

EXPERT REPORT

**Historical and Documentary Corroboration  
Regarding the  
Haisla Nation's Occupation  
of its  
Traditional Territory**

Prepared for  
Haisla Nation Council

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by

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## TABLE OF CONTENTS

<b>1.</b>	<b>Introduction.....</b>	<b>page 2</b>
<b>2.</b>	<b>The Historical Record.....</b>	<b>page 2</b>
<b>2.1</b>	<b>Earliest Documented References to the Haisla Nation...page 3</b>	
<b>2.1.1</b>	<b>Early Ship Logs and Related Contact.....page 3</b>	
<b>2.1.2</b>	<b>Hudson’s Bay Company (HBC) Post Trading and Ship Records.....page 5</b>	
<b>2.1.3</b>	<b>Colonial and Missionary Records.....page 9</b>	
<b>2.1.4</b>	<b>Additional Colonial Records.....page 11</b>	
<b>2.1.5</b>	<b>Later Survey and Exploration.....page 12</b>	
<b>2.1.6</b>	<b>Still Later Surveys and Exploration.....page 14</b>	
<b>2.1.7</b>	<b>Early DIA reports.....page 15</b>	
<b>2.1.8</b>	<b>Indian Reserve Commissioner O’Reilly’s Reserve Allotments.....page 15</b>	
<b>2.1.9</b>	<b>Haisla Nation Trapline Registration.....page 17</b>	
<b>2.2</b>	<b>Early Land Claims of the Haisla Nation.....page 22</b>	
<b>2.2.1</b>	<b>1897 Petition to BC for Additional Land.....page 23</b>	
<b>2.2.2</b>	<b>1905 Request for Additional Reserves.....page 24</b>	
<b>2.2.3</b>	<b>Additional Missionary Material Circa 1882-1919...page 25</b>	
<b>2.2.4</b>	<b>Prelude to the Royal Commission on Indian Affairs (RCIA) 1913-1916, the RCIA Interviews, and their Aftermath.....page 29</b>	
<b>3.</b>	<b>The Anthropological Record.....</b>	<b>page 36</b>
<b>4.</b>	<b>The Archaeological Record.....</b>	<b>page 39</b>
<b>5.</b>	<b>The Comprehensive Claims Record.....</b>	<b>page 41</b>
<b>6.</b>	<b>Conclusion.....</b>	<b>page 42</b>
	<b>Bibliography.....</b>	<b>page 43</b>

## 1. Introduction

I hold a Bachelor of Arts (Hons.) in Political Science from the University of British Columbia and a Bachelor of Laws from the University of Toronto. I am qualified to appear on behalf of Canada as an expert before the Specific Claims Tribunal and, by virtue of more than 18 years of experience researching and analyzing a broad array of Aboriginal land issues, am qualified to investigate and report on territorial boundaries and historical land use. I have extensive research experience in primary historical and anthropological sources and have located, reviewed and assessed many different kinds of evidence for all levels of government as well as First Nations and their legal counsel.

The Haisla Nation and its legal counsel have, over the years, amassed a considerable amount of primary and secondary source material to corroborate the Haisla Nation's use and occupation of its Traditional Territory. I have reviewed this already-gathered material and have also sought additional information from other repositories of primary sources - for example, the Hudson's Bay Company Archives, Library and Archives Canada, the United Kingdom Hydrographic Office, and the Rare Books and Special Collections Library at the University of British Columbia – in order to complete the report below.

I have also read Jay Powell's *Stewards of the Land: Haisla Ownership and Use of their Traditional Territory and their Concerns regarding the Northern Gateway Project and Proposed Tanker Traffic in the Douglas Channel and Kitimat Arm* ["Stewards"], and, for convenience, have referred to areas documented below to their discussion at various points in Dr. Powell's paper.

## 2. The Historical Record

### *Summary*

The documented historical, anthropological, and archaeological record below corroborates the Haisla Nation's use and occupation of its Traditional Territory from at least the late 18<sup>th</sup> century, with the evidence also supporting the conclusion that the Haisla Nation enjoyed exclusive occupation of its Traditional Territory as of 1846. A map of the Nation's Traditional Territory and some of its many place names has been submitted as part of the record before the Joint Review Panel.

## 2.1 Earliest References to the Haisla Nation

### 2.1.1 Early Ship Logs and Related Contact

Although the *written* journal of the June 1788 voyage of the *Princess Royal* under Capt. Charles Duncan provides no clues as to whether the vessel entered Haisla Territory, a map facing one of the journal entries offers the possibility that the ship just entered the western limit of Haisla Territory before reversing course for Haida Gwaii.<sup>1</sup>

Spanish Capt. Don Jacinto Caamano also ventured toward Haisla Traditional Territory in August 1792 and, upon anchoring his ship *Aranzazu* near the southern end of Hawkesbury Island, sent his Second Pilot Martinez y Zayas up Douglas Channel in a longboat.<sup>2</sup>

Although Martinez y Zayas appears to have travelled some 54 miles before returning to the ship, Caamano's account of the journey provided no detail other than to indicate that Martinez y Zayas had met one fishing canoe during the expedition.<sup>3</sup>

In June of the following year, however, Capt. George Vancouver, while anchored in HMS *Discovery* near Klekane Island (in the extreme southwestern portion of Haisla Territory), sent a cutter and a launch under the command of Joseph Whidbey deep into the heart of the Territory itself.<sup>4</sup>

Capt. Vancouver described Whidbey's June 28, 1793 contact with an aboriginal group while members of the ship's crew were camped on the mainland opposite Dorothy Island (which is itself situated in Devastation Channel between the mainland and northeast Hawkesbury Island).<sup>5</sup>

Here they were visited by eight Indians in two Canoes, the first they had seen during this expedition. The natives behaved in a very civil and friendly manner, and presented the party with two fine salmon, each weighing about 70 pounds; these were the finest and largest that had been seen during our voyage, and the

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<sup>1</sup> See Appendix 1 in *A Voyage to the North West Side of America: The Journals of James Colnett, 1786-89*, Robert Galois, ed. (UBC Press: Vancouver, 2004), p. 264.

<sup>2</sup> "The Journal of Don Jacinto Caamano", translated by Captain Harold, Grenfell, RN, edited by Henry R. Wagner and W.A. Newcombe, *BC Historical Quarterly*, July and October 1938, p. 280.

<sup>3</sup> *Ibid.*

<sup>4</sup> George Vancouver, *A Voyage of Discovery to the North Pacific Ocean and Round the World 1791-1795*, Vol. III, W. Kaye Lamb, ed. (The Hakluyt Society: London, 1984). Note that the related discussion in *Stewards* (pp. 16-17) indicates that the remains of a Haisla bighouse were visible at the top of Klekane Inlet until the 1930s.

<sup>5</sup> *Ibid.*, p. 962. Note that the Kitseeway/East Hawkesbury/Dorothy Island area is described at p. 118 of *Stewards* as an important traditional Haisla stewardship area providing "...almost every resource that traditional subsistence depends upon."

Indians, after being recompensed with a small piece of iron, departed very well pleased with the exchange.<sup>6</sup>

The following day, June 29, 1793, Capt. Vancouver indicated that Whidbey's expedition fell in with the same aboriginal group near Coste Island, identified in *Stewards* as *T'lekai*, an important location for the harvest of, among other resources, deer, berries, and canoe logs.<sup>7</sup>

Here they were met by the same Indians who had furnished them with the two salmon, and who attended the party up the above-mentioned small branch [Kildala Arm, at the end of which lies Haisla IR No. 4]. This, from its south point of entrance, took a direction S. 78 E. seven miles, where it terminated as usual by shoal water... They stopped here to dine, and were visited by ten canoes, containing about 60 Indians; the largest of these, in which was the Chief and his family, had its head and stern curiously decorated with carved work, and rude and uncouth figures in painting, resembling those which they adorn their houses. The skins of the sea otter and some land animals they readily disposed of, for copper, blue cloth, and blankets, but the former seemed highest in their estimation. They all behaved very civilly and honestly, and were very compliant in doing whatever they desired. Mr. Whidbey permitted the chief to sit with him at dinner.... After dinner Mr. Whidbey returned down this branch, accompanied by the chief and his whole party, who every now and then sung songs, by no means unmelodious or displeasing. The party reached the entrance in the evening, where they stopped for the night in a small cove within a bay. On making signs to the Indians that they were going to rest, all these immediately retired to another cove, at a little distance, where they remained perfectly quiet; and at four the next morning (the 30<sup>th</sup>) they accompanied them again in their researches up the main branch of the inlet [Kitimat Arm]. From hence it was about two miles wide, and took nearly a north direction nine miles...where it was terminated by a border of low land; whence extended a shallow flat from side to side, through which a small rivulet [most likely the Kitimat River] discharged itself at its eastern corner, navigable for canoes only.... Our party made a late breakfast near the entrance of the rivulet, where they found the remains of an Indian village. On their moving from thence, their Indian attendants took their leave, went up the rivulet in their canoes, and were seen no more.<sup>8</sup>

Geographer Robert Galois' unpublished "Vancouver's Expedition in Haisla Territory, June-July 1793" provides overlapping and additional detail concerning this expedition, including excerpts from the journal of Archibald Menzies, one of the sailors who accompanied Whidbey. At this point in the expedition, for example, Galois quotes page 321 of Menzies' original, now held in the British Museum:

...we saw no more of them. They spoke a different language from any Tribe we had hitherto met with on the Coast, though they appeared to differ in no respect in

<sup>6</sup> Note that Lamb, Vancouver's editor, misidentified the Indians as Heiltsuk.

<sup>7</sup> *Stewards*, p. 87. Note also that the location itself appears to be located just west of the present-day Haisla IR No. 8

<sup>8</sup> *Supra*, note 4, pp. 962-963.

their manner & customs. They probably went to prepare our reception as they invited us very eagerly to come to their Village.<sup>9</sup>

Whidbey's party then proceeded down Douglas Channel, making reference to locations that, based on their description, can be inferred as important Haisla Territorial landmarks such as Jesse Falls, Gilttoeyes and Miskatla Inlets, and Hawkesbury Island.<sup>10</sup> Note that *Stewards* points out that all of these areas are important Haisla *wa'wais*.<sup>11</sup>

### 2.1.2 Hudson's Bay Company (HBC) Post Trading and Ship Records

Although the Kitimat were noted circa 1831-1832 as trading furs with another First Nation that acted as a kind of middleman in the HBC trade,<sup>12</sup> direct trading between the HBC and the Haisla Nation is noted from as early as 1834, with physician and fur trader William Fraser Tolmie providing numerous entries indicating the presence of "Kitimats", "Kitloah" [Kitlope] and "Chyshilla" [Haisla] at HBC Fort McLoughlin on Milbank Sound.<sup>13</sup>

HBC Trader Alex Anderson's March 15, 1834 District Report for Ft. McLoughlin on Milbank Sound also included the following references:<sup>14</sup>

The following indians have visited us since our arrival at Millbank...Ilghimmy, Kitemats & Isstate People, who come from the inner parts of the Sound ... The Bilwhoola, the Ilghimmy, Kitamats and Isstate people, are often visited by the Milbank indians; who trade from them...

<sup>9</sup> Robert Galois, "Vancouver's Expedition in Haisla Territory, June-July 1793" (unpublished, no date).

<sup>10</sup> *Supra*, note 4, p. 964-965.

<sup>11</sup> Haisla *wa'wais* - watershed areas carrying a bundle of various rights and obligations - are discussed extensively throughout *Stewards*, from where the following definition is taken (see p. 22):

Each Haisla name is associated with a particular clan and can be given only to a member of that clan. Some of these clan names carry prerogatives, such as ownership of a *wa'wais*. Each clan's territory is divided into *wa'wais* areas. A *wa'wais* is a watershed, and each *wa'wais* is associated with a Haisla clan name, and when that name is inherited by a clan member, he gets the *wa'wais* as one of the "prerogatives" of the name. Each *wa'wais* is owned by the person who holds the particular clan name which entails possession of the *wa'wais*. Thus, each *wa'wais* belongs corporately to a clan and is also individually owned by the member of that clan who is the *wa'wais* owner's name-holder. There are 5 Haisla clans and 61 Haisla *wa'wais*es (Barbetti and Powell, p.79).

<sup>12</sup> See Amileus Simpson, Log of the *Dryad*, MS C1/218, Hudson's Bay Company Archives (HBCA), referred to in Mitchell, "Sebassa's Men", in *The World is as Sharp as a Knife. An Anthology in Honour of Wilson Duff*, Donald N. Abbott, ed. (Victoria: BC Provincial Museum, 1981), at page 86.

<sup>13</sup> William Fraser Tolmie, *Journals* (Mitchell Press: Vancouver, 1963). See, for example, entries dated February 15, 1834, December 22 and 23, 1834, March 20, 1835, and April 1, 1835.

<sup>14</sup> Alexander C. Anderson, *Fort McLoughlin District Report*, March 15, 1834 (HBCA), B120/e/1).

On December 22, 1834, Tolmie documented the following at Ft. McLoughlin:

In the evening a party of Kitamatas or as they are called here Chyshilla arrived – they speak the Chummesyan language & tonight have been singing the songs of that tribe in their camps at the beach...<sup>15</sup>

A week later, however, Tolmie refined his comments regarding the Kitamat language, writing that:

The dialect of the Kitamats does neither resemble the Chimmesyan nor that of the Haeeltzook - in pronunciation it approaches more to the former, but in the form of the words to the latter, indeed it is similar in many word.<sup>16</sup>

Tolmie also specifically referred to the Kitlope people on March 20, 1835 when he wrote that he had been:

Informed by Neecelowes [possibly the same title, if not person, as Chief Neeeastloash of Kitimat (circa 1862, according to William Duncan)<sup>17</sup>] that there is a river of considerable size at Kitloah which in its windings approaches near to the Billichoola & by portage of no great length the two tribes communicate with each other - there is the same again between the Kitimaat & Cuspian streams.<sup>18</sup>

In addition to these references to Kitimat and Kitlope people in the 1834 and 1835 journals and reports of officials associated with the HBC's Fort McLoughlin, note, too, that journals associated with the HBC's Fort Simpson also contain dozens of references to trade with the Kitamats and Kitlopes both at that Fort and in Haisla Traditional Territory itself.<sup>19</sup> These entries range over the years 1835 to 1865 and give a solid indication of both the Nation's trading range and its Traditional Territory.

