

I. Steciw (For Province)
In Chief by Mr. Goldie

1 Vancouver, B. C.
2 July 11, 1989.

3
4 THE REGISTRAR: In the Supreme Court of British Columbia,
5 Tuesday, July 11, 1989.
6 Delgamuukw versus her Majesty the Queen, at bar, my
7 lord.

8 IGOR STECIW, Resumed:
9

10 THE REGISTRAR: Would you state your name, please?

11 THE WITNESS: My name is Igor Steciw.

12 THE COURT: Mr. Goldie?

13 MR. RUSH: My lord, just before my friend starts, I have a
14 matter to raise with the court and it has to do with
15 the production of documents. I made a request last
16 Friday for the production of certain documents
17 pertaining to the evidence of Dr. Steciw and some
18 documents were delivered to me yesterday, which
19 documents I understood to be documents in the
20 possession of the witness. And the letter and the
21 Notice to Produce that I delivered to my learned
22 friends on Friday was directed at, in part, at the
23 witness and in part at the defendant. And I
24 understood the production to be production of
25 documents of the witness and not of the provincial
26 defendant. These were documents, so far as I am
27 aware, that were not listed, at least I could not see
28 them to have been listed. And I want to raise with
29 the court now the issue of the production of the
30 documents, if there are any other documents, other
31 than the ones that were produced to me, which are in
32 the hands of the provincial defendant and which can be
33 produced before the start of the cross-examination.
34 And these are documents called Guide Reports.

35 MR. GOLDIE: Well, my lord, I didn't understand the Notice to
36 Produce to apply to anything other than the witness.
37 And we have provided my friend with the Guide Reports
38 that Dr. Steciw has brought with him. None of these
39 documents, of course, were listed by the defendant,
40 they are not -- well, I suppose these reports are
41 somewhere in Victoria, but until we decided to call
42 Dr. Steciw, we never considered that. But I thought
43 this Notice to Produce was directed to the witness and
44 that's how it was treated.

45 MR. RUSH: Well, my friend should have referred to the letter,
46 which letter says in the first paragraph, "Please
47 provide me with copies of the following documents in

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1 relation to the evidence of Igor Steciw and Barbara
2 Peden", and then there is a list of one to six. Then,
3 in addition to that, is a Notice to Produce. Which I
4 can see how my friends take that to be a Notice to
5 Produce in relation to the witness and that, of
6 course, is a Notice to Produce, framed up in terms of
7 documents in the possession or the power of the
8 defendant to produce. Now these are documents that
9 are filed, it's evident these are filed with the Fish
10 and Wildlife office in Smithers, a host of other
11 documents from the Fish and Wildlife office in
12 Smithers have deluged my office, and are scattered
13 throughout the document list and, frankly, I found it
14 somewhat surprising that no documents relating to
15 guide outfitters were on the list. Be that as it may,
16 the fact of the matter is that I think it was a
17 reasonable assumption for my friend to draw that I was
18 asking for documents in his possession.

19 THE COURT: Documents in whose possession?

20 MR. RUSH: The defendant's possession.

21 THE COURT: All right.

22 MR. GOLDIE: All I can say, my lord, as I pointed out in my
23 reply, the request in respect to Dr. Steciw and the
24 list of documents in the Notice to Produce were
25 exactly the same and I assumed the other was relating
26 to Mrs. Peden and Mr. Tourand. There are certainly
27 items listed in the Notice to Produce that the
28 province doesn't have. In fact one of them -- I am
29 sorry, I don't have that letter with me. "Booking
30 schedules for all hunts guided by the guide outfitter
31 in the relevant periods of their testimony." That's
32 number three. Number four, "Income statements
33 relating to monies derived from their guide
34 outfitting." Number five, "All diaries maintained by
35 them with regard to their guide outfitting activities
36 and hunts." Those follow 1 and 2, "Records of
37 royalties paid to the minister of finance for the
38 years of the guide outfitting." Two, "All guide
39 reports submitted to the regional manager pursuant to
40 section 55."

41 Taking that as a whole, I perhaps not in a too
42 perspicacious a way, but I took it all of these
43 related to the possession of the witness, and we got
44 in touch with Dr. Steciw, asked him to bring these,
45 and as I said in my reply, none of these were in the
46 immediate possession of the defendant. But as soon as
47 Dr. Steciw came down, he gave us documents which

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1 related to all of those, with the exception of number
2 four, income statements, which he said, and I support
3 him, have no relevance to his testimony.
4 Now, if my friend is making a request at this time
5 that we obtain from the minister of finance records of
6 royalties, all I can say is that the witness has his
7 copies and they have been produced. I don't know
8 about Mrs. Peden, I don't know about Mr. Tourand, they
9 are not getting into town until late tonight.
10 THE COURT: They are witnesses who are going to be called?
11 MR. GOLDIE: They are witnesses who are about to be called and
12 the Notice to Produce relates to Dr. Steciw and
13 Barbara Peden.
14 THE COURT: Barbara Peden is a witness to be called?
15 MR. GOLDIE: She is a witness to be called. And I don't know
16 whether she has records of royalties paid to the
17 minister of finance and I don't know if she has copies
18 of her guide reports. But if I am to take this as a
19 direction from your lordship to make inquiries in
20 Victoria and Smithers, I will, of course, do that.
21 But I certainly didn't read that Notice to Produce to
22 refer to anything other than what was in the
23 possession of the witness.
24 THE COURT: How long do you think you will be in chief with this
25 witness?
26 MR. GOLDIE: I expect to be finished today.
27 THE COURT: Well, I think that one is always reluctant to embark
28 on what might be a futile search, but I suspect we
29 have had lots of them and it seems to me that the
30 course in prudence and caution would be to direct that
31 you do cause inquiries to be made in the appropriate
32 ministries for documents which relate to the
33 activities of the witness and the witnesses to follow.
34 Those are documents in the possession or power or
35 control of the province and if there is to be evidence
36 about those activities, this seems to me those
37 documents may well be relevant, at least relevant to
38 the extent that would justify an order for their
39 production.
40 MR. GOLDIE: Yes.
41 THE COURT: So I think that should be undertaken without delay.
42 MR. GOLDIE: That is to say, records of royalties paid to the
43 minister?
44 THE COURT: Well, I am not sure that I would confine it to that.
45 It may be that your friends may specify with more
46 precision what it is that they would want.
47 MR. GOLDIE: I point out, my lord, that the witness has provided

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1 us and we provided my friends with the records of
2 royalties paid to the ministry.
3 THE COURT: I would have thought that was sufficient but I am
4 sure Mr. Rush doesn't just want another copy of the
5 same document to be furnished.
6 MR. GOLDIE: Well, that's what I would be --
7 THE COURT: But I rather took your friend's point to be that
8 there would be other documents in the possession of
9 the ministry. Have I misunderstood you, Mr. Rush?
10 MR. RUSH: No, you haven't misunderstood me. I should point out
11 that my submission was with regard to the guide
12 reports and that's first and foremost.
13 THE COURT: But I understand those are available, the guide
14 reports?
15 MR. RUSH: I have been provided with a copy that apparently is
16 kept by the guide outfitter himself or herself. I
17 don't know if these are all of the ones that have been
18 submitted. I cannot deduce that in -- and there is
19 clearly a copy that's kept. In fact I have a copy of
20 the one that's kept by the hunter in one case. But in
21 addition to that, it seems reasonable that if there is
22 correspondence relating or if there is a file relating
23 to guide reports, then I would like to see that.
24 THE COURT: Well, it seems to me that that's proper, Mr. Goldie.
25 MR. GOLDIE: All I have to say, with respect, I regard that as
26 unreasonable. And I have no idea what that will
27 entail. But if there is a file in Victoria which is
28 "Guide outfitters, Dr. Steciw", then that may turn out
29 to be not too difficult. But I have to say that there
30 is, and I am repeating myself, there is no attempt on
31 my part to avoid producing documents. But when I
32 receive a notice which stated, as this notice is,
33 which clearly involves documents not in the possession
34 of the defendant and could not be -- income
35 statements, that's a purely personal matter -- then I
36 am entitled to think that the entire document relates
37 to the witness.
38 THE COURT: Well, I think that may be a fair construction to put
39 on the notice, but your friend is now saying that he
40 would like to see what documents the defendant the
41 province has, and I think he is entitled to see that.
42 MR. GOLDIE: I think I might ask the assistance of the witness
43 as to what the -- what documents he does file with
44 Victoria.
45
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1 EXAMINATION IN CHIEF BY MR. GOLDIE: (continued)

2

3 Q Dr. Steciw, I am going to show you photocopies of a
4 bundle of documents, all headed "Report and
5 declaration of guide outfitter." Can you tell -- and
6 tell his lordship what the origin of that document is
7 and why you come to file it and who gets it?

8 A It's required by the game branch for each guide to
9 complete a guide declaration form. I am not sure at
10 what time that actually started as a mandatory
11 document, the game branch would know, the ministry
12 would know, but this is a document that's filled out,
13 signed by myself and filled out by the hunter, you
14 know, where he maybe killed a certain animal or
15 whether no animals were killed, if it was an
16 unsuccessful hunt. There are a few copies, I forget
17 how many, one goes to the game branch, one to me and
18 one to the hunter and I think perhaps one to Victoria.

19 Q Do you file it in Victoria or, as far as you know,
20 that's done?

21 A No, no.

22 Q Where do you file?

23 A I file it with our local game office in Smithers.

24 Q Do you have any direct correspondence or file any
25 reports with Victoria or is it all done through the
26 local game branch?

27 A Through the local game branch.

28 Q The point of my inquiry I think is obvious, if we
29 inquire of the local game branch for copies of all
30 documents relating to your certificate and licence as
31 a game or a guide outfitter, will we be making the
32 inquiry at the right place with respect to everything
33 that you fill out or file with the provincial
34 government?

35 A I suppose so. I think perhaps they would be the ones
36 to give a true answer.

37 Q I appreciate that. I just want to make sure that with
38 respect to the inquiries we make, we go as directly as
39 possible to the people that you deal with.

40 All right. Are there any other documents which you
41 file with the game branch in Smithers, other than the
42 report and declaration of guide outfitter, which is
43 the document that I have --

44 A Well, first --

45 Q The document which I have just shown you?

46 A No, I don't recall any other documents but I would
47 like to just point out that these are just a portion

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- 1 that -- you see, a lot of times I discard my copy
2 because it's of no use to me, essentially. Now,
3 sometimes I just sort of keep it. I mean, I just
4 don't like to have too much paper around. Essentially
5 it's useless paper to me, but I did retrieve these
6 where I put them in the bottom of a drawer, so this
7 just represents actually a portion.
- 8 Q Right. There is a reference in my friend's notice to
9 guide reports submitted to the regional managers
10 pursuant to section 55 of the Wildlife Act. Does that
11 ring a bell?
- 12 A I suppose so, yes.
- 13 Q There are other pieces of paper than the one that we
14 have been looking at?
- 15 A Yes, this is just -- I believe the ones I have
16 submitted to you are just my copy.
- 17 Q Yes. But is there another report or other reports
18 that you file with the game branch in addition to a
19 report and declaration of guide outfitter?
- 20 A Actually, no.
- 21 Q All right. We will make the necessary inquiries at
22 Smithers. Unless my friend has any further
23 observations, my lord, I propose to leave it at that.
- 24 THE COURT: All right.
- 25 MR. RUSH: Just that I did make the point, and I perhaps don't
26 need to repeat it, but it's the question of if there
27 is any correspondence or any documents related to
28 these, I also ask for those.
- 29 THE COURT: Well, I think that it would be convenient to have
30 the file sent down and counsel can see what's there.
- 31 MR. GOLDIE: Yes. I am assuming that there is -- that
32 everything that the witness is cognizant of starts at
33 Smithers.
- 34 My lord, yesterday I was dealing with events in
35 1986, and I just happen to note that the transcript
36 for yesterday, at page 18497, my question starting at
37 line two reads as follows: "All right. Now, that
38 completes then the identification of those locations
39 where in 1989 of you established facilities from which
40 you..." That should clearly be 1986.
- 41 THE COURT: I don't think I have my copy yet.
- 42 MR. GOLDIE:
- 43 Q Dr. Steciw, yesterday, as I mentioned to his lordship
44 a minute ago, we had discussed the work that you had
45 undertaken in 1986 and referred particularly to
46 localities which you had looked at and localities that
47 you had improved by the construction of cabins and the

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- 1 clearing of trails.
- 2 Now, I wanted to make sure that we had, with
- 3 respect to that second category, all of the activity,
- 4 and I wanted to direct your attention to Canyon Creek.
- 5 Was there any activity there other than the inspection
- 6 of the lake as a potential point of departure for your
- 7 activities?
- 8 A Well, actually, not at Canyon Creek itself but Canyon
- 9 Lake, we have built trails from the lake to the
- 10 mountains north and also a trail on the southern shore
- 11 of Canyon Lake into one of the valleys.
- 12 Q All right. And those trails radiate, if I may put it
- 13 that way, from a campsite; is that correct?
- 14 A One of them does, the other one is a sort of an
- 15 unmarked point on the southern shore of the lake.
- 16 Q Canyon Lake was marked as number 14, my lord.
- 17 All right. I want to go on to 1987 then, and would
- 18 you describe your activities in 1987?
- 19 A 1987, I don't believe I had a spring bear season or at
- 20 least no activity in the spring bear season. I have
- 21 proceeded to guide in the fall.
- 22 Q All right. And can you tell his lordship the areas
- 23 into which you --
- 24 A Slamgeesh Lake, Canyon Lake, Kluatantan Lake.
- 25 Q And -- keep on going, please.
- 26 A And Swan Lake and, I believe -- I believe this lake
- 27 that I have called, for lack of a better name,
- 28 Boomerang Lake, Twin Lake and the lake that I have
- 29 called for lack of another name, Skeena Lake.
- 30 Q Those have all been given a number on the map.
- 31 Now, in respect of going back to 1986, can you tell
- 32 his lordship what evidence you observed of the
- 33 presence of others in the areas that you examined?
- 34 A I don't believe I met anybody along -- at all in the
- 35 areas that I have just described.
- 36 Q And how about 1987?
- 37 A Let's see, 1987, no, sir.
- 38 Q And did you see any evidence of activity by native
- 39 Indians or, indeed, others, and by evidence of
- 40 activity I am distinguishing between seeing people and
- 41 seeing the evidence of the presence of people?
- 42 A Well, I believe it was a trail that is from Stephens
- 43 Lake going to along Stephens Creek to the Kispiox,
- 44 there was red ribbons on the trail that somebody tied,
- 45 and I don't know who it was, but it was a lot of them,
- 46 like an awful lot of them, and it actually looked so
- 47 bad I took them off, because it was not necessary, the

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1 trail, as far as I was concerned, was very easily
2 discernible to me and there was just garbage, some
3 cans and such on the shore of Stephens Lake which I
4 removed to make it presentable.
5 Q Stephens Lake I believe you identified on the map
6 yesterday?
7 A I am not sure. I will have to have a look. That's
8 one lake I am not sure I talked about.
9 THE COURT: I don't think he did.
10 MR. GOLDIE:
11 Q Would you locate Stephens Lake then?
12 A Okay.
13 THE COURT: Where is it in words?
14 A It's just below Swan Lake -- pardon me, just south of
15 Swan Lake. Yes, here we are. Yes, this is it right
16 here.
17 MR. GOLDIE:
18 Q Swan Lake has been given a number, has it not?
19 A Actually sort of east, yes. So Stephens Lake would be
20 16?
21 Q No, I think we are up to --
22 A We are over 20.
23 THE COURT: The last note I have is 17. Did I miss one? Skeena
24 Lake was 17.
25 MR. GRANT: 22 was the last number.
26 THE COURT: Boomerang Lake was 20. I am sorry.
27 A So it's 23, Stephens Lake.
28 MR. GOLDIE:
29 Q It's 23 that you're up to now.
30 A Yes.
31 Q Now, the trail that you described as flagged or
32 marked, was between what two points again?
33 A It was essentially from Stephens Lake, more or less
34 along Stephens Creek, and the trail came out in a
35 little meadow which is right on the Kispiox River.
36 Q I see. And any other signs -- and of course you don't
37 know who was responsible for the flagging or who left
38 the garbage there?
39 A Only hearsay, sir.
40 Q I don't ask you to guess.
41 Any other signs of human activity?
42 A Well, that year, and I think this was in '87, 1987,
43 the boat which I had kept at that end of Stephens Lake
44 was missing and later on a friend of mine found the
45 boat, it was hidden somewhere else, so somebody must
46 have hidden it.
47 Q What kind of a boat are you talking about?

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1 A Aluminum boat. It was flown in there years and years
2 ago by Beaver.
3 Q Now, you mentioned in respect of 1987, Kluatantan?
4 A Kluatantan.
5 Q Kluatantan. Have you identified that?
6 A Kluatantan Lake.
7 Q Now, when you have located it just describe its
8 location in words, please.
9 A It's just near Gordon Mountain, the northernmost
10 portion of my guiding area. This is a new addition.
11 The newest addition.
12 Q Let us locate it for the purposes of the record, is it
13 north of the Duti River?
14 A Yes, it is.
15 Q Would you put a number 24 there, please? And while
16 you are at it, although I believe you have not
17 mentioned it so far, is there a lake in that general
18 vicinity called Tzahny Lake?
19 A Yes, there is.
20 THE COURT:T-Z --
21 MR. GOLDIE: T-Z-A-H-N-Y.
22 A That will be 25.
23 Q Right. Now, did you -- you guided parties in the
24 vicinity of Kluatantan Lake?
25 A Yes.
26 Q In 1987?
27 A Yes.
28 Q All right. I now want to complete this by going to
29 1988 and would you describe the activity that you
30 conducted in that year?
31 A Okay. I guided in Slamgeesh Lake, in Canyon Lake, in
32 Swan Lake and Stephens Lake, Kluatantan Lake, and, of
33 course, we went down the river, down the Tantan River
34 towards the Kluatantan River and also towards Tzahny
35 Lake and in fact in Tzahny Lake as well.
36 Q That's the first time you have been in that area?
37 A Yes, in Tzahny Lake that I have guided. I have been
38 in there before but I didn't guide.
39 Q Was there any trail or other construction undertaken
40 in 1988?
41 A It was -- well, every year there is freshening up of
42 old trails.
43 Q Yes.
44 A Yes, I have hired two men to cut trail in Kluatantan
45 Lake.
46 Q And by that I take it you mean these were new trails?
47 A New trails.

