

TREATY COMMISSION

update

*The independent
voice of treaty
making in
British Columbia*

Self government a reality as Tsawwassen enacts laws

The dark shadow of the *Indian Act* lifted off Tsawwassen First Nation at midnight on April 3 and is replaced by 23 laws that form the foundation for their self government.

Before hundreds of witnesses in the Tsawwassen longhouse the five members

of the transitional government enacted the laws that will govern their land and people under the Tsawwassen Final Agreement.

Chief Kim Baird said, "The theme for today is taking back our rightful place. And this is because our future

is inextricably linked to our past. My name (Kwuntiltunaat) ties me to these lands for thousands of years. It also ties me to many other Coast Salish families through complex interconnections."

Chief Baird said the process of de-colonization — moving from the *Indian Act* to self government — is a painful yet necessary process and the negotiations leading up to the effective date of the treaty have elicited controversy from within and outside the Tsawwassen First Nation community.

"I can't help but feel pride for the courage my community has shown. These have been serious and life altering decisions my people had to make.

"Sadly, today didn't deliver us utopia with a bow on it. It is our tool box for revival and renewal — much work lies ahead."



Chief Baird opens treaty celebrations.

Continued on page 4

update **inside**



BC TREATY COMMISSION

2 New chief commissioner
3 Early land transfers

6 Public education projects
8 Progress report

Treaty Commission welcomes *new Chief Commissioner*

Sophie Pierre, a signatory to the agreement establishing the Treaty Commission in 1992, is now its chief commissioner.

Pierre was appointed chief commissioner by agreement of the First Nations Summit and the governments of Canada and British Columbia last December. It was confirmed by a Summit membership vote on March 4 and then through Orders in Council by BC and Canada.

"The Treaty Commission is privileged to have such a talented and well respected aboriginal leader," said Commissioner Jody Wilson Raybould. "Sophie brings a wealth of knowledge about the BC treaty process and the issues facing First Nations, as well as valuable aboriginal economic development and business leadership experience. I very much look forward to working with her."

Prior to the appointment Pierre was chief of the St. Mary's Indian Band for 26 years and administrator/nation chair of the Ktunaxa/Kinbasket Tribal Council for 30 years. She is a former co-chair of the First Nations Summit and also served as chairperson of the First Nations Finance Authority, president of St. Eugene Mission Holdings Ltd. and co-chair of the International Advisory Committee to the Indigenous Nations Institute for Leadership, Management, and Policy at the University of Arizona.

The Treaty Commission had been without a chief commissioner since Steven Point left in September 2007 to become the Lieutenant Governor of British Columbia.



Chief Commissioner Sophie Pierre speaks at ceremony marking the effective date of the Tsawwassen Treaty.

Commissioner Wilson Raybould had been the acting chief commissioner.

"I applaud the commissioners for guiding the Treaty Commission in the absence of a chief commissioner, and especially Jody for her leadership over the past year, serving as the acting chief commissioner. The strength, skills and commitment she demonstrated, particularly in facilitating discussions at the common table, are admirable," said Pierre. ☉

First Nations Summit re-elects commissioners

First Nations Summit delegates voted overwhelmingly to return Commissioners Jody Wilson Raybould and Robert Phillips to the Treaty Commission for two-year terms.



Jody Wilson Raybould

This is the fourth consecutive term for Commissioner Wilson Raybould who was first elected in 2003. Wilson Raybould is a member and councillor of the We Wai Kai First Nation of the Laich-Kwil-Tach Council of Chiefs.



Robert Phillips

Robert Phillips was elected to a second term as a commissioner. He is a member of the Northern Secwepemc te Qelmuw (Shuswap) of the Canim Lake First Nation. "I am

honoured the summit members have confidence in me serving a second term as commissioner," said Phillips. "The experience I gained over the past two years I will apply to the challenges that lie ahead for treaty making and the treaty process." ☉

update

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If you are not on our mailing list but would like to be, contact us. BC Treaty Commission
203-1155 West Pender Street
Vancouver, BC V6E 2P4

Toll-free 1-800-665-8330
Telephone 604-482-9200
Facsimile 604-482-9222
Email info@bctreaty.net

www.bctreaty.net

Early land transfers benefit First Nations

Maa-nulth First Nations will take possession of six parcels of prime waterfront land on the Pacific Ocean before the Maa-nulth treaty is passed into law.

