

Youell, Brandie IRR:EX

From: Balcaen, Trish L IRR:EX
Sent: Monday, December 24, 2018 9:45 AM
To: Youell, Brandie IRR:EX
Subject: FW: Jason and Diane

Follow Up Flag: Follow up
Flag Status: Completed

Found a responsive record for the FOI

That's all I've got

From: Wheler, Francesca M IRR:EX
Sent: June 4, 2018 4:27 PM
To: Balcaen, Trish L IRR:EX <Trish.Balcaen@gov.bc.ca>
Cc: Doug Konkin [s.22](#)
Subject: Jason and Diane

Why does this sound like a John Mellencamp song? Doug did a good job of going through current status of the negotiations. Their real interest was the Dasiqox Tribal Park – they've obviously seen the new website online – and what joint management might look like of Cat B lands and where Cat A lands may be. Doug talked about the work plan that will be discussed on Tuesday, etc.

They would like updates as available – especially if the province is going to commit to something around co-management and/or the park. They'll likely reach out to you, Trish.

F.

From: [Balcaen, Trish L IRR:EX](#)
To: [Pocock, Sharon GCPE:EX](#)
Cc: [Wood, Jessica IRR:EX](#)
Subject: IN_Tsilhqotin Accord_20Feb2018_draft
Date: February 23, 2018 6:10:28 AM
Attachments: [IN_Tsilhqotin Accord_20Feb2018_draft.docx](#)

Hi Sharon,

I have a few comments in this. I'm also copying Jessica so she's in the loop.

Cheers,
Trish

Confidential Issues Note - ADVICE TO MINISTER

Ministry of Indigenous Relations and Reconciliation

Date: Feb 20, 4, 2018

Minister Responsible: Hon. Scott Fraser

Tsilhqot'in Accord

RECOMMENDED RESPONSE:

s.13

Nenqay Deni Accord: [pronounced Nen-kay Denay]

- We want to see the accord resolve uncertainty for Cariboo-Chilcotin residents, stakeholders, and neighbouring First Nations about land use in the Tsilhqot'in title area and broader traditional territory.
- By working together to resolve uncertainty, we can strengthen the regional economy, improve economic and social conditions for First Nations, and protect existing jobs for all Cariboo-Chilcotin residents.
- Since the accord was signed, the Province has had discussions with industry associations, local government representatives, private landowners, timber licensees and tenure-holders on the title lands, and neighbouring First Nations.
- Negotiation of potential additional lands for the Tsilhqot'in nations has yet to begin, but private lands are excluded. Any lands subject to negotiation will be provincial Crown land only.

Progress in the first two year of the Nenqay Deni Accord

- This is a five-year framework agreement and provincial staff and the Tsilhqot'in carried out valuable early work developing terms of reference and work plans to guide future negotiations.
- Stakeholder engagement and information sharing is a key priority as we move through this five-year framework agreement.
- Some work in 2017 was hindered by the interregnum and extreme wildfire period, however, however in October 2017, B.C. and Tsilhqot'in signed a Recommitment Letter and we look forward to re-energizing our work with the Tsilhqot'in under the Accord.
- We are committing to work with the Tsilhqot'in, neighbouring nations and stakeholders to achieve certainty for residents of the Cariboo-Chilcotin.
- We know there are many different paths to reconciliation, but the common thread is the importance of working transparently and collaboratively to find mutually beneficial solutions that make a difference in people's day-today lives.

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KEY FACTS:

Letter of Commitment:

- On Oct. 31, 2017 B.C. and Tsilhqot'in signed a letter of commitment designed to re-energize and renew work under the Nenqay Deni Accord.
- The letter notes B.C.'s commitment to implement the Supreme Court of Canada's Tsilhqot'in Decision, UNDRIP and the TRC's calls to action, and highlights B.C. and Tsilhqot'in's shared goal to turn these commitments into action at each of the five Accord sub-tables and for each of the eight 'Pillars of Reconciliation' that support the Accord.

