



SXTA

Stó:lō Xwexwilmexw Treaty Association UPDATE

*"S'ólh témexw te íkw'elò. Xólhmet te mekw'stām ít kwelāt."
"This is our land. We have to take care of everything that belongs to us."*

Temthéqi

"Sockeye salmon time."

June 26, 2014 Tsilhqot'in Case

"We take this time to join hands and celebrate a new relationship with Canada.

We are reminded of our elders who are no longer with us.

First and foremost we need to say sechanalyagh (thank you) to our Tsilhqot'in Elders, many of whom testified courageously in the courts," said Xení Gwet'in Chief Roger William, whose name was used in the original filing. "We are completing this journey for them and our youth."

*Excerpts from: 'Tears and cheers' greet historic Supreme Court ruling handing Tsilhqot'in major victory.
26 Jun 2014 APTN National News.*

What Tsilhqot'in case means for treaty

Tsilhqot'in Nation v. British Columbia

On June 26, 2014 the Supreme Court of Canada handed down the first finding of aboriginal title in Canada. The claim was brought by the Tsilhqot'in Nation and began in 1983 in an attempt to stop commercial logging on their land. The Court case involved approximately 5% of the Tsilhqot'in traditional territory. The case did not include lands that were underwater or privately owned. The Tsilhqot'in also asked the Court to confirm that forestry licenses unjustifiably infringed their aboriginal title.

The Court said the following about aboriginal title:

1) The claimant group bears the onus of establishing aboriginal title.

- 2) The requirements for aboriginal title are: (1) "sufficient occupation" of the land claimed to establish title at the time of assertion of European sovereignty; (2) continuity of occupation where present occupation is relied on; and (3) exclusive historic occupation.
- 3) Aboriginal title encompasses the right to exclusive use and occupation of the land held pursuant to that title for a variety of purposes, including non-traditional purposes, provided these uses can be reconciled with the communal and ongoing nature of the group's attachment to the land.
- 4) The aboriginal title-holding group has the right to choose the uses to which the land is put and to enjoy its economic fruits. Aboriginal title is not merely a right of first refusal

with respect to Crown land management or usage plans.

- 5) Aboriginal title confers ownership rights similar to those associated with fee simple, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to pro-actively use and manage the land.
- 6) The right to control the land conferred by Aboriginal title means that governments and others seeking to use the land must obtain the consent of the Aboriginal title-holders.
- 7) Aboriginal title confers on the group that holds it the exclusive right to decide how the land is used and the right to benefit from those uses,

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SXTA CONSTITUTION

Presented by Grand Chief Steven Point on July 2/14

- ◆ A Constitution is the foundation of government. OUR Constitution defines us as a society. Our collective goals, rules and principals as a self-governing people.
- ◆ Our Constitution serves to cut the chains that currently link us to the Indian Act.
- ◆ Our Constitution is a central pillar of our Treaty. A sacred ground on which we will stand achieving law making powers, authorities and responsibilities in governing ourselves as Xwexwilmexw.
- ◆ Our Stó:lō Xwexwilmexw Constitution has a deep rooted history and origin in our unique Stó:lō tribal society, identities and relations with our land and what belongs to us.
- ◆ Our Constitution is a sacred writing, a powerful form of modern transformation that links us to swóxwiyám and maintains our connection to sólh témexw.

NOTE: Community presentations on the SXTA Constitution will continue in the Fall 2014.



Prize winners LtoR : Elaine Malloway, Yakweakwoose (Blu-ray DVD player); Rita Sepass, Skowkale (\$200 Walmart gift card); and Shawn Gabriel, Leq'á:mél (\$400 Walmart gift card).

What does Treaty offer the future generations?

