

STATEMENT BY JUDY SAYERS
ON BEHALF OF THE OPETCHESAHT OF THE NUU-CHAH-NULTH NATION

ITEM 5: Recent Developments

Madam Chairperson:

I would like to inform the members of the Working Group of two recent developments in Opetchesaht territory, which is located on the West Coast of what is now called Vancouver Island in Canada.

For us, the Opetchesaht, salmon has been our mainstay for food, traditional feasts and ceremonies and commerce since time immemorial. We have used the salmon, respected the salmon, and have always wanted to preserve and protect the salmon for future generations.

Undeniably, over the past few years, the number of salmon in the waters which flow in our territories have decreased dramatically. Furthermore, the quality of the fish has declined. There are two factors which I believe have contributed to this state of affairs:

1. Continual clear-cutting of our timber resource by MacMillan and Bloedel.
2. A pulp mill located in the middle of our territory, on our main river, which dumps effluents into the river and pollutes the air.

Poor enforcement of laws and regulations have allowed the clear cutting and dumping to pollute our waters, raise the temperature in the waters, and decrease the water levels, all of which contribute to poor quality of fish and decreasing numbers of fish stocks. These factors have not put our salmon at risk as of yet, but we are becoming alarmed at the decreasing stocks, and many people in our community wonder for how much longer they will be able to have enough fish for eating. It is therefore imperative that we take control of our resources. Due to the structures and laws of government in Canada, we do not have this control. In an attempt to gain some control, my community and the neighbouring community entered into a joint management agreement with the Department of Fisheries and Oceans (DFO). Two provisions of this agreement are that:

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1. The two communities, whose citizenship is approximately 600, can take 55,000 sockeye salmon, and 17,500 other types of salmon over a one year period.

2. The fish can be sold, but only to a joint venture of both tribes of which all profit will be put back into the fishery. Any initiatives to preserve and protect our fishery must be approved by DFO. It is the government's idea of joint management and self government that they have all the control.

Madam Chair, we have an inherent right to use the fishery as we have always used the fishery. The DFO is limiting the number of fish per individual to 90 fish per year, but in reality, since a lot of the fish is sold, no one actually receive that. During negotiations, DFO based their quota on a study of their own which concluded that each person only needs 4.5 fish a year. Our negotiators told us they could not raise the quota of fish even though this amount of is less than what one commercial fisherman would catch. We are not even taking a small percentage of the number of salmon going through our territory. The DFO has never made us a priority by allotting us even half of the fishery. This is a clear violation of our aboriginal fishing rights. The fact that this agreement allows us to sell our fish is a pilot project by DFO involving a few First Nations in the province of British Columbia. This has been called the Aboriginal Fishing strategy, and a strong protest group, the Fisheries Survival Coalition, comprised of commercial fishermen and with unlimited funds, have organised a lobby group with the governments to limit our right to fish, with priority to themselves. It would seem that the governments have listened to the Coalition rather than to us, and our fishing rights have been limited as a result of this lobby and the media blitz which has been based on erroneous information.

The truth of the matter is that our fishermen do not use mechanical gear; both communities have passed laws which are even stricter than the DFO's, many of our fishermen do not have large boats or net and therefore obtain a limited catch. Our catch comprises less than 10% of the entire fish stocks. A large number of fishermen in both communities are on social assistance and obtaining the food and money is of great help to them. Peoples in both communities are willing to go to great lengths to obtain their fair share of the fishery, and many have predicted violence between indigeneous and non indigeneous peoples this summer.

There is much dissatisfaction in the community over the limited agreements which have been negotiated and the issue of the fishery and our aboriginal right to fish is about to boil over. If the government is not willing to enter into fair and equitable agreements in a timely fashion I cannot predict what might happen.

The second area which I wanted to touch upon was the new B.C. Treaty Commission which was established by both federal and provincial governments to enter into treaties with First Nations in British Columbia, since there are few existing treaties there. Our position is that we have never given up our rights to our territories. While the governments are hopeful this process will work, there are several points of concern I would like to enumerate:

1. Upon signing a Memorandum of Understanding for financing the treaty Commission, both levels of government announced, and this is indicated in the agreement, that they are not prepared to provide unlimited funds and lands. How can we as First Nations enter into treaty negotiations in good faith, when the governments have already placed limitations on the results?

2. It is unclear whether Canada is insisting on extinguishment of our inherent title to the land. Such has been their policy in the past, which is the reason why the Dene Nation of the Northwest Territories who I also represent here refused to sign their land claim agreement.

We are not prepared to give up our inherent title to our territories.

3. The Agreement envisages that we sign a tripartite treaty. Provinces do not have this power, nor should they sign as they did not come into existence until the past 100 years

4. Negotiations must take place in the community with community involvement and consent.

5. Treaties must be in easy to understand terms. Too many agreements in Canada have been signed where indigenous peoples are just beginning to understand what they gave up and what they must live with.

We cannot say what success the Treaty Commission will have, but I have highlighted for you some potential problem areas. I have given the relevant documents to the Special Rapporteur on treaties, and I will file a copy with the Secretariat.

A third point, the school in my community is underfunded because the government gives only half tuition to indigenous students who live off reserve and come on reserve to school. If these students were to go to school off reserve, they would get full tuition. As 51% of our students enrolled in the school come from off reserve, we are running a deficit and the quality of education is at risk. Education is a right which is being derogated by the lack of full funding. Our language is almost lost and our greatest hope or revival is through our own school..

Finally, both the Dene Nation and the Opetchesaht will be seriously considering whether we want to involve ourselves further in a process regarding the declaration of Indigenous rights where our consent is irrelevant, where the rules and procedures of the United Nations allow us very little input in something that is vital to us. Our right of self-determination to determine our political status is seriously impaired .