



# TREATY 8 FIRST NATIONS OF ALBERTA BILATERAL PROCESS NEWSLETTER

Fall 2009

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## Treaty 8 First Nations of Alberta

### Vision

Our land, our people, our ways, and the true spirit and intent of Treaty No. 8 are respected and honoured.

### Mandate

To protect, promote, bring to life, implement, and sustain the true spirit and intent of Treaty No. 8 as long as the sun shines, the grass grows and the waters flow.

### Values/ Principles

- Life
- Respect for each other
- Respect for, and being part of, the land
- Our ability to use our language

## Honouring Our Treaty Gathering 2009

The Bilateral Process Team attended the **Honouring Our Treaty** Gathering that was held in Bushe River, AB on July 25, 26 and 27, 2009, which was hosted by the Dene Tha' First Nation.

People from all over Treaty 8 at-

tended this gathering.

The Elders had an opportunity to hear presentations from each of the departments within Treaty 8 First Nations of Alberta.

Many of the Elders stated that they enjoy these gatherings!



Photos: Mina Patel & Sean Amato

Welcome Aboard



Audrey Marshall

Audrey Marshall recently joined the Treaty 8 First Nations of Alberta's Bilateral Process team as the Constitutional Development Coordinator. She is of Mi'kmaq descent and calls Membertou First Nation in Cape Breton, home. However, she has resided in Alberta for 8 years and has adopted this as her temporary long term home. She has two daughters and 4 grand daughters.

Audrey received her Bachelor of Arts degree with a major in Political Science and a Bachelor of Laws degree from Dalhousie University in Halifax, Nova Scotia. She has worked on a multitude of issues over the past 15 years which include; Treaty relations, Aboriginal governance, Aboriginal justice and other Aboriginal law issues. She has taught Aboriginal specific courses at both the College and University level.

Since moving to Alberta, Audrey has worked for 5 years as a Research Director/Analyst at an Edmonton based Research Company, Nechi Institute, the Aboriginal Health Group at the University of Alberta, Keyano College and has held numerous consulting and research assignments. Through the course of her work Audrey will be providing First Nations/Bands in Treaty 8 (Alberta) assistance in developing a constitution. She is available to provide information resources and support on the Constitutional Development Process.

Audrey has a firm belief that we all have a voice in our system of decision making including Elders, women and children. We must build strong independent nations as we work towards the future.

## Sawridge First Nation Passes Its Constitution

*On August 24, 2009 the members of the Sawridge First Nation voted and passed its constitution. "The government of Canada does not have to say "yes" to a constitution being passed by a First Nation they have to accept it" –Chief Roland Twinn. The Sawridge First Nation is known to be a path finder in the exercising of Inherent Rights. Read more about what Chief Twinn has to say about the development of the Sawridge First Nation's constitution.*

### *What does a constitution mean to the Sawridge First Nation?*

It is the foundation for the exercise of our Inherent Rights to Self-Government and to developing laws.

It is the guiding principles for open transparent government developed by the people.

### *Why did the Sawridge First Nation develop a constitution?*

The Sawridge First Nation developed a constitution because of the government's strategy of assimilating First Nations into main stream society. Furthermore, government policy and funding agreements limit the authority and jurisdiction of Chief and Council. We see this as the first steps in putting our own laws and policies in place to protect the Inherent Rights of our people for generations to come.

### *On August 24, 2009, the Sawridge First Nation passed its constitution what exactly does that mean?*

It means that the people have stood up and said enough is enough and is a clear mandate for Chief and Council to move forward to protect the rights of the Sawridge First Nation people.

### *What are the next steps for the Sawridge First Nation?*

The next steps for the Sawridge First Nation are to building our laws, our own policies, so that we can reconcile the jurisdiction and authorities of the Sawridge First Nation with the other levels of government in Canada and Alberta. The goal is to form true partnerships with other levels of government to create certainty and harmony for all of the people of this land.

## National Treaties 1-11 Gathering 2009

The fifth Annual National Treaties 1-11 Gathering was held on September 21-24, 2009 at the River Cree Resort in Enoch, Alberta. The theme of this year's event was **"Honouring our Ancestors"**. Treaties 6, 7, and 8 hosted this year's event.

At this conference a spokesperson from each Treaty area was available. A common message that was heard was that First Nations in Canada need to take the message of *"Honouring Our Treaty"* to the

Queen of England. It is felt that Canada has not been upholding its part of the Treaty agreements and many of the First Nations in Canada feel that this concern needs to be taken to the international arena.

Chief Mercredi, the national spokesperson for the Treaties 1-11 movement, was a speaker at the event. He also supports the need for Canada's First Nations to set up an audience with the Queen.

During the conference, Chief Rose Laboucan, of the Driftpile First Nation, announced that she will begin a fundraising campaign to help financially support a visit with the Queen in England. A



*"We anticipate that more than 500 people would attend this event. This gathering allows Nations to network and learn what other Nations are doing"-Marlene Poitras, Event Coordinator*

pledge sheet was circulated around the conference. She described how the Treaties rest with the Queen and that is who the First Nations Chiefs need to express their concerns with. The goal of meeting with the Queen is to have her pressure Canada into honoring the Treaties.