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- 1 Q What evidence of human activity -- or let me go back
2 and ask you first, what other people did you see other
3 than the people you were guiding?
4 A I didn't see anybody else.
5 Q Any evidence of human activity?
6 A No, sir.
7 Q All right. Dr. Steciw, are you familiar with the
8 trapping season or the general --
9 A Just the general times.
10 Q Can you give his lordship an idea in terms of months?
11 A I believe probably from the end of October to the end
12 of February, some such time.
13 Q I am going to come back to that in a minute, but in
14 the meantime, or before that, I want to read you some
15 names in reference to localities that you have
16 referred to and ask you if you are aware of the people
17 or have ever met them, and I will be asking you if any
18 of them indicated to you that you were required
19 permission to be in the areas that I will name to you.
20 First, is Kuldo Lake and Creek, now you know where
21 that is?
22 A Yes.
23 Q And the names that I wish to put to you with respect
24 to those, first is Mary Johnson and Stanley Wilson, do
25 you know either of those two people?
26 A Mary Johnson, I know she is an elderly woman I believe
27 from Hazelton, that I just met about a month ago. Or
28 a little longer, maybe.
29 Q And Stanley Wilson, I take it you don't know?
30 A You know, there are a lot of Wilsons that I take care
31 of medically but it doesn't ring a bell really. Or
32 some Wilsons I take care of medically.
33 MR. GOLDIE: My lord, the reference in the territorial
34 affidavits in respect of that area, and in respect of
35 the claims of those two as chiefs or hereditary chiefs
36 or chiefs of houses, is Exhibit 485, seconds I.
37 Q Has Mary Johnson or anybody speaking on her behalf or
38 anybody speaking on behalf of Stanley Wilson, informed
39 you that you required the permission or you required
40 permission to go into the Kuldo Lake/Creek area?
41 A No.
42 Q The next reference I have is the Upper Kispiox River
43 and the person's name is Walter Harris, do you know
44 Walter Harris?
45 A I don't believe so.
46 Q The territorial affidavit number, my lord, is Exhibit
47 485 -- I am sorry, I said the Upper Kispiox River

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- 1 territory, I should have referred to the Stephens Lake
2 territory.
3 A No.
4 Q All right. The reference is to Walter Harris, the
5 territorial affidavit number is Exhibit 485, section
6 O, did anybody ever tell you, either on behalf of
7 Walter Harris or generally, that you required
8 permission to utilize the Stephens Lake territory in
9 your business?
10 A No.
11 Q The next reference is to Kuldo Creek, do you know a
12 Mary McKenzie?
13 A It doesn't ring a bell.
14 Q The reference, my lord, is Exhibit 661 section A.
15 Did anybody inform you that you required permission
16 to utilize Kuldo Creek in your business?
17 A No.
18 Q The next reference is to Chipmunk Creek, the names
19 that I wish to put to you are Alice Jeffrey and Sam
20 Morrison, do you know either of those two?
21 A I don't believe so.
22 Q The territorial reference, my lord, both to Chipmunk
23 Creek and to Duti River is Exhibit 599, section A.
24 Did anybody ever tell you that you required
25 permission to utilize those areas in your business?
26 A No.
27 Q The next names -- well, with respect to Chipmunk Creek
28 again, the general area of Chipmunk Creek, are any of
29 the names, Lloyd Morrison, Elsie Morrison or Simon
30 Morrison known to you?
31 A I don't believe so.
32 Q Now Foster Creek, and the name I wish to draw to your
33 attention is that of Neil B. Sterritt, the territorial
34 affidavit is 376 section C, and in addition to Foster
35 Creek I also ask you to keep in mind Barker Creek. Do
36 you know Mr. Neil B. Sterritt?
37 A Is this the young Mr. Sterritt or is that his father?
38 Is this the Neil Sterritt that's been involved with
39 this case?
40 Q Well --
41 A The manager of the Gitksan or some such thing? I am
42 not sure who we are talking about.
43 Q As my friends are fond of saying, there is about four
44 questions there. Mr. Neil B. Sterritt is the father
45 of Mr. Neil Sterritt?
46 A Okay. No, I don't believe I ever met him.
47 Q Did anybody ever tell you that you needed permission

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1 to operate your business in the Foster Creek or Barker
2 Creek areas?
3 A No.
4 Q Slamgeesh Lake and the Slamgeesh River area, the
5 person's name that I ask you to consider is Solomon
6 Jack, do you know Mr. Solomon Jack?
7 A No, I don't.
8 Q The territorial affidavit is Exhibit 605, section F.
9 Did anybody ever tell you that you required
10 permission to conduct your operations in the Slamgeesh
11 Lake and Slamgeesh River areas?
12 A No.
13 Q Shedin Creek, I am not sure that you have identified
14 that on the map for his lordship but you made
15 reference to it. Would you confirm for me whether a
16 number has been placed on Shedin Creek?
17 THE COURT: How do you spell that.
18 MR. GOLDIE: S-H-E-D-I-N.
19 Q The next number would be 26. Just describe in words
20 the general location of Shedin Creek?
21 A Your lordship, it's -- it runs more or less, roughly
22 speaking, north and south, flows into the Babine River
23 before its confluence with the Skeena as marked here.
24 Q The territorial affidavit reference is Exhibit 376,
25 section F. The name I ask you to consider is Wilmer
26 Johnson.
27 A I don't believe --
28 THE COURT: Wilbur?
29 MR. GOLDIE: W-I-L-M-E-R, my lord.
30 Q Has anybody ever informed you that in order to go into
31 the Shedin Creek area you required permission?
32 A Sir, nobody did, but actually that is not part of my
33 guiding area.
34 Q I see. Right. That's in somebody else's area?
35 A Yes.
36 Q All right. Thank you.
37 A I believe it's Reg Collingwood's area.
38 Q Mr. Collingwood's?
39 A Reg Collingwood's.
40 Q Now, and I believe the same applies to Damsumlo Lake,
41 it's not in your area?
42 A No, it's the headwaters of the Shedin.
43 Q Now Canyon Lake, the territorial reference is Exhibit
44 605, section B, the name I ask you to consider is Mr.
45 David Blackwater. Do you know Mr. Blackwater?
46 A I have talked to him over the phone.
47 Q And under what circumstances?

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- 1 A Well, he was asking me whether he could use my cabin
2 at Canyon Lake.
3 Q Can you tell his lordship approximately when that was?
4 A Oh, gosh, approximately 1987.
5 Q All right. Well, just give his lordship the details
6 of that, how this telephone call came about and what
7 was done, if anything, with respect to it?
8 A Yes, he phoned me, it was sometime in the wintertime,
9 maybe early February, that's just a guess, and he said
10 that he had a trapline in the Canyon Lake and Canyon
11 Creek area, and could he use my cabin. Well, I
12 thought about it and I said, well, I am pretty private
13 about my cabins, I really don't even want people if
14 possible to know where they are and I think I better
15 say no. Well, he said, you know, "I would like to
16 trap" or something to that effect, well, I said that's
17 fine, you have trapping rights and I have guiding
18 rights and that is my cabin, built by, you know, my
19 efforts and I just as soon you build yours.
20 Q And that was the end of the --
21 A That was essentially it. And there was no hostility
22 or anything, just discussed.
23 Q Was there any suggestion, in the course of that
24 conversation, that you required permission to conduct
25 your activities in the Slangeesh Lake area, Canyon
26 Lake area?
27 A No, not at all.
28 Q By Mr. Blackwater or by anybody else?
29 A By nobody.
30 Q Now Cutfoot Creek, I believe I may have mentioned
31 that -- no, I mentioned Foster Creek. The territorial
32 affidavit reference is also Exhibit 376, C, and that's
33 Mr. Neil B. Sterritt, and you have already told us
34 that you had nobody inform you that you needed
35 permission with respect to Barker Creek, does that
36 answer apply to Cutfoot Creek as well?
37 A Yes.
38 Q Thank you. Mosque River, that's in your territory,
39 isn't it?
40 A Yes.
41 Q And you have conducted activities in that area?
42 A Yes.
43 Q The territorial reference is Exhibit 376, section B,
44 the name is Robert Stephens; do you know Mr. Robert
45 Stephens?
46 A I don't believe so.
47 THE COURT: You don't believe so?

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- 1 A I don't believe so.
2 MR. GOLDIE:
3 Q Has Mr. -- well, has anybody informed you that you
4 required permission to conduct your activities in the
5 Mosque River area?
6 A No.
7 Q Are you familiar with a territory known as Fort Creek
8 or an area known as Fort Creek?
9 A Gosh, that rings a bell but I can't place it at the
10 moment.
11 Q It's not one where you have cut trails or
12 established --
13 A I don't believe so. Not unless I know it as another
14 name.
15 Q All right. The Sustut River, you are familiar with
16 that?
17 A Yes.
18 Q Is that in your territory?
19 A It just touches, as the map shows, it just literally
20 touches the mouth of the Sustut, my area.
21 Q Now, the lake that you have named Twin Lake, does that
22 have other names?
23 A Well, let me explain that to everybody. That is a
24 lake that I have in my log books referred to in three
25 names: Once or twice I called it High Lake, because
26 there is no name to it. In fact, on this map there is
27 no such lake on the map. And it really doesn't seem
28 to be any formal name so I refer to it as High Lake
29 once or twice in my log books, flying, later on I
30 thought it would be actually maybe appropriate to call
31 it Mosque Lake because it really is the headwaters of
32 the Mosque River, one of the branches of the Mosque
33 River, and then I found out from a commercial pilot, a
34 bush pilot, that the local commercial pilots have a
35 name for that lake and they call it Twin Lake. So all
36 those three are one and the same lake.
37 Q And you have identified on the map the location and
38 you have given it a number?
39 A Yes.
40 Q Now with respect to that, has anybody ever informed
41 you that you are required to obtain permission before
42 your use of it?
43 A No.
44 Q I am going to name to you two or three other
45 territories or territorial names and ask you if
46 anybody has ever informed you that you required
47 permission to use them. First is Swan Lake, second is

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- 1 5th Cabin Lake, both of which I believe you have
2 referred to?
- 3 A Hm-hmm, yes.
- 4 Q Shanalope Creek, have you identified that?
- 5 A It's just -- I don't believe so. I think it's just at
6 the border of my area near where Shanalope I think
7 flows into the Kwinageese River. I am not familiar
8 with that particular creek.
- 9 Q Well, with respect to Swan Lake, and the territorial
10 affidavit reference, my lord, is again Exhibit 485,
11 section O, and the 5th Cabin Lake and the territorial
12 reference is Exhibit 605, section F. Did anybody ever
13 inform you that you required permission to make use of
14 those areas?
- 15 A No.
- 16 Q I want to go back to -- I am sorry, my lord, I
17 inadvertently missed a couple of names. Kluatantan
18 Lake, which you referred to and identified this
19 morning, the names I ask you to consider are, firstly,
20 Gerald Gunanoot and David Gunanoot, do you know either
21 of those two?
- 22 A I don't think so. The one time for medical purposes I
23 attended some young native man who -- or his baby, and
24 the name Gunanoot, I remember Gunanoot, but I don't
25 know which Gunanoot.
- 26 Q With respect to Kluatantan Lake and Tzahny Lake, which
27 you have identified this morning and Dutu River, has
28 anybody informed you that you required permission to
29 make use of those areas?
- 30 A No.
- 31 Q The territorial affidavits, my lord, are Exhibit 613,
32 section B, and Exhibit 599, section A. That last one
33 is referable only to the Dutu River.
- 34 Now, I want to pick up something that you made
35 reference to earlier in your evidence and you may
36 recall that you described to his lordship an early
37 hunting trip with Mr. Leonard George and Mr. Arthur
38 Tom in the vicinity of Quick and Grouse Mountain?
- 39 A Yes.
- 40 MR. RUSH: He didn't mention Arthur Tom.
- 41 MR. GOLDIE:
- 42 Q Sorry, was there anybody else with you?
- 43 A Yes, there was another native man with me by the name
44 of Arthur Tom.
- 45 Q I don't want to mislead you, I am referring to -- I
46 had in mind one particular trip, but I understand from
47 your evidence that there were, in the early times

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- 1 there were a number of hunting trips with Leonard
2 George?
3 A Yes, quite a few.
4 Q Did you have occasion to have contact with any other
5 native persons in relation to these hunting trips?
6 A Yes, when I was asked about this yesterday, I forgot
7 one person, a fellow who I have known for a long time,
8 Henry Alfred, and I believe it was in 19, probably
9 1967, certainly no later than 1968, but I really would
10 have to say 1967, that we both went on a goat hunting
11 trip on Seton Mountain.
12 Q That was with Mr. Henry Alfred?
13 A Yes.
14 Q Did Mr. Alfred inform you as to owning that area or,
15 indeed, that some other native person claimed that
16 area as part of his territory?
17 A No, we went as friends, sort of, hunters.
18 Q With reference to your hunting with Mr. Leonard
19 George, you mentioned and I referred to Quick and
20 Grouse Mountain, was there any other geographic area
21 that you went to with Mr. Leonard George?
22 A Yes, we went out towards Owen Lake where he said he
23 had his trapline, we went along Morice River Road, in
24 that general area.
25 Q Did Mr. Leonard George inform you that that area was
26 owned by a native person or that was part of some
27 territory claimed by a native person?
28 A No. He did say that Owen Lake and thereabouts was his
29 trapline or his father's, actually, at that time, his
30 father was alive then, who I knew.
31 Q Thank you. Now, you stated that you hunted with Mr.
32 George across private lands or lands owned subject to
33 cattle grazing leases?
34 A Yes, some of the time.
35 Q Did you seek permission from those people?
36 A He did.
37 Q He informed you that he did or how do you know that?
38 A Yes, he did. He said, well, in the one case I
39 remember we hunted Grouse Mountain and we went on and
40 a rancher who was alive then, his name was Paul
41 Anderson, and I said, well, listen, we better ask
42 permission before we go there and he said I already
43 have it, I spoke to them. In fact we saw Mrs.
44 Anderson at a trailer which they had on that property
45 near some farm buildings and we checked with her again
46 and she told us it was fine. She just confirmed it.
47 Q Now, those, as you put it, were at early periods, and

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- 1 I think you fixed it in the 1960s, '67', 68, in that
2 area?
- 3 A Yes.
- 4 Q What other periods of time or what other incidents in
5 the periods of time involved, have you come in contact
6 with native people with respect to the use of land?
- 7 A I am not sure exactly what specifics -- what exactly
8 that means.
- 9 Q Let me ask you this: Has anybody ever asked you for
10 the use of your cabins other than Mr. David
11 Blackwater?
- 12 A Oh, yes. In was about, let's see, probably either
13 very late in 1978 or even very early '79, Neil
14 Sterritt phoned me and said to me, "look, there might
15 be two native people that are interested in trapping
16 in Slamgeesh Lake, could we have your cabin? Could we
17 borrow your cabin?"
- 18 Q He was aware that you had a cabin there?
- 19 A Oh, yes. Yes, he knew. And I said yes.
- 20 Q And how, so far as you are aware from that telephone
21 conversation was he going to or the people on whose
22 behalf he was requesting permission to use your cabin,
23 how they were going to get in there?
- 24 A Well, they would fly in.
- 25 Q Was that stated in the conversation?
- 26 A If not specifically stated, certainly implied.
- 27 Q All right. And was your cabin used?
- 28 A I am not even sure.
- 29 Q All right. Now, was there anything further in 1978 or
30 1979 relating to Slamgeesh Lake that involved, if not
31 the -- any of the native peoples, those working on
32 behalf of them?
- 33 A You know, not as far as I can recall right now.
- 34 Q Is the -- were you ever contacted by Mr. Morrell?
- 35 A Yes, that was on a different matter. He stated that
36 he was working for the native council in Hazelton and
37 he asked me if I had -- first of all, he asked about
38 all the salmon information, the spawning salmon that
39 are going up Slamgeesh River, in that country,
40 Slamgeesh Lake, there is a creek going up to west into
41 Damskilgwit or the so-called 5th Cabin Lake, and I
42 gave him all information but then he informed me that
43 they would really want to sort of go in, to fly in, he
44 said, I believe he said to fly in with a Beaver and do
45 a count themselves and I said, well, look, you know,
46 that's going to disturb the hunting, especially of the
47 bear along the river and we discussed the various

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- 1 possibilities. I said well, it wouldn't disturb it
2 too much if one of the men that wants to come went
3 with one of my hunters and guides, and the other, say
4 there would be two, I suggested would go in the other
5 direction, perhaps towards 5th Cabin Lake, and count
6 but not to be just wandering around aimlessly, because
7 certainly they would scare game and interfere. Let's
8 put it this way, to avoid problems, I, you know, he
9 said, okay, why don't you take all the data you can,
10 and I promised him that I would, and we also had, at
11 that time I had working for me a Mr. Pat Martin, who
12 is a consultant biologist who is very, you know,
13 versed in these things and we made -- we had actually
14 quite a bit of time spent in determining and counting
15 the salmon and I gave all this information to Mike
16 Morrell subsequently.
- 17 Q Amongst the material produced for us, at the time Mr.
18 Morrell gave evidence in this case, were notes in his
19 handwriting, entitled "Notes on Steciw notes, dated 27
20 of October, '79" and also a document headed "Igor
21 Steciw notes, fall, 1979." I ask you to look at the
22 second one of those. I am going to ask you to look at
23 the two page document headed "Igor Steciw notes, fall,
24 1979." Whose handwriting is that, please?
- 25 A This is my handwriting, the letter, and this is my
26 signature.
- 27 Q What's the second page?
- 28 A Same thing, it's my handwriting.
- 29 Q And are those the observations that you made as a
30 result of the discussion you had with Mr. Morrell?
- 31 A Yes, I believe so.
- 32 Q And they run from September 15th to October 8th --
33 well, I say they run, they have those dates on them.
34 Now, I am going to show you a document in Mr.
35 Morrell's handwriting and ask you if you have ever
36 seen that before?
- 37 A I believe I saw it when Mr. Mackenzie just gave it to
38 me to examine.
- 39 Q That is before you came down here to give evidence?
- 40 A I think so.
- 41 Q All right. Thank you. But my point is, Mr. Morrell
42 didn't send this to you?
- 43 A I don't remember that at all, no.
- 44 MR. GOLDIE: My lord, I am going to tender as an exhibit the one
45 page of Mr. Morrell's notes which have already been
46 disclosed, to which is appended the notes that Mr.
47 Steciw has now identified as in his handwriting.

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1 MR. RUSH: Just a moment. May I see that, please?

2 MR. GOLDIE: May that be marked?

3 THE REGISTRAR: Thank you. Exhibit 1084.

4

5 (EXHIBIT 1084: MORRELL NOTES)

6

7 MR. GOLDIE:

8 Q From your conversation with Mr. Morrell, did you
9 understand that he had been in there to -- previously,
10 and had conducted any fish counts?

11 A No, in fact he stated that nobody knew anything
12 essentially about the fish, this is why he wanted us
13 to produce the information.

14 Q I see. Now, any other meetings or discussions or
15 contact with native peoples with respect to the area
16 that is within your guiding territory?

17 A No.

18 Q Did you ever seek to purchase a trapline?

19 A I thought about it and I actually phoned a number of
20 people, whose names actually I forget now, and
21 whoever -- you see, I inquired who owned the trapline
22 around Slamgeesh Lake, because I like the area, like
23 to come out in the winter, a very nice place to be,
24 sort of. I forget who the man was now that I called
25 but I called him and asked him if he would perhaps be
26 interested in selling it and he refused.

27 Q Right. But whoever it was, it was, you understood to
28 be the registered holder of a trapline in that area?

29 A Yes.

30 Q And why did you do that, was there -- let me put the
31 question to you another way: Was there any evidence
32 that that trapline was being utilized?

33 A That's exactly why I called, there was no sign of any
34 trapping in the area whatsoever so I thought it's not
35 being used at all and I thought maybe whoever owned it
36 might give it to me as a good deal.

37 Q All right. Thank you. Now, we have made reference to
38 a couple of other places, Quick, and I ask you about
39 John Namox, and you know John Namox?

40 A I knew John Namox who was my patient right to the end.
41 He died just a short time ago.

42 Q The territorial reference is to Exhibit 672, section
43 A. Did John Namox ever inform you that around Quick
44 or Round Lake, was territory that he claimed or that
45 he regarded as his territory?

