



Report on the Tu Cho International Indigenous Water Rights Conference

Yellowknife, NWT
June 21-23, 2006



Rights & Responsibilities: The Time For Action is **NOW**

Worldwide, Indigenous peoples share a common belief — water is life.

This was passionately affirmed by delegates to the Tu Cho International Indigenous Water Rights Conference who one after another echoed the opening remarks of Akaitcho Dene Chief Fred Sangris:

“We live in a different spiritual world, and we have a different outlook towards water. We have a spiritual connection to the land and water that is the lifeblood of the Nations. There was a time when the air was fresh, and the trees were so fresh you could smell them. This is no longer the case. We have to protect our lands because we provide for our families by going out on the land. We benefit from the land and the water, and the medicines of the water are powerful. If we pollute the water we pollute ourselves. Without water how are we going to live? Water connects everyone all over the world therefore it is our responsibility to share our knowledge and wisdom to support each other to protect our lands and waters.”

Worldwide, all peoples and all living things are threatened by the increasing scarcity of clean water. Concern over the ongoing pollution of their watershed from resource extraction activities led the Akaitcho Dene to ask their Treaty negotiators to focus on protecting their waters for future generations. The negotiators were reminded that all land talks were, by definition, water talks as well.

As part of the effort to protect their waters the Akaitcho joined with KAIROS: Canadian Ecumenical Justice Initiatives, a national coalition of eleven churches and religious organizations, to co-host the Tu Cho International Indigenous Water Rights Conference in Yellowknife from June 21 to 23, 2006. The conference brought together Indigenous and non-Indigenous people who shared experiences on how to keep water fresh and safe. Tu Cho means “Big Water” in Dene and refers to Great Slave Lake and its watershed.

Protecting Indigenous water rights for future generations was the theme of the Tu Cho Conference. The recognition, enforcement and preservation of Treaty and Aboriginal rights is seen as key to ensuring that future generations enjoy fresh, clean water. Indigenous peoples believe water is a gift from the Creator and that access to pure, safe water is a right. But they also believe the Creator

has endowed them with the responsibility to protect the water. As one elder at the conference said: “We must practice that as Dene. Have we forgotten our responsibilities?”

Madeline Drybones, an Elder representing the Lutsel K'e from Fort Reliance, said it is hard to make water clean once it has been polluted. “Waters need to be tested because fish are being contaminated. We need research. Many rivers flow into Great Slave Lake and it is the major water resources we have to protect.”

Protecting the water means accepting other responsibilities. These include asserting Dene jurisdiction and ownership, implementing Dene laws, teaching and promoting these laws and values to governments and corporations, involving and mentoring youth, engaging the international community, and sharing the Dene teachings with the rest of the world.

These responsibilities were explored in detail at the conference, often in discussions infused with a sense of urgency. The need for prompt and decisive action in the face of increasing demands on an already scarce resource was a message often repeated by the presenters, and most forcefully by the youth who felt the time for talk is over, and the time for action is now.

“When are we going to talk about action,” asked Roland Catholique, a youth delegate from Lutsel K'e? “How do we walk the talk? We have to keep our territories strong and clean to let the birds fly, caribou run and fish swim in unpolluted waters.”

This emphasis on action, on the need to give voice to the Indigenous message, whether through government panels or corporate meetings, community gatherings or public events, is reflected in the Conference Declaration, which emphasizes the need to protect and enforce Indigenous peoples' rights by acting immediately to ensure that Indigenous values and traditions are imple-



mented by governments and corporations so that seven generations from now every living thing has equal access to abundant, clean, safe water.

Tu Cho Indigenous Water Rights Conference

The Tu Cho conference was held outdoors, at the Weledeh site close to the city of Yellowknife. A traditional gathering place for the Akaitcho Dene, Weledeh is where the Akaitcho ancestors would hold meetings, dry fish and meat, or pick berries. It remains under Akaitcho jurisdiction.

