

# HAIDA LAAS

JOURNAL OF THE HAIDA NATION

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*The Writ*

# Haida Laas

Over the past couple of months, we have seen the fruits of many years of work by many of our people taking affect. The TFL case has been with us through four CHN administrations. Establishing Title in Canada's laws has been our objective since 1912 at least. The CHN extends due credit to the Hereditary Chiefs, village councils, and

all past leaders who have served our people, and those who have provided the necessary support to get us where we are. The relationship of the Haida leaders has been productive and the results are apparent.

Several years ago we launched a legal challenge taking on MacMillan Bloedel and the Province of BC. We won the TFL case and shook the foundations of what looked like an impenetrable fortress.

went on the coverage got a little more in depth as the analysts and commentators got into it. Overall there has been a good examination of the issues, the relationship of our people to the Crown, as well as the treatment of the land.

In this edition of our journal we tried to hone the text to include the more useful information and tried to remove some of the repeated statements. Be aware that a lot of what is stated as fact is opinion, and we didn't have room to include all the



Guujaaw, Mandell and Arvay address the press with Gilbert Parnell and Kiku Dhanwant observing. As the press conference proceeded, the Writ was being filed in BC Supreme Court by Terri-Lynn Williams-Davidson accompanied by runners Nika Collison and Amos Setso.

The opinions and perceptions of the broader society do matter and we do need allies. Here at home the Haida Nation enjoys and appreciates the support of most of the people who share Haida Gwaii with us. We will continue to build upon the trust that is there and engage our fellow Islanders in ways that will provide a positive future for our kids.

The media blitz over the past month has been pretty interesting, though, they say, you can't believe everything you hear or read.

The initial newscasts focused on the offshore oil, probably because there is potentially billions or trillions of dollars involved. The headline "Offshore Oil Is Ours" is a good example of sensationalising, especially when nobody actually said that. As the week

coverage that we received.

In any case, it is interesting to see all of this in one pile and to get some sense of the perceptions that other people and the press have and the issues and attitudes we face — which has been mostly good, and the interest is still there.

In the text, BOLD copy is for emphasis. [EDIT] is to note that copy has been edited for length and/or repetitious information.

# Haida sue for Queen Charlottes

**'Treaty process has failed - they're going to litigate': BC natives build on earlier court victories with power play for resource-rich islands**

Mark Hume

VANCOUVER - The Haida First Nation will launch a legal battle in the Supreme Court of British Columbia today for ownership of the Queen Charlotte Islands, a rugged archipelago covering 5,800 square kilometres of land off Canada's West Coast.

Following ceremonies on the nearby Squamish reserve, the Haida Nation plans to file a writ as the first step in attempting to "establish aboriginal title and rights" to the thickly forested islands — an area slightly larger than Prince Edward Island — and the surrounding waters.

An estimated 9.8 billion barrels of oil and 25.9 trillion cubic feet of gas are thought to lie just offshore in the Queen Charlotte Basin.

"This will be the first aboriginal title lawsuit since the landmark decision of the Supreme Court of Canada decision in *Delgamuukw*," the Haida Nation said in a statement yesterday, referring to a 1997 case that specifically extended the principle of title to include ownership of land.

"It's all about who owns the islands," a native consultant, who did not want to be named, said yesterday. "The treaty process has failed — and so they are going to litigate. It's a major departure."

The lawsuit, which comes amid growing tensions in British Columbia over the provincial government's relationship with natives, stems from a key decision won by the Haida Nation last week in the BC Court of Appeal.

In that case the Haida took on the province and Weyerhaeuser Co. Ltd. over a 241,000-hectare area — nearly one quarter of the Queen Charlottes — that was being logged under Tree Farm Licence 39. The licence was



March 6 - The National Post: Haida totem poles stand guard on Anthony Island in the Queen Charlottes off the British Columbia mainland. The Haida fear the loss of

first awarded to MacMillan Bloedel in 1961 but was transferred when Weyerhaeuser bought the company in the 1990s.

The Haida argued successfully that the loggers and the province had to consult with them before cutting the forest, which contains old-growth red cedar, a culturally significant tree used for totem poles, canoes and longhouses.

In the past, the BC government has allowed resource companies to log, mine or undertake other activities while the treaty settlement process was under way.

But the Haida claimed the process is unfair because it allows the Crown to remove valuable resources before

the dispute over ownership of the lands is settled.

In particular the Haida feared the loss of old-growth red cedar would have a cultural impact, and widespread logging would hurt hunting, fishing and water quality.

[EDIT]

The judge said that while aboriginal title has yet to be determined, it appears the Haida have a good argument to make.

"In my opinion, there is a reasonable probability that the Haida will be able to establish aboriginal title to at least some parts of the coastal and inland areas of Haida Gwaii, and that these areas will include coastal areas of Block 6," the judgment says.

The Haida claimed the Crown and Weyerhaeuser had a legal obligation to consult them before authorizing any logging on the Queen Charlotte Islands. But the government and the logging company argued there is no need for consultation until the Haida have obtained a judgment declaring they hold aboriginal title over the islands and demonstrating that logging is an infringement of those rights.

The Court of Appeal concluded the government and Weyerhaeuser had “a legally enforceable duty to the Haida people to consult with them in good faith.” •

March 6 - *The National Post*

## The courts must settle the Haida claim quickly

*Gordon Gibson*

VANCOUVER - The filing of a claim by the Haida First Nation for aboriginal title to the Queen Charlotte Islands is a **momentous step in the**

of historical, cultural and archeological research would be needed in any specific claim.

The court also established that where aboriginal title existed in the past but had been “infringed” on a given parcel of land (as by sale to third parties, or occupation without consent, or the cutting of trees, for example) then compensation would be payable. Again, maddeningly, no ground rules were given.

How much was downtown Vancouver worth in 1846 (the date of assertion of British sovereignty)? To determine compensation, what should be the rate of inflation and the rate



March 6 - First Nations Summit, Squamish: The Haida delegation enters singing into the Squamish Rec Hall.



**history of British Columbia.** In addition to the lands, some degree of control over potentially huge under-sea oil and gas deposits is involved. No one can know where it will lead, not even the nine remote Supreme Court judges in Ottawa who will have the last word if the case is not otherwise settled.

But whatever the ultimate destination, the importance of the act is undeniable. It sets the stage for a definition of so-called Delgamuukw rights. That case, as decided by the Supreme Court of Canada, determined that aboriginal title exists in British Columbia, but was maddeningly imprecise on whether the amount of land involved was huge or tiny or somewhere in between. We do know that almost all of British Columbia, with the exception of the northeast sector, is potentially exposed. But an enormous amount

of interest due over the period? Are there two sides to the compensation ledger? Has the European occupation brought off-setting benefits?

Governments (Canada and British Columbia) have proceeded in the ongoing treaty negotiation process almost as if Delgamuukw did not exist. We will talk about cash, land and the future, they say, but not about the past, title and compensation. Their reasoning has been that the latter route is too complicated and subject to argument. “Let’s just make a deal and get on with our lives,” has been the government position.

This has been extremely frustrating to the aboriginal side of the bargaining table. For one thing, Delgamuukw offered a powerful lever, insufficiently recognized. More than that, to many people on the aboriginal side of the table, history defines identity and must be recognized;

compensation defines injury and must be paid.

Most of British Columbia's Indian bands, grouped under the umbrella organization known as The Summit, have nonetheless pursued negotiations.

The results after eight years and \$500-million spent in the process have been zero deals. (The Nisga'a Treaty, immensely controversial, was reached after a generation by a different process.)

Four Agreements in Principle reached by Indian negotiators were rejected by their constituents at ratification. Bands have gone deeply

erhaeuser. "The obligation to consult is a free standing enforceable legal and equitable duty," said the court, which applies not only to proven title but to claimed title. The depth of the consultation required is apparently to vary with the apparent strength of the claim — but no one really knows how to assess that.

The net result appears to be that the BC forests are now subject to a regime of co-management. From an economic and efficiency point of view it doesn't much matter whether the manager is British Columbia or the Haida First Nation, but when a tenant has two masters things can't



into debt in the process. Economic development in British Columbia is being injured. (Would you invest in a resource development, not knowing who owned the land?)

The courts have recently turned up the heat. British Columbia has maintained a policy of administering forest lands on a more or less "business as usual" basis. Indian bands have been involved in consultation to some degree, but the government has made the decisions. They have taken the position that until aboriginal title is proven, there is no enforceable duty to consult.

But last week the same Haida First Nation won a huge victory in the BC Court of Appeal against the government and the Weyerhaeuser timber company. The case related not even to the cutting of trees, but to the mere paper transfer of a cutting licence from the old owner to Wey-

erhaeuser. It is difficult to see how Weyerhaeuser will be able to continue its operations in the Queen Charlottes — 200 jobs for the islands, but not much for a very large international company — unless this legal uncertainty is resolved. The implications for the rest of BC forest operations are unclear but worrisome. The Appeal Court decision applies to all of British Columbia.

[EDIT]

**People have got old and died over many generations in watching this 125-year-old land claim. It is time to move faster. •**



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March 6 - The National Post

## Queen Charlottes are all ours, Haida say

Suzanne Fournier

The Haida will go to court today to demand title to the Queen Charlotte Islands in a bid to control offshore oil and gas.

The lawsuit follows a landmark BC Court of Appeal decision last week that called the likelihood of Haida success in establishing aboriginal title “inescapable.”

Guujaaw, president of the 7,000 strong Haida Nation said the ocean and any resources below that are claimed in today’s lawsuit include

Dixon Entrance to the north, Hecate Strait east to the mainland, south “halfway to Vancouver Island” and 320 kilometres west.

“We don’t believe offshore oil and gas can be safely obtained — the technology doesn’t exist and we are not prepared to see offshore oil and gas drilling in any waters within a 200-mile limit surrounding Haida Gwaii,” said Guujaaw. “With the provincial government refusing to negotiate with us or recognise our aboriginal title, we have no choice but to take the title case to court.

[EDIT]

Hereditary chief Reynold Russ, 71, whose Haida name is Iljawaas, will be among the Chiefs who present the case today. “We own Haida Gwaii lock, stock, and barrel,” said Russ. “It has always been ours.”

Louise Mandell, the lawyer who will file the suit and who won the BC Court of Appeal case for the Haida last week, noted that the appeal court judge acknowledged the Haida claim to title is “very, very strong. The Haida have always had exclusive use and occupation of the Queen Charlotte Islands; in fact they’ve been a linguistic isolate for 10,000 years.”



March 6 - First Nations Summit, Squamish: The Haida Nation is welcomed by Chief Gibby Jacob of the Squamish Nation.

She said the suit has built into it a bid to halt offshore oil and gas exploration, should BC lift its moratorium.

BC Court of Appeal Justice Douglas Lambert ruled last week that the BC government and Weyerhaeuser Canada Ltd. Had breached a legal and enforceable duty to consult with the Haida regarding logging activities under Tree Farm Licence 39.

“Even more significantly, after Justice Lambert said there was substantial probability the Haida will be able to establish aboriginal title to some or all of the Queen Charlotte Islands, and the surrounding waters, he then assigned a supervisory role the BC Supreme Court,” noted Mandell. “The company and government must consult the Haida or the courts will step in.”

BC has hinted recently it will soon lift the moratorium on exploration. [EDIT] •

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March 6 - The National Post

## Offshore oil is ours, say Haida

As the BC government hopes to create jobs and jump-start the economy by opening up rich oil and gas reserves off the northwest coast, the Haida Nation will demand title to the entire Queen Charlotte Islands — including a 200-mile offshore zone — in BC Supreme Court today. •

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March 6, 2002 - Canadian Press

## Haida band lay claim to lucrative BC islands

**7,000-member aboriginal group launches multi-billion dollar lawsuit**

A BC aboriginal band is going to court to lay an unprecedented claim to the land and surrounding waters of the Queen Charlotte Islands, an area that includes billions of dollars in oil and gas reserves.

Louise Mandell, the band’s lawyer, called the claim “ground-breaking.”

saying she believes it's the first time an aboriginal band has laid title to surrounding waters and off-shore resources.

"There's very little judicial determination of the seabed as an aspect of aboriginal title," she said today before going to BC Supreme Court to file the writ.

The claim includes the Hecate Strait. The strait between BC's northern main-land near Prince Rupert and the Queen Charlotte Islands is believed to contain an estimated 9.8 billion barrels of oil and 25.9 trillion cubic feet of gas.

Harvesting the reserves could be worth up to \$4 billion a year to provincial government coffers. Guujaaw, president of the 7,000-member Haida Nation, said the claim is about protecting the environment, not about oil and gas revenues.

"This case is about respect for the Earth and each other. It is about culture and it is about life," said Guujaaw, who goes by his Haida name.

"We don't believe offshore oil and gas can be safely obtained — the technology doesn't exist and we are not prepared to see offshore oil and gas drilling in any waters within a 200-mile limit surrounding Haida Gwaii." The federal government imposed a moratorium on offshore oil and gas activity in 1972. The BC government brought in its own five-year ban in 1989. This was extended indefinitely by the previous NDP government. However, the BC Liberals have commissioned environmental and scientific studies to determine whether oil and gas drilling can be done without harming the environment.

The Liberals have also been consulting with Ottawa on the issue.

The Haida's latest claim follows



Colin Price — The Province

March 7 - The Province: The Queen Charlotte Islands, known by natives as Haida Gwaii, are "our land to keep," says Haida hereditary Chief Iljaaws (Reynold Russ.)

its victory last week at the BC Court of Appeal. Three judges agreed the Haida should have been consulted by the province and forestry company Weyerhaeuser Canada about logging activities on land claimed by the Haida.

Attorney General Geoff Plant said today the courts have been "very clear" that the province continues to be the landlord.

"We need to work hard to ensure that we accommodate aboriginal rights and title and other aboriginal interests," Plant said.

"I think offshore oil and gas in the long run, if it can be done in a way that's environmentally safe, could offer huge opportunities, economically, for First Nations up and own the coast of British Columbia. •

# Queen Charlotte Islands site of Haida land claim

Rod Meckleburgh

The lush, mist-enshrouded Queen Charlotte Islands off the northwest coast of British Columbia have long been celebrated as one of the most romantic areas in Canada.

Now, the so-called Galapagos of the North are about to become the site of the country's most significant native land-claims battle since the Supreme Court of Canada's historic Delgamuukw ruling in 1991.

Today, the Haida Nation will file claim in BC Supreme Court to all

of the several hundred islands that make up the Queen Charlottes and the waters surrounding their ancestral homeland.

**A court victory by the Haida, and many believe they have a strong case, could well stymie the provincial government's desire to press ahead with offshore oil and gas drilling in ocean waters adjacent to the Queen Charlottes, which the Haida call Haida Gwaii.**

The Haida would also have a major say in one of the province's largest timber blocks, a long-standing tree-farm licence owned by Weyerhaeuser Canada Ltd. that stretches over nearly one-quarter of the Islands' 5,800 square kilometres.

Lawyer Louise Mandel, who will file the writ on behalf of the Haida today, said there should be no difficulty establishing aboriginal title over the entire Queen Charlottes.

"It is an inescapable fact that the Haida were the original settlers of the

Islands and continue to reside there," Ms. Mandel said.

Like the vast majority of native groups in BC, the Haida never signed a treaty with the government, meaning they never gave up their rights to the land.

**"This case is about respect for the Earth and each other. It is about culture and life," said Guujaaw, president of the Haida Nation.**

About 2,000 Haida remain on the Queen Charlottes, most near or in the villages of Massett and Skidegate. An estimated 3,800 non-natives live on the Islands.

Ms. Mandel said non-native residents should have nothing to fear from the Haida's aboriginal title claim to the Islands.

"The Haida have always had a good working relationship with the people up there. In fact, they should feel welcoming about this claim," she said.

"One of the things the Haida will do is more aggressively assert conservation practices over the land. I think people will welcome that."

Aboriginal title would not convey outright ownership of the Queen Charlottes to the Haida, but it would grant them a role in almost every aspect of land use there. •



GLENN BAGLO/VANCOUVER SUN

March 7 - The Vancouver Sun: Lawyer Louise Mandel says the issue of aboriginal title over the seabed is largely unexplored.



GLENN BAGLO/VANCOUVER SUN

Joseph Arvay is part of the legal team hired by the Haida to argue their claim in BC Supreme Court.

March 6 - *The National Post*

## Support for Haida action

*Archdeacon Jim Boyles, general secretary, Anglican Church of Canada, Toronto.*

The Anglican Church has been on record in our support of the Haida Nation in seeking just settlement of the issues of sovereignty over territory in the ancestral lands of coastal British Columbia (Haida Sue for Queen Charlottes, March 6). We have a special connection — and relationship — to these issues, as half the Haida population are parish members within the Anglican Diocese of Caledonia.

Without predetermining what the proper outcome of the land and treaty disputes should be, we have expressed our disapproval of the policy of the government of British Columbia by which the settlement of

claims has been placed on hold until the outcome of an ill-defined process of public referendum. ... •

VANCOUVER – Canada’s oil and gas producers say a lawsuit by the Haida First Nation makes drilling for petroleum off BC’s coast more unpredictable. **David Luff with the Canadian Association of Petroleum Producers, suggests the Haida lawsuit spook investors.** The Haida are claiming offshore rights around the Queen Charlottes, where experts believe there are vast reserves of oil and gas. •

March 7

## AG says lawsuit serious, but doesn’t signal breakdown

VICTORIA – BC Attorney General Geoff Plant says a land claim initiated by the Haida First Nation looks like a very serious lawsuit. But he says it does not signal a breakdown in the treaty process in BC. Plant says there are at least a dozen other land claims underway in BC courts, and litigation regarding aboriginal title has been a constant feature of public life in the province for decades. Yesterday, the Haida filed claim over the Queen Charlottes and huge offshore oil and gas reserves. •



BC Attorney General, Geoff Plant

March 7 - *The Toronto Star*

## Haida claim offshore oil, gas

An aboriginal group that claims to have occupied the pristine Queen Charlotte Islands since time immemorial filed a landmark lawsuit yesterday claiming aboriginal title over the islands and the offshore waters, an area believed to include billions of dollars in oil and gas reserves.

Louise Mandell, the lawyer for the Haida Nation, called the claim “groundbreaking” and said she believes it’s the first time an aboriginal group has laid title to surrounding waters and offshore resources.

“As for a title case to the offshore, this will be the first,” she said. “The case law has already established that where there are fishing rights there is the capacity to protect the environment. So the offshore issues are already engaged.”

The claim filed in BC Supreme Court includes the Hecate Strait. The body of water between BC’s northern



Lawyer, Terri-lynn Williams-Davidson



GLENN BAGLO/VANCOUVER SUN

mainland near Prince Rupert and the Queen Charlotte Islands is believed to contain an estimated 9.8 billion barrels of oil and 800 billion cubic metres of gas. Harvesting the reserves could be worth up to \$4 billion a year to provincial government coffers.

