

TREATY COMMISSION

# update

*The independent  
voice of treaty  
making in  
British Columbia*

## Obstacles remain in treaty negotiations

Action is being taken on several fronts to remove the remaining obstacles blocking the completion of treaties.

The Treaty Commission is committed to being more proactive in all areas of its mandate including facilitation, funding and public information to move treaty negotiations forward.

Commissioners agree that treaties are within reach as evidenced by the four First Nations that have approved agreements in principle and the fact that several more First Nations expect to complete agreements in principle in 2004 or early 2005.

However, the prevailing view among commissioners is that a renewal of the commitments to the fundamental principles made in creating the treaty process 11 years ago may be necessary to move a number of negotiations forward.

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## McLeod Lake enters treaty process

McLeod Lake Indian Band intends to negotiate a self-government agreement.

Following information meetings in six centres including McLeod Lake, Chetwynd and Prince George, the members voted overwhelmingly to join the treaty process to achieve self government. The Treaty Commission formally received the northern First Nation's statement of intent to negotiate on February 4.

The first step will be for the Treaty Commission to convene a meeting of

the parties within 45 days to establish a negotiating table.

McLeod Lake is in a unique situation as it has a treaty settlement with the governments of Canada and BC. McLeod Lake is now one of 40 First Nations in BC, Alberta, Saskatchewan and the Northwest Territories covered within Treaty 8 signed in 1899.

The adhesion to that 1899 agreement was formalized in a ceremony at the Old Hudson Bay Post on the northern end of McLeod Lake on April 28, 2000.

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## Second term for commissioner



Commissioner Jack Weisgerber has been appointed to a second, two-year term by the BC Government.

Weisgerber represented Peace River South in the BC Legislature from 1986 to 2001. He is a former aboriginal affairs minister and was key to the formation of the BC Claims Task Force, whose report and recommendations is the blueprint for the BC treaty process. ☉

# First Nations

Many First Nations in British Columbia launched legal action in December 2003 to preserve their aboriginal rights and to prevent the governments of Canada and BC from using limitations defences under the provincial *Limitations Act*.

Limitation statutes bar plaintiffs from bringing actions to court after a set time period. In certain circumstances exemptions or extensions are allowed. The principle of limitations was first introduced as part of English law in the 1600's and has been BC law since 1858. The rationale for limitations is to bring stability to society. Potential defendants can plan their affairs in the safe assumption that stale claims cannot be raised. Evidence is not lost with the passage of time and there is an incentive for plaintiffs to bring forward their lawsuits in a timely fashion.

First Nations have argued it is unfair to apply limitations statutes to aboriginal rights cases and the Crown should be prohibited from raising such defences because of its fiduciary role. At the very least, they argue, time spent in treaty negotiations trying to reconcile and settle broad issues of aboriginal rights and title should not be

## *launch legal action*

counted against First Nations or considered "sleeping on their rights."

First Nations were protecting their right to file claims for infringement of aboriginal title after December 11, 2003, the sixth anniversary of the landmark *Delgamuukw* case, which gave definition to aboriginal title. One of the deadlines under the provincial *Limitations Act* says actions in respect of land, and those not specifically mentioned under the act, may not be brought forward six years after the right arose. Aboriginal rights and title cases are not specifically mentioned in the Act.

Talks to head off the need for legal action, facilitated by the Treaty Commission, were unsuccessful. Changing the legislation that imposes the limitation or reaching a political agreement not to employ this legal defence were among the suggested solutions.

It now appears the First Nations will have to place their legal actions in

abeyance in order to continue treaty negotiations as the governments of Canada and BC have been unwilling, in most cases, to negotiate with a First Nation that is taking legal action with regards to unresolved claims.

"It's catch-22," said Chief Commissioner Miles Richardson. "First Nations are forced to take legal action to protect their rights from a crown-imposed limitation period. And then they can't negotiate a resolution of their rights and title because they've taken legal action."

Minister for BC Treaty Negotiations Geoff Plant said, in news reports, he was not even sure if the six-year limitation applies in the *Delgamuukw* case.

He said that for 20 years, no matter what government has been in power, the province has routinely pleaded limitations defences, as has the government of Canada. He said the government has to reserve the right to argue for limits on legal action in order to avoid stale and outdated claims. ☉

## Treaty Commission to promote Talking Circles among aboriginal women

The Treaty Commission, working in concert with a steering committee of aboriginal women, is set to release a one-hour video, *Our Sacred Strength, Talking Circles Among Aboriginal Women*, which captures voices of aboriginal women from across the province.

Featured in the video are five talking circles among Ktunaxa women in Cranbrook, Gitxsan women in

Hazleton, Kaska women in Watson Lake, Yukon, Tseil-Waututh women in North Vancouver and aboriginal women living in the Lower Mainland.