In all, about 100 people from northern Aboriginal communities, non-governmental organizations, churches and church organizations gathered to share their invaluable knowledge and experience of water and water issues. As it was drawing to a close, Joy Kennedy, KAIROS' Ecological Justice Program Coordinator, described the Conference as part of a global movement, and said its messages and stories would become part of a worldwide network ensuring that the voices of the people of the north, of the Dene and the Deh Cho, would be heard by the international community.

As testimony to the lasting power of Dene traditions, languages and way of life, translation was provided in two Dene languages, and the gathering was opened and closed by Dene elders and drummers who conducted a traditional "Feed the Fire" ceremony. The elders were an integral part of the conference and it was on their request that planned break out groups were not organized. Instead, the elders asked that all the speakers be heard in plenary to ensure that everyone was "of one mind" on the issues before making final decisions. People not able to attend the conference in person were able to listen-in via a live broadcast to 29 Dene communities scattered across the Northwest Territories by CKLB Radio.

Two years earlier, in May 2004, KAIROS joined with several Indigenous and non-Indigenous groups to organize the "Our Waters, Our Responsibility: Indigenous Water Rights Forum" in Pinawa, Manitoba. This gathering, the first of its kind, brought together Indigenous and non-Indigenous peoples from all over the world to talk about

how to protect and sustain water for future generations.

The Tu Cho Conference continued this discussion, and focused on Indigenous peoples in the north who are struggling to protect the waters in their vast territories from a myriad of resource extraction activities.

Rights to water

The Akaitcho Dene negotiated and concluded a Treaty with the Crown in 1900, and they continue to assert their sovereignty and self-determination over their territory through their Dene Governments. Conference co-chair Francois Paulette emphasized that the Treaty is forever.

Assembly of First Nations Vice-Chief Bill Erasmus described the Treaty as international instrument that allows the Dene to exercise their sovereignty, and to implement their own values and laws over their lands and resources, including water. The Treaty acknowledges the Denes' right to determine their own way of life for "as long as the sun shines, the grass grows and the river flows." "The sovereignty we talk about is fundamental to our spiritual life," Erasmus said. "It is important that we assert our treaty rights on our own terms."

In 1973 the Supreme Court of the Northwest Territories ruled in the Paulette case that the 1900 Treaty was a Peace and Friendship Treaty, not a surrender treaty. In other words, the Dene did not give up their inherent rights to the land and its resources, and Canada does not have clear title to Dene lands.

The Government of Canada (GOC) holds a different view of the Treaty. A recent proposal by the GOC to devolve its powers and responsibilities to the Government of the Northwest Territories (GNWT), including rights to land and water, demonstrates that Canada believes the Dene surrendered their rights in 1900. As a result, the Dene are forced to negotiate with the federal and territorial governments to protect their rights, including, as Yellowknives Dene Chief Peter Liske

Left to right: Drummers with Chief Fred Sangris; Elder Judy Charlo with youth Akaitcho Beaulieu; Chief Peter Liske with elders Michel Paper and Isadore Tsetta; Chief Robert Sayine with Deninu Kue delegates.



explained, their right to water: “We’re talking about Indigenous water rights, and about the future of the water. There may be lots of water now, but we’re talking about our children’s future. We have to keep the water in good shape for our kids.”

“The Dene have a treaty relationship with the Crown,” said Chief Fred Sangris. “The Dene are allies of Canada and work closely with the Crown, but we are not under the laws of the Crown.”

The Dene believe that as an agreement between sovereign nations the Treaty is meant to protect Indigenous and non-Indigenous peoples, to make them strong, to help them to live in peace and harmony, and to respect each other and treat one another with kindness. They feel the task of Indigenous peoples is to learn more about Canada and Canadians in order to help non-Aboriginal peoples better understand the value of all natural resources. At a time when it seems the Government of Canada no longer respects the Treaty, the Dene believe they can teach Canadians how to honour the treaties by working together.

