

L 033531

Action No. \_\_\_\_\_  
Vancouver Registry

**SUPREME COURT  
OF BRITISH COLUMBIA**  
  
DEC 10 2003  
  
BETWEEN  
RESPONDENTS

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**CHIEF LEONARD QUIRING ON HIS OWN BEHALF AND ON BEHALF  
OF THE MEMBERS OF THE ASHCROFT INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF PHILLIP CAMPBELL ON HIS OWN BEHALF AND ON BEHALF  
OF THE MEMBERS OF THE BOOTHROYD INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF DOLORES O'DONAGHEY ON HER OWN BEHALF AND ON  
BEHALF OF THE MEMBERS OF THE BOSTON BAR FIRST NATION,  
OF THE NLAKA'PAMUX NATION**

**CHIEF GORDON ANTOINE ON HIS OWN BEHALF AND ON BEHALF  
OF THE MEMBERS OF THE COLDWATER INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF DAVID WALKEM ON HIS OWN BEHALF AND ON BEHALF OF  
THE MEMBERS OF THE COOK'S FERRY INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF JAMES FRANK ON HIS OWN BEHALF AND ON BEHALF OF  
THE MEMBERS OF THE KANAKA BAR INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF ARTHUR DICK ON HIS OWN BEHALF AND ON BEHALF OF  
THE MEMBERS OF THE LOWER NICOLA INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF JANET WEBSTER ON HER OWN BEHALF AND ON BEHALF  
OF THE MEMBERS OF THE LYTTON FIRST NATION, OF THE  
NLAKA'PAMUX NATION**

**CHIEF ARLENE QUINN ON HER OWN BEHALF AND ON BEHALF OF  
THE MEMBERS OF THE NICOMEN INDIAN BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF DEWEY SHACKELLY ON HIS OWN BEHALF AND ON  
BEHALF OF THE MEMBERS OF THE NOOAITCH INDIAN BAND, OF  
THE NLAKA'PAMUX NATION**

**CHIEF ROBERT S. PASCO ON HIS OWN BEHALF AND ON BEHALF  
OF THE MEMBERS OF THE OREGON JACK CREEK BAND, OF THE  
NLAKA'PAMUX NATION**

**CHIEF PERCY JOE ON HIS OWN BEHALF AND ON BEHALF OF THE  
MEMBERS OF THE SHACKAN FIRST NATION, OF THE  
NLAKA'PAMUX NATION**

CHIEF FRED SAMPSON ON HIS OWN BEHALF AND ON BEHALF OF  
THE MEMBERS OF THE SISKIA INDIAN BAND, OF THE  
NLAKA'PAMUX NATION

CHIEF DOUGLAS McINTYRE ON HIS OWN BEHALF AND ON  
BEHALF OF THE MEMBERS OF THE SKUPPAH INDIAN BAND, OF  
THE NLAKA'PAMUX NATION

CHIEF JENNIFER BOBB ON HER OWN BEHALF AND ON BEHALF  
OF THE MEMBERS OF THE SPUZZUM FIRST NATION, OF THE  
NLAKA'PAMUX NATION

THE CHIEFS, LEONARD QUIRING, PHILLIP CAMPBELL, DOLORES  
O'DONAGHEY, GORDON ANTOINE, DAVID WALKEM, FRANK  
JAMES, ARTHUR DICK, JANET WEBSTER, ARLENE QUINN, DEWEY  
SHACKELLY, ROBERT S. PASCO, PERCY JOE, FRED SAMPSON,  
DOUGLAS McINTYRE and JENNIFER BOBB, TOGETHER BRING  
THIS ACTION ON BEHALF OF ALL MEMBERS OF THE  
NLAKA'PAMUX NATION

PLAINTIFFS

AND:

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

DEFENDANTS

### WRIT OF SUMMONS

Name and address of each Plaintiff:

Chief Leonard Quiring  
Ashcroft Indian Band  
P. O. Box 440  
Ashcroft, B.C. V0K 1A0