The video is designed to reflect the many common concerns and challenges aboriginal women share, and the many different journeys each woman – and each nation – is taking in the pursuit of a better future.

The Treaty Commission will be promoting talking circles among aboriginal women as a means to engage more women in the treaty process, using the video as a catalyst for the discussions.

Partners in the project are Status of Women Canada and the Ministry of Community, Aboriginal and Women's Services. ☉

# Urban Crown land scarce for treaty settlements

A scarcity of Crown land for treaty settlements is an issue taking on greater urgency as treaty negotiations gain momentum in the Lower Mainland, Fraser Valley and southern Vancouver Island.

Currently, there is no effective way to identify, assemble and hold Crown land on a coordinated, priority basis pending the achievement of treaties in these urban areas. Where Crown land is limited, private lands will be critical to the settlement of treaties in urban areas.

Land for treaty settlements is an issue already making newspaper headlines in the Lower Mainland. Musqueam First Nation has successfully stopped the transfer and disposal of 133-acre parcel of federal fisheries' lands in Richmond known as the "Garden City lands". Land protection of key urban land parcels has been made a priority at the Musqueam treaty table. The parties initialled a Framework Agreement on December 17,

2003 and were to begin substantive agreement-in-principle negotiations. However, Musqueam felt compelled to go to court to stay the expedited disposal of the Garden City lands.

Musqueam obtained an injunction on January 26 against Fisheries and Oceans Canada, Canada Lands Corporation, federal Treasury Board and Governor in Council, restraining them from transferring or selling the Garden City lands. The injunction also prohibits the City of Richmond from purchasing the land. Judge Michael Phelan based his reasons on Canada's failure to accommodate or consult as that duty is set out in the *Haida* and *Taku River* cases. The injunction will last until Musqueam's application objecting to the transfer is heard in the next few months.

Injunctions on lands over which First Nations claim an interest, not yet defined in a treaty or a court decision, are rare so it highlights the critical nature

of the urban land issue.

In Nanaimo the scarcity of Crown land for treaty purposes prompted negotiators to seek private land purchases, including a 978-acre property on Gabriola Island known as the Kensington lands.

Addressing urban issues was a key recommendation in the Treaty Commission's first major review of the treaty process, undertaken in September 2001.

"The transfer or disposal of Crown land is an issue of concern to First Nations," said Chief Commissioner Miles Richardson. "When we see an obstacle to agreements, such as the erosion of the Crown land base, it is our responsibility to raise the issue and make sure that action is taken to remove that obstacle."

The Treaty Commission has advised the governments of Canada and BC and the First Nations Summit that it is willing to further explore the urban land issue and facilitate discussions on solutions. ☉

## Effectiveness Review tests

### Treaty Commission performance

An independent effectiveness review gives the Treaty Commission a passing grade, but says the Commission could do more.

Among the report's 12 recommendations is a call for the Treaty Commission to be more proactive: in disputes among the parties in treaty negotiations; in informing the public about treaty negotiations; and in explaining funding policies to First Nations.

Reviewers found that stakeholders see the Treaty Commission as making a valued contribution to treaty making. The report says "The Commission has brought greater credibility and trust to the treaty negotiating process."

The review also underlines the importance of a strong, independent commission adequately funded to facilitate treaty negotiations and to inform British Columbians about treaty making. The report says the Commission is managing its operations efficiently with a limited budget and has been particularly efficient in managing communications costs to date.

There is a consensus amongst the Principals that the Commission has proven itself and its objectivity such that it can now afford to 'take a stand' on key issues, the report says.

"The effectiveness review has focused

attention on where we can improve and how we can be even more effective," says Chief Commissioner Miles Richardson. "We'll be discussing the recommendations with the Principals and we expect those talks will be positive and will lead to more progress in treaty negotiations.

"We are already committed to being more proactive in all areas of our mandate – in facilitation, funding, and public information."

The review, undertaken by Deloitte and Touche and commissioned by the governments of Canada and BC and the First Nations Summit, is available at [www.gov.bc.ca/tno/negotiation](http://www.gov.bc.ca/tno/negotiation). ☉

*While negotiating agreements in principle (AiP) presents some of the toughest challenges in the treaty process, the ultimate test is First Nation approval. Four agreements were approved by First Nations in 2003.*

# Communities

# approve agreements in principle

## Lheidli T'enneh Band

Lheidli T'enneh was the first treaty table to adopt community approval processes and sign an agreement in principle following the intensified negotiation activity over 2003. The nation is now engaged in stage five negotiations to finalize a treaty.

The agreement, signed in Prince George on July 26, includes 4,027 hectares of land, \$12.8 million and rights to wildlife, fish and timber.

