in line 2 in the third word is up
22 instead of down?

23 A Yes, but I want to make sure about west. That's
24 right, west up. And then it should be -- Kluatantan
25 Lake to its outflow -- it should be Tantan Creek, not
26 Kluatantan Creek. That's K-l-u-a-t-a-n-t-a-n.

27 MR. GOLDIE: So it would be here it runs along the south shore
28 of Kluatantan Creek?

29 THE WITNESS: To its outflow, Tantan Creek. I can't -- that's
30 right. Kluatantan Lake is right. Tantan -- Tantan
31 Creek instead of Kluatantan.

32 THE COURT: To its outflow, Tantan Creek?

33 THE WITNESS: That's right. Then it goes along the centre line
34 of Tantan Creek to the Kluatantan River, and then it
35 comes on down. The rest is -- is fine. And -- well,
36 for your information, Kluatantan River is Kla Goohla,
37 which Mr. Goldie referred to. That's K-l-a space
38 G-o-o-h-l-a.

39 MR. RUSH: All right.

40 THE COURT: G-o-o-h-l-a?

41 THE WITNESS: Yes.

42 MR. RUSH:

43 Q Well, Mr. Sterritt, just on that point, Mr. Goldie was
44 reading from a portion of Mr. David Gunanoot's
45 commission evidence where Mr. Gunanoot referred to an
46 area called Kla Goohla, which is spelled K-l-a
47 G-o-o-h-l-a. What does that name -- does that name

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- 1 refer to the territory that you've just been
2 describing?
3 A Yes, that's the Kluatantan River.
4 Q Now, the description of that territory on map 9A, is
5 the description that's shown there consistent with the
6 changes which you have identified in paragraph 12 of
7 your affidavit?
8 A Yes, it is.
9 Q Now, at paragraph C, page 8, that should be at
10 paragraph 16, subsection C of page 8, there is a
11 territory described as Xsi Naa Dax Deehl Dak, which is
12 X-s-i, new word N-a-a, new word D-a-x, new word
13 D-e-e-h-l, new word D-a-k, and that is Two Lake Creek
14 territory. Now, is the description that is contained
15 on page 9 at paragraph 18 the description for this
16 territory?
17 A Yes, it is.
18 Q Where is this territory located on map 9A, please?
19 A It's -- this is the Tutadi Lake territory here of Nii
20 Kyap, and the territory immediately below it is the
21 territory of Miluulak at Two Lake Creek.
22 THE COURT: Oh, this is not a territory of Nii Kyap then?
23 THE WITNESS: No, it's not.
24 THE COURT: It is a territory of Miluulak?
25 THE WITNESS: Yes.
26 MR. RUSH:
27 Q Now, reference was made to a Peter Himadim, and you
28 distinguished between the name of Peter Himadim and
29 Haimadim. Is there a chief by the name of Haimadim?
30 A Yes, there is.
31 Q And in what house is that chief?
32 A The House of Nii Kyap.
33 Q You also made mention of a subdivision in the
34 northern -- I guess that's the north-western territory
35 identified in map 9A of Nii Kyap between Haimadim and
36 Muut. Is the name Muut, M-u-u-t, is that a chief's
37 name?
38 A Yes, it is.
39 Q In which house is that?
40 A In the House of Nii Kyap.
41 MR. RUSH: That affidavit, my lord, was marked as 613 for
42 identification. I'd like that marked as an exhibit in
43 these proceedings.
44 THE COURT: Subject to the objection as earlier mentioned.
45 THE REGISTRAR: It's in the affidavit, territorial affidavit
46 book, my lord --
47 MR. RUSH: Yes.

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1 THE REGISTRAR: -- at tab 22.

2 MR. RUSH: It's also in Mr. Sterritt's book of documents at
3 Volume 2.

4 THE REGISTRAR: 613.

5 THE COURT: Yes.

6 (EXHIBIT 613 - Affidavit of Neil Sterritt dated June
7 15, 1988)

8 MR. RUSH:

9 Q Mr. Sterritt, I want to ask you if you are aware of
10 claims made by other Indian people to territories of
11 the Gitksan and Wet'suwet'en?

12 A Yes, I am.

13 Q And are you aware of such claims having been made by
14 Nishga people?

15 A Yes.

16 Q And can you advise the court as to what you understand
17 their claims to be?

18 A I understand it to be in four parts. A claim to land
19 in the Bowser Lake area.

20 Q It might be useful, Mr. Sterritt, if you went off the
21 stand and just pointed to the place where that claim
22 is.

23 A Yes, in the Bowser Lake area, which is in this area.

24 Q You're pointing to the upper left-hand corner of map
25 9A or the north-western portion of the territory of
26 the Gitksan?

27 A Yes.

28 Q Yes.

29 A In the area of Blackwater-Groundhog, which is in
30 the -- more or less in the centre of the map near the
31 top.

32 Q And can you just identify what territory that is as
33 shown on map 9A?

34 A On this map it is in the area of the territory of Wii
35 Minosik.

36 Q Yes.

37 A That's W-i-i space M-i-n-o-s-i-k. In the area of the
38 upper Kiteen River, which is on the mid --

39 THE COURT: Upper? I'm sorry.

40 THE WITNESS: Upper Kiteen River, K-i-t-e-e-n. And the Kiteen
41 River is mid map on the west or left-hand side of this
42 map. It runs in through this way in the area of the
43 territories of Wii Hlengwax, that's W-i-i space
44 H-l-e-n-g-w-a-x, and Lelt, that's L-e-l-t. And at
45 Sand Lake, which is on the most westerly extreme of
46 the map 9A in mid map at the territory of Tenim gyet,
47 that's T-e-n-i-m space G-y-e-t.

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1 MR. RUSH:

2 Q All right. Thank you. Now, when did you become aware
3 of those claims?

4 A In October of 1986.

5 Q And was there an event that -- at which you became
6 aware of these claims?

7 A Yes, there was.

8 Q What was that?

9 A The Nishga phoned me and asked me and some hereditary
10 chiefs to come to the Nass River at very short notice.
11 If I recall, it was on the morning of the day they
12 wanted us there, but perhaps I'm mistaken. It might
13 have been the day before. And they wanted to talk to
14 us about these matters, and they identified that there
15 were four areas that they wanted to talk to us about.
16 I asked Stanley Williams, Albert Tait, Robert Stevens,
17 Art Wilson, and Robert Stevens to -- I asked others,
18 but it was very short notice, as I say, and they were
19 available, and they -- they came with me. We went
20 by -- oh, and Alvin Weget. We had several vehicles,
21 and we drove over to -- in response to their request.

22 Q Where was this meeting?

23 A At New Aiyansh. That's spelt A-i-y-a-n-s-h.

24 Q Was it at that meeting that they told you about these
25 claims you referred to?

26 A Yes. It was a large meeting of the Nishga, and during
27 that meeting they made a presentation to us.

28 Q All right. The people who accompanied you to that
29 meeting, are they hereditary chiefs?

30 A Yes.

31 Q That meeting you say occurred in October of 1986. Had
32 there previously been meetings between Gitksan
33 hereditary chiefs and members of the Nishga people or
34 their Tribal Council?

35 A Yes, there had.

36 Q And can you say when it was that meetings had occurred
37 prior to that time?

38 A Yes, there had been three or four meetings. The first
39 one was in -- in 1983, in I think about January of
40 1983.

41 Q Do you remember the locale of that meeting?

42 A Yes, that was a meeting in Terrace. And Gitksan and
43 Wet'suwet'en -- I think a Wet'suwet'en representative
44 attended as well as members of the Nishga nation.

45 Q Can you recall the number of Gitksan hereditary chiefs
46 and Wet'suwet'en hereditary chiefs that attended?

47 A I think it was in the neighbourhood of 12.

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- 1 Q All right. And can you advise as to whether or not
2 the proceedings were conducted in Gitksan and
3 Wet'suwet'en?
4 A They were -- they were partly in Gitksan and English.
5 Primarily in Gitksan because the Nishga and the
6 Gitksan speak the same language. They were not
7 conducted in Wet'suwet'en. And that was a preliminary
8 meeting. It was to map out subsequent meetings,
9 format for subsequent meetings.
10 Q Did subsequent meetings occur?
11 A Yes.
12 Q And what's the next date of the meetings?
13 A I might be --
14 MR. GOLDIE: Excuse me. I am assuming Mr. Sterritt was present
15 at all of these meetings.
16 THE WITNESS: Yes, I was.
17 MR. GOLDIE: All right.
18 THE WITNESS: It was either that spring or a year later. No, it
19 was that spring. It was in May. And what we had
20 agreed is that a meeting would be held within our
21 territory where we would do a presentation. When I
22 say we, the hereditary chiefs would do a presentation
23 as to their ownership of their territories and the
24 history of that -- their adaawk basically about their
25 territories, and the Nishga would attend and listen,
26 and we would then -- they would go away and think
27 about that, and then they would host a session, a
28 meeting, a feast, whatever format they chose, at which
29 they would do a presentation, and the Gitksan would --
30 would sit and listen -- not that there wouldn't be
31 some protocol and responses, but basically it was
32 going to be in two parts -- followed by an effort to
33 determine the nature of the -- if there was an
34 explanation for the differences, what that -- those
35 differences would be through subsequent meetings.
36 MR. RUSH:
37 Q And there was a meeting hosted by the Gitksan
38 hereditary chiefs?
39 A Yes, there was.
40 Q Is that the meeting that occurred in May of 1983?
41 A Well, I should say spring because I'm not certain what
42 month exactly but -- and I think it was spring of
43 1983, yes.
44 Q When -- where did that occur?
45 A In the village of Kitwanga.
46 Q And can you tell the court how many Gitksan hereditary
47 chiefs were present at that?

