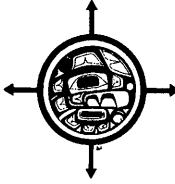


OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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October 31, 2007

Carole James
Leader of the Official Opposition
Room 201, Parliament Buildings
Victoria, BC V8V 1X4

Dear Carole:

As President of the Union of British Columbia Indian Chiefs, I am writing to you regarding the stated position of the Official Opposition with respect to Bill 40 - *Tsamwassen First Nation Final Agreement Act*

The UBCIC and its member Nations and communities have forwarded repeated proposals, petitions, statements and resolutions presented to governments calling for the resolution of the Land Question, based on recognition and respect for our Aboriginal Title and Rights.

Provincial and Federal policies have moved from one of direct assimilation, to one of claims. Governments were forced to change their policies of denial and outright assimilation in response to the Supreme Court of Canada's 1973 decision in *Calder*¹, which recognized Aboriginal Title as a pre-existing legal right to the land. Indigenous Peoples then successfully fought for the inclusion of Aboriginal Title, Rights and Treaty Rights in s. 35 of the *Constitution* in 1982.

The Supreme Court of Canada has continued to articulate principles governing the Aboriginal/Crown relationship in decisions such as *Delgamuukw*², *Haida*³, *Taku*⁴ and *Morris*.⁵ The Court's decisions have eclipsed the 1986 Comprehensive Claims Policy, which is now contrary to law. As you may know, to a large extent, the Comprehensive Claims Policy serves as the basis of the BC Treaty Commission Process.

Provincial laws continue to apply on our territories and interfere with our Aboriginal Title, disrespect our laws which have taken care of the land for centuries, and leave our people living at a standard far below that of British Columbians. While Canada has been ranked at the highest level in the UN Human Development Index which measures how different countries compare to one another based on the standard of living for their citizens, Indigenous Peoples within Canada are ranked below many Third World countries. The impact of this disparity in wealth and living conditions upon our people is brutal.

Canada and the provincial government have chosen to focus their efforts and resources on negotiating Treaties within the BCTC process. All Treaties negotiated under the BCTC process are subject to the constraints of the Comprehensive Claims Policy reflecting a denial of Aboriginal Title and a surrender and grant-back process. First

¹ *Calder v. Attorney General of B.C.*, [1973] S.C.R. 313.

² *Delgamuukw v. The Queen*, [1997] 3 S.C.R. 1010.

³ *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511.

⁴ *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, [2004] 3 S.C.R. 550.

⁵ *R. v. Morris*, [2006] 2 S.C.R. 915.

Nations negotiate with the Crown for recognition of specialized Treaty rights; in exchange, they must agree to surrender all of their Aboriginal Title to the totality of their traditional territories. Negotiating a Treaty under such a Policy is not an option for UBCIC and its members who will never exchange their territory for limited Treaty rights.

Indigenous Nations outside of the BCTC process have been ignored and are expressly excluded from any consultation about the impact of agreements being negotiated within the BCTC process on their Aboriginal Title and Rights. This deficiency has resulted in a wave of First Nations litigation as we recently saw with the challenges by the Shuswap Nation and Treaty 8 First Nations to the Lheidli T'enneh Final Agreement, and the current challenges by the Semiahmoo, Sencoten Alliance and Cowichan to the Tsawwassen Final Agreement as well as Tseshah to the Maa-nulth First Nations' Final Agreement. As well, public demonstrations such as the one held at the opening of the current Legislature Session, will continue.

The continued refusal to deal with the Land Question honourably and justly by acknowledging Aboriginal Title as the Supreme Court of Canada has directed only leads to more confrontations. Indigenous Peoples have spent over three decades and countless billions of dollars in Canadian courts to achieve the recognition of Aboriginal Title, Rights and historic Treaty Rights in British Columbia, and the legal articulation of the corresponding constitutional duties on the Crown. In spite of court rulings, the provincial and federal positions and policies remain deeply embedded in a political and legal culture which remains unresponsive, not only to Indigenous Peoples, but to the direction provided by the highest court.

It is the opinion of the Union of BC Indian Chiefs that the Official Opposition has no business to support any final agreement arising from the BC Treaty Commission Process.

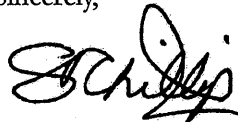
Clearly, the sole intent and purpose of the BC Treaty Commission Process is to extinguish our Aboriginal Title and terminate our Aboriginal Rights!

As the Official Opposition, we urge you all to listen to the overwhelming majority of Indigenous Nations in BC who stand oppose to the current treaty process but as well to heed the decisions of the Supreme Court of Canada. Such final agreements serve to extinguish Aboriginal Title and terminate our Aboriginal Rights.

Further, the Union of BC Indian Chiefs believes that all parties, provincially and federally, should fully respect the United Nations' Declaration on the Rights of Indigenous Peoples. It is an international human rights instrument and we challenge all parties to take a step forward and work with Indigenous Nations to implement and uphold the principles contained in the Declaration.

Finally, the Union of BC Indian Chiefs fully supports the notion that members of the Official Opposition should be able to express the will of their constituents and their conscience through a free vote on Bill 40.

Sincerely,



Grand Chief Stewart Phillip
President

CC: NDP Caucus
UBCIC Chiefs Council
BC First Nations Leadership Council