January 19, 1989
Vancouver, B.C.

THE REGISTRAR: Order in Court. In the Supreme Court of British Columbia, Vancouver, this Thursday, January, 19, 1989. Delgamuukw versus Her Majesty the Queen.
I caution the witness. You're still under oath.
THE COURT: Mr. Willms.
SYLVIA LOUISE ALBRIGHT: Resumed
CROSS-EXAMINATION BY MR. WILLMS CONTINUED:
Q Ms. Albright, when we left off, we were reviewing some ethnographic references from Barbeau that you referred to in your report. And I'm placing before you Totem Poles, Bulletin Number 119, the introduction up to page 14. This was one of the references that you referred to and relied on in your report?
A It's listed in the bibliography as one I have reviewed.
MR. WILLMS: Could you turn to page 6 of that? And maybe, my lord, before I forget Exhibit 849-27.
THE COURT: Yes. Thank you.
(EXHIBIT 849-27: Tab 27, "Totem Poles", Bulletin 119 by M. Barbeau)
MR. WILLMS:
Q If you turn to page 6, you'll see that Barbeau says at the top of the page:

> Respecting the totem poles, the poles of the Upper Skeena were in the average erected in the past 50 or 60 years. The five or six oldest slightly exceed 80 years of age, many of less than 40 years old. It is safe to say that this feature of native life among the Gitksans became fashionable only after 1870 or 1880."

First of all, are you aware of anyone other than Barbeau who has done a detailed review of the totem poles of Northwestern British Columbia?
A I'm aware that Duff has -- Wilson Duff has studied the totem poles in the northwest.
Q Anyone else?
A They are -- Barbeau notes a number of descriptions by -- of totem poles by early travellers and explorers along the coast.
Q In your archaeological investigations in preparing this report, did you find any evidence indicating the

existence of totem poles prior to 1800?
A Totem poles were not a focus of my research.
Q So the answer's no, you didn't, or you weren't even looking for totem poles?
A I did not include totem poles as a part of my investigation.
MR. WILLMS: Cache pits can be historic or prehistoric; is that correct?
THE COURT: I'm sorry, Mr. Willms?
MR. WILLMS:
Q Cache pits can be historic or prehistoric?
A Cache pits are part of the prehistoric tradition of processing and storing of food.
Q Your survey of the -- or I should say Linda Burnard-Hogarth's survey of the archaeological sites in the area included locations which had historic cache pits and storage pits historically created; isn't that correct?
A No.
MR. WILLMS: Could you please turn to Appendix C of Exhibit 845? And I'm showing you a computer printout from the B.C. Heritage Conservation Branch. If you wouldn't mind turning to page 31 of Appendix C to Exhibit 845.
MR. RUSH: What was the page, please?
THE COURT: 31.
MR. WILLMS:
Q 31. There is a site listed on page 31 as 95, GeSs 4?
A Yes.
MR. WILLMS: All right. And if you look on the Heritage Conservation Branch printout, the extract that I showed you, Document 209, on the first page is GeSs-004?
THE COURT: Sorry. What are you looking at?
MR. WILLMS: My lord, I just handed her -- and your lordship should have a copy. It's a computer print-out. Do you see that? And you note under the remarks --
THE COURT: Which item?
MR. WILLMS:
Q It's Document 209, GeSs-004. It's number 95 in the list on page 31. In the remarks you'll see that this is an "Area reported to have been picked over by bottle hunters, two large deep depressions, inverted pyramid shape, remains of pack trail terminal, first population concentration in area". That's -- that's a historic depression, correct? It was created historically?
A It's referred to as a historic site, yes.

Q Now, at the bottom of page 31 in Appendix C of Exhibit 845, you've got a site described as GdSr 6 with the short notation "Historic railway construction camp". And if you turn the page in the printout I handed you, you'll see under Document 184 from the Heritage Conservation printout GdSr 6. That's the same site, isn't it?
A GdSr 6, yes.
Q Yes. And the description under the remarks are "Historic railway construction camp with two house platforms and three storage pits". Do you see that?
A Yes.
Q Those storage pits are historic?
A Those are related to recent historic occupation.
Q Yes.
A There's -- they are not interpreted as -- as aboriginal pit features used for food storage.
Q No. Then if you carry over to the next page of Exhibit 845 to page 32 and to your -- your numbered 106 and turn at the same time to the next page of the printout that I have handed to you. 106 is GcS1 1?
A Yes.
THE COURT: I'm sorry. I haven't found that yet. Where is it on the printout?
MR. WILLMS: Pardon me, my lord. I've got the wrong -- I've got the wrong page number. It's at page 24, my lord.
THE COURT: Page 24 of?
MR. WILLMS: Of the appendix. And it's number 39.
THE COURT: All right.
MR. WILLMS:
Q All right. Do you have that now, Ms. Albright? I'm sorry about that. Number 39 in Appendix C has been identified at GgSw 5 in your appendix?
A Yes.
MR. WILLMS: And there's a note: "Circular cultural depressions, cache pits". And that's the computer printout Document 294, GgSw-005, correct?
THE COURT: Document 294?
MR. WILLMS: Document 294.
THE COURT: Yes. All right.
MR. WILLMS:
Q Do you have that, Ms. Albright?
A Yes.
Q If you look down to the collections section, it starts off by noting 15 cultural depressions. It then lists the depressions. And you see that at the very last one it says "One modern (in use) square cache pit for

storage of potatoes"?
A Yes.
Q So in some of the sites reviewed in preparing your report you noted historic cache pits?
A Are you referring to sites that I have discussed in my opinion report?
Q No. I'm referring to Appendix C.
A Appendix C lists sites which have notations concerning prehistoric cache pit features.
Q And historic?
A As well as definable historic features.
Q Yes. And in your work of Tahltan ethnoarchaeology, you not only noted but photographed cache pits which had been used historically in historic times?
A Cache pits are considered an aspect of traditional prehistoric patterns of processing and storage of food. After contact there was a shift to building other storage or use of other storage facilities than the traditional cache pit.
Q Are you saying that --
A And they can be distinguished.
Q Are you saying that after contact the culture changed completely?
A No.
Q So that if a cache pit is used the day before contact, it's likely used the day after contact, the same cache pit?
A It may be.
Q So that cache pits were used prehistorically and historically?
A Maybe.
Q And cache pits were created prehistorically and also created historically?
A The term historic is -- can -- can vary. I don't understand in what specific sentence you mean historic.
Q Well, I'll pick a date. It's likely in the claims area that there were cache pits dug by the Gitksan or Wet'suwet'en in the area in 1850 or later?
A In that you're referring to 1850 as a point of -- point of time in which there are recorded documents?
Q I'm just picking that as a date. I could pick 1870 and ask the same question. Let me put it this way: What date are you confident of that the inhabitance of the land claim area stopped digging cache pits?
A I don't know exactly when.
THE COURT: Let me ask you this, Ms. Albright: On my visit to

the area, and I think it was at Shlamgeesh, we stopped for lunch and we were right on the trail that Mr. Blackwater told us that he grew up there. The old trail is clearly visible. All around the area we saw cache pits.

THE WITNESS: Yes.

THE COURT: Are you able to give an opinion as to whether those cache pits could have been dug before the advent of the telegraph trail or could they have been created after that time?

THE WITNESS: Most likely before the advent of the trail.

THE COURT: Most likely?

THE WITNESS: Yes. Probably.

MR. WILLMS:

Q But possibly after?

A Traditional -- traditional patterns did not stop at one particular point in time. Traditional patterns have for a lot of subsistence -- economic activities have continued, but most of the -- most of the manifestations that we see in looking at the context in which they're found and what other materials or settlement may have been in the area, then for the most part the archaeological evidence indicates a prehistoric -- what we refer to as a prehistoric pattern.

MR. WILLMS: Could the printout be Exhibit 849-28, my lord?

THE REGISTRAR: Exhibit 849-28.

THE COURT: Can I have a description of what this is? It's a printout of what?

MR. WILLMS: My lord, what this is, and probably the best -- I think there is a -- it's a computer printout of the Heritage Conservation Branch research files. That's the description in the Exhibit 845. I think that's the one we should use.

MR. RUSH: Well, I don't take any issue with my friend's description. I just think it's certainly not a computer printout of everything in the files. I think we should just point out that it's a three-page extract.

MR. WILLMS: It's a three-page extract, and the document numbers that were referred to the witness are 209, 184 and 294.

(EXHIBIT 849-28: Tab 28, Extract of computer printout)

THE COURT: All right. Thank you.

MR. WILLMS:

Q The comment that you just made about cache pits, Ms.

Albright, about the subsistence use continuing, that applies to cultural depressions as well like house floors, traditional construction of houses. That continued after contacts as well, didn't it?

A No. Some house styles are -- in the study area are thought to be earlier -- said to be earlier styles of houses.

Q But Appendix C includes archaeological sites or locations which noted historic cultural depressions naming them as buildings, building sites?

A Yes. They're quite obvious as more recent use of a particular area.

Q All right. So that when you say cultural depression, the word cultural depression doesn't denote a date. It just denotes the description of the feature, what it looks like?

A Yes. It's a generic term, cultural depression.

MR. WILLMS: In -- just turning back in Appendix C at Plate A-1, you have a photograph of the ground and polished grooved adze that was found on the surface at Hagwilget.

THE COURT: Whereabouts?

MR. WILLMS: My lord, Plate A-1 follows page A-13. It's in the appendix, my lord, of Exhibit 845. That was found on the surface at Hagwilget?

THE COURT: What plate are you at, please?

MR. WILLMS:

Q Plate A-1.

A It was recovered from a plowed field, yes.

Q And when you did your research on Tahltan ethnoarchaeology, you noted a very similar stone adze and photographed it?

A Yes.

Q Was the stone adze that you found in your Tahltan ethnoarchaeology also found on the surface or was it handed to you or how did you obtain it?

A It was from a private collection. In other words, it had been collected by someone else who showed it to me.

Q I am showing you a photocopy of a letter dated December 19th, 1986 from Richard Overstall to yourself. Did you receive that letter?

A Yes.

MR. WILLMS: My lord, Exhibit 849-29.

(EXHIBIT 849-29: Tab 29, Letter dated December 19, 1986)

MR. WILLMS:

1 Q You'll see at the bottom of that letter Mr.
2 Overstall -- did this letter come back to you with a
3 copy of your draft report?
4 A I had the draft on computer at that time.
5 Q You see at the bottom Mr. Overstall says -- and in the
6 middle of the very bottom paragraph he says:
7
8 "Rather than have you change sections that I
9 see may be troublesome, I have cut them
10 altogether. These include much of Chapters
11 2 and 5 and the first part of Chapter 3."
12
13 Did he send back an edited version of your report to
14 you?
15 A There were specific -- some specific notes.
16 Q And so there were areas of the report that were cut
17 out by Mr. Overstall?
18 A No. He indicated that these were suggestions and that
19 I was to -- I was to edit the report as I --
20 Q Saw fit?
21 A As I saw fit, as I considered.
22 Q Well, he continues on talking about what is being
23 removed from the report and then the trial and then
24 ends at the top of page 2. The last line of that
25 paragraphs says:
26
27 "This wholesale butchering also has the
28 effect of leaving you with less pages to
29 revise and edit."
30
31 What you revised and edited was the butchered version
32 that Mr. Overstall sent back to you?
33 A They were -- they were suggestions for restructuring
34 the -- the report, which I considered.
35 Q And adopted?
36 A When I put considerable thought into why I might make
37 such changes.
38 Q And also cuts that were made in the report?
39 A Areas -- areas which were not directly related to
40 discussion of the archaeological evidence itself or
41 description and discussion of the evidence itself
42 and -- such as a few of the notes as an introduction
43 to -- to the ancestral village survey, which you have
44 presented as an exhibit. That introduction did not
45 discuss the -- the survey or the specific
46 investigations that -- that I did, and discussion of
47 the specific evidence or data that was recorded, and I

felt that that was -- that was an area that was not directly necessary for describing the archaeological evidence.

MR. WILLMS: I'm showing you a document that's entitled "Study Area Number 2, Gitangat".

MR. RUSH: Are we done with 29?

MR. WILLMS:

Q I'm done with 29. Can you identify -- is this your handwriting or Deanna Ludowicz' or --

A This is -- these notes were prepared by Linda Burnard-Hogarth, and some of the notes were prepared during discussion of the specific references that she had located.

Q So these were the ethnographic references that you had before you began your investigations for the location of Gitangat?

A Yes. The reference -- the specific references listed at the last two pages.

MR. WILLMS: 849-30, my lord.

(EXHIBIT 849-30: Tab 30, Handnotes)

MR. WILLMS: If you turn to pages 2 and 3, you'll see at the bottom of page 2 the background information about Gitangat and a reference to Men of Medeek and then a description how the migrants came upon an Eagle Village. And then the beginning of the next paragraph:

> "While locational information is vague, it seems probable that the Eagle Village referred to in Men of Medeek is Gitangat."

Now, if -- and this was an extract that I put to you from a work that you referred to in your report from Barbeau. If the eagle clan is -- was created as an immitation of the Russian crest, that would make Gitangat a historic village. That would put this in historic times?

MR. RUSH: Well, my lord, I think that question should be reframed somewhat, because the clan was not made in the image of a Russian crest. I think the reference is that it is the crest itself. And perhaps the exact wording should be put. I think my friend -- the wording is found at Tab 26, the top of page 5.

