

# In the Supreme Court of British Columbia

No. 0843  
Smithers Registry

Smithers, B. C.

November 28, 1988.

BETWEEN:

DELGAMUUKW, also know as KEN MULDOE,  
suing on his own behalf and on behalf  
of all other members of the HOUSE OF  
DELGAMUUKW, and others,

Plaintiffs;

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA and  
THE ATTORNEY-GENERAL FOR CANADA,

Defendants.

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## CROSS-EXAMINATION ON AFFIDAVIT OF THOMAS K. MORRIS

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MURRAY ADAMS, Esq.,	appearing for the Plaintiffs;
DARRELL O'BYRNE, Esq.,	appearing for the Defendant Province of British Columbia;
MS. LORYL RUSSELL,	appearing for the Defendant Attorney-General for Canada.



T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

Smithers, B. C.  
November 28, 1988.

THOMAS K. MORRIS, Sworn:

CROSS-EXAMINATION BY MR. O'BYRNE:

MR. ADAMS: Let me put on the record, first of all I am Murray Adams for the plaintiffs. Maybe I will let you introduce yourselves.

MR. O'BYRNE: I am Darrell O'Byrne, appearing as agent for counsel for the attorney-general of British Columbia.

MS. RUSSELL: My name is Loryl Russell and I am agent for the Attorney-General of Canada.

MR. ADAMS: Mr. Morris speaks both English and Nu'u' t'senii, which is related to Wet'suwet'en. He is going to begin his testimony and go as far as he is able in English. If he has trouble with a question or an answer, has trouble expressing himself in English, it's our intention that he will give his evidence in Nu'u' t'senii and George Holland, who is already sworn as an interpreter in these proceedings, will translate for him. But we will go as far as we can go in English. I should also say he has some facility in reading in English but also some difficulty and some vision problems, so if there are documents to be put to him, that will have to be dealt with at that time.

MR. O'BYRNE:

Q What is your full name?

A Thomas K. Morris.

Q And how old are you, sir?

A My past 72.

Q And what is your date of birth?

A July 9th.

Q July 9th?

A Yes.

Q What year please?

A 1916.

Q Are you married?

A Eh?

Q Are you married?

A Yes.

Q And what year did you marry in?

A I forget. My wife would know.

Q Have you been married a long time?

A Oh, yes. Around 35 years.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q About 35 years?  
2 A Yes.  
3 Q What clan are you?  
4 A It's Bear Clan.  
5 Q And what clan is your wife?  
6 A Now what is it?  
7 Q Laksilyu?  
8 A No, no. Frog Clan and what was it in the Indian way?  
9 Gilseyhu.  
10 MR. ADAMS: His answer is Gilseyhu, Small Frog.  
11 A I just don't keep track of those things.  
12 MR. O'BYRNE:  
13 Q You don't keep track of them; is that right?  
14 Where do you live?  
15 A Grassy Plains.  
16 Q Grassy Plains?  
17 A Yes, near Grassy Plains down on Emond Road.  
18 Q Did you go to school?  
19 A Back in 1932 from New Year's to a school about six  
20 months in and that's it.  
21 Q Can you read and write English?  
22 A Don't do much writing lately but I can read.  
23 Q And you can sign your name, correct?  
24 A Yes.  
25 Q Have you been employed during your lifetime?  
26 A Pardon?  
27 Q Have you worked during your lifetime?  
28 A I worked here and there from 1940, just odd jobs here  
29 and there. Then in the '60s, I was logging on the  
30 reserve. Then I was working for other small  
31 operators, like sawmills, and then in '70, went to  
32 work for a new guy up until '82.  
33 Q You mentioned logging on the reserve, what reserve was  
34 that?  
35 A R-7.  
36 Q R-7?  
37 A Yes.  
38 Q Where is that located near?  
39 A That's the mouth of the Tetlarose Creek.  
40 Q Now, do you recall swearing an affidavit in June of  
41 1988 in regard to the land claims case?  
42 A Yes.  
43 Q All right.  
44 A Don't hear so good.  
45 Q You don't hear so good?  
46 A No.  
47 Q Would you like me to speak louder?

