Vancouver, B.C.
October 13th, 1988

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE REGISTRAR: In the Supreme Court of British Columbia. Vancouver, this Thursday, October 13, 1988. In the matter of Delgamuukw versus Her Majesty the Queen at bar, my lord.
I caution the witness, you are still under oath.

NEIL STERRITT, Resumed:

THE COURT: Mr. Goldie.
MR. GOLDIE: My lord, yesterday we had reached the witness' note of an interview with his aunt at tab 15 of the brown book, on the last page, dated the 25th of August, 1986. And Mr. Sterritt had, I believe, identified the word X-S-I-N-I-G-W-O-O-D-Q as being the hunting ground at Legate or Legate Creek.

CROSS-EXAMINATION BY MR. GOLDIE:
Q I think we had reached that point, had we not, Mr. Sterritt?
A Yes.
Q And I had directed your attention to the sentence or the phrase or clause, "It's up to Chris Skulsh and Jackie Williams, they should own it." And I think you had confirmed that both of those gentlemen are Gitksan?
A Yes, they are.
Q Chris Skulsh in fact is a named plaintiff, is he not, G-W-I-I-Y-E-E-H-L, Gwiiyeehl?
A Yes.
Q And the purport of that note reflects Mrs. McDougall's opinion that that hunting ground was properly -- properly owned by Chris Skulsh and Jackie Williams; is that right?
A She was pointing out that they could be in that area. That the -- her father, Joseph Brown, was in that area and had rights in that area. She said ownership, but he was closely related to Niista Huuk, and Niista Huuk is Kitselas. There had been a migration at some point I think from Temlaham and then from Kitselas, and then Gwiiyeehl went back to Kispiox and upper Kispiox. So it was through his relationships, but that is considered Kitselas land.

1 Q But that wasn't your aunt's view. My question was
2 that the note that you recorded is that her view was
3 that Chris Skulsh and Jackie Williams owned that
4 hunting territory?
5 A Well, that they were entitled to be there, yes.
6 Q Did she not use the word own?
7 A Yes, she probably did. She doesn't speak English well
8 at all. She speaks Gitksan. And she could -- she did
9 use that term and that's what I recorded, but I didn't
10 pursue it any more than that at that time, and -- but
11 my understanding is that because of the relationship
12 with Niista Huuk that is Kitselas land and that the
13 people at Kispiox are related there, but it is not
14 Gitksan land.
15 Q Yes. But as you pointed out a minute ago that was not
16 the subject matter of your discussion with Mrs.
17 McDougall?
18 A Not at that point.
19 Q No, or at any point that we're aware of?
20 A No. I talked to her again later, but I don't recall
21 whether I pursued that with her in depth. I think I
22 raised it with Chris Skulsh as well, and he said that
23 my aunt had mentioned it to her.
24 THE COURT: To him?
25 A To him. To him, yes. And he was aware of the
26 relationship to Kitselas and to Niista Huuk in that
27 area, but he didn't make any claim whatsoever to that
28 area as the present Gwiiyeehl. G-W-I-I-Y-E-E-H-L.
29 MR. GOLDIE:
30 Q Now, the other reference that you gave in your
31 evidence with respect to the reason for the change was
32 Stanley Williams. I had not been able to find
33 anything that reflected any conversation you'd had
34 with Mr. Williams that clearly dealt with this
35 particular area. That is to say between the dates of
36 Exhibit 102, October 17th, 1985, and March 9th, 1987,
37 the date on the map, that map six overlay, but Ms.
38 Sigurdson pointed out to me just recently a
39 topographical sheet, and I want to ask you first if
40 you can identify that as your handwriting or printing?
41 A Yes, it is.
42 Q And that records information given you by Mr. Williams
43 in March of 1980?
44 A Yes, it does.
45 Q And the site that you're referring to is Legate Creek?
46 A Yes, it is.
47 Q And that is the general area of the hunting territory

that Mrs. McDougall and you were talking about?
A Yes.
Q Now, am I correct in this proposition, that in 1980 you recorded Mr. Williams as indicating that the south side of that creek was the territory of Niista Huuk? That's N-I-I-S-T-A new word H-O-O-K, which is, as you noted, a house in Kitselas?
A Yes.
Q And then he was of the view at that time that the north side of the creek was claimed by Luulak?
A Well, I think it was, yes. Well, I can't say that that was his view. I think it was vague in my mind in terms of the name of the creek and in terms of exactly where the boundary went in that area. I made these topo sheets up later.
Q That may be so, but the information that you recorded as having been obtained from Mr. Williams indicated that the creek itself was a boundary; isn't that correct?
A That's what I've indicated here, yes.
Q And on the south was the Kitselas and on the north was a Gitksan house?
A Yes.
Q Now, in fact that represents a different boundary than has been indicated on either of those maps?
A Well, this was an early stage, it wasn't finalized, and the maps that you're talking about are also draft maps.
Q Well, that may be so, Mr. Sterritt, but your evidence in chief related to changes between these two maps, and I'm suggesting to you that your early information from Mr. Williams was that the Legate Creek itself was the boundary?
A I'm not sure what my field notes said. I don't recall whether this was an assumption I made or whether it was something in my field notes or that I recorded from Stanley. I don't recall.
Q Well, these topographic sheets were intended to provide Mr. Marvin George with mapping information, weren't they?
A Yes. And I was doing extrapolation and drawing conclusions of my own at the time based on some information.
Q Now, didn't Mr. Williams at some later date indicate to you that he had some rights himself in the House of Niista Huuk?
A Yes, he did. He had helped Niista Huuk. I think that

1 was Wright, W-R-I-G-H-T. I can't remember his first
2 name. He had helped him, and Niista Huuk had wanted
3 to honour Stanley, or something, because they were
4 both Gwiiyeehl because of that, as I recall.
5 Q Well, I'm going to show you an extract of -- or a
6 page, and I'll ask you to tell me whether that is in
7 your handwriting?
8 A Yes, that's my printing.
9 Q Now, there are page numbers down at the bottom of that
10 page, and that's number 93?
11 A Yes.
12 Q I'm instructed that that is in a sequence which starts
13 with 90 and is dated April 24th, 1987, and I'm showing
14 you page 90, 91, 92, 93. And would you confirm that
15 the 93 is from that sequence, and that this
16 conversation took place in April of 1987?
17 THE COURT: This is a conversation with Stanley Wright?
18 MR. GOLDIE: With Stanley Williams, my lord.
19 THE COURT: Williams. Sorry.
20 A Yes, that's in the sequence.
21 MR. GOLDIE:
22 Q And would you now turn to page 93, and would you read
23 to his lordship the second paragraph. It's not too
24 clear?
25 A "If Kitselas pays Stanley Williams money back that he
26 buried Niista Huuk with the Kitselas" -- with -- with
27 Kitselas that he buried Niista Huuk -- I don't know
28 what that something slash there is, "then Kitselas can
29 take the land back."
30 Q Well, doesn't it say this, that if they pay back Mr.
31 Williams the money that he used to bury Niista Huuk
32 with then Kitselas can take the land back?
33 A That could be. Let's see. Kitselas pays back -- yes,
34 I suppose. That's a shorthand that I do use, so that
35 could be.
36 Q All right. Well, doesn't that indicate to you that
37 Mr. Williams as of April 1987 had some claim to the
38 so-called Niista Huuk Territory?
39 A Yes. But at another time Stanley also informed me
40 that he wasn't going to be concerned about that. He
41 recognized that it was even in here that Kitselas had
42 a claim to that area, and that he wasn't going to be
43 concerned about it. I don't -- I can't remember the
44 first name of the guy that he buried.
45 Q Well, it was the holder of the name of Niista Huuk?
46 A Yes.
47 Q Yes.

A But he -- he was very conscious of his Temlaham origins, this Niista Huuk. He maintained his relationships with his -- well, I guess in some ways distant relatives, his relatives in Kitwanga, the Fireweed, as well as in Kispiox. And that would be consistent with what my aunt was saying, Edith McDougall. And he maintained his relationships -- some relationships with Stanley Williams. Now, Stanley did help with that burial, or did conduct the burial. I'm not sure that would entitle Stanley to some rights there, but Stanley decided he wasn't going to pursue that, and that's what he was saying here.

Q He would know where this territory was that he had this potential claim or actual claim to that he was giving up?

A Yes. But I'd have to look at my notes as to whether that topographic survey sheet is when I put it on the river or the creek, whether that is something that -- a conclusion that I was coming to or whether that arises out of that trip with Stanley.

Q It could well be that you reached a conclusion and that represents your own view?

A That's a possibility. I'd have to see my notes.

Q You've done that in other instances?

A Yes. I've pointed that out a number of times that based on a certain amount of information I've drawn -- I've extrapolated between points, and also I pointed out that sometimes it wasn't clear to me what the person was telling me.

Q M'hm. Just before I leave the April 1987 discussion, to your knowledge did Mr. Williams transfer the property back to the Kitselas people on receipt of money or is that a transaction which has yet to take place?

A Not to my knowledge and -- but he did say to me that as far as he was concerned it was -- it was not an issue with him.

MR. GOLDIE: Right. All right. May I tender, my lord, these two sheets as separate exhibits. The first one being the topographic survey Gitksan Territories Legate Creek dated March the 8th, 1980, recorded by Neil Sterritt informant Stanley Williams.

THE COURT: Yes.

THE REGISTRAR: That will be Exhibit number 748.

(EXHIBIT 748: Photocopy Topographical Sheet re information from S. Williams - Notes by N. Sterritt)

MR. GOLDIE: And the second is an undated sheet numbered 93 in the handwriting of Mr. Sterritt of conversations with Stanley Williams which took place on April 24th, 1987.
THE COURT: Yes. 749.
THE REGISTRAR: 749.

(EXHIBIT 749: 4 Pages Notes of N. Sterritt dtd. April 24/87 with S. Williams)

MR. GOLDIE: Thank you, my lord. And I have yet to mark the -- the interview notes with Mrs. McDougall, and I would tender as the first, my lord, an undated note of interview with Edith McDougall.
THE COURT: Yes,
MR. GOLDIE: Identified with the printed numbers 000075. And that's under -- and that would be exhibit --
THE COURT: 750.
MR. GOLDIE: 750. And the second is dated August the 25th, 1986, informant Edith McDougall.
THE COURT: I'm sorry. What was the other one?
MR. GOLDIE: The other one is dated August the 25th, 1986, my lord.
THE COURT: Oh, August 25th, '86. That's 750. What is the next one you've got?
MR. GOLDIE: There are two under tab 16, the first two under tab 16. One is August the 25th and the other is undated, and I've marked the undated one Exhibit 750.
THE REGISTRAR: That's tab 16?
MR. GOLDIE: Yeah.
THE COURT: I'm sorry. I'm -- I've got --
MR. GOLDIE: It's tab 15, my lord. I'm sorry.
THE COURT: Yes. Tab 15. Yes, but I only have one page under tab 15.
THE REGISTRAR: Is there not a blue --
THE COURT: On the other side of the blue.
MR. GOLDIE: Yes. There is a blue separator sheet between the two.
THE COURT: All right. Oh, yes. The page 000075 will be 751 then.
MR. GOLDIE: 751.
THE COURT: Yes.
THE REGISTRAR: Yes, that's right.

(EXHIBIT 750: Tab 15 - Undated interview with Edith McDougall)

(EXHIBIT 751: Tab 15 - Notes with Edith McDougall dtd. Aug. 25/86)

MR. GOLDIE: That's all right. And then the August 25th, 1986, is your lordship marking that as --
THE COURT: Which date?
MR. GOLDIE: The second one which is August 25th, 1986.
THE COURT: That was marked 750.
MR. GOLDIE: Now, Ms. Sigurdson reminds me that the sheets referring to Mr. Gunanoot under tab 15 have also to be marked. And starting at the first page under that tab number --
THE COURT: This is page --
MR. GOLDIE: There's a facing page, my lord, that reads "Journal of Neil Sterritt November, 1976 to May, 1979." And the first two sheets under that.
THE COURT: Yes.
MR. GOLDIE: The first three, four, five from -- identified by number 00015.
THE COURT: All right.
MR. GOLDIE: No number, but with a printing of the --
THE COURT: Yes.
MR. GOLDIE: -- Newspaper over it.
THE COURT: One page document.
MR. GOLDIE: Beg pardon, my lord?
THE COURT: One page document.
MR. GOLDIE: It goes over on to a page which is unnumbered, but which has part of a newspaper blanking out the top.
THE COURT: Yes. All right. That will be 752.

(EXHIBIT 752: Tab 15 - Notes with David Gunanoot May 1979)

MR. GOLDIE: Yes. Those two pages.
THE COURT: Now, you also referred the witness to the next page, December 20th, '76.
MR. GOLDIE: Well, it starts with the number 19.
THE COURT: Yes.
MR. GOLDIE: And goes through 20, 21. And I would ask that that be marked as a separate exhibit.
THE COURT: All right. That will be 753.
MR. GOLDIE: Yes.
THE COURT: Three pages.
MR. GOLDIE: And that bears -- bears the date December 20th, 1976 at the top of the first.
THE REGISTRAR: Is that also David Gunanoot?
MR. GOLDIE: Yes.

(EXHIBIT 753: Tab 15 - Notes with David Gunanoot Dec. 20/76)

MR. GOLDIE: And then following the next separating sheet, and dated December 2nd, 1986, is a two page document headed "Memo to File from Neil Sterritt re Boundaries." I tender that as Exhibit 754. Thank you.
THE REGISTRAR: And also under tab 15?
MR. GOLDIE: Tab 16, that's right.
THE REGISTRAR: 16?
MR. GOLDIE: I am sorry. 15.
THE COURT: I haven't found that in my notes yet.
MR. GOLDIE: It was referred to yesterday, my lord, for the statement at the top of page two.
THE COURT: Yes.
MR. GOLDIE: Where Mr. Gunanoot said -- is purported to have said it is up to Skiik'm Laxhaa.
THE COURT: That will be 754.

(EXHIBIT 754: Tab 15 - 2 page memo re Boundaries - N. Sterritt Dec. 2/86)

MR. GOLDIE: And then finally there is a one page entry dated -- well, there's several dates on it. It's identified as pages 116 and 117, and on the left-hand side David Gunanoot, and the reference was to Treaty Creek, can't recall name.
THE COURT: All right. That will be --
THE REGISTRAR: 755.
THE COURT: 755.
MR. GOLDIE: All right.

(EXHIBIT 755: Tab 15 - 1 Page #116 and 117 notes re Treaty Creek)

MR. GOLDIE:
Q Now, Mr. Sterritt, having gone through these references to -- oh, first, of course, the boundary is not Legate Creek that is claimed in this action. It is the height of land between Legate Creek and what is it, Little Oliver Creek?
A Yes. That's the mountain An Hahl Yee. A-N space H-A-H-L space Y-E-E.
Q The -- I'm suggesting to you the statement that you made in your evidence in chief in volume 124, page 7622 -- the last extract under tab 14 of the brown

1 book, my lord.
2 A What tab number?
3 Q Tab 14.
4 A Yes.
5 Q Where you say at line eight to 14.
6 MR. RUSH: Page, please?
7 MR. GOLDIE: 7622.
8 Q You say, and I quote;
9
10 "The change represents a change of reduction
11 in the area of the overall territory and it
12 is the yellow, the March 1987 boundary runs
13 along the height of land and down, then down
14 to a lake and a creek and then to the
15 Skeena. That's as a result of more detailed
16 discussions with Stanley Williams, but also
17 an aunt of mine, Edith McDougall, Wii Lixs
18 Akasp."
19
20 And yesterday you corrected her Indian name. Now,
21 would you agree with me that so far as the information
22 we have available to us Mrs. McDougall claimed that
23 territory for the Gitksan, and Mr. Williams, so far as
24 we are informed, stated the boundary to the north was
25 Gitksan and the boundary was Legate Creek?
26 A No. We are talking about the west side of the Skeena
27 here.
28 Q Well, are we?
29 A From line eight to line 14, and then to the Skeena.
30 That's the west side of the Skeena.
31 Q That's known as Pacific?
32 A Yes.
33 Q Well, didn't Mrs. McDougall identify the area that was
34 hunting territory on both sides of the Skeena?
35 A Page 7622, line eight to line 14, is referring to the
36 west side of the Skeena.
37 Q Would you read on though, please, and I'm referring to
38 your answer from 16. And you are describing your
39 aunt. You say;
40
41 "And she is Wolf but her father was Fireweed
42 and he and his family are closely related to
43 the Kitselas family of Niista Huuk, and she
44 explained to me that her father had a totem
45 pole at Pacific and that that was his --
46 part of his territory. And that his
47 territory also extended on to the west side

of the Skeena. Pardon me, the east side of the Skeena."

