

## **Forging Linkages & Finding Solutions**

### **A BC Treaty Commission Conference for First Nations**

#### **Grand Chief Andy Carvill, Yukon First Nation**

#### **Keynote Address – October 30, 2008**

I want to begin by acknowledging the Coast Salish people and thanking them for allowing me to speak in their traditional territory. I wanted to say to the elders, the chiefs, distinguished guests, thank you for taking time out to hear my speech.

Good morning, ladies and gentlemen, it is with great pleasure that I speak to you today about a subject which engulfs my people, a process that is so absorbing that nearly all our resources are consumed in the task of achieving it. The process is the implementation of our land claims and self-government agreements.

I want to thank the BC Treaty Commission for again inviting me to speak at this conference and for hosting a conference such as this. It is very important that we get together, especially from different areas and different jurisdictions and look at ways as to how we can work together, how we can truly make a difference through the connections and the networking that we are able to do at conferences such as this to truly make a difference in our people's lives.

As we know, or some of us know all too well, the government is not truly our friend. However, I am glad to see and to hear that Minister Strahl has been given the portfolio once again to be the minister of Indian and Northern Affairs Canada. Far too often we spend time having to re-educate our ministers on issues of claims and treaty processes that we have in the Yukon. And we have a very limited amount of resources and time to do that. So I am pleased that the prime minister had decided to keep him on this file.

Since 1993 our First Nation public service has been engaged in an exercise seconded only by the process of the negotiations before it. I will share with you our experience over the last 15 years. It has been an experience of successes, many frustrations and failures generally speaking, and a continued process of negotiations where we are trying to find advantageous interpretations of the various chapters and clauses of our agreements that we entered into.

The process of negotiations is one of compromise between parties. The consequences of such can leave the language in an agreement watered down and very vague. Although an expeditious method to finalize a deal without closing off opportunities, it does become problematic for some implementers who must spend an inordinate amount of time and energy finding the original intent of the parties. And in a lot of cases we found this leaves it open to interpretation; interpretation by the other parties that isn't always in our favour.

This, in the end, slows down the process of the implementation and can also lead to new, unintended definitions and interpretations. Every effort should be made by the parties in a negotiation to ensure that the loose ends and ambiguous language are closed off and clear in their intentions.

For the cost during the negotiations phase is more easily absorbed than in the implementation phase. We have been settled for a number of years now. Our claims were brought into effect in 1995 and we just recently completed the nine year review. We have just finished the GEB, the gross expenditure base, and it has taken us that long to complete the nine-year review.

Through the review process, we found – and as many of you know because I heard about it in our breakout sessions yesterday – our governments are grossly underfunded and we cannot truly carry out the services that we need to really make that impact in our nations and in our communities being so underfunded.

I was talking to a couple of individuals who sat at my table yesterday, and one has six files that she has to work on. In the Yukon, we have experienced the same issues, the same problems where our staff are swamped with issues. But you get the territorial government, in our case, and each one of those six files has one member or one person, one staff member assigned to it. So there is definitely a big, big problem with funding. I think that as we go through this process, as part of the lessons learned, we need to make sure you have a lot of funding that is geared towards the implementation phase. Start looking at the implementation as you are going through the negotiations.

Like I said, we have been at this since 1995 when the agreements were ratified and we just completed the nine-year review; it's a long, protracted, costly process.

Compounding the delays in the implementation is the issue of capacity. Or more specifically, the limited level of human and financial resources committed to the process of the implementation. Both Canada, as well as the Yukon government, have not adequately resourced themselves for the monumental task of implementing 11 settlement agreements concurrently, compelling our First Nations to consolidate positions and tables to accommodate them to get the government to the table to finish off these reviews that should have been finished a long time ago, in our opinion. They are still not finished.

We had a meeting recently with Minister Strahl before the election. Our mandate on the funding arrangement that we have is about to expire in March, but we could not get any commitment from this government to sit down and negotiate a new mandate with us. The best that they could give us was an extension after March.

We are hoping that we can move forward with respect to the extension and see what we can do to finalize some of these parts of our agreements. But in the meantime, as we continue to go through these issues and these delays our people continue to suffer. We all know it well, we all have the same experiences – education, health, the lack of adequate housing – and the governments sit idly by or put their monies in other regions.

This causes time delays, trying to negotiate uniformity amongst our nations, which I might add is inconsistent with the intent of our agreements. Our agreements were deliberately designed to accommodate individual community development and local government delivery in each community. This causes a lot of frustrations as nations feel pressured into compromises and yet more delays in critical areas such as those areas I mentioned – education and healthcare. If possible, parties must ensure the implementation process is front-end loaded with sufficient dollars and personnel to get the job done in a timely and efficient manner.