MR. WILLMS: Yes. I should refer to the wording, my lord. The wording is:

> "The wolves split up into two halves or

1 moieties, one of them the wolves proper and
2 the other the eagles in immitation of the
3 Russian imperial crest."
4
5 THE COURT: Where are you reading that from?
6 MR. WILLMS: It's at Exhibit, my lord, 849-26.
7 THE COURT: Yes.
8 MR. WILLMS: Which is Barbeau, raven clan outlaws, one of the
9 references to the witness' report. And it's page 5 --
10 at the top of page 5 that I just read from at that
11 exhibit. The only suggestion I'm making here is that
12 if Barbeau's correct and if the wolves split up and
13 one of them, the eagles, were an immitation of the
14 imperial crest, that that would indicate that Gitangat
15 was historic, the ethnographic reference. That's what
16 I'm suggesting to the witness.
17 THE COURT: Your friend is suggesting that that is not an
18 accurate summary that you're putting to the witness
19 and that you're equating the crest to the village.
20 Your friend suggests -- seems to me perhaps more into
21 argument, but your friend suggests that your question
22 should be if the eagle crest is an immitation of the
23 imperial Russian crest, then that eagle crest is
24 historic rather than the village is --
25 MR. WILLMS: I put the question broader because when I read what
26 Barbeau says, Barbeau has the eagles being created in
27 immitation of the Russian crest. That's how I read
28 it. That's where they got their name from, the --
29 THE COURT: Well, this is --
30 MR. WILLMS: And it's a reference that the witness referred to.
31 Maybe it's argument, my lord.
32 THE COURT: We're off the track. I think if you want to pursue
33 it, Mr. Willms, you'll have to put it to the witness
34 again. No way she can follow this dialogue.
35 MR. WILLMS:
36 Q After your review of Barbeau, did it occur to you that
37 Gitangat might be a historic village?
38 A No.
39 Q Now, in your report, Exhibit 844, at page 3-5 -- I'm
40 now in the Gitangat area. It's Gf Tc 85 - A, my lord.
41 3-5, my lord.
42 And you start the second paragraph referring to a
43 large food storage area and then say this:
44
45 "From ethnographic accounts and previous
46 archaeological research, it is known that
47 food storage areas such as this are

generally associated with and located a short distance away from summer fish processing sites and winter village sites."

What ethnographic accounts were you referring to there?

A I referred to thinking of my own research in the Stikine area and the discussion of cache pit areas, food storage areas, also accounts by James Teit.

Q Teit was investigating the Tahltan?

A He was an ethnographer who worked in several different parts of the province.

Q Tahltan included?

A Yes.

Q What else? Do you recall what other areas?

A James Teit?

Q Yes. Where he's referring to the food storage pits, just those areas.

A What?

Q I'm just interested in the ethnographic sources or locations where the food pits that you describe in page 3-5 are also mentioned by Teit. Now, one, I think, is Tahltan?

A Yes.

Q What other?

A Teit has also done extensive work in the southern interior groups.

Q And food storage pits there as well?

A Yes.

Q I'm showing you a B.C. Archaeological Site Inventory Form for Gf Tc 85 - A. Who prepared this form?

A This was written up by Mr. Brolly.

MR. WILLMS: 849-31.

(EXHIBIT 849-31: Tab 31, B.C. archaelogical site inventory form Gf Tc 85 - A)

MR. WILLMS:

Q See on page 2 the description of the small circular cultural depressions. And then Mr. Brolly says that these are presumptively cache pits.

A Yes.

Q So they may be or they may not be?

A That is a characteristic term that Mr. Brolly uses for meaning that these are interpreted as --

MR. WILLMS: You'll also see that he carries on to note that there were no artifactual materials observed in association with the prehistoric features, but he has a cache of World War I bottles, and then you'll see

1 down there a Johnny Walker bottle.
2 MR. RUSH: He says World War I era bottles.
3 MR. WILLMS:
4 Q Era bottles. And then notes the Johnny Walker bottle.
5 That's clearly historic, that bottle cache?
6 A The bottle cache, yes, at the very north end of the --
7 of the site. Yes.
8 Q And then he -- you'll also note under 22 -- 23 under
9 site, date and age he's put unknown?
10 A Yes. This was filled out a few days after our
11 field -- field work. So at that point we -- we had
12 not --
13 MR. WILLMS: Just to fix the location for this site, if you turn
14 in your report to Figure 8, which I have following
15 page 3-3 following Figure 7 -- do you have that, my
16 lord?
17 THE COURT: Yes.
18 MR. WILLMS:
19 Q Ms. Albright, do you have Figure 8?
20 A Yes.
21 Q You'll see that there's an old wagon road noted on
22 Figure 8?
23 A Yes. That's adjacent to the railroad.
24 Q And that was the road that was used by the miners in
25 Doreen to go up to the placer mining location at Lorne
26 Creek?
27 A I am not sure when that road was constructed.
28 Q Just keeping Exhibit 849-31 and Figure 8 in front of
29 you, I'm showing you some notes that start off Sunday,
30 June 16th, 1985. Whose notes are those?
31 A Those are my notes.
32 Q Your notes. And if -- I'll mark this in a moment, my
33 lord, because I've got to get another book out, but
34 I'll just continue with it first and then mark it.
35 You say: "Walked north on old road from Doreen to
36 Lorne Creek". Is that the -- the wagon road that is
37 noted on Figure 8?
38 A Yes. We surveyed along the road, in between the road
39 and railroad.
40 Q And then you -- just carrying down, you note the big
41 flood in 1978, about the middle as you're working
42 down, that washed out a wood bridge over Fiddler
43 Creek, and a site notation. Then you say "Dates from
44 20's, mining activity on Lorne Creek". And then --
45 A Yes.
46 Q -- you note the hotel. And then can you read the last
47 two sentences there just above the word "ditches"?

1 A There was apparently a road up to the mining area on
2 the north side of Lorne Creek.
3 Q And the biggest period was the 1920's with 2,000
4 people?
5 A Yes. According to -- according to one of the people
6 that we met at Doreen.
7 Q So is it possible that some of these cache pits may
8 have been associated with the mining activity at Lorne
9 Creek?
10 A No. They don't appear to be of recent use. There
11 were no other historic -- except the very isolated and
12 separate bottle cache, there were no other historic
13 period or artifacts in the site area where the cache
14 pits were located.
15 Q There's no prehistoric artifacts there either, is
16 there?
17 A We didn't do a lot of subservice testing there, so,
18 no. We did not record finding other materials.
19 Q No. But it is possible that the -- some of the pits
20 are associated, let's just say, with the bottle cache?
21 A No. They were quite -- quite distinct, had quite
22 distinct characteristics of cache pits used in
23 prehistoric times given the nature of the rims and the
24 characteristics of the features.
25 Q Okay. Well, if you won't agree that they might be
26 associated with mining activity, will you agree with
27 me that some of them may be historic?
28 A No. These do not appear to be historic in any way.
29 Q You're confident in that -- notwithstanding that you
30 didn't dig any test pits and Mr. Brolly says that this
31 site age and/or date is unknown, you're confident that
32 this is prehistoric?
33 A Yes.
34 MR. WILLMS: Now, my lord, the notes -- and I've got a new
35 binder. If we could perhaps mark the binder.
36 THE COURT: It can be part of Exhibit 849. Just carry on with
37 the sequence.
38 MR. WILLMS: Well, the unfortunate thing, my lord, is first of
39 all, I think my 849 is full and I'm afraid it will
40 explode if I put more documents in it, but I have run
41 out of tabs.
42 THE COURT: I'm just saying that these two books can both be
43 849.
44 MR. WILLMS: Well, I started with Tab 1.
45 THE COURT: All right. Well, then this can be 849A.
46 MR. WILLMS: All right.
47 (EXHIBIT 849A: AGBC Cross-exam Book III)

MR. WILLMS: And I'd ask that the notes made by Ms. Albright be 849A Tab 1.
THE COURT: Yes.
(EXHIBIT 849A-1: Tab 1, Handnotes of S. Albright dated June 16, 1985)
MR. WILLMS:
Q The next site that you investigated in that area you called Gf Tc 85 - B. And I'm showing you a British Columbia Archaeological Site Inventory Form with that designation on that. Is this also made out by Mr. Brolly?
A This is his handwriting, yes.
Q This was where you did a test pit inside a house and concluded that a carbon-stained layer in the pit was a hearth?
A Yes, it was.
MR. WILLMS: Can the inventory form, my lord, be 849A-2?
THE COURT: Yes.
(EXHIBIT 849A-2: Tab 2, Archaeological site inventory form Gf Tc 85 - B)
MR. WILLMS:
Q Now, I'm showing you some notes that are dated June 20th, 1985 at the top right-hand corner. Can you just confirm that the drawing here is taken from the location Gf Tc 85 - B?
A Yes. These are our field notes at that site.
Q Who made those notes?
A They were made by myself and Deanna Ludowicz.
Q And attached to the two pages of notes are a feature record form for the site and a radiocarbon sample form from the site?
A Yes.
Q Just referring to the last page, the sample form, did you use this sample form for all of the radiocarbon samples that you took at Moricetown?
A These are -- these are standard forms. They are often used by an archaeologist in different ways to organize the information concerning features.
Q Did you use forms like these at Moricetown to record your radiocarbon samples?
A Yes. I believe I made notes on --
Q What did you do with those notes?
A They were with the -- I believe they were with the -- the other field notes, the other notes.
Q They weren't. Do you have any other idea where they might be?
A Well, I had kept them with little notes.

1 Q Just turning back to the first page, you have shown
2 the test pit location on the drawing as the
3 rectangular box on the right-hand side of the square
4 box at the top?
5 A Yes.
6 Q Isn't it unusual for a hearth to be located near a
7 wall?
8 A This depression represents the -- the central
9 depression within a larger house structure, so it
10 wouldn't have been close to an outside wall.
11 Q Well, correct me if I'm wrong, but am I reading this
12 wrong when I read the heavy black square line around
13 being representative of the outside wall and the
14 lighter line in the middle being representative of the
15 lower area in the depression, the depressed area?
16 A The -- no. The black line does not represent a wall.
17 It represents the surface rim of the depression.
18 Q These houses -- from your ethnographic research, these
19 houses were made of wood?
20 A The superstructure, yes.
21 Q And wasn't it usual in these houses to have the hearth
22 in the centre of the feature?
23 A As far as I understand, yes.
24 Q So to confirm that this was indeed a hearth, it would
25 have been good practice to dig a test pit right in the
26 middle of the depression?
27 A Within the centre of the depression would indicate --
28 here we have seen in a profile aspects of the slumping
29 of the depression and aspects of the floor of the
30 depression.
31 Q But the dotted -- the light line on the inside shows
32 where the slumping stops and the flat part in the
33 middle of the depression roughly starts, correct?
34 A Yes. The -- the dotted area there indicates that it
35 was a levelling of the interior of the depression.
36 Q And so if you dealt -- dug another test pit anywhere
37 else in there, you could tell whether or not that
38 carbon-stained lens extended over the whole bottom of
39 the depression?
40 A Another test unit would indicate what other -- it
41 would indicate other aspects of the feature, yes.
42 Q And if you did a test pit in another location within
43 that cultural depression and if you found a carbon
44 layer similar to the layer that you found in the test
45 pit that you dug, that would indicate that perhaps
46 there was something other than a hearth involved?
47 A Well, within a floor area that size, there may have

1 been more than one -- one central hearth. There may
2 have been two hearth areas within the house feature.
3 There may have been -- it's possible that hearth
4 feature would shift in terms of its exact location
5 within that central depression.
6 Q But it's also possible if you found the same carbon
7 staining in a test pit at the same layer in another
8 area, that it's indicative of a fire that was general
9 over that area? That was -- might not be a hearth?
10 A There might be other reasons for -- for charcoal to
11 develop.
12 Q Yes. And, in fact, in your report you describe
13 hearths and what you found adjacent to hearths at
14 Moricetown at page 2-4. And if you could just turn
15 back to 2-4, you -- on page 2-4 in the middle of the
16 page you describe the three hearth features, and then
17 at the end of that discussion you note:
18
19 "Small pieces of burnt bone, lithic
20 debitage, and artifacts deposited around the
21 surface of the two hearths, features 15 and
22 17, indicate cooking, eating, and lithic
23 manufacturing activities during the period
24 of deposition."
25
26 When you excavated the test pit that is described in
27 your notes, you didn't find any artifactual or faunal
28 material at all, did you?
29 A Not -- not in the unit -- I did not find artifactual
30 material in the unit excavated within the house
31 depression, but one close by.
32 Q So all you can really say about that carbon-stained
33 soil is that it was likely caused by a fire?
34 A Carbon is related to burning of organic material.
35 Q But there are none of the other usual indicators
36 associated with a hearth that were found in that test
37 pit, correct?
38 A Yes.
39 Q So that it is possible that that carbon-stained layer
40 was caused by a natural fire?
41 A A natural fire of?
42 Q That is a fire that was not caused by humans. It was
43 caused naturally by mother nature. That's what I
44 mean, a forest fire.
45 A Oh, a forest fire. This appears quite distinct from a
46 forest fire. The -- the carbon staining observed is
47 clearly an aspect of the house depression itself and

occupation of -- or use of that house feature.
Q But putting the house feature to one side for a moment, just finding the carbon staining in a soil pit, does that tell you that the carbon staining was caused by -- just looking at what you saw, that tells you that the carbon staining was caused by a fire created by humans?
A The context of that is most significant, yes.
Q But I'm just asking you if you put aside the context of the house depression for a moment and just focus on the staining that you saw, is that staining indicative of a possible forest fire?
A The -- that evidence is -- is interpreted in the context in which it is found. Archaeological materials are always interpreted in terms of the context in which they're found.
Q So that when you find a carbon-stained layer in a house depression, you stop right there and conclude that it's a human caused fire?
A I look at a number of factors that come together at -- at this point.
MR. WILLMS: What were the other factors?
MR. RUSH: Excuse me. I had the impression that the witness was going to continue, but your question was elicited as well.
MR. WILLMS:
Q Other than the house depression and the carbon stain, what were the other features? What were the other indicia that this is human caused?
A The -- the features as a group and their location as site, the characteristics of the features at that site, including this house depression, the artifact material that was found in -- in the close by test unit, which --
THE COURT: I'm sorry. Found where?
THE WITNESS: The artifacts found in another test unit just a few metres away.
MR. WILLMS:
Q Six metres?
A Yes. Probably.
Q That's about 20 feet?
A 6 times 3 is 18, 19 feet. And those artifacts were found in the same cultural layer as observed -- the same layer as observed in the test unit in the house depression, the -- the carbon-stained lens, several pieces of data or pieces of information that together led to the interpretation of the site in our