Each of the five Maa-nulth First Nations is a beneficiary of a seldom-used, legal technique the British Columbia government is applying to bring about the early land transfers. As the land cannot legally be transferred to the First Nations until the treaty becomes law, each First Nation will create a company to hold the land in determinable fee simple until the effective date of the treaty when it will become treaty settlement land.

The early transfer means the land can be developed before the effective date of the treaty and the First Nations could potentially pursue financing and acquire mortgages on the land being developed.

Ucluelet First Nation receives a 34-hectare parcel adjacent to Pacific Rim National Park Reserve; land identified as key to the First Nation's economic development plans.

Huu-ayaht First Nation receives a 31.5 hectare waterfront parcel on the north shore of Grapper Inlet adjacent to Bamfield.

Toquaht Nation receives a 19-hectare parcel at Stuart Bay near the entrance to Ucluelet Harbour.

Uchucklesaht Tribe receives 55 hectares at Green Cove and Lime Bay, waterfront

property which is the site of a store owned and operated by the First Nation at the entrance to Uchucklesit Inlet.


Kyoquot/Checklesah First Nation receives 1.8 hectares at Fair Harbour where the First Nation leases property for its marina and 35 hectares on Amos Island near the First Nation community of Houpsitas.

Tla-o-qui-aht ITA delivers valuable land

The incremental treaty agreement between Tla-o-qui-aht First Nation and the British Columbia government provides 63 hectares of land to be transferred in stages as treaty negotiations progress.

The five parcels of land within the District of Tofino will be transferred as the parties reach milestones in treaty negotiations over the next four years. A 16.3 hectare parcel of land will be transferred immediately. Other transfers of land will come when the agreement in principle is reached, on its first anniversary, when

a final agreement is initialed and when it is signed. Most of the land is adjacent to the Tofino industrial area and near the Best Western Tin Wis Resort owned by Tla-o-qui-aht.

The land will form part of the Tla-o-qui-aht final agreement, but is being transferred now as fee simple land to a designated company controlled by the First Nation. The post-treaty status of the land will be determined through treaty negotiations. In the meantime, the land will be subject to the District of Tofino's zoning rules and property taxes. 

Klahoose ITA secures forest licence

It was a special day for Klahoose First Nation in the BC legislature as Chief Ken Brown signed an Incremental Treaty Agreement with the province that brings new hope for economic prosperity and treaty negotiations.

Klahoose will receive \$2.1 million toward the cost of acquiring a valuable forest licence, Tree Farm Licence 10, in their traditional territory. Under the Incremental Treaty Agreement (ITA) Klahoose will also receive \$150,000 in two instalments to develop business and other opportunities.


The forest licence has been described as one of the most valuable on the south

coast of BC with about nine million cubic metres of old-growth fir and cedar. Chief Brown said the purchase has great potential to enable Klahoose to control their future. It will create jobs and new business opportunities for Klahoose and surrounding communities.

"This forestry licence will play a pivotal role in our nation becoming self sufficient once again with the benefits having a lasting impact on our community for generations to come," he said.

Klahoose negotiated \$3.75 million for the licence with bankrupt Hayes Forest Services and then asked the province for

assistance. BC agreed to contribute \$2.1 million towards the purchase and turn the high-value timber over to the Klahoose as a community forest. Klahoose will cover the remaining cost. In exchange, the province asked the First Nation to return to treaty negotiations, which they have agreed to do.

The forest has had time to recover from decades of questionable logging practices and the community forest status gives Klahoose a lower stumpage fee, while roads upgraded for a major hydroelectric project in the Toba Valley provide access for selective logging and wilderness tourism. 

