

Buddy Napoleon - FST -

BCUC - SITE C - BUDDY

Oct 2/17

As an Elder, a hunter, a trapper, a former big game guide, a user of the land and a steward of Treaty 8 and all, I feel qualified to be able to make this presentation. I'm standing before you representing many elders and children of who cannot speak on their behalf, I also speak on behalf of the moose, the rabbit, all creatures big and small. With that being said, I am welcoming you the BCUC members and your staff to our Treaty 8 country.

We always have been an organized society even before the European colonization, which by the way, was to colonize us FNs, then assimilation, now it's integration - but still we are who we are and we cannot be changed into to something we cannot be - let's face it, we are Aboriginals, let us be that way, we still love our land and it's waters, we need them to survive.

*family in the treaties
not the
international
level*

I hope to high-lite the foundational rights of the Cree & Duneza and of other Aboriginal peoples on this Site C debate, as well as what's taking place in Canada and internationally towards increased recognition of the rights and status on Indigenous peoples. *and on the treaties.*

Prior to the arrival of the Europeans to our land of Turtle Island, we lived by our laws as given to us by the Creator. We still try to live by those laws. Under our laws, we have a very mature and sophisticated method of Government based on our four laws: Share, Respect, Honor and Love. ~~The words in English are unpretentious but implementing those laws in everything that we do on a daily basis is demanding but not impossible. One main article of the Treaty was to live side by side without interference and to respect.~~ I know for a fact the Government cannot say that they have honored the Treaty obligations, instead have infringes our Treaty rights.. We the FNs have honored the Treaty and thus have tried more than once to protect what is in this Treaty. ~~We agreed to share the land, we have not interfered in the non-Indigenous government.~~ However, on Site C issue, we have no recourse to have our say, be heard and hopefully be the part of the process to stop this dam once and for all.

When my ancestors entered into Treaty, they did not give up our laws and we still haven't. To this day I do not find where we gave up our water rights, in fact we still have our riparian water rights, of which is included in the Peace River that BC Hydro is trying to dam with Site C. We have always lived in harmony with our physical environment and that includes living in harmony with the flora and the fauna and all that it has.

It is not the traditions of the Indian Nations to indiscriminately force their laws or values on another Nation but to continue to live in harmony side by side. In this long held tradition, the FNs understood the principle of obtaining consent for **living in harmony with one another**. No nation there may pass laws or affect the sovereignty or territory of another nation without first obtaining consent of the FNs involved.

As primary colonizer, **Great Britain assumed obligations** to the FNs which have become known as the "**Sacred Trust of Civilization**", the trust is presently incorporated under sec 91(24) of the British North America Act. The obligation of the colonizer to protect the property and status of the Indian is one which was recognized by Britain. It was expressed in the Royal Proclamation of 1763 which was the fundamental principle of consent. In that document it is clearly spelled out that the lands belonging to the FNs remain reserved to them until through a process of formal surrender they yield up to the Crown

The Royal Proclamation of 1763 is the oldest law directed by Britain which applies to Canada. Its force is found today within Secs 25 and 35 of the Charter of Rights and Freedoms and was expressly confirmed by Lord Denning in his decision in 1982 in the Britain Court of Appeal. In that case he ruled that the Royal Proclamation of 1763 continues to bind the governments of Canada "**As long as the sun shines and the rivers flow**".

In keeping with the principles of consent spelled out in the Royal Proclamation of 1763, treaties were concluded between the Crown and the First Nations. ~~The treaties were valid only to the extent that their terms reflect the full and informed consent of the Indian Nations involved.~~

The obligations were assumed by the Imperial Crown and were passed to Canada upon Canada achieving independence, at the latest in 1930 with the passage of **Statute of Westminster**. This general and large **fiduciary obligations** gives rise to

obligations to act according to a high standard when the government has jurisdiction to act for the benefit of Indians and Indian lands. In such transactions, the Federal Government may be held accountable in Court for any wrongdoing.

The Royal Proclamation of 1763 and the Treaties are international instruments confirming Canada and Great Britain obligations to deal with the Indian Nations and Indian territories in accordance with the Doctrine of Consent. In addition, **Canada is bound by International Law** which protects for all Nations of the world, the right of all Nations to consent to the future of their people within their territory.

Generally, a fiduciary has a duty of loyalty and good faith, a duty to use reasonable care and skill, a duty to make full disclosure of all relevant facts to the beneficiary or client to permit that person to make an informed decision. There is a duty on the government to preserve the Indian interests from invasion or destruction, *which includes destruction at the Peace - and infrigent more*

Far too long we have faced the unjust refusal of the prov of BC gov to recognize the right of the Crees & Dunezas and other Aboriginal peoples of NEBC to be able to determine our future we have always been undermined. The unjust refusal of the prov gov over the cause of these years towards Treaty people of the NE to recognize rights under Treaty 8 or even our inherit rights and to be able to determine our own future – far too long we have constantly been fighting various prov gov's ministries in protecting our lands and waters.