The federal government imposed a moratorium on offshore oil and gas activity in 1972. The BC government brought in its own five-year ban in 1989. The previous NDP government extended this indefinitely.

Premier Gordon Campbell indicated the writ was not unexpected.

But the BC Liberals have commissioned environmental and scientific studies to determine whether oil and gas drilling can be done without harming the environment. They have also been consulting with Ottawa on the issue.

Guujaaw, president of the 7,000-member Haida Nation, said the claim is about having a voice in how the area is managed and developed. [EDIT]

**“What we’re doing today is taking charge of our lives. We’re going to design our own future and we’re going to make sure there is a future for the following generations.”**

He said the Haida are not opposed to resource development. “What we want is resource development that is sustainable and ecologically responsible.” Another Haida lawyer, Joe Arvay, said the Haida are seeking the “exclusive right to make decisions about their land, including their inland waters and the sea. The fact that the Haida people might not have drilled for oil 100 years ago is completely irrelevant.”

The Haida’s latest claim follows its victory last week at the BC Court of Appeal. Three judges agreed the Haida should have been consulted by the province and forestry company Weyerhaeuser Canada about

logging activities on land claimed by the Haida. •

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*March 7 - Vancouver Sun*

## **Haida claim emphasizes need for serious negotiations**

Whatever the merits or failings in law of the Haida claim to jurisdiction over the Queen Charlotte Islands and waters and subsurface mineral zones surrounding them, **the suit significantly challenges many of the assumptions driving the new economic order envisioned by Premier Gordon Campbell and his Liberals.**

In the first place, it’s a wake-up call to those who think the province can magically return to the kind of prosperity realized under W.A.C. Bennett without first addressing the fundamental issue of aboriginal rights. That prosperity was achieved in an era when government could ignore First Nations that were inconvenient to the plans of industry and government.

Like it or not, those days are gone. Armed with a series of court decisions covering everything from fishing and hunting to logging to urban real estate, First Nations are a political and economic force to be reckoned with. Many private sector leaders understand this, seeking to build partnerships and new relationships. It’s political leaders who appear to cling to outdated stereotypes and ill-founded assumptions.

Court case after case has affirmed that the proper resolution of First Nations grievances is through negotiation, not litigation and, in the interim, government must consult with First Nations in forming policy

governing resource use on lands in dispute. Again and again, First Nations have complained that consultations have been cursory, after-the-fact or conducted on the assumption that government and industry would ultimately have their way.

This approach, as thinkers like Roslyn Kunin of the Laurier Institute point out, leads to litigation such as that just announced by the Haida Nation — and the consequences may not be what anyone foresaw or desired. Much better, she argues, to negotiate toward a conclusion that’s mutually acceptable, predictable and establishes the kind of political and social stability that creates investor confidence.

**Secondly, the case is another reminder that the dream of offshore oil and gas is just that — a dream — and will remain so until a host of issues from environmental impact to aboriginal rights are resolved.**

[EDIT]

Expect further implications for the provincial renewals of forest tenures, grazing leases on Crown land, water rights, mining permits and development which risks habitat for fish and wildlife.

All of which brings us, First Nations and non-native Indians alike, back to one inescapable conclusion.

**None of us can move forward unless we begin to find common ground on which we can agree about what’s to be done and how to achieve it.** That means a serious commitment to renewing the treaty process, even if, as Ms. Kunin points out, such negotiations will likely focus in the short to medium term on interim measures, joint ventures and capacity-building initiatives. Frankly, from the perspective of business, all those seem preferable to more paralyzing court battles.

Consensus around the negotiating table is the place to resolve

differences and settle grievances. Con-frontation in the courtroom is not. •

March 7 - Vancouver Sun

## Land claims create internal Liberal friction

Vaughn Palmer

Attorney-General Geoff Plant spent some time Wednesday giving assurances that no one should get excited over recent legal developments regarding aboriginal land claims.

[EDIT]

Many Liberals believe that two recent BC Appeal Court decisions put up huge obstacles to investment and to the development of natural resources.

The decisions, discussed in this space Saturday, involved the attempt to develop a mining property and an existing forestry operation. Both cases resulted in major victories for the natives.

The judges, going further than previous courts, created new obligations for the province in dealing with territory claimed by native Indians — meaning virtually every bit of land and water in British Columbia.

Government must consult natives even when it is managing a resource right, such as a tree farm licence, which has existed for years.

Moreover, mere consultation is not enough. Government must also “accommodate” native interests, an unspecified creation that may well give natives an effective veto over any and all development.

The judges also imposed a new requirement on private companies,

such as the holders of tree farm licences, mineral rights and so forth. They, too, must consult natives and accommodate their interests.

The court rulings raise implications that might persuade some investors to avoid BC altogether until we clear up who is actually in charge.

And I gather some Liberals have



Eagle down is placed in the headdress of Terri-lynn Williams-Davidson.

been saying as much in the privacy of their meeting rooms.

They're angry, too, at the response of the Haida First Nation. Emboldened by victory in one of the two court cases — and by the language of the court in recognizing the validity of their claims — the Haida on Wednesday filed claim to the entire Queen Charlotte Islands and offshore waters.

“We own [them] lock, stock and barrel,” declared one of the Haida leaders, seeming to dispense with such niceties as private property and the interests of the non-native

residents of the Islands.

The Liberals fear that native chauvinism will make it harder to persuade the public to go along with necessary compromises in settling claims. They worry, too, that the courts have gone so far in strengthening aboriginal claims that there is little incentive for compromise on the native side.

Attorney-General Plant has been trying to dampen those concerns, though, as he admitted Wednesday, he is probably more sanguine about recent developments than any of his colleagues.

After his early afternoon session in the Liberal caucus room, he provided similar assurances in interviews with reporters.

[EDIT]

Plant: “Litigation has been a constant feature of this part of our public life for several decades in British Columbia and until we find a way to accommodate aboriginal interests effectively and respectfully, I think litigation is going to continue to be a tool.”

Plant: “The last time I was personally involved in an aboriginal title lawsuit, it took seven years to get decided. I don't think litigation is a very efficient way to resolve issues of aboriginal rights and title.”

Plant: “I think negotiation is a much better way [though] I share the frustration that the treaty process in British Columbia has not been more effective.”

Plant: “I would like, most of all, to reinvigorate the treaty process so that it becomes an effective tool for accommodating and recognizing aboriginal rights and title.”

A reassuring line, and perhaps the only one possible for the attorney-general.

At this time Mr. Plant isn't sure whether to recommend to cabinet the risk of an appeal to the Supreme Court of Canada.

The last time the high court spoke in a case involving native land claims in BC, 1997's Delgamuukw decision, it managed to raise enormous expectations on the native side, sow confusion on the government side, and torpedo any hope of progress in negotiations.

So for now all Mr. Plant can do is try to keep his colleagues committed to the negotiations, never mind that the natives must be thinking they can get whatever they need from the courts. •

March 7 - BBC iNEWS

## Battle for oil-rich Canadian islands

Ian Gunn, Vancouver

One of Canada's most prominent aboriginal groups has begun a major court battle that could result in significant changes to land claims in the country.

The Haida Indians have one of the strongest land claim cases ever seen in Canada and the courts could well hand them a sub-stancial victory.

There are huge areas of timber and — more valuable still — massive reserves of offshore oil and natural gas

The Haida are claiming all of the Queen Charlotte Islands — an area of land and sea rich in natural resources on Canada's northern Pacific coast.

The court case comes after almost a decade of unsuccessful negotiation over land rights between aboriginal groups and the government in the region.

### High stakes

# THE VANCOUVER SUN

THURSDAY, MARCH 7, 2002

## 'We can find a way to live with Canada'

Haida Court action seeks title over Queen Charlottes, oil and gas reserves

By JEFF LEE  
and CRAIG McINNES

It is a very small document — just five pages plus a simple map stapled at the back.

The substance of the complaints fits on just one page, with the rest taken up by the legal trappings of any writ filed in B.C. Supreme Court.

But within that document is a power-packed punch that attempts to right what the Haida Nation says is more than 140 years of oppression, wrongful activities and lack of consultation with the original inhabitants of the Queen Charlotte Islands.

On Wednesday, the Haida initiated a lawsuit against the provincial and federal governments, saying the First Nation not only has aboriginal title to all the lands contained within the Charlottes (which they call Haida Gwaii), but also to the resources in and under the sea, including oil and gas reserves believed to be under Hecate Strait. ...



March 7 - The Vancouver Sun: Guujaaw, president of the Haida Nation, speaks in North Vancouver Wednesday at the launch of a claim for aboriginal title to the Queen Charlotte Islands, or Haida Gwaii, in BC Supreme Court.

Most legal observers say they are likely to win and likely to change for ever the way governments have to share land and resources with Canada's native groups.

There is little dispute that the Haida have lived on the sprawling Queen Charlotte Islands for thousands of years.

The ownership of much publicly-held land in British Columbia is being

contested

They have never signed a treaty with any government and they say that means they still own the islands.

If the courts agree, it will force governments to involve the Haida in every level of land and resource planning.

This particular case has added importance because of the islands' natural resources, which the Haida



Vice-president of the Council of the Haida Nation, Gilbert Parnell

The Supreme Court of Canada decided in the Delgamuukw case that aboriginal title to much of the province had never been extinguished and that governments must consult with First Nations before using land the bands claimed as their traditional territory.

The decision also laid out a framework for allowing First Nations to prove title to what they claim are their traditional lands.

“What this is going to mean is British Columbia and Canada are going to have to massively rethink their current approach to the treaty process,” University of Victoria professor Frank Cassidy said the day the Delgamuukw decision was handed down.

But five years later, Delgamuukw has not kick-started the treaty process so much as facilitated its failure, and it also provides the legal framework for this week’s Haida lawsuit.

“We haven’t been standing back twiddling our thumbs since Delgamuukw came down,” Herb George, BC vice chief of the Assembly of First Nations and a former strategist for the bands that launched the Delgamuukw case, said in an interview Wednesday.

“If the Haidas go forward there’s going to be wide support [from BC natives] because we know that they will win. And if they win, we all win.”

One of Delgamuukw’s most significant outcomes was that it raised BC natives’ expectations. Because it said First Nations must be consulted about their traditional lands, they expected the provincial government to consult with them, even before the First Nations had proven title. And according to George, **it shifted the provincial and federal governments’ duty to negotiate from a moral one — it’s the right thing to do — to a legal one.**

claim as well.

There are huge areas of timber and - more valuable still - massive reserves of off-shore oil and natural gas.

### ‘Record of plunder’

The British Columbia government is widely expected to lift the long-standing ban on oil drilling in the region later this year, raising the stakes in this case to billions of dollars.

The President of the Haida, Guujaaw, says he is not interested in the money.

He says Canadian governments have an appalling record of plundering natural resources, but under Haida control any forestry or drilling would be limited as well as environmentally friendly.

The British Columbia government says it is confident agreements can yet be reached with aboriginal groups to share the resources.

The Haida say their only alterna-

tive is a court battle that the government may come to regret. •

*March 7 - The Province*

## Native claims: Back to the courts

*Chris Nuttall-Smith*

Five years ago, the top court’s Delgamuukw ruling had native groups expecting a wave of treaty talks. It hasn’t happened

Just over five years ago, when another “landmark” court case launched by BC natives came to a close, many analysts thought treaty negotiations in the province would finally get a needed boost.

BC natives said at the time that the decision encouraged all parties to land claims talks, natives and governments, to sit down and work things out. But they said, too, that if negotiations failed, Delgamuukw would give them the upper hand in court.

“If the governments, particularly the BC government, don’t move quickly to indicate that they accept the spirit of this judgment, what you’ll see is more litigation,

date to a referendum.

[EDIT]

And last week, in a decision that according to UVic law professor Hamar Foster will have more immediate effect in BC than Wednesday’s action from the Haida, BC’s Court of Appeal ruled the provincial government has a duty to consult and accommodate First Nations that claim traditional lands, even if they have not yet proven title.

“I don’t think one should ever think that these lawsuits are a simple thing,” he said. “The amount of evidence — just look at the amount of evidence amassed in the [Delgamuukw] case ... there’s a lot of work that has to be done, a lot of expensive work that in a perfect world would be better devoted to negotiations.

Foster added that no court can write a treaty. It can only clarify, as Delgamuukw began to do, just which



March 6 - First Nations Summit, Squamish: The ceremony to send the Writ to BC Supreme Court begins.

Photo: P. Kelly

more economic uncertainty, and that won’t benefit anybody,” Cassidy said at the time.

[EDIT]

“Delgamuukw established the legal duty for consultation,” Herb George said. “But the province never did take that seriously and said, ‘We don’t have a duty to consult because you’ve never proved aboriginal title on the ground.’ “

Negotiated land claims settlements never materialized, even as First Nations were granted and loaned hundreds of millions of dollars to negotiate them.

Across BC, natives almost universally opposed Premier Gordon Campbell’s pledge to subject the province’s treaty-negotiating man-

Then, Wednesday, Cassidy’s prediction of lawsuits was borne out.

In essence, the Haida lawsuit relies on the test set out in Delgamuukw to argue the First Nation’s claim. The Haida claim their aboriginal rights have never been extinguished by treaty and that they lived on the Queen Charlotte Islands long before the British Crown asserted sovereignty over the land.

[EDIT]

Foster, the UVic law professor, said Wednesday **the Haida case is a strong one since the band has no competing claims with other First Nations.** But he warned, as have many before him, that lawsuits take time and money, and they are never a sure bet.

cards each party to the negotiations holds.

**“The courts, I think, see themselves as pushing this process along and not as the bodies that should in any sense be making treaties.” •**



"In a ceremony rich in tradition and heavy with emotion, the Haida Nation launched its historic bid for aboriginal title of the islands they claim to have occupied long before the arrival of European settlers."

*March 7 - The Province*

## Haida leader is a carver, a dancer and an activist

*Jason Proctor*

Activist, artist and musician, Giindajin Haawasti Guujaaw cuts a fascinating figure as the elected president of the Council of Haida Nations.

Handsome and quick-witted, the man who yesterday launched a lawsuit that has the potential to profoundly affect the future of BC speaks with the disarming skill of a practiced politician and the wry humour of a stand-up comic...

*March 7 - The Province*

## Letters to the Editor

### Thumbs up to Haida

The Haida have never been a defeated nation. They're right. They know what they are doing.

*John Holliday, North Vancouver*

### Keep Liberals from drilling

I'm behind the Haida 100 per cent. Keep those Liberals from drilling in the Queen Charlotte Islands area.

*Chester Pielak, Burnaby*

### Oil should be for whole province

The time of fooling around with the whole native issue is long gone. This should be for the good of the entire province, not just a handful. Offshore oil has the prospect of generating a

lot of work and giving back a lot to our economy.

*Linda Tylor, Surrey*

### They're not entitled

The natives in the Queen Charlottes are no more entitled to parts of this province than anyone else is. The Nisga'a Treaty wrong and this is wrong.

*Barry Hope, Langely*

*March 7 - Vancouver Sun*

## We can find a way to live with Canada

*Jeff Lee and Craig McInnes*

It is a small document — just five pages plus a simple map stapled at the back.

The substance of the complaints set out within fits on just one page, with the rest taken up with the legal trappings that come with every writ filed in BC Supreme Court. But within that document is a power-packed punch that attempts to right what the Haida Nation says is more than 140 years of oppression, wrongful activities and lack of consultation with the original inhabitants of the Queen Charlotte Islands.

On Wednesday, the Haida initiated a lawsuit against the provincial and federal governments, saying the First Nation not only has aboriginal title to all the lands contained within the Charlottes (which they call Haida Gwaii), but also to the resources in and under the sea, including oil and gas reserves believed to be under Hecate Strait.

The writ, filed by lawyers Joe Arvay and Louise Mandell, simply seeks a declaration that the Haida are the aboriginal owners of the entire remote archipelago off the

north coast of BC and that all of the activities within those lands that are incompatible with the Haida should cease. They also want an accounting of all profits, taxes, stumpage dues, royalties and other benefits the provincial and federal governments have collected over the years.

Those demands signal a huge change in the way the Haida have considered their relationship with the rest of Canada, Haida president Guujaaw said Wednesday.

"Aboriginal title is a compromise for us," said Guujaaw, who goes only by his Haida name. "We think we can find a way to live with Canada. What we want to do is clarify our relationship with Canada."

Aboriginal title is a form of land ownership recognized under Canada's Constitution Act of 1982 that gives native nations a say in how those lands are used. It can include fee simple title and acts as a parallel ownership to the Crown's ownership.

[EDIT]

The Haida initiated their lawsuit in part to try to stop the provincial government's apparent plans to lift a moratorium on oil and gas exploration in Hecate Strait.

Their view that they are separate and distinct from the rest of Canada was reinforced in a long ceremony at the First Nations Summit in North Vancouver Wednesday, when many of the hereditary chiefs of the Haida's 33 clans assembled for a ceremonial hand-off of the writ.

The ceremony included several mask dances and concluded with two young Haida people, Nika Collison and Alfie Setso, literally handing the writ to Terri-Lynn Williams-Davidson, a Haida lawyer and a member of Arvay and Mandell's legal team.

Iluwaas, a Haida hereditary chief, said non-natives living on Haida Gwaii do not have to fear the nation's lawsuit.

"Haida Gwaii is not taking anything from anyone, I want to make that clear," he said. "(But) this is our land. This land is not for sale. It is our land."

The lawsuit launched Wednesday



Chief Gibby Jacob of the Squamish Nation.

Photo: J. Shafiq

is groundbreaking because it includes claims to seabed resources over half of Hecate Strait and 320 kilometres out into the Pacific Ocean, Mandell said. "There's very little judicial determination of the seabed as an aspect of aboriginal title," she said.

[EDIT]

But Guujaaw said the Haida are opposed to subsea mineral resource extraction because there are too many environmental risks. He said the white man's track record with now-depleted salmon stocks and clear-cut forests indicates they aren't good resource stewards. "They've ruined the fishing industry and they've ruined the forest industry. Now they're on to the next one," he said.

The suit names both the provincial government and the attorney general of Canada. Arvay said it could take 18 months before the case is heard in court, but admitted it could also take years to resolve. •

March 7 - The Province

## We'll consult: Premier

Michael Smyth

Does Premier Gordon Campbell have the nerve to drill for offshore oil and gas over the objection of the Haida Nation of the Queen Charlotte Islands?

Judging by what he had to say on the matter yesterday, I wonder if the premier himself knows the answer to that question.

Campbell was asked by reporters if he would approve drilling even if the Haida, who claim the seabed as their own in a land claim, said no.

Given Campbell's consistently hard line against sweeping native treaty claims, his answer came as a surprise:

**"We wouldn't try to go ahead without the federal government and aboriginal communities joining with us on this," he said.**

You could practically hear the oil executives' butt cheeks clenching up from here to Houston when he blurted that one out.

Imagine Campbell, a strike-it-rich prospector all the way, giving a native veto over \$95 billion worth of untapped oil and gas.

Vancouver Sun reporter Craig McInnes expressed the collective skepticism in the room as he prefaced a follow-up question.

