

Xeni Gwet'in Rights and Title and Wild Horses at Risk

Written by

Wednesday, 22 February 2006 16:05 - Last Updated Wednesday, 22 February 2006 16:05

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Friends of the Nemaiah Valley - David Williams - A recent B.C. Court of Appeal decision handed down a judgment that severely curtailed financial assistance for the Xeni Gwet'in First Nation and Chief Roger William in their case for rights and title in the Supreme Court of B.C. Following this decision, Ian Mulgrew of the Vancouver Sun published a story about the court costs that condemned the expense of the trial. He did not contact Chief Roger or any of his legal team to check facts before writing the article. He did not investigate and compare the amounts spent on Chief Roger's case with the amounts that have been spent by the Crown fighting it. He did not compare the cost of the trial with the cost of the Treaty Process, which is approximately 100 times more expensive, yet going nowhere.

<http://fonv.ca>

Date: Wed, 22 Feb 2006 09:32:37 -0800

From: Friends of the Nemaiah Valley <info@fonv.ca>

Subject: Xeni Gwet'in Rights and Title and Wild Horses at Risk

Dear Friends of the Nemaiah Valley:

Here is a special message to all supporters of FONV. This is an important up-date on the court case and the Xeni Gwet'in fight for rights and title in the Supreme Court of British Columbia. It is directed to all of you who have shown support for the valiant struggle of an embattled people and their long struggle for justice within Canada's court system.

It is also for those interested in the future of the ?Elegesi Qiyus Wild Horse Preserve and the protection of Canada's last few remaining wild horses.

Only the Xeni Gwet'in First Nations Government and this court case now stand between the pristine environment of the Preserve and its destruction by industrial clear-cut logging.

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Friends of the Nemaiah Valley, as did Chief Roger William, responded to this article with a letter to the editor of both the Vancouver Sun and the Williams Lake Tribune. While both letters were printed in the Tribune, the Sun agreed to publish our letter only after a complaint was registered with the editor. It was finally published February 2, 2006, and a copy is appended to this message.

The sting of the Court of Appeal decision and the resulting bad publicity is that the Xeni Gwet'in are left without enough funds to pay for legal counsel. Jack Woodward has a large crew of lawyers employed at Woodward & Co. in the final stages of the case. These salaried lawyers are employees, yet the reduction in the costs order does not provide enough money to pay their salaries, overhead, etc. The alternatives are not pretty. Either Woodward & Co. continues to lose money and risk serious financial difficulty, or lawyers will be taken off the case, leaving the trial unfinished.

However, some possible solutions are in the works.

In response to the Court of Appeal decision Chief Roger has initiated an appeal to the Supreme Court of Canada. He must obtain "leave" to appeal, and the documents are in the process of being filed seeking such leave. He has also prepared an application back to Justice Vickers attempting to see what possibilities exist under the current situation created by the Court of Appeal. The irony is that the Plaintiff's case is now complete. All that is left is the Crown's case, set to begin on March 6th, and final argument, which could take place as soon as September this year. Right now, the legal team is preparing to cross-examine the Crown's witnesses, and is preparing for final argument. Throughout this long trial, it has often seemed that the Crown's strategy has been to keep the matter from reaching a conclusion, one way or the other. But after all this time Chief Roger and the Xeni Gwet'in are determined to see the case through.

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We believe that it is of the utmost importance that the case reach a conclusion, and not be de-railed at this late stage. The stakes are simply too high. The refugium that is the Brittany Triangle and all the lands of the ?Elegesi Qiyus Wild Horse Preserve - Canada's "national treasure" - cannot be allowed to go down to a misconceived grab at virtually the last wilderness in the Tsilhqot'in. They must not be sacrificed to a cynical use of the court system which frustrates an honourable process so near its conclusion.

The support of the Friends of the Nemaiah Valley is vital to ensure that justice is achieved for these valiant people defending their land.

We will keep in touch as matters develop.

Signed: The Board of Friends of the Nemaiah Valley

January 26, 2006

Editor

Williams Lake Tribune

Dear Editor;

We wish to take issue with the belittling tone, and to correct some of the

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facts, presented by Ian Mulgrew in his article "Legal Fees in Land Claims Case Soar" which recently appeared in the Vancouver Sun (Wed., Jan. 11, 2006).

Mulgrew deplores the publicly funded costs associated with the case for rights and title, *William v. B.C.*, presently before the Supreme Court of B.C. He says this is a little known legal battle involving a small Indian band. In fact Chief Roger William is acting on behalf of the Tsilqot'in National Government in a case for rights and title which has been determined by the Court to be the most important, and certainly the most advanced in Canada right now. As Mulgrew himself points out, following on from *Delgamuukw*, this may well be the case which eventually leads the Supreme Court of Canada to decide the nature of aboriginal title in Canada, thus breaking the deadlock in the Treaty Process, and finally achieving some legal certainty. The importance to the country of the final decision cannot be overemphasized. For Justice Mary Southin to wonder whether the land involved is worth the cost of the case is to miss the mark by a very wide margin indeed. To the Tsilqot'in people, the issue is their survival as a people in a land they have called home for time beyond memory. And land which they have defended and protected from a relentless colonial incursion for almost two hundred years. The value of that land to them is beyond price, it is their lifeblood. This might be something hard to understand for those of us who may boast of having lived here for a mere three or four generations.

Because of the failure of successive Canadian and provincial governments to address the issue as they were enjoined to by the Royal Proclamation of 1763 (that not one acre of land shall be removed from native title without a treaty) we are now obliged, finally, to come to terms with this massive failure. It would have cost a lot less had things been done properly a long time ago and in accord with our own law.

One of the chief reasons for the escalating court costs has been the defendant's, both the federal and the provincial crowns, relentless pursuit of every means available to draw it out. The Crown claims that aboriginal people did not exist as a people and lacked a culture or means of governing themselves. It says they were nomads with no fixed places of abode. These are arguments which fly in the face of all the facts and scientific evidence. Yet the claimants are forced by the Crown, over and over again, and at great expense, to prove what we all know. They did occupy the land

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prior to European arrival, and they did have a structured and complex way of life. That these are ancient and sophisticated cultures entitled to stand on a par with those of the settlers newly arrived cannot be doubted.

The cost of course is not the real issue, though it rightly exercises Ian Mulgrew and Justice Mary Southin. The real issue is the nature of aboriginal title, and that goes for all of B.C. and even Canada. It may "have a shattering impact upon Confederation". But if that Confederation has been a built upon a lie and a greedy seizure of someone else's land and resources, then what is its value? When the nature of aboriginal title is finally defined and accepted by all parties, both the original inhabitants of this wonderful land, and those of us who came later to the feast, we will truly be able to begin to evolve a Confederation of which we can all be proud. This will be a Confederation built upon the sure foundations of truth and justice and regard for the First Nations of the land, and of the land itself. Nothing less will do.

David Williams

President

Friends of the Nemaiah Valley