

Fraser Valley Treaty Advisory Committee First Nations Media Monitor - Excerpts November 1, 2010

Summary of news events reported on First Nations, Aboriginal communities, and rights & title issues. This report can also be found on the FVTAC website at the following link:

<http://www.fvrd.com/AboutUs/FVTAC/Pages/Reports.aspx>

First Nation Launches Lawsuit over Mineral Rights

On September 20, the Fort Nelson First Nation (FNFN) filed a notice of claim in the B.C. Supreme Court against the province of B.C. and the attorney general of Canada. In 1910, FNFN entered into Treaty No. 8, but negotiations for reserve land didn't begin until the 1950s, at which point the band claim they directed the federal government to ensure the reserve land included mineral rights. However, in 1961 when the province transferred land to be held in trust for Fort Nelson, B.C. kept the mineral rights. In 1980, Fort Nelson approved a minerals agreement which saw the province retain 50 per cent mineral rights and 50 per cent was obtained by the federal government to be transferred to the band. The agreement also required the band to give up further mineral claims. The band's claim alleges that B.C. collected royalties from resources extracted on reserve land but none of the royalties were forwarded to FNFN. The band is seeking a declaration that Canada breached its fiduciary duty when it originally acquired the land without the mineral rights and breached an agreement when it later "encouraged and signed a release on behalf of the Fort Nelson." They are also seeking an additional declaration that the province breached its duty by keeping the mineral rights, as well as asking for a reversal of the minerals agreement. (*Business in Vancouver, October 11*)

First-Hand Look at Village Flood Damage

Indian Affairs Minister John Duncan and First Nations leaders, including Assembly of First Nations National Chief Shawn Atleo, toured the Dzawada'enuxw First Nation village to get a firsthand assessment of the damage caused by the recent flooding of the Kingcome Inlet community. The group noted that significant issues at the head of a receding glacier as well as severe impact by decades of clearcut logging in the area were probable contributors to the flood, which resulted in an evacuation of all the residents. Duncan announced immediate financial assistance of \$20,000 per house, as well as \$100,000 for social services and assessments, such as a full hydrological assessment of the valley. Band council is pleased with the support, but is concerned the funds won't be enough to cover costs, which will be high due to the fact that the community is so isolated. (*Times Colonist, October 13*)

Squamish Releases Development Plan

The Squamish Nation released a Community Development Plan to its members, which includes the plan to add approximately 600 hectares at 10 sites. The addition of land would enable the Squamish to accommodate more than 19,000 people and would help alleviate the band's current housing needs. The band has a backlog of about 1,000 people on a housing list and much of the existing housing is located within a 200-year floodplain. Squamish has partnered with a developer to construct a market housing development, which is expected to include residential, industrial and commercial projects, to help with the infrastructure costs for the member housing development. (*Pique News Magazine, October 14*)

Nlaka'pamux Bands Partner in Power Project

The Nlaka'pamux Nation celebrated the Kwoick Creek Hydro Project partnership agreement between Innergex Renewable Energy Inc. and the Kanaka Bar Indian Band (KBIB), within whose reserve the powerhouse and various other elements of the project will be located. Benefit agreements allowing the project to proceed have also been signed with five other bands directly impacted by the 50-megawatt green power generation project. The Kwoick Creek Resources Limited Partnership recognizes that the project area is within the traditional territory of the Nlaka'pamux. KBIB Chief James Frank said his band plans to put 10 per cent of their royalties into a nation trust fund for all 16 of the Nlaka'pamux communities to benefit from. (*Merritt Herald, October 20*)

Haisla Chief Tells B.C. to Support First Nations' Title

During a presentation to the provincial legislature's finance committee, Haisla First Nation Chief Dolores Pollard and councillor Ellis Ross proposed solutions on ways government and First Nations can work together towards common economic goals. Pollard noted that the Crown's refusal to recognize Aboriginal title and rights makes it difficult to address economic and social issues and recommended the province work with First Nations and give support to reserve status, accommodations, and the First Nations Commercial and Industrial Development Agreement protocol. (*Northern Sentinel, October 13*)