1 understanding of the site.
2 Q So just to get back to the original question, in your
3 view it is impossible that that carbon staining was
4 caused by a forest fire?
5 A It appears distinctly cultural.
6 Q The question is not probable but impossible. Is it
7 impossible that that was caused by a forest fire?
8 A Yes.
9 MR. WILLMS: My lord, perhaps we could mark that as 849A-3 and
10 then this may be an appropriate time to take the
11 morning adjournment.
12 (EXHIBIT 849A-3: Handnotes of S. Albright dated June
13 20, 1985)
14 THE COURT: Yes. All right. Thank you.
15 THE REGISTRAR: Order in court. Court will recess.
16
17 (Proceedings adjourned)
18
19
20
21
22 I hereby certify the foregoing to be
23 a true and accurate transcript of the
24 proceedings transcribed to the best
25 of my skill and ability.
26
27
28 _____
29 Kathie Tanaka, Official Reporter
30 UNITED REPORTING SERVICE LTD.
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(PROCEEDINGS RECOMMENCED AFTER A SHORT RECESS)

THE REGISTRAR: Order in court.
THE COURT: Mr. Willms.
MR. WILLMS:

Q Ms. Albright, could you please turn to figure six in your report. It's immediately after page 3-2, and it's a map of the Gitanget study area. And you have recorded archaeological sites on this map, and just starting at the top right hand -- the top site GfTc 2. That's a historic site, isn't it?

A GfTc?

Q GfTc 2. If you want to refer to the appendix, it's at page 20 of Exhibit 845, appendix C. Number 15 you will note that it's a fish camp with five standing buildings noted in 1971.

A Yes.

Q So that one is historic. GfTc 3, which is described immediately --

A Excuse me. The fish camp, there was a fish camp with standing structures indicating recent use. There was also buried deposits, cultural deposits recorded at that site as well.

Q But there was no notation on the heritage branch form that that was prehistoric, the deposit?

A Buried cultural deposits are -- reflect occupation, which is generally prehistoric in its description.

Q I am showing you a computer printout from the Heritage Conservation Branch, and if you look to the very bottom of that printout, you will see under document 367 the site is GfTc 2?

A Yes.

Q And if you read over to the next page under "type", the line "type" says:

> "Historic, habitation; historic, subsistence feature, drying rack."

Now, there is nothing prehistoric about that, is there?

A The computer printout is a summary of information on the original forms, and the notation that we have listed in the appendix C indicates that buried deposits were noted at the site, and these may have been noted in Ames' report on his survey.

Q Well, I am just going by the printout, which in your appendix in your report, if you turn to your report,

appendix C, the very first page of appendix C, which says what appendix C is composed of. It says it's composed of four sections. The first section has a chronological review of the research, and includes all published and unpublished reports identified in a computer search of the Heritage Conservation Branch Research files.

Now, are you suggesting that for some of these there was something more that was used? You didn't do this, did you? Linda Burnard-Hogarth put this together.

A There have been more information in Ames' report.

Q Where is that report?

A That is noted as his 1971 report on -- or a report on his 1971 survey of the -- along the Skeena valley. The notation listed in the appendix C indicates that there was both prehistoric remains as well as historic use of that fish camp or fishing village.

Q Do you have that extract in your materials anywhere?

MR. RUSH: Well, it's referred, My Lord, at page 5 of appendix C. Is that the extract my friend is seeking?

THE WITNESS: Yes, page 5 of appendix C refers to Ames' survey, and the report by Ames on that survey, Ames, 1972.

MR. WILLMS:

Q Well, let me -- just so that we know that we are -- did you look at Ames' report and see on Ames' report that he suggested that there was prehistoric activity at this site?

A Yes, that was -- it's indicated in the appendix C that that report was consulted.

Q No. I am saying have you, have you yourself, not Linda Burnard-Hogarth, have you looked at Ames' report and have you personally confirmed that Ames says that there is prehistoric activity at that site?

A I reviewed Ames' report, yes.

Q And he doesn't --

A And I would need to go back and re-look at Ames' report.

Q Yes.

A Again.

Q You see, it's possible that one to two feet of cultural deposits could be built up in the historic period, isn't it?

A Not likely.

Q Well, what about the Vancouver garbage dump. That's deeper than one to two feet, isn't it?

A We are talking about a very different kind of cultural refuse.

1 Q Just hold it a minute now.
2 THE COURT: Are you suggesting that's a rich historical site?
3 MR. WILLMS: It may be, My Lord.
4 THE WITNESS: It would be interesting for some archaeologists.
5 MR. WILLMS: Well, I may -- My Lord, let's mark that document,
6 and I will see if I can find Ames somewhere.
7 THE COURT: Yes. 849A-4.
8 MR. WILLMS: 849A-4, My Lord.
9 THE COURT: Yes.
10
11 (EXHIBIT NO. 849A-4 - TAB 4 - COMPUTER
12 PRINTOUT FROM HERITAGE CONSERVATION FILE AGBC)
13
14 Q Now, just carrying on with figure six. The next site
15 identified is GfTc 3 with a triangle. That's on
16 page -- at page 20 of your appendix, and you have
17 identified as barked cedar trees and cultural
18 depressions. Page 20 of appendix C.
19 A Yes.
20 Q Now, the bark cedar trees would indicate that it was
21 likely that it was historic. I mean, these are living
22 trees with bark stripped off them, is that correct?
23 A Yes, these trees have been modified by stripping of
24 cedar bark for a variety of purposes. And 28,
25 cultural depressions.
26 Q So the barking would indicate that it's likely a
27 historic location?
28 A It's more likely to be prehistoric in this context.
29 Q So it's --
30 A And --
31 Q So these bark cedar trees are more -- you didn't see
32 them, did you, you just referred to the report that
33 said bark cedar trees?
34 A Yes.
35 Q You don't know whether the cedar trees are fifty years
36 old or a hundred years old?
37 A The -- I am relying on the record or the observations
38 of the archaeologist who recorded this site.
39 Q Well, you know that there was test pitting carried out
40 there, no cultural materials found, or do you even
41 remember that?
42 A It's difficult to remember all the details of more
43 than 200 sites in the area.
44 Q Yes. So that it's possible that that's historic,
45 barked cedar trees?
46 A Not likely.
47 Q But possible?

A In this context. The association at the site of cedar bark stripping and cultural depressions --

THE COURT: Well, isn't there a notation anywhere about age of the trees?

THE WITNESS: I don't recall from the site record.

MR. WILLMS:

Q Well, I am showing you the Heritage Conservation Branch printout. If you look at the bottom of the printout, document 435, GfTc 3, that's the site you are referring to on figure six.

A Yes.

Q And if you turn to the second page of the Heritage Conservation Branch printout, you will see that under, for example, "type", if you come down below "ethno-linguistic", "type" is:

> "Cultural material, surface, culturally modified tree, subsistence feature, depression, cache."

There is nothing in that line that says that it's not possibly historic, is there? When you read that line it's possible that this is historic. And please -- just read the section under "collections" down below.

MR. RUSH: And "remarks".

MR. WILLMS: And "remarks".

Q Is there anything in this report which allows you to date this at all?

A There is no indication after specific date of use, but the description is typical of pre-contact archaeological sites.

Q And after contact, all previous culture was abandoned, is that correct?

A No.

Q It was continued, wasn't it?

A Aspects of traditional subsistence patterns were continued.

Q Yes. So this -- including bark trees?

A Possibly.

Q So this could be historic?

A From the description given here, and this is a summary of information on the site form, original site form, it is indicative of typical pre -- what is referred to as prehistoric cultural activities.

Q And post-historic? In other words, historic too, prehistoric and historic?

A It is most likely to be an example of prehistoric site use.
Q And to be sure, you would have to date the tree, correct?
A To know when the trees were barked at a specific point in time, further investigation would be needed.
Q Right. And you don't know the average age of trees in this area? That's not within your realm of expertise?
A I haven't observed this site directly myself.
Q No.
A But the forest within that locality is a mature hemlock cedar forest within the general locality.
MR. WILLMS: My Lord, might that be Exhibit 849A-5.
THE COURT: Yes.

(EXHIBIT NO. 849A-5 - COMPUTER PRINTOUT FROM HERITAGE CONSERVATION FILE)

Q Now, the next -- just carrying on down figure six. The next site noted is GfTc 14, and it's just above your location of all of the two -- of all of the cache pits, or is that the house depressions?
A It's a cache pit area.
Q So just above is GfTc 14, and if you refer to your appendix, page 20, you will agree with me that this is a historic habitation site.
A Yes, that is recorded as a historic habitation, recent habitation. I remember we did observe this site as we -- adjacent to the roadway.
Q And the next one day GfTc 13 is -- excuse me -- also habitation. It's item 12 on page 20. That's historic?
A Yes.
Q Now, the next one, GfTc 1, is the one that is referred to as an isolated find, a spall scraper up under item 11. And I suggest this item was found on the surface and it could be historic as well, as far as you know.
A No.
Q Why not? Can you describe a spall scraper? What does spall mean?
A A spall is a flake that has been removed from a river cobble, and it is an outer flake, so it has cortex or the outside surface of the cobble attached to it -- on it. And they are generally retouched by flaking in some way, and often used as a scraper or large cutting -- could be large heavy-duty cutting tools.
Q But those kind of scrapers continued to be

1 manufactured in historic times, didn't they?
2 A The --
3 Q I mean after contact.
4 A The cobble using -- using river cobbles is an aspect
5 of technology that is found from earliest occupations
6 into late prehistoric -- late pre-contact times.
7 Q It's just knocking -- it's knocking a rock against a
8 rock to shape it. Isn't that all that it is when you
9 make a spall scraper?
10 A Well, it takes a considerable amount of knowledge and
11 expertise to manufacture suitable tools.
12 Q But that's how you make a spall scraper, you bang one
13 rock against another?
14 A It is flaked with a hard hammer, hard stone hammer.
15 Q Or flaked just by hitting the rock on a larger rock
16 maybe?
17 A Tools may be made by polar technique, in which the
18 cobble or materials placed on an anvil stone and used
19 with a stone hammer or flaked with a stone hammer.
20 Q And in fact when you were doing Tahltan
21 ethno-archaeology you took photographs of a person
22 flaking a stone, and I am showing you page 59 of your
23 Tahltan ethno-archaeology.
24 A Yes.
25 Q Making a stone scraper?
26 A Yes.
27 Q In historic times?
28 A Tools in the specific context of hide working are
29 sometimes made by this woman.
30 Q In historic times? Yes?
31 A Yes.
32 Q So that when you read that somebody found a spall
33 scraper, all that tells you is somebody's found a
34 stone scraper, correct? You didn't see this spall
35 scraper, did you, that Ames picked up?
36 A I don't remember examining it. I'm not sure if it was
37 in the collection sent us by the National Museum.
38 Q So it could be prehistoric or it could be very similar
39 to what you took a photograph of in Tahltan
40 ethno-archaeology, you just don't know?
41 A The spall tool that Ames collected at that site was
42 from an eroding creek bank, and at which there may
43 have been a larger prehistoric site at one time.
44 There was no indication of recent habitation at
45 that -- on that creek bank to indicate that someone
46 had been making the tool recently, and --
47 Q Well, that's -- what does IR 8 mean on figure six?

Does that mean Indian Reserve? It's just above the dark GfTc 85 B.
A Yes.
Q All right. And IR means Indian Reserve?
A Yes.
Q And that's where GfTc 1 is located, either there or close by?
A GfTc 1, as I recall, is on a tributary creek to the north of Fiddler Creek.
Q Will you agree with me that that spall scraper, as far as you know, not having examined it, could have been created after contact?
A In the context on which Ames found it, no, not likely.
THE COURT: Did Ames describe it as historic or prehistoric?
THE WITNESS: No, his understanding of it was prehistoric.
THE COURT: Is that what he said?
MR. WILLMS:
Q What are you referring to when you are suggesting what Ames suggested? You must have something in mind, a document in mind. What document is it that you are thinking about?
A Well, in his report the -- on his survey along the Skeena River from us to Kispiox, I believe, was he was examining areas in an effort to look for early occupation sites, so he was concerned about buried deposits and materials indicative of occupations 2 to 5,000 years old, comparable to that -- sites he had recorded in Hagwilget Canyon.
Q Have you seen anywhere a written reference by Ames to this spall scraper describing it as prehistoric?
A My understanding is that he identified this as a prehistoric site.
Q Well, put your understanding to one side, unless you read something. Did you read anything written by Ames where Ames described this spall scraper as prehistoric?
Q Maybe this would help you. If you look at tab 5 of Exhibit 847.
THE COURT: I'm sorry?
MR. WILLMS: It's tab 5, My Lord, of Exhibit 847. It's the big binder put in evidence by the plaintiffs.
THE COURT: Yes.
MR. WILLMS:
Q This is the site survey by Ames that you have referred to?
A Yes.
Q If you turn to page 2.

