

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

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JULY 12, 1989
VANCOUVER, B.C.

THE REGISTRAR: Order in court. In the Supreme Court of British Columbia, this 12th day of July, 1989. The matter of Delgamuukw versus Her Majesty the Queen at bar, My Lord. May I remind you, sir, you are still under oath.

THE WITNESS: Yes.

THE REGISTRAR: And would you state your name for the record please.

THE WITNESS: Igor Steciw.

THE COURT: Before you start, Mr. Rush, I would like to -- counsel to see a letter I received yesterday from your client's office, Mr. Rush, which I think should just be put in the court file.

MR. RUSH: I agree with Your Lordship's first proposal. I think that's what should happen to it. I just handed it to my friend, Mr. Goldie.

THE COURT: Yes. I don't, of course, propose to respond.

MR. RUSH:

Q Dr. Steciw, yesterday I left off with reviewing your guiding activities in 1978. I would like to direct your attention now to the year of 1979.

A Yes.

Q And by my understanding of your evidence, you went to the Skeena River camp on May the 19th, and you left on June the 3rd, 1979, a period of about two weeks?

A In 1979 -- no, there must be some misunderstanding. No, wait. '79. I would say I was probably there before that time. More like -- usually, you see, this going back a few years, but usually I like to have begun my spring hunt usually by about May 15th, maybe a few days later. It depends, you see, on the season, depending on conditions of snow and so forth. So I would say probably was there between five days and a week before. We prepare for camp because there is lots to prepare, a river boat to set up, lots of lugging up. So that's an honest approximation --

Q My understanding is you were there for the spring hunt for two weeks.

A Yes. The actual hunt took two weeks.

Q And you say now that you were probably there up to a week before?

A Up to a week, no more probably than that.

Q Okay. So for the preparation and the spring hunt three weeks?

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- 1 A Yes.
- 2 Q Right?
- 3 A Yes. It took probably two days to close off camp, so
4 say three weeks, a little bit -- perhaps a day or two
5 over. I would agree.
- 6 Q And you would have closed off camp somewhere around
7 June the 3rd?
- 8 A Around there, yes.
- 9 Q In the fall of '79 you went to Slamgeesh Lake?
- 10 A Yes.
- 11 Q And my understanding of your evidence is that you went
12 there, and it's not clear to me whether it's for the
13 spring hunt or as part of the preparations on
14 September the 21st, and you left in the first week of
15 October, 1979; is that about right?
- 16 A Well, actually I went not for spring hunt at all to
17 the Slamgeesh.
- 18 Q I am talking fall now.
- 19 A To Slamgeesh I went in the fall.
- 20 Q Yes.
- 21 A But the dates. I actually think the dates were before
22 like. More like -- I don't recall exactly, but I
23 would say probably the very beginning of September,
24 and probably was out some time the very first part of
25 October.
- 26 Q My understanding is that it was from the September
27 21st to the first week of October. Is there some way
28 you can check that?
- 29 A I am trying to think of the people. Yes, actually I
30 remember -- okay. I remember that -- a few people --
31 you see what happened, there was a fellow by the name
32 of Ken Lehman, and he booked -- he was so intent on
33 getting a grizzly bear, he booked two hunts
34 back-to-back. In other words -- let's see -- you see,
35 I'm not sure right now whether those were 10 day hunts
36 or 14 day hunts, but he booked two hunts back-to-back.
37 So just for him, I remember I had to have been
38 there -- you see, when I say 10 day hunts, on day 1
39 the hunters come in, on day 11 they come out, so
40 actually 11 days.
- 41 Q So that could have been the fall hunt at Slamgeesh,
42 about 20 days?
- 43 A About 20 days. That's probably correct.
- 44 Q In September --
- 45 A Excuse me, without rushing me though, because I am
46 trying to remember something that happened a long time
47 ago. I went into Slamgeesh, to the best of my

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1 recollection, on 1979, you know, in time so we could
2 make all kinds of preparations. That year also I
3 remember I had two fresh guides I had to familiarize,
4 you know, the area with. I would say I was there
5 again a week or so before the hunt began, okay.
6 Q Allowing for that, Dr. Steciw.
7 A Yes.
8 Q Allowing for that, and allowing for the fact that you
9 say that there -- to the best of your recollection
10 there were two 10 day hunts, would it be fair to say
11 that 30 days was the total time that you were at
12 Slangeesh in the fall of '79?
13 A That would be fair, yes.
14 Q And it would probably be in the month of September?
15 A Yes, it was. Yes.
16 Q All right. Now, were you guiding?
17 A Yes, I was.
18 Q Was anyone else guiding for you?
19 A Yes. I believe a fellow by the name of Dave Nash from
20 Kispiox.
21 Q All right. As I understand it, Dr. Steciw, you hire
22 other guides --
23 A Yes.
24 Q -- in the field, and they actually guide some of the
25 hunters out there?
26 A And I did personally guide that year also.
27 Q Right. But when Nash is guiding, you don't guide with
28 him. He is off on his own?
29 A Yes, most of the time.
30 Q All right. And that's a practise, is it, in the --
31 A Yes.
32 Q -- in the guide outfitter business? You hire other
33 guides, and they go out with some of the hunters?
34 A Yes. In my case it's one guide per hunter.
35 Q Okay. All right. Now, let's go to the spring of
36 1980.
37 A Okay.
38 Q Now, my understanding of your evidence is that you
39 flew to the Chipmunk strip, and you were out there
40 from May the 10th to June the 6th.
41 A That would be pretty close, yes.
42 Q All right. And I understand that you didn't guide at
43 that spring period at that place.
44 A That's true. I did looking around. I did actually
45 exploration to other valleys with my son for that
46 matter.
47 Q Okay. And you didn't operate your guide outfitter

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- 1 business in the fall of 1980?
- 2 A No.
- 3 Q And you didn't operate your guide outfitter business
4 throughout the entire year of 1981?
- 5 A No.
- 6 Q And you also didn't operate it again until the spring
7 of 1982?
- 8 A Well, even later, because, you see, I went in with a
9 fellow to check the trails, as I mentioned, and just
10 see what state things were in in the spring of 1982,
11 but there was no actual guiding.
- 12 Q And when did you go and actually do another guide?
- 13 A 1983.
- 14 Q In 1983?
- 15 A Yes.
- 16 Q So is it fair to say from the fall of 1980 through to
17 the spring of 1983 you weren't operating your guide
18 outfitter business anywhere in the area that -- for
19 which you had been certified?
- 20 A That's correct. Excuse me, for the sake of clarity,
21 the area was -- you see, as I think I mentioned, I was
22 really overworked at that point, and it just so
23 happened circumstances one fellow wanted to buy it, so
24 the deal was made between us. Now this fellow was
25 operating it. His name was -- it was being run under
26 my name, because, you see, I still didn't give up the
27 certificate.
- 28 Q What I am saying is you weren't operating it.
- 29 A You are right.
- 30 Q And who was this other person that you said that you
31 entered -- I think you called it a tentative agreement
32 with.
- 33 A Yes. Bill McMaster. He unfortunately died since he
34 was a young man.
- 35 Q And I take it, Dr. Steciw, that the reason that you
36 entered this tentative agreement was, I think you
37 said, that you were overworked in it, and I think you
38 also indicated you didn't realize how much work was
39 involved in the operation.
- 40 A Well --
- 41 Q Is that fair?
- 42 A No, it isn't. Not that second part. You see, what
43 happened was I found that I was burning the candle at
44 both ends, you know, and it was just -- I was doing so
45 much work I couldn't really hardly enjoy it, and had
46 no time to myself or to enjoy outdoors, which I sort
47 of cherish.

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- 1 Q Okay. And that's the reason you wanted to get out of
2 it?
3 A Yes.
4 Q Did you also find that it was a fairly costly
5 proposition?
6 A By costly --
7 Q It cost a lot of money to keep the operation going?
8 A Oh, to run it. Oh, yes it does.
9 Q Okay. And was that a factor in your mind at the time
10 that you decided to enter a tentative agreement?
11 A No.
12 Q All right. Now, I want to -- I want to ask you
13 about -- I want to ask you about the spring of 1984.
14 A Spring of 19 -- yes, okay.
15 Q Okay. And my understanding is that you indicated that
16 you took out one bear hunter into the Chipmunk area.
17 A Yes.
18 Q And that was, to my knowledge, for a four day period?
19 A Oh, no.
20 Q No.
21 A This was a full two week hunt. In fact we gave him a
22 few days extra, because he had problems finding a
23 grizzly bear.
24 Q Okay. So this was a two-week period?
25 A Of the actual hunt.
26 Q Yes. All right.
27 A And then the prepatory work, which probably -- I
28 really don't remember the exact number of days in that
29 case, because he was only one hunter, but I would
30 estimate it, you know, four, five days. Really four
31 days anyway, about a day or two to close off camps.
32 Q We are talking perhaps about a three-week period,
33 then, are we?
34 A That's pretty close.
35 Q So that the spring hunt at Chipmunk in 1984 was total
36 time a three-week period?
37 A Yes.
38 Q Now, I think you said that this was the time that you
39 saw the people on the rail line?
40 A It's pretty close, yes.
41 Q Was it in that year?
42 A I believe so. I really believe so, but one year one
43 way or the other, you know. I couldn't swear.
44 Q Hard to remember?
45 A It's hard to remember.
46 Q You flew over at the time you made the observations of
47 them?

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- 1 A Well, I landed with my plane on the Chipmunk, and the
2 people approached me. There were, as I recall, you
3 know, I think it was some people in ranching from
4 Kamloops, there were two aircraft parked on the
5 Chipmunk strip near some gas barrells, which I think
6 some exploration company left on the strip, and they
7 were saying to the effect "Gosh, we didn't know", you
8 know. They asked me what I was doing there, and I
9 said we will be guiding, and he -- the fellow said,
10 "We'll get out of your way". I told him that's not
11 necessary. I said, "I'm sure we can all hunt here."
12 Besides, we had the river boat, and we were very
13 mobile. And they flew out the next morning.
- 14 Q Okay. In the fall of '84 you took a person by the
15 name of Jake, and I missed his last name.
- 16 A Jake Sours, I think was his name, for a goat hunt in
17 Kuldoe.
- 18 Q What was the time span for this trip? This was at
19 Slangeesh?
- 20 A No. You see, there is two parts of this trip.
- 21 Q There was the goat hunting part, and this is the
22 fellow who is afraid of heights, and then you took him
23 to Slangeesh fishing?
- 24 A That's right.
- 25 Q What was the total time please?
- 26 A The total time of the actual hunt was again on the
27 first day -- the usual ten day hunt, with me it's on
28 the first day the hunter flys into camp, on the
29 eleventh day flys out, so the total time span of this
30 fellow's time where we hunted him was eleven days.
- 31 Q So your hunts are basically of ten days duration?
- 32 A No. The goat hunts are basically ten days, the mixed
33 species hunts are fourteen days, but again they are
34 really fifteen days, because on the first day the
35 hunters fly in, and as a matter of policy on the
36 fifteenth day they fly out.
- 37 Q In the spring of '85 there wasn't any hunting, was
38 there?
- 39 A No -- no spring bear hunting you mean?
- 40 Q No spring hunting at all.
- 41 A No spring hunting at all.
- 42 THE COURT: '85?
- 43 MR. RUSH: '85.
- 44 THE WITNESS: That's true, yes.
- 45 MR. RUSH:
- 46 Q There was a hunt in the fall of '85?
- 47 A Yes.

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- 1 Q And this is where you took hunters from Germany and
2 Switzerland --
- 3 A That's right.
- 4 Q -- into the area, isn't that right?
- 5 A Yes.
- 6 Q And this is for approximately the month of September?
- 7 A You see, this is 1985 --
- 8 Q Fall of '85.
- 9 A The hunters from Germany and Switzerland, that's
10 correct. I'm not quite sure how many hunters over and
11 above that I had. I just can't sort of recall that
12 part. But the German hunters, yes, this was in
13 September.
- 14 Q All right. So it's fair to say that for approximately
15 the four weeks of September, perhaps going into a bit
16 of October, that was the period of that hunt with
17 those --
- 18 A Of the hunt, yes.
- 19 Q All right. Now, on this occasion, as I understand it
20 Dr. Steciw, your guides -- you hired guides to take
21 these hunters out?
- 22 A Yes.
- 23 Q And they did all of the guiding?
- 24 A Let's see. You see, as things progressed, as things
25 got more busier, I did less and less actual guiding
26 myself, but I -- in preparatory stage and familiarizing
27 the guides of the area and actually sometimes walking
28 along and doing extra packing along with the hunter,
29 along with the guide, I did that, but back to your
30 question in 1985 -- what was the question again?
- 31 Q The fall was -- in 1985 you hired a number of guides,
32 Aasland, Hilton, Ukas, Goetz, you hired these guides
33 to do the guiding of the hunters?
- 34 A Yes.
- 35 Q They were on the grounds with the hunters?
- 36 A That's right.
- 37 Q And you weren't with them?
- 38 A Sometimes I was. Like, for example with Arthur Ukas,
39 I remember I went with him to a burn on the
40 southwestern side of Slangeesh Lake with a German
41 hunter, and, you know, we both for a day -- like I was
42 only there for a day, and I walked back afterwards.
- 43 Q If you are talking -- I am sorry -- if you are talking
44 about a fourteen day period --
- 45 A Okay.
- 46 Q -- your guides are out on the ground with the hunters;
47 isn't that right?

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- 1 A Yes.
- 2 Q And for the most part they are guiding and you aren't
- 3 there?
- 4 A Okay.
- 5 MR. GOLDIE: You mean -- when my friend says "there", you mean
- 6 with the actual hunters?
- 7 MR. RUSH: And the guide.
- 8 MR. GOLDIE: Yes. You are not implying "there" being out of the
- 9 territory?
- 10 MR. RUSH: No. No. I am not implying, and I don't think the
- 11 witness misunderstood.
- 12 THE WITNESS: Just to give a proper proportion or perhaps
- 13 perspective, I was checking, you know, in various
- 14 camps and going with the hunters and with the guides
- 15 off and on all the time, but I was not continuously,
- 16 you see, with any hunter. You are correct in that.
- 17 Q Well, isn't it the case, Dr. Steciw, that just as you
- 18 have said, that you -- when the guiding -- outfitting
- 19 activity intensified --
- 20 A Yes.
- 21 Q -- you were less and less doing the guiding?
- 22 A Very true.
- 23 Q And isn't it fair to say more and more doing the
- 24 flying?
- 25 A Yes. And also on the ground doing other, for
- 26 example -- let me give you an example. Suppose there
- 27 were guiding, say, in Slangeesh or in Canyon Lake. I
- 28 would -- say one particular set of trails like down
- 29 river. I would go ahead often -- and they weren't
- 30 finding much, as often happens -- and I would go, say,
- 31 in the other direction, looking for tracks, looking,
- 32 you know, at what's going on in the other end, so I
- 33 can say hey, okay, let's go there. It's better there.
- 34 That's the kind of stuff I was doing. But I was
- 35 flying more, you are right.
- 36 Q And will you agree with me, Dr. Steciw, that for the
- 37 most part from 1985 on through to 1988 your guides
- 38 were out on ground with the hunters at the various
- 39 camps that you have indicated, and you weren't with
- 40 them during the actual guiding of the hunter?
- 41 A I think that would be fair to say, yes.
- 42 Q Now, in many cases, as I read your logs --
- 43 A Uh-huh.
- 44 Q -- your aircraft logs, Dr. Steciw, you are flying out
- 45 of Tyee Lake up to a point in your area and back to
- 46 Tyee Lake in a day?
- 47 A Often it was the case, yes.

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- 1 Q And sometimes you might go to more than one camp?
2 A Yes, often I did.
3 Q What I am suggesting to you is that your -- your trips
4 were day trips, and you weren't overnighing at your
5 camps.
6 A Oh, yes, if you look at my logs you will find that
7 sometimes I was.
8 Q Sometimes you were, but rarely?
9 A Yes. I wouldn't say rarely, but by far the larger
10 portion of the percentage of the time, as things gets
11 busier, I really was flying for supplies and to supply
12 the camps, if you understand.
13 Q All right. That was your main -- that was the task
14 that you primarily took on from '85 onward?
15 A I would say, to be fair, primarily -- well, the big
16 change was in 1986 as a matter of fact.
17 Q All right. Now, in 1986, if we can come to that.
18 A Yes.
19 Q You -- there was -- I think you said a brief spring
20 hunt in 1986, was there?
21 A I don't ever recall saying brief. There was one
22 hunter that we took to Chipmunk strip, I believe it
23 was Mr. Charles. And the reason I remember that is
24 because I had a look a few days ago at my guides'
25 declaration. It was a rancher from Idaho.
26 Q How long were you in that period --
27 A Well, we had actually lots of preparation that year
28 for probably about a week, because we -- it was
29 actually short to walk in, three and-a-half hours
30 packing things. We tried really with a boat to get up
31 Chipmunk, actually wasted a lot of time, but anyhow,
32 took a lot of preparation, and he was in there for
33 fifteen days. It took us --
34 Q About three weeks?
35 A I would say that's fair.
36 Q A three week spring hunt in 1986?
37 A Yes.
38 Q And in the fall of 1986 --
39 A Yes.
40 Q -- there was another hunt, which by my estimate was
41 about a month in length from mid-September to
42 mid-October.
43 A Excuse me. When you're saying hunts, there were many
44 hunts.
45 Q I understand that, but I am talking about a hunting
46 period.
47 A Hunting period. Yes, okay.

