



# OFFICIAL COMPLAINT BY THE ELDERS, LAND USERS AND NATIVE YOUTH OF SUTIKALH AND SKWELKWEK'WELT TO THE INTERNATIONAL OLYMPIC COMMITTEE

## ***REGARDING INDIGENOUS CONCERNS***

FOR THE ENVIRONMENT, ABORIGINAL TITLE AND RIGHTS  
AND THE POSSIBLE NEGATIVE IMPACT OF THE  
**2010 VANCOUVER-WHISTLER OLYMPIC BID**

TO BE PRESENTED TO:

- THE PRESIDENT OF THE INTERNATIONAL OLYMPIC COMMITTEE
- MEMBERS OF THE INTERNATIONAL OLYMPIC COMMITTEE, ESPECIALLY:
  - MEMBERS CONSIDERING THE BIDS FOR THE 2010 OLYMPIC GAMES
  - THE ENVIRONMENT COMMITTEE
- THE OFFICE OF THE INTERNATIONAL OLYMPIC COMMITTEE
  - DIRECTOR GENERAL FRANCOIS CARRARD
  - LIAISON FOR CANDIATE CITIES
  - PEOPLE WORKING ON ENVIRONMENTAL ISSUES

**Sutikalh, Skwelkwek'welt, June 2002**



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**Re: Concerns of Aboriginal Elders, Land Users and Native Youth regarding the impacts of the 2010 Vancouver-Whistler Olympic Bid on Aboriginal People, Culture, Land and the Environment**

## **OFFICIAL COMPLAINT**

### **I. INTRODUCTION**

#### ***A. THE PEOPLE***

We are writing you in the name of Aboriginal elders, land users and native youth of Aboriginal Nations whose traditional territories are located in the South Central Interior of British Columbia, covering diverse ecosystems including highly sensitive alpine areas and about a third of the province of British Columbia. Our peoples maintain their land rights and traditional knowledge over the area, which we have an obligation to protect and ensure its sustainable use. Therefore we are writing you to add our perspective to the Vancouver Whistler application for the 2010 Olympic Games regarding its impacts on our diverse cultures and environments. Apart from sport, culture and environment are the other 2 main pillars of the Olympic Movement, all three are equally important as the foundations of the Olympic Spirits and Games. Our people are actively engaged in an environmental awareness campaign, regarding indigenous peoples, our land rights, our traditional knowledge and its central importance for environmental protection. Indigenous lands and waters world wide have the highest concentration of biological diversity, yet they are also threatened by large scale unsustainable developments.

For its most recent campaign that access to water is a human right and in their territory an indigenous right the Interior Alliance, a political organization representing Nlaka'pa'mux, Okanagan, Secwepemc, St'at'imc and Southern Carrier won the Spirit of the Lands Award of the Local Organizing Committee of the Salt Lake City Olympic Games. We take our obligation to protect the environment and share our traditional knowledge to create awareness very seriously and we therefore also want to bring our concerns to the attention of the International Olympic Committee.

## ***B. VIOLATIONS OF HUMAN AND INDIGENOUS RIGHTS IN CANADA***

Although Canada prides itself as one of the countries with the highest living standards in the world according to the UN Human development index, when the same indicators were applied to Aboriginal people by the federal department of Indian and Northern Affairs, we only ranked 47<sup>th</sup>. The same is true for Vancouver being declared the city with the best living standard in the world, our people are the poorest in town, many living on the East side under deplorable social and economic conditions. This is what happens when we as Aboriginal people lose our link to the land, alcoholism and youth suicide are only indicators for underlying problems. In our case the problem are the policies of the federal and provincial governments: The provincial government claims exclusive jurisdiction over land management and does not at all take Aboriginal interest in the land into account. Not only do we own the land, we also continue to use it in a multifaceted way. Our elders are holders of traditional knowledge, which has to be the basis of sustainable development in our lands that we want to preserve for all people and future generations.

Instead the provincial government keeps allowing large scale development on our land without taking the traditional and current uses of our people into account and thereby negatively impacting the land and our people. Presently our people are faced with applications for the development and expansion of ski-resorts, heli-skiing, cat-skiing and snowmobiling, the latter are activities forbidden in most alpine areas in Europe.

## ***C. ABORIGINAL TITLE – ANCESTRAL RIGHTS TO OUR TRADITIONAL TERRITORIES***

The governments of Canada and of British Columbia violate the Canadian constitution and disregard Supreme Court of Canada decisions recognizing Aboriginal Title and instead maintain a land rights policy aiming at the extinguishments of Aboriginal Title. This policy has repeatedly been condemned by the United Nations as violating international human rights. Our people are the ones whose human and indigenous rights are violated. Losing our land is losing our identity as Aboriginal people. With our current and traditional uses we lose our way of life and with our elders' traditional knowledge we lose the basis for true sustainable development in our lands.

Indigenous peoples in the Interior of BC have therefore taken a very active stand to protect their Aboriginal Title and lands. The St'at'imc peoples oppose the construction of a ski-resort in their last untouched valley, that is also an important habitat for many species. The Secwepemc people oppose the expansion of Sun Peaks Ski Resort in Skwelkwek' welt.

## **II. THE ROLE OF THE INTERNATIONAL OLYMPIC COMMITTEE**

### ***A. THE 2010 VANCOUVER WHISTLER OLYMPIC BID***

The first ski resort development is directly linked to the Vancouver Whistler bid for the 2010 Olympic Games. As a major sports and public event the Olympic Games would further advertise and thereby also impact on indigenous uses in the area, unless appropriate policies are put in place.

The International Olympic Committee is a very important body and representative of the international community that has recognized its obligation to maintain high ethical and environmental standards around the world. When the Olympic bid was awarded to China it was clearly stated that the games were awarded with the intention to help raise human rights standards and lead to better scrutiny and monitoring of international human rights. The implicit understanding is that the preparation of Olympic Games will go hand in hand with bettering human and in the case of Australia also indigenous rights standards.

### ***B. STRENGTHENING NOT WEAKENING HUMAN AND INDIGENOUS RIGHTS***

In British Columbia we are presently seeing the inverse development, the British Columbian government is actively repressing indigenous rights by putting them in question and to a majority public vote that violates Canadian constitutional law and international human and indigenous rights. The Supreme Court of Canada recognized the collective land rights of indigenous peoples in British Columbia as Aboriginal Title in the 1997 Delgamuukw decision. Our Aboriginal Title and rights are also protected under Section 35 of the Canadian constitution that recognizes and protects indigenous rights at the highest level. Already present Canadian federal and provincial land rights policies that aim at the extinguishment of Aboriginal Title are in breach of the constitution and Supreme court of Canada decisions that mandate them to recognize and implement Aboriginal Title. The British Columbian referendum is an attempt to get popular endorsement for such an extinguishment policy and the approval to still further lower standards and undermine indigenous rights by asking leading questions like:

Province-wide standards of resource management and environmental protection should continue to apply.

### ***C. ENVIRONMENTAL STANDARDS***

This implies that the recognition of indigenous rights would potentially lower or put out of force environmental regulations in the whole province, when in reality indigenous peoples are looking at further adding mechanisms to protect their lands and waters. Present British Columbian land use and natural resource management does not take into account traditional knowledge that has to be the basis of all sustainable use, because it contains the most long term data regarding the environment, its biological diversity and interaction with different cultures. Many Aboriginal peoples in British Columbia including most member nations of the Interior Alliance have conducted traditional and current use studies regarding their traditional territories and watersheds to enable their future sustainable use.

The data was collected according to the highest scientific standards and in a way it could be directly transferred into provincial land use plans, yet the government to date has refused to make use of them and take them into account in their approval and land management process.

The referendum question also portrays present provincial standards as positive parameters, when in reality they have failed to ensure sustainable land and resource management and have not taken traditional knowledge into account. This violates international standards like the Convention on Biological Diversity whose Article 8j calls for the in situ protection of biological diversity with the help and on the basis of traditional knowledge. Our people have actively participated in the development, implementation and monitoring of this convention that attempts to balance traditional and commercial interests.

### **III. RECOGNIZING ABORIGINAL TITLE AND TAKING INTO ACCOUNT TRADITIONAL KNOWLEDGE AS THE BASIS FOR SUSTAINABLE USE**

#### ***A. THE CONVENTION ON BIOLOGICAL DIVERSITY***

At the recent conference of the parties held from April 7-19, 2002 in The Hague, the Netherlands, they endorsed recommendations for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities. One key provision and internationally recognized principle for impact assessment is the prior informed consent (PIC) of indigenous peoples that has to be ascertained before approving any projects that impact on their lands and waters.

Present approval processes in British Columbia do not even take into account traditional knowledge, let alone seek the prior informed consent of the indigenous peoples affected. One example is their approval of Cayoosh Creek Ski Resort in St'at'imc territory despite its open rejection by all St'at'imc Chiefs. This development is an integral part of the 2010 Vancouver Olympic bid and would be responsible for opening the last untouched valley of the St'at'imc people, that is also grizzly bear and mountain goat habitat to unscrupulous development that does not at all consider the traditional and current uses of the St'at'imc and environmental concerns. Similarly the expansion of Sun Peaks Ski Resort is presently being propagated in Secwepemc territory despite the clear opposition of Secwepemc land users and elders, who as the holders of traditional knowledge can measure the negative impacts of the ski resort on the entire watershed and will not allow any further expansion that would make the negative impacts increase correlated to the number of extra beds.

Ski-resort developments in British Columbia usually do not have the promotion of winter sport as their main objective, rather they open usually intact watersheds and habitat for large scale development and real estate speculation. After passing through a pro forma approval process, that does not take Aboriginal interests into account a master lease is granted, excepting future developments within it from environmental and social impact assessment. In return for putting in ski-lifts fee simple title is granted over base land that can then be sold off lucratively.

## **B. KNOWLEDGE ABOUT NEGATIVE ENVIRONMENTAL IMPACTS**

The skiing operations themselves do not underlie many restrictions either. Recreational use of skidoos is booming and no areas seem off limits, cat- and heli-skiing are legal and do not require separate permits, artificial snowmaking is often used to create and artificially maintain a full snow cover using chemicals and bacteria prohibited elsewhere. None of these activities would be allowed in European ski resorts where restrictions have been put in place to limit environmental impacts on already altered landscapes, whereas in British Columbia they are allowed to happen without any limitation in previously pristine and therefore even more sensitive ecosystems. Mass winter tourism as it is presently practiced in Canada is neither environmentally, nor socially nor economically sustainable. Yet it is pushed ahead by the provincial government as the future industry and heavily subsidized.

One of the subsidies consists in the government's policy of the non-recognition of Aboriginal Title aiming at its extinguishment and allowing companies to access indigenous lands and resources without the consent of indigenous peoples and without having to remunerate their proprietary interests. Indigenous participation in land use planning would also limit access to certain lands and impose restrictions to ensure sustainable use. Presently indigenous peoples pay the double price for unsustainable use of and practices in their land, they lose parts of it for their traditional multifaceted use due to destruction and environmental degradation and then their proprietary interests are not remunerated either. The internalization of environmental cost and indigenous proprietary interests would make the tourism industry more sustainable and accountable.

## **IV. CONCLUSION**

To ensure high standards in the winter sports industry as well as to monitor practices and policies of host countries, governments and municipalities with respect to environmental protection and ethics is an important part of the mandate of the International Olympic Committee.

As indigenous peoples we have to oppose the Vancouver – Whistler Olympic bid as long as regressive and destructive environmental practices and policies that undermine and do not recognize indigenous rights are in place. The awarding of the Olympic bid would lead to further destruction of the environment and miss the model function of Olympic host cities and countries who are supposed to better their human rights and environmental standards instead of further lowering them.

