

We Need a FRESH START IN more Ways than One

Submitted by Geoffrey Moyse KC



Geoffrey Moyse

Geoff Moyse is also a committee Member for the Public Land use society who BC Cattlemen's has partnered with to help inform BC's residents of the current issues facing us all regarding private and public land use.

On December 21, 2025, Werner Stump, President of the BC Cattlemen's Association, wrote a powerful article in *Northern Beat News* about the government's true intentions with the DRIPA legislation. That article rightly garnered wide attention, as it was both accurate and frightening to those who are not paying attention to the government's true DRIPA "agenda".

In the final paragraphs of that article Mr. Stump wrote:

"The Eby government has demonstrated disregard for true reconciliation by orchestrating a plan, without a public mandate, that has driven a wedge between British Columbians. The Premier believes that DRIPA is about correcting the "original colonial mistake" and his advisors are quoted as saying reconciliation "will require affairs to be utterly re-organized" rather than building positive relations in a balanced manner.

Reconciliation is important work that needs to be pursued, but the pathway we are on, including DRIPA, needs to be abandoned. It is time for a made-in-B.C. solution that is workable for all parts of society.

British Columbian's deserve transparency, truth and open dialogue. The conversations may be difficult, but we deserve straight-talk on reconciliation. The B.C. government must define clear steps with a well-articulated vision for a balanced end result that is socially and economically rounded.

We need a fresh start in more ways than one."

At the time of the article, the BC Court of Appeal had already issued its judgment in the Gitxaala case, determining that effectively DRIPA had made UNDRIP the positive law of BC with immediate effect.



Photo by Shauna Spense

Mr. Stump correctly noted in his article that:

"Effectively, all decisions about B.C. laws must be made in consultation and in cooperation with over 200 First Nation governments. The province and the First Nations will form a collective government that the people of B.C. did not elect.

First Nations leaders have a responsibility to their members only, and so they should. But if half of the 'governing body' that drafts and has final approval of our laws has no duty to the public interests and can't be held accountable by our vote, B.C. will be a non-democratic society.

The Gitxaala decision may also bring into question the validity of fee simple lands in B.C. If all B.C. statutes are subject to UNDRIP, where does that leave the Land Title Act, which contains our fundamental protections of private property rights.

If all laws must be interpreted through an UNDRIP lens and courts can assess and even dictate compliance, how might this be applied in an appeal of the Cowichan Tribes v. British Columbia ruling? Especially since the Cowichan Tribes appeal will be heard by justices of the same appeal court which ruled on the Gitxaala appeal."

Premier Eby and his Attorney General have committed to make amendments to DRIPA. There have been a chorus of calls for the absolute repeal of that legislation. Business communities have been less direct, suggesting some amendments to DRIPA that go beyond just "court-proofing" its content. Other business associations could be said to be taking cover from publicly commenting, because their members are directly engaged in trying to get resource projects approved and are buying in to the "pay to play" realities of Section 7 Agreements and the requirement for Aboriginal consent. The government has made not playing in that game a non-option for many businesses – particularly in the mining sector.



Werner Stump's
Dec 21 article



Public Land Use
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Section 7 Agreements can be struck by the government with any Aboriginal community in the province. If that occurred in some areas of the province, the BC Cattlemen could find themselves similarly having to “pay to play” for Aboriginal consent to continue grazing cattle on what are in fact still Crown lands.

The amendments we can expect from the Eby government will, I am sure, only deal with trying to prevent DRIPA from being justiciable and thereby rightly undercutting the legal effect of the Gitxaala judgment. Otherwise, look for the whole existing scheme of DRIPA including the completely undemocratic Section 3 and the equally undemocratic Section 7 to stay in place.

I would expect that the government, once it has “court-proofed” DRIPA, will actually move to accelerate its activity under Section 3, and we can look forward to more debacles like the suggested amendments to the *Land Act* from 2024 and the now hugely controversial and legally problematic suggested amendments to the *Heritage Conservation Act*.

This is going to continue and perhaps be rolled out more swiftly. In reality, we are going to see this government double down hard on its DRIPA agenda, completely ignoring the detractors whose voices justifiably keep getting louder and louder.

More problematically, if we look at the manner in which Section 7 is being utilized with the Tahltan, the Attorney General says that the government is recognizing Tahltan’s territorial “jurisdiction”. This is happening everywhere in the province – the government recognizes Aboriginal governance authority which has no veracity in Canadian law. This is the shocking heart of this government’s rolling juggernaut towards “co-jurisdiction” over the entire provincial Crown land base.

I would not be surprised to see the government solidify the Tahltan’s alleged territorial “jurisdiction” by doing a Haida-style territorial Aboriginal title deal under which the entirety of Tahltan territory becomes Aboriginal title land just like the arrangement the government has created on Haida Gwaii and loudly boasted about.



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This outcome would be a disaster and must not be allowed to take place. It is highly unlikely that Tahltan could prove under the Supreme Court of Canada's test for Aboriginal title, such title to the entirety of their claimed territory. That fact, however, will not stop the government doing another Haida deal, since the fact the Haida could not have proven title to the entirety of the Haida archipelago either was completely ignored by the government as well as the government of Canada in those negotiations.

The Eby government apparently believes that all land in British Columbia is "stolen" Aboriginal land, and that "Indigenous title" really exists over the entirety of the province. It has become clear that this government's political agenda is to make this a legally effective reality through the use of DRIPA.

Remember that Article 26 of UNDRIP states that Indigenous title blankets any territory that was occupied or even used by an Indigenous community. I firmly believe that this is the Eby government's "gold standard" foundation for its entire current reconciliation agenda. It is "land back" in its most blatant form. Say goodbye to what we all thought was Crown land in this province.

UNDRIP became the framework for reconciliation in Canada by way of the recommendations of the Truth and Reconciliation for which they had no actual mandate.

The Supreme Court of Canada, on the other hand, said in Haida (2004):

"Where treaties remain to be concluded, the honour of the Crown requires negotiations leading to a just settlement of Aboriginal claims: R. v. Sparrow, [1990] 1 S.C.R. 1075, at pp. 1105-6. Treaties serve to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty, and to define Aboriginal rights guaranteed by s. 35 of the Constitution Act, 1982."

At the end of his article Mr. Stump said:

"Reconciliation is important work that needs to be pursued, but the pathway we are on, including DRIPA, needs to be abandoned. It is time for a "Made-in-B.C." solution that is workable for all parts of society.

British Columbians deserve transparency, truth and open dialogue. The conversations may be difficult, but we deserve straight-talk on reconciliation. The B.C. government must define clear steps with a well-articulated vision for a balanced end result that is socially and economically rounded. We need a fresh start in more ways than one."

I agree with that sentiment completely, but as long as Section 35(1) remains a part of the constitution of Canada, the only "fresh start" on reconciliation that makes any sense for British Columbia is to abandon DRIPA and UNDRIP entirely and to listen to the Supreme Court of Canada and re-engage and re-energize the BC Treaty Process.

There now exists a critical mass of completed treaties in BC and the model for treaties is now fully established. There is no reason, other than a shocking lack of political will and huge push back on treaty making by some Aboriginal organizations coupled with a UNDRIP-focussed political agenda of this government, why the treaty process cannot be completely re-invigorated throughout BC.

Treaties deliver the certainty, clarity and finality that all British Columbians need to move forward together. The BC Cattlemen's Association is lending its voice to the growing calls that I anticipate will be coming from many sectors in 2026 to get the treaty process up to full speed and reaffirm it as the "gold standard" for balanced reconciliation in British Columbia.



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