A Yes. What I was referring to from line eight to 14 was the west side of the Skeena.
Q Well, would you agree with me that with respect to the east side of the Skeena that the boundary is not Legate Creek as you were informed by Mr. Williams?
A Well, I don't recall whether that was an extrapolation that I made at the time or whether it was his information.
Q Yeah.
A So I can't say that was the information of Stanley Williams.
Q And whatever -- whatever side of the Skeena we are talking about your aunt's view was that it belonged to the Gitksan?
A No. No. I wouldn't jump to that conclusion. I already pointed out that Gwiiyeehl and Xantxw, that's X-A-N-T-X-W, were closely related to Niista Huuk. They were there because of that relationship, and that is recognized as Niista Huuk's Territory.
Q Yeah. Well, I've drawn to your attention all of the notes that we could find with respect to Mrs. McDougall, and I take it you agree with me that so far as those notes represent her statements she is claiming that territory as owned by the Gitksan?
A No, she is not. She is pointing out that her father went there. She says he owned it. He had rights there. I have not pursued that further with her, but that is the note. The note reflects what she said, but if she was claiming it it would have been the basis for enlarging the territory in that area, and we didn't do that.
Q I quite agree with you you did not do that.
A It's not up to her to claim it, in any event, because she is not in that house.
Q Is that why you ignored the proposition that she stated it was owned by the Gitksan?
A No, I didn't. That's not the reason.
Q What was the reason?
A Because there is a relationship between Niista Huuk and Gwiiyeehl. It's known that Niista Huuk is in that area. Stanley Williams has pointed that out. Others have. Joe Brown was there because of his relationship with Niista Huuk.
Q Well, what was the basis for the change between maps

1 four and six if it wasn't Mrs. McDougall? And I think
2 we have established that.
3 A In the area of -- on the west side of the Skeena we
4 weren't certain where it came down. Edith pointed out
5 that Pacific was Gwiiyeehl Territory.
6 Q Where did she do that, please?
7 A In those notes.
8 Q Yes. And then she goes on to say --
9 A I think formerly the boundary -- I think that I
10 brought the boundary down on the south side of
11 Pacific, and she pointed out that her father had a
12 totem pole at Pacific, and that that was the area of
13 her father.
14 Q All right. Now, I want you to identify for me
15 precisely the language that you rely upon in the -- in
16 the discussions that you had with McDougall, Mrs.
17 McDougall and Mr. Williams?
18 A Yeah. We -- she says we had a big cabin here. That's
19 on the note 000075 in the first part.
20 Q Yes.
21 A And I established, although I may not have written it
22 down, but I think I did, "They had a big totem pole
23 standing there. It's right along the river on railway
24 side."
25 Q What are you reading from, please?
26 A That's page five of my notes of the 25th of August,
27 1986.
28 Q Yes.
29 A "This is by river at Pacific. It's Guutgwinuux's and
30 Gwiiyeehl. They had a totem pole standing there.
31 It's right along the river on the railway side."
32 Q Yes.
33 A Well, that's where I'm pointing out that Pacific was
34 not the territory of the Eagles. Formerly the
35 boundary came down there as the territory of the
36 Eagles, and as a result of what my aunt said, and
37 discussions with Stanley, that's where the boundary --
38 or that's -- that excluded Pacific in that area.
39 Q And you did not give any weight to her statement that
40 the hunting ground is owned by Chris Skulsh and Jackie
41 Williams?
42 A I think I discussed it with Chris. I asked him
43 because it's up to Chris, and I think he mentioned
44 that Edith had mentioned this to her, but that -- and
45 he was aware of the relationship with the Kitselas,
46 but that it was not their territory. Now, I can't
47 remember him saying that it wasn't their territory,

1 but he certainly wasn't claiming it. He knows where
2 his territories are. But he certainly -- he
3 certainly -- it's not the basis for a claim by the
4 Gitksan to that area. And it's not up to Edith to
5 make that claim, but she pointed out what her
6 father -- that it's where her father went, that he
7 owned it. But given the fact that she speaks Gitksan
8 first and -- well, she hardly speaks English to me at
9 all, but I don't put in terms of the finest definition
10 of ownership there. It could have a range of meanings
11 in terms of benefits because of the relationship, or
12 whatever. I don't know to what extent that is, and,
13 you know, that's how I view that.
14 Q You didn't regard this as conflicting claims that you
15 had to resolve?
16 A Oh, no. Not at all. As a matter of fact, we brought
17 this information to the attention of the -- I believe
18 we brought it to the attention of the Kitselas people.
19 Q The -- you were from time to time made aware though of
20 conflicting claims?
21 A Well, that's a general statement.
22 Q Well, were you --
23 A Pardon?
24 Q Were you from time to time made aware of claims by
25 people to the same territory?
26 A I don't know. Well, what are you referring to?
27 Q Well, you need an example to refresh your
28 recollection?
29 A I'm not sure whether you're referring to the Kitselas
30 claiming the territory. I'm not sure what you're
31 referring to.
32 Q I'm making -- asking you a general question. From
33 time to time with respect to the land claims territory
34 as a whole you were made aware of conflicting claims,
35 were you not?
36 A I don't view this as a conflicting claim.
37 Q I have your evidence on that. I'm asking you a more
38 general question.
39 A I think I pointed out in my testimony here that there
40 have been situations where there appeared to be
41 conflicting claims, and no one is saying that there
42 aren't some situations. I don't have any difficulty
43 with that, but I don't see -- and I don't have any
44 difficulty with this here.
45 Q No. Would you look under tab 16, please, which I
46 understand is a note of your discussion with Mr. Art
47 Kusick on November 2nd, 1982?

A Yes.
Q Would you look at the right-hand side. And this seems to be taken up with discussions of territories and features within and on the boundaries of territories.
A Yes.
Q Mr. Kusick, you have recorded him as saying Mirror Lake is near something L.W. Tommy Jack Creek. Would you just explain to his lordship what that reference is?
A Well, he refers to Ta'am Xsugulaltwit. That means Mirror Lake. That's spelled -- here it's spelled T-A-'-A-M space X-S-U-G-U-L-A-L-T-W-I-T. I was never able to locate that lake on the map properly, and I'm aware that there is another lake named Mirror Lake much closer to Kitsegas, but I was never able to locate that.
Q The statement is "Mirror Lake is near the head waters of Tommy Jack Creek". Is that what H/W means?
A Yes.
THE COURT: What does it mean?
A Head waters. H.
THE COURT: Head waters?
A Yeah.
MR. GOLDIE:
Q And then Mr. Kusick made the statement, "We got this land from the Stikine way before my grandfather's time." And then he goes on to say, "We owned Blackwater area too but they used it so long they kept it." Did you understand that to be an assertion by Mr. Kusick that his house had rights in the Blackwater area at one time?
A Yes. Which has bourne out. That's the Territory of Gwinin Nitxw. G-W-I-N-I-N space N-I-T-X-W.
Q So far the words Blackwater -- the word Blackwater area so far has been used in connection with either the Wii Minosik area, is that not right?
A Yes. He's speaking generally here.
Q Isn't that what he's speaking about?
A He's speaking generally. He's talking about the area to the east of the Skeena over in that area. Yes. He's not -- as I sorted it out, and as other people informed me, Solomon Jack who is the brother of Art Kusick, and the Blackwaters, it's the Galaanhl Giist Territory. G-A-L-A-A-N-H-L space G-I-I-S-T. That is the Territory of Gwinin Nitxw.
THE COURT: You said G-A-L-A-N?
A G-A-L-A-N.

THE COURT: Yes.
A G-A-L-A-A-N-H-L space G-I-I-S-T.
MR. GOLDIE:
Q Well, this then was at a time when you attributed the Slamgeesh Territory to Niist; is that right?
A This is 1982. I'm not sure whether that was -- whether that was the time or not. I'm not sure.
Q Well, we can only go by the information we have, and the first mapping that has been produced here. And I'm now speaking only of the maps that have been the series of the overlays, Exhibit 102, of October 17th, 1985, attributes the Slamgeesh area to Niist, doesn't it?
A That's Exhibit 102, is that what you're saying?
Q Yes.
A Exhibit 102.
Q Yes. The coded map Slamgeesh area is identified as being attributed to 3F25?
A Dawamuxw.
Q With Dawamuxw; is that right?
A You said Niist.
Q Yes. All right. I'm sorry. That came one step later, didn't it?
A Yes.
Q All right. Well, then in 1982 are you not recording Mr. Kusick as saying we at one time owned that area, but they have used it so long they kept it?
A Yes.
Q Right.
THE COURT: I'm sorry. What house is Mr. Kusick?
A He is -- Art Kusick -- Art Kusick was Gwinin Nitxw, G-W-I-N-I-N space N-I-T-X-W, before Solomon Jack. Art died, oh, around 1985 or so, and that's -- and he was wolf.
MR. GOLDIE:
Q Well, I go back to the suggestion that I made to you that Mr. Kusick, whom you tell us is Gwinin Nitxw, at the time you talked to him was saying that we own Blackwater, but they used it so long they kept it. Now, they could be either Dawamuxw or Niist?
THE COURT: I took it to mean the Stikine.
A No.
MR. GOLDIE: I think the Stikine is reference to the land that is -- that is referred to in the preceding paragraph.
THE COURT: Do you agree with that, Mr. Sterritt?
A Oh, pardon?
THE COURT: Do you agree that they refers to somebody other than

Stikine?
A Yeah. It refers to Gitksan people.
THE COURT: All right.
MR. GOLDIE:
Q Who do you identify as they?
A Well, at this point in 1982 I wasn't sure. He pointed out that we owned that area. At some point following that Solomon Jack mentioned the same thing to me, who became Gwinin Nitxw after Art Kusick, but it was a mention. They weren't being hostile about it in any way. They were simply mentioning it. It wasn't something -- I mean I had -- I thought that I had information about some areas that had to be worked out, but this was an information gathering period. It was there, and eventually it did work out. Walter Blackwater not that long ago sat down and explained the whole relationship there and said that it was Gwinin Nitxw.
Q But before it got to Gwinin Nitxw you thought it belonged to Niist?
A Well, I could only -- I was doing draft maps. It was useful to do draft maps, because it caused people to look at them and think about it and think about the relationships. They -- and eventually the relationships were worked out and established, so I think that's a useful process, and a good one. It did work out.
Q Yes. The conflict was resolved according to your present view?
A I don't -- I don't know that it was viewed as a conflict. I mean, it was pulling together a lot of information and working through it, and the hereditary chiefs themselves thinking about it and the nature of the relationships and the ownership. I didn't see this as a conflict.
Q Did Mr. Solomon Jack have any part of this process? Well, first let me ask you this; I take it Mr. Art Kusick died before this process that you've referred to resulted in a claim being made now on behalf of the House of Gwinin Nitxw to the Blackwater property or Slamgeesh property?
A I don't remember what year Art Kusick died, but it was after --
THE COURT: I have a note here that he died in 1985. Did you not say that a few minutes ago?
A I don't know if I said that.

MR. GOLDIE:

Q I think you did, but perhaps you wish to reconsider that?

A No. I mean, he could have died about 1985, but I don't remember exactly when. He was still alive in 1984. It might have been about 1985, yes.

Q Yes. And but he died before this property became attributed to Gwinin Nitxw?

A Yes. Before Walter Blackwater sat down and explained that to me, yes.

Q And did Mr. Solomon Jack, who succeeded Art Kusick as head of the House of Gwinin Nitxw, have any part in the process of identifying that property as Gwinin Nitxw and not that of some other house?

A I just mentioned that a few minutes ago. Yes, he did. He did mention that the Slamgeesh area was supposed to be Gwinin Nitxw.

Q M'hm. Well, I want to refer you to a tape, which according to the information we were given is dated November the 18th, 1982, and it is number 5591 of the plaintiff's documents, and we received it September 21st, 1988. And we're instructed that this is an interview with Mr. Solomon Jack. Could you play -- I'm going to start at -- not at the beginning, but I'll ask you to play it long enough so you can identify the voices.

THE COURT: What's the tape number, please?

MR. GOLDIE: 5591, my lord.

THE COURT: Okay.

(TAPE PLAYED)

"NJS So Gwinin Nitxw traps to the east side of Slamgeesh, eh?

SJ M'hm.

NJS Who's on the west side? Who would be on this side of it? Do you remember who's on this?

SJ I think it's --

NJS Dawamuxw?

SJ No, used to be Moses Stevens. Slamgeesh they called lake.

NJS Was he Dawamuxw?

SJ I don't know.

NJS Dawamuxw has a lot of ground in here.

SJ Might be him.

NJS I think he was.

(3RD VOICE INAUDIBLE)"

MR. GOLDIE: Just stop there.
Q Can you identify the voice that suggested the name Dawamuxw as yours?
A Yes.
Q And the other voices is that of whom, please?
A Solomon Jack.
MR. GOLDIE: All right. Could we go on, please, Ms. Sigurdson.

(TAPE PLAYED)

"SJ Moses was -- what do you call it -- reasons why they let -- Gwinin Nitxw let him trap in there his dad was from our clan like.
NJS M'hm.
SJ So he took that over without -- you know they had lots of argument over that (inaudible) what's his name, Mortimer?
NJS Yeah."

MR. GOLDIE: Excuse me. Just stop.
Q Mortimer you understood to be the Indian agent?
A That's -- yes, that's what I would assume.
Q The man who wrote the letter that we looked at yesterday?
MR. RUSH: I don't know that you can draw that conclusion.
MR. GOLDIE: Well, I'm asking him his understanding at that time.
THE COURT: Well --
MR. RUSH: But I thought we established yesterday Mr. Sterritt wasn't around at the time that --
MR. GOLDIE: Of course he wasn't. I'm asking him what his understanding was.
THE COURT: I can tell you, gentlemen, if the document is admissible, and if it's signed by Mr. Mortimer and if there is evidence about Mr. Mortimer being around at the time the letter was written I'll assume they're the same person, unless there is some evidence to the contrary, or unless there is an argument made why I should not do so. It doesn't really matter to me, Mr. Goldie.
MR. GOLDIE: The question that I asked, and the only question I'm am really interested in, was when he had heard -- Mr. Sterritt, when he heard Solomon Jack use that name he understood it was Mr. Mortimer the Indian agent.
THE COURT: I think that's permissible. It doesn't prove anything other than under the hearsay rule it proves

the state of his mind.
MR. GOLDIE: I'm not suggesting to the contrary at this time that it was. Now, I wonder if we could go on to the next -- would you go to 174, please.

(TAPE PLAYED)

"NJS Okay, I just want to talk on the tape here. The second creek east of Gitangus Creek, Gwinin Nitxw, goes to the head waters and to the top of the mountain east of that creek all the way to the first creek north of the junction of the Sustut River and the Skeena belongs to (inaudible) and then it comes on to the -- would you -- did you guys go right up Gitangus Creek too then, Sol? Would you have had --
SJ Oh, yeah.
NJS You did, eh?
SJ Trapline up -- well, I don't know how long the trapline reached. Only put in --
NJS Okay.
SJ I only put in a short line. About 30 odd traps up there, eh. I don't know how far you can go up it. It goes up quite a ways anyway.
NJS Okay. So the boundary would be where the Slamgeesh entered the Skeena , is that right? You wouldn't go up anywhere up the Slamgeesh?
SJ No.
NJS So you would have the watershed of Gitangus and all the creeks between there and the Skeena?
SJ M'hm.
NJS Okay. Now, that's good."

MR. GOLDIE:
Q All right. At that time Mr. Solomon Jack was of the view that the property of Dawamuxw was west of the Skeena -- west of the Slamgeesh. I'm sorry, it's the

other way around. That the property of Dawamuxw was east of the -- of the --
A Well, I think from what has been said there that Solomon is referring to Moses Stevens as trapping in that area. He is not saying that it is his property. He does say that they -- that Gwinin Nitxw has territory over in there. He -- and Solomon is describing the areas where they went to when he went with his -- his uncle, Tommy Jack.
Q Well, isn't Mr. Solomon Jack stating that Gwinin Nitxw traps to the east side of the Slamgeesh and Dawamuxw to the west side, and that he doesn't go west?
A Yes, I think he says that.
Q And isn't that consistent with the little diagram that you drew on Exhibit 725, the topographic map of McConnell Creek, on the left-hand margin, which you have, as I understand it, attributed to Mr. Walter Blackwater's information given at Sam Hope's feast in December 15th, 1982?
A Well, I think Solomon was talking generally, and Walter was talking more particularly here, but they were talking about areas they trapped in.
Q They were talking about the same thing, weren't they?
A Well, to the extent that Solomon has mentioned that Moses Stevens is in that area, in a Wolf area, and later Walter Blackwater comes through and says the same thing. I think, yes, they're saying the same thing.
THE COURT: Yes. I'm sorry to interrupt. You said that Mr. Jacks was -- Solomon Jack was saying Dawamuxw was trapping west and Gwinin Nitxw was trapping east of what?
MR. GOLDIE: Of the Slamgeesh.
THE COURT: Slamgeesh River?
A Yes.
THE COURT: Thank you.
MR. GOLDIE:
Q Now, at some point your belief that you've stated on that tape is that Dawamuxw had a lot of ground in here and that it was his territory that changed?
A Yes.
Q And you came to the conclusion that it belonged to Niist?
A Well, Solomon Jack and Art had pointed that out in that area. I pursued based on the information that was being given to me, it wasn't up to me to sort that out in detail, I could ask questions, but it wasn't

1 for me to contradict, and eventually Walter Blackwater
2 came to me and said that the area of -- that was
3 described as Dawamuxw is Gwinin Nitxw, and he
4 described the relationship and the reason why.
5 Q Well, we have gone through this at length, but that
6 isn't what he said on May 22, 1983 is it?
7 A No, it isn't, but it's what he told me later.
8 Q Yes. Now, so we have it so far as any material that
9 is available to us, a certain consistency; Art Kusick,
10 Solomon Jack and Walter Blackwater all suggesting that
11 the territory -- Slamgeesh Territory was Dawamuxw?
12 A No. What Art Kusick is saying and Solomon Jack are
13 saying is that Dawamuxw is in that area, but Solomon
14 says it's because of his -- he mentions because of the
15 father, Dawamuxw's father.
16 Q Yes.
17 A It's what he says on the tape, but he also says that
18 it is the territory, it's Wolf Territory under Gwinin
19 Nitxw. Walter also comes -- and Walter comes -- and
20 also what Solomon is saying is that they are trapping
21 in that area. That Moses Stevens is trapping. He
22 doesn't say that he owns it, but in the terms of what
23 we were doing in terms of defining, or what he was
24 describing was where they trapped, but he has already
25 established that there. It wasn't -- I still don't
26 see that Walter was saying -- or pardon me, Solomon
27 was saying it in a hostile way in any way at all in
28 terms of a conflict. Eventually Walter Blackwater
29 came forward to me and pointed out that the reason
30 Dawamuxw was there is because of his wife, because of
31 the family.
32 Q All right.
33 A And it's Gwinin Nitxw land, and to me the sequence
34 from 1982 to 1983 to 1988 is just building on the same
35 information and them sorting through that.
36 Q And as late as 1988 Nancy Supernault was making the
37 same assertion, that this Slamgeesh Territory belonged
38 to her father?
39 A No. She --
40 THE COURT: Her father?
41 A Her father.
42 MR. GOLDIE: Her father being Charles Stevens and her
43 grandfather Moses Stevens. Yes, my lord.
44 A But Charles Stevens was the brother of Walter
45 Blackwater's mother, and was Wolf, and could have been
46 in that area.
47 Q Yes. Well, I have no doubt that what you say is so,

but the point I was making to you is that as late as 1988 wasn't Nancy Supernault saying that her father's trapline was in the Slamgeesh Territory?
A Yes. I think he did have a trapline in that area.
Q Yes. Would you look, please, in the brown volume under tab 5.
THE REGISTRAR: Exhibit 740.
MR. GOLDIE: That is the note of 4th of September, 1986.
THE COURT: Yes. That's exhibit --
MR. GOLDIE:
Q There's a page preceding that that hasn't been referred to so far under the same tab number, and it's dated February 16th, 1988, Mr. Sterritt?
A Yes.
Q And earlier -- and I'm going to come back to that page, but earlier in 1986 and the Exhibit 740 on page number 40 -- do you have that page? The 40 number is in the lower right-hand corner.
A Yes.
Q And the bottom half of that page she says, "My dad's trapline starts at 9th cabin, it goes up Skeena River to" -- a name that I can't make out. "This is the end on the Skeena. We camped two nights from" -- another name, and then she suggested goes over to a point where there is -- it comes -- there's a boundary between Wii Minosik and her father. And isn't she speaking about a trapline there on territory which she says is her father's?
A She says it's her dad's trapline.
Q Yes.
A And I don't think that's 9th cabin. I think that's 4th cabin.
Q 4th cabin. Thank you.
A Yes. 9th cabin is way over on the Bell-Irving River.
Q Yes.
A And then goes to Xsi Mootixsiwit. X-S-I M-O-O-T-I-X-S-I-W-I-T.
Q Yes.
A And she was talking about the trapline -- about Charles Stevens.
Q Yes. That's correct. And proceed, please. She says we camp two nights from -- and what is the next word?
A Xsi Gisa Genx. That's X-S-I space G-I-S-A space G-E-N-X. Now, that creek on the map is what's identified as Kitlangus Creek. That's K-I-T-L-A-N-G-U-S.
Q Yes.