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- 1 Q We are talking about a period of time. Do you
2 understand that?
- 3 A Yes. I believe what happened was that the hunting
4 period for most of the hunters, because I thought
5 about that, because I thought started actually in
6 September 15th and went on until October 13th, and I
7 believe it did go onto October 13th, and then, of
8 course, a few days to close off the camps, but there
9 was a hunter previous to that, I think, to the best of
10 my recollection, who was guided at Twin Lake. So in
11 other words it's all of September was hunting --
12 guided hunts, and up until and including October 13th.
- 13 Q Okay. My understanding, Dr. Steciw, and correct me if
14 you can from your memory of your guide reports, that
15 the hunt -- the general hunt in the Skeena River area
16 began on September the 14th and went through until
17 October 15th.
- 18 A I don't think so. I don't think this is correct.
19 That's what it says on the guides' declaration forms.
20 They are out by a few days, but only a few days. I
21 think the first hunter that year, a single man, a
22 young man from the States, and he had an early -- a 10
23 day hunt in the Twin Lakes area, and the bulk of the
24 hunters came after that and lasted until October 13th.
- 25 Q Okay. And your guides -- you hired a number of guides
26 to do the individual hunts that year?
- 27 A Yes, I did.
- 28 Q Okay. And you did guiding at the Slamgeesh area?
- 29 A Myself, no.
- 30 Q No. Your guides did guiding in and around the
31 Slamgeesh area?
- 32 A Slamgeesh, yes.
- 33 Q Okay. Now, let me ask you, Dr. Steciw, I think that
34 you indicated that you didn't see any activity in the
35 Slamgeesh area in 1986.
- 36 A Excuse me, what activity are we talking about?
- 37 Q Native activity, I think the question was put to you.
- 38 A Yes. None, or any other people for that matter.
- 39 Q All right. Dr. Steciw, I want to ask you, if you will
40 please -- Madam Registrar is not here.
- 41 THE COURT: She is out on an errand on my behalf, Mr. Rush.
- 42 MR. RUSH: All right. I want to put to the witness a certain
43 exhibit.
- 44 THE COURT: Well, are these items that she has extracted at your
45 request?
- 46 MR. RUSH: Yes, they are, but I don't know if she has --
- 47 THE COURT: You are welcome to search that collection and see if

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- 1 they are there.
- 2 MR. RUSH:
- 3 Q Dr. Steciw, I just want to show you some reports and
4 declarations of the guide outfitter for 1986, just on
5 this question of timing. And these, I think, were
6 shown to you by Mr. Goldie.
- 7 MR. GOLDIE: I don't think so, My Lord.
- 8 MR. RUSH: I thought that these had been shown to you when we
9 were discussing the question of documents. I could be
10 mistaken.
- 11 MR. GOLDIE: I think they were shown to you.
- 12 MR. RUSH:
- 13 Q I just want to show you these reports and declarations
14 of guide outfitters, Dr. Steciw.
- 15 A Sure.
- 16 Q If you wouldn't mind just identifying that these were
17 your signatures on these reports. Just, if you will,
18 wait for me please. Signature place, where it's shown
19 for the signature of the guide outfitter.
- 20 A Yes.
- 21 Q And if you will just flip through these.
- 22 A Excuse me, could I just --
- 23 Q Just go through them and check each one of them
24 please.
- 25 A Yes, all my signature. There is no signature on this
26 one, for whatever reasons.
- 27 Q Well, if you --
- 28 A This is my signature. I am not saying this is not a
29 true report, just saying I missed a signature.
- 30 Q All right.
- 31 A Yes.
- 32 Q All right. So these copies of report and declaration
33 of guide outfitter have your signature on them, and by
34 my understanding at the top of each of these pages
35 it's for the year 1986. Do you see that?
- 36 A Yes.
- 37 Q It's a difficult copy?
- 38 A Yes.
- 39 Q Just go through them. And I just would like you to
40 confirm for me that on this document is the name of
41 the person or the guide who actually guided the
42 hunter.
- 43 A Okay.
- 44 Q And if you will just go through each one of them and
45 confirm for me --
- 46 A Excuse me. I can hardly make out -- what does this
47 say?

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- 1 Q It looks like --
2 A Oh, Weigelt. I know the fellow. Hausmann, yes.
3 Crowe, yes. Hilton, Teron, Hoge, Hilton, Hoge,
4 Hausmann. That was Larry Hausmann. Dean Crowe,
5 Hausmann again. Hausmann again, Teron, Teron and
6 Hilton. Yes.
7 Q You will agree with me in no case do any of these
8 reports indicate that you were doing the guiding in
9 that period?
10 A Yes, certainly.
11 Q And you will also, I think, agree with me that these
12 reports indicate the period for which the hunts occur,
13 and I just want to do this in reverse order.
14 A Okay.
15 Q All right. And you will see the first one shows a
16 date of September the 19th, '86.
17 A Where do you see that?
18 Q 09/18/86.
19 MR. GOLDIE: Which name is this please?
20 MR. RUSH: The name of the hunter is Dammann, D-a-m-m-a-n-n.
21 Q Do you see that?
22 A Yes.
23 Q My suggestion to you, Dr. Steciw, is that it would
24 appear from these documents, a number of them dated
25 September the 28th, 1986.
26 A Yes.
27 Q Showing the hunt period from the 15th of September, it
28 looks to be through to the end of September.
29 A Yes. Mr. Dammann was -- I believe at least began his
30 hunt on September 15th. I remember he shot a moose,
31 and he very quickly wanted to be in the comfort of a
32 big hotel, so we had to get him out. So he didn't
33 complete the hunt, but he got the animal he wanted,
34 and he went.
35 Q He went off for the comforts of Smithers?
36 A That's right.
37 Q Now, Dr. Steciw, this indicates to me, if you will
38 just flip through these, the hunting period began on
39 September the 15th. All of these documents -- or
40 perhaps 14th -- that's September the 14th?
41 A Can I see this? 14th. For whatever reason -- I
42 actually don't think that's correct, but it could have
43 been filled out wrong. But it says 14th there. I
44 agree.
45 Q These show to me that the period for the hunt in 1976,
46 in the fall, was September 15th to the end of
47 September, and October 1st to the 15th of October.

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- 1 A Well --
- 2 Q Is that right? You agree with me?
- 3 A I could tell you, you know, off the top of my memory.
- 4 You see, two weeks, like one day one hunter come in --
- 5 basically you are right. So let's just give a little
- 6 detail. If I book a hunt on the 15th, a mixed hunt, a
- 7 14 day hunt, but first day in 15 days out, so 15th to
- 8 the 29th of hunt, then again the same, which is 29th,
- 9 and then October 13th out. Now, that's the way I
- 10 booked, you know, the aircraft from Smithers, the
- 11 commercial outfit to take these hunters out, and
- 12 outside a very few exceptions, that's the way it was.
- 13 Q You agree with me, Dr. Steciw, that these guide
- 14 outfitter reports for the fall of 1986 show the hunt
- 15 to have commenced on the 15th of September and to have
- 16 ended on October the 15th?
- 17 A The ones you showed me, yes. There was an additional
- 18 hunter due before that time. I believe a young
- 19 American man in Twin Lake.
- 20 MR. RUSH: All right. I would like those -- that bundle to be
- 21 marked as an exhibit, My Lord.
- 22 THE COURT: All right.
- 23 MR. RUSH: I don't have an extra copy.
- 24 THE COURT: The next exhibit will be, by my calculation, 1087.
- 25
- 26 (EXHIBIT NO. 1087 - REPORT AND DECLARATION
- 27 OF GUIDE OUTFITTER - YEAR 1986 -15)
- 28
- 29 MR. RUSH: And there are 16 pages in this, My Lord.
- 30 MR. GOLDIE: Do these all purport to be '86?
- 31 MR. RUSH: These purport to be the fall of '86, which is the
- 32 issue of the dates I was putting to the witness.
- 33 THE COURT: If you can give them to Madam Registrar when she
- 34 returns.
- 35 MR. RUSH: And perhaps what I am going to do, My Lord, is
- 36 proceed with my copy of the exhibit that I wanted to
- 37 put to the witness.
- 38 THE COURT: Yes.
- 39 MR. RUSH: And this is Exhibit 487. It's the photographs of --
- 40 in the Neil Sterritt photographic volumes.
- 41 THE COURT: Exhibit 487?
- 42 MR. RUSH: Yes.
- 43 THE COURT: Are they identified in any way?
- 44 MR. RUSH: They are identified by page number, My Lord, and it's
- 45 on page 17.
- 46 THE COURT: Thank you.
- 47 MR. RUSH: And volume 5.

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

- 1 Q Directing your attention, Dr. Steciw, to Slangeesh in
2 the fall of 1986.
- 3 A Yes.
- 4 Q And I want to ask you, if you will, and I am showing
5 you Exhibit 487, page 17 of volume 5 of the
6 photographs of Mr. Sterritt. And I wonder if you
7 would direct your attention to the photograph in the
8 upper right corner.
- 9 A This one?
- 10 Q That's correct. And do you recognize the building
11 that's set out in that photograph?
- 12 A Okay. This could have been -- I actually don't, but
13 this could have been one of the tiny little buildings
14 when I just explored the area in 1978 in late August,
15 that I actually found just essentially opposite or a
16 little -- the tree stand which is present just down
17 the river from Slangeesh --
- 18 Q At the outflow of the lake?
- 19 A More or less in that direction and looking south.
- 20 Q All right. Now, can you tell me whether or not, as
21 you describe it, one of those little buildings is the
22 building that's shown in the photograph in the upper
23 right-hand corner?
- 24 A You know, I saw them only that one time. I
25 subsequently heard there were Indian graves, and I
26 never was there again, although they are very close
27 there. You can sometimes, when the foliage gets
28 sparse in late fall, you can almost see them from the
29 tree stand.
- 30 Q I just want to show you in the background of the same
31 photograph, there appears to be another --
- 32 A There was a few of them there, and I couldn't tell you
33 if there was two or three.
- 34 Q Does three sound like the right number?
- 35 A Two or three. I didn't pay attention to that part. I
36 never hunted in this particular spot.
- 37 Q Do you know the people that are shown in the
38 photograph in the middle of --
- 39 A No.
- 40 Q -- page 17?
- 41 A I don't recognize them.
- 42 Q You don't recognize the gentleman in the middle as Mr.
43 David Blackwater?
- 44 A No, I never saw Mr. Blackwater.
- 45 Q All right. And you say that you were only in the area
46 of where these grave houses were located on that one
47 occasion when you did that exploratory --

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

1 A That's right.
2 Q -- reconnaissance? When was that?
3 A That was in 1978 when I went in there in late August.
4 And those little -- okay. I was going to say they
5 contained some traps or something. I couldn't
6 understand the whole thing when I saw them. They
7 contained leghold traps and a few little implements in
8 almost each one. I didn't understand what they were
9 all about, you see, and they were totally empty.
10 Q All right. And you talked about a -- you just
11 mentioned that there was a tree stand not too far away
12 from there?
13 A Okay.
14 Q Is that right?
15 A That's right. It's on -- it's on the creek that joins
16 Slangeesh Lake. It was actually Slangeesh Creek.
17 Q And is this like a lean-to?
18 A Oh, no.
19 Q Just can you describe what you saw as the tree stand
20 please.
21 A Okay. The tree stand I am talking about was built by
22 Jack Lee. I think -- I know which one you are
23 referring to as a lean-to. The lean-to you're
24 referring to is almost across from the cabin. There
25 is like a little peninsula, almost an island, and
26 there appeared to have been some rough lumber that
27 could have been, you know, hewed by an axe or what
28 have you. It's very old, and it's just like an old
29 doorway, and it could have been a lean-to or a wooden
30 type at one time.
31 Q So --
32 A Very old.
33 Q If you will just pause for a moment. The tree stand
34 and the lean-to are different?
35 A Of course.
36 Q The lean-to is on the west side of the lake?
37 A The southwest -- yes, west. Sure.
38 Q The tree stand, you said, was built by Jack Lee?
39 A That's right.
40 Q How do you know that?
41 A Because I think Bob Henderson told it to me, and I
42 think Jack did too, or his wife.
43 Q Isn't it the case, Dr. Steciw, that you saw a tree
44 stand there, and you made an assumption that it was
45 built by them?
46 A That's not true at all. The man that told me this was
47 Bob Henderson. You see, when I bought the area from

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

- 1 Love and Lee, Bob flew the area with me with his 185,
2 and he pointed it out from the air. I didn't quite
3 see the tree stand, because it was, you know, in the
4 trees a little bit, but he told me exactly where to go
5 right beside the river, and it's just right there the
6 way Bob said. And there is another tree stand towards
7 Dam Shilgwit Lake that Love and Lee put in, and I have
8 enlarged since, I have improved it.
- 9 Q Is that a blind?
10 A Well, it can be a blind if you shade it with branches,
11 I suppose.
12 Q Well, I'll come back to that in a moment.
13 Now, in '86, Dr. Steciw, I think you indicated you
14 were also at Kwinageese River?
15 A I flew over Kwinageese River very carefully, yes,
16 looking --
17 Q And --
18 A -- for trips.
19 Q And you flew over Kwinageese Lake?
20 A Okay. The Kwinageese Lake that I refer to in my notes
21 is a misnomer. There is a lake which I subsequently
22 called -- you see, it's unnamed. It's a boomerang
23 shape, so I called it Boomerang Lake, just to reflect
24 the shape, but I also called it once, for lack of a
25 better name, Kwinageese Lake, because it was near sort
26 of Kwinageese River.
27 Q And you said you explored that area?
28 A That Boomerang Lake.
29 Q You flew over it?
30 A Okay. Which area are we talking about?
31 Q Kwinageese River --
32 A Kwinageese River, I was never on the ground on the
33 Kwinageese River itself.
34 Q You flew over it?
35 A Oh, yes, and many times in looking for detail.
36 Q And that's in your guiding area?
37 A That part of the Kwinageese River is, yes. Now, on
38 this so-called Boomerang Lake -- oh, yes, I was down
39 there many times on the ground, and we have built
40 trails to a big meadow, a big meadow that was at that
41 time full of moose tracks, and built a big tree house
42 and --
43 Q Yes.
44 A Yes. And I was there a number of times, and the
45 guides were with me, and that's what was done.
46 Q All right. And your testimony here is that you didn't
47 see any evidence of Indian resource activity?

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

- 1 A There was no evidence of anyone being there, any
2 camps, any old camp sites, any fire -- you know, burnt
3 out fire beds, nothing.
- 4 Q All right. I want to ask the witness -- if you would
5 please refer the witness to Exhibit 476. Showing you
6 an exhibit photograph, Exhibit 476, which was entered
7 in the evidence back last May 17th, 1988.
- 8 A Uh-huh.
- 9 Q Dr. Steciw, do you recognize that cabin?
- 10 A No, sir, not at all.
- 11 THE COURT: Is that -- that photograph by itself Exhibit 476?
- 12 MR. RUSH: Yes, it is, My Lord.
- 13 THE COURT: It is.
- 14 MR. RUSH:
- 15 Q And Dr. Steciw, did you ever see a cabin that was
16 about 5 miles north of Kwinageese Lake or Boomerang
17 Lake that you --
- 18 A Are we talking about the right lake sir?
- 19 Q I am not sure if we are, but you tell me.
- 20 A I think that's very crucial.
- 21 Q All right. You tell me, Dr. Steciw, whether 5 miles
22 north of your Boomerang Lake did you ever see a cabin?
- 23 A No.
- 24 Q Do you know Kwinageese Lake?
- 25 A No, not at all.
- 26 Q Is the Kwinageese Lake the one you have called
27 Boomerang Lake?
- 28 A No.
- 29 Q It's another lake?
- 30 A Boomerang Lake is another lake, and once I think
31 referred -- there is no such a name, incidentally, as
32 Boomerang Lake. That's a name that I gave it, because
33 it has a sort of a boomerang shape, and I can perhaps
34 point out on a map again for you. Now, I have seen
35 Kwinageese Lake from far off from the air, but I was
36 quite a bit east of it, and I just must say I don't
37 say I have not been near Kwinageese Lake. That
38 Kwinageese Lake, incidentally, that is on our maps as
39 Kwinageese Lake, because I believe the Indians called
40 it Fred Wright Lake, which is on that map Fred Wright
41 Lake, they called that Kwinageese Lake. Now I have
42 seen a cabin from the air from Fred Wright Lake.
- 43 Q Does it look like the cabin in 478?
- 44 A The circumstances where I was closed in by weather,
45 and I just flew, you know, really looking around where
46 I could turn around, and I came over Fred Wright Lake,
47 saw the cabin, thought well, if I had to, I could turn

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

- 1 around to make a landing and spend the night there,
2 but then I saw a little opening, and after a very
3 short time I saw the islands of Swan Lake. So I went
4 for it, because I know Swan Lake. That's the only
5 time I have been over Fred Wright Lake.
6 Q All right. I am not asking you about Fred Wright
7 Lake. I am asking you about Kwinageese Lake.
8 MR. GOLDIE: He said that to his knowledge Fred Wright Lake is
9 sometimes called Kwinageese Lake, so --
10 MR. RUSH:
11 Q Yes, sometimes it might be, but I am not asking you
12 about that. I am asking you about Kwinageese Lake,
13 and -- Dr. Steciw, would you just listen to my
14 question. All right?
15 A Yes.
16 Q Kwinageese Lake is on the map, isn't it?
17 A Yes.
18 Q It's marked on the map. Would you go over to the
19 map --
20 A Yes.
21 Q -- and find Kwinageese Lake please.
22 A Okay. Now, first of all let's see. Where is Swan
23 Lake, so I can get my -- so I can get my -- okay.
24 Swan Lake is somewhere over here. Oh, yes, here we
25 are. Swan Lake. Now, Fred Wright Lake should be
26 somewhere about here.
27 Q I am not asking you about Fred Wright Lake.
28 A No. No. But I have to locate these points that I am
29 familiar with, and from there I can point the
30 direction.
31 Q If you would just locate Kwinageese Lake on the map.
32 If you would do that for me.
33 A Yes. It's over here.
34 Q Do you see it there?
35 A Yes.
36 Q It's marked on that map?
37 A Yes, Kwinageese. Yes, Fred Wright is over here.
38 Okay. I was never on the lake that's marked
39 Kwinageese Lake. The closest, you see, I flew to it
40 would be about two miles to the east of it on my way
41 to -- you know, sometimes the weather -- not very
42 often I used to, you see, approach like say Canyon
43 Lake by this route along the Nass, and that's the only
44 time. That's the closest I was to it, so I can't tell
45 you anything about Kwinageese Lake, the way it's
46 marked on that map.
47 THE COURT: How is Kwinageese Lake marked on Exhibit 55C?