Tsartlip Block Road Over Treaty Rights

On October 16, the Tsartlip First Nation served notice that they would "no longer standby and witness the current treaty negotiations between Canada, British Columbia, Te'mexw Treaty Association (TTA) and Hul'qumi'num Treaty Group (HTG) under the B.C. Treaty Commission process." Members of the band blocked a portion of West Saanich Road for approximately three hours with a cultural ceremony followed by a march to the LAUWELNEW Tribal School. The peaceful demonstration's goal was to draw attention to treaty rights violations. The federal government has failed to protect hunting, fishing and access to natural resources on ancestral land as laid out in the 1852 Douglas Treaty, said Chief Ivan Wayne Morris. Morris said ongoing treaty negotiations with TTA and HTG include identified areas of Tsartlip traditional territory and the band has not been consulted on the overlapping land. Aboriginal Relations and Reconciliation Minister George Abbott said he was not aware of any Tsartlip territory on the table but noted that overlapping land claims are common and are up to the First Nations to resolve. RCMP and Central Saanich Police were on hand during the road closure to divert traffic. The disruption was minimal compared to the "hundreds of years of disruption that First Nations people have faced being driven out of their land," said Assembly of First Nations National Chief Shawn Atleo, who attended the demonstration. (*Peninsula News Review, October 13 and 20; Times Colonist, October 17*)

First Nations Forest Partnership Sets Goals

The Cowichan Lake Community Forest Co-op (CLCFC) has been logging the traditional territory of the Pacheedaht First Nation. Further development of this ongoing partnership is the primary goal for the coming year with the eventual creation of a brand new co-operative called the Qaly'it Community Forest Co-op. The CLCFC licence would be shared with, and held by, the new co-op. Qaly'it will be created when CLCFC renews its licence in five years, at which time they will receive a land-based licence instead of the current volume-based licence. (*Lake Cowichan Gazette, October 20*)

First Nations and Supporters Paddle to Protect Wild Salmon

First Nations leaders were joined by dignitaries, politicians and other paddlers on the Fraser River for a demonstration to remind the public the importance of protecting wild salmon from the detrimental effects of fish farming. They began in Hope on October 19 with the plan of canoeing to the Cheam Beach dock in Chilliwack to meet members of the Cheam band on October 20, and then on to the Skwah First Nation

reserve for a public celebration. The group would then paddle all the way to Vancouver to gather for a rally at the Cohen Commission hearings. (*Chilliwack Times, October 19*)

First Nation Gives Land Claim Primer

Westbank First Nation staff member Tim Raybould recently presented members of the Kelowna city council with a two-hour primer workshop on Aboriginal rights and land claims. Title and Rights 101 was designed to give participants a broad overview and introduction to the topic and was open to senior staff in other departments as well. The workshop was a follow-up to a pledge made by the city and Westbank to develop a closer relationship. (*Kelowna Daily Courier, October 15*)

Times Colonist, October 12 – Editorial, in part:

“Good luck to Aboriginal Affairs Minister George Abbott. He’ll need it if he hopes to pry any land from the Department of National Defence [DND] for local First Nations treaty settlements. Typically, the governments have offered land and cash as key elements of treaty settlements; Crown land from the province and cash from the federal government. But provincial Crown land in the capital region is in short supply. The answer could be federal land not needed by the Defence Department, Abbott suggests. That makes sense, but is unlikely to happen. Certainly the department requires adequate land for CFB Esquimalt operations and military training and housing, with reserves for future growth. But DND holds more than 40 square kilometres in the region. Large tracts have been unused for decades. Making land available for treaty settlements would cut the cash cost to taxpayers. Development could improve the lot of First Nations communities and create jobs and economic activities. It’s time for the federal government to realistically assess DND’s needs and find better uses for surplus land.”

Vancouver Sun, October 16 – Richard Foot wrote, in part:

“Native leaders from some of Canada’s wealthiest reserves say the federal government is obstructing economic growth in native communities by failing to support a critical program that could lift other First Nations out of poverty. The FNLMA [First Nations Land Management Act], although little known outside the Aboriginal community, is seen by many native bands as a key step toward selfgovernment. First Nations that join the program remove themselves from roughly a quarter of all the provisions of the Indian Act. Their decision to opt out is final. Most importantly, the FNLMA is proving to be a successful path out of the chronic poverty and economic stagnation that afflicts so many First Nations. For years, the FNLMA has run at only a fraction of its capacity. Thirty-two First Nations (out of a total of 615 in Canada) now operate under the FNLMA. Twelve others have been approved for entry into the system, while 74 more are on a waiting list, all of which have passed band council resolutions seeking to join the programs. The holdup, say Louie and the other chiefs, is a lack of federal funds to help bands entering the system develop the tools they need to administer their lands and oversee property transactions, including the writing of land codes and the creation of land-registry systems. The Tsawout First Nation on Vancouver Island was forced to wait three years to fully enter the program, because Indian Affairs wouldn’t pay to resolve a boundary dispute – caused in the first place by Ottawa’s failure to maintain up-to-date surveys of the reserve. One reason for the government’s lack of action on the file may be that Ottawa is now considering a new and competing vision of Aboriginal land management – one advocated in a recent book co-authored by former Conservative strategist Tom Flanagan – in which native reserves not only assume authority for managing and leasing their land, but are free to actually sell it to whomever they wish.”