A It's a play on the name Gitangus.
Q Yes. And then she proceeds to give some geographic directions, doesn't she?
A Yes.
Q And there's a little diagram which you drew, and on one side you put Gaiyemlaxhaa, which is Charles Steven's Territory. Isn't that tty?
A Yes.
Q And then on the other side is Wii Minosik Territory?
A Yes.
Q And weren't you recording her statement that there were two territories, one belonging to her father and the other belonging to Wii Minosik?
A Well, that's my writing. I don't know if she was saying that. She was talking about the trapline.
Q We're in 1988 now, aren't we?
A No, we are not.
Q I'm sorry, 1986.
A That's 1986.
Q We're in 1986, are we not?
A Yes.
Q Yes. And were you still under the impression that the Slamgeesh property was Dawamuxw?
A No. By then I was under the impression that it was Wolf and then it was later that Walter came forward and told me that the territory was Gwinin Nitxw. It was after this. She came forward and said that it was -- through this discussion she said that the territory was Wolf, and she was talking about her dad's trapline and she was describing it. But, as I say, it was later that Walter Blackwater came forward and mentioned that the territory was Gwinin Nitxw.
Q All right. But now would you turn back, please, to the first extract under tab 5.
A Yes.
Q This is dated February 16th, 1988?
A Yes.
Q And this is your notes of a meeting with Nancy Supernault?
A I don't know if I met with her or whether I phoned her. I'm not sure.
Q Is that why the question mark is there?
A I don't know why the question mark is there.
Q You're clear in your own mind that one way or another this records a conversation with her?
A Yes, it does.
Q Under item 2 there's a reference to a stream which

1 flows into a lake. The stream is what?
2 A Xwi Wil Skaiy Yip. That's X-S-I space W-I-L space
3 S-K-A-I-Y space Y-I-P.
4 Q Yes. What's its English name?
5 A I'm not sure.
6 Q Well, the Wil Skaiy Yip is Martin Flats, isn't it?
7 A Yes.
8 Q It flows into Dam --
9 A Silgwit. That's D-A-M space S-I-L-G-W-I-T.
10 Q And that's a lake?
11 A Yes.
12 Q Yes. And then she has "Galaan Xsi Wil Skaiy Yip, not
13 too far from Gelt Sagat"?
14 A That's spelled G-E-L-T space S-A-G-A-T.
15 Q And then below that Wil Luu Skihl Get and then she has
16 Mun Anhl Gii and then brackets below that Gaiyim
17 Laxhaa. That name in brackets is her father's Gitksan
18 name?
19 A Yes.
20 Q And it was the name you placed on the Slamgeesh
21 Territory under that of Niist when you came to the
22 conclusion that it was Niist rather than Dawamuxw?
23 A It was a draft. That's what I had on there at that
24 time, but as I mentioned, a number of times, Walter
25 Blackwater came forward and pointed out that the
26 territory was really Gwinin Nitxw.
27 Q But in February of 1988 Nancy Supernault is saying to
28 you that's her father's territory, isn't it?
29 A I recorded what she was telling me. I put it down. I
30 never got into a discussion about -- with her about
31 Gwinin Nitxw or Dawamuxw. This is simply what I
32 recorded. I don't -- it's -- I try to record what the
33 people are telling me. I try not to contradict them.
34 I may mention something if someone else has said it,
35 but in this case what I was really trying to find out
36 from her was where the land -- pardon me, where was
37 Gelt Sagat, G-E-L-T space S-A-G-A-T. I was confirming
38 that. And I was also confirming some of these other
39 places. And I also recorded whatever else she told
40 me.
41 Q Yes. I'm not questioning what you did, Mr. Sterritt,
42 other than recording what she said. My question to
43 you was in 1988 she was repeating a claim that the
44 territory known as Slamgeesh was her father's
45 territory?
46 A Yes. But I'm not certain that if, for example, I had
47 sat down -- that wasn't the reason I was calling her.

Q No. I understand that.
A I'm not certain if I hadn't sat down with her and gone into it in detail and discussed it she might not have explained the sequence as well to me, but I simply recorded what she had there.
MR. GOLDIE: Could we have that marked, please, my lord.
THE REGISTRAR: 756.
MR. GOLDIE: That is Mr. Sterritt's note of a conversation with Nancy Supernault on February 16th, 1988 under tab 5 of the brown book.

(EXHIBIT 756: Tab 5 - Notes dtd. Feb.16/88 Neil Sterritt with Nancy Supernault)

MR. GOLDIE:
Q I just have one further question for you, Mr. Sterritt, on this particular point, and when I say this particular point I am talking about changes that have been made in territories. We had some trouble in determining the reasons for the changes in the status of the claims made by Ken Harris and Stanley Williams, and before I had an opportunity of looking at some of the material that was delivered to us in September I questioned you at some length on that. You recall that we are talking about the relationships between Stanley Williams as Gwis Gyen and Ken Harris as Hax Bagwootxw?
A Yes.
Q You recall that?
A Yes.
Q Now, as I say, I had some trouble in determining just why all these changes occurred, but I now want to refer you to a note apparently of a meeting of yours with Mr. Stanley Williams in 1987, and I refer you to tab 16 in the brown book, and it's the second item. Is that a note of a conversation that you had with Mr. Williams on January 21st, 1987?
A Yes.
Q And --
THE COURT: I'm sorry. Where are you?
MR. GOLDIE: It's tab 16, and it's --
THE COURT: All right. Thank you.
MR. GOLDIE: It's under the first blue separator page.
THE COURT: Yes.
MR. GOLDIE:
Q And he is dealing with a number of things, but my reference is to the last two lines, and that starts

1 off with the word "Aaxsqwit Mountain"; is that right?
2 A Yes.
3 Q And that's in a particular territory, isn't it?
4 A Yes.
5 Q Can you identify that territory on one of our maps,
6 please, just to give his lordship an idea of where it
7 is.
8 A Kitwanga is located right here, and this area just
9 west of Kitwanga is the area we are talking about.
10 Q Right. And it is -- the territory is identified by
11 that mountain feature, is it not?
12 A Yes.
13 THE COURT: And in whose territory is it?
14 A Yal's. Y-A-L.
15 MR. GOLDIE:
16 Q But at that time --
17 A Pardon?
18 Q I say at that time you say Yal?
19 A No. Yal -- that's Yal's Territory.
20 Q I see. All right. But Mr. Williams said to you in
21 1987 that Aaxsqwit Mountain is Gwis Gyen, but Ken
22 Harris claims it and Stanley Williams will let it go.
23 And did you act upon that?
24 A Well, in fact that's the -- the area of Yal, Y-A-L. I
25 don't know on what basis they said they own that area,
26 but the -- the mountain -- whether it was the mountain
27 that was standing alone that he was referring to in
28 that area that he had some rights to go there or what
29 in terms of the House of Yal or relationship as
30 brothers I have no idea, or uncles, but I have no
31 idea, but his statement was Ken Harris claims it so
32 let it go.
33 Q He was saying if Ken Harris, who was Hax Bagwootxw,
34 was he not?
35 A Yes.
36 Q If he claims it let him have it?
37 A But --
38 MR. RUSH: No, it doesn't say it. "Ken H. claim it and S.
39 Williams will let it go."
40 MR. GOLDIE: Let it go. Thank you.
41 A But Ken in fact doesn't claim it.
42 Q Well, Mr. Williams was saying to you in 1987 that Ken
43 Harris did claim it, wasn't he?
44 A No, he didn't. Ken didn't claim it. He hasn't
45 claimed it.
46 Q Well, perhaps you misunderstood my question, Mr.
47 Sterritt. I was saying on the 21st of January, 1987

Mr. Williams said to you Ken Harris claims it?
A So Ken wasn't claiming it at the time either.
Q Please don't mix up two different things in your mind. All I'm asking you is to confirm that on the 21st of January 1987 Mr. Stanley Williams informed you that Ken Harris claimed it?
A I don't think Ken was. I think it was part of the confusion that surrounded the House of Yal, the House of Hax Bagwootsw and Gwis Gyen, but I don't think that -- but I don't think that Ken Harris was claiming it.
Q Well, regardless of what Mr. Ken Harris was doing, will you please confirm for me that you wrote down what Mr. Stanley Williams said to you?
A Yes, I wrote this, but as I recall there -- there was some confusion about it in terms of because they're related. Ken Harris and George Turner and Phillip Turner, they're -- and Stanley are all related.
Q Yes. We have been all through that. I just want to have it from you that Mr. Williams said to you Ken Harris claims it, and you wrote that down?
A That's what I wrote down here, yes.
MR. GOLDIE: All right. My lord, would this be a convenient time?
THE COURT: Thank you.
THE REGISTRAR: Order in court. Court will recess.

(PROCEEDINGS ADJOURNED)

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

Peri McHale, Official Reporter
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(PROCEEDINGS RESUMED FOLLOWING SHORT RECESS)
THE COURT: Mr. Goldie?
MR. GOLDIE:
Q Mr. Sterritt, you stated that the feature, which is -- you took down in your note of the 21st of January, as A-A-X-S-Q-W-I-T mountain, was in the territory of Yal. Is it not odd that Mr. Stanley Harris is stating that that is his?
A I couldn't say.
Q Well, did it not make an impression upon you at the time?
A Not really. They are all members of the same family and I don't have any basis for drawing a conclusion about that. He wasn't -- he made a comment, he has also described that territory to me a number of times as being the territory of Yal.
Q So -- that makes it all the more curious that he is stating it as his, does it not?
A He is talking about the mountain but he wasn't claiming it, he --
Q He said, let -- that he will let it go. But I am just curious as to the impression it made upon you at the time that Mr. Stanley Williams would be stating that that mountain feature was his? It made no impression upon you?
A He wasn't claiming it, he wasn't saying that -- he has told me a number of times that was Yal's territory and he wasn't making a claim to that area as that mountain being Gwis Gyen's and it should be so identified.
Q Mr. Sterritt, is it possible that Mr. Williams was referring to another mountain area, in territory which he has claimed, and I refer you to tab 3(b) of the brown book, which is part of his affidavit of November 23rd, 1987. And page -- page 2 begins with the description of the Luu Skaiyansit territory?
A Yes.
Q And over on page 3 there is a feature called mountain area, is it not possible that that is the feature that he was referring to?
A No, no that's Ha Laaltxwit and it's a long ways from Aaxswit.
Q Well, I have here Mr. Phillip Turner's affidavit, and he has a mountain feature which is A-A-X-S-W-I-T, and that's the one that you initially were referring to, is it not?
A Yes.
Q Well, that is spelled a little differently than the

feature you have in your note of January 21st. The spelling of your note is A-A-X-S-G- or Q-W-I-T, it would be G, would it?
A I am not sure.
THE COURT: Tab 16. That would be behind the divider.
A 16? Oh, yes.
MR. GOLDIE:
Q And the -- just spell that out for his lordship, would you, please?
A There is a hole right through the word here.
THE COURT: A-A-X-S-G-W-I-T?
A I would say that's probably a G.
MR. GOLDIE:
Q The spelling of feature in Mr. Phillip Turner's affidavit --
THE COURT: Where would I find that?
MR. GOLDIE: That's not before your lordship. I have had it taken out of Exhibit 612 and it's part of that -- it's Exhibit 612, tab 21. And I am just going to show it to the witness.
THE COURT: Exhibit 612, tab 21?
MR. GOLDIE: Yes.
A Yes.
Q It's not spelled quite the same way, is it?
A No.
Q But is it pronounced the same way?
A Yes.
Q And there is no doubt in your mind that it was -- Mr. Williams was talking about a mountain in Mr. Phillip Yal's territory?
A Yes, in that area.
Q Let me suggest to you one further thing, which supports my suggestion to you that Mr. Williams was referring to a mountain feature in a territory that he claims in his affidavit as Luu Skaiyansit, and that's this, this suggestion of Mr. Williams that it's his territory, but Ken Harris claims it and Stanley Williams will let it go, I suggest to you is reflected in Exhibit 5, where the Luu Skaiyansit territory is identified as belonging to Hax Bagwootxw, would you agree with that?
A No. You're talking about two different areas. Hlihl Guuhl Sganist is on the south side of the Skeena, below Kitwanga, and you're talking about a different territory there.
Q Well, which is the territory that has the feature that is described in Mr. Williams' affidavit as the Luu

1 Skaiyansit.
2 A Luu Skaiyansit and you --
3 Q Where is that territory in Exhibit 5, please?
4 A Yes, but in that case, you're talking about Ha
5 Laaltxwit, is that the one, the mountain area on page
6 3?
7 Q Yes.
8 A That's H-A space L-A-A-L-T-X-W-I-T.
9 Q I want you to identify it on Exhibit 5, please?
10 A Right here.
11 Q That's -- that is east of what?
12 A East of Kitsegukla.
13 Q I was pointing to the wrong one, but it's that
14 territory there?
15 A Yes.
16 Q All right. And who is that identified as belonging
17 to?
18 A Hax Bagwootxw.
19 Q Right. Now in map 9-A who is it identified as
20 belonging to?
21 A I'd have to -- just a second. Gwis Gyen.
22 Q So, in map 5, which is May of 1987, the territory
23 which contains this mountain, H-A-L-A-A-L-T-X-W-I-T,
24 is a territory which is attributed to Mr. Ken Harris?
25 A Well, they are both in the same house.
26 Q It's attributed to Mr. Ken Harris who has the name Hax
27 Bagwootxw, isn't it?
28 A Yes.
29 Q In November of 1987, Mr. Williams swears an affidavit
30 in which he says "this is my territory", that's
31 correct?
32 A Yes.
33 Q And that is reflected on map 9-A?
34 A Yes.
35 Q Now, I suggest to you that the sequence which is
36 indicated by, firstly, your memorandum of the 21st of
37 January, 1987, in which Mr. Williams says "I own a
38 mountain", or "Gwis Gyen owns a mountain, but Ken
39 Harris claims it so let it go", is reflected in the
40 map of May, 1987, in which the territory is named as
41 belonging to Ken Harris, and then when Mr. Williams
42 comes to swear his affidavit in November, he claims
43 that territory and the territory is marked as his in
44 map 9-A?
45 A Well, but you're wrong. Because the note for the 21st
46 of January, 1987 refers to Aaxswit, which is a
47 mountain just west of Kitwanga.

Q I understand that. I am suggesting that you took it down incorrectly?
A I am saying that you're wrong.
Q And that Mr. Williams was referring to a mountain in territory that he subsequently claimed was his own?
A No, you're wrong about that.
Q I see. You say that it's impossible for you to have mistaken what Mr. Williams said to you?
A Yes. In that situation, you're wrong about that.
Q And you have no explanation of why Mr. Williams would claim a mountain in Mr. Phillip Turner's territory?
A Well, he didn't. He makes a point in this discussion, but he never did claim it. He refers to the situation there and then -- but in terms of his affidavit he never goes on to claim it, he never says that it is at a later point and he also has told me on a number of occasions that that territory up in there is Yal's. And that goes back a long ways.
Q But in his affidavit he does claim territory which on map 5 is marked as belonging to Hax Bagwootxw?
A But that was all clarified and we discussed that already, that Gwis Gyen and need N-I-I-T-A-M, L-A-X, O-O-K-S, I think, are properly on the territory at Luu Skaiyansit and that Hax Bagwootxw is properly on the territory at H-L-I-H-L space, G-U-U-H-L, space, S-G-A-N-I-S-T, and they are both members of the same house.
Q Yes, we have been through that. I have endeavoured to trace the reasons for the change in the claimed ownership and I can find no consistency with respect to Mr. Stanley Williams suggesting, as he did to you, that that mountain in Yal's territory, is Gwis Gyen, he has never claimed it before and he has never claimed it since, has he?
A Right.
Q So why did he claim it on January 21st, unless you misunderstood him and took down the name of the wrong feature?
A I didn't. Aaxsgwit doesn't sound anywhere near like Ha Laaltxwit. Doesn't sound like it at all.
Q Was this a telephone conversation?
A No, no. Not to my recollection.

THE COURT: Could I have the spelling, please, of the feature that you suggest is the one that was being discussed?

MR. GOLDIE: Yes, my lord, it is under tab 3-A of the brown book, which is an extract from the affidavit of --

THE COURT: Ha Laaltxwit?

MR. GOLDIE: Yes, it's on page three.
THE COURT: H-A-L --
MR. GOLDIE: H-A, L-A-A-L-T-X-W-I-T.
THE COURT: Thank you.
MR. GOLDIE:
Q I wish to tender as an exhibit, my lord, the memorandum of the 21st of January, 1987, of Mr. Sterritt's discussion with Mr. Stanley Williams, found under tab 16, the second document.
THE COURT: That will be --
THE REGISTRAR: 757.