As the International Olympic Movement is built around three main pillars: sport, culture and the environment. Our elders have decided to make a submission to the International Olympic Committee to ensure that sports and entertainment are not put over the two other elements of key concern to our people and most importantly over our human and indigenous rights. We therefore ask you to consider the information submitted and initiatives such as the BC government referendum seriously.

# **BACKGROUND INFORMATION**

## **I. THE INTERIOR OF BRITISH COLUMBIA – TRADITIONAL TERRITORIES OF ABORIGINAL PEOPLES**

### ***A. SUTIKALH***

The traditional territories of the St'at'imc stretch from the coastal mountains behind Vancouver to the Interior Plateau of BC. Cayoosh Creek is the last untouched valley in their territory, for the St'at'imc it is the land of the winter spirit Sutikalh. In conjunction with Vancouver's bid to host the 2010 Winter Olympic Games a huge ski resort is to be built into Cayoosh Creek against the unanimous opposition of all St'at'imc people and chiefs, who have sent a joint letter to the investors opposing the development. The Cayoosh Creek Valley is the last untouched valley in the traditional territory of the St'at'imc People, a place of great spiritual importance and important habitat for endangered species such as the grizzly bear and mountain goats. The St'at'imc people fear the devastating impacts the development would have on the pristine valley, their culture, their way of life, their spirituality and the environment.

### ***B. SKWELKWEK'WELT***

Skwelkwek'welt is the Secwepemc word used to denominate a high alpine, tree-less area. Now Sun Peaks Ski Resort has invaded this area 30km North East of Kamloops and 400 km of Vancouver. The area of Skwelkwek'welt is the traditional hunting and gathering areas for Secwepemc families, most of them now living on the Adams Lake, Neskonlith and Little Shuswap Indian Reserves. Skwelkwek'welt and a considerable part of their traditional territories were initially part of the Neskonlith Douglas Reserve created in 1862 but the government unilaterally reduced it to a few thousand acres. The Secwepemc therefore hold a specific claim over the area of Sun Peaks Ski Resort. The elders have made it clear that they do not want to see any further expansion of the ski resort. Since the company did not comply and announced a 70 million CND expansion in 2002 the Secwepemc now openly exercise their Aboriginal Title and claim to Skwelkwek'welt through the Skwelkwek'welt Protection Centre.

### ***C. PEOPLE OF THE PLATEAU***

The Secwepemc and St'at'imc together with the Okanagan, Nlaka'pamux and Southern Carrier inhabit a territory that stretches from the Coastal Mountains to the Rocky Mountains and covers the Plateau of the Interior, that is why they also call themselves People of the Plateau. The diverse ecosystems in this area reach from high alpine areas to grasslands, some of them will be considered in more detail in the following. The People of the Plateau work together and support each other in the defense of their Aboriginal Title and rights. In 1910 the Chiefs of the Interior signed the Laurier Memorial calling for a fair solution of the land question. The people of the Interior have never signed treaties regarding their land and are also not part of modern negotiations aiming at the extinguishment of Aboriginal Title. They maintain inherent land rights over their traditional territories that the Supreme Court of Canada recognized as Aboriginal Title in the 1997 Delgamuukw Decision.

## II. THE LANDSCAPES OF THE PLATEAU AND THEIR USE

### A. HUMAN ECOLOGY MODEL

The environment of the Plateau is very diverse and complex. The following description will heavily draw upon an unpublished Traditional Use Study<sup>1</sup>, which was jointly conducted by two Secwepemc communities (Neskonlith and Adams Lake Indian Band), whose families and land users are the traditional users and caretakers of Skwelkwek'welt. In 1992, Diana Alexander published a "human ecology model" for relating people and environment in the Interior landscape of British Columbia. Alexander started with a system of biogeoclimatic classification of the landscape in which patterns of temperature and precipitation define the basic unit — the biogeoclimatic zone. In consultation with Shuswap and St'at'imc elders, the boundaries between the zones were further refined to reflect culturally important resources. Thus, the human ecology model of the landscape shifts the focus to present environmental variables in the context of human behaviour. Since Alexander published her human ecology system of landscape classification the British Columbia Ministry of Forests released a more detailed and refined system of biogeoclimatic classification. A human ecology model for the Plateau can now be constructed using the ministry's more advanced system.

This makes it possible to correlate environmental factors and patterns of behaviour to arrive at a description of landscape that combines elements of nature and culture. What follows is a detailed description of human ecology units in the Interior Plateau with the Alpine unit. First of all the flora and fauna of the different units is described, followed by the data about how Aboriginal groups use the areas according to their traditional calendar. This specific information was collected in a series of interviews conducted with land users, elders and band members of the Adams Lake and Neskonlith Indian Bands according to the highest confidentiality standards<sup>2</sup>. In the following the description will be limited to those landscape units that are threatened by the development of ski-resorts and possible impacts of the Vancouver-Whistler Olympic bid.

#### 1. Alpine Unit<sup>3</sup>:

The Alpine unit occurs on the upper elevations and summits of the tallest mountains, usually beginning above 1,980 metres. Winters are severe, snowfall is heavy, winds are strong, annual average temperatures are low, and the growing season is very short. The Alpine unit is mostly treeless, with the sparse, shallow soils covered by low shrubs, grasses and sedges. Animal species include deer, grizzly bear, black bear, wolf, coyote, wolverine, marmot, long-tailed weasel, and ptarmigan.

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<sup>1</sup> Adams Lake and Neskonlith Indian Bands (1999) Land Traditions of the Neskonlith and Adams Lake Shuswap, Unpublished Report, NIB + ALIB, Chase, BC supervised by Dr. Douglas Elias, University of Lethbridge

<sup>2</sup> Tobias, Terry (2000) Chief Kerry's Moose, A Guidebook to Land Use and Occupancy Mapping, Research Design and Data Collection, Union of BC Indian Chiefs, Vancouver

<sup>3</sup> Information taken from: Adams Lake and Neskonlith Indian Bands (1999) Land Traditions of the Neskonlith and Adams Lake Shuswap, Unpublished Report, chapter 1A, p.20 and background information

Important food plants include spring beauty, avalanche lily, dwarf mountain blueberry, and whitebark pine nuts. By April, snow at the highest elevations would be melting, and by late May the first alpine food plants would be ready for harvesting and the ground would be dry and warm enough for travel. Deer, too, would begin their annual trek up the mountain towards security and better forage. Aboriginal land users hunt the deer and seek out the ripening plants. In June and July, the food plants are at their best in the higher mountains, a good time to collect plants and hunt deer at higher elevations.

The people do not build camps in the high alpine area rather they set them up in the Montane Parkland, just below the alpine margin, and harvested foods are carried back from the summits to the base camp for preliminary processing and then taken to the village for final processing and storage. By November, when the weather becomes colder and snow falls, living in the base camps becomes more difficult as they depend on stored berries and plants, but hunting continues.

## **2. Montane Parkland Unit<sup>4</sup>**

The Montane Parkland, located between 1,500 and 2,300 metres elevation, is a transition zone between the treeless alpine meadows and the thick subalpine forests, and includes clumps of trees, parkland meadows, and open stands of subalpine tree species. In most parts of the Interior, the Montane Parkland unit falls within the Engelmann Spruce - Subalpine Fir biogeoclimatic zone, and high elevation trees are dominated by these species.

The Montane Parkland is somewhat milder than the exposed Alpine unit, but still has severe winters and a short growing season. The Alpine animals are also present in the Montane Parkland unit, along with snowshoe hare, porcupine, red squirrel, northern flying squirrel, cougar, lynx, bobcat, red fox, marten, mink, fisher, and short-tailed weasel.

The Montane Parkland is especially important summer range for deer and, perhaps in the past, elk and bighorn sheep. Most alpine plants also grow in the montane unit, but more abundantly due to better moisture conditions and protection from wind. More common in the Montane Parkland are tiger lily, nodding onion, balsamroot, cow parsnip, Indian celery, whitebark pine nuts, and soapberries.

The Montane Parkland is extensively used from May to November. Favoured places for a base camp have good trail access, plentiful water and wood, and dry level campsites in the lee of a grove of trees. In early autumn, people come to the montane base camps to gather nuts of the whitebark pine and black lichen, and to carry out a late-season hunt until the weather grows too cold and the snow too deep.

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<sup>4</sup> Information taken from: Adams Lake and Neskonlith Indian Bands (1999) Land Traditions of the Neskonlith and Adams Lake Shuswap, Unpublished Report, chapter 1B, p.23 and background information

### **3. Montane Forests Unit<sup>5</sup>**

The Montane Forests are located between 610 and 1980 metres elevation and just below the Montane Parkland. Most of the Shuswap Traditional Territory is covered by the closed canopy of Montane Forests. At higher elevations, the predominant trees are subalpine fir, Engelmann spruce and lodgepole pine. In the eastern part of the Shuswap Traditional Territory and at middle elevations, forests include western red cedar, and western hemlock. At the lowest elevations in the western part of the territory, forests include mostly Douglas fir, lodgepole pine, western larch, and western white pine. In wetter places at the lowest elevations aspen, cottonwood, maple and birch are common and cedar and juniper are infrequent. Beneath the trees are pinegrass and bunchgrass. The Montane Forests are warmer and drier than the Montane Parkland and favoured with a longer growing season.

With the exception of mountain goat, all the species in the Alpine and Montane Parkland may be found in the Montane Forests, with numbers and frequency depending on the season and habitat conditions at different elevations. Squirrels, beaver and moose are most frequent in the heavily-forested sections, beaver and moose in the wetlands, and hare, marmot, deer and bear near the forest margins. Deer and moose congregate at higher elevations in summer and lower elevations in winter. Ruffed grouse are common at all elevations and in all seasons.

Important food plants in the Montane Forests include black lichen, inner pine bark, and a variety of berries. Tiger lily, false Solomon's seal, cow-parsnip, Indian celery, fireweed and wild onions are abundant in the more open areas. The thick and close-growing forests were primarily corridors between the lower grasslands and river lands and the rich parkland and alpine country high up the mountains.

The most commonly used part of the Montane Forests is the margin between these higher and lower units. In most places, thick forests provide little habitat for food animals and plants used by the people, but during the depth of winter between November and May, deer and other animals seek shelter in the forest margins and people hunt for them there whenever the opportunity arises. In early spring, the few open areas in the forest are the first source of fresh spring plant foods. Also the forests are important sources of materials for the construction of houses, basketry, rope and cordage.

### **III. IMPACTS ON TRADITIONAL + ONGOING CURRENT USE**

The above sections described the traditional use of the different units by the People of the Plateau. The fact that all the above data is part of the traditional knowledge of present generations and has all been extracted from interviews shows how strong those traditions still are. Traditional knowledge is the basis for the ongoing current multifaceted use of the land as practiced by the Secwepemc People.

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<sup>5</sup> Information taken from: Adams Lake and Neskonlith Indian Bands (1999) Land Traditions of the Neskonlith and Adams Lake Shuswap, Unpublished Report, chapter 1C, p.27 and background information

Elders over their life-time can also make clear analysis over how their traditional use activities over time have been impacted by commercial industrial activities in their traditional territories. Scientists recognize that indigenous peoples collectively hold the longest term and most substantive data necessary as the basis of the conservation and the sustainable use of their lands. Ways have to be found to integrate this traditional knowledge<sup>6</sup> to measure negative effects of present developments and devise ways of sustainable development to overcome the present environmental crisis.

## **A. TOURISM IN THE INTERIOR**

Today the Interior is a famous tourist destination with everything from alpine skiing to whitewater rafting. Tourism began in earnest with the railroad, which delivered people and all kinds of goods to within a few kilometres of prime hunting, fishing, and boating. The lakes were soon overfished and by 1915 the sport fishery was regulated and in 1920, popular lakes were being routinely restocked.

