



BEAVER LAKE CREE GIVEN GREEN LIGHT FOR TAR SANDS CHALLENGE



Almost four years after the Beaver Lake Cree Nation commenced their case against the expansion of the tar sands, the case will go to trial. In a judgment issued on March 28, 2012, Madam Justice B. A. Browne rejected Alberta and Canada's efforts to have the case dismissed.

In a historic precedent-making decision the Alberta Court of Queen's Bench has upheld the right of the Treaty First Nations of Alberta to challenge

...continued on page 2

UPCOMING EVENTS:

April 26 - 27: Leah Mack and J. Berry Hykin will be presenting a paper on *First Nations Issues in Employment Law* at the CLEBC Employment Law Conference 2012 at the Pan Pacific Hotel in Vancouver.

Key Moments:



In 2008, former Chief Al Lameman and Jack Woodward were invited to the UK to receive a large donation from the Cooperative Bank, which chose the Beaver Lake Cree's legal action because they viewed it "to be the best chance we have to stop tar sands expansion."



In 2011, Chief Henry Gladue hosted UK barrister Michael Mansfield at the annual Pow Wow. Mr. Mansfield's team at Tooks Chambers worked *pro bono* alongside Woodward and Co. to write the winning argument for the pre-trial motion to strike. ❖

widespread industrial activity including tar sands exploration and extraction, based on the cumulative effects these activities may have on constitutionally protected treaty rights.

The Court also said that it may have to assume an ongoing supervisory role, in order to ensure that the parties “discuss prospective management of” traditional lands “in terms of regional policies as they affect Aboriginal Treaty Rights in particular areas.”

The Court added that “listening” and then “doing what one pleases” does not amount to consultation.

Beaver Lake Cree Nation Chief Henry Gladue applauded the ruling, and said: “The treaty is a sacred document for my people and we are very happy that the courts are prepared to back us up when the treaty rights are being abused.”

The case is novel for two reasons. It is the first time the Alberta Court of Queen’s Bench has approved large scale litigation seeking to curtail industrial activity based on treaty rights and secondly it introduces the concept of court-supervised relations between the parties pending final resolution of the trial.

In handing down the judgment, the court dismissed Alberta’s claim that the lawsuit is “unmanageable” and an abuse of process. The court also dismissed Canada’s contention that it should not be named as a defendant. Part of the area subject to the lawsuit is the Cold Lake Air Weapons Range which Canada leases from Alberta.

Also of note, the court left open the possibility of injunctions against the Crown if they fail to curtail harmful activity on treaty lands.



According to BLCN’s legal counsel, **Jack Woodward Q.C.**, “Canada and Alberta are not honouring treaty rights. The simple fact is that the rapid expansion of the tar sands projects makes it impossible for First Nations to hunt and fish – contrary to the solemn promise in the treaty. Canada and Alberta should be forced to live up to their treaty promises.”

Beaver Lake Cree Nation filed its Statement of Claim in May 2008. The judge wants a case management meeting within a month. The next step is waiting for Alberta and Canada’s Statement of Defence. ❖

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FAREWELL LEANNE; WELCOME, ERIN



Leanne Goodwin



Erin Hackenberg

We share the sad (but happy) news that **Leanne Goodwin** has moved on to a not so sobering new job at Phillips Brewing!

We welcome **Erin Hackenberg** who joins us from Kelowna. Erin will be a valuable asset to W&Co coming with both an Administrative Assistant Certificate and a Legal Administrative Assistant Certificate in Corporate/ Conveyancing and Litigation.