(EXHIBIT 757: MEMORANDUM DATED JANUARY 21, 1987)

THE COURT: Mr. Sterritt, you said several times that Mr. Williams and Mr. Harris were in the same family. What specifically do you mean by that?
A Stanley Williams is the uncle of Ken Harris. They are in the same house.
THE COURT: What house is that?
A Gwis Gyen. I am not sure how it is on the statement of claim, I don't recall whether it's just -- just how that's written there -- but I --
THE COURT: All right. Thank you.
A They are the same family.
THE COURT: And Hax Bagwootxw is a chief in the House of Gwis Gyen?
A Yes. I don't know how it's written in the statement of claim.
MR. GOLDIE: Your lordship ought to be aware that that was a matter of a dispute to which Mrs. Ryan referred to. And the statement of claim reads: "The plaintiff Gwis Gyen is a hereditary chief of the House of Hax Bagwootxw and is bringing this action on behalf of himself and the members of the House of Hax Bagwootxw."
MR. RUSH: My lord, just for clarification, the feature that's identified at page 3 of this Stanley Wilson -- excuse me, Stanley Williams affidavit, and for which Mr. Sterritt spelled the name for you, is listed there, if you don't have it in front of you, under a mountain area and beside it is "unnamed area of government map near head of Xsan Gokhl."
THE COURT: Thank you.
MR. GOLDIE: My lord, I want to go on to another subject. The reporter advised me that she had difficulty in picking up the transcript of the Solomon Jack tape and I am

1 going to defer asking that that be marked so that she
2 can listen to it and if she can pick it up, well and
3 good, and if she can't I will ask the witness to take
4 us through it. Fortunately it's just a short extract.
5 Q On the same subject, Mr. Sterritt, the transcript
6 which is under tab 9 has been marked as an exhibit,
7 745, have you any reservations about the accuracy of
8 that transcript? I think you expressed your view that
9 you were satisfied with it?
10 A The -- I haven't read from beginning to end. We have
11 gone to various portions of it and we have listened to
12 the tape, the portions that we have listened to are
13 consistent with the discussion and also from some of
14 the areas that I have glanced at, it's consistent with
15 what Walter Blackwater was saying at the time and also
16 what he said later on.
17 Q The question that was put to you, are you satisfied
18 with its accuracy?
19 A From what I have looked at, the parts that I can see
20 that we have looked at in detail, yes.
21 MR. GOLDIE: Now, I want to go on to another subject. On
22 September 28th, my lord, I wrote to my friend to this
23 effect, and I quote: "In her letter of September
24 19th, 1988, Miss Sigurdson advised you that we would
25 be asking Mr. Sterritt about the assistance he offered
26 the plaintiffs' experts. The following is the list of
27 the types of questions we anticipate asking Mr.
28 Sterritt with regard to each expert." And there
29 follows A down to E. And then the letter concludes,
30 "In all of these areas we will ask for the production
31 of all relevant documents. We have no objection in
32 your discussing this letter with Mr. Sterritt for the
33 purpose of informing him of the questions he will be
34 asked and to facilitate the timely production of
35 documents."
36 Q It's that which I am about to address some questions
37 to you, Mr. Sterritt.
38 First, I want to put to you a list of the
39 plaintiffs' experts' reports, as we have compiled
40 them. And I am going to deal with these one by one
41 but I hope we might speed matters up, because I assume
42 you have had some -- you have had prior notice of this
43 and that you will be able to answer these questions
44 quickly. For instance, in the case of Miss Albright,
45 Sylvia Albright, did she enter into a contract with
46 the Tribal Council?
47 A To my knowledge, she did, yes.

1 MR. GOLDIE: Well, I ask for the production of that contract,
2 my lord. I gave my friend notice of that.
3 MR. RUSH: I should say to your lordship, I advised my friend of
4 this during the course of the break, is that our
5 position is that we are not required to produce any of
6 these contracts until the witness takes the stand.
7 And that is our view of the Vancouver School Board and
8 I think Phillips Barratt case. Despite that, we take
9 the view that neither do we want to see a postponement
10 of the examination or cross-examination of any of
11 these experts. So we -- counsel have taken steps to
12 obtain the production of this document and ones that
13 might fall into the category of that contemplated by
14 Mr. Justice Finch in Phillips -- the school board
15 case.
16 And so, I have not, myself, received these as yet.
17 They hopefully are being put together on our behalf in
18 Hazelton and when I have them, we will disclose them.
19 MR. GOLDIE: Well, of course, my lord, this document is
20 requested at this time because Mr. Sterritt was
21 president of the Tribal Council, he is referred to in
22 a number of the expert reports as the source of the
23 information, and one report or one contract, and why
24 it was just one, I don't know, one contract has been
25 disclosed in the plaintiffs' list of documents and Mr.
26 Sterritt was examined with respect to it in his
27 examination for discovery. And the -- Prof. Cove --
28 and my submission is that the contract is not
29 something that is in the possession of the expert and
30 is a document that he relies upon or is to be produced
31 by him, the contract is in the possession of the
32 Tribal Council, or at least one copy of it,
33 presumably, and I am asking for its production, not
34 from the expert but from the Tribal Council. And my
35 purpose is to lead into an examination relating to
36 the -- what -- the relations between the expert and
37 Mr. Sterritt in that capacity, and the nature of the
38 communication which the expert identifies that he has
39 had with Mr. Sterritt. When I say identifies, for
40 instance, in Sylvia Albright's report, she says, at
41 page 3-8, and I quote: "Contemporary Gitksan elders
42 also indicate that Temlaham stretched along the
43 northwest bank of the Skeena from Hazelton or Cedar
44 Creek, downstream to below Burdick or Stoney Creek
45 (Neil Sterritt personal communication)." So there are
46 two capacities in which I want to examine the witness,
47 the first is the president of the contracting party

and the second is the originator of original communications.

THE COURT: There is no difficulty in asking him about communications.

MR. GOLDIE: None whatsoever. And I listed that, I think I made reference to that in my letter. Yes. D. I said, "In some cases", and I am quoting from my letter, "Mr. Sterritt is cited as an informant. See, for example, the reports of Sylvia Albright, Arthur Ray, Marvin George, Mike Morrell and Heather Harris. Mr. Sterritt also appears to have received information from expert, witnesses such as Susan Marsden and Heather Harris. We will ask Mr. Sterritt about what he told those who identified him as an informant and what he received from those who provided him with information."

But the two things are connected. I wanted to examine Mr. Sterritt in his capacity as president of the employer, or the contracting party, and also in his capacity as the source of information or the recipient of information. And I am asking for the production, not from the expert but from Tribal Council.

THE COURT: Well, Mr. Rush has said he is not opposing that.

MR. RUSH: I should point out, my lord, that the person who acted as our agent, that is counsel's agent in respect to the establishment of the contracts with the various experts, was Mr. Overstall and Mr. Overstall is the person from whom we are seeking to put together this information. I cannot say in respect of all of the contracts that they were with the Tribal Council. But they were contracts that were established on instructions from counsel, and where, in respect -- that's where Mr. Overstall came in and acted on our behalf in this respect.

Now, it may be a matter of little moment, because I am not taking a position that these should not be produced. In fact, I think they can be produced and we are trying to do it as expeditiously as we possibly can. But I think there are two very distinct issues that my friends isolated in his letter. I should point out that we began this attempt to pull this material together far in advance of my friend's letter.

THE COURT: Well, I am not sure what you're asking me to do, Mr. Goldie, if anything?

MR. GOLDIE: I am not asking your lordship to do anything at this point.

THE COURT: All right. I won't do anything.
MR. GOLDIE: But I am pointing out that I asked for production of a document and if it's not going to be produced, well then I will have to find some way to fill in the time until it is produced or we will have to stand the witness down again.
THE COURT: All right.
MR. GOLDIE:
Q Mr. Sterritt, there is, then, a contract with Sylvia Albright, and you were president of the Tribal Council at the time the contract was entered into?
A Yes.
Q What -- well, I will defer any further questions until I see the contract.
Did you at any time have occasion to discuss with Sylvia Albright the work that she undertook pursuant to that contract?
A No, I had no part in the contract at all.
Q You had no part in the negotiation of the contract, is that what you are telling me?
A I had no -- Yes, I had no part in the development of the terms of reference or the negotiation of the signing of the contract.
Q Did you discuss with her her work during the course of the period in which she did that work?
A To the extent that I identified some areas that they might want to look at, yes, I did.
Q And when you say you identified some areas they might want to look at, perhaps you can tell me what you mean by that?
A They were wondering about some of the village sites and, for example, Gitangus, some of the large salmon pits areas around Kisgegas, and some of them en route between Hazelton and Kisgegas, around Temlaham, because I had seen some salmon pits, I lived there, so I had seen some salmon pits in that area and I referred them to them, and they inquired around by Fiddler Creek and I gave them a general indication, but not specific, because I had not been there myself, right where the pits were.
Q You directed them to certain areas?
A Yes, they asked me where these were.
Q These being the villages of Gitankaat and Temlaham?
A Yes.
Q Did you take them there?
A No, I didn't go to Gitankaat with them, I didn't go to Temlaham but I told them in relation to my house and

1 the area where Temlaham was and may have pointed it
2 out from Hazelton because it's straight across the
3 river from Hazelton as well.
4 Q Did you discuss with either of the -- of doctor -- she
5 is the sole author of her report, is she not, Sylvia
6 Albright? You say they, you're talking about an
7 archealogical party that she headed.
8 A Yes, she had a couple of workers with her.
9 Q Did Dr. Albright tell you why she wanted to see these
10 sites?
11 A I think they were looking at where some of the village
12 sites had been and they wanted to go to those areas.
13 To the best of my knowledge, I don't recall much else
14 about that. They were simply asking me about the
15 village sites as I recall.
16 Q What was said to you that gave rise to your response?
17 A I don't recall.
18 Q Was there any correspondence between you?
19 A No, I don't recall any correspondence.
20 Q Did you provide any information, other than the
21 location of the fish pits and the two village sites to
22 Dr. Albright or any of her party?
23 MR. RUSH: He mentioned three.
24 MR. GOLDIE: Just to clarify this, what were the village sites
25 again, please?
26 A Gitankaat, Temlaham, and I think Lax Xsin Tjihl,
27 that's between, about halfway betwan Kisgegas and
28 Hazelton, and I don't recall whether I pointed out the
29 area of Djuwinhl Geets, which is closer to Kisgegas on
30 the east side of the Skeena. And then the very large
31 area of fish pits, salmon pits at Kisgegas, as well as
32 a house site, an old house site there, and then
33 Gitangus, my father and I took them to that site.
34 Q Yes. And you accompanied the party to that site as
35 you say?
36 A Well, we had a helicopter and we were going on to Bear
37 Lake and we dropped them off on the way.
38 Q You're telling me that there is no correspondence with
39 respect to any of these matters?
40 A I don't recall any.
41 Q Was there any discussion with Dr. Albright, or any
42 members of her party, about the terms and conditions
43 of the work that they were undertaking?
44 A Not with me.
45 Q Was Dr. Albright, or any member of her party,
46 requested to file field notes with the Tribal Council?
47 A I don't know what the -- I never read her contract.

1 Q That wasn't my question. My question was: Was she or
2 any member of the party requested, quite apart from
3 the terms of the contract, to file field notes with
4 the Tribal Council?
5 A I don't know.
6 Q All of these matters would be within the knowledge of
7 Mr. Overstall?
8 A And the lawyers, to my understanding.
9 Q Did you, after or during the course of Dr. Albright's
10 work, discuss the progress of it with her?
11 A I don't recall that, no. No.
12 Q You don't recall any discussion about how they were
13 getting along or what they were finding?
14 A Well, I asked them how they made out at Gitangus that
15 week and I think I asked them how many house pits they
16 had identified at Kisgegas. Apart from that, that
17 kind of a question, that's all I recall.
18 Q What was the purpose of -- so far as you were
19 concerned -- of the interest if fish pits?
20 A The salmon pits are, in relation to village site of
21 the Gitksan, and they -- as I recall they were going
22 to those areas to see the extent of fish pits.
23 Q Did you express to Dr. Albright the connection between
24 these indentations in the ground and the presence of a
25 village site?
26 A I -- no, I don't recall that. No, I don't recall
27 that.
28 Q You didn't learn from her this connection that you
29 made a few minutes ago between the indentations in the
30 ground and the presence of a village site?
31 A No. I have been aware -- I was told long ago about
32 those village sites and also because of my travels
33 throughout the territory was aware of the fish sites.
34 Q Did you not express to her the connection where you
35 find fish pits identified as such, you will find a
36 village site?
37 A No, I don't think I did.
38 Q All right. Did you see Dr. Albright's opinion in --
39 in its draft form?
40 A I don't think so, no.
41 Q Did you see any expert's opinion in draft form?
42 A Well, I saw them being prepared but I didn't --
43 because the -- they were preparing them on the
44 computers at Tribal Council, but that's all that I
45 recall.
46 Q Well, did you have any discussion about the experts'
47 opinions with other members of the Tribal Council?

A As I remember, this was primarily dealt with by Richard Overstall, and the lawyers, Don Ryan, I was engaged in other activities and then eventually into doing the work intensely that I did in 1986. Beginning of December, 1986.
Q Did you discuss any expert's opinion with Mr. Overstall?
A I don't recall, no.
Q Do you have any notes of information that you gave to experts, and we have covered Dr. Albright, I want to refer you to Mr. Arthur Ray, do you know who Mr. Ray is?
A Yes.
Q And he has produced a report, has he not?
A Yes, I think he has.
Q Entitled The Early Economic History of Gitksan-Wet'suwet'en Territory?
A Yes.
Q Originally dated the 16th of January, and revised -- 1985 and revised 29th of January, 1987. Mr. Ray states that you were one of his sources and a personal communication dated November 24th, 1984, can you produce a copy of that, please?
A What I recall was that he had read the diary of someone who had travelled from Fort Babine to -- well, he wasn't sure where but west down the Babine River to Kisgegas and what he asked me to do was to see if I could identify some of the place names that were mentioned and I think out of the -- now this was someone who travelled I think in the very early 1800s and was writing what he heard at the time and I reviewed that and I can't recall how many of the places I could identify, and then I returned that to Mr. Ray, and I don't think that I have anything in my possession that -- that was -- he sent me a copy and I returned it to him, as I recall.
Q With notations?
A I think with notations, or I may have just made a note who a piece of paper and sent it back to him. I don't remember which it was.
Q And you didn't keep a copy of it?
A No, I don't have a copy.
Q Did Prof. Ray have a contract with the Tribal Council?
A I think the other thing he had was a list of chiefs who were in the Babine area at the time and I reviewed that and tried to determine from the writing of the day whether -- what the equivalent would be today of

1 some of those names and I can't remember just how many
2 those were. But that was -- I think that was Mr. Ray.
3 And that was returned to him as well. And I don't
4 remember what the format was.
5 Q You're telling his lordship, however, that you
6 retained nothing of what you gave?
7 A Well, I don't recall that I have anything on that.
8 Q Well, Mr. Sterritt, were you advised of the letter
9 that -- of September 28th that I wrote to Mr. --
10 A Yes, I was.
11 Q Did you make a search of your personal records to see
12 if you have any communications with any of the
13 experts?
14 A Yes, I don't have anything, not like that.
15 Q You say not like that, have you got any communications
16 with any of the people who are listed as experts on
17 that list I gave you?
18 A I couldn't find anything, no.
19 Q Have you any recollection of such communications, of
20 any communications?
21 A As I recall, they sent me -- sent me a piece of paper
22 or whatever the list was and I made notations on it or
23 added something and sent it back to them. I can't
24 locate anything in my files.
25 Q You say they, you mean any --
26 A Well, you talked about two people now, about this,
27 about Mr. Ray.
28 Q And Prof. Albright?
29 A Yes.
30 Q All right.
31 A I don't recall her giving me anything in writing. It
32 was personal communication.
33 Q Well, you did, however, provide matters in writing to
34 Heather Harris, did you not?
35 A Yes, some material, I think from my field books, I
36 don't recall just to what extent, also a lot of just
37 discussions with Heather, but that's all that I
38 recall.
39 Q All right. Well, let's just pause for a minute there.
40 Did Heather Harris have a contract with the Tribal
41 Council?
42 A I don't know whether it was -- I don't know whether it
43 was with the lawyers or with the Tribal Council.
44 Richard Overstall and Don Ryan were looking after that
45 and I wasn't.
46 Q Neither of whom is a lawyer?
47 A Well, they were working with the lawyers.

1 Q But the two names that you mentioned are not lawyers,
2 are they?
3 A No.
4 Q Was Heather Harris an employee of the Tribal Council?
5 A I don't know what her employee relationship was.
6 Q And she is -- she is an expert in what field?
7 A Genealogy.
8 Q Tell his lordship the nature of the communications you
9 had with her?
10 A If --
11 Q Written or otherwise.
12 A If I learned some information, I would -- her office
13 wasn't far from mine and as I came back to my office,
14 I would chat with her about it. She may or may not
15 have made notes as I talked to her. Some of the --
16 sometimes I may have Xeroxed a note that I had and
17 handed it over to her, but not that often. But I
18 talked to her. I discussed it with her.
19 Q This was over what period, please?
20 A Well, she -- I can't remember how long she was around
21 but it was over a one year period or maybe a little
22 longer than that.
23 Q Did you discuss with her the results of her work, did
24 she ever show you genealogies and discuss with you a
25 genealogy in respect of which she got information from
26 you, for instance?
27 A All I saw was what she ended up preparing as a
28 genealogy.
29 Q And did she come and ask you if that was -- that part
30 of it was correct in respect to what you gave her?
31 A No.
32 Q Well, you provided her with some genealogical notes
33 that you had obtained from your aunt, did you not?
34 A Yes, I may have.
35 Q Did you ever inquire as to whether she had --
36 A I don't know whether I did or my dad. I am not sure
37 whether I did or not. I may have.
38 Q Well, did Heather Harris ever discuss with you what
39 she had got from you, did she ever talk about the --
40 who was whose ancestor and so on and so forth?
41 A No, not really. If I would -- I would explain what I
42 had learned and then she would make notes about that
43 and that would -- that was about the extent of it.
44 Q Did you see any of her genealogies in a draft form?
45 A Yes, I have seen the genealogies. I don't know which
46 were draft or which were final.
47 Q Did you comment on them?