Self Government a reality...

Laws passed by Tsawwassen First Nation Government on the effective date

Constitution Act

Administrative Review and Judicial Proceedings Act

Children and Families Act

Community Governance Act

Community Safety and Security (Land Use and Prohibited Substances) Act

Conflict of Interest Act

Culture and Heritage Act

Economic Development Act

Education, Health and Social Development Act

Election Act

Financial Administration Act

Fisheries, Wildlife, Migratory Birds and Renewable Resources Act

Freedom of Information and Protection of Privacy Act

Government Employees Act

Government Organization Act

Interpretation and Definitions Act

Land Act

Land Use Planning and Development Act

Laws Enforcement Act

Members' Guarantees Act

Membership Act

Property Taxation Act

Traditional Territory Boundary Commission Act

Continued from cover

Tsawwassen has been preparing to implement their treaty over the past 18 months following its ratification in July 2007. It has been a time of hard work, learning, challenges and rewards for Tsawwassen chief and council and the implementation team.

Chief Baird says the work of preparing for a post-treaty world falls into five main areas, all of which the team deemed essential to complete by the effective date. These included: fulfilling legal obligations, for example, land

with the Greater Vancouver Regional District (Metro Vancouver), was one of the biggest and most challenging projects. The plan sets out how the Tsawwassen lands will be used and regulates development within commercial, industrial and residential areas. The plan required substantial community consultation, with both Tsawwassen members and external parties.

Chief Baird considers the land use plan vote as important as the treaty vote. There were more than two-dozen community consultations to obtain



Minister Strahl and Chief Baird answer media questions; Premier Campbell at event.

registrations and transfers; developing a governance structure and bylaws; capacity building, including strategic and operational planning; economic development; and seizing opportunities under treaty, like management of the land and service agreements with external partners.

These areas were further defined in the work plan and divided into five categories — institutional development, financial preparation, relationship building, land management and other projects.

Initially, Tsawwassen identified 20 projects that eventually grew to 40, and all focus on economic development, capacity building and governance development.

Establishing the land use and development plan, which was a requirement to gain membership

feedback on the land use plan, which was approved in July 2008.

"The success of the treaty will depend on our ability to become economically sustainable based on use of the land base," Chief Baird said.

She admits to challenges related to Certificate of Possession holders and the community. Finding the right balance between the needs of the two has taken much effort and the dialogue will continue going forward.

Land title transfer was another significant and comprehensive project. The former reserve land and surrounding treaty settlement land falls under the jurisdiction of Tsawwassen as of the effective date. All the land had to be surveyed and registered with the BC Land Title Office, and titles transferred from the First Nations Land Reserve.



Left, Darryl Splockton Sr. composed and sang an honour song, seen here with Virginia Splockton and Squamish Chief Ian Campbell. Middle, Leonard George sings a song accompanied on drum by Squamish Chief Ian Campbell; Tristen Butler, Kirsten Joe, Violet Splockton, Amy Lachance and Amy Splockton act out the puppy origin story. Right, Tyler Schadow and Terri Splockton perform; Tony Jacobs and Dean Sam share on-stage duties.


Chief Baird says it is essential that the processes developed reflect Tsawwassen culture and traditions and enable the community to participate.

“If the decision-making structure doesn’t resonate with our community members then the decisions will have less legitimacy from the start.”

Establishing strong relationships with municipal and regional governments and Crown corporations is critical to realizing

the benefits of the treaty, according to Chief Baird. Tsawwassen signed a service agreement with the Corporation of Delta on the effective date to access core services including sewage, garbage collection, roads and drainage, fire and police services. Tsawwassen, as a member of Metro Vancouver, has signed an agreement to connect to the water system. TransLink, the regional transit authority, launched bus service to the community in December.

These agreements were not possible pre-treaty, given the relationships in the region and the constraints of the *Indian Act*.

Chief Baird is grateful for the support they have received and Tsawwassen is willing to share its experience with those First Nations preparing for implementation. An outline of the work plan is available on the Tsawwassen First Nation page on the Treaty Commission website www.bctreaty.net. 