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- 1 A I think in the neighbourhood of 150, possibly more.
2 Q All right. You talked earlier about format. What
3 format did this gathering take?
4 A It was -- it was in the form of a hosting, a welcoming
5 feast. The Nishga were welcomed, and seated, and fed,
6 and then the business was conducted.
7 Q All right. And Nishga hereditary chiefs attended at
8 that?
9 A Yes, they did.
10 Q And did the Gitksan hereditary chiefs outline their
11 adaawk and histories at that feast?
12 A And their territories, yes.
13 Q And can you tell us about how long this feast lasted?
14 A It started -- the seating started around 5:30 or six
15 o'clock in the evening and extended through to one or
16 two o'clock in the morning.
17 Q Okay.
18 A Oh, I think -- no, it went longer than that. It was
19 two or three o'clock, I think.
20 Q All right. Now, following that gathering was there
21 again another gathering or feast between the Gitksan
22 and Nishga hereditary chiefs?
23 A Yes, there was.
24 Q Is that the one that occurred in 1986 or were there
25 other gatherings between those two times?
26 A As I recall, it was in October of 1984, at least in
27 the fall of 1984. It was about a year and a half
28 later.
29 Q Yes. Where did that occur?
30 A At Canyon City.
31 Q Yes.
32 A Which is on the Nass River. The -- in this situation
33 the Nishga welcomed the Gitksan hereditary chiefs,
34 they seated them, they fed them, and then they
35 conducted their business. And there was in the
36 neighbourhood of 150 Gitksan persons that went, most
37 of them hereditary chiefs. When I say most, over --
38 in the neighbourhood of 100, but there was others who
39 attended as well.
40 Q How many Nishga people were present during that
41 gathering?
42 A I would guess in the neighbourhood of 300.
43 Q Was this an occasion on which Gitksan hereditary
44 chiefs expressed their histories and adaawk and
45 discussed their territories?
46 A No, they didn't. It was to be the Nishga presentation
47 of their adaawk, their history, and their description

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- 1 of their territories, and it was where we were going
2 to be listening. But hereditary chiefs did through
3 protocol make speeches at the end of the presenta-
4 tions, as did Nishga at Kitwanga made -- made their
5 appropriate comments, and the extent of the statements
6 at the end by the visiting persons, whether it was
7 Gitksan or Nishga, depending where we were, were
8 general statements about territory, and we would deal
9 with that further later.
- 10 Q Okay. Was there a further meeting following the
11 Canyon City meeting in the fall of 1984 between groups
12 of hereditary chiefs from among the Gitksan and among
13 the Nishga?
- 14 A With all of them present?
- 15 Q Or numbers of them present.
- 16 A No. With Nishga and Gitksan present or separately?
- 17 Q When they were both together.
- 18 A Okay. The fall of 1984 is when the meeting was held
19 in Canyon City.
- 20 Q Yes.
- 21 A There were subsequent meetings. Another one was held
22 in Terrace, as I recall. It was -- there was -- the
23 Nishga had requested a meeting of -- of only those
24 hereditary chiefs who were affected by the areas that
25 they were claiming, and so the number that -- of
26 Gitksan -- and we appreciated that we had gone through
27 two large formal meetings, and we wanted to get down
28 to further discussions, and in the subsequent meeting
29 there was in the neighbourhood of 20 -- as many as 20
30 Gitksan hereditary chiefs present and a similar
31 number -- I would say more like 30 Wet'suwet'en -- or
32 30 Nishga.
- 33 Q All right. That was in Terrace again?
- 34 A Yes.
- 35 Q Sometime after the fall of 1984?
- 36 A Yes.
- 37 Q Are you able to place a more specific time on that?
- 38 A No, I can't.
- 39 Q All right. And at that meeting did the Gitksan
40 hereditary chiefs who attended there, did they
41 describe their territories and give their histories
42 and adaawk?
- 43 A Yes, they did. They repeated what had been said at
44 Kitwanga in 1983, and went into more detail, as did
45 the Nishga.
- 46 Q Who among the Gitksan hereditary chiefs were present?
- 47 A The -- Walter Blackwater, David Blackwater, Robert

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- 1 Stevens, Jessie Sterritt, Walter Wilson, William
2 Blackwater, Albert Tait, Stanley Williams, Mary
3 McKenzie, Mary Johnson, Stanley Wilson, Walter Harris,
4 Art Wilson, Ralph Michell, Pete Muldoe, Art Matthews
5 Sr., Solomon Marsden. I think Art Matthews Jr. was
6 there too, and David Gunanoot I think was probably
7 there. That's what I recall at this time.
- 8 Q Thank you. After the Terrace meeting, Mr. Sterritt,
9 was there any further gathering of the Gitksan and the
10 Nishga hereditary chiefs I guess prior to that meeting
11 that you went to in 1986 at New Aiyansh?
- 12 A There was another meeting --
- 13 THE COURT: I'm sorry, I don't think we have the 1986 meeting at
14 New Aiyansh. You suggested it, and he said October
15 1984.
- 16 MR. RUSH: No, my lord. Regrettably, in terms of my
17 questioning, we started with the last meeting, and
18 from the last meeting Mr. Sterritt then went back to
19 the first and has been working forward.
- 20 MR. GOLDIE: And it was at New Aiyansh.
- 21 MR. RUSH:
- 22 Q And it was at New Aiyansh, and I think it was in
23 October of '86.
- 24 A Yes, when the Nishga called us at short notice, with
25 about half a day's notice.
- 26 THE COURT: Just a moment. Yes. All right. Yes. You're
27 right. You started in October '86, and then you asked
28 him if there had been preliminary meetings, and he
29 started in the spring of '83.
- 30 MR. RUSH: That's correct. And this question is directed at --
- 31 THE COURT: Do we have a date for the second meeting in Terrace?
32 The one before that was October '84 at Canyon City.
- 33 MR. RUSH:
- 34 Q There was a meeting in October of '84, Mr. Sterritt,
35 and then you said after that there was a meeting in
36 Terrace?
- 37 A I -- I think it was in 1985, but I think there was --
38 there was actually two meetings in 1985. So there is
39 another meeting in -- either before or after the one I
40 just described.
- 41 Q That is the one in October '84 or the one in Terrace?
- 42 A The one in Terrace.
- 43 Q All right. But the one in Terrace you have described
44 occurred in 1985; is that your recollection?
- 45 A Well, the Nishga hosted a meeting late in 1984 at
46 Canyon City.
- 47 Q Yes.

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- 1 A So in 1985, my best guess, there was a meeting of
2 roughly 50 Gitksan and Nishga.
3 Q All right.
4 A There was also another meeting, I think, in 1985 of
5 the executive of the Nishga Tribal Council and the
6 executive of the Gitksan-Wet'suwet'en Tribal Council.
7 Q All right. The meeting that you have described with
8 the hereditary chiefs that you enumerated, that
9 meeting in Terrace occurred in 1985?
10 A Yes.
11 Q All right.
12 A To the best of my recollection it was 1985.
13 Q And then there was a meeting between the tribal
14 councils?
15 A Well, the executive met. Some hereditary chiefs, they
16 decided they wanted to discuss it at that level, and I
17 brought along some hereditary chiefs with me, two or
18 three, as well as the executive of the Tribal Council,
19 and they had, well, kind of a similar composition to
20 their group, so there was in the neighbourhood of
21 12 -- 12 to 15 people altogether in that session, and
22 it was on the same topic.
23 Q All right. All right. And that meeting occurred in
24 '85 as well?
25 A Okay. Now, I can zero in on that one. That one might
26 have been in the spring or sometime earlier in 1986
27 before this other meeting.
28 Q That's the last meeting you talked about as having
29 occurred at New Aiyansh --
30 A Yes.
31 Q -- in October of 1986?
32 A Yes.
33 Q All right. Now, the areas that you identified as
34 being the areas that the Nishga people claimed are the
35 Bowser Lake area, the upper Kiteen area, an area at
36 Sand Lake, and an area at Blackwater-Groundhog, if I
37 understand your evidence?
38 A Yes.
39 Q Are there Gitksan territorial affidavits in respect of
40 each one of these areas?
41 A Yes, there are.
42 Q Now, I want to turn your attention, Mr. Sterritt, to
43 another but related question, and that is if you are
44 aware of a claim by the Carrier-Sekannie people with
45 regard to any Gitksan or Wet'suwet'en territory that
46 appears on map 9A?
47 A Yes, I am. Sekannie is spelt S-e-k-a-n-n-i-e.

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1 Q All right.
2 A Could you repeat your question again?
3 Q Yes. If you are aware of any claim by the Carrier and
4 Sekannie people with regard to Gitksan or Wet'suwet'en
5 territories that appear on map 9A?
6 A Yes.
7 Q All right. And what is your knowledge about the claim
8 that the Carrier-Sekannie put forward?
9 A It's based on an interpretation of the map that was
10 submitted by the Carrier-Sekannie Tribal Council to
11 the office of Native Claims.
12 Q And when was that?
13 A Early into the 1980's. About 1982, 1983. I'm not
14 sure of the exact date.
15 Q All right. Now, can you -- are you able to identify
16 by reference to map 9A where it is that the claim of
17 the Carrier-Sekannie people is located?
18 A Yes. Based on that map, it would be a line -- I'm
19 approximating the line -- roughly coming like so
20 almost to Kiskagwas and all the way up and out into
21 this area near Thutade Lake.
22 MR. RUSH: The area that you are pointing to there, can you
23 identify that area?
24 THE COURT: Tell me again, please, where it starts, starting in
25 the south-west whereabouts?
26 THE WITNESS: Oh, in the neighbourhood of, just generally
27 speaking, on the coast range somewhere west of Morice
28 Lake, and I'm being quite general because I don't have
29 a map.
30 THE COURT: All right. And running --
31 THE WITNESS: Generally.
32 THE COURT: -- north-east?
33 THE WITNESS: North-east and north very close to Kiskagwas and on
34 over to near Thutade Lake.
35 THE COURT: To the west end of Thutade Lake?
36 THE WITNESS: Yes.
37 THE COURT: Mr. Rush, would it be convenient to adjourn now?
38 MR. RUSH: All right.
39 THE COURT: I've got a very broad general definition. We can
40 get into more detail after lunch I'm sure.
41 MR. RUSH: Thank you.
42 THE REGISTRAR: Order in court. Court will adjourn until 2:00.
43
44 (PROCEEDINGS ADJOURNED AT 12:30)
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In chief by Mr. Rush
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I hereby certify the foregoing to be
a true and accurate transcript of the
proceedings herein to the best of my
skill and ability.

Leanna Smith
Official Reporter
United Reporting Service Ltd.

(PROCEEDINGS RESUMED PURSUANT TO LUNCHEON ADJOURNMENT)

N. Sterritt (for Plaintiffs)
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1 THE REGISTRAR: Delgamuukw versus Her Majesty the Queen at bar.

2 THE COURT: Mr. Grant.

3 MR. GRANT: Yes, my lord, I was going to deal with this right
4 after the morning break but Mr. Goldie resumed his
5 argument, so I would like to take this opportunity now
6 to file the Irene Daum, D-a-u-m, affidavit. I believe
7 that was reserved as Exhibit 678, if I recall rightly.

8 THE COURT: All right.

9 MR. GRANT: And copies of that have been provided by counsel.

10 THE COURT: This is a territorial affidavit?

11 MR. GRANT: It's the last of the Wet'suwet'en territorial
12 affidavits and it should have been included in the
13 binder.

14 THE REGISTRAR: It's tab 23 of the Wet'suwet'en affidavits.

15 THE COURT: D-o-h-m?

16 MR. GRANT: D-a-u-m. It will be Exhibit 678?

17

18 (EXHIBIT 678: Affidavit of Irene Daum)

19

20 MR. GRANT: And I would just ask leave of the court for Madam
21 Registrar to release to us this weekend for copying
22 the following exhibits which were all basically maps
23 which were tendered by Mr. Rush for the interrogatory
24 maps. Exhibit 446(9), Exhibit 661(G), Exhibit 661(H),
25 Exhibit 661(I), Exhibit 682, 683, 684, 686, 687, 688,
26 689, 690, 691 and 692.

