

# First-come, first-serve policy disrupts native negotiating table

DOUG DONALDSON  
Communications Director  
Gitksan Treaty Office

British Columbia's most recent treaty deal was born only a couple of weeks ago, but it now appears the province is using a centuries old tactic to settle land and rights issues with First Nations. It's the divide-and-conquer strategy.

The NDP government's "first come, first served" approach when it comes to treaty lands subject to overlapping claims is designed to weaken First Nations by pitting them against one another.

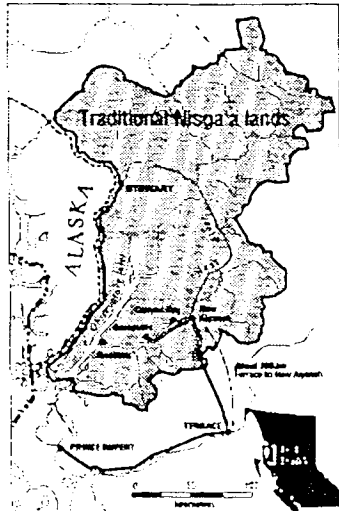
The provincial government reached an agreement in principle with the Nisga'a which includes land grants in the traditional territories of the Gitksan and Gitanyow peoples. By instituting a policy where the first aboriginal group to the agreement in principle stage gets first choice on its neighbor's land, the province creates uncertainty in any treaty deal it strikes. There are dozens of territorial overlaps among the more

than 40 First Nations now in treaty negotiations with the province.

Under the treaty commission's six-stage negotiation process, it is up to neighboring First Nations to identify and address overlapping territorial issues. In May, 1995, the Gitksan and Nisga'a signed a protocol outlining a process to settle boundaries on commonly claimed territory. The protocol describes the type of evidence the two First Nations will consider and a section deals with dispute resolution if the two parties cannot come to a boundary agreement.

Last November, the Gitksan tabled a 300-page research report, *Tribal Boundaries in the Nass Watershed*, with the Nisga'a, Canada and B.C. It is a fully referenced document containing maps, oral histories, European explorers' written historical accounts, royal commission evidence and excerpts from anthropologists' interviews with elders.

The Gitksan ensured provincial negotiators received a copy of the research report because they saw problems on the horizon if an agreement in principle included land grants in territory under



Traditional Nisga'a territory: Other bands have overlapping claims.

a boundary-resolution discussion between neighboring First Nations.

During December and January treaty negotiating sessions, the Gitksan gave B.C. a list of questions they wanted answered on the province's land-selection model and the "first come, first served" issue. Provincial negotiators said they would respond to the questions in writing at some point in the future.

The response was a Feb. 1 letter from John Cashore, the minister of aboriginal affairs, intimating the Gitksan were not negotiating in good faith and saying the province was walking away from the treaty table.

Eleven days later the province shook hands with the Nisga'a on an agreement in principle that includes the transfer of Crown land well within Gitksan territory. The agreement in principle also describes Nisga'a fishing and wildlife management zones deep inside areas where the Nisga'a, Gitanyow and Gitksan are still discussing territorial boundaries.

Such is the legacy of the province's land-selection model approach to treaty settlements where First Nations must choose a small percentage of their traditional territory over which they will

have authority.

In the least, provincial policy regarding the treaty process should be that no land in areas which are under dispute between neighboring First Nations can be included in an agreement in principle until those neighbors resolve boundary issues.

Better yet, the province should get back to the negotiating table with the Gitksan where they would hear about an alternative treaty-settlement model. The Gitksan model is based on negotiating joint jurisdictional arrangements covering 100 per cent of their 58,000 square kilometres of traditional territory. No land selection means a potential saving for Canadian taxpayers because, under the current model, they reimburse B.C. for resource revenues lost in the land transfer to First Nations. No land selection also means no land grants in unresolved treaty overlap areas.

Perhaps it will mean an end to the current divide-and-conquer strategy that is unbecoming to a New Democratic Party government so concerned about bargaining in good faith. □