



May 11, 2020

Dear Chief Luggi,

**Re: MOU Meetings with Wet'suwet'en Clans and elected Chief and Band Councillors**

Firstly, we, the hereditary Chiefs of the Wet'suwet'en want to thank you and your councillors and the other Band Councils for accepting our invitation to meet via Zoom on May 7<sup>th</sup>, 2020 to discuss the MOU. We know that you had raised concerns and, as you know, we were all committed to having further meetings prior to the Covid pandemic and its effect on isolating us.

We want to confirm that we wanted to hear any and all concerns regarding the MOU from you and the other Band Councils and determine how we could address those concerns.

Due to the urgency of getting a response to all of the Band Councils, we are sending this letter to you Chief Luggi and copying the other Chief Councillors in the interest of time.

**Introduction**

As you recall, Chief Luggi, Hagwilneghl opened the meeting and spoke of the 'flickering candle' that was lit 23 years ago with the Supreme Court of Canada decision in *Delgamuukw/Gisday'wa*. He pointed out that, finally, 23 years later, the governments of Canada and British Columbia are prepared to recognize the Wet'suwet'en title to the Yintah under the Wet'suwet'en House and clan system which has existed since long before the first Europeans arrived.

Hagwilneghl pointed out that the hereditary Chiefs and the Band Councils had worked together during the Gisday'wa trial. In fact, the late Wigetimschol (Dan Michell), the late Gisday'wa (Alfred Joseph) and the late Alfred Mitchell, all of whom had held office on Band Councils, testified and explained that Aboriginal title was held by the Wet'suwet'en Houses and their role on Band Councils was different than under the Wet'suwet'en House system and, that as elected Chiefs and Councillors they did not have authority off reserve over the House territories.

The B.C. Court of Appeal and the Supreme Court of Canada recognized that the hereditary Wet'suwet'en chiefs were the ones who had the right to bring the Wet'suwet'en claim for title to the Courts.

At this point, the Wet'suwet'en negotiator for these discussions, Mr. Peter Grant, went through the MOU line by line. He remained on the call to answer and address all questions and concerns.

All the Chief councillors present spoke although Chief Dan George was travelling and advised he had intermittent connection so he did not speak other than to support what you and the other Chief Councillors had to say.

You were the first speaker and it was good to hear you affirm that as a Gitdumden clan member, you understood and respected the role of the House and clan system and that Band Councils were not the authorities regarding Wet'suwet'en title.

You stressed that after the March 11th meeting members of your community understood that there would be follow-up meetings before the signing of the MOU. There was a March 19<sup>th</sup> meeting scheduled but due to Covid 19, that meeting was cancelled.

We fully agree that there must be more communication and that there needs to be a strong strategy of all Wet'suwet'en to work together, as in the day of Chief Dan Michell of Moricetown and Chiefs Alfred Joseph and Walter Joseph of Hagwilget who worked very hard with the other hereditary chiefs, even while they held office on Band Council in their communities .

We carefully listened to Chiefs Sandra George (Witset), Cynthia Joseph (Hagwilget), Dan George (Burns Lake Band) and Robert Skin (Skin Tyee) as well as the councillors and advisor that spoke. Although we have not summarized what you all said, there was an apparent support for each other and what was said. We will address the key issues as we understand them.

#### **First Concern: Non delivery of MOU to Band Councils**

At the time of the agreement of the MOU on February 29, it had initially been intended to be signed by the Ministers on behalf of Canada and BC and by the hereditary chiefs. However, we wanted to first consult with each of the five clans and have a full discussion of the MOU.

Our concern was that if the MOU was made public prior to signing, that Canada and BC may be pressured to change their position and not sign the MOU. Also, it was critical that the MOU be shared by with our clan members by us and not be first disclosed by Canada or British Columbia. It was intended that the review process within the Wet'suwet'en would be no longer than two or three weeks. Such a review included meetings Band Councils at your request.

In order to ensure that the MOU was not prematurely leaked to the media, it was shown on an overhead and was not distributed. This process occurred at the meetings in person with the clans, the all clan meetings in Prince George and Vancouver and the meetings with Skin Tyee, Nee Tahi Buhn, Burns Lake and Wet'suwet'en First Nation.

Unfortunately, the Covid pandemic occurred prior to the completion of the internal process. This process was continued with Zoom meetings after the pandemic prevented in person meetings.

One of the first issues raised in your correspondence to us was that you wanted the MOU to be delivered to you. After getting agreement from Canada and BC, the MOU was delivered to you early on May 7<sup>th</sup>. And to all Wet'suwet'en persons the following day.

In hindsight, it is possible that we should have released copies of the unsigned MOU to all Wet'suwet'en earlier.

Although the May 7th meeting continued until about 4 pm and Band Councils had unlimited time to raise issues at that meeting, we recognized that you and the other chiefs and councillors may need more time. For that reason, the Wet'suwet'en negotiator offered to be available to answer questions this week and even to have a follow-up meeting early this week.