27 THE COURT: Any objection?

28 MR. GOLDIE: No, my lord.

29 THE COURT: Yes, all right.

30 MR. GRANT: And I will provide this list.

31 THE COURT: For non-destructive copying.

32 MR. GRANT: Hopefully non-destructive copying, my lord, and then
33 I would return them Monday, I believe Monday
34 afternoon.

35 THE COURT: Yes. Thank you. Mr. Rush?

36 MR. RUSH: Thank you.

37

38 EXAMINATION IN CHIEF BY MR. RUSH (Cont'd):

39 Q Before the luncheon break, Mr. Sterritt, you described
40 what your understanding was of the Carrier-Sekanni
41 claim to Gitksan and Wet'suwet'en hereditary chief
42 territories based upon a map that had been submitted
43 to the office of Native Claims. Is the claim which
44 you described of the Carrier-Sekanni these before
45 lunch the ones that you understand them to be
46 advancing today?

47 A No. It's altered since then.

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- 1 Q What do you understand their claim to be today?
2 A It as I understand it is a small area along the
3 southern boundary, and I can't say the extent of that
4 small area, but an area -- excuse me if I go to the
5 map 9A. In the area of Whitesail Reach, Whitesail
6 Lake.
7 Q Is that in the southeasterly portion of the
8 Wet'suwet'en territories?
9 A It's in the -- directly in the south area.
10 Q All right. Is there any other claim that you
11 understand the Carrier-Sekanni to be advancing today
12 with respect to the Gitksan and Wet'suwet'en chiefs'
13 territories?
14 A Yes. On the map referring to map 9A it would be
15 roughly a line from east of Mount Horetsky on the
16 height of land east of Mount Horetsky which is right
17 in this area on the map. East of there generally
18 running north and around and down.
19 THE COURT: I am sorry, how far? How far north?
20 A Oh, to approximately west of Bear Lake on the
21 mountains west of Bear Lake and then some intervening
22 lands and then an area running generally from Birdflat
23 Creek which is north of Bear Lake and on up to the
24 west end of Thutade Lake.
25 MR. RUSH:
26 Q Is that the extent of what you understand their claim
27 to be today?
28 A Yes.
29 THE COURT: I am sorry, the second one east of Mount Horetsky
30 generally north to Bear Lake, including Bear Lake or
31 running south of Bear Lake?
32 A I could do this another way. From east of Mount
33 Horetsky to the west end of Mount -- of Thutade Lake,
34 a line, with the exception of an area, the area of Nii
35 kyap inside there.
36 THE COURT: Well, which Nii kyap?
37 A Well, both of them actually.
38 THE COURT: Yes, all right. I am sorry, there is a Nii kyap
39 that's --
40 A Oh, there is two.
41 THE COURT: There is one at the far north.
42 A That would be included in the line going north to the
43 west end of Thutade.
44 THE COURT: All right. Just a moment. East of Horetsky to west
45 end of Thutade except to Nii kyap territories in -- I
46 am sorry, what did you call those two Nii kyap
47 territories this morning? Wasn't there a name for

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- 1 them? I wanted to distinguish them from the big
2 disputed Nii kyap territory in the northeast.
- 3 A I described them as being the two territories right
4 around Bear Lake.
- 5 THE COURT: Yes. All right. Do I take it then that the
6 Carrier-Sekanni do not claim the area around Bear Lake
7 or do they?
- 8 A It's a little complicated. As a result of discussions
9 with the Carrier-Sekanni at one meeting, they said
10 that if the members of the house of Nii kyap, namely
11 the Jack family from Burns Lake, wish to have their
12 territory in the claim and if we went to see them and
13 they wanted it, then it should be in. And that is the
14 area around Burns -- Bear Lake.
- 15 THE COURT: Yes. All right.
- 16 MR. RUSH:
- 17 Q And what house, if any, are those people that you're
18 talking about members of?
- 19 A They are members of the house of Nii kyap.
- 20 Q Now, were there meetings between hereditary chiefs of
21 the Gitksan or Wet'suwet'en chiefs or representatives
22 of the Carrier-Sekanni?
- 23 A Yes, there were.
- 24 Q And over what period of time did those meetings occur?
- 25 A From 1983 to April of 1987.
- 26 Q And what was the first of those meetings?
- 27 A I accompanied some hereditary chiefs to Takla Lake in
28 the summer of 1983 and meetings were held between
29 those hereditary chiefs and representatives of the
30 Carrier-Sekanni.
- 31 Q Which Gitksan and Wet'suwet'en hereditary chiefs were
32 at that meeting?
- 33 A The Wet'suwet'en person who attended was Alfred
34 Joseph, Gisday wa. That's spelled G-i-s-d-a-y space
35 w-a. The Gitksan hereditary chiefs were David
36 Gunanoot, David Green, James Morrison, and Glen
37 Williams and myself.
- 38 Q All right. And how many members of the
39 Carrier-Sekanni or representatives of the
40 Carrier-Sekanni were there?
- 41 A Between six and ten as I recall.
- 42 Q All right. And were there meetings after that?
- 43 A Yes, there were.
- 44 Q And what was the next meeting?
- 45 A The next meeting on -- was in Bear Lake in the summer
46 of 1985.
- 47 Q Yes. And who among the Gitksan or Wet'suwet'en

N. Sterritt (for Plaintiffs)

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- 1 attended that?
- 2 A Once again, Alfred Joseph attended, my father, Neil
- 3 Sterritt, David Gunanoot, David Green, Jonah Green,
- 4 Ralph Michell, and that's all I recall.
- 5 Q And were these people that you've mentioned Gitksan or
- 6 Wet'suwet'en hereditary chiefs?
- 7 A Yes, they were. They are.
- 8 Q And what occurred at these meetings? I am not here
- 9 asking you to give an account of the discussions, but
- 10 if you can set out in general terms what occurred.
- 11 A There was a -- there was a Feast at Bear Lake. There
- 12 were meetings and we did helicopter reconnaissance
- 13 with members of both the Carrier-Sekanni and the
- 14 Gitksan-Wet'suwet'en to various parts of the area that
- 15 I just described a couple of minutes ago on the map.
- 16 Q All right. And following that was there a meeting at
- 17 Moose Valley?
- 18 A Yes, there was.
- 19 Q And was that in September of '86?
- 20 A Yes.
- 21 Q Okay. And who attended that from among the Gitksan or
- 22 Wet'suwet'en?
- 23 A The persons who attended were Solomon Jack, Robert
- 24 Jackson Sr., James Morrison, Alfred Joseph, my brother
- 25 Richard Sterritt, and myself and I mentioned the other
- 26 day that David Gunanoot had been there but I was -- I
- 27 was mistaken. It was Bear Lake that David Gunanoot
- 28 went to, not Moose Valley.
- 29 Q All right. And were there Carrier-Sekanni
- 30 representatives there?
- 31 A Yes, there were.
- 32 Q About how many?
- 33 A About 25.
- 34 Q What was the format of this gathering?
- 35 A This was more a meeting. It was a -- there was
- 36 evening sessions between the hereditary chiefs and
- 37 there were sessions where the leader of the
- 38 Carrier-Sekanni, Edward John, and myself sat down and
- 39 conducted interviews with members of the
- 40 Carrier-Sekanni in terms of who they were and who
- 41 their parents were and so on.
- 42 Q All right. Okay. And subsequent to that meeting was
- 43 there a meeting which took the form of an all clans
- 44 Feast in Burns Lake on April 4 through 6, 1987?
- 45 A Yes, there was.
- 46 Q And who attended that gathering from among the
- 47 Gitksan?

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- 1 A There was a large delegation of Wet'suwet'en and an
2 equally large delegation of the Gitksan and the
3 members of the Carrier-Sekanni Nation were represented
4 by -- well, I should say that the total attendance at
5 the meeting was probably in the neighborhood of 250 to
6 300 people. It was a very large delegation.
- 7 Q All right. And what occurred at the meeting?
- 8 A It -- the Carrier-Sekanni hereditary chiefs welcomed
9 in a traditional manner the Gitksan and Wet'suwet'en
10 hereditary chiefs and seated them and went through the
11 protocol of the welcoming of hereditary chiefs from
12 other Nations and then the hered -- there was some
13 opening statements by Edward John and the hereditary
14 chiefs of the Carrier-Sekanni once again made
15 presentations in terms of the areas we were discussing
16 and this meeting went on for two days. And the
17 Gitksan-Wet'suwet'en hereditary chiefs also made
18 presentations before the meeting was over.
- 19 Q And what form did those presentations take --
- 20 A They were --
- 21 Q -- of the Gitksan and Wet'suwet'en hereditary chiefs?
- 22 A They were oral presentations in our respective
23 languages.
- 24 Q And what subjects were they to deal with?
- 25 A They dealt with the areas that the Carrier-Sekanni
26 were claiming and Wet'suwet'en and Gitksan territory.
- 27 Q Were there histories or adaawk spoken --
- 28 A Yes, there were.
- 29 Q -- by the Gitksan and Wet'suwet'en hereditary chiefs?
- 30 A Yes.
- 31 Q And were those spoken in relation to the particular
32 areas that you've mentioned as areas claimed today by
33 the Gitksan or -- or by the Carrier and Sekanni?
- 34 A Yes.
- 35 Q Now, were there any meetings following that, Mr.
36 Sterritt?
- 37 A No, not that I -- not that I recall.
- 38 Q Okay. As a result of the meeting that you have
39 described, what can you say was the response of the
40 hereditary chiefs of the Gitksan and Wet'suwet'en in
41 respect of the Carrier-Sekanni claims which you've
42 indicated -- which you have indicated on map 9A in
43 relation to the Gitksan and Wet'suwet'en territories?
- 44 A The Gitksan and Wet'suwet'en hereditary chiefs
45 maintain that they have ownership and jurisdiction to
46 the territories described on map 9A.
- 47 Q Now, are you aware of a claim that has been advanced