Co-chair and former Dene Chief Francois Paulette said: “Canada and its people have to learn that it is important to keep a promise because if it is based on Creation, it is made to sustain you. Today, Canada talks about reconciliation and renewal but reconciliation would require Canada to rectify the wrongs it has done and renewal would require us to live together.”

Akaitcho Community Negotiator Paul Boucher said Dene laws need to be respected and promoted. “It is our responsibility to promote that to industry, to the federal government, and to the provincial government. They need to know our laws. Through the Treaty we will implement Dene law in Akaitcho Territory and by doing so there will be certainty for all people who live there.”

Elder Albert Boucher praised the conference organizers and said it is important that the Dene governments gather to talk about water and the worsening situation. “Mining

and oil spills have contaminated the water, animals, fish and ducks,” he said. “We have to protect our land because we benefit from the land and waters. Treaty laws are different today and some things have changed. As Elders we fear that the government will put us into smaller areas in the future. We need an agreement about the use of water.”

Karen Mitchell of Fort McPherson represented the Native Women’s Association of NWT in Inuvik. She explained that as a woman and mother she feels the spiritual and emotional ties to water described by other speakers and emphasized the importance of protecting it. “We as Indigenous people have a human right to water. We were put on Mother Earth for a reason and following a meeting like this we must talk to our children and families about it. It is never too late to start doing right. We are here to secure our children’s future.”

Tstasye Catholique, representing the Lutsel K’e as a youth delegate said it is a luxury to drink water straight from the lake but acknowledged that that may change in time. “Although there are problems in other parts of the world,” he said, “we have our own problems to deal with such as the uranium that was left around our lakes. I’m here to gain knowledge and to prepare for the day when I have to make an informed decision on these issues.”

Jolene Beaver, a counselor, said Indigenous voices must be heard. “People in power in this country do not hear Indigenous peoples stories,” she said. “The world will be worse for the next generation if we don’t do something now. As Indigenous Peoples, we should be helping other people and looking at each other with respect.”

Indigenous Sovereignty and Jurisdiction

As well as calling for the recognition of Indigenous peoples’ right of self-determination, delegates at the Tu Cho Conference affirmed Indigenous jurisdiction over their lands and resources, and the unique relationship Indigenous peoples enjoy with Mother Earth, a relationship that involves the responsibility to care for and protect the lands and waters for the benefit and survival of present

Left to right: Denendeh Chief Bill Erasmus with Jolene Catron; Chief Adeline Jonasson at Weledeh; Darrell Beaulieu, Raymond Simon and Paul Boucher.



and future generations.

Lorraine Land, a lawyer with the firm of Olthuis Kleer Townshend, stressed the importance of asserting and exercising Indigenous jurisdiction and laws, and of using Canadian Common Law as it is designed to incorporate varying notions of law and, in theory at least, to change and evolve in response.

Along with the fact that governments do not recognize Indigenous jurisdiction to water, Ms. Land explained that another obstacle to the assertion of Indigenous rights is the government's practice of fragmenting jurisdiction into various bundles — federal government and departments, provincial government and departments, municipal government, and so on. In many cases, potentially avoidable conflicts arise because navigable waters, for example, are under federal jurisdiction, while fisheries is a provincial responsibility, taxation is municipal, culture is provincial, and the pollution of water ways is federal.

This contrasts with the more holistic, integrated Indigenous approach where water and land and all their uses are not separate but interdependent. Ms. Land stressed that this integrated approach can be a strong strategic tool for Indigenous communities and nations.

As an example, Ms. Land referred to the Chippewas of Nawash who live on Georgian Bay on Cape Croker in Ontario. The Chippewas see themselves as the Water Keepers. They are trying to protect Hunter's Point, a sacred site on their territory, but the government of Ontario does not recognize it as a proper burial ground and so the Chippewas are unable to protect it using provincial legislation.

