



# Haida Laas

Newsletter Issue 2, April 27, 2001

## *Haida Nation Signs Protocols With BC Government*

This issue of Haida Laas will provide background and explain what these Protocol Agreements mean to the Haida Nation.

In the final days of the NDP Government's mandate, the Haida Nation signed a General Protocol Agreement and the Protocol on Interim Measures and Land Use Planning with the Province of BC.

The Protocol Agreements don't define, create, recognize, deny, amend or derogate from any of the rights or interests of the Haida, the Province or Third Party. The agreements do recognize that there is a dispute between the CHN and the Government about Haida Gwaii. The agreements state the political intent of the Haida and the Province of B.C. and outline the process by which the Province and the Haida Nation will jointly seek solutions.

These Protocol Agreements are non-binding. They set out principles of land use planning, economic benefits, and how forestry can proceed. After some fiery meetings, the Protocol was supported by Industry, Unions and Municipalities (not all), accepting that First Nations would not sit as stakeholders along with everyone else but would lead the land use planning. In the planning, large tracts of land might be set aside for protection and First Nations economic use and eco-forestry would replace conventional log-

ging. In return they wouldn't get shut down, they would pay each other off and the International Market place would accept them.

**These Protocol Agreements are not land claim agreements or treaties. They do not give up any Haida Title or Rights to the Haida Gwaii Lands, Air and Waters.**

Copies of both agreements are available at the CHN Office.

### Next CHN Meetings

CHN will hold public meetings in Old Massett and Skidegate to fully explain the agreements and to answer Citizens' questions.

On May 16, the Haida All Leaders Meeting and on May 17 and 18, the CHN Quarterly Meetings will be held in Skidegate. The Haida Gwaii Forest Protocol Agreement is on the agenda. Meeting Kits will be available on May 9, at the CHN offices.

### **PROTOCOL:**

*Process; Procedure*

*A Protocol is a non-binding agreement that lays out a process.*

## *The General Protocol Agreement* *Signed April 6, 2001*

**T**he General Protocol Agreement On Land Use Planning and Interim Measures between the Gitga'at, Haida, Haisla, Heiltsuk, Kitasoo/Xaixais, Metlakatla Nations and the Province of British Columbia.

This agreement states that the Parties will work together on a government-to-government basis to resolve land-use conflicts and to implement interim measures initiatives, using processes that are open and inclusive; and that the First Nations may negotiate a parallel agreement with Canada on Interim Measures, including aquatic and fisheries resources.

The General Protocol agreement came about because the First Nations were tired of the Crown, Industry and Environmentalists making decisions about what should happen on their lands. With the Coastal First Nations including Kitimaat, Hartley Bay (Gitgat), Bella Bella (Heiltsuk), Kitisuu, Rivers Inlet, Kitkatla and our two Village Councils we devised the Protocol Agreement. The nature of this agreement was to lay out what it would take to get 'Peace in the Woods'.

The first thing that the First Nations did was call in the Environmental Nongovernmental Organization (ENGO). The environmentalists agreed that each respective First Nation would call the shots in their territories. They also gave us the most powerful tool they had, the market campaign.

The Market Campaign was waged in the International Market place whereby the biggest buyers of BC wood products were convinced to stop buying B.C. wood products. With the First Nations joining in, the Crown knew that we could shut the forest industry right down.

While this Protocol is designed to give a new government the opportunity to reject this protocol, if they do not accept these terms we will be ready for that as well.

It will be difficult for the next Government of BC to back down, given the broad base of support for the Protocol.

This General Protocol Agreement provides the framework supporting the Haida Gwaii Forest Interim Measures and Land Use Planning Protocol Agreement.



## *Protocol on Interim Measures and Land Use Planning*

### *Signed April 17, 2001*

**T**he Haida Nation and the Provincial Government signed the Haida Gwaii Forest Interim Measures and Land Use Planning Protocol Agreement, as agreed by the Council of the Haida Nation, the Hereditary Chiefs, Old Massett Village Council, and Skidegate Band Council.

Signing for the Haida Nation is CHN President, Guujaaw and Hereditary Chiefs, Reynold Russ and Dempsey Collinson.

Signing for the British Columbia Government is Honorable Gordon Wilson, Minister of Forest and Honorable David Zirnhelt, Minister of Aboriginal Affairs.

This 'Protocol' is a non-binding agreement outlining the steps intended to be taken in order to solve Forest issues. The nature of the agreement is as follows.

#### **Protocol Timelines**

This Protocol Agreement has a 50 day timeframe in which CHN and the Provincial Government may or may not proceed on the items in the Protocol. Due to the Provincial Election, there may be a change in Provincial Government. This may have an effect on whether or not the Government proceeds with the Protocol and whether or not the talks are still on.