A I may have commented on those that applied to our house but I don't recall to what -- to any extent doing that with any other houses.
Q When you say hour house, you're talking about Gitudahl?
A Yes.
Q What about your father's house?
A I -- I am not sure. I can't remember whether I did or not.
Q You may have?
A I might have but I don't recall.
Q Did you discuss with her any written report?
A No.
Q Did she produce a written report at any time?
A To my knowledge, she has produced a report to the lawyers.
Q And you have not seen it?
A I have seen the report. I haven't read it.
MR. GOLDIE: I am asking for production of Heather Harris's contract, and -- and I take it that that's one of the ones that my friend is preparing or is prepared to produce?
MR. RUSH: If there are contracts with the persons that my friend is inquiring about in his examination, I have asked for them to be produced.
MR. GOLDIE: Well, Heather Harris --
MR. RUSH: I don't know if -- there is some question as to whether or not Miss Harris was employed or she was under contract and it may be that at some times she was employed and other times she was under contract. I am not sure. I am trying to find that out.
MR. GOLDIE:
Q Did Heather Harris interview you, and I am making a distinction between the chats that you had when you saw her in her office, I am now talking about a formal interview?
A I don't recall. She may have, but I don't recall.
Q Did you ever see any field notes that she took of that interview? Or those interviews?
A Well, as I say, I don't recall whether there was an interview and I don't recall any -- you mean her field notes?
Q Yes, did she ever review with you or send you, the field notes of any interview she had with you?
A I don't remember.
Q You have no recollection?
A No.

1 Q Did you discuss the results of her work with any of
2 your colleagues?
3 A No.
4 Q Now, you are aware, are you not, that one of the
5 appendices to her reports consists of extracts from
6 some of your field notes?
7 A That could be.
8 Q You didn't know that?
9 A Well, I didn't know that but she -- as I mentioned to
10 you, I recall passing along some Xerox copies of some
11 of my information to her.
12 Q You're not a genealogist by training, are you?
13 A No.
14 Q Did you provide her with a typed list of chiefs'
15 names, their meanings and who holds the names?
16 A I might have.
17 Q Just before we adjourn, I will deal with one other,
18 perhaps shortly.
19 Mr. Marvin George, he indicates that his mapping,
20 and you have testified to this, relied upon, in part
21 your field notes and loose-leaf notes and maps. Just
22 pausing there, these have all been produced here, have
23 they?
24 A Yes.
25 Q And personal communications, what are the nature of
26 the personal communications?
27 A Telephone, I would telephone Marvin, I would drop into
28 his office and talk to him.
29 Q And you certainly reviewed the progress of his work?
30 A Not in that sense. To a certain extent but not as
31 a -- the progress, that work fell to Richard
32 Overstall. He was keeping track of progress.
33 Q I am not talking about progress, I am talking about
34 the actual development of maps?
35 A Some of it, yes.
36 Q You wanted to satisfy yourself that Marvin George was
37 translating on to the map the information that you had
38 obtained from your informants?
39 A I mentioned to you that there was a whole period when
40 I was quite busy elsewhere and Marvin was producing
41 maps to the best of his ability, without me being
42 around. And I -- until I got into -- when I really
43 set aside my presidential duties and got involved in
44 1986, no, there was a lot of work that Marvin was
45 doing without benefit of me being there to help him.
46 To a a limited extent I did, but not in a very
47 rigorous sense.

Q But whenever you could, one of the things that you did would be to examine these maps to see that they were reflecting accurately what you had given him?
A No. I can't say that.
Q Well, when you had discussions with him, what was said and what was the subject matter of those discussions?
A Generally if I learned something new I would give him a call and -- or I would drop in and point something out in a given area and that was the type of personal communication.
Q I see. And it would be with respect to a specific area or a specific feature?
A As I recall, yes.

MR. GOLDIE: All right. Well, my lord, that would be a convenient place.

THE COURT: All right. 2 o'clock.

(Proceedings adjourned for lunch)

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

Wilf Roy
Official Reporter

(PROCEEDINGS RESUMED PURSUANT TO LUNCHEON RECESS)

THE COURT: Mr. Goldie.
MR. RUSH: Just before my learned friend starts. I neglected to introduce my articled student, Mr. Michael Fleming.
THE COURT: Thank you. Mr. Fleming, welcome. Don't stay too long if you can help it, for your own good.
MR. GOLDIE:
Q Mr. Sterritt, I'm not sure whether I asked you if the tribal council had a contract with Marvin George?
A I don't know what the employee relationship was there.
Q You think he was an employee?
A I don't know whether he was under contract or an employer -- employee. I don't know.
Q And you never knew at any time whether -- what his status was?
A Don Ryan looked after that as executive director.
Q M'hm. Turning to the next expert, Mr. Hugh Brody, who has prepared a report on "Continuity of Culture". Did you supply Mr. Brody -- well, did Mr. Brody have a contract with the Tribal Council?
A I imagine he did. That would have been arranged by Richard Overstall and the lawyers.
MR. GOLDIE: All right. And I'm asking for the production of that contract.
Q Did you supply Mr. Brody with any information relating to the -- his duties under his contract with the Tribal Council?
A What I recall is some, I don't know whether it was chief's names or place-names that he was trying to sort out.
Q And you assisted him?
A Well, he sent me -- if I recall, he sent me a sheet of paper with that on it, and I don't recall whether I returned that to him or whether Richard Overstall did. I don't remember.
Q You have no commune -- you have no -- in your possession or custody no letter or communication from him?
A No.
Q Did you have any communication with him, that is to say originating with you, other than your recollection of supplying him with some chief names?
A Well, I had some discussions with him in the Hazelton area when he was there.
Q Can you tell his lordship what was said by whom to whom, and the subject matter of the discussions?
A I don't recall.

Q No recollection?
A No.
Q Was it about the subject matter of his report?
A It -- yes, it may -- well, I had other discussions with him as well on a personal level, but in terms of the -- I can't remember if there was -- whether it mainly centered around some place-names that he was identifying or what it was he discussed. I don't recall what it was.
Q Did you discuss his report in draft form? And when I say discuss his report in draft form first with him.
A No.
Q With anybody?
A No.
Q Did you see his report in draft form?
A I don't recall seeing his -- no, that report in draft form.
Q You've seen his report in its final form?
A I'm not -- no, I don't think I've seen the final report either. I don't believe so.
Q Were you present when he interviewed any members of the Gitksan or Wet'suwet'en peoples?
A No. I don't recall being present with him when he did an interview with a Gitksan or Wet'suwet'en person.
Q Did he file anything with the Tribal Council such as notes or drafts, or anything like that, which would have come to your attention?
A I don't know.
Q Did you have any discussion about the report with others?
A No.
Q Rod Chilton, who prepared a report on "Good Food Drying Areas in Northwestern British Columbia", did he have a contract with the Tribal Council?
A I don't know.
MR. GOLDIE: If he did I ask my friend to produce it.
Q Did you supply him with any information?
A I don't know that I -- I don't recall meeting Rod Chilton. No, I don't think I did. I don't recall.
Q You say you don't recall meeting Rod Chilton. Do you have any recollection of communications --
A No.
Q -- With him, or discussions of his report?
A No, I didn't discuss his report with him.
Q Or with anybody?
A No.
Q Did you see his report in its draft form?

A No, I haven't seen his report.
Q Richard Daly, who has produced a report on "Gitksan Wet'suwet'en Economy", does he have a contract with the Tribal Council?
A I think he did, yes.
MR. GOLDIE: I ask my friend to produce that.
Q Did you supply Mr. Daly with the information?
A We had discussions. I don't recall -- I can't recall whether I provided him with any information or not.
Q Can you recall the subject matter of your discussions with him?
A No, I can't.
Q Were you present when Mr. Daly interviewed members of the Gitksan Wet'suwet'en peoples?
A I don't remember being present when he was doing an interview with a Gitksan or Wet'suwet'en person.
Q Did you travel with him, either alone or in company with others, in any part of the claims area?
A No, I never did travel with Richard Daly in a vehicle or otherwise, but there were meetings that I attended that he might have been at, but that's -- I didn't travel with him to those meetings. I didn't go anywhere with him.
Q With respect to those meetings can you recall the subject matter which was discussed?
A I can't remember whether it was just a meeting of the Tribal Council that he may have sat in on, or what it was. He attended, I believe, one of the annual meetings of the Tribal Council. I think he attended the meeting in Burns Lake with the Carrier-Sekani.
Q Did he file any documents, working papers, notes with the Tribal Council, to your knowledge?
A I don't know.
Q Do you have any commune -- any writings of his?
A No. I've made a check and I don't. I was unable to find anything of his.
Q Right. Do you recall any discussion with others about his report either in draft form or in its final form?
A No, I don't.
Q Robert Galois, who has provided a report on the "History of the Upper Skeena 1850 to 1927", did he have a contract with the Tribal Council?
A I believe he did, yes.
MR. GOLDIE: I ask my friend to produce that.
Q Did you supply him with any information?
A Yes, I did. The -- I think you mentioned Keith Ray earlier.

1 Q Keith?
2 A No. Art Ray.
3 Q Arthur Ray.
4 A Arthur Ray. I don't recall whether it was Art Ray or
5 Bob Galois that I -- that gave me the notes of the
6 person who went from Fort Babine down to Kisgegas. I
7 somehow think it was Keith Ray. But in a similar
8 vein, or along a similar line, Robert -- Bob Galois
9 was trying to determine some travels of explorers
10 through the Gitksan territories, and I reviewed those
11 and identified where the -- some of the creeks were,
12 where the trail went into and out of the territory,
13 and as I recall I think I put that on a map and
14 forwarded that on to him. That's my recollection. I
15 think also that I -- I identified those place-names on
16 the margins of the records of the explorers, of the
17 transcripts of the explorer's diary, and passed those
18 along to Bob, or in some format they were passed along
19 to Bob.
20 Q Do you remember when this was approximately?
21 A Well, within the last two or three years after --
22 after his -- after he started to work with the Tribal
23 Council.
24 Q Did you have any further discussions with him about
25 his work?
26 A Not that I recall. I had personal -- or discussions
27 with him about personal matters, but I don't recall
28 what, you know, what if any other discussions we had,
29 or what the topics were if we did.
30 Q When you say of a personal nature is that anything to
31 do with this case?
32 A No. No.
33 Q To your knowledge did he file any documents, field
34 notes, or anything of that order with the Tribal
35 Council?
36 A I don't know.
37 Q Did you have any discussion with him, or with anybody
38 else, about his report either in draft form or in
39 final form?
40 A Not to my recollection, no.
41 Q Allen and Leslie Gottesfeld, who filed a geological
42 report, do they have a contract with the Tribal
43 Council?
44 A I don't know.
45 Q Did you supply them with any information?
46 A No, I don't think that I did.
47 Q Are you familiar with the subject matter of their

report?
A Yes, I am.
Q Did you see -- did you see any draft of that report?
A I do recall seeing a draft. I don't know at what stage that was.
Q Did you comment on it?
A No. I was just interested in the subject material in terms of the ages that was in there.
Q M'hm. Is that the only -- the only episode relating to their report that you can recall?
A That's all that I can recall, yes.
Q Yes. Were you -- do you know if they filed anything with the Tribal Council such as working papers or notes?
A No, I don't know.
Q Sybille Haeussler has filed a report on "Ecology and Berry Chemistry of some Food Plant Species used by Northwest British Columbia Indians". Does she have a contract with the Tribal Council?
A I think she did, yes.
MR. GOLDIE: I ask my friend to produce that.
Q Have you had any communications with her either before the contract was entered into or during the course of her work or after she had completed her work?
A I did talk to Sybille. I don't recall whether we were talking about her subject material or not. It's quite awhile ago, and I do not recall. I don't recall what it was we discussed.
Q The -- did you see a draft of her report?
A No, I didn't.
Q Did you see the final report?
A I don't think I've seen the final report either. I don't recall seeing it.
Q David Hatler, who has prepared a report on "History and Zoogeography of some Selected Mammals in Northern British Columbia", did he have a contract with the Tribal Council?
A Yes, I think he did.
MR. GOLDIE: I ask my friend to produce that.
Q Did you supply him with any information?
A I don't think that I supplied him with any information. I think we discussed -- I saw something that he had done where he referred to a population of mountain goats and that coincided with what my uncle had told me about a particular mountain up on the upper Nass, and we chatted about that. I can't recall what other discussions Dave and I might have had.

1 Q You say you had seen something that he had written
2 that coincided with what your uncle had told you. Was
3 that something in his report or some other
4 publication?
5 A Well, it was in relation to the report that he was
6 doing. And I don't know whether it was a schematic
7 map or whether it was -- I don't recall what format
8 that was, but what I do recall is a discussion that he
9 had identified as a -- that there were numerous
10 mountain goats in a given area, and that coincided
11 with what my uncle had told me. He said their cabin
12 wasn't far from there and that him and his cousin had
13 climbed that mountain and shot a number of goats, and
14 that there were a lot of goats in that area.
15 Q This may have been a draft then of his report or of a
16 section of his report?
17 A I just don't recall what that was. I do not recall.
18 Q Did you communicate to him the views you hold on the
19 effect of logging on animal population?
20 A I don't think so. I don't recall if I did.
21 Q You hold such views, don't you?
22 A Yes. I have opinions about that.
23 Q Yes. Have you seen his report in draft form?
24 A No, I haven't.
25 Q Have you discussed his report with anyone?
26 A No.
27 Q Have you seen his final report?
28 A No, I haven't.
29 Q Do you know if he filed anything with the Tribal
30 Council?
31 A I don't know.
32 Q And have you had any discussions about his report with
33 him or with any other people?
34 A No, I haven't.
35 Q Barbara Lane, who has prepared two reports; one on
36 Land Transfers and Indian Pre-emptions in the Bulkley
37 Valley, and the other on Indian Title in British
38 Columbia. Does Dr. Lane have a contract with the
39 Tribal Council?
40 A I think she did, yes.
41 MR. GOLDIE: I ask for production of that.
42 Q Did you supply -- have you supplied any information to
43 Dr. Lane, either at her request or at the request of
44 others?
45 A No. I don't recall doing that.
46 Q Have you had any communications with her?
47 A I have had a lot of communication with Barbara Lane in

1 the past. I don't think from when she did the
2 contract that I had any communications with her. I
3 don't know. I don't recall that.
4 Q She has appeared as an expert witness on behalf of the
5 members of the Gitksan who have been persecuted for
6 Fisheries violations?
7 THE COURT: Persecuted or prosecuted?
8 MR. GOLDIE: I'm adopting the language of the plaintiffs, my
9 lord.
10 A She may have. I'm not sure about that. I think she
11 may have appeared as a witness.
12 Q Well, she appeared in the -- in the prosecution of Art
13 Matthews Sr., did she not?
14 A I didn't attend that trial.
15 Q Well, I'm asking you if you know that?
16 A Well, I don't know.
17 Q In what connection did you have a number of
18 communications with her before she entered into the
19 performance of this contract?
20 A Well, I've known Barbara for maybe ten years. And I
21 attended a workshop, a judge's workshop with her in
22 Fort St. James where presentations were done to inform
23 judges on aboriginal issues. I did a presentation
24 there, she did, Edward John did. There was a number
25 of judges from around the Province. I attended
26 meetings of the union of B.C. Indian Chiefs where
27 Barbara was there, and I chatted with her. She was an
28 interesting lady and I sat down and talked with her.
29 That's the nature of our discussions. That's what I
30 remember.
31 Q Her views and your views are in accord on matters of
32 aboriginal title and the like?
33 A I couldn't comment on that.
34 Q Why not?
35 A It's a general comment that you're making. She is --
36 I regard her as a competent and a good researcher. I
37 operate -- have operated more from a political -- in
38 the political area. She is a researcher. I couldn't
39 say about that. They may, but I don't know.
40 Q Well, her views as a result of her research are in
41 accord with your views reached from a political
42 perspective; is that correct?
43 A I think that she's a pretty objective researcher and
44 presents facts and information, and she has done a
45 thorough job and reviewed a lot of -- a lot of records
46 and has presented that in court, and she has acted on
47 behalf of aboriginal people.

1 Q That wasn't my question, Mr. Sterritt. I said her
2 views as reached through her process are in accord
3 with your views reached through a political process;
4 is that right?
5 A I think that Barbara Lane has -- and she has -- she
6 has researched and reviewed a lot of records, she has
7 a good understanding of aboriginal issues and the
8 legal system, and I think that a lot of issues Barbara
9 Lane and I see eye to eye, yes.
10 Q Thank you. Do you know if she filed any material with
11 the Tribal Council?
12 A No, I don't know.
13 Q Did you have any discussions about her reports either
14 in their draft form or in their final form with her or
15 with anybody else?
16 A No, I don't know.
17 Q Susan Marsden. Mrs. Marsden is an employee of the
18 Tribal Council, is she not?
19 A No.
20 Q Is she on contract?
21 A No.
22 Q In what capacity is -- what is the nature of her
23 relationship?
24 A Are you talking about the present relationship?
25 Q Beg pardon?
26 A The present relationship?
27 Q Well, that is relevant to this action. She has
28 prepared a report, has she not?
29 A Yes.
30 Q Called "An Historical and Cultural Overview of the
31 Gitksan"?
32 A Yes.
33 Q Now, with respect to her relationship for the purposes
34 of that report can you describe that?
35 A I think she may have been under contract, but I don't
36 know that.
37 MR. GOLDIE: If she is I ask that she be -- her contract be
38 produced.
39 Q I should tell you that I have been provided with an
40 extract from the registry -- from the transcript of
41 the trial before His Honour Judge Smythe in Smithers
42 November 4th, 1985 in the -- in the case of Regina
43 versus Arthur Matthews, and Mrs. Marsden gave evidence
44 for the defence, and her evidence indicated that from
45 July of '84 on to the present time, namely November
46 4th, 1985, she was a paid employee of the Tribal
47 Council. Is that in accordance with your

1 understanding?
2 A I didn't know what her employee relationship was in
3 terms of the court case. She had been an employee at
4 one point, and whether she was on contract for the
5 court case I don't know.
6 Q Yes. She accompanied you, or you and she were present
7 on a number of occasions when chiefs were interviewed
8 about boundaries and territories?
9 A On a few occasions, not a number of occasions. I
10 don't know how many occasions there were, but it --
11 yes.
12 Q What was the purpose of her presence?
13 A I think that she was present to pursue some of the
14 research that she was doing for her report, and I was
15 there partly working on territories, but also partly
16 as president and in terms of the commencement of the
17 case.
18 Q Well, I've been provided with extracts of your
19 footnotes for August 29th, 1986, February 7th, 1986
20 and May 23rd, 1985, which I understand indicated
21 occasions when she was present. Those would all be
22 dates after the commencement of the action, wouldn't
23 they?
24 A That's right. That's what I was referring to.
25 Q I'm sorry. I thought you said with respect to the
26 commencement -- I thought you said you were present as
27 president of the Tribal Council in connection with the
28 commencement of the action?
29 A Yes.
30 Q So would you have a recollection of her being present
31 both before and after the action was launched?
32 A No, no. Those are the times that I'm referring to.
33 Q All right. Did she interview any of the people in
34 your presence?
35 A I believe she did ask some questions during those --
36 those sessions, yes.
37 Q Did you introduce her to the -- to those people who
38 were present?
39 A I may have. I'm not sure. She knew a lot of people
40 herself, and I might have. I'm not certain whether I
41 had to or not. It depended on who we were meeting
42 with.
43 Q And explained to them the purpose of Mrs. Marsden's --
44 what she was there for?
45 A I don't know whether I did or whether I introduced her
46 and she explained what she was there for. I don't
47 recall.

