

Ladysmith Chronicle

Chief negotiator calls treaty process a 'sham'

By Edward HILL The Chronicle
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After more than a decade at the treaty table, the top negotiator for Cowichan Valley First Nations is calling the treaty process a sham and says serious negotiations are effectively not happening.

Robert Morales, the chief negotiator for the Hul'qumi'num Treaty Group, based in Ladysmith, says despite building a framework for future self government, federal government negotiators will not broach the problem of private land and monetary compensation.

"When we raise the issue of land and compensation at the table, we are told it is a high-level policy issue, not a table issue," Morales said in an interview with The Chronicle.

"So how do you get to a point of negotiating? That is the frustration."

The colonial-era British Columbia government gave much of southern Vancouver Island, including traditional aboriginal territory, to Robert Dunsmuir in 1884 for building the E&N railway.

About 85 per cent of that land is now privately held by timber companies, municipalities or homeowners, leaving little Crown land on the table for future Hul'qumi'num territory.

The government will not expropriate private land, meaning any settlement will likely come down to compensation. Morales said without knowing how the government values the land or how much is on the table, the treaty process lacks fairness and transparency.

"Negotiating with government is unlike any other negotiation in the world," he said. "We talk about land in general terms. When we work out the fine print, they will make an offer - take it or leave it."

Morales said the deadlock stems from a deeper problem: the federal government does not recognize the HTG 350,000-hectare land claim as inherently legitimate. He said. government comes to the table with an attitude First Nations should be grateful to receive whatever "crumbs" are thrown at them.

In October, Morales raised the stakes, framing the dispute as human rights violation to Rodolfo Stavenhagen, the UN Special Rapporteur on human rights and indigenous peoples, which is a branch of the Office of the UN High Commissioner on Human Rights.

Whether the UN meeting will embarrass the Canadian government or will influence negotiations remains to be seen. Morales denied his actions could hurt the HTG.

"The real question is are we really negotiating anyway? Without recognition of our legal interest in the land we are not negotiating, we are being dictated to," he said. "If the government doesn't change, First Nations will have to go to litigation, or worse yet, direct action to assert our rights."

Morales, a father of seven and a member of Cowichan Tribes, pulled himself out of

poverty to study social work in the U.S. and law at UVic. He ran a successful law practice in Duncan and became a Harvard University-trained negotiator before taking over the HTG team in 1999.

The treaty table has existed since 1993 and is on the Agreement-in-Principle stage, where the details of self-governance are established for the final treaty. The process has been slow, prompting most communities represented in the HTG to move on their own economic projects.

Morales said the treaty process is still relevant to First Nations, and will help establish respectful relationships with non-aboriginal communities. "A lot of hope rides on the treaty, that it will improve lives," he said.

Recent overtures by the B.C. Premier Gordon Campbell and Prime Minister Paul Martin to establish "new relationships" with First Nations is a good sign, Morales said, but the HTG is still waiting to see statements translated into action.

"If the premier makes good on his promises there is hope," he said. "He says the denial of rights is over, but we haven't seen that at the table."