If both parties at any point decide that there is no use talking, the agreement can be ended, or if one side decides it isn't working and the other wants to work it out there is a 60-day period to do so. In the meantime the Haida Nation will advise all Licences that their licenses are encumbered by Haida Title.

#### **Protocol Tasks**

1. Reopen the Forest Interim Measures Negotiations (see pg. 4)
2. Examine options for taking Duu Guusd and Government Creek out of their existing status in regards to logging interests. (The TFL #39 appeal will be set aside during these discussions) (see pg. 5)
3. Begin a Land Use Planning process to be guided by an ecosystem based management framework. (see pg. 6)
4. Enter into discussions with the timber companies to examine potential for joint ventures (see pg. 6)

# Forest Interim Measures

## Background

On September 18, 1997, and at the insistence of the Council of the Haida Nation, Hereditary Chiefs, Old Massett Village Council, and Skidegate Band Council, the Ministry of Forest Deputy Minister, met with the Haida at the Skidegate Community Hall.

The then CHN President, Ron Brown Jr., put forward the Haida Leadership's negotiation items:

1. Unfettered cultural access, with respect to the Haida responsibility to protect Haida Gwaii
2. Haida management role
3. Economic access on Haida terms
4. Stumpage
5. An Annual Allowable Cut (AAC) that is acceptable to the Haida
6. A major replaceable timber tenure for the Haida

At the January 1998, annual House of Assembly (HOA), a CHN Interim Measures Agreement (IMA) Negotiation Policy was adopted by the Haida Citizens.

The CHN IMA Negotiation Policy set out the way in which the Negotiating Team would conduct those negotiations.

## CHN Interim Negotiations, 1999 - 2000

The Haida Nation's Six Negotiation Points and the CHN IMA Negotiation Policy guided the Haida Nation Negotiation Team through 10 IMA drafts.

CHN is mandated to protect Duu Guusd and Government Creek from logging or any type of Industrial Development. Because of the Interim Measures discussion, the Haida were able to temporarily protect Duu Guusd from logging, through a BC Cabinet decision. The protection of Duu Guusd comes under "Part 13" of the Forest Act. Part 13 protection ends on June 30, 2001. (See Page 5 for more on Duu Guusd and Government Creek.)

Without regard to Haida objections and during the time that the Haida Negotiating Team sat at the IMA Negotiation Table discussing principles of land planning and economic matters, the BC Government renewed TFL #39 and transferred the license to Weyerhaeuser (WECO). (See Page 5 for more on the TFL #39 case)

When the Haida went into court to fight the renewal and transfer of the TFL #39 to Weyerhaeuser, the Province walked away from the interim measures negotiations.

The Provincial Negotiators had advised the Haida that if the TFL 39 case was filed the Province would walk away from the table. It was decided by the Haida that if the bigger issues of 'Tree Farm Licences' was the price of a few smaller gains - it wasn't worth it.

### CONDENSED IMA DEFINITION

*Short-term solutions, while more final and long*



## *Duu Guusd and Government Creek*

**D**uu Guusd was the first area designated by the Haida Nation in 1989, as a 'Tribal Park', which excludes all industrial activities.

The areas in the upper reaches of Cave Creek and Haines Creek (West River) were violated while we were blocking logging on Lyell Island. Since that time we have managed to keep them out of what they see as 8 million cubic meters of wood. In perspective, at the height of the logging activities there was 2 million cubic meters a year, almost a barge load a day, leaving these Islands.

Presently there are logging plans in both Duu Guusd and Government Creek. Duu Guusd is temporarily protected under "Part 13" of the Forest Act. Part 13 protection ends on June 15, 2001. If this situation goes on, sooner or later there will be cutting approvals and we will have to act upon it or lose it. This means the Haida will either have to directly block logging, in which case court action will be brought against us or we will have to take court action against the Province and the forest company.

Through this protocol we believe that we can keep the logging companies out of Duu Guusd without court action, as well as accomplish other Haida Nation goals.

**"TFL": TREE FARM LICENSE**

**"ENCUMBRANCE":** *A claim on property.*

**"ONUS":** *Responsibility; obligation; duty*

## *TFL #39 Court Case*

### **Background:**

**I**n 1995 the Haida Nation went into the courts to argue that Haida Title is an **encumbrance** on Tree Farm Licences. The first case was lost and then won on appeal where the Court ruled that: ***"Aboriginal Title does constitute an encumbrance, should it be proven"***.

Every five years the Ministry of Forests renews Tree Farm Licences. The Haida took the case back to court in 2000, after the TFL was again renewed.

In this case it was argued that because the Province were the ones transferring and renewing the license there was an **onus** on the BC Crown to determine whether or not there were any interests encumbering the lands and trees within TFL 39. The Haida pointed out that there was enough information in the public domain, in the Provincial Archives, and their own Archaeological Branch to show that there was an encumbrance.

