

Nimpkish Woodlands Advisory Committee Meeting
Minutes June 16, 2011
Black Bear Resort, Port McNeill, B.C.

Committee Attendees

Bill Nelson	Paul Barolet	Gerry Furney
Peter Curtis	Ed Jackson	Gaby Wickstrom

Advisors:

John Foster

Facilitator: Annemarie Koch

Recorders: Michelle Beaulieu and Annemarie Koch

Presenters:

George McRae (Senior Negotiator), Margot Spence (Negotiator) and Natalia Tansky (Negotiations Analyst) from the Ministry of Aboriginal Relations and Reconciliation (MARR)

Safety Procedures and Introductions:

Annemarie Koch reviewed the safety procedures in case of an emergency. She then outlined the meeting objectives, namely to have a presentation by MARR on the current Treaty negotiations, a review of the 2011 CAN/CSA multi-site certification audit results and to have a general discussion amongst members.

Business Arising from the Minutes

Annemarie reviewed the minutes of the March 17, 2011 meeting.

Annemarie then reviewed the six action items identified in the March 17th meeting minutes.

Action Item 1: To include the volume of petroleum products purchased and the volume recycled in a given year to the calculation of indicator 4.1.1 (Net carbon uptake). Annemarie reviewed that this action item will be completed with the first annual report. Michelle indicated that the completion of the annual reports usually is targeted for March.

Action Item 2: Approach Shannon Janzen and/or Paul Bavis regarding presenting any new developments with regards to carbon credit trading/purchasing. Nothing significant has developed with respect to carbon credits/purchasing. Michelle reviewed that Shannon Janzen did present this topic to the NWAC members May 19, 2009 and that if anything is brought forward with respect to carbon the information will be passed along. It was also suggested that if the members had any specific concerns or interest in addition to what Shannon had presented that it would be a benefit to highlight those for any future presentations.

Action Item 3: Send out WFP Englewood newsletter with the minutes from the March 17, 2011 meeting, with instructions on how members can sign up if they wish to. Michelle sent the members a copy of the WFP Englewood newsletter with the minutes on March 22, 2011.

Action Item 4: Come up with a more meaningful indicator than EBIDTA for the SFMP for the DFA.

Annemarie indicated that this has been an on-going conversation for other public advisory groups (e.g. VINWAG). She suggested that collaborative thinking with other divisions that have the same indicator would be a good start moving forward. Michelle agreed and indicated that she will talk to Jon Flintoft to encourage some collaborative problem solving.

Action Item 5: Recruit replacement government representatives, e.g. for forestry, environment and parks. Provide an update to members during the next meeting. Michelle indicated that there has been some interest from Mike Berry to attend the NWAC meetings however he has not been able to attend yet. The effort to recruit new members will continue.

Paul Barolet indicated there was a new Parks representative and will pass along the information to that individual.

Action Item 6: Approach Shannon Janzen and possibly a representative from MARR to see if they would be available to address current progress regarding the treaty negotiations.

Michelle contacted representatives from MARR and arranged for a presentation at the June 16, 2011 meeting.

The members adopted the minutes as presented.

Presentation by MARR representatives – Current Treaty Negotiations

George McRae opened the discussion with clarifying that Bryan Wallace had recently retired. George also indicated that he would like to keep the presentation informal and open to conversation. He directed the members to the overview maps that were brought to facilitate any discussions. He then highlighted that if any one would like to ask additional questions rather on a one-on-one basis that he would be more than willing to extend the discussion after the NWAC meeting.

George provided the members with a background regarding the 'Namgis Treaty, clarifying that it has taken and likely will take many more years. He highlighted that the 'Namgis First Nation started the process as part of a treaty group including other bands but decided to start negotiations on an individual basis.

At the start of the negotiation process, the 'Namgis First Nation filed a statement of claim for their traditional territory which encompassed 250,000 ha.

George explained that MARR's role was to negotiate Treaty. He also explained that there have been many smaller older treaties such as the Douglas Treaty, however in 1991

BC decided to embark on what is now known as the modern day treaty (which the 'Namgis First Nations are a part of).

George noted that the primary impetus for the modern day treaty process was to allow for broader and more flexible negotiations and avoid the high cost associated with resolving issues through the courts.

George then clarified that the 'Namgis First Nation is currently working towards an agreement in principle. An agreement in principle (AIP) is a non-legally binding agreement that is the basis for the final agreement. The Final agreement would include more detail, a legal review and a mandated AIP.

George also added that a large part of the AIP process is to negotiate an area of interest.