A June 4, 1838 entry, for example, indicates that "a party of Kitematts arrived from Gardners Canal...",<sup>20</sup> while a February 16, 1839 entry indicates that the "Kitemaat Indians" had arrived at Fort Simpson on their way to fish at the Nass River.<sup>21</sup> The fur trade journal of the HBC Steamer *Beaver* also indicates that the ship traded for beaver, otter, and marten with the "Ki-te-mart and Kit-Lope tribes at the head of Gardners and Douglas's Canals" on August 26 and 30, 1839, thus putting the HBC vessel very close to the main villages of the Haisla people.<sup>22</sup>

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<sup>15</sup> *Supra*, note 13.

<sup>16</sup> *Ibid.*

<sup>17</sup> William Duncan, *Journals*, December 2, 1862 (Library and Archives Canada (LAC), MG29, William Duncan), p. 10293.

<sup>18</sup> *Supra*, note 13.

<sup>19</sup> *Fort Simpson Journals*, 1834-1866, HBCA B201/a/3-9.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> W.H. McNeil, *Fur Trade Journal* of the HBC Steamer *Beaver*, August 30, 1839, BC Archives, A/B/20.5/B38. Note that *Stewards* indicates that the Kitlope is a World Heritage Area of some 350,000 hectares covered by a single, Haisla-held trapline. As Powell writes at p. 189:

On September 2, 1839, the Fort Simpson HBC journal reiterated the Nation's Territorial reach when it commented that:<sup>23</sup>

The steamer returned from her cruise to the Southward. She has explored Gardeners Canal at the head of which the Kitlop Indians reside, another branch falls into it from the N.E. Side where the Kittimaat tribe live. This branch not being named Capt. McNeill calls Douglas Canall in honor of C.T. Douglas, it is represented as a flat and comparatively fine like country. The south branch is said to be the most dismal place which the steamer has yet been at on the coast. Captain McNeill's trade during the cruise amounts to 40 large beaver...

Not only do the Kitimat and Kitlope names appear frequently in these primary HBC documents, but the earliest scholarly monograph to mention the Haisla may have also had an HBC connection, with a circa 1884 Tolmie-Dawson publication indicating that Dr. John Scouler had been aboard an HBC vessel as a surgeon and naturalist as part of a voyage to several areas on the northwest coast.<sup>24</sup> While the date, vessel and route of this voyage has not been confirmed, Scouler's paper - "On the Indian Tribes Inhabiting the North-West Coast of America" - was nevertheless read in London in April 1846, and then published in 1848.<sup>25</sup>

Scouler indicated in his introductory paragraph that he was attempting a classification of tribes between the Bering Strait and the Columbia River, but he cautioned that, "The number and names of the tribes is very imperfectly known.... The following is, therefore, to be considered rather as an exhibition of what is known on the subject, than as a complete monograph".<sup>26</sup> Scouler's "imperfect" list of tribes thus included the Haeeltsuk, which he in turn broke down into several sub-groups, erroneously including the "Hyshalla", whom he described as limited to "Inhabiting Hawksburg [sic; likely Hawkesbury] Island".

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It falls in every category of cultural heritage: spiritual, mythic, legendary, clan origins, ritual and ceremonial, as well as being an important and continuing resource area for Haisla traditional subsistence needs.

<sup>23</sup> *Supra*, note 19.

<sup>24</sup> The Tolmie-Dawson publication of 1884 - *Comparative Vocabularies of the Indian Tribes of British Columbia* - gave light to the results of a private investigation begun in 1875. It indicated that, based on information provided in 1883 by two aboriginal informants at Nanaimo, the "Haishilla" were "called by the Tshimsian, Kitamat, and known to the whites by that name. Douglas Channel" (p. 117). Other information provided was: "Keimanoeitoh, called by the Tshimsian, Kitlop, or "people of the rocks," Gardiner Channel."

<sup>25</sup> John Scouler, "On the Indian Tribes Inhabiting the North-West Coast of America", *Journal of the Ethnological Society of London*, Vol. 1, pp. 233. Presented orally in London in April 1846, and then published in 1848.

<sup>26</sup> *Ibid.*

An April 14, 1863 HBC entry also indicates that Capt. Pike of the *H.M.S. Devastation* broke up a rum trading establishment on shore at "Kit-e-mart",<sup>27</sup> with the *Devastation's* actual "Remarks Book" providing considerably more detail.<sup>28</sup> For example, while engaged in the interdiction of liquor traffic, the author of the "Remarks Book" indicated that, on April 11, while the ship could have anchored off the Kitimat River, "...our object was to despatch our boats against the village without the people having seen the ship".<sup>29</sup> There is also a map and a reference to a "feasting place" at a location "...about eleven miles from Fisherman's Creek and about two miles NW of the Inlet which runs to the back of Stanforth Point. The Commander named this cove Bishop's Cove out of compliment to the Bishop of British Columbia who was on board".<sup>30</sup>

While it is not exactly clear which feasting place is referred to, it is likely *Gelcuis* – Bishop's Bay – or at least located in the *wa'wais* bounded by the area of Ursula Channel from Mary Point to Fisherman's Cove (*Ziqwans*, *Wiilaxdels*, *Biya'*, *Q'waq'weksiyas* [Monkey Beach], *Awamusdis*, *Gelcuis* and *Slacu*).

George Hills – the aforementioned Bishop of British Columbia - also diarized his remarks following the encounter with the Kitimat Indians as a result of the *Devastation's* surprise raid:

We steamed to day from an early hour back on our course yesterday nearly to the head of the Inlet where resides the tribe of Kittimatt Indians.

...

The Kittimatt Indians

These Indians appear to be a very fine tribe. They are about 1000 in number and have their chief village about 3 miles up the River. They communicate with the Indians on the Skeena River which flows on the north of them. They reach the 'falls' of that river about 3 days journey from their village & then they hold intercourse with the interior Indians. There is considerable affinity with the American tongue & this probably will be a station for a mission some day.<sup>31</sup>

As indicated below, Methodist missionaries would indeed establish a mission and a school toward the end of the nineteenth century, with the founder of the latter – Rev. George Raley - providing valuable information regarding both the Haisla Nation and its Traditional Territory. Before these records are discussed, however, several other sources dating from the late 1850s to the early 1880s should also be mentioned.

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<sup>27</sup> *Supra*, note 19.

<sup>28</sup> Remarks Book, *HMS Devastation*, April 1863 (UK Hydrographic Office).

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> Bishop George Hills, *Diary*, April 11, 1863 (excerpt of transcript obtained from George Hills Fonds, UBC Rare Books and Special Collections).

### 2.1.3 Colonial and Missionary Records

For example, in his memoir *Hunting for Gold*, Major William Downie reminisced about coastal geological journeys circa 1860 and referred to Indians in the valley of the "Kitimax" River - a reference to the Kitimat.<sup>32</sup> Downie also referred to conversations with Indians at Kildala, some of whom he indicated had come from Fort Fraser (possibly for the grease trade associated with the eulachon run there).<sup>33</sup> He also witnessed the "Indians on the Kitlope River" who "sit perched upon the rocks and spear the fish".<sup>34</sup>

Although famed lay Missionary William Duncan resided in Metlakatla, he also made several references to the constituent parts of the Haisla Nation in various entries dated 1862 to 1883.<sup>35</sup> In the 1860s, for example, Duncan made multiple references to visits from the "Kitahamaht",<sup>36</sup> and then mentioned the "Kitloab" Indians in November 1866,<sup>37</sup> and the "Kitloobs" in December 1867.<sup>38</sup> Duncan also pointed out on July 13, 1869 that the Haisla people "speak another tongue but understand tsimshean."<sup>39</sup>

The Reverend Thomas Crosby recorded some of his Haisla Nation experiences in his 1914 memoir *Up and Down the North Pacific Coast by Canoe and Mission Ship*,<sup>40</sup> including a chapter on Kitamaat that referred to the circa 1876 conversion of "Wahuksgumalayu (Charlie Amos), who was born at Kitamaat about the year 1853."<sup>41</sup> The chapter includes Crosby's circa 1878 arrival "...at Kitamaat [where] we found a typical heathen village, situated at the head of tide water, and were told that there was also a summer village farther up the river." He indicated the presence of one outsider – "a blind trader" – and added that "The older houses were all built of large cedar slabs and roofed with slabs and bark. The people were painted and wore blankets."

Crosby indicated that the first Protestant Missionary teacher at Kitamat was established in 1883, with the first ordained Minister – the Reverend George Raley, discussed in more detail below – arriving in approximately 1893.

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<sup>32</sup> Major William Downie, *Hunting for Gold* (San Francisco: The California Publishing Co., 1893), p. 244.

<sup>33</sup> *Ibid.*, p. 243.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Supra*, note 17.

<sup>36</sup> *Ibid.*, eg., pp. 10293, 10298, 10723, 10800, 10816, 10891, 11152, 11258, 11259.

<sup>37</sup> *Ibid.*, eg., p. 11024.

<sup>38</sup> *Ibid.*, eg., p. 11140. See also May 1883 at p. 11473 – "Great number of Kitloob Indians arrived today."

<sup>39</sup> *Ibid.*, p. 11258.

<sup>40</sup> Reverend Thomas Crosby, *Up and Down the North Pacific Coast by Canoe and Mission Ship* (Missionary Society of the Methodist Church: Toronto, 1914).

<sup>41</sup> *Ibid.*, chapter XVIII.

In addition to the Protestant missionaries, Roman Catholic priests had also travelled to Kitimat in 1864 and recorded the baptism of the following children:<sup>42</sup>

Name	Age	Sex	Parents
Marius	4 yrs	male	Likio and Angouacecho <sup>43</sup>
Louis	5 yrs	male	father dead and Tsikimneach
Jacques	6 yrs	male	Stlalah and Mosttittemel
Charles	5 yrs	male	father dead and Kekakelich
Francis	3 yrs	male	father dead and Kekakelich
Augustus	2 yrs	male	Mayache and Augouaupot
Philippe	1 yrs	male	Solokoume and Tchinyance
Pierre	2 yrs	male	Choukoumat and Montrilpedjo
Charles	1 yrs	male	Katsihousele and Choutale
Paul	3 yrs	male	Lildierre and Ouavuerax
Julius	4 yrs	male	Ouichtakelou and Kitzouze
Louis	5 yrs	male	Tikkechou and Morhe
Joseph	4 yrs	male	Lourkpela and Gouarchehalax
James	4 yrs	male	Anmara and Etkapat
Lucius	4 yrs	male	Lerkemelt and Ouenkatchax
Ignace	6 yrs	male	Kotwetle and Morhe
Paul	3 yrs	male	Kotwetle and Morhe
Edouard	1 yrs	male	Kiatkakomi and Etakalette
Emile	3 yrs	male	father dead and Yekuitoma
Frank	8 mos	male	Bill and Ouinac
Anna	5 yrs	female	Ouilyrounemr and mother dead
Madeleine	2 yrs	female	Kouacho and Yeyakouar
Emilie	1 yrs	female	Kitrone and Komtaomars
Marie	5 mos	female	Samson and Kintelarha
Annie	6 yrs	female	Sanaret and Alstas
Louisa	4 yrs	female	Sanaret and Alstas
Pauline	6 yrs	female	Kitjane and Koutlakie
Julie	2 yrs	female	father dead and Chipchioulax

Simple math would indicate that any of the parents recorded on the list above who were at least 18 in 1864 would have been alive in 1846. As well, the names of some of the parents appear to be mentioned in other sources, thus corroborating both their identity and their habitation in the Kitimat village. Mosttittemel, for example, mother of Jacques, might possibly be the “huntress Moodseithlimie” referred to in an April 1902 edition of *Na-Na-Kwa*, the Kitimat-published and Raley-founded newsletter describing the progress of the Methodist

<sup>42</sup> Father J.M. Lejacq, O.M.I. *List of Children's Baptisms*. March 20, 1864 (Original held in Vancouver School of Theology).

<sup>43</sup> These would appear to be phoneticized versions of Haisla names which may bear only a rough resemblance to the actual name.

church and school established in Kitimat village in the mid-1890s.<sup>44</sup> Similarly, Kitrone, father of Emilie, might be the same person listed on an 1865 list of Kitimat members who were arrested on liquor charges in December of the same year.<sup>45</sup>

“Kithrone” - as spelled by Rev. Duncan, was also identified as a chief<sup>46</sup> - while Sanaret, father of Annie and Louisa, might be “Tsin-a-het” – now commonly spelled Sanaxaid, head of the Eagle Clan - the Chief who was identified by Indian Reserve Commissioner O’Reilly before his allotment of a few reserves for the Nation in July 1889.<sup>47</sup> Reverend Duncan also mentioned a visit from “Kitahmaht...Chief Tsinahkray” in January 1867,<sup>48</sup> while CPR Surveyor Marcus Smith also met a Chief “Tsin-ah-hay” in June 1874.<sup>49</sup> Reverend George Raley also identifies “Sonnahed” in October 1898.<sup>50</sup>

These various spellings – Sanaret, Tsin-a-het, Tsin-ah-hay, Tsinahkray, Sonnahed and Sanaxaid – may not refer to the same individual, but note that the chiefly Sanaxaid name is itself hereditary and may have passed from one individual to another over that 1864-1898 time frame above. Indeed, the Sanaxaid name still exists and was held by John Wilson until he passed away in 2009.<sup>51</sup>

#### 2.1.4 Additional Colonial Records

In the context of statements made on February 1 and 14, 1867 regarding allegations of theft by W.J. Stephens to colonial official Chartres Brew, and Morris Moss to BC Governor Seymour, respectively, seven members of the Kitimat tribe as well as ten members of the "Kitlope tribe in Gardners Canal" are referred to.

Note that the authors also mention leaving "the Kitimat village" and anchoring near "the Ketloop village",<sup>52</sup> with Brew adding in a March 19, 1867 letter to the Colonial Secretary that "The Ketlup Indians occupy Gardners Canal."<sup>53</sup>

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<sup>44</sup> *Na-Na-Kwa*, April 1902.

<sup>45</sup> The list is contained in a December 18, 1865 letter from Reverend Duncan to the Colonial Secretary (BC Archives and Records Service (BCARS), GR 1372, F. 446/12).

<sup>46</sup> *Ibid.*

<sup>47</sup> See Indian Reserve Commissioner Peter O’Reilly to Deputy Superintendent General of Indian Affairs, May 3, 1890 (available in Peter O’Reilly, *Minutes of Decision, Correspondence and Sketches*, SCB Resource Centre, Vancouver, Collection of Indian Reserve Commission Letterbooks, Volume 12).