First Nations reach agreement on harvesting rights


Tsawwassen First Nation and Cowichan Tribes have an agreement on harvesting resources in the southern Gulf Islands.

At issue were the harvesting rights set out in the Tsawwassen Final Agreement. As an alternative to proceeding with court action the Cowichan Tribes agreed to negotiations with a facilitator, as did Tsawwassen First Nation. The Treaty Commission secured the services of retired BC Court of Appeal Justice Lambert to facilitate negotiations that took place over the past year.

The agreement provides that Tsawwassen may exercise harvesting rights in the Gulf Islands as set out on the Tsawwassen Final Agreement. However, the ability of Tsawwassen to exercise these rights is subject to conditions including

consultation and information sharing by Tsawwassen as long as the agreement remains in force. Also, if a resource becomes scarce Cowichan Tribes will have priority access to the resource within its traditional territory.

A basic aim of the agreement is to establish an ongoing framework for resolving issues regarding harvesting rights, conservation and management of resources. Where issues cannot be resolved through informal discussions, the agreement provides for mediation and arbitration.

Success was attributed to the strong leadership of Tsawwassen Chief Kim Baird and Cowichan Tribes Chief Lydia Hwitsum and their willingness to consider a wide range of options with the support of their members. 

Treaty Commission supports public education projects

Three projects that increase awareness of treaties, document First Nations history in BC and provide a forum for aboriginal women are being supported by the Treaty Commission.

Online lesson plans focus on Nisga'a story

This documentary film, which tells of the historic journey of the Nisga'a people to achieve a modern-day treaty, was approved last year by the BC ministry of education for use in secondary schools.



The Treaty Commission helped fund the film and is now working with Surrey School District #36 Aboriginal Education Department to create an online educational resource to support use of the film in BC Social Studies 11 classrooms. The resource will be accessible on the Internet and includes lesson plans, supporting lesson materials, video clips, images and a glossary of terms used in the film.

The Treaty Commission is funding the project, which is being led by a team of educators experienced in developing classroom curriculum. The resource will be directed at BC teachers for use in the 2009/2010 school year, and will be accessible to anyone seeking information on First Nations and treaties.

Colonial Despatches chronicle BC 1846-1871

The correspondence that passed between the Colonial Office in London and the governors of Vancouver Island and British Columbia from 1846 to 1871 will be available online through the British Columbia Colonial Despatches Project.

The records include correspondence, clippings, legislation, maps and reports, and document the relationship between BC's First Nations and European settlers. It includes maps of First Nations' traditional territories and instructions on matters relating to treaties.

The project is an initiative of the History Department and Humanities Faculty at the University of Victoria. Microfilm copies of the original records — housed in British and Canadian archives — are slowly deteriorating, so a team of computer experts and historians began converting the files into a digital format.

The Treaty Commission is supporting the Colonial Despatches Project as a valuable educational initiative in keeping with its public education mandate.

Colonial Despatches will be a valuable online resource for teachers and students and when coupled with lesson plans is an important education initiative. Through this partnership project, Colonial Despatches could be easily incorporated into Social Studies, Law and First Nations Studies classes in secondary schools.

Minerva Foundation to screen *Our Sacred Strength: Talking Circles among Aboriginal Women*

The Treaty Commission-produced DVD *Our Sacred Strength: Talking Circles among Aboriginal Women* captures

the voices of aboriginal women across British Columbia. The DVD and accompanying Facilitation Guide are available to BC aboriginal women to help them conduct their own talking circles.

To expand the reach of this important initiative, the Treaty Commission is partnering with the Minerva Foundation on a new program, *Combining Our Strength*, intended to build capacity and empowerment within the aboriginal women's community in BC. As part of the program, *Our Sacred Strength* will be used to enhance leadership development for aboriginal girls and women across BC and raise awareness of the challenges they face.