George highlighted that the Treaty negotiation process is a three (3) party negotiation between the Federal Government, Provincial Government and the First Nation.

George explained that one of the roles of the Federal Government in the Treaty process is to negotiate and provide a percentage of the cash negotiated in Treaty. The Provincial Government has a role to negotiate and provide a percentage of the land.

George highlighted some of the current details regarding the 'Namgis Treaty Negotiations:

- a) January 2009 there was a land/cash proposal which included 20,000ha and a quantity of cash ~\$32 million for immediate transfer.
- b) May 2009 the 'Namgis First Nation made a counter proposal, noting that more work was required on the land negotiations.

George explained that many levels of due diligence are required regarding land negotiations including knowing the status of the land and existing users, eg. the run of the river project lands took additional process.

George indicated that overall the 'Namgis First Nations have been very patient with the process but want a counter offer to proceed.

George explained that there has to be an agreement with Canada/BC and an approval to go with a mandated counter offer, and that the target for a formal proposal is early fall of 2011. Once an Agreement in Principle (AIP) has been negotiated, it is a good time for the First Nations to go back into their community and vote whether to accept the AIP or not. He noted that this process could take quite a bit of additional time.

George discussed the issues that MARR faces when negotiating Treaty.

1. Access: based on the view of the province (BC) there needs to be continuous public access for recreational and non-commercial purposes. The First Nations Treaty lands would be similar to private lands and currently the negotiations are for access "to and through."
2. First Nations designate lands for private purposes: if the designation prevents public access there is a requirement to find an alternative route and there are consequences if there is a breach in Treaty.

- 3a. Notions of certainty: spelling out rights and obligations of all parties.
- 3b. Certainty: is the process providing clarity about everything, including rights and obligations? The current environment indicates the rights and obligations are constitutionally protected but the rights are undefined.
 - Case law: has to consult and accommodate which includes tremendous work on all parties with many referrals.
4. There are many different areas that may impact Treaty.

George highlighted that the three governments (Federal, Provincial, and First Nation) will have to harmonize their laws and be clear about the extent of authority and jurisdiction that will apply on Treaty Lands, eg. one government can't create a law that conflicts or overrides another law.

John Foster asked if the First Nations would have the authority to subdivide and sell lands acquired through the treaty process.

George indicated that it is possible but there would still be jurisdiction in Treaty and that for example, a way to manage such a process would be implement 99 year leases. George also indicated that it would be up to the First Nations to decide what they would like to do with the lands; however they will have jurisdiction over the lands unless they give up the lands.

John highlighted the concern that the lines delineating the treaty area on a map may be un-reasonable and unworkable on the land. John asked if there was any work being done to ensure the lines were "real vs un-reasonable". He gave the example of TFL boundaries following the height of land compared to a boundary that may encompass segments of a road that does not following any defined feature would be very different and difficult to follow in the field.

George clarified that all land is valued but that there is a limit to the mandate of the treaty negotiators. He noted that there will be a legal survey completed regarding Treaty lands and currently they are working with the surveyor general to work out what is acceptable for a survey format (i.e. the use of land defined land features). George also highlighted that the treaty lands will exclude major corridors (i.e. roads, hydro access, etc.) and MARR is currently gathering data to incorporate Provincial Crown corridors.

John asked how Part 13 is being played into Treaty.

Annemarie asked for clarification as to what Part 13 was so that all members could follow the discussion.

George explained that Part 13 is an interm-agreement under the Forest Act that prevents certain lands under treaty negotiation from being harvested until the process is complete. He also indicated that this designation of Part 13 lands requires the approval of cabinet. He also indicated that Part 13 was not originally designed as a treaty tool and that a Part 13 extends to a 5-year period but can be renewed for up to 10-years in which a Treaty can evolve for over 10-years. A Part 13 applied in a Treaty can help clarify uncertainty regarding the lands but the difficult aspect is defining the obligations for the TFL holder.

George also indicated that WFP has a high level of concern regarding a Part 13 and has taken the initiative to help mitigate the situation with the idea of negotiating a win/win situation with the First Nations.

Peter asked if the Treaty Lands would encompass claims over large bodies of water.

George indicated that the First Nations do want the Treaty to include both land and water however the Provincial and Federal government do not support including bodies of water in the Treaty.

George clarified issues regarding fish in Treaty in that DFO has decided to defer all fishing discussion from the AIP until after the Cohen inquiry into the disappearance of the Fraser River Salmon is completed.