As the most accessible lakes were fished out, tourists used the roads and trails to reach more remote lakes until they, too, needed restocking. In many cases indigenous fish species were poisoned, the Lake Neskonlith Kickeni, a staple food for the Secwepemc, was intentionally destroyed and is now extinct. On the other hand the province does not want to allow indigenous peoples to fish in their own lakes, especially introduced species, that are considered non indigenous. By 1930, when the province resumed responsibility for federal lands in the Railway Belt, tourism dispossessed the Shuswap of the Intermediate Lakes and they were now restricted to the Alpine part of their traditional landscape. In the mid-1990's, the multi-million dollar ski resort Sun Peaks opened for business on the summit slopes of Mount Tod, the most recent intrusion in the Shuswap traditional lands.

The Japanese holding Company Nippon Cables is presently planning to expand the Sun Peaks ski resort to include one more yet untouched mountain. Secwepemc elders and land users oppose this project and have set up a permanent protest camp to protect Skwelkwek'welt, an area that has been a traditional hunting and gathering place for many generations. Traditional Use Maps and accounts show that<sup>7</sup>:

Skwelkwek'welt provides us with a variety of plant foods such as roots, berries, plant stalks, mushrooms, and lichen, as well as other foods, like deer, moose, fish and birds. In addition to obtaining food, we use this land to gather medicines, practice our spiritual traditions, and collect basic necessities for life....Our foods are rapidly disappearing from these mountains due to the increased ski resort development. We have grave environmental and cultural concerns about the present and future development on these mountains. They are being severely impacted by the activities of Sun Peaks Resort, causing serious damage to the land, vegetation, wildlife, and water and will seriously impact our use of the land. Therefore, we are adamantly opposed to the continued development of and destruction to our traditional areas by Sun Peaks Resort.

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<sup>6</sup> Stevenson, Marc (1996) Indigenous Knowledge in Environmental Assessment, Arctic, Volume 49, No.3,

<sup>7</sup> for more information see: <http://www.geocities.com/spabc123/frames.html>

## ***B. IMPOSED REGULATION***

The Province of British Columbia in its early years addressed mainly land and resources in their most important legislation and regulation. Policy was directed at putting immigrant settlers on the land, and taking Indians off it. It was also directed at maximizing the commercial returns from resources. These policies and their resulting regulations were imposed on the Aboriginal people, with immediate harmful consequences for their economic culture.

Regulations governing settlement, mining, ranching, farming, tourism, and rural and urban development lay behind the sectoral histories outlined above, and officially condoned the consequences for the People of the Plateau and their traditional territories. Aboriginal land and resource traditions were soon threatened by Canadian traditions.

By the late 20<sup>th</sup> century, the entire Shuswap Traditional Territory was blanketed with an imposed regime of timber, land and mineral leases, fee simple titles, pre-emptions, Crown interests, easements, and rights of way. Three levels of imposed legislation and regulation — federal, provincial and municipal — manage forests, waters, fish and wildlife in the Shuswap Traditional Territory. It is important to understand that 93% of British Columbia are still public or Crown land and only 7% are privately owned, therefore it is mainly the province that directly allows the exploitation of indigenous lands.

Still the indigenous nations are not actively involved in the Land and Resource Management Plans of the provincial government or forestry plans for areas within their territories. Not even data from the discussed Traditional Use Study that has been presented to the provincial government is taken into account. How else could it be that developments such as the expansion of Sun Peaks ski resort in a traditional hunting and gathering area, the Cayoosh Creek Ski Resort Development in the last untouched valley of the St'at'imc Nation, that is also an important grizzly bear habitat, are approved without the consent of the traditional owners and land users.

Instead the province has set up a pro forma referral system whereby third parties notify bands of planned developments and activities within their territories and bands are expected to reply within 45 days. Most recently the Secwepemc People received a proposal to allow cat-skiing in low access areas of their territory. Heavy machinery would be used to bring tourists into the area and drive them up mountains so they can ski down, also leisure skidooring is part of the operation. Both operations are prohibited by law in most Alpine areas, where skidoos are just allowed for transportation and emergencies. The bands do not have the money or human resources to deal effectively with the overwhelming volume of referral letters, nor do they have funds for research and land use planning integrating the traditional knowledge of their communities.<sup>8</sup>

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<sup>8</sup> For more information on those points of criticism see: Elias, Doug (2001) Interior Alliance Information Needs Assessment, Interior Alliance, Kamloops

## IV. RECOGNITION OF ABORIGINAL TITLE

### A. THE DELGAMUUKW DECISION

Since 1871 when British Columbia became a part of Canada, the province has maintained its practice of allotting land to settlers and companies without taking indigenous use into account. Under the Canadian constitution provinces have exclusive jurisdiction over land use, but not regarding lands reserved for Indians, which is a federal competence. They were backed in this practice by federal policies that did not recognize the inherent land rights of Aboriginal peoples.

Indigenous peoples had always opposed the present land policies of the governments, in 1997 they were joined by the Supreme Court of Canada, who on December 11<sup>th</sup>, 1997 issued the landmark Delgamuukw decision<sup>9</sup> recognizing the collective proprietary interest of indigenous Peoples in their traditional Territories as Aboriginal Title.

In the following the term “inherent rights” will be used to refer to Aboriginal Title and rights, due to the fact that they flow from indigenous laws and form the basis of indigenous identity and nationhood. Inherent rights have to be distinguished from treaty rights that are enshrined in and flow from treaties signed between indigenous nations and the Canadian Crown. Both are protected under Section 35 of the Canadian constitution. The Interior Alliance Nations have never signed treaties ceding their inherent land rights.

It was in 1982, that Section 35 was added to the Canadian constitution to protect the rights of indigenous peoples. Since then the Courts have found that the provinces do not have jurisdiction to extinguish Aboriginal Title.<sup>10</sup>

“179. The vesting of exclusive jurisdiction with the federal government over Indians and Indian lands under s. 91(24), operates to preclude provincial laws in relation to those matters. Thus, provincial laws which single out Indians for special treatment are ultra vires, because they are in relation to Indians and therefore invade federal jurisdiction...” The provinces therefore have to respect Aboriginal Title and are under a constitutional obligation not to pass legislation undermining it. Present legislation in British Columbia that regulates forestry operations on Aboriginal Title lands violates this principle. A direct obligation to protect Aboriginal Title lands is imposed on the federal government.

The Supreme Court found that:<sup>11</sup>

“133. Aboriginal title at common law is protected in its full form by s. 35(1)... S. 35(1) did not create aboriginal rights; rather, it accorded constitutional status to those rights which were existing in 1982. Since aboriginal title was a common law right whose existence was recognized well before 1982... s. 35(1) has constitutionalized it in its full form.”

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<sup>9</sup> Delgamuukw v. British Columbia (1997) 3 S.C.R. 1010

<sup>10</sup> Delgamuukw v. British Columbia (1997) 3.S.C.R., 1010, paragraph 179.

<sup>11</sup> Delgamuukw v. British Columbia (1997) 3.S.C.R., 1010, paragraph 133.

Now it is clear that the federal government has a fiduciary responsibility to safeguard Aboriginal title lands,<sup>12</sup> as per their exclusive federal jurisdiction under section 91(24) and section 35(1) Constitutional authority. Therefore the Supreme Court of Canada called upon the federal government to recognize Aboriginal Title and negotiate in good faith the joint use of the land:

186. Those negotiations should also include other aboriginal nations which have a stake in the territory claimed. Moreover, the Crown is under a moral, if not a legal, duty to enter into and conduct those negotiations in good faith. Ultimately, it is through negotiated settlements, with good faith and give and take on all sides, reinforced by the judgments of this Court, that we will achieve the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown.

The following points are central characteristics of Aboriginal Title as outlined in the bracketed parts of the judgment:

- Aboriginal title is a right to land. (111, 140)
- Aboriginal title is a property interest. (117, 119)
- Aboriginal title is a collective right. (115)
- Aboriginal title is *sui generis*, or unique. (112)

In the following the Delgamuukw Decision will be especially analyzed in parts that make reference to traditional knowledge, which will further show how interwoven land rights, traditional knowledge and current use are. The judgment starts off with a big section on the admissibility of oral evidence. The traditional knowledge that is collectively held by the community is an important basis for the recognition of their rights to their traditional territories. It was held that Courts must give **Oral History** equal footing as historical documents, by<sup>13</sup>:

83. ...adapt(ing) the laws of evidence so that the aboriginal perspective on their practices, customs and traditions and their relationship with the land are given due weight by the courts. Given that aboriginal rights recognized and affirmed by section 35 (1) are defined by reference to pre-contact practices, those histories play a crucial role in the litigation of aboriginal rights.

Proof of Aboriginal title involves showing ancestors had **exclusive occupation** of the lands when Crown asserted sovereignty:

128. ...Occupancy is determined by reference to the activities that have taken place on the land and the uses to which the land has been put by the particular group. If lands are so occupied, there will exist a special bond between the group and the land in question such that the land will be part of the definition of the group's distinctive culture.

This quote shows the intricate relationship between traditional use activities and Aboriginal Title, whose recognition in return is central for protecting ongoing uses and traditional knowledge, because it can only be maintained if it is practiced which again requires access to the traditional territories.

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<sup>12</sup> *R v. Adams* (1996) 3 S.C.R. 101.

<sup>13</sup> *Delgamuukw v. British Columbia* (1997) 3 S.C.R. 1010, 83

## ***B. POLICIES OF NON-RECOGNITION + EXTINGUISHMENT***

The Peoples of the Interior have proposed and want to elaborate schemes ensure the co-management of their traditional territories. The lack of meaningful consultation as outlined in previous chapters and the ongoing destruction of their lands has led land users and communities to take a stronger stand for the protection of their lands setting up camps like Skwelkwek'welt and Sutikalh.

The fundamental problem lies in the underlying policy of both the federal and provincial government, both aim at extinguishment and land selections processes. The peoples of the Interior believe that they cannot abandon their stewardship of their lands. They believe that just by integrating traditional knowledge sustainable development can be achieved. Modifications have to happen both in the policies and on the ground to accommodate Aboriginal Title. The indigenous peoples of the Interior have made it clear that they want to achieve coexistence as set out in the Delgamuukw decision and want to see fair negotiation processes in place, as long as that is not the case they will continue to exercise their Aboriginal Title and have decided to go international in order to protect the proprietary interests and human rights of their peoples.

The Supreme Court of Canada recognized that since the time of contact with Europeans, indigenous peoples had always maintained their Aboriginal title, jurisdiction, rights and interests over our traditional territories. The Nations of the Interior never surrendered or extinguished their title. Read together with Section 35 of the Constitution that gives them the right to the co-management of their traditional territories, a right that has been made clear in the 1997 Delgamuukw decision<sup>14</sup>:

“For the first time, the right of Aboriginal peoples to participate as equal partners in resource development on Aboriginal lands has been acknowledged. But for this new partnership to work, the federal and provincial governments will have to shed out-dated attitudes and accept the new legal landscape.”

Both federal and provincial government have to date refused to change their by now unconstitutional policy of not recognizing Aboriginal Title which is a major stumbling block in securing indigenous co-management of their traditional territories involving their traditional knowledge in order to achieve sustainable development. Surrender of Aboriginal Title has been the sole aim of governments before and since the Delgamuukw decision, instead of recognizing Aboriginal Title as mandated by the Supreme Court.

There has been no substantive reform of the 1986 Comprehensive Claims policy since the recognition of Aboriginal Title in 1997. Governments are violating their fiduciary obligation by failing to set up the relevant schemes for taking indigenous proprietary interest into account. Also when it comes to tourism and real estate developments indigenous rights and uses are not taken into account leading to a violation of the Canadian constitution and international law.

