

**No. 23646**  
**NELSON REGISTRY**

**IN THE PROVINCIAL COURT OF BRITISH COLUMBIA**  
**(BEFORE THE HONOURABLE JUDGE MROZINSKI)**

**SEPTEMBER 21, 2016**  
**NELSON, BC**

**IN THE MATTER OF**

**REGINA**

**v.**

**RICHARD LEE DESAUTEL**

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**PROCEEDINGS AT TRIAL**  
**(DAY 3)**

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**APPEARING FOR THE CROWN:**

**G. THOMPSON**  
**A. PEACOCK**  
**M. WORTH**

**APPEARING FOR THE ACCUSED:**

**M. UNDERHILL**  
**E. PENN**

1 THE WITNESS: Thank you, Your Honour.  
2 THE COURT: We'll keep our exhibits. And you are  
3 certainly excused --  
4 THE WITNESS: That was the last page.  
5 THE COURT: What is that, Mr. Hart?  
6 THE WITNESS: It was a page that had come off the end  
7 of the last exhibit.  
8 THE COURT: We'll make sure we put that back.  
9 THE WITNESS: That was the 1896 annual report, I am  
10 sorry.  
11 THE COURT: You might want to stand down now while you  
12 have a chance. All right. So you are excused.  
13 And you are welcome to stay in the body of the  
14 courtroom if you like. Thank you very much.  
15 THE WITNESS: Thank you, Your Honour.

16  
17 **(WITNESS EXCUSED)**

18  
19 THE COURT: Now, are we ready to go with Mr. DeSautel?  
20 Do you want a little break?  
21 MR. UNDERHILL: Why don't we take five minutes, but  
22 only that, Your Honour.  
23 THE COURT: Yeah. Okay. That's fine.  
24 MR. UNDERHILL: Thank you.  
25 THE CLERK: Order in court.

26  
27 **(PROCEEDINGS ADJOURNED AT 2:30 P.M. FOR BRIEF RECESS)**  
28 **(PROCEEDINGS RECONVENED AT 2:36 P.M.)**

29  
30 THE CLERK: Order in court. All rise. Provincial  
31 court is reconvened.  
32 MR. UNDERHILL: Your Honour, if I could call Richard  
33 Lee DeSautel to the stand, please.  
34 THE COURT: Okay. Thank you.

35  
36 **RICHARD DeSAUTEL, the**  
37 **accused, affirmed.**

38  
39 THE CLERK: Please state your full name and spell your  
40 last name for the record.  
41 THE WITNESS: Richard Lee DeSautel. Last name is  
42 D-e-S-a-u-t-e-l.  
43 THE COURT: Okay. Thanks, Mr. DeSautel. Please have a  
44 seat. Do you need some water, Mr. DeSautel?  
45 We'll get you some.  
46  
47

**EXAMINATION IN CHIEF BY MR. UNDERHILL:**

- 1  
2  
3 Q Mr. DeSautel, are you ready to go?  
4 A Yes.  
5 Q Thank you. Do you consider yourself to be or  
6 self-identify as a Sinixt or a Lakes person?  
7 A Yes, I am.  
8 Q Can you tell the court about how you learned that  
9 you were a Sinixt or a Lakes person?  
10 A My grandmother on my father's side told me. I was  
11 around the age 11 -- or 10 or 11. And I realized  
12 that I was part of a bigger band of Native people  
13 that make up the confederated tribe, so I asked my  
14 grandmother. I said well, what band are we from?  
15 And she told me that I was from the Lakes Tribe.  
16 And there's a small lake several miles from my  
17 house there, and so I just figured I was a Twin  
18 Lakes Indian for the longest time. And it wasn't  
19 until later on in life that I found out where the  
20 name Arrow Lakes Tribe comes from.  
21 Q So if you -- tell the court when you did learn  
22 about -- that you were an Arrow Lakes person?  
23 A Yeah. Later on in life, and I believe it was  
24 junior high school. My grandmother's aunt or  
25 niece -- Cecelia Smith came to teach a language,  
26 the Salish language, at our school, and the points  
27 that she made and brought out in her teaching and  
28 stuff like that there with the different bands and  
29 stuff like that there. She said the Lakes Tribe  
30 was named after the Arrow Lakes of the Upper  
31 Columbia and Lower Columbia. And that's where I  
32 learned I wasn't a Twin Lakes Indian anymore.  
33 Q Mr. DeSautel, what did your grandmother tell you  
34 about the Arrow Lakes people growing up?  
35 A Not too much. More or less that it was a band of  
36 people that came from the upper part of this here  
37 area up here. Yeah.  
38 Q Do you have any sense, Mr. DeSautel, of why she  
39 didn't discuss that issue very much with you  
40 growing up?  
41 A It was pretty hard to get stuff out of my  
42 grandmother. She didn't volunteer information  
43 really readily. She was raised in Catholic  
44 schools. She was taken from her family at the age  
45 of 6 and wasn't allowed to return home until she  
46 was 16. At that point in time in the schools and  
47 such, they -- I think Canada had the same thing

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In chief by Mr. Underhill

1 going on up here. But she wasn't allowed to speak  
2 her Native language and this here, that there. It  
3 wasn't until she got back at the age of 16 that  
4 she got back into more of a Native-type lifestyle  
5 and stuff. She was a very, very strong Catholic.  
6 She was -- we went to church a lot.

7 Q I'd like to switch -- Mr. DeSautel, I'd like to  
8 switch gears a little bit. And if you could tell  
9 the court first of all about your current job  
10 with, I understand, the Colville Fish and Wildlife  
11 Department; is that correct?

12 A Yes.

13 Q And what is your current job title?

14 A Wild animal damage control officer.

15 Q All right. Could you walk the court through what  
16 sort of, you know, loosely your job description  
17 is, what you have to do?

18 A My job description. There's a part there that  
19 says I respond to call of wild animals that are  
20 nuisance animals that may be bothering people,  
21 whether it be bats in your attic, elk in your  
22 field, bear on your porch, raccoons chasing your  
23 dog, skunk in your yard, whatever. If it's a wild  
24 animal, I go out and I deal with it. But then  
25 also in the job description it says as duties are  
26 assigned -- as duties are assigned and stuff like  
27 that there.

28 When I joined the Fish and Wildlife back in  
29 the 90s, there -- there was 16 of us that made up  
30 all the Fish and Wildlife. And today I think  
31 there's over 300-something employed through Fish  
32 and Wildlife. But in that point in time there,  
33 enforcement helped fisheries; fisheries helped  
34 wildlife this here, that there, because there was  
35 just so few of us. Once we started expanding and  
36 everybody broke off into the wildlife over here,  
37 fisheries over there, enforcement back here, I  
38 kind of stayed and just kept rotating around all  
39 three as duties were assigned to me.

40 And so I worked fisheries and helped them  
41 distribute salmon through the different four  
42 districts there on the Colville Indian  
43 Reservation. I helped them take the spawn and  
44 stuff from the salmon and eastern brook trout in  
45 the fall time.

46 Wildlife, boy, we just do a lot of stuff in  
47 wildlife. We've been reintroducing a lot of

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1 animals back on the reservation, big horn sheep  
2 and pronghorn antelope. In doing so we put the  
3 collars on the animals -- satellite collars that  
4 send up a signal to the satellite and then back  
5 down to the computer, and it tells you the  
6 location of the animal at the certain time it was  
7 there. So we can keep track of the animals and  
8 their movement and stuff and re-adjust how we  
9 should build fences and close off roads this here,  
10 that there. It also gives us somewhat of a  
11 number. If there is depreciation in number, and  
12 if they get off the reservation with -- the  
13 pronghorns have been shown to swim the river quite  
14 often. So the wildlife part of it, the fishery,  
15 and then the enforcement part of it.

16 I was somewhat reluctant to go to the  
17 academy, but I did. I came back. I was  
18 enforcement for oh, several years, and then as the  
19 department split and enforcement went its way,  
20 this way, I was originally hired on as a wildlife  
21 tech, and so they gave me the opportunity and say,  
22 do you want to go with enforcement or do you want  
23 to go with -- be a wildlife tech. And so I said,  
24 I want to go and be a wildlife tech.

25 And after a fashion, a large fire broke out  
26 on the reservation, and all the conservation  
27 officers, natural resource officers, were  
28 dispatched out to do various paroles and guidance  
29 and stuff like this here. And doing so, the  
30 lieutenant or captain, a natural resource officer,  
31 he put me in a reserve officer status, and then he  
32 called me back up and he said, here is your badge  
33 back and here is your gun back; you are going back  
34 to work for us. And I'm going oh. And so he  
35 showed me the paperwork that put me in a reserve  
36 officer status. And we did the fire. It was  
37 about a month long duty. And then I walked back  
38 in after the fire was over and it was all demoted,  
39 and I say, here is your badge and gun. He says  
40 no, no, just keep that. You never know, there  
41 might be another something happening here on the  
42 reservation that we'll need extra help in, and I'm  
43 going to leave you in a reserve officer status.  
44 So that's where I've been.

45 I keep up with some of my training in the  
46 enforcement line there, but -- so I do fisheries,  
47 I do enforcement, I do educational stuff. I go --

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In chief by Mr. Underhill

1 I got a hide display, all different animals pelts  
2 that I put out on the table. I think I got 26  
3 different animals pelts. Animals that you'll see  
4 if you live on the reservation long enough. But  
5 it's a children thing, and fourth graders are the  
6 best ones for this here because they come, and  
7 they get to feel the pelts and just play Muppet  
8 Man with them and everything. But after a fashion  
9 I'll sit down and explain the lifestyle of each  
10 animal to them and how to effectively somewhat  
11 avoid the animal. How to work with that animal.  
12 What to look for when that animal is angry. What  
13 to look for in that animal if that animal attacks  
14 you. Different aspects of each animal in the  
15 lines that he may be in this territory. You will  
16 find him up here, but you ain't going to find him  
17 in this territory over here. And that there, I  
18 probably put 200 hours in schools every year. I  
19 have at times. I've got a couple of schools to do  
20 when I get back from here. Hopefully, early  
21 enough.

22 But hunter education -- I've been doing  
23 hunter education, hunter safety. Washington  
24 State -- certified Washington State hunter  
25 education, so people can get their hunting licence  
26 and all that. You have to -- if you are under  
27 that -- if you haven't bought a licence or if you  
28 was born before 1972, you have to have that  
29 Washington State certification, passing that  
30 course, to get a hunting licence. Yeah. Pretty  
31 much all in that there line. So I got a whole  
32 bunch of different hats that I wear all different  
33 times.