THE COURT: Tab 7?
MR. WILLMS: Tab 5, My Lord.
THE COURT: I'm sorry.
MR. WILLMS:
Q If you turn to page 2, you will see under four the kinds of sites located. Are you with me?
A Yes.
Q Under number 4 being:

> "Four fishing localities, all still in use, except possibly one."

And then he's got:

> "GfTc:1, GfTc:2, GgTc:1, GgTb:1."

That's what Ames described. And then further down he describes the flaked cobbles, and then says:

> "Only one flaked spall was found in a fine particle sand matrix. This is the only cobble tool locality given a site designation."

A Yes. And understanding the nature of cobble tools and the timeframe in which cobble tools have been used in the past, he appears to be referring to a tool characteristic of pre-contact times.
Q I am showing you Tahltan ethno-archaeology at page 59 again. In figure 24 are those cobble tools, the high dressing stones.
A They are based on cobbles.
Q And in fact that's what the woman is making in the picture in 23, a cobble tool, correct?
A She is manufacturing a stone tool, yes.
Q A cobble tool?
A Based on a pebble to -- using a pebble to a cobble.
Q Yes. So I am suggesting again that that cobble spall that Ames found and described at tab 5 of Exhibit 847 could be post-contact.
A Not likely from the context in which it has been found, and the understanding of archaeologists working in that area to the timeframe that cobble tools have been used in that area along the Skeena.
Q Well, if you won't agree --
A Again, I would like to indicate that the context in which the material is found is also significant.
Q Further on in tab 5 is the site form done by Ames on

GfTc 2, which was the first one you gave evidence about at the top of figure six.

And, My Lord, it's partway through, about ten or eleven pages into the tab.

THE COURT: Where does it give the reference?

MR. WILLMS: The reference is at the top right-hand corner.

Q It will be a British Columbia Archaeological Site Survey Form, site number GfTc 2. Do you have that?

A You are referring to GfTc 1?

Q No. If you keep going.

THE COURT: Yes, I have it. Thank you.

MR. WILLMS:

Q There. All right. Now, you will see that Ames' description under 14 is 5 standing buildings and drying racks. Do you see that under item 14?

A Yes.

Q Is there anything on this form that indicates that that site, GfTc 2, is prehistoric?

THE COURT: Well, there is answer 23.

MR. WILLMS:

Q Yes, 23 says:

"The site was occupied by Indians in historic times until 1971."

You see that's what has been filled out. Is there anything on the form that indicates to you that GfTc 2 is prehistoric?

A The depth of deposit under six.

Q One to two feet?

A Yes.

Q Anything else?

A In that -- the occupation he notes evidence of occupation of this fishing camp in recent times. The depth of the deposits is also indicative of longer term occupation at that site and building up of materials.

Q How can you say that, when the remarks on paragraph 29 are "Site does not appear promising"? One to two feet really doesn't mean anything, does it?

A Because in Ames' report he indicates that he was conducting the survey to look with the objective in mind of locating early sites, sites that are comparable to Hagwilget Canyon. 3 to 5,000 years old, that -- and as noted in the -- in our discussion of a survey, his attempt to look for very old sites may have caused him -- probably caused him to overlook a

lot of sites along the area that didn't have such a deep deposit as he was anticipating for Hagwilget Canyon.

Q Now, just carrying on and putting Ames to one side and carrying on down figure six to the next site location, GfTc 16. And if you would turn, please, to page 20 of your appendix C, Exhibit 845. You will agree with me that GfTc 16 is historic?

A Yes, it is.

THE COURT: Sorry, this is on page 20? This is which number?

MR. WILLMS: On page 20 it's number 10, My Lord, section of a wooden bridge formerly spanning Fiddler Creek.

THE COURT: All right.

MR. WILLMS:

Q Now, just putting GfTc 1 to the side for a moment. All of the other previously recorded archaeological sites record historic use at the site or potential historic use at the site?

A Recent historic occupation has been noted at GfTc 14, 13 and 16.

Q And Ames noted it at Tc 2 to 171 at the top?

A The buried deposits there are suggestive of pre-contact occupation over a period of time.

Q Yes. But accepting that, there is also historic use at the site recorded by Ames?

A There is also historic use of that site, yes.

Q And at GfTc 3, depending on the date of the trees, could be historic, could be prehistoric?

A Most likely prehistoric.

Q But could be historic?

A Given the cultural features noted at the site, the bark stripping and the features suggestive of cache pits, it is not likely to be recent.

Q But possible?

A Indicative of prehistoric use and occupation, yes.

Q So when you reviewed the historic and prehistoric previous archaeological sites in the area and considered the bottle cache that you found at one location and the close proximity to the mining road, didn't you conclude that the sites that you reviewed were really historic? They were probably historic and not prehistoric?

A No, I did not conclude that.

Q I would like to turn now to Temlaxam.

THE COURT: Just a moment. I want to finish a note here. Thank you.

MR. WILLMS:

1 Q I am showing you notes entitled "The Temlaxam survey
2 segment". Were these the notes that were made by
3 Linda Burnard-Hogarth?
4 A Yes, these were notes in relation to Temlaxam.
5 Q And who made the notes?
6 A They are -- they are written by Linda Burnard-Hogarth.
7 MR. WILLMS: All right. My Lord, Exhibit 849A-6.
8 THE COURT: Yes.
9
10 (EXHIBIT NO. 849A-6 - TAB 6 - NOTES
11 TEMLEXHAM - SURVEY SEGMENT - L.
12 BURNARD-HOGARTH)
13
14 Q And just referring to this. You will see references
15 to Neil throughout. It starts off "According to Neil
16 ..." in the middle of the first paragraph. "Within
17 the area several possible village site locations were
18 identified by Neil." And then each of the next
19 paragraphs begins with a reference to Neil. You know
20 that that's Neil Sterritt?
21 A Yes.
22 Q And in particular over onto the next page under
23 discussion of survey area in light of ethnographic
24 information it says:
25
26 "The northern and southern boundaries of
27 Temlaxam as identified by Neil".
28
29 That's Neil Sterritt?
30 A Yes.
31 Q All right. So that the -- your investigation in the
32 area was focused by Neil Sterritt's views of where
33 Temlaxam were?
34 A No.
35 MR. RUSH: My Lord, in fairness, should the witness not be also
36 directed to the next sentence of that same passage
37 that was just directed to?
38 THE COURT: "Ethnographic sources also suggest"?
39 MR. RUSH: Yes.
40 MR. WILLMS: Yes, I should read the whole thing, My Lord.
41 Q
42
43 "The northern and southern boundaries of
44 Temlaxam, as identified by Neil, encompass a
45 linear distance of over 9 miles. Ethnographic
46 sources also suggest that Temlaxam was spread
47 out over a considerable distance."

1
2 That was the basis for your study location where you
3 looked for Temlaxam?
4 A We are -- the basis for our investigations of the
5 Temlaxam area relied on information gathered from
6 several sources, as noted in the appendix B, and these
7 include field notes by Barbeau, Barbeau materials in
8 Duff's files, Barbeau manuscripts, also Men of Madeek
9 by Walter Wright.
10 Q They are all referred to in?
11 A In appendix B.
12 Q And the document that I handed to you, which has been
13 marked 849-6 --
14 A Yes.
15 Q And in addition to the ethnographic references, you
16 also had the benefit of Neil Sterritt's views on where
17 Temlaxam was?
18 A Information from elders that he had -- elders and
19 chiefs that he had talked to. His information was
20 considered as one part of all of the references that
21 we gathered and located in the literature.
22 Q Now, you listed your locations starting at page 3-11
23 of your report, and the first location at the top of
24 the page is GhSw - 85a, and you will see or confirm
25 that that document is British Columbia Archaeological
26 Site Inventory form for that site, and then there are
27 some notes as well at the back related to the site.
28 THE COURT: I'm sorry, Mr. Willms, I missed that. What are you
29 saying?
30 MR. WILLMS: This is --
31 THE COURT: What is this?
32 MR. WILLMS: GhSw 85a, site inventory form.
33 THE REGISTRAR: Oh, I'm sorry.
34 MR. WILLMS:
35 Q The first part is the inventory form, and then there
36 are notes and drawings related to GhSw 85a.
37 A Yes, I think the notes are -- the notes are --
38 probably refer to a variety of things not restricted
39 to -- just to this site.
40 Q Well, this was pulled consecutively from the material
41 that was disclosed by your counsel last week, so if
42 there is a page here that doesn't relate to GW --
43 GhSw - 85a, could you identify that page please.
44 A Okay, both -- the last two pages do have notes to this
45 lithic scatter located. It also has notes related to
46 other areas surveyed, either north or -- north or west
47 on other terraces as well.

Q Now, let's just -- perhaps that could be marked 849A-7, My Lord.
THE COURT: Yes. Are you finished with six?
MR. WILLMS: Yes, My Lord.
Q Just turning to A-27.
THE COURT: A-27.
MR. WILLMS: If you look at the bottom of the --
THE COURT: Oh, yes.
MR. WILLMS: They have been numbered, and those numbers, My Lord, were put on by my office as the documents came in, to keep it in the order to say where it came in.
THE COURT: Yes.
MR. WILLMS: Related to other documents.
Q If you look at the bottom, there is a reference of Historic Carnaby, the west side of the railroad track, and then the 800 foot terrace, and that 800 foot terrace is the area that's been described as GhSw 85a.
A It's quite a wide bench at the 800 foot level that extends quite a considerable distance along the river.
Q And whose notes are these? Are these your notes?
A Yes.
Q And you note a large trench-like depression along the west side of track, possibly sand excavation pit for the railroad?
A Yes.
Q And then you said it first looked like a larger house pit. And then "Richard found GTP telegraph insulator." That's Richard Brolly?
A Yes.
Q And then you deal with -- at the bottom of the page the small lithic scatter, and this is the scatter that you have identified coming from GhSw 85a?
A Yes, I believe so. Yes, I think so.
THE COURT: What's the next line? Says "on road ..." -- what's the next?
THE WITNESS: "Leading to clearing west side of track edge of the terrace."
THE COURT: I'm sorry, can you tell me, you are talking here about Historic Carnaby. Are we on the railroad side of the river here, or are we on the -- wait a minute. I shouldn't put it that way. Are we on the Carnaby sawmill side of the river, or are we on the -- what I thought was the Temlaxam side of the river?
THE WITNESS: We are within the general study area, Temlaxam study area. We are on the south side of the river, on the 85-a is on the edge of a new Gitsegeukla reserve on figure 11 of the report.

THE COURT: On the Gitsegeukla side of the river?
THE WITNESS: Yes.
THE COURT: Yes, all right.
MR. WILLMS:
Q The finding of a telegraph insulator close by, did that help you in assessing the age of the lithic scatter?
A No, they are in different contexts and different cultural materials.
Q The only different context is they were in different places. One was on the road and one was a little further away. That's the only difference in context, isn't it?
A The Historic Carnaby area is to the north of the -- to the site -- the lithic scatter recorded.
THE COURT: May we adjourn for lunch?
MR. WILLMS: If the witness is finished, yes, My Lord.
THE WITNESS: Yes, I think I am finished.

(EXHIBIT 849A-7 - TAB 7 - ARCHAEOLOGICAL SITE - GhSw-85A - INVENTORY FORM)

THE COURT: 2:00 o'clock please.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED FOR LUNCHEON RECESS)

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

_____
LORI OXLEY
OFFICIAL REPORTER
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED PURSUANT TO A LUNCH ADJOURNMENT)
THE REGISTRAR: Order in court.
THE COURT: Mr. Willms.
MR. WILLMS: My lord, over the break we discussed the hours of sitting and in light of Saturday and thought that if we could sit an extra half hour tonight and an extra half hour in the morning, that it was more than likely that the witness would be finished tomorrow.
THE COURT: All right.
MR. WILLMS: If that's agreeable to the --
THE COURT: Yes.
MR. WILLMS: -- to your lordship.
THE COURT: We'll do that then.
MR. WILLMS:
Q Before I turn back to Temlaham, my lord, I think I should mark the extract from Tahltan ethnoarchaeology that was put to the witness.
And, Ms. Albright, you'll see that this is pages 57, 58 and 59 of your work, which includes your discussion of the manufacture of stone dressing tools?
A Yes.
Q And that -- the photograph that we were discussing that you were giving evidence about is on page 59, correct?
A Yes. A photograph -- photographs of 59 show types of high dressing stones, tools.
MR. WILLMS: 849A-8, my lord.
THE COURT: Yes.
(EXHIBIT 849A-8: Tab 8, Extract from Tahltan Ethnoarchaeology)
MR. WILLMS:
Q Now, turning back to Temlaham and the exhibit, your report, page 3-11, Gh Sw 85 - B. And I -- I'm showing you some handwritten notes that appear to be a reference to Gh Sw 85 - B. I couldn't find the heritage conservation report in the materials. Can you confirm that these pages -- and you'll see they're numbered page 1 of 6 in the upper left-hand corner. There's only five here. But these are the notes that are referred to in respect of Gh Sw 85 - B?
A Yes.
MR. WILLMS: Exhibit 849A-9, my lord.
(EXHIBIT 849A-9: Tab 9, Handnotes dated June 6, 1985)
MR. WILLMS:
Q Whose notes are these?
A These are notes taken with all three of us in the field, Brolly, Ludowicz and myself.

