



pgtacc Vol 1, Issue 1
BULLETIN

Local Government Interests in BC Treaty Negotiations

Sept '99 Issue Highlights LTN Access Sub-Agreement 2
LTN Culture and Heritage Resources Sub-Agreement 3 LTN Dispute Resolution Sub-Agreement 3 Prince George TAC Membership 4 LTN Eligibility and Enrolment Sub-Agreement 4 LTN Forestry Enrolment Sub-Agreement 5
Updates on negotiations with Prince George TAC 5 LTN Subsurface and Mineral Resources Sub-Agreement 6 Smithers TAC 6 LTN Parks and Protected Areas Sub-Agreement 7 Northern Treaties TAC 7

Upcoming Meetings PGTAC 09/24/99 Regional District Offices
PGTAC 10/27/99 Regional District Offices

Consultation Gap Growing

► The Prince George Treaty Advisory Committee is concerned about the lack of meaningful consultation on a range of treaty subjects in our region.

This concern was brought to the attention of the Minister of Aboriginal Affairs by the chair of the Prince George Treaty Advisory Committee in September of this year.

The issues of immediate concern to the PGTAC are as follows.

- Local government interests in Lheidli T'enneh negotiations;
- Local government interests in interim measure negotiations with the Carrier Sekani Tribal Council;
- Local government interests in Yekooche negotiations;
- Local government interests in Treaty Adhesion negotiations with the McLeod Lake Indian Band.

In all of these issues and others, the PGTAC is awaiting feedback from the Ministry of Aboriginal Affairs on written and verbal comments we have offered MAA. In over two years of meetings with MAA the PGTAC has received no written feedback or evidence of consultation.



► (l to r) Mayor Tom Briggs of Mackenzie, Councillor Ron Thiel of Prince George and Mayor Frank Read of Vanderhoof review treaty documents.

Who are We?

The Prince George Treaty Advisory Committee is one of 17 Treaty Advisory Committees set up to represent municipal interests in BC treaty negotiations.

Our membership is from the elected municipal councils of the cities, districts, towns and villages within the Regional District of Fraser-Fort George and the Regional District of Bulkley-Nechako in Central BC.

The 11 members of the PGTAC sit as part of BC's treaty negotiation team on four sets of land claims negotiations in our region. Through our affiliation and membership with other TACs we are part of negotiating teams on several other sets of talks as well.

Lheidli T'enneh Treaty Negotiations Access Sub-Agreement

PGAC Representatives: Mayor Maurice Bonneville, Councillor Bob Balcaen, Village of McBride

▶ The purpose of this document is to outline how the negotiated access of outside influences on and through Lheidli T'enneh Treaty Settlement Lands and Non-Treaty Settlement Lands will be dealt with.

Provisions of the Sub-Agreement

This chapter explains how the public will continue to have access to Settlement Lands. "Reasonable public access" includes "temporary non-commercial and temporary recreational uses," although harvesting or resource extraction would require Lheidli T'enneh Government authorization or must be provided for in the Final Agreement.

This chapter states how LTN government must provide access on or through Settlement Lands for holders of tenures either on Settlement Lands or through Settlement Lands if no reasonable access exists across Crown land.

The LTN must provide "reasonable opportunities for the public to hunt and fish on Treaty Settlement Lands" in accordance with provincial, federal

and Lheidli T'enneh laws in accordance with the Final Agreement.

This chapter allows access of LTN lands by federal and provincial authorities to perform their duties.

The existence of post-treaty fee-simple lands is recognized and the LTN will have the same rights and obligations as owners of estates in fee simple.

Overall the wording of this chapter is clear and easy to follow. The overall appearance of this chapter is similar to that in the Nisga'a Final Agreement. However implementation of this chapter will depend on land selection and other issues to be determined elsewhere in the treaty.

