

SNUNEYMUXW TREATY NEGOTIATIONS
DRAFT CONSULTATION AGREEMENTS-IN-PRINCIPLE
SUMMARY

APRIL, 2003



SNUNEYMUXW
FIRST NATION

Canada

This is a general summary of the Snuneymuxw Agreements-in-Principle for public information purposes. For complete information please contact any of the sources listed at the end of this document.

Introduction

The Snuneymuxw Agreements-in-Principle (AIPs) are made up of two documents:

- an AIP which deals with land, resources, culture, related self-government provisions and cash; and
- a Governance AIP which deals with a range of governing authorities.

The AIPs set out the foundation for final agreement negotiations and complete stage 4 of the 6-stage BC treaty process.

Agreement-in-Principle

General Provisions

- The AIP is not a final agreement and is not legally binding.
- To achieve certainty, the treaty will be the full and final settlement of Snuneymuxw's Douglas Treaty rights, aboriginal land rights, and any other aboriginal rights related to the rights set out in the treaty and modified into treaty rights.
- If Snuneymuxw wish to exercise a right not addressed in the Governance Agreement or modified into a right set out in the Final Agreement, they may propose to incorporate additional rights into the agreements through an orderly process that requires the agreement of all three parties.
- The Canadian Constitution will not be altered and the Canadian Charter of Rights and Freedoms will continue to apply.
- Snuneymuxw will own treaty land.
- Snuneymuxw land will not be "reserve" lands and the *Indian Act* will no longer apply.
- Federal and provincial laws will apply concurrently with Snuneymuxw laws.

Land

- On the effective date of the final agreement, up to 5,090 hectares (12,578 acres) will become treaty land, including the Snuneymuxw's current 266 hectares (657 acres) of reserve land.
- Treaty land may include up to 2,800 hectares (6,919 acres) of private land purchased from willing sellers between AIP and final agreement. British Columbia and Canada will provide information to local governments and third parties regarding the acquisition of lands for treaty.
- Existing third party legal interests on treaty land will be protected.
- Subsurface resources on treaty land which was held by the Crown prior to treaty will be owned by Snuneymuxw.

- Canada will be able to expropriate treaty land, but will avoid doing so where reasonably practicable. British Columbia will be able to expropriate up to 200 hectares of treaty land, but will also avoid doing so where it is reasonable to use other means. Where treaty land is expropriated, compensation will be provided for in accordance with applicable federal and provincial legislation and may include land.
- With the agreement of British Columbia and Canada, Snuneymuxw will be able to add to its treaty land in the future. City of Nanaimo agreement is required if the lands are within municipal boundaries.

Access and Roads

- There will be reasonable public access to treaty land for recreational and non-commercial use, including hunting and fishing.
- Snuneymuxw may regulate public access to prevent removal of resources owned by Snuneymuxw and to protect cultural sites.
- Crown corridors and provincial roads running through treaty land will remain under provincial ownership and jurisdiction.

Water

- British Columbia and Snuneymuxw will negotiate and attempt to reach agreement on the volume of unrecorded water to be reserved for Snuneymuxw.
- To access the water reservation, Snuneymuxw will apply for a provincial water licence.
- Snuneymuxw may participate in public planning processes within the Nanaimo River watershed.

Forest Resources

- Snuneymuxw will own and manage the forest resources on treaty land.
- Snuneymuxw will be able to make laws with respect to forest management consistent with provincial standards for private lands.
- British Columbia is prepared to directly award Snuneymuxw a forest tenure on Mount Benson and Mount McKay which would be separate from the treaty.

Wildlife and Migratory Birds

- The federal and provincial Ministers will retain authority for management of wildlife and migratory birds.
- Snuneymuxw will have the right to harvest wildlife and migratory birds for domestic purposes within an identified area.
- Under the treaty, allocations may be determined for species of wildlife where there is a conservation concern. Currently the only designated species is Roosevelt Elk and Snuneymuxw's allocation will be 70% of the total allowable harvest of the Nanaimo River watershed herd. The remaining 30% will be available for other users.
- Harvesting will be limited by conservation, public health or public safety.
- Harvesting of designated species or species proposed by Snuneymuxw and British Columbia will be carried out under a Wildlife Management Plan developed jointly by

Snuneymuxw and British Columbia, consistent with the final agreement and approved by the Minister.