In addition, Dr. Miguel Alfonso-Martinez, Special Rapporteur, Expert on the Rights of Indigenous People at the United Nations (UN) made a presentation to the people in attendance. He has completed research on the Treaties in Canada for the United Nation.

National Chief of the Assembly of First Nations, Sean Atleo was present. He indicated that the AFN supports initiatives such as Treaties 1-11.

## Practical Measures Update: Livelihood Department

### Activities:

The Livelihood department {Consultation, Environment, & Economic Development} continues its role to protect and preserve Treaty No. 8 through coordination, facilitation and advocacy on behalf of the Treaty 8 (Alberta) First Nations. With the collective assistance of the Consultation Technical Team (CTT), Livelihood Department continue to ensure all related information is shared with the member First Nations, and their collective voice is heard locally, regionally and nationally. Thus, the Livelihood Department Staff continue to be very busy on 'livelihood related' functions as listed below for the period of July through October 2009.



### Consultation

#### **Working Forum on the Duty to Consult: Now What?**

This forum was held at the University of Alberta on October 23 – 24, 2009; this forum brought together some of the leading authorities and practitioners on the intricacies and complexities of the Duty to Consult. It consisted of a day and half of presentations and discussions with those who face the real challenges of consultation. Darryel Sowan was on the panel and pre-

sented on First Nations Consultation.

#### **Ideas Group (aka Trilateral Meetings)**

Continue to liaison, monitor and review processes and develop working relationship

#### **Treaty Relations Table**

This table consists of the Treaty 8 CEO and

Directors along with INAC representation.

This table is connected to the Agreement in Principle (AiP) of the Bilateral Process. Livelihood as a practical measure, is required to take certain steps related to negotiate Treaty-based government.

The terms of reference

and a work plan will be developed at the next meeting.

Treaty 6, Treaty 7, Treaty 8 First Nations Consultation Workshop was held at the River Cree Resort on July 29, 30 and 31, 2009. Approximately 100+ participants attended who shared their concerns and issues they are faced with in their communities. The participants shared suggestions for political consideration when negotiating with the federal and/or provincial governments and industry. This workshop was not intended to endorse GOA's Consultation Policy but was an oppor-

## Practical Measures Update: Livelihood Department

tunity to improve or create a policy that works for the First Nations. From the workshop, a discussion occurred at the Assembly of Treaty Chiefs gathering on September 3rd, 2009 and a letter addressed to Premier Ed Stelmach was signed by the Grand Chiefs of Treaties 6, 7 & 8. A work plan was attached to the letter. The letter was drafted to respond to Minister Zwozdesky's question on how the Chiefs want to proceed with the review of GOA's First Nation Consultation Policy on Land Management and Resource Development Policy. The general content of the letter was to stress that the principles set out in the Mikisew decision must be implemented in a revised Policy. At this meeting, a Resolution was also passed to **reaffirm of the rejection of the GOA's Policy.**



Phase I of the work plan will proceed with the support and guidance of the Chiefs. A strategic planning workshop will be planned following the recommendations of the July 2009 Alberta First Nations Consultation Workshop and the September AoTC Gath-

ering. The purpose of the workshop is to brief consultation technicians on discussions with the province regarding the policy and to gather input from all 47 First Nations on the Policy and related matters.

### **Jasper Aboriginal Forum, National Parks Consultation**

Continue to liaise, monitor and review the consultation policy relating to the National Parks management plan; Parks Canada claim they are committed to building strong, effective and mutually beneficial working relationships with First Nations; however, lack of consultation with the First Nations remains an issue.

### **Treaty 8 BC First Nations – Proposed Peace River Site C Hydroelectric Dam Summit**

Darryel Sowan, Director of Livelihood, attended the Site C Summit hosted by Treaty 8 BC in Ft. St. John, BC on Saturday, October 17, 2009. Darryel received a warm welcome from the organizers. This is an internal process for Treaty 8 BC First Nations and the Site C negotiating team provided an update to those First Nations. Larry Innes, CBI, provided an excellent presentation on the Innu's experience with Ontario's hydro development and the lessons learned from this experience.

For additional or follow up information, please contact any one of the Livelihood Department Staff at Treaty 8 First Nations of Alberta 780.444.9366.

## Bilateral Process Negotiations Update

with Chief Negotiator Jerry Paulette

### Background

In 2003 both Canada and Treaty 8 First Nations of Alberta (T8FNA) developed two framework agreements: an agreement for Self-Government and an agreement for Treaty Discussions; however, Canada only signed and approved the Framework for Self-Government. From these framework agreements a five year Blueprint was developed, the purpose of the document was to strategically plan the development of the Bilateral Process using a Treaty approach. To date the use of Treaty discussions in finding a common understanding of the Spirit and Intent of Treaty 8 has not been used. This creates serious concerns in terms of the overall process because the Declaration of Intent clearly suggests that any negotiations of the Inherent Right to Self-Government be established on the same understanding and principle as the Spirit and Intent of Treaty No. 8.