Gerry commented that many of the proposed Treaty Lands are at the mouth of valleys, and asked if that will that affect access to other areas of the valley?

George reiterated that access rights are being negotiated that there will be no control taken over access (i.e. tolls or charges).

Gerry commented that forest companies and other companies alike have provided a great deal of employment over the years, and that this has generated significant tax revenue for senior levels of government. Gerry noted that it was not easy or even possible for third parties to know what amount of tax revenues are ultimately passed on to the First Nations, and asked how third parties can negotiate openly and fairly if we don't know how much has already been given for purposes of negotiation.

George clarified that some of the information in the negotiations at certain levels are private to a certain extent and may remain confidential. He noted that the 'N̄amgis First Nation has made it clear that it is their intention to reduce costs of administration and governance following resolution of their treaty.

Annemarie commented that, through the BNA Act, the Provincial Government is responsible for municipalities and provides direction on their governance through a 'local government' act. She noted that under the BNA Act, First Nations come under the jurisdiction of the Federal Government, and asked if there were models or a similar form of direction for First Nations' 'government'.

George indicated that First Nations have been sensitive to being likened to municipalities, and that the structure of the First Nations Government will evolve as to how an accountable government fits into their model.

There was a discussion of how issues like land use planning and zoning in boundary areas, eg. between municipalities and First Nations' treaty lands will be best handled through the parties being 'good neighbours'.

Paul asked how a Part 13 area might be treated if it were destroyed by natural causes as opposed to harvesting activity, for example. George noted it was not the intent of Part 13 to protect against natural losses.

Gaby asked with regards to the long length of time it takes to reach treaty, if there were any concerns with fluctuating timber values and potential Treaty land value changes.

George indicated that yes timber values may change with a Treaty area but that did not warrant changes to the boundary. He also commented that there were many different values/reasons for the lands being included in Treaty.

Gaby asked what would happen if individuals holding mineral rights find something post treaty.

George clarified that the First Nations will have jurisdiction over the Treaty Lands and that those individuals would have to work something out with the First Nations.

Bill asked how hard it would be for the First Nations to trade lands that have been identified in Treaty.

George clarified that any trade would not be encouraged but there is a process for additions and that First Nations can buy and hold lands in fee simple (private) lands and divest them as they see fit.

Annemarie asked how third party interests are represented.

George indicated that it depends on the third parties themselves, however there is consultation on a regular basis, eg. existing license of occupation holders are consulted over issues such as access.

Presentation on the CSA re-certification by Michelle Beaulieu

Michelle provided a review of the WFP's CSA re-certification to the CSA Z809-08 standard.

She noted that the re-certification was a multi-site certification including Englewood, mid-Island, Stillwater and Port Alberni divisions. Bill asked how this grouping was determined. Michelle noted that this grouping was based on an historical division of operations, outside the NVIR, with the exception of Gold River.

She reviewed some of the efficiencies of proceeding with a multi-site certification such as reducing auditing costs.

Michelle showed what the current registration certificate looks like. She offered to provide further information from the website, if members were interested.

Michelle reviewed some of the results of the audits from other operations involved in the multi-site certification, like Stillwater, to offer an idea of what some of the areas of concern might be under the audit for Englewood. For example, Michelle reviewed Stillwater's indicator relating to level of downed woody debris. She compared Stillwater's value and target in relation to Englewood's value and target for this indicator, highlighting that the differences of the Stillwater division being that they harvest 2nd

growth and also supports a chipping operation (biomass) which Englewood harvest a majority of old growth and does not have biomass commitments. She indicated that while the target is not an immediate concern for Englewood it would be one to keep an eye on the trends over time as the harvest profile shifts to more second growth.

Bill asked where Englewood is with respect to this target and Michelle noted that Englewood is currently at 90m³/ha, which is well within the target for level of downed woody debris.

Michelle reviewed the opportunities for improvement for Stillwater related to recreational trail signage by pointing to the indicator related to availability of information on issues of concern to the public. She clarified that while Englewood does not have an indicator directly associated with recreational trails there have been projects associated with the trails within the TFL and that there will be a trail maintenance program for 4 trails starting in July 2011.

Gaby suggested bringing up this subject at VINWAG as well, in order to encourage some discussion around maintenance of trails that were taken over by the Regional District.

Michelle reviewed Stillwater's indicator related to additions and deletions to the forest area, and noted that the auditor was concerned that this indicator had been narrowed down too much, and that the indicator should perhaps be broadened enough to better highlight the trends as to how the forest area is being diminished over time (i.e. including gravel pit areas and areas associated with e.g. take back areas).