Progress to date since the Nenqay Deni Accord was signed in February 2016

- Discussions haven't started on the big issues of land settlement; either governance or land and resource management.
- Since the Accord was signed, the Tsilhqot'in have been explaining it to adjacent First Nations and opening discussions with Canada on its role in the reconciliation work.
- Little progress has been made in year two of the Accord. The interregnum and extended government caretaker period and the extreme 2017 wildfire season interrupted work under the Accord. The Oct. 31, 2017 Letter of Commitment is intended to re-energize the process.
- The Province and the TNG had signed bridging agreements that provide interim Tsilhqot'in consent for guided angling, guide outfitters and provincial parks (among others) to continue within the Title Area, although some of these agreements expired March 31, 2017. Agreements on trapping and recreation sites were re-signed. Agreements related to guide-outfitters and ranchers (grazing) remain current. Guide-outfitters expires March 31, 2019 and Ranchers expires Dec. 31, 2019. The agreements on provincial parks and angling were renegotiated, but not signed and as of September 2017, TNG has said that as the season is almost over, they will not sign the outstanding 2017 agreements. The agreements will have to be renegotiated in 2018 and early indications are that consent may not be provided for all current/prior operators in the area. A new bridging agreement related to the Land Act was also negotiated, but not signed.
- Tsilhqot'in received \$498,000 from the provincial Rural Dividend Fund toward an \$830,000-project to develop a post-and-rail mill at the former River West mill site on Highway 20. The Tsilhqot'in are working with West Fraser Timber on the project. The Toosey Indian Band also received \$369,000 through the fund for a pilot project to train 12 community members to build solid timber homes.
- Tsilhqot'in are concentrating on capacity building in order to participate in negotiations and implementation of the accord.
- Sub-tables identified by the accord have been set up. These include Governance, Economic Development, Social, Cultural, Education and Justice, Lands and Resources and Declared Title-area Implementation.
- Each of the five sub-tables has developed a Terms of Reference and work plan.
- The transition of the Declared Title Area to Tsilhqot'in management, benefit and control is a priority. Work is focused on previously issued tenures authorized by B.C. in the title area.
- A stakeholder engagement strategy has been developed, which will evolve as work progresses.
- A series of open houses were held in February 2017 to provide information to interested members of the public and neighbouring First Nations about progress to date on the accord and what the next steps are. The open houses coincided with the run-up to the first anniversary of the accord.

Commented [TLB2]: I think background material could be synthesized/shortened – we have a mix of key topics that are dated (ie. Forestry – issue 2 years old) and the chronology

Recommend having the topical issue of the day set out first (ie. Tourism operators) then get into chronology

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- On March 31, 2017, B.C. renewed the Tsilhqot'in Stewardship Plan. The main change is that the map will shrink to reflect the map shown in the accord.
- Both B.C. and Tsilhqot'in are engaging with neighbouring First Nations, including the Southern Dakelh Nation Alliance, that have overlapping claims to the accord area.

ABOUT THE SUPREME COURT OF CANADA DECISION:

- On June 26, 2014, the Supreme Court of Canada awarded Aboriginal title to the Tsilhqot'in National Government on 1,700 square kilometres west of Williams Lake.
- The ruling was the first in Canada to recognize Aboriginal title.
- It also stated that B.C. breached its duty to consult the Tsilhqot'in and clarified that B.C. laws apply to lands held under Aboriginal title subject to certain limitations.
- Since the decision, B.C. has been working with the Tsilhqot'in toward greater reconciliation. The most recent milestone occurred on Oct. 31, 2017 with the signing of the Commitment Letter to recommit to working together under the Nenqay Deni Accord.
- The Tsilhqot'in includes the six First Nation communities of: Xeni Gwet'in (Nemiah Valley), Tsi Del Del (Alexis Creek/Redstone), ?Esdilagh (Alexandria), Yunesit'in (Stone), Tl'esqox (Toosey) and Tlet'inqox (Anaham). The communities do not participate in the BC Treaty Process.
- **Media:** There has been high media coverage on the implications of the 2014 Tsilhqot'in decision for other First Nations and on the decision to grant Taseko's New Prosperity Notice of Work application.