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

- 1 MR. RUSH: As Kwinageese Lake.
2 THE COURT: I'm sorry, it's not marked by the witness?
3 MR. RUSH: You mean as a numbered sequence?
4 MR. GOLDIE: It's outside his guiding area, My Lord.
5 THE WITNESS: That's right. So I know nothing about it.
6 MR. RUSH:
7 Q Is that right?
8 A Yes, it's outside.
9 Q Is Kwinageese River outside your guiding area?
10 A Part of it is the boundary of my area, and that's the
11 part only that I flew --
12 Q Did you see any cabins on Kwinageese River?
13 A Not that far I have flown, and the part I have flown
14 is just at that part. Again I say it's in my guide --
15 just in my guiding area.
16 Q You flew up there in the winter-time to your part of
17 Kwinageese River?
18 A I never was there in the winter-time. Only in the
19 fall.
20 Q All right. And I take it, from what you have just
21 said Dr. Steciw, that the weather conditions, the
22 cloud cover, fog, affects what you can see on the
23 ground?
24 A Well, I usually don't fly -- well, okay. The VFR
25 rules state I can't fly above the cloud. Now,
26 sometimes this was necessary, but only in two, three
27 cases in my life. So, in other words, where I am
28 between me and the ground there is visibility, and I
29 fly --
30 Q Sometimes very poor visibility?
31 A Well, by poor visibility would be like a mile, a mile
32 and-a-half is considered, I would consider poor
33 visibility.
34 Q And you have flown in those conditions?
35 A I have flown all conditions.
36 Q Yes. And -- now, you didn't have a spring hunting
37 season in 1987?
38 A No.
39 Q And you had a fall season I think you have said?
40 A 1987, yes, I did.
41 Q And my understanding of your evidence is that that was
42 from mid-September to mid-October, about a month
43 again.
44 A Hold it. In 19 -- you see, I would have to start
45 remembering the exact people in 1987 when the first
46 people came. Well, it was in September definitely.
47 Q My instructions are that the first people came on

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

- 1 September the 15th, and the last one left on October
2 the 17th, '87. Does that sound about right to you?
- 3 A Yes, except that date, you see, doesn't tally in with
4 my usual dates. But it might have begun before
5 September 15th, though I am not sure of that.
- 6 Q And in that year you had other people guiding for you
7 as well?
- 8 A Yes.
- 9 Q And some of those people were the same people you
10 identified that had guided for you in '86?
- 11 A Some of them were the same, yes.
- 12 Q Mr. Teron, for example?
- 13 A Yes, that's right.
- 14 Q And Bucholtz?
- 15 A Bucholtz, yes.
- 16 Q A fellow by the name of Weigelt?
- 17 A Weigelt, yes.
- 18 Q And Nash?
- 19 A Yes. Now, Dave Nash guided actually separately, not
20 in the Slangeesh Canyon Lake in wilderness areas where
21 I fly into. He guided essentially closer to the
22 Kispiox.
- 23 Q Uh-huh. Now, Dr. Steciw, you said that in 1987 that
24 you, while you were flying either to or from the
25 Kwinageese River area or Swan Lake, that you saw some
26 red ribbons along a trail from Stevens Lake?
- 27 A Okay. Excuse me, you are in part right. I did not
28 say when I was flying or in the -- where in the
29 Kwinageese Lake area. I landed on Stevens Lake, and I
30 went down the trail, which was present there for many
31 years, and which Jack Lee used and Bill Love to
32 hunt -- to guide Fred Bear. You might have heard of
33 Fred Bear. Quite a famous American.
- 34 Q Never heard of him.
- 35 A Okay. Anyways, to guide him. And they, to the best
36 of my knowledge, had established a trail. And that
37 trail goes from sort of the Kispiox end of -- not the
38 Kispiox. Let's see. The southern end of Stevens
39 Lake, it goes more or less along Stevens Creek and
40 onto a meadow where there used to be a cabin where I
41 had a lease, where it's of course no longer there. I
42 gave up the lease and --
- 43 Q You never saw who put the red ribbons there?
- 44 A No. No, I didn't.
- 45 Q Had you flown over that area several times?
- 46 A Oh, yes, I have flown a good number of times.
- 47 Q Before you landed to go down to look at the red

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Cross-exam by Mr. Rush

1 ribbons, had you flown over that area in that same
2 period?
3 A By that period you mean that day that --
4 Q Well, what period was it? You tell me. Was it in the
5 fall of 1987?
6 A Yes, I think it was in the fall, yes.
7 Q So it would be some time between September 15th and
8 the October 13th, '87?
9 A Yes.
10 Q Had you flown over there many times in that period?
11 A I have to look -- refer to my logs, sir. I think I
12 did a few times at least, but I don't remember
13 offhand.
14 Q All right. And you never saw anybody along that trail
15 putting ribbons on the trail?
16 A No, I didn't.
17 Q By my count, Dr. Steciw, you flew up to Swan Lake and
18 Stevens Lake about 20 times in that period.
19 A Could very well have been.
20 Q Does that sound right?
21 A Could very well be, yes.
22 Q And in that period and over those times you never saw
23 anybody putting anything on that trail?
24 A No, I honestly didn't.
25 Q You told us, Dr. Steciw, that someone had used and
26 moved a boat of yours which was at Stevens Lake?
27 A Yes.
28 Q And that now you keep that boat hidden.
29 A Yes -- well --
30 Q It was hidden then, and now it's hidden even more?
31 A It's hidden in a different spot.
32 Q And I take it that the reason you keep your boat
33 hidden is that so people that were -- are passing
34 through there don't take advantage of the boat and use
35 it?
36 A Okay. I wouldn't --
37 Q Is that right?
38 A Not quite. Yes, in part, but in part I don't mind if
39 somebody uses the thing, puts it back, but if somebody
40 uses it and hides it on me, it's a different ball
41 game.
42 Q Okay. But that's not the case with your boat up in
43 the Upper Skeena where you say you keep it hidden up
44 there.
45 A What do you mean?
46 Q You have got another boat up in the Upper Skeena, I
47 think around in Chipmunk?

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

- 1 A That's right, and I want that hidden. You see --
2 Q You don't want people --
3 MR. GOLDIE: Excuse me, he hasn't finished.
4 THE WITNESS: You see, for somebody to use the river boat, I
5 would -- I would really mind that, because the risks
6 on the river are infinitely more. You could get into
7 a lot of trouble in the river, and somebody would have
8 to pack in a special engine with a jet attachment to
9 really use it in the river. So there was -- there was
10 two different conditions, you see. On Stevens Lake
11 it's very pleasant, somebody can go fishing for two
12 hours and wouldn't hurt anything. On the Skeena River
13 there, somebody takes that boat, or if they should
14 damage it, that would cost now close to \$2,000 for a
15 DC 3 to land there just to deliver it.
16 Q My point, Dr. Steciw, is that if you keep it hidden,
17 you expect people to be there.
18 A Well, by hidden --
19 Q Isn't that right?
20 A Yes and no. You see, by hidden we have to define what
21 that was.
22 Q Go ahead.
23 A The boat was within -- from here to the wall of the
24 lake, it was right on the beginning of where that
25 trail is. It wasn't covered up. It wasn't
26 camouflaged. It was put away is a better word. Now
27 it's hidden, yes.
28 Q But I suggest to you, Dr. Steciw, that you keep it
29 hidden because you know people are there where you
30 have the boats, and you don't want them to use it.
31 A Yes, that's fair enough to say.
32 MR. GOLDIE: We are talking about two boats now, My Lord. Which
33 one is my friend referring to?
34 MR. RUSH: I don't think he had any difficulty in understanding
35 that I was talking about two boats.
36 Q But if you did, I say both of them with respect to the
37 boat that you now have hidden in Stevens Lake and the
38 one that you have got up at the -- in the north waters
39 of the Skeena River by the Chipmunk flat -- strip.
40 A Yes.
41 Q Those two boats you have hidden because you don't want
42 people to find out where they are and to use it?
43 A Fair enough.
44 Q And I suggest to you that if you have got them hidden,
45 you expect people to be there.
46 A Well, I don't know if I expect them to be there, but
47 certainly I suspect they could be. A lot of people

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

- 1 right now actually fly into places and use -- like
2 other outfitters have the same problems. People fly
3 in and use their stuff and don't return it, or even in
4 some cases steal it.
- 5 Q In 1988, Dr. Steciw, you had no spring guiding season?
6 A In 1988, no, you are correct, yes. I didn't.
7 Q You weren't guiding into Slamgeesh or in the north
8 Skeena at all before June of '88, I think you said.
9 A Just a moment. Before June?
10 Q Of '88, yes.
11 A Yes, I didn't guide in June either. I mean, it
12 doesn't fit in.
13 Q To the seasons?
14 A To the seasons, essentially, yes.
15 Q But you had a fall season in '88; isn't that right?
16 A Yes, I did.
17 Q And my understanding is that that was, in terms of the
18 preparation time and in terms of the actual time that
19 you were guiding people, was about five weeks from the
20 last week of August or the first part of September to
21 the first of October.
22 A No, I think that's a little short. I remember this
23 because, of course, it's quite recent. The first
24 hunter I had was a goat hunter by the name of Brian
25 Dam. Brian Dam, I believe, began his hunt on the 21st
26 of August, and the last hunter was John Dusa, a bull
27 hunter, and his hunt was scheduled from September 29th
28 to October 13th, so whatever that makes it.
29 Q Looks like about six weeks then?
30 A That's right, yes.
31 Q You didn't do any guiding yourself?
32 A Not in the sense that you mean.
33 Q Well, in the sense of -- in the sense that you mean as
34 well, that in fact you hired guides and they took the
35 hunters out and you weren't doing any of that.
36 A Well, I did spend some time with the hunter,
37 especially John Dusa, because there was a problem with
38 a grizzly bear actually, but that was one day for your
39 information.
40 Q My understanding is that you hired about seven guides
41 to do the on the ground guiding in '88.
42 A Well, I had to replace some, sir, so it was full-time
43 guides that were there, probably five.
44 Q And you were doing other things, such as flying
45 supplies back and forth from Smithers?
46 A Yes.
47 Q You have mentioned several times, and you mentioned

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

- 1 again in your evidence in respect of the fall guiding
2 season in 1988, that you had freshened up trails?
- 3 A Yes.
- 4 Q And I wanted to ask you, Dr. Steciw, if there were
5 not, in addition to trails over which people travel,
6 if there are animal trails in the bush?
- 7 A Oh, yes.
- 8 Q The moose, the bear, they have their own trails; is
9 that right?
- 10 A Well, often -- you see what happens is often -- in all
11 cases practically when you make a trail the game takes
12 advantage of it. In fact they sort of keep it open
13 for you, say, from underbrush, but there are certain
14 places where it's definitely a game trail.
- 15 Q And they are quite discernable, aren't they?
- 16 A They are discernable, because there are no blazes,
17 there are no cut trees which, you know, I would do if
18 I was making a trail. That's the big difference, yes.
- 19 Q Now, since October, mid-October of 1988 --
- 20 A Okay.
- 21 Q -- you have not conducted any guiding activities in
22 your guiding area to the present?
- 23 A No, that's not correct. I have had spring bear
24 hunters this year.
- 25 Q They weren't at Slamgeesh?
- 26 A No. No, they were to be -- probably answer your
27 anticipating next question -- essentially along the
28 Kispiox, in the Kispiox region.
- 29 Q You drove some people out to the Kispiox valley?
- 30 A That's right, and we hunted from there, yes.
- 31 Q What I mean to say is that in respect of the areas at
32 Slamgeesh, Canyon Lake, Chipmunk, Kluatantan, Swan
33 Lake, Steven Lake, you haven't had your guiding
34 operation out there since October of 1988?
- 35 A No guiding, but I have been out there this spring,
36 yes. But I have been in a number of places that you
37 mentioned this spring.
- 38 Q I will be coming to that in just a moment. Now, Dr.
39 Steciw, in relation to a number of your hunting areas
40 in the guiding area as a whole, several names were put
41 to you by Mr. Goldie, and you were asked if any one of
42 those people told you that you needed permission to
43 use those hunting areas in your business.
- 44 A That's correct.
- 45 Q And you in each case answered no?
- 46 A That's right.
- 47 Q And I take it that you believe you are operating under

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

- 1 the provisions of the Wildlife Act?
2 A That's exactly how I am operating.
3 Q Okay. In that respect you had to get a yearly licence
4 for permission to hunt?
5 A Yes, sir.
6 Q You got that from the regional manager?
7 A I believe so.
8 Q And is it correct to say that you believe that that
9 permission from Fish and Wildlife was all that you
10 needed in order to carry on your guiding outfit?
11 A Of course.
12 Q And you never felt that you had to get permission from
13 anyone else?
14 A Correct.
15 Q Okay. Now, you were aware of the hereditary chiefs'
16 land claims case and when it started, weren't you?
17 A What year was this?
18 Q October the 24th, 1984.
19 A Yes, that's true. Yes.
20 Q And you knew that the chiefs or the plaintiffs in this
21 case disputed the alienation of Crown lands in the
22 territory?
23 A Essentially, yes.
24 Q And I want to ask you if you had seen a notice that
25 was placed in the Interior News on October the 7th,
26 1985. I want to show you a photocopy of that. It's
27 dated October 7, 1985.
28 THE COURT: I'm sorry?
29 MR. RUSH: The notice is dated October the 7th.
30 THE COURT: Yes.
31 MR. RUSH: And the article, or at least the notice appeared in
32 the paper on October the 16th.
33 THE COURT: Thank you.
34 THE WITNESS: Which --
35 MR. RUSH:
36 Q I am just directing your attention to the notice which
37 is at the bottom of the page.
38 A Okay. No, you know, I have never seen this at all.
39 It's the first time I see it now.
40 Q Okay. Dr. Steciw, you have said that you were aware
41 of the hereditary chiefs' claim in this court case?
42 A Yes.
43 Q And that they disputed the ownership of land, some of
44 which is encompassed in your guide certificate area?
45 A Sure.
46 Q Is that right?
47 A Essentially, yes. Without details, you know, without

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- 1 going to -- I didn't know the details, but essentially
2 in essence you are correct, I knew there was a
3 dispute.
- 4 Q All right. And did you consider from that, that there
5 may be an obligation on you to consult with a
6 hereditary chief?
- 7 A No, sir, not at all.
- 8 Q Now, you told me in '79, in 1978 or '79 I think it
9 was --
- 10 A Yes.
- 11 Q -- that two native people contacted you to use your --
12 to get your okay or your permission to use the
13 Slamgeesh cabin for spring trapping.
- 14 A That's not quite correct. Mr. Neil Sterritt phoned
15 me, that if two native people could use it.
- 16 Q Mr. Sterritt phoned you on behalf of two native
17 people?
- 18 A That's precisely it.
- 19 Q To determine if they could use your cabin for spring
20 trapping; is that right?
- 21 A Winter trapping. There is no spring trapping.
- 22 Q All right. And were the two people that were to use
23 it, were they David Blackwater and Robert Stevens?
- 24 A I honestly don't remember the names. He probably
25 mentioned them to me, but I just don't remember.
- 26 Q All right. And you gave your permission?
- 27 A To Mr. Sterritt, yes.
- 28 Q And you don't know whether they used it or not?
- 29 A No, I don't. The reason why I said I don't, because,
30 you see, the cabin was in exactly the same sort of
31 manner put away that I put it away, which was probably
32 very nice, but sometimes, you know, if somebody does
33 use something, some things are out of place a little
34 bit.
- 35 Q You don't know whether it was used or not?
- 36 A No, I don't.
- 37 Q You don't know if anybody went in there or not?
- 38 A That's right, I don't.
- 39 Q And when you said that you thought they might have
40 flown in, you don't know whether somebody flew in or
41 not?
- 42 A Not only that they might have been flown in -- this is
43 what was mentioned to Neil, that they were going to
44 come in there. It was not mentioned -- it was
45 certainly understood by me that they were going to be
46 flown in.
- 47 Q You don't know whether they were flown in or not?