Chief Arlene Quinn  
Nicomien Indian Band  
P.O. Box 400  
Lytton, B.C. V0K 1Z0

Chief Phillip Campbell  
Boothroyd Indian Band  
P. O. Box 295  
Boston Bar, B.C. V0K 1C0

Chief Dewey Shackelly  
Nooaitch Indian Band  
18 Shackelly Road  
Merritt, B.C. V1K 1N9

Chief Dolores O'Donaghey  
Boston Bar First Nation  
P. O. Box 396  
Boston Bar, B.C. V0K 1C0

Chief Robert S. Pasco  
Oregon Jack Creek Band  
P. O. Box 940  
Ashcroft, B.C. V0K 1A0

Chief Gordon Antoine  
Coldwater Indian Band  
P.O. Box 4600  
2249 Quilchena Avenue  
Merritt, B.C. V1K 1B8

Chief Percy Joe  
Shackan First Nation  
2160 Settler's Road  
Lower Nicola, BC V1K 1M9

Chief David Walkem  
Cook's Ferry Indian Band  
P.O. Box 130, Deer Lane  
Spences Bridge, B.C. V0K 2L0

Chief Fred Sampson  
Siska Indian Band  
P.O. Box 519 - Trans Canada Highway  
Lytton, B.C. V0K 1Z0

Chief James Frank  
Kanaka Bar Indian Band  
P. O. Box 210  
Lytton, B.C. V0K 1Z0

Chief Douglas McIntyre  
Skuppah Indian Band  
P. O. Box 116  
Lytton, B.C. V0K 1Z0

Chief Arthur Dick  
Lower Nicola Indian Band  
#85 Shulus  
Merritt, B.C. V1K 1N2

Chief Jennifer Bobb  
Spuzzum First Nation  
R.R. No. 1, Site 3, Comp. 11  
Yale, B.C. V0K 2S0

Chief Janet Webster  
Lytton First Nation  
P. O. Box 20  
I. R. 18 Main Street  
Lytton, B.C. V0K 1Z0

Name and address of each Defendant:

HER MAJESTY THE QUEEN IN RIGHT OF  
BRITISH COLUMBIA  
c/o Ministry of the Attorney General  
Parliament Buildings  
Victoria, B.C. V8V 1X4

THE ATTORNEY GENERAL OF CANADA  
c/o Attorney General of Canada  
Department of Justice  
28th Floor – 650 West Georgia Street  
Vancouver, B.C. V6B 4N8

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO THE DEFENDANTS:

**Her Majesty the Queen in Right of the Province of  
British Columbia and The Attorney General of Canada**

TAKE NOTICE that this action has been commenced against you by the plaintiffs for the claim(s) set out in this writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or counterclaim which you wish to have taken into account at the trial, YOU MUST:

- (a) GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above Registry of this Court, at the address shown below, within the Time for Appearance provided for below and YOU

MUST ALSO DELIVER a copy of the "Appearance" to the plaintiffs' address for delivery, which is set out in this writ, and

- (b) if a Statement of Claim is provided with this Writ of Summons or is later served on or delivered to you, FILE a Statement of Defence in the above registry of this Court within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence to the Plaintiffs' address for delivery.

YOU OR YOUR SOLICITOR may file the Appearance and the Statement of Defence. You may obtain a form of "Appearance" at the Registry.

JUDGEMENT MAY BE TAKEN AGAINST YOU IF:

- (a) YOU FAIL to file the Appearance within the Time for Appearance provided for below, or
- (b) YOU FAIL to file the Statement of Defence within the Time for Defence provided for below.

#### TIME FOR APPEARANCE

If this Writ is served on a person in British Columbia, the time for appearance by that person is 7 days from the service (not including the day of service).

If this Writ is served on a person outside British Columbia, the time for appearance by that person, after service, shall be 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere.

[or, where the time for appearance has been set by Order of the court, within that time.]

#### TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the Plaintiffs within 14 days after the later of:

- (a) the time that the Statement of Claim is served on you (whether with this Writ of Summons or otherwise) or is delivered to you in accordance with the Rules of Court; and
- (b) the end of the Time for Appearance provided for above.