1 Q Can you turn to the fifth page, at the bottom of the
2 fifth page, which is the last page? There's a section
3 entitled "Potential". Is this your handwriting?
4 A It appears to be Miss Ludowicz.
5 Q And you'll see that under "Potential" she notes that
6 it's endangered by river erosion, few hundred years
7 left, and then says "Indicative of resource
8 utilization practices, not village orientation ones".
9 What does that mean?
10 A Well, in the -- the features on the site are
11 indicative of storage of dried food resources, and its
12 location at the river would indicate fishing and
13 processing of fish resources for storage.
14 Q She then continues: "Has recent evidence of native
15 use". Have you noticed that as well at the location?
16 A At the very mouth of the creek. So that will be at
17 the south end of the terrace features. There were
18 artifacts indicating more recent -- more recent use of
19 the creek mouth itself.
20 Q And so there's a possibility that this cache pit site
21 is historic?
22 A No, not likely.
23 Q I didn't say whether it was unlikely. I asked was
24 there a possibility that it was historic?
25 A The nature of the features observed at the site, they
26 did not appear to be of recent storage activities
27 indicative of time period for historic -- within the
28 realm of what we might call historic.
29 Q So your answer is no. It's not possible that it's
30 historic?
31 A The characteristics of the features and its location
32 at the edge of an actively eroding bank indicate that
33 this was most likely a prehistoric cache pit area.
34 Q But it could have been a historic cache pit area,
35 correct?
36 A Not based on our observations of the site and its
37 context and its characteristics.
38 MR. WILLMS: The next site identified in your report --
39 THE COURT: Excuse me a minute. Can you read the last line? I
40 can read "This would be a good place to do it". Then
41 I think it says "Shovel testing had some possible"
42 what?
43 THE WITNESS: Possible -- if I remember the shovel testing at
44 the site, there was an indication that there might
45 be --
46 THE COURT: I'm just wondering what that word says.
47 THE WITNESS: I can't quite make it out myself.

THE COURT: All right. Thank you. Sorry.
MR. WILLMS:
Q The next is an archaeological site inventory form Gh Sw 85 - C. That is the first three pages. And then there are pages that follow, which are numbered in the lower right-hand corner, which also appear related to this site. Can you just confirm that all of these documents relate to this site, Gh Sw 85 - C?
A This is 85 - C.
THE COURT: Do you have an extra copy? Is that an extra copy?
THE WITNESS: The A-40 does not relate to this site.
MR. WILLMS:
Q If you look at the description in the middle of page A-40, it is the description reproduced on the site inventory form on how to get to the site?
A Oh, yes. I think we were counting mileage on the truck speedometer, the odometer. But it doesn't relate directly to the site itself. A-42, I can hardly make this out now. It's an imprint from --
Q It looks like a -- it looks like the back of the previous page imprinted over. You see on page A-42 in the -- if you turn it sideways, in the upper right-hand corner you can just see the back of the letters Gh Sw C?
A Yes. It shows a road and a trail, and I --
Q It looks like the back of A-41, but I don't know.
A No. This -- the note on the back does not relate to the site either.
MR. WILLMS: Okay.
THE COURT: Can someone remind me how you get on the Kispiox to Kitwanga back highway? How do you get across the river?
MR. RUSH: There's a bridge four miles above the main road into Old Hazelton. Just as you go down the hill into Old Hazelton, there's a cut-off four miles north, crosses the Kispiox River, and just on the other side of that bridge the road goes down the river towards Kispiox. And then --
THE COURT: Down the Skeena to the confluence of the Bulkley and then south?
MR. RUSH: That's right. And then just as you cross the bridge, there's a road that cuts up to Terrace and goes along the Skeena westbound, and that's the old Kitwanga Road. It really tracks the river all the way over to the Highway 37.
THE COURT: Do you say there's a bridge across the Kispiox?
MR. RUSH: I'm sorry. It's Skeena.

THE COURT: Across the Skeena. Yes. I'm sorry. Across the Skeena at Old Hazelton?
MR. RUSH: It's above Old Hazelton about four miles.
THE COURT: All right.
MR. WILLMS:
Q All right. The two pages that you've identified are A-40 and A-42 as not related to Gh Sw 85 - C. Now, A-43 and A-44 both have the notation on them?
A Yes.
MR. WILLMS: All right. And, my lord, Exhibit 849A-10.
THE COURT: Yes.
(EXHIBIT 849A-10: Tab 10, Archaeological site inventory form Gh Sw 85 - C)
MR. WILLMS:
Q And you'll see from page 2 that this site -- down under owner/tenant, the site is Neil -- it's Neil Sterritt's property?
A I believe it is. It's on a terrace -- terrace above and back of the farm that he has on the Skeena. So in terms of the upper terrace, that's also the same terrace we found on site 85 -- Gh Sw 85 - D. They're on the same terrace level. And 85- D was on Simms' property. But there was a fence, so I -- we understood that it was part of the farm that Sterritt has.
Q And you'll see that under -- on page A-38, the second page of the site inventory form under 23, the site age and/or date is unknown?
A In that we did not retrieve -- did not give a more specific date on it.
Q That's because it could be historic?
A Given the context of this little cluster of caches on the terrace that it's on, no.
THE COURT: If Tamlaham was thought to be an ancient village of substantial proportions, would you not expect a rich retrieval of artifacts?
THE WITNESS: In our survey we were looking for possible evidence of house features and -- and, yes, a large concentrations of artifacts. This particular part of the Skeena, most of the sites that we did find in this area, several of them were up on these raised terraces.
THE COURT: Yes.
THE WITNESS: And the river has very actively eroding banks along the lower terraces indicating that river erosion has been quite active.
THE COURT: I'm not intending to be in any way critical of your

1 investigations. I'm just curious in a general sense
2 whether if Temlaham was the busy centre that some of
3 the evidence I've heard suggests, would it not have
4 been a prime location for intensive archaeological
5 investigation by others before you came along?
6 THE WITNESS: Others have surveyed the locality and again types
7 are found in the canyon but not on the low lying
8 fluvial terraces.
9 THE COURT: All right.
10 MR. WILLMS:
11 Q The next site identified in your report at page 3-12
12 is Gh Sw 85 - D. These are the obsidian flakes that
13 were found in the Simms' garden?
14 A Yes.
15 MR. WILLMS: My lord, Exhibit 849A-11.
16 THE COURT: Yes.
17 (EXHIBIT 849A-11: Tab 11, Archaeological site
18 inventory form Gh Sw 85 - D)
19 MR. WILLMS:
20 Q And you'll see, Ms. Albright, on the second page under
21 23, site age and/or date, that apparently you were
22 unable to date this site?
23 A No. No specific date.
24 Q Possibly historic scatter?
25 A No.
26 Q Continuing on in your report at page 3-12, you do say
27 in reference to site Gh Sw 85 - E, at the very bottom
28 of that paragraph, that you found no remains of early
29 occupation and that the features and debris are
30 obviously the remains of the historic community of
31 Seeley?
32 A Yes.
33 Q Now, in the report, then, you turn following that your
34 attention to Hagwilget Canyon. You're not by doing
35 that suggesting that Hagwilget Canyon was the location
36 of Temlaham, are you?
37 A I'm not saying that this is Temlaham. I'm describing
38 the evidence of -- of occupation within the general
39 locality referred to as Temlaham.
40 Q But just so that we're clear, you're not suggesting
41 that this -- that this investigation that you did in
42 Hagwilget and that Ames did were in an area identified
43 as Temlaham by any of the ethnographic literature?
44 A Well, they're located within the general locality, and
45 the ethnographic references indicate that -- that --
46 that this was a large population centre which extended
47 for several miles along the river at the confluence of

1 the -- these two major rivers.
2 Q So you are suggesting that this could be the location
3 of Temlaham from the ethnographic literature?
4 A There is evidence of occupation in the Temlaham
5 locality as we have defined the study.
6 Q Which includes this area?
7 A Which -- yes, which includes several kilometres up the
8 Bulkley, the study area.
9 Q Just if you turn to page 3-13 of your report, you have
10 identified three or four sites. The first one is Gh
11 Sv 85 - B, the seven cultural depressions. I've just
12 put before you a site inventory form with that
13 notation on it. That relates to Gh Sv 85 - B?
14 A Yes.
15 MR. WILLMS: My lord, Exhibit 849A-12.
16 (EXHIBIT 849A-12: Tab 12, Archaeological site
17 inventory form Gh Sv 85 - B)
18 MR. WILLMS:
19 Q And you'll see on page 2, Ms. Albright, that the --
20 under item 23, the site age and/or date is listed as
21 unknown?
22 A Yes.
23 Q And that's because it could be prehistoric; it could
24 be historic?
25 A These are interpreted as of prehistoric occupation.
26 Q But could be historic?
27 A There was no indication of historic materials or trade
28 items observed at the site.
29 Q Or prehistoric materials either?
30 A The features themselves suggest or indicate features
31 characteristic of the prehistoric pattern of food
32 storage.
33 Q Which stopped at the time of contact; is that your
34 evidence?
35 A I believe I earlier stated that I cannot say at what
36 point a particular subsistence practice or traditional
37 practice shifted.
38 Q Yes. Exactly. Now, the next site is Gh Sv 85 - C.
39 And that's the next site down on page 3-13. This is
40 the site inventory form. And attached to it -- now,
41 can you confirm that the ones attached to it are for
42 site B and not for site -- not for this site?
43 A Are you asking if all the pages are relevant to 85-C?
44 Q Yes. Is all of it relevant to C?
45 A No. I think there's materials for two different sites
46 here.
47 Q I think if you look at it, you'll see that maybe it's

just misdescribed on the paper, because A-4 says Hagwilget site A-4. Look at the lower right-hand corner. It says "Hagwilget B" at the top. But Hagwilget B is only seven cultural depressions, and you can see that if you look at the numbers there there's 27 circles and numbers, which is what you've described as C?

A Yes. Yes. It's true.

Q Okay. And then if you look at A-5 and A-6, they list the 25 depressions?

A Yes. That's right.

Q So this all relates to what you call Gh Sv 85 - C?

A Yes.

MR. WILLMS: Exhibit 849A - 13, my lord.

(EXHIBIT 849A-13: Tab 13, Archaeological site inventory form Gh Sv 85 - C)

THE COURT: I've lost track of 11. What was 11, please?

MR. WILLMS: It was Gh Sw 85 - D, a site inventory form with the three --

THE REGISTRAR: Simms' garden.

MR. WILLMS: Simms' garden.

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

MR. WILLMS:

Q All right. Then I'll suggest this one be 849A-13. My lord, if you look to the second page of the exhibit, you'll see that the owner -- this is on Indian reserve land?

A Yes.

THE COURT: Where does it say that?

MR. WILLMS: Under item 24.

THE COURT: Yes. All right.

MR. WILLMS:

Q And you'll see above once again under item 20 the use of the words that these are 27 circular cultural depressions presumptively cache pits?

A Yes. That was a characteristic term that Mr. Brolly uses to mean interpreted as.

Q Yes. And you'll see that he -- the site age or date is unknown under item 23?

A Yes. That's a general -- general reference to prehistoric sites of unknown period in the -- I mean, they could be 3,000 years old or 1,000 years old.

Q Or 100?

A Without testing.

MR. WILLMS: Or 100?

THE COURT: I think Mr. Willms is asking you if it could be 100 years old.

THE WITNESS: Yes. I hear him. Given the context and characteristics of the site features, they appear to be aspects of a traditional prehistoric pattern of food storage.

MR. WILLMS:

Q Okay. If you turn to page A-3, the characteristics are set out there. There's the size. And then you'll see it says "No other cultural or artifactual materials were observed at this site". Do you see that?

A We didn't do any subservice testing at this specific cluster of cache pits.

Q Right. So the only context that you're talking about is that there's 27 holes in the ground of various sizes?

A Characteristic of cache pits of pre-- of a precontact tradition.

Q Which ended at contact; is that what you're saying? Is that your evidence?

A I -- -- for this area I can't say. I can't give you exactly when storage pits of this type were no longer used.

Q You say --

A I do know that other types of storage features were adopted and used.

Q Like what?

A Above ground, in some cases raised caches for storing foods and other supplies.

Q Like a refrigerator?

A No. If anything, the cellars were more like refrigerators. They kept materials cool and dry.

Q All right. The last set of cache pits are -- the next set is identified by you as Gh Sv 85 - D. And can you confirm that the three-page archaeological site inventory form that I've just handed to you and the attached four pages relate to this site?

A I'm not sure about the last page.

Q Okay. Except for the last page, A-14, the rest does relate?

A Yes, it does.

Q Perhaps, my lord, we can just take the last page off.

A Yes.

MR. WILLMS: Mark the balance as 849A-14.

THE COURT: Yes.