1 Q Did you have any discussion -- did you have any
2 communications with her other than on these occasions
3 in which you supplied her with information?
4 A I had discussions with Susan separate from those
5 sessions, yes. I don't recall -- well, I think
6 that -- I think that I did a -- likewise, a draft map
7 in terms of some place-names and trails that I gave to
8 her. I think that's correct. And we had some
9 discussions along the lines of she was -- in terms of
10 the work that she was doing. She was trying to
11 determine place-names and would ask me about those.
12 Q Did you discuss with her the significance of
13 place-names?
14 A I may have. I don't know. I don't know whether I did
15 or not.
16 Q In terms of the -- of the indication of ownership of
17 territories?
18 A I'm not sure whether I did or not.
19 Q But you might have?
20 A I might have, yes.
21 Q You didn't keep a copy of your map?
22 A No, I didn't.
23 Q Or of any -- you didn't keep any notes of any
24 discussions you had with her?
25 A No. I -- I don't -- I haven't been able to identify
26 any.
27 Q To your knowledge did she file any working papers or
28 notes or drafts with the Tribal Council?
29 A I don't know.
30 Q And did you have discussions with anybody or with Miss
31 Marsden about her report either in draft form or final
32 form?
33 A I might have discussed some parts of it with Susan. I
34 never -- I never saw a final report. I may have seen
35 some parts of a draft, but I don't -- that we
36 discussed, but that's all that I can remember.
37 Q Can you remember the nature of the parts of the draft
38 that you saw?
39 A No, I can't.
40 Q And were those parts given you for your comments?
41 A As I recall she handed me what she had and I turned
42 that back to her.
43 Q With your comments?
44 A I don't know whether I wrote on there or whether we
45 sat down and discussed it.
46 Q But you have a recollection that you did make some
47 comment?

A I think I did, yes.
Q To your knowledge did she incorporate those comments in her final draft?
A I don't know.
Q Antonia Mills, who prepared a report on "Wet'suwet'en Feasts, Institutions and Laws", do you know if she is under contract?
A I believe she was, yes.
MR. GOLDIE: I ask for production of that.
Q Did you supply her with any information?
A I don't recall whether I did or not.
Q Did you have any communications with her?
A I talked to her, yes.
Q On a number of occasions?
A On a few occasions.
Q About the nature of her work?
A They were -- I don't recall to what extent it was with regard to the nature of her work. She was around for quite awhile. I certainly talked to her, and I -- I don't recall.
Q Well, did you discuss her report with her?
A No.
Q With anybody else?
A No.
Q Were you present when she interviewed people?
A No, I don't think so.
Q Do you know if she filed anything with the Tribal Council in the way of field notes or reports or anything?
A I don't know.
Q Did you have any discussion about her report either in its draft form or in its final form with others?
A No.
Q Did she ask you to comment on any part of her report?
A I don't recall that, no.
Q Mike Morrell, "Fishery Management", is he under contract?
A He was.
MR. GOLDIE: And I'll ask for production of that contract.
Q And you supplied him with information?
A I may have, but I don't recall what -- you know, what or when.
Q Well, he has acknowledged in his material the guidance and encouragement of Gary, Patsy, Don Ryan and yourself. What is the nature, please, of the guidance that you provided him?
A The only thing that I can of is in terms of the work

1 that Mike did beginning in 1979, which was prior to
2 the work that he did commencing with the court case.
3 Q Well, what is the nature of the guidance that you gave
4 him?
5 A Well, he was hired in 1979. We framed the fish
6 management study and -- which he was going to head up
7 for us. We developed the terms of reference of that
8 study. And he was new to the community. We
9 introduced him to people in the community. He -- the
10 type of guidance would have been to help him to
11 understand what the nature of some of the information
12 he might be receiving at the time in 1979, to also in
13 terms of some of the objectives that we had for the
14 study that he was doing commencing in 1979.
15 Q 1979 work led to the 1985 report, did it not?
16 A That was the end result of the 1979 work.
17 Q Was the 1985 report?
18 A Yes.
19 Q Which is the report that he is tendering in this case?
20 A I don't -- I don't know that.
21 Q All right. Part of his opinion for this court case is
22 the 1985 report, is it not?
23 A I don't know.
24 Q Did you -- you say you -- some of the guidance you
25 gave him was to assist him in understanding the -- or
26 I'm asking you this question. As part of the guidance
27 you gave him did you indicate to him the nature of the
28 sort of interviews he should conduct with elders and
29 people of the Gitksan people -- nation?
30 A I don't think so. He had his own information
31 gathering system which he used. It was a data
32 gathering system. And he did have to meet with
33 Wet'suwet'en and Gitksan fishermen on the river. And
34 that would be the type of guidance that we gave him
35 was in terms of meeting with them and dealing with
36 them.
37 Q He conducted many interviews with Gitksan people?
38 A Well, he -- they were catching fish and he was getting
39 the -- a record of how many fish they caught. He did
40 a study of the Indian fishery.
41 Q Yes, but he conducted a great many interviews?
42 A He may have, yes.
43 Q Were you present at any one of them?
44 A No.
45 Q Did you have any -- have you had any discussion with
46 others of his report?
47 A May have had a -- we may have reviewed his 19 -- I'm

1 talking about the report that -- the end result of the
2 1979 to 1985. I think that there was a summary of
3 that report that was produced for the -- to the Tribal
4 Council and we had a discussion on that in the -- in a
5 Tribal Council meeting.
6 Q And were comments passed on to him about the adequacy
7 or otherwise of his report?
8 A I don't recall just what the outcome of that was.
9 Q James Morrison is producing a report on the Royal
10 Proclamation. Have you had any discussions with him?
11 A No, I haven't.
12 Q Do you know if he's under contract or is an employee
13 of the Tribal Council?
14 A I think he was under contract.
15 MR. GOLDIE: I'll ask for production of his contract.
16 Q Did you provide him with any information?
17 A No, I didn't.
18 Q Did you have any communications with him of any
19 nature?
20 A Yes. I met James Morrison about five or six years ago
21 and had a -- had a discussion with him then unrelated
22 to this. It was in another circumstance.
23 Q Having to do with aboriginal title?
24 A Well, it was partly a dinner. We were having dinner
25 and I think we discussed a number of things, but --
26 and it -- part of the discussion was about aboriginal
27 title, yes, and rights.
28 Q Was he hired by the Tribal Council on your
29 recommendation?
30 A No.
31 Q Were any of the experts hired on your recommendation?
32 A No, they weren't.
33 THE COURT: I gather this is not the James Morrison who was a
34 witness?
35 A No. This is a James Morrison from Ontario.
36 THE COURT: Thank you.
37 MR. GOLDIE:
38 Q Mr. Rigsby and Mr. Kari, do you have any contact with
39 them, or either one of them?
40 A I have talked to Bruce Rigsby. Well, the first time I
41 met Bruce Rigsby was in 1970, I think, and then when
42 he was brought in on this I saw him and said hello to
43 him, but I had no discussions with respect to his --
44 his duties or responsibilities with respect to the
45 court case.
46 Q Were either or both of these people under contract?
47 A I think they were.

MR. GOLDIE: I ask for production of those contracts.
Q To your knowledge did they deposit any material with the Tribal Council?
A I don't know.
Q Did you have any discussions of their reports either in draft form or final form? I say reports. They are the joint authors of a single report, aren't they?
A I don't know.
Q Have you ever seen that report?
A I think I've seen a report. I haven't read it.
Q Do you know what it's about?
A I think it's about linguistics.
Q M'hm. And you've discussed linguistics with Dr. Rigsby?
A I phoned Bruce Rigsby, oh, four or five months ago, and talked to him about some place-names, but that was all.
Q That's the only contact you've had with him other than the very early contact that you described?
A No. He was around -- no. Bruce Rigsby was around in -- oh, gee. He came through and was doing some work over on the Nass River and in our area earlier, and I can't remember what years that was, but I think I had some discussions with him then.
Q You say earlier. You mean earlier than 1970?
A No, no. Earlier than -- sometime early in the 1980's or the late 1970's.
Q When you were Director of Research or Director of Land Claims Department at the Tribal Council?
A Well, I can't remember whether it was then or later. I can't remember.
Q If it was later it would be when you were president?
A Yes.
Q And you have no recollection of any information given by either Dr. Rigsby or Mr. Kari?
A No, I don't.
Q And you have no recollection of commenting upon their report in either its draft or final form?
A No.
Q Mr. Douglas Sanders, have you -- do you know whether he's under contract?
A I think he was, yes.
MR. GOLDIE: Yes. I ask for a copy of his contract.
Q And did you supply him with information?
A No.
Q Have you had any contact with Mr. Sanders; communications, oral or written?

A Oral. And I think it's probably been a year and a half to two years since I've talked to Doug.
Q About his report?
A No.
Q About the subject matter of his report?
A No.
Q About aboriginal title generally?
A I can't remember what it was. I came into Vancouver and I had lunch with someone and Doug happened to be having lunch with that person too, so we went to lunch, and I can't remember what all we discussed, but probably also discussed some of the issues at the time.
Q Some of the issues in this case?
A No. Some of the issues; aboriginal rights issues or things that were happening.
Q Self determination?
A Well, I can't remember what it was.
Q Were you -- did you have any discussion with anyone about his report either in its draft or final form?
A No.
Q Were you ever asked to comment upon his report in its draft or final form?
A No, not that I recall.
Q Have you seen his report?
A No.
Q Either in its draft or final form?
A No.

MR. GOLDIE: All right. My lord, I have some discovery to read in. What I propose in order to shorten it as much as possible is to ask my friend to place transcripts in front of the witness and I would read the material and ask the witness to stop me if any answer he gives is not true rather than pausing after each sentence and ask him if he gave those answers and were they true. I'm handing up a list of the questions I propose reading.

MR. RUSH: I have a marked copy of the discovery. Do you care about that?

MR. GOLDIE: No. Does your lord have that list?

THE COURT: Yes. Thank you.

MR. GOLDIE: Now, it may be that these questions -- some of these questions have been referred to in the cross-examination. I have revised this once and at the time I sought to remove any duplication, but something may have occurred since then. Volume 1.

THE COURT: It refers down to 67.

MR. GOLDIE: 63 to --
THE COURT: 67 is in.
MR. GOLDIE: Yes.
THE COURT: You may read it again if you wish.
MR. GOLDIE: Well, I would pick up where I -- I think I stopped at 67.
THE COURT: Yes, you did.
MR. GOLDIE: Now, in order to get the context of that question I'm going back to 63.
THE COURT: Yes.
MR. GOLDIE:

"Q Do you remember being examined by me before Mr. Justice Cumming August 18th of last year?
A Yes, I do.
Q Do you remember me asking you this question and I am referring to page 22 of the transcript and I quote: 'And in your capacity as the president of the Tribal Council you are the chief spokesman for the hereditary chiefs; is that a fair way of putting it? Answer: That is correct.' Do you remember that question and did you give that answer?
A I did not give that answer. I said 'That could be correct.'
Q You deny --
MR. RUSH: Just look at what it says."

And so on down to question 67.

"Q You gave that answer?
A Yes.
Q And that answer was true?
A In certain areas, not in all areas.
Q Tell me what areas, tell me what areas in respect to what is not true?
A The hereditary chiefs speak for themselves in all formal situations where presentations are made, and they have done that.
Q But in all other situations your answer is correct: Namely, that you are the chief spokesman for the hereditary chiefs?
A For most other situations.

Q For all other situations, I suggest, Mr. Sterritt?
A At their direction.
Q Now these formal occasions of which you speak, those are feasts, would that be a formal occasion?
A That is one of them.
Q Tell me what the others are, please?
A To commissions.
Q To commissions?
A Yes.
Q Go on.
A To the government.
Q Yes.
A In this court case. That covers most of the situations.
Q You are the one that gives newspaper interviews on their behalf; is that correct?
A Yes.
Q And you are the person who writes letters on their behalf to the government?
A At their instruction.
Q Never mind their instructions you are the one that writes the letters; is that not correct?
A Yes.
Q And would I not be correct in assuming that everything that everything you do on behalf of the hereditary chiefs has been authorized by the chiefs?
A I would like to take that under advisement.
MR. GOLDIE: Well, you can think about that then.
Q The Tribal Council itself is of an elected body which carries out the political and administrative functions at the request of the hereditary chiefs?
A Yes.
Q And you yourself have been researching land claims since before 1975?
A Yes.
Q You were Director of Land Claims Research for the Gitksan-Carrier Tribal Council in 1977 to 1981?

A Yes.
Q And the Gitksan-Carrier Tribal Council is the name of the present Tribal Council before it was changed?
A That is correct.
Q What were your duties as Director of Land Claims Research?
A My job was to develop a research programme for negotiation of land claims.
Q Negotiations with whom?
A The federal and provincial governments.
Q And did you do that?
A I undertook that task, yes.
Q It is that task that culminated in the presentation of formal land claims to the federal government in 1975?
A That was part of it."

THE COURT: '77.
MR. GOLDIE: '77. Thank you, my lord.

"A That was part of it.
Q In the course of that tell me what you did?
A Can you be more specific?
Q You say developed a research programme. Is that all you did or did you see to the carrying out of the programme?
A As Director of Land Claims I supervised the carrying out of the programme.
Q You yourself conducted interviews with tribal elders?
A In my capacity as Director I developed a research programme.
Q My question was: Did you ever interview tribal elders as part of that programme?
A On a limited basis I did.
Q And you interviewed some of the hereditary chiefs?
A There were some interviews.
Q And you accompanied some of the chiefs in trips to identify hereditary or tribal territories?
A Not at that time.
Q Are you still Director of Research?
A No, I am not.

Q Who holds that title?
A Don Ryan.
Q You say 'not at that time.' Did you undertake the activity that I described: Namely, accompanying chiefs in examining their territory after you became president of the Tribal Council?
A Yes.
Q What are the differences, if any, between your duties as Land Claims Director and your present duties? Can you describe the differences for me, please?
MR. RUSH: You mean as president?
MR. GOLDIE:
Q As president of the Tribal Council?
A When I was director I worked for the president of the Tribal Council.
Q I am sorry. I didn't catch that.
A When I was Land Claims Director I worked for the president of the Tribal Council.
Q Yes.
A The Director of Land Claims now works for me.
Q Yes. Prior to 1977 when you became Director of Land Claims did you undertake any land claims research prior to that time?
A I did some, yes.
Q How long before you became Director of Land Claims in 1977 had you been researching land claims?
A Land claims is a big subject. Can you be more specific in what you mean by that?
Q Let me direct you to the transcript of your examination before Mr. Justice Cumming, page 22, line 12 you were asked this question: 'Yes. Well, you yourself have been researching land claims since when, 1975? Answer: '75 yes,' Do you remember that question and did you give that answer?
A Yes.
Q And the next question: 'Researching aboriginal land claims since the same time? Answer: Since sometime before

that." When you answered my question about researching land claims what did you understand that question referred to?

A It is a general question and you would have to be more specific by what you mean by researching prior to that time.

Q I am not -- I am asking you what you meant when you answered the question: Yes. Tell me what you had in mind when you answered the question have you been researching land claims since 1975 with the answer: Yes.

A Prior to 1975 I looked at the Alaska settlement.

Q Yes.

A James Bay was under way. I looked at that.

Q Yes.

A And I believe either the Yukon or Cope was in at a certain stage at that time as well. I looked at those.

Q Yes. Did you prior to 1977 begin to accumulate any information with respect to the claim that is now the subject matter of this action?

A Informally I did."

My lord, before I continue with that, as an introduction I remind your lordship that examination for discovery was conducted pursuant to an order of Mr. Justice Locke made on November 3rd, 1986 upon an application by the -- by my client to examine Mr. Sterritt for discovery. And the application was made under Rule 27(4) to be made of a person who is or has been a director, officer, employee, agent or external auditor of a party may be examined for discovery. And his lordship granted that order.

