

# **Upper Nicola Band**

## **Commonage Claim**

**1868 – 2007**



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### **1860s**

- **Settlers begin pre-empting land in the Nicola Valley. Local First Nations people get involved in agricultural pursuits.**

### **1868**

- **The first Indian reserves in the Nicola Valley were laid out by Magistrate Peter O'Reilly, under the instructions of Joseph Trutch, Chief Commissioner of Lands and Works.**

### **1876**

- **UNB wins a gold medal for agricultural produce at the World's Fair in Philadelphia.**

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## 1878

- The Joint Indian Reserve Commission under Gilbert M. Sproat surveyed reserves in the Nicola Valley.
- The Douglas Lake Commonage was assigned by a Minute of Decision dated September 28: "Upon the tract of land within the undermentioned boundaries...a right of pasturage for cattle is given for the Indians but so as not to exclude the cattle of white settlers unless in the opinion of the Indian Department, the land is being overgrazed and likely to suffer permanent deterioration as winter pasture....If this arrangement which appears to be the best for both white settlers and Indians cannot be carried out, this tract of land except lot 360 Group 1 to be Indian Reserve."

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### **1878 (cont)**

- The Commonage consisted of 18,533 acres and was intended to be shared in common by the UNB and neighbouring settlers for grazing purposes.
- The purpose of the Commonage was to help meet the Band's land and resource needs.

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## **1889**

In response to growing pressure from settlers to remove the Commonage, the Honourable Edgar Dewdney, then Minister of the Interior for the Dominion of Canada, received a petition from UNB Chiefs stating the following:

“We the Indians of Douglas Lake have a request to place before you concerning a tract of land that was promised us from the beginning; it is a tract of prairie land, well adapted for pasture and agricultural (use)...situated north of Douglas Lake adjoining the properties of Mr. Greaves and the lands formerly owned by J. Douglas, Mr. Murray and J. English. It is now known as Commonage. More than 30 of us have no lands to plant our grain and potatoes, and are in great need of that piece of land promised us.”

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## **1890**

- **BC passed Order in Council 309 cancelling the Commonage on August 11.**
- **Over the protests of the Band, and contrary to Sproat's instructions, Douglas Lake Commonage was opened for pre-emption by settlers, and surveyed into 41 District Lots.**
- **This was done without the Band's consent.**
- **Canada did not attempt to secure comparable lands for the Band, or make any other kind of compensation available for loss of the Commonage.**

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## **1890 (cont)**

- **This caused and continues to cause serious economic and social hardship for the Band.**
- **Upper Nicola Band is the only Band in the Interior with no access to range.**
- **After changing hands many times, Douglas Lake Cattle Co. and Joseph Lauder ultimately became principal fee simple owners of the Commonage.**

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## **1910**

The Chiefs of the Interior Tribes presented a Memorial to Sir Wilfred Laurier, then Prime Minister of Canada while he was passing through Kamloops. This is what the Chiefs had to say about Gilbert Sproat and the Joint Indian Reserve Commission:

“They said a very large reservation would be staked off for us (southern interior tribes) and the tribal lands outside of this reservation the government would buy from us for white settlement. They let us think this would be done soon. Until this reserve was set apart and our lands settled for, they assured us we would have perfect freedom of traveling and camping and the same liberties as from time immemorial to hunt, fish, graze and gather our food supplies where we desired; also that all trails, land, water, timber and so on would be as free to access as formerly.”

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**1993**

- **UNB submitted a specific claim for the Douglas Lake Commonage.**

**1995**

- **Canada acknowledged the Band's specific claim, but would not enter into negotiations because in Canada's view the Province was also responsible for the loss of the Commonage.**

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## **1998**

- **UNB formally submitted its claim to the Province and invited them to join the Band and federal government at the negotiating table. The Province attended meetings, but had no mandate to negotiate.**
- **The Douglas Lake Cattle Company was sold to Bernard J. Ebbers. The surrounding Bands worked together in attempting to acquire the property and associated grazing licences.**

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**1999**

- **Canada formally accepted the UNB Commonage claim for negotiations under its specific claims policy.**

**2000**

- **UNB formed a Negotiation Team and engaged the services of Clo Ostrove from Mandell, Pinder.**

**2002**

- **Weywaykum decision released by the Supreme Court of Canada.**

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### **2003**

- Upper Nicola Band was asked to provide a written legal submission on the impacts of recent legal decisions. Canada refused to negotiate until it had reviewed the submission and formulated its response.
- The Douglas Lake Cattle Company changed hands again. The Bands collectively tried to get the Crown to uphold its own consultation policies before the ranch was sold to Stan Kroenke.

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**2005**

- Canada unilaterally withdrew from specific claims negotiations with UNB. The Band was notified in a letter dated February 9.**
- Canada's stated position is that the Band could not have acquired a legal interest in the Commonage; Canada does not have any fiduciary duties owing the Band; and if they ever did, the fiduciary has been met.**

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**2005 cont.**

- **Upper Nicola Band's position is that unlike the lands under dispute in Weywaykum, the Commonage is located within lands traditionally used and occupied by the Band.**
- **UNB signed a Forest and Range Agreement with the Minister of Forests on February 10.**
- **The terms of the FRA include the Band's position that it is entitled to a direct award of range and grazing licences coming available in its traditional territory.**

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## **Today**

- **UNB continues to be one of the only bands in the central interior with no range or grazing licence or access to range off-reserve. The Band's on-reserve rangelands are severely overgrazed.**

- **As long as any ranch is for sale in UNB's territory, the associated grazing licences must be considered a range vacancy and available for disposition to the UNB through a direct award under the Range Act.**

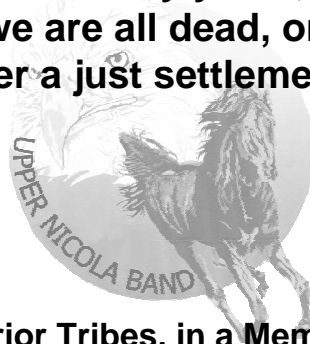
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## **Today (cont)**

- **UNB must also be given equal opportunity to apply for the AUMs listed under any grazing licence.**
- **The UNB places great importance on achieving sustainable resource management through its resource management practices.**

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**“We wish to tell you, Chief, this question is very real to us. It is a live issue. The soreness in our hearts over this matter has been accumulating these many years, and will not die until either we are all dead, or we obtain what we consider a just settlement.”**



**Chiefs of the Interior Tribes, in a Memorial to the Hon. Frank Oliver, Minister of the Interior, for the Dominion of Canada, May 10, 1911**

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# **CREDITS**

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