The Supreme Court of B.C. went back to the original ruling and while agreeing with the facts that we laid out, said that we still must prove Title, (which we intend to do).

This last ruling was not a major disappointment given that all of the big cases lose at this level. We filed an Appeal with the BC Court of Appeal. It was expected that if the Province lost they would have launched an Appeal.

**PROTOCOL AGREEMENT:** The Haida have agreed to set aside the TFL 39 appeal while the talks proceed for taking Duu Guusd and Government Creek out of their existing status, in regards to logging interests.



## LAND USE PLANNING

### Land and Resource Management Planning (LRMP)

#### Background:

The Provincial LRMPs are the highest level of planning. This type of planning is above any other plans made. The Province has been conducting and developing LRMPs throughout the Province. Some First Nations have been agreed to sit at these planning tables and others have refused.

The Provincial LRMP tables include stakeholders and other interests including communities businesses and other interests.

The Haida have refused to sit at a LRMP table because the CHN would have to sit as a stakeholder with no more to say than any other stakeholder and because the MOF would be the final decision makers on any plans made at the table.

**PROTOCOL AGREEMENT:** Through CHN discussion with the government and strong on-island support from the communities, groups and individuals, as well as our neighbors and friends on the mainland, the Protocol includes the opportunity to create a customized Haida Gwaii Land Planning process. A process which reflects the Haida position.

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## LOGGING

### The Haida Position

It has been the long-standing position of the Haida Nation that we are not against logging per se, but we believe that it can be done without having to strip the Islands and wreck everything in the path.

The Haida position has been that some places must be left intact, that the rate of logging should be cut in half and responsible logging must be enacted. This applies to every one who is logging. Nobody, including ourselves has the right to wreck the land.

It is also the position of the Haidas that we own these lands and all of the trees on it, yet our people see nothing from the wealth leaving these lands.

### Deals with Companies

Can we keep with the long-standing positions of the Haida Nation and still make deals with companies? If we don't gain more control and if we have to compromise our Title the answer is we won't.

These companies know they are politically and legally challenged. They also know that it can take 5 to 10 years in the legal system proving Title. In the meantime, they stand to strip a lot of years of timber and make a lot of money under the protection of the Crown.

Can we do something or anything without compromising our Title while advancing our principles and regaining more control?

Through our negotiations we would set out to make the methods of logging more compatible with the land, go to half the harvest level, protect the lands that the Haida Nation designated for protection and get some benefits home to our people. If we can accomplish this we will have advanced our position politically and socially.

If this Protocol fails because the new Government refuses to accept it, we will continue our appeal followed by the Aboriginal Title Case and the fact that we tried to be reasonable will be in our favor.

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## SKIDEGATE POLE-RAISING A MONUMENTAL PROJECT

The Skidegate Band Council, Haida Gwaii, BC would like to announce an historic event. From June 4 to June 9, 2001 the people of the village of Skidegate will be raising six monumental poles. The lead carvers - Guujaaw, Giitsxaa, Norman Pryce, Tim Boyko, Jim Hart, Garner Moody - and their assistants have spent about eight months carving and painting the poles, which represent the southern Haida villages and clans of Cumshewa, T'aanuu Skidegate, Sgaang Gwaii, K'uuna Ts'aahl. These villages were inhabited for thousands of years until contact with European brought devastating diseases such as smallpox.

Beginning on June 4, one pole will be raised each day at Second Beach, Haida Gwaii. It will be a week of celebration, culminating in a feast.

This project is a way of giving something back to the people and returning to our traditions. Historically, poles documented the Haida way of life, telling the stories of the clans. This is the first time in our history that so many poles have been raised at the same time. The poles have been carved from old-growth red cedar, an increasingly rare source on the islands. An additional eight poles will be carved and raised at a later date, bringing the total number to fourteen.

The pole-raising will mark the first phase of the Qay'llnagaay (Sea Lion Town) Heritage Center. The multi-million dollar facility will provide a showcase for Haida culture both past and present. Once completed, the center will include a Bill Reid teaching center, an interpretive center, a canoe shed, the museum, a theater, gift shop and the offices of Gwaii Haanas National Park Reserve/Haida Heritage Site.

Further details will be released when they become available.

For further information contact:

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## ***Council of the Haida Nation***

**President, Guujaaw**

**Vice President, Harold Yeltatzie**

**Skidegate Reps:** Gary Russ;  
**Massett Reps:** Charlie Bellis; Terry Hamilton, Frank Collison; Ron Brown Sr.  
**P. Rupert Reps:** Bill White; Pansy Collison  
**Vancouver Reps:** Shelley Williams-Gladstone; Lois Rullin

### **Management**

**CHN Administrator:** Ernie Collison      **Forest Guardian Coordinator:** Kiku Dhanwant  
**Fisheries Manager:** Pat Fairweather      **CMT Coordinator:** Amos Setso