The opposition of my friend to the order was based upon the proposition that he was not an agent in law as he had no power to effect legal relationships, he could not be considered an agent to bind the plaintiffs as by their own system of law he had not been given any general authority to speak for them, and if there is any agency relationship it was for certain specific purposes, the administration and operation of the Tribal Council on occasion under

1 narrow specific instructions and authority. His
2 lordship despite that made the order that Mr. Sterritt
3 was a proper person to be examined for discovery. I
4 remind your lordship of that order.
5 THE COURT: Thank you. In the answer to question 108 the answer
6 is, I believe, either the Yukon or Cope was in at a
7 certain stage. What does that refer to?
8 MR. GOLDIE:
9 Q What is Cope that you're referring to there?
10 A Cope is an acronym or initials for Committee of
11 Aboriginal People's Entitlement. It was an aboriginal
12 group, I think, along the Mackenzie Valley, or Lower
13 Mackenzie Valley or Lower Mackenzie Valley River.
14 THE COURT: All right.
15 A And so their claim, I think, was at some stage of
16 negotiation at that time, as well as the Yukon.
17 THE COURT: And when you say was in, you mean was in
18 negotiation?
19 A In negotiation with the federal government.
20 MR. GOLDIE:
21 Q Was not the Yukon one that led to an enquiry under
22 Dean Lysyk, as he then was, with a view to arranging
23 claims that might arise out of the construction of a
24 gas pipeline through the Yukon Territory?
25 A The Mackenzie Valley Pipeline Inquiry, you're
26 referring to that?
27 Q There were two, weren't there? The one, the Mackenzie
28 Valley Pipeline Inquiry, was a much larger one. That
29 was under Mr. Justice Berger, as he then was?
30 A Yes.
31 Q Wasn't the Yukon inquiry somewhat later, but arose out
32 of the fact that the National Energy Board approved a
33 route through the Yukon?
34 A I think that's right, yes. You're referring to the
35 Lysyk inquiry?
36 Q Yes.
37 A Yes, I think so.
38 Q And is that what you're referring to in question 108?
39 A When I say Yukon?
40 Q Yes.
41 A No. I think I'm referring to the actual negotiation
42 of the Yukon claim that was at a certain stage at that
43 time.
44 MR. GOLDIE: I see. All right. Thank you.
45 THE COURT: Want to take the afternoon adjournment now, Mr.
46 Goldie?
47 MR. GOLDIE: Yes, that will be fine, my lord.

THE COURT: Thank you.
THE REGISTRAR: Order in court.

(PROCEEDINGS ADJOURNED)

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

Peri McHale, Official Reporter
UNITED REPORTING SERVICE LTD.

(PROCEEDINGS RESUMED FOLLOWING SHORT RECESS)

THE COURT: Mr. Goldie?
MR. GOLDIE: I will proceed on the same basis, that is to say, unless I am interrupted, the witness agrees they are true. Questions 110 to 113, volume one:

"Q In the years prior to 1977 did you hold any office with the Tribal Council or was this research and investigation that you undertook on your own initiative?
A The hereditary chiefs requested I do some work for them.
Q When was that, please?
A I believe it was 1975.
Q Do you have any present recollection of what chiefs made that request of you?
A Yes.
Q Could you tell me who they were, please?
A It was between 50 and 100. I don't think I could name all of them."

Question 305:

"Q Do you speak Gitksan?
A Poorly. I understand it a little better than I speak it."

Question 325:

THE COURT: 325 is in.
MR. GOLDIE: Yes, it is, my lord. It should be in --
THE COURT: To 330.
MR. GOLDIE: Yes. I won't read 325 to 329, because 325 to 330 are in. 379: I believe this is in too, my lord. But I will --
THE COURT: Yes, it is.
MR. GOLDIE: Yes, 379 is in. 440:

"Q I want to go back to document 1708, please. Could I have that back, please?"

My lord, that was the document that was subsequently marked on his discovery, but was in the document book one and --
THE COURT: Plaintiffs' book one?
MR. GOLDIE: No, my defendant's book one, my lord. I think. Yes, it's tab 6. It wasn't separately marked because

it's in the plaintiffs' book of interviews with deceased chiefs.

THE COURT: All right.

MR. GOLDIE: But I will read the question:

"Q I want to go back to document 1708, please? Could I have that back, please? As you have pointed out document 1708 consists of seven unnumbered pages to which is attached five numbered pages. Both appear to be dated February 7, 1979 and the title of the first seven pages is: 'Story How Nisga'a Gave up Meziadin Area.' That came from Mr. David Gunanoot. That was his -- I wouldn't put it recollection, but it was his understanding of how the Nisga'a gave up certain territory to the Gitksan; is that correct?

A Yes."

Question 441 to 443:

"Q Mr. Sterritt, what is the Document Resource Centre, what does that describe of the Tribal Council?

A Library.

Q The library?

A Yes.

Q Have all the documents in that been disclosed on the plaintiffs' list?

MR. RUSH: That is a question for counsel.

MR. GOLDIE: Are you able to answer that, Mr. Rush?

MR. RUSH: We are in the process, like you, of examining the relevant documents and disclosing on an ongoing basis the ones that are relevant to the action.

MR. GOLDIE: Thank you. I take it then at the present time not all the documents in the Document Resource Centre have been listed.

MR. RUSH: I couldn't say that. I don't know if they have all been listed. All of the relevant documents have been listed to the extent we have examined them all, and we are producing ongoing lists, just like you, new documents are coming into the centre."

Well, as I said to your lordship, I have excluded some of those which have been read and I didn't pick them all up.

Question 374:

"Q Now I want to turn to a document which is numbered 1693 in your document list. And while that is being obtained, Mr. Sterritt, I am going to give you this off-print of your paper or discussion at the University of Victoria Symposium, December 1983, entitled: Aboriginal Title: Elements of Title, so you may look at it overnight. Before the day is over I will give you a copy of that. In the meantime perhaps I can keep it together with other copies we may wish to make."

My lord, that reference to the University of Victoria paper is put in there because subsequent questions are not intelligible without it. That became Exhibit 732. And going on with question 474:

"Q I am now producing plaintiffs' document 1693 an agreement dated April 13, 1978 between Gitksan-Carrier Tribal Council Association and John J. Cove. At that date, 13th of April, 1978, you were director of land claims, were you?
A Yes."

501 to 508:

"Q Now, when I examined you before Mr. Justice Cumming you said that the Tribal Council is an elected body which carries out political and administrative functions at the request of the hereditary chiefs; is that is correct? Or would you like to look at your transcript.

MR. RUSH: Maybe he should be looking at the transcript.

Q Page 21,lines 39 to 43.
A Yes.
Q You agree with my summation of the evidence that you gave before Mr. Justice Cumming?
A Yes.
Q Who are the electors? You refer to the Tribal Council as an elected body. My question is who has the right to vote for the purposes of determining the members of the Tribal Council?
A Hereditary chiefs and other appointees of the village.
Q And who may be a candidate for membership or may be a candidate as a director of the Tribal Council?

A Any Gitksan or Wet'suwet'en person.
Q Any restriction with respect to place of residence?
A There is provisions for those who live in their ancestral village and provisions for those who live outside.
Q The people that live outside don't have the same voting rights as people who live in village; is that right?
A Yes.
Q You say the electors include hereditary chiefs. I have been unable to find any reference to hereditary chiefs in the constitution and by-laws of the association, but that may be because I wasn't looking in the right place. Can you direct me to any provision that stipulates that hereditary chiefs are the people that elect the directors?
A That is the practice of the Tribal Council. It may not appear in the constitution."

Question 553 to 562:

"Q I said I put it to you that the Tribal Council is more an appointed body than an elected body. Would you agree or disagree with that?
A That is not entirely correct in that I am in an elected position.
Q Yes.
A And executives are elected.
Q But the counsel --"

That word is council as in Tribal Council and not counsel as in lawyer.

"But the council itself is one that gets there as a result of the appointing process, would you agree with that?
A Yes.
Q Now you said it carries out political and administrative functions at the request of hereditary chiefs. From that do I take it that the council is the administrative arm of the hereditary chiefs?
A Staff hired by the Tribal Council are the administrative arm.
Q That is the staff that reports to you, is it?

A Reports to the executive director.
Q All right. Now can you describe for me what administrative functions are carried out at the request of the hereditary chiefs?
A Bookkeeping, typing, Xeroxing.
Q Typing, for instance, like for this action?
A And many other things.
Q And the collection of documents for this action?
A That is under the care of Mr. Grant and Mr. Rush.
Q But I mean is the Tribal Council having any hand in collecting them?
A Under the direction of Mr. Grant and Mr. Rush.
Q They give instructions to the employees of the Tribal Council, is that a fair way of putting it or is that done through you?
A They are -- they have been asked to take on this case and they in the terms of the case they are looking after that part."

638 to 641:

"Q Mr. Sterritt, if I have understood you correctly, every hereditary chief, and I am now speaking only of the Gitksan, has a voice in the Tribal Council?
A Every Gitksan person has an voice in the Tribal Council.
Q That is not quite right, is it? Every Gitksan person who is a resident has an opportunity of voting for a representative but I understood your evidence to be that every hereditary chief has a voice with respect to the affairs of the Tribal Council, he and the other hereditary chiefs can tell the Tribal Council what to do?
A They are the leaders.
Q I beg your pardon?
A They are the leaders.
Q All right. Now, that is because they, that is because each of those persons is a hereditary chief; is that right?
A Yes.
Q When this action was started there were by my count something like 37 -- "

THE COURT: Sorry, Mr. Goldie, you said you were are only going to 641.

MR. GOLDIE: Sorry, my lord, yes, that's correct. I don't want to go further.

1 658 to 663:
2 "Q Were you requested or instructed by the Tribal
3 Council to commence this action?
4 A Hereditary chiefs wanted to commence the action.
5 Q Yes. And how did you -- how were you instructed
6 by the hereditary chiefs, at a meeting?
7 A Yes.
8 Q When?
9 A I would have to refresh my memory. Well before
10 '83-'84.
11 Q Yes. Is there a minute or a record or a note of
12 that meeting at which you were instructed to
13 commence this action?
14 A I am not necessarily aware of one. The
15 hereditary chiefs, it is an oral tradition they
16 say what they want done.
17 Q Did you keep a note of the instructions that you
18 received?
19 A I don't know whether I did or not."
20
21 THE WITNESS: I would just go back to 660 there, I don't -- I
22 think, as I recall, that it was probably "Well" comma,
23 "before '83-'84", but not "well before '83-'84."
24 That's the only comment I would make there.
25 MR. GOLDIE: Otherwise the answer is correct?
26 A Yes.
27
28 MR. GOLDIE: Question 662:
29 "Q Did you keep a note of the instructions you
30 received?
31 A I don't know whether I did or not.
32 Q I am going to ask you to search, search your
33 files to see if you did; will you do that?
34 A Yes."
35 Q I am correct, am I not, Mr. Sterritt, that you have
36 been unable to find any note of that meeting?
37 A Yes.
38 THE COURT: I thought we had evidence of a note.
39 MR. GOLDIE: Not as I understand, at that meeting. I think the
40 witness's evidence was that instructions were given to
41 the lawyers in 1984.
42 THE COURT: In '84. Sorry. I am thinking of '84. Yes. Thank
43 you.
44 MR. GOLDIE: Question 792 to 812:
45 "Q Mr. Sterritt, before continuing with the subject
46 that we were discussing yesterday afternoon I
47 want to go back to ask you a question about a

1 statement that you made to me yesterday. I had
2 asked to you give me examples of the hereditary
3 chiefs acting collectively without your
4 participation and you gave me, if I understood
5 you correctly, as one of those examples your
6 presence here, and you said that the chiefs had
7 told you not to come but you are here. Do you
8 recall that answer?
9 A Yes.
10 Q Were you given instructions by the plaintiffs not
11 to appear in examination?
12 A The hereditary chiefs told me I could not answer
13 questions that were evidence more properly given
14 by them, they were the experts on them.
15 Q Who were the hereditary chiefs that gave you
16 those instructions?
17 A Delgamuukw.
18 Q Is this Mr. Tait or his successor?
19 A That was Mr. Tait.
20 Q Yes.
21 A Delgamuukw.
22 Q Yes?
23 A Wii Seeks.
24 Q Who is that, please?
25 A Pardon me, that is now Gitludahl.
26 Q Who is that?
27 A Peter Muldoe.
28 Q Yes.
29 A Baskyelaxha; Niist --
30 Q I want you to give me the English name of each
31 chief as you give his Gitksan name?
32 A Baskyelaxha, William Blackwater; Niist, David
33 Blackwater, Gwis Gyen, Stanley Williams; Lelt,
34 Fred Johnson; Hanamuxw, Joan Ryan; Gwaans,
35 Ole--"
36
37 That should obviously be "Olive Ryan" --
38
39 Wii Gaak, Neil Sterritt; Wii Elaast.
40 Q Before you continue, what is the English name of
41 Wii Elaast?
42 A James Angus junior.
43 Q Yes.
44 A Xsem Gitgeenix, Robert Jackson; Wii'Goob'l, she
45 may have been in the hospital and it may have
46 been one of her representatives which may have
47 been Biinix.

Q And the names of those two, please?
A Wii'Goob'l is Jessie Sterritt, Biinix is Charlotte Sullivan. Axyowasx, Martha Ridgedale."
Q Ridgedale?
A Ridgedale."
Just pausing there, should that be Ridsdale?
A Yes, R-I-D-S-D-A-L-E.
MR. GOLDIE: Thank you.
"A Hak Bagwootxw, Ken Harris. Representative of the House of Yal, Robert Jackson junior; Gisday Wa, Alfred Joseph; Miluu Lak, Johnny David.
Q Is that the first Wet'suwet'en chief you have referred to?
A Yes.
Q Continue, please.
A Henry Alfred, I recall his Wet'suwet'en name. Emma Michel, I think is Liiloos.
Q She is Wet'suwet'en also?
A Yes. Dan Michel, Wii Minoosik; Namox, I believe that is Pat Alfred.
Q Is your hesitation over whether that was the name of his house or whether it was Pat Alfred that was in?
A Pat Alfred I am pretty sure was there. My hesitation is whether Pat Alfred is Namox.
Q Yes.
A In all many others of the plaintiffs I can't recall any others at this time. There were many others. Many of them.
Q When and where did this meeting take place?
A I can't remember the exact date but it was since the order by the judge.
Q You mean Mr. Justice Locke's order?
A Yes."

A Just pause for a second. Going back up to line, or question 808, my answer there, after Dan Michell it says Wii Minoosik, it should read Wii Getim Schol, that's his proper name.
Q That is Mr. Michell's proper name, but at the time you gave that answer, you gave the name Wii Getim Schol by mistake?
THE COURT: No, he gave Wii Minoosik by mistake.
MR. GOLDIE:
Q You gave Wii Minoosik by mistake?
A I don't think so. I think the reporter may have had difficulty at the time.

Q Well, I am sure he did, but it would take some ingenuity to get Wii Minoosik out of Wii getim Schol?
A Not necessarily. He may not have got it and searched around on the list to find a name but -- as close as he could to that. I wouldn't have given Dan Michell's name as Wii Minoosik.
Q You perhaps are a frail human to that extent, Mr. Sterritt, maybe you did.
THE COURT: What is this Mr. Justice Locke's order sounds like it was made before the action was started.
MR. GOLDIE: No, that's the order of November, 1986, giving leave to examine Mr. Sterritt.
THE COURT: I see.
MR. GOLDIE: That was the order I referred to a few minutes ago, my lord.
THE COURT: He says it was since the order of the judge.
MR. GOLDIE: Yes, his lordship made the order, and then these chiefs --
THE COURT: I see, then they had the meeting.
MR. GOLDIE: They had the meeting and instructed the witness not to --
THE COURT: All right. Thank you.
MR. GOLDIE: Whatever instructions they gave him.
Question 814 to 834.
THE COURT: 814 and 15 are in. You're going in on 834.
MR. GOLDIE: I am going on to 834, and perhaps I should just read the whole to put it in context.
"Q Tell me again why the chiefs objected to you answering questions in accordance with Mr. Justice Locke's order?
A Because the hereditary chiefs are the ones to rightly answer those questions, not me. They are the ones that have the knowledge and the understanding.
Q What questions were they objecting to or things that you would be asked they would want to answer themselves?
A Any questions that related to their ownership and jurisdiction.
Q And that is because it is part of the Gitksan and Wet'suwet'en tradition that one person does not speak for another except under certain circumstances?
A That is right. The hereditary chiefs when their title and rights are at issue speak on those issues themselves.
Q That is part of the Gitksan and Wet'suwet'en

1 custom?
2 A That is what the hereditary chiefs are telling me
3 when they must speak on those issues themselves.
4 Q My question, Mr. Sterritt, was that they take
5 that position because it is part of their
6 tradition, isn't that right?
7 A You would have to ask the hereditary chiefs that
8 themselves.
9 Q I am asking you that.
10 A I am telling the hereditary chiefs told me what
11 they want me to do and not to do. You would have
12 to ask them why they want that.
13 Q I don't -- they are not here and you are.
14 A Yes.
15 Q Do you have any understanding that the reluctance
16 on their part to answer questions about title and
17 jurisdiction stems from tradition.
18 MR. GRANT: I don't know what you mean by tradition.
19 MR. GOLDIE: Let him see if he can answer the question.
20 MR. GRANT: Before he answers the question I want you to be
21 able to explain what you mean by tradition. You
22 use these terms tradition and custom. I don't
23 know what you are referring to. I think it is
24 unfair to the witness.
25 Q I will use the word Gitksan and Wet'suwet'en
26 laws. Now do you understand the question?
27 A Repeat the question in that context.
28 Q Do you have any knowledge of Gitksan and
29 Wet'suwet'en law which suggest or require that
30 when ownership and jurisdiction is in question
31 only the person that claims that ownership and
32 jurisdiction can speak?
33 A What I have been told by the hereditary chiefs is
34 that they must speak to that, I can't.
35 Q Mr. Sterritt, I know what you have been told, I
36 am asking you about your own knowledge about
37 Gitksan and Wet'suwet'en laws; do you understand
38 that?
39 A I understand that you are asking me about my
40 knowledge of Gitksan and Wet'suwet'en laws.
41 Q All right. Now from your own knowledge has
42 Gitksan and Wet'suwet'en laws got anything to do
43 with the directions given you by the hereditary
44 chiefs that you are not to answer questions about
45 their title and jurisdiction?
46 A They have -- you have to ask the hereditary
47 chiefs.

Q No, I am requesting you of your own knowledge. If you don't have knowledge, say so.
A I have a limited amount of knowledge.
Q I want you to speak from that limited amount of knowledge?
A From that limited amount of knowledge I am not sure whether that is part of the law or why they did that.
Q I am not asking why they did that, I am asking you if you have any knowledge of such a law? And from the answer you have given me you say I am not sure. Is that a fair way of putting it?
A Yes.
Q I am now --"

THE COURT: The rest of that's all in, Mr. Goldie.

MR. GOLDIE: Yes, that's in and I have read that a couple of times.

