

**Fraser Valley Treaty Advisory Committee
First Nations Media Monitor - Excerpts
March 20, 2009**

*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>

AROUND THE PROVINCE

New Relationship Act Postponed

B.C. First Nations leaders and the provincial government have agreed to postpone introducing the proposed Recognition and Reconciliation Act to the legislature to allow for broader consultation with business and industry groups. Aboriginal Relations Minister Mike de Jong had been set to present the act this month, but will now wait until after the May 12 election. Many questions and concerns about “unintended consequences” were brought up from First Nations, the mining and forestry industries, the B.C. Business Council, and chambers of commerce following the recent circulation of a discussion paper outlining the concepts of the act. Grand Chief Stewart Phillip, president of the Union of B.C. Indian Chiefs, said he is disappointed by the delay but realizes how important it is that both business and First Nations people fully understand what the legislation means. The act would recognize Aboriginal historic presence and their rights to decision-making and revenue sharing within their traditional territories. It would also mean that the provincial and federal governments could no longer use arguments in court that deny the existence of First Nations. Hupacasath First Nation Chief Judith Sayers and Chief Les Sam of the Tseshaht First Nation both warn that any new legislation could inadvertently create problems with outstanding political issues and are taking a “cautious approach.” MLA and Opposition critic Scott Fraser noted that there isn’t the funding available in the budget to bring forward the legislation and pointed out that the province is currently involved in several court cases against B.C. First Nations concerning the issue of Aboriginal title and rights. The University of British Columbia and Simon Fraser University will host an open forum March 20 to discuss the proposed legislation.

(Alberni Valley Times, March 9; Times Colonist, March 15;

Vancouver Sun, March 16)

First Nations Sign Resource Agreement

During the B.C. Assembly of First Nations 5th Regional Chiefs Special Assembly Conference in Vancouver, representatives from First Nations natural resource councils signed a cooperation protocol agreement to cover areas such as forestry, fisheries, and energy. The agreement is expected to reduce duplication and streamline decision-making when First Nations are dealing with resource industries. The key goal of the conference was finding ways to balance economic development with environmental protection.

(Harbour City Star, February 27)

TREATIES

Huu-ay-aht Seek Economic Stimulus

The Huu-ay-aht First Nation (HFN) says that if the federal and provincial governments will consider an economic stimulus plan for the Alberni Valley the band will sign off on the Maa-Nulth treaty. Huu-ay-aht, along with the Ka:’yu:K’t’h/Che:k:tlas7et’h, Toquaht, Uchucklesaht, and Ucluelet, is one of the Maa-Nulth First Nations that ratified a treaty in 2007, which includes more than \$100-million in cash and 25,000 hectares of land. HFN said this is not an attempt to renegotiate the treaty terms; rather an effort to make sure it will succeed. The other four Maa-

Nulth bands have already signed off on the treaty, but HFN were holding out because of a requirement to pull out of a Nuu-chah-nulth fisheries court case. The 650-member band recently voted to give the band council the authority to sign the treaty. The stimulus program includes upgrading the road from Port Alberni to Bamfield that would provide immediate tourism boosts to the area and sewage treatment for the 50 houses on the Pachena Bay Reserve.

(Times Colonist, March 7)

Treaty Group Wants Railway Land Negotiated

The Hul'qumi'num Treaty Group (HTG), which represents the Chemainus, Halalt, Lake Cowichan, Lyackson, Penelakut, and Cowichan First Nations, wants to have a block of private Vancouver Island property brought into the treaty negotiations. Last October, HTG lodged a complaint with the Inter American Commission on Human Rights arguing that the Canadian and B.C. governments have refused to negotiate on the 1884 E&N Railway land grant, the group claims is traditional territory, and is requesting that no further development be allowed until final treaties are signed and all outstanding land issues are settled. HTG chief negotiator Robert Morales said the land was illegally confiscated from the First Nations and are seeking compensation, but neither the treaty process nor the courts have provided a solution.

(Ladysmith-Chemainus Chronicle, March 10)

Quatsino Frustrated About Treaty Talks

The Quatsino First Nation (QFN) has sent a letter to all North Island people declaring their frustration over stalled treaty talks and their intention to “proclaim and reclaim” their traditional territory. “We will be exercising our traditional right to hunt, fish and harvest in our territory,” said Reg Seaweed, QFN treaty negotiator. The Quatsino have been in treaty negotiations for almost 11 years. The letter to the community noted that it was not the band’s intention to interfere with the people that live and work within their traditional territory, but to inform them of the lack of positive outcome from the negotiations.

(North Island Gazette, February 19; Nanaimo Daily News, March 03)

Tla’Amin Vote No on Bi-Lateral Agreement

Since the Tla’Amin First Nation and the provincial government have reached an agreement on treaty issues, the B.C. government proposed a signing of a bi-lateral agreement between them that says the two parties have reached agreement on all of the substantive issues. The two parties are now waiting for the federal government to come back to the table. TFN chief negotiator Roy Francis presented the bi-lateral agreement to the Tla’Amin band council, but they voted six to three not to sign. Francis said not signing won’t hurt the treaty process, which is substantially complete, and they are now preparing for presenting it to the community for a vote.