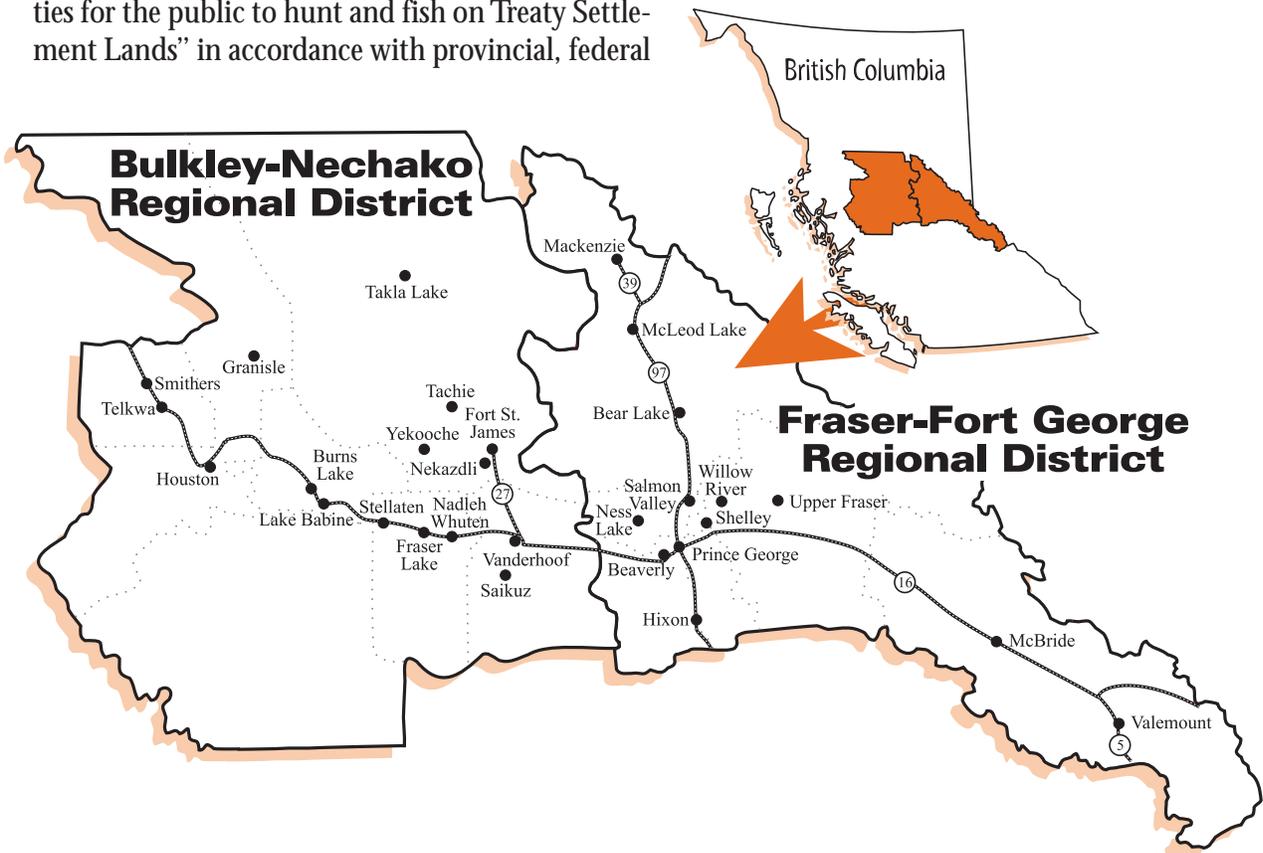
Local Government Comments

As it is written this chapter specifically addresses one of the PGTAC's specific interests, namely Access to Resources through Planning.

The PGTAC has no comments on this sub-agreement other than the implementation of this chapter will depend on the land selection process.

Recommendations

The PGTAC has no recommendations at this time.