There was a discussion of how the PAS might be affecting forest area.

Michelle reviewed the auditor's suggestion for opportunities for improvement for Stillwater's indicator related to net carbon uptake. She noted that the auditor had suggested that net carbon uptake include the contribution of non-operational fires. She referred to some of the complexities and challenges of including this information in the calculation of net carbon uptake.

Michelle reviewed Stillwater's indicator covering levels of investment in initiatives that contribute to community stability, and noted their target is very different from Englewood's she noted that the auditor had asked whether Stillwater's target was realistic in view of current achievements. Michelle pointed out that while Englewood's target for this indicator was different from Stillwater's, that Englewood's target had been established in the context of trends and previous practices. She also indicated that an effort was made to include the information on trends where available in the SFMP.

Michelle reviewed Stillwater's indicator around company safety and noted that the auditor had suggested that contractors be added to the target, in addition to company employees, as their safety was already considered under WFP's operations. Michelle noted that Englewood already includes contractors in their target for this indicator.

Michelle noted that Port Alberni's targets are quite different from Englewood's. She noted, for example, that Englewood's native species regeneration target is that the proportion of regeneration comprised of native tree species is 100%. She noted that this

target might have to be further developed, for example, to define what constitutes a native species. She noted that the plan should make this definition clear, e.g. whether it is native to the DFA, native to Vancouver Island, or native to B.C. She noted that the definition must be clear enough for an auditor, but flexible enough to address future impacts of climate change.

Michelle referred to some of the trends in the auditor's comments on opportunities for improvement in other divisional audit reports, e.g. have targets been narrowed too much, are targets realistic, are variances tied to the target and are targets clearly defined.

Michelle reviewed some of the positive highlights from the other divisional audits, including excellent public outreach, good implementation of EMS, detailed inspections, good comments from planting contractors, contractors and staff are comfortable bringing forward issues, and overall, that the format of new plans was much better than in previous plans.

Michelle asked members whether the plans were easier to read and members agreed that, in general, the plans were easier to digest.

Bill asked whether it was reasonable to include the effects of natural fires in net carbon uptake. Michelle noted that it was important to look at the intent of the indicator, i.e. in this case, what is the impact of WFP's operations on net carbon uptake, versus natural impacts on net carbon uptake.

It was suggested that the plan could specifically state that the indicator was not meant to cover the impacts of natural events on net carbon uptake.

It was noted that a balance needed to be struck between anticipating what the auditor wants in the plan in relation to what's required to produce and implement a good plan.

General Discussion

Ed suggested that it might be useful for members to attend, from time to time; a general meeting of all the PAG's involved in WFP's CSA certification process. Michelle indicated that she would look into this for future.

John noted WFP has a website that includes maps that are available to the public, e.g. showing active harvesting and road construction, etc. Michelle agreed to send the link for these maps out to members.

Gaby asked what had happened with the AAC discussions. John noted that the government was still looking at this matter, including WFP's request that heli-hemba be dealt with fairly, in view of the fact that this profile is currently very expensive to log and yields negative economic return.

Action Item 1: Carried Forward: To include the volume of petroleum products purchased and the volume recycled in a given year to the calculation of indicator 4.1.1 (Net carbon uptake).

Responsibility: Michel de Bellefeuille

Due Date: Reporting the indicator with the included calculation taking into account petroleum products will be included in the first annual report under SFMP 11.

Action Item 2: Carried Forward: Come up with a more meaningful indicator than EBIDTA for the SFMP for the DFA. Approach other divisions with the same indicator to collaboratively think of a suggestion for a more meaningful indicator.

Responsibility: Michel de Bellefeuille and Michelle Beaulieu

Due Date: Ongoing

Action Item 3: Suggest a general meeting of all the PAG's involved in WFP's CSA certification process.

Responsibility: Michelle Beaulieu

Due Date: Provide an update at the next scheduled meeting.

Action Item 4: Provide link to new Operation Maps.

Responsibility: Michelle Beaulieu

Due Date: Distribute link with the June 16, 2011 minutes.

<http://www.westernforest.com/company/stewardship/planning.php>

Action Item 5: Provide website link to the CSA audit information.

Responsibility: Michelle Beaulieu

Due Date: Distribute link with the June 16, 2011 minutes.

http://www.westernforest.com/company/environment/certification_CSA.php

Adjournment:

The meeting adjourned at 9 p.m. with the agreement that the next meeting would not take place until the fall.