Operationally, Canada and the Yukon have also failed to design themselves properly. Each has chosen to bottleneck their implementation activities through a single ministry or secretariat. Our settle agreements cover a wide range of public sector responsibilities including education, healthcare, land management, environmental protection, infrastructure development, fish and wildlife management. Yet, responsible federal and territorial ministries play no active role in the implementation process, virtually ignorant of any responsibilities they have as a result of the settlement agreements.

More importantly, they have no mandates to undertake any implementation tasks even if they were aware that their departments are responsible for these areas. A major disconnect exists between legislatures and the administrators. It would be advisable for the governments to de-centralize implementation tasks and provide each ministry with clear mandates that are consistent with the settlement agreements.

What I mean by that is when we go to Ottawa and we try to move certain issues with respect to education or health or any of the issues that we all share in common, we always have a lot of difficulties getting any doors to open up to us even though they say we are governments. We are recognized governments. When we try to meet with certain ministers it is, again, a lot of difficulty. We often end up meeting with their junior bureaucrats.

When I talk about opening up the line to ministries, we need to meet with the minister of finance; the minister of health and other various ministers. Each one of them is affected by our agreements, yet it seems like they virtually turn a blind eye to it. We need that to change. I think that by working together we can send a strong message to Ottawa that this change has to take place right away.

Now allow me to speak briefly about mandating. Governments must identify inconsistencies between the settlement agreements and their policies, their regulations and their legislation and they have got to do this upfront.

We spend an extraordinary amount of time identifying legislative barriers to implementing our agreements. Once identified, we then patiently wait for the slow mechanisms of government to change their inconsistencies. And if governments are not prepared to undertake this exercise then they should provide the resources to First Nations so we can do the work ourselves. Many problems and time delays would be solved if this simple step were to be taken.

Generally speaking, I believe that we have good agreements, remembering that they are agreements derived from a process of compromise. Nonetheless, they are very strong in governance and the sharing of public health and safety responsibilities. Criticism of the body of the agreements, in my opinion, is unwarranted. The bulk of the problems exist in the implementation phase.

A careful attempt at attention and due diligence by the parties to this critical process during negotiations can ensure clarity and expeditious actions where it really counts. Our people have ratified these agreements and expect deliverables in short order. When we witness delays our confidence in the agreements becomes weakened. I implore all people considering such arrangements to learn from our experience and join us in the advocacy of change necessary to implement our modern treaties.

At the capacity building workshop yesterday, one of the common themes coming out at the table was that we need to get rid of the *Indian Act*. We need to start becoming a government and becoming more involved in the governance of our people. For us in the Yukon, the agreements aren't the answer to all of our problems but they definitely give us the tools that we did not have before under the *Indian Act*. They give us the tools that can assist us to make our own laws, implement our laws. They give us the tools to really make a difference in our communities and our people's lives. They make a difference in the economy and the relationships that we build.

Listening to some of the discussion yesterday, when Chief Robert Louie and Chief Sophie Pierre talked about the economy and how we need to develop those relationships and foster relationships to really be able to build economies and any type of economic base. I know in our area we have a pretty good relationship in some communities where the mayor and council and the chief and council have regular meetings, joint meetings. They make joint decisions for their communities, for their area. They discuss funding and different initiatives that can bring infrastructure and development into their communities.

I also sit on the Yukon Chamber of Commerce so I directly impact some of the training opportunities and initiatives that businesses can and will bring to the Yukon, training opportunities that will stop seeing a lot of other people coming in from different areas and taking our people's jobs. I know in the Yukon we have a lot of people that are being brought in from different areas such as the Philippines and Mexico and I understand it is fine they need jobs, too, but through my opportunity to work with the chamber we are looking at different mechanisms that we can put into place, training opportunities, that will get a lot of our people these jobs.

When we talk about relationships, it is very important that we develop these relationships, not only with chambers and other governments but also with each other. Like I said in my opening comments it is conferences such as this that give us the opportunity to meet other people, to hear stories from other jurisdictions. We do have a lot of common issues and a lot of commonalities right across this territory, this land, this nation. But how do we come together?

We were in a meeting in one of our breakout sessions yesterday and that's what one of the gentlemen was speaking about. He was giving a presentation and he said that when you all go away from here we won't hear from you anymore. How can we start to truly work together? How can we make a difference so that we know that those who are coming behind by the way of agreements that are going to ratify agreements in their communities that they have a much easier transition and a much easier process?

