

West Island Woodlands Advisory Group – Western Forest Products
Minutes – October 8, 2009

Advisory Group Members

✓ ✓	Harold Carlson Barbra Baker (alt)	Forest Recreation	R	Lyle Newton Arnie Magnusson	Logging Contractor Island Pacific
✓ ✓	Rick Avis Judy Carlson (alt)	Naturalists	R	Gilbert Richir	Ministry of Forest
✓	Dave Chitty	Watershed/Fisheries	✓ ✓	Jim Creighton Neil Malbon	Small Business/Tourism
✓	Ken McRae	A.C. Regional District	✓	Darlene Clark	Alberni Fish & Game Club
R	Mike Kuruliak John Young (alt)	Port Alberni & District Labour Council	✓	Jack McLeman	City of Port Alberni
✓	John McIntosh Bob Redhead (alt)	Parks Canada	✓	Jane Morden	Environment
✓	Stefan Ochman	Bamfield			

✓ = attended R=regrets blank=did not attend V=vacant seat Q=Quorum

Total of 13 Advisory Group (AG) members	20 AG including alternates	Q	7 is the quorum	9 AG present 2 Alternates
WFP Resources present 4	Facilitator and Recorder 2		4 Guests	21 present May 7

Resources Present:

Western Forest Products (WFP) Port Alberni Forest Operations (PAFO)

Erin Badesso - PAFO WFP, Forester

Mike Davis – WFP, Forester – Campbell River

Steve Chambers

Jennifer Dyson – Facilitator

Holly Massop – Recording Secretary

Guests

Ministry of Aboriginal Relations and Reconciliation: Negotiations Division,

Negotiator Dave Fern

Negotiator Doug Bowen;

Ministry of Forests: Negotiator Doug Gibbard

Government of Canada: Federal Chief Negotiator David Adams

Makenzie Leine – Island Timberlands

Frank Ullman – Recreation Officer, Ministry of Sport and Tourism

1. Welcome and Introductions

Meeting called to order @ 5:30pm

Introductions were made around the table.

Steve Chambers asked to speak to all members of WIWAG. Steve has retired from WFP and wanted to acknowledge the time and commitment of the advisory group. This is an exceptional group of community volunteers and he wanted to thank each member for their time and commitment to sustainable forest management and their patience over the years with company changes and direction. Steve stressed that this has been an excellent group of community volunteers.

Safety Orientation

Jennifer reviewed safety procedures.

Review of Actions Items from May 7 2009 Minutes

Action Item 1; JK to report back when he returns

Action Item 2; Erin Badesso has provided a map up on wall and a digital version was sent to JD to be available to AG

Action Item 3; Indicator 29 – information has been added

Action Item 4; Indicator 38 – will looking @ re-working this indicator

Action Item 5; information emailed out to group members

Action Item 6; treaty and its effect of TFL 44, happening tonight

Actions and Minutes approved and will be posted to website, approved by show of hands

Presentation

**Maa-Nulth Treaty Presentation Collaborative Presentation by Ministry of Aboriginal Relations and Reconciliation: Negotiations Division, Negotiator Dave Fern and Negotiator Doug Bowen;
Ministry of Forests: Negotiator Doug Gibbard
Government of Canada: Federal Negotiator David Adams**

BC has the most active treaty make-up in Canada; most regions in Canada already have treaties that were est. in 1800's. BC made the decision to not enter into treaties at that time; British Govt., was instructed to get First Nations (FN) lands. Individuals could not acquire land from FN's only from the government. This is still the case today; BC Govt was almost opposed to entering into treaties with FN's in the 1900's – there was a belief that FN's did not own the land originally; this culminated in a number of court battles – most famously the Calder Case. http://www.kermode.net/nisgaa/no_frames/calder.html

- The intent of treaties is to resolve some of the complex issues surrounding the FN's population in BC and Canada
- BC has the highest number of FN people in Canada

1998 was the **Nisga'a Treaty** <http://www.gov.bc.ca/arr/firstnation/nisgaa/default.html> – the first treaty since the 1800's in BC; it has served as a model for the **Tsawwassen Treaty**, <http://www.gov.bc.ca/arr/firstnation/tsawwassen/default.html>

The Maa-nulth Treaty and other Nations in Nuu-chah-nulth (NCN) Territory.

Maa-nulth (Main Villages / Principle Villages) comprises of 5 NCN Nations; Huu-ay-aht, Kyuquot, Toquaht, Uchucklesaht, Ucluelet; about 2000 people involved with this treaty – the largest treaty yet. The Maa-nulth First Nations Final Agreement will provide a capital transfer of \$73.1 million, annual resource revenue payments projected to be \$1.2 million for 25 years and a land package totaling approximately 24,550 hectares to the five First Nations. It defines the Maa-nulth First Nations' rights and title, including ownership and management of lands and resources. When the treaty comes into effect, each of the five

Maa-nulth First Nations will own their land in fee simple and there will be no more Indian reserves. The treaty includes self-government provisions and a phase-out of tax Exemptions.