46 A No.

47 Q We have referred to Grouse Mountain, and the

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- 1 territorial affidavit number is Exhibit 667-A, and you
2 know Mr. Leonard George, did he ever inform you that
3 the Grouse Mountain territory was territory in respect
4 of which he had an interest or his house had an
5 interest?
- 6 A No.
- 7 Q With respect to Owen Lake, were you ever advised that
8 Mr. Alfred Joseph -- do you know Mr. Alfred Joseph?
- 9 A You know, the name just barely rings a bell but I
10 honestly can't put a face on it.
- 11 Q Were you informed that Mr. Alfred Joseph claimed that
12 territory or had an interest in it and that you
13 required permission to go on it?
- 14 A No.
- 15 Q Now, you have referred at some length or you made
16 reference to the use of aircraft, and is it my
17 understanding that you have your log books for 1986
18 on, but --
- 19 A Yes.
- 20 Q -- but the log books for the aircraft prior to that
21 you did not keep copies and that the log books go with
22 the aircraft?
- 23 A Yes.
- 24 Q All right. I am going to show you --
- 25 THE COURT: What do you have, '86 and '87?
- 26 MR. GOLDIE: Yes, '86, '87, '88 he has, my lord.
- 27 Q The first set of pages I am going to show you starts
28 with -- firstly, this form is a Department of
29 Transport form?
- 30 A Yes.
- 31 Q And it prescribes the way in which the log of the
32 aircraft use is to be recorded?
- 33 A Yes.
- 34 Q The first set of documents I am going to show you is
35 headed with the written words "100 hour clock, C. of
36 A. done March 28, '86, 9558:05." Would you tell his
37 lordship what those sheets are?
- 38 A Well, those words that you have read -- or the sheets
39 do you mean?
- 40 Q I am just using those words to identify.
- 41 A Okay. When a pilot flies you record everything, in
42 other words, you record the day on which you have
43 flown, and where you, say, where you took off from and
44 where you went to, and the time, essentially. And
45 also the weight or at least an approximation, and this
46 is kept up each day that you fly. Also, your 100 hour
47 inspections, which are mandatory, are recorded in

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- 1 there. That's essentially what it is.
- 2 Q Right. Now, the first entry on this page is May 11th,
- 3 '86, point of departure, Tyee, is that Lake?
- 4 A Tyee, yes, lake.
- 5 Q The crew is recorded as yourself and the take-off
- 6 time, landing?
- 7 A Yes.
- 8 Q Lapsed time in the air?
- 9 A Yes.
- 10 Q And total time since manufacture and so on?
- 11 A Yes.
- 12 Q And then the next entry of June 8th records some
- 13 modification to the aircraft?
- 14 A Not truly modification. There was just a check and
- 15 perhaps some things were done. This is not my
- 16 writing. This is the mechanic's, I believe.
- 17 Q All right. Well, now, dropping down to the entry for
- 18 June, the third entry for June 8th, which is Tyee Lake
- 19 and then your name and the hours?
- 20 A Yes.
- 21 Q From the rest of that page, is that your handwriting?
- 22 A Yes, it is. All of it.
- 23 Q What I would like you to do is to identify for his
- 24 lordship the entries which do not relate to flights
- 25 over the guiding area or relate to the nature or to
- 26 your business in that area, could you do that for us?
- 27 A Yes, your lordship. For that purpose, I have marked
- 28 every entry that did not relate to guiding by a red
- 29 line to mark it so that everything else that isn't
- 30 marked refers to me, myself, flying into my area.
- 31 Q Well, now, nobody else's has those red marks on them,
- 32 so can you just read out to us for the first page and
- 33 then perhaps we can mark it after that?
- 34 MR. RUSH: He has in front of him a copy with red marks on it?
- 35 MR. GOLDIE: Yes.
- 36 A I have made these red marks personally.
- 37 THE COURT: And the red marks relate to --
- 38 A To the times when I flew the aircraft that essentially
- 39 had nothing to do with my guiding activity. So,
- 40 therefore, the balance, the entries that are not
- 41 marked in red, refer to the guiding activity.
- 42 MR. GOLDIE: All right. Just so that we get an idea of what
- 43 you're talking about, tell us on the first page which
- 44 are entries that you have identified as not related to
- 45 your guiding business?
- 46 A Well, June 8th and there is another June 8th -- of
- 47 course May 11th, June 8th, June 8th, and then going

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- 1 down the page, everything else relates to guiding
2 until we come to July 3rd. Then July 7th, 7th --
3 Q July 3rd. Yes?
4 A July 7th, again on the 7th, and then July 9th. Those
5 are the ones which do not reflect my flying as having
6 anything to do with guiding per se.
7 Q Now, I think the geographic descriptions are clear
8 enough, but on July the 5th, you got "Slamgeesh L.",
9 and that's Slamgeesh Lake?
10 A July 5th, Tyee Lake to Slamgeesh Lake.
11 Q The next one, Slamgeesh Lake to High Lake?
12 A High Lake, yes.
13 Q That's one of the three names that you gave to that
14 little lake?
15 A Yes.
16 Q Then High Lake to Slamgeesh?
17 A Yes.
18 Q And then Slamgeesh back to Tyee. So that day, just so
19 that we have this by way of an illustration, that day
20 took you from a start off on 8:45 in the morning and
21 return to Tyee Lake at 4:20 in the afternoon?
22 A Yes, sir.
23 Q And you were at Slamgeesh Lake, High Lake back to
24 Slamgeesh Lake and then back to Tyee Lake?
25 A Yes.
26 THE COURT: Would it take 1.4 hours to fly from Slamgeesh to
27 Tyee lake? Or does 1.4, does that mean 1.4 hours?
28 A It means that, yes, my lord. That's what it means.
29 THE COURT: Would it take that long?
30 A With this plane, it did. Now, let me explain
31 something. A lot of the times when I flew it was for
32 observation purposes, I just didn't fly the very
33 straight line, I flew in places I was interested in
34 looking and exploring, like I mentioned before, and
35 that's the reason for the discrepancy in time. And
36 also the weather factor, sometimes I had to fly around
37 storms and whatever I had to do.
38 MR. GOLDIE:
39 Q Before I go on to the next page my lord, could I have
40 this marked as an exhibit? That would be the document
41 that has been placed before your lordship.
42 THE REGISTRAR: 1085, my lord.
43
44 (EXHIBIT 1085: PHOTOCOPY OF AIRCRAFT LOG)
45
46 MR. GOLDIE:
47 Q Maybe the best way of doing this is to go over to the

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1 next page and give us the dates of the flights that do
2 not relate to your business?
3 A July 20th and July 20th, July 26th and July 26, July
4 29th, July 29th, August 14th, August 14th, August
5 15th, August --
6 THE COURT: What is that? Is that August 17th there?
7 MR. GOLDIE: It looks like 17 but it --
8 THE COURT: There is two July 29s, and is the next one August
9 14th?
10 A Yes, And the other one was 14 too.
11 MR. GOLDIE:
12 Q Those record flights to -- from Kamloops and back, by
13 way of Williams Lake; is that right?
14 A Let me just study that. At which date are we
15 beginning?
16 THE COURT: July 26.
17 MR. GOLDIE: July 26 you started off?
18 A Yes, that's exactly it. Hm-hmm.
19 Q All right. Would you continue please?
20 A August the 15th, August 18th, well, I am not sure what
21 I meant, it looks like 11 but obviously can't be.
22 It's probably a very flat 18 there, the next one,
23 August 18th.
24 Q That is Kamloops to Williams Lake?
25 A Yes. August 18th. August 18th.
26 Q Yes.
27 A And all the rest reflect -- all the balance of the
28 entries reflect flying that had to do with guiding.
29 Q Just to identify place names so that this can be
30 referred to later on, the entry for August 28th, I can
31 make out Tyee lake and there is, is the destination
32 Canyon Lake?
33 A Where is this again?
34 Q August 28th.
35 A Yes, that's right.
36 Q And the preceding day, August 27th?
37 A Skeena Lake to Tyee Lake. You see, sometimes, you
38 know, this is made out in a hurry so I sometimes
39 abbreviated and I guess my writing isn't that clear to
40 a lot of people.
41 Q Nobody is going to criticize you for your writing.
42 Just that we want to be able to refer to it when
43 you're not here.
44 THE COURT: Wish I could say that.
45 MR. GOLDIE:
46 Q All right. Would you go over to the next page,
47 please?

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1 A All the entries on this page, beginning August 30th
2 and ending September 11th, are pertinent to guiding.
3 Q That is with the exception of September 6th, which is
4 the 100 hour check; is that right?
5 A Well, if you noticed, you see, I am not sure who did
6 that, but if you notice that 100 hour check there is
7 no flight time, in other words the plane -- this must
8 have been done in Smithers.
9 Q But I mean --
10 A September 6th, yes, I see what you mean.
11 Q The entry is not directly related to your flights
12 over --
13 A To flying at all, no.
14 Q All right. Thank you.

15 THE COURT: Could we take the morning adjournment, Mr. Goldie?
16 MR. GOLDIE: Yes, my lord.

17
18 (PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING RECESS)

19
20
21
22
23 I hereby certify the foregoing to be
24 a true and accurate transcript of the
25 proceedings herein to the best of my
26 skill and ability.

27
28
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32 Wilf Roy
33 Official Reporter
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I. Steciw (For Province)
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1 (PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
2 THE REGISTRAR: Order in court.
3 THE COURT: Mr. Grant?
4 MR. GRANT: Before my friend, Mr. Goldie, proceeds, I just had
5 brought to my attention that Exhibit 1081, that is the
6 affidavit of Mr. Mike Morrell, is referred to in the
7 transcript at page 18439.
8 THE COURT: Yes.
9 MR. GRANT: The affidavit of Stuart Rush with amendments, that
10 should be the affidavit of Mike Morrell re: fishing
11 sites.
12 THE COURT: Yes. All right. Thank you. Mr. Goldie?
13 MR. GOLDIE: Thank you, my lord. My lord, Madam Registrar has
14 made a very sensible suggestion, and that is that the
15 photocopy of the 1986 and '87 logs, which the witness
16 has marked as indicating a use outside the guiding
17 area, would be marked as the exhibit and perhaps at
18 noon he might do the same with respect to the
19 subsequent logs and then I could leave it to the -- my
20 friends to make the same notations and that might save
21 us some time.
22 THE COURT: Thank you.
23 MR. GOLDIE:
24 Q Before I leave, however, this 1986 set of photocopy of
25 the logs for that year, I'd like you to turn to the
26 third page in. It begins with the August 30th, 1986
27 flight record. And down the third entry from the
28 bottom, September 10th, '86 and also September 9th,
29 '86, is that Boom Lake, that is B-double-o-m-L, that's
30 Boomerang?
31 A Yes. I was just going to explain that. That is what
32 I have referred to as Boomerang Lake. I think I
33 remember on a few occasions I called that Kwinageese
34 Lake, but that was again only because I tried to pin a
35 name on it and there wasn't one. I never landed in
36 Kwinageese Lake, the one that is on our maps
37 labelled -- you know, labelled Kwinageese Lake.
38 Q It's this one that you call Boomerang Lake?
39 A Yes.
40 Q All right. And the next entry, September 11th, '86,
41 Tyhee Lake to Twin Lake, that's, of course, your --
42 A Yes.
43 Q -- triple name friend?
44 A That's right.
45 Q All right. And then the top of the next page -- I
46 think that's reasonably clear. The first entry is
47 Swan Lake?

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- 1 A All the entries on that page from September the 11th
2 to September 18th refer to guiding only. All the next
3 page, September 19th to October -- I guess it's the
4 3rd --
5 Q They're all guiding?
6 A All guiding.
7 Q Yes?
8 A And from October the 4th to October the 13th, that is
9 guiding only. Now, on November the 2nd, that refers
10 to nonguiding, and also the last entry, January 29th.
11 Q Yes. The next page is -- starts January, '87?
12 A Yes.
13 Q And I take it that the aircraft -- this particular
14 aircraft was not used by you from October 13th, '86 to
15 January 30th -- or maybe even February 14th?
16 A Actually February 2nd.
17 Q February 2nd, right.
18 A Yes.
19 Q Just pausing there, can you give his lordship an idea
20 of the annual usage of your aircraft? And by annual
21 usage if you can express it in terms of hours.
22 Firstly, with respect to the aircraft that you had
23 before we come to the one that -- from which this log
24 is taken.
25 A From -- this log is taken approximately -- I think one
26 year was 209 hours. That was 1986, something to that
27 effect, the total usage. And I think 1987 it was a
28 bit more. It was 260 something odd hours. That's the
29 total usage.
30 THE COURT: 60 or 16?
31 THE WITNESS: 260, 2-6-0, or thereabouts.
32 MR. GOLDIE:
33 Q That's the usage for this aircraft?
34 A Yes.
35 Q Is that comparable? Is that a figure that can be
36 applied to the aircraft you had preceding this
37 aircraft?
38 A No. The aircraft that I had preceding this -- in
39 other words, the Cessna 185 that I had before this, I
40 would say 100 hours plus, just a bit over 100 hours
41 probably total yearly --
42 Q Can you -- can you translate that into the trips to
43 and from your guiding area? How many trips would that
44 represent approximately?
45 A Okay. Well, the 185 from Tyhee Lake, if the weather
46 is good and we don't have to go around, you know,
47 seeking out valleys, what have you, flying more or

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1 less the usual routes, it takes about an hour with a
2 185.
3 THE COURT: To Slamgeesh?
4 THE WITNESS: Yes. About an hour with -- that was the question,
5 wasn't it?
6 MR. GOLDIE:
7 Q Yes. Now, does -- can you translate that into an
8 approximation of the number of round trips that you
9 would make in the year?
10 A Well, it would -- just very vaguely, approximately --
11 like 100 hours would be approximately 50 trips
12 therefore or thereabouts.
13 Q I don't need to ask you that question because we have
14 the actual log of this aircraft.
15 A Yes.
16 Q When I say I don't need to ask you that question, I
17 mean I don't need to ask you that question with
18 respect to the aircraft for which we have the logs.
19 The -- there is -- now, going over several pages
20 following the certificate of airworthiness, it picks
21 up at May the 18th, '87. And there are, I understand,
22 a number of entries on that page which are not
23 connected with your -- with your guiding?
24 A Yes. Quite a few.
25 Q The -- for instance, May the 25th, '87 Tyhee Lake.
26 And what is -- what's the destination there?
27 A May 25th Tyhee Lake to Fort Babine and Fort Babine
28 back to Tyhee Lake. The one after that, that
29 probably -- you know, in all -- Fort Babine is on
30 Babine Lake and this is where I go on a monthly basis
31 more or less to see -- to take care of medically the
32 natives at Fort Babine.
33 Q You say monthly. Are you the -- are you the medical
34 officer at that band?
35 A Yes.
36 Q All right. Now, going on down the page there's one
37 other name that I wish to ask you about. And that is
38 for July the 1st, Tyhee Lake, Coles. Is that Coles
39 Lake?
40 A 2nd July.
41 MR. GOLDIE: July 1st, '87.
42 THE COURT: It's bracketed with a star, second star from the
43 bottom.
44 THE WITNESS: Yes. That's Coles Lake, that's right.
45 MR. GOLDIE:
46 Q Where is -- is that within your guiding area?
47 A No. No, it isn't. It's south of Smithers,

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- 1 essentially just outside the boundaries of Tweedsmuir
2 Park.
3 Q All right. Perhaps you would be good enough to locate
4 that on the -- on the map.
5 A I'm just going to find it, my lord. Coles Lake. It's
6 just essentially south of Troitsa Lake.
7 Q How do you spell that last name?
8 A T-r-o-i-t-s-a Lake.
9 Q Yes?
10 A And Coles Lake is just south of it.
11 Q Those two lakes then are in the, what, southeast
12 corner of the area marked on that map as the claims
13 area?
14 A As the claims area?
15 Q The solid black line which is shown as outlining the
16 boundaries of the lis pendens area. Maybe Mr.
17 MacKenzie --
18 A Southwest.
19 Q Southwest. Thank you. All right. Now, would you put
20 a number on that, please, Coles Lake itself?
21 A What is the number?
22 Q It would be 27.
23 A I think it may be 28.
24 Q 28.
25 A I'm putting down number 28.
26 Q All right. Thank you. Now, if you could return to
27 the witness box.
28 Could you tell me with respect to Coles Lake,
29 since it is clearly outside your guiding area, what
30 was your purpose in going there?
31 A Just personal fishing pleasure trip. And I've done
32 actually quite a few of those with my previous
33 aircraft.
34 Q It's not the first time you've been in that lake?
35 A No. I know the lake quite well.
36 Q Did you see any signs of human activity there?
37 A Yes.
38 Q Would you describe those, please?
39 A There were other fishermen there. Some I remember
40 flew in with a Malle aircraft to be exact. We used to
41 fish at the west end of the lake. See, the lake is
42 like two parts to it. There's, like, two lakes joined
43 by an isthmus essentially, by a narrow bank of water,
44 and I was in both parts.
45 Q You saw fishermen there?
46 A Yes.
47 Q Were they native?

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- 1 A No. No. There was some non-native person from, I
2 think, Burns Lake or somewhere.
- 3 Q Can you give me an approximation of the number of
4 times you've been in that lake?
- 5 A Let's see. Oh, the number of times total?
- 6 Q Yes.
- 7 A Oh, at least six times.
- 8 Q What is the means of access? You went in there by
9 aircraft?
- 10 A Yes.
- 11 Q Can you get into that lake otherwise than by aircraft?
- 12 A Not any road. I noticed kind of like trails just
13 north of the lake. By trails I mean something that
14 could be made by motorcycle or what have you, you
15 know, or all terrain vehicle but not into the lake.
- 16 Q All right. As I say, I'm not going to ask you to
17 identify each of the nonguiding uses for the rest of
18 the pages. That can be done by reference to the -- to
19 the exhibit itself. But I do want to ask you a little
20 more about some of the place names on the next page.
21 Beginning with July 27th, '87, the entry for -- the
22 second entry for August 21st, '87, what is the -- what
23 is the --
- 24 A Oh, that's Tchesinkut Lake, and I have that marked as
25 non -- as a use that is non -- not related to guiding.
- 26 Q All right.
- 27 A And that was probably a flight to see a mechanic who
28 was in Tchesinkut Lake, John Hodge.
- 29 Q August 25th, what is the destination recorded in the
30 first entry?
- 31 A Okay. Tyhee Lake to Tantan Lake. That's my --
32 actually a mistake. It's what I called sometimes
33 Tantan Lake. It was a mistake. It was Kluatantan.
- 34 Q So if we see Tantan, we can take it as Kluatantan?
- 35 A That's right.
- 36 Q And that's within your guiding territory?
- 37 A Yes.
- 38 Q Thank you. August the 30th, Tyhee Lake, (BW), is that
39 one that is part of your guiding activity?
- 40 A Just a second. I remember I saw that and for some
41 reason I thought -- yes, it was. Somehow I thought
42 what that meant was that -- that I returned. Oh, BW,
43 bad weather. I mean I have it marked in there.
44 There's lots that I haven't got marked that were still
45 bad weather so I had to return.
- 46 Q That explains the fact that there is no destination
47 for that flight?

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- 1 A That's right.
- 2 Q All right. Thank you. Over on the next page,
3 September 17th, Lake Else, that would not be a guiding
4 flight, would it?
- 5 A No. It's marked actually as such, but it wasn't.
- 6 Q Yes.
- 7 A It -- the reason I went to Lake Else was either to
8 have -- yes. In this case I was going to say either
9 to have mechanical work or a personal visit to my
10 mechanic. He's passed away since.
- 11 Q I have trouble making out the next entry, September
12 18th.
- 13 A Oh, September 18th.
- 14 Q Tyhee Lake?
- 15 A Tyhee Lake. Mosque Lake, I believe that is, and I
16 could hardly make it out myself and it's my
17 handwriting.
- 18 Q That's fine. Thank you. And then over the page
19 just -- are there any flights on that page which are
20 not related to your --
- 21 A I don't believe so. I went through this before.
- 22 Q And that takes us through September. The next page is
23 October and then we get to November. The last
24 entry -- or the last flight in October, '87 is Tyhee
25 Lake to Williams Lake and Williams Lake to Kamloops.
26 Then there are entries for November and then it jumps
27 to January and February. Now, with respect to your
28 flying activities in -- in 1986 and '87, the months
29 which you do not appear to fly -- well, perhaps you
30 can tell his lordship. What are the months that you
31 do not fly in relation to your guiding activities?
- 32 A Well, the months I don't fly due to my guiding
33 activities -- well, it breaks sort of into two parts.
34 I suppose one is times when it's just dangerous, and
35 that would be at freeze up and just after. Let me
36 explain that. Even in late October or any time also
37 in October, certainly November, ice begins to form in
38 many of these lakes. So you can't land on floats.
39 And, of course, the ice is extremely thin so you can't
40 land on skis. So most of the times a person has to
41 wait just about until January, and in a very mild year
42 you're kind of wondering whether you have enough ice
43 in January even to hold up an aircraft. And sometimes
44 I don't fly much in June and July, as much as, for
45 example, September, October, because there's no
46 guiding at that time for me.
- 47 Q Now, I think you explained to his lordship that in

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- 1 1986 you engaged in a rather extensive reconnaissance?
2 A Yes.
3 Q And that had to do with your guiding business though,
4 did it not?
5 A Yes, of course.
6 Q Now, the -- I do not see entries here for the early
7 spring, that is to say -- well, there appear to be
8 some entries in March and some in April but not very
9 many. What -- what are the flying conditions in those
10 months?
11 A Well, you see, once the lakes -- and this depends on
12 the weather -- begin to unthaw and poor conditions --
13 again, you can hit slush as you're landing the
14 aircraft. You know, you can get into an accident that
15 way. And also once conditions get really warm, then,
16 of course, you're again afraid to break through the
17 ice or even break through the sort of -- usually
18 there's a few layers of ice on the lakes. Sometimes
19 you can have a thin top layer covered with some snow
20 and you may break through that. So that's the danger
21 of it. The best time to fly is actually February,
22 maybe first part of -- winter flying.
23 Q Yes.
24 A February, probably in the first part -- first part of
25 March.
26 Q All right. Now, I'm going to come to that, but before
27 I do, I want to have you identify the -- I want to
28 have you identify the next set of log entries. And
29 I'm showing you a -- a stapled number of pages from
30 what appears to be the -- a logbook, the first entry
31 of which for purposes of identification is June 11,
32 '88, KA local. Now, does that carry on from the last
33 date in Exhibit 1085, which is March the 31st, '88,
34 but are we now talking about a different aircraft?
35 A Yes.
36 Q All right. And the documents that I have just shown
37 you, is that for your new aircraft or your present
38 aircraft up to the current -- reasonably current
39 period?
40 A Yes, it is. It's a 185 Cessna.
41 Q And the same thing with respect to the earlier one.
42 The entries with respect to destination and equipment
43 and things like that are for the main in your
44 handwriting?
45 A Yes.
46 MR. GOLDIE: My lord, I ask that that bundle of logbook entries
47 be marked as an exhibit.

