



Room 205-2005 Eagle Drive
Quinsam Hall

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Important Dates

Meet your Chief Negotiator

July 10, 2018
6:30-8 pm

Quinsam Hall
Boardroom



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Laich-Kwil-Tach Treaty Society Newsletter

June 2018



Good News in the Annual Assembly Update from your Chief Negotiator

On May 5th, the Treaty Society hosted its annual assembly. There were many items on the agenda including an update from your Chief Negotiator, Bram Rogachevsky. Bram's update is attached so please take the time to read it because there is lots of great news these days in treaty. You will also see updates on other projects supported by the treaty team.

The first is an announcement that your treaty team has reached an agreement with the negotiators from British Columbia on an Incremental Treaty Agreement. This involves the return of lands in the lower Campbell Lake area to We Wai Kai. These are prime forestry lands that will provide We Wai Kai with significant economic benefits. The agreement is currently in the final approval stages within the government. (Con't page 2).

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Chief Negotiator's Update Con't

Once signed the lands will transfer in two stages. The first will transfer will be after signing the agreement. The second will occur when We Wai Kai approves the Agreement in Principle. This is a big win at the treaty table because these lands will belong to We Wai Kai permanently.

The second big news announcement is loan forgiveness. As of April 2018, no further debt will be incurred to negotiate our treaty. Furthermore, the previous debt will be removed from We Wai Kai books. There is no longer a financial risk to negotiate a treaty, which means your team can work to bring the best treaty package forward for your consideration.

In Bram's update, you will also learn more about how government mandates (their internal rules for negotiating) have changed, making negotiations more effective and potentially faster. For example, our rights and title will now be recognized in our treaty and the treaty will define how we exercise them. This is a significant step away from the old "extinguishment" mandate.

The mandate shift also means that the treaty will be a living document and will undergo periodic renewal to ensure that there are opportunities to incorporate case law, legislation, etc. after our treaty is signed.

All of this has contributed to an increased momentum at the treaty table. Please read Bram's update for information.

Finally, we are listening. We are increasing communications, including providing opportunities to meet with your treaty Board, your Chief Negotiator, and the rest of the treaty team. Please watch for announcements and please, get involved!

At the treaty office....

Treaty Board of Directors:

**Brian Assu
Ted Lewis
Ted Assu**

Chief Negotiator
Bram Rogachevsky

Office Support
Dani Assu
dassu@lkts.ca

**Also see the attached
updates on heritage
projects and
comprehensive
community planning.**



Johnny Wilson, Ernest Price, Herman Quocksister, Bill Roberts, Norman Price and unknown child in feast dishes at Cape Mudge. Early 20th century. CR Museum 10389.

Chief Negotiator's Update Bram Rogachevsky

It is my privilege to be the Chief Negotiator for the LTS and to carry forward the vision of the late Rod Naknakim for a just, honourable and beneficial treaty for We Wai Kai. I appreciate the trust that the leadership and the community has placed in me.

I would like to recognize the leadership of the LTS Board: Chief Brian Assu, Ted Assu and Ted Lewis, and the hard work of the treaty team: Dr. Dee Cullon, John Munro, Rod Visser and Dani Assu. We have made significant progress since the last Citizens' Assembly, and it is a direct result of the efforts of the entire team. I would also like to recognize and thank previous LTS Board Members for their leadership and contribution to the process.

The following is a brief update on some of the significant advances that have been made over the last year.

1. Incremental Treaty Agreement

We have reached an agreement with the negotiators from British Columbia on an Incremental Treaty Agreement ("ITA"). The ITA involves the return to We Wai Kai by British Columbia of lands in the lower Campbell Lake area. The lands that will be returned to We Wai Kai will be utilized primarily for forestry. These lands will provide We Wai Kai with significant economic benefits.

The lands will be transferred to We Wai Kai in two phases: the first phase will be transferred after the signing of the ITA; the second phase will be transferred after We Wai Kai approves the Agreement in Principle ("AIP"). The phases are consistent with best management practices, and will allow for value from the lands to be maximized.

These benefits will flow to We Wai Kai in advance of treaty and come with "no strings attached". We Wai Kai will keep the lands whether or not a treaty is signed. The ITA is a tangible benefit from the negotiations, and a demonstration of the commitment of all Parties to concluding a treaty with We Wai Kai.