Current Reality in 2014		100 Years from Now under the Current System	OUTLOOK WITH TREATY
First Nation Population:	Small population	Large population	
 Governance 	Limited governance under the Indian Act	Same limited governance under the Indian Act 	<ul style="list-style-type: none"> ◆ Out from under the Indian Act; ◆ Self-government on Treaty Settlement Lands; ◆ Shared decision-making off Treaty Settlement lands; ◆ Protection of cultural sites throughout S'ólh Témexw; ◆ Access to S'ólh Témexw for harvesting and gathering; ◆ Continued access to programs & services currently enjoyed by First Nations; ◆ Treaty bands in north with self-government have dramatically increased their life expectancy and standard of living in just one generation.
 Funding	Insufficient and shrinking federal funding	Less federal funding than in 2014	<ul style="list-style-type: none"> ◆ Self-government funded under Treaty; ◆ Programs & services funded under Treaty; ◆ Economic interests funded by own source revenue.
Land Base	Small inadequate land base with only about 60% usable lands	Same small land base with same or more unusable lands	<ul style="list-style-type: none"> ◆ Between 1,000% - 6,000% increase in land base; ◆ Less or no unusable lands on Treaty Settlement Lands.



Available Land in Fraser Valley: Crown land is currently available for treaty land selection. But thousands of people every month are moving into the Fraser Valley and taking up available lands.

Density is increasing dramatically with more and more pressure on existing resources.

Within 50 years there will be virtually no Crown lands available in the Fraser Valley.

FUTURE FOCUS Youth Page

Sumas Lake Transformations - Jody R. Woods

Sumas Lake has always been a Stó:lō place of transformations. Many Sxwōxwiyám tell of how, before Xexá:ls made the world right, droughts and floods destroyed entire villages. In one sxwōxwiyám, for instance, people survived devastating flood by tying their canoes to the top of Sumas Mountain. When the flood began to subside, the canoes drifted gently down. People took refuge in a cave on the side of the mountain and waited for the waters to completely recede. When they did, Xexá:ls visited these survivors and showed them the right way to live, work and pray and, in the case of the Ts'elxwéyeqw (Chilliwack) people taught them how to speak the Halq'eméylem language. In another story, a merciless drought left only two survivors, a man and a woman. Separated from each other by a great distance and weakened by profound hunger, they crawled on their bellies across the muddy lake floor until they eventually met in a small pool of water and founded the Semá:th - the Sumas people. During the 1920's, Sumas

Lake underwent a transformation of a different nature. An elaborate system



of pumps, dykes, and canals drained all the water from the lake, which had, up until that time, served as a spawning route and rearing habitat for salmon, provided an important stopover place for migrating birds, and

supported many different kinds of waterfowl, fish, plants, and animals. In the language of the day, fertile farmland was "reclaimed" from the lake bottom to facilitate Xwelítem settlement and agriculture in the area; however, the draining of the lake can also be seen as the greatest single loss of a productive waterway in S'ólh Téméxw. Moreover, the event took place **without the consultation** of those whose storied past was

tom, filling it in, while freshets frequently tripled the lake's size each year. Indeed, the size and shape of the lake rarely appear the same on different maps. Today, a series of pumps and dikes operate in a constant struggle to keep the water table down. In 1935, for instance, an unexpected flood served as a reminder of the lake's powerful transformational nature. True to this dynamic spirit, the lake still strives to grow: left alone, the water would rise again to fill up the vast area now known as Sumas Prairie. ☀

*Excerpt from
A Stó:lō-Coast Salish Historical Atlas
Submitted by Emily Kelly, Outreach*

Photos: Above: Outline of Sumas Lake location, Stó:lō Archives & Library
Below: Contemporary Sumas Prairie — a place of transformation. Photo by Gary Fiegehen, Stó:lō Nation Archives & Library

To know where we are going, we have to know where we've come from...





**Stó:lō Xwexwilmexw
Treaty Association**

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Stó:lō Xwexwilmexw Treaty Association (SXTA) Reps:

Aitchelitz First Nation— Chief Angie Bailey (Skemi)

Skowkale First Nation—Councilor Jeff Point (A:yali:seleq')

Tzeachten First Nation—Councilor Lawrence Roberts / Chief Glenda Campbell

Popkum First Nation—Councilor Harry Murphy / Chief James Murphy

Yakwekwioose First Nation—Grand Chief Frank Malloway (Siyémches) / Councilor Terry Horne

Skawahlook First Nation—Chief Maureen Chapman / Councilor Deb Schneider

Leq'á:mél First Nation—Chief Alice Thompson (Mae'xe) / Councilor Mike Kelly

Tsilhqot'in Case... *from page 1*

subject to one carve-out — that the uses must be consistent with the group nature of the interest and the enjoyment of the land by future generations.