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<sup>14</sup> Mc Neil, Kent (1998) Defining Aboriginal Title in the 90's: Has the Canadian Supreme Court finally got it right?, 12<sup>th</sup> Annual Robarts Lecture, York University, Toronto, p. 29

## V. VIOLATION OF INTERNATIONAL LAW

### A. UNITED NATIONS

The United Nations repeatedly held that Canada's land rights policy violated international human rights standards. Similar to the United Nation's Human Rights Committee, the Committee on Economic, Social and Cultural Rights, concluded that<sup>15</sup>:

*"18. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal peoples from their lands, as recognized by RCAP and endorses the recommendations of RCAP that policies which violate Aboriginal treaty obligations and the extinguishment, conversion or giving up of Aboriginal rights and title should on no account be pursued by the State Party."*

The High Commissioner for Human Rights of the United Nations and the Permanent Forum on Indigenous Issues heard complaints regarding the recent BC government referendum violating indigenous and international human rights. The Special Rapporteur on Indigenous Peoples is considering investigating the situation.

By not recognizing Aboriginal Title Canada also violates further international obligations, also in the field of international environmental protection. It goes contrary to Agenda 21<sup>16</sup>, that takes the fundamental rights of indigenous peoples to their lands and resources into account, by dedicating Chapter 26 to "Recognizing and strengthening the role of indigenous peoples and their Communities". The first Article reads:

26.1. Indigenous people and their communities have an historical relationship with their lands and are generally descendants of the original inhabitants of such lands. In the context of this chapter the term "lands"; is understood to include the environment of the areas which the people concerned traditionally occupy. They have developed over many generations a holistic traditional scientific knowledge of their lands, natural resources and environment. In view of the interrelationship between the natural environment and its sustainable development and the cultural, social, economic and physical well-being of indigenous people, national and international efforts to implement environmentally sound and sustainable development should recognize, accommodate, promote and strengthen the role of indigenous people and their communities.

To achieve the above delineated goals some of the following objectives were devised<sup>17</sup>:

- Recognition that the lands of indigenous people and their communities should be protected from activities that are environmentally unsound or that the indigenous people concerned consider to be socially and culturally inappropriate;
- Recognition of their values, traditional knowledge and resource management practices to promote environmentally sound and sustainable development;

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<sup>15</sup> UN Committee on Economic, Social and Cultural Rights (1998) Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada. 10/12/98 E/C.12/1/Add.31, 18.

<sup>16</sup> text taken from the Webpage of the United Nations Environmental Program (UNEP) [www.unep.org](http://www.unep.org)

<sup>17</sup> text taken from the Webpage of the United Nations Environmental Program (UNEP) [www.unep.org](http://www.unep.org)

## ***B. THE CONVENTION ON BIOLOGICAL DIVERSITY<sup>18</sup>***

As one of the two main instruments arising from the 1992 Earth Summit in Rio the Convention on Biological Diversity relates to Indigenous Peoples in a number of ways. It recognizes in the Preamble the:

”close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources”

and thus the connection between Indigenous Peoples and their territories.

It encourages Parties in Article 10 (c) to:

”protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.”

The Convention encourages Parties in Article 14 to implement environmental impact assessments of proposed projects:

“where appropriate, allow for public participation in such procedures.”

In many cases, such projects are intended to take place on Indigenous Peoples’ territories, and so this clause encourages their participation in project decision-making to some extent. Article 14 also includes the issue of restoration and compensation for damage to biological diversity, which often is an issue for Indigenous Peoples with development projects.

In Article 8j access to, and the sharing of benefits from, the traditional knowledge, innovations and practices of Indigenous Peoples is foreseen. It also encourages Parties, within the concept of in-situ conservation, to respect, preserve and maintain this knowledge. Article 8(j) reads as follows:

”Each contracting party shall, as far as possible and as appropriate, subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”

Article 8j has to be seen in conjunction with the rest of the Convention on Biodiversity, against the background of the political discussions held in Rio and enshrined in Agenda 21 along with documents and declarations by indigenous peoples. This context makes it very clear that the protection of Traditional Knowledge as foreseen in Article 8j can only be implemented if other indigenous rights, especially land rights are recognized and implemented on the international and national level.

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<sup>18</sup> Provisions quoted from: Secretariat of the Convention on Biological Diversity (1998) Convention on Biological Diversity, UNEP/CBD/94/1, Montreal

If Canada really honored the interrelationship of traditional knowledge, uses and traditional territories, the government would recognize Aboriginal Title and thereby secure indigenous access to their lands so they can continue to use the land in their traditional way. This contradiction even becomes more evident when reading Canada's Biodiversity Strategy, where it is acknowledged that<sup>19</sup>:

“The existing Aboriginal and treaty rights of indigenous peoples of Canada are recognized and affirmed by the constitution and decisions of the Supreme Court.”

What they fail to mention is that the federal government still refuses to implement those Supreme Court Decisions and thereby violates its own constitution. The fundamental role that indigenous peoples as the holders of traditional knowledge have to play in developing sustainable land use plans has been recognized internationally. They therefore also have to be consulted on the national level and international level when it comes to the implementation of international obligations such as Article 8j and related provisions and the taking of decisions such as the awarding of International Olympic Games.

The 6<sup>th</sup> Conference of the Parties of the Convention on Biological Diversity had to consider recommendations regarding social, cultural and environmental impact assessment regarding projects in the traditional territories of indigenous peoples and the international consensus was reached that indigenous peoples had to give their free prior informed consent to any developments in their traditional territories<sup>20</sup>.

Therefore indigenous peoples have to be informed prior to the initiation of developments in their land, properly consulted and the developments can only go ahead with their free prior informed consent. The same is true for any developments associated with the 2010 Vancouver-Whistler Olympic bid. In the case of the proposed Cayoosh Creek Ski Resort that is an integral part of the bid the opposite is true, the indigenous peoples in the area clearly oppose any such development in their traditional territory and yet the government of British Columbia approved the project and the investor's are pushing ahead despite early promises to respect the decision of the St'at'imc chiefs and people.

The same is true regarding the expansion of Sun Peaks Ski Resort the Secwepemc people, led by their elders have made it very clear that they do not want to see any further expansion of the ski-resort in their traditional territories due to the devastating environmental, social and cultural impacts of the present development. Yet the Japanese investor announced the expansion of the ski-resort despite the lack of consent of the indigenous peoples of the area.

All those facts are evidence of the reverse tendency in British Columbia and Canada instead of meeting their international and national obligations they continue to violate them.

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<sup>19</sup> Biodiversity Convention Office (1995) Canadian Biodiversity Strategy, Environment Canada, Ottawa, p. 70

<sup>20</sup> UNEP/CBD/COP/6/L.25 – 16. Where the national legal regime requires prior informed consent of indigenous and local communities, the assessment process shall consider whether such prior informed consent has been obtained.

## **VI. CONCLUSIONS**

Canada and the international community are faced with this fundamental question whether they want to maintain and finally implement important values such as the protection of the environment, human and indigenous rights or whether they want to further subdue to the pressures of trade liberalization that will result in the further destruction of the environment and threaten cultural and biological diversity.

If they commit to the first route, indigenous peoples have to play a key role in giving directions how to use their traditional territories in a sustainable way. Under the condition that Aboriginal Title, their collective proprietary interest to the land is recognized, their traditional knowledge will survive and can be made instrumental in developing joint management schemes. Scientist have recognized the immeasurable value of this long term collective knowledge that can guide the way out of the present environmental crisis.

It is now upon the Canadian government to recognize and protect indigenous inherent rights and knowledge in their fullest sense, to move them to the center of their policies instead of marginalizing them. Traditional knowledge is inextricably linked to the land it relates to, if those eco-systems are destroyed the relevant knowledge and indigenous cultures will disappear too. The Recognition of Aboriginal Title has to be made the basis for the implementation of holistic schemes for the protection of traditional knowledge.

On the contrary as long as Canada does not recognize Aboriginal Title and develop co-management schemes with indigenous peoples as equal partners, their present policies regarding the protection of traditional knowledge have to be uncovered as mere lip service. An analysis of the present environmental situation of Canada shows that their present policies cannot stop the degradation of ecosystems and the loss of biodiversity. It is the obligation of the International community to call upon Canada to recommit to fundamental values such as human and indigenous rights and environmental protection in order to reverse this negative trend.

## **VII. ANNEXES**

ANNEX 1: Opposition of the St'at'imc Chiefs and the Interior Alliance  
to the Construction of Cayoosh Creek Ski-Resort.

ANNEX 2: Elders' Statement Skwelkek'welt

ANNEX 3: Discussion of the Mountain Forum on Skwelkek'welt

ANNEX 4: Report on Exploratory Trip by Christian Peacemaker Teams to British Columbia

ANNEX 5: Report on the 6<sup>th</sup> Conference of the Parties of the Convention on Biological  
Diversity regarding the provisions on prior informed consent of indigenous peoples

ANNEX 6: Referendum Ballot

ANNEX 7: International Brochure: Our Mountain Worlds and Traditional Knowledge

## News Release

June 12, 2000

### **St'at'imc Nation Rejects Cayoosh Ski Resort Proposal**

In 1991, the BC provincial government issued a proposal call for an alpine ski development in the Melvin and Cayoosh Creek drainage. In response, Nancy Greene-Raine Resort Consultants (NGR Inc.) sent in a proposal to develop an all-season ski resort. The proposed resort falls within unceded St'at'imc territory.

We reiterate the words of our Ancestors in the Declaration of the Lillooet Tribe (May 10, 1911): "We are the rightful owners of our tribal territory and everything pertaining thereto. These lands have been continually occupied by us from time out of mind".

On June 11, 2000, a meeting was held by the St'at'imc People in which clear direction was provided to reject the ski resort proposal in the Melvin Creek drainage as put forth by NGR Resort Consultants Inc.

Resource and land use decisions within our territory are to be determined by St'at'imc law.

For information, please contact Chief Garry John, St'at'imc Chiefs Council.  
(250) 256-7523 Lillooet Tribal Council  
(250) 259-8227 Seton Lake Band  
(604) 868-8560 cell

## **INTERIOR ALLIANCE PRESS RELEASE**

### **Ski Resorts are More a Blight Than a Benefit for Aboriginal Nations**

June 14, 2000

(Kamloops, Secwepemc Territory). The Interior Alliance today announced their support for the St'at'imc (Lillooet) Nation's decision to reject the ski resort proposed for the Melvin and Cayoosh Creek drainage area, which is part of the St'at'imc Nation's unceded territory. The Interior Alliance also supports the St'at'imc position that resource and land use decisions within their territory are to be determined by St'at'imc law. In fact, the entire south, central interior of B.C., which comprises about one third of the province, is subject to the Aboriginal title of the Interior Alliance Nations.

The majority of the Bands from this vast region are not in the B.C. Treaty process, we are not being meaningfully consulted, or having our unique, constitutionally protected, priority, Aboriginal title and rights, accommodated by the provinces "Strategic or Operational" land or resource Plans. Our Aboriginal land use has already been negatively impacted by existing ski resorts in the south, central interior of the province.

These ski reports become year round destination areas which bring expansion and they eventually become small towns. The introduction of a new tourist population without Aboriginal involvement or consent, only adds to existing land and resource pressures on the important Alpine areas our peoples continue to rely on for their traditional activities. A prime example is

the Sun Peaks Resort, which was built on a sacred Secwepemc mountain, and leased by the province without Secwepemc (Shuswap) consent. The Sun Peaks Resort continues to be an ongoing problem for the Secwepemc peoples. The Elders of several Secwepemc Bands in the area met last year with the owner of Sun Peaks Resort to deliver the message that they were against any expansion plans the Sun Peaks Resort has, yet expansion continues at the site. The Sun Peaks Resort has asked British Columbia Assets and Lands Corporation for a permit to develop a large gravel pit in the area to support further construction and expansion of the Sun Peaks Resort.