Like I said, it has taken us – we had our agreements ratified in '95 –we are talking 12 or 13 years later are just doing the nine-year review, just finishing that. So by working together and truly networking and maintaining these contacts and learning from one another we can really make a difference together. We can really make a difference and become strong in ourselves, in our people, in our nations right across this land. We can make a difference in how Ottawa delivers programs to us. We can make a difference in how business and industry wants to do business with us.

We want to get to a point, and we will get there in the Yukon, where we no longer have to depend on government program dollars. Right now collectively the 11 First Nation governments, the 10 that have agreements in the Yukon bring \$80 to \$100 million a year into the Yukon by way of their agreements and their funding. I know some of our First Nation governments have purchased businesses in Kamloops. We are looking in Vancouver; we are looking in various areas. We also have four members that joined us from the Northwest Territories that are part of CYFN, four Gwitchin members we are talking about the monies that they brought in and how they want to start networking as well.

We all have common issues. The Gwitchin have common issues; that is why they joined CYFN so we can become a strong voice for the First Nations people in the north. We are working to be able to provide one strong voice for First Nations out of the North. When we go to Ottawa we are working together on joint lobby efforts on common issues we know we have. We are going to take a joint message, one message to Ottawa and that is for the Northwest Territories as well as the Yukon.

Again, these agreements have really given us the tools to make these impacts, to make these changes in our people's lives. Government continues to push their implementation on us.

We went through a process that took us a number of years, a number of man hours. A process that, to us, was very near and dear to our hearts and very important to us. We are talking about our children, our families.

To me the residential schools and the atrocities that happened have changed a lot over the years. People have healed, people are on their healing path, but we still have our kids being taken away from us, taken away and put into government systems.

In the Yukon, we are working to put a stop to that. We try to work with the local government. We entered into a process; we were working with them for four years to come up with joint legislation that we could both be comfortable with. While we were going through this process they would still come in and take our children away and put them into care.

At the end of the day the government walked away. We were meeting with the premier and some of his cabinet members and some of the chiefs, and we had four issues that we could not agree on. We asked the premier if he was going to sit down and if we could extend this process a little longer and he said no, "We are going to push this through to legislation." I thanked him for that because that helped us to move forward at a faster pace with respect to our governance, because now we have three First Nation governments in CYFN looking at our own legislation for our own children and our own families.

One of the First Nation governments, the Carcross/Tagish have developed their own act, *Family and Children Act* that goes back to our core beliefs and our core teachings from our elders as to how we treat one another and how we bring up the family and the child. Again, I thanked the premier for that because it is allowing us to move forward and recognize our governance and the powers that we have, the powers that came by way of these agreements.

They are tools to assist us to make these differences in our lives that will greatly impact our lives and we want to get that experience out there. We want to be able to work with other nations, our brothers and sisters from across the country. If they want that help, we are there to help them. We are there to assist them if they have any issues or any problems with implementation, if there are any files they want assistance on or any general knowledge, we will kindly offer that up and we will work with them.

It is an honour to be here and I want to thank the Treaty Commission again for inviting me to speak and give you a small taste or insight as to some of the problems we have and some of the many, many successes that we have and that we can continue to have. I think when it comes to relationships it is important that we start and we develop and we maintain a relationship with each other. There are many ways we can stay in touch – the Internet, telephones, conference calls – and we have to be able to work together, whether it is joint investments or issues we can take to Ottawa to make a difference in our communities and our nations. We can do that together. In the Yukon we want to work with others and we are willing and we are prepared to work with others.

Chief Sophie Pierre spoke about the need to take the lead on building relationships. I fully agree with those comments that relationships are very important, especially with other governments and industry. If you cannot get government on side – and I'm sure many of you have done this – we started going directly to industry, and we tell them what we want to do and how we can work together and then we approach government together. There again, we are building that relationship up front to make a difference, to make industry know that we are not the enemy; we are there to work with them. But there are areas where we are going through court cases. Little Salmon Carmacks is going through another court case in the Yukon because industry has come wanting to open a mine and just push their way through the First Nation government.

The agreements have given us the tools to stop that. And Little Salmon Carmacks at the end of the day I know will be successful. All Little Salmon Carmacks wants to do is to be able to sit down with industry and come up with an memorandum of understanding that is going to benefit both parties.

Again, I just want to thank everybody for taking the time to hear what I had to say. On a personal note I appreciate these conferences. It gives us an opportunity to hear others' thoughts and ideas. I will be taking a lot of this back home and taking back some of the connections and some of the people I have met. I will take a lead on developing relationships with people I have met down here. Thank you for your time.