A separate Lheidli T'enneh Governance Agreement will be negotiated between AIP and Final Agreement, and may address matters such as education, child and family services, solemnization of marriage and emergency preparedness on treaty lands. When a treaty is finalized, Lheidli T'enneh will have the opportunity to participate as a government on the board of the Regional District of Fraser Fort George and non-Lheidli T'enneh citizens who live on treaty land will have at least one elected representative in the Lheidli T'enneh government. The neighbours will also coordinate land use in their respective areas.

The Lheidli T'enneh, "people from where the rivers flow together," traditionally used and occupied the land and water around Prince George, including the Nechako and Fraser River area to the Alberta border. The site of

present day Prince George was one of the villages that Lheidli people occupied for parts of the year. Today, the nation has over 300 members and 685 hectares of reserve land just outside of Prince George.

## Maa-nulth First Nations

Maa-nulth, five member First Nations of the Nuu-chah-nulth Tribal Council (NTC), signed an agreement in principle on October 3, 2003.

The agreement includes approximately 20,900 hectares of land on the west coast of Vancouver Island, in addition to 2,105 hectares of reserve land, self-government provisions and \$62.5 million. Maa-nulth, made up of Ucluelet, Huu-ay-aht, Toquaht, Ka:'yu:'k't'h'/Che:k'tles7et'h' and Uchucklesaht First Nations, represents about 2,000 of the 7,500 members of NTC.

In March 2001, Nuu-chah-nulth initialled an agreement in principle that

included 550 square kilometres of land and \$243 million. When Nuu-chah-nulth took the initialled agreement back to its communities for ratification in April 2001, six of the 12 Nuu-chah-nulth member First Nations voted in favour of the agreement and six voted to reject the agreement.

The Treaty Commission has conditionally received a Statement of Intent from the Maa-nulth First Nations, subject to the NTC submitting an amended statement of intent and Maa-nulth and NTC resolving their debt liabilities.

Maa-nulth's traditional territory is centred on Barkley Sound and the Kyuquot area on the west coast of Vancouver Island.

## Sliammon Indian Band

Sliammon Indian Band signed an agreement in principle on December 6, officially moving negotiations into stage five.

## update

is published by the BC Treaty Commission and distributed to anyone with an interest in treaty negotiations in British Columbia. Please feel free to reprint the material in this newsletter.

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# Quarterly Report

Beginning with this issue, the Treaty Commission will provide quarterly reports on developments in treaty negotiations. Update, issued three times per year, will highlight significant developments in negotiations, while the annual report will provide a comprehensive report on all treaty negotiations. Additional information on breaking developments may be accessed by subscribing to the Treaty Commission's e-newsletter at [www.bctreaty.net](http://www.bctreaty.net).

In February 2001, the parties at the Sliammon table initialled an agreement in principle with the governments of Canada and BC, which included \$24.4 million, 5,000 hectares of land, self-government provisions, and a 12-year elimination period for income tax exemptions. Subsequently, the agreement failed a ratification vote and the nation spent considerable time in 2002 identifying and addressing the issues of concern to Sliammon members.

On June 10, 2003 negotiators recommended a new AIP for approval by their principals. This agreement includes \$26 million, 6,000 hectares of land, resource revenue sharing and provisions to address tax exemption. The Sliammon community endorsed this AIP by 62 per cent in a ratification vote on October 4, 2003.

Sliammon traditionally occupied and used the land and water around the Powell River area, including Sliammon, Powell Lake, the Gulf Islands, Courtenay and the Desolation Sound area. Today the nation has approximately 900 members.

## Kaska Nation

The Kaska table has been suspended since 2003 due to ongoing litigation. The Treaty Commission is providing Kaska with funding to work towards resuming negotiations. Discussions on a potential 60-day abeyance agreement are currently underway.

## Kwakiutl Nation

(Winalagalis Treaty Group)  
Negotiations with the Kwakiutl Nation are in suspension as the nation is pursuing litigation to enforce fishing rights defined through its Douglas Treaty. The Treaty

Commission is providing suspension funding to enable Kwakiutl to work towards resuming negotiations. Negotiations are continuing with other members of the Winalagalis Treaty Group.

## Yekooche Nation

The Yekooche Nation table is working towards initialling an agreement in principle this spring. The Treaty Commission has been working with Yekooche to organize community consultation meetings.

## Tsawwassen First Nation

Members of the Tsawwassen First Nation approved an agreement in principle on December 11 with the endorsement of 100 of the 136 members who voted.

The agreement includes 427 hectares of land plus existing reserve land (290 hectares) and \$14.2 million – \$10.1 million capital transfer, \$2 million for fish licences, \$1 million for economic development \$1 million for culture and \$100,000 to acquire forest resources. Under the agreement, the parties may engage with the Agricultural Land Commission to assess the prospects for excluding Tsawwassen Lands from the Agricultural Land Reserve (ALR) after treaty.