- The Wildlife Management Plan will address the designation and documentation of harvesters, and methods and timing of harvest.
- Snuneymuxw will have law-making authority with respect to management of the Snuneymuxw harvest, including documentation of Snuneymuxw hunters.

Fisheries and Ocean Management

- Snuneymuxw will have allocations of Fraser River Sockeye and Pink salmon, Nanaimo River Chum salmon, Nanaimo River and mixed stock Chinook salmon, Nanaimo River and mixed stock Coho salmon, Dungeness Crabs, and intertidal bivalves, such as clams (within certain areas).
- The treaty allocation for Fraser River Sockeye, Nanaimo River Chum, and intertidal bivalves, such as clams, may be sold; however, Snuneymuxw will declare on a multi-year basis the proportion of fish it will use for domestic purposes and the proportion it will sell.
- Snuneymuxw may harvest Fraser River Sockeye and Nanaimo River Chum for sale in any year where there is a directed harvest in Canadian commercial fisheries for the same species.
- Snuneymuxw will have the right to harvest the total allowable catch of intertidal bivalves on five specific beaches.
- Snuneymuxw will have law-making authority with respect to who can participate in the harvest of fish for Snuneymuxw allocations, how they will be distributed, and how individuals and vessels will be documented.
- The federal and provincial Ministers will retain authority for managing and conserving fish, aquatic plants and fish habitat and will exercise that authority in a manner consistent with the final agreement. Snuneymuxw will participate in fisheries management through a Joint Fisheries Management Committee (JFMC) made up of representatives from Snuneymuxw, British Columbia and Canada.
- Snuneymuxw will develop annual fishing plans for their fish allocations and review these plans with the JFMC.
- The federal fisheries Minister will issue a harvest document authorizing Snuneymuxw fisheries each year based on the annual fishing plan.
- All fisheries will be limited by measures necessary for conservation, public health or public safety.
- Snuneymuxw will also have access to a separate Harvest Agreement for commercial licences under conditions comparable to those in the regular commercial fishery. Harvest agreement fisheries will have the same priority as other commercial fisheries in fisheries management decisions made by the Minister of Fisheries and Oceans.
- Snuneymuxw is currently issued two commercial salmon gillnet licences and one commercial crab licence on an annual basis through the Aboriginal Fisheries Strategy. These licences will be issued to Snuneymuxw as regular commercial licences as part of the Final Agreement.

Parks

- Snuneymuxw will own Petroglyph Park and will manage it for use as a public park.
- Canada, British Columbia and Snuneymuxw agree that Newcastle Island will remain a provincial park and will negotiate Snuneymuxw's participation in the park.

Culture

- Canada, British Columbia and Snuneymuxw acknowledge the integral role of Snuneymuxw artifacts in the continuation of Snuneymuxw culture, traditions and values.
- Snuneymuxw artifacts (to be identified) will be transferred to Snuneymuxw from the Royal British Columbia Museum and the Canadian Museum of Civilization.
- Snuneymuxw will have a role in the management of heritage sites on and off treaty land.
- Snuneymuxw ancient remains removed from heritage sites will be returned to Snuneymuxw.
- Geographic features or places may be renamed.

Environmental Assessment and Protection

- Snuneymuxw will be able to participate in environmental assessment processes for proposed projects that could have adverse effects on treaty land.
- Snuneymuxw will be able to make environmental protection laws for treaty land.

Governance

- Snuneymuxw will have a government.
- Snuneymuxw will have law-making authorities distributed between the treaty and a separate Governance Agreement.
- Together, the treaty and self-government agreements will enable Snuneymuxw to control its own affairs, manage its public institutions, administer its collective economic interests and participate effectively in regional planning processes for areas outside treaty lands.
- A Snuneymuxw constitution will provide for a democratically-elected government, and for protection of the rights and freedoms of Snuneymuxw citizens.
- Law-making authority in the treaty will include government management and administration, financial administration and conflict of interest standards, processes for appeal or review of administrative decisions, adoption, land matters, culture and language, assets, Snuneymuxw membership, and aspects of education and child and family services.
- Snuneymuxw will consult with non-Snuneymuxw people residing on or having property interests in treaty land regarding decisions that may affect them or their interests. The final agreement will also provide for these people to participate in Snuneymuxw government and public institutions.