N. Sterritt (for Plaintiffs)
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- 1 in respect -- by the Tsimshian people at Kitselas and
2 Kitsumkalum in respect of the Gitksan and Wet'suwet'en
3 hereditary chiefs territories?
4 A Yes, I have.
5 THE COURT: Could I have the spelling for Tsimshian, please?
6 MR. RUSH: It's T-s-i-m.
7 THE COURT: T-s-i-m.
8 MR. RUSH: S-h-i-a-n.
9 THE COURT: I-a-n. And the other name was?
10 MR. RUSH: Kitselas, K-i-t-s-e-l-a-s, and Kitsumkalum,
11 K-i-t-s-u-m-k-a-l-u-m.
12 THE COURT: Thank you.
13 MR. RUSH:
14 Q Now, what do you understand the claim of the Tsimshian
15 people at these two villages to be in respect of the
16 Gitksan and Wet'suwet'en territories?
17 A I can show you by referring to map 9A.
18 Q All right.
19 A The Copper River runs east -- pardon me, west, under
20 this line, and it's a point directly west of Smithers
21 under this line, and then down and then out to Terrace
22 on the left-hand side of this map right over here.
23 THE COURT: Can you show me that again, please?
24 A Yes. Starting where this line is, this black line
25 runs out and then down and then out to Terrace.
26 That's the Copper River. So in reference to where the
27 Copper River turns and goes south there is a roughly a
28 line that runs across in this direction slightly
29 northwest towards the territory of Tenim Gyet,
30 T-e-n-i-m space G-y-e-t, and then comes up and
31 includes most of the territory of Tenim Gyet. And
32 that is all of the area south of that line would be
33 the area that is claimed by the Kitselas and
34 Kitsumkalum.
35 THE COURT: Where is that again?
36 A You can see this general line here.
37 THE COURT: Yes.
38 A The Copper River is here and runs down like this right
39 there. So the line just where the Copper River jogs
40 runs up like this to the height of land west of the
41 Skeena and then up and includes most of the territory
42 of Tenim Gyet. In addition to those other hereditary
43 chiefs that I have just -- under that line that I have
44 just described farther to the east.
45 MR. RUSH:
46 Q Is there a hereditary chief who has signed an
47 affidavit in respect of the territories claimed by the

N. Sterritt (for Plaintiffs)

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- 1 Kitselas and Kitsumkalum people?
- 2 A Yes. In the area that I have described Stanley
- 3 Williams did almost all of the affidavits for that
- 4 area and Arthur Matthews Sr. did the affidavit for the
- 5 territory of Tenim Gyet.
- 6 Q Were there any meetings or gatherings between
- 7 representatives of the Kitselas and Kitsumkalum people
- 8 and hereditary chiefs of the Gitksan and Wet'suwet'en?
- 9 A There was about three meetings.
- 10 Q All right.
- 11 A And hereditary chiefs of the Gitksan and Wet'suwet'en
- 12 and myself attended were the meetings with the
- 13 representatives of the Kitselas and the Kitsumkalum.
- 14 Q Who attended among the Gitksan hereditary chiefs?
- 15 A Stanley Williams, Alvin Weget, myself. There was one
- 16 or two others. They were small meetings, there wasn't
- 17 many people, and I don't recall who else attended,
- 18 Victor Jim, I believe.
- 19 Q Was Art Matthews Sr. or Jr. there?
- 20 A I think Art Matthews Sr. attended upon. That's all
- 21 that I recall.
- 22 Q All right. And when did those meetings take place?
- 23 A I think in 1985 and in 1986.
- 24 Q And as a result of those meetings what was the
- 25 response, if you know, of the Gitksan and Wet'suwet'en
- 26 hereditary chiefs to the claims by the Kitsumkalum and
- 27 Kitselas people to their territories?
- 28 A The Gitksan hereditary chiefs maintained that they
- 29 have ownership and jurisdiction to the territories
- 30 that are described on map 9A.
- 31 Q All right. Now, although I neglected to ask you that
- 32 in respect of the areas claimed by the
- 33 Carrier-Sekanni, are there affidavits of Gitksan or
- 34 Wet'suwet'en hereditary chiefs in respect of those
- 35 areas?
- 36 A Yes, there are.
- 37 Q Mr. Sterritt, are you aware of a people known as the
- 38 Haisla people?
- 39 A Yes, I am.
- 40 Q H-a-i-s-l-a. Are they a Native people's that live on
- 41 one of the boundaries of the Gitksan or Wet'suwet'en
- 42 territories?
- 43 A Yes, they do.
- 44 Q And are you aware of any claim by Haisla people in
- 45 respect of the Gitksan and Wet'suwet'en territories
- 46 today?
- 47 A Well, the Haisla people are -- live at Kitimat and

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- 1 their boundaries are on the height of land of the
2 mountains east of Kitimat which is also the boundary
3 of the Wet'suwet'en and there is no overlap. It's a
4 common boundary and there is no claim by the Haisla to
5 Wet'suwet'en territories.
- 6 Q The Tahltan Native people live in the area north of
7 the Gitksan territories on the northern boundaries of
8 the Gitksan-Wet'suwet'en claim, is that so?
- 9 A Yes.
- 10 Q Are you aware today of any claim by the Tahltan people
11 in respect of territories of the Gitksan and/or
12 Wet'suwet'en people?
- 13 A No, I'm not.
- 14 Q Now, Mr. Sterritt, I again would ask you just to turn
15 back to your evidence in respect of the meetings with
16 the Nishga hereditary chiefs and the Gitksan and
17 Wet'suwet'en hereditary chiefs and I neglected to ask
18 you but will now if what if you know was the response
19 of the Gitksan hereditary chiefs to the claims made by
20 the Nishga hereditary chiefs at that meeting in -- or
21 that Feast in October of 1986? And here I'm speaking
22 in respect of those four areas that you identified to
23 be the areas claimed by the Nishga.
- 24 A When we met in October of 1986 it was a meeting, not a
25 Feast.
- 26 Q Yes.
- 27 A And the Gitksan hereditary chiefs maintain ownership
28 to the -- ownership and jurisdiction to the
29 territories that were referred to by the Nishga and
30 maintain ownership and jurisdiction as described on
31 map 9A.
- 32 Q All right. Thank you. My lord, I am now going to
33 direct the witness' attention to another subject area.
34 And the subject area I am now going to ask him about
35 is in respect of Gitksan and Wet'suwet'en Feasts. And
36 what I've done is to prepare a document book of Feasts
37 which are Feasts recorded by Mr. Sterritt in his field
38 notebook or field notebooks and I've prepared an index
39 of the Feasts in respect of the recordings that he's
40 made in the field notebooks and I'd like to -- I'm
41 going to direct the witness' attention to these Feasts
42 and I'd like to provide your lordship with a copy.
43 Just give me a moment, my lord. Just provide a second
44 copy for the witness. Referring this binder with an
45 index of Feasts to you, Mr. Sterritt. I would refer
46 you first to the binder and ask you if the binder
47 contains notes which you made?

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- 1 A Yes, it does.
- 2 Q And are these notes notes which you recorded in your
- 3 field notebooks?
- 4 A Yes, they are.
- 5 Q And what do these notes record?
- 6 A They are a record of the business that is conducted by
- 7 Gitksan hereditary chiefs over a period of some 12
- 8 years. I'm not -- I don't recall what the earliest --
- 9 pardon me. Since 1980. And they show the business
- 10 aspect of the Feast and some of the other elements of
- 11 the Feast that were conducted while I participated in
- 12 the Feast.
- 13 Q And did you -- does each tab that's -- and the
- 14 contents of each tab represent a different Feast?
- 15 A Yes, they do.
- 16 Q Okay. And at the front of the binder is an index of
- 17 Feasts. Does that set out the number of Feasts and
- 18 the recording and the date and the Feast that was
- 19 conducted?
- 20 A Yes, it does.
- 21 Q And in some cases the Feast is under the column headed
- 22 "Feast." There is a name, for example, Mary Simpson
- 23 and in other cases under that same column, for example
- 24 under tab 15 there is Lilgit Wii xhaa. Do these
- 25 indicate different kinds of Feasts or can you
- 26 comment on them what this indicates under the Feast
- 27 column?
- 28 A It identifies the Feast that I attended and ordinarily
- 29 the name that appears in that column is the name of
- 30 either the person who put on the Feast or the person
- 31 who is deceased and the Feast is being held for. And
- 32 in the case of when you identified number 15, that is
- 33 the Feast for Wii xhaa. That's spelled W-i-i space
- 34 x-h-a-a. And Wii xhaa is a Kitwancool chief and it
- 35 would be -- I could have put his name in there but
- 36 this is how it was labelled so that's how -- the field
- 37 book on the head of the page, so that's how it appears
- 38 here. These are the names that appear at the
- 39 beginning of that Feast on the top -- at the top of
- 40 the page.
- 41 Q All right. Now, I'd like you to -- I'd like to ask
- 42 you if you can indicate how many Feasts you have
- 43 attended in the period from 1974 to the present. Now,
- 44 these recordings date back to 1980.
- 45 A I have attended in the neighborhood of a hundred
- 46 Feasts, if not more.
- 47 Q And can you say whether the hundred that you've

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- 1 attended in that period represent all the Feasts that
2 there were among the Gitksan and Wet'suwet'en?
- 3 A No. I have travelled a lot and been very busy during
4 my years at home. And my estimate is that these
5 Feasts represent about perhaps one-third of the Feasts
6 that were held during that period.
- 7 Q All right. In respect of every Feast that you
8 attended, did you make recordings of every Feast?
- 9 A No. There were Feasts prior to this that I did not
10 keep a record of and very few since then, but for
11 various reasons where I didn't keep records. The
12 reason being, depending on the house that is putting
13 on the Feast, they have an obligation to call on
14 certain members of from the other side of their
15 family. Like their father's side or whatever and to
16 conduct work, and I have been called upon in some
17 Feasts to be the -- what they call the timist,
18 t-i-m-i-s-t, or the person who records the Feast on
19 their behalf and keeps their Feast book. And so when
20 I did that I probably did not -- I did not have a
21 record of that Feast.
- 22 Q In these Feasts where you did keep a record such as
23 those in this binder, what was the role that you were
24 playing in those Feasts?
- 25 A In the majority of these Feasts I may -- I'm a
26 witness. I'm a member of the invited -- one of the
27 invited clans and I'm sitting in the Feast and the
28 business is being conducted by a member or a relative
29 of the person whose name it would appear here. It
30 would be -- if I am sitting in a Feast, the Feast has
31 to be put on either by the Wolfs or by the Frogs and
32 then the Fireweed, which I'm a member of, would be
33 sitting as well as one of the other clans. If a Wolf
34 Clan is putting on a Feast, the Frog Clan and the
35 Fireweed Clan are sitting.
- 36 Q Now, were there also Feasts at which your clan, the
37 Gisgas Clan, was the host where you kept recordings in
38 the notebooks?
- 39 A Yes, there are. For example, when my uncle Moses
40 Morrison died, Gitludahl, that would be at tab 55,
41 December 21, 1985, I kept a record of some of the
42 proceedings but not all of them because I was also
43 very busy. It was my uncle, and I had work to do in
44 that Feast, but I did keep a record of some of my
45 obligations as well as some of the -- little bit of
46 the business that was conducted.
- 47 Q All right. And when you say you kept a record of the