Tsawwassen is the first treaty table in an urban area to approve an agreement in principle. The 300-member nation

traditionally occupied and used the land and water around Pitt Lake and the Fraser River Delta to Point Roberts and Saltspring Island.

## Next steps

While achieving an agreement in principle is a critical step for negotiations, the agreement is not legally binding and there is a lot of hard work to be done before a final treaty.

At the same time, approving an agreement in principle requires serious consideration and First Nations and the governments of Canada and BC do not take this step lightly. Stage five negotiations to finalize a treaty are expected to take anywhere from 18 months to three years. Success depends on the parties ability to negotiate all of the outstanding issues. ☉

# Impacts prompt legal action

**T**sawwassen First Nation has taken legal action against the governments of BC and Canada, BC Ferries and the Vancouver Port Authority to resolve outstanding concerns arising from the impact of the BC Ferries terminal and the Roberts Bank super port on the

Tsawwassen community. Impacts include interference with access to the shore and reduced economic value of Tsawwassen lands. Tsawwassen launched the action because they felt there was insufficient progress in attempts to resolve the matter through negotiations. ☉

# Leading the way to a new

*Easing into this interview with her four-month old daughter on her lap, Chief Kim Baird is equally comfortable fishing on the Fraser, listening to her people's concerns or representing Tsawwassen at the treaty table. At 33, in her third term as chief, Kim has surpassed many of her own expectations.*

**“W**hen I decided to run for chief, I was worried that taking on increased responsibility for my people's welfare would be overwhelming.”

This fall, bringing her first child into a community that she is helping to rebuild, Kim shepherded Tsawwassen First Nation through the tough test of deciding whether the agreement in principle (AiP) put forward for approval should form the basis for a future treaty. After a six-month long, intensive community consultation process – with Tsawwassen people and their neighbours – an overwhelming majority of Tsawwassen people backed the agreement.

“Engaging community members is difficult. Finding a time to explain a complex agreement to a group of people who aren't lawyers is very challenging. But I feel so much more confident now that I know I represent the views of my community.”

Kim's advice to other First Nations undergoing community approval processes is to take the time to do proper consultation. “But if you feel you've done enough, don't stray from the vote date.

“There will always be opposition. Everyone deserves a say.”

After the birth of her daughter, Kim took just one month off from her responsibilities as chief and chief negotiator for the Tsawwassen treaty team, which is made up mostly of women. She brings her daughter to many negotiation sessions, which she has been involved in since Tsawwassen entered the treaty process in 1993.

“She is getting early training in treaty negotiations, but I hope by the time she grows up we aren't doing this anymore.”

Kim's leadership style is collaborative, and she strives to allow each member of her community to be involved in shaping the future of Tsawwassen.

“Many community members aren't aware of their power to be involved in a meaningful way. I enjoy sharing decision making, sharing the work. My favourite thing to do is help to instill confidence in someone who might not have had it before.”

Growing up off reserve in Langley, Kim returned to the Tsawwassen community at the age of 15, finding herself on the

periphery of both communities. The move required a serious adjustment.

“The social issues on reserve were quite apparent. And the way people living off reserve treated me was quite shocking. Friends I had before were not allowed to come visit me on the reserve. Many of these people had never even set foot on a reserve.”

Returning home, she found that many people in her community had abandoned their culture.

“Sadly I had to learn a lot of my history through books.”

The Tsawwassen are Coast Salish people who traditionally occupied and used the land in the Pitt Lake watershed, Serpentine and Nickomekl rivers, Fraser River, Boundary Bay, Point Roberts and southern Gulf Islands. Tsawwassen, meaning land facing the sea, currently comprises a 290-hectare reserve on the site of the traditional winter village. Potential treaty settlement land would expand the land base for Tsawwassen's 300 members to 717 hectares.

# future

## *for the Land Facing the Sea*

by Melissa Kane



**Chief Kim Baird**

and daughter Amy

Under her leadership, Tsawwassen has undertaken several initiatives to revive their cultural traditions, including the construction of a longhouse, the development of a Halkomelem language program and a study to fill gaps in cultural heritage information. As the owner and operator of her own fishing boat, Kim is closely connected to the sea, as are the Tsawwassen people.

“Being on the river, fishing is even more significant because it is one of the few resources left in our traditional territory. It’s almost an identity issue.”

As the leader of a small nation surrounded by urban sprawl, Kim faces the additional challenge of being under intense public scrutiny. While she feels that building relationships with Tsawwassen’s neighbours is very important, Kim wishes for a day when the public has a better understanding of First Nations people so that she can devote more time to her responsibility for improving the quality of life for Tsawwassen people.