"You said you wouldn't go ahead on offshore oil and gas without the federal government and aboriginal communities going along, so . . ."

"I didn't say that," Campbell quickly insisted.

Hmm. Maybe he's become so accustomed to speaking in ambiguities

that he's not sure what a definitive statement is anymore.

He was quickly back to the usual double-talk.

"We are going to work with aboriginal communities. We are going to consult with aboriginal communities," he said.

Got that straight, everybody? He's going to consult with them. Not ask their permission. All you Exxon guys can unclench now.

Glad the premier cleared that up. But he'd better untie his tongue before he addresses this critical issue in the future.

Not that the Haida couldn't use a lesson in plain talk themselves.

The Haida are throwing around a lot of anti-oil-and-gas rhetoric at the moment. I put it down to a negotiation tactic.

The Haida and Tsimshian first nations told the government's oil and gas scientific panel last year that they opposed lifting the existing exploration moratorium "until there is an independent environmental assessment."

In other words, the Haida have hinted they're willing to talk drilling under certain conditions.

I say they're sending a message to Campbell: The price must be right. And we'll be driving a hard bargain to make sure we get it. •

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*March 7 - The Province*

## Guujaaw hints at break with Canada if Haida can't work things out

*Jason Proctor*

In a ceremony rich in tradition and heavy with emotion, the Haida Nation yesterday launched its historic bid for aboriginal title of the islands they claim to have occupied long before the arrival of European settlers.

**"The Haida Nation is not taking anything away from anyone — I want to be very clear about that,"** said hereditary chief Reynold Russ, whose Haida name is Iljaaws. "The Indian people were the first to be in Canada. This is our land. Our land to keep."

Introduced by a song of prayer, a colourful procession of dancers and drummers filled the auditorium of the Squamish Recreation Centre before Guujaaw, president of the Council of Haida Nations, handed the writ over to runners who took the document to BC Supreme Court.

[EDIT]

And if Canada can't work with the Haida, he said, they have the right to look to other countries to form relationships, he said.

"We think we can find a way to live in Canada," he said. "We're ready to try."

[EDIT]

A statement from the Haida said: "We have attempted to work out the differences between our people (and Canada) but more often find our-

selves at odds with Canada as to how our lands should be treated.

**"We are still prepared to formalize our relationship with Canada, however, that relationship must be built with a strong legal framework."**

Haida Nation lawyers Joseph Arvay and Louise Mandell said the "groundbreaking" claim for offshore drilling rights will likely take up to 18 months to reach a judge.

Four pages long and accompanied by a map, the writ makes a simple assertion to aboriginal title over the "land, inland waters, seabed and sea" comprising the area known as Haida Gwaii.

**"It has implications for every aspect of the Crown making decisions about resource management in the Haida Gwaii,"** said Mandell, who noted that should the province decide to go ahead with offshore drilling, the Haida would seek an injunction. "The case law has already established that where there are fishing rights there is the capacity to protect the environment. So the offshore issues are already engaged."

The Haida claim is supported by other First Nations Summit members, for whom the outcome has profound implications.

The site of the ceremony was significant. It was held on land owned by the Squamish band — ancient enemies of the Haida.

"We are honoured that you are here today to launch what in our estimation is a fight — a fight we all need to undertake," said Squamish Chief Gibby Jacob. "The times long gone, we were not great friends . . . [But] we will war with you as an ally." •

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March 7 - The Province

## Courts 'very clear:' BC is landlord

The courts have been "very clear" that the province is the landlord in BC, Attorney-General Geoff Plant said yesterday.

"We need to work hard to ensure that we accommodate aboriginal rights and title and other aboriginal interests," he said as the Haida Nation filed a claim to the Queen Charlotte Islands, the surrounding sea, sea-bed and their resources.

"I think that offshore oil and gas in the long run, if it can be done in a way that's environmentally safe, could offer huge opportunities, economically, for First Nations up and down the coast of British Columbia."

Herb Dhaliwal, federal minister of natural resources, said the litigation route was unacceptable.

"We need to sit down and resolve these things."

David Luff, of the Calgary-based Canadian Association of Petroleum Producers, said the Haida statement of claim **"creates another level of uncertainty regarding offshore oil and gas development."**

**"Our industry requires certainty, clarity and predictability when it comes to the regulation of the industry, and also who the owners of the resources are."**

The Haida claim follows its victory last week at the BC Court of Appeal. It agreed the Haida should have been consulted by the province and forestry company Weyerhaeuser Canada about logging on land claimed by the Haida.

Weyerhaeuser president Bill Gaynor said yesterday: **"The Haida, the government of Canada, the government of BC have to get this thing solved."** •

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March 7 - The Observer

## Haida launch title case this week

The Council of the Haida Nation is launching its case for title to the islands in BC Supreme Court this week.

**"We wouldn't go in there if we didn't expect to win,"** CHN President Guujaaw told the Observer.

The Haida position has always been that they hold title to the land and waters around the islands, but once Haida title is legally recognized, it can exist alongside crown title, according to Guujaaw.

The Haida case is considered strong. An appeal court judge noted just last week in a separate ruling that "in my opinion, there is a reasonable probability

that the Haida will be able to establish Ab-original title to at least some parts of the coastal and inland areas of Haida Gwaii...

The case, no matter which way it goes, is likely to be appealed to the Supreme Court of Canada, a process that could take as much as four years. •



"Dancers wearing spectacular masks swirled about as drums pounded — eagle down floated in the air."

March 8 - *Globe and Mail*

## The Haida's case

In 1763, as the Haida were settling into yet another millennium in what would one day be the province of British Columbia, George III issued his Royal Proclamation. He decreed that "the several nations or Tribes of Indians ... who live under our Protection [in Canada] should not be molested or disturbed in the Possessions of such Parts of Our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them."

The Haida have not ceded the Queen Charlotte Islands, their ancestral homeland northwest of Vancouver Island, to the Crown. **They have not sold the archipelago to the Crown. And they have not been defeated in war. Yet they have nonetheless been molested and disturbed; their trees have been felled, their children were removed to residential schools and in the 1800s they were all but wiped out by small-pox, introduced by European visitors.** The survivors moved elsewhere within the archipelago; the homes they left are marked by the stunning totem poles for which the Haida are known.

For decades they have been fighting for recognition of their claim to the islands, and for decades they have been frustrated. They share this frustration with most other BC native bands, who have never signed treaties. So, on Wednesday, the Haida filed a writ of summons in the BC Supreme Court asking for recognition of title not only to the Queen Charlottes, which the Haida know as Haida Gwaii, but to the surrounding waters" — waters that cover enormous untapped oil and gas reserves.  
[EDIT]

The court said that natives who have not signed treaties have a right to claim aboriginal title if they can show their ancestors lived on the land exclusively before the Europeans arrived. **The Haida should have no problem demonstrating that; they were there to meet the**



Colin Price — The Province

March 7 - The Province: Haida dancer performs at ceremony to mark filing of land claim yesterday.

**Spaniards who made the first European contact with them in 1774**, and the Supreme Court said oral history may be considered on the same plane as the common law when adjudicating such claims.

If the courts were to recognize the Haida's claim to the full title they claim, the recognition would not prevent the government from in-fringing on that title in cases of

demonstrable necessity — which, the court said in *Delgamuukw*, could include economic development — but it would give the Haida a stronger hand in determining the result. It would compel the negotiation, the compromise and, where called for, the compensation to which BC has proved resistant over the years.

How resistant? Then-premier William Bennett told the Haida in 1985 to "abandon their claims on the land of BC and get on with the issues that will help the native people" — as though the Haida were somehow interlopers in BC, and as though the claims themselves would not help natives. In 2002, Premier Gordon Campbell is intent on holding a provincewide referendum, as he promised in last year's campaign, to "give all British Columbians a say on the principles that should guide BC's approach to treaty negotiations." That is, he is putting minority rights up to a majority vote. What of constitutional obligations, what of the courts, what of in-alienable rights?

Expect the Haida's case to spend a long time in the courts, particularly since their claim to offshore title breaks new ground. But if *Delgamuukw* is to be put to the test, it is hard to imagine a claim with a better shot than this one. •

March 8 - *CKNW Radio*

## Cutting Edge...

*Bill Good*

GOOD: Good morning.

CALLER 1: Mine is the Haida Gwaii claim to the Queen Charlottes. I mean, these people have been under, from what I understand under treaty agreements have, you know, they've given up their rights for security. We've, the Government of Canada or British Columbia spend in Canada

trillions of dollars, at least a trillion dollars on the native people over the past hundred and twenty-five years. Well if they want their land back, we want our money back. And I think it's about time we stop this nonsense of, of playing to them constantly and all their demands.

GOOD: [Laugh] Oh, my. Vaughn?

PALMER: Well, Bill, it is unfortunate I would say that in spite of having had a Federal Government that was committed to the treaty process and a Provincial Government under the NDP that was more committed to treaties than all previous provincial governments put together, it's a pity that after a decade of them working at it we only got one treaty with the Nisga'a, which actually predated the process, and I have to say I think it's discouraging. I'm not surprised people are angry like the caller, and I'm not surprised natives are frustrated too. It is regrettable, and even though I don't like to

criticise the courts in the country I think they have not helped this process move forward. Every time that the courts have intervened in this process, they've made it harder, they've made the, the situation more complicated. They've thrown out stuff that, that was helping to reach settlements, and I think the courts have to bear a part of the responsibility for the lack of progress. After spending half a billion dollars at the bargaining table, we still have no treaties in this province and none are in sight.

GOOD: But Tom's call gives the impression that that is somehow the Haida's fault.

PALMER: No, I don't think it's the natives' fault. I, I, I think it's a, it's a process failure, but I think we've got to recognize that the process didn't fail because of lack of good intentions on the part of the government. It, it

failed because expectations were raised, partly because expectations were raised so high on the native side by the court judgements. You know, particularly with the NDP — let's leave the Liberals out of it because these two recent court decisions involve decisions made by the NDP. The New Democrats were really trying hard to make progress on this issue. They knew that the long-term solution was to show British Co-lumbians agreements that worked, and they tried very hard. They tried also though as a government to be realistic. They tried not to go beyond what people like the caller would be prepared to accept...

BALDREY: I, and that's an intriguing part of this, of this claim, Bill. I think it is the first one to claim offshore resources, and I think that's, that's the heart of this claim. And I think Vaughn's right. I think at the end of the day if, if there are indeed billions of dollars / out there and if the Haida are offered a chunk of that, I think you're going to see them accept it. •

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*March 8 - CKNW Radio*

## Interview

**with the Honourable Herb Dhaliwal, Federal Minister of Natural Resources and MP for Vancouver South-Burnaby.**

*Bill Good*

GOOD: Herb Dhaliwal is Member of Parliament for Vancouver South-Burnaby. He is the Minister of Natural Resources, and the Senior Minister for British Co-lumbia. ... Where do you stand on offshore oil and gas? That said, you know that there are environmental groups, many of



Reggie Davidson dancing at the ceremony to launch the title case.

them, who don't believe it can ever be done safely, particularly in those waters off our shore.

DHALIWAL: Well when the moratorium was originally put in place both by the Provincial and Federal Governments, that was in the 1970s. Technologies have changed, and, and, you know, people know more about drilling in the offshore. So a lot has changed, but we have to make sure that we have the good science and we do the studies, and make sure we're confident that if we do have it

that it's done in an environmentally-sound way.

GOOD: What do you make of the Haida claim to the Queen Charlottes and two hundred miles of ocean floor?

DHALIWAL: Well first of all, my view is that we can accomplish a lot more through negotiations. If we have a negotiated agreement, we have a win-win situation. When you go to court, Bill, as you know you have winners and losers ... and it always creates real difficulties in trying to resolve it once it's gone to the courts. We're forced to deal with the court's decisions.

GOOD: ... John in Victoria, hello.

CALLER 4: Oh, good morning, Bill and Mr. Dhaliwal.

DHALIWAL: Good morning, John.

CALLER 4: Well Mr. Dhaliwal, I hope you and the Provincial Government can come to a fairly soon conclusion with regards to this offshore oil drilling. I know the Haida, they, they, they're, they're concerned somewhat, but they're not in the position of putting out any money to make this a worthwhile project. I know they want a rake off and they'll get a rake off. But like I say, I hope the Federal and Provincial Governments look at that and not make it a huge aboriginal land claim thing.

GOOD: They may not have a choice.

DHALIWAL: Well thank you very much, caller. Let me say that we're working in cooperation with the Provincial Government. I've always felt that we can best deliver for our citizens when we're working together, and on this file we are working to see what we can do. We need to take advantage of all the economic opportunities that occur out there,

but do it environmentally sound. In terms of the Haida, the best way to resolve this thing is through the BC Treaty Process. We have a process in place, and we should try to do it at the negotiating table.

GOOD: 604-280-9898 is my number. And Janice, good morning to you.

CALLER 5: Hi. I would, I just have a quick comment. As a new immigrant, **Herb seems to be clueless about the interests of the people and the heart of the land versus the dollars in his hand to spend in the Government.** I don't see that he can speak on behalf of the First Nations people the way he does.

DHALIWAL: Well I, I'm not speaking on behalf of the First Nations. What I'm saying is that we have a treaty process in place, and I believe that if we want a win-win situation that's where we should resolve these issues.

[EDIT]

GOOD: Are you still there? Apparently not ... Reads letter

I agree with the March 7 editorial, "Haida claim emphasizes need for serious negotiations," that it's better to negotiate native claims than litigate them, but not with your suggestion that the province must satisfy these claims before making any decision about resource development.



That idea would turn democracy on its head by giving a tiny minority a veto over the wishes of four million other British Columbians and absolutely kill investment in our resource

industries as well. Who would place money here if its security depended on negotiations between other parties?

The provincial government has to make every effort to accommodate native concerns, but can't surrender its authority to make final decisions. If that isn't the law, our economy is going to get much more sick than it is.

*Graham Campbell, Burnaby*

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*March 8 - CKNW Radio*

## Interview

**with David Schreck, Advisor to Former Premier Ujjal Dosanjh, and Mike Gaigon (sp), Former Ministerial Assistant in the Harcourt Government**

*Rafe Mair*

MAIR: My guests are Mike Gaigon, who is a former Ministerial Assistant in the Harcourt government but has crossed the line. He's now on the right. David Schreck of course remains on the left. ... Alright let's turn on to you, David Schreck, because you've had a pretty easy time of it. We've now got the Haida suing for God knows what, including offshore rights, and their complaint is that government has not done anything to come to terms with them over the years. Over the years, ten of which were NDP times. The delay in dealing with the Haida claims, giving rise to this lawsuit, rests entirely on the shoulders of the New Democratic Party.

SCHRECK: Well it would be easy to settle all of the land claims by simply agreeing with the First Nations on what they are demanding. So we plea, we are definitely guilty of not agreeing with all of the demands. A negotiation lasts a long time because each side thinks that its position is relatively strong. And basically what the land claims negotiation get down to, is each side trying to guess what the courts would do, because the alternative to negotiating is litigating. What has dragged governments to the table in the first place is the loss of certain legal actions. Victory, in terms of the First Nations, winning those legal actions, and recent decisions are bound to encourage First Nations all the more. That's why these foolish referendums by Gordon Campbell, this multiple-choice mail-in nonsense which is going to waste millions of dollars, all it does is make things worse. The First Nations say well why should I bother talking to you at all, let's go to the courts.

[EDIT]

GAIGON: ...I have to jump in here because first of all you're right, Rafe. The blame has to lay squarely with the previous government. And moreover, what happened was they came up with this cumbersome treaty process where they tried to squeeze everyone through the same model as the Nisga'a, and what, and when specific Indian bands and First Nations had specific issues the, the response from the Provincial Government was we won't deal with that issue unless you're in the treaty process. And so it became this cumbersome, bureaucratic nightmare that was, that had come to a complete halt long before the Campbell government put forward the idea of a referendum. And what the federal and provincial negotiators at the bureaucratic level are, are, are advocating is incremental certainty. Let's start dealing with things on an issue-by-issue basis,

rather than having this grand process that only makes lawyers and consultants wealthy.

SCHRECK: Well actually the interim measure agreements that have been entered into throughout the province demonstrate that issue-by-issue approach and variation in the approach is precisely what government was doing, so you've got your facts.

GAIGON: Absolutely not.

[EDIT]

GAIGON: Time and time again the Provincial Government under Glen Clark used it as a stalling tactic and the result is, is that frustration grew, people went to the courts, they started getting victory in the courts, and now the chickens are coming home to roost.

SCHRECK: Well you're, you're half-way right, Mike. The government has used what levers it can to pressure those First Nations that aren't into the treaty, in the treaty process into the treaty process because the ultimate, I mean, what alternative is there? You have to negotiate treaties somehow.

[EDIT]

SCHRECK: If you are going to provide certainty on the land base you ultimately have to have treaties. An issue-by-issue basis does not provide the certainty necessary for economic investment... •

*March 11 - The Daily News (Nanaimo)*

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## Hecate riches uncertain, say experts

CP - The Queen Charlotte Islands are set to become the next area of picturesque British Columbia wilderness caught in the struggle between aboriginal and environmental interests on one side and the economic eagerness of developers on the other.

But despite claims that oil and gas reserves off the coast of the islands are worth billions, some industry experts say there could be nothing there at all.

[EDIT]

The reserves, estimated to be more than double those in the Hibernia area off Canada's East Coast, could mean up to \$4 billion annually to provincial government coffers. But Peter Hannigan, publisher of the Geological Survey of Canada's estimates on oil and gas in the basin, acknowledged in an interview the figures are speculative. •

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*March 8 - Globe and Mail*

## Province must act on court decision

*Mike Cornell*

This week's BC Court of Appeal decision that requires government and business to treat First Nation like partners on projects involving Crown land – where a claim has been asserted – though not yet proven – has the potential to drag the BC economy down when it should be heading up.

On Wednesday, the province's higher court ruled that natives must

be consulted about development even before the validity of any land claim has been established in court: and those negotiations must be substantial, good faith discussions that address First nations concerns.

The ruling stems from a Haida Nation challenge of the authority of the BC government to issue a Weyerhaeuser timber farm licence on the Queen Charlotte Islands. The Haida argued they had not been adequately consulted. Since the landmark Delgamuukw decision in 1997, the province has taken the position that aboriginal title must be proven in court before intensive consultations are necessary.

**The court of appeal ruling leaves no doubt that this process must now change.**

On a provincial scale, the significance of the ruling is staggering. Sarah Goodman, communications manager for Weyerhaeuser Co., goes so far as to say it represents a “fundamental shift” in the way business operates in BC and represents “a new level of burden” on beleaguered forest companies.

BC Attorney General Geoff Plant has so far been mostly silent on the issue, but it’s important for the Liberal government to act fast. The ruling means more uncertainty at a time when Premier Gordon Campbell’s government has been working hard to instil a sense of confidence in BC as a good place to do business. The government can seek leave to appeal the decision to the Supreme Court of Canada or it can act quickly to allay the concerns of British Columbians and tell us all about the government’s plan to address them.