The partnership project will also see Talking Circles convened in five regions of the province. Minerva-trained facilitators will organize the Talking Circles, convene the event, and screen the Treaty Commission DVD *Our Sacred Strength*. At its leadership conference in 2009, the Minerva Foundation will provide copies of the DVD and Facilitation Guide to participants.

"The Treaty Commission appreciates the work of the Minerva Foundation and welcomes the opportunity to be partners in a project that will benefit aboriginal women," said Chief Commissioner Sophie Pierre.

The Minerva Foundation aims to inspire and empower women and girls to reach their full potential by creating opportunities and offering programs in the areas of education, leadership development, economic security and safety. ☉

Progress

REPORT

Recent developments at treaty tables include a final agreement signed, a land and cash offer received, a bi-lateral agreement signed and active treaty negotiations restarted.

Maa-nulth First Nations

Canada, BC and the five Maa-nulth First Nations — Huu-ayaht, Ucluelet, Toquaht, Uchucklesaht and Kyoquot/Checklesah — gathered in Port Alberni April 9 for a special, final agreement, signing ceremony. The final agreement was ratified by the five Maa-nulth First Nations, then received royal assent in the BC Legislature in 2007 and is awaiting royal assent from the federal parliament. Approval was delayed last year when Huu-ayaht joined in a court action against the Government of Canada over the aboriginal right to sell fish.

In-SHUCK-ch Nation

The In-SHUCK-ch Nation signed a bi-lateral understanding with the BC government March 16, formally concluding substantive treaty negotiations between the two parties. It represents an interim step to a final treaty agreement between Canada, BC and In-SHUCK-ch. The final agreement includes approximately 14,976 hectares of provincial Crown land and 1,284 hectares of existing

reserve lands. Capital transfer funds will also assist In-SHUCK-ch with business capacity and economic opportunities. The In-SHUCK-ch Nation represents the Douglas First Nation, Samahquam Nation and Skatin First Nations. Aboriginal Relations and Reconciliation Minister Michael de Jong praised the leadership and vision of the In-SHUCK-ch in concluding negotiations with the BC government. Negotiations are yet to be completed with the Government of Canada, with fish a major outstanding issue.

Yale First Nation

Yale First Nation signed a bi-lateral understanding with the BC Government in November 2008 formally concluding substantive negotiations between the two parties. The agreement would provide 1,600 hectares of treaty settlement land in addition to 221 hectares of reserve land, as well as \$12.9 million. Negotiations are expected to be completed soon with Canada on fish.

K'omoks First Nation

K'omoks First Nation received a land and cash offer from Canada and BC last December. The treaty negotiation team held several community meetings to discuss the offer with its membership to obtain feedback. K'omoks replied to the offer from BC and Canada negotiators who, in turn, responded in mid-March. The responses have laid the groundwork for further negotiations on the offer.

Kaska Dena Council

The Kaska Dena Council resumed treaty negotiations after several years in which there were no negotiations. The parties are now working to complete an agreement in principle.

Dididaht First Nation / Pacheedaht Band


The Dididaht First Nation and Pacheedaht Band have resumed treaty negotiations following their decision not to pursue litigation against Canada and BC.

Haisla Nation vote on ITA fails

An incremental treaty agreement that would have transferred three parcels of land to Haisla Nation was rejected by members.

Of the 165 members who voted by mail in ballot (of a total of almost 1,000 eligible voters), 103 voted against the incremental treaty agreement. The low voter response and rejection of the incremental treaty agreement underscore the challenge in ratifying agreements.

A report produced by the Treaty Commission last year on the status of negotiations at the Haisla Nation table recommended the transfer of lands in an incremental treaty agreement as a way to move treaty negotiations forward. The recommendation was accepted by the parties and an incremental treaty agreement described as “very favourable” to Haisla was subsequently negotiated.

Haisla acknowledges that crucial mistakes were made in the ratification process. A review of ratification processes is underway to avoid similar mistakes in the future and to assess the implications of the vote for treaty negotiations. 

For communication best practices for ratification, interested First Nations can contact Communications Manager Brian Mitchell at 604-482-9215 or info@bctreaty.net.