34 Q And, Mr. DeSautel, I think there's one more hat  
35 that you wear, and that is a ceremonial hunter; is  
36 that correct?

37 A Ceremonial hunting is, yeah, one of the big ones  
38 that I got in there. I've designed my pickup and  
39 stuff just specific for my hunting abilities or --  
40 because most of the time that I go out I'm hunting  
41 alone. And they got this device that I hook on  
42 the back of the pickup that's got a crank and  
43 everything, so if I get a large animal and stuff  
44 like that there, I can lift it up by myself and  
45 load it into the pickup. But, yes, ceremonial  
46 hunting for funerals, for celebrations, for  
47 weddings. You can just about call just about

Richard DeSautel (the accused)

In chief by Mr. Underhill

1 anything that we do on the reservation there  
2 ceremony.

3 And as someone, you can have -- not just me,  
4 you can have maybe your Uncle Bill or someone like  
5 that, designate them as the ceremonial hunter and  
6 whatnot. Just for the fact that I'm out there a  
7 lot. I know where the game is at. I'm rigged up  
8 to do large animals, stuff like that there. When  
9 they call into the game office for a ceremonial  
10 permit or something like that, they ask, am I  
11 available? And, yeah, I'm always available. I'll  
12 get it done. I'll give it a heck of a try, yeah.

13 Q Am I correct, Mr. DeSautel, that you worked for  
14 about 18 years as a game warden prior to your sort  
15 of current job responsibility? You've covered a  
16 lot of that, I appreciate, with the court, but  
17 have I got that right?

18 A Yes.

19 Q Again, I want to switch gears a little bit and  
20 talk about your own personal history with hunting.  
21 Beginning with, if you could, the story of your  
22 first deer hunt. And first of all, how old were  
23 you when you went on your first deer hunt?

24 A 10 or 11, I think.

25 Q And who told you that you were ready to go on that  
26 hunt?

27 A It's usually the father at that time. There it  
28 was the father's responsibility to say you are  
29 ready to go out and take on that task and stuff  
30 like that, but he passed on before -- when I was  
31 very young. And so my oldest brother took the  
32 task on, taking me along. First as just a  
33 follower. You are just a follower. You just go  
34 along on hunting trips, and you observe, and you  
35 observe. And then later on they give you the  
36 22 rifle. And then you are the grouse hunter.  
37 And the thing is to pop their heads off with that  
38 22 rifle. And do it in a manner such that you get  
39 very proficient at it. At some point in time my  
40 brother said, you are ready. You are -- we'll  
41 take you out on your first deer hunt. It's a rite  
42 of passage with us -- with the people there.  
43 Everybody is -- it's -- Do you want me to go any  
44 farther than that?

45 Q Well, why don't you take the court through the  
46 story of your first deer hunt, and from the  
47 beginning of the day through to taking the animal.

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1 A When that day comes, it's mind shaking. It's a  
2 little jittery, like today. You are allowed to  
3 have the big gun. They take -- you don't have to  
4 pack the 22 anymore. They go out there and they  
5 get you a sizeable rifle. You know. So you got  
6 that. And we went over to the neighbours and we  
7 borrowed their 25-35 lever action. My brother  
8 Tony, he got to use the family's 30-30 rifle,  
9 lever action.

10 Q And just so the court is clear, this is your --  
11 not your older brother, but your --

12 A My younger brother.

13 Q Right. Thank you.

14 A After a fashion and stuff like that there, we  
15 loaded up in the car. It was wintertime. There  
16 was probably about 6 or 7 inches of snow on the  
17 ground. We went out into the woods probably, oh,  
18 10, 15 miles from the house near -- never allowed  
19 to shoot -- if you was to get in the car and you  
20 see a deer in your yard and stuff like that, you  
21 are not allowed to shoot deer close to your house.  
22 They are saved for -- my mom says they are saved  
23 for emergencies. But we got out there, mused up  
24 the hill quite a ways, got up on the ridge up  
25 there, and a couple deer mule, they jumped out on  
26 ridge out there about a hundred yards away. And  
27 they was facing each other like this here. And it  
28 was my turn to shoot. And I'm -- I don't know.  
29 It might have been my shaking or the gun. We  
30 never checked it for alignment, and we should have  
31 before we left.

32 But anyway, I was aiming for the buck on this  
33 side, and I shot the doe in the head on this side.  
34 And then my brother Tony, he opened up on the  
35 buck, and he actually wounded it, and we -- it  
36 took us sometime to chase it down to finish it off  
37 and stuff like that there. But once we had the  
38 deer down and stuff like that there, it was big  
39 moment of celebration and stuff like that there.  
40 It's -- like I said, it's somewhat a rite of  
41 passage.

42 Q And, Mr. DeSautel, what did you do with the meat  
43 from the deer?

44 A The meat from the deer is just -- when it's your  
45 first deer, it's distributed with the community.  
46 None of it is ever kept. Everything that you kill  
47 is gone. Deer hide, deer head, deer hooves, deer



Richard DeSautel (the accused)

In chief by Mr. Underhill

- 1 meat, everything is gone. So, yeah, we divvied it  
2 out to the neighbours all around us there.
- 3 Q Do you recall -- sorry. Mr. DeSautel, do you  
4 recall who you distributed it to and any  
5 interactions with them? I realize it's a long  
6 time ago now.
- 7 A Yeah. Well, no, the neighbours around the area  
8 there. Reggie Sailor down at the end of the  
9 valley. Pete Nate over on the other side of the  
10 ridge. Bud and Tootie are right next to us. God,  
11 who else was there? Seems like there's four other  
12 different people I gave my deer to because I cut  
13 it up in four quarters. Edgar Camp, I think it  
14 was. And they are just the neighbours down the  
15 road there, a little ways farther there too.  
16 Yeah. When I say it's a rite of passage and stuff  
17 like that there, once you have done this here and  
18 successfully done it and taken care -- because  
19 once you get home you got to skin it and take care  
20 of it all yourself, and you are considered a  
21 hunter now. You can take care of yourself. You  
22 can take care of others. It was your big moment.  
23 You get the Stammtisch and glory.
- 24 Q A couple of years later, Mr. DeSautel, you went on  
25 a vision quest; is that correct?
- 26 A A couple of years?
- 27 Q Do you remember how old you were when you went  
28 on --
- 29 A Oh, yeah. I was probably 10 or 11, somewhere in  
30 there, yeah. I was a bit younger.
- 31 Q So can you -- let's start with can you describe  
32 for the court what a vision quest is?
- 33 A A vision quest is finding your power. Finding  
34 your sumix. If I can explain it by when we were  
35 born into this world we are powerless, and as we  
36 gain in strength in this world, we need more  
37 strength to carry on. And going on a vision quest  
38 and finding your sumix, your power and stuff, it  
39 gives you more power to go on. The sumix is  
40 something that comes to you. It's a great line of  
41 communication between you and the creator.
- 42 Q Who told you about vision quests? Do you  
43 remember, Mr. DeSautel?
- 44 A My grandmother on my father's side. Like I said,  
45 she was a very strong Catholic. And we went to  
46 everything -- we loved to stay with her because  
47 she had milk and graham cookies all the time.

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1           And -- but we didn't -- going to church sometime  
2           seemed like every day, and you spent hours in  
3           church when we could have been playing, you know,  
4           and doing this, going fishing or something.  
5           Anyhow, my brother and I got brainstorming, and we  
6           figured, well, there was a religion, and Native  
7           people had a religion before the black robes came  
8           in and bring Christianity into the community. And  
9           we thought we would ask her what would be  
10          something equivalent of a Native religion versus  
11          this Christianity we got to go to church every day  
12          for. And we heard about vision questing and  
13          getting our sumix. And she was kind of reluctant  
14          at first to even talk about it or -- and it took  
15          some time just to convince her we were serious  
16          about it.

17          And after a fashion when she saw we were  
18          serious about it, she says, okay; we'll do it.  
19          And she started explaining the steps and rules and  
20          stuff like that there that we would have to go  
21          through to find -- to go into a vision quest to  
22          find our sumix. And you start out four days  
23          fasting, no eating, but you can drink water.  
24          After four days you fasted, and then you have to  
25          sweat for some time, and after you sweat, then you  
26          go on your vision quest. And as my grandmother  
27          explained, there's a number of people that vision  
28          quest in all different types of areas. She said  
29          one guy went out -- went outside one time and laid  
30          next to a dead body and got his sumix. Another  
31          guy walked around his house backwards a great  
32          number of times and found his sumix. It was late  
33          March, first of February, right in there. It was  
34          not that really severe of a winter. But there  
35          still was about yea much snow on the ground, but  
36          on the south-facing slopes near our house there  
37          was a rock outcropping, and she says, that's where  
38          we'll go.

39          And so she gave my brother Tony and I each a  
40          blanket, and off across the field we went. Early  
41          in the morning because the crust was on, and you  
42          could walk on the snow. And we got up there, and  
43          she set me up on the highest rock and my brother  
44          Tony on the lowest rock there. And she said, now  
45          you've got to start praying for your sumix. Got  
46          to ask the creator for a song. And it was a very  
47          cold night with that one blanket. It was. And as

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1 morning was starting to break and stuff like that  
2 there, and I hear my brother Tony down there  
3 [witness singing]. And what is that? And he  
4 looks up he says, I got my song. I got my sumix.  
5 And there was a red-tailed hawk circling above  
6 him. And it was just kind of unusual to see a  
7 red-tailed hawk that early up there in that part  
8 of the country that soon because the fields  
9 weren't open yet for really the mice and rodents  
10 and stuff that they hunt.

11 And so he takes off and he heads back to the  
12 house there, and I'm sitting up there on the rock  
13 up there and I'm going, okey smokey, and I'm very  
14 earnestly praying. I'm very earnestly praying,  
15 asking for my sumix. I don't want to really spend  
16 another night out here. And have mercy on me.  
17 This here part. As I was praying, as the sun was  
18 going down and stuff like that there, and a  
19 ladybug landed on my finger like that there. And  
20 I watch it, and it crawled down like that there  
21 across my arm like that there, over, and watch it  
22 like that there. Crawled up my hand like that  
23 there. And he got right up there. You see his  
24 slow little wings come open, and took off. And  
25 when it did that there [witness singing]. A song  
26 came to me. And -- but the song that came to me,  
27 it's got three verses. And what it does is it  
28 honours everything down below you, everything  
29 around you and everything above you. So it's goes  
30 [witness singing]. And it goes around three  
31 times. The song does.