The ITA is currently undergoing the final approval process by British Columbia before signing. We will hear more about this process later today when the Chief Negotiator for British Columbia, Heinz Dyck, is here.

2. Loan Forgiveness

There has been a major and very positive development on the issue of treaty loans. Canada has announced that: 1) as of April 1, 2018, indigenous nations in treaty negotiations will be funded through contribution (grant) funding only – there will be no future treaty loans effective immediately; and 2) all loans accumulated during the course of negotiations thus far will be forgiven, and will come off the books of the indigenous nations.

Details on forgiveness are still being developed; however this means that there is no longer a financial risk to We Wai Kai in negotiating the treaty and that the \$4.75 million in loans that have been accumulated (largely through no fault of We Wai Kai) will no longer be a burden on the community.

3. Recognition

One of the main challenges in negotiations has been the “certainty model”. Governments have taken the position that by entering into a treaty, the aboriginal rights and title of indigenous nations are either “surrendered” or “modified” into treaty rights. More recently, Canada and British Columbia have moved away from the “surrender” model and the “modification” model, but have included language in current treaties stating that rights not explicitly included in the treaty have “no legal force or effect”. We have argued that this is essentially the same as saying that these rights, including title, have been extinguished.

There has been a significant shift in approach on this issue and significant advances in ongoing negotiations. We are no longer negotiating a “certainty model”; rather we are discussing a “recognition model”. The starting point is Canada and British Columbia recognizing the aboriginal rights and title of We Wai Kai, including the right to self-government. The treaty no longer will include the “no legal force or effect” language, and Canada and British Columbia will agree in the treaty not to take the position that any rights or title have been surrendered or extinguished. The treaty will set out how the rights that have been recognized by Canada and British Columbia will be exercised.

This change addresses one of the fundamental concerns with the treaty process and helps to bring negotiations in line with the principles of the United Nations Declaration on the Rights of Indigenous Peoples, the decision of the Supreme Court of Canada in *Tsilhqot’in*, and Canada’s Recognition of Rights Framework.

4. Periodic Renewal

Canada and British Columbia have long expected that the treaty will be the “full and final settlement” of the rights of We Wai Kai. This philosophy, which considered the treaty to be the “Final Agreement”, has been replaced with the concept of the treaty as a “living tree”, which will evolve as the Crown-Indigenous relationship evolves. This recent change in approach to treaty making has been reflected in several ways, including: replacing the term “Final Agreement” with “Treaty”, removing the “full and final settlement language” and, most significantly, replacing the extremely narrow “periodic review” language with the concept of “periodic renewal”.

Through periodic renewal, there will be an opportunity to incorporate important case law, legislation, policy, and other agreements that occur after the treaty is signed. Periodic renewal will also allow us to assess whether or not the treaty is succeeding in meeting shared objectives/indicators, and to make amendments where required.

The inclusion of periodic renewal addresses one of the main concerns of treaty negotiations – “what if we sign on Monday, and the world changes on Friday”. Through periodic renewal, the treaty can evolve over time.

5. Momentum Towards Agreement in Principle (“AIP”)

The We Wai Kai treaty table has significant momentum. This is the result of many factors, including the active role of leadership at the table, the investment that has been made by the Nation and the Board in bringing significant capacity to the table, the relationships that have been developed with Canada and British Columbia, and the view by all Parties that an agreement with We Wai Kai is possible.

A significant factor in building momentum is the practical and collaborative approach to negotiations. This has enabled us to reach agreement on the ITA, and it has enabled us to develop an aggressive work plan and timeline to reach AIP. This approach is guided by the strong interest to move the table into the final stages of negotiations – where the core issues will be negotiated, and where the table can be distinguished from the many tables in British Columbia negotiating an AIP. For this reason, the focus of the table is on reaching, and moving beyond, AIP as efficiently as possible.

It is important to recognize that the AIP is not legally binding. Because of changing mandates, it will contain “punt” or “deferral” language on several key topics meaning that we will negotiate key parts of the treaty only after AIP. For example, the AIP will not include shared decision making. It will not include a fisheries chapter. It will not include the fiscal relationship between Canada and We Wai Kai. These will all be negotiated later and they will be included in the Treaty. The AIP will also not include the complete package of lands, cash or trees. These treaty benefits will be greater than what is included in the AIP, and will be negotiated after the AIP is ratified.

