

## **BRIEFING NOTE FOR INFORMATION**

**DATE:** May 2, 2019

**PREPARED FOR:** Honourable John Horgan, Premier

**ISSUE:** Nasoga Gulf Land Transaction: Status Update.

### **SUMMARY:**

- For the past four years, the Province and Nisga'a have been negotiating a land transaction for the Nisga'a to purchase lands at Nasoga Gulf and add the lands to their treaty land base.
- Lax Kw'alaams and Metlakatla First Nations have consistently opposed this land transaction and have threatened litigation.

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### **BACKGROUND:**

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The Province has stated throughout that the transaction is subject to consultation with other First Nations.

### **DISCUSSION:**

From 2014-2015, the Province and the Nisga'a Nation worked in close partnership on several initiatives to advance hydrocarbon infrastructure development on the North Coast. These initiatives included the amendments to the Nisga'a Memorial Lava Bed Park boundary and the Nisga'a Treaty to provide access for a pipeline route through Nisga'a Lands to the North Coast. Furthermore, the Province passed legislation and delegated real property tax authority to the Nisga'a Nation to enable them to tax industrial infrastructure on Nisga'a Lands.



Ministry of  
Indigenous Relations  
and Reconciliation

The only viable pipeline route for the proposed Prince Rupert Gas Transmission line is through the existing Nisga'a lands and Nasoga Gulf.

The Province has been seeking the Lax Kw'alaams and Metlakatla First Nations' participation in the consultation process since 2015.

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The Nisga'a and their LNG partners are meeting with Don Wright on May 6, 2019.

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**PREPARED BY:**

Brendan McCombs, Executive Director  
Implementation and Land Services Branch  
(250) 213-392



## BULLETS

**DATE:** May 14, 2019

**PREPARED FOR:** Honourable Scott Fraser, Minister of Indigenous Relations and Reconciliation

**REGARDING:** With British Columbia Cattlemen's Association, regarding implementing the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration)

### SUMMARY:

- BC Cattlemen's Association (BCCA) 2018 Annual Report highlights and seeks clarity on the provincial implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration)
- BCCA wants to understand how the Province will carry out the UN Declaration implementation, how to ensure consistency in implementation, and clarity on implications for ranchers as private landowners and Crown land tenure holders.
- BCCA has indicated there have been challenges associated with implementation of the UN Declaration that are already having a negative impact on their members (e.g., inconsistent archaeological requirements when building fences).

#### *Implementation of UN Declaration through legislation*

- Goal 1, Action 1 of the *Concrete Actions* from the 2015 *Commitment Document* commits BC and First Nations Leadership Council (FNLC) to co-develop provincial UN Declaration legislation that is aligned with federal Bill C-262 – a private member's bill.
- BC and FNLC are collaboratively developing legislation for introduction by Fall 2019; the timeline committed to in the *Concrete Actions* and as announced in the 2019 Throne Speech and Budget Speech.
- A robust engagement and communication strategy is being developed to engage Indigenous nations, industry, the public and other stakeholders on the scope and intent of the legislation, as well as to manage expectations and address early concerns. Implementation of the strategy will commence in Summer 2019.

### KEY MESSAGES – UNDRIP:

- Our government is moving forward on reconciliation, in partnership with Indigenous peoples, guided by the *United Nations Declaration on the Rights of Indigenous Peoples*, the Truth and Reconciliation Commission's Calls to Action and recent court rulings such as the *Tsilhqot'in* decision.
- As outlined in the *Concrete Actions* document, one of our key actions is to work collaboratively with the FNLC to develop legislation to implement the UN Declaration into provincial law.
- We recognize many stakeholders, including industry partners, will be interested to learn more about the intended focus and scope of the legislation. As outlined in the *Concrete Actions* document, the intent is to co-develop legislation not dissimilar to federal Bill C-262.

- B.C. will continue to work with Indigenous leaders, government agencies, industry, labour and local government in both our collective and respective efforts towards reconciliation.
- Reconciliation with Indigenous peoples creates better outcomes for all citizens of British Columbia, and industry has an important role to play in this work.