Lheidli T'enneh Treaty Negotiations Culture and Heritage Resources Sub- Agreement

▶ This sub-agreement outlines and defines LTN jurisdiction, access and records of Culture and Heritage resources on and off treaty settlement lands.

Provisions of the Sub-Agreement

This chapter outlines LTN law making authority over culture and heritage resources on treaty settlement lands.

It also states that federal and provincial laws will apply to culture and heritage resources over treaty settlement lands and that LTN will not unreasonably deny public access to these resources on treaty settlement lands.

Access to heritage will be allowed under this agreement. Also covered in this chapter are human remains, LTN artifacts and records, and heritage sites and key geographic features.

Local Government Comments

There needs to be greater clarity in respect to implementing the LTN language on place names and with signage. If British Columbia names or renames with Dakelh names the geographic features that meet provincial policy requirements for naming how will it impact municipalities.

For example will maps and signage have to be changed. If it is done it must be without cost to the local government.

Recommendations

The PGTAC recognizes the significance and importance of LTN culture however this recognition must not come at the cost of local, provincial, federal or other First Nation history.

The treaty should state that changes to maps and signage will be at the expense of the Parties to the treaty and not to local governments.

Lheidli T'enneh Treaty Negotiations Dispute Resolution Sub-Agreement

▶ The purpose of this document is to outline how disagreements and conflicts are to be handled once the Treaty Agreement is signed.

Provisions of the Sub-Agreement

The sub-agreement outlines the procedures to be followed for resolving disputes associated with the interpretation or implementation of the Final Agreement. Procedures for choosing a mediator and arbitrator are included in this document. The general procedural clauses include the following:

The provisions of the document include:

- The parties will at all times endeavor to agree on the interpretation or implementation of the Final Agreement.
- When notified of a Dispute, the Parties will meet and determine the participating Parties to the Dispute. The Parties to the Dispute will decide whether mediation, arbitration or other techniques of dispute resolution will be used and the costs of such services will be paid.
- The Parties to the Dispute will negotiate in good faith and attempt to resolve the Dispute within a reasonable period of time.



▶ *Terry Burgess, PGTAC chair.*

There are linkages between this sub-agreement and all sub-agreements. The parties need to determine if any specific sub-agreement or a particular paragraph requires a specific dispute resolution process. A full review of all sub-agreements will be required to make this determination prior to concluding the Agreement-in-Principle.

Local Government Comments

This chapter specifically addresses one of the PGTAC's general interests, namely the creation of a mechanism to resolve disputes between First Nations and governments.

Several points about this chapter do not ensure that post-treaty disputes between municipalities and First Nations will be resolved through this mechanism or that municipal governments will be informed about disputes.

As currently written this process does not allow for any municipal participation, consultation or referral. Unless otherwise agreed, the dispute resolution process applies only to the treaty currently being negotiated.

The wording of this sub-agreement is similar to the wording in the Nisga'a Final Agreement with the exception that Nisga'a provides for an Elders

Council as part of the comprehensive model for dispute resolution. Lheidli T'enneh contemplates a similar body called a Community Advisory Council however the mechanism and criteria for selection to this council is undetermined.

Recommendations

That the Final Agreement makes provision for municipal consultation in any dispute that may affect their services or jurisdictions.

That the Final Agreement make provision for dispute resolution among the parties and local government where their interests and residents are affected by any of the Agreement provisions.

Lheidli T'enneh Treaty Negotiations Eligibility and Enrolment Sub-Agreement

► This sub-agreement defines who would be eligible as a Lheidli T'enneh citizen and therefore entitled to treaty benefits under the Final Agreement.

Provisions of the Sub-Agreement

This chapter establishes the eligibility criteria for enrolment in the LTN.

It also outlines the procedure for enrolment within the band and the bodies and mechanism that will oversee LTN enrolment. Anyone applying for membership has the burden of demonstrating that he or she meets the eligibility criteria.

An applicant enrolled in another land claims agreement may apply for benefits under the LTN but is not entitled to receive benefits under both agreements at the same time.