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1 MR. RUSH: What's being marked here now?
2 MR. GOLDIE: I think it's 19 pages from the logbook of Mr. -- or
3 Dr. Steciw's presently owned aircraft.
4 MR. RUSH: I think there's 18.
5 MR. GOLDIE: 18.
6 THE COURT: Is this aircraft designation KA local?
7 THE WITNESS: No. Charlie, golf -- that's CGWVF, whiskey,
8 Victor, foxtrot.
9 THE COURT: CG.
10 THE WITNESS: Yes. It's WVF.
11 THE COURT: What does KA local mean, top line?
12 THE WITNESS: Oh, this was -- this was actually filled in by
13 Dave Barren, who was doing -- he's a pilot, but he's
14 in Kamloops, who is -- this is probably Kamloops, KA
15 local flight, because he did a lot of work on it.
16 THE COURT: KA is Kamloops?
17 THE WITNESS: I take it this is what it means.
18 MR. GOLDIE:
19 Q That's not an entry in your handwriting?
20 A No. No, that is not. Could I mention something?
21 Q Yes.
22 A For purposes of clarification, this aircraft I have in
23 partnership with a man called Myron Smaha and some of
24 the entries in here are his. There are very few. And
25 this refers to the previous question which was put,
26 whether these are all my entries. They're not. They
27 by and large are, but some of them are his.
28 THE COURT: They're indicated.
29 MR. GOLDIE:
30 Q Yes. I should have said -- I should have been more
31 precise -- that the entries with respect to which you
32 are named as the crew are in your handwriting, are
33 they?
34 A Yes.
35 MR. GOLDIE: All right. It is that bundle of documents which
36 I'm tendering as an exhibit, my lord. When I say
37 that, I mean 18 pages extracted from the logbook of
38 Dr. Steciw's aircraft which he has identified as being
39 owned by himself and in partnership with Mr. Smaha.
40 THE COURT: Up to July the 6th, '89?
41 MR. GOLDIE: Yes.
42 THE COURT: All right.
43 THE REGISTRAR: 1086, my lord.
44 (EXHIBIT 1086: Log - Steciw, June 11, 1988 to July 6,
45 1989)
46 MR. GOLDIE:
47 Q I'm going to ask the witness to do the same with

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1 respect to this exhibit as he did with the previous
2 one, namely to mark in red -- and this can be done
3 over the lunch hour -- to mark in red the nonguiding
4 flights. Would that be a --
5 A That's fine. I'll do that.
6 Q All right. Now, taking the aircraft usage that is
7 represented in these two exhibits, namely 1085 and
8 1086, you have explained to his lordship that there
9 are certain times of the year in respect of which it
10 is undesirable and perhaps even dangerous to fly. If
11 I understood your evidence, you have identified that
12 freeze up time sometime starting perhaps towards the
13 end of October --
14 A Yes.
15 Q -- and extending into November. And the -- the period
16 of thaw in the spring which -- whatever time that is,
17 but sometime --
18 A Sometime in March.
19 Q March.
20 A Probably late March.
21 Q And extending into April?
22 A Yes.
23 Q Yes. All right.
24 A Depending on the year.
25 Q Am I correct then in concluding that with the
26 exceptions of those two periods of time, that you have
27 had occasion to fly over your guiding area in every
28 other period of time of the year, sometimes with
29 greater intensity, of course, but that your period of
30 surveillance is virtually year round with the
31 exception of the freeze up and thaw times?
32 A Yes.
33 Q All right. I want to address your attention to your
34 winter flights. And I think you told his lordship
35 yesterday that for your winter flights you usually
36 substitute a ski arrangement on the aircraft; is that
37 right?
38 A Yes. On the 185, the previous one, and this one, on a
39 PD 12 it was a permanent ski. You took the wheels
40 off, you put it on skis and you flew out of the lake.
41 You had to land on the lake and fly into the lake.
42 Q I see. But with the present configuration you can
43 land at an ordinary airstrip and then you can land on
44 a lake?
45 A Yes.
46 Q What would -- what would be the result of flying in
47 the winter so far as observation is concerned? What

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1 can you -- would you describe for his lordship what
2 you can see in the winter that you don't see in the
3 summer?
4 A Well, it's extremely easy to see tracks of animals and
5 all kinds of tracks, much more, of course, than in
6 summertime or any time that the snow is not on the
7 ground.
8 Q And are you able to distinguish, for instance, let's
9 say, snow-shoe tracks from the tracks of animals?
10 A Oh, yes.
11 Q The -- before asking you to answer the next question,
12 I would like you to indicate on the map with a line
13 your usual routes. You've described them, but I'd
14 like you to place it on the map, your usual routes.
15 A Okay.
16 Q From Tyhee Lake to Chipmunk, Slamgeesh Canyon.
17 A Okay. There are primarily three usual routes. And
18 you want these on dotted lines?
19 MR. GOLDIE: Yes. I'd like it a red line, please.
20 THE COURT: Red solid line or broken line?
21 MR. GOLDIE:
22 Q Well, let's make it a red solid line for the first
23 one.
24 A Tyhee Lake.
25 Q You're starting out at Tyhee Lake?
26 A Tyhee Lake.
27 Q And what is the destination that you're going to go?
28 A Say to Slamgeesh, because that seems to be the
29 centre -- essentially the hub of my activities, so to
30 say.
31 Q Okay.
32 A I would fly along the river east.
33 THE COURT: You're making a dotted line?
34 THE WITNESS: Yes. Or a dashed line. East of the river.
35 THE COURT: The Skeena River?
36 THE WITNESS: No. The Bulkley.
37 THE COURT: Bulkley River.
38 THE WITNESS: Yes. Okay. Just staying -- just sort of --
39 usually I don't gain enough altitude, at least not on
40 the floats, to clear the blunt mountain, so I just
41 stay on the -- stay west of the mountains and then I
42 go through a pass most of the time called Natlan Pass,
43 I guess you can call it, and then I go more or less
44 cutting -- making a straight line as much as possible,
45 depending on the elevations and clouds and so forth,
46 to Babine River and going north approximately this way
47 over Damsumlo Lake, which is here, and then I go down

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1 into the Skeena just usually where the Sicintine River
2 runs into the Skeena here. And then you see here I
3 have a choice. Depending on the weather, I can go
4 either to -- I drop into the Skeena. I fly over the
5 Skeena. Usually I can go -- there are usually a
6 few -- for purposes of emergency a few good straight
7 places on the Skeena River itself in bad weather,
8 which is between Canyon Lake and where the Slamgeesh
9 River comes out, and then I either go to Canyon
10 Lake -- let's say if I go to Slamgeesh, it will be
11 sort of this direction right here. That's the -- you
12 know, that's the preferred route. I have also
13 taken --

14 MR. RUSH:

15 Q Well, now before you go on, you say that's your
16 preferred route?

17 A Yes.

18 Q Would you put somewhere along that route which you
19 have marked in red pencil an interrupted line or a
20 large A?

21 A Somewhere along that route?

22 Q Somewhere along that route so we know which one is
23 your preferred route.

24 A Okay.

25 Q Now, the variations.

26 A Okay. Sometimes I would go -- you see, once I have
27 cleared -- once I'm at this point --

28 Q What is this point?

29 A I'm sorry. This point almost over Babine River,
30 thereabouts, I can see which way the weather is, you
31 see. If that looks particularly bad, then I would go
32 through -- up Shelagyote River and via Sicintine Lake
33 and essentially out here into the Skeena. There's a
34 little kidney-shaped lake, again with no name, which
35 we can refer to as Kidney Lake, I suppose, and then
36 I'm very close to Slamgeesh. And if the weather is
37 socked in there, I can always go here along the
38 Skeena, and, of course, see if I can land in one of
39 the other camps.

40 Q That route, if I followed you correctly, takes you to
41 the east of your preferred route?

42 A Yes. A little bit.

43 Q All right. Perhaps you might mark that with a
44 slightly different method, either a solid line or a
45 long line and a dot and a long line starting out from
46 the point that you would diverge from the Babine.

47 A Okay. See, I just have to place Sicintine Lake. Here

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1 we are, Sicintine Lake. There's a little bit of
2 variation here. Say suddenly gets good weather. For
3 example, I can go right over these flat mountains and
4 in there but generally speaking in this direction.
5 THE COURT: That's a solid line, is it?
6 THE WITNESS: Solid line with a dot in between.
7 MR. GOLDIE:
8 Q All right. And could you mark that with a B?
9 A Okay.
10 Q Now, you said you had basically three routes?
11 A Yes.
12 Q And I take it, doctor, that from your evidence that in
13 respect of all of these three there are local
14 variations depending on the weather and --
15 A Oh, yes, absolutely.
16 Q All right. Now, what about the third one?
17 A The third one would be essentially -- and this could
18 start from any point. I see that it might be closed
19 off, you see, from Tyhee Lake to anyone. It's
20 essentially along -- let's see -- along -- along the
21 Nilkitkwa River along -- Nilkitkwa River up through
22 Motase Lake and down through Squingula. And again I'm
23 here. I have a choice, either to go down river and
24 land somewhere here or go up here to this part.
25 Q Well, now, that route again is further east at least
26 up to the last point you described?
27 A Yes, it is.
28 Q Would you take it -- draw a solid line then -- I take
29 it we haven't used up solid lines yet -- a solid line
30 from Tyhee Lake to the point where it joins -- where
31 you say you have a choice?
32 A Well, I suppose it might -- it could -- you know,
33 depending again on all kinds of weather conditions, it
34 might overlap the previous route up to a point or, you
35 know, up to and including Babine River. Probably
36 that's the usual cut off.
37 Q All right. If Babine River is the place where you
38 usually make a choice, start from the Babine River.
39 A I -- I should really sort of end it here because here
40 it's -- it depends which way I'm going. I am at the
41 confluence of the Squingula River and Skeena.
42 Q That's -- that's the place where you -- as you said a
43 few minutes ago, you had a choice?
44 A You decide what to do.
45 Q Would you put a C beside that variation?
46 Now, at least one of those variations takes you
47 over territory other than your own territory; is that

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- 1 correct?
- 2 A Yes. Could I mention something? There is also
- 3 another route that sometimes I take, and that's right
- 4 along the Bulkley River to Hazelton essentially and up
- 5 the Skeena.
- 6 Q Following the Skeena all the way?
- 7 A All the way.
- 8 Q Yes. All right. Well, you don't need to mark that.
- 9 That would take you entirely within your territory, at
- 10 least from --
- 11 A Yes. From Suskwa River and Babine on, yes.
- 12 MR. GOLDIE: All right. Now, with respect to having described
- 13 to his lordship the variations and the -- and the
- 14 routes that you -- used to get to and from the
- 15 Slamgeesh or Chipmunk or Canyon, would you describe to
- 16 his lordship --
- 17 THE COURT: Go ahead, Mr. Goldie.
- 18 MR. GOLDIE:
- 19 Q -- your personal observations with respect to native
- 20 peoples hunting or fishing or using the natural
- 21 resources in the areas that you have hunted in, guided
- 22 in or overflown?
- 23 A Well, really I haven't observed any at all.
- 24 Q And that is any evidence of native peoples hunting,
- 25 fishing or using the natural resources in these areas
- 26 that you have hunted, guided in or overflown?
- 27 A No, I haven't.
- 28 Q All right. Thank you. Now, with respect to winter
- 29 flying, I forgot to ask you if it's possible to
- 30 identify human tracks, if -- if -- other than
- 31 snow-shoe tracks.
- 32 A Well, not from the air, I don't think, because, you
- 33 know, when a human sinks into three, four feet of
- 34 snow, it's extremely hard to tell that from a moose.
- 35 So I would say -- I would say basically no.
- 36 MR. GOLDIE: But anybody who's in that area -- and you answer
- 37 from your own experience, please.
- 38 MR. RUSH: What area?
- 39 MR. GOLDIE:
- 40 Q The areas overflown by the witness during his winter
- 41 flights -- and I should say areas -- would be
- 42 virtually required either to use snow-shoes or to be
- 43 using a skiddoo or some other similar --
- 44 A Oh, yes.
- 45 Q Did you see any tracks of skiddoos?
- 46 A No, never.
- 47 Q I want to ask you a few further questions with respect

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1 to the means of -- present means of transportation.
2 And I'm now referring to your guiding area. You have
3 testified that you use your -- rely upon your plane.
4 How are your customers brought in? Do you fly them
5 in?
6 A No. By law I can't do that. They're flown in by a
7 commercial aircraft service called Central Mountain
8 Air --
9 Q Right.
10 A -- into my area and they fly out of my area to
11 Smithers in the same manner.
12 Q Is there any means of transportation using the Skeena
13 River? I'm talking now about river boats.
14 A In -- no. I don't believe. Skeena River is
15 extremely, extremely broken up by rocks and rapids and
16 so forth at various places. I think it's impossible
17 for anyone to get, like, say, from Hazelton, oh, up
18 to -- up the Slangeesh, for example.
19 Q Yes. All right. Now, what about roads? And again
20 let us start with Hazelton. There are --
21 A Yes.
22 Q We've had evidence here, of course, of roads which
23 extend to Kispiox and beyond and you've referred to
24 forest access roads. For all practical purposes,
25 including the use of four-wheel drive vehicles, how
26 far up the Skeena can one go using roads or forest
27 access roads?
28 A Essentially to the confluence of the Babine River and
29 the Skeena.
30 Q And beyond that it's --
31 A One of the roads goes up the mountain a little bit --
32 let's see -- on the -- on the west side, but it runs
33 out on a tree line. That's where it ends. But this
34 is the general statement, yes.
35 Q Do you know where the -- where Kuldo is?
36 A Kuldo Lake?
37 Q No, not Kuldo Lake, the old Indian reserve site of
38 Kuldo.
39 A Yes, I do.
40 Q Is there a road up to there?
41 A Not that I could see at all.
42 Q What about trails?
43 A I was never on the ground, on the site of Kuldo.
44 Q Yes. How about trails beyond the -- the end of the
45 roads, which you have placed for all practical
46 purposes at -- at the confluence of the Babine and
47 Skeena Rivers?

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- 1 A Well, as we know, there's the historical telegraph --
2 telegraph -- telegraph trail.
3 Q Yes.
4 A But I haven't explored it that low down because
5 it's -- I don't think it's practical.
6 Q From your own personal knowledge and on the ground can
7 you say anything about the use of trails? Take
8 Slamgeesh Lake, for instance. You've testified that
9 you have cut trails in that area. Now, did any of
10 those trails that you refreshed, to use your word, or
11 cut utilize any part of the old telegraph trail?
12 A Yes.
13 Q Beyond the point that you stopped, what was the
14 condition of that trail?
15 A Unrecognizable, especially where the alder grow up.
16 You couldn't crawl through there hardly, so to say.
17 Q You say you couldn't crawl through there. You mean by
18 that that is impassable?
19 A It is an alder thicket, you know, and I suppose if
20 someone just winds themselves around the little alder
21 trees and so forth, you can sort of make some headway,
22 but it's not something that is used for travel by
23 anybody that I know of.
24 Q Is it -- assuming that a person on foot might get
25 through that to some extent, is it passable for
26 horses?
27 A No.
28 Q Are we talking now of the continuation of the
29 telegraph trail south of the area -- south of the
30 point at which you stopped your own trail-making
31 activities?
32 A Yes. South of Slamgeesh Lake and actually sort of
33 westerly towards Damskilgwit Lake that applies as
34 well.
35 Q The old telegraph trail is in the same condition; is
36 that correct?
37 A Yes.
38 Q And you have testified earlier that you have seen no
39 evidence of any use of that trail other than the --
40 the blaze which you saw. The blaze you saw on the
41 tree was not on the telegraph trail, was it?
42 A Oh, no. It was far off.
43 Q I asked you about a river boat on the Skeena and you
44 stated you had a boat on Stevens Lake?
45 A Yes.
46 Q Do you have boats elsewhere?
47 A Yes. I've transported this boat from Stevens Lake

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1 since once it was hidden on me, so it's at another
2 lake close by, which for confidential reasons I'd
3 rather not name. But I have -- oh, yes. I have boats
4 in most of my camps that I use quite frequently. I
5 have -- let's see -- aluminium boat and two canoes at
6 Slamgeesh. I have a canoe at Canyon Lake. I have a
7 canoe at Kluatantan Lake. I have a canoe at the
8 confluence of Foster creek and Skeena and I have a big
9 river boat that is hidden in the north, you know, for
10 obvious reasons, so people don't just pick it up and
11 use it, in the northern portion of the Skeena; let's
12 just put it that way.
13 Q You say a big river boat?
14 A 20 foot long, five foot wide.
15 Q How did that get in there?
16 A By a DC 3, which I believe I mentioned that I --
17 Q Yes?
18 A -- took in the spring of 1978.
19 Q All right. Now, that -- but that -- and is that a
20 powered boat?
21 A Oh, okay. Yes. It's a powered boat. What I leave
22 behind is just a hull, the boat. What I take out each
23 time, of course I use, is the outboard engine that
24 goes with it, and at first it was an 85-horsepower
25 Mercury with a jet attachment and now it's a
26 70-horsepower Mercury with a jet attachment.
27 Q And you use that on the Skeena?
28 A Yes.
29 Q Yes?
30 A On the Skeena.
31 Q That's -- that's fairly far north. That's beyond
32 Slamgeesh, I take it?
33 A Oh, yes. Yes.
34 Q All right. Do I take it then that the -- virtually
35 the only means of access into that area is aircraft?
36 A Yes. Unless one takes some sort of vehicle on the
37 railroad that can go on the tracks or coming from the
38 north on the railroad right of way.
39 Q Oh, yes. In that respect I asked you about evidence
40 of activity by native peoples of -- in respect of
41 hunting, fishing and use of natural resources. You
42 have testified that you have seen non-native peoples
43 in this area. You referred to a party of hunters at
44 the Chipmunk Creek and the Skeena?
45 A Yes.
46 Q And the party of engineers or surveyors on the B.C.
47 Rail speeder at the end of steel at Chipmunk Creek?