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*March 8 - CBC Radio, Afternoon Show*

## Interview

**with Geoff Plant, regarding the Haida’s court case, seeking title to Haida Gwaii.**

*Kathryn Gretsinger*

CBC: Well it could be a landmark lawsuit. This week the Haida Nation launched a court case over land title, in BC Supreme Court. The case will address the question of who owns Haida Gwaii, also known as the Queen Charlotte Islands. And depending on what the answer is, it could have a significant impact on British Columbia, as well as on the rest of the country. Geoff Plant is BC’s Attorney General. And to talk about some of the issues that this particular case raises, he joins me on the line now. Good afternoon, Mr. Plant.

PLANT: Good afternoon, Kathryn.

CBC: When you heard that the Haida had gone ahead and launched a lawsuit, what was your reaction?

PLANT: Well we had actually heard some suggestion that this was possibly going to happen for a while. So I wasn’t completely surprised. But I mean at another level, I guess I have to admit **I am disappointed because it clearly means that the negotiation process, the treaty negotiation process is not working well enough for the Haida.** So it looks as though we may end up having to litigate these issues. And litigation is expensive, it’s adversarial, and it takes a very long time, and often doesn’t actually even answer the question that you wanted answered in the first place.

CBC: Well talk about the treaty making process in a moment, but let’s talk about the court case. How significant do you think it is that the Haida, in

particular, have launched this suit, claiming title over the Queen Charlotte Islands?

PLANT: We - in my ministry we are responsible for all the aboriginal title litigation that affects the Province. And there is more than one case out there. There may be as many as a dozen. And some of them move more quickly than others. **If the Haida intend to pursue this case vigorously, and they have said they do, then this is clearly a very significant case.** It’s a large part of the Province of British Columbia. And if we end up having to do a full blown trial of this case it will be a big deal and potentially very important, given that among other things, this marks the first claim that I know of where an aboriginal First Nation has claimed title to the land underneath the ocean bed. Of course the Haida are doing that because they are saying that they want to assert rights that would affect oil and gas drilling. And that, given the potential of oil and gas drilling to the economy of British Columbia does make this case a significant one.

CBC: The oil and gas producers are already expressing concern over this, not only because of what the end result could lead to, but because of the uncertainty in the meantime. Is there anything you can do to mitigate that?

PLANT: Well what we know from the court decisions is that the Province is the landlord, even in cases where there is aboriginal title. We also know that the provincial government has to work hard to consult with First Nations, whose interests may be affected by development. And most recently the Court of Appeal has reminded the Government of British Columbia that consultation may include what the court calls accommodation of the aboriginal interests. But the court hasn’t said that the Province isn’t the

landlord. And that means to me that if we go forward with any kind of resource development, as long as we do our job to take aboriginal interests into account and respect aboriginal rights and title, then we can proceed. And in this case we may be able to proceed if the science tells us that oil and gas drilling can be done safely. And I don't know the answer to that question. But if the science says that oil and gas drilling can be done safely, then I think we should work hard to find a way to make it happen, so that it provides benefits for all British Columbians, including First Nations, like the Haida, in the North Coast area.

CBC: But how can you continue to be the landlord if you don't own the land?

PLANT: Well in fact, aboriginal title does not displace Crown sovereignty. The courts have been clear about that. The court is clear about that, even in the Delgamuukw case, which people talk about. The Province continues to be sovereign, but what it has to do is ensure that it takes aboriginal interests and aboriginal rights and title into account when it does what it can do, as the Provincial Crown responsible for the ownership of land and resources.

CBC: But of course, aboriginal people believe that aboriginal title means that it is their land and that in fact, the Province is occupying it unjustly.

PLANT: And all the more reason, given that there are differences of opinion, in my view, to try to resolve those issues at a negotiation table, where you can reach an agreement where the parties can live with, rather than to undertake expensive litigation. You know the Delgamuukw case, for example, started in October of 1984. It ended thirteen years later, in December 1997, with an order that the case should go back to trial. So

after thirteen years of litigation, the Gitksan and the Wet'suwet'en, who wanted a declaration that they owned and had jurisdiction over some land, ended up with an order that they had to go back and start all over. So litigation is expensive, it's time consuming, and it doesn't always provide answers to the questions you want. That's why I think negotiation is a better course.

CBC: But of course, we've been looking at the treaty making process for the last nine years and many people would argue that it has become expensive, time consuming and adversarial as well.

PLANT: Well it's certainly become expensive and time consuming. And I share the frustration that others would - could express, with the fact that we have not yet produced a signed treaty. But I still believe that negotiation is better than litigation. I mean that's why we're working hard to try to improve the treaty process in British Columbia.

CBC: Well tell me, how is it that you're wanting to proceed with the referendum, given the feelings in the native community about the referendum, at the same time as saying that you want to work on a treaty making process to make deals resolvable. I mean isn't that two different messages that you're sending out?

PLANT: I don't think so, and here's why: the Province has been at the table for a long time with First Nations and the federal government. Each of those three parties is entitled to bring their own vision and their own set of objectives to the table, in what is a three-party negotiation process. And I think that one thing that's been missing is that the Province has not sat down at the table with a mandate that is like the mandate that you could get if you go and ask the people of British Columbia

what is it that you want us, as your representatives, to achieve on your behalf? So the referendum is going to give the people of British Columbia a direct say on the principles that the Province should take to the treaty table. And I recognise that First Nations and the federal government, they could bring different principles to the table if they want, and they will. And then we'll sit down and try and negotiate. But for a long time, we've been at this process without really any clear sense of where it's going. And the referendum, I think, will give the Province's negotiators a much clearer sense of where the people of British Columbia want to take treaty making.

CBC: Unless the people of British Columbia tell you that they don't want to treaty making any further. And then what?

PLANT: Well we're not going to ask them that question. Treaty making, in my view, is not an option. I think that we are going to try to negotiate treaties, and we're not going to ask the people of British Columbia if they don't want to negotiate treaties. What we are going to ask is a set of questions that will give people the chance to express their view on some of the principles that are part of treaty making. We're not going to ask a question that says 'Do you want us to continue negotiating treaties or not?'

CBC: Mr. Plant, thank you very much for taking our call this afternoon. Geoff Plant, BC's Attorney General. Well what do you think? We'll do our own little survey at the moment... •

March 11 - Times Colonist

## Haida claim a wake-up call

Whatever the merits or failings in law of the Haida claim to jurisdiction over the Queen Charlotte Islands and waters and subsurface mineral zones surrounding them, **the suit significantly challenges many of the assumptions driving the new economic order envisioned by Premier Gordon Campbell and his Liberals.**



Raven appears and transforms in sequence at the ceremony.

It's a wake-up call to those who think the province can magically return to the kind of prosperity realised under W.A.C. Bennett without first addressing the fundamental issue of aboriginal rights. That prosperity was achieved in an era when government could ignore First Nations that were inconvenient to the plans of industry and government.

Those days are gone. Armed with a series of court decisions covering everything from fishing and hunting

to logging to urban real estate, First Nations are a political and economic force to be reckoned with. Many private sector leaders understand this, seeking to build partnerships and new relationships. It's political leaders who appear to cling to outdated stereotypes and ill-founded assumptions.

Court case after case has affirmed that the proper resolution of First Nations grievances is through negotiation, not litigation and, in the interim, government must consult with First Nations in forming policy governing resource use on lands in dispute. Again and again, First Na-



tions have complained that consultations have been cursory, after-the-fact or conducted on the assumption that government and industry would ultimately have their way.

**The case is another reminder that the dream of offshore oil and gas is just that – a dream – and will remain so until a host of issues from environmental impact to aboriginal rights. •**

March 10 - Canadian Press

## Recent Court Rulings, Haida lawsuit further complicate BC land claims

Greg Joyce

Two recent court decisions and a lawsuit have further muddied land



claims and aboriginal rights issues in British Columbia.

The developments do nothing to ease the uncertainty that stems from an almost total absence of treaties and a slew of land claims covering most of the province.

But some observers feel the economic sky may not be plummeting to the extent that has been feared and the land-claims issue may even encourage diversification away from land dependent resource industries.

**The land-claims question has hung like a sword over British Columbia.**

The federal and BC governments, along with many First Nations, set up the BC Treaty Commission in the 1990s, spurred by a growing body of court rulings that reinforced the concepts of aboriginal rights and title.

But no treaties have been signed, except for one by the Nisga'a Nation, which wasn't part of the treaty

process but negotiated with the two governments on its own.

Government, industry and First Nations leaders have all conceded treaty negotiations have gone virtually nowhere in the last year.

Now comes a monumental lawsuit by members of the Haida Nation, who inhabit the isolated, wind-swept Queen Charlotte Islands, west of the province's north coast.

They are suing Canada and British Columbia to establish aboriginal title and rights over the entire archipelago and surrounding seas, which may contain billions of dollars in oil and natural gas under the seabed.



The suit came on the heels of two major court rulings.

In the first, the BC Court of Appeal sent a decision whether to approve a mine project on a tributary of the Taku River in northwestern British Columbia back to the provincial cabinet.

The decision means the mine project of Redfern Resources Ltd., remains in limbo and the BC Liberal government must decide whether to approve or reject the mine — initially approved by the previous NDP government — while taking into consideration the aboriginal rights of the Tlingit.

In a second ruling, the Appeal Court said government and private companies must consult with First Nations about how they develop Crown lands, even if native bands haven't proven title to the land.

The case involved a challenge by the Haida against a BC Forests

Ministry decision to renew Weyerhaeuser's tree farm licence to a substantial portion of the Queen Charlotte Islands.

The Haida argued the ministry had not properly consulted with them.

On the surface the judgements do present grounds for some concern because ... **it appears the capacity of the BC government, the Crown, to make land and re-source allocation decisions, is thrown into some question," says Jock Finlayson, vice-president of the Business Council of British Columbia.**



**The Haida lawsuit is potentially the biggest whammy since the 1997 Delgamuukw ruling by the Supreme Court of Canada. •**

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*March 10 - Canadian Press*  
VANCOUVER

The high court said aboriginal title had never been extinguished and urged governments to consult with First Nations before using lands and resources claimed by them.

The Haida filed a writ in BC Supreme Court to establish aboriginal title and rights to the entire Queen Charlottes, which they call Haida Gwaii.

In what is believed to be a legal first, the lawsuit also claims jurisdiction over the surrounding sea, which is now the subject of debate over whether an oil-and-gas moratorium should be lifted to allow for explora-

tion and development.

**"Judgments ... that make it appear more difficult or uncertain are obviously not going to be helpful in terms of re-energizing our economy and attracting new investment," said Finlayson.**

"The difficulties of operating here from a legal point of view and administrative point of view because of unresolved land claims are certainly one of the reasons for that weak investment."

Other observers, however, suggest the treaty impasse may be beneficial in a backhanded sort of way.

**"This is a perverse opinion,**



**but land claims are almost good for British Columbia,"** said Paul Kedrosky, a professor of business administration at the University of British Columbia specializing in capital and investment.

Kedrosky reasons that resource commodities still represent more than 36 per cent of exports from British Columbia "and we can't seem to wean ourselves off that dependency."

But since land claims affect resource-based industries such as forestry and mining, the unresolved native issues are "forcing the province to move towards industries that are less dependent on commodity prices that continue to be in decline."

The land-claims stalemate, he said, is accelerating investment in areas where it should have occurred long ago, specifically in information technology, biotechnology and alternative power sectors.

It's a view shared by colleague Michael Goldberg.

He also believes natural resources are not the be-all and end-all of the provincial economy.

"It's difficult for me to accept that the old natural resource metaphor has done anything other than have its day as being the premier driver of economic activity," he said.

The province is going to be less dependent on natural resources in the future.

"It's a very diversified economy we've got," said Goldberg ... •

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*March 12 - CKNW Radio*

## **Interview** with **Tom Isaac, Lawyer and Former Chief Treaty Negotiator for the BC Government**

*Rafe Mair*

MAIR: Last week the Haida First Nation launched a legal battle in the Supreme Court of British Columbia. The band is suing for ownership of the Queen Charlotte Islands, and the surrounding sub-sea territory saying that the treaty process has failed. In large part, the Haida are basing their claim on the BC Court of Appeal decision two weeks ago that said Weyerhaeuser, that's the Weyerhaeuser decision, that Weyerhaeuser and the Province had to consult with Haida before cutting part of the forest on the Queen Charlottes. Tom Isaac is a lawyer and former Chief Treaty Negotiator for the BC Government. He joins me in studio to explain what the Weyerhaeuser case said and what it means for BC's resource industries. Tom, thanks for coming in.

ISAAC: Good morning, Rafe.

MAIR: Tom, before we get to Weyerhaeuser, is there an argument that the Haida claim for the, the ocean floor, as well as the, the Queen Charlotte

Islands, that at least in part that is piling up some bargaining chips for oil and natural gas negotiations?

ISAAC: Well I think it goes to the issue of any time you put forward a claim in the courts I think you want to ensure, certainly I suspect counsel for the Haida wanted to ensure that they covered all their bases. And especially considering that the only substantive decision we've got from Supreme Court of Canada on aboriginal title is the Delgamuukw decision, and it really doesn't go into the kind of detail about what aboriginal title will really mean sort of on the ground or on, on the ocean.

MAIR: But it says there is a title, but it doesn't tell us what it is or where it is.

ISAAC: Exactly, and so if you're framing a claim for an aboriginal group, you're going to want to frame that claim fairly broad, so to make sure that you capture everything that may possibly exist there.

MAIR: Now tell us about the Weyerhaeuser case.

ISAAC: Well the Weyerhaeuser decision is surprising in some respects and not very surprising in others. Let me tell you about the parts that maybe aren't so surprising. It, it basically had to do with whether or not there were some tree farm licences and whether or not these could be replaced, and so that the Crown was proceeding to do this when the Haida said no, you need to consult with us first before you do that because replacing these tree farms licences may have an adverse affect on the, on the Haida's claimed rights. And so what the court did, what the Court of Appeal said, is that yes, Government does have a duty to consult the Haida, even though they haven't proven their aboriginal rights or aboriginal title in court, and the Court

of Appeal seems to base this around what they call their prima facie or on its face. Apparent sort of recognition that the Haida probably have a very strong claim to aboriginal rights and aboriginal title in their respective area. So really the first part of the decision is, is the thing that we've been talking about so many times and what courts have been saying all across this country to governments, and that is that you must consult with aboriginal people any, on any act or decision that may impact on them. And so from that point of view, the Weyerhaeuser or Haida decision isn't that surprising. It's simply part of the same messaging that the courts have been delivering to Government.

MAIR: It may not be surprising, but it's pretty onerous when you think of it. Does this mean that any time a municipality wants to create a road, even on, on land that apparently is, is public land, they have to consult natives because the natives have got a land claim on 115% of the Province?

ISAAC: The duty to consult rests with the Federal and Provincial Crowns, and I'll talk in a minute if you like, Rafe, about how Weyerhaeuser fits into this and some of the courts comments on that. It is a high burden. I agree with you on that. I think if there is a concern, is that we've been hearing this though from as high, the Supreme Court of Canada has said the same thing for years now ... we haven't seen is we have seen very consistent messages from the court. What we haven't seen is consistent action from governments across Canada to do what the courts have been telling them to do, and while it may be convenient to criticise that, you know, we have aboriginal and treaty rights that we have to deal with. It's really time to get on with the business of government. And that is, is to listen to what the Courts have been saying, putting consultation

regimes, and so that the decisions of government can withstand the scrutiny of aboriginal and treaty rights. And if we really want certainty and stability in this Province, that's what Government must do.

MAIR: But what does consult mean, Tom? You work for me as a, as a lawyer. I'm the senior partner. I call you and I say, Tom, I'm going to consult with you about your lousy billings. You say yes, I'm going to do this, that, and the other, and I say fine, thank you, Tom, there's the consultation, you're out of here. You know that it's consultation on the surface, but it really doesn't give you much of a chance to make your case.

ISAAC: ... I think part of the answer is, is at least Government try to do your very best. That's the first point and to date we've seen in some instances where Government simply hasn't consulted at all. The Supreme Court has tried to lay out a bit of the parameters for consultation. They say at one end of the spectrum, the spectrum of consultation is what they call mirror consultation. And that may simply mean phone call, it may simply mean a letter. At the other end of the spectrum is what they call a veto. Or in administrative law, it's the same similarly to administrative law, what you might call a hearing. And that's at the other end of the extreme. That's not in the middle. In the middle is everything else. And the Supreme Court of Canada has used language like take rights seriously, listen to people, listen to what their concerns are, demonstrate

that you've heard what they've had to say and in many of the decisions we are actually seeing a bit of a checklist like that developing. What we haven't seen is Government taking those decisions and putting them into the bodies of their bureaucracy so that they on a daily basis can

it means and no is an answer or etc. We've got to get into this but please loan me the money even with all of those uncertainties.

[EDIT]

MAIR: But they've been clear, on what the duty is, but they haven't been at all clear, on how that duty is discharged.



CKNW Radio with Rafe Maire: "We don't have any choice... it's the law of the land."

ISAAC: ... Governments need to really step back, think about what the courts have said and start implementing it. And I believe Rafe, that the courts have been clear enough, if you look at the body of case law that is now developing. That the courts have been sufficiently clear for governments to put in place the mechanisms. They

demonstrate that where their acts or decisions may impact upon aboriginal Treaty rights, that, that they can justify what they're doing and that's what we haven't seen yet.

MAIR: Let, let me put to you I think the practical problem that faces business. I have a tree farm licence and I form a company, I go to share holders and I say I need some capital in order to exploit this timber licence that I've got etc., please put some money in my company and they say well have you got your licence, everything free to go and I say oh there's one little thing I have to do yet, I have to consult with the aboriginals, I'm bugged if I know what that means, how long it's going to take, how much it's going to cost, whether

just don't want to or in some cases they just don't have the resources to put them in but I think what we're finding particularly in this Province, this isn't a problem we can run away from. We've got to deal with this issue head on and especially if we're going to continue to try to attract and maintain a vibrant business economy in this Province, we've got to deal with this issue head on, we can't stick our heads in the sand.

MAIR: Tom Isaac, a lawyer, former Chief Negotiator, Treaty Negotiator for the BC Government, back with more, right after this.

MAIR: ... I get called from time to time saying why doesn't either the BC or Federal Government, simply

pass laws using the not-withstanding clause and put all these claims and all of this nonsense to bed once and for all.

ISAAC: ...The rights that aboriginal people have that are protected or recognized and affirmed in the constitution starts at Section 35. It's not in the Charter and it's not subject to the notwithstanding clause. Now having said that what Governments can do is that they can infringe existing aboriginal and treaty rights where they can justify the infringement and that's where consultation comes into play. A key test within the justification analysis is okay Government, if you're infringing aboriginal treaty rights, can you at least demonstrate that you have properly consulted with aboriginal people and that's why consultation is so critical. If government gets anything right, it should make sure that it gets its consultation regime in place and that's whether you have treaties or you don't have treaties. Even if you've got treaties, you've still got to consult, if you're going to infringe on those treaty rights. So let's make sure our consultation regimes are good.