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 A Yes, a little louder.  
2 Q Now, that affidavit you swore, was that the first time  
3 you had ever sworn an affidavit?  
4 A Yes.  
5 Q Had you ever given evidence in court before?  
6 A Only for impaired driving. That was three times.  
7 Q When you swore that affidavit, did you know you were  
8 swearing that everything in it was true?  
9 A Yes.  
10 Q Was that explained to you?  
11 A Yes.  
12 Q Who explained that to you?  
13 A My father.  
14 Q Your father.  
15 A That was, you know, talking about the area.  
16 MR. ADAMS: I think there is a confusion between the content of  
17 an affidavit and the nature of an affidavit.  
18 MR. O'BYRNE:  
19 Q In the affidavit did you describe the boundary of the  
20 land as it was told to you?  
21 A Yes.  
22 Q And who had told you about the boundaries of this  
23 land?  
24 A Years ago my father, who got it from the grandfather,  
25 mentioned here and there like.  
26 Q Just so we know, your father was Keom Morris; is that  
27 right?  
28 A Yes.  
29 Q He had the same first name as your middle name,  
30 correct?  
31 A Yes.  
32 Q And just so we are sure, what is the name of this  
33 territory, what do you call this territory?  
34 A From the description, you know, from Windy Point there  
35 is south side head of Ootsa Lake called Windy Point.  
36 Q Does this territory have a Wet'suwet'en name for it?  
37 A Territory name? There is a mountain there.  
38 Q Is the territory called Weeseel Ben?  
39 A What?  
40 Q Is the territory called Weeseel Ben?  
41 MR. ADAMS: Maybe Mr. Holland can pronounce that.  
42 A Like Ootsa Lake.  
43 MR. O'BYRNE:  
44 Q The territory that you described in your affidavit,  
45 does it have a name, the whole territory?  
46 A The headwater of that country is Whitesail and then  
47 the other at that Tacha Lake.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q Do you know the name Weeseel Ben to apply to any area?  
2 A Weeseel Ben, that means like from this country, Indian  
3 people figure Burns Lake was higher, and Rogers Lake  
4 lower and lower, and another lake was lower, that is  
5 Weeseel Ben.  
6 Q Did you need permission to describe this lake for the  
7 affidavit or to describe this area for the affidavit?  
8 Sorry I didn't hear you?  
9 A I didn't hear that.  
10 Q Did you need to get permission from Lucy Namox to  
11 describe this area for the affidavit?  
12 A Yes.  
13 Q Why?  
14 A Because I have to have her affidavit.  
15 Q Because what?  
16 A I have to have her affidavit.  
17 Q Why did you have to have the affidavit?  
18 A Well --  
19 Q Could you say that again?  
20 A For this case.  
21 Q Who asked you to swear this affidavit?  
22 A Lucy. Lucy Namox.  
23 Q Did she tell you why she wanted you to swear the  
24 affidavit?  
25 A No.  
26 Q Did she give you any reason why?  
27 A No.  
28 Q Your sister is Elsie Quaw?  
29 A Yes.  
30 Q When you were younger, did your father take both you  
31 and your sister, Elsie, on this territory?  
32 A I used to pack my sister on my back, you know, to go  
33 up to the mountains and then have a camp there and  
34 leave him there when my father go hunting. I remember  
35 that from the -- when we went to the mountain,  
36 mountain goat, and then children stay at the camp like  
37 the base.  
38 Q Do you know any reason why you were asked to swear  
39 this affidavit instead of your sister, Elsie Quaw?  
40 A No.  
41 Q Does your sister, Elsie Quaw, know the boundaries of  
42 this land as well as you do?  
43 A It was later on, when we were younger, didn't know  
44 nothing, you know.  
45 Q When Lucy Namox asked you to swear this affidavit, did  
46 she come and talk to you?  
47 A Yes.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q When was that?  
2 A Well, I don't remember that. Come down to our place  
3 there, one time Moses David come and ask me about  
4 these territories.  
5 Q Moses David came and asked you about these  
6 territories?  
7 A Yes.  
8 Q Did you tell Moses David about the territories?  
9 A Yes.  
10 Q Did you describe the boundaries of the territory to  
11 Moses David?  
12 A Wanted to know boundaries, landmarks and things like  
13 that.  
14 Q Did you talk to him in English or in Wet'suwet'en?  
15 A Both, both.  
16 Q And did Moses David take notes when he was talking to  
17 you?  
18 A I don't think so.  
19 Q Did he have a tape recorder or anything?  
20 A I believe -- one time he was talking to me and my  
21 stepmother and Moses had a tape.  
22 Q What was your stepmother's name?  
23 A Veronica.  
24 Q And do you know what year that was in?  
25 A That must have been a few years back because after  
26 that Moses David was sick, didn't go down much. He  
27 died last year. Moses David. Must have been around  
28 three years ago.  
29 Q Was it three years ago when Moses David talked to you  
30 about the land?  
31 A I think somewhere around that.  
32 Q And that was tape recorded?  
33 A Yes.  
34 Q Do you remember what Lucy Namox told you what you had  
35 to do to swear the affidavit?  
36 A I don't think so.  
37 Q When was the last time you were on the territory that  
38 you describe in the affidavit?  
39 A I think it was early -- Eddy John was in a chopper  
40 with us and he was taking us all down, and that was  
41 very cold, last spring we went up in the chopper.  
42 Q Eddy John, he is with the Carrier-Sekani Tribal  
43 Council; is that correct?  
44 A Yes.  
45 Q And you went up in a chopper or helicopter with Eddy  
46 John?  
47 A Yes.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q And did he take notes when you were talking to him?  
2 A Eddy had a tape then.  
3 Q That was taped, was it?  
4 A Yes.  
5 Q And who was taping it, was it Eddy John?  
6 A Yes.  
7 Q And when was that again?  
8 A That's a year ago last spring, I think.  
9 Q So that would be the spring of 1987?  
10 A Yes.  
11 Q And that was before you swore this affidavit, correct?  
12 A Yes. That was before.  
13 Q And was that before Lucy Namox asked to you swear the  
14 affidavit?  
15 A Yes.  
16 Q Why did Eddy John want you to fly around in a  
17 helicopter with him on the land?  
18 A So they know where the boundary is.  
19 Q And who else besides you and Eddy John and the pilot  
20 were up the helicopter?  
21 A Some other men came along but just for the ride.  
22 Q How many other men?  
23 A There was George Louie from Cheslatta.  
24 Q And is he Wet'suwet'en or Nuu' t'senii?  
25 A Eh?  
26 Q What -- is he Wet'suwet'en?  
27 A Cheslatta, what you call Nuu' t'senii.  
28 Q But that time you have told me about in the  
29 helicopter, did you actually land in the territory?  
30 A No, we landed on the north end of Dome. That's across  
31 Ootsa Lake.  
32 Q The north end of Dome?  
33 A Yes.  
34 Q But you didn't do any trapping or fishing on that  
35 trip?  
36 A No, there was a lot of snow and ice on the lake at  
37 that time. We just landed on the mountain. And from  
38 there, when it was part ways and we went towards  
39 Tacha, and across Tacha about halfway up, and then we  
40 landed on the mountain.  
41 Q And is that the first time you had ever been in a  
42 helicopter over that territory?  
43 A Yes.  
44 Q Before that time, the spring of 1987, when was the  
45 last time you were on the Weeseel ben territory?  
46 A That was in '62, in the spring of '62 me and my father  
47 went trapping beaver for one week.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q So from 1962 to 1987 you didn't go on that territory;  
2 is that correct?  
3 A No. That was on the north side, you know, of Andrew  
4 Bay, around that area.  
5 Q You said you were at a bay?  
6 A Andrew Bay there. There was a logging camp there.  
7 Eurocan Pulp and Paper.  
8 Q When you were a young boy your father, Keom Morris,  
9 took you out on this land; is that correct?  
10 A Yes.  
11 Q Did he show you the various points of land and water  
12 that made up the boundaries?  
13 A Yes.  
14 Q And did you travel over all of the territory or just  
15 parts of it?  
16 A Part some places, but only time when we went to see it  
17 all was by the chopper.  
18 Q The only time you saw all of the boundary of the  
19 territory was in the helicopter in 1987 with Eddy  
20 John?  
21 A Yes.  
22 Q I am going to show you a copy of what's been marked  
23 Exhibit 671 in the trial, that's your signature down  
24 there?  
25 A Yes.  
26 Q All right. It says Thomas K. Morris, right?  
27 A Yes, right.  
28 Q Do you remember signing this affidavit?  
29 A Yes.  
30 Q Now, this affidavit is written in English, right?  
31 A Hm-hmm, yes.  
32 Q Was it translated into Wet'suwet'en for you?  
33 A Translated -- I don't --  
34 Q I am sorry, Mr. Morris, I didn't hear you.  
35 A It's in English, that's all I know about that.  
36 Q But when you signed your name here on this paper, you  
37 signed it in front of this lady called Shirley  
38 Meldrum?  
39 A Yes.  
40 Q And did she come to your home?  
41 A No, sitting beside.  
42 Q Sorry?  
43 A She was watching and sitting beside me.  
44 Q She sat beside you?  
45 A Yes, at a table there.  
46 Q And did she explain to you what the words were in  
47 here?