(EXHIBIT 849A-14: Tab 14, Archaeological site inventory form Gh Sv 85 - D)

MR. WILLMS:

Q You'll see once again on page 2 -- is this Mr. Brolly again calling these presumptively cache pits under item 20?
A Yes. This is Brolly's writing.
Q And he's also the one who says that the date and age is unknown under 23?
A Yes.
Q Okay. And you'll note, if we turn to the third page, the last note that he makes is that there were no other artifactual or cultural materials observed at the site. So this site is, I suggest, likely related to historic use. Would you agree with me?
A No.
Q The last site on this page is Gh Sv 85 - E. And I'm showing you a site inventory form. The first page of the site inventory form is followed by some handwritten pages. Can you confirm that those handwritten pages that follow relate to Gh Sv 85 - E?
A All but the last page.
Q All but the last page?
A Um-hum.
MR. WILLMS: Perhaps, my lord, we can do the same thing and just take the last page off.
THE COURT: I don't have the document yet. You're deleting A-19?
MR. WILLMS: Yes, my lord. And then marking it as 849A-15.
(EXHIBIT 849A-15: Tab 15, Archaeological site inventory form Gh Sv 85 - E)
MR. WILLMS:
Q The -- under item 14 on this site form and in fact on all of the site forms that I've just referred you to from Hagwilget Canyon, the cultural affiliation is noted as Tsimshian-Gitksan. Whose notation was that?
A That refers to the ethno-linguistic people occupying the -- the area as recorded ethnographically.
Q Is that supposed to relate to the cultural feature or is that supposed to relate to who's occupying the area at present?
A The cultural group at -- well, at present and as described ethnographically.
Q Let me put the question this way: Does that cultural affiliation that's noted in item 14 relate in any way to the features that are described on the site inventory form? Are they linked?
A The site was found in the area occupied by this cultural group at contact and described in the ethnographic literature.

1 Q So that these circular cultural depressions - cache
2 pits, which are identified under paragraph 15, are
3 circular Tsimshian-Gitksan cultural depressions? Is
4 that how you read this?
5 A They are interpreted as having been used at some time
6 in the past within the area that is occupied and used
7 by the Gitksan.
8 Q Is there a difference between a circular
9 Tsimshian-Gitksan cultural depression and a circular
10 Wet'suwet'en cultural depression? Are there
11 observable differences between the two?
12 A No. They're very similar. But that is a category
13 on -- standard category on the forms to recognize the
14 ethno-linguistic people who occupy the area at point
15 of contact.
16 Q Now, I just want to go back and ask you about the
17 large surface scatter that you identified at the same
18 location. And you called that Gh Sv 85 - A?
19 A Yes. A large lithic scatter on the north side of the
20 Bulkley.
21 Q All right. And this four pages is the British
22 Columbia Archaeological Site Inventory Form for Gh Sv
23 85 - A?
24 A Yes. It's a standard form for recording observations.
25 MR. WILLMS: 849A-16, my lord.
26 (EXHIBIT 849A-16: Archaeological site inventory form
27 Gh Sv 85 - A)
28 MR. WILLMS:
29 Q You'll see on the first page once again the cultural
30 affiliation is Tsimshian-Gitksan?
31 A Yes. This is -- these categories are also filled out
32 according to guide-lines that are produced by the
33 Heritage Conservation Branch. So these -- these were
34 filled out as a standard form that would eventually --
35 that may be submitted to the -- to the Heritage
36 Conservation Branch and there are guide-lines to go
37 along with the forms.
38 Q So what you're saying is depending on where the
39 location is, there's a certain cultural affiliation
40 that you must put in?
41 A When one is requested to identify the
42 ethno-linguistic -- yes, a group occupying the area in
43 which sites are located. And there is a -- there is a
44 map as well.
45 Q But you don't fill in something on these forms if your
46 own investigations indicate that it isn't accurate, do
47 you? You point that out?

A These forms were filled out on the basis of observations made in the field. They -- and were filled out according to -- according to the guide-lines as well.
Q And they were filled out truthfully to the best of your abilities at the time?
A Yes. They may have been incomplete or -- in that they were filled out based on field observations and may not have included observations based on further study of the materials.
Q But at the time they were filled out, they were filled out with the intention of at some point presumably forwarding them to the Heritage Conservation Branch; is that right?
A Yes. If we were to submit forms to the branch, this would be the format that we would submit information in.
Q And when you filled them out, you wanted to be as accurate as you possibly could in filling them out?
A Well, they would definitely be checked over again before they were submitted, so this is again a preliminary draft of a form. It doesn't --
Q These are first impressions?
A Yes.
Q And you'll see on page 2 once again the first impression of the site age and date under 23 is unknown? That was the first impression?
A Unknown period of time during the prehistoric era.
Q I don't see that during the prehistoric era there. Is that what unknown means when Mr. Brolly uses it?
A Quite often if we know that it's -- that the site relates to historic occupation, then it's usually -- usually stated as historic materials are indicative of historic occupation. And --
Q If you look up to 20, paragraph 20, you'll see the description, and albeit a general description, of a large lithic scatter site with human remains reported and possible cremated human bone fragments. Now, it's likely that those -- that aspect of it is historic if it's lying on the surface, isn't it?
A No.
Q It could be from a historic grave location?
A No.
Q Over to the next page where 20 is continued, you'll see that it's noted that:

"The landowner, Louis Parent, has reportedly

1 collected a human skull and adze blades from
2 the approximate vicinity of area B1."
3
4 Now, pausing on the adze blades, the adze blades are
5 the one that's photographed in the appendix?
6 A Yes.
7 Q And the photograph is plate A-1 and A-1 is just after
8 A-13. And Mr. Parent reported he collected that from
9 the same area he collected a human skull?
10 A Yes. On the south side of -- be south, south side of
11 area B.
12 Q And is it your experience as an archaeologist that
13 exposed bones deteriorate? That is bones that are
14 exposed to the elements deteriorate over time?
15 A Well, he found these from plowing the field.
16 Q Yes.
17 A Which had been brought to the surface.
18 Q Is it your experience that buried skulls deteriorate
19 over time?
20 A Depending on the depositional context.
21 Q This whole area is --
22 A Burial remains can be preserved several thousand
23 years.
24 Q For example, in a mitten deposit, if there's something
25 extra there to help preserve it?
26 A Dry environments are very conducive for -- for
27 preservation.
28 MR. WILLMS: Well, how about --
29 THE COURT:
30 A And again there might be burial preservation of bone
31 or parts.
32 Q Isn't the soil in this particular area less conducive
33 to the preservation of faunal material than, for
34 example, some soils down near the coast?
35 A The Moricetown excavations we had very poor
36 preservation of bone materials.
37 Q That's pretty --
38 A The materials in the context of almost 6,000 years.
39 Q But poor bone preservation is pretty typical of this
40 area, isn't it?
41 A Well, each site -- each site will vary. At the
42 Hagwilget Canyon site excavated by Ames, there was
43 bone material preserved from the early zone.
44 Q The presence of human bones and a human skull could
45 indicate historic attachment?
46 A Well, I couldn't say when that particular individual
47 was buried since I have not looked at that skull. And

I'm not sure what Mr. Parent did with the material, whether he reburied it or whether he reported it to the police. But that does not -- I mean, the human remains did not -- whether he found them or not did not influence interpretations of the -- the other material at the site.

Q Well, wouldn't it mean something if you, for example, found this ground and polished grooved adze immediately adjacent to a human skeleton buried 50 years ago? Is that archaeologically significant?

A Well, I didn't say that it was buried 50 years ago.

Q Well --

A I said I don't know. It could be -- it could be 2,000 years old. I don't know. And I'm not -- I'm not indicating anywhere that I know anything about this burial except Mr. Parent reported it and we have noted that in its preliminary form. But that -- that burial has nothing to do with our interpretation and understanding of the other materials from the site.

Q That's why --

A There were also other tools there that were -- that were identified and studied and compared with other site context, and I have given an opinion on -- on the site based on my study of the materials that we did observe.

THE COURT: But you did observe a concentration of burned bone fragments, did you not?

THE WITNESS: Yes. And they appeared to be mammal bones. They were scattered across the site and specifically in locations of scorched earth and ash deposits.

THE COURT: Couldn't they have been dated?

THE WITNESS: We didn't get large -- large enough samples from any one location, and it's not appropriate to gather materials from all over the site to try to date it. It wouldn't be a good sample. If we found a piece -- piece large enough, then perhaps we could have got an age determination. But again there's another factor of finding them on the surface now. They may be affected by recent air and contact with grass or crops. So again they would not be good samples if they were found on the surface for dating.

THE COURT: Shall we take the afternoon adjournment, Mr. Willms?

MR. WILLMS: Yes, my lord.

THE REGISTRAR: Order in court. Court is in recess.

(PROCEEDINGS ADJOURNED)

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

_____
Kathie Tanaka, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RECOMMENCED AFTER SHORT RECESS)

THE REGISTRAR: Order in court.
THE COURT: I find, unfortunately, that I am committed to something at 9:30 tomorrow morning. Could we start at 1:30 tomorrow afternoon instead?
MR. RUSH: Yes.
MR. WILLMS: Yes, My Lord.
THE COURT: Thank you.
MR. WILLMS:
Q Ms. Albright, could you turn to figure 11 in your report, which is after page 3-10, and it's the figure outlining the study area and previous archaeological sites in the area. And if you start in the upper right-hand corner with Hagwilget GhSv-2 on figure 11, that is the Ames excavation, correct?
A Yes.
Q Then the next site, GhSv-3, that site was identified by Ames as a recently abandoned location, fishing location?
A As a fishing -- a fishing site with evidence of house structures.
Q Recent?
A Well, he interpreted it as being recently abandoned. I don't know on what basis he made that conclusion.
Q Yes. And then the next site GhSv-1 is -- and it might help me if I show you the Heritage Conservation Branch form. You just confirm for me that the item at the top called document 326 is GhSv-1.
A Yes.
Q All right. And the type that is identified there is consistent with either historic or prehistoric remains. That could be either.
A It -- there were sub-surface deposits at the site indicating prehistoric occupation.
Q So if it's below the surface it's prehistoric; is that your assumption?
A Generally, yes.
Q And if it's on the surface it's historic?
A Not necessarily, depending on the materials or characteristics of the feature in the site.
MR. WILLMS: Might this be 849A-17, My Lord.
THE REGISTRAR: 849A-17.

(EXHIBIT NO. 849A-17 - PRINTOUT FROM HERITAGE CONSERVATION FILE)

1 Q Now, continuing on, the next site location shown on
2 the map is GhSw 3. And that's the historic trading
3 post at Fort Stager?
4 A I remember it being recorded as a historic post. I'm
5 not sure about the name. That was recorded right
6 downtown Old Hazelton.
7 Q And finally the other archaeological location at the
8 lowest part of the diagram, which is this figure, is
9 GgSw-1, and I am showing you the computer printout.
10 Can you confirm that document 290 is GgSw-1? It's
11 document 290, GgSw-1, and that's the one you show in
12 figure 11 on the lower left-hand corner.
13 A From the numbers appear to refer to the same site,
14 although --
15 Q The description here on the printout doesn't indicate
16 whether it's historic or prehistoric, cultural
17 material, surface, isolated.
18 A Isolated finds usually refer to isolated tools,
19 prehistoric stone tools.
20 Q But you don't know that?
21 A Well, that's a general term used by archaeologists in
22 the province to refer to isolated, meaning isolated
23 stone, prehistoric stone tools.
24 Q Like the scraper that Ames found?
25 A That was an isolated find, yes.
26 MR. WILLMS Yes. 849A-18, My Lord.
27
28 (EXHIBIT NO. 849A-18 - PRINTOUT ROM HERITAGE
29 CONSERVATION FILE)
30
31 A The site was on -- this document does not appear to be
32 complete or have been updated. The reporter date says
33 1969, and that site was -- if it refers to the same
34 site, that site has subsequently been examined also by
35 Acheson, I believe, in 1977, and he investigated the
36 site in relationship to a proposed river crossing
37 there, and investigated the site and recorded
38 microblades from that site.
39 Q All right. I'm sorry, but I think you said earlier in
40 your evidence that microblades indicates something to
41 you. Microblades are usually obsidian or quartz --
42 A They can be made of a variety of materials. We have
43 recovered from GhSv-85-a microblades of obsidian and
44 quartz crystal, but they can be made out of a variety
45 of material.
46 Q And you said earlier that microblades mean something,
47 there are some dates attributed to microblade

1 technology?
2 A Yes. They are -- a tool technology which has been
3 dated at Kitselas Canyon from 5,000 to 4,300 years
4 ago, in the Stikine area date associated 4,900 years
5 ago, and are characteristic of early -- an early
6 technology in -- on the coast as well as further north
7 of the interior, Yukon and Alaska.
8 Q Now, just referring to map 11, figure 11. Except for
9 Hagwilget Canyon, GhSv-2, none of the other
10 archaeological sites have been expressly listed in the
11 Heritage Branch forms as prehistoric, have they?
12 A Well, we just discussed the evidence of microblades at
13 GgSw-1 in the Gitsegeukla area recorded by Acheson,
14 and GhSv-1, 2 and 3 are referred to as prehistoric --
15 sites with prehistoric occupation.
16 Q Well, I just put the documents from the Heritage
17 Conservation Branch printout, which I understood was
18 the basis for Linda Burnard-Hogarth's list, and it
19 doesn't say prehistoric in any of those. That's an
20 interpretation that you've made after reading what's
21 listed.
22 A Well, there is a standard format for referring to
23 prehistoric sites, and the description of the
24 features, if they are not prehistoric, then it's
25 indicated that it's historic materials being
26 discussed.
27 Q And if the investigator can't tell whether it's
28 historic or prehistoric, he just says cultural
29 remains, right?
30 A The -- the guidelines for completing standard forms
31 generally refer cache pits as cultural depressions,
32 cache pits, so there's a -- archaeologists in
33 completing the forms acknowledge that the terminology
34 refers to prehistoric sites, unless otherwise
35 indicated.
36 Q That is an acknowledged and accepted practise in
37 reviewing Heritage Branch Conservation materials, that
38 if it's not listed it's historic, then it has to be
39 prehistoric; is that what you're saying?
40 A It's the general use of the terminology, yes.
41 Q Now, not just used by you, but it's the general use of
42 archaeologists in this province, that when they see
43 one of these computer printouts and there is no
44 reference to historic, that the reference is to
45 prehistoric; is that what you're saying?
46 A For the most part, yes. At one point we had two
47 separate -- the Heritage Conservation Branch