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- 1 A Yes. That's right.
- 2 Q Have you any other comments to make about evidence of
- 3 activity by -- in human activity, that is, in your
- 4 guiding area?
- 5 A I think -- let's see. I have met a man who flew in
- 6 once in the wintertime, once or twice, actually, to
- 7 Slangeesh. I think -- let's see. Bernie -- I think
- 8 his name is Bernie Desjardin, and he actually was
- 9 using my cabin and I just told him, you know, first of
- 10 all, to ask if he plans to use it and, secondly, I
- 11 like to have it as kind of my own retreat, so please
- 12 ask and let's not sort of, you know, use other
- 13 people's property. So he stopped coming. That was
- 14 long time ago.
- 15 MR. GOLDIE: I want to refer you to the -- to the map which is
- 16 presently marked or number reserved for is 55C. My
- 17 lord, I ask that that be marked as Exhibit 55C without
- 18 any requirement to keep it for identification.
- 19 MR. RUSH: Subject to what this man has proved. I think the
- 20 witness has proved certain areas.
- 21 THE COURT: For the purposes of the markings this witness has
- 22 made.
- 23 (EXHIBIT 55C: Map 13 - Boundary of lis pendens area)
- 24 MR. GOLDIE:
- 25 Q Yes. With respect to Exhibit 55C there are a number
- 26 of names indicating -- I assume, but you can confirm
- 27 this -- indicating the holders of other licences or
- 28 certificates?
- 29 A Um-hum.
- 30 Q And you made reference to area 22, McTague, who is the
- 31 man to whom you sold your interest in that guide
- 32 outfitting and you've referred to Mr. Collingwood?
- 33 A Um-hum.
- 34 Q I want you to tell his lordship the degree of
- 35 activities that you know from your personal knowledge
- 36 of the guide outfitters that are found -- whose names
- 37 are found on that map or if you know of successors or
- 38 others interested, the names of those people.
- 39 A Okay. Okay. I maybe should begin -- okay.
- 40 MR. RUSH: I think the witness should also state what the source
- 41 of his knowledge is so we can be clear how he
- 42 understands it.
- 43 THE WITNESS: My lord, this is just personal knowledge by
- 44 talking to these people and -- and actually obtaining
- 45 from these outfitters information. That's all were my
- 46 sources.
- 47 MR. GOLDIE:

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- 1 Q There is an association, is there not, of which --
2 A Yes. I was -- let's see -- I guess two years the
3 president of what is now called the Northwest Guides
4 Association, years ago were called the Skeena Guides
5 Association. So I suppose this is what you are
6 referring to.
7 Q Yes. And now in respect of each name, just state
8 whether you know them personally and the basis of your
9 information about any comment that you make on the
10 activity.
11 A Okay.
12 MR. RUSH: Well, I'm going to object to any of the hearsay. It
13 sounds like all this was based on what others have
14 told him about the area.
15 MR. GOLDIE: Except for personal observations of the activity.
16 THE COURT: First the last question was unobjectionable, do you
17 know these people, who are they and do you know them.
18 MR. GOLDIE: I want you to go through each of those one by one
19 and say whether you know them personally and if you
20 do, I'll ask you to tell his lordship what you know of
21 the activity that person carries on and if my friend
22 wishes more particular information about the source of
23 your knowledge, whether it is what you were told by
24 that person, what you have had occasion to observe or
25 any other source of information --
26 MR. GRANT: Well, I think it's my friend's obligation to lead
27 that from the witness. It seems to me that I've made
28 the objection, and I think it's well founded on the
29 basis of what the witness has said, and I think my
30 friend should elicit that.
31 MR. GOLDIE:
32 Q Well, we'll see as we go along. First let's start
33 with one that you have mentioned already, and that's
34 Mr. Collingwood.
35 A Yes. Okay.
36 Q Is he active, to your knowledge?
37 A Okay. To my knowledge, yes, he is.
38 Q And what is the basis of your knowledge?
39 A Well, he tells me which personally. Also, when I took
40 this route flying through Sicintine Lake, on a number
41 of occasions, which is in his guiding area, which is
42 right over here, I have personally seen one of his
43 camps as having, you know, fresh activity there, smoke
44 from the cabin and so forth. And once, which was,
45 let's see, last year, I think I even went and flew in
46 there and flew in a canoe for him as a favour and
47 there was something to the tune of five, six people

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- 1 there preparing the cabin for the hunt.
- 2 MR. GOLDIE: From your knowledge of his equipment and activity,
3 is his outfit larger, smaller or about the same size
4 as yours in terms of the number of people that guided
5 and the equipment?
- 6 MR. RUSH: Again, my lord, I ask my friend to -- what did he
7 see? If my friend is saying that he flew in there and
8 there were five people and he's making a comparison on
9 the basis of that, then I don't have a problem with
10 it. I do have a problem if Mr. Collingwood is -- he's
11 saying something that Mr. Collingwood may have told
12 him or others may have told him about Collingwood.
- 13 THE COURT: There is a problem here, isn't there?
- 14 MR. GOLDIE: Well, there is, but in my submission, my lord, it's
15 not much of a problem because the witness has had an
16 opportunity of personal observation. There is --
- 17 THE COURT: Well, he has told us about that, but I don't know
18 how he could compare the size of Mr. Collingwood's
19 operation with his own without more than stopping and
20 seeing five or six people preparing for a hunt.
- 21 MR. GOLDIE: That's true. But he -- if he has information about
22 other equipment or if he's observed other equipment --
- 23 THE COURT: Yes. If he can -- if he can say those sort of
24 things, we can certainly hear it.
- 25 MR. GOLDIE:
- 26 Q Let us see if that's the only time that you've had an
27 opportunity of being in Mr. Collingwood's guiding area
28 or of being aware of the nature of equipment used
29 or -- for instance, to your personal knowledge from
30 observation either from your aircraft or otherwise,
31 does he use horses?
- 32 A In that area from my personal observation, no, but --
33 could I point out something for the benefit of the
34 Court for clarification? There are two Collingwoods
35 here: Mr. Reg Collingwood, who this area belongs, and
36 Ray Collingwood, who guides in the Spatsizi. Their
37 operation is essentially run as one. So whereas -- to
38 the best of my knowledge, there is a lot of horses,
39 something like 30 or so in the Spatsizi guiding area.
40 I certainly haven't seen one and to the best of my
41 knowledge are not being used in that guiding area.
- 42 Q That being the one of Mr. Reg Collingwood?
- 43 A Reg Collingwood, yes.
- 44 Q All right. Now, have you had any other opportunity of
45 observing the way in which he conducts his business?
46 Have you seen cabins within the area that are -- his
47 area? Have you identified cabins?

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1 A Yes. There's one in Sicintine Lake and there's one in
2 Motase Lake. Yes. That's all I have seen.

3 Q Yes. All right. And have you observed any trails
4 that have been cut in that area?

5 A I couldn't tell from the air if they were cut. There
6 could be possibly game trails.

7 Q Yes. Now, do you have any other information that you
8 can call to mind based upon observation which would
9 enable you to compare the degree of activity in
10 respect of Mr. Collingwood's operation and your own?

11 A Yes. I have an idea. The two, Reg Collingwood and
12 Ray Collingwood, their combined operations, I would
13 say, are substantially more than I am, but --

14 MR. GRANT: Is this a useful opinion, my lord, without --

15 THE COURT: I don't know. I think I'll take lunch to consider
16 it.

17 THE REGISTRAR: Order in court. Court stands adjourned until
18 two o'clock.

19
20 (PROCEEDINGS ADJOURNED)

21
22 I hereby certify the foregoing to be
23 a true and accurate transcript of the
24 proceedings transcribed to the best
25 of my skill and ability.

26
27
28
29 _____
30 Kathie Tanaka, Official Reporter
31 UNITED REPORTING SERVICE LTD.
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1 (PROCEEDINGS RESUMED AT 2 O'CLOCK P.M.)

2

3 THE COURT: Mr. Goldie?

4 MR. GOLDIE: Thank you, my lord,

5 Q Dr. Steciw, before lunch we were discussing the other
6 guide outfitters of whom you have knowledge in the
7 claims area, and you had referred to Mr. Ray
8 Collingwood and to Reg Collingwood?

9 A Yes.

10 Q And my recollection is that your route, alternate
11 route C, takes you over Demsumlo Lake, and I think you
12 testified to that this morning?

13 A Yes, one of the routes I have drawn. Would you like
14 me to check?

15 Q Yes, I think it's A, so Mr. Mackenzie tells me.

16 The -- are you able to estimate how many times you
17 may have flown over that particular area? When I say
18 that particular area, I am talking about the Demsumlo
19 Lake area in the Upper Shedin Creek drainage?

20 A Yes, many times. It's hard, really, for me to just
21 give an exact figure but I would say, 50, 60 times
22 anyway, to the best of my belief.

23 Q Is the -- have you ever seen any trapping activity in
24 that area?

25 A No.

26 Q Is there any aspect of that area that would lead you
27 to conclude that if there had been trapping activity
28 that you would have seen it, seen signs of it?

29 A Let's put it -- let's put it this way: Whenever there
30 is snow on the ground, anyone or any animal, that is,
31 you know, utilizing the area, would be quite easily to
32 spot the tracks. If we judge activity in terms of
33 signs, tracks, what I can see from the air then, no,
34 it's a unique area in that I haven't seen any animal
35 tracks there, ever, to my recollection. There is
36 nothing there so to say, game-wise, that I have
37 observed at any time of year.

38 Q Is the terrain such that you are able to be reasonably
39 confident in the conclusions that you reached with
40 respect to your observations?

41 A Yes, actually, yes, this is what we call a park-like.
42 In other words, this is not just bush, this is sort of
43 open meadows and then clumps of bush and meadows and
44 so forth. So, if anything like tracks, you know, any
45 tracks would be around of any type, this would be
46 actually visible in the open places. And there is a
47 lot of open places. There are a lot of open places.

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- 1 Q All right. Now, I want to go back to Exhibit 55-C and
2 I want you to first tell me with respect to the names
3 that are on there whether you know them personally;
4 and, secondly, whether you are able to tell his
5 lordship from your own observations, as opposed to
6 what somebody might tell you, whether there is guiding
7 activity in those areas? Could you do that?
- 8 A Yes, I will do that.
- 9 Q And just give us the name of the person you are going
10 to speak of first and then the number that is on the
11 map and then to your knowledge if some other person is
12 the -- holds the guiding certificate for that area,
13 tell us that also.
- 14 A Okay. In the case of area labelled here 32, Ken
15 Belford, I know Ken personally. What I have seen of
16 his activities, personally observed, he has rather
17 large facilities at Blackwater Lake, and I have seen
18 active, actually -- well, I have seen people there, I
19 have seen some canoes, I believe, boats, and I have
20 actually landed there, come to think of it, once, and
21 that was sometime in the early summer, June, July,
22 last year. And he was there and his wife was there.
- 23 THE COURT: Show me where it is, please?
- 24 A Yes, Blackwater Lake, just west of Slamgeesh. There
25 is an alternate name, this is Slamgeesh here and
26 Wilanasik Lake and Blackwater, what we were call
27 Blackwater is Damdochax, it's an alternate name. And
28 his camp is on the northeastern side of the building.
29 There are two sets of building, incidentally.
- 30 MR. GOLDIE:
- 31 Q Perhaps you might put a number for that so we can
32 identify it for the record and put it approximately --
33 well, put it on the lake. Put it that way. Number
34 29.
- 35 A So I have observed those facilities and I have seen
36 him and his wife and they were very early on in the
37 summer, they weren't guiding then yet but they were
38 there. And during the season from time to time when I
39 flew from time to time I saw, you know, I would see a
40 canoe perhaps or some such thing.
- 41 Q All right.
- 42 A Excuse me, there are also some tent frames which
43 are -- it's not a cabin, it's essentially a frame over
44 which you put a big tent over, somewhere down
45 Damdochax Creek, going towards the Nass. But I am not
46 sure of the location. However, it's right beside
47 Damdochax Creek or river, whatever you want to call

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1 it.
2 Q If you are finished with Mr. Belford --
3 A I am finished with Ken. That's what I observed
4 personally. Karl Oysmueller, I actually observed
5 quite large facilities, including corrals, right,
6 well, the main sort of large cabin appears from the
7 air like a lodge, actually, almost, and a few smaller
8 cabins right on Kluyaz Lake --
9 THE COURT: How do you spell that?
10 A K-L-U-Y-A-Z, as I take it, but that's --
11 MR. GOLDIE:
12 Q Can you locate it on the map?
13 A Yes. And would you like me to put --
14 Q Would you put a 30 there, please?
15 Q And that you say is Mr. Oysmueller's camp?
16 A Yes. And a corral he has there too, a little bit
17 further removed in the lodge.
18 THE COURT: Where is it again?
19 A Kluyaz Lake. Right here, I think. 30.
20 THE COURT: Where is Slamgeesh?
21 A Slamgeesh is right here.
22 THE COURT: Almost at the northern external boundary?
23 A Yes, it's not in my guiding, of course.
24 THE COURT: This is your boundary?
25 A Yes. And, let's see, in 1987, there was really quite
26 a bit of aircraft activity, airplanes, you know,
27 flying in that direction. I take it they landed at
28 Kluyaz, the noises indicated it but I assume -- that's
29 an assumption.
30 MR. GOLDIE:
31 Q You observed these aircraft and they were going in
32 that direction I take it?
33 A Yes.
34 Q Go ahead?
35 A Ron Fleming.
36 Q What number is Mr. Fleming?
37 A Mr. Fleming is number 30. Well, first of all, he was
38 utilizing a cabin, which it reflects his past activity
39 before he sold me this little part, which is at the
40 junction of Kluatantan River and Skeena River, there
41 is a cabin there. He has camps, he has many camps,
42 actually. The ones I have seen were Kitchener Lake, a
43 long time ago I have seen that camp, a very well
44 developed camp, and Thutade Lake.
45 Q Yes.
46 A Would you like me to assign any numbers?
47 Q If you can locate those two camps, I believe they may

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- 1 be outside the claims area but locate them anyway and
2 give them the numbers --
3 A It's so long, I don't --
4 Q You don't feel comfortable --
5 A It's so long ago, I landed there, but I wasn't the
6 pilot, I was in a Beaver, we came ther, we had lunch
7 but I don't remember exactly where the Kitchener Lake,
8 to tell you the truth.
9 Q All right. So don't mark it then. But what about
10 Thutade?
11 A Thutade, yes, it's approximately, I already, well,
12 it's on the lake itself, the cabin, approximately
13 where I have indicated the circle.
14 Q That's number 30?
15 A Yes.
16 Q 31?
17 A 31. I am sorry. Yes.
18 Q All right.
19 A And he has boats there and so forth.
20 Q Dr. Steciw, you say approximately, is your use of that
21 word because of the scale of this map or your --
22 A No, it's because I was there only a few times and it
23 was some time ago and I have seen his facility but
24 right now to put an exact dot on that lake where it
25 was, I would rather not, for purposes of accuracy.
26 Q If you have nothing further with respect to Mr.
27 Fleming, that's fine.
28 A No. I guess this area number 29, that has Mr. D.
29 Robertson on it, I don't believe he holds that any
30 more, it's Maurice Polard, I believe.
31 MR. RUSH: Objection, my lord.
32 MR. GOLDIE:
33 Q Well, I asked him to state whether the map was correct
34 to his knowledge. And the source of his knowledge is
35 immaterial.
36 MR. RUSH: Well, does that make the map correct or incorrect?
37 MR. GOLDIE: No, the map is correct as of October, 1984.
38 THE COURT: But he is saying he understands that that person no
39 longer owns the territory?
40 MR. GOLDIE: Yes. It is part of the body of knowledge.
41 MR. RUSH: As long as we understand it to be hearsay and it
42 doesn't prove the map or prove who owns it.
43 THE COURT: It puts a question against that notation on the map,
44 is really all it does.
45 MR. RUSH: Yes. I mean, this person, this witness cannot prove
46 who owned it then or who owns it now.
47 THE COURT: He can prove who used to operate it.

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- 1 MR. RUSH: He can prove what he saw as an activity at that
2 place.
3 THE COURT: And possibly, depending on what he saw, who operates
4 it now.
5 MR. RUSH: Yes, I suppose he may be able to say there was a Mr.
6 Polard who was there at the time he was there and that
7 might lead to an inference that he operates it.
8 A The only camp that I have personal knowledge of is
9 again a camp on what I think people refer to, again
10 there is no name on the map, is White Lake, and there
11 is a cabin right on there and I have seen airplanes
12 parked there, I have seen people on the ground
13 walking, from the air, I think I have seen a boat
14 there. And I -- that was actually, specifically to
15 tell you the truth, 1986 and '87. Particularly 1986.
16 MR. GOLDIE:
17 Q And to your knowledge, what was the name of the person
18 that you thought was --
19 A Maurice Polard.
20 Q And to your knowledge, is he the operator of that
21 facility?
22 A Yes, to my knowledge, yes. Would it be 32?
23 Q Yes, please.
24 A Now, the next -- well, let's see, okay, the area
25 that's labelled number 20, Ben Ridenoure, I know him
26 personally, and I have seen their facilities at
27 McDonald Lake, number of cabins, boats, so forth.
28 That's the only facility I have been on the ground and
29 I have seen.
30 Q Are you able to locate that?
31 A Yes.
32 THE COURT: Is that the McDonald Lake we have heard so much
33 about just behind Hudson's Bay Mountain?
34 A Yes, yes. And that's number 32?
35 MR. GOLDIE: 33, I think.
36 A The next one is Mr. McIntyre, I know him -- I know
37 him, I know who he is, and the only facility I have
38 seen, and I have seen boats there, in fact could have
39 even seen people in the boats, but I know he has got a
40 cabin, that's on Moose Skin Johnny Lake. I have to
41 find the lake. Sorry, I am looking at Bartlett. I
42 will just have to find the right -- I went from Morice
43 Lake, where I saw his premises, the only time is when
44 I went from Coles Lake, where I was fishing, back and
45 forth, we used to fly actually through here.
46 THE COURT: Where is Smithers?
47 A It should be --

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1 THE COURT: Here or here?

2 A Right here.

3 THE COURT: All right. Thank you.

4 A You see, this is a confusing thing because I can't see
5 the lakes in blue. Right there, Moose Skin Johnny
6 Lake.

7 MR. GOLDIE:

8 Q Would you put a 34 to identify that, please?

9 A Although I know some of the other people, I haven't
10 personally observed any of their operations.

11 Q All right. Thank you. In respect of those that you
12 have referred to, is it your evidence that these
13 facilities are operated as guide outfitter businesses?

14 MR. RUSH: Isn't that a leading question, my lord?

15 THE COURT: Yes, I think it is.

16 MR. GOLDIE:

17 Q What use, to your knowledge, is made of the facilities
18 that you have just identified with the -- and the
19 evidence that you have just given?

20 A To the best of my belief, it's primarily for purposes
21 of guide outfitting, yes.

22 Q Now, Dr. Steciw, you testified in respect of the
23 licence, the guide licence, which I believe is called
24 a guide outfitter licence, and you -- yes, thank you.
25 Yours was -- has been marked as Exhibit 1083, I refer
26 you to the last page, which refers to assigned quotas.
27 Is that something which -- would you explain to his
28 lordship what that is?

29 A Okay. The game branch assigns quotas, in other words,
30 limitations, to some guide outfitters, areas or
31 portions of the areas, so that there is no overharvest
32 of certain animals. It's a conservation management
33 tool.

34 Q Now, is that a -- that is set annually, at least to
35 your -- in your case?

36 A It's set, if not annually, then reviewed annually, or
37 every two or three years, what have you, in the past.

38 Q Now, apart from what you find in your licence, do you
39 set limits on the animals that are hunted in your
40 guide outfitting area and, if so, why?

41 A Well, I do, actually set limits, because I think I
42 have a very good idea of, you know, what, you know,
43 the animal population, what sort of hunting pressure
44 it can stand and I see it from year to year. And in
45 fact, I have been more conservative on, say, mountain
46 goats than suggested by the game branch, just as an
47 example. So this is sort of a criteria that I use.

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1 Q So your own criteria?
2 A My own gut feeling, for lack of a better word.
3 Q All right. Thank you. Those are my questions, my
4 lord.
5 THE COURT: All right. We haven't had an opportunity or this
6 experience before, but I suppose Mr. Frey should go
7 next?
8 MR. FREY: My lord, I have no questions of this witness.
9 THE COURT: You don't need to go next then.
10 MR. GRANT: My lord, I -- just to speak to this, I -- of course
11 my colleague will be cross-examining, but I wish to
12 raise with your lordship that on this issue that we
13 take the position that the federal Crown should not be
14 allowed to cross-examine. This is, of course, a
15 discretionary matter in your lordship's hands, but
16 there is good reason, we say, in this case, when you
17 examine the pleadings as well as the conduct of the
18 two defendants, for you to exercise your discretion
19 not to allow the federal Crown to cross-examine.
20 THE COURT: Have your friends been made aware of this suggestion
21 you are making now?
22 MR. GRANT: We have not brought it to the attention of our
23 friends because we did not know whether or not, for
24 example, the federal Crown was going to elect to
25 cross-examine. They did not advise us as to their
26 intent either. So we didn't raise it. I am prepared
27 to deal with it now, in light of the circumstances
28 that Mr. Frey and the federal Crown is not
29 cross-examining this witness, I am prepared to argue
30 it later.
31 THE COURT: There are authorities that deal with this question.
32 I haven't looked at them lately.
33 MR. GRANT: And I have those.
34 THE COURT: I don't imagine you are ready to argue the matter?
35 MR. FREY: I haven't heard about it until this moment and
36 because I am not not cross-examining this witness, it
37 would really be an argument in a vacuum. I think it
38 would be more appropriate to deal with it when there
39 is a necessity when we wish to cross-examine a
40 witness.
41 THE COURT: I think we will take your observations as notice,
42 Mr. Grant and perhaps we can argue the matter when the
43 time comes for Mr. Frey or some of his colleagues find
44 themselves persuaded that they wish to cross-examine a
45 witness called by the province. You have the
46 authorities and you will be ready for that. If
47 counsel want to agree on a time, a fixed time, that we

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In Chief by Mr. Goldie

- 1 can have the argument, I would be glad to do that.
2 MR. GRANT: That may be more appropriate otherwise we would
3 interrupt if we did it in the normal course, we would
4 interrupt the witness.
5 THE COURT: I will be glad to hear the argument any time the
6 counsel wish.
7 MR. FREY: Maybe I could, just to clarify, is it the plaintiffs'
8 position that the federal Crown is prohibited from
9 cross-examination on all topics?
10 MR. GRANT: There is, raised by the provincial defendant, a very
11 narrow issue between the provincial and federal
12 defendant, which relates to if the plaintiffs have the
13 rights which they claim, and I will not go to the
14 quote, although I will in argument, that the
15 responsibility, if any, is on the federal Crown. If
16 the provincial defendant calls a witness to deal
17 specifically with that issue, there may well be, of
18 course, appropriate where that is the only issue
19 between the parties. When one looks at the federal
20 pleadings, there is no express joinder of that issue.
21 I would say other than that very narrow issue, which
22 is between the federal Crown and the provincial Crown,
23 that the federal Crown is not entitled to cross-
24 examine. And I also wish to be clear on this, that
25 this -- we are not -- this is not unique to the
26 federal Crown, it is the plaintiffs' position it is
27 exactly the same for the province, that they and the
28 federal Crown have taken an identical position
29 vis-a-vis the plaintiffs, and the provincial Crown is
30 not entitled to cross-examine the federal Crown's
31 witnesses when we come to that.
32 MR. GOLDIE: That's already been dealt with, my lord. The
33 commission witnesses called by the federal government
34 have been cross-examined by the province.
35 MR. GRANT: Objection -- of course the rules provide, it hasn't
36 been dealt with at all, because the rules provide that
37 conduct of a commission outside of court, objections
38 do not have to be made at the time of the commission
39 evidence itself, the objections can be made, and must
40 be made, at the time the he have is tendered and we
41 will be objecting to that cross-examination of Boyes
42 going in as evidence. Of course, that's part of the
43 federal Crown's case and that evidence hasn't been put
44 before your lordship.
45 THE COURT: Well, everyone has notice and I will be glad to hear
46 what you have to say when the times comes.
47 All right, Mr. Rush, cross-examination?

