

Sliammon First Nation

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The Honourable John Duncan
Minister of Aboriginal Affairs and Northern Development
600 Confederation Building
House of Commons
Ottawa, Ontario
K1A 0A6

July 4, 2011

Dear Minister Duncan;

Re: Notice of Intention to initiate Bad Faith litigation

We are writing to you to provide notice that the Sliammon First Nation is preparing to initiate a claim for bad faith negotiations against the Government of Canada. Sliammon has in good faith invested more than 15 years of hard work and had to borrow more than \$10 million in negotiation loan funding in a sustained effort to reach a negotiated Treaty with the governments of Canada and British Columbia. A number of critical factors have brought us to this point.

On June 10, 2010 the Chief Negotiators for each of the parties reached a very hard fought Final Agreement. The Tla'amin (Sliammon) Final Agreement is an agreement that Sliammon is not entirely satisfied with. It does not contain everything that is important to Sliammon; some very difficult compromises were made on our part in order to reach an agreement that we are prepared to recommend to the Sliammon people. We are not prepared to compromise any further.

Upon reaching the negotiators' understanding, the Chief Negotiators for all three parties indicated that they were prepared to recommend the Final Agreement for initialing so we could commence the ratification process as soon as possible. Our Treaty was then taken back to Ottawa, Victoria and Sliammon to prepare for initialing. Both British Columbia and Sliammon have indicated they are prepared to proceed to initialing of the Final Agreement.

It is now more than a year later, and we have still not received any indication from Canada of when it will be prepared to initial our Final Agreement, nor have we received any explanation for the long delay. We note the initialing process in the case of the Tsawwassen, Maa Nulth, and the Yale Final Agreements took as little as eight weeks to complete. We are growing increasingly impatient and bewildered about why we are being subjected to such a lengthy delay and our Final Agreement has been singled out.

We also wish to bring to your attention that our negotiations were impeded for nearly 3 years earlier on by Canada's failure to provide a mandate to your Chief Negotiator to negotiate fisheries. The B.C. Treaty Commission process requires all parties to be "ready" to negotiate and to have negotiators with "a comprehensive and clear mandate and sufficient resources to carry out negotiations". Canada failed to meet this requirement and this failure caused delays in our negotiations and has significantly increased our treaty negotiation loan.

The current extended delay is expensive and frustrating for Sliammon. At a time when we should have been investing significant time and resources in working with our community to explain the Treaty and prepare for the ratification vote, our organization has had to make painful staffing sacrifices, and our operating costs have been reduced to life support levels. Our ability to achieve a successful ratification vote has been seriously compromised, and community confidence is deteriorating.

We are contending with a community that is growing very cynical about treaty; and we do not have an explanation that would provide any positive light on the matter. That responsibility rests with Canada, and we are calling upon you to do your part to reverse a very negative attitude that is growing in our community by helping rebuild trust in the federal government.

Our decision to prepare for litigation has not been taken lightly, but we have exhausted all possible other opportunities for addressing our concerns. Over the last number of months, we have raised this issue with the British Columbia Treaty Commission, your ministerial Special Representative to the BC Treaty Process and our Member of Parliament, but to no avail. Further, we have brought this matter to the attention of the National Chief of the Assembly of First Nations, representatives of the First Nations Summit and many others.

We realize that you, as Minister, and that your negotiators and staff have worked hard to try and have our Treaty initialed. We are nevertheless concerned with reports that our Member of Parliament, John Weston, is seeking to undermine our Treaty and may be responsible for the current delay. We have heard that there may be pressures from other anti-Treaty interests both inside and outside

the Conservative caucus that are also seeking to block the approval of our Treaty. However, our relationship is with the federal Crown and you are the federal Crown's representative.

If we are forced to pursue litigation, we will likely be seeking the following:

1. A declaration that the federal Crown has breached its fiduciary duty to Sliammon, has not conducted itself in accordance with the honour of the Crown, and has negotiated with Sliammon in bad faith;
2. An order that Sliammon be released from any obligations in relation to Treaty negotiation loan funding we have received from Canada and that all such loans to Sliammon be forgiven;
3. An order preventing Canada from approving or otherwise supporting the sale or disposition of any federal or provincial Crown land being held or protected for Sliammon Treaty Settlement Land, including an order preventing Canada from withdrawing from any cost-sharing or other agreements with British Columbia in relation to such lands; and
4. Other damages and interest including damages against Her Majesty the Queen in Right of Canada and against any individuals who are determined to be responsible for stalling the Sliammon Final Agreement.

If we do not hear from you in the very near future that Canada is prepared to initial our Final Agreement and to invest the time and resources required to rebuild trust in our community and prepare for a successful Treaty ratification vote, we will be reluctantly forced to take steps to proceed with litigation.

Sincerely,



Chief Clint Williams



Chief Negotiator Roy Francis

- cc. The Hon. John Duncan, Constituency Office
The Hon. Rob Nicholson, Attorney General
John Weston, MP
Members of the Standing Committee on Aboriginal Affairs and Northern
Development
Members of the Senate Standing Committee on Aboriginal Peoples
The Hon. Mary Polak, B.C. Minister of Aboriginal Relations

Sophie Pierre, Chief Commissioner, B.C. Treaty Commission
Ah-in-chut Shawn Atleo, National Chief of the Assembly of First Nations
Grand Chief Edward John, Chief Doug White III, Dan Smith, First Nations
Summit
Jody Raybould-Wilson, Regional Chief of the B.C. AFN
Grand Chief Stewart Phillip, Union of B.C. Indian Chiefs
James Anaya, U.N. Special Rapporteur on the Rights of Indigenous People
Tom Molloy, Chief Federal Negotiator
Tom Ethier, Chief Provincial Negotiator