If she could wave her magic wand and change one thing about her community today, Kim would resolve servicing issues with Delta to allow Tsawwassen to access water for economic development projects. The agreement in principle includes a clause that servicing issues will be resolved by final agreement, but Kim hopes they will be worked out sooner.

In the meantime, Tsawwassen has completed economic modeling to determine the best mix to create quality jobs for community members. Potential plans include light industry, greenhouses and tourism development. Kim believes that joint ventures are the way of the future and has been in discussions with industries that impact Tsawwassen

people the most. She feels that social issues and economic development needs are intertwined.

As her nation moves towards a final treaty, she feels that success hinges on sustaining flexibility and creativity in negotiations.

“Treaty is a set of tools that will allow my community to rebuild itself. It’s not utopia with a bow on it. Change doesn’t happen overnight, but achieving a treaty is a big step towards those goals. I’m optimistic.”

Her ancestral name, Kwuntiltunaat, is associated with looking after the Tsawwassen people and Chief Kim Baird has risen to this challenge. But while she works in the spotlight of BC’s biggest city, building a better future for Tsawwassen’s children, Kim maintains, “you don’t have to be a chief to be a leader. Leadership is being active in your community.”

# Obstacles remain in treaty

*Continued from front cover*

Of continuing concern is the “litigate or negotiate” policy of the governments of Canada and BC. The most recent irritant was the perceived need by First Nations to launch legal action to preserve their aboriginal rights and to prevent Canada and BC from using limitations defences under the provincial *Limitations Act*.

Calling the overall litigate-or-negotiate policy “ambiguous and unreasonable,” the Treaty Commission is again seeking a clarification of a policy that is seen as unfair to First Nations.

In the Treaty Commission’s view there is an inherent contradiction in a policy that starts from the position that First Nations must commit fully to a political process

## McLeod Lake enters

*Continued from front cover*

The agreement provided McLeod Lake with 48,950 acres of land and \$9.75 million. The terms of Treaty 8 make no provision for self government.

Chief Harley Chingee said, “The treaty process is the way we have to go to achieve self government. We have a certain amount of autonomy now, but we need more authority to look after our own affairs.”

The First Nation has already achieved authority and autonomy in a number of areas as the members seek “to take more control of their lives.” McLeod Lake is one of a small number of First Nations to have authority over lands through the *First Nations Land Management Act*. Also in place is a land code and forest practices code, as well as a membership code and election code. Members recently ratified a constitution, which enlarged the council to seven members and provided new rules for accountability. ☉

to reconcile their aboriginal rights with Crown rights, but are not permitted recourse to the legal process to protect those same rights when the political process stalls or fails.

On land issues, the Treaty Commission is seeking ways to prevent the transfer or disposal of Crown land pending the completion of treaties. The problem is especially acute in the Lower Mainland where the Treaty Commission is undertaking an inventory of Crown land to ensure there will be an effective way to identify, assemble and hold Crown land for consideration in treaty negotiations.

Lower Fraser River First Nations, including those in and outside the treaty process, have initiated a process to develop a lower Fraser River fish management strategy. The discussions, being facilitated on an interim basis by the Treaty Commission, may have application in other areas, and may help the negotiation of fish issues.

The Treaty Commission continues to press for progress on overlaps. Clarity and certainty of First Nation territorial boundaries and rights within a territory are required to bring finality to the issues on the treaty table. Without resolution of

overlap disputes between First Nations the parties are unlikely to complete a treaty.

Committing sufficient resources to treaty negotiations continues to be a problem for the BC Government. A handful of negotiations have been the main focus of BC’s attention. Progress at those tables has been at the expense of slower moving negotiations where there has not been sufficient engagement to bring about timely progress. There are ongoing discussions between the Treaty Commission and the BC Government to resolve this issue.

Changes are coming to funding policies as a result of review of Negotiation Support Funding by the governments of Canada and BC, the First Nations Summit that was facilitated by the Treaty Commission.

First Nations will soon be able to access contribution funding without taking loan funding. Funding available to support First Nations in treaty negotiations will total \$39 million in the coming fiscal year beginning April 1. Funding allocated to First Nations in the current fiscal year is approximately \$35 million, 80 per cent as loans and 20 per cent as a contribution. ☉

## comings goings Recent changes at the Treaty Commission

**Nancy Wong** has joined the Treaty Commission as Funding Analyst. She is a certified General Accountant and has worked for the City of Surrey for several years.

**Bev Sellars** has joined the Treaty Commission as a Treaty Process Advisor. She is a former chief of the Xatsu’ll First Nation (Soda Creek). She holds a Bachelor of Laws from UBC 2001, and a Bachelor of Arts in History and Political Science 1997. She articulated with the law firm Miller Thomson before joining the Treaty Commission.

**Stephanie Yucesoy**, Negotiation Support Funding Clerk is returning from maternity leave and **Zelda Komurcu** will be completing her contract as Stephanie’s replacement for the past year.

