



DZAWADA'ENUXW FIRST NATION

PRESS RELEASE: DFN Council Response to Court Decision on the Election Code

September 25, 2013

For many years the Dzawada' enuxw First Nation (DFN) has had a custom election code. This means election of Council is by a system of DFN choice, not by the Indian Act system.

Traditionally, the custom election code required that members live in Gwayee in order to be eligible to run and be elected to Council. In 2005, during the time when Eric Joseph was the elected Chief, the members voted to amend the code to allocate one of the five Council positions for a member who was resident outside of the village. This did not include the Council Chair position (formerly known as the Chief position), which continued to require residency in the village. Although none of the current Council members were on Council at that time, it was understood that the reason for this change in the code was to allow for better participation and representation of members living off reserve.

In 2011, DFN amended the election code again. A summary of the key changes and a new draft code was sent out to all members by mail in the spring of 2011. The residency rules did not change from the previous 2005 code: one council position for a member living outside the village and the remaining four, including the Chair position, for members living in Gwayee. The 2011 code was unanimously accepted by the members present at a general meeting in the summer of 2011 and an election took place under the new code in the fall of 2011. Just prior to the election, four members, (Eric Joseph, Margaret Joseph, Geraldine Fitch and Paula Moon) residing outside of the village filed an application in federal court to ask the court to declare the code invalid because of the residency requirement.

The DFN Council defended the code before the court. DFN believes that the majority of the membership supports the principal that the majority of council should reside in the village so that they have a close connection with the day to day realities of the village and the traditional territory. This has long been DFN tradition.

However, in a decision released on September 24, 2013, the court decided that the residency requirement discriminated against members living off reserve. The Council is disappointed in the court's decision to overrule the DFN custom code, but we are now required to comply with the decision.

Beyond declaring that the election code discriminated against off reserve members, the Court did not make any further orders. The court invited the Applicants (Eric Joseph, Margaret Joseph, Geraldine Fitch and Paula Moon) and the Respondent (the DFN Council) to make further submissions on the appropriate

remedies. At this time, the Council is hoping to reach a consent agreement with the Applicants to present to the court.

DFN will keep you updated on the progress of those discussions; however, it is certain that the DFN will have to amend our election code again. DFN is now challenged to find the resources to continue with the court process and develop an inclusive and efficient process to amend our election code. Should you have any questions, please contact the band office, Bobbi Smith at 250-974-3013 or Joe Willie at 250-974-3011.

Chairman Joe Willie, on behalf of the DFN Council