32 THE COURT: I don't envy Madam Reporter. But it was a  
33 beautiful song.

34 THE WITNESS: Thank you. And --

35 MR. UNDERHILL:

36 Q Now, Mr. DeSautel -- sorry. No, go ahead.

37 A Okay. After that creator gave me that song and  
38 stuff, it's a line that I use as a direct line to  
39 the creator. Times like today and stuff like this  
40 here. It's a whole bunch of prayers. It's like  
41 the Hail Mary, Our Father, Glory Be and whatnot  
42 all wrapped up into one. And when I need it, it  
43 always comes to me.

44 When I brought that song home to my  
45 grandmother, I had to sing it to her. And then my  
46 grandma says, that's very good; the creator has  
47 blessed you with a song and sumix. And she said,

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- 1 but you go -- you can eat now, and you can go to  
2 bed now, and you can watch TV now. This here and  
3 that there, but when you wake up in the morning,  
4 you have to sing me that same song because if you  
5 don't, I know you got scared out there or you got  
6 hungry or something, you know, and you just made  
7 up something and you came home, you know. Yeah,  
8 no, I probably sang that song in my sleep all  
9 night and when I woke up the next morning so I  
10 could have breakfast, but it's been with me  
11 forever, and I love it.
- 12 Q Mr. DeSautel, how do you use that song in your  
13 hunting?
- 14 A In that song there in my hunting and stuff like  
15 that there. I use that song just as the hunt  
16 begins in the preparation that I hope I find  
17 something. Okay. Hunting is hunting. You are  
18 out there through the woods. You are some place.  
19 And you hope to get the game. Also if I get the  
20 game and stuff like that there, it honours the  
21 game itself like that there. And after I bring it  
22 home and stuff then I give thanks. That's what  
23 that song is. Kind of, like, everything down  
24 here, everything out here and everything up there.
- 25 Q This may seem like an obvious question for you,  
26 but I need to ask it to you anyway, and forgive me  
27 for it. But can you describe in a bit more detail  
28 for the court how important hunting is to you as a  
29 Sinixt person?
- 30 A Hunting for me -- is important for me to pass that  
31 on to my children as a net rite of passage that  
32 was passed on to me, passed on to my brothers,  
33 passed on to my father, so forth and so like that  
34 there. But it's that link and that family line, I  
35 think, that every family down there has in the  
36 hunting for game in subsistence. The challenge,  
37 the awareness of that animal out there that you  
38 are stalking, to see how he moves through the  
39 country. Just to see the animal signs out there  
40 where the buck rubbed his antlers on the tree and  
41 stuff like this here, and how big he was, how big  
42 his tracks are. How far was he stepping this  
43 here? Was he running? Was there predators in the  
44 area? Hunting tells me a lot about the country.  
45 Hunting would tell me there's a depletion in game  
46 or there's too many predators in the area or this  
47 here, that there. Hunting is very enjoyable to

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1 me.

2 Q Mr. DeSautel, you spoke a moment ago about  
3 honouring the animals. Could you expand on that  
4 for the court a little bit?

5 A Honouring the animals. The animals that I may  
6 harvest or the animals that I may move, I'm --  
7 like I said, I work with Fish and Wildlife, and  
8 bear complaints is my big one. And what I do is  
9 I'm into the bear shuttle service, and that I'll  
10 capture bears on the east side of the reservation  
11 and move them to the west side, and from the west  
12 side I move them to the east side. I can't take  
13 them off the reserve, and so I'm just kind of  
14 shuttling them back and forth. What was the  
15 question?

16 Q Just tell to the court a little bit about how you  
17 honour the animals in your hunting and more  
18 generally.

19 A I guess this would be by being around them. Being  
20 that steward of managing the population or trying  
21 to manage -- sometimes I think to myself if I was  
22 a biologist, that would be the easiest job in the  
23 world because all I would have to do to is just  
24 sit down and watch nature. Because nature has  
25 been taking care of itself for a billion years,  
26 and we step in and say awe, we want more of this;  
27 we want more of that; or this here, so let's  
28 decrease this part, that part there. Honouring  
29 the animals. I guess I would have to say without  
30 them we wouldn't be here.

31 Q I'd ask you now, Mr. DeSautel, to tell the court a  
32 little bit about what it means to you and how  
33 important it is to you to hunt in this area where  
34 we are today, in the Arrow Lakes region?

35 A Hunting in this area here when I learned that I  
36 was a Twin Lakes Indian. When I learned I was a  
37 Lakes Indian, and in '88 when I came up here and  
38 observed the pit houses and started learning more  
39 history of this country here. Back down home I  
40 hunted the country that my father hunted and his  
41 father hunted and whatnot, and I walk in their  
42 footsteps down there and learn the path and the  
43 things that they did when they was hunting. When  
44 I come up here, I'm walking with the ancestors,  
45 and, god, I just think about times that they was  
46 going up this mountain like this here. And they  
47 might have the bow and arrow and the different

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1 things that they did and whatnot, and I'm  
2 following in their footsteps. And it just runs  
3 chills up and down me that I can be where my  
4 ancestors were at one time and do the things that  
5 they did. And it was mostly just -- I just do it,  
6 yeah. I can't tell you ...

7 Q You mentioned a moment ago, Mr. DeSautel, that you  
8 attended the protest or the blockade at the  
9 Vallican in 1988. I'd like you to tell the court  
10 about how it is that you personally came to be  
11 there. How it is you found out about it and  
12 describe your journey up there.

13 A In 1988 my wife and I were attending church  
14 services, and when we come out of the church a  
15 member of our congregation came up to us and told  
16 us that there was an area up north up there called  
17 Vallican, that they were plowing our ancestors'  
18 graves under, and they were taking the bones and  
19 moving them to the museum and stuff. I can't  
20 remember, but it infuriated me that the people  
21 would desecrate graves and stuff like this here  
22 and pick up their bones and move them, especially  
23 if they are my ancestors. Now that my aunt told  
24 me that I was a Lakes Indian and stuff, I said,  
25 okay; I'm ready for it. I'll head up there and  
26 see what I can do to stop this. And that's what I  
27 did.

28 My wife and I, we got in the car, loaded up  
29 the kids, and away we went. With very little  
30 directions on where to go and this here and that  
31 there. It was pretty close to nightfall there  
32 that we found the area, and once we got there, a  
33 few of our other members showed up there. We  
34 had -- at that time there the road that was going  
35 to put through there where they were going to put  
36 the new bridge and stuff like there, they just had  
37 roughed it out. They had the timber moved. They  
38 had -- no soil had been moved yet. And so we set  
39 up three teepees in that area and waited for  
40 morning. And when then the morning came, the  
41 bulldozers come marching down the road. With the  
42 help of the some of the community members we had  
43 there, we all linked arms and crossed the road  
44 there and refused to move. That was right on a --  
45 the place we did that was called Indian Point Road  
46 over there. And later on an RCMP officer came to  
47 straighten out the situation. And his name was

1           Sergeant Graves.

2           THE COURT: Odd.

3           THE WITNESS: So after a fashion he said, if we wasn't  
4           going to disperse, he was going to arrest us all.  
5           And we said, we are going to stay here. We ain't  
6           going to let them, you know, plow our graves  
7           under. And so it was a standoff. They tried to  
8           go around us and stuff, and we would run out. It  
9           was a standoff. Next morning it was still a  
10          standoff. It wasn't until about two weeks later  
11          that they came down with a lot more officers and a  
12          court order with an injunction saying we had to  
13          disperse or face jail time. And they gave us some  
14          compensation that they brung [sic] in an  
15          archaeologist or one of those guys that dig up  
16          guys or something like that, and he would go along  
17          behind the bulldozer when they are making the  
18          first initial cut, and if they found anything that  
19          looked, you know, rather suspicious or -- they  
20          would stop the road construction there. And then  
21          they would do whatever those guys do in digging up  
22          the stuff. And so we allowed that there, and here  
23          they came with the bulldozers, and they was  
24          scraping that there.

25          It was crazy because our ancestral remains at  
26          that time there were like ashes in an ashtray, a  
27          cigarette ashtray, and here you have a 30,000 ton  
28          bulldozer going down the road pushing dirt and  
29          stuff like that there. Was we going to find  
30          anything? No. But that was the compensation.  
31          And so we moved off the road on to the side of the  
32          road there, what we called the heritage site now.  
33          And we set up camp there, and we been there ever  
34          since.

35          MR. UNDERHILL:

36          Q       And so, Mr. DeSautel, you eventually left for a  
37          period of time; is that right?

38          A       Yes.

39          Q       And can you tell the court how often you would  
40          come back to that area?

41          A       Initially in '88 I was up there for four years.  
42          After a fashion and stuff, things just kept  
43          drawing me back down there, drawing me back down  
44          there. Just family crisis and that this here and  
45          that there. For quite sometime there I wasn't  
46          present with the area up here. Back in -- I think  
47          it was in 1980 that -- or maybe earlier, that we

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1 first came up here when the tribal council decided  
2 to have a hunting up here.

3 THE COURT: That was 1980?

4 THE WITNESS: I think it was 1980. Or it might have  
5 been earlier.

6 THE COURT: Okay.

7 THE WITNESS: The first ones that -- initially we came  
8 up here -- Steve Judd, Maureen Murphy and I came  
9 up here, and it was late in years, in December, I  
10 remember. And what happens we drove up in the  
11 area, and it was snowing pretty good. We got into  
12 Castlegar. We came across the bridge, and just  
13 over the other side by the airport and stuff like  
14 that there. On the hillside there was plenty of  
15 deer over there, and we thought well, this would  
16 be a good place to hunt, you know. And we brung  
17 that back to the council. And they said well,  
18 it's pretty late in the year. We don't want to go  
19 out there and harvest game right now and the press  
20 get something -- it will go in the press like we  
21 are killing starving deer, you know, and this  
22 here, that there. So they tabled it. And then  
23 the next thing a new council comes in. Every year  
24 there's -- a new council could get sworn in. And  
25 that's what happened. Well, they completely  
26 forgot about the Arrow Lakes up here. They had  
27 other things on their agenda. And so it moves on.