Communications Contact: Sharon Pocock 7-1253

Program Area Contact: Francesca Wheeler, Doug Konkin, Alexandra Banford

- Appendix 1: Tribal Park, Forestry, Mining and Tourism
- Appendix 2: Reconciliation Efforts - Chronology

APPENDIX 1:

DASIQOX TRIBAL PARK:

- The Tsilhqot'in made a formal declaration of Dasiqox Tribal Park on July 26, 2015, at Fish Lake.
- Williams Lake Mayor Walter Cobb voiced criticism in the media of presumed reduced land use for economic development stemming from the park declaration. Local government officials wrote to the

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Province requesting clarification of tribal park status and voicing opposition to any further protected areas in the Cariboo that would limit economic development.

- s.13,s.16
- The Province continues to have jurisdiction over issuing permits and permissions on Crown land, including land within Dasiqox Tribal Park boundaries. Tribal parks are not official parks within the provincial park system. Only the Province determines which lands will be designated provincial parks and protected areas. Prior to the Province designating any protected area, government would consult with all affected stakeholders, including First Nations.
- The asserted tribal park is in the area where Taseko Mines has advanced the review of their New Prosperity proposal. s.13
s.13
- In Estimates on Oct. 31, 2017, the minister was asked what government intended to do about the tribal park. Minister Fraser indicated that he knew of no commitment to create a tribal park. The critic requested that the subject be researched.
- s.16

MINING:

- Prosperity Mine: Taseko's proposed New Prosperity project is within the proven Tsilhqot'in rights area but not within the proven title area. The Tsilhqot'in have opposed the project at every stage.
- In January 2015, the TNG reacted negatively when the Province granted a five-year extension to an environmental assessment certificate for New Prosperity. The extension was for an earlier version of the project, not the version that had been rejected by the federal government.
- Taseko has submitted a proposed amendment to the New Prosperity mine project to the B.C. Environmental Assessment Office. Tsilhqot'in remains strongly opposed to the project.
- In November 2016, Taseko submitted a Notice of Work (NOW) application to collect additional geotechnical and hydrological data. In January 2017, Tsilhqot'in provided a substantive response to the province's consultation engagement request on the NOW application. The Ministry of Energy and Mines worked closely with the Ministry of Forests, Lands and Natural Resource Operations to address Tsilhqot'in's response.
- s.16
- On July 17, 2017 the Statutory Decision Maker granted Taseko's NOW application. Tsilhqot'in issued a news release expressing their outrage at the decision. The Tsilhqot'in then brought a Judicial Review and

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s.16

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- A Statutory Decision Maker (SDM) is due to make a decision on Taseko's application an Occupant License to Cut (OLTC), which would allow harvesting of up to 1,200 cubic metres. Given that Taseko has an approved NOW, the SDM is required to issue the OLTC, with discretion limited to set terms and conditions only. The OLTC is needed in addition to the NOW to allow Taseko to cut timber as part of setting up a work camp. Staff at the Ministry of Energy, Mines and Petroleum Resources are reaching out to Taseko. It is not known whether Taseko will action the OLTC if it is issued.
- Tsilhqot'in is likely to have a negative response to any decision to grant the OLTC, especially after the Letter of Commitment which B.C. and TNG signed, committing both parties to re-energize work under the Nenqay Deni Accord.
- During the NOW consultation, Tsilhqot'in made two specific requests:
 - The only way the SDM could maintain the honour of the Crown is to not issue the OLTC - if the NOW was approved,
 - If the OLTC was issued, the SDM attach a condition that makes it effective 30 days after the decision.
- It is not known if Tsilhqot'in will go back to court if the OLTC is issued.
- On Dec. 6, 2017, a federal court judge upheld the federal government's 2013 decision to reject the New Prosperity project. The original rejection was based on the fact that the project was likely to cause significant adverse environmental effects that cannot be mitigated. It is not clear if the federal decision will negate the need for a decision on the OLTC.
- Gibraltar Mine: The Tsilhqot'in also expressed opposition to Taseko's Gibraltar Mine expansion project citing heightened concerns raised by the Mount Polley incident.
- On Sept. 16, 2015, the Tsilhqot'in issued a [news release](#), giving notice to Amarc Resources to cease mineral exploration for the "Ike" property, located in TNG-declared Dasiqox Tribal Park, as allowed by a Provincial permit. This was followed on May 19, 2016 by another [news release](#) in which TNG stated it strongly oppose Amarc Resources application to the provincial government for additional exploration within in the Upper Taseko (Dasiqox) watershed for the Ike project.