LTN will establish an Enrolment Committee to establish procedures and set time limits. An initial enrolment period will be no longer than a year prior to the Effective Date. The Enrolment Committee will maintain an Enrolment Register and publish its procedures.

An Enrolment Appeal Board will be established by LTN, Canada and BC

Costs of the Initial Enrolment Period will be covered by Canada and BC to an agreed budget. LTN government will be responsible for enrolment following the Initial Enrolment Period.

Prince George Treaty Advisory Committee Membership

Chair: Terry Burgess, Director Regional District of Fraser Fort-George

Vice-chair: Charles (Sonny) Beck, Director, Regional District of Bulkley Nechako

Ron Thiel, Councillor, City of Prince George

Maurice Bonneville, Mayor, Village of McBride

Joan Nordli, Councillor, Village of Valemound

Tom Briggs, Mayor, District of Mackenzie

Frank Read, Mayor, District of Vanderhoof

Jim Togyi, Mayor, District of Fort St. James

Robert Minger, Councillor, Village of Burns Lake

Bonny Hawley, Councillor, District of Houston

Administrator: Anne Hogan, Regional District of Fraser-Fort George

Decisions of the Enrolment Appeal Board may be applied to the Supreme Court of British Columbia for Judicial Review under grounds laid out in the sub-agreement.

Local Government Comments

Enrolment will be a key factor in determining the Final Agreement. There must be a firm idea of who belongs to LTN at time of Ratification and how adjustments are going to work re. Growth or decrease in band population.

Recommendations

The potential for applicants to be able to receive benefits from another lands claims agreement as well as that of LTN must be eliminated. Any loopholes that would permit this must be closed.

Lheidli T'enneh Treaty Negotiations Forestry Enrolment Sub-Agreement

▶ This sub-agreement defines the rights and responsibilities of the Lheidli T'enneh regarding forest resources on their lands. It also attempts to outline federal, provincial and Lheidli T'enneh responsibilities regarding forest health and forest fire suppression.

Provisions of the Sub-Agreement

Forest resources on LTN lands will be owned by LTN. Provincial forestry and range laws including those relating to forest practices applicable to BC Crown land will apply to Treaty Settlement Lands. Lheidli T'enneh laws relating to Forest Resources and Forest Activities applicable on Treaty Settlement Lands will meet or exceed provincial standards applicable to BC Crown lands.

Canada and BC will consult with LTN with respect to management and planning of Forest Resources and Forest Activities within the Statement of Intent Area which may be expected to affect LTN rights under the Final Agreement. In the same way Lheidli T'enneh Government will consult with BC and Canada on issues that may affect forest resources and forest activities on Crown land.

An orderly and efficient transition of Lheidli T'enneh authority on and management of Forest

Negotiations Update

Yekooche First Nation

PGTAC representative: Councillor Sonny Beck, Regional District of Bulkley Nechako.

▶ Negotiations with Yekooche halted in spring with a leadership review of band governance and election structure. Prior to this review Yekooche negotiations were moving well through the Agreement-in-Principle stage with the objective of completing AIP negotiations by early 2000. PGTAC members reviewed Yekooche chapters on Access, Culture and Heritage Resources and Eligibility and Enrolment. Negotiations could resume this fall following band elections.

Carrier Sekani Tribal Council

PGTAC representative: Mayor Frank Read, District of Vanderhoof

▶ Negotiations with the CSTC lost momentum early in 1999 as talks shifted to issues of interim measures in land and resources related topics. Prior to this the CSTC was in Stage 4, Agreement-in-Principle negotiations. Talks with CSTC, Canada and BC are now uncertain. Forestry Interim Measures discussions were attempted in April under the direction of the BC Treaty Commission, however a framework for those negotiations is still undecided.

In May of 1999 the PGTAC wrote to the Ministry of Aboriginal Affairs regarding concerns of consultation and information about interim measures and how they applied to the PGTAC.