Chief Arthur Manuel, Chairman of the Interior Alliance said today:

"the tourist industry in British Columbia should not be surprised by the decision of the St'at'imc Nation to reject the proposed ski resort at Melvin Creek. This should signal to the tourism industry that the province's existing Aboriginal consultation policies, and the province's resource and land-use planning processes are not working because they don't recognize or respect the legal principles applying to Aboriginal title, which are set out in the Supreme Court of Canada's landmark Delgamuukw decision. I personally know Al Raine and Nancy Greene and they should have known better than to try and circumvent, or play politics with the St'at'imc Nation while promoting their project proposal. The fact is, the Secwepemc people have already experienced environmental impacts on the land and derive little benefits from the Sun Peaks Resort. So why should the St'at'imc Nation have to go through the same experience?"

Chief Manuel, added:

"Our future connection with our Aboriginal title territories are threatened by ongoing resource and land-use plans which are dictated by non-Aboriginal interests and authorized without our consent by the provincial government. The Interior Alliance of Aboriginal Nations is there to provide mutual support and assistance to each other. We intend to highlight this land-use conflict in our ongoing international campaign, and we believe it wouldn't take too much effort to ask tourists from Europe or elsewhere, to boycott B.C. ski resorts, because the provincial government and tourist industry are ignoring Aboriginal title and rights."

The St'at'imc Nation established a camp at Melvin Creek several weeks ago to protect the area from the unauthorized construction of a road to the proposed site of the ski resort, and to monitor developments on the ground which may further prejudice St'at'imc title and rights. Chief Manuel concluded by stating:

"I have visited the St'at'imc Camp at Melvin Creek twice now, and we have made contact with European support groups, who have already started to publicize this issue. During my visits I have personally observed 15 deer in this extremely narrow valley. Moreover, I am aware that the area is important habitat for other species, such as, wolves and grizzly bears. We fully intend to support the St'at'imc Nation in their efforts to protect this significant habitat."

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FOR MORE INFORMATION CONTACT:

Chief Arthur Manuel. Cell: (250) 314-7179. Neskonlith Indian Band, Interior Alliance

Chief Garry John. Cell: (604) 868-8560, or Office: (250) 259-8227 Seton Lake Band

# **SECWPEMC ELDERS MESSAGE TO MR. MASAYOSHI OHKUBO, PRESIDENT OF THE SUN PEAKS RESORT CORPORATION NOVEMBER 4, 1998**

We are here today to give you this message.

As with all peoples of Mother Earth, we to were given our ancestral homelands from the Creator and continue to hold out territory as a sacred trust for the survival of our people, not only for this generation, but fro all future generations of Secwepemc.

Our people have suffered and endured poor treatment from the non-Secwepemc for many generations now. We have seen out title and rights ignored, our way of life attacked, our lands damaged and fenced in, the fish, game and plants we depend, and we have seen our children suffer because of all this.

In the time we have left on Mother Earth we want to see that our people finally get justice.

Almost one year ago, in the Delgamuukw decision Canada's highest court recognized what we have known all along, aboriginal title exists and it is a right to the land itself, a property right.

In 1872, out late Chief Neskonlith agreed to have a Reserve set aside on unceded Secwepemc territory, for our peoples use and benefit. We have never surrendered the 1862 Neskonlith Douglas Reserve, nor has the Secwepemc Nation ceded its territory.

The region now known as Tod Mountain, including the Sun Peaks Resort, is located within out 1826 Neskonlith Douglas Reserve, and its part of our Secwepemc Title Territory.

By way of this message, we are officially giving you notice, that even though you have negotiated a lease with the Government of British Columbia, they are not owners of Secwepemc Title Territory, you are still required to negotiate an arrangement with our Secwepemc representatives in order to determine the future status of you business venture on our lands.

Part of any arrangement with the Sun Peaks Resort must involve protection of our sacred areas, and ensuring our people continue to have access to Tod Mountain for traditional activities.

We also want to take this occasion to inform you, that we absolutely do not want any further development or expansion of your operations.

We do not seek conflict with you, we simply want you to negotiate with our leaders and people, fairly and justly. Together we can work out between us.

The Government of British Columbia and Canada will also have to be involved, because the provincial government did not have the right to lease you Secwepemc lands, and the federal government was supposed to protect our Secwepemc Title Territory, including the 1862 Neskonlith Douglas Reserve from trespassers.

We thank you for coming to visit with us and to listen to what we have to say.

Kukstsemc.



----- Original Message -----

From: Jack\_Ives <[JackIves@pigeon.carleton.ca](mailto:JackIves@pigeon.carleton.ca)>

To: Mountain Forum <[mtn-forum@lyris.bellanet.org](mailto:mtn-forum@lyris.bellanet.org)>

Sent: Wednesday, June 05, 2002 10:42 AM

Subject: Secwepemc traditional lands and Sun Peaks Ski Resort

Dear Mountain Forum:

I would like to seek your advice and help on behalf of an Indian band whom Euro-Canadians refer to as "Sushwap". They are a Canadian First Nations group who refer to themselves as "SECWPEMC", i.e. that is their proper name. Their homeland is in south-central British Columbia and their traditional mountain land is being progressively impinged upon by ski resort and hotel development - actually the development money is Japanese!

I should explain that, unlike all other Canadian provinces, British Columbia, when a separate British colony (about 1849-1871) made no treaties with the then majority indigenous people. So the Secwepemc maintain that their traditional tribal land still belongs to them. It includes high mountains and so falls within our 2002 agenda.

I have appended a couple of messages I have received from Janice Billy, one of the tribal elders. Chief Arthur Manuel came to our house last week. I was enormously impressed with his understanding, intelligence, and sensitivity.

These are some of the mountain people whom the world seems to be forgetting.

Jack D. Ives

e-mail: <[jackives@pigeon.carleton.ca](mailto:jackives@pigeon.carleton.ca)>

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From: Janice Billy[SMTP:[jrbilly@mail.ocis.net](mailto:jrbilly@mail.ocis.net)]

Sent: Sunday, June 02, 2002 5:48 PM

To: Jack\_Ives

Subject: Re: Secwepemc

Dr. Jack Ives,

I am writing to you regarding an urgent situation. We have heard, from reliable sources, that the Sun Peaks Ski Resort is using tons of fertilizers on the golf courses and ski runs. They even use the fertilizer in the winter so the snow will freeze and make the runs more slippery for ski racing. We were informed that Sun Peaks workers left out some bags of fertilizer and some cow (7) ate it and died. The farmers were paid rather than report it to environment officials. We are still gathering the facts about this case. But the point is, that tons of chemicals are being used in a pristine alpine mountain area. The run-off gets into the nearby creeks and rivers. We are extremely worried about the effects on wildlife in this area. deer, moose, birds, etc and on our medicinal plants and foods.

We want a thorough environment study done on this area. We do not trust the provincial environment ministry because the province has been working with Sun Peaks on many of the incidents which have happened.

Do you know which body we can contact regarding this study. We also want a health impact assessment done eg. how is our health affected when we don't have access to, or our traditional areas are destroyed. This destruction has many devastating effects on our traditional way of life. Chief Arthur Manuel worked with other indigenous people of the world, to have "prior informed consent" put into the UN Convention on biodiversity. Would any international instruments be of any help to us. If you can think of anything, please contact me. We are looking at all governments and big agencies, such as the World Bank.

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From: Janice Billy[SMTP:jrbilly@mail.ocis.net]  
Sent: Saturday, May 04, 2002 3:41 PM  
To: [JackIves@pigeon.carleton.ca](mailto:JackIves@pigeon.carleton.ca)  
Subject: Secwepemc

Dear Mr. Ives,

My name is Janice Billy. I am from Neskonlith band in Chase, B. C. I was going to meet with you, along with Chief Arthur Manuel, in April in Banff. I am sorry you could not make it, and I hope you are feeling better.

As you may know, we are opposing the \$70 million expansion project proposed by Sun Peaks Ski resort. This resort is located within our 1862 Neskonlith Douglas reserve which the federal government refuses to recognize. But more importantly, it is located within our traditional territory which we still use for hunting, fishing, berry picking, medicine gathering, and spiritual purposes. We were traditionally hunters and gatherers and although we now live in colonial enclaves (Indian reserves) we have never given up our way of life on the land. Many of our traditional uses areas are being destroyed at an alarming rate by forestry practices, tourism, settlement, recreation, cattle grazing etc.etc.

The Sun Peaks Ski resort has never conducted a thorough environmental or cultural impact study before commencing their development plans. MacGillvray Creek which was an important creek for Dolly Varden and trout now has virtually no fish. Townhouses and a golf course are being built on the banks of this creek. Snow making (artificial snow) and other chemicals are used on the ski hills and golf courses and so on.

I am presently reading your book "Mountain of the World" and am very impressed with the work you and others have done on behalf on mountains. Our people, the Secwepemc, have taken care of our mountains, rivers, lakes, and all the land since began. We have a great deal of indigenous knowledge to share with the world on how to take care of the land.

I was particularly interested in the chapter on "spiritual and cultural aspects of mountains" Our people are very connected to mountains, as they are places for vision and spiritual quests. They are also spiritual because that is where we obtain all our basic needs - shelter, food, clothing, medicines.

The Elders are very concerned about the water quality in the Sun Peaks ski resort area. They say we absolutely must protect the high mountain areas where the freshest water comes from. I understand from Cari St. Pierre that you still may come in May or June. We would be very interested in meeting with you regarding our mountain concerns. If you can help in the meantime, please contact me by e mail or phone 250-679-3052 (evenings) Thank you, I look forward to hearing from you.

Janice Billy  
FW Secwepemc



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17 January 2002  
PR/E02/02

**For use of the media - not an official record**

## **UNU SCHEDULES THREE EVENTS FOR START OF INTERNATIONAL YEAR OF MOUNTAINS 2002**

Mountains, which serve as vast reserves of valuable resources as well as key centres of culture and recreation, are among the world's most vulnerable bio-geographical areas. The rapid pace of globalization, urbanization and mass tourism is threatening mountain resources and communities as never before, with mountain areas worldwide facing increasing marginalization, economic decline and environmental degradation.

In an effort to increase international awareness about the global importance of mountain ecosystems, the United Nations General Assembly has designated the year 2002 as the International Year of Mountains.

To mark the start of International Year of Mountains 2002, the United Nations University (UNU), in close collaboration with the Graduate School of Environmental Earth Science at Hokkaido University (where the Secretariat of the International Year of Mountains 2002 Japan Committee is presently based) has organized the following activities. On Thursday, 31 January 2002, the UNU will host a public forum on "Mountains: Environment and Human Activities." This public forum, to be held in the U Thant International Conference Hall of the UN House from 2:00 to 5:00 p.m., will feature lectures by Ms. Junko Tabei (Chairperson, Himalayan Adventure Trust of Japan), Prof. Yugo Ono (Hokkaido University), and Prof. Jack D. Ives (UNU Senior Adviser, UNU Environment and Sustainable Development programme). The forum moderator will be Mr. Hatsuhsa Takashima (Director, UNIC, Tokyo). Simultaneous Japanese-English interpretation will be provided; see the attached [programme](#) for more information.

The public forum will be followed on Friday, 1 February 2002, by an "International Symposium on Conservation of Mountain Ecosystems." This symposium, which will be attended by Japanese and international mountain researchers and educators, government officials and representatives of non-government organizations, will begin at 9:30 a.m. in the Elizabeth Rose Conference Hall of the UN House. A key aim of the event is to contribute to improved understanding of the status of different mountain systems in relation to global change, the pressures these mountains are exposed to (including their consequences on natural, human and economic resources), and the responses of indigenous social groups and mountain societies.

The core themes of the symposium will be (1) People in Mountains: Social and Livelihood Aspects, (2) Sustainability of Mountain Biodiversity and Natural Resources, and (3) Development of Japanese Mountain Studies. More than two dozen lecturers and panelists will share their expertise; see the attached [programme](#) for a complete list.