## **KEY MESSAGES – OPERATIONAL MATTERS:**

If BCCA raise concerns about specific impacts of negotiations to their membership:

- You may further discuss these matters with Trish Balcaen, Assistant Deputy Minister of the Negotiations and Regional Operations Division.

If BCCA raises the Northern Secwepemc te Qelmucw treaty negotiations:

- The Province is continuing to work actively to resolve the treaty range overlaps with the proposed NStQ treaty settlement land package. The approach remains (1.) avoid impacts where possible and (2.) mitigate impacts to the extent possible if they cannot be avoided.

### **PREPARED BY:**

Patrick Richmond and Melissa Grimes  
Negotiations and Regional Operations Division and  
Reconciliation Transformation and Strategies Division  
778 974-2131

## BULLETS

**DATE:** May 5th, 2019

**PREPARED FOR:** Honourable Scott Fraser, Minister of Indigenous Relations and Reconciliation

**REGARDING:** Meeting with MLA Mike Bernier (South Peace) and MLA Dan Davies (North Peace)  
Regarding Stakeholder Engagement on Initiatives with First Nations in the  
Northeast

**SUMMARY:**

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- Stakeholder and public engagement is an integral step in the land negotiation process and is well underway on several land selections. Concerns and input from stakeholders and the public will be considered before any decisions are made to transfer land.
- Overall, engagement efforts have resulted in increased understanding in northeast communities of the legal, historical and cultural importance of land transfer agreements with First Nations. However, there remains strong stakeholder and public opposition to land selections at certain locations (e.g. Summit Lake, Cameron Lake, Pink Mountain, Charlie Lake and Red Creek).

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- **During the week of April 29<sup>th</sup> to May 3<sup>rd</sup> MIRR staff, with West Moberly Council met with Mayor and council for Chetwynd, Tumbler Ridge, Hudson Hope and the trustees for School District 60 regarding West Moberly Land selections. All communities and School District 60 understand TLE and are keen to continue working with the Province and West Moberly to find solutions none were opposed to the process.**
- MIRR's stakeholder engagement efforts have also been impacted by a growing distrust from stakeholders and the public on provincial engagement on other initiatives specifically the recent announcements regarding caribou.
- Regional MLAs recently reached out to MIRR staff citing an increase in constituent inquiries regarding First Nations initiatives. In response, a meeting with MLA Mike Bernier and MLA Dan Davies to provide an update on First Nations initiatives is being scheduled (please see Appendix 1 for Key Messages and Appendix 2 for additional TLE negotiations information).
- MP Bob Zimmer has sent a letter regarding TLE and the overlap with Cameron Lake and the School District 60's outdoor camp. This was responded to under separate letter and a meeting may be planned via the Minister's Office.

**Attachments (1):**     *APPENDIX 1: Key Messages*  
                              *APPENDIX 2: Summary of TLE Negotiations*

**PREPARED BY:**

Meghan Buckham, Regional Negotiator  
Negotiations and Regional Operations Division  
(250) 793-1370

**APPENDIX 1: Key Messages**

Land Transfer Negotiations: Treaty Land Entitlement (TLE) and Tripartite Land Agreements (TLA)

*General Background and Status*

- As part of the Province's duty to uphold the honour of the Crown and implement historic treaties, we are seeking to provide lands which have been owed to Treaty 8 First Nations for more than 100 years, and also to recognize the impacts on their treaty rights from the Site C project.
- TLE has two categories of lands:
  - 1) Shortfall Lands which will be transferred to FN as Reserve. These lands are the lands that are owed to FNs and central to resolution of the Specific Claim.
  - 2) Additional Lands which have been offered to First Nations as an option to purchase as fee simple. Some of the Additional lands are also being considered by the First Nations for an Addition to Reserve process.

