



Lake Babine vows to fight pipeline, protect their aboriginal rights

On December 19, 2013, Lake Babine Nation issued a media release following the news that the Enbridge Northern Gateway Project Joint Review Panel had recommended the Northern Gateway pipeline for approval.

Lake Babine First Nation is comprised of over 2400 members, making it one of the largest First Nations along the pipeline route. Lake Babine asserts Aboriginal title, fishing rights, and a full range of other harvesting rights to the area that will be affected by the pipeline. The Panel stated that “project effects, in combination with cumulative effects, [are] likely to be significant for certain populations of...grizzly bear.” Grizzly bear is very important to Lake Babine Nation, as are other big game such as moose.

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Implementation of the *Family Homes on Reserves and Matrimonial Rights or Interests Act*

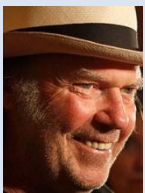
On December 16, 2013, the first part of the federal *Family Homes on Reserves and Matrimonial Rights or Interests Act* (“the Act”) came into force. The Act is intended to fill a legislative gap on the division of on-reserve property on marital breakdown.

The new Act seeks to remedy this gap in two stages. The first part of the Act allows for a First Nation to enact laws that apply to the use, occupation, and possession of family homes on reserve in instances where a “conjugal relationship” breaks down, or upon the death of one of the spouses. The Act only applies to relationships where at least one of the partners is a First Nation member or a Status Indian. A First Nation that wants to enact laws must submit the proposed laws to members for their approval in a vote. Before the laws can come into force, the relevant Provincial Attorney General must be informed.

The second part of the Act comes into effect on December 16, 2014. This part establishes a series of provisional Federal rules which address: the equal division of value in a family home when a relationship breaks down; the allowance of court orders granting exclusive occupation of a family home to a spouse affected by family violence; and, the declaration that each spouse may occupy the family home during a conjugal relationship whether or not that person is a First Nations member.

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UPCOMING EVENTS:



Canadian rock legend **Neil Young** has come to the aid of the Athabasca Chipewyan First Nation (ACFN) in their fight to stop the continued encroachment of tar sands developments on their traditional lands. Young, along with Diana Krall, has volunteered to play four "Honor the Treaties" concerts. The concerts will take place in Toronto, Winnipeg, Regina and Calgary throughout the month of **January**. Funds raised will be donated to ACFN's ongoing legal defence of their traditional territory and the treaty rights they practice there.

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Lake Babine Nation Chief Wilf Adam: "The JRP process simply isn't designed to properly consider the full impacts of the pipeline on Aboriginal rights, which are protected by the Constitution of Canada. The Federal Government has gutted Canada's environmental laws and streamlined the environmental assessment process to the detriment of all Canadians, but it has not taken away the constitutional protection given to our aboriginal rights.

The JRP recommendations have made it clear to us that we are being forced to go to the courts to protect our Aboriginal rights."

The JRP was not mandated to make any determinations about Aboriginal rights, and recommended that Enbridge consult further with First Nations groups about impacts on their rights.

Says Chief Wilf Adam: "A recommendation to the company to do further consultation with us does nothing to protect our rights. It just results in talk. In our view, the horse has been let out of the barn by the JRP and further consultation will not change that."

Jack Woodward noted that the court process involves a careful review of the Aboriginal culture along with the biology of the affected species. Those factual questions will take time to resolve in court, and have not been adequately dealt with by the JRP, if at all. If necessary, the Lake Babine First Nation has stated that they will seek temporary injunctions against construction to preserve the status quo until the court process has been completed. ❖

Family Homes on Reserves...continued from page 1

The Federal provisions will only apply to a First Nation if they have not already put into force their own laws as allowed by the first part of the Act. The subsequent enactment of First Nation laws will also make the Federal provisions inoperative, with minor exceptions.

Once again, the Federal government will impose a new structure on First Nations if they don't act in advance to protect the rights and interests of their members. ❖

ACFN FILES JACKPINE MINE REVIEW

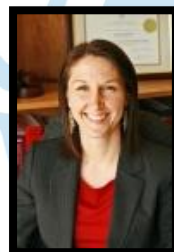
Athabasca Chipewyan First Nation (ACFN) filed a judicial review on January 3, 2014 asking the Federal Court to review Canada's decision to authorize Shell's Jackpine Mine Expansion. The decision is the first of its kind made under the controversial *Canadian Environmental Assessment Act, 2012* S.C. 2012 c. 19, s. 52.

The federal Minister of Environment determined that Shell's project is likely to cause significant adverse environmental effects yet Cabinet decided that the project was justified in circumstances. However, Cabinet did not provide any reasons nor explanation at all for why the significant adverse impacts of the project were justified.

In its case filed before the Federal Court, ACFN alleges that Canada breached its duties to consult and accommodate ACFN with respect to Shell's project and the manner in which the project will impact ACFN's constitutionally protected section 35 rights. ACFN further alleges that the process, and mitigation offered, was inconsistent with *CEAA 2012*, the *Species at Risk Act*, the *Migratory Birds Convention Act*, as well as several international agreements and conventions to which Canada is a signatory. ❖

Woodward & Co Updates

Woodward and Company LLP is pleased to announce that David Robbins and Gary Campo became partners in the firm, effective November 1st 2013. Congratulations David and Gary!



And Alana DeGrave returned January 6th following a year-long maternity leave. Welcome back!