T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 A Yes, read it out to me.  
2 Q Who read it out to you?  
3 A I don't know who read it.  
4 Q Was it a man or a lady?  
5 A It could have been a man, you know. That's it -- you  
6 know -- sometimes I don't remember.  
7 Q All right. Well, was it read to you in English or was  
8 it read to you in Wet'suwet'en?  
9 A English.  
10 Q Did you need any of it translated to you?  
11 A No, I understand pretty well all of it.  
12 Q All right. Did you make any corrections in the  
13 affidavit before you signed your name?  
14 A No.  
15 Q On the second page there is some things crossed out,  
16 do you see that?  
17 A I see it's crossed out but I couldn't see the words.  
18 Q Was it crossed out when you signed it?  
19 A Seems that was all crossed out before I signed it.  
20 Q Before you swore this affidavit, did you describe the  
21 boundaries to somebody so they could write them down  
22 for you?  
23 A Only what I remember it was taped, you know, and Moses  
24 David and Eddy John I believe made the tape at  
25 Veronica's place too.  
26 Q Did you speak to Marvin George about the boundaries?  
27 A Yes.  
28 Q And was that before you swore the affidavit?  
29 A I believe I was there too.  
30 Q Sorry, I couldn't hear you.  
31 A I believe he was there too.  
32 Q With -- who else was with him?  
33 A Eddy, sometimes Eddy John comes with, but I don't  
34 remember now. Could be Eddy John. Moses wasn't there  
35 that time, I don't think. And George I think was  
36 there.  
37 Q And the George you are referring to is George Holland,  
38 who is here today?  
39 A Yes.  
40 Q Okay. Now, when you were speaking to Marvin George,  
41 was he taking notes?  
42 A I don't think so, no.  
43 Q Sorry, I couldn't hear you?  
44 A I don't know.  
45 Q You don't know?  
46 A No.  
47 MR. ADAMS: I think what he said was I don't think so and then

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1                   he said no.  
2   MR. O'BYRNE: I will just confirm it.  
3       Q   Was Marvin George taking notes when you told him about  
4           the boundaries?  
5       A   If that is correct or whatever.  
6       Q   Could you say that again? I couldn't hear you.  
7       A   Got everything correct?  
8       Q   Who asked you that?  
9       A   Mark it right.  
10      Q   Margaret Wright?  
11      A   No, no.  
12      Q   Or mark it right?  
13      A   Yes, make sure everything --  
14      Q   How many times did you speak to Marvin George about  
15           the boundaries?  
16      A   Once at our place, I think two or three times. I  
17           couldn't say.  
18      Q   Two or three times?  
19      A   Yes.  
20      Q   And would he write things down and then come back to  
21           you and say, "Is this right, Thomas?"  
22      A   Yes.  
23      Q   Would you correct him?  
24      A   Yes.  
25      Q   And if he was wrong, would you tell him?  
26      A   That's what I agreed to everything was right, you see.  
27      Q   All right. Did you ever tell him he was wrong and to  
28           make a correction?  
29      A   Only this one here.  
30      Q   So this is the only correction, this crossing out?  
31      A   Yes.  
32      Q   Did you look at any maps?  
33      A   Yes, but I don't understand maps very much.  
34      Q   Were you shown any maps?  
35      A   Always had maps, you know, but -- all the map, looking  
36           at the paper, and marks there, and look at the land  
37           and it's different.  
38      Q   It's different than when you look at a place and then  
39           look at a map?  
40      A   Yes. So I don't understand them pretty good.  
41      Q   Just so that I am clear, you think this was crossed  
42           out before you signed the affidavit?  
43      A   Yes.  
44      Q   Do you know who did that crossing out?  
45      A   I couldn't remember now.  
46      Q   Did you tell anybody to cross something out of the  
47           affidavit? Could you say that again, Mr. Morris?