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- 1 A No, of course I don't.
- 2 Q Okay. Now, you told me, the court, that in 1986, I
3 think it was, that you phoned David Blackwater, or I
4 took you to mean David Blackwater to buy his trapline.
- 5 A That's not quite correct. You see, I thought I might
6 be kind of interested in trapping myself, because
7 winter is a nice time to be really out there. I know
8 a lot of people don't think so, but I do. And I
9 thought well, you know, there is absolutely no sign of
10 trapping there for all the time I was there for years,
11 and no sign of anybody. It's not being used at all.
12 So I thought gosh, maybe I could get a good deal from
13 somebody. So I began to enquire who owned it, and
14 again I don't remember the names who I phoned, but I
15 did phone the person who is supposed to have the
16 trapline on Slangeesh Lake in that area, whoever it
17 was, and I asked him if I could buy it from him, and
18 he said no. And I said, you know, "Well, gosh, you
19 know, you are not using it. What do you want it for?"
20 And whoever it was that was on the phone said, "Well,
21 we are not using it, but, you know, it's like money in
22 the bank, you just like to kind of keep it there."
23 And that's all I remember about it, sir.
- 24 Q And you tell us you can't remember who you talked to?
- 25 A I talked to -- I can't remember the name, but I
26 remember it was the registered owner of that trapline,
27 because I asked for that. I wanted to make sure I was
28 talking to the right person.
- 29 Q And was that the name of the right person? Do you
30 remember it to be David Blackwater?
- 31 A I don't. I honestly don't.
- 32 Q You don't remember whose name was on the registered
33 trapline?
- 34 A No, I don't.
- 35 Q How did you get the name?
- 36 A I think I asked -- I know I asked some people in the
37 Kispiox or living near Hazelton. One of them could
38 have been a fellow by the name of Bernie Desjardin,
39 because he's had some dealings, you know, or he knows
40 a lot of native people, and I could have even gone to
41 the game branch, but I did acquire that information.
42 It was by phone only. I didn't meet the person. If I
43 did, I certainly would know about it, you know.
- 44 Q This person told you that it was like money in the
45 bank for him; is that right?
- 46 A That's right. Well, that's the words he used.
- 47 Q Yes. And did he also tell you that it was like --

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- 1 that it was his chief's territory?
2 A If he did, I don't remember that, sir.
3 Q Well, I suggest to you that he told you that the area
4 was not just a trapline to him, but it was his chief's
5 territory. Do you remember that?
6 A No, I don't. He could have, you know, but I just
7 don't recall.
8 Q All right. Did he tell you that the territory
9 belonged to the House of Niist?
10 A If he did, I certainly don't remember it.
11 Q You don't remember that?
12 A No, honestly.
13 Q Okay. Now, previously -- do you remember, Dr. Steciw,
14 what the time of the year was that you made the call?
15 A It would have been probably some time -- well, it
16 was -- the snow was on the ground. I remember that, I
17 think. I am pretty sure it was. In other words, some
18 time November, December, January, whatever, or maybe
19 even early spring.
20 Q Okay. I want to show you this photograph again, which
21 is the one I showed you at 487, volume 5, page 17.
22 And if I could direct your attention to the two
23 photographs with the people in them.
24 A Yes.
25 Q And if I tell you that these photographs were taken in
26 September of 1986, it would indicate Indian activity
27 at Slamgeesh Lake, wouldn't it?
28 A Well, it would indicate their presence as pictured on
29 the photograph.
30 Q But I think your point is that there wasn't any
31 presence of Indians in the area either.
32 MR. GOLDIE: Excuse me. His evidence was he observed no
33 presence.
34 THE WITNESS: That's right.
35 MR. RUSH:
36 Q That's true. By that you don't mean to suggest there
37 wasn't any, do you?
38 MR. GOLDIE: Well, he gave his personal observations, My Lord.
39 MR. RUSH: I appreciate that. I am asking the witness.
40 THE WITNESS: You know, that would be asking me for an opinion.
41 All I can say -- can I answer this this way. To the
42 best of my knowledge and belief there wasn't any that
43 I could observe, okay, or for that matter any white
44 man's activity -- actually with one exception, and
45 this comes to my mind now. There was a helicopter,
46 and this was -- there -- I remember I flew into the
47 Slamgeesh camp and there was a helicopter that flew

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1 by, and you know they flew by and flew by and flew by,
2 and I was in the dock and I was wondering who it was,
3 and I thought well, how can I connect these guys. It
4 seems they want something. And this was 1986,
5 incidently, because I remember that was the first year
6 I employed Hal Teron. He was the guy telling me about
7 it. He was telling me there was quite a bit of
8 helicopter activity just a few days before. And what
9 did transpire is I got on my radio, switched it on,
10 and just in case he's got the sort of blind frequency
11 of -- I think it's 126.7 megahertz. Maybe I can phone
12 the helicopter, and maybe he's got it switched on and
13 just see what they want. So sure enough I got him on
14 there, and I said "Do you guys want to see us?" They
15 said "Yes." "Well", I said, "Why don't you land in
16 the meadow." And this is a meadow just going sort of
17 from the cabin on the north shore towards the outflow.
18 So they landed. And who should come out but the game
19 warden, and we picked him up, you see --

20 Q That would be a memorable occasion.

21 A We picked him up with a canoe, brought him in, check
22 everybody's licences, went back. But my point is
23 this, that Hal Teron and the other guys told me they
24 were building trails down river, down Slangeesh River.
25 They said there was a helicopter flying -- there was
26 helicopter activity between Slangeesh Lake and
27 essentially where they went to in 1986. Now, that
28 would have been in the first two weeks of September.
29 That's all I can tell you with any detail, because I
30 remember that part. That's all.

31 Q The photograph that I showed you --

32 A Yes.

33 Q -- Dr. Steciw, indicates, if the date of September of
34 1986 is right, indicates that there was native people
35 at Slangeesh Lake.

36 MR. GOLDIE: Well, My Lord, the witness is being asked to accept
37 counsel's statement, and that's often done, but if he
38 does accept it, the photograph is self-evident. The
39 witness can add nothing to that.

40 MR. RUSH: Well, that might be so. It doesn't mean that the
41 witness doesn't have something to say about it.

42 THE COURT: Well, has he said -- can he say anything more about
43 it than he said already, that it shows presence? If
44 the location is settled, it shows presence of people
45 at that location. Surely it doesn't do any more than
46 that. Not by itself anyway.

47 Should we take the morning adjournment?

Proceedings

1 MR. RUSH: Yes.
2 THE REGISTRAR: Order in court. Court stands adjourned for a
3 short recess.
4

5 (PROCEEDINGS ADJOURNED FOR A BRIEF RECESS)
6

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

11
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13 _____
14 LORI OXLEY
15 OFFICIAL REPORTER
16 UNITED REPORTING SERVICE LTD.
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I. Steciw (For Province)
Cross-exam by Mr. Rush

(PROCEEDINGS RESUMED AT 11:35)

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THE REGISTRAR: Order in court.

THE COURT: Mr. Rush.

MR. RUSH:

Q Thank you. In 1987 you told us that David Blackwater phoned you to ask if he could use the Slangeesh cabin for trapping?

A No. The Canyon Lake cabin.

Q Canyon Lake cabin?

A Yes. It could have been 1987 or -- yes, I guess '87, not '88. You're probably right, yes.

Q And when -- what part of the year was it in '87?

A It was sometime during the trapping season, possibly February, early February, late January. I thought it was actually a little late, to tell you the truth, to start trapping, so I know it must have been middle or latter part of the trapping season.

Q And the person that you talked to wanted to use the cabin for that season, in 1987?

A The person that I talked to identified himself as David Blackwater and asked if he could use my cabin in Canyon Lake because he had a trapline, he said. That was, I think, the way he put it.

Q And you refused?

A Yeah. I said really, I would like to keep the cabin, yeah, that year to myself.

Q All right. Despite the fact that you had no spring hunt that year?

A That's right.

Q And you said, I think that you told the court, that you were private about your activities and you didn't want people to know where the cabin was?

A I actually think the first part of that statement is a little bit not the way I said it. I think, you know, it's private, it's a private cabin. I mentioned something that it's my cabin, it's leased land, and I might have even said that I was paying for a lease, but in other words, it's a lease land, it's a private cabin, I would just as soon keep it to myself, something to that effect.

Q That didn't deter you in '78 or '79 in respect of the Slangeesh cabin?

A Well, no.

Q I mean that factor?

A It's just a difference of how would you put it, maybe of mood, if nothing else.

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- 1 Q Dr. Steciw, I wonder if that difference in mood was
2 brought about by the fact that the hereditary chiefs
3 started this Land Claims case?
- 4 A In all fairness, sir, I think that perhaps could have
5 been the case, but it was not small -- it was not
6 perhaps the major thing.
- 7 Q Well, I mean --
- 8 A I really think every time that I have had people using
9 my cabins, really every time that I know, there were
10 things were done that I had to correct, small things,
11 but they were still there.
- 12 Q I just want to pursue with you for the moment this
13 question of the effect of the commencement of the Land
14 Claims case. You oppose the hereditary chiefs' case,
15 don't you?
- 16 A Let's put it this way: I propagate equality of rights
17 and equality of opportunity to all the Crown lands of
18 B.C., to all Canadians irrespective of their racial
19 background.
- 20 Q All right. In 1983, Dr. Steciw, you described the
21 Gitksan-Wet'suwet'en court claim for the ownership of
22 river waters and fish passing through reserves as an
23 frivolous and arrogant claim?
- 24 A Okay.
- 25 Q Isn't that right?
- 26 A I think I have written a letter to the editor, and you
27 are taking a small part of it, and I would like to
28 give the reason why I've used this.
- 29 Q Well, you can explain what you want to when you agree
30 with me.
- 31 A Okay.
- 32 Q All right?
- 33 A Yes.
- 34 Q Let's start there.
- 35 A I think I could have used those words, and they should
36 be in print in article, which I wrote to the Interior
37 News.
- 38 MR. RUSH: I think you described it --
- 39 MR. GOLDIE: Is my friend going to put that article before the
40 witness?
- 41 MR. RUSH: Yes. I will put that article before the witness.
- 42 MR. GOLDIE: Well, please do so now.
- 43 MR. RUSH: I will do it at my pleasure.
- 44 MR. GOLDIE: The witness has stated that he wrote a letter, and
45 if the witness is going to be questioned on that
46 letter I think it ought to be placed before him.
- 47 THE COURT: Is the letter written in explanation of a statement,

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- 1 or is the statement included in the letter?
2 MR. GOLDIE: I understood --
3 MR. RUSH: It's a statement that's included in the letter.
4 MR. GOLDIE: And the witness has said that he is anxious that
5 the context be placed before the court.
6 MR. RUSH: I will first have my witness -- the witness agree or
7 disagree, and then I'll put the letter to him.
8 THE COURT: He said he used words or might have used the words.
9 MR. RUSH: I think he said -- I understood him to agree with my
10 proposition that he used the words.
11 THE COURT: I think he said he might have used.
12 MR. RUSH: He could have -- all right.
13 THE COURT: Why not put it in front of him and let him give the
14 explanation he wants so the context that he has
15 already asked for be put before him.
16 MR. RUSH: Well, there is no problem, my lord, but I choose to
17 conduct a cross-examination in a certain way, and if
18 it's -- I don't want to make a big deal out of it, and
19 I'm happy to put this to --
20 THE COURT: Everything seems to be a big deal.
21 MR. RUSH:
22 Q That's true. My lord, here's the copy of it. Showing
23 you a photocopy, Dr. Steciw, of a letter to the --
24 what I understand to be an open letter to Neil
25 Sterritt of the Gitksan-Carrier Tribal Council, dated
26 April -- or appeared in the Interior News of April the
27 6th, 1983?
28 A Yes. I see it.
29 Q And this appears to be signed by you?
30 A Yes, it is.
31 Q It was a letter that you sent to the Interior News as
32 an open letter to Neil Sterritt?
33 A Yes, it is, mm-hmm, it was.
34 Q All right. And if you will, for the moment, direct
35 your attention, please, to the closing paragraph,
36 where you say, and I quote:
37
38 "In closing, I would like to say that I agree with
39 your statement that the provincial government
40 should settle this matter out of Court. As a
41 matter of fact, the government should dispense
42 with it by throwing it out of Court. Your case
43 constitutes a frivolous and arrogant claim and is
44 discriminatory to all non-Indian Canadians who
45 have every right to use the fish and waters of
46 our country."
47

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- 1 Those were words that you penned?
2 A Yes.
3 Q You wrote those?
4 A Mm-hmm.
5 Q And that was reflective of your view, was it, of the
6 type of the claim that the Gitksan and Wet'suwet'en
7 chiefs were making in respect of the ownership of
8 river waters and fish?
9 A If we should read the rest of the letter, it would
10 explain why I thought that.
11 Q Well, if you will just allow me to ask the questions
12 and then you can explain what you wish, all right?
13 A Yes. That had to reflect my views, since I wrote it.
14 Q All right. And I suggest to you, Dr. Steciw, that
15 that reflects your views of this court case?
16 A No. I think I specifically write in this case about
17 which I would like to make this very clear -- perhaps
18 I should explain this a little bit, your lordship, if
19 I can have two minutes. The way I understood this
20 case, that Neil Sterritt is speaking for whoever, I
21 guess the hereditary chiefs -- in fact, probably, yes,
22 it was, stated that because the Bulkley River ran
23 through a reserve in Moricetown, that the -- that the
24 Moricetown Reserve people had essentially claim on all
25 the fish that -- the migratory fish in this case, it
26 was -- meant the salmon that passed through. The
27 reason why I thought this was totally unreasonable,
28 because these fish, you see, go from the sea by the
29 Skeena River, they enter the Bulkley River, they
30 continue on and on, and how can we say that, you know,
31 because somebody has -- owns property on the river on
32 a tiny portion of it should own all the fish in the
33 system. To me this seems totally unreasonable,
34 because, you know, extending this by corollary,
35 somebody that owns half an acre, each side of the
36 river 100 miles down or up, or 20 or 10 miles, can
37 make the same claim, you see. And for that reason I
38 thought it was really totally, you know, out of
39 proportion, and I have --
40 Q Well frivolous and arrogant is what you say?
41 A Yes. I think it is, you know, but the rest of this
42 case, you know, is a little -- well, I just am writing
43 here about this particular case.
44 Q I understand that, Dr. Steciw, and I hear what you
45 have said by way of explanation.
46 A Okay.
47 Q And my suggestion to you is only this: That that

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Cross-exam by Mr. Rush

- 1 statement about that case at that time is also your
2 view of this case at this time?
- 3 A Let me think about that. No. Although I don't -- you
4 know, well, I told you in principal I think that all
5 Crown lands belong to everybody, all citizens of
6 British Columbia, and they should belong so equally,
7 and we should have, you know, equality of laws, we're
8 all living in a country with equal opportunity. Isn't
9 this the hallmark of any democracy? Instead of saying
10 that a certain group, whether it's white or native or
11 any racial group or interest group, owns it all, on
12 what basis, and that's my personal view. And if I may
13 say this, this has not in any case altered any
14 observations or anything I have told you here under
15 oath or otherwise.
- 16 Q Dr. Steciw, do I take from that -- may I take from
17 that that it is your view that you oppose the chiefs'
18 claim in this case?
- 19 A In generality, yes.
- 20 Q All right.
- 21 A I would side with the Crown in this case as a personal
22 opinion -- as a personal feeling, rather.
- 23 Q Yes. Now, I want to direct your attention to the
24 question of fishing, which you've just told us about
25 in relation to this article?
- 26 A In this specific case.
- 27 Q I will be directing you not to that specific case, but
28 I want to direct your attention to something that you
29 gave evidence about and you said that you had some
30 contact with a Mr. Mike Morrell in 1979?
- 31 A Oh, yes, yes.
- 32 Q And it's my understanding that in that year you
33 contacted the Fish and Wildlife office to have a
34 number of beaver dams, which you thought were blocking
35 the migrating salmon into Slangeesh Lake, to have
36 those dams dismantled or destroyed?
- 37 A I don't think I did actually. I might have, but I
38 don't recall that at all. I felt that certain holes
39 should be made in the dam so salmon could go up, and
40 that would be --
- 41 Q It's my understanding or my instructions, Dr. Steciw,
42 that Fish and Wildlife contacted Mr. Morrell and David
43 Blackwater to go up to Slangeesh for the purposes of
44 taking out those beaver dams?
- 45 A When was this?
- 46 Q In 1979?
- 47 A And did they -- I'm sorry.

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I. Steciw (For Province)
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1 Q Do you have any knowledge of that?
2 A No, I don't.
3 Q All right.
4 A Well, excuse me, in 1979 -- what time would this have
5 been?
6 Q In April?
7 A Okay. I have no knowledge of that, no.
8 Q I also understand that in April of 1979 Mike Morrell,
9 a Mr. Bobby Stevens and a Mr. David Blackwater went to
10 Slangeesh Lake. Do you have knowledge of that?
11 A No, sir, I don't.
12 Q And it is my instructions that there was trapping at
13 the beaver -- in the area of the beaver dams about
14 which you were concerned.
15 A Which were those? There was a number of them.
16 Q You told us that you talked with Mr. Morrell later in
17 the fall in 1979?
18 A Yes, I think it was. I thought -- you see -- yeah, I
19 think so, to the best of my recollection. It was
20 sometime then, yeah. In fact, quite close.
21 Q And he told you that he was up to Slangeesh?
22 A I don't recall that at all.
23 Q And he told you that he was in there in the spring of
24 '79?
25 A I honestly do not -- definitely don't remember that
26 part.
27 MR. RUSH: All right. I would just like you to look at an
28 exhibit that was directed to your attention, Exhibit
29 1084. Could you place that before the witness,
30 please.
31 MR. GOLDIE: Yes. Perhaps use the exhibit.
32 MR. RUSH:
33 Q Now, in this document, Dr. Steciw, you will see in the
34 "Notes on Steciw" notes which are dated October the
35 27th, 1979, it says in the first line, and we take
36 this to be the notes of Mike Morrell:
37
38 "Reconciliation of Steciw terms and locations with
39 maps in my April 14, '79 report based on
40 conversation with Steciw."
41
42 A Yes. I see that.
43 Q That suggests to me that, and I ask if it suggests to
44 you or if it was understood by you, that Mr. Morrell
45 was at Slangeesh on April 14th of '79 or before?
46 A Okay, yes, that does. Could I make a comment at this
47 point?