MAIR: Okay, I'm either Mayor or a lumber company or I'm Weyerhaeuser or any big company, it doesn't matter one way or the other. I come to the Government and I say look here I am, you've given me a right to cut timber etc. etc. Now you tell me that there's consultation necessary with the Indians. I don't have an Indian department in my company. I don't have experts on that sort of thing. I'm not involved in treaty negotiations, I don't have any history of dealing with natives. Why me?

ISAAC: Well I think this is one of the most interesting elements of the, of the Weyerhaeuser or Haida decision. In the decision the court goes on at great length explaining the Crown's duty to consult. And I think from that perspective, the decision made a lot of sense. There was no surprises, if I can put it to you that way. Where it gets surprising, was right at the very end of the decision. Mr. Justice Lam-



Raven transformation mask opens at the First Nations Summit.

bert talks about the Crown Provincial, and I'll just read the sentence to you Rafe. In my opinion, the Crown, Provincial, and Weyerhaeuser were in breach of these enforceable legal, inequitable duties to the Haida people. Now what that makes it sound like, is that the Crown's duty to consult that's contained within our constitution, is the same as any duties that Weyerhaeuser might have. ... That doesn't appear to be based on any case log that I'm aware of, it certainly doesn't seem to be demonstrated at all or justified within the decision itself. ... Quite frankly, I don't know where that's coming from and it certainly isn't shown in the decision... At the end of the day, industry should be able to look to Government, the people of British Columbia should be able to look to Government with

confidence, with security to know that if Government tells it, here's what you have to do to consult so that we as Government can meet our consultation duties but that's going to withstand scrutiny and that's what we need to have this certain instability that we want.

MAIR: Doesn't this mean in practical terms, Tom, that the Government is going to have to do these things before it gives licences to cut and so on, so that when industry comes, it knows that the ducks are all in a row.

[EDIT]

MAIR: Where are the Feds in all of this?

ISAAC: Well sometimes yeah I think everybody wonders that question at times. I think in terms of British Columbia, we have to get out of the mode of thinking the treaties are the only way

of dealing with the issues that this Province is facing from an aboriginal perspective. Treaties are important, but we have to look beyond that, we have to look at really strong economic development measures as the new Provincial Government is trying to do with aboriginal people. Partnership with them so that we build a hybrid economy together as opposed to ...

MAIR: We don't have any choice, do we...

ISAAC: We don't have any choice.

MAIR: I mean it would be very nice to say now look we don't want to do that, to hell with them. Give the Indians some money and tell them to go away, but we can't do that,

the Supreme Court of Canada has mandated we can't do that. It's the law of the land, it's the constitution as the Supreme Court has interpreted. So we simply have to find away to get along.

ISAAC: No absolutely.

MAIR: There's just no alternative to it.

ISAAC: There is no alternative and whether it's legally practically, economically, socially from I think certainly the focus that I talk to and based on what you've just said Rafe, I don't think it matters, what per-spective you look at this issue. We have got to get on with the business of dealing with aboriginal people, the courts have given our governments guidance. Our governments now must start implementing that guidance in their policies and procedures when they engage with aboriginal people and quite frankly I still believe there's some light at the end of the tunnel notwithstanding all of the decisions but the light is pointing towards Government right now to show some leadership on this and hopefully we will see some leadership from Government on this issue and you know industries and companies like Weyerhaeuser will be able to look with confidence and security at Government to know that when they tell them to do x, y or z, that those actions will withstand scrutiny in terms of aboriginal and treaty rights.

MAIR: Everybody sort of assumed Delgamuukw and the Supreme Court of Canada ended the matter but that wasn't it at all.

ISAAC: Well you know you get back to a very, a very good point. What Delgamuukw did was they tried to send it back. A. they sent it back to trial but they also sent it back for negotiation. And the courts have been

very clear when you read between the lines in the Haida decision ... what I read is Mr. Justice Lambert saying to government, get your house in order, we're not going to solve your problems for you and I think if you look at the court decisions and as you know, the Delgamuukw, that has been a consistent message as well.

MAIR: My thanks to Tom Isaac, for coming in this morning. •

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*March 13 - CKNW Radio*

## Editorial

*Rafe Mair*

There is often a large gap between what we would like things to be and what they are. So be it with what is happening with aboriginal land claims. I have felt for a long time, certainly since Delgamuukw went before the courts, that we should try to achieve settlements. Not the least of my reasons for feeling this way, is that though courts may often be our collective conscience, and certainly are nimble in interpreting and making law, they're not always in the real world. This is especially so when you get to the Court of Appeal and the Supreme Court of Canada, where the courts don't see real people very often and usually deal in the abstract.

[EDIT]

Sentimentality has made a remarkable recovery. Judges take into account not only the realities of the day, which they're never very good at assessing since they mostly have always lived a pretty sheltered life, but also all the crimes of society, real or imagined, committed over the years against aboriginals. Why it's even accepted that land claims can be proved through word of mouth, legend, and song, and indeed a right

not to pay taxes recently was based on just such evidence.

But there I go. There is no use complaining. The courts, especially since the Charter of Rights and Freedom came upon us, are doing social work at a high level, with occasional bits of law thrown in. Since that is the world in which we live, we had better find ways to make the best of it.

According to the recent decision in the Court of Appeal, Weyerhaeuser, industry and Government must now consult with native groups before extracting natural resources from contested areas. Now in the abstract this makes great sense. After all, if you and I are fighting over a piece of land loaded with gold, and you get to extract all the gold before the ownership question is solved, the ownership question becomes academic only.

The practical problem, however, is that there's not a square inch, or centimetre if you prefer, of land in the entire province that isn't under dispute. **This abstract rule becomes then a huge and enforceable caveat over all Crown land in the Province. No investor is going put his money into re-source extraction if the question of the right to extract is subject to serious and often quite unanswerable questions.**

For what is the meaning of the word consult? Does it simply mean that someone from the government and/or from the lumber company or mining company asks the local chief out to supper, tells him what he proposes to do, and then does it on the basis he has consulted, or does it mean that in each and every case the natives must have a piece of the action? If it is the latter, what prevents the natives from taking a very dubious claim and using it as a lever to extract cash? And what's the difference between that and blackmail?

Now I realize the last sentence could get me into trouble and I want

to explain that I cast no aspersions whatsoever on natives. Who amongst us would not trade a potential right for cash if we could? That's human nature.

**The pickle we're in today is because governments have not done what native leaders have been suggesting for cons: settle these issues.** What we have is a decade-old treaty settlement process that hasn't produced a single treaty. Lots of very wealthy lawyers, but not one treaty.

The current Government in Victoria wants to do now that which ought to have been done ten years ago; get instructions from its client, the public, by way of referendum. Well it's too late for that. The courts have now answered all the questions. The problem being that they have outlined the public duty to natives without giving any definition of how that duty can be discharged. This is the area that government should be concentrating on. To hold a referendum on this question is like polling the people on whether Christmas last year should have been celebrated on December the 25th.

The Feds are of no help of course. None of this is happening in a part of Canada they care about, because the votes here don't count. The leadership must come from the Province, and a start might just be if Premier Campbell simply stated that he wants to talk with aboriginal leadership how about, about how Weyerhaeuser can be implemented so as to permit business to function and protect native interests at the same time.

It's heating up and before long the Supreme Court of Canada, about as detached from the reality of where we live as it's possible to be, will have made up the rules by which British Columbians live with one another, because British Columbians haven't been able to do that themselves. •

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*March 13 - CKNW Radio*

## Interview with Guujaaw - President, Haida Nation

*Rafe Mair*

MAIR: Last week the Haida nation launched a legal battle for ownership of the Queen Charlotte Islands, including the seabed around it. They say and I quote "The Haida Nation is not taking anything away from anyone, the Indian people were the first to be in Canada, this is our land, our land to keep." We've done some legal analysis of the claim with a Haida lawyer and a treaty expert. But today we hear directly from the Haida Nation. And joining me in the studio is Guujaaw. He is President of the Haida Nation, and Guujaaw, thank you for coming in this morning.

GUUJAAW: Good morning, Rafe.

MAIR: Tell us a little bit about yourself. I understand you are a little bit of an actor, a comedian, and all kinds of stuff like that.

GUUJAAW: I don't think so, but - well I worked ...

MAIR: You are a dancer, musician, artist?

GUUJAAW: Yeah. Hunter gatherer - lots of things.

MAIR: All right. What brought you into politics? Because that is sure as hell where you are now.

GUUJAAW: No, actually as a carver, or an artist, or anybody interested in culture you have to be political, otherwise you lose that culture. ... Everything is associated; every artist is political, and in fact most of our people are.

MAIR: Tell me a little bit about Haida Gwaii, which we'll call, for people who don't know that, that's what the natives in Haida call the Queen Charlotte Islands, as some of us call it, but tell us about Haida Gwaii. How many natives are there, as opposed to non-natives for example?

GUUJAAW: Haida Gwaii is probably one of the richest places to live and to survive. It's not even survival. The lands provide very well for our people, in ancient times as well as today. And today all of our people still engage in some form of food gathering and putting it up for the winter and all that. And so that connection to the land is still there. And there is probably - I don't have any real statistics, but I think about 5,000 people, and that is about half Haida. And we have maybe 4,000 or 5,000 people off the island, including Alaska, and lots in the Lower Mainland, and Prince Rupert, and -

MAIR: Now is the Haida Nation in the treaty process.

GUUJAAW: Yes, we are in the treaty process. We are kind of back of the pack in that whole thing. We have never walked away from the treaty process. But however, we haven't gained much from it either. We have made a lot of gains over time but most of it has been off the treaty table.

MAIR: What's the matter with the treaty process? Why isn't it working? Well, maybe it is; it has certainly taking a hell of a long time.

GUUJAAW: Well maybe it is working for the Provincial government, maybe the objective is to just tie everybody up in process and not accomplish anything. So maybe in that sense it is working.

MAIR: Why isn't it working for your people? Why is it taking so long?

GUUJAAW: In the opening you said that we claimed the land. We don't actually claim the land. It is the Government of Canada who claims our land. ... The previous government had devised a formula that they tried. After negotiations, they made offers to different people that looked like two to five per cent of the land, about \$25,000 a head, maybe some fishing licences or something, but not attractive to us at all. So our position is that we hold title, hereditary title, over those whole lands. **We in-herited those lands: they are rightfully ours no matter what anybody says.** The courts have devised something new, basically, and it is called aboriginal title. However, that aboriginal title doesn't exist once it is proven in court. It exists because of the hereditary title from previous times before contact. So what we believe is that we can hold title over the whole area, and in the case of aboriginal title, Crown title would still continue to exist. And we believe that we can work things out as we go along, and we believe that safeguards would be good on both sides.

MAIR: Guujaaw, I want to understand what the case is that the Haida Nation are making. And maybe I can start with an extreme, and you can work back from there. Is the Haida Nation saying, all of the land which we call the Queen Charlottes and the seabed around them for 200 miles where appropriate, because obviously 200 miles gets you into the mainland of British Columbia one way, but all the sea-bed? That is ours, and we have a right to it as a nation, and we have the right to govern ourselves on that as a nation?

GUUJAAW: Yes. But within the laws of Canada there is a mechanism which compromises that, but we are prepared to do that, and that is aboriginal title. So rather than going out to de-colonize the land, and go for full independence. We are prepared to be a part of Canada. We

think that we could make it work within the laws that are laid out, the laws of aboriginal title, as opposed to de-colonizing. Yes, regarding the description you gave — basically halfway to the mainland, and halfway to Vancouver Island, and really no outward boundary.

MAIR: All right. But you are, as I say, you are prepared to settle, or to have the courts decide, what aboriginal title you have, and you would live with that result?

GUUJAAW: Yes.

MAIR: And which may be part of the Islands?

GUUJAAW: No. We are going in [to court] because we know we will win.

MAIR: The object is to get aboriginal title declared for the entire territory?

GUUJAAW: Yes.

MAIR: Not some left over for non-natives, or towns, or cities, or whatever?

GUUJAAW: No. There would exist concurrently with that Crown title. And so the Crown and the Haida title would exist over the same lands, essentially. And at the same time other tenures can be included in that. Presently fee simple is Crown land.

MAIR: Yes.

GUUJAAW: So all of the tenures which were issued by the Crown, there has got to be a reckoning for all that.

MAIR: ... Guujaaw, you are not saying to non-natives living in the Queen Charlotte Islands, "I am sorry, when we win this case you are off the land, or you have lost your fee simple title," or any of those things?

**BC Attorney General, Geoff Plant, responding to ARC/ KAIROS questions. ARC is the Aboriginal Rights Coalition and is a member of KAIROS a national network of human rights and social justice organizations.**

PLANT: Regarding the Haida case, I understand the case. However, the key is to expand the pie. If we are trying to divide ten opportunities, with one for the First Nations, and nine for everyone else, I am interested in trying to make one plus nine equal eleven. We need to be creative. I don't like revenue-sharing with First Nations because it's just replacing a welfare cheque with a revenue cheque. This will not advance First Nations' interests.

GUUJAAW: No. Absolutely not. We work fairly closely with the people and we try to make sure that those people understand. And in fact we want the support of those people, and they are following our moves very closely. We are working closely with our neighbouring tribes, the Tsimshian, Heiltsuk, and Kwakiutl, and in fact we have people in Alaska as well. We want to come up with a way that we could live together with the people. I think the people - the white people on Haida Gwaii - feel as disenfranchised as we do when it comes to decisions about how the lands are handled. They are concerned about big industry, as we are. And they are concerned about the environment, as we are.

MAIR: Now is it just coincidence, Guujaaw, that this lawsuit starts at a time when the Provincial government and the federal government seem to be playing footsy with one another over oil and gas? And it looks like there is going to be exploration — is

that just a coincidence? Or is that one of the motivating factors?

GUUJAAW: I heard you talking earlier, you were talking about the madness of the fish farms and other policy decisions that have been made. And it is pretty broad ... you remember last month there was a leaked document expecting all kind of trouble from the Indians. Well that trouble was expected because they were basically going to kick the doors open on resource extraction. They are going to have this referendum which will basically take the last few things that were on the treaty table, off the table. And of course they expected trouble from us. But they didn't expect that we would be the legal ones, and they would be the illegal ones.

MAIR: Now looking at the oil and gas possibilities there; is it the position of the Haida Nation that they simply shall be no exploration? Or is it the position that there may be: exploration as long as Haida consent and have a full voice in how that exploration takes place? Or just what?

GUUJAAW: Presently the real concern is the risk of harm. And again it would be the people who live there who would have to bear that risk. And of course you know somebody in Calgary or Texas is quite prepared to take that risk, and somebody living in Victoria might well be ready to take that risk...

MAIR: That's like the way the Norwegians and Mr. Weston are prepared to take the risk from fish farms.

GUUJAAW: Yeah, that's right (laughs.)

MAIR: So is it a no-no, or is it consult with us, work it out, maybe it's a go; maybe it is not a go?

GUUJAAW: Maybe there comes a

time when it is safe, and it could be considered. But presently there are a lot of issues — right from when they burn off the sour gas the seabirds fly into the fires all night long. That is happening in Hibernia. I don't think we could, in good conscience, allow it. ...

MAIR: Guujaaw, the recent Court of Appeal decision — Weyerhaeuser — has said in essence that government and indeed industry must consult with native bands, but specifically with your band in that particular case. The difficulty I think a lot of people are having — lawyers particularly like me are having — is what does the word consult mean. It could mean all the way, I suppose, from saying “Hi, Guujaaw, I am going to chop down your trees. I hope you don't mind”, and walking away. Or it could be all the way from there up to a point where I sit down with you and say look, what's it going to take for the two of us to get together and divide up the money from this? So what does the word consult mean to the Haida Nation.

GUUJAAW: ... Since Delgamuukw there have been several cases that have won the requirement for consultation. So everybody rejoiced when that was first done. And the government quickly made a way to reduce that to some meaningless process where they would send you the plans and say OK, what interests do you have, and thank you very much for your input, that kind of stuff. So this time it goes beyond consultation to accommodate. And it is likely that Weyerhaeuser will appeal because it also names them. But it is similar to any kind of case where there is an encumbrance, any buyer and seller also has responsibilities to enquire and to determine whether or not something is free and clear. So Weyerhaeuser was named: they were given clear notice that in fact these lands are encumbered by the

Haida Nation, in this case. The first part of the case did establish that yes, aboriginal title would constitute an encumbrance. And so the second part, which lost on the first round but won on the second round. The Province was saying unless you prove title we don't owe you any duty to consult, or do anything for you. We don't have to negotiate or anything. This is written right into their court documents which is a good indicator of what was the matter with the treaty process. There they are, just going through motions, where originally the court said sit down and try to reconcile the existence of the two titles.

MAIR: Consultation clearly means more than just going through the motions. I mean if it only meant that there would be no point to the whole thing. But what does it mean? I guess that's the difficulty.

GUUJAAW: I think that is right on. That is what the judge is saying is that consultation meant a lot more than what we were receiving, and that's why they stepped it up to 'accommodate'.

MAIR: Now 'accommodate' — what does that mean, Guujaaw? Does that mean that in every case around British Columbia, since the whole Province basically is under land claims, that there must be a financial accommodation with each native band that may have a claim on that area?

GUUJAAW: Financial might be one part of it, but also at the same time you in our case we need certain things for our cultural interests, like cedar: I mean if they keep logging in the way they are there would be no cedar. That would end a big part of our culture. That kind of accommodation would have to be done. And as you know the last couple of years they have been hammering away on cedar, because that is where the

money has been at. And you know it is getting scarce.

MAIR: Does Delgamuukw, in your view, Guujaaw, mean that native tribes, organizations, nations, around the Province of British Columbia have a partnership with whoever wants to take off resources, be it trees, or mines, or whatever?

GUUJAAW: **It means that people have got to start getting along to make this whole thing work.** And I think that the government has spent so much time trying to beat us that it has lead to this situation.

MAIR: Does consult mean money?

GUUJAAW: Consult could partly mean money. You know amongst our people, when we sit as a collective and determine what is important to us, money doesn't come up as the highest priority.

MAIR: On that note I've got to thank you for coming in, Guujaaw. I'm right out of time. Guujaaw, I want to thank you very much for coming down, and I hope we can keep in touch with you and follow events as they occur.

GUUJAAW: OK. Thank you very much, Rafe. •

March 10 - The Province

## Haida fear environmental disaster if drilling comes

**Queen Charlotte Islands' native inhabitants say they won't put their pristine land of 'abundance' at risk to any potential offshore oil or gas accident even if it means missing out on increased economic opportunities for the nation.**

OLD MASSET - Master carver Ron Russ takes a break from chipping razor-thin slices from a 20-metre ce-



Master carver  
Ron Russ

dar totem obelisk and points to trees that line the narrow, peaceful inlet

."When I start work in the morning, the eagles are in those trees, talking to each other and planning their day," he grins. "In the afternoon, just before I go home, the ravens are doing the same thing. It works for me."