In this case, the issue is further complicated by the governments' practice of fragmenting jurisdiction among various departments such as land claims, fisheries, water resources, burial grounds, and spiritual sites. Also, Canada has little political will to engage in discussions that involve the conflicting issues of fisheries and navigable waters that are covered under the International Joint Commission.

Meanwhile, the Chippewas' want to deal with all these issues holistically and are refusing to separate and divide jurisdiction. This position, that the issues are integrated and not divisible, can create problems for governments, but it can also strengthen the Indigenous hand by avoiding the fragmentation that prevents coordinated and collaborative attempts to find effective and efficient solutions.

Asserting Jurisdiction

Legal Action

The Chippewas are asserting their sovereignty and rights by exercising their authority and by engaging the colonial

government's own system — Canadian Common Law. Ms. Land recommends the following four steps to enhancing the success of this approach.

1. Prepare a policy on how to respond to challenges to jurisdiction.

For example, be prepared to lay charges and to use that process as a springboard to exert sovereignty, in the same way the Kitchenuhmaykoosib Inninuwug (Big Trout Lake) First Nation in Ontario used the Canadian legal system to exert its sovereignty. When the KI First Nation refused to allow resource extraction on their lands the mining company Platinex filed a \$10 billion dollar lawsuit. In response, KI sued Platinex and launched a constitutional challenge to the Mining Act.

Archdeacon Larry Beardy of the Anglican Church of Canada, who was also representing KAIROS' Aboriginal Rights Committee, shared information about his community, the Tataskweyak Cree Nation (TCN) in northern Manitoba. At a recent gathering on TCN territory advocating for a National Public Policy on Water, the inherent and inalienable right of the Tataskweyak Cree Nation to their waters was recognized and affirmed.

2. Use the Indigenous integrated philosophy and method through inter-tribal and inter-nation collaboration.

An alternative Indigenous model was presented by Jolene Catron, Executive Director of the Wind River Alliance. Ms. Catron is of Laguna, Zuni Pueblo and Navajo ancestry and lives in Wyoming. She journeyed to Yellowknife to share the work her people are doing in the United States.

The Indigenous Waters Network is a grassroots organization led by tribal people and supported by the Wind River Alliance, a national river conservation organization whose mission is to help people understand, protect and restore rivers and their watersheds. The Eastern Shoshone, Navajo, Northern Arapaho, Taos Pueblo and Yukon-Inter Tribal Watershed Council support one another to ensure safe water for their communities. Their struggles include over-use of water, energy development, inadequate municipal water systems, contamination, dams, water diversions and damage to rivers and fisheries. Most importantly their spiritual beliefs, which are the mainstay of tribal life, are under grave threat from the depletion of their waters.

3. Develop information-sharing mechanisms that include youth.

The Navajo, as Ms. Catron explained, have developed a vast network of tribal leaders, tribal water professionals,

national organizations, grassroots groups and federal agencies that work collaboratively for clean and safe water on tribal lands. Their plan includes the establishment of an Advisory Elders Council, the sustained support of a Youth Council, a training center focused on peer-to-peer training and needs, a resource bank that matches water professionals to tribal communities with critical technical and scientific needs, outreach to other Indigenous nations, and a clearinghouse of tribal-specific water resource information that will include federal, state, local, and tribal legislation and policies.

“In the Indigenous Waters Network we share expertise and involve youth and elders,” she said. “We give respect and recognition of water as a gift from the Creator. We are building an on-the-ground network. We are developing water codes.”

4. Build internal capacity to enable communities to exercise jurisdiction when necessary. This includes building technical knowledge and expertise.

Ray Jones, an Hereditary Chief of the Gitxsan Nation and a member of KAIROS' Aboriginal Rights Committee, outlined the Gitxsan water policy in support of the recommendation that Indigenous communities prepare policies to respond to challenges to their jurisdiction. “It is very important that we develop our own policies,” he said. “The policy statement is what we have to present to governments and to the United Nations.”