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

- 1 Q Well, you agree with me?
2 A Yes, yes, okay.
3 Q All right, go ahead then?
4 A This was presented to me, I think, by Mr. Mackenzie at
5 one point.
6 Q Do you know when?
7 A When?
8 Q Yeah.
9 A Yeah. A few days ago, and perhaps it was before then.
10 And he said something that this is -- he referred to
11 it as information that he gave to Morrell, and I said
12 I guess that has to be it, and I flipped to this page,
13 and then of course my report here to Morrell, and what
14 I have done, I read my report, I honestly didn't even
15 bother to read this, I just glanced at it, and that's
16 it in that context. So that's the only reason I
17 didn't say "Hey, how come, you know, April 14th, how
18 come I didn't think he was there".
19 Q All right. I would like you to go to the next
20 paragraph, if you will, please?
21 A Okay.
22 Q And it says, and I'm quoting from Mr. Morrell's notes:
23 "The four dams in" -- what appears to be a K
24 apostrophe I-M:
25
26 "K'im, torn up 27, September, include at least 2
27 that were not well-maintained. Later notes refer
28 to only 2 dams in good repair."
29
30 And then in parentheses it says:
31
32 "Steciw agrees these are probably my dams 1 and 2,
33 the active lodge with food cache is probably my
34 lodge B."
35
36 A Excuse me, I don't know what he means by "my lodge" or
37 "my dams".
38 Q All right. I'm asking you if you had a conversation
39 with Mr. Morrell about the fact of the identified
40 beaver dams in the creeks running into Slangeesh Lake?
41 A Yes, I did, mm-hmm.
42 Q And isn't it the case that during that conversation he
43 told you he was up at Slangeesh Lake in April of 1979?
44 A Sir, if it was, I really missed it.
45 Q I see.
46 A I have no recollection of that.
47 MR. RUSH: Well, I guess the question, it would follow, would it

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- 1 not, is how would he know if he wasn't there?
2 MR. GOLDIE: Well, that's argument from my friend.
3 MR. RUSH: Yes. I guess it is.
4 THE COURT: Does anyone know what K-I-M stands for.
5 MR. RUSH: Mr. Morrell --
6 THE COURT: That's Mr. Morrell, is it?
7 MR. RUSH: Yes. These are the notes of Mr. Morrell.
8 MR. GOLDIE: Yes. But I don't know what -- your lordship asked
9 what K-I-M meant, I don't take that to mean Mr.
10 Morrell.
11 MR. RUSH: I said Mr. Morrell knows. I don't know.
12 THE COURT: I see.
13 A Could I make a comment?
14 MR. RUSH: Now, if you will allow me just to continue, Dr.
15 Steciw, I --
16 MR. GOLDIE: Well, if he wants to answer that, I think he ought
17 to be allowed to.
18 MR. RUSH: I'm not sure that he does.
19 THE COURT: Find out.
20 MR. RUSH:
21 Q Go ahead. Do you have something further to say, Dr.
22 Steciw?
23 A Actually, this might be relevant, and it's only of
24 course as my memory holds, but as far as trapping
25 being continued -- being there before he spoke to me,
26 I remembered this, and you know, I remembered this,
27 that I was -- said to him something like "Gee, you
28 know, how come somebody isn't trapping the beaver
29 there, they're damming up everything, the natives
30 should be trapping there". And he seemed to
31 actually -- well, this is my impression only, that he
32 seemed to be quite surprised that there -- you know,
33 he was asking me quite a bit about, you know, how many
34 lodges were active and how many at the moment. I
35 actually forget, but the most of them were at that
36 time, and you know, to him I indicated there was
37 really, like beaver all over the place, so to say.
38 And then later on the next year I noticed, you know,
39 that there were so many lodges that weren't active,
40 and I thought heck maybe I misled this guy, but the
41 point is this: That my understanding was at least he
42 didn't let on to me that anybody did any trapping
43 there before. In fact, he seemed to be surprised that
44 there was so much beaver around.
45 Q I'm suggesting to you, Dr. Steciw --
46 A It's just my observation.
47 Q That you knew full well that he and other native

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

- 1 people were up there in April of 1979?
- 2 A No, sir, that's wrong, that's not true, and I'm under
3 oath.
- 4 Q And did you -- did you, Dr. Steciw, not contact Fish
5 and Wildlife in the early part of 1979 for the
6 purposes of having those beaver dams taken out?
- 7 A You know, I might have spoke to them that they -- you
8 see, I don't remember this at all, but, you know, I
9 remembered this, that I thought gee, you know, it's
10 too bad that the salmon are too -- actually going to
11 be stopped from going from Slangeesh River, at least
12 from Slangeesh to Damshilgwit. What's going to
13 happen, you see, because it seems to be such a shame
14 because some of those dams that were going up there
15 where I would say from the bottom of the dam to the
16 top were a good four feet, I couldn't see how salmon
17 could clear that. Some of it it was definitely
18 clearing, because the Coho, at least, because of what
19 I saw a few above, but that was my concern.
- 20 Q All right. Well, let's go to your notes. In the fall
21 of '79 isn't it true that you contacted Pat Martin, a
22 biologist?
- 23 A In what year, sir?
- 24 Q In the fall of '79? In the fall of 1979?
- 25 A He worked for me in 1979 as a cook at Slangeesh.
- 26 Q Oh, did he?
- 27 A Yes.
- 28 Q And he was a biologist?
- 29 A Oh, yes.
- 30 Q Yes. And he had been contracted to do work with the
31 Ministry of the Environment, Fish and Wildlife
32 Department?
- 33 A Previously, but not that year.
- 34 Q No, I understand. And you and he went and did an
35 assessment of the beaver dams; isn't that right?
- 36 A No, not quite. You see, I was asked by Mike
37 Morrell -- well, he actually suggested that he and
38 somebody else should fly out there in a Beaver, as he
39 put it, in a Beaver aircraft, to do some sort of, you
40 know, estimate, counts, and I said "Gee, you know,
41 that will interfere" -- I told you this story before.
42 That really would interfere with the grizzly bear
43 hunting, that that would probably be the only thing it
44 would interfere with. He would -- so we finally
45 agreed. I said "Look, I've got a guy that's done
46 biology for years, he's been a consultant biologist,
47 he's been a regional -- what -- how would you put it,

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

- 1 director, what have you, in the 50's, I believe based
2 out of Prince George, you can trust us to give you
3 this, if that's all that you want". So we did this
4 for him and at no cost.
- 5 Q Yes. You offered to gather -- in 1979 you offered to
6 gather the information for him?
- 7 A Yes.
- 8 Q And having offered to gather the information for him,
9 you then sent him these notes; is that right?
- 10 A Yes.
- 11 Q All right. Now, I just want to be clear about one or
12 two things in this respect. Is it not the case that
13 your reason for concern about the salmon getting up
14 the -- up to the Slamgeesh Lake or into the rivers or
15 creeks out of Slamgeesh, that the beavers were
16 blocking the salmon from getting to their spawning
17 grounds?
- 18 A That's right.
- 19 Q And you had an interest to ensure that the salmon got
20 there?
- 21 A Yes.
- 22 Q And that interest was that the spawning grounds is
23 where the black bear feed?
- 24 A Grizzly probably.
- 25 Q Or the grizzly.
- 26 A Yeah.
- 27 Q Feed on the dying salmon?
- 28 A That's correct, yes.
- 29 Q All right. And I earlier mentioned to you about a
30 blind that I understand you have established out at
31 Slamgeesh?
- 32 A Now, there are a number of blinds.
- 33 Q A number of blinds, but these blinds are located in
34 close proximity to the spawning grounds, are they not?
- 35 A Yes.
- 36 Q And the purpose of that is to allow some cover for
37 hunters to shoot bear that come down to feed on the
38 dying salmon?
- 39 A Essentially a vantage point that the scent doesn't
40 carry on the ground, so they can't smell you upstairs.
41 But you're right, there is sometimes we shade the
42 blind off a little bit so there's camouflage, if you
43 will.
- 44 Q My suggestion to you, Dr. Steciw, is you had an
45 interest in getting rid of these beaver dams, you
46 didn't -- you wanted the salmon to get up there?
- 47 A Yes.

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

- 1 Q All right. And it's my understanding that -- that in
2 fact the discussion that you had with Mr. Morrell in
3 September or October of 1979, as indicated by these
4 notes, Exhibit 1084, was in part about getting rid of
5 those beaver dams?
- 6 A In part, yes. Well, pardon me, no, no. Well,
7 indirectly, because, you see, if you trap some of the
8 beavers there's going to be less beaver activity, and
9 this will lead to, you know, whether the ice gets off
10 or a bit of current, it will eventually sort of make
11 the dams -- either level them a lit bit so there won't
12 be the repair. The big thing is the repair -- if you
13 should make a little bit of a hole in the beaver dam
14 it will be repaired by the beaver very soon.
- 15 Q I understood you to say, or at least I inferred from
16 what you said that there was more than one
17 conversation you had with Mr. Morrell?
- 18 A Yes. But not much more than one. I recall one when
19 he came to my office, and there might have been
20 another one, at the most two.
- 21 Q All right.
- 22 A More over and above this, that -- something in that
23 effect.
- 24 Q Was one of those conversations in March or in February
25 of '79?
- 26 A Could have been.
- 27 Q All right. And I take it from the notes that are here
28 as Exhibit 1084 that one of the conversations must
29 have been in the fall of '79?
- 30 A Sorry.
- 31 MR. GOLDIE: No, no. I don't know what it takes from the notes,
32 but the witness has given his evidence on that, that
33 Mr. Morrell telephoned him or got in contact with him,
34 and the observations that are recorded were given.
- 35 MR. RUSH:
- 36 Q When? When did he get ahold of you?
- 37 A When did he get the observations?
- 38 Q Yeah. When did you talk to him? You said it may have
39 been in March or February of '79?
- 40 A Just a moment. I would like to go back a little bit
41 in history. Okay. I'll tell you what happened.
42 Let's go back to 1978. I had a guide working for me
43 then by the name of Daryl Sapergia, and after Daryl
44 came back after the season he had a friend. They
45 discussed about various hunting things and they
46 discussed about salmon going up the Slangeesh River,
47 and this friend of his worked for the Federal

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- 1 Fisheries. So what happened was that the Federal
2 Fisheries somehow, I guess, were talking about, you
3 know, the -- something about salmon up the Slamgeesh,
4 and I think at this point, sometime after this Morrell
5 got interested, and it started from there, but as to,
6 you know, to know the exact dates, I really don't.
7 When I gave them this report, it had to be after that
8 fall hunt.
- 9 Q It would seem to be after October the 6th or 8th,
10 which is the date of your last entry?
- 11 A Yes. Well, of course it would have been, yes,
12 sometime after that.
- 13 Q And I simply am suggesting to you that it would appear
14 from the fact of the last entry in your notes that
15 that follows that your contact with Mr. Morrell was
16 sometime after that?
- 17 A Sometime after.
- 18 Q After that date?
- 19 A Which is it?
- 20 Q October the 8th of 1979?
- 21 A Sure, sounds reasonable.
- 22 MR. RUSH: And you have no knowledge then, I take it, Dr.
23 Steciw, whether or not your conversations of 1978 with
24 a Field and Fish and Wildlife officers led to contact
25 with Mr. Morrell or anyone else?
- 26 MR. GOLDIE: He didn't say he had a conversation, he said he
27 couldn't recall it.
- 28 A That's part, really I would be guessing.
- 29 MR. RUSH: All right. We probably should mark the letter, open
30 letter to Neil Sterritt, my lord, as the next exhibit.
- 31 THE COURT: All right.
- 32 THE REGISTRAR: Exhibit 1088.
- 33
- 34 (EXHIBIT 1088 - Open letter to Neil Sterritt in
35 the Interior News dated April 6, 1983)
- 36 MR. RUSH:
- 37 Q Dr. Steciw, you can set that aside now.
- 38 A Sure.
- 39 Q I won't need that further. You told us that at
40 certain times of the year it's dangerous to fly in the
41 north?
- 42 A Yes.
- 43 Q And I take it that the danger is in part due to the
44 weather conditions?
- 45 A Yes.
- 46 Q And those weather conditions, I take it, are
47 conditions of fog and cloud, rain, snow?

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

- 1 A Snow, sleet, freezing conditions.
2 Q Freezing conditions, like that?
3 A Yes, that's right.
4 Q And I think you also said it was dangerous to fly in
5 the north because of the condition of the waters in
6 the north, freeze up?
7 A That's right, yes.
8 Q In the period from freeze up and break up that it's
9 difficult to land an aircraft on ice; is that right?
10 A Yes.
11 Q And I take it that your flying itself is determined
12 again in some part by the season. A perusal of your
13 flying logs, your most intensive flying was during the
14 the time of the guide hunting periods in May, June and
15 September, October?
16 A Yes. In part -- you see, in part the most intense
17 flying was then, because of course that's when I did
18 my, you know, business portion of the flying.
19 Q Right. And you -- your aircraft had to take regular
20 maintenance as well?
21 A Oh, yes.
22 Q Now, the terrain over which you flew into the north,
23 as you put on the three lines that are on this map,
24 Exhibit 55 --
25 A Mm-hmm.
26 Q -- it's correct to say, is it not, that much of this
27 terrain is heavily timbered?
28 A Yes.
29 Q And there's a forest cover?
30 A Yes.
31 Q Over much of the terrain?
32 A Yes, that's true.
33 Q And my understanding of some of this area is that the
34 timber is anywhere from what, 100 to 250 feet high?
35 A Well, I would say maybe 100, 150, but I mean --
36 Q And that area includes the Shedin watershed, does it?
37 A The lower portions of it. The upper portions, as I
38 mentioned, up around Damsumlo Lake are park-like.
39 There's large open areas interspersed with scrub brush
40 essentially.
41 Q Damsumlo Lake is right at the very head of the Shedin
42 watershed?
43 A Yes.
44 Q Apart from the Damsumlo area, would you agree with me
45 that the area of the Shedin watershed is itself
46 heavily timbered?
47 A Yes.

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- 1 Q And in terms of human activity below the forest cover,
2 that when you're flying over it you cannot see that
3 activity beneath the forest cover?
4 A In most cases this is -- yes, this is correct.
5 Q And in -- would you agree with me that travel in the
6 Alpine areas is most difficult in some of the
7 mountainous regions north of the Babine River?
8 A No. I don't think so. In fact, it's quite easy,
9 because, you see, you don't have the obstacles, the
10 downfalls, and you know, not fighting underbrush all
11 the time.
12 Q Well, in the wintertime travel in many parts of the
13 area where your guide certificate is located, travel
14 is assisted by the snow cover; is it not?
15 A By assisted you mean --
16 Q Foot travel is easier on snow with snowshoes?
17 A On snowshoes, yes.
18 Q All right. And by "easier", I mean presumably on
19 trails in the -- when there are no snow conditions,
20 that one of the obstacles is the deadfall problem
21 where you have to clear deadfalls along trails?
22 A Yes.
23 Q That problem isn't so prevalent where there is no
24 cover?
25 A That's right.
26 Q Now, I understood you yesterday to say as well that
27 you didn't fly over the mountains that are north of
28 Smithers in your flight pattern up to Slangeesh and to
29 Chipmunk Strip, that you flew primarily the valleys?
30 A Well, I didn't fly right over the top of the peaks
31 because, let's see, if I went over the Blunt peaks
32 that would be -- I would have to maintain about seven,
33 seven and a half thousand feet altitude, but I would
34 go -- you see, to put this into perspective, okay, on
35 the average trip, say on floats, shall we say, now, or
36 are you talking about the wintertime?
37 Q Well --
38 A Okay, on floats.
39 Q I wasn't talking about either in particular?
40 A Well, there is a difference, okay.
41 Q Let's talk about in the wintertime first?
42 A Oh, in the wintertime I would actually -- provided
43 that it was an open -- you know, open sky, good
44 weather, I would go -- I hardly ever went across, you
45 know, to the top of the peaks, but I did go along the
46 timber line or just at the timber line between the
47 Bulkley River, say, and the Blunt Mountains, because

I. Steciw (For Province)
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1 it's nice to watch and see, for one thing.
2 Q You're flying at what, about 7,000 feet?
3 A At that point?
4 Q Yeah?
5 A Oh, no. That would be between -- well, maybe close to
6 5,000 feet above sea level, not above ground.
7 Q Mm-hmm. But I want to ask you, you're not flying over
8 the mountains?
9 A Most cases, no.
10 Q No. And is it not the case that when you're doing
11 valley flying that that is a trickier form of flying
12 and you're above all of the --
13 A Well, that depends really. But most of the time when
14 I would say when I was in the Blunt Mountains, I would
15 be flying not over the peaks, I would be flying around
16 five, five and a half thousand, four thousand eight
17 hundred, but that's just because it might have been
18 interesting that day to watching something or
19 whatever, you know.
20 Q My question to you is is it not trickier to fly in the
21 valleys?
22 A Sometimes that's the only place to fly if you have a
23 low ceiling.
24 Q I understand.
25 A That wouldn't be so tricky then. I don't see the
26 point, I would say -- I would have to say no to that.
27 Q It's -- all right. From my layman's view of these
28 things, it would appear to me that there's a certain
29 logic in suggesting that it's trickier to fly in the
30 valleys than it is over the mountains. Is that wrong?
31 A Depends at what altitude.
32 Q Well, presumably you would have to fly higher than the
33 mountains if you're going over them?
34 A But in the valley how low would you be flying?
35 Q You said about 5,000 feet?
36 A Oh, no. Up against the side of the mountain, I said
37 this. No. It isn't tricky at all to fly in the
38 valleys, depending on winds, of course.
39 Q Yes. Well, I had assumed that it was --
40 A Turbulence, whatever.
41 Q And all of that requires your concentration?
42 A That's right.
43 Q Now, you said that you weren't on the ground at the
44 village of Kuldoe; is that right?
45 A That's true, never.
46 Q All right. And you weren't on the ground at the
47 village of Kisgegas?