The PGTAC is not aware of any treaty or treaty-related talks scheduled with CSTC.

Cheslatta Carrier Nation

PGTAC representative: Councillor Sonny Beck, Regional District of Bulkley Nechako.

▶ The Cheslatta completed Stage 2, Readiness, in 1997 and the BC Treaty Commission declared the Cheslatta table ready on November 1997. Although officially in Stage 3, There have been no Agreement-in-Principle negotiations since then.

Resources on Treaty Settlement Lands will be included in the transitional provisions of the AIP and the Final Agreement.

Local Government Comments

The PGTAC is looking for sub-agreement wording that ensures sustainability of the forests' resources. Unlike the Nisga'a Final Agreement or the McLeod Lake Final Agreement where there are provisions limiting the construction of primary timber breakdown facility there is no mention of this in the LTN sub-agreement.

Consultation on forest activities is a significant component of this sub-agreement, however the meaning of consult and consultation is not determined. Although Sections 10 and 11 involve consultation there are no provisions for local government or municipal consultation.

Forest practices must be fair and equitable for all. Forest practices code or rules on Lheidli T'enneh treaty settlement lands must meet or beat provincial standards.

It is important to recognize that tenure can affect more than one resource or industry, specifically in forestry and mining. If the PGTAC's interests in Community Stability are disrupted or impacted by

treaties there must be compensation. Furthermore compensation may have to address issues other than monetary compensation, as cash may not work as compensation for all communities.

Recommendations

The PGTAC is looking for sub-agreement wording that would ensure community stability. Wording such as appears in the Nisga'a Final Agreement or the McLeod Lake Final Agreement that prevents construction of primary timber breakdown facility within a certain time would enhance stability.

The PGTAC needs a definition of consult and consultation that would be applicable to all treaties in this region.

Lheidli T'enneh Treaty Negotiations Subsurface and Mineral Resources Sub-Agreement

► This sub-agreement attempts to define and describe Lheidli T'enneh ownership of subsurface and mineral resources on Treaty Settlement Lands as well as provincial and LTN jurisdiction over these resources within the LTN Statement of Intent area.

Provisions of the Sub-Agreement

This chapter defines key terms relevant to these resources. Jurisdiction over these resources is described particularly over Treaty Settlement Lands. Ownership of these resources will be conferred to LTN Government. Lheidli T'enneh Government may make laws applicable on and beneath the surface of Treaty Settlement Lands.

However LTN Government will not have jurisdiction over exploration, development and production of Petroleum and Natural Gas.

Federal and Provincial laws will apply to these resources on and beneath Treaty Settlement Lands. In the event of a conflict between these and LTN laws the federal or provincial law will prevail.

Existing tenures will continue in accordance with the terms and conditions of those tenures. Lheidli T'enneh Government will receive fees and royalties from the exploration and production of these resources on Treaty Settlement Lands.

Smithers Treaty Advisory Committee

Chair: Bonny Hawley, Councillor, District of Houston

Members: Norm Adomeit, Town of Smithers; Harold Kerr, Director, Regional District of Bulkley-Nechako; Paul Jean, Mayor, Village of Burns Lake; Alice Maitland, Village of Hazelton; Herman Parks, Village of Granisle; Fred Roisum, Village of Hazelton; Susan Szufnarowicz, Village of Telkwa; Rick Van Valkengoed, Regional District of Bulkley-Nechako; Pieter Weeber, District of New Hazelton.

Administrator: Jay Simons

► Negotiations with the Wet'suwet'en Nation have moved slowly in 1999. As this is the only treaty negotiations the Smithers TAC follows activities have been few. The Smithers TAC is examining the possibility of meeting prior to or during the U.BCM. convention in Vancouver in late September.

Canada and BC will consult with LTN Government with respect to exploration and other issues of mineral and subsurface resources on or beneath the surface of non-Treaty Settlement Lands, which may affect LTN rights.