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Cross-exam by Mr. Rush

1 CROSS-EXAMINATION BY MR. RUSH:

2

3 MR. RUSH:

4 Q You told us, Dr. Steciw, you moved to Smithers in
5 1967?

6 A Yes.

7 Q And before you moved to Smithers, where did you live?

8 A Well, I interned in Saskatoon at City Hospital. I
9 lived there for a year.

10 Q And before that?

11 A Before that, I was at medical school and before that I
12 was at McMaster, graduating with biology and
13 chemistry.

14 Q Where were you born?

15 A I was born in Poland of Ukrainian parentage.

16 Q When did you migrate to Canada?

17 A 1948.

18 Q To where?

19 A To Dauphin, Manitoba.

20 Q To where?

21 A Dauphin, whatever the pronunciation is.

22 Q And your family is of Ukrainian descent?

23 A Yes.

24 Q And did you migrate with your parents?

25 A Yes.

26 Q Now, before moving to Smithers in 1967, I take it that
27 you did not live in Smithers?

28 A No, never.

29 Q And was '67 the first time you had the opportunity of
30 being in Smithers?

31 A Yes.

32 Q And you chose Smithers as a place to practise
33 medicine?

34 A Yes. A place to live, essentially. Practise
35 medicine, of course, is just the work I do.

36 Q And you have been practising medicine in Smithers
37 since '67?

38 A Yes.

39 Q And is the main body of your income derived from your
40 practise of medicine?

41 A Actually, since 1986, let's say, just to be really --
42 this is, you know, within \$5,000 or so, since you're
43 asking, in 1986, that I believed that my actual
44 guiding gross outdid my medicine by a few thousand.

45 Q What about your net?

46 A Probably a bit less, because my overhead is more in
47 guiding than in medicine. And the next year was very

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Cross-exam by Mr. Rush

1 similar and last year my gross in guiding was probably
2 about \$10,000 below that of --
3 Q It's been declining since '86?
4 A Not declining since '86. '88 was a lower year. Part
5 of it was due to the fact that the American dollar
6 dropped and I charge in American dollars, you see.
7 Q Would it be fair to say that '86 was your high year in
8 guiding?
9 A Probably, yes.
10 Q And since that time it's been gradually, as I think
11 you indicated, decreasing?
12 A No.
13 Q It hasn't?
14 A I didn't indicate that, really. I think you
15 misunderstood me, perhaps.
16 Q Probably.
17 A This is within, you know, a few thousand dollars, and
18 this is the gross and that depends on the money
19 exchange. I charge in U.S. dollars so it depends
20 really a lot on the money exchange with your actual
21 Canadian dollars are at the end of that.
22 Q So you're telling us that the guiding activity that
23 you have been involved in is an activity that is
24 income-deriving for you?
25 A Yes.
26 Q You told us at the beginning of your testimony
27 yesterday that guiding was a hobby?
28 A It was an interest, yes. Can I enlarge upon that?
29 Q Yes, yes, I just want --
30 MR. GOLDIE: Let him answer, please.
31 MR. RUSH: Well, I hadn't put the question.
32 MR. GOLDIE: Well, I think you did.
33 MR. RUSH:
34 Q Let me ask you this, Dr. Steciw: My understanding is,
35 from what told us yesterday, that the way you view
36 guiding is as a hobby, am I right about that?
37 MR. GOLDIE: That's misstating the evidence, my lord.
38 THE COURT: Well, he is asking the witness if that misstates the
39 evidence.
40 A Only in part. Small part, perhaps. Well, in part.
41 MR. RUSH:
42 Q Well, what do you mean by in part?
43 A Well, it means, you know, guiding to me, and not only
44 guiding, but actually being out of doors, you know, to
45 climb the mountains and to fish and to hunt and to
46 explore, is a lifestyle. That's why I came to B. C.,
47 that's what I really sought moving west instead of

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1 being in Toronto, you know, in some more lucrative
2 medical practise, perhaps. And guiding is part of
3 that adventure, if you will.
4 Q You described it as sort of a hobby yesterday?
5 A At first, that's when I purchased my first area, if
6 you recall, I said, it began as that.
7 Q I see. And now it's a money-making proposition?
8 A Yes, I believe so.
9 Q And it's a money-making proposition that today you
10 want to sell?
11 A Yes, for a reason.
12 Q You have advertised your guiding area for sale for two
13 years?
14 A I really don't think I advertised it. I could have
15 but I don't recall ever. I mentioned to a few people
16 that I would like to sell it.
17 Q You didn't put in the Guidelines brochure of the guide
18 outfitters?
19 A I don't think so. I don't recall at all that I did.
20 Q But the fact is that you now want to sell this income-
21 making operation?
22 A Yes.
23 Q Now, it's fair to say, is it not, Dr. Steciw, that
24 when you came to Smithers in 1967 you had no knowledge
25 about the geographic area, the trails or potential
26 areas for hunting?
27 A In -- when I came to Smithers, yes, yes.
28 Q You had to be introduced to that?
29 A Yes.
30 Q And is it not the case that one of the people who
31 introduced you to that was Leonard George?
32 A Yes, but not within my present or even past, for that
33 matter, guiding area.
34 Q I understand where you said this has gone on, but my
35 question to you is that Leonard George guided you to
36 places where you could hunt?
37 A We both went as friends. I don't think it was guided
38 in that sense.
39 Q Well, you didn't know where to go?
40 A But at the same time there is a difference between --
41 you see, depends in what sense you use guiding. If
42 one hunter says to another, let's go, I know a good
43 place, the loose interpretation of that is that he is
44 guiding but it's not in the sense of guide outfitting
45 what I have done with the clients.
46 Q I appreciate it. In your case you charge to guide
47 someone to an area where there is game?

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- 1 A Yes.
2 Q In the case of Leonard George he did it for nothing?
3 A Yes, of course, and we went as friends.
4 Q But the activity was the same, wasn't it?
5 A Yes.
6 Q He showed you where to go?
7 A That's right.
8 Q And you went, you said, with Arthur Tom?
9 A Yes. Actually, to make it very specific, he sort of
10 went with us, as if it was.
11 Q Did you know that Arthur Tom is related to Leonard
12 George?
13 A I didn't, no.
14 Q You knew that they were both Indian people?
15 A Of course.
16 Q And you told us that one of the places that you went
17 was a place where you could shoot a grizzly?
18 A Yes.
19 Q And you did?
20 A Yes, I did, hm-hmm.
21 Q Now, did you know, at the time that you were hunting
22 with Leonard George, did you know if he spoke another
23 language?
24 A Yes, actually, I think.
25 Q You understood --
26 MR. GOLDIE: He hasn't finished his answer.
27 A You see, I knew he knew at least in part another
28 language.
29 MR. RUSH:
30 Q Do you know that Arthur Tom spoke another language?
31 A No, I didn't.
32 Q Now, did you know how Leonard George and Arthur Tom
33 were related?
34 A No, as I mentioned, I didn't even know they were
35 related.
36 Q And, Dr. Steciw, did you know that they were from the
37 same house group? Do you know what a house is?
38 A You have mentioned that word here, I have heard it in
39 the last year or two, but I really don't know, no.
40 Q It's a kin group, if I can describe it that way.
41 A Okay.
42 Q Did you know that they were from the same house or kin
43 group or the same clan?
44 A No.
45 Q You had heard the word clan before?
46 A Absolutely, yes.
47 Q And did you know that they were related as a family?

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- 1 A No.
2 Q In a family way?
3 A No.
4 Q Now, did you ever hear of Leonard George's chief's
5 name?
6 A No, I didn't, but I knew that his father was a chief.
7 Q Did you know his father's name?
8 A I did. I took care of him medically but I forget his
9 first name now.
10 Q His father being Thomas?
11 A That probably was true. That was a long time ago.
12 Q And what about Arthur Tom, did you ever hear of a
13 chief's name for Arthur Tom?
14 A No.
15 Q Did you ever hear of the name Smogelgem?
16 A If I did it escapes me. It escapes me.
17 Q If you recall that there was a language which, for the
18 lack of a better description, we will call the
19 Wet'suwet'en language, did you understand it as the
20 Wet'suwet'en language by the way?
21 A At this time, I didn't ever hear the word
22 Wet'suwet'en. I heard the word Carrier Indians,
23 referred to generally in our area.
24 Q The Carrier language then, we will describe it that
25 way, the Wet'suwet'en people today describe their
26 language as the Wet'suwet'en language. Okay. You
27 heard it as the Carrier. Did you hear the Carrier
28 language being spoken, have you heard it being spoken?
29 A I have heard it, but is this -- do you mean when I was
30 in the company of Leonard and Arthur Tom?
31 Q Firstly, if you had heard it being spoken?
32 A Yes, lots, yes.
33 Q And then heard it being spoken by Leonard George?
34 A No, I never did. Could I just answer that fully? I
35 was interested kind of in language, I know a few
36 languages myself, and I just asked -- the reason why I
37 knew that Leonard knew another language because I
38 asked him how do you say black bear, I believe,
39 something to that effect, in Carrier, and he said, I
40 think, Sus. I could be wrong but that's, to the best
41 of my recollection. How about river, and I think he
42 said qua, so Susqua means Black Bear River, Susqua
43 River. Just in that context I have talked to him
44 about language and no other.
45 Q Did he tell you what the name for lake was?
46 A No.
47 Q Okay. Now you hunted at Owen Lake with Leonard

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- 1 George?
2 A At or near, yes.
3 Q About the same time period?
4 A Yes.
5 Q And he took you in there?
6 A He did, excuse me, but I knew about it sort of before.
7 Q You knew of the lake?
8 A I knew of the lake and I believe I was on the road.
9 You see, I explored a lot when I came to Smithers, my
10 idea of an entertainment for a weekend was to go with
11 my wife and drive and see all these places and I
12 climbed mountains and so forth and, actually, I was
13 probably, I could say that I drove past there.
14 Q But that's a place that Leonard George took you to
15 hunt?
16 A Yes, that's where he suggested, yes.
17 Q And he said he had a trapline there?
18 A Yes.
19 Q I think you said more precisely his father had a
20 trapline?
21 A Yes, that's right, that's what he said.
22 Q Did he also tell you that his brother Andy had a
23 trapline there?
24 A No, but Andy told it to me years later. In fact, in
25 the last three or four years. That's Andrew George
26 you are referring to?
27 Q Yes. And you know that to be Leonard George's
28 brother?
29 A Yes.
30 Q And in terms of the area that you hunted in with
31 Leonard George and Arthur Tom at Morice Lake or Morice
32 River, where was that, do you recall?
33 A Whereabouts?
34 Q On the river.
35 A Right near the road -- we would walk in a little bit,
36 you know, and scout and just look, it wasn't anywhere
37 really where it would take a day or half a day to walk
38 in. And, really, Owen Lake I mentioned because we
39 drove there a number of times and I am not sure we
40 walked more than 100 yards off the lake. I mean off
41 the road.
42 Q Did you learn the name for Owen Lake in Wet'suwet'en?
43 A No. That's the only name I know.
44 Q What about the name for Morice River, did you learn
45 that?
46 A No, I didn't.
47 Q Have you ever heard of the name Wed'zen qua?

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- 1 A No.
- 2 Q You understand that qua means river in Wet'suwet'en?
- 3 A Right.
- 4 Q And I take it that it was Leonard George who suggested
- 5 that the place to go, was for you and he to go on this
- 6 hunting trip was down the Morice River at Owen Lake,
- 7 it was his suggestion?
- 8 A Yes, or other farmers fields where we hunted black
- 9 bear from time to time. In the Quick area,
- 10 essentially.
- 11 Q And there wasn't any doubt in your mind that Leonard
- 12 George was familiar with that area?
- 13 A No, there wasn't.
- 14 Q Now, I wanted to ask you about the, what you said
- 15 about hunting in the Blunt Creek or Harold Price Creek
- 16 area.
- 17 A Okay.
- 18 Q And I think you said that you were -- you hunted there
- 19 from 1969?
- 20 A Yes, something to that effect, yes.
- 21 Q And my understanding was that you said that you
- 22 purchased a half interest in the area from Jerry
- 23 Langdon?
- 24 A Langan.
- 25 Q Langan, L-A-N-G-A-N?
- 26 A I believe, yes.
- 27 Q And you said you eventually bought him out in '72?
- 28 A Approximately, yes.
- 29 Q So the two of you shared the area for two or three
- 30 years?
- 31 A He didn't do any active guiding, really, just certain
- 32 things, he told me where to go, Jerry did, and I asked
- 33 him certain pointers, he took me in, come to think of
- 34 it, he took me in -- we had a trip in about 1970, by
- 35 horseback along the Susqua River, and we drove with a
- 36 trailer and a few horses, he, I and his wife, we
- 37 parked the truck and the trailer where really we
- 38 couldn't go hardly any more and took the horses out
- 39 and saddled them up and there was sort of a little
- 40 road going, more or less, in other words, along and a
- 41 little bit up the hill actually on the northern side
- 42 from the Susqua River, and we rode along there to the
- 43 confluence of Harold Price Creek and Susqua River and
- 44 there is a settlement there, by a settlement, I mean a
- 45 house or a homestead, pardon me, and we saw a man and
- 46 a woman, they were a married couple and I think they
- 47 had kids.

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- 1 Q What did you pay for the area?
2 MR. GOLDIE: Is that relevant, my lord?
3 THE COURT: Well, at the moment I am not sure that it is, Mr.
4 Rush.
5 MR. RUSH: I think it is some measurement in the mind of this
6 witness of what the value is of what's been said is an
7 exclusive hunting certificate and as well some measure
8 of the value of the game in the area.
9 THE COURT: Would it change anything if it was a million dollars
10 instead of \$5,000? What different would it make?
11 MR. RUSH: Well, it would certainly tell your lordship something
12 about the bountiful or non-bountiful nature of the
13 game in the area and hence what type of value it might
14 be to someone who wanted to take the game out of
15 there.
16 THE COURT: I am not sure, we have got a Susqua and I am not
17 sure we have got a sequitur. People buy things for
18 unusual reasons, often they have a personal attachment
19 or they have a mind set that they want to have
20 something and they will pay a lot of money.
21 Do you object to telling what the price was that
22 you paid?
23 A My lord, I would rather not get into personal things
24 in the same way as I tell my accountant, if that's
25 acceptable to the court.
26 THE COURT: Well, I would certainly accede to the question if
27 the witness didn't object. The fact that the witness
28 objects I have to treat it as a matter that I can't
29 pay any attention to, but I am not satisfied that it's
30 relevant, Mr. Rush. I think it may not be answered.
31 MR. RUSH:
32 Q You told us you sold the area to a man by the name of
33 McTague in 1976?
34 A That's right, and his partner, Fred Monteau, I think
35 the name was.
36 Q And they don't -- he is not the present holder of a
37 certificate in that area now, is he?
38 A I believe they passed that on to -- they did work out
39 there, they guided, they put a cabin on so-called
40 Hilda Lake, they have built it, they hunted out of
41 there. And they have sold this, I believe, to a man
42 by the name of Blaney, Norm Blaney.
43 Q When did that happen?
44 A I am not really sure, in the last maybe five years or
45 some such thing.
46 Q McTague isn't the owner today of that certificate?
47 A Blaney -- let's put it this way, Blaney I know, he

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1 could be working under McTague, technically, and I
2 really don't know.
3 Q I see. All right.
4 A It would be hearsay.
5 Q So far as your involvement goes, Dr. Steciw, back in
6 the period from '70 to '76, let me see if I can
7 correctly summarize what I thought your evidence was,
8 and that is that you went in to the Blunt Creek/
9 Harold Price area annually but on a sporadic basis
10 from '70 to '76 except for '75?
11 A What do you mean by sporadic exactly?
12 Q I don't know, that was a term you used. And I took
13 you to mean that that was not on a regular basis,
14 irregularly but every year?
15 A Yes, okay. That would be fair.
16 Q That is a fair way of putting it?
17 A Yes.
18 Q And that seems to be a period of about five years; is
19 that right?
20 A From, let's see, '69 to '76.
21 Q Except for '75.
22 A Except for '75, yes.
23 Q And the time that you seem to have gone in there for
24 the most part was in the month of September?
25 A Yes, yes.
26 Q And is the reason for that particular time the fact
27 that it was when the hunting season was open?
28 A Yes.
29 Q For the game that you were looking for?
30 A Yes.
31 Q And the game was moose, was it?
32 A Moose, black bear, goats.
33 Q Goat.
34 A Grizzly too but primarily, yes, that covers it.
35 Q Now, I think you told us that the first time that you
36 went into the area you went on a trail to Goat
37 Mountain?
38 A Yes.
39 Q And you said that that was a trail that ran up from
40 Duck Wing Lake?
41 A Well, from -- we used to go in, it's all changed now a
42 little bit because there is some sort of a farm off
43 the Telkwa high road where we used to go in, however
44 the road you can still find.
45 Q It's also been clear-cut up there too?
46 A Yes, in places. But we went in Duck Wing Road and
47 took off, so to say, left the Duck Wing Road, before

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1 Duck Wing Lake, before we got to it, on a certain
2 point, as I explained.
3 Q Okay. Now, you said something in your evidence
4 yesterday that was of -- that I noted and that was
5 that your access to the trail was via a blind trail,
6 that's what you said?
7 A Okay, let me explain to you. Would you like me to
8 explain?
9 Q First, would you agree with me that's what you said?
10 MR. GOLDIE: That's not what he said, my lord. There is the
11 transcript.
12 MR. RUSH: I have the transcript, thank you.
13 A I went blindly, I thought I said, or without a trail.
14 MR. RUSH:
15 Q I will just tell you what you said. The question was:
16 "How would you get into the area?" And the answer
17 was, "Okay, there were -- first of all with horses
18 that I took in. I had a pack string of horses. I
19 would get in on the so-called Duck Wing Lake road and
20 then at a certain point I had to blaze tree where I
21 knew where to go in with horses, sort of to say
22 blindly without a trail. This is no keep it more or
23 less secret from other people."
24 A That's fair enough.
25 Q I just want to pause pause there. You wanted to keep
26 your access to the main trail secret?
27 A Yes.
28 Q And I take it that the reason, secrecy is important in
29 hunting, is it?
30 A Guiding, of course.
31 Q And guiding?
32 A Yes.
33 Q And the idea is you don't want other hunters to know
34 where you are going and where the access is to the
35 game that you want; is that right?
36 A Yes.
37 Q I take it as well you don't want other hunters or
38 other people to know about where your equipment is
39 located?
40 A That's another reason.
41 Q Or where your cabins are; is that right?
42 A Yes.
43 Q Now, I take it that the reason for the secrecy, if I
44 may put it this way, is that there is a good deal of
45 competition among hunters?
46 A Yes, in certain places. If I may explain to you, what
47 would be a wilderness, almost unspoiled to some