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- 1 A No, never.
- 2 Q You know where Kisgegas is?
- 3 A Yes, certainly. It's at the junction of Babine River
4 and Shedin Creek essentially.
- 5 Q Mm-hmm. And one of the flight lines that you've drawn
6 with the dash mark here, which you've marked as "A",
7 flies fairly close to Kisgegas?
- 8 A Three to four miles, five, whatever, around that.
- 9 Q All right. And you're flying to the west of Kisgegas
10 Peak.
- 11 A Where's --
- 12 Q Right here.
- 13 A Yes, just -- mm-hmm.
- 14 Q And you see Atna Pass there, do you?
- 15 A I see Atna Pass, yes.
- 16 Q Do you know Atna Pass?
- 17 A No.
- 18 Q But you know as a position on the ground where
19 Kisgegas village is?
- 20 A Oh, yes.
- 21 Q And I understand that you have not been on the ground
22 in the Shedin watershed area?
- 23 A That's right, never.
- 24 Q And you've not been on the ground at -- in the area of
25 Damsumlo?
- 26 A No. But -- okay.
- 27 Q And is it -- is it fair to say, Dr. Steciw, that you
28 have not been on the ground to the east of Kisgegas
29 over to the Driftwood River or Kotsine?
- 30 A No. That's fair to say, yeah.
- 31 Q Now, I want to ask you if -- if in your -- on the
32 occasions in which you've flown the route that is
33 marked by the dashed line that you have circled with
34 an A, if you have observed in that area any cabins?
- 35 A Well, I've noticed some buildings around the Kisgegas,
36 but I never had, you know, interest to fly sort of and
37 watch this, but I'm sure there's some activity there.
- 38 Q But you've never seen any?
- 39 A I haven't seen any people on the ground, no, but there
40 are buildings there.
- 41 Q That's at Kisgegas at the village?
- 42 A By the village. You would have to --
- 43 Q Well, just the area that appears to be marked in a
44 cross-hatched way, which we take to be the reserve
45 area where the village is located?
- 46 A Yes.
- 47 Q Now, I'm directing your attention now not to the

I. Steciw (For Province)
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- 1 village but rather to the flight plan that you've
2 marked with a dashed line on this map?
- 3 A Certainly.
- 4 Q And circled with an A. And my question to you is in
5 that flight plan the many times that you have been
6 over there have you observed any cabins on the ground
7 as you've gone over?
- 8 A Okay, may I just --
- 9 Q Apart from Kisgegas?
- 10 A Oh, apart from Kisgegas?
- 11 Q Yes.
- 12 A No.
- 13 Q All right. I want to show you, Dr. Steciw, Exhibit
14 694. And I just want to ask you to look at Exhibit
15 694, please.
- 16 A Mm-hmm.
- 17 Q And there are two photographs there, and I would
18 direct your attention specifically to the top
19 photograph, and if you can tell me whether or not you
20 can identify the --
- 21 A No.
- 22 Q Structure there?
- 23 A No, sir, I can't.
- 24 Q Have you ever seen such a structure as that as you
25 were flying on your flight pattern that's marked as A
26 on the map over there?
- 27 A To be fair, this structure is taken from the ground.
28 It would look totally different from the top, but my
29 answer would have to be no.
- 30 Q All right. And I just want to direct your attention,
31 Dr. Steciw, that if I told you that the structure that
32 is shown here in Exhibit 694 is to the west of Atna
33 Pass, which is shown as marked here, and shown as
34 marked on this map, and to the east of Shiniamike
35 Creek, does that assist you at all in terms of your
36 recollection?
- 37 A No sir, no sir. It doesn't at all.
- 38 Q Thank you. Now, Dr. Steciw, I take it that you've
39 indicated that winter travel is assisted by obviously
40 snowshoe and travel on the snow. Is it also assisted
41 by the presence of ice over lakes and rivers?
- 42 A Usually there's, you know, depending on conditions
43 again and so forth, there's usually snow on all ice.
- 44 Q Yes?
- 45 A I've never had occasion yet, although I'm sure there
46 can be, occasions to land a plane on glare ice, at
47 least not on any of the lakes I've flown to up north.

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

- 1 Q I don't mean to suggest that you were attempting to do
2 or others were attempting to do, I'm simply saying
3 when the waters are frozen over they're covered with
4 snow, and the waterways themselves can become places
5 where travel can occur, can happen. You can walk
6 across snow-covered ice?
- 7 A Oh, yes, sure.
- 8 Q Dr. Steciw, you, I think have said, that you were --
9 you have not been on the ground in the Shedin
10 watershed area?
- 11 A That's right, no, never.
- 12 Q And I think you would be unable to say what the
13 distribution of the game is or the plentifulness of
14 the game in the watershed?
- 15 A Okay. Could I comment on that a little bit.
- 16 Q Well, can you first answer my question, and then you
17 may comment?
- 18 A Not in the lower Shedin. Where I'm talking about in
19 the parklands and upper Shedin, drainage around
20 Damsumlo Lake.
- 21 Q That's what you were talking about when you made the
22 comment?
- 23 A I can make comment about that. I have never observed,
24 you know, any tracks and any game there.
- 25 Q In that area?
- 26 A In that area from the air, and of course, I wasn't
27 there from the ground.
- 28 Q My question to you is in the Shedin watershed area to
29 the south of Damsumlo, you're unable to make any
30 comment about the distribution of game in that area?
- 31 A That's correct.
- 32 Q Now, I wonder if the witness could be shown Exhibits
33 1085 and 1086. Now, you have these exhibits in front
34 of you, Dr. Steciw?
- 35 A Yes.
- 36 Q These are your aircraft logs from May 11th, '86?
- 37 A Yes.
- 38 Q To July 6th, '89?
- 39 A Mm-hmm.
- 40 Q And these are in two parts, and I have reviewed these
41 logs, Dr. Steciw, and it's my conclusion that most of
42 your trips from '86 to '89 are one-day trips up and
43 back from Tye Lake?
- 44 A Yes. That's probably -- that's correct, yes.
- 45 Q All right. Now, I want to direct your attention,
46 please, if you will, first to Exhibit 1085?
- 47 A Mm-hmm.

I. Steciw (For Province)
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- 1 Q And if you will direct your attention to the first
2 page. Do you see that?
3 A Yes.
4 Q Do you agree with me that between May 11th, '86 --
5 A Just a minute, May 11th, yes, okay.
6 Q And June 11th, '86 there are no trips flown by you to
7 the area of your --
8 A Yes, that's correct.
9 Q And would you look at June 24th to July 5th?
10 A June 24th.
11 Q To July 5th, '86?
12 A To July 5th?
13 Q Yes?
14 A Yes.
15 Q There are no trips by you to any point in your guiding
16 area?
17 A Well, just a second. It says June 24th, Tye Lake to
18 Slamgeesh -- oh, okay. If I note the time that it
19 took is point five hours, and this means -- you know,
20 this is actually -- I probably put -- okay, may I --
21 June 24th, see it, right above -- well, okay. June
22 24th, you see Tye Lake to Slamgeesh. Now, with this
23 aircraft it would have been impossible for me to make
24 it in point five hours, so this I conclude that the
25 weather was bad and I had to turn around, but it was
26 an intended trip. Usually I just mark that as Tye
27 Lake and that's it. Okay. Now, what was your
28 question again?
29 Q My question is that between June 24th and July the
30 5th?
31 A July the 5th.
32 Q Or perhaps I should say to and including July the 3rd?
33 A Yes.
34 Q There were no trips to your area?
35 A Yes, that's right.
36 Q All right. If you just keep this in front of you now.
37 And between July the 6th --
38 A There's no July 6th here. There's July 5th and 7th.
39 Q And after -- from July the 7th -- or July the 6th
40 through to July the 12th there are no trips?
41 A To July -- well, yes. July 7th -- okay, that's right,
42 mm-hmm.
43 MR. RUSH: All right.
44 MR. GOLDIE: I'm sorry, does my friend's question include July
45 the 12th? I thought you said through July the 12th.
46 MR. RUSH: No, I didn't say that. I said to July the 12th, but
47 I'm always happy to try and assist.

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I. Steciw (For Province)
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1 MR. GOLDIE: Thank you.
2 MR. RUSH:
3 Q July the 6th to the end of the day of July the 11th,
4 Dr. Steciw, there are no trips?
5 A That's right, no, no.
6 Q All right. And if you'll look at the log from the
7 bottom of the first page over to the next page, from
8 July the 13th to August 23rd, or perhaps we should say
9 to the close of day of August the 22nd, there were no
10 trips to your area?
11 A Well, in fact, to make it short, not until August
12 18th. I have marked all these in red, you see, that I
13 have no trips.
14 Q Yes, all right, thank you. You're just agreeing with
15 that?
16 A Yes, certainly.
17 Q All right. And then would you look, please, to the
18 6th page along?
19 A November 2nd is -- which would be the date?
20 Q This is at the beginning of the page, or the top of
21 the page there's an entry for October the 4th?
22 A Yes, okay. I have the page.
23 Q And if you look, please, to the date of October the
24 13th?
25 A Yes.
26 Q All right. Now, from the last flight, if I can put it
27 that way, was -- to your area was on October the 13th
28 of '86?
29 A Yes.
30 Q So from October the 14th of '86 through to May 23rd,
31 '87, except for two trips, one on February the 14th
32 and one on February the 23rd, there were no trips to
33 your area?
34 A Let's see, February 14th, February 15th and February
35 23rd is when -- those were the only days flown to my
36 area -- oh, wait. No. February -- you see, the way I
37 have it marked here, it's a little perhaps better,
38 more obvious than in yours. I don't know if you have
39 it marked there in red, but anyhow, in my area, if
40 this is your question, February, what days I flew was
41 February 14th, February 15th, 23rd, and again 23rd,
42 these were the flights, and two flights on the 23rd.
43 And these were not, you know, back and forth, back and
44 forth, as you know -- well, some of them were.
45 February 14th was Smithers to Slamgeesh, February 15th
46 from Slamgeesh back, February 23rd Tye to Slamgeesh,
47 and that day I flew Slamgeesh locally, and that was

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- 1 point eight of an hour, as the log says, and February
2 23rd I flew back to Smithers to Tyee Lake.
- 3 Q Let me rephrase my question with your clarification in
4 mind, Dr. Steciw. From October the 13th, 1986 through
5 to May 23rd, 1987, except for February 14, 15, and two
6 on February 23, there were no air flights by you to
7 anywhere in your guiding certificate area?
- 8 A Yes, yes.
- 9 Q Thank you. Now, if you will look, please, to May the
10 24th?
- 11 A What page is this; this is not 1987?
- 12 Q Yeah.
- 13 A Pardon me, oh, okay, May.
- 14 Q If you will just go along a bit farther?
- 15 A Yes, May 24th.
- 16 Q To the page --
- 17 A That was a local flight in Tyee Lake, that's all I
18 show here.
- 19 Q You have the page beginning with May 18th, '87?
- 20 A Yes. That's the one, okay.
- 21 Q All right. And if you will review this page, Dr.
22 Steciw, you will see that there are no flights to your
23 guiding certificate area between May 24th, '87 and
24 August the 21st, '87 except on May 30th, June 27th,
25 and July the 4th?
- 26 A No -- yeah. May 30th there are two flights, right.
27 And June --
- 28 Q The 27th?
- 29 A Yes.
- 30 Q And July the 4th?
- 31 A Well, also June 28th and July the 4th.
- 32 Q Is that right? Yes, well let me rephrase it then.
33 From May 24th, '87 to July 21st, 1987?
- 34 A Excuse me, May 24th, '87 to when again, July?
- 35 Q August 21st, '87?
- 36 A August 21, okay. We have to turn to August now.
37 August which now?
- 38 Q Just review that, over to August 21st?
- 39 A The 21st, just a moment. Oh, August 21st. Okay, I
40 have it here.
- 41 Q Yes. Up to but not including August 21st, or is that
42 including August 21st?
- 43 A That includes -- that's from Tyee to Tantan Lake I
44 have here, but that is including Tantan Lake.
- 45 Q All right. Well, then it should be up to August 21st
46 then?
- 47 A Yes.

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

- 1 MR. RUSH: So let me restate my -- what I read from this is that
2 from May 24th up to August 21st but not including
3 August 21st there were no flights to your guiding
4 certificate area by you except for two flights on May
5 the 30th, a flight on June the 27th --
6 MR. GOLDIE: Just a second.
7 MR. RUSH:
8 Q Flights on May the 27th -- excuse me, two flights on
9 June 27th, a flight on June 28th, and a flight on July
10 the 4th?
11 A Excuse me, three flights on June 27, I have here.
12 And June -- one flight on June 28th.
13 Q And one on July the 4th?
14 A And two on July the 4th. July the 4th and July the
15 4th, there are two entries.
16 Q Except for those entries then that you've noted?
17 A Yes.
18 Q You agree with me?
19 A Yes, sure.
20 Q All right, thank you. Now, Dr. Steciw, would you move
21 along, please, to the page which commences with an
22 entry on October the 13th, and to assist you, it's the
23 second from the end in Exhibit 1085?
24 A Okay, October the 13th, right?
25 Q Do you have that?
26 A Yes, sir.
27 Q Thank you. And I would like you to look at the
28 entries beginning October 19th. You see that?
29 A Yes.
30 Q So from October the 15th, 1987 through to January the
31 24th, 1988 there were no trips to your guide hunting
32 area?
33 A No. Excuse me, I think that's quite correct. There
34 was a flight beginning, I take it, January 23rd. You
35 see the way the print -- not the print, the photostat
36 copy came out, some of the dates, the month part isn't
37 here, but what you see there in the last, as if it was
38 paragraph, but it isn't, but it just looks that way,
39 on the 23rd.
40 Q It's somewhat cut off on my copy too. So it should be
41 the 23rd?
42 A Yes, until 23rd. But there was a flight commencing on
43 January the 23rd.
44 Q All right.
45 A From Tyee to Slamgeesh.
46 Q So my reading of this log is this: That from October
47 the 14th -- or excuse me, let me rephrase that. From

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

1 October the 15th, 1988 through to January 23rd but not
2 including the 23rd of 19 -- let me -- let me try again
3 on this one. All right, I seem to have got my
4 dates -- from October the 15th of 1987 through to
5 January the 23rd, 1988 but not including January the
6 23rd, 1988 there were no trips to your guide hunting
7 area?

8 A Yes, that's true.

9 MR. RUSH: It might be a convenient time for the break, my lord.

10 THE COURT: All right, thank you.

11 THE REGISTRAR: Order in court. Court stands adjourned until
12 two o'clock.

13

(LUNCHEON ADJOURNMENT TAKEN AT 12:30)

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

Graham D. Parker
Official Reporter
United Reporting Service Ltd.