AIP is a necessary step in the process and an indicator of progress. But because it is not the treaty, it won't yet identify all that will come through treaty once we are done. It is simply a step in the process that shows we are moving towards a treaty settlement.

We strongly believe that the best course for our table is to reach AIP as quickly as possible and proceed to the final stage of negotiations. To do so, we are engaged in a collaborative process with British Columbia and Canada on the preparation of a “land and cash offer” for the purposes of AIP, and on concluding the chapters in the AIP.

We look forward to engaging with the community over the next 12 months, including presenting the AIP document and land package at upcoming meetings.

In closing, I am very excited and optimistic about the direction of our negotiations. We have an opportunity that has presented itself with the Liberal government in Ottawa and the NDP government in Victoria, and we are moving to seize this opportunity while we have willing partners in this important work.

I very much look forward to the dialogue at the Citizens' Assembly. I am pleased to answer any questions or to discuss these or any other issues in more detail.

Comprehensive Community Planning Update

Planning in First Nation communities is becoming more important as treaties are negotiated and settled, as governments move to consult with and often accommodate First Nation communities and as development is proposed on First Nation lands. In light of the governments' commitments to the United Nations Declaration on the Rights of Indigenous Peoples, planning is a way for First Nations to be prepared to respond to what lays ahead, while also achieving greater degrees of sovereignty and self-determination.

Comprehensive Community Planning (CCP) is one approach to planning. It is a process undertaken by the community to collaboratively create and design a plan that embodies the members' vision of the community's future. It is generally a three to five year process, depending on the size of the community.

Through grant funding, we have completed two years of work. The first year was spent talking to people to learn more about the vision people have for their future as We Wai Kai citizens. The second year was spent working directly with a committee of We Wai Kai people to put words to the collective vision and to develop a framework upon which the larger plan can be developed.

The committee is made up individuals from each family and there is a range of ages. The committee currently includes Daniel Billy, Violet Grey, June Johnson, Joy Lewis, Sharon Maksymetz, Gina Robertson, Verna Wallace, Cyrus Johnson, Cheylynn Paumau, Telisa Paumau, Jonathan Chickite, Tanille Johnston and Stuart Naknakim. Merci Brown also attends to keep the committee informed of band administration initiatives, interests and opportunities, and Dee Cullon attends to keep the committee informed of treaty initiatives, interests and opportunities.

CCP Vision Statement

After considering the previous We Wai Kai planning vision statement, community input from 2016/2017 and the committee's collective thoughts, the committee developed a vision statement to help guide their work:

We, the We Wai Kai embrace our language and culture to build a proud, healthy, safe and self-sufficient community. We support and encourage each other to thrive through following the footsteps of our ancestral history, as stewards of our lands and waters, while balancing our role in modern day society.

CCP Framework

The framework is a basic outline of the different categories that the eventual community plan will address. It is a list of the different pieces that should be considered. The categories the committee identified are: 1. Culture and Language; 2. Lands and Waters; 3. Community Wellbeing; 4. Governance; and 5. Economic Development. Issues and topics were then discussed and placed under their appropriate category. A number of topics were identified within each category and in some



cases, a topic was included in multiple categories. While there was recognition of the community's successes, there was also much discussion about issues that continue to concern the community. The intention is to identify general goals in each category that will help inform decisions makers who are responsible for implementing plans. Committee brainstorming was done with the help of posters and the details were later compiled into a spreadsheet that forms the framework.

Once funding for 2018/2019 is secured the committee will reconvene to continue their work. This will include much greater community consultation so please get involved when the opportunities arise.

Youth Filmmaking Workshop

As part of CCP, we secured funding for a youth filmmaking workshop. The goal was to engage the youth and to give them an opportunity to learn about filmmaking and voice their thoughts about something important to them in their community. We worked with Kristy Assu, a successful film producer and community member, to host a workshop with youth in the community. Thank you to Brooklyn Brown, Shyanne Johnson, Cyrus Johnson, Tamara Piggot, Kayla Christensen, Cheylynn Puamau and Austin Parr for the interest and enthusiasm you showed in this project. Thank you to June Johnson and the culture group for making yourselves available. Thanks to Lisa Johnson for your help and to Michael Bourquin who helped teach sound and editing. And a huge thank you to Kristy Assu for being such a great support and role model for the youth filmmakers. And finally, congratulations to Brooklyn and Shyanne for producing their films and earning \$100 each in the process.