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 A I wouldn't know what words was on there.  
2 Q How many times did you see the affidavit like it is  
3 right now, typewritten in four pages?  
4 A At the time I signed it.  
5 Q So you only saw it once?  
6 A Yes.  
7 Q What chiefs have the territory around the territory  
8 you have described here?  
9 A What chiefs? There was Chief Louie of Cheslatta.  
10 Q Where is his territory in relation to this, is it  
11 south of here?  
12 A This is the land, Whitesail, and Tacha and Chief Louie  
13 mainly goes to Tacha.  
14 Q All right. Is that south of the territory you have  
15 talked about in here?  
16 A No.  
17 Q Which direction is it?  
18 A That's north.  
19 Q All right. And is Chief Louie Wet'suwet'en?  
20 A No, Nuu' t'senii.  
21 Q What other chiefs have territory around there?  
22 A The chief was Paddy Isaac, Paddy Isaac was chief, and  
23 in the '40s. In the '40s, it was chief Paddy Isaac.  
24 Q Do you know what his Wet'suwet'en chief name was, his  
25 hereditary name?  
26 A No.  
27 MR. ADAMS: It may not have been Wet'suwet'en.  
28 MR. O'BYRNE:  
29 Q All right. Was he Wet'suwet'en?  
30 A Eh?  
31 Q Was Chief Paddy Isaac Wet'suwet'en?  
32 A Yes. He lived at Broman Lake, that's where he lived.  
33 Q Do you know if there is any Cheslatta chiefs who owned  
34 territory next to this territory you have described?  
35 A Young guys, young fellow, one of young Peters, I  
36 forget his first name.  
37 Q Is Peter his last name?  
38 A Yes.  
39 Q And where is that territory, is it south of the  
40 territory you have described here?  
41 A The chief there lives in Uncha.  
42 Q In Uncha?  
43 A Yes. That's where Chief Peter is.  
44 Q Now, did anybody other than -- did anybody other than  
45 your father, Keom Morris, describe the land to you?  
46 A My father was only one can understand English a little  
47 better than the others did.

T. K. Morris (For Plaintiffs)

Cross-exam by Mr. O'Byrne

1 Q Before you swore this affidavit, did you talk to  
2 anybody else about the boundaries of the land?  
3 A Eddy John.  
4 Q Eddy John?  
5 A Moses David and George, I believe I did.  
6 Q George Holland?  
7 A Yes.  
8 Q Was in anybody else you talked to?  
9 A I couldn't remember.  
10 Q Well --  
11 A I don't keep track of all that.  
12 Q Did you talk with your sister, Elsie Quaw, about these  
13 boundaries?  
14 A No.  
15 Q Is it true that George Louie and Veronica Edmonds were  
16 the people who showed you the boundaries of this land?  
17 A My father did. Just my father.  
18 Q But did -- all right. Did George Louie or Veronica  
19 Edmonds, show you the boundaries of this land?  
20 A George did only at Tacha, because I had never been  
21 that way before.  
22 Q So George Louie showed you the boundaries at Tacha?  
23 A Tacha, yes.  
24 Q That's because you had never been to that part of the  
25 territory.  
26 MR. ADAMS: Before, he said.  
27 A No.  
28 MR. O'BYRNE:  
29 Q So your father, Keom Morris, then, never showed you  
30 that part of the territory?  
31 A No.  
32 Q What part of the territory -- excuse me. Did Veronica  
33 Edmonds show you any part of the territory?  
34 A In the Whitesail area. Because Veronica's father from  
35 Cheslatta, they used to go up trapping and hunting.  
36 Q So she showed you that area?  
37 A Yes.  
38 Q And that's because your father, Keom Morris, had never  
39 shown you that area?  
40 A This was between Ootsa Lake and Whitesail, there was a  
41 small lake there. We trapped there. And sometimes  
42 Chief Louie, they go to Whitesail. And sometimes we  
43 go there.  
44 Q Did your father, Keom Morris, ever show you the area  
45 of the land by Whitesail?  
46 A Yes.  
47 Q All right. Was that the same part of the territory

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1           that Veronica Edmonds showed you?  
2       A     Yes.  
3       Q     Why was it that Veronica Edmonds showed you the  
4           territory as well?  
5       A     So we know, as we grow older, we know what the area is  
6           about.  
7       Q     How old were you when your father, Keom Morris, showed  
8           you the Whitesail area?  
9       A     18.  
10      Q     18?  
11      A     Yes.  
12      Q     How old were you when Veronica Edmonds showed you the  
13           area in the Whitesail area?  
14      A     26, 19 -- 1944 or somewhere around that way we have  
15           been up once.  
16      Q     Was that 1944?  
17      A     Somewhere around that.  
18      Q     Now, you're a member of the Cheslatta people, are you?  
19      A     Yes.  
20      Q     It's also known as the Omineca Band?  
21      A     Yes.  
22      Q     For several years you were a councillor of the Omineca  
23           band?  
24      A     Yes.  
25      Q     And your wife was a chief councillor of the Omineca  
26           Band?  
27      A     Yes.  
28      Q     You're not a Wet'suwet'en, are you?  
29      A     Eh?  
30      Q     You're not Wet'suwet'en, are you?  
31      A     Wet'suwet'en, yes. My father is, my father's mother  
32           was from this country. Either from Hazelton or  
33           Moricetown, I learned all that, and my grandfather's  
34           Cheslatta and my mother is Cheslatta and my father  
35           they all speak Wet'suwet'en.  
36      Q     Tsoyea tow taen?  
37      A     Yes.  
38      Q     What language did they speak again?  
39      A     Wet'suwet'en.  
40      Q     All right. So you consider yourself a Wet'suwet'en?  
41      A     Yes.  
42      Q     The Omineca Band is a member of the Carrier-Sekani  
43           Tribal Council?  
44      A     Yes.  
45      Q     I forget if I asked you this, but do you live at  
46           Tetlarose Lake?  
47      A     The mouth of Tetlarose Creek on to Francis.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q Tetlarose Creek?  
2 A Yes.  
3 Q You're not represented in this land claims action, are  
4 you?  
5 A No.  
6 Q You have no claim to any of the territory in this  
7 action?  
8 A No.  
9 Q You don't have any claim to the territory that you  
10 described in your affidavit?  
11 A No.  
12 Q Sorry, that's no?  
13 A No.  
14 Q When did your father, Keom Morris, die?  
15 A '73 or '74. I don't remember that exactly. On the  
16 grave covering and the cross was knocked down by a  
17 wind. There wasn't enough weight, the marking is  
18 down.  
19 Q Do you know if Lucy Namox has ever been on the  
20 territory that you described in your affidavit?  
21 A Elsie -- Elsie Namox -- not aware of it.  
22 Q Do you know if Lucy Namox has ever trapped on this  
23 territory you described?  
24 A Probably when I was young there has been lots of  
25 people come with us, you know. Come with my father  
26 and my grandfather, relatives comes with them  
27 sometimes.  
28 Q Is Lucy Namox a relative of yours?  
29 A Yes. To my father.  
30 Q And how is she related to your father?  
31 A The same clan.  
32 Q Is she a cousin or a niece of his?  
33 A It's the clan, that's all I know about. Gilseyhu.  
34 Q Mr. Morris, you let me know if you want a break. Are  
35 you all right?  
36 A Yes, I am okay.  
37 Q Do you know if there is any Indians trapping on the  
38 land now?  
39 A No, they usually have nothing to do with this area  
40 because cousins of mine, Steve Morris's boys, two of  
41 them are at Moricetown, only their names on there now.  
42 Q They have registered traplines?  
43 A I understand they sold it to some white man.  
44 Q Do you know when they did that?  
45 A Sometime last year sometime.  
46 Q And are there white men trapping on the land that you  
47 describe in the affidavit now?