Capital Transfer

- Snuneymuxw will receive \$64,065,000 dollars, minus whatever funds are used to purchase land from willing sellers prior to final agreement.
- Snuneymuxw, BC and Canada will negotiate and attempt to reach agreement on the sharing of federal and provincial revenues.

Indian Act Transition

- Transitional provisions will address the fact that the *Indian Act*, including the section 87 tax exemption, will no longer apply. Transitional tax measures will be negotiated that are comparable to those in other treaties.

Other provisions

- Snuneymuxw band members and persons with Snuneymuxw ancestry will be eligible to be enrolled under the treaty.
- A dispute resolution process and a process for ratifying the treaty will be established.
- An implementation plan outside of the treaty will also be negotiated.

Governance Agreement-in-Principle

General Provisions

- The Governance Agreement-in-Principle (AIP) is not legally binding.
- The final Governance Agreement will be ratified by all three parties, put into effect by federal and provincial settlement legislation and not be a treaty or a land claims agreement.
- The final Governance Agreement will be legally binding on all three parties and can be relied on by all persons.
- The Governance Agreement will not alter the Constitution of Canada.
- For those matters not addressed in the treaty, Snuneymuxw will agree not to assert or exercise any rights other than as set out in the Governance Agreement, for as long as that agreement is in force.
- If Snuneymuxw wish to exercise a right not addressed in the Governance Agreement or modified into a right set out in the Final Agreement, they may propose to incorporate additional rights into the agreements through an orderly process that requires the agreement of all three parties.

Authorities

- Law-making authorities in the Governance AIP include aspects of pre-school to grade 12 education, aspects of child protection, health, direct taxation, aspects of justice, business licensing, emergency preparedness, social assistance, aspects of intoxicants, fire protection, solemnization of marriage, police, post-secondary education, public works, peace, order and safety, and traffic and transportation.
- The scope of each law-making authority will be negotiated in final agreement negotiations.

Local and Regional Government Relations

- Snuneymuxw and the Regional District of Nanaimo will negotiate and seek terms for Snuneymuxw membership in the Regional District of Nanaimo including participation in regional services.
- Snuneymuxw will exercise their land use planning authority over treaty land consistent with an agreed-upon Regional Growth Strategy.

- Prior to final agreement and in consultation with the Islands Trust and residents, Snuneymuxw will develop a land-use plan for treaty land on Gabriola Island.
- Snuneymuxw and the Islands Trust will establish a Gabriola Island land committee and develop a joint land-use strategy for Gabriola Island.

Fiscal Relations

- Fiscal agreements will be negotiated every five years for funding of programs and services.
- Snuneymuxw will contribute to the funding of services from its own revenues.

Taxation

- Snuneymuxw will have law-making authority for direct taxation of Snuneymuxw citizens on treaty land and, upon agreement with Canada or British Columbia, over non-members on treaty land.
- British Columbia agrees not to impose property tax on persons on treaty land, provided that terms and conditions for the taxation of non-members' interests in treaty land and the provision of provincial services are successfully negotiated prior to the final agreement.

Other provisions

- A dispute resolution process and a process for ratifying the final Governance Agreement will be established.

For more information, please contact:

Snuneymuxw Jeff Thomas Tel: (250) 753-6768 Email: jefft@snuneymuxwtreaty.ca	Canada Katherine Beavis Tel: 1 (800) 665-9320 Email: beavisk@inac.gc.ca	British Columbia Bill Seymour Tel: 1 (800) 880-1022 Email: bill.seymour@gems3.gov.bc.ca
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Websites:

www.bctreaty.net

www.nanaimotreaty.ca

www.ainc-inac.gc.ca

www.gov.bc.ca/tno/negotiation/First_Nations_in_the_process/snuneymuxw.htm