1 maintained two separate files, archaeological sites
2 and historic sites, and it's only recently that the
3 historic sites and archaeological sites are kept
4 within the same files.
5 Q What notation, then, would tell you that the
6 investigator didn't know how old it was, didn't know
7 whether it was prehistoric or historic, and if it's
8 presumed prehistoric, if historic isn't mentioned?
9 A Well, usually the unknown refers to an unknown period
10 of time within the traditional aboriginal occupation
11 of the area.
12 Q And that --
13 A Acknowledge that archaeological materials, for the
14 most part archaeology in British Columbia deals with
15 the study of material culture and the development of
16 cultural of aboriginal people in this area.
17 Q But archaeological sites throughout the province and
18 especially on the Heritage Conservation Branch forms
19 includes historic and prehistoric and locations that
20 haven't been dated?
21 A The sites with historic materials are generally very
22 clearly indicated that these are historic materials,
23 historic cabins, standing structures, you know, recent
24 materials, or would indicate if there are trade
25 materials, European trade materials present.
26 Q And so if that isn't listed, you presume that it's
27 prehistoric when you read the document?
28 A Yes.
29 Q All right.
30 A I think the categories that we use in completing the
31 forms, the terminology.
32 Q I would like to turn in your report to Gitangasx, and
33 that starts at page 3-15, and you start discussing the
34 three areas of location on 3-16. And first of all, if
35 you can identify these -- there is handwritten notes
36 with Gitangasx on the first page. Are these the notes
37 by Linda Burnard-Hogarth respecting the ethnographic
38 literature on Gitangasx?
39 A Yes.
40 MR. WILLMS All right. 849A-19, My Lord.
41 THE COURT: Yes.
42
43 (EXHIBIT NO. 849A-19 - NOTES BY LINDA
44 BURNARD-HOGARTH)
45
46 MR. WILLMS:
47 Q And you will see that from the ethnographic

1 literature, which is discussed generally on the first
2 page, that it refers after that dash partway down to a
3 number of wild rice clan houses, and lists some names,
4 are of Tsetseat origin, T-s-e-t-s-e-a-t, that was from
5 the ethnographic literature.
6 A I believe, yes, Barbeau mentions the Tsetseat origin.
7 Q And that many of their crests are --
8 A Tsetseat area.
9 Q Many of their crests are indicative of their Athapaska
10 roots?
11 A Yes.
12 Q Now, the first site that you identified on page 3-16
13 is called HbSv-85A, and I am showing you two pages
14 from the site inventory form. These are the -- this
15 is the site inventory form related to HbSv-85A?
16 A Yes.
17 THE COURT: I'm sorry, where are you in the report, Mr. --
18 MR. WILLMS: I am at page 3-16, My Lord. If you go under the
19 1985 field investigations.
20 THE COURT: Yes.
21 MR. WILLMS: You will see the second paragraph: "Three sites
22 were noted". This is the first one.
23 THE COURT: Yes.
24 MR. WILLMS: And Exhibit 84A-20, My Lord.
25 THE COURT: Did you mark 19?
26 THE REGISTRAR: Yes, that's the notes.
27 THE COURT: That's the notes. Yes. That's 19, so this will be
28 20 then.
29
30 (EXHIBIT NO. 20 - TAB 20 - ARCHAEOLOGICAL SITE
31 INVENTORY FORM HbSv-85A)
32
33 MR. WILLMS:
34 Q You will see this is once again made by Mr. Brolly?
35 A Yes.
36 Q And he notes under item 20 to what was found at this
37 location. You see in paragraph 20 the last line is:
38
39 "No cultural materials except for the top of a
40 solder-top meat can (i.e. pre-1916) from CA 30
41 ..."
42
43 Does that mean from 30 centimeters below surface?
44 A Yes, it would indicate the Circa 30 below surface.
45 Q 30 centimeters below the surface in test unit two?
46 A Yes.
47 Q All right. And you will see that he, once again, his

first impression was that the site age or date was unknown?
A Yes.
Q But, of course, when you refer to the fact that you found a solder-top meat can 30 centimeters below the surface in one of the test units and no other cultural materials, that leads you to the conclusion that it's probably historic?
A The tin can lid is historic.
Q And also the cultural feature?
A The lenses at the site were not dated, so it's not possible to say exactly when these events occurred. But there were in some areas two fine lenses, and one, I believe, between 45 and 50 centimeters below surface.
Q But doesn't the fact that the only artifact excavated from the whole site was a historic solder-top meat can indicate that it's likely that the site has been used historically?
A Oh, there is no doubt about that. But I am also suggesting -- there is also an indication that this was -- that this site was used periodically over a period of time, and was likely used in pre-contact times as well.
Q Well, you would have to date the carbon, wouldn't you, to know that?
A Yes.
Q Yes. Now, the next location that you discussed at Gitangasx is called --
THE COURT: I'm sorry, before you go to that, I gather from this site inventory plan that you -- no, I'm sorry, I don't think I gathered from that, but from your report you say a series of 21 test units were excavated?
THE WITNESS: Yes.
THE COURT: And nothing was found?
THE WITNESS: Yes, we found these --
THE COURT: I'm sorry, except for --
THE WITNESS: These very thin carbon stained lenses appearing across the site, which --
THE COURT: Are these 21 test units, are they covered by this document --
THE WITNESS: No, there was only two pages of the notes. There was a field map which shows the originals and was the basis for drawing figure 20 in the report.
MR. WILLMS:
Q I couldn't find anything else, so that's --
A There were field notes with the field map, the Xeroxed

copies are photos -- or the photo for this area, and also notes on the test pits --
THE COURT: This figure --
THE WITNESS: The figure for the site is back --
THE COURT: I'm sorry, where in 85A? I'm sorry, just looking ahead to see Figure 21 is the same thing, but it's something different.
THE WITNESS: Yes, the figure for this particular site is in my copy three pages back. The maps were put in somewhat out of order.
THE COURT: What's the figure number?
THE WITNESS: 20.
THE COURT: 20. Thank you. Those are your 21 test --
THE WITNESS: Yes.
MR. WILLMS:
Q Test units?
A And in some cases there was an A and a B.
THE COURT: Yes. All right.
MR. WILLMS:
Q Then you found that cultural staining in those test pits, correct?
A Yes. The carbon stained lense.
Q And the one solder-top can lid?
A Yes, that was the only --
THE COURT: And it was found in one of these test units, was it?
THE WITNESS: Yes, it was, sir. So informants indicated the site had been used over a period of time, and also fishing in that area in more recent times. It appears to have been a site used periodically from pre-contact into recent times, that site locality.
MR. WILLMS:
Q The next is B, identified as HdSv-85B, and I have just handed you three pages. These are the -- this is the form relating to that site?
A Yes.
MR. WILLMS: My Lord, Exhibit 849A-21.

(EXHIBIT 849A-21 - ARCHAEOLOGICAL SITE INVENTORY FORM - HbSv-85B)

THE COURT: I'm sorry, but I am not keeping up with you people there. Where is this dealt with in your report?
MR. WILLMS: This is dealt with -- sorry, it's over onto page 3-17, My Lord. Carrying on -- the middle second paragraph, "two groups of cache pits were located".
THE COURT: All right. HbSv-85. Thank you.
MR. WILLMS:

Q And this is that HbSv-85B, Ms. Albright?
A Yes, it is.
MR. WILLMS: 849A-21, My Lord.
THE COURT: Yes.
MR. WILLMS:
Q The first two pages were filled out by Mr. Brolly?
A Yes, that's his writing.
Q And you have got usual site date unknown filled in by him on paragraph 23. Whose writing is the last page?
A That's Ms. Ludovicz.
Q Just coming back -- and this is still at page 3-17 of your report. You say at the top -- you talk about ethnographic literature indicating that the Gitksan practised controlled burning of root and berry gathering sites. Was your source for this control burning Neil Sterritt?
A Well, he pointed out this site to us, when we went in a helicopter, as being the area referred to as Gap Gasx. In terms of burning of root and berry gathering sites, there is other literature on that.
Q I am just wondering if that's something that Neil Sterritt told you.
A I believe -- notes somewhere in Barbeau, I believe, Turner, and there are other references to controlled burning in other areas as well.
Q Just showing you some pages of typed notes, and start with S. Albright at the top. Go on for 4 pages, and it says:

"Notes made on trip from Hazelton to Kisgegas July 7th, 1985 with Neil Sterritt."

Did you make these notes?
A Yes.
Q And this trip on July 7, 1985 was made prior to your investigations at Gitangasx. If you look at the archaeological records, you will see that your Gitangasx records are July 16th and July 15th.
A Yes.
Q And I won't go through this in detail right now, but you will see on the second page of these notes from July 7th, 1985 down four paragraphs there is a description in the 4th paragraph on page 2:

"On the large flat on the north side of Sediesh Creek ..."

S-e-d-i-e-s-h Creek.

"... there was a large berry camp. Neil saw a bent box for gathering berries into - up on the mountain to the east, while out on his horse. Cleared flats and berry grounds were deliberately burned to control vegetation."

Is that something that Neil Sterritt told you on this trip?

A Yes, he remembers when these particular flats were burnt when he was a young boy.

MR. WILLMS: My Lord, 849A-22.

THE COURT: Yes.

(EXHIBIT NO. 849A-22 - TYPED NOTES BY MS. ALBRIGHT - JULY 7, 1985)

Q And I am now just going to complete page 3-17 of your report. Your last reference at Gitangasx is HbSv-85C. I would ask you to confirm that the two pages here refer to that location.

A Yes.

MR. WILLMS: 849A-23, My Lord.

(EXHIBIT NO. 849A-23 - TAB 23 - ARCHAEOLOGICAL SITE INVENTORY FORM HbSv-85C)

Q Now, in this particular location you don't have a map in your report showing previous archaeological sites for Gitangasx?

A For the study area, no.

Q All right. And when you consider the fact that the only artifact excavated in any of the sites was a tin can lid, and that Neil Sterritt had described to you historic clearing practises for lands --

A Well, these are traditional practises that have been continued into more recent times.

Q Well, Mr. Sterritt described to you an instance that he had observed.

A Or he remembered being told. I'm not sure which. All I have in my notes is that he told me that it was -- it was a flat that had been burned, and I -- whether he was told or whether he saw it, I don't know about that.

Q But when you had that information from Mr. Sterritt, the tin can lid and no other artifacts whatsoever, you concluded that it was likely that these three areas

1 were historic?
2 A No.
3 Q The next ancestral location discussed in your report
4 is Kisgegas. And I am showing you something entitled
5 appendix A5, reference to village sites in the
6 Kisgegas area. Whose writing is that?
7 A These notes were made by -- written by Linda
8 Burnard-Hogarth.
9 Q All right. And -- so that's the background -- the
10 ethnographic background material you had with respect
11 to Kisgegas?
12 A These are references listed in the appendix, the
13 appendix B of the report.
14 MR. WILLMS: 849A-24, My Lord.
15 THE COURT: Sorry, you say 24?
16 MR. WILLMS: Yes, My Lord.
17 THE COURT: Thank you.
18
19 (EXHIBIT NO. 849A-24 - TAB 24 - APPENDIX A-5
20 REFERENCE TO VILLAGE SITES - HANDNOTES)
21
22 THE COURT: I missed 23. Let me see.
23 THE REGISTRAR: Archaeological Inventory Form.
24 THE COURT: I'm sorry. Thank you.
25 MR. WILLMS:
26 Q I wonder if 849A-22 could be put back before -- in
27 front of the witness. This trip to Kisgegas was made
28 with Neil Sterritt and Hugh Brodie?
29 A Yes.
30 Q And during -- do you remember -- how did you travel
31 up, by road, by car?
32 A By road, yes.
33 Q Yes. And on the way up, and these notes that you have
34 made here contain some observations that you made and
35 some notes that you made on what Neil Sterritt was
36 telling you on the way up?
37 A Yes, different places that he knew of along the way.
38 Q Then, I think, you get to Kisgegas on page three, and
39 you will see on page three the fourth paragraph down
40 that Neil pointed out the location of large ancient
41 village of Anlagasamdek, south side of the Babine.
42 A Yes.
43 Q That's the -- if you just look at your report at page
44 3-18 on Kisgegas over the next page, you got the
45 Kisgegas study area?
46 A Are you referring to the map?
47 Q The map, yes, Figure 23.

A Yes.
Q And on that figure, that's -- there is no archaeological site there. It's just a star beside it, between GkSv-1 and GkSv-2 near the dotted line.
A Yes.
Q That was pointed out by Neil Sterritt?
A These locations -- along with the notes Ms. Burnard-Hogarth also prepared a map based on the reading of the literature and the locations given for each village. So our understanding of village locations had been plotted prior to this trip, so that if we had the opportunity that we might further investigate some of these locations.
Q The location on the map that you investigated is over on the right-hand side, 85-A?
A That was the newly recorded site area noted and observed in 1985.
Q And if you turn to page 4 of your notes, Exhibit 849A-22, it goes to the last paragraph, the last large paragraph.
A Which? Notes from the trip?
Q From the trip.
A Yes.
Q You will see at the bottom it says:

> "Neil showed us the large cache pit area, one mile above Kisgegas village. On the way back to the truck we discovered two large house depressions just a little northwest of the concentration of cache pits."