(Powell River Peak, March 4)

Klahoose Sign Incremental Treaty Agreement

The Klahoose First Nation (KFN) have signed an Incremental Treaty Agreement (ITA) with the provincial government that will give the band \$2.1-million, which will be used to purchase Tree Farm Licence 10, and \$150,000 to advance treaty negotiations and build economic development capacity. Klahoose are currently in Stage Four, agreement-in-principle, of the six-stage treaty process and the ITA provides them with incremental treaty benefits in advance of the final treaty, which will then become part of the Final Agreement. The ITA also commits KFN to re-engage in the treaty process.

(Ministry of Aboriginal Relations and Reconciliation – News Release, March 5)

LOCAL GOVERNMENT

District Plans Sunshine Coast Hiking Trail

The Sunshine Coast Regional District (SCRD) has put in a trust fund application with the province to develop a multi-use hiking trail along the entire length of the Sunshine Coast. If the application is accepted SCR D will then begin discussions with Squamish First Nations, the Squamish-Lillooet Regional District, and the District of Squamish, as well as extensive community consultation. The district said they want to work closely with the Sechelt Indian Band and the Squamish Nation. The First Nations would need to be key partners in the project as the trail passes through their traditional territories, said SCR D park planning coordinator Sheane Reid.

(Squamish Chief, March 6)

First Nation and District Discuss Common Interests

A protocol agreement between the Snuneymuxw First Nation and the Regional District of Nanaimo has received preliminary approval to proceed. The agreement will form the basis for ongoing discussions on matters of mutual interest such as protections of culturally sensitive sites, land use planning, and economic enhancement initiatives.

(Parksville/Qualicum Beach News, March 10)

EDITORIAL EDITS

Business in Vancouver, March 9 – Keith Clark wrote, in part:

“Two recent decisions of the B.C. Court of Appeal underscore a fundamental problem with Aboriginal consultation – despite its best efforts, the government still can’t seem to get it right.

The reality is that the area of consultation is a very difficult one to ‘get right,’ since the rules are still being developed. In fact, even judges have a hard time getting it right.

Since adequate consultation is critical for a licence, permit or authorization to be clearly valid, this gradual evolution of fundamental rules creates huge problems for the business community, which requires certainty in order to be successful and in order to be prepared to make investments in this province.

Perhaps these latest decisions concerning the BCUC [B.C. Utilities Commission] will be the inspiration for the B.C. government to focus on this issue and put the appropriate effort into developing certainty for the business community – and the people of British Columbia, Aboriginal and non-Aboriginal alike – by adopting the recommendation of the Supreme Court of Canada and creating effective regulatory schemes for the consultation process.”

Times Colonist, March 9 – Doug Cuthand wrote, in part:

“It has recently been revealed that the Department of Indian Affairs has a secret plan to overhaul the rules that govern First Nations. One issue raised in the secret documents is the government’s wish to meddle in how First Nations leaders are elected. The Indian Act rules clearly have become outdated and obsolete. The two-year [election] term is a serious impediment to development. As soon as a band council gets its bearings, councillors must campaign and face the voters. Every other government – federal, provincial and municipal – has longer terms, but the colonial office in its wisdom decided that a systemic weakness was just what the First Nations needed. A cynic would think it’s a deliberate attempt to weaken First Nations governance. Changes imposed from on high by the minister’s office will be seen as nothing more than more colonial control and are doomed to fail. First Nations must be given the opportunity to develop their own style of democratic self-government, and the leaders must open up the process to all the band members so that what is developed has wide support.”

Vancouver Sun, March 10 – Vaughn Palmer wrote, in part:

“The B.C. Liberals are moving to put more timber into the hands of native bands than ever before, almost doubling the Aboriginal share of the annual allowable cut via tenures that will be locked in for as long as 25 years.

Forests Minister Pat Bell confirmed the expanded access Monday as he released the recommendations of the government-appointed working roundtable on forestry.

The roundtable set the stage by acknowledging the limited success of the government’s earlier efforts to increase native access to cutting rights via the so-called Forest and Range Agreements.

Hence the first of the recommendations: ‘We should create more long-term, area-based forest tenures that are of an economically viable size, and create legislation for a First Nations forest tenure.’

The forests minister also indicated general support for another key recommendation: ‘Revenue-sharing with First Nations should be proportional to the value of timber harvested in their respective territories instead of being calculated on a per capita basis.’ But with this recommendation, the share would be based not on the size of the band, but on the size of the traditional territory and the amount of timber harvesting within it.”

Vancouver Sun, March 11 – Vaughn Palmer wrote, in part:

“The B.C. Liberal proposal to recognize Aboriginal rights and title in legislation before the election has provoked major concerns from the resource industries and the larger business community.

By the government’s own admission, the so-called Recognition Act will produce a ‘seismic shift’ in the relationship between government and Aboriginal nations. It is ‘unprecedented,’ being crafted to override all other provincial legislation dealing with land and resources. After two dozen or so sessions, the two delegations, native and provincial, agreed in mid-February on the contents of discussion paper on the proposed legislation.