When a Nations enter into treaty their "Statement of Intent" they must outline what their traditional territory is; the 5 Maa-nulth Nations have about 10% of Vancouver Island – 340 hectares; there is overlap between some the treaty and non-treaty nations' traditional land

HC; what about the Nahmint Valley?

Doug Bowen; many Nations have interests in Nahmint Valley – particularly Ucluelet. When the treaty has been signed off both Provincially and Federally (effect in 2011) there is lots of work to do prior to this; need to resolve some of the overlap issues and FN's need to develop laws and government much like a regional government or municipality.

General Provisions; ensure that the final agreement is a treaty and is in accordance with the appropriate acts of the Constitution, Charter of Rights and that the rights of the Maa-nulth are defined

- Lands; principally former provincial crown land and former Indian reserves; existing tenures will be protected by replacement tenures by Maa-nulth, lands can be registered under the Land Title Act. Lands can be used in ways that work for them in ways that they have previously been unable to do or access resources that they could not previously access
- reserves are not owned by FN's, they are held in trust by the government and are comprised of 55 separate reserves that will be transferred back to them; this land could be sold (fee simple plus); will have sub-surface rights, if land is sold and not left to anyone, it will revert back to the Nation – not the Crown
- Expropriation rights; BC's have made an agreement that they will make every effort to not expropriate lands from FN's – if there are no other options then BC will enter into an agreement with the FN's for use of the lands; there is an agreement around the financial expropriation as well; if land must be used then it must be replaced by a comparable piece of land elsewhere. If land cannot be replaced then the government must buy out the FN
- Canada can use Maa-nulth land if there are no other reasonable alternatives
- How land is governed will be the decision of the Nation; each FN will have their own laws and needs

SC; how will the laws developed by the FN interface with the laws of Canada

Doug Bowen and Dave Adams; Concurrent Law Model; almost like there will be 3 sets of laws – Federal, Provincial and Treaty – there are laws that supersede treaty land i.e. the Canadian Criminal Code – but in the case of something like adoption – FN will have their own adoption code; etc. This does not mean the Federal and Provincial laws do not apply, where there are not laws established by FN's then Provincial laws will stand

Treaty in no way affects the legislative jurisdiction of either Canada or BC; what the treaty does is allow Nations to establish their own specific laws in the areas that they have law-making authority; FN cannot make laws surround Criminal Code, Labour Relations, Shipping, Aeronautics, etc.

Treaty settlement land is the only place where treaty laws can apply; most of these laws surround the use of lands – almost like municipal laws; the other significant area is culture – language, education, health, etc.

Log exports will be handled as if they are coming off an Indian reserve; this is mostly a federal law; they will not be subject to surplus testing (a provincial element); the regulations will take into account Self-Governing Indian Communities; with respect to treaty lands there will no respect to species and grade, etc.

Access and Roads; most existing roads that are listed as crown corridors are excluded from treaty lands; they remain as provincial roads and the provincial laws apply; FN's will be responsible for the upkeep of the roads they develop within their territory.

Public will have access to non-private treaty lands for recreational and non-commercial use, i.e. hunting and fishing; there will be zoning around lands that will be private that only FN members can go to due to culturally significance; there are certain areas that have been included in the treaty settlement lands that cannot be zoned as private lands even though they may be considered as private by the FN.

- Commercial lands must also be developed and all people must be welcome to go there, i.e. revenue generating area in Campbell River (mall).
- If you have land that you can only access by going through treaty lands; there is an obligation for the FN to negotiate with business to allow reasonable access

All treaty settlement land is Fee Simple land; they have surface and sub-surface rights to the land; but there is an obligation to provide access that does not preclude other individuals; Maa-nulth lands are under the same principal as Provincial Crown Lands until the land is otherwise designated.

ML; is there a long-term provincial strategy to deal with land allocations responsibly for all the Nations in BC; so that each Nation has the same opportunities and access as the Nation before it?

Doug Bowen and David Adams; yes there will be, each community will be different based on location, population and cost of the land – if every FN went to treaty the Province would find a way to deal with it and provide land and remuneration to everyone; also there will be some recognition of the Aboriginal Title that was never ceded

Forestry; FN will own forest resources and will manage consistent to BC standards for Private Managed Forest Lands. Timber is not subject to manufacture in BC requirements and may be exported under IR regulations.

Fisheries, Wildlife and Migratory Birds; allows rights within traditional areas for food, social and ceremonial purposes; but this is limited by conservation measures, public health and public safety; Fed and Prov., law will trump FN rights of use to these areas within respect to their habitats.

ML; do the laws apply to the land or the people – i.e. Non-band member on treaty
Doug Bowen and David Adams; most of the laws will only apply on treaty land so if you reside within the treaty lands then you must abide by their laws and by-laws

FN may trade and barter fish with other aboriginals anywhere in Canada; but can only trade and barter wildlife and birds within BC

Subsurface Resources; ownership of subsurface resources is subject to existing subsurface tenures, which will continue to be administered by BC

Role- Off Treaty Lands; will have a role in the management of Federal Parks. Hunting is allowed within federal and provincial parks subject to conservation, public health and safety. FN will have law making authority over foreshore areas adjacent to waterfront treaty lands.