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 A They bought the trapline and must be trapping. And  
2 they are around there anyways.  
3 Q During your lifetime, have white men been trapping in  
4 the area you describe in your affidavit?  
5 A The trapline here and there, all surrounded, you know.  
6 There was Charlie Lindquist was one of them up around  
7 sale.  
8 Q Was he a white man?  
9 A Yes. Lindquist and there was some few others. One  
10 fellow McKinley, Tom McKinley.  
11 Q He was also a white man?  
12 A He was white man. And he goes on Big Eutsuk Lake.  
13 And then there was another, one George Shanifer on  
14 Little Whitesail.  
15 Q Anybody else that you can remember?  
16 A Harrison boys used to go up there.  
17 Q Did John Charles Shelford have a trapline there?  
18 A John Shelford is around -- he was from Andrew Bay and  
19 what was the name of that hill there, between the lake  
20 and Ootsa, there is a mountain there, they go up on  
21 that. John Shelford.  
22 Q Mount Wells?  
23 A Yes, he goes also to the west end of it.  
24 Q So he had -- John Shelford had a trapline in the  
25 territory you described?  
26 A Not on that side.  
27 Q So his trapline was not in the territory you described  
28 here?  
29 A No.  
30 Q How about Wilfred Thomas, did he have a trapline in  
31 the territory you described?  
32 A Wilfred Thomas? Wilfred Thomas? I don't know the  
33 man.  
34 Q You don't know --  
35 A No.  
36 Q George Coliss?  
37 A Oh, yes, George Coliss is the one that bought from  
38 Morris and Eddy.  
39 Q So George Coliss bought the trapline from George  
40 Morris and Eddy Morris?  
41 A Yes.  
42 Q And they are cousins of yours?  
43 A Yes.  
44 Q Did George Morris trap on the land that you described  
45 in your affidavit?  
46 A On the last year or whenever they sold it to him, I  
47 don't know if they did.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q Do you know if George Coliss trapped on the territory  
2 you described?  
3 A Not that I know of.  
4 Q How about William Palmer, do you know if he had a  
5 trapline in the area?  
6 A William Palmer?  
7 Q William Palmer.  
8 A Palmer?  
9 Q Palmer, yes.  
10 A Palmer?  
11 Q Yes.  
12 A I don't know.  
13 Q You don't know. All right. How about Alfred Eakin?  
14 A Yes, he had a trapline there. I mean, west end of  
15 Wells Mountain.  
16 Q And was his trapline on the territory you described in  
17 the affidavit?  
18 A He is north of his boundary, north of Tacha Ridge. .  
19 Q Eakin's trapline was not within the boundaries you  
20 described in your affidavit?  
21 A No.  
22 Q How about Rupert Seel?  
23 A Rupert Seel.  
24 Q Or it may be Rupert Sale?  
25 A George Seel you know, he used to trap up at Tacha  
26 River along the mountains there in places.  
27 Q Was he a white man?  
28 A Yes. Could be his son, that Rupert. I don't know. I  
29 didn't know the name of his son. I know he had a son  
30 though.  
31 Q Was he trapping then within the area you described?  
32 A Yes, that was along Tacha Ridge.  
33 Q That's within the area that you described in the  
34 affidavit?  
35 A Yes.  
36 Q Do you know if any of those people have permission  
37 from Lucy Namox to trap there?  
38 A I don't know.  
39 Q Was some of the area that you describe in your  
40 affidavit flooded by Alcan?  
41 A Yes.  
42 Q Do you know how much?  
43 A Whitesail.  
44 Q In Whitesail?  
45 A No, that's where the head of Ootsa Lake used to be,  
46 you know, quite a bit of low land there all across the  
47 end there, the lake at the end there is over a mile



T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

- 1 across. And in places it's two miles across.  
2 Q It's all covered in water now?  
3 A All covered in water. And then that area, both sides,  
4 people can trap there but there is no more, covered  
5 now, right up to the mountains.  
6 Q All right. And were there any Cheslatta people living  
7 in the area that got flooded there?  
8 A No, Cheslatta people live on Cheslatta Lake. They got  
9 moved out of there because of the dam might break  
10 there, be bad for them, so got moved out and the same  
11 way with Skins, they have also moved out.  
12 Q And the Skins are Wet'suwet'en?  
13 A Yes. Below, below the spillway where the Skin Lake  
14 is.  
15 Q And do you know where they moved the Skins to?  
16 A Uncha, up along Uncha.  
17 Q Was the area you described in your affidavit  
18 originally Cheslatta territory?  
19 A My father, my grandfather is from Cheslatta. Must  
20 have been.  
21 Q So you think because your grandfather was Cheslatta  
22 the area you described in your affidavit must have  
23 been Cheslatta land?  
24 A I think because of that, Chief Louie, all from  
25 Cheslatta.  
26 Q So my question was: So you think that the land that  
27 you described in your affidavit is Cheslatta land?  
28 A I can't be sure.  
29 Q You can't be sure. So it could be either Cheslatta or  
30 Wet'suwet'en?  
31 A Right.  
32 Q The answer was right?  
33 A It could be either one.  
34 Q Thank you.