28 The next year, whatnot, they give the  
29 director of Fish and Wildlife orders again to  
30 march up here and set up a hunt up here. And at  
31 that time there the biologist, Eric Krausz and I  
32 and Joe Peone and stuff came up here, and we  
33 talked to the game biologist and we talked to the  
34 conservation officers, and we told them we are  
35 going to come up here and do this hunting. And in  
36 doing so we was talking to Garth over here, one of  
37 the biologists. We was looking for the best place  
38 to hunt. We didn't want to go into some place  
39 where the game was already depleted and get  
40 something out of there. We wanted to take a  
41 surplus out of some place that had sufficient  
42 game. And he was talking about an area over in  
43 the east part there, but I said no, that's  
44 somewhat out of our territory. Traditional  
45 hunting grounds and stuff like that.

46 So we got out for two and a half, dang near  
47 three weeks. We drove these mountains and every



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1 little side road this here reading the sign, you  
2 know, how many tracks we found, how many deer we  
3 saw this here, the game and stuff like that. And  
4 after a fashion, all along the Vallican ridge up  
5 in into that direction up there, along Slocan Lake  
6 and stuff, we found sufficient game. And so we  
7 decided that's where we are going to have the  
8 hunt. Well, what happened next? New council come  
9 in. It fell off the table again. And another two  
10 years go by. And then next council comes in.  
11 Well, we are all in favour. But at this time  
12 there they was making an alliance with the ONA,  
13 the Okanagan Alliance, and they made an agreement  
14 with them.

15 The Okanagan has a hunting camp every  
16 September, and to celebrate their Labour Day. And  
17 they said well, how about you go up there and  
18 hunt, Rick? I said, okay. It's not like it's not  
19 in my job description. It's ceremonial hunting.  
20 And so off up in -- up above Rock Creek, up in  
21 there, at the headwaters of Kettle River up there.  
22 I went up there and met up with the hunting party  
23 of the ONA. Harvested -- I harvested a number of  
24 game there, but all that game there, I got to  
25 bring home the head and I think one front shoulder  
26 from a deer for my own personal use. All the rest  
27 went to the tribal elders in the Okanagan. They  
28 got a very, very unique hunting camp that they --  
29 they set it up all for the elders and different  
30 people that they come in and they hunt. What they  
31 get they harvest. And you got one guy over here,  
32 he is cutting and wrapping and throwing it in the  
33 freezer. Then the elders come up, and we'll load  
34 them up with a box of meat and whatnot, and off  
35 they go back home. It's kind of nice.

36 THE COURT: So I just want to just mention, we do take  
37 a break each afternoon, and it's just so that the  
38 people that are working in the court can have a  
39 break. So we'll take that break now.

40 MR. UNDERHILL: And I'll come back, Your Honour. We  
41 went through quite a long history there --

42 THE COURT: No, I know you'll organize it.

43 MR. UNDERHILL: We'll break that down in a little bit  
44 just to help you.

45 THE COURT: So, Mr. DeSautel, we are just going to take  
46 a break -- the afternoon break. Okay. All right.  
47 Thank you.

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1 THE CLERK: Order in court.

2  
3 **(WITNESS STOOD DOWN)**

4  
5 **(PROCEEDINGS ADJOURNED AT 3:17 P.M. FOR AFTERNOON RECESS)**  
6 **(PROCEEDINGS RECONVENED AT 3:29 P.M.)**  
7

8 THE CLERK: Order in court. All rise. Provincial  
9 court is reconvened.

10 Witness, I remind you that you are still  
11 under affirmation.

12 THE WITNESS: Thank you. Yes.

13  
14 **RICHARD DESAUTEL, the**  
15 **accused, recalled,**  
16 **reminded.**  
17

18 **EXAMINATION IN CHIEF BY MR. UNDERHILL (continuing):**  
19

20 Q Mr. DeSautel, I want to go back to your last  
21 answer, and you took the court through a bit of  
22 the history of the fits and starts, if you would,  
23 of hunting efforts up here in the Arrow Lakes  
24 region. Just to assist the court, I would just  
25 like to go back over that and help the court with  
26 some dates so it can be all placed in time. As I  
27 understand it, the various council decisions that  
28 you referred to and your efforts to come up here  
29 and scout the area began after Vallican in 1988;  
30 is that correct?

31 A Yes, that's correct.

32 Q All right. And then can you tell the court when  
33 you began more regular hunting up here? Was it  
34 around 2008? Is that correct?

35 A That would be correct, yes.

36 Q And did you receive direction to do so at that  
37 time?

38 A Yes, I did. I received directions from our tribal  
39 council.

40 Q Now, you understand, Mr. DeSautel, that this  
41 particular case and the charges that we are  
42 dealing with here over these five weeks arises out  
43 of a hunt on October 14, 2010?

44 A Yes.

45 Q Could you first tell the court why you were  
46 hunting that particular day?

47 A I was given direction by the Fish and Wildlife

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1 director at that time to secure some ceremonial  
2 meat, if I could, from this area here to put into  
3 a locker to be used later on at different funerals  
4 and weddings and so on, ceremonies down -- on the  
5 res down there.

6 Q So could you take the court through that hunt,  
7 please.

8 A After getting direction and orders from the  
9 council that passed it down to the director that  
10 passed it on to me, my wife and I, we loaded up  
11 the camper and came up into the Vallican area. We  
12 parked our camper there, and we used that as our  
13 what we call the heritage site there. And we used  
14 that as our base camp, and we hunted out of there.

15 Q All right. So if can you take the court through  
16 the actual hunting process, please.

17 A The actual hunting process is that we got up just,  
18 like, really, really, really early in the morning.

19 Q And who is "we"? Sorry, Mr. DeSautel.

20 A Oh. I should say my wife and I got up really  
21 early in the morning. Yeah. And we drove to an  
22 area where it was -- the hunting season opened in  
23 that area, and so there was a lots of traffic on  
24 the road that day. We went up to -- I can't  
25 remember the name of the crick, whatnot, that was  
26 over there, but we were driving along, and we saw  
27 some game, and it was down over the -- this very  
28 steep bank down there, and there was a cow and a  
29 calf elk. And I thought well, I'd go back, and  
30 I'd harvest the calf elk. And we parked the  
31 vehicle up the road, off the road, and I snuck  
32 back down the road, and peeked over the bank, and  
33 I saw it, and I thought it was the calf elk, and I  
34 aimed at it and shot, and sure enough it fell  
35 over. And as soon as it did that there, the calf  
36 elk stepped out of the brush and -- and, yes, I  
37 could probably have shot both of them, but I knew  
38 what I had to do now that I had this -- the  
39 squeezing of the trigger is the easy part. Now  
40 that you have 1,000 pounds of meat laying on the  
41 ground, the work begins, and it was down over the  
42 bank.

43 It was really a crisp morning. There was an  
44 area where they had logged at one time. There was  
45 quite a bit of slash on the ground. And  
46 everything was very slick and trying to get down  
47 to it. Once we got down to it, we field dressed

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1 the animal. Got the -- did it for the heart and  
2 liver stuff like that, put them out separately.  
3 And then I started to quarter the animal up and  
4 put it on these pack boards. Once I had a  
5 sufficient enough quarter on the pack board, I'd  
6 put it on my wife's back, and she would pack it up  
7 to the pickup. And then just about the time she  
8 would get back with the pack boards I'd have  
9 another quarter, all skins and -- cut off the  
10 animal, and we'd put that on the pack board and  
11 send her up the hill again. Yeah. Well, it was  
12 my job to quarter it up. Somebody had to do the  
13 packing.

14         Anyhow, after a fashion we got everything  
15 down except for the rib cage. And in doing that  
16 there I helped her drag the rib cage back up as  
17 far as the road up there and loaded it in the  
18 pickup. We brought the meat and stuff back down  
19 to the heritage site and hung it up and went down  
20 as far as Crescent Valley, I think it is. It's  
21 down -- just outside of Crescent Valley. It's up  
22 little -- or up the Slocan River. Anyway, that's  
23 the only place I could get cell service, and from  
24 there we called the conservation officers and told  
25 them we had game down and would like to see him.  
26 And so they said they would be right with us. And  
27 we went back to camp and we waited.

28         We took the meat and had it in game bags, and  
29 we had it hanging up in the draw behind us. The  
30 draw is really steep and stuff like that there.  
31 Down in the bottom down there it is really cool,  
32 so we hung the meat in game bags down there for  
33 the time being. We waited there all day. Nobody  
34 showed up. We went back down, called them up and  
35 said, we are up here, and give them directions how  
36 to get where I was at there. And I think they got  
37 some other call or some other violation that day  
38 that they had to respond to other than what we had  
39 going on, and so they didn't show up that second  
40 day either. It wasn't until the third day they  
41 finally got to where we was at there. Once they  
42 showed up there, they identified themselves. I  
43 identified myself. Told them what I was doing.  
44 This here, that there. I do pretty much the same  
45 thing down there in the States. It was kind of  
46 nice, I mean, just working with the regular  
47 officers who had been through it, you know. You

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1 want to do this? We can't, da, da, da. And after  
2 a fashion they took our statements and said they  
3 would get back to us. And they issued me a  
4 citation of appearance at that time, I believe it  
5 was. And from that point in time there it went  
6 on. And we took the meat after they left.

7 We then loaded up the meat and we headed back  
8 down south to the Colville Reservation down there.  
9 As we got back onto the reservation and stuff  
10 there, there's a number of tribal elders that are  
11 Lakes members that live just right on the route  
12 that we have to go to go home, and, god, we had  
13 just a whole pickup load of meat. And I thought  
14 well, we'll stop and we'll give some to these  
15 tribal elders, you know, some of our game. And so  
16 we just stopped. We stopped at my partner Don  
17 Carson's house there and gave him a hind quarter.  
18 And Albert Laramey, he is just up the road there a  
19 little ways, and we stopped and gave him some.  
20 Down the road there, god, Tommy Ferguson, we gave  
21 him some.