<sup>48</sup> *Supra*, note 17, p. 11152.

<sup>49</sup> Marcus Smith, *Diary* (BCARS, GR 748, p. 23).

<sup>50</sup> *Na-Na-Kwa*, October 1898. Note that “Sonnahed” - John Bolton - was born in 1865 (see *Stewards*, p. 136).

<sup>51</sup> *Stewards* (p. 136) indicates that the heir to the Sanaxaid name is currently pending.

<sup>52</sup> Transcripts only; originals are at BCARS, GR 1372, F. 196.

<sup>53</sup> *Ibid.*

### 2.1.5 Later Survey and Exploration

In addition to the statements above regarding the location of the primary Kitamat and Kitlope villages, note that they are also illustrated on a chart obtained from the UK Hydrographic Office covering the Cape Caution to Port Simpson area which relies on an 1867 to 1870 survey by Royal Staff Commander Daniel Pender (Series A-3).<sup>54</sup> The chart, corrected to November 1871, also contains an undated note indicating that "H.M. Ships anchor at Clio Bay in 17 fathoms to communicate with the Kitimat Indians." The same note is also contained in a version of the chart corrected to May 1881 (Series A-6).<sup>55</sup>

A map of both the Kitimat Valley and Clio Bay that was originally enclosed in the 1874 remarks book of Sub-Lieutenant T.B. Moody of *HMS Boxer* (and date stamped received in the UK Hydrographic Office on August 30, 1875) also illustrates the "Kitamat Winter V" on the west side of the Kitimat River near its mouth at the head of Kitimat Inlet (and thus opposite the current location of Haisla IR No. 1).<sup>56</sup> Also noted are the "Kitamat Indian Summer V" in the approximate location of Haisla IR No. 2, and an "Old I.V." in the approximate location of Haisla IR No. 3.

In a separate voyage made earlier the same year, former colonial official A.T. Bushby diarized on June 7, 1874 that, at "Kemano large quantities of oolachan are caught by the Indians who allow them first to have [sic] putrify [sic] then squeeze them and extract the oil."<sup>57</sup>

Bushby added that, at Kitamat on June 8, 1874, "a deputation of Indians came on board [likely the HBC Steamship *Otter*] headed by a chief. Rather pretty site for a village. Long wawa, introduced solemnly to old chief Simaache." Bushby also wrote that "...The head of Pender channel [sic; Bushby likely meant Douglas] has a nice open spot. The Ind village is well chosen. Old Chief a fine boy. Seymour distributed bacce & pipes. Ind 250 strong...".

A news clipping of unknown date or origin (though possibly the *Victoria Daily Colonist*, and likely circa June 1874) indicates that Bushby was aboard the HBC steamship *Otter* along with CPR Surveyor Marcus Smith, Chief Justice Begbie, James Douglas, and "Mr. C. Seymour, who represented the Indian Department

<sup>54</sup> Map A-3, UK Hydrographic Office.

<sup>55</sup> Map A-6, UK Hydrographic Office.

<sup>56</sup> Map A-4377, U.V., UK Hydrographic Office.

<sup>57</sup> A.T. Bushby, *Diary* (BCARS, Add. Mss. 809). Note, too, that, as indicated in *Stewards* (p. 180), this traditional Haisla stewardship area embraces the long watershed of the Kemano River, which produces "the most dependable oolichan run in Haisla territory." *Yamacisa*, the Haisla village at the mouth of the Kemano, is also noted at p. 180 to have been a large community until 1918, when the influenza outbreak that started at the end of the First World War caused a large drop in population.

during the trip."<sup>58</sup> The article, which is attached to Bushby's diary, added that, "At Kitloop the Indian village is situated some miles up the river."

The news clipping placing Bushby with CPR Surveyor Marcus Smith was likely published at around the same time – June 1874 – as Smith himself wrote about his exploration of the Coast aboard the HBC's steamship *Otter*.<sup>59</sup> Smith indicated that his party included fellow CPR Surveyor Horetzky and "Mr. Seymour (deputy from the Indian Department)",<sup>60</sup> and that others on the ship – the aforementioned Justice Begbie, Mr. Bushby and "Wm. Duncan, who was returning to his charge of the Indian Mission at Metlah Catlah" - were simply "passengers, chiefly bent on a pleasure trip".

Horetzky wrote a separate account of his own explorations, mentioning that he travelled up the Kemano River with "four Indians from the Kitlope Village."<sup>61</sup>

Smith also wrote about a rowboat exploration of the Kitlope River, guided by an Indian whom they had picked up in Gardner Channel.<sup>62</sup> Smith indicated that, in his attempt to reach the Kitlope Village itself, he had sent his Indian guide with a message to the Chief to come down to the ship at the mouth of the Kitlope River with some of his men. He continued as follows:

About eight p.m. a large canoe came down with the chief and about a dozen Indians. Mr. Duncan talked to them in their own language (Chims-ain [sic]) explained the object of our visit and enjoined them to give the exploring party all the assistance in their power and told them that the gunboat [HMS *Boxer*] would be near to punish any bad Indians to protect the surveyor. Mr. Horetzky hired two of them and Mr. Seymour made them some presents of shirts, tobacco and pipes and they departed well satisfied.<sup>63</sup>

On June 8, 1874, Smith mentioned leaving the Kitlope, passing the Kemano, then turning "northwards up the Pender Channel (between Hawkesbury Island and the mainland) and at noon arrived near the head of the channel opposite an Indian village to which we sent off a message to the Chief by an Indian who had come up to us in his canoe."<sup>64</sup> At this point, Smith proceeded to discuss the Kitimat Valley, so the village referred to on June 8 is likely the Kitimat winter

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<sup>58</sup> *Ibid.* Note that an online review of the contribution to the Department of Indian Affairs' (DIA) 1874 Annual Report made by BC Indian Commissioner Powell indicates that no trips were made north of Bella Bella in 1874. As well, a further online review of expenditures and personnel mentioned in the 1874 and 1875 DIA Annual Reports did not reveal any reference to a "C. Seymour".

<sup>59</sup> Smith to Sandford Fleming, June 22, 1874 (LAC, RG12, Vol. 1997, File 3562-9).

<sup>60</sup> *Ibid.*

<sup>61</sup> Charles Horetzky, Appendix G - a November 15, 1874 letter to Sandford Fleming - in *Report on Surveys and Preliminary Operations on the Canadian Pacific Railway up to January 1877*, by Sandford Fleming Chief Engineer, CPR (Ottawa: McLean, Roger, 1877).

<sup>62</sup> *Supra*, note 59.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

village, now Haisla IR No. 2. Smith also erroneously identified the Kitimat as a branch of the Tsimshian:

[s]everal Indians now came on board with their chief Tsin-ah-hay [likely Sinaxaid, head of the Eagle Clan]. They are part of the Tismsain [sic] tribe as were also those at the head of Gardner Channel ...

This portion of the tribe at Kitimat are stray sheep and were charged with cannibalism a few years ago...<sup>65</sup>

...The chief appears between forty and fifty years of age [and thus born circa 1824-1834], is fat and good looking rather mild than ferocious, as evidenced by nearly all the Indians we have met. I left a letter for Mr. Horetzky with the Chief who appeared highly flattered with the trust.

### 2.1.6 Still Later Surveys and Exploration

An 1891 BC Crown Land Surveys Report by A.L. Poudrier indicated that Kitlope Bay featured a cannery and a small Indian village, adding also that the Kitlope River was "one of the best places along the coast for the oolachan fishing, and large quantities are caught and reduced to oil by the Indians."<sup>66</sup> In the same document, Poudrier also described Kitlope Lake as "...a good spawning ground for salmon, and is often visited by the Indians."

Poudrier referred to "an Indian village of small size" at Kemano, adding further that "It is a favourite spot for the Indians, on account of the quantity of oolachans caught there." Poudrier further confirmed the existence of an "Indian village at the end of the Kitimat Arm", a small portage from which led "...to a small lake at the head of one of the branches of the Extall River. This is sometimes used by the Indians as a canoe route to go to Essington, at the mouth of the Skeena." Poudrier added that "The Indians of Kitimat often profit by this strange river to come to Essington with small canoes." An attached map also illustrates a village at Kitimat.

A separate BC Crown Lands Survey Report was filed in 1895 by R.E. Palmer but based on George D. Corrigan's notes and diary after Corrigan himself was killed in a gun mishap.<sup>67</sup> The Report stated that, with respect to the Kitimat Valley, "It was estimated that from seventy-five to one hundred square miles of first-class country was seen, covering what was considered the finest valley on the coast, without exception, and should make a fine settlement. At the bend of the river a trail begins, which leads to the Kitsilas [sic] Indian Village...". Palmer added that, "At the mouth of the [Kitimat] river the missionaries and Indians have patches of

<sup>65</sup> Details of this incident are given in William Duncan, *Journals*, October 19, 1865, p. 10800.

<sup>66</sup> A.L. Poudrier, "Exploration Survey of New Caledonia", *Crown Land Surveys* (Victoria: Province of BC, 1891).

<sup>67</sup> R.E. Palmer, "Exploration of the N.W. Coast of the Province", *Crown Land Surveys* (Victoria: Province of BC, 1896).

cultivated fruits, cabbage, carrots, turnips, potatoes, &c, all of which appear to give good returns."

An October 18, 1897 BC Crown Lands Survey Report by Edward S. Wilkinson also referred to a village on the east side of the head of Kitimat Arm and reported that "At a distance of one mile from the inlet there is an old Indian village on the east bank; about twenty old houses remain, but the place looks deserted."<sup>68</sup>

### **2.1.7 Early DIA reports**

The Department of Indian Affairs established the North West Coast Agency in 1886, and appointed Charles Todd as Indian Agent (he held this position from 1887 to 1903).

As part of his duties, Indian Agent Todd was required to submit annual reports for his agency. Although these reports are largely general to the agency, there is at least one particular references which corroborate the Haisla Nation's claim to vast tracts of land for hunting purposes, and which speaks to the extent of Haisla Traditional Territory.

In his report for the year ended June 30, 1899, for example, Indian Agent Todd included information on each of the Bands in his agency, the first time he had done so. Of the Kitamat Band, Todd wrote that:

This is the most northern village of the five bands of the Oweekayno nation, speaking the same language and occupying two hundred miles of the coast line. The village consists of forty-two frame houses, with a population of two hundred sixty-six, situated at the head of a long and wide inlet named Douglas Channel.<sup>69</sup>

### **2.1.8 Indian Reserve Commissioner O'Reilly's Allotments**

The initial Reserves of the Haisla Nation were not set apart until 1889, almost nine years after the July 19, 1880 appointment of Peter O'Reilly to the post of Indian Reserve Commissioner.<sup>70</sup> Several days after that appointment, senior DIA officials wrote draft instructions for O'Reilly as follows:

...You should have special regard to the habits, wants, and pursuits of the Band, to the amount of territory in the Country frequented by it, as well as to the claims of the White settlers (if any).

<sup>68</sup> Edward Wilkinson, "Report of Kitimat and Lakulse [sic] Valleys and Plateaus to Skeena River", *Crown Land Surveys* (Victoria: Province of BC, 1898).

<sup>69</sup> See <http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-110.01-e.php?PHPSESSID=gc4hnch8vahme610mhbpbagk4&interval=169&q1=1899&c1=title&b2=AND&q2=1899&c2=title>

<sup>70</sup> July 19, 1880, Dominion Order in Council No. 1334 (LAC, RG 10, Vol. 3716, F. 22,195).

...The Government consider[s] it of paramount importance that in the settlement of the land question, nothing should be done to militate against the maintenance of friendly relations between the Government and the Indians. You should therefore interfere as little as possible with any tribal arrangements being especially careful not to disturb the Indians in the possession of any villages, fur trading posts, settlements, clearings[,] burial places and fishing stations occupied by them and to which they may be specially attached.<sup>71</sup>

On May 3, 1889, O'Reilly identified the "Kit-i-mat" Indians as resident at the head of Douglas Channel, with "Tsin-a-het (Solomon)" identified as their Chief. Although the Nation would later take issue with O'Reilly's methods (see, for example, the 1897 text at note 97, below, as well as the 1913 transcripts providing the Nation's testimony before the Royal Commission on Indian Affairs for the Province of BC), the Indian Reserve Commissioner wrote that he had "...explained fully the benefit they would derive from having their reserves defined...", apparently also indicating that the Nation would not be limited to utilizing only its Reserve lands because, as O'Reilly put it, the Nation's "...right to hunt, and fish elsewhere as of old would remain undisturbed."<sup>72</sup>

In addition, O'Reilly described the reserve he allotted as IR No. 1 as the "upper village" and the "summer resort of the tribe", also identifying crab apple as a highly prized food of the Kitimats, and noting the existence of a valuable salmon and oolachan fishery. O'Reilly described IR No. 2 as the "lower village", and he sited IR Nos. 3 and 4 on salmon streams. IR No. 3 was also sited in the vicinity of abundant huckleberries and crab apples.

With respect to the Kitlope Indians, O'Reilly located them at the head of Gardner Channel, and identified their Chief as Paul. O'Reilly wrote that: "These Indians carry on trade with the tribes of the interior, and barter oil for furs.... I visited the village, and principal oolachan fishery, and subsequently made three reservations..."<sup>73</sup>

O'Reilly thus allotted a fishing reserve - the site of a valuable oolachan and salmon fishery (We kel lals No. 1) - as well as a winter village reserve (Kitlope No. 2), and an ancient village site located along the Kitlope's trade trail to the interior (Kemano No. 3).<sup>74</sup>

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<sup>71</sup> DIA to O'Reilly, draft, August 9, 1880 (LAC, RG10, Vol. 3716, F. 22195).

<sup>72</sup> *Supra*, Note 47.

<sup>73</sup> O'Reilly to Deputy Superintendent General of Indian Affairs, May 5, 1890 (available in Peter O'Reilly, *Minutes of Decision, Correspondence and Sketches*, SCB Resource Centre, Vancouver, Collection of Indian Reserve Commission Letterbooks, Volume 12).

<sup>74</sup> *Ibid.*

### 2.1.9 Haisla Nation Trapline Registration

In *Stewards*, Dr. Jay Powell writes that, “Before the registration of traplines, which started in 1925-6, all trapping rights were included in the ownership of the *wa’wais*.”<sup>75</sup> Consequently, any Haisla *wa’wais* owner who registered his related trapline *after* 1925 was effectively announcing to the outside world that he had a vital and significant interest in the watershed connected to the *wa’wais* in question.