35  
36 (PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING RECESS)  
37

38 MR. O'BYRNE:

- 39 Q Mr. Morris, did you ever trap on the land that's in  
40 your affidavit that you talked about?  
41 A 1962.  
42 Q Not since 1962?  
43 A Yes.  
44 Q But before 1962 did you trap there?  
45 A Oh, yes, during the hard times, during the '30s, all  
46 ten years.  
47 Q And --

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 A We have been trapping there year after year.  
2 Q What sort of animals did you trap?  
3 A Well, most animals they trapped out in the '30s, a lot  
4 of trappers, marten were pretty scarce and a few  
5 fishers in the winter and then fox and otter, links  
6 and beaver was scarce too, only two or three all  
7 winter.  
8 Q Where did you go to sell the fur?  
9 A My father actually shipped them into Vancouver during  
10 the '30s, early '30s, you know, about '33 and '34,  
11 shipped to the Little Bros. auction in Vancouver.  
12 Q Little, what little auction?  
13 A Little Bros. auction in Vancouver.  
14 Q Little Bros.?  
15 A Yes.  
16 Q Now, you worked for Eurocan for about ten years, 12  
17 years?  
18 A From August in '70 to February in '82.  
19 Q And do you get a pension from Eurocan now?  
20 A I get IWA pension and Canada Pension.  
21 Q Are you aware that Gooхлаht or Lucy Namox claims two  
22 pieces, big pieces of territory in the area that you  
23 described in your affidavit?  
24 A Yes.  
25 Q Do you know why Lucy Namox had so much territory in  
26 that area?  
27 A It didn't matter to me. Not concerned about it.  
28 Q Do you know Jimmy Andrews?  
29 A He was married to my aunt, my father's sister.  
30 Q And was Jimmy Andrews a Cheslatta?  
31 A No, no. From up this country.  
32 Q Is Wet'suwet'en?  
33 A Wet'suwet'en.  
34 Q Have you ever attended any Wet'suwet'en feasts?  
35 A I couldn't get that.  
36 Q Have you ever attended any Wet'suwet'en feasts?  
37 A Feast?  
38 Q Feasts.  
39 A Feast. Something like potlatch?  
40 Q All right.  
41 A Is that what --  
42 Q That's what I mean, yes.  
43 A I attended a few.  
44 Q Have you ever attended one of those where the land you  
45 described in your affidavit was talked about?  
46 A No, no. Unless somebody dies, then I go, other than  
47 that, it's left out for me.

T. K. Morris (For Plaintiffs)  
Cross-exam by Mr. O'Byrne

1 Q But when somebody dies and you go, was the land you  
2 described in your affidavit, was it ever discussed?

3 A No.

4 Q Have you ever heard Lucy Namox describe the land that  
5 you talked about at one of these occasions?

6 A In the beginning of this, like before went around in a  
7 helicopter. Then I know Lucy Namox. Her name was in  
8 it. Before that I never heard.

9 Q So that was the first time you heard it?

10 A Yes.

11 Q And was that this year, 1988?

12 A No, no that was three or four years.

13 Q Now, when you were a band councillor for the Omineca  
14 band, did you spend or use funds which are called B.  
15 C. Special funds?

16 MR. ADAMS: Sorry, I will object to that question, because the  
17 Omineca Band are not plaintiffs and nothing to do with  
18 the plaintiffs, is my understanding.

19 MR. O'BYRNE: But I believe they are Wet'suwet'en and he has  
20 indicated that there is a connection there. And if  
21 you still maintain the objection, I would like a short  
22 adjournment so I could consider my reply to it.

23 MR. ADAMS: No, I will withdraw that. Go ahead and ask.

24 MR. O'BYRNE:

25 Q I will restate my question, Mr. Morris.

26 You were a band councillor of the Omineca Band for  
27 many years, right?

28 A How long a term was that?

29 Q I didn't hear you. Sorry.

30 A Two years to each term I believe, for two terms.

31 Q And during that time, did you have something to do  
32 with money that was called the B. C. Special funds?

33 A Not for my own purpose but it was added on a per  
34 capita basis.

35 Q On a per capita basis?

36 A Yes.

37 Q Did you direct how that money was going to be spent a  
38 per capita basis?

39 A Well, we used to the best way we can, in other words,  
40 much to something and it's not enough right now, so  
41 what we did was one or two get some, something  
42 repaired, like power saw repairs and things like that,  
43 you use it for.

44 Q Did you also use it for things like digging wells for  
45 people?

46 A I don't know if we done that or not.

47 Q What were the uses that you used the money for?

T. K. Morris (For Plaintiffs)  
Cross-exam by Ms. Russell

1 A As far as I remember, fixing power saws and things  
2 like that. Small repair work.

3 Q Repairs to outboard motors and things like that?

4 A Yes.

5 Q Anything else that you can recall?

6 A As far as I can recall, made a purchase or something.

7 Q How about assisting people in putting a metal roof on  
8 a barn; do you remember that?

9 A Metal roof on the barn?

10 Q For Alex Peter?

11 A Oh, Alex Peter, yes.

12 Q Was money used for that?

13 A No, it was a separate band, Alex Peter was Cheslatta  
14 Band, not Omineca Band, and he came with us to the  
15 meetings sometimes. Learned something about it.