None of the chiefs or councillors took up that offer to date. We have advised our negotiator to remain available to answer any questions relating to the MOU.

We do note that an incomplete and inaccurate version of the MOU was leaked to the media by the afternoon of May 7<sup>th</sup>. We have no idea where this came from but it coincided with the release of the MOU to the Band Councils.

### **Second Concern: Does the MOU impact or affect Wet'suwet'en Aboriginal Rights and Title?**

This MOU, as you have now had the opportunity to see, does nothing to limit or derogate from or impact in any way Wet'suwet'en Aboriginal rights and title. What it does do, which has not happened before, is that both Canada and British Columbia, affirm your Aboriginal rights and title as a legal right.

As was stated at the May 7<sup>th</sup> meeting and in your letters, any negotiation of a 'treaty' or agreement with the Crown which impacts your Aboriginal rights and title must engage all Wet'suwet'en. (We note here that members of other Indigenous Nations do not have a right to decide on Wet'suwet'en Aboriginal rights and title and, for that reason, we have focussed on the clan members in our consultation.)

We want to confirm that, after the signing of the MOU, there is a three-month time period to negotiate an Affirmation Agreement which will formally recognize and affirm the Wet'suwet'en Houses as the title holders and the Wet'suwet'en Aboriginal rights and title throughout the Yintah. In those discussions, all Wet'suwet'en, including Wet'suwet'en members of your Bands and Band Councils will be invited to be fully engaged. As you mentioned, that is a tight timeline. If more time is needed by the Wet'suwet'en for internal discussions, we will extend the time. However, the objective was to keep Canada and British Columbia to a tight timeline.

Chief Cynthia Joseph, with the apparent support of the other Band Councils, most clearly articulated this concern. In this respect, she stated that the MOU had the "stink of treaty" and that, as hereditary chiefs, we are "working together to negotiate away the rights and title of Hagwilget people is repugnant and obscene."

Chief Joseph then went on to say that "the traditional system is corrupted by treaty system. We will not be involved and will jump on every soapbox" She then made allegations of 'kickbacks' and that Hagwilget has seen nothing.

At this point Chief Joseph challenged one of the hereditary chiefs. The Chair, Marvin George, who had advised at the beginning of the meeting that he would intervene if personal attacks were made and that this was to be a meeting to discuss the issues and concerns with the MOU, attempted to intervene but Chief Joseph advised she had a right to speak.

Significantly, and all the hereditary Chiefs agree, Chief Joseph pointed out that there were the territorial affidavits in the case which showed the territories of the Wet'suwet'en Houses and that we still have them. In fact, any discussions of implementation of Wet'suwet'en title after its affirmation

by Canada and British Columbia, will rely on those affidavits which were sworn by several members of all of your Bands, including the late Charlie Austin and Walter Joseph (Hagwilget), the late Roy Morris and Pat Namox (Witset) and from the eastern Bands, the late Irene Daum, Mary Skin, Thomas K. Morris, Elizabeth Jack and Freddy Charlie. As you recall, Marvin George, in opening the May 7<sup>th</sup> meeting acknowledged these elders from your communities, all of whom were rigorously cross examined on their evidence of the territories.

If Chief Joseph was correct and the MOU negotiated 'away the rights and title' of any Wet'suwet'en, these concerns would be critical and all Wet'suwet'en would need to be consulted and engaged in approval. The MOU does not do that.

### **What does the MOU Do and not Do?**

The MOU:

1. Affirms your title to the Yintah
2. Acknowledges the Wet'suwet'en Houses as title holders
3. Commits Canada and BC to a 3-month process to have a formal Affirmation Agreement signed by PM and Premier which will confirm as a legal right your title
4. Set out a list of priority areas for the Wet'suwet'en to implement title within 6 and 12 months
5. Acknowledge that Wet'suwet'en Reunification is a critical part of any implementation
6. Assures all Wet'suwet'en and others on the Yintah that Wet'suwet'en governance of the Yintah will be transparent, accountable and fair for all.

What the MOU does not do is:

1. Alter elected Band Councils' rights to do anything that they are currently authorized to do
2. Remove non Wet'suwet'en on the Yintah or restrict their rights until further Agreements on implementation occur
3. Address the outstanding issues of CGL

As this appears to be a key to your requests for delay, it is critical to recognize that the MOU does not alter Wet'suwet'en Aboriginal rights and title. If it did do that, there would be a need for much fuller engagement not only within the Wet'suwet'en but also by Canada and British Columbia.

### **Third Concern: Role of the Office of Wet'suwet'en and the Hereditary Chiefs**

On several occasions, reference was made by the Band Councils to the role of the Office of the Wet'suwet'en. As was explained by Debbie Pierre in her capacity as Executive Director, the Office of the Wet'suwet'en is a non profit society and is not a Wet'suwet'en traditional governing body.