This village, perched on the northern rim of Graham Island, is home to more than 700 Haida whose leaders launched a lawsuit last week, claiming ownership of the Queen Charlotte Islands and all the oil and gas that surrounding waters may

contain.

It's a peaceful place where the Haida still live on the fish they catch and dozens practise the arts of carving, jewelry making and traditional clothing work.

About 400 homes — some ramshackle, others relatively opulent — stand on the spit of land, five kilometres north of the village of Masset.

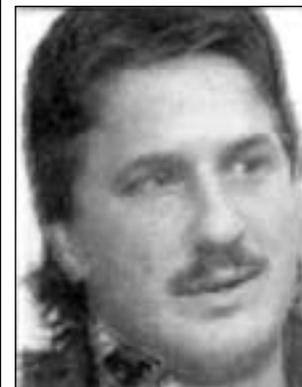
Russ says that to him, Haida Gwaii, the native name for the Charlottes, means "abundance."

"You walk on the beach, you find clams, you walk in the bush, you find berries — there's food everywhere," said Russ, son of hereditary Chief Reynold Russ who was in Vancouver last week at the First Nations Summit. "It's not going to last forever if you let people come in and take it and rape the land as [Haida Nation president] Guujaaw says."

The suit and the prospect of billions of dollars in offshore oil and gas is a hot-button issue with extreme views on every side.

Barry Pages, mayor of Masset, population 1,300, says environmentalists have even pledged to pay with their lives rather than allow offshore drilling to threaten the Charlottes' pristine beaches.

"People at the public meeting were saying, 'I'll die over it,' " he said.



Masset Mayor  
Barry Pages

If drilling goes ahead, the islands will likely become a beachhead for environmental protests on the same

scale as those that opposed logging on South Moresby and Lyell Island, Pages agrees.

"It's about time both governments got a little bit more serious about settling land claims," said Pages. "It's long overdue and it's causing uncertainty and slowing down progress."

Masset and other north island communities once boasted an active salmon fishery and a thriving logging industry.



Sam Calvick

"Fishing is almost nil," he said. "There's a small crab fishery, but very few openings for the commercial salmon industry. A lot of people are on unemployment and I've heard there have been a lot of foreclosures."

On clear days, from nearby north-



Bob Brown

ern beaches, the Prince of Wales Islands can be seen poking their snowcapped Alaskan peaks up over the horizon, about 60 km off.

Pages describes the Queen Charlottes as "the last frontier for beaches and ocean" — the last place on the

BC coast where you can drive your four-by-four on the beach.

This is a tight-knit community where locals joke that if you sneeze, the whole town knows about it before you've finished.

Down at the Masset fuel dock, Sam Calvick and Bob Brown have stopped for a chat.

"I think offshore drilling's great," said the now retired Calvick, who's lived in Masset since coming here 25 years ago.

"There's only one problem and it's down the other end of this rock," added Calvick, pointing towards the Old Masset reserve. "If [the Haida] want to take over this island, I think the white guys should all move back to Canada and clean everything out of here. Let [the Haida] go back to their natural life and see how they survive without the liquor store and the Co-op."

Brown, who runs the fuel dock, says one thing that concerns local oil and gas exploration supporters is jobs.

"Will these oil companies hire locals around here who have never worked in the industry before or import a bunch of people from Texas or wherever?" asked Brown, who's lived in Masset 17 years.

He says he has mixed feelings about the Haida land claim.

"They say they can manage it better than we can, but when you see the way they've managed some things..." he said. "But the government is going to be involved, so it will be screwed up anyway."

Like in many parts of BC, the provincial government is becoming public enemy No. 1. In Masset, that's because a group of bureaucrats were at the eight-bed village hospital last week pondering aloud whether to close it down.

Over at the native-run Haidabucks coffee shop, Frank Collison, a former vice-president of the Haida Nation, has heard the hospital rumours.

"Nobody trusts the government,"

he said.

Collison says it's crucial that the Haida don't become divided over the offshore drilling issue.

"I don't think everybody is against



Frank Collison

it," he added. "It's not going to be a stroll down the garden path. We don't want to be remembered as the people who desecrated the whole island."

Back at Old Masset, three young



Celeste Mitchell

Haida women are chatting on the steps of an art and jewelry shop.

They watch as, across a field, volunteer firefighters douse a brush fire that briefly threatens a home and some nearby totem poles.

Tasha Wilson, 19, who's been helping run the shop, says Haida Gwaii is different from anywhere else in the world.

"When you go away, you want to come back," she said. "If the drilling goes ahead, we won't be able to go on the beach because it will be too stinking gross. We won't be able to



Vernon Williams Jr.

waves that can reach 30 metres in height.

He predicted the Haida and white cultures will continue to live side-by-side in harmony.

“Everybody knows we have to get along for everybody to survive,” he added.

“We’re [Haida] always in the middle of everything. We’re not much to sit back and take things. We never have. It’s our history.” •

go swimming in the ocean or eat fish.”

Her friend, Celeste Mitchell, 17, is planning to open a restaurant serving Italian and Mexican food.

She’s equally blunt when it comes to the oil and gas issue.

“Excuse my language but it’s bull \_\_\_\_\_,” she said. “What if a spill happens? Everyone on this island lives off the fish and the ocean.”

She said her parents want their grandchildren to have the things they had.

“And I want my children and grandchildren to have the same opportunities,” she said. “If it goes ahead there will be protests. They’ll probably pull the same thing they did over logging with canoes and boats and everything — blockade the island.”

But most of the Haida at Old Massett and Masset are cautious about the suit, says Vernon Williams Jr., 43.

“We’ve been down that road too many times,” he said. “There’s no use getting fired up yet.”

He says the Haida have always known there was oil and gas in the area.

“It’s so thick it oozes up,” he said.

“Maybe one or two want it [oil and gas drilling], but 90 per cent don’t. Jobs won’t mean nothing down the line if there’s nothing here to eat.”

Williams says that people fear an environmental disaster due to the “wicked” storms that are common with up to 200-km/h winds and

back to.

If you are not a part of the solution, you are part of the problem. •

*March 11 - Vancouver Sun*

## Upside-down democracy

*Graham Campbell*

I agree with the March 7 editorial, “Haida claim emphasizes need for serious negotiations,” that it’s better to negotiate native claims than litigate them, but not with your suggestion that the province must satisfy these claims before making any decision about resource development.

That idea would turn democracy on its head by giving a tiny minority a veto over the wishes of four million other British Columbians and absolutely kill investment in our resource industries as well. Who would place money here if its security depended on negotiations between other parties?

The provincial government has to make every effort to accommodate native concerns, but can’t surrender its authority to make final decisions. If that isn’t the law, our economy is going to get much more sick than it is. •

*March 14 - The Province*

## Haida don’t need Co-op and liquor store

*Veronica Folkers*

I’m responding to Damian Inwood’s story about Haida Gwaii.

In particular, I’d like to reply to Sam Calvick’s comments regarding the Haida people of Old Massett in the Queen Charlottes. I say Halle-lujah! to his suggestion that the white guys should move out of the region and leave it to the natives.

It would not take long for the strong and resourceful people of Massett to become self-sufficient once again.

It would be a bit difficult to regain the abundance we once had after only a couple hundred years of raping, pillaging and devastation of our lands by the dominant society, but, “survive without the liquor store and Co-op”?

Yes, we can.

Quite obviously, Calvick doesn’t understand the cycle of life and the interconnectedness and interdependence of all things, or he wouldn’t make comments like that.

He can start packing, then my homeland would be worth moving

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March 14 - Canadian Press

## Haida court case may affect sale of Skeena Cellulose, say northwest bands

Jeff Nagel

TERRACE, BC (CP) - BC aboriginal leaders say a new court ruling means the province must listen to them before it sells Skeena Cellulose to NWBC Timber and Pulp Ltd.

Gitanyow, Gitksan and Tsimshian native leaders say they will use a BC Court of Appeal decision handed down last month in a case involving the Haida to get their concerns about the sale of the near-bankrupt forestry company addressed. "It gives us the upper hand," said Gitanyow speaker Glen Williams. "This is the law of the land."

[EDIT]

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March 10 - The Province

## Natives restless, so scrap referendum

Michael Smyth

The stunning land-claims ruling of the BC Court of Appeal is a huge victory for BC aboriginal bands — and it's thrown the Gordon Campbell government for one helluva loop.

The court ruled the provincial government and the giant Weyerhaeuser forest company have a duty to not only "consult" with the Haida Indians over logging, they must "reach accommodations" with them.

That's despite the fact that the Haida still haven't won ownership — or "title" — of the Queen Charlotte Islands.

Native bands across BC figure the province's highest court has just handed them a veto over development in their traditional territories.

Emboldened by the victory, the Haida quickly laid total claim to the islands and the surrounding seabed, believed to contain a fortune in oil and gas.

The Tsawwassen band piled on next, whacking the Liberals with a huge lawsuit saying they were cheated out of their land when governments built the ferry terminal and the Roberts Bank Superport.

You can bet other native bands have their lawyers working overtime on more claims.

This flurry of court action couldn't have come at a worse time for the Liberals, who are just about to launch their promised referendum on native land claims. Legislation on the referendum is expected as early as this week.

Talk about kicking a hornets' nest. At a time when native bands are stampeding back to the courts and issuing new threats of illegal blockades, why are the Liberals turning up the heat?

I say Campbell should just drop the whole thing. But he's too stubborn.

Instead, the Liberals seem determined to provoke new troubles at a time when cooler heads should prevail.

The Liberals should be doing everything in their power to get the treaty negotiations back on track. The alternative — endless litigation and confrontation — could be devastating.

Liberal government insiders tell me they're very worried about the effect of all this on their plans to revive the resource economy.

If the government and private companies now have a duty to "accommodate" natives who don't even have treaty rights, what does that mean for logging, mining, fishing and drilling for oil and gas?

Many resource companies have bent over backward trying to include natives in their business plans, often without success.

Now the courts are suggesting even trying in good faith to get a deal may not be good enough. That's scary stuff.

The Liberals' pleas for private-sector investment may fall on deaf ears if companies are afraid of putting their money into BC because of unresolved questions about who controls the land base.

This could even affect the 2010 Olympics bid if things turn nasty.

I'm told those same private-sector companies have quietly pleaded with Campbell to drop the referendum idea.

He'd be smart to listen to them.

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March 14 - The Calgary Herald

# Haida grab for offshore oil-fields has a chance

Frank Dabbs

For centuries, the Haida were one of the greatest nations — economically, militarily, culturally and politically — to emerge on this continent north of the Meso-American city-state of Teotihuacan.

They navigated unchallenged from their Pacific fastness on Haida Gwaii — the Queen Charlotte archipelago — south to the Columbia River and north to Cook Inlet, to trade and raid, to fish and hunt, and out of curiosity. They may have explored the Aleutians.

Then came the ghost people, Spanish, Russian and British, bringing a 200-year dark age.

The Haida were decimated by disease. The survivors were forbidden to speak their language, rear their children, practice their religion and manage their resources. Their history as North America's first Pacific Rim nation was all but erased.

Almost obliterated, they struggled back and were restored by an act of unquenchable will rooted in the power and mystery of the islands.

Understandably, therefore, the prospect of spending a decade or two in court establishing aboriginal title to the Queen Charlottes and the Hecate Strait is hardly daunting.

The Haida writ seeking title, filed in BC Supreme Court last week, is founded on "mad" King George III's royal proclamation of 1763, which decreed they were to be unmolested and undisturbed unless they made treaty. It is the Haida's Magna Carta.

The Haida case also relies upon the Constitution Act of 1982, enshrining aboriginal title, and the Supreme Court's 1997 Delgamuukw decision, extending title rights to people who did not sign treaties.

Delgamuukw holds that a First Nation must prove its ancestors occupied the title lands exclusively. **The Haida were undisputed masters of Haida Gwaii and were never defeated in war.**

Unless the courts repudiate Delgamuukw, the Haida will win title over all or most of the Queen Charlotte archipelago.

It would be a short legal leap to extend title to Hecate Sound because the Haida once controlled the strait, integrating its resources into their economy.

Restored control would now include 10 billion barrels of oil and 26 trillion cubic feet of natural gas, according to Geological Survey of Canada calculations, and the terms of oil development are of paramount concern.

The Delgamuukw decision stipulates that aboriginal title can be infringed, provided there is a necessity — such as economic development.

For the Haida, that is a low bar to clear: the moratorium on oil and gas development that they intend to enforce is already in place. Unlike Ottawa or BC, they have an unambiguous criterion for removing it — the use of technology that can access the reserves without risk to the environment.

Two weeks ago, the Haida won a BC Court of Appeal ruling that Weyerhaeuser Canada and the provincial government illegally failed to consult with the Haida before cutting a particular old growth red cedar forest.

The judges imposed court supervision of matters regarding Haida Gwaii resources until aboriginal title is settled. In plain language, that is court-ordered, court-supervised, cooperative resource management.

Last week, a federal court found that Treaty 8 exempts signatory aboriginals in Alberta from a wide range of taxes because of oral promises made during the original negotiations. In conjunction with the flow of aboriginal law decisions, this broadens the substantive meaning of the term First Nation.

Canada's original peoples are no longer wards of the state, or stakeholders shopping for jobs.

Community consultation, no matter how widely defined, is passe.

The First Nations are new governments defining the limits of their constitutional powers. Because the federal government has blown the file and the provinces have balked, the forum is in the courts.

They will share responsibility for resources, thus the Deh Cho want resource revenues and participation in environmental management before they agree to a Mackenzie Valley gas pipeline crossing their title land.

There is an as-yet uncompleted paradigm in which resource companies cut to the chase and come to terms on resource issues face-to-face with First Nations.

Otherwise, those issues will be decades in the resolving and it will be the judges who decide. •

# Such a long journey: the Haida's struggle for justice

David R. Boyd

**Haida dancers and drummers entertain a group at the Squamish Recreational Centre during a recent ceremony to launch the filing of a writ in the Supreme Court, claiming title to the entire Queen Charlotte Islands and a 320-kilometre offshore zone.**

Dancers wearing spectacular wooden masks swirled about as drums pounded. Eagle down floated in the air. An emotional and symbol-laden ceremony in Vancouver last week marked the start of what may be one of the most important lawsuits in Canadian history.

The Haida First Nation is seeking a court declaration of aboriginal title to the land, water, and resources of the archipelago known to the Haida as Haida Gwaii (meaning "islands of the people.") Although Haida Gwaii, known to most Canadians as the Queen Charlotte Islands, occupies a remote corner of the nation, the outcome of this legal battle goes to the heart of one of Canada's most vexing problems. Author John Ralston Saul identifies **Canada's inability to reach reconciliation with aboriginal people as our greatest failure as a nation.**

In BC, the colonial government abandoned treaty negotiations with native people in the mid-19th century, creating a dilemma that remains unresolved 150 years later. For more than a century Haida leaders have peacefully argued, in Victoria and Ottawa, that they retain a legal right

to their land and resources. Negotiations have gotten them nowhere and they have, understandably, turned to the courts to recognize and protect their rights.

The Haida seek to regain control of the lands and resources of Haida Gwaii so that they can be managed in a sustainable manner, and so that the local community, both aboriginal and non-aboriginal, can enjoy a fair share of the economic benefits. The Haida have watched as literally billions of dollars worth of timber left their islands on barges bearing names like the Haida Brave. Yet reserve villages Massett and Skidegate still lack basic amenities like sidewalks.

Canadian management of natural resources, dictated from Victoria and Ottawa, has failed the Haida time and time again. Brutal logging practices permitted by the provincial government devastated once-rich salmon runs. Because of overlogging, cedar trees of sufficient age and girth to craft canoes and totem poles are now rare. Overfishing approved by the federal government hammered the rich marine resources that provided sustenance to the Haida for millennia.

There has been extensive media and political commentary suggesting that the filing of the lawsuit is motivated by a desire to share in the riches of offshore oil and gas development. These suggestions betray a profound ignorance of Haida history, culture, and values.

As the Haida Constitution states, "We owe our existence to Haida Gwaii. The living generation accepts the responsibility to ensure that our heritage is passed on to following generations." The Haida's deep commitment to ensuring the sustainability of their land was demonstrated by their leadership in creating Gwaii Haanas (South Moresby) National Park, now co-managed by the Parks Canada and the Haida.

It should also be noted that the

Haida have made it clear to all of the non-aboriginal people living on Haida Gwaii that they have nothing to fear from the Haida lawsuit. People who own homes or land will not be displaced. Thousands of local residents have signed the Haida's Unity Book, expressing support for their aboriginal neighbours.

In 1997's Delgamuukw decision, the Supreme Court of Canada set forth the requirements for proving aboriginal title, which has never been successfully done in a Canadian court.

The Haida must prove exclusive occupation and use of the land dating back to 1846 (the date of Crown sovereignty), and demonstrate an ongoing connection to the land. Once these tests are met aboriginal title is established, meaning a unique legal interest, similar to ownership, in the land, water, and resources.

The Haida have a compelling case. In a recent court decision involving a successful Haida challenge of a logging licence, the BC Court of Appeal observed that it was an inescapable conclusion that the Haida would establish the required facts.

Archeologists have unearthed evidence that the Haida occupied these lands for roughly 10,000 years. Linguists have determined that the Haida language is distinct from other coastal First Nations and belongs to an entirely different language group. Haida legend tells of the first tree growing after the last ice age.

Before Europeans arrived, bringing diseases like smallpox that reduced the native population by up to 90 per cent, the Haida lived in 23 villages spanning the full length of the islands.

A decisive court victory acknowledging the Haida's aboriginal title is the best hope of reinvigorating the moribund BC treaty process, which started in 1993 but has yet to produce a single final agreement. (The Nisga'a treaty was the result of separate ne-



March 14 - Times Colonist: Haida dancers and drummers entertain a group at Squamish Recreational Centre during a recent ceremony to launch the filing of a writ in the Supreme Court, claiming title to the entire Queen Charlotte Islands and a 320-kilometre offshore zone.

gotiations dating back to 1973).

The Achilles heel of the current treaty process is that there is insufficient motivation for the provincial and federal governments to make reasonable or fair offers. The status quo is heavily weighted in governments' favour, as they receive all the royalties from resource use and control all of the decision-making. Further undermining governments' resolve is the fact that treaties are lightning rods for criticism from all sides, as the controversial Nisga'a deal demonstrated.

**For the Haida, the compelling factual and legal strength of their**

**case is like holding four aces in a poker game. In these circumstances, Canada and BC have nothing to gain from a protracted court battle, and much to lose.**

Provincial and federal representatives should stop paying lip service to the treaty process and make a genuine effort to negotiate an honourable agreement with the Haida people. As the Supreme Court concluded in *Delgamuukw*, negotiation is the path to reconciliation.

For many of the Haida's elders and hereditary chiefs who have passed away, justice delayed has meant justice denied.