Put together, these traplines – and the *wa’wais* writ large - give definition to the extent of Haisla Traditional Territory itself.

While the trapline record below is not complete,<sup>76</sup> when it is viewed in the context of information contained in both *Stewards* and the primary documents gathered in relation to the original registration of Haisla traplines,<sup>77</sup> we can conclude that the majority of these traplines have been held in the name of various Haisla owners ever since the Haisla themselves had an opportunity to register their respective interests in the 1920s:<sup>78</sup>

<b>WA’WAIS</b>	<b>CURRENT TRAPLINE NUMBER</b>	<b>ORIGINAL APPLICANT</b>	<b>ORIGINAL APPLICATION</b>	<b>CURRENT TRAPLINE HOLDER</b>
<i>Na’labila</i>	0603T0103 <sup>79</sup>	Albert Starr <sup>80</sup>	February 17, 1927	Robin Grant
<i>Niqwa &amp; Wadin</i>	0611T004 & 0611T005	Charles Moore (non-Haisla, transferred to Chris Walker in 1944)	Circa 1926	Chris Walker (deceased)

<sup>75</sup> *Stewards*, p. 138.

<sup>76</sup> For example, a few of the original Haisla applications have not been located in archives and very little Bella Coola Indian Agency correspondence on this topic appears to exist; Agency letterbooks were available on microfilm for earlier years, but not for the 1925-1930 period. Also, a BC official with the Ministry of Forests, Lands and Natural Resource Operations recently indicated that she could not release certain information due to privacy concerns and, further, indicated that the information might not be current in any case.

<sup>77</sup> Where available, the primary trapline documents related to the *wa’wais* below have been retrieved from both Library and Archives Canada and BC Archives and have been scanned and labeled in accordance with their related trapline number.

<sup>78</sup> The majority of the traplines referred to here were registered circa 1926-1928 – within a year or so of the initial registration regime. Although Brenda Ireland’s 1995 UBC MA thesis - *Working a Great Hardship on Us: First Nations People, the State, and Fur-Bearer Conservation in British Columbia Prior to 1930* – discusses many difficulties faced by aboriginal people when they registered their traplines beginning in 1925, the number of applications successfully registered by the Haisla suggests that her argument would not apply to this Nation.

<sup>79</sup> This trapline appears to have originally been composed of several different lines that have since been consolidated into a single, Haisla-held trapline.

<sup>80</sup> Unless otherwise mentioned, all of the original applicants cited here are understood to be Haisla members.

<b>WA'WAIS</b>	<b>CURRENT TRAPLINE NUMBER</b>	<b>ORIGINAL APPLICANT</b>	<b>ORIGINAL APPLICATION</b>	<b>CURRENT TRAPLINE HOLDER</b>
<i>Uxdewala</i>	0611T085	Dick Williams	December 21, 1938	Roy Woods
<i>Giyu'yuwa</i>	0611T003	Dick Williams	February 5, 1927	Vera Wilson
<i>Yaksda</i>	0611T007	William Henry	Pre-1951 <sup>81</sup>	Rod Bolton, Jr.
<i>Laxakas</i>	0603T080	Phillip Williams	May 7, 1928	Fred Williams and Williams Family
<i>Simgas, Zagwis</i>	0603T084	Mark Morrison	December 21, 1931	Chris Wilson
<i>C'imoc'a, Wohlstu</i>	0603T058	John Bolton <sup>82</sup>	February 4, 1931	Richard Walker
<i>Gwaxsdilis</i>	0603T057	Mathew Wilson	August 20, 1930	Frank Wilson
<i>T'ala</i>	0603T047	Frederick Grant	February 24, 1928	Floyd & Colin Grant
<i>Dalaks</i>	0603T046	Johnston Grant	January 8, 1932	David Wilson
<i>Geldala</i>	0603T045	James Henry	February 4, 1927 <sup>83</sup>	Glenn Henry
<i>Geldala 'nalekwa</i>	0603T087	Charles Buggs (non-Haisla)	Circa 1938, vacant since 1950	Lorne Henry (in process)
<i>Wo'axdu, Bisamut'is</i>	0611T006	James Clarkson	May 7, 1928	Jackie Nelson
<i>Xasutla</i>	0611T008	Chief Richard Morrison	May 7, 1928	Tom Robinson
<i>Aikudiga</i>	0611T013	Chief Richard Morrison	May 7, 1928	Edward Gray (deceased)
<i>Wagis &amp; Kitasa</i>	0611T099	Aaron Cross ( <i>Kitasa</i> ) and Chief Richard	May 7, 1928	Marshall Wilson (deceased)

<sup>81</sup> Although the archived file for this trapline begins in 1951, *Stewards* (p. 51) indicates that William Henry initially registered the line before transferring it to George Bolton in the early 1950s. William Henry's original application, however, has not been located.

<sup>82</sup> Bolton's original application was for a trapline up Walth Creek.

<sup>83</sup> The Fall Creek area-trapline, now subsumed within 0603T045, was originally applied for by Ernest Grant on February 4<sup>th</sup>, 1931. The south shore of Kildala Arm was also originally applied for by William Henry on February 4, 1927; it is also now subsumed within 0603T045. Another part of the Kildala trapline area may have also been registered in 1937 to a non-aboriginal individual named Dan Quinlivan.

<b>WA'WAIS</b>	<b>CURRENT TRAPLINE NUMBER</b>	<b>ORIGINAL APPLICANT</b>	<b>ORIGINAL APPLICATION</b>	<b>CURRENT TRAPLINE HOLDER</b>
		Morrison ( <i>Wagis</i> ) <sup>84</sup>		
<i>Li'lewaqde'mis</i>	0611T098	Silas Maitland	Pre-1953 <sup>85</sup>	Harold Maitland
<i>Kiyasa</i>	0611T009	Tom Nyce, Sr.	February 15, 1927	Tom Nyce, Jr.
<i>E. Geltu'yis</i>	0611T012	Herbert MacMillan	May 7, 1928	Harold Stewart
<i>W. Geltu'yis</i>	0611T011	Jonah Howard	May 7, 1928	Steven Grant (presumed)
<i>Mesgalhi</i>	0611T014	Edgar Amos	May 7, 1928	John B. Amos
<i>Upper Mesgalhi</i>	0611T015	Charles Stewart	May 7, 1928	Richard Stewart
<i>Ankwelais</i>	0611T010	Fred Woods	December 12, 1935	Ivan Woods
<i>Cinis Geldala</i>	0603T088	David Grant	February 24, 1928	Godfrey Grant
<i>Toseqiya</i>	0603T056	Peter Grant	December 27, 1927	Brian Grant
<i>Na'labisc Wiwaa</i>	0603T055	Clarence Shaw	February 4, 1931	Herman Maitland (deceased)
<i>O'yewisc Wiwaa</i>	0603T054	Sam Robinson	May 7, 1928	Sammy Robinson
<i>Xa'isabisc Wiwaa</i>	0603T053	Robert Stewart	August 20, 1930	Don Stewart
<i>Temex</i>	0603T112	Thomas R. Amos <sup>86</sup>	May 7, 1928	Gary Morrison (presumed)
<i>Sawi</i>	0603T071	Edward Gray	February 12, 1930	Heber Grant (presumed)
<i>Awigela</i>	0603T072	Walter Nyce	May 7, 1928	Ray Green,

<sup>84</sup> Haisla member Henry Nyce also appears to have held trapping rights in this area: from the Jesse Lake falls, then south along Douglas Channel to Miskatla Inlet. His application was dated February 15, 1927.

<sup>85</sup> The archived file for this trapline contains only one page – a circa 1953 sketch of the trapline in question.

<sup>86</sup> This trapline appears to have been re-configured because a naturalized Canadian of Swedish origin held what appears to have been the initial registration in an area on the shore from Pine Creek to a spot one mile north of Crab River. That area is now within the boundary of Haisla-held 0603T112.

<b>WA'WAIS</b>	<b>CURRENT TRAPLINE NUMBER</b>	<b>ORIGINAL APPLICANT</b>	<b>ORIGINAL APPLICATION</b>	<b>CURRENT TRAPLINE HOLDER</b>
				Jr.
<i>T'lekai</i>	0603T064	Russell Wilson	March 21, 1955	Russell Wilson
<i>Kiciwi</i>	0603T114	Not registered by Haisla <sup>87</sup>		Not registered by Haisla
<i>Mekasa</i>	0603T070	Abel Ross	May 7, 1928	Joe Starr (presumed)
<i>Negetu &amp; Zuzad</i>	0603T074	John Atkinson AKA Chris Robinson	May 12, 1928	Bert Robinson
<i>Awisdis</i>	0603T089	George J. Robinson	Pre-1944 <sup>88</sup>	Kenneth Grant (registration in process)
<i>T'lekemalis</i>	0603T069	Percy Wilson	June 1, 1929	Frank Wilson (possibly re-registered to son Jeff Wilson)
<i>Wawagelista</i>	0603T068	Nelson Grant	October 26, 1933	Willard Grant
<i>Luq'wayac'l</i>	0603T067	Joe Bolton	May 7, 1928	John R. Wilson (deceased)
<i>Biya'</i>	0603T063	Frank Wilson & Sons	February 20, 1930	Vernon Grant
<i>Slacu</i>	0603T062	Frank Wilson & Sons	February 20, 1930	Fred Wilson, Sr. (deceased)
<i>C'elitan, Cidexs</i>	0603T091	Not registered by Haisla <sup>89</sup>		Not registered by Haisla

<sup>87</sup> Although a non-aboriginal person appears to have first applied to register this trapline in 1934, *Stewards* indicates at p. 118 that:

This traditional Haisla stewardship area is actually a *bagwaiyas*, a location so rich in resources that all Haislas are free to harvest there without special permission.... In fact, even though this area is a numbered trapline (#603T114), no Haisla has registered it, since it belongs to any Haisla who wishes to forage, hunt, fish or trap or take canoe logs from there. In 1926, Indian Agent W. Ditchburn applied to have a reserve established in Daniel Bay, "an area of Kitamat (sic) tribal ownership."

<sup>88</sup> This trapline application was not located but it appears on the map illustrating Jacob Grant's 1944 application for what is now trapline #0603T063.

<b>WA'WAIS</b>	<b>CURRENT TRAPLINE NUMBER</b>	<b>ORIGINAL APPLICANT</b>	<b>ORIGINAL APPLICATION</b>	<b>CURRENT TRAPLINE HOLDER</b>
<i>T'liqana</i>	0603T061	Not registered by Haisla		Not registered by Haisla
<i>Part of the wa'wais formed by C'elitan, Cidexs and T'liqana</i>	0603T060	Not registered by Haisla		Not registered by Haisla
<i>Kasa</i>	0603T052	Isaac Wood	July 11, 1930	Allan Williams
<i>Haxwalaid</i>	0603T051	Thomas R. Amos	May 7, 1928	David Amos or Sam Shaw
<i>T'lemxaya</i>	0603T050	James Duncan	December 22, 1926	Magnus Duncan
<i>Oxwilh</i>	0603T105	Jacob Duncan	December 22, 1926	Kelly Duncan
<i>Wasasa</i>	0603T086	David Duncan	December 22, 1926	Albert Grant (in process)
<i>Q'epuwax &amp; W. Geltuis</i>	0603T049	James Green	June 19, 1934	James G. Green
<i>E. Kemano Geltuis</i>	0603T043	Charles Wilson	October 4, 1926	Sam, Bill, Russell, James & Charles Wilson
<i>Nuwaqela, Misk'uk'w</i>	0603T041 <sup>90</sup>	Mathew Wilson	December 26, 1926	Broderick Nyce
<i>U'yagemis</i>	0603T059	Chief John Paul	September 21, 1926	Crosby Smith
<i>Waxuxw</i>	0603T042	John Livingstone	December 10, 1935 <sup>91</sup>	Pat Robertson
<i>Kemaninuxw</i>	0603T039	John or Michael	October 7, 1926	Cecil & Dan Paul (and

<sup>89</sup> *C'elitan, Cidexs and T'liqana* are also treated as a *bagwaiyas* area. See note 87, above, and *Stewards*, p. 146.

<sup>90</sup> This trapline appears to have originally been composed of several other traplines, one of which was applied for in 1929 by Axel Enockson, a non-aboriginal person. Five years later, however, Enockson's trapline was cancelled after he claimed he was "having trouble with the Indians...in Gardner Canal". Apparently as a result, he left the area and registered a different trapline outside of Haisla Territory.

<sup>91</sup> This appears to be the correct, initial date, but note that the application also features a handwritten revision to October 10, 1941 – likely pertaining to the transfer of the trapline to Joe Paul.

<b>WA'WAIS</b>	<b>CURRENT TRAPLINE NUMBER</b>	<b>ORIGINAL APPLICANT</b>	<b>ORIGINAL APPLICATION</b>	<b>CURRENT TRAPLINE HOLDER</b>
		McFadden (non-Haisla; trapline later returned to Haisla)		family)
<i>Kemaninuxw</i>	0603T054	John or Michael McFadden (non-Haisla; trapline later returned to Haisla)	October 7, 1926	Cecil & Dan Paul (and family)
<i>Kemaninuxw 'nalekwa</i>	0603T095	Joe Prattinger (non-Haisla)	Unknown, but vacant since 1955	Clifford Smith (in process)
<i>Qawisas</i>	0603T040	C. Gushue (non-Haisla; trapline returned to Haisla)	October 6, 1932	Nina Shaw
<i>Wakasu</i>	0603T038	Solomon Robertson??	Unknown	Johnny Robinson
<i>C'itis</i>	0603T037	Gordon Robertson	May 29, 1928	Gary, Barry, Derek Wilson
<i>Gitlop</i>	0603T036	Simon Hall	September 20, 1927	Hall family

## 2.2 Early Land Claims of the Haisla Nation

It is likely that the assurance provided in Kitimat during 1889 by Indian Reserve Commissioner O'Reilly – that the “right to hunt, and fish elsewhere as of old would remain undisturbed”<sup>92</sup> – would have been taken by the Haisla as confirmation of a continued right to use, occupy and enjoy its Traditional Territory just as it had in the past.