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1 business, what record was that that you kept?
2 A The contributions that were being made by myself, by
3 Pete Muldoe and other members of the immediate family
4 who are closely connected with Moses Morrison.
5 Q I'd like you just to turn to the first tab, tab one,
6 which is the Feast of Xsu Dii, X-s-u knew word d-i-i,
7 Feast, Mary Simpson, and it's dated February 2, 1980.
8 Would you just explain what this Feast is, what type
9 of Feast it is, and what the references are to the
10 head of this page?
11 MR. GOLDIE: My lord, it would be of course a great waste of
12 time to ask a witness to exhaust his recollection
13 before he refers to the notes and I am certainly not
14 going to do that. But perhaps I can state very
15 briefly. I have no objection to these going in to
16 record the fact that these Feasts took place. But
17 they are not evidence against my client of anything
18 that purports to be an issue in this litigation. By
19 that I mean the truth of matters stated in here in the
20 absence -- made in the absence of my client is not
21 binding on my client and is not evidence against it.
22 But it is evidence that these Feasts took place and I
23 accept it as such.
24 THE COURT: But what about the details of what took place at the
25 Feasts?
26 MR. GOLDIE: Well, I don't have any great concern about that.
27 It's just statements made by people, that's -- if
28 there are any such, as such in here.
29 THE COURT: So you are agreeable that these records should be
30 received as proof of the fact that this is what
31 happened?
32 MR. GOLDIE: Yes. The words of the witness with the conduct of
33 business.
34 THE COURT: Yes.
35 MR. GOLDIE: I am not accepting that they are business records
36 or anything of that order.
37 THE COURT: Or that it is -- I am just having a little trouble
38 seeing how it could be admissible and not evidence
39 against you.
40 MR. GOLDIE: Well, it is evidence for a limited purpose.
41 THE COURT: Yes. For the limited purpose of saying that this is
42 what Mr. Sterritt recorded them as saying and you are
43 also, I take it, admitting that they actually said
44 these things.
45 MR. GOLDIE: No. Because I haven't examined all of these
46 things. What I'm -- what I'm saying is that instead
47 of requiring the witness to go through it now and say

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1 that I was present at a Feast put on for a Mary
2 Simpson, funeral Feast, I admit that a Mary Simpson
3 funeral Feast occurred in February 2, 1980 at which
4 "X" were present in that case at which these
5 contributions were made, but if there is any -- well,
6 on page two Charlie something or other said his land
7 is here and there around the seventh cabin, I don't
8 admit that.

9 THE COURT: You admit that he said it?

10 MR. GOLDIE: I beg your pardon, my lord?

11 THE COURT: You admit that he said it?

12 MR. GOLDIE: Yes, it can be admitted he said it, but I am not
13 admitting that it is evidence of the truth of that
14 statement.

15 THE COURT: Yes. It would obviously be highly desirable if some
16 agreement could be reached in this regard, Mr. Rush.
17 What's your response to what Mr. Goldie has said?

18 MR. RUSH: Well, of course I'm delighted that we can find any
19 level of agreement. I think that's a positive sign
20 and I welcome what Mr. Goldie has said. The position
21 of course that we will take I think in due course so
22 far as some of these notes might relate to information
23 passed on to Mr. Sterritt and might bear on his
24 opinion, I have an argument to make in respect of that
25 and the effect of the statements made to Mr. Sterritt
26 in the course of a Feast with respect to the ownership
27 and jurisdiction of the Gitksan and Wet'suwet'en
28 territories. And -- but that is an issue that I think
29 is -- has long been identified as one where my friend
30 and I have joined and it's quite clear that we see the
31 different effects of such a statement. But there are
32 other statements in the -- recorded in the Feast
33 books, including the fact that names were passed and I
34 suppose I would like to know whether my friend takes
35 issue with the fact that where it's recorded that a
36 name passes to Chucky Morrison or to Marion Morrison,
37 does he dispute that it is so that such a name was
38 passed at this Feast to that individual?

39 THE COURT: That such a statement would be evidence of the truth
40 of that fact?

41 MR. RUSH: That's true. Yes, that's what I need to know. I
42 mean my friend doesn't seem to take issue with the
43 fact that the contributions and the payments that are
44 recorded here were made and paid, and I think that's
45 of some assistance. But I think there is -- there are
46 other statements contained in these notes which I
47 think that admissions could be made about if my friend

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1 is willing to make them.
2 MR. GOLDIE: Well --
3 MR. RUSH: But it is also clear to me where he's not prepared to
4 go.
5 MR. GOLDIE: Well, I saw this for the first time a few minutes
6 ago, my lord, and if my friend wishes to ask me what
7 admissions I am prepared to make, I'll consider them.
8 I thought I was going quite far. I mean I could take
9 the position that most of this is admissible, but
10 that's not the position that I care to take at this
11 time. But if my friend wishes me to give
12 consideration to any matter which he feels that this
13 is a proof of, I'll do so.
14 MR. RUSH: Well --
15 MR. GOLDIE: But I should say that I can say right now that this
16 witness is not qualified to pass an opinion with
17 respect to ownership and jurisdiction. That's clear.
18 And if he wishes to -- or if my friend wishes me to
19 admit that this is a source of information which he
20 passed on as he's described to Mr. Marvin George, I am
21 prepared to consider that.
22 MR. RUSH: Well, I just as -- I am sure that this is more of a
23 minor point, the collection in this manner of the
24 Feasts of course it's the first time that my friend
25 has seen them, but even the quickest perusal of Mr.
26 Sterritt's field books would indicate that these
27 Feasts are clearly evident in his field books and
28 these of course have been disclosed to my learned
29 friend for some time.
30 MR. GOLDIE: Not all.
31 MR. RUSH: No, no, not the last two I think.
32 MR. GOLDIE: That's right. And we've had no intimation that
33 these were to be tendered in evidence until September
34 2.
35 MR. RUSH: Now, if my friend wishes -- I mean I think there are
36 other statements here that my friend, given what he
37 has said is the distance he's prepared to go, that he
38 could make, especially in respect both of questions of
39 territorial proof and in respect of the receipt of
40 names.
41 MR. GOLDIE: Well, I hate to repeat myself. But if my friend
42 will tell me what he'd like me to admit I'll consider
43 it. We have gone through this kind of thing before.
44 We have endeavored to give notices to admit so my
45 friend has ample indication of what we would like
46 admitted. If my friend is prepared to say what it is
47 that he wants me to admit I'll consider it.

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1 THE COURT: Well, it's obviously a matter that might be of
2 considerable importance and for that reason it's
3 probably the course of wisdom for admissions to be
4 considered and either stated after due consideration
5 or reduced to writing. The latter probably being the
6 preferable course. I am a little bit terrorized by
7 the size of the collection and I can readily
8 understand why there may be some difficulty in framing
9 an admission without giving the matter some attention
10 and consideration. Is it possible to stand the matter
11 over and come back to it, Mr. Rush, and you go on to
12 something else?

13 MR. RUSH: Well, yes. I think so. There are some more
14 questions, my lord, that I intend to put to the
15 witness about these.

16 THE COURT: Yes.

17 MR. RUSH: Principally I am going to deal with just -- I think
18 you'll be glad to hear just one of them.

19 THE COURT: Yes.

20 MR. RUSH: But --

21 THE COURT: But before you do that, are you able to frame a
22 request to your friend for admission that will suit
23 your purposes?

24 MR. RUSH: Well, I think that what would be useful in this
25 respect is for us to try to do that on the weekend.

26 THE COURT: Yes.

27 MR. RUSH: And suggest to my learned friend perhaps on Monday
28 morning or even before if we can, but I doubt it, and
29 to determine what from the field notebooks that we
30 would like an admission on.

31 THE COURT: All right. Mr. Goldie has indicated he will
32 consider such a request and I think it will be useful
33 if we stood the matter down subject to such a further
34 matter that you want to pursue until that's been done.

35 MR. RUSH: All right. Well, I will pursue some questions,
36 further questions, in respect of these.

37 THE COURT: All right.

38 MR. RUSH:

39 Q I want to direct your attention, Mr. Sterritt, to the
40 face page of tab one. And do I understand these notes
41 to reflect that this Feast was the funeral Feast of
42 Mary Simpson?

43 A Yes, it is.

44 Q And is the name or was the name that was held by Mary
45 Simpson prior to her passing on Xsu Dii?

46 A Yes.

47 Q And at this Feast what, if anything, occurred with

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- 1 respect to that name?
- 2 A When the -- one of the -- the person who ended up with
- 3 the name Xsu Dii, X-s-u space D-i-i, was Yvonne
- 4 Lattie. That last name is spelled L-a-t-t-i-e. And
- 5 the name was passed on to her that night.
- 6 Q And there is a recording by you which is the last one
- 7 on the left-hand side of this face page. Yvonne
- 8 Lattie, Lorina, is it?
- 9 A Her married name -- pardon me, her -- before she was
- 10 married her name was Loring, L-o-r-i-n-g.
- 11 Q Oh, I see. Yes. And it indicates to take the name of
- 12 Mary Simpson, Xsu Dii?
- 13 A Yes.
- 14 Q And does that -- what occurred in respect of that at
- 15 this Feast in respect of the recording you made?
- 16 A After the initial business is done, which is the
- 17 welcoming of the people, eating, the presentation of
- 18 the money by the members of the hosting clan to which
- 19 is what appears on the right-hand side of the page and
- 20 onto the next page, a listing of the money, those
- 21 contributions are made and then at some point -- and
- 22 then that money is put into what we call the pot, the
- 23 plate, and it's added up and then it's distributed to
- 24 pay for the expenses of the Feast, the expenses of the
- 25 funeral and for work that has been done by different
- 26 people. And at that point in the Feast, which is well
- 27 into the night, names are given out and the name of
- 28 the person who has died is passed on to the successor
- 29 and in this case it was Yvonne Lattie.
- 30 Q It indicates other names where apparently Gitksan
- 31 names were passed on. In the case of Chucky Morrison
- 32 there is a name beside it, a Gitksan name beside his
- 33 name. Does that indicate that that Gitksan name was
- 34 passed on to him at this Feast?
- 35 A No. You have to appreciate that these are -- these
- 36 field books, I use them, I tried to carry them with me
- 37 whenever I went, and so when I was at this Feast and
- 38 waiting for the business to get going, to become
- 39 conducted, to be carried out, I was sitting next to
- 40 Elsie Morrison - that's where I sit in the Feast is
- 41 right beside Elsie Morrison, Waiget, W-a-i-g-e-t, and
- 42 her step-children are Marianne Morrison and Chuck
- 43 Morrison. I had been away and while I was away these
- 44 two children who are in the same house as Elsie had
- 45 received names and I recorded them there. During a
- 46 Feast I would record the business and while -- or
- 47 while there are lulls in the business or

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1 opportunities, it's a place where I conducted or
2 hereditary chiefs came to me and provided me with
3 information on territories, on names, on who were --
4 well, on family trees, on the names of animals and the
5 names of insects. In other words, this -- the Feast
6 is being recorded, but at the same time during lulls
7 in the Feast I'm doing -- I'm gathering information.
8 That's what that represents there.

9 Q All right. Is that type of information recorded on
10 pages one, three and five of this entry -- well, one,
11 three, five and six.

12 MR. GOLDIE: I am sorry, what type of information?

13 MR. RUSH: The type that he has just indicated, that is the
14 names of animals, the territorial names, other
15 information that was passed on to him during the
16 course of the Feast.