The address of the registry is:

**800 Smithe Street  
Vancouver, B.C.  
V6Z 2E1**

The Plaintiffs' address for delivery is:

**LOUISE MANDELL, Q.C.**  
Mandell Pinder  
Barristers & Solicitors  
500 – 1080 Mainland Street  
Vancouver, BC V6B 2T4  
Telephone: (604) 681-4146  
Facsimile: (604) 681-0959

The name and office address of Plaintiffs' solicitors are:

**Same as above.**

ENDORSEMENT:

The plaintiffs' claim is:

The plaintiff Chiefs are members of their respective Bands and of the Nlaka'pamux Nation. The Plaintiffs together represent the Nlaka'pamux Nation and bring this action on their own behalf and on behalf of all members of their Bands and of the Nation. The Ashcroft Indian Band, the Boothroyd Indian Band, the Boston Bar First Nation, the Coldwater Indian Band, the Cook's Ferry Indian Band, the Kanaka Bar Indian Band, the Lower Nicola Indian Band, the Lytton First Nation, the Nicomen Indian Band, the Nooaitch Indian Band, the Oregon Jack Creek Band, the Shackan First Nation, the Siska Indian Band, the Skuppah Indian Band, and the Spuzzum First Nation are Indian Bands. The plaintiffs are an aboriginal people within the meaning of s. 35(1) of the *Constitution Act, 1982* and are located in the interior of British Columbia. The defendants are the successors to the British Crown.

Prior to and at the time of the assertion of Crown sovereignty the plaintiffs' ancestors were members of an organized society with their own language, culture and laws and occupied exclusively or shared exclusively the territory, including lands covered by water and the resources thereon and therein, comprising the area shown on the map attached as Schedule "A" to this Writ of Summons ("the Territory"). The plaintiffs have continued to occupy, and to maintain a substantial connection to the Territory. The plaintiffs have existing Aboriginal title to the Territory.

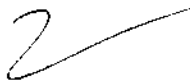
The defendants have unlawfully alienated lands and resources, and authorized activities in the Territory by issuing licences, leases, permits, and other tenures ("the Actions"). Through and as a result of the Actions, the defendants have acted unlawfully and in breach of trust and fiduciary duty owed to the plaintiffs, have unjustifiably infringed the plaintiffs' Aboriginal title to the Territory, have trespassed and committed nuisance and wrongfully received revenues, taxes, fees, royalties and other benefits ("the Benefits"), thereby causing the plaintiffs to suffer loss and

damages. This loss and damage includes cultural loss, loss of use, of revenue and economic benefit and opportunity from the Territory's lands and resources and environmental damage.

The plaintiffs seek the following relief:

- a) A Declaration that the plaintiffs have Aboriginal title to the Territory which is an existing Aboriginal right within the meaning of section 35 of the *Constitution Act, 1982*;
- b) A Declaration that the plaintiffs' Aboriginal title constitutes a burden on Crown title within the meaning of section 109 of the *Constitution Act, 1867*;
- c) An Order for damages and compensation;
- d) A Declaration that the defendants hold the Benefits received by them and/or their servants or agents in respect of the Territory, its lands and resources, as a trustee for the plaintiffs, an order for an accounting and that the defendants disgorge to the plaintiffs the Benefits received since Confederation;
- e) A Declaration that the defendants owe to the plaintiffs a duty of consultation and accommodation of the plaintiffs' Aboriginal title;
- f) Interlocutory and permanent relief to prevent further or new interference with the plaintiffs' Aboriginal title to the Territory;
- g) Pre-judgement and post-judgement interest according to the *Court Order Interest Act*, and its predecessor legislation;
- h) Costs;
- i) Such further and other relief as this Honourable Court may deem just.

