

# Rights group to investigate native land claims

BY JUDITH LAVOIE, TIMES COLONIST DECEMBER 2, 2009

A precedent-setting ruling by an international human- rights organization has cleared the way for a hearing on whether Canada is violating the human rights of aboriginal people by excluding private lands from treaty negotiations.

The decision by the Inter-American Commission on Human Rights -- the human rights-arm of the Organization of American States, based in Washington, D.C. -- centres around a complaint from the Hul'qumi'num Treaty Group that traditional territory making up the entire southeast corner of Vancouver Island was illegally seized in 1884 for the E&N Railway land grant.

The treaty group, which represents more than 6,600 people from the Chemainus First Nation, Cowichan Tribes, Halalt First Nation, Lake Cowichan First Nation, Lyackson First Nation and Penelakut Tribe, says it has no legal recourse, even though 85 per cent of traditional territory is now in private hands.

The group wants a halt to all development on more than 300,000 hectares of E&N lands until the IRHC hears the complaint.

The federal government argued that the complaint should not be heard because it has not gone through domestic courts.

However, the commission found the B.C. Treaty Commission process is not an effective mechanism to protect property rights and "there is no due process of law to protect the property rights of the HTG to its ancestral lands," as no Canadian court has issued a declaration of aboriginal title.

That means the commission will hear the main complaint that First Nations property rights are being ignored by the Canadian government.

"I think this is a major indictment of this country in terms of its dealing with indigenous people," said Robert Morales, HTG chief negotiator.

The ruling is a strong statement on the "utter inadequacy and ineffectiveness of either the B.C. treaty process or Canada's judicial system to provide an effective remedy for the protection of Hul'qumi'num human rights to property and aboriginal title," he said.

The aim is to clear the way to deal with private land in treaty talks and break a 14-year stalemate, Morales said.

There is no intention to kick people off privately held land, but First Nations are not prepared to sit back and say it's business as usual, Morales said.

"I don't expect Canada is going to expropriate lands and there are no replacement lands, so the only legal recourse is compensation. We expect government to come to the table and start negotiating with

us on how to resolve this issue," he said.

Indian and Northern Affairs Canada spokesmen could not be contacted yesterday afternoon.

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