FORESTRY:

- The Province, Tsilhqot'in and major forestry licensees have been working together under a jointly

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developed South Chilcotin Stewardship Plan to permit and operate in a way that addresses exactly these issues (cumulative effects, and moose population and habitat).

- The January 2016, addendum to the Tsilhqot'in Letter of Intent outlines measures being taken regarding economic development at the River West mill site and on moose recovery.
- s.16
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- Tolko's cutting permit is within Xeni Gwet'in territory but not within the Aboriginal title area and consultation took place through the Tsilhqot'in Stewardship Agreement.

TOURISM:

- Xeni Gwet'in chief and council – as part of the Tsilhqot'in Nation – sent letters to eight tourism operators near or within the vicinity of the Declared Title Area, advising the businesses they were possibly operating and/or advertising activities that did not have the proper authorization from the Xeni Gwet'in First Nation government. The concern seems to centre on bear viewing. The letters factored into the Property Assessment Review Panel's decision to reduced property taxes on all 220 properties on TNG Aboriginal title lands by 80%.
- The Title Area encompasses a number of privately owned properties and lands submerged by water that are excluded from the declaration of title. Sections of two provincial parks are also partially within the Title Area.
- s.16
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- s.12,s.13,s.16
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s.13

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APPENDIX 2:

RECONCILIATION EFFORTS – CHRONOLOGY:

- June 26, 2014, the Supreme Court of Canada awarded title to the Tsilhqot'in National Government on 1,700 square kilometres west of Williams Lake.
- Sept. 10, 2014, B.C. signed a Letter of Understanding (LOU) with the Tsilhqot'in committing the parties to work on a reconciliation agreement that implements the court decision, provides redress for the wrongs of 1864 and build a more effective relationship.
- Sept. 10, 2014, the Tsilhqot'in also announced plans to create a tribal park on land surrounding Fish Lake, about 125 km southwest of Williams Lake.
- Oct. 23, 2014, B.C. apologized to the Tsilhqot'in for the wrongful hanging of the six Tsilhqot'in chiefs in 1864 and 1865 as outlined in the LOU and exonerated the chiefs.
- Oct. 26, 2014, the Minister of Aboriginal Relations and Reconciliation read the apology in person at the Chilcotin War 150th commemoration and memorial event in Quesnel.
- March 13, 2015, the Tsilhqot'in and B.C. announced interim agreements had been reached for 2015 to maintain existing guide outfitter licences, emergency services, wildfire protection, and enable private property owners and current tenure-holders to access the title lands.
- April 2, 2015, the Tsilhqot'in and B.C. announced an agreement to extend the deadline to finalize the reconciliation agreement outlined in the LOU. The deadline day, the one-year anniversary of the SCC decision – June 26, 2015 – was not met.
- May 6, 2015, the Tsilhqot'in announced they had renewed the contract with the Province (FLNRO) for Xení Gwet'in First Nation to maintain several recreation sites in the title area in 2015.
- May 12, 2015, B.C. issued an information bulletin clarifying the process for the public to access the title lands and general update on title land reconciliation efforts.
- June 24, 2015, the Tsilhqot'in issued a [news release](#) questioning B.C.'s commitment to transforming its relationship with First Nations. It said that there were major outstanding items in the negotiation that raise questions about B.C.'s commitment, but did not state what those items were.
- On July 9, 2015, the Tsilhqot'in issued a [news release](#) accusing government of backing away from critical components under negotiation. The release stated that eight months after signing a Letter of Understanding to develop a negotiating framework to reconcile Tsilhqot'in rights and title, an agreement still had not been signed.
- Sept. 24, 2015, B.C. signed a Letter of Intent with the Tsilhqot'in outlining the approach for outstanding areas of further community engagement and economic opportunities.
- Jan. 28, 2016, an addendum to the Letter of Intent outlined measures being taken regarding economic development at the River West mill site and on moose recovery.
- Feb. 12, 2016, the Province and the Tsilhqot'in signed the Nenqay Deni Accord, a five-year framework agreement that establishes a shared vision, principles and structures for a long-term agreement.
- June 20, 2016, Tsilhqot'in issued an [information bulletin](#) stating that they will be posting uniformed rangers at entry points of their title lands. The role of the rangers centres around conservation as well as helping visitors understand the area.
- June 21, 2016, Tsilhqot'in filed a claim related to Aboriginal title for "submerged lands, fee simple lands

