

9. Squamish want Sea-to-Sky say: Court says government has duty to consult
North Shore News
Wed 25 Sep 2002
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Deana Lancaster

ANY expansion plans for the Sea to Sky Highway must first be discussed with the Squamish Nation.

That was the word from Squamish Chief Gibby Jacob when he called the North Shore News from a First Nations Summit meeting in Port Alberni last week.

"We are currently trying to get the provincial government to engage in a government to government discussion with us," he said.

Premier Gordon Campbell recently announced that widening Highway 99 to three or four lanes was his preferred option of the many being considered for an improved route to Whistler.

Some meetings with stakeholders and communities along the route have already taken place, and while a representative from the Ministry of Transportation and Highways did make a presentation about two months ago to the Squamish Band Council about the options for the highway, Jacob said it isn't nearly enough.

"This highway runs through the backbone of our traditional territory," said Jacob. "Some portions of (the highway) are already in trespass on Stawamus (Indian Reserve 24). There are current safety issues for our members just trying to get out of that reserve. It's of grave concern to us."

The band has 13 reserves on the North Shore and in the Sea-to-Sky corridor, and the area, as well as much of the North Shore, is included in the map of the nation's traditional territory which is currently under negotiation in the treaty process.

It is this last fact that is key for the Squamish Nation.

Two recent landmark rulings in the B.C. Court of Appeal held that the provincial government has a duty to properly consult with First Nations about infringements on potential settlement land -- before aboriginal title or rights have been determined.

The court further said First Nations do not have to prove their title to the land in a lengthy trial before this consultation takes place. One of the court decisions held that third parties (business) also has this duty to consult.

On Jan. 31, 2002 the court ruled that the province must consult Taku River Tlingit First Nation before it re-issues a project permit to Redfern Resources to reopen the Tulsequah Chief Mine in northwest B.C. Taku River had environmental concerns about the proposed development. Reopening the

mine would require the construction of a 160-kilometre access road through one of the largest un-roaded watersheds in B.C.

Then on Feb. 27, 2002, the B.C. Court of Appeal ruled that the provincial government and forestry giant Weyerhaeuser did not properly consult the Council of the Haida Nation when renewing a tree farm licence on Haida Gwaii (Queen Charlotte Islands).

The court ruled that there is an "enforceable, legal and equitable duty to consult" to both the Provincial Crown and to third parties. Further, the Court held that a legally-enforceable duty to consult will continue until Haida title and rights are determined by a treaty or by a court.

It is this duty to consult with the Squamish Nation that the provincial government is overlooking in its highway expansion proposals, said Jacob.

"The Haida decision shows that they have to accommodate our interests," said Jacob. He added that the nation has embarked on a course of correspondence with the Ministry of Transportation and Highways, but has yet to hear back.

"The time frame is very short," he added. "The quicker we can have a focused discussion about this, the sooner things can move ahead."

10. Building bridges
North Shore News
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It would be a public relations nightmare of the worst kind for the province should Vancouver-Whistler win the 2010 Winter Olympics only to see Squamish natives boycotting, protesting or even disrupting events in front of the world's cameras.

We must emphasize immediately that the Squamish Nation has threatened no such action -- yet. But there is no doubt that they are upset with the provincial government. And, we suggest, with good cause.

It seems likely that the B.C. Liberals are going to opt for upgrades to the existing Sea to Sky Highway in order to boost the chances of Vancouver-Whistler winning the Olympics. With only a matter of months remaining to further detail and cost the bid to the satisfaction of the International Olympic Committee, there is little time to undertake feasibility surveys of other routes. As it happens, it's also the cheapest option available to a cash-strapped province.

However, it wouldn't matter which route is ultimately chosen for the Vancouver-Whistler commute: all of them will pass through traditional Squamish territory. So it behooves the government to talk to the Squamish Nation in a serious fashion about possible road-building activities.

Irrespective of anybody's views on who "owns" the provincial lands in

question, our own courts have clearly stated that the provincial government has a duty to properly consult with First Nations about infringement on potential settlement land even if a treaty has yet to be finalized.

Pick up the phone, Mr. Premier.

11. Premier afraid of an Olympic referendum

The Vancouver Sun

Wed 25 Sep 2002

Page: A23

Section: Editorial

Byline: James Dobie

Source: Vancouver Sun

Letter to the Editor

Daphne Bramham's Sept. 23 article "Bern voters give resounding 'No' to Winter Games bid" was right on. How did the people of Bern, Switzerland, get so smart and we in B.C. so stupid?

Premier Gordon Campbell refuses to give us an opportunity to express a democratic opinion about whether the British Columbians are for or against the 2010 Winter Olympics. What's he scared of? Don't you think the premier would want to know how the people perceive the issue?

If he's not going to allow a referendum, perhaps he could oblige us by providing us with his arithmetic regarding the billions of dollars in benefits which he says will accrue to B.C.

In the accompanying article "Vancouver Olympic critic cheered by Swiss vote," John Furlong of the Olympic bid committee is quoted as saying that four out of five Canadians and two out of three B.C. residents support the bid.

Pardon me, Mr. Furlong, if I say I don't believe you. Did you conduct a referendum or poll that you are not telling us about? Please don't insult our intelligence by dishing out such hogwash. As a member of the Olympic bid committee, it is painfully transparent where your best interests lie.

James Dobie
Vancouver
Edition: Final
Story Type: Letter