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

1 (PROCEEDINGS ADJOURNED AFTER LUNCHEON RECESS)
2
3 THE REGISTRAR: Order in court.
4 THE COURT: Mr. Rush.
5 MR. RUSH:
6 Q You have Exhibit 1085 in front of you?
7 A Yes.
8 Q Okay. If you would turn to the second to last page.
9 A Yes.
10 MR. GOLDIE: My Lord, we ascertained at noon that unfortunately
11 Mr. Rush did not have the red marks which the witness
12 has placed on the exhibit. And I draw that to Your
13 Lordship's attention, because of the manner in which
14 the cross-examination went on, it became apparent to
15 me that my friend didn't have that advantage.
16 MR. RUSH: I was quite happy to go with the disadvantage, My
17 Lord.
18 THE COURT: Okay.
19 MR. RUSH:
20 Q Turning to Exhibit 1085, Dr. Steciw, and the second to
21 last page. If you will look, please, from the second
22 to last page with the entry at the top of the second
23 to last page in that exhibit, and if you will then
24 follow through to the last page and over to the
25 beginning of Exhibit 1086, the first page of 1086.
26 A Uh-huh.
27 Q Down to looks to be about the sixth entry. Do you see
28 that?
29 A Which specific entry, sir, are you talking about?
30 Q Down to June 19th, 1988.
31 A Yes, I see that.
32 Q 1988. Now, I am wondering, considering those three
33 pages, Dr. Steciw, if you will agree with me that from
34 October 15th, 1987 to June the 19th, 1988 that there
35 were no trips by you, save and except to your area in
36 that period, save and except those which occurred on
37 January 23rd and 24th, 1988, on February 13th and 17th
38 and February 22nd and 27th.
39 A Yes, 22nd, yes, three entries and so forth and all the
40 way to 27th. Okay, assuming that that is February,
41 where we have the date actually missing.
42 Q Yes.
43 A Yes. Yes.
44 Q All right.
45 A And let's see, up until when did you say?
46 Q June 19th, 1988, which you can see from Exhibit 1085.
47 A June 19th. Yes, that would appear to be so. Yes,

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

- 1 it's all marked for you.
2 Q Thank you. Now, just directing your attention
3 specifically to Exhibit 1086, and if you will please
4 go to the page which begins with September 30th, 1988,
5 which is about 12 pages long.
6 A September the 30th.
7 Q That's the entry at the top of the page.
8 A Okay. I see that.
9 Q All right. And at the bottom of that page, if you
10 will direct your attention to the last two entries.
11 Can you agree with me, Dr. Steciw, that from October
12 the 7th, 1988 through to June 18th of 1989 --
13 A Excuse me, from October the 7th?
14 Q 7th.
15 A 1988?
16 Q Yes.
17 A I have to turn to that then. October.
18 Q Well, you see --
19 A October, 1988. So we have to go past September to get
20 to October, 1988?
21 Q Yes. I suggested that you look at the page that
22 begins with September the 30th.
23 A Oh, yes. Okay, and going forward.
24 Q Yes. You see that?
25 A Yes. Yes.
26 Q And at the bottom of that you will see an entry
27 beginning October 10th?
28 A Yes.
29 Q And my suggestion to you is that from October the 7th,
30 1988 through to June 18th of 1989, if you will just
31 run through to the back.
32 A Sure. Which again?
33 Q Last page.
34 A Yes, okay. But what's the date in June?
35 Q 18th, '89.
36 A Yes.
37 Q You did not travel to your guide outfitting area --
38 A Uh-huh.
39 Q -- in that period, except for March 16th and 19th,
40 1989?
41 A Well, 16th, 17th, 18th and 19th, yes. Excuse me, no.
42 September 16th, 17th -- wait a second. Let me just
43 get this straight. Okay. When I travelled is March
44 16th, 17th, 18th and 19th.
45 Q All right. I will come back to that, Dr. Steciw.
46 A As I have in my log books here --
47 Q The exception is, then, for March 16th, 17th, 18th and

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

1 19th?
2 A Uh-huh.
3 Q May 29th and May 30th?
4 A May 29th I did not fly. That was -- excuse me. No, I
5 take that back. No, I was looking at the wrong thing.
6 Q May 29th and May 30th.
7 A Okay. May 29th, yes, 2, 3 entries, 4, 5 entries, and
8 May 29th up until to the second last entry.
9 Q May 30th?
10 A Yes, 30th, yes. Uh-huh. It looks like it could be
11 30th or 31st. I'm not sure if May has 30 or 31 days
12 in it, but could be either one, that's true.
13 Q Let me recapitulate, if I can, now that you have
14 reviewed that. From October the 7th, 1988 through to
15 June 18th, 1989 you did not travel to and from your
16 guide outfitting territory, except for the dates of
17 March 16th, 17th, 18th and 19th, 1989, and May 29th
18 and 30th, 1989; is that right?
19 A Yes.
20 Q Now, if you will just look at the dates of March 16th,
21 17th and 18th and 19th.
22 A Okay. March 16th -- yes.
23 Q You see those four dates?
24 A 16th, 17th, 18th and 19th, yes.
25 Q Yes. The 16th shows a flight from Smithers.
26 A To Kluatantan Lake.
27 Q To Kluatantan Lake. And the 17th shows a flight which
28 was locally around Kluatantan?
29 A Yes.
30 Q So I take it that you stayed there and flew --
31 A Yes, stayed in the cabin and flew the vicinity.
32 Q Similarly with the 18th?
33 A Yes.
34 Q And then you returned on the 19th?
35 A Yes.
36 Q So on the 16th you flew there to Kluatantan Lake from
37 Smithers?
38 A Yes.
39 Q And you returned on the 19th; is that right?
40 A Yes. Uh-huh.
41 Q Thank you, Dr. Steciw. You can set that aside.
42 A Okay.
43 Q Dr. Steciw, you indicated that you had not been on the
44 ground at the village of Kuldoe.
45 A That's right.
46 Q You know of the trail to Kuldoe, do you?
47 A From where? You mean from Hazelton?

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

- 1 Q Well -- the Upper Kispiox Valley.
2 A Well, I know the road. If you want to call it, it's
3 called Salmon -- I think it's called Salmon Road or
4 some such thing it's called, and I just know it from
5 the air also.
6 Q You have never been on the ground on the Kuldoe trail
7 though?
8 A No.
9 Q Thank you. And you understand that the trail that I
10 am talking about leads from the northern end of the
11 Kispiox Valley?
12 A No, I am not sure which trail exactly you mean, sir.
13 Maybe you can describe it.
14 Q Do you know of a trail that leads from the Upper
15 Kispiox Valley to Kuldoe?
16 A No, I do not.
17 MR. RUSH: All right. Thank you. Now, My Lord, that completes
18 my cross-examination to this point. My friend, Mr.
19 Goldie, delivered to me this morning two files with
20 the name of Igor Steciw on them, which
21 apparently came from the office -- from the Fish and
22 Wildlife office in Smithers, and I have not had an
23 opportunity of considering these files with any
24 detail. I have perused them, and I understand as well
25 that there were certain documents my friend indicated
26 that were not included with the file that were said to
27 be not relevant.
28 MR. GOLDIE: Third party.
29 MR. RUSH: And with respect to those, I would like -- I would
30 like to get an idea of just how many were taken out
31 and what they related to. And I am proposing that I
32 adjourn the cross-examination to tomorrow morning, to
33 allow me to consider the files, and then determine
34 whether or not I have any further questions relating
35 to the documents that are contained in the files. I
36 should think that on a very brief perusal of these
37 files to this point that I shouldn't have very many
38 questions.
39 I can advise Your Lordship that my friend told me
40 that he had not intended to start with the evidence of
41 Mrs. Peden, who is, we understand, the next witness,
42 until tomorrow morning. And in respect of her
43 testimony, request was made for similar types of files
44 on Monday, and I have not received those files. I
45 would like to see -- obtain those files as soon as
46 possible. That doesn't relate to the
47 cross-examination of Mr. or Dr. Steciw, but while the

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

1 issue is fresh, I would like to obtain these files as
2 soon as possible, if in fact it is the case that Mrs.
3 Peden is going to start tomorrow.

4 Now, my proposal is that I adjourn the
5 cross-examination and complete it tomorrow morning.

6 THE COURT: Mr. Goldie.

7 MR. GOLDIE: My Lord, I should say first that in my submission
8 it is highly unfair to this witness to be subjected to
9 the informal process that has resulted in the
10 production of these files from the offices of the
11 government agent in Smithers. He doesn't know what's
12 in those files. What I have taken out were a batch of
13 returns in respect of third parties, nothing to do
14 with him at all, but obviously they were probably -- I
15 think they were the -- had to do with the licences for
16 the people that he employed. In addition to that
17 there may have been some other material removed which
18 was totally irrelevant to the -- to this case or to
19 the evidence that he's given. I say unfair, because
20 the witness is not an employee, agent or other of the
21 defendant. He was -- there was no -- he was asked to
22 obtain documents in his possession, which he did, and
23 he brought -- sent down, and that my friend got copies
24 of that. The government documents came in late last
25 night, and Mrs. Peden's -- the documents that she
26 brought from the government office which relates to
27 her are now being examined, but the -- these are
28 documents of which the witness has no knowledge,
29 except to the extent that they are duplicates of the
30 returns that he has made. And my friend apparently
31 didn't even need to -- didn't even need to go to the
32 government files to get those. Mr. -- or Dr. Steciw
33 is able to -- was able to provide those, at least
34 those that were in his possession.

35 There will be a submission at greater length with
36 respect to a document that has been directed to us
37 with respect to Mr. Shelford. It is a misuse, in my
38 submission, of the notice to produce, which is
39 something between the parties served two days before
40 the trial.

41 My friend is protected so far as surprises is
42 concerned, and that I cannot refer to any document
43 that hasn't been listed without the court's
44 permission. My friend now wants to cross-examine on
45 documents which have not even been listed. Now this
46 all comes about because the -- the defendant, like
47 every other citizen and resident in the country, files

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

1 material with government departments. He comes and
2 gives evidence of personal observations.
3 THE COURT: You mean the witness rather than the defendant.
4 MR. GOLDIE: I'm sorry, the witness, like every other citizen,
5 files things in government departments. Now, what is
6 the difference in principle between requiring a
7 witness at an intersection to an accident, and being
8 requested to produce his income tax return? Your
9 Lordship will say to me, well, these files relate to
10 his activity as a guide outfitter, but he's not giving
11 evidence as a guide outfitter as such. He is giving
12 evidence as an eyewitness who is given the opportunity
13 to observe by virtue of his activity, but there is --
14 it's not an issue in this trial that Dr. Steciw
15 conducts a guide outfitter business.
16 THE COURT: Well, is the first enquiry not to find out whether
17 the doctor will be inconvenienced?
18 MR. GOLDIE: Well, he wouldn't be -- yes, I don't know whether
19 he will be. As far as I am aware he was planning to
20 go home today.
21 THE COURT: Should we make that enquiry?
22 MR. GOLDIE: If Dr. Steciw wishes to enjoy Vancouver a day
23 longer -- I will be making this submission, or this
24 submission will be made in any event, because it's a
25 matter of principle, but I am happy to have his
26 response to that.
27 THE COURT: Doctor, is it convenient for you to stay over and be
28 available possibly for some further cross-examination
29 tomorrow morning?
30 THE WITNESS: My Lord, the word is convenient, but it certainly
31 isn't. You see, I am missing days at work, and my
32 wife phoned the secretary today. Tommorrow's day is
33 booked solid. I would at least like to have the
34 opportunity to leave tomorrow morning, and I am
35 willing to spend any amount of time today here that's
36 necessary.
37 THE COURT: What did you have in mind for the rest of the day,
38 Mr. Goldie?
39 MR. GOLDIE: I don't have anything right now. My suggestion,
40 having heard that, is that we adjourn for an hour, and
41 let my friend come back and complete his
42 cross-examination.
43 THE COURT: What do you say to that, Mr. Rush?
44 MR. RUSH: Well, I don't know how long it is going to take me to
45 look at these files, or whether there is anything in
46 them at all. But I do want to make one point, My
47 Lord, is that it isn't just a question that the demand

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

1 or the production was made of the witness. It was
2 made of the defendant, and in our view the documents
3 that are in this file should have been listed long
4 ago, just as documents pertaining to trapline files in
5 the same office were listed long ago. And in my
6 submission my friend can't now raise the fact that he
7 didn't list them as a basis for an inconvenience for
8 non-production.

9 THE COURT: Well, I think we should talk about that problem
10 another time. I would like to suggest that we adjourn
11 until, say, 4:00 o'clock or 3:30 and dispose of that,
12 or alternatively take the line of least immediate
13 resistance and have him come back at some time that's
14 more convenient to everyone.

15 MR. RUSH: What I would propose, My Lord, is this: We adjourn
16 'til 3:30, and if in the meantime that is sufficient
17 time for me to peruse the file, I will try to make an
18 assessment of it. And if I can't do it in that period
19 of time, then perhaps the second alternative that you
20 pose.

21 THE COURT: All right.

22 MR. RUSH: But I will try to complete the task in that period.

23 THE COURT: All right. We will adjourn then until 3:30. If you
24 are ready before then, I will be here and available,
25 and if you decide before that time that maybe you are
26 not going to be able to complete this task, well
27 then -- well, perhaps the safest thing is to put
28 everybody on the same footing, and we'll reconvene at
29 3:30 and see then.

30 MR. RUSH: Thank you.

31 THE REGISTRAR: Order in court. Court stands adjourned.

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33 (PROCEEDINGS ADJOURNED AT 2:25 P.M.)

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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.

LORI OXLEY
OFFICIAL REPORTER.
UNITED REPORTING SERVICE LTD.

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

1 (PROCEEDINGS RESUMED AT 3:35)

2

3 THE REGISTRAR: Order in court.

4 THE COURT: Well, Mr. Rush, what can you tell us?

5 MR. RUSH:

6 Q I've completed my review of these two files and I can
7 return them to my friend, and there is one further
8 matter that I wish to deal with arising out of these
9 files, and I'm going to ask the witness if he can
10 identify this letter. Just want to ask you, Dr.
11 Steciw, if you received a copy of this letter of
12 February the 15th, 1989 addressed to you from a Mr. D.
13 Zirul, Z-I-R-U-L, regional manager -- or region
14 manager of the Ministry of Environment?

15 A Yes, I did. And I wrote him an answer.

16 Q And I want to direct your attention to page 2, where
17 it says at the beginning of the page:

18

19 "I am adopting a regional policy, therefore, that
20 where a guide-outfitter has on an average of the
21 last three years utilized this less than 50%
22 of his authorized moose quota, the quota will be
23 reduced by 20%."

24

25 And carrying on:

26

27 "Information on file indicates that you have
28 utilized only 50% of your moose quota in 1986,
29 29% in 1987, and 7% in 1988, for a three year
30 average of 29%. I am therefore considering, in
31 keeping with the above policy, that your quota
32 will be reduced for the 1989/90 licence year to 11
33 moose. If you feel, however, that there are
34 specific reasons why this policy should not apply
35 in your case, I am prepared to consider your
36 circumstances provided to me in writing within 30
37 days of your receipt of this letter."

38

39 I'll finish it off:

40

41 "If I do not hear from you by that time, I will
42 consider the issue closed and you can expect your
43 next year's licence to be adjusted as set out
44 above."

45

46 Your licence for the year 1989-90 was adjusted, was it
47 not?

I. Steciw (For Province)
Cross-exam by Mr. Rush
Re-in chief by Mr. Goldie

- 1 A Yes, it was, mm-hmm.
2 Q And to conform with the quota that's imposed by this
3 letter of 11 moose?
4 A That's right.
5 Q Can that be an exhibit.
6 A If I may just clarify, this quota refers only to the
7 southern portion of my area.
8 Q Is there something in the letter that assists me?
9 A No, it doesn't, but that in fact is what it is. That
10 limits itself to those portions of my guiding area
11 that are in 6-8 and 6-17B, and this is in management
12 units I'm talking about. I actually don't think,
13 because I talked to Mr. Zirul about this personally,
14 and subsequently wrote him a letter, of course,
15 formally. I don't think -- actually, he's new on the
16 job, and I don't believe he even realized that at the
17 time, that at least I talked to him the first time.
18 Q I have the licence apparently issued for the year
19 1989-90, which indicates the quota of 11 moose in M.U.
20 6-8 and 6-17B?
21 A That's correct.
22 Q Is that the area you're referring to?
23 A That's what I'm referring to.
24 MR. RUSH: May that be an exhibit, my lord.
25 MR. GOLDIE: This is the letter?
26 MR. RUSH: Yes.
27 THE COURT: Yes.
28 MR. RUSH: And what is the next exhibit number?
29 THE REGISTRAR: Exhibit 1089.

30
31 (EXHIBIT 1089 - Letter from D. Zirul to I and S
32 Enterprises dated February 15, 1989)
33

- 34 MR. RUSH: That completes the cross-examination.
35 THE COURT: Thank you. Any re-examination?
36 MR. GOLDIE: Yes. I have a few questions, my lord.
37 THE COURT: Yes, Mm-hmm.
38

39 RE-EXAMINATION IN CHIEF BY MR. GOLDIE:

- 40 Q Doctor Steciw, my friend referred you to Exhibit 487,
41 photograph set number 17, a couple of times. Do you
42 recall being shown those photographs?
43 A Yes.
44 Q And it was suggested to you that those cabins might
45 have been the cabins that you identified as being near
46 a tree stand?
47 A That's right.