# A ratifying *experience*

## For four First Nations

“Family gatherings bring out people who never come to the public meetings and they ask questions they would never ask at a public meeting.”

Grace Adams, negotiations manager for Sliammon Indian Band, says gathering families in a venue of their choosing with their choice of a treaty team member made all the difference in informing members about the agreement in principle (AIP).

Once the Sliammon team had heard from its members, they produced reader-friendly information that could be sent to members, including those living outside the area. As well, the agreement in principle was readily available to any member.

“When we had a request for a copy of the AIP, we hand-delivered it whenever possible and we’re prepared to explain it.”

The Lheidli T’enneh Band formed a Community Treaty Council early on in treaty negotiations. Council members represent the family groupings and include the elected leadership.

Researcher Michael Bozoki says you’ll find the council hard at work most Tuesday nights. Council members discuss all aspects of negotiations and convey the information back to their families. Questions and concerns are relayed back to the council for consideration.

Youth members meet Thursdays. “We talk about the treaty and what it will mean to our youth in 10 to 15 years”, says Bozoki. “There are opportunities and we can show them what education they would need. We can provide the information but it’s up to them.”

Attendance at open quarterly treaty meetings at the Friendship Centre in Prince George varies from 30 to more

than 60 people. Agendas are mailed out in advance and a report is mailed out following each meeting.

“We’ll keep this same process in place as we move forward in final agreement negotiations because we know it works,” says Bozoki.

The approach taken by the Maa-nulth First Nations was to explain, in detail, the differences between the Nuu-chah-nulth agreement in principle, which the Maa-nulth First Nations had earlier accepted, and the new agreement.

The Maa-nulth consultation plan called for tripartite community meetings in the Maa-nulth communities, as well as Port Alberni, Victoria and Vancouver.

However, many of the members prefer family gatherings. A plain language summary of the changes in the new AIP was what Maa-nulth people wanted most in the way of information. People wanted something they could take home for their family members, something that was easy to understand.

Tsawwassen First Nation held more than 30 family meetings throughout southern BC and four large community information meetings including one in the Okanagan and one in Washington State. For eastern members, there were conference calls.

Four treaty team members met family groups twice, once to provide an overview of the AIP and a second meeting to answer questions and hear concerns. Members could also visit the treaty web site and stay abreast of events by checking the calendar. There was also a plain language summary of the AIP and three separate reviews of

the document including one on the advantages, one on the disadvantages, and an independent legal review.

Both Sliammon and Tsawwassen produced videos, which were well received by their members. While Tsawwassen focused on the AIP, Sliammon focused on stories from their elders.

“It was a beautifully-shot video, a real keepsake,” says Sliammon’s Adams. It was produced and directed by Evan Adams and Jan Padgett. Many people will know actor Evan Adams from his role in the movie *Smoke Signals*.

Among the most popular events were the boat tours to important Sliammon sites with elders and others telling stories about the past, and sharing their hope for the future.

The experiences of these First Nations confirm that people prefer face-to-face communication, information in plain language and a treaty team responsive to their concerns.

“It’s important to keep people informed along the way, not just before AIP ratification,” says Bozoki.

The Maa-nulth First Nations’ advice is to limit the time frame for the ratification process. It should not be an open-ended time frame, in order to ensure that discussion remains focused.

Tsawwassen Chief and Chief Negotiator, Kim Baird’s advice to other First Nations undergoing community approval processes is to take the time to do proper consultation.

“But if you feel you’ve done enough, don’t stray from the vote date.”

# Interim

## MEASURES WATCH

*Interim measures agreements (IMAs) provide for the protection, management or use of land and resources before treaties are concluded. The agreements are designed to deliver immediate benefits to First Nations; serve as building blocks for final treaties; and provide a greater degree of certainty for land management and for business development.*

### **First Nations beginning to play bigger role in forestry sector**

Interim forestry agreements are carving out a new role for First Nations – including being involved in formal consultation processes – that could change the way forestry business is done in BC.

In February 2002, the BC Court of Appeal ruled that the provincial government (Crown) and Weyerhaeuser did not properly consult the Council of the Haida Nation when renewing a tree farm licence on Haida Gwaii (Queen Charlotte Islands). The decision followed an earlier decision in the Taku River Tlingit case, confirming that the provincial government must consult with and accommodate the interests of First Nations, pre-treaty, before proceeding with development on their traditional territory.

The BC Government announced its Forestry Revitalization Plan in March 2003, which includes a key focus on increasing First Nations participation in forestry through the province-wide timber reallocation process.

The 2003 Speech from the Throne committed the government, for the first time, to share forestry revenues – totaling \$95 million – with First Nations. Agreements to date, including those outlined below, have distributed \$38.6 million in revenue sharing to First Nations.