17 MR. GOLDIE: Information which is extraneous to the Feast that
18 is just sort of a general --

19 THE COURT: Occasional diary entries.

20 MR. GOLDIE: Yes. That seems to be a good way of putting it.

21 MR. RUSH: I'm not sure that it's extraneous to the Feast, my
22 lord.

23 MR. GOLDIE: Well --

24 MR. RUSH: I mean the Feast has a multitude of functions.

25 THE COURT: Extraneous to the formal business of the Feast,
26 perhaps.

27 MR. RUSH: Well --

28 THE COURT: I think I know what he means. It's not part of the
29 stylized or ritual of the Feast, but it's part of the
30 interaction that goes on during the course of the
31 Feast.

32 MR. RUSH: That's right. I think the informal interaction in
33 this case is recorded on -- if Mr. Sterritt says so,
34 is recorded on those pages.

35 THE COURT: If anyone has ever been to a synagogue you see it
36 every day. It happens all the time.

37 MR. GOLDIE: I take it that this is a document which fits a
38 description that he gave us some time ago of how in
39 the course of his work to advance the land claims he
40 had elders come up and talk to him and so forth.

41 THE COURT: Collected information.

42 MR. GOLDIE: Yes.

43 THE COURT: Yes.

44 MR. RUSH:

45 Q Well, Mr. Sterritt, we have had our shot at describing
46 what you were doing here. What -- how would you
47 describe what you were doing in respect of the

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1 information that's gathered on one, three, five and
2 six of this entry? If --

3 MR. GOLDIE: Don't make it more difficult for me to make
4 admissions.

5 A I think that the description that his worship gave is
6 a pretty good one.

7 MR. GOLDIE: That's the synagogue.

8 A That's the one.

9 THE COURT: All right. Could we take the adjournment.

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11 (PROCEEDINGS ADJOURNED PURSUANT TO AFTERNOON
12 ADJOURNMENT)

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46 ¹h2 N. Sterritt (for Plaintiffs)

47 (PROCEEDINGS RECONVENED PURSUANT TO THE AFTERNOON BREAK)

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1

2 THE REGISTRAR: Order in court. Ready to proceed, my lord.

3 THE COURT: Mr. Rush.

4 MR. RUSH: Thank you. I'm still referring to tab 1.

5 THE COURT: Yes.

6 MR. RUSH:

7 Q Mr. Sterritt, if you'd direct your attention to that.

8 The recordings that you made in the right-hand side of
9 the first page of that tab, what do they represent?

10 A They represent the dollar contributions as members of
11 the family come forward to put into the feast. And,
12 for example, Yvonne Lattie is the first entry, and she
13 put in \$300. Now, Mary Simpson, that Mary S. is Mary
14 Simpson, and she would have set aside before she died
15 an amount of money, that amount of money being there,
16 as well as other items which she would want her
17 daughters or close relatives to put into the feast and
18 to contribute to the feast. Now, in this example each
19 of those dollar contributions is by another person,
20 and in this case I didn't keep up to who was putting
21 the money in, except where you see the names.

22 Q Yes.

23 A But -- and this is also one of the earlier feasts.
24 But in later feasts I managed to get all or almost
25 all, if not all, of the people who contribute, and the
26 amount and -- but that's what it represents, a running
27 total of the dollar -- of the money that was put in.
28 And the farther you go down the list, the more removed
29 are the family members. The -- you start off with the
30 immediate Wolf family relatives of Mary Simpson, and
31 then as you go down, they are people who are members
32 of other houses who are contributing money. For
33 example, on -- coming down in the second -- the second
34 column you see Gertie Morrison, \$10. That's my aunt.
35 And while they're both members of the Wolf Clan, they
36 are not closely related to Mary Simpson's house.

37 Q All right. Now, do those recordings that you made in
38 terms of the contributors and the amounts of the
39 contribution, is that an accurate reflection of the
40 people making the contributions and the contributions
41 that occurred at this feast?

42 A Yes.

43 MR. RUSH: And I'd just like you to flip ahead for a moment, Mr.
44 Sterritt, to tab 44, which I picked at random here,
45 and that's the Grace Benson feast on April the 13th,
46 1985, and here it indicates figures and names of
47 contributors. Is this an example of the -- of where

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1 you attached a name to each of the individual
2 contributions?

3 MR. GOLDIE: 35 did you say?

4 THE COURT: 44.

5 MR. RUSH: It's tab 44, but it's April 13th, 1985. Tab 44.

6 MR. GOLDIE: Yes.

7 THE WITNESS: Yes, this is an example of a running total with
8 just about all of the names. You can see one or two
9 blanks on each of the pages, and those are separate
10 pages. When you see two columns there and the various
11 people who contribute.

12 MR. RUSH:

13 Q Now, did you also record the money that was given out?

14 A Yes, I -- well, in -- in categories I usually kept
15 track of the money that was given out. There is more
16 than -- I should mention there is more than just
17 the -- for example, in the Wolf Clan there is more
18 than just the Wolf Clan puts in money. There are also
19 the contributions by the father's side, by the
20 children's side, and under various Gitksan terms. As
21 an example, the Xots Geiss, that's the haircut.
22 That's spelled X-o-t-s space G-e-i-s-s. That means
23 haircut. I would usually try and record how much went
24 in from that and break it down, but in this case I
25 didn't keep track of the money that was paid out as
26 near as I can tell. No, I didn't.

27 Q When you say --

28 A I'm sorry, I should explain what I mean by the money
29 that was paid out.

30 Q Yes.

31 A The money goes into the -- is contributed into one
32 pot. It's all added up. When it's added up, then the
33 expenses have to be paid from that pot, and sometimes,
34 usually most of the time, or a lot of the time, I kept
35 track of the expenses that were then paid out of that
36 pot. The purpose of gathering the money is to pay the
37 expenses and then pay the witnesses, and I would not
38 keep track of the payments to the witnesses. It would
39 have been too lengthy.

40 Q All right. I want to ask you in respect of this
41 example that I have chosen at tab 44, is there
42 anywhere indicated here what sums of money were paid
43 out?

44 A They -- yes, on the bottom of -- oh, there is an
45 unnumbered page, but it's the second to the last page
46 in that tab. There is a summary, and what it
47 summarizes is the family expenses in the amount of

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- 1 6,988.75 and \$5,230.40. There is the Hawal, which is
2 spelt H-a-w-a-l, which are the less closely related
3 Wolf Clan members, and that comes to \$2,352.25. Then
4 there is the haircut for \$120.00. And there is
5 another entry for Hawal, \$1,839.15. Then the grand
6 total \$16,664.35 for that feast.
- 7 Q Now, does that represent monies paid out or monies
8 received?
- 9 A That represents the money or the contributions by the
10 Wolf Clan to the feast. And the actual cash that has
11 gone in is in the neighbourhood of \$8,300.00, but the
12 contributions of clothes, food, and other items by the
13 Wolf Clan would bring the total up to 16,664.35.
- 14 Q In respect of your recordings that you've made in this
15 binder, can you -- what can you say about whether that
16 figure represents a typical or atypical amount of
17 money that's contributed at a feast?
- 18 A That is an average feast. Feasts are usually in the
19 neighbourhood of 15 to \$20,000.00 of cash and other
20 goods, but it's not uncommon for a feast contribution
21 to be in the neighbourhood of \$40,000.00 in cash and
22 goods. And I have also attended feasts where the
23 total contribution of cash and goods is 8 to
24 \$9,000.00.
- 25 THE COURT: How much?
- 26 THE WITNESS: 8 to \$9,000.00.
- 27 THE COURT: Okay.
- 28 MR. RUSH:
- 29 Q Now, in respect of this example again that I've chosen
30 at random, tab 44, you obviously attended this feast
31 to make these recordings, is that so?
- 32 A Yes, I did.
- 33 Q And the feast occurred on the date that's indicated
34 there, on April the 13th, 1985?
- 35 A Yes.
- 36 Q And the feast occurred at Kispiox?
- 37 A Yes.
- 38 Q And you made accurate recordings of what occurred
39 there as shown in this -- in this entry?
- 40 A Yes.
- 41 Q And can you say what numbers of people attend the
42 feasts? There are some 73 here. Can you give us an
43 average number of attendees at feasts?
- 44 A The average number of people is between 250 and 300,
45 and depending on the nature of the feast, it could be
46 as small as 80 to 100 or as large as 5 or 600 people.
- 47 Q All right. And can you also indicate what other kinds

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- 1 of business is conducted at a feast about which you've
2 made recordings in these notes?
- 3 A Well, in addition to funeral feasts, there are what
4 are called stone feasts or pole-raising feasts, at
5 which it's -- part of completing the business of
6 taking on a name is to either raise a totem pole or a
7 headstone for a hereditary chief, and that must be put
8 on by the successor to the hereditary chief. Not
9 every funeral feast is a -- there is always names
10 given out, but it's not always a major feast because
11 the person who passes on isn't necessarily a high
12 hereditary chief. They could be any member of the
13 family. But when a high chief dies, a hereditary
14 chief, then there will be the funeral feast and there
15 will be a stone feast. And there -- I've also
16 attended feasts which sometimes are part of the
17 business but where a divorce has taken place, divorce
18 feast, and -- and then other business being conducted
19 in the community.
- 20 Q And in what language, in your experience, has the
21 feast been conducted?
- 22 A In -- I have attended Gitksan and Wet'suwet'en feasts,
23 and they are conducted in the Gitksan or the
24 Wet'suwet'en language.
- 25 Q And you've indicated, I think, in your previous
26 testimony that food is distributed at the feast?
- 27 A Yes.
- 28 Q And do you -- have you recorded from where this food
29 comes?
- 30 A Yes, I have.
- 31 Q And what do your recordings indicate?
- 32 A Well, it comes from the -- once again, it comes from
33 the hosting clan, and the food is often from the
34 territory or the fishing sites of the hosting clan or
35 their family members. The moose meat is distributed
36 or used to make the soup. Smoked salmon, berries,
37 beaver meat.
- 38 Q All right. And have you and members of your clan --
39 perhaps you first. Have you contributed such types of
40 food to a feast?
- 41 A Yes, I have.
- 42 Q Now, Mr. Sterritt, in respect of the feasts that are
43 indexed in this binder up to tab 73, are the
44 recordings that you made here accurate of what
45 occurred at the feasts and what you were told at the
46 feasts?
- 47 A The -- when I'm at the feast, I see people

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1 contributing money at the feast. It's handed to a
2 person who calls out the amount and the name of the
3 person who has contributed the money, and I record who
4 the person is that is contributing the money and the
5 name called out and the amount, and to the best of my
6 ability it's as accurate as I can get it, yes.
7 Q So you actually see something occur with the money?
8 A Yes. In effect, at the -- just in front of the door
9 of the feast house a large pot is placed, and the
10 members of the family who are putting on the feast go
11 to the person who is calling out the names there, he
12 goes up, they hand the dollar amount over to the
13 person, he holds up the money to the people, calls it
14 out, and that's what I record.
15 Q Okay. Now, I take it then in respect of each one of
16 these entries that the feast occurred on the date
17 that's indicated on the entry and in respect of the
18 person whose name appears on the entry?
19 A Yes. There are situations where if a person is unable
20 to attend the feast they will have someone else put in
21 their money. That person will go up and will hand
22 over each dollar amount they're putting in for someone
23 else and give the name, and that -- it's the name of
24 the person contributing who is called out, the name of
25 the person who has provided the money. And also that
26 individual will be someone who is ordinarily putting
27 in money as well.
28 MR. RUSH: All right. I'd like to have this marked as an
29 exhibit.
30 THE COURT: All right. Subject to the objections and
31 limitations and comments and discussions which took
32 place earlier this afternoon.
33 MR. GOLDIE: I think it has to be taken at this stage to be
34 admitted for a limited purpose, that purpose hopefully
35 defined.
36 THE COURT: All right. The exhibit number?
37 THE REGISTRAR: The next exhibit number will be 702. Will that
38 be the entire book?
39 THE COURT: Yes, I think so. 702 for limited purpose.
40 MR. RUSH: Well --
41 MR. GOLDIE: Well, if my friend disagrees with that, then I do
42 have an objection because I already pointed out there
43 are matters which are pure hearsay in it. We're going
44 to try and get around that.
45 THE COURT: Yes. You're not dissenting from that, are you, Mr.
46 Rush?
47 MR. RUSH: Well, my friend places the word "limited" on it, and

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1 I guess that's a subjective evaluation on what he sees
2 it would be admitted for, but from -- I see that the
3 scope of the permissible admissibility of the evidence
4 is wider than my friend indicates by that term, but
5 I'm not sure that it's worthwhile entering upon a
6 debate so that we can finally define all the aspects
7 for which it's admitted or not.