I. Steciw (For Province)
Re-in chief by Mr. Goldie

- 1 Q And my -- the note of my -- my note with respect to
2 your response to my friend was they might have been
3 but you had some difficulty in --
4 A Yes.
5 Q -- in agreeing?
6 A Yes, I did, because, you see, somehow it looks newer
7 and the paint is fresher than when I remember it when
8 I saw it, but it's only an impression.
9 Q Yeah. Well, the cabins that you saw and that you
10 identified in your evidence in chief as being near the
11 tree stand in the Slamgeesh area --
12 A Excuse me, we're talking about the cabins.
13 Q Cabins?
14 A The cabins that I think this refers to are the
15 so-called, what I understood to be the Indian graves.
16 Q All right.
17 A There is an additional ruins of a cabin that I know
18 very well, and the roof is all collapsed and it has
19 been for a number of years, that's closer to the tree
20 stand than these are, and it's in a small opening.
21 Q All right. I was going to ask you, I think you saw
22 those cabins -- when I say "those cabins", I'm
23 referring to the two or three in when, 19 --
24 A The first and only time that I was there at that site,
25 right -- in fact, I crawled into one of them, was
26 first -- the last -- when I went in the last part of
27 August in 1978, the first time I came to Slamgeesh.
28 Q Yes. And you've anticipated me in some respect. I
29 was going to ask you what was the condition of those
30 in 1978?
31 A You know, I think they were all, you know, it just
32 looks very new to me here, that's all. That's all I
33 can tell, my impressions, and it is only an
34 impression, I must say, because I didn't pay attention
35 to that. It was of no interest to me essentially that
36 it was sort of totally in a state of dilapidated, so
37 to say, not structurally -- in the point of view of
38 upkeep and paint. I don't remember there being paint
39 on them at all. There could have been, I just don't
40 remember, they were very old.
41 Q So far as your memory goes, was the approach to them
42 overgrown, or was there any evidence that --
43 A It wasn't really -- I really don't recall exactly, but
44 I don't recall any major trail in there, if that's of
45 any help.
46 Q You say you went into one of them. Was there any --
47 A I looked in one for sure, maybe two. Honestly, it was

I. Steciw (For Province)
Re-in chief by Mr. Goldie

- 1 new to me, it was sort of a phenomenon that -- and I
2 didn't expect at all what they were at that time. I
3 noticed that they had some wooden, metal maybe
4 implements, like a shovel, like for instance, I don't
5 remember exact implements. They had a few traps, so I
6 thought what a shame to leave a few traps here, so I
7 took a few and put them up to Slangeesh and hung them
8 up on the wall in the Slangeesh cabin, I mean --
- 9 Q Yes, all right.
- 10 A Because they were rusting in the other place, see,
11 they were on the ground.
- 12 Q I see, yes. And their condition was one of rust, is
13 that --
- 14 A Yeah. They were old, rusty.
- 15 MR. GOLDIE: All right. I have no further questions with
16 respect to that.
- 17 THE COURT: Could I interrupt then. I can't find where you
18 talked about this, but did you not mention that the
19 size of these structures was something like 4 X 6?
- 20 A They were much smaller than any regular cabin. I
21 would say -- that also appears to be a little bit
22 larger than I recalled them.
- 23 THE COURT: Did you say 4 X 6?
- 24 A I did, your honour. And perhaps they were bigger, but
25 they were certainly smaller than any cabin I would
26 build for purposes of staying there or hunting.
- 27 THE COURT: Because I have seen such cabins -- or structures,
28 rather, at I think at Kuldoe, but perhaps somewhere
29 else. I would have to think about where it is.
- 30 MR. GRANT: These ones that are in these photographs are ones
31 that you took -- you saw on the viewing.
- 32 THE COURT: We saw some at some location that were about 4 X 6,
33 almost smaller than.
- 34 MR. GRANT: I think if you see the picture you will recognize,
35 you will remember Mr. Blackwater at the top.
- 36 THE COURT: Oh, no, I was in something much smaller than that.
37 I think I have some pictures of them.
- 38 MR. GRANT: I believe you may have pictures of those ones too.
- 39 THE COURT: Well, the ones --
- 40 MR. GRANT: You also saw some grave houses that were smaller at
41 Kisgegas, I believe.
- 42 THE COURT: No. Kisgegas was late in the day, wasn't it?
- 43 MR. GRANT: Yes. And Kuldoe, you may have seen a couple.
- 44 THE COURT: Well, it will be -- but 4 X 6 is an estimate you
45 would stand by, is it?
- 46 A Okay, could I just show you the size.
- 47 THE COURT: Yes?

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1 A I think as a matter of fact that the door on one of
2 these was so low I kind of almost crouched down to get
3 in, that's number 1. Perhaps they were like from,
4 well, maybe some -- this wide and a little bit longer,
5 maybe from here to there. Maybe of course it's
6 probably more than 6, but essentially very small
7 cabin-like structures, much much too small to be
8 really used. I thought, you know, maybe some trappers
9 or something had them and they didn't have the
10 materials or such things to build them.

11 THE COURT: It didn't occur to you that they might be grave
12 houses?

13 A No, no, it didn't. I heard they were, and I honestly
14 completely stayed out of there, and the other thing,
15 it was no interest to me. I saw them there and it was
16 curiosity, and that was the first and last time I was
17 there.

18 THE COURT: All right, thank you. Mr. Goldie.

19 MR. GOLDIE:

20 Q We have from you then the differences of what you saw
21 in 1978 and what is shown you in the photograph in
22 Exhibit 487, as best as your memory presently allows?

23 A Yes.

24 Q Yeah, all right. Now, at the -- at the outset of your
25 cross-examination my friend referred you to the time
26 you were hunting with Leonard George and Mr. Tom. Do
27 you recall that?

28 A Yes.

29 Q Did these two gentlemen speak English to one another
30 when they were in your presence?

31 A Yes.

32 Q My friend used the word "Wet'suwet'en" in describing a
33 language to you, and I believe you said that your --
34 at that time the word that you were familiar with was
35 "Carrier"?

36 A I believe so, yes.

37 Q Have you any recollection of when the word
38 "Wet'suwet'en" came into your knowledge as a
39 replacement or --

40 A No, not exactly, but I would say approximately at the
41 time that this Land Claim -- this thing came about in
42 the press, I think it was used in the press.

43 Q All right, thank you. When you speak of names of
44 features not being on the map and when you use names
45 of features as from the map, you're referring to what,
46 a topographic map or some other kind of map?

47 A Yes. Topographical map, the ones I'm used to.

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- 1 Q And --
- 2 A In other words, one -- well, they're usually coloured
3 maps, the ones I have.
- 4 Q Yeah.
- 5 A Mm-hmm. Like a green or blue-green, I think, for the
6 forest areas covered, and the blue for rivers and
7 lakes, and above tree line it was white or glacier.
- 8 Q So when you speak of Slangeesh or Damsumlo, you're
9 referring to the names that you find in the
10 topographic maps?
- 11 A Yes.
- 12 Q You were referred at some length to Exhibit 1084,
13 which is the page of notes of Mr. Morrell to which is
14 attached two pages of notes of yours in 1979. And --
- 15 A Yes.
- 16 Q And you have in your notes three dates that I see.
17 First, September 15th -- perhaps I should show this to
18 you. You have September 15th under the heading
19 "Salmon data"?
- 20 A Mm-hmm.
- 21 Q And then the second paragraph you have:
- 22
- 23 "Coho began to appear in river below east dam
24 September 24th."
- 25
- 26 And then in the next paragraph you have from September
27 15th to September --
- 28 A Excuse me, where is this?
- 29 Q I say the next paragraph, in the paragraph beginning
30 with the words "In the river joining"?
- 31 A Mm-hmm.
- 32 Q Yes. In the third line there's a sentence beginning
33 from, and I quote "From September 15th to September
34 30th only"; do you see that?
- 35 A Yes, I do.
- 36 Q I'm just drawing your attention to the certain dates.
37 And then in the last line on that page the date of
38 September 27th; do you see that?
- 39 A Where is this? Oh, yes, okay.
- 40 Q The complete sentence is, and I quote:
- 41
- 42 "We have torn up four dams in this region by hand
43 on September 27th to let salmon come up."
- 44
- 45 A Mm-hmm.
- 46 Q And then the next page in the second line first
47 paragraph is September 22nd, next paragraph, October

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- 1 6th, and then in the third -- second and third line --
2 no, I'm sorry, and then in the beginning of the next
3 line is October 8th?
4 A Mm-hmm.
- 5 MR. GOLDIE: Were observations made by you or by Mr. Martin on
6 each of those dates?
- 7 MR. RUSH: I object to that, my lord. These notes were led by
8 my friend, presumably because he thought that these
9 were notes taken by the witness. As far as I'm
10 concerned, this all came out in direct and I simply
11 examined on it. This was a subject opened up by my
12 friend, he introduced the notes, he examined on them.
- 13 MR. GOLDIE: I quite agree, but my friend spent a good deal of
14 time dealing with dates, and he also spent a good deal
15 of time in establishing, as I understood it, some sort
16 of a background to this with the -- I'm not sure
17 whether he intended to leave the inference that the
18 witness had not -- had no personal knowledge of these
19 observations.
- 20 MR. RUSH: I did spend a good deal of time on the subject, all
21 opened up by my friend by the introduction of these
22 notes and on the subject of the contact between Mr.
23 Morrell and the witness, and the question of the
24 content of these notes was opened and canvassed by my
25 learned friend in his direct examination, and this is
26 re-examination of his own witness.
- 27 THE COURT: Well, as I've commented so many times before,
28 re-examination should be abolished. What is -- what
29 is the specific point you want to deduce that was
30 opened up by the introduction of --
- 31 MR. GOLDIE: I thought my friend had left the matter in such a
32 state as to leave an inference that the observations
33 recorded in the witness' notes were not -- that he did
34 not have personal knowledge of them. Now, I may be
35 wrong, if my -- if the inference that I thought was
36 left is incorrect, then I have no -- no re-examination
37 on the point at all.
- 38 THE COURT: Well, I don't think the fact that a document is
39 produced in chief precludes any possibility of
40 re-examination upon it. But there is a prohibition of
41 course in looking in re-examination.
- 42 MR. RUSH: I don't base my objection on that only, the -- I base
43 it on the fact with the document being produced, my
44 friend examined on it and circumstances surrounding
45 it, together with the -- with the document, I thought
46 he examined on it.
- 47 THE COURT: Well, I allowed certain latitude in the examination

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- 1 on the plaintiff's witnesses, but not very much. You
2 only have the one question, have you, Mr. Goldie?
3 MR. GOLDIE: Yes. I just wanted to know if those observations
4 were made by him or made under his supervision.
5 THE COURT: I think I'll allow that question.
6 A Okay. I have -- I have read this in the meantime,
7 there's only -- to the best of my knowledge, in the
8 creeks I have made all observations. You see, Pat
9 Martin was cooking at that time for me, acting -- not
10 acting -- employed as a cook. Now, I was guiding.
11 Now, there's only one thing in there that -- it was an
12 estimate by Pat Martin. When the Coho were in the
13 Slamgeesh Lake, like they were jumping, you know. I
14 said "Pat, you're an experienced biologist" --
15 THE COURT: I don't think we should be hearing this
16 conversation.
17 MR. GOLDIE:
18 Q No.
19 A I see. I asked him to make an estimate of how many
20 Coho he thought were in the lake, and that was
21 exactly -- and it's stated here, as a matter of fact,
22 paragraph 2, just exactly that fact, that he estimated
23 there were about 200.
24 THE COURT: That's his estimate?
25 A That's his estimate, that's the only one, I had
26 nothing -- you know, I didn't --
27 THE COURT: Thank you.
28 MR. GOLDIE:
29 Q All right, thank you. Now, you were -- your attention
30 was drawn to the fact that in 1985 to 1988 your
31 hunters were often accompanied by guides other than
32 yourself?
33 A Oh, yes.
34 Q Yeah. Now, what is the number of hunters that a guide
35 may take care of, if I may put it that way?
36 A Well, by law, one guide can take care of two hunters,
37 but I never had it that way. I had it always one
38 guide per one hunter.
39 Q All right. And does the -- either the law, or
40 whatever, your own regulations, does that mean with
41 them; does that mean they stay with them?
42 A Yes.
43 Q For the whole of the hunt?
44 A Oh, a guide can change, as long as there's a guide,
45 even if there's a different guide every day or every
46 minute, for that matter, as long as there's a guide
47 accompanying one or two hunters, that's legal.

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- 1 MR. GOLDIE: All right. Now, my question is did any of your
2 guides report to you of any other human activity
3 during this period when you had employed guides?
4 MR. RUSH: Well, I object to that. It's objectionable for two
5 reasons. One is that it's brazen hearsay, the second
6 is that it was open to my learned friend when he went
7 on at some considerable length in adducing this
8 witness' knowledge about this very subject in direct
9 examination.
10 THE COURT: I think I'm with you, Mr. Rush, until I hear what
11 Mr. Goldie says.
12 MR. GOLDIE: Well, the brazenness hasn't appeared yet.
13 MR. RUSH: Oh, yes it has.
14 MR. GOLDIE: The question is did any of them report. Beyond
15 that I cannot go, but the fact of reporting or not
16 reporting is one that I am entitled to adduce, given
17 the cross-examination of my friend with respect to the
18 way in which the hunt was conducted.
19 THE COURT: But isn't this a matter that you embarked upon in
20 chief?
21 MR. GOLDIE: I do not recall.
22 THE COURT: Well, no, not specifically, but you took some pains
23 in chief to have the witness negate the presence of
24 others in the territory.
25 MR. GOLDIE: That's correct, but those were his personal
26 observations, and I now want to know, given the
27 cross-examination, whether he had reports. Of course
28 it's hearsay, but the fact that I'm seeking to adduce
29 is whether he had any reports.
30 THE COURT: But the reports -- it wouldn't advance the case
31 because the reports -- if he says "Yes, I had
32 reports", that would mean possibly that they reported
33 there were people in the territory or they reported
34 there were not people in the territory.
35 MR. GOLDIE: That's correct.
36 THE COURT: It wouldn't advance the situation, it wouldn't
37 advance the evidence in any way at all.
38 MR. GOLDIE: Except this, that the -- that the evidence which my
39 friend put to the witness, based upon the reports that
40 he has filed, indicate that he had a number of
41 employees as assistant guides, which is perfectly
42 proper, and I wanted to know if any of those guides
43 indicated to the witness anything which would modify
44 the evidence that he has given your lordship which was
45 confined to his personal observation.
46 THE COURT: I think not, Mr. Goldie, I think it is a matter that
47 should be --

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- 1 MR. GOLDIE:
2 Q All right. Now, you were questioned with respect to
3 the area around Fred Wright Lake. And I just want
4 your confirmation that Fred Wright Lake is outside
5 your guiding area?
6 A Yes.
7 Q But Swan Lake, which you have identified, is inside
8 it?
9 A Yes.
10 Q Thank you. Have you any knowledge of access to Fred
11 Wright Lake, personal knowledge of access?
12 A No, just hearsay.
13 Q Thank you. You were questioned by my friend about
14 flying at certain times, and you made reference to
15 V.F.R. Can you explain to his lordship what that is?
16 A V.F.R. refers to Visual Flight Rules; in other words,
17 you don't --
18 THE COURT: You can only go what you can see -- or where you can
19 see?
20 A Precisely, that's right. As opposed to I.F.R,
21 Instrument Flight Rules, you can fly right into the
22 cloud and see nothing.
23 MR. GOLDIE:
24 Q My friend asked you about game distribution in the
25 lower Shedin Creek watershed area. Have you any
26 interest in game distribution in that area?
27 A None whatsoever. It's not in my guiding area.
28 Q Thank you. Oh, my friend examined you with respect to
29 Exhibits 1085 and 1086, which are logs of your
30 aircraft -- the logs -- records of the logs in your
31 possession of your aircraft. Could I have the
32 original exhibit, please. Now, on the original
33 exhibit, as you've told -- as you said to his
34 lordship, you have marked those trips which were not
35 related to your guiding area in red?
36 A Yes, sir.
37 Q Have you, as a result of my friend's examination, are
38 there any changes that are to be made in those marks
39 on those exhibits?
40 A No. Not that I'm aware of.
41 Q Thank you. A few minutes ago my friend put to you
42 Exhibit 1089, which is a letter that was written to
43 you by some gentleman, and you explained to my friend
44 that this quota was with respect to the southern part
45 of your area, and you referred to management. What
46 management areas?
47 A 6-8 and 6-17B.

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1 Q Are these -- can you identify the approximate location
2 of those on Exhibit 55C?
3 A Roughly speaking, it's the area below, south of Canyon
4 Lake, so in this portion.
5 MR. GOLDIE: Right.
6 MR. RUSH: Sorry, again?
7 MR. GOLDIE:
8 Q South of Canyon Lake?
9 A South of Canyon Lake, essentially, that's pretty
10 close, from here.
11 THE COURT: Down to?
12 A Down right -- right to the bottom, just to the bottom
13 boundary, to the southern boundary.
14 MR. GOLDIE:
15 Q That's the southern boundary being --
16 A My --
17 Q Of your --
18 A Of my area.
19 Q Of your area, right, thank you. Now, you said there
20 was -- excuse me, my lord, I'm just looking at this
21 correspondence file, which I'm seeing this particular
22 one for the first time. All right. Is that area,
23 that in respect of which your moose quota was reduced,
24 the area in which the principal moose harvest has been
25 found?
26 A I don't quite understand the question.
27 Q The area in respect of which the moose quota was
28 reduced --
29 A Yes.
30 Q -- is that the area -- the principal hunting area for
31 moose?
32 A Oh, no, it isn't. In my case it isn't.
33 MR. GOLDIE: All right, thank you. I have no further questions,
34 my lord.
35 THE COURT: Well, all right. I notice that I have found my
36 notes and I -- my note was that you said about these
37 structures, they were 6 X 5?
38 A I could have said that, very well, yeah.
39 THE COURT: All right. Thank you, doctor, you're excused.
40 MR. GOLDIE: Thank you.
41 A Can I leave now, your honour?
42 THE COURT: Yes. You're welcome to stay if you wish. Should we
43 adjourn until ten o'clock tomorrow morning?
44 MR. GOLDIE: Yes, my lord.
45 MR. RUSH: Thank you.
46 THE REGISTRAR: Order in Court. Court stands adjourned until
47 ten o'clock tomorrow.

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(PROCEEDINGS ADJOURNED AT 4:15)

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

Graham D. Parker
Official Reporter
United Reporting Service Ltd.

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