16 Q When you were on the Omineca Band Council as a band  
17 councillor, did you also have something to do with the  
18 leasing of the Felix George Reserve to white people?

19 A I did because I believe the Indian department had  
20 Indian agent at that time, and he suggested we do  
21 that.

22 Q And you did, the band council did do that, correct?

23 A Yes.

24 MR. O'BYRNE: I believe those are all the questions I have for  
25 Mr. Morris.  
26

27 CROSS-EXAMINATION BY MS. RUSSELL:  
28

29 MS. RUSSELL:

30 Q Mr. Morris, are the eastern Carrier called the Tsoyeas  
31 towtaen?

32 A Eh?

33 Q Are the eastern Carrier called Tsoyeas towtaen?

34 A Oh, yes, eastern Cheslatta all south from that  
35 country. Tsoyeas towtaen, that means small spruce  
36 tree.

37 Q Tsoyeas towtaen. Where do these people live, the  
38 Tsoyeas towtaen?

39 A I heard about it, mother mentioned them, they live  
40 south of Cheslatta.

41 Q Okay. So they are outside the area you describe?

42 A Yes.

43 Q They are south of it?

44 A Yes.

45 Q Where do the western Carrier live?

46 A Pardon?

47 Q Where do the western Carrier live?

T. K. Morris (For Plaintiffs)  
Cross-exam by Ms. Russell

1           A    Where they live?  
2           Q    Yes, what area of the -- what area to the western  
3               Carrier live in?  
4   MR. ADAMS:  Maybe you can establish if he knows where the  
5               western Carrier are.  
6   MS. RUSSELL:  
7           Q    I will see -- the Whoo Nuss towtaen, do you --  
8           A    Oh, yes.  
9           Q    Sorry, Mr. Morris.  
10          A    Far west people, you know.  People who like from  
11               Hazelton, Moricetown and you go to the mountains, and  
12               they go far, far west, far west of the far mountains  
13               like.  And this area to the far end of the mountains.  
14               You go there.  Those people, people like them, they  
15               have certain amount of time to do the trapping and  
16               hunting.  And hard to keep up to.  They say women  
17               follow the cry.  You know, women follow.  
18          Q    Pardon me?  
19          A    Somebody who is interested in the girl and them  
20               families go, so he goes with them and he gets lost in  
21               the bush and then cry about it.  
22          Q    Can't keep up with Tsoyeas towtaen?  
23          A    Can't keep up with.  
24          Q    Are the Tsoyeas towtaen and the Whoo Nuss towtaen both  
25               Wet'suwet'en people?  
26          A    No, no.  Those are different language.  
27          Q    Which group speaks a different language from the  
28               Wet'suwet'en?  
29          A    Those in the western area, west of Ootsa Lake.  Half  
30               Ootsa Lake's Wet'suwet'en, they live at Ootsa Lake.  
31               And Jimmy Andrew at the head of Ootsa Lake, he was  
32               Ts'o yes to taen and also Michell Alex and his father,  
33               I call him old Alex, he lives there.  
34          Q    And you say they are Wet'suwet'en?  
35          A    And Jim Holland, he is Wet'suwet'en too.  Lelt,  
36               between Andrews Lake, and what do they call that,  
37               other lake further west, next to Nazidin Mountain.  
38               That's where they lived.  And they trapped from that  
39               area west and north of Sebolla Mountain up in that  
40               area, as far as Nanika Lake.  
41          Q    Okay.  
42          A    Nanika is a twin lake or two lakes.  
43          Q    Do the eastern Carrier speak a different language from  
44               Wet'suwet'en?  
45          A    Yes.  
46          Q    Okay.  You mentioned Jimmy Andrew, did Jimmy Andrew  
47               own Binta Lake?

T. K. Morris (For Plaintiffs)  
Cross-exam by Ms. Russell

1 A Binta?  
2 Q Binta Lake.  
3 A Binta, that's -- Binta Lake that's across Uncha, no.  
4 He trapped, stayed around Ootsa Lake.  
5 Q Did you -- sorry.  
6 A Well, his parents be there before him.  
7 Q Been up at Ootsa Lake?  
8 A Yes, head of Ootsa.  
9 Q Did you tell Alfred Joseph and Moses David, in 1983,  
10 that Jimmy Andrew owned Binta Lake?  
11 A Binta? '82, '83. Did you say '82 and '83?  
12 Q I did, but do you remember you met with Alfred Joseph  
13 and Moses David and Alfred Joseph recorded what you  
14 said on a tape recorder?  
15 A Oh, yes.  
16 Q And in that interview, do you remember discussing  
17 Jimmy Andrew?  
18 A Yes.  
19 Q And you said he was Laksamshu, do you remember that?  
20 A Yes.  
21 Q And do you remember that you said that he owned Binta  
22 Lake?  
23 A Binta Lake?  
24 Q You don't remember saying that?  
25 A Binta Lake is -- Binta Lake, white man trapped there,  
26 I forget his name now, one of well-known oldtimer.  
27 Barney Mulvaney.  
28 Q By name of?  
29 A He was trapping at Binta Lake back in early '30s and  
30 before that even.  
31 Q Early '30s and before that is what you said a white  
32 man was trapping there?  
33 A Barney Mulvaney.  
34 Q Barney Mulvaney?  
35 A Yes. He was the one that owned a trapline there.  
36 Q Okay.  
37 A Binta Lake, and saw lake here and Binta Lake there.  
38 Binta Lake. I don't think Andrew has anything to do  
39 with that lake.  
40 Q And you don't remember telling Alfred Joseph that  
41 Binta Lake itself belongs to Jimmy Andrew who was a  
42 Laksamshu, you don't remember saying that?  
43 A I don't remember.  
44 Q You don't remember.  
45 Okay. Thank you, Mr. Morris, that's all that I  
46 have for you right now. Thank you very much.  
47 MR. ADAMS: I have a few questions of you, Thomas, before you

T. K. Morris (For Plaintiffs)  
Cross-exam by Ms. Russell

1 get away from us.