Running in conjunction with these events, in the UN Gallery at the UN House, will be the UNU Mountain Photograph Exhibit featuring photographs by Prof. Jack D. Ives. This exhibit, "Mountain Prospects: Images for the International Year of Mountains," will open on Friday, 25 January and run through Friday, 29 March. Prof. Ives has been involved with mountain research all his life, and has photographed mountains and mountain peoples and communities worldwide, including in the Himalaya, Thailand, Tibet, Tajikistan, China, and the Andes. Images from the UNU Mountain Photograph Exhibit will be displayed online at <http://www.unu.edu/mountains2002/photoexhibit/>. Media representatives are cordially invited to attend the public forum, international symposium, and opening of the mountain photograph exhibit.

For more information, or to reserve a place at the public forum or symposium, please contact the UNU Public Affairs Section. For more information about the International Year of Mountains 2002 (IYM 2002), see the official IYM 2002 website <http://www.mountains2002.org> and the IYM2002 Japan Committee website <http://www.iym-japan.org/index-e.htm>

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## **Jack D. Ives, B.A. (Nottingham), Ph.D. (McGill) Honourary Research Professor**

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### **Research Interests**

Mountain geoecology; human impacts on mountain environments; development  
Landscape change; deforestation, poverty, and gender; catastrophic events  
Pleistocene and Holocene history of the Canadian Eastern Arctic and Iceland



### **Biography**

Jack Ives received his B.A honours first class, Geography, U of Nottingham, 1953; Ph D. McGill U., Geography (geomorphology) 1956; (married Pauline Angela H. Cordingley, 11 September 1954 and emigrated to Canada [Montreal] same month). Director, McGill Subarctic Research Lab., Schefferville, and Assist. Prof., Dept of Geography, McGill U., 1957-1960; Assist. Director and Director, Geographical Branch, Energy, Mines and Resources, Canada, 1960-67. Director, Institute of Arctic and Alpine Research, U of Colorado, Boulder, CO, USA, 1967-1979 and Full Professor, Geography, 1967-1989. Professor of Mountain Geoecology (Chair of Dept of Geography [1989- 1993] and Prof. Division of Environmental Studies, U of Calif., Davis, [1993-1997]). Chair, International Working Group, UNESCO MAB Programme, Project 6 - 1973-1973. Research Coordinator, United Nations University - Project on Mountain Ecology and Sustainable Development, 1978-present (involved fieldwork in Himalaya, N. Thailand, Tibet, Tajikistan, Ecuadorian Andes. Chair, Intntl. Geogr. Union, Commission on Mountain Geoecology, 1972-1980 and 1988-1996. Official delegate to Rio de Janeiro 1992 Earth Summit (UNCED). John Simon Guggenheim Memorial Fellow, 1976-77, held as Guest Prof. at University of Berne, Switzerland. Cited by Governor John Vanderhoef, Colorado, for contributions to environment of Colorado Rocky Mountains, and appointed to Governor's Scientific Advisory Council.

Over 150 publications - scientific papers, books. Founder and Editor (1968-1980) quarterly journal Arctic and Alpine Research. Founder and Editor (1980-2000) quarterly journal Mountain

Research and Development. Supervised over 50 Masters and Ph D students and 18 Post-doctoral fellows - from China, Nepal, Bhutan, Thailand, and Ecuador.

### **Recent Publications**

The use of hillside environments for land husbandry: Personal reflections. *Mountain Research and Development*, 19(3): 173-177. 2. AD 2002 declared by United Nations as 'International Year of the Mountains', *Arctic, Antarctic, and Alpine Research*, 31(3): 211-213 (with B. Messerli).

IVES, J. D. \* MESSERLI, B. and \*SPIESS, E. 1997 'Mountains of the World: A Global Priority (with new fold-out map of the world's mountains)' in *Mountains of the World: A Global Priority* ed B. Messerli and J.D. Ives (London and New York: Parthenon Publishing Group) 1-16

IVES, J. D. 1997 'Comparative inequalities - mountain communities and mountain families' in *Mountains of the World: A Global Priority* ed B. Messerli and J.D. Ives (London and New York: Parthenon Publishing Group) 61-84

IVES, J.D., \*MESSERLI, B., and \*RHOADES, R.E. 1997 'Agenda for sustainable mountain development' in *Mountains of the World: A Global Priority* ed B. Messerli and J.D. Ives (London and New York: Parthenon Publishing Group) 455-466

IVES, J.D., \*SWOPE, L., \*SWAIN, M. B., and \*YANG, F. 1997 'Uncommon property rights in southwest China: trees and tourists' in *Life and Death Matters* ed B. R. Johnston, (Walnut Creek, London and New Delhi: Altamira Press) 43-59

\*MESSERLI, B. and IVES, J.D. eds 1997 *Mountains of the World: A Global Priority* (London and New York: Parthenon Publishing Group)

### **Memberships**

American Association of Geographers

Royal Geographical Society

Royal Canadian Geographical Society

Arctic Institute of N.A.,

Chinese Glaciological Society

Central Himalayan Environmental Association

IUCN - Commission on Parks and Protected Areas.

# Report on Exploratory Trip by Christian Peacemaker Teams to British Columbia

March 17-26, 2002

by Doug Pritchard and Janet Shoemaker

## 0. Summary

A Christian Peacemaker Teams (CPT) exploratory delegation visited British Columbia March 17-26, 2002. The delegation met with a wide variety of persons involved in current conflicts over the development of ski resorts at Sun Peaks and Melvin Creek in south central British Columbia and over fisheries along the Fraser River. These conflicts have seen frustration by resource users, harassment, threats, arrests, some violence, and the denial of Aboriginal rights. In this brief visit, CPT introduced itself, gained some understanding of the issues involved, and has been asked to be "on alert" in case the situation deteriorates and human rights monitors are needed.

## 1. Background

The situation of Aboriginal peoples living in the province of British Columbia is quite different from that of Aboriginal peoples in the other provinces of Canada. The big difference is they have very few treaties with Canada. Colonial authorities in British Columbia took the view early on that European occupation of the land had extinguished any Aboriginal title or rights to the land. This was partly due to the sudden influx of Europeans into the interior of BC with the gold rushes of the mid 1860s which overwhelmed the ability of the colonial authorities to properly manage their relationship with Aboriginal peoples.

Colonial Governor Douglas did lay out reserves for many Aboriginal peoples in BC in the early 1860s ("Douglas reserves"). Some of these reserves included a good portion of the lands used by particular Aboriginal peoples. Other reserves only included a small part of their hunting or fishing or gathering sites. As BC entered the Canadian Confederation in 1871, it insisted that Aboriginal title in BC had been extinguished.

The new federal government soon began to apply its Indian Act and regulations to the reserves in BC and Aboriginal peoples were increasingly restricted to these lands. In the early 1900's, BC reserves were reviewed by the provincial lands commissioner Joseph Trutch and most were dramatically reduced in size, freeing up more land for provincial use.

Starting in 1973 with the Calder case, the Supreme Court of Canada began to challenge BC's contention that Aboriginal title had been extinguished in the province. This encouraged the Nisga'a people in northern BC to file a claim under the federal government's cumbersome and slow Comprehensive Claims policy which did eventually lead to the first (and only) modern treaty in BC. As unfavourable court decisions accumulated, the BC government finally agreed with the federal government and the First Nations Summit in BC to begin to negotiate treaties under a BC Treaty Commission established in 1993. So far 51 First Nations have joined the BC Treaty process while 15-20, mostly in the Interior Alliance, have not joined the process. The process has yet to produce a single treaty. Four negotiations did get to the stage of a signed Agreement in Principle but were then rejected during ratification votes in the First Nations communities.

In 1997, the Delgamuukw decision in the Supreme Court of Canada strengthened the argument for Aboriginal title in BC and created the "shape of a relationship" with Aboriginal peoples based on co-existing titles and accommodation. Aboriginal peoples looked forward to a revitalization of the stalled BC treaty-making process as a way of applying the "accommodation" principles outlined in Delgamuukw.

However, BC continued to delay by insisting that Aboriginal peoples had to first prove their title in Court. First Nations have now spent millions of borrowed dollars on archaeological and legal surveys to document their use of their lands and the costs of infringements on that land by non-Aboriginal settlers and resource-extractors. BC's position on the need to prove Aboriginal title has been rejected again by the BC Court of Appeals in recent cases in 2002 (Taku River and Haida v Weyerhaeuser) where the Court concluded that the Province has a duty to consult and to accommodate Aboriginal interests, even BEFORE an Aboriginal Nation manages to prove its rights or title in Court.

These latest two decisions have enormous implications for how the Province relates to Aboriginal peoples and how it deals with issues around the use of lands for resource extraction and recreational use in the province. Despite this, the Province continues with its policy of denial and non-recognition. Now the Province is holding a binding referendum on April 2, 2002, asking citizens of the province to support its century-long rejection of Aboriginal rights and title.

As a result, feelings in the province are very high. Aboriginal peoples see their lands being mined, drilled, logged, leased, and sold without the consultation and accommodation of Aboriginal interests mandated by the Supreme Court of Canada. So blockades, protest camps, and lawsuits abound. Resource-extractors and investors face a climate of uncertainty and controversy when they accept leases or undertake projects or purchases approved by the Province but opposed by Aboriginal peoples. The citizens of BC have been told repeatedly that Aboriginal title and rights have no unique standing in Canadian constitutional law and are now being asked to repeat that claim in the upcoming referendum.

However many of the questions on the referendum ballot are outside BC's provincial jurisdiction and so the validity of the referendum is highly questionable.

These tensions are not going to be reduced quickly nor easily.

## **2. Sun Peaks Resort**

This resort is 35 kms northeast of Kamloops in south central British Columbia. It began as the Tod Mountain ski resort in 1961, catering largely to a modest number of day-trippers. In 1992 it was purchased by Nippon Cable Company who immediately began planning for a large-scale year-around resort. By 1995, their plans were approved by the BC government and expansion began. Sun Peaks holds some land in fee simple for its own use and for sale to others for chalets. The rest of the land is leased for recreational use from the Province. Phase 1 of the expansion project is now complete and has taken the resort from its original 100 beds accommodation to 4,000 beds in both hotels and privately-owned chalets. The next phase now underway will take the expansion to 10,000 beds. The final phases 3 and 4 will take the total beds to 20,000.

Sun Peaks says that leaders of First Nations in the Secwepemc Tribal Council attended informal meetings with them in 1993-94 and formal meetings in 1995-96 to discuss these plans. This led to the signing of a Protocol Agreement in January 1997 with the chiefs of eight Secwepemc First Nations which promised consultation and employment opportunities. Two First Nations (Little Shuswap and Whispering Pines) have invested money in projects within the resort.

In 1996, three First Nations (Neskonlith, Adams Lake, Little Shuswap) filed a land claim based on the reserve lands laid out by Governor Douglas in 1862 (the Douglas claim), which includes the land at Sun Peaks. This claim was filed with the Federal Government as part of their "specific claims" process and is not part of the BC Treaty Commission process. The claim is supported by the Secwepemc Tribal Council. The First Nations have done work towards documenting their use and title to these lands but the claim has not yet been scheduled for a hearing. In 1998, the elders and community of Neskonlith First Nation (FN) advised Sun Peaks that they were opposed to the expansion of the resort and asked that work stop immediately. This has not happened.

Sun Peaks management says that their project has no impact on the watershed because all water is recycled and the discharge from their specialized sewage treatment plant is better than BC drinking water standards. Opponents raise questions about the chemical runoff from the golf course and snow-making operations. Sun Peaks says that the project has no impact on wildlife or has in fact improved habitat because the ski runs are "vertical meadows" attracting deer and other animals. Opponents say the noise, deforestation, and air pollution are driving animals away except for black bears attracted to the resort's garbage. Sun Peaks says that their archaeological studies showed little evidence of Aboriginal use of these high alpine lands. Neskonlith FN elders say that all of these lands have been used for generations for hunting, berry-picking, and

medicine-gathering. The community says their researchers have found ample proof of this and so Sun Peaks' archaeologists must not have looked very carefully.

