

We Wai Kai Nation Land Code Development Update

Informing the community

July 2007

What is Land Management?

Reclaiming control of our lands

Land management under a land code includes:

- ✓ Interests and licenses for land and natural resources;
- ✓ Revenues and expenditures;
- ✓ Zoning, land use, subdivisions, land development;
- ✓ Environmental Assessment;
- ✓ Environmental Protection;
- ✓ Transfers, including wills and estates;
- ✓ Matrimonial property;
- ✓ Dispute resolution;
- ✓ Enforcement;
- ✓ Administration & accountability, including conflict of interest rules and delegated authority.

Land management under a Land Code **DOES NOT** apply to:

- ⊗ Oil and natural gas;
- ⊗ Atomic energy;
- ⊗ Migratory birds;
- ⊗ Endangered species;
- ⊗ Fisheries;
- ⊗ Taxation exemptions and powers;
- ⊗ Any lands except reserve lands.

Over the past year with the input of a working committee, a working draft copy of the We Wai Kai Nation Land Code is almost complete. The Land Code that is being developed is done so based on the *Framework Agreement on First Nations Land Management*, **which is a government-to-government agreement with Canada that allows First Nations to resume and exercise their own jurisdiction, control and decision-making over their lands and resources.**

The Land Code that is being 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.

Currently, the Department of Indian Affairs manages land and natural resources on our reserves under the Indian Act. The Framework Agreement on First Nation Land Management is a process to transfer the jurisdiction and authority to manage reserve land and natural

resources from the Department on Indian Affairs to our Nation.

The purpose of a Land Code is to set out the powers, principles and administrative structures that apply to our reserve Lands and to exercise our authority over those lands.

How Does It All Work?

The We Wai Kai Nation develops and votes on our own community land law, called a *Land Code* which will replace the *Indian Act* powers to manage reserve land and natural resources. There are 5 key documents involved in this process:

- The Framework Agreement on First Nation Land Management;
- The First Nations Land Management Act (*formerly "Bill C-49"*);
- The First Nations' Land Code;
- An Individual Agreement;
- The First Nations' Ratification Process

The Framework Agreement on First Nation Land Management

- A government-to-government agreement signed in 1996;
- Negotiated between 14 First Nations and the Department of Indian Affairs;
- Sets out the powers that will be transferred to the First Nation;
- Sets out the process for that transfer;
- The source of First Nations land management authorities;
- **Cannot be amended without the consent of the First Nations and the Minister of Indian Affairs.**

The First Nations Land Management Act

- Known as "Bill C-49" prior to its enactment by Parliament in June, 1999;
- The federal law that ratifies the Framework Agreement for federal government;
- Canada agreed in the Framework Agreement to enact this statute;
- Sets out Canada's powers and obligations under the Framework Agreement;
- **Does not control the First Nations.**

First Nations' Land Code

- The First Nation law that ratifies the Framework Agreement for the First Nation;
- Developed by the First Nation subject to the Framework Agreement;
- Sets out the First Nations powers and obligations for reserve land management;
- Governs the First Nation's reserve land management authorities;
- Enabling, but not exhaustive, legislation that supports other First Nation laws;
- Verified by an independent Verifier.

Individual Agreement

- A government-to-government agreement between Canada and the First Nation;
- Transfers the Department of Indian Affairs land management authority to the First Nation;
- Sets out the funding arrangements;
- Sets out technical aspects of the transfer, such as reserve land description, environmental issues and interim environmental assessment process;
- Includes a description of the environmental health of reserve lands and any next steps to clean it up.

The First Nations' Ratification Process Document

- Sets out the community voting process for the First nation to ratify its Land Code;
- Supervised by the independent Verifier.

The goal of the working committee is to have the draft Land Code completed by early fall, with a targeted ratification vote date in February, 2008. At that time the citizens will be asked to vote on the Land Code and the Individual Agreement with Her Majesty the Queen in right of Canada.

All eligible voters of our Nation will be asked to register for the vote of the land code. A registration/information package will be sent out to all eligible voters this fall which will detail the entire process.

In order for the We Wai Kai Land Code and Individual Agreement to be finalized, a majority of registered voters representing at least 25 per cent plus one of all eligible registered voters must vote in favor of them.

It is imperative that all citizens have full access to the land code process, if you know of family members that have moved, please contact Lise at (250)286-1807 extension 224 to update the mailing lists. Also, you can check out our website at: www.wewaikai.com

The benefits of a land code to the We Wai Kai Nation include making timely business and administrative decisions without having to go to the Minister of Indian Affairs for approval. It will enable our Nation to enact and enforce sound environmental management and protection laws. It will also protect our Nation against arbitrary expropriation of our reserve lands.

A Land Code developed under the principles of **the Framework Agreement is not a treaty** nor does it affect our constitutional rights as a First Nation and we will still maintain our *tax exemption* status.

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

REGAINING CONTROL OF OUR LANDS!

We Wai Kai Nation Framework Agreement on First Nation Land Management

The *Framework on First Nation Land Management* sets out a government to government process to transfer the jurisdiction and authority to manage reserve lands and natural resources from the Department of Indian Affairs to a First Nation. The Framework Agreement process has three main components: *a Land Code; an Individual Agreement* and *a Community Ratification Process*.



In order for the *We Wai Kai Nation Land Code* and *Individual Agreement* to be finalized, a majority of registered We Wai Kai citizens must vote in favour of them. This process requires at least **25%, plus 1** of all voting citizens to vote in favour of approval.