

July 6 2011

Dear IRHP/Asper Centre,

For this mid-term update on my Joint IRHP-Asper Centre internship, I thought I would give a quick run-down of my organization, and follow that with what I have been working on and learning so far. However, I need to say first that this summer has been absolutely incredible – both living and working in Alaska with this amazing organization and group of people – and I am so grateful for this experience!

I have been in Anchorage, Alaska working with the Yukon River Inter-Tribal Watershed Council (YRITWC) for 6 weeks now, with another 6 weeks left (an apt time for a mid-term report!). YRITWC's website is <http://www.yritwc.org/>. YRITWC is a unique organization, consisting of 70 First Nation tribes throughout the Yukon River Watershed, including tribes in Alaska, Yukon Territory and British Columbia.

YRITWC aims to preserve and protect the Yukon River through coordinating, facilitating, and providing a forum for these tribes to come together and work collectively and individually to realize this common goal. Additionally, YRITWC provides training and education on a range of issues, from water quality testing to alternative energy to back-hauling hazardous materials out of these communities. Every two years, Tribal/First Nations leadership gathers in a community in the watershed to share information, give feedback to YRITWC and participate in presentations. I am lucky enough to be attending the Biennial Summit being held in Ruby, Alaska, from August 4-6, and participate in the Healing Journey, a ten day long canoe trip on the River from Fairbanks to Ruby, meant to help us reconnect with the River and learn from each other and the villages we visit along the way, as well as providing an opportunity to collect scientific data. It is an experience that fuses and recognizes traditional ecological knowledge and modern science.

My main task has been aiding in Summit preparation. First Nations leadership have requested information about water rights, and in response to these inquiries a full day's presentation and discussion will be dedicated to this difficult topic: what do "water rights" mean legally, practically and potentially on both sides of the border? I have been working closely with a team of lawyers based in the lower 48 and Canada (the YRITWC does not have in-house legal counsel) and have been tasked with researching water rights in the context of Yukon Territory specifically. Seeing my contributions being integrated as the presentation is taking shape is extremely gratifying and makes me feel that my work here has been meaningful so far. Working with established Indigenous law attorneys has been an incredible learning opportunity.

I submitted a memo on June 23 to the legal team, which outlines the general Canadian scheme of Aboriginal rights, focussing on treaty rights as these are most significant in the Yukon. The vast majority of the Yukon First Nations have Final Agreements which are modern land claims treaties and are constitutionally protected. I researched the content of those agreements, as well as the accompanying Self-Government Agreements. I investigated the relationship between the territorial government, First Nation governments and federal government, trying to discern what these relationships and different spheres of jurisdiction mean for water management and governance in the Yukon. I did extensive research into the environmental assessment and permitting processes that grew out of the First Nations treaty negotiations, namely, the Yukon Environment and Socio-Economic Assessment Board (YESAB) and the Yukon Water Board. Both of these bodies give unique opportunities for First Nations participation and representation (such as the inclusion of traditional knowledge in the YESAB assessment process), and I have been tasked with researching how these opportunities can be maximized, and how these bodies translate (or not) in practice into real tools for co-management of water resources. This overlaps with the constitutional duty to consult, and there has already been a Yukon Supreme Court judgment that sets out

the constitutional duty to consult when activities affect the traditional territory of a Yukon First Nation with a Final Agreement.

I have completed some research regarding implementation, and as these bodies are so new there is not much information out there. However, there are a handful (albeit a very small handful) of interesting cases interpreting this new legislative scheme and defining their relationships to each other and Yukon First Nations. I am still working on chasing down more information, primarily through speaking with contacts in the Yukon who work on these issues. I have produced a short memo on this topic and am working on expanding it.

The other legal intern from Queen's University, is tackling Alaskan water rights and we are working together to compile an annotated bibliography of all of the sources used for the presentation, by ourselves and the rest of the legal and ethnographic team. This will form a valuable resource for the tribes and YRITWC in the future. I also worked with her to update a brief on the United Nations Declaration on the Rights of Indigenous Peoples that was written by an intern last summer. The leadership requested an update on the status UNDRIP and what it could mean for Indigenous peoples now that both Canada and the US have endorsed it.

As a side project, I am working on an internal report to form part of YRITWC's orientation materials. It is designed as a primer to the legal, administrative, and governance structure in Yukon Territory for future and current staff to help expand capacity on the Canadian side of the border. I have submitted a draft version to my supervisor.

I am learning an enormous amount about the unique governance scheme of Yukon Territory and also of Alaska. Both of these places have special advantages and disadvantages for Tribes/First Nations trying to assert rights in relation to water, land, or otherwise (or subsistence rights, as it often is in Alaska), and are different from anywhere else in Canada or the U.S.A. I have a few inter-related projects on the go, and it has allowed me to delve deeply into Canadian Aboriginal law and gain expertise in the Yukon context specifically.

As of this moment, I cannot share the presentation outlines but I have attached my memo on Aboriginal water rights in Yukon Territory.

I don't have many pictures work-wise (I will definitely have some great ones from the Summit and the Healing Journey!), but I have attached a few pictures of me in Alaska, a place that is stunningly beautiful and ripe for adventure! I hope you enjoy them.

All the very best,

Megan Strachan