The Office of the Wet'suwet'en is therefore not the governing body that approved the MOU. That was the Wet'suwet'en hereditary chiefs subject to consultation with their clan members. We acknowledge that some of the Band Councils have concerns about the Office of Wet'suwet'en. As you may know, we were compelled after the Gisdah Wah decision to create a society to enter the treaty process. That was

not our choice. We now have the opportunity to present how proper Wet'suwet'en government can operate based on our House and clan system. This is what our elders fought for in the Gisdaw'wa case.

This is the opportunity that the MOU will provide for us. As Hagwilnegh stressed in his comments during the May 7<sup>th</sup> meeting, Wet'suwet'en strength will come from all Wet'suwet'en working together.

We, the hereditary chiefs, want to work constructively and in good faith with all Wet'suwet'en including those who are on Band Councils and all members.

We need to build on our strengths and address the issues of distrust that have been created by the conduct of Canada and British Columbia over their denial of who we are.

#### **Fourth Concern and Request: Delay the Signing of the MOU**

The hereditary Chiefs heard your request to delay the signing of the MOU. Hagwilnegh asked how long did you want to delay and there was no answer to that question. If you had a clear timeline for an extension and your request was so that you could review the MOU and also meet with us again to discuss the MOU, we would have recognized that there was a purpose for an extension of time.

In light of the opinion raised by Chief Joseph of Hagwilget that this is 'a treaty' and the apparent agreement of all of the other Band Councils with that view, it is clear that there would be no date in the foreseeable future at which you would support the signing of the MOU.

The hereditary chiefs met with over 450 members of Wet'suwet'en clan members in Smithers, Witset, Prince George, Vancouver, Skin Tyee, Wet'suwet'en First Nation and Burns Lake. We had clan meetings with all five clans and in several cases more than one clan meeting.

The Gil\_seyhu clan met once and houses separately endorsed the MOU. The Laksamshu clan met and endorsed the MOU.

The Laksilyu met on one occasion and were scheduled to meet again but there was a death in the community so the 2<sup>nd</sup> meeting for March 14<sup>th</sup> was cancelled. Subsequently they did have a 2<sup>nd</sup> meeting on April 22<sup>nd</sup> via Zoom.

The Gitdumden met on 2 occasions and there were several questions which were answered. They were scheduled for a 3<sup>rd</sup> meeting on March 16<sup>th</sup> but the meeting was cancelled due to a death in the community.

The Tsayu met on 2 occasions and the MOU was endorsed.

At one clan meeting, there was a suggestion of modifying the MOU but Canada BC and the Wet'suwet'en chiefs had agreed on February 29 that it would not be amended as the Wet'suwet'en were concerned that either Canada or BC would alter the MOU.

We, the Wet'suwet'en hereditary Chiefs have to respond to the commitments we made to the large body of Wet'suwet'en who want us to sign the MOU and to whom we have made that commitment. We have heard the concerns of members of the clans and we agree that the work on the Affirmation Agreement and implementation of title and our Wet'suwet'en Reunification Strategy will need to be worked on by all Wet'suwet'en, including yourselves and your Band members.

The Wet'suwet'en Hereditary Chiefs acknowledge your impromptu call to the Executive Director on May 8, 2020. On the call, you included elected officials from the May 7, 2020 Zoom call. The Executive

Director had not been given advance notice of that call and was not in a position to provide our full decision on the issues you raised.

For us to delay for an indefinite time the signing of the MOU will be for us to ignore all of the Wet'suwet'en who have participated and carefully considered the MOU and directed us to move forward with the MOU.

We know that the hard work will follow the signing of the MOU. We remain committed to working constructively with all of the Band Councils on moving forward to achieve for our grand children and great grand children what our ancestors fought for from the time of first contact through the terrific battle in the Delgamuukw\Gisday'wa case.

Prior to finalizing this letter, we saw the press release of four of the Bands asking Canada and British Columbia to 'reject the current MOU and begin the negotiation process again ...." It is clear that you are not seeking an extension in order to understand the MOU but rather to undermine the advances made thus far by the Wet'suwet'en in this first ever initiative with Canada and British Columbia.

If this opportunity for our long-fought affirmation of title to the Yintah is lost, all of our grand children and great grandchildren will suffer.

As was stated at our meeting on May 7<sup>th</sup>, we ask you again for your support and participation to work together with us in this huge undertaking that has been passed to us by our elders and grandparents. Let us all work through our differences and consider our future Wet'suwet'en generations.

***Signed virtually by Wet'suwet'en Hereditary Chiefs***

Chief Hagwilnegh – Ron Mitchell – Laksilyu  
Chief T'sek'ot – Ron Austin - Laksilyu  
Chief Lay-oh – James Namox – Gil\_seyhu  
Chief Knedebeas – Warner William – Gil\_seyhu  
Chief Woos – Frank Alec - Gitdumden  
Chief Madeek – Jeff Brown – Gitdumden  
Chief Gisday'wa – Fred Tom - Gitdumden  
Chief Kloum Khun – Alphonse Gagnon – Laksamshu  
Chief Smogelgem – Warner Naziel - Laksamshu  
Chief Na'Moks – John Ridsdale – Tsayu