However, with pressure from additional European settlement and increased competition for land and natural resources, it appears that the Haisla realized that their rights warranted still greater recognition. Thus, the historical record shows that the Haisla Nation has vigorously asserted its Territorial claims in various ways, and in various fora, for more than one hundred years.<sup>93</sup>

<sup>92</sup> *Supra*, note 47.

<sup>93</sup> The oral tradition also provides other examples of Haisla members defending the Territory: for example, see James Deans' 1888 article in the *Journal of American Folklore*, discussed below, or

### 2.2.1 1897 Petition to BC for Additional Land

On November 10, 1897, for example, the Haisla Nation forwarded a petition for more land to BC's Chief Commissioner of Lands and Works (CCLW).<sup>94</sup> Signed by Chief Jessie Morrison, William Young and Charlie Adams, the petition asked the CCLW to secure "...our ancient, and, as we think, just right to our old Crab Apple Gardens, planted by nature in the old time for the use of Indians for both food and medicine" [all emphasis and capitalization in the original].<sup>95</sup>

The petition goes on to state that "These Crab Apple flats held for ages, equal to all past time, by our forefathers, from generation to generation and frequently bought and sold by Indian families; are in our part of the country, situated in the valley of the Kit-a-maat River in several parcels of low land...and...in a small Inlet near our village named Kil-dala." The latter village, and the *wa'wais* that shares its name, is described in *Stewards* as "...one of the best known and most trustworthy resource areas in Haisla traditional territory."<sup>96</sup>

The 1897 petitioners stated that Indian Reserve Commissioner Peter O'Reilly "...and the few Indians who were at home when he came here years ago to reserve some land for us..." overlooked the aforementioned parcels:

[A]nd they did not understand fully what was being done, and never for a moment suspecting that the Indians might loose [sic] their {ancient?} right to use the fruit patches always heretofore held by us Indians and found so necessary for our health.... These few patches of fruit trees produce apples not valued by white men, are now in danger of being included in Land Claims made by strangers to us, and if allowed by you and our Governor to be taken from us and destroyed by clearing of the land will generally injure us and destroy our faith and trust in the Justice and Friendship of our Government. We hopefully ask you to protect our Old Rights to those small parts of our valley here so useful to us.<sup>97</sup>

The petition concludes: "...we fully trust you to take proper steps to secure to such of our families as can show ancient right to those gardens, protection against their loss." A rough sketch was apparently attached to the original petition, but it now appears to be missing.

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the story in *Stewards* (p. 254) entitled "Geps Walhak'a and Winc'exs Escape from Haida Captivity", which indicates that "...sometimes the Haida raiders were ambushed or beaten."

<sup>94</sup> Haisla Petition of November 10, 1897 (Raley Collection, (BCARS, H/D/R13/R13.11)).

<sup>95</sup> *Ibid.*

<sup>96</sup> *Stewards*, p. 96.

<sup>97</sup> *Supra*, note 94.

## 2.2.2 1905 Request for Additional Reserves

In February 1905, Indian Agent Morrow wrote to Indian Reserve Commissioner Vowell with a November 1904 petition from the Kitimaat Chiefs and Council asking for additional reserves within their Traditional Territory.<sup>98</sup> The petition indicated that the existing reserve allocations made by Indian Reserve Commissioner O'Reilly were inadequate for Kitimat needs and then identified the land sought: three old Indian villages (located at Quaste (likely *Kwast*, now IR No. 8, north side of Kildala Arm), Tsingueise (likely *Zagwis*, now IR No. 5 at the head of Minette Bay) and Beise (likely *Beese* (*Bisamut'is*), now IR No. 6 on the west side of Douglas Channel), as well as fishing stream, Kitaesa (likely *Kitasa*, now IR No. 7 on the north west side of Douglas Channel)).

In follow-up correspondence, Indian Agent Morrow wrote to Vowell as follows:

... I herewith beg to enclose you duplicate copies of [sketches of locations applied for by the Indians] and have marked opposite the name of the four locations asked for by the Indians a small x.

Trusting with this information the Lands and Works Department may be able to see that the lands sought for are of little or no value to any one except Indians, for gardens etc., and as these places have all been used by these Indians as old villages, gardens and fishing streams in olden times, that in asking for them they consider their claim partly established.<sup>99</sup>

Morrow also indicated in the 1906 DIA Annual Report that the "The reserves of this [Kitimat] band ...are the poorest reserves and of smaller dimensions according to the size of the band than any other in the [Bella Coola] agency. They contain no farming land and no timber of any value."<sup>100</sup> Regarding the Kitlope Band, Morrow added that "The reserves of his small band...are of little or no value from an agricultural standpoint. Small quantities of timber are scattered through them, but it has no commercial value."<sup>101</sup>

On June 29, 1907, Indian Commissioner Vowell sent CCLW Fulton the June 21, 1907 Minutes of Decision related to the four additional reserves identified by the Kitimat in 1904.<sup>102</sup> Vowell's letter included the following comments on these reserves:

<sup>98</sup> Morrow to Vowell, with enclosures, February 17, 1905 (LAC, RG10, Vol. 3749, F. 29858-4).

<sup>99</sup> Morrow to Vowell, with map, June 17, 1905 (BCARS, GR 1440, Lands File 61694). Emphasis added.

<sup>100</sup> See [http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-110.01-e.php?q1=1906&c1=document\\_id&interval=100&brws\\_s=1&PHPSESSID=gc4hnch8vahme610mhppbagk4](http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-110.01-e.php?q1=1906&c1=document_id&interval=100&brws_s=1&PHPSESSID=gc4hnch8vahme610mhppbagk4)

<sup>101</sup> *Ibid.*

<sup>102</sup> Vowell to CCLW, with Minutes of Decision and sketches, June 29, 1907 (BCARS, GR1440).

- No. 5 Tsingueise: It is the site of an old village...
- No. 6 Bish: It is also the site of an old village and the Indians express their intention of again occupying it as their present village is unhealthy. The fishing in Bish Creek is one of their chief sources of food. Coho, dog salmon and humpback salmon being plentiful.
- No. 7 Kitisa: It is a fishing and hunting station.
- No. 8 Kildala Arm: It is an old camping place on which there are some old Indian gardens of small extent.

Although the Province initially refused to permit the establishment of any additional reserves in BC pending the resolution of "the entire Indian Reserve question",<sup>103</sup> the Reserves that the Kitimat petitioned for in 1904 would ultimately be set aside. In sum, the request for these additional lands appears to corroborate the oral history of the Haisla Nation with respect to the locations of some of the villages and fishing stations located throughout their Territory, with the additional missionary material set out below further bolstering support for claims to several other locations, many of which were used for habitation or the exploitation of various resources.

### 2.2.3 Additional Missionary Material Circa 1882-1919

For example, although an undated petition that appears to have been signed by both Kitimat and Kitlope members states that "The Kitlopes promise to send their children here to school if the Home is built here"<sup>104</sup> - with the exact location referred to not provided - it is likely that the location was Kitimat itself given that the Methodists under Rev. George Raley (from whose archived collection this undated petition was collected) proceeded to build a church, home and school there during the mid-1890s. The petition includes 42 male names, at least two of which - Jessie Morrison and William Young - also appear on the November 10, 1897 Kitimat petition discussed above.

The establishment of the Methodist mission and school under Raley's direction also included the publication of a newsletter - *Na-Na-Kwa* - on an approximately quarterly basis from January 1898 to May 1907. Though intended to communicate the needs and the spiritual progress of the community there, the newsletter also provided the names of numerous Kitimat and Kitlope members as well as several locations in the Territory that were frequented by members of the Haisla Nation.

Though these names and locations will be returned to below, note that a more general newsletter for Methodist missionaries in Canada - *The Missionary*

<sup>103</sup> Deputy CCLW to Vowell, September 12, 1907 (LAC, RG10, Vol. 3750, File 29858-10).

<sup>104</sup> Kitlope Petition, circa 1890s (Raley Collection, (BCARS, H/D/R13/R13.11)).

*Outlook* – also provided information on the Haisla Nation. A July 1882 article mentioned, for example, that a missionary party "...found very comfortable quarters with some Kitlope Indians" in an unspecified location, referring also to a March 24, 1882 visit to Kitimat, where "We were very kindly received by the people..."<sup>105</sup>

The June 1894 edition of *The Missionary Outlook* indicating that the Kitlope people were moving from houses at a cannery at Kitlope at the head of Gardner's Inlet to "the old village, twelve miles down the inlet".<sup>106</sup> The same edition described "Ke-man-ach" (possibly *Kemaninuxw*, Kemano) as "a deserted Indian village", with missionaries also seeking refuge in an unspecified bay where they found "some Indians in a fishing camp, drying halibut..."

Most editions of Raley's *Na-Na-Kwa* provided birth, burial and marriage dates, and in the process provided both genealogical information and the Anglicized variations of the names of many Haisla members. The January 1898 edition also referred to the oolachan trade with the Stikine Indians circa 1800-1850,<sup>107</sup> while the April 1898 edition also indicated that:

The Kitamaat Indians form a part of the great Kwahgwilth [sic] nation. Though the largest tribe numerically, it is one of the least known, probably because it is the most northerly, and its home is at the head of a deep fiord, called Douglas Inlet, out of the ordinary route of the Coast and Alaskan steamers.<sup>108</sup>

The October 1898 edition of *Na-Na-Kwa* indicated that:

Each family has its own [fish garden in the Kitimat River], assured to it by ancestral title from time immemorial, these gardens are as jealously guarded as are the Crown Jewels in the Tower of London by the State. Poaching on these fish preserves has often wrought very serious mischief amongst the tribes, and at times has been considered sufficient case for bloodshed.<sup>109</sup>

The July 1899 edition *Na-Na-Kwa* mentioned the contemporary oolachan trade with the Haida as well as camping at "the little harbour Aigiespa", near "the large harbour Giltooeise" (likely *Geltuis*, location of IR No. 13).<sup>110</sup> Additional Haisla members are referred to in the October 1899 and January 1900 newsletters,<sup>111</sup> with the April 1900 edition also referring to the names of several Band members as well as illustrating a longhouse at the Kitimat summer village built circa 1870.<sup>112</sup> The same newsletter also refers to a burial island called Altsum

<sup>105</sup> *The Missionary Outlook*, July 1882.

<sup>106</sup> *The Missionary Outlook*, June 1894.

<sup>107</sup> *Na-Na-Kwa*, January 1898.

<sup>108</sup> *Na-Na-Kwa*, April 1898.

<sup>109</sup> *Na-Na-Kwa*, October 1898.

<sup>110</sup> *Na-Na-Kwa*, July 1899.

<sup>111</sup> *Na-Na-Kwa*, October 1899 and January 1900.

<sup>112</sup> *Na-Na-Kwa*, April 1900.

(*Elsdem*, Gobeil Island), with *Stewards* (p. 84) stating that it was both a chiefly burial area as well as a sacred site.

Raley's May 1900 article in *The Missionary Outlook* also explained that:

At Kitamaat we have two villages, the summer or river village being four miles from the mission. There most of the people are to be found in the summer. The houses are of the old style, similar to those used for hundreds of years by the natives. Around the mission or winter village all this is changed, the old houses, customs and habits giving place to the new...<sup>113</sup>

In July 1900, *Na-Na-Kwa* referred to the names of several Kitimat members as well as the recently deceased Kitlope Chief Paul (aka Sheaks, d. 1891), who was described as "very old", having worked with the "white chief, Mr. Manson".<sup>114</sup> Chief Paul gave feast at "Misquize" (probably *Misk'usa*, at the mouth of the Kitlope River), but from Raley's text it was unclear when this took place – either circa 1833-1845, or possibly later, in the 1880s or 1890s. The same issue of *Na-Na-Kwa* also referred to an historical bear hunt on Kildala (*Geldala*) Arm as well as contemporary seaweed gathering at Khowah, an island about 100 miles away.<sup>115</sup>

The January 1901 edition listed individuals as well as referred to the timber wealth of the Kitimat Valley, October crab fishing in the Kitimat Inlet, and hunting at "Giltuise [*Geltuis*], Kildalah [*Geldala*], Miskathleigh [*Mesgalhi* (Foch Lagoon), Meeihkassah (*Mekasa* (Daniel Bay)), Khowise [possibly *Quawisas* (Chief Matthews Bay), or *Q'wewis* (on the Kitimat River)], and other smaller camps."<sup>116</sup>

The April 1901 newsletter referred to "the Inner Harbor (Dsugwiese)" (likely *Zagwis*) as well as "Git-tas-sah" (*Kitasa* (Emsley Cove)) and a location called "Telahaun (salmon) River".<sup>117</sup>

July 1901 discussed an annual bear hunt as well as provided the names of numerous Band members,<sup>118</sup> with the October 1901 edition providing more names and referring to: Alstums [probably *Elsdem*]; the nearby island of Klikay

<sup>113</sup> *The Missionary Outlook*, May 1900.

<sup>114</sup> *Na-Na-Kwa*, July 1900. The date of Chief Paul's death could have put him together with the HBC's Donald Manson circa 1833-1839, because Donald Manson constructed Fort McLoughlin in 1833 and was appointed Chief Trader in 1837. Manson left for Scotland in 1839 before returning to Columbia and New Caledonia in 1841 - see [http://www.gov.mb.ca/chc/archives/hbca/biographical/m/manson\\_donald.pdf](http://www.gov.mb.ca/chc/archives/hbca/biographical/m/manson_donald.pdf). Alternatively, the Manson referred to could have been William Manson, active in the area in 1867; see his sketch of that year illustrating, among other things, the following Rivers: "Kitemate", "Ki-duller", Kemano and Kitlope. See also

[http://www.gov.mb.ca/chc/archives/hbca/biographical/m/manson\\_william.pdf](http://www.gov.mb.ca/chc/archives/hbca/biographical/m/manson_william.pdf)

<sup>115</sup> *Na-Na-Kwa*, July 1900.

<sup>116</sup> *Na-Na-Kwa*, January 1901.

<sup>117</sup> *Na-Na-Kwa*, April 1901.

<sup>118</sup> *Na-Na-Kwa*, July 1901.

