



Penticton Indian Band

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April 12, 2021

Via email: IRR.Minister@gov.bc.ca

The Honourable Murray Rankin
Minister of Indigenous Relations and Reconciliation
PO BOX 9051 STN PROV GOVT
Victoria BC V8W 9E2

RE: The imminent sale of unceded critically important syilx nation lands at Sickle Point, Skaha Lake.

Dear Minister,

I am writing to advise you of an urgent matter that requires your immediate attention. Sickle Point is part of the eastern shoreline of Skaha Lake and has been utilized by the people of snpink'tn, syilx Nation, for hundreds of generations. The proper placename for Sickle Point in our language, nsyilxcən, is: *ncaqeq?iwltn* (phonetically: *n-suck-ul-kay-ul-tn*). It means a place to land or park a canoe and continues to be used by our people as a camp and resting area. It is an extremely important part of syilx Territory and subject to our unextinguished Aboriginal Title and Rights. Our responsibilities to the lands, waters and all living things within our Territorial boundaries were given to us by the Creator; they are the truth; an unending truth and cannot be given or taken away.

The sale of our unceded lands and future potential development within what is widely acknowledged as a critically sensitive environmental and cultural area sets out what is indisputably a **critically important issue that requires your urgent and immediate attention**. The potential adverse impacts the sale of this land will have on our Nation's inherent and constitutional rights are unacceptable.

The Penticton Indian Band has the full support of regional governments and local stakeholder groups to prevent the private sale of these land and have *ncaqeq?iwltn* removed from the Land Act and returned immediately to PIB to ensure for its long-term protection and preservation. We have sought funding from the Ministry of Environment and Climate Change and engaged with Minister Heyman to no avail. We have supported fund raising efforts and supported the Regional District of the South Okanagan Similkameen to purchase the property and remove it as a fee simple land. These efforts continue but we must remind you that PIB never consented to the sale of our syilx lands, it is not our duty to acquire funding to purchase our unceded lands, PIB never consented to the disposition of these lands. That duty falls to you and your ministry.

Free, Prior and Informed Consent

In addition to the Province's common law duty to consult and accommodate before it carries out any action that could adversely affect Aboriginal rights, and to justify any infringement of those rights, the Province also has an obligation to obtain the free, prior and informed consent of Indigenous peoples.

In 2019 the Province passed the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44 ("DRIPA"). Among other things, DRIPA provides that:

- (a) the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") is applicable to the laws of British Columbia; and
- (b) in consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with UNDRIP.

While the entirety of UNDRIP must be taken and read together, in the current context Article 19 of UNDRIP is of particular relevance. Article 19 provides that the Crown must consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their consent before adopting and implementing legislative or administrative measures that may affect them. As well, Article 32(2) provides that the Crown must consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their consent prior to the approval of any project affecting their lands or territories and other resources.

In summary, the seriousness of any potential development at *ncaqeq?iwlt'n* is grave, as it will cause irreparable harm to a culturally significant area and remove one of the last vestiges of high value habitat for numerous species at risk. Minister, you have before you an opportunity to work towards correcting a serious infringement upon our constitutional rights while also protecting one of the last remaining wetland habitats in the Okanagan; a parcel of land with long-standing cultural significance that is also home to numerous species and habitats at Risk. **We call upon your Ministry to purchase the property, remove the land as fee simple and return the lands to PIB under a covenant which will ensure for their long-term protection for the good of all for all time.** We are asking that you find a creative solution to have our ancestral lands returned to us, similar to the landmark deal that you made with Tsartlip where the Province provided a grant of \$7.7 million from B.C. Housing for them to acquire the former Woodwynn Farm property on West Saanich Road

The NDP government announced today that reconciliation with Indigenous peoples is a top priority for 2021; this is an opportunity to take positive steps towards that vitally important goal. If you were to take no action an important cultural and environmental parcel of rare and endangered land could be destroyed, the Pentiction Indian Band will have no choice but to vehemently protest any development on these lands and the Crown would be required to justify the significant infringements which would flow from your decision.

The sale of *ncaqeq?iwlt'n* is imminent, please contact me at 250-493-0048 or via email at chief@pib.ca to discuss this issue in further detail and how your Ministry plans to take action.

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Greg Gabriel
Chief, Pentiction Indian Band

CC:

George Heyman, Minister of Environment and Climate Change

Murray Rankin, Minister of Indigenous Relations and Reconciliation

Dan Ashton, Member of the Legislative Assembly for Penticton

Roly Russell, Member of the Legislative Assembly for Boundary-Similkameen

Carolyn Bennett, Minister of Crown-Indigenous Relations

Jonathan Wilkinson, Minister of Environment and Climate Change

Richard Cannings, Member of Parliament for South Okanagan — West Kootenay

Karla Kozakevich, Chair RDOS