2 RE-EXAMINATION BY MR. ADAMS:

3 MR. ADAMS:

4 Q When you were answering Mr. O'Byrne's questions this  
5 afternoon you said that your clan was Gitdumden, do  
6 you remember that?

7 A Gitdumden.

8 Q What is your mother's clan?

9 A The same. You know, the Indian always follow mother's  
10 side.

11 Q You always follow your mother's side?

12 A Yes.

13 Q Does that apply to ownership of territories too?

14 A Yes.

15 Q Something that may not have been clear also from Mr.  
16 O'Byrne's questions, you were asked about Whitesail  
17 Ben and also about Whitesail Lake, is that the same  
18 lake?

19 A Whitesail the same.

20 Q You mentioned a mountain, you said that your father  
21 took you there and you used to pack your sister on  
22 your back; do you recall the name of that mountain  
23 that you were talking about?

24 A I don't remember that in English but in Indian it's  
25 C'ele'le'gheel Dzel. That's between Eutsuk Lake and  
26 Whitesail. The first mountain. The first mountain  
27 from the head of Ootsa Lake.

28 MR. ADAMS: We can just pause to get a spelling of that.

29 THE TRANSLATOR: Whitesail Lake, C-'-E-L-E-'-L-E-'-G-H-E-E-L,  
30 D-Z-E-L.

31 MR. ADAMS:

32 Q Thomas, Mr. O'Byrne asked you some questions about  
33 what you trapped for on this Whitesail Lake territory,  
34 and you also mentioned hunting there; what did you  
35 hunt for?

36 A Whitesail?

37 Q In the territory described in your affidavit which has  
38 Whitesail Lake inside it?

39 A Hunting?

40 Q Hm-hmm.

41 A Usually go up in the mountain in September for  
42 mountain goat and pick berries too around the base of  
43 the mountains.

44 Q And which mountains do you mean?

45 A That's the same place that I told.

46 Q Same place that we have been talking about?

47 A Yes.

T. K. Morris (For Plaintiffs)  
Re-exam by Mr. Adams

1 Q Did you hunt for other animals as well?  
2 A On the base of that mountain on both sides up a ways,  
3 don't know how far, trapping, trap marten, fisher.  
4 Q Are there any other animals that you shot?  
5 A The whole area of that mountain, around the base of  
6 the mountain, there is -- get some fox, otter and  
7 beaver.  
8 Q Did you shoot any moose?  
9 A Moose or -- needed moose, we shot moose. Too hard and  
10 heavy to pack so try to take them close as we can.  
11 Q You were asked some questions and gave some answers  
12 about Chief Louie, and Chief Louie, I understood your  
13 evidence, was Nuu't'senii?  
14 A Yes.  
15 Q What clan did he belong to?  
16 A Eh?  
17 Q What clan was Chief Louie, what tribe?  
18 A That I don't know. I believe Elizabeth Jack is  
19 supposed to know that.  
20 Q You mentioned that some of the Cheslatta chiefs own  
21 territory next to the one described in your affidavit,  
22 do you remember that, talking about the Cheslatta  
23 chiefs?  
24 A Chief Louie's the first one in that area. Cheslatta.  
25 Chief Louie was first one.  
26 Q Was Chief Louie a chief because he had a chief's name  
27 or was he a chief because he was elected a chief?  
28 A Chief Louie, I don't know if he was elected or not.  
29 The first priest came around, you know, made him a  
30 church chief, a head man for the church, make him  
31 chief. And he might have been for that purpose.  
32 Q Did Chief Louie have a chief's name that you knew, an  
33 Indian name?  
34 A No.  
35 Q Mr. O'Byrne was asking you about whether you had gone  
36 to Wet'suwet'en potlatches, and you mentioned going  
37 when somebody died, could you say how many times in  
38 your life you have been to a potlatch in Moricetown?  
39 A Moricetown? Jimmy Thomas and Elizabeth Joseph, Jack  
40 Joseph and then I believe his son was named Alex, he  
41 would be there too. There was a few more I couldn't  
42 think of the names.  
43 Q Okay.  
44 A That we have been to.  
45 Q Mr. O'Byrne was asking you about being both a  
46 councillor and chief councillor of the Omineca Band,  
47 that is a position you were elected to?



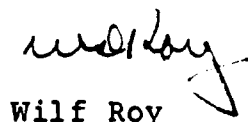
T. K. Morris (For Plaintiffs)  
Re-exam by Mr. Adams

- 1 A Yes. The first time by election and the second time  
2 was by acclamation.  
3 Q Do you have a chief's name in Indian?  
4 A No.  
5 Q Mr. O'Byrne was asking you about how you had -- how  
6 the Omineca Band had spent money from the B. C.  
7 Special, do you remember that?  
8 A Yes.  
9 Q Did you, at the time you were receiving and  
10 administering that money and since, did you understand  
11 any connection between the use of that money and the  
12 ownership of the land?  
13 A No.  
14 Q Ms. Russell was asking you about the Oonisto d'en, do  
15 you remember that?  
16 A I couldn't hear very well.  
17 Q Do you remember Ms. Russell asking you about the  
18 Oonisto d'en?  
19 A Oh, yes, yes.  
20 Q Do you know what clan those people belong to?  
21 A Eh?  
22 Q Do you know what clan, what tribe those people belong  
23 to?  
24 A The clan they belong to there was Jim Holland and  
25 Michell Alex and Peter Alex. I know those. And Jim  
26 Holland and I don't know the clan.  
27 Q All the people you told her about?  
28 A Yes.  
29 Q Okay.

30 MR. ADAMS: Those are all my questions. Thanks.

31  
32 (Concluded)

33  
34  
35 I hereby certify the foregoing  
36 to be a true and accurate  
37 transcript of the proceedings  
38 herein to the best of my skill  
39 and ability.  
40

41  
42   
43  
44 Wilf Roy  
45 Official Reporter  
46  
47