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- 1 people, if honestly if I see another man's track
2 there, to me, that kind of spoils it, as far as my
3 personal hunting goes. In other words, there is a
4 matter of degree, you know what I mean, and I just
5 wanted this to be as possibly, to my own knowledge, as
6 possible.
- 7 Q You don't want other people in your areas where you're
8 hunting?
- 9 A That's right.
- 10 Q And to that extent, would you agree with me, Dr.
11 Steciw, that there is a tension between guiding and
12 resident hunters?
- 13 A When you say guiding, you mean me specifically?
- 14 Q Yes, from your knowledge as a game --
- 15 A I think that's a strong word.
- 16 Q Tension is too strong?
- 17 A I think so. We have had resident hunters fly in in
18 bad weather to our cabin and so forth, and we have fed
19 them, we have, you know, offered shelter until they
20 could get out. Now, I wouldn't like this to become,
21 you know, another Vancouver airport, you know, but
22 the thing is that, you know, you have to sort of, how
23 would you put it, you just can't tell people, go away,
24 and I have never done this essentially.
- 25 Q Your cordial when they get there but you don't really
26 want them there?
- 27 A That's right. Precisely.
- 28 Q Just to carry on with the passage that I quoted from
29 the transcript a few moments ago, you said, and I am
30 quoting, picking up from the last sentence in your
31 evidence yesterday: "This is to keep it more or less
32 secret from other people and then after, shall we say,
33 half a mile to a mile, the real trail began and this
34 trail went ultimately to the goats, so-called Goat
35 Mountain, in that area where I hunted goats
36 primarily."
- 37 A Yes.
- 38 Q So, do I understand you to say there that you wanted
39 to keep the access to the main trail a secret and then
40 that main trail, once you were on the main trail, it
41 went on up to Goat Mountain where you could hunt goat?
- 42 A Yes.
- 43 Q Now, the trail that you got on, which was the main
44 trail, was a well-established one, wasn't it?
- 45 A Yes.
- 46 Q And it was well-travelled?
- 47 A Could I -- you see, when we got in there first of all,

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1 there are parts of it, of course, that were very
2 well-established but in places we had to get off our
3 horses and look for it. It became better established
4 when I cut it out at least once.
5 Q Well, trails have to be cut regularly, don't they?
6 A Yes.
7 Q There are dead falls every year?
8 A Yes, yes.
9 Q All right.
10 Madam registrar, I would like to show the witness,
11 if you will, Exhibit 164.
12 Now, Dr. Steciw, I wonder if you would just go off
13 the witness stand here and come over to this exhibit.
14 It's 55 now, 55-C, and you have marked the trail which
15 I think we have been talking about that leads off of
16 an area to the southeast of Duck Wing Lake as number
17 three, do you see there?
18 A Yes.
19 Q It's a dashed line, is that so?
20 A Yes. Okay.
21 Q All right. You can just sit down. I want to show you
22 Exhibit 164, if I can.
23 A Could I make a comment before I go out?
24 Q Please go ahead.
25 A That broken line that I marked there, you see, that is
26 the general direction to which that trail led. It's
27 impossible for me to tell you exactly how that trail
28 led because, you see, it was tall timber on both sides
29 a lot of the times and you really didn't see hardly
30 where you were going a lot of the time. Once we broke
31 out in the open country, then you could. That trail
32 had many turns and all kinds of, you know, things that
33 I couldn't possibly reproduce on a map especially that
34 size. You see, that's what I would like to just say.
35 Q I understand those are frailties that exist with
36 respect to every trail; is that right?
37 A Well, particularly that one.
38 Q I want to show you Exhibit 164.
39 A Okay.
40 Q Now, if you will orient yourself, you will see where
41 the village site of Moricetown is here indicated.
42 A Yes.
43 Q And you see where Duck Wing Lake is located?
44 A Duck Wing Lake, yes.
45 Q Now if Moricetown is located accurately and Duck Wing
46 Lake is located accurately, would you --
47 A Excuse me, what is this boundary? That's a

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Cross-exam by Mr. Rush

- 1 territorial boundary, it's not a river?
- 2 Q It's a river and it's a territorial boundary. But you
- 3 needn't concern yourself with that. I would ask you
- 4 to direct your attention to the dashed line that runs
- 5 south and east of Duck Wing Lake and goes in what
- 6 appears to be an easterly direction and is marked and
- 7 circled with the number two and I would ask you if
- 8 that line is a line that runs approximately the same
- 9 place as the trail that you marked with the number
- 10 three?
- 11 A Before I answer that, I would just like to ask you
- 12 where is Goat Mountain on here? Where exactly is it
- 13 so I can know?
- 14 Q If Moricetown is here and Duck Wing Lake is where it
- 15 shows on the map, you tell me where Goat Mountain is?
- 16 A I can't, because, you see, I can't orientate myself on
- 17 this map, really. I am not playing games with you, I
- 18 am just telling you. If you could tell me that Goat
- 19 Mountain is here, a lake here --
- 20 Q My assumption for the moment, if my assumption is
- 21 correct, the area here with these words Nee Beet
- 22 Diiyii is Goat Mountain?
- 23 A I must say I have no idea. I would have to see it on
- 24 a regular map and I would like to have it, if
- 25 possible, in colour. You know, it's much easier to
- 26 see than just black lines which I can't sometimes tell
- 27 from the, you know, the contour lines from where the
- 28 lake is, if possible.
- 29 THE COURT: Just a moment. N-E-E, B-E-E-T, D-I-I-Y-I-I.
- 30 MR. RUSH:
- 31 Q My question to you, Dr. Steciw, is can you not say
- 32 that the trail that you marked as number three on
- 33 Exhibit 55 is marked in approximately the same
- 34 location as the dashed line, if you accept that that
- 35 represents a trail, the dashed line on Exhibit 164 and
- 36 marked number two?
- 37 A It could be. But as I mentioned, I am not really sure
- 38 at all in fact.
- 39 Q Do you know of any other well-established trail in
- 40 approximately the same location?
- 41 A No.
- 42 Q And you know, don't you, Dr. Steciw, that that trail
- 43 is the old Babine Trail?
- 44 A Actually, I didn't, but I did know something about it
- 45 in the sense that it was used to transport ore or some
- 46 such thing from some mine, but I wasn't aware that
- 47 that was the Babine trail.

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I. Steciw (For Province)
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1 Q I didn't say it was the Babine Trail, what I suggested
2 to you is that you knew it was the old Babine Trail?

3 A I honestly must say no to that.

4 THE COURT: Should we take the afternoon adjournment?

5 MR. RUSH: Thank you.

6

7 (PROCEEDINGS ADJOURNED AND RESUMED FOLLOWING RECESS)

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

Wilf Roy
Official Reporter

I. Steciw (For Province)
Cross-exam by Mr. Rush

1 (PROCEEDINGS RESUMED PURSUANT TO A SHORT ADJOURNMENT)
2 THE REGISTRAR: Order in court.
3 THE COURT: Mr. Rush?
4 MR. RUSH:
5 Q Thank you. I want to show Exhibit 164 to the witness
6 again. Dr. Steciw, I'm just showing you this Exhibit
7 164. The trail that you indicated that you went on up
8 to Goat Mountain, you said that it was, I think, south
9 and east of Duckwing Lake, or at least it seems to be
10 by the way you drew it on the map?
11 A Could I just say the only way I knew it was that on
12 the Duckwing Lake Road, it was before Duckwing Lake,
13 before we got to it. I really honestly hate to tell
14 you, you know, the compass.
15 Q Let me ask you, was it before you got to Gramophone
16 Creek?
17 A Gramophone Creek is supposed to -- is supposed to be
18 crossing the Telkwa Highway, isn't it, at one point?
19 Q If it's shown accurately on this Exhibit 164.
20 A I see what you mean.
21 Q See it there?
22 A I see what you're getting at. Yes. I think so, just
23 before -- short distance before, maybe, to the best of
24 my recollection, half a mile or some such thing.
25 Q So am I correct in saying the trail that you're
26 referring to was just before Gramophone Creek?
27 A You mean its beginning? Like, we went in from the
28 Telkwa Highway Road.
29 Q Yes.
30 A I believe so, yes, right.
31 Q Then looking at Exhibit 164 is the dashed line that is
32 marked with a 3, is that approximately the place where
33 this trail that you took is located as it's shown on
34 the map?
35 A Okay. Could I just answer that fully? You see, at
36 the beginning, yes, but you see then the road had all
37 kinds of turns and stuff and I honestly just am not --
38 I'll not say definitely, but perhaps it was.
39 MR. RUSH: All right. You agree with me, or if I may summarize
40 your evidence, that the dashed line in Exhibit 3 is
41 what you believe to be the trail -- the beginning of
42 the trail and the route of the trail that you took to
43 Goat Mountain?
44 MR. GOLDIE: That's not a summary of his evidence.
45 THE WITNESS: No. I think just the first part. I would say
46 like that part near Gramophone Creek, to the best of
47 my recollection, that's -- that's probably where it

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1 was, but that's only a very short portion of it,
2 perhaps like the first inch on here. The rest I don't
3 know because I don't know if that follows actually
4 Duckwing Road. Duckwing Road was the actual trail or
5 road, if you like, that we travelled until, as I
6 mentioned sometime before, Duck -- some distance
7 before Duckwing Lake before we turned right.
8 MR. RUSH:
9 Q How many trails are in there going up to Goat
10 Mountain?
11 A There's only -- oh, only one, and it certainly doesn't
12 go all the way to Goat Mountain. It runs out sort of
13 in a high -- in the alpine, let's say.
14 Q All right. It comes up out of cover in the alpine?
15 A Yes. There's, like --
16 MR. RUSH: If you can just answer the question that I'm putting
17 to you.
18 MR. GOLDIE: No. He was in the course of answering that.
19 MR. GRANT: He did answer it. He said yes.
20 MR. GOLDIE: No. He hadn't finished.
21 THE COURT: Had you finished?
22 THE WITNESS: Not really. I'd like to give a little more
23 detail.
24 THE COURT: All right.
25 THE WITNESS: Just before it came out to the open country,
26 there's kind of a ravine with a creek we followed and
27 then it came out in the open country. And this was
28 actually not totally open country. It was again park
29 land, sort of meadows, some, you know, shrub, trees,
30 maybe 20 feet scrub type of subalpine.
31 MR. RUSH:
32 Q Until you got to that area, the trail for, what, about
33 three hours was under cover under the forest camp?
34 A Well, I would say, as I mentioned before, from the
35 time we started, by the time we were at our first
36 camp, it was eight hours by horses.
37 Q Okay. Now, Dr. Steciw, you've flown over that trail
38 many times on your way?
39 A No.
40 Q You haven't?
41 A I might have flown over it, but I couldn't locate that
42 in -- you know, in the bush.
43 Q You couldn't see that from the air?
44 A No, not that trail. Parts of it perhaps you can get a
45 glimpse of sometimes, but not the whole --
46 Q Well, for most of it you couldn't see from the air.
47 You said you were eight hours, right?

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- 1 A On horseback.
2 Q All right. Under cover?
3 A No. You see, where the place was where we stopped was
4 in the open country and -- oh, yes. Most of it was
5 under cover, you're right, but then I would say we
6 broke the cover, went in the park land observing three
7 quarters to maybe an hour to where we had sort of a
8 tent frame built, yes.
9 Q When you flew over that, you can't see the trail under
10 cover?
11 A That's right. Maybe in a few places you might be able
12 to pick up the odd little hint of it, but really in
13 all essence you're correct, you can't.
14 Q Now, Dr. Steciw, I understood your evidence to be that
15 you knew Henry Alfred?
16 A Yes.
17 Q And it's the case, is it not, that Henry Alfred guided
18 you into the area at Seaton Mountain?
19 A Sir, I honestly don't think that guiding is
20 appropriate. It's like two friends going to hunt.
21 Now, if you care to call that guiding, then I agree,
22 but only in that sense.
23 Q Well, this was in 1967?
24 A That's right.
25 Q You hadn't been there for a long period of time?
26 A That's right.
27 Q And as I understand it, my instructions are that
28 somebody from Fish and Wildlife introduced you to
29 Henry Alfred?
30 A It could have been.
31 Q And they introduced you to Henry Alfred because you
32 wanted to go goat hunting?
33 A Yes. I think it was Ken Sarradon come to think of it
34 now.
35 Q And Henry Alfred agreed to take you goat hunting --
36 A Okay.
37 Q -- to show you where to get the goats?
38 A Yes.
39 Q In that sense that's what I mean by guiding.
40 A As long as we understand, that's fine.
41 Q I'm saying, Dr. Steciw, at that time you didn't know
42 where to go, right?
43 A Yes, very correct. The only reason why I sort of
44 object to the wording is because amongst hunters you
45 just don't use that word unless you're being guided
46 professionally, that's all. Okay. That's correct.
47 Q Mr. Alfred took you on a two-day goat hunt up to

I. Steciw (For Province)
Cross-exam by Mr. Rush

1 Seaton Mountain?
2 A Yes.
3 Q And showed you where to hunt goats?
4 A Yes. He hunted with me.
5 Q He did. Now, did you use that opportunity, Dr.
6 Steciw, to make an evaluation of the game potential
7 for the area?
8 A No.
9 Q Now, the place where Henry Alfred took you in 1967 was
10 the same place that you took two American hunters to
11 hunt goat in 1976?
12 A No. No, it wasn't. I can show you where he took me
13 if you care to.
14 Q Well, I would like you to confirm for me what you've
15 shown on the map, Exhibit 55, by a dashed line and
16 close to -- well, you've marked it with a 2 there; is
17 that right?
18 A Yes.
19 Q Okay. Perhaps not to mark it again.
20 A No, I won't. I just want to point it out so we can be
21 exact. My lord, I don't know if it's too far.
22 THE COURT: I can see it.
23 THE WITNESS: We went right -- let's see. We went
24 approximately -- approximately -- now, let me just
25 see. Okay. You see this forestry access road. As I
26 mentioned to you, you almost go to the very end before
27 you go and take off a turn. Where I took the hunters,
28 we went up a totally different trail, totally
29 different. We climbed Mount Seaton here right to the
30 top. We didn't see any goats at all. We looked into
31 the valley just behind Mount Seaton and Henry and I
32 said, well, we are not seeing anything. If we stay
33 together, our chance is half. If we separate, then
34 you look across this sort of mountain. Reg and I
35 looked across that and we did. We separated. And he
36 just happened to walk into some goats and he shot a
37 goat and I didn't, so I didn't. But where we hunted
38 was over here. This is the little valley here, little
39 valley here.
40 THE COURT: To the west of the circle.
41 THE WITNESS: That's right, this way. Where I went with the
42 hunters was the next valley over.
43 MR. RUSH:
44 Q All right. Does the dashed line and marked with a 2,
45 is that the place that shows approximately the trail
46 or the road that -- the road and the trail that you
47 took in order to get to the place where you hunted in

I. Steciw (For Province)
Cross-exam by Mr. Rush

1 '76?
2 A Yes, approximately.
3 Q Now, I'd like to show the witness Exhibit 211. And
4 this is a map that was introduced in the evidence of
5 Mr. Alfred Michell. It is of the Caspit and Woos
6 territories. Now, Dr. Steciw, if you will look at
7 this map, please, Exhibit 211 and try to orient
8 yourself.
9 A Yes.
10 Q All right. You see Moricetown here, which is marked
11 Moricetown?
12 A Yes.
13 Q All right. You see Blunt Creek?
14 A Yes. There is branches of Blunt Creek, yes.
15 Q And I'm asking you to look at the base map, which in
16 blue is -- shows Mount Seaton. Do you see that?
17 A Yes, sir.
18 Q All right. And what I would ask you is if the purple
19 line beside which the word "martin" is written --
20 A Martin? Where's martin?
21 Q Do you see this?
22 A Yes.
23 Q Is that approximately the access road and the route
24 that you took in order to go hunting with the two
25 American hunters in 1976?
26 A Okay. That is approximate but, you know, is there --
27 I'd have to ask you for your -- or whoever -- for me
28 to say yes there has to be a broken down shack with an
29 aluminum roof at the end of it, in fact not really at
30 the end of the road, but just sort of over the edge of
31 a bank, and if that's the way it is, then that is
32 exactly the road.
33 Q All right.
34 A If it isn't, then it isn't.
35 Q We don't have an aluminum shack broken down on the
36 map. We'll have to do the best we can. But I'm
37 asking you if approximately that line indicated with
38 martin written beside it just to the right of the word
39 Mount Seaton is approximately where you took the
40 American hunters in 1976?
41 A Oh, you mean where I took them right at the end of
42 them here.
43 Q The road, the line. I'm asking if that line
44 represents it.
45 A If that represents the --
46 Q The route you followed.
47 A The route. Okay. That was a cat road. It was easy

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1 to see it was made with a cat. There's still even cat
2 tracks in the ground.
3 Q Yes.
4 A So it's in approximately the same area.
5 Q All right. You notice the word "goat"?
6 A Yes.
7 Q Goats at the top of that?
8 A Yes.
9 Q Now, is that an area as represented on the map from
10 your experience where goats were located?
11 A By Henry Alfred and myself?
12 Q Yes.
13 A Yes. It probably is.
14 Q Thank you. Did you know Henry Alfred to speak the
15 Carrier or Wet'suwet'en language?
16 A At that time or since then?
17 Q At that time first.
18 A I'm not sure at that time, but now as I'm -- as I
19 gathered, he probably speaks it, but I'm not sure.
20 Q All right. And you -- you knew him at that time to be
21 a Wet'suwet'en or Carrier person?
22 A Sure. I knew him as a native who lived in Moricetown.
23 Q Thank you. And did you know that he held a chief's
24 name at that time?
25 A No.
26 Q Do you know that he holds a chief's name today?
27 A I think that in the meantime, yeah. Four, five, six
28 years ago I think I found that out but only by
29 hearsay, just a comment that somebody made perhaps,
30 you know.
31 Q Do you know the chief's name that he holds?
32 A No.
33 Q Do you know the house or clan group that he is a
34 member of?
35 A No.
36 MR. RUSH: Dr. Steciw, you're familiar, are you, with the term
37 feast as it's used by the Wet'suwet'en people?
38 MR. GOLDIE: Well --
39 THE WITNESS: Vaguely.
40 MR. GRANT:
41 Q Vaguely?
42 A Very vaguely.
43 Q Are you familiar with the term potlatch?
44 A Just what I hear on the mass media essentially.
45 Q Have you ever been to a feast or a potlatch, Dr.
46 Steciw?
47 A The nearest I came to it was when one of my

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- 1 patients -- one of the older women in Fort Babine died
2 and I went to her funeral and I remember that somebody
3 was saying they're having a potlatch after, but I left
4 after the funeral, so that's the closest I ever came
5 to it.
- 6 Q You've never attended a feast or a potlatch in
7 Moricetown or Hagwilget?
- 8 A Or where?
- 9 Q Hagwilget?
- 10 A Which means?
- 11 Q Do you not know the village of Hagwilget?
- 12 A Not by that name anyway. If I know it, it's by
13 another name.
- 14 Q Perhaps you know it by its name Tsekya. Do you know
15 that name?
- 16 A No.
- 17 Q Dr. Steciw, do you know anything of the rules and laws
18 regarding feasts and the passing of territorial
19 ownership by the Wet'suwet'en or Gitksan people?
- 20 A Only what I heard on the radio perhaps or other mass
21 media.
- 22 Q And I take it that just as you've never attended a
23 feast among the -- at Moricetown, you've never
24 attended a feast among the Gitksan people?
- 25 A No.
- 26 Q And just so that we can be clear, if I tell you that
27 Hagwilget is a village of the Wet'suwet'en people, you
28 know where the Hagwilget Bridge is over to -- leading
29 over to Old Hazelton?
- 30 A You mean that high -- high bridge over the Skeena or
31 Bulkley, is it?
- 32 Q Yes. It's the Bulkley.
- 33 A The Bulkley, that's right, just before it runs into
34 the Skeena.
- 35 Q Yes. That's right. The village before you get to the
36 bridge is called Hagwilget.
- 37 A Okay.
- 38 Q I take it so that you -- we both understand each
39 other, you've never been to a feast at either of the
40 Hagwilget village or Moricetown?
- 41 A At any place.
- 42 Q All right. Thank you. Now, you told the Court you
43 knew Lucy Namox?
- 44 A I think I do. If that's the right person, I think she
45 used to be a patient of mine. I just know her in that
46 capacity.
- 47 Q You may be -- you said that you may have been