Local Government Comments

Access to sand and gravel and other resources necessary for municipal growth is an ongoing interest of the PGTAC. Although this chapter contains reciprocal wording between LTN and BC for access to sand and gravel resources there is no similar wording for municipalities. Nor is the existing wording definitive in terms of LTN jurisdiction off Treaty Settlement Lands.

Reclamation is also unresolved at this point. It appears the Parties have agreed to wait until land selection has been negotiated before revisiting this issue.

Recommendations

The PGTAC would like to see more specific wording as to which federal and provincial laws apply.

Access to municipal resources and reserves of gravel, sand and topsoil must be kept open for a period of 20 or 30 years. The PGTAC seeks greater clarity and definition on the state of provincial sand and gravel interests in the PGTAC region and LTN Statement of Intent area.

It would be preferable that subsurface rights be used a bargaining tool in negotiations rather than forestry, fish and wildlife rights.

Lheidli T'enneh Treaty Negotiations Parks and Protected Areas Sub-Agreement

► This sub-agreement explains the management and creation of Federal and Provincial laws to parks, protected areas, ecological reserves and national historic sites on Treaty Settlement Lands.

It also formalizes LTN rights to harvest fish and wildlife and exercise other rights under provisions of the Final Agreement.

Provisions of the Sub-Agreement

Federal and Provincial laws will apply to Parks, Protected Areas, Ecological Reserves and National Historic Sites on LTN Treaty Settlement Lands.

British Columbia will consult with the LTN on any changes to the classification or boundaries of any of these places within the Statement of Intent Area. Canada and BC will consult with LTN with respect to the establishment of any of these places within the Statement of Intent Area after the Effective Date. They will also consult on additions to any of these places within the SOI Area, which may reasonably be expected to affect LTN rights under the Final Agreement.

Canada and BC will also consult with LTN Government on planning and management of these places as well as the development and review of plans prepared for these places within the SOI Area.

Northern Treaties Treaty Advisory Committee:

Chair: Tom Briggs, Mayor, District of Mackenzie

Members: Jacquie Allen, Northern Rockies Regional District; Jonny Anderson, Dease Lake ; Karen Goodings, Chair, Peace River Regional District; Ewald Lemke, Atlin Planning Commission; Joanne Monaghan, Chair Regional District of Kitimat-Stikine.

Administrator: Brian Ritchie, District of MacKenzie.

► This year has been an active one for the Northern Treaties TAC. Talks with the Tsay Keh Dene near Mackenzie have been renewed following the presentation of a comprehensive package to Canada and BC from the Tsay Keh late in 1998. Other negotiations include the Kaska Dena Council and the Northern Regional Negotiations with the Carcross/Tagish First Nation, the Champagne and Aishihik First Nations, the Teslin Tlingit Council and the Taku River Tlingit First Nations. All talks are in Stage 4 negotiations.

The Northern Treaties TAC is planning only its third face-to-face meeting ever this fall with a meeting prior to the Union of BC Municipalities Convention. Distance and time have made face-to-face meetings of the NTTAC a rare event.



Local Government Comments

As in other sub-agreements, the meaning and definition of Consult is undecided. This definition is important within this sub-agreement and needs to spell out. Defining consultation could be completed before other definitions are established.

Overall there is little in this sub-agreement affecting PGTAC interests.

Recommendations

A Final Agreement with the LTN or any other First Nation will curtail band members and others from the building of shelters in parks, protected areas, ecological reserves or national historic sites.

For full information on our membership and terms and reference please visit our website at: <http://www.pgweb.com/treaty/>

The PGTAC Bulletin is published periodically by the Prince George Treaty Advisory Committee. The PGTAC's offices are through the Regional District of Fraser-Fort George, 987 Fourth Ave. Prince George, BC V2L 3H7.

Contact us by telephone (250) 960-4400 or by fax (250) 563-7520.

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