22 After a fashion we only had just a very  
23 little left over, and it wasn't really enough to  
24 take all the way over to the meat locker, which is  
25 another 100 miles off to the west of us over  
26 there. And we decided -- we called up the game --  
27 or the director of Fish and Wildlife that lived  
28 there in the area and asked him if we just  
29 couldn't keep that meat ourselves. And he said  
30 yeah, you know, you got that one front shoulder  
31 left, you can go ahead and just take that. And  
32 dry that up or can that up or freeze it, whatever  
33 you are going to do. Utilize that yourselves.  
34 And that's what we did.

35 Q Now, if I could take you back, Mr. DeSautel, to  
36 before October 2010. Am I correct that you  
37 attended a meeting with some conservation  
38 officials up here in British Columbia?

39 A Yeah. When -- like I said, when we decided that  
40 we was going to come up in this area, we wanted to  
41 work with the game department up here in alliance  
42 that we didn't want to go -- and think I might  
43 have stated that earlier, that we didn't want to  
44 go into an area that already had depleted game and  
45 stuff, so we wanted really to work with them and  
46 find out if they had some problem areas where  
47 maybe they had too much game or something that was

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- 1 hurting agricultural land or something like this  
2 here, so we could start this hunt for our elders  
3 down there. And we talked with them fairly  
4 briefly. I think we only spent about half a day  
5 up there.
- 6 Q And who -- do you recall any names of focus who  
7 were at that meeting?
- 8 A Garth. His first name was Garth, I believe. I  
9 can't remember what his last name was.
- 10 Q That's all right. And who else was there from the  
11 Colville Reservation side?
- 12 A Eric Krausz and Joe Peone was at that time the  
13 director of Fish and Wildlife for the Colville  
14 Federated Tribes. But at that meeting with the  
15 biologist, there was just Eric and I. And Eric is  
16 one of the biologists that works with the Colville  
17 Federated Tribes in the wildlife division.
- 18 Q So you had a -- you said, about a half day  
19 meeting, was that right, with them?
- 20 A Yes.
- 21 Q And then did you go out and scout around after  
22 that?
- 23 A Yes, we went are out and scouted around quite  
24 extensively at that time there. Like I said, we  
25 spent dang near two weeks, something like that  
26 there, a little over two weeks up here driving  
27 through all the different logging roads and areas  
28 all the way up to Revelstoke and got to see a lot  
29 of rugged country. I tell you, there's lots of  
30 rugged country up here.
- 31 Q I'd like to move on now to one final topic,  
32 Mr. DeSautel. Do you know who Richard Armstrong  
33 is?
- 34 A Yes, I do know Richard Armstrong.
- 35 Q Do you recognize him to be a person of Sinixt  
36 decent or a Lakes person?
- 37 A Yes, I do recognize Richard Armstrong as a Lakes  
38 descent person. Yes.
- 39 Q Do you -- can you tell the court where he lives  
40 right now?
- 41 A Some place in the Okanagan. So I'm not really too  
42 sure. Probably Penticton maybe.
- 43 Q Have you attended a salmon ceremony with  
44 Mr. Armstrong?
- 45 A Yes, I have attended several salmon ceremonies  
46 with Mr. Armstrong.
- 47 Q Could you please describe for the court those

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- 1 ceremonies and Mr. Armstrong's role in them.  
2 A Mr. Armstrong's role as leading ceremonious -- or  
3 leader of the ceremony and whatnot in the songs  
4 that he has got in the ceremony that he has and  
5 stuff is to bring the salmon back up here to their  
6 natural and homeward -- home -- or natural  
7 spawning grounds. Their traditional territory.  
8 But through the salmon ceremony, through the  
9 clicking of the rocks and throwing the rocks back  
10 into the water, if I can -- to go through the  
11 whole entire ceremony, it takes dang near an hour  
12 and a half. And that won't -- what I'll do is  
13 that we go down along the side of the banks of the  
14 Columbia here, and we chant and we pray for quite  
15 some time. And then we gather up some rocks, like  
16 this here, and we click those rocks together like  
17 that there, and to the chanting and stuff. Just  
18 right at the end of the chant we throw the rocks  
19 back out into the water like that, calling the  
20 salmon back up here into their natural spawning  
21 beds up in here. And we've been doing this  
22 since -- god, wow, for -- probably since they  
23 built the Coulee Dam and stuff like that there.  
24 Q And --  
25 A Richard had -- I'm sorry.  
26 Q No. Go ahead.  
27 A Richard has a little different interpretation  
28 than -- somewhat that I was taught in the first  
29 salmon ceremony that I was at is that the clicking  
30 of the rocks and throwing them into the water,  
31 calling the salmon back, was -- that was the  
32 ceremony when I -- the other salmon ceremonies  
33 that I was taught earlier on in life. Like, it  
34 was the clicking and the rubbing of the rocks  
35 together like that there and then placing it into  
36 the water was to represent the high water of the  
37 spring runoff and stuff like that there where the  
38 river is running so fast and stuff that the rocks  
39 are just crashing over each other like that there,  
40 clicking together and rubbing together, calling  
41 the salmon back up the river. That's what my  
42 earliest recollection of the salmon ceremonies  
43 were.  
44 Q And just to clarify, Mr. DeSautel, Mr. Armstrong  
45 would lead these ceremonies that you were at?  
46 A Yes, Mr. Armstrong. He is one of our tribal  
47 elders and stuff. He is very respected in this

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Cross-exam by Mr. Thompson

1           tribe.  
2 MR. UNDERHILL: Your Honour, those are my questions for  
3           Mr. DeSautel.  
4

5 **CROSS-EXAMINATION BY MR. THOMPSON:**  
6

7 Q       So, Mr. DeSautel, I just wanted to start with  
8       asking you questions about your occupation, and  
9       you gave some information to Mr. Underhill with  
10       respect to that. But if I'm correct, you are  
11       still with the Fish and -- Colville Fish and  
12       Wildlife Department; is that right?

13 A       Yes, I am.

14 Q       And you joined them in the 1990s? I want to be  
15       sure I have this correct.

16 A       1996, yes. March 16th, 2:30 p.m.

17 Q       Very good.

18 A       I retire on March 16th, 2018, 2:30 p.m.

19 THE COURT: But who's counting?

20 THE WITNESS: 24 months, 22 days, 4 hours.

21 MR. THOMPSON:

22 Q       And as a -- and you are a game management  
23       specialist. Do you have any authority with  
24       respect to other Colville members in terms of  
25       regulating their hunting?

26 A       As a game officer, I uphold the game laws and  
27       regulations that the tribal council passes through  
28       resolution and -- yeah.

29 Q       So you are empowered as a game management  
30       specialist to ensure that people abide by the  
31       regulations that are passed by the tribal council;  
32       is that correct?

33 A       Yes.

34 Q       Now, when you talk about the regulations passed by  
35       the tribal council, you are referring to the  
36       regulations passed by the Colville -- the tribes  
37       of the Colville Reserve, correct, all 13 tribes?

38 A       Bands and tribes, yes.

39 Q       Now, you referred a number of times in your  
40       evidence to Mr. Underhill that the tribal council  
41       had directed you to do certain things. And we'll  
42       come to that, but any time you are referring to a  
43       direction from tribal council, you are referring  
44       to the council for all 13 Colville Tribes; is that  
45       right?

46 A       Yes.

47 Q       Now, one of the tribes of the 13 is the Lakes



Richard DeSautel (the accused)  
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- 1 Tribe; is that right?  
2 A Yes.  
3 Q You are a member of the Lakes Tribe?  
4 A Yes.  
5 Q The Lakes Tribe does not have a tribal council of  
6 its own; is that right?  
7 A No.  
8 Q Now, in -- with respect to these regulations that  
9 you talked about, those are passed by the tribal  
10 council, and they are binding -- or let's put it  
11 this way: all 13 tribes have to abide by those  
12 regulations; is that right?  
13 A Yes. They are passed by resolution, yes.  
14 Q So resolution of the entire council?  
15 A M'mm-hmm.  
16 Q Sorry, you have to say "yes" or "no."  
17 A Yes.  
18 Q And with regard to that regulation, if someone  
19 is -- there is a regulation with regard to hunting  
20 in the Arrow Lakes now, is that right, that  
21 region?  
22 A I'd have to ask you to ...  
23 Q Let me see if I can show you a document.  
24 A Okay.  
25 Q And I understood that these were probably going to  
26 be put in by a different witness. And I  
27 apologize, these are not stapled. I'll put those  
28 forward, please. So do you recognize this  
29 document, Mr. DeSautel?  
30 A Yes, I do.  
31 Q And when you were referring to regulations, is  
32 this the regulation that refers to -- that appears  
33 to say "Hunting in the Aboriginal Territories of  
34 British Columbia"?  
35 A Yes, I would.  
36 Q And as far as this is concerned, is this the  
37 regulation that you are empowered to enforce?  
38 A If other -- yes.  
39 Q So you were going to say something. "If other"  
40 what?  
41 A A game official and stuff like that, if other  
42 Lakes members came up here and violated these here  
43 particular regulations and stuff like that there,  
44 I would have to cite them.  
45 Q Right. That was my question to you, is that this  
46 regulation is applicable to any person, and it  
47 would be anyone from the Colville Tribes would be

Richard DeSautel (the accused)  
Cross-exam by Mr. Thompson

- 1           able to get -- would be able act under this  
2           regulation; is that right?
- 3       A     Only the Lakes descendants would be able to act  
4           under this here particular --
- 5       Q     So you have to be a member of the Lake Tribe; is  
6           that right?
- 7       A     Yes. Yes.
- 8       Q     So Lake -- you have to be a member of the Lake  
9           Tribe in order to do this. So as I see, if you  
10          turn over, please, to the next page, on the first  
11          page where it says "General Regulations," you can  
12          see it does say "who may hunt," so "any Lakes Band  
13          descendant who is an enrolled member of the  
14          confederated tribes of the Colville Reservation."  
15          So you have be an enrolled member; is that right?
- 16      A     Yes.
- 17      Q     Now, you also have to have certain identification;  
18           is that right?
- 19      A     Yes.
- 20      Q     And the identification is only -- it says "Tribal  
21           ID Card." And does every member of the Lakes  
22           Tribe have a tribal ID card?
- 23      A     Yes, they do. If they are enrolled with the  
24           Colville Confederated Tribes.
- 25      Q     Now, I just noticed this. It says:  
26  
27                    "If your tribal ID card does not list Arrow  
28                    Lakes, please contact the Colville Tribal  
29                    Enrolment Office."  
30
- 31           Does that suggest that if you are a member of  
32           another tribe in the Colville, that you can apply  
33           to obtain authorization under the regulation?
- 34      A     I would be probably speculating in this here line  
35           here to say why they have this here and that  
36           there.
- 37      Q     You don't know?
- 38      A     No.
- 39      Q     No. That's fair, sir. But as far as the -- as  
40           part of the regulation saying "who may hunt," you,  
41           as you say, are entitled to enforce that against  
42           anyone who violates the regulation who is from the  
43           Arrow Lakes; is that correct?
- 44      A     This resolution, yes.
- 45      Q     Right. So does that mean that you would come up  
46           to British Columbia and essentially go on patrol  
47           in order to determine if people up here are