Within the current workplan the primary focus is to establish mandates to negotiate both chapter 5: ***Treaty 8 First Nations Governance*** and chapter 6: ***Treaty 8 Governance*** of the Agreement in Principle (AiP). It was identified that the best approach to developing these chapters would be through direct input of the Chiefs of T8FNA. Thus it was recommended that a First Nations Governance Sub-Table (FNGST) be established; the goal of the table is to guide the process in terms of the strategic development of the

Agreement in Principle.

### Current AIP Status

During the last two years of discussions with Canada the Bilateral Process team has worked on the first four chapters of the AiP, which are: Definitions, General Provisions, Relationship of Laws and Membership. In our discussions with Canada we have kept the provisions in these chapters to a minimal and the preliminary drafting of these chapters are subject to further negotiations. Furthermore, these particular chapters are not the main issues for a Self-Government Agreement. Instead there is a strong need to focus on the Powers, Structures and Jurisdictions of First Nations and or Treaty 8 as a collective. Thus the FNGST was developed to provide guidance on these areas to the Bilateral Process.

The discussions around Chapters 5 and 6 will directly relate to any jurisdictions that the FNGST may develop for negotiations in the AiP. The FNGST are in discussions to determine the most effective approach to negotiate these chapters of the AiP. In this regard it is important to consider the Self-Government Framework, 2003, as a basis for proceeding further in the AIP negotiations. The Self-Government Framework provides a list of the issues and a phased plan for negotiations. The list of issues is very important, but at this point no strategies have been developed for any of these issues. For example, on the issues of

## Bilateral Process Negotiations Update cont...

Lands, Waters, Environment, Resources and Resource Management, what are the issues and jurisdictions for Self-Government negotiations?

A Joint Senior Officials Committee (JSOC) meeting is planned to take place in the new year. This meeting is attended by three Chiefs (appointed by the executive board), the Associate Deputy Minister of Indian Affairs and Northern Development, and the Alberta Regional Director General. It is at these meetings that the Chiefs can address their concerns and ask questions to the elected and senior officials in Ottawa.

The FNGST is providing more focus and input on the negotiations of a Self-Government Agreement thus moving the process forward. On the other hand, Canada has only committed to workplans and budgets for the current fiscal year. It is apparent that Canada will determine if the Bilateral Process will continue into the future subject to T8FNA work through the FNGST.

At our discussions with Canada on October 28<sup>th</sup> the Bilateral Process team had the opportunity to meet with the new Director General for Self-Government, Ms. Joelle Montminy and the Chief Federal Negotiator, Ken Boutillier. The primary issue discussed was the importance of the FNGST to continue the work as outlined in the current workplan of the Bilateral Process. Although Canada recognizes that there is a lot of work to be completed in order to reach a Self-

Government Agreement, Canada has requested that T8FNA provide Canada with a document that outlines T8FNA's approach to chapters 5 and 6. The document they are seeking from Treaty 8 will be imperative to Canada's internal review in determining if Canada will continue to support and fund the Bilateral Process in relation to Self-Government beyond this fiscal year.

As the Chief Negotiator I recommend that the serious work of the FNGST continue, with the strong commitment of the Chiefs involved, it is the best way to identify a collective approach to Self-Government.

When it comes to the Inherent Right to Self-Government, as a resource for First Nations in Alberta, the Bilateral Process can be used as a mechanism in finding common ground among our First Nations. The Bilateral Process plays an equally important role in Canada coming to a common understanding of the Spirit and Intent of Treaty No. 8 and fully recognizing our Treaty rights.

We all know that the Inherent Right to Self-Government belongs to each of our respective First Nations within Treaty 8, but the goal of this process is to collectively develop a common and united approach to Self-Government to ensure a strong and effective agreement with the Government of Canada.



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## Treaty No. 8 Rights

*“As long as the sun shines, the grass grows and the rivers flow...”*

1. Schools/Education
2. Doctors
3. Hospitals/Medicine
4. Hunting, Fishing, Trapping and Gathering Rights Retained
5. Indians Retain Minerals
6. Sub-Surface Rights Retained
7. Land Acquired by Queen was Only 6” Surface Rights
8. Exempt from Taxation
9. Land Purchased from Farming did not Include Forests
10. Rations Provided
11. Policing
12. Legal Representation
13. Exempt from War Participation
14. No Indian Shall Hang by Rope
15. Right to Barter
16. Canvas for Tents
17. Bullets were Supplied
18. Cattle/Horse Provided
19. Farm and Haying Equipment
20. Gardening Tools/Seed
21. In case of hunger, all gates shall be opened

**As remembered and understood by our Elders**