(likely *T'lekai* (Coste Island)); "hieroglyphics" in Kitlope Canyon; a location called Tummahk (possibly *Temex*, near the entrance to Gardner Canal); and, another location called Tlimkiah (possibly *T'lemxa'ya* (lower Gardner Canal)).<sup>119</sup> The first two 1902 editions mention the names of several individuals,<sup>120</sup> with the July 1902 newsletter also referring to a famous huntress called Moodseithlimie, whose hunting grounds were at Kildala (*Geldala*).<sup>121</sup>

Rev. Raley also provided, in 1906, a map and list of approximately 33 Haisla place names including, for example, "Kassea (Crab River)" (*Kasa*, IR No. 18), the aforementioned Klikay (likely *T'lekai* (Coste Island)), and Wewa (probably *Wiwaa* (Devestation Channel)).<sup>122</sup>

Publication of the newsletter appears to have stopped in 1907 when Raley moved on, but the home and school that he helped found continued to operate, with Margaret Butcher, an employee circa 1917 to 1919, providing considerable detail about Haisla resource gathering and processing in numerous letters to relatives.<sup>123</sup>

In an April 11, 1917 letter to her niece, for example, Ms. Butcher discussed the process by which herring roe on seaweed was harvested and eaten,<sup>124</sup> and, on June 24, 1917, she also discussed "skin stock" - the harvesting and eating of spruce gum.<sup>125</sup> In the same letter, she added that, "When I come home I'll take you a picnic into the forest and feed you on natural products of bark, weeds and grass, for there are some grass-like growths of which they eat the roots and others which cook like spinach."

A June 30, 1917 letter described the processing of devil's club,<sup>126</sup> and a May 26, 1918 letter referred to the passing of Chief Moses, who was thought to be about 85, and thus born circa 1833.<sup>127</sup> The passing of another woman named Maria, thought to be about 100, was also mentioned, with Butcher referring to an "old burying ground away around the point" that was still in use. On May 18, 1919, Ms. Butcher also wrote that "The people had been away to "Old Town" [likely

<sup>119</sup> *Na-Na-Kwa*, October 1901.

<sup>120</sup> *Na-Na-Kwa*, January 1902 and April 1902.

<sup>121</sup> *Na-Na-Kwa*, July 1902.

<sup>122</sup> Obtained from the Raley Collection, circa 1906 (BCARS, File H/D/R13/R13.6).

<sup>123</sup> Margaret Butcher, *Letters* (BCARS, MS-0362).

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.* Ethnobotanical practice and resources from a Haisla perspective are also discussed in Brian Compton, *Upper North Wakashan and Southern Tsimshian ethnobotany: the knowledge and usage of plants and fungi among the Oweekeno, Hanaksiala (Kitlope and Kemano), Haisla (Kitamaat) and Kitasoo Peoples of the central and north coasts of British Columbia* (1993 UBC Ph.D Thesis at <https://circle.ubc.ca/handle/2429/1918>) and Cheri Reidy and Sheena Reidy-Zieglar, *Ethnobotany and the Kitlope Research Paper*, [http://www.livinglandscapes.bc.ca/northwest/kitlop\\_stories/ethnobotany.htm](http://www.livinglandscapes.bc.ca/northwest/kitlop_stories/ethnobotany.htm)

<sup>126</sup> *Supra*, note 123.

<sup>127</sup> *Ibid.*

*Simgas*] for four or five weeks for oolachan fishing, drying and grease making...".<sup>128</sup>

#### 2.2.4 Prelude to the Royal Commission on Indian Affairs (RCIA) 1912-1916, the RCIA Interviews, and their Aftermath

Just as the Royal Commission on Indian Affairs - formed in 1912 to deal with the "Indian Land Question" in British Columbia - was interviewing a number of Haisla members with respect to their additional land needs, a 1913 pamphlet entitled "The Kitimat Valley" was published by the BC Ministry of Lands:

About eight miles up the Kitimat River is an old village which has not been used for the last half century, at least.... The deserted village, which the Indians knew as Klak-ak-siouks [*Lhilaq'aciyuqwes*], was said to have been the home of about 300 people nearly a century ago. The Kitimats, who were much harried by the Haidas then, found it unsafe to live on the coast and made their residence up-river, at this village and another, known as Canim-mac [*Xinamac'í*], on the opposite bank. The Haidas attacked them there on several occasions and several battles took place in the river. On one occasion the assailants were ambushed and nearly all killed near the mouth of the river. Not only were the Kitimats, who were not a very warlike people, attacked by the more warlike coast tribes, but also by the Sticks from the Interior, who came over the divide from the Skeena.<sup>129</sup>

Note that the description "not very warlike people" is belied in both the excerpt above (by the Haisla ambushing the Haida) as well as a story heard by amateur ethnologist James Deans in the 1880s and published in the 1888 *Journal of American Folklore* indicating that, although "A few years ago the Haidahs and their ancient foes, the Kittamats, met and settled old feuds in a friendly manner", the Kitimat had earlier purposefully stranded a party of Haida and then, exploiting their starving condition, taken them all as slaves.<sup>130</sup>

Although it is not known whether members of the Royal Commission itself saw this particular BC Lands pamphlet, it is nevertheless clear from both the Haida conflicts as well as excerpts from the Commission's interviews with the Haisla themselves that the Haisla Nation was strongly attached to its Traditional Territory and insisted on having that Territory recognized.

<sup>128</sup> *Ibid.*

<sup>129</sup> *The Kitimat Valley* (Victoria: Ministry of Lands, 1913). The pamphlet also states that "The name of Kitimats was adopted by the Hudson's Bay Company officials and was placed on the Admiralty chart when the survey was made by Capt. Pender in the "Beaver"."

<sup>130</sup> James Deans, "What befell the slave-seekers [:] a story of the Haidahs on Queen Charlotte's Island, B.C.", *Journal of American Folklore*, July-September 1888, pp. 123-124 (via Early Canadiana Online, record number 14897). Note that Deans appears to have heard the story from both Haisla and Haida informants because he concluded that, "...at the time of the interview, nothing was known, even to their captors, as to the whereabouts of any of them, if alive. So much is certain, that none of them ever returned to their native village. And thus it happened that the slave-raiders were themselves made slaves."

For example, when Royal Commission members met with the Kitlope Indians at the Butedale Cannery on August 27, 1913, the Chief (speaking through Robert Nelson (another Chief)), stated that:

We are very glad to see you. We don't know anything about what you say. When we were young men the surveyors came to settle our place and we don't know anything about the size of it. All we know is that where we are living now was our grandfathers' place before us. Our Grandfathers told us that they owned the place and they told us to stay there all the time.<sup>130</sup>

When Robert Nelson was interviewed on his own behalf, he described the Kitlope Band's use of the lands and resources as follows:

... We stay at Kemano in Winter time, but then the small fish come in most of the Indians go up to Kitlope where they have houses. We use these houses when we go there, and when the fishing is over we go back to Kemano.<sup>131</sup>

The following further exchange also confirms the seasonal use of various parts of the Territory:

MR. YOUNG: You get salmon and oolachan at no. 2, Kitlope Lake, and salmon at No. 1 (Ahkellah)?

A: Yes.

Q: Are there any houses at Ahkellah No. 1A?

A: Yes, we have several, and that is where we dry the salmon.

Q: Do the Indians go up there and live at Ahkellah when they are drying the salmon?

A: Yes.

Q: Do any of the Indians stay there all winter or do they all go back to Kemano?

A: Yes. Some of them stay there all the winter time, hunting.

...

A: We live at Kemano during the winter time it is our own home. We go and stay at Kitlope for two or three months, fishing and trapping.

...

Q: Now in your speech you said that you wanted to have a reserve at Crab river. Now tell the Commission why you want a reserve at Crab River, and what use the Indians would make of it if they got it?

A: We are just asking you for that place because our grandfathers stayed there before us. We are asking if you will let us have it because our grandfathers stayed for years and years.

Q: But what use would you make of it if the Commission gave it to you?

NOTE: (Witness testifies about this matter after consultation with the other Indians present)

A: We just let you know about it because it belonged to our forefathers.

<sup>130</sup> Transcript of August 27, 1913 interview of the Kitlope Band before the RCIA (LAC, RG10, Vol. 11024, File AH2).

<sup>131</sup> *Ibid.*

- Q: Do you fish there now?  
A: Yes, and we have a house there now.  
Q: Is there any graveyard there?  
A: Yes, a large graveyard.  
Q: Many buried there?  
A: There are three graveyards at Crab river.  
Q: Are there graveyards on Kemano?  
A: Yes, lots of them there.  
Q: Are there graveyards at Kitlope?  
A: Yes, lot there.  
Q: Are there any at Ahkellah?  
A: Yes, some at Ahkellah.<sup>132</sup>

Johnnie Paull was interviewed next:

- MR. YOUNG: Do you know anything about an application being made by these Indians for a reserve at Crab river?  
A: I know there has been an application but I don't know whether they would like to go there or not.  
Q: What do they want the land made a reserve for?  
A: For trapping.  
Q: To make it a sort of headquarters during the trapping season? Is that it?  
A: Yes.  
...  
Q: Have the Indians used that place for trapping for many years?  
A: Ever since I can remember.  
Q: Did the Indians live there permanently at any time?  
A: Yes.  
Q: How long ago would that be?  
A: I could not say, but our graveyards are there.<sup>133</sup>

On August 28<sup>th</sup> a Kitlope Indian named Smith was also examined by the Royal Commission:

- MR. MCKENNA: Do you want to keep this reserve [Kemano] too, as well as Crab River that is to have both Crab River and Kemano as Reserves?  
A: In the summer all the people stay here and dry salmon and oolachan and in the winter time we all want to move to Crab River, because all the people are scared here in the winter time. There is ice here all the time.  
...  
MR. YOUNG: You say the people would like to go to Crab River for the winter, have that for their permanent home, and come back here in the summertime to catch and dry salmon and oolachans.  
A: Yes.  
MR. MCKENNA: Do you catch oolachans here?  
A: Oh yes.  
...

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<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*

MR. YOUNG: Do the Indians use this place for trapping at all?

A: Oh yes.

Q: What kind of fur do they get?

A: Oh, all kinds, black bear, grizzly, mink, marten, fisher etc.

Q: Do they trap at Kitlope?

A: Yes, and they get the same kind of furs.

Q: Do they dry any salmon there?

A: Yes, salmon and oolachans.

Q: What do they do down at Ahkellah?

A: It is an old Indian Village.

Q: Do they dry salmon and trap fur there, too?

A: Yes.<sup>134</sup>

On September 1, 1913, the Royal Commission interviewed the Kitimat Indians, with Chief John Bolton asserting to Commissioner Shaw that the Haisla Nation had aboriginal title and rights to its Territory. At the outset, as recorded in an interview transcript, Chief Bolton stated that:

We are troubled about how the Government has gone and sold the land outside our reserves. We know it is our land and not the Government's, and they have gone and sold it and done what they liked with it. There is lots of land outside the Reserves where we had houses and villages and camping places and all these have been taken from us. Have no land to put myself on. We have not got as much as four acres apiece. There is no place in British Columbia where the Reserves are so small.<sup>135</sup>

The initial exchange between Chief Bolton and the Royal Commission was also recorded as follows:

CHIEF JOHN BOLTON: We are troubled about our land. It is not straight to us somehow. It is ours because here we were born and our father and our forefathers had it before us. We want you to understand about it. We want to know how the Government got that land outside of the Reserve.

THE CHAIRMAN: We have not anything to do with the land outside of the Reserves. We have not authority to settle that question at all. It is no use bringing it before us...<sup>136</sup>

An Indian identified only as AMOS also made the following comments:

AMOS: This is what I wish to know. I heard about you coming here to see about this trouble of land here. There is lots of places where our forefathers had their habitation and different places where different ones of us were born. The government at Victoria put their hand down on these places and did what they liked with them. They gave us a small piece of land and they [sic] rest they sold

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<sup>134</sup> *Ibid.*

<sup>135</sup> Transcript of September 1, 1913 interview of the Kitimat Band before the RCIA ((LAC, RG10, Vol. 11024, File AH2).

<sup>136</sup> *Ibid.*

away. We want to come before you before you cut it up. We don't want you to cut it up.<sup>137</sup>

Finally, the Royal Commission examined George Robinson, who had lived at Kitamat Village for 30 years, and who had lived in the area for 40 years:

Q: What is the principal employment of the Indians here?

A: Fishing, logging, hunting, making boats and canoes, drying salmon, berries, seaweed and the bark of trees.

Q: What trees do they use the bark of and for what purpose?

A: The skin of the poplar, hemlock and balsam, the poplar [sic] the river is very sweet. It contains a good deal of sugar.

...

Q: What do you call a good catch?

A: Well, when I first came here we used to get about 400 marten in the season; now we only get about 70.

Q: Is that all they trap?

A: No. They trap beaver when it is legal, bear, mink, wolverine, fisher and muskrat.<sup>138</sup>

The Royal Commission also interviewed Indian Agent Fougner on September 4, 1913:

THE CHAIRMAN: The Kitimaat Indians spoke more earnestly than any other Indians about requiring additional places for fishing. Have they, in your opinion, got sufficient fishing stations?

A. Of course at present they fish wherever they like. They are not debarred from fishing at any place, reserve or no reserve. They just fish where they like.

THE CHAIRMAN: That is not an answer to my question. What I want to know is, they have certain places which are used as fishing stations; are these places quite adequate for their requirements?

A. For the present, yes, I think, however, the Kitimaat's and the China Hat Indians are worse off in this respect than the others.<sup>139</sup>

Although the Royal Commission confirmed ten reserves for the Kitimat and Kitlope Bands, and recommended seven more, the BC government would insist upon a review of the recommendations made in the Royal Commission's Final Report.<sup>140</sup> This appeared to cause some confusion as, on September 6, 1926, Kitimat Chief John Bolton asked "Mr. Ditchburn, Indian Agent" (actually BC Indian Commissioner) for a print of the Band's reserves because one showed to him in the spring by Indian Agent Fougner "only showed five reserves & we claim

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*

<sup>139</sup> Transcript of September 4, 1913 interview of Indian Agent Fougner before the RCIA (LAC, RG10, Vol. 11024, File AH2).

<sup>140</sup> See the *Final Report* of the Royal Commission on Indian Affairs, June 1916 (available online at <http://gsdl.ubcic.bc.ca/cgi-bin/library?site=localhost&a=p&p=about&c=finalre4&l=en&w=utf-8>)

many more.”<sup>141</sup> Chief Bolton added that “We believe people are cutting timber on our land therefore we ask for print.”