- 1 hunting appropriately?
- 2 A Yes.
- 3 Q So when you would come up here to British  
4 Columbia, would you, for example, I'm just  
5 curious -- let me just backtrack on the question a  
6 little bit.
- 7 You've been a game warden in the United  
8 States; correct?
- 9 A Yes.
- 10 Q Are game wardens in the United States entitled to  
11 carry firearms?
- 12 A Yes.
- 13 Q Did you carry a firearm when you were a game  
14 warden?
- 15 A Yes.
- 16 Q In your present position and if you were enforcing  
17 this regulation in Canada, would you be permitted  
18 to carry a firearm?
- 19 A And again, the carrying of firearms crossing the  
20 border would be iffy. If I had to get the right  
21 paperwork, orders, this here clearances and  
22 whatnot, I could bring a firearm across.
- 23 Q But let me just ask you this: if you are  
24 enforcing a regulation on the reserve, a  
25 reservation, and you indicate that you are capable  
26 of doing that, you carry a firearm?
- 27 A Yes.
- 28 Q Now, looking at the "Harvest Limit," this general  
29 regulation seems to set two white-tail deer, one  
30 mule deer, one elk and one moose. And let's just  
31 look at the elk for a moment. And you see that it  
32 says -- right at the first page, sir -- sorry. At  
33 the top there it says one of either sex elk per  
34 hunter per year. So do you know, and I'm just --  
35 I don't know if you do; that's why I'm asking  
36 you -- how that number was arrived at?
- 37 A No, I do not.
- 38 Q This regulation was promulgated in 2010. Has  
39 there been any amendment to this regulation so  
40 that these numbers have changed at all?
- 41 A Not that I have seen, no.
- 42 Q So this regulation has been in effect with these  
43 numbers since 2010?
- 44 A As far as I know, yes.
- 45 Q Now, just looking at some of the regulation  
46 itself, are you familiar with -- well, put it this  
47 way. First of all I see here that archery hunting

- 1 is permitted; is that correct?
- 2 A Yes. Yes.
- 3 Q And are you aware of the British Columbia  
4 regulations with respect to hunting with archery  
5 items?
- 6 A No.
- 7 Q With regard to elk and moose hunting, there's a  
8 rifle calibre restriction to a minimum of  
9 24 calibre. Are you familiar with the British  
10 Columbia regulations regarding the minimum calibre  
11 for hunting large game of this type?
- 12 A No.
- 13 Q On the next page, if you turn over, please. It  
14 says, "Hunter Information Unlawful Acts." And I  
15 note that it says -- the first bullet is "to hunt  
16 without" -- is a violation or unlawful for any  
17 tribal member -- and again, I anticipate that when  
18 it says "tribal member" and specifically in this  
19 regulation, it's restricted to Arrow Lakes or  
20 Lakes members; correct?
- 21 A Yes.
- 22 Q
- 23 To hunt without having a Tribal CCT  
24 Identification Card, this lists your Arrow  
25 Lakes - Sinixt affiliation, in your  
26 possession.
- 27
- 28 So, in other words, is that the only documentation  
29 that you require of your members?
- 30 A To acquire permits to hunt up here, you have --  
31 your Blue card would have to state you as Lakes --  
32 a member of the Lakes Tribe, yes.
- 33 Q And the permits are issued by the tribal council  
34 office or by the Lakes themselves?
- 35 A Through distribution points that we have set up on  
36 the reservation.
- 37 Q So you have distribution points. Who operates the  
38 distribution points?
- 39 A Usually the secretaries of the distribution  
40 points.
- 41 Q I'm sorry, I didn't hear.
- 42 A The secretaries.
- 43 Q The secretaries of the distribution points. Could  
44 you explain for Her Honour how that operates. How  
45 that works.
- 46 A A number of tags are issued to each individual  
47 district; Inchelium, Keller, Nespelem and Omak. I

- 1 think there's 100 tags that are put out between  
2 the whole entire reservation for -- there might be  
3 Lakes descendants over on the west side there, and  
4 so actually if the hunter permits get used up,  
5 that's it. There's no -- the hunting season would  
6 be closed.
- 7 Q So these distribution points you say are -- that  
8 they are offices; is that right?
- 9 A Yes.
- 10 Q And you just have a secretary of each of these  
11 distribution points who actually occupies and runs  
12 the office?
- 13 A Secretarial duties as -- I --
- 14 Q Well, I was -- let me backtrack that.  
15 I was understanding from your evidence that  
16 secretary distribution point would be the one  
17 to --
- 18 A They are not -- they are just at the desk just to  
19 distribute tags there. They do other secretarial  
20 skills as sorting through mail. Clerical work.
- 21 Q I see. So to get a permit, you just have to go to  
22 a secretary at a distribution point and request  
23 one; is that right?
- 24 A Yes.
- 25 Q And if you can show that you are a member of the  
26 Lakes, you will be given a permit; is that  
27 correct?
- 28 A Yes.
- 29 Q So if there's a 100 permits every year; is that  
30 right?
- 31 A Somewhere in that there figure, I believe, yes.
- 32 Q So as far as you understand, there's -- every year  
33 there is, you'll say, somewhere at 100. That  
34 number does fluctuate, does it?
- 35 A I do not know.
- 36 Q The next bullet point says unlawful for any tribal  
37 member:  
38  
39 To hunt during the respective closed season.  
40  
41 Who determines the closed season?
- 42 A The game department.
- 43 Q The game department that you work for?
- 44 A Yes.
- 45 Q Right. And the information that game department  
46 gets, is there information passed on to you about  
47 closed seasons?

- 1 A If there was to be a closed season, yes, that  
2 information would be passed on to me.
- 3 Q Let me ask you this, Mr. DeSautel: who do you  
4 report to in your job?
- 5 A My supervisor, Eric Krausz.
- 6 Q Right. And does -- what is his position? As  
7 supervisor of Fish and Wildlife, or what would he  
8 be?
- 9 A He is lead biologist.
- 10 Q Right.
- 11 A Wildlife biologist.
- 12 Q And does he report to anyone himself? Do you  
13 know?
- 14 A He reports to Richard Whitney.
- 15 Q And who is Richard Whitney?
- 16 A Richard Whitney is the director of -- head of  
17 Fish -- Wildlife division.
- 18 Q So they are -- as far as you know, are they the  
19 ones who determine the closed season?
- 20 A They have input, but no, the final decision would  
21 be the director of Fish and Wildlife, I believe.
- 22 Q So the director of Fish and Wildlife makes all the  
23 determinations as to when seasons are opened and  
24 closed?
- 25 A Yes, I believe so.
- 26 Q So do you know how these unlawful acts that are  
27 listed here on this page were determined?
- 28 A No, I do not.
- 29 Q And I just want to go over to the next page for a  
30 moment. There's -- you'll see there's two  
31 photographs on there. And these appear to be  
32 photographs of signs that have been posted by the  
33 Ministry of Environment of British Columbia. You  
34 see those?
- 35 A Yes.
- 36 Q And are these signs -- these photographs in here  
37 to indicate that these signs should be complied  
38 with? Is that correct?
- 39 A Yes. That's correct.
- 40 Q And then on the next page, if you turn over, we  
41 have a map of what is said to be Sinixt  
42 traditional territory. You see that?
- 43 A Yes.
- 44 Q And you would agree that's the range -- and north  
45 of the 49th parallel is the range in which this  
46 particular regulation is intended to be valid; is  
47 that right?

- 1 A Yes.  
2 Q Now, if you go back to the first page, please.  
3 You'll see under the bottom it says "Background":  
4  
5 The Colville Business council on behalf of  
6 the constituent Arrow Lakes tribe ...  
7  
8 And the constituent Arrow Lakes Tribe is the Lakes  
9 Tribe you are a member of; correct?  
10 A Yes.  
11 Q  
12 ... and through the Colville Tribal Code ...  
13  
14 Are you familiar with the Tribal Code?  
15 A Yes. I want to say code 4, but we went from  
16 title 7 to title 4, yes.  
17 Q And it says:  
18  
19 ... establishing the Arrow Lakes Aboriginal  
20 Society.  
21  
22 Do you know what the Arrow Lakes Aboriginal  
23 Society is?  
24 A A group of people set up, like a commission, that  
25 the council voted in to attend to affairs here in  
26 Canada, in our Aboriginal territory.  
27 Q Do you -- well -- right. Thank you. And you see  
28 that it says there that:  
29  
30 The Arrow Lakes Aboriginal Society is  
31 aggressively pursuing reserved rights to  
32 hunt, fish and gather in Arrow Lakes  
33 Aboriginal territories in British Columbia,  
34 Canada.  
35  
36 So is it your understanding that that was the  
37 reason this regulation was created, to pursue  
38 those rights in Canada?  
39 A Yes.  
40 MR. THOMPSON: Could I have this marked as an exhibit.  
41 THE COURT: Yes. The unfortunate thing is the first  
42 page has been marked exhibit A for identification.  
43 But this document, Madam Clerk, will go in as the  
44 next exhibit, and exhibit A for identification,  
45 will just leave it that way.  
46 MR. THOMPSON: Very good, Your Honour.  
47 THE CLERK: That will be exhibit 29, Your Honour.

1 THE COURT: Thank you.  
2

3 **EXHIBIT 29: Document entitled "Confederated**  
4 **Tribes of the Colville Reservation Arrow Lakes**  
5 **Sinixt Band Descendants of Aboriginal Territories**  
6 **of British Columbia, Canada, 2010 Traditional**  
7 **Hunting Season" (formerly exhibit A for**  
8 **identification)**  
9

10 MR. THOMPSON:

11 Q Now, Mr. DeSautel, with regard to the department  
12 you work for, is there a -- the Fish and Wildlife  
13 Department, do they have a game management plan?