### **Cowichan Tribes sign \$13.6M agreement**

Cowichan Tribes and the BC Government signed a \$13.6 million forestry accommodation agreement – the largest revenue sharing agreement signed to date – that may provide a new model for consultation.

The agreement, signed February 4, shares revenues over a six-year period. In addition, Cowichan Tribes will receive \$600,000 to be used for forest-sector training in engineering, silviculture, harvesting and geographic information systems mapping as well as to develop a forest development and stewardship plan.

In signing the agreement, Cowichan Tribes acknowledges that the economic benefits are a workable interim accommodation for potential infringement of their aboriginal interests regarding forestry decisions and operations.

“These agreements reflect an unprecedented spirit of cooperation between the Treaty Negotiations Office, Ministry of Forests and Cowichan Tribes,” said Cowichan Chief Harvey Alphonse in a prepared statement. “They show what can be accomplished when we work together – a model we hope will be used in other negotiations.”

### **Turning Point First Nations sign \$10M agreement**

Four Turning Point First Nations – Haisla, Heiltsuk, Kitasoo and Wuikinuxv (Oweekeno) – signed forestry agreements totaling \$10.78 million.

The agreements, signed February 5, share revenue over a five-year period and provide access to 1.02 million cubic metres of timber, which comes from previously unused annual allowable cut. A consultation process is also set out in

the agreement, which provides a greater degree of certainty for business development in the central coast.

“Agreements like these and yesterday’s \$13-million agreement with Cowichan Tribes represent a major step in forging a new relationship with First Nations and in revitalizing BC’s number 1 industry,” said Premier Gordon Campbell in a prepared statement.

Turning Point was endorsed in 2001 by seven coastal First Nations who are involved in the treaty process to set out their involvement in provincial land use planning processes and help conclude interim measures agreements.

“The projects that come out of the agreement will provide enormous economic opportunities for the entire central coast and will allow us to build effective and collaborative approaches in our working relationships with the resource sector,” said Haisla Chief Steve Wilson in a prepared statement.

### **Kitselas, Kitsumkalum First Nations sign \$2.79M agreement**

Tsimshian Tribal Council member nations Kitselas and Kitsumkalum signed an interim measures agreement with the BC Government that will allow the two nations to explore new forestry opportunities, including revenue sharing.

The agreement, signed in January, provides a \$2.79 million share in forestry revenues over five years – \$1.59 million to Kitsumkalum and \$1.2 million to Kitselas. The two nations will also receive a direct invitation from the minister to jointly apply for a 300,000 cubic metre forest licence, and they have negotiated a second agreement allowing access to 500,000 cubic metres of timber over the next five years. The timber comes from



## Sliammon

tourism venture

unused annual allowable cut in the Kalum timber supply area.

"These agreements demonstrate a strong commitment to providing new economic opportunities for the Kitsumkalum First Nations," said Kitsumkalum Chief Steve Roberts in a prepared statement. "It will allow our people to enter the forestry industry in a meaningful way."

### Central Coast Land Use Plan wrapping up

Two years of talks among 17 interest groups – including First Nations, forestry companies, mining companies and environmentalists – are wrapping up and the Central Coast Land and Resource Management Plan (LRMP) is expected to be concluded by the end of April.

The plan, which stems from the Turning Point Protocol Agreement, will form the basis for government-to-government negotiations between the provincial government and First Nations on the central coast. These discussions will help lead to decisions on the legal designation of the lands and finalization and implementation of the land use plan by June 30, 2004.

The plan has protected 441,256 hectares of Crown land ranging from Knight Inlet to Princess Royal Island – home of the Kermode Spirit Bear – and deferred logging on an additional 533,838 hectares. The annual allowable

cut in the area would be reduced from about four million cubic metres to about three million. The plan also anticipates compensation for forest companies and contractors affected by conservation.

"I think it's a tremendous achievement, given the divergent interests," says Rick Slaco, vice president and chief forester for Interfor, in a prepared statement. "I believe it's something our industry can live with."

At 4.8 million hectares, the Central Coast LRMP area is about one and half times larger than Vancouver Island. First Nations comprise more than half the population in this area.

### Land protection spurs mining partnership

Yale First Nation and Qualark Resources Inc. teamed up in November to pursue a gold and gravel mining project in the Hills Bar area near Hope.

The partnership, supported by economic measures funding provided by the BC Government, evolved from a land protection measure, which set aside 181 hectares of land in the Hills Bar area for inclusion in a potential treaty. The mining project is expected to generate more than 40 jobs and revenue sharing will be split between Yale and other shareholders of Qualark Resources Inc. The partners plan to develop a quarry that will mine gold and aggregate, with

potential to produce up to 1.2 million tonnes of sand and gravel per year.

