

CLEARING THE PATH



FIRST NATIONS TAX COMMISSION

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Songhees Enacts First Laws Under FSMA

Songhees First Nation, located near Victoria, BC, became the first to have its laws take effect under the *First Nations Fiscal and Statistical Management Act* (FSMA). The *Songhees First Nation Property Taxation Law, 2008* and the *Songhees First Nation Property Assessment Law 2008* were approved by the FNTC on May 15, 2008.

"It is part of moving forward and this is one of the vehicles we are using to do that," said Songhees Chief Robert Sam. Christina Clarke, Tax Administrator for Songhees, agreed: "I am proud to have been a part of this historic event. By bringing our property taxation system out from under the *Indian Act* we take another step towards self determination. It also makes good business sense, we are using the FSMA as a tool for creating an investment climate which will encourage economic development."

Songhees is one of thirty-three First Nations who have opted to use the FSMA. The approval of Songhees laws, also marks the first time that the FNTC has reviewed and approved laws under its FSMA authority. "This is an historic day for Songhees, the Commission, and for First Nations across Canada," said Chief Commissioner Jules.



Chief Commissioner Jules signs the Songhees Laws on May 15, 2008.

Tulo Centre Opens Doors

The Tulo Centre of Indigenous Economics, created in cooperation by the First Nations Tax Commission (FNTC) and Thompson Rivers University (TRU), has begun to offer courses.

Its first course in the *Certificate in First Nation Public Administration – Taxation* program (intended for students interested in First Nations tax administration), was held on March 25 to March 28, 2008 at TRU. The course, *An Introduction to First Nation Taxation*, taught in a compressed format by Dr. André Le Dressay, had 5 guest lecturers and 19 students.

The introductory course to First Nation taxation covered the history of taxation and the importance of pooled borrowing.

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Message from the Chief Commissioner

Welcome to the Summer edition of *Clearing the Path*. First and foremost, I would like to congratulate the Songhees First Nation for being the first community to pass a law under the *First Nations Fiscal and Statistical Management Act*. This is truly a historic event for your community and for First Nations in Canada.



All of the First Nations participating in the FSMA are also working hard to complete their new laws. To support First Nations, the FNTC has developed sample laws; work on the borrowing criteria to support infrastructure debentures is underway; and an education program, including courses offered at the Tulo Centre, is now completed. The number of presentation requests being made by First Nations interested in the FSMA has increased significantly. Currently, there are 33 First Nations participating with a growing number submitting BCRs to do the same. The current schedule is expected to be amended this fall, increasing to 45 First Nations the number of communities under the FSMA.

I recently had the honour to address the Treaty Land Entitlement Committee of Manitoba at their Annual General Meeting held in the Opaskwayak Cree Nation on June 10–12, 2008. I believe that it is critical for First Nations and our national institutions to share our experience and expertise whenever and wherever it is relevant across this country. Manitoba TLE First Nations are in the process of selecting lands in various parts of the province and are having to negotiate service agreements with various municipal governments. They are drawing from our experiences in property taxation and relationship building with municipal neighbours in other jurisdictions as they research alternatives for their course of action.

Finally, I would like to pay tribute to a dear friend and respected colleague, John Taylor. John was held in very high regard by myself and many others who had the privilege of working with him throughout his distinguished career. He was with us when we began this journey in 1989, as the Indian Taxation Advisory Board, and stayed the course, providing valued counsel to the First Nation tax system as we developed the FSMA and established the FNTC. We will all miss John and wish his wife, Ruth, and the Taylor family our deepest condolences.

A handwritten signature in cursive script that reads "Manny".

C.T. (Manny) Jules
Chief Commissioner



Honouring John Percy L. Taylor

October 27, 1928 — March 26, 2008

John Taylor was born in Onion Lake, Saskatchewan on October 27, 1928. With his parents and sister, he moved to Victoria where he attended and graduated from Victoria High School. John's distinguished 35 year career in the B.C. Public Service culminated as Deputy Minister of Municipal Affairs from 1981 –1985. Subsequent to his retirement, he served as Chairman of the British Columbia Assessment Authority and as an original Board Member of the Indian Taxation Advisory Board (now FNTC). With ITAB, John served as the Chairman of the Rates Committee. John was instrumental in involving the BCAA with First Nations, as well as the passing of BC's *Indian Self Government Enabling Act* in 1990.

He was also involved with the development of the Sechelt Indian Government District. He met and married his wife, Ruth, in 1951. They had 3 daughters, Janet, Carol, and Nancy and 5 grandchildren. John was a devoted husband, father and grandfather. After he retired, John spent time with his family, playing golf, gardening and walking the various dogs they owned over the years. John will be dearly missed and always remembered by all at the FNTC as a kind friend and trusted advisor.



