

BC Treaty Commission

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Speaking Notes

Kiwanis Club presentation

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Check Against Delivery



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Commission**

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I am pleased to be here today as a commissioner of the Treaty Commission.

I was appointed a commissioner in May of this year. And I can say, without hesitation, that my first six months on the job have been both engaging and inspiring.

I am excited to be part of the Treaty Commission team at this important time in the history of treaty making in British Columbia.

As Premier, I was a signatory to the agreement establishing the BC Treaty Commission in 1992. So, it is perhaps fitting that I am again turning my attention to treaty making which is so important to the future of British Columbia.

What a difference a decade makes.

The central message in our 2003 annual report is that treaties are within reach.

It is the first time the Treaty Commission has had enough optimism to say that, and even then, not without some hesitation. There are a few "ifs" in our report, which I will address later on.

I must say that we are encouraged by the results that have been achieved this year and we are positive about the opportunities for continued progress in treaty negotiations. I have no hesitation in saying that.

Ending uncertainty over land ownership and jurisdiction is a necessary step for economic growth—and all the benefits that flow from that growth.

We can all agree on the need for certainty and for a more certain future for all British Columbians.

British Columbia needs treaties. We are 150 years late getting started, but we have a process now that is working.

There is reason for optimism. Today, we have many examples of First Nations and British Columbians beginning to plan their future together, looking at land use and at opportunities for social and economic development.

There are many more examples of cooperation and enterprise than was the case when we started this process.

These often lead to longer-term relationships. In Powell River, Sliammon First Nation is working with the municipality on a \$2.3 million sea walk project.

The seawalk will be an important tourism amenity for the area. Plans include a heritage park that will mark the site of the original Sliammon village and recognize the history of both communities.

My colleague Commissioner Jody Wilson was in Yale, the historic gold mining town, for good news announcement two weeks ago. It's a mining venture between Yale First Nation and Qualark Resources. Mining gold and aggregate – up to 12 million tones of sand and gravel annually – the project will create 40 jobs and long-term financial benefits to the region.

On Vancouver Island, the Campbell River Indian Band is expanding its cruise ship port to expand the regional economy by more than \$2 million annually.

Also on the Island, Quatsino First Nation has a deal with Electra Gold that should provide the First Nation with more than \$200,000 a year in revenues.

These are just a few examples of the hundreds of projects, large and small, that are building our economy throughout the province.

Is resolving the land question critical to BC's future economic prosperity? Absolutely.

This statement has never been more valid.

Investment will be curtailed until agreements are in place with First Nations. Of course, the flip side of that is investment will flow when we have agreements.

The cost of treaty making is often a focus of attention. It was again this year when we faced the media in releasing our annual report.

But it's the absence of treaties that is impacting BC's economy every day.

Treaties will bring certainty to land ownership and jurisdiction.

Treaties will bring a major cash injection and new investment to BC.

More than a decade ago the cost of not settling treaties was calculated to be \$1 billion in lost investment and 1,500 jobs a year in forestry and mining alone. So, we have paid dearly for not settling these issues.

When we started treaty negotiations, the overall expected net benefit was close to \$5 billion.

The expected economic benefit from investment was more than \$11 billion.

We think the benefits to British Columbians over the longer term will be in the tens of billions of dollars. We are currently sponsoring an economic analysis by independent consultants to determine if our estimates are accurate.

We are reasonably confident now that land and cash transfers to First Nations will be important economic drivers in the future.

It is clear from all the recent economic activity that First Nations are beginning to take their rightful place in the mainstream economy.

First Nations are taking advantage of economic opportunities.

Many new businesses are taking root. Many new opportunities are being explored.

In the past, First Nations had watched from the sidelines as their traditional territories were being developed by forestry, mining and other businesses.

First Nations were not participating in decision-making processes or sharing resource revenues on land they saw as their own.

Treaties will provide a major economic opportunity for all British Columbians.

At the same time, we know it takes an enormous amount of political will to get a treaty.

We saw that with Nisga'a.

I think people see the need to reconcile our interests to unlock the economic potential in this province.