14 A Yes, they do.

15 Q And what is your understanding of how that game  
16 management plan -- do you know how that game  
17 management plan was created?

18 A No, I don't.

19 Q And in that game management plan, it covered the  
20 entire area of the -- what is -- what appears to  
21 be the asserted traditional territory that is set  
22 out at exhibit 29, that diagram, which includes  
23 both the United States portion and Canadian  
24 portion; is that correct?

25 A Yes.

26 Q So you are charged with enforcement of the game  
27 management plan in the American portion as well;  
28 right?

29 A Yes.

30 Q And with regard to that, are the allocations of  
31 wildlife in the American section arrived at in a  
32 similar fashion?

33 A No.

34 Q So how is the determination made to allocate  
35 wildlife? For example, let's take deer. How is  
36 the allocation for deer arrived at in the United  
37 States portion?

38 A Most of the time we do an aerial flight, hopefully  
39 in the springtime when there's still some snow on  
40 the ground, counting the number of animals and  
41 stuff in different game units that we have. Some  
42 units we consider high. Some considered low,  
43 mediums and stuff like this here. We count those  
44 animals there. There's a working formula that  
45 comes out of Idaho that has proven results of just  
46 how many animals you see versus how many animals  
47 are hiding in the brush. And when you put that



- 1           formally into the equation of how many animals you  
2           see, you come out with basically how many animals  
3           are out there on the ground actually. Through  
4           that there number we get and stuff like that  
5           there, they set the seasons and limit the number  
6           of game animals that they take per day, and the --  
7           for a certain time of the year, they don't allow  
8           the female sex of the deer to be hunted. Only  
9           later in the fall, in the wintertime, do they  
10          allow the female sex of the deer to be hunted.
- 11        Q       So was a similar flight or analysis done with  
12          respect to the regulation for the Arrow Lakes  
13          region that we were just looking at in exhibit 29?
- 14        A       We could not get an aerial flight thing that we  
15          wanted to do up here through the provincial  
16          government. So that is when we decided to drive  
17          up every logging road that we could, observing  
18          each and everything that -- sign that animals  
19          leave, and through that evaluation we would  
20          determine -- plus asking the game department to  
21          help us determine where the most animals were  
22          concentrated at that particular time we would be  
23          up here hunting, so we wouldn't overharvest or  
24          underharvest something.
- 25        Q       Did you ask the British Columbia people you met  
26          with if you could look at their materials with  
27          regard to the analysis of the abundance of game?
- 28        A       I believe my supervisor Eric Krausz did ask them  
29          that, but they declined to show us any of their  
30          data.
- 31        Q       Surely Mr. Krausz could speak to that, but you  
32          didn't ask him? You didn't ask to see --
- 33        A       I did not ask him, no.
- 34        Q       No. It's your understanding that Mr. Krausz may  
35          have; is that correct?
- 36        A       Yes.
- 37        Q       Now, just going to the matter you had spoken of,  
38          about coming up here and driving around to see  
39          about the numbers of animals that were up here.  
40          And I just want to be sure as I was taking notes  
41          of your evidence. I wasn't sure, what was the  
42          first year that you said you came up and did that?
- 43        A       In '08. Before that there -- quite a long time  
44          before that there that we was sent up here first  
45          to do that there.
- 46        Q       And I think, if I have this right, and I wasn't  
47          sure I had your date right, you said -- I think

1           this is correct, that it was 1980 or thereabouts  
2           the tribal council directed you to come up; is  
3           that right? I don't want to put words in your  
4           mouth, sir.

5           A     I don't remember nothing about 1980 being directed  
6           to come up here.

7           Q     That was my note.

8           MR. UNDERHILL: If it might assist -- I'm not trying to  
9           help the witness at all -- just that's why I went  
10          back to his evidence after the break, just for  
11          Mr. Thompson's benefit.

12          MR. THOMPSON: And I appreciate that. I missed that.  
13          So perhaps we can just go back to that.

14          Q     So I didn't take a date when Mr. Underhill was  
15          giving -- asking you those questions. So it was  
16          2008; is that what you are now saying? Or  
17          approximately?

18          A     Yes, yes, when I was directed up here. When we  
19          first start -- like I said, first started to get  
20          directed from the tribal council to come up here  
21          and go hunting.

22          Q     Right. So it was the tribal council that advised  
23          you that you should come up here and take these  
24          steps; is that right?

25          A     Yes.

26          Q     And then you had said that the next council -- and  
27          again, I may be getting mixed up on my dates here,  
28          forgot about the Arrow Lakes and there was no  
29          direction. So when did -- do you recall when the  
30          next council came in?

31          A     There was a two-year period that a councilman has  
32          to serve before he comes up for a re-election.  
33          Dates and times and stuff go by me so fast, and  
34          the older you get, the faster they go by. So --  
35          and recalling certain dates and years and stuff  
36          like that there, sometimes yes, gets a little  
37          confusing in my mind.

38          Q     So you do recall, and I think you have this -- I  
39          have this right, that there was apparently an  
40          election; is that right? After this 2008  
41          direction to you? Is that right?

42          A     The way I saw it is that the tribal members that  
43          were in council and seated at that time were  
44          pushing the issue and asking for us to take these  
45          actions up here in Canada. Unfortunately, they  
46          got voted out of their district and new people  
47          came in, and they had a different agenda. And so

- 1           it was just that our issue was swept aside for  
2           some time.
- 3       Q     Right. So the next council did not give you any  
4           direction?
- 5       A     Yes.
- 6       Q     So the -- and by "direction," I mean direction to  
7           come to the Arrow Lakes?
- 8       A     Yes. Yes.
- 9       Q     Right. And then was it the council after that  
10          that passed this regulation?
- 11      A     It seems to me that there was a lax time from the  
12          first time we came up here to investigate the  
13          area, and then there was a resurgence of the  
14          urgency to get up here and get something planned  
15          or getting something anchored in here to get  
16          something going. And then the -- it just kind of  
17          lost its wind, and it wasn't until after another  
18          two years that it reappeared.
- 19      Q     And when you say "urgency," was that urgency that  
20          you shared?
- 21      A     Yes.
- 22      Q     And in your view it was urgent because you wanted  
23          to come up here to hunt; is that right?
- 24      A     I wanted to come up here to re-establish myself.
- 25      Q     And you say "re-establish yourself." Re-establish  
26          yourself in this particular territory; is that  
27          right?
- 28      A     Yes.
- 29      Q     Now, just to go back to the -- to the issue of the  
30          regulation, then. The council that passed this  
31          regulation did give you a direction to come back;  
32          is that right?
- 33      A     Yes.
- 34      Q     Now, was it at this time -- and I may be  
35          completely confused here, so please bear with me,  
36          but you had said that there was a hunt up where  
37          you were invited to come up here by the Okanagan  
38          Nation Alliance?
- 39      A     Yes, I was.
- 40      Q     Now, was that before this regulation was passed?  
41          So was it before 2010?
- 42      A     When I come up here to hunt with the ONA? This  
43          regulation was passed, yes.
- 44      Q     Was passed. So the ONA contacted you; is that  
45          right?
- 46      A     Through liaisons that was affirmed by the tribal  
47          council, approached the Okanagans and -- the

- 1 Okanagan Alliance and shared information to  
2 where -- and this is all in -- what I'm just kind  
3 of thinking happened and through Mr. Sam's results  
4 and stuff like that, got an agreement with the ONA  
5 to have us to come up there and hunt. And through  
6 that particular agreement we made with the ONA,  
7 more of the movement towards the Arrow Lakes hunt  
8 and stuff moved on. Came back up to surface.
- 9 Q So you weren't directly involved in this?
- 10 A In the liaison process with the ONA, no.
- 11 Q And so you did follow the -- was it a direction  
12 from the tribal council to meet up here with the  
13 ONA?
- 14 A Yes.
- 15 Q Was anyone else besides yourself directed to come  
16 up here?
- 17 A A number of other Lakes members came up with me  
18 and were directed to come up here, yes.
- 19 Q And so you conducted a hunt at that time; is that  
20 right?
- 21 A Yes.
- 22 Q And was that the 2010 hunt that is at issue in  
23 this case?
- 24 A No.
- 25 Q That was a hunt prior to the 2010 hunt; is that  
26 right?
- 27 A It was a hunt prior to that, yes.
- 28 Q All right. So that hunt came first. And I am  
29 sorry that my note isn't clear on your evidence  
30 here. Did you actually get any game on that  
31 particular hunt?
- 32 A No.
- 33 Q I just want to go back a little bit to some of the  
34 information you were giving about Vallican, and if  
35 we go back to that, you went up to Vallican in --  
36 and again, please bear with me because I'm not  
37 sure of my note. Was it 1988 that you went up?
- 38 A The blockade, yes.
- 39 Q Was 1988. Right. And at that time your evidence,  
40 as my note was that you heard there was an area  
41 called Vallican. Do you recall saying that in  
42 your direct evidence?
- 43 A Yes.
- 44 Q And so at that time you weren't aware of Vallican  
45 as a place; is that right?
- 46 A That's right. Yes.
- 47 Q So in that case -- and you did say as well in your

- 1 direct that you didn't have very much direction to  
2 get there, I think physical direction; correct?
- 3 A That is correct, yes.
- 4 Q So when you went, were you directed by the tribal  
5 council to go?
- 6 A No, I was not.
- 7 Q So you went of your own volition?
- 8 A Yes, I did.
- 9 Q So you didn't know where Vallican was when you  
10 went there; is that right?
- 11 A When I started out, I did not know where Vallican  
12 was, yes.
- 13 Q And when you first started out, you didn't know  
14 exactly what the significance of Vallican was  
15 except what you had heard through the contacts and  
16 information you received at that time; is that  
17 right?
- 18 A That's right. Yes.
- 19 Q And I think your words were, I believe, you were  
20 told it was a grave site; is that right?
- 21 A Yes.
- 22 Q So you didn't know prior to that that it was a  
23 grave site?
- 24 A Yes.
- 25 Q So you didn't know? I just want to --
- 26 A I did not know it was a grave site, yes.
- 27 Q So you said that at the time that Vallican  
28 occurred, and talking '88, that you moved in, and  
29 by "you" I mean the Lakes Tribe; is that right?  
30 Moved in?
- 31 A Yes.
- 32 Q And you say that you have been there ever since?
- 33 A Yes.
- 34 Q You personally were up there for four years?
- 35 A Yes.
- 36 Q And were you up there with any kind of Visa, or  
37 were you just living there on your own?
- 38 A We had an encampment there that I was living in.  
39 When I say I was there for four years, I was still  
40 holding a job down here in -- down south down  
41 there, that I was only up here about three to four  
42 days a week. The rest of the time I was down  
43 there.
- 44 Q So in the encampment that you were on, what kind  
45 of a property was that?
- 46 A Forested.
- 47 Q So it was not -- it was not private property? I

