

Uu-a-thluk is the Nu-chah-nulth fisheries department

Opening prayer (Cliff Atleo)

- Followed by a song; the “anthem” of Nu-chah-nulth First Nations

Opening Remarks (Cliff Atleo)

- Introduction of the presenters, Dawn Foxcroft and Don Hall

Who are the Nu-chah-nulth (First Nations)? (Dawn)

- Dawn works for Uu-a-thluk doing outreach
- Their territory is on the West coast of Vancouver Island and include 14 First Nations
- They have a long history of resource use related to the sea
- The territory is very remote – many communities are quite isolated

What is Uu-a-thluk? (Dawn)

- It means *to take care of*
- The organization was formed to build capacity within the community; they work to build capacity in jobs and employment related to the ocean
- They take a holistic approach to resource management
- There is a focus three areas:
 - *Management*: working with other organizations/governments; their Council of hereditary chiefs guides their work; collaboration with DFO (Department of Fisheries and Oceans) etc.
 - *Capacity Building*: training, educational outreach, mentorship programs
 - *Access*: (to resources) advancing communities’ rights, maximizing participation

Nu-chah-nulth Feasting Project (video in presentation) (part of Uu-a-thluk programming)

- Project was initiated in response to decreased use of traditional food in the community, especially by youth
- Elders and youth met to talk about traditional foods, learn how to harvest foods, youth learned to cook/prepare/preserve foods in a traditional way; canning was also part of these activities as a newer tradition
- It is important for young and old to learn from each other and for youth to be leaders in knowledge
- The Nashuk Youth Council has been formed

Sentinel Stock Program (part of Uu-a-thluk programming)

- Project initiated in response to declining Chinook (salmon) stocks
- It is a way to participate in the management and study of the stocks
- 2 projects were initiated: one tagging fish and ...

- *Video (available at <http://www.uuathluk.ca/activities.htm> click on "Pacific Salmon Treaty")*: The Moyeha River is one of the last unenhanced Rivers. Chinook were caught, tagged, measured and released; carcasses were collected upstream. This was a difficult project because the River is very isolated and not easily accessible

Cultural Foundation of the Nuu-chah-nulth (Cliff)

- There is no word for culture in their language
- He goes on to explain the meaning behind two words: the first encompasses power and responsibility to a territory and its people; the second is their word for respect – to oneself, others and all other things

Uu-a-thluk (Don Hall)

- Don is the Fisheries manager for the organization and mainly is working on policy, legal aspects of the fisheries
- The organization has grown a lot over time: they now have full-time staff, season staff, work with contractors and provide support for the 14 First Nations
- The name means *taking care of people/resources etc...*

Nuu-chah-nulth fishing rights case (Cliff)

- Cliff was last able (allowed) to fish in 1977
- He remembers his community and family as self-sustaining when he was young
 - Each family had their own canoe for fishing
 - They caught enough to sustain themselves
- He was groomed to be a fisher
 - His application to the government fishing program was denied when he finished school so he moved to the city for a number of years where he worked
 - These government fishing programs were not effective at allowing First Nations to fish
 - The government has limited access to ocean resources
 - This is a big issue for First Nations on the West coast because their small terrestrial territories were given to them consistent with the dependency communities on the West Coast had/have on ocean resources and would have access to them to support themselves

Fishing Case (Don)

- Reasons for court: Nuu-chah-nulth have a rich history of access to the ocean and past government programs have systematically removed First Nations from fishing. Nuu-chah-nulth have tried unsuccessfully to negotiate a treaty/agreement
- 3 of the 14 Nations were never part of the case
- It was brought as a civil action
- Claims: Aboriginal right to fish (the primary reason), Aboriginal Title, Fiduciary duties based on reserved allotments to ocean resources for First Nations not fulfilled

- Pre-trial: the crown argued that Nuu-chah-nulth did not exist; they also argued that there needed to be resolution and severance of overlapping claims between Nations
 - 4 months was given for Nations to resolve these claims
 - Many overlaps were resolved in this time however 3 Nations discontinued the case because claims were not resolved (down to 8 Nations in total)
- Trial: Madam Justice Garson presided
 - Decision given on November 3, 2009 in favour of Nuu-chah-nulth
 - 5 Nations finished as plaintiffs – 3 more Nations discontinued because of pressure from Canada due to ongoing treaty negotiations
 - 2 days court were held on a First Nations reserve – the school gym was converted to a court
 - Nuu-chah-nulth rights were established – the right to fish and sell fish for commercial purposes; limited to a geographic area and industrial fishing is not allowed
 - Affirmed trading took place between Nations before contact
 - The right was extended to any species (of fish)
 - In answer to the question: *has the crown infringed on these rights?* Yes, because even though the government tried to create programs to promote fishing in First Nations communities, these programs failed
 - The Judge gave the 5 Nations and the government 2 years to negotiate a Nuu-chah-nulth community-based fishery; if they could not agree in that time the case could go back to court on the justification of infringement
- Appeal: Crown appealed decision and went back to court December 2010
 - The argument was that the Trial Judge erred in law and in the interpretation of evidence during Trial
 - The appeal was brought by the province with BC Wildlife and Seafood Alliance, and Underwater Harvesters Association
 - Appeal denied May 2011: one drawback was that the geoduck fishery was considered ‘modern’ and therefore Nuu-chah-nulth did not get fishing rights to geoduck. Negotiations were extended one year from the date (a net gain of approx. 6 months)
- Negotiations:
 - The negotiations are collective among the 14 First Nations; the 5 Nations who remained and brought the case are leading the negotiations, but are representative of the 14 Nations
 - Right now there is some fishing going on with the permission of the community leader
 - Right now negotiations are VERY slow; DFO is only offering the status quo and is unwilling to try to develop elements of a rights-based fishery
 - They expect case will go back to court in a year because Canada is unwilling to negotiate with them

Questions:

Are you worried that anti-Aboriginal rights judges will be appointed to the bench in the interim?

That is a possibility

Your thoughts regarding industrial vs. commercial fishing

Conservation politics in BC dictates access to ocean resources

Costs? Who pays for the court case and how is the cost allocated?

The communities bear the costs so those communities must be, and are, dedicated. They believe that because fishing is central to their life that the cost is well worth it as gaining fishing rights will help alleviate other (social) issues in the community

Youth: what are the other opportunities/employment outside of fishing and are youth interested in fishing? (underlying question of whether it is worth bringing a fishing case to court if youth are leaving)

Youth celebrated the court decision and have indicated that they want to stay in the community and fish

There are lots of ways to lose when you go up against the government. As a local, non-Aboriginal fisherman he would much rather see negotiations than an expensive court case; He would also rather represent himself in negotiations than have DFO represent his interests.

Is there an opportunity for non-Aboriginals to get involved?

Yes, there is always that opportunity. The key is to stress the economics of the situation.

Cliff closed by expressing that it was important for them to share their story with us.