



Snuneymuxw First Nation

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As we approach the 157th anniversary of the Treaty of 1854, it is timely to review the story of this agreement and its implications for the Snuneymuxw people.

Snuneymuxw Treaty of December 23, 1854

Searching for a foundation for their fledgling economy, in the early 1850's the authorities of the Colony of Vancouver Island turned their attention to the coal deposits that existed in Snuneymuxw Territory in the Nanaimo region. The vision of the Colony was to have an economy built on mining.

In order to access the coal, the Colonial authorities knew that under British Common Law, and as a matter of practical reality, they had to conclude a Treaty with the Indigenous owners of the land, which in coal-rich Nanaimo were the Snuneymuxw. The goal of treaty-making was to achieve, through recognition and respect of Snuneymuxw, access to the coal deposits.

James Douglas, who was both Chief Factor of the Hudson's Bay Company on Vancouver Island and Governor of the Colony (from 1851), was the one entrusted with the responsibility of negotiating treaties. In addition to the Treaty with Snuneymuxw in 1854, he had completed eleven in the Fort Victoria area, and two at Fort Rupert.

At the time of the Treaty, the Snuneymuxw people lived throughout what is today the mid-region of Vancouver Island, as well as the Gulf Islands and Fraser River. Village Sites extended across this entire area. Snuneymuxw's economy included, amongst other things, a vibrant shellfish industry, coal-mining, and commercial fisheries including with the Hudson's Bay Company.

The Treaty of 1854 recognizes the Snuneymuxw way of life, and title to Snuneymuxw village sites and enclosed fields. Amongst other things, it also specifically confirmed protection for Snuneymuxw fisheries and hunting. The Treaty was a reconciliation between the Crown and the Snuneymuxw – a key purpose of

which was Crown recognition and confirmation for Snuneymuxw to continue the dynamic society, culture, and economy which they had developed over countless generations, on the lands and waters which had always been their foundation.

Within a short time after the Treaty of 1854 was made, the Colonial authorities, and later the governments of Canada and BC, began to deny and disavow the Treaty. They conveniently ignored or dismissed the solemn confirmations and promises that were made. Snuneymuxw village sites and fields protected under the treaty were unlawfully pre-empted or alienated. Snuneymuxw's economy was interfered with, including unlawful regulation and destruction of Snuneymuxw fisheries and hunting.

This violation of the Treaty is seen most starkly in how a young Canada pursued its Nation Building vision after British Columbia joined Confederation. The dream of a network of railways resulted in the unlawful alienation of Snuneymuxw villages, fields, and resources to the Dunsmuir family so that the railway could be built. In a few short decades, the recognition of Snuneymuxw Title in the Treaty, and the reconciliation that it stood for, had been grossly violated. The mining and transportation objectives of the Crown had been achieved by taking what had been confirmed and protected for Snuneymuxw.

The violations of the Treaty by the Federal and Provincial governments have created significant hardship for Snuneymuxw. Amongst other things, the fact that Snuneymuxw has the smallest land base per capita of any First Nation in BC, can be directly tied to the breaches of Treaty promises. To put this in perspective, the Osoyoos First Nation has, on a per capita basis, a land base 165 times larger than Snuneymuxw.

The Pre-Confederation Treaties of Vancouver Island, including the Snuneymuxw Treaty of 1854, are living and binding treaties today, and are affirmed and protected by Section 35 of the Constitution of Canada. They have been repeatedly upheld by the courts, beginning in the seminal case of *White & Bob* (1965), in which the Supreme Court of Canada held that the Snuneymuxw Treaty of 1854 was a valid treaty and the right of the Snuneymuxw people to hunt over unoccupied lands was enforceable in Canadian law. A long line of cases has affirmed the particular strength of these pre-Confederation Treaties, including placing serious limits on the jurisdiction of the Provincial government.

Today, the Federal and Provincial Governments continue to resist the implementation of the Treaty of 1854. Snuneymuxw is pushing strongly for the

Federal and Provincial governments to engage in a comprehensive process of Treaty implementation. The full implementation of the Treaty will bring significant benefits-economic, social, and cultural - to the whole region. It is hoped that good faith, collaborative, and meaningful implementation of the Treaty will take place.

In recent years, Snuneymuxw has begun a systematic process of education of all levels of government, third parties, and citizens on the meaning and implications of the Treaty. To this end, amongst other things, Snuneymuxw and Vancouver Island University are co-hosting a major conference on the Pre-Confederation Treaties of Vancouver Island on May 10 -11, 2012.

On December 23, 2011, it will have been 157 years since the solemn promises in the Treaty were made.