The Haida's long struggle is not yet over but with the filing of their momentous lawsuit, judgment day is finally drawing near. •

March 15 - CBC Radio,

# The Afternoon Show

Kathryn Gretsing

GRETSINGER: Well, for the past few weeks, first nations issues have played prominently in the news, and that's not likely to change any time soon. The Haida are heading to court to prove title to their land - they recently won a different case that says the government has to consult with first nations every time it wants to develop on crown land. Many native leaders are outraged by the upcoming referendum, we've heard from a couple of them on this program, the government is pushing ahead with it, though, looking for the public to help guide them in their treaty negotiations. Of course, the federal government also plays a huge role in treaty negotiations and first nations issues in general. Robert Nault is the federal indian affairs minister, he was speaking about the treaty process in Vancouver today, and to talk about some of these major issues, he joins me in the studio now. Good afternoon.

ROBERT NAULT (MINISTER OF INDIAN AFFAIRS): Good afternoon.

GRETSINGER: Now is when you earn the big bucks, I guess.

NAULT: Well, this is what they pay us for, right?

[EDIT]

GRETSINGER: When you heard that the Haida had gone to court, and, claiming title over the Queen Charlotte Islands, what did you think?

NAULT: Well, I think that there's some frustration in this province, uh, that negotiations are not going well,

and I always have said that in order for us to build a relationship, we're not going to do it through court, we need to do it around the negotiating table and finding some accommodation to all our needs, both aboriginal and non-aboriginal.



CBC Radio Afternoon Show host, Kathryn Gretsing

GRETSINGER: But some people are just simply giving up on this process because it is taking too long and resolutions aren't being found.

NAULT: Well, I have found even when there are court cases that come down, they don't solve the issues that we're looking to, to deal with, because they're a lot more complex than one particular area of law, and what, we still have to go back after the court cases and sit down at the table to try and make it into policy, if that's necessary, and in most cases it is, and so it, it won't solve, uh, and give you the answer to a lot of questions, and so we're still going to have to go back to the negotiating table and find a way to build that long-term relationship.

GRETSINGER: The courts just ruled on, uh, a resource-extraction issue, suggesting that any development that takes place on crown land, there needs to be consultation, now, with first nations people - do you see that in any way getting in the way of the process that you've undertaken in treaty-making?

NAULT: No, I've always been a

strong believer that you need to have a consultation process, and the consultation process should meet the needs of first nations, and, within their traditional territory -

GRETSINGER: And what if people say we don't want any development?

NAULT: Well, that's not what the court has said, what the court has said is we need to consult and we need to, uh, have a strong definition of whether, if we are going to infringe, for example, if that's, if that's the argument then it has to be done for legitimate reasons, uh, that the courts have already defined. So to some extent, consultation doesn't mean you stop resource development, what consultation means is you try and inform all partners including aboriginal people of why this is important to do.

GRETSINGER: But of course, there are particular tracts of land in the province that people consider sacred, and if they say no to the process,



Minister of Indian Affairs, Robert Nault

does it mean that you consult but then can ignore their response?

NAULT: You could, but that is not necessarily going to help the situation of developing a relationship, and that's where I think you've got to go back to the negotiating table and you've got to sit down and talk about some of those sacred sites and whether we can set those aside, uh, in perpetuity. That, that, that's, that's the, that's the discussion you won't get when you're at, in the courts, and why I've always argued that whether it's the Haida or anyone else across the country, that they should come to the table and the province should come to the table and the government of Canada is ready to, uh, engage in finding some solutions to these issues, within reason - I mean, we all have to meet each other half way. I mean there's no, there's no getting away from the fact that we all live here, and we all have to make a living, and we all have to have a relationship, and it can't be all one-sided, it has to be very fair and equitable for all sides.

GRETSINGER: Then of course the people from the first nations summit would say we've been at the table, and we still can't get deals, and we're not getting what we're seeking, so that's why the young people are starting to say look, we're too frustrated, we don't want to participate, that's why the Haida are going to court, things are coming apart.

NAULT: Well, I wouldn't go so far and, or be that dramatic. Quite frankly, over the years, there's always been a number of court cases and there will continue to be, no matter how many times we get agreements and/or make progress. I think we have made great progress in developing a relationship. I mean, when you talk about education and some of the more basic issues that we've been dealing with, we've had more first nation young people in education institutions than in our history.

So we are making great progress, we are working on governance initiatives as a federal government to try and build relationships, all those things point to a positive direction. Is there still going to be some frustration? Of course there will be, but that's part and parcel of governing, part and parcel of building a relationship that's been denied for many, many years.

GRETSINGER: When are you going to be sitting at a table signing a treaty?

NAULT: Well I hope that very soon we will get an agreement with the province and the summit, uh, and through the principals of new and reinvented treaty process, and we can get to work with first nation communities and find those solutions. But I want to make this point - we've got to stop sending the message that this can be done relatively quickly, because it can't. These are very complex issues that take time, and as long as we're making progress, as we have in the last eight years, we've made serious progress, then I think we will get to where we want to go.

GRETSINGER: Mr. Nault, I appreciate you coming in - thank you.

NAULT: Thank you.

GRETSINGER: Robert Nault is the federal Indian Affairs minister. •

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*March 16 - Vancouver Sun*

## **Guujaaw: A man of his people**

**The president of the Council of Haida Nations is a charismatic leader — and also an artist, dancer and singer**

*Jeff Lee*

His approach in dealing with politicians and bureaucrats has changed over the years, but for almost his entire life, Guujaaw has been politically driven. He was a central figure in the fight against logging on Lyell Island off the east coast of South Moresby in 1987, often at the front of the blockade glaring back at Frank Beban's loggers as they tried to go to work.

[EDIT]

He helped forge 33 Haida clans and two band councils into a powerful new Council of Haida Nations to advance issues important to the Indians.

Now, he's become the most recognizable Haida face in their biggest fight. After more than 160 years under the influence of settlers, priests, government officials and logging companies, the Haida went to court two weeks ago to press their demand for aboriginal title to the entire archipelago.

That this momentous occasion would come during Guujaaw's presidency is not surprising to anyone who knows him.

"He's always been involved in environmental stuff," says John Broadhead, head of the Gowgaia Institute and a member of the World Wildlife Fund. "He has always had that view that the Haidas be in control of their land."

Even his critics acknowledge that Guujaaw carries tremendous status on the islands.

“Guujaaw is that kind of person who attracts you,” says Bill Ellis, who sells books on native history from his home in Queen Charlotte City. Ellis calls him one of four Haida celebrities from the islands, along with artists Bill Reid and Robert Davidson, and Davidson’s wife, lawyer Terry Lynn Williams Davidson.

Guujaaw isn’t just a politician. He’s a consummate artist, dancer and singer. He was a protégé of Reid (who died in 1998), and helped carve a number of poles and pieces with him, including the totem pole that fronts the band council office at Skidegate.

[EDIT]

Guujaaw says he’s never been interested in pushing non-natives off the islands. But he’s also not interested in letting aboriginal populations be pushed around any more.

In 1989, when Guujaaw travelled to South America with geneticist and friend David Suzuki, he gave some advice to some Venezuelan Indians who wanted to restrain tour operators who did not respect their culture.

“I told them deal with the people who will respect you, and ignore those who won’t. Charge them a lot of money for what they want. And never carry a bag for a white man.” •

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*March 16 - The Vancouver Sun*

# Balance of Power

**Now the Haida have finally laid claim to their archipelago, support for them seems to be growing among all islanders.**

*By Jeff Lee*

From his small argillite dust-rimed studio, Haida carver and artist Christian White often looks out and sees log barges piled high with valuable cedar, spruce and cypress heading out Masset Sound, bound for the mills in Vancouver and Nanaimo.

It is a constant reminder of everything that is wrong on the Queen Charlotte Islands, which the Haida call Haida Gwaii. “I watch them go out, and nothing comes back,” he says as he looks out the fly-specked window, absently rubbing the head of a stunning black slate carving called Raven Dancer cradled in his hands.

At the other end of the 42-kilometre long sound, Kathleen (Betty) Dalzell, long-time white settler and historian whose books have exquisitely documented the march of European settlers across the islands, sees the same scene, liking it no more than White. Her father, Trevor Williams, settled at Port Clements in 1910 helping to establish what is now the largest logging community on the Islands.

“These companies take and take and take. I’ve seen millions of dollars go out of here on those barges, and so very little of it comes back. We don’t have much, and what we do have we have to hang on to or it gets taken away by people who don’t live here and who don’t care about us.”

The incessant pace of logging on these islands is not the only problem people here complain about. But it is

as good an example as any why there is growing support among a broad spectrum of the islands’ population — native and non-native alike — for the Haida to assume control of this remote archipelago.

The Haida — the traditional inhabitants — began that first step last week by issuing a writ against the provincial and federal governments seeking aboriginal title. Emboldened by a BC Supreme Court ruling that chastised the province and forestry giant Weyerhaeuser for not consulting and accommodating them on forestry issues in the face of treaty negotiations, the Haida went to court to press their claim for control over everything on the Islands.

That case has yet to be heard, and depending on how the governments proceed it may take as long as a decade to be resolved.

What the Haida will do with aboriginal title is not clear. Guujaaw, president of the Council of Haida Nations says it would give them overlapping jurisdiction on crown land and veto power over things they don’t want, such as unrestrained logging, environmentally unfriendly development, development of oil and gas properties and fishing lodges that are impacting local salmon stocks.

That the Haida would lay claim to the archipelago in its entirety has never really been in doubt among those who live here. The only thing that surprised people was that they took so long to drop the writ.

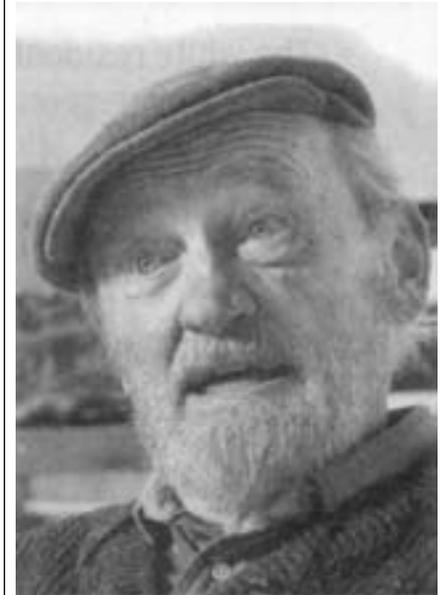
The local newspaper, the Queen



March 16 -The Vancouver Sun: Logging-road builder Dale Lore: 'Most of the people on these islands will ally themselves with the Haida because there is no other flipping hope.'



March 16 -The Vancouver Sun: Early white settler Betty Dalzell: 'We don't have much, and what we do have we have to hang on to or it gets taken away by people who don't live here.'



March 16 -The Vancouver Sun: Northwest Coast Indian book and art dealer Bill Ellis: 'The white residents of QCI-Haida Gwaii are the underdogs here, a pushover against the united, well led, well-financed Haida.'

Charlotte Observer, is regularly filled with news about the Council of Haida Nation and its plans, and it would be a stretch to suggest anyone here doesn't know about the Indians' plans.

"One's gut feeling is that the Haida have as good a chance as ever to gain aboriginal title, and it is largely because of [Guujaaw] that this is happening," says Jeff King, the Observer's owner. "The view of most is that an accommodation should be made."

Dale Lore, a logging road builder and former Port Clements municipal councillor, concurs.

"Most of the people on these islands will ally themselves with the Haida because there is no other flipping hope," he says. "We've seen so much go off the islands and so little come back that we think that the Haida could do no worse than the others."

When the Haida held a ceremony two weeks ago at the First Nations Summit in North Vancouver to celebrate the filing of the writ, Guujaaw

made it clear they view their quest for aboriginal title as a compromise and not a land-grab.

He says the Haida want control over the oil and gas resources believed to lie under Hecate Strait because they do not believe they can be extracted safely with today's technology. The claim to subsea title marks the first time an aboriginal community has extended its demands to include the ocean. Whether or not the claim is realistic depends upon whom you talk to. On the face of it, Guujaaw says the Haida are serious about their demands because allowing offshore drilling would imperil the sea life upon which they depend.

Lore, who has known Guujaaw for many years as a friend, believes there is an ulterior motive. "The Haida are very clever," he says. "They know no court will give them everything they want, but their claim to aboriginal title is so strong. By demanding the ocean rights as well, they are giving the Supreme Court a way of saving face, by being able to turn down

something while acknowledging the Haida's right to their land."

Not everyone feels comfortable with the Haida's plans. It is possible to find people — most often loggers whose livelihood was disrupted by the bitter eco-forest wars that erupted over the logging of Lyell and South Moresby Islands and resulted in the creation of Gwaii Haanas more than 15 years ago — who do not believe the islands should be turned over to the natives.

Dwayne Gould, a former citizenship judge, school trustee and regional district director, watched as Sandspit, like Port Clements and other logging communities on the islands, was decimated by the federal government's decision in 1985 to turn most of South Moresby into the Gwaii Haanas/South Moresby National Park Reserve.

"The problem I have with this is that I do not know what it will mean to us," says Gould. "The problem I have is not with the natives, but with what it will do to those of us who live



Haida artist Christian White stands over a totem pole he is working on; the uppermost figure represents his father, Morris White.

here. We are being pulled along in a direction we do not understand.”

Gould’s concern stems from a draft “protocol agreement” the Haida and several non-natives have created and are distributing to the non-native communities for comment. The agreement, which has yet to be adopted by any of the islands’ municipal councils, spells out how the Haida and non-native communities would operate if aboriginal title is recognized.

For example, it calls for the non-native communities on Haida Gwaii to “recognize the co-existence of Crown and Haida Aboriginal Title, and accept the offer of the Nation to talk in conciliation talks.” It also recognizes, on behalf of the Haida, that non-natives are affected by the title dispute and that they should have a say in those conciliation talks.

But the draft has alarmed some, who say it is an example of the power Haida like Guujaaw exert on people.

At 80 and in failing health Bill Ellis is wary of the draft protocol, which he notes his dictionary defines as the “agreed terms of a treaty.” How can terms be agreed to, he asks, when there is no treaty negotiation taking place?

Ellis occupies a unique position in the Queen Charlottes-Haida Gwaii. Once the agent for Haida artist Bill Reid — arguably the islands’ most famous citizen — Ellis has a thriving business selling Northwest Coast Indian art, prints and books. He is a recognized authority on the history of coastal native nations, and his books, often rare, are sought by universities and institutions around the world. Yet he does not universally embrace the Haidas quest for aboriginal.

“For the record, I would say that the white residents of QCI-Haida Gwaii are the underdogs here, a pushover against the united, well led, well-financed Haida who see themselves as reborn ‘ancient warriors of the North Pacific’ fighting for their homeland,” he says. “The white

residents ... have little appetite or resources for fighting, except among themselves. They desperately need help from government, the law, intellectuals and the media.”

Ellis does not want his provocative comments to be misinterpreted. He believes the local non-native community should set up an organization comparable to the Council of Haida Nation to represent their concerns. He does not want the government to fund the lobby group, but says the money should come from a rich trust fund set up by the federal government when it created the park reserve.

Still, he acknowledges that his view isn't popular. “If you later hear that I've been run out of town that is the way things go. At this time of my life I do not fear anyone.”

This year, due to political pressure, the softwood lumber dispute, declining prices and changes to the Forest Practices Code, it expects to cut 540,000 cubic metres. That's still well above what environmentalists and some loggers believe the islands can handle in order to sustain logging until second growth forests are ready for harvesting in 125 or so years.

However, rather than slow down the pace of logging, Weyerhaeuser says it will likely ramp up production next year to 808,000 cubic metres—a response Guujaaw suggests is linked to the Haida decision to seek aboriginal title.

“They think they will do that, but I do not think they will be able to,” he says. “The people on Haida Gwaii won't let them. People here want this community to remain long after Weyerhaeuser is gone.”

Even among the loggers there is resistance to ramping up the pace of the cut.

“I cannot see people supporting them cutting that much timber,” says David Richardson, one of Weyerhaeuser's best grapple-operators. His job is to pull the logs out of the bush and stack them on waiting

trucks. The area Weyerhaeuser has identified for its next operation is just behind Richardson's four-generation ranch at Tlell on the east coast of Graham. “That's what Weyerhaeuser wants, but not what the community wants.”

As an example of that growing resentment more than 300 non-native and native people assembled in Charlotte City last November when the forests ministry gave Weyerhaeuser permission to log Government Creek, which enters Skidegate Channel between the two big islands. The rally, which ended with a historic meeting of Haida hereditary chiefs and local residents at the community hall, temporarily halted the logging company's plans.

“This community had never before invited the Council of Haida Nations to the community hall,” says Gail Hyatt, an activist and owner of a local grocery store. “We just felt the forests ministry wasn't listening to us. It was like the final straw.”

In the Haida culture, there is a figure carved into family totem poles called a watchman. Each pole usually has three watchmen, most often perched at the very top. Their job is to keep an eye out for danger and to protect their families.

That overseeing presence can be felt everywhere. It affects just about every facet of life on the islands. In the present sense, Haida watchmen are real, too. Every year a number of the men and women from Skidegate and Old Masset move into some of the more accessible ancient village sites, ostensibly to offer themselves as guides to visitors who want to see something of the old culture. In several of the villages — Ninstints, on Anthony Island at the south end of South Moresby, is the best-known example — there are remains of some of the staggeringly beautiful totem poles that fronted the seaside villages.

In the old village sites, these mod-

ern-day watchmen act as interpreters of their culture and discourage those who might want to take a souvenir piece out of what remains of the rotting, moss-covered poles.

But the watchmen also serve another purpose. Their presence is a symbol that the Haida keep an eye not just on the abandoned villages, but on the living ones as well. Their shirts are embroidered with small lettering denoting their job. Their black trucks, emblazoned with “Haida Watchmen” on the sides, make an imposing presence wherever they go.

Guujaaw says that isn't meant as intimidation, but rather as an acknowledgement of the need to protect Haida heritage. He likes to tell the story of a recent Ministry of Forests district manager who became so alarmed that the Haida were always one step ahead of his plans that he had the door of his office in Queen Charlotte City lined with lead to give him more privacy. The story was confirmed to the newspaper by a ministry employee who said the manager couldn't stand being watched.

Relations between the Haida, the loggers and the forests ministry are now relatively civil compared to the past eco-forest wars. Weyerhaeuser sometimes gives logging contracts to the Indian-owned Skidegate Forestry Company, not out of need of shortage of employees, but out of political smarts.

It has also offered to establish a partnership with the Haida in the tree-farm licence it holds, but so far the Indians have been reluctant to agree because they see the licence as having been illegally issued by the province.

The logging companies have a standing arrangement to call the Haida whenever they encounter evidence of previous native activity. Most often this involves the discovery of “culturally modified trees” such as the big cedars used for canoes or

stripped for bark.

More often than not, however, the Haida already know about them. They've already given a list of "Haida protected sites" to the companies listing the archeological evidence.