I think they are beginning to see that there are plenty of opportunities to improve the social and economic future for all British Columbians.

It is clear from our 2003 Annual Report where we begin to outline "the business case for treaties" that First Nations will play a significant role in the economic revival of BC.

A major tool for making this happen will be treaties.

Momentum is building at several treaty tables.

Lheidli T'enneh First Nation at Prince George has an Agreement in Principle and is now negotiating to finalize their treaty.

Five Vancouver Island First Nations, known collectively as the Maa-nulth First Nation, have an agreement in principle.

Sliammon First Nation near Powell River is planning to have a signing ceremony for their Agreement in Principle on Saturday.

Tsawwassen First Nation members will vote on their agreement in principle on December 10th.

Several more First Nations have ambitious work plans to conclude agreements in principle in 2004.

Now I want to address the "if" in our 2003 annual report. For the treaty process to succeed the parties must adhere to their fundamental commitments. That's essential. And that means following the agreed-to negotiation process.

Flexibility and creativity are also essential if the parties are to reconcile their interests through the give-and-take of good faith negotiations.

The draft agreements in principle we have today leave a number of major issues to be negotiated.

The four agreements in principle I mentioned earlier do provide a degree of clarity over future treaty settlement land and resources, and a cash amount. They are important milestones.

Negotiators still must resolve the issues of governance, certainty, compensation, cooperative management and revenue sharing.

On the issue of governance, the Government of Canada supports a wide range of First Nation law-making powers in a treaty as was the case in the Nisga'a Final Agreement.

The BC Government is also prepared to negotiate the full range of practical governance authorities that are necessary for First Nations to manage their affairs.

However, BC anticipates these powers will be delivered through a combination of authorities set out in a final agreement and in a governance agreement outside the treaty.

That raises concern among First Nations.

Treaty rights are constitutionally protected and cannot be changed except by agreement.

Governance agreements outside the treaty have proposed safeguards – an orderly amendment and dispute resolution process – for First Nation authorities that are delegated by the governments of Canada and BC.

The concern among First Nations is these agreements could be changed without First Nation consent if there is no constitutional protection. They are not saying they will be, they are saying they could be.

History makes them understandably cautious.

As negotiations proceed, First Nations will carefully examine what authorities they see as fundamentally required in a final agreement.

Certainty in a treaty means ownership and the rights, responsibilities and authorities of all parties are clear and predictable. The process for reviewing and amending the treaty must also be fair and predictable.

The challenge is to achieve certainty without extinguishing or impairing those aboriginal rights not specifically dealt with in a treaty.

The governments of Canada and BC say extinguishment is not an option. The trick is to find a way to give each party the certainty it needs to feel comfortable entering into a treaty.

Negotiations will address a financial component to recognize past use of land and resources and First Nations' ongoing interests, and to provide capital for community and economic development.

The financial component could take different forms – cash payments, resource revenue sharing, or other means to be negotiated.

Resource revenues may resolve the issue of financial compensation. First Nations' can use resource revenues to build self-sufficiency and benefit from development activities within their traditional territories.

Cooperative management and revenue sharing are ways First Nations retain their attachment to their traditional territories through cooperative decision-making and by obtaining benefits from those lands and resources.

As I said earlier, the Treaty Commission is encouraged by the results that have been achieved this year and is optimistic about the opportunities for progress in the coming year. We believe treaties are within reach.

And we say that because we believe that First Nations, the governments of Canada and BC, and the Treaty Commission, have considered many options over the past two years to resolve the major issues.

The work has been done; options have been set out. It's time to make the tough decisions that are necessary to achieve agreements through negotiations.

When you get right down to it, there is no alternative.

Litigation may be seen as an alternative. While it is certainly true that litigation can inform negotiations, at the end of the day a government-to-government relationship, with all of its complexities, must be negotiated.

Relationships cannot be built in court. And treaty making is about building new relationships that, ultimately, will strengthen this place we all call home.

Our commitment to you is that we will continue to work hard on your behalf to move treaty negotiations forward and we will keep you informed of our progress.

Thank you.