Resource and Revenue Sharing; an agreement has been settled on the North island. For example FN will receive 8.36% of stumpage revenues in Campbell River – South Island Forest District, averaging around 1.2 Million per year. Concept was that there needed to be economic value from the larger traditional territory in order for treaty to be ratified by the Nation members; this cost is shared by Federal and Provincial governments, there is a ceiling and floor to this revenue & over a 25 yr. period

Question; what happens when this amount of stumpage is not reached?

Answer; there was not an anticipation of the fall in the forest industry, the attempt was to generate activity in the industry

Capitol Transfer; \$73.1 million over 10 years – this will be adjusted annually for inflation, etc. Negotiation loans will be deducted from the transfer amount

Governance; based on concurrent law model and clarifies whose laws will prevail in the event of conflict; each nation will have its own constitution (this does not preclude charter of rights as Canadians), membership and government will need to be elected; although a certain % of hereditary chiefs can be appointed to government. A fully elector model would not work for the First Nations communities, government must consult with non-members that reside on treaty lands as related to decisions that directly effect them, i.e. changes in education; public institutions must allow non-members to have access them.

Taxation; FN have authority to levy taxes; limited to members residing on lands, tax exemptions under the Indian Act will be phased out, after 8 years for sales taxes, 12 years for all other taxes.

Local Govt; each Maa-nulth FN will be a member of the regional district it is a part of; Maa-nulth has a 10 year window were they can join the regional district; other Nations will handle this differently i.e., the composition of the regional district is going to change dramatically with treaty.

Side Agreements; Fish Harvest Agreement, Management of Thunderbird's Nest, Commercial Recreation MOU's, Cedar / Cypress Access Agreements

Monumental Cedar Side Agreement; a cedar plan harvest is needed – allows for up to 250 cubic meters of monumental cedar to be harvested annually, will work together to find suitable locations for this

EB; what are the tests that determine what is "reasonable"?

Doug Bowen, Doug Gibbard; there is hierarchy – FN land first, tenures second, parks third, crown land last – not required to liquidate monumental cedar on FN land prior to access other areas. "Make best efforts" is a legal term which means that you have explored all possible options to solve the issue at hand.

EB; overlap lands; where does the responsibility to solve overlaps lay?

Dave Fern and Doug Bowen; this obligation lies with the Nations directly – this is their obligation, over time the courts have insinuated themselves into this process through consultation.

The Maa-nulth Presentation will be posted on the website. If there are any future questions the WIWAG is invited to draft questions and the presenters here tonight can help to answer.

WIWAG thanked the group for the very interesting presentation.

Communications

Fall Fair was a big success – many thanks to Makenzie Leine and Island Timberlands and the host of WFP and WIWAG volunteers.

Mike Davis will be on the next agenda, thank you for coming Mike

Michel De Bellefeuille will be at next WFP mtg., to address the new CSA standard

WFP Update

2010 is going to look very much like 2009 in terms of harvest; hoping and planning for a brighter 2011

Lost two integral staff members with over 70 years of experience between them; this is going to create challenge for WFP but it will work out

Not sure when Somass will be up and running – but it is part of the plan

Announcements

PA RCMP is looking for a log for a canoe – WFP maybe able to help out

Next Meeting(s) at ACRD

Island Timberlands – November 12

WFP – January 14, 2010

Meeting adjourned at – 8:30pm

#	ACTION ITEM AND PROGRESS	Date of request	Recommend Completion	Completion Date	Person Responsible
1	Will bring back information on internal management strategies and work on the development of a set of indicators on water quality	May 7 th 2009	January 2010		Justin K.
2	Provide maps of roads that are closed and roads that are active	May 7 th 2009	September 2009	October 2009	Justin K. Erin B provided map and digital map available
3	Indicator 29; target met, but information on numbers was not provided	May 7 th 2009	September 2009	Numbers provided October 2009	Erin Badesso, Steve Chambers
4	Indicator 38 mechanics of this indicator have changed; the target is 0%, auditor noted this is a problematic indicator	May 7 th 2009	September 2009	In Progress	
5	Dates about next public AAC meeting	May 7 th 2009	September 2009	information and links sent by email - advisory members June 19)	Steve Chambers, Jennifer Dyson
6	Examine a future presentation on what is included in treaty and how that will affect TFL 44 and the DFA	May 7 th 2009	September 2009	Presentation October 8 2009	Steve Chambers, Jennifer Dyson
Flag					
	Indicator # 28 from WFP – SFM Plan Draft, there will be more discussion surrounding this @ a future meeting, results of watershed assessments every 3 years 03, 06 next 09	May 10/07	next 2009	Indicator not complete in 2006	WFP / WIWAG

Western Forest Products – WIWAG Action Items

All Completed Action Items see file: [Actions completed\WFP actions completed.doc](#)