Status

REPORT

There are 60 First Nations, or 111 of the 194 BC Indian Act bands, participating in the BC treaty process. Because some First Nations negotiate together, there are 49 sets of negotiations. There is 1 First Nation in Stage 6, 7 First Nations in Stage 5 and 43 First Nations in Stage 4.

1 First Nation in Stage 6

Tsawwassen First Nation

7 First Nations in Stage 5

In-SHUCK-ch Nation

Lheidli T'enneh Band

Maa-nulth First Nations*

Sechelt Indian Band

Sliammon Indian Band

Yekooche Nation

Yale First Nation

*Ratified Final Agreements

43 First Nations in Stage 4

Carcross/Tagish First Nation

Carrier Sekani Tribal Council

Champagne and Aishihik

First Nations

Da'naxda'xw Awaetlatla

Nation

Ditidaht First Nation

Esketemc First Nation

Gitanyow Hereditary Chiefs

Gitxsan Hereditary Chiefs

Gwa'Sala-'Nakwaxda'xw

Nation

Haisla Nation

Heiltsuk Nation

Homalco Indian Band

Hul'qumi'num Treaty Group

Hupacasath First Nation

Kaska Dena Council

Katzie Indian Band

Klahoose Indian Band

K'omoks First Nation

Ktunaxa/Kinbasket

Treaty Council

Kwakiutl Nation

Laich-Kwil-Tach Council

of Chiefs (Hamatla

Treaty Society)

Lake Babine Nation

Musqueam Nation

'Nangis Nation

Nazkō Indian Band

Northern Shuswap Treaty

Society

Nuu-chah-nulth Tribal Council

Oweekeno Nation

Pacheedaht Band

Quatsino First Nation

Snuneymuxw First Nation

Sto:Lo Nation

Taku River Tlingit First Nation

Te'Mexw Treaty Association

Teslin Tlingit Council

Tla-o-qui-aht First Nation

Tlatlasikwala Nation

Tlowitsis First Nation

Tsay Keh Dene Band

Tsimshian First Nations

Tsleil-Waututh Nation

Westbank First Nation

Wet'suwe't'en Nation

3 First Nations in Stage 3

Cheslatta Carrier Nation

Council of the Haida Nation

Squamish Nation

6 First Nations in Stage 2

Acho Dene Koe First Nation

Allied Tribes of Lax Kw'alaams

Hwiltsum First Nation

Liard First Nation

McLeod Lake Indian Band

Ross River Dena Council

Hupacasath-K'omoks acknowledge shared territory

The traditional territory historically shared by the Hupacasath and K'omoks First Nations was officially recognized with a protocol signed March 30.

It's an important milestone in each First Nation's effort to conclude a treaty.

"Through this agreement we are committing to work together to protect our common rights and interests in our shared territory," said then Hupacasath chief Judith Sayers. "This is a very sensitive and culturally important area to our Nations, not just for traditional resource harvesting but also for spiritual practice."

The agreement covers a range of mutual interests in resource rights, land use planning and management, protection of cultural areas, property acquisition and the roles and responsibilities for consultations with the Crown.

K'omoks Chief Ernie Hardy said, "We are very excited that this protocol agreement further strengthens our already-strong relationship with Hupacasath."

Their shared territory is centred around the Cameron Valley in Central Vancouver Island. The area contains

some of the last remnants of Vancouver Island's Douglas fir forests and includes Mount Arrowsmith Regional Park, which contains both traditional resource harvesting and spiritually significant sites for both nations.

"The Treaty Commission commends Hupacasath and K'omoks for proactively coming to shared territory protocols and agreements through open and respectful discussion," said Robert Phillips, the commissioner assigned to the Hupacasath treaty table. ☺



Merging past and present, the Treaty Commission symbol represents the three Principals in modern-day treaty making — the governments of Canada and British Columbia and First Nations. Pointing in an upward and forward direction, the symbol implies a "coming together" pivotal to successful negotiations and treaty making.