In October 2000, Neskonalith FN established its first Skwel'kwel'welt Protection Centre on lands near the resort. Sun Peaks successfully applied for a court order to have the centre removed and it was destroyed the next month by BC Assets and Lands Corporation (a provincial Crown corporation which manages BC lands) and Sun Peaks employees with the protection of the Royal Canadian Mounted Police (RCMP). Since then, several more Protection Centres, sweat lodges, and other dwellings have been built by Neskonalith people and then destroyed by court order. Two Centres remain at the moment. In addition, 54 arrests have been made involving Aboriginal elders, leaders, land-users, and youth. The RCMP say they only respond to allegations of criminal activity such as violation of court orders, road blockades, mischief, or assault, and cannot deal with "civil matters" such as the Douglas land claim or Sun Peaks' failure to accommodate Aboriginal interests in accordance with recent higher court decisions. Visitors and staff at Sun Peaks and residents of neighbouring communities frequently taunt and threaten Aboriginal people in the area and at the Protection Centres and have assaulted them in a number of incidents. Only one non-Aboriginal person has ever been charged in these incidents.

Those opposed to the development continue to occupy the remaining Protection Centres and periodically walk through the Sun Peaks Village to hand out leaflets and assert Aboriginal rights to the land. They have support from other Aboriginal groups such as the Union of BC Indian Chiefs, the Interior Alliance, the Native Youth Movement and local and international human rights groups. They have asked that these groups, including CPT, remain "on alert" in case the Protection Centres or occupiers are seriously threatened again.

### **3. Melvin Creek Proposal**

Another large ski resort has been proposed for Melvin Creek by Al Raine and Nancy Greene Raine. Melvin Creek is a small tributary of Cayoosh Creek which flows east from Duffy Lake into the Fraser River near Lillooet. Melvin Creek flows through a pristine, high altitude glacial valley. The area has not been logged and wildlife are abundant. There are a wide variety of micro-climates and diverse vegetation and forest as a result. There are "snow bowls" at the head of the valley and these have been used by the Raines for helicopter-skiing.

The Raines obtained a recreational lease from the Province for their development. They have completed the studies and environmental assessment required by the Province, which has now approved the project. However the Raines had said at the beginning that they would not proceed with the project unless Aboriginal peoples in the area supported the proposal. Thus far they have not received that support. The St'at'imc Tribal Council, which includes eleven First Nations in the region, opposes both the ski resort and the logging of particular forests in the area including Melvin Creek. The Raines apparently

would like to present their proposal directly to the members of these First Nations. The chiefs who make up the Tribal Council have refused, saying that the proposal and all of its implications are too complex for a single community meeting to properly evaluate.

A camp was set up at the entrance to the Melvin Creek valley early in 2001 to prevent logging and the ski resort. In August 2001, the occupants of the camp (this camp or another camp?) blockaded the adjacent highway and 6 persons were arrested. The camp at Melvin Creek is still occupied. There are rumours that logging may start in April 2002 and so the camp and its supporters remain on alert.

#### **4. Fisheries**

The most productive and most contested fishery in the region is the Fraser River salmon fishery. There are many First Nations along the river and its tributaries who have centuries-old traditions of fishing these waters for food and for trade. There are also large Canadian and U.S. commercial operators fishing for the same salmon when they migrate to the northwest Pacific Ocean and there are sport fishers seeking salmon in the rivers.

The federal Department of Fisheries and Oceans (DFO) regulates the fishing of salmon in the rivers and ocean. The DFO has given communal licences with quotas and seasons for Aboriginal "food fisheries" along the salmon rivers. These "escapement returns" and quotas are set low enough that ample salmon stocks remain for commercial and sport fishing interests. The DFO does not accept the claim of Aboriginal communities that they also have a right to fish for trade. Aboriginal communities claim they have a prior and over-riding right to fish for their full needs before any commercial or sport interests are considered. They cite the Badger decision in the Supreme Court of Canada in support of this claim.

As a result, different First Nations have opened salmon fishing in recent years during periods when the DFO insisted it remain closed. In response, the DFO harassed Aboriginal fishers, used physical force against them, and threatened to charge them and their communities' advisors for fishing during those periods, but no charges were laid. In 1996, the DFO began a few pilot projects for commercial fishing by First Nations. The DFO also increased the Aboriginal "food fishery" quotas in order to take some of the heat out of the controversy. Aboriginal fishers maintain that non-Aboriginal commercial fishers scoop up whole schools of salmon in the ocean and so fishing needs to be limited to the rivers where catches and remaining stocks can be more closely regulated.

The distribution of salmon stocks among Aboriginal and non-Aboriginal users remains contentious

The Province has also licenced a few "fish farms" off the Pacific coast. Many Aboriginal fishers and environmentalists oppose these farms because of their heavy use of antibiotics and because aggressive, non-indigenous species

escape the farms and threaten the less aggressive Pacific species. The new provincial government has just lifted the moratorium on new fish farms despite objections from First Nations along the coast.

## **5. Proposal for Christian Peacemaker Teams**

The Skwelkwek'welt Protection Centres near Sun Peaks are under constant pressure and threats from Sun Peaks management, employees and visitors, and from police. The occupants have gathered support and have asked for human rights monitors to accompany them to a meeting with RCMP on April 5 and to assist with training of other monitors in May. They have asked whether CPT could assist with either of these requests. Possible personnel from the area: Anita Fast, Cole Hull, Lois Kenagy, Carl Meyer, Carleta Schroeder?

The occupants have also asked CPT and other human rights monitors to be "on alert" in case the situation deteriorates and on-site monitors are needed. In the present situation two full-time CPTers would be a sufficient presence at one Protection Centre if requested. Living and working conditions would be very basic, even more so than in our South Dakota and Esgenoôpetitj projects. At the Protection Centres, there is no running water, electricity, buildings, outhouses etc. and it is a long way to town by road or foot for supplies and access to communications outlets.

### **Some Definitions of Names Used:**

Neskonlith, Adams Lake, Little Shuswap, Bonaparte, Whispering Pines - Five of the eight First Nations of the Secwepemc people closest to Sun Peaks, each with its own chief, council and reserve.

Secwepemc - The name they call themselves. The Secwepemc consist of 17 First Nations in south-eastern BC. They are referred to as "Shuswap" by English-speakers. The Shuswap Nation Tribal Council is made up of the chiefs of eight of these First Nations.

Skwelkwek'welt - The Secwepemc name for the area under threat by the expansion of Sun Peaks.

Shackan , Lower Nicola - Two First Nations within the Nicola Valley Tribal Council

Seton Lake, Cayoose Creek - Two First Nations within the St'amt'ic Nation which are also part of the Lillooet Tribal Council.

St'amt'ic Nation - a group of eleven First Nations in south central BC

**REPORT**  
**Chief Arthur Manuel**  
**Neskonlith Band and Interior Alliance**  
**April 20, 2002**

**6<sup>th</sup> Conference of the Parties**  
**to the**  
**Convention on Biological Diversity**

*vital world - life on the line*  
*April 7 – 19, 2002*  
*The Hague, The Netherlands*

ARTICLE 8(j) AND RELATED PROVISIONS

The following paragraph regarding “prior informed consent” (PIC) was submitted to the 6<sup>th</sup> Conference of the Parties (COP6) to the Convention on Biological Diversity, April 7 – 19, 2002. Paragraph 16 was left in square brackets because Canada wanted it removed and it was objected to by the Indigenous Forum. Therefore the second meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions held in Montreal from 4 to 8 February 2002 at the headquarters of the International Civil Aviation Organization submitted it to COP6. This was the meeting that Elder Irene Billy and I attended and we participated in making this objection to the floor at that working group.

UNEP/CBD/COP/6/7 - 14 February 2002

[16. The assessment processes should consider the inclusion of provisions regarding free, prior informed consent of indigenous and local communities.]

On Monday, April 15, 2002 Canada, Australia and Malaysia opposed reference to “prior informed consent” and supported consultation with indigenous and local communities. Therefore on Wednesday, April 17, 2002 Chair Fisher of Working Group II introduced the following text and advised that it was mistakenly not put in square brackets.

UNEP/CBD/COP/6/WG.II/CPR.9 - 16 April 2002

[16. The assessment processes should consider the inclusion of provisions regarding free, prior informed consent of indigenous and local communities in accordance with national legislation.]

The European Union (EU), Colombia and Norway clearly supported prior informed consent and indeed the EU and Norway specifically endorsed the original text. The Indigenous Forum did not support the reducing consent to merely consultation. The above text was then submitted to the “Friends of the Chair”. The Friends of the Chair was Ethiopia, Canada, Argentina, Kenya, Switzerland, Spain, Colombia, Turkey and Russia. The Indigenous Forum was excluded from the Friends of the Chair because we are not a nation-state.

The following text was therefore submitted to the Working Group II on Thursday April 18, 2002. It added consultation to the paragraph and therefore reduced the importance of prior informed consent to merely being a consultation exercise.

UNEP/CBD/COP/6/WG.II/CRP.9/Rev.1 - 16 April 2002

[16. Where the national legal regime requires consultation or prior informed consent of the indigenous and local communities, the assessment process shall consider whether such consultation has taken place or such prior informed consent has been obtained.]

When I arrived at the Working Group II meeting I asked Fred Fortier what could be done about the text. He explained that text from the "Friends of the Chair" is pretty hard, if not impossible to change because we are not a nation-state.

I therefore decided to go down and talk to Mr. John Herity, Director, Biological Convention Office, Environment Canada and the official representative sitting at the Canada desk at the Working Group II. Mr. John Herity told me that the reason he supported this position was because of the need to protect the power of the federal government to expropriate lands. He also said that he had the support of the Canadian indigenous representatives. I told him that I did not support the Canada position.

I then asked him if he would object if I spoke from the Indigenous desk because I did not agree with Canada. He told me that it was not up to him if I could speak but up to the Chair. I said that the reason I was asking was because, the day before, the EU had to intercede and ask the Chair to permit the Indigenous Forum to speak. I felt that someone was causing the Chair to not recognize the Indigenous Forum and I felt that Canada might be influencing that poor behavior.

During this time Rogobertha Menchu Tum, a Guatemalan Nobel Peace Prize Recipient, who I know, had heard out in the rotunda that that Shuswap Chief Arthur Manuel was deeply in trouble trying to reverse Canada's effort to water down prior informed consent. In fact I was deeply surprised when Rogobertha approached me with her hands out and asking me what trouble is being caused to our indigenous peoples. I showed her the text and she said that this text is shameful. She said if Canada does not change their mind we will have to have a Press Conference.

I then raised the matter of speaking again with John Herity and he said I better raise it with the Chair but before I could say anything I noticed that Rogobertha was already heading to the front stage to talk to the Chair. She went right up the front stairway. I was a little shy to follow her but she brought the Chair to the side stairs so we could talk. The Chair then said that the reason she approved the above text was because Canada assured her that they had the support of the indigenous peoples of Canada. I told the Chair and Rogobertha that they did not have my support nor did I think they had the support of the other Canadian indigenous peoples attending the meeting.

I then immediately left this meeting to go up to where Mrs. Peigi Wilson was sitting. Mrs. Wilson was the **Assembly of First Nations** (AFN) representative and I wanted to ask her if she supported the Canada consultation provisions in paragraph 16. She said that she did not support it but by the same token she did not oppose it either. I told her that I heard from John Herity and Chair Fisher that Canadian indigenous peoples supported Canada's position. I told her that she better get down to the Chair and Rogobertha and tell them that the AFN does not support Canada's position. I also believe that Mr. Patrick Augustine said he did not support the Canadian position.