- 8) Aboriginal title vests the lands in question in the Aboriginal group and the lands are no longer Crown lands.

Restrictions on Aboriginal title

Aboriginal title comes with an important restriction — it is collective title held not only for the present generation but for all succeeding generations. This means it cannot be alienated except to the Crown or encumbered in ways that would prevent future generations of the group from using and enjoying it. Nor can the land be developed or misused in a way that would substantially deprive future generations of the benefit of the land.

FAQs

What is left of the Crown title?

The content of the Crown's underlying title is what is left when Aboriginal title is subtracted from it and consists of two related elements — a fiduciary duty owed by the Crown to Aboriginal people when dealing with Aboriginal lands, and the right to encroach on Aboriginal title if, and only if the government can justify this in the broader public interest under s. 35 of the Constitution Act, 1982.

Can the government Use Aboriginal title Lands?

Yes, with the consent of the Aboriginal title holding group. If the Aboriginal group does not consent to the use, the government's only recourse is to establish that the proposed incursion on the land is justified under s. 35 of the Constitution Act, 1982. After Aboriginal title to land has been established by court declaration or agreement,

the Crown must seek the consent of the title-holding Aboriginal group to developments on the land.

What could justify government Use of Aboriginal title Lands?

To justify overriding the Aboriginal title-holding group's wishes on the basis of the broader public good, the government must show: (1) that it discharged its procedural duty to consult and accommodate, (2) that its actions were backed by a compelling and substantial objective; and (3) that the governmental action is consistent with the Crown's fiduciary obligation to the group.

What about land where Aboriginal title likely exists but has not been proven?

Prior to the establishment of aboriginal title by court declaration or agreement, the Crown is required to consult in good faith with any Aboriginal groups asserting title to the land about proposed uses of the land and, if appropriate, accommodate the interests of such claimant groups. Where a claim is particularly strong — for example, shortly before a court declaration of title — appropriate care must be taken by the government to preserve the Aboriginal interest pending final resolution of the claim.

What happens after aboriginal title has been declared?

Once title is established, it may be necessary for the Crown to reassess prior conduct in light of the new reality in order to faithfully discharge its fiduciary duty to the title-holding group going forward. For example, if the Crown begins a project without consent prior to Aboriginal title being established, it may be required to cancel the project upon establishment of the title if continuation of the project would be unjustifiably infringing. Similarly, if legislation was validly enacted before title was established, such legis-

lation may be rendered inapplicable going forward to the extent that it unjustifiably infringes Aboriginal title.

Do laws like the BC Forest Act apply to Aboriginal title lands?

Laws of general application apply to aboriginal title lands, especially those laws aimed at protecting the environment or assuring the continued health of the forests. But, after aboriginal title has been established, the timber on those lands is no longer "Crown timber" and the Forest Act no longer applies.

What about the long period of time during which land claims progress and ultimate Aboriginal title remains uncertain?

The Court said that during this period, aboriginal groups have no legal right to manage the forest; their only right is to be consulted, and if appropriate, accommodated with respect to the land's use. At this stage, the Crown may continue to manage the resource in question, but the honour of the Crown requires it to respect the potential, but yet unproven claims. ☼

*Submitted by Jean Teillet, IPC
SXTA Chief Negotiator*

SXTA Place Names Tours

1) Chilliwack River Valley Tour
SATURDAY, SEPTEMBER 13th, 2014

2) Upriver (Yale) Tour
SATURDAY, OCTOBER 25, 2014

PLEASE PRE-REGISTER FOR TOUR

For catering & transportation purposes
604-824-2435 or e-mail:
Cathy.Hall@stolonation.bc.ca