Ditchburn’s October 4, 1926 reply listed 14 established Reserves for the Kitimat Band,<sup>142</sup> but an undated, handwritten list of 20 Kitimat and 17 Kitlope Reserves - with a map and notes as to status - was also written around the same time.<sup>143</sup> The map appears to encompass the watersheds on either side of various creeks, with the list of creeks defined as “Kitlobe Tribal ownership” including the following locations:

Howqalymiklth  
 Crap [sic] River  
 Okwelth  
 Wasa-sa  
 Climkaya  
 Cayouth  
 Caupwalth  
 Kiltoyeas  
 Enade  
 Aweyakimes  
 Mesquke  
 Kiminue  
 Galesas  
 Wakasew  
 Jetus  
 Kitglobe Lake  
 Kastwoe

The list defined as “Kitamat Tribal ownership” included the following locations:<sup>144</sup>

Kitamat River  
 Wokdo  
 Walth  
 Gawalth  
 Dola River (possibly *T’ala*)  
 Gajineas  
 Kildala  
 Jersy Lake (likely *Wagis*)  
 Kitasa  
 Keyasah (likely *Kiyasa*)  
 First We-wa (likely a *Wiwaa* area in Devestation Channel)  
 Second We-wa (likely a *Wiwaa* area in Devestation Channel)

<sup>141</sup> Bolton to Ditchburn, September 6, 1926 (LAC, RG10, Vol. 11001, File 972/30-1, part 3C).

<sup>142</sup> (LAC, RG10, Vol. 11001, File 972/30-1, part 3C).

<sup>143</sup> Undated (circa 1922-1926) (LAC, RG10, Vol. 11026, File SNB-1).

<sup>144</sup> *Ibid.*

Third We-wa (likely a *Wiwaa* area in Devastation Channel)  
 Hawkesbury  
 Bline Passages  
 Danial [sic] Bay (likely *Mekasa*)  
 Gawa (in the area of *Wa/T'lekemalis*)  
 Luqajy (likely *Luq'wayac'i*)  
 Good Harbour (likely Goat Harbour, *Slacu*)  
 Fisherman Cove

On January 31, 1927, Chris Walker of the Kitimat Village Council wrote a letter to Ditchburn asking when surveyors were coming, adding also that "We had expected this work to be done last year as it's most important to us owing to the menace to our timber. As you are aware we lost timber last year from some [of] our reserves."<sup>145</sup> In the same document, Walker also asked to "transfer" a reserve to a piece of land on Steamboat Channel, where there is better communication "with the "outside"."

Ditchburn replied on February 8, 1927 that the survey would be done in May, or possibly "a little later",<sup>146</sup> with the Kitimat Council writing back on April 21, 1927 to say that:

As you know that we leave our village for the fishing, beginning of June and that it's very necessary that we get our reserves surveyed this spring; therefore will you please arrange for the surveyor to come early in May so we can go around with him.

Kindly advise us by return when we may expect him.

We notice that Crab River, mouth of Gardener Channel was not mentioned among our reserves. The Commissioners that chartered the S.S. Queen City and went around to every village up [and] down the coast saw the spot [and] granted us Crab River which is one of our best reserves but sometime after there was a mix up in the Forest Department and grant the place to some logger. We complained to our Indian Agent {illegible word}

It is one of our best reserves close to steam boat channel, please kindly look into this matter and oblige...<sup>147</sup>

Note that the Crab River reserve – allotted to the Kitlope Band rather than the Kitimat - was dramatically reduced in size from its original, Royal Commission-recommended allotment of 200 acres, to a surveyed size of 17.9 acres.

<sup>145</sup> January 31, 1927 (LAC, RG10, Vol. 11001, File 972/30-1, part 3C).

<sup>146</sup> February 8, 1927 (LAC, RG10, Vol. 11001, File 972/30-1, part 3C).

<sup>147</sup> April 21, 1927 (LAC, RG10, Vol. 11001, File 972/30-1, part 3C).

### 3. The Anthropological Record

Although both amateur and professional ethnologists and anthropologists referred to the Haisla in the 19<sup>th</sup> century,<sup>148</sup> the first professional anthropologist to do field work among the Kitimat appears to have been Ivan Lopatin, who spent the summer of 1930 in Kitimat before publishing his findings in 1945.<sup>149</sup>

In his Southwest Museum-published monograph, Lopatin discussed trade, land ownership concepts (p. 31), and place names, including “Vlak-ak-siouks” (*Lhilaq’aciyuqwes*), located about 8 miles up the Kitimat River, and occupied by about 300 people circa 1845, though not in use since about 1895.

Lopatin also confirmed that the village called Canim-Mac (*Xinamac’i*), stood on the River opposite Vlak-ak-siouks (*Lhilaq’aciyuqwes*). He added that the only totem pole standing in 1930 - one located on the beach at Kitimat - was erected circa 1890, but that two others, presumably dating from an earlier era, fell down around the same time. The pole in Kitimat, however, was identified by a later photographer as dating from circa 1690,<sup>150</sup> which is likely off by about 160 to 180 years; as indicated below, for example, Rev. Raley thought that it had been erected about 1850, the same year that Kitimat member Ed Wesley believed a cannon had been brought to Kitimat from Bella Coola by Johnny Legaik, who had obtained it at a wedding potlatch.<sup>151</sup>

The second anthropologist to have spent time in Haisla Territory appears to have been Ronald Olson. Although the University of California-affiliated Olson indicated in 1940 that, as far as he knew, no ethnologist had ever specifically worked with the Kitlope up to that time,<sup>152</sup> he had personally filled up three field books in 1935 with information derived from Kitimat members, including place names, village sites, and details regarding clan ownership of various resource

<sup>148</sup> See, eg., Scouler in 1846, and Franz Boas in 1888.

<sup>149</sup> Ivan Lopatin, *Social Life and Religion of the Indians in Kitimat, British Columbia* (Los Angeles: USC Press, 1945).

<sup>150</sup> Mary Kershaw, 1941, photograph no. 22949, Royal BC Museum.

<sup>151</sup> See note 158 for Raley’s view on the pole. As for Ed Wesley, he thought that the pole was erected about 1865-1870 (see his undated (but post-World War Two) interview obtained from BCARS, File 74-A-713): “Ed’s father helped the man who raised the pole bring in the tree from which it was carved. Chief Bolton was successor to this man who received the right to the figure from Git-wan, Haida chief who brought peace to the warring tribes.” Note also, that in the late 1920s, a pole dating from 1872 was cut down from Miskusa in the Kitlope area and sent to Sweden, where, until recently, it resided in the national ethnographic museum. The Haisla have since repatriated it.

<sup>152</sup> R. Olson, “The Social Organization of the Haisla of BC,” *Anthropological Records* 2, no 5 (1940), p. 200.

sites.<sup>153</sup> Later, in 1949, he would also be the first professional anthropologist to travel to Kitlope to speak with Haisla members there.<sup>154</sup>

In 1935, however, his Kitimat informants mentioned the following locations during the course of their interviews:

Misku'sah (likely *Misk'usa*)  
 Lakatsiukus (likely *Lhilaq'aciyuqwes*)  
 Wal (north and south)  
 Kihassah (likely *Kitasa*)  
 Bis (likely *Bisamut'is*)  
 Sukgwis (likely *Zagwis*)  
 Jesse Lake (possibly *Wagis*)  
 Lokogwis  
 Wai'xwas  
 Elstem (*Elsdem*)  
 Dadkwilatsih (likely *Daduqwilac'i*)  
 Foch Lagoon (several areas possible, including *Ankwelalis*, *Mesqalhi*, and *Yaxwp'ala*)<sup>155</sup>

In 1949, Olson's Kitlope informants mentioned the following locations during the course of their interviews:

Kitlope  
 Kitlope Lake  
 Kemano  
 Douglas Point  
 Lox (likely *Lhoxw*)  
 Tsaytis River  
 Miskusa  
 Ka-na-da-tla (*Kanadatla*)  
 Wawkes (possibly *Waxwes*)<sup>156</sup>

Amateurs were also active in this era – Reverend Raley, for example, then living in Vancouver, is believed to have stated that the Wathl River (possibly Wolh, or Walth Creek), close to the Kitimat Village, was "much valued by the native people as a salmon stream. It is a very old name."<sup>157</sup> Raley also indicated that the pole

<sup>153</sup> R. Olson, *Fieldbooks, Haisla 1935*, Vol. 1-3 (Excerpts; Originals in Bancroft Library, University of California, Berkeley).

<sup>154</sup> R. Olson, *Fieldbook, Kitlope-Keemano [sic] 1949*, (Excerpts; Original in Bancroft Library, University of California, Berkeley).

<sup>155</sup> *Supra*, note 153.

<sup>156</sup> *Supra*, note 154.

<sup>157</sup> Raley, *Notes*, (BCARS, H/D/R13, Circa 1930s)

referred to above – the one standing in Kitimat Village – had been presented to the Kitimat by the Haida in about 1850.<sup>158</sup>

The *Vancouver Sun* also published an article in the early 1950s that connected the Haisla situation then to the Nation's lifestyle in the not-too-distant past:

There's no beating of war drums or sharpening of arrow heads, but the Indians who live in the sleepy village across Douglas Channel from the new industrial town of Kitimat aren't taking too kindly to the white man's invasion of their home.

For many hundreds of years, how many no one knows for sure, the lower Kitimat Valley at the head of Douglas Channel has been their playground.

They fished, hunted and trapped at will. Now, because of the Aluminum Company of Canada's huge development, this is being impaired and they resent it.

"It's nothing but destruction, from the point of view of our way of life," said 35 year old Gordon Robinson, chief counselor of the Haisla tribe.<sup>159</sup>

A third professional anthropologist - Charles Hamori-Torak - appears to have undertaken field work in Kitimat in 1951 and at Kemano in 1956, but his field books, which may have possibly informed his 1990 general article in the Smithsonian Institute's *Handbook on North American Indians*,<sup>160</sup> have not been located. A fourth professional - UBC's H.B. Hawthorn - interviewed many Haisla members in preparation for the publication of *The Indians of British Columbia*, a 1958 book co-authored with fellow anthropologists C.S. Belshaw and S.M. Jameson.<sup>161</sup>

Hawthorn's circa 1954-1956 interview with Band member Tim Starr produced the following comment:<sup>162</sup>

Jessie Lake should have been a reserve, they said.<sup>163</sup> They said they could not figure out why the chief did not have that one "stamped by the government" at the same time as the others. "Jessie" is the white man's pronunciation of Chesie, name of the Beaver Clan lord, who has the trap line at Jessy Lake (properly called Chesie Lake).

<sup>158</sup> Raley, *The History and Story Involving the Present and Only Standing Totem Pole, in the Kitimat Indian Village British Columbia* (United Church Archives, 1953).

<sup>159</sup> Alex Young, "'Great White Monster' Gave Kitimat its Name," *The Vancouver Sun*, circa early 1950s.

<sup>160</sup> See Charles Hamori-Torak, "The Haisla", in *Handbook on North American Indians*, Vol. 7, Wayne Suttles, General Editor (Washington, DC: Smithsonian Institution, 1990).

<sup>161</sup> H.B. Hawthorn, C.S. Belshaw and S.M. Jameson, *The Indians of British Columbia* (Toronto: University of Toronto and UBC Presses, 1958).

<sup>162</sup> *Hawthorn Papers* (UBC Special Collections).

<sup>163</sup> Jessie Lake is described as a Haisla *wa'wais* at page 61 of *Stewards*. The Lake feeds the waterfall that appears to have been seen by Joseph Whidbey in 1793.

Page 17 of Hawthorn's notes also indicates that the oolichan trade with members of other First Nations was still alive and well at this time,<sup>164</sup> while page 45 indicates that eight Kitimat and two Kemano families lived year round at Butedale.

A January 1977 UBC Anthropology Ph.D Thesis completed by John Pritchard - "Economic Development and the Disintegration of Traditional Culture Among the Haisla" - provides an overview of earlier ethnology and ownership concepts among the Haisla (see pp. 49-51) and, at page 16, includes a map of numerous salmon streams and resource sites within the Haisla Territory.<sup>165</sup>

A Circa 1978 Land Use and Occupancy Study by the Kitimaat Village Council, with input from Dr. Pritchard, also discusses settlement patterns and includes references to seasonal villages and camps used by both the Kitimat and the Kitlope.<sup>166</sup> The document also includes references to other uses of the territory, including religious and burial sites, mythological and story sites, and pictograph and defensive sites.

Many of these sites are also detailed in the archaeological record underpinning Haisla claims to its Traditional Territory.

#### 4. The Archaeological Record

Although logging, urban, and industrial development have disturbed many archaeological sites in the Territory over the last 60 years, much of the archaeological work done in Haisla Traditional Territory over the last 30 years indicates that the Nation possesses an incredibly rich past. One of the first inventories - undertaken by Sheila Mishra in November 1975 - followed a month of interviews with people in Kitimat Village as well as additional time in the field (three weeks surveying in the Kitimat Valley and another week along the Channel to the south of the Village).<sup>167</sup>

Mishra notes that "The most important settlement was the 'Old Village' where oolichan were taken", but she indicated that extensive logging, especially since 1970, had disturbed much of the land that was surveyed, destroying numerous

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<sup>164</sup> *Supra*, note 162. Note also that an October 2, 1979 letter from the Kitimaat Village Council (KVC) to the Chief Councillor of the Hartley Bay Band also asserted control of the oolichan run in the Kemano when it restricted Hartley Bay families to fishing for home consumption only after discovering that members of some of those families had been selling the oolichan at Prince Rupert and elsewhere.

<sup>165</sup> John Pritchard. "Economic Development and the Disintegration of Traditional Culture Among the Haisla" (Unpublished UBC Ph.D thesis, January 1977).

<sup>166</sup> KVC, *Land Use and Occupancy Study* (Kitimat: KVC, circa 1978).

<sup>167</sup> Sheila Mishra, *Archaeological Survey in the Kitimat Area, Report to the Archaeological Sites Advisory Board of BC*, November 1975 (obtained from Resource Information Centre, Heritage Conservation Branch, Victoria).

site clues. Indeed, Haisla informants described numerous sites in the Kitimat Valley to her,<sup>168</sup> but none were located during three weeks exploration of the area. She believes, however, that the 'Old Village' may have been washed out between 1964 and 1970, while another village site at a bridge at Goose Creek had been "completely destroyed".

Evidence pertaining to culturally modified trees (CMTs) is described in Mishra's report, but it is in an imprecise location. While an informant did mention a similar sighting "in the Hirsch Creek area", more recent archaeological reports, discussed elsewhere in evidence submitted by the Haisla Nation,<sup>169</sup> contain many more specific details about the presence of CMTs and other archaeological findings located throughout the Haisla Traditional Territory.