"Projects like these benefit everyone involved," said Qualark president Tisch Lynn in a prepared statement following the partnership announcement.

The partnership will allow Yale First Nation members to gain skills training in surveying, terrain mapping, geophysics, archaeology, transportation and communications. Yale's traditional activities in Hills Bar – an important cultural site – will be protected.

### BC funds creation of First Nation-run tourism operator

When Sliammon bought the historic Lund Hotel in 1999, they did more than buy an asset: they were also embarking on a much larger role in tourism – including overseeing development of the Powell River/Sunshine Coast tourism industry.

Tourism Sliammon, launched this January, grew out of funding provided by the BC Government to allow the nation to study their region's potential as a marine and backcountry destination. A tourism plan is already underway, which identifies key sites for potential development, while protecting archaeological sites within Sliammon's traditional territory.

The tourist operator, to be made up of representatives from the Sliammon Development Corporation, other Sliammon organizations, Sliammon and Powell River tourism professionals and interested community members, will provide industry expertise and leadership and a point of contact for businesses interested in developing partnerships with Sliammon. 

# Status

## REPORT

There are now 54 First Nations participating in the BC treaty process, representing 123 Indian Act bands (115 in BC and eight in the Yukon) and two-thirds of all aboriginal people in BC. Because some First Nations negotiate at a common table, there are 43 sets of negotiations underway. The treaty process is voluntary and open to all First Nations in BC.

There are 41 First Nations in Stage 4 agreement-in-principle negotiations and three First Nations in Stage 5 negotiations to finalize a treaty.

### 6 First Nations in Stage 2

Acho Dene Koe First Nation  
Council of the Haida Nation  
Hupacasath First Nation

### Members of the Kaska Nation

Liard First Nation  
Ross River Dena Council

McLeod Lake Indian Band

### 4 First Nations in Stage 3

Cheslatta Carrier Nation  
Musqueam Nation  
Squamish Nation  
Quatsino First Nation (member,  
Winalagalis Treaty Group)

### 41 First Nations in Stage 4

Ditidaht First Nation and  
Pacheedaht Band

Cariboo Tribal Council  
Carrier Sekani Tribal Council  
Esketemc First Nation  
Gitanyow Hereditary Chiefs  
Gitxsan Hereditary Chiefs  
Haisla Nation  
Heiltsuk Nation  
Homalco Indian Band  
Hul'qumi'num Treaty Group  
In-SHUCK-ch Council

### Member of the Kaska Nation

Kaska Dena Council

Katzie Indian Band  
Klahoose Indian Band  
Ktunaxa/Kinbasket Treaty  
Council  
Laich-Kwil-Tach K'omoks  
Tlowitsis Council of Chiefs  
Lake Babine Nation

Nazko Indian Band

### Northern Regional

#### Negotiation Table Members

Carcross / Tagish First  
Nation  
Champagne and Aishihik  
First Nations  
Taku River Tlingit First  
Nation  
Teslin Tlingit Council  
Nuu-chah-nulth Tribal  
Council  
Oweekeno Nation  
Snuneymuxw First Nation  
Sto:Lo Nation  
Te'Mexw Treaty Association  
Tsawwassen First Nation  
Tsay Keh Dene Band  
Tsimshian Nation  
Tsleil-Waututh Nation

Westbank First Nation  
Wet'suwet'en Nation

### Winalagalis Treaty Group Members

Kwakiutl Nation (in  
suspension)  
'Nangis Nation  
Da'naxda'xw Awaetlatla  
Nation  
Gwa'Sala-'Nakwaxda'xw  
Nation  
Tlatlasikwala Nation

Yale First Nation  
Yekooche Nation

### 3 First Nations in Stage 5

- Sechelt Indian Band
- Lheidli T'enneh Band
- Sliammon Indian Band

## Forum explores the economic impact of treaties

Opening the door to new economic opportunities is the theme for a one-day forum being hosted by the Treaty Commission in March at the Morris J. Wosk Centre for Dialogue in Vancouver.

The forum will bring together business, First Nation and local government leaders, and other invited participants, to discuss the compelling economic case for treaty making.

"We know, from the interviews we conducted for the business case for

treaties we outlined in our 2003 annual report, that resolving the land question is critical to British Columbia's future economic prosperity," said Chief Commissioner Miles Richardson.

Richardson says First Nations will play a significant role in the economic future of British Columbia and treaties will be a major tool for making this happen.

It is generally accepted that treaties will bring certainty to land ownership and jurisdiction, a major cash injection and

new investment. To further build its business case for treaties, the Treaty Commission is undertaking an economic analysis of the benefits of treaties, which will include a business leader survey. The findings will form part of the discussion at the forum.

The Treaty Commission will publish a booklet comprising the forum presentations and a summary of the discussion by participants. 

