

Chief Douglas White III Kwulasultun, B.A., J.D.
Snuneymuxw First Nation
Barrister & Solicitor

From: Douglas White III

Sent: Sunday, July 07, 2013 11:07 AM

To: 'Mayor John Ruttan'; Mayor&Council; 'george.anderson@nanaimo.ca'; 'bill.bestwick@nanaimo.ca'; Diane Brennan (info@uwcvi.ca); 'ted.greves@nanaimo.ca'; Diana Johnstone (Diana.Johnstone@nanaimo.ca); 'jim.kipp@nanaimo.ca'; 'bill.mckay@nanaimo.ca'; 'fred.pattje@nanaimo.ca'

Cc: Paul Silvey; Raymond Lamont; Chris Good; Rosh; Bill Yoachim (wyoachim@kwumut.org); Councillor Doug White

Subject: Snuneymuxw and Colliery Dams

Mr. Mayor and Council,

It has come to my attention that in advance of the Monday City Council meeting that a public briefing to Council dated July 8 has been prepared by Tom Hickey on the Colliery dams issue.

The brief is misleading and misstates clear facts. This appears to be part of a concerning trend of misinformation being distributed by City staff, including to Snuneymuxw. It also contains clear misstatements about Snuneymuxw.

Some examples of these misstatements include the following:

Paragraph 4 - Dam removal is not the only mitigation measure approved by the province. The Province has stated in writing that dewatering is an acceptable mitigation measure. Further, as I informed you a few days ago, it was confirmed by DFO directly to us this week that the so-called fisheries window dates are a guideline only, and not generally enforced. This shows there is time to meaningfully engage with SFN to discuss all options and impacts to our Treaty rights, and that doing this would not result in no mitigation work being done this calendar year.

Paragraph 5 - Snuneymuxw was not invited to participate in the 'design process'. Klohn attempted to obtain SFN information in isolation from the overall process to include in their 'studies' and 'reports'. Further, if it is intended by Mr. Hickey that it somehow is a valid point for Council to consider that SFN may be invited to design dams for recreational purposes after removal takes place then he clearly does not understand the complexity of the situation. The City has stated that it wishes to rebuild dams. The Province has confirmed it is extremely rare, if ever, that they approve dams for recreational purposes. Snuneymuxw has said that the impacts of all options for maintaining dams on our Fisheries at the site should be studied - as removal and rebuilding raises concerns of very serious impacts. For the City to ignore the fact that the Province has said rebuilding is not probable, and turn its back on the process Snuneymuxw has outlined, will be in effect a public admission by the City that it has no serious intention or likelihood of ever rebuilding the dams. Given this is the case, I would expect Mr. Hickey to be making this fact publicly known in his memo - rather than spreading misinformation about Snuneymuxw.

Paragraph 5 - SFN was not provided information as it became available. We have yet to receive anything regarding the dewatering 'review' that the city consultants allegedly conducted. Also, SFN staff had to contact city staff in order to find out what was going on following the article in the paper in May stating the dams were to be rebuilt and hydro generation was to be included.

Paragraph 6 - This paragraph is incorrect. SFN did not request further 'technical information'. We have been consistent in our requests for a feasibility study of alternatives. To date, the city has refused SFN's request to conduct a feasibility study into dewatering and middle dam removal.

Paragraphs 7 - 9 - SFN has not received any information or evidence regarding this 'review'. The issue of sediment was only raised last weekend by your consultants. Klohn's latest report shows that the city doesn't even have a plan for the mitigation of sediment during dam removal. It merely says the contractor is responsible for it and they have to use best practices. It is very disconcerting that the engineers would not have any plan in place for the sedimentation issue for any mitigation option.

I note the city has admitted that it has not closely assessed the option of keeping the lower dam. By the city's own admission they have only brought the two dam removal option to the province. One would expect a detailed review would have to be done prior to Mr. Hickey making high level comments and conclusions that dismiss options.

Beyond these clear misstatements, I am very troubled by the fact that Mr. Hickey - apparently with Mr. Kenning's approval - produced a public memo purportedly speaking about our meetings and discussions over the past week. You had specifically requested that we try to deal with our discussions with utmost confidentiality. It is most disconcerting that the City has not only breached that understanding, but has also done so in a way that is distorting and misleading.

As the City has taken the step of inaccurately publicizing our discussions I expect that Mayor and Council will immediately direct that this email be attached to the copy of Mr. Hickey's memo that is posted on the City's website, will be included in any and all public information for Monday's meeting, and will be distributed anywhere and any place that Mr. Hickey's memo is distributed. Also, given Mr. Hickey's memo, Snuneymuxw can no longer be expected to consider any of our discussions on this matter confidential.

Regards,

Doug

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