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- Site C Land Agreements only include land transferred in fee simple.
- The transfer of Crown lands is a multi-step process and must include engagement with local governments, tenure and licence holders, and other stakeholders, before a decision is made.
- Different First Nations are at various stages of the land selection and negotiation process. As we move through the stages the Province is committed to providing updates to stakeholders and reporting out on how stakeholder feedback is being considered.
- Halfway River, Blueberry River, Doig River, and West Moberly First Nations land selections have been shared with tenure holders, stakeholders and the public.

*Key Messages Regarding Concerns with Specific Parcels and next steps*

- Part of the engagement process is to share maps with stakeholders and the public as early as practicable to better understand, consider and address site specific interests on lands being proposed for transfer.

- **Estimates Update: MIRR is in the process of posting all TLE information on the govtogether website. Information is being developed and should be posted soon**
- We understand that stakeholders and the public have concerns with particular parcels that are proposed for transfer to First Nations.
- Charlie Lake, Red Creek, Cameron Lake and Summit Lake are locations that we have heard significant concerns from the public and stakeholders.
- The Province will continue to work with all affected stakeholders to find mutually agreeable solutions. This may include avoiding overlap, finding replacement tenure, making alternative arrangements or providing compensation.
- Blueberry River First Nation's, Red Creek and Charlie lake TLE parcels have had an extensive public review process and FLNRORD hired an engagement specialist in 2018 to have focused discussions regarding interests of the people in these two communities. BRFN has made some changes based on these discussions and FLNRORD is still in the process of making a decision on *Land Act* protection provisions (Section 16s)
- **Estimates update: FLNRORD is still adjudicating the *Land Act* protections expectations are that these will be put in place. However, there have been changes made to the Red Creek (mile 63.5 Sub) by Blueberry River First Nations.**
- Blueberry River First Nation's Pink Mountain TLE parcel has received several comments. MIRR and FLNRORD are looking at options that allow for access beyond the current proposal because the Province does understand the interest in backcountry access.
- Cameron Lake is where School District 60 has an outdoor recreational facility that has been tenured for the last 30 years with a tenure under the *Land Act*. This licence expired in January of 2019 and is pending approval from FLNRORD. This uncertainty has been exacerbated by the TLE process that highlighted West Moberly First Nations interest in the area. The process of making a decision regarding the *Land Act* tenure is not linked to TLE other than through the required consultation process. Assuming consultation is complete there is no barrier to SD 60 receiving a new tenure.
- **Estimates Update: West Moberly, MIRR staff and the School District Trustees met to discuss TLE and West Moberly's interests on Friday May 3rd. The parties had an amicable meeting and reached an understanding on the future interests of both parties. West Moberly was clear that they have no interest in removing the camp and would provide similar lease provisions should the lands transfer via the TLE process. Both parties understood the cultural significance of this area and its adjacency to the West Moberly community. Both parties are committed to working together to find a solution that works for both.**
- **Estimates Update: West Moberly is not opposed to the issuance of the SD 60 lease and understands that the lease will be an encumbrance that will have to be worked through as part of the TLE land selection process.**
- **Estimates Update: Hole in the Wall park is not within a TLE selection. There is a parcel next to the park boundary, no access or the park itself will be impacted by TLE land selections.**

#### TLE Next Steps

- As each community moves through the TLE process engagement increases. Doig River and Blueberry River did a public event. Halfway River had local public meetings at community halls



around the region. West Moberly is committed to working with their neighbouring communities to develop a public process which will be rolled out in the next few weeks.

- Saulteau has just presented their selections and MIRR is still translating their materials. Maps and information packages are in progress but will take several weeks to complete.
- Province is negotiating an agreement with each TLE specific claim First Nations that defines the process for concluding the land transfers, and provides an understanding of what the final releases look like for Canada, BC and the First Nations.
- TLE is likely the most important negotiations in the Northeast. By creating a solution to this historic issue the province will fundamentally change the dialogue with Treaty 8. These First Nations will have larger reserves where they can practice their Treaty rights and build economic opportunities.

