

# LAND CODE DEVELOPMENT

## REGAINING CONTROL OF OUR LANDS AND RESOURCES

August, 2009

### Inside This Issue

- 1 Background Information
- 2 What's Next
- 3 "Yes" Vs "No"
- 4 Frequently Asked Questions

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**Band Member  
Dinner Meeting  
August 11, 2009  
Regarding Land  
Code**

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*A Land Code is the  
**First real  
recognition of our  
right to manage  
our own reserve  
lands and  
resources.***

## Background Information

### What is a Land Code?

The Land Code that has been developed will be the basic land law of our Nation and will replace the land management provisions of the Indian Act. The Minister of Indian Affairs will no longer be involved in the management of our reserve lands.

### What is the Individual Agreement

The Individual Agreement sets out the specifics of the transfer of Federal Authority (Canada) from the Indian Act to our Nation, the reserve lands to be managed by We Wai Kai, and the operational funding to be provided by Canada to our Nation for land management.

### *What is the Community Ratification Process*

In order for the We Wai Kai Nation to assume control over our lands, the Land Code & the Individual Agreement must be ratified by the adult members of the Nation. All members who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code & the Individual Agreement. The procedure for the community ratification process is developed by the community in accordance with the *Framework Agreement*.

**VOTE DATES FOR OUR LAND CODE:  
SEPTEMBER 24, 25, 26, 2009  
QUINSAM CENTRE & CAPE MUDGE  
BAND OFFICE.  
8:00AM – 8:00PM EACH DAY**

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### Verification

An independent person (Al Gross) has been selected jointly by We Wai Kai and Canada, and will act as our verifier. Al will confirm that the community ratification process and Land Code are consistent with the *Framework Agreement*. Al will also monitor the community ratification process to ensure that the rules are followed.

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**We are on the WEB:  
[www.wewaikai.com](http://www.wewaikai.com)**

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### WHATS NEXT:

**DINNER MEETING – August 11, 2009 AT THE QUINSAM HALL.** Review of our Land Code, Community Ratification Process and our Individual Agreement will be discussed. The voting process is done by registration and this process will also be discussed at this meeting.

Lise Steele – the Land Code Coordinator will be going door-to-door on the Quinsam and Cape Mudge Reserves, in the next week to review the housing lot maps and to answer any of your questions regarding the Land Code, the Individual Agreement and the entire process.

Mail outs of the Land Code and the Individual Agreement and the Community Ratification Process will be sent to all eligible band members (eligible being of voting age – 18 or over on the day of the vote).

If you have family members who have moved **PLEASE ADVISE** Lise as soon as possible to ensure they get their copy.

## "YES" VS "NO"

<b>YES</b>	<b>NO</b>
<ul style="list-style-type: none"> <li>✓ We Wai Kai Nation will manage its own reserve lands under the <i>We Wai Kai Nation Land Code</i></li> <li>✓ We Wai Kai will no longer manage its lands and resources according to the <i>Indian Act</i>.</li> <li>✓ More community involvement on land management matters such as Land Laws.</li> <li>✓ We Wai Kai will be able to make timely business and administrative decisions to accelerate Economic Development.</li> </ul>	<ul style="list-style-type: none"> <li>⊗ We Wai Kai Nation lands will continue to be managed by the Department of Indian Affairs under the Indian Act.</li> <li>⊗ We Wai Kai will need to seek approval from INAC for <u>every</u> land management matter.</li> <li>⊗ It has been known to take 2 to 4 years for a lease for Economic Development to be issued by Canada on behalf of We Wai Kai because of the lengthy processes set out by the Department.</li> </ul>

### Frequently Asked Questions:

➤ **Is We Wai Kai land considered to be fee simple land?**

**No.** We Wai Kai reserve lands will continue to be reserve lands. Title to land will continue to be held by Her Majesty in right of Canada and the land remains set apart for the use and benefit of We Wai Kai Citizens. We Wai Kai lands remain a federal responsibility under section 91(24) of the *Constitution Act, 1867*. However, jurisdiction over the land and decision making in relation to the land will be in the hands of the We Wai Kai Nation. We Wai Kai will, for all practical purposes, act as if it were the owner of the land, except for control over title or the power to sell the land.

➤ **Can We Wai Kai make laws?**

**Yes.** We Wai Kai council, managing our lands under a Land Code, will have the power to make laws (with censuses of **ALL** eligible voting aged Citizens) in respect of the development, conservation, protection, management, use and possession of **We Wai Kai lands**. This includes laws on zoning, environment, services and dispute resolution.

➤ **How will We Wai Kai laws be enforced?**

We Wai Kai will have full power to enforce its **land and environmental laws**. We Wai Kai may incorporate the summary conviction procedures of the Criminal Code for offences under our laws. Those procedures are the ones used for minor criminal offences. The We Wai Kai Nation can appoint our own justice of the peace to try offences created under our laws and we can appoint our own prosecutor. We Wai Kai laws may make provisions for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance. The provincial court system will also be available to enforce our laws.

➤ **Taxation – Will We Wai Kai Lands be subject to taxation?**

**No.** The current exemption of reserve lands and property situated on-reserve will continue under the relevant provisions of the Indian Act, s.29 & s.89 (1) & (2)

➤ **Can We Wai Kai tax land under the Framework Agreement/Land Code?**

**No.** The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws must continue to be made separately pursuant to section 83 of the Indian Act.

➤ **Is We Wai Kai council accountable to the members?**

**Yes.** Besides being politically accountable, We Wai Kai council under the Land Code is legally responsible for managing the lands and resources on behalf of all We Wai Kai Citizens.

➤ **Will a Land Code affect our Treaty or Aboriginal rights?**

**No.** Our Land Code is not a treaty and will not affect any treaty rights in the future. The Framework Agreement/Land Code is not intended to define or prejudice our inherent rights, or other rights of controlling our lands or resources or to preclude other negotiations in respect of those rights.