

# **Lheidli T'enneh**

## **Final Agreement Encroachment on Simpcw Title and Rights**

### **Encroachment on Simpcw Title Rights**

#### **Background**

Our community has become embroiled in the Lheidli T'enneh Final Agreement and we are in a legal action to bring the federal, provincial government and Lheidli T'enneh to a negotiating table to discuss encroachment of their claim on our territory in the McBride, Valemont and Kinbasket Reservoir corridor.

We recently won a court victory over the three parties by getting the courts to agree to order the Lheidli T'enneh to with hold their signing of the final agreement if their community ratifies the agreement. They must not sign until we have a chance to meet them in court.

The following is a summary of events leading up to March 22, 2007 court victory.

1992 BC Treaty Commission ("BCTC") established in BC

BCTC – 6 stage Process:

- starts with Statement of Intent (with a map of asserted territories)
- ends in Approval and Implementation of Final Agreement (as a Treaty)

BCTC policy requires negotiating First Nation to resolve overlaps with its neighbours

1993: Lheidli T'enneh Submit Statement of Intent to negotiate with map of asserted territory

- no overlap with Simpcw First Nation identified
- no evidence of Lheidli T'enneh rights in Encroachment Area

Simpcw First Nation

- sent letters to BC, Canada and Lheidli T'enneh advising of Encroachment
- SNTC also sent letters

Final Agreement provides rights in Encroachment Area to Lheidli T'enneh to:

- fish
- hunt
- gather plants
- do resource management
- enjoy water rights
- develop hydro projects
- develop land for resort development

Encroachment Area

- approximately 10,989 square kilometres
- review map

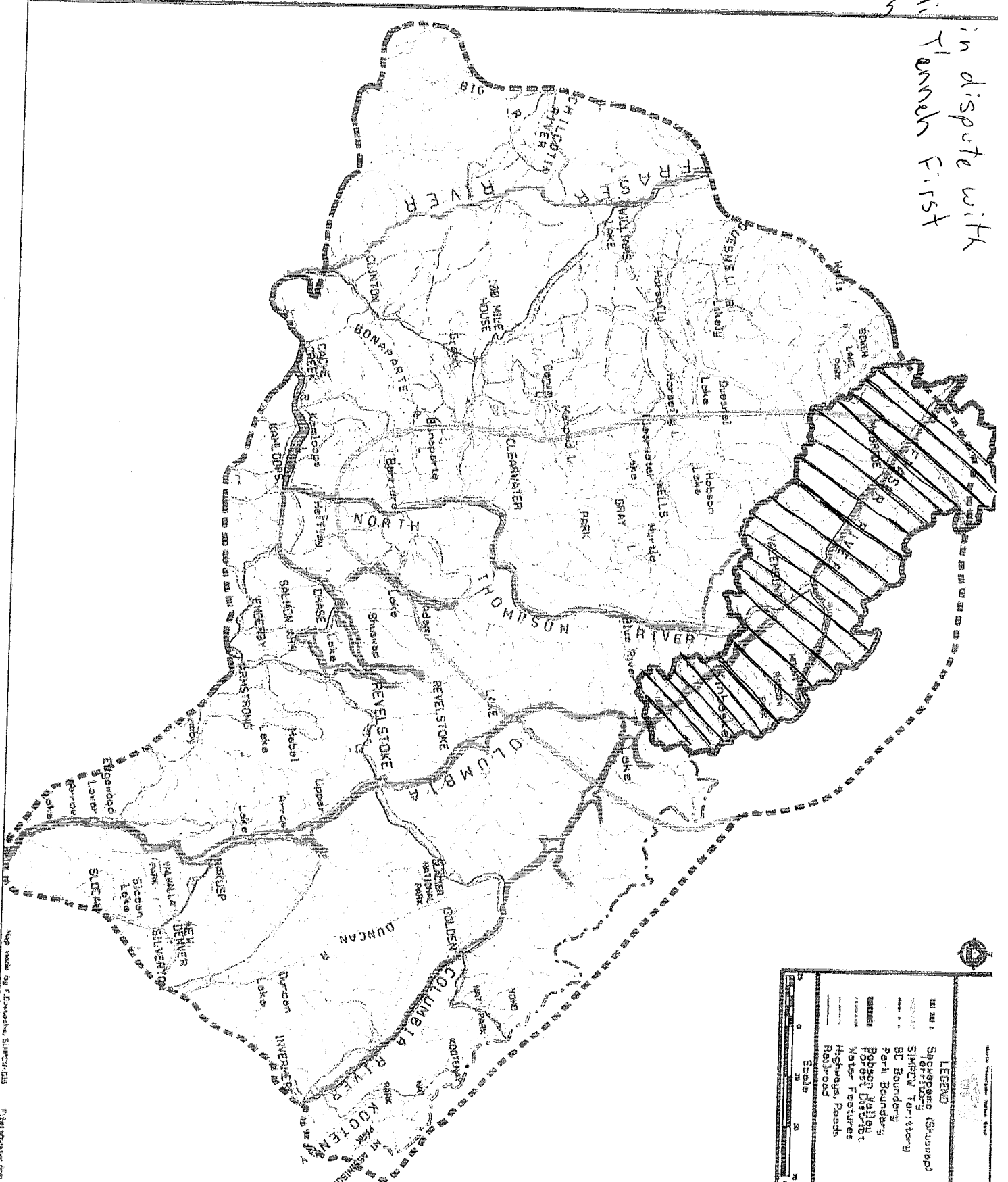
Lheidli T'enneh now ratifying Final Agreement

- vote held March 17, 2007 to March 30, 2007

If ratified, BC and Canada will pass legislation to make the Final Agreement a Treaty



area in dispute with  
The Indian  
Nations  
Tannah First



**LEGEND**

- Speckling (Shuswap Territory)
- Stippling (Shuswap Territory)
- BC Boundary
- Park Boundary
- Post Office
- Water Features
- Highways
- Roads
- Railroad