To continue with Mishra's study, however, she noted that Kuaste (IR No. 8) might have been used to process both mussels from Gobiel Bay (which she also referred to as a possible archaeological site), as well as oolachan from Kildala.

Mishra also walked the area between the Kitimat Village and Wahtlsto Creek (the site of a former village, and now in the area of Haisla IR No. 3), and located what she described as a "petrograph" on the beach.

Note that a 1985 inventory of Haisla rock art also found dozens of petroglyphs and pictographs located throughout the Territory, with many of the sites located near shorelines.<sup>170</sup>

To return to the matter of CMTs, however, work on this subject began in earnest during the mid-1970s, with an October 1976 Sites Board Report by Russell Hicks entitled *Culturally-Inflicted Injuries to the Western Red Cedars of the Northwest Coast*.<sup>171</sup> Focusing on the collection of CMT samples for dendrochronological purposes, Hicks indicated that eleven trees:

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<sup>168</sup> *Ibid.* Mishra also states that:

There was a Village (Giak) at Goose Creek, on the west bank of the river I.R. 9, where there is presently a bridge. There is a place on Minette Bay called Jigwes, probably on I.R. 5. There is mention of a camp of the Blackfish tribe at Nalabila, a tributary of the Kitimat about ten miles upstream from the mouth, and Olemeet some miles above Nalabila. None of these sites were located.

Note that, at p. 35, *Stewards* refers to the Nalabila *wa'wais* as the "north point" of Haisla areal jurisdiction" and an important site for fish weirs in former times.

<sup>169</sup> Blake Evans, *An Analysis of Archaeological Reports Registered within British Columbia's Archaeological and Heritage Databases For Haisla Traditional Territory* (unpublished, 2011).

<sup>170</sup> For a map of the relevant locations, see pages 33-34 of Daniel Leen's *Preliminary Inventory of Haisla and Kitkiata Rock Art* January 1985 (obtained from Resource Information Centre, Heritage Conservation Branch, Victoria).

<sup>171</sup> Russell Hicks, *Culturally-Inflicted Injuries to the Western Red Cedars of the Northwest Coast*, October 1976 (Sites Board Report, Archaeological Sites Advisory Board).

...were sampled or recorded in the forests on either side of Highway 25, running north from Kitimat from just south of Hirsch Creek at the forest ranger station to 2 km north of where the power and gas easement crosses the highway, beyond the northern rises of Fire Mountain.

...The forests have been intensively utilized for bark and planks, many more samples could have been taken here. Most of the dates for this section indicate the activity occurred late in the 18th century and early in the 19th century.<sup>172</sup>

As indicated above, a separate report shows that the developing archaeological record portrays an incredibly rich and diverse array of sites, uses, and artifacts within Haisla Territory, with thousands of CMTs, and with cultural material, cultural depressions, subsistence features, habitation sites, burial sites, pictographs, and other artifacts noted across dozens of reports retrieved from public repositories of archaeological information pertaining to the Haisla Nation.

In some areas, like Bish Creek and Cove, for example, there is also oral evidence related to Haisla heritage sites like the *Hentlixw* Rock, where *Stewards* indicates that Haida raiders were turned back and forced by the Haisla to shoot off all of their arrows on their way out of the Territory.<sup>173</sup>

## 5. The Comprehensive Claims Record

Although a Comprehensive Claim submitted by the Haisla Nation in 1978 appears to have been accepted for negotiation by the federal government some three years later, additional information and further discussion about that process is currently dependant upon the resolution of informal access to information requests made to both the federal Department of Indian Affairs and Library and Archives Canada.

Note, however, that in the Government-of-Canada-published *In All Fairness: A Native Claims Policy: Comprehensive Claims*,<sup>174</sup> a method for the validation of such claims was described as follows:

Comprehensive claims submitted to ONC [Office of Native Claims] are carefully analyzed in terms of both their historical accuracy and legal merit, the latter being done by the Department of Justice. Claimant groups are required to provide as much information and documentation as possible in support of their claim.

Meetings are held where necessary in order to clarify any points that seem subject to misinterpretation. Finally, the documents are sent to the Minister of Indian Affairs and Northern Development for his formal response on behalf of the

<sup>172</sup> *Ibid.*, p. 9.

<sup>173</sup> *Stewards*, p. 257.

<sup>174</sup> *In All Fairness: A Native Claims Policy: Comprehensive Claims* (Published under the authority of the Hon. John. C. Munro, P.C., M.P., Minister of Indian Affairs and Northern Development, Ottawa, 1981) [*In All Fairness*].

Government of Canada. If the claim is denied the claimant group is given a full explanation for the decision...<sup>175</sup>

As then-Minister of Indian Affairs and Northern Development John Munro wrote in his introduction to *In All Fairness*, “Essentially what is being addressed here are claims based on the concept of “aboriginal title”—their history, current activities surrounding them, and our proposals for dealing with them in the future.”<sup>176</sup> Despite the absence of the complete record regarding the validation of the Haisla Nation’s comprehensive claim, it can nevertheless be stated that, as the Haisla Nation is identified in both the main body and the Appendix to *In All Fairness* as one of four groups of BC First Nations whose claims had been accepted for negotiation,<sup>177</sup> the Haisla Nation’s Comprehensive Claim had indeed been validated. This would appear to have entailed a determination that, as *In All Fairness* itself pointed out, the Haisla Nation’s claim was both historically accurate and had legal merit.

## 6. Conclusion

The documented historical, anthropological, and archaeological record above appears to corroborate the Haisla Nation’s use and occupation of its Traditional Territory from at least the late 18<sup>th</sup> century, with the evidence also supporting the conclusion that the Haisla Nation enjoyed exclusive occupation of its Traditional Territory as of 1846. The record also indicates that the Haisla Nation has vigorously defended and asserted its Territorial claims in various ways, and in various fora, for more than one hundred years.

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<sup>175</sup> *Ibid.*, pp. 13-14.

<sup>176</sup> *Ibid.*, p. 6.

<sup>177</sup> *Ibid.*, pp. 13, 30. Note that the reference is to the Kitamaat Village Council, as the Haisla Nation Council was then known.

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Young, Alex. "'Great White Monster' Gave Kitimat its Name," *The Vancouver Sun*, circa early 1950s.

**Eric Wolfhard**

[ericwolfhard@me.com](mailto:ericwolfhard@me.com)

**Education**

1987  
B.A. (First Class Honours)  
University of British Columbia  
Major: Political Science (Honours Programme)

1991  
LL.B  
University of Toronto  
Major: Law

Called to the Bar of British Columbia in 1992 but not currently practicing.

**Employment**

**December 2004-Present – Independent Consulting Analyst on Aboriginal Land and Treaty Issues**

I have researched, written, commented on, repackaged, edited and/or managed the research and analysis of several dozen specific and treaty-related claims from First Nations in BC, the Yukon, Alberta, Saskatchewan and Manitoba. For both First Nations and Government I have undertaken or dealt with issues such as: strength of claim analyses; overlapping territorial disputes; Band divisions and amalgamations; pre- and post-Confederation reserve creation; compensation for illegal reserve land and resource use; fishing station and fishing license distribution; survey errors; unlawful surrenders and pre-emptions; rights of way involving roads and highways, irrigation, pipelines (including their environmental aspects), hydroelectricity, logging and railways; the maladministration of Indian assets such as trust funds, water rights, and oil and gas deposits; treaty fishing, trapping and hunting rights in Treaty 8 and under the Douglas Treaties; date of first survey analysis and genealogical research pertaining to treaty land entitlement in Treaties 4, 6, 7 and 8; and inadequate village site protection, including under the Douglas Treaties.

This work is guided by both policy and legislation (eg, the *Specific Claims Tribunal Act*, the *NEB Act*), and has involved historical/archival research and the analysis of government documents – active and archived – as well as ethnographic and archaeological material stored in a variety of both governmental and non-governmental institutions. Work products generally involve the writing of historical reports and analyses, executive summaries, memoranda, and other analytical assessments, as well as presentations to various governmental and aboriginal bodies. More specifically, my work has included the following:

- Reviewing potential claims and legal submissions in order to identify issues and allegations;
- Preparing research plans to define active, archival and alternative sources of documentation pertaining to the issues and allegations, then prioritizing those sources in light of their usefulness with respect to research objectives and priorities;
- Retrieving all relevant documents and undertaking review in order of priority;

- Briefing clients as agreed during the course of both research and analysis and, when necessary, immediately alerting the client of any unexpected challenges, delays, expenses and any other potential pitfalls arising in the research and analytical process;
- Writing impartial and objective historical reports and analyses and/or executive summaries based on an evaluation of the key collected documents and in light of the issues and allegations raised;
- Submitting those written materials (and, as outlined below, all supporting material) to the client on a timely basis, and then discussing and executing suggested editorial changes and additional research requests;
- Preparing other analytical documents, legislative appendices and document indices to provide further support to the historical reports and/or executive summaries of the issues, allegations and documents reviewed;
- Organizing sets of documents, labelling, indexing and transcribing those documents as directed; providing binders as requested or using computer hardware and software to scan, bookmark and link documents; producing CDs containing executive summaries, historical reviews and analyses, document indices and appendices, the documents retrieved, etc; and,
- Making presentations and responding to questions on an ongoing basis.

### **October – November 2004 - Contract Writer, Editor, and Archival Research Consultant on Comprehensive and Specific Claims**

Working under terms of reference written by the Province of BC, the Federal Treaty Negotiation Office, and the Tsawwassen First Nation, I was hired to undertake an analysis of all intra-First Nation land transactions on the Tsawwassen Reserve from 1951-2004. Initially presented with what was regarded as a completely-researched package of archival and DIAND (Indian Land Registry)-held evidence gathered by the various parties, I quickly determined that there were in fact several hundred pages of documents missing. I immediately alerted the parties to that discovery, and then, with their approval, included these additional documents in my analysis while bringing the project to completion both on time and on budget.

This project was the first of its kind under the BC comprehensive claims process and resulted in a multi-chapter report with visual aids, several binders of evidence, and numerous presentations of that evidence and my analysis to Provincial, Federal, and First Nation representatives. The project was also an important step on the road to a Treaty ratified in both Parliament and the BC Legislature – the first Treaty to be signed by a First Nation under the BC Treaty Commission process.

For a law firm specializing in aboriginal law, I also undertook archival research and analysis on three specific claims as well as an analysis, in the context of the BC comprehensive claims process, of overlapping land and resources claimed by two rival First Nations.

**April 1998 - September 2004 - Contract Writer, Editor, and Archival Research Consultant on Specific Claims**

Working for the Specific Claims Branch (SCB) of Indian and Northern Affairs Canada (INAC), I contributed to SCB policy development on treaty land entitlement (TLE), managed other SCB researchers working on TLE and conventional claims, and, managed joint projects between SCB and various First Nations.

I also researched, wrote and commented on, edited and/or managed the research and analysis of several dozen specific and treaty-related claims from BC, Alberta, Saskatchewan, Manitoba, Ontario and the Yukon. These claims involved many of the same issues noted above: pre- and post-Confederation reserve creation; illegal Band amalgamations and relocations; compensation for illegal reserve land and resource use; fishing stations; survey errors; unlawful surrenders; pre-emptions; highway and railway rights of way; the administration of Indian assets such as water rights and oil and gas deposits; inadequate village site protection under treaty; severalty and treaty-related agricultural benefits; treaty-related hunting and fishing rights; and treaty land entitlement claims from First Nations under Treaties 4, 6, 7, 8 and 10.

**October 1992-March 1998 – Screenwriter and Part-time Contract Writer, Editor, and Archival Research Consultant on Specific Claims and Aboriginal Litigation**

Wrote a screenplay under a development deal financed by Twentieth Century Fox and worked for an industrial client on an aboriginal land issue. Also worked for SCB on a part-time basis on several specific claims filed by BC First Nations. Issues included illegal surrenders, road and railway rights of way, inadequate compensation, and survey errors.

**September 1991 – September 1992 - Articling Student and Lawyer, Lawson Lundell Lawson & McIntosh, Vancouver**

Exposed to several litigation files on behalf of industrial and resource-based clients which included claims based on aboriginal title and occupancy and the assertion of various aboriginal rights. The experience not only familiarized me with the rules of court and the practice of industry-side law but also illustrated some of the nuances of aboriginal and energy issues, particularly with respect to environmental conflict and natural resource disputes. I wrote interrogatories and participated in the discovery process as well as settlement negotiations, drafted statements of claim and defense, factums and affidavits, and I also argued points of law and presented evidence in chambers, BC Provincial Court, and BC Supreme Court.

## Refereed Publications

"International Trade in Intellectual Property: The Emerging GATT Regime," (1991)  
49 University of Toronto Faculty of Law Review 107-131.

The Mote in GATT's Eye: Intellectual Property Rights and International Trade  
in The Uruguay Round (Toronto: Ontario Centre for International Business  
Working Paper Series, 1990.

## Awards

Among the several awards I won as an undergraduate and law student (partial list only):

J.S.D. Tory Fellowship - 1990  
John M. Olin Foundation Fellowship - 1990  
McCarthy Tetrault Fellowship - 1990  
Ting Sum Tang Memorial Prize - 1988  
Blake Cassels Entrance Scholarship - 1987  
William Lyon McKenzie King Fellowship (declined) - 1987  
William G. Black Memorial Prize - 1987  
Ministry of Education Scholarship - 1987  
Ministry of Advanced Education Award - 1987  
University of Toronto Open Fellowship - 1987  
University of BC Foundation Scholarship - 1987

## Other Matters

- Health: Excellent, former BC Cycling Champion (road) and still cycling regularly.
- Married with two children.
- Over the years I have managed and/or coached their various sports teams (hockey, T-ball, soccer, water polo, basketball) and I have also served on our pre-school executive as Treasurer and on our Parish Education Committee as Secretary, Vice-Chair and Chair (current). In this body I help oversee a board of six other members, a staff of 25, and a budget of \$1.4 million.
- In my spare time I write screenplays on a professional basis (eg, SAINT OF HEARTS (optioned seven times, including currently), GENTLEMEN OF THE SHADE (optioned three times), SPINDOWN (optioned three times), and BLACKFARM (currently in pre-production). In this endeavor I am represented by a literary agent in Los Angeles.

## References Available on Request