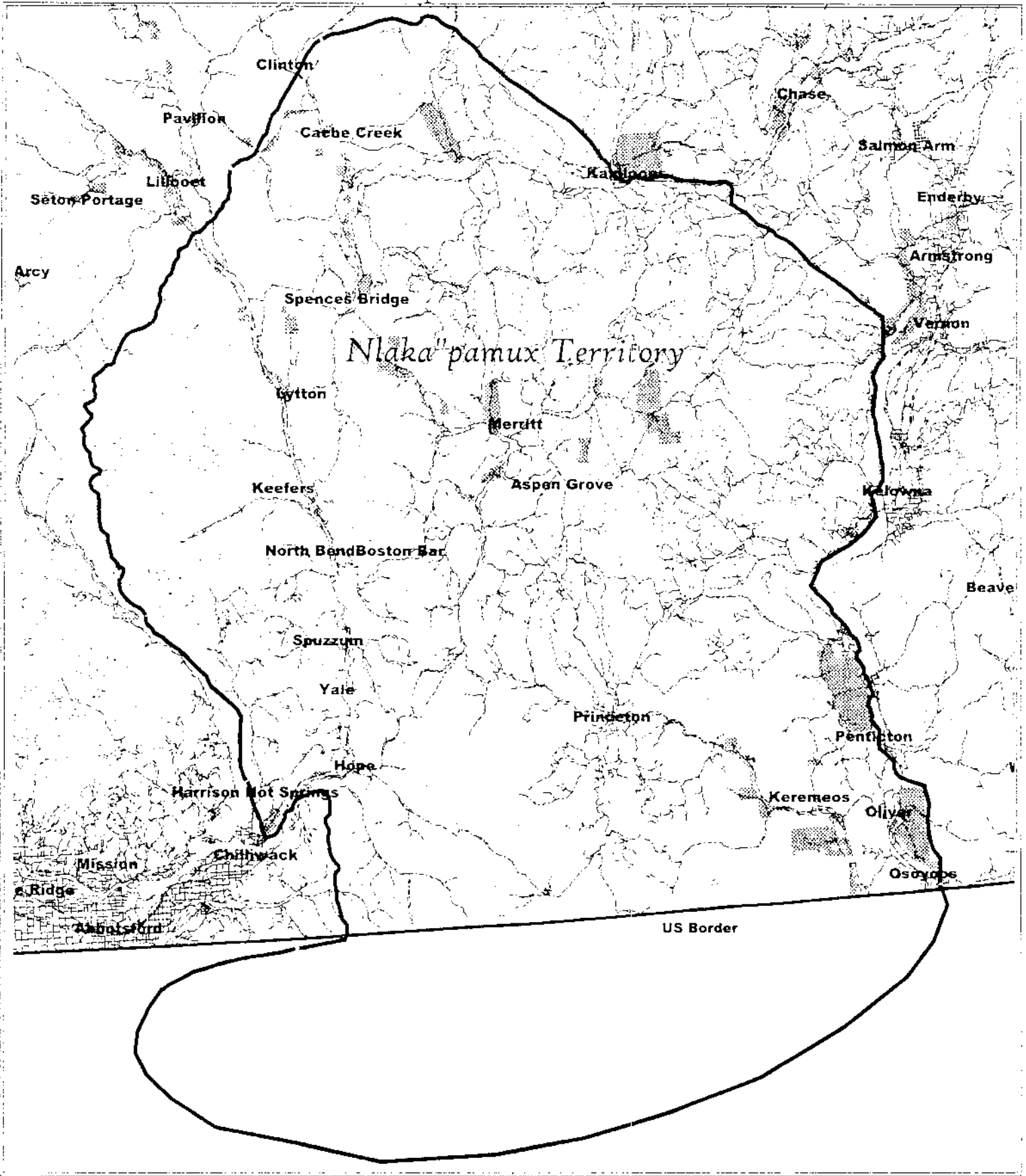
Dated: Dec 10 2003



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LOUISE MANDELL, Q.C.

SCHEDULE "A"  
Nlaka'pamux Territory



Scale 1:1,300,000  
Map Projection: Albers

0 20 40 60 Kilometers

- Nlaka'pamux Boundary
- US Border
- - - - Roads
- ..... lakes
- Indian Reserves

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DEFENDANTS

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**WRIT OF SUMMONS**  
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**Louise Mandell, Q.C.**  
Mandell Pinder  
Barristers and Solicitors  
5th Floor – 1080 Mainland Street  
Vancouver, B.C. V6B 2T4

Telephone: (604) 681-4146  
Facsimile: (604) 681-0959

Counsel for the Plaintiffs