Scale

0 1 2 3 4 5 6 7 8 9 10

Map made by Vancouver, B.C. 1914

## Why is This Wrong?

Canada and BC owe a duty to consult the Simpcw First Nation on Encroachment Area

- *Haida* and *Taku* Cases state duty
- now well established law

The Final Agreement severely affects Simpcw Rights

- creates rights for another First Nation
- restricts Simpcw use and enjoyment of its Rights
- gives Canada and BC Power of Expropriation of rights in Encroachment Area

Requested meetings with Lheidli T'enneh

- not agreed to
- when agreed to, they cancelled them

Canada and BC ignored duty to consult

- hid behind Treaty Process policy by leaving overlap issues to be resolved between First Nations

Simpcw Hold Title and Rights

- Simpcw Consultation and Accommodation Guidelines – 2006
- Guidelines approved by Membership and state:

“Whereas the Simpcw people have never ceded, surrendered or in any way relinquished Simpcw Title or Rights to our homelands”

and

“Simpcw Title flows from the use and occupation by the Simpcw People of Simpcwul'ecw...as well as from Simpcw Law”

## What is the Simpcw Response?

Letters to Canada, BC, and Lheidli T'enneh requesting delayed ratification

- Done on several occasions
- Refused delay
- Ignored – duty to consult and fact of harm to Simpcw

Political Support

- Have support of SNTC
- Coordinated Meetings with Treaty 8

Commenced Legal challenge

- law suit filed
- injunction sought
  - to stop (delay) ratification

### Law Suit / Injunction

- initially funded by SNTC
- Plaintiffs: Ten First Nations of SNTC
- Secwepemc Nation asserts title and rights

### Interim Injunction Awarded (March 22, 2007)

- vote can go ahead
- but Final Agreement cannot be initialled until further court hearing April 5, 2006

### Concerns about the Lawsuit

- Plaintiff asserting title to Encroachment Area is the Secwepemc Nation, not Simpcw First Nation
- Under Secwepemc Law, within Secwepemc Peoples, Simpcw have title to its traditional territories
- Lawsuit needs to be clarified

### What is at Stake? – Risks

- a) Lheidli T'enneh might get constitutional rights adverse to Simpcw title and rights.
- b) Simpcw First Nation limited in asserting title and rights without SNTC
- c) Secwepemc Laws granting Simpcw Title are not followed
- d) Simpcw Consultation and Accommodation Guidelines not followed
- e) Negotiations with Government and Industry in Simpcw territories cannot be done by Simpcw alone (without SNTC involvement)
  - eg. Kinder Morgan
  - Canadian Hydro
  - Forestry Companies
  - BC Parks

### Community Support / Direction Needed

- a) Defend against Lheidli T'enneh encroachment
- b) Uphold Secwepemc Laws and Defend Simpcw First Nation Title and Rights (hire separate legal counsel)
- c) Maintain close relationship within Secwepemc Family
  - Internal Political Discussions about title and rights within Secwepemc

## **Health Clerk Grace McLeish**

Staff members have been asked to do a brief report to the community members about our positions; what we do and whom we provide service to. Here is my report. I have tried to keep it as brief as I could without leaving out too much pertinent information. Please call me if you have any questions or want more information.

I have worked at Simpcw First Nation since 1998. I started as casual laborer for the Drug and Alcohol Worker. When the Health Clerk position came available in September 1999 I applied and was the successful applicant. I assist with administration for the CHN, Simpcw Health Board and community members. Here are some of the jobs I do and a brief description of the tasks involved.

### **1. Office Administration:**

The regular office duties that I do on a daily basis are to pick-up and distribute incoming and outgoing mail and faxes to health staff, copying and filing office paperwork for health staff, and work with the CHN.

### **2. Patient Transportation:**

I administer the funds from this program to patients that need to go to Specialist appointments and Drug and Alcohol Treatment Centers.

### **3. Non- Insured Health:**

Non-Insured Health Program covers optometry, pharmaceutical, specialists, massage, physiotherapy and dental. I give to information to band members or if needed I will fax or mail requests for reimbursement to FNIHB NIHB. I also assist with information on appeals process.

### **4. BC Medical Services Branch:**

I am a liaison for Band Members. Personal Health Numbers never change during your lifetime.

### **5. BC Ambulance:**

I am a liaison for Band Members. In the past I would send the BC Ambulance bills in to be processed. The process has changed, patients are now required to call the BC

Ambulance billing department directly for the bills to be paid.

### **6. Simpcw Health Board:**

I attend all meetings, prepare agendas and meeting items and transcribe the minutes for monthly meetings. I send information to Board Members on times and dates, changes if necessary. I will set up meeting out of town.

### **7. Staff Meetings:**

I attend the health staff meeting on a weekly basis. This is a check in to help us all coordinate our workweek.

### **8. Simpcw Health Board AGM:**

This is an annual Health Board meeting where community members are invited to come and talk to the Simpcw Health Board about the Health Program. Help with set-up and teardown.

### **9. Hearts @ Work:**

This is another annual event held in our community to boost the knowledge of specific diseases like diabetes as well as to educate on general aspects of wellness. I help with all of the program booths as well as set up and tear down.

**Here are the phone numbers for  
Non-Insured Health Benefits  
Toll Free Service**

**General Client Information:**

**1-800-317-7878**

**Dental Information:**

**1-888-321-5003**

**Drug Benefit Information:**

**1-800-259-5611**

**Office hours are 8:00 am till 4:00 pm,  
Monday through Friday.**

**Toll Free: 1-800-678-1129**

**Tel: 250-672-9995**