I also went back to the front and I was approached by an official representative from Ecuador who asked me to join her and number of other Central and South American countries. She then told me that they were getting very mixed signals from the Canadian indigenous groups. She said that they have been fighting to get prior informed consent included in this document but we were sending very mixed messages. In particular I think she was referring to the fact that the day before one of the Indigenous Forum speakers thanked Canada for their good work. In addition the same speaker did not acknowledge the seriousness of the Chair having to be interceded by the EU to ask that the Indigenous Forum speakers be recognized.

I then told these people I would deal with this matter immediately. I then excused myself and went to the Indigenous Forum desk and confronted Mr. Fred Fortier and Mr. Merle Alexander, about the mixed messages and supporting Canada's position. Mr. Merle Alexander then said that the Canadian indigenous representatives did not support Canada's position. I said that the talk from the day before has been used that way by Canada. I said that he had better go down and tell John Herity that the Canadian representatives do not support his position. I looked down toward John Herity and noticed that Peigi Wilson was down there. I said that Peigi was down there and it would be good if both of you could talk to him at once.

I then spoke to Fred Fortier for a few minutes and then went back down to Canada's desk and number of other Canadian and other indigenous forum representatives joined us. Mr. Fortier eventually joined us. During this discussion Mr. Alexander was able to communicate with Mr. Herity to remove reference to consultation and only include that prior informed consent would be subject to national legislation. Mr. Herity said that he would raise this matter from the floor himself and he did. The EU and Norway supported the proposed compromise. The Interior Alliance however called for the recognition of the international principle of prior informed consent of indigenous peoples, without restrictions by national legal regimes. The following text was therefore adopted.

UNEP/CBD/COP/6/L.25 – 18 April 2002

16. Where the national legal regime requires prior informed consent of indigenous and local communities, the assessment process shall consider whether such prior informed consent has been obtained.

The matter of Canada's very poor behavior did become an issue with regard to the closing statement of the Indigenous Forum. I explained that traditional knowledge and

prior informed consent is something we are going to jail for back home at Skwelkwek'welt and it something that indigenous peoples in Central and South America are dying for. I said that Canada's behavior cannot be accepted and I support any statement that seriously lets the international community know that we will take any threat to our Rights seriously. Some Canadian indigenous peoples felt that making a strong statement against Canada would jeopardize funding for the next international meeting.

It was expressed by the Central and South American indigenous peoples that we cannot allow this to pass by because it would open the door for other countries to treat us with such disrespect. One Elderly man said that it would also mean to some countries that maybe they will not work with indigenous peoples unless they get along with them like they do in Canada. Nevertheless some Canadian indigenous peoples withdrew or did not attend the closing session because they did not support the strong statement given by the Indigenous Forum.

In conclusion I would like to express my sincere gratitude to Rogobetha Menchu Tum for her very sincere and timely intervention into this matter. I feel that she was very influential and I feel that we would not have been able to achieve recognition of prior informed consent at COP6 without her help. Thank you very much on behalf of the Nations of the Interior Alliance, Neskonlith and Skwelkwek'welt. I also would like to thank all indigenous participants at these lengthy and heavy international discussions. Remember it is our peoples who live according to their traditional values and activities that are the essence of the Convention on Biological Diversity.

List of Participants, Distr. GENERAL UNEP/CBD/COP/6/INF/42, 19 April 2002

**Canada:**

The Canadian Official Representatives was listed in the List of Participants as being 45 people including the following indigenous representatives. Minister H. Dhaliwal, Natural Resources Canada was the head of the delegation. I was invited to attend a party at the Canadian Embassy in his honor but I did not attend because Minister Dhaliwal was the guy who sent the boats into Burnt Church and is intentionally ignoring Burnt Church's plans to regulate lobster trapping and conserve their environment.

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Environment Canada  
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**Indigenous and Local Community Organizations:**

There were 78 indigenous representatives at this conference with the following peoples who made statements regarding paragraph 16 from the Indigenous Forum.

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Mr. Merle Alexander  
Kitasoo Nation Band  
Canada  
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Chief Arthur Manuel  
Interior Alliance of Indigenous Nations in British Columbia  
Tel: (250) 319-2084 (corrected from List of Participants)  
Fax: (250) 679-5306  
E-mail: [artmanuel@earthlink.net](mailto:artmanuel@earthlink.net)

Mark your choice for each statement by marking a ✓ or X in the Yes or No box beside questions 1 to 8.

**Whereas the Government of British Columbia is committed to negotiating workable, affordable treaty settlements that will provide certainty, finality and equality;**

**Do you agree that the Provincial Government should adopt the following principles to guide its participation in treaty negotiations?**

1	Private property should not be expropriated for treaty settlements.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	1
2	The terms and conditions of leases and licences should be respected; fair compensation for unavoidable disruption of commercial interests should be ensured.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	2
3	Hunting, fishing and recreational opportunities on Crown land should be ensured for all British Columbians.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	3
4	Parks and protected areas should be maintained for the use and benefit of all British Columbians.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	4
5	Province-wide standards of resource management and environmental protection should continue to apply.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	5
6	Aboriginal self-government should have the characteristics of local government, with powers delegated from Canada and British Columbia.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	6
7	Treaties should include mechanisms for harmonizing land use planning between Aboriginal governments and neighbouring local governments.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	7
8	The existing tax exemptions for Aboriginal people should be phased out.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	8

Mark your choice for each statement by marking a ✓ or X in the Yes or No box beside questions 1 to 8.

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PO BOX 3800  
VICTORIA BC V8W 3Z4

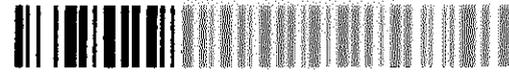
## Have you...

1. Put your ballot in the Secrecy envelope?
2. Put your Secrecy envelope in the Certification envelope?
3. Signed the Certification envelope?
4. Put the Certification envelope in this Return envelope?
5. If you are a new voter, have you enclosed photocopies of identification and your completed Application for Registration?

Thank you!

**Stop** Place only your marked ballot in this envelope

# **Secrecy Envelope**



016111304

The declaration on this envelope must be signed by the voter.

If your name and address are not pre-printed below this box, complete in full. Please print.

SURNAME		GIVEN NAME(S)	
RESIDENTIAL ADDRESS:			
APT / UNIT / PAD #	HOUSE / BUILDING #	STREET NAME	
CITY / TOWN		B.C.	POSTAL CODE

**Declaration**

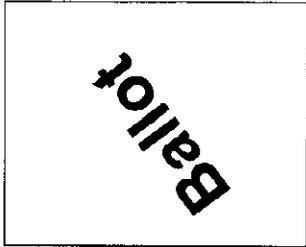
I declare that:  
I am a registered voter, or am applying for registration, and that I have not previously voted in this referendum.

SIGNATURE (Sign in INK)

(Q) 859/5 225111  
 MANUEL, NICOLE VALENCIA  
 PO BOX 854  
 CHASE BC V0E 1M0

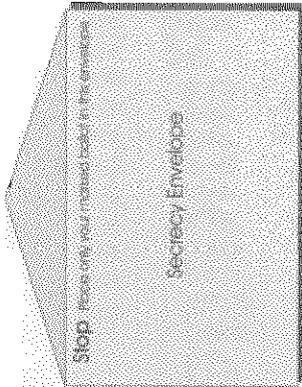
RESIDENTIAL ADDRESS:  
 26-679 AYLMER RD  
 CHASE  
 KAT

Please follow Steps 1 to 7. If you require assistance, please phone Elections BC toll free 1-800-661-8683.



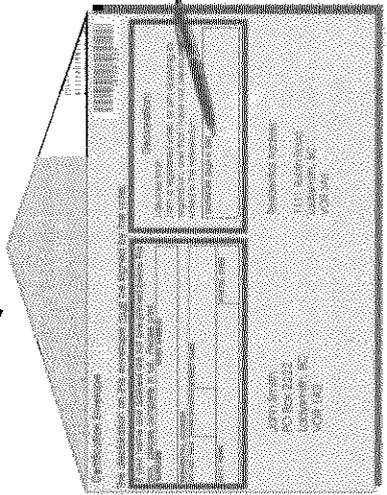
**1** Complete the ballot by marking either an X or ✓ in the Yes or No box beside each question.

Your ballot will be rejected if you write any comments on it.



**2** Place your marked ballot in the Secrecy envelope and seal it.

**3** Place your sealed Secrecy envelope in the Certification envelope.



**4** Complete the Certification envelope with your name and address.

The envelope may already be pre-printed with this information.

- Read the declaration.
- Sign your name in the signature box directly below the declaration.
- Seal the envelope.

**Unsigned envelopes will not be accepted.**

if necessary, complete the Change of Address or Name section on the back of your envelope. If you have changed your name, include a copy of identification that shows your new name and signature. Put the identification in the return envelope.

**Do not** put the identification inside the Certification envelope.

# Referendum Voting Package Instructions

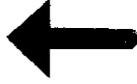
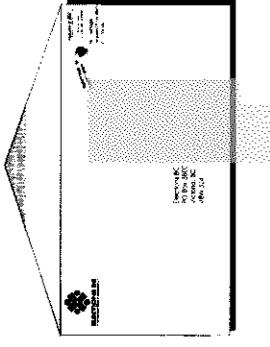
**7** Mail your package as soon as possible.

The deadline for Elections BC to receive your package is: **Wednesday, May 15 at 4:30 p.m. (Pacific time).**



**6** Place your sealed Certification envelope (and Application for Registration if you are a new voter) in the postage-paid return envelope addressed to Elections BC.

**Do not** put the application or identification in the Certification envelope.

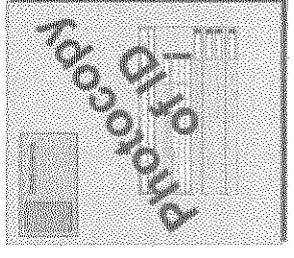
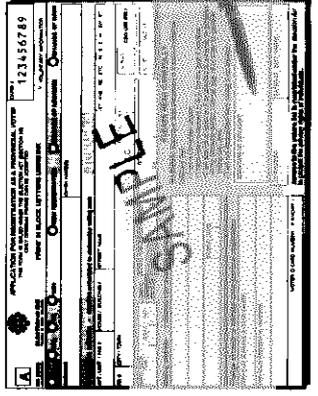


**5** If you are registering as a new voter, complete the Application for Registration. Include photocopies of 2 pieces of identification that show, in combination, your name, signature, and residential address.

Examples of acceptable identification include:

- drivers licence
- birth certificate
- Social Insurance Card
- utility bill
- rent receipt

If you are unable to access a photocopier, visit your local Government Agent. Photocopies of your identification will be made for you at no charge.



## Questions?

### Elections BC's Role

Elections BC is a non-partisan Office of the Legislature responsible for the impartial administration of provincial elections, referendums, recalls, and initiatives.

### To contact Elections BC

For information on voter registration or requests for voting packages, phone Elections BC toll free 1-800-661-8683.

#### Elections BC

Location: 1075 Pendergast Street, Victoria  
Toll free 1-800-661-8683  
TTY: 1-888-456-5448 (hearing impaired)  
Web site: [www.elections.bc.ca](http://www.elections.bc.ca)  
Email: [electionsbc@gems3.gov.bc.ca](mailto:electionsbc@gems3.gov.bc.ca)

### Referendum Office

For information on the referendum questions or issues relating to the referendum questions, contact the British Columbia Referendum Office toll free 1-800-227-0396.



**ELECTIONS BC**  
A non-partisan Office of the Legislature

# Referendum Voting Package Instructions

### Deadline for Mail-In Ballot

Your mail-in referendum ballot must be received by Elections BC no later than Wednesday, May 15, 2002 at 4:30 p.m. (Pacific time).