As Mr. Jones explained, the Gitxsan policy was developed to promote long-term development and stewardship through the assertion of Gitxsan Title and Rights to resources. It ensures that the environmental and socio-cultural impacts of water exploration, development and use are adequately and responsibly addressed, and that objectives relating to any impacts are integrated into all policies and programs.

Diane Giroux, Water Program Coordinator for the Akaitcho Aquatic Resources and Oceans Movement (AROM), spoke of the development of a Management Plan for Great Slave Lake as the first step to resource management. She said they are working on a study to evaluate the health of the general population, the food chain and the water shed. “We are trying to address the whole environment and are taking action and ownership,” she said. “Politically, as a Watershed Group, we will be able to influence water policy. We will build relationships and get the regions working together.” According to Ms. Giroux, the process will build in traditional knowledge, involves elders, “waterkeepers,” and youth, and includes all communities that use the lake.

Direct Action

Nicole Manuel, a Secwepemc from the Neskonlith First Nation near Chase, B.C. lives on unceded Shuswap territory. According to Ms. Manuel, the Shuswap own the lands in their territory and have taken political action to protect them. She said protecting Shuswap land and water is a constant struggle. She recalled the teachings of her late grandfather, former chief and Aboriginal rights activist George Manuel, who said there are four ways to assert jurisdiction and sovereignty: direct action, political action, legal action, and economic action.

“When we try to exercise jurisdiction we come up against the national police force (RCMP). Our laws come from Coyote. Coyote helped the Creator form the land where we exist. When we defend the natural law and exercise our duty to protect, we become targets. There have been more than 60 arrests in my territory, including Elders. We take action to stop the destruction and we get arrested and our buildings get destroyed, including our sweat lodges.”

The Secwepemc assert jurisdiction by not registering births with the Government of Canada and by home schooling their children. For the Secwepemc, education is a key component of exercising sovereignty. Instead of enrolling their children in the public school system the Secwepemc educate them with “warrior training” and the “true and right information.” Young people are taught to be clear thinkers, which means not using alcohol or drugs, and learning to channel their energy in a positive way.

For the Secwepemc, asserting jurisdiction also means standing up to corporations that are destroying their waters and lands, including those associated with the 2010 Olympics in Vancouver. According to Ms. Manuel, construction for the Olympics will change their mountain ecosystems. “This type of encroachment threatens the last remaining areas where we can be Secwepemc people,” she said.

The Secwepemc believe sovereignty means replacing the discriminatory and oppressive Indian Act “band” system of government that was imposed on First Nations with a traditional, hereditary government system where everyone has a role.

Political Action

Dr. Jose Zarate, a Quechua Indigenous person, and coordinator of the Canadian Development Program for Indigenous communities for the Primate's World Relief and Development Fund of the Anglican Church of Canada, said that Indigenous peoples in South America fear losing their lands to resource exploitation. But he

stressed that the news is not all bad. Bolivia, for example, recently elected its first Indigenous president.

“The transnational corporations are invading Indigenous lands and water is becoming a commodity and being privatized. But there are success stories. The Aymara of Bolivia defeated a water privatization plan by the giant transnational Bechtel, and elected as president Evo Morales, an Aymaran, on a platform of nationalization of the water resources.”

According to Mr. Zarate, Indigenous peoples in Bolivia respect and have learned from the various negotiation strategies of governments and corporations. “Now the transnational corporations must negotiate in good faith with the country,” he said. “What are the impacts of these types of outcomes in Canada? Can we wait another 500 years? We have learned that we can stop privatization.”

Political action involves communities challenging governments and industries. This requires human and financial resources to enforce standards at the local level. If a community develops its own standard and regulations on water rights, the fight is to get those recognized as law by the governments. This process requires much work at the local, provincial-territorial, national, and international levels, which is a serious obstacle for those Indigenous communities that lack resources and qualified people.