A The only comment I would make on that is that we did discuss this I think earlier when that was raised and I had comments about it there.
Q Well, this is the place for your comments, Mr. Sterritt, unless you disagree with the printed version of your answer. If the printed version of the answer is not the answer you gave, this is the place to say so.
A Oh, no, I am not disagreeing with that.
Q Thank you.

Questions 930 and 942:

"Q Now, I want to refer to the prayer for relief. Tell me what, what ownership over the territory consists of?
A Hereditary chiefs have referred to those items in their interrogatories. They are the ones to properly speak to those issues.
Q You are a plaintiff in this action, Mr. Sterritt, I want your understanding of what that word is comprised of?
A My hereditary chief Gitludahl is a plaintiff on my behalf. He is the one who should correctly speak to those issues.
Q I am not interested in what Mr. Muldoe thinks at this point, I am interested in what you think. You tell me what you mean or what you think is comprised in the word ownership as stated in the prayer for relief, number one.
A Hereditary chiefs have outlined these items in their interrogatories. They wish to speak to

1 these items and they should.
2 Q I have heard you say that twice. I will repeat
3 my question again. As possibly the most single
4 knowledgeable person about these proceedings, Mr.
5 Sterritt, I want you to tell me what you
6 understand is comprised in the word ownership in
7 prayer one in the prayer for relief in this
8 action?
9 A Your assumption is that I am the single most
10 knowledgeable person in these proceedings and
11 that is incorrect.
12 Q That is a statement that you swore under oath,
13 Mr. Sterritt, may I remind you that I want you to
14 answer my question.
15 MR. GRANT: You are referring to a statement in the
16 cross-examination before Mr. Justice Cumming?
17 MR. GOLDIE: That is correct. And yesterday.
18 A My answer was that could be correct.
19 Q And that could be correct now whether you are the
20 single most or the second most knowledgeable
21 person doesn't really matter to me. I want in
22 that capacity as a person who has knowledge of
23 these proceedings I want an answer to my
24 question, what is it that you as a plaintiff
25 consider is comprised in the word ownership in
26 prayer one of the prayer for relief?
27 A Most knowledgeable person on those issues are the
28 hereditary chiefs.
29 Q That is not an answer to my question. I want an
30 answer to my question. What do you understand is
31 comprised in the word ownership in the statement
32 of claim?
33 A The hereditary chiefs have dealt with these
34 issues in their interrogatories. My hereditary
35 chief has.
36 Q Are you telling me that you are forbidden to
37 answer that question?
38 A Hereditary chiefs --
39 Q Answer that question, please.
40 MR. RUSH: Let him answer it.
41 MR. GOLDIE: I don't want to hear about the hereditary
42 chiefs again.
43 Q I am asking: Are you forbidden to answer the
44 question I put to you?
45 MR. GRANT: He started to answer.
46 MR. GOLDIE: He can answer yes or no or and then give
47 explanation; but I don't want another reference

to hereditary chiefs before he answers the question.

MR. GRANT: He was in the process. He's said two or three words of the answer before you interrupted him.

MR. GOLDIE: Let's see what he is going to say.

MR. GRANT: That is what I am saying.

MR. GOLDIE:

Q Go ahead, Mr. Sterritt.

A Hereditary chiefs have said that they are the ones to answer these questions.

Q My question was have they forbidden you to answer the question I have put to you.

A They have told me they wish to deal with these questions.

Q My question was, have they forbidden you to answer the question?

A They ever told me not to answer the questions."

944 to 951:

"Q Now, what do you as a plaintiff in this action and as having knowledge of these proceedings, consider is comprised of the words jurisdiction over the territory?

A Hereditary chiefs have outlined those items in their interrogatories. They have answered them quite fully and they wish to speak to those issues.

Q Have you been forbidden to answer that question?

A They said they wish to speak to jurisdiction.

Q That forward begin?"

I don't know what that means.

"A They said they are to deal with them.

Q Therefore they have forbidden you as far as you are concerned?

A Yes.

Q Now, does ownership include the resources or minerals below the surface?

A Ownership includes the minerals under the surface.

Q Thank you. And does ownership include the fishes in the streams and the animals in the woods?

A Hereditary chiefs could speak to all of these questions but yes, they do.

Q Thank you. That is all I asked you to do. And

1 does that ownership of minerals and ownership of
2 the fishes and the animals, does that ownership
3 exclude the interests of others such as the white
4 man or the Province of British Columbia or the
5 Government of Canada,
6 MR. GRANT: Instruct the witness not to answer.
7 MR. GOLDIE: I thought he was doing quite well.
8 Q Can you answer the question?
9 MR. GRANT: I instruct the witness not to answer."
10
11 1012 to 1015:
12
13 "Q Do you have any recollection of appearing or
14 participating in a video presentation which
15 aboriginal title and rights were discussed by
16 you?
17 A Are you talking about a specific one or several
18 times?
19 Q I am asking you if you have any recollection of
20 that at all?
21 A I recall doing a video, yes. Whether that is
22 'The Balance to be Kept' I am not sure.
23 Q We won't bother about the title too much,
24 although I suggest to you that is the title but
25 my question now is: Did you discuss aboriginal
26 rights and title on that programme or on that
27 presentation?
28 A In my role as educating and informing the public,
29 clarifying, creating understanding of the issues,
30 I imagine that I did.
31 Q And were you authorized by the hereditary chiefs
32 to discuss aboriginal rights and title?
33 A Under the general mandates of the Tribal Council
34 I saw that as part of that mandate."
35
36 MR. GOLDIE: 1022 to 1028.
37 THE COURT: 1022 to 1025 is in.
38 MR. GOLDIE: Yes, and I think -- I will start at 1026 then, my
39 lord.
40
41 "Q Now, I want to go back to the statement of
42 claim, paragraph 58, will you look at that,
43 please? It is alleged that the plaintiffs
44 continue to own and exercise jurisdiction over
45 the territory to the present time. What do you
46 understand is meant by that allegation, own and
47 exercise jurisdiction over the territory to the

present time?
MR. GRANT: I instruct the witness not to answer. It requires partially a legal opinion and possibly expert opinion.
MR. GOLDIE: Well, I have a note that in November of 1977 in preparation for the map that is dated November 7th, 1977 the hereditary chiefs told Mr. Sterritt about the ownership and jurisdiction over the property that he has outlined on that map. Now, what was it that they told him consisted of ownership and jurisdiction at that time?
MR. GRANT: Just to be clear, you are asking what was said to Mr. Sterritt by the chiefs in November, 1977?
MR. GOLDIE: About ownership and jurisdiction.
MR. GRANT: What was said to him by the chiefs?
MR. GOLDIE: I have a note that he gave evidence to the effect that he told them about these things at that time.
Q Mr. Sterritt, can you answer the question?
A Hereditary chiefs at that time would have said they had original title to those territories.
Q You said would have said, is that what they said to you?
A That is a long time ago. That would have been basically what they said.
Q Your memory was very good when it came to recall who was there when they spoke of ownership and jurisdiction. I am asking you to tell me what was said that led you to give that evidence a few minutes ago if you can recall it at this time?
A I can't recall at this time."

Volume three.
THE COURT: How about 1047?
MR. GOLDIE: Yes, I am sorry, my lord. 1047.
1047 to 1051:

"Q Well, going back to paragraph 3 of the prayer for relief, which I have directed your attention to and with particular reference to the last clause: 'And make decisions in relation thereto.'"

That's a quotation from the prayer for relief, my lord.

"Q Do I understand it correctly that the plaintiffs claim in the event of success they can determine

who logged, for instance, forests in the claims area?

A I have said a couple of things to you today, Mr. Goldie. One of them is the main point is that a successful declaration, as I understand it, and subject to what the chiefs say, is that negotiations would ensue and that the Gitksan and Wet'suwet'en hereditary chiefs, on behalf of the people, would define the relationship with the Province and with Canada.

Q By define the relationship do you mean that they would have the right to determine who would log and where?

A An example might be that the Gitksan and Wet'suwet'en, depending on the negotiation, the Gitksan and Wet'suwet'en hereditary chiefs would have a say in how logging takes place in the Gitksan and Wet'suwet'en territory.

Q Is this what you have been told by the hereditary chiefs?

A Gitksan and Wet'suwet'en hereditary chiefs as the owners of the territory are very concerned about the way things are done in that territory and because they are the owners wish to have say over that but they are prepared to negotiate their relationship with the provincial government and the federal government.

Q The example I put to you a few minutes ago is that unless the hereditary chiefs agree the province would lose the right to say where and when logging would take place, for instance?

MR. GRANT: I instruct the witness not to answer.

MR. GOLDIE: All right.

Q Is there any institution or law of the province which would not be subject to negotiation within the claims territory?

A Hereditary chiefs, Gitksan and Wet'suwet'en hereditary chiefs, subject to what they might have to say about it, may relax or may expand areas of jurisdiction."

That's all for volume two, my lord. Volume three, which is March 24th, 1987, question 1306.

"Q All right. Thank you. Now would you refer to page 63 then."

My lord, I might explain that volume two was in February and there was a gap in which an application was made to the court, and a number of questions which were left unanswered in February are being referred to on the opening day of Mr. Sterritt's examination in March.

"Q All right. Thank you. Now would you refer to page 63 then. Now, you identified the plaintiffs' document 1708 as notes of an interview with Mr. David Gunanoot and you were asked for similar notes. Do you ever those?"

1708, my lord, is the -- 1708, my lord, is now exhibit -- the one I identified a few minutes ago as being in the plaintiffs' volume of notes -- Exhibit 721? Yes. Continuing with question 1306:

"And you were asked for similar notes; do you have those?

MR. GRANT: For the record, there are other notes taken by Mr. Sterritt in intervies with other chiefs and since the last discovery we have been ensuring the gathering and collection of those and copying of those notes and they will be put forward in a supplementary list and if they are ready, if the copies are ready we would have them ahead of the time of that list. We will produce the documents to you, the notes themselves to you at your request. The copying has not been completed."

Well, I should to give your lordship the context, question 1336. I would amend that to be 1336 to 1337, Pages 82 and 83. Again, this is reference to the previous volume of the discovery.

"Q Pages 82 and 83, there is discussion with respect to the plaintiffs' document number 3169, which is a document dated February 8th, 1979 entitled 'Gitksan-Wet'suwet'en Tribal Council Trapping and Hunting Grounds Concerns and Recommendations.' And we were advised that there was a claim of privilege and I asked if there was, if I could be given the reason for that privilege.

MR. GRANT: Yes.

MR. GOLDIE: For that claim.

MR. GRANT: I intended to have this in writing to you but I can put it on the record that this document

1 incorporates legal opinions provided by counsel
2 to the hereditary chiefs and to the Tribal
3 Council and in contemplation of litigation, and
4 that is the basis for the privilege.
5 MR. GOLDIE: Litigation was contemplated on February 18th,
6 1979; is that correct?
7 A Yes."
8
9 1417:
10
11 "Q And at page 160 I was questioning you about the
12 meeting with Mr. Faulkner in 1977."
13 Now, my lord, that is with the then Minister of
14 Northern and Indian affairs, whose name is Mr.
15 Faulkner.
16
17 "Q And who assisted you in drawing that, the
18 boundary line on that map. You recall that --
19 A Yes.
20 Q -- evidence? At at page 161 you were asked:
21 'Did you keep any notes of those meetings of
22 which you were information about boundaries.
23 'A Yes, I have some notes about that.' And I
24 asked you to produce those notes.
25 MR. GRANT: This would be dealt with in the same capacity as
26 the notes of other interviews, taken interviews
27 of hereditary chiefs and elders that you asked
28 earlier this morning about and copies of those
29 notes be produced.
30 MR. GOLDIE: I did not ask earlier this morning. I asked
31 at his examination for discovery on February
32 26th."
33 Then there is a discussion between counsel about
34 the production of notes of instructions and meetings,
35 and question 1419, after asking about notes the
36 witness made to prepare the November, 1977 map.
37
38 "Q Are they voluminous, Mr. Sterritt?
39 A You made a number of requests in both volumes,
40 Mr. Goldie, and what we have been doing is going
41 to get this together, the requests back there
42 (indicating) and to isolate one out and say,
43 'bring that here', you know, that wasn't what we
44 endeavoured to do. We are trying to get all of
45 them to you."
46
47 That's all in that volume, my lord. That was March

the 24th.

Volume four, March 25th, page -- questions 1837 to 1843:

"Q Are you aware of the claims made by the Carrier-Sekani in the action commenced by the attorney-general of Canada against the Aluminum Company of Canada?
A Yes, I am.
Q Am I not correct in suggesting to you that those claims included part of the Gitksan area or Gitksan-Wet'suwet'en area?
A Yes.
Q And I am talking about the southeast sector now?
A Yes. The Carrier-Sekani undertook that the Gitksan-Wet'suwet'en have been very much involved in the action that is before us. And Mr. John and myself discussed that. And there are many Wet'suwet'en members in the Burns Lake area. They are the -- the area at question that you are describing as an area that is Wet'suwet'en and it was, it was an understanding between ourselves given the amount of energy we had to pour in this that the Wet'suwet'en -- or that the Carrier-Sekani would proceed along to pursue that. We carried on with this and while we were working out this southern boundary (indicating) and we wanted to give the opportunity the Carrier-Sekani people to work out, to do the actual field research to determine that themselves and it was, it was an amicable relationship. There was problem with it. But I want also to advise you that the hereditary chiefs of the Wet'suwet'en gave direction to the Misa Loos --
Q Who?
A -- to inform --
Q Who is that, please?
A Victor Jim.
Q Yes.
A They held a meeting, informed Misa Loos that he would have to contact the Carrier-Sekani Tribal Council and their leaders and advise them that they were -- that the action that they were undertaking was on Wet'suwet'en land and that they had to be clear and they wished to talk to them about that, so, yes, I am aware of what you are talking about, Mr. Goldie. It is something

we have dealt with, have full knowledge, and it was in our interests to allow the -- in everyone's interest to allow the Carrier-Sekani the time to determine for themselves the nature of that boundary through genealogy, getting on the ground, their histories and so on.

Q But the understanding that you had with Mr. John was that while they might maintain the action the land belonged to the Wet'suwet'en, who were the the plaintiffs in this action?

A That was one of the reasons that the Wet'suwet'en hereditary chiefs wanted to be -- to inform the Carrier-Sekani about the ownership of that area."

1898, 904:

THE COURT: 1898 and 99 are in.

MR. GOLDIE: Yes. That -- I was dealing with the territory claimed on behalf of the House of Yal. And I thought I had dealt with 1900 too, my lord.

THE COURT: I have only got you doing 1898, actually.

MR. RUSH: That's my record too.

MR. GOLDIE: I will read from 1899 to 1904. Well, I will read the previous answer to 1898:

"A Okay. I also want to tell you the basis of that change. I have sat down with knowledgeable elders in the House of Hax Bagwootxw and Yal.

Q Which was was the first one?

A Hax Bagwootxw.

Q Who is the holder of that name?

A Ken Harris.

Q Yes.

A And Gwis Gyen, actually Hax Bagwootxw and Yal are very close. Biologically they are, they are two separate houses, but they are also very close biologically, and I have talked to Gwis Gyen to -- Gwis Gyen is Stanley Williams, Gwijenxsim Simoighet, who is Phillip Turner; Wii Yoga Deets, Eli Turner, and they are knowledgeable elders in that house as well as Yal himself, who is not well. I have not had an opportunity in meeting sessions to speak to him but to speak to other elders. Turner himself is quite sick. But I am able to phone him and discuss information with him and he has been able to give me information and one of the very knowledgeable persons is Gwis Gyen himself, Stanley Williams, and I went to the area with Stanley Williams sometime ago and then

had discussions subsequent with Stanley Williams that in terms of that large area Stanley was able to make himself much more clear about the extent of the area and it's not, it's not that he was talking about, and it is a much smaller area than that (indicating). It is basically, would be south of that area and much smaller (indicating). The discussions that we have had with Wii Yaga Deets, Eli Turner, were to try and determine the extent and nature of that area and he has informed me, I have suggested to him what I was going to do based on the information that I had from everyone. For example, Yal has a fishing site down, down on the Nass here (indicating) that is considered to be Yal's by -- it's called Gwin Hlek, it's considered by the people of Kitwancool to be Yal's. It is considered by the Nisga'a to be Yal's, in historical information, in Barbeau-Benyon. And the House of Yal today considers it to be theirs but it is in area that is well beyond the (indicating) edge of the area identified in this action. And so there similarly -- because Yal was married on the Nass, and I -- I discused with Wii Elaast dates, whether that area was --"

THE WITNESS: Excuse me, that should show read Wii Yaga Deets.
THE COURT: Instead of Wii Elaast?
A It says "Wii Elaast dates", it should be Wii Yaga Deets.
MR. GOLDIE: Does that name occur previously, Wii Yaga Deets?
A Yes, bottom of page 429.
MR. GOLDIE: Thank you.

"Q Whether that area was -- we should view that area and the nature of the relationship with the Nisga'a and he said to me that we should leave it, leave it alone. So based on that and on the information of Gwis Gyen and others I made that adjustment and the territory of Yal -- and this is going to be an approximate line (indicating) because there will be a more accurate depiction later -- would be (indicating), by and large that would be the present definition of the territory of Yal.

Q Why do you not put Y-A-L across that area that is

enclosed by (indicating)
A (Indicating)
Q -- partly dashed lines and partly the --
A The creeks in this area, Xsiskahawakat --
Q Is there an English name for that?
A Xsiskahawakat, Anlex Maauxs on the map would be part of the Stenstrom River (indicating) and the mountain Aaxswit is Yal's and there is a creek, Jee'Iss and there is -- and there is a couple of small areas on the other side but basically that would be Yal's territory."

Now I think, my lord, that the map of which the witness placed those words has been marked, it was marked as Exhibit 10 on his examination for discovery and I think it has been marked on here. It is Exhibit 731.

THE COURT: All right. Is this a convenient place to adjourn, Mr. Goldie?

MR. GOLDIE: Yes, my lord.

THE COURT: All right. Thank you. 10 o'clock tomorrow morning, please.

(PROCEEDINGS ADJOURNED TO 10 O'CLOCK A. M., FRIDAY, OCTOBER 14, 1988)

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

Wilf Roy
Official Reporter