My elders did not sign Treaty with the Canada and we never signed the Treaty with the provinces as well. How can any of these governments have anything to do with our Treaty? Around 1982 or so, the Patriation of the Canadian Constitution by the Trudeau government tried to diminish our Treaty Rights which brought FNs all across Canada to fight the Federal Government, as a result sections 25 and 35 were added into the Charter of Rights, all our Treaties were protected under these sections. Since then both the governments have taken the responsibility as a fiduciary on behalf of the FNs involved. The sad part here is that the non-native governments have traditionally taken the most narrow,

legalistic interpretation of the texts of historic treaties in a self-serving effort to minimize their liabilities. Treaty FNs have demanded the treaties be interpreted according to their original spirit and intent, in keeping with their judicially recognized legal rights, as the elders have passed that spirit and intent down through generations of oral history.

When it comes to dams and waters the treaties, the territorial integrity of Canada or the integrity of the Aboriginal territories is of little consequence. Further, despite legal opinion to the contrary, various court cases, the gov continues to claim that the treaties have no power to what they mean and to what they call progress – but just what is progress – at who's expense, the FNs, the farmers, the ranchers, the land owners? They have overlooked at the fundamental rights of the little person, the voters ^{of whom} ~~over~~ the corporation structure ~~of whom~~ continue to rape, plunder, exploit our lands and waters.

BC seems to constantly take the position that constitutional or legal questions are largely irrelevant, that is one main reason we were faced to go to courts against the prov gov in relation to our Treaty 8 Boundary Case. We just recently as of last week, won a major victory in court, and kicked their butts on this case.

The integrity of our Aboriginal territories far long is of little consequence to the prov of BC and Site C and the Peace Rive is a prime example. Despite legal opinions to the contrary the prov gov continues to do as it wishes, the Williams Lake case victory of two years ago is another example, the prov to date has not addressed nor settled with the Williams Lake Band. This case was based on consent – just what does it take or what will it take, to open the eyes of the gov and to start working with us FNs instead of pushing us away on a continual process.

As it goes to this present day in relations to FNs the prov gov and its' ministries current political and legislative strategy towards FNs have no legal validity. It lacks legitimacy from either Canada or International perspective as it is, it seriously impinging on our treaty rights and our fundamental status, rights and interests.

To date, basic matters regarding Aboriginal peoples' right to self-determination are being denied or ignored by the prov including BC Hydro. It is clear that issues concerning legitimacy and democracy cannot be served from those relating to Aboriginal people's status and legal rights. On what basis does BCH or the prov of BC justify their denial of Aboriginal self-determination in the current secession debate on this dam?

If the prov of BC continues to undermine Treaty 8, they cannot assume or say that their methodologies are working for FNs. How is it that the integrity of the traditional or historical territories of Aboriginal peoples is so easily dismissed by the prov and by BCH?

~~It seems that the prov and BCH has tried to unilaterally tried to alter our Aboriginal treaty rights or have watered them so much that they seem non-existent.~~ Failure to consider impact on Aboriginal peoples has become the norm in the prov and with BCH. It is astonishing but not surprising that the above questions and statements remain inadequently addressed or completely unanswered.

From the first Whacky Bennett Dam, in the 60s, the FNs were not even involved in the decision making process, our treaties and rights within these treaties were overlooked by the prov and BCH. They flooded lands that once had a migration of sheep and caribou of what we lost for ever. We've lost hunting, camping, berry picking ground, medicinal plant areas and even our fishing areas. Because of the loss of sheep and caribou, the WMFN and my rez have taken the initiative to save our small caribou herd, I believe we started with 7 and now I think are up to 30 or so and yes, our members are not allowed to hunt them. We have lost the sheep and do not see them around anymore and no more goats as well.

The main transmission line runs through our territories and one through the rez and we never did get any form of compensation, and mitigation was not even mentioned. At our Site C hearing on the rez, not one person spoke in favor of it, one elder even asked, "How do you justify the 7 billion dollar bill on this dam?" BCH could not answer that question. In the past our hydro bills use to come to the rez by mail, and they even charged us tax of which we are not suppose to pay, cause in our treaties we are exempt from paying tax on our reserve lands. An

elder asked BCH how come we don't get a discount on our electricity bills of which they also did not answer.