8 THE COURT: All right. Thank you.

9

10 (EXHIBIT 702 - Binder and Index of Fieldnotes prepared
11 by N. Sterritt re Feasts)

12

13 THE COURT: I'm sorry, what was that exhibit number again?

14 THE REGISTRAR: 702, my lord.

15 THE COURT: Thank you.

16 MR. RUSH: Another document book for you, my lord.

17 THE REGISTRAR: Both of these?

18 MR. RUSH: Yes. Well, one is for his lordship and one is for
19 the witness.

20 THE COURT: What's the subject matter of this, Mr. Rush?

21 MR. RUSH: Well, my lord, after the examination of Mr. Sterritt
22 with regard to the photographs and connecting the
23 photographs to the affidavits, I asked Mr. Sterritt if
24 he would prepare a summary of the relationship of the
25 photographs in Volumes 1 to 5 to the affidavits
26 that -- Gitksan affidavits that have been filed in the
27 proceedings, and what this represents is a cross-
28 referencing of the photograph, the number of the
29 photograph, the volume, to the territory and the
30 feature by way of Gitksan description in the
31 affidavits. And the explanation, that is paragraph B,
32 explains the process. And on the face page there is a
33 sub-category A, which is the key, which explains how
34 it operates. If you could just place that before Mr.
35 Sterritt.

36 THE REGISTRAR: Certainly.

37 THE WITNESS: Thank you.

38 MR. RUSH:

39 Q Now, Mr. Sterritt, the volume that I have placed in
40 front of you, Volume 3 of the document binder for your
41 evidence, is entitled on the first page "Gitksan
42 Territories Index of Affidavits Cross-referenced to
43 Territory and Photograph." Did you prepare this on my
44 request?

45 A Yes, I did.

46 MR. RUSH: And can you explain to his lordship just how this key
47 works?

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1 THE COURT: Well, I've read that first paragraph on that page,
2 two paragraphs.
3 MR. RUSH: Yes.
4 THE COURT: Is that the explanation?
5 MR. RUSH: That's the explanation. And the index of the
6 affidavits, they're all indexed from --
7 THE COURT: Now, that tab 1 refers to tabs in this book, does
8 it? That is, Steve Robinson's affidavit, Exhibit 592,
9 sworn June 15th, is explained as to photographs in tab
10 1 of this book?
11 MR. RUSH: That's correct.
12 THE COURT: Yes.
13 THE REGISTRAR: Is that the territorial affidavit book?
14 MR. RUSH: That's in the territorial affidavits.
15 THE REGISTRAR: Gitksan?
16 MR. RUSH: Yes.
17 THE COURT: And the book of territorial affidavits isn't
18 numbered separately; each affidavit has its own
19 exhibit number?
20 MR. RUSH:
21 Q Each affidavit has its own exhibit number, and the
22 exhibit numbers are reflected in the index of the
23 Gitksan affidavits as appears on this page 3.
24 Is that right, Mr. Sterritt?
25 A Yes.
26 THE REGISTRAR: This book starts at Exhibit 592 and goes to
27 Exhibit 613.
28 THE COURT: I'm sorry, from?
29 THE REGISTRAR: 592.
30 THE COURT: To?
31 THE REGISTRAR: To 613.
32 THE COURT: But there are others as well as -- Phillip Turner is
33 612.
34 THE REGISTRAR: That's in here.
35 THE COURT: But then we've got Art Matthews Sr. at 352. They
36 were filed --
37 MR. GRANT: If I may assist, they were filed at the time of the
38 evidence, but as a matter of convenience, in the
39 Gitksan affidavit binder copies of all of those were
40 placed as well.
41 THE COURT: All right.
42 MR. GRANT: But their numbering was when that witness gave
43 evidence.
44 THE COURT: All right. Thank you. I take it that in the book
45 of photographs -- books of photographs, Volumes 1 to
46 5, there would be some photographs that would not be
47 related just to these territorial affidavits, would

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1 there not?

2 MR. RUSH: Yes, that's so.

3 THE COURT: Yes. This book doesn't include a reference to every
4 photograph in the photograph books?

5 MR. RUSH: Well, I should ask Mr. Sterritt that. I think there
6 were some photographs that we couldn't identify
7 because of --

8 THE COURT: Yes.

9 MR. RUSH:

10 Q -- either the perspective -- and there are certain
11 photographs where there are no Gitksan names appearing
12 on the features on the face of the photograph, so I
13 take it that in respect of those there is no
14 referencing to the affidavits.

15 Is that correct, Mr. Sterritt, that it's --

16 A I went through all five volumes and determined the
17 view in relation to every affidavit, and sometimes,
18 quite often, one photograph will relate to more than
19 one affidavit.

20 THE COURT: All right. So then you did attempt to relate every
21 photograph to a territorial affidavit?

22 THE WITNESS: Yes.

23 THE COURT: Yes. All right. Thank you.

24 MR. RUSH:

25 Q And that relationship is depicted in tabs 1 through 27
26 by reference to the territorial affidavit and exhibit
27 number?

28 A Yes.

29 MR. RUSH: All right.

30 THE COURT: Well, I have a loose gun on my desk, Mr. Rush, and
31 let me see if I can tie it down. Mary McKenzie was
32 our first witness. Is there a territorial affidavit
33 for her?

34 THE WITNESS: It would be by Richard Benson.

35 THE COURT: Her territory is covered in a territorial affidavit?

36 THE WITNESS: Signed by someone else.

37 THE COURT: That's additional to her own evidence.

38 MR. RUSH: Yes.

39 THE COURT: All right. Thank you. Twenty-seven affidavits then
40 to cover the territorial claims of all the Plaintiffs?

41 THE WITNESS: All of the Gitksan claims that are on map 9A.

42 THE COURT: Yes. Thank you.

43 MR. RUSH: Your lordship will recall that not every territory is
44 the subject matter of a territorial affidavit because
45 there are some witnesses --

46 THE COURT: Yes.

47 MR. RUSH: -- such as Gwaans and Gisdaywa, whose evidence was

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1 direct in respect of the territorial knowledge.

2 THE COURT: Yes.

3 MR. RUSH: Well, I'm submitting this as the next exhibit, my
4 lord. There was considerable evidence given on this
5 subject --

6 THE COURT: Yes.

7 MR. RUSH: -- and I was tendering this to aid the court in
8 understanding the relationship between the territory
9 and the photograph.

10 THE COURT: Any problem, Mr. Goldie?

11 MR. GOLDIE: I don't think so. It looks like a very useful
12 aide-memoire or route map. It doesn't add to or
13 detract from the evidence that was given with respect
14 to the photographs or the affidavits.

15 THE COURT: This makes it possibly --

16 MR. GOLDIE: That's my understanding. If there is some area of
17 independent judgment that is found here, I haven't
18 heard it identified.

19 THE COURT: Well, I think the only area --

20 MR. RUSH: It's not intended for that purpose. It's a finding
21 aid, in effect, to assist the court.

22 MR. GOLDIE: That's precisely what I said.

23 THE COURT: All right. So this will be the next exhibit then.

24 THE REGISTRAR: Next exhibit, my lord, will be 703.

25 THE COURT: Thank you.

26 MR. RUSH: What's the next number again?

27 THE COURT: 703.

28

29 (EXHIBIT 703 - Gitksan Territories Index of Affidavits
30 Cross-referenced to Territory and Photographs)

31

32 MR. RUSH: Now, just one point of clarification in respect of
33 the index. At tab 23 the exhibit number --

34 THE COURT: Sorry, at tab 23?

35 MR. RUSH: Yes. If you take a look at the index on page 4, the
36 exhibit number in the trial is 661-E.

37 THE COURT: 6?

38 MR. RUSH: 61-E. At that time the commission evidence of
39 Richard Benson had not been entered as an exhibit in
40 the trial.

41 THE COURT: Thank you.

42 MR. RUSH: And we now know it to be 661-E, so if you'll make
43 that adjustment. Thank you.

44 Now, just while we're dealing with the
45 photographs, my lord, Mr. Sterritt, during the course
46 of his testimony, made reference to certain errors of
47 spelling or certain errors of identification of some

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1 of the features that were identified on certain of the
2 photographs, and Mr. Sterritt on my request made up a
3 list of the errors, and this, I would submit to the
4 court, should be placed in -- you can either place it
5 in Volume 1 or these can be separated and placed
6 separately at the first of each of the volumes as an
7 erratum.

8 THE COURT: Volumes of photographs.

9 MR. RUSH: Of photographs, that's right.

10 THE COURT: Yes. All right. Thank you.

11 MR. RUSH: So I will just present two copies. I believe you
12 only have one copy or two copies of the photographs.
13 Just one, one set of photographs?

14 THE REGISTRAR: One set. No, no, I have a set, and his lordship
15 has a set.

16 MR. RUSH: All right. There are two

17 THE COURT: All right. Thank you. What exhibit number are the
18 photographs, do you remember?

19 THE REGISTRAR: One is 487, one is 654, 655, 656 and number 377.

20 THE COURT: All right. Thank you.

21 MR. RUSH: Now, one other matter, my lord.

22 THE COURT: I'm sorry, before you do that, is Exhibit 487 Volume
23 1?

24 THE REGISTRAR: 487 is Volume 5, Volume 4 is 656, Volume 3 is
25 655, Volume 2 is 654.

26 THE COURT: Volume 1 must be 377.

27 THE REGISTRAR: Volume 1 is 377.

28 THE COURT: All right. Well, I think for convenience this
29 should be placed in Volume 1. It needn't be given a
30 separate exhibit number.