I. Steciw (For Province)
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- 1 acquainted with Stanley Morris?
2 A No. I think I actually did meet Stanley Morris at --
3 at sort of a -- what was it? I think it was a 25th
4 anniversary of a friend of mine and I think it was in
5 Telkwa. He was one of the guests and so was I.
6 Q Do you know Stanley's hereditary chief's name?
7 A No, I don't.
8 Q And what about Lucy, Lucy Namox?
9 A No. I have no idea.
10 Q And you were referred to the chief's names of David --
11 or at least to the names of David Green and Roy Morris
12 and Dick Naziel. Do you recall that?
13 A Okay. Yes. I've just met Roy, I think, Morris a very
14 short time ago and it was in the emergency room in the
15 hospital. He brought in one of his relatives, I think
16 a nephew. That's my only acquaintance with him.
17 Q Do you know Roy Morris' chief's name?
18 A No.
19 Q What about David Green?
20 A No. I don't even know David Green.
21 Q And I can't recall whether or not you knew Dick Naziel
22 or not.
23 A Dick Naziel. I knew some Naziels, but I don't recall
24 it.
25 Q Dr. Steciw, did you -- did you ever ask Dick Naziel or
26 Roy Morris of their chief's name?
27 A No.
28 Q Now, when you went out hunting to -- in the Blunt
29 Creek area -- I'm still dealing with that period from
30 1969 to 1976.
31 A Yes.
32 Q You did -- it's not your practice to announce to
33 anyone that you're going out hunting?
34 A Well, I might say to a few friends or what have you.
35 Q You don't generally announce it to -- in any public
36 way or you don't tell people as a matter of course
37 that you're going out hunting and this is where you're
38 going?
39 A Okay. To Leonard George I had done that and I might
40 have even done it to Henry Alfred. I've asked Henry
41 Alfred if he wanted to go hunting goat in the same
42 place or further, to walk in many times -- well, not
43 many, but, you know, a number of times after we went
44 hunting the first time, because we had a really good
45 time, you know, and I like Henry Alfred.
46 MR. RUSH: My question to you, Dr. Steciw, is you don't normally
47 tell people you're going out hunting and where you're

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- 1 going; is that right?
- 2 MR. GOLDIE: I'm sorry. What does my friend mean by people?
- 3 The witness has endeavoured to answer the question by
- 4 addressing specific people. I mean is he talking
- 5 about taking an ad in the newspaper or something like
- 6 that?
- 7 MR. RUSH: The witness can answer. If he wants to define a
- 8 population group, he certainly is capable of doing it,
- 9 I think.
- 10 MR. GOLDIE: It's not a question which lends itself to a very
- 11 precise answer.
- 12 MR. RUSH:
- 13 Q I think it is, but if it will help -- are you
- 14 concerned about the question, Dr. Steciw?
- 15 A No, I'm not. Well, yes and no. Let me tell you I
- 16 don't publicize it over CBC or put it in the paper if
- 17 that's what you mean.
- 18 Q And you certainly don't tell the people at Moricetown
- 19 whether you're going hunting and where you're going?
- 20 A I have told Leonard George. In fact, I asked him to
- 21 guide for me. He was going to guide for me. As a
- 22 matter of fact, to be specific, in 1976, the last year
- 23 I guided in that area, the Blunt Creek and so forth,
- 24 and in fact the only reason why he didn't was because
- 25 I couldn't reach -- well, he said he would and then he
- 26 went away somewhere. I needed help, to tell the
- 27 truth, desperately, especially with the horses, but as
- 28 it turned out, he didn't -- he wasn't around, so I
- 29 decided to walk in instead, which takes much less
- 30 effort actually than to get a pack train going.
- 31 Q I take it that you would have found the assistance of
- 32 Leonard George to guide you into the area at that
- 33 time?
- 34 A No. At that time I knew where I wanted to go. He
- 35 didn't know where I wanted to go.
- 36 Q I see.
- 37 A That's a fact. I really must stress that.
- 38 Q Now, Dr. Steciw, you told us you sold this area in
- 39 1976; is that right?
- 40 A Yes.
- 41 Q You bought another area --
- 42 A Yes.
- 43 Q -- in 77?
- 44 A Yes. That's right.
- 45 Q And you bought it from two people by the name of Love
- 46 and Lee?
- 47 A Well, that was the company name, Love Bros. and Lee.

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- 1 The partners involved at that time were Bob Henderson,
2 Bill Love Senior and -- let's see -- oh, Ron Fleming.
3 Q Okay. This is a private deal, was it?
4 A Yes.
5 Q And who had it before then; do you know?
6 A Wally Love, who's a brother of Bill Love Senior, was
7 involved in it at one time and Jack Lee, of course,
8 was involved for many years.
9 Q But the outfit continued under the company name, but
10 they --
11 A That's right.
12 Q They had got out, is that it?
13 A That's right.
14 Q Now, the area that you purchased at that time, I think
15 you told us was some 4,000 square miles in size?
16 A Approximately, yes.
17 Q And after the two adhesions, as I understand your
18 evidence, you increased the size of the area?
19 A Yes.
20 Q And that's about now 91 -- about 9100 square
21 kilometres?
22 A Little over that, I think. I think maybe 10,000
23 something square kilometres, but, you know, I'm not
24 really that sure.
25 Q All right. The sale. Were there purchases involved
26 in each of the two adhesions? Did you have to
27 purchase the --
28 A No. The first adhesion was actually an area that
29 didn't belong to any guide and it was actually quite a
30 large size, chunk. That was -- the game branch sort
31 of thought that to make operations sort of, you
32 know -- guiding operations more feasible, gave it, I
33 think -- you know, divided it up, I think, to three or
34 four territories that were adjacent to each other and
35 became part of the respective territories.
36 Q The sales of these -- or the purchases were approved
37 by Fish and Wildlife?
38 A No. Now, we're talking about the initial --
39 Q Yes.
40 A Yes, it was.
41 Q And what about the adhesions?
42 A Well, the adhesions were actually made -- the first
43 adhesion -- you see, there was no sale. It was just
44 added because no guide had it at the time, so it was
45 essentially Crown land.
46 Q So they amalgamated it into yours?
47 A That's right, into mine and Ken Balford's. He got a

I. Steciw (For Province)
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1 part, Harry McGowan and perhaps someone else, Carson,
2 Vern Carson.
3 Q What about the last adhesion?
4 A The last adhesion cost me. I purchased it from Ron
5 Fleming.
6 THE COURT: Mr. Rush, excuse me, please. Did you say 10,000
7 acres?
8 THE WITNESS: No, no. 10,000 square kilometres approximately.
9 THE COURT: Thank you. Sorry, Mr. Rush.
10 MR. RUSH:
11 Q That's fine. Now, I want to ask you a bit about your
12 clientele, Dr. Steciw. In the guiding operation you
13 guide non-residents, is that so?
14 A Primarily. I have guided two residents -- actually,
15 only -- well, two essentially. There could have been
16 others, but I recall only two residents.
17 Q And these people that you guide, they're from Europe?
18 A Some of them.
19 Q And some of them are from the United States?
20 A Primarily, yes.
21 Q So you in -- for the most part you draw on your
22 clientele people from Europe and people from the U.S.?
23 A Yes.
24 MR. RUSH: And what do they pay you for a hunt?
25 MR. GOLDIE: I suppose there's some relevance to this. It's the
26 details of a man's business. If your lordship
27 considers it or my friend can indicate what that has
28 to do with the evidence in chief or the issues in this
29 case --
30 THE COURT: Is this advertised anywhere? Is it public
31 knowledge?
32 THE WITNESS: Actually it isn't except it's advertised to the
33 prospective client.
34 MR. GRANT:
35 Q Well, surely if somebody contacts you by telephone and
36 says what's it going to cost me to go out on one of
37 your hunts, you tell them?
38 A Yes. Prospective hunter, prospective client.
39 Q What do you tell them?
40 A I tell them the price, how much it's going to cost
41 them and how -- what I provide for that.
42 MR. GOLDIE: It's not that I think this evidence is confidential
43 in any way. It's that I don't understand its
44 relevance.
45 THE COURT: Well, I don't either, but I'd be glad to hear
46 whatever submissions you want to make in that regard,
47 Mr. Rush.

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Cross-exam by Mr. Rush

1 MR. RUSH: Well, I think, my lord, it goes -- it is a way of
2 valuating the process of guide outfitting and what the
3 value is of it, and I say that it is also a measure of
4 the value of what's taken out of the area and a
5 measure of what potential loss in resources there are.
6 THE COURT: I'm not hearing the issue of damages. See, we -- we
7 go to some lengths to impose this kind of a disclosure
8 on experts, but when you have lay people who are
9 brought into litigation, I think we ought not to pry
10 anymore deeply than we have in their private affairs.
11 I think it is a matter of policy to try to confine
12 that sort of thing to what is -- what is relevant and
13 I just don't see what relevance it has.
14 MR. RUSH: Well, my lord, I say --
15 THE COURT: I can see where it might have relevance if we were
16 trying the issue of damages.
17 MR. RUSH: Well, presumably we aren't going to bring Dr. Steciw
18 back to try the issue of damages. Dr. Steciw is here
19 and before us and in my submission there is every
20 reason to determine -- it's clear from the records
21 that there are kills in the area that he guides for
22 and in my submission there's a cost attached to that
23 and there's a -- there's a value which -- which is
24 taken from the area.
25 THE COURT: Well, insofar as the claim of the plaintiffs to
26 ownership and jurisdiction of this territory's
27 concerned, it doesn't seem to me to make any
28 difference whether he charges one dollar a day or
29 \$10,000 a day. The fact is he charges for it. Most
30 businesses charge for what they do. It doesn't seem
31 to me that it's going to advance the trial over the
32 issues that have arisen in this case to know what the
33 price structuring for guide fitters is essentially for
34 his services.
35 MR. RUSH: I say, my lord, it relates to the question of the
36 valuation of the operation and as -- not only is it a
37 measure of the value of the -- the absolute value of
38 the operation, but it's a measure of Dr. Steciw's
39 interest in the operation and in my submission it's a
40 factor that you ought well to weigh in determining, if
41 there are issues to weigh up in terms of conflicts of
42 evidence, what interest the witness might have in the
43 area. And I say that this is a measure of it. What
44 is the economic interest that the witness might have
45 in the operation? He's told us that he has an
46 interest in keeping it secret. In my submission the
47 fact that there is a valuation that attaches to the

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1 operation in terms of the value that is paid for is a
2 measure of the interest that he has as well.
3 THE COURT: Well, I think the confidential aspect in this matter
4 is as ancient and as well known as the common
5 expression Macy's doesn't tell Gimbles. I really
6 don't think that we ought to know the private business
7 of this witness or almost anybody who other than
8 experts who are brought here to assist us in
9 determining these difficult matters and I do not think
10 the -- the relevance level is sufficiently elevated to
11 make it necessary for us to investigate these matters
12 and I'm not going to require the witness to answer.
13 MR. RUSH:
14 Q Now, when you hire your operation, Dr. Steciw, do you
15 offer to your clients a guaranteed kill?
16 A No.
17 Q What do you offer to do for them?
18 A I essentially offer to take them into country to which
19 I consider to be good for whatever species of game I
20 say it's supposed to be good and to produce guiding
21 services to them.
22 Q And how do you advertise that?
23 A I have a brochure and word of mouth and also two
24 booking agents I had. And I did actually place a few
25 ads in -- what is it called? Western Guidelines, I
26 guess.
27 Q What's that?
28 A They might have changed the name of that. It's a
29 magazine that comes out of G.O.A.B.C., Guides and
30 Outfitters Association, puts out.
31 Q Do you tell them they're coming to a wilderness area?
32 A Yes. As long as I take them to a wilderness area.
33 Q And do you describe that as the last frontier?
34 A Perhaps I used that term, yes.
35 Q And your clients are looking for trophies, aren't
36 they?
37 A Most of them.
38 Q They want to get a bear and bear skin or --
39 A Um-hum.
40 Q Or moose?
41 A Yes.
42 Q Now, in '77 you told us that you were out guiding from
43 mid-September till the end of October?
44 A Just a moment. In '77?
45 Q Yes.
46 A Oh, Okay. From mid-September to -- we were supposed
47 to go back at the end of September, but -- yes, a few

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1 days in October because the plane couldn't get back
2 because of bad weather. This was a goats only hunt.
3 Q Just so I understand the time frame, it was, as I
4 understand it, mid-September to, what, the beginning
5 of October or --
6 A It was scheduled -- we were supposed to come out
7 either the last day of September, the 1st of October,
8 but because of bad weather, it was two or three days
9 delayed because the plane didn't come in until the
10 weather cleared up.
11 Q That's about a three-week period?
12 A No. Two weeks and a few days.
13 Q Okay. Just over two weeks?
14 A Just over two weeks.
15 Q All right. And I think you said that that was the
16 occasion that you took in two American hunters?
17 A Yes.
18 Q And did you do the guiding or did someone else do it?
19 A I did it and I had an assistant guide with me.
20 Q Who was that?
21 A Who was that?
22 Q Yes.
23 A Fellow by the name of John Kosa.
24 Q Now, at that time you said that you saw no signs of
25 human activity in the area or words to that effect; is
26 that right?
27 A That's right. Essentially that's right.
28 MR. GOLDIE: I think he specified a particular geographic
29 location within this area.
30 MR. RUSH:
31 Q I think he did too. My question though, Dr. Steciw,
32 is that you weren't particularly looking for human
33 activity, were you?
34 A No.
35 Q What you were doing out there was looking for game
36 activity?
37 A Precisely. Could I actually just for purposes of
38 clarity and completeness just answer one more thing as
39 far as human activity? There was a campsite. I
40 forgot to mention this, I guess. There was a campsite
41 already made by the previous fellow who had some
42 interest in it called Don Smith that I knew about, so
43 I went to this campsite, so I suppose that, you
44 know --
45 Q Constitutes some human activity?
46 A Yes. That's right.
47 Q Was there anyone there?

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- 1 A No.
- 2 Q And the idea when you're goat hunting is you spot and
3 stock the goat; is that right?
- 4 A Yes.
- 5 Q That's what you were doing?
- 6 A Yes.
- 7 Q And as I understand it, Dr. Steciw, the idea when
8 you're out hunting goat is you don't want to see
9 people?
- 10 A Of course.
- 11 Q What you want to see is the game?
- 12 A Yes.
- 13 Q All right. And I think you've indicated that on
14 previous -- or on later occasions you didn't want
15 people to frighten the game?
- 16 A Yes.
- 17 Q Now, in '78 you said you were in the Chipmunk Creek
18 area?
- 19 A In the spring of 1978, yes.
- 20 Q And I understood your evidence to be that it was from
21 mid-May to mid-June?
- 22 A It actually started a little bit -- no. No, not
23 quite. If I said that I might be off a little bit.
24 It began before mid-May. I probably got in around
25 10th, 9th. You know, it's a long time ago and I don't
26 know exact dates, but I know, you see, that I try to
27 allow myself a lot of extra time because I knew I had
28 lots of explorations to do. I think what happened,
29 originally I booked a trip for something like the 5th
30 or so of May and a DC 3 -- you see, that was a new
31 thing, that I could get a DC 3 and fly all these
32 things in there. And they promised, I think, a trip
33 on something like May the 5th, but then what happened,
34 they said, no, we can't. Our crew isn't certified
35 yet. So there was a slight delay. So I would have
36 thought that -- I think they were three, four or five
37 days late. So that would put it 9th or 10th of May,
38 something to that effect, you know.
- 39 Q I understood your evidence to be, Dr. Steciw, you were
40 in there for about a month?
- 41 A Yes, approximately.
- 42 Q Now --
- 43 A That's approximately -- makes it just a little under a
44 month, I guess.
- 45 Q On that occasion, Dr. Steciw, did you guide or did
46 somebody else guide?
- 47 A Oh, no. I guided.

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- 1 Q Were you there with other guides?
2 A Yes.
3 Q You said you flew in on a DC 3?
4 A Yes.
5 Q That's that --
6 A Chipmunk strip.
7 Q Chipmunk strip. That's a strip that -- you didn't
8 build that, did you?
9 A No, of course not.
10 Q You said you built a cabin on the Skeena?
11 A No. It was a tent frame.
12 Q A tent frame?
13 A There was actually three tent frames: A big tent
14 frame for the cook house and where the guides and I
15 slept and two smaller tent frames where the hunters
16 slept.
17 Q Okay. And in reviewing your evidence, I understand
18 that you haven't used that area since '86?
19 A Let me just check that. Yes. That's correct.
20 Q In the fall of '78 you went into the Slamgeesh area?
21 A Yes.
22 Q And my understanding of your evidence is that you went
23 in in late August to the early part of October?
24 A Yes.
25 Q A period of five weeks?
26 A Something to that effect, yes.
27 Q All right. And that's to take advantage of, what,
28 the -- the open bear season in the --
29 A First of all, I went in a little bit --
30 Q In the fall?
31 A Not only bear, bear, moose, wolf. Yes. Both species
32 of bear, moose and wolf. And actually I had a goat
33 hunter that year and the main thing, to begin with,
34 you see, was to familiarize myself with the area. I
35 was never in Slamgeesh area before, so I -- I did a
36 lot of exploring there, you see, and that's the first
37 year I explored Slamgeesh.
38 Q And you said that you made some trails?
39 A Oh, yes. Well, I freshened up one trail going from
40 Slamgeesh Lake towards Damshilgwit Lake. Parts of it
41 had to be literally made all over again. There were
42 blazes. Bob Henderson has told me where the trail was
43 and sometime ago I understood that they put it in.
44 And the other thing that I did --
45 Q May I just ask you to pause there?
46 A I'm sorry. Yes.
47 Q The trail that you say that you freshened up, that was

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- 1 an existing trail, an old trail?
- 2 A It was an existing trail, yes.
- 3 Q And when you say you freshened it up, what you mean is
- 4 you cleared away the deadfalls?
- 5 A Yes.
- 6 Q And let me ask you also, you understand that the word
- 7 Slamgeesh is a Gitksan name?
- 8 A I guessed it, but I didn't know for sure.
- 9 Q All right. And you use the word Damshilgwit?
- 10 A Yes.
- 11 Q You understand that's a Gitksan name as well?
- 12 A I again understand that, but I wasn't quite sure.
- 13 Q And what about Shilahou?
- 14 A Shilahou Creek.
- 15 Q Yes. You understand that to be --
- 16 A Probably all Indian names. I kind of surmised that,
- 17 but again this is the first time I hear for sure that
- 18 they are.
- 19 Q Now, the trail that you freshened up, you said, was a
- 20 trail that went in a westerly direction, westward, you
- 21 say?
- 22 A Northwest, yeah, between Slamgeesh and Damshilgwit or
- 23 so-called Fifth Cabin Lake. It's the same thing.
- 24 Q And that trail runs in a south -- southwesterly
- 25 direction as well?
- 26 A Obliquely, sort of.
- 27 Q That's right, isn't it? And there were other trails
- 28 in the area?
- 29 A No. It just -- okay. May I just -- okay. What
- 30 happened was this: That this year -- like I said, I
- 31 did a lot of exploration and I found where I gathered
- 32 the old telegraph trail was, because again, you know,
- 33 I found pieces of wire that was half in the ground and
- 34 so forth, this thick, grey-looking stuff and a few
- 35 insulators, and -- but it was in such bad, bad shape.
- 36 I had an awful hard time really even following it in
- 37 many places. I mean you couldn't in fact. It was
- 38 nonexistent, so to say. But in spots, maybe 100
- 39 yards, 200 yards, maybe in one or two spots only it
- 40 was there. So I actually sort of improved on that, so
- 41 to say, and one trail I cut completely on my own. I
- 42 had a look at the mountain south -- southwest of
- 43 Slamgeesh Lake and thought, well, I have to get there
- 44 because I need to be in goat country. How do I go
- 45 about it? So I proceeded to figure out how to cut the
- 46 trail and I did all the way up.
- 47 Q The cabin that you went to was on the east side of

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1 Slamgeesh Lake?

2 A North.

3 Q Northeast side. And is there not a trail that goes
4 down to the bottom end of the Slamgeesh to the outflow
5 of Slamgeesh?

6 A According to Bob Henderson there's supposed to have
7 been one, but I never found it. It was all grown over

8 Q You didn't see that?

9 A No.

10 Q By the way, that cabin was there when you got there?

11 A Oh, yes. That was built by Jack Lee and his crew.

12 Q That was an old cabin, was it?

13 A Yes, very old.

14 MR. RUSH: That would be convenient, my lord.

15 THE COURT: Yes. All right. Thank you. Ten o'clock. Thank
16 you.

17

18 (PROCEEDINGS ADJOURNED UNTIL JULY 12, 1988 AT 10:00 A.M.)

19

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

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