Dale Lore stands beside a fallen moss encrusted log hidden in a small island of old-growth cedars on Florence Creek. All around him the land has been clear-cut. But in this five-hectare patch of unspoiled forest is both an ancient treasure and evidence of why Lore believes the Haida will ultimately prevail in their quest for aboriginal title.

No one knows what happened to the Indians who alternately chopped, burned and threw water into the base of a 50-metre tall cedar in order to knock it down. Perhaps they died in the onslaught of smallpox, introduced by Europeans, that wiped out so many of the native villages along the BC coast. Perhaps they gave up when the log they felled began to split, ruining their plans.

But what they left there in the woods is still impressive by today's standards. Measuring at least 20 metres, the log had started to take the shape of a canoe. The bow and stem had been chopped into the classical scalloped points, and the top shaved down in preparation for being dug out. A split now runs down the centre, from stem to stern.

Had they finished the canoe, the men would have faced the monumental task of dragging and pushing it more than 11 kilometres to the nearest river that could float it—a challenge that would have taken a village of men an entire week to accomplish.

Throughout the islands there are dozens of these culturally modified trees. There are at least three complete canoes known to exist in the woods, along with the stumps of others whose trunks were later carried to the coast. Whenever a logging company encounters this evidence, they must halt work. The Haida have

marked off many areas of the islands where CMTs and other aboriginal evidence have been found.

"I get a shiver every time I come here and see that canoe," says Lore, a Weyerhaeuser employee who also works with the Haida on local governance issues. You realize that they were here a lot longer than the rest of us, that they were more advanced in some ways than us.

The Haida consider themselves a separat and distinct society that has never signed treaties or otherwise abrogated their ancestral rights to the islands. In seeking aboriginal title, they are willing to enfold themselves into Canada in a way that allows both Canadians and the Haida to co-exist, Guujaaw says.

Under the federal constitution, aboriginal title gives the natives the right to use and govern the identified land in a way that is consistent with historical aboriginal use. It sets up a power-sharing arrangement between the federal, provincial and aboriginal governments; the federal government in all cases and the provincial government in some, can "interfere" with aboriginal title if it is in the country's best interests.

"We could form alliances with other countries," Guujaaw says, "but we believe it is in everyone's interest for us to deal with Canada"

That "dealing with Canada" assumes fair treatment and re-cognition of the Haida's inherent right to govern and protect the islands, he says. An example of that kind of protocol exists now in how the federal government and the Indians look after the national park. Nothing goes on in Gwaii Haanas on South Moresby that the Haida do not agree to the five-member administrative board is headed by a Haida, and the park's superintendent, Ernie Gladstone, is also Haida.

"We see the park administration as an example of the kind of relations we can have under aboriginal title," Guujaaw says.

The 1997 Supreme Court of Canada ruling involving Del-gamunkw also defined the scope of aboriginal title, giving natives the exclusive right to occupy and possess aboriginal-titled lands, and the right to make decisions affecting those lands. It also includes an "inescapable economic component" that guaran-tees them the right to use those lands for the purposes of making a living.

Louise Mandell, a lawyer acting for the Haida, says they are not seeking to dislodge homeowners or to depopulate the islands of non-natives. Aboriginal title will allow the Indians to better manage the islands and to stop activities they believe are inconsistent with their title.

One of the best examples of that "inconsistency" is the existence of Tree Farm Licence 39. Although the Haida are not opposed to logging, and plan to encourage the establishment of local mills to process the timber rather than have it exported off-island as whole logs, they view the province's tree-farm leasing system as illegal.

That was precisely why the Haida went to court last year objecting to the transfer of TFL 39 to Weyerhaeuser when MacMillan Bloedel pulled out. The Haida sued the province, saying the transfer was illegal because it infringed upon expected treaty negotiations that would affect the forests within the licensed area.

The court's agreement proved a huge win for the Haidas and reinforced the view among many of the non-natives that their best hopes lie with the aboriginal community.

"I literally pray a light goes on in Victoria and they settle this one before it goes to court," Lore says.

"This is the only claim that can be easily proven, easily settled. The Haida have always been here, they have never shared their territory here. And they are being quite mellow about what they want, which is just their home, and not all the lands they conquered.

"If the province doesn't cave in on this one it will be extremely dangerous for the rest of the province, for the rest of the coast, where there are overlapping claims everywhere, because this will be the precedent everyone will use."

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*March 17 - The Province*

## Leader says native title will benefit all

SKIDEGATE—When the Haida Nation proves its title to the Queen Charlotte Islands, Haida Nation president Guujaaw says, it will be the first step to "formalizing" a relationship with Canada.

But he said that non-native islanders "will be just fine" under a unique, two-layer system.

"The Haida title and the Crown title would co-exist, be layered," explained Guujaaw. "Aboriginal title would be the kind of title that has no matching equivalent in Canadian law. How it works out hasn't been figured out anywhere."

The Charlottes' population is about 6,000, some 2,000 of whom are Haida.

Guujaaw said non-native residents will be better off than they are under the present system.

"Right now, they have no control over their destiny," he said. "It's all run by big industry and government a long ways from here and I don't think that's to the satisfaction of anyone." Guujaaw said he has no doubt the courts will rule that the Haida have hereditary title to the land.

"The test is clearly laid out in the Supreme Court. We were the ones here in 1846 and we can go back a little bit further than that," he said,

laughing. "We have DNA, our language is an isolate, which would take about 10,000 years. We have stories going back to the time when the Hecate Straits were dry and our people lived there, to the time before there [were] trees here."

Guujaaw said proving title is far different from a treaty, such as the one set up by the Nisga'a.

As such, it won't be affected by the BC government's proposed referendum on treaty negotiations, he said.

"If you have title, you don't need a treaty," he added. "The court will examine and confirm that title had existed prior to the time of the Crown."

The Haida president is elected every two years by 5,000 to 7,000 Haidas, aged 16 and up, living in the Queen Charlottes, the BC mainland and Alaska.

The Council of Haida Nations has a house of assembly made up of band councils and hereditary chiefs.

It needs a quorum of at least 40 and a majority of 75 per cent is needed to make a decision

"The interesting thing about our system is that although we always have the full range of opinion from our people, the higher principles always prevail of protecting the land and protecting the culture, in spite of our own individual interests said Guujaaw.

He said once title is confirmed, negotiations would start to figure out how to implement the two-tier system.

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*March 17 - The Province*

## His mission is to save the Haida culture:

**Guujaaw, the Haida carver who is leading his people's fight for title to the Queen Charlotte Islands, says he's a reluctant conscript who'd rather be digging clams**

*Damian Inwood*

SKIDEGATE - On his way back to the Queen Charlottes, Haida president Guujaaw ran into Gordon Campbell at Vancouver International Airport.

"I went over to him and I said, 'Hello, Mr. Premier,'" chuckles the man spearheading the Queen Charlotte Islands aboriginal title court claim. "He said, 'Guujaaw!' like I'm a long-lost buddy — I'd met him once or twice, I guess."

Guujaaw told Campbell about media that have descended on the Charlottes since the landmark court case was filed last week.

"I said, 'Oh, they're probably looking for dissidents, people to say bad things about me,' and he said, 'I think you'll be pretty safe.'

"So I said, 'As long as you keep them mad at you, I'll be all right,' and he said, 'I'll do what I can to help.'"

This good-natured vignette masks a deadly serious fight that pits an ancient BC culture against 21st-century economic interests.

At stake is an estimated 9.8 billion barrels of oil and 25.9 trillion cubic feet of natural gas in the waters of Hecate Strait.

It's a resource that would take 10 years to bring on line but which could guarantee Alberta-style wealth for BC.

The future of this multi-billion-dollar bonanza — plus any other

mining, forestry or windfarm re-venues — is up in the air as a result of the land claim filed last week.

So just who is this man Guujaaw, who's orchestrating the campaign for control of resource development on the island chain the First Nations call Haida Gwaii or the Islands of the People?

The Sunday Province sat down with Guujaaw after he returned from filing the BC Supreme Court lawsuit claiming title to the Queen Charlotte Islands and the surrounding ocean waters.

An interview with Guujaaw reveals a man with many facets. He is proud, yet humble, with a strong sense of place, and he can also be cautious, outspoken and playful.

[EDIT]

He visited Hungary in 1993 with Haida artistic icon Bill Reid and went to look at the destruction of the Amazon rainforest with environmentalist David Suzuki in 1989.

He'll patiently explain the history of the Haida from "first contact" to present day skirmishes with logging giant Weyerhaeuser.

But ask him for personal details and he'll talk his way around them.

How old is Guujaaw? A newspaper article, printed in October 1993, gave his age as 40.

"I'm like Conan the Barbarian, an ageless savage," he chuckles. "Still strong — everything works."

[EDIT]

Asked if the law suit is just a bargaining tool to get money, Guujaaw said his fight has never been about that.

"We do business with people, that's not taboo for us," he said. "I have to make sure that whatever we do is environmentally sound and not going to spoil our lands and not going to disenfranchise the next generation from enjoying our culture."

He said the Haida have been poor for the past 100 years, so if they stay that way for another century it won't make much difference.

Sandspit resident Bill Beldessi, 53, has been in the forest industry for 37 years.

Now chairman of the Skeena-Queen Charlotte Regional District, he's been dealing with Guujaaw for 12 years.

"He's a stand-up guy," he said. "When he makes a commitment, you can take it to the bank. He puts a lot of stock in people who treat him the same way."

Beldessi said Guujaaw has always had a vision of where he wants the Haida people to be and it's never changed.

"And he's got a really good memory, so if a person says or does something that will come back to haunt them, he'll probably be the one to remind them," said Beldessi.

Guujaaw said the land is the essence of Haida culture.

"Things like the totem poles are only an expression of that relationship," he said. "The songs are about the land."

He said he's fighting against what he sees as a deliberate attempt to destroy the Earth.

"It's going to take humanity to stop it and most people are so far removed from the natural world they don't feel any sense of responsibility toward it," he said. "They hunt and gather in the malls. Live in compartments."

He said that greed is taught in schools.

"That's a measure of success," he said. "Civilization itself is measured by how far from the natural world you can be brought. The more pavement and synthetics you can pack around you, the more civilized they say you are." •

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*March 19 - Times Colonist*

## **Haida are already powerful**

**Letter to the Editor**

*Don MacDonald*

The Haida are the most powerful group in the Queen Charlottes, with more control than either the logging companies or the governments.

Not only has every Haida that wanted to do so been employed by the logging industry for years, but the Haida have their own logging company and have been logging on Moresby Island for the past few years.

The Haida have absolute control over annual logging plans and have had such for several years. Logging plans for the next year submitted by the logging companies to the Ministry of Forest are in turn handed to the Haida council for review.

The way to prevent logging in an area is to send Haida into a proposed area and look for CMTs, or culturally modified trees.

These are trees that have supposedly been touched by natives earlier and can be found as anything from a log partially turned into a canoe to a tree with a strip of bark missing or a bore hole in it — both of which can be done by birds, bugs and weather.

Apparently in a time when giant cedar grew to the waters edge and fell into the water allowing for easier burning and scrapping into a canoe, the coastal natives supposedly would travel up to 16 kilometres inland to put down a giant cedar with stone tools and drag it back to the water.

One year a logging company submitted a plan for logging in nine areas and the plan was trashed be-

cause CMTs were apparently found in every area by the Haida.

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*March 26 - Washington Post*

## In Canadian Court, a Native Nation Claims Offshore Rights

*DeNeen L. Brown*

VANCOUVER, BC — Guujaaw, president of the Haida Nation, has come to this concrete and glass city to save it from itself, though he concedes the people on the street don't know that saving is needed. They don't seem concerned that the ocean has lost its richness, he said, that fish are being depleted and the land is being wasted. They cannot hear the cries from the bottom of a disturbed sea bed pierced for oil.

"Look at them," Guujaaw is saying. A window separates him from people walking on sidewalks in suits, carrying briefcases and umbrellas to protect them from the empty sky. "Most people haven't ever killed anything for their supper and haven't dirtied their hands to go get something to eat, so each one of them in the cities feels they're innocent."

The demand for material things, he said, is taking a toll on the planet. "The measure of those excesses is seen in the forests and in the natural parts of the Earth. And the people who live there, as we do, are the ones who live with the consequence of supplying the raw material for those excesses."

Earlier this month, the Haida, a nation of about 7,000 people who live on the Queen Charlotte Islands, a stunning string off Canada's Northwest Coast, filed a lawsuit that they

contend will help set things right. The suit asks the British Columbia Supreme Court to re-cognize that the Haida have an "exclusive right to make decisions about their land" and the surrounding waters, which geological surveys suggest contain huge oil and gas reserves.

The suit may be the first time that a First Nations group, as aboriginal people are called in Canada, has claimed offshore resources in court. If the Haida win, and some analysts here say that is possible, they could stop any government plans to issue licenses to drill offshore for oil and gas.

The filing comes as tensions are rising between aboriginal peoples and a government that has never defeated them in war, as happened in the United States, but instead has sought to negotiate treaties with them.

[EDIT]

The suit is the latest development in a long fight on the Northwest Coast about oil and gas development.

In 1972, the Canadian government imposed a moratorium on drilling off the shores of the islands, citing environmental concerns. In 1989, British Columbia issued its own moratorium. But last year the provincial premier, Gordon Campbell, commissioned a study on the impact of offshore drilling in the Queen Charlotte basin. He said he would support drilling if it were proved the environment could sustain it.

The attorney general of British Columbia, Geoff Plant, told reporters that courts have judged the province to be the landlord. "I think the offshore oil and gas in the long run, if it can be done in a way that's environmentally safe, could offer huge opportunities, economically, for First Nations up and down the coast of British Columbia," he said.

Oil and gas industry officials say they are concerned that the lawsuit will scare off investors for an eventual project. "Until the governments sort out . . . what the rules are regarding

what's going to be allowed in there . . . then our companies are actually developing elsewhere," said Greg Stringham, vice president of the Canadian Association of Petroleum Producers.

Guujaaw said the Haida turned to the courts because of the government's demeaning offers during efforts to negotiate an overall treaty. The Haida broke off negotiations this month and walked away from the table, making headlines across the country. Treaty talks are one of the biggest political issues in Canada — "bigger than race relations in the United States," Russell said.

Guujaaw said going to court is the logical thing to do now. "We really have nothing to lose because we're not getting anything," he said. "I mean, we could bring the economy of this province to a grinding halt [by blocking development] and it wouldn't hardly affect our people at all because we're used to being broke."

The suit follows the election of a Liberal Party provincial government, a swing to the right from the previous administration. "Non-native opinion is more and more divided," Russell said. "There is a backlash among non-native Canadians against aboriginal people as they try to assert their rights under the constitution."

Campbell, the provincial premier, plans to hold a referendum this year on British Columbia's approach to treaty negotiations, a move that has proven controversial. "He is putting minority rights up to a majority vote," said a recent editorial in the *Globe and Mail*, a national newspaper. "What of constitutional obligations, what of the courts, what of inalienable rights?"

Some aboriginal groups have called the referendum racist.

The Haida, known worldwide for grand totem poles, have a culture and language that have survived pressures that killed off other native cultures.



Guujaaw passes writ to Terri-Lynn Williams-Davidson for filing at the BC Supreme Court. She was accompanied to the court house by runners Nika Collison and Amos Setso.

The Haida say there is evidence in the land and in the trees that they have occupied the islands for thousands of years. Their oral history claims they were there before there was a visible sun or moon, that it was the raven who coaxed mankind from a clamshell; the “brown-skinned, black-haired” people who emerged were the original Haida, the first humans.

The legend, as depicted by the late Bill Reid, a well-known Haida carver, also says that for many generations the Haida “flourished, built and created, fought and destroyed, lived according to the changing seasons and the unchanging rituals of their rich and complex lives.”

In 1774, the Haida were there to meet the first Spanish explorer, Juan Perez. Their homeland was named the Queen Charlotte Islands by Europeans; the Haida call them Haida Gwaii. Before 1850, about 8,000 Haida lived on the islands. By 1915,

the population had dwindled to 588, as thousands were eliminated by smallpox and other diseases.

“They almost wiped us out with smallpox,” Guujaaw said. “It went down to 500 people. We had driven off the miners and every attempt to colonize our land. We whooped them every time. It was pretty clear from our point of view that the smallpox was deliberate. We have documented evidence someone dropped off one man on our island with smallpox and our people attempted to care for him.”

He added, “They made the mistake of leaving some of us alive.”

The Haida’s lawyers argue that there should be no offshore drilling near their islands. “There has been no conclusive evidence which persuades the leadership and the chief that offshore drilling would be safe for the fish,” said lawyer Louise Mandell. “This is also an earthquake zone. There is an additional risk of

plate-shifting.”

Some Haida members have said they would support oil development that is environmentally responsible. And in the lawsuit, the Haida are also seeking royalties for timber being cut on the island.

Earlier this month, they won a victory against lumber giant Weyerhaeuser Co. when the British Columbia Court of Appeal ruled that the company, which has a license to log in the islands, must now consult with the Haida before cutting more forests. •

## News Release

For immediate release:  
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### **Weyerhaeuser Remains Committed to Working With the Haida Nation**

**VANCOUVER, British Columbia** — In advance of settlement of Aboriginal title, Weyerhaeuser said today that it remains committed to building on its already cooperative relationship with the Haida Nation and to creating new opportunities.

"As a company, we have always recognized the special relationship of the Haida Nation to Haida Gwaii," said Tom Holmes, vice-president of timberlands for Weyerhaeuser's B.C. Coastal Group. "We take the concerns and issues raised by the Haida very seriously and are hopeful that we can move forward in a manner that is respectful of and acceptable to the Haida Nation and other local interests. We are hopeful that we can establish a new business relationship with the Haida over the next few months."

Speaking from Skidegate, Guujaaw, president of the Haida Nation, said, "There will be changes as we attend to the well being of these islands and the long-term security of the people who live here. It is not our intent to cause unnecessary disruption to people's lives as we sort these things out. The success of these talks will depend on goodwill and flexibility on all sides."

For a year Weyerhaeuser and the Haida have been discussing new cooperative measures on Haida Gwaii, including new approaches to ecological forestry and conservation. Weyerhaeuser is the largest employer on Haida Gwaii/Queen Charlotte Islands and 30 per cent of its workforce there is Haida.

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Weyerhaeuser Company (NYSE: WY), one of the world's largest integrated forest products companies, was incorporated in 1900. In 2001, sales were Cdn\$22.5 billion (US\$14.5 billion). It has offices or operations in 17 countries, with customers worldwide. Weyerhaeuser is principally engaged in the growing and harvesting of timber; the manufacture, distribution and sale of forest products; and real estate construction, development and related activities. Weyerhaeuser Company Limited, a wholly owned subsidiary, has Exchangeable Shares listed on the Toronto Stock Exchange under the symbol WYL. Additional information about Weyerhaeuser's businesses, products and practices is available at [www.weyerhaeuser.com](http://www.weyerhaeuser.com).







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