31 MR. RUSH: All right. My lord, in the course of a ruling that
32 you made on June the 22nd, 1988, in Volume 114 --

33 THE COURT: I'm sorry, the date?

34 MR. RUSH: June the 22nd, 1988, Volume 114, page 7165. You gave
35 leave for the Plaintiffs to file certain of the
36 exhibits that are found at Volume 1 of Neil Sterritt's
37 document books, and these relate to the fishing by-law
38 correspondence, and you will recall that there was
39 discussion among counsel as to the admissibility of
40 these documents, and at the end of that discussion
41 your lordship made the following ruling. You say
42 that,

43

44 "I am satisfied that it is not necessary or
45 relevant for the plaintiffs to adduce in
46 evidence the documents and details of the
47 negotiations with the agencies of the

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1 Federal Government or with the Provincial
2 Government, if they were involved, relating
3 to the fishing bylaws passed and disallowed
4 or passed and not disallowed by the
5 minister.

6 I do not preclude the plaintiffs from
7 adducing evidence from Mr. Sterritt about
8 the fact of negotiations and, indeed, the
9 difficulties. But the drafting and the
10 suggestions back and forth as to the
11 wording, in my view, are details that are
12 not relevant and would add unreasonably to
13 the burden of evidence in this case.

14 Having said that, however, I would allow
15 Mr. Rush to adduce any of this material if
16 he wishes to put it forward, not for the
17 general purposes stated but as, for example,
18 an admission, as he mentioned a moment ago,
19 or upon any other basis which the ingenuity
20 of counsel may suggest.

21 In addition, so as to ensure the
22 completion of the record, I would allow Mr.
23 Rush, if he wishes, to have the corres-
24 pondence that I have described as the
25 details marked as exhibits for identifica-
26 tion so that if it should be later
27 determined that I am in error in this
28 ruling, that the material upon which he
29 seeks to rely would be before the Court and
30 could be used upon such a determination to
31 be made. Mr. Rush can indicate at some
32 time, not necessarily right now, which of
33 the documents he wishes to tender for
34 identification."
35

36 And I would like to do that now. And if in due course
37 there is another ingenuous way of putting the
38 documents before your lordship, I would do that, but
39 at this point I would like to have certain of these
40 documents, not all, marked for the purposes of
41 identification. So if Volume 1 could be placed before
42 Mr. Sterritt, I'll simply go through these with his
43 identifying the documents.

44 THE REGISTRAR: Neil Sterritt's?

45 MR. RUSH:

46 Q Yes, Volume 1 of Neil Sterritt's.

47 Mr. Sterritt, tab 30, please, a letter from Mr.

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1 Grant to the Honourable John Munro of May the 17th,
2 1983. Did you receive a copy of that letter?

3 A Yes, I did.

4 MR. RUSH: That's the first document, my lord.

5 THE COURT: All right. Exhibit number?

6 THE REGISTRAR: 704.

7 THE COURT: 704.

8 THE REGISTRAR: Are these for identification?

9 THE COURT: For identification, yes.

10 MR. RUSH: Yes.

11

12 (EXHIBIT 704 FOR IDENTIFICATION - Tab 30, Volume 1 of
13 Neil Sterritt Documents)

14

15 MR. RUSH: The next is tab 34.

16 THE COURT: 705 for identification.

17 MR. RUSH: Thank you.

18

19 (EXHIBIT 705 FOR IDENTIFICATION - Tab 34, Volume 1 of
20 Neil Sterritt Documents)

21

22 THE REGISTRAR: What is it?

23 MR. RUSH: Letter of Miss Humphries to Mr. Grant dated February
24 9th, '84.

25 THE REGISTRAR: Thank you.

26 MR. RUSH:

27 Q Did you receive a copy of that, Mr. Sterritt?

28 A Yes, I did.

29 MR. RUSH: Tab 36, please.

30 THE COURT: Exhibit 706 for identification.

31

32 (EXHIBIT 706 FOR IDENTIFICATION -Tab 36, Volume 1 of
33 Neil Sterritt Documents)

34

35 MR. RUSH: Tab 36.

36 MR. GOLDIE: Is it 35 or 36?

37 THE COURT: 36.

38 MR. RUSH:

39 Q I'm sorry, tab 36.

40 This is a draft by-law for the preservation,
41 management, and conservation use of fish. Do you
42 recognize this as such, Mr. Sterritt?

43 A Yes, I do.

44 THE REGISTRAR: Is there a date?

45 MR. RUSH: No.

46 THE REGISTRAR: Thank you.

47 MR. RUSH: 37.

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1 THE COURT: 707.

2 MR. RUSH:

3 Q A letter, Grant to Miss Humphries, April 4th, '84.
4 Did you receive a copy of that, Mr. Sterritt?

5 A Yes, I did.

6 THE REGISTRAR: That's 707 for identification.

7 MR. RUSH: Thank you.

8

9 (EXHIBIT 707 FOR IDENTIFICATION - Tab 37, Volume 1 of
10 Neil Sterritt Documents)

11 MR. RUSH:

12 Q 38. This is a letter, Neil J. Sterritt to the
13 Honourable Keith Penner, April 22nd, 1983. Do you
14 recognize that, Mr. Sterritt?

15 A Yes, I do.

16 MR. RUSH: 39. May that be 708?

17 THE COURT: Yes.

18

19 (EXHIBIT 708 FOR IDENTIFICATION - Tab 38, Volume 1 of
20 Neil Sterritt Documents)

21

22 MR. RUSH:

23 Q And, Mr. Sterritt, the document entitled -- undated
24 document entitled "Note to File," do you recognize
25 that document?

26 MR. GOLDIE: He was the file referred to.

27 A Yes, I do.

28 MR. RUSH: All right. May that be the next exhibit?

29 THE COURT: Yes, 709.

30

31 (EXHIBIT 709 FOR IDENTIFICATION - Tab 39, Volume 1 of
32 Neil Sterritt Documents)

33

34 MR. GOLDIE: These are all identification.

35 THE COURT: Yes.

36 MR. RUSH: And the next is 44, letter, Mr. Grant to Mr.

37 Roberts -- I'm sorry -- excuse me. That's not 44.

38 44. This is a letter, Mr. Bulian (phonetic) to Mr.
39 Grant.

40 THE REGISTRAR: Date?

41 MR. RUSH: Date received October 1st, '84. Attaching a copy of
42 the note to file.

43 THE COURT: Yes.

44 MR. RUSH: At tab 39.

45 THE COURT: 711 for identification.

46 MR. RUSH: Thank you.

47 THE REGISTRAR: Is that tab 44?

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1 THE COURT: 44.

2 THE REGISTRAR: It will be 710 for ID, my lord.

3 THE COURT: 710.

4 THE REGISTRAR: 709 is 39.

5 THE COURT: Oh, all right.

6

7 (EXHIBIT 710 FOR IDENTIFICATION - Tab 44, Volume 1 of
8 Neil Sterritt Documents)

9

10 MR. RUSH:

11 Q 45, a letter from Mr. Sterritt to Mr. Leask, October
12 26th, '84. You recognize that letter, do you, Mr.
13 Sterritt?

14 A Yes.

15 MR. RUSH: 711, my lord.

16 THE COURT: Yes.

17 THE REGISTRAR: 711.

18

19 (EXHIBIT 711 FOR IDENTIFICATION - Tab 45, Volume 1 of
20 Neil Sterritt Documents)

21

22 MR. RUSH:

23 Q 46, Donald K. Goodwin to Mr. Sterritt, April 24th,
24 '85. Do you recognize that, Mr. Sterritt?

25 A Yes, I do.

26 THE REGISTRAR: 712.

27

28 (EXHIBIT 712 FOR IDENTIFICATION - Tab 46, Volume 1 of
29 Neil Sterritt Documents)

30

31 MR. RUSH:

32 Q And tab 47, please, letter of Mr. Sterritt to Mr.
33 Goodwin, May 3rd, '85. Do you recognize that, Mr.
34 Sterritt?

35 A Yes.

36 THE COURT: 713 for identification.

37 THE REGISTRAR: 713 for ID.

38

39 (EXHIBIT 713 FOR IDENTIFICATION - Tab 47, Volume 1 of
40 Neil Sterritt Documents)

41

42 MR. RUSH: And 48.

43 THE COURT: 714 for identification.

44 MR. RUSH:

45 Q Thank you. It's a document entitled and then it's
46 stroked off, but entitled Draft 8, May 2nd, 1985. Do
47 you recognize that document, Mr. Sterritt?

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1 A Yes.

2 MR. RUSH: 714.

3 THE REGISTRAR: 714.

4

5 (EXHIBIT 714 FOR IDENTIFICATION - Tab 48, Volume 1 of
6 Neil Sterritt Documents)

7

8 MR. RUSH:

9 Q And 49. Tab 49, please, a letter to -- from, rather,
10 Neil John Sterritt to the Honourable David Crombie,
11 May 3rd, 1985?

12 A Yes.

13 THE COURT: 715.

14 THE REGISTRAR: 715.

15

16 (EXHIBIT 715 FOR IDENTIFICATION - Tab 49, Volume 1 of
17 Neil Sterritt Documents)

18

19 MR. RUSH:

20 Q Tab 50, please. This is a document, Neil Sterritt to
21 the Honourable David Crosby, dated July 12th, 1985.
22 Do you recognize that, Mr. Sterritt?

23 A Yes, to David Crombie.

24 MR. RUSH: Yes.

25 THE COURT: 716 for identification.

26 THE REGISTRAR: 716.

27

28 (EXHIBIT 716 FOR IDENTIFICATION - Tab 50, Volume 1 of
29 Neil Sterritt Documents)

30

31 MR. RUSH:

32 Q And tab 51, a letter from Bruce Rawson, R-a-w-s-o-n,
33 Deputy Minister of Indian and Northern Affairs, to
34 Neil Sterritt, July 17th, 1985. Did you receive that,
35 Mr. Sterritt?

36 A Yes.

37 THE REGISTRAR: 717.

38 THE COURT: 717 for identification.

39

40 (EXHIBIT 717 FOR IDENTIFICATION, Tab 51, Volume 1 of
41 Neil Sterritt Documents)

42

43 MR. RUSH: Thank you, my lord. Those are all the documents that
44 we propose to have filed.

45 THE COURT: All right. We'll adjourn now. We'll adjourn until
46 ten o'clock Monday morning. Have a good week-end.
47 I'm sorry, two o'clock on Monday afternoon.

7936

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1 THE REGISTRAR: Order in court. Court will adjourn until two
2 o'clock Monday.

3
4 (PROCEEDINGS ADJOURNED AT 4:00 P.M.)
5

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

10
11
12 _____
13 Leanna Smith
14 Official Reporter
15 United Reporting Service Ltd.
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