Chief Commissioner Jules presents BC Lieutenant Governor, The Hon. Steven L. Point, a framed drawing during the BC Community Achievement Awards Ceremony on April 23, 2008. Also pictured are aide de camps, Major Donald D Crocker (left) and Lieutenant-Commander David Harris (right).

FNTC and NEB Announce Partnership

On April 21, 2008, the FNTC and the National Energy Board (NEB) signed a Memorandum of Understanding (MOU). In the MOU, they agreed to become partners in learning by fostering and encouraging an effective relationship on matters of mutual interest.

FNTC Chief Commissioner, C.T. (Manny) Jules, and NEB Chair, Gaétan Caron, signed the MOU at the annual conference of the Canadian Association of Members of Public Utility Tribunals in Banff, Alberta.

The MOU lays the foundation for the NEB and the FNTC to share information on the public hearing process, establish joint working groups and organize staff exchanges.

"We are looking forward to this new partnership with the NEB," said Chief Commissioner Jules. "This collaboration will generate a better understanding of issues pertaining to the energy industry and First Nation taxation."

Mr. Caron agreed, saying: "Through this MOU we are forging a partnership with the FNTC with whom we share many common interests. It is our hope that this partnership will allow us to share

and develop new and better practices that support our respective mandates."

The NEB is an independent federal agency that regulates parts of Canada's energy industry. Its purpose is to promote safety and security, environmental protection, and efficient energy infrastructure and markets in the Canadian public interest, within the mandate set by Parliament in the regulation of pipelines, energy development and trade.

First Nation Land Title Systems: International Perspectives

In continuing the work to help increase the powers of investment and development on First Nation land, the First Nations Tax Commission has been conducting research and developing the groundwork for a First Nation Land Title System. On March 10-11, 2008, the FNTC and the Forum of Federations held a working session on land title certainty for First Nations, looking at international indigenous perspectives.

During the two-day event in Vancouver, selected experts from around the world shared their experiences and visions of how a land title system could be improved to support the economic development of First Nation governments in Canada and indigenous peoples at large. Participants from Australia, South Africa, Canada and Peru (from the *Instituto Libertad y Democracia*), brought their expertise to the table and agreed to pursue the exchange of knowledge on a more extensive basis.

To date, investor confidence has been kept low and economic integration has been hindered by the uncertainty of First Nation land titles. The existing land title systems for First Nation land are unfamiliar to both First Nation people and investors. This situation makes it difficult for First Nation persons to earn equity from their land or use it as collateral for business start-up loans. Investors and First Nations must go to substantial lengths to devise contractual arrangements to do what the system of property rights provides in the mainstream Canadian economic context.

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Tulo Courses

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Students at the Tulo Centre, March 2008.

It explained the role of government in making markets work and introduced the First Nation GST system.

It also

focused on First Nation local revenue authority under the FSMA and its economic and fiscal rationale. Finally, the course introduced the FNTC and the other FSMA institutions.

A second course, *Submitting Rates and Expenditure Laws under the FSMA*, has been offered to help tax administrators working for First Nations that are scheduled on the FSMA and are required to submit rates and expenditure laws this year. This brief course is one hour long and delivered via conference call. Many classes have been completed already and more are scheduled in the coming months.

To register for courses or for more information, contact Ms. Sarah Jules at sarah@tulo.ca.

Land Title Systems

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Investors have faced a steeper learning curve and a lower return from having to learn these systems. The need to secure land title is generally the first step in investors' decision making and when it is not readily available, often the process simply terminates. As a further consequence, investors have steered away from First Nation projects.

Given the recent reallocation of jurisdiction (*First Nation Land Management Act* and FSMA), and the desire to attract investment to First Nation lands through greater certainty and transparency, there is a drive to harmonize the First Nation land title systems with existing provincial land title systems. Without this harmonization, investors will continue to avoid opportunities in which property rights are unfamiliar and uncertain. Sustainable economic development for First Nations requires a harmonization of property rights between orders of government, a process that necessitates intergovernmental dialogue and cooperation.

The Forum of Federations provided the expertise from other federal countries to inspire the design of a better land titles system to improve economic development on indigenous lands. Throughout the various international contributions, the working session created an understanding of how accommodation of indigenous rights within a federal state can produce an improved investment climate and empower indigenous people.

Calendar of Events

FNTC Meeting

July 9-11, 2008 in Fredericton, NB

Municipal Officers Association Conference

September 10-11, 2008 in Prince Rupert, BC

FNTC Meeting

September 16-17, 2008 in Kamloops, BC

FNTC Annual Meeting

September 18, 2008 in Kamloops, BC

FNTAA Annual Meeting

September 24-26, 2008 in Osoyoos, BC

CPTA 42nd Annual Meeting

September 28-October 1, 2008 in St. John's, NL



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