



DOOR OPENS TO COMMERCIAL CREDIT FOR ON-RESERVE FIRST NATIONS

S. 89 of the *Indian Act* holds that with certain exceptions, the real and personal property of First Nations people and First Nations situated on a reserve, cannot be pledged, mortgaged, attached or seized.

However, in *Tribal-Wi-Chi-Way-Win Capital Corp. v. Stevenson et al.*, 2009 MBCA 72 the Manitoba Court of Appeal ruled that, in commercial transactions, a First Nations person or a First Nation can sign a waiver that would allow a creditor to seize collateral which is situated on a reserve. This decision can be seen as a win-win for both creditors and First Nations people on reserve. By signing a waiver and allowing creditors to secure their loan, on-reserve First Nations people and First Nations will be able to gain access to credit to start or grow a business.

It is important to note that the parties involved in *Tribal-Wi-Chi-Way-Win Capital Corp. v. Stevenson* gave informed consent when they signed the waiver.

...continued on page 2

March Profile: Leigh Anne Baker

Looking forward to spring!

Leigh Anne first arrived at Woodward & Company as a law student in 2004. She liked it so much that she returned to article and practice in 2007. She took a year after finishing law school to take a CIDA-funded internship offered by the *Breaking the Silence Network*, which allowed her to spend almost three months in Nova Scotia and seven months in Guatemala. She worked at a community legal aid clinic in Rabinal, Guatemala with indigenous people that are fighting for justice for the violence committed against them and their forced dislocation during the Guatemalan genocide in the 1980s.

Since her return to W & Co., Leigh Anne has documented historical and current use of lands and waters damaged or threatened by tar sands and other developments. She has assisted Nations in B.C. with the protection of their Aboriginal rights and title, and aided Nations in Alberta in protecting their treaty rights. She loves any work that involves maps and talking to elders and community members. Lately Leigh Anne has been working on bringing forward Specific Claims on behalf of various Nations. Her other legal interests include water law, the Inter-American Court of Human Rights, and the protection of caribou (her great-grandmother was a reindeer herder in Sweden, living north of the Arctic Circle).



In her spare time, Leigh Anne goes on rock climbing and camping adventures, plays harmonica, cooks big feasts and makes art. She has also been watching the freestyle skiing events at the Olympics, and feeling nostalgic for her younger days as a member of the Canadian National Freestyle Ski Team.

UPCOMING EVENTS:

March 11, 2010: Screening – *Blue Gold: The Tsilhqot'in Fight for Teztan Biny (Fish Lake)* 7pm, David Lam Auditorium, University of Victoria, Panel with Jack Woodward to follow.

March 22, 2010 : Public Hearings - Federal environmental review panel hearings into the proposed Prosperity Gold-Copper Mine begin in Williams Lake.

...continued from page 1

The waiver in this case was signed by Mr. Stevenson in his personal capacity. Further there was an acknowledgment and agreement to honour the waiver signed by Mr. Stevenson in his capacity as Chief of Peguis First Nation, as well as three Peguis councillors.

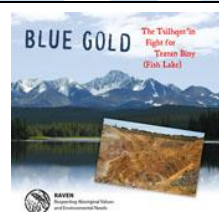
The courts in the past have drawn a distinction between First Nations people purchasing personal property and First Nations people and First Nations in commercial transactions (for example, see the Supreme Court of Canada's decision in *Mitchell v. Peguis Indian Band et al.*, [1990] 2 S.C.R. 85. The Supreme Court of Canada in *McDiarmid Lumber Ltd. v. God's Lake First Nation*, [2006] 2 S.C.R. 846, however, held that provincial credit regimes are an important part of the economy in Canada and that access to credit is very important. The Court also stated that the provincial credit regimes create significant and enforceable rights between the creditors and debtors who are governed by them which allow creditors to take considered risks when extending credit.

Given the importance of the provincial credit regimes, it is possible that one day, the reasons behind the decision in *Tribal-Wi-Chi-Way-Win Capital Corp. v. Stevenson* could be extended to cover personal loans, provided there are sufficient safeguards in place to ensure that the First Nations people involved give informed consent when signing the waiver. Just to be clear, this is not currently the law in Canada.

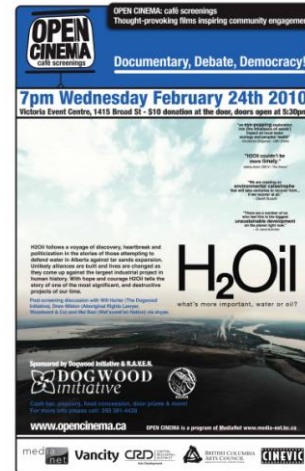
Reprinted from Pitblado LLP.

New Faces at W&Co LLP

Callers to our office may have noticed that there's a new voice answering the phone. **Nicole Raynor** has joined our team as receptionist. And **Erica Huntley** joins us as temporary support staff until the fall. Welcome to both Nicole and Erica!



NOW AVAILABLE! *Blue Gold: The Tsilhqot'in Fight for Teztan Biny* which expresses the Tsilhqot'in peoples' rejection of Taseko's proposed mine, is now online and can be viewed on our website. For donations of \$50 or more to RAVEN, donors will receive a copy of this powerful film.



Beaver Lake Cree Nation's Tar Sands Battle Profiled at Premiere of H2Oil

W&Co's **Drew Mildon** was pleased to be part of the Victoria premiere of the popular anti-tar sands film *H2Oil*, presented by Open Cinema.

The film outlines the devastating impact of the tar sands developments, and in the panel after the screening, Drew was joined by The Dogwood Initiative's Wil Horter and Mel Bazi of the Wet'suwet'en Nation to explain what steps are under way to stop the onslaught, including the ongoing lawsuit by Beaver Lake Cree Nation.



To watch the amazing speeches by **Chief Al Lameman** of Beaver Lake Cree Nation, and **Jack Woodward**, made at the *Truth, Trials and Tar Sands* event on Salt Spring Island, go to this link at Vimeo.com. <http://vimeo.com/9733560>

When all the trees have been cut down, when all the animals have been hunted, when all the waters are polluted, when all the air is unsafe to breathe, only then will you discover you cannot eat money. ~ Cree Prophecy