Economic Action

Chief Gary John, Chair of the St’at’imc Chiefs Council and Indigenous representative for the Council of Canadians, reported on the 4th World Water Forum (WWF) in Mexico City in March 2006. He said that because some of the world’s largest corporations were using the WWF as a trade show to promote and sell their products, the Indigenous Environmental Network organized an alternative, parallel, grassroots forum to ensure non-corporate voices would be heard.

The Indigenous Peoples Parallel Forum attracted over 100 Indigenous peoples from communities and nations in Mexico, U.S., Canada and South America. These Indigenous representatives made their presence known by leading a

march of over 25,000 people to protest the privatization of the world’s water. Environmental and human rights groups, church groups, trade unions, non-governmental organizations and Indigenous peoples joined in voicing the concern that Indigenous peoples’ right to water was not being recognized or enforced. The speakers exposed trans-national companies like Nestlé and others that are depleting or destroying Indigenous watersheds.

The Indigenous Peoples Parallel Forum submitted its Tlatokan Atlahuak Declaration to the Secretariat of the World Water Forum, and called for the formation of an Indigenous Water Defense Committee to monitor water rights abuses and violations on Indigenous lands and territories.

Mining and Its Impact on Water

Indigenous delegates to the Tu Cho Water Rights Conference could not advocate for or support resource development on their territories because of the associated risks to the health of their lands, their waters and their people. Elders, Chiefs and others talked about how the Indigenous way of life has been changed by resource exploitation, and expressed concern about how new and planned mining operations in their territories and up stream will add to the ongoing contamination of their communities, which are usually forced to live with the impact of resource extraction.

Delegates agreed that governments and industry must respect the basic human right of Indigenous peoples to free, prior and informed consent before starting any resource extraction project. Also, all mining, logging and oil and gas projects must go beyond normal protocol agreements and abide by Treaties 8 and 11.

Left to right: Co-chair Francois Pualette with Sabet Biscaye; Jolene Catron, Joy Kennedy and Ethel Blondin; Steven Nitah at Weledeh.



WELEDEH DECLARATION

Akaiicho Territory, Denendeh
June 23, 2006

We, the Indigenous Peoples of the Americas and our allies gathered here for the Tu Cho International Indigenous Water Rights Conference, having convened from June 21 to June 23, 2006, acknowledge the wisdom of Dene Chàine — the path our people walk — that teaches us to respect and care for the land, and this includes all water, land, animals, plants and air, state the following:

Water is sacred and a gift from the Creator to be protected and preserved for future generations; and

Water is a source of our life, all things depend on safe and secure water to live; and

We all breathe the same air and drink the same water and depend on the same Earth, and;

We are all dependent on Mother Earth for our collective health, energy and survival; and

We have talked amongst ourselves about our inherent Indigenous and Treaty rights, rights that have been enshrined in international covenants negotiated and concluded by Indigenous Nations; and

We have seen and heard stories over the last two days about the sickness of the earth and know from our first hand experience, our Elders' traditional knowledge, and our allies' scientific knowledge, that our waters are not well.

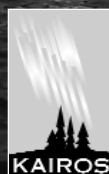
We assert jurisdiction and control over all waters and take responsibility as directed by the Indigenous laws as it was in the beginning.

Our future is embodied in our actions and engagement in the following commitments through the Spirit and Intent of Coexistence:

- To develop integrated water basin management planning, which brings together watershed management, best practices and local commitments on our homeland;
- To share information amongst all Indigenous governments, and other responsible authorities and organizations, to improve the state of our waters;
- To create jurisdictional arrangements to make decisions in relation to the water and its environmental area; and
- To support and aid each other in our struggle, to build capacity at all levels of government in order to assert jurisdiction, care and control over all waters around the world.

For as long as the sun shines, the river flows, and the grass grows.

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