### Caribou

#### *Key Messages General Background and Status*

- The Province and Canada are committed to caribou recovery while seeking to meet the social and economic needs of British Columbians.
- To support caribou recovery efforts, the Province has been working on a bilateral Section 11 Agreement with Canada that provides a framework that describes processes and measures that the federal and provincial government intend to take on Southern Mountain Caribou.
- The Province and Canada have also been working collaboratively with West Moberly and Saulteau First Nations on a Partnership Agreement based on science and traditional knowledge that is intended to stabilize and recover self-sustaining populations of Central Mountain Caribou.
- The Province is committed to engaging stakeholders and the public on the draft Section 11 and Partnership Agreements. Meetings will be held for communities and key stakeholders in the near term. In addition, an online forum has been set-up to receive written feedback.
- Recently the Premier has appointed Blair Lecktrom to collect feedback and make a recommendation to government regarding public/stakeholder engagement. To facilitate this the Province has extended the public engagement timeframe until end of May 2019.
- All feedback received will be summarized into a “what we heard” document that will be made publicly available and all input will help inform all parties’ decision-making regarding the finalization and signing of the Agreements.

#### *Key Messages Concerns with Potential Impacts to Snowmobile Use*

- The Province understands that outdoor recreation is an important part of community identity and serves as an opportunity to diversify resource-based economies. However, recreational snowmobile use can pose a risk of displacing caribou.
- The Province is looking at the impacts of all land uses as we move forward with caribou recovery, with snowmobiling being one of the many land use activities that will be addressed.
- The Province will be hosting specific snowmobile management open houses to start a dialogue about managing snowmobiling in critical caribou habitat. These snowmobile management open houses will be held after open houses on the draft agreements are complete.

#### *Key Messages Concerns with Potential Socio-Economic Impacts*

- The implementation of the Partnership Agreement and the proposed measures may have impacts on industry sectors, but Canada and the Province believe that caribou recovery can be accomplished while also embracing sustainable economic development.
- One of the key benefits of finalizing and implementing these agreements is that it will also provide greater long-term certainty for industry sectors and support a strong investment climate. There are also economic opportunities that are expected to be realized, including through the work to be done in restoring caribou habitat.
- Both governments are committed to engagement with industry and local communities in order to find solutions that optimize recovery efforts in the current socio-economic context.

## APPENDIX 2: Summary of TLE Negotiations

### TLE Quick Fact and Update

#### Mandate overview

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#### Current Status of Negotiations

<b>Halfway River First Nation</b>	<ul style="list-style-type: none"> <li>NE Roundtable &amp; public meetings complete; and tenure holder engagement nearly complete</li> <li>s.16</li> </ul>
<b>West Moberly First Nation</b>	<ul style="list-style-type: none"> <li>Tenure holders, and some public meetings completed, NE Roundtable pending.</li> <li>s.16</li> <li>s.16</li> <li>Summit Lake, Sunset Prairie, Tumbler Ridge and School District 60 (Cameron Lake) land selections are overlapping areas of interest to other parties and require more dialogue and process before finalizing the land selections.</li> <li>s.16</li> </ul>
<b>Doig River First Nation</b>	<ul style="list-style-type: none"> <li>Roundtable &amp; public meetings complete and tenure holder engagement ongoing</li> <li>No land selection controversy apparent.</li> <li>s.16</li> <li>Prepared to purchase Additional lands.</li> </ul>
<b>Blueberry River First Nation</b>	<ul style="list-style-type: none"> <li>Roundtable and public open house complete and additional public meetings are being scheduled, tenure holder engagement ongoing</li> <li>s.16</li> </ul>

	<p>s.16</p> <ul style="list-style-type: none"> <li>Red Creek (Shortfall &amp; Additional land) – in response to residents concern they will be surrounded by Blueberry lands, Blueberry has identified a corridor to Crown lands; large lots and buffers between existing development. s.13</li> </ul>
<b>Saulteau First Nation</b>	<p>s.16</p> <ul style="list-style-type: none"> <li>Technical work on land selection is continuing.</li> <li>Not been sent to tenure holders, public or NE Roundtable.</li> </ul>

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