

Ministry of Agriculture
BRIEFING NOTE FOR MEETING with ^{s.22}

on March 2, 2016

Ref: 183586

Date: February 9, 2016

Issue: Brunswick Point (Delta) farmers seek Ministry support to repurchase previously expropriated lands.

Background:

- Brunswick Point families ^{s.22} lost approximately 2,000 acres of land in a mass expropriation in the spring of 1968. The land was designated for industrial development to serve the new superport. However, construction of the port took place on filled land and expropriated lands were later leased back to the previous owners for agricultural purposes and put into the ALR.
- In 1999, the provincial government agreed to sell back much of the expropriated land but that offer wasn't extended to Brunswick Point farmers because it was under treaty claim by the Tsawwassen First Nations (TFN).
- In a 2006 lawsuit filed in B.C. Supreme Court, the Brunswick Point families asked the courts to grant them first right of refusal to buy the lands back from the Province. In 2011, an agreement was reached which allows the provincial government to sell the Brunswick Point lands back to the previous owners, while still supporting the terms of the Tsawwassen treaty.
- More recently, another First Nation band, (Hwilitsum, anglicized "Wilson Family") are laying claim on a large swath of land in BC, including the Brunswick Lands. The Hwilitsum band regained full Indian status in 2000 after court action but has been unable to get official federal or provincial recognition of their band yet.
- AGRI staff was advised that there are two litigations before the courts. Firstly, ^{s.22} families seek a declaration that they, and not the First Nations, have the right of first refusal to purchase the land. Secondly, the Hwilitsum are seeking provincial recognition. However, AGRI staff was advised by partner agencies that those two court cases are not related.
- AGRI staff was advised there is no legal impediment to the sale of the lands to the Brunswick Point families. However, as long as the matter is before the courts, the Province is not currently proceeding towards any land transactions. The Ministry of Forests, Lands and Natural Resource Operations (FLNRO) is responsible for Crown Land transactions.
- Farmers seeking to repurchase previously expropriated land have stated they want to purchase it at the price it was expropriated for. Provincial policy is to sell land at current market value but the farmers could not secure financing at that value. AGRI staff does not have information that this matter is part of the litigation before the courts.

First Nations Considerations: The Tsawwassen treaty requires that TFN be provided the first right of refusal for 80 years should the leasehold lands be sold outside the Brunswick Point's families. The role and claims of the Hwilitsum band is currently before the courts.

Discussion:

- Because of the ongoing litigation, AGRI staff had difficulty gathering detailed information from partner agencies. It is unclear whether the land transfer to the previous owners is in abeyance predominantly due

to First Nation claims or because the farmers seeking to repurchase the Brunswick Point lands could not secure financing.

- The previous landowners had been bona fide farmers on the subject land since the late 19th century. Younger family members have expressed interest to continue farming the land. If the previous landowners repurchased the land, the parcels would stay in the ALR and the land most likely remain in agricultural production.
- The future land use of the parcels is unclear if sold to the First Nation bands.
- Although AGRI is interested in keeping the land in agricultural production, there is little AGRI can do to intervene as long as the matter is before the courts.

Next Steps: n/a

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