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and Indian Reserves.” June 13, 2017, Tsilhqot’in indicated that they intend to serve the Province with the claim, but continue to maintain they don’t intend to pursue the claim and that it is designed as a precautionary measure to protect against limitation periods on pursuing their legal right to seek compensation from the Province.

- July 7, 2016, B.C. was served with Supreme Court petition from NStQ who want a judicial review of the Accord. B.C. responded directly to NStQ on Sept. 16, 2016 (the response has not yet been filed in court).
- Sept. 1, 2016, Lhtako, Lhoosk’uz Dene, Nazko and Ulkatcho First Nations wrote to the Province to say they had formed the Southern Dakleh Nation Alliance (SDNA) in protest at the TNG Accord, citing concerns about overlaps.
- Sept. 28, 2016, Tsilhqot’in issued a [news release](#) stating that it was addressing concerns raised by neighbouring First Nations about the Accord and that it “continues to meet with neighbouring First Nation leadership and their citizens to work on resolving concerns.”
- s.12,s.13,s.16
- Jan. 27, 2017, the federal government signed a Letter of Understanding (LOU) with the Tsilhqot’in committing to renew and strengthen the nation-to-nation relationship and advance lasting reconciliation with the Tsilhqot’in people. The LOU includes a commitment to implement UNDRIP. B.C. was not involved in discussions on the content of the LOU.

s.16

- May 4, 2017, Tsilhqot’in released a short video “[Feather from Fish Lake](#)” on social media platforms (YouTube and Facebook) in response to the New Prosperity Notice of Work application to collect additional geotechnical and hydrological data at Fish Lake. The video shows a Tsilhqot’in water ceremony and chronicles the journey of an eagle feather to Victoria to be given as a gift to the then Premier to emphasize the importance of Fish Lake to the Tsilhqot’in people.
- June 6, 2017, Tsilhqot’in issued a [news release](#) stating they had met with the UN Working Group on Business and Human Rights to discuss government responses to the Tsilhqot’in decision and business effects on human rights. Topics of discussion included the effects of the Mount Polley disaster, New Prosperity and the ongoing campaign to protect Fish Lake from resource development.
- June 28, 2017, Tsilhqot’in issued a [news release](#) announcing the launch of its expanding Title Land Ranger program. Twelve rangers will cover the whole Declared Title Area and be responsible for “engaging and educating the public about the nation’s land values, monitoring activities on the land and water, assisting with tourist information, conducting land restoration work, and assisting with emergency response efforts where needed.”

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- Oct. 31, 2017 B.C. and Tsilhqot'in signed a commitment letter designed to re-energize and renew work under the Accord.
- Nov. 6, 2017, media reported that the federal government intend to official exonerate the six Tsilhqot'in chiefs hanged in 1864.