So this area, this study area that you looked at, were you taken to that study area and it was pointed out to you by Neil Sterritt?
A In that area he pointed out village locations and features that he had seen on previous visits to the area.
Q And I am showing you the site record form for GkSv-85A. These three pages are the record form for this site at Kisgegas?
A Kisgegas, yes.
MR. WILLMS: 849A-25, My Lord.

(EXHIBIT NO. 849A-25 - TAB 25 - ARCHAEOLOGICAL SITE INVENTORY FORM - GkSv-85A)

Q You will see on the second page that this one -- this

was filled out by Mr. Brolly?
A Yes.
Q And he dated the site at greater than 200 years based on the large Sitka spruce?
A Yes.
Q And this was the same spruce that you originally dated in your report at 350 years, and I think you said in your evidence you changed that to 150?
A Yes, I remember we had some discussion about the spruce tree.
Q And then finally on the last page of this you will see it's noted at the bottom that:

> "No radiocarbon or other cultural materials were collected or observed."

Correct? And there you have the 235 cultural depressions?
A Yes.
Q And there is cobbles and boulders, but no charcoal. So the only cultural features were the depressions?
A The cobbles and boulders were an aspect of a hearth feature that also contained ash and, I believe, bits of charcoal were observed. I think that Brolly was hasty in this remark. I believe the field notes do indicate bits of charcoal, as well as the ash in the hearth area.
Q So when Mr. Brolly --
A And the reference to the compacted silty clay layer, which is interpreted as a living floor.
Q When Mr. Brolly notes that -- and I am on the last page of this form under 20, continued midway down:

> "A more or less linear arrangement of cobbles and boulders may represent the top of an elongated hearth pit, though no charcoal concentrations were observed here."

Your evidence today is that he made a mistake?
A Well, he's indicating that he says no radiocarbon materials were collected. There were no chunks of charcoal that were -- that were large enough or suitable for submitting for radiocarbon dating, but the notes definitely refer to bits of charcoal.
Q Yes. And he says, carrying on --
A Carbon staining.
Q Its been interpreted as ash scatter, and that it may

be a living floor. Carrying on.
A That's what he has written. And this is our -- again our preliminary description of the site on the form. The form has not been submitted.
Q In fact there was a question in your minds, was there not, about whether or not these cache pits were prehistoric?
A No.
Q I am showing you, and the notes are lengthy, so I just reproduced the first page. Can you identify the writing on this document. It's dated July 8, 1985. Is this your writing?
A This is Ms. Ludovicz.
Q Ms. Ludovicz. And you will see that her very first line says:

> "Kisgegas prehistoric (?) cultural depressions"

I suggest again that there was a question initially as to whether or not these cultural depressions were prehistoric.
A No, the question mark may refer to the name that we have given them on the site floor. I put Kisgegas P as Kisgegas prehistoric area. So prehistoric site in the Kisgegas study area, and so there was some question, what are we going to call this site.
Q Could you explain that again?
A Well, you have probably -- I don't know what you want me to explain.
Q Are you saying that the question mark was you were wondering whether to call it Kisgegas prehistoric rather than using the site locator names using Borden indicators like you used for everything else? That's what the question was about.
A The Borden indicator was put on form after we got back to the lab, but in the field we often used a locality name, such as two mile or four mile or Kisgegas P or Gitangasx A, B, C.
Q You have used A, B, C for every other location, haven't you? You haven't used P, Q, R, U, V, W.
A Well, I have referred to this as GkSv-85A.
Q Yes. So the prehistoric -- I mean, there is really no question, is there, that the question mark was because you didn't know whether or not these depressions were prehistoric. That's why that question mark is there.
MR. RUSH: I would like to suggest -- excuse me. I would just

1 like to interject at this point. I think it is
2 important that my friend show the witness the other
3 pages of the notes and the caps that are used in the
4 other pages as headings.
5 MR. WILLMS:
6 Q Can you look through those pages.
7 A They all have prehistoric on them, which is our
8 understanding of them when we located them.
9 Q And is there a question mark on any of the other pages
10 behind prehistoric?
11 A No, there was no question.
12 Q So just so that we are clear, that question mark
13 relates to a debate that you had about whether to call
14 it Kisgegas prehistoric or not, not to whether or not
15 they were prehistoric?
16 A This first set of notes starting with the compass and
17 mapping of the site -- the maps at the back.
18 MR. WILLMS: Perhaps we could mark the first page as 849A-26, My
19 Lord.
20
21 (EXHIBIT NO.849A-26 - TAB 26 - HANDNOTES -
22 JULY 8, 1985)
23
24 Q Now, the map that you made, which is figure 23,
25 contains four --
26 A So this whole document has been presented.
27 Q No, just the first page. My friend asked that you be
28 allowed to look at the whole thing, that might assist
29 you in answering whether the question mark was related
30 to naming the site Kisgegas prehistoric, or whether it
31 was a question about whether the depressions were
32 prehistoric. My understanding is your answer was that
33 the question mark relates to naming the site and not
34 to whether or not the depressions were prehistoric.
35 A Yes, it's very clear in our minds that the site is
36 prehistoric.
37 Q Yes. Now, turning to the map at figure 3, and I have
38 got -- figure 23. You have identified four
39 archaeological sites, and these site forms were in the
40 documents produced by your counsel. And you will see,
41 starting from the left, and I put them in the order
42 that they came, but I will deal with them in the order
43 that they are on the map. The very last page of these
44 four documents, which has a D-9 in the lower
45 right-hand corner, is site GkSw-1, and this site was
46 described as the first location -- this is under the
47 site name "Kisgegas Band 1st location." Do you see

that?
A Yes.
THE COURT: I'm sorry, where is that?
MR. WILLMS: It's just beside the "2", My Lord. There is a site name, which I didn't repeat, and then in brackets after that it says "(Kisgegas Band, 1st)".
THE COURT: Which one are we looking at?
MR. WILLMS: GkSw-1.
THE COURT: Yes.
MR. WILLMS: If you come down to the paragraph numbered 2.
THE COURT: Oh, yes, I see that.
MR. RUSH: I think the name should be -- since Kisgegas 1st location is a parenthetic expression of the Gitksan name, apparently Gitksan name, I think we should have that identified for the record.
MR. WILLMS: Well, it's in the record. I am going to mark it.
THE COURT: I am not sure I follow you, Mr. Rush.
MR. RUSH: Well, just that the site name is Panlegesm, and in parenthesis it says "(Kisgegas Band - 1st location)".
THE COURT: Well, if the document is going in, it will all be apparent.
MR. WILLMS:
Q Now, from a review, and you will see that under paragraph 22, Ms. Albright, historically, this is the territory of the Kisgegas Indians?
A Yes.
Q Do you see anywhere in this report indicating that the site is prehistoric?
A The depth of deposit.
Q The two feet question mark?
A Yes, two feet of buried depth. Fire cracked rock (charcoal and ash) observed at the site, salmon cache pits, and this was also a time when only archaeological sites or prehistoric sites were being put into the archaeological site records, into the files.
Q So all of that tells you that it's prehistoric and is not historic?
A Yes, it's a prehistoric site that is being observed and is recorded by means of this form.
Q When you got this, didn't it seem clear that this would be the likely place to look for the ancient homeland?
A This was one site noted for the area, and I plotted it.
Q Well, under two on this site it said:

"Said by informant to be first village on Babine of Kisgegas people."

And you have noted that you saw from the form that it was prehistoric?

A Yes.

Q Wasn't this a likely location to look for the ancestral village?

A There are indications in the ethnographic literature that there is early occupation in the Kisgegas area.

Q So why didn't you look around here? Why did you just go to where Neil Sterritt took you?

A The site is already recorded. Three days in the area, which is not a lot of time, and there was a lot more work that I would have liked to have done in that area. Given the -- given the extent of the number of the cache pits and the two house depressions, I, having not been recorded previously, I felt it was important to investigate these, to record these.

Q Well, on figure 23 you have two stars which you identify in the legend as traditional village locations. One of the stars was a place pointed out to you in passing by Neil Sterritt --

A Well, these are first identified through our review of the literature, and references that are in appendix B for the Kisgegas area and a map was drawn with these named places.

Q You see, right underneath JkSw-1 you have got a star for a traditional village location.

A Yes.

Q Now, instead of excavating there or investigated there, why did you go all the way over to the area that Mr. Sterritt pointed out? Why didn't you look in the traditional village location for evidence of the ancestral village?

A There is already evidence recorded for a -- reportedly early occupation of the Kisgegas area.

Q And it was good enough.

THE COURT: I'm not clear, Mr. Willms, whether the witness even knew about this document or this location until it was pointed out to her by Mr. Sterritt on the trip. I don't know what the answer to that is.

MR. WILLMS: Knew which one?

THE COURT: Whether when she was going up there and she passed the site and Mr. Sterritt pointed out to her, I don't know if she knew that it had been reported by Mr. MacDonald as the first village on the Babine of the

Kisgegas people. Did you know that?
THE WITNESS: I knew from our ethnographic literature that there were several villages recorded, and they are plotted according to the reading of the literature, and they also had references to archaeological sites recorded in the area.
THE COURT: All right.
THE WITNESS: So in terms of looking, we started some mapping in Kisgegas village itself, what is referred to as the most -- Kisgegas village on the north side of the river, and --
THE COURT: By the bridge?
THE WITNESS: Yes, just north of the bridge, and started some mapping there, and also noted prehistoric materials, as recorded by George MacDonald's field party, and decided to -- decided that the cache pit area was an interesting area to investigate.
MR. WILLMS:
Q You had Linda Burnard-Hogarth's review of the previous archaeological investigations in the area, didn't you, before you embarked on your own field investigations? Linda Burnard-Hogarth had already done her review.
A We were familiar with the previous work, yes.
Q Now, the next -- and I would like to, My Lord, just complete this with relation to figure 23. The next site over from GkSw-1 is GkSv-1. It's the first page of the four that I have given to you. And you will see under the site name again its got Kisgegas Band after the site name of Panlegesm, P-A-N-L-E-G-E-S-M. Kisgegas Band - 2nd location. And there is a notation over on paragraph 23 that totem poles were observed 1900, but the village was abandoned.
A Yes, that's the entry.
Q So that's a site that at least has some historic habitation?
A Both historic and prehistoric evidence there.
Q Then the next page, GkSv-2, moving along, which is in the Kisgegas Indian Reserve, is noted under the site name as Kisgegas Band - 3rd location or LOC, and once again, if you review 22 and 23, this was used historically?
A Yes, there are still standing houses in Kisgegas which I started to map in. There are also prehistoric remains at the site indicative of prehistoric to historic occupation.
Q And then the next site located on your map, which is also on the Kisgegas reserve, is GkSv-3. This is --

the site name is Kisgegas village, and you will see the note under 23 that it was occupied until 1948.
A Kisgegas village. The one previous to that, GkSv-2, yes, that site must have been pointed out to the field party as another village, I would say the third. I don't know if there was any significance to the order in which they were occupied, but a third location, village location of the Kisgegas people, the people living in the Kisgegas locality.
Q And then turning to the last one, GkSv-3, you will see under 23 it was occupied until 1948.
A Referring to three?
Q GkSv-3.
A Yes, okay. This is Kisgegas village.
Q Yes. And it's item 23, paragraph 23?
A Yes.
Q So this one is historic?
A This is the one that still has standing house structures, and which I started to map, and there are also prehistoric materials at this site. And that's reported in the -- in our field notes as well.
Q Your investigations at the site of cache pits and your review of these archaeological site survey records indicated to you that this location was occupied in prehistoric, historic times, that is late -- let me put it this way, late prehistoric, historic times?
A There is prehistoric -- evidence of prehistoric occupation at -- at several locations there, as recorded as archaeological sites. The time -- the time depth, I haven't received dates, but the time depths could be in the order of thousands of years.
Q Or hundreds?
A In comparing the location, the canyon location of this site, and the nature of the fact that there is prehistoric materials found along the Babine just above the confluence with the Skeena, the nature of the canyon setting suggests that it is comparable to and depends on the materials that have been reported, suggests that this is a comparable setting to Hagwilget Canyon, Moricetown Canyon and Kitselas Canyon, where there has been cultural occupation over the last five to six thousand years.
Q It takes a tremendous leap of faith to go from the evidence that you reviewed here to thousands of years, doesn't it?
A No. MacDonald in, I believe it was in the '67 report, suggested that these were the areas most likely to

contain deeply stratified materials with evidence of long-term occupation.

Q But you didn't find any deeply stratified materials indicating long-term occupation here, did you?

A There are buried deposits -- at these locations --

Q Could you just answer my question. You didn't find any deeply statified materials here indicating long-term occupation, did you?

A I have not yet conducted an extensive excavation at this site, but there are buried deposits indicated at several locations, and the similarity of the setting, the canyon setting, suggests that it has very likely a history of occupation that is comparable to that recorded at Hagwilget, at Moricetown, at Kitselas.

MR. WILLMS: Exhibit 849A-27, My Lord.

(EXHIBIT 849A-27 - ARCHAEOLOGICAL SITE INVENTORY FORMS - GkSv -1,2, 3)

THE COURT: All four pages?

MR. WILLMS: All four pages. And this would be an appropriate time to adjourn.

THE COURT: Yes. All right. Thank you. We will adjourn, then, 'til 10 o'clock tomorrow morning.

THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED AT 4:30 P.M. TO JANUARY 20, 1989 AT 10:00 A.M.)

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

_____
LORI OXLEY
OFFICIAL REPORTER
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