Business leaders who wondered why they’d been kept in the dark to that point found they were not alone. Most Liberal ministers and backbenchers learned of their government’s intentions at about the same time as the information appeared in the newspapers. Nevertheless, now that the news was out, the premier and his minister gave every indication that the legislation had been placed on the fast track. The yet-to-be-drafted Recognition Act would be tabled in the house in a matter of weeks. Ideally, it would be debated and passed before the scheduled pre-election adjournment on April 2.

And [Premier Gordon] Campbell left no doubt that he expected the business and resource communities to line up behind the proposal, given their support for the Liberals in general and the attempt to build a new relationship with natives in particular. After the most recent session, Monday afternoon, business leaders came away wondering if the government fully understands the legal and constitutional implications of what it is attempting.

They say that provincial officials were unable to provide definitive responses to the objections raised by legal representatives from industry, several of them having extensive experience in dealing with Aboriginal rights, title and the courts. The questions, as I understand them, are fundamental. What would the blanket recognition of Aboriginal title mean for the status of Crown land? Will natives gain a de facto veto over every land use and resource management decision in B.C.?

Nor were provincial officials able to persuade the business leaders and their lawyers that the government would gain much in return. Not the sort of thing to be rushed through the house in the few weeks before an election. Only a reckless government would even suggest such a timetable.”

Williams Lake Tribune, March 12 – Editorial, in part:

“Two wrongs don’t make a right. It’s a wonder, then, why the Liberal government is proposing to ram through a law this spring that will address a historical wrong by wronging millions of British Columbians.

The legislation, at its best, leaves land use unclear. At its worst it gives one group of British Columbians - First Nations – more say over the land than everyone else. That is sure to give other resource companies and their investors pause when looking where to spend money.

The biggest question about this legislation is this: who will have the final say over how land and resources are used for the benefit of the entire province?

If Aboriginal leaders are correct, it will require their say-so to go ahead with any projects in B.C.

Business leaders had meetings with Premier Gordon Campbell and Minister of Aboriginal Relations and

Reconciliation Mike de Jong over the weekend, where those leaders expressed their concerns and asked some of the same questions. Those meetings came after the province and native leaders had already worked on the legislation. The rest of us? If Campbell and de Jong have their way, we'll learn the legislation's details when it's brought up in the legislature. Giving up our future is no way to rectify the past."

Vancouver Sun, March 13 – Vaughn Palmer wrote, in part:

"The B.C. Liberal government is hearing concerns from some of its own members about the plan to recognize Aboriginal rights and title in legislation before the election.

Plus, a growing number of Liberals have doubts about where their government is headed on this file. Some are circulating legal opinion that raises serious concerns about the proposal.

The opinion was produced by Tom Isaac and Keith Clark, two lawyers with expertise in Aboriginal litigation, on retainer to the business community.

Judging from the following passage, they were not impressed with the level of expertise on the government side.

'Discussions with senior officials regarding the paper appear to confirm that there is a fundamental lack of understanding by the persons who drafted this paper for B.C. concerning the significance of recognizing Aboriginal title throughout B.C.'

Moving on to the substance of their opinion, they worry, first and foremost, that 'the legislation will give First Nations a veto' over land use and resource management decisions in the province.

Second, the lawyers say that 'the legislation will recognize Aboriginal title throughout all of B.C., potentially giving enormous power and control to First Nations.'

Their third concern is that 'the legislation proposes power and control to the First Nations well beyond what has been established by the Supreme Court of Canada,' particularly in terms of balancing native interests with 'those of the public generally.'

'The only certainty arising from this legislation may be the certainty that resource development will be dramatically reduced in B.C. as potential investors look elsewhere, including to other Canadian provinces, where resource development requires approval only from federal and provincial governments.'

No wonder some Liberals are asking what their government was thinking in bringing forward this half-baked proposal on the eve of an election."

QUOTES IN THE NEWS

Grand Chief Edward John (First Nations Summit)

Grand Chief Stewart Phillip (Union of B.C. Indian Chiefs)

Regional Chief Shawn Atleo (B.C. Assembly of First Nations)

Responding to Vaughn Palmer, March 11 Editorial on the Recognition Act:

"This proposed legislation will build upon the new relationship that First Nations and the provincial government reached in 2005. The Recognition Act flows from that agreement and is the culmination of four years of systematic work, discussion and negotiations, which has included unprecedented engagement between First Nations, industry and the provincial government.

Significantly, this legislation will create a greater degree of certainty for business activity in the province. It will provide for more collaborative, structured and better decision-making with regard to planning, management and tenuring decisions over lands and resources. Perhaps most importantly, the legislation will confirm what all of us know as fact: Aboriginal title was never extinguished and exists today as it did before the European settlers arrived.

This is clearly a positive step forward as the legislation would allow for the development of a framework for a new future of economic inter-dependence. It would provide for certainty, and lead to new levels of cooperation."

(Vancouver Sun, March 13)