- 1 am sorry, I should have been clearer.  
2 A Okay.  
3 Q So it was not private property as far as you knew?  
4 A As far as I know, yeah.  
5 Q So at that time when you went up to Vallican and  
6 you were up there for four years, is it correct to  
7 say that you didn't really know very much about  
8 that area you were going to?  
9 A At first, yes.  
10 Q Now, I want to take you back a little further,  
11 sir, to where you began your evidence here with  
12 Mr. Underhill. And talking about the information  
13 you got from your grandmother -- and your  
14 grandmother, you said, told you about -- and I  
15 hope I have this correct, sir, about the deer  
16 hunt; is that right?  
17 A I don't believe -- what --  
18 Q Well, my note is a little unclear here. I am  
19 sorry, I'm struggling a bit because I missed what  
20 you said at the very beginning about -- the first  
21 thing that you talked to Mr. Underhill about that  
22 your grandmother had told you about. Perhaps we  
23 can take a moment and find it.  
24 MR. THOMPSON: I apologize, Your Honour. Just my note  
25 is unclear.  
26 THE COURT: Yes.  
27 MR. THOMPSON:  
28 Q Right. I apologize. The note -- what I  
29 understand your evidence was that you were  
30 interested in going on a deer hunt when you were a  
31 young boy; is that right?  
32 A Yes.  
33 Q And you went to your grandmother to ask about it;  
34 is that right?  
35 A No.  
36 Q No. So what did you go to your grandmother for  
37 when you were about 14?  
38 A Graham crackers and milk.  
39 Q You did testify, sir, that you -- it was difficult  
40 to get information out of your grandmother; is  
41 that right?  
42 A Yes. Yes.  
43 Q So when you spoke to your grandmother, you were  
44 asking her about, let's say, vision quest, which I  
45 do have a better note on --  
46 A Yes.  
47 Q -- that she was reluctant to tell you about it; is

- 1           that fair?
- 2           A     Yes.
- 3           Q     And you had to encourage her to talk to you; is  
4           that right?
- 5           A     Yes.
- 6           Q     And she eventually did tell you after you had,  
7           let's say, asked her enough times; is that right?
- 8           A     Yes.
- 9           Q     So with regard to what she told you, she had  
10          mentioned to you that -- and I think I have this  
11          right, that there were any number of places you  
12          could go to do a vision quest; is that right?
- 13          A     Yes, there is.
- 14          Q     And you had described the places you could go to  
15          do a vision quest. And one of them, I believe  
16          your evidence was, that you could -- one  
17          individual you knew of walked backwards around his  
18          own house; is that right?
- 19          A     That's what she told me, yes.
- 20          Q     That's what she told you. So the fact is that  
21          your vision quest could be done virtually  
22          anywhere; is that right?
- 23          A     Yes.
- 24          Q     And you called that a rite of passage. And it's a  
25          rite of passage -- your grandmother told you that?
- 26          A     No.
- 27          Q     Didn't say that. Didn't tell you that.
- 28          A     Can I help him out here?
- 29          THE COURT: Pardon me?
- 30          THE WITNESS: Can I help him out here?
- 31          THE COURT: The witness wants to add something.
- 32          MR. THOMPSON: Yes. He can add to this.
- 33          THE WITNESS: The rite of passage I used and stuff is  
34          when the deer hunt -- when we was -- got our first  
35          deer and stuff like that, that was the rite of  
36          passage from childhood to adulthood.
- 37          MR. THOMPSON:
- 38          Q     I see. Thank you. And I appreciate that. So  
39          just on that point, you had said that after you  
40          had finally skinned all the deer and cut it up,  
41          that you were -- that was then you would become a  
42          hunter?
- 43          A     Yes.
- 44          Q     Who made that determination? Anybody tell you,  
45          you are now a hunter and you were -- kind of  
46          became one?
- 47          A     It was pretty self-evident that you are the one

1 who killed the deer; you are the one that skinned  
2 the deer; you are the one that quartered up the  
3 deer; you are the one that distributed it among  
4 your neighbours. Everybody acknowledged you. You  
5 were now a hunter.

6 Q Right. So you were acknowledged. That makes you  
7 a hunter?

8 A Yes.

9 Q Now, just -- and I apologize if I'm jumping around  
10 a little bit here, but I'm trying to just pick up  
11 some things in my notes here. You had stated that  
12 on the hunt that you actually did when you were up  
13 in 2010, and there were two animals and you  
14 essentially missed one and you shot the one you  
15 didn't want to shoot. Was that on your deer hunt?  
16 The first one, rather?

17 A The elk that I shot?

18 Q Yes.

19 A Sorry, I am trying to follow my notes, and I  
20 apologize.

21 THE COURT: You can help out as well, if you like.

22 THE WITNESS: In shooting the elk, I was attempting --  
23 I was wanting to shoot the smaller one, yes. Just  
24 because of the steepness of the terrain. And when  
25 I shot the animal -- and then I thought that was  
26 the small one, and then the -- then went down and  
27 the little calf stepped out, I go, oh, god. And  
28 you go down there and there's this huge animal  
29 laying there. And you've got to take care of  
30 this. And it's lots of work.

31 MR. THOMPSON:

32 Q And I think -- and this is what I wanted to get  
33 to, sir, is you were -- considering you would have  
34 shot the second animal anyway except for the fact  
35 that you had to skin the first one; is that right?

36 A No. Once I knew the larger animal went down and  
37 stuff like that there, and shooting the other  
38 animal would probably have been pretty wasteful  
39 because I don't know if I could have -- I know I  
40 couldn't have taken care of both of them that day.

41 THE COURT: Let alone your wife.

42 THE WITNESS: Let alone my wife.

43 MR. THOMPSON:

44 Q And then with respect to the distribution --  
45 conducting the hunt in the first place, you had  
46 said that you were directed by the tribal council  
47 to obtain the ceremonial meat; is that right?



1 A Yes.

2 Q And so that wasn't a ceremony that you determined  
3 that you would go out and get it. You were told  
4 to go get it; is that right?

5 A Yes.

6 Q And the council -- again, the council for the  
7 entire reservation made the determination; not  
8 just someone from the Lakes Tribe; is that right?

9 A I believe so. I say yes.

10 Q And just to go to another question, sir, that I --  
11 and again, I say, I apologize for jumping around a  
12 little bit. You were talking about your  
13 connection to Sinixt and whether -- it was your  
14 descendants as a Lakes person, and you had said  
15 that -- I'm just -- so I have this correct, this  
16 was through your father's side of the family; is  
17 that right?

18 A Yes.

19 Q And was it, you said, your father's mother? Is  
20 that right?

21 A Yes.

22 Q So your paternal grandmother is who it was?

23 A Yes.

24 Q Right. What was her name?

25 A Madeline.

26 Q Madeline. Do you know was -- then was she a  
27 DeSautel, or did she have a different name?

28 A Her born name was Mary Madeline Paul. She married  
29 my grandfather Felix DeSautel. And she became  
30 Mary Paul DeSautel.

31 MR. THOMPSON: Sorry, Your Honour. I think I may just  
32 about be done. I'm just checking.

33 THE COURT: That's fine.

34 MR. THOMPSON: Those are my questions, Your Honour.

35 Thank you, Mr. DeSautel.

36 THE COURT: Any redirect at all, Mr. Underhill?

37 MR. UNDERHILL: I might just, to assist the court, try  
38 and clean up the date issue, just so there's no  
39 confusion with the record.

40

41 **RE-EXAMINATION BY MR. UNDERHILL:**

42

43 Q Mr. DeSautel, Mr. Thompson had asked you some  
44 questions about when you first started getting  
45 directions from the Colville Business Council to  
46 come up to Canada. And is it the case that the  
47 council first started giving directions prior to

1           2008? Do you recall?  
2           A     Say that again.  
3           Q     Did you get -- did various councils pass  
4           directions or give you directions to come up to  
5           Canada prior to 2008?  
6           A     Yes.  
7           Q     Do you recall how far back that went?  
8           A     No, I don't, but I'm thinking probably around  
9           2000. Or 2004. Somewhere in there.  
10          Q     Do you recall any discussion of that issue prior  
11          to 2000?  
12          A     No, I don't.  
13          MR. UNDERHILL: I'll just check with my colleague, Your  
14          Honour. I'll see if I have anything else, but I  
15          think that's pretty close to done. Those are my  
16          questions. Thank you.  
17          THE COURT: Thank you. So, Mr. DeSautel, you are  
18          finished. Thank you very much for testifying. I  
19          think that's -- and I'm correct, and you are  
20          excused. So we are over to 9:30 tomorrow morning.  
21          And I take it that Cody DeSautel and Ms. LaSarte  
22          will be here?  
23          MR. UNDERHILL: Yeah. Well, Mr. DeSautel will be here.  
24          Now I'm not -- I don't believe Ms. LaSarte will be  
25          here until later in the day, so we may have a bit  
26          of a gap. I hadn't sort of appreciated how fast  
27          this would go, but I will make some inquiries  
28          tonight.  
29          THE COURT: Right. Because I expect that Cody DeSautel  
30          won't be that long.  
31          MR. UNDERHILL: I think that's correct.  
32          THE COURT: Right. It would be good if we could get  
33          Ms. LaSarte here too.  
34          MR. UNDERHILL: Yes.  
35          THE COURT: It may be that you'll not be sitting  
36          Friday.  
37          MR. UNDERHILL: Yes.  
38          THE COURT: I mean, I am sure that's tempting, so if  
39          it's possible --  
40          MR. UNDERHILL: We'll see what we can do.  
41          THE COURT: Okay. All right.  
42          MR. UNDERHILL: We certainly probably can -- yeah. All  
43          right. We will see what we can do.  
44  
45  
46  
47